



## MEMORANDUM

TO: Planning Commission  
FROM: Brittany Gada, Associate Planner  
DATE: August 23, 2022  
SUBJECT: Rooted Care Communities

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This memo is intended to supplement the staff report dated August 10, 2022 and the supplemental memorandum dated August 17, 2022, for the proposed Rooted Care Communities project (CU2022-0004 / DR2022-0005). This project was originally scheduled for Planning Commission hearing on August 17, 2022 and was continued to the Planning Commission hearing on August 24, 2022. The memo provides a new exhibit with revised agency comments from Washington County. The memo also provides revised and new findings in addition to staff commentary based on applicant materials submitted on August 19, 2022 and August 22, 2022.

### New Exhibit

#### **Exhibit 4.2** Revised Agency Comments – Washington County

Staff received revised comments from Washington County on August 23, 2022 which modified the recommended conditions of approval regarding reconstruction of the existing driveway for commercial access standards to include both Standard Detail 1080 and 1081. Previous agency comments only referenced Standard Detail drawing 1081. As such, staff recommends a revised condition of approval to incorporate the County's updated comments in the next section of this memorandum.

### Revised Staff Report Findings

The following findings are intended to revise the findings of the sections referenced below that were provided in the staff report dated August 10, 2022, and the supplemental memorandum dated August 17, 2022. The revised findings respond to the following applicant materials submitted on August 19, 2022:

**Exhibit 3.17** Specific Beaverton Development Code Analysis provides applicant commentary on multiple sections of the development code. To inform staff's revised findings, staff references the applicant's responses to BDC Section 60.05.50. Lighting Design Guidelines on pages 6-8 of this document. Staff assumes that the responses in this document for the Lighting Design Guidelines supersede the responses to the Lighting Design Standards (BDC 60.05.30) in the applicant's project narrative document. Other sections of this document are addressed in the subsequent section of this memorandum, Additional Staff Commentary.

**Exhibit 3.18** Revised Trip Generation and Parking Analysis modifies the Institute of Transportation Engineers (ITE) Trip and Parking Generation Manual categories for the

proposed use and associated findings. The original memorandum dated June 16, 2022, used the Assisted Living category (ITE Code 254) while the revision dated August 16, 2022, uses the Nursing Home category (ITE Code 620). The change increases the number of new net weekday trips from 30 to 36 (based on 15 beds) and decreases the average peak parking demand from 5 to 4 spaces (based on 12 beds).

Based on the information provided in the applicant materials submitted on August 19, 2022 and Exhibit 4.2 Revised Agency Comments - Washington County, staff provides revised findings for the following sections of the staff report and the supplemental memorandum dated August 17, 2022 (new text is underlined, deleted text is ~~stricken~~):

- Attachment A: Facilities Review Committee, Outstanding Technical Issues
- Attachment A: Facilities Review Committee, Section 40.03.1.A, Transportation
- Attachment A: Facilities Review Committee, Section 40.03.1.D, Section 60.30 Off-Street Parking (6<sup>th</sup> paragraph only)
- Attachment A: Facilities Review Committee, Section 40.03.1.L
- Attachment B: New Conditional Use, Facilities Review Approval Criteria Section 40.03.1.A-L
- Attachment B: New Conditional Use, Section 40.15.15.5.C.5
- Attachment B: New Conditional Use, Section 40.15.15.5.C.8
- Attachment C: Design Review Three, Facilities Review Approval Criteria Section 40.03.1.A-L
- Attachment C: Design Review Three, Section 40.20.15.3.C.8
- Attachment C: Design Review Three, Table 4: Section 60.05 Design Standards, Section 60.05.30 Lighting Design Standards
  - The findings for the Lighting Design Standards section are eliminated. The applicant has chosen to address the Lighting Design Guidelines (BDC 60.05.50.1-4). As such, staff provides new findings in response to the Lighting Design Guidelines in the subsequent section of this memorandum.
- Attachment D: Recommended Conditions of Approval, Design Review Three (DR2022-0005), B.3.a
- Attachment D: Recommended Conditions of Approval, Design Review Three (DR2022-0005), B.4 (no change to condition language, correction of attachment section and condition number)
- Attachment D: Recommended Conditions of Approval, Design Review Three (DR2022-0005), C.6 (no change to condition language, correction of attachment section)

### **Attachment A: Facilities Review Committee, Outstanding Technical Issues**

The Committee recommends denial of the applications due to ~~two~~ one outstanding technical issues regarding the proposal. ~~First,~~ The applicant seeks off-street vehicular parking reductions

pursuant to BDC 60.30.10.11.G Reduction for Special Needs Residential. The applicant submitted a parking analysis of comparable facilities and requests that four off-street parking spaces be permitted for the use when six are required by the development code. However, only two off-street parking spaces meet the locational requirements of BDC 60.30.10 and, therefore, count towards the proposed off-street parking total. Based on the information provided by the applicant, staff finds that two off-street parking spaces are inadequate to serve the proposed use.

~~Second, staff has not received the required Photometric Plan detailing the technical specifications for existing lighting on site to support the applicant's responses to the Lighting Design Standards of BDC 60.05.30. The applicant submitted a lighting analysis document which does not provide staff with adequate information to confirm if existing lighting meets the Lighting Design Standards (BDC 60.05.30) and the Technical Lighting Standards (BDC Table 60.05-1). Staff recommended that the applicant respond to the Lighting Design Guidelines (BDC 60.05.50), rather than the Lighting Standards, which would have allowed staff to consider the provided lighting analysis to assess conformance with applicable Design Guidelines. Since the applicant chooses to address the Design Standards and a Photometric Plan has not been provided, the application is considered incomplete at this time.~~

Staff also notes that the original application requested Conditional Use and Design Review Three approval to allow a 15-bed Residential Care Facility on the subject property. During the processing of these requests, the applicant modified the request to a 12-bed facility. Staff requested that the applicant update all application materials to consistently reference the modified request. However, some application materials were not updated and reference a 15-bed Residential Care Facility. For the purpose of this review, staff has assumed the 12-bed facility is being proposed.

#### **Attachment A: Facilities Review Committee, Section 40.03.1.A, Transportation**

[...]

The applicant submitted a Trip Generation Memo, dated August 16, 2022, indicating that a 15-bed Residential Care Facility will generate ~~30~~ 36 new weekday trips according to the Institute of Transportation Engineers (ITE) Trip Generation Manual code for Nursing Homes. The memo did not provide trip generation information for a 12-bed facility. Since the proposed development will not generate 300 or more average net new weekday trips, a Traffic Impact Analysis was not required for this project. Furthermore, due to the limited impacts of the change in use on the existing transportation network, transportation-related improvements such as frontage improvements were not necessitated by this proposal. The Committee finds that, by meeting the conditions of approval, adequate transportation facilities will be provided to serve the proposed development.

[...]

**Conclusion:** Therefore, the Committee finds that, by meeting the conditions of approval, the proposal meets the approval criterion.

**Attachment A: Facilities Review Committee, Section 40.03.1.D, Section 60.30 Off-Street Parking (6<sup>th</sup> paragraph only)**

[...]

The applicant also provided a Parking Analysis Memo, dated August 16, 2022, prepared by a licensed engineer to support the Reduction for Special Needs Residential request. The memo concludes that a 12-bed Residential Care Facility will require ~~five~~ four parking spaces based on peak demand of the use, categorized as ITE Parking Generation Manual Code 620 for Nursing Homes. The applicant's parking analysis discusses the availability of transit nearby and the availability of on-street parking suggest that the four requested off-street spaces will be adequate for the use based on comparable facilities and meets the parking demand identified in the Parking Analysis Memo prepared by the engineer.

[...]

**Conclusion:** Therefore, the Committee finds that the proposal does not meet the approval criterion.

**Attachment A: Facilities Review Committee, Section 40.03.1.L**

The applicant submitted applications for the New Conditional Use and Design Review Three applications on April 14, 2022. The applicant deemed the applications complete on June 28, 2022. ~~The applicant has not submitted the required Photometric Plan or equivalent documentation detailing technical specifications of existing lights on the subject site to support the applicant's response to the Lighting Design Standards (BDC 60.05.30). Therefore, all required submittal materials have not been received at this time.~~ The applicant submitted revised documents on August 19, 2022, which included responses to the Lighting Design Guidelines (BDC 60.05.50.1-4) to accompany the applicant's previously submitted Lighting Analysis. By addressing the Lighting Design Guidelines, a Photometric Plan is no longer required; therefore, all required submittal materials have been provided.

**Conclusion:** Therefore, the Committee finds that the proposal ~~does not~~ meets the approval criterion.

**Attachment B: New Conditional Use, Facilities Review Approval Criteria Section 40.03.1.A-L**

Staff has reviewed the applicable Facilities Review criteria in Attachment A to this report. Staff cites the findings presented in Attachment A in response to the Facilities Review approval criteria. As identified in Attachment A, above, the proposal does not meet ~~Criteria~~ Criterion D-or-L. Therefore, the proposal does not meet the criterion for approval.

**Conclusion:** Therefore, the Committee finds that the proposal does not meet the approval criterion.

### **Attachment B: New Conditional Use, Section 40.15.15.5.C.5**

The applicant states that the proposed use of the existing property as a Residential Care Facility for up to 12 individuals would not impact the appropriate use or development of other properties in the surrounding area. The proposal is a change in use of an existing building, so proposed exterior changes are limited in scope and will not affect the use or development of other properties. Most activity associated with the Residential Care Facility would take place indoors, and residents would have use of the fenced in backyard for their relaxation and enjoyment. The applicant proposes new privacy fencing and additional landscaping which will increase compatibility with adjacent properties and help mitigate potential visual or noise impacts associated with the use.

However, staff cites findings in Attachment A regarding inadequate off-street parking facilities. ~~Staff also cites findings in Attachment C regarding insufficient information to assess the lighting design standards of BDC 60.05.30. Inadequate off-street parking for vehicles and delivery services reduces compatibility with nearby residences and may cause impacts due to parking overflow into the surrounding neighborhood and improperly parked delivery vehicles. Staff also does not have enough information to evaluate potential lighting impacts that may occur from existing on-site lighting.~~ For these this reason, staff finds that aspects of the proposal related to parking cannot be made reasonably compatible with the surrounding neighborhood and may have impacts on livability. ~~Further, staff is unable to assess if existing lighting will impact the surrounding area.~~

**Conclusion:** Therefore, staff finds that the proposal does not meet the criterion for approval.

### **Attachment B: New Conditional Use, Section 40.15.15.5.C.8**

The applicant submitted a New Conditional Use application to be processed concurrently with this Design Review Three request. The applicant deemed the applications complete on June 28, 2022. ~~The applicant has not submitted the required Photometric Plan or equivalent documentation detailing technical specifications of existing lighting on the subject site to support the applicant's response to the Lighting Design Standards of BDC 60.05.30. Therefore, all required submittal materials have not been received at this time.~~ The applicant submitted revised documents on August 19, 2022, which included responses to the Lighting Design Guidelines (BDC 60.05.50.1-4) to accompany the applicant's previously submitted Lighting Analysis. By addressing the Lighting Design Guidelines, a Photometric Plan is no longer required; therefore, all required submittal materials related to the request have been provided.

**Conclusion:** Therefore, the Committee finds that the proposal ~~does not~~ meets the approval criterion.

### **Attachment C: Design Review Three, Facilities Review Approval Criteria Section 40.03.1.A-L**

Staff has reviewed the applicable Facilities Review criteria in Attachment A to this report. Staff cites the findings presented in Attachment A in response to the Facilities Review approval criteria.

As identified in Attachment A, above, the proposal does not meet ~~Criteria~~ Criterion D or L. Therefore, the proposal does not meet the criterion for approval.

**Conclusion:** Therefore, the Committee finds that the proposal does not meet the approval criterion.

**Attachment C: Design Review Three, Section 40.20.15.3.C.8**

The applicant submitted a New Conditional Use application to be processed concurrently with this Design Review Three request. The applicant deemed the applications complete on June 28, 2022. ~~The applicant has not submitted the required Photometric Plan or equivalent documentation detailing technical specifications of existing lighting on the subject site to support the applicant's response to the Lighting Design Standards of BDC 60.05.30. Therefore, all required submittal materials have not been received at this time.~~ The applicant submitted revised documents on August 19, 2022, which included responses to the Lighting Design Guidelines (BDC 60.05.50.1-4) to accompany the applicant's previously submitted Lighting Analysis. By addressing the Lighting Design Guidelines, a Photometric Plan is no longer required; therefore, all required submittal materials related to the request have been provided.

**Conclusion:** Therefore, the Committee finds that the proposal ~~does not meet~~ meets the approval criterion.

**Attachment C: Design Review Three, Table 4: Section 60.05 Design Standards, Section 60.05.30 Lighting Design Standards**

**~~Section 60.05.30 Lighting Design Standards~~**

<b>DESIGN STANDARD</b>	<b>PROJECT PROPOSAL</b>	<b>MEETS STANDARD</b>
<b><del>Adequate on-site lighting and minimize glare on adjoining properties</del></b>		
<p><b>60.05.30.1.A</b>  <del>Lighting complies with the City's Technical Lighting Standards</del></p>	<p><del>The applicant has not provided the required Photometric Plan that is needed to confirm if existing lighting is in conformance with the city's Technical Lighting Standards. The submitted lighting analysis document identifies lighting along the fence on the eastern property line, near building entrances, under the deck, and near the second-story deck stairs. However, the lighting analysis does not provide foot-candle measurements for existing lighting, so staff is unable to confirm if Technical Lighting Standards are met.</del></p>	<p><b>NO</b></p>

DESIGN STANDARD	PROJECT PROPOSAL	MEETS STANDARD
<p><b>60.05.30.1.B</b> Lighting provided for vehicle and pedestrian circulation</p>	<p>The applicant has not provided the required Photometric Plan that is needed to confirm if existing lighting is in conformance with the city's Technical Lighting Standards. The submitted lighting analysis document identifies lighting along the fence on the eastern property line, near building entrances, under the deck, and near the second-story deck stairs. However, the lighting analysis does not provide foot-candle measurements for existing lighting, so staff is unable to confirm if Technical Lighting Standards are met.</p>	<p><b>NO</b></p>
<p><b>60.05.30.1.C</b> Lighting of Ped Plazas</p>	<p>Pedestrian plazas are not proposed.</p>	<p><b>N/A</b></p>
<p><b>60.05.30.1.D</b> Lighting of building entrances</p>	<p>The applicant has not provided the required Photometric Plan that is needed to confirm if existing lighting is in conformance with the city's Technical Lighting Standards. The submitted lighting analysis document identifies lighting along the fence on the eastern property line, near building entrances, under the deck, and near the second-story deck stairs. However, the lighting analysis does not provide foot-candle measurements for existing lighting, so staff is unable to confirm if Technical Lighting Standards are met.</p>	<p><b>NO</b></p>
<p><b>60.05.30.1.E</b> Canopy lighting</p>	<p>No canopy lighting is proposed.</p>	<p><b>N/A</b></p>
<b>Pedestrian-scale on-site lighting</b>		
<p><b>60.05.30.2.A</b> Pole Mounted Luminaires</p>	<p>Pole-mounted luminaires do not exist and are not proposed.</p>	<p><b>N/A</b></p>
<p><b>60.05.30.2.B</b> Non-Pole Mounted Luminaires</p>	<p>Wall mounted lights exist on site. However, the applicant has not provided a Photometric Plan to confirm if existing non-pole mounted luminaires are in conformance with the Technical Lighting Standards.</p>	<p><b>NO</b></p>
<p><b>60.05.30.2.C</b> Lighted Bollards</p>	<p>The proposal does not include bollards.</p>	<p><b>N/A</b></p>

**Attachment D: Recommended Conditions of Approval, Design Review Three (DR2022-0005), B.3.a**

3. Obtain a Washington County Right-of Way Permit(s) from the Operations Division via the Public Permitting and Services Portal for the following: (Washington County / NV)
  - a. Reconstruct access to SW Brentwood Street to County standard detail 1080/1081 (commercial access). Sight Distance must be met per County standards.

**Attachment E D: Recommended Conditions of Approval, Design Review Three (DR2022-0005), B.✕ 4**

- ✕ 4. Provide a plan showing compliance along the northern property line with the B3 Buffer planting standards in BDC Section 60.05.25.13 (Planning / BG)

**Attachment E D: Recommended Conditions of Approval, Design Review Three (DR2022-0005), C.6**

6. Have installed a six-foot-tall fully sight obscuring fence along the entirety of the northern property line. The fence must be constructed within five feet of the shared property line. (Planning / BG)

## New Staff Report Findings

Based on the information provided in the applicant materials submitted on August 19, 2022, staff provides new findings for the following sections of the staff report:

- Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.1
- Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.2
- Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.3
- Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.4

**Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.1**

1. **Lighting should be utilized to maximize safety within a development through strategic placement of pole-mounted, non-pole mounted and bollard luminaires. (Standards 60.05.30.1 and 2)**

### FINDING:

In the revised Specific Beaverton Development Code Analysis, dated August 18, 2022, the applicant states that there are no pole mounted or bollard luminaires on the property and adds that there are a variety of building-mounted lights. The applicant explains that there are

architectural feature lights on the south façade in addition to entry lights above the building entrance and the garage door. The applicant explains that the lights are controlled by switches, and when turned on, the lights “provide adequate illumination to maximize safety for visitors without casting light beyond the front yard and driveway.” The applicant adds that most exterior lights are switched off by 9:00 p.m.

Staff concurs with the applicant and adds that the applicant’s Lighting Analysis document details additional lighting on the property. Pathway lighting exists in the front yard area facing SW Laurelwood Avenue and along the accessible pathway on the east side of the site. The applicant’s materials also detail that there is lighting underneath the existing deck and along the deck stairs. These lights illuminate the paths to the accessible building entrance on the first floor and an additional entrance to the building from the second story deck to ensure safe pedestrian movements. Staff finds that the existing conditions for lighting on the site are strategically placed to maximize security for users and visitors to the site around parking areas, building entrances, and pedestrian pathways.

**Conclusion:** Therefore, staff finds the proposal meets the guideline.

### **Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.2**

- 2. Pedestrian scale lighting should be an integral part of the design concept except for industrial projects. Poles and fixtures for pole-mounted lighting should be of a consistent type throughout the project. The design of wall-mounted lighting should be appropriate to the architectural design features of the building. (Standard 60.05.30.2)**

#### **FINDING:**

The applicant states that there are no pole mounted luminaries on the site, but there are existing building-mounted lights and pedestrian scale landscape lighting along pedestrian pathways. The applicant adds that building-mounted lighting is strategically placed to accent the architectural features of the building and that lighting is appropriate for the design of the addition and period-correct on the original house structure constructed in the 1940’s.

Staff concurs with the applicant’s assessment of architecturally appropriate wall-mounted lighting existing on the building. Staff adds that light fixtures are typical of residential homes which is consistent with the architectural design features of the building. The ability to switch lights on and off as needed helps to maintain a residential appearance of the property. Regarding pedestrian scale lighting, staff finds that the existing lighting around pedestrian pathways on the west and east sides of the structure in addition to wall-mounted lighting near entrances ensure safe pedestrian movements between parking areas, building entrances, and common areas on the subject site. Staff concludes that existing lighting was installed in a way that is integral to the design of the site to ensure the safety of residents, employees, and visitors to the site.

**Conclusion:** Therefore, staff finds the proposal meets the guideline.

**Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.3**

- 3. Lighting should minimize direct and indirect glare impacts to abutting and adjacent properties and streets by incorporating lens shields, shades or other measures to screen the view of light sources from residences and streets. (Standards 60.05.30.1 and 2)**

**FINDING:**

The applicant states that lighting on the south-facing façade uses shields, shades, and locational placement to avoid view of the light source. The applicant adds that the exterior lighting on the west side of the structure originated with the home constructed in the 1940's on the subject property, and those light fixtures use glass covers.

Staff notes that the applicant did not provide images or additional details to demonstrate that existing light fixtures on the west and south facades use covers and shields to screen the view of light sources from residences and streets. However, staff finds that the placement of light fixtures on the building in these locations in addition to the distance of the structure from SW Brentwood Street (20 feet) and from SW Laurelwood Avenue (approximately 30 feet) will prevent glare and view of the light source from the surrounding streets.

Existing lighting along the accessible pathway on the east side of the property and near the deck and patio area on the north side of the building are located in close proximity to the neighboring residence to the east. The existing vinyl privacy fence screens illumination of the pathway. The applicant provided an image in the Lighting Analysis of the wall-mounted light fixture under the deck demonstrating that light is angled upwards and downwards, and the light source is shielded by glass covers on the top and bottom of the fixture. The existing fence along the eastern property line prevents potential indirect glare impacts that affect the adjacent residence due to this light fixture. Additionally, the applicant notes in the response to the fourth Lighting Design Guideline (BDC 60.05.50.4) that two of the three existing motion-triggered emergency lights on the deck stairs have been removed. Upon review of the applicant's Lighting Analysis, staff was concerned that three motion-triggered flood lights on the deck stairs could cause light spill impacts on the adjacent residence due to the light fixtures' proximity to the eastern property line (page 5 of the Lighting Analysis). Staff finds that the applicant's action to remove two of the flood lights will minimize direct and indirect glare and light spill on the neighboring residence while ensuring safe conditions on site at night. Finally, staff finds that lighting on the north side of the building will not impact the residence abutting the site to the north, as the neighboring property line is approximately 78 feet away from the light fixtures mounted on and underneath the deck.

**Conclusion:** Therefore, staff finds the proposal meets the guideline.

## Attachment C: Design Review Three, Design Review Guidelines Analysis, Lighting Design Guidelines 60.05.50.4

4. **On-Site lighting should comply with the City's Technical Lighting Standards. (Standards 60.05.30.1 and 2.) Where the proposal does not comply with Technical Lighting standards, the applicant should describe the unique circumstance attributed to the use or site where compliance with the standard is either infeasible or unnecessary.**

### FINDING:

The applicant states that there is no proposed change to existing lighting, and compliance is infeasible because the structure and lighting are existing. The applicant asserts that compliance with the Lighting Design Standards is not necessary since Design Review is not applicable. Staff disagrees with the applicant. Design Review is applicable to this proposed development since the proposal involves changing the use of the site from a residential land use (single-detached dwelling acting as an Adult Foster Care for five individuals) to a commercial land use (Residential Care Facility for more than 5 individuals). Compliance with the Lighting Design Standards is applicable to evaluate potential lighting impacts of the proposed commercial use on the surrounding residences and streets. Since the applicant has chosen to address the Lighting Design Guidelines, the proposal will be evaluated according to the guidelines, rather than the technical specifications of the City's Technical Lighting Standards and the Lighting Design Standards.

Staff finds that compliance with the City's Technical Lighting Standards is unnecessary since existing lighting provides adequate illumination of all building entrances, parking areas, and circulation areas to ensure safety will minimizing direct and indirect glare impacts on adjacent streets and residences. Furthermore, complying with the City's Technical Lighting Standards on the subject property would result in light levels that are out of character with the surrounding residential neighborhood. For these reasons, staff concludes that it is unnecessary for the subject site to comply with the City's Technical Lighting Standards.

**Conclusion:** Therefore, staff finds the proposal meets the guideline.

### Additional Staff Commentary

This section of the memorandum is intended to respond to new applicant materials submitted on August 19, 2022, which have not informed staff's findings for applicable approval criteria of the applications. Staff commentary below responds to the following applicant materials:

**Exhibit 3.17** Specific Beaverton Development Code Analysis, dated Aug. 18, 2022 – Only select sections that are not addressed by this memorandum or the memorandum dated August 17, 2022.

**Exhibit 3.19** Email to Arnbrister, dated Aug. 18, 2022

**Exhibit 3.20** Washington County Standard Detail 1080

**Exhibit 3.21** Washington County Standard Detail 1081

Staff will not provide commentary on the following applicant materials submitted on August 22, 2022, since they include letters of support and information about the Rooted Care Communities business for the Planning Commissioners' review:

**Exhibit 3.22** Letter from Cristian Morariu, dated Aug. 8, 2022

**Exhibit 3.23** Letter from Katie Danielson, dated Aug. 21, 2022

**Exhibit 3.24** Letter from Makayla Nelson, dated Aug. 19, 2022

**Exhibit 3.25** Rooted Care Testimonial letter from Meyer family

**Exhibit 3.26** Rooted in the Community

**Exhibit 3.17 Specific Beaverton Development Code Analysis, dated Aug. 18, 2022**

In Exhibit 3.17, the applicant argues that staff has incorrectly applied the development code definition of Development to the proposal. In the memorandum dated August 17, 2022, staff cites the following definition for Development:

**Development.** The act of bringing about growth or change; to construct or alter a structure, to make a change in use or appearance of land, to divide land into parcels, or to create or terminate rights of access. [ORD 4111; July 2000]

The memorandum explained that the proposal would convert the existing single-detached dwelling (currently used as an Adult Foster Care for up to five people) to a Residential Care Facility which is a commercial land use when caring for more than five people. This constitutes a change in use of the land comprising the subject property which is consistent with the aforementioned definition for Development (... , to make a change in use or appearance of land, ...).

The applicant provides a second definition of Development found in the development code which reads:

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard. [ORD 3563; May 1987]

The first definition of development was adopted via ordinance 4111 in July 2000 which is a broad definition that applies to the code and does not have specific context or application. The second definition of development, referenced by the applicant, was adopted by ordinance 3563 in May 1987 which is specific to development within the floodplain, as noted by the last stipulation in the definition 'within the area of special flood hazard' and, therefore, not applicable to this proposal which is not located in an area of special flood hazard. Staff finds that the definition provided in the memorandum dated August 17, 2022 memo is the correct definition of development that applies to this proposal.

Exhibit 3.17 also references sections of development code Chapter 30 Nonconforming Uses as applicable to this project. In particular, the applicant references BDC 30.40 Nonconforming Parking, Loading, Signs, or Other Characteristics. The applicant asserts that the existing driveway is nonconforming because it was allowed by Washington County standards at the time of its construction when the building was expanded in 2016. The applicant also states that the existing garage is nonconforming since it was permitted as a part of a building addition by the Beaverton Building Division in 2016.

However, these assertions fail to recognize that the subject proposal constitutes a change in use of the land from the current residential land use to a proposed commercial land use. The existing driveway and garage conform to the requirements of a single-detached dwelling, as permitted by both Washington County (access point to SW Brentwood Street) and the City of Beaverton Building Division (building addition and parking requirements (BDC 60.30 for the driveway and garage) at that time. Since the proposal would change the land use of the site from residential to commercial, the existing building and site characteristics must meet the development code requirements applicable to the proposed commercial use of a Residential Care Facility. Existing structures and site conditions are not considered nonconforming simply because they exist on a site when development is proposed. The applicant's assertions that the proposal brings the driveway "towards conformity" is irrelevant because the driveway and parking areas of the site must meet the development code requirements for the proposed Residential Care Facility. BDC 60.30 Nonconforming Uses is not applicable to this project.

The applicant also asserts that the "real world" conditions of the site will provide five vehicle off-street parking spaces. In the same section, the applicant states that staff "makes no use of a portion of the BDC that easily allows them to 'recognize' five existing parking spots onsite." Staff assumes this is referring to the off-street parking Reduction for Special Needs Residential which allows the applicant to request a reduction to the off-street parking requirement (BDC 60.30.10.11.G). While this reduction allows a request to decrease the number of off-street parking spaces for a proposed use, this reduction does not allow staff to make findings that contradict other standards such as the location of vehicle parking requirements of BDC 60.30.10.10. Since BDC 60.30.10.10.B prevents groups of more than two spaces from requiring backing movements into the right of way, staff maintains its finding that the subject site only provides two compliant off-street parking spaces within existing parking areas that may be counted towards the number of off-street parking spaces available on site.

Lastly, Exhibit 3.17 also references the Climate-Friendly and Equitable Communities rules that will go into effect on January 1, 2023. Staff notes that these rules are not currently in effect. Therefore, they are not applicable to this project.

### **Exhibit 3.19 Email to Arnbrister, dated Aug. 18, 2022**

The submitted correspondence details email text sent to Senior Plans Examiner Lawrence Arnbrister in the Building Division from the applicant's representative. The representative's email asks Mr. Arnbrister for more information regarding future permitting requirements to convert the existing structure from an R-3 occupancy rating to R-4 occupancy. The representative cites Planning staff's assertion in the supplemental memorandum dated August 17, 2022, that conversion of the existing single-detached dwelling to a Residential Care Facility causes the structure to become a commercial building. The representative asks for clarification from Mr.

Arnbrister if a review under a commercial building code or rating will be required. The documentation does not include a response from Mr. Arnbrister.

Staff notes that the Building Division has communicated to Planning staff and the applicant that a Building Permit will be required to convert the existing structure from R-3 to R-4 occupancy if the Residential Care Facility is approved on the subject site. This is because the proposed use falls under a different occupancy classification than the occupancy classification that was applicable to the structure at the time of original construction and construction of the addition in 2016. The building code and development codes do not classify land uses or structures in the same way. While the development code classifies Residential Care Facilities for more than five individuals as a commercial land use, the building code includes an independent set of applicable regulations and classification for the proposal which are not evaluated through the land use process. Rather, compliance with the building code, including compliance with the applicable occupancy rating, is evaluated through the Building Permit process. The occupancy classification given to the proposed use by the Building Division is unrelated to the use category of Commercial given by the Development Code.

### **Exhibit 3.20 Washington County Standard Detail 1080 and Exhibit 3.21 Washington County Standard Detail 1081**

The applicant provided Standard Detail drawings 1080 and 1081 from the Washington County Department of Land Use and Transportation Engineering Section. Both Standard Details concern access requirements for commercial uses from County rights of way. Washington County provided comments and recommended conditions of approval for this proposal which would require the applicant to reconstruct the existing access point to SW Brentwood Street and driveway to comply with Standard Details 1080 and 1081 for commercial access.

The applicant asserts that because SW Brentwood Street is a Washington County facility that the City does not have the authority to regulate the design of the on-site parking lot which is accessed via SW Brentwood Street. That is incorrect. The City is the land use authority of the subject site. Therefore, the off-street parking standards (BDC Section 60.30), including the parking lot design standards, are applicable to all properties within the jurisdiction of the City of Beaverton regardless of the jurisdiction of the street that a parking lot is accessed from. As such, the City's standard which limits the number of parking spaces that can back into or maneuver on the public street are applicable to this project as they pertain to the design of off-street parking spaces within a parking area that is located on private property under the land use authority of the City of Beaverton.

## **Remaining Unmet Approval Criteria**

Facilities Review Committee Approval Criterion 40.03.1.D

New Conditional Use Approval Criterion BDC 40.15.15.5.C.4

New Conditional Use Approval Criterion BDC 40.15.15.5.C.5

## Staff Conclusions and Recommendations

**Based on the facts and findings presented in this memorandum, the memorandum dated August 17, 2022, and the Staff Report dated August 10, 2022, staff recommends DENIAL of CU2022-0004 and DR2022-0005.** Should the Planning Commission determine the application should be approved, staff recommends it is subject to the applicable conditions identified in Attachment D of the staff report dated August 10, 2022, except as modified by this memorandum and the memorandum dated August 17, 2022.