



City of Sutherlin
Special Planning Commission Meeting
Tuesday, May 23, 2017
7:00 p.m. – Sutherlin Civic Auditorium

Agenda

Pledge of Allegiance

Introduction of Media

Quasi-Judicial Public Hearing(s)

1. 535 S. STATE LLC, request for a Class C Variance to Road Standards for a 0.62 acre unit of land located on the west side of S. State Street in the City of Sutherlin. The Sutherlin Development Code (SDC) limits access off a flag lot to two units of land, without improvement of the access road to applicable City standards. The applicant is requesting the variance to allow one additional unit of land to access onto S. State Street via a proposed 25 foot access & utility easement due to development constraints on the subject property. The subject 0.62 acre property is described as Tax Lot 1101 in Section 20AC, T25S, R5W, W.M.; Property ID No(s). R145139. It is designated Low Density Residential by the Sutherlin Comprehensive Plan and zoned (R-1) Low Density Residential. A portion of the subject property contains identified wetlands. **PLANNING DEPARTMENT FILE NO. 17-S007.**

Public Comment

Commission Comments

Adjournment



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City of Sutherlin

May 16, 2017

STAFF REPORT

TO: Sutherlin Planning Commission

FROM: Lisa Hawley, Community Services Planner

RE: **535 S. STATE LLC**, request for a Class Variance to Road Standards for a 0.62 acre unit of land located on the west side of S. State Street in the City of Sutherlin. The Sutherlin Development Code (SDC) limits access off a flag lot to two units of land, without improvement of the access road to applicable City standards. The applicant is requesting the variance to allow one additional unit of land to access onto S. State Street via a proposed 25 foot access & utility easement due to development constraints on the subject property. The subject 0.62 acre property is described as Tax Lot 1101 in Section 20AC, T25S, R5W, W.M.; Property ID No(s). R145139. It is designated Low Density Residential by the Sutherlin Comprehensive Plan and zoned (R-1) Low Density Residential. A portion of the subject property contains identified wetlands. **PLANNING DEPARTMENT FILE NO. 17-S007.**

STAFF EXHIBITS

1. Notice of Public Hearing with affidavit of mailing
2. Property Owners within 100 Feet
3. Staff Report with Responses Attached
4. Variance application and attachments
5. Vicinity Map
6. Assessor Maps
7. City Zoning Map
8. Aerial Photograph
9. Situs Map

INTRODUCTION

The applicant, Robert Prehall for 535 S State LLC, is requesting a Variance to Road Standards to allow one additional unit of land to access onto S. State Street via a proposed 25 foot access and utility easement. The Sutherlin Development Code (SDC) limits access off a flag lot to two units of land, without improvements of the access road to applicable City standards. The applicant is requesting the variance to allow the additional unit of land to access the private easement without additional improvement to the roadway, due to development constraints on the property (existing wetlands).

The subject 0.62 acre property is described as Tax Lot 1101 in Section 20AC, T25S, R5W, W.M.; Property I.D. No. R145139; and addressed as 0 S. State Street. It is vacant of structural development. The subject property was tentatively approved for a land division in October 2016 (City File No. 16-S006), and that partition is not yet completed. The property and the surrounding property are designated Low Density Residential by the Sutherlin Comprehensive Plan and zoned (R-1) Low Density Residential by the Sutherlin Development Code.

During the public hearing on May 23, 2017, the Planning Commission will accept public testimony and make a decision on the application after the public hearing. This application is being processed as a Type III procedure for a Class C Variance, subject to the applicable criteria of Section 2.1 (R-1 zone), Chapter 3 (Access & Design Standards) and Chapter 5, Section 5.2.130 (Class C Variances) of the Sutherlin Development Code. As part of the hearing, the Planning Commission will review the applicant's request for compliance with the applicable criteria and render a decision on the matter.

PROCEDURAL FINDINGS OF FACT

1. The Variance application was filed with the City on April 24, 2017, and was deemed complete on April 27, 2017.
2. Notice of a Public Hearing on the Variance application before the Planning Commission was given in accordance with Section 4.2.140.C as a Type III procedure. Notice was sent to affected property owners of record within 100 feet of the subject property, service providers, and governmental agencies on May 2, 2017. A corrected notice was mailed on May 8, 2017 to correct the deadline for submittal of written comments.
 - a. John McDonald, ODOT Development Review Planner, commented that ODOT reviewed the variance and had no comments.
 - b. At the time of the mailing of this staff report, no other written comments or remonstrance have been received.
3. Present Situation: The property is currently vacant of structural development.
4. Plan Designation: Residential Low Density (RL).
5. Zone Designation: (R-1) Low Density Residential.
6. Public Water: The subject property has access to public water from the City of Sutherlin.

7. Sanitary Sewer: The subject property has access to sanitary sewer from the City of Sutherlin.
8. Transportation System: The subject 0.62 acre property is located on the west side of S. State Street, which is designated a collector street under the City's Transportation System Plan.
9. Pedestrian & Bicycle Access: S. State Street is a designated pedestrian path and bicycle way under the Transportation System Plan.
10. Overlay: The subject property is not located within the 100 year flood plain, but is subject identified wetlands on the property.

FINDING: The procedural findings noted above are adequate to support the Planning Commission's decision on the request Variance.

APPLICABLE CRITERIA & FINDINGS

The proposed Variance is considered a Type III procedure for a Class C Variance, subject to the applicable criteria of Sutherlin Development Code, including Section 2.1 (R-1 zone), Chapter 3 (Access & Design Standards) and Chapter 5, Section 5.2.130 (Class C Variances).

Based upon the application materials and information submitted by the applicant and other evidence provided, staff presents the following findings to address the applicable criteria:

RESIDENTIAL DISTRICTS

6. Residential Zone District, Low Density Residential, R-1 Zone (Section 2.2.100):
 - a. The subject 0.62 acre parcel is vacant of structures. It is an existing parcel created by Partition Plat 2016-0010. The property is zoned (R-1) Low Density Residential. The minimum lot area is 7,500 sq.ft. for a single family non-attached lot, with a minimum lot width at frontage 50 feet for a standard lot and 20 feet for a flag lot, and a minimum lot depth of 100 feet where there is no alley right-of-way. The maximum lot coverage for development is 50 percent.
7. **FINDINGS:**
 - a. In October 2017, the applicant was granted tentative approval to divide the subject 0.62 acre property into three parcels. Due to development constraints on the property (existing wetlands), the applicant desires to modify the requested partition and create only two parcels. As part of that proposal, the applicant is also asking to modify access to the southerly parcel (new proposed Parcel 2) to be via a proposed 25 foot access and utility easement across the properties to the south (owned by Hanson and 535 S State LLC).
 - i. As proposed, the modified parcels will each meet the minimum lot area and lot depth requirements of the R-1 zone.

VARIANCE TO ROAD STANDARDS (CHAPTER 3)

1. Chapter 3 outlines various standards for development within the City of Sutherlin, including those for access and development. Section 3.2 [Access and Circulation] provides standards for development, including Section 3.2.110, items G [Access Standards and Options], I [Access Sharing], J [Number of Access Points], K [Shared Driveways], M [Driveway Opening], N [Fire Access and Parking Area Turn-Arounds], Q [Flag Lots], and Section 3.5.110.D [Creation of Access Easements], which relate to the requested change in access for the proposed development. These applicable standards with associated findings are outlined below:

G. Access Standards and Options. *When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (a minimum of ten (10) feet per lane is required). These methods are “options” to the developer/subdivider, unless one method is specifically required by the city as a condition of approval.*

1. Option 1. *Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.*
2. Option 2. *Access is from a private street or driveway developed to city standards and connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A joint maintenance agreement and reciprocal access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive. The city may approve a private street under this option by a planned unit development (PUD), provided that public funds shall not be used to construct or maintain a private road, street, or drive. The city may require a public access easement as needed for emergency response access or refuse access.*
3. Option 3. *Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access if the site abuts an arterial or collector street. Street accesses shall comply with the access spacing standards in subsection I, below.*
4. Subdivisions Fronting Onto an Arterial Street. *Subdivision lots fronting onto an arterial street shall not receive access onto the arterial street, except when alternate access (i.e., alleys or secondary streets) cannot be provided due to topographic or other physical constraints. In such cases, the city may require that access be provided by consolidating driveways for clusters of two (2) or more lots or for multiple buildings on a lot (e.g., includes flag lots and mid-block lanes).*
5. Double-Frontage Lots. *When a lot has frontage onto two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. A second access may be permitted only as necessary to accommodate projected traffic volumes. Except for corner lots, the creation of new double-frontage lots shall be prohibited in the residential district, unless topographic or physical constraints require the*

formation of such lots. When a fence or wall is built adjacent to the street in this case, a landscape buffer with trees and/or shrubs and ground cover not less than ten (10) feet wide shall be provided between the fence/wall and the sidewalk or street; maintenance shall be assured by the owner (i.e., through homeowner's association, etc.).

6. *Important Cross-References to Other Code Sections.* Section 3.6 requires that buildings be placed at or near the front property line in some zones, and driveways and parking areas be oriented to the side or rear yard for multiple family and commercial uses. Section 3.5.110 contains private street standards.

FINDING: Future residential development of a single family dwelling on each proposed parcel will be required to have off-street parking in accordance with residential standards. As proposed, each parcel will have access to a public collector street via an individual driveway (Parcel 1) or via shared access driveway (Parcel 2). S. State Street is a collector street that does not prohibit new access, but controlled access is preferred. Any shared driveways will require compliance with the applicable driveway standards, including any necessary reciprocal access easement(s), to insure legal access to S. State Street.

I. Access Spacing. *Driveway accesses shall be separated from other driveways and street intersections in accordance with the following standards and procedures:*

1. *Local Streets.* *A minimum of twenty-five (25) feet separation (as measured from the sides of the driveway/street) shall be required on local streets (i.e., streets not designated as collectors or arterials).*
2. *Arterial and Collector Streets.* *Access spacing on collector and arterial streets, and at controlled intersections (i.e., with four-way stop sign or traffic signal) shall be determined based on the policies and standards contained in the city's transportation system plan.*
3. *Special Provisions for All Streets.* *Direct street access may be restricted for some land use types. For example, access consolidation, shared access, and/or access separation greater than that specified by Subsections 1-2, may be required by the city, county or ODOT for the purpose of protecting the function, safety and operation of the street for all users. Where no other alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.*

FINDING: The subject property has access onto S. State Street. As proposed, the required 25 foot access separation will be maintained from other driveways along the street.

J. Number of Access Points. *For single-family (detached and attached), two (2) family, and three (3) family housing types, one (1) street access point is permitted per lot; except that two (2) access points may be permitted for two (2) family and three (3) family housing on corner lots (i.e., no more than one (1) access per street), subject to the access spacing standards in subsection I, above. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be*

minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with section K, below, in order to maintain the required access spacing, and minimize the number of access points.

FINDING: As proposed, there will be two access points onto the City street. Parcel 1 will have an individual access point, while Parcel 2 will share access onto S. State St via a proposed 25 foot access and utility easement to the south (to be shared with 535 and 555 S State St).

K. Shared Driveways. *The number of driveways intersecting a public street shall be minimized by the use of shared driveways on adjoining lots where feasible. The city may require shared driveways as a condition of land division or site plan review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*

1. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*
2. *Access easements and joint maintenance agreements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including any pathways and landscaping along such driveways, at the time of final plat approval (section 4.4) or as a condition of site development approval (Section 4.3).*

FINDING: As proposed, the Parcel 1 will have its own access driveway, while Parcel 2 will share access onto S. State Street, if the variance to road standards is approved. If approved, the applicant will be required to provide documentation that the shared driveway has a reciprocal access easement(s) and driveway maintenance agreement(s) between the affected parcels. Such easement(s) and agreement(s) shall be referenced and identified on the face of the final partition plat.

M. Driveway Openings. *Driveway openings shall be the minimum width necessary to provide the required number of vehicle travel lanes (ten (10) feet for each travel lane). The following standards (i.e., as measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:*

1. *Single family, two (2) family, and three (3) family uses shall have a minimum driveway width of ten (10) feet, and a maximum width of twenty-four (24) feet, except that one (1) recreational vehicle pad driveway may be provided in addition to the standard driveway for lots containing more than seven thousand (7,000) square feet of area....*

FINDING: The access approaches onto the City street, including any shared access driveway, will have to meet the above standard for driveway openings.

N. Fire Access and Parking Area Turn-Arounds. *A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than one hundred fifty (150) feet from an existing public street or approved fire equipment access drive. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner.*

FINDING: The Fire Department was notified and provided no comments or concerns on this request. As proposed, Parcel 1 will have an individual access onto S. State St, and Parcel 2 will utilize a shared driveway across the properties to the south (owned by Hanson & 535 S State LLC). As indicated in the application materials, the depth of the access driveway to serve proposed Parcel 2 will be approximately 145-149± feet and will be over 150 feet in order to serve any future structural development. Since the distance is just less than 150 feet, a fire access turn-around is not required to be identified on the final partition plat. However, since the dwelling location on Parcel 2 is unknown at this time and may exceed 150 feet from the existing public street, future residential construction on Parcel 2 may require the installation of an appropriate fire access turn-around in accordance with the above standard.

Q. Flag Lots. *Flag lots may be created where the configuration of a parcel does not allow for standard width lots. A flag pole access drive may serve no more than two (2) dwelling units, including accessory dwellings and dwellings on individual lots. A drive serving more than one lot shall conform to the standards in subsections 1-4 below:*

1. Driveway and Lane *width of all shared drives and lanes shall be twenty (20) feet of pavement with a minimum lot frontage width of twenty-five (25) feet wide throughout the driveway;*
2. Easement. *Where more than one (1) lot is to receive access from a flag pole drive, the owner shall record an easement granting access to all lots that are to receive access. The easement shall be so indicated on the preliminary plat;*
3. Maximum Drive Lane Length. *The maximum drive lane length is subject to requirements of the uniform fire code, but shall not exceed one hundred fifty (150) feet without an emergency turnaround approved by the city; and*
4. Area Calculation. *The flag pole portion of a lot shall not be counted for the purpose of meeting lot area requirements or determining setbacks.*

FINDING: The subject 0.62 acre property has frontage onto S. State Street. Parcel 1 will have its own access onto the City street, while Parcel 2 will share an access driveway over two adjacent properties to the south (Hanson and 535 S State LLC). This is an access driveway serving the existing residences on 535 and 555 S. State St. The property to the south (owned by 535 S. State LLC) is also approved for a three parcel land partition. One of the proposed parcels (Parcel 3) will be a flag lot and will share access will 535 S. State St, at least through the first portion of the driveway where 535 S. State St takes its access. This shared driveway is required to have a minimum right-of-way width of 25 feet, with a pavement width of 20 feet. As proposed by the requested variance, the driveway length will be approximately 145-149± feet, which is just less than

the maximum length of 150 feet without a required turn-around, although the final dwelling location may necessitate a turn-around being provided. If the variance is approved, reciprocal access easements shall be granted to serve Parcel 2 over the adjacent and affected properties to the south. The easement(s) shall be a minimum of 25 feet to provide access and utilities onto the public street, and shall be identified on the final partition plat.

VARIANCE CRITERIA (CLASS C VARIANCE)

2. The requested variance is subject to the applicable criteria of Section 5.2.130 of the Sutherlin Development Code for a Class C Variance. The purpose of Section 5.2 (Variances) is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.
3. Class C Variances (Section 5.2.130) may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create hardship to development which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which is not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to "permitted uses" shall be granted.
4. Pursuant to Section 5.2.130.1, the applicant has provided the following narrative as part of their request to allow three parcels to access onto a 25 foot access easement (shared driveway). This narrative states, in part:

The purpose of this variance request is to add a third parcel to a 25' easement which will help avoid impacting the wetland on site to the greatest extent possible. By DSL [Department of State Lands] rules, any disturbance of a wetland in excess of 50 cubic yards requires a permit, but more importantly, requires mitigation. Mitigation can take the form of, 1) creating additional wetlands on-site, 2) buying credits in an established wetland bank in the same drainage district, or 3) paying a fee for disturbance in excess of 50 cubic yards. Unfortunately, none of these options are available for this site, there is not enough land unencumbered by existing wetlands to create enough new wetlands to allow for a driveway to Parcel 2 as well as a new home on Parcel 1, there is no wetland bank established in the same drainage district to satisfy option 2, and DSL has not established any fee structure to satisfy option 3.

To minimize disturbance on this site, we have already eliminated one lot by increasing the size of Parcel 1 by incorporating the original Parcel 2 into Parcel 1, which will allow one home to be built with a total disturbance of approximately 35 cubic yards, leaving about 15 cubic yards available for further disturbance, which is insufficient to allow installation of a driveway to the parcel which lays behind 535 S State St (new Parcel 2), meaning that we can either build the new home on Parcel 1, effectively landlocking the lot behind 535 S State St, or build the driveway, making the parcel created by incorporating Parcels 1 and 2 unbuildable.

If the requested variance is granted, the existing driveway on the south side of 535 S State St will service the parcel behind 535 S State St [new Parcel 2], eliminating the need to build one on the north side of 535 S State St. The majority of the parcel behind 535 S State St is free of wetlands and is buildable as long as no wetlands on that parcel are disturbed.

The owners of 535 S State St are using the curb cut of the easement in question, but immediately leave the easement onto their own parcel to be able to park in front of their garage to avoid parking in the easement....

5. Pursuant to Section 5.2.130.2, the City shall approve, approve with conditions, or deny an application for a variance, based on finding that all of the following criteria are satisfied:

- a. *The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;*

- i. To address this criterion, the applicant states:

The homeowner that presently lives at 535 S State St uses the easement [on the south side] only to exit from S State St. They immediately [sic] their own parcel to park in front of their garage. See map "A".

FINDING: The applicant asserts that the proposed variance to allow one additional user on the 25-foot shared driveway will not be materially detrimental to the purposes of the Development Code or to other properties in the same land use district or vicinity. If the variance is approved, one additional parcel will access onto the private shared driveway without improvement to City public road standards. City standards limit the number of lots or parcels on a shared driveway to two, particularly those created or shared via a flag lot. Although circumstances may exist to warrant approval of the requested variance, planning staff is concerned about setting a future precedent to allow more parcels on a private shared driveway or access easement without improvement to full City standards. If the Planning Commission opts to approve the variance, consideration must be given to this concern.

- b. *A hardship to development exists which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);*

- i. To address this criterion, the applicant states:

More than ½ of the proposed minor land partition [on the subject property] is encumbered by wetlands, distributed in such a way as to make use of the created lots impossible without allowing this variance. We are already eliminating the original Parcel 2, making a much larger Parcel 1, which will hold about 90% of the total wetland. The new Parcel 2 has a small wetland, but will be buildable as long [sic] the access doesn't have to cross the existing wetland. The access as shown on the original design DOES cross the wetland, and consequently, if used, would eliminate the building of a home on parcel one, as

that would cause there to be in excess of 50 cubic yards disturbed. It is not possible to cross the lot in front of the home at 535 S State St, as the buildings on both the north and south sides of that parcel are at the mandated limit of their respective setbacks. See map "C".

FINDING: As part of the application, Map "C" is a preliminary wetland delineation map. It highlights the wetlands on the subject property and shows the new proposed Parcels 1 and 2. This map was prepared by the applicant's wetlands consultant, but has not yet been reviewed or approved by DSL (Department of State Lands), which oversees development of wetlands. This preliminary map does show that existing wetlands will affect the development of the site. These circumstances create a general hardship related to the property over which the applicant has no control.

- c. *The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent possible while permitting reasonable economic use of the land;*

- i. To address this criterion, the applicant states:

The existing driveway that is being utilized by both 535 S State St and 555 S. State St would also be utilized by the lot behind 535 S State St, thereby eliminating the wetland disturbing driveway that was originally designed to the north of 535 S. State St. See map "B".

FINDING: The applicant asserts that the use proposed will be the same as permitted, and that city standards will be maintained to the greatest extent possible while permitting reasonable economic use of the land by permitting one additional parcel to use the shared driveway to the south that currently serves 535 and 555 S. State St.

- d. *Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;*

- i. To address this criterion, the applicant states:

As part of this variance request, it is planned that we will have to pave an additional 25' x 25' pad in front of the existing garage at 535 S State St, which will allow the occupant of 535 S State St to immediately exit the easement and park in or in front of their garage, effectively making only two parcels using the easement.

FINDING: The applicant asserts that the variance to allow one additional parcel onto the shared driveway will not adversely impact existing physical or natural systems, including traffic drainage, natural resources or parks any more than would occur if the development occurred as originally approved and specified in the development code. If approved, the applicant will be required to improve and pave the access driveway to serve each parcel, including the first portion of the shared driveway that will serve 535 S. State St. A fire turn-around may also be required at the time of future structural development.

e. The hardship is not self-imposed; and

i. To address this criterion, the applicant states:

The wetlands which is are causing the hardship were not originally evident or known to the applicant. They are not shown on the National Wetlands Inventory maps.

FINDINGS: The applicant is asserting that the proposed variance is not the result of a practical difficulty created by the actions of the applicant and is not the result of a self-imposed hardship.

f. The variance requested is the minimum variance, which would alleviate the hardship.

i. To address this criterion, the applicant states:

No comments were provided in the submitted application to address this criterion.

FINDING: The applicant did not provide any comments to address how the proposed variance is the minimum needed to alleviate the hardship and allow the applicant to make reasonable economic use of the property.

CONCLUSION

Planning staff does not have a recommendation to the Planning Commission for this requested variance to road standards. The applicant provides argument that the existing wetlands on the subject property, and the limitations permitted by DSL to disturb them, have necessitated the establishment of another means of access to the new Parcel 2 in order to develop it.

The applicant proposes to construct a house and its driveway on proposed Parcel 1 to limit disturbance of the wetland, and requests a variance to the number of lots and parcels that access onto a shared driveway to allow an access to Parcel 2. This access to Parcel 2 will cross the properties to the south, and allow the creation of a third unit of land to use the shared driveway. Only the first 30-35± feet of the shared driveway will be impacted by the requested variance.

If approved, one additional parcel will access onto the private shared driveway without improvement to City public road standards. City standards limit the number of lots or parcels on a shared driveway to two, particularly those created or shared via a flag lot. Although circumstances may exist to warrant approval of the requested variance, planning staff is concerned about setting a future precedent to allow more parcels on a private shared driveway or access easement without improvement to full City standards. If the Planning Commission opts to approve the variance, consideration must be given to this concern.

In addition, planning staff does not know if the applicant has fully explored other options to relocate the proposed access to Parcel 2 (which will be located behind 535 S State St). The applicant currently owns the subject property and the property to the south (555 S. State St). He has indicated plans to sell Parcel 2 to the owner of 535 S State St. If the Planning Commission finds that other reasonable alternatives do not exist to provide a means of access

to new Parcel 2, then the proposed variance may be permitted, subject to consideration of not setting a future precedent.

ACTION ALTERNATIVES

Based on the applicant's findings, the city staff report and the testimony and evidence provided during the public hearing, the Planning Commission can close the public hearing and move to either:

1. **Approve** the requested Variance to Road standards on the subject 0.62-acre property; or
2. **Approve with conditions** the requested Variance to Road standards on the subject 0.62-acre property; or
3. **Continue the public hearing** to a specified date and time, or to close the public hearing and to leave the record open to a specified date and time for submittal of additional evidence and rebuttal; or
4. **Deny** the requested Variance to Road standards on the subject 0.62-acre property on the grounds that the proposal does not satisfy the applicable approval criteria.

17-S007_535 SState LLC_variance(road)_PCstaff report



CITY OF SUTHERLIN

VARIANCE APPLICATION

Community Development
126 E. Central Avenue
Sutherlin, OR 97479
(541) 459-2856

FILE NO. _____

DATE FILED: 4-24-2017

FEE: \$460.00. (Non-refundable)

Receipt No. _____

Application Deemed Complete: _____

THE UNDERSIGNED OWNER(S) OR AUTHORIZED AGENT(S) HEREBY SUBMIT A VARIANCE APPLICATION TO THE CITY OF SUTHERLIN.

1. APPLICANT:

Name 535 S. State LLC c/o Robert Prehall Phone 541-430-8341

Address 1670 Lookingglass Rd., Roseburg, OR 97471

Email: bunika.12@yahoo.com

TITLEHOLDER OF SUBJECT PROPERTY:

Name Same as above Phone _____

Address _____

Email: _____

CONTRACT PURCHASER OR LESSEE OF SUBJECT PROPERTY:

Name _____ Phone _____

Address _____

Email: _____

2. SPECIFIC DESCRIPTION OF PROPERTY:

Twn 25 Rng 5 Sec 20 AC Tax Lot(s) 1101

Property I.D. No(s). R145139

Comprehensive Plan: Low Density Res Zone: R-1

Property Site Address: 5 State ST.

3. Total land area involved in the Variance request ^{Total} Acres: 0.62 SQ FT: _____
- portion impacted 0.38 Ac
4. EXISTING AND ANTICIPATED USE INFORMATION

- A. Current Use: vacant
- B. City Zoning: R-1
- C. Comprehensive Plan: Low Density Res
- D. Anticipated Use: Residential
- E. Will there be a HOA (Home Owners Assoc.): YES ☒ NO
- F. Is it anticipated that structures will be removed/demolished from the property?
YES ☒ NO If yes, a separate application for demolition is required.
- G. Are any historic structures or historically significant features on the subject property?
YES ☒ NO If yes, describe any impacts to such features.

- H. What is the minimum lot size proposed _____ SQ FT
What is the maximum lot size proposed _____ SQ FT

- I. What is the anticipated time for development? _____

- J. Describe the Variance that is being sought. Indicate the specific standard which would not be met requiring a Variance:

Variance allowing 3 parcels to access on a single 25'
easement. Standard is for no more than 2 parcels on
a single easement.

- K. Class of Variance: C

5. REQUIRED ATTACHMENTS (Please submit all plans in .pdf if possible)

A. General Information:

1. Scale drawing of the site plan. Include property owner information, access, utilities, lot dimensions, existing structures, proposed structures, north arrow, date, adjacent street(s).
2. Identification of the drawing as a "tentative plan."
3. Other map information may be required based on the specific Variance application.

B. Narrative

1. Provide a narrative or letter explaining the reason for the request, alternatives considered, and why the subject standard cannot be met without the Variance.

6. SIGNATURE(S) REQUIRED:

I (we), 535 S. State ST LLC, am (are)
(Print Name(s) in Full)

the titleholder(s) or contract purchaser(s) [under a duly executed written contract] of the property described in this application and hereby certify that the statements and information contained herein are in all aspects true, complete and correct to the best of my (our) knowledge and belief.

SIGNED: 

DATE: 4/24/2017

Addendum for Question 4.J.:

Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to "permitted uses" shall be granted.

Please address the following criteria as part of the requested Variances:

The city may approve, approve with conditions, or deny a variance application based on the criteria for granting variances as provided in Section 5.2.130, which must all be satisfied.

- a. The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;

The homeowner that presently lives at 535 S. State St. uses the
easement only to exit from S. State St. They immediately turn
own parcel to park in front of their garage. (See Map "A")

- b. A hardship to development exists which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same zoning district);

See added comments and map "C"

- c. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;

See added comments and map "B"

- d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;

See added comments

- e. The hardship is not self-imposed; and

the wetland which are causing the hardship were not
originally evident or known to the applicant. They are not
shown on the national wetlands inventory maps.

- f. The variance requested is the minimum variance, which would alleviate the hardship.

see added comments

Variance Request for R145139 (South of 535 S State, Sutherlin, Or)

The purpose of this variance request is to add a third parcel to a 25' easement which will help avoid impacting the wetland on site to the greatest degree possible. By DSL rules, any disturbance of a wetland in excess of 50 cubic yards requires a permit, but more importantly, requires mitigation. Mitigation can take the form of, 1) creating additional wetlands on-site, 2) buying credits in an established wetland bank in the same drainage district, or 3) paying a fee for disturbance in excess of 50 cubic yards. Unfortunately, none of these options are available for this site, there is not enough land unencumbered by existing wetlands to create enough new wetlands to allow for a driveway to parcel 2 as well as a new home on parcel 1, there is no wetland bank established in the same drainage district to satisfy option 2, and DSL has not established any fee structure to satisfy option 3.

To minimize disturbance on this site, we have already eliminated one lot by increasing the size of parcel 1 by incorporating the original parcel 2 into parcel 1, which will allow one home to be built with a total disturbance of approximately 35 cubic yards, leaving about 15 cubic yards available for further disturbance, which is insufficient to allow installation of a driveway to the parcel which lays behind 535 S State St (new parcel 2), meaning that we can either build the one home on parcel 1, effectively landlocking the lot behind 535 S State St, or build the driveway, making the parcel created by incorporating parcels 1 and 2 unbuildable.

If the requested variance is granted, the existing driveway on the South side of 535 S State St will service the parcel behind 535 S State St, eliminating the need to build one on the North side of 535 S State St. The majority of the parcel behind 535 S State St is free of wetlands and is buildable as long as no wetlands on that parcel are disturbed.

The owners of 535 S State St are using the curb cut of the easement in question, but immediately leave the easement onto their own parcel to be able to park in front of their garage to avoid parking on the easement.

Attached you will find a number of maps which I hope will clarify the above statements.

Added Comments in Response to Criteria Questions

b. More than ½ of the proposed minor land partition is encumbered by wetlands, distributed in such a way as to make use of the created lots impossible without allowing this variance. We are already eliminating the original parcel 2, making a much larger parcel 1, which will hold about 90% of the total wetland. The new parcel 2 has a small wetland, but will be buildable as long the access doesn't have to cross the existing wetland. The access as shown on the original design DOES cross the wetland, and consequently, if used, would eliminate the building of a home on parcel one, as that would cause there to be in excess of 50 cubic yards disturbed. It is not possible to cross the lot in front of the home at 535 S State St, as the buildings on both the north and south sides of that parcel are at the mandated limit of their respective setbacks.

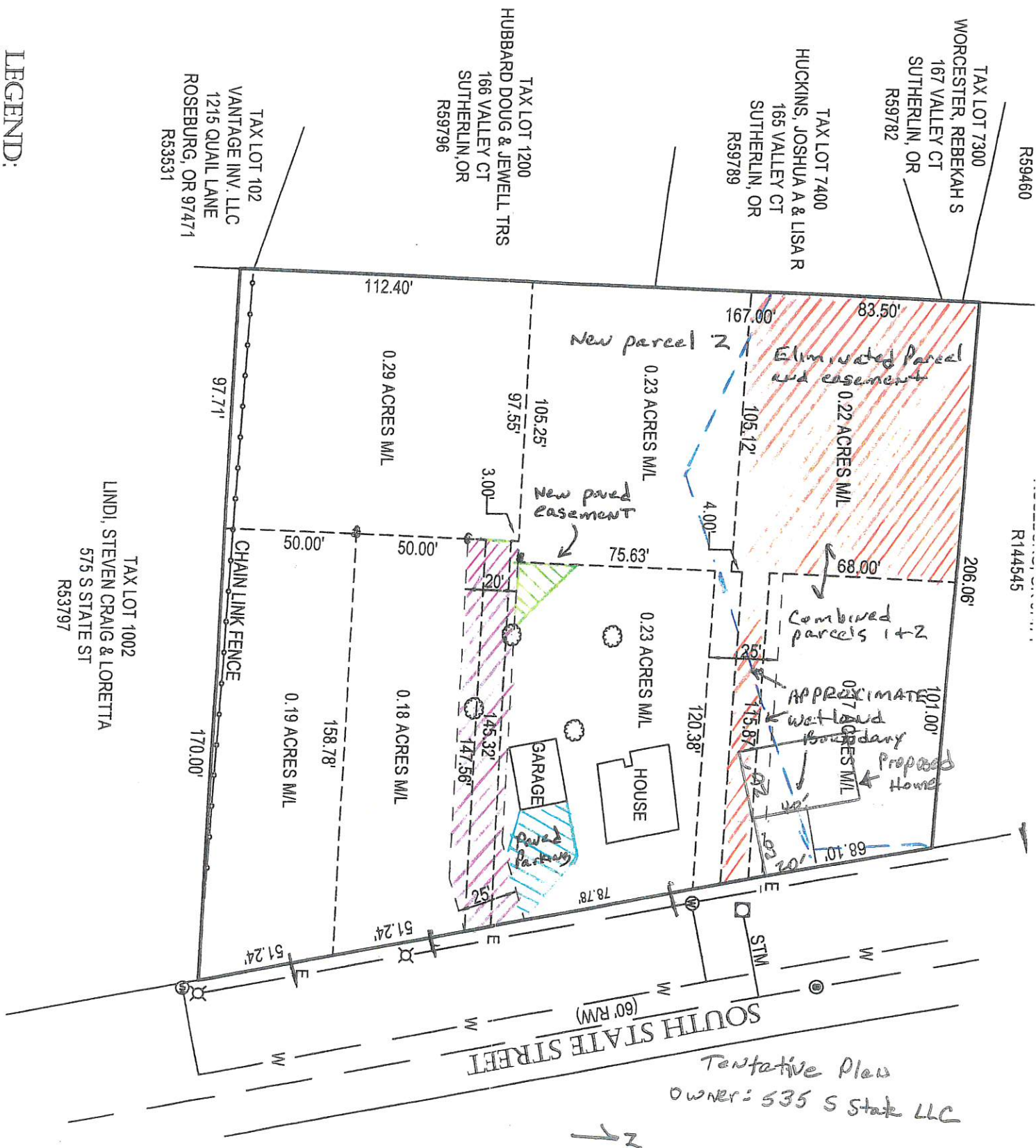
c. The existing driveway that is being utilized by both 535 S State St and 555 S State St would now also be utilized by the lot behind 535 S State St., thereby eliminating the wetland disturbing driveway that was originally designed to the North of 535 S State St.

d. As part of this variance request it is planned that we will pave an additional 25' X 25' pad in front of the existing garage at 535 S State St., which will allow the occupant of 535 S State St to immediately exit the easement and park in or in front of their garage, effectively making only two parcels using the easement.

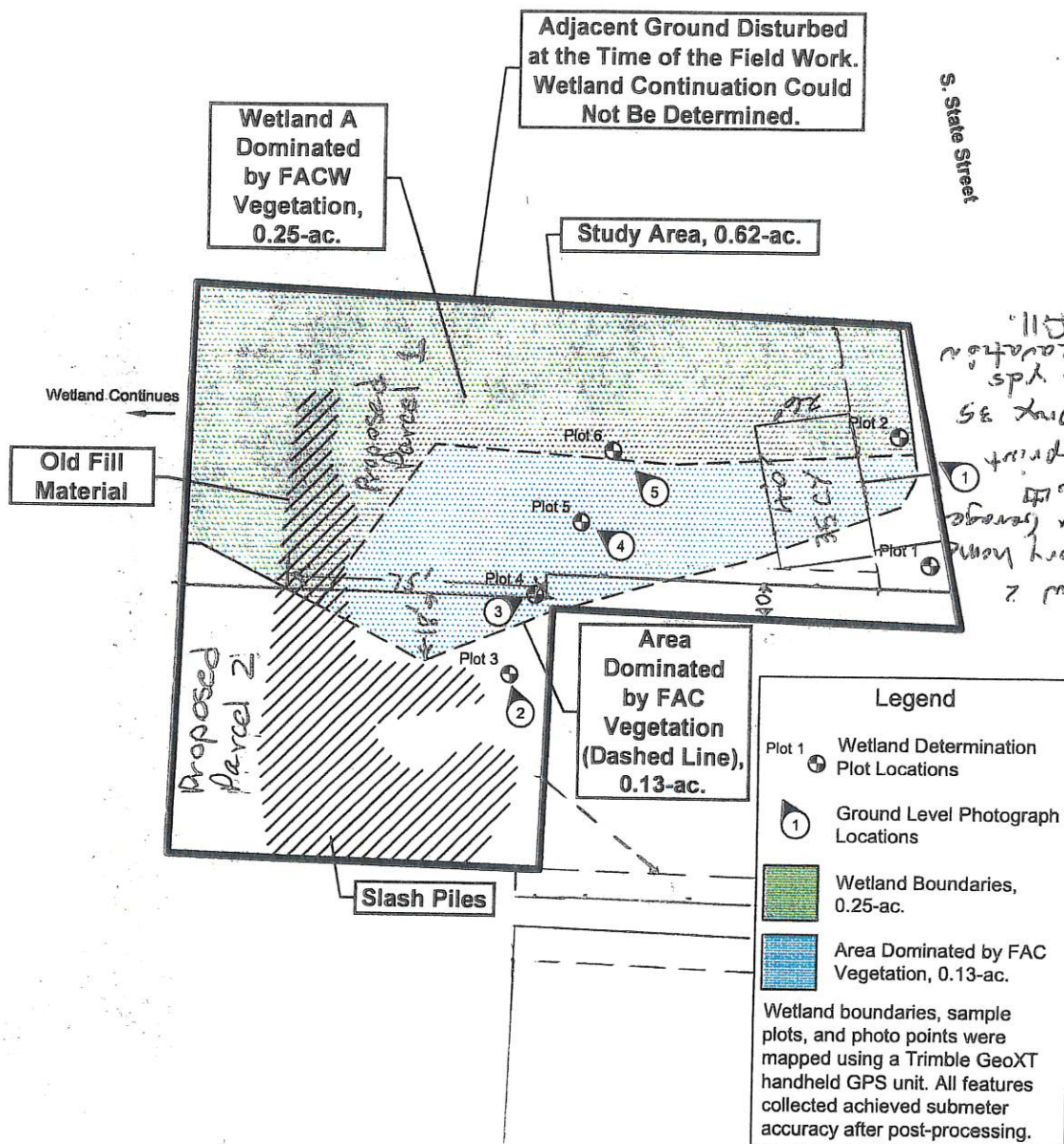
⊗ POWER POLE

⊙ SEWER

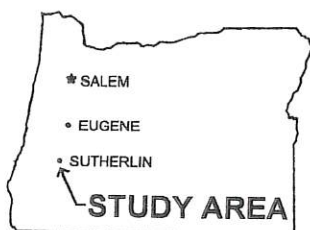
LEGEND:



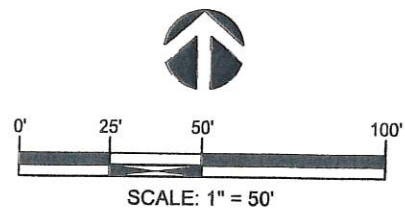
Map "C"



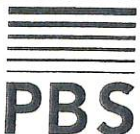
SOURCE: AERIAL PHOTOGRAPH FROM ESRI (2016).



OREGON



PREPARED FOR: BOB PREHALL



PROJECT #
90350.000

DATE
SEP 2016

WETLAND DELINEATION MAP

TAX LOT 1101, MAP NO. 25 5 20AC
SUTHERLIN, DOUGLAS COUNTY, OREGON

FIGURE

7

