

Appeal of 210 Alicia Ave.

Grounds for Appeal

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

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

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

210 Alicia Avenue Appeal

CITY OF
ASHLAND

Cottage Housing Proposal

City Council Appeal Hearing

August 18, 2020



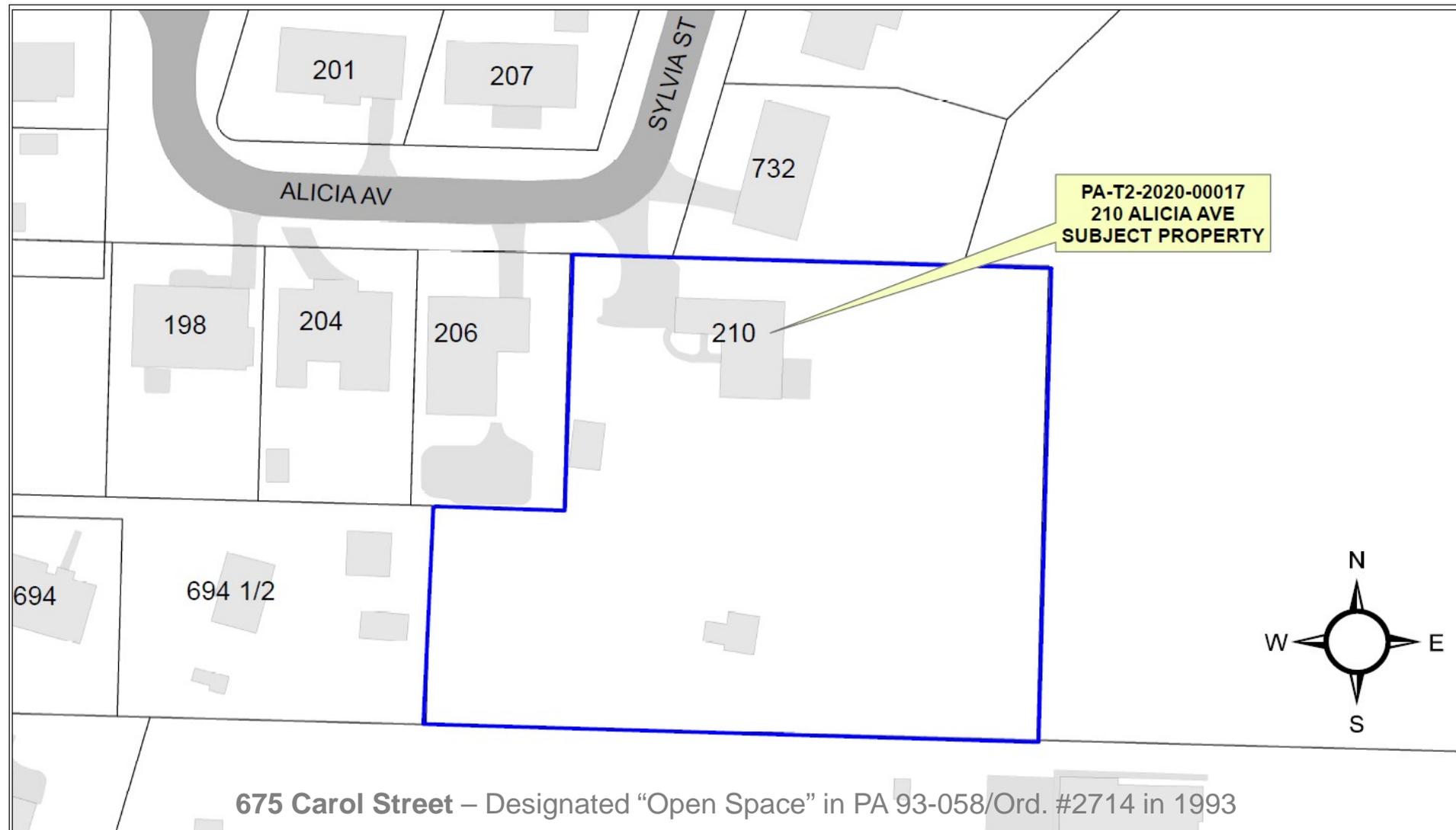
Cottages at 210 Alicia Av.

Proposal

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

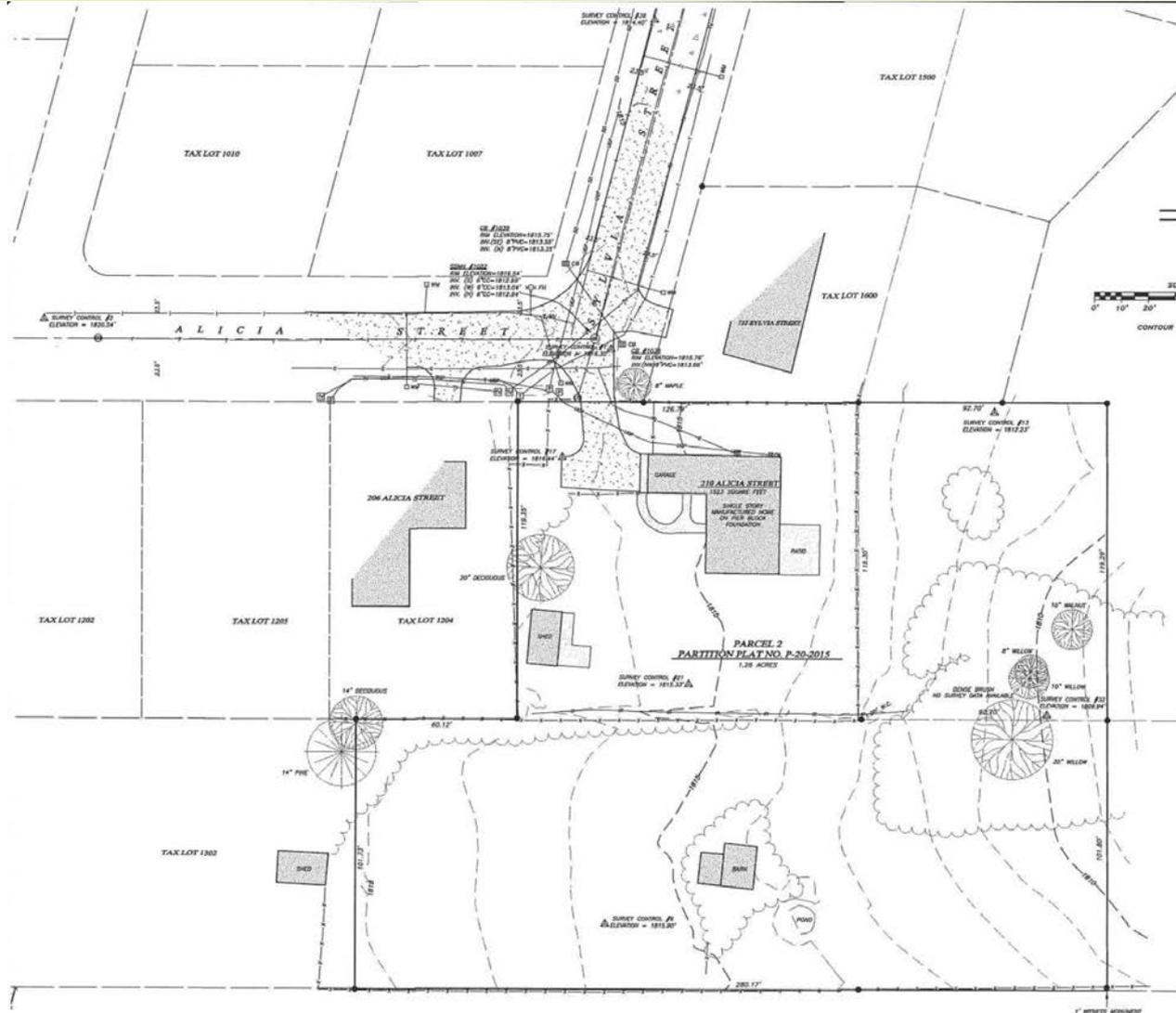
Cottages at 210 Alicia Av.

Vicinity Map



Cottages at 210 Alicia Av.

Cottage Housing - Survey



Cottages at 210 Alicia Av.

Existing Driveway Separation

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Cottages at 210 Alicia Av.

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



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

RECREATIONAL SPACE EXCEEDS 200 SQ FT ON ALL UNITS

675 CAROL ST

COLOR KEY:					
[Light Yellow]	800 SQ FT DETACHED HOME	[Light Orange]	800 SQ FT DUPLEX	[Light Brown]	800 SQ FT DETACHED HOME
[Light Green]	PRIVATE YARD	[Dark Green]	LANDSCAPE AREA	[Medium Green]	OPEN SPACE
[Dark Blue]	ASPHALT	[Light Blue]	WALKWAY (CONCRETE)	[Light Grey]	WALKWAY (OTHER)

Cottages at 210 Alicia Av.

Outline Plan – Parking

AMC 18.4.3.040 Parking Ratios Cottage Housing

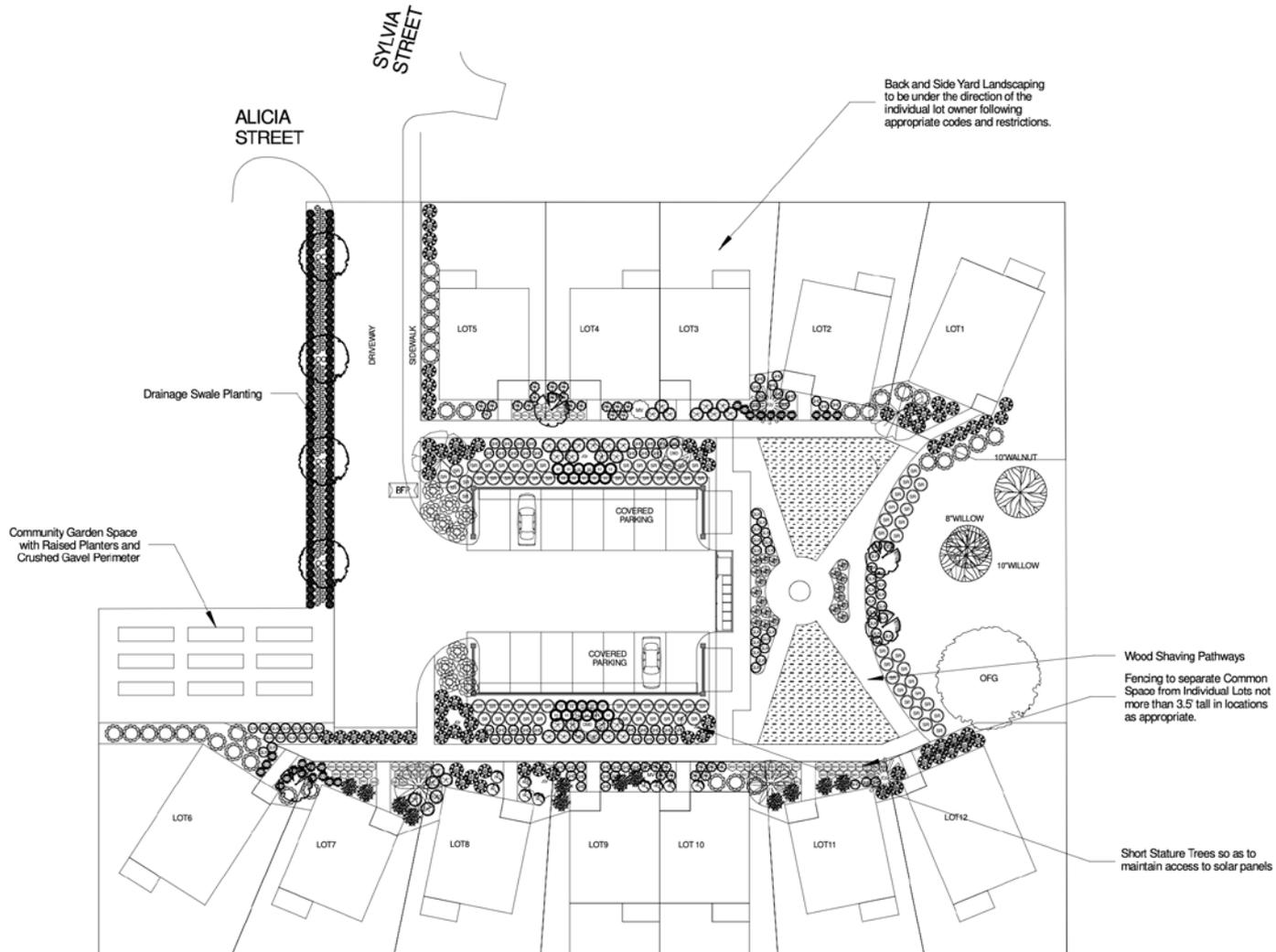
- a. Units less than 800 sq. ft. – 1 space/unit.
(9 proposed)
- b. Units greater than 800 sq. ft. and less than 1,000 sq. ft. – 1.5 spaces/unit.
(3 proposed)
- b. Units greater than 1,000 sq. ft. – 2.00 spaces/unit.
- c. Retirement complexes for seniors 55 years or greater – 1 space per unit.

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



Cottages at 210 Alicia Av.

Cottage Housing – Landscape Plan

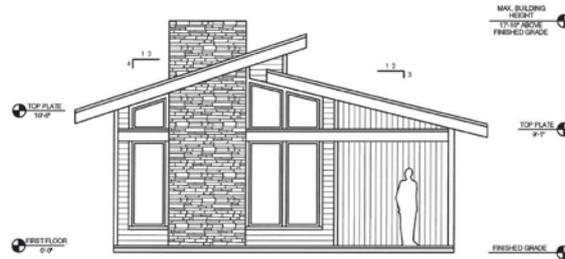


Cottages at 210 Alicia Av. CITY OF ASHLAND

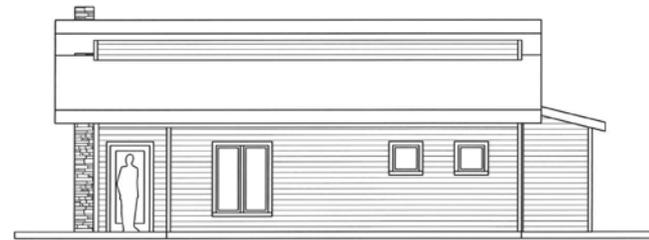
Outline Plan – Five 800 s.f. Small Cottages



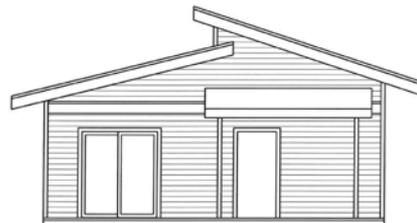
1 Floor Plan
Scale: 1/4"=1'-0"



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



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



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

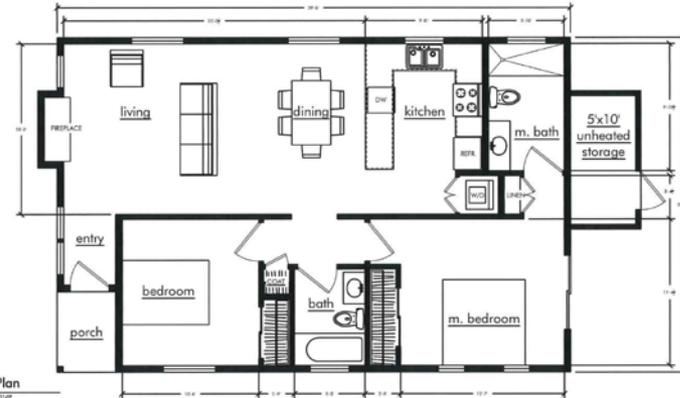


5 Left Elevation
Scale: 1/4"=1'-0"

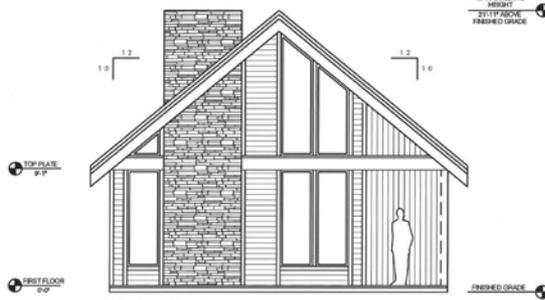
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MAR 06 2020
City of Ashland

Cottages at 210 Alicia Av.

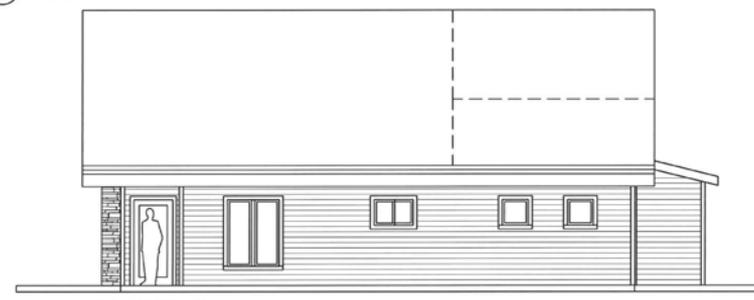
Outline Plan – Three 999 s.f. Cottages



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



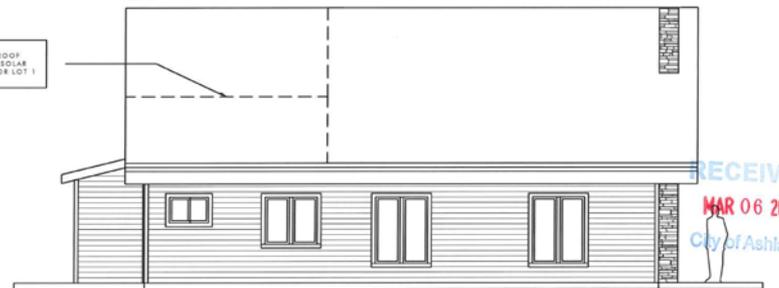
2 Front Elevation
Scale: 1/4"=1'-0"



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



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

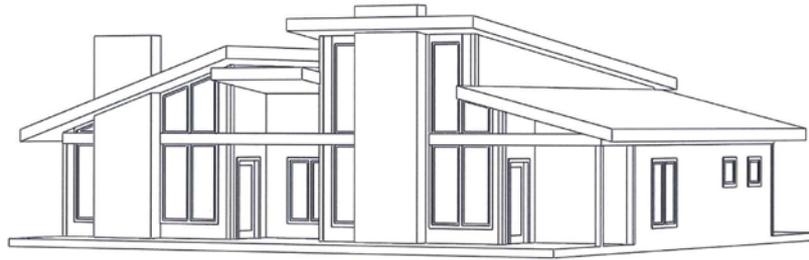


5 Left Elevation
Scale: 1/4"=1'-0"

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City of Ashland

Cottages at 210 Alicia Av. CITY OF ASHLAND

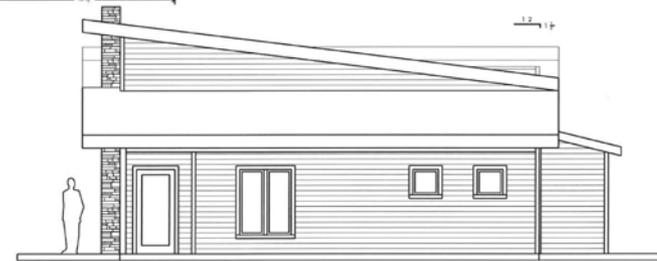
Outline Plan – Two Duplexes (2 x 800 s.f.)



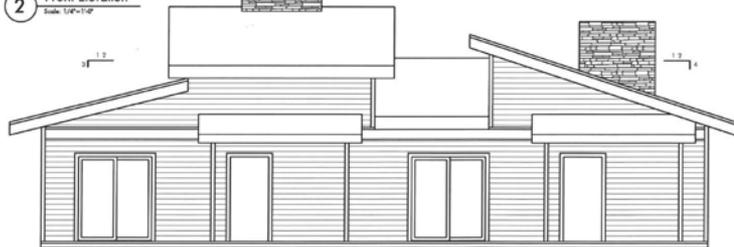
1 Floor Plan
Scale: 1/4"=1'-0"



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



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



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

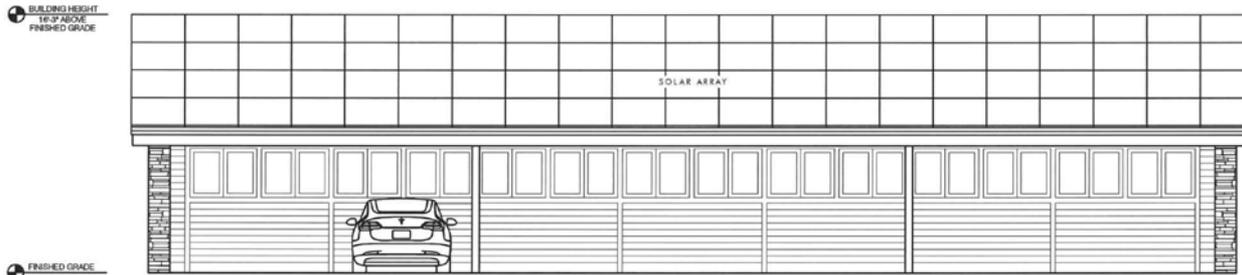


5 Left Elevation
Scale: 1/4"=1'-0"

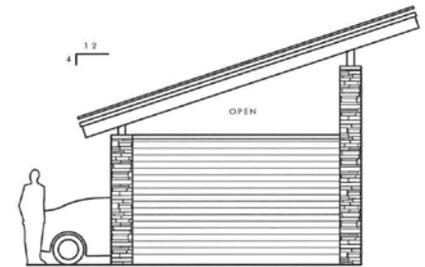
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Cottages at 210 Alicia Av.

Outline Plan – Carport Structure



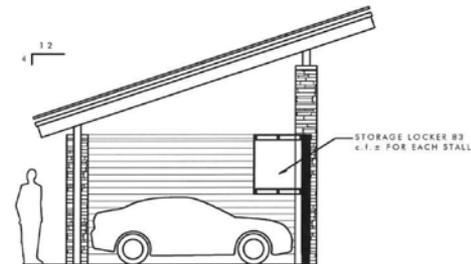
1 Front Elevation
Scale: 1/4"=1'-0"



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



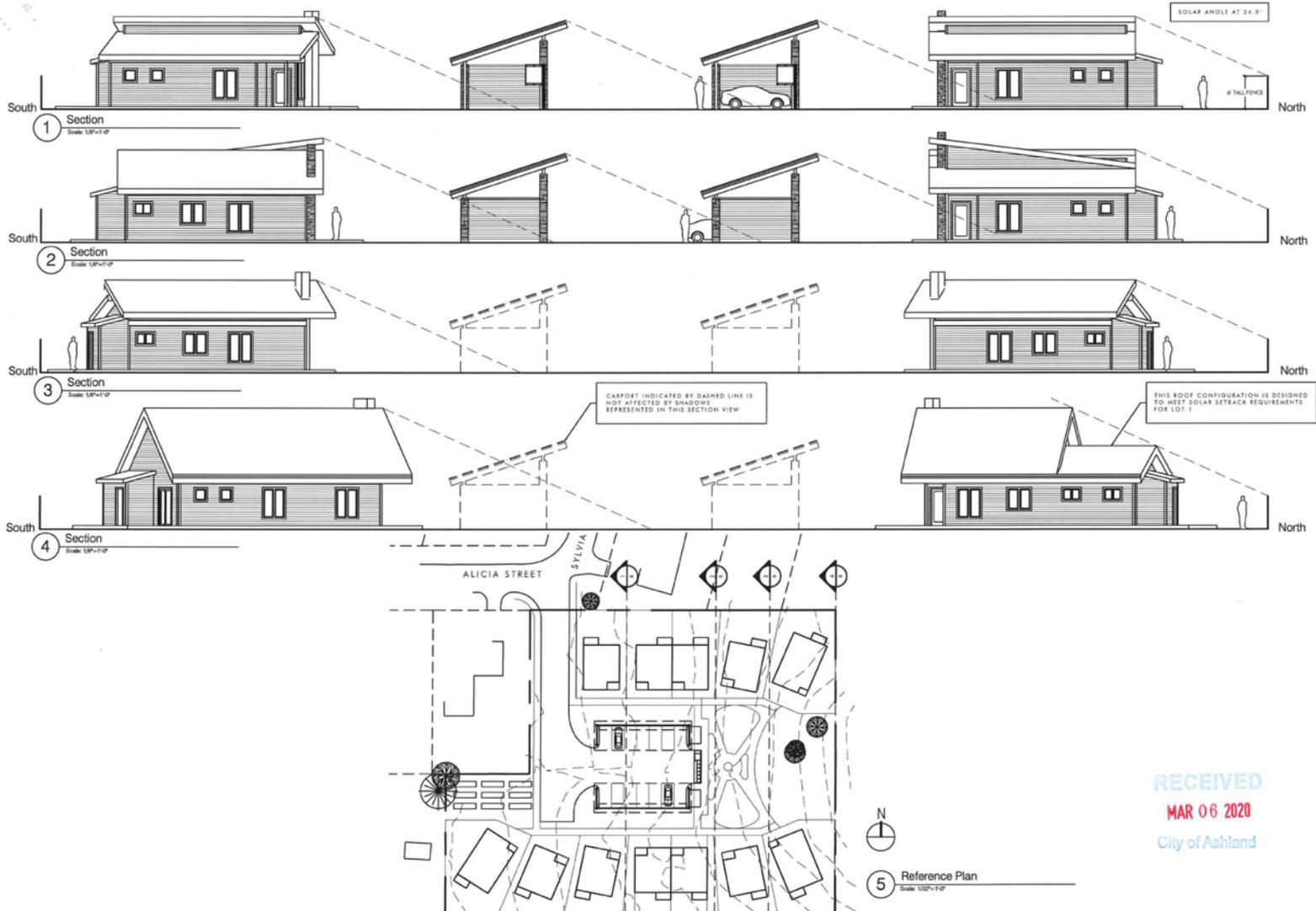
3 Rear Elevation
Scale: 1/4"=1'-0"



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

Cottages at 210 Alicia Av.

Outline Plan – Solar Compliance



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Cottages at 210 Alicia Av. CITY OF ASHLAND

Outline Plan – Sewer Capacity

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

Cottages at 210 Alicia Av.

Outline Plan – Erosion Control Plan

GRADING, STREET & UTILITY ESC NOTES:

- APPROVAL OF THIS EROSION/SEDIMENTATION CONTROL PLAN (ESCP) DOES NOT CONSTITUTE AN APPROVAL OF PERMANENT ROAD OR DRAINAGE DESIGN (e.g. SIZE AND LOCATION OF ROADS, PIPES, RESTRICTIONS, CHANNELS, RETENTION FACILITIES, UTILITIES, ETC.)
- THE IMPLEMENTATION OF THESE ESC'S AND THE CONSTRUCTION, MAINTENANCE, REPLACEMENT, AND UPDATING OF THESE ESC FACILITIES IS THE RESPONSIBILITY OF THE APPLICANT/CONTRACTOR UNTIL ALL CONSTRUCTION IS COMPLETED AND APPROVED AND VEGETATION/LANDSCAPING IS ESTABLISHED.
- THE BOUNDARIES OF THE CLEARING LIMITS SHOWN ON THIS PLAN SHALL BE CLEARLY FLAGGED IN THE FIELD PRIOR TO CONSTRUCTION. DURING THE CONSTRUCTION PERIOD, NO DISTURBANCE BEYOND THE FLAGGED CLEARING LIMITS SHALL BE PERMITTED. THE FLAGGING SHALL BE MAINTAINED BY THE APPLICANT/CONTRACTOR FOR THE DURATION OF CONSTRUCTION.
- THE ESC FACILITIES SHOWN ON THIS PLAN MUST BE CONSTRUCTED IN CONJUNCTION WITH ALL CLEARING AND GRADING AND IN SUCH A MANNER AS TO INSURE THAT SEDIMENT AND SEDIMENT LOADED WATER DO NOT ENTER THE DRAINAGE SYSTEM, ROADWAYS, OR VOLATILE APPLICABLE WATER STANDARDS.
- ON-SITE STOCKPILE AREAS SHALL BE DETERMINED BY THE ENGINEER AND SHALL BE PROTECTED WITH SEDIMENT FENCE AND TEMPORARY SEEDING IN ACCORDANCE WITH THE NOTES.
- CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN AND/OR IMPROVE EROSION CONTROL MEASURES TO PREVENT VISIBLE OR MEASURABLE EROSION FROM LEAVING THE CONSTRUCTION SITE DEFINED AS:
 - DEPOSITS OF MUD, DIRT, SEDIMENT OR SIMILAR MATERIAL EXCEEDING 1/4" IN VOLUME IN ANY AREA OF 100 FT² OR LESS ON PUBLIC OR PRIVATE STREETS, ADJACENT PROPERTY OR INTO THE STORMS & SURFACE WATER SYSTEM, EITHER BY DIRECT DEPOSIT, DRIPPING, DISCHARGE OR AS A RESULT OF THE ACTION OF EROSION.
 - PUBLIC STREETS SHALL BE KEPT CLEAN IN ACCORDANCE WITH ALL RELEVANT ORDINANCES.
 - EVIDENCE OF CONCENTRATED FLOWS OF WATER OVER BARE SOILS, TURBID OR SEDIMENT LOADED FLOWS, OR EVIDENCE OF ON-SITE EROSION SUCH AS RIMPLETS ON BARE SOIL SLOPES, WHERE THE FLOW OF WATER IS NOT FILTERED OR CAPTURED ON THE SITE USING THE TECHNIQUES IN THE APPROVED EROSION CONTROL PLAN.
 - EARTH SLIDES, MUD FLOWS, OR OTHER EARTH MOVEMENT WHICH LEAVES THE PROPERTY SHALL BE CLEANED BY THE CONTRACTOR. IF YOU HAVE ANY QUESTIONS ABOUT THE PERMIT REQUIREMENTS, PLEASE CONTACT THE DEQ @ (503) 229-5256 OR TOLL FREE IN OREGON @ 1-800-452-4011
 - THE OPERATOR SHALL KEEP A RECORD OF INSPECTIONS. UNCONTROLLED RELEASES OF MUD OR Muddy WATER OR MEASURABLE QUANTITIES OF SEDIMENT FROM THE SITE SHALL BE RECORDED WITH A BRIEF EXPLANATION AS TO THE MEASURES TAKEN TO PREVENT FUTURE RELEASES AS WELL AS ANY MEASURES TAKEN TO CLEAN UP THE SEDIMENT THAT HAS LEFT THE SITE. THIS RECORD SHALL BE MAKE AVAILABLE TO THE DEQ OR LOCAL PLANNING AGENCY UPON REQUEST. IF THE CONSTRUCTION ACTIVITY LASTS MORE THAN 12 MONTHS, A COPY OF THE RECORD SHALL BE SENT TO THE DEQ OR AUTHORIZED AGENT BY JULY 1 OF EACH YEAR.
 - ADDITIONAL EROSION CONTROL MEASURES MAY BE REQUIRED BY THE ENGINEER/OBNSER'S REPRESENTATIVE TO REDUCE EROSION AND SEDIMENTATION AS REQUIRED BY ACTUAL FIELD CONDITIONS.
 - IF THERE WILL BE MORE THAN 25 CONSTRUCTION VEHICLE TRIPS PER DAY ON ANY OF THE ROADS WITHIN THE SITE, THEY SHALL BE GRAVELED PER DETAIL 1.

CONTOUR LEGEND

(1' CONTOUR INTERVAL)

--- 1300 --- EXISTING INDEX CONTOUR
 --- 1330 --- EXISTING CONTOUR
 --- 1360 --- FINISHED INDEX CONTOUR
 --- 1390 --- FINISHED CONTOUR

EROSION CONTROL LEGEND

--- PROPOSED SEDIMENT FENCE
 --- EROSION CONTROL NOTE
 --- WETLAND DELINEATION
 --- BIO FILTER BARRS
 --- STORM PIPES & DIRECTION OF FLOW
 --- DIRECTION OF SURFACE FLOW
 --- HYDROSEEDING AREA

EROSION CONTROL PLAN
SCALE: 1" = 20'

PRE-CONSTRUCTION, CLEARING, AND DEMOLITION NOTES:

- ALL BASE ESC MEASURES (INLET PROTECTION, PERIMETER SEDIMENT CONTROL, GRASS/ CONSTRUCTION ENTRANCES, ETC.) MUST BE IN PLACE, FUNCTIONAL, AND APPROVED IN AN INITIAL INSPECTION, PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES.
- SEDIMENT BARRIERS APPROVED FOR USE INCLUDE: SEDIMENT FENCE, BERMS CONSTRUCTED OUT OF MULCH, CHIPPINGS, OR OTHER SUITABLE MATERIAL, STRAW MATS, OR OTHER APPROVED MATERIALS.
- SENSITIVE RESOURCES INCLUDING, BUT NOT LIMITED TO, TREES, WETLANDS, AND RIPARIAN PROTECTION AREAS SHALL BE CLEARLY DELINEATED WITH ORANGE CONSTRUCTION FENCING OR CHAIN LINK FENCING IN A MANNER THAT IS CLEARLY VISIBLE TO ANYONE IN THE AREA. NO ACTIVITIES ARE PERMITTED TO OCCUR BEYOND THE CONSTRUCTION BARRIER.
- CONSTRUCTION ENTRANCES SHALL BE INSTALLED AT THE BEGINNING OF CONSTRUCTION AND MAINTAINED FOR THE DURATION OF THE PROJECT. ADDITIONAL MEASURES INCLUDING, BUT NOT LIMITED TO, STREET SWEEPING, AND VACUUMING, MAY BE REQUIRED TO INSURE THAT ALL PAVED AREAS ARE KEPT CLEAN FOR THE DURATION OF THE PROJECT.
- RUN-ON AND RUN-OFF CONTROLS SHALL BE IN PLACE AND FUNCTIONING PRIOR TO BEGINNING SUBSTANTIAL CONSTRUCTION ACTIVITIES. RUN-ON AND RUN-OFF CONTROL MEASURES INCLUDE: SLOPE GRAPES (WITH OUTLET PROTECTION), CHECK DAMS, SURFACE ROUGHENING, AND BANK STABILIZATION.

NO.	REVISION	DATE	BY

CITY OF ASHLAND
COTTAGE DEVELOPMENT
210 ALICIA STREET

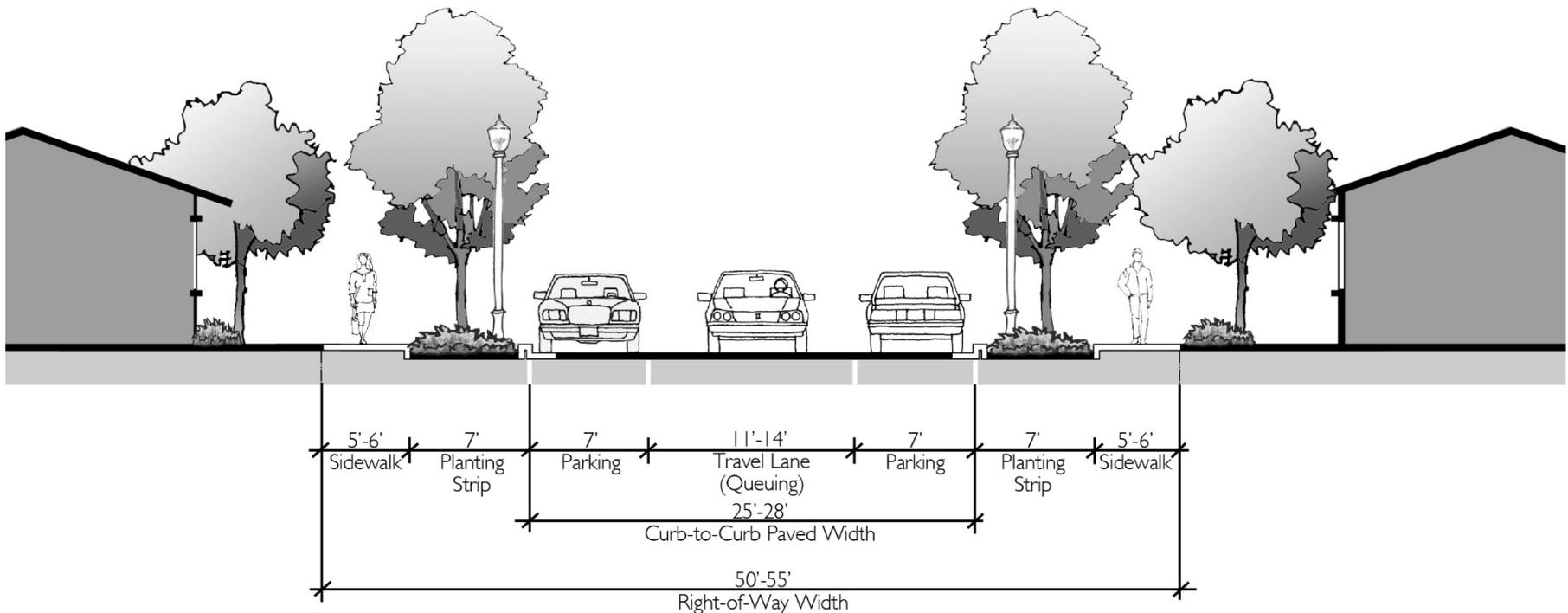
DESIGNED BY: JST	DATE: JUN 3-6-09	PROJECT NO.
DRAWN BY: JST	DATE: JUN 3-6-09	SHEET NO.
CHECKED BY: JST	DATE: JUN 3-6-09	B2
APPROVED BY: JST	DATE: JUN 3-6-09	

(DAVID SCOTT CONSTRUCTION) KAS 19-342

Cottages at 210 Alicia Av.

Residential Neighborhood Streets

Prototypical Section: Residential Neighborhood Street, Parallel Parking Both Sides



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

Cottages at 210 Alicia Av.

Sylvia Street perspective

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Cottages at 210 Alicia Av.

CITY OF
ASHLAND

Alicia Avenue perspective



Cottages at 210 Alicia Av.

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

RE: Cottage Development at 210 Alicia Avenue

Ralph Sartain <ralph.sartain@ashland.or.us>

Mon 2020-05-11 08:53 AM

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

Good Morning Derek,

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

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

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

Please let me know if you need anything else.

Regards,

Ralph

Ralph Sartain, MO, IAAI-CFI, NAFI-CFEI

Division Chief Fire and Life Safety

Ashland Fire & Rescue

455 Siskiyou Boulevard

Ashland, OR 97520

ralph.sartain@ashland.or.us

Office: 541-552-2229

Cell: 541-301-8872

Fax: 541-488-5318



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

Appeal of 210 Alicia Ave.

Grounds for Appeal

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

Appeal of 210 Alicia Ave.

1st Ground for Appeal

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

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

Appeal of 210 Alicia Ave.

1st Ground for Appeal

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

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

Appeal of 210 Alicia Ave.

1st Ground for Appeal

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

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

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

Appeal of 210 Alicia Ave.

2nd Ground for Appeal

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

Cottages at 210 Alicia Av.

Existing Driveway Separation

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ASHLAND



Appeal of 210 Alicia Ave.

2nd Ground for Appeal

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

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

Appeal of 210 Alicia Ave.

3rd Ground for Appeal

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

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

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

Appeal of 210 Alicia Ave.

3rd Ground for Appeal

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

- The Commission further found:

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

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

Appeal of 210 Alicia Ave.

4th Ground for Appeal

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

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

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

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

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

Appeal of 210 Alicia Ave.

4th Ground for Appeal

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

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

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

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

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

Appeal of 210 Alicia Ave.

5th Ground for Appeal

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

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

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

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

Appeal of 210 Alicia Ave.

Staff Recommendation

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

ACTIONS, OPTIONS & POTENTIAL MOTIONS

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

210 Alicia Avenue Appeal

CITY OF
ASHLAND

Cottage Housing Proposal

City Council Appeal Hearing

August 18, 2020

