

A G E N D A
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MEDFORD CITY COUNCIL MEETING

**May 21, 2015
Noon**

**Council Chambers, Medford City Hall
411 W. 8th Street, Medford**

10. Roll Call

Employee Recognition

20. Approval or correction of the minutes of the May 7, 2015 regular meeting

30. Oral requests and communications from the audience

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

30.1 Landmarks & Historic Preservation Commission Awards – Cathy deWolfe

30.2 Quarterly Economic Development Update from SOREDI – Ron Fox

30.3 Quarterly Travel Medford Update – Anne Jenkins

40. Consent calendar

50. Items removed from consent calendar

60. Ordinances and resolutions

60.1 COUNCIL BILL 2015-49 An ordinance authorizing execution of a \$10 million Loan Agreement from the Oregon Transportation Infrastructure Bank (OTB) for improvements to Foothill Road.

70. Council Business

70.1 Boards & Commission Appointments
a. Site Plan & Architectural Commission
b. Parking Commission

80. City Manager and other staff reports

80.1 Capital Improvement Project Update Report – Brian Sjothun

80.2 Further reports from City Manager

90. Propositions and remarks from the Mayor and Councilmembers

90.1 Proclamations issued:
National Preservation Month, May 2015

90.2 Further Council committee reports.

90.3 Further remarks from Mayor and Councilmembers.

100. Adjournment to the evening session

EVENING SESSION
7:00 P.M.

Roll call

110. Oral requests and communications from the audience

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

120. Public hearings

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

120.1 Consider an appeal of the Public Works administrative decision to not construct speed humps on Brookhurst.

120.2 Consider an appeal of the Site Plan & Architectural Commission's denial of Sky Park, a 26-unit residential project located on the northwest corner of S. Central Avenue and E. 10th Street. (AC-15-007/E-15-009) (Land Use, Appeal)

120.3 COUNCIL BILL 2015-50 An ordinance approving a minor amendment to the General Land Use Plan (GLUP) Map of the Medford Comprehensive Plan by changing the land use designation on three 0.11-acre lots on East Jackson Street between Mae Street and Marie Street from low-density Urban Residential (UR) to Service Commercial (SC). (CP-15-022) (Land Use, Quasi-Judicial)

130. Ordinances and resolutions

140. Council Business

150. Further reports from the City Manager and staff

160. Propositions and remarks from the Mayor and Councilmembers

160.1 Further Council committee reports.

160.2 Further remarks from Mayor and Councilmembers.

170. Adjournment



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: **60.1**

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DEPARTMENT: Public Works Engineering **AGENDA SECTION:** Ordinances & Resolutions
PHONE: 541-774-2100 **MEETING DATE:** May 21, 2015
STAFF CONTACT: Cory Crebbin, Public Works Director

COUNCIL BILL 2015-49

An ordinance authorizing execution of a \$10 million Loan Agreement from the Oregon Transportation Infrastructure Bank (OTB) for improvements to Foothill Road.

ISSUE STATEMENT & SUMMARY:

This ordinance authorizes a \$10 million loan from the Oregon Transportation Infrastructure Bank (OTIB) under the terms and conditions described in the loan agreement.

City Council directed that Foothill Road is the City's top priority for federal funding administered by the Metropolitan Planning Organization (MPO). The City received a \$3 million dollar Congestion Mitigation and Air Quality (CM/AQ) grant for the first phase of the project that is estimated to cost \$13 million. Favorable interest rates through the Oregon Transportation Infrastructure Bank (OTIB) led staff to seek a \$10 million dollar loan. Interest rates are currently lower than the construction cost index which makes the loan very advantageous at this time. OTIB and the Oregon Transportation Commission approved the loan in July and have provided a commitment letter that locked the interest rate at 1.61 percent.

BACKGROUND:

A. Council Action History

Commitment letter approved via Ordinance 2014-115 on September 4, 2014.

B. Analysis

Acceptance of the loan will facilitate the design and construction of Foothill Road from Hillcrest to McAndrews.

C. Financial and/or Resource Considerations

Annual payments on the loan will be \$1,090,670 for a 10-year period. The loan will be guaranteed by state gas taxes, but will primarily be paid with system development charges. Adequate funds are anticipated to be available to make the payments for the life of the loan.

D. Timing Issues

The loan agreement must be signed prior to initiating an intergovernmental agreement for the CM/AQ funds. Both the CM/AQ grant and the loan have performance deadlines that must be met.

STRATEGIC PLAN:

Theme: Quality Public Services

Goal 9: Provide a safe, multi-modal, efficient and well planned transportation system.

COUNCIL OPTIONS:

1. Approve the ordinance.
2. Modify the ordinance.
3. Deny the ordinance.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: **60.1**

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STAFF RECOMMENDATIONS:

Approve the ordinance authorizing the Mayor to sign the Oregon Transportation Infrastructure Bank Loan Agreement.

SUGGESTED MOTION:

I move to approve the ordinance authorizing the Mayor to sign the Oregon Transportation Infrastructure Bank Loan Agreement for Foothill Road.

EXHIBITS:

Oregon Transportation Infrastructure Bank Loan Agreement for Foothill Road available in the City Recorder's office.

AGENDA ITEM 80.1

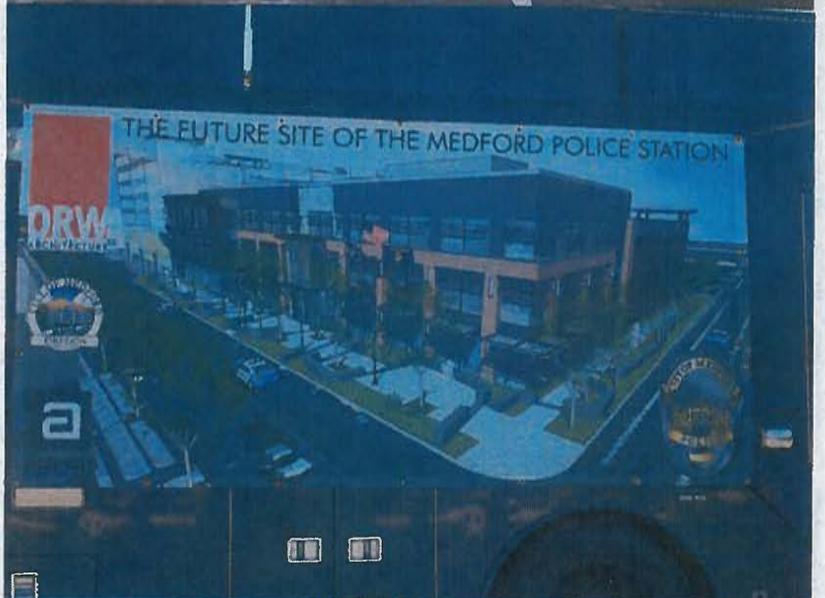
Capital Improvements Update Report



***City of Medford
Capital Improvement
Projects Update***

May 13, 2015

**Our Mission:
On Time & Under Budget**



**City of Medford – Capital Improvement Projects Update
May 13, 2015**

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Bond Projects:

BR0071 – Fire Station #2

Project Goal: Construction of a new Fire Station #2.

Recent Project Milestones:

- Corrected and Completed SPAC package re-submitted.
- SPAC review and approval complete.
- 100% Design Development (DD), construction cost estimate, Value Engineering Session.

Upcoming Project Milestones:

- Construction Drawing Phase (CD) completion.
- Planning, permitting and GMP phases.
- September 2015 Construction scheduled to begin.

| | |
|-------------------|-------------|
| Funds Budgeted | \$2,976,800 |
| Funds Expended | (\$118,975) |
| Encumbrances | (\$151,165) |
| Balance Remaining | \$2,706,660 |

BR0072 – Fire Station #3

Project Goal: Construction of a new Fire Station #3.

Recent Project Milestones:

- Corrected and Completed SPAC package re-submitted.
- SPAC review and approval complete.
- 100% Design Development (DD), construction cost estimate, Value Engineering Session.

Upcoming Project Milestones:

- Construction Drawing Phase (CD) completion.
- Planning, permitting and GMP phases.
- September 2015 Construction scheduled to begin.

| | |
|-------------------|-------------|
| Funds Budgeted | \$3,827,330 |
| Funds Expended | (\$158,550) |
| Encumbrances | (\$173,874) |
| Balance Remaining | \$3,494,906 |

BR0073 – Fire Station #4

Project Goal: Construction of a new Fire Station #4.

Recent Project Milestones:

- Corrected and Completed SPAC package re-submitted.

- SPAC review and approval complete.
- 100% Design Development (DD), construction cost estimate, Value Engineering Session.

Upcoming Project Milestones:

- Construction Drawing Phase (CD) completion.
- Planning, permitting and GMP phases.
- September 2015 Construction scheduled to begin.

| | |
|-------------------|-------------|
| Funds Budgeted | \$3,827,330 |
| Funds Expended | (\$158,455) |
| Encumbrances | (\$170,309) |
| Balance Remaining | \$3,498,566 |

PD0076 – Police Station

Project Goal: Construction of a new police department facility with associated secure parking and storage areas.

Recent Project Milestones:

- March 10, 2015 – Early Work pack 1 proposal evaluations completed.
- April 2015 – Early work pack 2 procured. (Bridges schedule gap between EWP1 and final work package).
- April 24, 2015 – Green lot and public safety lot closed.
- April 27, 2015 – Ground Breaking Ceremony

Upcoming Project Milestones:

- June 2015 - Construction design phase completion for final work package.
- July 2015 - Final GMP to be established and approved.
- August 2015 - Final construction phase scheduled to begin.

| | |
|-------------------|---------------|
| Funds Budgeted | \$14,574,580 |
| Funds Expended | (\$614,025) |
| Encumbrances | (\$4,210,948) |
| Balance Remaining | \$9,749,607 |

PD0077 – Police Station Secured Garage

Project Goal: Construction of a new police department facility with attached secure parking and storage areas.

Recent Project Milestones:

- March 10, 2015 – Early Work pack 1 proposal evaluations completed.
- April 2015 – Early work pack 2 procured. (Bridges schedule gap between EWP1 and final work package).

- April 24, 2015 – Green lot and public safety lot closed.
- April 27, 2015 – Ground Breaking Ceremony

Upcoming Project Milestones:

- June 2015 - Construction design phase completion for final work package.
- July 2015 - Final GMP to be established and approved.
- August 2015 - Final construction phase scheduled to begin.

| | |
|-------------------|---------------|
| Funds Budgeted | \$7,508,120 |
| Funds Expended | (\$315,801) |
| Encumbrances | (\$2,169,275) |
| Balance Remaining | \$5,023,044 |

PR0056 - U.S. Cellular Community Park – Phase IV (5-47)

Project Goal: The completion of three additional playing fields along with associated parking and infrastructure as described in the approved master plan.

Recent Project Milestones:

Upcoming Project Milestones:

- June 2015 – Completion of all landscape and irrigation maintenance.
- Add project elements with remaining funds: re-stripe parking lots to address hazardous parking, add speed bumps to reduce speed along entry drive, and add water supply for volunteer’s riparian restoration plantings.

| | |
|-------------------|---------------|
| Funds Budgeted | \$6,385,540 |
| Funds Expended | (\$5,942,125) |
| Encumbrances | (\$72,036) |
| Balance Remaining | \$371,379 |

General Fund Projects:

BR0062 – Cemetery Improvements (5-30)

Project Goal: To provide renovations and repairs to the Mausoleum located at the IOOF/Eastwood Cemetery.

Recent Project Milestones:

- February 2015 – Mausoleum lighting cancelled to proceed with painting.
- **May 2015 – Mausoleum building exterior paint completed.**

Upcoming Project Milestones:

- May 2015 – Mausoleum lighting to continue as a result of painting contract under budget.

| | |
|-------------------|------------|
| Funds Budgeted | \$75,000 |
| Funds Expended | (\$48,574) |
| Encumbrances | (\$12,760) |
| Balance Remaining | \$13,666 |

BR0064 – Annex Energy Management Replacement (5-31)

Project Goal: Replace antiquated Energy Management System (EMS) for building automation of HVAC at the Lausmann Annex.

Recent Project Milestones:

- August 25, 2014 - Construction/Project Begin.

Upcoming Project Milestones:

- June 2015 – Completion.

| | |
|-------------------|-------------|
| Funds Budgeted | \$110,000 |
| Funds Expended | (\$104,713) |
| Encumbrances | (\$0) |
| Balance Remaining | \$5,287 |

BR0068 – City Hall Electrical Modifications (5-33)

Project Goal: To provide general electrical modifications to departments requiring space upgrades.

Recent Project Milestones:

Upcoming Project Milestones:

- On-going throughout the biennium for City Hall offices.
- June 2015 – Project completed.

| | |
|-------------------|-----------|
| Funds Budgeted | \$15,000 |
| Funds Expended | (\$4,575) |
| Encumbrances | (\$0) |
| Balance Remaining | \$10,425 |

BR0070 – Citywide Card Access Upgrade (5-35)

Project Goal: Upgrade and expand automatic locking systems on all administrative buildings to a windows based system.

Recent Project Milestones:

- February 2015 – Long lead equipment received and building installation begins.

Upcoming Project Milestones:

- June 2015 – Completion.

| | |
|-------------------|--------------|
| Funds Budgeted | \$446,000 |
| Funds Expended | (\$266,494) |
| Encumbrances | (\$164,079)) |
| Balance Remaining | \$15,427 |

BR0074 – Fire Station #5 (5-40)

Project Goal: Provide renovations to Fire Station 5 building in order to address multiple maintenance items necessary for operational sustainability.

Recent Project Milestones:

- May 2015 – Contract for design work with architect has been issued.

Upcoming Project Milestones:

- June 2015 – Bid project elements.
- June 2015 – Award contract.
- Project will be carried forward to the 2015/17 biennium.

| | |
|-------------------|----------|
| Funds Budgeted | \$25,000 |
| Funds Expended | (\$0) |
| Encumbrances | (\$0) |
| Balance Remaining | \$25,000 |

BR0075 – Fire Station #6 (5-40)

Project Goal: Provide renovations to Fire Station 6 building in order to address multiple maintenance items necessary for operational sustainability.

Recent Project Milestones:

- May 2015 – Contract for design work with architect has been issued.

Upcoming Project Milestones:

- June 2015 – Bid project elements.
- June 2015 – Award contract.
- Project will be carried forward to the 2015/17 biennium.

| | |
|-------------------|-----------|
| Funds Budgeted | \$395,000 |
| Funds Expended | (\$143) |
| Encumbrances | (\$0) |
| Balance Remaining | \$394,857 |

BR0076 – Police Property Control (5-41)

Project Goal: Construction of an addition to the existing property control area located at the Service Center.

Recent Project Milestones:

- March 18, 2015 – Certificate of Occupancy request.
- April 2015 – Delayed sidewalk dedication finalized.

Upcoming Project Milestones:

- **July 2015** – Equipment elevator received and installed. (Item delay due to company going out of business after initial order).
- **July 2015** – Project 100% completed.

| | |
|-------------------|-------------|
| Funds Budgeted | \$523,400 |
| Funds Expended | (\$475,769) |
| Encumbrances | (\$47,631) |
| Balance Remaining | \$0 |

BR0086 – Fire Station #4 Temporary Bay

Project Goal: Construction of a metal facility to house fire trucks and equipment during the construction of a new Fire Station #4. Facility will be utilized as a logistic center after construction is complete for the new station.

Recent Project Milestones:

- March 2015 – SPAC review/approval

Upcoming Project Milestones:

- Project will be carried forward to the 2015/17 biennium.
- **July 2015** - Apparatus building construction to begin.
- **August 2015** - Apparatus building completed.

| | |
|-------------------|-----------|
| Funds Budgeted | \$250,000 |
| Funds Expended | (\$0) |
| Encumbrances | (\$0) |
| Balance Remaining | \$250,000 |

BR0087 – Fire Station #4 Temporary Living Quarters

Project Goal: Installation of temporary living quarters that will be utilized during the construction of the new Fire Station #4. Once the new station is completed, the living quarters will be relocated to U.S. Cellular Community Park and utilized as a resident caretaker facility.

Recent Project Milestones:

- January/February 2015 modular building procurement.

Upcoming Project Milestones:

- **July 2015** – modular installation scheduled (Start date tied to installation of utilities as part of BR0086 project).
- **August 2015** - modular building scheduled for installation.

| | |
|-------------------|------------|
| Funds Budgeted | \$67,200 |
| Funds Expended | (\$250) |
| Encumbrances | (\$66,950) |
| Balance Remaining | \$0 |

PR0094 – Hilfiker Wall Replacement (5-59)

Project Goal: Continue with restoration necessary to the Hilfiker wall located just south of U.S. Cellular Community Park, along the Bear Creek Greenway.

Recent Project Milestones:

Upcoming Project Milestones:

- **Project will be carried forward to the 2015/17 biennium.**

| | |
|-------------------|------------|
| Funds Budgeted | \$20,000 |
| Funds Expended | (\$10,009) |
| Encumbrances | (\$0) |
| Balance Remaining | \$9,991 |

PR0098 – Howard & Jackson Parking Lot Repave (5-63)

Project Goal: Upgrades to the parking lots located at Howard and Jackson Parks.

Recent Project Milestones:

- March 2015 – Develop bid documents.
- April 2015 – Advertise and award bid.
- May 2015 – Bid awarded to Knife River Materials.
- May 2015 – Construction\Project Begin.

Upcoming Project Milestones:

- June 2015 – Completion.

| | |
|-------------------|-----------|
| Funds Budgeted | \$60,000 |
| Funds Expended | (\$3,016) |
| Encumbrances | (\$0) |
| Balance Remaining | \$56,984 |

PR0105 (MUR018) – Hawthorne Park

Project Goal: Implementation of master plan items in order to rehabilitate Hawthorne Park.

Recent Project Milestones:

- May 2015 – Execute a final GMP for Design-Build contract.

Upcoming Project Milestones:

- August 2015– Completion of funded items.

| | |
|-------------------|-------------|
| Funds Budgeted | \$1,994,000 |
| Funds Expended | (\$354,138) |
| Encumbrances | (\$936,041) |
| Balance Remaining | \$703,821 |

BR0083 (MUR023) – Riverside South Parking Lot – (Dollar GMC)

Project Goal: Acquisition and development of a parking lot to increase parking in downtown.

Recent Project Milestones:

- Construction on-going, approximately 90% completed.

Upcoming Project Milestones:

- May 2015 – Construction to be completed.

| | |
|-------------------|-------------|
| Funds Budgeted | \$744,000 |
| Funds Expended | (\$482,939) |
| Encumbrances | (\$228,291) |
| Balance Remaining | \$32,770 |

BR0084 (MUR025) – Riverside North Parking Lot – (Red Lion)

Project Goal: Acquisition and development of a parking lot to increase parking in downtown.

Recent Project Milestones:

- **March 2015 – Design completed and awaiting ODFW approval.**

Upcoming Project Milestones:

- **May 2015 – Scheduled for bid.**
- **August 2015 – Scheduled completion date.**

| | |
|-------------------|------------|
| Funds Budgeted | \$975,000 |
| Funds Expended | (\$28,180) |
| Encumbrances | (\$9,873) |
| Balance Remaining | \$936,947 |

Completed General Fund Projects:

| Project # | Project | Completed | Budget | Actual | Savings |
|---------------|--|-----------------|-----------------|-----------------|----------------|
| BR0065 | Server HVAC Replacement | 06/06/14 | \$28,000 | \$27,954 | \$46 |
| BR0069 | SC Floor Replacement | 03/20/14 | \$40,000 | \$29,043 | \$10,957 |
| BR0077 | CMO Interior Modifications | 01/02/15 | \$25,000 | \$24,448 | \$552 |
| BR0078 | Alba/Medford Room Floors | 10/31/13 | \$25,000 | \$12,408 | \$12,592 |
| BR0079 | HR Floor & Updates | 10/31/13 | \$15,000 | \$10,267 | \$4,733 |
| BR0081 | Oakdale West Parking | 04/10/15 | \$450,000 | \$442,609 | \$7,391 |
| BR0085 | Fire Transaction Window | 09/30/14 | \$16,000 | \$15,648 | \$352 |
| PR0061 | Pedestrian Path Repairs | 09/30/14 | \$60,000 | \$50,203 | \$9,797 |
| PR0071 | Fichtner-Mainwaring Tennis | 04/10/15 | \$265,000 | \$264,061 | \$939 |
| PR0093 | Neighborhood Street Tree | 04/30/15 | \$25,000 | \$23,761 | \$1,239 |
| PR0097 | Holmes Park Sewer Line | 04/11/14 | \$20,000 | \$18,307 | \$1,693 |
| PR0099 | Railroad Park | 04/30/15 | \$20,000 | \$18,078 | \$1,922 |
| CA1823 | 4 th & Central Intersection | 04/30/15 | \$990,000 | \$751,297 | \$238,703 |
| | | Totals | \$1,979,000 | \$1,688,084 | \$290,916 |

Park Dedication Fund Projects:

PR0022 – Leisure Services Plan Update

Project Goal: Begin update to various components of the department’s Leisure Services Plan. This phase is to develop recommendations from the University of Oregon Sustainability program regarding cost recovery for Recreation Division programming.

Recent Project Milestones:

- Council approved final Community Needs Survey questions.

Upcoming Project Milestones:

- April-June – Community Needs Survey conducted.
- Project will be carried forward to 2015/17 biennium.

| | |
|-------------------|-----------|
| Funds Budgeted | \$20,000 |
| Funds Expended | (\$1,960) |
| Encumbrances | (\$0) |
| Balance Remaining | \$18,040 |

PR0069 – Prescott Park (5-50)

Project Goal: Continue with the implementation of the master plan that was approved in January 2009. Funding will be used to obtain proper land-use approvals and designs for trail construction.

Recent Project Milestones:

- February 5, 2015 – Anticipated acceptance of grant award by Council.

Upcoming Project Milestones:

- On-Going – Fundraising for construction by Rogue Valley Mountain Bike Association.
- March-June 2015 – Land use approvals sought via Jackson County.
- Project will be carried forward to the 2015/17 biennium.

| | |
|-------------------|-----------|
| Funds Budgeted | \$75,000 |
| Funds Expended | (\$3,278) |
| Encumbrances | (\$0) |
| Balance Remaining | \$71,722 |

PR0076 - Chrissy Park (5-53)

Project Goal: Begin development of the current Chrissy Park property as outlined in the community development master plan completed by staff and approved by the Parks & Recreation Commission in 2006.

Upcoming Project Milestones:

- **Project will be carried forward to the 2015/17 biennium.**

| | |
|-------------------|-----------|
| Funds Budgeted | \$290,000 |
| Funds Expended | (\$0) |
| Encumbrances | (\$0) |
| Balance Remaining | \$290,000 |

PR0079 – Trail & Pathway Development (5-54)

Project Goal: Continue development of phases for trail development within current or to be constructed facilities as outlined by the Leisure Services Plan.

Recent Project Milestones:

- **November 12 – Notification of intent to award a \$75,000 grant through the Recreational Trails Program for trail development at Prescott Park.**

Upcoming Project Milestones:

- **Project will be carried forward to the 2015/17 biennium.**

| | |
|-------------------|-----------|
| Funds Budgeted | \$112,500 |
| Funds Expended | (\$0) |
| Encumbrances | (\$0) |
| Balance Remaining | \$112,500 |

PR0080 – Oregon Hills Park (5-55)

Project Goal: Continue with the implementation of the approved master plan for this East Medford park site, as outlined in the Leisure Services Plan.

Upcoming Project Milestones:

- **Project will be carried forward to 2015/17 biennium.**

| | |
|-------------------|------------|
| Funds Budgeted | \$400,000 |
| Funds Expended | (\$91,410) |
| Encumbrances | (\$3,418) |
| Balance Remaining | \$305,172 |

PR0092 – Aquatic Facilities (5-57)

Project Goal: To develop aquatic facilities as outlined in the Leisure Services Plan.

Upcoming Project Milestones:

- Staff is does not anticipate action on this project during the current biennium.
- **Project will be carried forward to the 2015/17 biennium.**

| | |
|-------------------|---------|
| Funds Budgeted | \$6,800 |
| Funds Expended | (\$0) |
| Encumbrances | (\$0) |
| Balance Remaining | \$6,800 |

PR0095 – SE Area Plan (5-60)

Project Goal: Acquisition and development of parks and trails within the SE Area Plan.

Upcoming Project Milestones:

- Staff is does not anticipate additional action on this project during the current biennium.
- **Project will be carried forward to the 2015/17 biennium.**

| | |
|-------------------|-------------|
| Funds Budgeted | \$387,000 |
| Funds Expended | (\$401,008) |
| Encumbrances | (\$0) |
| Balance Remaining | (\$14,008) |

Completed Park Dedication Fund Projects:

| Project # | Project | Completed | Budget | Actual | Savings |
|-----------------|---|-----------------|------------------|------------------|-----------------|
| PR0007 | Kennedy Park | 09/30/14 | \$30,000 | \$13,850 | \$16,150 |
| PR0063 & PH0072 | Liberty Park | 06/30/14 | \$262,115 | \$241,599 | \$20,516 |
| PR0073 | Playground Development/Replacement | 05/13/15 | \$133,000 | \$133,250 | (\$250) |
| PR0096 | Cedar Links Park | 04/10/15 | \$33,500 | \$25,551 | \$7,949 |
| PR0102 & PH0067 | Union Park | 08/01/14 | \$190,500 | \$191,274 | (\$774) |
| PR0104 | Pear Blossom Park | 07/15/14 | \$150,000 | \$156,007 | (\$6,007) |
| | Totals | | \$799,115 | \$761,531 | \$37,584 |



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: **120.1**

www.cityofmedford.org

DEPARTMENT: Public Works
STAFF PHONE: 541-774-2100
STAFF CONTACT: Cory Crebbin, P.E.

AGENDA SECTION: Public Hearings
MEETING DATE: May 21, 2015

Consider an appeal of the Public Works administrative decision to not construct speed humps on Brookhurst.

ISSUE STATEMENT & SUMMARY:

A citizen traffic request was received asking that the City install speed bumps on Brookhurst.

BACKGROUND:

The Traffic Coordinating Committee reviewed this request and recommended denial. Public Works made an administrative decision to not install speed bumps. Note that this decision is also applicable to speed 'humps' as 'bumps' are only appropriate in private parking lots. The applicant filed an appeal of that administrative decision to the City Council.

A. Council Action History
None.

B. Analysis
Speed humps and other vertical traffic calming devices are not used in Medford's public right-of-ways for the following reasons:
a) Emergency response times are negatively impacted.
b) City liability can increase without extensive signage and maintenance.
c) Traffic noise is significantly increased and is used as a reason to request the speed bumps be removed after installation.
d) Pavement maintenance costs are increased on the segment with speed bumps.
The Average Daily Traffic on Brookhurst on the west side of Crater Lake Avenue was 600 vehicles in 2012. The street segment is approximately 1,700 feet long.

C. Financial and/or Resource Considerations
Installation of speed humps will cost approximately \$5,000 per hump and 4 to 5 humps will be required (based on internet research).

D. Timing Issues
None.

STRATEGIC PLAN:

Not Applicable.

COUNCIL OPTIONS:

1. Uphold the appeal.
2. Deny the appeal.
3. Uphold the appeal with modifications.



STAFF RECOMMENDATIONS:

Deny the appeal.

SUGGESTED MOTION:

I move to deny the appeal requesting that speed bumps and/or humps be installed on Brookhurst.

EXHIBITS:

Appeal Letter
Traffic Coordinating Committee Minutes 4/22/15
4/22/15 Letter from Peter Mackprang

Letter was unopened in
G. Wilson box - out
of town 4/28 - 5/1
opened →

RECEIVED
MAY 04 2015
CITY OF MEDFORD
CITY RECORDER'S OFFICE

To whom it may concern,

I am appealing the decision of the City of Medford Traffic Coordinating Committee to deny speed bumps on Brookhurst Street. It states that under city policy, having speed bumps would reduce the overall safety and efficiency of the transportation system. I do not see how this is possible when speed bumps/humps are for controlling traffic and all in all making the streets safer.

If we slow down vehicles then it will be a safer street for our kids. Also, there is just too much traffic down this street. High school kids and adults drive way too fast down this street. It is just not during lunch hours but also in the evening time. It is ridiculous.

Here are some facts:

In the event that a crash does occur, lower speeds significantly lower the probability of a fatality or serious injury. Each 1 mph reduction in traffic speed reduces vehicle collisions by 5% and fatalities by more than 5%. A driver travelling at 40 mph who sees a pedestrian 100 feet ahead will be traveling 38 mph on impact. If a driver was instead driving at 25 mph, he would have enough time to stop before ever reaching the pedestrian. Slowing traffic saves lives. Traffic calming measures have been called "the only antidote for the malady of child pedestrian accidents." (Transportation Alternatives Magazine)

Speeding is the single most common traffic rule violation and contributes to one third of all road traffic crashes.

World Health Organization

More than half (53%) of fatal head injuries in an eight year study were to children who were playing in the street when injured.

American Journal of Public Health

A study of 43 international traffic calming programs found that traffic calming solutions decreased traffic accidents by 8-100%

ITE Traffic Calming: State of the Practice

Two thirds of children who are hurt or killed in traffic accidents are struck and injured within several blocks (.25 miles) of their homes

American Journal of Public Health

Traffic calming has proven far more effective in preventing child pedestrian injuries than road safety education, which has been "unable to exert meaningful changes in the behavior of children"

American Journal of Public Health

Traffic Calming measures are a key intervention to road traffic crashes and deaths.

World Report on Road Traffic Injury Protection

All I am asking is to safely protect our children and other pedestrians that walk down this street every day. If you do not want to place permanent speed bumps why not try the temporary big speed humps. Also, a permanent "This road is controlled by radar" sign at each end would help. I feel that this residential street is being used like Crater Lake Rd (where someone actually died last year at the corner of Brookhurst St), and there is just too much traffic. Please help in any way you can before someone gets injured or killed.

Thank you for your time and consideration in this matter.

Sincerely,

Marty Tlascala

1750 Brookhurst St.

Medford, OR 97504

209-505-1628

MINUTES

Draft MEDFORD TRAFFIC COORDINATING COMMITTEE

April 22, 2015 – Lausmann Annex, Room 151

10. Roll Call

The following members were present: Peggy Penland, Matthew Conde, Mike Montero, Lewis Osborn, Jeff Morejohn

Staff Representatives present: Peter Mackprang, Associate Traffic Engineer; Officer Greg Nichols, Medford Police Department; Monica Neimoyer, Administrative Support Tech.

Citizens in attendance: Kathleen Iriawan, Ashley Boughmer

The meeting was called to order at 12:00 p.m. by Peggy Penland. A quorum was present.

20. **Approval of Minutes** – Matthew Conde MOVED to accept the minutes of March 25, 2015. Mike Montero SECONDED. Motion was approved.

25. Consent Calendar –

25.1 Installation of higher visibility pavement markings in advance of the northbound right turn lane at Biddle Road and Morrow Road.

30. Monthly Agenda

30.1 Black Oak and Country Club – Request for marked crosswalks

Ms. Cheryl Roberts, 2433 London Circle, Medford, OR 97504 submitted an electronic Citizen Request form asking for installation of marked crosswalks at Black Oak and Country Club at the corners that have sidewalk out of concern for school age pedestrians.

Peter Mackprang gave the staff report. Mike Montero asked for clarification of what constitutes a controlled intersection. Peter confirmed that a four-way stop is considered a controlled intersection, and in this case, a nearby school creates an extenuating circumstance. Peggy Penland asked why this intersection would be approved without a crossing guard when the intersection of Merriman and Mace, also a four-way stop, was required to provide a crossing guard. The concern is safety and being consistent on the recommendations from the committee.

After discussion Mike Montero MOVED to recommend that staff review this application as proposed for the crosswalk. Specifically as it relates to safety and consistency, then bring this item back next month. Matthew Conde SECONDED. Motion was approved.

30.2 Progress Drive at the DMV Driveway – “No Parking” Sign Request

Ms. Kathleen Iriawan, Oregon Department of Motor Vehicles, 1174 Progress Drive Ste 103, Medford, OR 97504 submitted a Citizen Request form and letter asking for installation of “No Parking” signs for approximately 45 feet on either side of the driveway principally used by Department of Motor Vehicles (DMV) patrons.

Peter Mackprang gave a staff report.

Ms. Iriawan, addressed the committee with her concerns regarding increased vehicular traffic on Progress. The DMV has over 500 customers per day, plus the other tenants in the shopping complex. Employees of La Clinica are parking on the street instead of in their parking lot. The DMV employees do ride-alongs with customers and feel it is unsafe trying to access Progress Drive.

After lengthy discussion Lewis Osborn MOVED to recommend installation of “No parking for vehicles over 6 feet in height” on the south side of Progress Drive from Biddle Road to the east end of the DMV building and install “No Parking” signs for 20 feet on both sides of the DMV driveway, also located on the south side of Progress Drive. Mike Montero SECONDED. Motion was approved.

30.3 Spring Street between Crater Lake Avenue and Springbrook – Request for speed limit reduction or installation of sidewalks on Spring Street between Crater Lake Avenue and Springbrook.

Kenneth Yarus, 1145 Spring Street, Medford, OR 97504, submitted an electronic Citizen Request Form requesting a speed limit

reduction on Spring Street between Crater Lake Avenue and Springbrook, or that sidewalks be constructed along the same section.

Peter Mackprang gave the staff report.

After discussion, Mike Montero MOVED to recommend that staff explore a potential SDC reimbursement program with the developers of Berkeley Hills to fund a sidewalk alternative along Spring Street. Lewis Osborn SECONDED. Motion was approved.

30.4 Oakdale Avenue and W. Main Street – Request for “No Turn on Red” Sign for southbound traffic

Mr. Desmond McGeough, 1362 Aspen Street, Medford, OR 97501, submitted a Citizen Request form requesting installation of a “No Turn on red” sign for southbound traffic on Oakdale Avenue approaching W. Main Street due to visibility blocked by buildings.

Peter Mackprang gave the staff report.

After discussion Matthew Conde MOVED to recommend installation of a “No Turn on Red” sign for the southbound approach on Oakdale Avenue at W. Main Street. Lewis Osborn SECONDED. Motion was approved.

30.5 Brookhurst Street between Serenity and Crater Lake Avenue – Request for speed bumps on Brookhurst Street between Serenity and Crater Lake Avenue.

Marty Tlascal, 1750 Brookhurst Street, Medford, OR 97504, submitted an electronic Citizen Request form requesting installation of speed bumps on Brookhurst Street between Serenity and Crater Lake Avenue.

Peter Mackprang gave the staff report. The City’s policy is to not use vertical traffic control. Mike Montero suggested the citizens should experience Pine Street in Central Point. The noise is a problem for residents. Officer Nichols explained how the speeding vehicles move to other streets when enforcement is present.

After discussion Mike Montero MOVED to recommend denial of the request for speed bumps on Brookhurst Street due to City policy. Lewis Osborn SECONDED. Motion was approved.

40. Reports

40.1 Oregon Impact Newsletter

50. Non-Agenda Items –

Lewis Osborn asked for discussion about westbound E. McAndrews traffic turning south (left) into Towne Center. Can the timing be lengthened on the yellow signal so traffic has time to clear the intersection? Officer Nichols asked if the eastbound signal could have a delay to green allowing the intersection to clear? Peter said he would bring the questions back to Engineering. Mike Montero suggested that in the next rehab on E. McAndrews perhaps the dip into Towne Center could be modified.

Peggy offered to step aside if another committee member would like to take the chair position. The committee agreed unanimously that Peggy should continue as the chair for Traffic Coordinating Committee.

60. Adjournment – Meeting adjourned at 1:00 p.m.

Respectfully Submitted,

Monica Neimoyer
Administrative Support Technician



CITY OF MEDFORD

PUBLIC WORKS DEPARTMENT
ENGINEERING & DEVELOPMENT DIVISION

200 S. IVY STREET
MEDFORD, OREGON 97501
www.ci.medford.or.us

TELEPHONE: (541) 774-2100
FAX: (541) 774-2552

Date: April 22, 2015

Marty Tlascala
1750 Brookhurst Street
Medford, OR 97504

Re: Your traffic control request for speed bumps on Brookhurst Street between Serenity and Crater Lake Avenue.

Your request was reviewed by the City of Medford Traffic Coordinating Committee at the meeting on April 22, 2015.

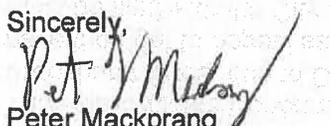
The Public Works Department decision on your request is: To deny the request for speed bumps on Brookhurst Street due to City policy. This is the Public Works Department's final decision and therefore you have the right to appeal said decision to Council per Medford Municipal Code 1.025. A written notice of appeal must be filed with the City Recorder within ten (10) days of the date of this letter.

The Traffic Coordinating Committee reviews such requests and make recommendations to the City in accordance with Medford Municipal Code 2.457. This committee is not authorized to direct City staff or make traffic control device decisions. The committees' recommendation was forwarded to the Public Works Department and the final decision was made in accordance with Medford Municipal Code 6.100. The Medford Municipal Code can be reviewed on the City's internet web site: www.ci.medford.or.us.

This decision is based on traffic control device 'warrants' and standard engineering practices. Overuse of traffic control devices reduces effectiveness of warranted devices and reduces the overall safety and efficiency of the transportation system. For this reason the Public Works Department normally relies on a warrant analysis to establish the need for additional traffic control.

If you have any questions in regard to this request or decision, please contact Peter Mackprang, Associate Traffic Engineer, at 541-774-2100.

Sincerely,


Peter Mackprang
Associate Traffic Engineer

PM:mn



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 120.2

www.cityofmedford.org

B. Analysis

An Executive Summary has been prepared by staff and it is included as Exhibit 1.

C. Financial and/or Resource Considerations

None identified.

D. Timing Issues

Under Medford Land Development Code (MLDC) Section 10.166, the approving authority shall take final action on an application within 120 days after the application is deemed complete. ORS 227.178(1) further requires that, "...the governing body of a city...shall take final action on an application...including resolution of all appeals...within 120 days after the application is deemed complete." As noted above, the 120th day for this application is June 20, 2015. The City Council must render its decision by that date.

STRATEGIC PLAN:

Goal 11: Provide efficient and state-of-the-art development application review.

COUNCIL OPTIONS:

In the appeal of this land use decision, the City Council has four options:

1. Affirm the decision of the Site Plan and Architectural Commission.
2. Reverse the decision of the Site Plan and Architectural Commission. If the Council does, this, the Council must specify the reasons for reversal.
3. Modify the decision of the Site Plan and Architectural Commission and specify the reasons for such modification.
4. Remand the decision back to the Site Plan and Architectural Commission with an explanation of the error and the action necessary to rectify the error. Given the constraints of the 120-day rule, this is not an option unless the property owner concurs and agrees to extend the 120-day limit.

STAFF RECOMMENDATIONS:

Staff recommends adoption of the resolution modifying the decision of the Site Plan and Architectural Commission and declaring that no procedural error was made in not responding to Appellant's request that the Chair recuse himself.

SUGGESTED MOTION:

I move to modify the decision of the Site Plan and Architectural Commission and declare that no procedural error was made in not responding to Appellant's request that the Chair recuse himself.

EXHIBITS:

Exhibit 1 – Executive Summary dated May 15, 2015
PowerPoint Presentation (on file in the Planning Department Office)

Executive Summary

Consideration of an appeal of the Site Plan and Architectural Commission decision to deny Sky Park, a 26-unit residential project and related Exception request seeking relief from required parking standards on 0.68 acre located on the northwest corner of S Central Avenue and 10th Street. The bases of the appeal are: 1) The Findings of Fact made by the Commission are incorrect and incomplete; and 2) The Commission did not adopt in its orders or report any response to Appellant's request that the Chair recuse himself.

Dated: May 15, 2015

What are the issues before the City Council?

Are the Site Plan and Architectural Commission findings adequate to support the decision to deny the proposal? Did the Commission err in not responding to the Appellant's request for the Chair to recuse himself?

City Council Scope of Review

The City Council's scope of review is listed in Medford Land Development Code Section 10.053 and is summarized below.

Upon review, the City Council:

- *Shall not re-examine issues of fact, and*
- *Shall limit its review to determining:*
 - *Whether there is substantial evidence to support the findings of the tribunal which heard the matter, or*
 - *If errors in law were committed by such tribunal.*
- *Review shall be limited to those issues set forth in the notice of appeal.*
- *Review shall be based on the record of the initial proceedings.*

Chronology

1. On January 21, 2015, an application to construct a 26-unit residential project elevated above the Medford Urban Renewal Agency parking lot located on the block bounded by 10th Street, S Central Avenue, 9th Street, and the north-south alley extending between Front Street and S Central Avenue was submitted by Skypark Medford, LLC (Applicant) (File No. AC-15-007).

2. On January 27, 2015, Applicant submitted an Exception application seeking relief from parking standards (File No. E-15-009).
3. On February 20, 2015, AC-15-007 and E-15-009 were deemed complete. The 120th day for rendering the final decision is June 20, 2015.
4. On April 3, 2015, the Site Plan and Architectural Commission (SPAC or Commission) held the duly noticed public hearing. Prior to the hearing, staff learned of a noticing error; the incorrect hearing date was shown on the public hearing signs posted on the site. The mailed notices sent to the surrounding property owners were correct. The Commission heard testimony from Applicant, staff and four members of the public. The Commission left the public hearing open and continued the matter to its next regular meeting of April 17, 2015.
5. On April 17, 2015, the Commission again heard testimony from Applicant, staff, and seven members of the public. At the end of the proceeding, it was the decision of the Commission to adopt the final orders for denial of AC-15-007 and E-15-009 (Exhibit 2). The Commission adopted the final orders at the conclusion of the public hearing because of the noticing error. Delay in adopting the final orders could have resulted in running afoul of the 120-day rule.
6. On May 6, 2015, the City received an appeal from CSA Planning, Ltd., on behalf of Skypark Medford, LLC (Applicant, now Appellant) (Exhibit 1).

Medford Land Development Code Criteria

The applicable approval criteria are found in Medford Land Development Code (MLDC) Sections 10.290, Site Plan and Architectural Review Approval Criteria, and 10.253, Criteria for Exception.

10.290 SITE PLAN AND ARCHITECTURAL REVIEW APPROVAL CRITERIA

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

- (1) *The proposed development is compatible with uses and development that exist on adjacent land; and*
- (2) *The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC § 10.253.*

10.253 CRITERIA FOR EXCEPTION

No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:

- (1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.*
- (2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.*
- (3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.*
- (4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.*

Project Summary

Applicant submitted a request to construct 26 dwelling units on a deck over the existing Medford Urban Renewal Agency (MURA) parking lot commonly referred to as Central A. The project was to be constructed in a manner so as not to obstruct the existing parking facilities that will remain below the new development. Applicant's Project Narrative describes the project as follows (p. 1 of Exhibit C to Exhibit 2):

"Sky Park proposes to construct a concrete deck supported on steel beams and posts and then construct 26 one and two story dwelling units on top of the deck. The deck level will be accessed via elevator and stairs. Access will be via secure card key. The parking lot will remain as a public parking lot owned and operated by the City of Medford once the project is complete. Except for the grand public entry stair, the ground floor lobby area, a trash enclosure, an enclosure to house utility meters and support columns, the ground

level is generally expected to remain as it is, although the parking spaces will be reconfigured. In all, Sky Park will occupy approximately 1,000 square feet of the ground surface."

Applicant submitted the Exception application E-15-009 seeking relief to parking standards, requesting one space per unit, in lieu of the required 1.5 or 2 spaces per dwelling unit. The distinction between the requirements for 1.5 and 2 spaces per unit is discussed below.

Notice of Appeal

A single Notice of Appeal was filed by CSA Planning, Ltd., on behalf of Appellant Sky Park Medford, LLC. It was filed within 14 days of the decision as required in MLDC 10.051.

Allegations of Error

In the Appellant's Introductory Statement (p. 1, Exhibit 1) there is a reference to the project as "needed housing". During the proceedings, there was not a request to treat the project as needed housing under ORS 197.307. It is unclear if it is intended to be considered as an allegation of error.

Two allegations of error are identified in the appeal (Exhibit 1). Each is included below with a staff response.

1. The Appellant contends, "*ORS 227.173(3) requires that approval or denial of a permit application shall be based upon a brief statement that explains the criteria and standards, the facts relied upon, and justification for the decision based on the criteria, standards and facts set forth. The Findings of Fact by the Commission are Incorrect and Incomplete.*"

Staff Response:

This allegation is divided into five subsets which are summarized and responded to separately.

A. The Commission erred in rejecting applicant's findings of fact.

The Commission rejected the applicant's findings, not the facts contained within. This is evident in that the Project Narrative for the Site Plan application and the Project Narrative for the Exception, contained in Exhibits C and D to the Final Orders (Exhibit 2), were not deleted from the Commission Report. Exhibit A, the recommended conditions of approval, was deleted as it no longer applied. The facts supplied with the application were most certainly considered by the Commission and were part of the record, referred to throughout the Commission Report.

The Commission reached, or “found” a different conclusion than the Appellant did in his supporting documentation. The Commission often rejects an applicant’s findings if they differ from their own. If they do not, then there are two sets of findings which may conflict.

B. The Commission found that the proposal is not in harmony with the “community”.

Appellant divided this sub-section into three points. Each is addressed in turn.

i. The above is not a finding of fact but rather a combination of conclusion and opinion about what “should be” rather than what the code and comprehensive plan actually states and actually require.

The Site Plan approval criterion at MLDC 10.290(1) is very subjective:

(1) The proposed development is compatible with uses and development that exist on adjacent land; and

Appellant’s objection on this point is largely Code based, which is inappropriate. Compliance with City ordinances is required at MLDC 10.290(2).

Appellant is correct in his statement that the Commission’s finding is a combination of conclusion and opinion. The subjective nature of Criterion 1 requires opinion; there is not a Code-based answer to the question of compatibility, nor can it be found within the Comprehensive Plan. If it were a formulaic Code-based decision, it could be made at the staff level. This level of discretion requires a body to decide; the City Council granted the Commission the authority to make this quasi-judicial decision in MLDC 10.132.

There is no dispute that Appellant proposed to construct 26 dwelling units as allowed by MLDC 10.358, 10.708, 10.714, etc. Criterion 1 is subjective; the Commission found that the proposal did not satisfy said criterion. The basis for its decision is in the record and includes architectural style. Further discussion on this issue follows in Item B.ii. below.

ii. To the extent that the Commission, in concluding that the proposal is not compatible with the existing dense development pattern and commercial uses that exist in the area, based that conclusion on architectural design or form rather than adopted residential density standards, such a conclusion is not supported by the facts and is inconsistent with the applicable standard of review.

There are two approval criteria, summarized as compatibility and compliance with City ordinances. Compliance with one criterion does not necessarily lead to the conclusion that the other is equally satisfied.

Executive Summary
Appeal of Site Plan and Architectural Commission Decision
Skypark Medford, LLC, Appellant (AC-15-007/E-15-009)
May 15, 2015

The purpose of Site Plan and Architectural review is, *"... to provide for review of the functional and aesthetic adequacy of development ... The Site Plan and Architectural Review considers consistency in the aesthetic design, site planning and general placement of related facilities such as street improvements ... the design, placement and arrangement of buildings..."* (MLDC 10.285).

At MLDC 10.291: *"...the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Section 10.290, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole..."*

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements...

(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures..."

The Appellant's Project Narrative describes the project (Item C, p. 2, Exhibit C to Exhibit 2):

"The façade of the structure utilizes different materials and has façade changes both vertically and horizontally to give the impression of a collection of urban residential units that break up large expanses of façade and give relief to building mass."

The Commission Report notes (p. 10 of Commission Report, Exhibit 2): *"... Testimony was also offered stating that the single-family design concept was not appropriate for the dense downtown core..."*

The Commission is tasked with determining whether a proposal is compatible with surrounding development and uses, which clearly includes design. There are no architectural design standards in the Medford Land Development Code, except in the Southeast Plan area. Under MLDC 10.291, the Commission could have required that the applicant redesign the "height, bulk, configuration" of the project and return with a redesigned project. This could have resulted in violating the 120-day rule. The Appellant did not offer to redesign the project, request a continuance to address the Commission's concerns, or address the testimony regarding design under rebuttal at either hearing. As an alternative, the Commission could have approved the project with conditions and delegated the review authority to staff. However, in doing so they could have significantly changed the proposal. Staff is not authorized to make a decision on compatibility; that authority lies with SPAC. The Commission took action on the project that was before it.

Executive Summary
Appeal of Site Plan and Architectural Commission Decision
Skypark Medford, LLC, Appellant (AC-15-007/E-15-009)
May 15, 2015

Under this subsection, Appellant discusses the Oregon Transportation Planning Rule, the Regional Transportation System Plan, and the City's Transportation System Plan. The question of whether SPAC should request the Council or Planning Commission to initiate a code amendment was also discussed. These issues were not raised at the hearing before SPAC and are not addressed here.

Finally, under this subsection Appellant implies that SPAC should ignore the approval criteria because MURA and city officials have already vetted the project. As a quasi-judicial body, SPAC strives to treat all applicants equally. The fact that the City Council and MURA are parties to the agreement attached to the Final Orders as Exhibit Q added a level of complexity to the decision. The fact that SPAC voted to deny the project shows focus on the criteria rather than the applicant's affiliations.

- iii. *The Commission's reference to testimony and evidence in the record is vague and does not explain how competing testimony and evidence in the record was considered, weighed, and reconciled against the information and responses provided in support of approval.*

ORS 227.197(3) states:

"Approval or denial of a permit application or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth."

MLDC 10.168 states, *"Findings which address applicable criteria accompany all actions required of this chapter for plan authorizations"*, but does not specify the content of findings as the ORS does above.

With the exception of the criterion at MLDC 10.290(2), the Commission's findings satisfy the requirement in the ORS above. The finding for MLDC 10.290(2) is vague in that it does not specify that the proposal did not meet the parking requirement in MLDC 10.743. That determination is more clearly stated in the finding for the Exception criterion at MLDC 10.253(1) (p. 11 of Exhibit 2).

The Appellant states that the Commission adopted a pre-written order rather than directing staff to prepare the final order for its approval. The 120-day rule requires a final decision from the City, including resolution of appeals, within that time frame. The Commission took action to adopt the final orders because of the noticing issue discussed above. If the Commission had adopted the orders at the next regular meeting of May 1, the City would have run afoul of the

120-day rule. The 120th day is June 20, 2015. The appeal hearing before City Council could have been held, but the final order would have to have been adopted at the appeal hearing.

C. MLDC Section 10.290 states that the Commission “shall” approve a site plan and architectural review application if it can find that the proposed development conforms, “or can be made to conform through the imposition of conditions,” with the following criteria [being MLDC 10.290(1) and (2)].

Appellant is correct that the Commission could have applied conditions of approval to mitigate its concerns as identified in MLDC 10.291 above. However, the Commission did not apply conditions of approval as it did not approve the project. In fact, Exhibit A, the draft conditions of approval prepared by staff, was deleted in its Final Orders.

D. The findings in the Commission Report as adopted with the final orders are internally inconsistent and do not support the conclusion under Site Plan Approval Criterion 2 where Commission found that the property meets neither the development standards contained in the Municipal Code, nor the Exception criteria contained in MLDC 10.253.

Single Family vs. Multi-Family. This was a rather unusual proposal in that the units appear to be multi-family, and for all intents and purposes, are. However, the Project Narrative states, in part, “...Providing 26 single family residential units within the commercial core will provide a dramatic boost for existing service and retail businesses...” (Item O, p. 3 Exhibit C to Exhibit 2). This statement lead staff to analyze the project as single family residences as represented by the applicant.

The distinction between multi-family and single family is how the units can be owned. For multi-family projects, one owner owns all 26 units. If it's single family, there can be 26 individual owners and a Homeowner's Association is required to maintain common area, etc. From a processing perspective, both require SPAC review. An additional step would be required to create single family residences via a condominium plat through the Oregon State Department of Real Estate. In the end, staff determined that it really didn't matter except for the parking calculation. MLDC 10.743 requires two parking spaces per single family unit and 1.5 spaces per multi-family unit.

Parking Alternative Interpretations

After the initial public hearing, a Memorandum to the Commission was submitted to the record by John Huttli, Deputy City Attorney (Exhibit U to Exhibit 2). The Memorandum identifies an interpretation of the Land Development Code requirements for parking that is different than the one prepared by staff (p. 5 of Exhibit 2). It also provides an explanation of the terms of the parking agreement between MURA and the applicant.

Appellant asserts that the Commission did not make a determination as to whether parking was required. Within the findings for the Exception under MLDC 10.253(1): “...*The Commission finds that parking is required for residential uses in the Downtown Parking District.*” Additionally, on Page 7 of the Commission Report (Exhibit 2), there is a note of the Commission’s decision. Additionally, the minutes of the meeting of April 17, 2015, capture the commissioner’s concerns regarding parking. Finally, the Commission acted to deny the Exception request for relief from the parking standard. These facts point to a decision on the part of the Commission.

E. The findings related to Exception Criterion 1 [being MLDC Section 10.253(1)] at pages 11 to 12 in the Commission Report speak to the purpose of requiring on-site parking for residential uses in the downtown without citing any adopted provision in the ordinance or (C)omprehensive (Plan) in evidence of that finding.

It is true that there is no code basis for the purpose stated in the finding. It is a logical conclusion that residents have a long-term need, while businesses have a short-term need. Additionally, since the Code requires on-site parking for all uses with limited exception (or the availability of parking with a short, safe walking distance), one can conclude that it is intended to be available on the site.

Appellant notes that the Code does not require parking spaces to be specifically reserved exclusively for any particular tenant or user under MLDC 10.741(A)(1). That is true; however, in MLDC 10.745, parking must be located on the same lot as the main structure it serves, or on an abutting lot. If that is not possible, it must be located within 250 feet. The Commission heard that the lease agreement with MURA did not guarantee the availability of 26 spaces under the building, or even within Central A. It simply guaranteed the option for the residents to purchase monthly permits. If the monthly permit spaces were not available in Central A, they could use monthly permit spaces in other lots or use hourly spaces. This arrangement does not meet the standard of MLDC 10.745.

The Commission determined that the exception was not in harmony purpose of the regulation, which is providing parking on-site or within a reasonable distance. The Commission found it to be injurious to the general area because of the impacts on the surrounding businesses. However, the Appellant is correct that the Commission did not make a finding on the request to reduce parking.

Summary of Appeal Basis 1

Staff’s responses are summarized here. As above, the bases for appeal are presented in *italics* with staff’s response below.

Executive Summary
Appeal of Site Plan and Architectural Commission Decision
Skypark Medford, LLC, Appellant (AC-15-007/E-15-009)
May 15, 2015

- A. *The Commission erred in rejecting applicant's findings of fact.*
- The Commission rejected the applicant's findings, not the facts contained within.
- B. *The Commission found that the proposal is not in harmony with the "community".*
- The subjective nature of Criterion 1 requires opinion; there is not a Code-based answer to the question of compatibility, nor can it be found within the Comprehensive Plan.
 - There are two approval criteria, summarized as compatibility and compliance with City ordinances. Compliance with one criterion does not necessarily lead to the conclusion that the other is equally satisfied.
 - With the exception of the criterion at MLDC 10.290(2), the Commission's findings satisfy the requirement in the ORS above.
- C. *MLDC Section 10.290 states that the Commission "shall" approve a site plan and architectural review application if it can find that the proposed development conforms, "or can be made to conform through the imposition of conditions," with the following criteria [being MLDC 10.290(1) and (2)].*
- The Commission did not apply conditions of approval as it did not approve the project.
- D. *The findings in the Commission Report as adopted with the final orders are internally inconsistent and do not support the conclusion under Site Plan Approval Criterion 2 where Commission found that the property meets neither the development standards contained in the Municipal Code, nor the Exception criteria contained in MLDC 10.253.*
- The distinction between multi-family and single family is how the units can be owned.
 - Within the findings for the Exception under MLDC 10.253(1): "...The Commission finds that parking is required for residential uses in the Downtown Parking District."
- E. *The findings related to Exception Criterion 1 [being MLDC Section 10.253(1)] at pages 11 to 12 in the Commission Report speak to the purpose of requiring on-site parking for residential uses in the downtown without citing any adopted provision in the ordinance or (C)omprehensive (Plan) in evidence of that finding.*
- The Appellant is correct that the Commission did not make a finding on the request to reduce parking.

To conclude the first basis of appeal, staff recommends that the City Council uphold the Site Plan and Architectural Commission decision on Items 1A through 1D. As the Commission did not decide the Exception request in MLDC 10.253(1) definitively, staff recommends that the Commission decision be modified to include findings for denial as follows:

The applicant has requested a reduction in the amount of parking required to one space per unit. MLDC 10.745 specifies that the parking must be located on the same lot as the main structure it serves or on an abutting lot. If that is not possible, it must be located

within 250 feet walking distance. The applicant has not demonstrated that this standard has been met. The parking lease with MURA only guarantees the availability of 26 monthly spaces, not that they will be available to the residents on the subject site or any other public parking facility.

MLDC 10.741(1) requires off-street parking spaces to be available for exclusive use as parking space. In MLDC 10.741(2), *“Such off-street parking and loading spaces shall be provided at the time a certificate of occupancy is issued for a new building or the expansion of an existing building... Parking and loading spaces provided to meet the requirements of this code shall not be reduced in size or number to an amount less than required by this code for the use occupying the building or site... The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner.”*

Reducing the number of parking spaces to one per dwelling unit is appropriate in this location because of its close proximity to public transit and other services. However, the removal of 26 parking spaces for general public use is not in harmony with the general purpose of the off-street parking requirements in MLDC 10.358(2) and MLDC 10.743. The applicant has not demonstrated that the parking provided will meet the locational standard in MLDC 10.745. The City Council can conclude that the general purpose and intent of the regulation is not met. Exception Criterion 1 is not satisfied.

2. The Appellant contends, *“The Commission did not adopt in its orders or report any response to Appellant’s request that the Chair recuse himself. Appellant’s concern that the chair is employed by a party in the proceedings who testified against the project merited consideration in the final orders. The chair recused himself in other matters on the same agenda in which his firm was directly involved.”*

Staff Response:

The Appellant submitted an e-mail to staff shortly after the conclusion of the public hearing on April 3, 2015 (Exhibit S to Exhibit 2). The text of the message:

“I was dismayed to hear David Wilkerson of ORW Architecture bad mouth the SkyPark project at the public hearing today. He also happens to be Jeff Bender’s boss. I respectfully request that Jeff Bender recuse himself from further deliberations on this project.”

Prior to the continued public hearing on April 17, 2015, Chair Bender addressed the e-mail from Mr. McKechnie. Chair Bender stated, in part, *“... (I have) taken the matter to heart and (do) not feel there is any potential conflict of interest. ... (I am here) to rule on the evidence as*

submitted.” (p. 2, Exhibit 4) Appellant neither questioned the Chair further on conflicts or bias nor challenged the Chair’s statement. The Commission is not required to opine on these issues.

Conclusion

The Site Plan and Architectural Commission did not err in reaching its conclusions on Allegation 1A through 1D, but did err in its findings identified in Item 1E. Staff has prepared findings for the Council’s consideration for Exception Criterion 1 at MLDC 10.253(1) above.

The Commission did not err in the second allegation. No action was required.

A procedural error was made with the on-site sign postings as noted above; however, it was not identified as a basis for appeal.

City Council Options

The City Council will need to determine if there is substantial evidence in the record to support the decision of the Site Plan and Architectural Commission. The options are:

1. If the Council finds that there is substantial evidence in the record to conclude that the Site Plan and Architectural Commission decision was correct and that the evidence in the record supports the Commission’s findings, then the Council should affirm the decision.
2. If the Council finds that the evidence in the record supports the Appellant's contention that the decision was in error or that there is not substantial evidence to support the decision, then based upon substantial evidence in the record the City Council should:
 - a. Reverse the decision. If the Council does this, the Council must specify the reasons for reversal; or
 - b. Modify the decision and specify the reasons for such modification; or
 - c. Remand the decision back to the Site Plan and Architectural Commission with an explanation of the error and the action necessary to rectify the error. Given the constraints of the 120-day rule, this is not an option unless the Appellant concurs and agrees to extend the 120-day limit.

Executive Summary
Appeal of Site Plan and Architectural Commission Decision
Skypark Medford, LLC, Appellant (AC-15-007/E-15-009)
May 15, 2015

Exhibits

- 1 Notice of Appeal received May 6, 2015
- 2 Site Plan and Architectural Commission Final Orders dated April 17, 2015, with the Commission Report dated April 17, 2015
- 3 Site Plan and Architectural Minutes of April 3, 2015
- 4 Site Plan and Architectural Minutes of April 17, 2015
- 5 PowerPoint Presentation of April 3, 2015
- 6 PowerPoint Presentation of April 17, 2015



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 Medford, OR 97504
 Telephone 541.778.0569
 Fax 541.778.0114
 Raul@CSAplanning.net

May 6, 2015

MAYOR AND CITY COUNCIL
 c/o Medford City Recorder
 411 West 8th Street, Room 310
 Medford, OR 97501

RE: NOTICE OF APPEAL - *Hand Delivered*
 SPAC Denial Orders, File Nos. AC-15-007/E-15-009
 (Sky Park Medford LLC, Applicant/Appellant)

Dear Mayor Wheeler and Members of the City Council:

This letter shall serve as the formal Notice of Appeal by Sky Park Medford LLC pursuant to Medford Land Development Code (MLDC) Section 10.052 of the above referenced Sita Plan and Architectural Commission denial orders dated April 17, 2015 for which notice was mailed on April 22, 2015. CSA Planning, Ltd. has been retained by Sky Park Medford LLC to provide agent representation on its behalf. The following is responsive to the City's land use appeal requirements as set forth in MLDC 10.051 through 10.056.

Statement Demonstrating Appellant's Standing to Appeal: Sky Park Medford, LLC has standing to appeal pursuant to MLDC Section 10.051 because Mark McKechnie, as an authorized member of the LLC and as the project's architect and agent, appeared in the initial proceedings and was entitled to a right of notice and hearing. Applicant also asserts that it is both aggrieved and adversely affected by the decisions as they disallow construction of an urban housing project which it has expended considerable time and resources in good faith to deliver.

Introductory Statement: Appellant in this matter tendered the application for site plan and architecture review of a downtown urban housing project over an existing city-owned public parking facility following almost two years of vetting the concept and design with MURA and the City Council. The project as proposed would provide 26 units of needed housing at a gross density of 24 units per acre in the C-C zoning district where multi-family residential development at MFR-30 density (i.e., 20 to 30 units per acre) is a listed permitted use. The site is in the Central Business District within the Downtown Parking District and located one half of a block from the region's largest transit station and in the region's largest transit-oriented design (TOD) district where many alternative modes of travel connect in a major activity and employment center. Although residents in this urban location are expected to be those who seek housing where it is not necessary to be dependent upon ownership and storage space for personal motor vehicles to provide a primary means for transportation, parking is proposed to be provided at a ratio of one space per housing unit through purchase of public parking facility permits from the City.

Parking arose as the key issue of concern before the Commission. Two plausible interpretations were identified by the Assistant City Attorney in the proceeding, but the Commission's order did not expressly adopt either as its own in its written decision. Instead, the Commission Report speaks to the "purpose" of requiring on-site parking for residential uses in the downtown without identifying where that

CITY OF MEDFORD
 EXHIBIT # 1
 File # AC-15-007/E-15-009
 Appeal



purpose is established in the adopted code or comprehensive plan or otherwise how the purpose was derived contextually or by examination of legislative history. Appellant asserted to the Commission and asserts now to the Council that unqualified text in Table 10.743-1 - which is where every applicable code reference to required parking eventually lands - states that the parking standard only applies "outside of Downtown Parking District."

The project, if allowed to move forward, will serve to demonstrate whether urban style residential housing is marketable in the downtown next to or very near the public library, the region's largest transit hub, the Riverside Campus RCC/SOU Higher Education Center, and a myriad of other close-by activity, shopping, employment, and civic centers. Future residents who will buy or rent such units may reasonably be expected to be those who do not need or want to have dedicated parking tied to their housing choice and who will instead opt to utilize the many alternative travel modes available to them in an urban housing context.

Denial of the project, on the other hand, will continue to promote an erroneous understanding vocalized by some of the Commissioners in their deliberations that two parking spaces are always required for housing in Medford, that some other jurisdictions allow just 1.5 spaces per unit, and that one space per unit is "just not what we do in southern Oregon." [as stated by Commissioner Dew with concurrence by others in final deliberation on March 17, 2015]. Denial would further have the effect of discouraging investment in needed housing through unreasonable cost or delay by application of standards that are not clear and objective even with regard to the fundamental issue of whether housing density proposed within the permitted range for the zoning district is of a large enough scale and of a high enough density. The Commission, in its order on an as-applied basis to this case, has subordinated a clear and objective density standard established by the City to a highly subjective standard of site plan and architectural "compatibility" with adjacent development and what the Commission believes - on an *ad hoc* basis - is appropriate for a particular area.

If a project which the City Council and MURA have already determined to be appropriate in concept for the purposes of promoting residential development consistent the City's goals for downtown - a project that meets established density requirement - may be denied for not being dense enough, then why would anyone be reasonably expected to know in entering into such a project what the magic number is to be?

The unqualified text of the City's adopted parking standards table - which states that that minimum parking ratio applies only outside of the Downtown Parking District - should be utilized as the most clear and objective application of the code for a plausible interpretation to be adopted rather than determining - on an as-applied basis for a needed housing project - that the table is misleading.

Appellant below identifies specific errors in the Commission's orders for denial that provide for bases of appeal.

Statement of the Specific Grounds for the Appeal:

1. ORS 227.173 (3) requires that approval or denial of a permit application shall be based upon a brief statement that explains the criteria and standards, the facts relied upon, and justification for the decision based on the criteria, standards and facts set forth. The Findings of Fact made by the Commission are Incorrect and Incomplete.

A. The Commission erred in rejecting applicant's findings of fact. See, page 13 of 14 of the Commission Report dated April 17, 2015, under "Action Taken" by the Commission. The Commission provided no explanation as to why any of



the applicant's findings of fact were incorrect. The Commission report did not include or adopt sufficient facts of its own describing the nature and character of the surrounding uses and architecture which were detailed in the applicant's findings of fact. Those facts are essential to properly relate the facts of the case with the approval criteria for a site and architectural review application. Rejecting the applicant's findings of fact left the decision lacking any specific findings to describe of the nature and character of the existing development adjacent to the project site which goes to the heart of a review for compatibility with uses and development that exist on adjacent land (MLDC 10.290(1)). For example, the rejected findings (located in Exhibit "C" of the Commission Report) established that the adjacent and surrounding commercial buildings consist generally of single-story shops with stucco exterior. The design of the proposed structure provides for one and two story attached residential units on a deck that maintains a minimum 12-foot clearance over the ground level to accommodate future retail should MURA choose to adapt any ground level space for the same (which would be subject to development permit approval review). Those facts establish the project will result in a two to three story structure in the Central Business District which is in harmony with the character of the existing uses and development on adjacent land (the actual review standard). The applicant's findings also established that the central hub of the Rogue Valley transit system is a half block away on Front and 9th Streets. That is a highly relevant fact in relation to concerns about the parking proposal, and in context with established policies to promote alternative modes of travel in transit-oriented districts.

B. On page 10 of 14 of the Commission Report, the Commission found that the proposal is not in harmony with the "community". The Commission then stated as follows:

"Residential development in the downtown should be of a larger scale, of a higher density and provide its own parking. Based on the testimony received and the evidence contained in the record, the Commission finds that the proposal is not compatible with the existing dense development pattern and commercial uses that exist in the area. Site Plan Approval Criterion 1 is not met."

i. The above is not a finding of fact but rather a combination of conclusion and opinion about what "should be" rather than what the code and comprehensive plan actually states and actually require. The conclusion is not explained in relation at all with any context or to the adopted provisions of the Medford Land Development Code or the Medford Comprehensive Plan. The conclusion is also in direct conflict with the established standards for residential density in Community Commercial zone within the Central Business District. MLDC 10.708(C) provides that multiple-family dwelling units are allowed in commercial zoning districts except for the C-N zone, that the minimum density factor shall be the same as the MFR-30 district (which is 20 units per gross acre), and that there is no maximum density restriction. The Medford Land Development Code defines the term "[m]ultiple-family, multiplex, or apartment dwelling" as follows: *"Attached dwelling units in one or more structures, but having at least three or more dwelling units per structure."*

The record clearly demonstrates that the project includes two rows of 13 attached dwellings having common walls and common yard on a deck above a single tax lot. By the city's adopted code definition, these are multi-family units. The Commission Report includes no finding to establish the residential gross density. However, page 5 of 6 of Exhibit "C" in the Commission Report contains the (rejected) applicant's finding that the gross density is 24 units per acre. That is a correct calculation and evidences that the proposed density

meets the code requirements for gross residential density in the MFR-30 zone which is permitted in C-C zones. Although there is no maximum density requirement under MLDC 10.708(C), neither is there any requirement to provide more than the minimum density. The Commission's conclusion that a higher density should be required in the Central Business District is also in direct conflict with the C-B overlay district residential development standard at MLDC Section 10.358(2)(c) which requires that a conditional use permit be obtained for new residential development that exceeds the residential density standard of the MFR-30 zone. The C-B district is more restrictive than elsewhere in the City with regard to maximum residential density in commercial zoning districts but does allow multi-family residential projects as a permitted use where the project is below the maximum density of the MFR-30 zone. The additional control of higher densities in the C-B overlay through the conditional use permitting requirement thereby would address issues discussed in the Commission's deliberation but not included in the adopted order (e.g., what happens if a higher density project is proposed if the parking standard is found not to apply in the downtown parking district?).

ii. To the extent that the Commission, in concluding that the proposal is not compatible with the existing dense development pattern and commercial uses that exist in the area, based that conclusion on architectural design or form rather than adopted residential density standards, such a conclusion is not supported by the facts and is inconsistent with the applicable standard of review. The standard of review is directed to adjacent uses and development, and the facts are that the surrounding commercial structures are generally single-story. The library across the street is two stories. Other blocks in the area beyond the adjacent properties include downtown retail type uses and civic uses in two and three story buildings. The proposed project will be two to three stories in height over half a city block which is in scale with the library and the surrounding development. The Commission Report does not include any reasoning as to why a standard requiring compatibility with adjacent uses compels a greater intensity than that proposed for a project that MURA and city officials have vetted as an appropriate innovative and balanced approach to providing needed housing in the downtown area. If the Commission believes the City should greatly increase the required intensity of residential development downtown, and to require all residential development at such greater intensities to provide its own parking at the same ratio as required for residential projects located well afar of destinations that are within close walking and cycling distance, then it should forward such recommendation to the Planning Commission or City Council to initiate a legislative code amendment that can be properly considered through the public hearings process. Through such proceeding, the City would also be required to address the adopted policies and requirements of Oregon's Transportation Planning Rule, the Regional Transportation System Plan, and the City's own Transportation System Plan which all require a reduction in overall per capita parking, reduction in per capita vehicle miles travelled, and promotion of transit oriented development in mixed-use pedestrian friendly districts such as Medford's City Center TOD (which corresponds to its Central Business District). It is not appropriate, however, to adopt policy on an ad-hoc basis in the course of a quasi-judicial development permit review. Again, the applicable standard of review under the currently adopted code is one of compatibility with adjacent uses rather than on opinions of what the area "should be".

iii. The Commission's reference to testimony and evidence in the record is vague and does not explain how competing testimony and evidence in the record was considered, weighed, and reconciled against the information and responses provided in support of approval. Only the negative testimony was referenced. No party disputed that the proposed density falls within the

minimum and maximums of the MFR-30 (Multi-Family Residential). For example, no explanation is provided as to why permitted residential use can appropriately be denied based on an adjacent glass repair business's occasional operation of an air compressor resulting in noise at 2 a.m. where the owner testified that the business is a residential specialty facility. Testimony and rebuttal provided at the continued hearing on April 17th was also not addressed at all in the Commission's orders or report likely because the Commission adopted a pre-written order rather than to direct that an order be prepared to properly set forth its findings and holdings following conclusion of the hearing.

C. MLDC Section 10.290 states that the Commission "shall" approve a site plan and architectural review application if it can find that the proposed development conforms, "or can be made to conform through the imposition of conditions," with the following criteria [being MLDC 10.290 (1) and (2)]. Urban living in a downtown area is a particular housing choice - residents who make that choice would reasonably expect to hear the noises of the city. If the business is operating in conformance with city regulations, which is presumed to be the case, then it limits its noise sources and impulse sounds to the levels for day and night times as established at MLDC 10.752. If the business is not operating within those parameters, a proposed permitted use is not appropriately denied based on non-conformance to a code provision by the neighboring use. To the extent there remained any further compatibility concerns about such noise, the imposition of a condition to more fully insulate the units along the adjacent alley from sound through architectural treatments would reasonably mitigate that concern. During deliberations, the Commission determined that a new application would need to be submitted. The code provision, to the contrary, requires that the Commission "shall" approve the SPAC application if it can be made to conform through the imposition of conditions. Moreover, the Commission's conclusion that even higher residential density should have been proposed is incongruent with a finding (which wasn't actually made) that reasonably expected urban noise cannot be adequately mitigated through conditions (e.g., waivers of remonstrance, additional insulation, baffled air vents, etc...).

D. The findings in the Commission Report as adopted with the final orders are internally inconsistent and do not support the conclusion under Site Plan Approval Criterion 2 where Commission found that the property meets neither the development standards contained in the Municipal Code, nor the Exception criteria contained in MLDC 10.253. For example, the findings at pages 5 through 6 state that dwelling units would be considered single-family residential based on the code definition of Multi-Family Residential but later states that the development could also be considered under the multi-family dwelling standard rather than a single-family standard. Although a reading of the adopted code definition could not possibly lead to a conclusion that the proposed units are anything other than multi-family units, the Commission did not include an explanation or adopt a conclusion as to whether the project is multi-family or single-family housing. Also, throughout the Commission Report are determinations that the project meets the development standards of the code other than for the parking standard, for which the Deputy City Attorney's comments and written opinion (Commission Report, Exhibit "U") may plausibly be found not to apply within the Downtown Parking District. To Appellant's understanding, that is the only standard that the Commission considered not to be met yet the Commission's order is vague as to its holding that proposal does not meet the standards contained in the municipal code.

E. The findings related to Exception Criterion 1 [being MLDC Section 10.253(1)] at pages 11 to 12 in the Commission Report speak to the purpose of requiring



on-site parking for residential uses in the downtown without citing any adopted provision in the ordinance or comprehensive in evidence of that finding. The finding also includes no indication that the legislative history was examined to establish that there was an intent by the city to require parking for residential uses in the downtown parking district. The findings are also misdirected from the requested exception (which was filed as a precaution). The request was to allow a reduction to 26 spaces from the normal ratio that would apply to 26 residences (i.e., 1.5 spaces per multi-family unit or 2 spaces per single family unit) in the event that code does not provide an exemption in the downtown parking district. Because 39 spaces would be required for 26 multi-family units, the requested exception would reduce the required amount by 13 spaces. It is undisputed that non-residential uses in the downtown parking district have no minimum parking requirement. Consequently, the existing parking lot having 98 spaces on site - to be increased by four as a result of the project - is and will continue to be of more than adequate size to accommodate the full 39 spaces to serve the mix of residential and non-residential uses because the parking facility is on the same property and the total requirements for off-street parking for mixed uses is the sum of the requirements for the various uses considered separately (MLDC 10.741(2)). Therefore, the cumulative minimum parking requirement for the non-residential use (which is zero) plus the standard requirement for the proposed residential use (which would be 39) is 39. Each of the parking spaces in the facility will continue to be available "for exclusive use as parking and loading space" as the text of MLDC 10.741(A)(1) requires. There is no requirement that parking spaces be specifically reserved *exclusively* for any particular tenant or user. The adopted order identified no standard requiring that spaces be reserved exclusively for use by residents in a mixed-use facility. All the spaces in the facility will continue to be available *exclusively for parking and loading* which is what the text of the code actually states and requires. That is, the required minimum number of spaces (if they are required) are located on the same parcel and they will be available for the operable use of residents, customers, and employees and shall not be used for the storage of materials or for the parking of fleet trucks used in conducting the business or use. That is the requirement of required by MLDC 10.741(2).

The Commission found that the removal of 26 spaces for general public use is not in harmony the general purpose of the public parking provided and adversely affects adjoining businesses. However, the Commission's scope of review should have been limited to the *request to reduce* the amount otherwise required to be provided (if applicable) to 26 spaces from 39. It is City's parking district rather than SPAC that is charged with establishing policy and regulations for the parking facilities that it owns and manages.

2. The Commission did not adopt in its orders or report any response to Appellant's request that the Chair recuse himself. Appellant's concern that the chair is employed by a party in the proceedings who testified against the project merited consideration in the final orders. The chair recused himself in other matters on the same agenda in which his firm was directly involved.

In summary, the twenty-six homes will be well-located to provide housing for students and others who would rather live near and walk to their daily destinations rather than drive. On an equal basis with non-residential uses, residents will be required to pay separately for the spaces they actually use in an actively and efficiently managed public parking facility. This will serve to maximize utilization of urban land in the manner expected of municipalities in this state. In relation to non-residential commercial uses that could be constructed as an alternative given the zoning of the site, which indisputably would require no additional parking under the code but which would most assuredly generate a higher demand for parking, the proposal presents an

innovative way to mix an appropriate amount of residential use in an attractive building over an otherwise uncovered asphalt parking lot.

Appellant respectfully requests that the City Council approve this project as an attractive and much needed addition of long-overdue market rate housing in the downtown area.

Very truly yours,

CSA Planning, Ltd.



Raul G. Woerner
Principal

Enclosure: Limited Power of Attorney to CSA Planning, Ltd. from Sky Park Medford, LLC

LIMITED SPECIAL POWER OF ATTORNEY

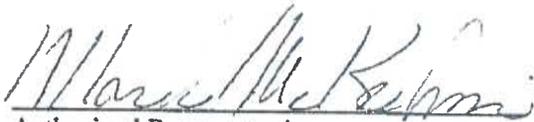
AUTHORIZATION TO ACT on behalf of the undersigned lessee of real property commonly identified as 206 S. Central Avenue, Medford, Oregon (MAPID 371W30BC, Tax Lot 11600).

LET IT BE KNOWN that CSA Planning, Ltd. (CSA) is the duly authorized representative of Sky Park Medford LLC ("SPM"), an Oregon Limited Liability Company with a lease of and air rights over the above described real property. Owner, by this instrument, does hereby authorize CSA to perform all acts procedurally required to obtain land use and development applications and permits as may be required by and through the City of Medford as legal prerequisites to actual development of the described real property.

THIS LIMITED AND SPECIAL POWER OF ATTORNEY shall be used for only the limited and special purposes above described and shall not be used to buy, sell or convey any part or any interest whatsoever in this or any other land owned by the above property owner.

THIS LIMITED AND SPECIAL POWER OF ATTORNEY has been expressly authorized by the undersigned applicant and shall expire on December 31, 2016, but may be extended by the mutual consent of the parties.

Done and dated this 5th day of May, 2015.


Authorized Representative

MEMBER
Title
SKY PARK MEDFORD LLC

BEFORE THE MEDFORD SITE PLAN AND ARCHITECTURAL COMMISSION

STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF SITE PLAN AND ARCHITECTURAL COMMISSION)
FILE AC-15-007 APPLICATION FOR PROJECT REVIEW SUBMITTED) ORDER
BY SKYPARK MEDFORD LLC.)

AN ORDER for denial of plans and associated Exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over a 0.688 acre portion of the Medford Urban Renewal Agency parking lot facility located on the northwest corner of S. Central Avenue and E. 10th Street within a C-C/CB (Community Commercial – Central Business District Overlay) zone district, as provided for in the Medford Land Development Code.

WHEREAS:

1. The Site Plan and Architectural Commission has duly accepted the application filed in accordance with the Land Development Code, Section 10.285.
2. The Site Plan and Architectural Commission has duly held public hearings on the matter of an application for consideration of plans and associated Exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over a 0.688 acre portion of the Medford Urban Renewal Agency parking lot facility located on the northwest corner of S. Central Avenue and E. 10th Street within a C-C/CB (Community Commercial – Central Business District Overlay) zone district, with public hearings a matter of record of the Site Plan and Architectural Commission on April 3 and April 17, 2015.
3. At the public hearings on said application, evidence and recommendations were received and presented by the Planning Department staff; and
4. At the conclusion of said public hearings, after consideration and discussion, the Site Plan and Architectural Commission, upon a motion duly seconded, granted denial and directed staff to prepare a final order with all conditions and findings set forth for the granting of denial.

THEREFORE LET IT BE HEREBY ORDERED that the application of Skypark Medford LLC stands denied subject to compliance with the conditions stated in the Commission Report dated April 17, 2015.

AND LET IT FURTHER BE OF RECORD that the action of the Site Plan and Architectural Commission denying this application is hereafter supported by the following findings:

- (a) That the proposed development does not comply with the applicable provisions of all city ordinances as determined by the Site Plan and Architectural Commission.
- (b) That the proposed development is not compatible with uses and development that exist on adjacent land, based upon information provided in the Applicant's Questionnaire and presented at the public hearing.

CITY OF MEDFORD
EXHIBIT # 2
File # AC-15-007/E-15-009
APPEAL

21

FINAL ORDER AC-15-007

BASED UPON THE ABOVE, it is the finding of the Medford Site Plan and Architectural Commission that the project is not in compliance with the criteria of Section 10.290 of the Land Development Code.

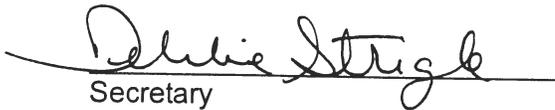
Accepted and approved this 17th day of April, 2015.

MEDFORD SITE PLAN AND ARCHITECTURAL COMMISSION



Site Plan and Architectural Commission Chair

ATTEST:



Secretary

BEFORE THE SITE PLAN AND ARCHITECTURAL COMMISSION

STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF DENIAL OF AN EXCEPTION FOR)
)
SKYPARK MEDFORD LLC [E-15-009])

ORDER

An order for denial of an exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Agency Parking Lot Facility, located upon .688 acres west of S. Central Avenue and north of E. 10th Street within a C-C/ C-B (Community Commercial – Central Business District Overlay) zone district.

WHEREAS:

1. The Site Plan and Architectural Commission has duly denied the application filed in accordance with the Medford Land Development Code, Sections 10.211 and 10.252; and
2. The Site Plan and Architectural Commission has duly held public hearings on the request for consideration of plans and associated exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Agency Parking Lot Facility, located upon .688 acres west of S. Central Avenue and north of E. 10th Street within a C-C/ C-B (Community Commercial – Central Business District Overlay) zone district, with the public hearings a matter of record of the Site Plan and Architectural Commission on April 3 and April 17, 2015.
3. At the public hearing on said exception, evidence and recommendations were received and presented by the Planning Department Staff; and
4. At the conclusion of said hearing, after consideration and discussion, the Site Plan and Architectural Commission, upon a motion duly seconded, denied approval and directed staff to prepare a final order with all conditions and findings set forth for the exception denial.

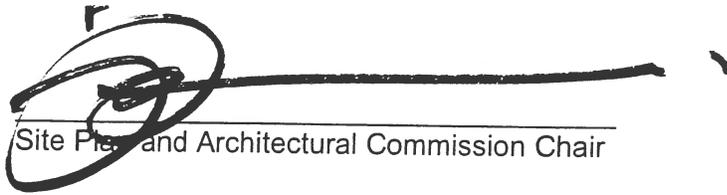
THEREFORE LET IT BE HEREBY ORDERED that the exception of Skypark Medford LLC, stands denied per the Commission Report dated April 17, 2015.

AND LET IT FURTHER BE OF RECORD, that the action of the Site Plan and Architectural Commission in denying this request for exception approval is hereafter supported by the findings referenced in the Commission report dated April 17, 2015.

BASED UPON THE ABOVE, the Site Plan and Architectural Commission determined that the exception does not comply with the provisions of law and Section 10.253 criteria for an exception of the Land Development Code of the City of Medford.

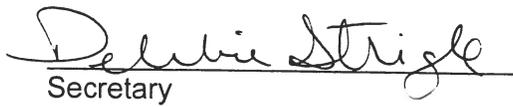
Accepted and approved this 17th day of April, 2015.

MEDFORD SITE PLAN AND ARCHITECTURAL COMMISSION



Site Plan and Architectural Commission Chair

ATTEST:



Secretary



CITY OF MEDFORD

PLANNING DEPARTMENT

COMMISSION REPORT

Date: April 17, 2015

Subject: Sky Park Residential Development (AC-15-007/ E-15-009)
Sky Park Medford LLC, Applicant
(Mark McKechnie, Oregon Architecture, Inc., Agent)

BACKGROUND

Proposal

Consideration of plans and associated Exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over a 0.688 acre portion of the Medford Urban Renewal Agency parking lot facility located on the northwest corner of S. Central Avenue and E. 10th Street within a C-C/CB (Community Commercial – Central Business District Overlay) zone district.

Subject Site Zoning, GLUP Designation, and Existing Uses

Zone: C-C/CB
GLUP Designation: CC (City Center)
Existing Use: MURA Parking Lot

Surrounding Property Zoning and Uses

North: C-C/CB
Use: MURA Parking Lot/Retail

South: C-C/CB
Use: Retail

East: C-C/CB
Use: Library

West: C-H/CB (Heavy Commercial with Central Business District Overlay)
Use: Dance Studio, Auto Glass Repair, MURA Parking Lot

“Working with the Community to Shape a Vibrant and Exceptional City”

Applicable Criteria

10.290 SITE PLAN AND ARCHITECTURAL REVIEW APPROVAL CRITERIA

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

- (1) The proposed development is compatible with uses and development that exist on adjacent land; and*
- (2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC § 10.253.*

10.253 CRITERIA FOR EXCEPTION

No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority (Planning Commission/Site Plan and Architectural Commission) having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:

- (1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The Planning Commission/Site Plan and Architectural Commission shall have the authority to impose conditions to assure that this criterion is met.*
- (2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.*
- (3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.*
- (4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.*

ISSUES/ANALYSIS

Revised Staff Report dated April 10, 2015

The report was revised to reflect the proceedings of the public hearing of April 3, 2015. The Commission heard testimony and voted to continue the public hearing to the regular meeting of April 17, 2015. The continuance was a result of a noticing error described below.

Noticing Error

The public hearing notice signs posted on the site incorrectly identified the Friday, April 3 hearing as Saturday, April 4. Staff was made aware of this error late in the afternoon of March 31, 2015. The mailed property owner notices correctly identify the April 3 public hearing date; staff corrected the signs on April 1.

The applicant's agent was advised of the error and given the option of continuing the item to allow time for the 21-day notice to be correctly posted. The applicant's agent elected to move forward as scheduled, citing a conflict with performance times contained in the related Agreement for Disposition and Development of Property (DDA).

In order to meet the 120-day rule, staff recommended that the Commission continue the public hearing, giving the public an opportunity to participate on April 17. Since April 4 was a Saturday, staff posted continuation notices on the doors of City Hall. The public hearing signs posted on-site were again updated after the Commission continued the hearing to reflect the continued public hearing date of April 17, 2015.

Testimony

At the public hearing of April 3, 2015, the Commission heard testimony from the applicant's agent and four members of the public. The issues raised were largely related to parking and compatibility. The recommended findings have been revised to reflect the testimony received. A letter was also submitted into the record that is included and identified as Exhibit R.

The applicant's agent submitted an e-mail on April 3, stating that Chair Bender should recuse himself. That e-mail is included and identified as Exhibit S.

Revised Findings

Because of the posting error noted above, staff recommended that the Commission continue the public hearing to and adopt the final order at the meeting of April 17, 2015. Staff has prepared alternative findings for approval as well as denial based on the testimony that was received at the April 3 hearing. Additional analysis of the Exception request is also included below.

Scope of Project/Background

The subject application is for a new building for the Sky Park residential development. The applicant seeks approval to construct a total of 26 one-, two- and three-bedroom residential dwelling units. The proposed development is located upon a raised deck that spans over a Medford Urban Renewal Agency (MURA) parking lot facility, located on northwest corner of 10th Street and Central Avenue, across the street from the public library. The parking lot, known as "Central A" and managed by the City of Medford, currently provides public parking for 94 vehicles. Seventy-five spaces located in "Central A" are located under the proposed structure.

On September 23, 2014, the Developer, the City of Medford and the Medford Urban Renewal Agency entered into an Agreement for Disposition and Development of Property (DDA). Within the agreement, MURA has agreed to sell the air rights above the entire property area. The developer will lease, for a period of 50 years, the ground floor area required for the elevator lobby, egress, stairs, trash enclosure, utility metering room and deck support columns. Per the DDA, the developer will submit application for building permit within six months after receiving a final order for approval and commence construction within one year after receiving a building permit.

As part of a Lease Agreement between the Developer and MURA, approved by the City Council on January 15, 2015, the City has agreed to provide 26 reserved spaces within the "Central A" lot under the building. These spaces will be available for the exclusive lease to owners of Sky Park dwelling units. The remaining 47 spaces under the building will be maintained as parking spaces for general public use. A total of 19 spaces in the portion of the "Central A" parking facility not under the structure to the west will be available for tenants and guest. Permits for these spaces may be purchased for a one week period; however, a person can purchase up to four weeks of permits in advance.

Overlays

The subject parcel is within the Central Business District Overlay Zone. Section 10.358 of the Medford Land Development Code notes that the purpose of the overlay zone is to, *"recognize the unique and historic character of the downtown area as an asset to the community and provide standards necessary for continued development and redevelopment."* The section further identifies that all commercial development standards, with exception of parking provisions on vacant sites, are waived. Therefore, site plan conformance to MLDC provisions typically presented in staff review, such as setbacks, lot coverage and building height, do not apply to the subject proposal.

Site Plan (Exhibit B)

The subject site is bounded by 10th Street on the south, Riverside Avenue on the east, 9th Street on the north, and a public alley on the west. The footprint of deck area encompasses 30,000 square feet, which is 100% of the parcel. The parking lot below will generally remain in its current configuration with slight changes. The landscape buffer between the sidewalk and parking lot area will also remain in place as will sidewalk furniture and street trees. A staircase and elevator are proposed for the northeast corner of the site and a utility room and staircase are proposed for the southeast corner of the site. Both of these ground floor additions are outside of the current parking lot area in an existing sidewalk plaza area. A trash enclosure will be located off the alley.

Exception Request/Parking

The applicant has requested an exception to required parking for the residential units. The MLDC typically requires two parking spaces for each single-family unit. Parking provisions are applicable to residential development in the CB Zoning District Overlay, though there are special provisions pertaining commercial and industrial development located within the Parking Overlay District.

The MLDC table for required parking (Table 10.743-1) contains a column that provides parking standards that are particular to the CB Overlay Zone District. The column heading notes that the standards are applicable to the CB Overlay, "*outside of the Downtown Parking District*". The double asterisk in the column provides reference to the note at the bottom of the table defining the physical boundaries of the Parking District. The subject site is in the Parking District.

When considering the text of Sections 10.358 and 10.743 as a whole, it is evident that off-street parking must be provided for residential uses in the CB zoning overlay district, even when such development is located within the parking district. Section 10.358(1)(a) provides off-street parking and loading standards for Commercial and Industrial Development located within the CB Overlay District and notes that development of vacant parcels are subject to off street parking requirements, "*except when located in the parking district.*" However, this section is only applicable commercial and industrial development within the CB Zoning District Overlay, residential development is not discussed within this section; it is identified in a subsequent subsection.

When considering Section 10.743(1) of the MLDC (Off-Street Parking Standards), it specifically excludes residential uses from the parking district provision of having no requirement for minimum number of off street parking spaces. Section 10.731(1) provides the following:

"For non-residential uses, there is no minimum number of off-street parking spaces required in the Downtown Parking District, per Section 10.358(1)(a); ..."

Based on the express language provided in the MLDC, staff finds that off-street parking requirements of the CB Overlay District are full in effect when considering residential

development within the Parking District Overlay. Even though the subject units are all attached, based on the code definition of Multi-Family Residential, the dwelling units would be considered single family residential units. Therefore, the number of off-street parking spaces required for each unit is two, thus the total number of parking spaces needed for the project is 52 stalls.

Per the applicant's narrative, an owner of unit within the development may opt to lease one of the 26 "reserved" spaces under the structure, on an annual basis. A permit may also be obtained for any of the 19 spaces located to the west of the structure within the "Central A" parking lot. Permits for this area may only be purchased only for a one week period; however, a person can purchase a permit up to four weeks of permits in advance. Thus, 26 of the 52 required off-street parking spaces are available for the exclusive use to residents of the development. As such, the development seeks relief from the parking section of the Land Development Code as to provide one exclusive space per unit within the parking lot rather than two.

Staff would like to note, per the definition of the provided in the MLDC, these units are considered single-family dwellings since each one of is considered a separate structure. However, this development of one-, two- and three-bedroom units functions no differently than a garden-style apartment building that has multiple units in one single structure. The required parking for a multi-family unit is 1.5 spaces per unit. It could be reasonably argued that required parking for this development should be considered under the multi-family dwelling standard rather than a single family standard. If this project was considered under the multi-family dwelling unit standard, the required parking for this development would only be 39 parking spaces.

The applicant's Exception findings provide rationale for the parking reduction. The applicant notes that one reserved space is sufficient for the development, given its central location within walking distance to most downtown features and nearby transit routes. Additionally, like commercial uses within the Downtown Parking District, owners in the development will also be contributing to the maintenance of the MURA parking lots and structures within the district. Residents of the development will have access to any space within the district and will be able to reserve a space on an annual basis for a fee under the structure. Given the amount of parking in the area, the applicant contends there is adequate parking for the development. Given the lease agreement with MURA secures and makes available the 26 parking spaces for lease exclusively for this development, staff concurs with the Applicant's findings that parking needs for the development are adequately met. Discussion regarding the Exception approval criteria will be discussed further below in this report.

Additional Information from April 3, 2015

At the public hearing, Legal staff raised the question of whether the Exception request was needed. The fact that the question was raised indicates some ambiguity in the language. As described above, one interpretation of the Code is that parking is required for residential uses within the CB Overlay, regardless of its location within the parking district. Another is that the requirement for parking in the CB Overlay in MLDC 10.743-1 does not apply because the site is

located within the Parking District. The result of the latter interpretation is that the Exception was not needed.

If the Commission decides that there is a parking requirement contained in MLDC 10.358(2) and 10.743-1, then a decision on the Exception E-15-009 is needed. If the Commission decides that there is not a requirement for parking based on the language in the table at MLDC 10.743-1, the Exception is not needed. The Commission must decide this issue.

Decision: At the conclusion of the public hearing of April 17, 2015, the Commission decided that parking is required under MLDC 10.358(2)(a). The exemption from the parking requirement in the Downtown Parking District identified in MLDC 10.746 applies only to non-residential uses.

Elevations and Materials

The townhouse structure building mass has been designed to provide depth and visual variety through offsetting layers and varying roof lines. The structure includes a variety of facade treatments including Craftsman style, Spanish mission style and traditional brownstone character. Several architectural materials are proposed which are consistent with these varying archetypes including: hardie board siding, El Dorado stone, brick and stucco. Many of the units also include a small standing terrace extension to provide a small outdoor space overlooking the street side. The structure has been designed to maintain a 12-foot clearance for the parking lot, should MURA seek to redevelop ground floor area as retail or office space in the future by replacing the existing parking stalls. The proposed structure is enhanced by a monumental stair case located at the corner of Riverside Avenue and 9th Street which terminates within a tower feature and entry provides entry onto the second story courtyard deck.

Discussion

During the Land Development Committee Meeting with the applicant, staff commended the overall architectural direction of the Sky Park development and the project as a whole. The perspective rendering provided for the Riverside Avenue side gives a strong sense of the architectural layering and diversity of elements. Staff has encouraged the applicant to provide additional architectural elements on the courtyard living side of development to create the same sense of architectural flavor and liveliness as the street frontage and requested additional consideration to architectural elements on the alley side.

Architectural enhancements suggested by staff to enhance thematic character of the development upon the interior living side included:

- Window awnings
- Spanish style wrought iron railings
- Divided light windows consistent with the architectural style
- Top and bottom window lintels
- Full (four sided) window architectural pop-outs
- Enhancements to the porch support posts

- Railings defining personal outdoor space
- Cornice molding at roof edge

On the rear of the building, the building plane undulates, which provides an element of depth to the structure: however, staff has encouraged the Applicant to incorporate the use scoring articulation around windows to provide additional interest on the rear side. On the front side of the building, staff has suggested that one of the unit walls extend down to grade as to further ground the structure and provide additional mass toward the foundation.

The applicant's architect prepared revised elevations for the interior courtyard and external building sides incorporating many of the elements suggested by staff to be considered. The revised elevations were received shortly after the publication of the initial staff report for the April 3, 2015 public hearing. The revised elevations were included in the presentation and discussed during the April 3, 2015 hearing. The revised elevations have been attached to this revised staff report as Exhibits G-1 and H-1. Staff recommends approval of these elevations as submitted.

Open Space/Landscaping

The open courtyard garden is a private out door area proposed to have potted trees and street furniture to provide an open space area for the occupants of the building. There are no additional landscape plantings or landscape area proposed for this development. However, there is an existing five foot landscaped buffer located between the existing parking lot and urban cross section sidewalk along Riverside Avenue, 9th Street and 10th Street. All landscaping within the landscape planter buffer, along with the existing street trees within the side walk are proposed to remain.

Signage

Proposed signage is not a part of this review. Staff notes that the project name is proposed to be located on the tower element at the corner of 9th Street and Riverside.

Concealments

It is not clear from the elevations or narrative of where the HVAC equipment will be placed or its method of concealment. A box structure appears on the roof of each unit but it is unclear if this is equipment, a parapet wall or some other screening device, or perhaps fireplace ventilation. Thus, staff has included a Code condition of approval citing Section 10.782, Concealment of HVAC Equipment and Roof Mounted Wireless Communication Facilities. Such concealment should be accomplished using architectural elements of the building.

The subject site plan identifies a trash enclosure on the north side of the parking area under the building with swinging doors. It is not clear from the elevations or narrative what the materials are utilized for the enclosure or door. Based on the line weight, it appears that it is CMU block construction. As such, staff has included a Code condition of approval citing Section 10.781,

Concealment of Trash Receptacles. The enclosure shall be made of solid wood, metal, brick or masonry block with solid wood or metal doors.

Lighting

Per the Public Works Report (Exhibit M), the developer shall protect and preserve all existing street lighting, power supply and appurtenances. No additional street lighting is required for this project. The applicant's narrative notes exterior lighting on the deck will be of fixtures that cast no light above the horizontal plane. Fixtures will not extend above roof ridges of the units so no glare will be produced outward onto adjacent properties.

Utilities

The applicant's Site Plan Narrative notes that the parking lot was constructed, a storm water system was developed, which included on-site drainage basins. The applicant proposes to collect the same water on the roof and use it for irrigation of deck plants and direct the balance into the existing system. The Public Works Report notes that a comprehensive drainage plan will be needed and that storm water detention facilities in accordance with Section 10.481 and 10.729 will be required. A condition of approval has been included requiring the applicant to comply with the Public Works Report, dated March 18, 2015. (Exhibit M)

The site is located within the City of Medford sewer service area. The Public Works report indicates that the plan does not clearly indicate the location of building connections to the existing sanitary sewer main. The developer shall ensure that the connection is to an existing sewer main as a separate individual lateral or make a new connection to an existing main with a separate lateral. A condition of approval has been included requiring the applicant to comply with the Public Works Report, dated March 18, 2015. (Exhibit M)

The Medford Water Commission Report notes that off-site or on site water line installation is not required. The water facility design and construction will be done in accordance with the Medford Water Commission (MWC) "Regulations Governing Water Service" and "Standards For Water Facilities/Fire Protection Systems/Backflow Prevention Devices." All parcels/lots of proposed property divisions will be required to have metered water service. Installation of an MWC approved backflow device is required for this development. A condition of approval has been included requiring the applicant to comply with the Medford Water Commission Report, dated March 16, 2015. (Exhibit N)

Committee Comments

No comments were received from a committee, such as BPAC.

No other issues were identified by staff.

FINDINGS OF FACT

The text from the Revised Staff Report in this section has been removed. These are the findings of the Commission.

10.290 Site Plan and Architectural Review Criteria.

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(1) *The proposed development is compatible with uses and development that exist on adjacent land; and...*

Findings for Denial

At the public hearing of April 3, 2015, the Commission heard testimony related to the compatibility of the proposed use with the existing development and uses in the area. The owner of Farrell's Glass, which shares the alley that is the subject site's westerly boundary, testified that they often have emergency overnight calls that would result in noise at 2:00 a.m., for example. Testimony was also offered stating that the single-family design concept was not appropriate for the dense downtown core. The density is not correct for the location.

At the public hearing of April 3, 2015, the Commission heard additional testimony regarding the compatibility of the residential use in this location, particularly as it relates to the limited parking that is available.

The Commission finds that the proposal is not in harmony with the community. Residential development in the downtown should be of a larger scale, of a higher density and provide its own parking. Based on the testimony received and the evidence contained in the record, the Commission finds that the proposal is not compatible with the existing dense development pattern and commercial uses that exist in the area. Site Plan Approval Criterion 1 is not met.

(2) *The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC § 10.253.*

Findings for Denial

The Commission finds that the proposal meets neither the development standards contained in the Municipal Code, nor the Exception criteria contained in MLDC 10.253. The proposal does not meet Site Plan Approval Criterion 2.

10.253 Criteria for an Exception

No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority (Planning Commission/Site Plan and Architectural Commission) having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:

- (1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The Planning Commission/Site Plan and Architectural Commission shall have the authority to impose conditions to assure that this criterion is met.*

Findings for Denial

The purpose of requiring on-site parking for residential uses in the downtown is two-fold. First, it reduces the conflict between the long-term (multiple hour or day) needs of residents and the short-term needs of local businesses. It also ensures availability for the residents. In MLDC 10.743(1), there is language specifying that there is no minimum parking requirement for non-residential uses in the Downtown Parking District. No such language exists for the residential uses. The Commission finds that parking is required for residential uses in the Downtown Parking District.

The applicant has requested that the Commission reduce the amount of parking required to one space per unit. MLDC 10.745 specifies that the parking must be located on the same lot as the main structure it serves or on an abutting lot. If that is not possible, it must be located within 250 feet walking distance.

At the April 3 meeting, the Commission heard testimony regarding the lease agreement with MURA. The applicant has the opportunity to buy parking permits on the same basis as any other parking user under the agreement. However, under the lease agreement, MURA has agreed to provide 26 permit spaces. The permit spaces differ from the regular spaces in that they can be purchased on a longer-term basis, such as weekly, monthly or annually depending on the cost paid by the permit holder. MURA has agreed to provide 26 spaces in the parking lot under the building; however, any permit holder of that type may utilize those spaces. The spaces are not reserved for the exclusive use of the residents. That means that a resident may not be able to use their "designated" space and may have to use regular spaces elsewhere in "Central A" or another MURA parking facility. In fact, the lease specifies that MURA can oversell the permits and a resident is required to provide notice when a space is not needed and when it is.

The removal of 26 parking spaces for general public use is not in harmony with the general purpose of the public parking provided and adversely affects adjoining businesses. The

Commission finds that the general purpose and intent of the regulation is not met. Exception Criterion 1 is not satisfied.

- (2) *The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.*

Findings for Approval

The requested exceptions pertain to parking requirements of the Medford Land Development Code. Additionally it can be found this proposal supports continued development and redevelopment of downtown as a vital part of the overall community. Granting of this exception does not establish a use that is not permitted in the zone district. The Commission can find that Exception Criterion 2 is met.

- (3) *There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.*

Findings for Approval

Staff concurs with the applicant's findings in that there are unique circumstances in that apply to the subject property given its central location to many vital resources and transit lines. Given the abundant amount of available off-street downtown parking that may be accessed through either weekly parking permit or parking meter, one exclusive off street parking space per unit should be sufficient to meet parking demands of the development. Strict application of the standard would result peculiar hardship on the development. The project seeks to further downtown redevelopment efforts and enhance the vitality of the central business district through the infusion of residential dwelling units. However, strict application of the parking standard for this development would result in the reduction of spaces available to patrons of downtown businesses. The applicant's narrative indicates the concern to parking spaces available to business patrons was a significant factor in the development of the agreement between the MURA and the developer. The Commission can find that Exception Criterion 3 is met.

- (4) *The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.*

Findings for Approval

The need for the Exception is not the result of an illegal act and is suffered by the particular property in question given the specific use. The need for the exception results only from the

MURA's desire to enhance redevelopment efforts downtown though the infusion of new residential development. Approval of the exception request will not result in a profit by the developer of the proposed project. The Commission can find that Exception Criterion 4 is met.

ACTION TAKEN

The Commission found that parking is required under MLDC Sections 10.358(2) and 10.743, and adopted the Final Orders for DENIAL of AC-15-007 and E-15-009, per the Commission Report dated April 17, 2015, deleting Exhibit A and including Exhibits B through V, and rejecting the applicant's Findings of Fact. The Commission finds that the proposal does not meet the approval criteria for Site Plan approval contained in MLDC 10.290(1) and (2), and the approval criteria for Exception contained on MLDC 10.253(1).

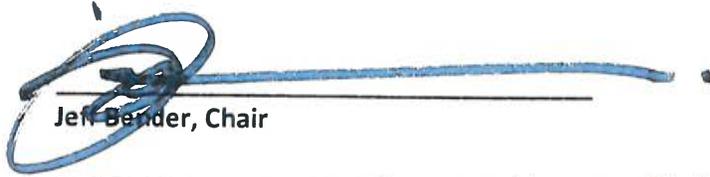
EXHIBITS

- A Deleted;
- B Site Plan, received March 23, 2015;
- C Applicant's Site Plan Narrative & Code Compliance Form, received January 21 2015;
- D Applicant's Findings of Fact for Exception Request, received January 27, 2015;
- E Floor Plan, received January 21, 2015;
- F Roof Plan, received January 21, 2015;
- G-1 Exterior Elevations, received March 27, 2015;
- H-1 Interior (Courtyard) Elevations, received March 27, 2015;
- I Exterior Elevation Perspective, received January 21, 2015;
- J Renderings of Exterior Elevations, received January 21, 2015;
- K Existing Landscape Plan, received January 21, 2015;
- L Conceptual Site Drainage Plan, received January 21, 2015;
- M Public Works Department Staff Report, dated March 18, 2015;
- N Medford Water Commission Memorandum dated March 16, 2015;
- O Fire Department Report, prepared March 10, 2015;
- P Medford Building Department Staff Memo, dated March 17, 2015;
- Q Lease Agreement between Medford Urban Renewal Agency and Sky Park Medford LLC., approved January 15, 2015;
- R Letter from Stephen Cook, Farrell's Glass Service, received April 3, 2015;
- S E-Mail from Mark McKechnie, received April 3, 2015;
- T Letter from Julie Brown, received April 16, 2015;
- U Memorandum from Deputy City Attorney John HuttI dated April 10, 2015;
- V Letter from Elyse Roxander, received April 17, 2015;
Vicinity Map.

**Sky Park Site Plan (AC-15-007 / E-15-009)
Commission Report**

April 17, 2015

SITE PLAN AND ARCHITECTURAL COMMISSION

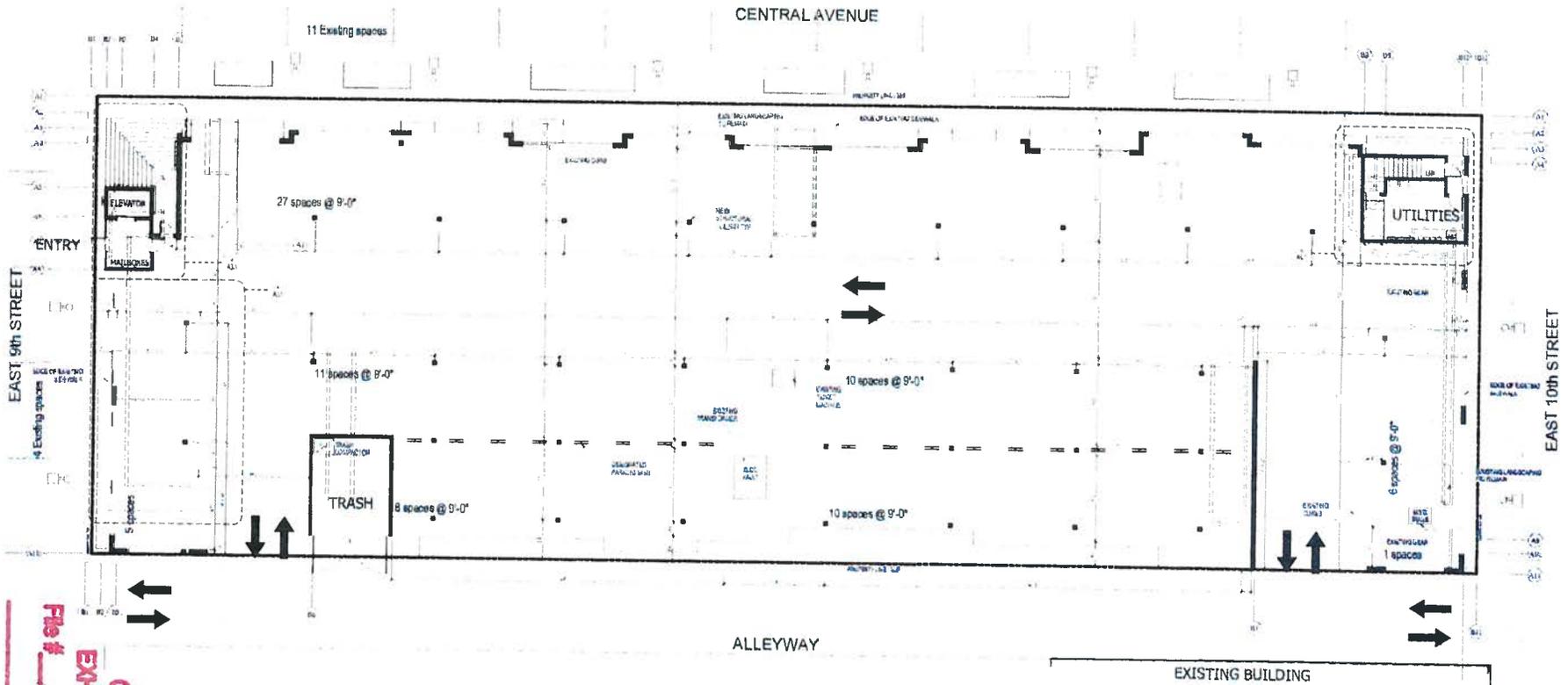


Jeff Bender, Chair

SITE PLAN AND ARCHITECTURAL COMMISSION AGENDA:

April 3, 2015

April 17, 2015



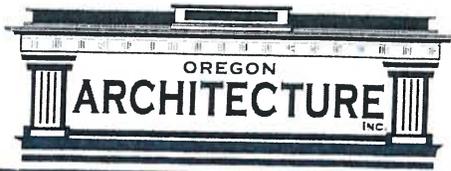
1 SITE PLAN

CITY OF MEDFORD
EXHIBIT # 3
 File # 41-15-007 E-15-007
 1 of 1

RECEIVED
MAR 23 2015
PLANNING DEPT.

PLAN REVIEW

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|---|--|
| | |
| SKYPARK MEDFORD | |
| ARCHITECTURE 221 West Tenth Street Medford, Oregon 97501 Phone: 541.772.4372 Fax: 541.499.6321 | |
| APPROVED BY: [Signature] DATE: [Blank] | DRAWN BY: [Blank] |
| PROJECT DATE: 4/16/14 ISSUE DATE: 01-03-16 DRAWN BY: [Blank] | SHEET NO.: [Blank] SHEET: A0.1 |



RECEIVED
JAN 21 2015
PLANNING DEPT.

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PROJECT NARRATIVE FOR THE SKYPARK MEDFORD DEVELOPMENT

January 20, 2015

PROJECT DESCRIPTION:

The City of Medford Urban Renewal Agency has agreed to sell the all airspace from 12 feet above finish grade above its Central A parking lot to Sky Park Medford, LLC. It has also agreed to lease the ground area of that same parking lot required to support a structure to Sky Park Medford LLC. The Sky Park Medford project will occupy the half city block bounded by 9th Street on the north, 10th Street on the south, Central on the east and the mid-block alley on the west, which is slightly smaller than the Central A parking lot.

The proposed building will feature an internal open air court reminiscent of the garden apartments popular in the 1930s and 1940s. The court will have hard surface paving, as well as areas for trees and plantings. All of this will be on a solid deck 12 feet above the parking lot surface.

Sky Park proposes to construct a concrete deck supported on steel beams and posts and then construct 26 one and two story dwelling units on top of the deck. The deck level will be accessed via elevator and stairs. Access will be via secure card key. The parking lot will remain as a public parking lot owned and operated by the City of Medford once the project is complete. Except for the grand public entry stair, the ground floor lobby area, a trash enclosure, an enclosure to house utility meters and support columns, the ground level is generally expected to remain as it is, although the parking spaces will be reconfigured. In all, Sky Park will occupy approximately 1,000 square feet of the ground surface.

When MURA constructed the parking lot in 2001 it created a 5 foot landscape buffer area around the perimeter of the lot, within the lot area itself (i.e., inside the 300' x 100' lot) and adjacent to the public sidewalk. The public sidewalk was also widened. The installed landscaping has matured nicely and Sky Park proposes to maintain that landscaping. No additional landscaping is proposed at the ground level, and any landscape materials along the perimeter damaged during the construction process will be replaced. When MURA constructed the lot it also upgraded the sidewalks and installed tree wells and street lighting. None of that is proposed to be removed or replaced. In addition, there is landscaping and site lighting within the lot itself and all of that is scheduled to be removed.

The Sky Park plan proposes balconies and units that will overhang the main building structure. While these elements will overhang the existing landscaping and sidewalks, they will be within the existing lot area (300' x 100'), so no encroachment permit will be required. The project proposing to leave the existing expanded sidewalks and landscape planters as is, and is neither expecting nor proposing to dedicate any additional public ROW. Indeed, MURA and/or the City of Medford will continue to retain ownership of the street level property of this site. Sky Park LLC will only be leasing approximately 1,000 square feet in a long term lease.

Sky Park will provide new lighting within the parking lot attached to the deck structure. In addition, the parking lot will have a fire suppression system, as will the residential units above. No additional street or alley lighting is to be provided.

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The new units will be 1, 2 and 3 bedroom units of one and two story construction. Most will feature a deck facing a public ROW. The units will feature a variety of building designs and exterior materials, all of which are described in greater detail elsewhere in this application.

PROJECT COMPATIBILITY WITH THE NEIGHBORHOOD

- A. List the existing uses and development adjacent to your project site. Describe the architecture, age, and condition of the adjacent buildings. Along with this list describe the architecture, age and condition of the adjacent buildings.**

The development will occupy the half block between 9th and 10th Streets, Central Avenue on the east and the midblock alley on the west. Across Central Avenue is the recently constructed main branch of the Jackson County Library. Between the Library and the main campus building of Rogue Community College to the north along Central is a row of eclectic single-story shops. On the north is more parking. On the west is more parking, Farrell's Glass and a recently opened dance studio in a renovated building. These two buildings are single-story structures sheathed in stucco and in decent shape. To the south is Medford Mattress, which is a collection of several small single-story structures that are well maintained.

- B. Describe building architecture and exterior treatments in this proposal and how they fit with and complement adjacent buildings and development.**

The proposed structure has been designed to do several things simultaneously. Sky Park LLC agreed to maintain a 12 foot clearance for the parking area in case MURA ever decided to abandon the parking and create retail space in the ground floor area. The balance of the building is primarily single-story in nature in keeping with the generally low-rise nature of the surrounding neighborhood.

- C. Describe the proposed architecture and exterior treatments that break up large facades and give relief to the building mass.**

The façade of the structure utilizes different materials and has façade changes both vertically and horizontally to give the impression of a collection of urban residential units that break up large expanses of façade and give relief to building mass.

- D. Describe how the placement and orientation of the proposed building relates to the street facilities and how this orientation promotes a more pedestrian friendly site design.**

The units have been placed to the perimeter of the site to reinforce the urban grid. To that we have added balconies and overhanging units to provide visual interest and the opportunity for vistas up and down Central and the mid-block alley. The relatively small size of the individual units provides the opportunity to create a central garden space in the center of the development – a nice amenity for the use of occupants.

- E. If the site lies within 600-feet of an existing transit stop describe compliance with the standards of Section 10.808.**

The central hub of the Rogue Valley transit system is a half block away on Front and 9th Streets. We have located the entrance to the development on 9th Street to take advantage of that proximity.

- F. Describe pedestrian facilities and amenities on your site and how they will function for pedestrians.**

Technically, the proposed site is one level above the street level. The open court/garden will have trees and street furniture and open space available for occupants of the building. When MURA constructed the parking lot in 2001 they installed benches and other street furniture on the corners of 9th and 10th Streets and Central Avenue. That street furniture will be retained and relocated as appropriate around the perimeter of the project. In addition, the Sky Park project will have a monumental stair that can serve as a gathering space for citizens, similar to other cities around the world.

C. Zelle

- G. Describe vehicle and pedestrian access to the site and how it relates internally on the site and to adjacent sites.**

While parking is not required for this site, as it is within the Central Parking District, Sky Park LLC has an agreement with the City to allow one reserved parking space within the Central A parking lot for each unit. Access for unit occupants and deliveries will be by means of a secure elevator that will have direct access from the parking lot and 9th Street.

H. Describe if and how the proposed plan is sensitive to retaining any existing streets or significant native vegetation on the site.

There are currently no trees within the parking lot. There are existing street trees along both 9th and Central, which will remain. The site has no native vegetation, but there is mature landscape materials along the perimeter of the three streets, which will be retained.

I. Describe stormwater detention facilities on the site. If these facilities will be landscaped areas, describe how the proposed landscaping will be integrated with other landscaping on the site.

When the parking lot was constructed a stormwater system was developed, which included on-site drainage into catch basins. The site was essentially 100% developed as impervious. We are proposing to collect that same rain water, utilize it as needed for irrigation of deck plants and trees and then direct the balance into the system that was originally designed for the parking lot, essentially without providing a lot of additional piping. The net result is the amount of runoff will be close to what now enters the system, but it will be cleaner because it is not picking up contaminants from the parking lot.

J. Describe how your proposed landscaping design will enhance the building and other functions on the site.

The existing landscaping along the street level exterior will remain as a buffer to the parked cars. The trees to be introduced on the deck will provide significant shading to the open court.

K. Describe how your exterior lighting illuminates the site, and explain how the design of fixtures does not diminish a view of the night sky, or produce glare on adjacent properties, consistent with the standards of section 10.764.

Exterior lighting on the deck will be by means of fixtures that cast no light above the horizontal plan. Also the fixtures will not extend above the roof ridges of the units, so no light or glare will be produced that will affect adjacent properties.

L. Describe any proposed signage and how it will identify the location of the occupant and serve as an attractive complement to the site.

Only one building sign is proposed – see elevation sheet

M. Explain any proposed fencing, including its purpose, and how it has been incorporated as a functional, attractive component of the development.

No fencing is proposed at the street level. We propose to use the existing landscaping around the perimeter as a vegetative buffer between parked cars and pedestrians using the public sidewalks. There may be some additional screening along the tops of the openings underneath the units, but as of yet it is undefined.

N. Explain how any potential noise generated by future occupants will be mitigated on the proposed site, consistent with the standards of Section 10.752-10.761.

We expect the occupants of this development to be very quiet overall. No loud noise generation is expected to occur as it will remain a residential project for at least the next 100 years.

O. Explain anything else about your project that adds to the compatibility of the project with adjacent development and uses.

No new market rate housing has been developed within the downtown core of the City of Medford for a long time, and Sky Park LLC believes commercial core housing is both needed and desired at this moment in time. Providing 26 single family residential units within the commercial core will provide a dramatic boost for existing service and retail businesses. We think this project will be a benefit for the city and existing businesses. *2/3/16*

P. List and explain any exceptions or modifications requested and provide reasons for such.

Sky Park LLC is not aware of any exceptions to the City of Medford development standards that are needed for this project and is not requesting any at this time.

Q. List any petition for relief of landscaping standards. Provide rationale for requested deviation from standard.

There are no minimum landscaping standards for this site. The project is proposing to retain the existing landscaping and planters at street level, as well as the expanded site walks. No relief from landscaping standards is being requested at this time.

4016

SITE PLAN AND ARCHITECTURAL REVIEW APPLICATION

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Section II – Code Compliance: Criterion No. 2

| PROJECT SITE | | |
|---------------------------------|----------------------------------|----------|
| | PROPOSED | REQUIRED |
| • Zoning District | <u>CC</u> | |
| • Overlay District(s) | <u>DOWNTOWN PARKING DISTRICT</u> | |
| • Proposed Use | <u>RESIDENTIAL</u> | |
| • Project Site Acreage | <u>30,000 SF</u> | |
| • Site Acreage (+ right-of-way) | <u>46,800 SF</u> | |
| • Proposed Density (10.708) | <u>240/AC</u> | |
| • # Dwelling Units | <u>26</u> | |
| • # Employees | <u>N/A</u> | |

| STRUCTURES | | |
|--|----------|----------|
| | EXISTING | PROPOSED |
| • # Structures | <u>Ø</u> | |
| • Structure Square Footage (10.710-10.721) | <u>Ø</u> | |

| SITE DESIGN STANDARDS | | |
|-----------------------------------|--------------------|------------|
| | PROPOSED | REQUIRED |
| • Front Yard Setback (10.710-721) | <u>VARIES 3-5'</u> | <u>OFT</u> |
| • Side Yard Setback (10.710-721) | <u>1'</u> | <u>OFT</u> |
| • Side Yard Setback (10.710-721) | <u>1'</u> | <u>OFT</u> |
| • Rear Yard Setback (10.710-721) | <u>Ø</u> | <u>OFT</u> |
| • Lot Coverage (10.710-721) | <u>64%</u> | |

| PARKING | | |
|--|-----------|----------|
| | PROPOSED | REQUIRED |
| • Regular Vehicular Spaces (10.743) ^{IN LOT-GROUND FLOOR} | <u>78</u> | <u>Ø</u> |
| • Disable Person Vehicular Spaces (10.746[8]) | <u>4</u> | <u>Ø</u> |
| • Carpool/Vanpool Spaces (10.809) | <u>Ø</u> | <u>Ø</u> |
| • Total Spaces (10.743) | <u>82</u> | <u>Ø</u> |
| • Bicycle Spaces (10.748) ^{IN UNITS} | <u>Ø</u> | <u>Ø</u> |
| • Loading Berths (10.742) | <u>Ø</u> | <u>Ø</u> |

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5 of 6

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SITE PLAN AND ARCHITECTURAL REVIEW APPLICATION

LANDSCAPING

| | PROPOSED | REQUIRED |
|--|-----------------|----------|
| • Total Landscape Area (square feet) | <u>EXISTING</u> | |
| • Total Landscape Area in High Water Use Landscaping (square feet) | | |
| • Total Landscape Area in High Water Use Landscaping (percentage) | | |
| • Total % Landscape Coverage | | |
| • Required Organic Content (cu.yd.) | | |
| • Frontage Landscaping (10.797) | | |
| • Street: | <u>EXISTING</u> | |
| • Feet: | <u>5</u> | |
| • # Trees: | | |
| • # Shrubs: | | |
| • Street: | | |
| • Feet: | | |
| • # Trees: | | |
| • # Shrubs: | | |
| • Bufferyard Landscaping (10.790) | | |
| • Type: | | |
| • Distance (ft): | | |
| • # Canopy Trees: | | |
| • # Shrubs: | | |
| • Fence/Wall: | | |
| • Parking Area Planter Bays (10.746) | | |
| • Type: | <u>NONE</u> | |
| • # Bays: | | |
| • Area: | | |
| • # Trees: | | |
| • # Shrubs: | | |

STRUCTURE

| | PROPOSED |
|-------------|------------------------------------|
| • Materials | <u>STUCCO BRICK, SIDING, BLOCK</u> |
| • Colors | <u>SEE ELEVATIONS</u> |

Please remember that the information you provide in response to the questionnaire must be included with your SPAR application submittal. Remember to sign and date your written response.

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cease

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NARRATIVE ON EXCEPTIONS TO THE FOLLOWING MEDFORD CITY LAND DEVELOPMENT CODE SECTIONS FOR THE SKYPARK DEVELOPMENT

January 26, 2015

Description of Project:

The Developer is seeking approval to construct 26 one, two and three bedroom units on a deck over the parking lot owned by the Medford Urban Renewal Agency and operated by the City of Medford, known as "Central A". The units will be marketed by the Developer as townhouses and offered for sale to the public as single units. The site is located at 206 S Central Avenue.

Please see the SPAC application for additional information on this project. The important information is that SkyPark Medford LLC will be purchasing the entire area from 12 feet above the ground up and leasing only parts of the site from 12 feet up and lower. SkyPark has no control over changes on the ground.

The project is located between 9th and 10 Streets, Central Avenue South and the mid-block alley to the west. It is within the Downtown Parking District (DPD).

After months of negotiation, the City of Medford agreed to provide 26 reserved spaces within the "Central A" lot under the building. These spaces will be available for the exclusive use of owners of SkyPark units, with certain limitations. The spaces will be reserved as a block, rather than one space for one specific unit. That will leave 55 spaces under the building, plus an additional 19 spaces in the portion of Central A not under the building that are available for tenants and guests. The main difference between the "reserved" spaces and the open spaces is that permits for the reserved spaces can purchased on an annual basis. Permits for the open spaces can only be purchased a week at a time, although a person can purchase up to 4 weeks of permits in advance.

When you read Section 10.743 of the Medford Land Development Code, single family residential within the CBD is required to have 2 parking spaces per unit. The Table in the Code has an asterisk which indicates this requirement applies only to areas outside the Downtown Parking District. The Table pretty clearly indicates there is no parking requirement for any use within the DPD. Frankly, here planning staff and I disagree as to whether any parking is required specifically for residential uses within the DPD. My reading of the Code leads me to believe it is not. Planning staff's interpretation of the LDC is that parking is required for Residential Uses within the DPD. If SPAC wishes to offer an opinion on parking for specific uses within the DPD, I think it would be greatly appreciated by both parties.

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In the meantime, based on Planning Staff's interpretation of the LDC, SkyPark LLC is requesting an exception to the two spaces per dwelling unit requirement for single family residential units within the CBD.

Below are the Sections of the LDC that deal with parking for residential uses in the Central Business District.

SECTION 10.741 (1)

...plans and evidence are presented to show... that property is and will be available for exclusive use as parking space.

The Development Code requires that property for parking be available for the exclusive use of the project tenants. In this case, there is adequate parking in the lot underneath the building, and 26 spaces have been reserved for the exclusive use of Sky Park residents, but the additional required spaces while available, are not for the exclusive use of SkyPark residents.

There will be 74 additional spaces available in this lot for residents that may have second vehicles, and the spaces can be reserved for up to a month in advance. In addition, there are other locations in other garages within the DPD a few blocks away where residents can park vehicles for extended periods of time and reserve spaces for up to a year. To manage the parking needs of the development, the Homeowners Association will be responsible for parking permits for residents.

SkyPark LLC is looking for relief from this section of the Land Development Code.

SECTION 10.743 - Table 743-1

For single family residential uses within the Central Business District, but outside the Downtown Parking District, 2 off-street parking spaces per dwelling unit are required.

SkyPark LLC believes one reserved parking space will be sufficient for this development given its central location in the heart of Medford within walking distance to most downtown features. Further, like all commercial uses within the DPD, unit owners will be contributing to the maintenance of all the lots and parking structures within the District. As with commercial users and residents from around the City SkyPark residents will have access to any space within the District and they will be able to reserve a space for a fee. SkyPark LLC believes there is adequate parking available for residents within close proximity to the units.

The Central A parking lot gets its heaviest use during the day by students at RVCC, and the lot is not enforced during evening and nighttime hours. Residents who work outside the downtown area should be able to use any of the non-reserved spaces after hours.

SkyPark LLC is seeking relief from the requirement to provide two dedicated off-street parking spaces on-site for this development.

SECTION 10.744

This section establishes criteria on which to base shared parking.

The Central A Parking Lot is a shared facility available for all retail businesses, offices, residents and visitors to the central business district. The difficulty arises in meeting the criteria

2011

established by this Section of the Development Code in that it is impossible to accurately ascribe the parking requirements of various users within the Downtown Parking District with the available spaces in lots and garages. We know parking is currently available and we know more is coming on line, but we cannot define who gets assigned what parking.

SkyPark LLC is seeking relief from meeting the requirements of this Section.

SECTION 10.744

This section establishes criteria on where parking can be located to qualify as parking for a given project.

There is enough parking directly under the project to satisfy the requirements of this section of the Code. The issue is that it is not dedicated parking reserved for the residential use.

SkyPark LLC is seeking relief from meeting the requirements of this Section.

EXCEPTION APPROVAL CRITERIA

- 1. The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.***

The granting of the exception is in harmony with the general purpose and intent of the regulations. There is, in fact, plenty of parking on the site. The parking need can be met by individual residents according to their individual needs. And it can even be reserved parking, within certain limitations. Residents just won't be able to point to a parking spot and say "that is mine". Granting an exception will have no impact on the health, safety and general welfare of the community at large, or any impact on natural resources.

- 2. The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.***

The proposed use for this project is one permitted by the Development Code, and frankly, highly desired by planning officials, and the MURA Board of Directors; and one we believe will be good for the City of Medford and can serve as a model for other communities looking to revitalize their central business districts.

- 3. There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standards for which an exception is being requested would result in peculiar, exceptional and undue hardship to the owner.***

The existing Central A Parking Lot is one of the two busiest hourly pay lots within the city of Medford. City of Medford staff was very concerned that reserving more than the absolute minimum number of spaces required would send the wrong message to those that rely on the availability of public pay spaces within the CBD to conduct their day-to-day business. SkyPark LLC, for its part, felt that given the location and the expected owners of the units that one

11D
3 of 4

parking space per unit should be sufficient for most residents. And if additional spaces are necessary, weekly permits are readily available.

In this case, strict adherence to the standard will impose exceptional and undue hardship on MURA, which has agreed to lease the parking to SkyPark LLC, as well as SkyPark LLC, which will not be able to lease additional parking anywhere that will meet the criteria established in the Development Code for residential parking.

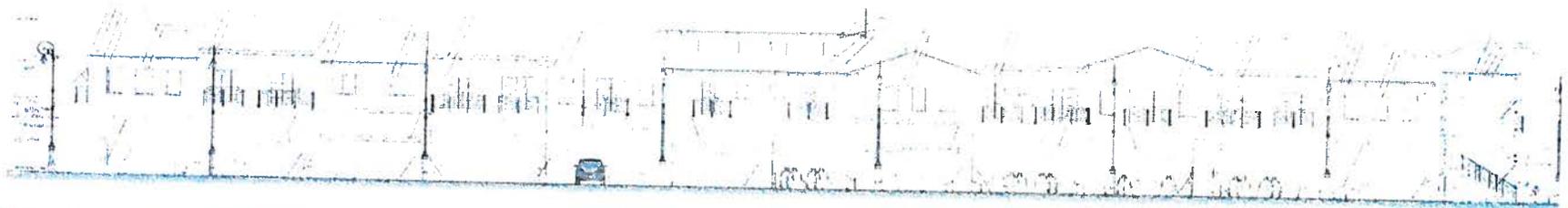
- 4. The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.***

The need for the exception is not the result of an illegal act. The need for the exception is simply the result of the project being constructed over an existing parking lot, and that the spaces within the lot cannot be ascribed to specific units of the development, as required by the Land Development Code.

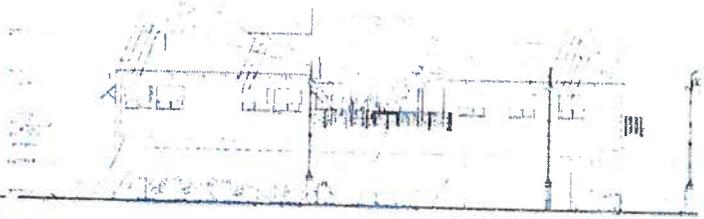
Submitted by

Mark McKechnie
For the Developer
SkyPark LLC

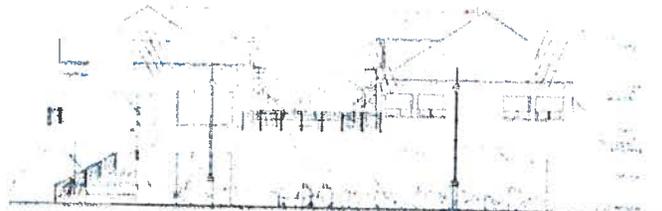
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1 EAST ELEVATION



2 SOUTH ELEVATION



3 NORTH ELEVATION



4 WEST ELEVATION

PROJECT ARCHITECT: SKY PARK ARCHITECTURE, 221 WEST TENTH STREET, MEDFORD, OREGON 97501. PHONE: 503.433.8923. WWW.SKYPARKARCHITECTURE.COM

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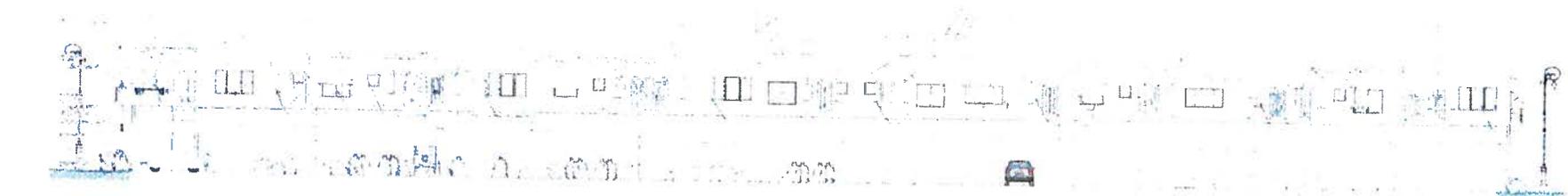
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EXHIBIT # G-1
File # AC 15-007 / E 15-09
1 of 1

SKY PARK ARCHITECTURE
221 West Tenth Street
Medford Oregon 97501
Phone 503.433.8923 Fax 503.433.8923

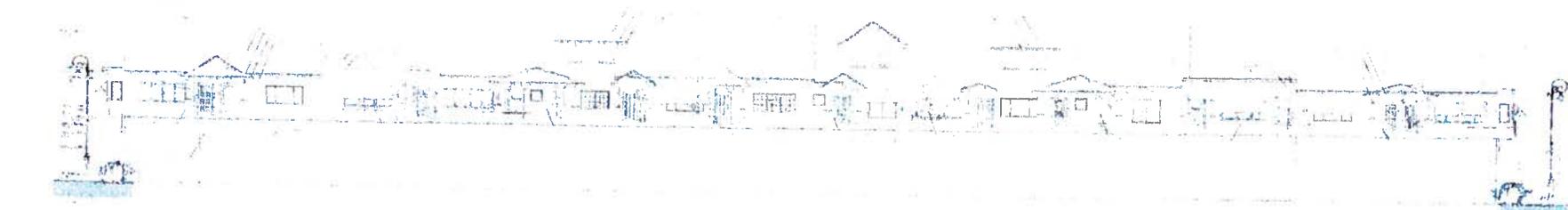
SKY PARK
MEDFORD
INTERSECTION OF CENTRAL AVENUE
AND EAST 10th STREET

A2.0

0 1/4" = 1'-0" (VERTICAL SCALE) 1/8" = 1'-0" (HORIZONTAL SCALE)
 TO VERIFY SCALES



1 EAST PLAZA ELEVATION

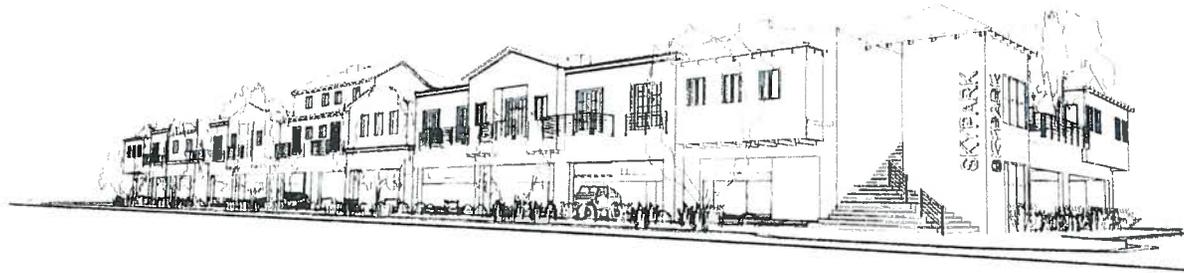


2 WEST PLAZA ELEVATION

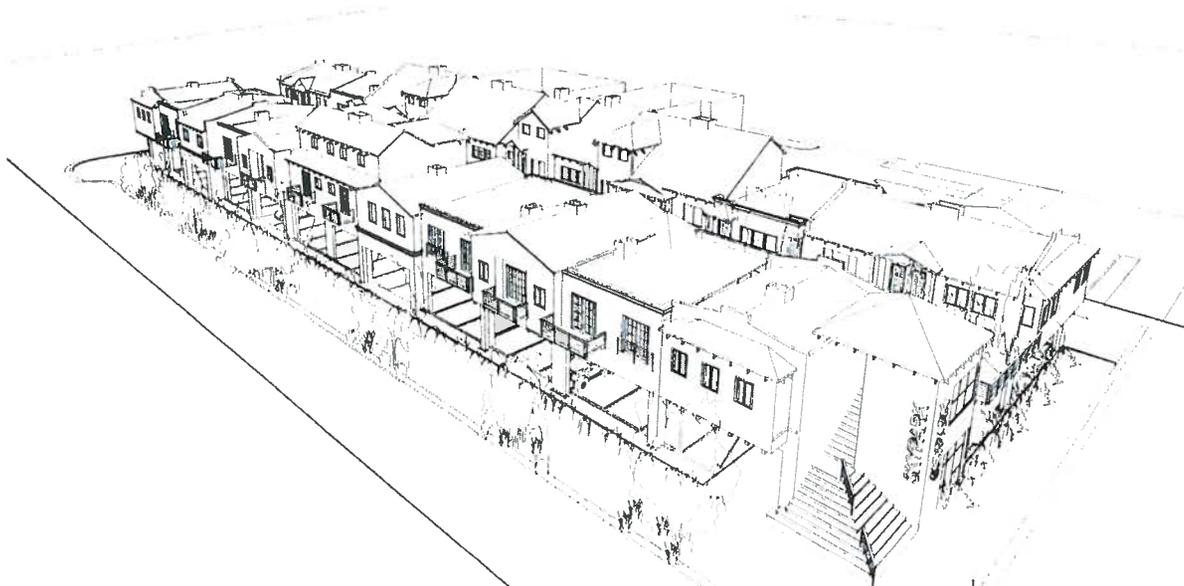
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File # AC-15-007 EG 15-007
1 of 1

| | | | |
|---|--|--|--|
| <p>PROJECT: 15-007 DRAWN BY: [Name] DATE: 1/20/15</p> | | <p>SKYPARK MEDFORD INTERSECTION OF CENTRAL AVENUE AND EAST 10TH STREET</p> | <p>ONE GUYTON ARCHITECTURE 221 West 70th Street Medford, Oregon 97501 Phone 541 772 4372 Fax 541 469 5124</p> |
| <p>A2.1</p> | | | |



2) -9th st low



1) -9th st high

1-1
 MEDFORD
 EXHIBIT
 PC-15-007

SWING DEPT
 JAN 2 2014

REGON
 ARCHITECTURE
 800 N. Weber Street
 Medford, Oregon 97504
 Phone 541.772.4372 Fax 541.459.6226

SKYPARK
 MEDFORD
 INTERSECTION OF CENTRAL AVENUE
 AND EAST 10th

| | |
|---------------------------------|-------|
| APPROVED BY THE CLIENT: | DATE: |
| REVISED BY: | BY: |
| PROJECT NO.: | DATE: |
| DESIGNED BY: Phyllis M. Skelton | DATE: |
| PROJECT: | DATE: |

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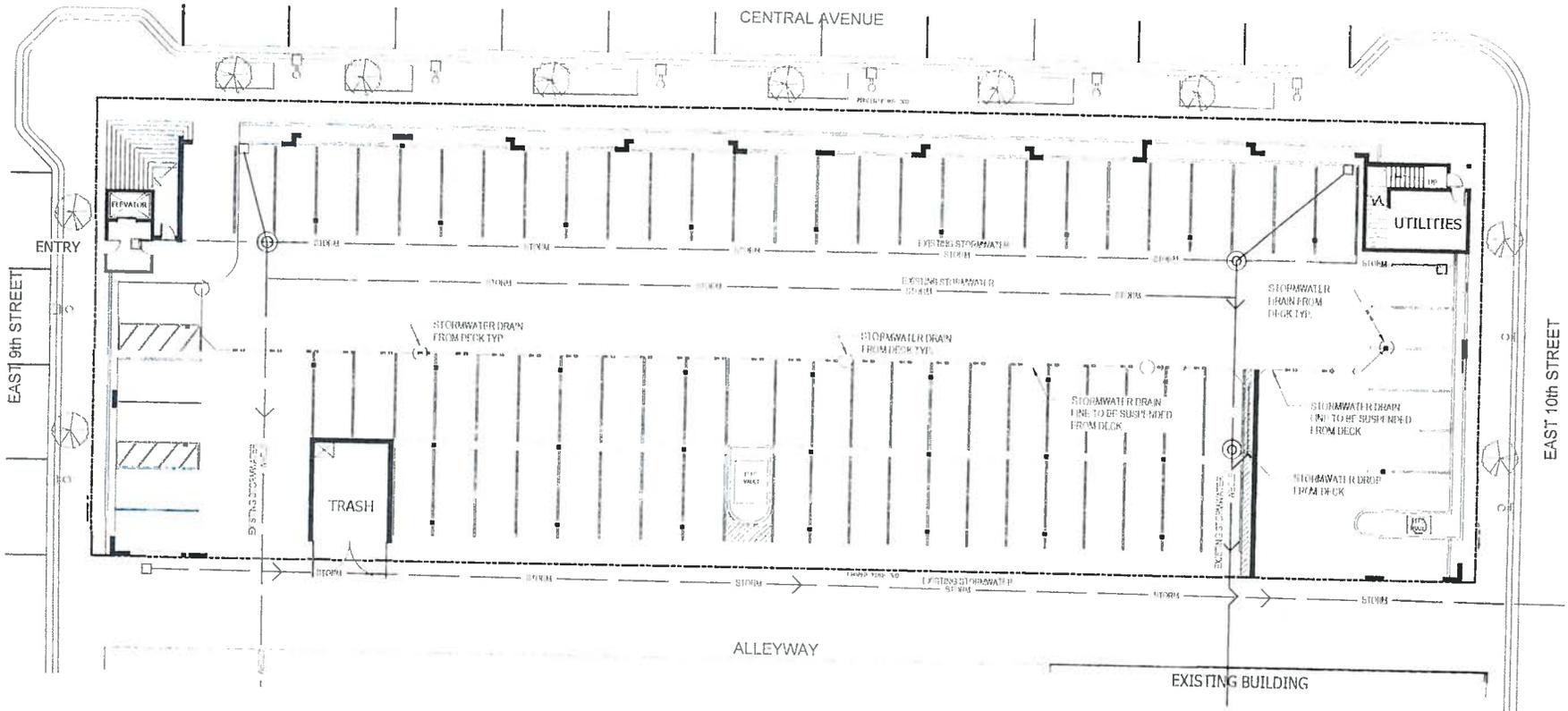
File #

AC-15-007 / E-15-001

161

MEDFORD

AC-15-007



1 SITE DRAINAGE PLAN
1/2" = 1' 0"

**SKYPARK
MEDFORD**

INTERSECTION OF CENTRAL AVENUE
AND EAST 10th STREET

**OREGON
ARCHITECTURE**

221 West Tenth Street
Medford, Oregon 97501
Phone: 541.772.4572 Fax: 541.755.6529

| | |
|--------------------------|-----------------|
| APPROVED IN THE FORM OF: | BY: |
| REVISIONS: | BY: |
| PROJECT DATE: | 10/09 |
| ISSUE DATE: | |
| DRAWN BY: | PAUL M. HANCOCK |
| CHECKED BY: | |
| SHEET: | |

A0.2



Continuous Improvement Customer Service

CITY OF MEDFORD

Date: 3/18/2015

File Number: AC-15-007/E-15-009

PUBLIC WORKS DEPARTMENT STAFF REPORT SKYPARK RESIDENTIAL BUILDING

Project: Consideration of Plans and associated exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Parking Lot Facility, 0.688 acres.

Location: Located at the intersection of Central Avenue and East 10th Street; 371W30BC TL 11600.

Zoning: C-C/C-B (Community Commercial Central Business District Overlay)

Applicant: Skypark Medford LLC

NOTE: The items listed here shall be completed and accepted prior to the respective issuances of permits and certificates:

Prior to issue of the first building permit, the following items shall be completed and accepted:

- Submittal and approval of plans for site grading and drainage
- Submittal and approval of plans for site public improvements and work within the public right-of-way, if required.

Prior to issue of Certificate-of-Occupancy for completed structures, the following items shall be completed and accepted:

- Paving of all on-site parking and vehicle maneuvering areas
- Certification by the design engineer that the stormwater quality and detention system was constructed per the approved plan.

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File # AC-15-007/E-15-009
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PUBLIC WORKS DEPARTMENT
ENGINEERING & DEVELOPMENT DIVISION

200 S. IVY STREET
MEDFORD, OREGON 97501
www.ci.medford.or.us

TELEPHONE (541) 774-2100
FAX (541) 774-2552

A. STREETS

1. Dedications

No additional right of way on Central Avenue is required.

No additional right-of-way on 9th Street is required.

No additional right-of-way on 10th Street is required.

No additional right-of-way is required in the public alley on the westerly edge of the site.

2. Public Improvements

a. Public Streets

All standard street section improvements have been completed on streets surrounding the proposed development, including pavement, curb and gutter and sidewalk. **No additional street improvements will be required.**

b. Street Lights

The Developer shall protect and preserve all existing street lighting, power supply, and appurtenances.

c. Pavement Moratoriums

There is a pavement cutting moratorium on South Central Avenue at this frontage effective until 7/19/2017. No pavement cuts are allowed in South Central Avenue except as provided in Medford Municipal Code (MMC) 3.070.

At this frontage on 10th street, an overlay is scheduled for summer, 2015. After work is complete, no pavement cuts will be allowed for five (5) years in 10th Street except as provided in MMC 3.070.

3. Access and Circulation

Access to this site shall be restricted to the public alley on the westerly frontage of the site.

B. SANITARY SEWERS

This site lies within the Medford sewer service area. The proposed site plan does not clearly indicate the location of building connections to the existing sanitary sewer main. The Developer shall ensure that this connection is to an existing main as a separate individual lateral or make a new connection to an existing main with a separate lateral.

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C. STORM DRAINAGE

1. Drainage Plan

A comprehensive drainage plan showing the entire project site with sufficient spot elevations to determine direction of runoff to the proposed drainage system, and also showing elevations on the proposed drainage system, shall be submitted with the building permit application for approval. All area catch basins shall meet Department of Environmental Quality (DEQ) requirements, which include a down-turned elbow and sump.

2. Grading

A comprehensive grading plan showing the relationship between adjacent property and the proposed development shall be submitted with the building permit application for approval. Grading on this development shall not block drainage from an adjacent property or concentrate drainage onto an adjacent property without an easement. The developer shall be responsible that the final grading of the development shall be in compliance with the approved grading plan.

3. Detention and Water Quality

Storm water quality and detention facilities shall be required in accordance with Medford Land Development Code Section 10.481 and 10.729.

4. Certification

Upon completion of the project, and prior to certificate of occupancy of the building, the developer's design engineer shall certify that the construction of the stormwater quality and detention system was constructed per plan. Certification shall be in writing and submitted to the Engineering Division of Public Works. Reference Rogue Valley Stormwater Quality Design Manual, Appendix I, Technical Requirements.

5. Erosion Prevention and Sediment Control

All development that disturbs 5,000 square feet or greater shall require an Erosion Prevention and Sediment Control Plan. Developments that disturb one acre and greater shall require a 1200C permit from the Department of Environmental Quality (DEQ). Erosion Prevention and Sediment Control Plans shall be submitted to the Building Department with the project plans for development. All disturbed areas shall be covered with vegetation or properly stabilized prior to certificate of occupancy.

D. General Conditions

1. Design Requirements and Construction Drawings

Any required public improvements shall be constructed in accordance with the "Engineering Design Standards for Public Improvements", adopted by the Medford City Council. Copies of this document are available in the Public Works Engineering office.

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2. Construction Plans

Construction drawings for any public improvements for this project shall be prepared by a professional engineer currently licensed in the State of Oregon, and submitted to the Engineering Division of Medford Public Works Department for approval. Approval shall be obtained prior to beginning construction. Only a complete set of construction drawings (3 copies) shall be accepted for review, including plans and profiles for all streets, minimum access drives, sanitary sewers, storm drains, and street lights as required by the Site Plan and Architectural Commission's Final Order, together with all pertinent details and calculations. The Developer shall pay a deposit for plan review and construction inspection prior to final plan approval. Public Works will keep track of all costs associated with the project and, upon our acceptance of the completed project, will reconcile the accounting and either reimburse the Developer any excess deposit or bill the Developer for any additional amount not covered by the deposit. The Developer shall pay Public Works within 60 days of the billing date or will be automatically turned over for collections.

3. Construction and Inspection

The Developer or Developer's contractor shall obtain appropriate right-of-way permits from the Department of Public Works prior to commencing any work within the public right-of-way that is not included within the scope of work described within approved public improvement plans. Pre-qualification is required of all contractors prior to application for any permit to work in the public right-of-way.

4. Site Improvements

All on-site parking and vehicle maneuvering areas related to this development shall be paved in accordance with MLDC, Section 10.746, prior to issuance of certificate of occupancy for any structures on the site. Curbs shall be constructed around the perimeter of all parking and maneuvering areas that are adjacent to landscaping or unpaved areas related to this site. Curbs may be deleted or curb cuts provided wherever pavement drains to a water quality facility.

5. System Development Charges

Buildings in this development are subject to street, sanitary sewer collection and treatment system development charges (SDC). All SDC fees shall be paid at the time individual building permits are issued.

Prepared by: Kris Lillie, RH2 Engineering

405

P:\Staff Reports\AC\2015\AC-15-007_E-15-009 Skypark Medford LLC\AC-15-007 E-15-009 Skypark Staff Report - DB.docx Page 4

PUBLIC WORKS DEPARTMENT
ENGINEERING & DEVELOPMENT DIVISION

200 S. IVY STREET
MEDFORD, OREGON 97501
www.ci.medford.or.us

TELEPHONE (541) 774-2100
FAX (541) 774-2552

SUMMARY CONDITIONS OF APPROVAL
Skypark Residential Building
AC-15-007 / E-15-009

A. Streets

1. Street Dedications to the Public:

No street dedications are required for this development.

2. Improvements:

No additional street improvements are required for this development.

Pavement moratoriums are currently in effect.

B. Sanitary Sewer:

Provide separate individual sanitary sewer lateral to main.

C. Storm Drainage:

Provide a comprehensive grading and drainage plan.

Provide water quality and detention facilities, calculations and O&M Manual.

Provide engineers certification of stormwater facility construction.

Provide copy of an approved Erosion Control Permit (1200C) from DEQ for this project.

The above summary is for convenience only and does not supersede or negate the full report in any way. If there is any discrepancy between the above list and the full report, the full report shall govern. Refer to the full report for details on each item as well as miscellaneous requirements for the project, including requirements for public improvement plans (Construction Plans), design requirements, phasing, draft and final plat processes, permits, system development charges, pavement moratoriums and construction inspection.

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BOARD OF WATER COMMISSIONERS

Staff Memo

TO: Planning Department, City of Medford

FROM: Rodney Grehn P.E., Water Commission Staff Engineer

SUBJECT: AC-15-007 & E-15-009

PARCEL ID: 371W30BC TL 11600

PROJECT: Consideration of Plans and associated exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Agency Parking Lot Facility, located upon .688 acres west of S. Central Avenue and north of E. 10th Street, within a C-C/C-B (Community Commercial – Central Business District Overlay) zone district; Skypark Medford LLC., Applicant (Oregon Architecture, Inc. Agent). Desmond McGeough, Planner.

DATE: March 16, 2015

I have reviewed the above plan authorization application as requested. Conditions for approval and comments are as follows:

CONDITIONS

1. The water facility planning/design/construction process will be done in accordance with the Medford Water Commission (MWC) "Regulations Governing Water Service" and "Standards For Water Facilities/Fire Protection Systems/Backflow Prevention Devices."
2. All parcels/lots of proposed property divisions will be required to have metered water service prior to recordation of final map, unless otherwise arranged with MWC.
3. Applicants' civil engineer shall coordinate with MWC engineering staff for domestic water service and fire protection facility connections to support the proposed 26 residential dwelling units.
4. Installation of an MWC approved backflow device is required for all commercial, industrial, municipal, and multi-family developments. New backflow devices shall be tested by an Oregon certified backflow tester. See MWC website for list of certified testers at the following web link <http://www.medfordwater.org/Page.asp?NavID=35>.

COMMENTS

1. Off-site water line installation is not required.
2. On-site water facility construction is not required.

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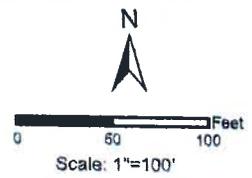
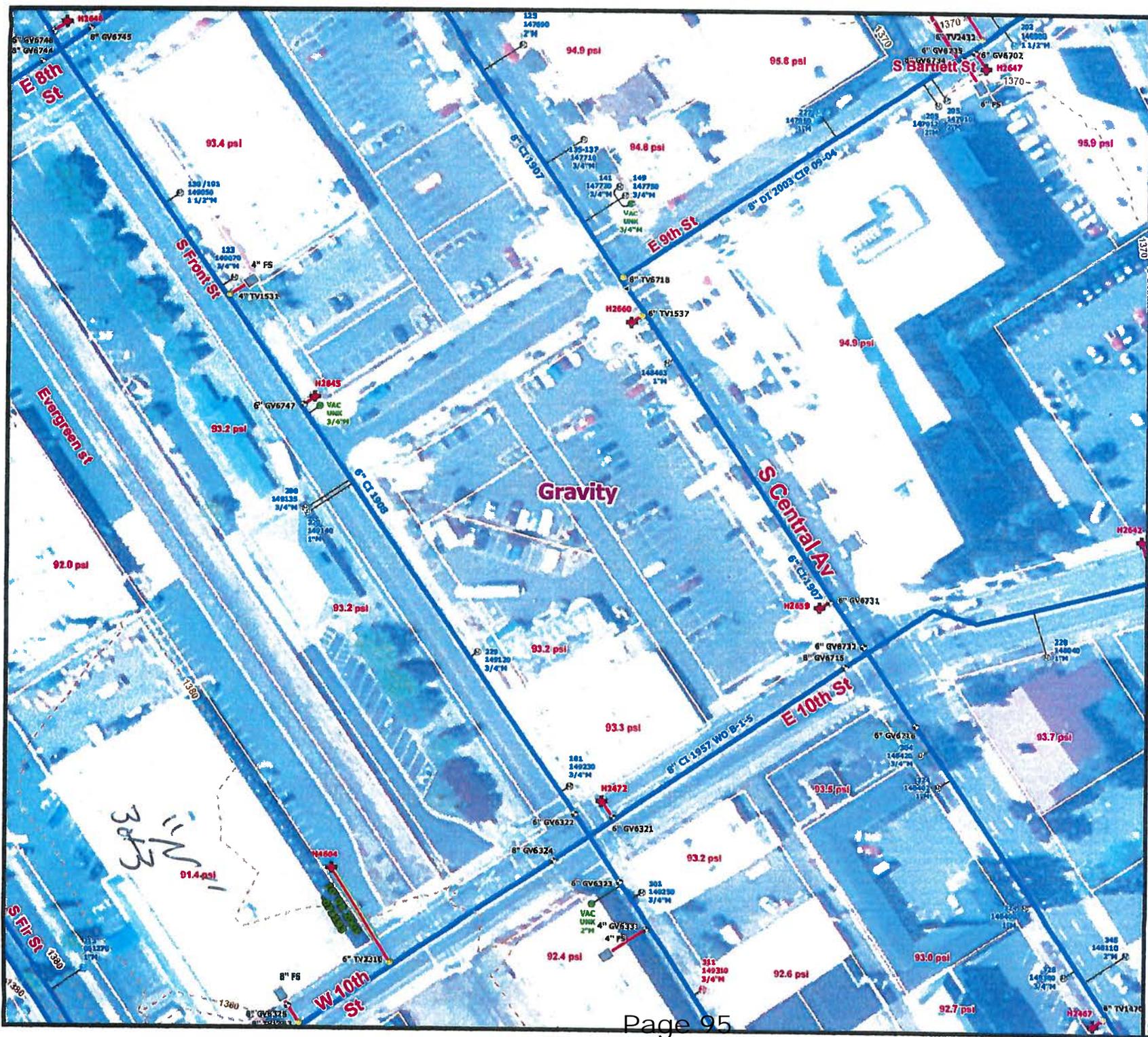
CITY OF MEDFORD
 EXHIBIT #
 File # AC-15-007/E-15-009
1002



Continued from previous page

3. Static water pressure is approximately 95 psi. See attached document from the City of Medford Building Department on "Policy on Installation of Pressure Reducing Valves".
4. MWC-metered water service does exist to this property. There is a City of Medford 1-inch irrigation water meter for this parking lot landscaping.
5. Access to MWC water lines is available. There is a 6-inch cast iron water line in Central Avenue, and an 8-inch cast iron water line in East 10th Street.

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**Water Facility Map
for
AC-15-007 &
E-15-009**

Legend

- Air Valve
- Sample Station
- Fire Service
- Hydrant
- Reducer
- Blow Off
- Plugs-Caps

Water Meters:

- Active Meter
- On Well
- Unknown
- Vacant

Water Valves:

- Butterfly Valve
- Gate Valve
- Tapping Valve

Water Mains:

- Active Main
- Abandoned Main
- Reservoir Drain Pipe
- Pressure Zone Line

Boundaries:

- Urban Growth Bound
- City Limits
- Tax Lots

MWC Facilities:

- Control Station
- Pump Station
- Reservoir



This map is a technical drawing and is not to be used for any other purpose. It is the property of the Medford Water Commission and is loaned to you for your information only. It is not to be reproduced or used in any way without the express written consent of the Medford Water Commission. The Medford Water Commission is not responsible for any errors or omissions on this map. The Medford Water Commission is not responsible for any damage to property or injury to persons resulting from the use of this map. The Medford Water Commission is not responsible for any loss of data or information resulting from the use of this map. The Medford Water Commission is not responsible for any other consequences resulting from the use of this map.



Medford Fire Department

200 S. Ivy Street, Room #180
Medford, OR 97501
Phone: 774-2300; Fax: 541-774-2514;
www.medfordfirerescue.org

LAND DEVELOPMENT REPORT - APPLICANT

To: Desmond McGeough

LD Meeting Date: 03/18/2015

From: Greg Kleinberg

Report Prepared: 03/10/2015

Applicant: Applicant (Oregon Architecture, Inc. Agent)

File #: AC - 15 - 7

Associated File #'s: E - 15 - 9

Site Name/Description: Medford Urban Renewal Agency Parking Lot Facility

Consideration of Plans and associated exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Agency Parking Lot Facility, located upon .688 acres west of S. Central Avenue and north of E. 10th Street, within a C-C/C-B (Community Commercial - Central Business District Overlay) zone district; Skypark Medford LLC., Applicant (Oregon Architecture, Inc. Agent). Desmond McGeough, Planner.

| DESCRIPTION OF CORRECTIONS | REFERENCE |
|----------------------------|-----------|
|----------------------------|-----------|

Requirement FIRE SPRINKLER SYSTEM

OFC

903

A NFPA 13 fire sprinkler system will be required by code for this occupancy (both the parking garage and the residences).

Development shall comply with access and water supply requirements in accordance with the Fire Code in affect at the time of development submittal.

Fire apparatus access roads are required to be installed prior to the time of construction. The approved water supply for fire protection (hydrants) is required to be installed prior to construction when combustible material arrives at the site.

Specific fire protection systems may be required in accordance with the Oregon Fire Code.

This plan review shall not prevent the correction of errors or violations that are found to exist during construction. This plan review is based on the information provided only.

Design and installation shall meet the Oregon requirements of the IBC, IFC, IMC and NFPA standards.

CITY OF MEDFORD
EXHIBIT # "0"
File # AC-15-007/E-15-09
10A1

Memo



To: Desmond McGeough, Planner, Planning Department
From: Tanner Fairrington, Building Department
CC: Oregon Architecture, Applicant / Agent
Date: March 17, 2015
Re: March 18, 2015 LDC Meeting: AC-15-007 / E-15-009 – Item #3

Please Note:

This is not a plan review. These are general notes based on general information provided. Plans need to be submitted and will be reviewed by a commercial plans examiner to determine if there are any other requirements for this occupancy type.

Fees are based on valuation. Please contact the front counter for estimated fees.

1. For list of applicable Building Codes, please visit the City of Medford website: www.ci.medford.or.us Click on "City Departments" at top of screen; click on "Building"; click on "Code and Design Information" on left side of screen; click on "Design Criteria"; and select the appropriate design criteria.
2. All plans are to be submitted electronically. Information on the website: www.ci.medford.or.us Click on "City Departments" at top of screen; click on "Building"; click on "Electronic Plan Review (ePlans)" on left side of screen for information.

General Comments:

3. The comments below are based on the site plans and elevations submitted. When final plans are submitted, and building information is provided, a more thorough review can be provided.

Site Plan

The comments below are based on the 2014 OSSC, unless noted otherwise.

4. Accessible parking spaces to be per section 1106.7 of the 2014 OSSC, including figures referenced (see Building Codes Division for 2014 OSSC Errata which included these figures, dated October 16, 2014). Locations appear to be acceptable.
5. Per 903.3.1.1 and 903.2.8, an NFPA 13 automatic sprinkler system is required throughout the building, including the parking structure.
6. Per 1008.1.2, the means of egress door leading in to the south stairway shall swing in the direction of egress travel since the occupant load for the second story will exceed 50.
7. Exit signs shall be provided per Section 1011
8. Please evaluate whether the following Sections of the 2014 OSSC apply prior to submitting plans for review:
 - a. 510.7 – Fire Barrier and means of egress requirements
 - b. 705.2 – Overhangs
 - c. Table 508.4, footnote c – See 406.3.4.

CITY OF MEDFORD
EXHIBIT # "P"
File # AC-15-007/E-15-009
1051

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into by and between the following lessor (the "Lessor") and lessee (the "Lessee"):

Name of Lessor: **MEDFORD URBAN RENEWAL AGENCY**
Address of Lessor: 411 West 8th Street
 Medford, Oregon 97501

Name of Lessee: **SKY PARK MEDFORD LLC**
Address of Lessee: P.O. Box 306
 Ashland, Oregon 97520

IN CONSIDERATION OF the mutual promises set forth herein, the parties agree as follows:

1. **Definitions**. The following terms shall have the indicated meanings:

(a) **"MURA Property"** refers to the real property commonly identified as 206 S. Central Avenue, Medford, Oregon (371W30BC, Tax Lot 11600), and more particularly described as Lots 1-6, Block 18, of the City of Medford, Jackson County, Oregon, according to the Official Plat thereof.

(b) **"SPM Development"** refers to an elevated structure consisting of residential units and related facilities to be constructed by Lessee above the parking surface presently located on the MURA Property, including but not limited to all associated design elements, supporting columns, utility facilities and utility pathways, stairways, elevators, and access elements.

(c) **"Leased Property"** refers to all portions of the ground level surface of the MURA Property upon which are located the following facilities relating to the SPM Development: supporting columns, stairways, elevators and utilities area, lobby, mail room, and trash area.

(d) **"Lease"** refers to the lease arrangement between Lessor and Lessee which is established under this Agreement.

(e) **"Lease Term"** refers to the entire term of the Lease. **"Lease Years"** refers to the successive twelve month periods during the Lease Term which begin on the first day of the Lease Term and on each successive anniversary thereof.

(f) **"SPM Construction Commencement Date"** refers to that certain date agreed upon by Lessor and Lessee for the commencement of the construction of the SPM Development. **"SPM Construction Completion Date"** refers to that certain date to mark the completion of construction of the SPM Development. **"SPM Construction Period"** refers to the time period beginning on the SPM Construction Commencement Date and ending on the SPM Construction Completion Date.

(g) **"Hazardous Materials"** shall refer to and include: (i) any and all substances defined as "hazardous substances", "hazardous materials", or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC Section 9601, et. seq.), the Hazardous Materials Transportation Act (49 USC Section 1801, et. seq.), and the Resource Conservation and Recovery Act (42 USC Section 6901, et. seq.); and (ii) any and all substances which now or in the future are deemed to be pollutants, toxic materials or hazardous materials under any other state or federal law.

2. **Lease**. Lessor hereby leases the Leased Property to Lessee, and Lessee leases the Leased Property from Lessor, subject to all of the terms and conditions contained in this Agreement.

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3. Term Of Lease

(a) The Lease Term shall commence on January 15, 2015, and shall terminate on January 15, 2065, unless extended or sooner terminated as provided in this Agreement. Lessor and Lessee shall both work together in good faith to mitigate any disruption of parking lot operation, and both agree that work shall be done at night when feasible during the period when Rogue Community College and/or Southern Oregon University are in session, starting on or about June 1, 2015, subject to financial timing and city approvals relating to the project.

(b) At any time within one year prior to the lease expiration date Lessor will either 1) sell the Leased Property to Lessee at an agreed upon price, or 2) execute a lease of the Leased Property for another 50 years at the price of \$1 (One Dollar).

(c) Terms specific to Lessee's use of parking spaces at the Central A parking lot are attached hereto as Exhibit A.

4. Rental Payments Required. Lessee shall pay to Lessor a rental amount of One Dollar (\$1.00) for the 50 year lease term. Rent may be pre-paid up to the entire term of the lease without penalty.

(a) All rents payable under this Agreement shall be payable in advance on the first day of each Lease Year, at whatever address Lessor may specify in writing from time to time. Lessor will provide Lessee prior reasonable written notice of changes to the address for payment of rent hereunder.

(b) All amounts which Lessee is required to pay under this Agreement (including but not limited to taxes, utility costs and maintenance expenses) shall be payable as additional rent, and shall be paid promptly when due.

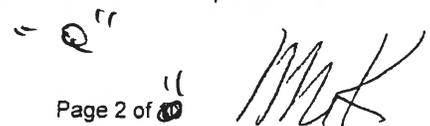
5. Use Of Leased Property. Lessee shall use the Leased Property solely for all SPM Development-associated design elements, supporting columns, utility facilities and utility pathways, stairways, elevators, access elements, lobby, mail room, and trash area. Lessee agrees to make a reasonable, good faith effort to construct and operate the SPM Development in a manner which will minimize the area of the Leased Property and maximize the usability of the MURA Property as a public parking lot.

(a) Requirements Of MURA Property To Have Priority. Lessee acknowledges and agrees that Lessee's ability to make beneficial use of the Leased Property shall at all times be subject to the reasonable requirements of the Lessor to make use of, and have access to and across, MURA Property.

(b) Changes In Use. At no time during the Lease Term shall Lessee make, cause, allow, suffer or otherwise permit any material change in the use of any portion of the Leased Property without obtaining the prior written consent of Lessor.

(c) Prohibited Uses. Lessee shall not use, or cause, allow, suffer or otherwise permit any other person or entity to use, the Leased Property in any manner which would or might reasonably be expected to: (1) create or tend to create waste or a nuisance, or (2) materially interfere with the maintenance, operation and/or beneficial use of the MURA Property, or (3) have any adverse visual, auditory or olfactory impact on any portion of the MURA Property, or (4) be unreasonably offensive to Lessor or users of any portion of the MURA Property, or (5) make it impossible or more costly for Lessor to insure against loss or damage to the MURA Property, or against personal injury or property damage occurring on or to any portion of the MURA Property, or (6) unreasonably restrict access to or from the MURA Property.

(d) Compliance. Lessee shall promptly obtain all permits, licenses and permissions which shall be required to perform Lessee's responsibilities under this Agreement, and shall comply with all statutes, laws, ordinances, orders, judgments, decrees, injunctions, rules, regulations, licenses, directives and requirements



of all federal, state, county, municipal and other governments, commissions, boards, courts, authorities and officials, together with companies or associations insuring the Leased Property, which now or at any time hereafter may be applicable to the Leased Property or any part thereof, or to any use of or condition of the Leased Property or any part thereof. Lessee shall remedy at Lessee's expense any failure of compliance created through Lessee's fault or by reason of Lessee's use.

(e) Security. Lessee shall be solely responsible for ensuring the safety and security of persons using the Leased Property and property located above the Leased Property.

6. Utilities

(a) Sprinkler Fixtures. In connection with the construction of the SPM Development, Lessee shall install a fire sprinkler system above the Leased Property which meets the requirements of applicable construction codes. Lessee shall be responsible for providing and paying the cost of all water used in connection with that sprinkler system. Lessee shall be responsible for, and shall bear the cost of, operating and maintaining that sprinkler system.

(b) Lighting Fixtures.

(1) At the commencement of the SPM Construction Period, Lessee shall remove Lessor's existing lighting fixtures (and other parking equipment) from the SPM Real Property and deliver those items to Lessor.

(2) In connection with the construction of the SPM Development, Lessee shall install a lighting system above the Leased Property which meets the requirements of applicable construction codes and is compatible with the lighting system currently installed in MURA's parking structures at One West Main and the Middleford garage. Lessee also will install a new 400 amp single phase electrical panel, service entrance and meter, and will connect the lighting system to the panel. Subsequent to Lessee's installation of those fixtures, Lessor shall be responsible for, and shall bear the cost of, operating and maintaining those fixtures.

(c) Utilities. Lessor shall have no responsibility to arrange for or provide any utility services to the Leased Property. Lessee shall be responsible for obtaining, and shall pay the cost of, all water, electricity, natural gas, heating oil, telephone service, refuse collection, sewage and other utilities and services provided to the Leased Property, or used on or in connection with the Leased Property, during the Lease Term. Lessee shall make payment for all such utilities and services directly to the providers of those utilities and services. Lessor shall not be liable to Lessee in the event of any interruption in the supply of any utility or service to the Leased Property (other than an interruption caused by the Lessor). Lessee shall not install any additional facilities utility fixtures on the Leased Property which might reasonably be expected to materially interfere with the maintenance, operation and/or beneficial use of the MURA Property.

7. Taxes On Real And Personal Property.

(a) Lessee shall pay all real property taxes, general and special assessments, and other taxes and charges which are levied on or assessed during the Lease Term against the Leased Property or improvements located on the Leased Property, as those taxes become due and payable, and before delinquency.

(b) Lessee shall pay all personal property taxes and other taxes and charges which are levied on or assessed against personal property, leasehold improvements, fixtures, equipment, furniture, inventories, merchandise and any other personal property installed or located on the Leased Property during the Lease Term (the "**Personal Property Taxes**"), as those taxes become due and payable, and before delinquency, and regardless of whether such levy or assessment is made against Lessee or against Lessor, and regardless of whether such property has been installed by Lessee or by Lessor. Lessee shall make all tax payments directly to the taxing authorities.

(c) If any tax is permitted by a taxing authority to be paid in installments, Lessee may elect to

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do so as long as each installment (together with any interest charged) is paid before it becomes delinquent. Lessee may contest in good faith the validity or amount of any tax, assessment or charge in accordance with the procedures established by applicable statute or administrative rule, as long as the Leased Property is not subjected to any lien as a result of the contest. Lessee shall furnish to Lessor receipts or other proof of payment of all taxes, assessments and charges payable by Lessee hereunder, within ten (10) days after Lessor's written request for such proof.

8. **Repairs And Maintenance**

(a) Lessee shall be responsible for maintaining the SPM Development in a manner which will not materially interfere with the beneficial use of the MURA Property by Lessor.

(b) Lessee shall maintain in safe, workable and neat condition all elements and aspects of the Leased Property. Lessee shall be responsible for maintaining the Leased Property in a manner which will not materially interfere with the beneficial use of the MURA Property by Lessor. Lessor shall have no responsibility to perform any repairs or maintenance with respect to the Leased Property.

(c) Neither party shall be obligated to resurface any portions of the existing parking lot located on the MURA Property which remain after completion of construction of the SPM Development. Lessee shall be obligated to patch and return to useable condition any portions of that remaining parking lot which are damaged during the construction of the SPM Development.

(d) If any failure by Lessee to keep and preserve the Leased Property in the state or condition required under this Section 8 causes any material interference with the beneficial use of the MURA Property, then Lessor may, after ten (10) days written notice to Lessee, make whatever repairs are necessary to place or return the Leased Property to eliminate that material interference, without liability to Lessee for any loss or damage which may result to Lessee's business by reason of those repairs. In the event of such repairs by Lessor, Lessee shall be obligated to pay to Lessor an amount equal to the total costs and expenses incurred by Lessor in making those repairs, plus 15%, which total amount shall be promptly due and owing as additional rent.

9. **No Warranties By Lessor.** Lessor makes no warranty, either express or implied, as to the condition of the Leased Property, or the suitability or fitness of the Leased Property for any purpose. Lessee agrees that neither Lessor nor any agent of Lessor has made any representations or warranties as to any of the following: (i) the suitability or fitness of the Leased Property for Lessee's permitted use(s) (as identified in Section 5), (ii) the physical condition of the Leased Property, (iii) the expenses of operation of the Leased Property, or (iv) any other matter affecting or relating to the Leased Property except as expressly set forth in this Agreement and in the Disposition and Development Agreement.

(a) Prior to executing this Agreement, Lessee has inspected the Leased Property and has become thoroughly acquainted with the condition of the Leased Property. Lessee agrees to take and accept the Leased Property "AS IS". The taking of possession of the Leased Property by Lessee shall be a conclusive acknowledgment by Lessee that the Leased Property is in good and satisfactory condition as of the date when possession is taken, and that Lessee has determined the Leased Property to be suitable for Lessee's permitted use(s) (as identified in Section 5). Lessor shall not be required to make any alterations or improvements of any kind to the Leased Property.

(b) Although it is the expectation of the parties that Lessee shall use the Leased Property for the permitted use(s) identified in Section 5, it is expressly agreed that the obligations of Lessee under this Agreement shall not be abated, diminished or in any other manner affected by the inability of Lessee for any reason whatsoever to use all or any portion of the Leased Property for those purposes, except as otherwise expressly provided herein.

10. **No Liens.** Lessee shall not allow the Leased Property to be subjected to any mortgage or other lien as security for a loan or other obligation of Lessee, without first obtaining the express written consent of Lessor, which consent may be subject to any terms or conditions, or withheld by Lessor for any reason or for no reason in Lessor's absolute discretion. Lessee shall keep the Leased Property free and clear of all personal

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property tax liens and encumbrances. Lessee shall pay as due all claims for labor or work done on, and for services rendered or material furnished to, the Leased Property, and Lessee shall keep the Leased Property free from any mechanic's, workman's or materials lien of any kind. If Lessee receives notice of the filing of any claim or lien against the Leased Property or the commencement of any action which might affect the title to the Leased Property, Lessee shall give prompt written notice thereof to Lessor.

11. **Insurance.**

(a) Lessee shall maintain and shall pay all premiums with respect to insurance protecting Lessor and Lessee as the named insureds against loss or liabilities arising from personal injury or death or damage to property caused by any accident or occurrence in connection with the use, operation or condition of the Leased Property and the SPM Development, with limits deemed appropriate from time to time by Lessor in the reasonable exercise of Lessor's discretion. Any proceeds of the insurance referred to in this subsection shall be applied towards extinguishment or satisfaction of the liabilities with respect to which those insurance proceeds are paid.

(b) Lessee shall maintain, and shall pay all premiums for, insurance against loss or damage to the improvements located on the Leased Property and the SPM Development by fire, lightning, vandalism, malicious mischief, sprinkler leakage, breakage of plate glass, or other perils or casualties, with an all risk endorsement. All such insurance shall be for the benefit of Lessee only. All such insurance also shall cover incidental loss or damage to the MURA Property (arising by reason on fire or other perils or casualties on or about the Leased Property and the SPM Development), with limits deemed appropriate from time to time by Lessor in the reasonable exercise of Lessor's discretion, and with proceeds attributable to such incidental loss or damage being for the benefit of Lessor only.

(c) Lessee hereby releases Lessor and Lessor's agents and employees from responsibility and liability for loss or damage occurring to, or in connection with the use of, the Leased Property and the SPM Development, and Lessee waives all right of recovery against Lessor and Lessor's agents and employees for such loss or damage. Lessee agrees to: (i) notify Lessee's insurance carrier(s) of the release and waiver set forth in the preceding sentence, and (ii) obtain from Lessee's insurance carrier(s), at Lessee's sole cost, a written waiver of all subrogation rights against Lessor and Lessor's agents and employees.

(d) All insurance required to be carried by Lessee under this Section 11 shall be issued by responsible insurance companies, qualified to do business in the state of Oregon, and reasonably acceptable to Lessor. Each such insurance policy shall name Lessor as the sole insured or as an additional insured. No such insurance policy shall be subject to cancellation or material modification except after ten (10) days prior written notice to Lessor. Within three (3) business days after receipt by Lessee of any written request from Lessor for proof that Lessee has obtained the insurance coverage required of Lessee under this Section 11, Lessee shall be obligated to provide to Lessor a binder or other such proof. At least ten (10) days prior to the expiration of any insurance policy required of Lessee under this Section 11, Lessee shall provide to Lessor copies of renewals or binders for the issuance of one or more replacement insurance policies.

12. **Destruction Of Improvements.** Except as specifically provided in this Section 12, no other obligations of Lessee under this Agreement shall be altered, affected, discharged or released by reason of any damage to or destruction of any improvements on the Leased Property and SPM Development.

13. **Eminent Domain.** If, during the Lease Term, there shall be a total or partial taking of the Leased Property by any public authority under the power of eminent domain, then the leasehold estate of Lessee in and to the Leased Property shall cease and terminate as of the date when the condemning authority takes possession of or title to (whichever occurs first) all or any portion of the Leased Property.

(a) Sale of all or part of the Leased Property to a purchaser with power of eminent domain, in the face of the threat or probability of the exercise of the power of eminent domain, shall be treated for purposes of this Agreement as a taking by condemnation. All compensation and damages awarded for the taking of all or any portion of the Leased Property shall be equitably apportioned between Lessor and Lessee as their interests may then appear.

(b) Lessee shall have the right, at its sole cost and expense, to assert a separate claim in any condemnation proceedings for the value of Lessee's leasehold interest. Whenever notice of a taking of all or any portion of the Leased Property is received by either party, that party shall notify the other party thereof, and Lessor and Lessee thereafter shall jointly negotiate with the taking authority as to the value of their respective interests in the Leased Property or the improvements located thereon to the end of being fairly compensated therefor.

14. **Alterations.** Lessee shall not make any construction, reconstruction, improvement, change, modification, utility installation or other alteration (collectively "**Alterations**") in, on or to all or any portion of the Leased Property without first providing to Lessor detailed plans, specifications and explanations relating to the proposed Alterations and obtaining Lessor's express written approval to those Alterations (which approval may be subject to any terms or conditions reasonably determined by Lessor, and may be withheld by Lessor in the reasonable exercise of Lessor's discretion). Any Alteration which has been approved by Lessor in accordance with the preceding sentence is referred to in this Paragraph 14 as an "**Approved Alteration**").

(a) Any Approved Alteration shall be done at the cost of Lessee, and shall become the property of Lessor and shall remain on the Leased Property and be surrendered to Lessor upon termination of the Lease Term.

(b) Lessee and Lessor shall cooperate to ensure that all work with respect to any Approved Alteration is done in a good and workmanlike manner and diligently prosecuted to completion. Any Approved Alteration shall be performed and done strictly in accordance with the plans and specifications approved in writing by Lessor and in accordance with all applicable laws, ordinances and regulations, and the requirements of all insurance carriers and fire rating bureaus with respect to the Leased Property.

15. **Indemnification Against Damage Or Injury.** Sky Park agrees to indemnify, defend and hold harmless the MURA and its officers, agents and employees against all liability, loss, and costs arising from actions, suits, claims or demands attributable solely and exclusively to acts or omissions of Sky Park, and Sky Park's officers, agents, and employees, arising from the possession or use of the leased property while this lease is in effect.

Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, MURA agrees to indemnify, defend and hold harmless Sky Park and its officers, agents, and employees against all liability, loss, and costs arising from actions, suits, claims, or demands attributable solely and exclusively to acts or omissions of MURA, and MURA's officers, agents, and employees, arising from the possession or use of the parking lot known as "Central A" while this lease is in effect.

16. **Good Title.** Lessor warrants that it has good right to lease the Leased Property and will defend Lessee's right to quiet enjoyment of the Leased Property against the lawful claims of all persons during the Lease Term.

17. **Sale Of Lessor's Interest.** Lessor may sell all or any portion of the Leased Property during the Lease Term. Any such sale shall be subject to the terms of this lease.

18. **Limitation On Assignment Or Sublease By Lessee.** Except for subleases expressly permitted under Section 5 of this Agreement, Lessee shall not voluntarily or by operation of law assign this Lease or sublease any portion of the Leased Property, or enter into any license agreement, franchise agreement, or concession agreement with respect to the Leased Property, or mortgage, hypothecate or otherwise encumber all or any portion of Lessee's interest in this Agreement or in the Leased Property, or in any other manner permit the occupation of or shared possession of all or any portion of the Leased Property, without obtaining in each instance the written consent and approval in advance of Lessor, subject to any reasonable terms or conditions determined by Lessor, which consent may be not be unreasonably withheld. Any purported assignment, sublease, encumbrance or other conveyance of any interest in this Agreement or in the Leased Property without the written consent of Lessor shall be void and of no effect. Consent by Lessor in any one instance shall not constitute a waiver or consent to any subsequent instance. The consent by Lessor to any assignment, sublease, encumbrance or other conveyance shall not relieve or otherwise affect the continuing primary liability of Lessee under this Agreement, and Lessee shall not be released from performing any of the terms, covenants and conditions of this Agreement.

19. **Landlord's Lien.** Lessee hereby grants to Lessor a lien upon the improvements, trade fixtures and furnishings of Lessee to secure full and faithful performance of all of the terms of this Agreement.

20. **Lessee's Default.**

(a) The following shall be "events of default" under this Agreement, and the terms "event of default" or "default" shall mean, whenever used in this Agreement, any one or more of the following events:

(1) The failure by Lessee to pay or cause to be paid the full amount of any rent or other charge specified in this Agreement, within ten (10) days after the date when due. Lessor shall not be required to provide any notice to Lessee before declaring a default arising out of Lessee's failure to make any payment required under this Agreement, but no default shall be declared until ten (10) days after that payment is due.

(2) The failure by Lessee to comply with any term or condition, or fulfill any obligation of this Agreement (other than the payment of rent or other charge) within twenty (20) days after written notice by Lessor specifying the nature of the default with reasonable particularity and requesting that the default be remedied. If the default is of such a nature that it cannot be completely remedied within the 20-day period, this provision shall be complied with if Lessee begins correction of the default within the 20-day period and thereafter proceeds with reasonable diligence and good faith to affect the remedy as soon as possible.

(3) A breach of any provision of Section 7 of this Agreement, in which event Lessee shall be entitled to no notice of default and no opportunity to cure.

(b) Whenever any event of default shall have occurred, Lessor may declare, by written notice to Lessee, that all unpaid and delinquent installments of rent, and all other unpaid and delinquent charges and payments due under this Agreement shall be immediately due and payable, whereupon those amounts shall become immediately due and payable.

(c) No remedy conferred upon or reserved to Lessor under this Agreement is intended to be exclusive of any other available remedy, but each and every remedy shall be cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, and any such right or power may be exercised from time to time and as often as deemed expedient by Lessor. In order to entitle Lessor to exercise any remedy reserved to Lessor, it shall not be necessary to give any notice other than a notice which is expressly required in this Agreement.

21. **Lessor's Default; Lessee's Remedies.** If Lessor fails to observe or perform any obligation required to be observed or performed by Lessor under the terms of this Agreement, and Lessor fails to cure that breach within thirty (30) days after written notice thereof from Lessee, then Lessor shall be deemed in default under this Agreement. Upon Lessor's default, Lessee, at its option, may exercise any one or more of the following remedies, which shall be Lessee's sole and exclusive remedies:

(a) Lessee may cure the default by performing Lessor's obligation, in which case Lessor shall reimburse Lessee for all costs and expenses reasonable incurred by Lessee in making that cure; or

(b) Lessee may terminate this Lease immediately upon written notice to Lessor.

22. **Lessee's Responsibility For Contamination By Hazardous Substances.**

(a) Lessee shall not intentionally or unintentionally cause or permit any Hazardous Material to spill, leak or be discharged onto the soil or other surface of the Leased Property or be discharged into any storm drain, sewer or other waste disposal system located on the Leased Property which is not specifically designed for, and intended to be used solely for, the retention and disposal of that Hazardous Material. In the event of any such spill, leak or discharge, Lessee shall file all reports, take all remedial actions and pay all fines and other levies as shall be required by applicable federal, state and local statute, ordinance, regulation and order.

(b) Lessee shall at all times use, sell, store, transport, dispose of and treat hazardous materials (as defined in subsection 1(f) of this Agreement) in strict accordance with all applicable federal, state and local laws and regulations (collectively referred to in this Section 23 as the "Laws"). If, prior to termination of the Lease and completion by Lessee of the obligations imposed under Section 16, there occurs upon the Leased Property any release, spill, leak or discharge of hazardous materials which is in violation of any of the Laws and is caused by any activity or activities of Lessee on or with respect to the Leased Property, then Lessee shall be obligated to cause and complete the repair, cleanup, detoxification and/or decontamination of the Leased Property, and the preparation and implementation of any closure, remedial action or other required plan or plans in connection therewith, all as required by the Laws.

(c) Lessee shall indemnify, defend, protect and hold harmless Lessor and each of Lessor's partners, employees, agents, successors and assigns (collectively referred to in this Section 23 as "Lessor"), from and against any and all criminal and civil claims and causes of action (including but not limited to claims resulting from, or causes of action incurred in connection with, the death of or injury to any person, or damage to any property), liabilities (including but not limited to liabilities arising by reason of actions taken by any governmental agency), penalties, forfeitures, prosecutions, losses and expenses (including reasonable attorney fees) which directly or indirectly arise from or are caused by either: (i) the presence in, on or about the Leased Property of any hazardous materials which result from any activity or activities of Lessee on or with respect to the Leased Property, or (ii) the Lessee's use, sale, storage, transportation, disposal, release, threatened release, discharge or generation of hazardous materials to, in, on, under, about or from the Leased Property. Lessee's obligations under this subsection 23(c) shall include, but not be limited to, the obligation to bear the expense of any and all costs, whether foreseeable or unforeseeable, of any necessary (as required by the Laws) repair, cleanup, detoxification or decontamination of all or any portion of the Leased Property, and the preparation and implementation of any closure, remedial action or other required plan or plans in connection therewith.

(d) Notwithstanding any other provision of this Agreement, the obligations of Lessee pursuant to this Section 23 shall remain in full force and effect after the termination of the Lease Term and until the expiration of the latest period stated in any applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters described herein may be brought, and until payment in full or satisfaction of any and all losses, claims, causes of action, damages, liabilities, charges, costs and expenses for which Lessee is liable hereunder shall have been accomplished.

(e) For purposes of subsections 23(a), 23(b) and 23(c), any acts or omissions of or by any one or more employees, agents, assignees, sublessees, franchisees, licensees, permittees, customers, invitees, contractors, successors-in-interest or other persons permitted by Lessee to have access to the Leased Property or acting for or on behalf of Lessee (whether or not the actions of such persons are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee.

(f) If any claim, demand, action or proceeding is brought against Lessor which is or may be subject to Lessee's obligation to indemnify Lessor as set forth under this Section 23, Lessor shall provide to Lessee immediate notice of that claim, demand, action or proceeding, and Lessee thereafter shall defend Lessor at Lessee's expense using attorneys and other counsel selected by Lessee and reasonably acceptable to Lessor. Lessor agrees to cooperate with Lessee in Lessee's defense of Lessor.

23. **Expenses.** Each of the parties shall pay its own expenses incidental to the preparation and consummation of this Agreement, including but not limited to the attorney fees and expenses.

24. **Notices.** Any notice required or permitted under this Agreement shall be deemed to have been duly given when actually delivered or when deposited in the United States mail, certified and return receipt requested, postage prepaid, addressed to the addresses specified on page 1 of this Agreement or such other addresses as may be specified from time to time by the parties in writing.

25. **Time Of Essence.** Time is of the essence in the performance of all obligations of Lessor and/or Lessee under this Agreement.

26. **Attornment And Subordination.**

(a) Lessee shall execute at Lessor's request, without further consideration, any and all instruments subordinating this Agreement to the lien of any mortgage, deed of trust or other encumbrance which may now or hereafter affect the Leased Property, together with all renewals, modifications, consolidations, replacements or extensions thereof; provided, however, that: (i) any encumbrancer relying on that subordination or those instruments will covenant with Lessee that Lessee's leasehold interests hereunder shall remain in full force and effect, and (ii) Lessee shall not be disturbed in the event of sale, foreclosure or other action so long as Lessee is not in default hereunder, and (iii) condemnation and insurance proceeds shall be paid to Lessee in accordance with this Agreement notwithstanding the subordination of the Lease to the lien of the mortgage or deed of trust. Upon Lessor's request, Lessee shall furnish to Lessor a copy of Lessee's financial statement; Lessor shall not disclose Lessee's financial statement to any person or entity other than to a potential lender or purchaser of the Leased Property.

(b) If Lessor's interest is transferred to and owned by any lender of Lessor as a result of a foreclosure or other proceeding brought by the lender in lieu of or pursuant to a foreclosure or in any other manner, and if the lender thereby succeeds to the interest of Lessor hereunder, then, subject to the non-disturbance agreement referred to in subparagraph (a), Lessee shall be bound to the lender under all of the terms, covenants and conditions hereof for the balance of the remaining Lease Term, with the same force and effect as if the lender was the original Lessor hereunder. Lessee hereby attorns to any such lender, with the attornment to be effective and self-operative immediately upon the lender succeeding to the interest of Lessor, and without the necessity of the execution of any further instrument. If a lender shall succeed to the interest of Lessor, the lender shall not be liable for any act or omission of Lessor, and shall not be subject to any offsets or defenses which Lessee might assert against Lessor and which arise prior to the date of that attornment.

27. **Estoppel Certificates.** Within twenty-one (21) business days after request by Lessor, Lessee shall execute and deliver to Lessor an estoppel certificate in such form as Lessor may reasonably request, or as a prospective purchaser or encumbrancer of the Leased Property may reasonably request, relating to the then current status of the lease and stating any claims, offsets or defenses asserted by Lessee with respect to the lease. Any such estoppel certificate may be conclusively relied upon by any prospective purchaser or encumbrancer of the Leased Property. If Lessee fails to deliver a requested estoppel certificate within twenty-one (21) business days after Lessor's written request therefor, Lessee shall be deemed conclusively to have agreed that: (i) this Agreement is in full force and effect, without modification except as may be represented by Lessor, (ii) there are no uncured defaults in Lessor's performance under this Agreement, (iii) not more than one monthly installment of the rental due under this Agreement has been paid in advance, and (iv) any terms or conditions of an estoppel certificate required by a prospective purchaser or encumbrances of the Leased Property are satisfied and agreed to by Lessee. Any failure by Lessee to deliver an estoppel statement (showing any exceptions to any of the statements of act required thereby) shall be a material breach of this Agreement.

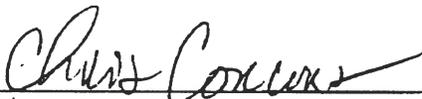
28. **Miscellaneous.** This Agreement shall be governed and performed in accordance with the laws of the state of Oregon. In the event of any inconsistent or incompatible provisions between this lease agreement and the Disposition and Development Agreement, the Disposition and Development Agreement shall take precedence. Each of the parties hereby irrevocably submits to the jurisdiction of the courts of Jackson County, Oregon, and agrees that any legal proceedings with respect to this Agreement shall be filed and heard in the Circuit Court of Jackson County, Oregon. The paragraph headings set forth in this Agreement are set forth for convenience purposes only, and do not in any way define, limit or construe the contents of this Agreement. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then that determination shall not affect any other provisions of this Agreement, and all such other provisions shall remain in full force and effect.

It is the intention of the parties that if any provision of this Agreement is capable of two constructions, only one of which would render the provision valid, then the provision shall have the meaning which renders it valid. If suit or action is instituted in connection with any controversy arising out of this Agreement, the prevailing party in that suit or action or any appeal therefrom shall be entitled to recover, in addition to any other relief, the sum which the court may judge to be reasonable attorney fees. This Agreement shall inure to the benefit of and shall be binding upon the successors, assigns, heirs and personal representatives of the parties. This Agreement may be executed in multiple counterparts, each of which shall be an original, and all of which shall constitute a single instrument, when signed by the parties. There are no oral agreements or representations between the parties

hereto which affect this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, warranties, representations and understandings, if any, between the parties. Waiver by either party of strict performance of any of the provisions of this Agreement shall not be a waiver of, and shall not prejudice the party's right to subsequently require strict performance of, the same provision or any other provision, and no delay or omission to exercise any right or power accruing upon any breach shall impair any such right or power or shall be construed to be a waiver thereof. The consent or approval of either party to any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act. No remedy conferred upon or reserved to either party under this Agreement is intended to be exclusive of any other remedy available to that party by reason of the other party's breach, but each and every remedy shall be cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity.

IN WITNESS WHEREOF, the parties have executed this Agreement effective JAN 15, 2015.

LESSOR: MEDFORD URBAN RENEWAL AGENCY



Chairman

1-15-15

Dated

LESSEE: SKY PARK MEDFORD LLC



Mark McKechnie, Authorized Member

1-2-15

Dated

Exhibit A

Agreement between Medford Urban Renewal Agency and Sky Park Medford LLC.
Regarding Parking at the Central A Parking Lot – 206 S. Central Avenue

RECITALS

The Medford Urban Renewal Agency (MURA) and Sky Park Medford LLC. (Developer) are parties to an agreement to build residential units above a portion of the Central A parking lot located at 206 S. Central Avenue and a lease of certain portions of the Central A parking lot.

This document is the agreement for leasing parking spaces for the residential development.

CITY OBLIGATIONS

1. MURA will add monthly permit spaces to the Central A parking lot.
2. One space per unit of the residential development will be leased to Developer at the going monthly rate.
3. Rates may increase at the discretion of MURA, consistent with rate increases for other permit parking spaces within the Central Business District.
4. MURA may oversell parking spaces for empty units or units not using parking spaces during parking enforcement hours. This is to assure the spaces are not left open during parking enforcement hours.

SKYPARK LLC. OBLIGATIONS

1. Developer will lease one parking space per unit at the going rate to be determined by MURA.
2. Developer will notify MURA when residential spaces are empty and parking spaces are available within 10 days of vacancy.
3. Developer will notify MURA when parking spaces are available due to non-use of unit.
4. Developer will provide a 30 day notice to MURA when unit is sold, leased, or rented and the date when parking space is required by the unit.

"Q"

11/2/11





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APR 02 2015
PLANNING DEPT

Stephen Cook, Owner of Farrell's Glass Service

Before this commission lies a request from a developer for relief from a parking requirement on a multi-unit housing structure, that has yet to be approved for construction. The impact of this development will be significant and long lasting.

It is the responsibility of this distinguished body to make a determination of suitability based on section 10.253 of the Medford Land Development Code. Will the housing unit compliment the adjoining properties in this zoning district? Is this usage in compliance with the current zoning or will there be additional exceptions required and re-zoning for this .688 acre property to a "residential, multi-unit housing designation?

In our Medford city area, where parking is at a premium, I find it curious that a developer, with the city's interest and vision of a vibrant, livable city in mind, would request an exception from the most basic requirement --- parking, of a multi-unit residential structure. Even with the great strides the city has taken to provide parking, by purchasing and developing the property on the northeast corner of 10th street and riverside, this new parking facility should be in addition to the current available parking, not in lieu of it.

Without stringent CC&R'S, primarily only owner occupied units, adequate lighting, security, maintenance, landscaping, and a requirement for units to be pre-sold , this buildings designation and intent could be drastically changed and radically different than envisioned by planning, Hence in contradiction of the general purpose and intent of the regulations imposed.

If this building is built on a deck, how many current parking spaces in addition to the requested exception will be forever lost, just as the current open space this building would replace. Upon completion, what will the tax revenues be based on? What will the annual lost revenues from parking be?

Any Medford resident can look at the financial expenditure that another locally based business incurred to have open spaces, building set-backs, desirable architecture, but more importantly, the example of the Lithia Commons building brings a vibrant vitality to our city. Just go by and watch the daily activity. We should expect no less in future development of the downtown core area.

Planning has an opportunity to steer the vision and development of this city through its rulings and codes.

Will this structure compliment the surrounding district? Will this structure architecturally compliment the surrounding buildings?

If approved, will the new zoning be in conflict with the noise and activity of a commercially zoned area? During the 10 - 16 months of construction on a project of this size, what optional parking will be available? On completion, where will the owners of these housing units park?

What streets, alleys, and access will be eliminated during construction resulting in detriment to the general welfare?

And when this is completed, is this building a draw to the area? Will this building add commerce? Will this building have a long term benefit to the city? Will this building encourage additional development as a show piece, or will it detract from the intended livable city vision of Metro Medford?

I thank you for your time hearing my concerns on this matter.

CITY OF MEDFORD
EXHIBIT # R
File # AC-15-007/E-15-009

Kelly A. Akin

From: Mark McKechnie <Mark@oregonarchitecture.biz>
Sent: Friday, April 03, 2015 4:32 PM
To: Kelly A. Akin
Subject: Sky Park

RECEIVED
APR 03 2015
PLANNING DEPT

Kelly,

I was dismayed to hear David Wilkerson of ORW Architecture bad mouth the SkyPark project at the public hearing today. He also happens to be Jeff Bender's boss. I respectfully request that Jeff Bender recuse himself from further deliberations on this project.

Mark McKechnie

CITY OF MEDFORD
EXHIBIT # 5
File # AC-15-007/E-15-009

RECEIVED

APR 16 2015

Planning Dept

City of Medford Planning Dept.
File No. AC-15-007/E-15-009
200 S. Ivy Street
Medford, OR 97501

April 16, 2015

To Who It May Concern,

I do NOT agree to an exemption for parking requested by a developer of a 26 unit high-end residential building.

I have worked across the street for RCC for the past twelve years and I can speak from experience that the parking in this general area is a **disaster**. The students complain daily for the lack of parking that is available. Removing 26+ parking spaces will not alleviate the problem but instead add to it.

Another issue that I find with the structure is its proximity to the bus stop. We have a problem with vagrants hanging out in the covered parking structure between Middleford and 6th streets. I believe this will only encourage more of the same.

Please consider my and other's objections to this matter.

Thank you,

Julie Brown

Julie Brown

"Exhibit T"

CITY OF MEDFORD
EXHIBIT # T
File # AC-15-007/E-15-009

CITY OF MEDFORD

INTER-OFFICE MEMORANDUM



RECEIVED

APR 10 2015

PLANNING DEPT

To: Site Plan and Architectural Commission; Jim Huber, Planning Director
From: John R. Huttli, Deputy City Attorney
Subject: Sky Park Code Related Parking Discussion AC 15-007 / E 15-009
Date: April 10, 2015

Summary

The Medford Land Development Code is capable of more than one meaning with respect to parking requirements for development on properties in the Central Business District C-B Overlay, when those properties are also within the Downtown Parking District. When a code is capable of more than one meaning it is ambiguous. When a local government code is ambiguous, the local decision-makers get to decide what the code means. When local decision-makers decide what the ambiguous code means, their interpretation is entitled to deference by the Land Use Board of Appeals and Oregon Courts if a party disagrees with that interpretation. This Commission is the decision-maker, not staff.

Discussion

A. Downtown Parking Management and the Sky Park DDA and Lease Agreement

On page 3 of its March 27, 2015 report (April 3, 2015 agenda packet page 94) staff explains that Sky Park's lease provided exclusive use for 26 spaces for Sky Park development in the Central A parking lot. That is not accurate.

By way of background, parking in the Central A lot is available on an hourly basis. Hourly parking is purchased from a computer kiosk. Other City-owned parking lots have spaces that can be parked in for longer periods of time. Both types of parking are on a first-come, first served basis.

The developers of Sky Park wanted the city to give them dedicated parking spaces. The City did not agree to that. The City explained that public parking was available. The developers did not like that only hourly parking would be available under their development. So the lease agreement between the Medford Urban Renewal Agency (MURA) and Sky Park agrees to convert 26 "hourly" spaces in the Central A parking lot to "monthly" spaces. No spaces in the parking lot will be for Sky Park occupant exclusive use. Sky Park parking permit holders will have to find a space on a first-come, first served basis. All parking under the building will be for public use. The switch from "hourly" to "monthly" spaces simply allows for the possibility that Sky Park occupants will be able to park long-term below their building.

Sky Park is a residential development. It is anticipated that its residents who need a car for work will be gone during the day and return at night. The parking restrictions in City lots are only from 7am to 6pm. The restrictions are based on demand. Therefore, the anticipated parking needs from the Sky Park development will not impact the parking needs of the surrounding area.

CITY OF MEDFORD
EXHIBIT # U
File # AC-15-007/E-15/009
1 of 6

B. Code Sections on Parking for Central Business Overlay and Downtown Parking District

1. Staff Report explains that parking is required and not met; therefore exception is needed

The Staff Report explains the code-related parking analysis that allows the conclusion that the applicant must provide two parking spaces per unit and the development with its lease only provides one. In this analysis, the staff report relies primarily on an italicized text of the land development code that says:

[For non-residential uses, there is no minimum number of off-street parking spaces required in the Downtown Parking District, per Section 10.358(1)(a); and the Southeast (S-E) Overlay District, Commercial Center, per Section 10.378 (6).]

We agree that this allows the plausible interpretation that residential uses in the downtown parking district – because they are not expressly excluded by this text for non-residential uses – have a minimum and maximum parking requirement.

However, as set forth below, there is a plausible interpretation of the code that notwithstanding the express parking exemption for non-residential uses in the Downtown Parking District, residential uses are also exempt from the maximum and minimum parking requirements in the Downtown Parking District.

2. Alternative code interpretation does not require parking in Downtown Parking District

As in the staff report, the alternative analysis starts by discussing the Central Business Overlay District, section 10.358. It says that “All residential development standards contained in Article III and V “shall be waived in lieu of the following:”

(a) Off-street parking and loading. All residential development shall be subject to the parking requirements of 10.741, Off-Street Parking and Loading Requirements, through 10.746, General Design Requirements for Parking and Sections 10.747, Bicycle Parking and Storage Regulations, General Provisions, through 10.751, Exceptions to Bicycle Parking Standards.

(b) New residential development on vacant parcels. New residential development on vacant parcels shall conform to the provisions of Article III, Section 10.306, Residential Land Use Classification, through 10.314, Residential Uses, and to the site development standards for the MFR-30 zoning district contained in Article V, Section 10.713, Duplex, through 10.715, Apartment.

That code section refers you to Section 10.741, which states “Off-street parking and loading spaces shall be provided and maintained as set forth in Sections 10.741 - 10.745 for all uses in all zoning districts.”

Code section 10.743 is one of those sections. Subsection 1 says, “The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 10.743-1.”

Table 10.743-1 is attached as an exhibit. It describes parking requirements in the Central Business Overlay District with a parenthetical that says "*outside of Downtown Parking District.*"

Unlike the earlier text regarding non-residential uses, the parenthetical in the table is not qualified, and a plain reading allows it to apply to all zones in the Downtown Parking District. Thus, in the Central Business District, parking is required for residential projects per table 10.743-1, unless the project is within the Downtown Parking District. In other words, in the Downtown Parking District, the Land Development Code does not require minimum parking.

Because Sky Park development is within the Downtown Parking District, no parking minimums are required; therefore, the application meets all code requirements related to off street parking. There is no need for an exception.

Conclusion

As set forth above, the Site Plan and Architectural Commission can interpret the Medford Land Development Code to exempt the Sky Park project from the minimum and maximum parking requirements of the code for residential projects in the Central Business District Overlay because Sky Park is in the Downtown Parking District, per table 109.743-1.



John R. Hutt
Deputy City Attorney

| | | | |
|--|------------------|---|---|
| d. Hospital, convalescent homes and similar institutional uses | 10,000 - 100,000 | 1 | B |
| | over 100,000 | 2 | B |

*Adequate loading spaces shall be provided so that a minimum of one space shall be provided to serve all dwellings within an improved walking distance of 250 feet, excluding vertical distances being served by an elevator.

| | | | |
|---|--|--------------|---|
| e. Department stores, retail establishments, funeral homes, and commercial establishments not otherwise specified | 7,000 - 24,000 | 1 | B |
| | 24,000 - 50,000 | 2 | B |
| | 50,000 - 100,000 | 3 | B |
| | over 100,000 | | |
| | each additional 50,000 or major fraction thereof | 1 additional | B |

| | | | |
|-------------------------------|---|--------------|---|
| f. Hotels or office buildings | 25,000 - 40,000 | 1 | B |
| | 40,000 - 100,000 | 2 | B |
| | each additional 100,000 - or major fraction thereof | 1 additional | B |

| | | | |
|------------|-------------|---|---|
| g. Schools | over 14,000 | 1 | B |
|------------|-------------|---|---|

(3) Uses not specifically mentioned. In the case of a use not specifically mentioned, the requirements for off-street loading facilities shall be the same as the above mentioned use which, as determined by the Planning Director, is most similar to the use not specifically mentioned.

(4) Concurrent different uses. When any proposed structure will be used concurrently for different purposes, final determination of loading requirements will be made by the Planning Director but in no event shall the loading requirements be less than the total requirement for each use based upon its aggregate floor area.

(5) Location of required loading facilities. The off-street loading facilities required for the uses mentioned in this code shall be in all cases on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements.

(6) Manner of using loading areas. No space for loading shall be so located that a vehicle using such loading space projects into any public right-of-way. Loading space shall be provided with access to an alley, or if no alley adjoins the lot, with access to the street. Any required front, side or rear yard may not be used for loading.

10.743 Off-Street Parking Standards.

(1) Vehicle Parking - Minimum and Maximum Standards by Use. The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 10.743-1.

Where a use is not specifically listed in Table 10.743-1, parking requirements shall be determined by the Planning Director or designee finding that the use is similar to one of those listed in terms of parking needs.

Parking spaces that count toward the minimum requirement are parking spaces meeting minimum dimensional and access standards in garages, carports, parking lots, bays along driveways, and shared parking areas.

[For non-residential uses, there is no minimum number of off-street parking spaces required in the Downtown Parking District, per Section 10.358(1)(a); and the Southeast (S-E) Overlay District, Commercial Center, per Section 10.378(6).]

(2) Number of Required Parking Spaces. Off-street vehicle parking spaces shall be provided as follows:

(a) Parking Space Calculation. Parking space ratios are based on spaces per 1,000 square feet of gross floor area, unless otherwise noted.

(b) Parking Categories.

(i) Table 10.743-1 contains parking ratios for minimum required number of parking spaces and maximum permitted number of parking spaces for each land use.

A. Minimum Number of Required Parking Spaces. For each listed land use, the City shall not require more than the minimum number of parking spaces calculated for each use.

B. Maximum Number of Permitted Parking Spaces. The number of parking spaces provided shall not exceed the maximum number of parking spaces allowed for each listed land use.

(3) Exceptions to Required Off-Street Parking for Non-Residential Uses. The approving authority may allow exceptions to the number of parking spaces in Table 10.743-1 for specific uses without complying with Section 10.251 if they find that the applicant's detailed description of the proposed use demonstrates that the number of needed parking spaces is less than the minimum required or more than the maximum allowable based upon one or both of the following:

(a) An explanation why the characteristics of the proposed use require a different off-street parking standard than what is otherwise required.

(b) An analysis providing parking data for the same business or a similar use within the city that demonstrates a need for a different off-street parking standard than what is otherwise required.

| Table 10.743-1 – City of Medford Minimum and Maximum Parking Standards | | | |
|---|---|---|---|
| Land Use Category | Parking Standards are based on number of spaces per 1,000 Square Feet of Gross Floor Area (unless otherwise noted) | | |
| | Minimum Number of Required Parking Spaces | | Maximum Permitted Parking Spaces |
| | Central Business District C-B Overlay <i>(outside of Downtown Parking District)**</i> | All Other Zones | All Zones |
| Residential, Multiple Family | 1.5 spaces per dwelling unit | 1.5 spaces per dwelling unit | n/a |
| Residential, Retirement or Congregate Housing | 0.4 spaces per dwelling unit plus 1.0 space per 1.2 employees on the maximum shift | 0.45 spaces per dwelling unit plus 1.1 space per employee on the maximum shift | 0.6 spaces per dwelling unit plus 1.0 space per employee on the maximum shift |
| Residential, Single Family | 2 spaces per dwelling unit | 2 spaces per dwelling unit | n/a |
| Restaurant, Standard | 8.0 spaces | 9.0 spaces | 11.0 spaces |
| Restaurant (with drive thru) | 11.0 spaces plus 5.0 spaces for drive-up window queue | 12.0 spaces plus 5.0 spaces for drive-up window queue | 14.0 spaces |
| Road Service or Towing | 4.0 spaces | 4.5 spaces | 5.4 spaces |
| School, College, University, Vocational, or other Educational Courses | 1.0 space per 3.6 students, plus 1.0 space per employee (including faculty) at largest capacity class attendance period | 1.0 space per 3.3 students, plus 1.0 space per employee (including faculty) at largest capacity class attendance period | 1.0 space per 2.6 students, plus 1.0 space per employee (including faculty) at largest capacity class attendance period |
| School, Elementary Kindergarten – 8th | 1.0 space per teacher and staff plus 1.0 space per 2.4 classrooms | 1.0 space per teacher and staff plus 1.0 space per 2.2 classrooms | 1.0 space per teacher and staff plus 1.0 space per 1.8 classrooms |
| School, Secondary (9 th – 12 th) | 1.0 space per teacher and staff plus 1.0 space per 6 non-based students | 1.0 space per teacher and staff plus 1.0 space per 5.5 non-based students | 1.0 space per teacher and staff member plus 1 space per 4.4 non-based students |

5/15/14

10:5:35

City of Medford, Planning Commission
Re: Skypark Medford
April 15, 2015

Exception Criteria 2.

- (1) *“Strict application of the standard would result peculiar hardship on the development. The project seeks to further downtown redevelopment efforts and enhance the vitality of the central business district through the infusion of residential dwelling units. However, strict application of the parking standard for this development would result in the reduction of spaces available to patrons of the downtown businesses.”*

Our business alone draws between 70 and 120 individual students on weekday afternoons during the hours of 2:30pm and 8:00pm. And Saturdays we bring closer to 200 over the hours of 9am to 5pm.

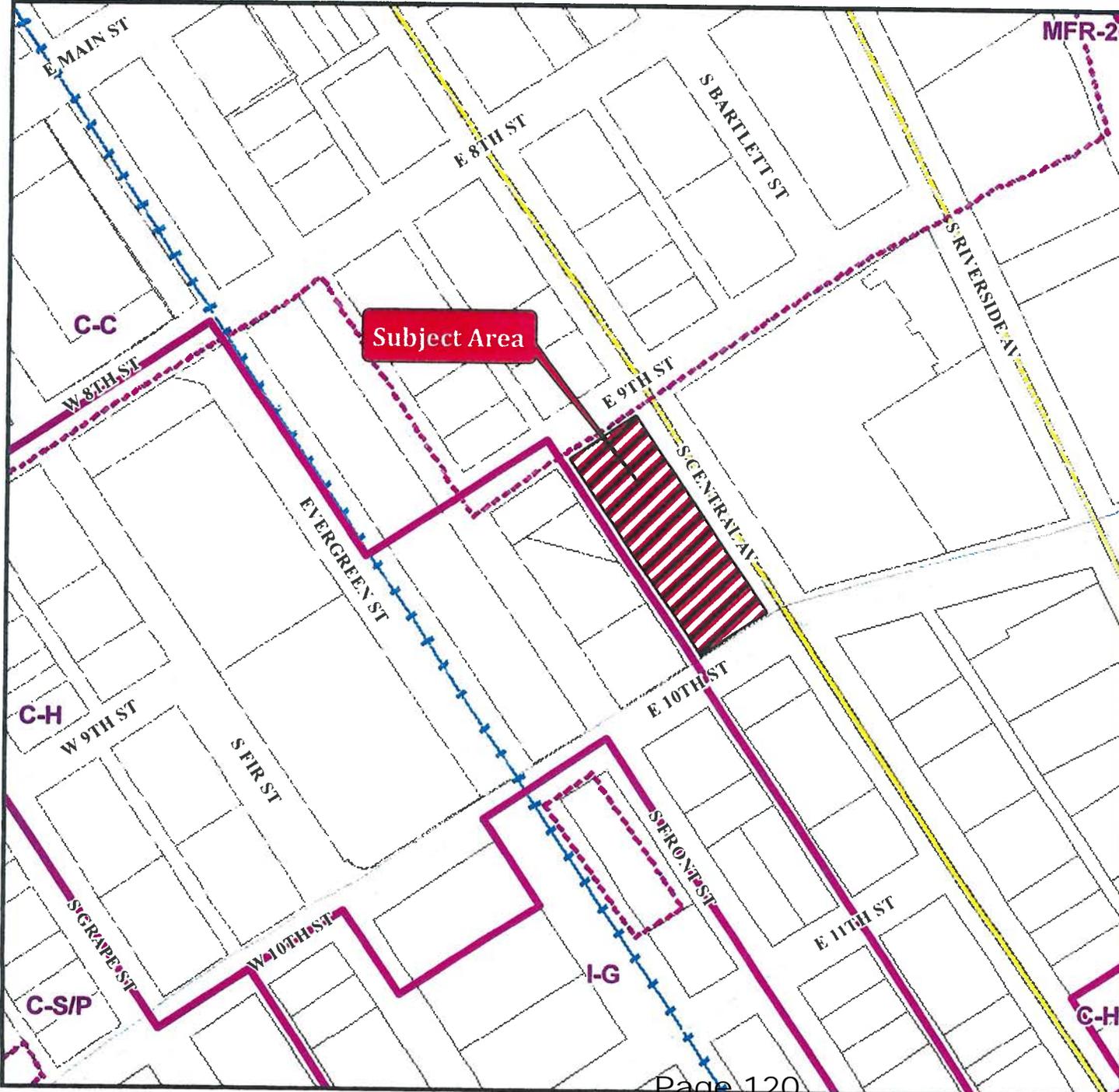
When considering whether this 26 unit condo building will “revitalize” downtown, please remember these numbers. Although there are only 26 units, and potentially only 26 “reserved” spots, the more likely reality is that the residents of the development will take up a significant number of additional spaces for 2nd cars, and/or guests. My business hours go as late as 8pm, as do classes at RCC. I strongly disagree that this project will “enhance the vitality of the central business district” and I worry that it will actually have a momentous, negative impact on the surrounding businesses.

Thank you for your time and consideration.

Elyse Roxander
Studio Roxander – Academy of Ballet



Vicinity Map



Application Name/Description:
Skypark Medford

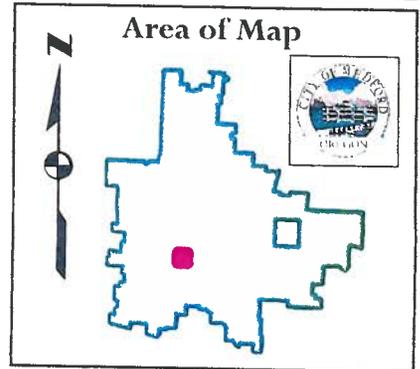
Proposal:
26 dwelling units and relief from minimum parking standards

File Numbers:
AC-15-007 & E-15-009

Applicant:
Skypark Medford LLC

Map/Taxlot:
371W30BC TL 11600

-  Subject Area
-  Medford Zoning
-  UGB
-  Tax Lots
-  Central Business
-  Historic



03/03/2015

Council Member Gordon wanted to verify that the exterior façade pictures he is seeing at this meeting are more specific than the different façade pictures City Council was shown at their meeting last night. Mr. Wilkerson answered that the pictures City Council were shown were a bit more specific since they were made with different software at a later time.

Mr. Wilkerson reserved rebuttal time.

Commissioner Dew asked Alex Georgevitch, Public Works Department, if he was aware of the request for the exception to extend the 68 foot driveway to an 80 foot driveway. Mr. Georgevitch stated he was not aware of the request. He pointed out that Public Works supports the Exception but he is not sure if an 80 foot driveway is needed. He asked that the Commission grant the Exception and that the Public Works Department works with the Fire Department and applicant’s engineer to find what is required, and that whatever is required meet their operational needs. Mr. Georgevitch stated they would be willing to modify their conditions accordingly.

The public hearing was closed.

Motion: Direct staff to prepare a Final Order for approval of AC-14-129/E-15-025 per the Staff Report dated March 27, 2015, including Exhibits A through I, and including the following: granting the Exception for an increased width of a driveway and that the applicant works with the Public Works Department as noted to achieve the balance for operational needs and public safety, and that the Commission allows the street trees as submitted without adding any additional trees to meet code requirements as driven by this Exception.

Moved by: Commissioner Dew

Seconded by: Commissioner Neathamer

Commissioner Dew commented that the Commission could clearly see the need for the Exception and a wider driveway for the unique situation of a Fire Station. He felt the applicant had adequately shown the application meets the three criteria for an Exception. He added that having the truck-turning analysis helped with the decision.

Commissioner Neathamer concurred that the criteria had been met.

Kelly Akin, Principal Planner, asked if the Exception was intended to have a maximum width. Commissioner Dew said he could add a maximum width of 80 feet.

Friendly Amendment: Commissioner Dew added that the maximum width would be 80 feet for the driveway.

Accepted by: Commissioner Neathamer

Roll Call Vote: Motion passed, 7-0.

Chair Bender resumed his seat on the Commission.

50.2


AC-15-007/E-15-009 Consideration of Plans and associated exception request seeking relief from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Agency Parking Lot Facility, located upon .688 acres west of S. Central Avenue and north of E. 10th Street within a C-C/ C-B (Community Commercial – Central Business District Overlay) zone district. Skypark Medford LLC, Applicant (Oregon Architecture, Inc., Mark McKechnie, Agent).

CITY OF MEDFORD
EXHIBIT # 3
File # AC-15-007/E-15-009
APPEAL

Chair Bender asked for any conflicts of interest or ex-parte communications. There were none.

Ms. Akin stated a procedural error on the noticing had been made. The public hearing notices that had been mailed out were correct but the signs posted at the project site gave an incorrect date. She asked that the public hearing be held this day in which comments could be taken from the public, and then continue the hearing to the next regular meeting on April 17, 2015. She noted the Commission could make their decision and adopt the Final Order at that meeting.

Desmond McGeough, Planner II, gave a PowerPoint presentation of the March 27, 2015, Staff Report. Staff recommended approval.

Commissioner Dew asked if the revised elevations on the alley side had been received. Mr. McGeough answered yes and said they were the exhibits presented in his staff report presentation.

Commissioner Dew brought up the Jackson County Housing Authority's application where they had asked for relief from the parking standards. Ms. Akin said the particular clientele they were serving was their basis for the Exception and so they went with one parking space per unit. She added she did not recall an off-site agreement.

Lynette O'Neal, assistant to the Deputy City Manager, said she manages the parking downtown. She stated the Housing Authority's project requested an Exception for one per unit but typically with low-income housing the average is .75 per unit. She said they do not have an agreement for any other additional parking outside of their development.

Commissioner Neathamer commented the project seemed like attached housing rather than single family housing. Mr. McGeough replied that it is attached but perhaps it is a matter of definition and gave some brief explanations.

The public hearing was opened and the following testimony was given:

a) Mark McKechnie, agent for the applicant, gave a more detailed overview of the project and showed color renderings that he felt would help highlight it. He said the images that appeared to be chimneys in the middle of the units are actually screens shaped to look like chimneys. He said this is where the mechanical units would be hidden. He displayed a drawing that showed all the services in the area from 12 feet up to 14-14 ½ feet where the deck is. He showed the individual sewer connection points, how the stormwater would be processed, and the individual electrical meters. He added there would be one water service that would be servicing all the units.

Commissioner Quinn asked how many elevators there would be. Mr. McKechnie answered one elevator and two stairwells.

Commissioner Dew commented that the roof water does not meet City standards and there would need to be a way to treat the rain water. Mr. McKechnie responded that they have already talked to Public Works about that issue.

Commissioner Dew said the same issue would apply to putting the water in the landscape planter in the front. He said to be able to reclaim winter water it typically needs to be stored for six months and that is not what is being proposed. Mr. McKechnie answered there are a couple of storm inlets on the Central Avenue side that they can tie into.

Commissioner Dew asked about the one parking space per unit. Mr. McKechnie said the agreement states that they will have up to 26 signed reserved spaces for tenants. These will be located underneath the building. He added they are increasing the number of parking spaces in that lot from 75 to 78. He noted that should a tenant own two cars they would be able to buy a sticker that would allow them to park in the lot for a week at a time. They could buy up to a month of those stickers. He said there would also be 19 additional parking spaces that are part of the Central parking lot that are not located underneath the building structure. He said there would be a total of 87 spaces located within that parking area. Mr. McKechnie stated they do not think parking will be an issue. Because of the location of the townhouses in the heart of downtown he said they feel that one parking space per unit is sufficient. He pointed out additional parking lots within a radius of one to two blocks that would be available.

Mr. Huttli spoke to Medford Land Development Code (MLDC) §10.743-1 and §10.744 explaining the difference between the Jackson County Housing Authority project and this project.

Ms. Akin explained there was a little bit more to the overlay itself than what the Table says. She spoke to §10.358(2) that speaks to residential development within the CB overlay. She said it specifies the requirements in the Parking Table that Mr. Huttli referred to. She noted another piece in the parking section that points out that the minimums and maximums do not apply to the residential uses. She stated there is a lot of work that has to go into determining why it was that the Exception was necessary for this project. She said the Table is a little misleading when speaking of the residential uses in the downtown area. That is the reason the Exception is before this Commission.

Commissioner Ames asked if the pillars would be plain concrete or would they also be part of the façade. Mr. McKechnie replied it depends on where you are but there is no concrete exposed anywhere on the project with the possible exception on the interior around the structural columns. He went on to explain the materials that would be used in the different areas.

Commissioner Ames asked if the stairs leading up to the deck would be plain concrete or if they planned on stamping it or making it color concrete. Mr. McKechnie answered that he had not gotten that far. Commissioner Ames commented it would be nice to have those stairs part of the façade or colored concrete. Mr. McKechnie said he expects those stairs would have some sort of up-scale finish on them by the time the project is finished.

Commissioner Ames asked if there was some type of maintenance plan included in the Home Owners Association agreement that would ensure that the entire building would be cared for at the same level. Mr. McKechnie answered they do not have the details worked out yet but he would expect there would be very tight controls on what happens with the exterior and maintenance of the building.

Commissioner Dew wanted to know how the upper floor tenants would get their trash to the ground floor level trash enclosure. Mr. McKechnie responded there would be a trash chute located at courtyard level. He noted there would be a compactor in the trash area.

Council Member Gordon asked Mr. McKechnie if what he had presented was in conformance with the lease that was approved by Medford Urban Renewal Agency (MURA) and City Council. Mr. McKechnie answered yes.

Mr. McKechnie reserved time for rebuttal.

b) Steve Cook, owner of Farrell's Glass Service, Medford, Oregon, read a letter he had written outlining his concerns with this project including: compatibility, zoning, and parking. The complete letter was submitted into the record and is on file in the Planning Department.

c) David Wilkerson, Medford Oregon, started off by offering his kudos to Mr. McKechnie and the development team for bringing this concept forward, and for their efforts to help revitalize the downtown area. He said this was a great project but asked whether or not this project is the right density and right solution for downtown Medford. He asked the Commission to consider whether or not this project is the highest and best use of this property. Mr. Wilkerson said it seems there are aspects of this project that are not appropriate to the downtown core such as an overtly single family residential feeling and compatibility with the downtown core.

d) Elyse Roxander, owner of Studio Roxander, Medford Oregon, said she felt this project would impact her business in a devastating way, and expressed her concern with parking issues. She felt her business would not survive this project. Ms. Roxander said as far as revitalization of the downtown area, she felt the businesses should be supported.

e) Charlotte Cook, owner of Farrell's Glass Services, Medford, expressed her concerns with the parking issue. She felt the project was not compatible with surrounding uses. Mrs. Cook was also concerned about noise levels associated with their business and having townhouses nearby.

Mr. Huttli and Ms. O'Neal spoke in further detail to the parking lease agreement.

Mr. McKechnie stated that this parking lot is one of the best producing lots the City owns. He wanted to make it clear the project would not be receiving any free parking and the residents would end up paying whatever the going rate is for parking. He spoke to the construction portion and how that would impact the parking.

Mr. McKechnie spoke to the density issue and indicated it is 26 units on 2/3 of an acre which works out to be 38 units per acre. He stated this is a fairly dense project and meets the minimum density requirements.

Commissioner Catt asked if each unit would be sprinkled for fire protection. Mr. McKechnie answered yes that each unit, as well as the parking garage, would be sprinkled as required by code.

Commissioner Ames wanted to know if there would be signage outside the building that would designate that public parking was available underneath the building. Mr. McKechnie replied that the City will own and maintain that parking lot; they would have no control over the lot. He noted they could put a sign on each one of the sides that says "Entrance to Public Parking."

Motion: Continue the public hearing to the April 17, 2015, meeting.

Moved by: Commissioner Quinn

Seconded by: Commissioner Chmelir

Roll Call Vote: Motion passed, 8-0.

- 50.3 AC-15-013 Consideration of plans for the construction of a 1,850 square foot coffee shop and a 3,285 square foot medical office building on a 1.01 acre parcel located on the south side of Barnett Road between Black Oak Road and Murphy Road, within a C-C (Community Commercial) zoning district. Oregon Architecture, Inc., Mark McKechnie, Applicant/Agent.

Chair Bender asked for any conflicts of interest or ex-parte communications. Commissioner Neathamer declared a potential conflict of interest. He said he is not involved with this project but he had worked recently on an adjoining project that included this property so he recused himself and sat in the audience. Commissioner Dew declared he did not have a conflict of interest but he had done work in the same area and could remain impartial.

Jennifer Jones, Planner II, gave a PowerPoint presentation of the March 27, 2015, Staff Report. Staff recommended approval.

The public hearing was opened and the following testimony was given:

- a) Mark McKechnie, agent for the applicant, displayed an updated site plan and spoke to the changes that had been made. He gave an overview of the project.

Commissioner Dew expressed his concerns with the parking and functionality of the project. Some of his concerns that were discussed included the cross-access he felt needed to be protected, the trash enclosure that is remote from the site and is located on the main drive, lack of vehicle maneuvering ability, the Exception for reduced parking, and the hair-pin turn/radius. Commissioner Dew felt the Commission needed to see a vehicle turning analysis. He was not comfortable with the reduced parking, and felt the project is too big for the site. He would like to see the pedestrian pathways crossing the drive-thru to be raised. He said there is a walkway on the east side of Medical Center Drive for a pedestrian connection from the corner of the property, and felt that would be a better location to drop people off instead of the middle of the drive. Mr. McKechnie disagreed saying he was not happy that pedestrians would be walking across the middle of the drive-thru lane and he would rather pedestrians be at the end of the lane rather than in the middle. He felt that where he has it is the best location possible.

Commissioner Dew had questions regarding the outdoor seating and storm water detention. He asked if there were public storm water facilities available. Mr. McKechnie said he had forgotten if there were or not. He noted they had gone through the Land Development meeting on this and there did not seem to be any issues. Commissioner Dew said he would like to see the issue addressed. He reiterated that his three biggest concerns are the lack of vehicle maneuverability into the drive-thru, the trash enclosure located on the main drive, and lack of parking.

Mr. McKechnie stated that Medford is one of the few towns that does not have a shared parking compliment. He said that Medford's parking requirements are way more than any other jurisdictions he has worked with on the west coast. He said typically they put in somewhere between 15-18 parking spaces for Starbucks Coffee and they have never had any issues with a lack of parking.

Mr. McKechnie commented that it would be possible to alter the direction of the drive-thru so



MINUTES
SITE PLAN AND ARCHITECTURAL COMMISSION MEETING
April 17, 2015

The regular meeting of the Medford Site Plan and Architectural Commission was called to order at approximately 12:00 p.m. in the Council Chambers, City Hall, on the above date with the following members and staff in attendance:

Commissioners Present

Jeff Bender, Chair
Jim Quinn, Vice Chair
Daniel Ames
Jim Catt
Bill Chmelir
Mark Dew
Dick Gordon, City Council Liaison

Staff Present

Bianca Petrou, Assistant Planning Director
Kelly Akin, Principal Planner
John Huttli, Deputy City Attorney
Doug Burroughs, Public Works Department
Chris Reising, Deputy City Manager/Development Svcs
Lynette O'Neal, Assistant to the Deputy City Manager
Desmond McGeough, Planner II
Debbie Strigle, Recording Secretary

Commissioner Absent

Bob Neathamer, Excused
Alec Schwimmer, Excused

10. Roll Call.

20. Consent Calendar/Written Communications.

20.1 AC-14-129/E-15-025 Consideration of site plan and architectural review and related exception from maximum driveway width requirements for a City of Medford Fire Station facility located on a 1.36 acre parcel south of Stewart Avenue, approximately 450 feet east of Columbus Avenue, within a C-C (Community Commercial) zoning district. City of Medford, Greg McKown, Applicant (ORW Architecture, David Wilkerson, Agent).

Motion: Adopt the consent calendar.

Moved by: Commissioner Dew Seconded by: Commissioner Ames

Voice Vote: Motion passed unanimously, with Chair Bender abstaining.

30. Minutes.

30.1 The minutes for the April 3, 2015, meeting, were approved as submitted.

40. Oral and Written Requests and Communications. None.

50. Public Hearings.

John Huttli, Deputy City Attorney, read the rules governing the public hearings.

Old Business.

50.1 AC-15-007/E-15-009 Consideration of plans and associated exception request seeking relief

CITY OF MEDFORD
EXHIBIT # 4

File # AC-15-007/E-15-009

APPEAL

from required parking standards for 26 residential dwelling units upon a deck over the Medford Urban Renewal Agency Parking Lot Facility, located upon .688 acres west of S. Central Avenue and north of E. 10th Street within a C-C/ C-B (Community Commercial – Central Business District Overlay) zone district. Skypark Medford LLC, Applicant (Oregon Architecture, Inc., Mark McKechnie, Agent).

Chair Bender asked for any conflicts of interest or ex-parte communications. Chair Bender stated that at the last meeting his employer had testified on this project. After the meeting someone requested that Chair Bender step down as it was viewed as a potential conflict of interest. Chair Bender said he had taken the matter to heart and does not feel there is any potential conflict of interest. He said he is there to rule on the evidence as submitted. There were no other declarations.

Desmond McGeough, Planner II, read the approval criteria, and gave a PowerPoint presentation of the April 10, 2015, Revised Staff Report. He pointed out a letter from Elyse Roxander who had testified at the April 3rd meeting. This letter was placed at each Commissioner's seat and submitted in to the record. Staff recommended approval.

John Huttli, Deputy City Attorney, pointed out a memorandum he wrote that had been placed at each Commissioner's seats. The memorandum was dated April 10, 2015, and was submitted into the record. He stated the memorandum is based on the parking code and Table 10.743-1, and is an alternative to staff's interpretation of parking requirements. Mr. Huttli gave an overview of the memorandum and talked about ambiguity and interpretation. He stated that because this property is within the downtown parking district the minimums do not apply. If the Commission adopted the interpretation provided by Mr. Huttli, it would allow them to say there really is no parking needed based on the information provided in the memorandum, and therefore an exception would not need to be granted. Mr. Huttli passed the memorandum out to interested people in the audience.

The public hearing had been left open from the last meeting on April 3, 2015, and the following testimony was given:

a) Mark McKechnie, agent for the applicant, stated he and the applicants agree with Mr. Huttli in that no exception would be required of this site. He said that was their initial reading of the code but after talking with staff they opted to do the pragmatic thing and submit the exception. Mr. McKechnie talked more to the parking issues.

Mr. Huttli spoke in regards to the 26 parking spaces and the Lease Agreement. This information is discussed in Mr. Huttli's memorandum.

b) Allan Sandler, Mr. McKechnie's partner, talked to the parking issues. He said his understanding was that they would be able to purchase year-round parking up front. Mr. Huttli replied that the 26 parking spaces that were provided for under the lease, were not to fulfill any Land Development Code required parking. Mr. Huttli added that if there was any question over what would happen with those parking spaces under the lease, it would need to be discussed outside of this venue.

Mr. McKechnie reserved time for rebuttal.

c) Charlotte Cook, Farrell's Glass, Medford, read a letter written by Elyse Roxander, Studio Roxander-Academy of Ballet, opposing this project. Ms. Roxander's concerns were regarding parking issues. Her letter was submitted in to the record.

- d) Ulrich Sommerhur, Medford, expressed his concerns with the parking issues.
- e) Aaron Hassell, Astral Games, Medford, had concerns about the parking situation. He also had concerns about the possibility of homeless people seeking refuge from the outside environment in the parking lot or other enclosures.
- f) Laurel Dryland, Ashland, expressed her concerns with parking availability and the safety of children attending the ballet academy. She felt the City of Medford had a lot to gain by supporting Studio Roxander.
- g) Robert Galas, Father and Son Jewelers, Medford, expressed his concerns with the parking situation.
- h) Steve Cook, Farrell's Glass, Medford, had several questions in regards to parking space sizes, zoning, parking area layouts, project timeline, parking availability, vehicular access drive, and finished saying this project does not meet the qualifying requirements to be considered a Planned Unit Development, as outlined in Medford Municipal Code 10.230 (B). His questions, outlined in a letter, were submitted in to the record.
- i) Jennifer Anderson, business owner, Medford, expressed her concerns with parking availability and the problem she, and other business owners, have had with homeless people. She felt this project was a bad idea.

Mr. McKechnie clarified that all the parking space sizes would be 8x19 feet, and the drive aisles would be larger than the minimum code requirement. He mentioned that since this project location is within the parking district the people that would be living there would be taxed for all the parking spaces.

Mr. Sandler spoke to the homeless issue and said they talked about having the parking lot opened up with very little screening. He said it would be very well lit at night.

Commissioner Catt expressed his concerns about the project proposing one car per unit and other parking issues. He felt that if a developer wants to revitalize downtown Medford it should be positive things and not make more issues for business owners. Mr. McKechnie replied that the project could potentially be adding 26-52 new customers for business owners downtown.

Lynette O'Neal, Assistant to the Deputy City Manager, spoke to the agreement the City has with the developer and gave other pertinent information regarding parking. Ms. O'Neal stated the City does not tax parking spaces in the downtown parking district.

The public hearing was closed.

Motion: Move to deliberate this application.

Moved by: Commissioner Dew

Seconded by: Commissioner Catt

Commissioner Catt acknowledged the ambiguous interpretation of the code, lack of parking issues, and detriment to business owners. He said he would deny approval of this project. Commissioner Dew stated he had concerns about parking issues and compatibility with surrounding uses. Chair Bender concurred and expressed his concerns.

Commissioner Ames stated he had a different perspective and felt there might not necessarily be a parking issue. He said he would like to give the developer the option to come back with more innovative ideas on security and signage. He suggested that the developer work with City staff on key issues that would benefit the city and let them go ahead with the project.

2nd Motion: Give the applicant the opportunity to come back with some different ideas and approach the possibility of security and signage to make sure the public knows the parking lot is for public use.

Moved by: Commissioner Ames

Chair Bender stated he could not accept Commissioner Ames' motion. He said he needed either a motion for approval or denial of the current application and associated exception. He explained that discretionary conditions could then be added to a motion.

3rd Motion: Deny AC-15-007/E-15-009 with the understanding that the applicant may come back with new and innovative ideas to address the issues raised at the hearings.

Moved by: Commissioner Catt

Seconded by: Commissioner Ames

Friendly Amendment: Deny AC-15-007/E-15-009 based on parking requirements. The exception does not meet the requirement and the application does not meet the requirement.

Moved by: Commissioner Catt

Commissioner Ames rejected the friendly amendment.

Seconded by: Commissioner Quinn

Friendly Amendment: Deny AC-15-007/E-15-009 based on the proposal not meeting the approval criteria contained in MLDC 10.290(1) and (2), and the approval criteria for Exception contained in MLDC 10.253(1).

Moved by: Commissioner Dew

Accepted by: Commissioners Catt and Quinn

Kelly Akin, Principal Planner, asked that the final order be adopted since this was a continuance from the last meeting.

Chair Bender asked Commissioners Catt and Quinn if adopting the final order for denial was acceptable to them. Both Commissioners Catt and Quinn stated they found that adopting the final order for denial was acceptable.

Roll Call Vote: Motion passed, 5-1, with Commissioner Ames voting "no".

New Business.

- 50.2 AC-15-020/E-15-021 Consideration of a request for approval of a new Jackson County District Attorney's Office structure, consisting of a 21,162 square foot, two-story building, and an associated exception request, seeking relief to requirements for establishing a cross-access easement to an adjoining commercial property and seeking of reduction to the required right-of-way width and dedication of property for a Major Collector Street. The 1.79 acre site is located south of West 10th Street, approximately 140 feet west of Laurel Street within the C-S/P (Service Commercial/Professional Office) zoning district. Jackson

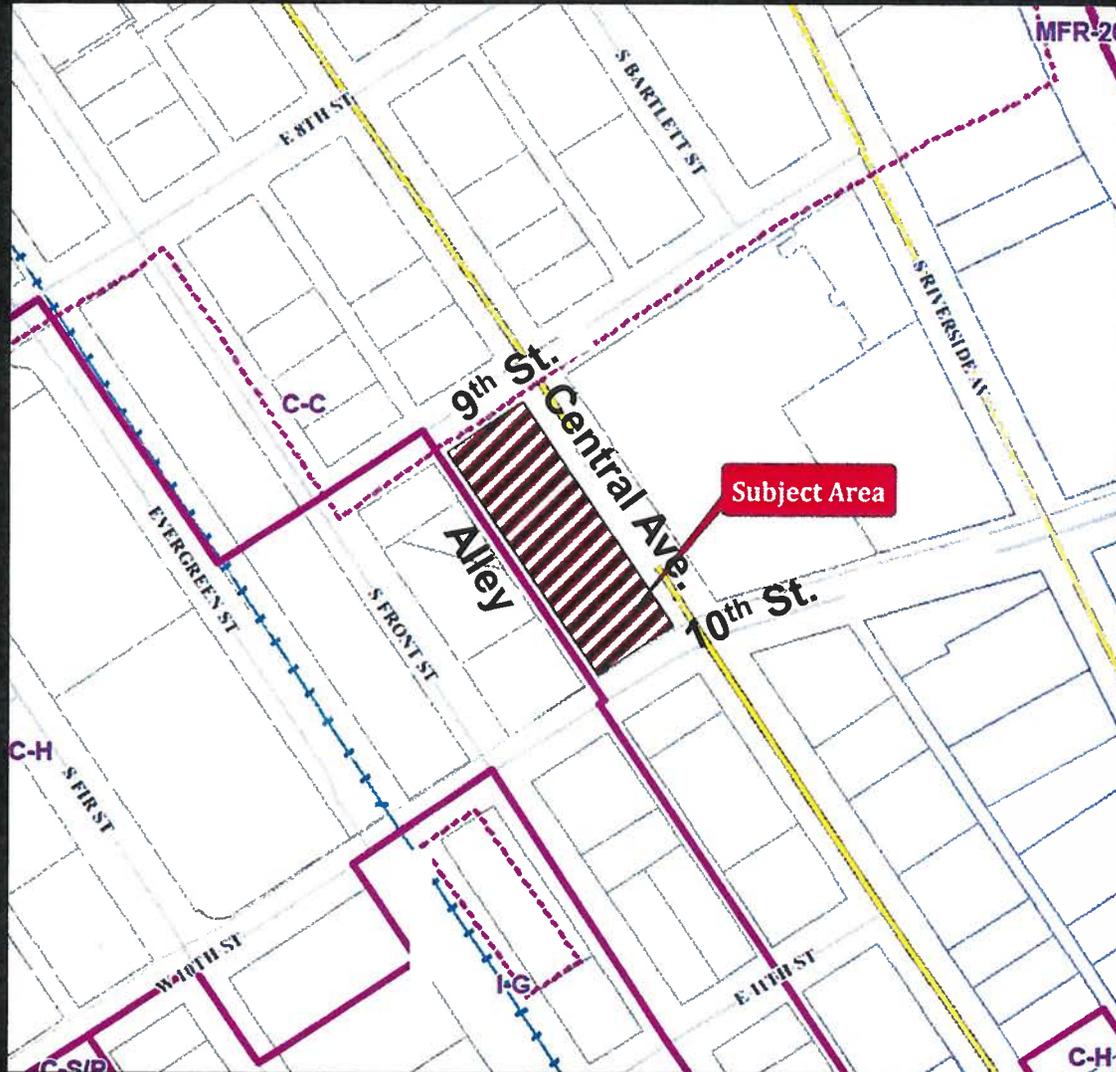
Skypark Residential Site Plan AC-15-007 / E-15-009



April 3, 2015
Site Plan and Architectural Commission

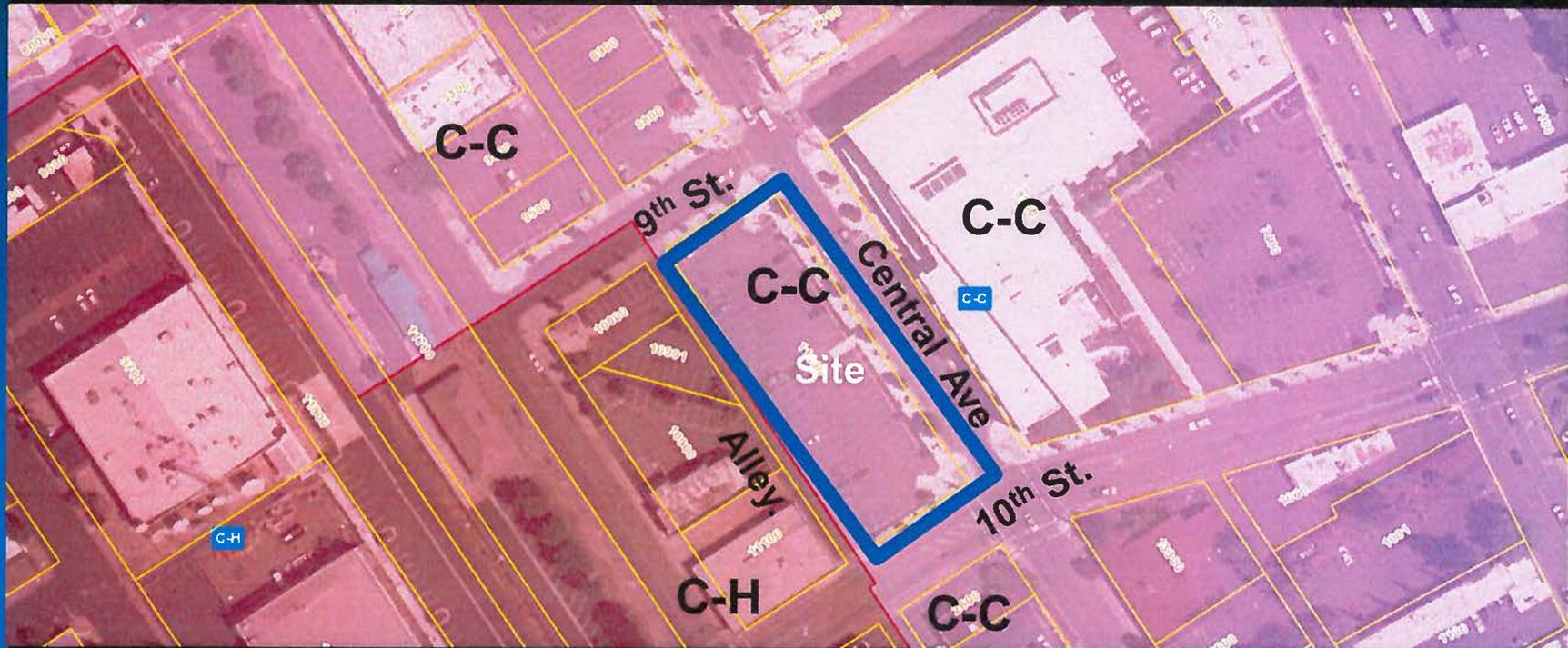
CITY OF MEDFORD
EXHIBIT # 5
FILE # AC-15-007/E-15-009
APPEAR

VICINITY MAP



0.688 ac.

ZONING MAP



AERIAL PHOTOGRAPH



Site Photos

Looking North



Site Photos

Looking east
(from Front St.)

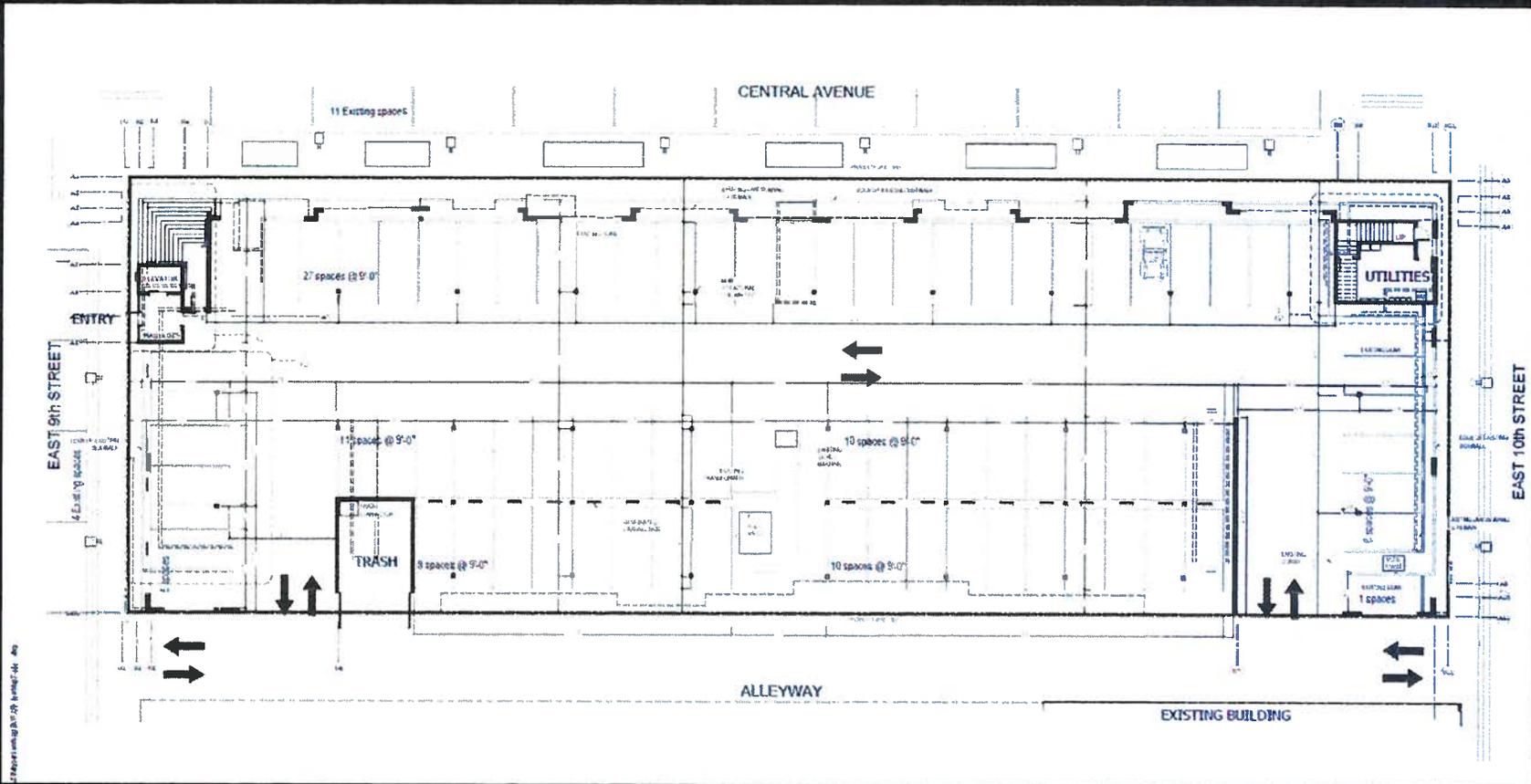


Site Photos

Looking south
(from site NEC)

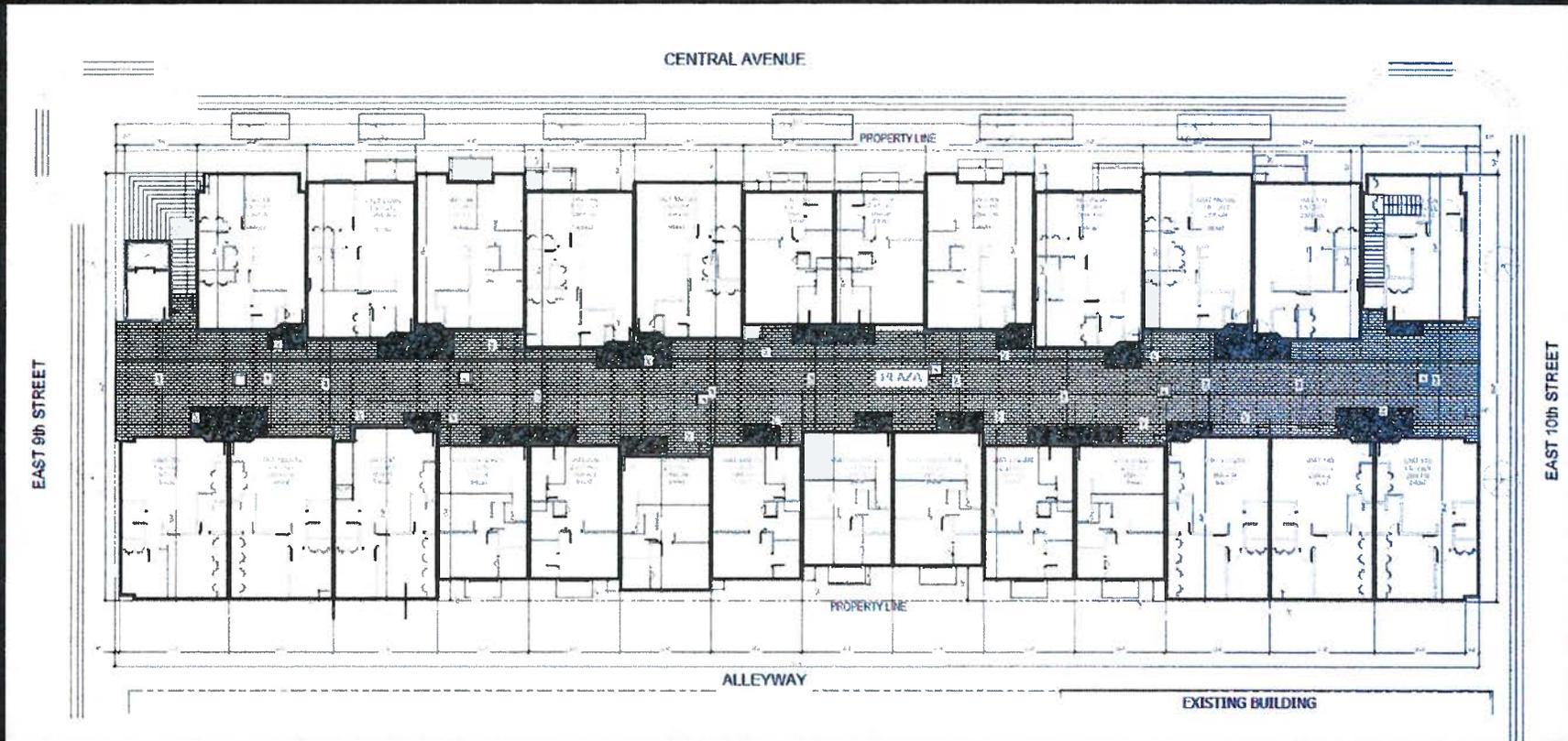


Site Plan (Ground Floor)



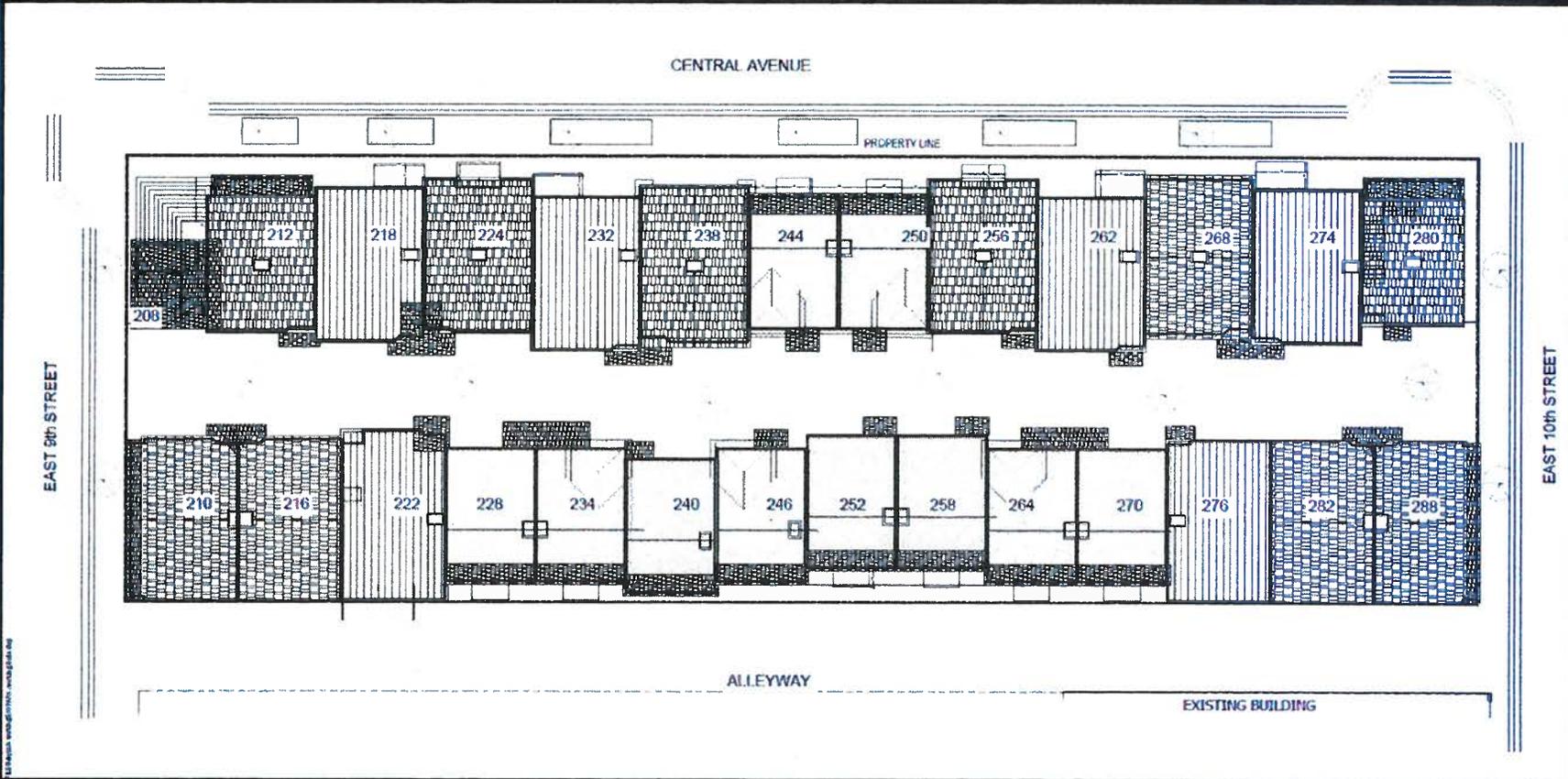
Site Plan

(Deck – 2nd floor)

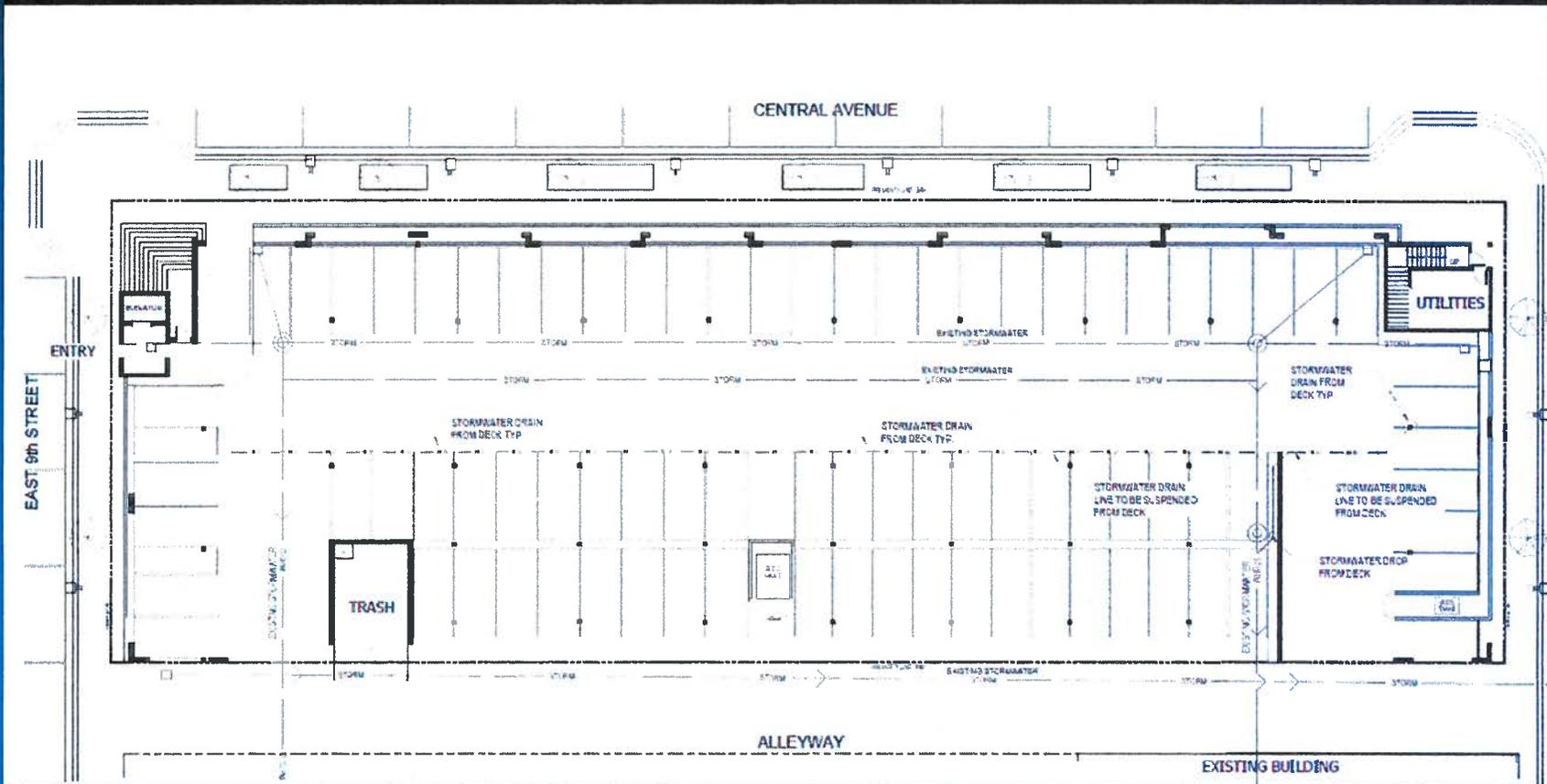


Site Plan

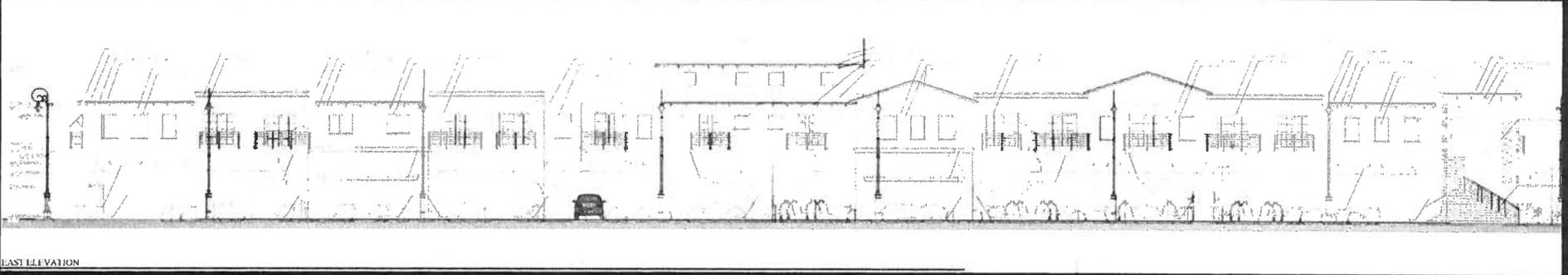
(Deck – 2nd floor roof plan)



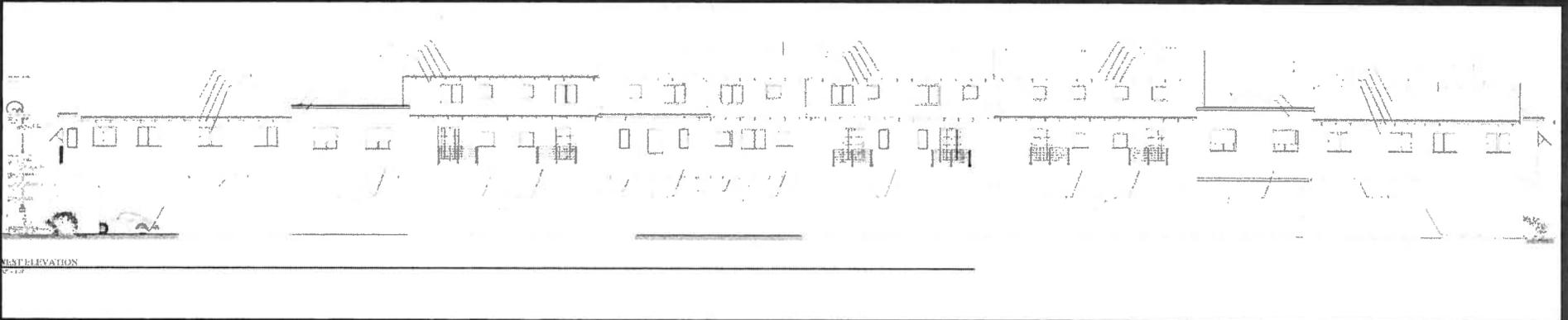
Drainage Plan



Project Elevations

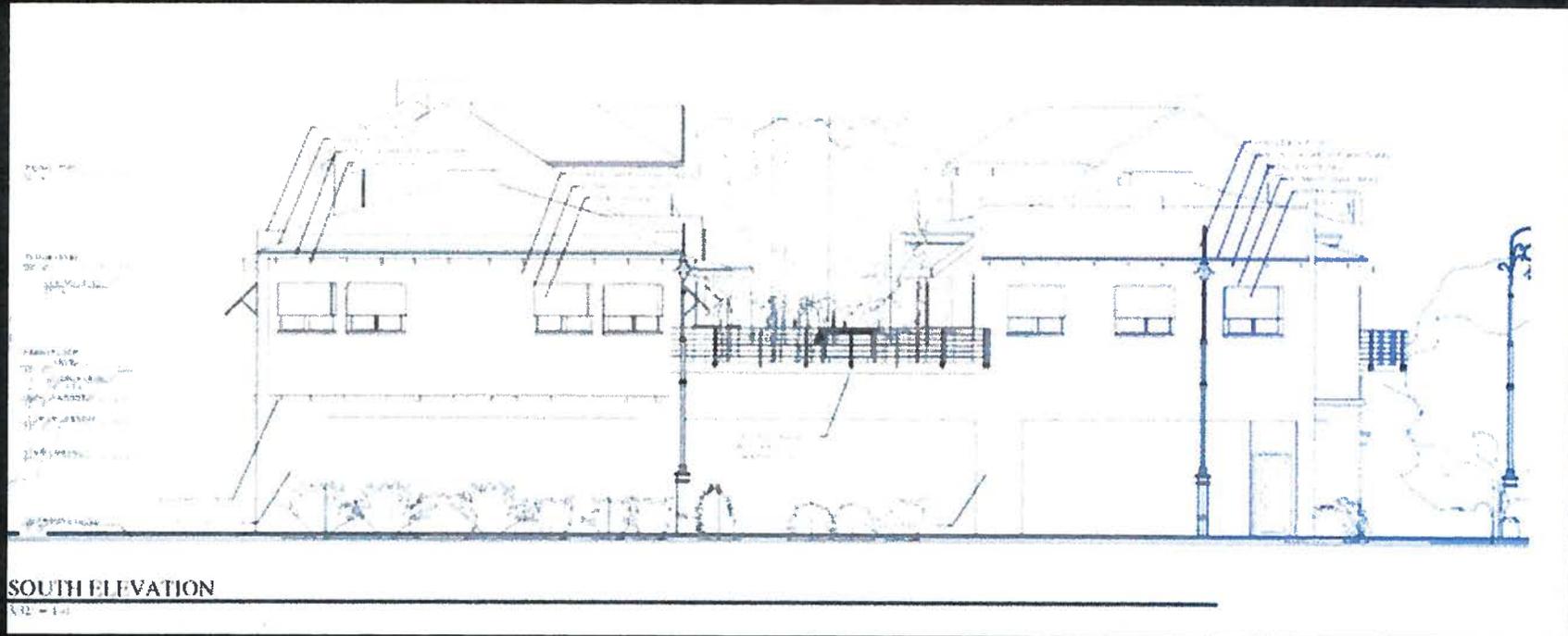


East (Central Ave.)



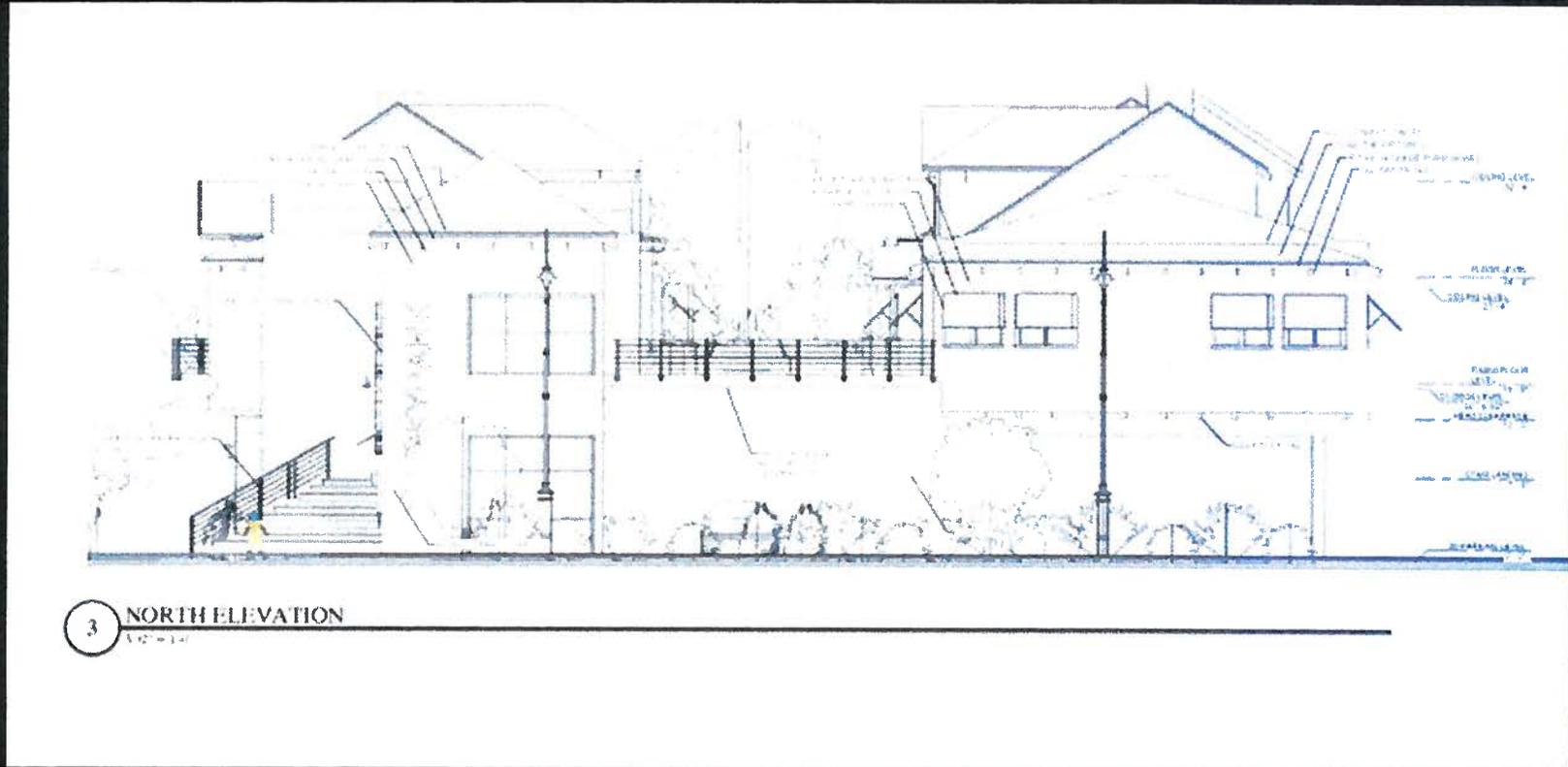
West (Public Alley)

Project Elevations



South (10th St)

Project Elevations



North (9th St)

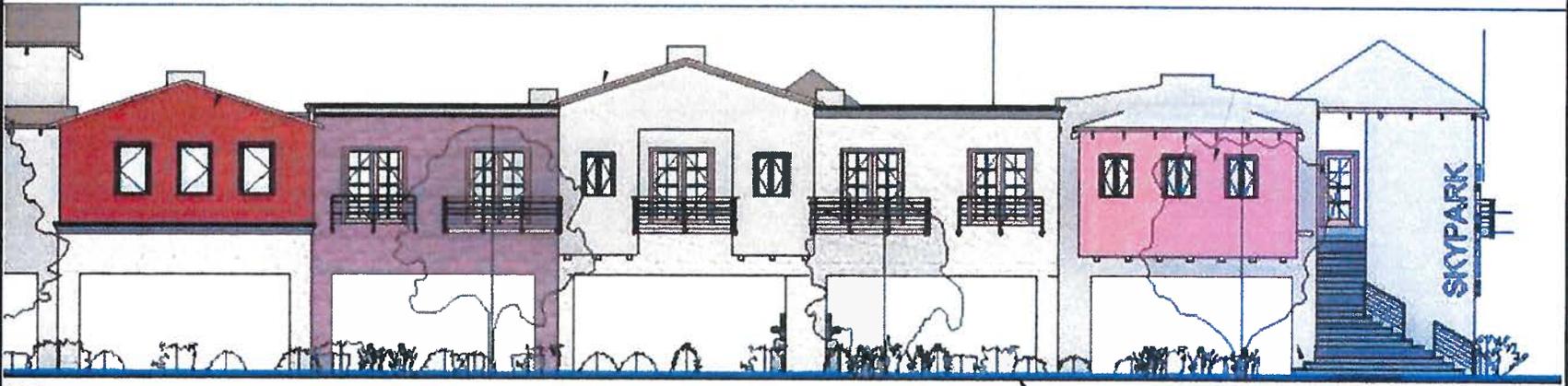
Rendered Project Elevation (Exterior)



STUCCO

ASPHALT SHINGLES

HARDIE BOARD SIDING



BRICK

ELDERADO STONE

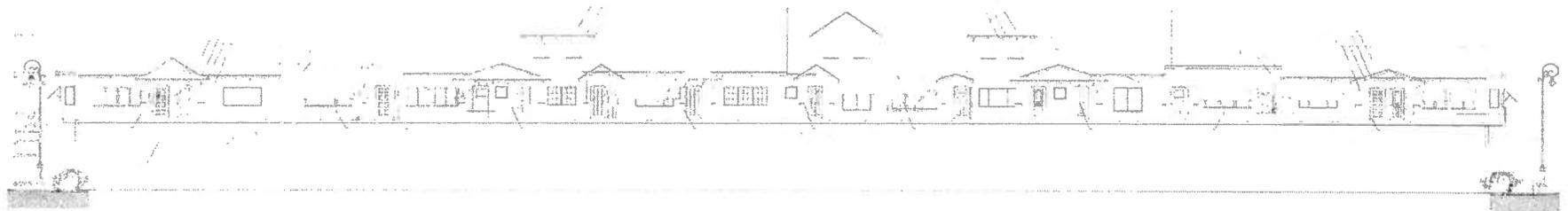
STUCCO

Project Elevations

(Interior Plaza)



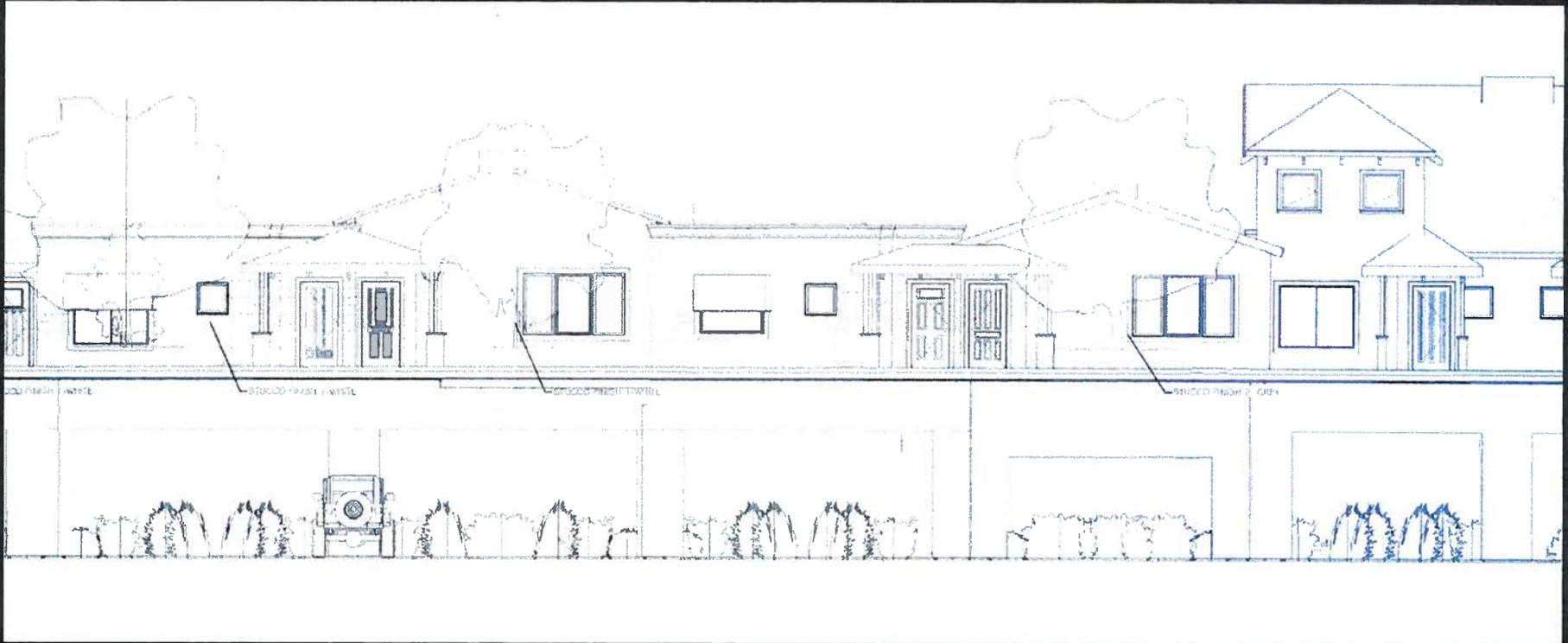
1 EAST PLAZA ELEVATION



2 WEST PLAZA ELEVATION

Project Elevations

(Interior Plaza –Detailed View)



Perspective elevation

(From Northeast Corner)

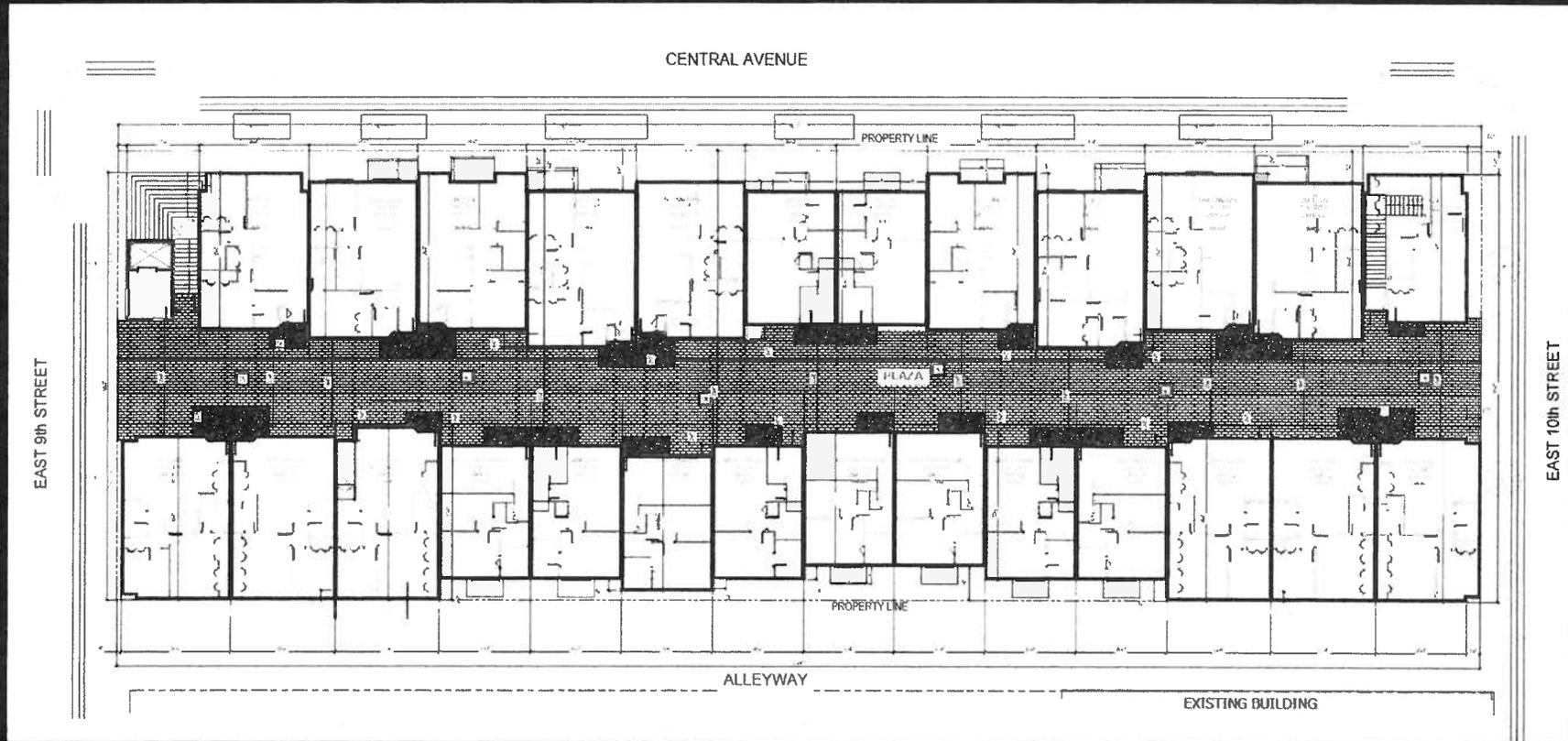


Isometric Drawing

(From Northeast Corner)



APPLICATION ANALYSIS



- 1 Bedroom - 1 unit
- 2 Bedroom - 20 units
- 3 Bedroom - 5 units
- Total Units - 26 units

Parking Provided - Each unit may purchase a parking permit for a space under structure for a one year period

APPLICATION ANALYSIS

- Subject site plan is located in the Central Business District Zoning Overlay. All development standards of the C-C zone district are not applicable to the subject application, with exception of required parking for residential development.
- The applicant has requested an exception to required parking for the residential dwelling units. Up to 26 spaces can be secured with a yearly pass
- If considered single-family units, 52 spaces are required for the development.

APPLICATION ANALYSIS

- Only 5 of the subject units contain 3 bedrooms, 20 contain 2 bedrooms and 1 contains one bedroom. It may be reasonably suggested that the units, particularly the 1 or 2 bedroom units should be considered as “multi-family” which requires 1.5 spaces per unit. If considered multi family a total of 39 spaces would typically be needed.
- The applicant has requested exception to parking standards to allow for the 26 secured spaces to serve as the parking required for the development.

APPLICATION ANALYSIS

(Exception Request)

Criterion 1 – Consistent with the general purpose of regulations nor detrimental to health safety & welfare

- Applicant's findings note that one reserved space per unit is sufficient for the development being within walking distance to most downtown features and nearby transit hub.
- Additional parking needs of a tenant can be accommodated with purchase of weekly permits, thus the 26 secured spaces is sufficient.
- Exception request is consistent with the general purpose of the regulations and public welfare, Criterion 1 is met.

APPLICATION ANALYSIS

(Exception Request)

Criterion 2 – Granting of exception will not permit a use that is not permitted in the zone district

Requested exceptions pertain to development parking requirements, it does not pertain to land use. Criterion 2 is met.

APPLICATION ANALYSIS

(Exception Request)

Criterion 3 – Unique circumstances apply to the site that do not apply elsewhere in the City and strict application results in an exceptional hardship.

The requested exception pertains unusual circumstances of the site.

- Most residential developments are not surrounded by an abundance of available off-street parking. One exclusive off street parking space per unit should be sufficient to meet parking demands of the development.
- Strict application of the standard would require more reserved parking and reduce spaces available to downtown patrons

Criterion 3 is met.

APPLICATION ANALYSIS

(Exception Request)

Criterion 4 – Need for exception is not a result of an illegal act and must be suffered by the subject property. Greater profit is not sufficient basis for exception.

The need for exception is not a result of an illegal act . Approval of the exception will not provide greater profit to the developer.

Criterion 4 is met.

CONCLUSION

- The use is permitted by the C-C zone, meets density standards of the MFR-30 zone district and is compatible with surrounding uses.
- The subject application meets development code requirements, or can be made to conform with conditions of approval.

Criterion 1 and 2 of MLDC 10.290 are met.

The associated request for exception has been demonstrated to meet the all criteria specified by MLDC Section 10.253

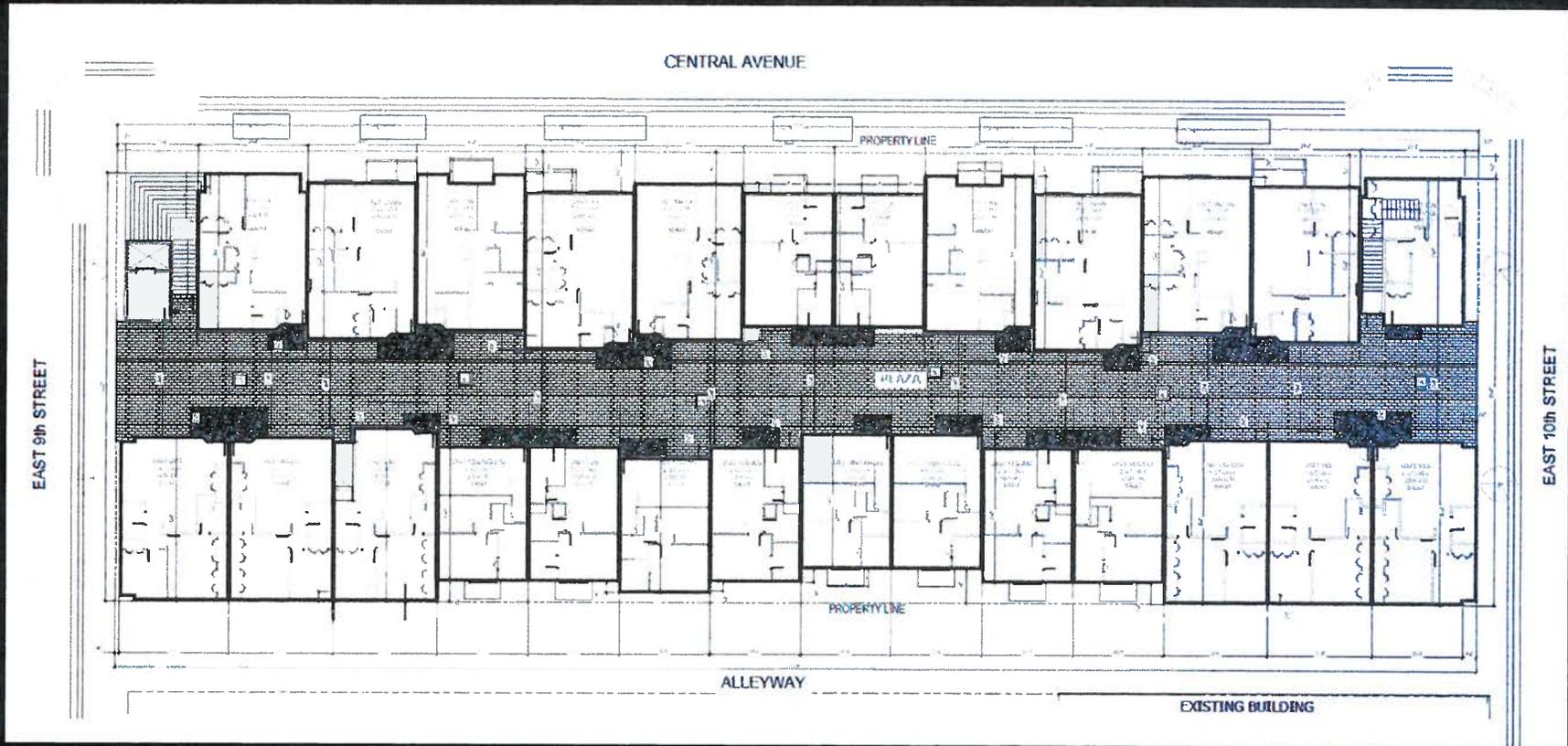
RECOMMENDED ACTION

Staff recommends that the Site Plan and Architectural Commission direct staff to prepare a final order for **APPROVAL** application AC-15-007 / E-15-009, per the Staff Report dated March 27, 2015 including exhibits A through Q.

QUESTIONS FOR STAFF?

Site Plan

(Deck – 2nd floor)



Skypark Residential Site Plan AC-15-007 / E-15-009



April 17, 2015
Site Plan and Architectural Commission

CITY OF MEDFORD
EXHIBIT # 6
File # AC-15-007 / E-15-009
APPEAR.

Approval Criteria

MLDC 10.290

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

Approval Criteria

MLDC 10.290

1. The proposed development is compatible with uses and development that exist on adjacent land; and
2. The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC § 10.253.

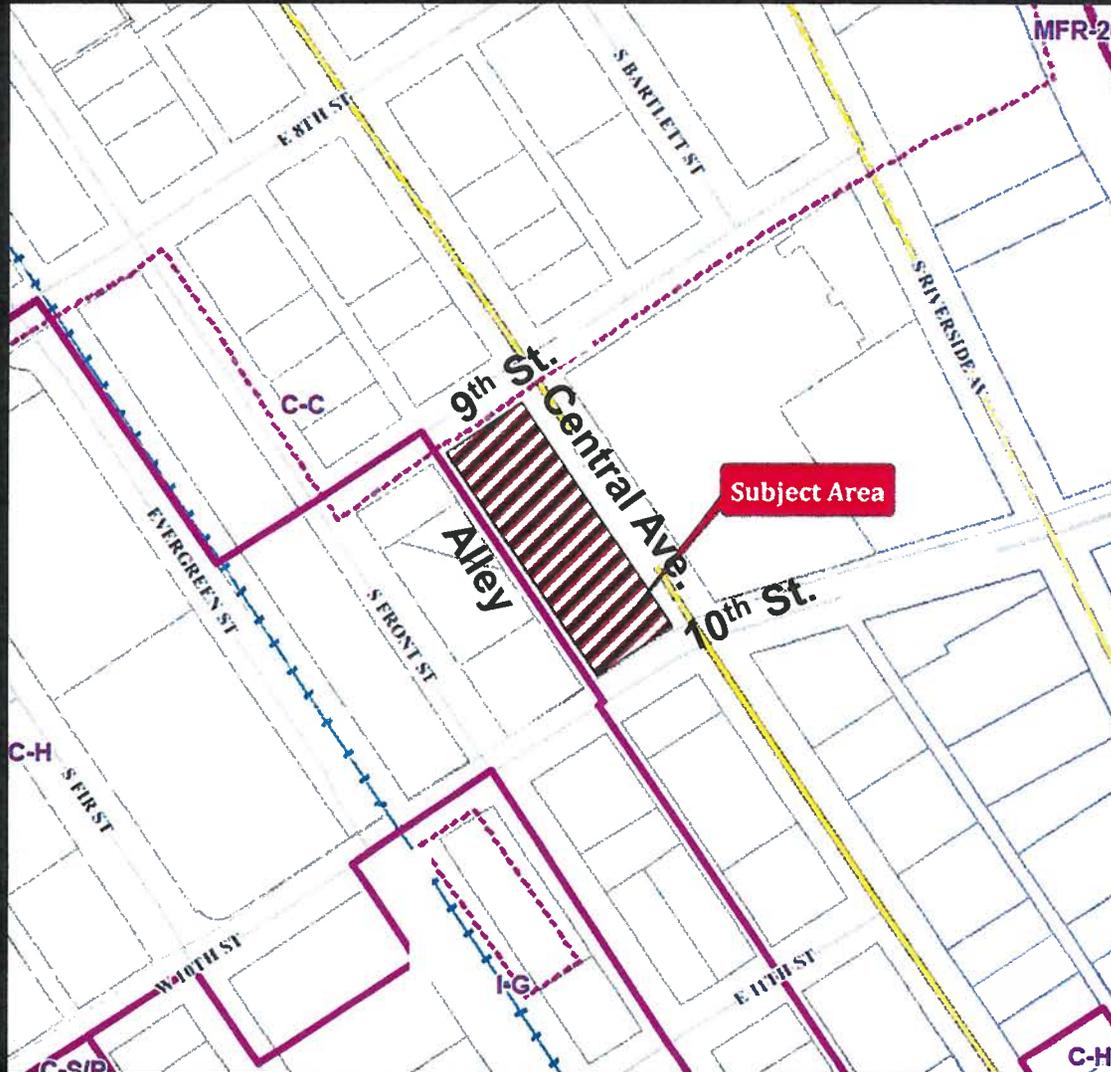
EXCEPTION CRITERIA

1. The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to ensure this criterion is met.
2. The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.

EXCEPTION CRITERIA

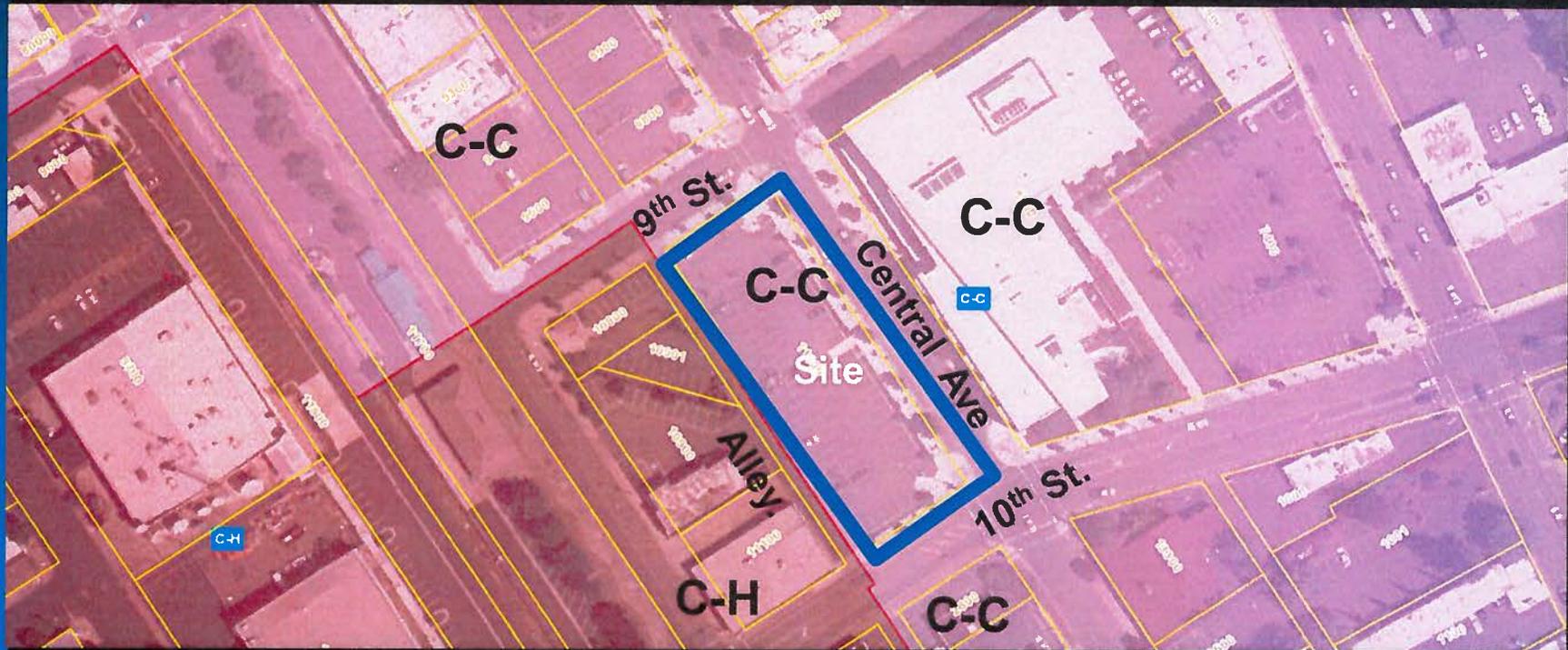
3. There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.
4. The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and must be suffered directly by the property in question. It is not sufficient proof to show that greater profit would result.

VICINITY MAP

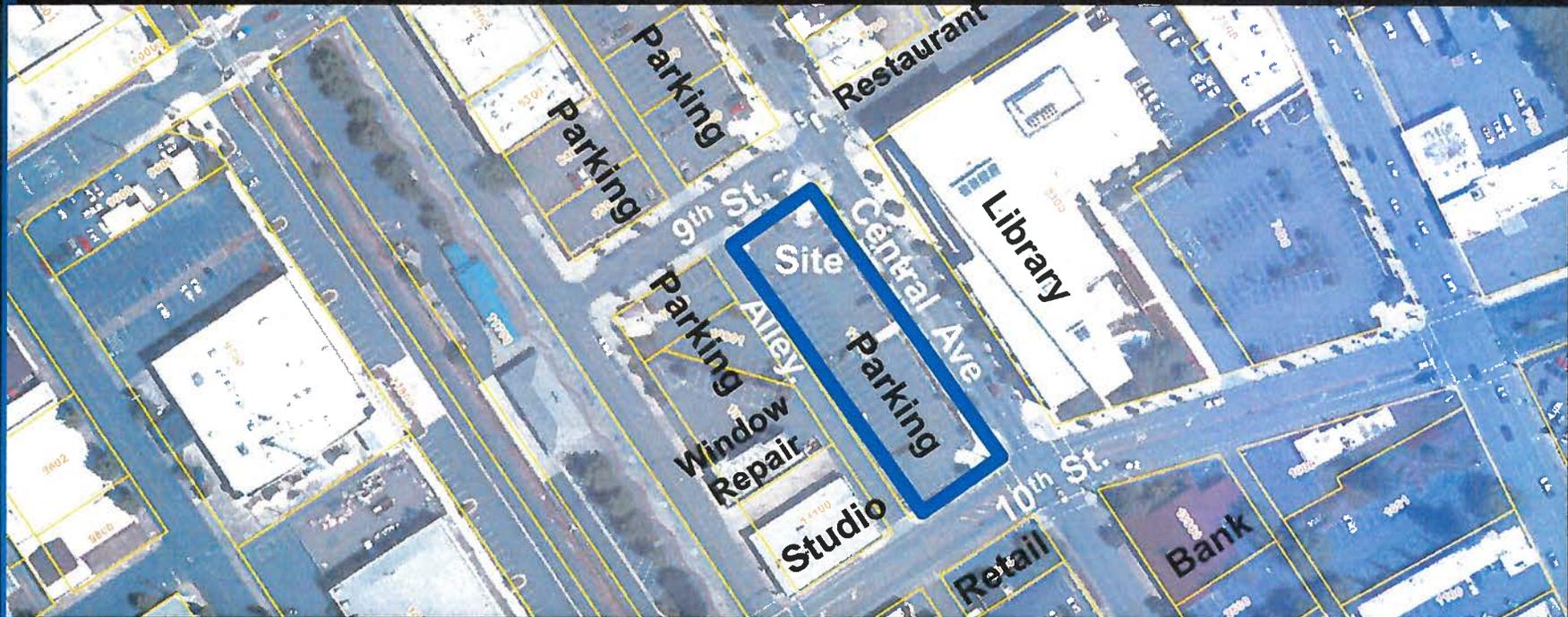


0.688 ac.

ZONING MAP



AERIAL PHOTOGRAPH



Site Photos

Looking North



Site Photos

Looking east
(from Front St.)

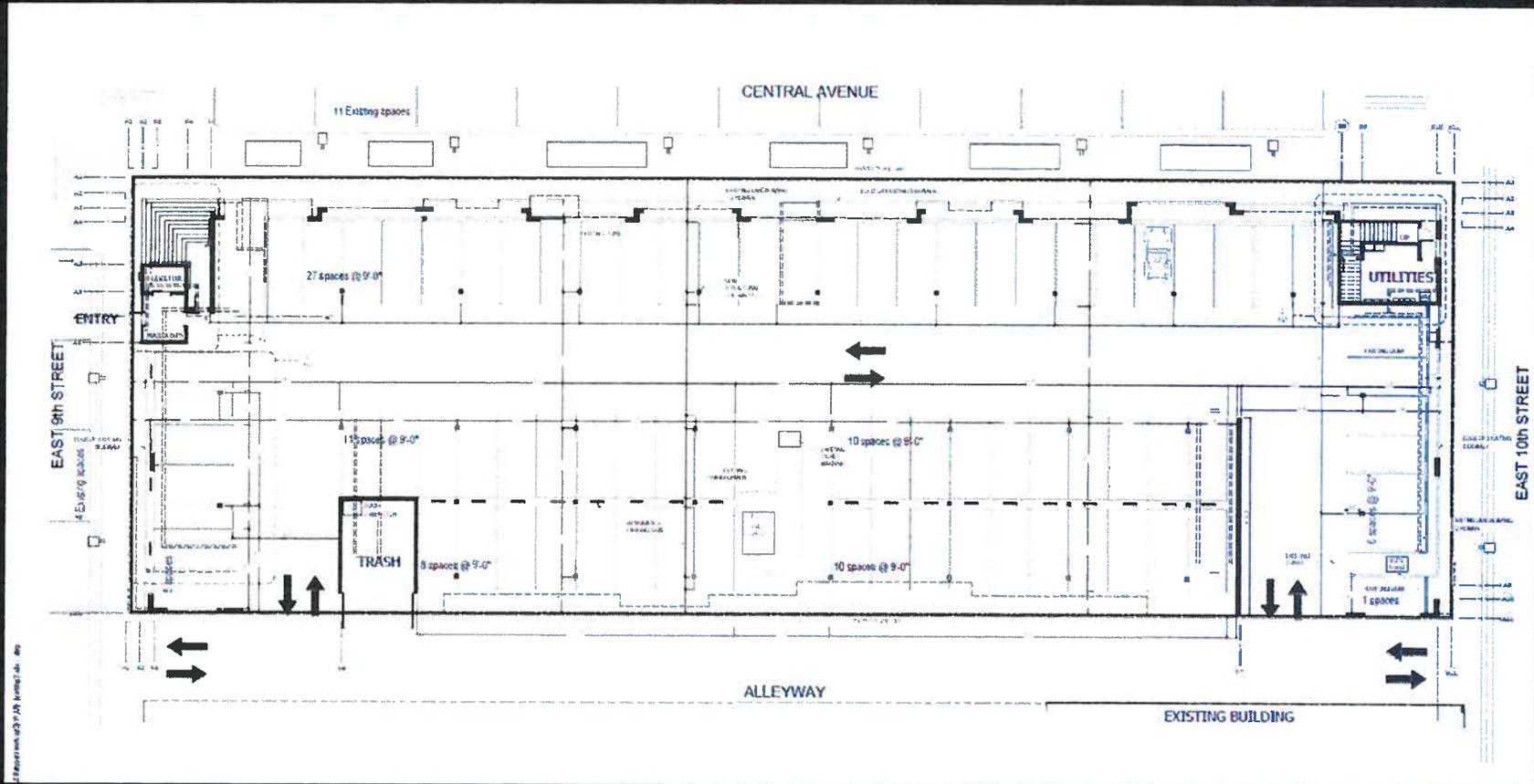


Site Photos

Looking south
(from site NEC)

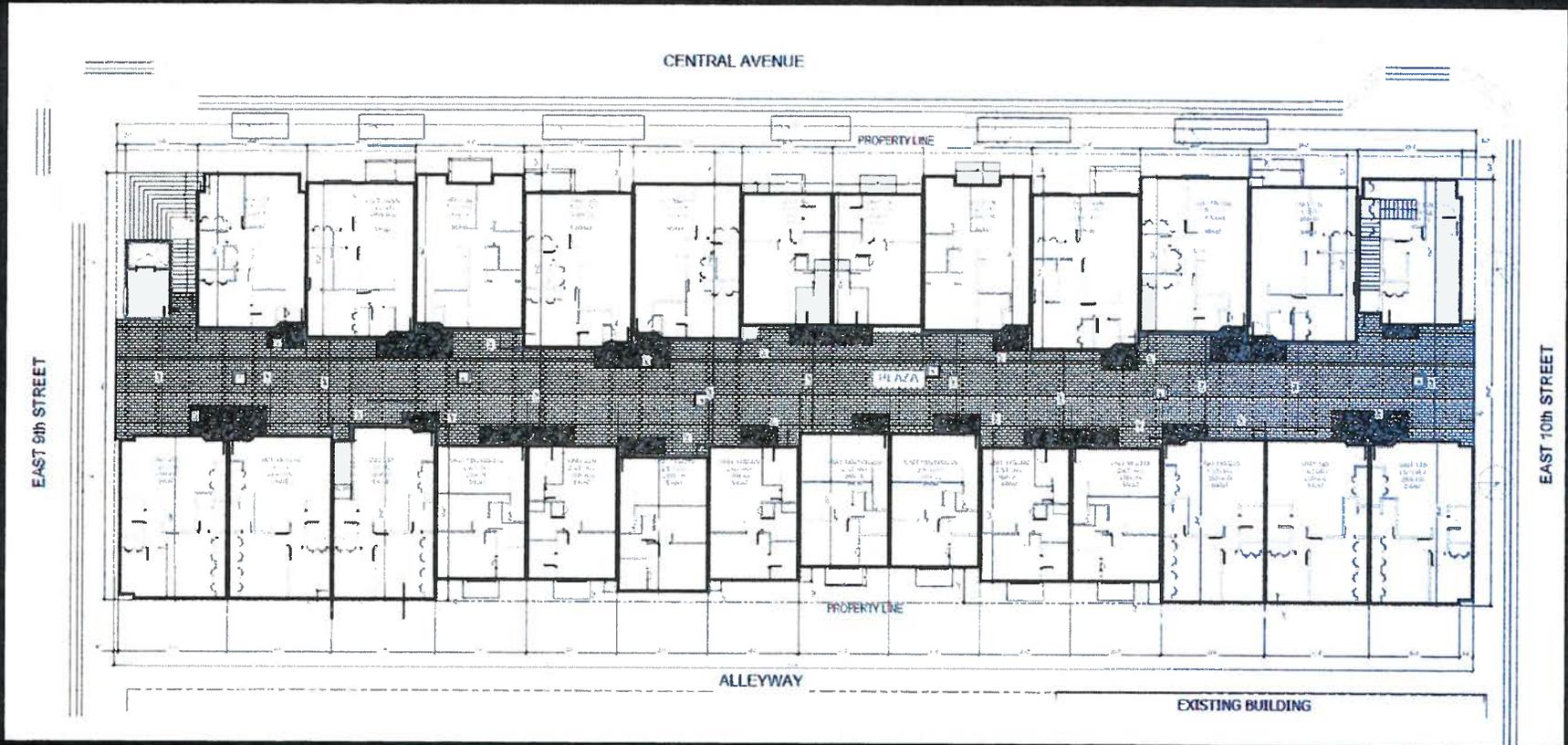


Site Plan (Ground Floor)



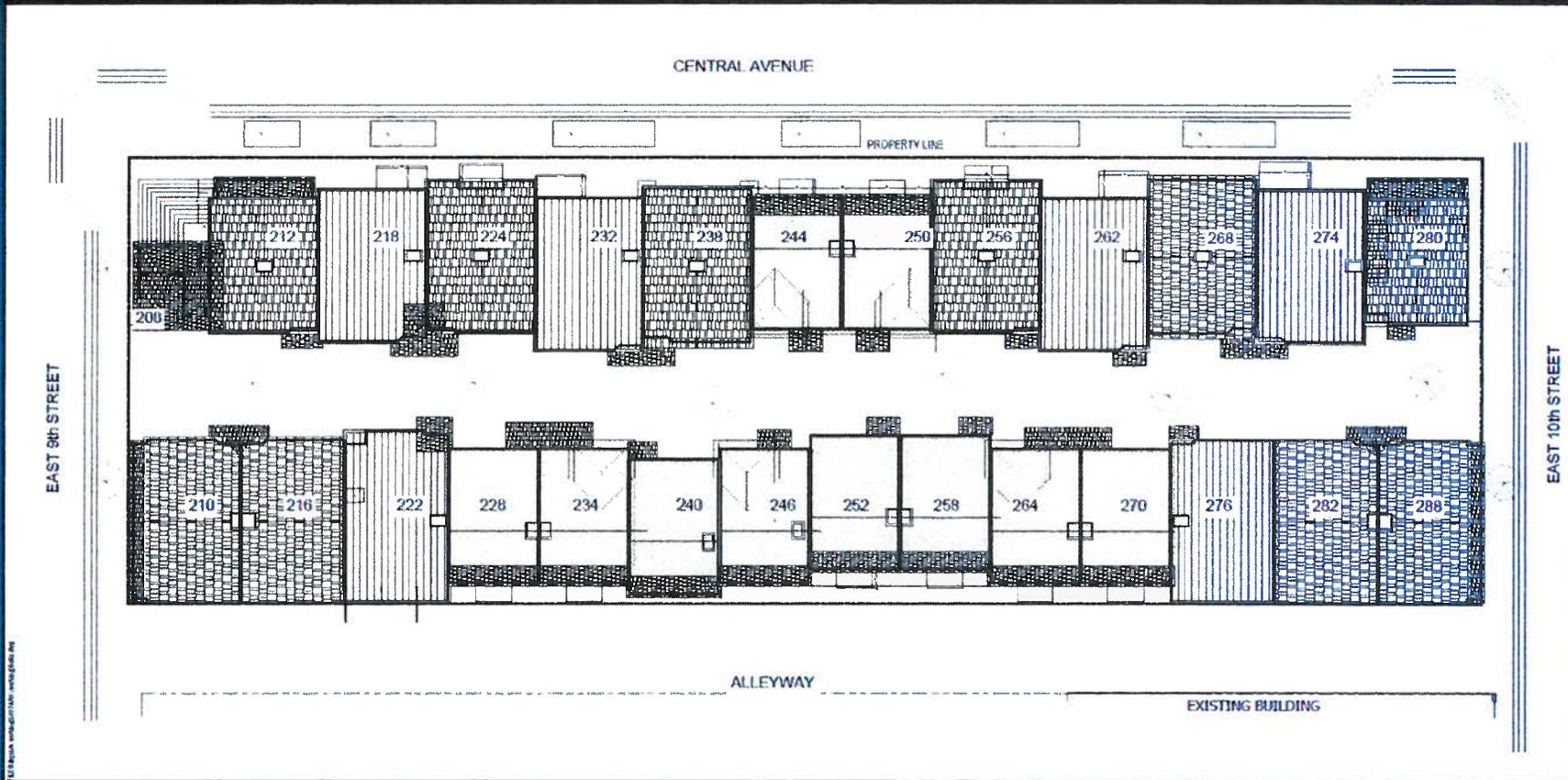
Site Plan

(Deck – 2nd floor)

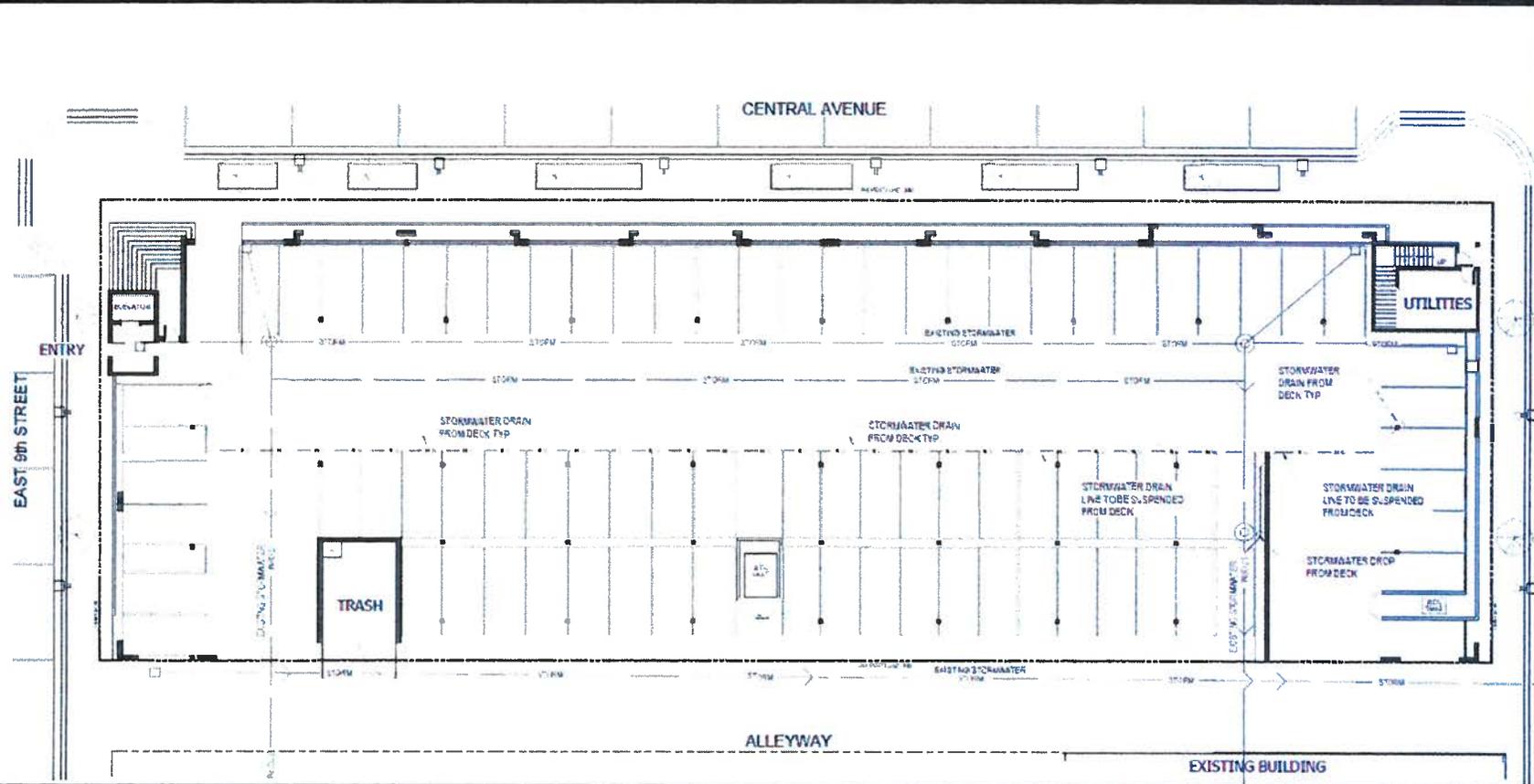


Site Plan

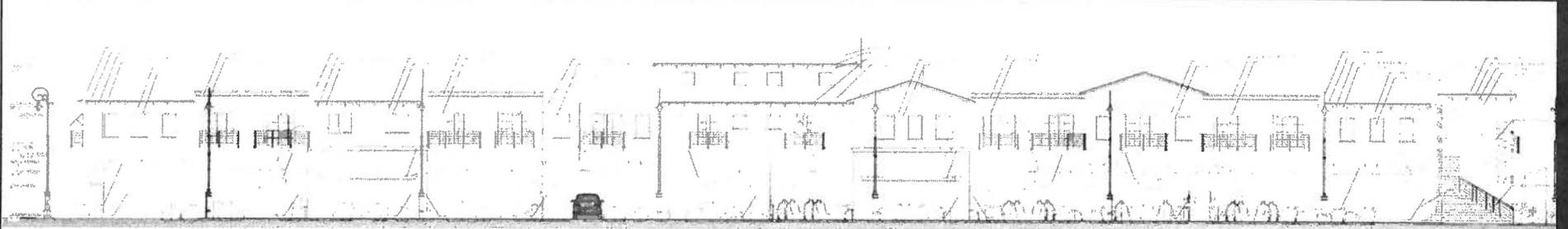
(Deck – 2nd floor roof plan)



Drainage Plan

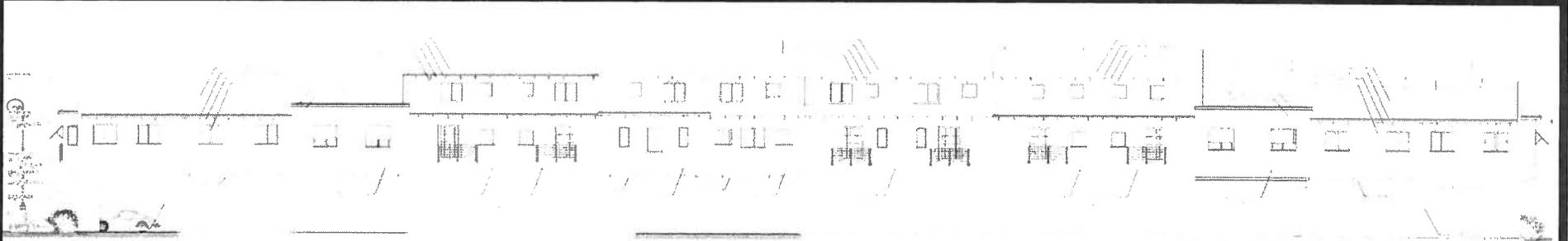


Project Elevations



EAST ELEVATION

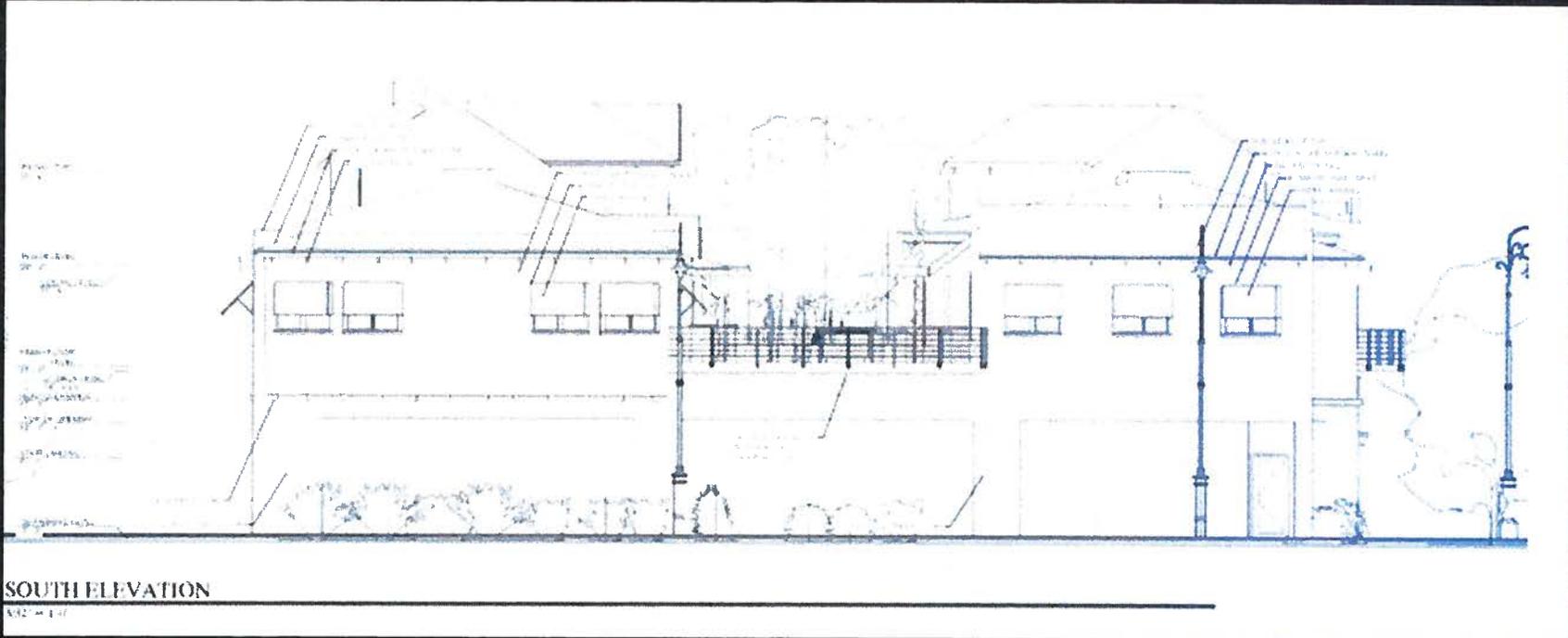
East (Central Ave.)



WEST ELEVATION

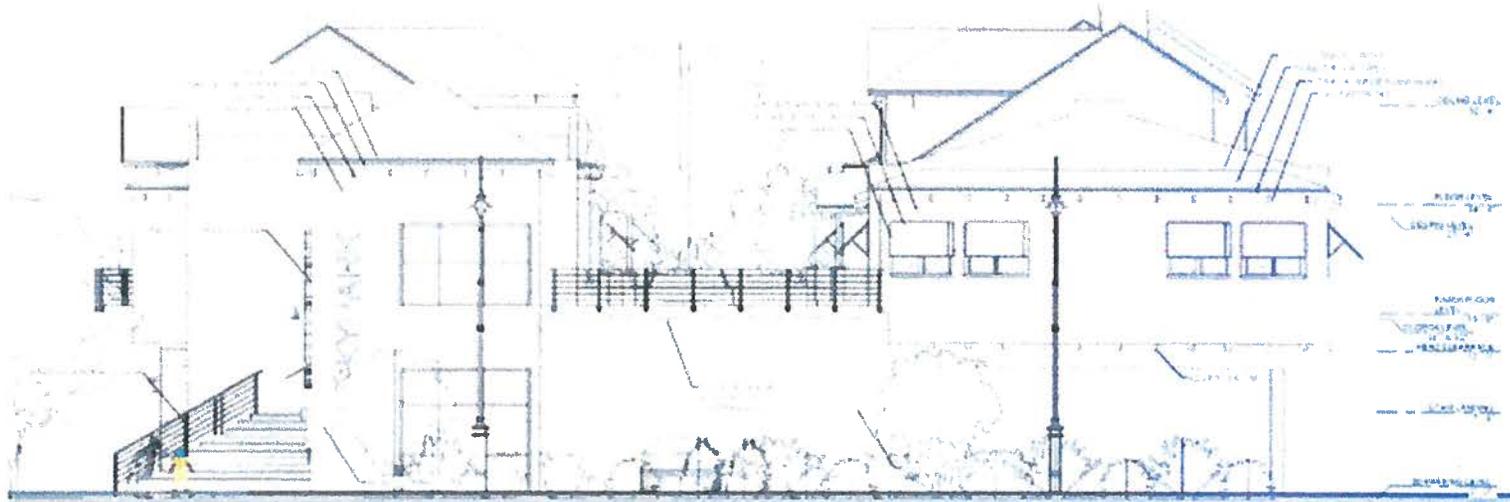
West (Public Alley)

Project Elevations



South (10th St)

Project Elevations



3 NORTH ELEVATION
A-C-11

North (9th St)

Rendered Project Elevation (Exterior)



STUCCO

ASPHALT SHINGLES

HARDIE BOARD SIDING



BRICK

ELDERADO STONE

STUCCO

APPLICATION ANALYSIS

- Subject site plan is located in the Central Business District Zoning Overlay. All development standards of the C-C zone district are not applicable to the subject application, with exception of required parking for residential development.
- The applicant has requested an exception to required parking for the residential dwelling units. Up to 26 spaces can be secured with pass
- The City Attorney's office has provided plausible interpretation of the parking requirements which, if interpreted as such, would provide that no parking is required for residential development in the parking district.

APPLICATION ANALYSIS

- The applicant has requested exception to parking standards to allow for the 26 secured spaces to serve as the parking required for the development.

APPLICATION ANALYSIS

(Exception Request)

Criterion 1 – Consistent with the general purpose of regulations nor detrimental to health safety & welfare

- Applicant's findings note that one reserved space per unit is sufficient for the development being within walking distance to most downtown features and nearby transit hub.
- Additional parking needs of a tenant can be accommodated with purchase of weekly permits, thus the 26 secured spaces is sufficient.
- Exception request is consistent with the general purpose of the regulations and public welfare, Criterion 1 is met.

APPLICATION ANALYSIS

(Exception Request)

Criterion 2 – Granting of exception will not permit a use that is not permitted in the zone district

Requested exceptions pertain to development parking requirements, it does not pertain to land use. Criterion 2 is met.

APPLICATION ANALYSIS

(Exception Request)

Criterion 3 – Unique circumstances apply to the site that do not apply elsewhere in the City and strict application results in an exceptional hardship.

The requested exception pertains unusual circumstances of the site.

- Most residential developments are not surrounded by an abundance of available off-street parking. One exclusive off street parking space per unit should be sufficient to meet parking demands of the development.
- Strict application of the standard would require more reserved parking and reduce spaces available to downtown patrons

Criterion 3 is met.

APPLICATION ANALYSIS

(Exception Request)

Criterion 4 – Need for exception is not a result of an illegal act and must be suffered by the subject property. Greater profit is not sufficient basis for exception.

The need for exception is not a result of an illegal act . Approval of the exception will not provide greater profit to the developer.

Criterion 4 is met.

Public Testimony

At the April 3, 2015 Public Hearing,

Public Testimony was provided regarding concern to the proposed density of the project, and compatibility with surrounding area.

Two nearby business owners testified to their concerns regarding the project, particularly relating to the parking spaces that would be provided (leased) to the development

Staff received correspondence (April 15 2015 - "Exhibit T") from an RCC employee indicating a their concern about lack of adequate parking in the area and that leasing 26 spots will add to the existing issue. Also, expressed concerns with vagrants when parking area becomes covered.

CONCLUSION

- The use is permitted by the C-C zone
- The subject application meets development code requirements, or can be made to conform with conditions of approval.

Criterion 1 and 2 of MLDC 10.290 are met.

The associated request for exception has been demonstrated to meet the all criteria specified by MLDC Section 10.253

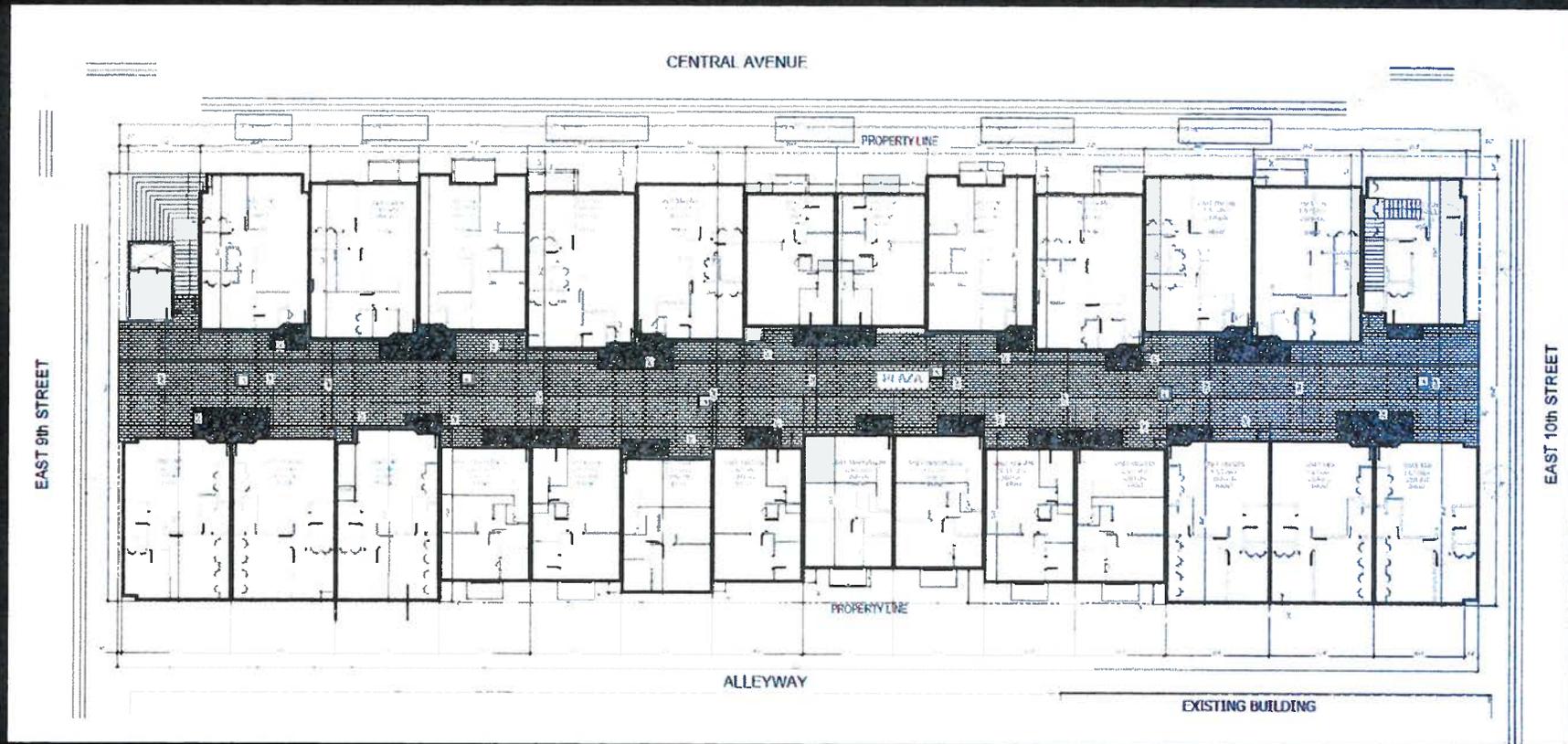
RECOMMENDED ACTION

Staff recommends that the Site Plan and Architectural Commission direct staff to prepare a final order for **APPROVAL** application AC-15-007 / E-15-009, per the Staff Report dated April 10, 2015 including exhibits A through T.

QUESTIONS FOR STAFF?

Site Plan

(Deck – 2nd floor)





CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: **120.3**

www.cityofmedford.org

DEPARTMENT: Planning Department

AGENDA SECTION: Public Hearings

PHONE: 541-774-2380

MEETING DATE: May 21, 2015

STAFF CONTACT: James E. Huber, AICP, Planning Director
Bianca Petrou, Deputy Planning Director

COUNCIL BILL 2015-50

An ordinance approving a minor amendment to the General Land Use Plan (GLUP) Map of the Medford Comprehensive Plan by changing the land use designation on three 0.11-acre lots on East Jackson Street between Mae Street and Marie Street from low-density Urban Residential (UR) to Service Commercial (SC). (CP-15-022) (Land Use, Quasi-Judicial)

ISSUE STATEMENT & SUMMARY:

File number CP-15-022 is a proposed Comprehensive Plan amendment affecting the General Land Use Plan (GLUP) map. The applicants have applied to change the designation on three 0.11-acre lots on East Jackson Street between Mae Street and Marie Street from low-density Urban Residential (UR) to Service Commercial (SC). Approval criteria for GLUP map amendments are found in the "Review & Amendments" chapter of the Comprehensive Plan.

BACKGROUND:

The applicants submitted an application in February. Staff processed the application; the Planning Commission held a hearing on the request on April 23rd and voted 7-2 to recommend that the Council approve the request.

A. Council Action History

None.

B. Analysis

The three 0.11-acre lots are the only properties in the vicinity that front East Jackson that are still designated residential. The SC GLUP designation is considered compatible with any type of residential designation. The proposed change would increase the use flexibility of the property.

C. Financial and/or Resource Considerations

None.

D. Timing Issues

None.

STRATEGIC PLAN:

Theme: Healthy Economy

Goal 5: Continue implementation of the Economic Development Strategy.

Objective 5.1: Promote retention, expansion and development of new businesses.

COUNCIL OPTIONS:

1. Adopt the ordinance.
2. Adopt the ordinance with modifications.
3. Do not adopt the ordinance.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY
www.cityofmedford.org

Item No: **120.3**

STAFF RECOMMENDATION:

The Planning Commission recommended approval of the Comprehensive Plan amendment at their April 23, 2015 hearing by a 7-2 vote.

SUGGESTED MOTION:

I move to adopt the ordinance amending the General Land Use Plan map to change the designation from Urban Residential to Service Commercial as shown on the map marked "Exhibit C" in the final report.

EXHIBITS:

Ordinance approving CP-15-022 and final report for CP-15-022 dated May 5, 2015, including Exhibits A through F. A copy of the slideshow presentation is on file in the Planning Department.

ORDINANCE NO. 2015-50

AN ORDINANCE approving a minor amendment to the General Land Use Plan (GLUP) Map of the *Medford Comprehensive Plan* by changing the land use designation on three 0.11-acre lots on East Jackson Street between Mae Street and Marie Street from low-density Urban Residential (UR) to Service Commercial (SC).

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. That a minor amendment to the GLUP Map of the *Medford Comprehensive Plan* to change the land use designation on three 0.11-acre lots on East Jackson Street between Mae Street and Marie Street from low-density Urban Residential (UR) to Service Commercial (SC) is hereby approved.

Section 2. The approval is based upon the Findings of Fact and Conclusions of Law included in the Staff Report dated May 5, 2015, attached as Exhibit A and incorporated herein.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2015.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2015.

Mayor



FINAL REPORT

for a Class-B quasi-judicial decision: GLUP map amendment

PROJECT GLUP Amendment: UR to SC at the intersections of East Jackson Street and Mae Street and East Jackson Street and Marie Street

FILE NO. CP-15-022

TO City Council *for 05/21/2015 hearing*

FROM Planning Commission *via* Aaron Harris, Long-Range Planning

REVIEWER John Adam, Senior Planner

DATE May 5, 2015

BACKGROUND

Proposal

A General Land Use Plan Map amendment to reclassify three 0.11-acre lots located on East Jackson Street between Mae Street and Marie Street from urban residential (UR) to service commercial (SC). The GLUP map is a component of the City's Comprehensive Plan and is the basis for zoning district designations. The GLUP map covers the entire urban area, including property that has not yet been annexed to the City.

History

The amendment was initiated by the property owners. The Planning Commission held a hearing on 04/23/2015 and voted 7–2 to recommend adoption to the Council. The findings in support of this amendment are contained in Exhibit A at the end of this report.

Authority

This proposed plan authorization is a Class-B quasi-judicial amendment of Chapter 10 of the Municipal Code. The Planning Commission is authorized to recommend, and the City Council to approve, amendments to Chapter 10 under Medford Municipal Code §§10.102–10.122, 10.165, and 10.185.

ANALYSIS

1. Is this site appropriate for the proposed designation?

The applicants have not identified a specific development plan for this lot. The three 0.11-acre lots are the only properties that front E. Jackson Street in this vicinity that are still zoned as residential. The SC GLUP designation allows only the Service/Professional (C-S/P) zoning district.

Approving the change to this location means deeming acceptable all the outright permitted uses that are allowed under the C-S/P zoning designation that corresponds to it, including offices, medical facilities, service-oriented businesses, and residential development at 20–30 dwelling units per acre. The C-S/P zoning district is permitted adjacent to residential districts without qualification; the only mitigation perceived as necessary is a height restriction for development within 150 feet of a residential district (10.721) and buffering requirements for various types of development (10.790). There is, in other words, an inherent presumption of compatibility for the designation adjacent to UR land. There are also no significant facility impacts rising from the change.

The Planning Commission provided various opinions on the proposal at the April 23rd hearing. Chair McFadden stated that he supports the changing character of the neighborhood because it shows a progressive commercial area. Commissioner Schwimmer expressed his support because the amendment provides an opportunity to provide high-density affordable housing. Commissioner Mansfield opposed the amendment because he believes there are other areas in the City better suited for the proposed development.

2. How would this amendment affect the supply of Residential, Commercial, and Industrial lands?

The City has a documented need for hundreds of acres of both UR and SC categories for the 20-year planning period according to the housing and economic elements of the Comprehensive Plan. Even if the City were not pursuing an urban growth boundary amendment to address the need, the change of this small acreage does not significantly affect the supply of either category. Further, a change in designation from UR to SC does not prevent the property from being used for multifamily housing, as residential units meeting the density standard of the MFR-30 (Multiple-Family Residential – 30 units per acre) zoning district are allowed on commercially zoned properties. The proposed change would increase the use flexibility of the property.

The remaining question is whether it is a good idea to swap 0.33 acres of a deficient land category for another deficient land category. On the one hand, the UR deficiency is nearly three times greater than the SC deficiency. On the other hand, there are Comprehensive Plan policies that support an increase in mixed uses in order to provide variety and to bring goods and services into closer proximity to residences. The Planning Commission concludes that the proposed GLUP amendment is supportable.

3. How would this amendment affect public facilities?

Public Works stated that a traffic impact analysis is not required for the proposal (Exhibit D). The Medford Water Commission was notified but did not comment. The proposed change has no significant impacts to transportation, sanitary sewer, storm drainage systems, and water distribution.

4. Assessment of comments received.

Two neighbors spoke in opposition to the proposal (Exhibit F). They stated that the proposal will disrupt the residential character of the neighborhood and is unnecessary. The Planning Commission did not agree and reiterated the findings provided in the staff report noting policies that support mixing uses. Further, a change in designation from UR to SC does not prevent the property from being used for multifamily housing, as residential units meeting the density standard of the MFR-30 (Multiple-Family Residential – 30 units per acre) zoning district are allowed on commercially zoned properties.

RECOMMENDATION

The Planning Commission recommends adopting the proposed amendment based on the analyses, findings, and conclusions in the Final Report dated May 5, 2015, including Exhibits A through F.

EXHIBITS

- A Findings and Conclusions
- B Minutes, Planning Commission
- C Vicinity Map
- D Applicant's findings
- E Referral agency comments
- F Public comments

CITY COUNCIL AGENDA: May 21, 2015

Exhibit A

Findings and Conclusions

Comprehensive Plan—Review and Amendments section: Map designation amendments shall be based on [criteria 1–7, as follow]:

Criterion 1. A significant change in one or more Goal, Policy, or Implementation Strategy.

Findings

The Economic Element, adopted 12/4/2008, projects a 290-acre need for Service Commercial land over the 20-year planning period to be added by changes to existing designations (Policy 1-5 & Implementation 1-5(b)) and/or by adding land to the urban area. The City is pursuing both the options on its own, but that process is far from completion. The City also needs 826 acres of low-density urban residential (UR), a greater need than for SC. However, there are also policies and implementation strategies in the Economic, Housing, and Transportation Elements that support mixed uses.

Conclusions

Despite the greater need for UR, this proposal is not a large amount and it complies with policies supporting mixed-use development. The proposed change is consistent with pertinent Comprehensive Plan policies and implementation strategies that seek to provide an adequate supply of commercial land.

Criterion 2. Demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities.

Findings

As noted under Criterion 1, the Economic Element projects a 290-acre need for Service Commercial. One component of that need is for “large” office sites, which are typically five acres in size (Economic Element, *Figure 28*, p. 47). Again, there is a larger housing need, but this is an opportunity to provide a greater mix of uses to an area mostly composed of low-density residential development.

Conclusions

The proposal responds to a demonstrated need for adequate employment opportunities and the desirability of mixing uses. The proposal is sustainable.

Criterion 3. The orderly and economic provision of key public facilities.

Findings

Transportation, water, and sewer utilities are available to the site and can handle the changes without upgrading the facilities.

Conclusions

Sufficient facilities exist to accommodate the proposed classification change.

Criterion 4. Maximum efficiency of land uses within the current urbanizable area

Findings

The Service Commercial GLUP designation allows for high-density residential in addition to permitted commercial uses. A designation change would not eliminate possible residential use of the site.

Conclusions

A designation change would mean the land could be used for both service commercial and residential uses; it is a more efficient use of a buildable site within the current city limits.

Criterion 5. Environmental, energy, economic and social consequences.

Findings

Environmental. The lots are already inside the UGB, thus has already met the test concerning environmental impacts; change of designation does not affect suitability for urbanization.

Energy. No energy consequences are discernable.

Economic. The designation change would help address a deficit in employment land.

Social. The General Land Use Plan Element of the Comprehensive Plan states that the Service Commercial designation may be located adjacent to residential designations. Additional provision for compatibility is made through the use of buffering standards at time of development. For example, building height is limited to 35 feet within 150 feet

of residential GLUP designations, coverage by structures is limited to 40 percent of the lot, and retail uses are very limited.

Conclusions

Environmental. Since the property is not in a natural state and has long been identified for urban development, there will be no adverse environmental impacts.

Energy. There are no energy consequences.

Economic. By addressing an employment land deficit, there is an economic benefit.

Social. The SC designation is appropriately located adjacent to the UR designation.

Criterion 6. Compatibility of the proposed change with other elements of the City Comprehensive Plan

Findings

Economic Element

Policy 1-5: The City of Medford shall assure that adequate commercial and industrial lands are available to accommodate the types and amount of economic development needed to support the anticipated growth in employment in the City of Medford and the region.

Implementation 1-5-b. Reduce projected deficits in employment lands by changing GLUP Map designations within the existing Urban Growth Boundary.

Conclusions

This change does supply a small amount of the projected need for Service Commercial land.

Criterion 7. All applicable Statewide Planning Goals

The following demonstrate conformity with the applicable Statewide Planning Goals.

Goal 1—Citizen Involvement

Findings

Goal 1 requires the City to have a citizen involvement program that sets the procedures by which affected citizens will be involved in the land use decision process, including participation in the quasi-judicial revision of the Comprehensive Plan. Goal 1 requires provision of the opportunity to review proposed amendments prior to a public hearing, and recommendations must be retained and receive a response from policy-makers.

The rationale used to reach land use decisions must be available in the written record. The City of Medford has an established citizen-involvement program consistent with Goal 1 that includes review of proposed Comprehensive Plan amendments by the Planning Commission and City Council. Affected agencies and departments are also invited to review and comment on such proposals, and hearing notices are mailed to nearby property owners, published in the local newspaper, and posted on the site. This process has been adhered to in this proposed amendment. The proposal was made available for review on the City of Medford website and at the Planning Department. It was considered by the Planning Commission and the City Council during televised public hearings.

Conclusions

By following the standard notification and comment procedure, the City provided adequate opportunities for citizen input.

Goal 2—Land Use Planning

Findings

The City has a land use planning process and policy framework in the form of a Comprehensive Plan and development regulations in Chapter 10 of the Municipal Code that comply with Goal 2. These are the bases for decisions and actions.

Conclusions

There is an adequate factual basis for the proposed designation change.

Goal 3—Agricultural Lands does not apply.

Goal 4—Forest Lands does not apply.

Goal 5—Natural Resources, Scenic & Historic Areas, and Open Spaces does not apply.

Goal 6—Air, Water, and Land Resources Quality

Findings

The allowable uses in the Service Commercial designation do not generally produce discharges that are notably different from allowed uses in the Urban Residential designation, with the exception that commercial uses are greater trip generators than low-density residential. There are no streams on the lot that would be impacted. The land in question is not classified a resource in terms of agriculture because it is classified urbanizable.

Conclusions

The proposed change will have no discernable effect on the production of pollutants. Though commercial land is a greater trip generator, there is no appreciable difference

between placing a commercial area in this location as opposed to another location in the City with respect to overall air quality. There are no water or land resource quality impacts.

Goal 7—Areas Subject to Natural Hazards does not apply.

Goal 8—Recreation Needs does not apply.

Goal 9—Economic Development

Findings

The first section of this Goal requires Comprehensive Plans to “3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.”

Conclusions

The proposed change will provide some new commercial land in the existing urban area.

Goal 10—Housing

Findings

The goal requires that “plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density.” The proposed change would remove the potential for a definite number of low-density housing units and replace it with a potential for a greater number of high-density housing units.

Conclusions

Despite the loss of low-density potential, there is a benefit in retaining a housing potential on the property. It is change of type and density, but it does not exceed the identified need.

Goal 11—Public Facilities and Services

Findings

Refer to findings under Criterion 3, above.

Conclusions

Refer to conclusions under Criterion 3, above.

Goal 12—Transportation

Findings

The “Transportation Planning Rule” (OAR 660-012) requires cities to have plans to accommodate anticipated transportation system needs. The City has defined an adequate level of service (LOS) as “D” on an A–F scale. A traffic impact analysis form signed by a City of Medford traffic engineer states that a traffic impact analysis is not required with the GLUP change proposal.

Conclusions

The change will have minimal impact on facilities, and will not require upgrades to maintain adequate level of service.

Goal 13—Energy Conservation does not apply.

Goal 14—Urbanization does not apply.

Goals 15–19 do not apply to Medford.

Exhibit B

Minutes, Planning Commission, 4/23/2015

Excerpt

50. Public Hearings—New business

50.1. **CP-15-022** General Land-Use Plan (GLUP) Map amendment from Urban Residential (UR) to Service Commercial (SC) on 0.33 acres comprising three lots located on East Jackson Street between Mae Street and Marie Street (map/taxlot no. 37-1W-19DD/8400, 8500, 8600). Ryan Kantor, James & Eva Kell, and Michael Malepsy, Applicant.

Aaron Harris, Planner II, gave a staff report and reviewed the General Land-Use Plan amendment criteria.

Commissioner MacMillan asked if staff determined that no transportation, water, or sewer improvements were required based on the fact that Public Works and the Water Commission did not comment. Mr. Harris replied that when there are no comments it is safe to assume the infrastructure is sufficient.

Commissioner McKechnie asked if the zoning is changed to Service Commercial and a commercial use is put there does that require a buffer between that and the residential uses? Mr. Harris replied that it does. The buffer required will be 10 feet wide, vegetation of various sorts that grows to 20 feet high over a ten-year period, and a six-foot high concrete or masonry wall. That only applies to new development.

Commissioner Schwimmer asked how the request meets the public need criterion when the intent is unknown. Mr. Harris stated that the need for the City is determined by the Economic Element and the Housing Element of the Comprehensive Plan. The Housing Element calls for 826 acres of urban residential and 290 acres for office uses over the next 20 years. It is such a small area to be changed that relative to the scale of need it is inconsequential.

The public hearing was opened and the following testimony was given.

- a. Ryan Kantor, 1029 East Jackson Street, Medford, Oregon, 97504. Mr. Kantor stated that it is his property that is in question. The other two property owners have no desire to do anything with their property at this time. Mr. Kantor plans to do a full renovation of the building, turning it

into a small office. It will be attractive from the street instead of the dumpy looking house it is now.

Chair McFadden stated that he likes the changing of the neighborhood. It shows a progressive commercial area. Does Mr. Kantor find in his analysis the cost balances out for the developer? Mr. Kantor stated that if Chair McFadden is talking about the potential income of the property from residential versus commercial there is an advantage. One can get a better per-square-foot rate. That is one of the major thoroughfares that one would want attractive buildings to make the City look better and promote growth. It makes sense considering the entire street is pretty much all commercial.

- b. Cynthia Swaney, 320 Marie Street, Medford, Oregon, 97504. Ms. Swaney reported that the proposed amendment will significantly impact the neighborhood and those who live in it. She said her neighborhood is already bounded on three sides by commercially zoned lots. They need the freedom to improve their historical cottages and reap the benefits. She said the proposed change would not be compatible with the goals for the neighborhood or the goals of the Medford Comprehensive Plan.

Chair McFadden asked if new development along Jackson might provide the neighborhood in that it would provide a buffer against the traffic noise. Ms. Swaney said she is concerned that more traffic that will be cutting through to get to more commercial properties. She added that there are children that play in the streets especially in the evenings; it is an old-fashioned neighborhood.

- c. Dave Swaney, 320 Marie Street, Medford, Oregon, 97504. Mr. Swaney said he is against the change to the subject properties in the Laurelhurst subdivision. He gave two reasons: one, the proposal is not compatible with their historic neighborhood; two, it is a case of mistaken discrimination against Laurelhurst by the City. It is mistake because Laurelhurst has changed substantially for the better recently. Last year they had to endure months of upheaval during the paving of their alleys. The alley project has one positive outcome; it made the neighborhood aware of the need to protect their community from actions like the proposal tonight that work against it. They will be organizing a neighborhood association to work with the City and the media to increase awareness of threats like these to their hopes and dreams for historic Laurelhurst.

Mr. Kantor reported that the majority of commercial property is leased. He has approximately thirty properties across Medford that are leased because they are consistently maintained and attractive. The need is there. He does not think the community the Swanys live in behind the major thoroughfare of Jackson Street

will be impacted by traffic. There is no reason for traffic to go through those streets unless they are going to a residence.

Mr. Harris addressed the requirements for Goal 10, relating to housing. By making this map change the properties in question still retain the potential for providing housing. The proposed map designation allows for housing at MFR-30 density.

Vice Chair Miranda asked whether map change allows or requires MFR-30? Mr. Harris clarified that the change allows for MFR-30 density.

Commissioner McKechnie clarified that this is not a zone change not a General Land Use Plan map change. It just means that at some point the owners of the three properties can change from the current zoning to C-S/P. Mr. Harris replied that is correct.

Alex Georgevitch, Acting City Engineer, apologized that Public Works did not have a staff report in the agenda packet. The reason they had no comment is that there was not a trip generation rate increase over 250 trips; therefore, there are no definable impacts from the transportation side. He added sewer and storm drainage systems are adequate.

The public hearing was closed.

Motion: Based on the findings and conclusions that all the approval criteria are either met or are not applicable, the Planning Commission forwards a recommendation for approval of CP-15-022 to the City Council per the Staff Report dated April 13, 2015, including Exhibit A.

Moved by: Vice Chair Miranda Seconded by: Commissioner Pulver

Commissioner Schwimmer stated that this is a General Land Use Plan map change to the overall zone. It is important that the actual use of the properties will be utilized whether it is C-S/P or allow high density housing. The need for affordable housing in this community is a need that he always looks for. He supports the General Land Use Plan map change.

Commissioner Mansfield commented that he appreciates Commissioner Schwimmer's input. It is very helpful to him. If he understands Commissioner Schwimmer's comment that there is a need for more area for high-density residential, he accepts that. This is a tough one for Commissioner Mansfield. He is going to vote no because his belief is there are other areas that can perform this development.

Roll Call Vote: Motion passed, 7–2 with Commissioner Fincher and Commissioner Mansfield voting no.

Exhibit C

Vicinity Map

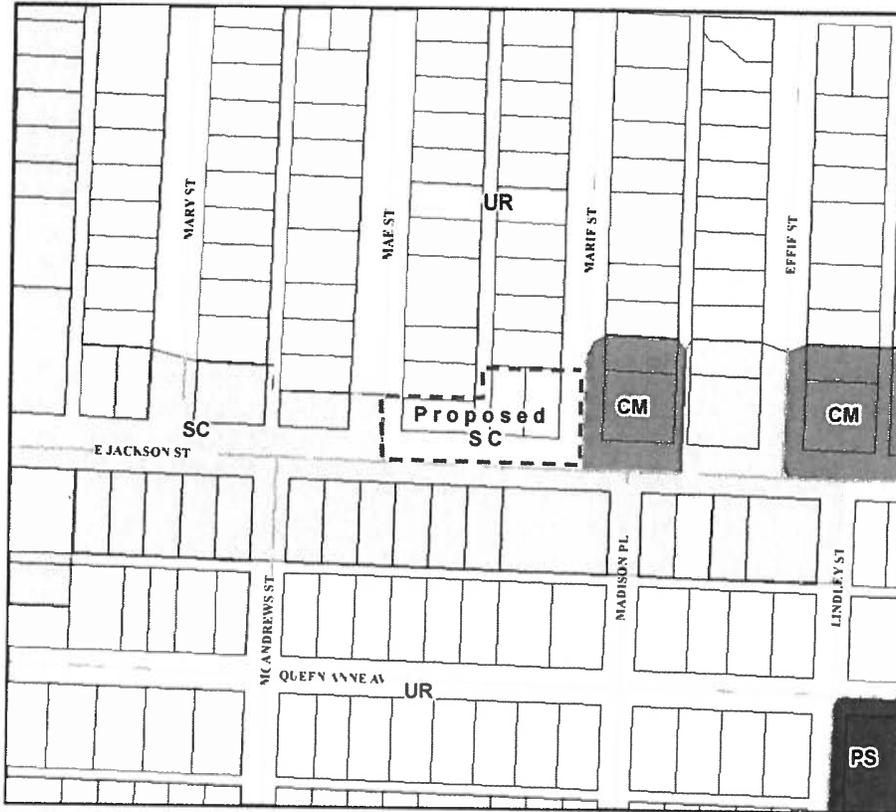


Exhibit D
Applicant's Findings

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Findings of Fact

Criterion 1

Since the designation of the subject property as SFR10 the city of Medford has adopted new components of the City of Medford Comprehensive Plan. The new plan elements contain updated goals and policies that are significant to this criterion and form a basis for this GLUP map amendment, specifically deficits of office development pattern lands in the Service Commercial designation. The proposed amendment will help alleviate that deficit.

Criterion 2

The change of designation from SFR10 to Service Commercial does not prevent the property from being used for multifamily housing, as residential units with a density that is equivalent to MFR30 zone are allowed on Commercial designated properties. Changing the zoning would increase the flexibility of the property and is consistent with this criterion.

Criterion 3

Sanitary sewer in the subject area has recently been upgraded, along with the paving of the alleys, and there are no identified deficiencies from development associated with this GLUP amendment.

Water is available in sufficient quantity and pressure to accommodate this change.

The storm drainage is adequate in this area and this change would have little or no effect.

Criterion 4

The evidence shows that the Economic Element reports shortages of land in the Service Commercial land category. Additionally, this criterion is the most compelling reason for this change. The three .11 acre lots are the only properties that front E. Jackson Street in this vicinity that are still zoned as residential. Both sides of E. Jackson Street in this area are zoned Service Commercial and this change would be consistent with the other properties and the orderly development of properties in the city. This amendment meets this criterion.

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Criterion 5

Environmental

Applicant is unaware and there is no knowledge of any environmental contamination on the property. The property is currently three residential properties. Any environmental consequences in connection with this change are the same and not unusual or significant.

Energy

There are no important energy consequences in connection to this property. However added Service Commercial in this close-in, arterial served property would reduce transportation to access similar properties further from the main population center.

Economic

There is a positive economic consequence in that this change helps reduce the shortfall of Service Commercial. It may be developed for more employment opportunities.

Criterion 6

This amendment is compatible with other elements of the comprehensive plan not intended to be amended. The proposed GLUP amendment will increase the efficient use of land within the city by converting land to needed Service Commercial. It also provides for the orderly development of the city with adjacent and already existing Service Commercial in this area. It therefore meets this criterion.

Criterion 7

The State of Oregon has found the city's comprehensive plan to be consistent with statewide planning goals. The minor nature of this change will not violate any of Oregon's applicable planning goals.

Exhibit E
Referral Agency Comments

GENERAL LAND USE PLAN MAP AMENDMENT APPLICATION

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TRAFFIC IMPACT ANALYSIS FORM

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A. Form to be filled out and signed by a representative from the Public Works Department - Traffic Section prior to submittal of this General Land Use Map Amendment application.

| | | | |
|----------------------------|---------------------------------|-----------------------|------------------|
| Map and Tax Lot(s) | <u>371W19DD8600, 8500, 8400</u> | | |
| Current GLUP Designation: | <u>UR (SFR-10)</u> | <u>0.33 x 10 x 10</u> | <u>33 trips</u> |
| Proposed GLUP Designation: | <u>SC (C-S/P)</u> | <u>0.33 x 500</u> | <u>165 trips</u> |
| | <u>c. 33 acres</u> | | <u>132 Trips</u> |

B. Based upon the information submitted with this application:

- A Traffic Impact Analysis is not required
- A Traffic Impact Analysis is required and has been submitted to the Public Works - Traffic Section.
- Insufficient information to determine if TIA is required.

Peter T Mackprang
Printed Name

Peter T Mackprang
Signature

Assoc Traffic Engineer
Title

CITY OF MEDFORD
EXHIBIT # E
File # CP-15-022

Exhibit F

Public Comments

Speaking against the GLUP amendment re properties at E. Jackson and Mae and Marie Streets, 4/23/15.

*Dave Swaney
320 Marie St.
Medford, OR 97504
541 690-1429*

I thank God for the opportunity to speak before the commission tonight.

I am here to speak against this GLUP change to the subject properties in the Laurelhurst subdivision.

There are two reasons why I am opposed to it. The first is that the proposal is not compatible with our historic neighborhood.

Yes, we currently have commercial development infringing on it. But don't add to our problem by approving this requested change.

The second reason I am against it is that it is a case of *mistaken discrimination* against Laurelhurst by the city.

It is mistaken because Laurelhurst has changed substantially for the better recently.

As a direct result of mistaken discrimination, last year we had to endure months of upheaval during the paving of our alleys.

Why did the city choose Laurelhurst for this totally unnecessary project?

Why didn't it choose to pave the alleyways further up the hill?

I believe it chose Laurelhurst due to a case of mistaken discrimination.

The alley project had one positive outcome; it made us aware of the need to protect our community from actions like this one that work against it.

I am one of a growing number of home-owners who love living in Laurelhurst. And we are putting our energies into improving our properties.

It's a charming area with

- a long history in Medford
- a multi-cultural environment
- children playing in the streets on warm evenings, and
- families spending weekends working together on their cottages

Young couples are buying their first homes here. Retirees like us are downsizing to the neighborhood's smaller homes.

You can see examples of some of these homes on Mae and Marie Streets – within two blocks of the property in question – in the handouts we provided.

Laurelhurst is already demonstrating that it can be a major success story for Medford. We hope that it will soon be considered another Queen Anne Avenue.

If this proposed GLUP amendment is changed, we plan to continue to fight it incompatibility and its mistaken discrimination against Laurelhurst.

We will be organizing a neighborhood association to work with the city and the media to increase awareness of threats like these to our hopes and dreams for historic Laurelhurst.

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City of Medford Planning Commission Public Hearing
General Land Use Plan Amendment CP-15-022
April 23, 2015

My name is Cynthia Swaney and I live on Marie St. As stated in the Community Involvement Element of the City of Medford Comprehensive Plan, I'm here tonight to provide input and do my best to influence the decision before you: General Land Use Amendment CP-15-022.

One of the purposes of the comprehensive plan, as you know, is to create a balance of residential and commercial space so that the citizens of this city have a place to live as well as a place to shop, see their doctor, or get a haircut.

The applicant points to the Economic Element adopted by the Commission in 2008 which states the projected 20 year land use needs. It is evident, however, that since the downturn in 2008 these goals and needs have changed or at least postponed. From my research it would seem that we have a dearth of commercial properties available, and a shortage of living space. Rental vacancy rates are 1.9%, and although a vacancy rate for commercial was not available, all you have to do is walk around this town to know there are LOTS of vacancies. According to the Rogue Valley Assn of Realtors/So Oregon MLS website I calculated 138,487 sq ft to buy or lease within a short walking distance of the said property, and a high percentage of these on E. Jackson and E. Main. That doesn't include the Medford Center with new owners who will be actively promoting the empty space there, nor the recently vacated Health and Human Services building on E Main St.

The applicant states that the change of this small acreage does not significantly affect the supply of either category. That may be, but I am here to tell you that it will significantly impact the neighborhood and those of us who live in it. We are not just numbers in some 20 year plan, but people who have invested time, money, and heart to make a great place to live, to raise our kids, and grandkids.

When you look at the GLUP map, our small, humble neighborhood is already surrounded on 3 sides by commercially zoned lots. We don't need more doctors, lawyers, accountants, real estate or physical therapy offices, massage parlors, beauty salons, traffic and concrete. We don't need less parking spaces, and trees. We need the freedom to improve our historical cottages and reap the benefits. I believe this proposed change would not be compatible with these goals for our neighborhood or the goals of the Medford comprehensive plan.

Thank you.

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Mae St. home 1



Mae St. home 2



Mae St. home 3



Mae St. home 4



Mae St. home 5



Mae St. home 6



Marie St. home 2



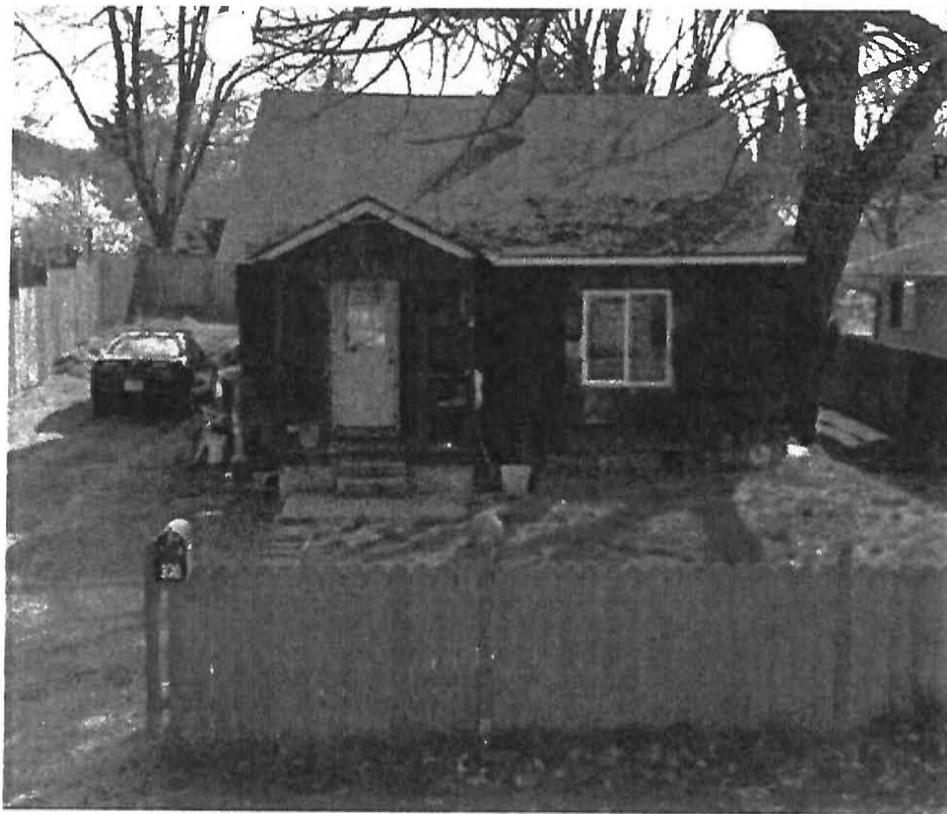
Marie St. home 1



Marie St. home 3

Marie and Mae Streets homes being fixed up

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Our house at 320 Marie St. before



Our house at 320 Marie St. after