



City Planning Commission Minutes
Thursday, June 18, 2015 – 5:30 P.M.
City Hall Council Chambers
520 E. Cascade Ave., Sisters, OR 97759

Chairman: David Gentry
Commissioners: Jeff Seymour, Roy Dean, Jack Nagel, Daryl Tewalt, Bob Wright
Staff: Patrick Davenport, CDD Director; Darcy Reed, Associate Planner
Carol Jenkins, Recording Secretary

I. CALL TO ORDER

Chairman Gentry called the meeting to order at 5:30 p.m.

II. VISITOR COMMUNICATION

No Visitor Communication.

III. APPROVAL OF MINUTES

Chairman Gentry asked the Commission if they would like to make a motion to approve the April 30, 2015 minutes as presented.

Commissioner Wright made a motion to approve the April 30, 2015 minutes as presented.

Commissioner Seymour seconded.

Motion carries unanimously.

IV. PUBLIC HEARINGS

File No: SUB15-02 – Skygate Subdivision

Request: The applicant is requesting a 7-lot subdivision to enable the construction of 7-single family dwellings in the Run Ranch Residential zoning district.

File No: MOD15-05 and SP15-01 – McKenzie Meadow Village

Request: A Site Plan approval for a Senior Living Center consisting of 45-senior living units and 12-senior memory care units as part of the McKenzie Meadows Master Plan. The Applicant is also requesting to modify the previously approved McKenzie Meadows Master Plan (File No. MP10-01, SUB10-02, MOD12-01) to accommodate the Site Plan shifting of the location of buildings by more than 25-feet from where the buildings were originally approved to be located.

Chairman Gentry read aloud a statement summarizing the issue and hearing procedures at this time. No commissioner disclosed pre-hearing contacts, ex-parte contacts, or conflicts of interest. No one in the audience challenged any commissioner for bias, prejudice, or personal interest.

Chairman Gentry asked for Director Davenport to come forward and present his staff report.

File No: SUB15-02 Skygate Subdivision
Request: Request for a 7-lot subdivision to enable the construction of 7-single family dwellings in the Sun Ranch Residential zoning district.

Director Davenport came forward and gave the background of the Skygate Subdivision at this time. He stated that the owner is Dutch Pacific Properties, LLC and the applicant is Housing Works (Central Oregon Regional Housing Authority). The property was annexed in 1999, there was a Comprehensive Land Use Plan (CLUP) and Zoning done in 2006; the Development Agreement was approved in 2007 and Amended in 2014. The proposal is to develop seven (7) – single family residential detached lots, and the Affordable Housing Program proposed on all of the seven (7) lots – A Partnership has been established with Housing Works to develop those parcels under the requirements per the Agreements and Amended Agreement.

Director Davenport continued addressing the Site with a previously approved Master Plan, the zoning map where the property is zoned Sun Ranch Residential on the north end of the City. The previous subdivision plat with the subject parcel known as Tract C, and the proposed subdivision plat. All of the lots except for one (1) will take access off of Jantzen Lane and the one (1) lot will take access off of Heising Dr.

Director Davenport stated that this application meets the City's standards in the Development Code and it meets the criteria that is outlined in the Code and is fulfilling an obligation of providing the seven (7) lots for the Affordable Housing Program. In the packet are the Conditions of Approval and for the record. He stated that he wanted to bring to the Commissions attention that were in the previous Development Agreements – the Affordable Housing Requirement is being satisfied with this application. There was a proposal to develop approximately ½ acre park and gave a visual at this time. He stated that the Public Works Director is not ready to accept a dedication at this point. The City is going to decline to exercise that option for the ½ acre park, but when it gets fully master planned and subdivided, the City is going to exercise that option at a later date.

Director Davenport stated that on the dedication of a future well-site of about 10,000 square feet and a payment of 1-acre of water rights, the well site is currently under easement and hasn't been formally dedicated yet. There is a condition that prior to issuance of the 7th building permit, the property owner on record or successor must submit a proposal to the City that satisfies this condition. The City Engineer and the Fire Marshall reviewed comments and are applicable and brought into this Condition of Approval. He covered the dwelling heights, airport overlay requirements, the building permit applications and submittal requirements, landscaping, requirements, and the Development Code in effect at the time of this approval should this be approved will remain in effect.

Director Davenport stated that staff is requesting that after hearing further testimony, staff is recommending approval of this application subject to the Conditions of Approval and any other terms the Commission see fit to apply to this application.

Commissioner Wright asked about the 25-foot height and if it satisfies the FAA requirements for allowing this to move forward.

Director Davenport stated that they are not concerned with that specifically, but it was a condition that was part of the approvals back in the earlier Conditions of Approvals for those prior land use actions. He stated that Jeff Caines with the Department of Aviation has reviewed this and the comment about his form satisfies their concern.

Director Davenport stated that a letter from Ed Protas was submitted and put into the record at this time. He asked the Commission if they had time to read it and if there were any comments they wanted to make. He explained that in the letter it states that the City Manager signed the Agreement – and the Ordinance itself that amended the Agreement was signed by the Mayor hence the City Manager signed the Agreement itself.

Chairman Gentry asked for the applicant to come forward at this time.

Shane Lundgren
26266 SW Metolius Meadows Dr.
Camp Sherman, OR 97756

Mr. Lundgren came forward and stated that he is the Dutch Pacific side of the equation. He said that they have been chugging along on this for 11 years now, and proportionally donated and agreed to give seven (7) lots in a proposed 45-unit subdivision. This was well beyond the proposed ten percent in an effort to help with some of the issues of affordable housing in the community. This ability to work with Housing Works and very pleased to have that opportunity and very impressed by their product and professionalism has been a great process. What they bring the table, the quality and management skills has been very positive. He stated that he looks forward to getting this into the community, they are very excited and know that this will be a great addition. He stated that he hopes to have the next piece of the residential development moving forward as well.

Tom Kemper – Executive Director with Housing Works
405 SW 6th Street
Redmond, OR 97756

Mr. Kemper came forward and stated that they are working with Dutch Pacific - Mr. Lundgren to satisfy what is an affordable housing requirement that was put on the original subdivision application long ago. He stated that they have done a fair amount of ‘for sale’ housing in a number of neighborhoods including Northwest Crossing in Bend, OR. He stated that they have done four (4) houses in Northwest Crossing and the developers there have donated another two (2) lots for them to build homes.

Mr. Kemper continued stating that the structure of those transactions are where they donate the land and put a restriction of 80 percent area median income on the purchasers of those homes – we own the dirt and lease the dirt for a nominal fee, and it basically allows those home buyers at an 80 percent AMI income be able to afford a home in that neighborhood. He stated that they are taking that concept and bringing it to Sisters and the architect and builder that they are using at Northwest Crossing is working with us on that subdivision and the quality will be very high. He stated that they are very excited to be able to provide this type of housing in Sisters.

Commissioner Wright mentioned that when they were looking at the Annexation of the Airport there was some discussion about the flight path or window, etc. that comes into the end of the runway, and does part of that run across any of these seven (7) lots.

Mr. Kemper said no and that it actually is to the south. He said that he had questions about that too when he read the exceptions on the title policy, and Hayes McCoy assured him that after some research that it is outside the flight path.

Director Davenport gave a visual of the Airport and Runway Protection Zone at this time.

Chairman Gentry asked if anyone in the audience would like to come forward and speak in favor of the application at this time.

Ed Protas
575 S. Oak St.
Sisters, OR 97759

Mr. Protas stated that he wanted to make it clear that he supports the approval of this application because it represents the most significant step other than the work that Habitat for Humanity has been doing to deal with the Affordable Housing crisis in our community. This is really a process issue and he wanted to address the questions that have been raised. He stated that he submitted the written testimony to the Commission and the issue he is raising is that there is a 2007 Agreement between the City of Sisters signed by the Mayor and the applicant. It includes a requirement that there be an Affordable Housing Agreement that has been approved by the City of Sisters prior to approval. There is a 2014 Amendment to that 2007 Agreement and signed only by the City Manager. The original Conditions of Approval state that any changes to it between the Agreement and between the parties has to be a part of a public hearing.

Mr. Protas stated that the point he is trying to make is that there should be an approved Affordable Housing Agreement as part of this, and it should be approved by the City of Sisters which normally represents the Mayor signing on behalf of the City Council. Until that Affordable Housing Agreement is part of the packet, signed and approved, then, this should not go forward. It is something that is simple, it can be done, but it needs to be done. He stated that both the 2007 and 2014 Agreements are in the packet and it pertains to item #8 in both the 2007 Agreement and the Amendment. It is particularly troubling and suppose it requires an attorney to look at it, but the 2014 Amendment says that if there is any disparity between the 2007 Agreement and the 2014 Amendment – that the 2014 Amendment rules. It is essentially the City Manager serving the authority of the City Council.

Chairman Gentry asked if anyone would like to come and speak against the application.

David Marlow
70110 Running Horse Ct.
Sisters, OR 97759

Mr. Marlow stated that he does not live in the Sisters UGB, but he does own property in the Downtown Sisters area. He stated that as some of you know, he has served on this Commission for several years. Agenda item SUB15-02 Housing Works, he said that he urges the Commission to turn down this request. It proposes to convert one (1) lot identified as Tract C of .07 acres and convert this into seven (7) single family detached homes. This is seven (7) lots of about 7,000 square feet or less with the deduction for the cul-de-sac that page 6 shows as part of the proposal. He continued to say that on page 9 part D says they are not building a cul-de-sac – it can be called a private drive or anything else, but it sure looks like a substandard cul-de-sac. Some of the lots seem to be surrounded on three (3) sides by pavement. Furthermore and most importantly, the Oregon Department of Transportation says that this proposal is an incompatible use with the proximity to the Airport. He asked why the members of the Planning Commission are considering creating a future noise problem when you do not have to. He stated that what he finds puzzling is that applicant, Housing Works, the Central Regional Housing Authority which he presumes is a Government Agency would deliberately create a potential problem for the City of Sisters, Deschutes County, and the Oregon Department of Aviation – three (3) other Government Agencies. Once again, he stated that he urges the Commission to turn this proposal down while there still is a choice.

Commissioner Dean asked Mr. Marlow what is his most pressing concern.

Mr. Marlow stated that the obvious thing is the incompatible use because of getting noise complaints about that eventually and the City will have to deal with that issue. He stated that he is not against the Affordable Housing, but this is the wrong proposal at the wrong site.

Commissioner Nagel asked Mr. Marlow if he is talking about the noise at the Airport or from the Industrial area.

Mr. Marlow stated both actually, but mainly from the Airport.

Commissioner Nagel stated that he lives right in town and everyone has to deal with the noise at the Airport.

Mr. Marlow stated that he spent 30 years in the Engineering Department at the Port of Portland and they fight that noise issue with the Airport all the time. It was there long before any of the housing and they are still dealing with noise complaints on a daily basis and the City will too.

Mr. Lundgren, the applicant came forward and stated that he finds it ironic that when Mr. Marlow was on the Planning Commission he approved it, and now is against it. It was a proposed use that they went through in the Land Use process and it was all approved and well outside the RPZ, etc.

Commissioner Dean asked Director Davenport for clarification saying that in the paperwork, it looks like the applicant has satisfied the requirements for the provisions of the Affordable Housing units as required by the Conditions of Approval attached to prior land use decisions. It sounds like they have met all of the requirements.

Director Davenport stated yes, they have met all of the requirements.

Chairman Gentry asked the applicant if they would like to leave the record open for seven (7) days to provide additional written testimony.

The applicant stated he does not wish to leave the record open for the additional seven (7) days.

Chairman Gentry closed the public testimony portion of this hearing at this time.

Chairman Gentry asked if there was any discussion by the Planning Commission at this time.

Chairman Gentry asked the Commission if they would like to make a motion at this time.

Commissioner Nagel made a motion to approve the application with the conditions noted. *Commissioner Dean* seconded. *Motion carries unanimously.*

File No: MOD15-05 and SP15-01 – McKenzie Meadow Village
Request: Request for a Site Plan approval for a Senior Living Center consisting of 45-senior living units and 12-senior memory care units as part of the McKenzie Meadows Master Plan. The applicant is also requesting to modify the previously approved McKenzie Meadows Master Plan (File No. MP10-01, SUB10-02, and MOD12-01) to accommodate the Site Plan shifting of the location of buildings by more than 25-feet from where the buildings were originally approved to be located.

Chairman Gentry read aloud a statement summarizing the issue and hearing procedures at this time. No commissioner disclosed pre-hearing contacts, ex-parte contacts, or conflicts of interest. No one in the audience challenged any commissioner for bias, prejudgment, or personal interest.

Chairman Gentry asked for Planner Reed to come forward and present her staff report at this time.

Planner Reed came forward and stated that this is a request by the applicant McKenzie Meadow Village located at 1680 W. McKinney Butte Rd. on the west end of town. She provided a map showing the project location. The red outline is the location for all of the McKenzie Meadow Village Master Planned Development and the yellow is the subject site for which is being discussed this evening.

Planner Reed continued with the “Timeline of Prior Approvals on the Subject Property” stating that:

In 2006, the property was annexed into the City limits;

In 2009, the Annexation Agreement – Land designated for a Senior Living Center/Assisted Living Facility;

In 2010, a Master Plan for McKenzie Meadows was approved (MP10-01 and SUB10-02);

In 2011, a Site Plan was approved (SP11-05) under a previous applicant.

In October of 2012, a Master Plan (MP10-02 and SUB10-02) was modified by (MOD12-01) and Site Plan (SP11-05) modified by MOD12-02.

Planner Reed stated that some of the definitions staff has reviewed to ensure the proposed use is allowed according to the current Development Code Standards. The proposed use will be discussed later in this presentation. The Definitions from the Sisters Development Code are as follows:

Assisted Living Facility – A facility that provides a “social model of care”, designed to meet the social needs as well as the medical needs of the people requiring placement in a supervised care facility. Costs for care are flexible, depending on the level of care necessary for individuals to maintain their independence. Assisted living facilities are considered a type of residential care facility, see also residential care facility.

Residential Facility – A residential care facility, residential training facility, residential treatment facility, residential training home or residential treatment home.

Residential Care Facility – A facility that provides for six or more socially dependent individuals or individuals with physical disabilities, residential care in one or more buildings on contiguous properties.

The applicant has submitted two (2) separate applications requesting the following:

Request 1 – MOD15-05

Modification to McKenzie Meadow Village Master Plan to accommodate the final design of a Site Plan for a Senior Living Center. The items to be modified include the following:

- Access, parking and entryway to McKinney Butte Road
- Access location to north parking lot
- Exact building location

Request 2 – SP15-01

Site Plan approval for a Senior Living Center consisting of 45-senior living units and 12-senior memory care units.

Planner Reed stated that in order to provide clarity on what was approved in 2010 as part of the McKenzie Meadow Village Master Plan, attached is a master development plan (visual) for which the applicant is seeking approvals for tonight.

The specific location is the bottom-center where the pink buildings are located (visual) adjacent to McKinney Butte Road.

The applicant is seeking approval of a Modification to the Master Plan, Chapter 4.5.800 of the Code it states:

D.1.c: – The location of buildings, proposed streets, parking and landscaping or other site improvements shall be as proposed, or as modified through conditions of approval. Changes in the location or alignment of these features by 25-feet or less or other changes of similar magnitude may be approved administratively. Changes to locations approved as part of a land division shall be reviewed using Chapter 4.3 Land Divisions.

D.2: - “Other modifications are major modifications. See Chapter 4.1.”

The applicants request is a Major Modification since the requested changes include shifting buildings, parking, etc. by more than 25-feet.

Planner Reed stated that staff has determined the request is a major modification since the location of the buildings, parking, etc. are shifting by more than 25-feet.

Planner Reed gave a visual of the Modification to the Master Plan and stated that additionally, the Development Code states that:

Chapter 4.1.700 of the Development Code it states:

- The grounds for filing a modification shall be that a change in circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved.
- The original Master Plan was prepared in 2010. The modification being requested is the result of accommodating a specific site plan designed by a specific senior living center developer.

Planner Reed stated that staff has reviewed the requested changes concurrently with the request for site plan approval. Staff has determined the changes are the result of accommodating a specific senior living center design and altogether, the use design conforms to the criteria used in the Code. The location of the buildings, access points, and parking are not moving closer to an incompatible use.

Planner Reed stated that staff’s recommendation for MOD15-05 takes into account:

- The Modification conforms to the applicable approval criteria of the Sisters Development Code.
- *Staff recommends that the Planning Commission approve the following for MOD15-05:*

- Permit the following features of the McKenzie Meadow Village Master Plan, Phase 1, to shift as illustrated in the Master Plan Overlay dated May 22, 2015:
 - Access, parking and entryway to McKinney Butte Road
 - Access location to north parking lot
 - Building location as illustrated

Planner Reed continued to discuss the Site Plan Review (SP15-01) for McKenzie Meadow Village at this time. She continued with some perspective views of the facility based on the Site Plan's building layout. The applicant Site Plan includes:

46.750 sf of Senior Living Center

- 12 units Memory Care, 45 units Assisted Living / "Housing with Services"
- Residents of all of the units will receive assistance and/or services by a licensed care provider
- Improvements include 34 parking stalls, 8 bicycle parking spaces, trash/recycling enclosure, and loading area.

Planner Reed stated that the applicant has received licensing by the State of Oregon for the 20 units of memory care and has received confirmation that the 45 units may proceed in the State licensing process. However, the 45 units are not required to be State licensed if services which do not need licensing are not offered. Regardless of the licensing, the proposed uses are consistent with the uses allowed in this zone.

Planner Reed continued to state that:

Chapter 4.2.300 of the Development Code states:

- "Site Plan Review shall be conducted as a Type II procedure. The Community Development Director shall have discretion to forward any Site Plan submitted for administrative approval to the Planning Commission for review".
- The Site Plan has been forwarded to the Planning Commission. Staff has reviewed the Site Plan for conformity with the applicable criteria of the Sisters Development Code and finds that it meets criteria of the Code. Several conditions have been added as part of the approval.

Staff Recommendation for SP15-01:

- The Site Plan conforms to the applicable approval criteria, development standards and special provisions of the Sisters Development Code.
- Staff recommends the Planning Commission approve SP15-01 subject to the Draft Conditions of Approval attached within the Staff Report.

Planner Reed stated that staff received several emails that were provided to the Planning Commission for this particular request of the two (2) applications. There are four (4) sheets of paper in front of each of you to review, and she stated that she will be happy to answer any questions the Commission may have.

Commissioner Nagel wanted to hear *Planner Reed's* response to the statement that this should require a new Site Plan because of the changes.

Planner Reed stated that the Code does state that if staff or the Planning Commission feels that there are substantial adverse impacts that it would require a Master Plan, but that is at the Commission's discretion to make that decision. In reviewing the Site Plan and Modification request and a long with correspondence with the applicant, they noted that parking was reduced, however, parking still does meet the number of beds and office space for the workers. There is reduced parking, the access has been reduced from two (2) points of access on McKinney Butte Road to one (1), the building footprint has changed and has not shifted any closer to the existing residences to the east, there is no development north, and it does have the Health Care Clinic nearby, but that was all part of the Master Plan. It does shift just slightly down here (visual) but there is the Junior High School near the track field. It is not getting any closer to any existing uses so staff did not feel it was an adverse impact with the location of the building moving.

Planner Reed stated that there is more open space in the modified Master Plan which provides additional buffering for any activity that would be going on, however it is a Residential Care Facility so it is typical of activities that one would find in a residential neighborhood. *Overall, staff did not find any adverse impacts therefore staff has determined that this Master Plan was able to be modified through this process rather than having them submit a new Master Plan.*

Commissioner Nagel asked for clarification that it is only if there are adverse impacts that a new Site Plan Review is required under the Code. *Planner Reed* stated that is correct.

Chairman Gentry asked if the applicant would like to come forward at this time.

Curt Kallberg
P.O. Box 3500
Sisters, OR 97759

Mr. Kallberg came forward and stated that this property belongs to three (3) families. This property is owned by the Kallberg family, the Reed family, and the Willitts family. These families have been having this dream of providing senior housing in this town for almost 15 years. Shane Lundgren's project has been 11 years. Go back 15 years and see where you were at – that is when these families started this thing and coming into these rooms. He stated they have been working on this thing for 15 years and in that time, they lost one of their partners, Bill Reed, in a plane crash and his wife – 10 years ago in July. He stated they are not giving up, they are going to get it, and going to do it for Sisters. They promised they would and they will. They worked on this project quite a bit to get it into the City limits and ready to be developed. In the early years, they met Mr. Mark Adolf and worked with him for a little over three (3) years. In the meantime, Mr. Adolf collected some money privately for this project and then was going to give the balance of the money needed to complete the project through a financial lending company.

Mr. Kallberg continued to say that they gave multiple extension, after extension, after extension, after extension, to make this work – over three (3) years of extensions. Finally, we said and Mr. Adolf agreed on the last extension, “If I don’t get it this time – I’ll just get out of the way”. Mr. Kallberg stated that we went through one of the worst depressions we’ve ever had in Central Oregon after that. He stated that they were lucky enough to have another interested investor, Kevin Cox come to us and be willing to build senior housing for Sisters. He said they started and that is where we are at today. He said they are going to do it, it was promised to a friend, and it hasn’t been easy. A lot of road blocks were put up, but he said they have always tried to follow the rules, do what we said we were going to do – is it 25-foot out-of-bounds, it’s five (5) acres, it is not an 80x80 lot. He stated this is unbelievable and letting seniors leave this town because we can’t build a facility that is ready to be built, money ready, and they don’t have to raise the money – the money is ready to go.

Mr. Kallberg stated that they wanted to start this spring, but have hit every road block there has been. This town deserves senior housing, the money is sitting there to build senior housing – if there are two (2) senior housings built that is super and great and even better for our seniors – let’s have a choice, but don’t be afraid of competition and throw up every road block - every letter, 25-foot, etc., landscaping is 25-foot out-of-bounds – give me a break because our seniors deserve better – they shouldn’t have to move and leave from this community, but that is what is being forced on us.

Greg Blackmore
19454 Sunshine Way
Bend, OR 97702

Mr. Blackmore came forward and thanked the Commission for their consideration and Planner Reed for her through presentation. He stated that Planner Reed did a great job of explaining history since there is a long history here. Essentially, the proposal before the Commission is a Senior Living Center. The Senior Living Facility is consistent with what was planned from the get go. In working with the City, they understood that, first of all, it only required a Site Plan, and then, realized that it required a modification to the Master Plan also. He stated that he wanted to clarify one thing with the history – there was a prior Site Plan that was approved and he wanted to note this was a separate application. Given the long history, the applicant wanted to have their own proposal reviewed and studied on its own merits. It is arguable that if modifying the prior Site Plan, they wouldn’t have had to modify the Master Plan as it wasn’t required the last time around. They wanted to proceed and have this application reviewed on its own merits which requires a modification to the Master Plan. He stated that submitted documentation which they feel justifies the request.

Mr. Blackmore continued to say that there are four (4) particular items requested to be modified under the Master Plan – Building Location – a revised design that has more architectural features, more variations, and provides more opportunities for detail design, improved orientation, and ultimately enhances conformity with the MFR intent of design. Parking – it provides adequate parking to meet the needs of the Code and lessens the amount of parking along the frontage although not applicable to these senior living facilities. There is less parking in front of the building

and less parking between the building and the adjacent right-of-way. That is the goal and the intent of the MFR zone and lessens that prior impact. Access – reducing the access on McKinney Butte Road from two (2) points to one (1) point brings it more into conformance with access spacing standards within the Code, and access on the northwest corner (visual) at this time.

Mr. Blackmore continued to say that ultimately the modification brings the proposal more into conformance with the current Development Code standards. He stated that they believe it does not create any substantial adverse impacts on any neighboring properties. This Site Plan is similar to the prior approved Site Plan did not require a modification of the Master Plan and was determined to not have significant adverse impacts. He stated that they understand it cannot be reviewed administratively and it is in the Planning Commissions hands now to determine whether or not those impacts of those four (4) discrete changes are substantial adverse impacts.

Mr. Blackmore stated that under the Site Plan itself, he gave a visual of what is proposed, the structure, the look and the feel of the architectural design, the detail of the staff report, the lot coverage, color images and renderings (visual), etc. On the site itself, there is only a 22 percent lot coverage with an allowable 80 percent maximum even with the planned or potential future phase there is only 28 percent lot coverage – well less than the allowable maximum lot coverage. The building height is only 25-feet and all setbacks exceed the minimum requirements. The density is 11.4 units per acre and the desire is to have more required dwelling units within the community is consistent with the desire in the community. The design components conform to any required architectural design elements and all of those details are identified in the staff report.

Mr. Blackmore continued to discuss licensing which is something that has been raised and talked about with different letters in the burden, different letters in the record, and comments in opposition about the licensing. Ultimately, the applicant's intent is to be licensed as an Assisted Living Facility. At the time of the original submittal, they did not have authorization to do so, but they had begun that process and working through the process to get any necessary State licenses. The license is not issued until the Certificate of Occupancy can be issued. There are processes and incremental steps to get to that license. With the initial submittal, they had begun that process, but had not yet obtained the necessary authorization for this particular phase. In lieu of that, and with some of those initial discussions with the City suggested, they thought, providing additional licensing at this time would not be necessary, and it could be deferred until a Certificate of Occupancy passed decisions on this property and processed in that manner. Proceeding along those lines, began the process to get the application in, begin the approval process and ultimately with the plan of getting any necessary license. In the meantime, they spoke with their legal team and determined that this 'housing with services' model as proposed, meets all of the requirements of the McKenzie Meadow Village and meets the requirements of the Sisters Development Code. He stated they can do a 'housing with services' model and legally it looks like it is allowable, and legally it looks like it is acceptable. In the meantime, they have since received authorization to proceed with the additional 45 units under the Assisted Living Facility licensing authorization. That information is included in the record. He stated that there is a letter from the State Department of Human Services and from Kevin Cox with what is intended with licensing requirements.

Mr. Blackmore continued addressing the Site Plan – on-site access for vehicles meets the Development Code requirements, pedestrian access all around the site that connects to the adjacent right-of-way (visual), connects to and around the parking areas, and connects all the way around the facility. A Condition of Approval by staff recommends that those walkways be 6-feet instead of 4-feet and they were anticipating that requirement. Landscaping is 70 percent of the site landscaped and in the future with the future phase would be at 64 percent. There is a significant amount of landscaping and there are plans for which significant trees will be preserved and as many as possible, street trees are proposed, and with staff recommendation there will be nine (9) street trees along Lone Ranger, parking and bike parking requirements all exceed the minimum Development Code standards.

Mr. Blackmore stated that they did have the opportunity to review some comments that came in at the last minute, and prior to responding to those, he stated that he would like to hear them and then have the opportunity to respond to them.

Commissioner Wright asked Mr. Blackmore what functions in that portion of the design necessitates exceeding the 25-foot and how much did it actually move.

Mr. Blackmore stated that this is for the modification (visual) is the pink area where the original Master Plan was, and where the original Master Plan showed where the structure would be – the exterior wall would be and the additional (visual). There are only five (5) above and beyond the 25-feet. The past Site Plan approval that was allowed on the site there was not a requirement to go through a Master Plan. Even a minor Master Plan modification would have been review administratively, but was not something that was required and because of that it was relatively insignificant.

Planner Reed came forward and stated that she wanted to make a quick clarification. There is a typo and where it shows 20 units of Memory Care is actually 12 units and that is reflected correctly in the staff report – just for the record it is 12 units of Memory Care and not 20.

Chairman Gentry asked if anyone would like to speak in favor of the application at this time.

Kevin Cox
3450 NW Greenleaf Way
Bend, OR 97701

Mr. Cox came forward and stated that his company, Ageia Health Services is the developer on this project and working with the Kallberg, Reed, and Willitts families. He said that he grew up in Central Oregon and have lived in Bend for the last 18 years. Their company, Aegia Health Services, has been providing quality services to seniors in Central Oregon for over a decade. He said that he is intimately familiar with the Sisters community in Central Oregon health care community and knows how badly this facility is needed. As Mr. Kallberg alluded to – they just want to build the project, they are ready to go, and as soon as they get the green light – they are going.

Frankly, Mr. Cox said that he doesn't really care what Mr. Adolf does and he can build two. While he was getting his land ready over next to the Post Office, no one saw us in here waving the flags and trying to stop him. What is going on here has nothing to do with concern over 25-feet or not. Mr. Adolf just doesn't want competition in this town. He wants to be the only one, he has been counting for the last three (3) years that he is the only one with an Assisted Living license, or the ability to get one.

Mr. Cox continued to say that was true up until recently and the State did initially deny his market study. The State requires that a market study be submitted (he thinks they got confused with their own rules to be frank) the rules never said they can deny it - a potential application on the basis of a market study, but that is what they did. The State said that they already approved one potential license for an Assisted Living Facility and according to the market study, they don't think two (2) Assisted Living facilities is viable. Mr. Cox stated that since that period of time and through lots of battles, legislatively they got that changed – House Bill 2413A passed the senate, the governor signed the bill, and that bill came as a result of what is going on here in Sisters. It is not right that somebody who isn't able to get it done can sit and squat and take four (4) years and not get anything done. It is certainly not right to the families and it is not right to Sisters. Now, the State, and the letter the Commission has, approved their market study and what that basically says is the market study has been approved and they can proceed.

Mr. Cox stated that in going through the other phase – Facilities Planning and Safety, they are required to submit the plans to Facilities Planning and Safety with the State and those plans have been approved. Mr. Cox stated that the building is approved and ready to be built as an Assisted Living and a Residential Care Memory Facility.

David Marlow
70110 Running Horse Ct.
Sisters, OR 97759

Mr. Marlow came forward and stated that he wanted to speak in favor of the application. He stated that he strongly urges the Commission to approve this proposal as submitted and requested by the applicant. This proposal has been in the planning and development stages for several years, it is well thought out, designed, and very well planned. It will be a great asset to our community. Furthermore, this proposal not only creates a lot of short term construction jobs, but also creates several long term jobs and services this community desperately needs.

David Douthit
915 Creekview Dr.
Sisters, OR 97759

Mr. Douthit came forward and stated that there is one word that has been mentioned tonight among the many that he thinks (well the Commission knows what their duty is to focus on) and that word is 'adverse'. He said that the only thing that he has heard addressing the word 'adverse' is the professional staff and very competent people, saying that there is no material adverse change in these modifications to the Master Plan. That is all he has to say.

Diane Goble
555 N. Larch St.
Sisters, OR 97759

Ms. Goble came forward and stated that she doesn't care about the politics and doesn't care about whose got an ego problem. She stated that she is an older person and starting to look at Assisted Living and doesn't want to move out of Sisters. She would like to see this proposal go forward.

Chairman Gentry asked if anyone would like to speak against the application at this time.

Michael Repucci
2521 Broadway
Boulder, CO

Mr. Repucci came forward and wanted to give a letter to the Commission at this time. He stated that he will be using that for his agenda and taking pauses where appropriate to respond to some of the comments that have been made by staff. He stated that he thinks the Commission will find this interesting and informative. He stated that his firm represents Pinnacle Alliance Group with respect to matters associated with this Master Plan modification that was created in May of 2015, but has of yet, still is not signed apparently. And, with respect to the Site Plan review application that was submitted in January of 2015.

Mr. Repucci stated that his client has actively filed this procedure, the various submittals that have been made on behalf of McKenzie Meadow Village leading up to the current consolidated Type III Master Plan modification and Site Plan Review application and has repeatedly alerted members of the Sisters Community Development Department that the proposed changes to the Senior Assisted Living Facility requirements needed to be processed in accordance with the clear requirements of the Sisters Development Code. Mr. Repucci stated that this is not about ego, this is about following the Code. This isn't about 25-feet, it is about following the Code.

Mr. Repucci stated that his client has maintained from the start that it wants fair and equal treatment for all, government transparency, no favoritism, and consistency in following established procedures and due process following the Code. In response to its stated concerns, my client was assured that any proposed changes to the McKenzie Meadow Village entitlements would be processed in strict accordance with the Sisters Development Code, and that under no circumstances would there be any favoritism be extended in this regard to the McKenzie Meadow Village owners, developers or other related entities, including McKenzie Meadow Village, LLC, McKenzie Meadow Village Holdings Co., LLC, Ageia Health Services, Kevin Cox, and Ascent Architecture & Interiors. Unfortunately, based on our review of the application materials, Staff Report and Burden of Proof statement prepared by the Sisters Community Development Department Staff, it is abundantly clear that the Community Development Department staff has not properly applied the applicable provisions of the Sisters Development Code to the McKenzie Meadow Village consolidated application in many important respects. As a result, the entire application is deficient and should be denied.

Mr. Repucci continued to say that they have heard from Darcy Reed that this application is focused upon the Master Plan and the Site Plan, but there has been no discussion about all the other land use entitlement documents that affect McKenzie Meadow Village. They are all implicated by the changes that are proposed with this Modification and Site Plan approval application. Development within McKenzie Meadow Village must comply with not only the Sisters Development Code, but also with the terms of the December 3, 2009 Annexation Agreement pursuant to which McKenzie Meadow Village project was annexed to the City of Sisters which was amended twice, it must comply with the terms of the approved McKenzie Meadow Village Master Plan (MP10-01), as amended by (MP12-01 and 12-02) with the terms of the approved Comprehensive Plan Amendment (CP10-02 and Zoning Change ZC10-01) documents, with the terms of the Subdivision Plan (SUB10-02), and with the previous City of Sisters Site Plan approvals (SP11-05) approvals.

Mr. Repucci continued to say that the McKenzie Meadow Village Annexation Agreement and amendments, the Master Planned Development (MP10-01, MP12-01, and MP12-02), and the Comprehensive Plan Amendment (CP10-02), Zoning Change (ZC10-01), Subdivision Plan (SUB10-02) and Site Plan (SP11-05) approvals, each clearly require that a “Senior Assisted Living Center” be constructed and thereafter operated on not less than 6.3 acres of the McKenzie Meadow Village property. In addition, the Master Plan, the Comprehensive Plan Amendment, the Zoning Change, the Subdivision Plan and the previous Site Plan approvals all require that 82 units of Senior Assisted Living Facilities be constructed on the subject property. He stated that he has attached excerpts from each of these documents approvals to his letter to read these requirements.

Mr. Repucci stated that the words chosen for these particular land use approvals were not thoughtlessly selected, in that the same requirement for construction and operation of a Senior Assisted Living Facilities appear in the Annexation Agreement, in two amendments to the Annexation Agreement, in the Master Plan approvals, in the Conditions of Approval of the Comprehensive Plan Amendment, in the Conditions of Approval of the Zoning Change, in the Subdivision Plan, and in the previous Site Plan approvals. The term “Assisted Living Facility” is clearly defined in the Sisters Development Code. Why is this important?

Mr. Repucci stated that Ageia Health Services, McKenzie Meadow Village, the developers and owners – what they are proposing is not Assisted Living as defined by the Sisters Development Code. The Sisters Development Code under Section 2.15.1100A requires that Assisted Living Facilities be licensed under the Oregon Revised Statutes. What has been proposed is something called “Housing with Services” and they just heard that “Housing with Services” doesn’t need to be licensed. There is a disconnect between the definition in the Code that requires licensing and what is before the Commission tonight. The proposed use for a Memory Care Facility is not Assisted Living. He submits that the reason why Sisters selected the term Assisted Living was to support seniors who wanted to stay in place in Sisters. Memory Care is a higher level of care than Assisted Living. It is a difference licensure – it is not Assisted Living, it is Memory Care which is completely different. This proposal is at odds with all of those documents presented to from the Annexation Agreement to the Comprehensive Plan through the Subdivision, through the Site Plan, etc., everything that is before this application tonight required clearly an Assisted Living Facility.

Mr. Repucci continued to say that despite this clarity in the Code and all of the approval requirements, McKenzie Meadow Village is seeking approval of Memory Care and the Housing with Services model (unlicensed he adds) that are not even contemplated by the City of Sisters Development Code, or its definition of Assisted Living Facilities. These proposed changes go to the very heart of the land use approval conditions imposed upon the McKenzie Meadow Village project from the very, very beginning of time, and these changes constitute Major Modifications. They do result in substantial adverse impacts because we are not talking about Assisted Living, we are talking about something else. Under the Code, something that is a Major Modification that results in a substantial adverse impact to the clear unequivocal language of prior approvals requires a new Master Plan for the entire property. This is not discretionary, in fact, the 25-foot issue, and heard staff say that is discretionary, and they didn't think it was really that big of a deal, that that is not what the Master Plan says.

Mr. Repucci stated that he has attached to this letter, the Staff Report from the September 21, 2010 Master Plan (MP10-01 and SUB10-02) approval and pasted Section 4.5.800 and will ask the Commission to read down to the bottom of the page....*Mr. Repucci* read that it says, Amendments to an approved Master Plan are allowed once the plan is adopted, however, if they are determined to create substantial adverse impacts, they must be processed as a new Master Plan for the entire subject property. Examples of substantial adverse impacts may include subsection F. A shift greater than 25-feet in the location of buildings, proposed streets, parking lot configuration and landscaping or other site improvements. This is not even a close question – the approvals that are in place today mandate a new Master Plan for the entire property. No discretion and for staff to suggest that this is discretionary or sort of the same thing – flies in the face of the carefully chosen words and concepts that punctuated all of these approvals since the beginning of this process back in 2009.

Mr. Repucci continued to say that back to these changed uses, he mentioned in the beginning it is not just the Master Plan, it is not just the Site Plan – everywhere in the Annexation Agreement, the Comprehensive Plan Amendment, the Zoning Change Amendment, the Subdivision Plan Amendment, the Site Plan Amendment and they all talk about Assisted Living Facilities. If there are going to be different uses – Memory Care, Housing with Services, where is the application to amend all those documents. He stated that you can't just pick a couple because this whole thing is intertwined and made to stand as an integrated whole. It was clear what the City wanted and if changing it – let's call it what it is and go back and amend everything. But that requires a public process that hasn't been brought forward yet.

Mr. Repucci stated that in addition to these changes in use, changes in location, their review of the approvals have disclosed that it certainly appears that there were a number of dates and deadlines that are in these documents that have passed and may have never been extended. He said that they have done open records requests, they have asked for documents and have not seen signed request for extensions of dates and deadlines. He said they saw a Blanket Extension that happened in December of 2014, but before that date, there were dates and deadlines for filing plats that went by. He asked how come no one is talking about that. At the very core of my client's objections, the McKenzie Meadow Village application is the applicant's Burden of Proof. The Burden of Proof by Code is required to demonstrate a land use applicant's compliance with

all applicable provisions of the Sisters Development Code which means not only the Code but all the other previous approvals that have gone before it.

Mr. Repucci stated that the McKenzie Meadow Village Burden of Proof is based entirely on the premise that the application should be processed as a Type II application which as it was heard, is an approval that can be made administratively, but correctly so, staff said no this is a consolidated application for Master Plan Amendment and Site Plan Amendment which requires a Type III application, and why we are here tonight for the Planning Commission to make a determination as to whether this application complies with the Sisters Development Code requirements. Even though this is supposed to be a Type III proceeding however, for some unexplained reason staff never required the applicant to submit a Type III application. There are things in the Type III application that are not in a Type II application. In particular, the Development Code Section 4.1.700.A.7, requires substantial and numerous impact studies to be completed. This is not something that can be waived off. If it's in the Code and it is required to be part of the application, why isn't it part of the application? Is this application just whatever you want to put on a piece of paper?

Mr. Repucci stated that the McKenzie Meadow Village land use approvals are each written instruments documenting legislative enactments by the City of Sisters, and bind and encumber title to the McKenzie Meadow Village property. Under applicable law, these land use approvals reflect an intention by the City of Sisters to change the law. These changes in the law must be given full legal effect by the Planning Commission and the City Council. These are not things that can be just looked away from. The Sisters Community Development Department staff is acting in violation of the Sisters Development Code by substituting its own judgement in place of the legislative intent of the Sisters City Council as expressed in the McKenzie Meadow Village land use approvals.

Mr. Repucci stated that in connection with its review of the McKenzie Meadow Village application as part of a Type III proceeding, the Planning Commission will be exercising a quasi-judicial function. The Planning Commission is required to interpret the application and its compliance with the Development Code. The Planning Commission will exceed its jurisdiction, abuse its discretion and act in an arbitrary and capricious manner if it approves an application that is facially deficient for the reasons stated above. Further, since any approval of the application will be devoid of evidentiary support for any decision that approves this application. The application is faulty to its core and cannot form the basis for a land use approval. Based on a misinterpretation and misapplication of applicable law, my client and others similarly situated if this is approved, will have cause of action against the City of Sisters to redress the deprivation under the color of statute, ordinance, regulation, policy, custom, practice or usage of a right, privilege, and immunity secured to them by the Fifth and Fourteenth Amendment to the Constitution of the United States (42 U.S.C. 1983), by an award of monetary damages, including an award of attorneys' fees pursuant to 42 U.S.C. 1988.

Mr. Repucci stated that his clients urge the Planning Commission to properly apply the Sisters Development Code. The application and Burden of Proof are deficient, and under the Code, a new Master Plan is required and not just a Modification of a Master Plan, Site Plan, and impact studies are required to be completed. He stated that he submits to the Commission that this

applicant has a path forward, but the path needs to follow the rules. He stated that he requests that this application be denied. He stated that he would also like to formally request that this hearing be continued under Sisters Development Code Section 4.1.500.C.1.D to a date that will allow the client to gather additional information to submit in rebuttal or further clarification of comments that were made tonight. He stated that they need to find whether approvals previously granted that have dates and deadlines that have expired. He said that they have not been able to get documents from the City staff on this point.

Commissioner Nagel asked Mr. Repucci how his client has been damaged by this whole thing or if this were approved – what is the damage done to your client.

Mr. Repucci stated that the damage done is the damage of not following Code requirements. My client was required to follow Code requirements through his process – he asked the same be applied to others simply.

Commissioner Dean asked Mr. Repucci if his client is here tonight.

Mr. Repucci stated yes.

Chairman Gentry asked if anyone else would like to speak against the application.

Mike Morgan
15925 Pilot Dr.
Sisters, OR 97759

Mr. Morgan came forward and said that he didn't plan to speak tonight, but he feels the need to clarify some history. He said he was in this room in 2009 when McKenzie Meadows was annexed into the City. The reason he was here is because he argued against that annexation for probably six months to a year prior to that event. The reason he argued against it is because that was at the peak of the recession and no houses were being built in Sisters. He said that as he recalls, there were something like 360-370 lots within the City of Sisters where the infrastructure was in place. Roads were in place, power was in place, and builders could not build, carpenters could not work, and he saw no reason whatsoever to add more competition to the developers that had gone through the process to that point, spent all that money, and all of the sudden there are more lots on the market. He stated that he was against. At first, one of the sweetener's that was put in the pot to try to get the City of Sisters to do this was a daycare center. Evidentially, that didn't go and they came up with the Assisted Living.

Mr. Morgan continued to say that on the evening that the annexation occurred, he argued against that form of Assisted Living. His brother at that time had been in an Assisted Living in Bend for probably five (5) years. He didn't like that business model and didn't think it would work in Sisters because Sisters is too far away from a Medical Center and the doctors that are specialists. He said he argued against it, but there is no doubt in his mind, that that they were talking about Assisted Living, and not whatever those terms were that were being used on the wall there (visual). It wasn't Senior Living, it wasn't some other form of assistance for seniors maybe somebody cooking their meals or things like that.

It was Assisted Living and he knows what that is. He said that there is a license required by the State of Oregon, a nurse on staff, and very specific requirements for that. Architecturally as well as staffing requirements – it is different. It is not the same as just Senior Housing. He stated that he is against it because he feels there is a little bit of a shell game going on here and that is wrong.

Paula Lovegren-Hoover
31402 Lovegren Lane
Sisters, OR 97759

Ms. Lovegren-Hoover came forward and stated that before she made a couple of comments, her husband, regrettably was unable to be here tonight. His name is Peter Hoover and he sent an email this morning to the City of Sisters and requested that his email specifically be read. She said that she supposes that someone is still going to do that during this part and does somebody have that? She stated that she believes in the first paragraph he requested that it be read out loud – would the Commission like to read that before or after she speaks. Chairman Gentry stated that this will be in the record.

Ms. Loveren-Hoover continued to say that she is concerned about the apparent irregularity and non-compliance of the McKenzie Meadow Village project with the Sisters Building Code and can't phantom how the Planning Commission could consider granting approval to the project in its present form. She said that she doesn't pretend to be a Code expert, but unless she is missing something major, she fails to see how the McKenzie Meadow Village project Master Plan has conformed with the required planning process, or how the Code justified exemptions could be granted. She stated that she encourages each member of the Planning Commission to thoroughly examine McKenzie Meadow Village project and independently conclude whether the processes and requirements of the Code have been met. She asked that the Planning Commission please carefully consider the concerns that have been raised at this meeting tonight. She stated that she would especially like go on record as being in total support of what Mr. Mike Repucci has stated here this evening. Thank you Planning Commissioners for your service to the City of Sisters.

Chad Lovegren
413 W. Hood Ave.
Sisters, OR 97759

Mr. Lovegren came forward and stated that he is not interested in his tax dollars going to fight yet another legal battle in the City of Sisters. It appears the way that this is being handled will leave the City of Sisters vulnerable again. He asked to please seriously consider the decisions before the Planning Commission this evening. He stated that he would also like to express his complete support for what attorney Mr. Mike Repucci has covered so well tonight.

Ruth Lovegren
31401 Lovegren Lane
Sisters, OR 97759

Ms. Lovegren came forward and stated that she has owned property here since 1960 and has lived here for over 40 years. She said that words are very important in the various agreements between

the City of Sisters and McKenzie Meadow Village. She said that she believes that agreements should be fulfilled with integrity. As a concerned citizen, she said that she expects McKenzie Meadow Village to follow the same regulations everyone else has to follow. She said that she stands here in agreement with what Mr. Mike Repucci has stated in his presentation.

Sylvia Henderson

67170 Harrington Loop
Bend, OR 97701

Ms. Henderson came forward and stated that she is a professional counselor and words are important and City Codes are written for a reason. Applying laws need to be done with integrity and fairness. Favoritism should not have a place in the running of Sisters. Mr. Mike Repucci has eloquently stated her concerns and she is in complete agreement. She wanted to thank the Planning Commission for all they do in representing the people here.

Paula Lovegren

31351 Lovegren Estate
Sisters, OR 97759

Ms. Lovegren came forward and stated that the McKenzie Meadow Village project appears to be taking words out of context and cherry picking between various documents for the best of all worlds for themselves while ignoring critical components of agreements and Code. This should be a red flag for the Planning Commission. She stated that she would like for it to be recorded that she is in full support of what Mr. Mike Repucci has just stated.

Chairman Gentry asked if anyone would like to come forward and give neutral testimony at this time.

Sharlene Weed

406 W. Sisters View Pl.
Sisters, OR 97759

Ms. Weed came forward and stated that she was on the City Council when they approved the Annexation on McKenzie Meadows. She said that she was very involved in helping draft the Annexation Agreement that was approved by Council. She said that it looks to her like this, although it might be a very good project, is significantly different than what was envisioned at the time of the Annexation Agreement. She said that as with the previous project for Peter Hall, where there was an Annexation Agreement being discussed before the Commission as well as a Master Plan approval, the Commission does not have authority to change an Annexation Agreement – only the City Council does. She said that it appears to her that that Annexation Agreement will need to be modified before even considering this project as it is significantly different than what was envisioned. She said that at a minimum, the Commission should continue this process into a future date.

Seth Anderson
22840 Long Horn Ct.
Bend, OR 97701

Mr. Anderson came forward and stated that for full disclosure, he is the architect for the project, but wanted to read the Section from the OAR's that describes what Memory Care Facilities are. This is from the Department of Human Services, Senior and People with Disabilities Division Oregon Administrative Rules – Section 411-057-0120. It states that in the requirement for the endorsement for Memory Care, it states that any Residential Care, Assisted Living, or Nursing Facility that offers or provides care to residents with dementia in a Memory Care community must obtain an endorsement for its facility license. He said that a Memory Care is Assisted Living.

Mike Morgan
15925 Pilot Dr.
Sisters, OR 97759

Mr. Morgan came forward and stated that he would strongly encourage the Planning Commission and both parties to go back to the archives in the Nugget and pull up the articles at the time of the Annexation because he feels that you can't rewrite history – history needs to stay the way it really happened. He said that there are numerous articles because it was very contentious at the time, and you will understand that clearly it was talking about an Assisted Living Facility and nothing other than that.

Greg Blackmore
Blackmore Planning Services

Mr. Blackmore came forward and stated that he is reviewing the comments for the first time as the Planning Commission is doing, and there is definitely some information to decipher and get through and will not be able to respond to all of those at this particular time. There were some other comments that were included in the record, and having the opportunity to review and the opportunity to comment. He stated that there were some comments that came in from Mr. Pryor and Mr. Pryor suggested that there is favoritism that has been at play. If that has occurred, the applicant has not seen it or experienced it. The only point of reference is that the opponent or one of the opponents was able to get approval of the Site Plan on this property without any of these processes. He stated that they would appreciate it to be a fair and honest process.

Mr. Blackmore stated that there is not anything in the record and there are these comments of favoritism, but there is no real evidence of any favoritism that they have seen in the record. In regards to substantial adverse impacts, there is really a two part test there. Part one – is a Modification, major or minor. If it is minor can staff review it administratively and if not, it is major. At that time, it goes to the Planning Commission for review. The determination is – has a substantial adverse impact happened or occurred, and in this case, they have documented through the application that these four (4) particular points do not impact the neighboring property. They bring the proposal into greater conformance with the Development Code. There were some issues raised regarding differing uses – the applicant proposing an Assisted Living

Facility – that is what is being proposed. There are some processes to go through with the State before ultimately gaining that approval. They are taking on each and every one of those.

Mr. Blackmore continued to say that the Development Code says that in Section 2.15.1100 that an Assisted Living Facility must be dually licensed by the State of Oregon. The applicant proposes to obtain all the necessary State licenses prior to occupancy as they will be required to do before they can occupy and operate the building. Mr. Mayes spoke about two primary concerns – one, he noted the Master Plan and Subdivision approved on September 21st to be examples of adverse impacts. On page 18 from that Decision, it states that substantial adverse impacts must be processed as a new Master Plan for the entire property – the whole 30 acre property if it is determined that these four (4) minor discrete modifications are significant. Examples of substantial adverse impacts ‘may’ (an intentional term) and if it was required it would say ‘shall’. There are series of items that ‘may’ be substantial impacts – it doesn’t suggest that they are one of which is the 25-feet. It simply being 25-feet above and beyond what was originally approved doesn’t make it a substantial adverse impact. Substantial adverse impact is actually defined in the Development Code as a negative effect of development that can be measured. Including but not limited to excessive traffic, noise, air pollution, vibration, light, odor, density, massing and dust. The Burden of Proof indicates that there is not a substantial adverse impact and staff has found that there is not a substantial impact. Opponents have not identified how anyone of those defined terms are substantially impacted in an adverse manner.

Mr. Blackmore continued to say that the other comment by Mr. Mayes is that alternating the use of an ‘Assisted Living’ with ‘Housing with Services’ model. This is one as indicated that the applicant intends on providing an Assisted Living Facility going through the State processes and intend on getting all necessary requirements prior to Certificate of Occupancy being issued. They are willing, interested, and able to provide all necessary documentation of that. It is a process that they have gained every approval they can, and any developer whose is at this point would be able to obtain that authorization that Mr. Cox indicated that he has obtained that and it is included into the record.

Mr. Blackmore continued with the comments from Mr. Hoover about process. He stated that they believe that the process that has been followed is entirely consistent with the Development Code. It is spelled out in the Burden of Proof and spelled out in the Staff Report. In regards to extensions – on December 10, 2014, there was a City extension, a Type I review and there was an extension that was processed. Ultimately, a Subdivision was extended and specific language about when the Master Plan is approved until - so both the reference to whether or not the Subdivision approval or the Master Plan approval is thought out in this decision and this decision is appealable and actually it was appealable and the appeal period has since come and gone. Those discussions about extension, there is a land use decision that addresses that and it is in the record.

Mr. Blackmore continued with the last letter which he said that he would have liked to have some more time to review and address beforehand. He said that he wanted to address a few things now and consider what to do into the future with those as he consults with the ownership group and the development group in how they want to proceed. Ultimately, fair and equal treatment – these statements have been inserted into the record where there is some unfair and unequal

treatment. Exactly how that is or has been subjected has not been provided. He said that they believe they have been treated fairly and a lot of time consideration, due diligence, conversations with the State, conversations with City staff and doing everything to put together a plan that meets the Code.

Mr. Blackmore continued to address references to the Annexation Agreement and other past land use decisions. Exactly how they apply in broad terms, there are no specific terms, but they reviewed those and no specific items that were identified as being applicable to this particular land use application. If there are specific items, or if there has been specific items, he said that they would appreciate the opportunity to address them. But through conversations with City staff through review of the application, review of the Development Code and those were not identified, and through conversations with their legal team also.

Mr. Blackmore stated that some of the items about the Annexation Agreement as reading through it quickly, the Master Plan was reviewed thoroughly, the Annexation Agreement was reviewed thoroughly, and as identified in the Burden of Proof statement, as identified in the Staff Report, there are a lot of differing terms that are used. The position that there was very precise intentional terms that were used, if that is the case, it shows up in a lot of differing terms throughout each of those documents. Those references are included in the Staff Report and included in the Burden of Proof statement. Within those documents there is not an indication that specifically an Assisted Living Facility as defined by the current Development Code was what was anticipated and planned for at that time. Granted that is what is being proposed at this time. The suggestion that they were specific is not shown through those documents themselves.

Mr. Blackmore stated that as Seth indicated, the Memory Care is a type of an Assisted Living Facility. The 'Housing with Services' model, the developer, Kevin Cox, indicated and provided a detailed description of what that model is, how it functions, how it operates, and who will be using it which is included in the record. At the original submittal time, there was that 'Housing with Services' model being proposed. An Assisted Living Facility is what is currently being proposed and comments about the Memory Care and the Housing with Services model are not relevant. He said they spoke about substantial adverse impacts and pursuant to the Development Code definition – this term has been used and no indication of which of those four (4) proposed changes are substantial adverse impacts.

Commissioner Dean stated that the 25-foot is what they asserted was the adverse one.

Mr. Blackmore stated that is correct. Back to the definition and how does that impact the neighboring properties, etc.

Commissioner Dean stated that in order to speed this process along a little bit – a lot, for substantial adverse impacts he thinks that it does say 'may' include – Mr. Blackmore does have a point there, but it spells out six (6) examples and unfortunately, that 25-foot is one of them. He stated that this is the formidable obstacle that Mr. Blackmore needs to address. He stated that a shift great than 25-foot in a location of buildings, proposed streets, parking lot configuration, and landscaping or other site improvements.

He stated that he thinks the other definitions fail in terms of priority of what needs to be addressed versus that one especially this was a Staff Report, September 21, 2010, specifically spelling it out and giving it as an example of must be processed as a new Master Plan for the entire subject property except as provided in the original Master Plan approval. He said that if Mr. Blackmore can spend some time on that, he feels that is the primary obstacle that needs to be addressed versus the rest of the definitions that we need to get to.

Mr. Blackmore stated that the main point there is the 'may' and it is not a 'shall'. These are things that could be considered a substantial adverse impact. Taking that into consideration, what is a substantial adverse impact? Because of that and one of these items, does that negatively affect development that can be measured, but is not limited, does it impact access traffic, does it impact excessive noise, air pollution, vibration, light, odors, density, massing, and dust. To establish that a substantial adverse impact is established or created, needing to find that 25-foot difference and does one of those particular thing

Commissioner Dean stated that in writing this so that the Planning Commission back in 2010 (he was not here when this happened), but if they had said write the word 'may', but they have defined that as 'may' include that as in 'may' include other additional, for example, impacts as well. He stated that he trusts that staff also decided that the proposal is a Major Modification. Unfortunately, and in looking at the obstacles to address, that is where he feels Mr. Blackmore should be spending his time.

Mr. Blackmore stated that as he said before, a Major Modification versus Minor Modification is a procedural change and something that requires review by the Planning Commission as opposed to staff.

Mr. Dean stated that the example given was also the specific Major Modification example – as far as the application exceeds the threshold of 25-feet - 4.1.700.J in the Staff Report.

Director Davenport came forward with a point of clarification in this term F as it is brought up, it says that a shift greater than 25-feet in the location of the buildings. It says that and think about this in context. What is being shown could also include, if reading this by its strictest terms, if the entire footprint was shrunken by more than 25-feet is that a substantial adverse impact, if you shrink the building footprint by more than 25-feet. It doesn't say that in here – it says a shift greater than 25-feet. Also, if the building footprint is also shrinking on the west side (graphic) that is moved by 25-feet but is shrinking. He stated that it is the Planning Commissions prerogative to look at this in its strictest terms. Staff would ask the Planning Commission to look at the intent of this, a shift of 25-feet in its totality. If a building is shrunk – is this a substantial adverse impact?

Director Davenport stated that this was brought in from a previous Development Code and the Code now is different, but these are the Conditions of Approval that are attached to it.

Commissioner Wright stated that he would like a little more understanding of this market study and his understanding that a market study indicates that the City of Sisters can have more than one (1) licensed facility. Is that correct? Where as in the past, it was considered that Sisters was only able to have one (1) licensed facility. Because it went through the legislature and had a

legislative reading saying that there could be any number of Assisted Living Facilities in the City of Sisters.

Mr. Cox came forward and stated that the State of Oregon has different criteria and different things to do before you propose to build an Assisted Living Facility, or Residential Care Facility. One of those is to fill out a letter of intent and provide a market study. The State will decide whether or not someone can have a proposed license based on those things as well as a lot of other criteria. The applicants experience with running Assisted Living Facilities, etc. It never said that the State and the rules never specifically said that the State could deny a potential application solely on the basis of a market study. He stated that his thing when denied his potential application based on a market study because Mr. Adolf, three years ago was approved for something, still doesn't have it done, and now still doesn't have it done. They are proposed beds, but they are not beds now. That new House Bill 2413A said, "The State cannot deny a potential application based on any results of a market study whether or not they said one could be built or ten".

Commissioner Wright said that his next question is, and they have heard a lot about different living facilities, etc. but is it the intent to get an Assisted Living Facility license prior to, or at the time of Certificate of Occupancy. Is there any guarantee that would happen?

Mr. Cox stated yes that is correct - about the Certificate of Occupancy.

Mr. Cox stated yes that is correct – that there is a guarantee that it will happen.

Commissioner Wright said secondly, related to that there is a substantial difference in the design concept that used to be there that was approved during the original Annexation, and the concept for Assisted Living – does the new design meet the requirements of the State of Oregon to be an Assisted Living Facility.

Mr. Cox stated yes and that is what he was talking about earlier – they also took all of their drawings and all of the plans went to a department at the State called Facilities Planning and Safety, the Health Care, Hospitals, and everything that it has to go through and those plans are all approved.

Commissioner Wright asked Mr. Cox what is currently holding this up in stead of waiting until the Certificate of Occupancy in getting the Assisted Living Facility license.

Mr. Cox stated that this right here – the only thing holding us up from construction is getting through Planning.

Commissioner Wright stated that he's not talking about that, but wants to know about getting the actual permit the license.

Mr. Cox stated that the license comes after the facility is built and then it is submitted.

Commissioner Wright asked if on the other project – he currently has a license, but it is not built. What is preventing this one from currently having a license?

Mr. Cox stated that it is not possible. A license is not issued to air. Mr. Adolf does not have a license – he has a potential license, he has no license.

Commissioner Wright asked if Mr. Cox has provided something that says that this facility will be licensed as an Assisted Living Facility and not something else.

Mr. Cox stated that nobody can provide that. The State of Oregon wouldn't provide it because they won't issue until after they do their survey and go through the building after it is built, and say that everything has passed and all the physical requirements according to the plans. Then, they issue a license.

Commissioner Wright said that he had another question on the design and why can't the design be modified to eliminate this 25-foot issue. It seems to be a contentious issue.

Mr. Cox stated that it possibly could, but didn't think it was something that provided, or made a big difference – the 25-feet is on the back side of the parking lot.

Mr. Wright stated that he understands that, but he's not so certain that the way the Code says – in access of 25-feet is a Type III, or whatever the Code says. Then, it becomes subject to interpretation. If it can get down below 25-feet – the building shift, etc.

Mr. Cox stated that if that was all it was – they would be happy to do that. As discussed earlier, there is a long laundry list that the opposition intends to keep us here as long as possible.

Commissioner Wright stated that he is trying to clarify that the City could have two (2) facilities and technically meet Assisted Living Facilities. Some of the concern might be that if the facility could be built and comes times for a Certificate of Occupancy, and the State says that it doesn't meet the requirements of the Assisted Living Facility to get a State license.

Mr. Cox stated that could happen to any Assisted Living developer that is developing because the rules are the same for everybody. There is always a potential that somebody wouldn't get a license, but if they've been approved and from that point forward, the only reason they would deny an applicant or a license is maybe an operator's history.

Commissioner Wright asked for clarification because there have been some comments made that this facility is not the facility that was looked at in the Annexation, etc. He said that he wanted to make sure that it is clarified that it does, in fact, meet with the initial intent was.

Mr. Cox stated yes, it absolutely is, and yes, it absolutely does.

Commissioner Nagel stated that he had a question for Mark Adolf and would it be an appropriate time. He said that he would let it go for now.

Curt Kallberg
P.O. 3500
Sisters, OR 97759

Mr. Kallberg came forward and wanted to answer Commissioner Wright question – this is about a 13 million dollar building. They cannot get their license until the City approves it safety wise, smoke detectors and everything. At that time, these folks who have built six (6) of these and running right now are not going to build a building for 13 million dollars and not have it pass. It is going to pass. He stated that he is old enough to know – he remembers riding his bicycle and back then did call these things Assisted Living. He said they called it an Old Folks Home, a Nursing Home, the Retirement Home. There are all of these terms that we are so hung up on and it's so ridiculous. He said they don't have definitions for a Nursing Home, a definition for a Rest Home, but now, they are called Assisted Living and Housing with Services which is the great new topic. The seniors in this town are being penalized over a name – give me a break boys. This thing at the time it was passed that was the best name to come up with was an Assisted Living Facility. Now, we have Memory Care, Housing with Services, there are different things, but it is really what the Council, the Planning Commissions that came before us, and the community wanted was something for seniors so that they didn't have to leave. He stated that he thinks everyone is hung up on the names.

Commissioner Wright stated that he personally is not hung up, but just thought it was brought out in the testimony to have a facility with services doesn't require an Oregon State license, and an Assisted Care Facility does.

Mr. Kallberg stated that as they said they are going to build an Assisted Living Facility as the Master Plan says they would do, they are going to get an Assisted Living license and away they go. Before the legislature had the State of Oregon pass that bill, it was like a franchise and if I can't build it – nobody else can build it. They saw the wrongness in that and said let's let the market decide. Why not have two (2). These folks don't know and probably shouldn't say anything, somebody came to me recently and said that they want to build a third one. He said they will go right back through this same thing because they want a high end Senior Center. Are we going to fight this thing again, and what is the matter with competition, and what is the matter with variety.

Mr. Kallberg continued to say that there is not only one gas station, there is not only one subdivision, let the people decide it and let the market decide it, these folks want to build it and hope that Mr. Adolf builds one. It would be fantastic and they would both be great additions to this town, but don't get into this that we don't want you to build one because we're afraid of competition. That's what this whole thing is about. He stated that they don't have an attorney out of Colorado, we are here, we are little people and when he starts bashing our little town that we might not do it exactly right – we do it pretty dog gone well, and I'm pretty proud of this town. He stated that he hates to have him rip Council members that have tried, Planning Commissioner's that are trying and we are trying and doing the best we can. Come with us and be a part of us, but don't just bash us.

Commissioner Wright stated that whether it is fact and/or fiction take the emotion out of this thing and make a decision based on the facts.

Mr. Kallberg stated that the facts are that Mr. Cox has land and Mr. Adolf owns land. Both can get licenses, both want to build nice facilities, they are both good looking buildings and why not 'let's get it on'. If you say to Mr. Cox that you are out, go back and get 14 other pieces of paper while trying to get this going and beat in this race to house Sisters – he stated that he doesn't think this is real fair. He said let's let the market decide it. Mr. Cox has a track record – he has six (6) of them and is going to build a nice facility, he is going to get his license, he has the money to do it. Let's not run 15 of our seniors out of town again because of not having a place for them. He stated that they started this thing when Cliff Clemens who a park is named after, wanted to build a retirement home. It has taken this long and still don't have one. Let's get it done and let's build both of them.

Commissioner Wright asked Director Davenport about the 25-foot issue and that he talked about the building shrinking more than 25-feet, or moving more than 25-feet. He asked if that could still be a contentious issue if they resolve the issue of the 25-feet at the upper end, and made it within the 25-feet so it didn't encroach out on the parking area by say 5-feet.

Director Davenport stated that that is a tough question and a good one. Again, strictly using this one in Section f. on the last page that the attorney has submitted, shrinking this for instance on the west side that could be strictly determined to be an adverse impact. A reasonable person could probably determine that shrinking a building footprint is not an adverse impact. Of course, changing the building type - absolutely, changing the scale, intensity, yes, the center piece (visual) is shifting more than 25-feet in the mid 30-foot range. He said that looking at it logically, it is shifting towards the center of a larger parcel – 'adverse' and strictly speaking by this term.

Commissioner Dean stated that if they shrink it by 25-feet, it is still going to be a shift greater than 25-feet and he still presumes that the investors that spoke earlier are going to be fighting it legally. They are going to fight it no matter what and there is no veil that this is people not wanting competition. For the people that brought this forward, he thinks nobody on this Commission is trying to stop competition from coming in.

Commissioner Tewalt stated that they should continue with the public comment at this time and that they can ask Director Davenport questions afterwards.

Chairman Gentry asked if there were further questions for staff at this time.

Chairman Seymour asked Director Davenport to put back up the slide that focuses exactly on what is being considered tonight.

Commissioner Tewalt stated that they can ask questions about what are in the documents, but that's it.

Director Davenport stated that this is the Modification MOD15-05 request (visual) and the Commissioners have seen the illustration and the Site Plan. It is the Modification and the Site Plan and the Site Plan is tied to the Modification as submitted.

Chairman Gentry asked if the applicant would like to leave the record open for seven (7) days to provide final written testimony.

Mr. Kallberg stated that he would not like to leave the record open, but would like the Commission to follow staff's recommendation.

Chairman Gentry stated that if there are no further questions, he will close the public testimony portion of this hearing.

Chairman Gentry asked what the pleasure of the Planning Commission is at this time.

Commissioner Nagel stated that the opposition called for a continuance and he's not sure whether or not to go by that procedure.

Chairman Gentry stated that the Commission goes by what they want to go by and do what they want to do.

Commissioner Tewalt stated that on the Annexation, if the Commission would look at the entire Subdivision (visual) this is one little lot on the whole Subdivision. If the Commission make a couple of changes in Phase I, it doesn't change the entire picture of what was really approved in the original Annexation. He stated that he doesn't see any merit in that. He addressed the letter from Mr. Repucci and in it they talked about that it had to be 82-units (highlighted) and Mr. Repucci even highlighted it himself, it says that up to a total of 82-units and Commissioner Tewalt said he doesn't see anything there either. He said that he really appreciates what Mr. Repucci presented, he put a lot of work into this, and there is no question about it. He stated that he understood about three (3) minutes of it, so his point being is that, for himself, without spending about two (2) days on this – it all sounds good, but can it be approved, or is it something he just made up – probably not, but can it be documented and go through the whole thing.

Commissioner Tewalt stated that he just doesn't see it, he's not there and is ready to approve it with conditions.

Commissioner Nagel stated that he has a relevant question in that he believes when Mr. Adolf's project was approved, he said that he's pretty sure it was approved very easily and wondered whether he had any problems with feeling he was treated unfairly when the Commission approved his project. He stated that he's not so sure why there lies so much opposition now.

Commissioner Tewalt stated that Mr. Adolf was ready to go on this piece of property right here (visual) with probably some of these same issues that his attorney went through. He stated that he was ready to go, take the 25-feet out, and he was ready to go.

Commissioner Nagel stated that they still have to deal with if there is lawsuit against the City.

Commissioner Wright stated that from his perspective, the important aspect was the fact that both facilities could be licensed as Care Facilities according to the definition of extended care, so there wouldn't be any variation in the Development Code. Again, the market study and the actions in the Legislature saying that the market studies can't dictate the number of units there are, but those are the key things that both projects could have the go. There is one project ready to go and could certainly have a second project to go. Let competition rein.

Commissioner Dean stated that he feels, unfortunately, (he said he shouldn't say unfortunately – that's a general call) but feels that the file MP10-01 of which they are putting their standing on, was not well written, and that gives them a leg to stand on to bring forward their opposition to McKenzie Meadow Village coming through. He stated that the 25-foot is spelled out. He said his fear is that it opens up the opportunity for interpretation of whether, and they have heard the term favoritism thrown out, he disagrees wholeheartedly with that, but it does sort of not go through due process and it is not in the writing of how it's been done. It makes sense to approve this and would love to, but don't feel comfortable because of the risk that it puts. He feels that if they come back and change the Master Plan and come back – he would be wholeheartedly in support of that as long as it is, obviously up to City Code. He stated that he wants the competition, he doesn't like how it was approached by the Pinnacle Group, but that is their choice on how they brought this forward and will keep his comments there. He stated that he would support McKenzie Meadow Village coming back again with a new Master Plan with all the changes in place so that it is completely clean and they don't put themselves or the City at risk.

Commissioner Tewalt stated that he would like to make a motion to approve.

Chairman Seymour stated that he is 100 percent for the project. What we are dealing with right now is being in the crossroads with respect to the process. There have been numerous situations in the last 18 months where process has failed and has created a major division in our community. It is one that is just now starting to heal from. There is a Code that acts as the framework and platform by which decisions are made and continue to change that Code based on what the community wants. He stated that he is nervous because of what the Code says and that if they proceed in approving it as it is in its current proposal that it would be contributing to the challenges of the last 18 months. That is something that as a community, we need to move past and do a better job of making those decisions. He just wanted to throw that out to the Commission because this is something as a Commission, we actually do have the ability to make a difference. He said it is just something we need to think about because there is something bigger at work than just tonight. Based on what he's seeing here and what he's read, the Code is open to interpretation and that is a dangerous thing at times.

Commissioner Tewalt stated that if the Code wasn't open to interpretation, then, we don't need to be here. We just read the Code and if it's in there – it's in there and if it's not – it's not. There is not point to a Planning Commission.

Chairman Seymour stated that with respect to tonight and had the plan that came to our desk been within the Code there would be no question.

Commissioner Tewalt stated that he has never had one – there are always Conditions of Approval.

Commissioner Wright stated that is why he asked about the Modification to the Site Plan and some of those things, and take those contentious issues out and make the plan consistent with the Code. And, to come up with something that is close to what is being proposed.

Director Davenport came forward and stated that whatever is being decided tonight, to please state some findings of whatever the decision was for the record. It is important to state your findings that support that.

Commissioner Dean stated that he proposes a new Master Plan be submitted. He stated that he agrees with Vice Chairman Seymour wholeheartedly, and thinks there are bigger issues at stake than just an Assisted Living Facility, or whatever you want to call it. The Commission need to contribute to where the City needs to move forward in, and would proposed a new Master Plan be submitted for the entire subject property.

Commissioner Nagel stated that he has to agree and that they do need to go by the Code. He said that he thinks that they are nitpicking, and thinks it is really a shame that the competition was putting down this project that is really needed in this town here, but we need to go strictly by the Code.

Chairman Seymour asked if they could discuss quickly if there are some conditions that need to be in here and any changes that can be recommended.

Commissioner Tewalt stated that he doesn't have any problems with it and if this was a Master Plan in front of us right now for approval, it would almost have to be approved if it was just a Master Plan. They will have to go through the whole process and submit the exact same thing that we just had, and that is his point. The Commission will see the same exact paperwork in five (5) months and will approve it. He said that that is his take on it and doesn't think that it is necessary to go through that process.

Commissioner Wright asked if there is any indication of time that it would take to basically eliminate the Code issues, etc.

Commissioner Tewalt stated that they took that plan to the State for that State licensing – so there you go - they had to do it and that's been a long time.

Chairman Gentry stated that he would vote for it because he thinks we are just spinning our wheels, and they are going to come back with the same thing and we would approve it.

Commissioner Nagel stated that he would vote for it too because we need to get it done.

Commissioner Tewalt stated that if it was any different and if there was some huge condition that we are just allowing and blatantly walking away from, etc.

Chairman Gentry asked what the pleasure of the Commission is at this time.

Commissioner Tewalt made the motion to approve with the Conditions of Approval in the packet. *Commissioner Nagel* seconded. *Motion passes.*

AYES:	David Gentry, Jack Nagel, Daryl Tewalt, Bob Wright	(4)
NOES:	Roy Dean	(1)
ABSENT:	Jeff Seymour	(1)
ABSTAIN:	Jeff Seymour	(0)

V. OTHER COMMISSION BUSINESS

Director Davenport came forward and gave a preview on next month's agenda. It is tentative at this point, but the Hayden team has asked for us to tentatively schedule a public workshop for them to come in and talk about revising their Master Plan for the eastside of their development – the Village of Cold Springs Phase III, V, VI, and VII. They want to come in and explore some option with the Commission. He stated that he is not going to get into the back history of all this, but many of you may be familiar with this, and if not, staff can help answer some questions.

He gave a brief shot of what is currently on the books for Hayden Homes. There are single family attached homes which are called townhomes in the dark yellow (visual), apartment buildings, and on the west side is the already built out part of the Village of Cold Springs. Some quick stats on the housing unit types – 109 attached townhouses, 164 apartments units – a total of 273 dwelling units in that area. Hayden would like to come back and do a workshop on adjusting the Master Plan. There are many different options to go with of how it gets revised from zone changes, to Master Plan changes, Code Text Amendments, all sorts of options and will be explored next month once it is finalized. Staff will notify the Homeowner Associations of the existing west side and let them know what is going on as well. Hopefully, the Nugget will get out an article too.

Director Davenport stated that with the new fiscal year – a reminder that there is a vacancy on the Planning Commission and that closes tomorrow. There is one application for the “in-city” and 2 or 3 for the “out-of-city” which closes tomorrow as well. On the email communications – staff has been advised that the Commission need to use their City email accounts. Staff will make sure that the Commission know what those emails are.

Chairman Gentry stated that as he mentioned last month that there needs to be a Vice Chairman nominated. *Commissioner Seymour* volunteered for the Vice Chairman position.

Commissioner Dean made the motion to nominate Commissioner Seymour as Vice Chairman. *Commissioner Nagel* seconded. *Motion carries.*

VI. ADJOURNMENT

Chairman Gentry adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Carol Jenkins, Recording Secretary

City Planning Commission
Thursday, June 18, 2015 – 5:30 p.m.
SUB15-02 - Skygate Subdivision
MOD15-05 and SP15-01 - McKenzie Meadow Village

City Planning Commission
Thursday, June 18, 2015 – 5:30 p.m.
SUB15-02 - Skygate Subdivision
MOD15-05 and SP15-01 - McKenzie Meadow Village

City Planning Commission
Thursday, June 18, 2015 – 5:30 p.m.
SUB15-02 - Skygate Subdivision
MOD15-05 and SP15-01 - McKenzie Meadow Village

City Planning Commission
Thursday, June 18, 2015 – 5:30 p.m.
SUB15-02 - Skygate Subdivision
MOD15-05 and SP15-01 - McKenzie Meadow Village

City Planning Commission
Thursday, June 18, 2015 – 5:30 p.m.
SUB15-02 - Skygate Subdivision
MOD15-05 and SP15-01 - McKenzie Meadow Village



AGENDA

CITY PLANNING COMMISSION
520 E Cascade Avenue Sisters, OR 97759

Thursday, July 16, 2015– 5:30 P.M.

I. CALL TO ORDER

II. VISITOR COMMUNICATION

This is the time provided for individuals wishing to address the Planning Commission, at the Commission's discretion, regarding issues that are not already on the agenda. Citizens who wish to speak should sign up prior to the beginning of the meeting on the sign-up sheet at the podium. Please use the microphone and state your name and address at the time the Planning Commission calls on you to speak.

III. APPROVAL OF MINUTES- June 18, 2015

IV. PUBLIC HEARINGS

A. None

V. WORKSHOP: Presentation by Hayden Homes – Village at Cold Springs Master Plan Phases III, VI, VII, VIII

V. OTHER COMMISSION BUSINESS

VI. ADJOURN

*This agenda is also available via the Internet at www.ci.sisters.or.us. The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by calling Kathy Nelson, City Recorder, at the number below.
520 E. Cascade Ave. – P.O. Box 39, Sisters, OR 97759 – 541-323-5213.*

MEMORANDUM



CITY OF SISTERS

Date: July 9, 2015
To: Planning Commission
From: Patrick Davenport, Community Development Director
RE: Village at Cold Springs Phases III, V - VII: Potential revisions

Hayden Homes will be presenting options to revise the plan for the undeveloped Phases (East Village) within the Village at Cold Springs. The current Detailed Development Plan on 22.9 acres was approved on March 18, 2010 and proposes 273 total units consisting of 109 attached single family homes (townhouses) and 164 apartment units.

Staff requests that the Planning Commission view Hayden Homes' presentation, allow public comment, present questions and offer recommendations regarding the alternatives.

Attachments:

- A - Staff report from DDP # 09-01
- B - Original Master Plan July 2005



**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2010-05**

THE CITY OF SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE THAT:

WHEREAS, Hayden Homes LLC, applicant and property owner, of tax lot 1510050001100, requests approval of a Detailed Development Plan for Phases III, V, VI, and VII of the Village at Cold Springs Master Plan, as approved through file number MP05-01/CU05-01. Phases III and V-VII are also known as the East Village of the Village at Cold Springs; and,

WHEREAS, the subject site is located on property designated as Residential Multi-Family Sub-District (R-MFSD) on the City's Comprehensive Plan Land Use Map; and,

WHEREAS, the subject site is zoned Residential Multi-Family Sub-District (R-MFSD); and,

WHEREAS, after due notice, a public hearing on the proposed project was held before the Sisters Planning Commission on March 18, 2010, at which time findings were reviewed, witnesses were heard and evidence was received.

NOW, THEREFORE, BE IT RESOLVED that the CITY OF SISTERS PLANNING COMMISSION FINDS and DECIDES:

1. Notice has been given in the time and in the manner required by state law and city code; and,
2. The Planning Commission hereby adopts as its findings of fact the staff report on this matter dated March 18, 2010, herewith attached and by this reference incorporated herein as Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SISTERS THAT THE DETAILED DEVELOPMENT PLAN FOR THE EAST VILLAGE OF THE VILLAGE AT COLD SPRINGS MASTER PLAN, FILE NUMBER DDP09-01, IS APPROVED INCLUDING THE FOLLOWING EXHIBITS.

- Exhibit A - Staff Report
- Exhibit B - Conditions of Approval
- Exhibit C - Detailed Development Plan Overall Site Plan, dated 9/04/09
- Exhibit D - Detailed Development Plan North Area Plan, dated 9/04/09
- Exhibit E - Detailed Development Plan Details/Street Sections, dated 9/04/09
- Exhibit F - Village at Cold Springs Townhomes Floor Plans and Elevations, dated 9/04/09
- Exhibit G - Detailed Development Plan South Area Plan, dated 11/18/09
- Exhibit H - East Village North Fire Department Exhibit, dated 11/18/09
- Exhibit I - East Village South Fire Department Exhibit, dated 11/18/09

THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 18th DAY OF MARCH 2010.

Members of the Commission:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Signed: _____ David Gentry, Chairperson



CITY OF SISTERS
Planning Commission Resolution

EXHIBIT A
STAFF REPORT AND FINDINGS



CITY OF SISTERS
Planning Commission Resolution

EXHIBIT B
CONDITIONS OF APPROVAL

Planning Division

Planning Division

1. Except as modified by this decision and by the Detailed Development Plan, all conditions of decisions MP05-01 and CU05-01 remain in full force and effect.
2. This approval is for the proposed Detailed Development Plan only and does not constitute Site Design Review or Preliminary Plat approval. Building permits shall not be issued on the basis of this approval.
3. The applicant shall work with the City to align Brooks Camp Road with the Brooks Camp Road street cross-section to the south, as well as accommodate the adopted Sisters Transportation System Plan's increased cross-section for Brooks Camp Road, to the maximum extent possible as part of the future Subdivision approval process.
4. Rear setbacks for alley-loaded townhome lots in the East Village shall be as provided in the Sisters Development Code adopted April 10, 2008, which states "Garages may have 0 lot line setback when accessed from a lane or alley and located in the rear portion of a lot. Garage placement shall accommodate vehicular access and maneuvering standards."
5. Compact car parking spaces shall be provided in accordance with the Sisters Development Code adopted April 10, 2008, which states "The number of Compact Car Parking spaces shall not exceed 30% of the required off street parking spaces."

Building Division

6. No combustible construction shall commence prior to the issuance of a building permit.

Public Works

7. The Public Works comments are for the submitted Detailed Development Plan only and not construction drawings. A complete set of construction drawings must be submitted, approved by the City Engineer, and approved by the Public Works Department before any work can commence.
8. All public facilities that the City of Sisters will own or maintain shall be constructed per City of Sisters standards.
9. All work in the public right-of-way shall be performed by a licensed, bonded and insured contractor with a City of Sisters business license.
10. Details of interconnections and construction requirements for existing streets, and plans for all proposed streets will need to be provided with detailed construction plans.

Water

11. A general impact or adequacy study was provided by the City of Sisters in the 2005 Water System Capital Facilities Plan. The subject site has adequate water service available, and detailed plans will be required to provide details of the proposal and line sizing to provide adequate fire protection, prior to approval of a Subdivision or Site Design Review application for the subject property.
12. These Public Works comments are for the conceptual drawings of phase III, V-VII of Village at Cold Springs. These comments are not for construction approval of any waterline placement, sizing, or location.
13. A complete set of construction drawings will be required and approved by City Engineer of record as well as Public Works Department before any construction may begin.
14. All construction involving City water lines shall be per City of Sisters Public Works Standards, latest edition.



CITY OF SISTERS
Planning Commission Resolution

15. Oregon Health Division and City of Sisters require all waterlines to be looped where possible.
16. Documentation from the Fire Marshall that adequate fire flows are available shall be required prior to approval of a Subdivision or Site Design Review for the subject property.
17. Water System capacity studies shall be required by the City Engineer as deemed necessary. Timing of the submittal of the studies shall be at the discretion of the City Engineer.

Sanitary Sewer

18. A complete set of construction drawings will be required and approved by City Engineer of record as well as Public Works Department before any construction may begin.
19. Sewer System capacity studies shall be required by the City Engineer at the City Engineer's discretion. Timing of the submittal of the studies is at the discretion of the City Engineer.
20. All public sewer improvements shall be completed prior to any final plat approval.
21. The City of Sisters developed a 2006 Wastewater Capital Facilities Plan that assumed a total EDU density for the entire Village at Cold Springs Development of 373 homes. Addition of these phases to current approved development will utilize 371 EDU's of the capacity provided. Prior to approval of further land use applications for the subject property, the applicant shall complete an overall impact, or adequacy study for wastewater infrastructure, with an approvable plan for financing of an overall system, that will provide capacity for the development potential of the UGB, and potentially for expansion of the current UGB.

Streets/Drainage:

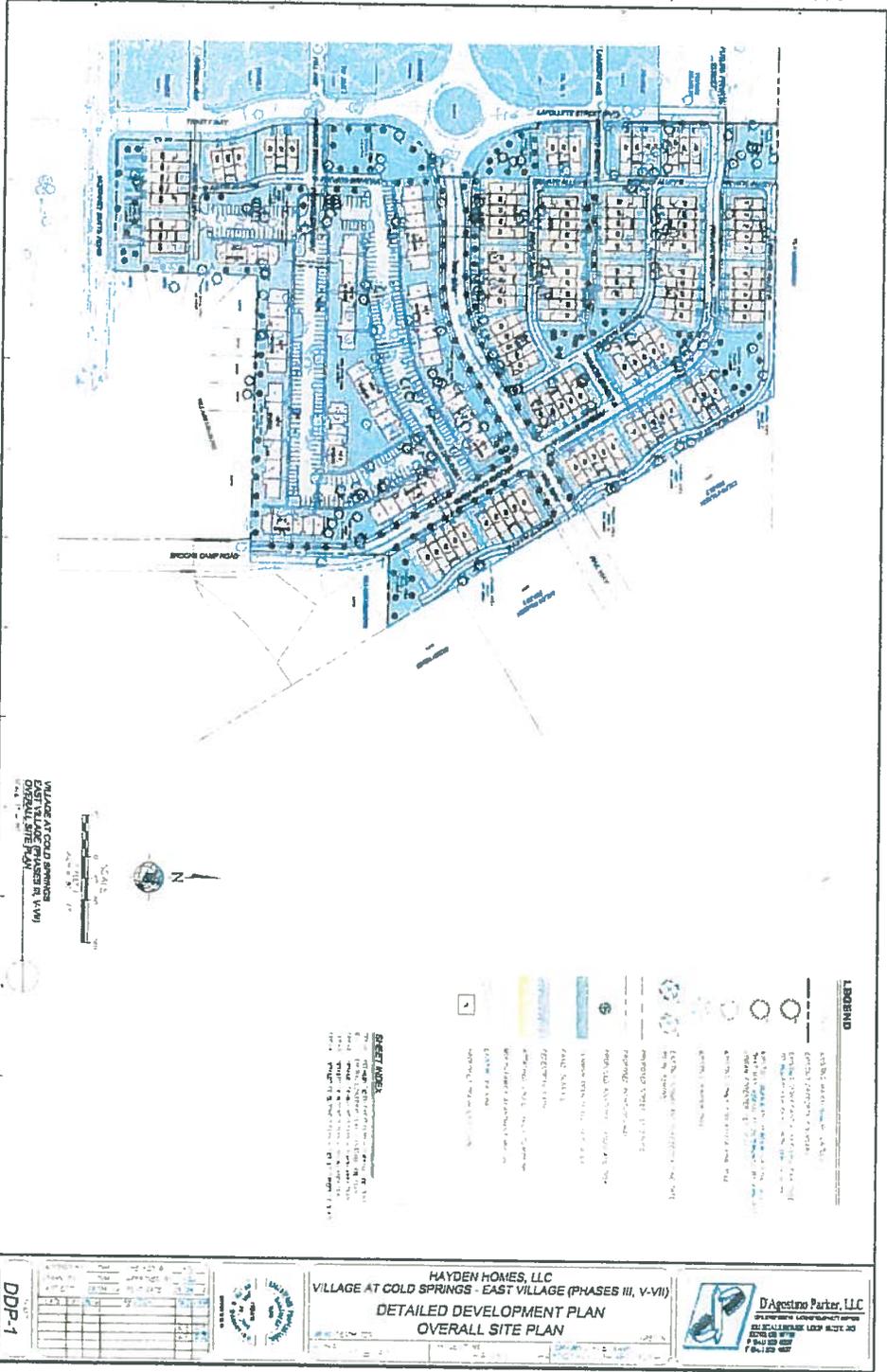
22. The cross sections for Trinity Way and Brooks Camp Dr. that will be owned by the City must have approval from the Sisters Camp Sherman Fire Dept. and the City's engineer of record HGE INC prior to commencement of any construction activity.
23. All the proposed roads (except for Trinity Way and Brooks Camp Dr.) will require Public Access easements, recorded and on file before any work may begin with any/all public facilities.
24. All drainage on private property will not be allowed to drain onto City right of way nor will City right of way be allowed to drain onto private property. All drainage, public and private, will comply with latest requirements of Oregon DEQ. Any proposed underground injection facilities shall comply with the Oregon DEQ requirements for UICs, latest edition, and obtain DEQ approval.
25. To and through requirements pertain to these phases for the entire development. Streets shall be stubbed to all adjacent property boundaries and these streets shall be accessible by the public and dedicated to the public.
26. Drainage calculations need to be provided prior to approval of any further land use applications on the subject property, to show that proposed drainage areas are adequate.
27. Detailed construction plans need to be provided prior to approval of any further land use applications on the subject property, with adequate details for review.

-----END OF CONDITIONS-----



CITY OF SISTERS
Planning Commission Resolution

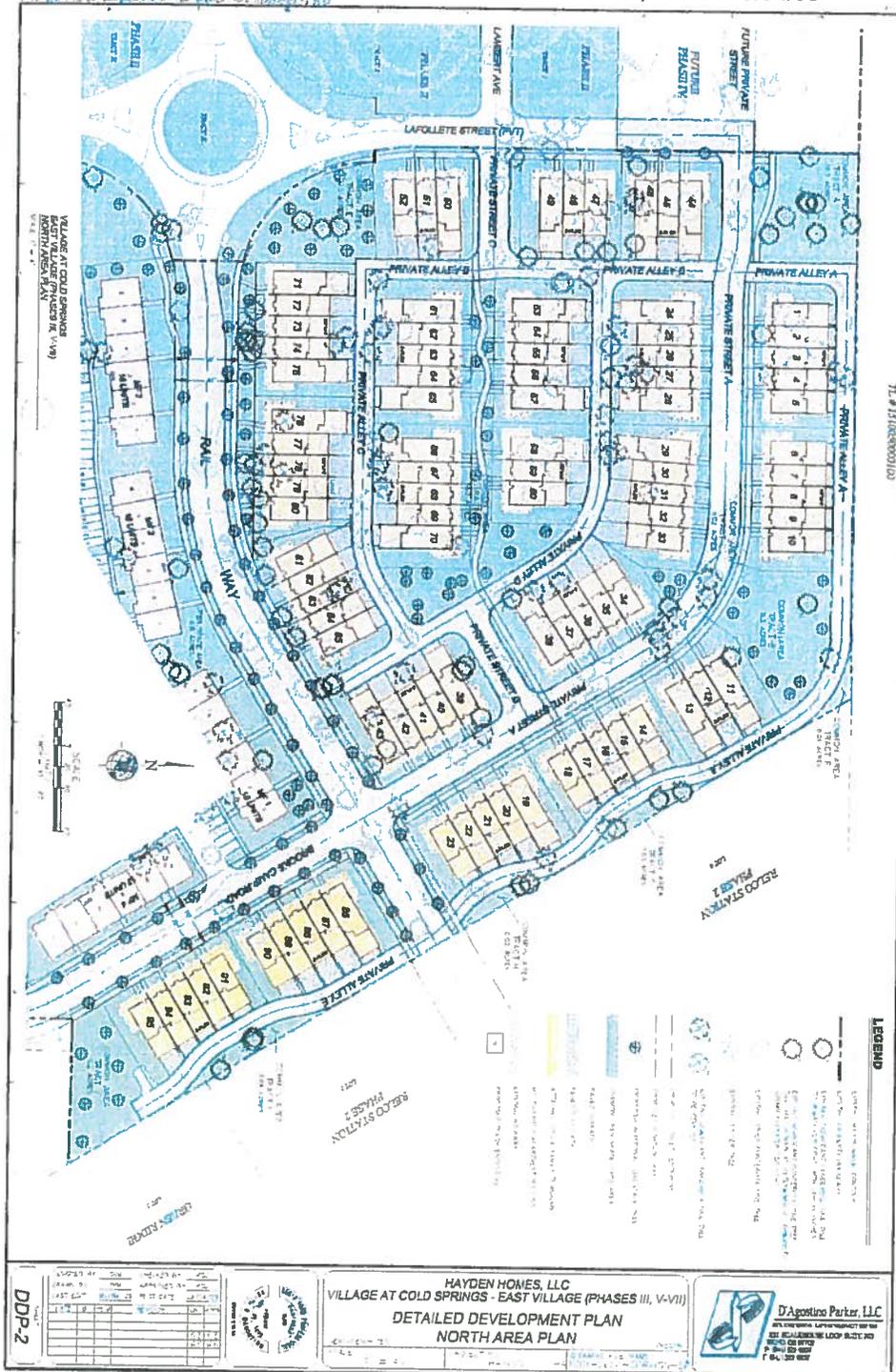
EXHIBIT C
DETAILED DEVELOPMENT PLAN OVERALL SITE PLAN, DATED 9/04/09





CITY OF SISTERS
Planning Commission Resolution

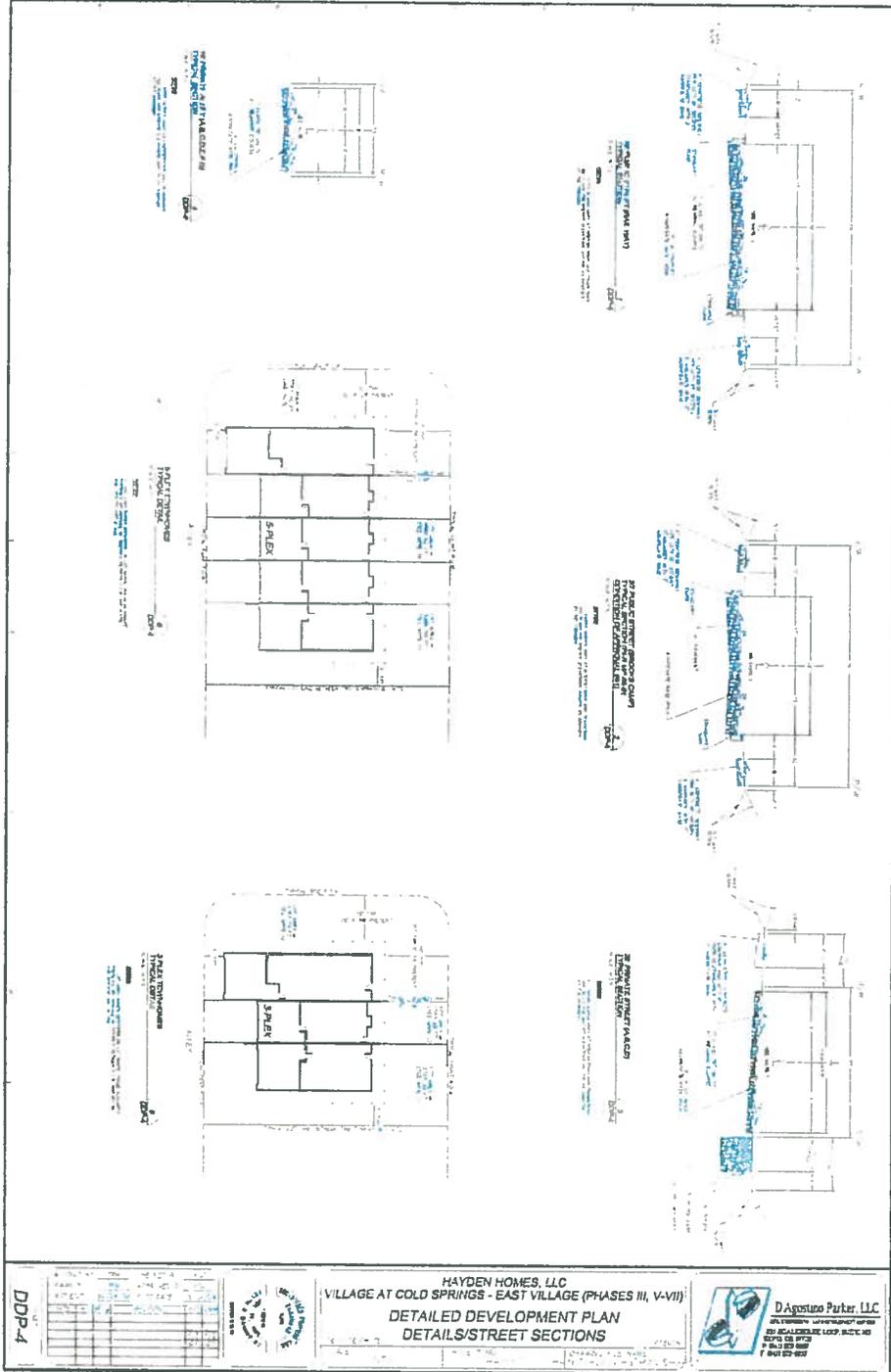
EXHIBIT D
DETAILED DEVELOPMENT PLAN NORTH AREA PLAN, DATED 9/04/09





CITY OF SISTERS
Planning Commission Resolution

EXHIBIT E
DETAILED DEVELOPMENT PLAN DETAILS/STREET SECTIONS, DATED 9/04/09





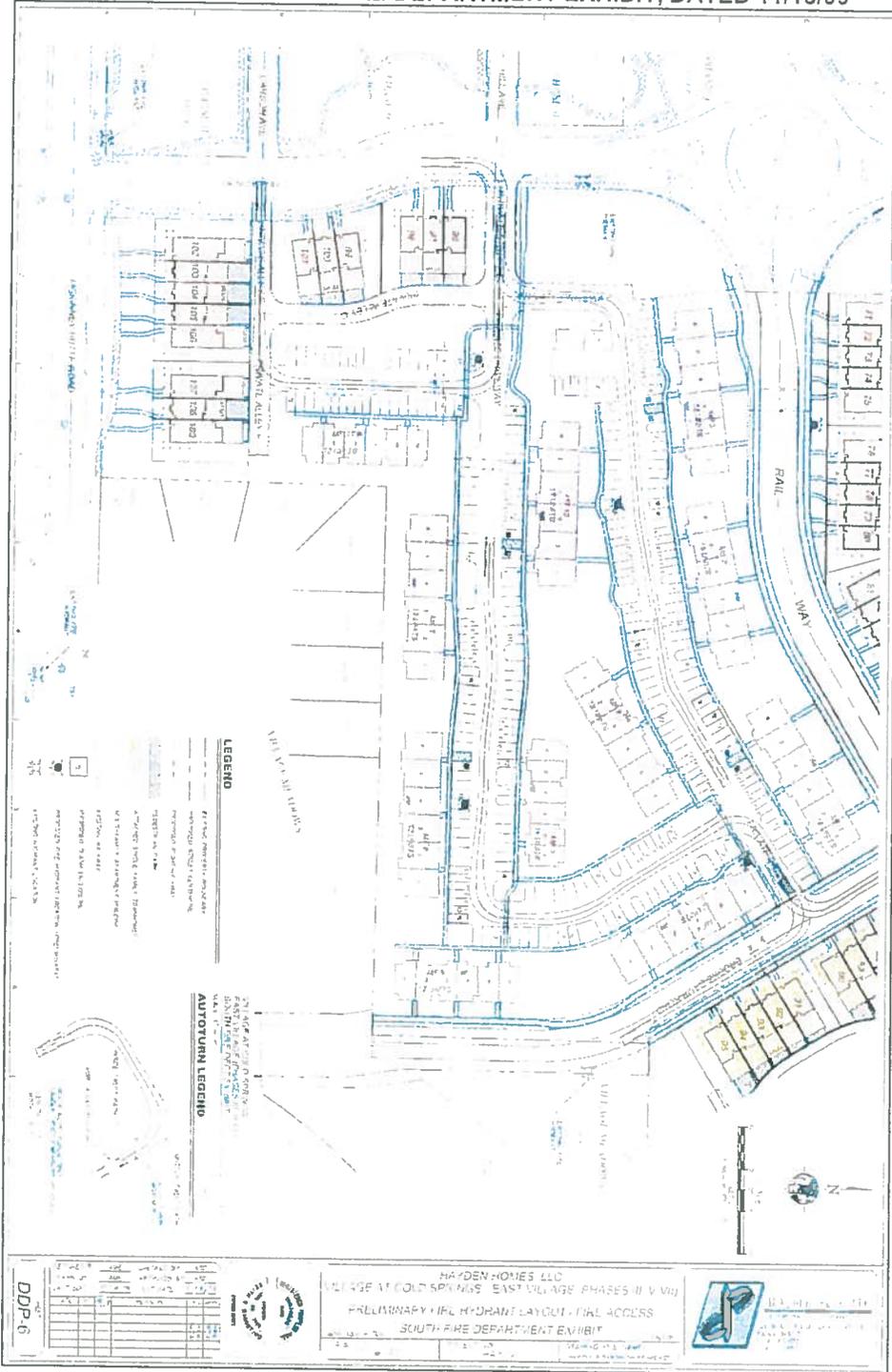
CITY OF SISTERS
Planning Commission Resolution

EXHIBIT F
VILLAGE AT COLD SPRINGS TOWNHOMES FLOOR PLANS AND ELEVATIONS, DATED 9/04/09



CITY OF SISTERS
Planning Commission Resolution

EXHIBIT I
EAST VILLAGE SOUTH FIRE DEPARTMENT EXHIBIT, DATED 11/18/09



CITY OF SISTERS

STAFF REPORT

Exhibit A

March 18, 2010

File #: DDP09-01

Applicant/Owner: Hayden Homes LLC

Request: The applicant requests approval of a Detailed Development Plan for Phases III, V, VI, and VII of the Village at Cold Springs Master Plan, as approved through file number MP05-01/CU05-01. Phases III and V-VII are also known as the East Village of the Village at Cold Springs.

Location: The subject property is located at the intersection of Trinity Way and W McKinney Butte Road, also known as tax map 15 10 05 lot number 1100.

Planner: Laura Lehman, Associate Planner

Zoning Code Designation: Residential Multi-Family Sub-District

General Plan Designation: Residential Multi-Family Sub-District

Hearing Date: March 18, 2010; 5:30 p.m.

Hearing Location: City of Sisters Council Chambers, 520 E Cascade Avenue, Sisters, Oregon

I. Application/Background

Project Request

The applicant requests approval of a Detailed Development Plan for the East Village portion of the Village at Cold Springs, which comprises Phases III, V, VI, and VII. Detailed Development Plan approval is the second step in a three-step Master Plan approval process currently provided by the Sisters Development Code (SDC). The first step in the process is Concept Plan approval, which was obtained for the East Village as part of file number MP05-01, concurrent with Detailed Development Plan approval for Phases I, II, and IV and preliminary plat approval for Phase I. Detailed Development Plan approval is the next step in the process. Once this approval is obtained, the applicant will still have to obtain Preliminary Subdivision Plat approval and Site Design Review approval prior to obtaining building permits for the East Village portion of the Master Plan.

Setting

The subject site consists of a 22.9 acre parcel which is generally level and heavily treed with junipers and ponderosa pines. The site is currently vacant, but is surrounded by other residential uses to the south and west, and abuts the Outlaw Station and Mainline/Relco Station commercial developments to the east.

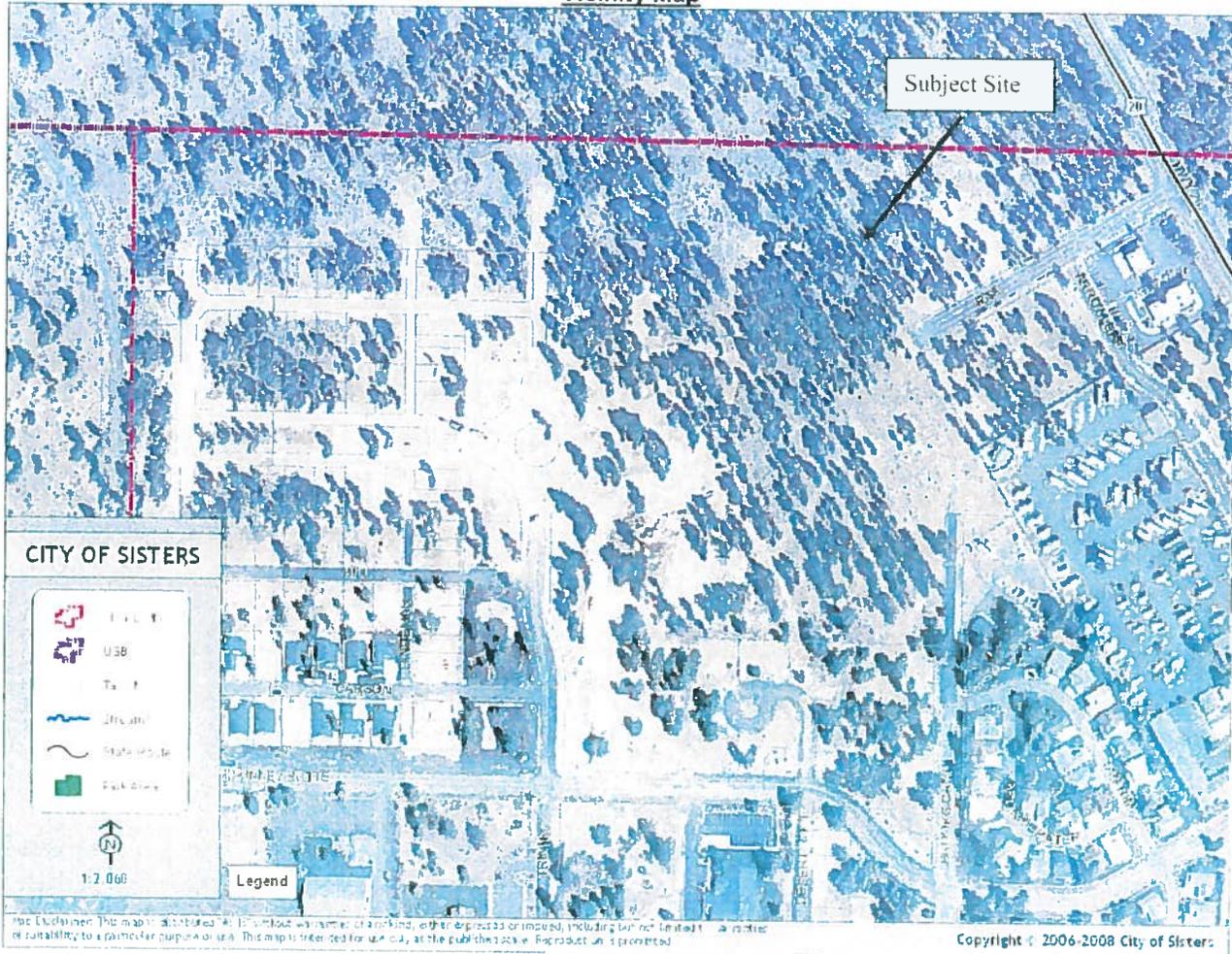
**CITY OF SISTERS
Planning Commission Staff Report**

File Number: DDP09-01
Hearing Date: March 18, 2010
Report Date: March 11, 2010

Adjacent land uses and zoning designations for the surrounding properties are summarized as follows:

Direction	Current Zoning District	Current Use
North	Bounded by City Limit	Forest Service land
East	CH, Highway Commercial	Outlaw Station and Mainline Station developments
South	R-MFSD, Residential Multi-Family Subdistrict	The Pines subdivision, Village Meadows subdivision, Brooks Camp Villas approval
West	R-MFSD, Residential Multi-Family Subdistrict	Phases I, II, and IV of the Village at Cold Springs

Vicinity Map



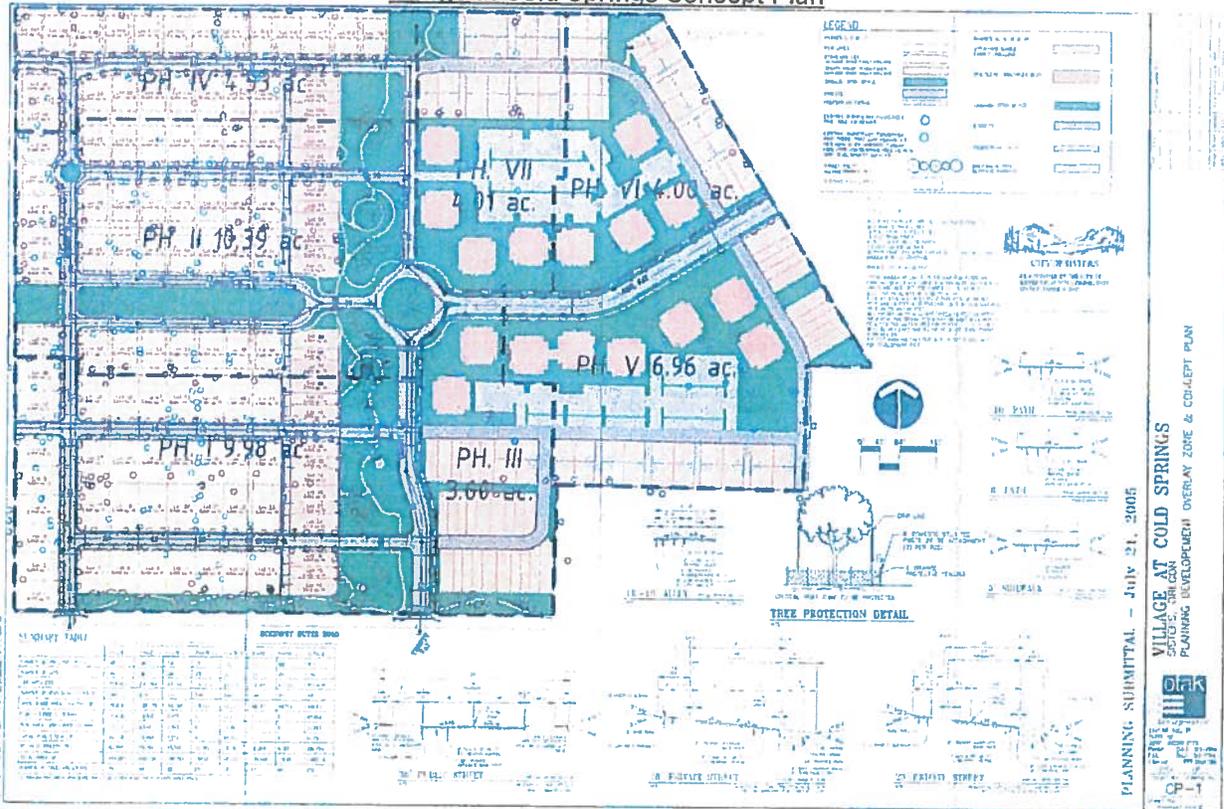
CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01
Hearing Date: March 18, 2010
Report Date: March 11, 2010

Project Background

The Hayden Homes Village at Cold Springs Master Plan was approved in September 2005 and so far the developer has completed the land use planning process for Phases I and II, which comprise mostly single-family detached dwelling lots with some attached townhomes. The Village at Cold Springs consists of seven phases, Phases I, II, and IV of which have already received Detailed Development Plan approval. Phases III, V, VI, and VII comprise the East Village portion of the Master Plan, and are proposed to consist of attached single-family dwellings and multi-family dwellings, consistent with the Village at Cold Springs Master Plan.

Village at Cold Springs Concept Plan



CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01
Hearing Date: March 18, 2010
Report Date: March 11, 2010

II. Conclusionary Findings

Pursuant to the Sisters City Code Section 4.5.170, the Detailed Development Plan (DDP) approval request shall be approved, approved with conditions, or denied on the basis of whether or not the following criteria, and such other criteria which may be specified by State law, can be satisfied, based on the evidence and testimony presented.

4.5.170 Detailed Development Plan Approval Criteria

The City shall approve the detailed development plan upon finding that the final plan conforms with the concept plan and required conditions of approval. Changes to the approved concept plan may be approved with the detailed plan, consistent with the following criteria:

A. Increased residential densities or lot coverages by no more than 15 percent, provided such change conforms to the densities established herein;

The applicant's proposed detailed development plan does not propose any change in density; the Master Plan approval included a condition of approval stating that between 392 and 414 housing units must be constructed across the project in order for density to be met. The applicant's proposed Detailed Development Plan includes 277 units in the East Village portion of the project, Phases I and II comprise 94 units, and Phase IV's preliminary plat approval includes 25 units, for a total of 396. This number of units complies with the density requirements and with Condition of Approval 5 of MP05-01.

Lot coverage for the East Village was specified by condition of approval number 36, which states that lot coverage for attached townhomes in the East Village may average up to 82 percent. The applicant has provided a table showing the average lot coverage for the proposed townhome lots, which come to 69.9%, in conformance to this condition. Lot coverage was not specified for the proposed multi-family units, so the units must conform to the standard of the underlying zoning district, which in this case is 60%. The applicant's burden of proof states that the proposed lot coverage for the multi-family units is 23%, which meets the lot coverage standards for the R-MFSD zoning district. Staff finds that this standard is met.

B. A reduction to the amount of open space or landscaping by no more than 10 percent;

The applicant has not proposed a reduction in the amount of landscaping or open space; the applicant's burden of proof states, "Open space tracts and areas are identified on the submitted plans and are in substantial conformance with the initial Concept Plan...with respect to size and general location." The applicant has provided five individual open space tracts, located in conformance to the concept plan approval. There are also open space areas integrated throughout the multi-family portion of the DDP. The applicant's burden of proof also states that the open space areas have been located to allow preservation of as many trees as possible, in conformance with MPO05-01. Staff finds that this standard is met.

C. An increase in lot coverage by buildings or changes in the amount of parking by no more than 15 percent. Greater changes require a major modification;

As previously addressed, the applicant does not propose changes to the proposed lot coverage in this DDP. The applicant also does not propose changes to the amount of parking. Parking is proposed to be provided in accordance with the requirements of SDC chapter 3.3, as was approved through the concept plan approval. Staff finds that this standard is met.

D. No change in land use shall be permitted without approving a major modification to the concept plan;

No change in land use is proposed. Staff finds that this standard is met.

CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01

Hearing Date: March 18, 2010

Report Date: March 11, 2010

- E. No change which places development within environmentally sensitive areas or areas subject to a potential hazard shall be approved without approving a major modification to the concept plan;**

No such change is proposed. The location of development is as proposed in the Concept Plan; staff finds that this standard is met.

- F. The location of the buildings, proposed streets, parking lot configurations, utility easements, landscaping or other site improvements shall be as proposed on the concept plan, or as modified through conditions of approval. Changes in the location or alignment of these features by more than 100 feet shall require approval of a major modification, in conformance to Chapter 4.6;**

The locations of the above improvements are generally as proposed in the Concept Plan. The applicant's burden of proof states, "Minor changes in the locations of buildings, streets, parking configurations and building unit product mix are identified on the submitted plans, but generally conform to (the Concept Plan)." The purpose and nature of the Concept Plan/Detailed Development Plan process is to allow refinement to proposed plans and minor changes are typical; staff finds that this standard is met as proposed.

- G. Other substantial modifications made to the approved conceptual development plan shall require approval of either a minor modification or major modification, in conformance to Chapter 4.6.**

No substantial modifications are proposed, and therefore no modification application is required.

Staff finds that the applicant's proposal generally conforms to the approved concept plan. The pertinent conditions of approval from the Village at Cold Springs approval, MP05-01, are addressed below:

East Village (Phases III and V through VII)

34. *Attached single-family residential lots may average a minimum of 2,300 square feet in area and 24 feet in width for side-by-side townhomes and 1,600 square feet in area and 40 feet in width for "pinwheel" configuration four-plexes with a separate lot for each housing unit. Lot width for lots that do not front a street is measured along the lot line on which the main entry to the home faces. Lot depth for townhomes may be up to 120 feet.*

The applicant has provided a table which addresses this condition of approval; the table shows the widths and areas of all of the proposed townhomes. The applicant does not propose any pinwheel-style four-plexes at this time; for side-by-side townhomes, the average lot area is 2,596 and the average lot width is 28.4 feet. These sizes exceed the minimum requirements set by condition 34 and meet this condition.

35. *Lots for four-plex "pinwheel" configuration housing not on separate lots for each housing unit may be a minimum of 6,400 square feet in area.*

The applicant does not propose pinwheel four-plex housing at this time.

36. *Lot coverage for attached single-family dwellings in the East Village (townhomes and four-plex units on individual lots) and four-plex buildings may average up to 82 percent.*

This condition was previously addressed and is met by the applicant's proposal.

37. *Buildings within 100 feet of the outer site boundary shall not exceed 30 feet in height. Multiplex housing (not townhouses or pinwheel design units) further than 100 feet from the outer site boundary may be up to 40 feet in height.*

The applicant proposes 6 multi-family housing buildings that are proposed to exceed 30 feet in height (the MP05-01 Master Plan permits multi-family structures within the Master Plan to be up to 40 feet in height). Of these 6 buildings, the one closest to the property boundary is approximately 140 feet from the boundary. The remaining 5 proposed multi-family structures are located within 100 feet of the site

CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01

Hearing Date: March 18, 2010

Report Date: March 11, 2010

property line; these structures are proposed to be 30 feet in height or less. This proposal complies with condition of approval 37 of MP05-01 as proposed.

38. *Minimum separation between multiplex housing on the same lot may be approved as ten feet for portions of the building being 30 feet in height or less, increasing proportionally to 15 feet for portions of the building being 40 feet in height. The Planning Commission may approve this standard based on a more detailed review at the Detailed Development Plan stage for the East Village.*

All of the proposed multi-family structures are proposed to be located on the same lot. The proposed multi-family structures that are closest to one another are 20 feet apart; this separation complies with this condition of approval. All other multi-family structures proposed are separated by more than 20 feet.

39. *Buildings may be up to 160 feet in length.*

On the Detailed Development Plan submitted on September 04, 2009, the applicant proposed two multi-family, two-story structures that exceeded this length; structures MF-6 and MF-10 were originally proposed as 216 feet in length. On September 30, 2009 staff sent the applicant a letter of incompleteness which read as follows:

"Two of the proposed multi-family buildings (MF -6 and MF-10) exceed the 160 foot maximum length established by Condition 39 of the concept plan approval. The submitted burden of proof states that the developer considers this a "minor change...as allowed per Section 4.5.170." Section 4.5.170 of the Sisters Development Code, however, provides specific instances in which minor changes are permitted, and changes to specific conditions of approval are not included. Condition 39 already permits a significant increase in building length above that otherwise permitted by the Sisters Development Code; therefore these buildings need to comply with Condition 39."

Subsequently, the applicant submitted a revised Detailed Development Plan, dated November 18, 2009, on which all multi-family structures are proposed to be less than 160 feet in length (the largest structure is roughly 156 feet in length). Staff finds that this condition is now met as proposed.

40. *Up to five consecutively attached single-family attached dwelling units on individual lots (townhomes) are allowed.*

The applicant proposes a number of groups of 5 townhomes attached consecutively; the applicant does not propose any groups of attached townhomes exceeding 5 townhomes and therefore this condition is met.

41. *Extensions of Rail Way from the east site boundary to the central roundabout and Trinity Way from the south site boundary to the roundabout shall be public streets constructed to City standards for a collector street and be within a 60-foot-wide right-of-way. The roundabout intersection shall be designed and constructed to City requirements to accommodate emergency vehicles.*

The roundabout connection has already been constructed to City standards. The Rail Way connection is shown on the proposed DDP and provides the required 60 feet of right-of-way. The 60 feet of right-of-way proposed is sufficient to accommodate the standard cross-section for a collector street as specified in the recently updated City of Sisters Transportation System Plan. This cross-section will be required at the time that the applicant applies for a Subdivision of the subject property and is required to dedicate the right-of-way shown on the proposed DDP, which is the next step following the DDP approval process.

42. *All other streets may be private streets with a paved surface at least 28 feet wide within a 30-foot-wide commonly-owned tract for two-way traffic, and 24 feet wide within a 25-foot-wide commonly-owned tract for one-way traffic. There shall be easements adjacent to the street tracts to accommodate stormwater drainage facilities and a 5-foot-wide sidewalk on one side of the street. Parking along private streets less than 30 feet in width is limited to one side from December 1st through March 31st to allow emergency vehicle access during periods of snowfall. Private streets shall be signed to indicate seasonal parking restrictions. This restriction shall be incorporated into the CC&Rs and a method of enforcement shall be included.*

CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01

Hearing Date: March 18, 2010

Report Date: March 11, 2010

All streets proposed as part of this DDP are private, with the exception of Rail Way and N Brooks Camp Road, and comply with this condition of approval.

43. *All alleys shall be private with a paved surface at least 18 feet wide within a 20-foot-wide commonly-owned tract.*

All proposed alleys are at least 18 feet wide and within a minimum 20 foot wide tract, as required.

44. *All pedestrian paths other than sidewalks shall be at least six feet wide and paved with hard surface, except that one path at least ten feet wide for emergency access is required on the multifamily housing lots to the north and south of Rail Way (Phases III and V through VII) as shown on CP1. Emergency access pathways shall extend from Railway to the parking lots on both multifamily lots.*

All proposed pedestrian paths are at least 6 feet wide, and this will also be a condition of approval on subsequent Subdivision and Site Design Review approvals. Due to the changes to the housing type mix and access alignment, emergency access via pedestrian paths is not required. The Sisters-Camp Sherman Fire Protection District Fire Marshal has reviewed and approved the proposed DDP and found that emergency access is provided as necessary as proposed.

45. *All private streets, sidewalks, and pedestrian pathways through common open space tracts shall have public access easements placed upon them when the respective phase is platted. Easements shall be shown on the final plat.*

This condition of approval will be incorporated into the Subdivision approval required prior to recording of a final plat for the subject property.

46. *There shall be no direct motor vehicle access from any private lot to a collector street. All motor vehicle access from any lot in the Village at Cold Springs shall be to a local service street and not to a collector.*

The proposed DDP complies with this requirement. Rail Way is the only collector street that is part of the East Village, and all proposed private lots access Rail Way via private streets.

47. *Townhomes may have direct access to garages from local service streets. Four-plexes ("pinwheel" design) may have access to garages from common driveways to the side of the buildings. These direct accesses may be approved by the Planning Commission based on a more detailed review at the Detailed Development Plan stage for the East Village.*

As proposed, all townhomes have garage access via private alleys, in conformance to this condition of approval.

48. *Garages for townhomes shall be located at least 20 feet from the front lot line or sidewalk/path where provided, and may be flush with or behind the front plane of the building. The Planning Commission may approve this standard based on a more detailed review at the Detailed Development Plan stage for the East Village. There is no minimum setback between the garage front and front plane of the building.*

As proposed, all townhomes have garage access via private alleys. Because the proposed townhomes do not have garage access to streets or across pedestrian paths, this condition of approval does not apply.

49. *Maximum driveway width for townhomes facing the street may be 50 percent of the lot width or 12 feet, whichever is wider. Driveways do not have to be shared, but if they are not shared and less than 20 feet from each other, they shall be separated by a landscaped area at least four feet wide. The Planning Commission may approve this standard based on a more detailed review at the Detailed Development Plan stage for the East Village.*

As stated above, this condition does not apply because all proposed townhomes take garage access via private alleys.

CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01
Hearing Date: March 18, 2010
Report Date: March 11, 2010

50. *Temporary turnarounds (in public access easements as needed) shall be constructed for any road that is not constructed to its planned terminus or otherwise dead-ends more than 150 feet from a connecting road. In the case of the east-west street in phase 3 that dead ends to the adjoining property, the street shall be re-designed to terminate on site or provide a loop connection to the planned east-west street to the north. Such redesign shall be reflected in a minor modification of the Concept Plan and Detailed Development Plan, and the applicant must submit for such modification prior to starting on phase III or the East Village. Any turnaround (e.g., hammerhead) must be approved by the Fire Marshall.*

Due to minor changes in the alignments proposed in this DDP, the east-west street referenced in this condition has been replaced with Private Alley F. The applicant has provided a connection between Private Alley F and the parking/circulation area of the proposed multi-family portion of the East Village. This condition of approval comes from the Fire Code, which requires that a fire access be provided for any exterior portion of a building that is 150 feet or more from the nearest public street. The Fire Marshal has reviewed and approved the current alignment and found that this requirement is met. A minor modification is not required because the applicant's proposed solution follows the street alignment as proposed in the Concept Plan.

51. *Brooks Camp Road shall align as much as possible to the current alignment as extended to the applicant's property line, and as reflected in CP1. The road shall be paved to a width of 30 feet in a 50 foot public right-of-way. Each side of the road shall contain adequate storm drainage facilities and a 5 foot sidewalk/path. Where the road is partially on the applicant's property and partially on the adjoining property (at south end), the applicant shall provide ¼ ROW and street improvements on the applicants frontage. The Brooks Camp Road extension (as described above) and any necessary re-design of the adjacent housing or open space configurations shall be reflected in the updated CP1 to be prepared (refer to condition 1).*

The right-of-way width shown for Brooks Camp Road on the proposed DDP complies with this condition; it shows 50 feet of right-of-way and 30 feet of pavement width. The applicant submitted this application in September of 2009 and this application is subject to the "goal-post rule" (ORS 215.427(3)(a)), which states that the application is subject to the standards in place at the time that the application was submitted. The newly adopted Sisters TSP states that Brooks Camp Road is now designated as a Neighborhood Route; the cross section for a neighborhood route requires a minimum of 60 feet of right-of-way and 38 feet of pavement. However, because this application was submitted September 04, 2009, and the TSP update was adopted on January 14, 2010, the requirements of the newly updated TSP do not apply to this DDP and the proposal meets all applicable standards as proposed.

Although the applicant is not required to comply with the standards of the newly adopted TSP, it is possible that the applicant could voluntarily choose to comply with this more stringent requirement. Staff has discussed this possibility with the applicant and the applicant has agreed to explore the possibility of accommodating the TSP's increased cross section for Brooks Camp Road through the Subdivision preliminary plat approval process, which is the next step in the approval process for this development. Subdivision approval is an appropriate stage in the land use process to address this requirement because it is the stage when an applicant is required to dedicate required right-of-way to the City. Staff recommends a condition of approval stating that the applicant shall work with the City to align Brooks Camp Road with the existing cross-section to the south, as well as accommodate the TSP's increased cross-section for Brooks Camp Road, to the maximum extent possible as part of the future Subdivision approval process.

52. *Rail Way shall align to the current approved alignment of said Way on the adjacent property.*

The applicant's proposed DDP shows this alignment as required; this standard is met.

56. *Stormwater disposal for impervious surfaces shall rely primarily on swales and infiltration areas. Drywells may be utilized to augment the swale system. If drywells are used, all Oregon Department of Environmental Quality (DEQ) requirements shall be met.*

CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01

Hearing Date: March 18, 2010

Report Date: March 11, 2010

-
57. *Prior to each phase, documentation of adequate fire flows shall be required.*
58. *Prior to each phase, documentation that adequate water system and sewer system capacities exist shall be required.*
59. *Prior to final platting for each phase, a lighting plan for street lights and common areas shall be submitted and approved by the City. Installation of approved lighting shall occur prior to issuance of the last building permit of the phase or preliminary platting of any subsequent phase.*

All four of the above conditions are conditions of approval that apply to the Subdivision/Site Design Review phase of development. These issues will be addressed during the Subdivision application process, and will be required to be resolved prior to approval of any further land use action on the subject property, as stated in the above conditions.

60. *Trees identified on CP1 and CP5 to be retained shall not be removed except when diseased or determined to be a hazard by a certified urban forester or arborist. Prior to removal all requirements of the City and of the homeowners association for the Village at Cold Springs must be met, including any required mitigation. Home purchasers whose property contains a tree that is identified as one to remain shall be made aware of the tree prior to purchase.*
61. *Trees have been identified on CP1 and CP5 that may be retained as determined by an urban forester or certified arborist, taking into consideration the tree health and location relative to proposed buildings, utilities, streets and sidewalks, and other proposed development. Home purchasers whose property contains a tree that is identified as one that may remain shall be made aware of the tree prior to purchase. If an identified tree is removed, mitigation as outlined in the tree protection plan (and included in the CC&Rs) is required.*
62. *All trees that are to be retained (both those required to remain and those which may remain that will not be impacted as described in the previous condition) shall be protected during development in the manner outlined on CP5. Ground disturbance within the area delineated by the protective fencing is prohibited. An urban forester or certified arborist shall be available for immediate consultation during periods of ground disturbance that are within the dripline of any tree identified to be retained.*

Conditions 60, 61, and 62 all pertain to tree protection and removal on the subject property. Because the applicant is only applying for DDP approval, and still has to go through Subdivision and Site Design Review approval before any improvements or construction can begin, these conditions do not technically apply to this application. The applicant has, however, addressed this issue in the proposed DDP. The applicant's burden of proof states, "Trees identified to be retained (in the Concept Plan) are reflected on the submitted Detailed Development Plan...As indicated throughout the Detailed Development Plan, the applicant has exercised tremendous efforts to preserve these as much as practical and possible within the numerous constraints of the project. Common Area Tracts and open space areas have been located and shaped to preserve significant trees where possible; roads, alleys, driveways, and parking area islands have been aligned and located for tree preservation where feasible." Staff finds that the applicant has addressed these conditions of approval, and the applicant will be required to fully comply with these conditions through future land use applications (Subdivision/Site Design Review).

III. Public Comments

As of the date of this report, one letter of public comments was received from Jill Jarkesy, a neighboring property owner. This letter is included as an exhibit to the resolution. Ms. Jarkesy requests that the applicant provide fencing at the property lines that separate the multi-family portion of the East Village and the Village Meadows subdivision to the south. This is a condition of approval that would be appropriate to include in the Site Design Review approval that will be required prior to issuance of any building permits for the multi-family portion of the East Village; if the Planning Commission pleases a condition could be added to this decision stating that such fencing will be required as a condition of subsequent Site Design Review approval.

CITY OF SISTERS
Planning Commission Staff Report

File Number: DDP09-01
Hearing Date: March 18, 2010
Report Date: March 11, 2010

IV. Exhibits

The following exhibits make up the record in this matter (these are contained in file DDP09-01 and are available for review at the City of Sisters City Hall):

1. Application with fee dated September 04, 2009;
2. Burden of Proof Statement dated September 04, 2009, including a preliminary title report;
3. Detailed Development Plan dated September 04, 2009, including townhome elevations and floor plans;
4. Revised sheets DDP-3, DDP-5, and DDP-6, dated December 03, 2009;
5. Incompleteness letter dated September 30, 2009;
6. Completeness letter dated February 02, 2010;
7. City of Sisters Public Works Department comments dated September 25, 2009;
8. City Engineer comments from HGE Inc. dated September 21, 2009;
9. Oregon Department of Transportation comments dated September 30, 2009; and
10. Letter from neighboring property owner Jill Jarkesy, dated March 09, 2010.

THIS DECISION IS SUBJECT TO APPEAL. THE APPEAL MUST BE FILED WITHIN 14 (FOURTEEN) DAYS OF THE DATE THE FINAL DECISION IS MAILED. ANY APPEAL MUST BE ON A FORM PROVIDED BY THE CITY; MUST BE ACCOMPANIED BY THE REQUIRED FEE, AND MUST BE ACCOMPANIED BY A STATEMENT LISTING THE SPECIFIC REASONS(S) FOR THE APPEAL. SEE THE SISTERS DEVELOPMENT CODE CHAPTER 4.1 FOR APPEALS PROCEDURES. FOR INFORMATION REGARDING APPEALS, CONTACT THE SISTERS CITY HALL, COMMUNITY DEVELOPMENT DEPARTMENT, AT (541) 549-6022.

FAILURE TO RAISE AN ISSUE WITH SPECIFICITY WITHIN THE APPEAL FORM MAY PRECLUDE AN APPEAL TO LUBA, AND MAY PREVENT THE ABILITY OF THE APPELLANT FROM COLLECTING DAMAGES IN CIRCUIT COURT.



RECEIVED
APR 01 2010

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2010-05**

**THE CITY OF SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE
THAT:**

WHEREAS, Hayden Homes LLC, applicant and property owner, of tax lot 1510050001100, requests approval of a Detailed Development Plan for Phases III, V, VI, and VII of the Village at Cold Springs Master Plan, as approved through file number MP05-01/CU05-01. Phases III and V-VII are also known as the East Village of the Village at Cold Springs; and,

WHEREAS, the subject site is located on property designated as Residential Multi-Family Sub-District (R-MFSD) on the City's Comprehensive Plan Land Use Map; and,

WHEREAS, the subject site is zoned Residential Multi-Family Sub-District (R-MFSD); and,

WHEREAS, after due notice, a public hearing on the proposed project was held before the Sisters Planning Commission on March 18, 2010, at which time findings were reviewed, witnesses were heard and evidence was received.

**NOW, THEREFORE, BE IT RESOLVED that the CITY OF SISTERS PLANNING COMMISSION
FINDS and DECIDES:**

1. Notice has been given in the time and in the manner required by state law and city code; and,
2. The Planning Commission hereby adopts as its findings of fact the staff report on this matter dated March 18, 2010, herewith attached and by this reference incorporated herein as Exhibit A.

**NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF
THE CITY OF SISTERS THAT THE DETAILED DEVELOPMENT PLAN FOR THE EAST VILLAGE OF
THE VILLAGE AT COLD SPRINGS MASTER PLAN, FILE NUMBER DDP09-01, IS APPROVED
INCLUDING THE FOLLOWING EXHIBITS.**

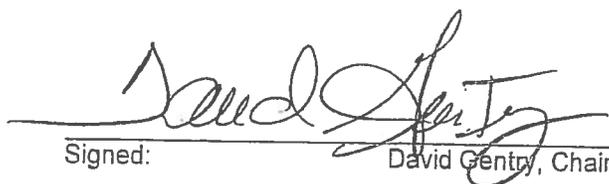
- Exhibit A - Staff Report
- Exhibit B - Conditions of Approval
- Exhibit C - Detailed Development Plan Overall Site Plan, dated 9/04/09
- Exhibit D - Detailed Development Plan North Area Plan, dated 9/04/09
- Exhibit E - Detailed Development Plan Details/Street Sections, dated 9/04/09
- Exhibit F - Village at Cold Springs Townhomes Floor Plans and Elevations, dated 9/04/09
- Exhibit G - Detailed Development Plan South Area Plan, dated 11/18/09
- Exhibit H - East Village North Fire Department Exhibit, dated 11/18/09
- Exhibit I - East Village South Fire Department Exhibit, dated 11/18/09

THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 18th DAY OF MARCH 2010.

Members of the Commission:

AYES:
NOES:
ABSENT:
ABSTAIN:

()
()
()
()



Signed: _____ David Gentry, Chairperson



CITY OF SISTERS
Planning Commission Resolution

EXHIBIT A
STAFF REPORT AND FINDINGS

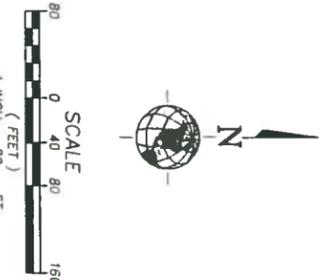


LEGEND

- EXISTING MAJOR/MINOR CONTOUR
- EXISTING PROPERTY BOUNDARY
- EXISTING SIGNIFICANT PONDEROSA PINE TREE TO REMAIN PER CP-1, WITH DBH IN INCHES
- EXISTING SIGNIFICANT PONDEROSA PINE TREE THAT MAY REMAIN AS DETERMINED BY ARBORIST/URBAN FORESTER PER CP-1
- EXISTING OTHER PONDEROSA PINE TREE
- EXISTING JUNIPER TREE
- EXISTING SIGNIFICANT PONDEROSA PINE TREE TO BE REMOVED
- PROPOSED STREET CENTERLINE
- PROPOSED RIGHT-OF-WAY
- PROPOSED ADDITIONAL LANDSCAPE TREE
- COMMON OPEN SPACE/YARD AREA
- PAVED SURFACE
- PEDESTRIAN PATH
- ATTACHED SINGLE FAMILY TOWNHOMES
- MULTI-FAMILY APARTMENT BUILDING
- EXISTING WALKWAY
- PROPOSED TRASH ENCLOSURE

SHEET INDEX

- DDP-1 DETAILED DEVELOPMENT PLAN - OVERALL SITE PLAN
- E-1 EXISTING CONDITIONS PLAN - OVERALL SITE PLAN
- DDP-2 DETAILED DEVELOPMENT PLAN - NORTH AREA PLAN
- DDP-3 DETAILED DEVELOPMENT PLAN - SOUTH AREA PLAN
- DDP-4 DETAILED DEVELOPMENT PLAN - DETAILS/STREET SECTIONS



VILLAGE AT COLD SPRINGS
EAST VILLAGE (PHASES III, V-VII)
OVERALL SITE PLAN
SCALE: 1" = 80'



DESIGNED BY	TRM	CHECKED BY	KSD
DRAWN BY	TRM	APPROVED BY	KSD
LAST EDIT	09/04/09	PLOT DATE	09/04/09
DATE	BY	REV#	REVISION



HAYDEN HOMES, LLC
VILLAGE AT COLD SPRINGS - EAST VILLAGE (PHASES III, V-VII)
DETAILED DEVELOPMENT PLAN
OVERALL SITE PLAN

BEND/DESCHUTES OREGON
SCALE 1" = 80' PROJECT NO. HAY001 DRAWING FILE NAME HAY001-COLD-SPRINGS-SP01

D'Agostino Parker, LLC
CIVIL ENGINEERING / LAND DEVELOPMENT SERVICES
231 SCALEHOUSE LOOP, SUITE 203
BEND, OR 97702
P: (541) 322-8807
F: (541) 322-8827

DDP-1
SHEET

