



Memorandum

To: Mary Heberling, AICP, Associate Planner, City of Milwaukie
From: Li Alligood, AICP, Senior Planner
Walter Zisette, Providence Supportive Housing
Copies: Lynn Lindgren-Schreuder, Housing Development Center
Gauri Rajbaidya, SERA Architects
Date: May 25, 2021
Subject: Additional Applicant Testimony for File #VR2021-006
Project No.: 19836.100

The applicant, Providence Supportive Housing, submits this additional information in response to public comments submitted between May 11 and May 18, 2021.

Affordable housing development process affordable housing

Though it is typical for conventional development projects to package all required approvals together (any discretionary land use approvals and site plan review) the nature of affordable housing development is that the funds needed to complete the design and engineering work for the site plan review and building permit submittal are not available until grants and other funding have been received. Because these grants can't be used to fund work that has already been completed, the more detailed design work and analysis (architecture, engineering, landscape architecture, traffic impact analysis, etc.) is completed separately from the conceptual design phase.

Though a traffic impact study is not required to meet the Building Height Variance and other requested variances, it will be required at the time of site plan review. If the project is successful in its funding application to HUD, the site plan review application would be submitted in late 2021 or early 2022. At that time, any impacts the project will have on the surrounding street network will be evaluated and Providence Supportive Housing will mitigate those impacts as determined by the traffic engineer and City Engineer.

Project background

Providence Supportive Housing has been working with the Housing Development Center and SERA Architects on this project design for more than 10 months. A 4-story building of 57 ft. in height would be permitted outright by the City's zoning code per the building height bonus provisions of MMC Subsection 19.303.4.B.3, and would not require Planning Commission review.

The proposed building is subject to Planning Commission review because it exceeds 4 stories and 57 ft. in height (at 5 stories and 62 ft. in height). In short, the requested height is 5 ft. taller than permitted outright and allows for 18 additional dwelling units on the site. The requested setback variances require Planning Commission review for a building of any height, and the requested stepback variances apply above 3 stories and also require Planning Commission review.

The proposed building design has undergone significant revision since the pre-application conference with City staff in September 2020. As shown in Attachment A, the original concept occupied much of the site (including the R-3 portion of the site to the east) and included both 4-story and 5-story masses (note that the rear setback labels are incorrect). In response to discussions with City staff and the NDAs, the following design revisions were made:

- The building was shifted to the west and the eastern (R-3 zoned) portion of the site was dedicated to parking and landscaping to increase the buffer to the neighborhood to the east

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- The “east wing” of the building was pulled back from the property line by 20 ft. to provide additional space between the building and the existing buildings to the south.
- The commercial clinics and office uses were shifted to the “west wing” of the building

Overall, these changes between the pre-application concept and the land use submittal reduced the overall bulk and mass of the building, increased open space, and shift the building away from the eastern and southern property lines. In exchange, the building is taller and the ground floor of the “west wing” is located 11 ft. from the northern property line rather than 15 ft. As noted in previous materials, the upper levels of the building are set back 15 ft. from the northern property line.

Response to comments from Alle MacLeod, 10399 SE 34th Ave

Siting and Massing

- The house to the north of the site is located on 1.15 acres, which is larger than the site proposed for development; the location of the house in the center of the lot provides substantial buffering from the surrounding institutional uses.
- As shown in Attachment A of the applicant’s comments submitted on May 18, 2021, the existing home will be 115-173 ft. from the proposed building.
- As noted by Ms. MacLeod, there is a thick stand of trees along the property line separating the existing house from the proposed development. As shown in Attachment A of the applicant’s comments submitted on May 18, 2021, the height of existing trees is greater than the height of the proposed building.

Trees

An arborist report has been prepared and is provided as Attachment B. The professional opinion of the arborist notes that impacts to the trees along the north will be low. He identified three trees that may be impacted by the proposed development and provided recommendations to avoid impacts where possible and protect the health of the trees. The Equilibrium Engineers, the structural engineering consultant for the project, reviewed the arborists report and provided the following recommendation to accommodate roots: “ *If roots are discovered under proposed footings, the footing can be designed to bridge across the root through a combination of raising the footing and adding supplemental reinforcing to the footing. Depending on the depth of the root below grade, this could result in a need to raise the floor slab up locally to accommodate the raised footing.*”

Tree Protection Guidelines are included in the May 18, 2021, Additional Testimony, Attachment C.

Sewer easement

- Though Ms. MacLeod stated in verbal testimony that she had not spoken with Providence Supportive Housing about relocating of the existing sewer easement, she notes in her submitted written testimony she has been in conversations with Providence Supportive Housing about the existing sewer easement for the past 18 months. In addition, the existing easement is clearly shown on the Existing Conditions Plan submitted with the applicant’s land use application.

Response to comments from Matt Hauck and Melany Croker, 3425 SE King Rd

- The existing home is located more than 200 ft. northwest of the proposed building site and is separated from the proposed development site by a tall stand of trees and a planned landscaped open space.
- In addition, the proposed building will be located 120 ft. from SE 34th Ave. See Figure 1. It will not cast shade on the Hauck/Croker home.
- The proposed parking lot and access points have been approved by the Planning Commission (File #CU-2021-001).
- As noted in the applicant’s submittal materials and verbal testimony, a traffic impact study will be completed at the time of Site Plan Review. Any identified mitigations will be provided as part of the project. The

development will also rebuild the SE Llewellyn St frontage and SE 34th Ave frontage as part of the project, including a shared bicycle and vehicle travel lane.

Figure 1. Location of Hauck/Croker home relative to the proposed building



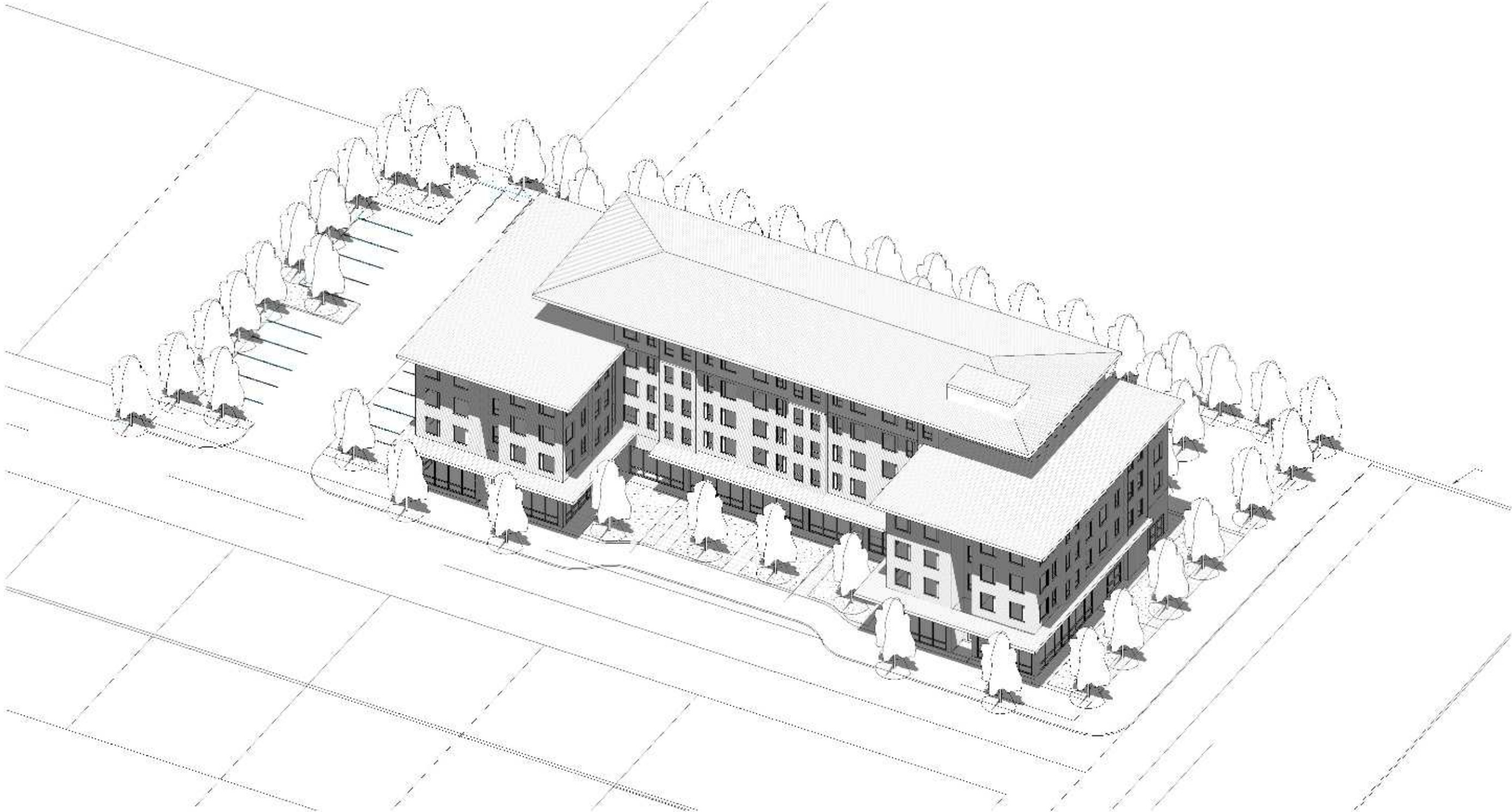
Source: ArcGIS Online

Response to comments from Caroline Krause, 10515 SE 34th Ave

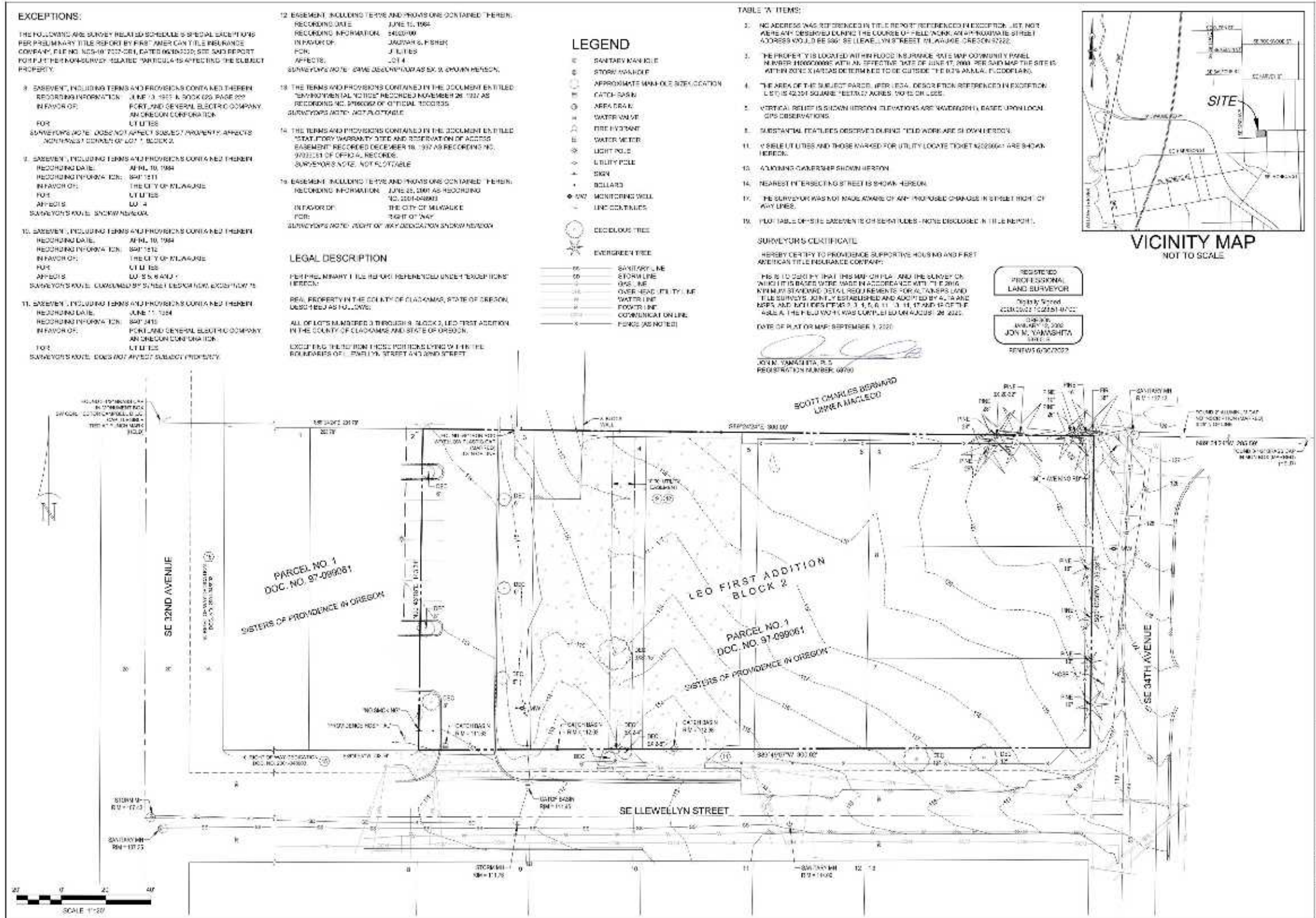
- An arborist report has been included as Attachment B.
- Impacts on adjacent property values (either positive or negative) are not approval criteria for the Building Height Variance or other variance requests. The opinion of an appraiser is not relevant to the application.
- The applicant has been in discussions with the property owner to the north for 18 months regarding site access and the existing sewer easement. The sewer line will need to be relocated to accommodate the proposed development. These items will be resolved between the two parties.
- A traffic impact study will be prepared at the time of site plan review, and the development will mitigate any impacts identified by the traffic engineer and the City engineer.
- The development will construct new sidewalks along SE 34th Ave and SE Llewellyn St, which will increase safety for pedestrians.

Attachments

- A. September 9, 2020 Pre-Application Conference Submittal to the City of Milwaukee
- B. Arborist Report completed by NW Tree Specialists on May 24, 2021



1 SOUTHEAST AXONOMETRIC VIEW



1 SITE SURVEY
1" = 50'-0"

EXCEPTIONS:
THE FOLLOWING ARE SURVEY RELATED SCHEDULE D SPECIAL EXCEPTIONS PER PRELIMINARY TITLE REPORT BY FIRST AMERICAN TITLE INSURANCE COMPANY FILE NO. 2020-0811 DATED NOVEMBER 20, 2020. THIS REPORT FORM IS THE INFORMATION RELATED PARTICULARS AFFECTING THE SUBJECT PROPERTY.

8. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN. RECORDING INFORMATION: JUNE 13, 1991 & 502X (2) PAGE 207. IN FAVOR OF: FORT AND GENERAL ELECTRIC COMPANY AN OREGON CORPORATION. FOR: UTILITIES. SURVEYOR'S NOTE: DOES NOT AFFECT SUBJECT PROPERTY AFFECTS ADJACENT CORNER OF LOT 1, BLOCK 2.

9. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN. RECORDING DATE: APRIL 10, 1994. RECORDING INFORMATION: 847-1511. IN FAVOR OF: THE CITY OF MILWAUKIE. FOR: UTILITIES. AFFECTS: LOT 4. SURVEYOR'S NOTE: SHOWS NEARBY.

10. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN. RECORDING DATE: APRIL 10, 1994. RECORDING INFORMATION: 847-1511. IN FAVOR OF: THE CITY OF MILWAUKIE. FOR: UTILITIES. AFFECTS: LOT 5, 8 AND 7. SURVEYOR'S NOTE: CONTAINED BY STREET DESIGNATION EXISTING IS.

11. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN. RECORDING DATE: JUNE 11, 1994. RECORDING INFORMATION: 847-1415. IN FAVOR OF: FORT AND GENERAL ELECTRIC COMPANY AN OREGON CORPORATION. FOR: UTILITIES. SURVEYOR'S NOTE: DOES NOT AFFECT SUBJECT PROPERTY.

12. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN. RECORDING INFORMATION: JUNE 13, 1991. RECORDING INFORMATION: 5402000. IN FAVOR OF: JACOBUS S. BERGER FOR: UTILITIES. AFFECTS: LOT 4. SURVEYOR'S NOTE: SAME AS EXEMPTION AS EX. 8. JOHAN HENSON.

13. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "ENVIRONMENTAL NOTICE" RECORDED NOVEMBER 28, 1997 AS RECORDING NO. 9706027 OF OFFICIAL RECORDS. SURVEYOR'S NOTE: NOT PLOTTABLE.

14. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "STATUTORY WARRANTY, ODE AND RESERVATION OF ACCESS EASEMENT" RECORDED DECEMBER 18, 1997 AS RECORDING NO. 9902251 OF OFFICIAL RECORDS. SURVEYOR'S NOTE: NOT PLOTTABLE.

15. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN. RECORDING INFORMATION: JUNE 23, 2001 AS RECORDING NO. 2001-058883. IN FAVOR OF: THE CITY OF MILWAUKIE. FOR: RIGHT OF WAY. SURVEYOR'S NOTE: RIGHT OF WAY DESIGNATION SHOWN NEARBY.

LEGAL DESCRIPTION
PER PRELIMINARY TITLE REPORT REFERENCED UNDER EXCEPTIONS 1 THROUGH 11 HEREON:
REAL PROPERTY IN THE COUNTY OF CLATSOP, STATE OF OREGON, DESCRIBED AS FOLLOWS:
ALL OF LOTS 1 AND 2 THROUGH 8, BLOCK 2, LEO FIRST ADDITION IN THE COUNTY OF CLATSOP AND STATE OF OREGON.
EXCEPTING THEREFROM THOSE PORTIONS LYING WITHIN THE BOUNDARIES OF: SE 34TH STREET AND 32ND STREET.

LEGEND

- SANITARY MANHOLE
- STORM MANHOLE
- APPROXIMATE MANHOLE LOCATION
- CATCH BASIN
- AREA DRAIN
- WATER MAIN
- FIRE HYDRANT
- WATER METER
- LIGHT POLE
- UTILITY POLE
- SIGN
- BOLLARD
- MONITORING WELL
- LINC COLUMNS
- DECIDUOUS TREE
- EVERGREEN TREE

--- SANITARY LINE
--- STORM LINE
--- GAS LINE
--- OVERHEAD UTILITY LINE
--- WATER LINE
--- POWER LINE
--- COMMUNICATION LINE
--- FENCE (AS NOTED)

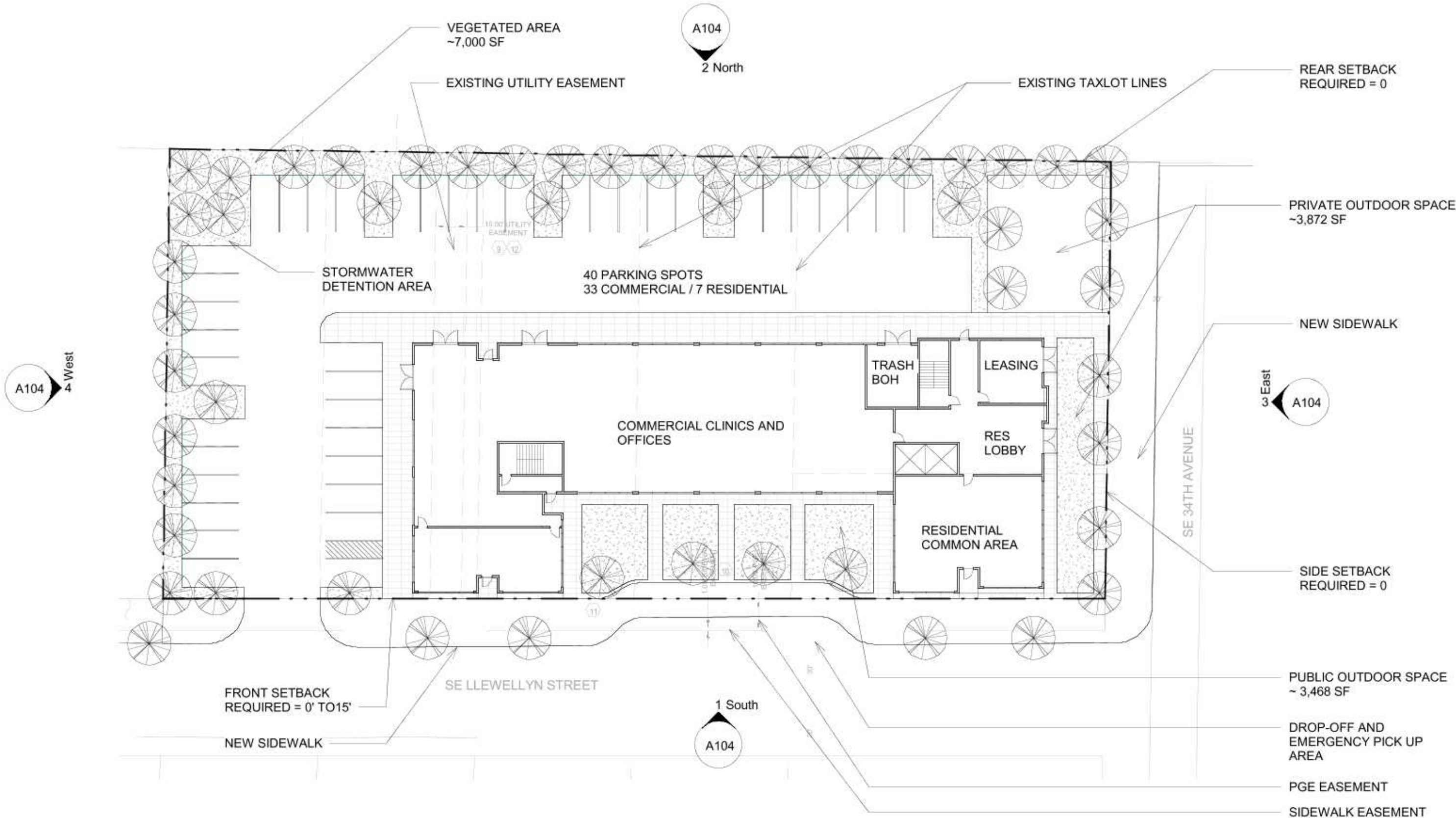
TABLE 'A' ITEMS:

- NO ADDRESS WAS REFERENCED IN TITLE REPORT REFERENCED IN EXCEPTION LIST, NOT NEARBY DESCRIBED DURING THE COURSE OF FIELD WORK, AND APPROXIMATE STREET ADDRESS WOULD BE 5401 SE LLEWELLYN STREET, MILWAUKIE, OREGON 97122.
- THE PROPERTY IS LOCATED WITHIN FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 1000000000 WITH AN EFFECTIVE DATE OF JUNE 17, 2000. PER SAID MAP THE SITE IS WITHIN ZONE X (H) AS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL FLOODPLAIN.
- THE AREA OF THE SUBJECT PARCEL, PER LEGAL DESCRIPTION REFERENCED IN EXCEPTION LIST IS 42,204 SQUARE FEET (1.0 ACRES) OR LESS.
- VERTICAL RELIEF IS SHOWN HEREON. ELEVATIONS ARE WADSWORTH, BASED UPON LOCAL GPS OBSERVATIONS.
- SUBSTANTIAL FEATURES DESCRIBED DURING FIELD WORK ARE SHOWN HEREON.
- VISIBLE UTILITIES AND THOSE MARKED FOR UTILITY LOCATE TICKET #2226601 ARE SHOWN HEREON.
- ADJOINING OWNERSHIP SHOWN HEREON.
- NEAREST INTERSECTING STREET IS SHOWN HEREON.
- THE SURVEYOR WAS NOT MADE AWARE OF ANY PROPOSED CHANGE IN STREET RIGHT OF WAY LINES.
- PLAT TABLE OF SITE EASEMENTS OR EASEMENTS - NONE DISCLOSED IN TITLE REPORT.

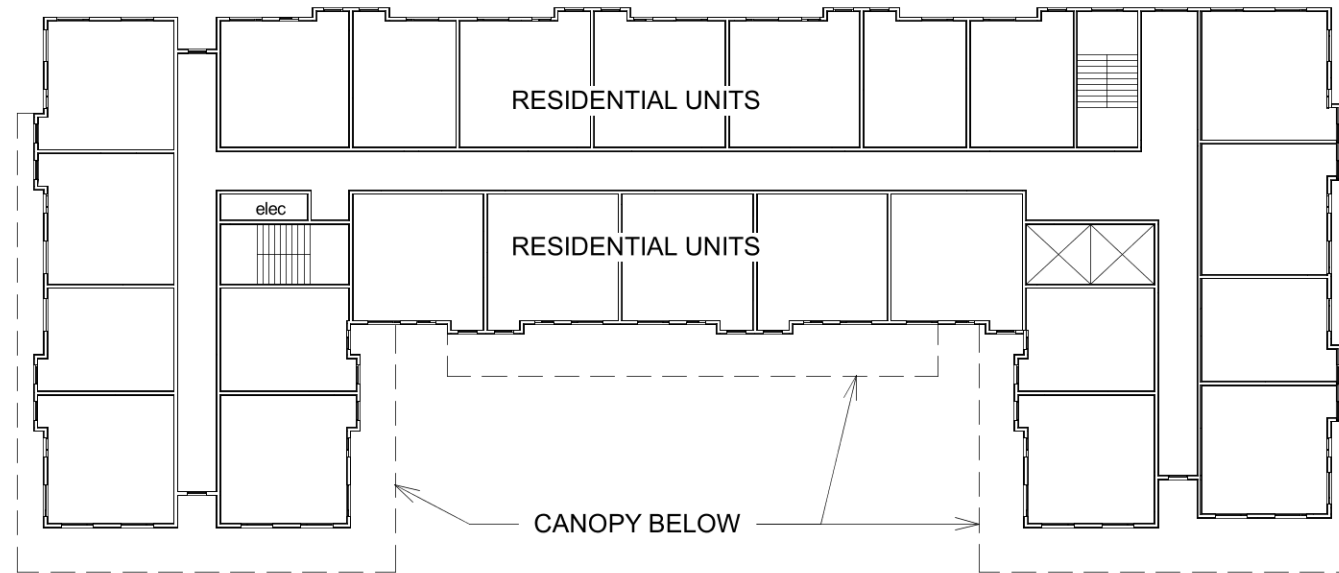
SURVEYOR'S CERTIFICATE
HEREBY CERTIFY TO PROVIDENCE SUPPORTIVE HOUSING AND FIRST AMERICAN TITLE INSURANCE COMPANY:
THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON AND THIS SURVEY WAS MADE IN ACCORDANCE WITH THE 2016 NATIONAL STANDARD SET OF REGULATIONS FOR ALTIMETERS AND THE SURVEYOR'S JOURNAL ESTABLISHED AND ADOPTED BY ASLS AND NSPS AND NOTED THEREAS 3, 4, 5, 6, 11, 3, 11, STANDARDS OF THE ASLS. THE FIELD WORK WAS COMPLETED ON AUGUST 26, 2020.
DATE OF PLAT OR MAP: SEPTEMBER 3, 2020.
JOHN YAMASHITA, P.L.S.
REGISTRATION NUMBER: 6950



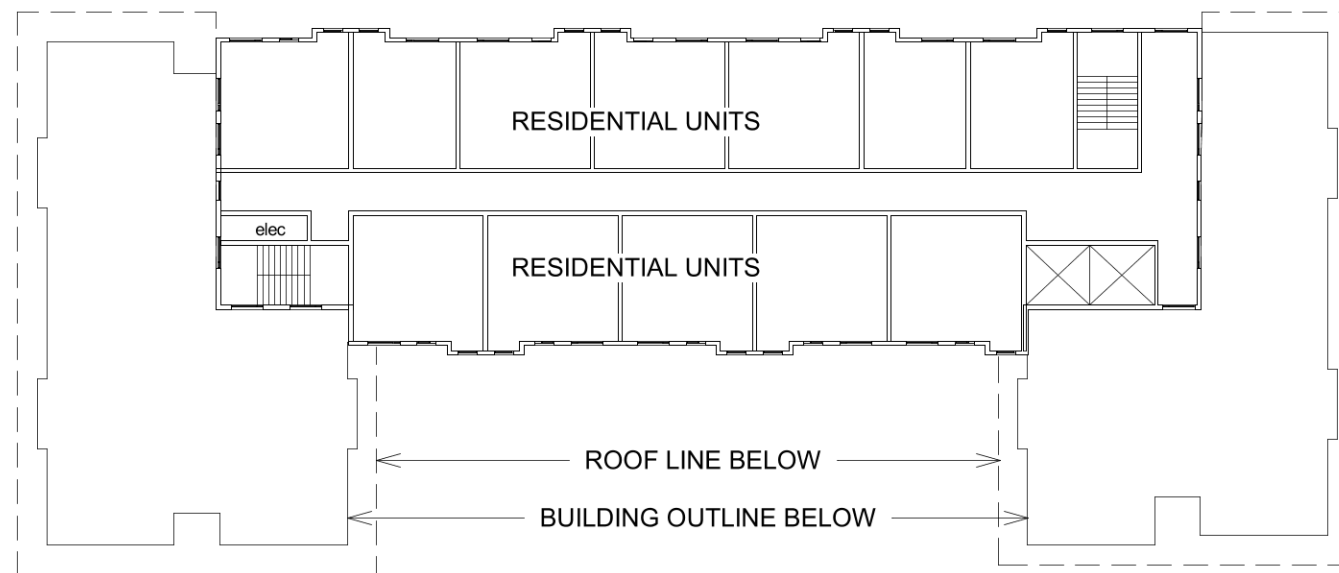
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| QC | ALC-07-2019 |
| Checked | ECF |
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| 19836 | |
| Project No. | |
| S19836A140 | |
| Drawing No. | |
| 1 OF 1 | |
| Sheet No. | |
| ALTANSPS LAND TITLE SURVEY SE 1/4 SECTION 25, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN CITY OF MILWAUKIE, MULTNOMAH COUNTY, OREGON SEPTEMBER 3, 2020 | |



1 Level 1
1" = 30'-0"



① Levels 2-4 Typical
1" = 30'-0"



② Level 5
1" = 30'-0"



③ East
1" = 30'-0"



① South
1" = 30'-0"

- Level 6
55' - 0"
- Level 5
45' - 0"
- Level 4
35' - 0"
- Level 3
25' - 0"
- Level 2
15' - 0"
- Level 1
0' - 0"



④ West
1" = 30'-0"



② North
1" = 30'-0"

- Level 6
55' - 0"
- Level 5
45' - 0"
- Level 4
35' - 0"
- Level 3
25' - 0"
- Level 2
15' - 0"
- Level 1
0' - 0"

Monday, May 24, 2021



Peter van Oss
Arboricultural Consultant
ISA Cert# PN-8145A TRAQ

503-512-3826 | peter@nwtreespecialists.com



NORTHWEST
TREE SPECIALISTS
TREE SPECIALISTS
NORTHWEST

PROVIDENCE MILWAUKIE HOUSE

Tree Report

Submitted by

Peter van Oss PN-8145A TRAQ

Date 05/24/2021

Monday, May 24, 2021



Peter van Oss
Arboricultural Consultant
ISA Cert# PN-8145A TRAQ

503-512-3826 | peter@nwtreespecialists.com



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NORTHWEST

City of Milwaukie, Oregon – Providence Milwaukie House Arboricultural Assessment

Report Summary.

This report includes the status and assessment of the trees that are located at the North and West side of the property regarding the construction impacts.

General Information.

Project Location and Identification

The property address is:

- SE 34th Ave and SE Llewellyn Street

Assignment:

- Provide findings regarding the overall condition of the trees located on the property and the impacts of the proposed construction project. On 5/21/2021 I conducted a site visit at approximately 11:30. The trees in question were evaluated for their overall condition, health, and the impacts of the proposed project.

Limits of the Assignment

The site was not staked out/ surveyed yet and my observations were made by visually comparing the site plans and the conditions on site. This report is not a tree protection plan.

Discussion/ History

Northwest tree specialists were contacted to provide an independent report regarding the status of the trees and the impacts of the proposed project. The proposed building has an L-shaped design with the smaller portion of the building near a mature stand of trees. The neighbors of the property have raised some concerns regarding the health of trees post construction.

Findings

I visited the site on Friday 5/21/2021.

The critical root zone is typically calculated by multiplying the diameter of the tree times 0.6. For instance, a 12" DBH tree has a critical root-zone of 6-feet.

The plans provided indicate that the limits of the foundation footings are planned at 11-feet from the existing fence. Survey points should be used to verify the actual property lines. Starting from the northwest corner there is a 48" DBH Douglas Fir and a 32" DBH Sweet Cherry to the east of it. The Fir tree is situated 15-feet north from the fence, adding the 11-foot set-back, the tree is approximately 26-feet from the foundation of the proposed building. Taking the over-dig for the foundation in consideration the limits of the disturbance area are at the edge of the critical root zone of the tree.

Monday, May 24, 2021



Peter van Oss
Arboricultural Consultant
ISA Cert# PN-8145A TRAQ

503-512-3826 | peter@nwtreespecialists.com



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The Sweet Cherry located at the edge of the proposed building footing has a wide canopy that overhangs the empty lot. Comparing the plans with the existing conditions, only a small corner of the tree would be affected. ANSI-A300 dictates that no more than 25% of the roots and canopy should be pruned at once. The plans seem to indicate that the impact to the tree can be mitigated by selective pruning of branches and limiting impacts to the roots. Care must be taken to avoid cutting anchor roots, the tree is open to windthrow from the south and southwest, our prevailing wind site. Alternative construction methods may be needed to accomplish the construction goals if large roots are found. Bridging or gapping the foundation over or around the roots for instance.

The hardscapes to the east of the proposed building should be installed carefully and grading of the site should be limited. Leaving the site close to native grade will greatly improve retention efforts. Eliminating the sidewalk on the north side of the building or use of alternative materials may be needed if large roots are found. The north side of the plaza including landscaping may need to be adjusted if the impacts encroach too closely on the large Beech tree located in the center of the property. Beech trees have sensitive root systems that generally are fairly shallow.

Utilities should be installed using boring techniques within the critical root zone of the trees to avoid trenching through the root zone. Use of inground irrigation systems is not recommended. Drip irrigation in the root zones is a viable alternative.

Conclusion:

Provided with the information I received and the findings of my observations, it is in my professional opinion that, the impacts to the trees are expected to be low. It comes highly recommended to have a project arborist assigned to the project to supervise excavation and impacts within 1-foot per diameter inch of the trees.

If large roots are encountered, alternative construction methods may be required to mitigate impacts to the trees. Some examples of alternative methods are:

- Bridging or gapping the foundation around the tree roots.
- Use of permeable surfaces and engineered structural soils to accommodate root growth.
- Adjusting the landscaping away from the neighboring trees.
- Setting up a Plant Health Care program to boost the trees with carbohydrates prior to the start of the project.

Monday, May 24, 2021



Peter van Oss
Arboricultural Consultant
ISA Cert# PN-8145A TRAQ

503-512-3826 | peter@nwtreespecialists.com



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Appendix C - Assumptions and Limitations

1. A field examination of the site was made. My observations and conclusions are as of that date.
2. Care has been taken to obtain all information from a reliable source, however the Arborist can neither guarantee nor be responsible for accuracy of information provided by others.
3. Unless stated otherwise, information contained in this report covers only those trees that were examined and reflects the condition of those trees at the time of inspection. The inspection is limited to visual examination of the subject trees without dissection, excavation, probing, or coring. There is no warranty or guarantee that problems or deficiencies of the subject tree may not arise in the future.
4. All trees possess the risk of failure. Trees can fail at any time, with or without obvious defects or applied stress. Trees are living biological organisms, and I cannot predict nor guarantee their stability or failure.
5. Sketches or drawings in this report are intended as visual aids and are not necessarily to scale and should not be used as engineering or architectural reports or surveys.
6. This report and any values/opinions expressed herein represents my opinion as an arborist. Inaction on the part of those receiving the report is not the responsibility of the Arborist.
7. Loss or alteration of this report invalidates the entire report.
8. Any legal description provided to the consultant/ appraiser is assumed to be correct. Any titles and ownerships to any property are assumed to be good and marketable. No responsibility is assumed for matters legal in character. Any and all property is appraised or evaluated as though free and clear, under responsible ownership and competent management.
9. The consultant/ appraiser shall not be required to give testimony or attend court by reason of this report unless subsequent contractual arrangements are made, including payment for such services.
10. Possession of this report does not imply right of publication or use for any other purpose by any other than the person to whom it is addressed, without the prior expressed written consent of the consultant/ appraiser.

Monday, May 24, 2021



Peter van Oss
Arboricultural Consultant
ISA Cert# PN-8145A TRAQ

503-512-3826 | peter@nwtreespecialists.com



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Appendix D - Certification of Performance

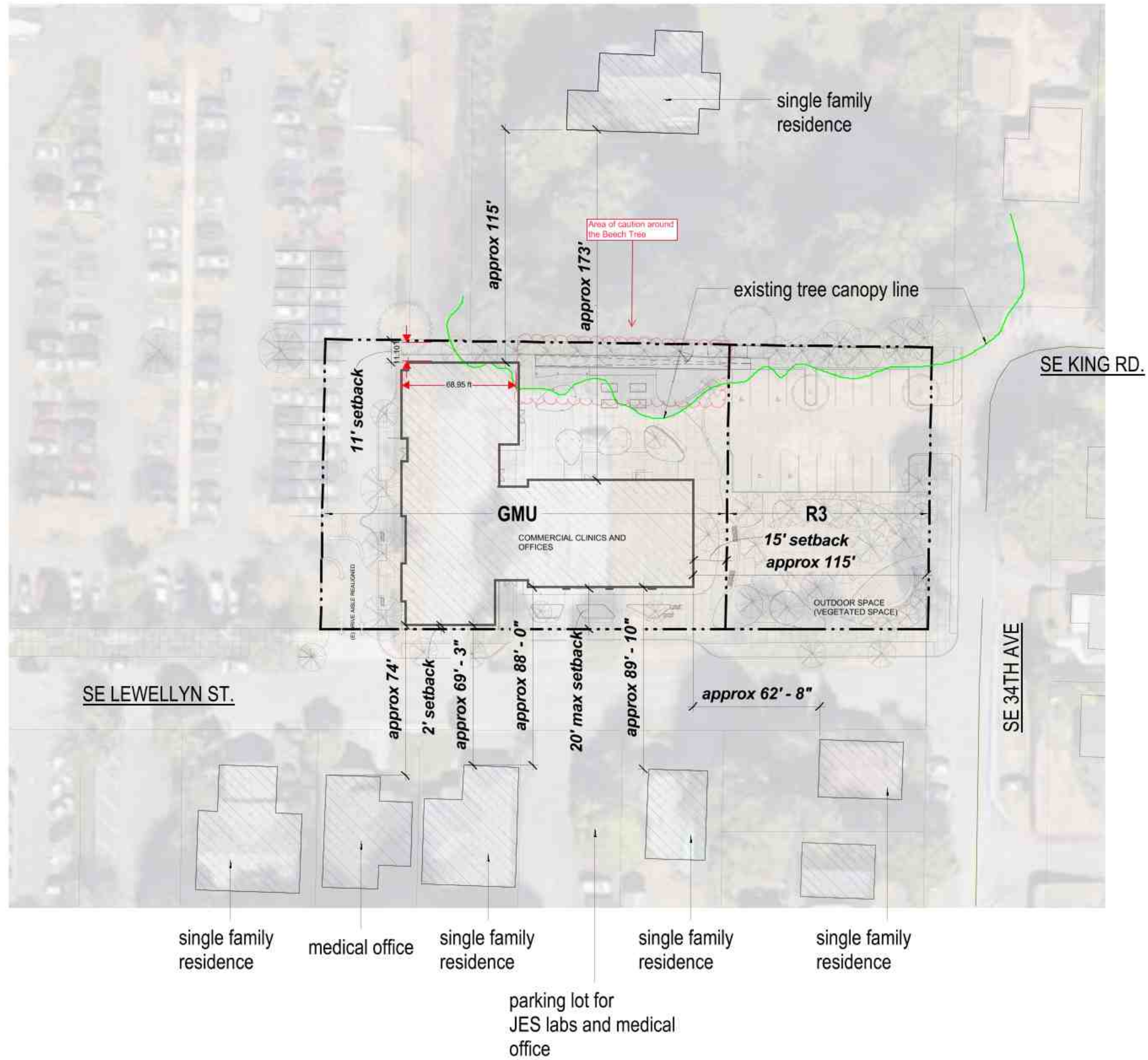
I, Peter van Oss, certify that:

- I have personally inspected the trees and the property referred to in this report and have stated my findings accurately. The extent of the evaluation or appraisal is stated in the attached report and the Terms of the Assignment.
- I have no current or prospective interest in the vegetation or the property that is subject of this report and have no personal interest or bias with respect to the parties involved.
- The analysis, opinions and conclusions stated herein are my own and are based on current scientific procedures and facts.
- My analysis, opinions and conclusions were developed, and this report has been prepared according to commonly accepted arboricultural practices.
- No one provided significant professional assistance to me, except as indicated in the report.
- My compensation is not contingent upon reporting of a predetermined conclusion that favors the cause of the client or any other party nor upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.

I further certify that I am a member of, and certified by the ISA. I have been involved in the arboricultural field in a full- time capacity for a period of 15 years.

Sincerely,

Peter van Oss
NW Tree Specialists
Certified Arborist PN-8145A
ISA Qualified Tree Risk Assessor
503-512-3826 (Direct/ Cell)
peter@nwtreespecialists.com
 AMERICAN SOCIETY of
CONSULTING ARBORISTS





Limit of anticipated
impact





Only very limited pruning on the beech.





No Cuts Over 4" DBH
should be Made

For the record, here are a few specific rebuttals to additional comments submitted by Otak on behalf of the applicant.

Otak/Applicant writes:

It is true that, if approved, this would be the tallest building in the Central Milwaukie area (with the exception of Hillside Manor to the northwest, which is 9 stories tall). The nearest commercial building is the Providence Milwaukie Healing Place, which is 3 stories tall. However, the surrounding neighborhood is changing quickly. The Hillside Park Planned Unit Development preliminarily approved by the Planning Commission on March 23, 2021 (File #PD-2020-002) includes 4-story buildings along SE 32nd Ave, which will provide additional context for the requested height. The Murphy Plywood site to the southwest of the Providence Healing Place was identified as an

Response:

32nd Avenue is the END of commercial development in this small neighborhood. To the East are smaller residential homes, and infringing on this environment is unjustified. The additional Murphy Plywood site is to the West not to the East. **Variations should not be granted that hasten the demise of a quiet residential area under the pretext of possibly and slowly changing neighborhood.** Development proposed or planned on 32nd Avenue and to the West where there is already some limited commercial activity is absolutely not the same as changes between Monroe and King and 33rd Avenue to 40th Avenue. **Please** preserve this small residential space and the residents that live within it.

Otak/Applicant writes:

Street trees will be planted along SE 34th Ave and SE Llewellyn St as part of the frontage improvements triggered by the development. These trees will soften the apparent height of the building.

Response:

Small trees around the perimeter will make it nice for those walking at ground level around the proposed structure. They will not reverse the invasion of privacy on neighbors to the South and East. They will absolutely have zero impact in the prevention or injury and/or destruction of trees on the North property line that borders the only directly adjacent property and historic site.

Otak/Applicant writes:

Additional Responses: None of the opponents disagree that the proposed development will provide desired public benefits, and the Rinkers specifically note that the project is a public benefit itself. The City's zoning code identifies residential uses in the GMU zone and green building certification as the requirements for additional height in the GMU zone, which indicates the importance of these policies to the City.

Response:

Having neighbors supportive of public benefits such as affordable retirement housing and health care is not the same as agreeing that the project is well located or suitable to the neighborhood as it exists today. **Suggesting that it is offensive.** Coming in and radically changing the character of this small mainly residential area, reducing the privacy and property values while destroying the quiet of these homes should not be sacrificed for this proposal. The proposal should fit within the existing neighborhood, not destroy it. What if you lived across the street? Or behind the building in a house where all the trees would likely be destroyed and you'd be staring at this huge building?

Otak/Applicant writes:

- Once developed, the site will include many trees, shaded areas, opportunities for walking, and other healthy activities.
- The site is already zoned for and intended for the mixed-use activities as proposed by the applicant – activities that will promote independence, health, housing stability and well-being for many of Milwaukee's most vulnerable senior citizens.

Response:

These trees, etc. will be appealing to those living there (not current residents) and to those passing by. For those already living there, they will see the loss of sunlight, higher traffic, noise, complete loss of privacy, **loss of property values**, and loss of the wooded look of the historic property to the North as those trees are destroyed.

In summary, all of the quality of construction cannot be a substitute for the unjustified ruination of a quiet residential neighborhood, it is not a commercial area. Developments on 32nd and to the West are not the same as development on this lot. It should be required to fit into the existing neighborhood ambiance and activity, not destroy it.

Otak/Applicant writes:

The applicant has an additional 7 days to respond to comments submitted between May 18 and May 25. However, in order to hold a second hearing on the application prior to the May 26, 2021 deadline for the HUD 2021 funding application, the applicant waives the final 7-day response period and agrees to end the public comment period at 5:00pm on May 25.

Response:

It feels as though the special circumstances are overshadowing the larger issues in place. The Commissioners and CoM should not allow the fact that the HUD funding application is due tomorrow (5/26) overshadow the complete lack of time that the public has to have a continuance and conversation surrounding this matter. The variances being requested are irresponsible for the CoM to allow as it will greatly impact and devastate the immediate neighborhood and directly adjacent residential neighbors in the R-3 zones.

Otak/Applicant writes:

The submitted comments and testimony generally addressed scale (height and setbacks), green space, traffic, and parking. Each of these items is addressed in more detail below. The applicable criteria for the current variance requests address impacts to adjacent properties; creative design and unique relationship to other structures; public benefits and amenities and meeting sustainability goals; and transition to adjacent neighborhoods.

Response:

In almost every instance where the scale, setbacks and setbacks were addressed in both the oral and written summary from the City and Applicant, at no point were they ever addressing the complete lack of mitigation surrounding the property to the North that is on the Historical Registry. Their suggested mitigation solely rests on the stand of 120+ year old trees that are (1) on the Northern property (thus requiring approval to remove), (2) old enough that they die-off or come down on their own at any point, (3) would have overwhelming increased death percentage if the shearing/trimming or overdid is done too closely — thus completely eliminating the mitigation plan in the first place. The Applicant never addressed in their response what they plan to do IF the trees are damaged during construction and cause harm/death. Noise, sunlight, privacy/visibility and significant loss of property for the Historical Property to the North.

Otak/Applicant writes:

Responses to Public Comments & Testimony Related to Approval Criteria

Scale/Height

The GMU zone height limit is 45 ft. A 12-ft. height increase (for a total height of 57 ft.) is permitted by right (without Planning Commission review and approval) if the project devotes at least one story or 25 percent of the gross floor area to residential uses or if the project receives a green building certification. An additional height bonus of 12 ft. (for a total height of 69 ft.) is permitted through the Type III Building Height Variance process. This provision acknowledges that there is a benefit to both residential uses and green certified buildings in the General Mixed Use zone, and provides a clear path to request the full allowable height bonus through a discretionary

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808 SW Third Avenue, Suite 800, Portland, OR 97204 • Phone (503) 287-6825 Fax (503) 415-2304 otak.com

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review process. The proposed building height is 62 ft., or 5 ft. higher than the height permitted by right (i.e. through Type I Site Plan Review).

Response: Yes, the ability to develop a building that meets the requirements of scale is one thing. But the Applicant is requesting to not only place a (completely out of scale to the surrounding R-3 residential neighborhood) but to do so without setbacks on ALL elevations of the structure. Furthermore, they are requesting to not only NOT have any setbacks on the Rear of the building but to also request to lessen the setbacks from the Northern property line. More importantly,

At no point in time did the City of Milwaukie (CoM) planners or the applicant (PMH) indicate to us that an application was in motion for the Planning Commission to: (a) decrease the required setback from the North elevation and property line, and (b) increase the building height from 3 floor to 5 floors without adhering to the required 15' step back above 45'.

Setback restrictions and maximum building heights without step backs were established in the municipality to minimize negative impacts to adjacent properties when new development is being planned. This is especially true when a commercial project in a GMU aligns with an adjoined residential neighborhood and R3 zoned area such as ours. The applicant is requesting to modify not one of these key requirements but both.

Otak/Applicant writes:

Stepbacks

Opponents expressed concern that the reduced upper level stepbacks would have negative impacts on properties to the south. The setback requirements of the base zone are intended to reduce the apparent height of buildings that exceed the base height of 45 ft., so that taller buildings would still appear as 3-4 story buildings. The proposed building steps back above the 4th floor along the eastern side of the building so that the upper level is visually less obtrusive.

Street trees will be planted along SE 34th Ave and SE Llewellyn St as part of the frontage improvements triggered by the development. These trees will soften the apparent height of the building.

As shown in Attachment A Diagram 2, the appearance of the building from the street would change only slightly if the 4th and 5th floors were stepped back the full 15 ft. required by code.

Response:

Yes, there are HUGE concerns on the stepbacks. At no point has the Applicant addressed the concern of the property to the North in regards to the fact that the Rear building elevation has inadequate stepbacks and in fact, none at all — only the properties to the South are mentioned. The total height of the proposed building 62' will look like a sheer wall from the Northern property if/when the 120+ year old trees are damaged or come down due to construction or natural circumstances. For the residents of 10399 SE 34th Ave (Historical Property), they will see the loss of sunlight, higher traffic, noise, complete loss of privacy and **loss of property values** when this Historic Property to the North is directly subjected to the affects of this proposal and variance request surrounding lessened stepbacks of the Rear building elevation and setbacks of the property line.

Otak/Applicant writes:

Setbacks

During testimony, questions were posed regarding the location of the proposed building setbacks – why aren't the requested reductions to the setbacks requested to the rear/north of the building rather than the front/south of the building? There are a number of drivers for this decision.

To serve the community in the most optimal way and meet the demand, Providence requires the ElderPlace PACE Clinic to be no less than 7,500 sf of ground floor area. Furthermore, for the "aging in place" model for the senior residents, the HUD funding stipulates the provision more spacious ground floor entry lobby and upper floor units to address the varying mobility needs as residents age than is typical in other affordable housing projects. By keeping the building compliant along the eastern wing, the development team realized that they only way to meet the ground floor clinic area requirements would be to ask for variance in the setback for the western wing of the building. The site does not afford enough area to the north of the western wing to meet this area requirement. The design of the building limits the setback variance to 44'-0" of the building frontage (only about 1/3 of the total frontage) along SE Lewellyn Street.

The proposed building setbacks provide ample area along Lewellyn St to allow for people to gather during drop-off and pick-up for the ground floor clinic function while maintaining a pedestrian oriented urban edge. The

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proposed setbacks on the north side of the site provide ample room for new landscaping, planting and a modest maintenance access walkway between the building and the north property line in addition to providing a buffer to the existing trees adjacent to the property line and on the neighboring lot.

Response:

"To serve the community in the most optimal way" is to not construct a building that destroys the current style, quiet, privacy and property values of the existing residents and property owners by forcing an incongruent structure into this small neighborhood. Use of that phrase is offensive. If additional benefits can be provided to some new retired low income residents that is great. But to expect the existing property owners/residents to sacrifice so much for that to happen is unreasonable.

Again, setback restrictions and maximum building heights without step backs were established in the municipality to minimize negative impacts to adjacent properties when new development is being planned. This is especially true when a commercial project in a GMU aligns with an adjoined residential neighborhood and R3 zoned area such as ours. The applicant is requesting to modify not one of these key requirements but both. The location of the building on the property to the North is completely irrelevant to the restrictions and codes set in place.

Applicant writes:

Surrounding Uses

This area is in transition, as recent development applications indicate. The homes to the south of the site in the R-3 zone were built in the 1990s or earlier and are modest in size (from 800 sq. ft. to 1744 sq. ft.). The home to the north is approximately 5,400 sq. ft. The home was most recently sold in 2019. The current owner of the property to the north, Alle Bernards, indicated that no commercial uses were being or had been considered for the site.

While this may be the case, it remains true that this property has the option for additional uses per MMC 19.403.8 due to its status as a Significant Historic Landmark. These uses must be approved by the Planning Commission as Conditional Uses and include art and music studios, galleries, offices/clinics, crafts shops, bed and breakfast, gift shops, museum, catering services, bookstores, boutiques, restaurants, antique shops, community centers, or other uses as approved by the Planning Commission.

Response:

It is irrelevant and inappropriate to base the decision for approval on possible uses of surrounding property. Again, development should improve not tear down the fabric of a community. Is Otak/Applicant implying that after ruining the stand of trees on the north border and building the 5 story out of place structure that the house will not longer be desirable and it will inevitably have to be redeveloped for commercial use? Wouldn't that be a pathetic shame.

Applicant writes:

Most of the trees along the northern property line are located on the property at 10399 SE 35th Ave. A tree protection plan has been prepared by Walsh Construction Co. and is included as Attachment B. Any tree removal would require approval from the property owner. As such, impacts to these trees will be avoided.

Response: They had a commercial contractor (Walsh Construction) outline the basics of tree removal information. This person never states that they are a certified arborist or that the health and well-being of the trees would be impacted in no way. All they suggest is that they will avoid intentionally damaging the trees because they know that we would have to give approval to remove them. Again, no where do they state if sheering/trimming or an overdid of the foundation would kill them anyway — what's plan B if that happens? Their ENTIRE mitigation plan for the Northern property line is out the window and the property value of 10399 is hugely diminished.

Otak/Applicant writes:

4. *The proposed project ensures adequate transitions to adjacent neighborhoods.*

Additional Response: The design team conducted significant site analysis and the proposed design is intended to respond to the very specific context of the site. As noted in the submitted application materials and in the staff report, the sites to the south are zoned R-3. As shown in Sheet C12D, the proposed building will not cast shadow on existing buildings to the south. Any shadows to the north will be mitigated by the existing mature trees and the distance between the buildings.

Though the existing structures to the south of the site are single-story dwellings and offices, the maximum height of the R-3 zone is 2.5 stories or 35 ft., whichever is less. Office uses are permitted in the R-3 zone as conditional uses. As shown in Diagram 1, the uses directly south of the "west wing" of the building include a medical office and a single-family residential dwelling, each of which is separated from the building by 69 ft. or more.

Testimony submitted suggested that the proposed scale of the building, at 5 stories or 62 feet, is unresponsive to the existing development surrounding the site and state that the existing residences to the south of the site will be negatively impacted by the proposed development. Specific impacts noted include shade and visual impacts.

As shown in the applicant's submittal materials (Sheet C12D), the proposed building will not cast shade over the existing buildings to the south of the site. As shown in the new Diagram 2, the visual impacts to the residential properties to the east will be mitigated by the open space to the east of the building.

The setback reductions are requested because the site is adjacent to the R-3 zone to the north, east, and south. Transition area measures are applicable to the north, east, and south property lines and require 15 ft. setbacks, a significant increase from the GMU zone 0 ft. setback requirement. This creates a unique situation for this site.


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As noted in the submitted application materials, the portion of the building directly across from the surface parking lot and medical office is closer to the sidewalk to reflect the non-residential character of the ground floor of the building. The portion of the building across from the single-family residential uses to the south is set back by 20 ft. from the southern property line to reflect the single-family residential uses to the south.

Response: At no point is the property to the North addressed in regards to the solar diagram OTHER than the single mitigation plan they continue to implement "any shadows to the North will be mitigated by the existing mature trees and the distance between the buildings." THAT CANNOT BE THEIR ONLY PLAN.

From: **ALLE MACLEOD** hello@studio-macleod.com 
Subject:
Date: May 25, 2021 at 4:53 PM
To:



Date of Written Submission: 05/25/2021

Time of Written Submission: 4:40p PST

Summary: Submission of written evidence, arguments and testimony (*Rebuttal to 5/18 Applicant Notes*) from Bernards/MacLeod Family regarding VR-2021-006

Property Owner Address: 10399 SE 34th Avenue Milwaukie, OR 97222 (Northern property line of proposed development, tax lots #5500 and #5501)

Position with respect to variance request: OPPOSED

To: Mary Heberling, AICP
Assistant Planner
6101 SE Johnson Creek Blvd. Milwaukie, OR 97206

City of Milwaukie + Planning Commission -

Rebuttal (opposition) to additional comments by Otak/Applicant and others in support of the requested variance approvals (#VR-2021-006) submitted between 5/18/21-5/25/21.

The Applicant, Planning Commission staff and other representatives of the Applicant continue to make arguments which skirt the essence of local residents concerns. Rather than try to rebut each individual comment or "distraction" made by the Applicant or Otak, let us just stand back and summarize.

The proposed development, with 5 story building without step backs and reduced property line setbacks seek to substitute their goals for *future* residents into the **existing quiet residential area**. *Why should the goals for those potential future residents be more important than the people that are already living here?* When "developments" are made, they should improve and enhance the value and livability of the area, not erode them. We residents have paid for our homes, property taxes and local services and it feels as if these are being disregarded in the interest of some's idea of progress.

The initially considered 3 story building would likely fit in reasonably well and not incur the anger and frustration of the residential neighbors. however, suggesting that areas close by are commercial or possibly will be developed sooner do not reflect this neighborhood now. *Why should the City allow the Applicant to drop in a 5 story structure to over-shadow our homes and streets, invade our privacy from above, destroy our trees, and substantially reduce our property values? Why should they not be required to develop a more limited building that fits into the **existing neighborhood?***

Otak/Applicant state that none of the opponents disagree that the proposed development will provide desired public benefits. That statement does not reflect what the local community members have stated. **Having neighbors supportive of public benefits such as affordable retirement housing and health care is not the same as the community agreeing that the project is well located or suitable to the neighborhood as it exists today.** Suggesting that it is is offensive. Coming in and radically changing the character of this small area, reducing the privacy and property values while destroying the quiet of these homes puts all of the negative impact and expense on the existing property owners. How can this possibly be seen as equitable or reasonable to the existing property owners and residents?

It might be meaningful for each of the Commissioners to take one minute to reflect. Imagine a 5 story building with these setbacks placed adjacent to or directly across the street from YOUR house after cutting down or substantially cutting back and damaging a large line of trees?

The decision to approve or deny this variance request should not be made by looking at the minutia and details of what the rules may or may not allow. The decision should be made by fairly considering the rights and property value of the existing residents and imagining how dropping in this large structure would really change this quiet, private area. Fit into the neighborhood with something more suitable in size and purpose; don't force the neighborhood into becoming commercial before its time.

Best,

Alle Bernards, PMP, CPM, LEED AP, ASID, IIDA, NCIDQ

STUDIO MACLEOD

***** studio-macleod.com

studio-macleod.com

hello@studio-macleod.com

503.312.6012



VR-2021-006

A 120 day continuance must be granted in fairness to the residential owners on 3 of the 4 sides of this project. One week was utterly inadequate and unfair in the extreme given the vastly different nature of this project presented to us at the 11th hour. We had asked in our comment period during the last planning meeting for 120 days. 7 days was all we were allowed without allowing us to comment or provide response to that. The timeline for the Hospital to apply for Federal HUD finding seemed the primary concern of the Commissioners in granting such a short turnaround. That seems very inappropriate and one sided.

We need time for a certified Arborist to review impact to the trees along the entire North Property Line. No one among the project designers, the hospital nor their general contractors who replied most recently, are Arborists. They aren't. By their own admission. The death of trees which are well in excess of 100 years old will almost certainly be likely and catastrophic. That torpedos the presented mitigation that the

trees mitigate the impact of the project because they provide privacy to the property owner to the North. If they die, they don't do that. And won't for almost 100 years even if replaced. 100 year old trees aren't replaceable in kind. Period. Time for an Arborist FIRST before this variance on the North Setback variance should be voted on. We need 120 days to gather this information and have a report generated by an impartial certified arborist.

We need time for a report from property appraisal professionals regarding negative impact to each of our property values if this now grand scale project is approved. Given COVID constraints and backlog of appraisals of the market currently, most professionals require at least 60-90 days to schedule and complete that work. We need a fair value estimate concerning what the major change this project is asking for does to our neighborhood. 3 stories planned all along to 5 stories at the 11th hour seems unreasonable and puts a negative burden on the present value of the current residential neighbors. Nothing has been said about mitigating the damage such a large project does to our home values.

We need better and more accurate renderings showing the actual scale. I have now seen two greatly disparate images of what the project will look like from my home at 10515 SE 34th Ave. My front entrance is at the corner of SE 34th Ave & Llwellyn. However my back yard privacy is seriously impacted as the 4th & 5th stories will have unimpeded views into my back yard. I find it interesting/damning that such disparate drawings of "scale" have been presented so close together for what is to be the "realistic" view.

Here are the two photos. First was the one presented in the initial report. Then from supposedly the same spot now, the Applicant has replaced it with the new more "palatable" amended one. Which is to be trusted? I would say neither one until I can have that independently reviewed for scale. I demand the time to do just that. It feels like smoke and mirrors. Tricks of the camera. Much like using a wide angle lens to distort the appearance of a space to the advantage of the seller in a real estate brochure. We need impartial measurable scaled images.

Also would want an additional scale rendering from the back NW corner of my lot looking North from my side of the street on Llewellyn. That's the angle that will be peering down into my currently private but soon to be rendered visible backyard if the variance to add the 4th & 5th floors to the project are granted. The building will be even with my back lot line. The 4th & 5th floors definitely will negatively impact my enjoyment and privacy in my yard. Need to see drone shots of that from those heights. Not one whisper about mitigation there. Unacceptable.

This project is now taller than any other building in existence. It is crammed into a site that is surrounded on three sides by R3 zoned properties. These are two quiet side streets. This will wholly change the nature of our streets. This isn't 32nd or Harrison. These are two side streets. And currently Elder Place is only 3 stories. That is reasonable. A 5 story building isn't.

Everyone went to great lengths to discuss the precedent setting of the electronic sign variance

request you continued several times for discussion and eventually voted down dit by the last meeting that was to be in front of the high school because it set bad precedents. That was a sign ladies and gentlemen. This is a 4 or 5 story building. A far bigger and more imposing structure to be certain. I would certainly hope that everyone can see this is a slippery slope we shouldn't be starting down. Especially when R3 zones that abut the GMU on three sides are so disparate in scale.

Would everyone else want to see this happen all over Milwaukie in other locations that have GMU abutting R3???

Lastly no easement or sewer solution has been made or agreed upon with the North side property owners. Unless and until that happens moving forward with this project and seeking HUD funding is premature. Cart before the horse.

Lastly I vigorously object that the traffic and parking aspects of this project are pushed off until later. They are basing many of their satisfactions of what they will need on the assumption that overflow parking can help Em using the existing lot

on 32nd & Harrison. That lot is full to capacity as it is daily. This many suits will bring additional guests and healthy care workers to the site. Even if the residents don't have cars, those caregivers and workers will. More cars. More traffic. Less parking. Big problem.

In conclusion, for the reasons stated above, I urge the commissioners to at the very least continue this to a meeting in 120 days to allow the neighbors fair and equitable time to gather the necessary reports and professional assessments we deserve. Or outright vote these variances down. But approving them is grossly inappropriate. I vote Against approval on all the requests for Variance.

Sincerely,

Caroline Krause
10515 SE 34th Ave
Milwaukie OR 97222

Conflicting Renderings. VR 2021 006

CAROLINE S KRAUSE <kenilorac@msn.com>

Tue 5/25/2021 4:44 PM

To: Mary Heberling <HeberlingM@milwaukieoregon.gov>

Cc: CAROLINE S KRAUSE <kenilorac@msn.com>

This Message originated outside your organization.

Planning Commission Staff Report—Providence Supportive Housing
Master File #VR-2021-006— NW corner of Llewellyn St and 34th Ave

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Figure 5: Conceptual Drawing of Proposed Building on Llewellyn St from the 34th Ave side



View from the corner of SE 34th Ave and SE Lewellyn St

This is the view from across the street from my home on the corner of SE 34th & Llewellyn. Grey house with white trim. Showed in the left hand bottom corner in each image. Both provided from the applicant. Only a week apart.

Disparate much? Which is to be believed???

This is an attachment to my letter I just sent. Please include it.

Thank you.

Caroline Krause
10515 SE 34th Ave
Milwaukie OR 97222

Sent from my iPhone