

CITY OF ASHLAND

DRAFT MINUTES FOR THE REGULAR MEETING ASHLAND CITY COUNCIL Tuesday, August 18, 2020

Held Electronically; View on Channel 9 or Channels 180 and 181 (for Charter Communications customers) or live stream via rvtv.sou.edu select RVTV Prime.

Note: As the August 18 Council meeting will be held electronically, written testimony will be accepted via email to public-testimony@ashland.or.us both general public forum items and agenda items as long as they are submitted with the subject line: August 18 Council Meeting Testimony before Monday, August 17 at 10 a.m. Written testimonies submitted by the deadline will be available to the City Council before the meeting and will be included in the meetings minutes.

The Public Hearing will take oral testimony from those who have submitted written arguments to Planning prior to August 10 at 4:30 p.m. per AMC 18.5.1.060.I.5.a.

Note: Items on the Agenda not considered due to time constraints are automatically continued to the next regularly scheduled Council meeting [AMC 2.04.030.E.]

6:00 p.m. Regular Meeting

I. CALL TO ORDER

Mayor Stromberg called the Business Meeting to order at 6:03 PM

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Councilors' Slattery, Graham, Akins, Rosenthal and Jensen were present. Discussion: None. All Ayes. Motion passed unanimously.

IV. MAYOR'S ANNOUNCEMENTS

Mayor Stromberg announced the current Commission and Committee vacancies.

V. APPROVAL OF MINUTES

- Business Meeting of August 4, 2020

Rosenthal/Slattery moved to approve the Minutes. Discussion: None. All Ayes. Motion passed unanimously.

VI. SPECIAL PRESENTATIONS & AWARDS

- COVID-19 Emergency Declaration Extension

Interim City Administrator Adam Hanks gave a brief Staff report (*see attached*).

Jensen/Rosenthal moved to continue the emergency declaration. Discussion: Jensen spoke in support of the motion. Rosenthal spoke that he looks forward to the day that the City does not have to discuss this anymore. Voice Vote: All Ayes. Motion passed unanimously.

VII. MINUTES OF BOARDS, COMMISSIONS, AND COMMITTEES

[Airport](#)

[Budget](#)

[Conservation](#)

[Historic](#)

[Housing and Human Svcs.](#)

[Parks & Recreation](#)

[Forest Lands](#)

[Climate Policy](#)

[Cost Review](#)

[Planning](#)
[Tree](#)

[Public Arts](#)
[Wildfire Mitigation](#)

[Transportation](#)

VIII. PUBLIC FORUM Business from the audience not included on the agenda. (Total time allowed for Public Forum is 15 minutes. The Mayor will set time limits to enable all people wishing to speak to complete their testimony.) [15 minutes maximum] *See note above for how to submit written testimony for Public Forum.*

IX. CITY ADMINISTRATOR REPORT

Interim City Administrator Adam Hanks gave the Administrator report (*see attached*).

Items discussed were:

- Council Testimony.
- City and Regional Utility Assistance.
- Evacuation Study.
- Look Ahead.

CONSENT AGENDA

- Zero Emission Vehicle Innovation Fund Grant Acceptance

Hanks gave a brief Staff report.

Graham/Slattery moved to approve the Consent Agenda. Discussion. None. All Ayes. Motion passed unanimously.

X. PUBLIC HEARINGS (Persons wishing to speak are to submit a “speaker request form” prior to the commencement of the public hearing. Public hearings shall conclude at 8:00 p.m. and be continued to a future date to be set by the Council, unless the Council, by a two-thirds vote of those present, extends the hearing(s) until up to 9:30 p.m. at which time the Council shall set a date for continuance and shall proceed with the balance of the agenda.)

The Public Hearing will take oral testimony from those who have submitted written arguments to the Community Development Department prior to August 10 at 4:30 p.m. per AMC 18.5.1.060.I.5.a.

- Land Use Appeal of 210 Alicia Avenue

Bill Molnar – gave a brief Staff report.

Mayor Stromberg read a statement into the record (*see attached*).

City Recorder Melissa Huhtala read the Grounds for appeal.

Senior Planner Derek Severson went over a PowerPoint Presentation (*see attached*).

Items discussed were:

- Grounds for appeal.
- On the record hearings.
- Cottage Housing proposal.

- Vicinity Map.
- Cottage Housing Survey.
- Existing Driveway Separation.
- Outline Plan.
- Landscape Plan.
- Carport Structure.
- Solar Compliance.
- Utility Plan.
- Sewer Capacity.
- Grading Plan.
- Erosion Control Plan.
- Sylvia Street Perspective.
- Alicia Avenue Perspective.
- Outline Plan- Fire Marshal's Comments.
- 1-5 Ground of appeal.
- Staff Recommendation.
- Cottage Housing Proposal.

Severson spoke that Staff recommends to reject each appeal and for Staff to prepare findings for the September 1st Council Business Meeting.

Council discussed parking.

Council discussed the wording regarding “capacity”.

Council discussed Cottage Housing.

Council discussed what would happen if there were issues with the pipes and what risk there would be on the land owner.

Applicant – Amy Gunter – Gunter announced her address. She spoke regarding the driveway separation. She spoke regarding Cottage Housings and its limits. She spoke regarding unit size. Gunter spoke regarding parking and sanitary services.

Dan Van Dyke – Appellant - Spoke that citizens will be mad and there should have been discussion. He spoke that the City already had been mapping the development in May. He spoke that the public should be able to listen to and attend the meetings. He spoke to all 5 listed points.

Public Testimony

Michael Goldman– Spoke in objection of the proposed 12-house development at 210 Alicia Street. (*see attached*).

Sue Jaffe –Spoke in objection of the proposal (*see attached*).

Kent Riley– Spoke in objection of the proposal (*see attached*).

Rosenthal/Graham moved to extend the Public Hearing. Discussion: None. All ayes. Motion passed unanimously.

Rebuttal:

Gunter – Spoke regarding minimum standard verses maximum standard. Gunter spoke regarding Fire apparatus access. Gunter spoke regarding Storm Water Standards.

Council discussed the flow test.

City Attorney David Lohman asked Gunter to clarify if the applicant could provide a flow test or not. Gunter spoke that is difficult to say how it would be conducted in the neighborhood.

Mayor Stromberg closed the Public Hearing 8:20 PM

Lohman explained to the Council that this item voted on for the findings and not the personal feelings on this issue. He spoke that Council should look at substantial evidence.

Mayor Stromberg questioned what would happen if someone appeals a decision by planning. Lohman explained that it becomes an appeal and would have to follow the proper steps.

Council discussed the appeal process.

Jensen/Slattery moved to affirm the decision of the Planning Commission, on appeal point number 1 reject the appeal and direct staff to prepare written findings for approval reflecting the original Planning Commission decision from July 14, 2020 for adoption by Council. Discussion: None. Roll Call Vote: Slattery, Graham, Seffinger, Rosenthal and Jensen: YES. Akins: NO. Motion passed 5-1.

Slattery/Graham moved to affirm the decision of the Planning Commission, on appeal point number 2 reject the appeal and direct staff to prepare written findings for approval reflecting the original Planning Commission decision from July 14, 2020 for adoption by Council. With the condition to place a yield or stop sign at entrance exit of the parking lot. Discussion: Slattery spoke in support of the motion. Graham spoke that this is appropriate and necessary. Akins agreed with Slattery and Graham. Roll Call Vote: Slattery, Graham, Seffinger, Rosenthal, Jensen and Akins: YES. Motion passed unanimously.

Jensen/Slattery moved to affirm the decision of the Planning Commission, on appeal point number 3 reject the appeal and direct staff to prepare written findings for approval reflecting the original Planning Commission decision from July 14, 2020 for adoption by Council. Discussion: Jensen spoke that this item is straight forward. Graham spoke regarding the response from Planning and suggested a procedure to respond to requests. Roll Call Vote: Slattery, Graham, Seffinger, Rosenthal, Jensen and Akins: YES. Motion passed unanimously.

Jensen/Rosenthal moved to affirm the decision of the Planning Commission, on appeal point number 4 reject the appeal and direct staff to prepare written findings for approval reflecting the original Planning Commission decision from July 14, 2020 for adoption by Council. Discussion: Jensen spoke in support of the motion. Rosenthal spoke that the facts are that the Planning Commission did not make technical or procedural errors. Roll Call Vote: Slattery, Graham, Akins, Seffinger, Rosenthal and Jensen: YES. Motion passed unanimously.

Jensen/Rosenthal moved to affirm the decision of the Planning Commission, on appeal point number 5 reject the appeal and direct staff to prepare written findings for approval reflecting the original Planning Commission decision from July 14, 2020 for adoption by Council. Discussion: Jensen spoke that he will vote against would like to see the City to be more decisive in their language in infrastructure particularly when involving neighbors and

neighborhoods. Rosenthal appreciates Jensen statement but he spoke that he would be voting yes. Slattery asked for a point of clarification from the City Attorney to restate what the City's responsibility is on this subject. City Attorney David Lohman gave an overview. Slattery clarified that the Council is considering whether or not the Planning Commission made a reasonable decision. Jensen questioned if the was rejected what would be the implication. Lohman explained it would need to go back to the Planning Commission. However due to the time constraints does not see how that can happen. Council discussed the appeal process. **Roll Call Vote: Slattery, Graham, Akins, Seffinger, Rosenthal and Jensen: YES. Motion passed unanimously.**

Graham/Slattery moved to include the condition that the 9 smaller units be less than 800 sq. ft. to comply with parking requirement. Discussion: None. Roll Call Vote: Slattery, Graham, Seffinger, Jensen and Rosenthal: YES. Akins NO. Motion passed 5-1.

XI. UNFINISHED BUSINESS

XII. NEW AND MISCELLANEOUS BUSINESS

- City Manager Recruitment Process and Job Description Discussion

Hanks gave a Staff report.

Hanks introduced Human Services Director Tina Gray. Gray gave a brief Staff report.

Slattery/Akins moved to approve the job description and authorize staff to proceed with recruitment option #1 and to begin the recruitment process on January 15th and the starts date yet to be determined. Discussion: Slattery spoke in support to start recruitment process January 15th. Akins spoke in support of the idea. Rosenthal spoke that he would vote no and it is not a good idea to rush this issue. Graham questioned the recruitment process. Slattery spoke to the importance of going through the process of a job description.

Rosenthal/Slattery moved to postpone this item until next council meeting. Discussion: None. Roll Call Vote: Slattery, Graham, Akins, Seffinger, Rosenthal and Jensen: YES. Motion passed unanimously.

2. Approval of Awarding \$80,000 in Tourism Grants

Rosenthal/Seffinger moved to approve the allocations recommended by the Tourism Grants Ad Hoc Committee. Discussion: Rosenthal thanked Staff for their work. Seffinger spoke regarding the process. Graham explained that this money is restricted to this purpose. **Roll Call Vote: Slattery, Graham, Seffinger, Akins, Rosenthal and Jensen: YES. Motion passed unanimously.**

3. Oregon Worker Relief Fund Discussion

Due to time constraints this item was moved to the next Council Meeting.

4. Update on Pioneer Hall and the Community Center

Due to time constraints this item was moved to the next Council Meeting.

XIII. ORDINANCES, RESOLUTIONS AND CONTRACTS

- Review of Ordinance 3176 and Possible First Reading of Ordinance 3189 Relating to Public Safety; Adding New AMC Chapter 10.58

Due to time constraints this item was moved to the next Council Meeting.

XIV. OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS

XV. ADJOURNMENT OF BUSINESS MEETING

The Business Meeting was adjourned at 9:30 PM.

Respectfully submitted by:

City Recorder Melissa Huhtala

Attest:

Mayor Stromberg

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at (541) 488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title I).

CITY OF ASHLAND
DECLARATION OF STATE OF EMERGENCY EXTENSION

TO: Danny Jordan, County Administrator and the Jackson County Office of Emergency Management

FROM: Adam Hanks, Interim City Administrator, City of Ashland, Oregon

The City Administrator of the City of Ashland finds that:

- A. Pursuant to the authority granted by Oregon Revised Statutes Chapter 401, the City of Ashland has enacted a local ordinance codified in Ashland Municipal Code Chapter 2.62, Emergency Powers, that provides direction for the City, its officials, and others in the event that an emergency or disaster exists within the City and assigns executive responsibility in times of emergency. City Council has approved a detailed Emergency Management Plan. Ashland Municipal Code Chapter 2.62, specifically delegates authority to declare a state of emergency to the City Administrator, subject to subsequent ratification by City Council.
- B. The following conditions have resulted in the need for a City of Ashland Declaration of a State of Emergency:
 - a. On March 8, 2020, the Governor of Oregon issued Executive Order 20-03 declaring a statewide state of emergency due to the COVID-19 outbreak in Oregon.
 - b. On March 11, 2020, COVID-19 was declared a pandemic by the World Health Organization, in recognition that this fast-spreading contagion is part of a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life for individuals with underlying health conditions.
 - c. On March 12, 2020, the Governor of Oregon issued Executive Order 20-05 canceling all gatherings of more than 250 people and most large gatherings if a distance of 3 feet could not be maintained between individuals, and recommending other limitations including that individuals in high-risk populations (those over 60 years of age, or those with an underlying health condition) avoid gatherings of more than 10 people.
 - d. On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency.
 - e. On March 17, 2020, the Governor of Oregon issued Executive Order 20-07 rescinding Executive Order 20-05; prohibiting most gatherings of 25 people or more, including community events or activities if a distance of at least 3 feet between individuals cannot be maintained; prohibiting on-premises consumption of food and drink; and establishing limited exceptions.
 - f. On March 17, 2020, pursuant to Ashland Municipal Code Chapter 2.62, Ashland City Council ratified the City Administrator's Declaration of State of Emergency vesting in the City Administrator authority to take such actions and issue such orders as the City Administrator deems necessary to protect the public in property and minimize or mitigate the effect of the emergency. By its terms, this initial Declaration was to be in effect through April 7, 2020 and could be extended thereafter in increments.

- g. On March 23, 2020, the Governor of Oregon issued Executive Order 20-12, the stated purpose of which was “to reduce person-to-person interaction.” With a few exceptions for food and medical needs, this Order prohibited any non-essential social, recreational, and shopping-related aggregations of individuals unless a distance of at least 6 feet between individuals was maintained.
 - h. On April 15, 2020, the Governor of Oregon issued Executive Order 20-16 directing that governing bodies of public bodies were to (1) hold their public meetings and hearings through electronic or virtual means whenever possible; (2) make available a method by which the public can listen to or virtually attend such public meetings or hearings at the time they occur, without necessarily providing a space for public attendance; and (3) provide an opportunity for submission of testimony either by timely submission of written testimony or by electronic or virtual means – notwithstanding any requirements by law or policy that testimony during a public meeting or hearing be taken in person.
 - i. On May 1, 2020, the Governor of Oregon issued Executive Order 20-24 extending the COVID-19 Declaration of Emergency (Executive Order No. 20-03) for an additional 60 days, through July 6, 2020.
 - j. On May 14, 2020, the Governor. of Oregon issued Executive Order 20-25 establishing a phased approach to removing previously-imposed COVID-19-related emergency restrictions.
 - k. On June 3, 2020, Jackson County was approved for limited Phase 2 reopening.
 - l. On June 5, 2020, the Governor of Oregon issued Executive Order 20-27 rescinding Executive Order 20-25 and replacing it with revised directives on reopening requirements for preventing COVID-19 infections.
 - m. On June 30, 2020, the Governor of Oregon issued Executive Order 20-30 extending the COVID-19 Declaration of Emergency (Executive Order No. 20-03) for an additional 60 Days, through September 4, 2020.
 - n. On July 13, 2020, the Governor of Oregon announced expanded requirements for face coverings and stricter limits on social get-togethers.
 - o. On April 7, April 21, May 5, May 19, June 2, June 16, and July 21, Ashland City Council approved extensions of the Declaration of State of Emergency through August 18, 2020.
 - p. A State of Emergency continues to exist in the City of Ashland, and the City has expended or shortly will expend its necessary and available resources for responding to the emergency. COVID-19 has so far required and will continue to require significant City resources to keep the community informed and as safe as possible and has and will continue to have significant negative consequences for Ashland’s economy and workforce.
- C. The foregoing circumstances affect all of the territory within the corporate limits of the City of Ashland.
- D. This extension of the Declaration of a State of Emergency is intended to continue authorization to take special measures to protect citizens’ health and safety, to assure that critical public services are maintained and to reduce stress and fear. The City urges citizens to show even

greater-than-normal neighborliness, tolerance, and patience in the face of inconveniences and uncertainty during this period.

NOW, THEREFORE, based upon the circumstances set forth above, the following emergency orders have been issued by the City Administrator and ratified by the City Council:

1. A State of Emergency is declared to continue to exist in the City of Ashland, Oregon.
2. The City of Ashland respectfully requests that Jackson County continue to provide assistance, consider the City an “emergency area” as provided for in ORS Chapter 401, and request support from state agencies and/or the federal government.
3. The City shall take all necessary steps authorized by law to coordinate response to and recovery from this emergency, including, but not limited to, requesting assistance and potential reimbursements from the State of Oregon and the appropriate federal agencies for the City, business owners, social service agencies, and citizens in general.
4. In conformance with AMC Chapter 2.62 and the adopted City Emergency Management Plan, during the time this Declaration or any extension of it is in effect, the City Administrator is exclusively responsible for approving City agreements and deploying City resources, and City officials are authorized to continue to take such actions and issue such orders as are determined by the City Administrator to be necessary to protect the public and property and to continue to efficiently conduct activities that minimize or mitigate the effect of the emergency situation.
5. During the time this Declaration or any extension of it is in effect, meetings of the City Council and any City commissions, committees or taskforces shall occur in conformance with the Governor of Oregon’s Executive Order 20-16 or any modification thereof.
6. Due to the economic impact COVID-19 will have on its residents and businesses, the City recommends that residential and commercial eviction proceedings based on failure to pay rent be suspended during this State of Emergency or any extension thereof.
7. This extension of the Declaration of State of Emergency has been ratified by the City Council, is effective immediately, shall remain in effect until and including September 15, 2020, and may be extended thereafter as the City Council deems appropriate.

Dated and effective at _____ p.m. this eighteenth day of August 2020.

Adam Hanks, Interim City Administrator

John Stromberg, Mayor

REVIEWED, David Lohman, City Attorney



City Administrator's Report

Adam Hanks, Interim City Administrator

AUGUST 18

The City Administrator's Report showcases current events facing the City externally and internally since the last Council meeting, while highlighting City accomplishments.

COUNCIL TESTIMONY

Tonight we will start using Zoom Webinar, which allows members of the public to view the meeting through Zoom. This also allows for the public to participate at a meeting as will be done during the Public Hearing tonight.

Since this technology has now been implemented, Council can decide if they would like to open up oral testimony for all items, keep the written testimony for all items except for Public Hearings, or take a hybrid approach. The hybrid approach would allow the public to still submit comments in writing to public-testimony@ashland.or.us by the deadline, but would also allow for those who submit written testimony a chance for them to present it orally at the Council meeting.

I would like to get your thoughts on this subject and direction to staff on how to proceed for the next Study Session and Business Meeting.

CITY AND REGIONAL UTILITY ASSISTANCE

The **Ashland Low Income Energy Assistance Program (ALIEAP)**, which assists low income residents with their electric bills during the cold winter months will be available starting October 1 through Utility Billing. Eligible Ashland residents include those whose income is at or below 65 percent of Oregon's median income. These levels are based on household income and household size. Qualified recipients will receive a credit on their electric utility charges. Credits of up to 50 percent will be given to seniors and disabled persons for up to six months and credits of 50 percent to other qualified residents for up to three months. The maximum allowed credit is \$300 for either group.

There is also additional regional funding to help with utility payments. ACCESS has funding available to cover rental and utility payments for those affected by COVID-19 and who are at or below 80 percent of the area median income.

For ACCESS rental assistance, visit accesshelps.org/rentalassistance or call (541) 414-0308. For ACCESS energy assistance, visit accesshelps.org/energy-assistance or call (541) 779-9020.

United Way was awarded funding from Jackson County to provide payments for rent, utilities, and other qualifying expenses to residents and small businesses in Jackson County. Individuals and families can receive up to \$1,500 and small businesses can receive up to \$3,000 in assistance paid directly to landlords and utilities. For more information and the applications, go to www.unitedwayofjacksoncounty.org/covid-19-fund/.

Both assistance options are only available until the funds are expended.

The City has established an **Account Payment Deferral Program** that allows for utility accounts with delinquent amounts to have those charges deferred based on either a six-month or twelve-month repayment plan option. Features of the deferment plans include:

- The negotiated portion of the deferred amount will be due and payable by the normal utility bill due date each month along with the current month's charges.
- To continue the deferment program for the full length of the six- or twelve-month period, customers must pay the deferred amount each month or risk being removed from the program.
- Any account older than three months that has a deposit on file can choose to apply that deposit directly towards the utility account balance.

Those in need can apply at ashland.or.us/deferralapp.

With the COVID-19 pandemic continuing, many residents are having difficulty paying their basic monthly utility services. The City of Ashland's **Round Up program** allows Ashland utility customers to voluntarily round up their utility bills to the nearest dollar. This is a voluntary program which residents can opt-in for.

Regular donations to assist with those who need help with their utility bills are also accepted through Utility Billing.



City Administrator's Report

Adam Hanks, Interim City Administrator

EVACUATION STUDY

Stakeholders met with KLD Engineering on July 20. KLD completed an on-site road survey of Ashland and the surrounding area. This included looking at access impaired neighborhoods and development of evacuation zones. At this time the City is divided into 10 evacuations zones. The demographic survey (those things not contained in U.S. Census Bureau data) has been finalized and will be going out to the community this week. Staff continues to provide KLD with other data as needed.

The study will allow us to calculate evacuation times for either the entire city or evacuation zones within the city, given such variables as time of day, day of week, which season we are in, current weather conditions, etc. A timeline is provided below, however we expect to finish sooner.

Description	Completion Date
Road Survey	7/19/2020
Kick-off Meeting	7/20/2020
Review Existing Plans	7/20/2020
Finalize Study Area	7/30/2020
Create Link-Node Analysis Network	8/8/2020
Identify Regions and Scenarios	8/15/2020
Demographic Survey	8/20/2020
Data Gathering	9/10/2020
Access Impaired Neighborhoods	10/3/2020
Deliver Project Assumptions Memo	10/3/2020
Progress Meeting	10/14/2020
Compute ETE	10/21/2020
Impacts on ETE	11/6/2020
Technical Report - Draft	11/27/2020
Final Meeting	12/16/2020
Final Technical Report and Project Completion	12/30/2020

AIR PURIFIERS DISTRIBUTED TO VULNERABLE POPULATIONS

Our Fire Department ordered 500 air purifiers to distribute free of charge to households with vulnerable populations.

Partners within the community helped distribute the application to those listed as potentially benefitting from an air purifier. Those partners included Ashland Senior Center, Ashland School District, Ashland At Home, Asante, The Food Bank, YMCA Maslow Project, OHRA, Several Preschools,

Rebuilding Together Rogue Valley, and SOU Student and Family Housing.

Applications were accepted from June 29 to July 17 and 722 applicants were received. Of the 722, 634 applicants qualified and then ranked to determine their need. Noteworthy statistics include 47% of applicants who qualified had at least one child in the household and 43% of applicants had at least one person older than 65. Both of these populations were the target of the outreach and the program.

The Fire Department had three distribution days on July 23, July 28, and August 8 where the 500 selected were notified via email when and where they could pick up their air purifier. The distribution was designed with COVID-19 protocols in mind. Residents were told to stay in their car while gloved and masked volunteers loaded the purifiers into their vehicles. Some purifiers were also delivered to residents who did not have access to a vehicle to pick up the purifier. The program was a great success with many thanks to our Fire Department and Smokewise Division as well as the community partners who helped spread the word and those involved in Smokewise Ashland.

LOOKING AHEAD

This is a draft of the next Council meetings agenda and is subject to change.

August 31 Study Session

- Strategic Planning Process

September 1 Business Meeting

- Annual Presentation by the Climate Policy Commission
- Proclamation for Home Inventory Week -
- Appointment of SDC Committee members for the Storm Drain Master Plan
- National League of Cities Service Line Warranty Program-Marketing Agreement for Water and Wastewater Service Lines
- Resolution 2020-15 Social Equity and Racial Justice Council Discussion and Action Identification
- Adoption of the Airport Master Plan
- Contract Approval IBEW Clerical/Technical
- Contract Approval IBEW Electrical

For the full look ahead and more details on the above items, go to ashland.or.us/lookahead.

PROCEDURE FOR PUBLIC HEARING FOR LAND USE HEARINGS
[MAYOR: READ ALOUD ALL HIGHLIGHTED IN YELLOW
FOLLOW THE STEPS AND ASK EACH QUESTION IN FULL]

1. CALL TO ORDER

The public hearing is now open. This is a hearing for the City Council to listen to and consider an appeal “on the record” of the Planning Commission’s approval of a request for Outline Plan Subdivision and Site Design Review to construct a 12-unit, 13-lot Cottage Housing Development at 210 Alicia Avenue, and a Tree Removal Permit to remove two trees.

This is a quasi-judicial land use hearing which requires the observance of certain procedural formalities. We’ll take a few moments to cover some preliminary matters and required statements. This is an appeal “on the record” of a Type II land use decision by the Planning Commission.

Rules for the conduct of “on the record” appeal hearings are detailed in the Ashland Municipal Code section 18.5.1.060.I and were distributed with the Notice of Appeal mailed to qualified parties. Please note that the only persons permitted to make presentations to the Council at this hearing are staff, the applicant, the appellant, and qualified parties who participated in the Planning Commission hearing process **AND** submitted written arguments ten days prior to this hearing. It should also be noted for clarity that in an “on the record” appeal, the Council’s role is limited to determining whether a factual or procedural error occurred in the original hearing before the Planning Commission. The Council will not revisit the facts of the application, but is instead to consider whether there is evidence in the existing record to support the Planning Commission’s original decision with regard to each of the five grounds for appeal.

For those parties qualified to participate, your oral arguments tonight are to be confined to the substance of your previously submitted written arguments and are limited to the five identified points of appeal. Qualified parties wishing to present oral arguments have made prior arrangements with staff to participate tonight via Zoom. Within about 10 minutes we will begin the hearing, and I will call you when it is your turn to present your arguments.

OPEN RECORD

This appeal “on the record” will be processed according to AMC 18.5.1.060.I. The identified grounds for the appeal are shown on the screen now and will be read aloud by the City Recorder.

[**City Reorder reads appeal grounds: 1)** The Planning Commission and Planning Department failed to provide an adequate public hearing as required in AMC 18.5.1.060 and the Governor’s Executive Order #20-16. **2)** The Planning Commission erred in failing to mitigate a non-conforming development. The existing driveway is closer to the neighbor’s driveway than allowed by code, and use by 12 units rather than only one will intensify the use of the non-conforming driveway without mitigation. **3)** The Planning Commission decision fails to meet the purpose and intent of the Cottage Housing Ordinance. **4)** The Planning Commission erred in finding that the proposed development complies with city street standards. **5)** The Planning Commission erred in finding that the proposed development will not cause a city facility (sewer) to operate beyond its capacity.]

SCOPE OF APPEAL

The Council’s consideration of the appeal is limited to these five grounds. A speaker’s oral testimony must be limited to points already addressed in written argument and based on the existing record and must relate to these five appeal grounds. If you get off track or your testimony does not relate to these five appeal

grounds, I will stop you in order to avoid confusion. Any questions from the Council will not count against a speaker's allotted time.

In your oral testimony, if you fail to raise an issue that is within the scope of the five grounds for appeal, then you cannot argue that issue later on in an appeal of the Council's decision.

The remainder of this hearing process will consist of the following elements

1. I will ask Council members for applicable preliminary disclosures.
2. Persons permitted to make presentations to the Council at this hearing may submit any challenges to Council members for bias, prejudgment or conflict of interest.
3. Planning staff will present the staff report.
4. The applicant and the appellants will each have ten minutes to present their arguments.
5. Qualified parties who participated in the original Planning Commission hearing process AND subsequently submitted written arguments in advance of this hearing will have three minutes to summarize their written arguments.
6. The applicant will have 5 minutes for rebuttal, if requested.
7. I will then close the appeal hearing, and, after any advice from Legal Counsel or City staff, the Council will deliberate to a decision.

2. ABSTENTIONS, CONFLICTS, EX PARTE CONTACTS

This is the time for any members of the Council to declare any conflict of interest or bias and to report any ex parte contact on this matter. If you declare a bias, conflict or ex parte contact, you may still participate in the hearing provided your conflict or bias is not so material or deeply held that you cannot make a decision based on the law because of that conflict, bias, or prior contract. If, however, you feel you cannot make a decision based solely on the applicable approval criteria and the facts and evidence in the record, you may choose to abstain by stating that it is your choice and stepping down from your chair. However, if your presence is required for a quorum, you should stay but not participate or vote. Do any members of the Council wish to declare a personal bias or conflict of interest or report any ex parte contact on this matter?

IF contacts are reported, consider the following:

- a. **Ex-parte Communications:** *If a member has had ex parte communications, the substance of the contact must be disclosed. The presiding officer should question the member if the disclosure of the written or oral communication is not complete. If the presiding officer fails to do so, a member may request a more full disclosure (point of order). Legal counsel will also monitor the disclosure.*
- b. **Conflict of Interest:** *If a member has an actual or potential Conflict of Interest, the member must both announce the conflict and explain the nature of the conflict. If the Conflict is only a potential conflict the member may participate and vote after making an affirmative statement of impartiality (see below). If the Conflict is an actual conflict, the member must then announce that the member will not be participating or voting.*
- c. **Actual personal bias, prejudgment:** *If a member is actually personally biased, (that is, the member cannot make the decision based upon applying the relevant Code standards to the evidence and argument presented), the member must announce the nature of the bias and also announce that he/she will not be participating or voting. The member should leave the hearing to avoid accusations of non-verbal communication. (See also "Challenges" below.)*
- d. *After disclosure of an ex parte contact, (or potential conflict of interest or after a challenge for bias (see below) the member should either abstain or make the following affirmative statement of impartiality:*

“I have not prejudged this application and I am not prejudiced or biased by my prior contacts or involvement; I will make this decision based solely on the application of the relevant Code standards to the facts and evidence in the record of this proceeding.”

After disclosure of any ex parte a contact or potential conflict of interest and any affirmative statement of impartiality, the presiding officer must make the following announcement:

Any person has the right to rebut the substance of the evidence or information disclosed. Please present your rebuttal evidence on the substance of any ex parte contacts, bias, or actual conflict of interest during the normal time allowed for testimony which has been established for this proceeding. Please reduce any bias, conflict of interest, and prejudgment challenges to writing with supporting evidence and provide these to the City Recorder.]

2. CHALLENGES

City Recorder, do we have any challenges to members of this hearing body for bias, prejudgment or conflict of interest?

IF a challenge is made, the challenge needs to be entered into the record and summarized by the presiding officer.

If a member is challenged for bias, the member should make the above statement of impartiality or abstain and not participate further.

3. STAFF REPORT

At this time, I call for staff to summarize the application and grounds for appeal and present staff’s recommendation. Bill and Derek...

4. APPLICANT’S PRESENTATION

Applicant **Amy Gunter** of Rogue Planning and Development Services, LLC, you will have 10 minutes to present oral testimony. At 9 minutes you will be asked to conclude your remarks. Ms. Gunter, please begin by stating your full name and mailing address for the record and proceed.

5. APPELLANT’S PRESENTATION

Now the appellants, **Dan and Claudia Van Dyke** will have 10 minutes to present your oral arguments. At 9 minutes you will be asked to conclude your remarks. Mr. & Mrs. Van Dyke, please begin by stating your full names and mailing address for the record and proceed.

6. PARTIES’ ORAL ARGUMENTS

Now each of the qualified parties who participated in the original hearing **and** submitted written arguments in advance of this hearing will have up to 3 minutes to present oral testimony summarizing their written arguments; when the 3 minutes are up, you will be asked to conclude your remarks. When it is your turn to speak, please begin by stating your name and mailing address for the record and proceed.

Qualified Parties List

- First up is **Michael Goldman**...
- And now **Sue Jaffe**...
- And finally, **Kent Patrick-Riley**...

7. REBUTTAL BY APPLICANT

If the applicant has any rebuttal to the evidence presented by those questioning or opposing the application, you

will have five minutes for your rebuttal.

8. CLOSE PUBLIC HEARING

At this time, I close the public hearing. The record is now closed.

9. ADVICE FROM LEGAL COUNSEL AND STAFF

Does the Council have any questions of Legal Counsel or Planning staff, or does the staff have any matters they wish to address?

10. COUNCIL DELIBERATION AND DECISION

How would the Council like to proceed?

GROUNDS FOR APPEAL

- 1) The Planning Commission and Planning Department failed to provide an adequate public hearing as required in AMC 18.5.1.060 and the Governor's Executive Order #20-16.
- 2) The Planning Commission erred in failing to mitigate a non-conforming development. The existing driveway is closer to the neighbor's driveway than allowed by code, and use by 12 units rather than only one will intensify the use of the non-conforming driveway without mitigation.
- 3) The Planning Commission decision fails to meet the purpose and intent of the Cottage Housing Ordinance.
- 4) The Planning Commission erred in finding that the proposed development complies with city street standards.
- 5) The Planning Commission erred in finding that the proposed development will not cause a city facility (sewer) to operate beyond its capacity.

Appeal of 210 Alicia Ave.

Grounds for Appeal

1. The Planning Commission and Planning Department failed to provide an adequate public hearing as required in AMC 18.5.1.060 and the Governor's Executive Order #20-16.
2. The Planning Commission erred in failing to mitigate a non-conforming development. The existing driveway is closer to the neighbor's driveway than allowed by code, and use by 12 units rather than only one will intensify the use of the non-conforming driveway without mitigation.
3. The Planning Commission decision fails to meet the purpose and intent of the Cottage Housing Ordinance.
4. The Planning Commission erred in finding that the proposed development complies with city street standards.
5. The Planning Commission erred in finding that the proposed development will not cause a city facility (sewer) to operate beyond its capacity.

Appeal of 210 Alicia Ave. On The Record Hearings...

- ❑ The hearing tonight is being handled "**on the record**". The Council's review is limited to the existing record, and will not consider new evidence.
- ❑ The Council is charged with determining if there were factual or procedural errors in the Planning Commission decision with regard to the five identified grounds for appeal.
- ❑ The Council will not revisit the facts to reach a new decision, but will instead be determining if there was sufficient evidence in the record to support the Planning Commission's decision on each of the five grounds.
- ❑ Oral testimony tonight is limited to staff, the applicant, the appellants, and parties to the original decision who also submitted written argument in advance of this hearing.
- ❑ The City Recorder will be administering the Zoom meeting tonight, and will be switching speakers from "**attendee**" status when they're watching to "**panelist/presenter**" when speaking, and back to "attendee" when done. Attendees can remain in the meeting and watch after they finish speaking.
- ❑ For those scheduled to speak, please be aware that when your status is switched from "attendee" to "panelist/presenter" - and vice versa - **there is a moment where it will look you're being kicked out of the meeting. If it seems like you're being kicked out of the meeting, give it a moment for your status to change.**

210 Alicia Avenue Appeal

CITY OF
ASHLAND

Cottage Housing Proposal

City Council Appeal Hearing

August 18, 2020



Cottages at 210 Alicia Av.

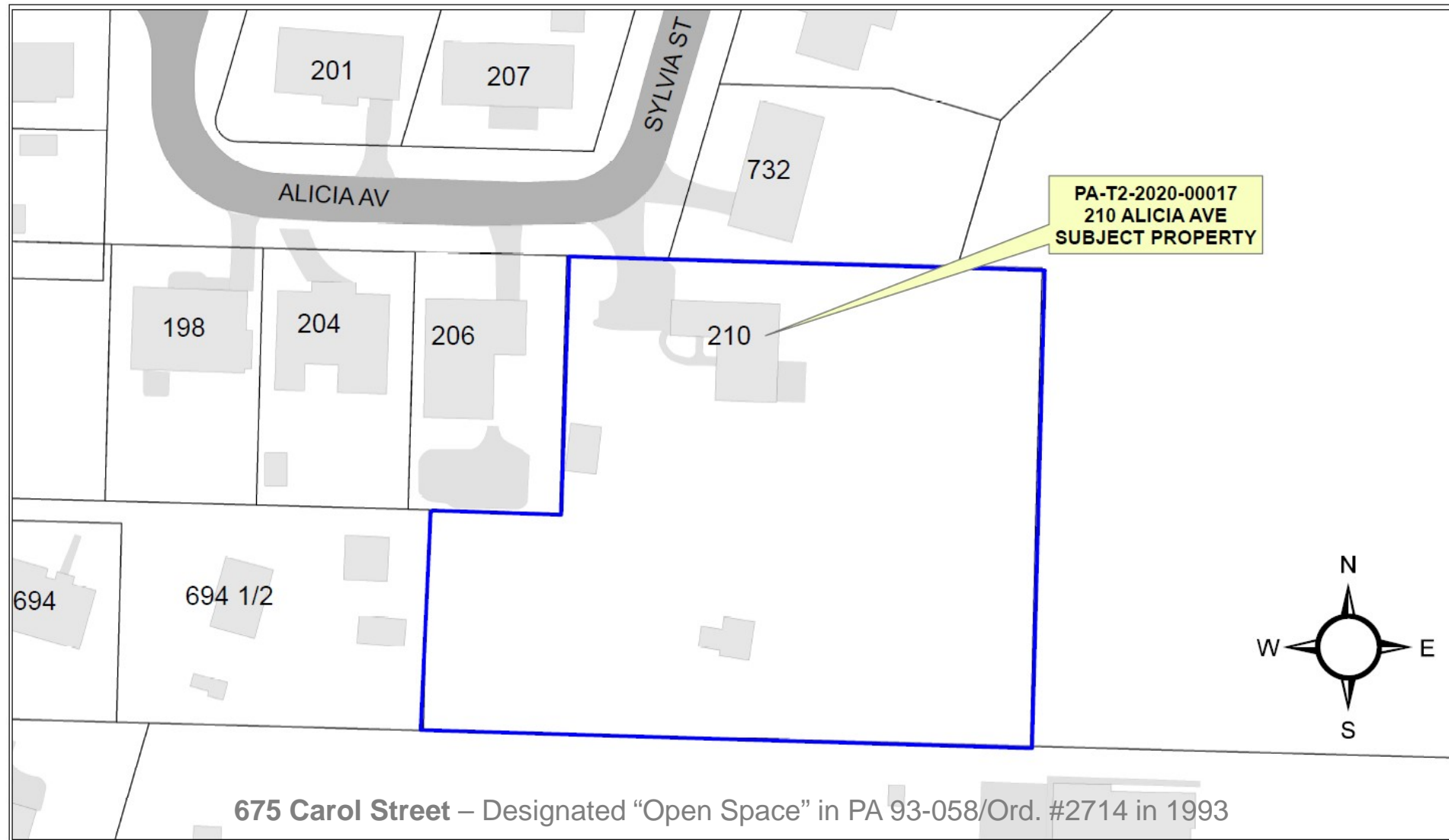
Proposal

- Site Design Review approval for a 12-unit Cottage Housing Development.**
- Performance Standards Subdivision Outline Plan approval for a 13-lot subdivision.**
- Tree Removal Permit to remove two trees: a 36-inch willow and a 2—inch Plum.**
- Demolition of the existing home and two accessory buildings will be reviewed by the Building Official at a later date.



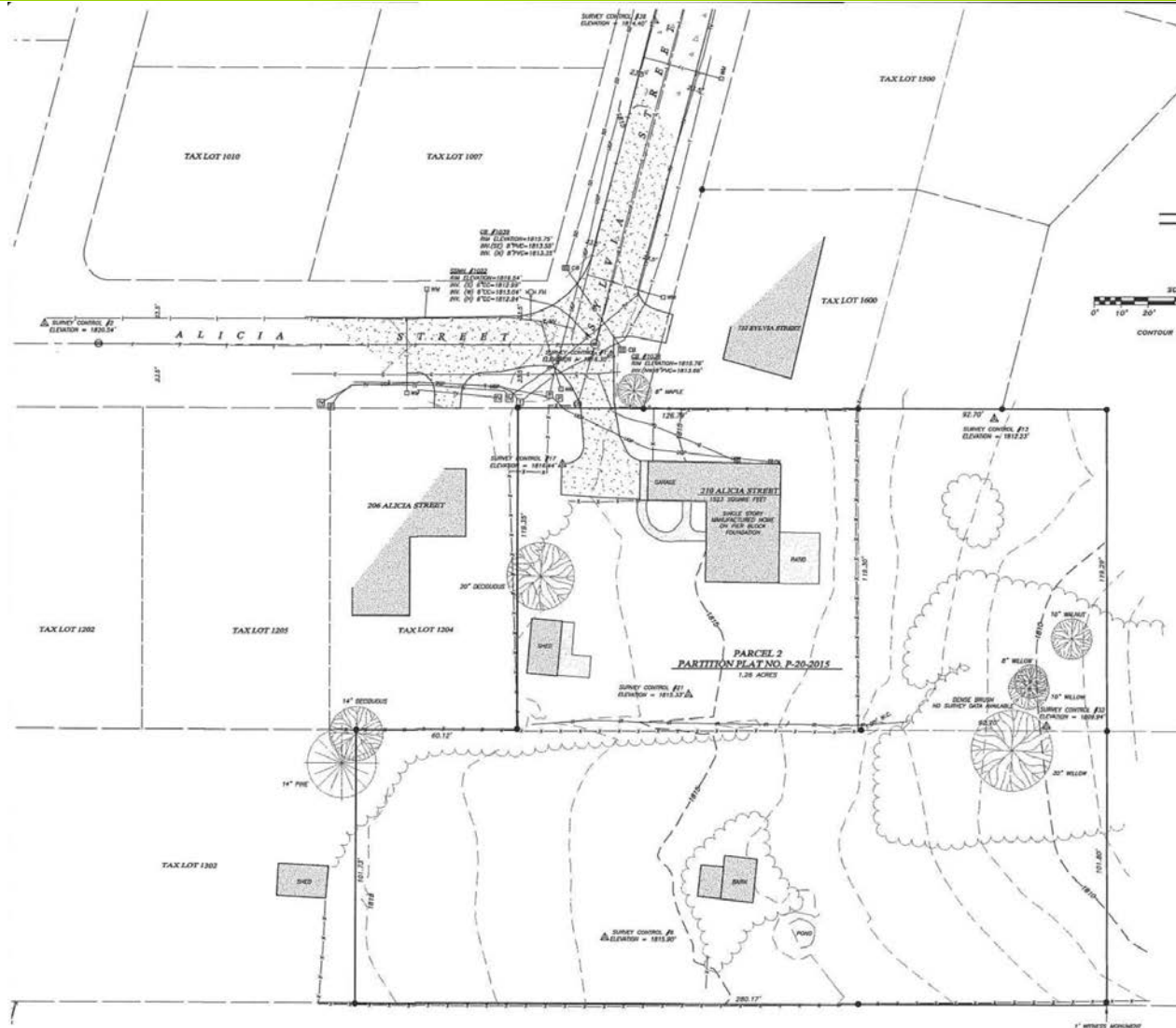
Cottages at 210 Alicia Av.

Vicinity Map



Cottages at 210 Alicia Av.

Cottage Housing - Survey



Cottages at 210 Alicia Av.

Existing Driveway Separation

CITY OF
ASHLAND



Cottages at 210 Alicia Av.

Outline Plan – 13-lot P.S.O. Subdivision



18" W x 8" D 3" SHEDS AT REAR FOR WATER HEATER, BICYCLE AND MISC STORAGE

RECREATIONAL SPACE EXCEEDS 200 SQ. FT. ON ALL UNITS

COLOR KEY:		
800 SQ FT DETACHED HOME	800 SQ FT DUPLEX	800 SQ FT DETACHED HOME
PRIVATE YARD	LANDSCAPE AREA	OPEN SPACE
ASPHALT	WALKWAY (CONCRETE)	WALKWAY (OTHER)

675 CAROL ST

Cottages at 210 Alicia Av.

Outline Plan – Parking

AMC 18.4.3.040 Parking Ratios Cottage Housing

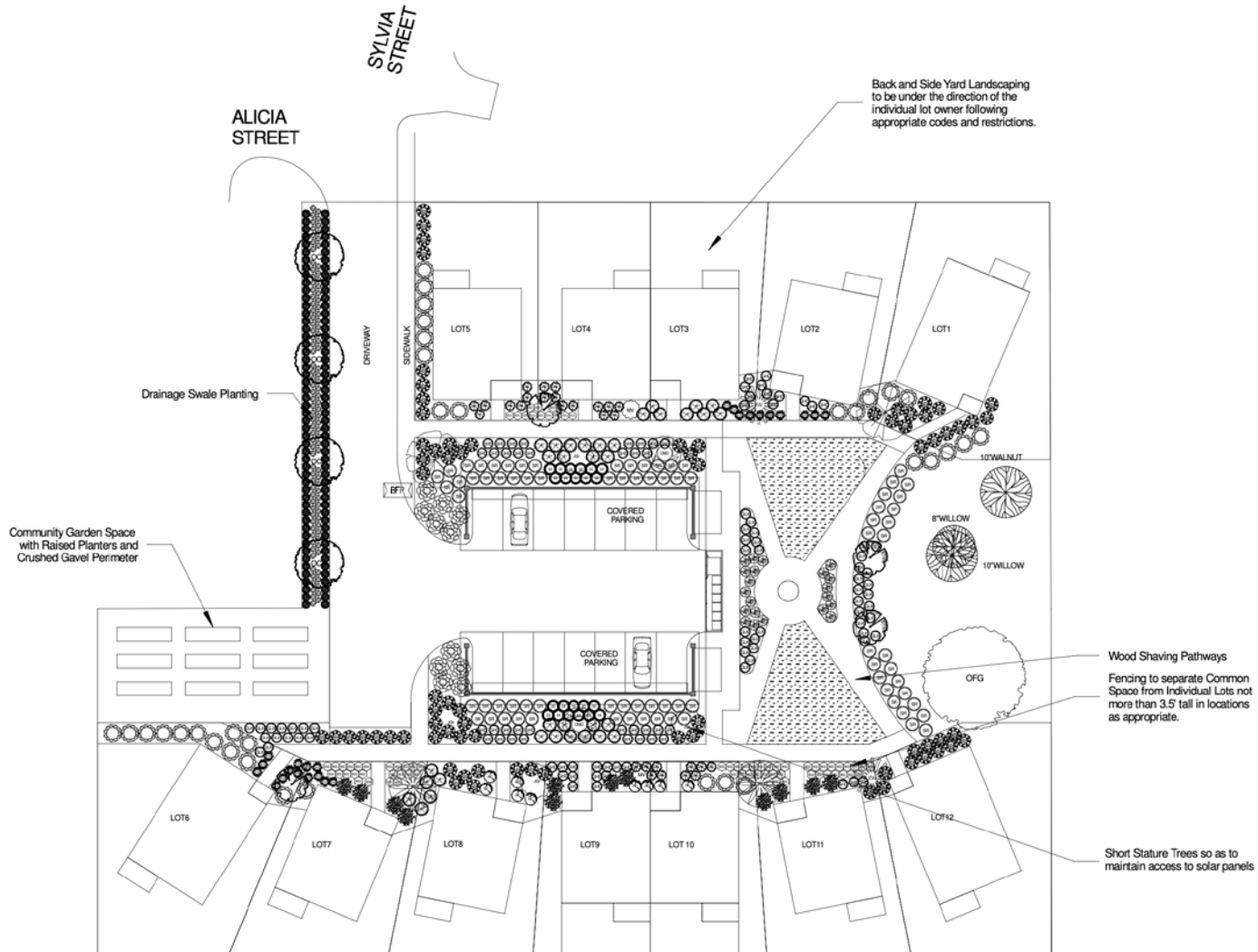
- a. Units less than 800 sq. ft. – 1 space/unit.
(9 proposed)
- b. Units greater than 800 sq. ft. and less than 1,000 sq. ft. – 1.5 spaces/unit.
(3 proposed)
- b. Units greater than 1,000 sq. ft. – 2.00 spaces/unit.
- c. Retirement complexes for seniors 55 years or greater – 1 space per unit.

[(9 x 1) + (3 x 1.5) = 13.5] 14 proposed



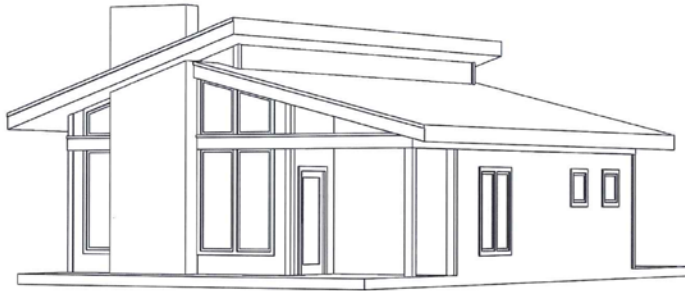
Cottages at 210 Alicia Av.

Cottage Housing – Landscape Plan

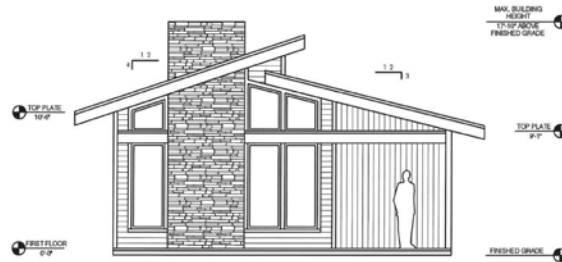


Cottages at 210 Alicia Av. CITY OF ASHLAND

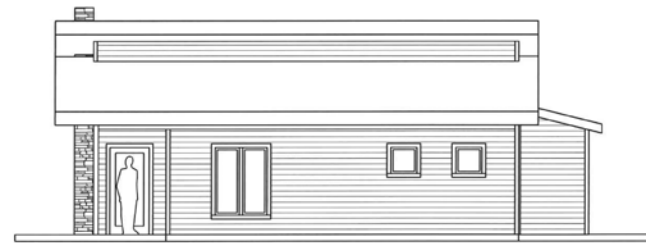
Outline Plan – Five 800 s.f. Small Cottages



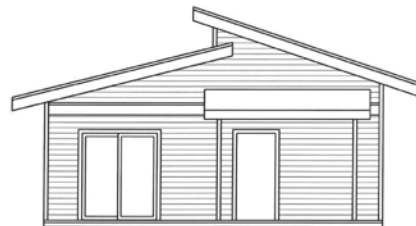
1 Floor Plan
Scale: 1/4"=1'-0"



2 Front Elevation
Scale: 1/4"=1'-0"



3 Right Elevation
Scale: 1/4"=1'-0"



4 Rear Elevation
Scale: 1/4"=1'-0"

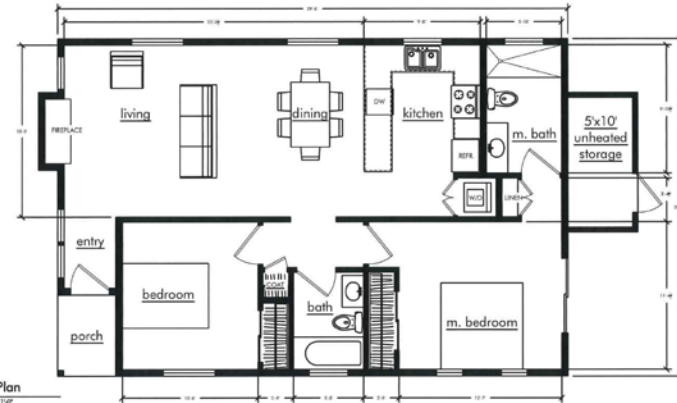


5 Left Elevation
Scale: 1/4"=1'-0"

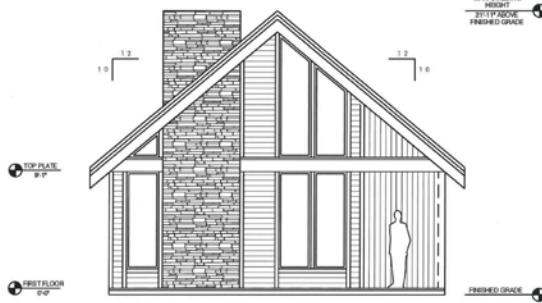
RECEIVED
MAR 06 2020
City of Ashland

Cottages at 210 Alicia Av.

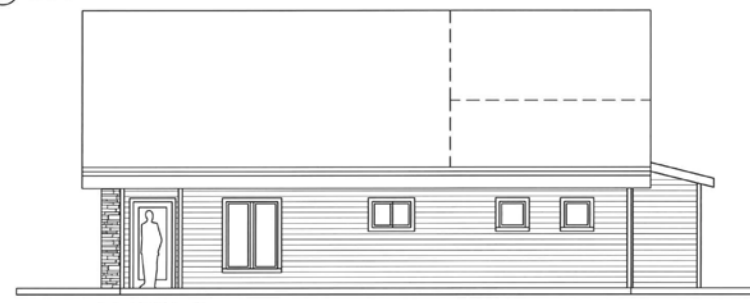
Outline Plan – Three 999 s.f. Cottages



1 Floor Plan
Scale: 1/4"=1'-0"



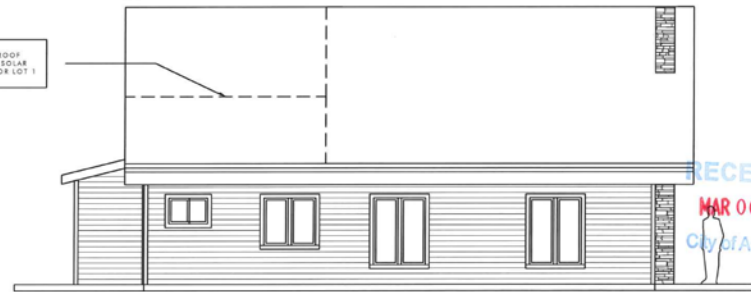
2 Front Elevation
Scale: 1/4"=1'-0"



3 Right Elevation
Scale: 1/4"=1'-0"



4 Rear Elevation
Scale: 1/4"=1'-0"

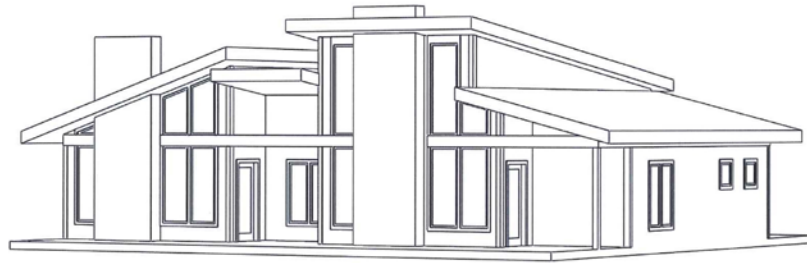


5 Left Elevation
Scale: 1/4"=1'-0"

RECEIVED
MAR 06 2020
City of Ashland

Cottages at 210 Alicia Av. CITY OF ASHLAND

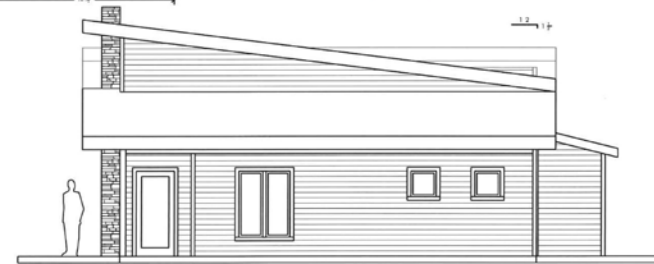
Outline Plan – Two Duplexes (2 x 800 s.f.)



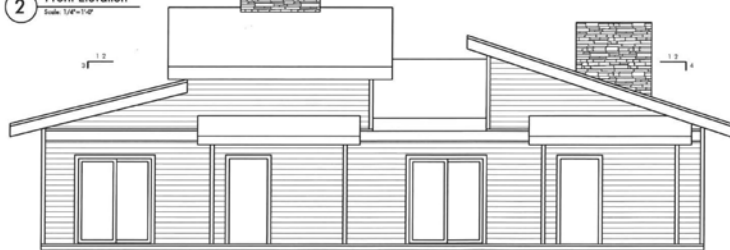
1 Floor Plan
Scale: 1/4"=1'-0"



2 Front Elevation
Scale: 1/4"=1'-0"



3 Right Elevation
Scale: 1/4"=1'-0"



4 Rear Elevation
Scale: 1/4"=1'-0"

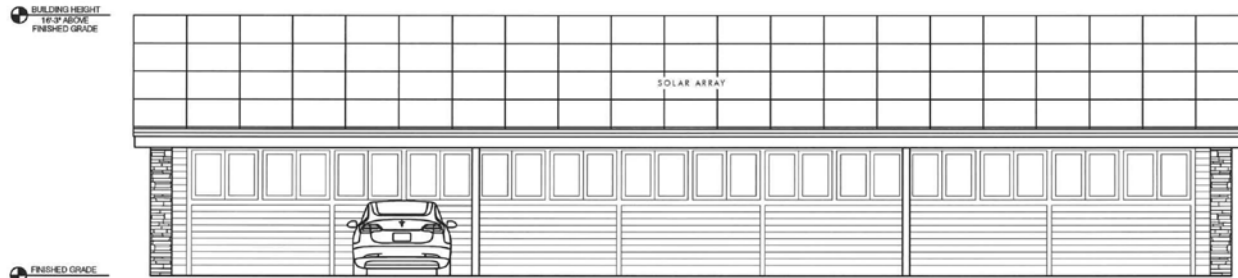


5 Left Elevation
Scale: 1/4"=1'-0"

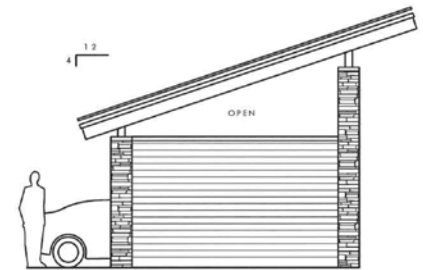
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City of Ashl

Cottages at 210 Alicia Av.

Outline Plan – Carport Structure



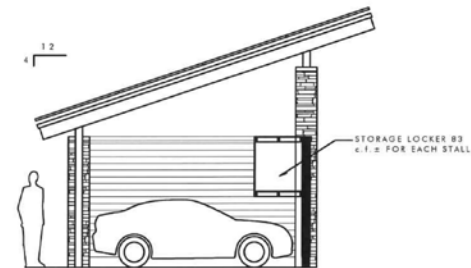
1 Front Elevation
Scale: 1/4"=1'-0"



2 Side Elevation
Scale: 1/4"=1'-0"



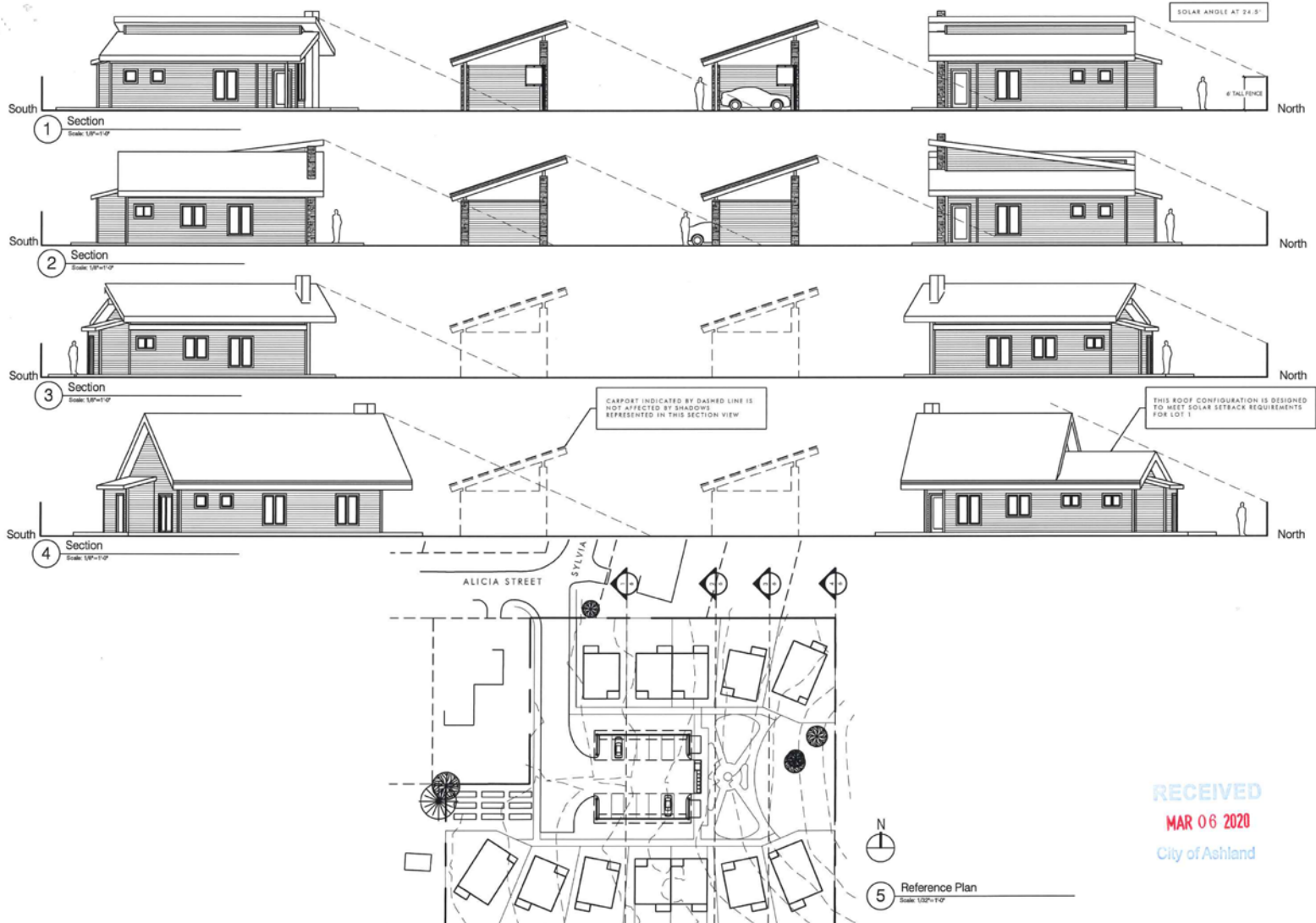
3 Rear Elevation
Scale: 1/4"=1'-0"



4 Section
Scale: 1/4"=1'-0"

Cottages at 210 Alicia Av.

Outline Plan – Solar Compliance



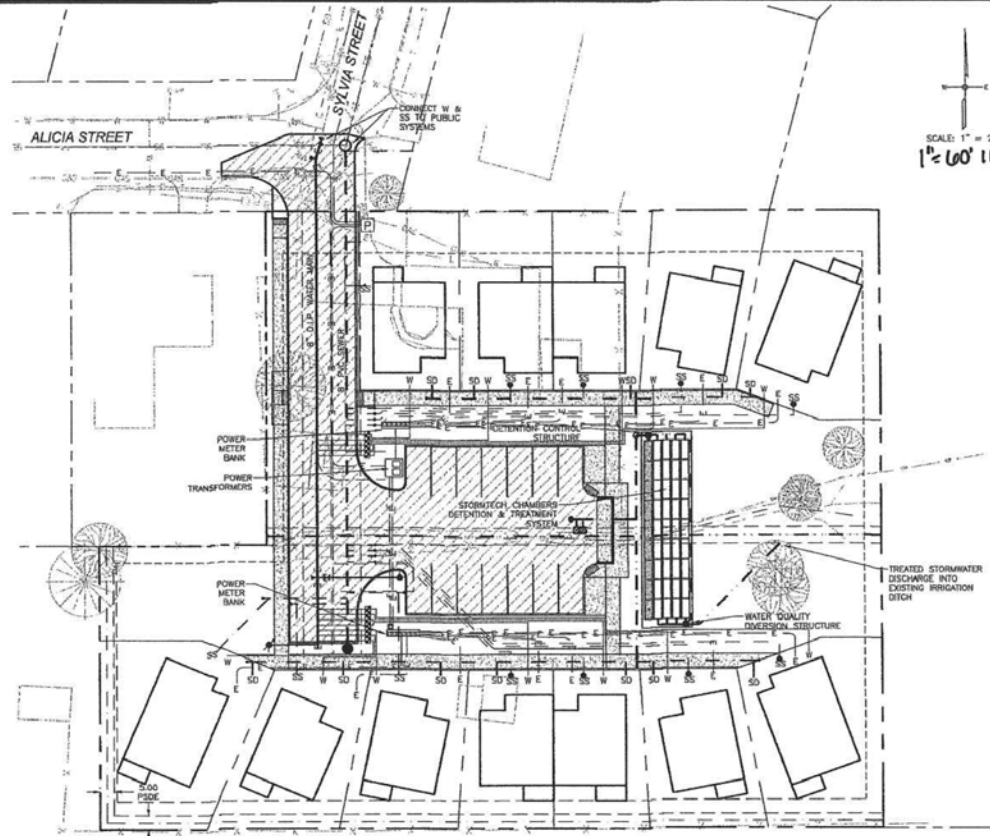
RECEIVED
MAR 06 2020
City of Ashland

Cottages at 210 Alicia Av.

Outline Plan – Utility Plan

LEGEND

	PROPOSED STORM DRAIN LINE
	PROPOSED SANITARY SEWER LINE
	PROPOSED WATER LINE
	PROPOSED FUE OR EDGEMENT
	PROPOSED STREET CENTERLINE
	PROPOSED PROPERTY LINE
	PROPOSED PROJECT BOUNDARY
	NEW ASPHALT PAVING
	PROPOSED CONCRETE SURFACE
	WETLAND DELINEATION
	PROPOSED SEWER MANHOLE
	PROPOSED STORM DRAIN MANHOLE
	PROPOSED CLEANOUT
	PROPOSED CURB INLET
	PROPOSED WATER METER
	PROPOSED FIRE HYDRANT
	PROPOSED GATE VALVE
	PROPOSED AIR RELEASE VALVE
	PROPOSED THRUST BLOCK
	PROPOSED WATER FITTINGS
	EXISTING WATER LINE
	EXISTING STORM DRAIN LINE
	EXISTING SANITARY SEWER LINE
	EXISTING FENCE LINE
	EXISTING GAS LINE
	EXISTING OVERHEAD POWER LINE
	EXISTING BURIED ELECTRIC LINE
	EXISTING PHONE LINE
	EXISTING STREET LIGHT
	EXISTING WATER METER
	EXISTING CURB W/LET
	EXISTING STORM DRAIN MANHOLE
	EXISTING POWER POLE
	EXISTING SIGN
	EXISTING DECIDUOUS TREE
	EXISTING TRANSFORMER
	EXISTING HYDRANT
	EXISTING VALVE
	EXISTING SEWER MANHOLE
	EXISTING PHONE PEDESTAL
	EXISTING MAILBOX
	EXISTING CONIFER TREE



MASTER UTILITY PLAN



KAS
KAS ENGINEERING, INC.
CIVIL & STRUCTURAL PLANNING
1000 S. ALICIA STREET
ASHLAND, OREGON 97520
TEL: (541) 427-2887
FAX: (541) 427-2887
WWW.KASINC.COM

DAVID SCOTT CONSTRUCTION
CONSTRUCTION DEVELOPMENT
COTTAGE DEVELOPMENT
210 ALICIA STREET
ASHLAND, OREGON 97520

MASTER UTILITY PLAN (PLANNING)

NO.	REVISION	DATE	BY
DESIGNED AS CONSTRUCTED BY			
CITY OF ASHLAND			
COTTAGE DEVELOPMENT			
210 ALICIA STREET			
DRAWN BY	ALL	DATE	2-3-20
CHECKED BY	SP	DATE	3-4-20
DESIGNED BY	DAVID SCOTT	DATE	
CHECKED BY		DATE	
DESIGNED BY		DATE	
SHEET NO.			2

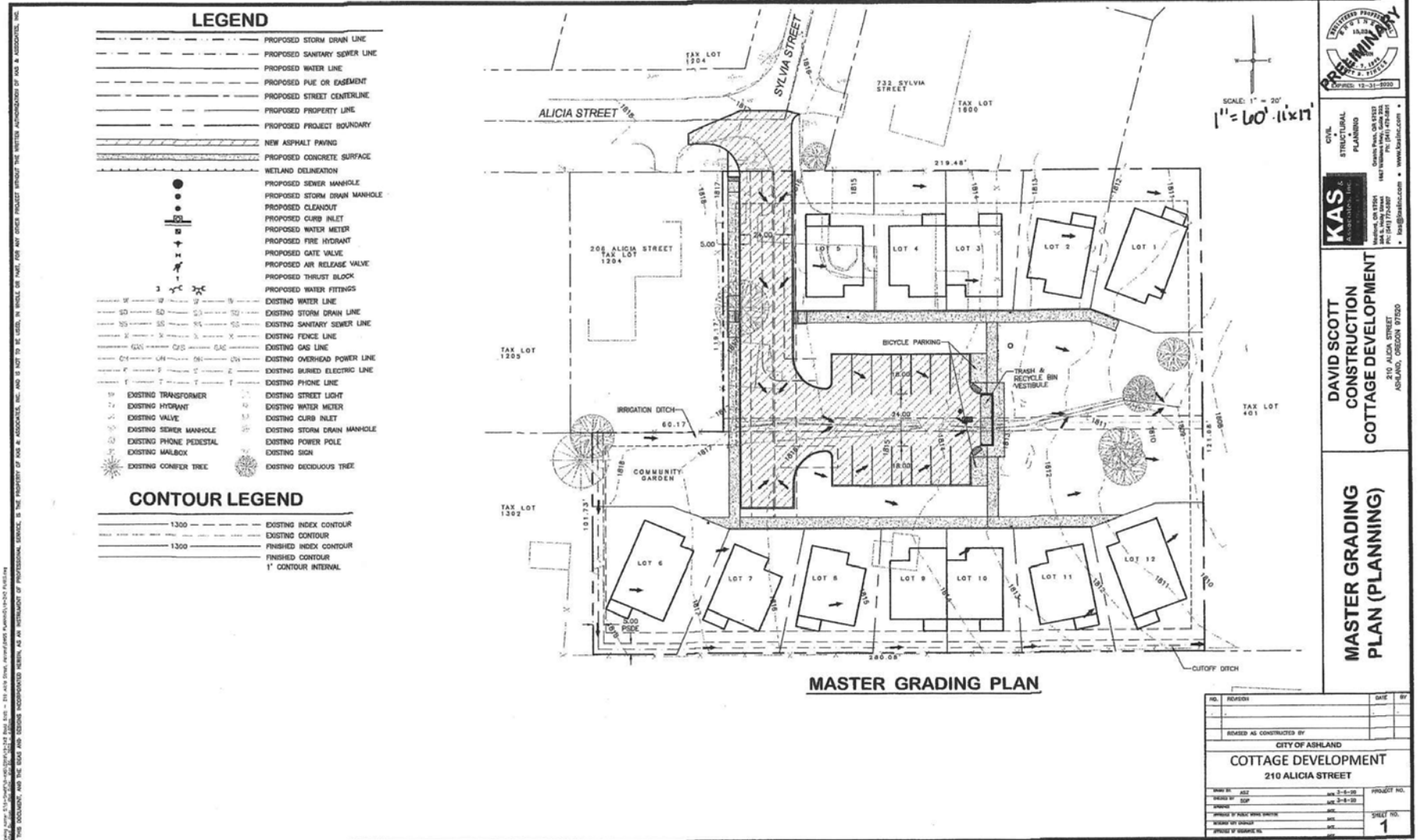
Cottages at 210 Alicia Av. CITY OF ASHLAND

Outline Plan – Sewer Capacity

- Public Works/Engineering not aware of any issues in the neighborhood.
- Public Works/Engineering does not believe that this development will be putting enough new flow into the system to negatively impact downstream capacity.
- Sewer Department's Wastewater Collection Supervisor has indicated that they are fine with the proposal as the development will be draining to the trunk-line east of Sylvania so it will not impact Oak Street until a point north of Nevada Street in a section going to the WWTP that does not have known issues at this time. Lines are very flat in the Alicia/Sylvania neighborhood and there should be no major problems as long as nobody flushes wipes.

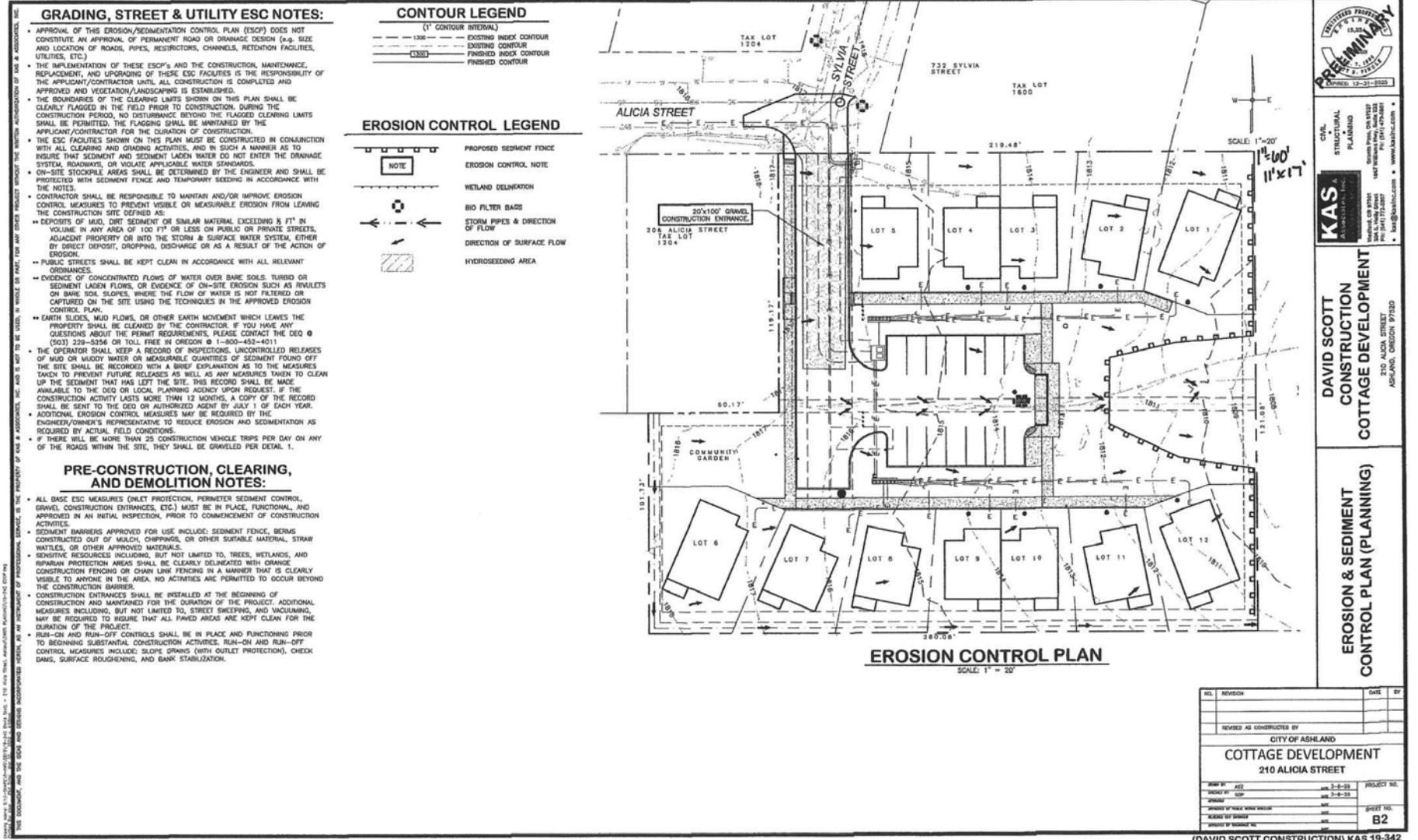
Cottages at 210 Alicia Av.

Outline Plan – Grading Plan



Cottages at 210 Alicia Av.

Outline Plan – Erosion Control Plan



KAS
 CIVIL STRUCTURAL PLANNING
 1010 ALICIA STREET, SUITE 100
 ASHLAND, OREGON 97102
 PHONE: (541) 733-3787
 FAX: (541) 733-3787
 WWW.KASSTRUCTURAL.COM

DAVID SCOTT
 CONSTRUCTION
 COTTAGE DEVELOPMENT

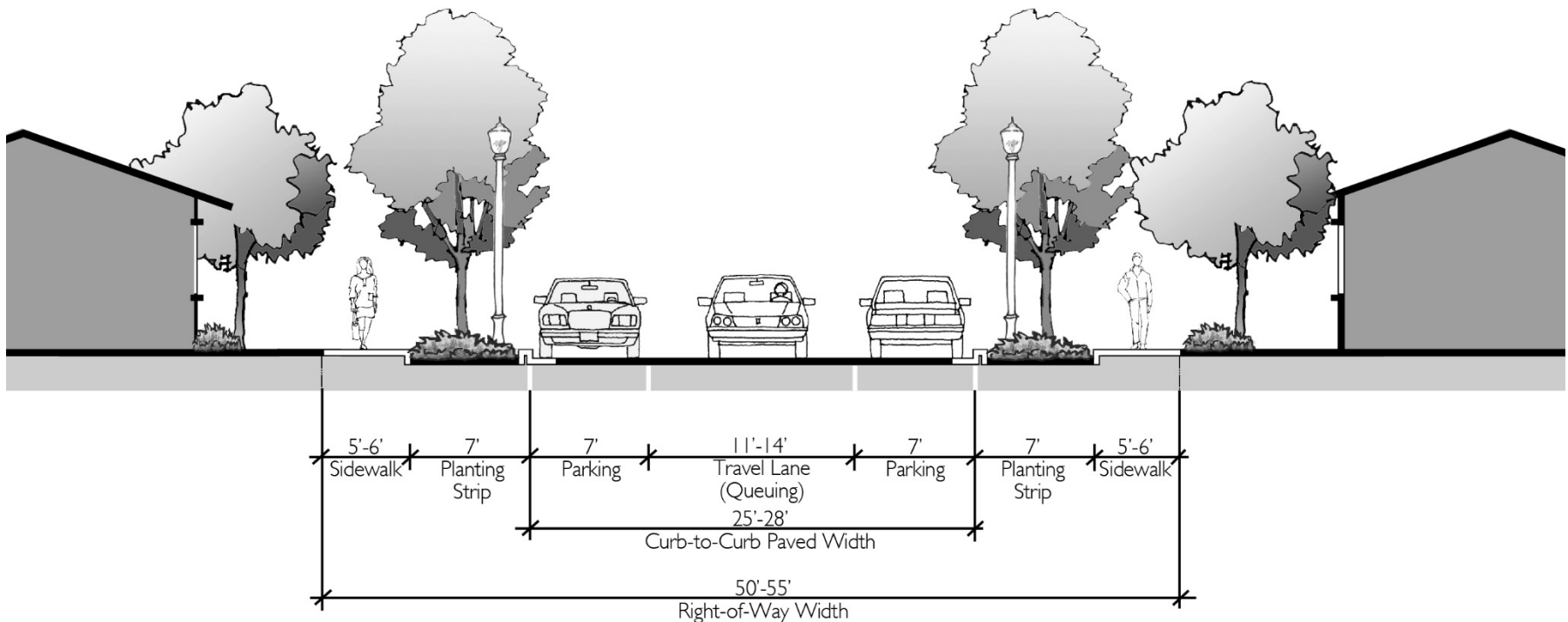
**EROSION & SEDIMENT
 CONTROL PLAN (PLANNING)**

NO.	REVISION	DATE	BY
REVISED AS CONSTRUCTED BY			
CITY OF ASHLAND			
COTTAGE DEVELOPMENT			
210 ALICIA STREET			
DESIGNED BY	JEFF	JAN 3-6-09	PROJECT NO.
DRAWN BY		JAN 3-6-09	
CHECKED BY			
APPROVED BY			
DATE			
SHEET NO.			B2

Cottages at 210 Alicia Av.

Residential Neighborhood Streets

Prototypical Section: Residential Neighborhood Street, Parallel Parking Both Sides



Alicia Width: Approx. 20' paved within 47-foot right-of-way
(no gutters, curbs, parkrows, sidewalks)

Cottages at 210 Alicia Av.

Sylvia Street perspective

CITY OF
ASHLAND



Cottages at 210 Alicia Av.

CITY OF
ASHLAND

Alicia Avenue perspective





Cottages at 210 Alicia Av.

Outline Plan – Fire Marshal’s 5/11 e-mail comments

RE: Cottage Development at 210 Alicia Avenue

Ralph Sartain <ralph.sartain@ashland.or.us>
Mon 2020-05-11 08:53 AM

To: Derek Severson <derek.severson@ashland.or.us>
Good Morning Derek,

Thank you for the email, I have reviewed this area for the questions you are asking. While personally I think a lot of the streets in Ashland are too narrow and we should have a whole lot more one-way streets, there isn't anything I am seeing which would preclude this development from occurring.

I have not seen the plan, so I am not sure how many units or how large of a project this is. Having said that, they would be required to provide adequate access as well as hydrant placements as well as they may be subject to sprinklering the units that can not meet our requirements similar to the other projects.

In the event of an evacuation order from this area they have two current means to access Oak St and at some point, I am sure with the infill in this city they will be able to access Carol and Cinton streets.

Please let me know if you need anything else.

Regards,

Ralph

Ralph Sartain, MO, IAAI-CFI, NAFI-CFEI
Division Chief Fire and Life Safety
Ashland Fire & Rescue
455 Siskiyou Boulevard
Ashland, OR 97520

ralph.sartain@ashland.or.us
Office: 541-552-2229
Cell: 541-301-8872
Fax: 541-488-5318



This email is official business of the City of Ashland, and it is subject to Oregon public records law for disclosure and retention. If you have received this message in error, please let me know. Thank you.

Appeal of 210 Alicia Ave.

Grounds for Appeal

1. The Planning Commission and Planning Department failed to provide an adequate public hearing as required in **AMC 18.5.1.060** and the **Governor's Executive Order #20-16**.
2. The Planning Commission erred in failing to mitigate a non-conforming development. The existing driveway is closer to the neighbor's driveway than allowed by code, and use by 12 units rather than only one will intensify the use of the non-conforming driveway without mitigation.
3. The Planning Commission decision fails to meet the purpose and intent of the Cottage Housing Ordinance.
4. The Planning Commission erred in finding that the proposed development complies with city street standards.
5. The Planning Commission erred in finding that the proposed development will not cause a city facility (sewer) to operate beyond its capacity.

Appeal of 210 Alicia Ave.

1st Ground for Appeal

1. The Planning Commission and Planning Department failed to provide an adequate public hearing as required in AMC 18.5.1.060 and the Governor's Executive Order #20-16.

- **AMC 18.5.1.060.D “Conduct of the Public Hearing”** requires certain announcements at the beginning of a hearing (*applicable criteria by ordinance chapter, that testimony and evidence shall concern applicable criteria, that the failure to raise and issue with sufficient detail to allow the Planning Commission to respond may preclude an appeal on that issue*); declarations of *ex parte* contact; and sets rules for presenting and receiving evidence through oral testimony, written testimony and site visits. At the conclusion of the hearing, the Planning Commission is to deliberate and make a decision based on the facts and arguments in the public record.
- **Governor's Executive Order #20-16 “Keep Government Working: Ordering Necessary Measures to Ensure Safe Public Meetings and Continued Operations by Local Government During Coronavirus (COVID-19) Outbreak”** required:
 - That public bodies hold public meetings by telephone, video, or through some other electronic or virtual means, whenever possible.
 - That the public body make available a method by which the public can listen to or virtually attend the public meeting or hearing at the time it occurs.
 - That the public body does not have to provide a physical space for the public to attend the meeting or hearing.
 - That requirements that oral public testimony be taken during hearings be suspended, and
 - That public bodies instead provide a means for submitting written testimony by e-mail or other electronic methods that the public body can consider in a timely manner.
- **Governor's Executive Order #20-16** did not alter the state's “**120-Day Rule,**” and as such by state law, applicants are still legally entitled to a final land use decision from the city within 120-days of making a complete application. Should the city process extend beyond 120-days without written consent from the applicant, they can seek remedy including approval of the application as submitted through the courts.

Appeal of 210 Alicia Ave.

1st Ground for Appeal

1. The Planning Commission and Planning Department failed to provide an adequate public hearing as required in AMC 18.5.1.060 and the Governor's Executive Order #20-16.

- During the May 12, 2020 initial public hearing, the broadcast failed after the hearing and record were closed. Commissioners briefly discussed sewer capacity, emergency egress and garbage pick-up as reflected on page 3 of 4 in the [May 12, 2020 minutes](#). As soon as Commissioners realized that the meeting was no longer being broadcast, deliberations stopped and the meeting was continued to Tuesday, June 9, 2020 at 7:00 p.m. for Planning Commission deliberations and decision.
- Because the broadcast had already failed when the continuance was announced, staff sent a new public notice announcing that the remainder of the meeting would be handled at the next available Planning Commission meeting date, which was May 26, 2020 at 7:00 p.m. rather than June 9. The notice explained that because technical difficulties had occurred at the May 12 hearing after the hearing and record were closed, this meeting would be limited to Planning Commission deliberations and decision. However, the notice text mentioned both May 26 and June 9 dates. Because of this confusion over the meeting date in the mailed public notice, at the May 26th electronic meeting Planning Commissioners simply opened the meeting and continued it to Tuesday, June 9, 2020 at 7:00 p.m.
- On June 9, the Planning Commission reconvened electronically and, after consideration of the materials received during the May 12, 2020 hearing, approved the application subject to conditions pertaining to the appropriate development of the site.

Appeal of 210 Alicia Ave.

1st Ground for Appeal

1. The Planning Commission and Planning Department failed to provide an adequate public hearing as required in AMC 18.5.1.060 and the Governor's Executive Order #20-16.

- ✓ The Planning Commission conducted the hearing by video-conference over Zoom.
- ✓ There were two methods for the public to listen or virtually attend the meeting at the time it occurred (either by watching on local television or by live-streaming over the internet).
- ✓ No physical space to attend the meeting was provided. Oral testimony was not taken, as allowed in the Governor's Order, however the public was able to provide testimony via e-mail, and timely received e-mails were provided to Commissioners in advance of the hearing.
- ✓ Required announcements were made at the beginning of the hearing along with declarations of *ex parte* contact.
- ✓ After admitting written testimony submitted via e-mail to the record, both the public hearing and the record of the hearing were closed.
- ✓ When Commissioners and staff became aware that the broadcast had ceased, they ceased discussions and the meeting was continued and re-noticed in order to remain in compliance with city code requirements and the Governor's Executive Order.

Based on the above, Staff recommends that the Council find that the hearing complied with applicable requirements of the Municipal Code and the Governor's Executive Order, deny this first appeal issue and uphold the Planning Commission's decision.

Appeal of 210 Alicia Ave.

2nd Ground for Appeal

2. **The Planning Commission erred in failing to mitigate a non-conforming development. The existing driveway is closer to the neighbor's driveway than allowed by code, and use by 12 units rather than only one will intensify the use of the non-conforming driveway without mitigation.**
 - The appellants explain that the proposal will result in an increase in vehicle use approaching 12 times more than the current use, and that this increase in use will increase the impact of the existing non-conforming driveway separation. The appellant requests either a reduction in the number of units to reduce the risk of a vehicle collision, or the placement of a traffic sign (yield sign or stop sign) in the vicinity of the current fence line.
 - **AMC 18.4.3.080.C.3 “*Intersection and Driveway Separation*”** requires, “*The distance from a street intersection to a driveway, or from a driveway to another driveway shall meet the minimum spacing requirements for the street’s classification in the Ashland Transportation System Plan (TSP) as illustrated in Figures [18.4.3.080.C.3.a](#) and Figure [18.4.3.080.C.3.b](#).*” Alicia Avenue is classified as a Residential Neighborhood Street in the TSP, and as such the required driveway separation illustrated in Figure 18.4.3.080.C.3.b “***Driveway Separation for Neighborhood Streets***” is 24 feet between driveways for two units or fewer per lot and 50 feet between driveways for three or more units per lot. The existing separation meets neither of these requirements – the driveways are essentially touching - but is not being altered in a way that increases the existing non-conformity by decreasing the physical distance between driveways (i.e. *the driveways are not getting any closer together*).

Cottages at 210 Alicia Av.

Existing Driveway Separation

CITY OF
ASHLAND



Appeal of 210 Alicia Ave.

2nd Ground for Appeal

2. **The Planning Commission erred in failing to mitigate a non-conforming development. The existing driveway is closer to the neighbor's driveway than allowed by code, and use by 12 units rather than only one will intensify the use of the non-conforming driveway without mitigation.**
 - In considering the driveway separation, the Planning Commission found “... *that the existing driveways separation between the subject property and 732 Sylvia Street to the north is non-conforming. There are [no] curbs on Alicia or Sylvia, but the two driveways are immediately adjacent to one another and there is no additional frontage to create separation. The Commission finds that the existing non-conformity will not be made more non-conforming with the proposed development here.*”

Here, the Planning Commission found that the existing driveway separation was non-conforming, that the existing non-conforming separation would not be made more non-conforming with the proposal, and that there was no additional frontage available on the applicant's property to shift the driveway and bring the separation any more into conformity with the standards. The Commission decision considered the non-conforming physical separation between the driveways and that this separation was not being made any more non-conforming with the proposal. Should the Council concur with the appellant that the intensification brought on by the additional units merits some mitigation, staff recommends that the Council require that the applicant's site plan be modified to require a stop sign at the driveway exit so that future cottage tenants will stop before entering the roadway as suggested by the appellant.

Appeal of 210 Alicia Ave.

3rd Ground for Appeal

3. The Planning Commission decision fails to meet the purpose and intent of the Cottage Housing Ordinance.

- Appellants assert the decision did not adequately address “*ensuring compatibility with established neighborhoods*” as intended in the ordinance, and they recommend one or more strategies to better address compatibility:
 - A reduction in proposed open space from 27 percent down to 20 percent to provide additional off-street parking;
 - A parking permit program to reduce parking impacts to the existing neighborhood; or
 - A re-write of the ordinance to make clear “*that cottage housing in Ashland will be done in a way that disregards compatibility with the existing neighborhood, with no modifications to minimize disturbance or maintain livability in the existing neighborhood.*”
- The Planning Commission has previously made clear, and the Council has concurred, that the purpose and intent statement of the Cottage Housing Ordinance is a statement of legislative intent and is not a specific approval criterion or development standard, but rather that the development standards delineated in the Ordinance are intended to achieve compatibility with established single family neighborhoods by **allowing a greater number of smaller units; regulating the floor area of each unit, the maximum permitted floor area ratio of the development as a whole, and building heights; minimizing the number of parking spaces, and requiring that they be consolidated on-site; and including standards for open space and stormwater management.** To that end, the Commission found that:

“... the proposal complies with the allowed development density, floor area ratio, height and lot coverage standards, with 12 cottages proposed for a 54,722 square foot parcel and a combined floor area ratio of 0.18. 75 percent of the proposed cottages are 800 square feet in gross habitable floor area, all of the cottages are proposed with roof peaks less than 25 feet from grade, exhibits have been provided to demonstrate that cottages within the development will not cast a shadow upon the roof of another cottage, and cottages along the north property line are noted as being designed to comply with Solar Setback Standard A. Lot coverage is proposed at 42 percent and is within the allowed standards for the R-1-5 zoning district (**Adopted Findings, page 16.**)”

Appeal of 210 Alicia Ave.

3rd Ground for Appeal

3. The Planning Commission decision fails to meet the purpose and intent of the Cottage Housing Ordinance.

- The Commission further found:

*“With regard to the parking requirements in AMC 18.4.3, cottage housing units less than 800 square feet require one off-street parking space be provided per unit, while units greater than 800 square feet and less than 1,000 square feet require 1½ spaces. Cottage Housing Developments are exempted from the requirement to provide on-street parking. Here, nine of the 12 units are 800 square feet while three are 999 square feet, and a total of 14 spaces are required $[(9 \times 1) + (3 \times 1.5) = 13.5]$. The Commission finds that 14 off-street parking spaces are proposed to fully satisfy the requirements for the 12 units proposed units here. Carports are considered by code to be garages, and separate bicycle parking facilities are not required where a garage is available. The Planning Commission finds that all required off-street parking has been provided on site, that on-street and bicycle parking are not required, and concludes that the third criterion has been satisfied (**Adopted Findings, page 16**).”*

In staff’s assessment, while the Planning Commission did not speak directly to the purpose and intent of the ordinance in their adopted findings, the purpose and intent statement is neither an applicable approval criterion nor a development standard, and the findings do speak directly to the development standards which were adopted to achieve the compatibility sought in the purpose and intent statement. In terms of parking, which seems to be a primary compatibility concern for the appellant, the Commission determined that the off-street parking requirements of the code were met with the proposal. With that in mind, staff recommends that the Council reject this appeal issue and uphold the Commission’s original decision.



Appeal of 210 Alicia Ave.

4th Ground for Appeal

4. The Planning Commission erred in finding that the proposed development complies with city street standards.

- Notice of Land Use Appeal asserts that traffic safety was overlooked in the loop of roadways with four right angles, and that the risk of traffic accidents will increase with the proposal.
- In considering compliance with city street standards, the Planning Commission’s findings were as follows:

*The final Outline Plan approval criterion is that, “The development complies with the Street Standards.” The subject property fronts on Alicia Avenue for a width of approximately 35 feet at the intersection with Sylvia Street. **Alicia Avenue** is a residential neighborhood street, as are nearby Sylvia Street, Oak Lawn Avenue, and Sleepy Hollow Drive which form the neighborhood’s street system off of Oak Street here. The Alicia Avenue right-of-way is 47 feet in width, and is paved to a width of approximately 20 feet. There are no sidewalks, curbs or gutters in place on either side of the street, and right-of-way beyond the pavement is largely surfaced in gravel and used both for pedestrian travel and scattered on-street parking. For residential neighborhood streets, City street standards envision five-foot sidewalks, seven-foot parkrow planting strips, a six-inch curb and seven-foot parking bays on each side, with an 11- to 14-foot queuing travel lane. The city standard cross-section includes a 25- to 28-foot curb-to-curb paved width in a 50- to 55-foot right-of-way.*

The Planning Commission notes that the existing street frontage is only 34-feet 4-inches in width, and the proposed driveway is to take up 30-feet of that width. The Commission finds that with the limited frontage taken up virtually in its entirety with required driveway improvements, there is no additional width for sidewalk installation. As such, a condition has been included below to instead require that the applicant instead sign-in favor of a Local Improvement District (LID) for the future improvement of Alicia Avenue, and of Oak Lawn Avenue which provides a connection out to Oak Street and its sidewalk system.

The Cottage Housing Development Standards (AMC 18.2.3.090.C.3.a) generally provide that except for street connections identified on the Transportation System Plan’s Street Dedication Map (Figure 10-1), the Planning Commission may reduce or waive requirement to dedicate and construct a public street according to the Street Design Standards in AMC 18.4.6.040 upon a finding that the Cottage Housing Development meets connectivity and block length standards by providing public access for pedestrians and bicyclists with an alley, shared street, or multi-use path connecting the public street to adjoining properties. The Commission finds that the existing street system within the immediate neighborhood meets the block length standards – existing block lengths are 165-175 feet where the block length standards call for a maximum length of 300-400 feet – and while not fully improved to City street design standards, functions comparably to a shared street and provides adequate connectivity through the neighborhood and out to Oak Street. City park land is located along the Bear Creek corridor to the northeast, and a path from the subject property’s driveway through the site, across a neighboring private property, to the park property would be approximately 450 feet and traverse severely constrained slopes. The park property is less than 500 feet from the driveway entrance traveling due north on Sylvia Street, and as such the Commission finds that additional right-of-way or easement dedication is not merited.

Appeal of 210 Alicia Ave.

4th Ground for Appeal

4. The Planning Commission erred in finding that the proposed development complies with city street standards.

- With regard to the adequacy of transportation facilities, the Commission findings were as follows:

Alicia Avenue is a residential neighborhood street, as are nearby Sylvia Street, Oak Lawn Avenue, and Sleepy Hollow Drive which form the street system for the neighborhood off of Oak Street here. The Alicia Avenue right-of-way is 47 feet in width, and is paved to a width of approximately 20 feet. There are no sidewalks, curbs or gutters in place on either side of the street, and right-of-way beyond the pavement is largely surfaced in gravel and accommodates pedestrian circulation and intermittent on-street parking.

*The Planning Commission finds that the driveway leading to the site's proposed parking area is proposed to be 20-feet in width with a five-foot-wide sidewalk along its east side connecting from Alicia Avenue to the internal pedestrian circulation connecting to each unit and continuing through to the proposed open space. The scale of the proposed development does not trigger a Traffic Impact Analysis or other transportation assessment. Planning staff have noted that in recently considering a similarly sized cottage housing development at 476 North Laurel Street recently, a 12-unit cottage housing development was found to generate approximately 88 average daily trips (ADT) with eight p.m. peak hour trips and six a.m. peak hour trips while the trigger point for a Traffic Impact Analysis is 50 peak hour trips. Engineering staff have indicated that while no trip counts are available for Alicia Avenue, they would estimate that the existing daily trips on the street at around 100 ADT. The Commission finds that a residential neighborhood street is assumed to be able to accommodate up to 1,500 ADT, and as such the street has adequate transportation capacity to serve the 12 proposed small homes (**Adopted Findings, Pages 10-11**).*

In staff's assessment, the Planning Commission clearly found that while the street was not fully improved to city street design standards, the existing improvements functioned comparably to a shared street and provided adequate connectivity through the neighborhood and out to Oak Street. The Commission further found that with the subject property's limited frontage taken up virtually in its entirety with required driveway improvements, there was no additional width for sidewalk installation along the minimal remaining frontage. The Commission recognized that the Cottage Housing ordinance provided them with the authority to reduce or waive street dedication and improvement requirements where connectivity and block length standards were met, and they determined that these standards were satisfied here. As such, a condition was included to instead require that the applicant sign-in favor of a Local Improvement District (LID) for the future improvement of Alicia Avenue, and of Oak Lawn Avenue which provides a connection out to Oak Street and its sidewalk system. The Commission further found that while the scale of the development did not trigger a Traffic Impact Analysis, the surrounding street system had sufficient capacity available to accommodate the likely new trips from 12 small homes. On that basis, staff recommends that the Council reject this fourth appeal issue and uphold the Planning Commission's original decision with regard to street standards and traffic safety.



Appeal of 210 Alicia Ave.

5th Ground for Appeal

The Planning Commission erred in finding that the proposed development will not cause a city facility (sewer) to operate beyond its capacity.

- ❑ Appellants explain that comments from the Public Works Department with regard to sewer capacity were “*far from certain.*” E-mail communications referenced in the appeal note that, “... should not cause the system to operate beyond its capacity...” and “*Public Works staff do not believe that this development will be putting enough new flow into the system to negatively impact downstream capacity.*” The appellants further note that, “*Ashland has a poor record of protecting its citizens from damage associated with the sewer system. There appears to be a possibility that sewer problems will develop due to this city action. Neighbors cannot be made to pay for damage or repairs.*”
- ❑ The Planning Commission findings with regard to sanitary sewer capacity were as follows:

The application explains, and Public Works has confirmed, that there is a six-inch sanitary sewer line within the right-of-way for Alicia Street and Sylvia Street. The applicant further notes that in discussions with the sanitary sewer department, there are no reported capacity issues in the vicinity. The application concludes that the 12 proposed small, water-efficient units should not cause the system to operate beyond its current capacity. Public Works staff have indicated they do not believe that this development will be putting enough new flow into the system to negatively impact downstream capacity, that lines are very flat in this neighborhood, and they see no issues for sanitary sewer capacity, noting that the development drains into a sewer trunk line east of Sylvia Street, and on into the Oak Street line north of Nevada Street where there are no known capacity issues (Adopted Findings, Page 9-10).

- ❑ The Planning Commission relied on information from the applicant and from Public Work’s staff to determine that there was a flat, six-inch sewer line available in the adjacent rights-of-way with no reported capacity issues in the vicinity; that 12 small, water-efficient units should not pose a capacity issue as Public Works indicated the development would not create enough new flow to negatively impact downstream capacity; and that the development would drain to a trunk line east of Sylvia Street and then into the Oak Street line north of Nevada where there are no known capacity issues. In staff’s assessment there was ample evidence in the record to support the Commission decision and staff recommends that the Commission reject this fifth appeal issue and uphold the Commission’s decision with regard to sewer capacity.

Appeal of 210 Alicia Ave.

Staff Recommendation

With the above in mind, staff recommends that the Council reject each of the five grounds for appeal, uphold the Planning Commission decision, approve the project and direct staff to prepare written findings for adoption on September 1st.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

- ❑ I move to affirm the decision of the Planning Commission, reject the appeal and direct staff to prepare written findings for approval reflecting the original Planning Commission decision from July 14, 2020 for adoption by Council.
- ❑ I move to reverse the decision of the Planning Commission and support the written appeal, and direct staff to prepare written findings for adoption by Council (*include specific direction as to where the original decision was found to be in error relative to the five identified appeal issues*).
- ❑ I move to modify the decision of the Planning Commission and direct staff to prepare written findings for adoption by Council (*include specific direction to staff as to the modifications to the Planning Commission decision being made*).
- ❑ I move to send the decision back to the Planning Commission with the following instructions for further proceedings, with the understanding that subsequent actions by the Planning Commission will be the final decision of the City (*include specific instructions relating to further proceedings*). **[Please note that this as a quasi-judicial land use application, this project is subject to the '120-Day Rule' under Oregon land use law, and a final decision of the City is required by September 1, 2020 with findings to be adopted within 14-days thereafter, and as such remanding the decision back to the Planning Commission would only be an option if an extension were agreed to by the applicant.]**

210 Alicia Avenue Appeal

CITY OF
ASHLAND

Cottage Housing Proposal

City Council Appeal Hearing

August 18, 2020



May 21, 2020

Petition of Objection to..... City of Ashland, Planning Commission

Regarding..... proposed **"Cottage Housing"** development at 210 Alicia Street

We the undersigned neighbors in direct vicinity to **210 Alicia Street** hereby attest to our **objection and dissatisfaction** with the proceedings and permit process with respect to the proposed 12-unit small housing development on the 1-acre property located at 210 Alicia.

The proposed project does not meet the very first principle of the city's own ordinance regarding **"Cottage Housing"** in that this project is not **"compatible"** with our existing neighborhood.* This neighborhood consists of 1970's era-built houses, each on their own approximate ¼ acre, on small winding streets with no curbs or sidewalks. Therefore creating a very "country style" neighborhood, not one conducive to a modern small house tract.

Furthermore, we protest the "continuation" of the previous "electronic" Planning Commission meeting which had numerous audio malfunctions and then a **complete black-out** for all of us who were watching it live. We therefore hereby request that a fresh, new start of the **permit procedures be postponed** until such time that a normal, **"in-person"** planning commission meeting can take place, and each of our serious concerns about this project may be heard and evaluated.

- **18.2.3.090**
A. Purpose and Intent... "to encourage innovative site planning and variety in housing while ensuring compatibility with established neighborhoods..."

Neighbors Agreed to the statements shown above:

Name	Address
<u>Betsy Krausnick</u>	<u>204 Alicia St.</u>
<u>Cheryl</u>	<u>204 Alicia St.</u>
<u>Sue A. Jffe</u>	<u>206 Alicia St.</u>
<u>Dalvin</u>	<u>732 Sylvia</u>
<u>C. Van Dyke</u>	<u>732 Sylvia</u>
<u>Michael Goldman</u>	<u>198 Alicia</u>

Name

Address

Kent Patrick Riley

675 Carol St, Ashland O

Andrew Bayless

201 Oak Lawn Ashland

Andrew Bayless

201 Oaklawn Ave, Ashland

Julie Billis

200 Alicia 97520

CHRISTOPHER WAY

201 Alicia 97520

Marty Morlan

766 Sylvia St

Peggy Callaghan

770 Sylvia St 97520

Hank Kears

210 OAKLAWN AVE

210 OAKLAWN AVE

Brady

202 OAKLAWN

Alex Censor

185 OAKLAWN AVE.

Marcia Censor

185 Oaklawn ave

Bruce Borgerson

198 Alicia St

Bruce Borgerson

209 Sleepy Hollow St.

Written testimony to allow potential oral testimony at a city council hearing.

Appeal of planning commission decision regarding PA-T2-2020-00017, 210 Alicia

Dan and Claudia Van Dyke

732 Sylvia Street

Ashland OR 97520

danandclaudiavandyke@gmail.com

541-552-9113

AMC 18.5.1.060; Executive order #20-16
Failure to provide adequate public hearing

According to the city's own summary of Executive Order #20-16: "The Governor's order required that public bodies...make available a method by which the public can listen to or virtually attend the public meeting at the time it occurs (emphasis added)".

What was done did not allow the public to listen to or virtually attend the meeting at the time it occurred.

The transmission ended right at the point where the planning commission would consider and review public comments. The video may be fine now for the council, but the citizens heard and saw nothing.

Citizens who provided public comment per the city process were given the impression that this discussion would take place on the next meeting of the commission. Instead what these citizens heard at the next meeting was the following:

- It was only five minutes that you missed
- We covered three topics
- Everything is fine; just trust us

The public concern created by this perfunctory process at the second meeting was compounded by the fact the 12 houses were mapped on a city website in May, prior to the planning commission meeting. Collectively the impression given is that planning decisions are made behind the scenes, and that public process is done solely as a formality.

We request that the planning action should be sent back to the planning commission.

AMC 18.1.4.040
Failure to mitigate nonconforming development

The Commission found that the nonconforming driveway separation between 210 Alicia and 732 Sylvia will not be made "more non-conforming" by the proposed development.

The collective impact of the development at 210 Alicia includes an increase in vehicle use approaching 12 times more than current use—the driveway serves one home now, and after being turned into a roadway for the development will serve 12 houses plus guests.

By definition the increase in use will increase the impact of this non-conformity.

We request either a reduction in the number of units to reduce risk of a vehicle collision, or the placement of a traffic sign (yield sign or stop sign) in the vicinity of the current fence line.

AMC 18.2.3.090

Failure to meet the intent of the cottage housing ordinance

This point is the most applicable point we would like to get across to the city council.

When you approved the cottage housing ordinance, you in effect promised the citizens that you would not pursue infill through extra high density housing without some compromise.

- From the Ashland Cottage Housing Ordinance: A. Purpose and Intent. The purpose and intent of this chapter is to encourage innovative site planning and variety in housing while ensuring compatibility with established neighborhoods...

We are not aware of any effort to ensure compatibility with the established neighborhood in the review of this planning action, or any change coming about during the review.

Some specific recommendations have been made to reduce the impacts of this proposed development action, but nothing has even been seriously considered. A palpable brick wall of process is in place to prevent any consideration of modification to ensure compatibility, with the convenient excuse that this should have been considered when the ordinance was adopted.

We have reiterated some specific recommendations to reduce impacts:

- The open space for this development be reduced from 27% down closer to 20%, and the space be used to provide additional parking to reduce impacts on the existing neighborhood.
- The city adopt a permit parking program to reduce impacts on the exiting neighborhood.

If the city continues to refuse any and all modifications to ensure that cottage housing is compatible with existing neighborhoods, the city **MUST** rewrite the cottage housing ordinance to clearly state council intent—that cottage housing in Ashland will be done in a way that disregards compatibility with the existing neighborhood, with no modifications to minimize disturbance or maintain livability in the existing neighborhood.

And please do not have a public process where feedback and recommendations are not wanted.

Our final two points:

- AMC 18.3.9.040.
 - The risk of traffic accidents on our road will increase dramatically if this development is approved as proposed. You would not know that unless you

have made one of our right angle turns while another vehicle is coming from the opposite direction.

- The Commission found that the development complies with street standards. We think that traffic safety is being overlooked in our loop roadways with 4 right angles
- AMC 18.3.9.040
 - We urge council to note the comments regarding the sewer line in the packet from public works staff.
 - Sewer system should not cause the system to operate beyond its capacity
 - Public works staff do not believe that this development will be putting enough new flow into the system to negatively impact downstream capacity.
 - We are not engineers, but it seems logical to us that something as basic as sewage flow should be clear cut. Either the pipes are big enough to handle the additional flow, or they are not.
 - We want to make sure council knows that you cannot force the existing neighbors to pay for a fix caused by this development.

To: City of Ashland Planning City Council
From: Kent and Patrick-Riley
675 Carol St. Ashland, Oregon 97520
kentpr675@gmail.com

Date: August 10, 2020

Re: Planning Action PA-T2-2020-00017, 210 Alicia St

This letter supports denial of a permit for a proposed development at 210 Alicia St, Ashland Oregon. It is based on the inappropriate project scope and on the biased and very inadequate planning process and public participation that has occurred with it.

We own the property which extends along the entire southern boundary of this project. I submitted many of my concerns earlier during the very short time allowed to review and provide input during the initial notice, but many of those comments were ignored or mis-represented during an electronic public hearing on May 12. Therefore I am sending many of them again, along with new concerns with project and how this planning process is proceeding.

I want to start by noting the May 12 electronic public hearing was interrupted by a power outage. At the outset of the meeting, it was announced that the transcripts and video of the meeting would be made available. Even though I expected to learn of the outage and continuance from City staff given my previous public comment, I only learned of it from neighbors. I searched the city's website and did not find meeting minutes or video. The city finally published the minutes and the video three weeks after their meeting. It is quite concerning that the city only provides residents a few days to respond to a project that will destroy many of the positive aspects of their neighborhood, yet the city will take several weeks to do something as simple as publishing minutes.

Project overview and Adherence to City Cottage Housing Ordinance

The proposed development by David Scott LLC is for 12 cottages on a small piece of land that Scott purchased in October 2019. The owner of David Scott LLC appears to be David Wisniewski, Mr. Wisniewski has told me that there are also unspecified investors in this project. It is occurring under a recent local City ordinance passed to allow cottage housing in some single family residential neighborhoods. I have pasted in the opening language of that ordinance, as from the outset it is clear that the proposed development will NOT be consistent with the ordinance's purpose of intent.

[18.2.3.090 -Cottage Housing](#)

“Purpose and Intent. The purpose and intent of this chapter is to encourage innovative site planning and variety in housing while ensuring compatibility with established neighborhoods, and to provide opportunities for ownership of small detached single-family dwellings for a population diverse in age, income, and household size.”

Problems with this proposed development and the City’s actions are numerous and significant.

1. The development is NOT compatible with our established neighborhood. Nor is the City taking actions to ENSURE it.
2. There is NO DISCUSSION in the proposal to see how the proposed cottages will lead to ownership of homes.
3. Several of the proposed cottages are NOT detached .
4. The proposed cottages are 1 bedroom units, with 1 car allowed per unit. This does NOT indicate that family dwelling will be diverse in age, income and household size, as this setup limits residents to single adults.
5. The Coronavirus-19 Pandemic has highlighted significant health risks with high-density housing, A vaccine does not exist, and it’s uncertain when or if one will be developed. In the interim, social distancing is the most effective precaution we can take. Cramming C13 units into this development places our neighborhood at much higher risk than we currently have with our spaced housing. Much less density is needed.
6. In their initial meeting, one of the Planning Commission stated that he attempted to access the property so that he could view it on-site and see it from a local perspective. He was met at the entrance by a tenant living there, Josh, who stated the property owner would not allow anyone on the property. When the Commissioner brought this up at the meeting, the Commission Chair and other commission members dismissed his concern, as they didn’t see a reason to see the property. This is extremely troubling. The best people to determine if a development is compatible with our neighborhood are those who lived there. Some of us have lived here for decades. Many of us have provided input to the commission, and our reasons that it isn’t compatible. The fate of our neighborhood should NOT hinge on decisions made by non-locals officials who have NEVER SEEN the site to determine if it is compatible with our neighborhood, and who DON’T feel it is necessary to do so.

Inadequate and improper Public Notice

There have been many significant problems with the city’s notice for public review and response to this project

1. Notice and submittal requirements were incorrect, misleading, difficult and too short. Although the City was aware of this proposed development for months, the City did not inform any of us of it was until May 2 when we received a public notice and a very sparse description of the project in the mail. The Notice stated that due to the Pandemic, there would be no normal public hearing for this project. So we couldn’t provide testimony in

person . Instead, we could view it passively on a cable TV site or the Web (this later proved to be a real problem, because power went down during the meeting). If we wanted to provide comment, we would have to send in written comments by the day before the meeting. This notice provided three significant obstacles to reviewing and providing public comment.

1. First, the notice stated that people can access the project documents at a website that did NOT link the documents. After spending 15 minutes trying to find them, I had to call the city and have a staff navigate through the city website in order to find the documents. These documents were very hidden unless someone knew just how to find them.
2. Second, the City planning staffer who I talked with at the city seemed to think the hearing was not going to happen, as the developer had come in earlier that day and said he wanted to put the project on hold. This led me to think that my immediate review was not needed, so I attended other things. Several hours later the City staffer responsible for the project contacted me and told me the project was NOT on hold.
3. After learning the project was not on hold and finally being able to obtain electronic copies of the project description, I reviewed it and prepared and attempted to submit comments. However, when I submitted them electronically to the site identified in the public notice, I received this automatic message from the City's server that I couldn't send in a notice: Here is relevant text from that message, which was sent on May 6 :

The group [pc-public-testimony](#) only accepts messages from people in its organization or on its allowed senders list, and your email address isn't on the list... Action required: ... Sender not allowed. It appears you aren't in the same organization as the group (or a sub-group) you're sending to or your email address isn't on the group's allowed senders list... The owner of the group may have intentionally chosen to restrict who can send messages to it, and they may not want to adjust the existing restriction. In this case, you'll have to contact the group members by some other means, such as sending an email message to their individual email addresses or contacting them by phone.

Immediately after receiving this notice, on May 6 I sent an email to the City's planning staff responsible for the project. In it I requested the public hearing be delayed: Here is relevant text from my email:

I ask that you postpone this meeting until proper public notice procedures are enacted for the hearing on the proposal. Here is my justification:

1. The notice states that people can access the project documents at a website that does NOT link the documents. After spending 15 minutes trying to find them, as I mentioned in my email, I had to call the city and have a staff navigate through the city website in order to find the documents. These documents were very hidden unless someone knew just how to find them.

2. The staff how I talked with at the city seemed to think the hearing was not going to happen, as the developer came in today and said he wanted to put it on hold. She suggested I contact you to verify. As you were out of the office, I left a voice mail for you. In the interim time until I heard from you, I sent an email to neighbors affected by the development, and said that it seemed to be on hold. When you called back you said it was NOT on hold.

3. My comments for the commission to consider were refused acceptance, as apparently I am not an allowed sender. This is inexcusable.

For these significant reasons, I request that the commission postpone the meeting until proper and legal public notice are given and that the city has established a reasonable way for people to provide testimony

The planning staffer replied an email the next day, May 7. He stated: “The PC-public-testimony@ashland.or.us e-mail should be fixed to accept e-mails now.” His email didn’t indicate the link had been fixed to access the project description. And he said nothing about my request to postpone the meeting.

I was surprised, as I’d anticipated that the May 2 hearing would be postponed. The City’s had failed to verify their links properly functioned before sending out notice, and then only fixed them after receiving my complaints. These problems resulted in only a little over 2 business days to review project documents and respond with comments (1/2 day on May 7, May 8, and part of f May 11).

Further troubling was when this issue was raised at the May 12 Planning commission meeting, the planning staffer and the Chair did not represent it accurately. Someone acknowledged a postponement had been requested, but only because of the problem with comment submittal. The City staffer and the chair did NOT State the other two reasons for my request: 1)the documents were not available for review at the city or at the site identified for download in the public; and 2. when the staffer was absent from he office when I called, another city staffer stated she thought the hearing wouldn’t happen because the buyer had come into their office that day and said the project was on hold

Despite this, the Planning Chair dismissed the postponement request because the input site was “fixed” a couple hours after the staffer learned of it. The chair made no mention of the other 2 reasons I raised. The staffer didn’t correct this by stating there were other reasons. Neither did any commission member. Neither the staffer nor any commission member raised the issue that **2 business days is clearly insufficient for public review** and input on an issue that would have devastating impacts to a neighborhood. This is very troubling, as it indicates that members either did not review the written testimony or feel that this lack of notice warranted discussion.

City Department Comments

The planning staffer also indicated that he had sought comments from other city departments on this project. Below is the input he said they provided on the different issues:

Over-capacity Sewer:

On page 16 of the project description, the document states “The **six-inch sewer** line within Alicia Street and Sylvia Street right-of-way. In discussions with the sanitary sewer department, there are no reported capacity issues in the immediate vicinities. Based on the Wastewater Master Plan, eight-inch sewer lines in public rights-of-way are required in the future of new facilities. The majority of Ashland does not have eight-inch lines. The sewer lines in Oak Street are identified in the system as **having present flows that are in excess of the capacity.** At the wastewater treatment plant there are choke points and potential overflow points. Regardless, the proposed twelve, water efficient, small units should not cause the system in the vicinity to operate beyond its current capacities”. (note – “capacity” was misspelled in the project document).

The City’s handling of this issue input is troubling in several ways. First, in I have personally witnessed neighbors stating, with city staff present, that this sewer line has capacity issues and has overflowed into houses. Second, the Wastewater Management plan REQUIRES 8 inch sewer lines for new facilities. Third, the City’s own department has said the sewer line has been identified as having present flows already in excess of capacity.

Despite this some unknown staffer stated that added sewage inputs to this already oversaturated line would not cause a problem. I requested that the city or commission provide the name of the staffer who provided this opinion, the date he/she provided it, his/her qualifications to make such a determination, and the analysis he/she did to reach this contradictory conclusion. The City never responded to this request.

Everyone in Ashland is aware of the devastating problems that previous sewer problems have caused in neighborhoods. Incompatible development should not occur that increases that risk even further in our neighborhood.

When this serious issue was raised during the commission meeting, it was cursorily dismissed. I and others were astounded that neither the planning staffer nor commission gave it the attention it required.

Wetlands

Neither the City Staffer nor the Planning chair brought up the for proper evaluation of the issues of possible of wetlands in the development area.

In fall 2019, the developers contracted a wetlands delineation firm to conduct a wetlands assessment of the property. The project description (pages 29–30) provides copy of wetland contractors overview of their assessment. The overview stated that the plants, soils and hydrology suggested the potential presence of wetlands on the property, The assessors thought

that it may be due to a leak in the irrigation ditch that ran through the property. Subsequently the developer repaired the ditch to try to eliminate the source of water. The letter said the assessors would return in April or May and conduct a critical confirmation assessment.

“The anticipated absence of hydrology [i.e. water) in the second round of data would eliminate any consideration of a jurisdictional wetland. After our second round of data, our findings will then be submitted to the Oregon Department of State Lands (DSL) for their review and concurrence. **It is expected that the review period may be as-long as 90 days and therefore no ground disturbing activities are allowed to take place until the DSL has reviewed the wetlands delineation report.** (boldfaced highlighting in original document)

In April, almost the entire area was excavated. This appears contrary to the report’s strong recommendation that no excavation occur until an assessment occur in April or May and time is allowed for report preparation and up to 90 additional days to allow DSL to review the findings.

The hope of the assessor was that the pipe repair would eliminate water from the site. However, since the excavation has occurred, there consistently has been 6-12 inches (estimated) of **STANDING WATER** in a shallow trench excavated on the upslope western part of the property where construction is proposed. This water appeared despite a long dry spell this spring, is not due to rainfall, and is still present.

This is not surprising to me. As long as I have lived next to the property, I have noticed that the grassy vegetation on it stays green and lush long into summer, much longer than in my area. Until last fall when they were cut down, there was a very healthy stand of willows in the middle of the property. Finally, the soil types change on the western upslope part of the property from a Kubli loam to a Coker clay. Subterranean water may be flowing downslope through the loam and then may dam up when it hits the clay

Not only does this mean that wetlands may be present, but that any development in the area would need to divert the water to either our property, the properties to the northeast, or the storm sewers. Such diversions could result in groundwater infiltration into our houses.

In May I contacted the State Wetlands regulators. They said that neither the City nor the developer ever sent the report in, and they had no record of any wetlands determination, despite clear indications that the area was wet.

Traffic and Parking

Our property would not be affected directly the traffic increases on Alicia, as we access our property via Clinton and Carol. However the planner made a very alarming statement at the hearing regarding traffic that would impact us. In summarizing the City Fire Departments comments on the project, he stated that the Fire Department had stated they should be able to access the project site via at some time from “Carol St. and Clinton St” as in-building occurs.

Why is this so alarming? Two reasons.

First, the ONLY way to access Carol St and Clinton St. from this project is straight through the middle of our property! If you have questions, look at any map and it's obvious. Such access would either have to go through our house or through our land which is designated Open Space, as established in 1993 by City Ordinance 2714. We have NO intention of selling our property or doing the "In-building" that the Fire Department said will happen. I am EXTREMELY concerned that a City official would state that they anticipate this road to be built. It would be violation of a City Ordinance, and of our basic Constitutional 4th amendment rights to unreasonable seizure.

Second, even if there was such in-building at some time decades in the future, that future access does NOTHING to alleviate the need for Fire Department access NOW or near future.

Due to the seriousness of this issue, I requested the City and Commission to provide me the name of the City official who made the statement, and his/her basis for the statement. I also asked that the City and/or Commission provide any documentation they have on plans to place a road through our property. If the City could not provide this information, I asked that they clarify the record that there is NOT currently access nor any planned access to this property via Carol and Clinton, and this fact must be considered in the Commission and City's consideration of access to the proposed development.

I never received a response to this request, nor was this mentioned in subsequent discussions.

I am very concerned that at the hearing, the City Planning staffer did not mention the legal issues with the Fire official's statement, but instead used it to minimize the City's inability to have adequate response. This is not a moot point. Last summer during the heat of the summer, there was a brush fire on the western neighbor's property and the fire department's initial response was through the middle of our property.

I requested the City take appropriate corrective actions for the staff in the Fire and Planning Departments who promulgated this statement.

I wasn't informed of any actions taken to address this.

I am concerned that the Planning chair quick dismissal of this statement and commissioners did not question this statement, as I had provided my concerns with fire response in my submitted testimony.

Other neighbors have identified problems with the added traffic and parking problems with the project that were addressed in the City or Commission's review. I agree with their concerns and also note that in order for this project to be built, it would require thousands of vehicle trips on the marginal streets by large and heavy trucks and other vehicles. Hundreds, if not thousands of more trips, would occur in marketing the project to potential buyers. Once purchased, hundreds more vehicle would occur for buyers to move in. Once in coronavirus concerns will have permanent impacts on how people obtain food and other items, as many people are now having those items delivered. In addition to traffic on the streets, all those moving and delivery truck would need to turn around in the proposal's constrained parking area.

Despite all these issues, the City addressed transportation issues in two sentences (page 72 of project description)

“As for transportation, there is a paved street, sidewalk from street along driveway onto the site, and connected walkways through the property. The proposed development does not require a Traffic Impact Analysis or other Transportation assessment.”

The neighborhood concerns must be addressed by a fair and professional traffic impact analysis. I requested the City and/or Commission ensure that one is conducted before reaching a decision on proceeding with review of this project. The city refused to do one.

Planning Commission Hearing

There were numerous problems, some serious, with the staging and handling of the May 12, 2020 Public “Hearing” of this project by the City Planning Commission.

First, this was not a hearing in the traditional sense. Because of the pandemic this meeting was held electronically. Apparently, it was the first electronic meeting held by the commission. Some problems therefore are not surprising. But such problems should not allow a project to be steam-rolled. Here are some of the more significant problems that occurred:

1. Lack of proper public notice and ability to provide input on this proposal (see above).
2. Restriction of comments to written comments submitted electronically. The public notice stated that with 72 hours notice, the City could provide assistance to people to access the hearing. But the same notice said that the only way people could provide testimony was through written comments prior to the hearing and submitted electronically. This requirement shuts out those who wished to provide ORAL testimony in a HEARING. It also requires that people must be able to write comments electronically, navigate the labyrinth of the City's website, and submit this comments to a site that the city didn't have operational.
3. During the meeting, a commissioner raised the issue that the City's wording of opportunities for public input suggested that public input would be allowed after May 12. The City staffer acknowledged that the wording was confusing and apparently had been inserted from another project and could lead people to think the public comment deadline was later. In fact, this was the case, as I saw emails from some neighbors prior to the meeting

who were misled by this wording. Despite this, the Chair dismissed the concern as an unfortunate choice of wording. That is unacceptable.

4. Commissioners not provided adequate copies of materials. During the hearing, several commissioners stated they could not read critical materials in their review packets. The city staffer who provided the materials apologized for the technical difficulties and the lack of readable documents. Apparently this was due to the proposer not providing the documents in the required formats and the inability of City Staff to make them readable. At that point, I expected the Chair to recommend they postpone consideration of the project until they had readable documents. Instead, the Chair said that he didn't think it mattered that some of the documents were unreadable, and none of the other commissioners disagreed. He also stated they will get the document problem fixed for the next project. His statement indicated he did not feel it was important to ensure proper consideration of materials for this project.
5. Early in the meeting, the Chair asked other commissioners if they had conversations with any of the people affected by proposal. One commissioner said he had tried to access the property but was denied entry, as mentioned above. However, other commissioners said they had been able to go alone on site and had conversations with the owner. It isn't proper that the commission didn't have a group visit or ensure that all the commissioners would have equal access to the site, and that most did not appear to have visited the site.
6. None of the commissioners said they had any contact with others involved in the proposal. This is surprising, as the developer and others has stated that the cottage project is being driven by his investors. I didn't see those investors identified in the project description, on the developers' website, or any other documents. So I am surprised that the commissioners stated they other than some contact with David Wisniewski, they have had no contact with any people involved in the project. How can the Commissioners know that they haven't had discussions with investors if they don't know who they are? Also, the developer collaborated with the City on another project on Clay Street, in the fall of 2019. For the sake of full public transparency, the city officials and commissioners involved in this project should identify the investors and after doing so only then confirm that they haven't had any discussions outside of their official capacity regarding this project.
7. The City did not provide a video or minutes of the meeting as promised by the Chair for three weeks, nor made outreach to inform me and other commenters on how they are proceeding. There
8. There was a continuation meeting of the planning action for May 25 and on the city website it said that comments would be taken on the development. However, at the May 25 meeting, the Commission chair said that the website was mistaken and there would be no more comments allowed. They delayed the meeting for this reason.
9. At their final meeting, the commission approved the project, with less than 10 minutes of discussion. They never discussed many of the significant issues raised by me or other residents, such as the presences of wetlands and the lack of safety vehicle access.

During their initial identification of issues raised in public comments, some of the commissioners stated "they liked the Project". The Chair repeatedly pushed fellow commissioners to state if there was any reason to hold up the project, even when he was told that

commissioners weren't allowed to visit the site. Instead of a thoughtful consideration and deliberation of issues raised by commenters, the chair cursorily dismissed them with curt statements.

The commissioners did NOT exhibit an unbiased consideration during the testimony review phase. They provided little notice, made it very difficult to get information on the project, set up a system that didn't initially allow input, ignored the comments and questions of the public, misrepresented the comments, didn't allow people to speak in person nor set up a Zoom meeting as an alternative, and ignored requests to extend the public comment period when there was no reason they could not.

It was clear that they had made their mind up prior to even beginning public notice and had no interest in listening to the public.

Conclusion

I request that the City Council deny approval for this project, and failing that, at minimum the City put their review of this project on hold and postpone further consideration until it's many significant deficiencies have been addressed.

It is very troubling that the City and Commission would rush this project through when it poses the significant problems identified above. Some of these are :

- Failure to satisfy the purpose and intent of City Cottage ordinance
- Incompatibility with neighborhood of single family, moderate income owner-occupied housing on large lots.
- Inadequate Notice of Public hearing
- Significant problems with Public hearing (unreadable documents, not allowing oral testimony, lack of discussion of significant issues, allowing some commissioners to visit site and not ensuring others had opportunity, potential improper communications
- Wetlands on property, and excavation potentially occurring prior to required DSL review
- Over-capacity of sewer system
- City official improperly stating that anticipated access would go through our property.
- Traffic overuse on non-standard street
- Lack of sufficient parking

There is NO reason to rush this project through the approval process. The developer has been upfront in stating that he would not go through with this project in the near future. Apparently this is due to the local and national economy. Here in Ashland, the City is running a deficit, schools and theaters have closed, many businesses are hurting, and summer wildfires have dramatically slowed influxes of people. The need for Cottage housing appears to have evaporated, as witness the lack of sale of cottages in other nearby projects. Given additional emerging concerns about the health impacts of dense housing such as the cottages in this project, it is clear this project is not needed now or in the foreseeable future.

Why rush this project? Why is the City and Commission in such a hurry to cause such impacts to a residential neighborhood that, unlike most of Ashland, is inhabited by the people who own their homes? Especially when it would be for the benefit of unknown investors and for a need that doesn't currently exist or is likely to exist in the near future.

I want to close by noting that I have much enjoyed interacting with the person who is the representative of David Scott, LLC, David Wisniewski. He would make a good neighbor. Unfortunately, apparently the decision to develop this property appears to rest with his investors, who were not identified in the planning process. As far as I know, they could be Russian, Chinese, or a local construction firm, or ??? It's dismaying that the City didn't even require identification of those people who want to destroy our neighborhood.

I request that Council deny approval of this project until all the issues that I and others have raised are addressed in a fair and open public process.

Sincerely,
Kent Patrick-Riley
675 Carol St, .Ashland Oregon