



**ZONING ADMINISTRATOR STAFF REPORT**  
Meeting Date: May 1, 2024

To: Town of Truckee Zoning Administrator

From: Yumie Dahn, Principal Planner

RE: Truckee Overhead Door Zoning Clearance and Minor Use Permit (Planning Application No. 2023-00000116/ZC-MUP-SP; 13418 Donner Pass Road; APN 018-363-012); Applicant/Owner: Scott Kessler, Truckee Overhead Door; Agent: Gavin Ball

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**Recommended Action:** That the Zoning Administrator take the following actions: 1) Determine the project to be exempt from further environmental review pursuant to Section 15332 (In-Fill Development Projects) of the California Environmental Quality Act; and 2) Approve a Zoning Clearance, Minor Use Permit, and Sign Plan based on the recommended findings and subject to the recommended conditions of approval.

**Project Description:** The applicant is proposing to construct a 3,021 s.f. mixed-use building with 1,975 s.f. of commercial office floor area on the first floor and a 1,046 s.f. two-bedroom apartment on the second floor. Nine surface parking spaces are proposed. The following land use entitlement are required: 1) **Zoning Clearance** for any new construction with a total gross floor area of less than 7,500 s.f. of floor area, less than 26,000 s.f. of disturbance and establishing an “office, business and professional” use and a “multi-family dwelling, in commercial/industrial project” in the Neighborhood Commercial (CN) zoning district; 2) **Minor Use Permit** to construct a structure in an easement; and 3) **Sign Plan** for one wall sign.

**Location/Setting:** The project site is located on the north side of Donner Pass Road, approximately 186 feet west of the Donner Pass Road and Olympic Drive intersection (13418 Donner Pass Road; APN 018-363-012). See Figure 1 for the vicinity map and Figure 2 for the street view.

**Project Site Information:**

Zoning District:	Neighborhood Commercial (CN)
General Plan Designation:	Neighborhood Mixed Use
Parcel Size:	0.29 acres (includes two legal lots, Lots 24 and 25 of Block B of the Donner Pines Tract Extension)
Proposed Utilities:	Public Water and Sewer



Figure 1: Vicinity Map



Figure 2: Street View

## **Discussion/Analysis:**

### ***Background***

The project site is located on Lots 24 and 25 of the Donner Pines Tract Extension, which was recorded on October 13, 1948. The project site is vacant and undeveloped with a commercial building located directly to the east, a mixed-use site to the west, and single-family residential uses to the north. Single-family residential and multi-family residential condominiums are located to the south, across Donner Pass Road.

### ***Project Description***

The applicant is proposing a mixed-use building with 1,975 s.f. of office floor area on the first floor and a 1,046 s.f. two-bedroom apartment on the second floor. The project height is 30.5 feet and two stories, with a floor area ratio of 0.24, with the residential and commercial floor areas combined. Nine surface parking spaces are proposed at the rear of the property. A solid six-foot tall wood fence is proposed along the rear property line in an existing five-foot public utility easement. The applicant's plans can be found in Attachment #3 and supplemental submittal information can be found in Attachment #4. Figure 3 shows the front perspective of the project. Figure 4 on Page 4 shows the site plan.

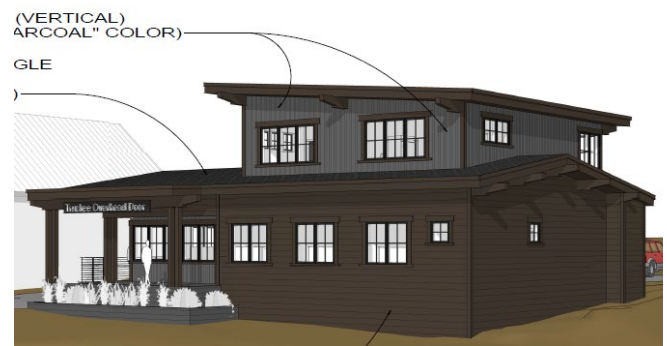


Figure 3: Front perspective

### ***Land Use Approvals***

The following land use approvals are required:

#### ***Zoning Clearance***

A Zoning Clearance is required for any new construction with a total gross floor area of less than 7,500 s.f. of floor area, less than 26,000 s.f. of disturbance, and establishing an "office, business and professional" use and a "multi-family dwelling, in commercial/industrial project" in the Neighborhood Commercial (CN) zoning district. The applicant is requesting Zoning Clearance approval for a 3,021 s.f. mixed-use building with a "office, business and professional" use on the first floor and a two-bedroom residential unit on the second floor.

#### ***Minor Use Permit***

The applicant is requesting a Minor Use Permit to construct a six-foot tall wood fence within the five-foot public utility easement located along the rear of the property. No structure is allowed within a public utility easement except in certain circumstances. For the purposes of this project, a Minor Use Permit is required to allow a structure that does not serve the purpose of the easement in an easement if the review authority first finds that the structure will not interfere with the purpose of the easement.

#### ***Sign Plan***

All permanent signs greater than two square feet are required to be reviewed. One 22.7 s.f. wall sign is proposed. As the review authority for the project, the Zoning Administrator is required to review the Sign Plan for consistency with the Development Code requirements for size, height, location, materials, color, and lighting.

### ***General Plan Consistency***

The project was deemed complete on September 19, 2023, after adoption of the 2040 General Plan and is being reviewed under the 2040 General Plan. The project site is located in the Neighborhood Mixed Use land use designation which allows neighborhood-serving commercial uses, such as restaurants, offices, and small retail, as well as multi-family residential. This designation requires mixed-use development and allows horizontal mixed use and vertical mixed use. The designation supports the development of mixed-use centers in residential neighborhoods to increase local services and reduce vehicle trips. The Neighborhood Mixed Use land use designation allows six to eight dwelling units per acre and a maximum floor area ratio of 0.6.

A project on a 0.29-acre (or 12,500 s.f.) parcel in the Neighborhood Mixed Use land use designation requires at least one residential unit and allows up to two residential units. The overall project, with both commercial and residential square footage, cannot exceed 7,500 s.f. of gross floor area. With one residential unit proposed and a total of 3,021 s.f. of gross floor area, the project complies with the required uses as well as the intensity and density requirements of the General Plan.

Further, the project is consistent with the following General Plan policies:

- LU-1.3: Infill Development: Encourage infill development within existing developed areas, including commercial centers and corridors, to promote sustainability, environmental protection, and equitable development patterns.
- LU-3.1: Mixed-Use Development: Strongly encourage mixed-use development to support compact pedestrian-friendly districts in appropriate locations, including the Downtown, the West River District, and the Gateway District.
- LU-3.5: Building Orientation: Require new buildings in mixed-use and commercial areas to be oriented toward the street and for off-street parking areas to be located on the rear or side of commercial buildings. Ultimate building locations must accommodate snow removal and snow storage, stormwater treatment, and should maximize solar orientation.
- LU-10.1: Housing and Neighborhood Services at Donner Lake: Support compact development that expands neighborhood services, creates diverse housing opportunities, and promotes a walkable and bikeable neighborhood.

### ***Development Code Consistency***

The project is located within the CN (Neighborhood Commercial) zoning district which is applied to areas appropriate for retail sales, offices and services serving the daily needs of nearby residents. This district may also accommodate mixed-use developments with residential and commercial uses. The project is consistent with the setback, floor area, site coverage, open space, height limit, site landscaping, exterior lighting and sign requirements of the Development Code, including the requirements of Development Code Section 18.58.140 (Mixed-Use Development). The Development Code allows a 0.20 maximum FAR for the commercial floor area or up to 2,500 s.f., a maximum density of four dwelling units per acre for mixed-use projects (one dwelling unit for this site), and requires that the commercial component be the primary component of the project (i.e., residential uses shall not exceed 50 percent of the total floor area of the mixed-use project). The 1,975 s.f. of commercial floor area and one 1,046 s.f. dwelling unit complies with the Development Code. Further, it is staff's opinion that the architecture and materials proposed for the project are consistent with the Town's design guidelines.

Staff has identified the requirements for a fully enclosed garage parking space, bicycle parking, and screening and buffering for further consideration by Zoning Administrator below. Staff also notes that a Lot Line Adjustment will be required to merge the two underlying parcels to ensure that the proposed structure is not constructed over a property line.

### *Fully Enclosed Garage*

Although the project only proposes one residential unit, the residential unit is considered a multi-family residential dwelling as defined by the Development Code. The Development Code definition for “Dwelling, Multi-family”) includes “one or more dwelling units that are attached or detached to a nonresidential project in a commercial or manufacturing zoning district.” Table 3-8 (Parking Requirements by Land Use) in Development Code Section 18.48.040 (Number of Parking Spaces Required) requires two parking spaces per each two-bedroom multi-family unit with one space per unit in a fully enclosed garage. Affordable housing units are exempt from the fully enclosed garage requirement. Separately, this section also identifies that parking requirements for mixed use developments are determined by Use Permit. However, the Development Code Section 18.48.040.C further requires that “[a] site or facility proposed for multiple tenants or uses shall provide the aggregate number of parking spaces required for each separate use; except where the site is developed as a shopping center, the parking ratio shall be that required for the shopping center as a whole as provided in Table 3-8.” Staff notes that this single-tenant commercial site is not considered a shopping center, per the Development Code.

In Development Code Section 18.58.140 (Mixed-Use Development), mixed-use projects in the Neighborhood Commercial (CN) zoning district are provided alternative development standards, including increases in site coverage and reductions in open space and parking requirements. For projects that meet the minimum density of two residential units per acre and a maximum density of four dwelling units per acre, the parking requirements are reduced to one parking space for each residential unit. The proposed project meets the eligibility criteria for the Mixed-Use Development section.

For the proposed project, one parking space is required for the residential unit. Since the Mixed-Use Development section does not specifically waive the requirement for the fully enclosed garage space requirement, the one residential parking space is required to be located a fully enclosed garage. For the commercial use, 7.9 parking spaces are required ( $1,975 \text{ s.f.} / 250 \text{ s.f.} = 7.9$  parking spaces based on one space per 250 s.f. of gross floor area for the first 5,000 s.f. for an office).

The applicant is currently proposing one residential parking space, as required by Section 18.58.140 (Mixed-Use Development), but is not proposing that the space be in a fully enclosed garage. The applicant is requesting a waiver of the fully enclosed garage requirement as described in detail below.

Staff believes that the Development Code is clear that while the parking requirements for the residential unit has been reduced to one, the one space is required to be in a fully enclosed garage. Without a Planned Development request to waive a development standard, staff does not believe that the requirement for a fully enclosed garage can be waived. Staff recommends Condition of Approval No. 26 requiring a fully enclosed parking space for the residential unit or recordation of an affordable housing deed restriction on the residential unit. If a fully enclosed garage is required by the Zoning Administrator, staff recommends allowing the applicant to work with staff on design and location, with ultimate approval by the Community Development Director. However, the Zoning Administrator may wish to consider if the design of the garage should return to the Zoning Administrator for review and approval or if specific parameters for design should be included in the condition of approval. At the minimum, the required setback for the garage structure is required to be equal to the height of the building or 15 feet, whichever is greater. As currently proposed, the rear of the parking lot is approximately 20 feet away from the rear property line. See Figure 4 for the site plan.

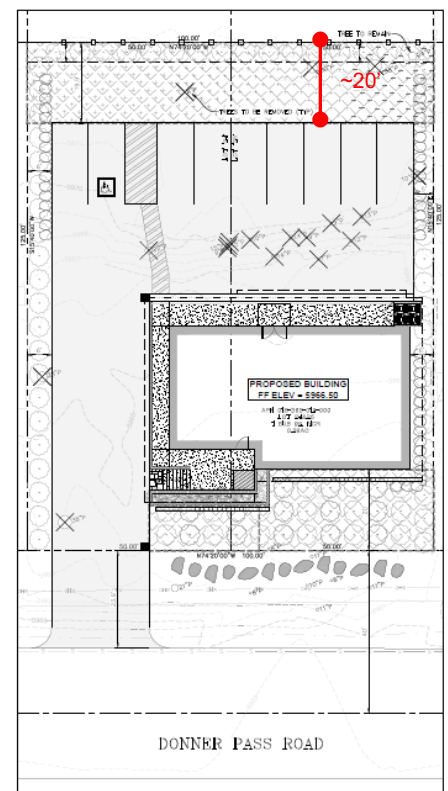


Figure 4: Site Plan



Staff notes that the requirement for a fully enclosed garage is waived for “affordable housing units” but does not specify the level of income required for the restriction. Development Code Section 18.210.020 (Definitions) identifies “affordable units” as “those dwelling units which are required to be rented at an affordable rent or to be purchased at an affordable sales price and subject to occupant affordability requirements. Affordable units include, but are not limited to, inclusionary housing units.” “Affordable rent” is defined as “monthly rent, including utility costs, does not exceed one-twelfth of 30 percent of the maximum annual income for a household of the applicable income level (Very Low, Low, Moderate, Above Moderate) as calculated pursuant to Section 18.210.050(A).” Based on this information, staff has identified that the deed restriction is required to be for above moderate rents or below in Condition of Approval No. 26.

The applicant believes that the requirement for the fully enclosed garage should not be applied and has requested a waiver from this requirement. The applicant believes that the requirement for a fully enclosed garage or application of an affordable housing deed restriction would not help further the applicant’s goal of constructing housing for the Truckee workforce. The applicant’s paraphrased justification can be found below (the applicant’s justification in their own words is provided in Attachment #3):

- The applicant notes that the definition of “multi-family dwelling” currently includes one or more dwelling units in a nonresidential project, but does not believe a single residential unit should be considered “multi-family” and that Table 3-8 of the Development Code allows for parking to be determined by Use Permit.
- The applicant believes an enclosed garage uses commercial or industrial square footage that is desired by the community, both from a design and FAR standpoint.
- While this particular project will not get close to the maximum FAR allowance, the applicant believes there are already significant required physical design limitations for a small project on a small parcel, such as snow storage and shared parking. An enclosed garage is not necessary for function.
- An enclosed garage requirement is a disincentive (cost of construction, design, FAR) and inconsistent with the support for mixed-use commercial projects.
- The waiver of the enclosed garage requirement for affordable housing units is not an incentive. The applicant believes that the requirement for the enclosed garage is actually a penalty to the owner if they do not provide an income-restricted unit. The applicant believes that is leveraging one thing (income-restricted unit) for an unrelated thing (enclosed garage).
- The applicant believes that the enclosed garage requirement is detrimental to the inherent shared parking concept in mixed-use projects where parking demand fluctuates throughout the day. The enclosed garage is only accessible to the resident and not accessible to other users of the site.
- The applicant noted that single-family residences, accessory dwelling units, or income-restricted units do not require enclosed parking. The applicant believes that there is no difference between residents of a mixed-use project and these listed types of units and that this requirement is treating residential uses and their needs differently depending upon their incomes.
- The applicant believes that the only mixed-use incentive is the reduction of the parking requirements to one parking space and the shared parking concept of mixed-use projects would be ineffective with the enclosed parking space.
- The applicant believes that the project will be used by the Truckee-Tahoe workforce by design and will be used as part of the employer’s compensation package to attract and retain employees.

The applicant has requested that the Zoning Administrator consider these points. However, the applicant notes that “[i]f an enclosed garage remains a requirement, final building permit plans will include a single vehicle garage structure at either the west or east end of the proposed surface parking area dependent

upon width availability, its relationship with the needed slope retention and considering adjacent structures.”

As noted previously, staff believes that the requirements of the Development Code are clear and only the quantity of parking spaces has been reduced through Section 18.58.140 (Mixed-Use Development) as an incentive; the type of parking required, with a minimum of one parking space in a fully enclosed garage has not been waived or removed. The justification provided by the applicant would be appropriate in a larger policy discussion when changes to the Development Code are being considered. Further, staff notes that previously, the Planning Commission has reviewed mixed-use projects in the Manufacturing zoning district where the fully enclosed garage requirement was waived as part of a Planned Development.

The project is exempt from the Workforce Housing Ordinance requirements due to the size of the project. However, if the applicant volunteered to deed restrict the unit to the Truckee-Tahoe workforce or to employees of the project, the project would exceed the minimum requirements of the Development Code. The Workforce Housing Ordinance requires two layers of restrictions: 1) Deed restricted to employees of the commercial use; and, if no employees choose to rent the unit, 2) Deed restricted to lower income households. Additionally, residential units restricted to meet the requirements of the Workforce Housing Ordinance have not typically been required to provide fully enclosed garage parking.

Rather than apply the typical two-layered deed restriction required of the Workforce Housing Ordinance, staff believes that the applicant can request an alternative equivalent proposal where the unit is deed restricted to employees of the commercial use or employees within the Truckee-Tahoe area. Since no workforce housing is required for the project, the request would be beyond the requirements of the Development Code. As part of the alternative equivalent proposal, the Zoning Administrator may determine that the employee deed restriction is equivalent to any affordable housing requirement in this instance, since no workforce housing was required for the project as a baseline.

Staff notes that this potential was discussed with the applicant, but they were not interested in deed restricting the property. This option has not been included in the recommended conditions of approval. As noted in their justification for their request for a waiver above, the applicant is prepared to incorporate a single vehicle garage structure into the parking area, if required. It appears that incorporation of the enclosed garage would be preferred over any deed restriction.

#### *Bicycle Parking*

Per Development Code Section 18.48.090 (Bicycle Parking and Support Facilities), all multi-family residential projects shall provide long-term bicycle parking spaces at a rate of one space per residential unit, with additional short-term bicycle parking provided for guests at a rate of one space per ten residential units with a minimum of two guest spaces in all cases, except if the review authority waives the guest parking requirements in a mixed-use project. All non-residential projects are required to provide bicycle parking spaces at a rate of 15% of the number of vehicle parking spaces required. A minimum of three short-term bicycle spaces is required in all cases. The review authority may modify these requirements where it can be demonstrated that a lesser number of bicycle spaces can adequately serve the intended use.

For this project, one long-term bicycle parking space is required for the residential use, unless the project includes a fully enclosed garage, and three short-term bicycle parking spaces for the non-residential use (eight required vehicle parking spaces  $\times$  15% = 1.2 spaces, or a minimum of three short-term bicycle parking spaces). Two short-term guest bicycle parking spaces could be required for the residential use unless the review authority waives this requirement.

Since the applicant is requesting a waiver of the fully enclosed garage parking space requirement, the applicant is proposing one long-term parking space for the residential unit located underneath the stairs

accessing the residential unit. Two short-term bicycle parking spaces are proposed at the entrance of the commercial space. No guest parking spaces for the residential use are proposed and one fewer short-term bicycle parking spaces than the required three spaces for the commercial space is requested. The applicants believe that the use and size of the project do not necessitate the additional short-term bicycle parking space. However, the applicant notes that an additional short-term bicycle space can be added if the Zoning Administrator requires it.

Staff does not believe the additional guest parking spaces for the residential use is necessary due to the short-term bicycle parking spaces provided by the commercial use. However, staff believes that three short-term bicycle parking spaces for the commercial use would be appropriate, particularly with the waiver of the residential guest parking spaces. The project is located in an area that would be easily accessible by bicycle for both employees, customers, and guests. The three spaces are the minimum necessary required by the Code and would not be challenging to provide. Staff recommends Condition of Approval No. 28 which requires three short-term bicycle parking spaces and one long-term bicycle parking space under the stairs. The long-term bicycle parking space requirement would be waived if the applicant constructs a fully enclosed garage.

### *Screening and Buffer*

Per Development Code Section 18.30.110 (Screening and Buffer), where a proposed commercial use in the CN zoning district adjoins a residential zoning district, but is not separated by a street, the required setback for a structure adjacent to a residential zoning district shall be equal to the height of the building or 15 feet, whichever is greater. Additionally, a solid decorative masonry wall or solid fence with a minimum height of six feet, or higher if required by an acoustical analysis to mitigate noise impacts, shall be constructed and maintained on the project site along the common property line. A landscaped strip is also required adjacent to the wall with the intention of providing a planting area for trees and shrubs on the commercial site. The width of the landscaped strip shall be a minimum of five feet. Landscaping shall be designed to visually screen the commercial development from the residences and to effectively break up the otherwise long, flat appearance of the wall. Trees shall be provided at a rate of one for every 20 lineal feet of landscaped area, and shrubs shall be provided at a rate of one for every five lineal feet of landscaped area. Additional trees and shrubs may be required by the review authority as determined on a case-by-case basis. The use of the landscaped setback for passive activities (e.g., lunch area, pedestrian path, snow storage) shall be subject to the approval of the Director.

The project site and the two adjacent parcels to the east and west are located in the CN zoning district. The parcel to the rear of the project site is located in RS-X (Single-family residential, no further dwelling units) zoning district. In order to comply with the Screening and Buffer requirements of the Development Code, the applicant is proposing a 30.5-foot-tall building setback approximately 64 feet from the rear property line that abuts the residential zoning district to the rear. A six-foot tall dog-ear cedar wood fence with planks on both sides of the rails is proposed along the rear property line within the five-foot public utility easement with landscaping proposed on the interior. The applicant is proposing a mixture of 12 shrubs, including Lemmon's willows and Redtwig Dogwood, and two Scouler's willows along the 100-foot rear property line. In order to be in compliance with the requirements for screening, five trees, and 10 shrubs are required. Staff recommends Condition of Approval No. 30 requiring modifications to the landscaping plan to ensure

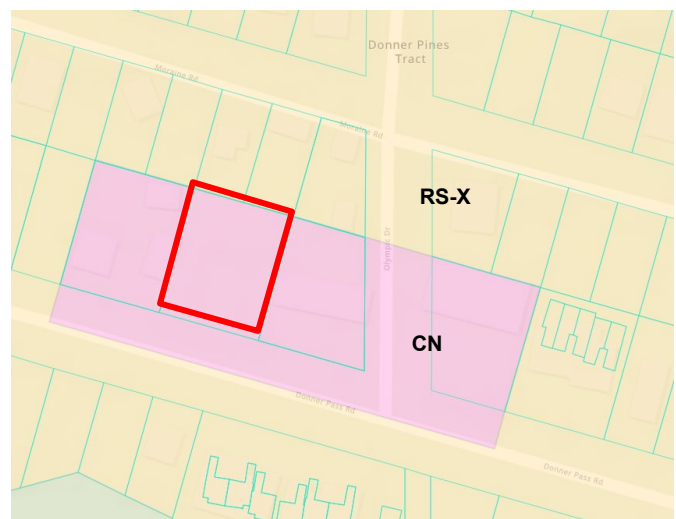


Figure 5: Zoning

compliance with this requirement, including incorporation of at least five trees, with at least four trees sized at #15.

Staff notes that the landscaping is located on the interior side of the fence and would not visually break up the fence. Section 18.30.110 does not specify where the landscaping is required to be located, only that it “visually screen the commercial development from the residences and to effectively break up the otherwise long, flat appearance of the wall.” Landscaping along the commercial side of the wall will help screen the building above the six-foot wall height but may not break up the expanse of the wall. However, staff believes that landscaping on the outside of the wall may be more challenging to maintain. Staff believes that a six-foot tall fence is a typical feature in a residential neighborhood and the addition of more landscaping, particularly taller trees, will meet the intent of the section. The Zoning Administrator may wish to consider if the landscaping should be relocated to the outside of the wall. If so, then the five-foot landscaping strip would span the easement and a Minor Use Permit would not be needed for the structure. The recommended conditions of approval does not proposing relocation of the landscaping.

Staff routed the project with the fence in the public utility easement to all interested agencies, including Truckee Donner Public Utility District, Truckee Sanitary District, AT&Tm Southwest Gas, etc. and no objections were filed. The Truckee Fire Protection District noted that “[a]s long as the fence does not prohibit right-of-entry for powerline and utility easement vegetation management as required by PRC 4292 and 4293, Fire is okay with the proposal.” Access on either side of the fence would remain for vegetation management.

Development Code Section 18.30.056 (Easements) states that “[r]equired parking, required landscaping, and required site improvements shall be prohibited within easements unless either: (i) the easement is amended, with the consent of all entities with an interest in the easement, to clarify that the parking, landscaping, and/or other improvements can remain in place in perpetuity notwithstanding any other provision of the easement; or (ii) all entities with an interest in the easement provide written consent for the parking, landscaping and/or other improvements to remain in place in perpetuity, which such consent is absolute, irrevocable, permanent, supersedes the easement to the extent it is inconsistent with the easement, and is recorded in the official records of Nevada County.” Condition of Approval No. 31 requires compliance with this section prior to building permit issuance. The applicant would be required to amend the easement or obtain written consent, recorded in the official records of Nevada County, from all easement holders to allow the required landscaping and/or wooden fence.

#### *Lot Line Adjustment*

The project site is located on Lots 24 and 25 of the Donner Pines Tract Extension. Development Code Section 18.30.120 (Setback Requirements and Exceptions) states that “[n]o portion of a structure, including eaves or roof overhangs, shall extend beyond a property line, or into an access easement or street right-of-way.”

Since the applicant is proposing to construct structure on the shared property line between Lots 24 and 25, the applicant is required to complete a Lot Line Adjustment to merge the two parcels into one prior to building permit issuance, as noted in Condition of Approval No. 32.

**Environmental Review:** Staff recommends that the Zoning Administrator find the project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 (In-Fill Development Projects) of the CEQA Guidelines. Section 15332 (In-Fill Development Projects) applies to projects that are consistent with the general plan designation and all applicable policies as well as with applicable zoning designation and regulations, occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, the project site has no value as habitat for endangered, rare or threatened species, approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and the site can be adequately served by public utilities and public services. Additionally, the project is located in the Vehicle Miles Traveled (VMT) Exemption zone for non-



residential projects, is less than 15,000 s.f., and is determined to be a “local-serving use.” Therefore, the project is exempt from VMT analysis.

With the staff-recommended modifications, the project is consistent with the general plan designation, all applicable policies, and the applicable CN zoning designation and regulations. The project is located within the Town of Truckee limits on a site that is approximately 0.29 acres and is surrounded by residences and commercial businesses on all sides. No significant effects related to traffic, noise, air quality, or water quality have been identified and the project will be subject to all Town, County, and State requirement. The site will be served by public sewer and public water and is accessible by an existing publicly maintained road, Donner Pass Road.

**Public Communication:** Notice of the public hearing was published in the Sierra Sun on April 19, 2024, and mailed to all property owners within 500 feet of the project site on April 15, 2024. No public comments have been received as of the publication of the staff report.

**Staff Summary and Recommendation:** Overall, with incorporation of the recommended conditions of approval, staff believes that the project is consistent with the 2040 General Plan and Development Code. The project meets the density and intensity requirements of both the 2040 General Plan and the Development Code, meets the development standards for height, site coverage, setbacks, and screening, and provides the required mixed-use components for the site. The project is modest in size and fits within the scale of the neighborhood. Proposed materials, which include metal siding, cedar siding, board formed concrete, and asphalt shingles, are consistent with the Town’s design guidelines.

**Alternative Actions:** Actions that the Zoning Administrator may take as an alternative to the recommended action include:

1. Continue the public hearing to a date and time certain.
  - a. The Planning Commission may request additional information from the applicant and/or staff (if new information is presented at the next meeting, the public portion of the hearing must be reopened on the new information submitted).
2. Land Use Permits
  - a. Add, delete or modify the proposed conditions of approval
  - b. Deny the project on the basis that all of the required findings cannot be made.
3. Require additional environmental review.

**Attachments:**

1. Conditions
2. Findings
3. Plans
4. Applicant Submittal