Staff Report
Conditional Use Review & Site Plan Review
CU-03-20 & SP-13-20
July 27, 2020

Summary
The proposal is an application for Conditional Use Review to utilize an existing office building for a daycare facility and for a Site Plan Review to remove 23 trees. The subject property is located at 1054 29th Avenue SW and is zoned Office Professional (OP) (Attachment A). Access to the property is provided via a private easement from 29th Avenue. The proposed use is classified as a “Daycare Facility” in Albany Development Code (ADC) 22.200. Daycare facilities are considered Institutional Uses and are allowed in the OP zoning district with Conditional Use approval. The Conditional Use review criteria contained in ADC 2.250 and Site Plan Review found in ADC 9.208(2) for tree felling are addressed in this report. The criteria must be satisfied to grant approval for this application.

The daycare will be operated by the Mid-Willamette Family YMCA. The existing building is 4,914 square feet. The applicant proposes an additional 1,998 square-foot covered outdoor play area at the southwest corner of the building. The facility is served by an existing parking lot with 21 parking spaces. No changes are proposed to the parking lot. The daycare will be open Monday – Friday between 6:00 a.m. and 7:00 p.m. and will serve up 94 children with approximately eight employees per shift.

In summary, the proposed development application satisfies applicable review criteria; therefore, the staff recommendation is APPROVAL with CONDITIONS of the Conditional Use application.

Application Information
Review Body: Planning Commission (Type III review)
Staff Report Prepared By: Travis North, Project Planner
Proposal: Conditional Use to utilize an existing building, construct a covered outdoor play area, and change use from counseling center to an early learning center. Site Plan Review for tree felling to remove 23 trees.
Property Owner: Jim Merryman, Merryman Living Trust
4714 Springhill Drive, Albany, OR 97321
Applicant: Christina M. Larson, Varitone Architecture
PO Box 3420, Albany, OR 97321
Representative: Fred Patterson, YMCA
3201 SW Pacific Boulevard, Albany, OR 97321
Address/Location: 1054 29th Avenue SW
Map/Tax Lot: Linn County Assessor’s Map No.; 11S-04W-13AC Tax Lot 409
Zoning: OP (Office Professional) District

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Total Land Area: 0.55 acres
Existing Land Use: The existing building is currently vacant. It was previously used as a counseling center.
Neighborhood: West Albany
Surrounding Zoning: Abutting properties to the north, south, and west are zoned Office Professional (OP). Property to the east across Pacific Boulevard is zoned Light Industrial (LI).
Surrounding Uses: 
  South: Medical Office
  West: Medical Office
  North: Medical Office
  East: YMCA
Prior History: The land use history associated with the subject site is as follows:
  PD-06-74: Planned Development approval for a professional office complex consisting of four parcels.
  PD-01-79: Planned Development approval to add two additional parcels to the original four parcels.
  PA-03-88: Partition approval to divide one parcel into two parcels.
  LA-12-94: Property Line Adjustment that was withdrawn.
  LA-08-98: Property Line Adjustment approval that resulted in the subject property.
  SP-17-98: Site Plan Review for construction of the existing office building.

Notice Information
A Notice of Public Hearing was mailed to property owners located within 300 feet of the subject property on July 14, 2020. The Notice of Public Hearing was posted on the subject property on July 20, 2020. The Conditional Use staff report and Site Plan Review staff report was posted on the City’s website July 27, 2020. At the time this staff report was completed, no comments had been received.

Appeals
Within five days of the Planning Commission’s final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice. Any person who submitted written comments during a comment period or testified at the public hearing has standing to appeal the Type III decision of the Planning Commission to the City Council by filing a Notice of Appeal and associated filing fee within ten days from the date the City mails the Notice of Decision.

Analysis of Development Code Criteria
The Albany Development Code (ADC) includes the following review criteria for a Conditional Use Review (ADC 2.250), which must be met for these applications to be approved. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.
Conditional Use Review Criteria

Criterion 1
The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

Findings of Fact

1.1 Proposed use. The proposed use is a daycare facility operated by the Mid-Willamette Family YMCA, a nonprofit organization with its main campus facilities located across from Pacific Boulevard. The daycare will utilize the existing building. According to the applicant’s findings, the only exterior changes to the building will be to add two egress doors and a 1,998 square foot covered play area on the southwest corner of the building. The proposal also includes removal of 23 trees along Pacific Boulevard and replacement of those trees with a landscape buffer and fence. Findings related to the proposed tree removal are addressed below under site plan review criteria.

1.2 Land Use Classification. The proposed use is classified as a “Daycare Facility” in ADC 22.200, which states that “A daycare facility is defined in Oregon Revised Statutes (ORS) as a “child care” or “adult care” facility that provides regular care, supervision and guidance in a place other than the child’s or adult’s home, is operated with or without compensation, and is certified by the state for the care of children, teenagers or adults who need assistance or supervision for a portion of the day.” ADC 22.200(2), Use Examples, states that “uses include, but are not limited to: day nurseries or daycare centers, nursery schools, preschools, before- and after-school care facilities, child development centers and adult care programs that do not provide 24-hour care.

1.3 Conditional uses. Per ADC 4.050, Table 4-1, a “Daycare Facility” is permitted in the OP zone with Conditional Use approval. According to ADC 2.230, “Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use process provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.” The conditional use process provides an opportunity to review projects for potential impacts and impose conditions to address any identified concerns.

1.4 Intended character of the base zones. The subject property is located in the OP zoning district. ADC 4.020 states that “the OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.”

1.5 Operating characteristics of the neighborhood. The subject property is bordered by Pacific Boulevard to the east and is entirely surround by OP zoned property to the south, west, and north. To the west of the OP zoned land is a residential neighborhood comprised of single-family units. As noted above, the OP district is “typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.” In this case, the strip of OP zoned land, that lies to the west of Pacific Boulevard acts as a buffer between Pacific Boulevard and industrially zoned land to the east and the residentially zoned land to the west (Attachment A). Land uses on abutting properties include a variety of medical offices and residential townhouses on the abutting property to the southwest. It is assumed that surrounding medical offices have hours typical of medical offices, approximately 8:00 a.m. to 5:00 p.m., Monday through Saturday. Access to the
surrounding OP zoned property is provided via a private easement to the north and a public street to the south. There is no direct access to Pacific Boulevard and access roads to the surrounding OP zoned property do not require travel through the residential neighborhood to the west.

1.6 **Operating Hours.** The applicant’s findings state that the “facility will have a maximum of 18 employees on site at shift change. Typically, a shift of 8 people will be using the building during the business hours. The Daycare program hopes to run between 6:00 am and 7:00 pm. The students will consist of up to 94 mixed aged children that will be arriving by personal vehicle. Pick up and drop off times will be flexible…. It is anticipated that the bulk of the students to be dropped off will arrive between 6:30am and 7:00am and pickup between 5:30pm and 6:00pm.”

Conclusions
1.1 The proposed development is allowed with Conditional Use Type III Review approval in the OP zoning district per ADC 3.050.

1.2 The site is surrounded by a mix of commercial uses, with the exception of townhouse units located on the abutting property to the southwest.

1.3 The proposal will not have an impact on the operating characteristics of the neighborhood because the primary use of the property will be consistent with the surrounding area.

1.4 As proposed, the use is consistent with the intended character of the base zones and the operating characteristics of the neighborhood.

1.5 This criterion is met without conditions.

Criterion 2
The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal calls for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping, or other design features.

Findings of Fact
2.1 **Definition of compatible.** “Compatible” does not mean “the same.” *Merriam Webster’s Collegiate Dictionary*, Eleventh Edition, defines “compatible” as “(1) capable of existing together in harmony.”

2.2 **Proposed Use.** The proposed use is classified as a “Daycare Facility” in ADC 22.200.

2.3 **Existing and anticipated uses.** The subject site is partially developed with an existing 4,914 square-foot, one-story building and parking lot with 21 parking spaces. According to the applicant, the previous use was a counseling center. However, the building is now vacant. The proposal is to utilize the building for a daycare facility. According to the applicant’s findings (Attachment B.3), the daycare will have 18 employees, with a typical shift consisting of 8 employees, and will serve 94 mixed-age children.

2.4 **Building Size, Scale, and Style.** ADC 4.090, Table 4-2, shows that the maximum building height in the OP zoning district is 30 feet. There is no maximum building size for institutional uses, such as daycare facilities. The existing one-story building is about 4,914 square feet, and the applicant proposes to construct a 1,998 square-foot covered outdoor play area located at the southwest corner of the building. The applicant’s elevation drawings (Attachment B.5) indicate the building is 18 feet tall, while the applicant’s findings state that the height of the proposed covered play area structure will be “shorter than the maximum height that is allowed in the area.” The height of the covered play area structure will be assessed for conformance with height restrictions at time of building permit.

2.5 **Intensity and Lot Coverage of the Proposed Development.** The maximum lot coverage in the OP zoning district is 70 percent. According to Linn County Assessor’s records, the subject site is 23,958 square feet (0.55 acres) in size. According to the applicant’s findings, the proposed covered play area will increase the impervious surface area to 15,654 square feet, which represents approximately
65 percent of the total lot area. Access to the site is via a private easement from 29th Avenue and parking is provided via an existing parking lot. No changes or modifications are proposed to the existing parking lot or access.

2.6 Building and Parking Lot Setbacks. ADC 4.090, Table 4-2, shows that buildings in the OP zoning district must be set back at least 10 feet from front property lines and 5 feet from interior property lines if not abutting a residential district, which is the case with the subject property. The subject property does not have frontage along 29th Avenue to which it is addressed. Thus, the frontage along Pacific Boulevard qualifies as a front setback. The applicant’s site plan demonstrates that both the existing building and the proposed covered play area meet the front and interior setback requirements. No changes are proposed to the existing parking lot.

2.7 Vehicle parking – Required number of spaces. ADC 9.020, Table 1, states that daycare facilities require one parking space per employee plus one space per ten persons being cared for. As stated above, a typical shift will include eight employees and the facility will serve up to 94 children. Therefore, the parking requirement is 17 parking spaces. The existing parking lot has 21 parking spaces.

2.8 Lighting. The applicant did not provide information pertaining to lighting. ADC 9.120(14) requires on-site lighting to be arranged to reflect the light away from any adjacent or abutting properties. A condition of approval will ensure that if new lighting is installed it will be directed down and contained on site to meet code requirements.

2.9 Landscaping, Non-Residential. ADC 9.140(2) says all required front and interior setback yards, exclusive of access ways and other permitted intrusions, must be landscaped before an occupancy permit will be issued. Minimum landscaping acceptable for every 1,000 square feet of required setback yards in all commercial and industrial districts is as follows:

   a) One tree at least six feet tall for every 30 feet of street frontage.
   b) Five five-gallon or eight one-gallon shrubs, trees, or accent plants.
   c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

The applicant proposes to remove the existing berm and 23 trees that were required as part of the planned unit development approved in the 1970s. Findings related to the proposed tree removal are discussed below under Site Plan Review criteria. The subject property has 175 feet of frontage along Pacific Boulevard. The OP district has a front setback requirement of 10 feet. Thus, the total required setback area is 1,750 square feet. Therefore, per ADC 9.140(2) the following landscape improvements are required in the front setback: 6 trees at least 6 feet tall; 9, five-gallon shrubs or 14, one-gallon shrubs; and the remaining area treated with attractive landscaping.

The OP zoning district has an interior setback requirement of 5 feet. The applicant’s site plan does not indicate landscaping in the interior setback. A condition of approval will require submittal of a landscape plan that meets the standards for landscaping in the interior setback. Because the interior lot lines do not have street frontage, there is no requirement for trees in the interior setback.

2.10 Landscaping, Alternate Plan. The landscape plan (Attachment B.1) submitted with this application shows the proposed landscaping in the public right-of-way. Although landscaping is typically not permitted in the public right-of-way, ADC 9.140(3), Alternate Plan, allows landscaping in the public right-of-way with director approval when criteria listed in subsection (a)-(e) are met. The Oregon Department of Transportation (ODOT) has jurisdiction of the right-of-way. They have indicated that landscaping is permitted in the right-of-way but will need to run the proposed landscaping through a formal review process. It is the applicant’s choice whether to place the landscaping in the front setback or the public right-of-way. A condition of approval will require the applicant to submit a revised landscaping plan that demonstrates compliance with either 9.140(2) or 9.140(3).
2.11 **Parking Lot Landscaping.** Landscaping in parking lots is required to provide shade, reduce stormwater runoff, and direct traffic. No changes are proposed to the existing parking lot that would warrant changes to the parking lot landscaping.

2.12 **Buffering and Screening.** ADC Section 9.210 requires buffering and screening to reduce the impacts on adjacent uses which are of a different type; buffering and screening is required in accordance with a matrix contained within the section (Table 9-4). The Buffer and Screening Matrix does not include a use category for institutional uses. The closest use category is “commercial, professional, or mixed-use,” which requires a 10-foot buffer when abutting an arterial street. Therefore, a 10-foot buffer is required along Pacific Boulevard.

When buffering is required, ADC 9.240 states the minimum improvements are:

- **a)** At least one row of trees. Deciduous trees will be not less than ten feet high at time of planting and spaced not more than 30 feet apart; evergreen trees will be five feet high at time of planting and spaced not more than 15 feet apart.
- **b)** At least five five-gallon shrubs or ten one-gallon shrubs for each 1,000 square feet of required buffer area.
- **c)** The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs) (ADC 9.240).

The subject property has 175 feet of frontage along Pacific Boulevard, making the buffer area a total of 1,750 square feet. Therefore, the following landscape improvements are required: 6 deciduous trees not less than 10 feet high and spaced not more than 30 feet apart or 12 evergreen trees not less than 5 feet high and spaced not more than 15 feet apart; 9, five-gallon shrubs or 18, one-gallon shrubs; the remaining area treated with attractive landscaping. The landscape plan submitted with this application shows the landscaping in the public right-of-way. However, ODOT approval is required. Because the buffering standards of ADC 9.210 are more stringent than the landscape standards of ADC 9.140(2) or 9.140(3), the plant quantities required by ADC 9.240 shall be met, regardless of whether the landscaping is placed within the front setback or in the right-of-way. Condition 2 provided below ensures conformance with landscape and buffer standards.

2.13 **Irrigation:** ADC 9.160 requires that all required landscape areas be provided with a piped underground irrigation system unless a licensed landscape architect or certified nurseryman submits written verification that the proposed plant materials do not require irrigation. Irrigation plans were not submitted with this application. Submittal of final irrigation plan for review and approval by the Community Development Department is required as a condition of approval to ensure the standards of ADC 9.160 are met.

2.14 **Fences.** ADC 9.360-9.390 lists the requirements for fences. The applicant proposes a fence along the perimeter of the property. Details of the fence were not provided. Per ADC 9.380(4) and (6), properties located in commercial zoning districts can have a fence up to six feet tall in the front setback and no taller than eight feet in the interior setback. A condition of approval will require submittal of a design detail that demonstrates the height of the fence.

2.15 **Outside Storage.** No outside storage is proposed with this project.

2.16 **Signs.** The applicant’s site plan indicates that the existing sign base will remain and that the sign will be replaced with an equal sized sign for the YMCA. Per ADC 13.50(4) states that freestanding signs shall not exceed a total face area of ¾ square feet for each lineal foot of street frontage with the maximum area per face as specified in Table 13-3, which shows a maximum area per face of 50 square feet in the OP district. Therefore, the maximum allowable size for a freestanding sign on this property is 50 square feet. This requirement will be assessed at time of building permit.

2.17 **Screening of Refuse Area:** ADC 4.300 requires refuse areas to be screened with a wall, fence, or hedge at least 6 feet tall and prohibits refuse containers within a buffer area or within 15 feet of a dwelling window. The applicant’s site plan demonstrates the existing refuse container meets these specifications. No changes are proposed to the existing container.
Conclusions

2.1 The proposal shows that the proposed development will meet the minimum development standards of lot coverage, setbacks, and building height.

2.2 Any adverse impacts associated with the use of the property can be mitigated through such means as shielded lighting and landscaping.

2.3 Lighting specifications were not provided.

2.4 A detail of the proposed fence was not provided. A detail of the proposed fence must be provided to ensure it conforms with height standards.

2.5 An updated landscape plan shall be submitted to ODOT and the City for approval, if the applicant decides to place required landscaping in the abutting public right-of-way. The applicant shall submit a revised landscaping plan that demonstrates compliance with either ADC 9.140(2) or 9.140(3), buffering standards of ADC 9.240, and irrigation standard of and ADC 9.160.

2.6 Based on the observations above, the proposed development will be compatible with existing or anticipated uses in terms of size, intensity, setbacks, lighting, screening, and landscaping when the following conditions are met.

Conditions

Condition 1 Exterior Lighting. All exterior lighting fixtures, including pole mounted lights, shall be of a shielded, full cut-off design.

Condition 2 Final Landscape and Irrigation Plan. Prior to issuance of a building permit, a final landscape and irrigation plan shall be submitted for review and approval by the Community Development Department. The plan must meet the landscaping standards of either ADC 9.140(2) or 9.140(3), buffering standards of ADC 9.240, and irrigation standards of ADC 9.160.

Condition 3 Fence Detail. Prior to issuance of a building permit, the applicant shall provide a detail of the proposed fence.

Condition 4 Site Improvements. Prior to issuance of a certificate of occupancy, all proposed and required site improvements (e.g. landscaping, screening, lighting, etc.), shall be constructed and completed in accordance with approved plans. Landscaping may be financially secured through a completion guarantee, per ADC 9.190.

Criterion 3

The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, and pedestrian safety.

Findings of Fact

3.1 The proposal is to utilize an existing small building for a daycare center operated by the YMCA. According to the applicant’s findings, the only exterior changes to the building will be to add two egress doors and a 1,998 square foot covered play area on the southwest corner of the building.

3.2 ADC 12.060 requires that all street frontages adjoining new development will be improved to City standards.

3.3 The subject property has frontage along Pacific Boulevard, an arterial street constructed to City standards. Improvements along the frontage of the site include curb, gutter, and sidewalks; two vehicle travel lanes in each direction; a two-way center left turn lane; and on-street bike lanes. No access is provided directly from Pacific Boulevard and no direct access to Pacific Boulevard is proposed.
3.4 Parking and access to the subject site is obtained through a series of private easements leading from 29th Avenue to the subject property. The property does not have frontage along or direct access to 29th Avenue. No changes are proposed to the existing access or to the existing parking lot.

3.5 The applicant was not required to provide a traffic study with the application. No increase in peak hour trip generation or additional impact on the street system are expected based on a comparison of ITE trip generation rates for a small office building and an ancillary use for a recreational community center.

3.6 The applicant’s site plan (Attachment B.1) shows that a pedestrian access to Pacific Boulevard is provided via a proposed sidewalk with a fenced, gated entry.

3.7 Albany’s Transportation System Plan does not identify level of service or congestion problems occurring along the site’s frontage on Pacific Boulevard or its connection point to 29th Avenue.

3.8 No on-street parking is currently provided or proposed. Because on-street parking is not allowed along Pacific Boulevard and the development is not expected to result in increased trip generation, no on-street parking impacts are anticipated.

Conclusions
3.1 The proposal is to utilize an existing office building for a daycare facility operated by the YMCA.
3.2 The development is located along Pacific Boulevard. Access is provided via a private easement from 29th Avenue.
3.3 Pacific Boulevard is constructed to City standards.
3.4 The development is not expected to result in an increase in vehicle trips.
3.5 The public street system can accommodate the proposed development.
3.6 No on-street parking impacts are expected to result from the development.
3.7 This criterion is met without conditions.

Criterion 4
Public services for water, sanitary and storm sewer, water management, and for fire and police protection, are capable of servicing the proposed use.

Findings of Fact
Sanitary Sewer
4.1 City utility maps show a 16-inch public sanitary sewer main on the east side of Pacific Boulevard and an 8-inch main approximately 165 feet west of the subject property. The existing building on the property is currently connected to the public sanitary sewer system.

4.2 Commercial sanitary sewer system development charges are based on the number of wastewater plumbing fixtures and the strength of the wastewater discharge. Installation of any new wastewater plumbing fixtures (sinks, toilets, floor drains, etc.) may result in additional system development charges due at the time of building permit issuance.

Water
4.3 City utility maps show a 12-inch public water main on the east side of Pacific Boulevard, a 24-inch main just west of the west boundary of the subject property, and an 8-inch main east of the property’s west boundary. The existing building on the property is currently connected to the public water system.

4.4 The existing 8-inch public water main that runs through the site is covered by a public utility easement along the western 10 feet of the property. No structures are allowed within the public utility easement.
4.5 Water system development charges are based on the size of water meter serving a property. If the applicant is proposing to continue to use the existing water service/meter, then there would be no additional water system development charges for the proposed project.

**Storm Drainage**

4.6 It is the property owner’s responsibility to ensure that any proposed grading, fill, excavation, or other site work does not negatively impact drainage patterns to, or from, adjacent properties. In some situations, the applicant may propose private drainage systems to address potential negative impacts to surrounding properties. Private drainage systems that include piping will require the applicant to obtain a plumbing permit from the Building Division prior to construction.

4.7 ADC 12.530 states that a development will be approved only where adequate provisions for storm and flood water run-off have been made, as determined by the City Engineer. Roof drains shall be discharged to a collection system approved by the City Engineer and/or the Building Official. Also, no stormwater may be discharged to the public sanitary sewer system.

4.8 Stormwater runoff from any new impervious surfaces created as a result of this project must be collected on-site and connected to the existing private storm drainage system.

4.9 AMC 12.45.030 states that a post-construction stormwater quality permit shall be obtained for all new development and/or redevelopment projects on a parcel(s) equal to or greater than one acre, including all phases of the development. (Ord. 5841 § 3, 2014).

4.10 Because the subject property is smaller than one acre, no stormwater quality facilities will be required for this project.

**Conclusions**

4.1 Public utilities (sanitary sewer, water, and storm drainage) are available and adequate to serve the proposed use.

4.2 The installation of new wastewater plumbing fixtures may result in additional system development charges due at the time of building permit issuance.

4.3 Stormwater runoff from any new impervious surfaces must be collected on-site and connected to the existing private drainage system.

4.4 No permanent structures (e.g., covered play area) are allowed within the existing public utility easement along the westernmost 10 feet of the subject property.

4.5 This criterion is met without conditions.

**Criterion 5**
The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to: (a) Noise, glare, odor, litter, and hours of operation; (b) Privacy and safety issues.

**Findings of Fact**

5.1 The property is surrounded by OP-zoned property to the south, west, and north. It is bordered by Pacific Boulevard to the east. The closest residentially zoned land is approximately 165 feet west of the western-most property boundary. The existing accessway abuts residentially zoned land to the west.

5.2 **Noise.** Potential noise includes vehicle trips to and from the daycare and noise generated from children utilizing the outdoor play area. Daycare activities are proposed to occur throughout the daytime hours (estimated 6:00 a.m. to 7:00 p.m.). As discussed in Criterion 3, the proposed use generates the same level of traffic trips as the previous use. Noise generated within the building would not be audible outside the building. The sounds of the outdoor play area activities may extend beyond the property lines but the intensity (loudness) rapidly diminishes with distance. People on abutting property may hear children playing while outside, but it is unlikely these sounds would be heard from within their buildings.
5.3 **Glare.** Lighting details were not provided. The applicant proposes to illuminate the playground areas. The application states that lighting shields will be placed on fixtures to direct light to the playground areas and not on adjacent properties. Condition 1 stated above will ensure lighting does not trespass onto surrounding property.

5.4 **Odors.** The outdoor play area and associated activities are not expected to generate odors, and no new odor-generating facilities or activities are proposed.

5.5 **Litter.** No new trash facilities are proposed in conjunction with the Conditional Use request.

5.6 **Hours of operation.** According to the applicant, the daycare hopes to operate Monday – Friday between the hours of 6:00 a.m. and 7:00 p.m.

5.7 **Privacy/Safety.** The subject property does not abut residentially zoned land and is separated from surrounding properties by the existing and proposed fencing and vegetation. Outdoor play area activity will be monitored by YMCA staff. The proposed daycare and outdoor play area does not present any safety issues that would require additional measures beyond those that will be addressed through the building permit review process.

5.8 **Fencing.** Findings related to fencing is addressed in Criterion 2 and incorporated here by reference.

**Conclusion**

5.1 The impacts due to glare, litter, noise, odors, hours of operation, and safety are not expected to be significant compared to the previous use and surrounding operations.

5.2 The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands.

5.3 This criterion is met without conditions.

**Criterion 6**

Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.

**Findings of Fact**

6.1 **Article 6 Significant Natural Vegetation and Wildlife Habitat.** Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat, does not show any areas of vegetation or wildlife habitat on the property. The applicant proposes removing 23 fir trees. However, those trees do not qualify as significant vegetation. Findings related to the tree felling are addressed below under the site plan review criteria.

6.2 **Article 6: Floodplains.** Comprehensive Plan Plate 5: Floodplains, does not show a 100-year floodplain on this property. FEMA/FIRM Community Panel No. 41043C0526G, dated September 29, 2010, shows that this property is in Zone X, an area determined to be outside the 500-year floodplain.

6.3 **Article 6: Wetlands.** Comprehensive Plan Plate 6: Wetland Sites, does not show any wetlands on the subject property; and the National Wetlands Inventory does not show any wetlands on the property. There is not a local wetland inventory for this location. The property has been developed for many years.

6.4 **Article 6: Topography.** Comprehensive Plan, Plate 7: Slopes, does not show any steep slopes on this property.

6.5 **Article 7: Historic and Archaeological Resources.** Comprehensive Plan, Plate 9: Historic Districts, shows the property is not located in a historic district. There are no known archaeological sites on the property.

**Conclusions**

6.1 There are no special purpose districts associated with the subject property; therefore, this criterion is not applicable.
Tree Felling, Concurrent with Site Plan Review (ADC 9.208(2))

Criterion (a)

It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.

Findings of Fact

a.1 ADC 9.207 states that “Site Plan Review approval is required for the felling of 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone.”

a.2 The proposal is to remove 23 trees from the site in conjunction with a Conditional Use review to utilize the existing building as a daycare. According to the applicant’s site plan (Attachment B.2), 22 of the 23 trees are greater than 25 inches in circumference. Of those 22 trees greater than 25 inches in circumference, the applicant states that 21 are in “good” health.

a.3 The applicant’s findings (Attachment B.4) state that “The Oregon Early Learning Requirements requires that 75 sq. ft. of outdoor area is provided for each child that is using the area. The current design of the building will allow 94 students to occupy the building. Having 94 students would require that the facility provides 7,050 sq. ft. of outdoor play area. To reach the required outdoor play area, a fenced-in play area would need to extend out to the property line. The current berm, and evergreen trees would restrict the view to an expanded play area, which could cause safety issues.” The applicant concludes that “for this facility to meet current Oregon Early Learning Requirements and provide a safe play area, the existing trees and berm should be removed.”

a.4 Per ADC 4.050, Table 4-1, the proposed use of a daycare facility is allowed in the OP zoning district with Conditional Use approval. Findings related to the conditional use review are addressed above and incorporated here by reference. Because the proposed use is a permitted use in the OP zoning district, the proposal to utilize the property for a daycare is “consistent with its zoning, this code, and applicable plans adopted by City Council…” once all conditions of this review have been met.

Conclusion

a.1 Removal of the trees is necessary to utilize the property in a manner consistent with the proposed use and zoning.

a.2 This criterion is met without conditions.

Criterion (b)

The proposed felling is consistent with State standards, City ordinances, and the proposed felling does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.

Findings of Fact

b.1 The existing trees were required as part of a prior land use review (PD-06-74). The applicant has proposed planting a mixed border of trees, shrubs, and groundcover in the approximate location of the existing berm and line of trees proposed for removal in accordance with ADC 9.140(2) or (3) and ADC 9.240.

b.2 The applicant’s findings state the following: Currently, only one row of evergreens is provided in a north to south line on the site. This row of trees extends to the north of the site along Pacific Boulevard. With the annual average winds coming from the south on the site, the removal of the trees on the YMCA – Day Care site would have some
impact on the adjacent trees if they were not protected by an existing structure. The existing structure that is just to the north of the YMCA site would produce more of a wind break than the existing trees would have provided. Runoff on the site should not be negatively impacted by the removal of the trees as well. The area that the trees are being removed will be replanted with grass and other plants to create an attractive play area. The existing berm that segregates the site will be smoothed out to help the site maintain its existing drainage and reduce problem areas to help keep the play areas for the children as clean as possible.

The applicant concludes that:

The removal of the existing trees should have a positive effect on site drainage without increasing erosion. The volume of surface runoff shall not be increased because the areas that are currently planted will continue to be planted areas. The current Albany Development Code will require us to plant new trees that will help to replace any shading affect the existing trees are providing.

**Conclusion**

**b.1** The applicant proposes to replace the trees with a landscape buffer in accordance with ADC 9.140(2) or (3) and ADC 9.240.

**b.2** The proposed tree felling will not negatively impact the environmental quality of the area.

**b.3** This criterion is met without conditions.

**Criterion (c)**

The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The director may require that trees determined to be unique in species, size, maturity, structure, or historic values are preserved.

**Findings of Fact**

**c.1** According to the applicant’s site plan, the existing trees consist of 21 Douglas Fir and 2 Pine trees. These types of trees are ubiquitous throughout North America and nothing about the size, maturity, or structure of the existing trees is unique.

**c.2** The trees were planted in the 1970s as part of a prior land use approval (PD-06-74). There is no historic value associated with the trees.

**Conclusion**

**c.1** The trees proposed for removal are not unique in size, maturity, structure, or historic value.

**c.2** This criterion is met without conditions.

**Criterion (d)**

Tree felling in Significant Natural Resource Overlay Districts meets the applicable requirements in Article 6.

**Findings of Fact**

**d.1** This property is not located in a Significant Natural Resource Overlay District.

**Conclusion**

**d.1** The standard is not applicable.

**Tree Felling Criteria Conclusion**

The proposal to remove 23 trees satisfies the Tree Felling review criteria in ADC 9.208(2)(a-d) as conditioned.
Overall Conclusion
As proposed and conditioned, the application for Conditional Use Review and Site Plan Review satisfies all applicable review criteria as outlined in this report.

Conditions of Approval

Condition 1  Exterior Lighting. All exterior lighting fixtures, including pole mounted lights, shall be of a shielded, full cut-off design

Condition 2  Final Landscape and Irrigation Plan. Prior to issuance of a building permit, a final landscape and irrigation plan shall be submitted for review and approval by the Community Development Department. The plan must meet the landscaping standards of either ADC 9.140(2) or 9.140(3), buffering standards of ADC 9.240, and irrigation standards of ADC 9.160.

Condition 3  Fence Detail. Prior to issuance of a building permit, the applicant shall provide a detail of the proposed fence.

Condition 4  Site Improvements. Prior to issuance of a certificate of occupancy, all proposed and required site improvements (e.g. landscaping, screening, lighting, etc.), shall be constructed and completed in accordance with approved plans. Landscaping may be financially secured through a completion guarantee, per ADC 9.190.

Attachments
A. Location Map
B. Applicant's Submittal
   1. Site Plan - Conditional Use
   2. Site Plan - Tree Removal
   3. Findings of Fact – Conditional Use
   4. Findings of Fact – Tree Felling
   5. Building Elevations

Acronyms
ADC Albany Development Code
FEMA Federal Emergency Management Agency
FIRM Flood Insurance Rate Map
LI Light Industrial Zoning District
ODOT Oregon Department of Transportation
OP Office Professional Zoning District
RS-6.5 Residential Single-Family Zoning District
TSP Transportation Systems Plan
NEW PLAY AREA COVER IS NOT TO ENCROACH OVER WATER LINE EASEMENT

01-12 WATERLINE EASEMENT 10'-0" FROM PROPERTY LINE /
May 12, 2020

Project:
YMCA – Early Learning Center
1054 29th Avenue SW
Albany Oregon 97321

Conditional Use Review Criteria

Criterion 1.
The proposed use is consistent with the intended character of the base zone and operation characteristics of the neighborhood.

Facts
The neighborhood is zoned Office Professional, which is intended to provide a mix of professional services and residential and limited related commercial uses near residential and commercial districts. Providing a daycare is a direct commercial function for a residential neighborhood adjacent to this area. The operational times of the daycare is intended to make the impact of travel of the use fit within the surrounding businesses.

Conclusion
The daycare is a professional service that is specifically aimed at aiding a residential area. The service provide will allow the families in the area to have safe care for children that is available at times that help the families maintain jobs with standard business hours.

Criterion 2.
The proposed use will be compatible with existing or anticipated uses in terms of size, building scale, style, intensity, setbacks, landscaping.

Facts
The Daycare will be moving into an existing facility that was designed to meet the requirements of this of the OP district. The only exterior changes to the building will be to add two egress doors and a play area cover. The covering for the play area will increase the total lot coverage to 15,654 SQ FT or 64% of the lot. The additional coverage of the lot will be necessary to maintain a healthy amount of recreation for the children when the winter weather in Oregon would typically prevent play outside.

Conclusion
The proposed exterior improvements to the existing structure are minimal and only to provide safe egress out of the building. The addition of the covered play area will be under the maximum lot coverage, and shorter than the maximum height that is allowed in the area. The development of the site will not have a detrimental impact on the aesthetic of the area and will not increase the intensity of the site beyond the code maximum allowable area.

Criterion 3.
The transportation system can support the proposed use in addition to the existing use in the area. Evaluation factors include street capacity and level of service, on street parking impacts, access requirements, neighborhood impacts and pedestrian safety.

Facts
This facility will have a maximum of 18 employees on site at shift change. Typically, a shift of 8 people will be using the building during the business hours. The Daycare program hopes to run between 6:00 am and 7:00 pm. The students will consist of up to 94 mixed aged children that will be arriving by personal vehicle. Pick up and drop off
times will be flexible and the parents can drop off at different times during the day. It is anticipated that the bulk of the students to be dropped off will arrive between 6:30am and 7:00am and pickup between 5:30pm and 6:00pm. By having the flexible drop off times, the amount of traffic to the building throughout the day will be regulated through scheduled pick up and drop off.

**Conclusion**
The business that shares the access road with the daycare maintains a standard 8:00 am to 5:00pm business day. Most of the traffic produced by the daycare will be outside of the current high traffic times for that area. The impact of the daycare will be minimal to the existing traffic patterns.

**Criterion 4.**
Public services for water, sanitary, storm sewer, water management, and for fire protection and police protection can serve the proposed use.

**Facts**
The previous use for the building was a counseling center. The 5,000 sq ft building would have a business capacity of 50 people. With the change of use to the day care, we are increasing the number of water closets from three to nine to accommodate the new use. Currently there is a 4” sewer line leaving the building which will have a DFU capacity of 180 DFU. With the current fixture that are proposed the building will be only producing 50 DFU the existing 4” line is adequate to supply the building. The site has access to a 6” sewer line that drains into the cities’ 8” sewer line. There is a 24” and an 8” water line along the site that provides access to the drinking water and the fire suppression system. The proposed plan is to add sewer water closets to the building. To help the current water line adequate, tank type toilets will be used to help keep the momentary demand lower. A12” rainwater line is adjacent to the building. The current proposal does not increase the amount of impermeable surface beyond 70% which will keep the amount of water exiting the site within the capacity of the system.

**Conclusion**
The building will use more water and sewer resources than in its previous use. The existing connections to the building will be able to provide adequate service to the building and enough capacity to remove waste from the building. The maximum lot coverage for the area will not be exceeded, thus the storm water system should be able to accommodate the additional amount or rainwater gathered from the outdoor play area.

**Criterion 5.**
Activities and developments within special purpose districts must comply with the regulations described in article 4 (airport approach), 6 (natural resources), and 7 (historic) as applicable.

**Facts**
This project is outside of the Airport approach, Natural Resources, and the Historic District.

**Conclusion**
The special purpose districts are not applicable to this project.

Sincerely,

Christina M. Larson, Principal
AIA, NCIDQ, LEED AP
Varitone Architecture, LLC.
June 9, 2020

Project:
YMCA – Early Learning Center
1054 29th Avenue SW
Albany Oregon 97321

Tree Felling Situation B

Criterion 1.
It is necessary to fell trees in order to construct proposed improvements in accordance with an approve site plan review or conditional use review, or otherwise utilize the applicant’s; property in a manner consistent with its zoning, this code, applicable plans adopted by the city council, or a logged permit issued by the Oregon Department of Forestry.

Facts
The Oregon Early Learning Requirements requires that 75 sqft of outdoor area is provided for each child that is using the area. The current design of the building will allow 94 students to occupy the building. Having 94 students would require that the facility provides 7,050 sqft of outdoor play area. To reach the required outdoor play area, a fenced in play area would need to extend out to the property line. The current berm, and evergreen trees would restrict the view to an expanded play area, which could cause safety issues.

Conclusion
For this facility to meet current Oregon Early Learning Requirements and provide a safe play area, the existing trees and berm should be removed.

Criterion 2.
The proposed felling is consistent with state standards and city ordinances, and does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.

Facts
Currently, only one row of evergreens is provided in a north to south line on the site. This row of trees extends to the north of the site along Pacific Boulevard. With the annual average winds coming from the south on the site, the removal of the trees on the YMCA – Day Care site would have some impact on the adjacent trees if they were not protected by an existing structure. The existing structure that is just to the north of the YMCA site would produce more of a wind break than the existing trees would have provided. Runoff on the site should not be negatively impacted by the removal of the trees as well. The area that the trees are being removed will be replanted with grass and other plants to create an attractive play area. The existing berm that segregates the site will be smoothed out to help the site maintain its existing drainage and reduce problem areas to help keep the play areas for the children as clean as possible.

Conclusion
The removal of the existing trees should have a positive effect on site drainage without increasing erosion. The volume of surface runoff shall not be increased because the areas that are currently planted will continue to be planted areas. The current Albany development code will require us to plant new trees that will help to replace any shading affect the existing trees are providing.
Criterion 3.
The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that trees determined to be unique in species, size, maturity, structure, or historic value, are preserved.

Facts
The trees on site were planted in the 1970’s as part of the development code. The trees are not original to the site, nor are they unique in nature. Part of removing the trees and constructing a new fence for the expanded play area is to add new planting to the site. We will be adding 6 deciduous trees at a minimum or 12 evergreen trees.

Conclusion
The removal of the 21 existing evergreen trees is part of the evolving city landscape. By removing the older trees, the site will be better utilized by the building, and new trees will be planted to take their “place” and add to the aesthetic of the drive along Pacific Boulevard.

Criterion 4.
Tree felling in Significant Natural Resource Overlay Districts meets the applicable requirements in Article 6.

Facts
This site is not in a Significant Natural Resource Overlay. This requirement is not applicable.

Conclusion
Article 6 requirements are not relevant to this project.

Sincerely,

Christina M. Larson, Principal
AIA, NCIDQ, LEED AP
Varitone Architecture, LLC.