

EXHIBIT A
CONDITIONAL USE FINDINGS OF FACT



920 NW Bond Street, Suite 204
Bend, OR 97701
Office 541-647-5675
Fax 888-883-8549

collaborate >> create >> elevate

BURDEN OF PROOF STATEMENT

Owner/Applicant:

Larry Fetter
City of Hermiston Parks & Recreation
180 NE 2nd Street
Hermiston, OR 97838

Agent for Owner/Applicant:

Krista Appleby
Ascent Architecture & Interiors
920 NW Bond Street, #204
Bend, Oregon 97703

Property Owner(s) Name:

Hermiston School District 8R
305 SW 11th Street.
Hermiston, OR 97838

City of Hermiston
180 NE 2nd Street
Hermiston, OR 97838

Assessor's Map No.

4N2811BC: Tax Lots 13900 & 13901
4N2811CB: Tax Lot 1700

Summary of Request to Allow:

Conditional Use Permit for construction of a new community building in the Low Density Residential Zone R-2 (157.026.B). A Major Variance is also submitted to the requirements for the front yard setback requirement of 20-feet (157.026.D) and to the building projection requirement of no architectural feature projecting more than 2-feet into a required yard (157.137).

Applicable Criteria for Decision:

Hermiston Title XV Land Usage; Chapter 157 – Zoning

Hermiston Title XV Land Usage; Chapter 157.026 – Duplex Residential Zone (R-2)

Hermiston Title XV Land Usage; Chapter 157.137 – Building Projections

Hermiston Title XV Land Usage; Chapter 157.160 – Development Standards

Hermiston Title XV Land Usage; Chapter 157.175 – Off-Street Parking Requirements

Hermiston Title XV Land Usage; Chapter 157.208– CUP Approval Criteria

Hermiston Title XV Land Usage; Chapter 157.210– Standards for Conditional Uses

Hermiston Title XV Land Usage; Chapter 157.225 – Variances

Narrative and Proposed Findings:

Location: xxx NE 2nd Street, Hermiston, Oregon 97838

Zoning: The property for the proposed building is zoned Duplex Residential (R-2). The associated parking is located in the adjacent property, which is zoned Central Commercial Zone (C-1).

Description of site: The site of the proposed improvements is the southern, grassy area of the Hermiston School District's Sunset Elementary School site. The R-2 site is approximately 51,727 sf in area. The site is located between Hwy 395 to the West, the Sunset Elementary School play field to the North, the intersection of NE 2nd Street and E Ridgeway Avenue to the East and the First United Methodist Church property to the South.

157.026.B Conditional Uses Permitted.

The applicant is requesting approval for an activity center, which is permitted as a conditional use in the R-2 zone subject to the requirements of 157.205 through 157.210. The applicant is further requesting a major variance to the front yard setback to reduce the requirement to 2'-0" and to the building projections requirements to allow a porte-cochere to project from the East face of the proposed building into the public right-of-way.

157.208 – Conditional Use Permit Approval Criteria

(1) The proposal is in conformance with the Comprehensive Plan and Zoning Code.

Response: The building site is currently zoned R-2 and is designated Low Density Residential (R-1 & R-2) on the 2013 Comprehensive Plan Map. The parking site is currently zoned C-1 and is designated Commercial (C-1 & C-2) on the 2013 Comprehensive Plan Map. The proposed project is permitted as a conditional use in both the Comprehensive Plan and the current Zoning Code.

Summary of Conformance | R-2 Zoning Standards (157.026)

<i>R-2 Zoning Code Standard</i>	<i>Minimum Requirement</i>	<i>Provided</i>
<i>157.026 (C) - Lot Size</i>		
<i>Minimum Lot Area</i>	<i>7,500 sf for single family</i>	<i>~ 51,727 sf</i>
<i>Minimum Lot Depth</i>	<i>80 feet</i>	<i>~ 300 feet</i>
<i>Minimum Lot Width</i>	<i>60 feet</i>	<i>~ 170 feet</i>
<i>157.026 (D) - Setbacks</i>		
<i>Front Yard</i>	<i>Base Requirement: 20 feet minimum 157.210 (A) Setback Standards for Condition Use: 2/3 the height of the structure – see Section 157.210 below</i>	<i>4 feet</i>
<i>Side Yard</i>	<i>Base Requirement: 7 feet minimum 157.210 (A) Setback Standards for Condition Use: 2/3 the height of the structure – see Section 157.210 below</i>	<i>North: 70 feet South: 20 feet</i>
<i>Rear Yard</i>	<i>Base Requirement: 10 feet minimum + 1 foot for every foot, or fraction thereof above 15 feet in building height up to a maximum setback of 25 feet 157.210 (A) Setback Standards for Condition Use: 2/3 the height of the structure – see Section 157.210 below</i>	<i>183 feet</i>
<i>157.026 (E) Height</i>	<i>35 feet maximum</i>	<i>22'-7"</i>
<i>157.026 (F) Lot Coverage</i>	<i>35% maximum</i>	<i>~ 7,745 sf / 15%</i>

Summary of Conformance | Transportation Improvements, Standards & Procedures

157.150 (C) Notice and Coordinated Review. *If a proposed development or subdivision is within 200 feet of a state highway, or an arterial or collector street, notice of the proposal shall be provide to the Oregon Department of Transportation (ODOT) and Umatilla County.*

- **Response:** Project is bordered by Highway 395 to the West. Applicant does not propose any vehicular access from Highway 395. Applicant will notify AHJs upon completion of Conditional Use Permitting process.

157.150 (E) Traffic Impact Study. *The applicant for a zone change, or a development or subdivision to the Development Standards of 157.160 et.seq, shall submit a traffic study when the proposal affects a transportation facility if it:*

- (1) *Changes the functional classification of an existing or planned transportation facility;*
- (2) *Changes standards implementing a functional classification system;*

(3) Allows types of levels of land use that would result in levels of traffic or access that are inconsistent with the functional classification of a transportation facility; or
(4) Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation Plan.

- **Response:** A TIS is not required because the specific conditions listed above do not apply to this project. The existing street infrastructure is classified as a local residential street. The proposed development will not change this classification. Two-way emergency vehicle access is maintained in the proposed development.

157.150 (L) Internal Connections and Bicycle Parking: *Internal pedestrian systems shall connect with external existing or planned systems. Walkways shall be paved with a hard surface material and shall be no less than five feet in width. Bicycle parking shall be provided for new commercial, office, institutional and multifamily developments with more than 15 off-street parking spaces. Bicycle parking spaces must be a minimum of 6 feet in length, two feet in width and have an overhead clearance of 6 feet. Bicycle parking spaces should be located as near as possible to the building entrances used by automobile occupants.*

- **Response:** On-site pedestrian walkways connect to the existing off-site sidewalks. On-site walkways will be paved and five feet in width. Bicycle parking for eight bikes is provided near the main entrance to the proposed activity center.

Summary of Zoning Code Conformance | Off-street Parking & Loading

157.175 Off-Street Parking Requirements:

Community buildings / activity centers are not listed in the City's parking requirements. Per discussions the City Planner, applicant will use a ratio of 1 vehicle space per every 4 occupants. Occupants are based on discussion with the Building Official: 250 occupants based on the Great Hall size within the proposed building.

- Calculation: $250 \text{ occupants} / 4 \text{ occs per space} = 62.5 = 63 \text{ required spaces.}$
- **Response:** Proposed Parking Spaces Provided = 64 spaces

157.177 (B) Off-Street Loading:

Buildings or structures to be built or substantially altered which receive and distribute material or merchandise shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.

- **Response:** The proposed activity center receives occasional food deliveries for its senior meal program. The activity center also prepares meals for deliveries to those who cannot attend the meal program in person. A loading area to handle these activities has been designed on the South side of the proposed building with access off NE 2nd Street. It is a single stall, measuring 15' x 45'.

157.178 (E) Off-Street Parking Additional Requirements – Location of Spaces:

Off-street parking spaces shall be located on the same lot with the building. However, non-residential required parking spaces may be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

- **Response:** Proposed Parking Location = 341.5' feet from building to East edge of existing, upper parking lot.

157.179 Off-Street Design Requirements:

(A) Hard surfaces required; (B) Minimal resident disturbance; (C) Extension beyond property line prohibited; (D) Glare from lighting prohibited; (E) Access Aisles; (F) Driveways required; (G) Safety for traffic and pedestrians required.

- **Response:** Proposed off-street parking is in existing, hard-surfaced parking lots. Proposed project will re-stripe lower lot, upgrade accessible parking stalls to current code requirements and upgrade accessible route from accessible parking stalls to the activity center. All other existing conditions will remain as is.

Summary of Conformance | Standards for Conditional Use (157.210)

157.210 (A) Setbacks:

In a residential zone, front, side and rear yards shall be at least two-thirds the height of the principal structure. In any zone, additional yard requirements may be imposed. Height is the vertical distance of a structure measured from the average elevation of the finished grade within 20-feet of the structure to the highest point.

Calculations: Required Setbacks per Building Height:

North Elevation: 23'-2" (34'-7" * 2/3) measurement take from basement patio level

East Elevation: 15'-2" (22'-7" * 2/3)

South Elevation: 15'-2" (22'-7" * 2/3)

West Elevation: 23'-2" (34'-7" * 2/3) measurement take from basement patio level

- **Response:** Proposed Setbacks
 - North: 70'-0"
 - East: 2'-0" Variance required
 - South: 20'-0"
 - West: 183'-0"

(2) The property is adequate in size and shape to accommodate the proposed use, together with all other zoning requirements and any additional conditions imposed by the Planning Commission.

- **Response:** The building site is ~ 51,727 sf with dimensions of approximately 170' x 300'. This is an adequate size and shape to accommodate the proposed activity center and other applicable zoning requirements.

(3) Public facilities are of adequate size and quality to serve the proposed use.

- **Response:** Applicant met with Roy Bicknell, Water Superintendent, and Bill Schmittle, Recycled Water Superintendent in late May to review project and public utilities. Water and sanitary sewer services are adequate to serve the proposed activity center. If plumbing fixtures are installed in the basement level, a sewage lift station will be required to move the sanitary sewer products up to the public sanitary sewer main located along the South property line. Storm water for the building site will be handled with onsite facilities sized appropriately by the project's Civil Engineer. No changes will be made to the existing parking lot storm water system.

(4) *The proposed use will prove reasonably compatible with surrounding properties.*

- **Response:** The proposed activity center is reasonably compatible with the surrounding properties. The subject property is immediately adjacent to the downtown commercial district. Adjacent properties include the Hermiston Public Library, Sunset Elementary School, the City of Hermiston Building Department and the First United Methodist Church. The proposed activity center does not provide any services or activities that would be a nuisance to the surrounding properties.

EXHIBIT B
VARIANCE FINDINGS OF FACT



920 NW Bond Street, Suite 204
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MAJOR VARIANCE NARRATIVE

Owner/Applicant:

Larry Fetter
City of Hermiston Parks & Recreation
180 NE 2nd Street
Hermiston, OR 97838

Agent for Owner/Applicant:

Krista Appleby
Ascent Architecture & Interiors
920 NW Bond Street, #204
Bend, Oregon 97703

Property Owner(s) Name:

Hermiston School District 8R
305 SW 11th Street.
Hermiston, OR 97838

City of Hermiston
180 NE 2nd Street
Hermiston, OR 97838

Assessor's Map No.

4N2811BC: Tax Lots 13900 & 13901
4N2811CB: Tax Lot 1700

Variance Requested:

1. Reduce front setback requirement to allow the building to be located within 2'-0" of the East property line. (157.026 & 157)
2. Reduce the building projection requirements to allow the porte-cochere structure extend to and beyond the East property line. (157.137)

Major Variance Criteria:

1. *Explain what exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, topography or other circumstances over which the applicant has not control. (Note: These exceptional circumstance should relate to the land rather than persons.)*

Response: The existing topography of the building site slopes away from the NE 2nd Street property line with an elevation change of ~6-feet below street level. The elevation change occurs within the first ~40-feet of the site, measured perpendicular to the street property line. This places the majority of the site below the street. In order to minimize the amount of fill and associated costs needed to place the main floor and covered drop-

off area at street level, the building needs to be located as close to the property line as possible and the porte-cochere needs to be located within the setback and extend over a portion of the right-of-way.

2. *Why is the variance necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity?*

Response: Property owners generally desire their developments to be visible and have easy access to the street front. This is easily accomplished on sites that are relatively level or have a gradual slope across the entire property. The requested variance is necessary for this conditional use because of the nature of the site and project. As mentioned above, the site has a significant change in topography close the street front. The project is an activity center for seniors, which is a vital service to the community. As such, the center, and most importantly, the entry needs to be visible to the users to assist in their way finding. Seniors need easy access to the facility: minimal elevation changes to enter the building so access is easy for all users. The activity center also requires a covered drop off at the entry. Given the topography, the variance would make the development substantially similar to other property owners in the vicinity, where buildings have small setbacks.

3. *Explain why the authorization of the variance would not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or otherwise detrimental to the objectives of any development pattern or policy.*

Response: The authorization of the variance would not be detrimental because it is project & site specific. The immediate vicinity does not have the typical low-density residential development pattern of single-family houses on modest lots setback from the street. The site is a large area of land in the R-2 zone that is surrounded on 3 sides (West, East & South) by commercial zones and bordered at the North by Sunset Elementary School, another conditional use within the R-2 zone. The variance request applies only to the East property line, which borders a public street and is adjacent to the C-1 zone and downtown. The C-1 zone and downtown typically do not have setback requirements, so authorization of the setback and projection variance along the East property line would not be detrimental to the objectives of the development in this area.

4. *Explain why it is impossible to maintain zoning ordinance requirements and, at the same time, build, erect or use the structure.*

Response: To maintain the zoning requirements for setbacks and building projections, the building and porte-cochere structure would need to be located 20'-0" feet from the East property line. This would place the building and covered drop-off area at an elevation roughly 4.5-feet to 5-feet below street level without a significant amount of fill to maintain the building floor elevation at street level. Without the fill, the site would require significant ramping and stair systems to get pedestrians from the sidewalk level to the building in addition to additional paving and grading to meet the requirements for vehicle access to the covered drop off area at the building entry.

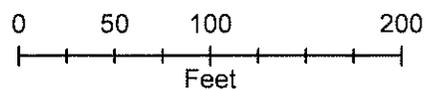
5. *Explain why the variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate hardship.*

Response: At the R-2 zone required setback of 20', the elevation of the site is 4.5-feet to 5 feet below the sidewalk elevation. The topography slopes down from the street at a fairly consistent slope starting almost immediately from the back side of the sidewalk. In order to place the building within a standard development pattern of entry at street level and minimize the amount of fill required to achieve this desired result, the requested variance is the minimum needed to alleviate this hardship.



Legend

-  Area of Proposed Conditional Use and Variance
-  Property Line
-  City Limits



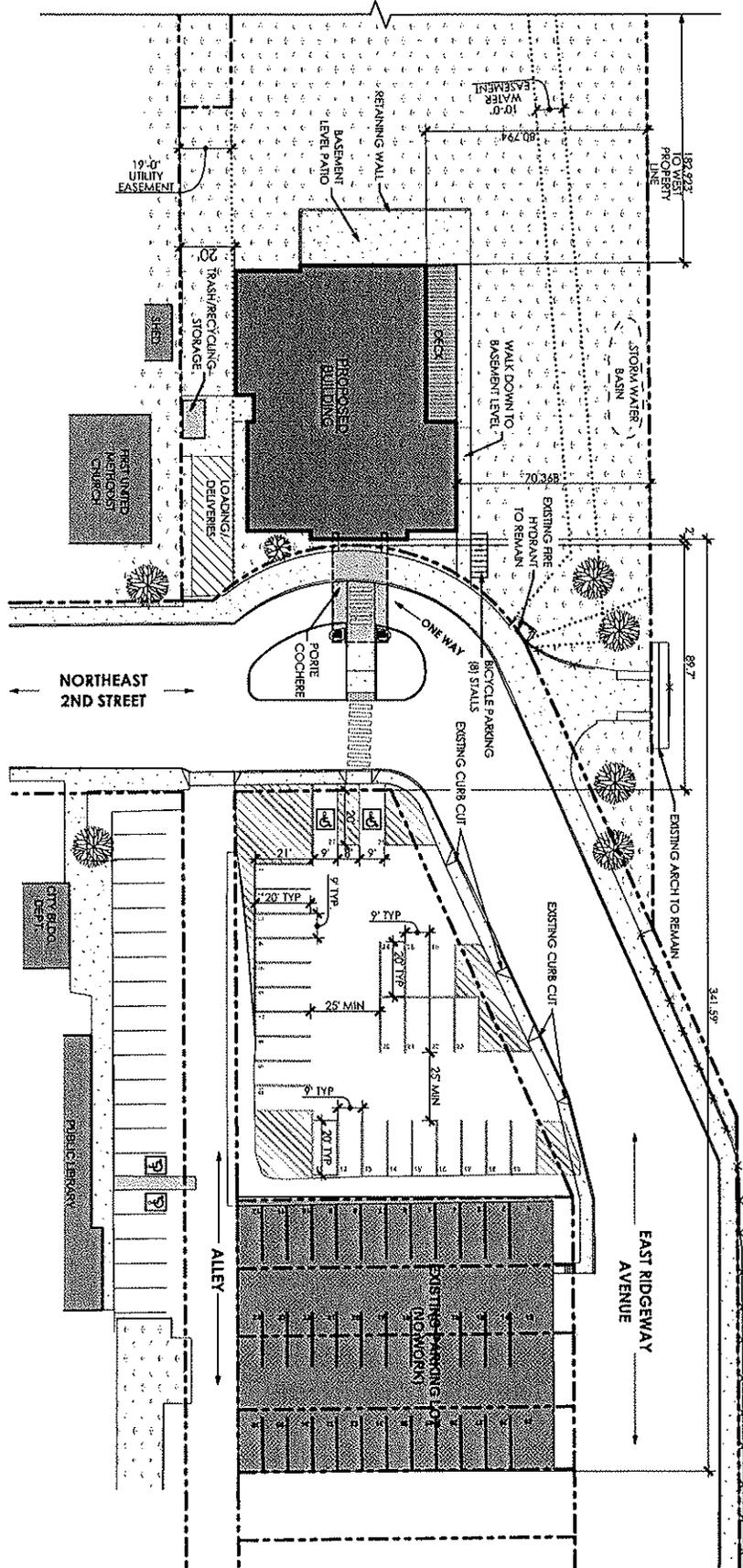


CONDITIONAL USE PERMIT APPLICATION

PROPOSED SITE PLAN

SCALE: 1" = 40'

1

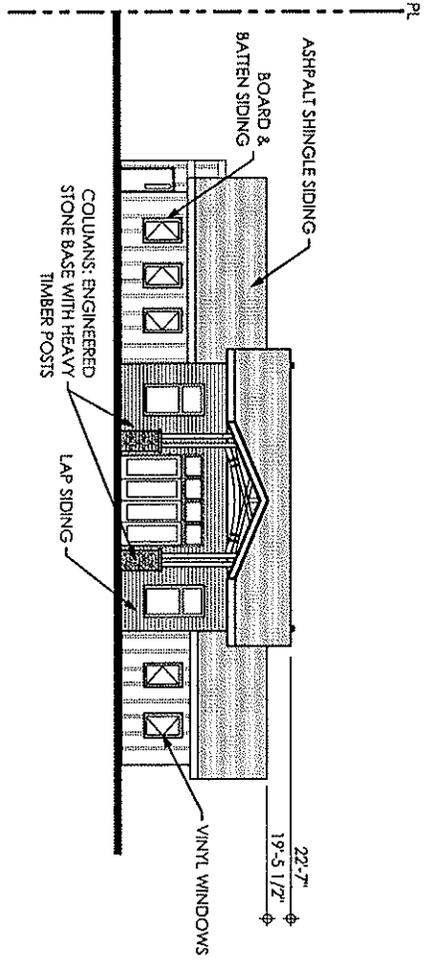


PROPOSED SITE PLAN
HARKENRIDER CENTER
 CITY OF HERMISTON

Date: 5/24/2016
 Project: 15040



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 Bend, Oregon 97703
 t | 541-647-5675
 e | info@ascenarch.com
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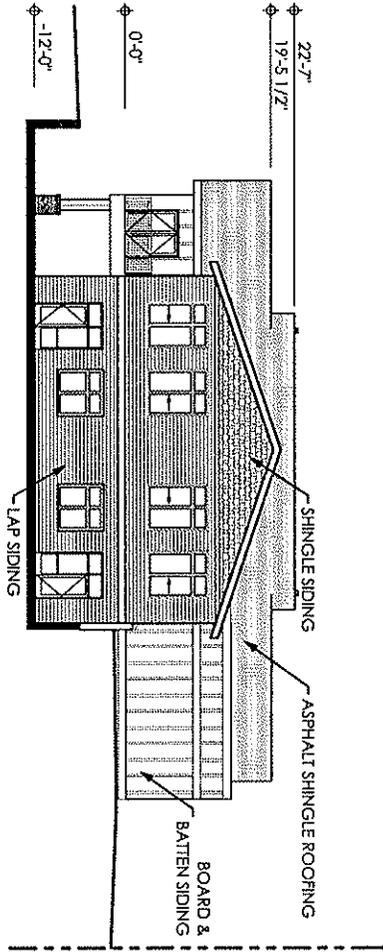


CONDITIONAL USE PERMIT APPLICATION

SCHEMATIC EAST ELEVATION

SCALE: 1/16" = 1'-0"

1



CONDITIONAL USE PERMIT APPLICATION

SCHEMATIC WEST ELEVATION

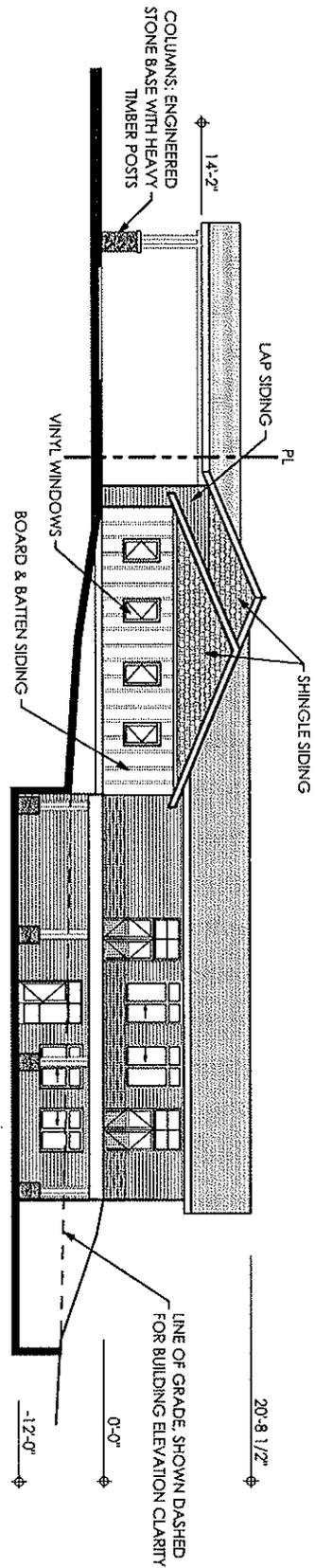
SCALE: 1/16" = 1'-0"

2

SCHEMATIC ELEVATIONS
HARKENRIDER CENTER
 CITY OF HERMISTON

Date: 5/23/2016
 Project: 15040

CONDITIONAL USE PERMIT APPLICATION

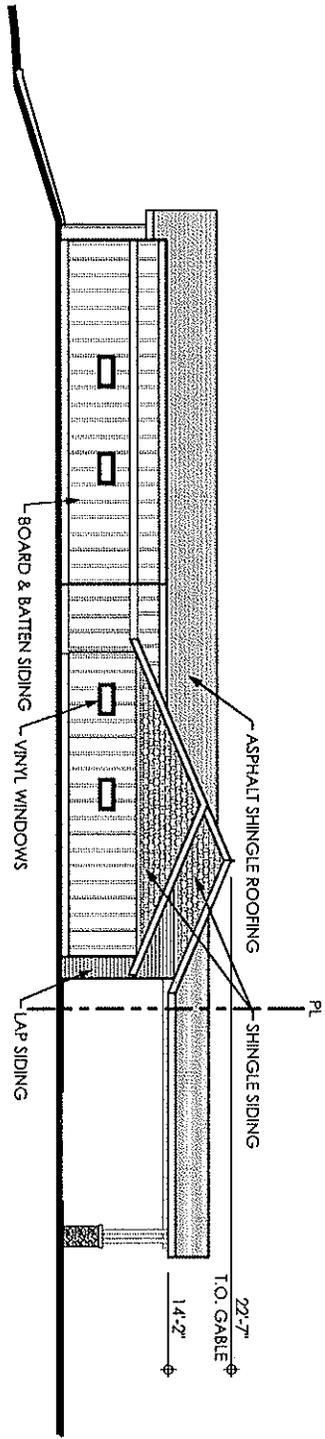


SCHEMATIC NORTH ELEVATION

3

SCALE: 1/16" = 1'-0"

CONDITIONAL USE PERMIT APPLICATION



SCHEMATIC SOUTH ELEVATION

4

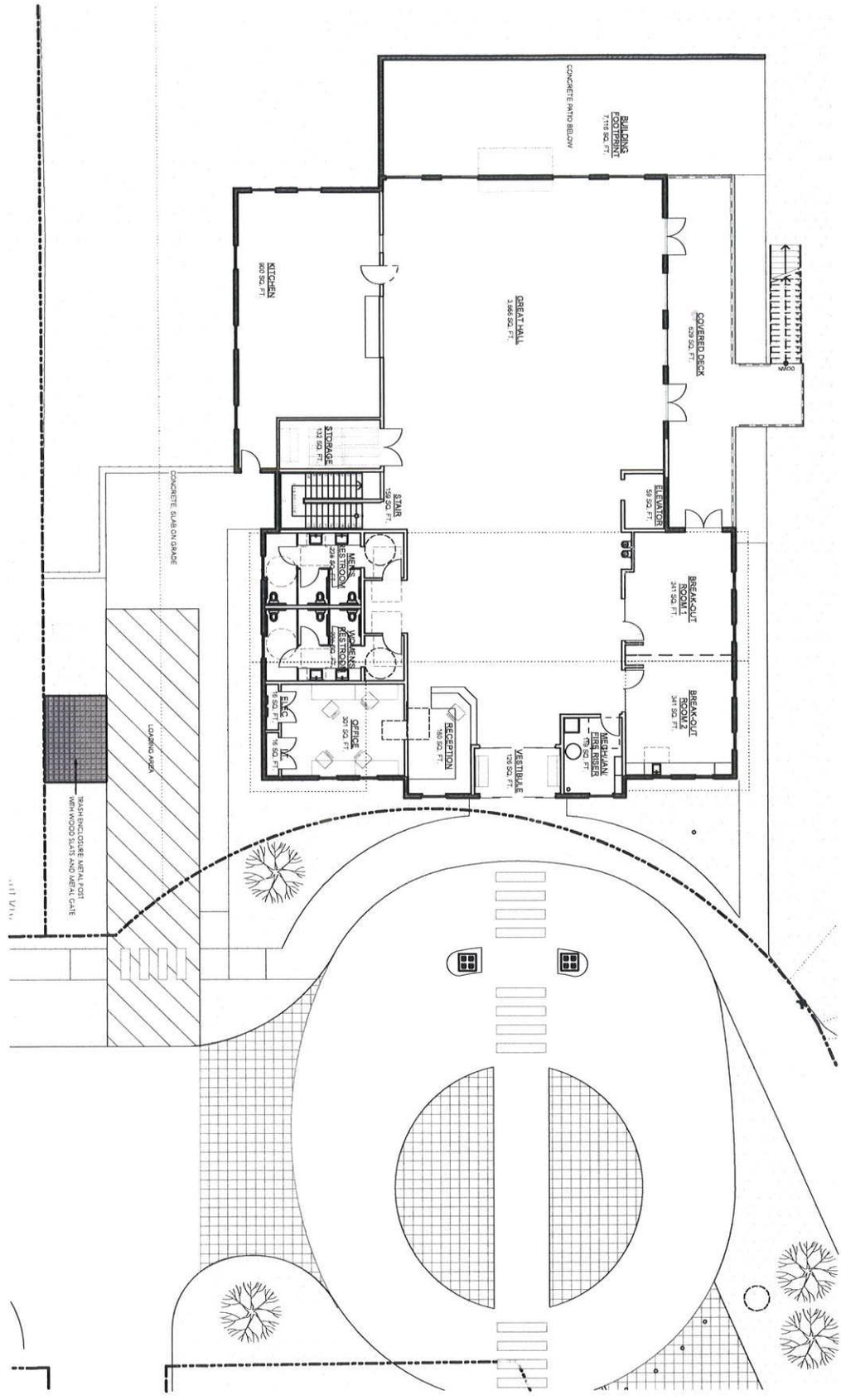
SCALE: 1/16" = 1'-0"

SCHEMATIC ELEVATIONS
HARKENRIDER CENTER
 CITY OF HERMISTON

Date: 5/23/2016
 Project: 15040



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REVISED SCHEMATIC FLOOR PLAN WITH SITE

SCALE: 1/16" = 1'-0"

1

SCHEMATIC FLOOR/SITE PLAN
HARKENRIDER CENTER
 CITY OF HERMISTON

Date: 4/7/2016
 Project: 15040

ASCENT
ARCHITECTURE
 and interiors

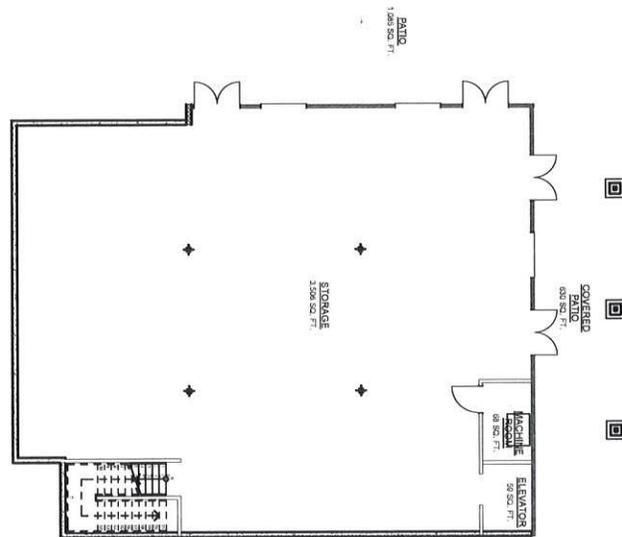
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REVISED SCHEMATIC BASEMENT PLAN

SCALE: 1/16" = 1'-0"

1



SCHEMATIC BASEMENT PLAN
HARKENRIDER CENTER
 CITY OF HERMISTON

Date: 4/7/2016
 Project: 15040

CITY OF HERMISTON

CONDITIONAL USE PERMIT APPLICATION

Pursuant to the provisions of §157.205 of the Hermiston Code of Ordinances, application is hereby made for a conditional use permit for the following described property:

Applicant's Name: City of Hermiston Parks & Recreation: Larry Fetter Date: 24 May 2016
Address: 180 NE 2nd Street, Hermiston, OR 97838 Phone: 541-667-5009
(Daytime)

Property Owner(s) Name (If Different): Hermiston School District & City of Hermiston
Address: 305 SW 11th Street, Hermiston, OR 97838 Phone: 541-667-6000
(Daytime)

Legal Description of Property: Assessor's Map No: 4N2811BC/4N2811C1 Tax Lot No: 13900 & 13901
Comprehensive Plan Designation: Low Density Residential Zoning Designation: R-2 / C-1
Current Use of Property: vacant lot / parking lot

Request to Allow:

See attached document

IMPORTANT! Oregon's Land Use Planning Laws and §157.208 of the Hermiston Code of Ordinances require the planning commission to make "findings of fact" with regard to requests for conditional use permits. The findings provide justification to either approve or deny the application. Read the questions that follow and answer them as completely as you can; use additional sheets if necessary. Your responses will be used by the City to make findings and evaluate the merits of your request. The chances of a successful application depend upon the adequacy of the arguments you present to justify approval of the application.

1. The proposal is in conformance with the comprehensive plan and zoning ordinance. Explain fully:

See attached document.

2. The property is adequate in size and shape to accommodate the proposed use, together with all other zoning requirements and any additional conditions imposed by the planning commission. Explain fully:

See attached document.

3. Public facilities are of adequate size and quality to serve the proposed use. Explain fully:

See attached document.

4. The proposed use will prove reasonably compatible with surrounding properties. Explain fully:

See attached document.

ADDITIONAL INFORMATION TO BE FURNISHED AND ATTACHED TO APPLICATION:

APPLICATION FOR CONDITIONAL USE PERMIT - PAGE 3

- 1) Evidence that applicant is owner or purchaser of the property or has written permission of such owner to make an application for the proposed use.
- 2) Two copies (one digital copy) of a site plan (11" x 17") drawn to scale, showing the location of the property concerned, the location of all proposed or existing building(s), highways, streets and alleys.

The above statements are true to the best of my belief and knowledge. As applicant, I understand that the planning commission requests my attendance, or the attendance of my representative, at the meeting(s) where this request is scheduled for consideration, and may grant or deny this request based upon the testimony provided at the hearing.

I am the ___owner/___owner(s) authorized representative.
(If authorized representative, attach letter signed by owner.)

Applicant's Signature:  Date: 5-24-2016

OUT OF POCKET EXPENSES FOR MAILING AND PUBLICATION COSTS WILL BE BILLED LATER

NOTE: The Hermiston Planning Commission meets the second Wednesday of the month. Because of public notice requirements and time constraints, this application must be returned to City Hall no less than four weeks prior to the public hearing date. For further information, please feel free to contact the planning department at the Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, OR 97838, or telephone (541) 567-5521. The City's fax number is (541) 567-5530.

OFFICE USE ONLY

Date Filed: 5/24/16 Received By: _____ Meeting Date: 6.8.16

Fee: \$475.00 Date Paid: _____ Receipt No: _____

CITY OF HERMISTON

APPLICATION FOR MAJOR VARIANCE

Pursuant to the provisions of §157.225 of the Hermiston Code of Ordinances, application is hereby made for a variance for the following described property:

Name of Applicant: City of Hermiston Parks & Recreation: Larry Fetter Phone: 541-667-5009

Mailing Address: 180 NE 2nd Street, Hermiston, OR 97838

Name of Owner (If Different): Hermiston School District & City of Hermiston Phone: 541-667-6000

Mailing Address: 305 SW 11th Street, Hermiston, OR 97838

Legal Description: Assessor's Map No: 4N2811BC / 4N2811C Tax Lot No: 13900 & 13901 / 1700

Subdivision (If Applicable): _____

Please Attach a Metes and Bounds Legal Description

Street Address: xxx NE 2nd Street

Current Zoning Designation: R-2 / C-1

Variance Requested:

See attached document.

IMPORTANT! Oregon's Land Use Planning Laws and §157.225 of the Hermiston Code of Ordinances require the planning commission to make "findings of fact" with regard to variance requests. The findings provide justification to either approve or deny the application. Read the questions that follow and answer them as completely as you can; use additional sheets if necessary. Your responses will be used by the City to make findings and evaluate the merits of your request. The chances of a successful application depend upon the adequacy of the arguments you present to justify approval of the application.

1. Explain what exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, topography or other circumstances over which the applicant has no control. (Note: These exceptional circumstances should relate to the land rather than persons.)

See attached document.

2. Why is the variance necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity?

See attached document.

3. Explain why the authorization of the variance would not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development pattern or policy.

See attached document.

4. Explain why it is impossible to maintain the zoning ordinance requirements and, at the same time, build, erect or use the structure.

See attached document.

5. Explain why the variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

See attached document.

ADDITIONAL INFORMATION TO BE FURNISHED & ATTACHED TO APPLICATION:

1. Evidence that applicant is owner or purchaser of the property or has written permission of such owner to make an application for the variance.
2. Two copies (one digital copy) of a site plan (11"x17") drawn to scale, showing the location of the property concerned with all proposed or existing building(s), and the location of all highways, streets and alleys.

The above statements are true to the best of my belief and knowledge. As applicant, I understand that the planning commission requests my attendance, or the attendance of my authorized representative.

I am the ___ owner/ owner's authorized representative
(If authorized representative, please attach letter signed by owner.)

Signature of Application: _____

Date: 5-24-2016

OUT-OF-POCKET EXPENSES FOR MAILING & PUBLICATION COST WILL BE BILLED LATER

NOTE: The Hermiston Planning Commission meets the second Wednesday of each month. Because of public notice requirements and time constraints, this application must be returned to City Hall no less than **four weeks** prior to the hearing date. If you have any questions about completing the application or the procedure, please feel free to contact the planning department at the Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon 97838, or telephone (541) 567-5521. The City's fax number is (541) 567-5530.

Office Use Only

Date Filed: 5/25/16 Received By: _____ Meeting Date: 6-8-16
Fee: \$420.00 Date Paid: _____ Receipt No: _____

**LEASE OPTION - MEMORANDUM OF UNDERSTANDING
CITY OF HERMISTON, OREGON, AND HERMISTON SCHOOL DISTRICT 8R
HARKENRIDER CENTER PROPERTY LEASE
January 25, 2016**

The purpose of this Memorandum of Understanding (MOU) is to outline general terms and conditions between Hermiston School District 8R (District) and the City of Hermiston (City) of the process for establishing a Final Agreement (Agreement) leading to a 50 year nominal lease on the District's 1+/- acre parcel [Lot 1 of Tax Lot 13900 on Map 4N 28 11 CB] known as the Ridgeway Site (Site). This MOU outlines the general responsibilities of each party leading up to the execution of the Agreement between both parties.

As a requirement of the Community Development and Block Grant (CDBG), both parties acknowledge the following:

"The recipient (City) cannot enter into any legal binding commitment to a particular site before the environmental review is complete. Refer to Chapter 3 (CDBG Management Handbook) for more information on the Environmental Review Process. However, an option agreement on a particular proposed site or property is allowable prior to completion of the environmental review IF the option agreement is subject to the determination by the recipient (City) of the desirability of the property for the project as a result of the completion of the environmental review, issuance of the Release Of Funds by the state and the cost of the option is a nominal portion of the purchase price."

The City intends to utilize Site for the development of a new Senior Center. To establish an initial understanding of good will for negotiations, this MOU presents broad terms of the future Lease; however, the breadth and detail of final terms and conditions are to be defined and determined between the signing parties. Signature of this MOU provides assurance that it is the parties' intent that continued expenditures of City funds on this project will result in a final, usable project. Both parties acknowledge that ultimate execution of the Lease is subject to the successful completion of an environmental review and final determination of the desirability of the property for the project in addition to lease terms mutually agreed upon by both parties. The City and District are under no obligation if the property fails to meet environmental, regulatory agency, or design requirements.

District agrees to the following:

- Pursue in good faith the issuance to the City of options to lease real property for a period of 50 years at an annual cost of \$1.
- Permit the City, their agents, and certifying agencies access to the property as needed to complete necessary environmental investigations, testing, survey work, soil sampling, test pits, and other work required for preparation of the Agreement and for determination of desirability of the property.
- Negotiate in good faith a Lease including items such as the following:
 - Establish roles and responsibilities for the operation, maintenance, expenses, succession plans, and insurance terms associated with the property.
 - Consider the removal of easements relating to the alleys, roads, and water that may interfere with the development of the Site.

- o Identify any potential uses of the property by the District for the duration of the Lease.
- o Direct the preparation of lease documents for review and consideration.

The City agrees to the following:

- Diligently pursue completion of the environmental review and other requirements necessary for project funding.
- Coordinate with the District for access, minimize disturbance, and complete surface restoration to the same condition as reasonably possible after the completion of environmental investigations, testing, survey work, soil sampling, test pits, and other work required for preparation of an Agreement and determination of desirability of the property.
- Cover the costs of recording deeds and other documents pertaining to lessor's needs as required.
- Negotiate in good faith a Lease including items such as the following:
 - o Establish roles and responsibilities for the operation, maintenance, expenses, succession plans, and insurance terms associated with the property.
 - o Potential uses of the Site by the District for the duration of the Lease.

The terms as outlined herein are agreed to by both parties. This MOU provides each party with assurance that both parties intend to follow through with their responsibilities as outlined herein.

Byron D. Smith, City Manager
City of Hermiston, Oregon

Wade Smith, Deputy Superintendent
Hermiston School District OR

By _____

By  _____

Date _____

Date 1-30-16 _____