



## 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 to allow for a proposed non-dwelling accessory building on the subject property. In the Residential Low Density (R-1) zone a secondary use on a lot without a primary use is allowed per a conditional use. [SHMC 17.24.030 (L)]. The subject property contains approximately 10,917 square feet and is in the Residential Low Density (R-1) Zone.

**APPLICANT:** Sam Burton

**PROPERTY OWNER:** Robert Samuel and Leorah Burton

**FILE NUMBER(S):** CU21-02

**PROPERTY LOCATION:** 628 9<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E31CA Tax Lot 29800.

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

**HEARING DATE & TIME:** **April 5, 2021 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](mailto:aclegg@sweethomeor.gov)

**REPORT DATE:** March 29, 2021

### I. PROJECT AND PROPERTY DESCRIPTION

#### ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

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

**Floodplain:** Based on a review of the FEMA FIRM Maps; Panel 41043C0913G dates September 29, 2010, the subject property is not located in the 100-year floodplain.

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

Access: The subject property has frontage along 9<sup>th</sup> Avenue; however the parcel will be accessed via the driveway on 701 8<sup>th</sup> Avenue, also owned by the applicant.

Services: The property has access to City water and sewer services.

#### TIMELINES AND HEARING NOTICE:

Application Received: February 26, 2021

Application Deemed Complete: February 26, 2021

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: March 1, 2021

Notice Published in New Era Newspaper: March 3, 2021

Date of Planning Commission Hearing: April 5, 2021

120-Day Processing Deadlines: June 26, 2021

## **II. COMMENTS**

**CEDD Engineering:** The CEDD-ES has one issue to note with this application. With the application criteria limiting driveway access to 9<sup>th</sup> Ave, it is recommended that the apron be removed, and a standard sidewalk section replace the curb and driveway. There is also a tripping hazard of tilted concrete sidewalk panels a few feet south of the driveway, that while not part of the access apron, is a liability, and is the adjacent homeowner's responsibility. The resident owned house is connected to city services and accesses 8<sup>th</sup> Ave, access to this parcel with the proposed structure will access 8<sup>th</sup> Ave also. CEDD-ES has no concerns other than the recommendation of removal of the 9<sup>th</sup> Ave driveway apron and construction of level sidewalk and curb.

**Public Works Division:** Public Works has no concerns with the request at this time.

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

**Sweet Home Fire District:** The Fire District has no concerns with the request

**Public Comment:** See Attachment C

## **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: Staff finds that the applicants request complies with the underlying zone, city codes, state and federal laws. A secondary use on a lot without a primary use is allowed per a conditional use. [SHMC 17.24.030 (L)]

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 this conditional use permit to allow a secondary use on a lot without a primary use. A secondary use on a lot without a primary use is allowed per a conditional use. [SHMC 17.24.030 (L)] Staff finds the site size, dimensions, location, topography and access are adequate for the needs of the proposed use. The Staff Engineer recommends the driveway apron be removed along 9<sup>th</sup> Avenue, and a standard sidewalk section replace the curb and driveway. There is also a tripping hazard of tilted concrete sidewalk panels a few feet south of the driveway, that while not part of the access apron, is a liability, and is the adjacent homeowner's responsibility

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 requesting this conditional use permit to allow a secondary use on a lot without a primary use. Staff finds that no potential impacts are identified.

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: The applicant is requesting this conditional use permit to allow a secondary use on a lot without a primary use, so there would be minimal traffic or parking impact and no need for any public facilities improvements.

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.

The application complies with this criterion.

- 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.

The application complies with this criterion.

- 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 indicates the proposed secondary use will not use any materials or mechanical equipment that will create any impacts on the neighborhood.

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

The application complies with this criterion.

**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 no conditions of approval as there are no potential impacts which need mitigation except for procedural conditions to assure the operation of the home occupation as represented by the applicant.

**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 proposed secondary use will be conducted in a manner consistent with the representations made by the applicant in the application and hearing process.
2. Staff recommends that the 9<sup>th</sup> Avenue driveway apron be removed, and a standard sidewalk section replace the curb and driveway. Staff also recommends that the applicant fix the tilted concrete sidewalk panels a few feet south of the driveway.
3. The property owner 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 CU21-02; 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 CU21-02; 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**

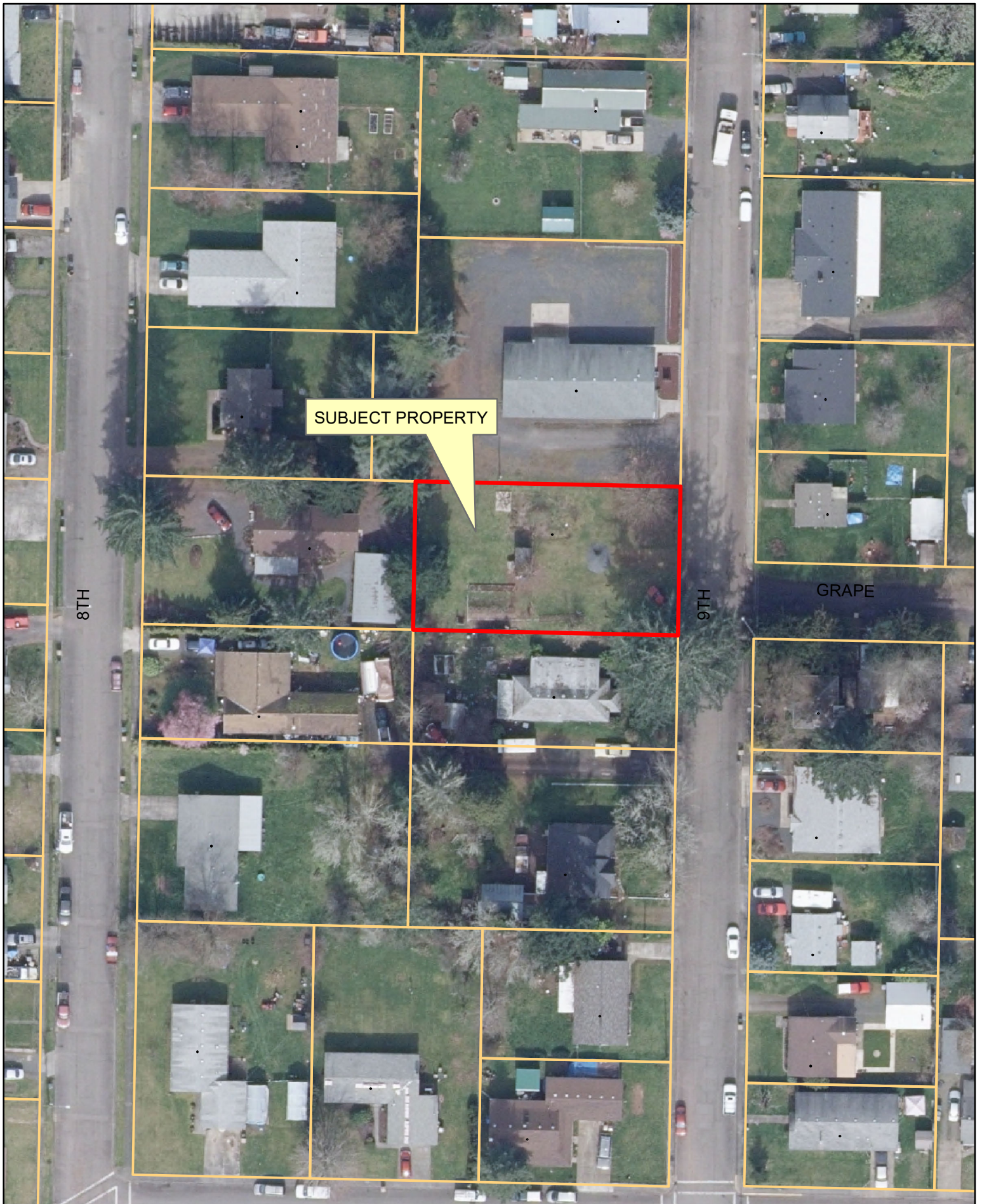
- A. Subject Property Map
- B. Site Plan

C. Public Comments

D. Application

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.



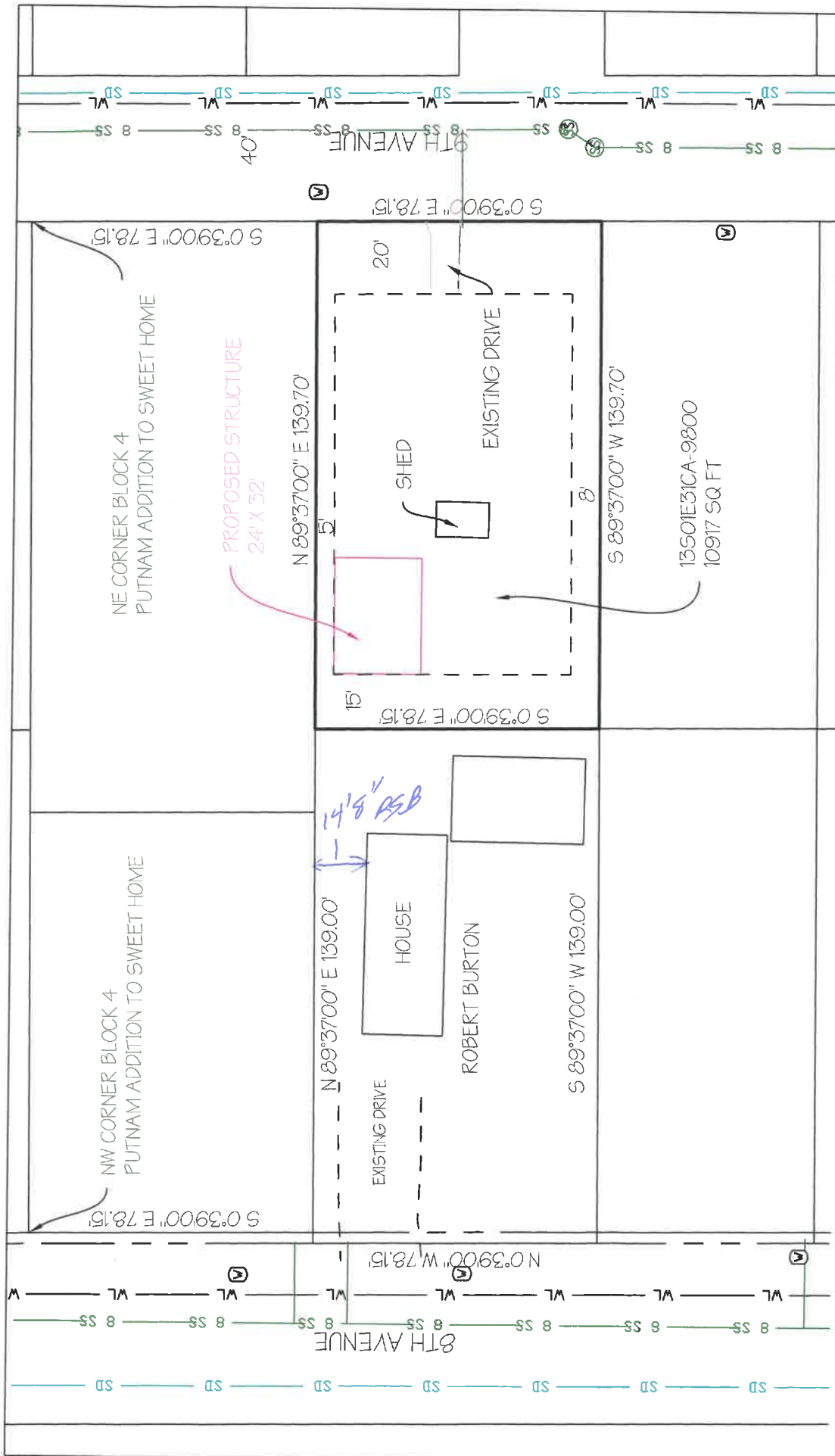


1 inch = 64 feet

Subject Property Map  
CU21-02  
628 9th Avenue

Date: 02/26/21





CONDITIONAL USE APPLICATION MAP

TAXLOT 9800

FOR

SAM BURTON

TAXLOTS 13501E31CA-9800

701 8TH AVENUE

SWEET HOME, OR 97386

458-209-0248

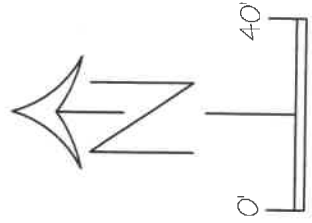
DRAWN BY:

R. JONES, PLS 56399

**Cascade Timber  
Consulting, Inc.**



3210 Hwy. 20, PO Box 446  
Sweet Home, OR 97386  
Phone: (541) 367-2111



Carol and Terry Lewis  
25751 Brush Creek Road  
Sweet Home, OR 97386

March 6, 2021

Sweet Home Community and Economic Department

3225 Main Street

Sweet Home, OR 97386

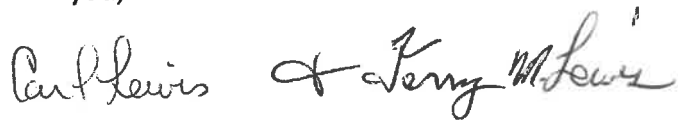
Attn: Angela Clegg, Planning Commission

RE: Conditional Use Permit Request, CU 21-02, 628 9<sup>th</sup> Avenue

The request for a Conditional Use Permit for the property owned by Robert Samuel and Leorah Burton, located at 628 9<sup>th</sup> Avenue, is an excellent use of the subject property in conjunction with their home property located on 8<sup>th</sup> Avenue. The request meets the setback requirements and the maximum allowed size of an accessory structure in the zone, preserving the remainder of the parcel for future development.

We believe this will be a positive addition to the neighborhood, as has all the work done on this parcel to date. We support Conditional Use Permit Request, CU 21-02, 628 9<sup>th</sup> Avenue.

Thank you,

A handwritten signature in cursive script that reads "Carol Lewis & Terry Lewis". The ink is dark and the signature is fluid.

Carol and Terry Lewis

Owners: 555 9<sup>th</sup> Avenue



## City of Sweet Home

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

### Application for a Conditional Use Permit

Date Received: 02.26.21  
Date Complete: 02.26.21  
File Number: CU21-02  
Application Fee \$: 615.00  
Receipt #: 4247  
Hearing Date: 04.05.21

**Applicant's Name:**

Sam Burton

**Applicant's Address:**

701 8th Ave, Sweet Home, OR 97386

**Applicant's Phone and e-mail:**

458-209-0248 burton.robert@comcast.net

**Subject Property Address:**

628 9th Ave, Sweet Home, OR 97386

**Subject Property Assessor's Map and Tax Lot:**

3S01E31CA-9800

**Subject Property Size:**

10917 SQ FT

**Subject Property: Zoning Classification**

R-1

**Property Owner:**

Robert Samuel & Leorah Burton

**Owner's Address:**

701 8th Ave, Sweet Home, OR 97386

**Owner's Phone and email:**

458-209-0248 burton.robert@comcast.net

**Nature of Applicants Request**

Narrative describing the proposed use: Brief Description on this form and attach extra sheets if needed.

See separate narrative

Impacts on the neighborhood: Include traffic, parking, noise, odor, dust or other impacts. Brief Description on this form.

**Submittal Requirements**

The checklist on the other side of this application lists the required items must be submitted with this application and the Criteria the request must meet. Please address all items that apply to this request.

**I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.**

**Applicant's Signature:**

*Robert A. Burton*

Date:

2-26-2021

**Property Owner's Signature:**

*Robert A. Burton*

Date:

2-26-2021

Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.

## SHMC 17.80.030 APPLICATION REQUIREMENTS

An application for a Conditional Use must meet the submittal requirements and the decision criteria noted below.

- ☒ 1. A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the subject lot;
- ☒ 2. Narrative describing the proposed use and the impacts on the neighborhood;
- ☒ 3. For commercial activities, a proposed plan of business operation;
- ☒ 4. Off street parking and on-site circulation plans for vehicles, bicycles, and pedestrians;
- ☒ 5. The location and dimensions of entrances and exits;
- ☒ 6. A Traffic Impact Study, if required by the City Engineer and the City Planner;
- ☒ 7. Landscape plans;
- ☒ 8. A signage plan, if applicable;
- ☒ 9. Drawings of the exterior for new buildings;
- ☒ 10. Photographs of existing buildings if no changes are to be made to the exterior of the building.

## SHMC17.80.040 CONDITIONAL USE CRITERIA.

The criteria that will be used in approving, approving with conditions, or denying an application, or to enlarge or alter a conditional use, will be based on findings with respect to each of the following standards and criteria.

- ☒ A. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws.
- ☒ 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
- ☒ 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.
- ☐ D. All required public facilities have adequate capacity, as determined by the city, to serve the proposed use.
- ☐ E. Home occupations must meet the following standards:
  - ☐ 1. The home occupation shall be secondary to the residential use.
  - ☐ 2. All aspects of the home occupation shall be contained and conducted within a completely enclosing building.
  - ☐ 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.
  - ☐ 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
- ☐ F. Marijuana facilities must be located in a fixed location. No temporary or mobile sites of any sort are allowed.
- ☐ G. Marijuana facilities may not have any drive-up services.
- ☐ H. Marijuana facilities must be located at least 1,000 feet from the property boundary of any school.
- ☐ I. Marijuana facilities must be sited on a property so as to be at least 100 feet from the boundary of any residentially zoned property.

Sam Burton conditional use application supplemental information

The purpose of this conditional use application is to allow for a non-dwelling accessory building to be built on the property.

SHMC 17.80.030

1. See site plan
2. The purpose of this conditional use application is to allow for a non-dwelling accessory building to be built on the property.
3. N/A
4. N/A
5. This property has an existing access to 9<sup>th</sup> Avenue, See site plan.
6. N/A
7. N/A
8. N/A
9. See plans
10. N/A