



City of Sweet Home

Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Staff Report Presented to the Planning Commission

REQUEST: The applicant is requesting a conditional use permit for a two-bedroom, two-bathroom multi-family apartment complex consisting of nine units and 18 onsite parking spaces. A Property Line Adjustment application was submitted and approved by Administrative Decision on July 28, 2020, combining Lots 4700 and 4735. The property is in the Residential Medium Density (R-3) Zone per Zone Map Application ZMA20-02 approved by the Planning Commission on July 13, 2020 and Ordinance No. Bill 11 for 2020 approved by City Council on September 8, 2020.

In the Residential Medium Density (R-3) Zone, multi-family units are permitted as a conditional use. [SHMC 17.30.30(B)]

APPLICANT: Seven Star Investments

PROPERTY OWNER: Jim Bradford

FILE NUMBER(S): CU20-05

PROPERTY LOCATION: 933 23rd Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E32CA Tax Lots 4700 and 4735

REVIEW AND DESIGN CRITERIA: Sweet Home Municipal Code Section(s) 17.24.030, 17.80.040

HEARING DATE & TIME: **November 2, 2020 at 6:30 PM**

HEARING LOCATION: City Hall, Council Chambers at 3225 Main Street, Sweet Home, Oregon 9738

STAFF CONTACT: Angela Clegg, Associate Planner
Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov

REPORT DATE: October 26, 2020

I. PROJECT AND PROPERTY DESCRIPTION

ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Medium Density (R-3)	Medium Density Residential
Property North	Residential High Density (R-2) Residential Low Density (R-1)	High Density Residential
Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

Floodplain: Based on a review of the FEMA FIRM Maps; per panel 41043C0914G dated September 29, 2010 the subject property is not located in the 100-year floodplain.

Wetlands: The subject property does contain wetlands that are inventoried on the Sweet Home Local Wetlands Inventory, but not on the National Wetlands Inventory (NWI) Map.

Access: The subject property has frontage along 23rd Avenue.

Services: The property is connected to City water and sewer services.

TIMELINES AND HEARING NOTICE:

Application Received: August 26, 2020

Application Deemed Complete: September 16, 2020

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: September 8, 2020

Notice Published in New Era Newspaper: September 23, 2020

Date of Planning Commission Hearing: November 2, 2020

120-Day Processing Deadlines: January 14, 2021

II. COMMENTS

CEDD Engineering: Project & Location: The Conditional Use commercial apartment building will be accessing 23rd Ave only, even though the property also has frontage on Mtn View Road.

Streets & Stormwater: Street access is to 23rd Avenue, a single driveway entering to the south end of 23rd Avenue cul-de-sac, and sidewalks around the property frontage of the cul-de-sac will be required. Stormwater runoff will be contained onsite, with a controlled outlet to the drainage system in 23rd Avenue. The development appears to cover most of the properties. There are two different directions (north and west) for traffic to flow from the apartment. Both 23rd Avenue and Ironwood St are built out with no other lots available. There is an apartment next door to this project and two Single Family Attached townhouse located on 23rd also. No significant additional traffic is anticipated. There is a local unnamed stormwater creek channel that runs along the east and north lines of the property toward 23rd Avenue. Most but not all the channel is on the two adjacent properties. It has an upstream source near 27th Avenue and 28th Avenue. On the Sweet Home Local Wetland Inventory, the channel is designated CC-1. CC-1 (Cotton Creek – the first upper reach of the drainage) refers to the LWI Wetland Characterization Sheets that indicate Dominant Wetland Vegetation, Soils, Location, Hydrologic Basin and other information of the channel. The owner of the next-door apartment

complex would like reassurance that the channel flow will be maintained, cleared of brush and any debris that accumulates.

Water & Sanitary: Water and Sanitary Sewer services are available in 23rd Avenue. Sewer service connections have been extended to the property by the previous owner. Water service connections have not been requested at this time.

Comments & Recommendations: CEDD-IS have no issues at this time. Some utility services are installed. The City would recommend that the creek channel be cleared of debris as needed.

Public Works Division: Sidewalk development on the 23rd Avenue cul-de-sac will be required upon development. There is a sewer main easement on the southwest side of the property for a sewer main that runs from Mountain View Rd to 23rd Avenue. The parking lot is an acceptable use of the easement. There is a drainage ditch on the east and north sides of the property that conveys runoff from Mountain View Road to 23rd Avenue and does not have an easement. Public Works desires a 20' public utility easement for this drainage. This may require moving the building west slightly. If the developer pipes the drainage, then Public Works would be willing to consider a narrower easement on the east side.

Building Division: The Building Program has no issues with this request.

Fire Department: No comments as of the issue of this Staff Report.

III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a conditional use permit are listed below in bold. Staff findings and analysis are provided under each review and decision criterion.

A. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws [SHMC 17.80.040(A)].

Staff Findings: The construction of multi-family dwellings shall be through a conditional use permit [SHMC 17.30.030(B)].

The application complies with this criterion.

B. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering, but not limited to, the following:

1. **Building size;**
2. **Parking;**
3. **Traffic;**
4. **Noise;**
5. **Vibration;**
6. **Exhaust and emissions;**
7. **Light and glare;**

8. **Erosion;**
9. **Odor;**
10. **Dust;**
11. **Visibility;**
12. **Safety;**
13. **Building, landscaping or street features [17.80.040(B)].**

Staff Findings: The applicant is requesting a conditional use permit for a two-bedroom, two-bathroom multi-family apartment complex consisting of nine units and 18 onsite parking spaces. In the Residential Medium Density (R-3) Zone, multi-family units are permitted as a conditional use. [SHMC 17.30.30(B)]

1. Building size:
Staff Findings: There are no issues with the building size. Per SHMC 17.30.080
2. Parking and Traffic:
Staff Finding: There will be little to no traffic or parking impact. The 9-plex shall include 18 parking spaces. Single-, two- and multi-family dwellings require two spaces per dwelling unit [SHMC 17.08.090(H)(1)]
3. Noise:
Staff Findings: The applicant has not indicated the proposed use is sensitive to neighborhood noise levels except during the construction phase of the multi-family dwelling.
4. Vibration:
Staff Findings: The proposed use is not one that will create vibrations except during the construction phase of the multi-family dwelling.
5. Exhaust and emissions:
Staff Findings: The proposed use is not anticipated to create exhaust or emissions.
6. Light and glare:
Staff Findings: The applicant has not indicated that the proposed use will create light and glare different than what is normal in a residential zone.
7. Erosion:
Staff Findings: Staff has not identified any significant impacts from erosion that would preclude the proposed development.
8. Odor:
Staff Findings: The proposed home occupation would not create odor.
9. Dust:
Staff Findings: Aside from the initial construction, the proposed home occupation would not create dust.
10. Visibility:
Staff Findings: The proposed use would not affect visibility of any person on or off the subject property.
11. Safety:
Staff Findings: Staff has not identified any negative safety impacts that would adversely affect the establishment of the proposed use on the subject property.

12. Building, landscaping or street features:

Staff Findings: Per the Public Works comments, sidewalk development on the 23rd Avenue cul-de-sac will be required upon development. There is a drainage ditch on the east and north sides of the property that conveys runoff from Mountain View Road to 23rd Avenue and does not have an easement. Public Works desires a 20' public utility easement for this drainage. This may require moving the building west slightly. If the developer pipes the drainage, then Public Works would be willing to consider a narrower easement on the east side.

Per the Staff Engineers comments, there is a local unnamed stormwater creek channel that runs along the east and north lines of the property toward 23rd Avenue. Most but not all the channel is on the two adjacent properties. It has an upstream source near 27th Avenue and 28th Avenue. On the Sweet Home Local Wetland Inventory, the channel is designated CC-1. CC-1 (Cotton Creek – the first upper reach of the drainage) refers to the LWI Wetland Characterization Sheets that indicate Dominant Wetland Vegetation, Soils, Location, Hydrologic Basin and other information of the channel. Staff recommends that the creek channel be cleared of debris as needed

With the above conditions, the application complies with this criterion.

C. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval that include but are not limited to those listed in this chapter [SHMC 17.80.040(C)].

Staff Findings: The applicant is proposing a two-bedroom, two-bathroom multi-family apartment complex consisting of nine units and 18 onsite parking spaces. Per the public works comments, sidewalk development on the 23rd Avenue cul-de-sac will be required upon development. There is a drainage ditch on the east and north sides of the property that conveys runoff from Mountain View Road to 23rd Avenue and does not have an easement. Public Works desires a 20' public utility easement for this drainage. This may require moving the building west slightly. If the developer pipes the drainage, then Public Works would be willing to consider a narrower easement on the east side. Per the Staff Engineers comments, the development appears to cover most of the properties, the creek channel will need to be adjusted and accommodated. There is a local unnamed stormwater creek channel that runs along the east and north lines of the property toward 23rd Avenue. Most but not all the channel is on the two adjacent properties. It has an upstream source near 27th Avenue and 28th Avenue. On the Sweet Home Local Wetland Inventory, the channel is designated CC-1. CC-1 (Cotton Creek – the first upper reach of the drainage) refers to the LWI Wetland Characterization Sheets that indicate Dominant Wetland Vegetation, Soils, Location, Hydrologic Basin and other information of the channel. The owner of the next-door apartment complex would like reassurance that the channel flow will be maintained, cleared of brush and any debris that accumulates. Staff recommends that the creek channel be cleared of debris as needed

With the above conditions, the application complies with this criterion.

D. All required public facilities have adequate capacity, as determined by the city, to serve the proposed use [SHMC 17.80.040(D)].

Staff Findings: Per the staff engineers' comments, water and sanitary sewer services are available in 23rd Avenue. Service connections have been extended to the property by the previous owner. The street access is to 23rd Avenue. An access driveway and sidewalks will be required at the end of the street. Per the public works comments, sidewalk development on the 23rd Avenue cul-de-sac will be required upon development.

With the above conditions, the application complies with this criterion.

E. Home occupations must meet the following standards:

- 1. The home occupation shall be secondary to the residential use [SHMC 17.80.040(E)(1)].**

Staff Findings: The applicant is not proposing a home occupation.

- 2. All aspects of the home occupation shall be contained and conducted within a completely enclosing building [SHMC 17.80.040(E)(2)].**

Staff Findings: The applicant is not proposing a home occupation.

- 3. No materials or mechanical equipment shall be used which are detrimental to residential use of the dwelling or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with the electrical grid, radio or television reception or other similar factors [SHMC 17.80.040(E)(3)].**

Staff Findings: The applicant has not indicated the proposed use is detrimental to residential use of the dwelling or nearby dwellings.

The application complies with this criterion.

- 4. Vehicles related to the home occupation shall be parked in a manner so as to not block any driveway or impede the safe flow of traffic [SHMC 17.80.040(E)(4)].**

Staff Findings: The applicant is not proposing a home occupation

- F. In approving a conditional use permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions determined to be necessary to assure that the proposed development meets the decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole. [SHMC 17.80.050]**

- 1. These conditions may include, but are not limited to, the following:**
 - a) Requiring larger setback areas, lot area, and/or lot depth or width;**
 - b) Limiting the hours, days, place and/or manner of operation;**
 - c) Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor or dust;**
 - d) Limiting the building height, size or lot coverage, or location on the site;**
 - e) Designating the size, number, locations and/or design of vehicle access points, parking areas, or loading areas;**
 - f) Increasing the number of required parking spaces;**
 - g) Requiring street right-of-ways to be dedicated and streets, sidewalks, curbs, planting strips, pathways or trails to be improved, so long as findings in the development approval indicate how the dedication and/or improvements, if not voluntarily accepted by the applicant, are roughly proportional to the impact of the proposed development;**

- h) Limiting the number, size, location, height and lighting of signs;
- i) Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
- j) Requiring fencing, screening, landscaping, berms, drainage, water quality facilities or other facilities to protect adjacent or nearby property, and the establishment of standards for their installation and maintenance;
- k) Designating sites for open space or outdoor recreation areas;
- l) Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, and historic or cultural resources;
- m) Requiring ongoing maintenance of buildings and grounds;
- n) Setting a time limit for which the conditional use is approved. [SHMC 17.80.050(A)]

Staff Findings: This provision of the SHMC allows the Planning Commission to impose conditions of approval. This is an opportunity for the Planning Commission to determine if conditions are needed in order to ensure compliance with the "decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole." As specified in SHMC 17.80.050, conditions could include, but are not limited to: expanding setbacks, limiting hours of operation, requiring site or architectural design features, imposing additional sign standards, and so forth.

If this application is approved, staff recommends the Planning Commission impose a Conditional of Approval to address the stormwater runoff addressed in the Staff Engineers comments and a Conditional of Approval to address the utility easement addressed in the Public Works comments.

G. A conditional use permit shall be void one year after the date of the Planning Commission approval if the use has not been substantially established within that time period. [SHMC 17.80.070]

Staff Findings: As required under this section, the conditional use permit shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.80.070(A), within that time period. As stated in the SHMC, the City Planner may grant one extension of up to one year for a conditional use permit that contained a one-year initial duration upon written request of the applicant and prior to the expiration of the approved period. Requests other than a one-year request made prior to the expiration of the approved period must be approved by the Planning Commission. A conditional use permit not meeting the above time frames will be expired and a new application will be required.

IV. CONCLUSION AND RECOMMENDATION

If the Planning Commission approves this application, staff recommends that the conditions of approval listed below be required in order to ensure that the application is consistent with the findings in the Review and Decision Criteria (Section III) and as required by the Sweet Home Municipal Code and other provisions of law. Appeals to the Land Use Boards of Appeals (LUBA) may only be based on Review and Decision Criteria listed above.

Recommended Conditions If the Application is Approved:

1. The construction and use of the multi-family dwelling will be conducted in a manner consistent with the representations made by the applicant in the application and hearing process.
2. The applicant shall develop the 23rd Avenue access driveway and sidewalks upon development of the apartments.

3. The applicant shall work with the City of Sweet Home to create a maintenance plan to keep the creek channel cleared of debris and create a public utility easement to accommodate the stormwater drainage and maintenance. The applicant will comply with all applicable State and City requirements for the stormwater drainage and wetland mitigation.
4. The applicant shall provide a lighting plan acceptable to the Sweet Home Municipal Code requirements of 17.44.090.
5. The applicant shall obtain and comply with all other applicable local, state, and federal permits and requirements.

V. PLANNING COMMISSION ACTION

In taking action on a Conditional Use Permit, the Planning commission will hold a public Hearing at which it may either approve or deny the application(s). If the application is denied, the action must be based on the applicable review and decision criteria. If approved, the Planning Commission may impose conditions of approval. Staff's recommended conditions are included in Section IV

Appeal Period: Staff's recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the notice of decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an order that is signed by the Chairperson of the Planning Commission. The Order would memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

Motion : After opening the public hearing and receiving testimony, the Planning Commission's options include the following :

1. Move to approve application CU20-05; which includes: adopting the findings of fact listed in the staff report and the conditions of approval listed in Section IV of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny applications CU20-05; which includes: adopting the findings of fact (specify), including the setting of a 12-day appeal period from the date of mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other.

VI. ATTACHMENTS

- A. Subject Property Map
- B. Site Plan
- C. Public Comments
- D. Application
- E. Wetland Land Use Notification Response
- F. Application ZMA20-02 and Application PLA20-02 *for reference only*

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 8:00 AM and 5:00 PM, Monday through Friday, excluding holidays.