

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please fill out a Speaker Request Form and place it in the Speaker Request Box by staff. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION
REGULAR MEETING
December 14, 2021
AGENDA**

<https://zoom.us/j/97951065537>

- I. **CALL TO ORDER:** 7:00 PM via Zoom
- II. **ANNOUNCEMENTS**
- III. **CONSENT AGENDA**
A. **Approval of Minutes**
1. November 23, 2021 Study Session
- IV. **PUBLIC FORUM**
- V. **UNFINISHED BUSINESS**
A. Approval of Findings for PA-T1-2021-00159, Interpretation of Driveway Grade
B. Approval of Findings for PA-T1-2021-00159, 351 Walker
C. Review of Draft Findings for PA-L-2021-00012
- VI. **LEGISLATIVE HEARING:**
A. **PLANNING ACTION:** #PA-L-2021-00013
APPLICANT: City of Ashland
ORDINANCE REFERENCES: **AMC 18.2.3** Special Use Standards
AMC 18.2.6 Standards for Non-Residential Zones
AMC 18.3.13 Residential Overlay
REQUEST: The proposal includes a series of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones.
- VII. **TYPE II PUBLIC HEARINGS:**
A. **PLANNING ACTION:** #PA-T2-2021-00035
SUBJECT PROPERTY: 233 Granite
OWNER/APPLICANT: Heidi Leverenz
DESCRIPTION: A request for a Land Partition to split a 1.08 acre property into two parcels. The application indicates that the two resultant parcels will include a 0.34 acre parcel which contains the existing residence, and a 0.73 acre parcel situated to the south and accessed by a flag drive. The request includes a variance to the number of lots accessed from the private driveway and

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ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

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an exception to street standards to not install sidewalks to current standards where there are existing curbside sidewalk improvements. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10; **MAP:** 39 1E 08 DA; **TAX LOT:** 1300.

- B. SUBJECT PROPERTY:** Public Right-of-Way adjacent to 39 1E 05AD Tax Lot #502
OWNER/APPLICANT: City of Ashland Public Works Department
DESCRIPTION: The Planning Commission will consider a request to vacate a portion of the Otis Street right-of-way north of Map 39 1E 05AD Tax Lot #502 near 388 Otis Street and make a recommendation to the City Council. **COMPREHENSIVE PLAN DESIGNATION:** Single-Family Residential; **ZONING:** R-1-5-P; **ASSESSOR'S MAP/TAX LOT:** 39 1E 05AD Tax Lot #502.

VIII. ADJOURNMENT

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ASHLAND PLANNING COMMISSION
STUDY SESSION
DRAFT MINUTES
November 23, 2021

I. CALL TO ORDER:

Chair Haywood Norton called the meeting to order at 7:00 p.m.

Commissioners Present:

Michael Dawkins
Haywood Norton
Roger Pearce
Lisa Verner
Kerry KenCairn

Staff Present:

Bill Molnar, Community Development Director
Maria Harris, Planning Manager
Brandon Goldman, Senior Planner
Derek Severson, Senior Planner
April Lucas, Development Services Coordinator
Michael Sullivan, Administrative Assistant

Absent Members:

Lynn Thompson

Council Liaison:

Paula Hyatt

II. ANNOUNCEMENTS

Community Development Director Bill Molnar made the following announcements:

- At the January 7, 2021 City Council meeting a public hearing will be held to discuss the Annexation Code Amendments and the Planning Commission Annual Update will be provided to the Council.
- The agenda for the December 14, 2021 Planning Commission meeting includes: adoption of the AT&T findings; a request to vacate a section of street right-of-way on Otis St.; a public hearing for 233 Granite; and a public hearing on legislative amendments to increase housing in E-1 and C-1 zoned land.
- A pre-application conference with the potential buyers of the Croman Mill site was held to discuss potential modifications to the Croman Mill Area Plan. A second conference is anticipated. Any changes to the Area Plan would require a legislative amendment with a recommendation for approval by the Planning Commission and the final decision made by the City Council.

III. PUBLIC FORUM - None

IV. DISCUSSION ITEMS

A. Code Amendments for Housing in Employment Zones.

Planning Manager Maria Harris provided a recap of the last meeting. She shared that the Commission discussed maximum Floor Area Ratios (FARs) and how that impacted sites that might do underground parking, as well as potentially allowing new buildings to be 100% residential on the ground floor within C-1 and E-1 zones except in the Downtown Designs Standard Overlay. Ms. Harris outlined that after further examination of Statewide Planning Goal 9, which requires cities to provide an adequate land supply for economic and employment growth, as well as consulting with the Department of Land Conservation and Development (DLCDC), it was concluded that allowing 100% residential on the ground floor constituted a significant change and could not be made without first making updates to the city's Economic Opportunity Analysis (EOA). As a result, staff has put forward three options for the Commission's consideration: 1) move forward with the current draft ordinance which allows for 65% residential housing on the ground (an increase from the current 35% maximum), 2) consider 100% residential on the ground floor and update the EOA as part of the upcoming Housing Production Strategy, or 3) consider recommending both approaches by making moderate changes now and looking at the more substantial changes in the future. Ms. Harris provided a brief presentation outlining the language currently included in draft ordinance (see Attachment #1).

Commissioner Verner asked whether it would be feasible to reduce the amount of E-1 and C-1 zoned land and rezone it to Residential, but Ms. Harris stated this would still constitute a significant change and thus require an update to the EOA. Chair Norton expressed his opinion that such a change would go beyond the direction given to the Commission by the City Council and should instead be considered as part of the Housing Production Strategy. Commissioner Pearce concurred and expressed concern that if 100% Residential was allowed in E-1 and C-1 zones they may never revert to commercial use.

Senior Planner Brandon Goldman provided a presentation addressing alternative Floor Area Ratios for multi-story buildings, including illustrations on what that might look like. He also provided the FARs of existing businesses within Ashland as examples (see Attachment #2). In order to preserve opportunities for underground parking and encourage full development of properties, Mr. Goldman explained the Commission could consider increasing the maximum FAR from what was presented in the draft ordinance, or alternatively eliminate the maximum FAR in recognition that the other existing standards effectively restrict the maximum size of buildings.

Ms. Harris concluded staff's presentation and stated staff has tentatively scheduled the public hearing for December 14, 2021 should the Commission indicate they want to move forward with the current version of the draft ordinance.

Commissioner KenCairn inquired if removing the FAR from buildings that provide underground parking was viable, to which Mr. Goldman replied that true underground parking would not be included in the buildings FAR calculation.

Commissioner Pearce pointed out that because of the high cost of underground parking that Ashland would be unlikely to see any such development for quite some time, and that one solution could be to remove the limitation on the number of dwellings allowed within a building as well as the maximum FAR. He also mentioned that other cities he has reviewed have exemptions from FAR requirements, such as for mechanical equipment and bicycle parking.

Upon a request for clarification from Chair Norton, Ms. Harris explained the Commission could consider eliminating the maximum FAR that was presented in the draft code because the existing height restrictions and lot coverage limitations dictate the size of building that can be achieved in the C-1 and E-1 zones. Commissioner Pearce and Commissioner Verner both agreed that removing the maximum FAR and leaving the potential for future underground parking was the best course of action.

Public Testimony:

Amy Gunter/Rogue Planning & Development/Ms. Gunter stated now is the time to make changes to the housing and employment zones that will have a meaningful, substantive impact on the present restrictions, and shared her suggested modifications. (See Attachment #3).

Chair Norton thanked Ms. Gunter for her testimony and voiced his support for these changes to be considered as part of the Housing Production Strategy. Commissioner Pearce agreed with Ms. Gunter that significant changes should be considered to the city's parking restrictions to free up more area for development. He added her recommendations are very relevant and should be considered as part of the Housing Production Strategy.

Commissioner Verner questioned whether new buildings that were allowed to be 65% residential on the ground floor would be built to a commercial standard for potential commercial use in the future. Ms. Harris responded that this is not currently included in the draft ordinance and while the Commission could consider a requirement for the ground floor to be built commercial ready; such a requirement would be more restrictive than what is currently required and may go beyond the original scope of this project. Commissioner Norton voiced support for allowing the property owner to decide whether to make it commercial ready and to not include this as a requirement. Commissioner KenCairn concurred and stated she does not support doing anything that makes it more restrictive.

Ms. Goldman provided additional information on the upcoming Housing Production Strategy. He explained it is a one-year process and at the conclusion they will have a document that is ready for public hearings. The Planning Commission and the City Council will both hold hearings for adoption. During the course of that year, an ad hoc advisory group will be convened and staff will come back to the Commission for a couple volunteers. He added a public outreach plan will also be developed and is likely to include open houses and virtual opportunities for public participation.

V. ADJOURNMENT

Meeting adjourned at 8:07 p.m.

*Submitted by,
Michael Sullivan, Administrative Assistant*

One Change Proposed



- Residential uses can occupy 65% of the ground floor – currently 35% allowed
 - Buildings that are 2 or more stories
 - Lots that are less than 10 acres in size
- Locations outside of Downtown Design Standards overlay

Transit Triangle Overlay – no change



- Residential uses can occupy 65% of the ground floor – currently 65% allowed

Inside the DDS overlay – no change



- Residential uses can occupy 35% of the ground floor – currently 35% allowed
- Also includes the following developments whether located inside or outside of DDS and TT overlays
 - Buildings that are 1 story
 - Lots that are greater than 10 acres in size

Other Amendments



- Residential densities in C-1 and E-1 replaced with FAR

Next Steps



December 14, 2021: Planning Commission
Public Hearing

January 4, 2022: City Council
Public Hearing

Floor Area Ratio

Floor Area Ratio = Floor Area /Lot Area

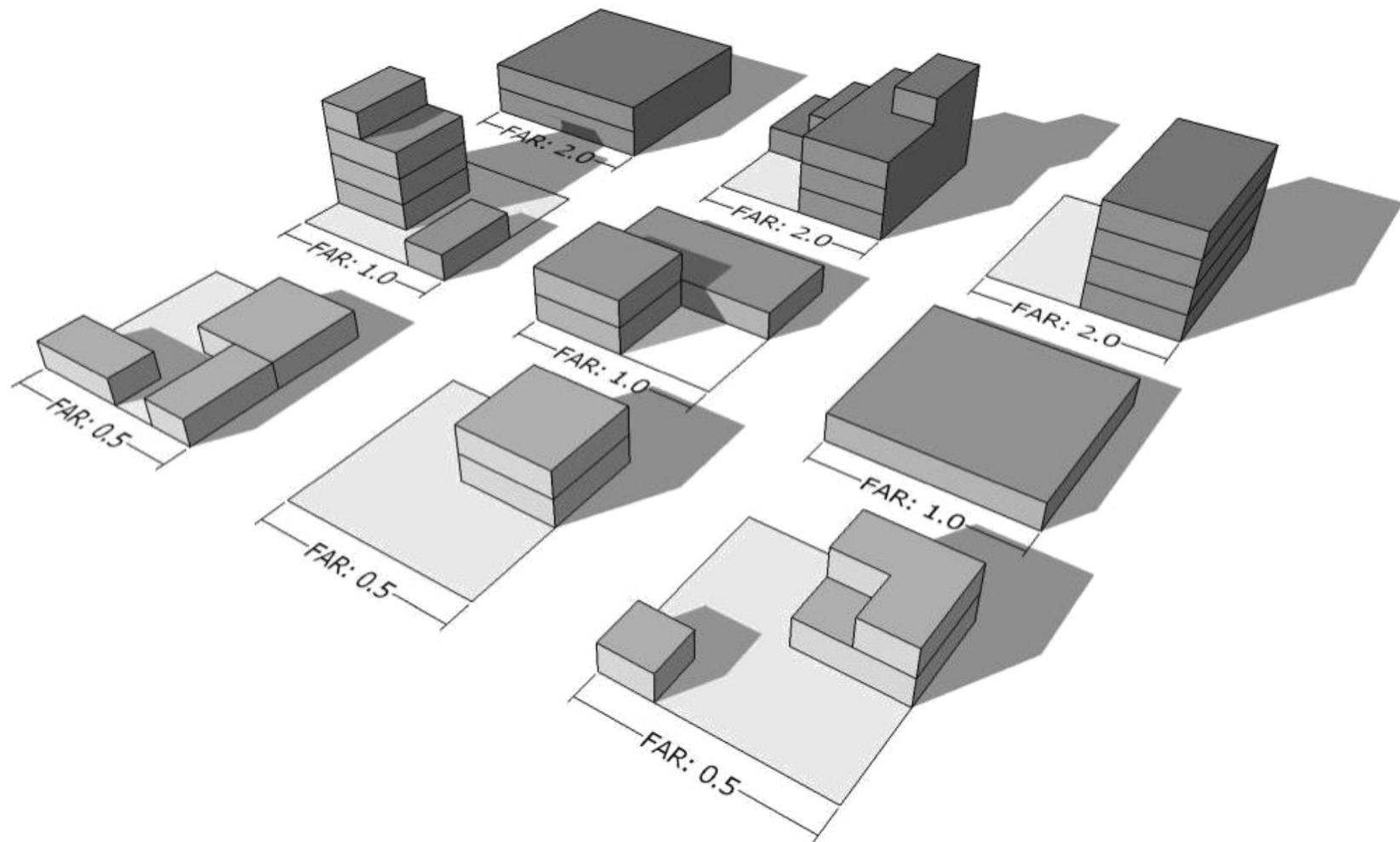
Floor-Area Ratio (FAR). The gross floor area of all buildings on a lot divided by the lot area.

Floor Area. The area of an enclosed floor measured from the exterior faces of exterior walls or from the center line of walls separating two buildings.

Lot Area. The total horizontal area within the lot lines of a lot, said area to be exclusive of street right-of-way.

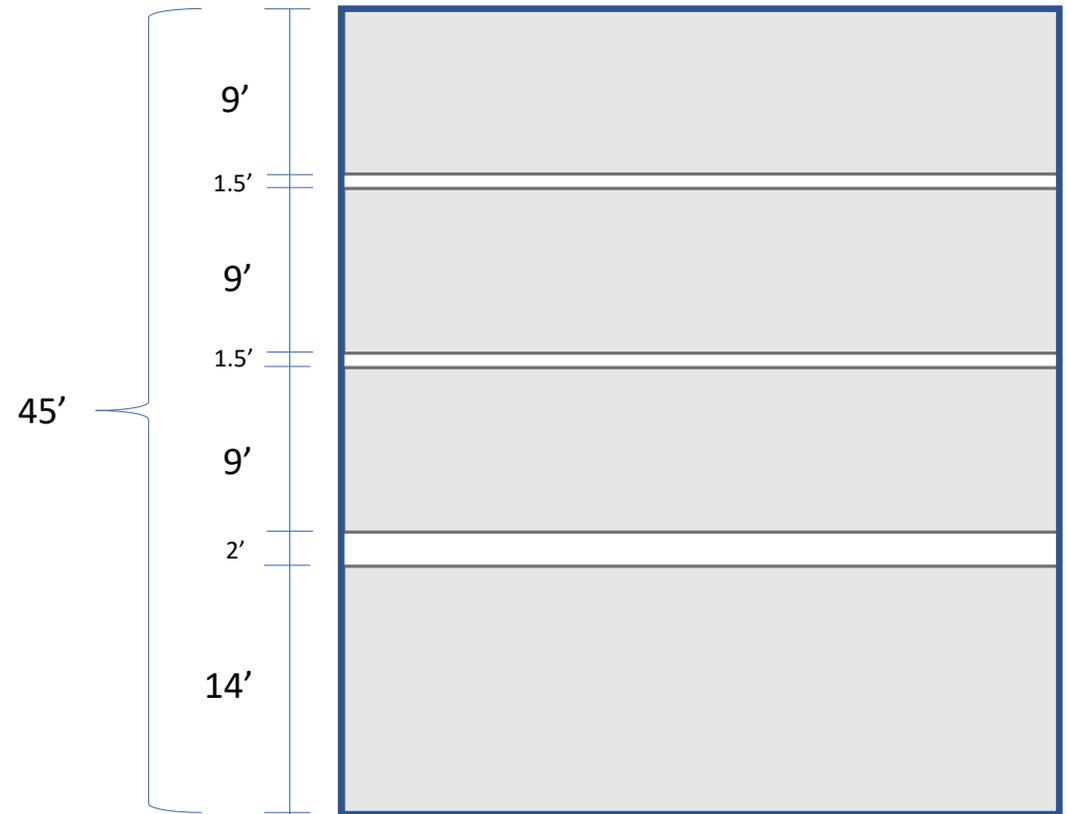
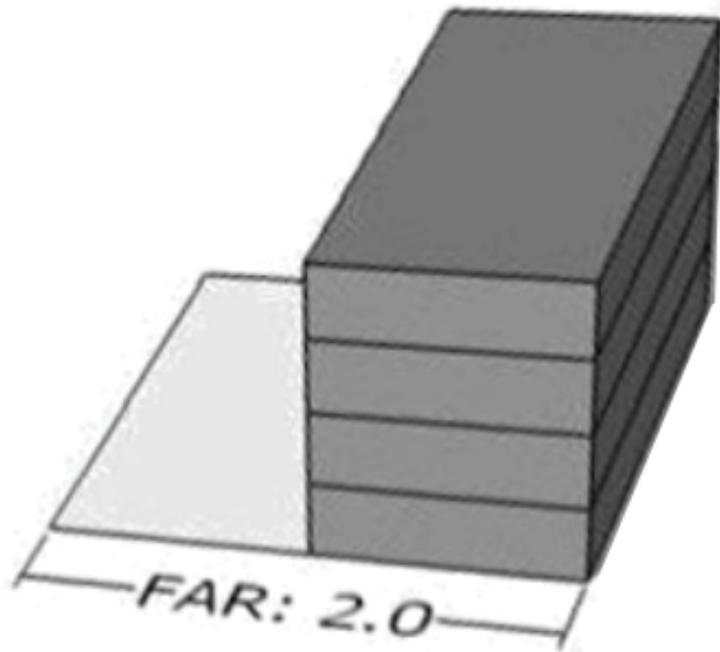
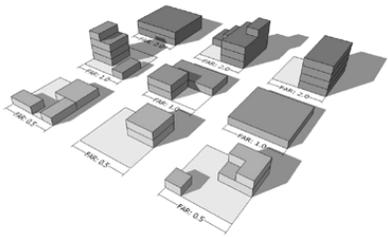
Floor Area Ratios

PC Nov. 23, 2021



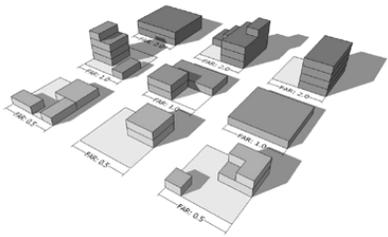
Floor Area Ratios

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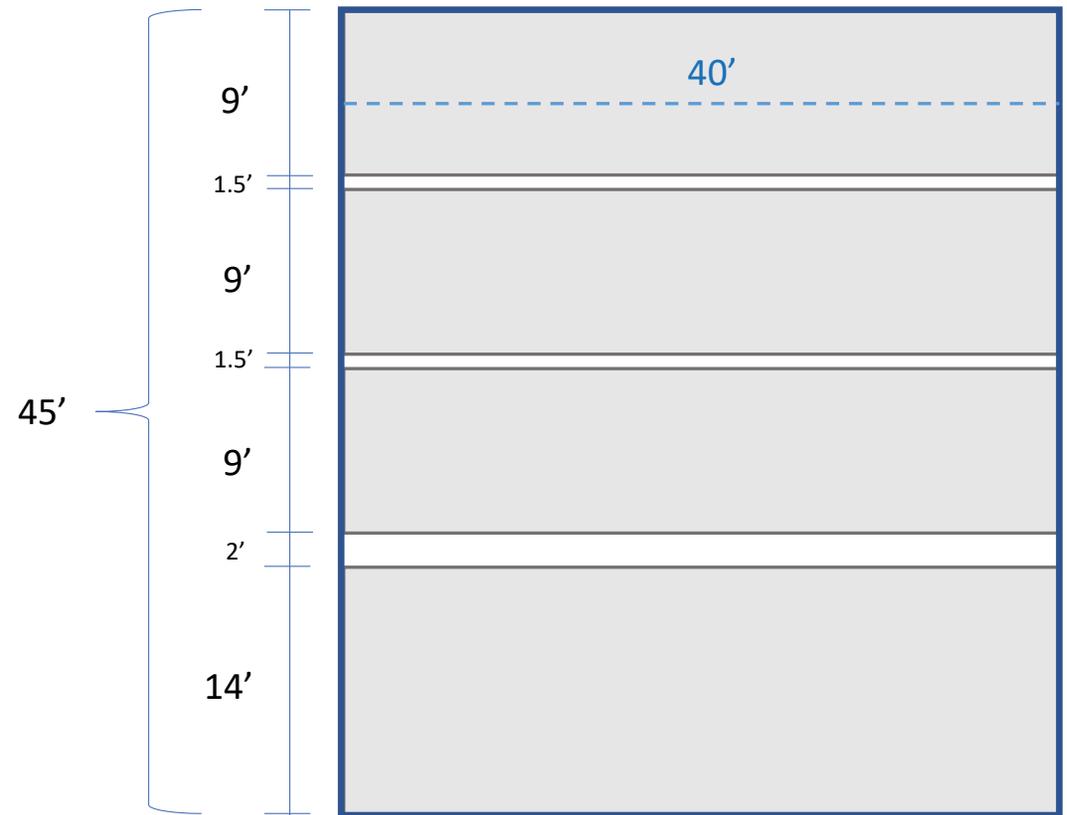
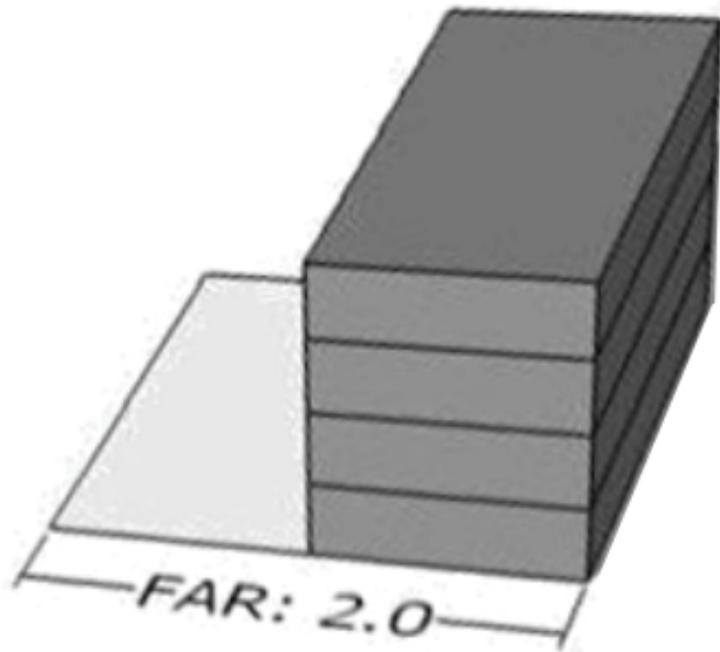


Floor Area Ratios

PC Nov. 23, 2021

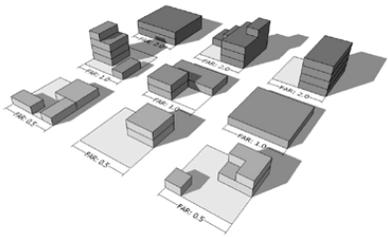


40' maximum height in E-1

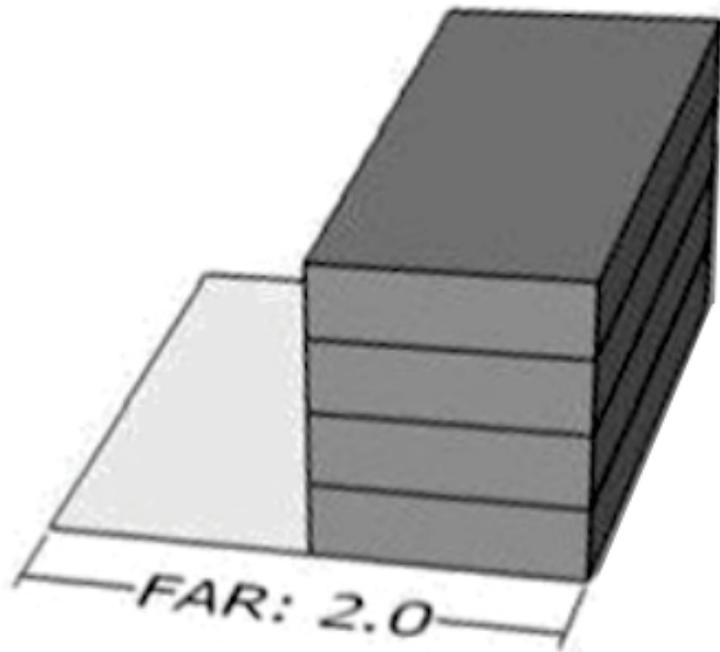


Floor Area Ratios

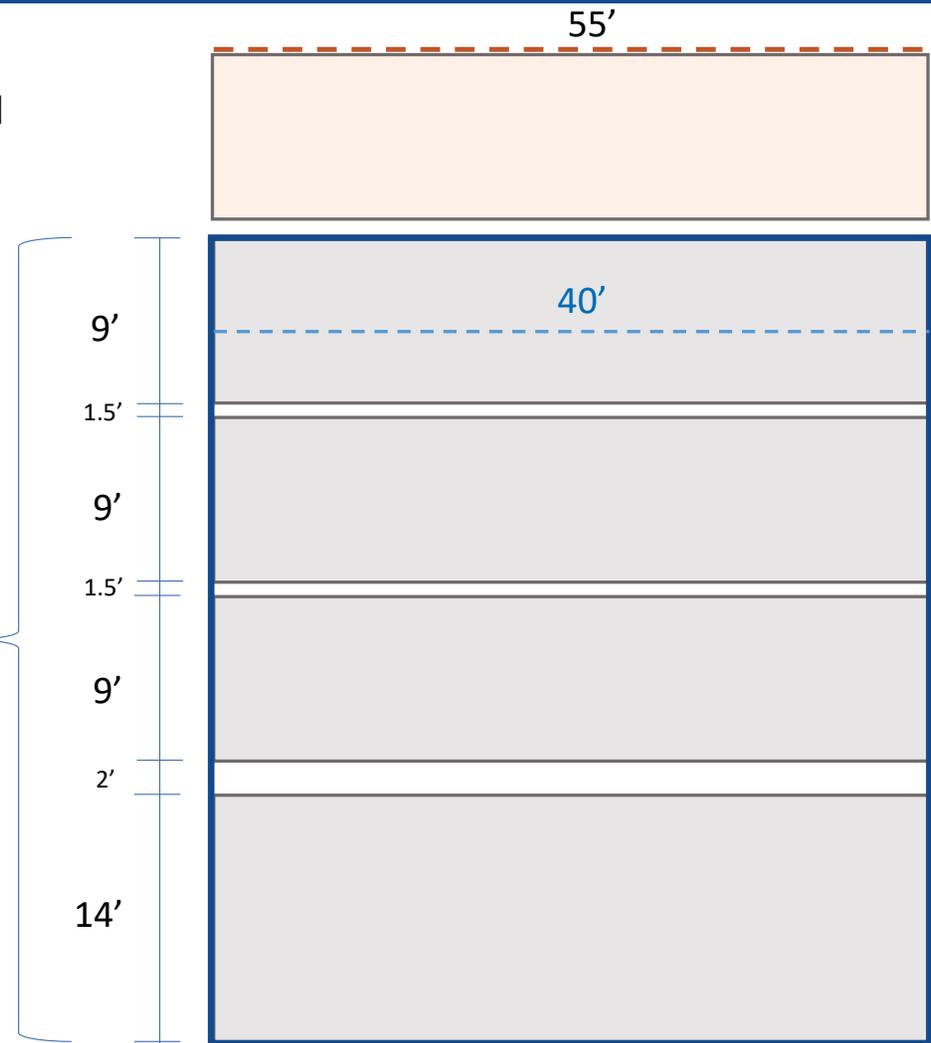
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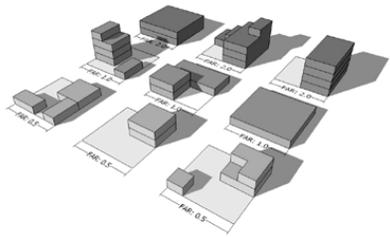


40' maximum height in E-1
55' in C-1 with CUP

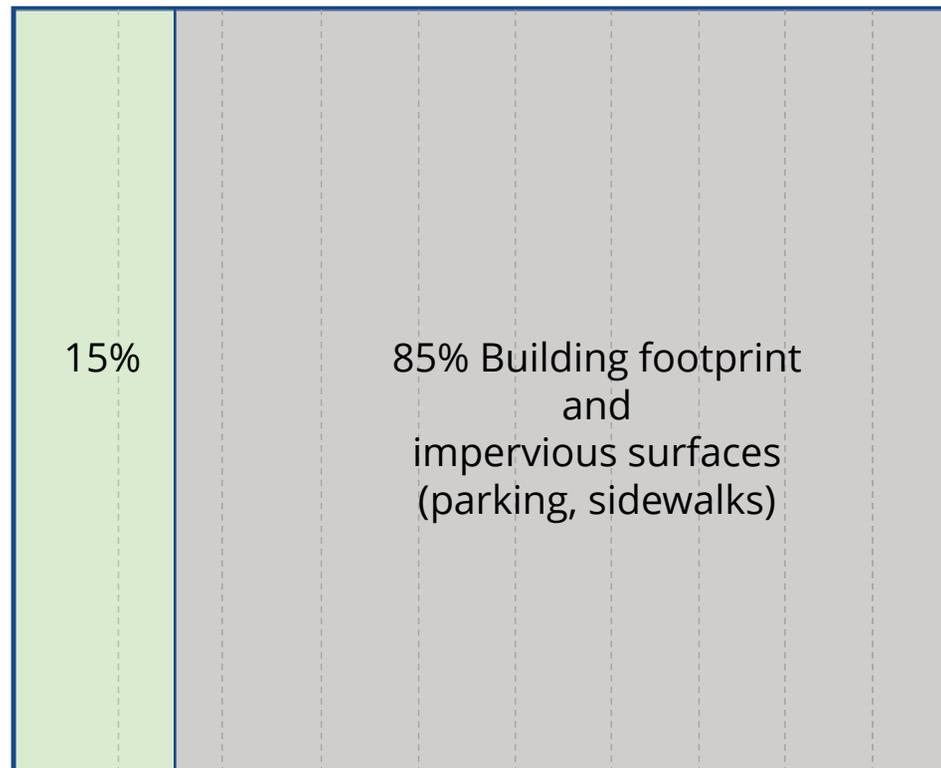


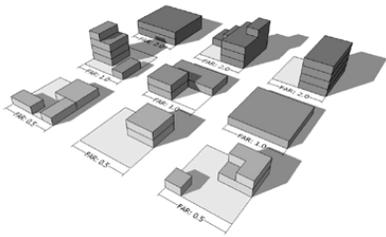
45'





85% Lot Coverage allowed in E-1 and C-1





$$\text{Floor Area Ratio} = \frac{\text{Floor 1} + \text{Floor 2} + \text{Floor 3}}{\text{Lot area}}$$

15,000 square foot lot

3-story

85% coverage

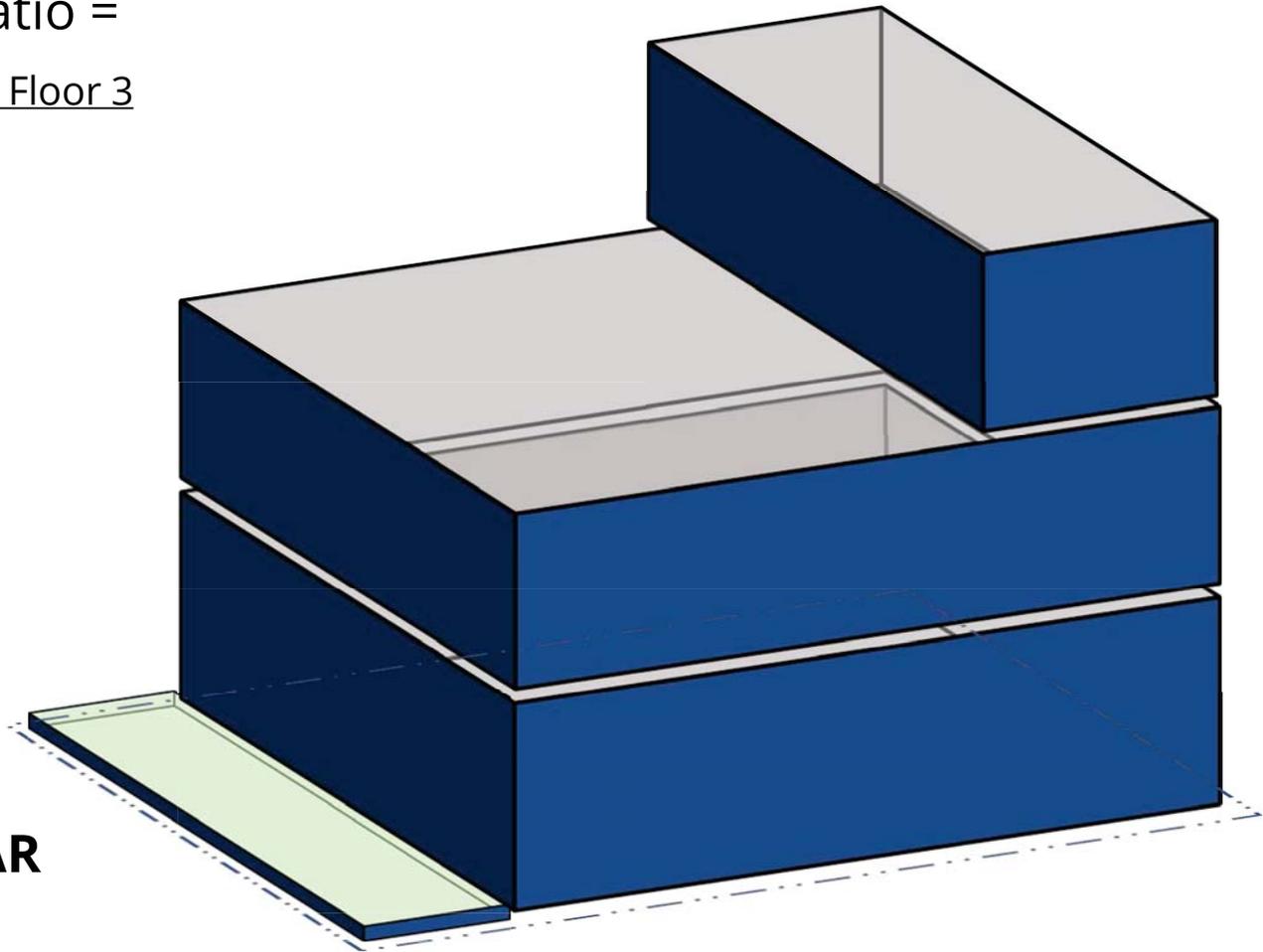
Underground or offsite parking

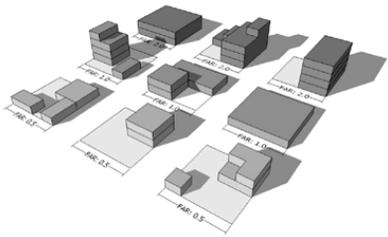
Ground Floor = 12,750 sq.ft.

Second Story = 12,750 sq.ft.

Third Story = 4,500 sq.ft.

$$\frac{(12,750 + 12,750 + 4,500)}{15,000} = \mathbf{2.0 \text{ FAR}}$$



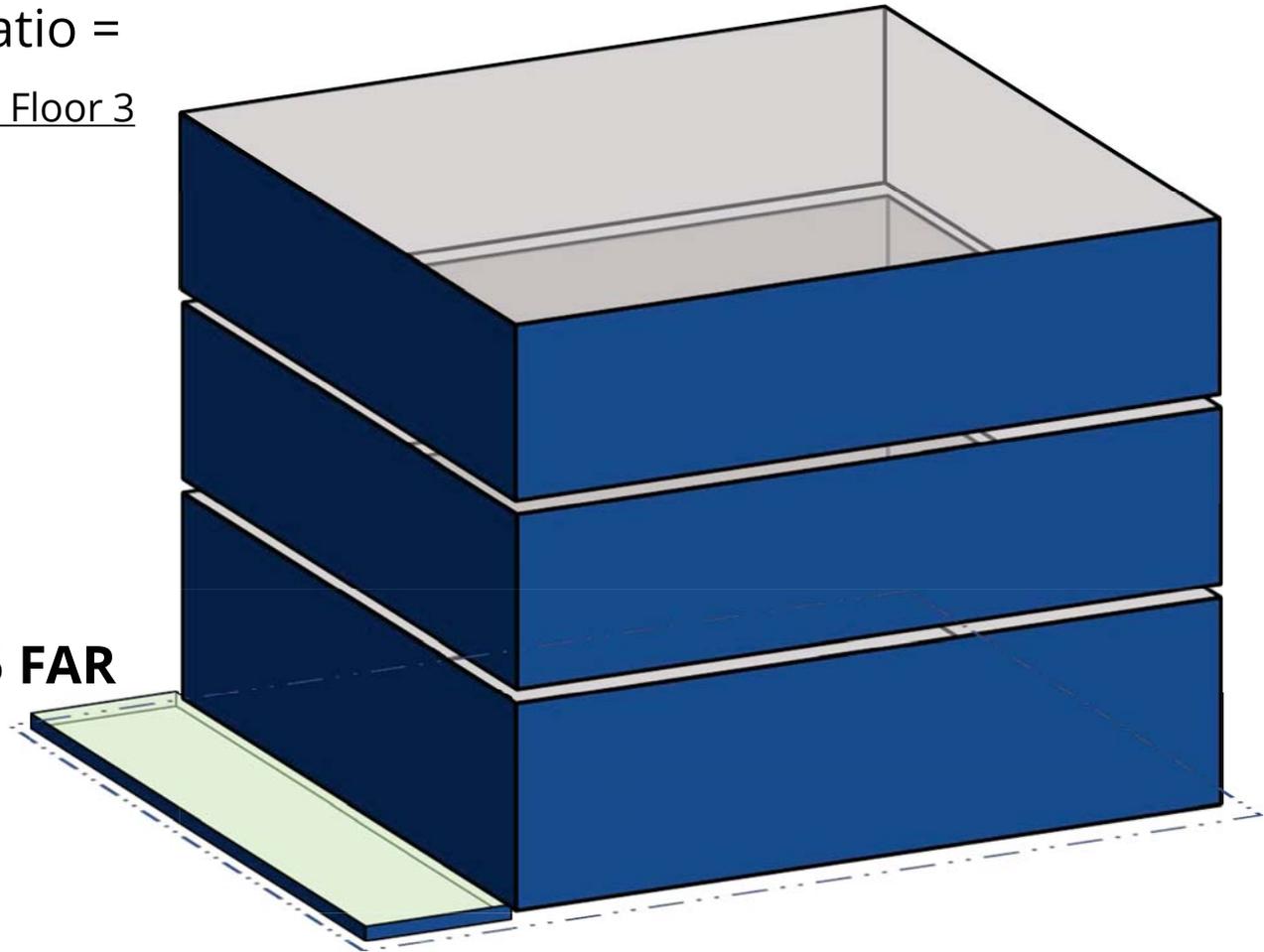


$$\text{Floor Area Ratio} = \frac{\text{Floor 1} + \text{Floor 2} + \text{Floor 3}}{\text{Lot area}}$$

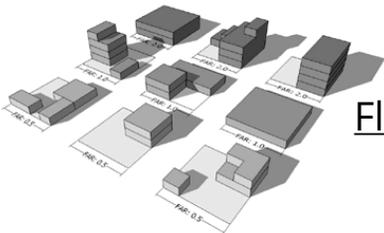
15,000 square foot lot
3-story
85% coverage
Underground or offsite parking

Each story is 12,750 sq.ft.

$$\frac{(12,750 + 12,750 + 12,750)}{15,000} = \mathbf{2.55 \text{ FAR}}$$



Floor Area Ratios



Floor Area Ratio =

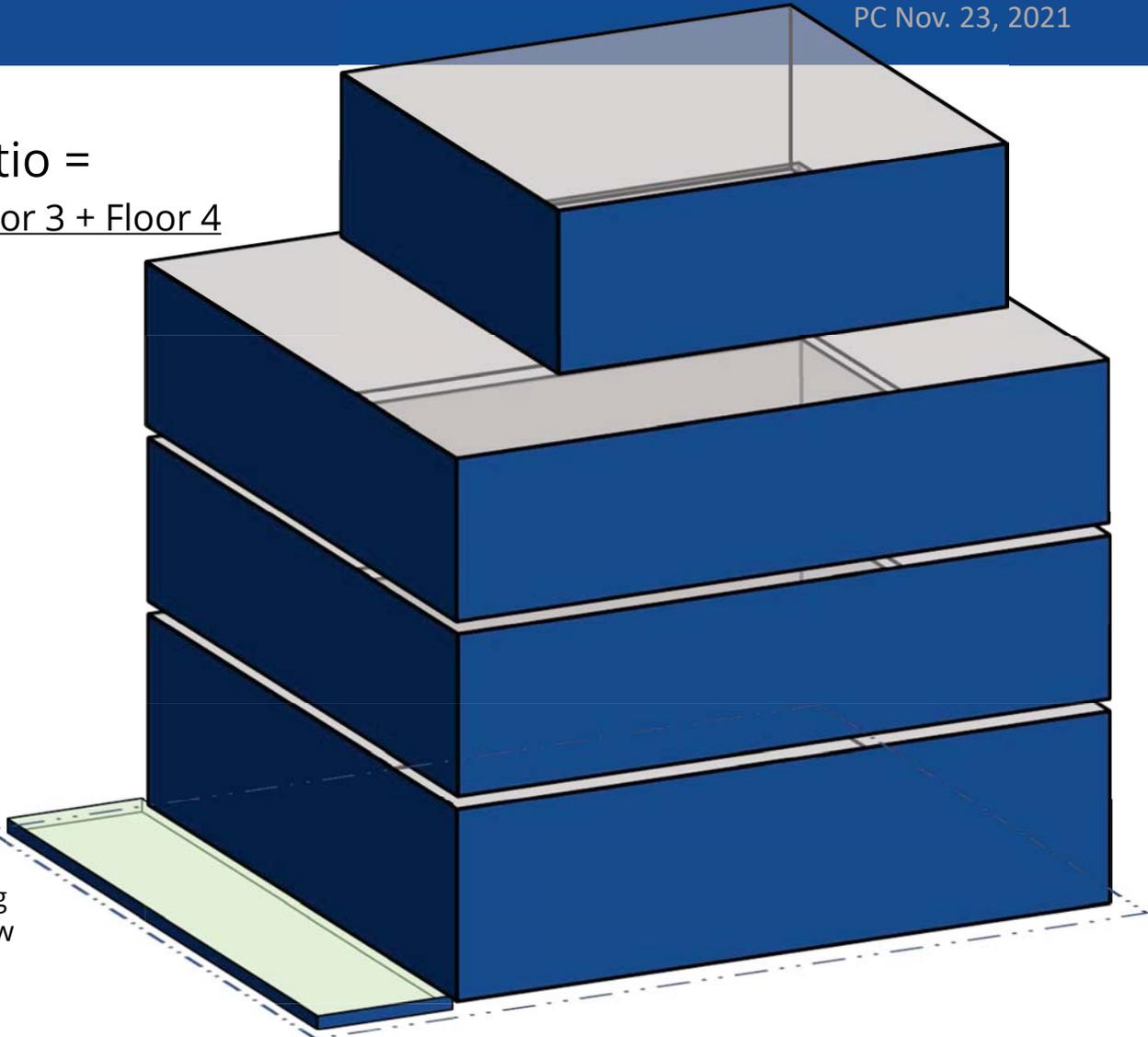
$$\frac{\text{Floor 1} + \text{Floor 2} + \text{Floor 3} + \text{Floor 4}}{\text{Lot area}}$$

15,000 square foot lot
4-story
85% coverage

Each story is 12,750 sq.ft.

$$\frac{(12,750 + 12,750 + 12,750 + 6,750^*)}{15,000} = \mathbf{3.0 FAR}$$

* Fourth Floor reduced due to Maximum Building size of 45,000 square feet in the Detail Site Review Overlay.



Floor Area Ratios

PC Nov. 23, 2021

Examples

Address	Business	Building Size (sq. ft.)	Lot Size (sq. ft.)	FAR
41 N. Main St.	Louie's	1,445	1,743	.83
67 N. Main St.	Wells Fargo	5,171	29,621	.17
247 E. Main St. *	The Elk's Lodge	29,356	11,761	2.50
498 Oak St.	Massif	8,986	16,837	.53
565 A St.	A St. Animal Clinic	3,780	5,663	.67
1661 Ashland St.	Rogue Federal Credit Union	4,508	22,651	.20
2301 Ashland St.	Albertson's	43,456	173,804	.25

Good evening planning commissioners,

I would like to add to the discussion on changes to the housing and employment zones codes. Now is the opportunity for the city to make a meaningful, substantive impact on the present restrictions regarding provision of housing in the commercial and employment zones and parking requirements.

This discussion shouldn't be relegated to the existing residential overlay. This discussion should be regarding all commercial and employment zone lands. There are areas that do not have residential overlay but directly abut residential lands. The industrial zone does not allow for residential use. I would wager a bet that there are a number of 'residences' in the Employment zone.

Additionally, the existing uses of a site shouldn't determine that residential isn't allowed for example properties that have a conditional use permit such as a hotel cannot be converted to the 65/35 ratio as the code prevents residential development when the commercial property is occupied by a conditional use. The irony of this is that hotels have similar if not more fire life safety protections for their guests as an apartment complex requires. Additionally, generally the parking for a hotel is similar to the parking for a studio or small one bedroom so the physical changes to the property to accommodate the change of use are limited.

The code appears to eliminate the allowance for multiple buildings that would allow for a building that was entirely residential in conjunction with a commercial development. This should be allowed so that there can be stand-alone apartments. Possibly require the commercial building to be fronting upon the street like the projects we are doing in Talent on North Pacific Highway.

I suggest that it be considered that commercial property is allowed to develop at 100% residential when developed to the high-density multi-family residential standards. Medford has had successful residential development adjacent to large scale commercial developments in their commercial zones and the numbers of pedestrians and foot traffic to the businesses is increased due to the increase in housing on directly adjacent properties. For all intents and purposes, multi-family residential functions like and has similar traffic impacts as many permitted commercial uses. The traffic impacts are similar except that there is the ability to functionally reduce trips because people can walk to the nearby businesses. You'll find projects like this on West Main/Ross in Medford.

Parking:

The parking is not part of the discussion this evening I would like to comment that in all of the Rogue Valley jurisdictions where I have done planning and development projects Ashland has the highest parking requirements. This includes not only the number of parking spaces, the sizes of the parking spaces, the required buffering for said parking, most communities allow for stacking of residential parking. So in the event that a garage has a 20 foot front yard setback that garage space provides one parking space and the space behind that provides a second this way acknowledging that is how much of the historic area, the area around Harmony Lane, Ross Lane, Linda Ave., Ray lane, Parker St, Garfield St, you get my drift, there's a lot of single width driveways around town that only count as one parking space regardless of the how many vehicles can stack in the same driveway.

In conclusion,

Nobody wants to build vacant commercial structures but there is a lot of interest in building, expanding residential structures. I did suggest that my clients that own commercial and employment zoned property participate in this discussion because there are many that feel stuck. The folks on A Street and Hersey Street in the houses that are nearly impossible to convert to commercial are stuck in non-conforming developments.

I thank you for looking into making changes. I suggest you look deeper and consider broader, more impactful changes some of the suggestions include.

- Allow for 100 percent residential in the C-1 zones when developed to high density, multi-family residential standards.
- Retain the mix in the employment zones
- Retain the mixed-use component that allows for 50 percent of the site area (or some other number) to be residential in conjunction with commercial development when in separate structures.
- Allow for residential use when there is a conditional use on the property and do not restrict to permitted or special permitted uses.
- Allow for single story, mixed use construction of buildings
- Consider taller buildings (3 and 4 story buildings in the E-1)
- Revise the Economic Opportunity Analysis due to substantial changes to Ashland's economy that may not have been captured in 2007. This would provide avenue to allow more E-1 with R overlay in the areas that I note above.
- By all means reduce the parking requirements.

Thank you for your time.

FINDINGS

PA-T1-2021-00159
Interpretation of
Driveway Grade

BEFORE THE PLANNING COMMISSION
December 14, 2021

IN THE MATTER OF PLANNING ACTION #PA-T1-2021-00159, A REQUEST)
FOR AN INTERPRETATION OF THE LAND USE CODE THAT REGULATES)
THE AMOUNT OF A DRIVEWAY THAT CAN EXCEED 15 PERCENT GRADE.)
SPECIFICALLY, THE APPLICATION REQUESTS AN INTERPRETATION OF)
ASHLAND MUNICIPAL CODE 18.5.3.060.F. THE REQUEST IS TO HAVE THE)
PLANNING COMMISSION DETERMINE IF THE CODE IS MEANT TO) **FINDINGS ,**
ALLOW A TOTAL OF 200 FEET OF DRIVEWAY LENGTH TO EXCEED THE) **CONCLUSIONS**
MAXIMUM SLOPE THROUGH AN APPLICATION FOR A VARIANCE, OR IN) **& ORDERS**
THE ALTERNATIVE, IF MULTIPLE SECTIONS EACH NO LONGER THAN)
200 FEET IN LENGTH, BUT HAVING A COMBINED LENGTH IN EXCESS OF)
200-FEET, MAY EXCEED THE MAXIMUM SLOPE THROUGH AN)
APPLICATION FOR A VARIANCE.)
APPLICANT: ROGUE PLANNING & DEVELOPMENT SERVICES, LLC)
OWNER: KATHERINE AND JOSEPH CLARKE)

RECITALS:

- 1) The application is request for an interpretation of the land use code that regulates the amount of a driveway that can exceed a grade of 15 percent. Specifically, the application requests an interpretation of the meaning of Ashland Municipal Code 18.5.3.060.F which reads as follows:

18.5.3.060 F. Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent for not more than 200 feet. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5 Variances.

- 2) The criteria for an interpretation of the Land Use Ordinance are described in **AMC 18.1.020 and 18.1.5.030** as follows:

18.1.020 Interpretations Authorized

Where the intent of this ordinance, the status of a use, or the meaning of a word or phrase is unclear, the Staff Advisor may interpret the ordinance in writing through a Ministerial or Type I procedure, as applicable, pursuant to section 18.5.1.040 or 18.5.1.050. Alternatively, the Staff Advisor may refer the question to the Planning Commission for its written interpretation through a Type II procedure, pursuant to section 18.5.1.060. Neither the Staff Advisor's interpretation nor the Commission's interpretation shall have the effect of amending this ordinance.

18.1.5.030 Interpretation Criteria

Any interpretation made through the foregoing procedures shall be based on the following criteria:

- A. The interpretation is consistent with applicability policies of the Comprehensive Plan.*
- B. The interpretation is consistent with the purpose and intent of the ordinance provision that applies to the particular ordinance section, or sections, in question.*
- C. The interpretation is consistent with the opinion of the City Attorney.*

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 evaluate the request for an interpretation based on the staff report, City Attorney Opinion, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds the phase “not more than 200 feet” within 18.5.3.060.F can be reasonably interpreted in multiple ways when considered in the abstract. In an actual permitting decision for a variance request to maximum flag drive grade, the language in 18.5.3060.F would be considered along with the criteria for variance approval in chapter 18.5.5 (Variances), which will give more context to any particular permit decision.

2.3 The Planning Commission concludes section 18.5.3.060.F of the Ashland Land Use Ordinance would need to be modified through a legislative process in order to amend and clarify the phase “not more than 200 feet” in a manner that could be universally applied to future developments subject to the provision.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the variance to the driveway grade standard within 18.5.3.060.F as written can be reasonably interpreted in multiple ways consistent with the common meaning of the words or phrases at issue. The Planning Commission declines to provide a singular interpretation that would be applicable to all situations.

Planning Commission Approval

Date

PA-T1-2021-00159
December 14, 2021
Page 2

FINDINGS

PA-T1-2021-00158
351 Walker Street

BEFORE THE PLANNING COMMISSION
December 14, 2021

IN THE MATTER OF PLANNING ACTION T1-2021-00158, AN APPEAL OF THE)
STAFF ADVISOR’S APPROVAL OF A REQUEST FOR SITE DESIGN REVIEW)
AND CONDITIONAL USE PERMITS TO INSTALL WIRELESS COMMUNI-)
CATION FACILITIES (ANTENNAS AND ASSOCIATED EQUIPMENT) ON THE)
SOUTHERN OREGON UNIVERSITY CAMPUS AT 351 WALKER AVENUE/390)
STADIUM STREET.)

) FINDINGS,
) CONCLUSIONS &
) ORDERS

OWNER: Southern Oregon University)
APPLICANT: SmartLink LLC for New Cingular Wireless, LLC)
AT&T)
APPELLANT: Kelly Marcotulli & Pamala Joy)

RECITALS:

- 1) Tax lot #100 of Map 39 1E 10CD is located at 351 Walker Avenue and 390 Stadium Street on the Southern Oregon University campus and is zoned SO (Southern Oregon University District).
- 2) The application is a request for a Site Design Review and Conditional Use Permit approval to install wireless communication facilities (antennas and associated equipment) on a reconstructed stadium light standard at Raider Stadium located at 351 Walker Avenue/390 Stadium Street on the Southern Oregon University campus. The Staff Advisor initially approved the application administratively subject to a number of conditions. Subsequent to the mailing of a Notice of Decision, Kelly Marcotulli and Pamala Joy filed a timely appeal request. Site improvements are outlined on the plans on file at the Department of Community Development.
- 3) **The criteria for Site Design Review approval are described in AMC 18.5.2.050 as follows:**
 - A. ***Underlying Zone:*** *The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.*
 - B. ***Overlay Zones:*** *The proposal complies with applicable overlay zone requirements (part 18.3).*
 - C. ***Site Development and Design Standards:*** *The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.*
 - D. ***City Facilities:*** *The proposal complies with the applicable standards in section 18.4.6 Public Facilities and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property and adequate transportation can and will be provided to the subject property.*

E. ***Exception to the Site Development and Design Standards.*** *The approval authority may approve exceptions to the Site Development and Design Standards of part 18.4 if the circumstances in either subsection 1 or 2, below, are found to exist.*

1. *There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty.;*
or
2. *There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards.*

4) **The Wireless Communication Facility Design Standards are described in AMC 18.4.10.040 as follows:**

All wireless communication facilities shall be located, designed, constructed, treated, and maintained in accordance with the following standards.

A. General Provisions

1. *All facilities shall be installed and maintained in compliance with the requirements of the Building Code. At the time of building permit application, written statements from the Federal Aviation Administration (FAA), the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communication Commission (FCC) confirming that the proposed wireless communication facility complies with regulations administered by that agency or that the facility is exempt from regulation.*
2. *All associated transmittal equipment must be housed in a building, above or below ground level, which must be designed and landscaped to achieve minimal visual impact with the surrounding environment.*
3. *Wireless communication facilities shall be exempted from height limitations imposed in each zone.*
4. *Wireless communication facilities shall be installed at the minimum height and mass necessary for its intended use. A submittal verifying the proposed height and mass shall be prepared by a licensed engineer.*
5. *Lattice towers are prohibited as freestanding wireless communication support structures.*

6. *Signage for wireless communication facilities shall consist of a maximum of two non-illuminated signs, with a maximum of two square feet each, stating the name of the facility operator and a contact phone number.*
7. *The applicant is required to remove all equipment and structures from the site and return the site to its original condition, or condition as approved by the Staff Advisor, if the facility is abandoned for a period greater than six months. Removal and restoration must occur within 90 days of the end of the six-month period.*
8. *All new wireless communication support structures shall be constructed so as to allow other users to collocate on the facility.*

B. Preferred Designs. *The following preferred designs are a stepped hierarchy, and the standards shall be applied in succession from subsection a to e, with the previous standard exhausted before moving to the following design alternative. For the purpose of chapter 18.4.10, feasible is defined as capable of being done, executed or effected; possible of realization. A demonstration of feasibility requires a substantial showing that a preferred design can or cannot be accomplished.*

1. **Collocation.** *Where possible, the use of existing wireless communication facilities sites for new installations shall be encouraged. Collocation of new facilities on existing facilities shall be the preferred option. Where technically feasible, collocate new facilities on pre-existing structures with wireless communication facilities in place or on pre-existing towers.*
2. **Attached to Existing Structure.** *If (a) above is not feasible, wireless communication facilities shall be attached to pre-existing structures, when feasible.*
3. **Alternative Structure.** *If (a) or (b) above are not feasible, alternative structures shall be used with design features that conceal, camouflage, or mitigate the visual impacts created by the proposed wireless communication facilities.*
4. **Freestanding Support Structure.** *If (1), (2), or (3) listed above are not feasible, a monopole design shall be used with the attached antennas positioned in a vertical manner to lessens the visual impact compared to the antennas in a platform design. Platform designs shall be used only if it is shown that the use of an alternate attached antenna design is not feasible.*
5. **Lattice towers** *are prohibited as freestanding wireless communication support structures.*

C. Collocation Standards

1. *The collocation feasibility study shall meet all of the following requirements.*
 - a. *Document that alternative sites have been considered and are*

technologically unfeasible or unavailable.

b. Demonstrate that a reasonable effort was made to locate collocation sites that meet the applicant's service coverage area needs.

c. Document the reasons collocation can or cannot occur.

2. Relief from collocation under this section may be granted at the discretion of the approval authority if the application and independent third party analysis demonstrate collocation is not feasible because one or more of the following conditions exist at prospective collocation sites.

a. A significant service gap in coverage area.

b. Sufficient height cannot be achieved by modifying existing structure or towers.

c. Structural support requirements cannot be met.

d. Collocation would result in electronic, electromagnetic, obstruction, or other radio frequency interference.

D. *Landscaping.* *The following standards apply to all wireless communication facilities with any primary or accessory equipment located on the ground and visible from a residential use or the public right-of-way.*

1. Vegetation and materials shall be selected and sited to produce a drought resistant landscaped area.

2. The perimeter of the wireless communication facilities shall be enclosed with a security fence or wall. Such barriers shall be landscaped in a manner that provides a natural sight obscuring screen around the barrier to a minimum height of six feet.

3. The outer perimeter of the wireless communication facilities shall have a landscaped buffer zone ten feet in width.

4. The landscaped area shall be irrigated and maintained to provide for proper growth and health of the vegetation.

5. One tree shall be required per 20 feet of the landscape buffer zone to provide a continuous canopy around the perimeter of the wireless communication facilities. Each tree shall have a caliper of two inches, measured at breast height, at the time of planting.

E. *Visual Impacts*

1. Wireless communication facilities shall be located in the area of minimal visual impact within the site which will allow the facility to function consistent with its purpose.

2. *Wireless communication facilities, in any zone, must be set back from any residential zone a distance equal to twice its overall height. The setback requirement may be reduced if, as determined by the approval authority, it can be demonstrated through findings of fact that increased mitigation of visual impact can be achieved within of the setback area. Underground accessory equipment is not subject to the setback requirement.*
3. *Antennas attached to a pre-existing or alternative structure shall be integrated into the existing building architecturally and to the greatest extent possible shall not exceed the height of the pre-existing or alternative structure.*
4. *Antennas attached to a pre-existing or alternative structure shall have a non-reflective finish and color that blends with the color and design of the structure to which it is attached.*
5. *All wireless communication support structures must have a non-reflective finish and color that will mitigate visual impact, unless otherwise required by other government agencies.*
6. *Exterior lighting for a wireless communication facility is permitted only when required by a federal or state authority.*
7. *Should it be deemed necessary by the approval authority for the mitigation of visual impact of the wireless communication facility, additional design measures may be required. These may include, but are not limited to: additional camouflage materials and designs, facades, specific colors and materials, masking, and shielding techniques.*

5) **The criteria for Conditional Use Permit approval are described in AMC 18.5.4.050.A as follows:**

1. *That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.*
2. *That adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the development, and adequate transportation can and will be provided to the subject property.*
3. *That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone, pursuant with subsection 18.5.4.050.A.5, below. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone.*
 - a. *Similarity in scale, bulk, and coverage.*
 - b. *Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of*

- facilities.*
- c. Architectural compatibility with the impact area.*
 - d. Air quality, including the generation of dust, odors, or other environmental pollutants.*
 - e. Generation of noise, light, and glare.*
 - f. The development of adjacent properties as envisioned in the Comprehensive Plan.*
 - g. Other factors found to be relevant by the approval authority for review of the proposed use.*
4. *A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance.*
 5. *For the purposes of reviewing conditional use permit applications for conformity with the approval criteria of this subsection, the target uses of each zone are as follows....*
 - I. *HC, NM, and SOU. The permitted uses listed in chapters 18.3.3 Health Care Services, 18.3.5 North Mountain Neighborhood, and 18.3.6 Southern Oregon University District, respectively, complying with all ordinance requirements.*
- 6) 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 December 19, 2021. Among other things, this Declaration of Emergency provides that public meetings may be conducted by electronic means for the various City commissions and boards, including the Planning Commission.
 - 7) The Planning Commission, following proper public notice, held an electronic public hearing on October 12, 2021 at which time testimony was received and exhibits were presented. Prior to the closing of the hearing, the applicant requested that the record be left open or the hearing continued pursuant to ORS 197.763(6) to present additional evidence or argument. The Planning Commission closed the public hearing; however the record was left open for parties of record to submit additional information as follows: any party was allowed to submit additional evidence or argument until Tuesday, October 19th at 4:30 p.m.; any party was allowed to submit evidence or argument limited strictly to rebuttal of the materials submitted during the first open record period until Tuesday, October 26th at 4:30 p.m.; and the applicant was allowed to submit final legal arguments, but not additional evidence, until Tuesday, November 2nd at 4:30 p.m. The meeting was continued to Tuesday, November 9, 2021 at 7:00 p.m., at which time the Planning Commission reconvened electronically via Zoom for their deliberations. After review of the record, the Commission determined that the Staff Advisor had not erred in approving the requested Site Design Review and Conditional Use Permits to install Wireless Communication Facilities on a reconstructed stadium light standard at Raider Stadium on the SOU campus, denied the appeal and approved the application subject to conditions pertaining to the appropriate development of the site.

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, and Miscellaneous Exhibits lettered with an "M"

SECTION 2. CONCLUSORY FINDINGS

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 for Site Design Review meets all applicable criteria for Site Design Review approval described in section 18.5.2.050, for Wireless Communication Facilities described in section 18.4.10.040, and for Conditional Use Permit approval described in section 18.5.4.050.A. The site plan and elevation drawings provided delineate the proposed wireless communication facility installation location, design and associated improvements.

2.3 The Planning Commission notes that the applicant has requested Site Design Review and Conditional Use Permit approvals to install a new Wireless Communication Facility (WCF) on the Southern Oregon University Campus at 351 Walker Avenue/390 Stadium Street. The proposed WCF would involve the placement of an AT&T 4G and 5G LTE tower constructed as an alternative structure in the form of a reconstructed stadium light standard. The applicant proposes to replace an existing 73.9-foot tall concrete stadium light standard with a new 95-foot tall concrete light standard constructed to match the existing structure. The new stadium light standard would contain the stadium lights at their existing height and the proposed wireless communication facilities placed above them on the light standard. A 450 square foot lease area on the ground below the tower would contain ground equipment housed within a pre-fabricated walk-in cabinet on a ten-foot by 18-foot concrete pad with landscape screening and fencing.

The Planning Commission notes that, as detailed in AMC 18.4.10.020, WCF proposed as alternative structures in the Southern Oregon University (SO) zoning district require Conditional Use Permit approval. The Planning Commission further notes that AMC 18.4.10.020.B.1 specifically provides that, *"In residential zones, wireless communication facilities are permitted on existing structures greater than 45 feet in height. For the purposes of this section, existing structures shall include the replacement of existing pole, mast, or tower structures (such as stadium light towers) for the combined purposes of their previous*

use and wireless communication facilities.” In this instance, the proposed WCF is as described in that it is proposed on an existing structure greater than 45 feet tall in the form of a stadium light tower which, with the WCF installation, will serve the combined purposes of a stadium light tower and a wireless communication facility. However, because the proposal is not located in a residential zone as specified, the applicant and staff have both taken the most conservative approach and considered the request an alternative structure, rather than as an existing structure, thus requiring a Conditional Use Permit. The Planning Commission concurs that this is the appropriate procedural treatment for the request.

The Commission further notes that the current application was approved by staff on September 17, 2021 with a 12-day appeal period which extended through the end of business on September 29, 2021. On September 27, 2021 prior to the end of the appeal period, Kelly Marcotulli and Pamala Joy timely filed a notice of land use appeal. Ms. Marcotulli had participated in the original decision by submitting written comments during the comment period, and Ms. Joy resides within the noticing area for the application, and had submitted written comments during the public comment period as well, and thus both had standing to appeal. The Notice of Appeal identified three specific grounds for which the decision should be reversed or modified: 1) The loss of property values due to appearance of cell tower in the area and adverse effects of livability in the impacted area (AMC 18.5.4.050); that the AT&T permit application submittal does not clearly specify that collocation is not precluded in the SmartLink/SOU Lease Agreement (AMC 18.4.10.030.I); and that electromagnetic radiation should be considered an air quality pollutant and is in the high risk category per the insurance industry. The appeal notice further explained that while the Land Use Ordinance does not address this, it is an issue raised in the land lease documents in the submittal. (AMC 18.5.4.050).

AMC 18.5.1.050.G. explains that appeal hearings on Type I decisions made by the Staff Advisor are “*de novo*” hearings before the Planning Commission and follow the standard Type II public hearing procedure except that the decision of the Planning Commission is the final decision of the City. As such, the consideration of an appeal of the Staff Advisor’s decision is not limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type I decision, but may include other relevant evidence and arguments. The Commission may allow additional evidence, testimony, or argument concerning any relevant ordinance provision.

2.4 The Planning Commission notes that WCF installations are subject to Site Design Review to consider compliance with the design standards for WCF installation detailed in AMC 18.4.10.040. The purpose of the City’s design standards is described in AMC 18.4.10 as:

The purpose of this section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities while providing residents with the ability to access and adequately utilize the services that these facilities support. Because of the physical characteristics of wireless communication facilities, the impacts imposed by these facilities affect not only the neighboring residents but also the community as a whole. The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially in or near residential areas.

The Planning Commission further notes that in keeping with this stated purpose, the Design Standards in AMC 18.4.10.040 include a “stepped hierarchy” which is to be applied in succession to consider WCF

placement options. The first design option is collocation. If it is proven not to be feasible, the next option considered is attaching the installation to an existing structure. If that proves not to be feasible, an alternative structure can be considered, and finally if other options have all proven not to be feasible, a free-standing support structure is the last option. Lattice towers are explicitly prohibited. The applicant is required to exhaust each previous standard, demonstrating that it is not feasible before moving to the next step in the preferred design hierarchy. Feasible is defined as “*capable of being done, executed or effected; possible of realization.*” A demonstration of feasibility requires a substantial showing that a preferred design can or cannot be accomplished. Here, the Planning Commission finds that the applicant has proposed to replace an existing concrete stadium light standard with a taller concrete light standard supporting lights at their current height with the WCF above as an alternative structure, and the applicant must accordingly demonstrate that neither collocation nor attachment to an existing structure are feasible.

In considering the feasibility of collocation, the application must document that alternative sites have been considered and are technologically unfeasible or unavailable, demonstrate that a reasonable effort was made to locate collocation sites that meet the applicant’s service coverage area needs, and to document the reasons collocation can or cannot occur. Relief from collocation as the first-step in the hierarchy of design preference may be granted if the evidence contained within the application supported by independent third party analysis demonstrate collocation is not feasible because one or more of the following conditions exist at prospective collocation sites: a) a significant service gap in coverage area; b) sufficient height cannot be achieved by modifying existing structure or towers; c) structural support requirements cannot be met; and d) collocation would result in electronic, electromagnetic, obstruction, or other radio frequency interference.

The Planning Commission finds that the applicant has provided the code-required collocation study/alternative site analysis, and further finds that as required by ordinance the City has retained the services of independent third party reviewer William P. Johnson, an RF Engineering Consultant, who has reviewed the application materials to ensure that the site approvals are based on an objective need. In reviewing the applicant’s alternative site analysis and collocation study, Johnson has concluded that:

- Assuming the validity of the RF coverage thresholds for in-building and in-vehicle coverage – *which are noted as consistent with those used by AT&T and other service providers in sites located in similar areas with in-building and in-vehicle service objectives* – the applicant has demonstrated the need for RF coverage from a base station facility in the general area of the proposed project site to remediate “exhaustion” (over-utilization of neighbor sites) that leads to inadequate service. The proposed site will draw-off traffic from existing sites during busy times and as wireless service demands increase.
- The proposed 95-foot height appears reasonable for a site situated as proposed, and as one would expect a height reduction tends to decrease RF coverage. However, the applicant’s argument against a height reduction of ten feet (to an 85-foot high antenna tip height) is unsupported other than by a percent change in service in an undefined area since the specific “target area” is undefined for the purpose of comparing a four percent change in coverage.
- After review of the alternate sites presented by the applicant, the independent third party reviewer agreed with the applicant’s determination that, of the alternate sites considered in their analysis, the proposed site was the *only technically viable alternative*.

- The independent third party reviewer further pointed out that, “Residents might be concerned about what they have heard regarding the millimeter wave (39 GHz) band and the unknown effects on people. This site does NOT have mm wave equipment. The “5G” equipment is operating in the same band as cellular wireless has used since the early 1980s. I am sure [city decision makers] will keep in mind that federal law precludes a denial based on health effect for sites that comply with the FCC threshold requirements. This site does comply...”

The Planning Commission finds that in considering the proposal initially, staff noted in particular that Johnson determined that the application demonstrated the need for RF coverage from a base station facility in the general area of the proposed project site to remediate the over-utilization of neighboring sites that leads to inadequate service, and that Johnson agreed with the applicant’s determination that, of the alternate sites considered in their analysis, the proposed site was the only technically viable alternative. The independent third party reviewer also pointed out that the proposed 95-foot height appears reasonable for a site situated as proposed, but that the applicant’s argument against a ten-foot height reduction (to an 85-foot high antenna tip) is unsupported other than by a percent change in service in an undefined area since the specific “target area” is undefined for the purpose of comparing a four percent change in coverage.

While testimony and exhibits provided at the appeal hearing question whether the applicants had adequately established a need for the proposed facilities, the Planning Commission finds that the materials provided by the applicant and the review of these materials by the city’s independent expert William Johnson provided substantial evidence demonstrating that alternative sites were considered and found to be technologically unfeasible or unavailable, and further demonstrated that a reasonable effort was made to locate collocation sites meeting the applicant’s service coverage area needs, and demonstrating that collocation cannot occur.

2.5 The Planning Commission notes that the subject property is located within the Southern Oregon University (SOU) District, a special district established to provide for the unique needs of Southern Oregon University as a State educational institution functioning within the planning framework of the City of Ashland. The SOU District is regulated under AMC Chapter 18.3.6 and by the SOU Campus Master Plan which has been adopted by the City as Ordinance #3014. Within the SOU overlay zone, WCF are authorized subject to Chapter 18.4.10, and alternative structures (i.e. *man-made structures that, by design, camouflage or conceal the presence of wireless communication facilities, such as clock towers, bell towers, church steeples, water towers, light poles, and similar alternative-design mounting structures*) require a Conditional Use Permit for approval.

Conditional Use Permits provide for discretionary review of the adverse material impacts of a request in comparison to adverse material impacts that could reasonably be expected from the property’s target use, which for the SOU District is “*The permitted uses listed in... (chapter) 18.3.6 Southern Oregon University District... complying with all ordinance requirements.*” Consideration in the criteria include impacts on the livability of the impact area when considered in terms of scale, bulk, and coverage, and architectural compatibility. Conditional Use Permits provide the city with the ability to impose conditions necessary to mitigate these adverse material impacts.

The Planning Commission notes that in responding to the Conditional Use Permit criteria, the application materials assert that as an unmanned facility, the proposed WCF only requires electricity and telecommunications services and there is adequate access and capacity for each to serve the subject property. They further suggest that the proposed design is the least intrusive means of meeting coverage objectives for this site and will have no greater impact on the livability of the surrounding area than would the target use.

The Staff Advisor found, and the Planning Commission concurs, that the WCF proposed as an alternative structure designed to be similar in bulk, scale, material treatment and appearance to the existing stadium light standards is architecturally compatible. The proposed lease area, which will accommodate ground equipment, is limited to only 450 square feet and will be surrounded with a six-foot high, sight-obscuring fence, with the requisite landscaping buffer to further screen the facility. Photo simulations have been provided, and the proposed WCF will not generate traffic, dust, odors or other environmental pollutants, and a noise study has been provided to demonstrate that the facility will not emit noise greater than that allowed under AMC 9.08.170, and lighting - other than the existing stadium lights - will be limited to security lighting for the prefabricated equipment cabinet or any lighting required by the Federal Aviation Administration (FAA) or Oregon Department of Aviation (ODA).

2.6 The Planning Commission notes that Ashland’s standards regulate the placement, appearance, and impact of wireless communication facilities (WCF) while providing residents with the ability to access and adequately utilize the services that these facilities support. These standards are based in a recognition that, because of the physical characteristics of WCF, their impacts affect not only the neighboring residents but also the community as a whole. The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially in or near residential areas. It is important to emphasize that the concern most often raised in comments opposed to WCF installations - *the environmental health impacts associated with such installations* – is explicitly precluded from consideration in local decisions by federal law provided that the installation meets FCC standards. As such, applications must be carefully considered in terms only of applicable local land use regulations including requirements for design review approval in light of specific approval criteria and design standards.

The Planning Commission further notes that subsequent to the mailing of a Notice of Complete Application (NOCA), the Staff Advisor received numerous written comments during the public comment period. The issues raised included personal health effects (i.e. electro-sensitivity, ringing in the ears, disorientation. Sleeplessness, agitation, etc.) particularly in proximity to schools; harm to flora and fauna, including pollinators; increased fire risk; questions of architectural compatibility and adverse impacts to the character of the city; lack of necessity (i.e. internet speeds and cell phones function well enough now); weakening of rights to petition government for redress of future grievances; and adverse impacts to property values.

The bulk of these comments had to do with the environmental and health impacts of wireless communication facilities. Title 47 U.S. Code, Chapter 5, Subchapter III, Part 1 §332.7.B.iv “**Mobile Services – Preservation of Local Zoning Authority**” provides that “*No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless*

service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the (Federal Communication) Commission's regulations concerning such emissions." Federal law explicitly precludes the city's consideration of potential environmental health impacts of wireless communication facilities through the city's local zoning authority. The Planning Commission finds that this preclusion prevents the city from considering health impacts in individual land use decisions, and as such the environmental and health concerns raised could not be considered by the Staff Advisor in reaching an administrative decision and cannot be considered by the Commission here on appeal.

The Planning Commission also notes that some initial comments to the Staff Advisor pointed to a recent court decision, *Environmental Health Trust, et al. v. Federal Communications Commission and United States of America* (#20-1025 before the United States Court of Appeals for the District of Columbia Circuit). As summarized by the Staff Advisor, the Court of Appeals here ruled that in looking at whether it would revisit the current rules for wireless communication facilities, the Federal Communications Commission(FCC) erred in not addressing comments raised in the record with regard to environmental and health concerns when it decided not to revisit rules established in 1996. The decision made clear that the Court was taking "*no position in the scientific debate regarding the health and environmental effects of RF radiation—we merely conclude that the Commission's cursory analysis of material record evidence was insufficient as a matter of law.*" Instead, the Court remanded the matter back to the FCC to correct the procedural error and provide a reasoned explanation for "*its determination that its guidelines adequately protect against harmful effects of exposure to radiofrequency radiation unrelated to cancer.*" The Planning Commission finds that the Court's decision did not set aside the Telecommunications Act of 1996, which says cities cannot deny applications based on environmental or health concerns provided that the installation will operate within FCC rules, as seems to have been suggested in some of the comments received.

With regard to the potential for increased fire risk with the installation of wireless communication facilities, staff explained that Fire Chief and Fire Marshall Ralph Sartain had reviewed the proposal and indicated that as long as a building permit application was reviewed and found to meet current building and fire codes, and all required inspections were approved, he would have no concerns with increased fire risks. Based on the Fire Marshall's comments and Condition #4 of the original staff decision requiring that building permit approvals be obtained, the Planning Commission finds that increased fire risk does not pose a significant concern with the current application.

In terms of architectural compatibility, the criterion specifically speaks to architectural compatibility with the impact area which is the area within 200 feet of the subject property. In this instance, the applicant proposes to reconstruct a concrete light standard which is already in place at Raider Stadium with a concrete standard designed to match the existing structure with lights at the existing 73.9-foot height and the wireless facilities installed above that, to an antenna tip height of 95 feet. The Commission notes that the Staff Advisor determined that reconstructing the light standard in concrete to match the existing standard and others already in place at the stadium could be found to be architecturally compatible with the impact area. Independent third party reviewer Johnson had indicated that the applicant's argument against a ten-foot height reduction (which would take the proposed WCF down to an 85-foot high antenna tip) "*is unsupported other than by a percent change in service in an undefined area since the specific*

'target area' is undefined for the purpose of comparing a four percent change in coverage", and given that an alternative structure as proposed here is supposed to be designed to *"conceal, camouflage, or mitigate the visual impacts created by the proposed wireless communication facilities"*, that AMC 18.4.10.040.A.4 requires that *"Wireless communication facilities shall be installed at the minimum height and mass necessary for its intended use"*, and that Johnson found that the need for the 95-foot height proposed versus a reduction to 85 feet was not adequately supported in the materials, the Staff Advisor found that reducing the height to 85 feet would sufficiently serve the applicant's needs while better achieving architectural compatibility and mitigating the visual impacts of the proposed wireless communication facility. The Planning Commission finds that reducing the height to 85-feet in combination with constructing a new concrete light standard to match the existing 73.9-foot concrete light standard in design and material treatment will better blend with the existing stadium lights than would a ten-foot taller standard, and a condition to this effect was attached to the original staff decision.

Some commenters suggested that because their internet and cell phones function well enough now, the facility was simply not necessary. The Planning Commission finds that independent reviewer William Johnson confirmed through his review that the application materials demonstrate the need for RF coverage from a base station facility in this area to remediate over-utilization of neighboring sites which leads to inadequate service, and the proposed site is intended to draw-off traffic from existing sites during busy times and as wireless service demands increase.

The Staff Advisor found, and the Planning Commission concurs, that the concern that approval of a wireless communication facility will weaken rights to petition government for redress of future grievances does not relate to any approval criteria or standards and is not applicable to the current request.

With regard to the potential reduction in property values, one of the initial public comments cited a 2004 study which found that close proximity to a cell tower reduced home prices by 15 percent on average, and further suggested that an 11th Circuit Court decision upheld the denial of a WCF application based upon testimony that the tower would reduce property values in close proximity. In countering this argument, the applicant provided a 2012 study which concluded that proximity to a wireless facility had no apparent impact on home values or sale prices. The Staff Advisor determined that there was not a definitive demonstration that proximity to wireless facilities reduces property values nor was there a clear tie to the applicable criteria, and further found that the facility was proposed to be placed where a light standard is already in place at the stadium, approximately 496 feet from Walker Avenue and 677 feet from Wightman Street, which is more than double the 170-190 foot required setbacks from adjacent residential. Adverse impacts to property values became an appeal issue and is further discussed in Section 2. 7.

The Planning Commission notes that after consideration of all information contained in the record, the Staff Advisor concluded that the request for Site Design Review and Conditional Use Permit (CUP) approvals to install a new Wireless Communication Facility (WCF) on the Southern Oregon University campus was supported by evidence contained within the whole record. The Commission further notes that independent, third-party reviewer William Johnson reviewed the application submittals and determined that the application demonstrated the need for RF coverage from a base station facility in the general area of the proposed project site to remediate the over-utilization of neighboring sites that leads to inadequate service, and based on the alternative site analysis provided, the independent reviewer

concluded that the proposed site was the only technically-viable alternative. Johnson also found that the applicant's argument against a height reduction of ten feet, which would bring the antenna tip height from the 95 feet proposed down to 85 feet, is unsupported other than by a percent change in service in an undefined area since the specific "target area" is undefined for the purpose of comparing a four percent change in coverage. Given that an alternative structure as proposed here is supposed to be designed to "conceal, camouflage, or mitigate the visual impacts created by the proposed wireless communication facilities", that AMC 18.4.10.040.A.4 requires that "Wireless communication facilities shall be installed at the minimum height and mass necessary for its intended use", and that the independent reviewer has found that the need for the 95-foot height proposed versus a reduction to 85 feet isn't adequately supported in the materials, staff found that reducing the height to 85 feet would better mitigate visual impacts of the proposed wireless communication facility. On that basis, Planning Action PA-T1-2021-00158 was approved by the Staff Advisor on September 17, 2021 subject to 11 conditions and a Notice of Decision was mailed to parties.

2.7 On September 27, 2021 prior to the end of the appeal period, Kelly Marcotulli and Pamala Joy timely filed a notice of land use appeal. Ms. Marcotulli had participated in the original decision by submitting written comments during the comment period, and Ms. Joy resides within the noticing area for the application, and had submitted written comments during the public comment period as well, and thus both had standing to appeal. The Notice of Appeal identified three specific grounds for which the decision should be reversed or modified: 1) The loss of property values due to appearance of cell tower in the area and adverse effects of livability in the impacted area (AMC 18.5.4.050); 2) that the AT&T permit application submittal does not clearly specify that collocation is not precluded in the SmartLink/SOU Lease Agreement (AMC 18.4.10.030.I); and 3) that electromagnetic radiation should be considered an air quality pollutant and is in the high risk category per the insurance industry, and while the Land Use Ordinance does not address this, it is an issue raised in the land lease documents which were included in the submittal. (AMC 18.5.4.050).

In terms of the first appeal issue, "*The loss of property values due to appearance of cell tower in the area and adverse effects of livability in the impacted area,*" the Planning Commission notes that this issue was originally raised during the initial comment period by a number of commenters. One of those originally in opposition to the proposal cited the 2004 "Bond & Xue" study and noted that this involved the analysis of 9,514 residential home sales in ten suburbs and found that close proximity to a cell tower reduced price by 15 percent on average. The study itself was not provided originally, nor has it been provided by the appellants here. Commenters had further suggested that an 11th Circuit Court decision (*which was not specifically cited or provided*) had upheld the denial of a WCF application based upon testimony that a cell tower would reduce property values in close proximity. In countering this argument, the applicant provided a 2012 study by the Wireless Communications Institute, Santa Clara County Association of Realtors and Silicon Valley Association of Realtors which concluded that proximity to a wireless communications facility had no apparent impact on home values or sale prices.

The Planning Commission notes that Bond & Xue's study cited by opponents, "*Cell Phone Tower Proximity Impacts on House Prices: A New Zealand Case Study,*" was a case study conducted in New Zealand in 2004. This study looked at five suburbs with cell towers in them and five without and compared data on approximately 1,000 sales in each (a total of 9,514 geo-coded sales) and found that "In

terms of the effect that proximity to a tower has on price the overall results indicate that this is statistically significant and negative. Generally, the closer a property is to the tower, the greater the decrease in price. The effect of proximity to a tower reduces price by 15% on average. This effect is reduced with distance from the tower and is negligible after 1,000 feet.”

The Planning Commission further notes that the Santa Clara County Association of Realtors, Silicon Valley Association of Realtors and the Wireless Communications Initiative 2012 Study provided by the applicant here looked at over 1,600 single family home transactions between January 1 and October 2, 2012 near 70 wireless sites in Palo Alto, Redwood City, Saratoga and San Jose. Transactions in the study were grouped by those within an eighth of a mile (660 feet), those between an eighth of a mile and a quarter mile (660-1,320 feet), and those from one quarter mile to one half mile (1,320-2,640 ft). This study included towers, equipment placed on existing buildings, and equipment placed on existing utility infrastructure, with the results below:

	Total List Price	Total Sale Price	%List to Sale
Palo Alto			
0-0.125 mile	\$ 33,093,000	\$ 34,243,125	103%
0.125-0.25	\$ 219,641,507	\$ 233,276,629	106%
0.25-0.5	\$ 1,058,288,821	\$ 1,094,507,081	103%
Redwood City			
0-0.125 mile	\$ 9,111,888	\$ 9,306,000	102%
0.125-0.25	\$ 36,670,398	\$ 36,738,500	100%
0.25-0.5	\$ 91,938,794	\$ 92,571,249	101%
Saratoga			
0-0.125 mile	\$ 11,116,000	\$ 11,168,000	100%
0.125-0.25	\$ 77,914,560	\$ 77,601,045	100%
0.25-0.5	\$ 353,092,390	\$ 350,550,126	99%
San Jose			
0-0.125 mile	\$ 29,024,249	\$ 28,695,250	99%
0.125-0.25	\$ 57,135,400	\$ 57,075,940	100%
0.25-0.5	\$ 157,404,541	\$ 158,404,215	101%

The applicant also provided a summary of the 2018 Valbridge Study which looked at homes in Boston, Dallas, Phoenix and Raleigh in multiple sub-areas in each city between 2015 and 2018. Home sale values demonstrated *no measurable difference* for homes within a one quarter mile (1,320 foot) radius “sphere of influence of the cell tower” or for homes within a one-half to one-mile radius outside the “sphere of influence of the cell tower.” No measurable difference was defined as less than a one percent difference and a nominal difference was defined as between one and three percent. Summarizing the data, the Valbridge Study found that in Boston, Dallas and Raleigh, cell towers within a quarter mile radius did not have a negative impact on property values, while in Phoenix, four of five sub-areas studied had no measurable difference and one sub-area had a nominal difference (i.e. a one- to three-percent reduction).

The Planning Commission finds, in agreement with the Staff Advisor’s original decision, that the competing studies do not provide a clear or definitive demonstration that proximity to wireless facilities will in fact reduce property values, nor was there a clear tie made to the applicable criteria and standards. In addition, the WCF proposed here is to be placed where a number of light standards are already in place at the stadium, and will be approximately 496 feet from Walker Avenue and 677 feet from Wightman Street. This is well beyond the 170- to 190-foot setback required from adjacent residential areas, and the Commission does not consider this to be in *close* proximity to the nearest homes.

With regard to the second appeal issue, that “*The AT&T permit application does not clearly specify collocation provision and the SmartLink/SOU Lease Agreement does not clarify provision,*” the Planning Commission notes that the Application Submission Requirements in AMC 18.4.10.030.I call for a copy of a lease agreement for the proposed site which demonstrates that the lease does not preclude collocation. The Commission further notes that while the application materials provided here include a lease agreement, the agreement provided does not explicitly include language demonstrating that collocation is not precluded. As such, the original staff decision included Condition #9, “*That prior to the issuance of a building permit, the applicants shall provide a copy of the signed lease evidencing that collocation is not precluded by the lease agreement.*” The Planning Commission finds that submittal requirements are not approval criteria, and further finds that Staff’s addressing this requirement through a condition was consistent with the allowances of AMC 18.5.4.050.A, which details the criteria for Conditional Use Permit approval, noting that “*A Conditional Use 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.*” The Planning Commission finds that in this case, a building permit will not be issued without the applicant first providing a copy of the signed lease which meets the requirement.

With regard to the third appeal issue, that “*Electromagnetic radiation should be considered an air quality pollutant and is in the high risk category per the ins. industry. The code does not list this, but it appears in the land lease documents,*” appellant Marcotulli notes that her initial comments discussed the health impacts of wireless facilities. The appellant’s supplemental submittals further explain, “*Despite the 1996 ruling that denied using health as a reason for denying a WCF, the land lease agreement between SOU and New Cingular/AT&T, states that the lease can be terminated by the ‘Tenant’ (AT&T) – ‘if the ‘Tenant’ becomes aware of any hazardous materials on the Property, or any environmental, health, or safety condition or matter relating to the Property, that, in Tenant’s sole determination, renders the condition for the Premises or Property unsuitable...’*”. The appellant goes on to explain that, “*At the very least, this wording is ambiguous and needs clarification. This clause indicates a double standard where the right to terminate the lease agreement based on health grounds is an acceptable argument as determined by the Tenant, while it is not an acceptable reason for denial by the public and the city.*”

As previously noted, in terms of the human health and environmental impacts of wireless communication facilities, **Title 47 U.S. Code, Chapter 5, Subchapter III, Part 1 §332.7.B.iv “Mobile Services – Preservation of Local Zoning Authority”** provides that “*No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities*

on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the (Federal Communication) Commission's regulations concerning such emissions." This federal law explicitly precludes the city's consideration of potential environmental health impacts of wireless communication facilities through the city's local zoning authority. Such considerations fall under the exclusive authority of the Federal Communication Commission and do not provide a basis by which the city could deny a WCF application. The Planning Commission finds that this federal preclusion prevents the city from considering health impacts in individual land use decisions and would prevent considering electromagnetic radiation as an air quality pollutant, and the fact that "*any environmental, health or safety condition*" of the site can be considered by the tenant as a basis for terminating the lease does not alter the applicable federal law limiting local zoning authority.

The Planning Commission finds that none of the three appeal issues originally identified justifies reversal of the Staff Advisor's original decision.

2.8 The Planning Commission notes that during the course of the appeal hearing, parties providing comment cited a 66-page FCC staff report multiple times, suggesting that it called into question the accuracy of computer generated propagation maps. In responding to these comments, staff explained that in discussion with independent third party reviewer William Johnson it was noted that the FCC staff report discussed had to do with "MF-II" computer generated propagation maps. MF-II is the Mobility Fund which subsidizes wireless service to rural areas where wireless coverage is lacking. In determining those areas which are eligible for subsidy, all wireless providers are required to provide network performance maps of their coverage areas to identify gaps in rural areas so that those areas eligible for subsidy can be clearly identified. In the instances discussed in the FCC staff report, three providers (Verizon, US Cellular and T-Mobile) provided maps which overstated their network performance compared to the actual bandwidth verified as available on the ground through drive tests. This means that for these three providers where actual bandwidth was less than predicted, there was an *unidentified* need to enhance the network performance.

As Johnson explains it, "*this staff report does not assert that RF propagation plots are unreliable – it instead states that the service providers may have over-stated their network performance. Network performance is not just based on RF propagation levels. RF propagation levels are a 'necessary' but not a 'sufficient' condition for reliable wireless services. The 'sufficient' conditions include sector capacity, user demand over time, and interference from other users attempting to use the cell.*"

The Planning Commission finds that the computer-generated propagation maps in question were for a different purpose, the issues observed were not applicable to the current applicant, and that the report discussed did not assert the propagation plots are unreliable but rather that three providers were found to be over-stating network performance. The Planning Commission further finds that the discussion of computer-generated propagation maps here does not provide any clear basis to call into question the applicant's collocation study or alternative site analysis.

2.9 The Planning Commission concludes that with the conditions below attached, the proposal satisfies the applicable approval criteria and that neither the appeal issues raised in the initial notice nor those issues raised during the hearing provide a basis to reverse the original decision of the Staff Advisor.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the request for Site Design Review and Conditional Use Permit approvals to install wireless communication facilities on a reconstructed stadium light standard at Raider Stadium on the Southern Oregon University Campus at 351 Walker Avenue is supported by evidence contained within the whole record.

The Planning Commission denies the appeal, and re-affirms the Staff Advisor's original Site Design Review and Conditional Use Permit approvals to allow the installation of wireless communication facilities, on a reconstructed stadium light standard at Raider Stadium on the Southern Oregon University Campus at 351 Walker Avenue subject to the Staff Advisor's original conditions detailed below. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action PA-T1-2021-00158 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 specifically modified herein, including that the existing concrete stadium light standard shall be replaced with a concrete standard to support the stadium light and wireless communication facility and that the concrete standard shall be colored and finished to match the existing standards at Raider Stadium.
2. That all conditions of previous land use approvals for the property shall remain in effect unless otherwise specifically modified herein.
3. That the new wireless communication facility shall be limited to no more than an 85-foot antenna tip height and the replacement stadium light standard shall be constructed to match the existing stadium light standard in design and material treatment (i.e. concrete, painted in a matching, non-reflective color) to better blend with the existing stadium lights and mitigate the visual impacts of the installation.
4. That the applicants shall obtain required building permits, including any structural, mechanical and electrical permits; pay associated fees and charges; and obtain all required inspection approvals. All requirements of the Building Division, including but not limited to: that final drawings prepared by an Oregon-licensed design professional may be necessary to complete the submission for permits; that permit drawings shall address any applicable Oregon Structural Specialty Code requirements (i.e. wind, seismic and tributary loads, and forms of attachment).
5. Building permit submittals shall include written communications from the Federal Aviation Administration, the Aeronautics section of the Oregon Department of Transportation, and the Federal Communications Commission that the proposed wireless communication facility complies with the regulations of their respective agencies or is exempt from those regulations.
6. That the plans submitted for the building permit shall be in conformance with those approved as part of this application. If the plans submitted for the building permit are not in substantial conformance with those approved as part of this application, an application to modify this Site Design Review and Conditional Use Permit approval shall be submitted and approved prior to issuance of a building permit.
7. That prior to the issuance of a building permit, the applicants shall obtain a business license from the City of Ashland.

8. That prior to use of the proposed wireless communications facility (WCF), the applicants shall paint, texture or otherwise treat the proposed pre-fabricated ground equipment cabinet in a non-reflective finish and color.
9. That prior to the issuance of a building permit, the applicants shall provide a copy of the signed lease evidencing that collocation is not precluded by the lease agreement.
10. That prior to use of the proposed wireless communications facility (WCF), the landscaping to screen the proposed equipment shelter and related irrigation systems shall be installed according to the approved plan, inspected and approved by the Staff Advisor.
11. That no signage beyond that allowed for wireless communications facilities in AMC 18.4.10.040.A.6 (*a maximum of two non-illuminated signs with a maximum of two square feet each stating the name of the facility operator and a contact phone number*) shall be permitted on the wireless communications facility.

Planning Commission Approval

December 14, 2021
Date

DRAFT FINDINGS

PA-L-2021-00012 Amendments to Annexation Standards

**BEFORE THE CITY COUNCIL
CITY OF ASHLAND, JACKSON COUNTY, OREGON**

December 21, 2021

In the matter of Planning Action PA-L-2021-00012)
which includes amendments to the Ashland Municipal)
Code (AMC) Title 18 Land Use to the exception to the) FINDINGS OF FACT AND
street design standards in Chapter 18.4.6 Public Facilities,) CONCLUSIONS OF LAW
to the annexation standards in Chapter 18.5.8)
Annexations, and to the definitions in Chapter in 18.6.1)
Definitions.)

PURPOSE:

The proposal includes a series of amendments to AMC Title 18 Land Use to the annexation standards in Chapter 18.5.8 Annexations, as well as related amendments to the exception to the street design standards in Chapter 18.4.6 Public Facilities and to the definitions in Chapter 18.6.1 Definitions. The amendments are intended to: 1) address the issues raised before the Land Use Board of Appeals (LUBA) in the appeal of the city's annexation approval that included two parcels totaling 16.87 acres located at 1511 Highway 99N (Applicant: Kendrick Enterprise LLC and Casita Developments, PA-T3-2019-0000); 2) provide clear standards for annexing land into the city limits for the development of housing; and 3) to provide clarity and responsiveness in Ashland's development process.

PUBLIC HEARINGS:

Notice was published in The Medford Mail Tribune on October 29, 2021 prior to the Planning Commission public hearing, and on November 26, 2021 prior to the City Council public hearing. A public hearing was held at the Planning Commission on November 9, 2021 and at the City Council on December 7, 2021. Notice was also sent to the Department of Land Conservation and Development on October 5, 2021.

SUMMARY OF AMENDMENTS

The amendments to annexation standards are focused in three areas – providing a process for the approval authority to consider requests for relief from the annexation standards (e.g., exceptions and variances), creating consistency in terminology (e.g., site, parcel, lot), and providing clear, measurable standards for connections to and improvements of public utilities and the transportation system.

REVIEW CRITERIA

The decision of the City Council together with the recommendation by the Planning Commission was based on consideration and findings of consistency with the following factors.

- A. Consistency with City of Ashland approval criteria for legislative amendments, AMC 18.5.9.020.B

- B. Consistency with City of Ashland Comprehensive Plan and Other City Policies
- C. Consistency with Oregon Statewide Planning Goals
- D. Consistency with OAR Chapter 660 Division 14 Application of the Statewide Planning Goals to Newly Incorporated Cities, Annexation, and Urban Development on Rural Lands, and ORS 222 Boundary Changes; Mergers; Consolidations; and Withdrawals

EVALUATION AND COUNCIL FINDINGS:

A. Consistency with City of Ashland approval criteria for legislative amendments and zoning map amendments, AMC 18.5.9.020.B

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. *It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.*

1. *Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.*
2. *Comprehensive Plan changes, including text and map changes or changes to other official maps.*
3. *Land Use Ordinance amendments.*
4. *Urban Growth Boundary amendments.*

Ashland Municipal Code (AMC) 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions. The City Council finds it is necessary to amend the land use code to address the issues raised before the Land Use Board of Appeals (LUBA) in the appeal of the city's annexation approval that included two parcels totaling 16.87 acres located at 1511 Highway 99N (Applicant: Kendrick Enterprise LLC and Casita Developments, PA-T3-2019-0000), and to provide clear standards for annexing land into the city limits for the development of housing.

On May 12, 2021, LUBA provided their Final Opinion and Order and reversed the city's annexation approval that included two parcels totaling 16.87 acres at 1511 Highway 99N (Applicant: Kendrick Enterprise LLC and Casita Developments). In reversing the city's approval, LUBA determined that the city's annexation approval criteria do not allow for exceptions because AMC 18.5.8.050 requires either full conformance at the time of the decision or future full conformance through the imposition of conditions. Under the AMC, exceptions to the street standards apply to proposals for new development or land divisions, neither of which were proposed as part of the annexation.

The 2021-2041 Housing Capacity Analysis (HCA) found that annexation of land from the urbanizing area (UGB) into the city limits is necessary to accommodate Ashland's population growth over the next 20 years. The HCA recommended the city identify opportunities to create greater certainty and clarity in the annexation process to ensure Ashland has an adequate supply of land available and serviced to accommodate future growth. The HCA is a technical study required by state law and was adopted by the City Council on [August 17, 2021](#) as a technical report and supporting document to the *Ashland Comprehensive Plan*.

The 2019 Ashland Housing Strategy Implementation Plan also found that a lack of clarity in annexation policies can impede the development of needed housing:

Existing [annexation] policies were intended to help ensure orderly growth; however, this is the role of the City's Urban Growth Boundary (UGB). Creating obstacles to annexing land within the UGB for housing contributes to higher land costs and makes it difficult to find land for larger housing developments.

The City Council finds the land use ordinance amendments are necessary to address the issues raised on appeal before the Oregon Land Use Board of Appeals (LUBA) with the goal of addressing inconsistent and ambiguous language in AMC Chapter 18.5.8 Annexations, and to provide clear standards for annexing land into the city limits for the development of housing.

B. Consistency with the Ashland Comprehensive Plan and other City Policies

The *Ashland Comprehensive Plan* addresses annexation policies in Chapter 12 Urbanization. The stated purpose of this chapter is “to ensure an orderly transition of land from rural to urban uses.” The chapter details the method used in determining the UGB and “the policies the City will use when considering annexation of land within that urban growth boundary.”

Ashland Comprehensive Plan Goal 12.09 says “It is the City of Ashland's goal to maintain a compact urban form and to include an adequate supply of vacant land in the City so as not to hinder natural market forces within the City, and to ensure the orderly and sequential development of land in the City limits.”

The amendments to Chapter 18.5.8 Annexations improve the procedure for review of annexation applications by allowing the City Council to consider exceptions and variances to the annexation standards by using the same process and criteria that is in place for developments located within the city limits. In addition, the amendments clarify the improvements that are required to the transportation system and public utilities for an annexation. The extension of the transportation system and public utilities addresses the goal of orderly development of land that is annexed into the city limits.

The City Council finds and determines that the proposed land use code amendments are consistent with the *Ashland Comprehensive Plan*.

C. Consistency with Oregon Statewide Planning Goals

The *Ashland Comprehensive Plan* was originally adopted by the City Council on November 2, 1982 and acknowledged by the Land Conservation and Development Commission on Oct 7, 1983. Numerous updates were completed and acknowledged since the originally acknowledged plan including but not limited to: Chapter III Citizens Participation and Involvement (2016), Chapter IV Environmental Resources (1991), Chapter V Population Projection and Growth (1991), Chapter VI Housing Element (2019), Chapter VII Economy (1991), Chapter VIII Parks, Open Space and Aesthetics (1991), Chapter X Transportation (1996), Chapter XI Energy, Air, Water, Conservation (1991), and Chapter XIC Regional Plan Element (2012). Technical reports and supporting documents were also acknowledged and adopted as part of the *Ashland Comprehensive Plan* and include but are not limited to the following: Croman Mill Site Redevelopment Plan (2008), Normal Neighborhood Plan Framework (2015), Local Wetland Inventory and Assessment and Riparian Corridor Inventory (2009), Housing Capacity Analysis, (2021), Buildable Lands Inventory (2019), and Transportation System Plan Update (2013). The City follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements.

OAR 660-014-0060, **Annexations of Lands Subject to an Acknowledged Comprehensive Plan**, says that “A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation.” The *Ashland Comprehensive Plan* and Title 18 Land Use do control annexations. The *Ashland Comprehensive Plan* is acknowledged. The amendments to Chapter 18.5. Annexations are consistent with the *Ashland Comprehensive Plan* and do not amend the *Ashland Comprehensive Plan*.

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that ensures the opportunity for cities to be involved in all phases of the planning process.

Finding: The City of Ashland meets this requirement by having the Planning Commission serve as the Committee on Citizen Involvement, as well as having various citizen commissions with opportunities for the public to testify on general or specific matters.

The Planning Commission reviewed the proposed annexation code amendments at three electronic public meetings on [May 25, 2021](#), [August 24, 2021](#), and [September 28, 2021](#). The Planning Commission held an electronic public hearing on [November 9, 2021](#) and recommended approval of the ordinance. The code amendments were also presented to the Transportation Commission on [October 21, 2021](#).¹ Staff updated the City Council on the project at the November 1, 2021 study session.

Opportunities to provide written and oral testimony were available at all of the commission meetings. All of the aforementioned meetings were held electronically because of the City of Ashland emergency declaration for the COVID-19 pandemic that began on March 15, 2020 and the Governor’s Executive Order 20-16 that suspended all in-person public meetings.

A project web page at www.ashland.or.us/annexationcodeupdate with the draft code amendments, meeting materials and reference materials was available throughout the duration of the project and was included in all meeting notices and announcements. This Goal is met.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual bases for such decisions and actions.

Finding: The proposed land use code amendments revise the approval standards for annexations to the City of Ashland. The *Ashland Comprehensive Plan* goals and policies related to annexations are unchanged. In addition, the planning process is established as a legislative decision in AMC 18.5.1 General Review Procedures and no amendments to the planning process for annexations are proposed. This Goal is met.

GOAL 3: AGRICULATURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Ashland UGB.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to forest lands outside of the Ashland UGB.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 5. This Goal is met.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 6. This Goal is met.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 7. This Goal is met.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 8 and recreational needs. This Goal is met.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to health, welfare, and prosperity of Oregon's citizens.

Finding: The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 9. This Goal is met.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: The procedure for annexation of land into a city is governed by ORS 222.120. The section establishes that after holding a public hearing with proper notice, the decision on whether to annex contiguous territory into a city is a decision of the legislative body. As a legislative decision, the legislative body has complete discretion on whether or not to include a contiguous land area within the city limits. Whether the comprehensive plan designation of an annexed land area is residential or non-residential, the requirement for clear and objective standards, conditions and procedures regulating the development of housing, including needed housing in 197.307(4) do not apply to the legislative decision to annex contiguous land area.

The amendments to the annexation standards in AMC Chapter 18.5.8 Annexations include a requirement to submit a concurrent application for development of the annexed

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area. While an annexation application and development proposal for the annexed land area will be processed concurrently, any proposals for development will be required to undergo the applicable quasi-judicial review process established in AMC Chapter 18.5.1 General Review Procedures. No changes are proposed to the established review procedures and approval criteria for housing development in AMC Part 18.5 Application Review Procedures and Approval Criteria.

The Statewide Planning Program requires each city to inventory its buildable residential lands, project future housing needs, and provide the appropriate types and amounts of land within the UGB necessary to meet those needs. The Housing Element of the *Ashland Comprehensive Plan* was amended and acknowledged in 2019. The City of Ashland has an acknowledged Housing Capacity Analysis (2021) and Buildable Lands Inventory (2019) which provide a factual basis for needed housing types and available land supply. The City has acknowledged zoning standards relating to residential development including provisions for housing density, setbacks, parking requirements, lot coverage, types, and development in environmentally or physically constrained areas. The amendments to AMC Chapter 18.5.8 Annexations do not amend existing zoning standards that apply to housing development.

Furthermore, the amendments to AMC Chapter 18.5.8 Annexations do not decrease or increase the density of housing, and do not decrease or increase building height of housing that can be developed on land that is annexed from within the UGB.

The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposed amendments do not modify the existing goals and policies related to Goal 10, nor do the amendments modify the *Ashland Comprehensive Plan* designations for area within the Ashland UGB. In addition, the amendments do not include any changes of the acknowledged zoning standards for residential development. This Goal is met.

GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Existing water and sewer infrastructure and treatment facilities will not be affected by the adopt of the amendments to Chapter 18.58 Annexations. The proposed amendments to the approval standards clarify the improvements required for water, sewer and storm drainage bordering and within an annexed area. The City of Ashland has master plans in place for water, wastewater and stormwater that address project population growth in the Ashland city limits and UGB. The Water Master Plan was completed in 2020 and projects and plans for an adequate water supply for a 20-year planning period. The Wastewater Master Plan was completed in 2012 and projects and plans for an adequate water supply for a 20-year planning period. The Stormwater and Drainage Master Plan was completed in 2020 and projects and plans for an adequate water supply for a 20-year planning period. This Goal is met.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: The amendments to Chapter 18.58 Annexations are consistent with the *Ashland Comprehensive Plan* and adopted and acknowledged Transportation System Plan (2013). The transportation system is planned to accommodate the population growth of the community for the 20-year planning period. The proposed amendments to the approval standards clarify the improvements required for the transportation system bordering and within an annexed area, as well as safe and accessible bicycle and pedestrian facilities according to the safety analysis and standards of the governing jurisdiction of the facility or facilities. This Goal is met.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: The City of Ashland has an acknowledged comprehensive plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 5. This Goal is met.

GOAL 14: URBANZIATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The amendments to Chapter 18.5.8 Annexations improve the procedure for review of annexation applications by allowing the City Council to consider exceptions and variances to the annexation standards by using the same process and criteria that is in place for developments located within the city limits. In addition, the amendments clarify the improvements that are required to the transportation system and public utilities for an annexation. The extension of the transportation system and public utilities addresses the goal of orderly development of land that is annexed into the city limits. The amendments to AMC Chapter 18.5.8 Annexations do not decrease or increase the density of housing that can be developed within the UGB. The amendments facilitate the efficient use of land with the existing city limits and UGB to meet the projected population for Ashland. This Goal is met.

Statewide Planning Goal 15: “Willamette River Greenway” The affected areas are not located within or adjacent to the Willamette River Greenway. Therefore, Goal 15 is not applicable.

Statewide Planning Goal 16: ‘Estuarine Resources’ The affected areas are not located within the or adjacent to a designated estuarine resource. Therefore, Goal 16 is not applicable.

Statewide Planning Goal 17: “Coastal Shorelands” There are no coastal shorelands within the vicinity of Ashland, therefore, Goal 17 is not applicable.

Statewide Planning Goal 18: “Beaches & Dunes” There are no designated beaches or dunes within the vicinity of Ashland, therefore, Goal 18 is not applicable.

Statewide Planning Goal 19: “Ocean Resources” There are no designated ocean resources within the vicinity of Ashland, therefore, Goal 19 is not applicable.

D. Consistency with OAR Chapter 660 Division 14 Application of the Statewide Planning Goals to Newly Incorporated Cities, Annexation, and Urban Development on Rural Lands and ORS 222 City Boundary Changes; Mergers; Consolidations; Withdrawals

OAR Chapter 660, Division 14 Application of the Statewide Planning Goals to Newly Incorporated Cities, Annexation, and Urban Development on Rural Lands

660-014-0000

Purpose

ORS 197.175 requires cities and counties to exercise their planning and zoning responsibilities in compliance with the Statewide Planning Goals. This includes, but is not limited to, new or amended plans as a result of a city or special district boundary change including the incorporation or annexation of unincorporated territory. The purpose of this rule is to clarify the requirements of Goal 14 and to provide guidance to cities, counties and local government boundary commissions regarding urban development on rural lands, planning and zoning of newly incorporated cities, and the application of statewide goals during annexation proceedings.

660-014-0010

Application of the Statewide Planning Goals to Newly Incorporated Cities

(1) Incorporation of a new city within an acknowledged urban growth boundary does not require an exception to Goals 3, 4, 11, or 14. Incorporation of a new city within an acknowledged urban growth boundary must be consistent with relevant provisions of acknowledged city and county plans and land use regulations for the area to be incorporated.

(2) The following are land use decisions which must comply with applicable Statewide Planning Goals or the acknowledged comprehensive plan:

(a) A county order that authorizes an incorporation election pursuant to ORS 221.040;

(b) A resolution adopted by a city approving an incorporation within three miles of its city limits pursuant to ORS 221.031(4);

(c) An order adopted by a local government boundary commission authorizing incorporation of a new city pursuant to ORS 199.461. Incorporation decisions under this section include consolidations that include unincorporated lands.

(3) A city or county decision listed in subsection (2)(a) and (b) of this rule may also require a plan amendment. If the area proposed for incorporation is subject to an acknowledged comprehensive plan, the amendments shall be reviewed through the post acknowledgment plan amendment review process specified in ORS 197.610 to 197.650 and 197.757. If the area proposed for incorporation is not subject to an acknowledged

plan, a plan amendment is subject to review upon appeal as a "land use decision" as defined in ORS 197.015(10).

(4) A newly incorporated city must adopt a comprehensive plan and implementing ordinances for all land in its planning area. Cities incorporated after January 1, 1982, shall have their comprehensive plans and land use regulations acknowledged no later than four years after the date of incorporation or as extended in accordance with a compliance schedule adopted by the commission. Comprehensive plans prepared and adopted by newly incorporated cities shall be reviewed through the plan acknowledgment review process set forth in ORS 197.251 and OAR chapter 660, division 3.

Finding: The proposed land use code amendments do not involve a newly incorporated city. Ashland was incorporated in 1874. This OAR is not applicable.

660-014-0030

Rural Lands Irrevocably Committed to Urban Levels of Development

(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

(2) A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:

(a) Size and extent of commercial and industrial uses;

(b) Location, number and density of residential dwellings;

(c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and

(d) Parcel sizes and ownership patterns.

(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

Finding: The proposed land use code amendments do not involve rural land as part of a Findings of Fact and Conclusions of Law

Goal 2 exception. Ashland's UGB was established and acknowledges in 1983, and no changes are proposed to the Ashland UGB. This OAR is not applicable.

660-014-0040

Establishment of New Urban Development on Undeveloped Rural Lands

(1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in

buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

Finding: The proposed land use code amendments do not involve rural land outside of the Ashland UGB. This OAR is not applicable.

660-014-0060

Annexations of Lands Subject to an Acknowledged Comprehensive Plan

A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation.

Finding: The Ashland Comprehensive Plan and Title 18 Land Use do control annexations. The Ashland Comprehensive Plan is acknowledged. The amendments to Chapter 18.5. Annexations are consistent with the Ashland Comprehensive Plan and do not amend the Ashland Comprehensive Plan.

660-014-0070

Annexations of Lands not subject to an Acknowledged Comprehensive Plan

(1) All appropriate goals must be applied during annexation by the city. If the annexation is subject to the jurisdiction of a local government boundary commission, the boundary commission may utilize the findings of the city. The boundary commission, however, remains responsible for ensuring that the annexation is in conformance with the statewide goals.

(2) For the annexation of lands not subject to an acknowledged plan, the requirements of Goal 14 (Urbanization) shall be considered satisfied only if the city or local government boundary commission, after notice to the county and an opportunity for it to comment, finds that adequate public facilities and services can be reasonably made available; and:

(a) The lands are physically developed for urban uses or are within an area physically developed for urban uses; or

(b) The lands are clearly and demonstrably needed for an urban use prior to acknowledgment of the appropriate plan and circumstances exist which make it clear that the lands in question will be within an urban growth boundary when the boundary is adopted in accordance with the goals.

(3) Lands for which the findings in section (2) of this rule cannot be made shall not be annexed until acknowledgment of an urban growth boundary by the commission as part of the appropriate comprehensive plan.

Finding: The proposed amendments to the annexation standards implement the acknowledged Ashland Comprehensive Plan. This OAR does not apply.

660-014-0090

Establishment of Temporary Natural Disaster Related Sheltering on Undeveloped Rural Lands

(1) As used in this rule, “temporary natural disaster related sheltering” is limited to:
(a) Providing short-term refuge and life-sustaining services for disaster survivors who have been displaced from their homes and are unable to meet their own immediate post-disaster housing needs and is accomplished through use of fabric structures, tents and similar accommodations.

(b) Interim facilities that cover the gap between the natural hazard event and the return of disaster survivors to permanent housing provided through temporary modular structures, temporary manufactured housing or similar temporary accommodations for victims of the natural disaster.

(c) Temporary natural disaster related sheltering established pursuant to this rule may include parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone, or other services either through separate or shared facilities.

(2) As used in this rule, “undeveloped rural land” has the meaning provided in OAR 660-014-0040(1).

(3) A county may justify an exception to Goal 14 to allow establishment of temporary natural disaster related housing on undeveloped rural land. The reason justifying why the policies in Goals 3, 4, 11 and 14 should not apply is that lands and structures within the area specified in the application have received damage from a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610.

(4) To approve an exception under section (3) a county must also show:

(a) That Goal 2, Part II (c)(1) is met because:

(A) The applicant is a Tribe as defined in ORS 182.162(2) or a public agency, on behalf of the city, unincorporated community, rural residential exception area the temporary natural disaster related sheltering is primarily intended to assist. Any application made on behalf of a city must include a resolution of support adopted by that city’s elected leadership, or

(B) The applicant is a Tribe as defined in ORS 182.162(2) on behalf of its residents for areas that are subject to county land use jurisdiction; and

(C) The area specified in the application is within an area identified by an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.

(b) That Goal 2, Part II (c)(2) is met because:

(A) The city, unincorporated community, or rural residential exception area specified in the application has lost a significant amount of its housing inventory from a wildfire identified in an Executive Order issued by the Governor in accordance with ORS 476.510 through 476.610. For purposes of this paragraph, a significant loss of housing inventory means:

(i) At least 15 percent in a city’s urban growth boundary, an unincorporated community boundary, or a city or census designated place located within the sovereign territory of a Tribe; or

(ii) At least 60 percent on rural residential areas designated as exception lands or on lands within the sovereign territory of a Tribe but not located included in a city or census designated place.

(B) An application made on behalf of a city demonstrates that the city considered lands within its urban growth boundary and provided an explanation for why such lands could

not reasonably accommodate the temporary natural disaster related sheltering.

(c) That Goal 2, Part II (c)(3) is met because the proposed location is:

(A) Not included in a flood plain, flood way or other areas subject to natural hazards as inventoried in the county comprehensive plan or identified in applicable land use regulations.

(B) Not included in wildlife habitat inventoried in the county comprehensive plan.

(C) Not included on a property containing historical resources inventoried in the county comprehensive plan for purposes of protecting archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred objects.

(D) Within the urban reserve area of the city specified in the application, or, if no urban reserve area has been established, within one mile of the applicable urban growth boundary.

(E) Within two miles of the boundary of the unincorporated community specified in the application.

(F) Within two miles of the rural residential exception area specified in the application.

(G) Within two miles of the area within the sovereign territory of a Tribe specified in the application.

(H) If areas described in paragraphs (D), (E), (E) or (G) of this subsection are not available because they are under federal ownership or because damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with ORS 476.510 through 476.610 makes them unsuitable for development, the county may establish a different distance that is no further than necessary to accommodate the use.

(I) Within the same school district as the city, unincorporated community, or rural residential exception area specified in the application unless the county establishes a different distance under paragraph H) of this subsection, which necessarily makes such a location impossible.

(d) That Goal 2, Part II (c)(4) is met because the county has coordinated with effected governments and imposes the following conditions:

(A) Temporary natural disaster related sheltering is allowed for 36 months from the date of the Governor's emergency declaration. The county may grant two additional 12-month extensions upon a demonstration by the applicant that the temporary natural disaster sheltering housing remains necessary because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities.

(B) The temporary natural disaster related sheltering, including any associated infrastructure, will be removed when it is no longer necessary. A plan for removing the temporary natural disaster related sheltering the end of the time-frame specified in paragraph (A) shall be included in the application materials and, upon meeting the county's satisfaction, be attached to the decision as a condition of approval. A county may require that a removal plan developed pursuant to this paragraph include a specific financial agreement in the form of a performance bond, letter of credit or other assurance acceptable to the county that is furnished by the applicant in an amount necessary to ensure that there are adequate funds available for removal activities to be completed.

(C) The project shall adhere to standards for the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural

patrimony and sacred objects, as provided in ORS 97.740 to 97.750 and 358.905 to 358.961.

(D) The property owner will sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

(5) A proposal that is found to satisfy the requirements of this rule for an exception to Goal 14 is also deemed to satisfy the requirements of OAR chapter 660, divisions 4 and 11 for exceptions to Goals 3, 4, and 11.

(6) The use of the property for temporary natural disaster related sheltering shall not be a basis to justify a new exception pursuant to OAR chapter 660, divisions 4 or 14.

(7) Approval of a reasons exception under this rule shall be documented in the comprehensive plan and include a specific explanation that the reasons exception does not apply for a total period of longer than five years pursuant to paragraph (4)(d)(A).

(8) Approval of a reasons exception under this rule may not result in a change to the base zone of the subject property. The county must implement the exception by either:

(a) Application of an overlay zone that applies in addition to the base zone of the subject property. The overlay zone shall:

(A) Clearly specify what uses may occur under the exception, and

(B) Not apply for a total period longer than five years pursuant to paragraph (4)(d)(A);
or

(b) Application of comprehensive plan implementation measures consistent with Goal 2. The comprehensive plan provisions shall:

(A) Identify the property subject to the exception,

(B) Clearly specify what uses may occur under the exception, and

(C) Not apply for a total period longer than five years pursuant to paragraph (4)(d)(A).

(9) Reasons exceptions adopted under this rule qualify for the exemption to notice of a proposed change to a comprehensive plan or land use regulation identified at OAR 660-018-0022(2).

(10) A reasons exception taken under this rule for lands planned and zoned for resource use under Goals 3 or 4, or both does not elevate the priority of such lands for inclusion in an urban growth boundary for purposes of ORS 197A.320(2)(c)(A) or ORS 197.298.

Finding: The proposed amendments do not involve temporary natural disaster related sheltering or a Goal 14 exception. This OAR does not apply.

ORS 222 — City Boundary Changes; Mergers; Consolidations; Withdrawals

The proposed amendments are consistent with the requirements of ORS Chapter 222 because the amendments don't change any annexation requirements or the required review process that is inconsistent with the statute. The proposed amendments are also consistent with the Ashland Municipal Charter and do not make changes that would affect entities that provide urban services to areas within the Ashland UGB. Much of ORS Chapter 222 addresses the procedures that occur after the City Council approves an annexation such as recording a signed consent to annex, taxation, special districts and notification of the Secretary of State. The proposed amendments are limited to the

annexation application review process and standards at the local level which do not affect the required process after an annexation is approved.

Finding: The proposed amendments meet the applicable requirements of ORS 222.

OVERALL COUNCIL CONCLUSIONS

The City Council finds and determines the approval criteria for this decision have been fully met, based on the detailed findings set forth herein, the detailed findings and analysis of the Planning Commission, and supporting documents together with all staff reports, addenda and supporting materials in the whole record.

Specifically, the Council finds that the proposed land use code amendments are consistent with City of Ashland approval criteria for land use ordinance and zoning map amendments as set forth in ALUO 18.5.9.020.B and are consistent with the City of *Ashland Comprehensive Plan* and other City policies. The Council finds and determines that the proposed amendments are consistent the Oregon Statewide Planning Goals, OAR Chapter 660 Division 14 and ORS Chapter 222.

Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the City Council hereby APPROVES the ADOPTION of the following amendments to AMC Title 18 Land Use as reflected in the attached ordinance.

Ashland City Council Approval

Julie Akins, Mayor

Date

Signature authorized and approved by the full Council this 21st day of December, 2021.

Attest:

Melissa Huhtala, City Recorder

Date

Approved as to form:

Katrina Brown, City Attorney

Date

**LEGISLATIVE
PUBLIC HEARING**

**PA-A-2021-00013
Amendments to Residential Standards
in C-1 and E-1 Zones**

ASHLAND PLANNING DIVISION

STAFF REPORT

December 14, 2021

PLANNING ACTION: PA-L-2021-00013

APPLICANT: City of Ashland

ORDINANCE REFERENCES: **AMC 18.2.3** Special Use Standards
 AMC 18.2.6 Standards for Non-Residential Zones
 AMC 18.3.13 Residential Overlay

REQUEST: The proposal includes a series of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones. The draft code amendments are attached.

I. Ordinance Amendments

A. Summary of Proposed Code Amendments

The proposal includes a series of amendments to AMC Title 18 Land Use to the residential standards for mixed-use development located in the Commercial (C-1) and Employment (E-1) zones. Specifically, the proposed code amendments increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay. Buildings located within the Downtown Designs Standards overlay, buildings that are one story in height, and properties that are 10 acres in size are larger would be subject to the current code requirement of 35 percent of the ground floor is permitted in residential uses.

Residential development in the E-1 zone is limited to E-1 properties in the Residential overlay (R-overlay). Approximately 42 percent of the E-1 zoned land in the city limits is in the Residential overlay and 58 percent is not in the Residential overlay. Areas such as Washington Street, Jefferson Avenue, Benson Way and Clover Lane are not located in the Residential overlay. Additionally, the Croman Mill District has its own unique zones based on the master plan and does not include any C-1 or E-1 zoned land.

The amendments are intended to provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing. The project objectives are to: 1) maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development; 2) increase the supply of moderately-priced rental and for-purchase housing; and 3) jumpstart redevelopment in areas that have trouble attracting projects and/or are in proximity to public transit and walking distance to daily service needs, such as groceries, shops, parks, etc.

The draft amendments to the residential standards for mixed-use development are attached and summarized below.

- 18.2.3.130.B.1.a – limits new provisions for residential uses (i.e., up to 65 percent of the ground floor) in the C-1 and E-1 zones to locations outside of the Downtown Design Standards overlay. In addition, to be eligible for the new provisions, the lot size must be less than 10 acres in size and the mixed-use building must be multi-story (i.e., two or more stories in height).
- 18.2.3.B.1.b - increases the allowance for residential uses in multi-story, mixed-use buildings and developments from 35 to 65 percent of the ground floor. Again, this allowance is for locations outside of the Downtown Design Standards overlay. Additionally, the provision is limited to multi-story mixed-use buildings and lots that are less than 10 acres in size.
- 18.2.3.130.B.2.a – retains existing standard which allows up to 35 percent of the ground floor to be used for residential uses. The existing standard applies to three situations – properties located inside of the Downtown Design Standards overlay, for lots 10 acres and greater in size and for single-story buildings.
- 18.2.3.130.B.2.b.i – this is the existing standard allowing up to 35 percent of the ground floor in residential uses, it is simply moved from the existing code section 18.2.3.130. B.1.
- 18.2.3.130.B.1.b.ii – revises the code for situations where a mixed-use development includes more than one building. It requires the equivalent of 65 percent of the ground floor of all the buildings to be provided in permitted or special permitted non-residential uses. This retains the ability in mixed-use developments with more than one building to construct a building that is entirely residential uses as long as the equivalent square footage of 65 percent of the ground floor of the residential building is transferred to another building in the development and is used for permitted and special permitted non-residential uses.
- Table 18.2.6.030 – deletes residential densities in the C-1, C-1-D and E-1 zones and adds a minimum floor area ratio (FAR) of .50.
- 18.3.13.010.C – removes existing language that duplicates the standards in 18.2.3.130 Dwellings in Non-Residential Zones and instead references the requirements in 18.2.3.130 for the Residential overlay or in 18.3.14.040 for the Transit Triangle (TT) overlay. The Residential overlay applies to a portion but not all of the E-1 zone.

B. Discussion

The 2021-2041 Housing Capacity Analysis (HCA) is a technical study required by state law and was adopted by the City Council on August 17, 2021 as a technical report and supporting document to the *Ashland Comprehensive Plan*. The HCA provides a number of recommended policy changes to address Ashland’s unmet housing needs that are related to the proposed code amendments. The HCA’s recommended policy changes or strategies are presented as guidance for the upcoming Housing Production Strategy.

Strategy 1: Ensure an adequate supply of land is available and serviced

- Strategy 1.3: Identify opportunities to increase allowances for residential uses on the ground floor of buildings within commercial and employment zones.
- Strategy 1.4: Evaluate decreasing multifamily parking requirements.

Strategy 2: Provide opportunities for housing development to meet the City's identified housing needs

- Strategy 2.2: Evaluate opportunities incentivize smaller units through amendments to allowable densities.
- Strategy 2.4: Evaluate increasing allowances for residential dwellings in commercial and employment zones, such as allowing an increased amount of residential uses in ground floor commercial spaces.

Strategy 5: Align housing planning with the Climate and Energy Action Plan

Strategy 5.4: Evaluate opportunities to develop new housing closer to downtown and commercial centers to reduce dependence on automobiles for transportation.

The Oregon Statewide Planning System requires all cities and counties in Oregon to address Statewide Planning Goal 9 Economic Development. Goal 9 requires cities and counties to provide an adequate land supply for economic development and employment growth. Chapter VII Economy of the *Ashland Comprehensive Plan* and the 2007 Economic Opportunity Analysis (EOA) address the Goal 9 requirements.

Oregon Administrative Rule (OAR) 660 Division 9 implements Goal 9 and provides two options for land use code and comprehensive plan amendments. The first option in OAR 660-009-0010(3) allows local jurisdictions to make amendments by relying on existing plans if findings can be made that there are no significant changes in economic development opportunities based on new information about national, state, regional, count and local trends.

The second option in OAR 660-009-0010(4) requires changes to the designation of land in excess of two acres from an employment use designation to any other use designation. Under this provision, a city or county must show the amendment is consistent with the comprehensive plan and existing EOA. If the proposed amendment can't be supported by the adopted comprehensive plan and EOA, OAR 660-009-0010(4) requires an update the comprehensive plan and/or EOA.

After researching the Goal 9 requirements and speaking to the Oregon Department of Land Conservation (DLCD), staff believes the analysis performed by Fregonese Associates can be used to address OAR 660-009-0010(3) for the proposed code amendments to increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay.

With assistance from Fregonese Associates, staff researched and assessed the rate of employment land consumption and the growth rate in number of jobs in Ashland since the adoption of the 2007 EOA. Fregonese and Associates analyzed the buildable lands data, building permits issued, and Ashland's employment data in the last 10 years and found there is sufficient C-1 and E-1 land for future employment needs. Specific items in the data analysis include the following.

- The land consumption rate in the C-1 and E-1 zones is relatively low with an average of 2 acres per year used for the last 8 years.
- Of the 50 building permits that were issued for commercial development in the last 10 years, 26 permits were in located in the C-1 and E-1 zones and the other 24 permits

were located in the C-1-D zone (Downtown) or were public projects such as SOU and Ashland School District projects.

- The 2007 Economic Opportunity Analysis (EOA) forecasted more employment growth than has occurred over the last 14 years. The EOA projected 15, 220 project jobs by 2027, including 10,654 jobs in retail and services. State employment data shows a total of 10,237 jobs in the Ashland Urban Growth Boundary in 2019.
- The EOA determined that 30% of the employment growth would not require consumption of vacant land.
- Currently, approximately 20% of the jobs are in residential zones.

As originally suggested by KDA, one of the options that the Planning Commission discussed included revising the land use code to allow 100 percent of the ground floor of newly constructed buildings in the C-1 and E-1 zones to be used for residential uses.

According to staff's research, an amendment allowing 100 percent of the ground floor of mixed-use buildings in the C-1 and E-1 zones to be used for housing will likely be considered a significant change and possibly a change from an employment land use designation under OAR 660-009-0010(4). As a result, it is staff's understanding that the 2007 EOA would need to be updated to show that there will be an adequate supply of employment lands to address Ashland's future economic and job needs.

In staff's opinion, the options are to move forward with the attached amendments, consider the 100 percent residential ground floor as one of the options in the housing production strategy, or both amend the code as proposed and identify the 100 percent residential ground floor amendment in the housing production strategy. Potential future actions could involve rezoning employment lands for residential purposes, creating a mixed-use zone with greater flexibility and residential allowances similar to the North Mountain Neighborhood Commercial Zone, or simply retaining existing C-1 and E-1 zoning with the options to build 100 percent residential projects.

C. Project Background

Laz Ayala and Mark Knox from KDA Homes introduced the issue to the Planning Commission at the study session meeting on December 22, 2020. The KDA representatives suggested that there is a surplus of commercial space that could be used to provide housing units. The concerns raised included the decreased demand for commercial space due to ecommerce and the pandemic while housing demand continues to increase, particularly after the Alameda fire. The KDA representatives suggested amending the land use code to allow the temporary use of ground floor commercial space to be used for housing units and requiring the buildings to be constructed to commercial building code standards so the space could be converted in the future should demand for commercial space return.

The City Council initiated the project at the March 16, 2021 business meeting. Specifically, the Council directed staff to work with the Planning Commission to evaluate the draft code language prepared by representatives of KDA Homes and propose amendments to the land use ordinance which would provide the flexibility to temporarily use the ground floor of commercial buildings for housing.

The Planning Commission reviewed and discussed the proposed code amendment project at the June 22, 2021, August 24, 2021, October 26, 2021 and November 23, 2021 study session meetings.

Currently, at least 65 percent of the ground floor of buildings in the commercial (C-1) and employment (E-1) zones is required to be commercial and light industrial uses. The remaining 35 percent of the ground floor can be used for residential dwellings as well 100 percent of the upper stories in multi-story buildings. The exceptions are: 1) in the Transit Triangle (TT) overlay, a minimum of 35 percent of the ground floor is required to be used for commercial and light industrial uses and 2) in the commercial area of the North Mountain Neighborhood District, the ground floor can be used entirely for housing but must be built to commercial building code standards so that the space can be converted to commercial uses in the future.

In 1992, the land use code was amended to eliminate entirely residential buildings as an allowed use in the C-1 and E-1 zones (Ord. 2688). The current standard of requiring 65 percent of the ground floor in commercial or light industrial uses was put in place at that time, as well as residential densities for each of the zones. Prior to 1992, residential buildings comprised entirely of housing units could be built in the C-1 and E-1 zones with the approval of a conditional use permit. The 1992 code update was in part due to concern about construction of residential buildings near the downtown and loss of future commercial space.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval of the proposed amendments to the City Council. The proposed amendments are scheduled for a public hearing and first reading at the City Council on January 4 and for second reading on January 18.

1 **WHEREAS**, prior to 2020, there was a decline in construction of large retail buildings in the
2 U.S. and the e-commerce share of the retail market was increasing nationally. The COVID-19
3 pandemic resulted in an even greater shift to online retail purchases.; and
4

5 **WHEREAS**, the City of Ashland is required to perform a housing capacity analysis every eight
6 years as required by ORS 197.296 and OAR 660-0008-0045. House Bill 2003 passed in the 2019
7 Oregon legislative session and amended the previously mentioned state laws and rules to require
8 cities in Oregon to perform the housing capacity analysis and housing production strategy.; and
9

10 **WHEREAS**, the Ashland City Council adopted the 2021-2041 Housing Capacity Analysis
11 (HCA) on August 17, 2021 as a technical report and supporting document to the Ashland
12 Comprehensive Plan. The HCA provides a number of recommended policy changes to address
13 Ashland’s unmet housing needs including increasing the allowance for residential dwellings in
14 commercial and employment zones and developing new housing closer to downtown and
15 commercial centers to reduce dependency on automobiles for transportation.; and
16

17 **WHEREAS**, the Almeda wildfire increased the regional need for affordable housing by
18 destroying about 2,549 dwellings in September 2020. The Almeda fire burned from north
19 Ashland to just south of Medford, with the cities of Phoenix and Talent losing the majority of
20 housing. The HCA recognized that the losses due to the Almeda fire increased regional need for
21 affordable housing and overall pressure on the Ashland housing market.; and
22

23 **WHEREAS**, amendments to the allowances for housing in the commercial and employment
24 zones are needed to provide more flexibility in the commercial and employment zones to
25 respond to fluctuations and changes in the economy and demand for housing.; and
26

27 **WHEREAS**, the City of Ashland Planning Commission conducted on December 14, 2021 a
28 duly advertised public hearing on amendments to the Ashland Land Use Ordinance concerning
29 the standards relating to annexations, and following deliberations recommended approval of the
30 amendments.; and

1
2 **WHEREAS**, the City Council of the City of Ashland conducted a duly advertised public hearing
3 on the above-referenced amendments January 4, 2021.; and
4

5 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing
6 and record, deliberated and conducted first and second readings approving adoption of the
7 Ordinance in accordance with Article 10 of the Ashland City Charter.; and
8

9 **WHEREAS**, the City Council of the City of Ashland has determined that in order to protect and
10 benefit the health, safety and welfare of existing and future residents of the City, it is necessary to
11 amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an adequate
12 factual base exists for the amendments, the amendments are consistent with the comprehensive
13 plan and that such amendments are fully supported by the record of this proceeding.
14

15 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**
16

17 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this
18 reference.
19

20 **SECTION 2.** Section 18.2.3.130 [Dwellings in Non-Residential Zones – Special Use Standards]
21 of the Ashland Land Use Ordinance is hereby amended to read as follows:
22

23 **18.2.3.130 Dwellings in Non-Residential Zones**

24 Where dwellings are allowed in non-residential zones, they are subject to all of the following
25 requirements.

- 26 A. Dwellings in the E-1 zone are limited to the R-overlay zone. See chapter 18.3.13 Residential
27 Overlay.
28 B. Dwellings in the E-1 and C-1 zones shall meet all of the following standards, except that
29 dwellings developed under the Transit Triangle (TT) overlay option are not subject to
30 subsection 18.2.3.130.B, below. See section 18.3.14.040 for the allowed uses in the TT
overlay.

1. **Mixed-Use Developments Outside of the Downtown Design Standards Overlay.** ~~If
there is one building on a site, ground floor residential uses shall occupy not~~

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~~more than 35 percent of the gross floor area of the ground floor. Where more than one building is located on a site, not more than 50 percent of the total lot area shall be designated for residential uses. At least 65 percent of the gross floor area of the ground floor shall be designated for permitted uses and uses permitted with special use standards, not including residential uses.~~

a. Applicability. This subsection, 18.2.3.130.B.1, applies to mixed-use buildings or developments that meet all of the following requirements.

i. Location. The mixed-use building or development shall be located outside of the Downtown Design Standards overlay.

ii. Lot Size. The mixed-use building or development shall be located on a lot that is less than 10 acres in size. Mixed-use developments located on lots 10 acres in size and greater shall be subject to the requirements of subsection 18.2.3.130.B.2, below.

ii. Building Height. The mixed-use building shall be two or more stories in height. Mixed-use buildings that are one story in height are subject to the requirements of subsection 18.2.3.130.B.2, below.

b. Gross Floor Area.

i. One Building. When a planning application is limited to one building, residential uses may occupy up to 65 percent of the gross floor area of the ground floor. At least 35 percent of the gross floor area of the ground floor shall be designated for permitted uses and uses permitted with special use standards, not including residential uses.

ii. More Than One Building. When a planning application includes more than one building, the equivalent of at least 35 percent of the gross floor area of the ground floor for all buildings shall be designated for permitted uses and uses permitted with special use standards, not including residential uses.

c. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the underlying zone.

d. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.

2. Mixed Use Developments Inside the Downtown Design Standards Overlay, Large Lots and One-Story Mixed-Use Buildings. Residential densities shall not exceed 15 dwelling units per acre in the E-1 zone, 30 dwelling units per acre in the C-1 zone, and 60 dwelling units per acre in the C-1-D zone. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.

a. Applicability. This subsection, 18.2.3.130.B.2, applies to mixed-use buildings and developments located in the Downtown Design Standards Overlay. In addition, this subsection applies to mixed-use buildings and developments

1 located on lots that are 10 acres and greater in size and to one-story mixed-use
2 buildings, whether the lot or building is located inside or outside the
3 Downtown Design Standards overlay.

4 i. Location. Mixed-use buildings and developments located in the Downtown
5 Design Standard overlay shall be subject to the requirements of this
6 subsection.

7 ii. Lot Size. Mixed-use buildings and developments located on lots 10 acres
8 and greater in size shall be subject to the requirements of this subsection.

9 iii. Building Height. Mixed-use buildings that are one story in height shall be
10 subject to this subsection.

11 **b. Gross Floor Area.**

12 i. One Building. When a planning application is limited to one building,
13 residential uses may occupy up to 35 percent of the gross floor area of the
14 ground floor. At least 65 percent of the gross floor area of the ground floor
15 shall be designated for permitted uses and uses permitted with special use
16 standards, not including residential uses.

17 ii. More Than One Building. When a planning application includes more than
18 one building, the equivalent of at least 65 percent of the gross floor area of
19 the ground floor for all buildings shall be designated for permitted uses and
20 uses permitted with special use standards, not including residential uses.

21 3. Residential uses shall be subject to the same setback, landscaping, and design
22 standards as for permitted uses in the underlying zone.

23 4. Off-street parking is not required for residential uses in the C-1-D zone.

24 **5. For the purpose of density calculations, units of less than 500 square feet of gross**
25 **habitable floor area shall count as 0.75 of a unit.**

26 **SECTION 3.** Section 18.2.6.030 [Unified Standards for Non-Residential Zones – Standards for
27 Non-Residential Zones] of the Ashland Land Use Ordinance is hereby amended to read as
28 follows:
29

Table 18.2.6.030 – Standards for Non-Residential Zones (Except as modified under chapter 18.5.5 Variances.)				
Standard	C-1	C-1-D	E-1	M-1
Residential Density⁴ (dwelling units/acre)	30 du/ae	60 du/ae	15 du/ae	NA

Table 18.2.6.030 – Standards for Non-Residential Zones

(Except as modified under chapter 18.5.5 Variances.)

Standard	C-1	C-1-D	E-1	M-1
¹ where allowed per section 18.2.3.130 ; within E-1 zone, per R-Overlay (see chapter 18.3.13 Residential Overlay).				
Floor Area Ratio (FAR)¹				
Minimum	<u>.5</u>	<u>.5</u>	<u>.5</u>	<u>.5</u>
¹Plazas and pedestrian areas shall count as floor are for the purposes of meeting the minimum FAR.				
Lot Area, Width, Depth Lot Coverage	There is no minimum lot area, width or depth, or maximum lot coverage; or minimum front, side or rear yard, except as required to comply with the special district and overlay zone provisions of part 18.3 or the site development and design standards of part 18.4 .			
Setback Yards (feet)	There is no minimum front, side, or rear yard required, except where buildings on the subject site abut a residential zone, in which case a side of not less than 10 ft and a rear yard of not less than 10 ft per story is required. The solar setback standards of chapter 18.4.8 do not apply to structures in the C-1-D zone. Except for buildings within 100 feet of a residential zone, the solar setback standards of chapter 18.4.8 do not apply to structures in the C-1 zone. See also section 18.2.4.030 Arterial Street Setback.		There is no minimum front, side, or rear yard, except 20 ft where adjoining a residential zone.	
Building Height ^{2&3} – Maximum (feet)	40 ft, except: - Buildings greater than 40 ft and less than 55 ft are permitted in C-1-D zone with approval of a Conditional Use Permit. -Where located more than 100 feet from a residential zone, buildings greater than 40 ft and less than 55 ft are permitted in C-1 zone with approval of a Conditional Use Permit.		40 ft	
² See definition of “height of building” in section 18.6.1.030 .				
³ Parapets may be erected up to five feet above the maximum building height; see also, 18.4.4.030 .G.4 for mechanical equipment screening requirements, and 18.5.2.020 for Site Design Review for mechanical equipment review process.				
Landscape Area – Minimum ⁴ (% of developed lot area)	15%	None, except parking areas and service stations shall meet the standards of chapters 18.4.3 Parking, Access, and Circulation, and 18.4.4 Landscaping, Lighting, and Screening.	15%	10%
⁴Plazas and pedestrian areas may also be applied toward meeting the landscaping area requirement but shall not constitute more than 50% of the required area.				

1
2 **SECTION 4.** Section 18.3.13.010 [Residential Overlay Regulations – Residential Overlay] of
3 the Ashland Land Use Ordinance is hereby amended to read as follows:

4 **18.3.13.010 Residential Overlay Regulations**

- 5 **A. Purpose.** The Residential overlay is intended to encourage a concentration and mix of
6 businesses and housing that provides a variety of housing types, supports resource and
7 energy conservation, and promotes walking, bicycling, and transit use.
- 8 **B. Applicability.** The Residential overlay applies to all property where ‘Residential Overlay’ (R)
9 is indicated on the Zoning map.
- 10 **C. Requirements.** ~~The Dwellings in the Residential overlay requirements are as~~
11 ~~follows shall meet the applicable standards in section 18.2.3.130, except that~~
12 ~~dwellings developed under the Transit Triangle (TT) overlay option are not subject to~~
13 ~~subsection 18.3.13.010 C, below. See section 18.3.14.040 for the allowed uses in the~~
14 ~~TT overlay or 18.3.14.040 for the TT overlay.~~
- 15 ~~1. Mixed-Use Developments. If there is one building on a site, ground floor~~
16 ~~residential uses shall occupy not more than 35 percent of the gross floor area of~~
17 ~~the ground floor. Where more than one building is located on a site, not more than~~
18 ~~50 percent of the total lot area shall be designated for residential uses. At least 65~~
19 ~~percent of the gross floor area of the ground floor shall be designated for~~
20 ~~permitted uses and uses permitted with special use standards, not including~~
21 ~~residential uses.~~
- 22 ~~2. Residential densities shall not exceed 15 dwelling units per acre. For the purpose~~
23 ~~of density calculations, units of less than 500 square feet of gross habitable floor~~
24 ~~area shall count as 0.75 of a unit.~~
- 25 ~~3. Residential uses shall be subject to the same setback, landscaping, and design~~
26 ~~standards as for permitted uses in the E-1 District.~~

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

- 30 (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;

- 1 (g) Add headings for purposes of grouping like sections together for ease of reference; and
- 2 (h) Correct manifest clerical, grammatical, or typographical errors.

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SECTION 6. 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.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ___th day of _____, 2021, and duly PASSED and ADOPTED this ___th day of _____, 2021,

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ___ day of _____, 2021.

Julie Akins, Mayor

Reviewed as to form:

Katrina Brown, City Attorney

PUBLIC TESTIMONY

AMY GUNTER

Oral Testimony provided
by Amy Gunter



Good evening planning commissioners,

I would like to add to the discussion on changes to the housing and employment zones codes. Now is the opportunity for the city to make a meaningful, substantive impact on the present restrictions regarding provision of housing in the commercial and employment zones and parking requirements.

This discussion shouldn't be relegated to the existing residential overlay. This discussion should be regarding all commercial and employment zone lands. There are areas that do not have residential overlay but directly abut residential lands. The industrial zone does not allow for residential use. I would wager a bet that there are a number of 'residences' in the Employment zone.

Additionally, the existing uses of a site shouldn't determine that residential isn't allowed for example properties that have a conditional use permit such as a hotel cannot be converted to the 65/35 ratio as the code prevents residential development when the commercial property is occupied by a conditional use. The irony of this is that hotels have similar if not more fire life safety protections for their guests as an apartment complex requires. Additionally, generally the parking for a hotel is similar to the parking for a studio or small one bedroom so the physical changes to the property to accommodate the change of use are limited.

The code appears to eliminate the allowance for multiple buildings that would allow for a building that was entirely residential in conjunction with a commercial development. This should be allowed so that there can be stand-alone apartments. Possibly require the commercial building to be fronting upon the street like the projects we are doing in Talent on North Pacific Highway.

I suggest that it be considered that commercial property is allowed to develop at 100% residential when developed to the high-density multi-family residential standards. Medford has had successful residential development adjacent to large scale commercial developments in their commercial zones and the numbers of pedestrians and foot traffic to the businesses is increased due to the increase in housing on directly adjacent properties. For all intents and purposes, multi-family residential functions like and has similar traffic impacts as many permitted commercial uses. The traffic impacts are similar except that there is the ability to functionally reduce trips because people can walk to the nearby businesses. You'll find projects like this on West Main/Ross in Medford.

Parking:

The parking is not part of the discussion this evening I would like to comment that in all of the Rogue Valley jurisdictions where I have done planning and development projects Ashland has the highest parking requirements. This includes not only the number of parking spaces, the sizes of the parking spaces, the required buffering for said parking, most communities allow for stacking of residential parking. So in the event that a garage has a 20 foot front yard setback that garage space provides one parking space and the space behind that provides a second this way acknowledging that is how much of the historic area, the area around Harmony Lane, Ross Lane, Linda Ave., Ray lane, Parker St, Garfield St, you get my drift, there's a lot of single width driveways around town that only count as one parking space regardless of the how many vehicles can stack in the same driveway.

In conclusion,

Nobody wants to build vacant commercial structures but there is a lot of interest in building, expanding residential structures. I did suggest that my clients that own commercial and employment zoned property participate in this discussion because there are many that feel stuck. The folks on A Street and Hersey Street in the houses that are nearly impossible to convert to commercial are stuck in non-conforming developments.

I thank you for looking into making changes. I suggest you look deeper and consider broader, more impactful changes some of the suggestions include.

- Allow for 100 percent residential in the C-1 zones when developed to high density, multi-family residential standards.
- Retain the mix in the employment zones
- Retain the mixed-use component that allows for 50 percent of the site area (or some other number) to be residential in conjunction with commercial development when in separate structures.
- Allow for residential use when there is a conditional use on the property and do not restrict to permitted or special permitted uses.
- Allow for single story, mixed use construction of buildings
- Consider taller buildings (3 and 4 story buildings in the E-1)
- Revise the Economic Opportunity Analysis due to substantial changes to Ashland's economy that may not have been captured in 2007. This would provide avenue to allow more E-1 with R overlay in the areas that I note above.
- By all means reduce the parking requirements.

Thank you for your time.

**TYPE II
PUBLIC HEARING**

**PA-T2-2021-00035
233 Granite Street**



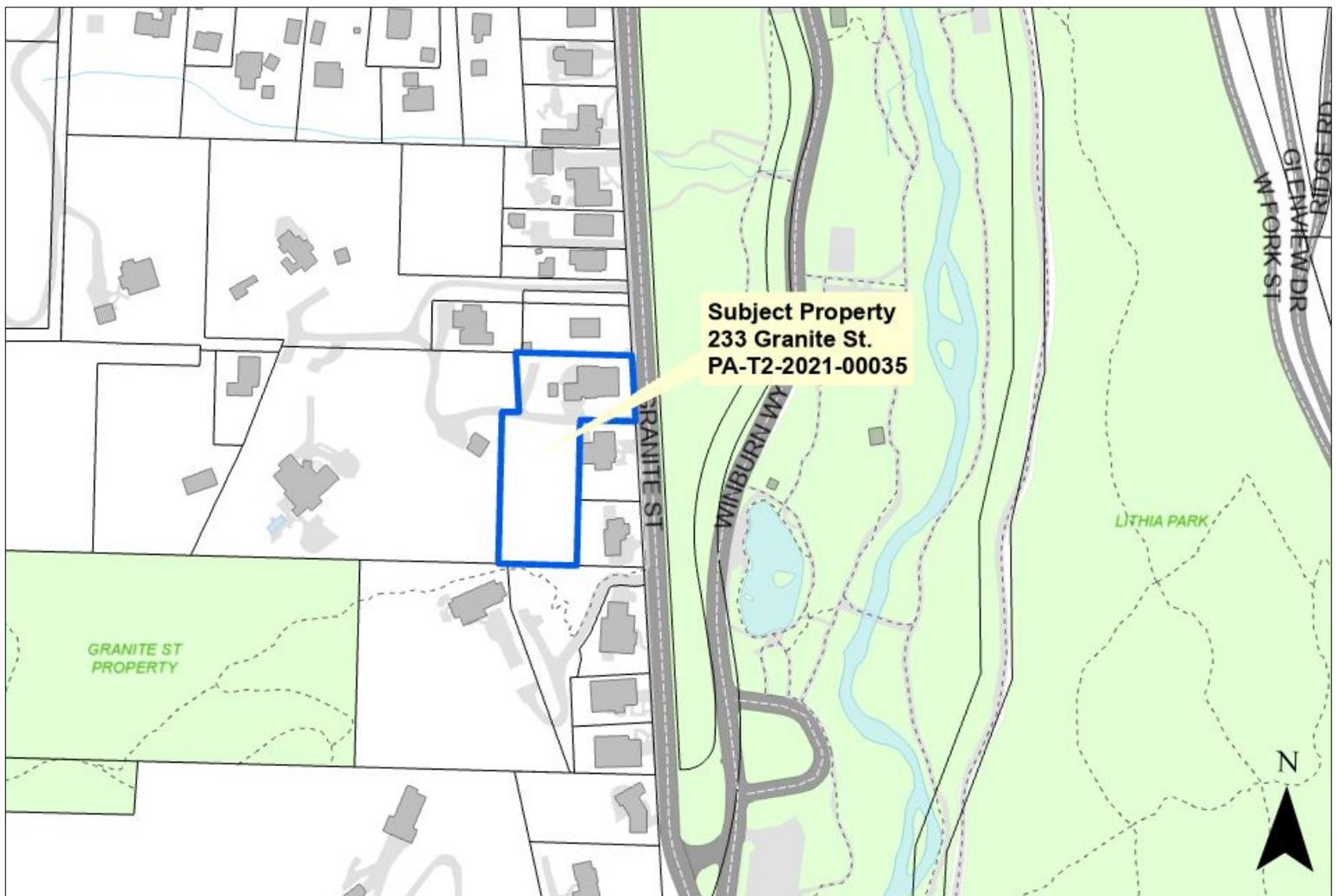
PLANNING ACTION: PA-T2-2021-00035

SUBJECT PROPERTY: 233 Granite Street

APPLICANT/OWNER: Rogue Development Services/Heidi Leverenz

DESCRIPTION: A request for a Land Partition to split a 1.08 acre property into two parcels. The application indicates that the two resultant parcels will include a 0.34 acre parcel which contains the existing residence, and a 0.73 acre parcel situated to the south and accessed by a flag drive. The request includes a (Type II) variance to the number of lots accessed from the private driveway and an exception to street standards to not install sidewalks to current standards where there are existing curbside sidewalk improvements. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10; **MAP:** 39 1E 08 DA; **TAX LOT:** 1300.

ELECTRONIC ASHLAND PLANNING COMMISSION MEETING: *Tuesday, December 14, 2021 at 7:00 PM*



Notice is hereby given that the Ashland Planning Commission will hold an electronic public hearing on the above described planning action on the meeting date and time shown above. You can watch the meeting on local channel 9, on Charter Communications channels 180 & 181, or you can stream the meeting via the internet by going to rvtv.sou.edu and selecting 'RVTV Prime.'

The ordinance criteria applicable to this planning action are attached to this notice. Oregon law states that failure to raise an objection concerning this application, or failure to provide sufficient specificity to afford the decision makers an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

Because of the COVID-19 pandemic, application materials are provided online and written comments will be accepted by email. Alternative arrangements for reviewing the application or submitting comments can be made by contacting (541) 488-5305 or planning@ashland.or.us.

A copy of the application, including all documents, evidence and applicable criteria relied upon by the applicant, and a copy of the staff report will be available on-line at www.ashland.or.us/PCpackets seven days prior to the hearing. Copies of application materials will be provided at reasonable cost, if requested. Under extenuating circumstances, application materials may be requested to be reviewed in-person at the Ashland Community Development & Engineering Services Building, 51 Winburn Way, via a pre-arranged appointment by calling (541) 488-5305 or emailing planning@ashland.or.us.

Anyone wishing to submit comments can do so by sending an e-mail to PC-public-testimony@ashland.or.us with the subject line "**December 14 PC Hearing Testimony**" by 10:00 a.m. on Monday, December 13, 2021. If the applicant wishes to provide a rebuttal to the testimony, they can submit the rebuttal via e-mail to PC-public-testimony@ashland.or.us with the subject line "**December 14 PC Hearing Testimony**" by 10:00 a.m. on Tuesday, December 14, 2021. Written testimony received by these deadlines will be available for Planning Commissioners to review before the hearing and will be included in the meeting minutes.

Oral testimony will be taken during the electronic public hearing. If you wish to provide oral testimony during the electronic meeting, send an email to PC-public-testimony@ashland.or.us by 10:00 a.m. on Tuesday, December 14, 2021. In order to provide testimony at the public hearing, please provide the following information: 1) make the subject line of the email "**December 14 Speaker Request**", 2) include your name, 3) the agenda item on which you wish to speak on, 4) specify if you will be participating by computer or telephone, and 5) the name you will use if participating by computer or the telephone number you will use if participating by telephone.

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

If you have questions or comments concerning this request, please feel free to contact Aaron Anderson at #541-552-2052 / Aaron.Anderson@ashland.or.us.

PRELIMINARY PARTITION PLAT

18.5.3.050

The approval authority shall approve an application for preliminary partition plat approval only where all of the following criteria are met.

- A. The future use for urban purposes of the remainder of the tract will not be impeded.
- B. The development of the remainder of any adjoining land or access thereto will not be impeded.
- C. The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.
- D. The tract of land has not been partitioned for 12 months.
- E. Proposed lots conform to the requirements of the underlying zone, per part 18.2, any applicable overlay zone requirements, per part 18.3, and any applicable development standards, per part 18.4 (e.g., parking and access, tree preservation, solar access and orientation).
- F. Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design. See also, 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria.
- G. The proposed streets, utilities, and surface water drainage facilities conform to the street design standards and other requirements in part 18.4, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.
- H. Unpaved Streets.
 1. Minimum Street Improvement. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved

collector or arterial street, as designated in the Comprehensive Plan, such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.

2. Unpaved Streets. The Public Works Director may allow an unpaved street for access for a land partition when all of the following conditions exist.
 - a. The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street. The City may require the street to be graded (cut and filled) to its standard physical width, and surfaced as required in chapter 18.4.6 prior to the signature of the final partition plat by the City.
 - b. The centerline grade on any portion of the unpaved street does not exceed ten percent.
 - c. The final elevation of the street shall be established as specified by the Public Works Director except where the establishment of the elevation would produce a substantial variation in the level of the road surface. In this case, the slope of the lot shall be graded to meet the final street elevation.
 - d. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks, and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- I. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.
- J. Required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development.

ADDITIONAL PRELIMINARY FLAG LOT PARTITION PLAT CRITERIA

18.5.3.060

The approval authority shall approve a preliminary plat application for a flag lot partition only where all of the following criteria are met.

- A. The criteria of section [18.5.3.050](#) are met.
- B. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.
- C. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots.
- D. Except as provided in subsection 18.5.3.060.H, below, the flag drive serving a single flag lot shall have a minimum width of 15 feet and contain a 12 foot wide paved driving surface. For drives serving two flag lots, the flag drive shall be 20 feet wide, with a 15 foot wide driving surface to the back of the first lot, and a 12 foot wide driving surface to the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface. Width shall be increased on turns where necessary to ensure fire apparatus remain on a paved surface during travel.
- E. Curb cuts have been minimized, where possible, through the use of common driveways. No more than two flag lots are served by the flag drive.
- F. Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent for not more than 200 feet. Such variances shall be required to meet all of the criteria for approval in chapter [18.5.5](#) Variances.
- G. Flag drives shall be constructed to prevent surface drainage from flowing over sidewalks or other public ways.
- H. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:
 1. Vehicle access shall be from the alley only where required as a condition of approval.
 2. No screening and paving requirements shall be required for the flagpole.
 3. A four foot pedestrian path shall be installed within the flagpole and improved and maintained with either a concrete, asphalt, brick, or paver block surface connecting the street to the buildable area of the flag lot.
 4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flag lot clearly visible from the street on a four-inch by four-inch post that is 3½ feet high. The post shall be painted white with black numbers three inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two foot by three foot white sign clearly visible from the street with three-inch black numbers.
- I. Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof.
- J. When required by the Oregon Fire Code, flag drives greater than 150 feet in length shall provide a turnaround (see Figure [18.4.6.040.G.5](#)). The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of 250 feet in length as allowed by Oregon Fire Code access exemptions.
- K. Each flag lot has at least three parking spaces situated to eliminate the necessity for vehicles backing out.
- L. There shall be no parking within ten feet of the centerline of the drive on either side of the flag drive entrance.
- M. Flag drives serving structures greater than 24 feet in height, as defined in part 18.6, shall provide a fire work area of 20 feet by 40 feet clear of vertical obstructions and within 50 feet of the structure. The fire work area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.
- N. Both sides of the flag drive have been screened with a site-obscuring fence, wall or fire resistant broadleaf evergreen site-obscuring hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed to ensure fire apparatus access is not obstructed by the encroachment of mature landscaping.
- O. The applicant has executed and filed with the Community Development Department an agreement between applicant and the City for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Public Works Director and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement

shall also provide for the maintenance of the paving and screening pursuant to this section, and assurance ongoing maintenance.

- P. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.

VARIANCE

18.5.5.050

1. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.
2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.
3. The proposal's benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.
4. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.

**ASHLAND PLANNING DEPARTMENT
STAFF REPORT**

December 14, 2021

PLANNING ACTION: PA-T2-2021-00035
OWNER/APPLICANT: Heidi Leverenz
Rogue Planning & Development Services, LLC (agent)
LOCATION: 233 Granite Street
ZONE DESIGNATION: R-1-10
COMP. PLAN DESIGNATION: Single Family Residential
ORDINANCE REFERENCES:

Ashland Land Use Ordinance: <https://ashland.municipal.codes/LandUse>
18.4.6 Public Facilities
18.5.1 General Review Procedures
18.5.3 Land Divisions and Property Line Adjustments
18.5.5 Variance
18.6.1 Definitions

APPLICATION DEEMED COMPLETE ON: October 29, 2021

120-DAY DEADLINE: February 26, 2022

REQUEST: A two-lot partition including an exception to the street standards and a request for a variance to the allowed number of dwellings served by a private drive.

I. Relevant Facts

1) Background - History of Applications

In 1988 the Planning Commission approved a property line adjustment recorded as partition plat CS#11420. The planning action number is not legible on the survey that is available from the county surveyor, and there are no hardcopy records associated with this or any other planning actions that were able to be located.

On August 26th, 2021 the applicant initially applied for this partition with a request for a Type-1 variance to allow for more than three dwellings to be accessed from a private drive. The determination of a Type-1 variance had been made by staff during the pre-application conference. The application was assigned the number PA-T1-2021-00154 and a Notice of Complete Application (NOCA) was mailed to surrounding properties on September 20th, 2021.

On October 25th Staff received an e-mail from Sydnee B. Dreyer of Jarvis, Dreyer, Glatte & Larsen, LLP who represents the applicant. The letter contended that the application was inappropriately being processed as a Type-1 action because the requested variance was not listed at AMC 18.5.5.030.A. After reviewing the relevant sections of the land use ordinance,

the Staff Advisor concurred with Ms. Dreyer. Staff informed the applicant's agents that the application was required to be processed as a Type-2 and that the initial application was void. Following the receipt of the additional funds for a Type-2 procedure the application was deemed complete on October 29th, 2021.

On December 1st a notice of public hearing was posted at the subject property and mailed to all properties within 200 feet of the subject property.

2) **Detailed Description of the Site and Proposal**

The subject property is located at 233 Granite Street and is 1.08 acres in size. The subject property is zoned R-1-10, a single-family residential zoning with a 10,000 square foot minimum lot size. The R-1-10 district extends along the west side of Granite St. with both RR.5 and WR to the east up the hillside. Across the street is Lithia Park which is zoned R-1-7.5. The property is roughly an "L" shape with 101 feet of frontage along Granite St. The property is developed with a 3625 square foot residence that was built in 2014. Along the southern edge of the "L" there is a twenty-foot-wide asphalt drive which serves the applicants property, the adjacent property to the south and additional properties to the west.

There is disagreement over the number of lots presently served by the existing driveway network. People opposed to the application (discussed further below) allege that the existing driveway serves nine lots. The application materials do not provide detail on exactly which properties have access rights over the existing driveway but states that "the existing driveway serves six other properties." In supplemental materials provided by the applicant they assert that only five lots are served by the private drive based on a previous interpretation by council on the definition of 'to serve.'

The proposal is a request for a Land Partition to split a 1.08-acre property into two parcels. The preliminary partition plat show that the two resultant parcels will be a 0.34-acre parcel which will retain the existing residence, and a vacant 0.73-acre parcel situated to the south with a flagpole that will access Granite St. frontage. The existing private drive is non-conforming in that it serves more than three dwellings, therefore the application includes a request for a variance to the number of dwellings accessed from a private driveway. The proposal also requests an exception to street standards to not install sidewalks to current standards where there are existing curbside sidewalk improvements.

3) **Code Definitions**

Central to this application and the variance request is the number of dwellings that are allowed to be served by a private drive. This number is provided for the definition of "Private Drive" at AMC 18.6:

Private Drive. A private drive is a road in private ownership, not dedicated to the public, which serves three or fewer **dwelling units**.*[emphasis added]*

While the definition does in fact specify "dwelling units," it has been common that each dwelling served is situated on its own separate lot. This is reflected in the applicant's materials which refer to the maximum number of "lots" allowed to be served by a private drive.

II. Partition

The application describes the partition as follows: *“The request is to divide the property into two parcels. Proposed Parcel #1 would retain the existing residence, the yard area and the existing outbuildings. Parcel #1 is proposed to have 80.5-feet of frontage on Granite Street and is proposed to be 185.05 feet deep. The resulting lot area of 14,931 square feet complies with the minimum lot area in the zone. The existing residence complies with minimum setbacks and lot coverages. Proposed Parcel #2 would be a flag lot. The flagpole connection to the street is proposed to be 20-feet as predicated by the existing easements. The lot area, 32,147 square feet including the flagpole substantially exceeds the minimum lot area in the zone.”*

The application does not provide a detailed tree protection plan and reasons that the building envelopes may need to be modified to accommodate the wishes of a future owner. The application materials state that: *“though there are trees within and nearby the buildable area, no trees are proposed for removal. Similarly, due to the lack of proposed site development, a tree protection / preservation plan has not been created as there is not a plan for development. Due to the Wildfire Overlay standards, the future property owner may elect to relocate the building envelopes or remove/preserve trees.”* A condition of approval has been added that requires that a topographic survey be conducted to confirm that the building envelopes are not severely constrained (slopes greater than 35-percent), and that a Physical and Environmental constrain permit will be required for any construction in slopes greater than 25-percent.

Finally, the application also includes a request for an exception to street standards due to the existing development and width of the Granite St. right-of-way. Presently there is a curb-tight sidewalk. The application requests to maintain the existing curbside sidewalk. The application explains: *“The code allows for the granting of exceptions when physical conditions exist that preclude development of a public street, or components of the street. Such conditions may include topography, mature trees, and limited right-of-way. All of these conditions are present along the frontage.”* Staff concludes that the exception is not necessary as the curb tight sidewalk conformed to the city standards at the time of installation.

III. Variance

As mentioned above because the pre-existing private drive is non-conforming in that it serves more than three dwellings the application includes a request for a variance to allow the private drive to serve an additional dwelling on the newly created lot.

The first criterion of approval for a variance requires that it be necessary because the code provision “does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar.” As staff understands the application materials, they respond that the variance is necessary due to topography and adjacent development. In supplemental findings dated November 23rd the applicant responds to this criterion that *“The variance is necessary because the existing topography does not allow for the creation of a public street to serve the subject property, and due to the unusual lot shape, existing development, topography, etc., a variance to the*

number of lots accessed via the driveway is necessary.”

IV. Public Comments received during initial application

The application was had a mailed noticed to all properties within 200 feet of the subject property as well as a physical notice posted along the frontage of the property. Written comments in opposition to the request were received from two adjacent property owners as well as their agents:

- James Thomas and Liese Murphree
- Daniel and Andrea Weiner represented by Chris Hearn

Issues that were raised in relation to the planning application included concerns about “traffic, parking, noise, congestion, and dust” as well as pedestrian access and an alleged history of the applicant not conforming to approved plans for development.

The letter from Mr. Hearn made the argument that the existing non-conforming private drive should not be allowed to have additional demands because: *“the overburdened shared driveway to become still further non-conforming in violation of City’s access standards, especially within City’s Wildfire Overlay Zone.”* The letter goes on to elaborate on why the application, in his opinion, does not appear to meet the approval criteria for a variance due to this not being unique and the need for the variance being self-created.

Additionally, the Weiner’s, in separate correspondence, claim that the proposed development would leave the parcel with the house to be over the allowed lot coverage and also allege that the property is encumbered by a deed restriction which would prohibit any development that would disturbed the existing rock retaining walls around the proposed building envelopes which they state is an area historically referred to as “Clary’s Draw.” They claim that the current deed stipulates that “existing rock walls and boulders” on this site “shall not be removed, disturbed, impaired or damaged” ...”in perpetuity.”

The applicant provided supplemental materials demonstrating that lot coverage was satisfied as well as additional finding addressing the variance criteria but did not respond to the other issues that were raised. Neither the applicant nor the opponents have provided a copy of the mentioned deed restriction for the record.

Additional comments were received from three citizens all in support of the application. Their names are listed below, and their correspondence is available in the meeting packet.

- Henry and Karen Kimsey-House
- Jeff Wyatt
- Andrew K Smith

V. Procedural - Required Burden of Proof

The criteria for a preliminary Partition Plat are described in AMC 18.5.3.050.A as follows:

- A.** The future use for urban purposes of the remainder of the tract will not be impeded.
- B.** The development of the remainder of any adjoining land or access thereto will not be impeded.

- C. The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.
- D. The tract of land has not been partitioned for 12 months.
- E. Proposed lots conform to the requirements of the underlying zone, per part 18.2, any applicable overlay zone requirements, per part 18.3, and any applicable development standards, per part 18.4 (e.g., parking and access, tree preservation, solar access and orientation).
- F. Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design. See also, 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria.
- G. The proposed streets, utilities, and surface water drainage facilities conform to the street design standards and other requirements in part 18.4, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.
- H. **Unpaved Streets.**
 - 1. Minimum Street Improvement. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan, such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.
 - 2. Unpaved Streets. The Public Works Director may allow an unpaved street for access for a land partition when all of the following conditions exist.
 - a. The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street. The City may require the street to be graded (cut and filled) to its standard physical width, and surfaced as required in chapter 18.4.6 prior to the signature of the final partition plat by the City.
 - b. The centerline grade on any portion of the unpaved street does not exceed ten percent.
 - c. The final elevation of the street shall be established as specified by the Public Works Director except where the establishment of the elevation would produce a substantial variation in the level of the road surface. In this case, the slope of the lot shall be graded to meet the final street elevation.
 - d. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks, and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- I. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.
- J. Required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development.
- K. A partition plat containing one or more flag lots shall additionally meet the criteria in section 18.5.3.060.

18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

- A. The criteria of section 18.5.3.050 are met.
- B. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.
- C. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots

are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots.

D. Except as provided in subsection 18.5.3.060.H, below, the flag drive serving a single flag lot shall have a minimum width of 15 feet and contain a 12 foot wide paved driving surface. For drives serving two flag lots, the flag drive shall be 20 feet wide, with a 15 foot wide driving surface to the back of the first lot, and a 12 foot wide driving surface to the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface. Width shall be increased on turns where necessary to ensure fire apparatus remain on a paved surface during travel.

E. Curb cuts have been minimized, where possible, through the use of common driveways. No more than two flag lots are served by the flag drive.

F. Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent for not more than 200 feet. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5 Variances.

G. Flag drives shall be constructed to prevent surface drainage from flowing over sidewalks or other public ways.

H. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:

1. Vehicle access shall be from the alley only where required as a condition of approval.
2. No screening and paving requirements shall be required for the flagpole.
3. A four foot pedestrian path shall be installed within the flagpole and improved and maintained with either a concrete, asphalt, brick, or paver block surface connecting the street to the buildable area of the flag lot.
4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flag lot clearly visible from the street on a four-inch by four-inch post that is 3½ feet high. The post shall be painted white with black numbers three inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two foot by three foot white sign clearly visible from the street with three-inch black numbers.

I. Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof.

J. When required by the Oregon Fire Code, flag drives greater than 150 feet in length shall provide a turnaround (see Figure 18.4.6.040.G.5). The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of 250 feet in length as allowed by Oregon Fire Code access exemptions.

K. Each flag lot has at least three parking spaces situated to eliminate the necessity for vehicles backing out.

L. There shall be no parking within ten feet of the centerline of the drive on either side of the flag drive entrance.

M. Flag drives serving structures greater than 24 feet in height, as defined in part 18.6, shall provide a fire work area of 20 feet by 40 feet clear of vertical obstructions and within 50 feet of the structure. The fire work area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

N. Both sides of the flag drive have been screened with a sight-obscuring fence, wall or fire-resistant broadleaf evergreen sight-obscuring hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed to ensure fire apparatus access is not obstructed by the encroachment of mature landscaping.

O. The applicant has executed and filed with the Community Development Department an agreement between applicant and the City for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Public Works Director and screening

as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening pursuant to this section, and assurance ongoing maintenance.

P. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward. (Ord. 3158 § 9, amended, 09/18/2018)

The criteria for a variance are described in AMC 18.5.5.050.A as follows:

A. The approval authority through a Type I or Type II procedure, as applicable, may approve a variance upon finding that it meets all of the following criteria.

1. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.
2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.
3. The proposal's benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.
4. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.

B. In granting a variance, the approval authority may impose conditions similar to those provided for conditional uses to protect the best interests of the surrounding property and property owners, the neighborhood, or the City as a whole.

The applicant has submitted a comprehensive set of findings to the Planning Department to respond to the above criteria and demonstrate compliance with the applicable approval standards above and by this reference they are incorporated as if set out in full.

VI. Conclusions and Recommendations

In staff's assessment, the proposal satisfies the criteria for approval of a land partition, and the remaining question is whether the applicant has met the burden of proof to support approval of a variance.

In responding to the variance criteria, the applicant provides the following points:

- While the opponents argue the driveway now serves nine lots, the applicant disagrees and asserts that if lots with legal access to a public street are excluded per previous precedent, at least four of the nine lots identified by the opponents must be excluded. The applicant suggests the existing driveway serves five lots and with the partition would add a sixth.
- The existing driveway predates the adoption of the performance standards option and is a preexisting nonconforming situation. There are few public streets on the west side of Granite Street due to existing lot configurations, existing structures and development patterns, and the existing topography and development prevent

the creation of a public street, and the existing homes served are served by an interconnected private drive network.

- The variance is necessary because the existing topography does not allow for the creation of a public street to serve the subject property, and due to the unusual lot shape, existing development, topography, etc., a variance to the number of lots accessed via the driveway is necessary.
- The applicant proposes a flag lot to take access off the initial 100-feet of the driveway, which is the minimum necessary to divide this lot, and asserts that this does not make the driveway more nonconforming given that the applicant would be permitted under ORS 197.758 to construct an additional residential unit (i.e. a duplex) on the property.
- The variance is the minimum necessary to address the unique physical circumstances of the subject property.
- The benefit of the subject application will outweigh any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City in that it will reduce fire risk, create additional needed housing consistent with the zone, and increase the City's tax base.
- The need for the variance is not self-imposed and the Applicant is not creating any impacts that would not already exist under the permitted use to which she can put her property. The nonconformity predates the applicant's ownership of her property and is the result of steep slopes, topography and existing development in the area. Moreover, the impact of the variance is minimal given that the Applicant could construct a duplex on her property which would take access off the driveway, without approval of a variance.

Staff recommends that the Planning Commission consider the evidence in the record and should they find that the applicant has met their burden of proof with regard to the variance request and approve the application, then staff recommends that the following conditions of approval be attached:

1. That all proposals of the applicant shall be conditions of approval unless otherwise specifically modified herein.
2. That the tract of land shall be surveyed and the final survey plat shall be submitted to the city for review and signature within 18 months of the final decision date of the preliminary partition plat.
3. That prior to submitting a final plat for review and signature, the applicant shall complete the following:
 - a. All easements for public and private utilities, fire apparatus access, and reciprocal utility, maintenance, and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.
 - b. That a final utility plan for the parcels shall be submitted for review and approval by the Planning, Engineering, and Building Divisions prior to signature of the

final survey plat. The utility plan shall include the location of connections to all public facilities including the locations of water lines and meter sizes, fire hydrants, sanitary sewer lines, storm drain lines and electric services.

- c. That 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 prior to signature of the final survey plat.
 - d. That the property owner shall sign in favor of local improvement districts for the future street improvements, including but not limited to sidewalks, parkrow, curb, gutter and storm drainage, for Granite Street prior to signature of the final survey plat. The agreement shall be signed and recorded concurrently with the final survey plat.
 - e. That calculations shall be submitted demonstrating that a 21-foot high structure can be placed on the new lot with a Standard A Solar Setback that does not exceed 50 percent of the lot's north-south lot dimension, or a solar envelope and written description of its effects demonstrating compliance with Solar Standard A shall be submitted, prior to signature of the final survey plat as required in Chapter 18.4.8 of the Solar Ordinance.
 - f. That a tree inventory and tree preservation and protection plan consistent with the standards described in AMC 18.4.5 shall be submitted for review and approval of the Staff Advisor. The plan shall identify the location and placement of fencing around the drip lines of trees identified for preservation. The tree protection fencing shall be installed according to the approved plan prior to any site work. No construction shall occur within the tree protection zone including dumping or storage of materials such as building supplies, soil, waste, equipment, or parked vehicles. The amount of fill and grading within the drip lines shall be minimized. Cuts within the drip line shall be noted on the tree protection plan, and shall be executed by handsaw and kept to a minimum. No fill shall be placed around the trunk/crown root.
 - g. That a topographic survey prepared by an Oregon Professional Land Surveyor (PLS) completed in accordance with the standards in AMC 18.3.10 shall be provided to establish that all building envelopes are in areas considered to be buildable (i.e. with slopes less than 35 percent).
 - h. That any future development in slopes of greater than 25 percent will be required to receive a Physical and Environmental Constraints permit.
4. That prior to the signature of the final survey plat:
- a. Electric services shall be installed underground to serve the new parcel prior to signature of the final survey plat.
 - b. Sanitary sewer laterals and water services including connection with meters at the street shall be installed for the new parcel prior to the signature of final survey plat.
 - c. The portion of the flag drive serving the new parcel shall be paved to a minimum

width of 15 feet within a 20-foot clear width to a vertical clearance of 13-feet, 6-inches and be able to withstand 44,000 lbs. prior to the signature of the final plat. This portion of the flag drive shall be constructed so as to prevent surface drainage from flowing over the private property lines and/or public way.

5. That a 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.
6. That new addresses shall be assigned by City of Ashland Engineering Department.
7. 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.
8. 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. Fire Department requirements shall be included in any civil drawings.

APPLICANT'S SUBMITTAL

August 23, 2021

**Minor Land Partition
Including Flag Lot**

Subject Property

Property Address: 233 Granite Street
Map & Tax Lot: 39 1E 08 DA; 1300
**Comprehensive
Plan Designation:** Single Family Residential
Zoning: R-1-10
Adjacent Zones: R-1-10
Lot Area: 1.08 Acres (47,044.8 square feet)

Property Owner: Heidi Leverenz
233 Granite Street
Ashland, OR 97520

Surveyor: Hoffbuhr & Associates Inc.
880 Golfview Dr., Suite 201
Medford, OR 97504

Planning Consultant: Rogue Planning & Development Services
Amy Gunter
1314-B Center Dr., PMB#457
Medford, OR 97501

Request:

A request for a Minor Land Partition to create a new, residential flag-lot for the property located at 233 Granite Street. Request includes a variance to the number of lots accessed from the private driveway and an exception to street standards to not install sidewalks to current standards where there are existing curbside sidewalk improvements.

Property Description:

The subject property is on the west side of Granite Street. The property and the adjacent properties to the north and south are zoned R-1-10. The adjacent properties uphill to the west are zone RR-.5. The property to the east is Lithia Park.

The lot is L shaped. There is 101.01 feet of frontage on Granite Street. The lot extends 185.05-feet to the west and then 90.98 feet to the south. There is a slight, 27.23-foot jog to the west, the property continues 235.36 feet to the south, 125-feet to the east, 225.36 feet north and 108.30 feet back to the point of beginning on Granite Street.

The property has a number of various access and utility easements. The existing driveway serves six other properties.

The lot is occupied by 3,625.12 square foot, two-story residence. To the rear of the residence is an attached garage. A detached 216 square foot garden shed that is to the rear of the residence, and a carport structure further uphill to the rear of the residence.

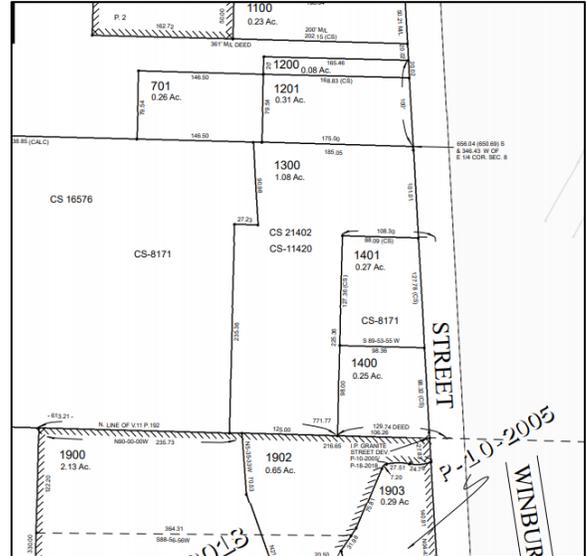
The property has varying degrees of slope. Where the existing residence and the building envelope for the new lot area located is less steep (between 5 – 15 percent). The south portion of the proposed lot has greater slopes. The property owner has planted vegetation and created retaining walls on this portion of the property that increases the slopes in the cuts and created a flat pad area for RV and guest parking.

There are eight (8) trees that are greater than six (6) inches in diameter at breast height. The trees include two 24-inch DBH Oak trees and six Cedar trees that are between 8 – 18-inch DBH.

The subject property and the adjacent properties are accessed via a 20-foot wide paved driveway. There are 24-feet of easements that bisect the lot and provide access and utilities to the properties to the west.

Granite Street is paved with curb and gutter. There is a five-foot wide curbside sidewalk along the frontage of the property.

City facilities are available within the Granite Street right-of-way, and within the easement to service the property and the proposed lot.



Proposal:

The request is to divide the property into two parcels.

Proposed Parcel #1 would retain the existing residence, the yard area and the existing outbuildings.

Parcel #1 is proposed to have 80.5-feet of frontage on Granite Street and is proposed to be 185.05 feet deep. The resulting lot area of 14,931 square feet complies with the minimum lot area in the zone. The existing residence complies with minimum setbacks and lot coverages.

Proposed Parcel #2 would be a flag lot. The flagpole connection to the street is proposed to be 20-feet as predicated by the existing easements. The lot area, 32,147 square feet including the flagpole substantially exceeds the minimum lot area in the zone. The partition results in an additional lot taking access from the private driveway and thus a variance to the number of lots accessing the private driveway is necessary.

Though there are trees within and nearby the buildable area, no trees are proposed for removal. Similarly, due to the lack of proposed site development, a tree protection / preservation plan has not been created as there is not a plan for development.

Due to the Wildfire Overlay standards, the future property owner may elect to relocate the building envelopes or remove/preserve trees.

Findings addressing the relevant criteria from the Ashland Municipal Code are provided herein. For clarity, the criteria is in Times New Roman font and the applicant's findings in Calibri font.

Findings addressing the Ashland Municipal Code

18.5.3.050 Preliminary Partition Plat Criteria

A. The future use for urban purposes of the remainder of the tract will not be impeded.

Finding:

The future use of the remainder of the tract as residential use will not be impeded by the proposal. The proposal is to create an urbanizable lot out of a greatly oversized single family residential property. The proposed flag lot, Parcel #2 has topographical constraints due to steep slopes including areas of 35 percent that prevent development of much of the southern portion of the proposed flag lot. Two buildable areas are shown on the site plan map. These envelopes avoid the areas of 35 percent or greater. To the south, there is a steep slope and another more level area that if a future property owner sought to modify the building envelope and go through a Physical and Environmental Constraints Review for Hillside Development.

B. The development of the remainder of any adjoining land or access thereto will not be impeded.

Finding:

The development of the remainder of any adjoining land or access to adjacent residential lands will not be impeded by the proposal.

The private driveway that provides access to and through the subject property to the adjacent parcels above is not impeded with the proposal.

The building envelope for the new flag lot is directly adjacent to the easement area and will not impact the driveway access.

C. The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.

Finding:

There are no City adopted neighborhood or district plans. To the applicant's knowledge, there are not previous approvals for the subject properties that would prevent the proposed partition.

D. The tract of land has not been partitioned for 12 months.

Finding:

The tract of land has not been partitioned for the past 12 months.

E. Proposed lots conform to the requirements of the underlying zone, per part 18.2, any applicable overlay zone requirements, per part 18.3, and any applicable development standards, per part 18.4 (e.g., parking and access, tree preservation, solar access and orientation).

Finding:

The proposed parcels conform to the requirements of R-1-10 zone. Both parcels will have more than 10,000 square feet of area.

Parcel #1 is proposed to be 14,931 square feet with a width of more than 80 and a depth of more than 180 which exceeds the minimum lot and width dimensions. The parcel is developed and no changes to the property, access, tree preservation, orientation, or solar access are modified with the proposal. The allowed coverage for Parcel #1 is 5,972.4 square feet in area. There is 2,590 square feet of building footprint, there is 2,575 square feet of asphalt areas. The total site coverage is 5,165 square feet. The coverage on the proposed lot complies with the standards.

Parcel #2 is proposed with 32,147 square foot in area including the flagpole area. The lot area is substantially more than the minimum required 10,000 square feet in the zone. Parcel #2 is connected to Granite Street via the 20-foot-wide flagpole connection.

Two required parking spaces are provided in the garage accessed via the shared flag driveway. The new lot when developed with provide for three off-street parking spaces as required with the development area of the flag lot. There are two building envelopes identified. One of those could be parking and yard area, one could be for structure area.

The proposed flag lot is more than 90-feet deep. The lot has a -10.9 percent slope to the north and requires a minimum N/S dimension of 89.29-feet. The lot complies.

A building envelope demonstrating the buildable area that complies with setbacks for the zone and is not encroaching into the areas of 35 percent slopes.

The intention of the property owner is to partition the property, sell the lot and to not remove trees. The trees would be removed by the future developer of the partitioned lot.

F. Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design. See also, 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria.

Finding:

The exiting driveway accessing the site is a varying width of 15 – 18-feet of pavement within a 24-foot-wide easement. The existing driveway is considered a private drive as it serves six lots. The access width and paved surface widths conform to the standards. The number of lots accessed via the driveway exceeds the standards and a variance to the standards is necessary to have another lot accessed by the driveway.

The flag driveway is more than 50-feet in length and is paved. The existing driveway grade exceeds 15 percent, there are no changes to the grade. The surface has already been installed in a manner that does not allow for the surface waters to drain across any public right-of-way or adjacent properties.

The future residential development on Parcel #2 will provide adequate parking for the future single-family residence, a third parking space for the flag lot and a useable yard area.

G. The proposed streets, utilities, and surface water drainage facilities conform to the street design standards and other requirements in part 18.4, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.

Applicant's Finding:

The water and sanitary sewer service will be provided from Granite Street or the public easements within the flag driveway. A water meter will be installed at the intersection of the driveway and Granite Street near the existing water meter and the sanitary sewer line will connect to the line within the driveway.

Electric service will be from the existing electric vault on the north side of the existing driveway to the west of the existing residence at 233 Granite Street.

Granite Street is improved with curb, gutter and sidewalk. The existing street development pattern of Granite Street includes curbside sidewalk and is considered non-conforming. There are no proposed street improvements, and the sidewalk continues past the subject property and remains non-conforming beyond the residence. There are street trees behind the sidewalk and not changes are proposed due to the existing public improvements.

H. Unpaved Streets.

1. Minimum Street Improvement. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan, such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.

Applicant's Finding:

Not Applicable

2. Unpaved Streets. The Public Works Director may allow an unpaved street for access for a land partition when all of the following conditions exist.

Applicant's Finding:

Not applicable

I. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.

Applicant's Finding:

No alley exists adjacent to the partition.

J. Required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development.

Applicant's Finding:

No state or federal permits are required.

K. A partition plat containing one or more flag lots shall additionally meet the criteria in section 18.5.3.060.

Applicant's Finding:

See additional findings addressing the partition plat criteria for a flag lot below.

18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

The approval authority shall approve a preliminary plat application for a flag lot partition only where all of the following criteria are met.

A. The criteria of section 18.5.3.050 are met.

Applicant's Finding:

The applicant finds that the criteria of section 18.5.3.050 are met or can be met through the imposition of conditions.

B. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.

Applicant's Finding:

The lot area for proposed Parcel #1 is 14,931 square feet which complies with the minimum lot area in the zone. The existing residence complies with minimum setbacks and lot coverages.

Proposed Parcel #2 would be a flag lot. The flagpole connection to the street is proposed to be 20-feet as predicated by the existing easements. The larger lot area is 32,147 square feet in area, including the flag pole, excluding the flag pole area there is substantially more than 10,000 square foot lot area.

C. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots.

Applicant's Finding:

The flag driveway is proposed to be owned by Parcel #2, one of the lots served by the driveway. Parcel #1 will have an ingress, egress access easement and a mutual maintenance agreement provided to allow for a future garage for Parcel #1 to be constructed that takes access from the flag driveway. As noted, there are more than two lots served by the same flag driveway.

D. Except as provided in subsection 18.5.3.060.H, below, the flag drive serving a single flag lot shall have a minimum width of 15 feet and contain a 12-foot-wide paved driving surface. For drives serving two flag lots, the flag drive shall be 20 feet wide, with a 15-foot-wide driving surface to the back of the first lot, and a 12-foot-wide driving surface to the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15-foot paved driving surface. Width shall be increased on turns where necessary to ensure fire apparatus remain on a paved surface during travel.

Applicant's Finding:

The existing driveway has more than a 15-foot paved driving surface. There is a 24-foot wide access and utility easement present where the driveway currently extends from Granite Street to the parcels to the west.

There are six other parcels served by the flag driveway.

E. Curb cuts have been minimized, where possible, through the use of common driveways. No more than two flag lots are served by the flag drive.

Applicant's Finding:

The existing curbcut will be retained and no changes are proposed.

F. Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent for not more than 200 feet. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5 Variances.

Applicant's Finding:

The flag driveway exists at just over 15 percent. The location, surface material and the grade of the driveway are not changing with this proposal.

G. Flag drives shall be constructed to prevent surface drainage from flowing over sidewalks or other public ways.

Applicant's Finding:

The driveway exists and has surface drainage provided with catch basins at the base of the driveway. No changes are proposed to the construction of the flag driveway.

H. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:

1. Vehicle access shall be from the alley only where required as a condition of approval.
2. No screening and paving requirements shall be required for the flagpole.
3. A four foot pedestrian path shall be installed within the flagpole and improved and maintained with either a concrete, asphalt, brick, or paver block surface connecting the street to the buildable area of the flag lot.

Applicant's Finding:

The flag lot is not adjacent to an alley.

4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flag lot clearly visible from the street on a four-inch by four-inch post that is 3½ feet high. The post shall be painted white with black numbers three inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two foot by three-foot white sign clearly visible from the street with three-inch black numbers.

Applicant's Finding:

The proposed flag pole is 20-feet in width with and existing 15-feet of paved width. The flag lot will be addressed in accordance with the standards of the Oregon Residential Structural Code. The flag lot also has a 24-foot access and utility easement that the 20-foot flag lot connection to Granite Street encompasses.

I. Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof.

Applicant's Finding:

The flag drive is deemed a Fire Apparatus Access road.

J. When required by the Oregon Fire Code, flag drives greater than 150 feet in length shall provide a turnaround (see Figure 18.4.6.040.G.5). The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of 250 feet in length as allowed by Oregon Fire Code access exemptions.

Applicant's Finding:

The flag driveway to the proposed Parcel #2 is greater than 100-feet in length. A turnaround is not proposed, utilizing other alternatives such as fire sprinklers would be a preferred alternative. The Fire Code Requirements are determined at the building permit stage.

K. Each flag lot has at least three parking spaces situated to eliminate the necessity for vehicles backing out.

Applicant's Finding:

Adequate area has been provided for the flag lot to have three parking spaces situated in a manner that eliminates the necessity for vehicles to back out. Compliance with this standard will be addressed with the building permit submittals.

L. There shall be no parking within ten feet of the centerline of the drive on either side of the flag drive entrance.

Applicant's Finding

No on-street parking will be within ten feet of the centerline of the drive on either side of the flag driveway entrance. If required, the curb will be painted yellow.

M. Flag drives serving structures greater than 24 feet in height, as defined in part 18.6, shall provide a fire work area of 20 feet by 40 feet clear of vertical obstructions and within 50 feet of the structure. The fire work area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

Applicant's Finding:

When the new structure for the flag lot is proposed, demonstration of compliance with the requirements of the Building and Fire Officials will be addressed.

N. Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.

Applicant's Finding:

The flag drive is not proposed to have site-obscuring fence or hedges installed. This driveway has been serving homes beyond the proposed flag driveway for many decades and no changes to the surface, location, materials, grade of the driveway or screening is proposed. This code has been present for many years and applies to all driveways greater than 50-feet in length. Screening has never been required for this driveway and changes to it are not anticipated with this partition.

O. The applicant has executed and filed with the Community Development Department an agreement between applicant and the City for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Public Works Director and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening pursuant to this section, and assurance ongoing maintenance.

Applicant's Finding:

An agreement to not install the screening of the flag driveway will be executed. The applicant is not proposing to develop the flag lot parcel at this time. The driveway is paved and no changes are proposed.

P. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.

Applicant's Finding:

The are no house plans for the proposed flag lot. There is substantially more than a 20 X 20 area for outdoor space that is "useable". There is ample lot area with more than 30,000 SF of area where a new residence can demonstrate the yard area is provided with the building permit submittals.

A tree protection and preservation plan are not provided at this juncture. This is due to the limited site work necessary to stub utilities for the new parcel. The utilities, water, sewer, electric and storm drainage all will be stubbed from the existing utility lines in the driveway easement to the edge of the driveway and will not encroach into the critical root zone of the trees on the property.

The building envelope identifies two level pads between a treed slope that was created by the property owner. This area may require a Physical & Environmental Constraints review and a tree removal permit due to the DBH of the trees and both those permits are better suited to be dealt with at time of development.

EXCEPTION TO STREET STANDARDS

18.4.6.020.B.1.

Applicant's Finding:

The proposal does not include improvements to Granite Street thus an exception to Street Standards is required. Granite Street has a right-of-way width of 36-feet, is paved 30.6 feet and has an approximately 4.5-foot wide curbside sidewalk

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.

Applicant's Finding:

The code allows for the granting of exceptions when physical conditions exist that preclude development of a public street, or components of the street. Such conditions may include, topography, mature trees, and limited right-of-way. All of these conditions are present along the frontage.

Granite Street is designated as an Neighborhood Collector along the frontage of the property. There are 4.5 to 5 -foot wide, curb tight sidewalks along the frontage of the property and the properties to the south. There is a retaining wall and stairs leading from the public sidewalk on the subject property and the adjacent property to the south. There is a narrow parkrow with utilities, and a 4.5 to 5-foot sidewalk along the property to the north's frontage. Along the south property line of the adjacent property, there is a retaining wall perpendicular to the right of way, and a below grade, historic garage structure on the adjacent property abutting the shared property line. The existing development pattern of the site and the properties adjacent prevent the removal of the existing sidewalk and replacement with a six-to-eight-foot landscape park row and a five to six foot sidewalk.

b. The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.

Applicant's Finding:

The requested exception results in equal transportation facilities as no changes are planned.

c. The exception is the minimum necessary to alleviate the difficulty.

Applicant's Finding:

The exception is the minimum necessary as it maintains existing improvements and makes no alterations. The topography, established vegetation, presence of retaining walls and walkways on the subject property and even greater barriers to development of a compliant sidewalk system exist on the adjacent properties.

d. The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.

Applicant's Finding:

The Purpose and Intent of the Street Standards section speaks to connectivity and design focus on a safe environment for all users, design streets as public spaces, and enhance the livability of neighborhoods, consistent with the Comprehensive Plan. The existing sidewalk system on Granite Street is part of a larger historic street system that includes curb and no sidewalk on the east side of Granite due to the presence of Lithia Park. The narrow paved width and curbside sidewalk are due to the lack of right-of-way and presence of barriers to street standards compliance such as topography, trees, and

utilities. The retention of the existing sidewalk improvements will not negatively impact the vehicular, bicycle and pedestrian experience.

18.5.7.040.B.2 – Tree Removal Criteria:

Applicant's Finding:

No trees are proposed for removal to accomplish the partition request. There are two areas of identified building envelopes. Within those building envelopes there are some trees that will require removal. Due to the size of the trees, a tree removal permit will be necessary at the time of residential development. Since it is unclear which of the envelopes would be chosen to build and how large of a structure within the envelope, it is more appropriate for tree removal to occur concurrent with the development of the vacant lot.

18.5.050. – Variance Approval Criteria

A variance is required because there are more than two lots served by the proposed flag driveway. There are more than three lots served presently by the private driveway. Ashland's code requires that driveways of any kind that serve more than three lots to be dedicated as a public street. Due to the unique circumstances, unusual lot shape and adjacent property development, a variance to the number of lots accessed via a private driveway/flag lot is necessary.

A. The approval authority through a Type I or Type II procedure, as applicable, may approve a variance upon finding that it meets all of the following criteria.

1. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.

Applicant's Finding:

The variance to AMC 18.4.6.040.G.5. Private Drive is necessary because a private driveway is limited to serving three lots. According to the code, private driveway is limited to development approved using the Performance Standards Option pursuant to chapter 18.3.9. yet this private driveway predates the adoption of the Performance Standards Option. The proposal is for a flag lot partition and is not subject to the Performance Standards Option.

The proposal is for a flag lot and the existing private driveway will provide access to the proposed flag lot and continue to provide access to the adjacent parcels further to the west as required in AMC 18.5.3.060.

The proposed variance to the number of lots accessed from the flag driveway / private drive is necessitated due to the number of lots previously allowed access from the private driveway exceeded three. This is due to the steep topography on the west side of Granite Street and that access to the lots that are not connected to Granite Street is provided on shared, private driveways to limit disturbance of the hillside.

The adjacent developments were granted vehicular access and easement by previous property owners without consideration that Ashland has very limited driveway regulations. Once more than three lots are taking access from driveways, a public street is required. There are few public streets on the west side of Granite Street because lot configurations, existing structures and lot development patterns, and the steep topography prevent the creation of public streets and requires variance to the number of lots.

Ashland Municipal Code offers the following definition of the driveway from AMC 18.6.1.030. Driveway. The area that provides vehicular access to a site from a street or the area that provides vehicular circulation on a site.

- Drive, Flag: A driveway that serves a single lot or parcel and is greater than 50 feet in length, or provides vehicular access to a flag lot(s). See also, section 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria.

- Driveway, Shared: A driveway used to access two or more lots or parcels.

A Private Driveway is not defined but it exists in the Public Facilities Chapter. A private driveway is also not cross referenced as a driveway type or code sections to address in the partition chapter. To make the most sense of the variance, the number of lots accessed via a flag driveway is found in AMC 18.5.3.060.C. where flag driveway shall be in the same ownership as the flag lots served. Where two or more lots served by the flag driveway, easement for access shall be granted. This criteria is met and addressed in the previous pages and on the land survey.

A public street cannot be dedicated to alleviate the number of lots accessed from the driveway. There is inadequate width to dedicate right-of-way and the topography of the existing driveway would likely exceed public street standards. Additionally, adjacent properties would no longer comply with setbacks from a new street.

2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.

Applicant's Finding:

The requested variance to allow the partition of the parcel that currently provides vehicular access to six parcels not associated with the subject property at 233 Granite Street. In numerous locations on Granite Street there is a single driveway serving more than three parcels of record as the steep slopes on the west side of Granite Street, the existing development patterns, the limited accesses have

consolidated driveways and due to the same reasons for the consolidated accesses, e.g., the steep slopes on the west side of Granite Street, limited access and existing development patterns prevent the dedication of a public street to eliminate the variance request.

3. The proposal's benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.

Applicant's Finding:

The proposal allows for the existing street and driveway access and development pattern to remain unchanged. The proposal allows for the creation of two, oversized parcels in the R-1-10 zone. Other than construction impacts, there will be no greater negative impacts to the adjacent properties as their legal access will not be impeded. The intent of the zoning district is 10,000 square foot parcels for residential development. This partition and resulting variance allows the property to develop as envisioned in the Comprehensive Plan of the city. The proposed partition retains the accessibility of the critical infrastructure which benefits the adjacent properties.

4. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.

Applicant's Finding:

The applicant finds that the requested variance allow more than three lots to take access from the proposed flag driveway is a result of six lots, five of which do not have street access already utilizing the driveway. The original development of the residence at 233 Granite Street and the lots to the west that utilize the driveway were all existing prior to this request.

Other previous land division application that created one of the parcels above, the code restricting number of lots accessed via a private drive was adopted and it is noted that further division of the oversized parcels would necessitate future variances to the number of lot taking access from the private driveway.

It can be found that the property owner/applicant did not previously obtain variance and the applicant did not create partitions that trigger previous variances or this variance.

Attachments:

Tentative Partition Map

Building envelope site plan map

**TENTATIVE
PARTITION PLAT**
 LOCATED IN:
**THE NORTHEAST QUARTER OF
THE SOUTHEAST QUARTER OF SECTION 8,
TOWNSHIP 39 SOUTH, RANGE 1 EAST,
WILLAMETTE MERIDIAN**
CITY OF ASHLAND, JACKSON COUNTY, OREGON
 FOR
**HEIDI LEVERENZ
233 GRANITE STREET
ASHLAND, OREGON 97520**

LEGEND:

- CB CATCH BASIN
- C/L CENTERLINE
- FH FIRE HYDRANT
- JP JOINT POLE
- O.R. OFFICIAL RECORDS, JACKSON COUNTY, OREGON
- S.F. SQUARE FEET
- SP STEEL PLATE
- SDMH STORM DRAIN MANHOLE
- SSMH SANITARY SEWER MANHOLE
- S/N SURVEY NUMBER, JACKSON COUNTY SURVEYOR'S OFFICE
- TPED TELECOMMUNICATION PEDESTAL
- UGW UNDERGROUND WATER
- WV WATER VALVE

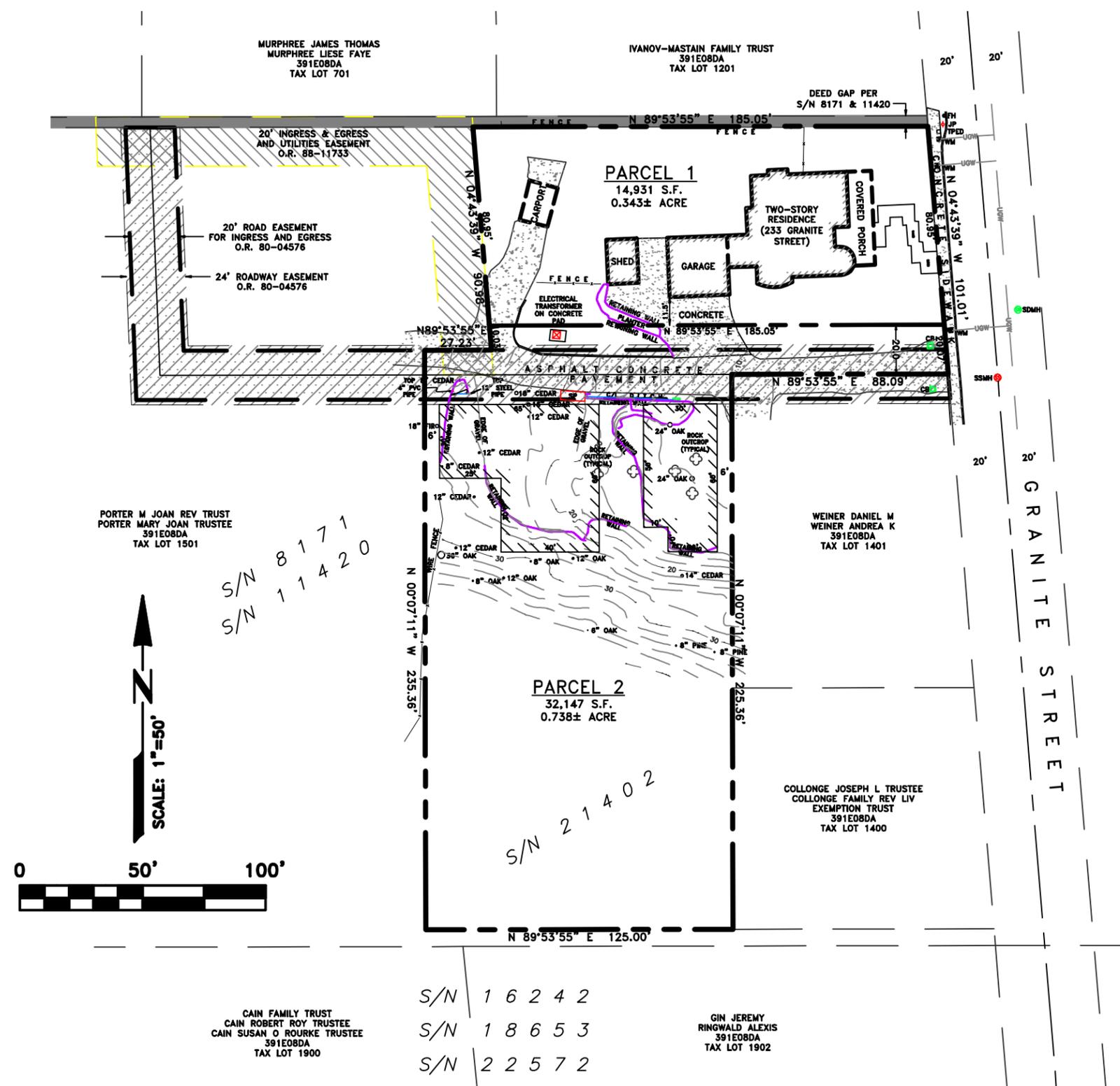
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OREGON
 FEBRUARY 4, 1983
 DARRELL L. HUCK
 2023

Expires 6/30/2023

 HOFFBUHR & ASSOCIATES, INC. <small>(SURVEYORS/PLANNERS)</small> 880 GOLF VIEW DR., SUITE 201 MEDFORD, OR 97504 (541) 779-4641 FAX (541) 770-2573	BY: DARRELL L. HUCK	LS 2023
	PROJECT:	LEVERENZ
	PROJECT NO.:	21-006
	DRAWING FILE NO.:	21006PT TENT.DWG
	SCALE: 1"= 50'	AUGUST 17, 2021
	REVISION NO.:	
	REVISION DATE:	
	SHEET 1 OF 1	
	BASIS OF BEARING:	SURVEY NO. 8171
	ELEVATION DATUM:	ASSUMED
DRAWN BY:	TWO D	
REVIEWED BY:	DLH	



PUBLIC TESTIMONY

JARVIS,
DREYER,
GLATTE,
LARSEN &
BUNICK, LLP

ATTORNEYS AT LAW



MEDFORD OFFICE

823 Alder Creek Drive
Medford, OR 97504-8900
541-772-1977
Fax 541-772-3443

ASHLAND OFFICE

320 East Main Street
Suite 209
Ashland, OR 97520-6801
541-482-8491
Fax 541-772-3443

office@medfordlaw.net
www.medfordlaw.net



Partners

Darrel R. Jarvis
Sydnee B. Dreyer
Erik J. Glatte*
Erik C. Larsen
Jacquelyn Bunick

Associates

Riley J. MacGraw

**Also admitted in Idaho*

Writer's Direct E-mail:
sbd@medfordlaw.net

Writer's Assistant
Whitney Threats

November 23, 2021

VIA EMAIL ONLY

City of Ashland Planning Commission
c/o Aaron Anderson aaron.anderson@ashland.or.us
Ashland Planning Division planning@ashland.or.us
51 Winburn Way
Ashland, OR 97520

RE: SUPPLEMENTAL FINDINGS
City of Ashland Planning Action #PA2021-00154
Applicant's Property 233 Granite Street
Applicant: Heidi Leverenz

Dear Commissioners:

Our office represents the Applicant Heidi Leverenz ("Applicant") in the foregoing Planning Action. The Applicant seeks a minor land partition to create a new residential flag lot for the property located at 231/233 Granite Street, including a request for a Type II variance to the number of lots served by the private drive, and an exception to street standards to not install sidewalks where there are existing sidewalk improvements. These supplemental findings address the requested variance to the number of lots served by the private driveway.

Background:

The subject property is currently served by a preexisting private drive upon which the new flag lot is proposed to take access. The private drive currently serves more than 3 residential lots (discussed in greater detail below). AMC 18.4.6.040.G.5. limits private drives to 3 or fewer lots. As the proposed drive currently exceeds that number, the Applicant seeks a variance to allow an additional lot to be served by the private drive. If the partition and variance are approved, the new flag lot's access would be provided within the first 100-feet of this drive.

Planning staff has received written objections from two neighbors to the proposed partition. The focus of those objections seems to be related primarily to the variance; in particular opponents argue that the driveway already serves 9 lots, and should not be permitted to serve an additional lot. Applicant contends this property is subject to unique circumstances and approval of the variance is consistent with code requirements and allows for additional needed housing in the City.

Criteria:

The Applicant seeks a variance under AMC 18.5.050.A. to allow a private drive to serve an additional residential lot, in excess of three lots. To approve a variance, the Planning Commission must find that it meets all the following criteria:

1. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.

The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site. In particular, the driveway predates the adoption of the performance standards option and is a preexisting nonconforming use. There are few public streets on the west side of Granite Street due to existing lot configurations, existing structures and development patterns, and the existing topography and development prevents the creation of additional public streets.

AMC 18.4.6.040.G.5 defines a private drive as follows: “A private drive is a road in private ownership, not dedicated to the public that serves three or less lots.” As a starting point, the City must first determine what it means to “serve” lots as this term is ambiguous. The word “serve” is not defined in the City’s code. In a previous appeal before the City, the City Council interpreted the word “serve” as follows:

Council interprets Section 18.88.050.A to mean that a unit is “served by” a private drive only when the unit has not “legal access” to a City street. Legal access is interpreted to include a unit that fronts a City street, thereby giving the unit the right to access property from a City street. Units that have functional access from a private drive, but also have legal access to a City street shall not be considered “served” by a private drive.
Findings of Fact and Conclusions of Law, Planning Action 2004-105, pp. 19-20 (2005).

Opponents argue that this driveway is already serving 9 lots; the Applicant disagrees. In Mr. Hearn’s letter to the Planning Staff dated October 4, 2021, he indicates the shared driveway already “serves as access for the following lots”:

Tax Lot 1801 – Ownership Prince – undeveloped
Tax Lot 1501 – Porter – residence
Tax Lot 1501 Porter – ARU
Tax Lot 701 – Murphee – residence

Tax Lot 1300-Applicant's property – residence
Tax Lot 1600 – Appel – residence
Tax Lot 901 – Eisenberg – undeveloped
Tax Lot 702 – Eisenberg – residence
Tax Lot 700 – Wyatt - residence

Utilizing the Council's interpretation of what it means for lots to be "served by" a private drive, at least 4 of these lots must be excluded from the foregoing calculation. Specifically, the Applicant's property fronts Granite Street, and therefore while having functional use of the access easement, it is not "served by" the easement as defined by Council. Tax Lots 702 and 901, both owned by Eisenberg, have a flag pole driveway to Granite Street and therefore are not served by the private drive (See attached map at Exhibit "A"). A fourth lot, Tax Lot 700 also appears to have legal access to Strawberry Lane. As such of the nine (9) lots alleged to be "served by" the private drive, legally only five (5) can be found to be served by the private drive. If the Applicant's variance is approved, then there would be 6 lots served by the private drive, which has been allowed in other applications in the City.

***Applicant's Findings:** The variance is necessary because the existing topography does not allow for the creation of a public street to serve the subject property, and due to the unusual lot shape, existing development, topography, etc., a variance to the number of lots accessed via the driveway is necessary.*

2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.

As discussed above, in order to make use of this oversized residential lot, the Applicant proposes a flag lot to take access off the initial 100-feet of the driveway which is the minimum necessary to divide this lot. Opponents argue that the City should not approve a proposed partition which makes the existing driveway more nonconforming. The partition does not make the driveway more nonconforming given that the Applicant would be permitted under ORS 197.758 to construct an additional residential unit (a duplex) on the property. In fact, the duplex could be located on the portion of the lot that is proposed to contain parcel 2, as the AMC allows duplex units to be "in any configuration including either attached or detached units." AMC 18.6.1.030. In other words, the proposed partition does not make this existing drive more nonconforming, as under current standards, the Applicant can construct a duplex whose access would be from this same private drive.¹ As such, it is difficult to find that practically speaking the variance will

¹ In fact, pursuant to SB 458, as of June 30, 2022, the City will be required to approve a tentative plan for a middle housing land division and will be prohibited from imposing code requirements

make the lot more nonconforming compared to the use already permitted for the lot.

Upon creation of the flag lot, the new parcel will take access within the first 100-feet of the driveway and will allow one additional lot access to the private drive which is the minimum necessary to address the physical and unique circumstances of the site.

***Applicant's Findings:** The variance is the minimum necessary to address the unique physical circumstances of the subject property.*

3. The proposal's benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.

The proposed variance will be a benefit to the City and those benefits will exceed any negative impacts on the development of the adjacent uses and furthers the purpose and intent of this Ordinance. Even before the Alameda fire, the City was in a housing crisis. The proposed partition and variance will create two oversized parcels in the R-1-10- zone which is consistent with the Comprehensive Plan for the City. The Applicant's proposed partition allows development of an existing parcel in the City's Buildable Lands Inventory, consistent with established zoning.

Further, the proposed variance will have little impact on neighboring uses other than temporary construction, particularly given that a duplex could be constructed which would also take access from this drive. And, development of the second parcel actually reduces fire risk, by removing overgrown vegetation, and creating additional fire-safe development in this area. Use of the private driveway also reduces the impacts that development of the site would have if a public road were constructed which would result in wider right-of-way, and impacts to required yard setbacks for neighboring properties. Lastly, the city will benefit from the increased tax base with the creation of a separate parcel.

***Applicant's Findings:** The benefit of the subject application will outweigh any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City in that it will reduce fire risk, create additional needed housing consistent with the zone, and increase the City's tax base.*

that would require driveways, vehicle access, parking or minimum or maximum street frontage. At that time, the Applicant could proceed with this development without having to address the driveway limitations.

4. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.

As noted above, the Applicant did not create the nonconformity, she simply seeks to develop her land consistent with the Comprehensive Plan. The nonconformity predates the Applicant's ownership of her property and is the result of steep slopes, topography and existing development in the area. Moreover, the impact of the variance is minimal given that the Applicant could construct a duplex on her property which would take access off the driveway, without approval of a variance.

Applicants Findings: The need for the variance is not self-imposed and the Applicant is not creating any impacts that would not already exist under the permitted use to which she can put her property.

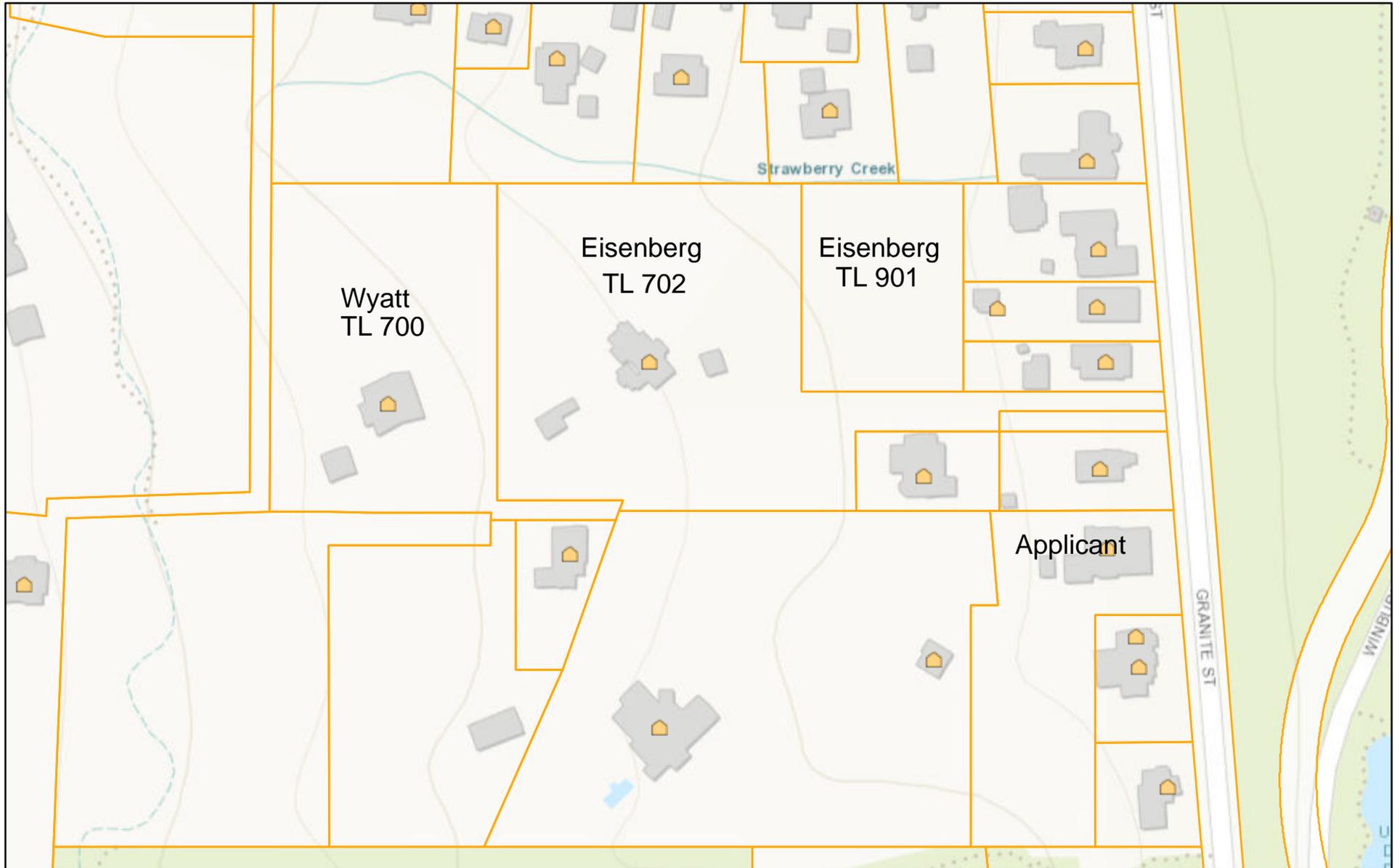
CONCLUSION: In conclusion, the Planning Commission can find that the criterion for a variance have been met.

Sincerely,

JARVIS, DREYER, GLATTE, LARSEN &
BUNICK, LLP

s/ Sydnee B. Dreyer
Sydnee B. Dreyer

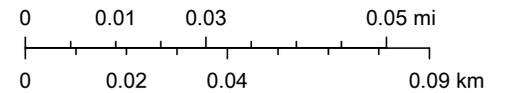
SBD/wnt
Attachments



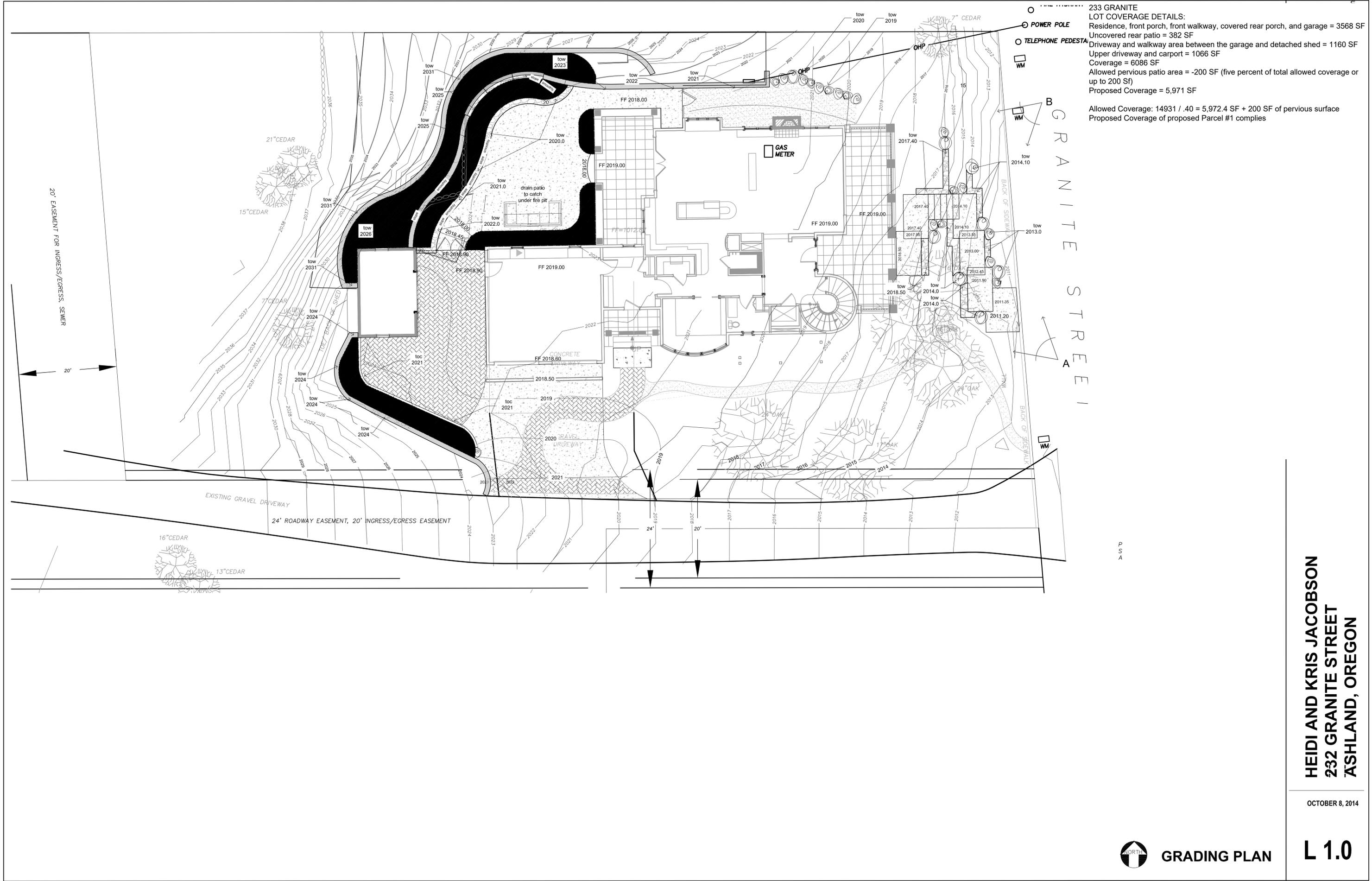
11/23/2021, 3:58:28 PM

- Tax Lots
- Townships
- Site Address Point
- Sections

1:2,257



County of Jackson, OR, Bureau of Land Management, State of Oregon, State



233 GRANITE
 LOT COVERAGE DETAILS:
 Residence, front porch, front walkway, covered rear porch, and garage = 3568 SF
 Uncovered rear patio = 382 SF
 Driveway and walkway area between the garage and detached shed = 1160 SF
 Upper driveway and carport = 1066 SF
 Coverage = 6086 SF
 Allowed pervious patio area = -200 SF (five percent of total allowed coverage or up to 200 Sf)
 Proposed Coverage = 5,971 SF

Allowed Coverage: 14931 / .40 = 5,972.4 SF + 200 SF of pervious surface
 Proposed Coverage of proposed Parcel #1 complies

HEIDI AND KRIS JACOBSON
232 GRANITE STREET
ASHLAND, OREGON

OCTOBER 8, 2014

Aaron Anderson

From: Amy Gunter <amygunter.planning@gmail.com>
Sent: Wednesday, November 24, 2021 10:47 AM
To: Sydnee Dreyer
Cc: Aaron Anderson; planning; Heidi Leverenz; Whitney Threets
Subject: Re: Supplemental Findings - PA2021-00154
Attachments: 233 Granite Lot Coverages.pdf

[EXTERNAL SENDER]

Aaron,
Attached is a summary of the lot coverages for 233(231) Granite post-partition.

I have calculated substantially more coverage area than the building permit for the residence included (there were many years where patios, decks, and gravel were not counted towards coverage, I don't know if that is what happened here).

This site plan does not include the upper driveway and carport which are shown on the survey, but I did include those areas in the summary of the coverages on the site plan. Using this information, there is a slight difference in the findings, but this assures that maximum lot coverage is met.

It does not appear the portion of the driveway that serves the other properties in addition to 233 Granite Street was included in the coverage of the SFR. It accounts for ~2,400 SF. This area is within the area of proposed Parcel #2.

Based on this evidence, the proposed lot coverage for Parcel #1 complies.

Amy Gunter

Rogue Planning & Development Services

541-951-4020

www.rogueplanning.com

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On Tue, Nov 23, 2021 at 4:34 PM Sydnee Dreyer <sbd@medfordlaw.net> wrote:

Aaron,

Attached please find supplemental findings for the Applicant in the foregoing planning action. Thank you.

Sydnee B. Dreyer

Jarvis, Dreyer, Glatte & Larsen, LLP

823 Alder Creek Drive

Medford, OR 97504

Phone: (541) 772-1977 Ext. 124

Fax: (541) 772-3443

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04 October 2021

Letter to the Planning Department of the City of Ashland

Subject:

PLANNING ACTION: PA-T1-2021-00154

SUBJECT PROPERTY: 233 Granite Street

OWNER/APPLICANT: Heidi Leverenz / Rogue Development Services

We request that the requested variances by the applicant be denied. Our main reasons are:

1. The number of lots served by the private driveway is six, which greatly exceeds the maximum allowed of three. Adding a seventh lot, as requested by the applicant, would add to the problems we already have along the private driveway and adjacent parts of Granite Street, with traffic, parking, noise, congestion, and dust.
2. Adding a seventh lot would significantly increase the risks of problems in the event of a need for emergency evacuation from the lots served by the driveway. This is especially true because the proposed new lot would be at the downstream end of the driveway. The lots served by the driveway are in an area at high risk of wildfires and adjacent to an area at high risk of flooding. These increased risks would lead to additional costs for the owners of the existing lots --- for example, increased insurance costs and increased costs to mitigate the increased risks.
3. The sidewalk situation adjacent to the driveway is already problematic for pedestrians, especially children and the elderly and handicapped, and or bicyclists. Adding a seventh lot without improving the sidewalks, as requested by the application, would significantly worsen these problems.
4. The applicant's history in the construction of the existing house at 233 Granite is problematic. The construction plans approved by the city were not followed. For example, the area excavated exceeded what the city had approved; the slopes of the excavated area exceeded what the city had approved; the tree protection required by the plan was not provided; trees were damaged, and trees were removed due to damage. This history raises concerns about the applicant's ability / willingness to conform to city rules, including rules that might be tied to any approval of the requested variances.
5. The applicant's request does not include a plan to develop the requested new lot. But of course development is highly likely to be requested if the new lot is allowed. Such a development would be harmful and costly to the neighborhood and to the city.

Please let us know if you would like to discuss this matter further.

James Thomas and Liese Murphree
Owners of 229 Granite Street, Ashland, OR 97520

Daniel and Andrea Weiner
243 Granite Street
Ashland, OR 97520
October 4, 2021

Dear Planning Committee,

We submit this letter in opposition to the partitioning of tax lot 391E08DA1300 located at 233 Granite Street in Ashland. We submit this opposition as the owners of the property adjacent to 233 Granite Street. We own half the width (12 feet) of the access easement from Granite Street running west for a length of 88.09 feet.

There are multiple factors that have led to our decision to oppose this partitioning that would result in the creation of a new, presumably buildable, tax lot at this location.

This private easement serves an excessive number of houses as well as two existing tax lots that have yet to be built:

223 Granite St (391E08DA702)
229 Granite St (391E08DA701)
233 Granite St (391E08DA1300)
235 Granite St (391E08DA1600)
237 Granite St + existing ADU (391E08DA1501)
241/243 Granite St (391E08DA1401)
234 Strawberry Ln (391E08DA700)
Rebecca Lindgren Lot (391E08DA1800)
Perry Prince Lot (391E08DA1801)

This number of homes creates both noise and traffic concerns as well as a fire and evacuation risk. A letter to the City of Ashland Planning Department from the architect for 233 Granite used this argument in a bid for a solar variance waiver:

"...an established ingress and egress easement serving six other residences above the subject property which impacts the livability of the property due to dust, noise, vibration, etc." (March 21, 2014) The variance was granted.

Adding one more tax lot to this already over-built and overburdened neighborhood would only exacerbate these issues.

2) As too many homes already use the easement daily, the number of vehicles and the speeds at which most of the vehicles use traveling up and down the easement is excessive. Open storm drains exist in numerous locations on both sides of the narrow easement. This is dangerous for pedestrians and bicyclists. Allowing an exception to the sidewalk standards would be ignoring this serious situation. A pedestrian pathway should be mandated.

3) The preservation of mature trees was a major consideration for the granting of a solar variance waiver during the construction of the residence at 233 Granite St. The requirement for constructing a pedestrian path within the flagpole access to the proposed lot as well as the construction of a home on the newly formed lot would require removal of the same trees cited as the reason for the previous variance as well as a number of additional large, established trees.

4) The new tax lot created by the proposed land partition would include a well-defined clearing known locally as “Clary’s Draw”, which some have suggested might be of historical significance. The current deed stipulates that “existing rock walls and boulders” on this site “shall not be removed, disturbed, impaired or damaged”...”in perpetuity”. The only flat building envelope on the proposed new tax lot would need to leverage these features of Clary’s Draw in order to construct a code compliant home. This would be in violation of the deed.

5) The proposed lot, while having some flat land in the area of the Draw, is predominantly composed of steep hillside designated as “extreme” gradient in county documents. We are under the impression that as such, building on that area of the property would not be permitted under current code. This further limits the acceptable building envelope without impacting Clary’s Draw.

6) Partitioning of the existing property at 233 Granite, based on the currently marked “proposed property line”, would markedly reduce the size of the lot for 233 Granite. The modified lot with the current home would exceed 40% hardscape and no longer be deemed a conforming lot.

To summarize, for the reasons stated above:

overused/overburdened private easement,

traffic/safety issues for pedestrians necessitating an improved pathway,

3. removal of trees previously protected under an agreement associated with a solar variance granted for the construction of the residence at 233 Granite,

4. destruction of a deed protected features within the site of Clary’s Draw,

5. predominantly “extreme gradient” building site,

6. formation of a “non-conforming” lot at 233 Granite Street based on excessive impervious surfaces.

We are opposing the request for a land partition of tax lot 391E08DA1300 located at 233 Granite Street.

Thank you for your consideration,

Daniel and Andrea Weiner

JACK DAVIS
CHRISTIAN E. HEARN
EUGENE V. ANDERSON
GARRISON F. TURNER

DAVIS HEARN
ANDERSON & TURNER
ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

SAM B. DAVIS (1923-2017)
SIDNEY E. AINSWORTH (1927-2003)
DONALD M. PINNOCK - Retired
DANIEL L. HARRIS - Retired
DAVID V. GILSTRAP - Retired
SUSAN V. SALADOFF - Retired
JEFFREY K. MCCOLLUM - Retired

Established 1953

515 E. MAIN ST. | ASHLAND, OREGON 97520
PHONE: 541.482.3111 | FAX: 541.488.4455
www.davishearn.com

OCTOBER 4, 2021

TRANSMITTED BY EMAIL

TO: Aaron Anderson (aaron.anderson@ashland.or.us)
City of Ashland Planning Division (planning@ashland.or.us)
51 Winburn Way | Ashland, OR 97520

FROM: Chris Hearn (chearn@davishearn.com)
DAVIS HEARN ANDERSON & TURNER, PC (www.davishearn.com)

RE: City of Ashland Planning Action #PA-T1-2021-00154
Applicant's Property: 233 Granite Street | Applicant: Leverenz
Our Clients/Opponents: Daniel & Andrea Weiner | 243 Granite Street
Written Comments in Opposition to Application

Dear Mr Anderson:

Our firm represents Daniel & Andrea Weiner, owners of the property at 243 Granite Street ("Weiner Property"). The north and west sides of the Weiner Property share a common property boundary with 233 Granite Street ("Applicant's Property"), which is the subject of City's Planning Action #PA-T1-2021-00154, currently under staff review and requesting approval of a land partition. If approved, the application would create a new flag lot (Applicant's Proposed Parcel #2) for construction of a second residence with its sole non-exclusive access to Granite Street via a the existing nonconforming shared driveway already serving as the vehicular access for at least six lots and multiple existing residences including an existing ARU. See: attached EXHIBIT 1.

Our clients respectfully request denial of Applicant's proposed variance, which requests yet another proposed residence (and likely an ARU) be permitted to further overburden the existing nonconforming shared driveway access to Granite Street.

DAVIS HEARN ANDERSON & TURNER, PC
515 E. MAIN ST. | ASHLAND, OREGON 97520
541.482.3111 | chearn@davishearn.com | www.davishearn.com

Applicant's Property is currently developed with a single family residence constructed in 2015. Applicant's Proposed Parcel #2, requests approval of a flag lot.¹ The proposed access for Applicant's Proposed Parcel #2 would be the existing shared private driveway, which already serves seven residences (six homes and one accessory residential unit).

Applicant requests a variance to the number of lots accessed from the existing shared private driveway providing access to Applicant's Proposed Parcel #2.²

APPLICANT'S REQUEST FOR A VARIANCE SHOULD BE DENIED

AMC 18.5.3.050 provides as follows.

AMC 18.5.3.050 - Preliminary Partition Plat Criteria.

"The approval authority shall approve an application for preliminary partition plat approval only where all of the following are met.

* * *

"F. Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design. See also, 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria."

AMC 18.5.3.050(F).

Applicant's Proposed Parcel #2 proposes access to to a newly-created residential flag lot via the existing nonconforming shared driveway which already serves more than twice the number of lots/parcels permitted by City's code. Applicant requests a variance to City's access requirements to allow an additional residence (and likely an ARU) to use the existing nonconforming shared driveway access.

The existing shared driveway is nonconforming because it already serves more than three lots. In fact, the existing shared driveway serves more than double the number of lots/residences allowed for a shared driveway under City's design standards. While the seven residences currently sharing the existing driveway appear to be legal nonconforming residential lots, predating City's relevant design and access standards,

¹ Applicant's Proposed Findings, Page 2.

² Applicant's Proposed Findings, Page 1.

City should not allow the overburdened shared driveway to become still further non-conforming in violation of City’s access standards, especially within City’s Wildfire Overlay Zone.

The Nonconforming Private Drive. The existing shared private driveway already serves as access for the following lots and residences listed below.

Tax Lot	Ownership	Development	Size
39-1E-08DA Tax Lot 1801	Prince	Granite Street Undeveloped	1.35 acres
39-1E-08DA Tax Lot 1501	Porter	237 Granite Street 5,720 sq. ft. residence	3.18 acres
39-1E-08DA Tax Lot 1501	Porter	230 Granite Street 676 sq. ft. ARU	3.18 acres
39-1E-08DA Tax Lot 701	Murphee	229 Granite Street 2,640 sq. ft. residence	0.26 acres
39-1E-08DA Tax Lot 1300	Leverenz	233 Granite Street 3,625 sq. ft. residence	1.08 acres
39-1E-08DA Tax Lot 1600	Appel	235 Granite Street 2,130 sq. ft. residence	0.25 acres
39-1E-08DA Tax Lot 901	Eisenberg	223 Granite Street 2,896 sq. ft. residence on adjoining lot (TL 702) (this parcel currently undeveloped)	0.78 acres
39-1E-08DA Tax Lot 702	Eisenberg	223 Granite Street 2,896 sq. ft. residence	2.61 acres
39-1E-08DA Tax Lot 700	Wyatt	234 Strawberry Lane 2,798 sq. ft. residence (Uses Granite Street shared driveway access)	1.68 acres

See: attached **EXHIBIT “1”** (County Assessor’s Account Details for lots listed above).

Conclusion: The shared driveway Applicant proposes to provide access to her Proposed Parcel #2 is already nonconforming, and fails to meet City's relevant access standards (limiting the lots/parcels served by a shared driveway to a maximum of three). City should not approve a proposed partition which forces the existing shared driveway to become still more nonconforming by further burdening the shared driveway access with additional lots/parcels.

City's Design Standards for Development Are Intended to Promote Public Safety. AMC Chapter 18.4.1.010, sets forth the purpose of City's site design and development standards:

"Part 18.4 contains design standards for development. The regulations are intended to protect public health, safety, and welfare through standards that promote land use compatibility, resource protection, and livability, consistent with the goals and policies of the Comprehensive Plan. Where an applicant requests an exception to a design standard, the approval authority evaluates the request against the purpose of the ordinance chapter in which the design standard is located." *AMC 18.4.1.010.*

Like the rest of our community, staff is aware that on September 8, 2020, the Almeda fire swept north from Ashland through the City of Talent, resulting in gridlock on the neighboring City of Talent's Talent Avenue and surrounding evacuation routes as residents struggled to flee the rapidly approaching conflagration. All cities within Jackson County should learn from the Almeda fire's lessons.

Applicant's property is within City's Wildfire Hazard Overlay Zone, in an area characterized by steep forested hillsides and located in one of the most troublesome areas of City's wildfire interface. City now comes to the close of yet another worrisome fire season – a fire season characterized by the cumulative effect of several consecutive years of drought and the frightening specter of drought conditions being the "new normal" due to climate change. It should be clear to staff that granting variances which serve only to further over-burden an already overburdened and nonconforming shared driveway access, by approving additional new parcels to be served by a shared driveway in hazardous wildfire interface zone, is simply bad public policy.

City's Variance Provisions Are Not Met by this Application.

"A variance is required because there are more than two lots served by the proposed flag driveway. There are more than three lots served presently by the private driveway. Ashland's code requires

driveways of any kind that serve more than three lots be dedicated as a public street. Due to the unique circumstances, unusual lot shape and adjacent property development, a variance to the number of lots accessed via a private driveway/flag lot is necessary.”

Applicant's Proposed Findings, Page 14.

AMC 18.5.5.050 - Variance Approval Criteria

1. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.

Conclusion. Like the numerous other residential properties already overburdening the existing shared driveway, Applicant's existing parcel was once part of the James & Adelaide Clary property. The historic Clary parcel was already the subject of historic partitions which resulted in Applicant's existing lot. Access to Granite Street is provided by a nonconforming shared driveway which already serves 6-7 lots/parcels. A variance should not be granted to render the existing shared driveway access still further nonconforming to City's current access standards for new lots/parcels.

2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.
3. The proposal's benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.

Conclusion. The requested variance simply seeks to add new lots and parcels to an existing nonconforming shared driveway which already serves more than double the number of lots/parcels allowed by City's current code provisions. Further, the proposed variance does not promote the purpose and intent of City's ordinance provisions and Comprehensive Plan, because it seeks to create still more new lots and parcels served only by the overburdened and nonconforming shared driveway access within City's wildfire interface and Wildfire Hazard overlay.

Page -6-

Aaron Anderson, City of Ashland Planning Division
October 4, 2021

4. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.

Conclusion. While the Applicant's need for the requested variance may not have been self-imposed by Applicant herself, it is clear that Applicants' predecessors in interest created the need for the requested variance through their historic partition of the Clary Property into the numerous lots/parcels which share the private driveway for access to Granite Street. The number of lots/parcels currently using the existing shared driveway for access reflects a legal historic nonconforming use (shared driveway serving a half dozen or more existing residential lots). For City to now grant a variance to allow additional new residential lots to add to the burden on the private driveway in this wildfire hazard zone is contrary to public policy and good planning.

Based on the concerns raised above, adjacent property owners Daniel & Andrea Weiner respectfully request staff deny the requested variance.

Sincerely,
DAVIS HEARN ANDERSON & TURNER, PC



Christian E. Hearn | OSB #911829
Email: chearn@davishearn
Attorneys for Daniel & Andrea Weiner
243 Granite Street

Attachments:

- Exhibit 1: County Assessor Data for Lots/Parcels sharing the existing private driveway.**
- Exhibit 2: County Deed Card for Applicant's Property**

EXHIBIT 1

Account Sequence	Map TL Sequence	Assessment Year 2020 ▼	Print Window	C
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Assessment Info for Account 1-066228-8 Map 391E08DA Taxlot 1801
Report For Assessment Purposes Only Created October 04, 2021

Account Info		Tax Year 2020 Info		Land Info	
Account	1-066228-8	Pay Taxes Online		Tax Code	5-01
Map	391E08DA 1801	Tax Report	Details	Acres	1.35
Taxlot	PRINCE PERRY	Tax Statement	Details	Zoning	
Owner	PRINCE PERRY	Tax History	Details	Land Class	
Situs Address	GRANITE ST ASHLAND R	Tax Details	Details	RT 0.75 Ac	
Mailing Address	PRINCE PERRY PO BOX 1364	Tax Rates	Details	BS 0.60 Ac	
Appraiser	ASHLAND OR, 975200046			Property Class	100
				Stat Class	000
				Unit ID	197687-1
				Maintenance Area	2
				Neighborhood	000
				Study Area	08
				Account Status	ACTIVE
				Tax Status	Assessable
				Sub Type	NORMAL

Sales Data (AS 400)

+ Value Summary Detail (For Assessment Year 2020)

- Market Value Summary (For Assessment Year 2020)

Code Area	Type	Acres	RMV	M5	MAV	AV
5-01	LAND	1.35	\$ 549,500	\$ 549,500	\$ 123,320	\$ 123,320
Value History Details			Total:	\$ 549,500	\$ 549,500	\$ 123,320

Photos and Scanned Documents

SCANNED ASSESSOR DOCUMENTS (See new portal) (See new portal) [Portal](#)

- Account Comments

09/05/96: STEEP MOUNTAINSIDE. BOUNDARY LINE AGREEMENT.

- Exemptions / Special Assessments / Notations / Potential Liability

Real Property Special Assessments				
Tax Year Applied	Code	Description	Amount	Acres
2020	41	FIRE PATROL GRAZING	\$18.75	1.35

Notations				
Description	Tax Amount	Year Added	Value Amount	
RECALCULATION		2008		
STATE FIRE PROTECTION		2008		
BOPTA ORDER-REDUCTION 309.120		1990		

- Location Map

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EXHIBIT 1
Page 1 of 8

Account Sequence	Map TL Sequence	Assessment Year 2020 ▾	Print Window Close Window						
Assessment Info for Account 1-066198-9 Map 391E08DA Taxlot 1501 Report For Assessment Purposes Only Created October 04, 2021									
Account Info		Tax Year 2020 Info							
Account: 1-066198-9 Map: 391E08DA 1501 Taxlot: Owner: PORTER M JOAN REV TRUST PORTER MARY JOAN TRUSTEE Situs Address: 237 GRANITE ST ASHLAND R Mailing Address: PORTER M JOAN REV TRUST ET AL PO BOX 5868 CARMEL CA, 93921 Appraiser: 96		Pay Taxes Online Tax Report Details Tax Statement Details Tax History Details Tax Details Details Tax Rates Details							
		Land Info							
		Tax Code: 5-01 Acreage: 3.18 Zoning: Land Class: HS 0.60 Ac RT 2.58 Ac Property Class: 101 Stat Class: 164 Unit ID: 197682-1 Maintenance Area: 2 Neighborhood: 000 Study Area: 08 Account Status: ACTIVE Tax Status: Assessable Sub Type: NORMAL							
Sales Data (ORCATS)									
Last Sale (consideration > 0):		Sale Date:	Increment Number: Sales History:						
\$ 2,200,000		Oct 26, 2020	2020-39853 Details						
+ Value Summary Detail (For Assessment Year 2020)									
- Market Value Summary (For Assessment Year 2020)									
Code Area	Type	Acreage	RMV	M5	MAV	AV			
5-01	LAND	3.18	\$ 1,108,430	\$ 1,108,430	\$ 529,390	\$ 529,390			
5-01	IMPR	0.00	\$ 829,180	\$ 829,180	\$ 756,930	\$ 756,930			
Value History Details		Total:	\$ 1,937,610	\$ 1,937,610	\$ 1,286,320	\$ 1,286,320			
Improvements									
Building #	Code Area	Year Built	Eff Year Built	Stat Class	Description	Type	SqFt	% Complete	Details
1	5-01	1992	1992	164	Two story with basement	Residence	5720	100 %	Details
2	5-01	2004	2004	133	One story with basement	Residence	676	100 %	Details
Photos and Scanned Documents									
Type	Item Number	Image Files	Portal						
ACCOUNT PHOTO	1	1	PDF						
ACCOUNT PHOTO	2	1	PDF						
ACCOUNT PHOTO	3	1	PDF						
ACCOUNT PHOTO	4	1	PDF						
ACCOUNT PHOTO	5	1	PDF						
ACCOUNT PHOTO	6	1	PDF						
ACCOUNT PHOTO	7	1	PDF						
ACCOUNT PHOTO	8	1	PDF						
ACCOUNT PHOTO	9	1	PDF						
ACCOUNT PHOTO	10	1	PDF						
ACCOUNT PHOTO	11	1	PDF						
ACCOUNT PHOTO	12	1	PDF						
ACCOUNT PHOTO	13	1	PDF						
ACCOUNT PHOTO	14	1	PDF						
ACCOUNT PHOTO	15	1	PDF						
ACCOUNT PHOTO	16	1	PDF						
SCANNED ASSESSOR DOCUMENTS	(See new portal)	(See new portal)	Portal						
+ Improvement Comments									
+ Appraisal Maintenance									
- Account Comments									
IRRIGATION SYSTEM; TERRACES - POOLS - LANDSCAPE & NEW PLANTS, WATERFALL, VIEW OF FORESTS, VALLEY, MNT. ESTATE SETTING SPEC ADJ 40 AS LNSDP \$25000 #32>>> 02/02/98 ADDED SP PROP ADJ TO #3 RT #32>>> 2006-04-25 UPDATED IMPROVEMENT ADJUSTMENT EN MASSE>>> 08/28/06 ADDED OSD ADJ #143>>> 10/17/06 NO CHANGES #149>>> 3/2/2011 RED TAG WAS FOR EXISTING IMP. 96>									
- Exemptions / Special Assessments / Notations / Potential Liability									
Real Property Special Assessments									
Tax Year Applied	Code	Description	Amount	Acres					
2020	39	FIRE IMPROVEMENT SURCHARGE	\$47.50						
2020	41	FIRE PATROL GRAZING	\$18.75	3.18					
Notations									
Description	Tax Amount	Year Added	Value Amount						
ERROR OF ANY KIND- DECREASE		2009							
RECALCULATION		2008							
STATE FIRE PROTECTION		2008							
CLERICAL ERROR - INCREASE		2007							
READ BEFORE DATA ENTRING EXCEPTION		2006							
- Location Map									

Account Sequence	Map TL Sequence	Assessment Year 2020 ▼	Print Window Close Window						
Assessment Info for Account 1-006076-0 Map 391E08DA Taxlot 1300 Report For Assessment Purposes Only Created October 04, 2021									
Account Info		Tax Year 2020 Info							
Account	1-006076-0	Pay Taxes Online							
Map	391E08DA 1300								
Taxlot									
Owner	JACOBSON HEIDI L FAM TRUST	Tax Report	Details						
	LEVERENZ HEIDI L TRUSTEE	Tax Statement	Details						
Situs Address	233 GRANITE ST ASHLAND OR	Second Trl Statement	Details						
		Tax History	Details						
Mailing Address	LEVERENZ HEIDI L TRUSTEE 233 GRANITE ST	Tax Details	Details						
	ASHLAND OR, 975202746	Tax Rates	Details						
Appraiser	168								
		Land Info							
		Tax Code	5-01						
		Acreage	1.08						
		Zoning							
		Land Class							
		RT 0.62 Ac							
		HS 0.46 Ac							
		Property Class	101						
		Stat Class	162						
		Unit ID	197677-1						
		Maintenance Area	2						
		Neighborhood	000						
		Study Area	09						
		Account Status	ACTIVE						
		Tax Status	Assessable						
		Sub Type	NORMAL						
Sales Data (ORCATS)									
Last Sale (consideration > 0)		Sale Date	Instrument Number						
\$ 560,000		Sep 15, 2010	2010-31233 Details						
+ Value Summary Detail (For Assessment Year 2020)									
- Market Value Summary (For Assessment Year 2020)									
Code Area	Type	Acreage	RMV	M5	MAV	AV			
5-01	LAND	1.08	\$ 607,980	\$ 607,980	\$ 298,590	\$ 298,590			
5-01	IMPR	0.00	\$ 678,130	\$ 678,130	\$ 556,820	\$ 556,820			
Value History Details		Total:	\$ 1,286,110	\$ 1,286,110	\$ 855,410	\$ 855,410			
Improvements									
Building #									
1	Code Area	Year Built	Eff Year Built	Stat Class	Description	Type	SqFt	% Complete	Details
	5-01	2014	2014	162	Two story	Residence	3625	100 %	
Photos and Scanned Documents									
Type	Item Number	Image Files	Portal						
APEX DRAWINGS	1	1	PDF						
ACCOUNT PHOTO	2	1	PDF						
ACCOUNT PHOTO	3	1	PDF						
ACCOUNT PHOTO	4	1	PDF						
SCANNED ASSESSOR DOCUMENTS	(See new portal)	(See new portal)	Portal						
+ Improvement Comments									
+ Appraisal Maintenance									
- Account Comments									
K & A TO THIS ACCT ON JV 88-6884; LOT LINE ADJUSTMENT +.65 ACRES; REMAP ON JV 89-1228A; ROAD THRU PROPERTY - PRIVATE ACCESS; 1995 BUILDING PERMIT FOR GAS LINE/INSERT>>> 2006-04-25 UPDATED IMPROVEMENT ADJUSTMENT EN MASSE>>> 2006-05-05 CONVERSION TO 2005 FACTOR BOOK. POTENTIAL RMV CHANGE ONLY - NO EXCEPTION GENERATED DUE TO THE CONVERSION. BEGINNING YEAR VALUE ADJUSTED TO REFLECT 2005 FACTOR BOOK>>> 10/17/06 NO LAND CHANGES #149>>> 02/24/2015 NLC #168>>> 2/26/2016 NLC # 168>>>									
- Exemptions / Special Assessments / Notations / Potential Liability									
Notations									
Description	Tax Amount	Year Added	Value Amount						
ALTERNATIVE ENERGY SYSTEM EXEMPTION. ORS 307.175									
RECALCULATION		2008							
CONVERSION TO 2005 FACTOR BOOK		2006							
BOPTA ORDER-REDUCTION 309.120		1996							
- Location Map									
County of Jackson, OR. Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Cana									
Close Window		Print Window							

Account Sequence	Map TL Sequence	Assessment Year 2020 ▼	Print Window Close Window						
Assessment Info for Account 1-006079-4 Map 391E08DA Taxlot 1600 Report For Assessment Purposes Only Created October 04, 2021									
Account Info		Tax Year 2020 Info							
Account: 1-006079-4		Pay Taxes Online							
Map: 391E08DA 1600		Tax Code: 5-01							
Taxlot: 1600		Acreage: 0.25							
Owner: APPEL DORI		Zoning							
Situs Address: 235 GRANITE ST ASHLAND R		Land Class							
Mailing Address: APPEL DORI 235 GRANITE ST ASHLAND OR, 975202746		HS 0.25 Ac							
Appraiser: 149		Property Class: 101							
		Stat Class: 132							
		Unit ID: 197683-1							
		Maintenance Area: 2							
		Neighborhood: 000							
		Study Area: 08							
		Account Status: ACTIVE							
		Tax Status: Assessable							
		Sub Type: NORMAL							
Sales Data (AS 400)									
+ Value Summary Detail (For Assessment Year 2020)									
- Market Value Summary (For Assessment Year 2020)									
Code Area	Type	Acreage	RMV	M5	MAV	AV			
5-01	LAND	0.25	\$ 358,280	\$ 358,280	\$ 169,890	\$ 169,890			
5-01	IMPR	0.00	\$ 104,720	\$ 104,720	\$ 121,310	\$ 121,310			
Value History Details		Total:	\$ 463,000	\$ 463,000	\$ 291,200	\$ 291,200			
Improvements									
Building #	Code Area	Year Built	Eff Year Built	Stat Class	Description	Type	SqFt	% Complete	
1	5-01	1940	1965	132	Two story	Residence	2130	100 %	
Photos and Scanned Documents									
Type	Item Number	Image Files							
APEX DRAWINGS	1	1	PDF						
SCANNED ASSESSOR DOCUMENTS	(See new portal)	(See new portal)	Portal						
+ Improvement Comments									
- Appraisal Maintenance									
2007 - INVENTORY REVIEW									
2010 - HISTORY ONLY R.T.									
- Account Comments									
09/02/96 LARGE TREES AS LS 2. VIEW IS PARTIALLY BLOCKED BY TREES #32>>> 2006-04-25 UPDATED IMPROVEMENT ADJUSTMENT EN MASSE>>> 2006-05-05 CONVERSION TO 2005 FACTOR BOOK. POTENTIAL RMV CHANGE ONLY - NO EXCEPTION GENERATED DUE TO THE CONVERSION. BEGINNING YEAR VALUE ADJUSTED TO REFLECT 2005 FACTOR BOOK>>> 10/17/06 NO LAND CHANGES #149>>>									
- Exemptions / Special Assessments / Notations / Potential Liability									
Real Property Special Assessments									
Tax Year Applied	Code	Description	Amount	Acres					
2020	39	FIRE IMPROVEMENT SURCHARGE	\$47.50						
2020	41	FIRE PATROL GRAZING	\$18.75	0.25					
Notations									
Description	Tax Amount	Year Added	Value Amount						
RECALCULATION		2008							
STATE FIRE PROTECTION		2008							
CONVERSION TO 2005 FACTOR BOOK		2006							
- Location Map									
County of Jackson, OR, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada									
Close Window		Print Window							

Account Sequence	Map TL Sequence	Assessment Year 2020 ▾	Print Window	Close Window
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Assessment Info for Account 1-094907-5 Map 391E08DA Taxlot 901
Report For Assessment Purposes Only Created October 04, 2021

Account Info		Tax Year 2020 Info		Land Info	
Account	1-094907-5	Pay Taxes Online		Tax Code	5-01
Map	391E08DA 901	Tax Report	Details	Acreage	0.78
Taxlot		Tax Statement	Details	Zoning	
Owner	EISENBERG LEONARD I TRUSTEE	Tax History	Details	Land Class	
	EISENBERG KAREN D TRUSTEE	Tax Details	Details	RT 0.78 Ac	
	EISENBERG LEONARD AND KAREN TRUST	Tax Rates	Details	Property Class	100
Site Address					
GRANITE ST ASHLAND R					
EISENBERG LEONARD I TRUSTEE ET AL					
223 GRANITE ST					
ASHLAND OR, 975202746					
Mailing Address					
EISENBERG LEONARD I TRUSTEE ET AL					
223 GRANITE ST					
ASHLAND OR, 975202746					
Associated Taxlots 2 Acct					
5-01 R	1-006070-2 391E08DA 702 ACTIVE				
5-01 R	1-006074-5 391E08DA 1200 ACTIVE				
Appraiser	187				

Sales Data (AS 400)

Last Sale	\$110,000.00	Sale Date	12/12/2000	Instrument Number	2000-50067	Details	Details
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+ Value Summary Detail (For Assessment Year 2020)

- Market Value Summary (For Assessment Year 2020)

Code Area	Type	Acreage	RMV	M5	MAV	AV	
5-01	LAND	0.78	\$ 229,540	\$ 229,540	\$ 66,800	\$ 66,800	
Value History Details			Total:	\$ 229,540	\$ 229,540	\$ 66,800	\$ 66,800

Photos and Scanned Documents

SCANNED ASSESSOR DOCUMENTS (See new portal) (See new portal) [Portal](#)

- Account Comments

04/10/01: .78 AC FROM TL 900 PER JV 2001-3567>>>3/11/10 NAC #154>>>4/10/20 NAC PER AJI #187 >>>

- Exemptions / Special Assessments / Notations / Potential Liability

Notations			
Description	Tax Amount	Year Added	Value Amount
X RECALCULATION		2010	
		2008	

- Location Map

+

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DOQ 2018

County of Jackson, OR, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, I... Powered by Esri

[Close Window](#) [Print Window](#)

EXHIBIT 1

Page 6 of 8

[Account Sequence](#) [Map TL Sequence](#) Assessment Year 2020 ▼ [Print Window](#) [Close Window](#)

Assessment Info for Account 1-006070-2 Map 391E08DA Taxlot 702
Report For Assessment Purposes Only Created October 04, 2021

Account Info		Tax Year 2020 Info		Land Info	
Account	1-006070-2	Pay Taxes Online		Tax Code	5-01
Map	391E08DA 702	Tax Report	Details	Acresage	2.61
Taxlot		Tax Statement	Details	Zoning	
Owner	EISENBERG LEONARD I TRUSTEE EISENBERG KAREN D TRUSTEE EISENBERG LEONARD AND KAREN TRUST	Tax History	Details	Land Class	
Situs Address	223 GRANITE ST ASHLAND R	Tax Details	Details	HS 0.60 Ac	
Mailing Address	EISENBERG LEONARD I TRUSTEE ET AL 223 GRANITE ST ASHLAND OR, 975202746	Tax Rates	Details	RT 2.01 Ac	
Associated Taxlots 2 Acct				Property Class	101
5-01 R	1-006074-5 391E08DA 1200 ACTIVE			Stat Class	152
5-01 R	1-094907-5 391E08DA 901 ACTIVE			Unit ID	197669-3
Appraiser	187			Maintenance Area	2
				Neighborhood	000
				Study Area	08
				Account Status	ACTIVE
				Tax Status	Assessable
				Sub Type	NORMAL

Sales Data (AS 400)

Last Sale	Sale Date	Instrument Number	Sales History
\$479,000.00	5/15/1998	1998-21569	Details

+ Value Summary Detail (For Assessment Year 2020)

- Market Value Summary (For Assessment Year 2020)

Code Area	Type	Acresage	RMV	M5	MAV	AV
5-01	LAND	2.61	\$ 1,025,840	\$ 1,025,840	\$ 500,000	\$ 500,000
5-01	IMPR	0.00	\$ 336,550	\$ 336,550	\$ 180,250	\$ 180,250
Value History Details		Total	\$ 1,362,390	\$ 1,362,390	\$ 680,250	\$ 680,250

Improvements

Building #	Code Area	Year Built	Eff Year Built	Stat Class	Description	Type	SqFt	% Complete	
1	5-01	1973	1990	152	Two story	Residence	2896	100 %	Details

Photos and Scanned Documents

Type	Item Number	Image Files	
APEX DRAWINGS	1	1	PDF
ACCOUNT PHOTO	2	1	PDF
ACCOUNT PHOTO	3	1	PDF
ACCOUNT PHOTO	4	1	PDF
ACCOUNT PHOTO	5	1	PDF
ACCOUNT PHOTO	6	1	PDF
ACCOUNT PHOTO	7	1	PDF
ACCOUNT PHOTO	8	1	PDF
ACCOUNT PHOTO	9	1	PDF
SCANNED ASSESSOR DOCUMENTS	(See new portal)	(See new portal)	Portal

+ Improvement Comments

+ Appraisal Maintenance

- Account Comments

09/02/96 WOODSY SETTING AS LS #32>>> 2006-04-25 UPDATED IMPROVEMENT ADJUSTMENT EN MASSE>>> 10/17/06 NO LAND CHANGES #149>>> 06/21/07 NAC #146>>> 3/11/10 NLC #154>>> 3/2/2011 ANC 96>>> 4/10/20 NLC #187 >>> 8/25/20 ADD OSD1 - NO EXC #187 >>>

- Exemptions / Special Assessments / Notations / Potential Liability

Real Property Special Assessments				
Tax Year Applied	Code	Description	Amount	Acres
2020	39	FIRE IMPROVEMENT SURCHARGE	\$47.50	
2020	41	FIRE PATROL GRAZING	\$18.75	2.61

Notations				
Description	Tax Amount	Year Added	Value Amount	
X		2010		
CARTOGRAPHIC ACTIVITY		2009		
RECALCULATION		2008		
STATE FIRE PROTECTION		2008		
READ BEFORE DATA ENTRING EXCEPTION		2006		

- Location Map

Account Sequence		Map TL Sequence		Assessment Year 2020 ▼		Print Window		Close Window						
Assessment Info for Account 1-006068-1 Map 391E08DA Taxlot 700 Report For Assessment Purposes Only Created October 04, 2021														
Account Info				Tax Year 2020 Info			Land Info							
Account	1-006068-1			Pay Taxes Online			Tax Code	5-01						
Map	391E08DA 700			Tax Report			Acreage	1.68						
Taxlot				Tax Statement			Zoning							
Owner	WYATT FAMILY TRUST			Second Trl Statement			Land Class							
	WYATT JEFFREY D TRUSTEE			Tax History			HS 0.60 Ac							
	WYATT ROSEANNE G TRUSTEE			Tax Details			RT 1.08 Ac							
Situs Address	234 STRAWBERRY LN ASHLAND R			Tax Rates			Property Class	101						
Mailing Address	WYATT JEFFREY D TRUSTEE ET AL 234 STRAWBERRY LN ASHLAND OR, 975202755						Stat Class	157						
Appraiser	168						Unit ID	197667-1						
							Maintenance Area	2						
							Neighborhood	000						
							Study Area	08						
							Account Status	ACTIVE						
							Tax Status	Assessable						
							Sub Type	NORMAL						
Sales Data (ORCATS)														
Last Sale (consideration > 0)							Sale Date	Instrument Number	Sales History					
\$ 1,052,500							Sep 06, 2012	2012-30043	Details					
+ Value Summary Detail (For Assessment Year 2020)														
- Market Value Summary (For Assessment Year 2020)														
Code Area	Type	Acreage	RMV	M5	MAV	AV								
5-01	LAND	1.68	\$ 844,190	\$ 844,190	\$ 315,190	\$ 315,190								
5-01	IMPR	0.00	\$ 439,900	\$ 439,900	\$ 422,810	\$ 422,810								
Value History	Details	Total:	\$ 1,284,090	\$ 1,284,090	\$ 738,000	\$ 738,000								
Improvements														
Building #						Code Area	Year Built	Eff Year Built	Stat Class	Description	Type	SqFt	% Complete	
1						5-01	1995	2000	152	Two story	Residence	2798	100 %	Details
2						5-01	1995	2000	157	Area over Garage/Shop	Residence	480	100 %	Details
Photos and Scanned Documents														
Type							Item Number	Image Files						
APEX DRAWINGS							1	1	PDF					
ACCOUNT PHOTO							2	1	PDF					
ACCOUNT PHOTO							3	1	PDF					
ACCOUNT PHOTO							4	1	PDF					
ACCOUNT PHOTO							5	1	PDF					
ACCOUNT PHOTO							6	1	PDF					
ACCOUNT PHOTO							7	1	PDF					
ACCOUNT PHOTO							8	1	PDF					
ACCOUNT PHOTO							9	1	PDF					
ACCOUNT PHOTO							10	1	PDF					
ACCOUNT PHOTO							11	1	PDF					
SCANNED ASSESSOR DOCUMENTS							(See new portal)	(See new portal)	Portal					
+ Improvement Comments														
+ Appraisal Maintenance														
- Account Comments														
09/05/96: PAVED ACCESS. L/S4 DUE TO TREES & LARGE BOULDERS, ROCK PATHS, ETC. BOUNDARY LINE AGREEMENT -.09 ACRES. >>> 2006-04-25 UPDATED IMPROVEMENT ADJUSTMENT IN MASS. >>> 2006-05-05 CONVERSION TO 2005 FACTOR BOOK. POTENTIAL RMV CHANGE ONLY - NO EXCEPTION GENERATED DUE TO THE CONVERSION. BEGINNING YEAR VALUE ADJUSTED TO REFLECT 2005 FACTOR BOOK>>>3/11/08 NLC #154>>> 2/17/09 NLC #154 >>> 3/9/10 NLC #154 >>> 04/27/2016 ADD OSD1 NO EXC #168>>>03/22/2017 NLC #168>>>														
- Exemptions / Special Assessments / Notations / Potential Liability														
Real Property Special Assessments														
Tax Year Applied	Code	Description	Amount	Acres										
2020	39	FIRE IMPROVEMENT SURCHARGE	\$47.50											
2020	41	FIRE PATROL GRAZING	\$18.75	1.68										
Notations														
Description	Tax Amount	Year Added	Value Amount											
RECALCULATION		2008												
STATE FIRE PROTECTION		2008												
CONVERSION TO 2005 FACTOR BOOK		2006												
BOPTA ORDER-REDUCTION 309.120		1990												
- Location Map														

OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTIES

OFFICE OF COUNTY ASSESSOR, JACKSON COUNTY, OREGON

ACCOUNT NUMBER

CODE NUMBER

EXHIBIT 2

SECTION

TOWNSHIP

RANGE

W.M.

MAP NO.

AERIAL PHOTO

LOT

BLOCK

ADDITION

CITY

TAX LOT NUMBER

NO.

NO.

THIS INFORMATION FOR ASSESSMENT AND TAXATION PURPOSES ONLY.

INDENT EACH NEW COURSE TO THIS LINE

LEGAL DESCRIPTION

DEED RECORD

ACRES REMAINING

YEAR

VOLUME

PAGE

THE FOLLOWING REPLACES THE ABOVE DESCRIPTION

O.R. 88-11734 (Note)

NON-CONFORMING PARCEL

RE-MAP
JV 89-01228A

Document worked

~~O.R. 90-00637 (Note)~~

REMOVE TYPE "N"

RE-MAP
JV 91-01504D

413-83-12
ACCOUNT NUMBER

OFFICIAL RECORD OF DESCRIPTION
OFFICE OF COUNTY ASSESSOR, JACKSON

RP 1 6076-0

5-1
CODE NUMBER

39 12 89A 1300

391E08DA01300 00501

SECTION _____	TOWNSHIP _____ S	RANGE _____ W.M.	MAP NO. 113-83	AERIAL PHOTO
LOT NO. _____	BLOCK NO. _____	ADDITION _____		CITY Ashland

12
TAX LOT NUMBER

THIS INFORMATION
FOR ASSESSMENT
AND TAXATION
PURPOSES ONLY.

INDENT EACH NEW
COURSE TO THIS LINE

LEGAL DESCRIPTION

DEED RECORD

ACRES
REMAINING

Clary, James R. & Adelaide S.
Commencing at a point on the section line between
Sections 8 and 9 in Twp 39 South, Range 1 East, W.M.;
which point is 656.04 feet South of the quarter corner
common to said sections; thence West approximately
328.78 feet to a point on the Westerly side line of
Granite Street, which is the true point of beginning.
Thence
South 5°50' East 86.26 feet to a point where the
access road intersects the Westerly side line of Granite
Street; thence
West along said road approximately 305.5 feet;
thence
North 2°09' West approximately 92 feet to the
Southerly side line of a tract described in Deed Record,
Vol. 287 page 565; thence
East approximately 305.5 feet to the Westerly
side line of Granite Street which is the point of
beginning.

(Written for tax lotting purposes only)

see new description inside

YEAR	VOLUME	PAGE	ACRES REMAINING
	203	596	
	part of		
	220	140	
	221	594	
	part of		
	199	604	
O.R.	83-151	107 D.	Cert. (note)
	Less		
	346	378	
	199	604	
	331	345	
	346	376	
O.R.	Part of		
	80-08634		
	JV 80-06538		
O.R.	80-08635	(note)	
	199	604	
	221	594	
	203	596	
	JV 88-06884		

DEFERRED

Less Tax Lot 391E8DA-1301 (1-66199-7)

ALSO FORMER ACCOUNT 391E8DA-1500 (1-6078-6 P)

um:
(over)

Aaron Anderson

From: Henry Kimsey-House <henrykh@icloud.com>
Sent: Saturday, October 16, 2021 11:11 AM
To: Aaron Anderson
Subject: Driveway easement questions re Granite Street

[EXTERNAL SENDER]

Dear Mr. Anderson,

We rented the home at 229 Granite Street, owned by Tom and Liese Murphree for 2 1/2 years. We have heard that some neighbors are describing the shared driveway easement to be a problem, but we wanted to let you know that we did not find it difficult whatsoever. Our home was quiet and undisturbed by any traffic in the easement. The only sounds we heard in the neighborhood were the concerts in the park, and tennis balls being hit around in the park.

We do not think the easement is dangerous for walking or biking, as has been alleged. In fact in the time we lived there we met other cars or people on the driveway between 5 and 10 times only.

There is another driveway leading to Granite St. which lies to the north of the Murphree home, so there is clearly another egress should an emergency block the shared easement. And there is another driveway farther up the hill that could be used to exit on to Strawberry Lane in the event of an emergency. So this is not a situation in which it is likely that the one easement is needed for all of the homes here to have emergency access.

We understand that our friend and former neighbor Heidi Leverenz has been approached by a young couple who were raised in Ashland, who would now like to buy her property to the south of the easement. We support this opportunity for the city to expand the tax base while increasing the age diversity of the neighborhood. We have also been told that having the property developed would decrease the fire risk due to increased maintenance of the hillside.

Sincerely

Henry and Karen Kimsey-House

Now living at 143 Hitt Road, Ashland, OR Phone 415-209-4800

Aaron Anderson

From: Jeff Wyatt <jeffwyatt1@gmail.com>
Sent: Monday, October 25, 2021 8:46 AM
To: planning; Aaron Anderson
Cc: Tonya Graham; Julie Akins; Brian Hendrix
Subject: Subdividing 233 Granite St

[EXTERNAL SENDER]

I'm writing to express my support for subdividing the property at 233 Granite St to accommodate the construction of a new single-family dwelling. My property's address is 234 Strawberry Ln and is located directly above the property with secondary driveway access down to Granite St. For the past several years I've been the Granite St Firewise Coordinator and have worked closely with AFR to manage and reduce the risk of wildfire in the neighborhood. Accordingly, I'm familiar with many of the neighborhood's personalities and issues. One difficult neighbor's NIMBY concern should certainly be considered but not be determinative in the context of what benefits the larger neighborhood and the City.

The Planning Commission should consider the following points in favor of the proposed development:

- The driveway easement is not congested, noisy or dangerous and the new construction would be at its lower end, minimally impacting driveway usage.
- Managing wildfire fuel loads on the large lots in this area poses a real challenge and the division of the Leverenz lot would have the major benefit of a new property owner taking care of the steep slope behind the building site.
- The City needs more housing - this is an opportunity to build in-fill housing close in to downtown.
- The City needs more diversity – this will add a younger demographic to an older neighborhood.
- The City needs money – this will increase the City's tax base.

Please do not allow obstructionist neighbors or ill-fitting land use regulation to dictate our neighborhood's future.

Jeff Wyatt

Aaron Anderson

From: Andrew Smith <andrew@drewksmith.com>
Sent: Wednesday, October 27, 2021 3:31 PM
To: planning; Aaron Anderson
Cc: Tonya Graham; Julie Akins; Brian Hendrix
Subject: Subdividing lot 233 Granite St.

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Hello, this is Andrew Smith and Kelly Ingledew (currently located on 75 Helman St.), we're writing in support of the 233 lot subdivision. We've been working with Heidi Leverenz to purchase the future lot, and plan to build a single family home on it.

Our goal is to build a beautiful home there, add to the beauty of the neighborhood, and maintain the existing feel of the land itself. We plan to keep as many trees on the property as possible, maintain the historic Grove (that contains old trees and mossy rocks), and reduce any fire hazards on the property.

We're planning to build the house reasonably set back and nestled into the trees, which would provide privacy for ourselves and the neighbors. We want the forest behind the planned build to feel natural, yet manicured. We would keep the floor cleared of brush and adhere to the Firewise guidelines.

We understand there is a concern about congestion on the shared drive. Our impact and usage of the drive would be minimal (the property is located only ~100 feet up the drive), and we do (and plan to continue) to walk/bike to our destinations the majority of the time.

As a side note: if there is any concern with the temporary construction process, we will do our utmost to keep the impact to the neighbors to a minimum. We will often be on-site during construction and will direct vehicles and people to keep the drive clear.

I do feel this is a positive move for the city (a city I, Andrew, grew up in and love) as we're creating more housing inside the core of the city, as well as increasing the tax-basis for the city.

Thank you for reading through this, and we hope the lot subdivision goes through!

--

Andrew K Smith

<https://drewksmith.com>

UI/UX Designer | Salesforce Experience Cloud | Solutions Architect

PUBLIC HEARING

**Right-of-Way Vacation
388 Otis Street**



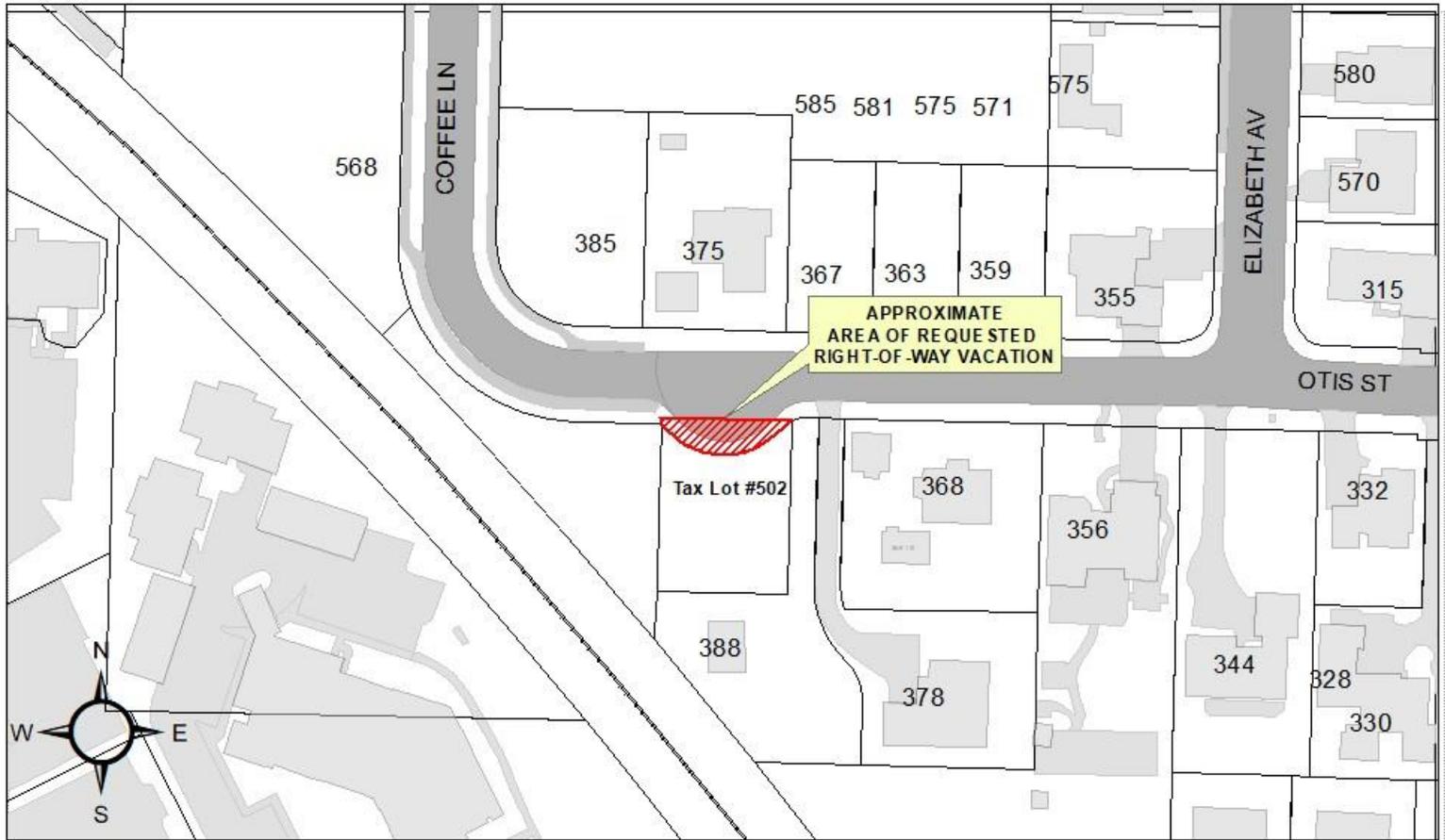
SUBJECT PROPERTY: Public Right-of-Way adjacent to 39 1E 05AD Tax Lot #502

APPLICANT/OWNER: City of Ashland Public Works Department

DESCRIPTION: The Planning Commission will consider a request to vacate a portion of the Otis Street right-of-way north of Map 39 1E 05AD Tax Lot #502 near 388 Otis Street and make a recommendation to the City Council.

COMPREHENSIVE PLAN DESIGNATION: Single-Family Residential; **ZONING:** R-1-5-P; **ASSESSOR'S MAP/TAX LOT:** 39 1E 05AD; Tax Lot: #502.

ELECTRONIC ASHLAND PLANNING COMMISSION MEETING: *Tuesday, December 14, 2021 at 7:00 PM*



Notice is hereby given that the Ashland Planning Commission will hold an electronic public hearing on the above described planning action on the meeting date and time shown above. You can watch the meeting on local channel 9, on Charter Communications channels 180 & 181, or you can stream the meeting via the internet by going to rvtv.sou.edu and selecting 'RVTV Prime.'

The ordinance criteria applicable to this planning action are attached to this notice. Oregon law states that failure to raise an objection concerning this application, or failure to provide sufficient specificity to afford the decision makers an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

Because of the COVID-19 pandemic, application materials are provided online and written comments will be accepted by email. Alternative arrangements for reviewing the application or submitting comments can be made by contacting (541) 488-5305 or planning@ashland.or.us.

A copy of the application, including all documents, evidence and applicable criteria relied upon by the applicant, and a copy of the staff report will be available on-line at www.ashland.or.us/PCpackets seven days prior to the hearing. Copies of application materials will be provided at reasonable cost, if requested. Under extenuating circumstances, application materials may be requested to be reviewed in-person at the Ashland Community Development & Engineering Services Building, 51 Winburn Way, via a pre-arranged appointment by calling (541) 488-5305 or emailing planning@ashland.or.us.

Anyone wishing to submit comments can do so by sending an e-mail to PC-public-testimony@ashland.or.us with the subject line "**December 14 PC Hearing Testimony**" by 10:00 a.m. on Monday, December 13, 2021. If the applicant wishes to provide a rebuttal to the testimony, they can submit the rebuttal via e-mail to PC-public-testimony@ashland.or.us with the subject line "**December 14 Hearing Testimony**" by 10:00 a.m. on Tuesday, December 14, 2021. Written testimony received by these deadlines will be available for Planning Commissioners to review before the hearing and will be included in the meeting minutes.

Oral testimony will be taken during the electronic public hearing. If you wish to provide oral testimony during the electronic meeting, send an email to PC-public-testimony@ashland.or.us by 10:00 a.m. on Tuesday, December 14, 2021. In order to provide testimony at the public hearing, please provide the following information: 1) make the subject line of the email "**December 14 Speaker Request**", 2) include your name, 3) the agenda item on which you wish to speak on, 4) specify if you will be participating by computer or telephone, and 5) the name you will use if participating by computer or the telephone number you will use if participating by telephone.

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

If you have questions or comments concerning this request, please feel free to contact Derek Severson at #541-552-2040 / Derek.Severson@ashland.or.us.

Chapter 4.18: VACATION OF PUBLIC PROPERTY

4.18.010 Purpose

The purpose of this Chapter is to establish the procedure for processing requests for the vacation of public rights-of-way and places, and to require petitioners for vacation to deposit with the City Recorder a fee sufficient to cover the cost of publication, posting and other anticipated expenses as authorized by ORS 271.080, et seq.

4.18.020 Application

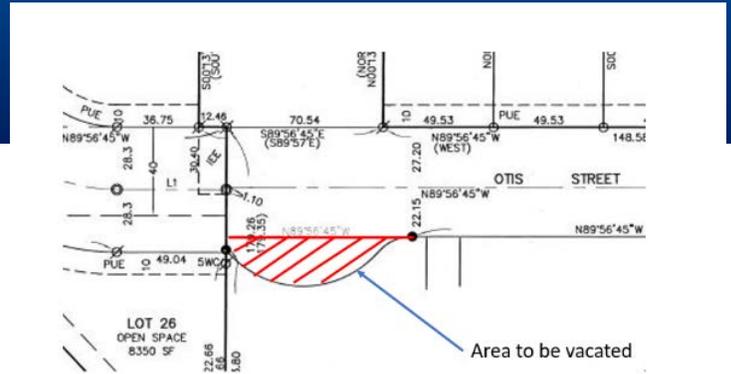
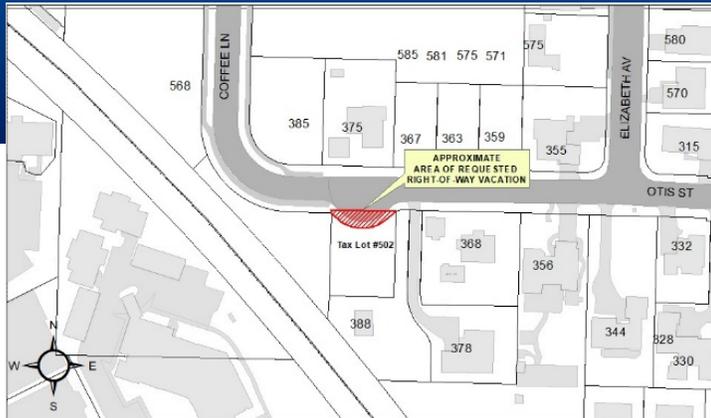
Any person interested in filing a petition for the vacation of all or part of any street, alley, or other public place, shall submit such petition in the form prescribed by the City Engineer pursuant to ORS 271.080, and upon filing of the petition shall deposit with the City Recorder a filing fee established by resolution of the City Council. (Ord. 2742, amended, 1994; Ord. 2654, amended, 1991)

4.18.030 Review by Planning Commission

Upon receipt of the petition, the same shall be referred to the City Engineer for a determination of whether it contains the requested number of sworn signatures. The City Engineer shall return any petition not meeting the requirements of ORS 271.080, together with the filing fee to the petitioner. If the City Engineer determines that the petition is sufficient, it shall be referred to the City Planning Commission for their review and recommendation to the City Council. The Planning Commission shall submit its report to the City Council within sixty (60) days of receipt. Upon receipt of the report by the Commission, or if no report is received from the Commission upon the expiration of sixty (60) days, the City Administrator shall set the matter for public hearing as set forth in ORS 271.100, et seq.

Otis Street R-o-W Vacation Staff Report

A request for the Planning Commission to review and make a recommendation on the vacation of a portion of the public right-of-way for Otis Street near 388 Otis Street.



Proposal Details

Site Description/History

The area of right-of-way proposed for vacation here was dedicated to the city as part of a Minor Land Partition (**MLP #392**) in 1978 for the creation of a *cul-de-sac* where Otis Street dead-ended. With the recent completion of infrastructure for the West Village Subdivision, Otis Street now continues into Coffee Lane and no longer dead-ends, and there is now no need for a *cul-de-sac*/turn-around in this location.

Proposal

Approval of the current request would vacate the semi-circular area of right-of-way on the south side of Otis Street, shown in red in the figures above, in front of Tax Lot #502.

Key Issues

Street Connectivity

This vacation eliminates a no longer needed turn-around area, and poses no street connectivity issues.

Pedestrian Connectivity

In staff's view, the applicant should install a new continuous curb, adequate right-of-way or a public pedestrian access easement to support future curbside sidewalk installation should be retained, and the applicant should sign-in favor of a Local Improvement District (LID) for future street improvements.

Utility Easements

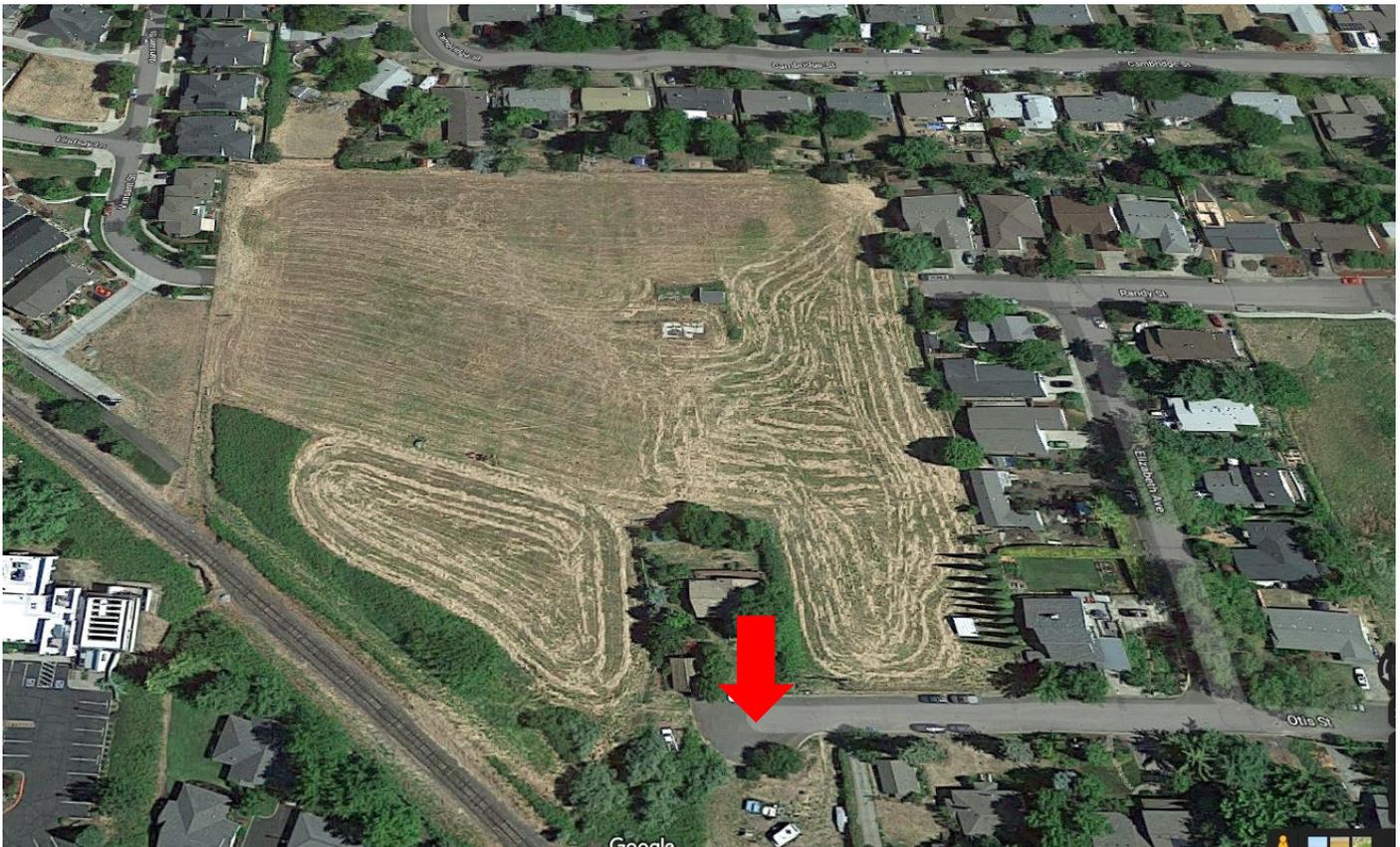
Staff would recommend that a ten-foot wide utility easement be retained within the vacated area to preserve the ability to extend public infrastructure between the West Village Subdivision and the neighborhood to the east.

Staff Recommendation

Staff recommends that the Planning Commission forward a favorable recommendation to the City Council and ask that a continuous curb be installed and that public utility and public pedestrian access easements be retained in the vacated section, and that the applicant sign-in favor of a future LID for frontage improvements.

Otis Street R-o-W Vacation Staff Report

A request for the Planning Commission to review and make a recommendation on the vacation of a portion of the public right-of-way for Otis Street near 388 Otis Street.



Memo

CITY OF
ASHLAND

Date: December 2, 2021
From: Scott A. Fleury - Public Works Director
To: Planning Commission
RE: Right of Way Vacation- 388 Otis Street

BACKGROUND:

The City of Ashland was approached by the property owner at 388 Otis Street about vacating a portion of the right of way adjacent to the property within the Otis Street right of way. Staff informed the property owner of requirements for vacating city right of way which includes the appropriate petition and subsequent public hearings at the Planning Commission and City Council. The requirements for right of way vacations are detailed in Ashland Municipal Code (AMC) Chapter 4.18 and Oregon Revised Statute (ORS) 271.080 thru 271.230 A copy of the AMC is attached for reference.

The property owner has obtained the necessary petition signatures and paid the appropriate fee to the City Recorder. Public Works has worked with Planning staff to schedule the public hearing before the Commission and developed background information appropriate for a discussion regarding the request to vacate right of way.

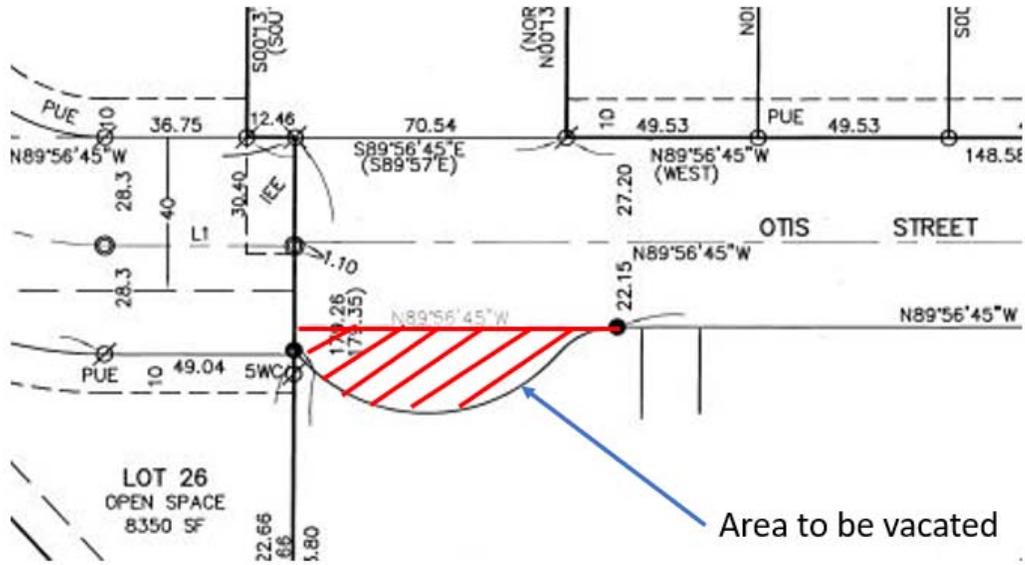
After the public hearing at the Planning Commission a public hearing will be scheduled before the City Council. In order to finalize a right of way vacation the City Council must approve an ordinance vacating the right of way thru a first and second reading ordinance process. The last right of way vacation that was processed occurred in 2018. The Planning Commission public hearing was held on May 8, 2018 ([PC Packet](#)) and the City Council meetings were held on November 5th and November 20th, 2018 ([November 20, 2021 Council Report](#))

The right of way was originally dedicated on Minor Land Partition #7603 (attachment #1). The dedication of this area of right of way was most likely defined to support vehicular turnarounds at the dead-end location.

Public Works performed an initial assessment to determine if a right of way vacation would be in the public interest. The right of way does not significantly provide a public benefit with respect to the street corridor and is not needed for vehicular turnarounds as the road now connects through. There are not utility conflicts associated with vacating the right of way as the utilities are within the existing roadway or tied to a dedicated Public Utility Easement. The West Village subdivision adjacent to the location has been plated (attachment #2) and the new roadway installed. Future improvements to the Otis Street right of way would match the established right of way and connect to Coffee Lane.

To be consistent with the adjacent development and future improvements, Public Works recommends inclusion of a 10' Public Utility Easement (PUE) along the frontage of the property if the right of way vacation is approved.

Figure 1: Proposed vacation area



Public Works recommends the Planning Commission provide a motion to the City Council that they approve vacating the public right of way as proposed on the map of survey provided.

If the right of way vacation ordinance is approved by the City Council a final map of survey will be developed along with new property deeds and these new documents will be recorded by the petitioner.

7603

APPROVAL:

Ashland Planning Commission
M78-392

12/21/78
Date

MINOR LAND PARTITION

LOCATED IN
D.L.C. NO. 40 IN NE 1/4 OF SEC. 5, TWP. 39 S., R. 1 E.W.M.
JACKSON COUNTY OREGON
for

RUSSELL E. DALE

585 ALLISON, NO. 1
ASHLAND, OREGON 97520

Filed for record this the 23 day of January 1979
at 10:07 o'clock A. M. and recorded in Volume 2 page 72
of "Minor Land Partitions" in Jackson County, Oregon
Waldene Terry County Clerk
Martha Baker Deputy

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that I
Russell E. Dale, am the owner in fee simple of the lands as shown hereon and designated as Parcels
No. 1 and 2 and I have caused the partitioning as shown hereon. I do hereby dedicate and convey
to the public for street purposes that portion of Otis Street situated within that portion of the
cul-de-sac as shown hereon.

IN WITNESS WHEREOF, I have set my hand and seal this 13 day of Dec. 1978

Russell E. Dale
Russell E. Dale

STATE OF OREGON
County of Jackson ss

December 12 AD 1978
Personally appeared the above named Russell E. Dale and acknowledged the foregoing instrument
to be his voluntary act and deed.
Before me:

Winona G. Swain
Notary Public for Oregon
My Commission expires 6-20-82

We certify that pursuant to authority granted to us by the Ashland Planning Commission in open
meeting of Jan. 11 1978. This map is hereby approved by the Ashland Planning Commission.
Dated this 21st day of DECEMBER 1978.

Lis Shenko President
[Signature] Secretary

Examined and approved this 18 day of December 1978.

Allen A. Alving
City Engineer

SURVEYOR'S CERTIFICATE

I, Everett L. Swain, Registered Professional Land
Surveyor of the State of Oregon No. 759, hereby certify
that this map is conformable to the field notes and the
survey has been correctly executed within the requirements
and regulations of the State of Oregon.

[Signature]
Surveyor

Winona G. Swain
Notary Public for Oregon
My Commission expires 6-20-82

NW cor D.L.C. No. 40
Fd. 1" Pipe
Re: R.S. No. 4837

NORTH BOUNDARY OF D.L.C. NO. 40

S. 89°49'34"E.
317.90'

East boundary of
Irwin's property
per McCall's survey.

376.865'

SURVEYOR'S CERTIFICATE

I, Everett L. Swain, Registered Professional Land
Surveyor of the State of Oregon No. 759, hereby certify
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NW cor D.L.C. No. 40
Fd. 1" Pipe
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NORTH BOUNDARY OF D.L.C. NO. 40

S. 89°49'34"E.
317.90'

East boundary of
Irwin's property
per McCall's survey.

376.865'

WEST BOUNDARY OF
D.L.C. NO. 40

S. 40°04'24"E.
(d.r. N. 40°05'W. 493.75')

Railroad right of way
per deed record

Centerline of
existing tracks

SOUTHERN PACIFIC RAILROAD
(d.r. S. 40°20'E. 91.90')

S. 00°00'22"W.

OTIS STREET
Fd. 1/2" I. Pipe
pinched top
S. 89°59'38"E.

Fd. 5/8" I. Pin
Re: R.S. No. 4837

Fd. 5/8" I. Pin
5" deep

STREET

street per
Vol. 47 P. 435
d.r. j.c.o.

Fd. 1/2" I. Pipe
12" deep
Re: S & S Sub.

WILLOW ST.
N. LAUREL ST.

NORTH

- 1) Δ=49°21'19"
R=20.00'
L=17.23'
T= 9.19'
- 2) S. 89°56'38"E. 6.06'

Δ=100°21'46"
R=45.00'
L=78.825'
T=53.975'

PARCEL NO. 2
0.384 AC.

PARCEL NO. 1
0.550 AC.

Δ=49°08'59"
R=60.782'
L=52.14'
T=27.795'

Δ=49°08'59"
R=25.00'
L=21.445'
T=11.43'

N. 89°56'38" W. 160.55'
(d.r. S. 89°57'E. 160.55')

EVERETT L. SWAIN, R.P.L.S.
ASHLAND, OREGON

DECEMBER 11, 1978

Scale: 1"=50'
Basis of Bearing:

N.O.A.A. True Bearing @ East line of Sec. 5

- Found monument as shown
- Set 5/8 x 24 inch Iron Pin tagged RLS 759



55AD 39 1E (TL. 502)

7603

8092

APPROVALS

ASHLAND PLANNING DEPARTMENT (PA-T1-2020-00132) SUBDIVISION

5/19/2021 DATE

WEST VILLAGE, PHASES 1 & 2 A Subdivision Located in the N.E. 1/4 of Section 5, T.39S., R.1E., W.M. City of Ashland Jackson County, Oregon (PA-T1-2020-00132)

RECORDER'S CERTIFICATE

Filed for record this 27th day of MAY, 2021 at 9:56 o'clock A.M., and recorded in Volume 47 of Plats at Page 11 of the records of Jackson County, Oregon and recorded as Document No. 2021-023120, Official Records of Jackson County, Oregon.

Christine D Walker County Clerk

Heather Simpson Deputy

Declaration of C.C. & R.'s recorded as Doc. No. 2021-023119, ORJCO. Declaration of Maintenance recorded as Doc. No. 2021-023118, ORJCO.

SURVEY FOR: CMK DEVELOPMENT, LLC 1679 JACKSON RD., ASHLAND, OR 97520

DATE: APRIL 20, 2021

SURVEY BY: L.J. FRIAR & ASSOCIATES, P.C. CONSULTING LAND SURVEYORS P.O. BOX 1947 PHOENIX, OREGON 97535 PH: (541) 772-2782 ljfriarandassociates@charter.net

SHEET INDEX: (1) SIGNATURE SHEET (2) LOT & STREET LAYOUT (3) LEGEND & COURSE DATA TABLES.

SURVEYOR'S CERTIFICATE

I, JAMES E. HIBBS, A REGISTERED LAND SURVEYOR OF THE STATE OF OREGON, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED, WITH PROPER MONUMENTS AS PROVIDED BY LAW, THE TRACT OF LAND SHOWN HEREON, SAID PLAT BEING AN ACCURATE REPRESENTATION OF THE SAME, AND THAT THE FOLLOWING IS AN ACCURATE DESCRIPTION OF THE EXTERIOR BOUNDARY LINES:

Beginning at the most Southerly corner of BILLINGS RANCH SUBDIVISION, according to the official plat thereof, now of record, in Volume 30, Page 20 of plats of Jackson County, Oregon and the INITIAL POINT OF BEGINNING; thence along the East line thereof and the West line of those tracts set forth in Document No. 2019-022188, Official Records of Jackson County, Oregon, North 00°04'28" East, 352.14 feet (record North 00°03' East, 351.05 feet) to the Northwest corner of said tracts; thence along the North line of said tracts, South 89°50'36" East, 542.30 feet (record EAST, 542.60 feet) to the Northeast corner thereof; thence along the East line of said tracts the following three courses: South 00°12'48" West, 160.42 feet (record SOUTH, 160.5 feet) to an angle point; thence North 89°49'31" West (record WEST), 4.73 feet to an angle point; thence South 00°01'06" East, 327.01 feet (record SOUTH, 328.0 feet) to the East-Southeast corner thereof; thence along the South line thereof, North 89°56'45" West (record WEST), 148.58 feet to the Southeast corner of that tract set forth in Document No. 97-29138, said Official Records; thence North 00°13'19" East (record NORTH), 125.28 feet to the Northeast corner of said tract; thence North 89°56'45" West (record North 89°57' West), 83.00 feet to the Northwest corner of said tract; thence South 00°13'19" West (record SOUTH), 125.28 feet to the Southwest corner thereof; thence South 89°56'45" East (record South 89°57' East), 12.46 feet to the East line of those tracts set forth in Document No. 2019-022188, said Official Records; thence along said East line, South 00°13'19" West, 179.26 feet (record SOUTH, 179.35 feet) to the Northerly right of way line of the Central Oregon & Pacific Railroad; thence along said right of way line, along the arc of a 3467.87 foot radius non-tangent curve to the left having a central angle of 07°24'23", a distance of 448.28 feet (the long chord of which bears North 45°10'21" West, 447.97 feet) to the initial point of beginning.

REGISTERED PROFESSIONAL LAND SURVEYOR JAMES E. HIBBS JULY 17, 1986 OREGON 2234 RENEWAL DATE: 6-30-21

SURVEY NARRATIVE TO COMPLY WITH O.R.S. 209.250

PURPOSE: TO SURVEY AND MONUMENT THE LOTS AND STREET CREATED THROUGH WEST VILLAGE, PHASES 1 & 2 AS REQUESTED BY THE CLIENT. THE PARENT PROPERTY IS SET FORTH IN DOC. 2019-022188, ORJCO. SEE ASHLAND PA# T1-2020-00132.

PROCEDURE: USING TRIMBLE R10 GPS RECEIVERS AND TRIMBLE S6 ROBOTIC TOTAL STATION, MADE TIES TO MONUMENTS OF RECORD AS SHOWN ON SHEETS 2 & 3 TO CONTROL THE EXTERIOR OF THE SUBJECT TRACT. COMPUTED THE LOT AND STREET RIGHT OF WAY CORNER LOCATIONS PER THE APPROVED TENTATIVE PLAT AND SET MONUMENTS AS SHOWN ON SHEETS 2 & 3.

EXAMINED AND APPROVED as required by ORS 92.100 as of May 4, 2021

Scott Fein Jackson County Surveyor

EXAMINED AND APPROVED this 19th day of MAY, 2021

Ashland City Engineer

EXAMINED AND APPROVED as required by ORS 92.100 (d) and Oregon Laws 2015 Chapter 96 as of May 25th, 2021

Assessor, Department of Assessment

ALL TAXES, FEES, ASSESSMENTS AND OTHER CHARGES as required by ORS 92.095 have been paid as of May 25th, 2021

Holly Deras - Deputy Tax Collector Tax Collector

DECLARATION

Know all men by these presents that CMK DEVELOPMENT, LLC, an Oregon limited liability company, is the owner in fee of the lands shown on Sheets 2 and 3, more particularly described in the Surveyor's Certificate and have subdivided the same into the Lots and streets as shown on Sheets 2 and 3 and (1) do hereby dedicate to the public for public use under the jurisdiction of the City of Ashland, the Street Right of Way together with the Public Utility Easements (PUE), Multi Purpose Path Easement (MPE) and Temporary Multi Purpose Path Easement (TMPE) which shall automatically be vacated upon the utilization of the MPE and (2) do hereby make and establish the Private Storm Drainage Easements for the benefit of the Lots as noted (PSDE (#)), the Private Alley and the Joint Private Sanitary Sewer and Storm Drainage Easement (PSSSDE) for the benefit of the lots and property as noted and (3) do hereby designate said Subdivision as WEST VILLAGE, PHASES 1 & 2 which shall be subject to a Declaration of Covenants, Conditions and Restrictions (CC&R's) and Declaration of Maintenance to be recorded simultaneously with this plat.

KYLE TAYLOR, Manager CMK Development, LLC

Dated this 3rd day of May, 2021

Melissa Manzi Notary Public - Oregon

Commission No. 1005388 My Commission Expires Oct 22, 2024

AFFIDAVIT OF CONSENT

FROM EVERGREEN FEDERAL BANK RECORDED AS DOC. #2021-023116, ORJCO.

APPROVED FOR RECORDING:

COUNTY COMMISSIONER/ADMINISTRATOR DATE 5/25/21

FILED Date 5/27/21 By PB This Survey Consists Of: 3 sheet(s) Map 0 page(s) Narrative JACKSON COUNTY SURVEYOR

SHEET 1 OF 3 19141FM

23343

SURVEY FOR:
CMK DEVELOPMENT, LLC
1679 JACKSON RD.,
ASHLAND, OR 97520

SURVEY BY:
L.J. FRIAR & ASSOCIATES, P.C.
CONSULTING LAND SURVEYORS
P.O. BOX 1947
PHOENIX, OREGON 97535
PH: (541) 772-2782
ljfriarandassociates@charter.net

WEST VILLAGE, PHASES 1 & 2

A Subdivision
Located in the N.E. 1/4 of Section 5,
T.39S., R.1E., W.M. City of Ashland
Jackson County, Oregon
(PA-T1-2020-00132)

DATE:
APRIL 20, 2021

BASIS OF BEARINGS:

TRUE NORTH BASED ON G.P.S. MEASUREMENTS APPLIED TO THE MONUMENTED CENTERLINE OF RANDY STREET AS SHOWN ON SHEET 2.

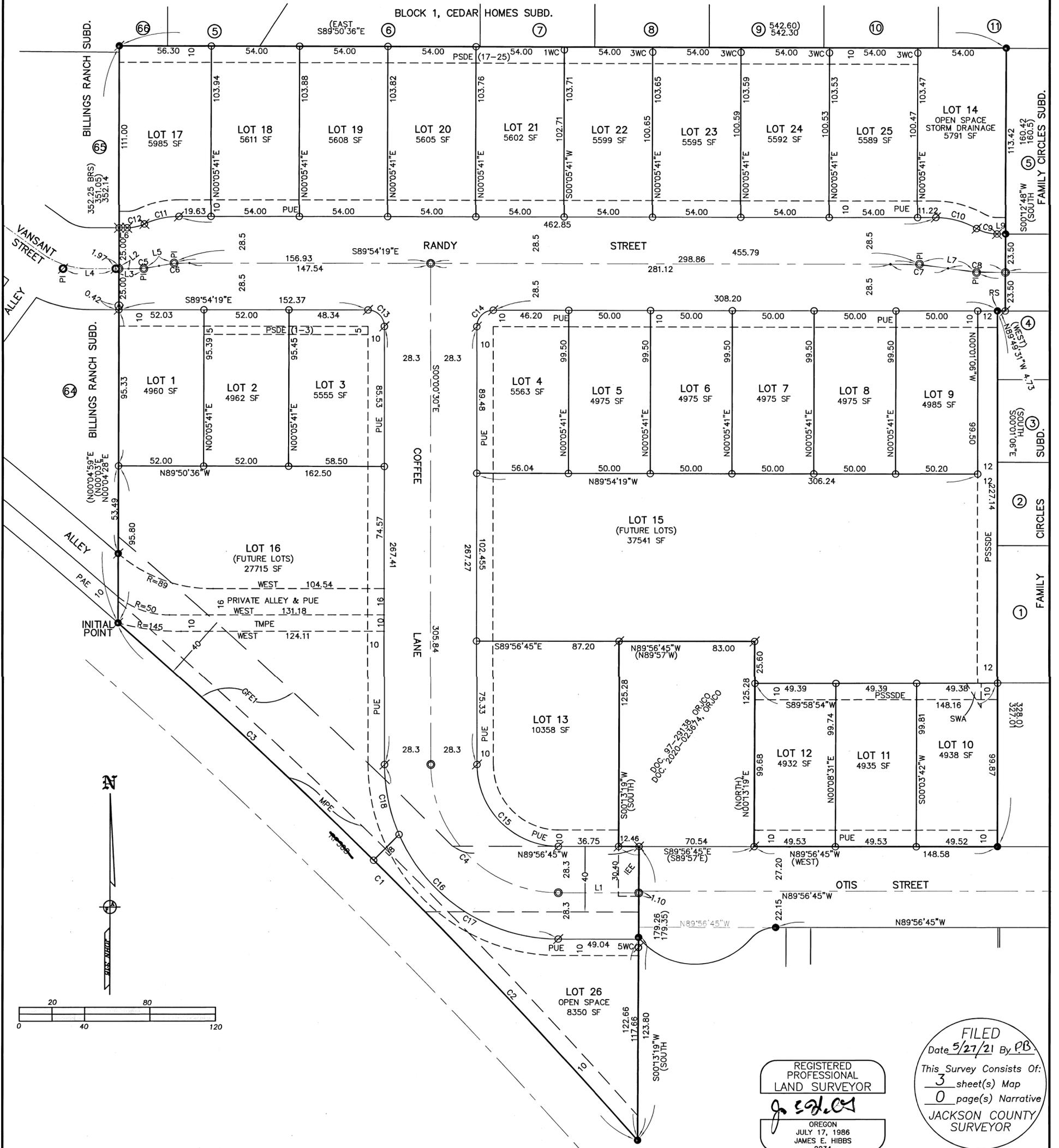
UNIT OF MEASUREMENT = FEET

SCALE: 1" = 40'

SEE SHEET 3 FOR LEGEND & COURSE DATA TABLES

EASEMENTS PER PUBLIC RECORDS REPORT

- 6. PIPELINE EASEMENT PER VOL. 544, PG. 337. JCDR. SHOWN.
- 7. INGRESS-EGRESS EASEMENT PER DOC. 81-15663, ORJCO. SHOWN
- 8. SOLAR ACCESS WAIVER AGREEMENT PER DOC. 84-06645, ORJCO. SHOWN.
- 8. DEED OF TRUST PER DOC. 2019-022189, ORJCO. BLANKET.



23343
17R/13

REGISTERED PROFESSIONAL LAND SURVEYOR
J. Friar
OREGON
JULY 17, 1986
JAMES E. HIBBS
2234
RENEWAL DATE: 6-30-21

FILED
Date 5/27/21 By PB
This Survey Consists Of:
3 sheet(s) Map
0 page(s) Narrative
JACKSON COUNTY SURVEYOR

391E05AD TL200

THIS PLAT WAS PREPARED USING AN HP450C DESIGNJET WITH 51640A INKJET INK ON MILANO JPC4M2 POLYESTER FILM.

RENEWAL DATE: 6-30-21

SHEET 2 OF 3 19141FM

23343

SURVEY FOR:
CMK DEVELOPMENT, LLC
1679 JACKSON RD.,
ASHLAND, OR 97520

SURVEY BY:
L.J. FRIAR & ASSOCIATES, P.C.
CONSULTING LAND SURVEYORS
P.O. BOX 1947
PHOENIX, OREGON 97535
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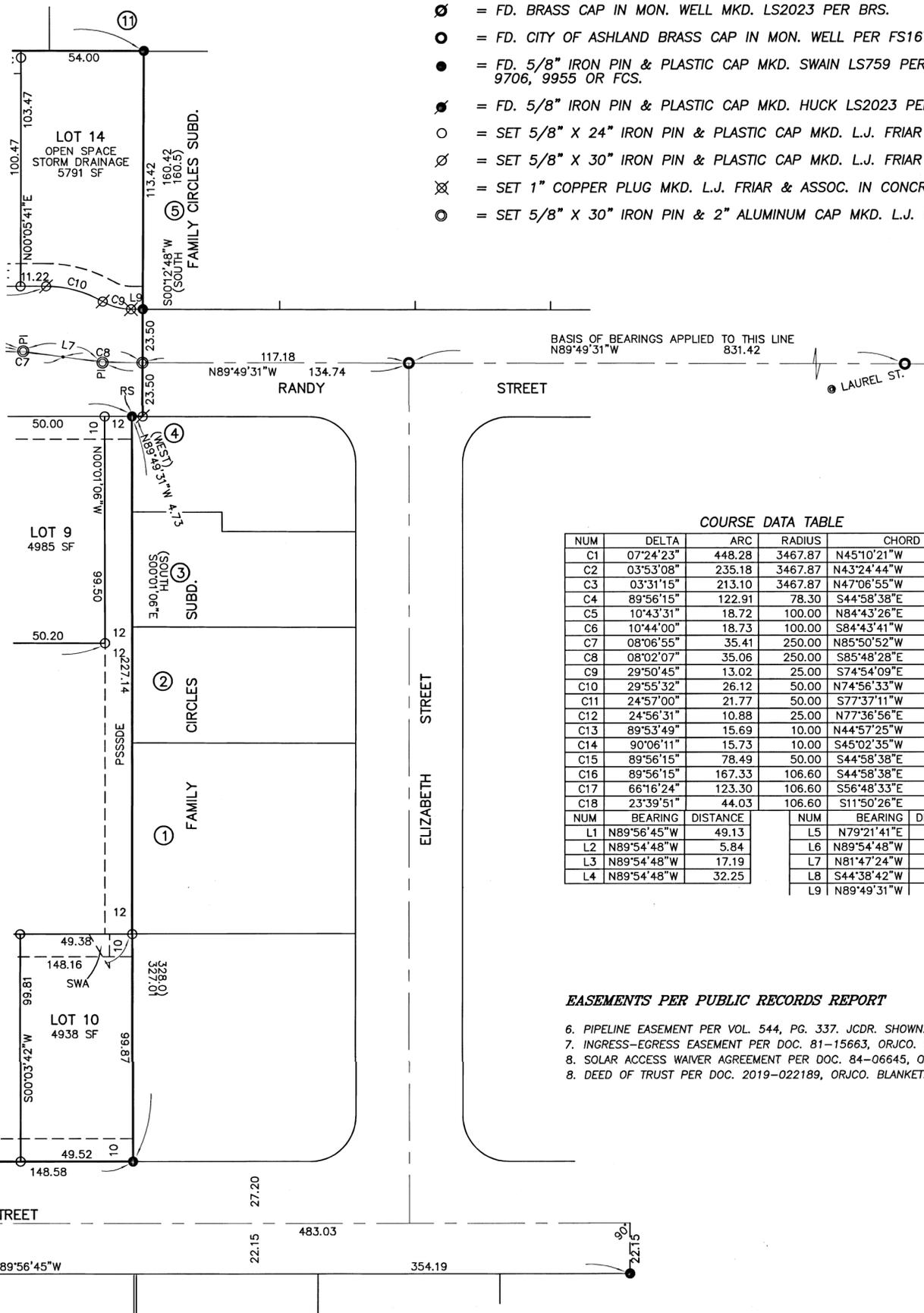
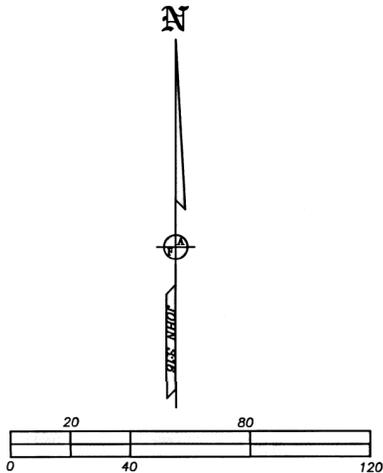
WEST VILLAGE, PHASES 1 & 2

A Subdivision
Located in the N.E. 1/4 of Section 5,
T.39S., R.1E., W.M. City of Ashland
Jackson County, Oregon
(PA-T1-2020-00132)

DATE
APRIL 20, 2021

LEGEND:

- ⊙ = FD. COUNTY SURVEYOR BRASS CAP PER 2016 RE-ESTAB'S.
- ⊗ = FD. BRASS CAP IN MON. WELL MKD. LS2023 PER BRS.
- ⊙ = FD. CITY OF ASHLAND BRASS CAP IN MON. WELL PER FS16744.
- = FD. 5/8" IRON PIN & PLASTIC CAP MKD. SWAIN LS759 PER FS7603, 9706, 9955 OR FCS.
- = FD. 5/8" IRON PIN & PLASTIC CAP MKD. HUCK LS2023 PER BRS.
- = SET 5/8" X 24" IRON PIN & PLASTIC CAP MKD. L.J. FRIAR & ASSOC.
- ∅ = SET 5/8" X 30" IRON PIN & PLASTIC CAP MKD. L.J. FRIAR & ASSOC.
- ⊗ = SET 1" COPPER PLUG MKD. L.J. FRIAR & ASSOC. IN CONCRETE.
- ⊙ = SET 5/8" X 30" IRON PIN & 2" ALUMINUM CAP MKD. L.J. FRIAR & ASSOC.



COURSE DATA TABLE

NUM	DELTA	ARC	RADIUS	CHORD	
C1	07°24'23"	448.28	3467.87	N45°10'21"W 447.97	
C2	03°53'08"	235.18	3467.87	N43°24'44"W 235.14	
C3	03°31'15"	213.10	3467.87	N47°06'55"W 213.07	
C4	89°56'15"	122.91	78.30	S44°58'38"E 110.67	
C5	10°43'31"	18.72	100.00	N84°43'26"E 18.69	
C6	10°44'00"	18.73	100.00	S84°43'41"W 18.71	
C7	08°06'55"	35.41	250.00	N85°50'52"W 35.38	
C8	08°02'07"	35.06	250.00	S85°48'28"E 35.03	
C9	29°50'45"	13.02	25.00	S74°54'09"E 12.88	
C10	29°55'32"	26.12	50.00	N74°56'33"W 25.82	
C11	24°57'00"	21.77	50.00	S77°37'11"W 21.60	
C12	24°56'31"	10.88	25.00	N77°36'56"E 10.80	
C13	89°53'49"	15.69	10.00	N44°57'25"W 14.13	
C14	90°06'11"	15.73	10.00	S45°02'35"W 14.15	
C15	89°56'15"	78.49	50.00	S44°58'38"E 70.67	
C16	89°56'15"	167.33	106.60	S44°58'38"E 150.67	
C17	66°16'24"	123.30	106.60	S56°48'33"E 116.54	
C18	23°39'51"	44.03	106.60	S11°50'26"E 43.72	
NUM	BEARING	DISTANCE	NUM	BEARING	DISTANCE
L1	N89°56'45"W	49.13	L5	N79°21'41"E	18.78
L2	N89°54'48"W	5.84	L6	N89°54'48"W	5.00
L3	N89°54'48"W	17.19	L7	N81°47'24"W	35.29
L4	N89°54'48"W	32.25	L8	S44°38'42"W	22.05
			L9	N89°49'31"W	5.16

EASEMENTS PER PUBLIC RECORDS REPORT

6. PIPELINE EASEMENT PER VOL. 544, PG. 337, JCDR. SHOWN.
7. INGRESS-EGRESS EASEMENT PER DOC. 81-15663, ORJCO. SHOWN
8. SOLAR ACCESS WAIVER AGREEMENT PER DOC. 84-06645, ORJCO. SHOWN.
8. DEED OF TRUST PER DOC. 2019-022189, ORJCO. BLANKET.

LEGEND:

- PUE = PUBLIC UTILITY EASEMENT PER THIS PLAT.
- JCDR = JACKSON COUNTY DEED RECORDS.
- ORJCO = OFFICIAL RECORDS OF JACKSON COUNTY, OREGON.
- () = RECORD DATA PER DOC. 2019-022188, ORJCO OR AS NOTED.
- BRS = BILLINGS RANCH SUBDIVISION (FS18207).
- C1/L1 = SEE COURSE DATA TABLE.
- FS = FILED SURVEY #.
- GFE1 = PIPE LINE EASEMENT PER VOL. 544, PG. 337, JCDR.
- PSDE(1) = PRIVATE STORM DRAIN EASEMENT (LOTS BEFITTING).
- PSSSDE = JOINT PRIVATE SANITARY SEWER & STORM DRAINAGE EASEMENT FOR LOTS 10-12, 15 & DOC. 2020-023674, ORJCO PER THIS PLAT.
- PI = POINT OF INTERSECTION.
- IEE = INGRESS-EGRESS EASEMENT PER DOC. 81-15663, ORJCO. EXTINGUISHED BY DOC. 2021-018169, ORJCO.
- SWA = APPROX. LOCATION OF SOLAR ACCESS WAIVER PER DOC. 84-06645, ORJCO.
- MPE = PUBLIC MULTI-PURPOSE PATH EASEMENT PER THIS PLAT.
- TMPE = TEMPORARY PUBLIC MULTI-PURPOSE PATH EASEMENT PER THIS PLAT.
- FCS = FAMILY CIRCLES SUBDIVISION (FS14577).
- PAE = PEDESTRIAN ACCESS EASEMENT PER BRS.
- RS = RESET 5/8" X 30" IRON PIN & PLASTIC CAP MKD. L.J. FRIAR & ASSOC. IN PLACE OF DESTROYED MONUMENT.
- #WC = #.00 FOOT WITNESS CORNER MONUMENT.

BASIS OF BEARINGS:

TRUE NORTH BASED ON G.P.S. MEASUREMENTS APPLIED TO THE MONUMENTED CENTERLINE OF RANDY STREET AS SHOWN ON SHEET 2.
UNIT OF MEASUREMENT = FEET SCALE: 1" = 40'

REGISTERED PROFESSIONAL LAND SURVEYOR
J. Friar
OREGON
JULY 17, 1986
JAMES E. HIBBS
2234
RENEWAL DATE: 6-30-21

FILED
Date 5/27/21 By P.B.
This Survey Consists Of:
3 sheet(s) Map
0 page(s) Narrative
JACKSON COUNTY SURVEYOR

23343
17R/13