



City of Puyallup

**Planning Division**

333 S. Meridian, Puyallup, WA 98371

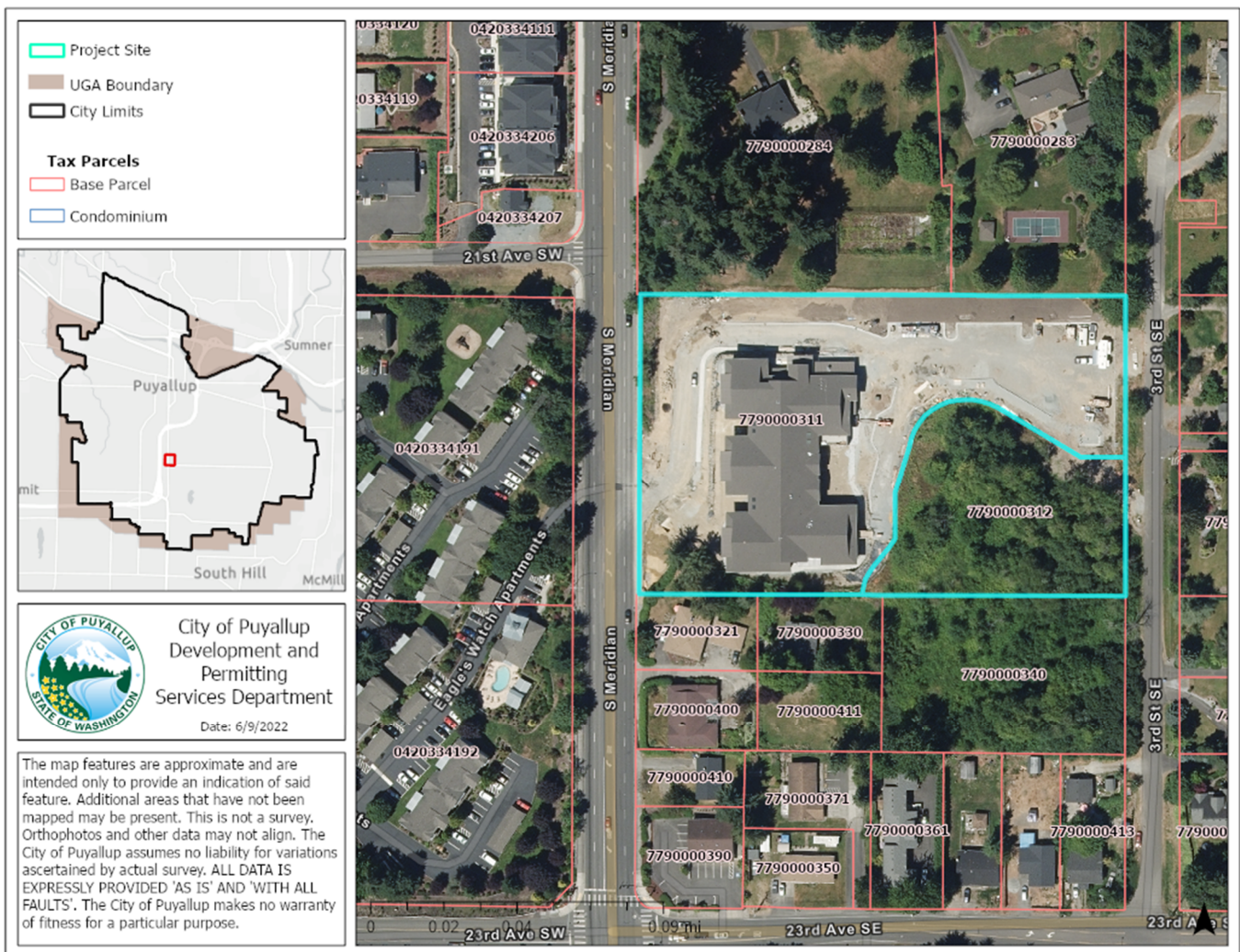
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## STAFF REPORT TO HEARING EXAMINER

To: Hearing Examiner  
From: Kendall Wals, Senior Planner  
RE: CASCADIA SENIOR LIVING - Project # P-20-0124  
Date of memo: June 16, 2022  
Hearing Date: June 28, 2022

### VICINITY MAP



PROJECT OVERVIEW	
<p><b>Applicant:</b> CASCADIA SENIOR LIVING LLC</p> <p><b>Staff Coordinator:</b> Kendall Wals, Senior Planner</p> <p><b>Property Owner:</b> BFG PUYALLUP MC PROPCO LLC</p> <p><b>Address:</b> 2121 S MERIDIAN, PUYALLUP, WA 98371;</p> <p><b>Parcel ID#:</b> 7790000311, 7790000312</p> <p><b>Site Size:</b> 176,813 square feet (2.3 acres)</p> <p><b>Comp Plan Designation:</b> High Density Residential (HDR)/ Low Density Residential (LDR)</p> <p><b>Zoning:</b> RM-20/RS-10</p>	<p><b>Proposal:</b> Variance request to eliminate a portion of the required 30-foot-wide Type I landscape buffer. The affected area is located at the southwest corner of the site, north of 2205 S MERIDIAN (TPN 7790000321).</p> <p><b>Relevant History:</b> The subject site received Conditional Use Permit approval in 2018 for a 47,257 square foot, 66-bed memory care facility within multi-family and single-family residential zones (Case #P-16-0002).</p> <p><b>Summary of Key Issues:</b> Applicant states that the abutting property owner to the south is claiming adverse possession and is requesting the landscape buffer not be installed, but rather fenced off to be used as part of their backyard. It is staff's understanding that the adverse possession claim has not been litigated.</p> <p><b>Staff Recommendation:</b> Approve the request as proposed</p>

## PUBLIC NOTIFICATION RECORD – APPLICATION NOTICE

- Permit request received by city on November 16, 2020
- Initial submittal deemed complete by Department on December 7, 2020
- Notice of complete land use application mailed to all owners of property within a specified radius of the site (as required by PMC 20.12.010) as indicated by the Pierce County Assessor Treasurer's records: December 8, 2020
- Notice of Application Published in the Tacoma News Tribune: December 9, 2020
- Notice of Application was posted at the project site by the applicant: December 15, 2020.

## PUBLIC NOTIFICATION RECORD – HEARING NOTICE

- Notice of Public Hearing mailed to all owners of property within a specified radius of the site as indicated by the Pierce County Assessor Treasurer's records: June 13, 2022 (15 days in advance of hearing – 14 days minimum required by PMC 20.12.010 (2)).
- Notice of Public Hearing was posted at the project site by the applicant: CASCADIA SENIOR LIVING LLC (verification provided by application via affidavit of posting – June 16, 2022; 12 days in advance of public hearing, 10 days minimum required by PMC 20.12.010(3)).
- Notice of Public Hearing published in the Tacoma News Tribune: June 13, 2022 (15 days in advance of hearing – 14 days minimum required by PMC 20.12.010(1)).

## COMMENT RECORD

- The City of Puyallup received an inquiry but did not receive public comments on the proposal as of the date of this staff report.

## STATUS OF REGULATIONS

- Since the filing of a complete application, no amendments to the applicable sections of the Puyallup Municipal Code have been adopted by City Council.

## STATE ENVIRONMENTAL POLICY ACT (SEPA) STATUS

- The subject permit application does not require SEPA environmental review.

## PROJECT DETAILS

- Applicant requests a variance to eliminate a portion of the 30-foot-wide Type I landscape buffer. The affected area is located at the southwest corner of the site, north of 2205 S MERIDIAN (TPN 7790000321).
- This variance request is related to a previously approved Conditional Use Permit (CUP) application (Case #P-16-0002) for a 66-bed memory care facility in the RS-10 (single-family residential) and RM-20 (high density multi-family residential) zones (split zoned site).
- Per PMC 20.26.500, a 30-foot buffer with a dense vegetative screen is required on nonresidential development sites when abutting a residential zone, or when a nonresidential use is permitted in an RS (single-family residential) zone. As stated above, the subject property is split zoned with two residential zones, and the abutting property to the south (within the subject area of the variance request) is zoned RM-20 (multi-family residential zone).
- The previously approved site plan for the subject site accommodated the required zone transition landscape buffer at the perimeter of the site. It is staff's understanding that during the final construction stage of the project, the abutting property owner requested that the area not be landscaped per the approved plan and the fencing meander to allocate a portion of the project site to the benefit of the abutting property owner (i.e. backyard use). It is staff's understanding that the five existing trees within in the subject area would remain.

## SURROUNDING AREA

- The properties to the north and south of the project site consist of single-family development within existing multi-family (RM-20) and single-family residential (RS-10) zones. The properties to the east, on the east side of 3<sup>rd</sup> Street SE, are zoned single-family residential (RS-10) and contain residential uses. The properties to the west, on the west side of S Meridian, contain multi-family residential development and RM-20 zoning.
- The southeastern portion of the subject site contains an existing wetland and buffer area, which continues onto a parcel to the south.

## APPLICABLE REGULATIONS AND POLICIES

The following represents analysis of applicable findings in the city's Variance ordinance (PMC 20.85) as it relates to the current modification request by the applicant:

### Variance Findings per Puyallup Municipal Code Section 20.85.010

- (I) The variance shall not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and/or contiguous zone in which the property on behalf of which application has been filed is located. For purposes of this subsection, vicinity shall be defined to only include a radius of 1,000 feet or be within the boundaries of an established subdivision when the variance request pertains to a single-family residential use.

#### Applicant's response:

This variance request will not affect or limit the uses of properties in the vicinity and/or contiguous zone of the subject property. The request does not pertain to a single-family residential use.

**Staff analysis:**

- Within 1,000 feet of the site, two variance requests have been granted: one related to sign size and another related to reduced building setback. There has not been another landscape variance request within the vicinity, but it would be an option, subject to the same review criteria, for a conditionally permitted nonresidential use in the RM-20 and/or RS-10 zone within the vicinity of the site.
- The proposed deviation from the city's zoning standards would only apply for the interface of the project site to 2205 S MERIDIAN (TPN 7790000321); all other abutting residential properties will retain the existing landscape buffer.
- This is a unique circumstance wherein the project site plan was reviewed and approved under conditional use permit P-16-0002, civil permit E-18-0158 and building permit B-18-0223. The approved permits were compliant with the zone transition (landscape buffer) requirement. However, in the final stages of site work, the abutting property owner opposed the planting and fencing of the specified area of the site. The buffering standards are put in place for protection/mitigation of impacts to the abutting residential properties; therefore, if the abutting property owner opposes the subject improvements and the applicant is compliant with their request to stagger the fencing on-site, staff does not find that this is a grant of special privilege for the site.

(2) That the granting of such variance will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood within a radius of 1,000 feet, and will not be injurious to the property or improvements of such vicinity and/or contiguous zone in which the property is located.

**Applicant's response:**

This variance request to eliminate a portion of the of the 30-foot wide, Type I landscape buffer in the southwest corner of the subject property, north of parcel 77900-0321, will not be detrimental to the public health, safety, comfort, convenience, and general welfare. We also believe that it will not adversely affect the character of the surrounding neighborhood or be injurious to the adjacent properties or improvements. The owner of parcel 77900-0321 is claiming adverse possession of this area (see attached exhibit showing lawn encroachment from neighbor) and does not desire to have the required landscaping installed in this area.

**Staff analysis:**

- The Hearing Examiner decision for the previously approved conditional use permit application (P-16-0002) included a finding regarding the dense landscape buffer provided along the north and south property lines adjacent to residentially zoned properties.
- The location of the variance request is along S Meridian, a major arterial. The subject area would function as the abutting property owner's backyard and does not appear to be out of character with the neighborhood. The six-foot-high vinyl fencing has been in place since the completion of the project, and the five existing mature trees remain within the subject area. The existing vegetation provides some buffering from the nonresidential use on site.
- The subject zone transition standards are intended to mitigate impacts of nonresidential uses within/adjacent to residential zones. However, the abutting property owner is requesting that it remain as-is and not be improved. The landscape buffer would remain for the other abutting residential properties.
- The granting of this variance will not be detrimental to the public health or safety of the neighborhood, or general welfare because the public will not perceive the lack of landscape buffering in this area. The front yard of the development abuts the backyard of the abutting residential property. The front yard landscaping for the memory care site abuts the fencing of the subject area and the existing trees will be retained within the subject area. The proposed variance would not cause harm to the abutting property owner who is objecting the landscape buffer but would improve/continue their comfort and convenience by retaining the existing characteristics of the subject area.

- (3) That such variance is necessary, because of special circumstances relating to the size, shape, topography, unusual natural features, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity within a radius of 1,000 feet and/or contiguous zone in which the subject property is located. Such circumstances shall not be the result of some action caused by the applicant and/or previous property owners.

**Applicant's response:**

- The reason for this variance request is due to an adverse possession claim by the owner of parcel 779000-0321. The owner of this parcel desires to continue using the area "as is" and does not want the dense planting required by the Type I landscape buffer. The existing landscape in this area consists of lawn and five trees. We believe that the adverse possession claim meets the requirements of a special circumstance and is a hardship that is caused by the adjacent property owner, not by the applicant and/or previous owners.
- As we understand, the 30-foot Type I landscape buffer is only required by hearing examiner in order to benefit the adjacent residential properties by creating a buffer between them and the commercial use of the subject property. We agree that this is a good thing and that most adjacent residential property owners would want and desire to have the buffer. However, the owner of parcel 779000-0321 does not desire to have the landscape buffer.

**Staff analysis:**

- The applicant states that the adjacent residential homeowner is claiming adverse possession and is requesting that the landscape buffer not be installed. It is staff's understanding that the adverse possession claim has not been litigated and the applicant is attempting to work with the abutting property owner instead of taking legal action. The adverse possession claim/request by the abutting property owner is a unique situation and could be seen as a special circumstance not caused by the current or previous property owners of the project site.

**STAFF CONCLUSIONS**

Based on the results of the review presented in the preceding sections, staff proposes the following findings to the Hearing Examiner, required pursuant to Section 20.85.010 (Variances) of the Puyallup Municipal Code:

- The requested variance would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity; and,
- The proposal, as presented, is not anticipated or known to be a detriment to public health, safety, general welfare nor would the requested variance adversely impact the established character or the comfort/convenience enjoyed by the surrounding/abutting property owners of the neighborhood currently; and,
- There is a special circumstance related to the request by the adjacent property owner (TPN 7790000321) that justifies a need for relief from the code required landscaping buffers.

**STAFF RECOMMENDATION**

Based on the above analysis for the required findings pursuant to Section 20.85.010 of the Puyallup Municipal Code, staff recommends the Hearing Examiner **APPROVE** variance request P-20-0124. Staff has not identified recommended conditions necessary to mitigate this variance request.