

# Council Business Meeting

November 2, 2021

<b>Agenda Item</b>	Second Reading of Ordinance No.3203 Regarding the Beach Creek Annexation and Adoption of Findings	
<b>From</b>	Bill Molnar Derek Severson	Director of Community Development Senior Planner
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## **SUMMARY**

This is the time set for the Second Reading of proposed Ordinance No. 3203 regarding the annexation of property into the corporate limits of the City of Ashland (City). The City has received Planning Action #PA-T3-2021-00003, a request to annex 7.91 acres of a ten-acre property located at 192 North Mountain Avenue into the City. With annexation, 7.91 acres would be brought into the City with R-1-5-P Single Family Residential zoning. The remaining 2.1 acres are already within the City. The entire ten (10) acres would be subdivided to create 52 residential lots – including eight (8) units that would be deed-restricted to be affordable to those earning up to eighty percent (80%) of area median income.

The City Council conducted a public hearing and approved first reading of the ordinance annexing the property on October 19, 2021, and directed staff to bring written findings back for adoption concurrently with second reading of the ordinance on November 2, 2021.

## **POLICIES, PLANS & GOALS SUPPORTED**

Comprehensive Plan, Housing Element Goal 6.10 is, “*Ensure a range of different dwelling types that provide living opportunities for the total cross-section of Ashland’s population.*” Policy #1 is, “*Provide for a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household sizes, and household types.*” Policy #5 is, “*Zone sufficient land at densities to accommodate an adequate supply of housing by type and cost to meet population growth and projected housing needs.*”

Comprehensive Plan, Housing Element Goal 6.10.02 is, “*Support the creation and preservation of housing that is affordable to low and moderate income households and that is commensurate with the incomes of Ashland’s workforce.*” Policy 12 is, “*Cooperate with for-profit and non-profit affordable housing providers in locating low and moderate income units in Ashland.*”

“Ashland 2020: A Strategic Plan for Ashland’s Future” includes “*Support and promote, through policy, programs that make the City affordable to live in*” as “Priority Strategic Planning Goal and Objective” number 5.2, with, “*Adjust infill strategies in order to promote housing development along major transportation corridors*” as an identified strategy. The property proposed for annexation here is an island surrounded by City land located on North Mountain Avenue, a major collector street along a planned future transit route and is near parks, schools, shopping and dining. 52 new homes are proposed, including eight units which would be deed restricted as affordable to those at 80 percent of the area’s median income.

Current Council Goals in Resolution #2019-027 include leveraging city resources to provide for items including addressing climate change, housing needs and multi-modal transportation. The current request would bring 7.91 acres into the city from the UGB to provide land specifically for housing along a major collector street and future transit route, and would include dedication of an easement to support future transit

amenities along the property frontage. The proposal includes eight guaranteed affordable units, and all 52 units are proposed to be built to Earth Advantage® Platinum standards with solar panels installed to achieve “Net Zero” energy efficiency (i.e. they are designed to produce at least as much energy as they typically consume).

## **PREVIOUS COUNCIL ACTION**

N/A.

## **BACKGROUND AND ADDITIONAL INFORMATION**

At the October 19, 2021 regular meeting, the City Council conducted a public hearing on the annexation request to consider the proposal in light of the Annexation approval criteria found in AMC 18.5.8.050. With recommendations in support of the application from the Tree Commission, Transportation Commission and Planning Commission, the City Council ultimately found that the proposal met all applicable criteria and approved the annexation and the first reading of the ordinance annexing the property and withdrawing the annexed property from Jackson County Fire District #5.

During the Council hearing, two primary issues were raised: first, the applicant requested that Conditions #10a and #11a of the Planning Commission approval requiring that all homes be certified Earth Advantage® Platinum/Zero Energy be slightly modified to allow other equivalent third party-verified zero energy certification to be used, and second, neighbors with the homeowners’ association for the adjacent subdivision to the north asked that drainage from the subject property be required to be addressed by the applicant and the city to lessen downstream impacts to their subdivision and areas further downstream.

With regard to the Earth Advantage® requirement, a “Conservation Housing Density Bonus” requires homes be certified by Earth Advantage®, which provides third party energy efficiency review. Ashland’s land use ordinance specify the use of the Earth Advantage® program for density bonuses. At the time the code was written, the city was the Earth Advantage® licensee for the Ashland area and had reviewers on staff, however this is no longer the case. For the current request, the application does not require a Conservation Housing density bonus to allow the number of units proposed, but the applicant nonetheless indicated in their application submittal that all homes would be certified as Earth Advantage® Platinum/Zero Energy. Conditions that this be verified before permitting and occupancy were included by the Planning Commission. Subsequent to the application submittal, the applicant learned that the local Earth Advantage® licensee who conducts certifications will be retiring soon, and given the uncertainty that poses, the applicant asked that the conditions be modified to allow Earth Advantage® Platinum/Zero Energy or an equivalent third-party certification. Staff explained that the applicant had proposed to provide all homes built to a verifiably high level of energy efficiency to obtain discretionary annexation approval, and suggested that the Council may wish to retain the requirement to meet this proposed higher level of energy efficiency even though it was not necessary for a density bonus. After discussions with Conservation Division staff, Planning staff recommended that the Planning Commission’s two conditions be modified to require, “... *Earth Advantage® Platinum/Zero Energy, LEED® BD+C/LEED® Zero, Passive House® PHIUS+ Source Zero or another equivalent third-party verified zero energy certification.*” The City Council ultimately concurred with this recommendation and incorporated it as part of their decision.

With regard to the drainage issue, the Ashland Village Homeowners Association had raised drainage concerns during the Planning Commission hearing as well, expressing concerns with storm water drainage, erosion, sedimentation and debris as they would impact their subdivision’s open space downstream to the north. The Planning Commission’s initial approval specified measures for addressing these issues including Trash Rack’s® and sediment traps to catch debris and remove sediment from the stream, however because

the applicant's final stormwater drainage plan will be required to be designed by an engineer, and the project engineer had concerns with the specified measures, the condition ultimately adopted by the Planning Commission specified the desired outcomes rather than specific solutions to achieve them. The stream here, Beach Creek, is regulated not only by the City as an intermittent or ephemeral stream but also potentially as a water of the state by the Oregon Department of State Lands and potentially by the US Army Corps of Engineers. Specific design measures to address storm drainage may trigger additional permitting at one or more of these levels. As such, the Planning Commission ultimately adopted Condition #8c, requiring "*A final storm drainage plan detailing the location and final engineering for all storm drainage improvements associated with the project shall be submitted for review and approval by the Departments of Public Works, Planning and Building Divisions. The storm drainage plan shall demonstrate that post-development peak flows are less than or equal to the pre-development peak flow for the site as a whole, and that storm water quality mitigation has been addressed through the final design.*" The Planning Commission's Condition #8d required that, "*The applicant's Final Plan submittals shall incorporate measures to reduce downstream sediment transport, slow stream flows and address the "Rogue Valley Sewer Services Stormwater Quality Design Manual" requirements for the management of stormwater flows entering the natural water course.*"

Subsequent to the Planning Commission decision, Public Works Director Scott Fleury also provided a memo for the Council explaining that the development proposal here will be required to demonstrate that post-development peak stormwater run-off cannot exceed pre-development levels, and will also need to demonstrate that sediment transport is reduced. The City Engineer will ultimately review the final engineered stormwater plan for compliance with these standards. In addition, Fleury's memo explained that an upcoming capital improvement project for North Mountain Avenue just upstream of the subject property is currently in the design phase and will include a flood reduction component on North Mountain Avenue while also seeking to reduce erosion and sediment transport downstream. Staff explained that the Planning Commission decision sought to require that the applicant's final storm drainage plan address specific outcomes (reducing downstream sediment transport, slowing stream flows and addressing local standards for the management of stormwater flows into natural water courses) rather than requiring specific measures that may not meet engineering design requirements or conflict with the standards of one or more of the agencies with jurisdiction over the stream. Staff further explained that the Final Plan subdivision submittal would include the final stormwater drainage plan for review by the City Engineer, and that neighbors would receive notice of this action and could request Planning Commission review if they had concerns with the Final Plan. The Council decision ultimately retained the Planning Commission's conditions with regard to the final drainage plan.

The application to annex the property includes a concurrent development proposal to subdivide the property into 52 residential lots, eight of which would be restricted for deed restricted affordable housing. The development proposal includes requests for Outline Plan subdivision approval, a Limited Activities & Uses Permit to install a bridge over Beach Creek to provide street connectivity through the subdivision to North Mountain Avenue, an Exception to Street Standards to not install a parkrow planting strip with street trees on the proposed bridge over Beach Creek, and a Tree Removal Permit to remove four of the trees. The Planning Commission had reviewed and approved the development proposal with a number of conditions at its September 28, 2021 meeting, but the Planning Commission approval was contingent upon the review and approval of the application by the City Council and could not take effect until the Council's annexation approval is finalized. After review of the Planning Commission decision, the City Council accepted the Planning Commission's decision and associated findings as part of the Council annexation approval. The Planning Commission findings are included as an exhibit to be attached to the Council findings presented for adoption tonight.

## **FISCAL IMPACTS**

There are no direct fiscal impacts related to the proposed annexation.

## **STAFF RECOMMENDATION**

Staff recommends that the Council approve second reading and adopt the ordinance annexing the property, and adopt the written findings provided.

## **ACTIONS, OPTIONS & POTENTIAL MOTIONS**

The Council can choose to conduct second reading and adopt the ordinance and associated written findings, or could opt to postpone second reading to a later date. Staff recommends that second reading be conducted and the findings adopted with the following motions:

- “**I move approval of the second reading by title only of Ordinance No. 3203 ‘An Ordinance Annexing Property and Withdrawing an Annexed Area from Jackson County Fire District No. 5 (Beach Creek Annexation – Planning Action #PA-T3-2021-00003’ and adoption of the ordinance;”** and
- “**I move to adopt the written findings for approval of Planning Action #PA-T3-2021-00003 as presented.”**

## **REFERENCES & ATTACHMENTS**

Ordinance No. 3203, along with its associated exhibits, is attached as Attachment A.

The draft City Council findings presented for adoption are attached as Attachment B.

The Planning Commission’s adopted findings are attached as Attachment C, and are to be incorporated as an exhibit to the City Council findings.

The full record for the application is posted on-line at: <http://www.ashland.or.us/BeachCreek>.

## **ORDINANCE NO. 3203**

**AN ORDINANCE ANNEXING PROPERTY AND WITHDRAWING AN ANNEXED  
AREA FROM JACKSON COUNTY FIRE DISTRICT NO. 5  
(Beach Creek Annexation – Planning Action #PA-T3-2021-00003)**

Annotated to show deletions and additions to the Ashland Municipal Code sections being modified. Deletions are **bold lined through**, and additions are **bold underlined**.

**WHEREAS**, the owners of the property described in Exhibit "A," which is attached hereto and fully incorporated herein, have consented to the annexation of this property into the City of Ashland. There are no electors residing in the property to be annexed; and

**WHEREAS**, pursuant to ORS 222.120 and ORS 222.524, a public hearing was held on October 19, 2021, on the questions of annexation and withdrawal of the property from Jackson County Fire District No. 5. The public hearing was held electronically via Zoom video conferencing, was broadcast live on local television Channel 9 and on Charter Communications Channels 180 and 181, and was live-streamed over the internet on RVTV Prime at <http://www.rvtv.sou.edu>.

Those interested in participating in the public hearing were able to view the meeting as it occurred and had options to provide written testimony via e-mail in advance of the hearing or to make advanced arrangements to provide oral testimony via Zoom video conferencing in keeping with the City Manager Pro Tem's COVID-19 Declaration of State of Emergency issued pursuant to Ashland Municipal Code Chapter 2.62, "*Emergency Powers*," which provides for public meetings to be conducted via electronic means.

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

**SECTION 1.** The above-stated recitals are true and correct and are fully incorporated herein by this reference.

**SECTION 2.** Pursuant to ORS Chapter 222, the property described in Exhibit "A," which is attached hereto and fully incorporated herein by this reference, is declared to be annexed to the City of Ashland.

**SECTION 3.** Pursuant to ORS 222.111, the property described in the attached Exhibit "A" is declared to be withdrawn from Jackson County Fire District No 5.

**SECTION 4. Codification.** In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within

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such limitations, may:

- (a) Renumber sections and parts of sections of the ordinance;
  - (b) Rearrange sections;
  - (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
  - (d) Delete references to repealed sections;
  - (e) Substitute the proper subsection, section, or chapter numbers;
  - (f) Change capitalization and spelling for the purpose of uniformity;
  - (g) Add headings for purposes of grouping like sections together for ease of reference; and
  - (h) Correct manifest clerical, grammatical, or typographical errors.

**SECTION 5.** **Severability.** Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

## Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2021.

Julie Akins, Mayor

Reviewed as to form:

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Katrina L. Brown, City Attorney

POLARIS LAND SURVEYING, LLC



EXHIBIT "A"

LEGAL DESCRIPTION – KDA HOMES LLC  
192 NORTH MOUNTAIN AVENUE ANNEXATION TRACT  
ASSESSOR'S MAP NO. 39 1E 10, TAX LOT 800

A portion of that tract of land described within Instrument No. 2007-047152 of the Official Records in Jackson County, Oregon, lying situate within the Northwest Quarter of Section 10 and the Northeast Quarter of Section 9 in Township 39 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon, being more particularly described and bounded as follows, to wit;

Commencing at the intersection of the northeasterly line of the Central Oregon & Pacific Railroad with the east line of Mountain Avenue in the City of Ashland, Oregon, said point also being the southwesterly corner of that tract of land described within Document No. 2007-047152 of the Official Records in Jackson County, Oregon; thence South 61°07'17" East, along said northeasterly line, a distance of 216.99 feet to the West line of Section 10 in Township 39 South, Range 1 East of the Willamette Meridian in said County, the POINT OF BEGINNING; thence North 00°07'18 West, along said West line of Section 10, a distance of 534.97 feet to the north line of said described tract; thence South 89°46'40" East, along the north line of said tract, 512.79 feet to a 5/8 inch iron pin at the northeast corner thereof; thence South 00°12'54" West, 813.50 feet to a 5/8 inch iron at the southeast corner thereof; thence North 61°07'17" West, along said northeasterly line of the Central Oregon and Pacific Railroad, a distance of 580.83 feet to the POINT OF BEGINNING.

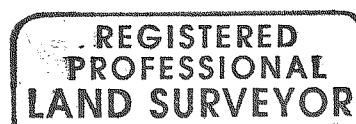
Containing 7.91 acres, more or less.

Prepared by:

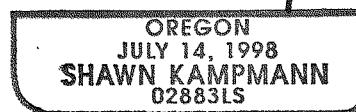
Shawn Kampmann  
Professional Land Surveyor

Polaris Land Surveying LLC  
P.O. Box 459  
Ashland, Oregon 97520

Date: June 16, 2021



*Shawn Kampmann*



RENEWAL DATE: 6/30/21

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**FINDINGS**  
**BEFORE THE ASHLAND CITY COUNCIL**  
**November 2, 2021**

IN THE MATTER OF PLANNING ACTION #PA-T3-2021-00003, A REQUEST FOR )  
FOR ANNEXATION OF 7.9 ACRES OF A TEN-ACRE PROPERTY AT 192 NORTH )  
MOUNTAIN AVENUE. THE SUBJECT PROPERTY IS TO BE ANNEXED INTO )  
THE CITY WITH R-1-5-P (SINGLE FAMILY RESIDENTIAL) ZONING AND THE )  
ENTIRE TEN-ACRE PROPERTY WOULD BE SUBDIVIDED TO CREATE 52 RESID- )  
ENTIAL LOTS AND EIGHT COMMON AREAS. THE APPLICATION INCLUDES )  
REQUESTS FOR OUTLINE PLAN SUBDIVISION APPROVAL, AN EXCEPTION TO )  
STREET DESIGN STANDARDS TO NOT INSTALL A PARKROW PLANTING STRIP )  
WITH STREET TREES ON THE PROPOSED BRIDGE OVER BEACH CREEK, A LIM- )  
ITED ACTIVITIES & USES PERMIT TO INSTALL A BRIDGE OVER BEACH CREEK )  
IN ORDER TO PROVIDE STREET CONNECTIVITY TO NORTH MOUNTAIN AVE- )  
NUE, AND A TREE REMOVAL PERMIT TO REMOVE FOUR OF THE SITE'S 25 )  
TREES. )

**APPLICANT:** KDA Homes, LLC )

**OWNERS:** The Hodgins Family Trust (Robert & Beverly Hodgins, *trustees*) )

The Mary G. Walter Living Trust (Mary G. Walter, *trustee*) )

Steve White )

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**RECITALS:**

1) Tax lot #800 of Map 39 1E 10 is located at 192 North Mountain Avenue, on the east side of North Mountain Avenue between the railroad tracks and Clear Creek Drive. The subject property is ten acres in area, with approximately 2.1 acres within the current city limits and zoned R-1-5-P (Single Family Residential) and the remaining 7.9 acres within the city's Urban Growth Boundary (UGB) in Jackson County and zoned County RR-5 (Rural Residential). With the current request, the 7.9 acres outside the city limits would be annexed into the city with R-1-5-P zoning and developed.

2) The applicant is requesting annexation of 7.9 acres and Outline Plan approval for a 52-unit residential subdivision for the property located at 192 North Mountain Avenue. With annexation, 7.9 acres of the ten-acre property would be brought into the city with R-1-5-P Single Family Residential zoning, and the entire ten-acres would be subdivided to create 52 residential lots and eight common areas. The application also includes requests for an Exception to Street Standards to not install a parkrow planting strip with street trees on the proposed bridge over Beach Creek; a Limited Activities & Uses Permit to install a bridge over Beach Creek in order to provide street connectivity to North Mountain Avenue; and a Tree Removal Permit to remove four of the site's 25 trees. The proposal is outlined in plans on file at the Department of Community Development.

- 3) The approval criteria for an Annexation are described in AMC 18.5.8.050 as follows:

*An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with all of the following approval criteria:*

- A. *The land is within the City's Urban Growth Boundary.*
- B. *The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.*
- C. *The land is currently contiguous with the present City limits.*
- D. *Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; and urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.*
- E. *Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*
  - 1. *For vehicular transportation a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.*
  - 2. *For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.*
  - 3. *For pedestrian transportation safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within one-quarter (1/4) mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.*

4. For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.
- F. For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the County Clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent shall not be included.
- G. Except as provided in subsection [18.5.8.050.G.7](#), below, annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the following requirements.

  1. The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein. The base density of the property for the purposes of this calculation shall exclude any undevelopable portions of the property such as wetlands, floodplain corridor lands, water resource areas, slopes greater than 35 percent, or land area dedicated as a public park.
    - a. Ownership units restricted to households earning at or below 120 percent the area median income shall have an equivalency value of 0.75 unit.
    - b. Ownership units restricted to households earning at or below 100 percent the area median income shall have an equivalency value of 1.0 unit.
    - c. Ownership or rental units restricted to households earning at or below 80 percent the area median income shall have an equivalency value of 1.25 unit.
  2. As alternative to providing affordable units per subsection [18.5.8.050.G.1](#), above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection [18.5.8.050.G.1.b](#), above, through transfer to a non-profit (IRC 501(c)(3)) affordable housing developer or public corporation created under ORS [456.055](#) to [456.235](#).
    - a. The land to be transferred shall be located within the project meeting the standards set forth in subsections [18.5.8.050.G.5](#) and [18.5.8.050.G.6](#).
    - b. All needed public facilities shall be extended to the area or areas proposed for transfer.

- c. Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(c)(3) organization, or public corporation created under ORS 456.055 to 456.235.
  - d. The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.
  - e. Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in subsection 18.5.8.050.G.4.
3. The affordable units shall be comparable in bedroom mix with the market rate units in the development.
- a. The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 18.5.8.050.G.3, or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.

**Table  
18.5.8.050.G.3**

<b>Unit Type</b>	<b>Minimum Required Unit Floor Area (Square Feet)</b>
Studio	350
1 bedroom	500
2 bedroom	800
3 bedroom	1,000
4 bedroom	1,250

4. A development schedule shall be provided that demonstrates that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows:
- a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.
  - b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.

5. *That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.*
  - a. *The exterior appearance of the affordable units in any residential development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market rate units.*
  - b. *Affordable units may differ from market rate units with regard to floor area, interior finishes and materials, and housing type; provided, that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.*
6. *Exceptions to the requirements of subsections 18.5.8.050.G.2 through 18.5.8.050.G.5, above, may be approved by the City Council upon consideration of one or more of the following:*
  - a. *That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of subsection 18.5.8.050.G.2.*
  - b. *That the alternative phasing proposal not meeting subsection 18.5.8.050.G.4 provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion.*
  - c. *That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per subsection 18.5.8.050.G.6, are necessary due to local, State, or Federal Affordable Housing standards or financing limitations.*
7. *The total number of affordable units described in this subsection 18.5.8.050.G shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction or similar legal instrument shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years for units qualified as affordable rental housing, or 30 years for units qualified as affordable for-purchase housing.*

**H.** *One or more of the following standards are met:*

1. *The proposed area for annexation is to be residentially zoned, under the Comprehensive Plan, and the applicant will obtain planning action approval for an outright permitted use, special permitted use, or conditional use in conformance with the annexation request.*
2. *The proposed lot or lots will be zoned M-1, CM, E-1, or C-1 under the Comprehensive Plan, and the applicant will obtain Site Design Review approval for an outright permitted use, or special permitted use concurrent with the annexation request.*
3. *A current or probable public health hazard exists due to lack of full City sanitary sewer or water services.*

4. *Existing development in the proposed annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.*
  5. *The area proposed for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.*
  6. *The lot or lots proposed for annexation are an island completely surrounded by lands within the City limits. (Ord. 3195 § 4, amended, 12/01/2020)*
- 4) The criteria for Outline Plan approval are described in **AMC 18.3.9.040.A.3** as follows:
- a. *The development meets all applicable ordinance requirements of the City.*
  - b. *Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
  - c. *The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.*
  - d. *The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
  - e. *There are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*
  - f. *The proposed density meets the base and bonus density standards established under this chapter.*
  - g. *The development complies with the Street Standards.*
- 5) The criteria for an Exception to the Street Standards are described in **AMC 18.4.6.020.b** as follows:
1. *Exception to the Street Design Standards. The approval authority may approve exceptions to the standards section in **18.4.6.040** Street Design Standards if all of the following circumstances are found to exist.*
    - a. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
    - b. *The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*
      - i. *For transit facilities and related improvements, access, wait time, and ride experience.*

- ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
    - iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.*
  - c. The exception is the minimum necessary to alleviate the difficulty.*
  - d. The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.*

6) The criteria for a Limited Activities & Uses Permit are described in AMC 18.3.11.060.D as follows:

- 1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.*
- 2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.*
- 3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.*
- 4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.*
- 5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.*
- 6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.*

7) The criteria for a Tree Removal Permit are described in AMC 18.5.7.040.B as follows:

- 1. **Hazard Tree.** A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*

- a. *The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.*
  - b. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*
2. ***Tree That is Not a Hazard.*** A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
- a. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.10.*
  - b. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.*
  - c. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.*
  - d. *Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.*
  - e. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*

8) Ashland Municipal Code Chapter 2.62 “Emergency Powers” specifically delegates the authority to declare a state of emergency to the City Manager, subject to subsequent ratification by the City Council. On March 17, 2020, the City Council ratified the City Manager’s March 15, 2020 Declaration of Emergency resulting from the Coronavirus contagion, and the Council has subsequently approved extension of this Declaration of Emergency through at least December 19, 2021. Among other things, this Declaration of Emergency provides for public meetings to be conducted by electronic means for the City Council and various City commissions and boards, including the Planning Commission.

9) The Planning Commission, following proper public notice, held an electronic public hearing on September 14, 2021 at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the Planning Commission approved the Outline Plan subdivision, Exception to the Street Design Standards, Limited Activities & Uses Permit, and Tree Removal Permit components of the

application subject to conditions pertaining to the appropriate development of the site and to the City Council's approval of the annexation, and further provided a favorable recommendation to the City Council with regard to the Annexation request.

10) The Ashland City Council, following proper public notice, held an electronic public hearing on October 19, 2021 at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the City Council approved the Annexation request and, after reviewing the Planning Commission's approval of the concurrent Outline Plan subdivision, Exception to the Street Design Standards, Limited Activities & Uses Permit, and Tree Removal Permit components of the application, incorporated this development approval in its entirety with the Council's approval of the Annexation as "Exhibit A" of these findings.

Now, therefore, the City Council of the City of Ashland finds, concludes and recommends as follows:

## **SECTION 1. EXHIBITS**

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

## **SECTION 2. FINDINGS & CONCLUSIONS**

2.1 The City Council finds that it has received all information necessary to make a decision based on the staff report, public hearing testimony and the exhibits received.

2.2 The City Council finds that the proposal meets all applicable criteria for Annexation as described in AMC 18.5.8.050, Outline Plan approval described in AMC 18.3.9.040.A.3, for an Exception to Street Standards as described in AMC 18.4.6.020.b; for a Limited Activities and Uses Permit as described in AMC 18.3.11.060.D, and for a Tree Removal Permit as described in AMC 18.5.7.040.B.

2.3 The City Council finds that the proposal satisfies all applicable approval criteria for Annexation.

The first approval criterion for Annexation is that, "*The land is within the City's Urban Growth Boundary.*" The City Council finds that the subject property here is located within the City's Urban Growth Boundary as illustrated in the Comprehensive Plan Map, and is currently a small island of county land surrounded on all sides by the City limits. The City Council finds that the land is within the Urban Growth Boundary and that this criterion has been satisfied.

The second criterion is that, “*The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.*” The City Council finds that the Comprehensive Plan Map identifies the property to come into the city as Single Family Residential, and the application requests to annex the property as R-1-5, which is a Single Family Residential zoning consistent with the Comprehensive Plan Map designation, and to develop the property with a residential subdivision which is an allowed use within the R-1-5 zone. The Council finds that this criterion has been satisfied.

The third approval criterion is that, “*The land is currently contiguous with the present City limits.*” The City Council finds that the subject property here is located within the City’s Urban Growth Boundary as illustrated in the Comprehensive Plan Map, and is currently a small island of county land surrounded on all sides by the City limits. The Council finds that the land is contiguous with the present City limits on all four sides, and that this criterion has been satisfied.

The fourth criterion is that, “*Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; and urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.*” The application materials explain that all of the site’s utilities will be extended to the subject property from the various public utility easements and adjacent public street rights-of-way surrounding the site, as illustrated in the conceptual utility plans provided. At the time of Final Plan application submittal, final engineered civil drawings will be provided with full utility, electrical, grading and drainage plans. The application materials further note that after discussions with the various service providers, no capacity deficiencies have been identified.

The Public Works/Engineering Department has confirmed that:

- **Sanitary Sewer** - The property is currently served by a ten-inch sanitary sewer main in the adjacent North Mountain Avenue right-of-way, an eight-inch sanitary sewer main in the adjacent Village Park Drive right-of-way, an eight-inch sanitary sewer main in the Old Willow Lane right-of-way, an eight-inch sanitary sewer main in the adjacent Kirk Lane right-of-way, and an eight-inch sanitary sewer main in Orchid Street right-of-way.
- **Water** - The property is currently served by a six-inch water main in the adjacent North Mountain Avenue right-of-way, an eight-inch water main in the adjacent Village Park Drive right-of-way, an eight-inch water main in the adjacent Old Willow Lane right-of-way, an eight-inch water main in the adjacent Kirk Lane right-of-way, and an eight-inch water main in the adjacent Orchid Street right-of-way.
- **Storm Drainage** - The property is currently served by Beach Creek, which flows through the property, and by a 12-inch storm sewer main through the northeast corner of the property.

The City Council finds that adequate key City facilities are available within the adjacent rights-of-way and can and will be extended by the applicant to serve the proposed development. Conditions have been included below to

require that final electric service, utility and civil plans be provided for the review and approval of the Staff Advisor and city departments, and that civil infrastructure be installed by the applicants according to the approved plans, inspected and approved prior to the signature of the final survey plat. With these conditions, the Council finds that this criterion has been satisfied.

The fifth criterion for Annexation approval is that, “*Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*”

This criterion specifically defines adequate transportation by mode, noting that “*For vehicular transportation a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.*” In this instance, North Mountain Avenue is the nearest collector street and it fronts on the portion of the property currently within the city limits. North Mountain Avenue is already improved with paved automobile lanes, bicycle lanes, curbs, gutters, parkrow planting strips and sidewalks in place along the subject property’s full frontage. The existing parkrow planting strips lack street trees, and a condition of approval has been included to require that irrigated street trees selected from the Recommended Street Tree Guide and planted according to city standards. The applicant proposes a new residential neighborhood street, Beach Creek Drive, connecting North Mountain Avenue to the subdivision’s interior streets and the surrounding residential neighborhoods to the north and east. The connection from North Mountain Avenue to the neighborhoods to the east, via Kirk Lane, is envisioned in the Transportation System Plan. The streets within the surrounding neighborhoods are fully improved and stubbed out to the subject property. As proposed, all new streets in the annexed area would be fully improved to residential neighborhood street standards and would be connected to the street system in the surrounding neighborhoods. Village Park Drive, Old Willow Lane, Kirk Lane and Orchid Street are pre-existing improved streets, and all are paved and at least 20 feet in width for vehicular and large truck ingress, egress and turning mobility as provided for in the adopted Street Design Standards for residential streets.

While development of the annexed area at 43 peak hour trips will not trigger the 50 peak hour trip threshold level of vehicle trips to require a full transportation impact analysis, the application materials include a report from Traffic Engineer Alex Georgevitch which finds that a large majority – or roughly 80 percent - of new automobile trips will be via North Mountain Avenue while roughly 20 percent of trips will use surrounding neighborhood streets. This will equate to roughly ten P.M. peak hour trips on those streets. Half of these P.M. peak hour trips will likely use Orchid Street to get to the cottages proposed at the southeast corner of the annexed area, while the remaining five P.M. peak hour trips will be split between surrounding streets (Kirk, Village Park and Old Willow). The Transportation Engineer’s report concludes that no streets will be adversely impacted by the annexation or the proposed development plan.

The criterion goes on to define adequate bicycle transportation as follows: “*For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.*” The application materials explain that all proposed internal streets, as well as the pre-existing abutting streets to the east and north, have been designed as residential neighborhood streets which accommodate bicycles without separate bicycle lanes. North Mountain Avenue is a major collector street and currently has separate bicycle lanes in place along the property’s frontage. The Central Ashland Bikepath also runs along the southside of the railroad tracks.

In addition, the application materials propose a 12-foot dedication of right-of-way along the south property line, on the north side of the tracks, to accommodate a future bike path along the northside of the tracks. The application explains that the adopted Transportation System Plan (TSP) illustrates a planned bike route on both sides of the railroad tracks from Tolman Creek Road to a site just west of Fourth Street. In considering the viability of a northside segment of the Central Ashland Bikepath(CAB) in this vicinity, the Planning Commission found that the Beach Creek corridor is at its widest at the south end of the subject property in this vicinity, and that a northside extension of the CAB here would require an additional, and much-wider, crossing as there are two culverts routing drainage under the tracks feeding two separate drainage channels approximately 175 feet apart along the south boundary of the property. These two channels converge further to the north on the subject property. The railroad ties and rock base supporting the railroad tracks are only six-and-a-half to seven feet from the railings protecting these two culverts, and the residential neighborhoods immediately to the south are fully developed to the northerly edge of the railroad property without any corresponding easements in place for the path to continue southeast. The Planning Commission found that the street system and bridge through the proposed new subdivision, supported by the proposed bicycle and pedestrian easement out to Orchid Street provide the bicycle connectivity sought in the Transportation System Plan’s (TSP) Figure 8-1 ‘Existing & Planned Bikeway Network.’ The City Council finds that the dedication proposed would likely go unused given the site constraints and as such is unnecessary, particularly when the desired connectivity is already achieved in the proposed street system and associated easements and the presence of the CAB on the southside of the tracks with access readily available at the North Mountain Avenue railroad crossing. The Council further finds that in lieu of the 12-foot CAB dedication at the south end of the subject property, the applicant should instead be required to increase the width of both the easement and the paved connection for bicycles and pedestrians circulating between the southeast corner of the subdivision and Orchid Street, and a condition has been included below to require that the paved width of the improvement here be at least ten feet in width to support two-way bicycle and pedestrian traffic.

The criterion further requires a finding that, “*For pedestrian transportation, safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within one-quarter (1/4) mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.*” The application materials indicate that all proposed streets within the annexed area will

include sidewalks and adjacent park row planting strips with a tree-lined canopy in accordance with the City's adopted Street Standards. All interior streets will connect to the existing sidewalks in place on the adjacent streets at the time of street construction, including North Mountain Avenue and the short sections of Old Willow and Kirk Lanes which abut the subject property with unimproved hammerhead turn-arounds. The applicant clarifies that this is not an unusual circumstance and was anticipated with the original subdivisions' approvals with the expectation the curbs and sidewalks being extended through the subject property. This is confirmed by one-foot reserve strips or "street plugs" at the ends of adjacent streets which ensure municipal control over access to the vacant subject property until approved-connections are in place. While Orchid Street will not extend into the new subdivision's interior, pedestrian and bicycle easements and associated improvements are proposed to connect Orchid's sidewalk to the subdivision's sidewalk system.

In addition, the Council finds that Public Works staff has indicated that a city capital improvement project is in the planning stages to rehabilitate the North Mountain Avenue corridor from East Main to I-5, similar to the recently completed Hersey Street project, to address existing sidewalk gaps, traffic calming measures, improvements to the railroad crossing including where the Bikepath crosses North Mountain, ADA requirements and some storm drainage improvements within the North Mountain Avenue corridor.

The City Council finds that safe and accessible facilities exist, or can and will be constructed, in the form of the existing sidewalks on North Mountain Avenue and the surrounding neighborhood streets which will be connected to the central looped street system of the new subdivision. These facilities and the southside Central Ashland Bikepath will provide safe and accessible pedestrian facilities to shopping, dining, schools and parks.

The criterion further specifies that, "*For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.*" The application materials explain that the applicant has reviewed the RVT 2040 Transit Master Plan and reached out to RVT staff and found no immediately necessary improvements, however the applicant and staff have consulted with RVT staff and noted that future routes are planned across the frontage of the property including a future Route 8 identified in the Transportation System Plan and a future Route 5 identified in RVT's 2040 Transit Master Plan. RVT staff has requested that the applicant provide an easement north of the proposed Beach Creek Drive which would support future installation of an eight-foot by ten-foot concrete pad for future transit stop amenities. RVT has noted that no improvements are necessary at this time, but that an easement to support future transit amenities would be beneficial when routes are added along the frontage in the next few years. The City Council finds that transit service is likely to be extended to the site in the future based on the information provided by the Rogue Valley Transportation District, and that the requested easement to support future transit amenities will provide adequate transit facilities when transit service becomes available. A condition requiring an easement for future transit amenities has been included below.

The Ashland Transportation Commission reviewed the application at its regular meeting on August 19, 2021. Oral and written testimony was taken from neighbors on Orchid and Rose Streets who were supportive of having the cottages proposed at the southeast corner of the annexed area take access via Orchid Street, and to provide a bicycle and pedestrian connection through the subdivision there, but not to provide a full street connection which might lead to increased cut-through traffic by drivers seeking a shortcut from East Main Street to Mountain Avenue. During the Transportation Commission's meeting, City Engineering staff also noted that there is currently a city improvement project being planned for North Mountain Avenue between East Main Street and Interstate 5 which will include infill of gaps in the sidewalk system, new crosswalks, traffic calming measures and Americans with Disabilities Act (ADA) improvements along with improvements to the railroad crossing including the Central Ashland Bikepath's crossing. This project was described as similar to the one recently completed on the Hersey Street corridor. The Transportation Commission was ultimately supportive of the Annexation proposal as submitted and voted to convey a recommendation to the Planning Commission and Council that the proposal satisfied the criteria for adequate transportation as submitted.

Conditions have been included below to require that the Final Plan submittal include engineered civil drawings detailing final street designs consistent with the City street design standards' cross-sections for residential neighborhood streets and alleys for all proposed streets and alleys within the annexed area, and that connections be provided to the existing streets as illustrated in the application. With those conditions, the City Council finds that the proposal satisfies the criterion for adequate transportation.

The sixth Annexation criterion is that, *"For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the County Clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent shall not be included."* The application materials explain that for the purposes of computing minimum density, the subject property is one parcel of ten acres to be zoned R-1-5, which allows a base density 4.5 dwelling units per acre for a total of 45 total units as detailed in AMC 18.3.9.050 A. The proposal is for 48 standard units and an additional four cottages to be developed in the future for a total of 52 units, which is 116 percent of the allowed base density using a combination of allowed density bonuses. The application materials conclude that the proposal therefore exceeds the minimum density and satisfies this criterion. The application materials recognize that with annexation approval, the owners of the property will sign an agreement, to be recorded with the County Clerk, ensuring that any future development will occur in accordance with the minimum densities indicated in the final approved development plan. The City Council finds that the project as proposed satisfies the minimum density requirements for Annexation.

The seventh criterion addresses required affordability, generally requiring that annexations with a density or potential density of four residential units or greater must provide at least 25 percent of the based density as guaranteed affordable units (subject to unit equivalency values based on the level of affordability) or

as an alternative may provide sufficient buildable land to a non-profit affordable housing provider to develop the required affordable units. If land is provided to an affordable housing provider, it must be within the project, all needed public facilities extended to service it, and the land must be transferred with a deed restriction insuring compliance with the affordability requirements before the project begins. Affordable units must be provided in a comparable bedroom mix with the market rate units to be provided, meet minimum floor area requirements, use comparable materials, provide comparable amenities and be timely constructed relative to the market rate units. The City Council finds that the land currently in the County proposed for Annexation totals 7.90 acres, and that when unbuildable areas are excluded as provided in AMC 18.5.8.050.G.1, 7.61 acres remain. At the R-1-5 base density of 4.5 dwelling units per acre, this area has a base density of 34.245 units. 25 percent of 34.245 units is 8.561 required affordable units, which is rounded down to eight units. **[7.90 total annexed acres – 0.29 unbuildable acres = 7.61 buildable acres; 7.61 buildable acres x 4.5 dwelling units per acre = 34.245 units base density; 34.245 units base density x 0.25 percent required affordable units = 8.561 units (This is rounded down to eight required affordable units).]**

The City Council further finds that four of the eight proposed affordable units are to be provided in a cluster of cottages in the southeast corner of the subject property (i.e. Lots #41,43,44 & 45), and that the remaining four affordable units will be distributed throughout the project, with specific locations to be identified in the Final Plan application. The Council finds that the proposed lot configuration for the four cottages proposed could be accomplished through the Performance Standards Options Chapter (AMC 18.3.9), however the reduction in off-street parking requirements and elimination of on-street parking requirements available to Cottage Housing Developments processed under the standards of AMC 18.2.3.090, and as such, the applicant will need to obtain the necessary approvals for a Cottage Housing Development (*Performance Standards Options Subdivision and Site Design Review approvals in addition to demonstration of compliance with the Cottage Housing Development Standards*) or address the standard parking requirements at Final Plan.

To meet these affordability requirements, the applicant proposes to partner with Habitat for Humanity, a local non-profit affordable housing provider experienced in working with municipal affordable housing programs, to develop five three-bedroom and three two-bedroom affordable units. The applicant proposes to provide Habitat for Humanity with the title to nine properties, including eight buildable lots and one common area, within the proposed subdivision at final plat. Four of these lots will be interspersed throughout the subdivision, in locations to be identified at final plan, and four lots and a common area will be located in the subdivision's southeast corner. The applicant will extend all public facilities necessary for the eight guaranteed affordable housing units to be transferred to Habitat for Humanity, and all noted infrastructure will be installed per the phasing plan including sidewalks, curbs, gutters, planter strips, street trees, paving and all lateral utility extensions into the property line. The applicant also proposes to install the paved bicycle and pedestrian route from Orchid Street to Beach Creek Way. As proposed, Habitat would be responsible for the common area improvements within the cottage housing area including landscaping, parking lot, driveway, private sidewalks, and the development of the actual units along with their associated service connections.

The parcels transferred to Habitat for Humanity will be deed restricted to comply with Ashland's affordable housing program requirements for households earning at or below 80 percent of the area's

median income, with a deed restriction for each of the transferred lots to be recorded with the plat. The application emphasizes that the proposed eight affordable housing units are to be designed and constructed by Habitat for Humanity using comparable building materials and include equivalent amenities to the market rate units, including a visually compatible exterior designs, use of materials, and overall appearance of quality. The proposed eight affordable units are also to have comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems, and all of the proposed affordable units will include solar panels for “net zero” efficiency and will be built to Earth Advantage® Platinum/Zero Energy standards or a comparable “net zero” level of efficiency verified by another recognized third-party review program approved by the Staff Advisor.

The City Council finds that the application proposes to provide eight units of deed-restricted affordable housing which meet the requirements of AMC 18.5.8.050.G through a partnership with Habitat for Humanity, and that this criterion has been satisfied.

The final Annexation criterion is that, *“One or more of the following standards are met:*

1. *The proposed area for annexation is to be residentially zoned, under the Comprehensive Plan, and the applicant will obtain planning action approval for an outright permitted use, special permitted use, or conditional use in conformance with the annexation request.*
2. *The proposed lot or lots will be zoned M-1, CM, E-1, or C-1 under the Comprehensive Plan, and the applicant will obtain Site Design Review approval for an outright permitted use, or special permitted use concurrent with the annexation request.*
3. *A current or probable public health hazard exists due to lack of full City sanitary sewer or water services.*
4. *Existing development in the proposed annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.*
5. *The area proposed for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.*
6. *The lot or lots proposed for annexation are an island completely surrounded by lands within the City limits.*

The City Council finds that in this instance, standards #1 and #6 are met. The property to be annexed will be residentially-zoned consistent with its Comprehensive Plan designation and is requesting concurrent approval for a residential subdivision which is an outright permitted use, and the subject property is an island completely surrounded by lands that are within the City limits. The Council finds that this final annexation criterion has been satisfied.

The City Council concludes that the Annexation requested meets all applicable criteria for Annexation.

2.4 The City Council finds that the Planning Commission has reviewed and approved the applicant’s concurrent development proposal requesting Outline Plan subdivision, Exception to Street Standards, Limited

Activities and Uses Permit and Tree Removal Permits to remove four hazard trees subject to 11 conditions and contingent upon the Council's review and approval of the Annexation request. After review of the Planning Commission's decision, the Council concurs with the Planning Commission decision and adopts and incorporates the Planning Commission approval and associated findings in their entirety into this Council decision as "Exhibit" A of the Council findings.

### **SECTION 3. DECISION**

3.1 Based on the record of the Public Hearing on this matter, the Ashland City Council concludes that the proposal is supported by evidence contained within the whole record.

The subject property is an island entirely surrounded by the city with established neighborhoods to the north and east, and the proposal will bring this long-isolated island into the City while making excellent use of the Performance Standards Option subdivision chapter to plan a development which will "*stress energy efficiency, architectural creativity, and innovation; use the natural features of the landscape to their greatest advantage; provide a quality of life equal to or greater than that provided in developments built under the standard zoning codes; be aesthetically pleasing; provide for more efficient land use; and reduce the impact of development on the natural environment and neighborhood*" as envisioned in the chapter's purpose statement while also providing eight new, deed-restricted affordable housing units.

Therefore, based on our overall conclusions and upon the proposal being subject to each of the following conditions the Ashland City Council approves the Annexation requested as Planning Action #T3-2021-00003. In addition, after review of the Planning Commission's approval of the concurrent development proposal requesting Outline Plan subdivision, Exception to Street Standards, Limited Activities and Uses Permit and Tree Removal Permit to remove four hazard trees, the Council adopts and incorporates the Planning Commission approval and findings in their entirety as "Exhibit A" of this decision. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #T3-2021-00003 is denied. The following are the conditions and they are attached to the approval:

1. That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
2. That any new addresses shall be assigned by City of Ashland Engineering Department. Street and subdivision names shall be subject to City of Ashland Engineering Department review for compliance with applicable naming policies.
3. That permits shall be obtained from the Ashland Public Works Department prior to any work in the public right of way, including but not limited to permits for driveway approaches, street improvements, utilities or any necessary encroachments.
4. That the recommendations of the project arborist including tree protection fencing placement, provisions for temporary watering systems and pruning recommendations shall be conditions of this approval.
5. That the tree protection fencing and other tree preservation measures shall be installed according to the approved plan, inspected and approved by the Staff Advisor prior to any site work, storage of materials, staging or issuance of a building or excavation permit. The tree protection shall be chain link fencing six feet tall and installed in accordance with 18.4.5.030.C. and no construction

activity, including dumping or storage of materials such as building supplies, soil, waste, equipment, or parked vehicles, shall occur within the tree protection zones.

6. That a final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
7. That prior to final adoption of an ordinance annexing the property, the owners shall provide a signed and notarized agreement for recording guaranteeing that any future development of the property will occur in accordance with the minimum densities indicated in the final approved development plan.
8. That the Final Plan application shall include:
  - a. Final electric service, utility and civil plans including but not limited to the water, sewer, storm drainage, electric, street and driveway improvements shall be submitted for the review and approval of the Planning, Building, Electric, and Public Works/Engineering Departments with the Final Plan submittal. The street system plan shall include full street designs with cross-sections consistent with the City's Street Design Standards for the proposed residential neighborhood streets and alleys, as approved, except that no parkrow planting strip is required on the bridge over Beach Creek. Street lights shall be included in keeping with city street light standards. The utility plan shall include the location of connections to all public facilities including the locations of water lines and meter sizes; fire hydrant; sanitary sewer lines, manholes and clean-out's; storm drain lines and catch basins; and locations of all primary and secondary electric services including line locations, transformers (to scale), cabinets, meters and all other necessary equipment. Transformers, cabinets and vaults shall be located in areas least visible from streets, while considering the access needs of the utility departments. Any required private or public utility easements shall be delineated on the civil plans. All civil infrastructure shall be installed by the applicants, inspected and approved prior to the signature of the final survey plat.
  - b. That the applicant shall submit a final electric design and distribution plan including load calculations and locations of all primary and secondary services including transformers, cabinets, street lights and all other necessary equipment. This plan must be reviewed and approved by the Electric Department prior to the signature of the final survey plat. Transformers and cabinets shall be located in areas least visible from streets and outside of the sidewalk corridor and vision clearance areas, while considering the access needs of the Electric Department. Electric services shall be installed underground to serve all lots within the applicable phase prior to signature of the final survey plat. At the discretion of the Staff Advisor, a bond may be posted for the full amount of underground service installation (with necessary permits and connection fees paid) as an alternative to installation of service prior to signature of the final survey plat. In either case, the electric service plan shall be reviewed and approved by the Electric, Engineering, Building and Planning Departments prior to installation of facilities.
  - c. A final storm drainage plan detailing the location and final engineering for all storm drainage improvements associated with the project shall be submitted for review and

- approval by the Departments of Public Works, Planning and Building Divisions. The storm drainage plan shall demonstrate that post-development peak flows are less than or equal to the pre-development peak flow for the site as a whole, and that storm water quality mitigation has been addressed through the final design.
- d. The applicant's Final Plan submittals shall incorporate measures to reduce downstream sediment transport, slow stream flows and address the "*Rogue Valley Sewer Services Stormwater Quality Design Manual*" requirements for the management of stormwater flows entering the natural water course.
  - e. A final grading and erosion control plan which includes the location of silt fencing placement to protect the creek corridor during construction.
  - f. Calculations demonstrating that the proposed new lots have been designed to permit the location of a 21-foot high structure with a solar setback that does not exceed 50 percent of the lot's north-south dimension based on Solar Standard A, or identification of a solar envelope for each lot which provides comparable solar access protections, as required in AMC 18.4.8.040
  - g. Final lot coverage calculations demonstrating how lot coverage is to comply with the applicable coverage allowances of the R-1-5 zoning district. Lot coverage includes all building footprints, driveways, parking areas and other circulation areas, and any other areas other than natural landscaping. No additional coverage allocation beyond the 50 percent maximum coverage for each lot in the R-1-5 district shall be allowed.
  - h. That the applicant shall obtain any necessary approvals for a Cottage Housing Development, including Performance Standards Options Subdivision and Site Design Review approvals in addition to demonstrating compliance with the Cottage Housing Development Standards in conjunction with Final Plan approval.
  - i. That the requirements of the Ashland Fire Department relating to approved addressing; fire apparatus access, fire apparatus access approach, aerial ladder access, firefighter access pathways, and fire apparatus turn-around; fire hydrant distance, spacing and clearance; fire department work area; fire sprinklers; limitations on gates, fences or other access obstructions; and addressing standards for wildfire hazard areas including vegetation standards and limits on work during fire season shall be satisfactorily addressed in the Final Plan submittals. Fire Department requirements shall be included in the civil drawings.
  - j. Revised Water Resource Protection Zone mitigation and management plans meeting the requirements of AMC 18.3.11.110.B.1 and C including landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of plants, timing of plantings, plant spacing and installation methods. The mitigation plan shall address the required 1:1.5 restoration and enhancement ratio, the 90-day re-planting timeline, the local native plant species coverage, re-planting priorities including erosion control and bank stabilization, shrub and tree requirements, erosion control, irrigation, performance guarantees, and shall be designed to achieve required the plant coverage by local native plant species (i.e. 50 percent after one year, 90 percent after five years).
  - k. That draft CC&Rs for the Homeowner's Association shall be provided for review and approval of the Staff Advisor with the Final Plan submittal. The CC&R's shall describe responsibility for the maintenance of all common use-improvements including driveway, open space, landscaping, utilities, and stormwater detention and drainage system, and shall

- include an operations and maintenance plan for the stormwater detention and drainage system.
- l. The approved Tree Protection Plan, Water Resource Protection Zone Mitigation and Management Plans, and accompanying standards for compliance shall be noted in the CC&Rs. The CC&Rs must state that deviations from the approved Tree Preservation and Protection Plan or Water Resource Protection Zone Mitigation and Management Plans shall be considered violations of the Planning approval and subject to penalties described in the Ashland Municipal Code.
  - m. A fencing plan which demonstrates that all fencing shall be consistent with the provisions of the “Fences and Walls” requirements in AMC 18.4.4.060, and that fencing around common open space, except for deer fencing, shall not exceed four feet in height. Fencing limitations shall be noted in the subdivision CC&R’s. The location and height of fencing shall be identified at the time of building permit submittals, and fence permits shall be obtained prior to installation.
  - n. An easement for future transit amenities shall be identified in the Final Plan submittal to allow for the future placement of a Rogue Valley Transportation District (RVTD) bus stop as requested by RVTD staff. This easement shall be a minimum of ten-feet by eight-feet, located behind the sidewalk, and placed in a location north of Beach Creek Drive that is mutually agreed upon with RVTD.
  - o. A final phasing plan for the subdivision.
9. That a final survey plat shall be submitted within 12 months of Final Plan approval and approved by the City of Ashland within 18 months of this approval. Prior to submittal of the final subdivision survey plat for signature:
- a. All easements including but not limited to public and private utilities, public pedestrian and public bicycle access, drainage, irrigation and fire apparatus access shall be indicated on the final subdivision plat submittal for review by the Planning, Engineering, Building and Fire Departments. The public pedestrian and bicycle access easement from the southeast corner of the subdivision out to Orchid Street shall be increased to accommodate a paved width of at least ten feet. The paved improvement shall be installed, inspected and approved prior to signature of the final survey plat.
  - b. The final survey plat shall include the dedication of right-of-way necessary to accommodate the proposed street system. The applicant’s proposed 12-foot right-of-way dedication to accommodate the future placement of a Central Ashland Bikepath extension on the north side of the railroad tracks is not required.
  - c. That the subdivision name and all street names shall be approved by the City of Ashland Engineering Division.
  - d. Subdivision infrastructure improvements including but not limited to utilities, driveways, streets and common area improvements shall be completed according to approved plans, inspected and approved.

- e. Irrigated street trees selected from the Recommended Street Tree Guide and planted according to city planting and spaces standards shall be planted along the full North Mountain Avenue of the subject property, inspected and approved by the Staff Advisor.
  - f. Electric services shall be installed underground to serve all lots, inspected and approved. The final electric service plan shall be reviewed and approved by the Ashland Electric, Building, Planning and Engineering Divisions prior to installation.
  - g. That the sanitary sewer laterals and water services including connection with meters at the street shall be installed to serve all lots within the applicable phase, inspected and approved.
  - h. The dedication of lots to a non-profit affordable housing developer and recording of deed restrictions guaranteed affordability described herein shall occur in conjunction with plat signature and recording.
10. That prior to the issuance of a building permit for any unit, the applicant shall provide evidence that the conservation housing and energy efficiency certifications described in the application materials (*Earth Advantage® Platinum/Zero Energy, LEED® BD+C/LEED® Zero, Passive House® PHIUS+ Source Zero or another equivalent third-party verified zero energy certification*) are being pursued.
11. That prior to final inspection approval or the issuance of a certificate of occupancy, the applicant shall provide evidence of having obtained the required third-party conservation housing/energy efficiency certifications (*Earth Advantage® Platinum/Zero Energy, LEED® BD+C/LEED® Zero, Passive House® PHIUS+ Source Zero or another equivalent third-party verified zero energy certification*).

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Ashland City Council Approval

November 2, 2021

Date

CLEAR  
CREEK  
DRIKE

S 89°46'40" E - 512.79'

NORTHWEST QUARTER OF SECTION 10  
OLD WILLOW TOWNSHIP 39 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN  
CITY OF ASHLAND, JACKSON COUNTY, OREGON

FOR

**KDA Homes LLC**  
604 Fair Oaks Drive  
Ashland, Oregon 97520

A S H L A N D      V I L L A G E      S U B D I V I S I O N

30' 30'

SECTION 9

SECTION 10

LEGEND

IRON PIN MONUMENT

PROPERTY BOUNDARY LINE

CENTERLINE

IRON PIN MONUMENT

PROPERTY BOUNDARY LINE

CENTERLINE

ANNEXATION AREA

7.91 ACRES

N 00°07'18" W  
534.97'

O.R. 2007-047152  
POINT OF BEGINNING  
S 61°21'6" E  
S 61°02'11" E  
S 61°02'11" E

O.R. 2007-047152  
N 00°12'54" W - 813.50'

B E A R   G R A S

V I L L A G E

C A L Y P S O

C O U R T

S U B D I V I S I O

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

Shawn Kampmann

OREGON  
JULY 14, 1998  
SHAWN KAMPMANN  
2883 LS

RENEWAL DATE: 6/30/2021

SURVEYED BY:

**POLARIS LAND SURVEYING LLC**  
P.O. BOX 459  
ASHLAND, OREGON 97520  
(541) 482-5009

DATE: JUNE 16, 2021

Assessor's Map No. 39 1E 10, Tax Lot 800

**POLARIS LAND SURVEYING**

**FINDINGS  
BEFORE THE PLANNING COMMISSION  
October 12, 2021**

IN THE MATTER OF PLANNING ACTION #PA-T3-2021-00003, A REQUEST FOR )  
FOR ANNEXATION OF 7.9 ACRES OF A TEN-ACRE PROPERTY AT 192 NORTH )  
MOUNTAIN AVENUE. THE SUBJECT PROPERTY WOULD BE ANNEXED INTO )  
THE CITY WITH R-1-5-P (SINGLE FAMILY RESIDENTIAL) ZONING AND THE )  
ENTIRE TEN-ACRE PROPERTY WOULD BE SUBDIVIDED TO CREATE 52 RESID- )  
ENTIAL LOTS AND EIGHT COMMON AREAS. THE APPLICATION INCLUDES )  
REQUESTS FOR OUTLINE PLAN SUBDIVISION APPROVAL, AN EXCEPTION TO )  
STREET DESIGN STANDARDS TO NOT INSTALL A PARKROW PLANTING STRIP )  
WITH STREET TREES ON THE PROPOSED BRIDGE OVER BEACH CREEK, A LIM- )  
ITED ACTIVITIES & USES PERMIT TO INSTALL A BRIDGE OVER BEACH CREEK )  
IN ORDER TO PROVIDE STREET CONNECTIVITY TO NORTH MOUNTAIN AVE- )  
NUE, AND A TREE REMOVAL PERMIT TO REMOVE FOUR OF THE SITE'S 25 )  
TREES.

**APPLICANT:** KDA Homes, LLC )  
**OWNERS:** The Hodgins Family Trust (Robert & Beverly Hodgins, *trustees*) )  
The Mary G. Walter Living Trust (Mary G. Walter, *trustee*) )  
Steve White )

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**RECITALS:**

1) Tax lot #800 of Map 39 1E 10 is located at 192 North Mountain Avenue, on the east side of North Mountain Avenue between the railroad tracks and Clear Creek Drive. The subject property is ten acres in area, with approximately 2.1 acres within the current city limits and zoned R-1-5-P (Single Family Residential) and the remaining 7.9 acres within the city's Urban Growth Boundary (UGB) in Jackson County and zoned County RR-5 (Rural Residential). With the current request, the 7.9 acres outside the city limits would be annexed into the city with R-1-5-P zoning and developed.

2) The applicant is requesting annexation of 7.9 acres and Outline Plan approval for a 52-unit residential subdivision for the property located at 192 North Mountain Avenue. With annexation, 7.9 acres of the ten-acre property would be brought into the city with R-1-5-P Single Family Residential zoning, and the entire ten-acres would be subdivided to create 52 residential lots and eight common areas. The application also includes requests for an Exception to Street Standards to not install a parkrow planting strip with street trees on the proposed bridge over Beach Creek; a Limited Activities & Uses Permit to install a bridge over Beach Creek in order to provide street connectivity to North Mountain Avenue; and a Tree Removal Permit to remove four of the site's 25 trees. The proposal is outlined in plans on file at the Department of Community Development.

- 3) The approval criteria for an Annexation are described in AMC 18.5.8.050 as follows:

*An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with all of the following approval criteria:*

- A. *The land is within the City's Urban Growth Boundary.*
- B. *The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.*
- C. *The land is currently contiguous with the present City limits.*
- D. *Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; and urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.*
- E. *Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*
  - 1. *For vehicular transportation a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.*
  - 2. *For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.*
  - 3. *For pedestrian transportation safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within one-quarter (1/4) mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.*

4. For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.
- F. For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the County Clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent shall not be included.
- G. Except as provided in subsection [18.5.8.050.G.1] below, annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the following requirements.
1. The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein. The base density of the property for the purposes of this calculation shall exclude any undevelopable portions of the property such as wetlands, floodplain corridor lands, water resource areas, slopes greater than 35 percent, or land area dedicated as a public park.
    - a. Ownership units restricted to households earning at or below 120 percent the area median income shall have an equivalency value of 0.75 unit.
    - b. Ownership units restricted to households earning at or below 100 percent the area median income shall have an equivalency value of 1.0 unit.
    - c. Ownership or rental units restricted to households earning at or below 80 percent the area median income shall have an equivalency value of 1.25 unit.
  2. As alternative to providing affordable units per subsection [18.5.8.050.G.1] above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection [18.5.8.050.G.1.b] above, through transfer to a non-profit (IRC 501(c)(3)) affordable housing developer or public corporation created under ORS 456.055 to 456.235.
    - a. The land to be transferred shall be located within the project meeting the standards set forth in subsections [18.5.8.050.G.5] and [18.5.8.050.G.6].
    - b. All needed public facilities shall be extended to the area or areas proposed for transfer.

- c. Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(c)(3) organization, or public corporation created under ORS 456.055 to 456.235.
  - d. The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.
  - e. Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in subsection 18.5.8.050.G.4.
3. The affordable units shall be comparable in bedroom mix with the market rate units in the development.
- a. The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 18.5.8.050.G.3, or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.

**Table  
18.5.8.050.G.3**

<b>Unit Type</b>	<b>Minimum Required Unit Floor Area (Square Feet)</b>
Studio	350
1 bedroom	500
2 bedroom	800
3 bedroom	1,000
4 bedroom	1,250

4. A development schedule shall be provided that demonstrates that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows:
- a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.
  - b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.

5. That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.
    - a. The exterior appearance of the affordable units in any residential development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market rate units.
    - b. Affordable units may differ from market rate units with regard to floor area, interior finishes and materials, and housing type; provided, that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.
  6. Exceptions to the requirements of subsections [18.5.8.050.G.2] through [18.5.8.050.G.5], above, may be approved by the City Council upon consideration of one or more of the following:
    - a. That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of subsection [18.5.8.050.G.2]
    - b. That the alternative phasing proposal not meeting subsection [18.5.8.050.G.4] provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion.
    - c. That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per subsection [18.5.8.050.G.6], are necessary due to local, State, or Federal Affordable Housing standards or financing limitations.
  7. The total number of affordable units described in this subsection [18.5.8.050.G] shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction or similar legal instrument shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years for units qualified as affordable rental housing, or 30 years for units qualified as affordable for-purchase housing.
- H.** One or more of the following standards are met:
1. The proposed area for annexation is to be residentially zoned, under the Comprehensive Plan, and the applicant will obtain planning action approval for an outright permitted use, special permitted use, or conditional use in conformance with the annexation request.
  2. The proposed lot or lots will be zoned M-1, CM, E-1, or C-1 under the Comprehensive Plan, and the applicant will obtain Site Design Review approval for an outright permitted use, or special permitted use concurrent with the annexation request.
  3. A current or probable public health hazard exists due to lack of full City sanitary sewer or water services.

4. *Existing development in the proposed annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.*
  5. *The area proposed for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.*
  6. *The lot or lots proposed for annexation are an island completely surrounded by lands within the City limits. (Ord. 3195 § 4, amended, 12/01/2020)*
- 4) The criteria for Outline Plan approval are described in **AMC 18.3.9.040.A.3** as follows:
- a. *The development meets all applicable ordinance requirements of the City.*
  - b. *Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
  - c. *The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.*
  - d. *The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
  - e. *There are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*
  - f. *The proposed density meets the base and bonus density standards established under this chapter.*
  - g. *The development complies with the Street Standards.*
- 5) The criteria for an Exception to the Street Standards are described in **AMC 18.4.6.020.b** as follows:
1. *Exception to the Street Design Standards. The approval authority may approve exceptions to the standards section in 18.4.6.040 Street Design Standards if all of the following circumstances are found to exist.*
    - a. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
    - b. *The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*
      - i. *For transit facilities and related improvements, access, wait time, and ride experience.*

- ii. *For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
    - iii. *For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.*
  - c. *The exception is the minimum necessary to alleviate the difficulty.*
  - d. *The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.*

6) The criteria for a Limited Activities & Uses Permit are described in AMC 18.3.11.060.D as follows:

1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
  2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.
  3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
  4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
  5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.
  6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

7) The criteria for a Tree Removal Permit are described in AMC 18.5.7.040.B as follows:

1. **Hazard Tree.** A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.

- a. *The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.*
  - b. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*
2. ***Tree That is Not a Hazard.*** A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
- a. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.10.*
  - b. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.*
  - c. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.*
  - d. *Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.*
  - e. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*

8) Ashland Municipal Code Chapter 2.62 “Emergency Powers” specifically delegates the authority to declare a state of emergency to the City Manager, subject to subsequent ratification by the City Council. On March 17, 2020, the City Council ratified the City Administrator’s March 15, 2020 Declaration of Emergency resulting from the Coronavirus contagion, and the Council has subsequently approved extension of this Declaration of Emergency through at least October 17, 2021. Among other things, this Declaration of Emergency provides for public meetings to be conducted by electronic means for the various City commissions and boards, including the Planning Commission.

10) The Planning Commission, following proper public notice, held an electronic public hearing on September 14, 2021 at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the Planning Commission approved the Outline Plan subdivision, Exception to the Street Design Standards, Limited Activities & Uses Permit, and Tree Removal Permit components of the

application subject to conditions pertaining to the appropriate development of the site and to the City Council's approval of the annexation, and further provided a favorable recommendation to the City Council with regard to the Annexation request.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

## **SECTION 1. EXHIBITS**

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

## **SECTION 2. FINDINGS & CONCLUSIONS**

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the staff report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the proposal meets all applicable criteria for Annexation as described in AMC 18.5.8.050, Outline Plan approval described in AMC 18.3.9.040.A.3, for an Exception to Street Standards as described in AMC 18.4.6.020.b; for a Limited Activities and Uses Permit as described in AMC 18.3.11.060.D, and for a Tree Removal Permit as described in AMC 18.5.7.040.B.

2.3 The Planning Commission finds that the proposal satisfies all applicable approval criteria for Annexation.

The first approval criterion for Annexation is that, "*The land is within the City's Urban Growth Boundary.*" The Planning Commission finds that the subject property here is located within the City's Urban Growth Boundary as illustrated in the Comprehensive Plan Map, and is currently a small island of county land surrounded on all sides by the City limits. The Planning Commission finds that the land is within the Urban Growth Boundary and that this criterion has been satisfied.

The second criterion is that, "*The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.*" The Planning Commission finds that the Comprehensive Plan Map identifies the property to come into the city as Single Family Residential, and the application requests to annex the property as R-1-5, which is a Single Family Residential zoning

consistent with the Comprehensive Plan Map designation, and to develop the property with a residential subdivision which is an allowed use within the R-1-5 zone. The Planning Commission finds that this criterion has been satisfied.

The third approval criterion is that, "*The land is currently contiguous with the present City limits.*" The Planning Commission finds that the subject property here is located within the City's Urban Growth Boundary as illustrated in the Comprehensive Plan Map, and is currently a small island of county land surrounded on all sides by the City limits. The Planning Commission finds that the land is contiguous with the present City limits on all four sides, and that this criterion has been satisfied.

The fourth criterion is that, "*Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; and urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.*" The application materials explain that all of the site's utilities will be extended to the subject property from the various public utility easements and adjacent public street rights-of way surrounding the site, as illustrated in the conceptual utility plans provided. At the time of Final Plan application submittal, final engineered civil drawings will be provided with full utility, electrical, grading and drainage plans. The application materials further note that after discussions with the various service providers, no capacity deficiencies have been identified.

The Public Works/Engineering Department has confirmed that:

- **Sanitary Sewer** - The property is currently served by a ten-inch sanitary sewer main in the adjacent North Mountain Avenue right-of-way, an eight-inch sanitary sewer main in the adjacent Village Park Drive right-of-way, an eight-inch sanitary sewer main in the Old Willow Lane right-of-way, an eight-inch sanitary sewer main in the adjacent Kirk Lane right-of-way, and an eight-inch sanitary sewer main in Orchid Street right-of-way.
- **Water** - The property is currently served by a six-inch water main in the adjacent North Mountain Avenue right-of-way, an eight-inch water main in the adjacent Village Park Drive right-of-way, an eight-inch water main in the adjacent Old Willow Lane right-of-way, an eight-inch water main in the adjacent Kirk Lane right-of-way, and an eight-inch water main in the adjacent Orchid Street right-of-way.
- **Storm Drainage** - The property is currently served by Beach Creek, which flows through the property, and by a 12-inch storm sewer main through the northeast corner of the property.

The Planning Commission finds that adequate key City facilities are available within the adjacent rights-of-way and can and will be extended by the applicant to serve the proposed development. Conditions have been included below to require that final electric service, utility and civil plans be provided for the review and approval of the Staff Advisor and city departments, and that civil infrastructure be installed by the applicants according to the approved plans, inspected and approved prior to the signature of the final survey plat. With these conditions, the Planning Commission finds that this criterion has been satisfied.

The fifth criterion for Annexation approval is that, “*Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*”

This criterion specifically defines adequate transportation by mode, noting that “*For vehicular transportation a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.*” In this instance, North Mountain Avenue is the nearest collector street and it fronts on the portion of the property currently within the city limits. North Mountain Avenue is already improved with paved automobile lanes, bicycle lanes, curbs, gutters, parkrow planting strips and sidewalks in place along the subject property’s full frontage. The existing parkrow planting strips lack street trees, and a condition of approval has been included to require that irrigated street trees selected from the Recommended Street Tree Guide and planted according to city standards. The applicant proposes a new residential neighborhood street, Beach Creek Drive, connecting North Mountain Avenue to the subdivision’s interior streets and the surrounding residential neighborhoods to the north and east. The connection from North Mountain Avenue to the neighborhoods to the east, via Kirk Lane, is envisioned in the Transportation System Plan. The streets within the surrounding neighborhoods are fully improved and stubbed out to the subject property. As proposed, all new streets in the annexed area would be fully improved to residential neighborhood street standards and would be connected to the street system in the surrounding neighborhoods. Village Park Drive, Old Willow Lane, Kirk Lane and Orchid Street are pre-existing improved streets, and all are paved and at least 20’ in width for vehicular and large truck ingress, egress and turning mobility as provided for in the adopted Street Design Standards for residential streets.

While development of the annexed area at 43 peak hour trips will not trigger the 50 peak hour trip threshold level of vehicle trips to require a full transportation impact analysis, the application materials include a report from Traffic Engineer Alex Georgevitch which finds that a large majority – or roughly 80 percent - of new automobile trips will be via North Mountain Avenue while roughly 20 percent of trips will use surrounding neighborhood streets. This will equate to roughly ten P.M. peak hour trips on those streets. Half of these P.M. peak hour trips will likely use Orchid Street to get to the cottages proposed at the southeast corner of the annexed area, while the remaining five P.M. peak hour trips will be split between surrounding streets (Kirk, Village Park and Old Willow). The Transportation Engineer’s report concludes that no streets will be adversely impacted by the annexation or the proposed development plan.

The criterion goes on to define adequate bicycle transportation as follows: “*For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.*” The application materials explain that all proposed internal

streets, as well as the pre-existing abutting streets to the east and north, have been designed as residential neighborhood streets which accommodate bicycles without separate bicycle lanes. North Mountain Avenue is a major collector street and currently has separate bicycle lanes in place along the property's frontage. The Central Ashland Bikepath also runs along the southside of the railroad tracks.

In addition, the application materials propose a 12-foot dedication of right-of-way along the south property line, on the north side of the tracks, to accommodate a future bike path along the northside of the tracks. The application explains that the adopted Transportation System Plan (TSP) illustrates a planned bike route on both sides of the railroad tracks from Tolman Creek Road to a site just west of Fourth Street. In considering the viability of a northside segment of the Central Ashland Bikepath(CAB) in this vicinity, The Planning Commission finds that the Beach Creek corridor is at its widest at the south end of the subject property in this vicinity, and that a northside extension of the CAB here would require an additional, and much-wider, crossing as there are two culverts routing drainage under the tracks feeding two separate drainage channels approximately 175 feet apart along the south boundary of the property. These two channels converge further to the north on the subject property. The railroad ties and rock base supporting the railroad tracks are only six-and-a-half to seven feet from the railings protecting these two culverts, and the residential neighborhoods immediately to the south are fully developed to the northerly edge of the railroad property without any corresponding easements in place for the path to continue southeast. The Planning Commission finds that the street system and bridge through the proposed new subdivision, supported by the proposed bicycle and pedestrian easement out to Orchid Street provide the bicycle connectivity sought in the Transportation System Plan's (TSP) Figure 8-1 'Existing & Planned Bikeway Network.' The Planning Commission finds that the dedication proposed would likely go unused given the site constraints and as such is unnecessary, particularly when the desired connectivity is already achieved in the proposed street system and associated easements and the presence of the CAB on the southside of the tracks with access readily available at the North Mountain Avenue railroad crossing. The Commission further finds that in lieu of the 12-foot CAB dedication at the south end of the subject property, the applicant should be required to increase the width of both the easement and the paved connection for bicycles and pedestrians circulating between the southeast corner of the subdivision and Orchid Street, and a condition has been included below to require that the paved width of the improvement here be at least ten feet in width to support two-way bicycle and pedestrian traffic.

The criterion further requires a finding that, *"For pedestrian transportation, safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within one-quarter (1/4) mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated."* The application materials indicate that all proposed streets within the annexed area will include sidewalks and adjacent park row planting strips with a tree-lined canopy in accordance with the City's adopted Street Standards. All interior streets will connect to the existing sidewalks in place on the adjacent streets at the time of street construction, including North Mountain Avenue and the short sections of Old Willow and Kirk Lanes which abut the subject property with unimproved hammerhead turn-arounds. The applicant clarifies that this is not an unusual circumstance and was anticipated with the

original subdivisions' approvals with the expectation the curbs and sidewalks being extended through the subject property. This is confirmed by one-foot reserve strips or "street plugs" at the ends of adjacent streets which ensure municipal control over access to the vacant subject property until approved-connections are in place. While Orchid Street will not extend into the new subdivision's interior, pedestrian and bicycle easements and associated improvements are proposed to connect Orchid's sidewalk to the subdivision's sidewalk system.

In addition, the Planning Commission finds that Public Works staff has indicated that a city capital improvement project is in the planning stages to rehabilitate the North Mountain Avenue corridor from East Main to I-5, similar to the recently completed Hersey Street project, to address existing sidewalk gaps, traffic calming measures, improvements to the railroad crossing including where the Bikepath crosses North Mountain, ADA requirements and some storm drainage improvements within the North Mountain Avenue corridor.

The Planning Commission finds that safe and accessible facilities exist, or can and will be constructed, in the form of the existing sidewalks on North Mountain Avenue and the surrounding neighborhood streets which will be connected to the central looped street system of the new subdivision. These facilities and the southside Central Ashland Bikepath will provide safe and accessible pedestrian facilities to shopping, dining, schools and parks.

*The criterion further specifies that, "For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider; provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property."* The application materials explain that the applicant has reviewed the RVTD 2040 Transit Master Plan and reached out to RVTD staff and found no immediately necessary improvements, however the applicant and staff have consulted with RVTD staff and noted that future routes are planned across the frontage of the property including a future Route 8 identified in the Transportation System Plan and a future Route 5 identified in RVTD's 2040 Transit Master Plan. RVTD staff has requested that the applicant provide an easement north of the proposed Beach Creek Drive which would support future installation of an eight-foot by ten-foot concrete pad for future transit stop amenities. RVTD has noted that no improvements are necessary at this time, but that an easement to support future transit amenities would be beneficial when routes are added along the frontage in the next few years. The Planning Commission finds that transit service is likely to be extended to the site in the future based on the information provided by the Rogue Valley Transportation District, and that the requested easement to support future transit amenities will provide adequate transit facilities when transit service becomes available. A condition requiring an easement for future transit amenities has been included below.

The Ashland Transportation Commission reviewed the application at its regular meeting on August 19, 2021. Oral and written testimony was taken from neighbors on Orchid and Rose Streets who were supportive of having the cottages proposed at the southeast corner of the annexed area take access via Orchid Street, and to provide a bicycle and pedestrian connection through the subdivision there, but not to provide a full street connection which might lead to increased cut-through traffic by drivers seeking a

shortcut from East Main Street to Mountain Avenue. During the Transportation Commission's meeting, City Engineering staff also noted that there is currently a city improvement project being planned for North Mountain Avenue between East Main Street and Interstate 5 which will include infill of gaps in the sidewalk system, new crosswalks, traffic calming measures and Americans with Disabilities Act (ADA) improvements along with improvements to the railroad crossing including the Central Ashland Bikepath's crossing. This project was described as similar to the one recently completed on the Hersey Street corridor. The Transportation Commission was ultimately supportive of the Annexation proposal as submitted and voted to convey a recommendation to the Planning Commission and Council that the proposal satisfied the criteria for adequate transportation as submitted.

Conditions have been included below to require that the Final Plan submittal include engineered civil drawings detailing final street designs consistent with the City street design standards' cross-sections for residential neighborhood streets and alleys for all proposed streets and alleys within the annexed area, and that connections be provided to the existing streets as illustrated in the application. With those conditions, the Planning Commission finds that the proposal satisfies the criterion for adequate transportation.

The sixth Annexation criterion is that, *"For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the County Clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent shall not be included."* The application materials explain that for the purposes of computing minimum density, the subject property is one parcel of ten acres to be zoned R-1-5, which allows a base density 4.5 dwelling units per acre for a total of 45 total units as detailed in AMC 18.3.9.050 A. The proposal is for 48 standard units and an additional four cottages to be developed in the future for a total of 52 units, which is 116 percent of the allowed base density using a combination of allowed density bonuses. The application materials conclude that the proposal therefore exceeds the minimum density and satisfies this criterion. The application materials recognize that with annexation approval, the owners of the property will sign an agreement, to be recorded with the County Clerk, ensuring that any future development will occur in accordance with the minimum densities indicated in the final approved development plan. The Planning Commission finds that the project as proposed satisfies the minimum density requirements for Annexation.

The seventh criterion addresses required affordability, generally requiring that annexations with a density or potential density of four residential units or greater must provide at least 25 percent of the based density as guaranteed affordable units (subject to unit equivalency values based on the level of affordability) or as an alternative may provide sufficient buildable land to a non-profit affordable housing provider to develop the required affordable units. If land is provided to an affordable housing provider, it must be within the project, all needed public facilities extended to service it, and the land must be transferred with a deed restriction insuring compliance with the affordability requirements before the project begins. Affordable units must be provided in a comparable bedroom mix with the market rate units to be provided,

meet minimum floor area requirements, use comparable materials, provide comparable amenities and be timely constructed relative to the market rate units. The Planning Commission finds that the land currently in the County proposed for Annexation totals 7.90 acres, and that when unbuildable areas are excluded as provided in AMC 18.5.8.050.G.1, 7.61 acres remain. At the R-1-5 base density of 4.5 dwelling units per acre, this area has a base density of 34.245 units. 25 percent of 34.245 units is 8.561 required affordable units, which is rounded down to eight units. [7.90 total annexed acres – 0.29 unbuildable acres = 7.61 buildable acres; 7.61 buildable acres x 4.5 dwelling units per acre = 34.245 units base density; 34.245 units base density x 0.25 percent required affordable units = 8.561 units (*This is rounded down to eight required affordable units*).]

The Planning Commission further finds that four of the eight proposed affordable units are to be provided in a cluster of cottages in the southeast corner of the subject property (i.e. Lots #41,43,44 & 45), and that the remaining four affordable units will be distributed throughout the project, with specific locations to be identified in the Final Plan application. The Commission finds that the proposed lot configuration for the four cottages proposed could be accomplished through the Performance Standards Options Chapter (AMC 18.3.9), however the reduction in off-street parking requirements and elimination of on-street parking requirements available to Cottage Housing Developments processed under the standards of AMC 18.2.3.090, and as such, the applicant will need to obtain the necessary approvals for a Cottage Housing Development (*Performance Standards Options Subdivision and Site Design Review approvals in addition to demonstration of compliance with the Cottage Housing Development Standards*) or address the standard parking requirements at Final Plan.

To meet these affordability requirements, the applicant proposes to partner with Habitat for Humanity, a local non-profit affordable housing provider experienced in working with municipal affordable housing programs, to develop five three-bedroom and three two-bedroom affordable units. The applicant proposes to provide Habitat for Humanity with the title to nine properties, including eight buildable lots and one common area, within the proposed subdivision at final plat. Four of these lots will be interspersed throughout the subdivision, in locations to be identified at final plan, and four lots and a common area will be located in the subdivision's southeast corner. The applicant will extend all public facilities necessary for the eight guaranteed affordable housing units to be transferred to Habitat for Humanity, and all noted infrastructure will be installed per the phasing plan including sidewalks, curbs, gutters, planter strips, street trees, paving and all lateral utility extensions into the property line. The applicant also proposes to install the paved bicycle and pedestrian route from Orchid Street to Beach Creek Way. As proposed, Habitat would be responsible for the common area improvements within the cottage housing area including landscaping, parking lot, driveway, private sidewalks, and the development of the actual units along with their associated service connections.

The parcels transferred to Habitat for Humanity will be deed restricted to comply with Ashland's affordable housing program requirements for households earning at or below 80 percent of the area's median income, with a deed restriction for each of the transferred lots to be recorded with the plat. The application emphasizes that the proposed eight affordable housing units are to be designed and constructed by Habitat for Humanity using comparable building materials and include equivalent amenities to the market rate units, including a visually compatible exterior designs, use of materials, and overall appearance of quality. The proposed eight affordable units are also to have comparable improvements

related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems, and all of the proposed affordable units will include solar panels for “Net Zero” efficiency and will be built to Earth Advantage® Platinum standards.

The Planning Commission finds that the application proposes to provide eight units of deed-restricted affordable housing which meet the requirements of AMC 18.5.8.050.G through a partnership with Habitat for Humanity, and that this criterion has been satisfied.

The final Annexation criterion is that, “*One or more of the following standards are met:*

1. *The proposed area for annexation is to be residentially zoned, under the Comprehensive Plan, and the applicant will obtain planning action approval for an outright permitted use, special permitted use, or conditional use in conformance with the annexation request.*
2. *The proposed lot or lots will be zoned M-1, CM, E-1, or C-1 under the Comprehensive Plan, and the applicant will obtain Site Design Review approval for an outright permitted use, or special permitted use concurrent with the annexation request.*
3. *A current or probable public health hazard exists due to lack of full City sanitary sewer or water services.*
4. *Existing development in the proposed annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.*
5. *The area proposed for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.*
6. *The lot or lots proposed for annexation are an island completely surrounded by lands within the City limits.*

The Planning Commission finds that in this instance, standards #1 and #6 are met. The property to be annexed will be residentially-zoned consistent with its Comprehensive Plan designation and is requesting concurrent approval for a residential subdivision which is an outright permitted use, and the subject property is an island completely surrounded by lands that are within the City limits. The Planning Commission finds that this final annexation criterion has been satisfied.

The Planning Commission concludes that the Annexation requested meets all applicable criteria for Annexation.

#### 2.4 The Planning Commission finds that the proposal satisfies all applicable criteria for Outline Plan subdivision approval.

The first approval criterion for Outline Plan subdivision approval is that, “*The development meets all applicable ordinance requirements of the City.*” The application materials assert that except as discussed elsewhere herein, the proposed subdivision meets all applicable ordinance requirements of the City. The application includes a proposal to allocate excess open space coverage, after required open space and the water resource protection zone corridor are excluded, between the developable lots proposed to allow an additional 176 square feet of coverage for each of the 52 proposed developable lots. The Planning

Commission finds that, while in some past Performance Standards subdivisions the allocation of open space coverage was allowed under the general flexibility described as part of the purpose and intent of the Performance Standards Chapter, as currently written the land use ordinance does not include any provisions which would allow for the allocation of lot coverage from excess open space to individual lots, and a condition has been included below to require that lot coverage the 52 proposed lots shall be demonstrated to comply with the maximum 50 percent coverage of the R-1-5 zoning district, with no additional allocated coverage. The Planning Commission finds that, with the condition detailed above, the proposal meets all applicable ordinance requirements or has requested Exceptions thereto, and that this criterion has been satisfied.

The second approval criterion for Outline Plan approval is that, "*Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*" The application materials explain that all of the site's utilities will be extended to the subject property from the various public utility easements and adjacent public street rights-of-way surrounding the site, as illustrated in the conceptual utility plans provided. At the time of Final Plan application submittal, engineered civil drawings will be provided with full utility, electrical, grading and drainage plans.

The application materials further note that after discussions with the various service providers, no capacity deficiencies have been identified. The Public Works/Engineering Department has confirmed that:

- **Sanitary Sewer** - The property is currently served by a ten-inch sanitary sewer main in the adjacent N. Mountain Avenue right-of-way, an eight-inch sanitary sewer main in the adjacent Village Park Drive right-of-way, an eight-inch sanitary sewer main in the Old Willow Lane right-of-way, an eight-inch sanitary sewer main in the adjacent Kirk Lane right-of-way, and an eight-inch sanitary sewer main in Orchid Street right-of-way.
- **Water** - The property is currently served by a six-inch water main in the adjacent N. Mountain Avenue right-of-way, an eight-inch water main in the adjacent Village Park Drive right-of-way, an eight-inch water main in the adjacent Old Willow Lane right-of-way, an eight-inch water main in the adjacent Kirk Lane right-of-way, and an eight-inch water main in the adjacent Orchid Street right-of-way.
- **Storm Drainage** - The property is currently served by Beach Creek, which flows through the property, and by a 12-in storm sewer main in the northeast corner of the property.

The Planning Commission finds that, in response to concerns raised by representatives of the homeowners' association for the Ashland Village Subdivision that the proposed development will increase the speed and volume of stormwater flows in Beach Creek which flows into their subdivision's common open space north of the subject property, the applicant shall demonstrate at Final Plan that sufficient measures have been incorporated in their drainage, mitigation and/or management plans to reduce downstream sediment transport, slow stream flows, and address the Rogue Valley Sewer Services Stormwater Quality Design Manual's requirements for the management of stormwater flows entering a natural watercourse.

North Mountain Avenue is classified as an avenue or major collector in the City's Transportation System Plan (TSP) and is improved with paving, bike lanes, curbs, gutters, parkrow planting strips and sidewalks in place along the subject property's frontage. The existing parkrow planting strips lack street trees, and a condition of approval has been included to require that irrigated street trees selected from the Recommended Street Tree Guide and planted according to city standards. A new residential neighborhood street will be constructed from North Mountain Avenue to a bridge crossing Beach Creek into the property, and a central looped street system will be constructed to city street design standards to serve the subdivision, with connections to surrounding residential neighborhoods to the north and east. Adequate transportation is discussed at length with regard to the Annexation criteria in Section 2.3 above, and the Planning Commission finds that the proposal can and will provide paved access to and through the development and that adequate transportation can and will be provided.

The Planning Commission finds that adequate key City facilities are available within the adjacent rights-of-way and will be extended by the applicant to serve the proposed development. Conditions have been included below to require that final electric service, utility and civil plans be provided for the review and approval of the Staff Advisor and city departments, and that civil infrastructure be installed by the applicants according to the approved plans, inspected and approved prior to the signature of the final survey plat.

The third criterion for approval of an Outline Plan is that, "*The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.*" The application materials indicate that the site's natural features have been identified and included in the open space, common areas, and unbuildable areas of the development, emphasizing that overall, the plan recognizes the site's significant natural features including the Beach Creek corridor traversing through the property and large, mature Oak and Pine trees. The application explains that these features have not only been recognized and incorporated in the site plan, but have been made integral features of the subdivision's human scale character. The application further explains that all of the sites mature Oak Trees – the majority of which are around the existing farmhouse - are planned to be retained, emphasizing that some are incredibly expansive and majestic trees which may predate the old farmhouse. As such, the applicant sought to design the subdivision to preserve the trees or mitigate any potential impact by minimizing development near the trees or creating building envelopes, in concert with the project's Arborist, to minimize potential root disturbance. The location of the bridge has been placed between two large mature trees, one a 60-inch diameter Black Oak tree and the other a 30-inch Ponderosa Pine tree, to aid in their preservation.

The Planning Commission notes that the reach of Beach Creek extending generally north-to-south through the subject property here is identified as an "intermittent or ephemeral stream" on the City's adopted "Water Resource Protection Zones Requirements" map. Intermittent or ephemeral streams have a water resource protection zone (WRPZ) which extends 30 feet upland of the centerline of the stream. The Planning Commission finds that the proposed subdivision design recognizes this stream and the site's mature Oak trees as significant natural features of the site and has incorporated them in the street design, lot lay-out and open space planning for the subdivision, and that this criterion has been satisfied.

The fourth criterion for approval of an Outline Plan is that, "*The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*" The application

materials provided explain that the subject property is surrounded on all sides by urbanized lands already developed in compliance with the City's Comprehensive Plan, including existing single family residential subdivisions to the north, east and west, and city facilities including the Electric Department across the railroad tracks to the south. The Planning Commission finds that adjacent land is already developed, and as such the proposed development here will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.

The fifth approval criterion is that, "*There are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*" The application materials explain that the subdivision is likely to be developed in only one or two phases, but that this will depend on economic conditions at the time of construction. The application notes that if phasing is necessary, it would occur as illustrated on the preliminary phasing plan provided, with the entry street from North Mountain Avenue and the box culvert over Beach Creek being developed initially with either phase. A final Phasing Plan will be submitted with the project's Final Plan application when the project's final civil engineering has been completed. All open space areas within either phase will be left in their natural state, such as the Beach Creek Riparian Corridor, or improved as illustrated on the plans and, if the subdivision develops in phases, the initial phase will be completed and have the same or higher ratio of amenities proposed within the second phase. All open spaces identified in the subdivision are to be owned and managed in perpetuity by the subdivision's Home Owners' Association (HOA), and the Final Plan application will include draft Conditions, Covenants and Restrictions (CC&Rs) outlining the HOA's budget and maintenance responsibilities for such open spaces. Conditions have been included below to require that the CC&R's include provisions for the long-term operation and maintenance of open space and common areas including the trees preserved and protected with the subdivision, common utilities and the drainage system, including a stormwater operations and maintenance plan. With the inclusion of these conditions, the Planning Commission finds that there are adequate provisions for the maintenance of the open space and common areas, and that this criterion has been satisfied.

The sixth criterion is that, "*The proposed density meets the base and bonus density standards established under this chapter.*" The application materials explain that the subject property is ten-acres and is to be zoned R-1-5, a Single Family Residential zoning district with a base density of 4.5 units per acre which yields a base density of 45 total units. The application proposes a total of 52 units, which necessitates an approximately 16 percent density bonus. The applicant proposes to implement three density bonus measures including Conservation Housing, Common Open Space and Affordable Housing which more than qualify the proposal for the 16 percent density bonus requested, as further discussed below:

**Conservation Housing:** The applicants propose to construct 100 percent of the proposed homes to meet or exceed the minimum requirements for certification as an Earth Advantage® home. They assert that each home will "exceed" the minimum Earth Advantage Standards and be Earth Advantage "Platinum" and each will also include solar panels to qualify as "Net Zero" housing by producing more energy than typically consumed. Evidence of proposed methodologies meeting such requirements will be provided with each building permit submitted to the City. As such, the proposal is eligible for a 15 percent density bonus as outlined in AMC 18.3.9.050.B.1.

**Common Open Space:** As illustrated in the Site and Landscaping Plans, the proposed subdivision includes a combination of open space areas that are both natural and passive recreational spaces. Specifically, the entire length of the Beach Creek corridor (1.14 acres) will remain “natural” other than a proposed 24- to 30-inch wide trail within the corridor for the purpose of maintaining the riparian area’s blackberries, including a section of dirt trail leading to the adjacent subdivision’s open space to the north which currently has little to no access from that side of the property. The subdivision will also include multiple areas of passive recreational space which include .70 acres in areas such as the subdivision’s central promenade, the entry “feature” open space south of the old farmhouse, and two smaller pocket open spaces illustrated on the plans. In total, 1.84 acres of the ten acre property are to remain in some form of open space, not including the areas dedicated for the future bike path, pedestrian links to other neighborhoods or any open space area within the Cottage Housing phase of the proposal. The applicant contends the provided open space areas will be a significant amenity to project residents, as well as surrounding community, as the vast majority of the open space areas are to be “exposed” along the public rights-of-way allowing the public to see the site’s Oak Trees and riparian environment. Of particular importance to the project’s open space design is the large open space area south of the existing farmhouse which was intentionally designed to remain as open space, along with the adjacent swath of Beach Creek in the background, with the intent to respect the farmhouse’s current farm-like setting and history along North Mountain Avenue. The application concludes that the proposal is eligible for a ten percent density bonus as outlined in AMC 18.3.9.050.B.2.a & b. as the total open space area proposed is 1.84 acres or roughly 18 percent of the entire property. Although 13 percent more open space is being provided than required, a maximum of only a ten percent bonus is permissible in accordance with AMC 18.3.9.050 B.2 and 18.4.4.070 Open Spaces.

**Affordable Housing.** Based on the Ashland Municipal Code, “*a maximum density bonus of 35 percent is allowed for developments including affordable housing. Developments shall receive a density bonus of two units for each affordable housing unit provided. Affordable housing bonus shall be for residential units that are guaranteed affordable in accordance with the standards of section 18.2.5.050, Affordable Housing Standards*”. Here the proposal will include eight (8) affordable housing units to be constructed by Habitat for Humanity. Such units will be sold or rented to families/individuals earning equal or less than 80% of the Area’s Median Income. As such, for the eight provided affordable units, 16 “market rate units” or 35% of the base density is permissible.

The application concludes that although the applicant meets or exceeds the density bonus provisions for additional bonuses which would allow more than the number of units proposed, the applicants are not requesting the full 60 percent density bonus they qualify for, which would equate to 72 dwelling units, but instead are seeking only seven additional units or a 16 percent density bonus under the Affordable Housing option. The application suggests that the basis for limiting the bonus requested is to respond to neighbors requesting the density remain in context with the surrounding neighborhood(s), but also the applicant’s belief the subdivision plan as proposed will produce a positive addition to the neighborhood and broader community.

Conditions have been included to require that the applicant identify the necessary open space on the final plat and provide affordability guarantees and verification of Earth Advantage® certification. With these

conditions, the Planning Commission finds that the proposed density meets the base and bonus density standards, and that this criterion has been satisfied.

The seventh Outline Plan approval criterion is that, "*The development complies with the Street Standards.*" The application materials explain that all of proposed streets and alleys have been designed according to the City's adopted Street Design Standards for residential neighborhood streets and alleys, and that connections will be provided to transition the proposed new streets to the improvements already in place within the surrounding established subdivisions. The application includes a single request for an Exception to the Street Design Standards to not include required parkrow planting strips with street trees on the proposed new bridge crossing Beach Creek, on the portion of the property already within the city. The exception is discussed in detail in section 2.5 below. A condition has been included to require that final civil engineering be provided with the Final Plan submittal illustrating full street designs and cross-section consistent with the City's Street Design Standards for residential neighborhood streets and alleys. The Planning Commission finds that the proposal complies with the Street Standards

The final approval criterion is that, "*The proposed development meets the common open space standards established under section 18.4.4.070. Common open space requirements may be satisfied by public open space in accordance with section 18.4.4.070 if approved by the City of Ashland.*" AMC 18.4.4.070 requires that Performance Standards Option subdivisions with a base density of ten units or more must provide a total of at least five percent of the total lot area in common open space, and that common open space provided above the required five percent is eligible for density bonuses. The total subject property area here is ten acres or 435,600 square feet, and the five percent open space requirement equates to 21,780 square feet of common open space. The applicant proposes to provide a mix of natural and passive recreational open spaces including the entire length of the Beach Creek corridor, which is proposed to remain natural other than a proposed 24- to 30-inch dirt trail which will provide access for blackberry maintenance, and will include a connection to provide similar access to the open space of the Ashland Village Subdivision's creek corridor open space. The creek corridor amounts to 49,995 square feet of common open space. In addition, multiple areas of passive recreational space which include .70 acres in areas such as the central promenade, the "entry feature" open space south of the old farmhouse, and two small pocket open spaces as illustrated on the plans. In total, 1.84 acres of the ten-acre property (*roughly 18 percent where only five percent is required*) are to remain in some form of common open space, not including the areas proposed for dedication as future bike path, the pedestrian links to other neighborhoods, or any open space area that will ultimately be required of those properties within the cottage housing phase of the proposal at the southeast corner of the subject property. The Planning Commission finds that the proposal meets the common open space standards, and concludes that this criterion has been satisfied.

The Planning Commission concludes that all applicable approval criteria for Outline Plan subdivision approval have been satisfied.

2.5 The Planning Commission finds that the proposal satisfies all applicable criteria for the approval of an Exception to the Street Design Standards to not install parkrow planting strips with irrigated street trees over the bridge crossing Beach Creek. Beach Creek is located on the portion of the property located within the city limits, and the proposed bridge would connect the newly proposed Beach Creek Drive from

North Mountain Avenue to the subdivision's internal street system. As proposed, the bridge crossing would have curbside sidewalks.

The first criterion for approval of an Exception to the Street Design Standards is that, "*There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*" The application materials explain that the request Exception to omit the required parkrow planting strip with street trees over the Beach Creek bridge is because the placement of a parkrow with street trees over the top of the bridge would add width and weight to the bridge which would require substantially more disturbance to the Beach Creek water resource protection zone while root growth and irrigation system drainage from the street trees would diminish the bridge's structural integrity over time. The Planning Commission finds that the presence of an intermittent or ephemeral stream, its water resource protection zone, and associated criteria and standards seeking to minimize impacts to the protection zone pose a demonstrable difficulty and that this criterion has been satisfied.

The second approval criterion is that, "*The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*" The application emphasizes that the street connection here is identified in the City's Transportation System Plan and can only be accomplished with a bridge crossing over Beach Creek. The application further suggests that the street connectivity proposed will create superior transportation facilities not only for the subdivision's future residents but also for the adjacent, established neighborhoods to the north and east. The application concludes that the bridge will continue to fully accommodate automobiles, bicyclists and pedestrians. The Planning Commission concludes that this criterion has been satisfied.

The third approval criterion is that, "*The exception is the minimum necessary to alleviate the difficulty.*" The application asserts that the proposed exception is the minimum necessary to alleviate the difficulty as it only applies to the proposed bridge, and will not impact the surrounding, connected streets. The Planning Commission concurs with this assertion and finds that this criterion has been satisfied.

The final approval criterion is that, "*The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.*" The application explains that the subdivision plan is consistent with the City's Street Design Standards except for this short section of bridge crossing Beach Creek. Streets within the remainder of the subdivision are to be built according to the Street Design Standards and will include landscaped park row planting strips with irrigated street trees between the curbs and sidewalks as illustrated in the landscape plan provided (**Applicant's L101**). The applicant further details that they have not only designed the subdivision's streets in compliance with the City's Street Design Standards which are intended to provide multi-purpose modes of transportation options for bicyclists, pedestrians and vehicle movement consistent with the purpose and intent of AMC 18.4.6.040, but will design homes with porches and recessed garages where possible to encourage a more positive and livable streetscape. In addition, the site planning has gone to great lengths to include alleys as well as pedestrian paths to provide additional links within the subdivision, to abutting neighborhoods and to nearby destinations. The Planning Commission finds that the exception requested is consistent with the Purpose and Intent of the Street Standards, and that this criterion has been satisfied.

The Planning Commission finds that the need for a bridge to provide east-west connectivity identified in the Transportation System Plan while also needing to limit the impacts of the bridge construction on Beach Creek's water resource protection zone pose demonstrable difficulties. The standards and criteria for a Limited Activities & Uses Permit in AMC 18.3.11.060.D allow for the permanent alteration of a water resource protection zone to locate and construct a new public street deemed necessary to maintain a functional system where no reasonable alternate location outside the protection zone exists. Here the Transportation System Plan calls for an east-west street connection to maintain a functional street system, while Beach Creek extends north-south for the full length of the subject property. The Limited Activities and Uses Permit requires that the street crossing be designed, located and constructed to minimize excavation, grading, the area of impervious surfaces, the loss of native vegetation, erosion and other adverse impacts to the water resource. In this instance, including standard parkrows over the expanse of the bridge would require that the bridge itself be widened by at least seven- to eight-feet *on each side* along with whatever additional supports were necessary to accommodate the added structural load from the additional width, substantially increasing the area of disturbance within the protection zone. The Commission further finds that without street trees for the limited extent of the crossing, automobiles, bicyclists and pedestrians can still be accommodated with at least equal transportation facilities and connectivity, particularly given the additional effort to provide connectivity above and beyond that identified in the Transportation System Plan with automobile, bicycle and pedestrian connections provided to the established neighborhoods to the north and east. Finally, the Commission finds that limiting the exception to the bridge itself is the minimum exception possible to address these difficulties.

The Planning Commission concludes that the exception request satisfies all applicable criteria for an Exception to the Street Design Standards.

2.6 The Planning Commission finds that the proposal meets all applicable criteria for a Limited Activities & Uses Permit.

The first approval criterion for a Limited Activities & Uses Permit within a water resource protection zone is that, "*All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.*" The application materials provided indicate that the proposed crossing over the Beach Creek's water resource protection zone will be in the form of a bottomless box culvert which will minimize water resource impacts while allowing street connectivity through the subdivision from North Mountain Avenue, into the heart of the subdivision and to and through the adjoining streets to the north and east, including Kirk Lane which is on the City's Transportation System Plan as a required east-west connection between North Mountain Avenue and Fordyce Street. The application materials go on to explain that the proposed bottomless box culvert is a system designed to minimize intrusion into the water resource protection zone by disturbing as little of the surface area of the protection zone as possible. The application also includes a request for an Exception to the Street Design Standards to omit parkrow planting strips and street trees over the bridge in order to limit the culvert's width within the corridor and further minimize its intrusion. The Planning Commission finds that given

the identified need for a crossing, the applicant has proposed to minimize disturbance to the extent practicable with the bridge design.

The second approval criterion is that, “*The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.*” Here, the application reiterates that the proposed bottomless box culvert is a system designed to minimize intrusion into the Water Resource Protection Zone and disturb as little of the surface area of the protection zone as practicable. The application emphasizes that the crossing location was selected based on several factors, including the desire to preserve the site’s established, significant trees, the need to provide necessary separation between the proposed street intersection and the railroad crossing to the south, and the narrower width of the stream channel here which will limit the need for excavation, grading, impervious surfaces, loss of vegetation, erosion and other adverse impacts to the water resource. The Planning Commission finds that the design and location are well-selected to minimize adverse impacts to the water resource while providing connectivity identified as necessary to maintain a functional system and preserving two of the site’s most significant trees – a 60-inch diameter Black Oak and a 30-inch diameter Ponderosa Pine.

The third criterion is that, “*On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.*” The application materials point out that the proposed bottomless box culvert will intrude into the banks of the Beach Creek corridor which have slopes greater than 25 percent, but emphasize that no practicable alternative location of the bridge exists. The Transportation System Plan identifies the need for an east-west connection through the property while the creek corridor runs north-south from property line to property line. The application further explains that the excavation of the banks for the box culvert’s insertion, and construction of adjoining retaining walls have been designed to be limit disturbance of the streambed and channel while the accompanying wing walls will stabilize the banks. The Planning Commission finds that there is no practicable alternative to avoid a crossing and its associated disturbance, however, as proposed, the bottomless culvert structure and associated retaining will limit adverse impacts to the streambed and channel and help to stabilize the banks.

The fourth criterion for approval is that, “*Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.*” The application notes that box culvert, wing walls and all related utilities are to be designed by licensed civil engineers and such plans will be reviewed by City of Ashland’s Engineering and Building staff prior to permitting and installation. The utility and grading plans are to be designed to avoid exposure

to floodwaters and to avoid accidental discharges to the stream. The Planning Commission finds that this criterion has been satisfied.

The fifth criterion is that, "*Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.*" The application proposes to have mitigation plantings within Beach Creek's water resource protection zone corridor follow the prescriptive option for mitigation detailed in AMC 18.3.11.110.B.1, explaining that the area to be addressed is the space affected by the installation of a bottomless culvert on Beach Creek Drive and the adjacent area. The project as proposed includes the removal of non-native plant materials, the protection of existing trees to be preserved, control of disturbed soil during construction, the placement of temporary irrigation to aid in establishing new plantings, and timely replanting with native materials, some trees, shrubs and a cover crop of native grasses.

A condition has been included below to require that the Final Plan submittal include a revised mitigation plan meeting the requirements of AMC 18.3.11.110.B.1 including landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of plants, timing of plantings, plant spacing and installation methods. This plan shall address the required 1:1.5 restoration and enhancement ratio (i.e. 5,600 square feet of disturbance requires a total of mitigation area of at least 8,400 square feet), the 90-day re-planting timeline, the local native plant species coverage, re-planting priorities including erosion control and bank stabilization, shrub and tree requirements, erosion control, irrigation, performance guarantees, and shall be designed to achieve required the plant coverage by local native plant species (i.e. 50 percent after one year, 90 percent after five years). As conditioned, the Planning Commission finds that the fifth criterion is satisfied.

The final Limited Activities approval criterion is that, "*Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.*" The application here is for a subdivision rather than a single dwelling, and as such a recorded management plan is required, and the materials provided include a management plan prepared by Madara Design Incorporated detailing prescribed monitoring clearly defining the expectations and methods of promoting healthy growth of the area and monitoring irrigation while curtailing the intrusion of non-native materials.

Conditions have been added to require that a final management plan meeting the requirements of AMC 18.3.110.C be provided with the Final Plan submittal to ensure long-term conservation and maintenance of the Water Resource Protection Zone (WRPZ). This management plan shall be included as an

attachment to the Conditions, Covenants and Restrictions (CC&R's). With these conditions, the Planning Commission finds that the criterion requiring long-term conservation, management and maintenance of the WRPZ has been satisfied.

The Planning Commission concludes that all applicable criteria for the approval of a Limited Activities & Uses Permit have been satisfied.

2.7 The Planning Commission finds that the application meets all applicable criteria for a Hazard Tree Removal Permit.

The first approval criteria is that, "*The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.*" The application materials indicate that, according to the project arborist, the four trees proposed to be removed, are in poor health or will eventually have conflicts with the power line along North Mountain Avenue. The trees noted as being in poor health are further described as being structurally unsound due to neglect or being in such close proximity to a building foundation that they pose a potential safety hazard to property owners, tenants or pedestrians. The project arborist has further indicated that the trees cannot be reasonably treated or pruned to alleviate the potential hazards posed. The Planning Commission finds that this criterion has been satisfied.

The second criterion is that, "*The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*" The application materials suggest that the more than 138 trees to be planted as part of the proposal will more than mitigate the four removals requested while the pruning plan for the remaining existing trees will address long-standing issues of neglect. The Planning Commission finds that the trees to be planted provide adequate mitigation, and that this criterion has been satisfied.

The Ashland Tree Commission reviewed the request at its regular monthly meeting on August 5, 2021. Tree Commissioners generally indicated that for such a large project to remove only four trees while providing for a significant number of new trees was very positive, and expressed their appreciation for efforts made to preserve the creek corridor in the subdivision's open space. The Tree Commission recommended approval of the application as submitted.

Conditions have been added to require that tree protection measures in the approved Tree Protection Plan shall be installed, inspected and approved by the Staff Advisor prior to any site work including but not limited to demolition, staging, or storage of materials, and that the arborist's recommendations shall be conditions of the approval. With these conditions, the Planning Commission concludes that all applicable criteria for a Hazard Tree Removal Permit have been satisfied.

### **SECTION 3. DECISION**

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal is supported by evidence contained within the whole record.

The subject property is an island entirely surrounded by the city with established neighborhoods to the north and east. The proposal would bring this long-isolated island into the city while making excellent use of the Performance Standards Option chapter to plan a development which will “*stress energy efficiency, architectural creativity, and innovation; use the natural features of the landscape to their greatest advantage; provide a quality of life equal to or greater than that provided in developments built under the standard zoning codes; be aesthetically pleasing; provide for more efficient land use; and reduce the impact of development on the natural environment and neighborhood*

” as envisioned in the chapter’s purpose statement while providing eight new, deed-restricted affordable housing units.

Therefore, the Planning Commission recommends that the City Council approve the Annexation request, and based on our overall conclusions and upon the proposal being subject to each of the following conditions, the Planning Commission approves the requested Outline Plan subdivision, Exception to Street Standards, Limited Activities and Uses Permit and Tree Removal Permit to remove four hazard trees components of Planning Action #T3-2021-00003 contingent upon the Council’s approval of the Annexation. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #T3-2021-00003 is denied. The following are the conditions and they are attached to the approval:

1. That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
2. That any new addresses shall be assigned by City of Ashland Engineering Department. Street and subdivision names shall be subject to City of Ashland Engineering Department review for compliance with applicable naming policies.
3. That permits shall be obtained from the Ashland Public Works Department prior to any work in the public right of way, including but not limited to permits for driveway approaches, street improvements, utilities or any necessary encroachments.
4. That the recommendations of the project arborist including tree protection fencing placement, provisions for temporary watering systems and pruning recommendations shall be conditions of this approval.
5. That the tree protection fencing and other tree preservation measures shall be installed according to the approved plan, inspected and approved by the Staff Advisor prior to any site work, storage of materials, staging or issuance of a building or excavation permit. The tree protection shall be chain link fencing six feet tall and installed in accordance with 18.4.5.030.C. and no construction activity, including dumping or storage of materials such as building supplies, soil, waste, equipment, or parked vehicles, shall occur within the tree protection zones.
6. That a final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.

7. That prior to final adoption of an ordinance annexing the property, the owners shall provide a signed and notarized agreement for recording guaranteeing that any future development of the property will occur in accordance with the minimum densities indicated in the final approved development plan.
8. That the Final Plan application shall include:
  - a. Final electric service, utility and civil plans including but not limited to the water, sewer, storm drainage, electric, street and driveway improvements shall be submitted for the review and approval of the Planning, Building, Electric, and Public Works/Engineering Departments with the Final Plan submittal. The street system plan shall include full street designs with cross-sections consistent with the City's Street Design Standards for the proposed residential neighborhood streets and alleys, as approved, except that no parkrow planting strip is required on the bridge over Beach Creek. Street lights shall be included in keeping with city street light standards. The utility plan shall include the location of connections to all public facilities including the locations of water lines and meter sizes; fire hydrant; sanitary sewer lines, manholes and clean-out's; storm drain lines and catch basins; and locations of all primary and secondary electric services including line locations, transformers (to scale), cabinets, meters and all other necessary equipment. Transformers, cabinets and vaults shall be located in areas least visible from streets, while considering the access needs of the utility departments. Any required private or public utility easements shall be delineated on the civil plans. All civil infrastructure shall be installed by the applicants, inspected and approved prior to the signature of the final survey plat.
  - b. That the applicant shall submit a final electric design and distribution plan including load calculations and locations of all primary and secondary services including transformers, cabinets, street lights and all other necessary equipment. This plan must be reviewed and approved by the Electric Department prior to the signature of the final survey plat. Transformers and cabinets shall be located in areas least visible from streets and outside of the sidewalk corridor and vision clearance areas, while considering the access needs of the Electric Department. Electric services shall be installed underground to serve all lots within the applicable phase prior to signature of the final survey plat. At the discretion of the Staff Advisor, a bond may be posted for the full amount of underground service installation (with necessary permits and connection fees paid) as an alternative to installation of service prior to signature of the final survey plat. In either case, the electric service plan shall be reviewed and approved by the Electric, Engineering, Building and Planning Departments prior to installation of facilities.
  - c. A final storm drainage plan detailing the location and final engineering for all storm drainage improvements associated with the project shall be submitted for review and approval by the Departments of Public Works, Planning and Building Divisions. The storm drainage plan shall demonstrate that post-development peak flows are less than or equal to the pre-development peak flow for the site as a whole, and that storm water quality mitigation has been addressed through the final design.
  - d. The applicant's Final Plan submittals shall incorporate measures to reduce downstream sediment transport, slow stream flows and address the "*Rogue Valley Sewer Services*

- Stormwater Quality Design Manual*" requirements for the management of stormwater flows entering the natural water course.
- e. A final grading and erosion control plan which includes the location of silt fencing placement to protect the creek corridor during construction.
  - f. Calculations demonstrating that the proposed new lots have been designed to permit the location of a 21-foot high structure with a solar setback that does not exceed 50 percent of the lot's north-south dimension based on Solar Standard A, or identification of a solar envelope for each lot which provides comparable solar access protections, as required in AMC 18.4.8.040
  - g. Final lot coverage calculations demonstrating how lot coverage is to comply with the applicable coverage allowances of the R-1-5 zoning district. Lot coverage includes all building footprints, driveways, parking areas and other circulation areas, and any other areas other than natural landscaping. No additional coverage allocation beyond the 50 percent maximum coverage for each lot in the R-1-5 district shall be allowed.
  - h. That the applicant shall obtain any necessary approvals for a Cottage Housing Development, including Performance Standards Options Subdivision and Site Design Review approvals in addition to demonstrating compliance with the Cottage Housing Development Standards in conjunction with Final Plan approval.
  - i. That the requirements of the Ashland Fire Department relating to approved addressing; fire apparatus access, fire apparatus access approach, aerial ladder access, firefighter access pathways, and fire apparatus turn-around; fire hydrant distance, spacing and clearance; fire department work area; fire sprinklers; limitations on gates, fences or other access obstructions; and addressing standards for wildfire hazard areas including vegetation standards and limits on work during fire season shall be satisfactorily addressed in the Final Plan submittals. Fire Department requirements shall be included in the civil drawings.
  - j. Revised Water Resource Protection Zone mitigation and management plans meeting the requirements of AMC 18.3.11.110.B.1 and C including landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of plants, timing of plantings, plant spacing and installation methods. The mitigation plan shall address the required 1:1.5 restoration and enhancement ratio, the 90-day re-planting timeline, the local native plant species coverage, re-planting priorities including erosion control and bank stabilization, shrub and tree requirements, erosion control, irrigation, performance guarantees, and shall be designed to achieve required the plant coverage by local native plant species (i.e. 50 percent after one year, 90 percent after five years).
  - k. That draft CC&Rs for the Homeowner's Association shall be provided for review and approval of the Staff Advisor with the Final Plan submittal. The CC&R's shall describe responsibility for the maintenance of all common use-improvements including driveway, open space, landscaping, utilities, and stormwater detention and drainage system, and shall include an operations and maintenance plan for the stormwater detention and drainage system.
  - l. The approved Tree Protection Plan, Water Resource Protection Zone Mitigation and Management Plans, and accompanying standards for compliance shall be noted in the CC&Rs. The CC&Rs must state that deviations from the approved Tree Preservation and Protection Plan or Water Resource Protection Zone Mitigation and Management Plans

- shall be considered violations of the Planning approval and subject to penalties described in the Ashland Municipal Code.
- m. A fencing plan which demonstrates that all fencing shall be consistent with the provisions of the "Fences and Walls" requirements in AMC 18.4.4.060, and that fencing around common open space, except for deer fencing, shall not exceed four feet in height. Fencing limitations shall be noted in the subdivision CC&R's. The location and height of fencing shall be identified at the time of building permit submittals, and fence permits shall be obtained prior to installation.
  - n. An easement for future transit amenities shall be identified in the Final Plan submittal to allow for the future placement of a Rogue Valley Transportation District (RVTD) bus stop as requested by RVTD staff. This easement shall be a minimum of ten-feet by eight-feet, located behind the sidewalk, and placed in a location north of Beach Creek Drive that is mutually agreed upon with RVTD.
  - o. A final phasing plan for the subdivision.
9. That a final survey plat shall be submitted within 12 months of Final Plan approval and approved by the City of Ashland within 18 months of this approval. Prior to submittal of the final subdivision survey plat for signature:
- a. All easements including but not limited to public and private utilities, public pedestrian and public bicycle access, drainage, irrigation and fire apparatus access shall be indicated on the final subdivision plat submittal for review by the Planning, Engineering, Building and Fire Departments. The public pedestrian and bicycle access easement from the southeast corner of the subdivision out to Orchid Street shall be increased to accommodate a paved width of at least ten feet. The paved improvement shall be installed, inspected and approved prior to signature of the final survey plat.
  - b. The final survey plat shall include the dedication of right-of-way necessary to accommodate the proposed street system. The applicant's proposed 12-foot right-of-way dedication to accommodate the future placement of a Central Ashland Bikepath extension on the north side of the railroad tracks is not required.
  - c. That the subdivision name and all street names shall be approved by the City of Ashland Engineering Division.
  - d. Subdivision infrastructure improvements including but not limited to utilities, driveways, streets and common area improvements shall be completed according to approved plans, inspected and approved.
  - e. Irrigated street trees selected from the Recommended Street Tree Guide and planted according to city planting and spaces standards shall be planted along the full North Mountain Avenue of the subject property, inspected and approved by the Staff Advisor.
  - f. Electric services shall be installed underground to serve all lots, inspected and approved. The final electric service plan shall be reviewed and approved by the Ashland Electric, Building, Planning and Engineering Divisions prior to installation.
  - g. That the sanitary sewer laterals and water services including connection with meters at the street shall be installed to serve all lots within the applicable phase, inspected and approved.

- h. The dedication of lots to a non-profit affordable housing developer and recording of deed restrictions guaranteed affordability described herein shall occur in conjunction with plat signature and recording.
10. That prior to the issuance of a building permit for any unit:
  - a. The applicant shall provide evidence that the Earth Advantage® certifications described in the application materials (Earth Advantage® Platinum/Net Zero) and necessary to satisfy the requirements for the conservation housing density bonus are being pursued.
11. That prior to final inspection approval or the issuance of a certificate of occupancy:
  - a. Prior to the issuance of a final certificate of occupancy the applicant shall provide evidence of having received the required Earth Advantage® certifications.

Haywood Norton  
Planning Commission Approval

October 12, 2021  
Date