

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 13, 2022  
<https://zoom.us/j/91014040302>**

I. **CALL TO ORDER:** 7:00 PM at in the Civic Center Council Chambers, 1175 East Main Street.

II. **ANNOUNCEMENTS**

III. **CONSENT AGENDA**

**A. Approval of Minutes**

1. November 8, 2022 Regular Meeting
2. November 22, 2022 Study Session

IV. **PUBLIC FORUM**

V. **LEGISLATIVE HEARING:**

**A. PLANNING ACTION:** PA-L-2022-00015

**APPLICANT:** City of Ashland

<b>ORDINANCE REFERENCES:</b>	AMC 18.2.2	Base Zones & Allowed Uses
	AMC 18.2.3.145	Food Trucks and Food Carts
	AMC 18.3.2	Croman Mill District
	AMC 18.3.3	Health Care Services District
	AMC 18.3.4	Normal Neighborhood District
	AMC 18.3.5	N. Mountain Neighborhood District
	AMC 18.5.4	Conditional Use Permits
	AMC 18.6.1.030.F	Definitions

**REQUEST:** The proposal would amend the Ashland Land Use Ordinance to provide additional options for food trucks and food carts in a new section AMC 18.2.3.145 'Food Trucks and Food Carts.'

VI. **TYPE I PUBLIC HEARINGS - APPEAL**

**A. PLANNING ACTION:** PA-APPEAL-2022-00015 Appealing PA-T1-2022-00185

**SUBJECT PROPERTY:** 897 Hillview Drive

**APPLICANT & OWNER:** Suncrest Homes, LLC

**DESCRIPTION:** An appeal of the administrative approval of planning action #PA-T1-2022-00185, An approval for a two-lot partition of a 0.36-acre lot. The tentative partition plat submitted with the application indicates that the two resultant parcels will be 0.18 and 0.17 acres in size. The application includes detailed findings explaining how the proposal meets the relevant

**CITY OF  
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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criteria. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5;  
**MAP:** 39 1E 15 AC; **TAX LOT:** 900

VII. **UNFINISHED BUSINESS**

VIII. **OPEN DISCUSSION**

IX. **ADJOURNMENT**

CITY OF  
**ASHLAND**



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**CITY OF  
ASHLAND**  
ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
*DRAFT* Minutes  
November 8, 2022

**I. CALL TO ORDER: 7:00 PM**

Chair Haywood Norton called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

**Commissioners Present:**

Michael Dawkins  
Haywood Norton  
Lynn Thompson  
Eric Herron  
Lisa Verner  
Doug Knauer

**Staff Present:**

Brandon Goldman, Acting Community Development Director  
Derek Severson, Senior Planner  
Michael Sullivan, Executive Assistant

**Absent Members:**

Kerry KenCairn

**Council Liaison:**

Paula Hyatt

**II. ANNOUNCEMENTS**

Acting Community Development Director Brandon Goldman made the following announcements:

- Chair Norton will provide the annual Planning Commission report to the City Council on December 6, 2022.
- On November 15, 2022 the Council will discuss the updated ordinance regarding Housing in E-1 and C-1 Zones that the Commission recommended for approval at its September 27, 2022 Special Meeting. At a prior meeting the Council discussed manufactured home parks, which has also been discussed by the Housing Production Strategy (HPS) ad hoc group. Members of the community, including many who live in manufactured homes, have requested that a new zone be defined in order to protect manufactured home parks from being redeveloped in a different manner. The Council was generally in favor of including the creation of a manufactured home zone as part of the HPS. The Commission will hear this item at a later date.
- The November 22, 2022 Commission meeting will be a Special Meeting. The Commission will look at the Expedited Land Division code changes for Middle Housing that was brought to the Commission at its June 14, 2022 meeting.

**III. CONSENT AGENDA**

**A. Approval of Minutes**

1. October 11, 2022 Regular Meeting
2. October 25, 2022 Study Session

Commissioners Verner/Knauer m/s to approve the Consent Agenda. Voice Vote: all AYES. Motion passed. 6-0.

**IV. PUBLIC FORUM – None**

**V. UNFINISHED BUSINESS**

- A. Approval of Findings for PA-T3-2022-00004, 1511 Highway 99 North

### Ex Parte Contact

No ex parte contact was reported. Commissioner KenCairn is part of the design team and abstained from the meeting.

### Staff Presentation

Senior Planner Derek Severson began by noting several changes staff made to the Findings. The changes were made to pages: 19, 22, 31, and Conditions #8e and #10c, and clarified the areas of required street frontage improvements (see attachment #1).

Mr. Severson informed the Commission that Commissioner Thompson had raised the question of affordability requirements with staff, and that staff would allow the applicant to determine at final plan whether they would be partnering with an affordable housing provider or would be dedicating the land to an affordable housing provider. Mr. Goldman added that the applicants, in the event that they are not willing to develop it themselves, could dedicate the land to affordable housing provider without concern for the development timeframe. The applicants would be required to provide additional affordable units if this route is taken.

Commissioner Thompson asked where the partnership guidelines were in the Ashland Municipal Code (AMC) as referenced by the Findings. Mr. Goldman responded that a partner would be considered a member of the applicant's team, and would therefore be beholden to the same development standards. Commissioner Thompson questioned whether the inclusion of such an avenue for development should be included in the Findings. Mr. Severson responded that the applicant would likely partner with an affordable housing provider to handle the administrative aspects of screening tenants for the affordable units, resulting in its inclusion as a potential development route under Option 1. Commissioner Thompson asked how the applicant could offload the affordable housing units to an affordable housing provider without the land being dedicated. Mr. Goldman agreed that the AMC is not clear on this topic, but that affordable housing providers have worked with private property owners in the past to receive land dedicated to affordable housing, with the promise that they will build it concurrent with the for-market development and would satisfy the Option 1a criteria. He added that this option is a widely preferred development method because an affordable housing provider would be more adept at requesting grant funds for the affordable units. The land dedication process was created in the event that a developer could not find an affordable housing partner, so that the remainder of the project could begin unhindered.

Commissioner Herron inquired if it was common practice to use nearby businesses as reference points for the project, and Commissioner Knauer suggested that the parcels be designated instead of the current occupying business of a property.

Commissioner Thompson suggested some grammatical changes to pages 47-48 of the Findings, and recommended removing various inclusions of the phrase "**is proposed**" and replacing it with "**shall be**" to denote the current status of the Findings.

**Commissioners Herron/Verner m/s to approve the Findings with corrections. Voice Vote: all AYES. Motion passed. 6-0.**

Commissioner Dawkins departed from the agenda to state his aversion to permitting the separation of the affordable housing units from the market rate units, and that the quality and equity of these types of projects should be discussed by the Commission. He suggested that the Commission explore ways in which to receive clear answers from applicants regarding affordable housing unit development and whether the applicant would engage in land dedication or develop the units themselves. Commissioner Thompson responded that this would require a code change, and the applicant had stated that it was more financially feasible to develop the affordable housing units in separate buildings, particularly when partnered with an affordable housing organization. Commissioner Dawkins replied that many affordable housing organizations are non-profit who receive funding through taxes, and that taxpayers would be indirectly funding the affordable units for this project. Commissioner Herron noted that low-income housing do not pay income taxes, and wondered how that would work in a mixed-unit building. Commissioner Dawkins commented that the administrative aspect should be figured out by the developer.

Mr. Goldman noted that the annexation standards had recently been changed to remove the requirement for developers to mix affordable units throughout a project. This was done after the City received testimony from affordable housing providers citing the difficulty in financing mixed housing units.

Commissioner Knauer remarked that he was more interested in the completion of the project itself, and asked about the importance of unit distribution. Commissioner Dawkins stated that placing all affordable units in separate buildings could result in stigmatization and discrimination against the tenants, to which Commissioner Knauer agreed. Commissioner Verner concurred

that affordable housing units should be evenly distributed throughout future developments, and suggested that this be discussed during the next series of AMC amendments.

Chair Norton inquired if an applicant could propose a project containing primarily two-bedroom market rate units, and only one-bedroom affordable housing units but in an increased number from the minimum required. Mr. Goldman responded that a variance to the code could be requested by the applicant, but that they would need to provide a benefit that is greater than or equal to what would be given otherwise. Chair Norton suggested that a developer could then provide a higher number of one-bedroom units for residents. Commissioner Verner emphasized the need for lower-income families to have multi-bedroom units as well, and Chair Norton agreed. Mr. Goldman commented that a project developed by KDA Homes was able to provide eight affordable units up from six by dedicating the land and removing the parity required.

Chair Norton commented that he had considered the possibility of adding an Open Discussion item to the Commission's agenda in the future to facilitate similarly impromptu discussions as the one brought up by Commissioner Dawkins.

Mr. Goldman noted the inclusion of the Community Development survey in the Commission's packet, and stated that he would share the results when they became available.

Chair Norton inquired about the state of the Tree Commission. Mr. Goldman responded that it will be changing to the Tree and Urban Forest Advisory Committee, and would operate as a management advisory committee. He stated that the Council was provided with a list of the current members of the Tree Commission to be appointed to this new committee, and that staff would continue to meet with them monthly to review development plans.

## VI. ADJOURNMENT

Meeting adjourned at 7:40 p.m.

*Submitted by,  
Michael Sullivan, Executive Assistant*

**Page 19** 2.5 The Planning Commission notes that requests to depart from the Street Design Standards in AMC 18.4.6.040 are subject to Exception to the Street Design Standards. The Planning Commission further notes that with the current request, over 3,000 linear feet of sidewalk installation is proposed, and of this only approximately 900 linear feet directly fronts upon the applicant's properties. Along the applicant's frontage, an Exception is requested to allow curbside sidewalks in order to install a bus pull-out lane, bus stop and transit supportive plaza. The remainder of the areas to be improved are outside the applicant's ownership or control, and there are impediments to city-standard **parkrow and street tree installation improvements** due to steepness of other's properties adjacent to the right-of-way; obstructions created by private property owners, and privately-owned encroachments into the highway right-of-way; and physical barriers including private property curbing and the railroad overpass. **The applicant proposes to install new sidewalks connecting the existing sidewalk near El Tapatio to the existing sidewalk near Schofield Street, and to widen the existing bicycle lanes in this same area where necessary to meet city standards.** The applicant emphasizes that the installation of a continuous sidewalk system will have a positive impact on the adjacent properties while providing greater connectivity, comfort and safety for bicyclists, pedestrians and transit users.

The application submittal includes proposed street cross-sections as Sheet C7.2. The first requested Exception to the Street Design Standards is **for to not install** the park row planting strip and street trees abutting the travel lanes for **those a portions of the highway improvements frontage where constraints beyond the applicant's control prevent their installation,** as further detailed below:

**Page 22, Below the photo:**

The Planning Commission finds that physical barriers are present for approximately 2,218-feet of the approximately 3,088-feet of **frontage highway** proposed to be improved as part of this annexation. The Commission concludes that the combination of unique and unusual aspects makes the installation of city-standard **parkrow and street trees improvements** impossible when private ownership of much of the abutting property is taken into consideration.

**Middle of Page 31**

The application materials explain that the subject properties about Highway 99 N, which is under the jurisdiction of Oregon Department of Transportation (ODOT). Highway 99 N is designated by ODOT as an ‘Urban Fringe Highway’ and ODOT’s specific standards call for an eight-foot curbside sidewalk and a six-foot bike lane. City of Ashland Street Standards call for a six-foot bike lane, seven to eight-foot landscaped park row planting strip with irrigated street trees and a six-foot sidewalk. ODOT accepts the sidewalk buffered by a parkrow as required by the city standards as an alternative **which exceeds** the ODOT-standard eight-foot curbside sidewalk **minimum requirement**. The applicant asserts, and ODOT has confirmed, that the proposed improvements include public infrastructure improvements that comply with the ODOT standards for the entirety of the **proposed** highway **frontage** improvements, and in addition to a Traffic Impact Analysis the application materials also include a “Technical Memo, Grand Terrace Development – Access Safety Evaluation” which provides detailed safety findings from the project’s Transportation Engineer.

### Condition #8e

Engineered construction drawings for the required **street** improvements **along the property's Highway 99N frontage**, from the existing terminus of the sidewalk south of the site near Schofield Street to the existing terminus of the sidewalk north of the site **near El Tapatio** shall be provided for review and approval by the Oregon Department of Transportation and the City of Ashland's Planning and Engineering Departments prior to any work within the street right-of-way or pedestrian corridor. The required improvements shall be as described herein and illustrated in the applicant's civil drawings, and shall generally consist of:

### Condition #10c

That all infrastructure improvements associated with the annexation and subdivision including but not limited to utilities, driveways, **street frontage improvements** and common area improvements shall be completed according to approved plans, inspected and approved.

**CITY OF  
ASHLAND**  
ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
*DRAFT* Minutes  
November 22, 2022

**I. CALL TO ORDER: 7:00 PM**

Chair Haywood Norton called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

**Commissioners Present:**

Michael Dawkins  
Haywood Norton  
Lynn Thompson  
Eric Herron  
Lisa Verner  
Doug Knauer

**Staff Present:**

Brandon Goldman, Acting Community Development Director  
Derek Severson, Senior Planner  
Michael Sullivan, Executive Assistant

**Absent Members:**

Kerry KenCairn

**Council Liaison:**

Paula Hyatt

**II. ANNOUNCEMENTS**

Acting Community Development Director Brandon Goldman made the following announcements:

- The November 15, 2022 City Council meeting was cancelled. The discussion regarding PA-T3-2022,00004, the annexation of 1511 Highway 99 N, was rescheduled for December 6, 2022.
- The Planning Commission annual update to Council, and the first reading of PA-L-2021-00013 regarding housing in E-1 and C-1 zones, have both been rescheduled for January 3, 2023.
- An appeal of the Commission's decision to deny PA-T2-2022-00159, 165 Water Street will be heard by the Council on January 17, 2023. The applicant submitted the appeal on May 20, 2022, but subsequently requested a postponement. The Council is required to render a decision by February 10, 2023. Commissioner Thompson asked who would be representing the Commission during the appeal process. Senior Planner Derek Severson responded that it will be incumbent on the appellant to successfully contest the Commission's decision to deny the project, and that staff will be present to provide clarification and defend the decision. Chair Norton inquired if the minutes of the relevant meetings would be sent to the Council, to which Mr. Severson said that they would.

**III. PUBLIC FORUM – None**

**IV. LEGISLATIVE HEARING:**

**A. PLANNING ACTION: #PA-L-2022-00014**

**APPLICANT:** City of Ashland

**ORDINANCE REFERENCES:**

<b>AMC 18.5.1</b>	General Review Procedures
<b>AMC 18.5.3</b>	Land Divisions and Property Line Adjustments
<b>AMC 18.5.9</b>	Comprehensive Plan, Zoning and Land Use Ordinance Amendments

**REQUEST:** The proposal would amend the Ashland Land Use Ordinance to implement the requirements of Oregon Senate Bill 458 by adding section 18.5.1.075 "Middle Housing Land Divisions" and section 18.5.3.140 "Middle Housing Land Divisions."

## Staff Presentation

Mr. Goldman noted that staff felt that it was important to import the state's language into the City's ordinance to provide clarity for citizens reviewing the code.

Mr. Severson stated that there had been no significant changes to the ordinance since it was first presented at the June 14, 2022 Commission meeting. He gave a brief presentation on Senate Bill 458, which include changes to Middle Housing Lot Divisions (MHL) and Expedited Land Division codes, and also provided a timeline for the changes to be implemented. Under SB 458 Expedited Land Divisions would not be considered land use actions, and any appeals of staff decisions would be decided by a hearings officer or referee instead of being brought to the Commission. The noticing area for Expedited Land Divisions will also be reduced to 100ft from 200ft, and the City would be required to make a final determination within 63 days of submittal.

House Bill 2001 will also institute code changes to the duplex and Accessory Residential Unit (ARU) approval criteria. Mr. Severson outlined how duplexes would constitute two units on one lot, as attached or detached structures, and that two on-site parking spaces would be required. ARUs would need to meet size guidelines, but that no on-site parking would be required. Both duplexes and ARUs would be permitted with approval of a building permit.

Mr. Severson described previously noted issues with the draft ordinance, the first being whether the MHL procedure would apply to duplexes permitted prior to HB 2001. The state has indicated that any middle housing lot division proposal would need to demonstrate compliance with both applicable state building code and local middle housing code in order to be eligible under SB 458, and that it is unlikely but not impossible that a pre-HB 2001 housing type would meet those criteria. The second issue was whether MHL procedure should apply to ARUs in addition to duplexes. Mr. Severson noted that SB 458 itself does not directly address its applicability to ARUs, but that the Department of Land Conservation and Development (DLCD) has explicitly stated that the MHL procedure would not apply to ARUs.

Mr. Severson concluded by briefly detailing two staff-recommended additions to the ordinance (see attachment #1).

## Questions of Staff

Commissioner Verner inquired if the City had a hearings officer or referee, and Mr. Severson responded that one would need to be hired specifically for this role. Chair Norton asked if they would be a fulltime staffer of the City, and Mr. Severson responded that they would be contracted. He added that the appellant would be required to pay \$300 of the officer's contract fee, with the possibility of levying an additional \$500. Any further funding would be paid by the City. Mr. Severson stated that he is in contact with other communities in the Rogue Valley to see who they are hiring for this position and to review copies of their contracts.

Commissioner Thompson asked how the division of a lot would be determined and if it would be at the discretion of the property owner. Mr. Severson responded that it would be up to the property owner, likely with a surveyor's assistance. They would have great latitude to divide the property as there would no longer be setback, street-frontage, or lot size zone requirements. It would be based on what worked best for the building configuration on the property, but would largely be limited to one dwelling per lot.

Commissioner Dawkins inquired if the new state guidelines would conflict with the current code. Mr. Severson responded that the Commission would be required to approve a MHL proposal if it came before them, but that if it was a land use action under the flag drive partition regulations then the review process would not change. Mr. Goldman clarified that MHL proposals are not land use decisions, and would not go before the Commission except under rare circumstances.

Commissioner Thompson asked whether the first of staff's recommended additions to the guidelines would supplant cottage housing codes. Mr. Severson commented that cottage housing is exempt from these rules. Mr. Goldman added that it would be more expedient for an applicant to go through the performance standards review process to create a cottage housing development, rather than dividing up a property in an incremental fashion. Commissioner Thompson inquired if her property in an R-2 zone with two dwelling units would be able to be subdivided and sold separately under the new guidelines. Mr. Goldman responded that she could, but that the secondary unit would need to meet building and setback requirements in relation to the parent lot. He noted that both buildings would still be considered a duplex, and that the owners would not be permitted to develop

an ARU in either property. Commissioner Thompson asked if both properties would be fully transferable. Mr. Severson responded that neither property would have full development rights, but that they could both be sold and resold.

Commissioner Herron asked whether ARUs need separate utilities from the parent property, and Mr. Severson responded that they would only require separate electrical service. Commissioner Herron commented that the parent property would then be required to provide all other utilities in order to be legally divided, and asked if that was explicitly stated in the Ashland Municipal Code. Mr. Severson responded that it is part of the building code requirements, and that separate utilities are required by state law.

Chair Norton noted that divided duplexes could now develop their own Covenants, Conditions, and Restrictions (CC&Rs) under the new guidelines. Mr. Severson stated that the duplex would still be subject to the original division approval, which would include building design and placement of a landscape plan. Commissioner Thompson noted that the state bill contains a clause regarding planned communities, and that the properties within such a division would be subject to the governing documents of the planned community, and would be allocated assessments and voting rights on the same basis as existing units. Commissioner Verner requested clarification on when this situation would apply. Mr. Goldman responded that a duplex in an existing planned community that went through a middle housing land division would have voting rights under the existing CC&Rs. The other scenario would be if a single-family home, outside of an existing planned community, added a second unit to their property and then went through the MHLD process. These two properties could then develop their own CC&Rs for maintenance of any common areas. Chair Norton expressed concern that the conditions for the division could become confused after the properties are sold and resold, which could result in conflicts arising between two future property owners. Commissioner Thompson pointed out that the City would not get involved in such a civil matter.

Commissioner Knauer inquired if the City actively observed mandates coming from the state, and whether the City had an advocate at the state level. Councilor Hyatt detailed how the League of Oregon Cities (LOC) will annually send out a list of priority issues to a variety of committees, which are then placed into relevant categories. One of those categories are land actions, and the City votes on which it deems to be the top six highest priority items. The LOC then leverages lobbyists at the league on behalf of those cities. However, those lower priority items are not overlooked, as environments and circumstances change rapidly. Land use, affordability, and infrastructure are currently a high priority for the LOC and are being advocated for on behalf of Oregon cities. A lobbyist within the LOC can also be approached if there is an issue that would be counter to the interests of a city.

Commissioner Thompson commented that there was a consortium of Oregon cities that is currently suing the DLCD over the removal of parking mandates within the state's new Climate Friendly and Equitable Communities guidelines. Chair Norton inquired if the City was approached about joining the lawsuit. Councilor Hyatt responded that Medford and Grants Pass had joined the lawsuit, but to her knowledge the City had not entertained the notion of joining.

**Commissioners Thompson/Dawkins m/s to recommend that the City Council adopt the draft ordinance with staff's additional recommendations. Voice Vote: All AYES. Motion Passed. 6-0.**

## **V. OPEN DISCUSSION**

Mr. Goldman stated that the open discussion item had been added in order to address topics not on the agenda that Commissioners would like to discuss, as well provide an opportunity for Commissioners to put forth topics for discussion at future Study Sessions. He noted that no new items could be added to the current agenda during an Open Discussion, nor could a decision be made on such an item.

Chair Norton inquired if the Midtown Lofts project at 188 Garfield was progressing. Mr. Goldman responded that a site visit had recently been conducted to look for tree protection fencing in advance of the permit being issued, and the developers would soon begin work on the common areas. The Commission discussed a variety of projects that have yet to begin development. Mr. Severson announced that the Columbia Care facility and Plaza North on First Street both recently obtained their occupancy permits.

Chair Norton informed the Commission that Governor-Elect Tina Kotek had expressed the belief that the Urban Growth Boundary

(UGB) was having a detrimental effect on affordable housing in the state, and had shown interest in modifying State Bill 100 to address this issue. Commissioner Dawkins commented that one of the incoming City Councilors appeared open to expanding the UGB.

Councilor Hyatt expressed her gratitude to the Commissioners for their dedication and willingness to delve into difficult issues, and that she always appreciated recommendations that come from them. She also expressed her appreciation to staff.

**VI. ADJOURNMENT**

Meeting adjourned at 7:52 p.m.

*Submitted by,  
Michael Sullivan, Executive Assistant*

# Middle Housing Land Divisions



Ashland Planning Commission  
Public Hearing  
November 22, 2022

Recommendation to Council on a Legislative Ordinance Amendment  
To Comply with Senate Bill 458  
Dealing with Middle Housing Land Divisions

11/22/2022 PC Hearing

## Legislative Timeline



- House Bill 2001 Middle Housing
  - effective August 8, 2019
- Senate Bill 458 Middle Housing Land Divisions
  - effective January 1, 2022
- Cities required to amend local code
  - by June 30, 2022 or implement directly from Senate Bill 458

11/22/2022 PC Hearing

# HB 2001 Requirements



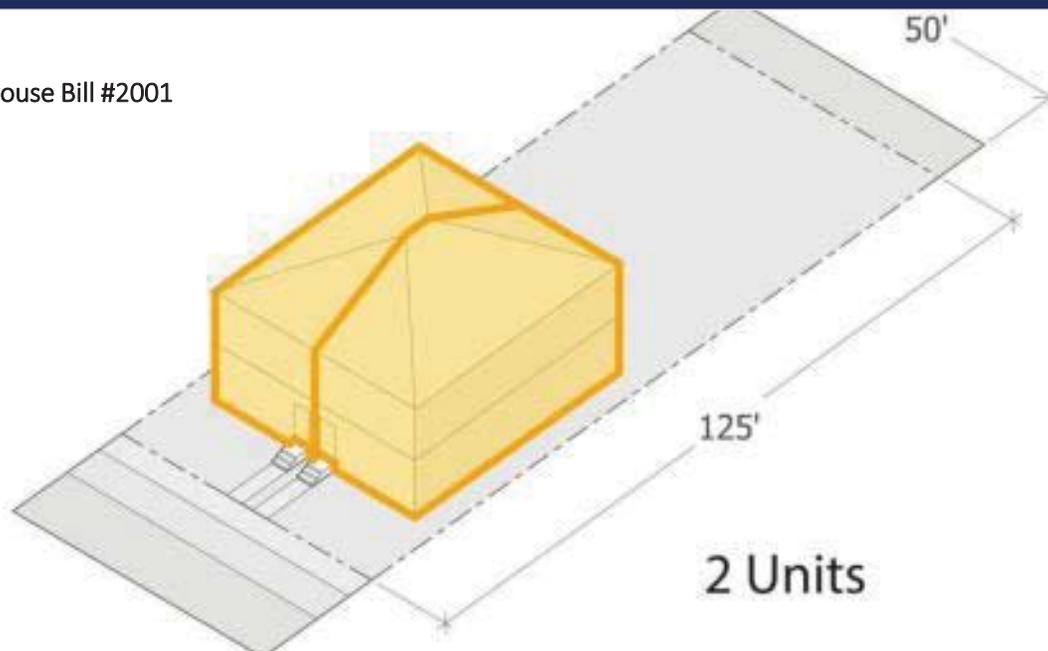
1. Cities have to allow duplexes on residentially-zoned lots that allow development of detached single-family dwellings.
2. Approval process and standards used for duplexes must not be more restrictive than those applied to detached single-family dwellings.
3. *Jurisdictions cannot require off-street parking or owner-occupancy requirements for accessory residential units (ARUs)*

11/22/2022 PC Hearing

# Middle Housing Land Divisions



House Bill #2001

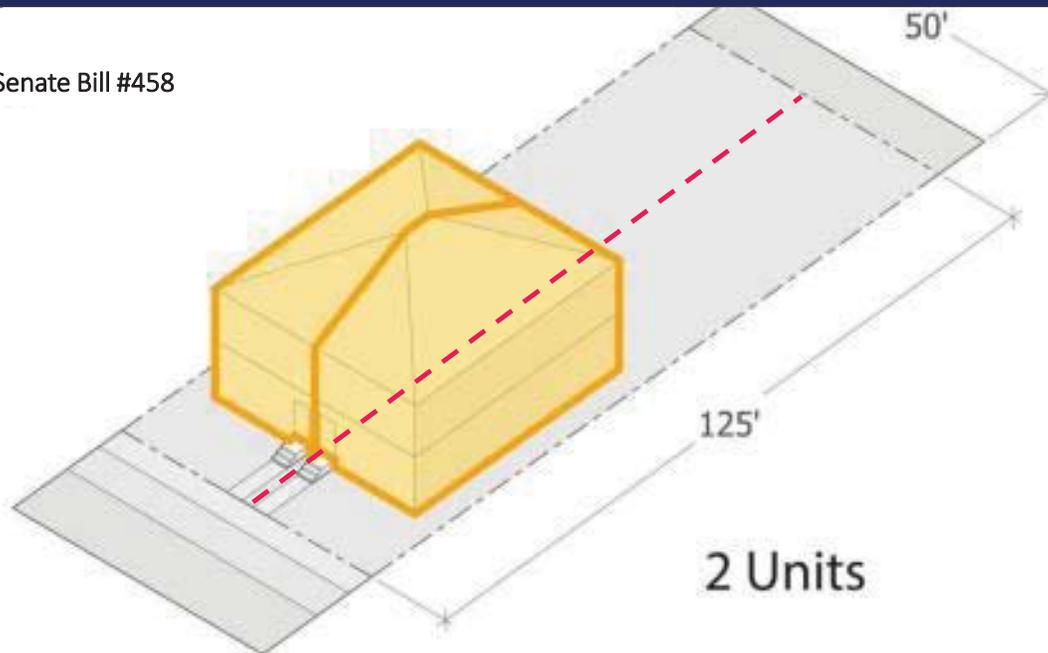


11/22/2022 PC Hearing

# Middle Housing Land Divisions



Senate Bill #458



11/22/2022 PC Hearing

## HB2001 Code Changes...



### Duplex

- 2 units on 1 lot, *in attached or detached structures*
- 2 on-site parking spaces are required. On-street parking credits not permitted
- Permitted with approval of building permit (*no separate land use action*)

### Accessory Residential Unit (ARU)

- Must meet size limits (50% of GHFA & <500 s.f. for MFR, <1,000 s.f. for SFR)
- No on-site parking spaces required
- Permitted with approval of building permit (*no separate land use action*)

11/22/2022 PC Hearing

# Middle Housing Land Divisions



- Applies to any lot that allows Middle Housing under ORS 197.758(3)/HB 2001, which for Ashland applies only to duplexes.
- Accessory dwelling units are not eligible for lot division under SB 458.**
- MHLD must result in exactly one dwelling per lot, except that common areas may be located on a separate lot or a shared tract.
- Separate utilities are required for each dwelling unit.
- Easements are required to be provided for: **pedestrian access; common areas; driveways and parking areas, if shared; and utilities.**
- An MHLD proposal must meet the requirements of the Oregon Residential Specialty Code. For example, if an attached duplex is being divided, there must be firewall construction between the two units.
- In a typical land division, the land division is approved, infrastructure installed and plat signed prior to building permits being reviewed and issued for construction. MHLDs could occur prior to submission of an application for building permits, after a middle housing development is approved for development, or after it is constructed. SB 458 gives cities the option of allowing concurrent review of building permits and the land division, but in any case, MHLD applications must include a middle housing development (*either proposed or already built*) that complies with the building code and the City's middle housing development code.

11/22/2022 PC Hearing

# SB 458 Limitations



## Cities may require...

- Submittal of Tentative & Final Plats for Approval
- Review for Oregon Residential Specialty Code Compliance
- Right-of-Way Dedication & City-Standard Street Frontage Improvements

## Cities may not...

- Apply *any* approval criteria other than the approval criteria specified in SB 458 to applications for an MHLD — i.e. the only allowable criteria include the City's standards for middle housing development, separate utilities, easements, one dwelling per lot, and building code compliance.

11/22/2022 PC Hearing

# Expedited Land Divisions Procedure



- Cities are required to apply the Expedited Land Division (ELD) process from ORS 197.360 to 197.380 to Middle Housing Land Divisions (MHLDs) to streamline review. The ELD process is outlined below:
  - Submittal requirements are consistent with typical land divisions.
  - Completeness review must occur by the City within **21 days** of application submittal.
  - Notice is given to properties **within 100 feet of the site**, to utility providers and to applicable neighborhood association(s).
  - There is a 14-day comment period.
  - A decision must be made by the city within **63 days** after a complete application is submitted, unless extended by the Council under limited circumstances. *This is in contrast to the 120 days typically allowed for land use actions.*
  - An ELD is not considered to be a land use decision, and would not be heard by the Planning Commission.
  - The Staff Advisor makes the initial administrative decision, and any appeals go to a referee who cannot be a city employee or city official, but could be a hearings officer.
  - Only the applicant and any person or organization who files written comments in the time period specified in the bill may appeal. An appeal must be filed within 14 days of mailing the Notice of Decision. A \$300 deposit to cover costs must be paid with the appeal submittal, and the referee may levy additional fees to cover hearing costs up to \$500.
  - The city-appointed “referee” decides any appeal decision—often this is a city’s Hearings Officer - who must issue a decision within **42 days of the appeal being filed**. The decision of the referee is the final local decision on the MHL application. Any appeals of the referee’s decision go to the Oregon Court of Appeals rather than to the Land Use Board of Appeals (LUBA).

11/22/2022 PC Hearing

# Previously Noted Issues



- **Should the Middle Housing Land Division procedure apply to those duplexes permitted prior to House Bill 2001?**
  - The state has indicated that any middle housing lot division proposal will need to demonstrate compliance with both applicable state building code and local middle housing code in order to be eligible for a lot division under SB 458, and that while unlikely it is possible that a pre-HB 2001 housing type could make this demonstration.
- **Should the Middle Housing Land Division procedure apply to accessory residential units as well as duplexes?**
  - Senate Bill 458 itself does not speak directly to its applicability to ARUs.
  - DLCD guidance issued subsequently has indicated explicitly that the MHLD procedure does not apply to ARUs.
  - As with the question above, it is possible that a previously constructed ARU could apply for an MHLD as a duplex and be approved if the applicable state building and local middle housing codes could be addressed. *(The primary differences between an ARU and a duplex are size restrictions on ARU’s and parking requirements for duplexes.)*

11/22/2022 PC Hearing



## Draft Ordinance Provided...

The draft ordinance provided in your packets includes:

- A new **Section 18.5.1.075 Middle Housing Land Divisions (MHL D)** addressing the procedural handling for MHL Ds under the required Expedited Land Divisions procedure – *rather than as a land use action* – and includes the process for appeal to a referee/hearings officer.
- A new **Section 18.5.3.140 Middle Housing Land Divisions (MHL D)** which speaks to the general requirements and approval criteria for preliminary and final plat approval for MHL Ds.

11/22/2022 PC Hearing



## Staff-Recommended Additions (Since packets...)

- **AMC 18.6.1.030.D** “Duplex: Two dwellings on one lot in any configuration including either in attached or detached structures, **or on separate middle housing lots if divided pursuant to a middle housing land division.** Two attached dwellings in a stand-alone structure that is included in a multifamily development of three or more units shall be considered multifamily dwellings and shall not be considered a duplex.”
- **AMC 18.6.1.030.L** “**Middle Housing Lot:** A lot created under the Middle Housing Land Divisions procedure in AMC 18.5.3.140 solely for the purpose of ownership opportunities. A middle housing lot must be maintained to meet the standards and conditions of approval applicable to the “parent lot”, and is not granted additional development rights. Where a duplex is divided into two middle housing lots, each dwelling remains a duplex unit even though it is on its own individually-owned lot and is subject to the standards and conditions of the duplex approval. Middle housing lots cannot be further divided, and are not eligible to have ARUs. Lots created through a middle housing land division will be identified as such on their survey plat.”

11/22/2022 PC Hearing

# Next Steps



- Tonight's Planning Commission Public Hearing
- City Council Hearing/1<sup>st</sup> Reading (*January 3<sup>rd</sup>* )
- City Council 2<sup>nd</sup> Reading (*January 17<sup>th</sup>*)

11/22/2022 PC Hearing

# **LEGISLATIVE HEARING**

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## **PA-L-2022-00015 Food Truck Ordinance**

**ASHLAND PLANNING DIVISION**  
**STAFF REPORT**  
**December 13, 2022**

**PLANNING ACTION:** PA-L-2022-00015

**APPLICANT:** City of Ashland

<b>ORDINANCE REFERENCES:</b>	AMC 18.2.2	Base Zones & Allowed Uses
	AMC 18.2.3.145	Food Trucks and Food Carts
	AMC 18.3.2	Croman Mill District
	AMC 18.3.3	Health Care Services District
	AMC 18.3.4	Normal Neighborhood District
	AMC 18.3.5	N. Mountain Neighborhood District
	AMC 18.5.4	Conditional Use Permits
	AMC 18.6.1.030.F	Definitions

**REQUEST:** The proposal would amend the Ashland Land Use Ordinance to provide additional options for food trucks and food carts in a new section AMC 18.2.3.145 ‘Food Trucks and Food Carts.’

**I. Ordinance Amendments**

**A. Project Background**

As has been previously discussed, food trucks are currently regulated as follows:

- **Short-Term Events (AMC 18.2.2.030.H):** Current codes provide for staff approval of short-term temporary uses occurring no more than once in a calendar year on a property and lasting not more than 72 hours. There are no public notice requirements for this type of review. This is the process used for the food trucks at the annual Chocolate Festival at the Ashland Hills Hotel and at exhibitions and shows at the Enclave Studios and Galleries.
- **Accessory to an Existing Use:** Where food trucks are part of an event that is accessory to an existing, approved use they may occur without a permit. As an example, when the Earth Day celebration is held at ScienceWorks Hands On Museum each year, the celebration including food trucks is accessory to the existing approved use.
- **Conditional Use Permit (AMC 18.5.4):** Where a proposal goes beyond the scope of a short-term event or being accessory to an existing use, food trucks as temporary, seasonal or intermittent uses require Conditional Use Permit approval. This process requires public notices and generally takes approximately 45 days unless an appeal is filed. This is the process used for the Water Street Café, the food truck court at the current Growers Market, at Northwest Nature Shop and on the OSF campus. The Conditional Use Permit process –

which involves a \$200 pre-application conference, a \$1,120.25 application fee, and an extended process if appealed - can pose a barrier to entry to many food truck owners.

The Planning Commission discussed food trucks in June of 2022, and at its September 13, 2022 meeting, the Planning Commission initiated an ordinance amendment as allowed in AMC 18.5.1.100 to look at ways to provide additional options for food truck owners interested in operating in Ashland. The Commission has subsequently discussed ordinance changes at study sessions in September and October. The draft ordinance presented tonight incorporates the discussion points into ordinance form, and any changes here can be finalized and brought back for adoption along with written findings before the issue is taken to Council.

## **B. Summary of Proposed Amendments**

Based on the Planning Commission discussion at the October 25<sup>th</sup> study session, the draft ordinance has been updated with the following:

**Short Term Event Permits (AMC 18.2.2.030.H):** The short term events allowances have been left as is, but an additional subsection has been provided to allow for food trucks on a property on a short-term basis (i.e. no more than once per month).

**Ministerial Permit:** The ministerial Food Truck Permit language proposed would allow up to three trucks or carts in approved plaza spaces and private parking lots.

**Site Design Review:** A food truck pod, with more than three trucks on a property, or the placement of food trucks other than on approved plaza space or parking areas would be subject to Site Design Review. As with other Site Design Review applications, those within the historic districts would be subject to review by the Historic Preservation Advisory Committee.

**Conditional Use Permit:** At Commission direction, proposed food truck or food cart operations within the downtown (C-1-D) district would remain subject to Conditional Use Permit approval, which would include review by the Historic Preservation Advisory Committee.

**Residential Zones:** The various allowed uses charts have been updated to make clear that food trucks are not to be allowed within residential zoning districts.

## **II. Procedural**

Applications for Type III (i.e. Legislative) Plan Amendments and Zone Changes are described in the Ashland Land Use Ordinance section 18.5.9.020 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**

If the Planning Commission recommends approval of the attached ordinances, staff will forward the Commission's recommendation to the City Council to proceed with a public hearing before the Council.

### **Attachments**

Draft Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ASHLAND LAND USE ORDINANCE TO PROVIDE ADDITIONAL OPTIONS FOR FOOD TRUCKS AND FOOD CARTS BY ADDING A NEW SECTION AMC 18.2.3.145 ‘FOOD TRUCKS AND FOOD CARTS’; AMENDING SECTION 183.2.2.030.H ‘TEMPORARY USES’; ADDING A NEW SECTION AMC 18.3.3.045 ‘SPECIAL PERMITTED USES’; AMENDING THE ALLOWED USES TABLES 18.2.2.030, 18.3.2.040, 18.3.4.040 & 18.3.5.050; AND ADDING NEW DEFINITIONS IN AMC 18.6.1.030.F.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined-through~~ and additions are in bold underline.

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass’n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

**WHEREAS**, food vendors and space for outdoor eating have long been recognized among the defining elements for required plaza space in Ashland’s design standards, they also serve as incubators for restauranteurs to make a more affordable entry into the business without a bricks-and-mortar investment, can help to enliven and activate under-utilized spaces, and during the pandemic provided an affordable outdoor dining option in many communities.

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**WHEREAS**, the City of Ashland Planning Commission considered the above-referenced recommended amendments to the Ashland Land Use Ordinance at a duly advertised public hearings on December 13, 2022, and following deliberations, recommended approval of the amendments by a vote of (#-#); and

**WHEREAS**, the City of Ashland Planning Commission conducted on December 13, 2022 a duly advertised public hearings on amendments to the Ashland Land Use Ordinance concerning the standards relating to annexations, and following deliberations recommended approval of the amendments.; and

**WHEREAS**, the City Council of the City of Ashland conducted duly advertised public hearings on the above-referenced amendments \_\_\_\_\_ 2022.; and

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

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

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

**SECTION 1.** Ashland Municipal Code Title 18 Land Use is hereby amended as follows.

**SECTION 2.** Table 18.2.2.030 [Uses Allowed by Zone] is hereby amended to include the following.

	R-	R-	R-	R-	RR	WR	C-	E-	M-	Special Use Standards
--	----	----	----	----	----	----	----	----	----	-----------------------

	1	1-3.5	2	3			1 & C-1-D	1	1	1	
<b>E. Commercial Uses</b>											
<b><u>Food Trucks &amp; Food Carts</u></b>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Sec. 18.2.3.145</u>	

**SECTION 3.** Section 18.2.2.030.H. [Temporary Uses] is hereby amended to read as follows:

**18.2.2.030.H. Temporary Uses.** Temporary uses require a conditional use permit under chapter 18.5.4, except as follows:

1. Short-Term Events. The Staff Advisor may approve through ministerial review short-term temporary uses occurring once in a calendar year and lasting not more than 72 hours including set-up and take-down. Activities such as races, parades, and festivals that occur on public property (e.g., street rights-of-way, parks, sidewalks, or other public grounds) require a special event permit pursuant to chapter 13.03.

**2. Short-Term Food Truck Event. The Staff Advisor may approve through ministerial review the short-term temporary operation of a food truck occurring not more than once per month and lasting not more than 72 hours including set-up and take-down. In addition to the short-term food truck event permit, food truck vendors shall obtain a business license, register for and pay applicable food and beverage tax, and receive any requisite inspections from the Building and Fire Departments and the Jackson County Environmental Public Health Department. Short-term food truck events are not to be permitted in residential zones.**

**32.** Garage Sales. Garage sales shall have a duration of not more than two days and shall not occur more than twice within any 365-day period. Such activity shall not be accompanied by any off-premises advertisement. For the purpose of this chapter, garage sales meeting the requirements of this subsection shall not be considered a commercial activity.

**43.** Temporary Buildings. Temporary occupancy of a manufactured housing unit or similar structure may be permitted for a period not to exceed 90 calendar days upon the granting of a permit by the Building Official. Such occupancy may only be allowed in conjunction with construction on the site. Said permit shall not be renewable within a six-month period beginning at the first date of issuance, except with approval of the Staff Advisor.

**SECTION 4.** Section 18.2.3.145 [Food Trucks and Food Carts] is hereby added to the Ashland Land Use Ordinance to read as follows:

1 **Section AMC 18.2.3.145 Food Trucks and Food Carts.**

2 **Where food trucks and food carts are allowed they are subject to the following**  
3 **requirements.**

- 4
- 5 A. **Within the Detail Site Review overlay zone as described in ALUO 18.4.2.040.C,**  
6 **outdoor eating areas and food vendors are among the required elements of the**  
7 **Detail Site Review Plaza Space Standards (ALUO 18.4.2.040.D.2). Where food**  
8 **trucks, food carts, and associated outdoor eating areas, can operate within**  
9 **existing approved plaza space without alteration of the existing site plan, a food**  
10 **vendor must obtain a ministerial Food Truck Permit but no further land use**  
11 **approval is required.**
- 12 B. **Within the C-1, CM-NC, CM-MU, CM-OE, CM-CI, E-1, HC, M-1, NM-C, and NN-1-3.5-C**  
13 **zones, food trucks and food carts may operate within existing private parking lots**  
14 **where there are at least five off-street parking spaces in place, the existing**  
15 **approval did not include mixed use or joint use parking credits, and no more than**  
16 **20 percent of the required off-street parking spaces are proposed to be used by**  
17 **food trucks and food carts. Food truck, Food Cart, and associated accessory item**  
18 **placement shall not interfere with vehicular or pedestrian circulation on site. A**  
19 **food vendor must obtain a ministerial Food Truck Permit but no further land use**  
20 **approval is required.**
- 21 C. **Within the C-1-D zone, the operation of a food truck or food cart requires a**  
22 **Conditional Use Permit under chapter 18.5.4.**
- 23 D. **No more than three food trucks or food carts may be approved on a single**  
24 **property under a ministerial Food Truck Permit.**
- 25 E. **Food truck courts or pods, or the operation of food trucks and food carts on**  
26 **private property outside of existing parking areas or approved plaza space,**  
27 **require Site Design Review approval under chapter 18.5.2.**
- 28 F. **Short-term operation of a food truck or food cart outside of the parameters of A-B**  
29 **above may be permitted as a short-term event pursuant to AMC 18.2.2.030.H.2.**
- 30 G. **Ministerially-approved food trucks and food carts are not permitted to operate**  
**within public rights-of-way.**
- H. **Food truck vendors shall obtain a business license, food truck permit, register for**  
**and pay applicable food and beverage tax, and receive any requisite inspections**  
**from the Building and Fire Departments and the Jackson County Environmental**

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Public Health Department. Approved City and County permits shall be displayed on the food truck or food cart, and the food truck vendor is responsible for compliance with all permit requirements.

- I. Utilities. Food Truck Vendors must provide their own water. Wastewater must be disposed of in an approved location. Connections to temporary power are permitted. If generators are used, they shall comply with the noise regulations in Chapter 9.08.
- J. Signage. Signage shall be limited to any signage on the food truck or cart and one portable business sign (sandwich board or A-frame) which shall be removed when the food truck or cart is not in operation. Portable business signs shall not be placed within the public rights-of-way.
- K. Trash and Recycling. Food truck vendors shall provide trash and recycling containers within ten feet of the truck or cart during operations, and any trash related to the food vendor within 50 feet not placed in the containers shall be removed by the vendor at the end of the day. Trash and recycling containers shall be removed from the premises when the food truck is not in operation.
- L. Duration. A food truck shall not remain on a property for more than five consecutive days.
- M. Polystyrene Foam. Food truck vendors shall be subject to the prohibition on the use of polystyrene foam food packaging in AMC 9.20.

**SECTION 5.** Table 18.3.2.040 [Croman Mill District Uses Allowed by Zone] is hereby amended to include the following.

	Croman Mill District Zones <sup>2</sup>				
	NC	MU	OE	CI	OS
<b>B. Commercial</b>					
<b><u>Food Trucks &amp; Food Carts (Subject to the requirements of AMC 18.2.3.145)</u></b>	<b><u>S</u></b>	<b><u>S</u></b>	<b><u>S</u></b>	<b><u>S</u></b>	<b><u>N</u></b>

**SECTION 6.** Table 18.3.4.040 [Normal Neighborhood District Uses Allowed by Zone] is hereby amended to include the following.

	Normal Neighborhood District Zones <sup>2</sup>			
	NN-1-5	NN-1-3.5	NN-1-3.5-C	NN-2

<b>B. Neighborhood Business and Service Uses</b>				
<b><u>Food Trucks &amp; Food Carts (Subject to the requirements of AMC 18.2.3.145)</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>S</u></b>	<b><u>N</u></b>

**SECTION 7.** Section 18.3.3.045 [Special Permitted Uses] is hereby added to the Ashland Land Use Ordinance to read as follows.

**Section 18.3.3.045 Special Permitted Uses**

**The following uses are permitted when authorized in accordance with the special permitted uses standards detailed below.**

**A. Food Trucks and Food Carts, subject to the requirements of AMC 18.2.3.145.**

**SECTION 8.** Table 18.3.5.050 [North Mountain Neighborhood Uses Allowed by Zone] is hereby amended to include the following.

	<b>North Mountain Neighborhood Zones<sup>2</sup></b>				
	<b>NM-R-1-7.5</b>	<b>NM-R-1-5</b>	<b>NM-MF</b>	<b>NM-C</b>	<b>NM-Civic</b>

**C. Commercial**

<b><u>Food Trucks &amp; Food Carts (Subject to the requirements of AMC 18.2.3.145)</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>S</u></b>	<b><u>N</u></b>
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**SECTION 9.** Section 18.6.1.030.F [Definitions] is hereby amended to include the following new definitions:

**Food Cart. A push cart or mobile food unit which is designed to be readily movable, but is typically not self-propelled by motor or pedal power, and which is temporarily located on a property to sell food and beverages to the general public. The maximum size for a food cart is four-feet wide nine feet long and four feet high. Food carts must be self-contained and designed to be movable by one person.**

**Food Truck. A wheeled, motorized vehicle or trailer temporarily located on a property to sell food and beverages to the general public. A food truck typically contains cooking facilities where the food is also prepared. The exterior length and width of a food truck, when multiplied, shall be no more than 170 square feet, excluding the trailer tongue and bumper. Up to an additional 170 square feet is allowed for outdoor equipment.**

**Food Truck Court or Food Truck Pod. Four or more food trucks or food carts operating on the same property.**

**Food Truck Vendor. The operator who sells, cooks and serves food or beverages from a food truck or food cart.**

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The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2023, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Julie Akins, Mayor

Reviewed as to form:

\_\_\_\_\_  
Douglas M. McGeary, Acting City Attorney

# **TYPE I APPEAL**

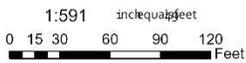
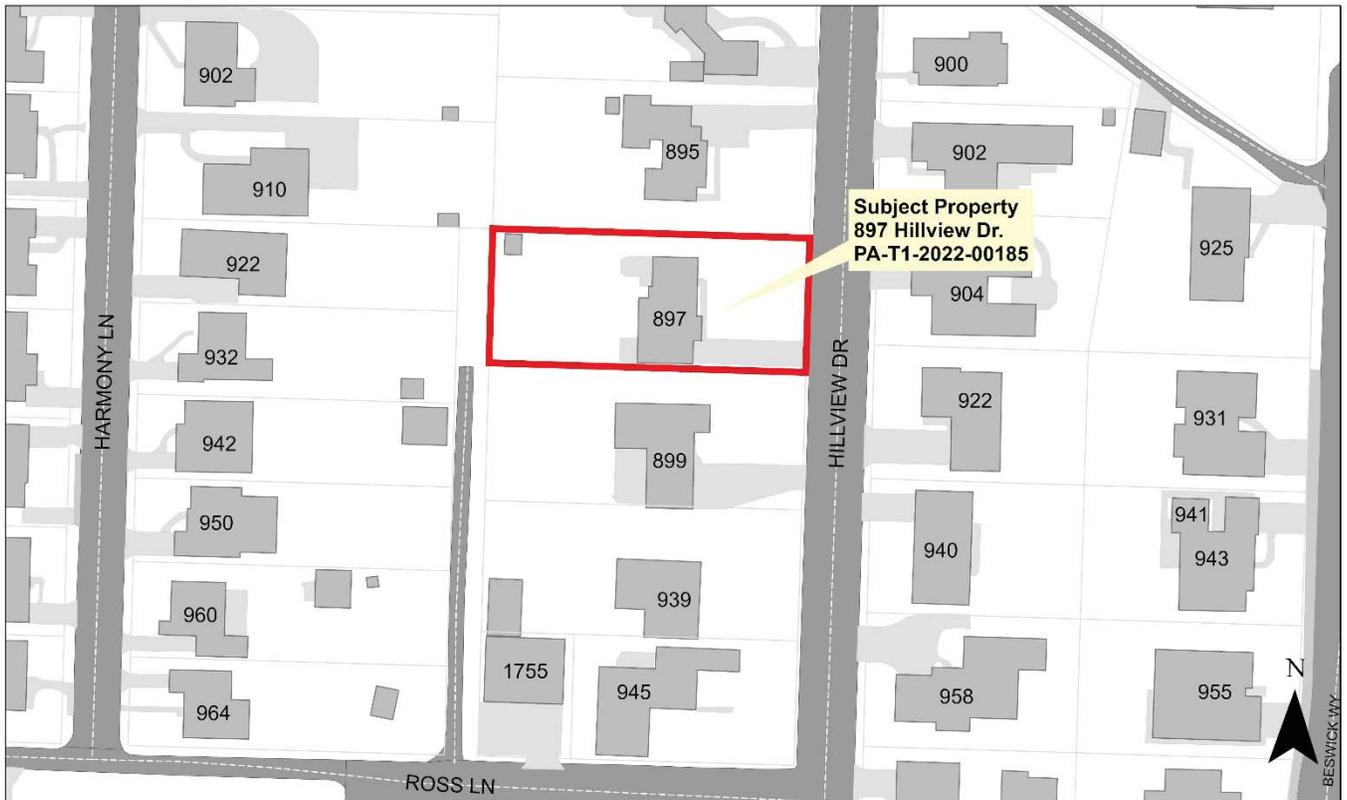
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**PA-APPEAL-2022-00017**  
**897 Hillview Drive**



**NOTICE OF PUBLIC HEARING**

**PLANNING ACTION:** PA-APPEAL-2022-00015 Appealing PA-T1-2022-00185  
**SUBJECT PROPERTY:** 897 Hillview Drive  
**APPLICANT & OWNER:** Suncrest Homes, LLC  
**DESCRIPTION:** An appeal of the administrative approval of planning action #PA-T1-2022-00185, An approval for a two-lot partition of a 0.36-acre lot. The tentative partition plat submitted with the application indicates that the two resultant parcels will be 0.18 and 0.17 acres in size. The application includes detailed findings explaining how the proposal meets the relevant criteria. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5; **MAP:** 39 1E 15 AC; **TAX LOT:** 900



Mapping is schematic only and bears no warranty of accuracy. All features, structures, facilities, easement or roadway locations should be independently field verified for existence and/or location.

**PLANNING COMMISSION HEARING:** *Tuesday, December 13, 2022 at 7:00 p.m.  
 at the Ashland Civic Center/City Council Chambers, 1175 East Main Street*

## PLANNING COMMISSION HEARING

Notice is hereby given that the Ashland Planning Commission will hold a public hearing on the above described planning action on the meeting date and time shown above. The meeting will be held at the Ashland Civic Center/Ashland City Council Chambers at 1175 East Main Street in Ashland, Oregon. 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](http://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.

A copy of the application, including all documents, evidence and applicable criteria relied upon by the applicant is available on-line at <https://gis.ashland.or.us/developmentproposals/>. Copies of application materials will be provided at reasonable cost, if requested. A copy of the staff report will be available on-line at <http://www.ashland.or.us/PCpackets> seven days prior to the Planning Commission hearing. Alternative arrangements for reviewing the application can be made by contacting (541) 488-5305 or [planning@ashland.or.us](mailto:planning@ashland.or.us).

During the Public Hearing, the Planning Commission Chairperson will allow testimony from the applicant and those in attendance concerning this request. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the applicable criteria. Unless there is a continuance, if a participant so requests before the conclusion of the hearing the record shall remain open for at least seven days after the hearing.

Those wishing to submit written comments can do so by sending an e-mail to [PC-public-testimony@ashland.or.us](mailto:PC-public-testimony@ashland.or.us) with the subject line "**December 13 PC Hearing Testimony**" by 10:00 a.m. on Monday, December 12, 2022. 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](mailto:PC-public-testimony@ashland.or.us) with the subject line "**December 13 PC Hearing Testimony**" by 10:00 a.m. on Tuesday, December 13, 2022. *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 also be taken via Zoom during the in-person public hearing. If you wish to provide oral testimony via Zoom during the hearing, send an email to [PC-public-testimony@ashland.or.us](mailto:PC-public-testimony@ashland.or.us) by 10:00 a.m. on Monday, December 12, 2022. In order to provide testimony at the public hearing, please provide the following information: 1) make the subject line of the email "**December 13 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 Associate Planner Aaron Anderson, the staff planner assigned to this application, at 541-552-2040 or e-mail: [aaron.anderson@ashland.or.us](mailto: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.

# Staff Report

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**ASHLAND PLANNING DEPARTMENT  
STAFF REPORT**

December 13, 2022

**PLANNING ACTION:** PA-APPEAL-2022-00017  
appealing PA-T1-2022-00185

**OWNER/APPLICANT:** Suncrest Homes LLC  
**APPELLANT:** Chuck Smith

**LOCATION:** 897 Hillview Drive  
39-1E-15-AC Tax Lot 900

**ZONE DESIGNATION:** R-1-7.5  
**COMP. PLAN DESIGNATION:** Single Family Residential

**ORDINANCE REFERENCES:** 18.2.5 Standards for Residential Zones  
18.5.1 General Review Procedures  
18.5.3 Land Divisions and Property Line Adjustments  
18.6.1 Definitions

**SUBMITTAL DATE:** May 13, 2022  
**DEEMED COMPLETE DATE:** May 31, 2022  
**STAFF APPROVAL DATE:** October 20, 2022  
**APPEALED:** November 1, 2022  
**120-DAY DEADLINE:** *waived by applicant +90 days.*  
**120+90 DEADLINE:** December 30, 2022

**REQUEST:** An appeal of the administrative approval of Planning Action #PA-T1-2022-00185, a two-parcel partition of a 0.36-acre property located at 897 Hillview Drive.

**I. Relevant Facts**

The application that is being appealed was submitted on May 13<sup>th</sup> 2022, was deemed complete on May 31<sup>st</sup> 2022, and was approved on October 20<sup>th</sup>, 2022. A Notice of Decision mailed the same day. The deadline to appeal was November 1<sup>st</sup> and on that same day a Notice of Intent to Appeal (NITA) was timely filed by Chuck Smith.

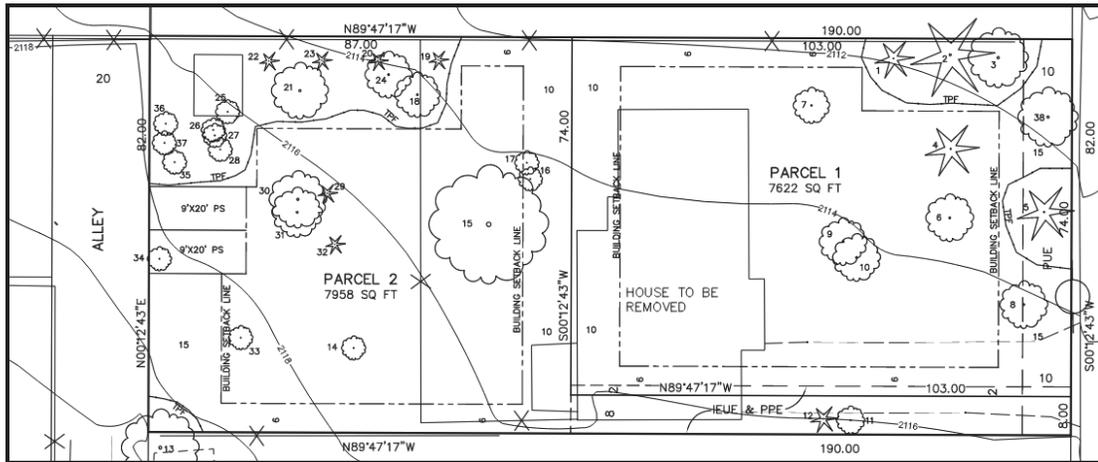
**Property Description**

The subject property and surrounding neighborhood is located in the R-1-7.5 zoning district, a Single Family Residential zone with a minimum lot size of 7,500 square feet. The property is on the west side of Hillview Drive between Siskiyou Boulevard and Ross Lane. The property also abuts an alley on its western side which terminates at the northern edge of the subject property. The property measures 82' x 190' which make it slightly over twice the minimum for the zone at 15,580 square feet. The subject property contains an existing single-story, 1,228 square foot residence built in 1947 according to

the Jackson County Tax Assessor's records. The house is in poor condition and will be demolished to allow for the partition to occur.

### Proposal

The application is a request for a land partition to divide the property at 897 Hillview Drive into two separate parcels. The applicant has proposed an eight-foot flagpole as allowed at AMC 18.5.3.060.H.4 when adjacent to an alley. The applicant has proposed that Parcel 1 measures 103' x 74' for a size of 7,622 square feet, and Parcel 2's body measures 87' x 82,' with an eight-foot flagpole extending to the street for a total size of 7,958 square feet. Next to the flagpole is a proposed 2' access easement giving Parcel 2 ten feet of functional access. Shown below is the proposed parcel configuration.



## II. Staff review and approval of PA-T1-2022-00185

As mentioned at the outset the proposal is a request for a land partition to create two lots. The application includes a complete inventory of 39 trees that are greater than 6 inches Diameter at Breast Height (DBH). The application also includes a proposed 'building envelope' and tree protection plan however it is not supported by a proposed residential design. Staff feels that rather than approve the requested removals that instead the inventory and recommendations should be considered at the time of future development.

Staff carefully considered the proposal and found that it meets all the relevant approval criteria as explained further below. As staff understands the proposal, the existing driveway on the south side of the property will be retained and improved to provide vehicle access to the rear property as well. The drive will still be able to provide the required pedestrian connection while also providing secondary vehicle access to the rear lot.

### Approval Criteria

The approval criteria for a preliminary partition plat are in Ashland Municipal Code (AMC) 18.5.3.050.

The first two criteria of approval for a partition are that "The future use for urban purposes of the remainder of the tract will not be impeded." and that "The development

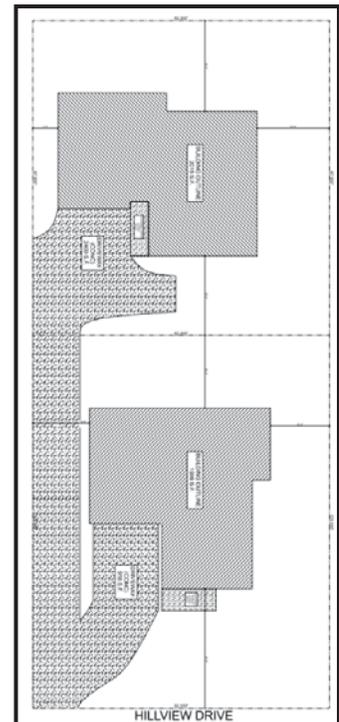
of the remainder of any adjoining land or access thereto will not be impeded.” Staff finds that the proposal for the two-lot partition is the maximum density allowed and that there is no remaining development potential and that all adjacent properties are developed meeting these standards.

The third criteria of approval for a partition are that “The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.” Staff finds that there are no city adopted neighborhood or district plans that affect this property and that there are no previous land use approvals that affect this property.

The fourth criteria of approval for a partition are that “tract of land has not been partitioned for 12 months. The applicants assert, and after examining the Jackson County Survey records staff concurs that the tract of land has not been partitioned for twelve months meeting this standard.

The fifth criteria of approval for a partition are that “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). Most development standards relate to the future construction of new homes with regards to setbacks, solar standards and lot coverage. Each of these will be evaluated in concert with the review of the future building permits. Staff finds that the proposed lots do conform to the dimensional requirements of the base zone and further notes that all future building permits will be required to demonstrate compliance will all standards of the Land Use Ordinance for site design review (including building placement, orientation, and design.).

The sixth criteria of approval for a partition are that “Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design...” Staff notes that AMC 18.4.3.080.C.5 provides that “Where a property has alley access, vehicle access shall be taken from the alley...” Staff finds that the application demonstrates that vehicular access can be provided from the alley and the site plan demonstrates area for two parked cars which will be required to be improved with a gravel at a minimum. Staff notes that the applicant intends to improve the existing driveway to a width of ten-feet and provide proposed parcel 2 with a two-foot access easement adjacent to the eight-foot flagpole. A conceptual layout of the driveway and home development was submitted with supplemental materials is shown at right.



Staff finds that this vehicular access is in addition to the alley access. Staff further notes that it also is proposed to serve parcel 1 as well and that the curb cut is existing. Staff finds that this is in conformance with AMC 18.4.3.080.c.4 which provides for “Shared Use of Driveways and Curb Cuts.”

The seventh criteria of approval for a partition are that “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.” Staff finds that the standards provided at AMC 18.4.6.040.C.1 only require a public street dedication when serving four or more lots. Staff finds that utilities are available to each of the proposed lots including water, sewer, and all franchise utilities.

The eighth criteria of approval for a partition include standards for situations where there are unpaved streets. Staff notes that Hillview Drive has a 40-foot public right of way and is paved with curb and gutter. Staff notes that while the Land Use Ordinance prescribes improvement standards for alleys historically alleys have not been required to be improved unless there was a commercial use, this is because of the need for both a nexus to the improvement as well as a rough proportionality (Nolan/Dolan tests). Staff further notes AMC 18.5.3.050.H.2 allows the Public Works Director to permit a land partition with access to an unpaved street subject to certain provisions including waiving the right to remonstrate with respect to the formation of an LID. A conditional of approval will require that the property owner sign in favor of an LID for such improvements. Staff finds that with the forgoing this approval criterion is satisfied.

The ninth criteria of approval for a partition relates to situations where there is an alley adjacent to the partition. As mentioned above the applicant has shown the vehicle access and parking will be provided off the alley. Staff notes that this satisfies the requirements of the land use ordinance.

The tenth criteria of approval for a partition is regarding compliance with any required state or federal permits. Staff finds that there are no known required state or federal permits satisfying this approval criterion.

Finally, the eleventh criteria of approval for a partition invokes section AMC 18.5.3.060 which is “additional preliminary flag lot partition plat criteria” which contains a total of eleven additional approval criteria. These approval criteria address standards for vehicle access over proposed flag drives and provides options when a lot is adjacent to an alley. The section dealing with alleys is subpart ‘H’ which provides for the eight-foot flagpole option when vehicle access is provided off the alley as it is in this case. The section requires that the flagpole be improved with a pedestrian access at least four feet in width. Staff finds that the proposed alternative vehicle access which will be improved to a width of ten feet meet this standard and find that this approval criterion is met.

## **Public Input**

Notice of the planning action was mailed to all properties within 200 feet of the subject property as well as a physical notice posted along the frontage of the property. The notice included a staff contact name and number. In accordance with AMC 18.5.1.050, the Type I procedure for planning applications, allows a 14-day period for the submission of written comments, starting from the date of mailing. Subsequent to the mailing of a Notice of Complete application seventeen written comments about the request were

received expressing concerns about the development, and by their reference are incorporated herein. These comments ranged from brief objections to much longer written responses. Aside from concerns regarding increased density and neighborhood character many of the complaints centered around a concern about increased impact on the unimproved alley, despite the fact that the applicant's intention is to minimize impact on the alley by providing secondary vehicular access across the front parcel.

One of the public comments that was received provided citations regarding concerns raised the issue that the second of the eleven criterion under the eleventh criteria of approval for a partition provides that "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." Staff notes that the required drive area is adjacent to the alley as mentioned above, and that because the alley option was used in this context there is no 'flag drive area,' staff further notes that while there is a proposed easement for a total access width of 10' for vehicle access it is secondary and in addition to the alley vehicle access.

Another concern raised had to do with compliance with AMC 18.2.4.010 which states: "Each lot shall abut a public street other than an alley for a width of not less than 40 feet; except, where a lot is part of an approved flag partition or abuts a cul-de-sac vehicle turn-around area, the minimum width is 25 feet." Staff would note that the construction of this provision provides that a lot shall have 40' of frontage along a street, or 25' feet in the case of a cul-de-sac, and then exempts this provision from a flag partition. Additionally, the LUO provides a definition for street which includes that an alley is a type of street\*.

The letter goes on to raised concerns about both a usable yard area and parking stating that the 'proposed building envelopes appear to preclude meeting the required yard areas.' Staff notes that the preliminary plat shows the required building setbacks, and the parking required off the alley as required, so this is not the area that the proposed building will occupy but the maximum area any part of the building would be able to be located. When building permits are reviewed and approved, they will be required to demonstrate that the yard area, and parking area are met in addition to all the applicable base standards of the zone including lot coverage, and solar setbacks.

An additional concern was about improvements and impacts on the alley. As mentioned above the city has historically not required improvements to alleys for residential development. The applicant has demonstrated proposed parcel 2 is served by the alley, and as shown above is also including additional paved vehicle access over the eight-foot flagpole.

Following the conclusion of the public comment period the applicant requested a waiver to the local 45-day timeline as well as the 120-day rule. The reason for these extensions were at the applicants request to address neighborhood concerns. The applicant held a

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\* Street. A public right-of-way for roadway, sidewalk, and utility installation including the terms road, highway, land, place, avenue, **alley**, or other similar designations

neighborhood meeting on September 21, 2022. The applicant also submitted supplemental materials in the form a single page letter submitted following a neighborhood meeting, and a handout advertising the public meeting; That handout included a conceptual layout of how the lots are proposed to be developed included above. The letter included four specific proposals that intended to alleviate concerns of neighborhood property owners. Those items were:

- 1) Parcel #2, is not allowed to use the alley for its primary access. Parcel #2 shall have its primary access off of Hillview, the house shall be oriented towards Hillview and the garage shall be accessed off of Hillview.
- 2) No construction vehicles shall use the alley at the rear of the property during the construction of either parcel #1 or Parcel #2.
- 3) Both homes on parcel #1 & #2 shall a foundation drain systems, each will be tied into the storm drain system that runs along the North property line. If for any reason these lines can't be tied into said storm drain, they shall be run out to the street via a weep hole.
- 4) All roof drains and landscape drains are required to be tied into the storm drain system that runs along the North property line. If for any reason these lines can't be tied into said storm drain, they shall be run out to the street via a weep hole.

Due to the length of time that elapsed from the close of the public comment period Staff decided to re-notice the application for an additional period of public comment. During this second public comment period four additional comments were received, and by their reference are incorporated herein.

Each of these four letters varied in length from a brief paragraph summarizing their concerns, to a single page letter listing seven items, to a three-page letter itemizing 21 specific concerns. Generally, the concerns relate to interconnected impacts regarding to new development, specifically: traffic generation, character of the neighborhood, density, and speculation real estate / out of town investment owners, and that these collective impacts set a precedent for future development but also impact to property values and generally be a detriment to the neighborhood.

In considering the public comment staff notes that the proposal is within the accepted development density envisioned in the Comprehensive Plan and allowed by the zoning district. Staff has addressed the concerns that provided citation to the relevant approval criteria and finds that the proposal meets all the required approval criteria, and that none of the objections raised in the public comment offer a valid reason for denial of the application.

### **Staff Decision**

AMC Title 18 Land Use regulates the subdivision of land to carry out the development pattern envisioned by the Comprehensive Plan and to encourage efficient use of land resources among other goals. When considering the decision to approve or deny an

application for land partition application staff consider the application materials against the relevant approval criteria in the AMC. Staff determined that the application, with the attached conditions, complied with applicable ordinances and met all standards and criteria for approval and as such Planning Action #T1-2022-00185 was approved. This appeal followed.

### III. Appeal Request

As mentioned above, the proposed partition was approved administratively on October 20<sup>th</sup>, 2022 with a Notice of Decision mailed the same day. The 12-day appeal period which extended through November 1<sup>st</sup> and on that same day a Notice of Intent to Appeal (NITA) was timely filed by Chuck Smith. Mr. Smith owns the property immediately adjacent to the south and submitted public comment in the proceeding below, as such he has standing to appeal.

The request for appeal included the standard Land Use Appeal form which has spaces for up to three specific grounds for appeal and a citation for the relevant applicable criteria that it relates to. These spaces were left blank. The form continues and says, “on attached pages, list other grounds, *in a manner similar to the above*” (emphasis added). The following 19 pages of materials include what staff believes to be three specific grounds for appeal over two pages. The remainder of the appellant submittal includes other correspondence, photos, and drawings. Staff and the applicant understand that the specific appeal issues raised are:

- AMC 18.5.3.040.B.2.e – Preliminary Plat submission requirements
- AMC 18.5.3.050.G – Partition Plat Approval Criteria
- AMC 18.4.6.080 – Public Facilities (Storm Drain)

First assignment of error is cited at AMC 18.5.3.050.B.2.e which is part of the submission requirements and requires that the applicant provide “*The Base Flood Elevation, Floodplain Corridor Elevation, and Floodplain Boundary, per the Ashland Floodplain Corridor Maps, as applicable,*” (emphasis added). The appeal materials do not further develop this argument, but staff understands that the appeal issue is that these items were required and not part of the application materials. Staff finds that it is true that there is no BFE or floodplain information, however this is because the subject property is not in an identified flood zone, and such is not applicable.

Staff understands the appellant in their 2<sup>nd</sup> and 3<sup>rd</sup> assignments of error to be concerned primarily with storm water management based on the emphasis added in their appeal materials (at 3). Staff notes that no public dedications or utilities are required, and that there is an extant storm drain running along the north of the property to a catchment basin and then ultimately to a 15” storm drain. Public works and has reviewed the proposal and finds that there are no concerns regarding capacity.

The applicant replies in part that “*supplemental information submitted to staff following the neighborhood meeting included self-imposed conditions that would require both homes to have foundation drains systems that will be tied to the stormdrain system along*

*the northern property line or directly tied to weep holes in the curb along Hillview Drive. Either way, stormwater will be conveyed off site through an existing city facility and will therefore not create any new stormwater management issues.”*

The appeal materials also include a list of 13 items (several that have sub lists) of concerns related to the proposal including character of the neighborhood, impact of development, etc. The applicant replies in their response brief as follows: *Infill development in the City of Ashland is encouraged by both the Ashland Zoning Code as well as the Ashland Comprehensive Plan. The appellant contends that the proposed partition, which is a standards-based review without much subjectivity will permanently destroy the character of the neighborhood and that the number of houses could double if all lots took advantage of partitioning their lots. It’s important to note that not all lots can be divided because of the location of existing dwellings, size or dimension of existing lots or parcels or the location of public infrastructure. Additionally, most houses in the neighborhood have a substantial value, unlike the dwelling on the subject property. Removal of the existing house in this situation not only removes a home that is in disrepair and unattractive, but it allows the parcel to be redeveloped in a manner that supports the goals and policies of Ashland’s Comprehensive Plan. Redevelopment provides additionally housing opportunities and allows for the construction of single family detached dwellings that are compatible with the character of the neighborhood and constructed to building codes that address the stormwater concerns raised by the appellant.*

*As detailed herein and noted by staff in the Findings and Orders, the application complies with all **applicable criteria and standards** of the Ashland Zoning Code either outright or with the imposition of conditions of approval. The criteria noted by the appellant has been addressed herein and either meets the standard or is not applicable. The appellant also raises issues that are not directly tied to relevant criteria. These issues are not addressed because the city land development code does not address issues such as increased crime or neighborhood opinion. Policy makers have determined the allowed uses in each zone, allowable densities and in some areas architectural design requirements. The proposed partition will allow for the subject property to be redeveloped at the city’s desired density while still constructing single-family detached dwellings. [bold and underline in original]*

## **V. Procedural - Required Burden of Proof**

The approval criteria for a Land Partition are provided in AMC 18.5.3.050 which state that the approval authority shall approve an application for preliminary partition plat approval only where all of the following criteria are met.

### **The approval criteria for a Land Partition are detailed in AMC 18.5.3.050 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](#).

**The Additional Flag Lot Partition Plat Criteria are detailed in AMC 18.5.3.060 as follows:**

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.

## VI. Conclusions and Recommendations

Staff initially determined that the application with the attached conditions complied with applicable ordinances and met all standards and criteria for approval of a preliminary plat approval and as such Planning Action #T1-2022-00185 was approved.

After staff approved the application a Notice of Decision (NOD) was mailed to all persons entitled to notice. Subsequent to the NOD adjacent property owner Chuck Smith filed a Notice of Intent to Appeal (NITA). Mr. Smith reside in the noticing area for the application and had previously submitted written comments to be considered during the public comment period and thus had standing to appeal. The Staff Report addresses items raised on appeal and staff believes that there is sufficient evidence in the record to demonstrate that all applicable approval standards have been met

The applicants have submitted application materials to the Planning Department to demonstrate compliance with the applicable approval standards for the proposed partition as well as supplemental materials mentioned above and by their reference are incorporated as if set out in full. In staff's assessment the application, with the conditions recommended below, satisfies the applicable approval criteria.

Staff recommends that the Planning Commission deny the appeal and uphold the original approval.

Should the Commission choose to uphold the original approval as recommended, staff would recommend that the following conditions be attached to the approval:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
- 2) That any new address shall be assigned by City of Ashland Engineering Department.
- 3) That permits shall be obtained from the Ashland Public Works Department prior to any work in the public right of way, including but not limited to permits for driveway approaches, utilities or any necessary encroachments.
- 4) That a final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
- 5) That the following items shall be submitted for review and approval of the Ashland Planning Division prior to signature of the final survey.

- a) That a demolition permit be applied for, and the existing house removed from the property in its entirety.
- b) That a final utility plan for the parcels shall be submitted for review and approval by the Planning, Engineering, Electric 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) All easements for public and private utilities and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.
- d) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for the new vacant lot prior to the signature of final survey plat.
- e) That the property owner shall sign in favor of local improvement districts for the future street improvements, including but not limited to park-row and sidewalks prior to signature of the final survey plat. The agreement shall be signed and recorded concurrently with the final survey plat.
- f) That a final survey plat shall be submitted within 12 months and approved by the City of Ashland within 18 months of this approval.

**BEFORE THE PLANNING COMMISSION**

December 13, 2022

Attached are draft findings for Planning Commission's discussion and consideration. These have been prepared to reflect the prior staff approval and incorporate the approval criteria from the staff report that is also in your packet.

The Planning Commission can modify and alter these in any manner consistent with their deliberations and decision.

DRAFT

**BEFORE THE PLANNING COMMISSION**

December 13, 2022

IN THE MATTER OF PLANNING ACTION #PA-APPEAL-2022-00017, )  
AN APPEAL OF THE ADMINISTRATIVE APPROVAL OF PLANNING )  
ACTION #PA-T1-2022-00185, A TWO-LOT PARTITION OF A 0.36-ACRE )  
LOT FOR THE PROPERTY LOCATED AT 897 HILLVIEW DRIVE. THE )  
TENTATIVE PARTITION PLAT CREATES TWO PARCELS THAT ARE )  
0.18, AND 0.17 ACRES IN SIZE. STAFF INITIALLY APPROVED THE )  
APPLICATION. SUBSEQUENT TO THE MAILING OF A NOTICE OF )  
DECISION AN APPEAL REQUEST WAS TIMELY FILED. )

**FINDINGS,  
CONCLUSIONS,  
AND ORDERS.**

**OWNER/APPLICANT:** SUNCREST HOMES LLC )  
**APPELLANT:** CHUCK SMITH )

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**RECITALS:**

- 1) Tax lot #900 of Assessor’s Map 39-1E-15-AC is located at 897 Hillview Drive is in the R-1-7.5 zoning district and is 0.36 acres in size.
- 2) The application proposed a two-lot partition and included a tentative partition plat showing three parcels that are proposed to be 0.18 and 0.17 acres in size.
- 3) On May 31, 2022, the application was deemed complete, and in accordance with AMC 18.5.1.050.B.4 a Notice of Complete (NOC) application was posted at the subject property in clear view from the public right-of-way and mailed to all property owners of record within 200 feet of the parcel.
- 4) The Staff Advisor approved the application on October 20, 2022, subject to several conditions of approval and a Notice of Decision (NOD) was mailed on the same date with a deadline to appeal of November 1, 2022.
- 5) On November 1, 2022, a Notice of Land Use Appeal was timely filed by Chuck Smith who reside at 895 Hillview Drive. Mr. Smith has standing to appeal as he was both entitled to written notice, and by having submitted written comments on the application during the initial comment period.
- 6) The Planning Commission, following proper public notice, held a public hearing on December 13, 2022. Public testimony was received, and exhibits were presented.
- 7) After the close of the public hearing the Planning Commission deliberated and determined that staff had not erred in approving the two-lot partition. A motion was made to deny the appeal and approve the application subject to conditions listed in the staff report.

- 8) The criteria of approval for a Land Partition are described in Ashland Municipal Code (AMC) 18.5.3.050 which state that the approval authority shall approve an application for preliminary partition plat approval only where all 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.
  - K. A partition plat containing one or more flag lots shall additionally meet the criteria in section [18.5.3.060](#).

- 9) The additional approval criteria for a flag lot are described in Ashland Municipal Code (AMC) 18.5.3.060:
- 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.

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 render a decision based on the application, Staff Report, public hearing testimony, and the exhibits received.

2.2 The Planning Commission finds that the proposal for a two-lot partition meets all applicable criteria described in section 18.5.3.050 and 18.5.3.060, for preliminary partition plat approval. The Planning Commission notes that the preliminary partition plat details the two proposed parcels to be 0.18 and 0.17 acres in size.

2.3 The Planning Commission finds that the application was deemed complete on May 31, 2022, and notice was both posted at the frontage of the subject property and mailed to all property owners within 200-feet of the subject property. The Planning Commission further finds that the application was approved by the Staff Advisor on October 20, 2022, and a Notice of Decision (NOD) was mailed on the same date.

2.4 The Planning Commission finds that on November 1, 2022(the end of the appeal period), Chuck Smith timely filed a notice of land use appeal. Mr. Smith own an adjacent parcel to the

north and also submitted written comments during the public comment period and thus had standing to appeal. The Planning Commission finds that the appellant has standing to appeal.

2.6 The Planning Commission finds that the subject property is located within the R-1-7.5 zoning district and that land divisions are governed by AMC 18.5.3.

2.7 The Planning Commission finds that AMC Title 18 Land Use regulates the division of land to carry out the development pattern envisioned by the Comprehensive Plan and to encourage efficient use of land resources among other goals. When considering the decision to approve or deny an application for land partition, the Staff Advisor considers the application materials against the relevant approval criteria in the AMC.

2.8 The approval criteria for a preliminary partition plat are in Ashland Municipal Code (AMC) 18.5.3.050. The Planning Commission finds that there is substantial evidence in the record to make findings that each of the criteria have been met, as was explained in detail in the December 13<sup>th</sup> Staff report and by its reference is incorporated herein as if set out in full.

2.9 The Planning Commission notes the notice of appeal included the standard Land Use Appeal form which has spaces for up to three specific grounds for appeal and a citation for the relevant applicable criteria that it relates to. These spaces were left blank. The form continues and says, “on attached pages, list other grounds, *in a manner similar to the above*” (emphasis added). The following 19 pages of materials include what staff believes to be three specific grounds for appeal over two pages. The remainder of the appellant submittal includes other correspondence, photos, and drawings. Staff and the applicant understand that the specific appeal issues raised are:

- AMC 18.5.3.040.B.2.e – Preliminary Plat submission requirements
- AMC 18.5.3.050.G – Partition Plat Approval Criteria
- AMC 18.4.6.080 – Public Facilities (Storm Drain)

2.9.1 The Planning Commission notes that the first assignment of error is cited at AMC 18.5.3.050.B.2.e which is part of the submission requirements and requires that the applicant provide “*The Base Flood Elevation, Floodplain Corridor Elevation, and Floodplain Boundary, per the Ashland Floodplain Corridor Maps, as applicable;*”(emphasis added). The appeal materials do not further develop this argument, but The Planning Commission understands that the appeal issue is that these items were required and not part of the application materials. The Planning Commission finds that it is true that there is no BFE or floodplain information, however this is because the subject property is not in an identified flood zone, and such is not applicable.

2.9.2 The Planning Commission understands the appellant in their second and third assignments of error to be concerned primarily with storm water management based on the emphasis added in their appeal materials (at 3). The Planning Commission notes that no public dedications or utilities are required, and that there is an extant storm drain running along the north of the property to a catchment basin and then ultimately to a 15” storm drain. Public works and has reviewed the proposal and finds that there are no concerns regarding capacity, as such the Planning Commission finds that the second and

third assignments of error do not provide a ground for reversal or denial.

2.9.3 The Planning Commission finds that the appeal materials also include a list of 13 items (several that have sub lists) of concerns related to the proposal including character of the neighborhood, impact of development, etc. The Planning commission notes that these items are not germane to the relevant approval criteria and finds that these are not grounds for reversal or denial.

2.9 The Planning Commission finds that with the conditions below attached, the proposal satisfies the applicable approval criteria and that none of the appeal issues provide a basis to reverse the initial approval decision of the Staff Advisor.

### **SECTION 3. DECISION**

3.1 Based on the record of the Public Hearings on this matter, the Planning Commission concludes that the request for the partition approval to divide the property is supported by evidence contained within the whole record.

3.2 The Planning Commission denies the appeal and re-affirms the Staff Advisor's original approval of the partition. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then the Planning Action 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.
- 2) That a final survey plat shall be submitted, reviewed and approved within 18 months of the final decision date of the preliminary partition plat approval by the City of Ashland.
- 3) That prior to the submittal of the final survey plat for the review, approval and signature of the Ashland Planning Division, 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.

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Planning Commission Approval

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Date

# **APPLICANT'S RESPONSE TO APPEAL**

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**PA-APPEAL-2022-00017**  
**897 Hillview Drive**

November 28, 2022

City of Ashland Community Development  
Brandon Goldman, Interim Community Development Director  
51 Winburn Way  
Ashland, OR 97520

RE: Appeal Response – PA-T1-2022-00185

Dear Mr. Goldman,

We have reviewed the materials submitted on November 1, 2022 regarding the appeal of a two-lot partition located at 897 Hillview Drive. Please accept this letter on behalf of the applicant into the record and provide confirmation that it has been accepted by the Community & Economic Development Department for consideration.

The request is for a two-lot partition of a 0.36-acre lot resulting in the creation of two lots 0.18 and 0.17 acres in size. The appellant in this case submitted comments to the City of Ashland on November 1, 2022 asserting that he has spoken with numerous individuals that do not want this partition. Chapter 18.5.3 of the Ashland Municipal Code provides the purpose of land divisions.

*The purpose of this chapter is to provide rules, regulations and standards governing the approval of subdivisions, partitions and property line adjustments as follows.*

- A. Carry out the development pattern envisioned by the Comprehensive Plan.*
- B. Encourage efficient use of land resources and public services, and to provide transportation options.*
- C. Protect the natural environment and encourage sustainable building practices.*
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization.*
- E. Coordinate land division requirements with other code provisions such as the Performance Standards Option.*

Chapter 18.2.1 establishes zoning districts pursuant to the Comprehensive Plan and every parcel, lot, and tract of land within the city is designated with a zoning district, or zone. In the case of this partition request, the land is zoned R-7.5. The use of this land is limited to the uses and densities allowed by the R-7.5 zoning district. Chapter 18.2.5.030 – Unified Standards for Residential Zones provides the following standards:

Minimum Density: N/A  
Maximum Density: Minimum Lot Area (7,500 square feet)  
Minimum Lot Area: 7,500 square feet  
Minimum Lot Width: 65 feet  
Minimum/Maximum Lot Depth: 80 feet/150 feet  
Lot Coverage: 45%  
Setbacks: Front, 15 feet; Rear, 10 feet; Side, 6 feet

The staff decision acknowledges that these standards either have been met or will be required to be met at the time building permits are submitted. Many of the other issues raised by the appellant are counter to the 25 goals and policies of the city's Housing Element of the Comprehensive Plan. Housing types, housing demands and rental housing needs are all discussed in the Housing Element and support infill development such as the one proposed (see Policy 19 and 23 of the Housing Element).

The appeal does provide three code references where the appellant believes the application does not meet the standards, but also makes a number of assumptions that are not supported by relative criteria in the

zoning code. Below are the code sections addressed by the appellant along with the other issues raised that have no relevant standard or criteria to address.

**Zoning Code Criteria (from appellant)**

**18.5.3.040.B.2.e**

*Preliminary Plat Information. In addition to the general information described in subsection A, above, and any information required pursuant to chapter 18.3.9, Performance Standards Option and PSO Overlay, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information, in quantities determined by Staff Advisor:*

*2. Existing Conditions. Except where the Staff Advisor deems certain information is not relevant, applications for preliminary plat approval shall contain all of the following information on existing conditions of the site:*

*e. The Base Flood Elevation, Floodplain Corridor Elevation, and Floodplain Boundary, per the Ashland Floodplain Corridor Maps, as applicable;*

**Response:** The property is not located within a flood hazard zone. Therefore, providing this information is not possible. **The standard is not applicable.**

**18.5.3.050.G**

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

*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.*

**Response:** The proposal does not include the dedication or construction of public streets, utilities or surface water facilities. Since no public improvements are required as part of this request (except potentially a sidewalk along the frontage of the property), no public improvements are shown on the Preliminary Plat. The proposed driveway is private and the alley does not have any improvements proposed as it will not be used for vehicular access. Utilities to the existing and proposed new lots are private and do not require public improvement plans. Lastly, supplemental information submitted to staff following the neighborhood meeting included self-imposed conditions that would require both homes to have foundation drains systems that will be tied to the stormdrain system along the northern property line or directly tied to weep holes in the curb along Hillview Drive. Either way, stormwater will be conveyed off site through an existing city facility and will therefore not create any new stormwater management issues. Since no public improvements are required, no public improvement plans are necessary as part of this request. **The standard is not applicable.**

**18.4.6.080**

*A. Storm Drainage Plan Approval. Development permits for storm drainage and surface water management plans must be approved by the City Engineer and Building Official.*

*B. Accommodation of Upstream Drainage. Culverts and other drainage facilities shall be sized to accommodate existing and projected future runoff from upstream drainage area, considering the City's adopted facility master plans and applicable standards. Such facilities shall be subject to review and approval by the City Engineer.*

*C. Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development would overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until*

provisions have been made for storage of additional runoff caused by the development in accordance with City standards.

*D. Over-Sizing. The authority may require as a condition of approval that the storm drainage system serving new development shall be sized to accommodate future development within the area as projected by the applicable facility master plan; and the City may authorize other cost recovery or cost-sharing methods as provided under state law.*

*E. Existing Watercourse. Where a watercourse, drainage way, channel, or stream traverses a proposed development site, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the boundary or centerline of such watercourse, as applicable, and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.*

**Response:** The stormwater system map identifies a line along the northern property line that could provide a source of connection for each newly constructed dwelling. Alternatively, Public Works has stated that there is an additional catch basin at the street frontage that could be tied into. This line is 8 inches at its street crossing and then connects to a 15 inch mainline down Hillview Drive. Based on the location of the 8-inch line and the 15-inch line, Public Works has stated that capacity is not an issue for upstream or downstream drainage and that an oversized stormwater facility is not required. Considering that no changes are necessary to the stormwater system, no storm drainage plan is necessary. **The standard is met.**

### **Neighborhood Character Concerns (from appellant)**

1. *This project is out of character for the neighborhood*
  - a. *Permanently destroys the character of the area that has attracted families to purchase and keep homes in this neighborhood.*
2. *A single, larger structure would be in character and suit the neighborhood better.*
3. *Sets precedence for all lots being subdivided*
  - a. *The number of houses could double in the neighborhood*
4. *Traffic could double serving new houses*
5. *Hillview is main arterial evacuation route for the upper streets.*
6. *Leads to higher density residential zoning (supposedly 4 houses could be built on this lot)*
  - a. *Historically single family neighborhood*
7. *Encourages:*
  - a. *Tearing down houses to build more house*
    - i. *Creates higher density neighborhoods*
  - b. *Property speculators*
  - c. *Absentee ownership*
  - d. *Rental unit development (in single family neighborhoods)*
  - e. *Leads to deteriorating property*
  - f. *Higher crime from higher density neighborhoods.*
  - g. *Impacts urban wildlife and pollinators*
  - h. *Intensifies increased water runoff to neighboring properties.*
8. *Discourages long time area residents from remaining in this neighborhood.*
  - a. *Reduces quality of life, This quality of life attracted us to this neighborhood*
9. *Discourages members in the neighborhood to remain in this city*
10. *Setback from the street.*
  - a. *Existing setback of 897 Hillview Drive is around 66 feet*
  - b. *New setback for Parcel 1 (closest to Hillview) would be 27 feet*
  - c. *No other house on that side of the street has that close of a setback*
  - d. *This is completely out of character with the rest of the neighborhood.*
11. *Hillview homes have larger yards.*
12. *Alley behind 897 Hillview is swampy at various times of the year*
  - a. *Rain water run off...*
  - b. *Runoff from homes on Harmony Lane above the alley flow north-east down the alley.*

- c. *The alley stops at the corner of 897 and 895 Hillview on the alley and has nowhere to go.*
  - d. *Historically, during the winter, rain water runoff has run through 897, 895, 893, and 873 Hillview Drive from the alley unabated.*
    - i. *To abate rain runoff some Hillview residents below the alley have had to install*
      - 1. *French drains*
      - 2. *897 Hillview tree roots and runners are clogging neighbors French drain lines, reducing water runoff collection capability.*
      - 3. *Sump pumps*
      - 4. *Had to raising foundation height*
      - 5. *Had to regrade property to redirect runoff*
  - e. *To abate and collect water runoff.*
    - i. *897 Hillview rain gutters need to be tied to city storm drain*
    - ii. *897 required to install French drain along north property boundary to collect water*
    - iii. *French drain tied to storm drain.*
  - f. *City of Ashland should be required:*
    - i. *Construct a collection point at the end of the alley to remove water runoff through their storm drain easement through the alley.*
    - ii. *Make provisions on alley storm drain line to collect Harmony Lane rain gutter lines.*
13. *The builder does not live in this neighborhood, nor does he plan to.*
  - a. *The neighborhood has to live with the consequences his decisions to modify this lot.*

**Response:** Infill development in the City of Ashland is encouraged by both the Ashland Zoning Code as well as the Ashland Comprehensive Plan. The appellant contends that the proposed partition, which is a standards-based review without much subjectivity will permanently destroy the character of the neighborhood and that the number of houses could double if all lots took advantage of partitioning their lots. It's important to note that not all lots can be divided because of the location of existing dwellings, size or dimension of existing lots or parcels or the location of public infrastructure. Additionally, most houses in the neighborhood have a substantial value, unlike the dwelling on the subject property. Removal of the existing house in this situation not only removes a home that is in disrepair and unattractive, but it allows the parcel to be redeveloped in a manner that supports the goals and policies of Ashland's Comprehensive Plan. Redevelopment provides additionally housing opportunities and allows for the construction of single family detached dwellings that are compatible with the character of the neighborhood and constructed to building codes that address the stormwater concerns raised by the appellant.

As detailed herein and noted by staff in the Findings and Orders, the application complies with all **applicable criteria and standards** of the Ashland Zoning Code either outright or with the imposition of conditions of approval. The criteria noted by the appellant has been addressed herein and either meets the standard or is not applicable. The appellant also raises issues that are not directly tied to relevant criteria. These issues are not addressed because the city land development code does not address issues such as increased crime or neighborhood opinion. Policy makers have determined the allowed uses in each zone, allowable densities and in some areas architectural design requirements. The proposed partition will allow for the subject property to be redeveloped at the city's desired density while still constructing single-family detached dwellings.

Based on the determination by city planning staff and the information provided herein, we respectfully request that the appeal be denied and the administrative decision be upheld.

Respectfully Submitted,



Zac Moody  
Pacific Geographic Consultants, LLC.

# **APPELLANT'S SUBMITTAL**

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**PA-APPEAL-2022-00017**  
**897 Hillview Drive**

<b>Notice of Land Use Appeal – Type I</b> (Ashland Municipal Code § 18.5.1.050.G.)		
<b>A. Name(s) of Person Filing Appeal:</b>		<b>B. Address(es):</b>
1 Chuck Smith		PO Box 802, 895 Hillview Drive, Ashland OR 97520
2 Sharon Hicks		904 Hillview Drive, Ashland OR 97520
Attach additional pages of names and addresses if other persons are joining the appeal.		
<b>C. Decision Being Appealed</b>		
Date of Decision:	Planning Action #:	Title of planning action:
October 20, 2022	PA-T1-2022-00185	<b>Notice of Final Decision</b>
<b>D. How Person(s) Filing Appeal Qualifies as a Party</b> (For each person listed above in Box A, check the appropriate box below.)		
The person named in Box A.1. above qualifies as a party because:	<input type="radio"/> I am the applicant. <input checked="" type="radio"/> I received notice of the planning action. <input type="radio"/> I was entitled to receive notice of the action but did not receive notice due to error.	
The person named in Box A.2. above qualifies as a party because:	<input type="radio"/> I am the applicant. <input checked="" type="radio"/> I received notice of the planning action. <input type="radio"/> I was entitled to receive notice of the action but did not receive notice due to error.	
Attach additional pages if others have joined in the appeal and describe how each qualifies as a party.		
<b>E. Specific Grounds for Appeal</b>		
1. The first specific ground for which the decision should be reversed or modified is (attach additional pages if necessary):		
Plan for collection and control of water runoff by landscaping, roof, and surface water is not adequate (see attached <i>map</i> ) This is an error because the applicable criteria or procedure in the Ashland Municipal Code § _____ or other law in § _____ requires that (attach additional pages if necessary):		
2. The second specific ground for which the decision should be reversed or modified is (attach additional pages if necessary):		
This is an error because the applicable criteria or procedure in the Ashland Municipal Code § _____ or other law in § _____ requires that (attach additional pages if necessary):		
3. The third specific ground for which the decision should be reversed or modified is (attach additional pages if necessary):		
This is an error because the applicable criteria or procedure in the Ashland Municipal Code § _____ or other law in § _____ requires that (attach additional pages if necessary):		

4. (On attached pages, list other grounds, in a manner similar to the above, that exist. For each ground list the applicable criteria or procedures in the Ashland Municipal Code or other law that were violated.)

**Appeal Fee**

With this notice of appeal I(we) submit the sum of **\$150.00** which is the appeal fee required by § 18.5.1.050 of the Ashland Municipal Code.

Date: November 1, 2022

Signature(s) of person(s) filing appeal (attach additional pages if necessary):

The image shows two handwritten signatures in black ink. The top signature is written in a cursive style and appears to read "Clarence Smith". The bottom signature is also cursive and appears to read "Seth".

*Note: This completed Notice of Land Use Appeal together with the appeal fee must be filed with the Community Development Department, Attn: Planning Commission Secretary, 20 E Main St, Ashland, OR 97520, telephone 541-488-5305, prior to the effective date of the decision sought to be reviewed. Effective dates of decisions are set forth in Ashland Municipal Code Section 18.5.1.050.*

**Planning Action PA-11-2002-00185**

**897 Hillview Drive lot partition and construction of two houses.**

**I do not believe that the following criteria has met for control of surface water runoff during heavy rains.**

*3) Both homes on parcel #1 & #2 shall a foundation drain systems, each will be tied into the storm drain system that runs along the North property line. If for any reason these lines can't be tied into said storm drain, they shall be run out to the street via a weep hole.*

*4) All roof drains and landscape drains are required to be tied into the storm drain system that runs along the North property line. If for any reason these lines can't be tied into said storm drain, they shall be run out to the street via a weep hole.*

18.5.3.040 Preliminary Plat Submissions

B. 2. e. The Base Flood Elevation, Floodplain Corridor Elevation, and Floodplain Boundary, per the Ashland Floodplain Corridor Maps, as applicable;

18.5.3.050 Preliminary 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.

18.4.6.080 **Storm Drainage and Surface Water** Management Facilities

A. **Storm Drainage Plan** Approval. Development permits for storm drainage and surface water management plans must be approved by the City Engineer and Building Official.

B. **Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be sized to accommodate existing and projected future runoff from upstream drainage area, considering the City's adopted facility master plans and applicable standards. Such facilities shall be subject to review and approval by the City Engineer.

E. **Existing Watercourse.** Where a watercourse, drainage way, channel, or stream traverses a proposed development site, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the boundary or centerline of such watercourse, as applicable, and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.

**1. Alley behind 897 Hillview is swampy at various times of the year**

**a. Rain water run off...**

**b. Runoff from homes on Harmony Lane above the alley flow north-east down the alley.**

**c. The alley stops at the corner of 897 and 895 Hillview on the alley and has nowhere to go.**

- d. **Historically, during the winter, rain water runoff has run through 897, 895, 893, and 873 Hillview Drive from the alley unabated.**
  - i. **To abate rain runoff some Hillview residents below the alley have had to install**
    - 1. **French drains**
    - 2. **897 Hillview tree roots and runners are clogging neighbors French drain lines, reducing water runoff collection capability.**
    - 3. **Sump pumps**
    - 4. **Had to raising foundation height**
    - 5. **Had to regrade property to redirect runoff**
  - e. **To abate and collect water runoff.**
    - i. **897 Hillview rain gutters need to be tied to city storm drain**
    - ii. **897 required to install French drain along north property boundary to collect water**
    - iii. **French drain tied to storm drain.**
  - f. **City of Ashland should be required:**
    - i. **Construct a collection point at the end of the alley to remover water runoff through their storm drain easement through the alley.**
    - ii. **Make provisions on alley storm drain line to collect Harmony Lane rain gutter lines**
- 2. **According to the TID, the alley between Harmony Lane and Hillview Drive may have been a creek.**

**From:** [Chuck Smith](#)  
**To:** [Aaron Anderson](#); [planning](#)  
**Subject:** Appeal request: Planning Action PA-11-2002-00185. Email 2  
**Date:** Monday, October 31, 2022 5:22:57 PM

---

[EXTERNAL SENDER]

Chuck Smith  
PO Box 802  
895 Hillview. Drive  
541 499-5133  
csmith.now@hotmail.com

Aaron Anderson  
51 Winburn Way  
Ashland OR 97520  
541-488-5905

10-31-2022

RE: Appeal request: Planning Action PA-11-2002-00185. Email 2

Mr. Anderson,

Attached are 3 diagrams and pictures depicting current runoff water collection. Also, attached are pictures of installation of my French drain.

The videos in the previous email sent today at 4:27pm show water bubbling out of the ground, overwhelming my uphill French drain along the south property boundary (lot 800, 895 Hillview Dr.)

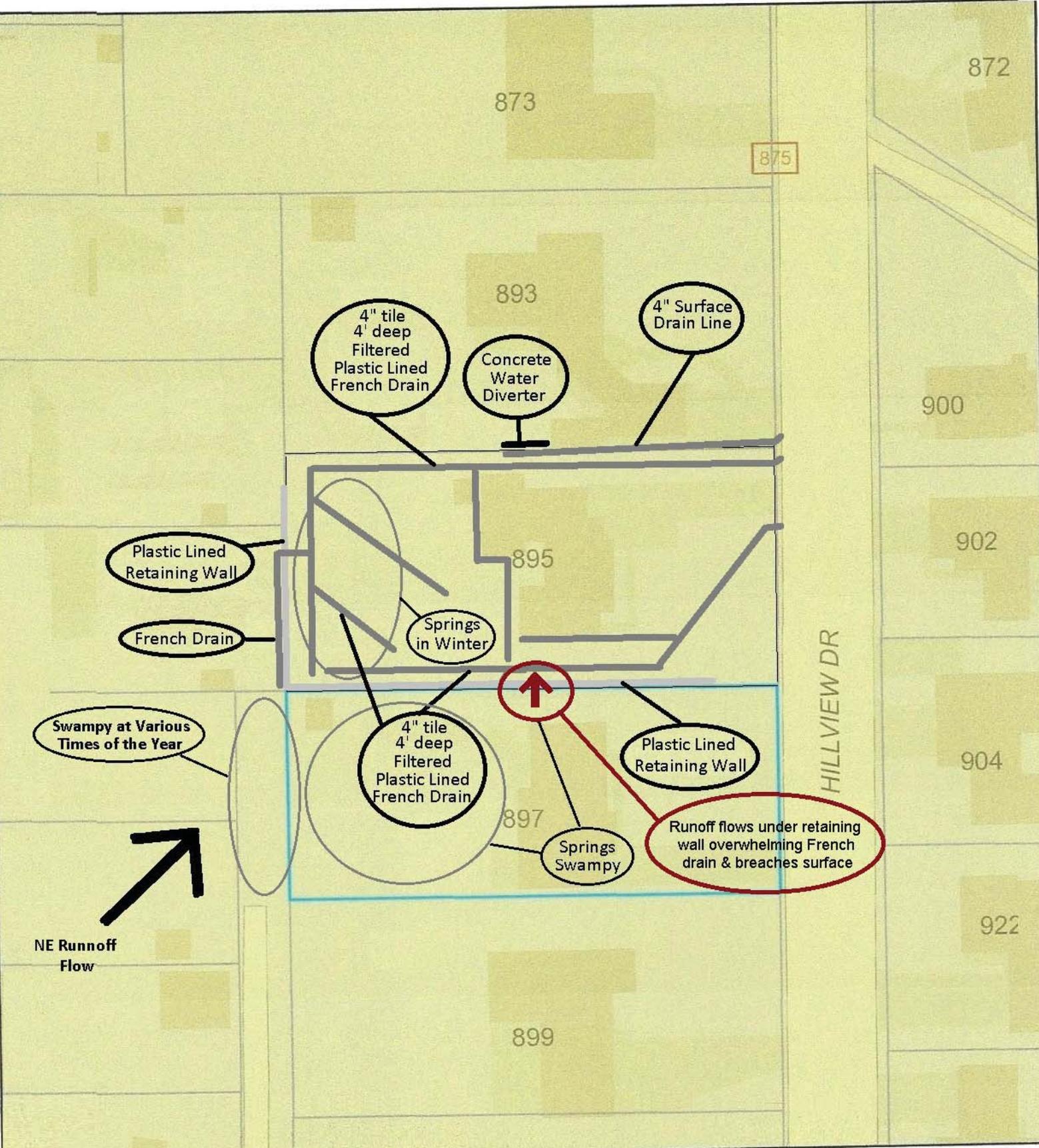
The attached yellow "zoning map" shows a "red" circle depicting where the rain water runoff bubbles up in the previously emailed video. I have approximately 800 feet of hand dug 4" French drain, varying in depth of 2½ to 4'. One picture shows one of two 9 yard loads of rock. This is one of the reasons why lot 900, 897 Hillview needs a French drain.

Lastly, I have included page 2 from the 10-22-22 "Notice of Final Decision". Although it discusses foliage removal, the diagram still shows the 2 building envelopes covering the 10' easement (76-10263) along the north lot 900, 897 Hillview property line. Two of my neighbors were confused by this.

In the event that I am required to pay a fee for the appeal, contact me Tuesday and I will and I will come down to your office and write a check.

Thank you

Best regards,



# Zoning Map

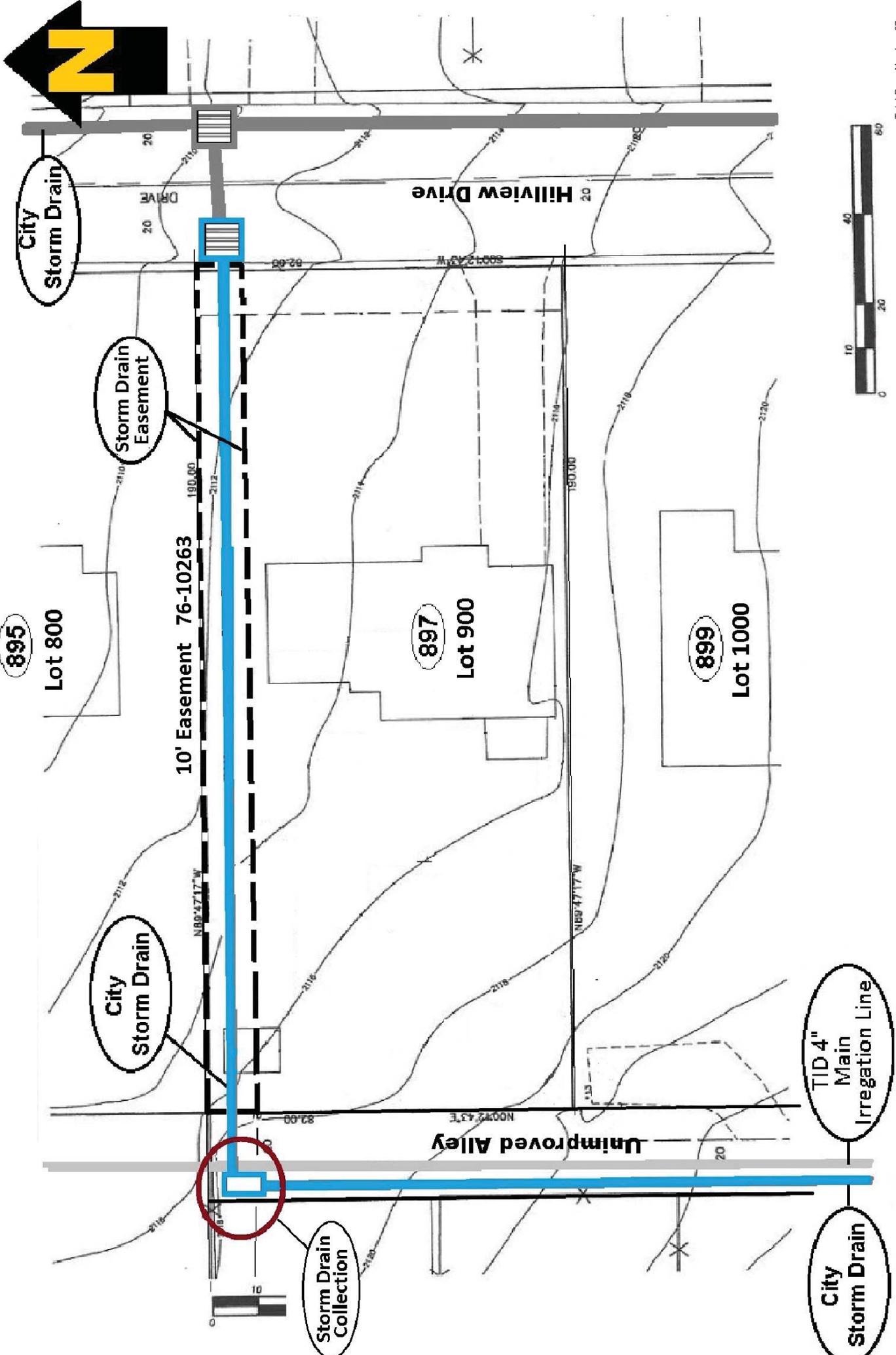
City of Ashland

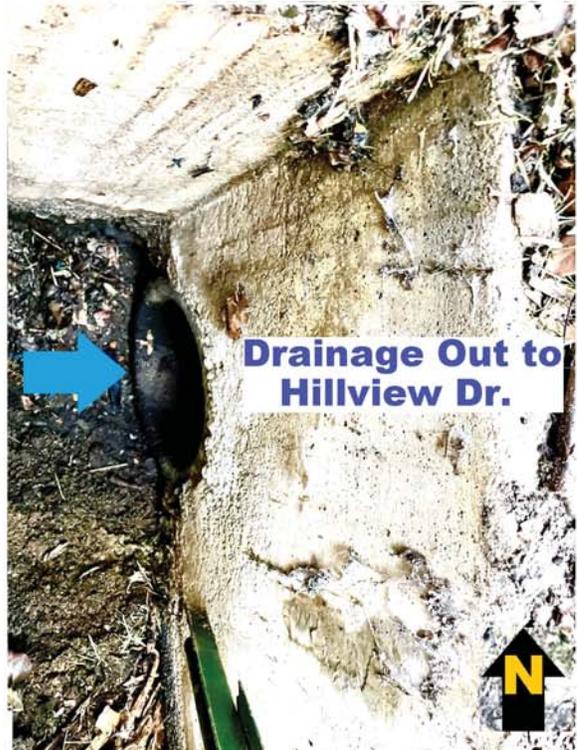
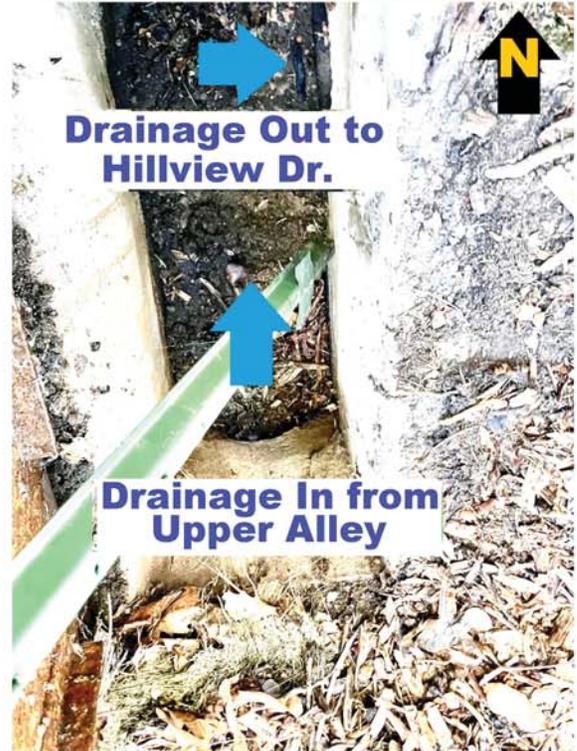
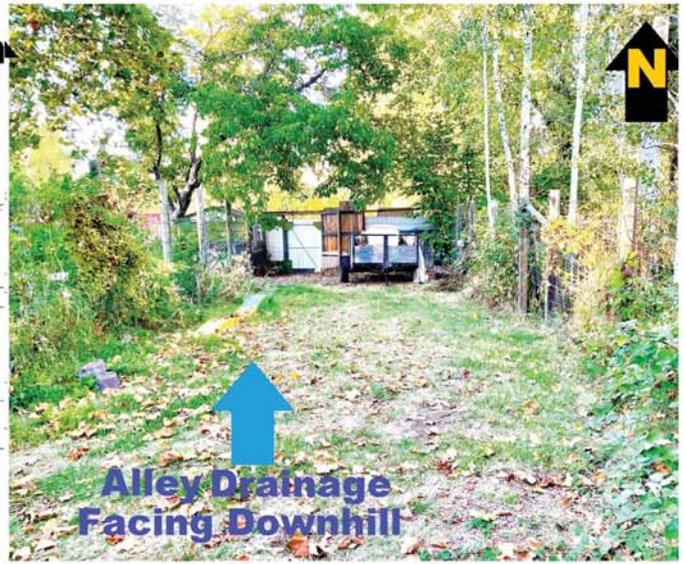
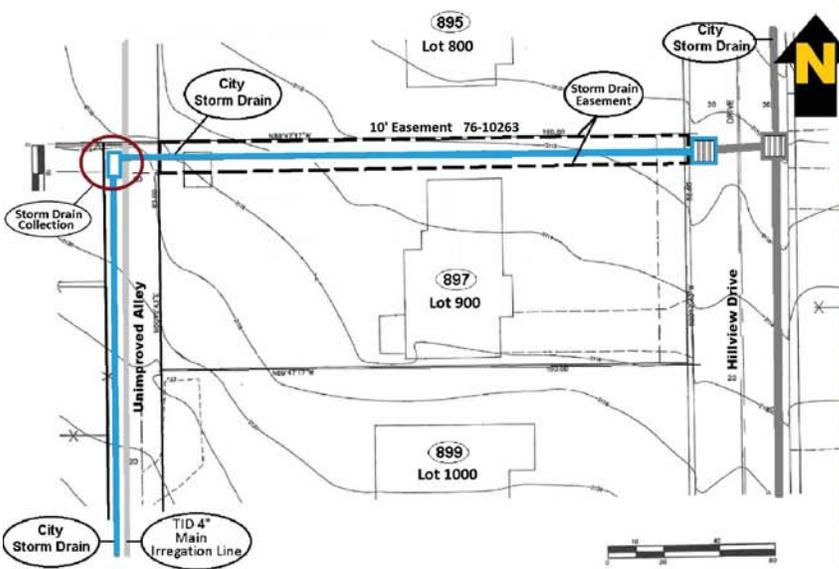


1 inch = 80 feet

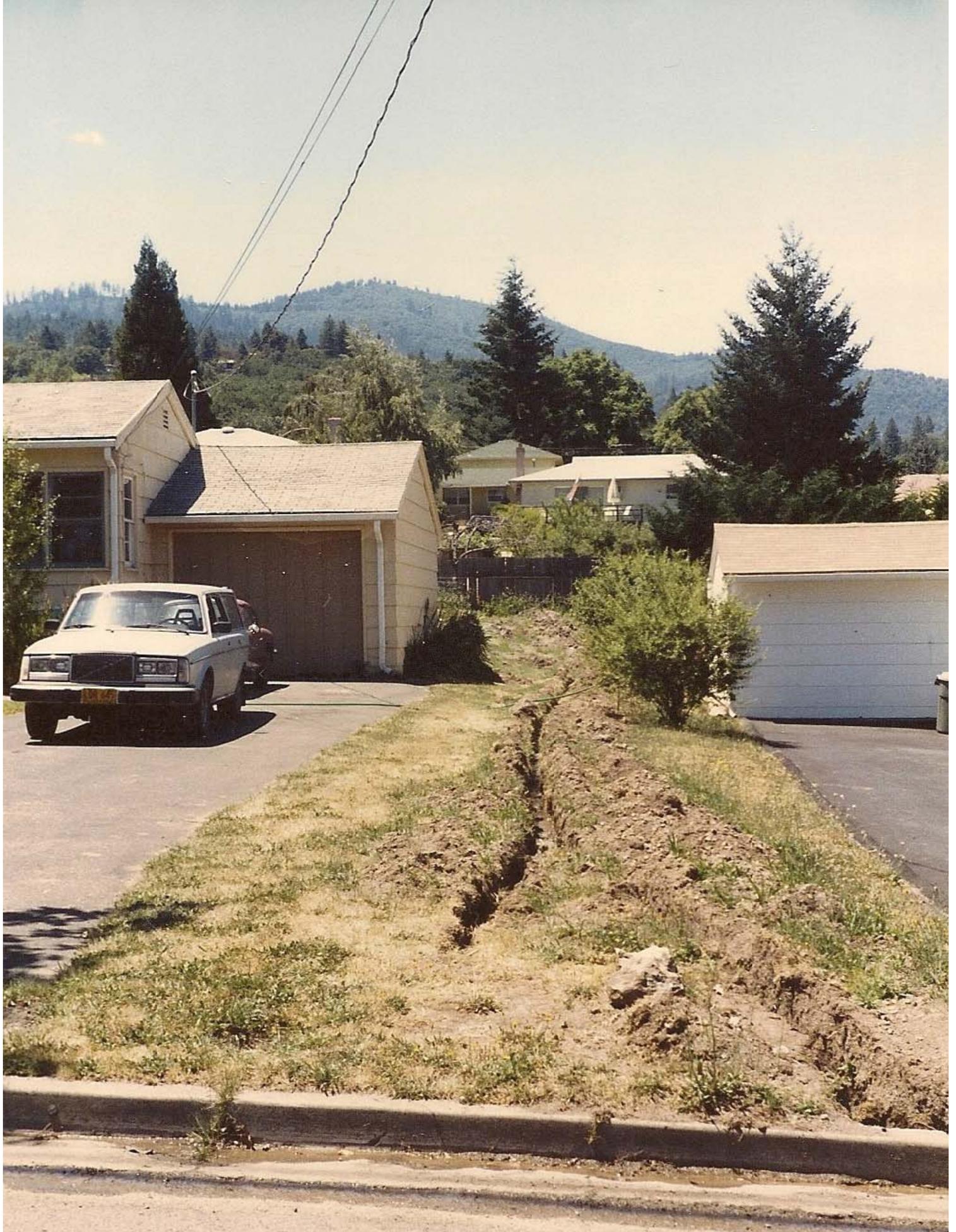
Date Printed: 1/27/2022

Total Page Number: 66



















**From:** [Chuck Smith](#)  
**To:** [Aaron Anderson](#); [planning](#)  
**Subject:** Appeal request: Planning Action PA-11-2002-00185  
**Date:** Monday, October 31, 2022 4:28:08 PM  
**Attachments:** [Spring 1.MOV](#)  
[Spring 2.MOV](#)

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[EXTERNAL SENDER]

To: Aaron Anderson, Planning Department, City of Ashland  
October 31, 2022

Regarding:

**897 Hillview Drive lot partition and construction of two houses.**

by Charlie Hamilton of Suncrest Homes

**Planning Action PA-11-2002-00185**

Comments written to Aaron Anderson ([aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)) and the Ashland Planning Department ([planning@ashland.or.us](mailto:planning@ashland.or.us)) regarding the proposed lot partition of 897 Hillview Drive and construction of two houses.

Mr. Anderson,

I have personally talked with 50 individuals in this neighborhood on both Harmony Ln. and Hillview Dr.

Most do not want this lot to be split and would like to see a single house constructed on this lot.

**I appeal this planning decision and request a public hearing.**

I have also contacted Chuck Schweizer over at the street department requesting him to comment on the rain water runoff collection issue. I have not heard back from him yet.

1. **This project is out of character for the neighborhood**
  - a. **Permanently destroys the character of the area that has attracted families to purchase and keep homes in this neighborhood.**
2. **A single, larger structure would be in character and suit the neighborhood better.**
3. **Sets precedence for all lots being subdivided**

The number of houses could double in the neighborhood
4. **Traffic could double serving new houses**
5. **Hillview is main arterial evacuation route for the upper streets.**
6. **Leads to higher density residential zoning (supposedly 4 houses could be built on this lot)**
  - a. **Historically single family neighborhood**
7. **Encourages:**
  - a. **Tearing down houses to build more houses**

- i. Creates higher density neighborhoods
  - b. Property speculators
  - c. Absentee ownership
  - d. Rental unit development (in single family neighborhoods)
  - e. Leads to deteriorating property
  - f. Higher crime from higher density neighborhoods.
  - g. Impacts urban wildlife and pollinators
  - h. Intensifies increased water runoff to neighboring properties.
8. Discourages long time area residents from remaining in this neighborhood.
- a. Reduces quality of life. This quality of life attracted us to this neighborhood
9. Discourages members in the neighborhood to remain in this city
10. **Setback from the street.**
- a. Existing setback of 897 Hillview Drive is around 66 feet
  - b. New setback for Parcel 1 (closest to Hillview) would be 27 feet
  - c. No other house on that side of the street has that close of a setback
  - d. This is completely out of character with the rest of the neighborhood.
11. Hillview homes have larger yards.
12. **Alley behind 897 Hillview is swampy at various times of the year**
- a. Rain water run off...
  - b. Runoff from homes on Harmony Lane above the alley flow north-east down the alley.
  - c. The alley stops at the corner of 897 and 895 Hillview on the alley and has nowhere to go.
  - d. Historically, during the winter, rain water runoff has run through 897, 895, 893, and 873 Hillview Drive from the alley unabated.
    - i. To abate rain runoff some Hillview residents below the alley have had to install
      - 1. French drains
      - 2. 897 Hillview tree roots and runners are clogging neighbors French drain lines, reducing water runoff collection capability.
      - 3. Sump pumps
      - 4. Had to raising foundation height
      - 5. Had to regrade property to redirect runoff
    - e. To abate and collect water runoff.
      - i. 897 Hillview rain gutters need to be tied to city storm drain
      - ii. 897 required to install French drain along north property boundary to collect water
      - iii. French drain tied to storm drain.
    - f. City of Ashland should be required:
      - i. Construct a collection point at the end of the alley to remover water runoff through their storm drain easement through the alley.
      - ii. Make provisions on alley storm drain line to collect Harmony Lane rain gutter lines.
13. **The builder does not live in this neighborhood, nor does he plan to.**
- a. The neighborhood has to live with the consequences his decisions to modify this lot.

**I have included a few diagrams and video of water runoff from the alley. I do not believe that collection points at roof, landscaping, and foundation are adequate during heavy rains. Lot 900, 897 Hillview needs a French drain along the northern property line of lot 900 to collect water.**

**I appeal the 897 Hillview Drive lot partition.**

**I request that the lot partition be denied.**

**Best regards,**

**Chuck Smith  
895 Hillview Drive**

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**PA-T1-2022-00185**  
**897 Hillview Drive**

October 20, 2022

**Notice of Final Decision**

On October 20, 2022, the Community Development Director approved the request for the following:

**Planning Action:** PA-T1-2022-00185

**Subject Property:** 897 Hillview Drive

**Applicant:** Suncrest Homes, LLC

**Description:** A request for land use approval for a two-lot partition of a 0.36-acre lot. The tentative partition plat submitted with the application indicates that the two resultant parcels will be 0.18 and 0.17 acres in size. The application includes detailed findings explaining how the proposal meets the relevant criteria. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5; **MAP:** 39 1E 15 AC; **TAX LOT:** 900

The Community Development Director's decision becomes final and is effective on the 12<sup>th</sup> day after the Notice of Final Decision is mailed. Approval is valid for a period of 18 months and all conditions of approval identified on the attached Findings are required to be met prior to project completion.

The application, all associated documents and evidence submitted, and the applicable criteria are available for review at the Ashland Community Development Department, located at 51 Winburn Way. Copies of file documents can be requested and are charged based on the City of Ashland copy fee schedule.

Prior to the final decision date, anyone who was mailed this Notice of Final Decision may request a reconsideration of the action as set forth in the Ashland Land Use Ordinance (ALUO) 18.5.1.050(F) and/or file an appeal to the Ashland Planning Commission as provided in ALUO 18.5.1.050(G). The ALUO sections covering reconsideration and appeal procedures are attached. The appeal may not be made directly to the Oregon Land Use Board of Appeals.

If you have any questions regarding this decision, please contact Aaron Anderson in the Community Development Department at (541) 488-5305.

cc: Parties of record and property owners within 200 ft



## SECTION 18.5.1.050 Type I Procedure (Administrative Decision with Notice)

**E. Effective Date of Decision.** Unless the conditions of approval specify otherwise or the decision is appealed pursuant to subsection 18.5.1.050.G, a Type I decision becomes effective 12 days after the City mails the notice of decision.

**F. Reconsideration.** The Staff Advisor may reconsider a Type I decision as set forth below.

1. Any party entitled to notice of the planning action, or any City department may request reconsideration of the action after the decision has been made by providing evidence to the Staff Advisor that a factual error occurred through no fault of the party asking for reconsideration, which in the opinion of the Staff Advisor, might affect the decision. Reconsideration requests are limited to factual errors and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
2. Reconsideration requests shall be received within five days of mailing the notice of decision. The Staff Advisor shall decide within three days whether to reconsider the matter.
3. If the Staff Advisor is satisfied that an error occurred crucial to the decision, the Staff Advisor shall withdraw the decision for purposes of reconsideration. The Staff Advisor shall decide within ten days to affirm, modify, or reverse the original decision. The City shall send notice of the reconsideration decision to affirm, modify, or reverse to any party entitled to notice of the planning action.
4. If the Staff Advisor is not satisfied that an error occurred crucial to the decision, the Staff Advisor shall deny the reconsideration request. Notice of denial shall be sent to those parties that requested reconsideration.

**G. Appeal of Type I Decision.** A Type I decision may be appealed to the Planning Commission, pursuant to the following:

1. Who May Appeal. The following persons have standing to appeal a Type I decision.
  - a. The applicant or owner of the subject property.
  - b. Any person who is entitled to written notice of the Type I decision pursuant to subsection 18.5.1.050.B.
  - c. Any other person who participated in the proceeding by submitting written comments on the application to the city by the specified deadline.
2. Appeal Filing Procedure.
  - a. *Notice of Appeal.* Any person with standing to appeal, as provided in subsection 18.5.1.050.G.1, above, may appeal a Type I decision by filing a notice of appeal and paying the appeal fee according to the procedures of this subsection. The fee required in this section shall not apply to appeals made by neighborhood or community organizations recognized by the City and whose boundaries include the site. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded.
  - b. *Time for Filing.* A notice of appeal shall be filed with the Staff Advisor within 12 days of the date the notice of decision is mailed.
  - c. *Content of Notice of Appeal.* The notice of appeal shall be accompanied by the required filing fee and shall contain.
    - i. An identification of the decision being appealed, including the date of the decision.
    - ii. A statement demonstrating the person filing the notice of appeal has standing to appeal.
    - iii. A statement explaining the specific issues being raised on appeal.
    - iv. A statement demonstrating that the appeal issues were raised during the public comment period.
  - d. The appeal requirements of this section must be fully met or the appeal will be considered by the City as a jurisdictional defect and will not be heard or considered.
3. Scope of Appeal. Appeal hearings on Type I decisions made by the Staff Advisor shall be de novo hearings before the Planning Commission. The appeal shall not be 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.
4. Appeal Hearing Procedure. Hearings on appeals of Type I decisions follow the Type II public hearing procedures, pursuant to section 18.5.1.060, subsections A – E, except that the decision of the Planning Commission is the final decision of the City on an appeal of a Type I decision. A decision on an appeal is final the date the City mails the adopted and signed decision. Appeals of Commission decisions must be filed with the State Land Use Board of Appeals, pursuant to ORS 197.805 - 197.860.



## ASHLAND PLANNING DIVISION

### FINDINGS & ORDERS

**PLANNING ACTION:** PA-T1-2022-00185  
**SUBJECT PROPERTY:** 897 Hillview Drive  
**APPLICANT & OWNER:** Suncrest Homes, LLC  
**DESCRIPTION:** A request for land use approval for a two-lot partition of a 0.36-acre lot. The tentative partition plat submitted with the application indicates that the two resultant parcels will be 0.18 and 0.17 acres in size. The application includes detailed findings explaining how the proposal meets the relevant criteria.  
**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5;  
**MAP:** 39 1E 15 AC; **TAX LOT:** 900

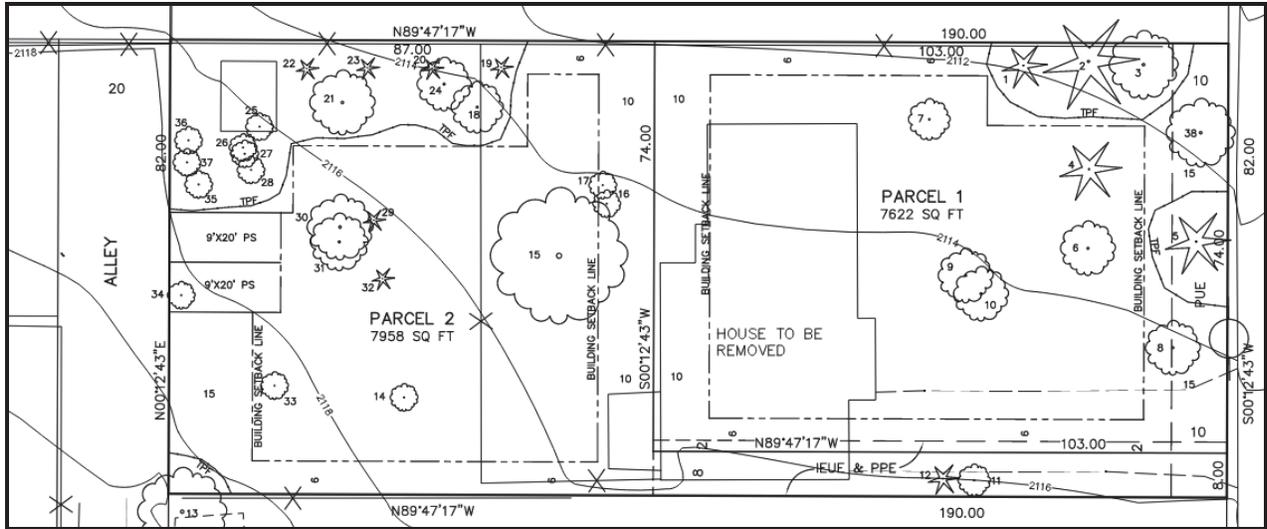
<b>SUBMITTAL DATE:</b>	May 13, 2022
<b>DEEMED COMPLETE DATE:</b>	May 31, 2022
<b>RE-NOTICED DATE:</b>	September 26, 2022
<b>STAFF APPROVAL DATE:</b>	October 20, 2022
<b>APPEAL DEADLINE (4:30 P.M.)</b>	November 1, 2022
<b>FINAL DECISION DATE:</b>	November 2, 2022
<b>APPROVAL EXPIRATION DATE:</b>	May 1, 2024

### DECISION

The application is a request for a land partition to divide the property at 897 Hillview Drive into two separate parcels. The property is on the west side of Hillview Drive between Siskiyou Blvd. and Ross Lane. The property also abuts an alley on its western side which terminates at the northern edge of the subject property. The existing single-family home is to be demolished to enable the partition. The subject property and surrounding neighborhood is located in the R-1-7.5 zoning district, a Single Family Residential zone with a minimum lot size of 7,500 square feet. The property measures 82' x 190' which make it slightly over twice the minimum for the zone at 15,580 square feet. The applicant has proposed an eight-foot flagpole as allowed at AMC 18.5.3.060.H.4 when adjacent to an alley.

The subject property contains an existing single-story, 1,228 square foot residence built in 1947 according to the Jackson County Tax Assessor's records. The house is in poor condition and will be demolished to allow for the partition to occur. All structures larger than 500 square feet are required to demonstrate compliance with the demolition permit, and a condition of approval to that effect has been included below.

The applicant has proposed that Parcel 1 measures 103' x 74' for a size of 7,622 sq. ft., and Parcel 2's body measures 87' x 82' with an eight-foot flagpole extending to Hillview for a total size of 7,958 sq. ft. Adjacent to the flagpole is a proposed 2' access easement giving Parcel 2 ten-feet of vehicular access. The next page shows the proposed parcel configuration.



The application includes a complete inventory of 39 trees that are greater than 6 inches Diameter at Breast Height (DBH). The application also includes a proposed ‘building envelope’ and tree protection plan however it is not supported by a proposed residential design. Staff feels that rather than approve the requested removals that instead the inventory and recommendations should be considered at the time of future development.

Staff carefully considered the proposal and found that it meets all the relevant approval criteria as explained further below. As staff understands the proposal, the existing driveway on the south side of the property will be retained and improved to provide vehicle access to the rear property as well. The drive will still be able to provide the required pedestrian connection while also providing secondary vehicle access to the rear lot.

Below we address the application materials against the relevant approval criteria.

The first two criteria of approval for a partition are that “The future use for urban purposes of the remainder of the tract will not be impeded.” and that “The development of the remainder of any adjoining land or access thereto will not be impeded.” Staff finds that the proposal for the two-lot partition is the maximum density allowed and that there is no remaining development potential and that all adjacent properties are developed meeting these standards.

The third criteria of approval for a partition are that “The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.” Staff finds that there are no city adopted neighborhood or district plans that affect this property and that there are no previous land use approvals that affect this property.

The fourth criteria of approval for a partition are that “tract of land has not been partitioned for 12 months. The applicants assert, and after examining the Jackson County Survey records staff concurs that the tract of land has not been partitioned for twelve months meeting this standard.

The fifth criteria of approval for a partition are that “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

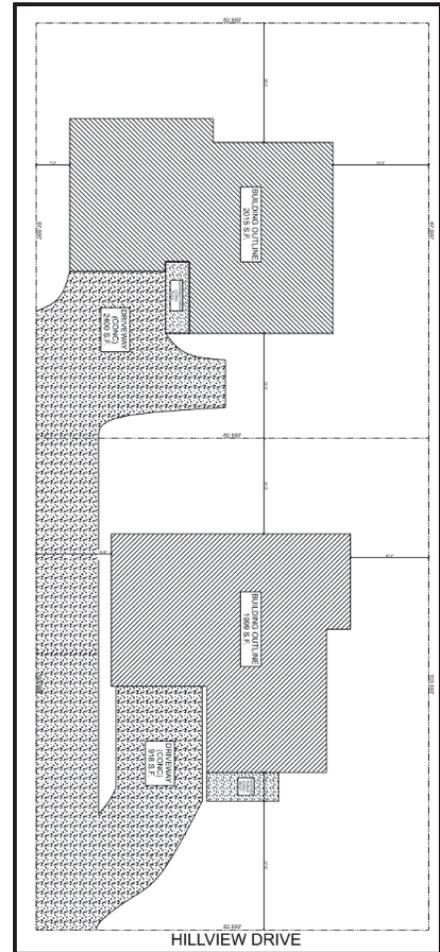
preservation, solar access and orientation). Most development standards relate to the future construction of new homes with regards to setbacks, solar standards and lot coverage. Each of these will be evaluated in concert with the review of the future building permits. Staff finds that the proposed lots do conform to the dimensional requirements of the base zone and further notes that all future building permits will be required to demonstrate compliance will all standards of the Land Use Ordinance for site design review (including building placement, orientation, and design.).

The sixth criteria of approval for a partition are that “Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design...” Staff notes that AMC 18.4.3.080.C.5 provides that “Where a property has alley access, vehicle access shall be taken from the alley...” Staff finds that the application demonstrates that vehicular access can be provided from the alley and the site plan demonstrates area for two parked cars which will be required to be improved with a gravel at a minimum. Staff notes that the applicant intends to improve the existing driveway to a width of ten-feet and provide proposed parcel 2 with a two-foot access easement adjacent to the eight-foot flagpole. A conceptual layout of the driveway and home development was submitted with supplemental materials is shown at right.

Staff finds that this vehicular access is in addition to the alley access. Staff further notes that it also is proposed to serve parcel 1 as well and that the curb cut is existing. Staff finds that this is in conformance with AMC 18.4.3.080.c.4 which provides for “Shared Use of Driveways and Curb Cuts.”

The seventh criteria of approval for a partition are that “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.” Staff finds that the standards provided at AMC 18.4.6.040.C.1 only require a public street dedication when serving four or more lots. Staff finds that utilities are available to each of the proposed lots including water, sewer, and all franchise utilities.

The eighth criteria of approval for a partition include standards for situations where there are unpaved streets. Staff notes that Hillview Drive has a 40-foot public right of way and is paved with curb and gutter. Staff notes that while the Land Use Ordinance prescribes improvement standards for alleys historically alleys have not been required to be improved unless there was a commercial use, this is because of the need for both a nexus to the improvement as well as a rough proportionality (Nolan/Dolan tests). Staff further notes AMC 18.5.3.050.H.2 allows the Public Works Director to permit a land partition with access to an unpaved street subject to certain provisions including waiving the right to remonstrate with respect to the formation of an



LID. A conditional of approval will require that the property owner sign in favor of an LID for such improvements. Staff finds that with the forgoing this approval criterion is satisfied.

The ninth criteria of approval for a partition relates to situations where there is an alley adjacent to the partition. As mentioned above the applicant has shown the vehicle access and parking will be provided off the alley. Staff notes that this satisfies the requirements of the land use ordinance.

The tenth criteria of approval for a partition is regarding compliance with any required state or federal permits. Staff finds that there are no known required state or federal permits satisfying this approval criterion.

Finally, the eleventh criteria of approval for a partition invokes section AMC 18.5.3.060 which is “additional preliminary flag lot partition plat criteria” which contains a total of eleven additional approval criteria. These approval criteria address standards for vehicle access over proposed flag drives and provides options when a lot is adjacent to an alley. The section dealing with alleys is subpart ‘H’ which provides for the eight-foot flagpole option when vehicle access is provided off the alley as it is in this case. The section requires that the flagpole be improved with a pedestrian access at least four feet in width. Staff finds that the proposed alternative vehicle access which will be improved to a width of ten feet meet this standard and find that this approval criterion is met.

### Public Input

Notice of the planning action was mailed to all properties within 200 feet of the subject property as well as a physical notice posted along the frontage of the property. The notice included a staff contact name and number. In accordance with AMC 18.5.1.050, the Type I procedure for planning applications, allows a 14-day period for the submission of written comments, starting from the date of mailing. Subsequent to the mailing of a Notice of Complete application seventeen written comments about the request were received expressing concerns about the development, and by their reference are incorporated herein. These comments ranged from brief objections to much longer written responses. Aside from concerns regarding increased density and neighborhood character many of the complaints centered around a concern about increased impact on the unimproved alley, despite the fact that the applicant’s intention is to minimize impact on the alley by providing secondary vehicular access across the front parcel.

One of the public comments that was received provided citations regarding concerns raised the issue that the second of the eleven criterion under the eleventh criteria of approval for a partition provides that “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.” Staff notes that the required drive area is adjacent to the alley as mentioned above, and that because the alley option was used in this context there is no ‘flag drive area,’ staff further notes that while there is a proposed easement for a total access width of 10’ for vehicle access it is secondary and in addition to the alley vehicle access.

Another concern raised had to do with compliance with AMC 18.2.4.010 which states: “Each lot shall abut a public street other than an alley for a width of not less than 40 feet; except, where a lot is part of an approved flag partition or abuts a cul-de-sac vehicle turn-around area, the

minimum width is 25 feet.” Staff would note that the construction of this provision provides that a lot shall have 40’ of frontage along a street, or 25’ feet in the case of a cul-de-sac, and then exempts this provision from a flag partition. Additionally, the LUO provides a definition for street which includes that an alley is a type of street\*.

The letter goes on to raised concerns about both a usable yard area and parking stating that the ‘proposed building envelopes appear to preclude meeting the required yard areas.’ Staff notes that the preliminary plat shows the required building setbacks, and the parking required off the alley as required, so this is not the area that the proposed building will occupy but the maximum area any part of the building would be able to be located. When building permits are reviewed and approved, they will be required to demonstrate that the yard area, and parking area are met in addition to all the applicable base standards of the zone including lot coverage, and solar setbacks.

An additional concern was about improvements and impacts on the alley. As mentioned above the city has historically not required improvements to alleys for residential development. The applicant has demonstrated proposed parcel 2 is served by the alley, and as shown above is also including additional paved vehicle access over the eight-foot flagpole.

Following the conclusion of the public comment period the applicant requested a waiver to the local 45-day timeline as well as the 120-day rule. The reason for these extensions were at the applicants request to address neighborhood concerns. The applicant held a neighborhood meeting on September 21, 2022. The applicant also submitted supplemental materials in the form a single page letter submitted following a neighborhood meeting, and a handout advertising the public meeting; That handout included a conceptual layout of how the lots are proposed to be developed included above. The letter included four specific proposals that intended to alleviate concerns of neighborhood property owners. Those items were:

- 1) Parcel #2, is not allowed to use the alley for its primary access. Parcel #2 shall have its primary access off of Hillview, the house shall be oriented towards Hillview and the garage shall be accessed off of Hillview.
- 2) No construction vehicles shall use the alley at the rear of the property during the construction of either parcel #1 or Parcel #2.
- 3) Both homes on parcel #1 & #2 shall a foundation drain systems, each will be tied into the storm drain system that runs along the North property line. If for any reason these lines can’t be tied into said storm drain, they shall be run out to the street via a weep hole.
- 4) All roof drains and landscape drains are required to be tied into the storm drain system that runs along the North property line. If for any reason these lines can’t be tied into said storm drain, they shall be run out to the street via a weep hole.

Due to the length of time that elapsed from the close of the public comment period Staff decided to re-notice the application for an additional period of public comment. During this second public comment period four additional comments were received, and by their reference are incorporated herein.

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\* Street. A public right-of-way for roadway, sidewalk, and utility installation including the terms road, highway, land, place, avenue, **alley**, or other similar designations

Each of these four letters varied in length from a brief paragraph summarizing their concerns, to a single page letter listing seven items, to a three-page letter itemizing 21 specific concerns. Generally, the concerns relate to interconnected impacts regarding to new development, specifically: traffic generation, character of the neighborhood, density, and speculation real estate / out of town investment owners, and that these collective impacts set a precedent for future development but also impact to property values and generally be a detriment to the neighborhood.

In considering the public comment staff notes that the proposal is within the accepted development density envisioned in the Comprehensive Plan and allowed by the zoning district. Staff has addressed the concerns that provided citation to the relevant approval criteria and finds that the proposal meets all the required approval criteria, and that none of the objections raised in the public comment offer a valid reason for denial of the application.

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**The approval criteria for a Land Partition are detailed in AMC 18.5.3.050 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](#).

**The Additional Flag Lot Partition Plat Criteria are detailed in AMC 18.5.3.060 as follows:**

- 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.

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Decision

The applicants have submitted a complete set of Findings addressing their burden of proof to the Planning Department to demonstrate compliance with the applicable approval standards for the proposed partition and by their reference are incorporated as if set out in full.

In staff's assessment, the application with the attached conditions complies with all applicable City Ordinances. Therefore, Planning Action #PA-T1-2022-00185 is approved with the following conditions. Further, if any one or more of the following conditions are found to be invalid for any reason whatsoever, then Planning Action #PA-T1-2022-00185 is denied. The following conditions are attached to the approval.

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
- 2) That any new address shall be assigned by City of Ashland Engineering Department.
- 3) That permits shall be obtained from the Ashland Public Works Department prior to any work in the public right of way, including but not limited to permits for driveway approaches, utilities or any necessary encroachments.
- 4) That a final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.

- 5) That the following items shall be submitted for review and approval of the Ashland Planning Division prior to signature of the final survey.
- a) That a demolition permit be applied for, and the existing house removed from the property in its entirety.
  - b) That a final utility plan for the parcels shall be submitted for review and approval by the Planning, Engineering, Electric 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) All easements for public and private utilities and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.
  - d) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for the new vacant lot prior to the signature of final survey plat.
  - e) That the property owner shall sign in favor of local improvement districts for the future street improvements, including but not limited to park-row and sidewalks prior to signature of the final survey plat. The agreement shall be signed and recorded concurrently with the final survey plat.
  - f) That a final survey plat shall be submitted within 12 months and approved by the City of Ashland within 18 months of this approval.

  
\_\_\_\_\_  
Brandon Goldman, AICP  
Interim Community Development Director  
Department of Community Development

October 20, 2022  
Date

# **PUBLIC COMMENTS**

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**From:** [Chuck Smith](#)  
**To:** [Aaron Anderson](#)  
**Cc:** [planning](#)  
**Subject:** Planning Action PA-11-2002-00185, 897 Hillview Drive  
**Date:** Saturday, October 08, 2022 8:18:08 AM

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[EXTERNAL SENDER]

To: Aaron Anderson,  
Planning Department, City of Ashland  
October 8, 2022

Regarding:

## **897 Hillview Drive lot partition and construction of two houses.**

by Charlie Hamilton of Suncrest Homes

### **Planning Action PA-11-2002-00185**

**Comments written to Aaron Anderson (aaron.anderson@ashland.or.us) and the Ashland Planning Department (planning@ashland.or.us) regarding the proposed lot partition of 897 Hillview Drive and construction of two houses.**

The primary takeaway from conversations with Hillview Drive and Harmony Lane neighbors and comments made to the Ashland Planning Department :

-

1. **This project is out of character for the neighborhood**
2. **Sets precedence for all lots being subdivided**
  - The number of houses could double in the neighborhood
3. **Traffic could double serving new houses**
  - a. **Impedes access to homes**
  - b. **Noise**
  - c. **Pedestrian/bike rider safety, traffic already averages above 25mph on Hillview**
  - d. **Catholic church already contributes to higher than average traffic**
4. **Leads to higher density residential zoning (supposedly 4 houses could be built on this lot)**
  - a. **Historically single family neighborhood**
5. **Permanently destroys the character of the area**
  - a. **Has attracted families to purchase and keep homes in this neighborhood.**
6. **Encourages:**
  - a. **Tearing down houses to build more houses**
    - i. **Creates higher population density**
  - b. **Property speculators**

- c. Absentee ownership
  - d. Rental unit development (in single family neighborhoods)
  - e. Leads to deteriorating property
  - f. Higher crime from higher density neighborhoods.
  - g. Impacts urban wildlife and pollinators
7. Habitat is replaced with higher density dwellings.
- i. Removes trees
    - 1. Reduces excess water runoff
8. Intensifies
- a. Light pollution
  - b. Reduce airflow
  - c. Increase water runoff to neighboring properties.
9. Impact all neighbors that access their properties via the alley off Ross Lane
- a. Adding traffic flow and impeding access to properties in an area previously unaffected
10. Budget shortfall
- a. Alley improvements are in opposition with the City of Ashland's proposal for spending reductions
11. Encourages higher density residential areas
12. Discourages long time area residents from remaining in this neighborhood.
13. Reduces quality of life
- a. This quality of life attracted us to this neighborhood
14. Discourages members in the neighborhood to remain in this city
15. Setback from the street.
- a. Existing setback of 897 Hillview Drive is around 66 feet
  - b. New setback for Parcel 1 (closest to Hillview) would be 27 feet
  - c. No other house on that side of the street has that close of a setback
  - d. This is completely out of character with the rest of the neighborhood.
16. Hillview homes have larger yards.
17. Alley behind 897 Hillview is swampy at various times of the year
- a. Rain water run off...
  - b. Does the City have the funds to upgrade the alley?
  - c. Runoff from homes on Harmony Lane above the alley flow north-east down the alley.
  - d. The alley stops at the corner of 897 and 895 Hillview on the alley and has nowhere to go.
  - e. Historically, during the winter, rain water runoff has run through 897, 895, 893, and 873 Hillview Drive from the alley unabated.
    - i. To abate rain runoff some Hillview residents below the alley have had to install
      - 1. French drains
      - 2. 897 Hillview tree roots and runners are clogging neighbors French drain lines, reducing water runoff collection capability.
      - 3. Sump pumps
      - 4. Had to raising foundation height

- 5. Had to regrade property to redirect runoff
- f. To abate and collect water runoff.
  - i. 897 Hillview rain gutters need to be tied to city storm drain
  - ii. 897 required to install French drain along north property boundary to collect water
  - iii. French drain tied to storm drain.
- g. City of Ashland should be required:
  - i. Regrade the alley, stabilize the substrate, direct run off into collection point at end of alley.
  - ii. Construct a collection point at the end of the alley to remove water runoff through their storm drain easement through the alley.
  - iii. Make provisions on alley storm drain line to collect Harmony Lane rain gutter lines.
- 18. An example of poorly executed division and structure construction of aesthetic questionability
  - a. Lot split of 831 and 843 Hillview Drive. It is time to learn from mistakes.
  - b. The slice and dice lot partitions up the hill in upper Beach Street area
- 19. The builder does not live in this neighborhood, nor does he plan to.
  - a. The neighborhood has to live with the consequences his decisions to modify this lot.
- 20. New residents that have purchased homes recently in this neighborhood (within the last 6) months are shocked that the city would potentially allow this.
  - a. They specifically moved here because of the type of neighborhood it is.
  - b. "I didn't sign up for this" <high density housing>
  - c. One new owner has taken possession within the last 7 days
- 21. A single, larger structure would be in character and suit the neighborhood better.

**I oppose the 897 Hillview Drive lot partition.  
I request that the lot partition be denied.**

**Best regards,**

**Chuck Smith  
895 Hillview Drive**

**From:** [June Mather](#)  
**To:** [Aaron Anderson](#)  
**Cc:** [planning](#)  
**Subject:** Lot partition of 897 Hillview Dr  
**Date:** Sunday, October 09, 2022 11:20:54 AM

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[EXTERNAL SENDER]

Let it be noted that my concerns echo those residents who are opposed to the above partition and I, too, request that the permit to subdivide be denied.

--I live in a historically single family neighborhood and I fear that approval of this partition would set a dangerous precedent in the area. This is completely out of character with the existing neighborhood.

--This partition would encourage absentee ownership which could lead to deteriorating property and reduced property values.

Respectfully submitted,

June Mather

**From:** [Elaine Hamlin](#)  
**To:** [Aaron Anderson](#); [planning](#)  
**Subject:** Planning Action PS-11-2002-00185: proposed partition of 897 Hillview Drive into lots/two houses  
**Date:** Friday, October 07, 2022 9:32:30 PM

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[EXTERNAL SENDER]

We, **Elaine and Wayne Hamlin**, have owned our home at **1039 Hillview Drive** for over thirty years, and we are writing to oppose the partition of 897 Hillview Drive to subdivide the property in order to build two houses onto a property that now has one house.

We bases our opposition to this proposal on the following considerations:

1. Hillview Drive is historically a single family neighborhood, and the division into a lot similar in size to lots in the neighborhood permanently destroys the character of the area.
2. This type of subdivision can lead to rental unit development and absentee ownership on Hillview Drive.
3. The property under consideration is near a seasonal creek and removal of trees impacts wildlife and pollinators and water runoff will be redirected to adjoining properties.
4. The change from one residential unit to two encourages higher density residential areas and definitely increases traffic in the area as well as encourages more on-street parking.
5. Hillview homes have front yards, and the reduced setbacks of the proposed home facing Hillview Drive has a reduced setback which is out of character with the rest of the homes on Hillview Drive.
6. Hillview Drive is a major artery for fire evacuation, and adding density to the neighborhood creates higher fire danger in the neighborhood as well as impacting fire egress for residents in homes on the upper Hillview Drive as well as higher streets that enter onto Hillview Drive.
7. Permanently changing the character of the Hillview Drive neighborhood could open the door to similar proposals to change the neighborhood to multi-unit lots, and Hillview Drive could evolve into an arterial street such as Normal Avenue between Siskiyou Boulevard and Ashland Street, a move Hillview Drive residents would highly resist.

We appreciate the opportunity to comment on Planning Action Proposal PS-11-2002-00185, and we trust you will listen to and hear our objections to partitioning 897 Hillview Drive into two lots and the construction of two houses on the property.

Sincerely,

Elaine and Wayne Hamlin  
1039 Hillview Drive, Ashland

**From:** [robert frey](#)  
**To:** [Aaron Anderson](#); [planning](#)  
**Subject:** Further Comments on Planning Action PA-T1-2022-00185, 897 Hillview Dr  
**Date:** Monday, October 10, 2022 12:28:33 PM

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[EXTERNAL SENDER]

Dear Mr. Anderson and Planning Department,

I want to share further comments regarding the proposed 897 Hillview Dr. lot split and building plan.

I am opposed to the lot split in this neighborhood of single homes on similarly-sized lots. In waiving long-established neighborhood planning and dividing this lot split would be a significant move toward changing the neighborhood's character. It would also set a precedent for more lot splits – presumably each waived to the point of doubling the number of homes, people, automobiles, and city services needed in the neighborhood. Certainly any or all of that growth would diminish the quality of life here – for the enrichment of a building company but detriment of a neighborhood.

Please reconsider the reasons for the long-standing city building planning ordinances for dividing lots – which I believe were created and practiced by Ashland for very good reasons.

Thank you,  
Robert Frey  
964 Harmony Lane  
Ashland, Oregon

Sent from [Mail](#) for Windows

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**PA-T1-2022-00185**  
**897 Hillview Drive**



The Ashland Planning Division Staff has received a complete application for the property noted on Page 1 of this notice.

Because of the COVID-19 pandemic, application materials are provided online and 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](mailto:planning@ashland.or.us).

A copy of the application, including all documents, evidence and applicable criteria are available online at "What's Happening in my City" at <https://gis.ashland.or.us/developmentproposals/>. 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](mailto:planning@ashland.or.us).

Any affected property owner or resident has a right to submit written comments to [planning@ashland.or.us](mailto:planning@ashland.or.us) or to the City of Ashland Planning Division, 51 Winburn Way, Ashland, Oregon 97520 prior to 4:30 p.m. on the deadline date shown on Page 1.

Ashland Planning Division Staff determine if a Land Use application is complete within 30 days of submittal. Upon determination of completeness, a notice is sent to surrounding properties within 200 feet of the property submitting application which allows for a 14 day comment period. After the comment period and not more than 45 days from the application being deemed complete, the Planning Division Staff shall make a final decision on the application. A notice of decision is mailed to the same properties within 5 days of decision. An appeal to the Planning Commission of the Planning Division Staff's decision must be made in writing to the Ashland Planning Division within 12 days from the date of the mailing of final decision. (AMC 18.5.1.050.G)

The ordinance criteria applicable to this application are attached to this notice. Oregon law states that failure to raise an objection concerning this application, by letter, or failure to provide sufficient specificity to afford the decision maker 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 Department to respond to the issue precludes an action for damages in circuit court.

If you have questions or comments concerning this request, please feel free to contact Aaron Anderson at 541-552-2052 or [aaron.anderson@ashland.or.us](mailto: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.

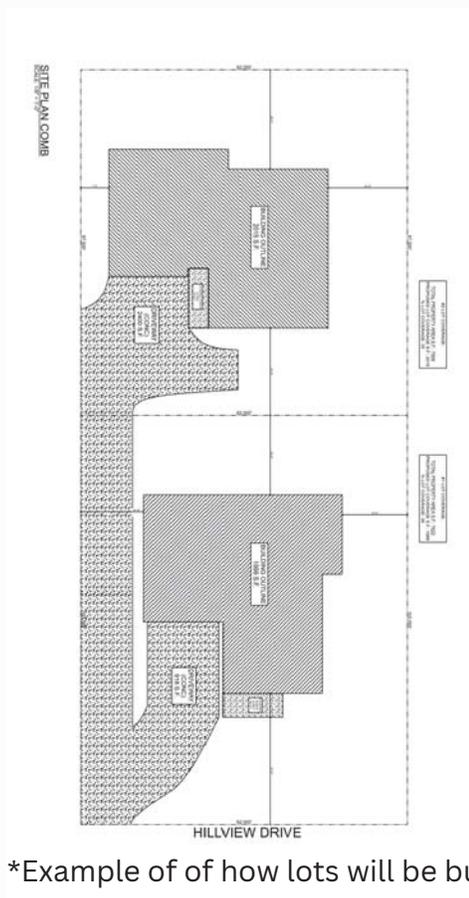
- A. The future use for urban purposes of the remainder of the tract will not be impeded.
- B. The development of the remainder of any adjoining land or access thereto will not be impeded.
- C. The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous 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.

# **PUBLIC COMMENTS**

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# Open House

The owners of 897 Hillview would like to invite you over for an open house to learn more about the upcoming lot split.



\*Example of how lots will be build on

We will be onsite on Wednesday September 21st from 5:30pm-6:30pm to review our plans for the lot and answer any questions/concerns about this lot split.



**897 Hillview Dr**

September 21, 2022

5:30 PM - 6:30 PM

**Please join us to  
learn more.**

If you are unable to make it and have any questions, please contact Charlie Hamilton

**541-944-3976**

**[suncrestemind.net](http://suncrestemind.net)**

**From:** [Carlameta](#)  
**To:** [Aaron Anderson](#)  
**Cc:** [planning](#)  
**Subject:** PA-T1-2022-00185 897Hillview Drive  
**Date:** Friday, June 17, 2022 7:31:59 PM

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[EXTERNAL SENDER]

I strongly protest this action for the following reasons.

This would create more dense housing, which would create higher fire danger in the neighborhood.

There would be more parking on the street, which would impact fire egress for all the people on the upper streets from Hillview. Hillview is the major artery for fire evacuation.

There is a 4" TID line that would be impacted by heavy traffic to the lower end of the alley. As I understand it, there is a TID easement on the property in question.

Thank you for your consideration of these concerns.

James R. White  
939 Hillview Dr.

Ashland Planning Department  
51 Winburn Way  
Ashland Oregon 97520

June 17, 2022

Attn: Aaron Anderson

Subject: PA-T1-2022-00185 Response to Proposal

Dear Mr. Anderson

I am filing this response to the above referenced application. We Have a number of concerns with the application as proposed:

Although there is no reference within the application proper, a comment contained within the Staff letter to Cindi Dion dated May 19, 2020 attached to the application from GIS Staff indicates that the City will renumber my house and the property on the north side of the property to accommodate the proposed land division. We strongly oppose this requirement! The time and expense to change residence information on passports, drivers' licenses, vehicle registrations, banking, medical contacts and mortgage documents, to name just a few of the changes needed, is substantial. This renumbering is not needed, but for the proposed division.

As there is no additional vehicular access proposed off of Hillview and the property is only 82 feet wide, the geographic location of the property is already addressed by the existing house number. The application indicates all vehicular access to parcel 2 will be via an unimproved alley from Ross Lane therefore the proposed parcel 2 could be addressed off of Ross Lane. As an alternative, the new units could be addressed by simply adding a number extension (i.e., 987A, 987B).

Implementing either if the above options will avoid the adverse impacts and expense of requiring the neighbors to renumber.

The application does not seem to comply with the requirements as set forth in code. For simplicity I have included the entire code but have highlighted the areas of concern. My comments are in **bold** and follow each highlighted section

### **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 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).

**This finding seems to address uses and compliance with codes and plans. This section does not seem to address compliance with minimum parcel size requirements which is my concern.**

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.

**See Comments Below on paragraph “18.5.3.060 - H”**

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.

**The Application Findings do NOT address the following sections H through K**

**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.

### See Comments Below on paragraph “18.5.3.060 - H”

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



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.

**By my calculation (82ft x 87ft =7134 sq. ft.) The proposed parcel 2 does not meet the minimum parcel size required by the zoning.**

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.**

**The design of the flag lot seems to require vehicle access be from the alley. Any improvements needed to support this design are not addressed. Since Alley access is a major concern, the conclusion of sufficiency under “Transportation Services (Pg 2 of Applicant Findings)” is simply a Naked Finding” since it does not detail what improvements are proposed or would be required. At this time there is no way for the public to determine if the proposed improvements will be sufficient to address the increased use of the alley.**

**The Municipal Code, Title 11, Vehicles and Traffic, contains the following definition.**

#### **11.08.00 Alley**

**Means a narrow street through the middle of a block(Ord. 1557 § 2(1), amended, 1968)**

**Further** Figure 18.4.6.040.G.6. Alley sets a standard of 12 ft paved with 2 ft gravel or planted strips on both sides. **While there may be a basis for reducing the**

improvement to less than the apparent code requirement, there is again no way to evaluate the proposed reduction:

- there is no discussion of the physical condition of the alley,
- the ability of the alley to serve as primary access to an additional parcel
- any proposed improvements to the alley

**On 6/6/2022 I spoke with Karl Johnson, Assistant Engineer, City of Ashland and he stated that he does not have any proposed design yet which could be evaluated.**

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.

**The Proposed lot does not show how this requirement is met. In fact, the “Building Envelope” as designated may actually preclude compliance. The application should be revised to show compliance with this requirement.**

**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)

**Under “Transportation Services (Pg 2 of Applicant Findings)” the applicant states “improvement to the alley and Hillview Drive (i.e., sidewalks) will be completed as necessary. The Tree Preservation Plan as proposed precludes any sidewalks along Hillview. In addition, a very short section of sidewalk which would not connect to any other sidewalk would serve no useful purpose.**

Based upon all of the above we recommend that the application be denied as not complying with the minimum requirements of City code

In the alternative the application consideration should be postponed to allow the applicant time to revise the application to comply with the requirements of code.

We look forward to seeing your review and decision on the application.

Respectfully submitted,

Robert And Christine Sellman

899 Hillview Drive  
Ashland

**From:** [robert frey](#)  
**To:** [Aaron Anderson](#); [planning](#)  
**Subject:** Comments on Planning Action PA-T1-2022-00185, 897 Hillview Dr  
**Date:** Friday, June 17, 2022 7:40:00 PM

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[EXTERNAL SENDER]

Dear Mr. Anderson and Planning Department,

We are writing to express opposition to the planned lot split as proposed in Planning Action PA-T1-2022-00185. We own and live at 964 Harmony Lane with an eastern property line adjacent to the unimproved dirt alley between Harmony and Hillview.

With sole street access via this unimproved dirt alley, the proposed western lot would create a nuisance with increased traffic creating increased noise and hazardous dust.

No one with property adjacent to this dirt alley uses it as a primary property access let alone exclusive access. The dirt alley was not designed for or should be considered a sole-access to anyone's property. The area is a calm space with very little traffic. I believe everyone currently living adjacent to it want to stay the same. And just as the City is finally doing something about the hazardous dust of Ross Lane we do not want a new source of dust polluting our property and lungs.

We expect that all sides of this proposed lot split are considered. We are strongly opposed to the proposed plan. Certainly the lot can be split in a design with primary access for both new lots on Hillview. I apologize for the late comments but, although we were informed of the proposed lot split earlier, we only learned of the lot split design using the unimproved dirt alley this evening.

Respectively,  
Robert Frey and Rosemary McAuley  
964 Harmony Lane

Sent from [Mail](#) for Windows

**From:** [Keith Kleinedler](#)  
**To:** [planning](#)  
**Subject:** Fwd: comments for planning action 897 Hillview  
**Date:** Friday, June 17, 2022 10:33:59 PM

---

[EXTERNAL SENDER]

Don't know if you got this the first time. I received a failure notice.

Sent from my iPhone

Begin forwarded message:

**From:** Keith Kleinedler <kleinedler53@yahoo.com>  
**Date:** June 17, 2022 at 8:38:18 PM PDT  
**To:** [planning@ashland.or.us](mailto:planning@ashland.or.us), [aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)  
**Subject:** comments for planning action 897 Hillview

Hello Planning Department-  
My address is 873 Hillview. I'm three houses down the street from 897. I've lived here since 1993.

I have several comments regarding the Tentative Partition Plat .  
First- I see that the house on the street (parcel 1) has a 15 foot setback from the street. This is completely out of character with the rest of the neighborhood. No homes in this neighborhood are that close to the street.

Second- the Parcel 2 has alley access. T.I.D. has a 4 inch pipe which runs down the alley- it's the irrigation water for my house, and all the homes below 897. Does T.I.D. know that you're providing access to this parcel across their easement? If the alley access on top of the pipe results in breaking the pipe, there will be considerable flooding until the water is shut off, and then the neighborhood below 897 will have no irrigation (during the irrigation season- which has been, in the past , Memorial Day until the end of September) until a repair is made.

Third- where is the parking for Parcel 2 going to be? The alley? Again, out of character. How about a driveway, like all the other homes have.

Fourth- the alley is more or less a swampy type of soil. Does the city intend to excavate down a foot or more, and back fill with gravel? The alley in it's current state isn't used much- but if it's going to be the access for a home, then the current alley may need to be upgraded. Does the City have the funds to upgrade the alley? It appears that the City is in a minor financial crisis. I just got a survey in the mail asking me question about trimming the budget.

Fifth- are there going to be driveways/garages for these two parcels? Or is parking going to be on the street and in the alley? Presently, to the best of my knowledge, the homes on Hillview have off street parking. No off street parking would be out of character for this neighborhood.

Sixth- where are the yards for these two parcels? Hillview homes have yards. What I'm

seeing from this Tentative Partition Plat is a building envelope which goes to the setbacks- which again would be out of character for the neighborhood.

Seventh- These homes would be only ten feet apart- if one home were to have a structure fire, it could easily spread to the second home. Did we learn a few things from the Alameda Fire? None of the homes on Hillview are separated by such a small distance. Again, out out of character with the neighborhood.

Maybe this Tentative Partition needs to be re-thought-

Respectfully-

Keith Kleinedler

**From:** [Ronald Doyle](#)  
**To:** [Regan Trapp](#)  
**Subject:** Re: PA-T1-2022-00185-897 Hillview Drive  
**Date:** Friday, June 17, 2022 9:12:17 PM

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[EXTERNAL SENDER]

Thank you for your notification, I need to correct a misstatement I made in my earlier submittal. I live within 200 feet ( 2 lots south), not 100 feet, from 897 Hillview.  
Ronald L. Doyle

On Jun 17, 2022, at 3:50 PM, Regan Trapp <[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)> wrote:

Your comment in regards to 897 Hillview Drive has been received. We will add this to the record of the application.

Thank you,

*Regan M. Trapp*

**Permit Technician II – Community Development**

**City of Ashland**

**OPTA Secretary & Membership Chair**

[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)

**Main Line: 541-488-5305**

**Desk line: 541-552-2233**

**TTY 800-735-2900**

**541-488-6006 (fax)**

**This email is official business of the City of Ashland, and it is subject to Oregon public records law for disclosure and retention. If you have received this message in error, please contact me at 541-552-2233. Thank you.**

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**From:** Ronald Doyle <[rldoyle49@gmail.com](mailto:rldoyle49@gmail.com)>  
**Sent:** Friday, June 17, 2022 3:09 PM  
**To:** planning <[planning@ashland.or.us](mailto:planning@ashland.or.us)>  
**Subject:** PA-T1-2022-00185-897 Hillview Drive

[EXTERNAL SENDER]

I am writing to object to this application. My name is Ronald L. Doyle. My address is 945 Hillview Drive, Ashland. I received written notice of this application, and live within 100 feet of the property line. Approving this application as submitted will cause adverse impacts on my property. The application does not meet the approval criteria of the Ashland Municipal Code.

Section 18.2.4.010 requires each lot to abut (adjacent to and touching) a public street

*other than an alley* for a width of not less than 40 feet, 25 feet in the case of a flag lot. Proposed Lot 2 does not abut a public street; it abuts a semi-abandoned, unpaved alley. Applicant's proposed findings say that the pole on Lot 2 provides frontage to Hillview. That pole frontage on Hillview is only 8 feet wide. The 82 feet of alley frontage for Lot 2 does not meet the public street frontage width requirement for either a flag lot or standard lot.

Section 18.5.3.060.P requires minimum useable yard areas of 20 feet by 20 feet (400 square feet). Neither proposed lot appears to have a minimum useable yard area. The proposed plat's building envelopes appear to preclude meeting the required yard areas.

Subsection K of this section requires each lot to have 3 parking spaces, yet those are not shown on this application. It is impossible to find that the yard requirements can be met without seeing how the code parking requirements are going to be placed on the proposed lots.

Dated this 17th day of June, 2022.

Ronald L Doyle

**From:** [Ronald Doyle](#)  
**To:** [planning](#)  
**Subject:** PA-T1-2022-00185-897 Hillview Drive  
**Date:** Friday, June 17, 2022 3:08:41 PM

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[EXTERNAL SENDER]

I am writing to object to this application. My name is Ronald L. Doyle. My address is 945 Hillview Drive, Ashland. I received written notice of this application, and live within 100 feet of the property line. Approving this application as submitted will cause adverse impacts on my property. The application does not meet the approval criteria of the Ashland Municipal Code.

Section 18.2.4.010 requires each lot to abut (adjacent to and touching) a public street *other than an alley* for a width of not less than 40 feet, 25 feet in the case of a flag lot. Proposed Lot 2 does not abut a public street; it abuts a semi-abandoned, unpaved alley. Applicant's proposed findings say that the pole on Lot 2 provides frontage to Hillview. That pole frontage on Hillview is only 8 feet wide. The 82 feet of alley frontage for Lot 2 does not meet the public street frontage width requirement for either a flag lot or standard lot.

Section 18.5.3.060.P requires minimum useable yard areas of 20 feet by 20 feet (400 square feet). Neither proposed lot appears to have a minimum useable yard area. The proposed plat's building envelopes appear to preclude meeting the required yard areas.

Subsection K of this section requires each lot to have 3 parking spaces, yet those are not shown on this application. It is impossible to find that the yard requirements can be met without seeing how the code parking requirements are going to be placed on the proposed lots.

Dated this 17th day of June, 2022.

Ronald L Doyle

**From:** [dave dedinsky](#)  
**To:** [Aaron Anderson](#); [planning](#)  
**Subject:** Planning Action: PA-T1-2022-00185  
**Date:** Friday, June 17, 2022 8:41:47 PM

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[EXTERNAL SENDER]

Hello.

As residents of over twenty years at the adjoining property at 932 Harmony Lane, the purpose of this email is to state our vehement opposition to Planning Action: PA-T1-2022-00185, which proposes a lot partition into two separate resultant parcels at 897 Hillview Drive. Planning Action: PA-T1-2022-00185 does not satisfy ALL ordinance criteria of Preliminary Partition Plat 18.5.3.050. The following is a list of objections to this plat partition:

- 1) Planning Action: PA-T1-2022-00185 sets a precedent for higher density residential zoning in a historically single family neighborhood, permanently destroying the character of the area that has attracted families, including ours, to purchase and keep homes in this neighborhood.
- 2) Planning Action: PA-T1-2022-00185 encourages property speculators, absentee ownership and rental unit development, which leads to deteriorating property and negative impacts due to higher crime from higher density neighborhoods.
- 3) Planning Action: PA-T1-2022-00185 will negatively impact urban wildlife and pollinators, due to habitat that is replaced with higher density dwellings.
- 4) Planning Action: PA-T1-2022-00185 will destroy a grove of aspen trees that have significant benefits of absorbing water runoff in this swale of land. Without these trees, water runoff will be redirected to adjoining properties with negative impact.
- 5) Planning Action: PA-T1-2022-00185 will intensify light pollution, reduce airflow and increase water runoff to neighboring properties.
- 6) Planning Action: PA-T1-2022-00185 will negatively impact all neighbors that access their properties via the alley off Ross Lane, adding traffic flow and impeding access to properties in an area previously unaffected by added vehicles moving through a fragile and unimproved alley surface that due to water flow in this area will not sustain a new roadbed. The alley off Ross Lane is not wide enough to accommodate Minimum Street Improvements criteria. Additionally, with budget shortfalls, Street Improvements proposed for the alley off Ross Lane are in opposition with the City of Ashland's proposal for spending reductions, especially considering these Street Improvements would benefit only the party developing the lot at 897 Hillview Drive and no one else.
- 7) Planning Action: PA-T1-2022-00185 will negatively impact residents of adjoining properties that use the extremely fragile and very scarce resource that is the T.I.D. system that neighbors have historically relied on to keep properties green and healthy.
- 8) Planning Action: PA-T1-2022-00185 does not allow enough space between buildings, violating established coding setbacks from adjoining properties.
- 9) Planning Action: PA-T1-2022-00185 encourages higher density residential areas, which in turn discourages long time area residents from remaining in this neighborhood.

We implore the City of Ashland Planning Department to reject Planning Action: PA-T1-2022-00185 allowing for the continued quality of life that initially attracted us and will hopefully encourage us to remain in this city and in this neighborhood specifically.

Sincerely,

David Dedinsky & Carolyn Self

**From:** [ben cochran](#)  
**To:** [planning](#)  
**Subject:** PA-T1-2022-00185  
**Date:** Friday, June 17, 2022 3:56:50 PM

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[EXTERNAL SENDER]

Reference to .....PA-T1-2022-00185

Good day, My neighbor just informed my on the notice..the sent one to me was probably tossed as junk un knowingly....

I would kindly like it to be known of my displeasure in hearing of this proposed plan...Using the Alley as a main access would not be nice for those of us who use that alley....

Also my neighbor a few houses up got shut down on this very thing a few years ago... I this company was allowed to use the alley now as a main access it would not be fair to him so see it now opened up...

I also think it will be a can of worms cause if this is allowed the that would eventually mean that every house on this alley would now be granted access to use it too so they could build axilery buildings in the back of the lots...

So I understand the need for infill...if that is the primary goal then make a variance to allow for a flag lot on the property please and keep the traffic on main roads and not alleys...

Thanks Ben Cochran

942 harmony ln

**From:** [Asha Barnes](#)  
**To:** [planning](#)  
**Subject:** 897 Hillview Drive  
**Date:** Friday, June 17, 2022 9:25:39 PM

---

[EXTERNAL SENDER]

To whom it may concern.

We have some great concerns over the plans we have been shown for the changes to the alleyway that butts up to our property. We have an organic garden and pay for our TID and we're concerned that part of your changes will affect our TID. We would like to receive a copy of the impact statement for this zoning proposal and how it will affect our TID.

Respectfully,  
John and Asha Barnes  
910 Harmony Lane

## Michael Sullivan

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**From:** Karl Johnson  
**Sent:** Thursday, June 16, 2022 3:53 PM  
**To:** Aaron Anderson  
**Subject:** 897 Hillview

Aaron,

Wanted to follow up with you regarding the project at 897 Hillview Drive that we spoke about earlier today. I did speak with the neighbor, Robert Sellman, today and let him know that Public Works had not seen any sort of design of what was being proposed as a cross section for any alley improvements that were going to be completed. I also let him know that I did not expect that Public Works would require the alley to be paved as part of this development. This alley is also viewed as an unmaintained access by the Street Department and I spoke with Chuck and he has no recollection of Street Department doing any sort of maintenance on this alley in over 25 years. Let me know if you have any questions.

***Karl Johnson, E.I.T., Associate Engineer***  
City of Ashland, Public Works/Engineering  
20 East Main St, Ashland, Oregon 97520  
P: (541) 488-5587, TTY (800) 735-2900  
F: (541) 488-6006

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*If you spend too much time thinking about a thing, you'll never get it done. – Bruce Lee*

## Michael Sullivan

---

**From:** Greg Kleinberg <greg@kleinbergtech.com>  
**Sent:** Friday, June 17, 2022 12:42 PM  
**To:** Emily Matlock  
**Cc:** Aaron Anderson; Ralph Sartain  
**Subject:** Re: PAT1 2022-00185 (897 Hillview)

[EXTERNAL SENDER]

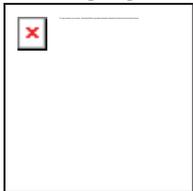
Emily,

I spoke to Aaron this morning. Can you please relay the following answers to Robert Sellman?

Aaron said there will be a 10' wide driveway from Hillview Drive providing vehicular access to Parcel #2. Access to Parcel #2 is also allowed through the alley. From the Fire Department's perspective, because the access to Parcel #2 does not strictly meet the Fire Code standards (20' wide fire apparatus access road within 150' of all exterior portions of the home), a residential fire sprinkler system is conditioned for the new home. This greatly reduces the chance of an out-of-control home fire occurring on Parcel #2. For any emergency response to Parcel #2, the Fire Department would park on Hillview Drive and not drive fire apparatus through the alley.

Thank you,

*Greg Kleinberg* | Owner  
**Kleinberg Tech** | Development & Technical Solutions  
[www.kleinbergtech.com](http://www.kleinbergtech.com)  
**Office:** 541-779-5491  
**Email:** [greg@kleinbergtech.com](mailto:greg@kleinbergtech.com)



On Fri, Jun 17, 2022 at 9:17 AM Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)> wrote:

Thank you both

Thank you,

*Emily Matlock*

Senior Fire Department Analyst

Ashland Fire & Rescue

455 Siskiyou Boulevard

Ashland, OR 97520



[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)

Office: 541-482-2770

Direct: 541-552-2216

TTY: 1-800-735-2900

Fax: 541-488-5318

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---

**From:** Greg Kleinberg <[greg@kleinbergtech.com](mailto:greg@kleinbergtech.com)>

**Sent:** Thursday, June 16, 2022 6:04 PM

**To:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>

**Cc:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>; Ralph Sartain <[ralph.sartain@ashland.or.us](mailto:ralph.sartain@ashland.or.us)>

**Subject:** Re: PAT1 2022-00185 (897 Hillview)

[EXTERNAL SENDER]

Aaron,

I did review this one. I conditioned fire sprinklers due to inadequate fire department apparatus access.

The big question is: Does Ashland Land Use ordinances allow access from alleys?

Typically, what I am used to is planning codes require access to a public street via a driveway for any lot (Is this the intent of 18.4.2.030 C(1), or is an alley allowed to serve as dedicated access?). In many jurisdictions this is a minimum

20' wide dedicated area to the public street. Sometimes ADU's are allowed to receive vehicular traffic through the alley, but fire department access is still from the public street, not the alley. Alleys are not usually used by fire departments to drive apparatus into and are not usually considered adequate fire department access because they are not designed to accommodate fire apparatus. Sprinklers are conditioned when it is determined there is inadequate access.

I dug into Ashland Ordinances tonight and it looks like 18.5.3.060(D) requires a minimum 15' wide section of the lot to have access to the street with a minimum 12' wide paved driveway. I would not consider an unpaved alley to be equivalent. 18.5.3.060(H-1) states vehicle access shall be from an alley only where required as a condition of approval. I'm wondering if the intent of this is when there is no other option. In this case, there is an option to split the lot properly.

Here is what the alley looks like from the alley entrance at Ross Lane. This does not meet fire apparatus access road requirements 18.5.3.060 (I).

I am available in the morning if you want to call and talk about this.

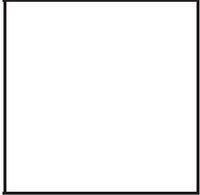


*Greg Kleinberg* | Owner

[www.kleinbergtech.com](http://www.kleinbergtech.com)

Office: 541-779-5491

Email: [greg@kleinbergtech.com](mailto:greg@kleinbergtech.com)



On Thu, Jun 16, 2022 at 2:18 PM Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)> wrote:

Greg,

Feel free to give me a call if you would like to discuss the specifics.

Attached is the applicant fire control plan and the revised tentative plat. Emily provided feedback at the pre-app that the future home on Parcel 2 will be required to be sprinkled.

I have attached the applicants fire control plan and revised tentative plat.

While Emily provided you 3 questions below they really boil down to **'does the fire department have any issues with this proposal beyond their requirements for sprinklers'**

From a planning stand point we require a 4' wide pedestrian access along the 8' flag pole. The applicant at their own proposal are developing it to a 10' wide paved. The property will continue to enjoy alley access from the improved dead end alley at the rear.

Any input that you have would be great. Let me know if you have any questions.

Aaron Anderson, CFM

Associate Planner

City of Ashland, Community Development

51 Winburn Way, Ashland, Oregon 97520

541-552-2052, TTY - 800-735-2900 FAX - 541-552-2050

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---

**From:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>  
**Sent:** Thursday, June 16, 2022 2:05 PM  
**To:** Greg Kleinberg <[greg@kleinbergtech.com](mailto:greg@kleinbergtech.com)>  
**Cc:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>  
**Subject:** FW: PAT1 2022-00185 (897 Hillview)  
**Importance:** High

Hi Greg,

Short response time, but can you please see below 3 questions a citizen has in regards to the partition that we have already provided comment on. Commenting period ends tomorrow I believe. I just spoke with Aaron in planning to get some details about it and I have attached the plat. In the comments you provided you had mentioned the residence being sprinklered. Robert (citizen below) is concerned about fire access and how plot 2 would be defended and the access that the plat is providing. Can you provide any additional comment or requirement for fire department access issues if any?

---

Aaron,

Please let me know if I misspoke above. I had tried to type out what we were discussing as we talked but think maybe I missed the mark on the exact question.

Thank you both!

Thank you,

Emily Matlock

Senior Fire Department Analyst

Ashland Fire & Rescue

455 Siskiyou Boulevard

Ashland, OR 97520



[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)

Office: 541-482-2770

Direct: 541-552-2216

TTY: 1-800-735-2900

Fax: 541-488-5318

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---

**From:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>

**Sent:** Thursday, June 16, 2022 1:56 PM

**To:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>

**Subject:** RE: PAT1 2022-00185

---

**From:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>

**Sent:** Thursday, June 16, 2022 1:49 PM

**To:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>

**Cc:** Regan Trapp <[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)>

**Subject:** RE: PAT1 2022-00185

We can discuss it although I don't think I'm probably the right person to know anything ha but I will do my best. I am here today until 430 today and in at 8am tomorrow but need to leave around 3 for department errands

**Thank you,**

*Emily Matlock*

**Senior Fire Department Analyst**

Ashland Fire & Rescue

455 Siskiyou Boulevard

Ashland, OR 97520



[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)

Office: 541-482-2770

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Fax: 541-488-5318

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---

**From:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>  
**Sent:** Thursday, June 16, 2022 1:45 PM  
**To:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>  
**Cc:** Regan Trapp <[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)>  
**Subject:** RE: PAT1 2022-00185

Hi Emily

Can we find time to discuss this project. I know what my answers to the questions are. But what I really need is the Fire Departments view on this. I think it would best to talk. Do you have any availability this afternoon or tomorrow?

Aaron Anderson, CFM

Associate Planner

City of Ashland, Community Development

51 Winburn Way, Ashland, Oregon 97520

541-552-2052, TTY - 800-735-2900 FAX - 541-552-2050

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---

**From:** Regan Trapp <[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)>  
**Sent:** Thursday, June 16, 2022 10:11 AM  
**To:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>  
**Cc:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>  
**Subject:** RE: PAT1 2022-00185

Emily,

I have copied Aaron on this so he can call him and answer his planning questions.

Thank you!

*Regan M. Trapp*

**Permit Technician II – Community Development**

**City of Ashland**

**OPTA Secretary & Membership Chair**

[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)

**Main Line: 541-488-5305**

**Desk line: 541-552-2233**

**TTY 800-735-2900  
541-488-6006 (fax)**

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---

**From:** Emily Matlock <[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)>  
**Sent:** Thursday, June 16, 2022 9:55 AM  
**To:** Regan Trapp <[Regan.Trapp@ashland.or.us](mailto:Regan.Trapp@ashland.or.us)>  
**Subject:** PAT1 2022-00185

Hi Regan,

I received a phone call from Robert Sellman (541-708-6032) 899 Hillview. He received a fire prevention plan notification and has a few questions:

1. Once approved, is this a driveway or walkway?
2. He said in the paperwork that it calls it out a driveway in some areas and then a walkway in others, he'd like clarification on what it is and the
3. Once approved, is the ally the primary access off Ross way? He mentioned it's 230' of dirt road access

**Thank you,**

*Emily Matlock*

**Senior Fire Department Analyst**

Ashland Fire & Rescue

455 Siskiyou Boulevard

Ashland, OR 97520



[emily.matlock@ashland.or.us](mailto:emily.matlock@ashland.or.us)

Office: 541-482-2770

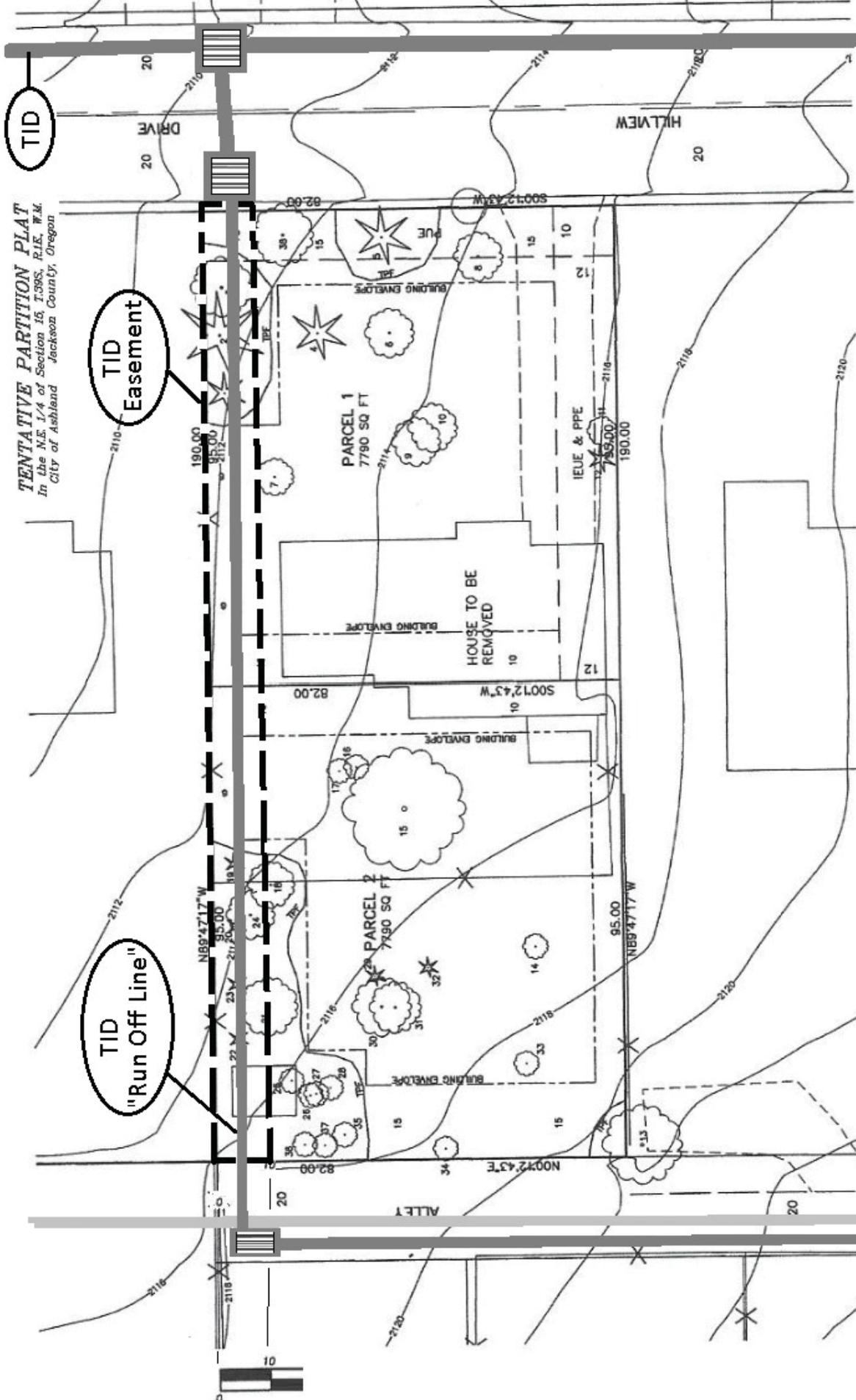
Direct: 541-552-2216

TTY: 1-800-735-2900

Fax: 541-488-5318

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**TENTATIVE PARTITION PLAT**  
 In the N.E. 1/4 of Section 15, T.39S., R.1E., W.M.  
 City of Ashland - Jackson County, Oregon



NOTES:  
 = PROPOSED INGRESS-EGRESS & UTILITY EASEMENT.  
 IEUE = PROPOSED PEDESTRIAN PATHWAY EASEMENT.  
 PPE = TREE PROTECTION FENCE.

TID 6" Main Irrigation Line

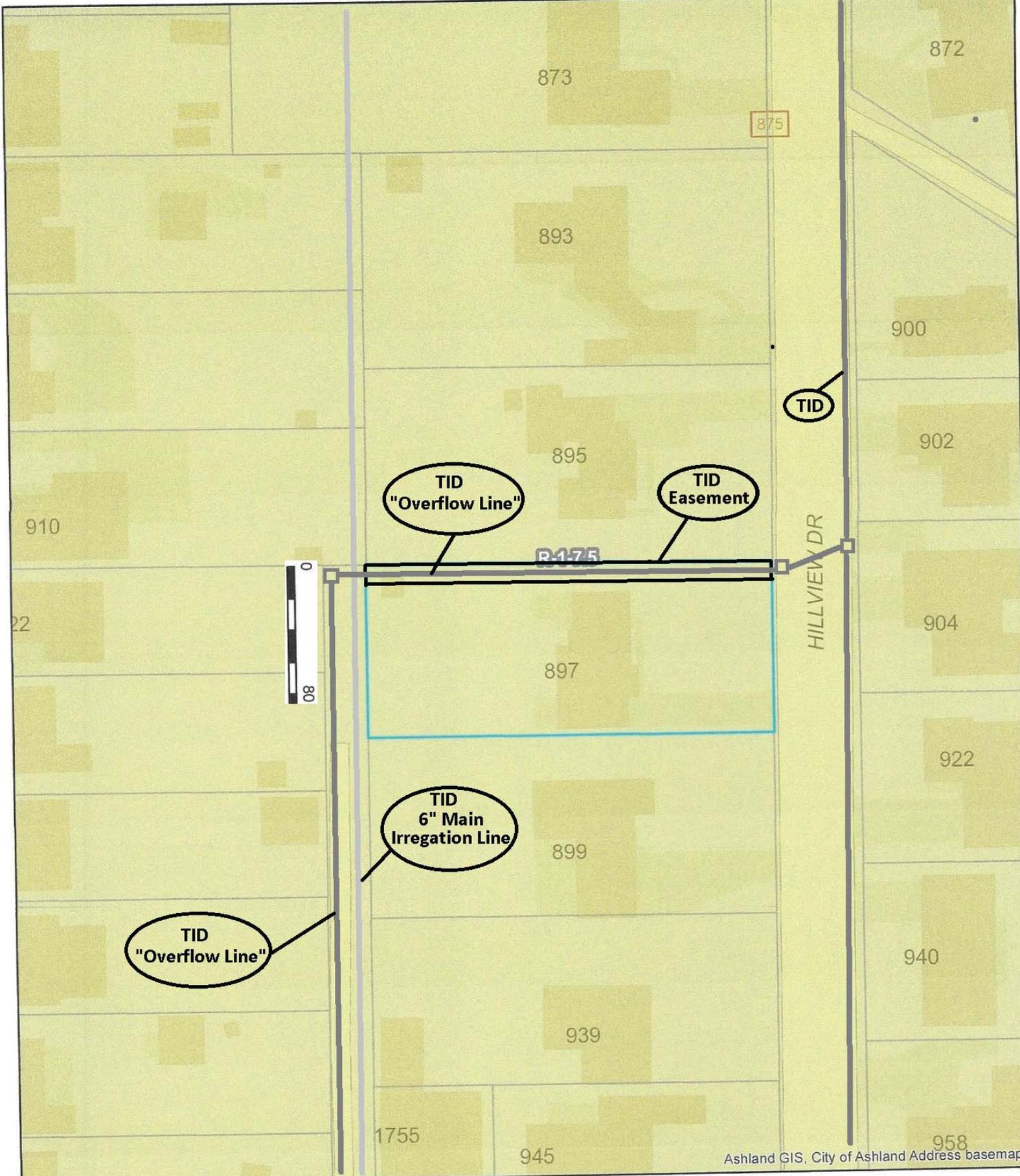
TID "Run Off Line"



REGISTERED PROFESSIONAL LAND SURVEYOR  
 James L. Friar  
 OREGON  
 JULY 17, 1988  
 JAMES L. FRIAR  
 JZAA  
 RENEWAL DATE 6-30-23

TITLE: TENTATIVE PARTITION PLAT  
 EXISTING MAP # 301125AG 7L-900  
 FOR: SUNCREST HOMES LLC  
 PO BOX 1513  
 TALENT, OR 97540

L.J. FRIAR & ASSOCIATES P.C.  
 CONSULTING LAND SURVEYORS  
 1000 1/2 7th St. SW  
 SEASIDE, OREGON 97138  
 (503) 738-2700  
 www.ljfriar.com



# Zoning Map

City of Ashland



1 inch = 80 feet  
Date Printed: 1/27/2022

Ashland Planning Department  
51 Winburn Way  
Ashland Oregon 97520

June 17, 2022

Attn: Aaron Anderson

Subject: PA-T1-2022-00185, 897 Hillview  
Response to Partition and Construction Proposal

Dear Mr. Anderson

I have concerns with the application as proposed.

This partition application contains some errors and does not seem to comply with code requirements.

Concerns with the submitted planning action application PA-T1-2022-00185:

- A. Building footprint to be constructed over the 10' TID easement on TID runoff line located parallel to the north parcel boundary. Exhibit "B", Tentative Partition Plat
  1. Exhibit "A" (SW ¼ NE ¼ SEC 15 T39S R1E WM Jackson Co.) does not demonstrate Talent Irrigation District 10' easement located along 899 Hillview Drive north boundary, as depicted on my section plat, when I purchased my home in the mid 1980s.
  2. Archived section maps prior to 1970s may need to be accessed.
  
- B. 18.5.3.050 Preliminary Partition Plat Criteria, Section 'F': Access to individual lots to conform to standards in sections 18.5.3.080, 18.5.3.060.
  1. Finding:
    - i. Access to proposed lots will be from a shared access, utilizing the existing curb cut out conforming to Section 18.14.3.080"
      1. Pedestrian walkway (Exhibit "B", Tentative Partition Plat) or proposed driveway (Exhibit "F", Fire Prevention and Control Plan)... Which is it?
      2. Is the developer planning to use the front yard as a parking lot for both parcel 1 and 2?
      3. Would structure access to Parcel 2 from an unimproved dirt alley located along the west parcel 2 property boundary.
        - a. Alley behind 897 Hillview is swampy and possibly not passable at various times of the year
    - ii. "Proposal does not include a request for a Flag Lot"

- C. 18.4.3.080 Vehicle Area Design
  - 1. Parking, this is not described clearly
    - i. No off street parking provided. Parcel 1, 15' structure footprint setback from Hillview Drive (east parcel boundary) does not provide enough room for off street vehicle.
    - ii. No off street parking provided. Parcel 2, 15' structure footprint setback from unimproved dirt alley (west parcel 2 boundary).
      - 1. Is parcel 2 access from the west parcel 2 boundary?
- D. Setbacks: Comparison to other homes located in the general vicinity
  - 1. 15' Parcel 1 structure footprint setback is out of character for the neighborhood (east property boundary).
  - 2. Parcel 1, 10' back yard building setback, really?
  - 3. Parcel 2, 10' back yard building setback, really?
  - 4. Parcel 1 and 2, 6' side lot access
    - i. 10' Talent Irrigation District easement?
      - 1. Archived section maps prior to 1970s may need to be accessed.
- E. 18.5.3.050 Preliminary Partition Plat Criteria, Section 'G': Proposed streets, utilities, and surface water drainage facilities to conform to street design standards part (18.4).
  - 1. Provision not met.
  - 2. Structure access to Parcel 2 from an unimproved dirt alley located along the west parcel 2 property boundary.
  - 3. Alley behind 897 Hillview is swampy at various times of the year
  - 4. Rain water run off... This is a real issue. Runoff from homes on Harmony Lane above the alley flow north-east down the alley. The alley stops at the corner of 897 and 895 Hillview and has nowhere to go. Historically, during the winter, rain water runoff has run through 897, 895, 893, and 873 Hillview Drive unabated.
    - i. I have personally invested several thousand dollars to install 800+ feet of 4' deep lined French drain to remove water runoff from my property and abate runoff onto 893 and 873 Hillview.
    - ii. I was forced to raise my house 16" in altitude during rebuilding my foundation to protect my house from water runoff. Water still runs under my house and into the garage during hard rains.
    - iii. I had to partially regrade my property to redirect runoff at north and south partition boundaries
    - iv. Regrading is still needed on the south side of my house to further redirect water runoff away from the house.
  - 5. 893 Hillview sometimes experiences runoff into their back bedroom even with additional surface drain tile installed on my north boundary line.
  - 6. Aspen nuisance trees that are located along 897 Hillview south parcel boundary are planted too close to the parcel boundary line, within 5 feet of 895 Hillview French drain line parallel to the parcel boundary line.

- i. Roots and runners clogging lines are reducing water runoff collection capability.
- ii. Aspen leaves are a nuisance in the fall

F. Abate and collect water runoff

1. Property owners at 897 Hillview and on Harmony Lane, above the unimproved dirt alley, should be required to abate and collect water runoff
2. City of Ashland would be required regrade the alley and stabilize the substrate
  - i. City of Ashland would need to coordinate with Talent Irrigation District since the alley carries the shallow, main 6" irrigation pipe and most likely has seniority easement rights.
3. The City of Ashland should be required to construct a collection point at the end of the alley and remove runoff through the TID easement through the alley.

G. I object to the possible street address renumbering for my house (895) to accommodate the two new street addresses caused by the 897 partition division

- i. Inconvenience, having to change my address on legal documents, checks, passports, etc.
  1. Time consumed
  2. Monetary cost

Based on the above, I request that the application be denied as not complying with the minimum requirements of City code

Please acknowledge return receipt if this reply.

Best regards,

Jon Charles Smith

PO Box 802  
895 Hillview Drive  
Ashland Oregon, 97520

PS. I feel that dividing this lot into 2 parcels, is out of character for the neighborhood, regardless of what has happened in the past.

An example of poorly executed division and structure construction of aesthetic questionability is the lot split of 831 and 843 Hillview Drive. It is time to learn from mistakes.

I request that the lot split into two parcels would be denied.

A single, larger structure would be in character and suit the neighborhood better.

---

**PA-T1-2022-00185**  
**897 Hillview Drive**



**NOTICE OF APPLICATION**

**PLANNING ACTION:** PA-T1-2022-00185

**SUBJECT PROPERTY:** 897 Hillview Drive

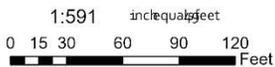
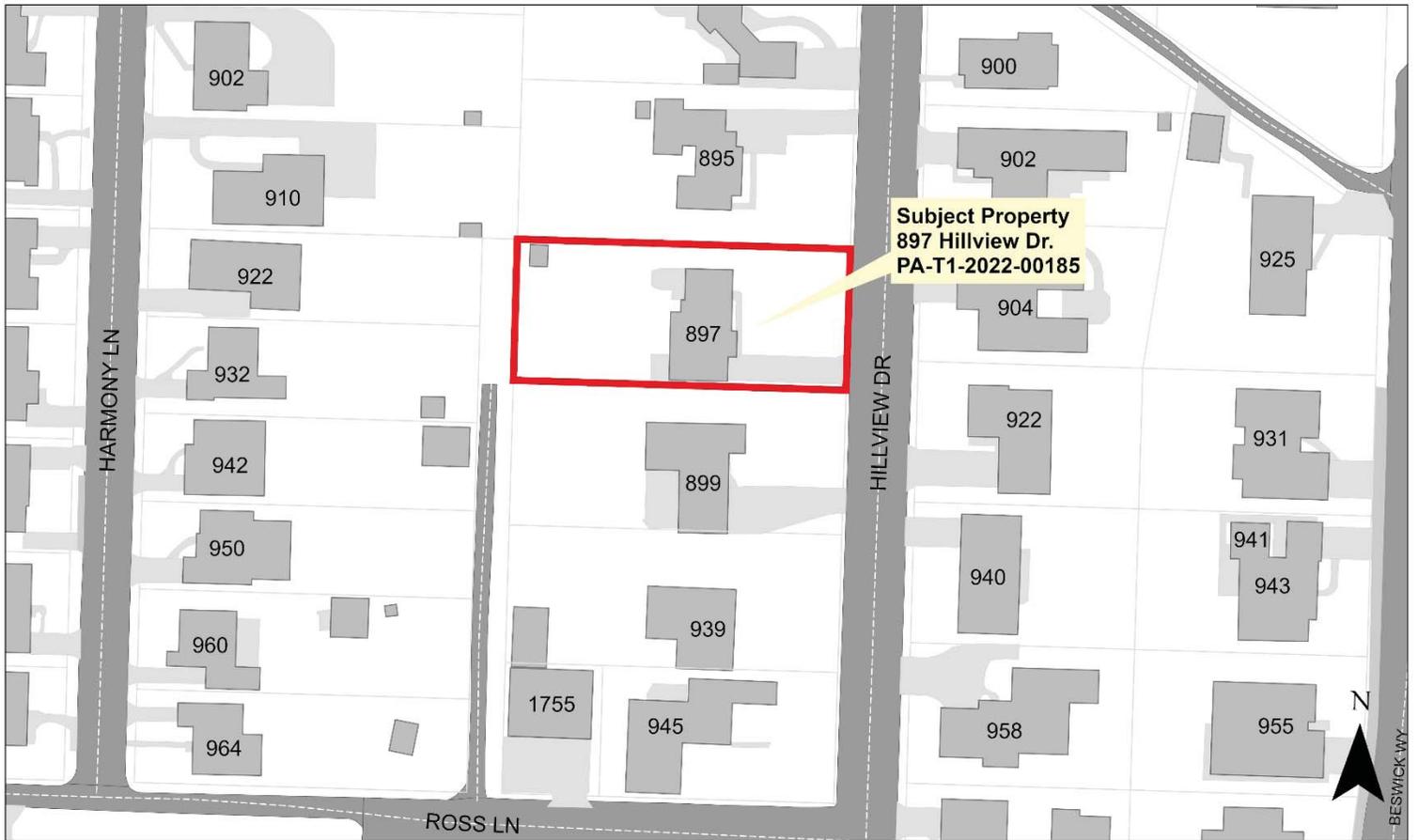
**OWNER/APPLICANT:** Suncrest Homes, LLC

**DESCRIPTION:** A request for land use approval for a two-lot partition of a 0.36-acre lot. The tentative partition plat submitted with the application indicates that the two resultant parcels will be 0.18 and 0.17 acres in size. The application includes detailed findings explaining how the proposal meets the relevant criteria. **COMPREHENSIVE PLAN**

**DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5; **MAP:** 39 1E 15 AC; **TAX LOT:** 900

**NOTICE OF COMPLETE APPLICATION:** June 3, 2022

**DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS:** June 17, 2022



Mapping is schematic only and bears no warranty of accuracy. All features, structures, facilities, easement or roadway locations should be independently field verified for existence and/or location.

The Ashland Planning Division Staff has received a complete application for the property noted on Page 1 of this notice.

Because of the COVID-19 pandemic, application materials are provided online and 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](mailto:planning@ashland.or.us).

A copy of the application, including all documents, evidence and applicable criteria are available online at "What's Happening in my City" at <https://gis.ashland.or.us/developmentproposals/>. 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](mailto:planning@ashland.or.us).

Any affected property owner or resident has a right to submit written comments to [planning@ashland.or.us](mailto:planning@ashland.or.us) or to the City of Ashland Planning Division, 51 Winburn Way, Ashland, Oregon 97520 prior to 4:30 p.m. on the deadline date shown on Page 1.

Ashland Planning Division Staff determine if a Land Use application is complete within 30 days of submittal. Upon determination of completeness, a notice is sent to surrounding properties within 200 feet of the property submitting application which allows for a 14 day comment period. After the comment period and not more than 45 days from the application being deemed complete, the Planning Division Staff shall make a final decision on the application. A notice of decision is mailed to the same properties within 5 days of decision. An appeal to the Planning Commission of the Planning Division Staff's decision must be made in writing to the Ashland Planning Division within 12 days from the date of the mailing of final decision. (AMC 18.5.1.050.G)

The ordinance criteria applicable to this application are attached to this notice. Oregon law states that failure to raise an objection concerning this application, by letter, or failure to provide sufficient specificity to afford the decision maker 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 Department to respond to the issue precludes an action for damages in circuit court.

If you have questions or comments concerning this request, please feel free to contact Aaron Anderson at 541-552-2052 or [aaron.anderson@ashland.or.us](mailto: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.

# **APPLICANT'S REVISED FINDINGS**

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**PA-T1-2022-00185**  
**897 Hillview Drive**

**BEFORE THE ASHLAND COMMUNITY DEVELOPMENT DEPARTMENT**  
**JACKSON COUNTY, OREGON:**

<b>IN THE MATTER OF A TYPE I PARTITION REVIEW</b>	)	
<b>FOR A PARCEL OF LAND ZONED RESIDENTIAL</b>	)	
<b>(R-1-7.5); T.39S, R.1E, SEC.15AC, TAX LOT 900</b>	)	
<b>SUNCREST HOMES, OWNERS; PACIFIC</b>	)	<b>FINDING OF FACT</b>
<b>GEOGRAPHIC CONSULTANTS, LLC., AGENT</b>	)	

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**A. Applicant Information**

**Owners/Applicants**

Suncrest Homes, LLC.  
PO Box 1313  
Talent, OR 97540

**Agent**

Pacific Geographic Consultants, LLC  
4620 Fern Valley Rd.  
Medford, OR 97504

**Arborist**

Canopy, LLC.  
PO Box 3511  
Ashland, OR 97520

**Surveyor**

LJ Friar & Associates, PC  
PO Box 1947  
Phoenix, OR 97535

## **B. Property Description**

The subject lot totals approximately 0.36 acres and is zoned Residential (R-1-7.5). The subject parcel is located at 897 Hillview Drive, a publicly owned and maintained street. The subject parcel is located within the Ashland Fire Department boundary.

The subject parcel is developed with a 1,228 square foot, 2-bedroom single family dwelling built in 1947. The existing dwelling is proposed for removal upon approval of the Tentative Plat. The property has numerous trees of various size and species and gently slopes to the west towards the public alley.

### **Transportation Service**

Access is available to proposed Parcel 1 from Hillview Drive, a partially improved public street. Access to Parcel 2 will from the public alley. This section of Hillview Drive features partial improvements, i.e.: paved roads with curbs and gutters, but without sidewalks. Hillview Drive is identified as a "Local" Street in the Transportation System Plan (TSP). No new public streets or dedications are required as part of this request. Improvements to the public alley and Hillview Drive (i.e. sidewalks) will be completed as necessary. Conversations with Public Works has indicated that graveling the alley will be sufficient to provide access.

### **Wastewater Service**

Wastewater service is currently provided to the subject parcel.

### **Water Service**

Water service currently supplies the existing residence and is adjacent to the proposed new parcel.

## **C. Proposal**

The request is for the approval of a preliminary plat to divide one (1) parcel: 897 Hillview Drive, into two (2) parcels. The parcel currently totals 0.36 Acres (15,580ft<sup>2</sup>). As proposed, Parcel 1 is 7,622ft<sup>2</sup> and Parcel 2, is 7,958ft<sup>2</sup> (**EXHIBIT "B"**).

## **D. Lot Legality**

The subject lot was first described in its original configuration in March 1951 by deed Vol. 348 Pg. 172. (**EXHIBIT "A"**).

## **E. Applicable Criteria**

The purpose of this application is to clearly demonstrate that the subject parcel is in compliance with the Ashland Municipal Code (AMC). The applicant is proposing a partition to divide the subject property into two buildable lots.

Pursuant to the AMC, the following criteria are applicable to this application:

- AMC Chapter 18.2.4.010 – Access and Minimum Street Frontage**
- AMC Chapter 18.2.5.030 – Unified Standards for Residential Zone**
- AMC Chapter 18.3.10.090 – Development Standards for Hillside Lands**
- AMC Chapter 18.3.10.100 – Development Standards for Wildfire Lands**
- AMC Chapter 18.4.5.030 – Tree Protection**
- AMC Chapter 18.4.8 – Solar Access**
- AMC Chapter 18.5.3.050 – Preliminary Plat Criteria (Partitions)**

**AMC Chapter 18.5.3.060 – Additional Preliminary Flag Lot Partition Plat Criteria**

Please refer to maps and documents in the attached exhibits for demonstration of compliance with these standards. With this review, Ashland Community Development can find that this application is consistent with applicable subdivision and zoning code standards and criteria.

**Exhibit List**

- Exhibit A – Lot Legality
- Exhibit B – Preliminary Plat; Zoning Map
- Exhibit C – Tree Inventory and Protection Plan
- Exhibit D - Pre-Application Memo
- Exhibit E – Site Photos
- Exhibit F - Fire Prevention and Control Plan

**TITLE 18: LAND USE ORDINANCE**

**18.2.4.010 Access and Minimum Street Frontage**

*Each lot shall abut a public street other than an alley for a width of not less than 40 feet; except, where a lot is part of an approved flag partition or abuts a cul-de-sac vehicle turn-around area, the minimum width is 25 feet.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), Parcel 1 and Parcel 2 exceed the minimum frontage width of 40 feet. As proposed, Parcel 1 has 74 feet of frontage and Parcel 2 has 82 feet of frontage on the alley and the required 8 feet of pedestrian access from Hillview Drive. **The standard is met.**

**18.2.5.030 Unified Standards for Residential Zone**

Table 18.2.5.030.A. Standards for Urban Residential Zones

Standard	R-1				R-2	R-3
	R-1-10	R-1-7.5	R-1-5	R-1-3.5		
Residential Density (dwelling units/acre)						
- Minimum	NA	NA	NA	NA	See density standards in Sec. <a href="#">18.2.5.080</a>	
- Maximum	Per Min. Lot Area					
See also Sec. <a href="#">18.2.5.080</a> , for R-2 and R-3 zones						
Lot Area - Minimum (square feet)						

Standard	R-1				R-2	R-3
	R-1-10	R-1-7.5	R-1-5	R-1-3.5		
- Lot	10,000 sf	7,500 sf	5,000 sf, 6,000 sf for corner lots	5,000 sf <sup>1</sup>	See density standards in Sec. <a href="#">18.2.5.080</a>	
<sup>1</sup> Exception providing for minimum lot area of 3,500 sf in R-1-3.5 zone applies only where the lot contains an existing single-family dwelling that meets setback, density, and lot coverage standards; variances under this section are subject to Type I procedure.						
Lot Width – Minimum (feet)	75 ft <sup>2</sup>	65 ft <sup>2</sup>	50 ft <sup>2</sup>	50 ft <sup>2</sup>	50 ft	50 ft
<sup>2</sup> Width shall not exceed depth						
Lot Depth (feet)						
- Minimum	80 ft	80 ft	80 ft	80 ft	80 ft	80 ft
- Maximum <sup>3</sup>	150 ft	150 ft	150 ft	250% of width	250% of width	250% of width

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), both parcels meet the minimum lot depth and width standards for the R-1-7.5 zoning district. As proposed, Parcel 1 is 7,622ft<sup>2</sup> and Parcel 2, is 7,958ft<sup>2</sup>. **The standard is met.**

### 18.3.10.090 Development Standards for Hillside Lands

A. *General Requirements. The following general requirements shall apply in Hillside Lands:*

1. **Buildable Area.** *All development shall occur on lands defined as having buildable area. Slopes greater than 35 percent shall be considered unbuildable except as allowed below. Exceptions may be granted to this requirement only as provided in subsection [18.3.10.090.H](#).*
  - a. *Existing parcels without adequate buildable area less than or equal to 35 percent shall be considered buildable for one single-family dwelling and an accessory residential unit or a duplex in accordance with the standards in sections [18.2.3.040](#) and [18.2.3.110](#).*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the elevation of the property at its highest point is approximately 2118 feet. The property slopes to Hillview Drive to a final site elevation of approximately 2112 feet. The resulting slope is approximately 3.2 percent (2118-2112 = 6 feet/190 feet (rise/run)). The site has a slope substantially less than 35 feet. **The standard is met.**

2. **Building Envelope.** *All newly created lots either by subdivision or partition shall contain a building envelope with a slope of 35 percent or less.*

3. New Streets and Driveways. New streets, flag drives, and driveways shall be constructed on lands of less than or equal to 35 percent slope with the following exceptions:
  - a. The street is indicated on the Street Dedication map.
  - b. The portion of the street, flag drive, or driveway on land greater than 35 percent slope does not exceed a length of 100 feet.

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the elevation of the property at its highest point is approximately 2118 feet. The property slopes to Hillview Drive to a final site elevation of approximately 2112 feet. The resulting slope for the building envelope for Parcel 1 and Parcel 2 is less than 5 percent. The slope of the proposed driveway does not exceed 35 percent. **The standard is met.**

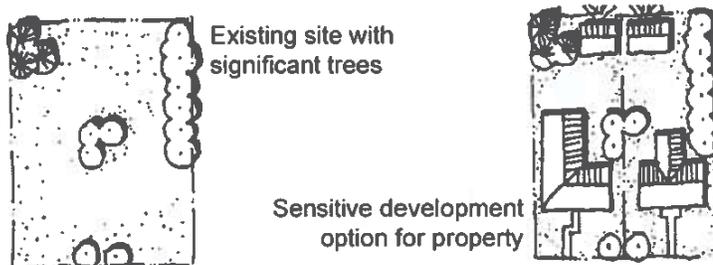
D. Tree Conservation, Protection and Removal. All development on Hillside Lands shall conform to the following requirements:

1. Inventory of Existing Trees. A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six inches diameter at breast height (DBH) identified by DBH, species, and approximate extent of tree canopy. In addition, for areas proposed to be disturbed, existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity (i.e., those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have an accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey. Portions of the lot or project area not to be disturbed by development need not be included in the inventory.
2. Evaluation of Suitability for Conservation. All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. The following factors shall be included in this determination:
  - a. Tree Health. Healthy trees can better withstand the rigors of development than nonvigorous trees.
  - b. Tree Structure. Trees with severe decay or substantial defects are more likely to result in damage to people and property.
  - c. Species. Species vary in their ability to tolerate impacts and damage to their environment.
  - d. Longevity. Potential longevity.
  - e. Variety. A variety of native tree species and ages.
  - f. Size. Large trees provide a greater protection for erosion and shade than smaller trees.

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), there are thirty-nine (39) trees on the subject property. The Tree Survey completed by Canopy, LLC. (**Exhibit C**) identifies all trees on the property and details their suitability for conservation. The survey includes the tree health, structure species health, variety and size. The survey identifies fifteen (15) trees that are suitable

for conservation. The other trees listed are either within the proposed building footprint, in poor health or a potential fire hazard. **The standard is met.**

3. Tree Conservation in Project Design. Significant conifer trees having a trunk 18 caliper inches or larger in diameter at breast height (DBH), and broadleaf trees having a trunk 12 caliper inches or larger in diameter at breast height (DBH), shall be protected and incorporated into the project design whenever possible.
  - a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands. See Figure [18.3.10.090.D.3.a](#).



**Figure 18.3.10.090.D.3.a. Site Planning for Tree Preservation**

- b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the general fuel modification standards if the development is located in Wildfire Lands.
- c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.

**FINDING:** The proposed Tentative Plat (**Exhibit B**) and building footprints were designed in a manner that minimizes tree removal. A number of trees on the northwest and northeast corners of the property have been proposed for protection. There are six (6) trees planned for removal on Parcel 1. Trees 6, 7, 9 and 10 are all within the proposed building envelope of Parcel 1 and in either poor or moderate health. Trees 11 and 12 are in moderate health condition and are located within the proposed access easement. There are nine (9) trees on Parcel 2. Trees 14-17 are within the proposed building envelope. Only one of the trees (Tree 16) is in good health. This tree is approximately 9 inches DBH. Tree 17 is a Birch, 7.5 inches DBH and is dead. Trees 29-33 are also within the proposed building envelope of Parcel 2. With exception to Tree 31, all trees are 12 inches or smaller and Tree 33 is dead. The location of the trees to be protected are outside of any potential utility areas and will not be impacted by the development with appropriate tree protection measures in place. **The standard is met.**

4. Tree Protection. On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:
  - a. All trees designated for conservation shall be clearly marked on the project site. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install tree protection

- fencing in accordance with section [18.4.5.030.C](#). Prior to any construction activity, the site shall be inspected pursuant to section [18.4.5.030.D](#).
- b. Construction site activities, including but not limited to parking, material storage, soil compaction, and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.
  - c. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City and landscape professional. If grading or construction is approved within the drip line, a landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.
  - d. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drain facilities and away from trees designated for conservation.
  - e. Should encroachment into a tree protection area occur which causes irreparable damage, as determined by a landscape professional, to trees, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this chapter.

**FINDING:** As required by this section, the applicant engaged the services of Canopy, LLC. to prepare a Tree Protection Plan. The plan, dated April 12, 2022 (**Exhibit C**), addresses onsite protection measures that must take place in order to protect the trees not proposed for removal. The plan includes mitigation measures for tree protection zone, soil compaction, tree care, root protection and watering. **The standard is met.**

5. **Tree Removal.** Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions:
  - a. The tree is located within the building envelope.
  - b. The tree is located within a proposed street, driveway, or parking area.
  - c. The tree is located within a water, sewer, or other public utility easement.
  - d. The tree is determined by a landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by the standards in subsection [18.3.10.090.D.2](#).
  - e. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.
  - f. The tree is identified for removal as part of an approved Fire Prevention and Control Plan per subsection [18.3.10.100.A](#), or with the exception of significant trees the tree removal is recommended by the Fire Code Official, and approved by the Staff Advisor, as part of a comprehensive fuels reduction strategy to implement a General Fuel Modification Area consistent with subsection [18.3.10.100.B](#).

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), there are thirty-nine (39) trees on the subject property. The Tree Survey completed by Canopy, LLC. (**Exhibit C**) identifies all trees on the property and details their suitability for conservation. The survey includes the tree health, structure species health, variety and size. The survey identifies fifteen (15) trees that are suitable

for conservation. The other trees listed are either within the proposed building footprint, in poor health or a potential fire hazard.

The proposed Tentative Plat (**Exhibit B**) and building footprints were designed in a manner that minimizes tree removal. A number of trees on the northwest and northeast corners of the property have been proposed for protection. There are six (6) trees planned for removal on Parcel 1. Trees 6, 7, 9 and 10 are all within the proposed building envelope of Parcel 1 and in either poor or moderate health. Trees 11 and 12 are in moderate health condition and are located within the proposed access easement. There are nine (9) trees on Parcel 2. Trees 14-17 are within the proposed building envelope. Only one of the trees (Tree 16) is in good health. This tree is approximately 9 inches DBH. Tree 17 is a Birch, 7.5 inches DBH and is dead. Trees 29-33 are also within the proposed building envelope of Parcel 2. With exception to Tree 31, all trees are 12 inches or smaller and Tree 33 is dead. The location of the trees to be protected are outside of any potential utility areas and will not be impacted by the development with appropriate tree protection measures in place. **The standard is met.**

6. ***Tree Replacement.** Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, a hazard, or to comply with General Fuel Modification Area requirements, shall be replaced in compliance with the following standards:*
  - a. *Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.*
  - b. *Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. See Figure [18.3.10.090.D.6.b](#). The canopy shall be designed to mitigate the impact of paved and developed areas, reduce surface erosion, and increase slope stability. Replacement tree locations shall consider impact on the Wildfire Prevention and Control Plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.*

**FINDING:** As shown in the Tree Inventory (**Exhibit C**), many of the trees proposed for removal are in poor health or deemed a fire hazard by their type. The applicant acknowledges that there are some trees within the building envelope that are in good condition and agrees to replace all trees over 12 inches DBH (broadleaf) or 18 inches DBH (conifer). Considering the development constraints (i.e. setbacks, solar, roof orientation and other onsite development considerations, the applicant respectfully requests that a replanting plan be a condition of development approval. **The standard is met.**

### **18.3.10.100      Development Standards for Wildfire Lands**

- A. *Requirements for Subdivisions, Performance Standards Developments, Site Design Review or Partitions.*

2. Plan Submission Requirements. *The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall address the General Fuel Modification Area requirements outlined in subsection [18.3.10.100.B](#) and include the submission materials listed below. The Staff Advisor may waive a plan submittal requirement if the Staff Advisor determines it is not reasonably necessary in order to make a decision on the application.*
  - a. *The location and dimensions of all existing and proposed structures, parking areas and driveways on the property.*
  - b. *The location, dimension, and grade of fire apparatus access roads and driveways serving all structures on the property.*
  - c. *The location and dimensions of all structures upon adjoining properties located within 30 feet of a shared property line.*
  - d. *The location of all existing and proposed fire hydrants.*
  - e. *Site contours showing two-foot intervals detailing elevation and slope.*
  - f. *A tree and vegetation management plan showing:*
    - i. *Areas where shrubs and bushes will be removed including a description of the species and size;*
    - ii. *Areas where trees will be removed to reduce interlocking tree canopies including a description of the species and diameter at breast height (DBH);*
    - iii. *New trees, shrubs and bushes to be planted including the species, location and size at maturity;*
    - iv. *Significant trees to be retained.*
  - g. *The location of and information addressing required General Fuel Modification Area setback areas as described in subsection [18.3.10.100.B](#).*
  - h. *A schedule and timetable for vegetation removal and thinning shall be included in the Fire Prevention and Control Plan. An exception to the implementation schedule may be granted by the Fire Code Official.*

**FINDING:** The proposed Fire Prevention and Control Plan (**Exhibit F**) identifies all structures upon adjoining properties within 30 feet of the shared property line. The plan also shows the location of existing fire hydrants. The Tree Survey (**Exhibit C**) provides the required vegetation management plan, including trees to removed, their caliper and species and trees to remain. Upon approval of the Tentative Plat (**Exhibit B**), vegetation removal and thinning will commence unless otherwise prohibited due to fire danger. **The standard is met.**

3. Approval Criteria. *The hearing authority, in consultation with the Fire Code Official, shall approve the Fire Prevention and Control Plan upon demonstration of compliance with the standards required by this chapter.*
  - a. *In order to meet the purpose and standards of this chapter the hearing authority, in consultation with the Fire Code Official, may require the following through the imposition of conditions attached to the approval:*
    - i. *Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.*
    - ii. *Clearing of sufficient vegetation to reduce fuel load.*
    - iii. *Removal of all dead and dying trees.*
    - iv. *Relocation of proposed structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.*
    - v. *Preservation or planting a sufficient number of trees and plants for erosion prevention and enhancement of water resources.*

**FINDING:** Although overgrown, the site does not have areas of heavy vegetation in need of thinning. As shown in the Site Photos (**Exhibit E**), the area is covered in high grass and new blackberry growth. The site includes a few moderately sized shrubs that will likely be removed as part of the redevelopment of both parcels. All trees identified as dead or dying in the Tree Survey (**Exhibit C**) will be removed. Reduction of the high grass, blackberries and dead trees as shown on the Fire Prevention and Control Plan (**Exhibit F**) will reduce the risks of wildfire and improve the changes of successful fire suppression. **The standard is met.**

4. *Fire Prevention and Control Plan Maintenance.* The property owner of a lot, or homeowners' association for areas held in common, shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan approved by the hearing authority.
  - a. Provisions for the maintenance of a required Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the development, or otherwise recorded in the Jackson County real property records, and the City shall be named as a beneficiary of such covenants, restrictions, and conditions.

**FINDING:** Upon approval of the Tentative Plat, the applicant agrees to record the Fire Prevention and Control Plan as necessary. **The standard is met with conditions.**

#### **18.4.3.080 Vehicle Area Design**

##### *A. Parking Location.*

3. *In all residential zones, off-street parking in a front yard for all vehicles, including trailers and recreational vehicles, is limited to a contiguous area no more than 25 percent of the area of the front yard, or a contiguous area 25 feet wide and the depth of the front yard, whichever is greater. Since parking in violation of this section is occasional in nature, and is incidental to the primary use of the site, no vested rights are deemed to exist and violations of this section are not subject to the protection of the nonconforming use sections of this code.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the street frontage of Parcel 1 is 82 feet; therefore, the no more than 15 percent of the front yard is consumed by parking. Parcel 2 will take access from the public alley and include a standard residential driveway. **The standard is met.**

#### **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 criteria are met.*

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

**FINDING:** The subject parcel is an individual lot or record and is not part of a tract. **The standard is met.**

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

**FINDING:** The proposed two parcels will not impede development of any adjoining land or access thereto as development is to be confined within the two proposed parcels and access readily exists to the adjoining property east of the subject parcels along a public alley and west along Hillview Drive. **The standard is met.**

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:** As demonstrated in the findings herein, the proposed partition conforms to all applicable city ordinance. No adopted neighborhood or district plans were identified in the pre-application memo, and none appear to be present in the area. **The standard is met.**

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

**FINDING:** No partitions have been approved or submitted in the past 12 months. **The standard is met.**

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 lots conform to the requirements of the underlying R-1-7.5 zone per Chapter 18.2 as well as 18.3 and 18.4 relating to lot dimension, coverage requirements, solar access, vehicular access, etc. As shown on the Tentative Plat, building envelopes are large enough to allow for all Solar Access Standards to be met. Solar access will be verified at the time of each parcel's building permit. Tree preservation, hillside standards and wildfire standards are addressed in the findings above. **The standard is 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.*

**FINDING:** Access to the Parcel 1 is from Hillview Drive, utilizing the existing curb cut and will otherwise conform to the standards in Section 18.4.3.080. Findings of compliance for Section 18.4.3.080 are addressed above. The proposal includes a request for a flag lot, therefore the provisions of Section 18.5.3.060 apply and are addressed below. **The standard is met.**

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.*

**FINDING:** All utilities are available in Hillview Drive and will be extended through the private access and utility easement shown on the Tentative Plat (**Exhibit B**) to Parcel 2. No addition right of way dedication required. **The standard is met.**

**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.*

**FINDING:** The criteria of section 18.5.3.050 are addressed in the findings above and either meet or meet with conditions. **The standard is 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.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**) both parcels exceed the minimum lot area, exclusive of the flag pole area. **The standard is met.**

*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.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the flag pole is part of Parcel 2 and includes an access and utility easement of 10 feet for Parcel 1. The flag pole will be owned by the owner of Parcel 2. **The standard is met.**

*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.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), Parcel 2 will take access from the public alley. Subsection 18.5.3.060(H) applies to this application and allows for a flag pole 8 feet in width, provided a 4-foot paved pedestrian path is provided. Based on subsection 18.5.3.060(H), the 15 foot flag pole width requirement and 12-foot paving surface does not apply. Parcel 1 will use the proposed flag pole and additional easement (2 feet) for vehicular access. The driveway will be paved to accommodate vehicle access, but minimized to the 4-foot paved surface area where vehicular access is not necessary. **The standard is met.**

*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.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), Parcel 1 will utilize the existing curb cut for access. Parcel 2 will access from the public alley. No more than two flag lots are served by the proposed access. **The standard is met.**

- 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.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the elevation of the property at its highest point is approximately 2118 feet. The property slopes to Hillview Drive to a final site elevation of approximately 2112 feet. The resulting slope for the building access is less than 5 percent. **The standard is met.**

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

**FINDING:** All utilities are available in Hillview Drive and will be extended through the private access and utility easement shown on the Tentative Plat (**Exhibit B**) to Parcel 2. No addition right of way dedication required. **The standard is met.**

- 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.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the flag pole width meets the minimum standard and will include a four-foot paved pedestrian path incorporated into the access for Parcel 1. The entrance of the pole at the street will 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, if required. **The standard is met.**

- 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.*

**FINDING:** The proposed flag pole has a length of less than 150 feet. **The standard is not applicable.**

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

**FINDING:** Each parcel can provide the necessary parking spaces, eliminating the need for backing out of vehicles onto Hillview Drive. **The standard is met.**

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

**FINDING:** No parking is proposed within ten feet of the centerline of the flag pole on either side of the entrance. **The standard is met.**

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.*

**FINDING:** At this time, the height of the buildings has not been determined. As proposed, the building envelopes are of sufficient size to accommodate access for emergency fire personnel. **The standard is met.**

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.*

**FINDING:** Although the flag pole provides frontage to Hillview Drive, the pole, which is part of Parcel 2 will not be utilized to provide access to Parcel 2. The flag pole will provide access to only Parcel 1. Sight-obscuring fence or other screening can be installed as necessary if required. **The standard is met.**

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.*

**FINDING:** The applicant agrees to execute any agreement for paving and screening that is required as a condition of preliminary plat approval. **The standard is met.**

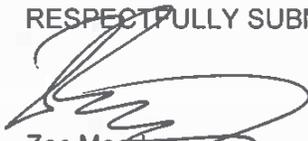
P. *Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward. (Ord. 3158 § 9, amended,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

**FINDING:** Both parcels upon division of the property can provide usable yard area with a minimum dimension of 20 feet wide by 20 feet deep. **The standard is met.**

**Based upon the information submitted within this application, Ashland Community Development finds that the applicant has provided information demonstrating that the proposed partition meets or can meet with conditions the provisions of the Ashland Land Development Code.**

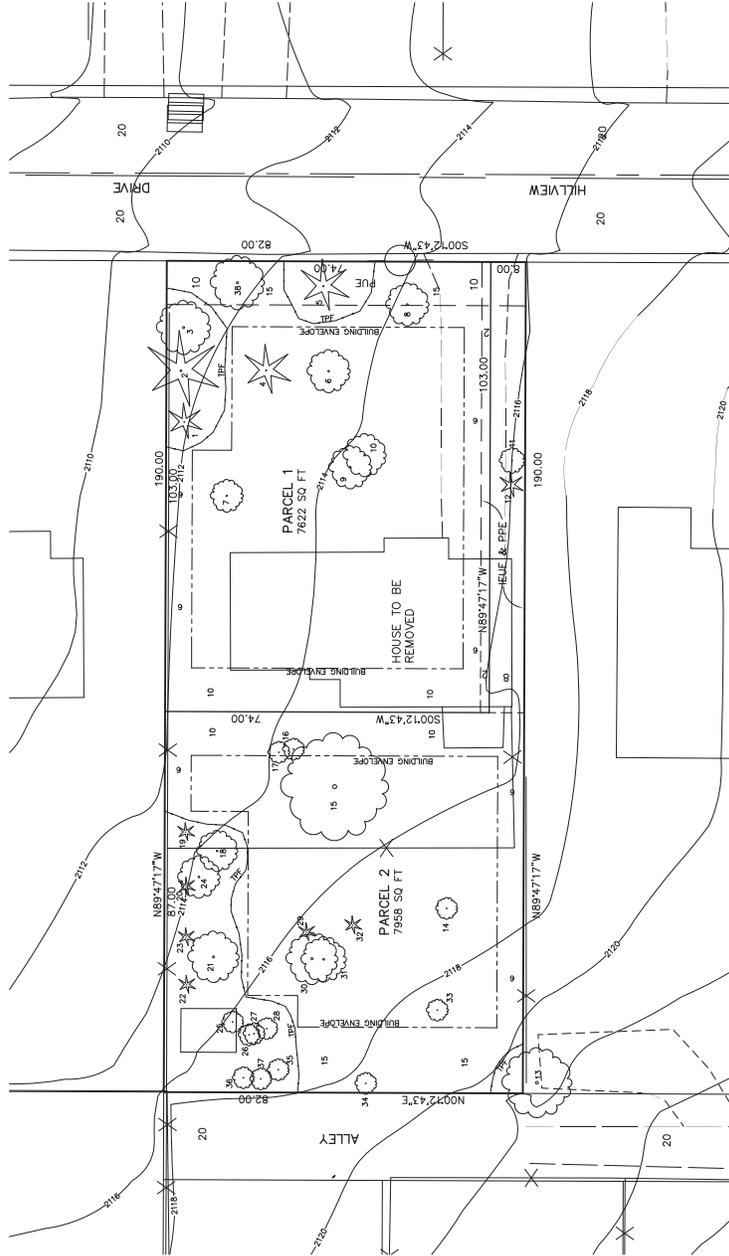
Based on this information and exhibits attached, the applicant respectfully requests approval of this application.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'Zac Moody', written over the typed name.

Zac Moody  
Pacific Geographic Consultants, LLC

**TENTATIVE PARTITION PLAT**  
 In the N.E. 1/4 of Section 15, T.39S, R.1E, W.M.  
 City of Ashland Jackson County, Oregon



NOTES:  
 PROPOSED INGRESS, EGRESS & UTILITY EASEMENT.  
 PFE = PROPOSED PEDESTRIAN PATHWAY EASEMENT.  
 TPF = TREE PROTECTION FENCE.

REGISTERED PROFESSIONAL LAND SURVEYOR <i>James J. Hilly</i> OREGON JULY 17, 1986 JAMES J. HILLY 2324 HIBBS RENEWAL DATE 6-30-23	TITLE: TENTATIVE PARTITION PLAT ASSESSOR'S MAP # 361E173AC 11.900 FOR: SUNCREST HOMES LLC SUNCREST 133 TALENT, OR 97540	DATE: 16 MAY 2022 SCALE: 1" = 20' H&V DRAWN BY: JPH CHECK BY:
	L.L. FRIAR & ASSOCIATES P.C. CONSULTING LAND SURVEYORS 70802 1947 PHOENIX, OR 97535 (503) 263-2222 www.friarpc.com	ROTATION: 0° JOB#: 22137M

© L.L. FRIAR & ASSOCIATES, P.C. 2022

# Fire Prevention & Control Plan

897 Hillview Drive

Inset Map



**Legend**

- Subject Property
- Taxlots
- Proposed Driveway
- Trees to Preserve
- High Grass/Blackberry



1 inch = 32 feet



This map is based on a digital database compiled by Jackson County GIS from a variety of sources, and may include field data collected using GPS. We cannot accept responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied. [www.jcgis.com](http://www.jcgis.com)

5/13/2022



# **APPLICANT'S SUBMITTAL**

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**PA-T1-2022-00185**  
**897 Hillview Drive**



Planning Division  
51 Winburn Way, Ashland OR 97520  
541-488-5305 Fax 541-488-6006

# ZONING PERMIT APPLICATION

FILE # PA-T1-2022-00185

**DESCRIPTION OF PROJECT** 2 Lot Partition

**DESCRIPTION OF PROPERTY**

Pursuing LEED® Certification?  YES  NO

Street Address 897 Hillview Drive

Assessor's Map No. 39 1E 15AC Tax Lot(s) 900

Zoning R1-7.5 Comp Plan Designation Residential

**APPLICANT**

Name Pacific Geographic Consultants, LLC Phone 541-225-8686 E-Mail pacificgeographic@gmail.com

Address 4620 Fern Valley Rd. City Medford Zip 97504

**PROPERTY OWNER**

Name Suncrest Homes Phone \_\_\_\_\_ Contact Agent E-Mail Contact Agent

Address PO Box 1313 City Talent Zip 97540

**SURVEYOR, ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OTHER**

Title Surveyor Name LJ Friar & Associates Phone 541-772-2782 E-Mail ljfriarandassociates@charter.net

Address PO Box 1947 City Phoenix Zip 97535

Title \_\_\_\_\_ Name \_\_\_\_\_ Phone \_\_\_\_\_ E-Mail \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

*I hereby certify that the statements and information contained in this application, including the enclosed drawings and the required findings of fact, are in all respects, true and correct. I understand that all property pins must be shown on the drawings and visible upon the site inspection. In the event the pins are not shown or their location found to be incorrect, the owner assumes full responsibility. I further understand that if this request is subsequently contested, the burden will be on me to establish:*

- 1) *that I produced sufficient factual evidence at the hearing to support this request;*
- 2) *that the findings of fact furnished justifies the granting of the request;*
- 3) *that the findings of fact furnished by me are adequate; and further*
- 4) *that all structures or improvements are properly located on the ground.*

*Failure in this regard will result most likely in not only the request being set aside, but also possibly in my structures being built in reliance thereon being required to be removed at my expense. If I have any doubts, I am advised to seek competent professional advice and assistance.*

**Applicant's Signature**

Date

5/13/22

*As owner of the property involved in this request, I have read and understood the complete application and its consequences to me as a property owner.*

See LOA dated 5/13/2022

**Property Owner's Signature** (required)

Date

[To be completed by City Staff]

Date Received 5.13.2022 Zoning Permit Type Type 1 Filing Fee \$ \$1269.25

OVER ►►

## ZONING PERMIT SUBMITTAL REQUIREMENTS

- APPLICATION FORM must be completed and signed by both applicant and property owner.
- PLANNING FEES FORM must be completed and signed by both applicant and property owner.
- FINDINGS OF FACT – Respond to the appropriate zoning requirements in the form of factual statements or findings of fact and supported by evidence. List the findings criteria and the evidence that supports it. Include information necessary to address all issues detailed in the Pre-Application Comment document.
- TRUE SCALE PDF DRAWINGS – Standard scale and formatted to print no larger than 11x17 inches. Include site plan, building elevations, parking and landscape details.
- FEE (Check, Charge or Cash)
- LEED® CERTIFICATION (*optional*) – Applicant's wishing to receive priority planning action processing shall provide the following documentation with the application demonstrating the completion of the following steps:
  - Hiring and retaining a LEED® Accredited Professional as part of the project team throughout design and construction of the project; and
  - The LEED® checklist indicating the credits that will be pursued.

### NOTE:

- Applications are accepted on a first come, first served basis.
- Applications will not be accepted without a complete application form signed by the applicant(s) AND property owner(s), all required materials and full payment.
- All applications received are reviewed for completeness by staff within 30 days from application date in accordance with ORS 227.178.
- The first fifteen COMPLETE applications submitted are processed at the next available Planning Commission meeting. (Planning Commission meetings include the Hearings Board, which meets at 1:30 pm, or the full Planning Commission, which meets at 7:00 pm on the second Tuesday of each month. Meetings are held at the City Council Chambers at 1175 East Main St).
- A notice of the project request will be sent to neighboring properties for their comments or concerns.
- If applicable, the application will also be reviewed by the Tree and/or Historic Commissions.

# LETTER OF AUTHORIZATION

## PACIFIC GEOGRAPHIC CONSULTANTS, LLC.

4620 Fern Valley Road  
Medford, Oregon 97504  
Phone: 541-225-8686  
Email: pacificgeographic@gmail.com

LET IT BE KNOWN THAT Pacific Geographic Consultants, LLC.  
has been retained to act as Agent to perform all acts for development on my property identified below. These acts include: Pre-application Conference, Filing applications and/or other required documents relative to all Zoning Applications, Sewage Disposal Permits and Inspections, Assigning an Address, Road Approach Permits, Manufactured Dwelling Permits, Building Permits, and Mechanical Permits (authorization not useable for Plumbing or Electrical Permits per State regulations).

897 Hillview Drive, Ashland, OR 97520

(Address or Road)

AND DESCRIBED IN THE RECORDS OF JACKSON COUNTY AS:

TOWNSHIP 39, RANGE 1E, SECTION 15AC, TAX LOT(S) 900

TOWNSHIP \_\_\_\_\_, RANGE \_\_\_\_\_, SECTION \_\_\_\_\_, TAX LOT(S) \_\_\_\_\_

THE COSTS OF THE ABOVE ACTIONS, WHICH ARE NOT SATISFIED BY THE AGENT, ARE THE RESPONSIBILITY OF THE UNDERSIGNED PROPERTY OWNER.

### PROPERTY OWNER:

This authorization is valid for  1 year;  2 years;  Other \_\_\_\_\_ (Must select one)

SIGNATURE: See Below DATE: 5/13/2022

PRINTED NAME: Suncrest Homes, LLC.

ADDRESS: PO Box 1313 PHONE: Contact Agent

CITY/STATE/ZIP: Talent, OR 97540 FAX: \_\_\_\_\_

**CHECK ONE:**  APPLICANT  AGENT

SIGNATURE: [Signature] DATE: 5/13/2022

PRINTED NAME: Zac Moody, Pacific Geographic Consultants, LLC.

ADDRESS: 4620 Fern Valley Rd. PHONE: 541-225-8686

CITY/STATE/ZIP: Medford, OR 97504 FAX: \_\_\_\_\_

Additional, if necessary - **CHECK ONE:**  APPLICANT  AGENT

SIGNATURE: [Signature] DATE: 5-17-22

PRINTED NAME: Charlie Hamilton

ADDRESS: P.O. Box 1313 PHONE: 541 944-3976

CITY/STATE/ZIP: Talent, OR 97540 FAX: 541 535-8641

**BEFORE THE ASHLAND COMMUNITY DEVELOPMENT DEPARTMENT**  
**JACKSON COUNTY, OREGON:**

**IN THE MATTER OF A TYPE I PARTITION REVIEW            )**  
**FOR A PARCEL OF LAND ZONED RESIDENTIAL            )**  
**(R-1-7.5); T.39S, R.1E, SEC.15AC, TAX LOT 900        )**        **FINDING OF FACT**  
**SUNCREST HOMES, OWNERS; PACIFIC                    )**  
**GEOGRAPHIC CONSULTANTS, LLC., AGENT             )**

---

**A.     Applicant Information**

**Owners/Applicants**

Suncrest Homes, LLC.  
PO Box 1313  
Talent, OR 97540

**Agent**

Pacific Geographic Consultants, LLC  
4620 Fern Valley Rd.  
Medford, OR 97504

**Arborist**

Canopy, LLC.  
PO Box 3511  
Ashland, OR 97520

**Surveyor**

LJ Friar & Associates, PC  
PO Box 1947  
Phoenix, OR 97535

**B. Property Description**

The subject lot totals approximately 0.36 acres and is zoned Residential (R-1-7.5). The subject parcel is located at 897 Hillview Drive, a publicly owned and maintained street. The subject parcel is located within the Ashland Fire Department boundary.

The subject parcel is developed with a 1,228 square foot, 2-bedroom single family dwelling built in 1947. The existing dwelling is proposed for removal upon approval of the Tentative Plat. The property has numerous trees of various size and species and gently slopes to the west towards the public alley.

**Transportation Service**

Access is available to proposed Parcel 1 from Hillview Drive, a partially improved public street. Access to Parcel 2 will be either from the public alley or Hillview Drive. This section of Hillview Drive features partial improvements, i.e.: paved roads with curbs and gutters, but without sidewalks. Hillview Drive is identified as a "Local" Street in the Transportation System Plan (TSP). No new public streets or dedications are required as part of this request. Improvements to the public alley and Hillview Drive (i.e. sidewalks)

**Wastewater Service**

Wastewater service is currently provided to the subject parcel.

**Water Service**

Water service currently supplies the existing residence and is adjacent to the proposed new parcel.

**C. Proposal**

The request is for the approval of a preliminary plat to divide one (1) parcel: 897 Hillview Drive, into two (2) parcels. The parcel currently totals 0.36 Acres (15,580ft<sup>2</sup>). As proposed, Parcel 1 is 7,790ft<sup>2</sup> and Parcel 2, is 7,790ft<sup>2</sup> (**EXHIBIT "B"**).

**D. Lot Legality**

The subject lot was first described in its original configuration in March 1951 by deed Vol. 348 Pg. 172. (**EXHIBIT "A"**).

**E. Applicable Criteria**

The purpose of this application is to clearly demonstrate that the subject parcel is in compliance with the Ashland Municipal Code (AMC). The applicant is proposing a partition to divide the subject property into two buildable lots.

Pursuant to the AMC, the following criteria are applicable to this application:

- AMC Chapter 18.2.4.010 – Access and Minimum Street Frontage**
- AMC Chapter 18.2.5.030 – Unified Standards for Residential Zone**
- AMC Chapter 18.3.10.090 – Development Standards for Hillside Lands**
- AMC Chapter 18.3.10.100 – Development Standards for Wildfire Lands**
- AMC Chapter 18.4.5.030 – Tree Protection**
- AMC Chapter 18.4.8 – Solar Access**
- AMC Chapter 18.5.3.050 – Preliminary Plat Criteria (Partitions)**

Please refer to maps and documents in the attached exhibits for demonstration of compliance with these standards. With this review, Ashland Community Development can find that this application is consistent with applicable subdivision and zoning code standards and criteria.

**Exhibit List**

- Exhibit A – Lot Legality
- Exhibit B – Preliminary Plat; Zoning Map
- Exhibit C – Tree Inventory and Protection Plan
- Exhibit D - Pre-Application Memo
- Exhibit E – Site Photos
- Exhibit F - Fire Prevention and Control Plan

**TITLE 18: LAND USE ORDINANCE**

**18.2.4.010 Access and Minimum Street Frontage**

*Each lot shall abut a public street other than an alley for a width of not less than 40 feet; except, where a lot is part of an approved flag partition or abuts a cul-de-sac vehicle turn-around area, the minimum width is 25 feet.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), Parcel 1 and Parcel exceed the minimum frontage width of 40 feet. As proposed, each parcel has 82 feet of frontage either on a public street or a public alley. **The standard is met.**

**18.2.5.030 Unified Standards for Residential Zone**

Table 18.2.5.030.A. Standards for Urban Residential Zones

Standard	R-1				R-2	R-3
	R-1-10	R-1-7.5	R-1-5	R-1-3.5		
Residential Density (dwelling units/acre)						
- Minimum	NA	NA	NA	NA	See density standards in Sec. <a href="#">18.2.5.080</a>	
- Maximum	Per Min. Lot Area	Per Min. Lot Area	Per Min. Lot Area	Per Min. Lot Area		
See also Sec. <a href="#">18.2.5.080</a> , for R-2 and R-3 zones						
Lot Area - Minimum (square feet)						
- Lot	10,000 sf	7,500 sf	5,000 sf, 6,000 sf for corner lots	5,000 sf <sup>1</sup>	See density standards in Sec. <a href="#">18.2.5.080</a>	

Standard	R-1				R-2	R-3
	R-1-10	R-1-7.5	R-1-5	R-1-3.5		
<sup>1</sup> Exception providing for minimum lot area of 3,500 sf in R-1-3.5 zone applies only where the lot contains an existing single-family dwelling that meets setback, density, and lot coverage standards; variances under this section are subject to Type I procedure.						
Lot Width - Minimum (feet)	75 ft <sup>2</sup>	65 ft <sup>2</sup>	50 ft <sup>2</sup>	50 ft <sup>2</sup>	50 ft	50 ft
<sup>2</sup> Width shall not exceed depth						
Lot Depth (feet)						
- Minimum	80 ft	80 ft	80 ft	80 ft	80 ft	80 ft
- Maximum <sup>3</sup>	150 ft	150 ft	150 ft	250% of width	250% of width	250% of width

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), both parcels meet the minimum lot depth and width standards for the R-1-7.5 zoning district. Both lots are 7790 square feet in size, exceeding the minimum lot area of 7500 square feet. **The standard is met.**

### 18.3.10.090 Development Standards for Hillside Lands

A. *General Requirements. The following general requirements shall apply in Hillside Lands:*

1. Buildable Area. All development shall occur on lands defined as having buildable area. Slopes greater than 35 percent shall be considered unbuildable except as allowed below. Exceptions may be granted to this requirement only as provided in subsection 18.3.10.090.H.
  - a. Existing parcels without adequate buildable area less than or equal to 35 percent shall be considered buildable for one single-family dwelling and an accessory residential unit or a duplex in accordance with the standards in sections 18.2.3.040 and 18.2.3.110.

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the elevation of the property at its highest point is approximately 2118 feet. The property slopes to Hillview Drive to a final site elevation of approximately 2112 feet. The resulting slope is approximately 3.2 percent (2118-2112 = 6 feet/190 feet (rise/run)). The site has a slope substantially less than 35 feet. **The standard is met.**

2. Building Envelope. All newly created lots either by subdivision or partition shall contain a building envelope with a slope of 35 percent or less.
3. New Streets and Driveways. New streets, flag drives, and driveways shall be constructed on lands of less than or equal to 35 percent slope with the following exceptions:

- a. *The street is indicated on the Street Dedication map.*
- b. *The portion of the street, flag drive, or driveway on land greater than 35 percent slope does not exceed a length of 100 feet.*

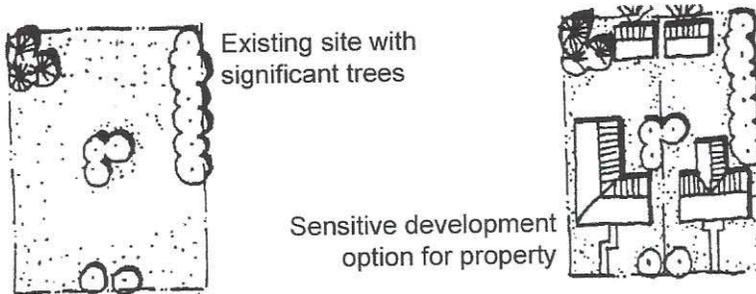
**FINDING:** As shown on the Tentative Plat (**Exhibit B**), the elevation of the property at its highest point is approximately 2118 feet. The property slopes to Hillview Drive to a final site elevation of approximately 2112 feet. The resulting slope for the building envelope for Parcel 1 and Parcel 2 is less than 5 percent. The slope of the proposed driveway does not exceed 35 percent. **The standard is met.**

D. *Tree Conservation, Protection and Removal. All development on Hillside Lands shall conform to the following requirements:*

1. *Inventory of Existing Trees. A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six inches diameter at breast height (DBH) identified by DBH, species, and approximate extent of tree canopy. In addition, for areas proposed to be disturbed, existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity (i.e., those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have an accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey. Portions of the lot or project area not to be disturbed by development need not be included in the inventory.*
2. *Evaluation of Suitability for Conservation. All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. The following factors shall be included in this determination:*
  - a. *Tree Health. Healthy trees can better withstand the rigors of development than nonvigorous trees.*
  - b. *Tree Structure. Trees with severe decay or substantial defects are more likely to result in damage to people and property.*
  - c. *Species. Species vary in their ability to tolerate impacts and damage to their environment.*
  - d. *Longevity. Potential longevity.*
  - e. *Variety. A variety of native tree species and ages.*
  - f. *Size. Large trees provide a greater protection for erosion and shade than smaller trees.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), there are thirty-nine (39) trees on the subject property. The Tree Survey completed by Canopy, LLC. (**Exhibit C**) identifies all trees on the property and details their suitability for conservation. The survey includes the tree health, structure species health, variety and size. The survey identifies fifteen (15) trees that are suitable for conservation. The other trees listed are either within the proposed building footprint, in poor health or a potential fire hazard. **The standard is met.**

3. Tree Conservation in Project Design. Significant conifer trees having a trunk 18 caliper inches or larger in diameter at breast height (DBH), and broadleaf trees having a trunk 12 caliper inches or larger in diameter at breast height (DBH), shall be protected and incorporated into the project design whenever possible.
  - a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands. See Figure [18.3.10.090.D.3.a.](#)



**Figure 18.3.10.090.D.3.a. Site Planning for Tree Preservation**

- b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the general fuel modification standards if the development is located in Wildfire Lands.
- c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.

**FINDING:** The proposed Tentative Plat (**Exhibit B**) and building footprints were designed in a manner that minimizes tree removal. A number of trees on the northwest and northeast corners of the property have been proposed for protection. There are six (6) trees planned for removal on Parcel 1. Trees 6, 7, 9 and 10 are all within the proposed building envelope of Parcel 1 and in either poor or moderate health. Trees 11 and 12 are in moderate health condition and are located within the proposed access easement. There are nine (9) trees on Parcel 2. Trees 14-17 are within the proposed building envelope. Only one of the trees (Tree 16) is in good health. This tree is approximately 9 inches DBH. Tree 17 is a Birch, 7.5 inches DBH and is dead. Trees 29-33 are also within the proposed building envelope of Parcel 2. With exception to Tree 31, all trees are 12 inches or smaller and Tree 33 is dead. The location of the trees to be protected are outside of any potential utility areas and will not be impacted by the development with appropriate tree protection measures in place. **The standard is met.**

4. Tree Protection. On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:
  - a. All trees designated for conservation shall be clearly marked on the project site. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install tree protection fencing in accordance with section [18.4.5.030.C](#). Prior to any construction activity, the site shall be inspected pursuant to section [18.4.5.030.D](#).

- b. Construction site activities, including but not limited to parking, material storage, soil compaction, and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.
- c. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City and landscape professional. If grading or construction is approved within the drip line, a landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.
- d. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drain facilities and away from trees designated for conservation.
- e. Should encroachment into a tree protection area occur which causes irreparable damage, as determined by a landscape professional, to trees, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this chapter.

**FINDING:** As required by this section, the applicant engaged the services of Canopy, LLC. to prepare a Tree Protection Plan. The plan, dated April 12, 2022 (**Exhibit C**), addresses onsite protection measures that must take place in order to protect the trees not proposed for removal. The plan includes mitigation measures for tree protection zone, soil compaction, tree care, root protection and watering. **The standard is met.**

5. Tree Removal. Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions:
- a. The tree is located within the building envelope.
  - b. The tree is located within a proposed street, driveway, or parking area.
  - c. The tree is located within a water, sewer, or other public utility easement.
  - d. The tree is determined by a landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by the standards in subsection [18.3.10.090.D.2.](#)
  - e. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.
  - f. The tree is identified for removal as part of an approved Fire Prevention and Control Plan per subsection [18.3.10.100.A.](#), or with the exception of significant trees the tree removal is recommended by the Fire Code Official, and approved by the Staff Advisor, as part of a comprehensive fuels reduction strategy to implement a General Fuel Modification Area consistent with subsection [18.3.10.100.B.](#)

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), there are thirty-nine (39) trees on the subject property. The Tree Survey completed by Canopy, LLC. (**Exhibit C**) identifies all trees on the property and details their suitability for conservation. The survey includes the tree health, structure species health, variety and size. The survey identifies fifteen (15) trees that are suitable for conservation. The other trees listed are either within the proposed building footprint, in poor health or a potential fire hazard.

The proposed Tentative Plat (**Exhibit B**) and building footprints were designed in a manner that minimizes tree removal. A number of trees on the northwest and northeast corners of the property have been proposed for protection. There are six (6) trees planned for removal on Parcel 1. Trees 6, 7, 9 and 10 are all within the proposed building envelope of Parcel 1 and in either poor or moderate health. Trees 11 and 12 are in moderate health condition and are located within the proposed access easement. There are nine (9) trees on Parcel 2. Trees 14-17 are within the proposed building envelope. Only one of the trees (Tree 16) is in good health. This tree is approximately 9 inches DBH. Tree 17 is a Birch, 7.5 inches DBH and is dead. Trees 29-33 are also within the proposed building envelope of Parcel 2. With exception to Tree 31, all trees are 12 inches or smaller and Tree 33 is dead. The location of the trees to be protected are outside of any potential utility areas and will not be impacted by the development with appropriate tree protection measures in place. **The standard is met.**

6. Tree Replacement. *Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, a hazard, or to comply with General Fuel Modification Area requirements, shall be replaced in compliance with the following standards:*
  - a. *Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.*
  - b. *Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. See Figure [18.3.10.090.D.6.b](#). The canopy shall be designed to mitigate the impact of paved and developed areas, reduce surface erosion, and increase slope stability. Replacement tree locations shall consider impact on the Wildfire Prevention and Control Plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.*

**FINDING:** As shown in the Tree Inventory (**Exhibit C**), many of the trees proposed for removal are in poor health or deemed a fire hazard by their type. The applicant acknowledges that there are some trees within the building envelope that are in good condition and agrees to replace all trees over 12 inches DBH (broadleaf) or 18 inches DBH (conifer). Considering the development constraints (i.e. setbacks, solar, roof orientation and other onsite development considerations), the applicant respectfully requests that a replanting plan be a condition of development approval. **The standard is met.**

### **18.3.10.100      Development Standards for Wildfire Lands**

- A. *Requirements for Subdivisions, Performance Standards Developments, Site Design Review or Partitions.*

2. Plan Submission Requirements. *The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall address the General Fuel Modification Area requirements outlined in subsection [18.3.10.100.B](#) and include the submission materials listed below. The Staff Advisor may waive a plan submittal requirement if the Staff Advisor determines it is not reasonably necessary in order to make a decision on the application.*
  - a. *The location and dimensions of all existing and proposed structures, parking areas and driveways on the property.*
  - b. *The location, dimension, and grade of fire apparatus access roads and driveways serving all structures on the property.*
  - c. *The location and dimensions of all structures upon adjoining properties located within 30 feet of a shared property line.*
  - d. *The location of all existing and proposed fire hydrants.*
  - e. *Site contours showing two-foot intervals detailing elevation and slope.*
  - f. *A tree and vegetation management plan showing:*
    - i. *Areas where shrubs and bushes will be removed including a description of the species and size;*
    - ii. *Areas where trees will be removed to reduce interlocking tree canopies including a description of the species and diameter at breast height (DBH);*
    - iii. *New trees, shrubs and bushes to be planted including the species, location and size at maturity;*
    - iv. *Significant trees to be retained.*
  - g. *The location of and information addressing required General Fuel Modification Area setback areas as described in subsection [18.3.10.100.B](#).*
  - h. *A schedule and timetable for vegetation removal and thinning shall be included in the Fire Prevention and Control Plan. An exception to the implementation schedule may be granted by the Fire Code Official.*

**FINDING:** The proposed Fire Prevention and Control Plan (**Exhibit F**) identifies all structures upon adjoining properties within 30 feet of the shared property line. The plan also shows the location of existing fire hydrants. The Tree Survey (**Exhibit C**) provides the required vegetation management plan, including trees to removed, their caliper and species and trees to remain. Upon approval of the Tentative Plat (**Exhibit B**), vegetation removal and thinning will commence unless otherwise prohibited due to fire danger. **The standard is met.**

3. Approval Criteria. *The hearing authority, in consultation with the Fire Code Official, shall approve the Fire Prevention and Control Plan upon demonstration of compliance with the standards required by this chapter.*
  - a. *In order to meet the purpose and standards of this chapter the hearing authority, in consultation with the Fire Code Official, may require the following through the imposition of conditions attached to the approval:*
    - i. *Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.*
    - ii. *Clearing of sufficient vegetation to reduce fuel load.*
    - iii. *Removal of all dead and dying trees.*
    - iv. *Relocation of proposed structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.*
    - v. *Preservation or planting a sufficient number of trees and plants for erosion prevention and enhancement of water resources.*

**FINDING:** Although overgrown, the site does not have areas of heavy vegetation in need of thinning. As shown in the Site Photos (**Exhibit E**), the area is covered in high grass and new blackberry growth. The site includes a few moderately sized shrubs that will likely be removed as part of the redevelopment of both parcels. All trees identified as dead or dying in the Tree Survey (**Exhibit C**) will be removed. Reduction of the high grass, blackberries and dead trees as shown on the Fire Prevention and Control Plan (**Exhibit F**) will reduce the risks of wildfire and improve the changes of successful fire suppression. **The standard is met.**

4. *Fire Prevention and Control Plan Maintenance. The property owner of a lot, or homeowners' association for areas held in common, shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan approved by the hearing authority.*
  - a. *Provisions for the maintenance of a required Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the development, or otherwise recorded in the Jackson County real property records, and the City shall be named as a beneficiary of such covenants, restrictions, and conditions.*

**FINDING:** Upon approval of the Tentative Plat, the applicant agrees to record the Fire Prevention and Control Plan as necessary. **The standard is met with conditions.**

#### **18.4.3.080 Vehicle Area Design**

##### *A. Parking Location.*

3. *In all residential zones, off-street parking in a front yard for all vehicles, including trailers and recreational vehicles, is limited to a contiguous area no more than 25 percent of the area of the front yard, or a contiguous area 25 feet wide and the depth of the front yard, whichever is greater. Since parking in violation of this section is occasional in nature, and is incidental to the primary use of the site, no vested rights are deemed to exist and violations of this section are not subject to the protection of the nonconforming use sections of this code.*

**FINDING:** As shown on the Tentative Plat (**Exhibit B**), both parcels are served by a 12-foot private access easement. The street frontage of Parcel 1 is 82 feet; therefore, the no more than 15 percent of the front yard is consumed by parking. **The standard is met.**

#### **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 criteria are met.*

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

**FINDING:** The subject parcel is an individual lot or record and is not part of a tract. **The standard is met.**

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

**FINDING:** The proposed two parcels will not impede development of any adjoining land or access thereto as development is to be confined within the two proposed parcels and access readily exists to the adjoining property east of the subject parcels along a public alley and west along Hillview Drive. **The standard is met.**

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:** As demonstrated in the findings herein, the proposed partition conforms to all applicable city ordinance. No adopted neighborhood or district plans were identified in the pre-application memo, and none appear to be present in the area. **The standard is met.**

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

**FINDING:** No partitions have been approved or submitted in the past 12 months. **The standard is met.**

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 lots conform to the requirements of the underlying R-1-7.5 zone per Chapter 18.2 as well as 18.3 and 18.4 relating to lot dimension, coverage requirements, solar access, vehicular access, etc. As shown on the Tentative Plat, building envelopes are large enough to allow for all Solar Access Standards to be met. Solar access will be verified at the time of each parcel's building permit. Tree preservation, hillside standards and wildfire standards are addressed in the findings above. **The standard is 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.*

**FINDING:** Access to the proposed lots will be from a shared access, utilizing the existing curb cut and will otherwise conform to the standards in Section 18.4.3.080. Findings of compliance for Section 18.4.3.080 are addressed above. The proposal does not include a request for a flag lot, therefore the provisions of Section 18.5.3.060 do not apply. **The standard is met.**

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.*

**FINDING:** All utilities are available in Hillview Drive and will be extended through the private access and utility easement shown on the Tentative Plat (**Exhibit B**) to Parcel 2. No addition right of way dedication required. **The standard is met.**

**Based upon the information submitted within this application, Ashland Community Development finds that the applicant has provided information demonstrating that the proposed partition meets or can meet with conditions the provisions of the Ashland Land Development Code.**

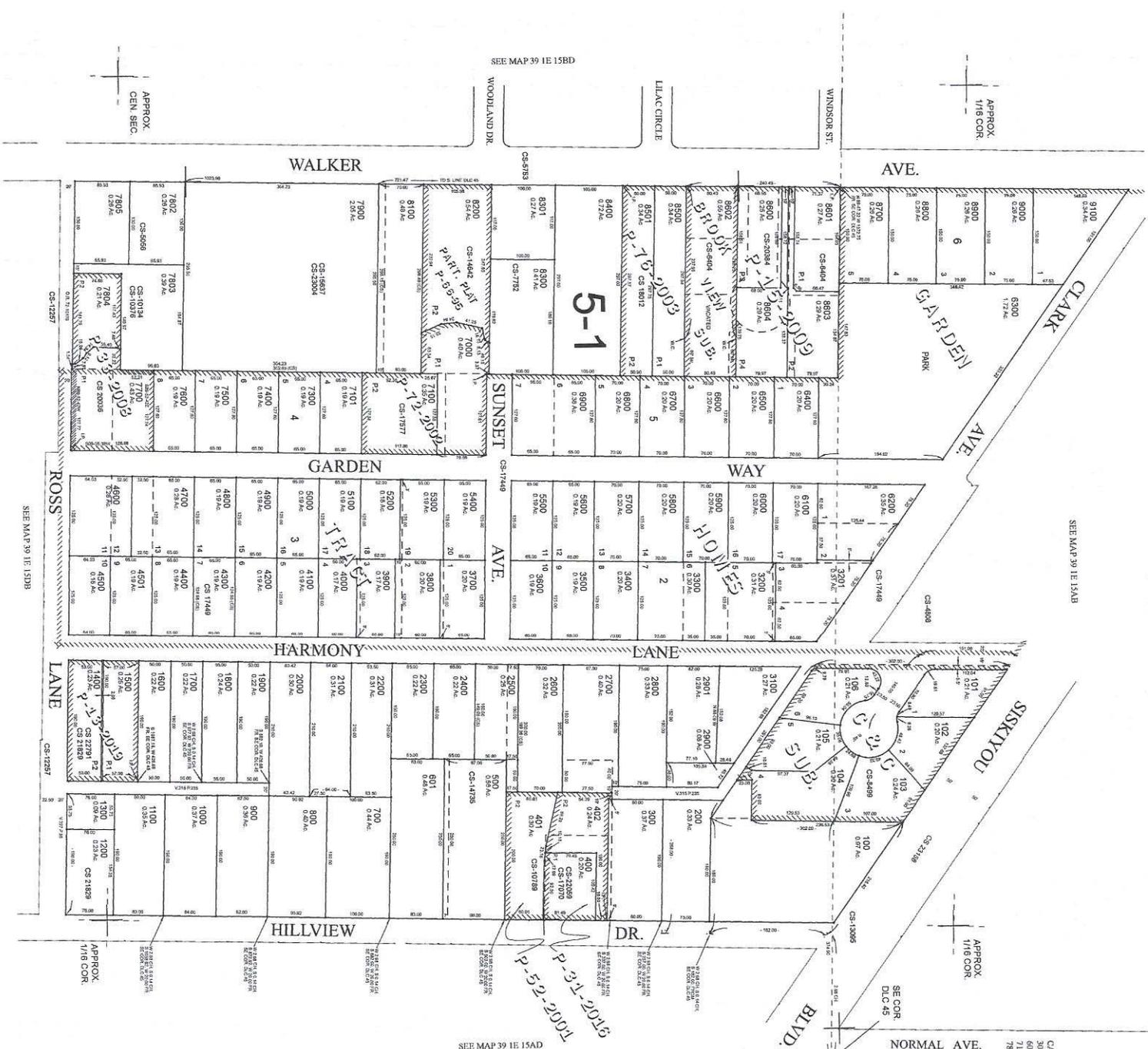
Based on this information and exhibits attached, the applicant respectfully requests approval of this application.

RESPECTFULLY SUBMITTED,

Zac Moody  
*Pacific Geographic Consultants, LLC*

# EXHIBIT "A"

CANCELLED TAXLOT NUMBERS  
5400 ADDED TO 2800  
600 ADDED TO 500  
7102 ADDED TO 7090  
7800 KILLED ONLY



~~120-86-70~~  
ACCOUNT NUMBER

**OFFICIAL RECORD OF DESCRIPT**  
OFFICE OF COUNTY ASSESSOR, JJ

RP 1

8567-0

5-1  
CODE NUMBER

391E15AC-900

391E15AC00900 00501

AERIAL PHOTO

SECTION \_\_\_\_\_

TOWNSHIP \_\_\_\_\_ S

RANGE \_\_\_\_\_

W.M. \_\_\_\_\_

MAP NO. 120-86

LOT \_\_\_\_\_

BLOCK \_\_\_\_\_

**THIS INFORMATION  
FOR ASSESSMENT  
AND TAXATION  
PURPOSES ONLY.**

CITY Ashland

70  
TAX LOT NUMBER

NO. \_\_\_\_\_

NO. \_\_\_\_\_

INDENT EACH NEW  
COURSE TO THIS LINE

LEGAL DESCRIPTION

DEED RECORD

ACRES  
REMAINING

YEAR VOLUME PAGE  
1951 348 174

George, Don O. & Josephine M.  
Commencing at a point 2.98 chains West and 0.14 chains  
South of the southeast corner of D.L.C. 45 in Twp. 39  
South of Range 1 East of the W.M. in JCO; thence south  
872 feet 11 inches; thence west 20 feet to the west line  
of Peachey Lane, to the true point of beginning; thence  
south, along the west line of Peachey Lane 82 feet;  
thence

1956 431 344  
JV 57-804

west 190 feet; thence  
north 82 feet; thence  
east 190 feet to the true point of beginning.

Pittman, Carroll C. & Lou Ellen

1959 482 441  
JV 60-4444

Johnson, Margaret D.

1963 557 445  
JV 64-7668

Driscoll, Edwin E.

1963 557 447  
JV 64-7668

Crawford, Margaret D and Edna M Dillstrom

O.R. 68-01127  
JV 68-5604

Hollister, Lynn W & Carol L

✓ O.R. 73-11136  
JV 74-01696

Comstock, Clarence D & Alice H

O.R. 87-21567  
JV 88-01024

Downs, Louis L & Rita T

O. R. 94-30024  
J V 94-12515

DION, CYNTHIA V



After recording return to:  
Charles D. Hamilton and Mary C.  
Steinbergs  
PO Box 1313  
Talent, OR 97540

Until a change is requested all tax  
statements shall be sent to the  
following address:  
Charles D. Hamilton and Mary C.  
Steinbergs  
PO Box 1313  
Talent, OR 97540

File No.: 7162-3890797 (JS)  
Date: February 02, 2022

Jackson County Official Records **2022-004457**  
R-WD  
Stn=16 MORGANSS **02/07/2022 02:11:15 PM**  
\$15.00 \$10.00 \$11.00 \$11.00 \$60.00 **\$107.00**  
I, Christine Walker, County Clerk for Jackson County, Oregon, certify  
that the instrument identified herein was recorded in the Clerk  
records.  
Christine Walker - County Clerk

THIS SPACE RESERVED

**STATUTORY WARRANTY DEED**

**Cynthia Martin Dion, Trustee of the Martin Dion Family Trust dated April 21, 2020, Grantor, conveys and warrants to Charles D. Hamilton and Mary C. Steinbergs, tenants by the entirety, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:**

**LEGAL DESCRIPTION:** Real property in the County of Jackson, State of Oregon, described as follows:

**Commencing at a point 2.98 chains West and 0.14 chains South from the Southeast corner of Donation Land Claim No. 45 in Township 39 South, Range 1 East of the Willamette Meridian, Jackson County, Oregon; and thence South a distance of 872.0 feet 11 inches and West 20.0 feet to the West line of Peachey Lane, to the true point of beginning; thence South 82.0 feet; thence West 190.0 feet; thence North 82.0 feet; thence East 190.0 feet to the true point of beginning.**

**NOTE: This legal description was created prior to January 1, 2008**

**Subject to:**

- 1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$400,000.00**. (Here comply with requirements of ORS 93.030)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 4th day of February, 2021

Cynthia Martin Dion Family Trust dated April 21, 2020

Cynthia Martin Dion  
Cynthia Martin Dion, Trustee

STATE OF Oregon )  
County of Jackson ) ss.

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Cynthia Martin Dion as Trustee of Cynthia Martin Dion Family Trust dated April 21, 2020, on behalf of the trust.

*all attached*

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires:

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of IMPERIAL

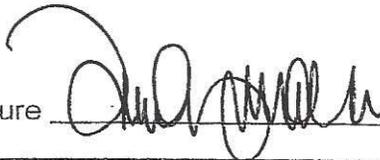
On February 4, 2022 before me, MARCELLA M. ZAMORA, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared Cynthia Martin Dion  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



303444

56493

WARRANTY DEED

Vol. 348 Page 174

THIS INDENTURE WITNESSETH: That

WILLIAM M. DALY and ALICE M. DALY, husband and wife,

for and in consideration of the sum of Ten Dollars, and other good and sufficient consideration, have bargained and sold, and by this instrument do hereby grant, bargain, sell, convey and confirm unto

DON O. GEORGE and JOSEPHINE M. GEORGE, husband and wife, their heirs

and assigns, the real property situated in the

County of Jackson State of Oregon, particularly described as follows,

to-wit: Commencing at a point 2.98 chains west and 0.14 chains south of the southeast corner of Donation Land Claim No. 45 in Township 39 South of Range 1 East of the Willamette Meridian in Jackson County, Oregon; thence south 872 feet 11 inches; thence west 20 feet to the west line of Peachey Lane, to the true point of beginning; thence south, along the west line of Peachey Lane 82 feet; thence west 190 feet; thence north 82 feet; thence east 190 feet to the true point of beginning.

SUBJECT TO reservations, easements and rights of way of record.

SUBJECT TO a mortgage given by the grantors herein to the First National Bank of Portland, dated July 3, 1947, recorded July 7, 1947, in Volume 163 at pages 56, 57, 58, 59 and 60 of the Mortgage Records of Jackson County, Oregon, given to secure the payment of a note for \$5700.00, together with interest thereon.



TO HAVE AND TO HOLD, the above described premises unto the said grantee and their heirs and assigns, forever. The grantors herein do covenant with said grantee and their heirs and assigns that they are the owners in fee simple of the above described premises, and that same are free from all encumbrances except as stated and that they will and their heirs, executors and administrators, shall warrant and defend the title to said premises against the lawful claims and demands of all persons whomsoever.

WITNESS our hand and seal this 13<sup>th</sup> day of January, 1951

..... (SEAL)

..... (SEAL)

William M. Daly (SEAL)  
Alice M. Daly (SEAL)

303444

Vol. 348 Page 175

STATE OF Oregon  
County of Washington ss.

BE IT REMEMBERED, That on this 13<sup>th</sup> day of January, A. D., 1951  
before me, the undersigned, a Notary Public, in and for said County and State, personally  
appeared the within named William M. Daly and Alice M. Daly, husband  
and wife

..... who are known  
to me to be the identical individual s described in and who executed the within instrument  
and acknowledged to me that they each executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and of-  
ficial seal the day and year last above written.

G. R. Carter  
Notary Public for Oregon  
My Commission Expires: April 8, 1952



303444

WARRANTY DEED

William M. Daly  
Alice M. Daly  
to  
Don O. George  
Josephine M. George.

STATE OF OREGON } ss.  
COUNTY OF JACKSON }

I certify that the within instrument  
was received for record on the 13<sup>th</sup>  
day of March, 1951  
at 4:15 o'clock P. M.  
and recorded in Book..... at  
page..... of Deeds Records  
Jackson County, Oregon.  
Witness my hand and seal of Coun-  
ty affixed.

G. R. Carter  
County Clerk  
Recorder of Conveyances  
By: Alpha Speckhard, Deputy

FROM THE OFFICE OF  
BRIGGS & BRIGGS  
ATTORNEYS  
ASHLAND, ORE.  
PIONEER BLDG.  
112 1/2  
George M. Daly  
423 E. Pioneer St.  
Astoria, Ore.

1951 Joy-Daly-George. no.

STATE OF..... ss.  
County of.....

BE IT REMEMBERED, That on this..... day of..... A. D., 19.....  
before me, the undersigned, a.....  
in and for said County and State, personally appeared the within named.....

..... who..... known  
to me to be the identical individual..... described in and who executed the within instrument  
and acknowledged to me that..... executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and of-  
ficial seal the day and year last above written.

.....  
Notary Public for Oregon.  
My Commission expires:.....

# Improvement Summary

JACKSON County  
 For Assessment Year 2022

**Account ID** 10085670  
**Map** 391E15-AC-00900 **Situs** 897 HILLVIEW DR ASHLAND OR 97520  
**Mailing** HAMILTON CHARLES D ET AL  
 PO BOX 1313  
 TALENT OR 97540

Bldg	Code Area	Stat Class	Year Built	Comp %	Description	Sqft
1	0501	131	1947	100	131 - One story	1,228

Rooms: 2 - BD, 1 - FB, 1 - FP

### Floors

Description	Class	Comp %	OR %	Sqft
First Floor	3	100		1228
Garage	3	100		377

### Improvement Inventory

Description	Qty/Size	Description	Qty/Size
COMP SHGL	1228	ROLL ROOFING	377
DISHWASHER	1	SINGLE FP	1
HOOD/FAN	1	TOILET	1
LAVATORY	1	TUB/SHOWER	1
WALL UNIT	1228		

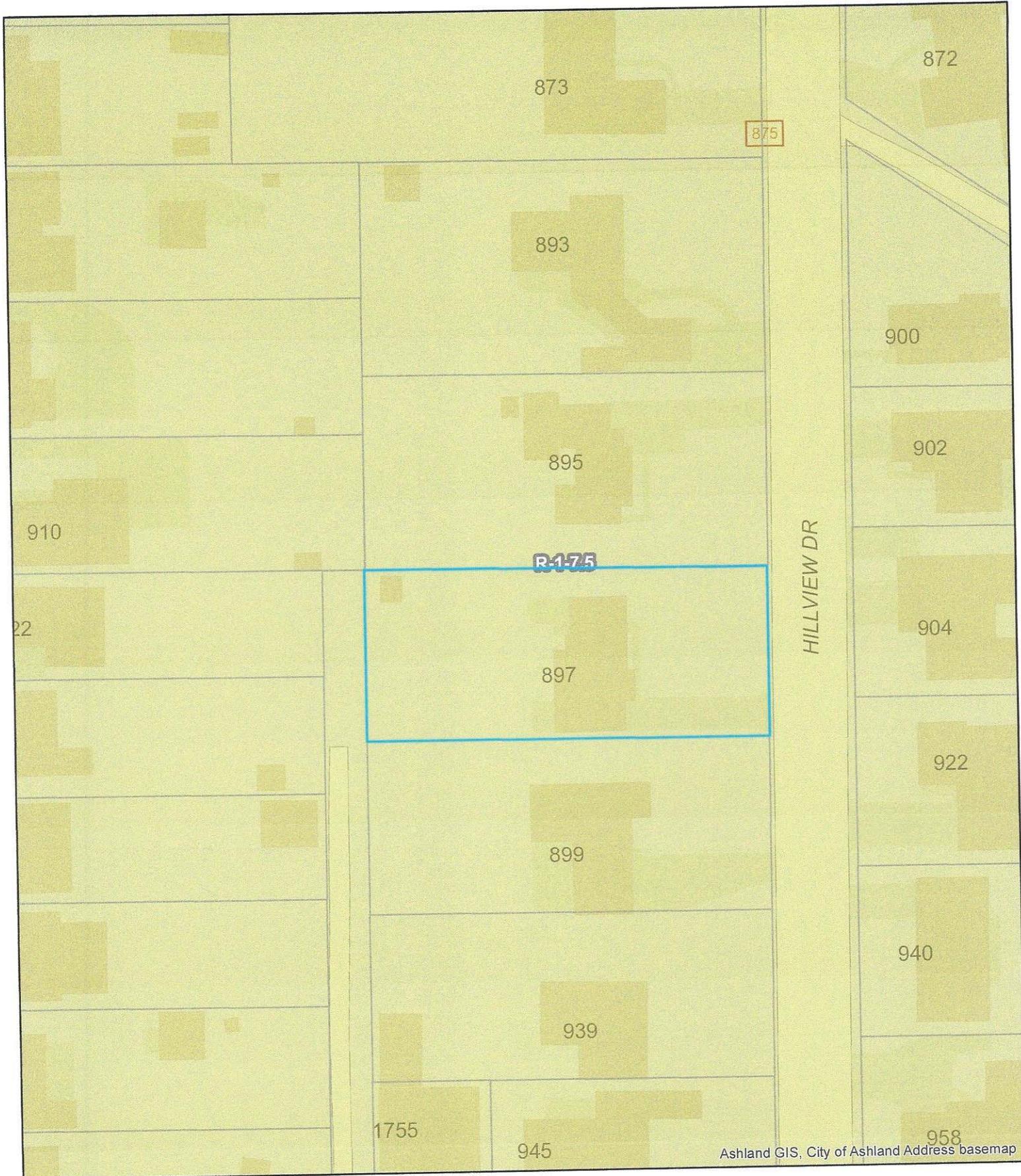
### Accessories

Description	Size	Qty
OTHER-RESIDENTIAL	96	
GP SHED	930	1
CONCRETE	154	1
PORCH-CONC-ROLL COVER	248	1
DECK-RW/TREX-NO COVER		

**Total RMV** \$69,960

# EXHIBIT "B"





Ashland GIS, City of Ashland Address basemap



# Zoning Map

# City of Ashland



1 inch = 80 feet  
Date Printed: 1/27/2022

# EXHIBIT "C"

## CANOPY LLC

*The Care of Trees*  
canopyarborcare.com  
P.O. Box 3511  
Ashland, OR 97520  
(541) 631-8000  
CCB 199334



April 12, 2022

City of Ashland Planning  
51 Winburn Way  
Ashland, OR 97520

RE: Tree protection plan for 897 Hillview

The following are guidelines recommended for the protection of the trees at 897 during any construction or other planned site changes. These guidelines are to be used in concert with the prepared tree inventory and site plan which designates the approximate location of tree protection zones.

**Tree Protection Zone (TPZ):** It is recommended that a tree protection zone be established around the root zone of these trees before any construction, excavation, land clearing, or grading begins. This zone should be established with temporary 6' tall fencing and remain in place through project completion. This protection zone should be established *at least* at the furthest extent of the dripline of these trees. Where applicable, such as with closely growing groups of trees, this protection zone can be modified to encompass the entire group as opposed to fencing each individual tree.

**Soil Compaction:** To avoid soil compaction, heavy materials should not be stored, vehicles maneuvered or parked, grade changed, or paved surfaces constructed within the TPZ. If for construction ease, it is necessary for vehicles or machinery to access the area, a layer of mulch (6"-12" deep) should be applied for vehicles to drive on. This mulch layer should be reduced to a depth of 3"-4" upon project completion.

**Tree Care:** If machinery needs to operate within the TPZ, steps should be taken to protect the tree trunk from injury. If injury should occur to any tree during construction, it should be inspected by an arborist or landscape professional for evaluation and treatment recommendations. Tree pruning required during construction should be performed by a qualified arborist and not by construction personnel.

**Root Protection:** If excavation is necessary at or near the tree protection area, avoid cutting roots over 1" diameter where possible. If roots are severed, it is recommended that they be cut "cleanly" with a saw or bypass pruners at a 90 degree angle (as opposed to being left "torn" by

machinery). Pruned roots should not be left exposed for extended periods of time. Cover exposed roots with moist soil after pruning. If pruning of roots over 2" diameter are encountered near the TPZ, consultation with an arborist is advised. If excavation or trenching needs to occur in the protection area, it is recommended that you contact an arborist for additional evaluation and options.

**Water:** If construction is occurring during the driest months of June thru September, it is recommended that the trees receive a deep watering throughout their root zone 3-4x per month. Water should permeate to a depth of 30". A layer of mulch can be of great benefit before, during, and after construction. It is suggested that a 3"-4" layer of mulch be added to the root zone of each tree.

Feel free to get in touch if there are any questions.

Christopher John  
Canopy LLC  
ISA Board Certified Master Arborist #WE-9504B

Tree inventory			Date: April 12, 2022		
897 Hillview Drive, Ashland					
Tree #	Species		DBH (inches)	Health	Notes/Recommendations
1	Spruce	<i>Picea spp</i>	16.5	Poor	Remove. Has been topped. Higher fire danger.
2	Douglas fir	<i>Pseudotsuga menziesii</i>	29	Good	Protect. Prune to remove lower deadwood.
3	Magnolia	<i>Magnolia grandiflora</i>	12	Good	Protect
4	Ponderosa pine	<i>Pinus ponderosa</i>	31	Good	Remove. Dripline and critical root zone within building footprint.
5	Pine	<i>Pinus spp</i>	34	Moderate	Protect. Prune to raise dripline.
6	Red maple	<i>Acer rubra</i>	6.5	Poor	Remove. Within building footprint.
7	Birch	<i>Betula pendula</i>	9	Moderate	Remove. Within building footprint.
8	Plum	<i>Prunus cerasifera</i>	11	Poor	Remove. Poor health and structure.
9	Plum	<i>Prunus cerasifera</i>	9	Moderate	Remove. Within building footprint.
10	Birch	<i>Betula pendula</i>	5.5	Moderate	Remove. Within building footprint.
11	Hawthorne	<i>Crataegus spp</i>	6	Good	Remove.
12	Incense cedar	<i>Calocedrus decurrens</i>	8	Good	Remove. Proximity to existing home/fire fuels.
13	Walnut	<i>Juglans nigra</i>	20	Good	Protect. Neighbor's tree.
14	Apple	<i>Malus spp</i>	8	Moderated	Remove. Within building footprint.
15	Willow	<i>Salix spp</i>	60	Poor	Remove. Within building footprint. Poor health.
16	Mountain ash	<i>Sorbus aucuparia</i>	9	Good	Remove. Within building footprint.
17	Birch	<i>Betula pendula</i>	7.5	Dead	Remove
18	Aspen	<i>Populus tremuloides</i>	14	Good	Protect
19	Italian cypress	<i>Cupressus sempervirens</i>	6.5	Good	Remove. Fire hazard.
20	Aspen	<i>Populus tremuloides</i>	12.5/12.5/12.5	Good	Protect
21	Aspen	<i>Populus tremuloides</i>	15	Good	Protect
22	Italian cypress	<i>Cupressus sempervirens</i>	6.5	Good	Remove. Fire hazard.
23	Italian cypress	<i>Cupressus sempervirens</i>	6.5	Good	Remove. Fire hazard.
24	Italian cypress	<i>Cupressus sempervirens</i>	6.5	Good	Remove. Fire hazard.
25	Aspen	<i>Populus tremuloides</i>	8	Good	Protect
26	Aspen	<i>Populus tremuloides</i>	8	Good	Protect
27	Aspen	<i>Populus tremuloides</i>	8	Good	Protect
28	Aspen	<i>Populus tremuloides</i>	8	Good	Protect
29	Incense cedar	<i>Calocedrus decurrens</i>	11	Good	Remove. Within building footprint.
30	Aspen	<i>Populus tremuloides</i>	12	Good	Remove. Within building footprint.
31	Aspen	<i>Populus tremuloides</i>	15	Good	Remove. Within building footprint.
32	Ponderosa pine	<i>Pinus ponderosa</i>	8	Good	Remove. Within building footprint.
33	Walnut	<i>Juglans nigra</i>	12	Dead	Remove
34	Aspen	<i>Populus tremuloides</i>	6	Good	Protect
35	Aspen	<i>Populus tremuloides</i>	6	Good	Protect
36	Aspen	<i>Populus tremuloides</i>	6	Good	Protect
37	Aspen	<i>Populus tremuloides</i>	6	Good	Protect
38	Spruce	<i>Picea spp</i>	16.5	Poor	Remove. Poor health. Fire fuels.
39	Aspen	<i>Populus tremuloides</i>	6	Moderate	Remove

# EXHIBIT "D"

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*The comments of this pre-app are preliminary in nature and subject to change based upon the submittal of additional or different information. The Planning Commission or City Council are the final decision making authority of the City, and are not bound by the comments made by the Staff as part of this pre-application.*

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**ASHLAND PLANNING DIVISION  
PRE-APPLICATION CONFERENCE  
COMMENT SHEET** March 16, 2022

**SITE:** 897 Hillview  
**APPLICANT:** Zac Moody  
**REQUEST:** Land Partition

**PLANNING STAFF COMMENTS:**

*This pre-application conference is intended to highlight significant issues of concern to staff and bring them to the applicant's attention prior to their preparing a formal application submittal.*

**Summary:** Staff examined a version of this application in 2019 and identified three primary issues with the proposed land partition as submitted: concerns regarding minimum lot size, requirement for a flag lot, and potential variance for side yard setback. Following the 2019 pre-application there were many conversations about a proposal that would comply with the standards. This was predicated on a distinction between a flag drive and a flag lot. The preliminary plat submitted with this pre-application appears to reflect those changes and can be approved without variances so long as the garage is removed.

**From:** Aaron Anderson <[aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)>  
**Sent:** Tuesday, May 19, 2020 8:00:41 AM  
**To:** Cyndi Dion  
**Cc:** Shawn Kampmann  
**Subject:** RE: 897 Hillview MLP

Good Morning Cyndi,

I wanted to get back to you regarding the preliminary plat prepared by Polaris survey dated May 8 2020. I had an opportunity to discuss this with senior planning staff and have the following comments.

The plat as presented would require two variances for approval, one for rear yard setback, the other for minimum lot size as the front parcel is less than 7500 sq. ft.....

this boils down to a distinction between a *flag drive* and a *flag pole* (Definitions from AMC 18.6 below). In short because you are taking vehicle access off the alley there is no flag drive, because you are not proposing vehicular access down that part of the pole that is meant to provide pedestrian access as provided in AMC 18.5.3.060.H.3.

We propose that you modify your preliminary partition plat so that the front lot measures 74' wide x 102' deep (7548 sq. ft. and meets 10' rear yard setback). The rear parcel would then measure 82' x 88' with an 8' flag pole (8x102) for a lot size of 8032 sq. ft. A partition plat drawn as such would meet all the approval criteria and base zone standards and could be approved without any exceptions or variances.

Subsequent to this conversation a new plat was created that appears to be identical to the one submitted for this pre-app.

897 Hillview Dr.  
March, 16 2022/aa  
**Page 1**

Note from GIS: if this partition happens, we are going to have to reassign addresses along this street. There is no room here to add an additional number. I would likely have to renumber 895, 897 and 899.

AMC 18.5.3.060 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.

Definitions provide in AMC 18.6.1.030

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.

Flag Lot: A lot with two distinct parts.

1. The flag, which is the building site; and is located behind another lot.
2. The pole, which connects the flag to the street; provides the only street frontage for the lot with less than 40 feet of frontage on a street; and unless an alley provides access, includes a driveway providing access.

Additionally, a complete application will need to address proposed building envelope for the newly created parcel, and tree inventory / proposed tree protection plan for all trees in excess of six-inches DBH.

#### **Other Issues:**

**Scalable Plans:** The plans submitted for the pre-application conference are not to scale. Scalable plans are required for the application to be deemed complete.

**Tree Preservation/Protection/Removal:** All planning actions are required to include a tree preservation/protection plan in accordance with AMC 18.61; this is intended to ensure that trees are protected during all site disturbance (including demolition, construction, driveway/parking installation, staging of materials, etc. In addition, this proposal is in the hillside lands overlay and is subject to the tree preservation requirements for hillside lands in section 18.3.10.090.

**Wildfire Lands:** The parent parcel is located in the wildfire lands overlay. As a result, the application to divide the lot into two parcels requires a fire prevention and control plan to be submitted with the application. The approved plan is then required to be implemented prior to the issuance of a building permit for structures located on the lots created by the partition. See subsection 18.3.10.100.A for the fire prevention and control plan requirements.

**Local Improvement District:** The two proposed parcels will be required to sign in favor of a local improvement district for future improvements to Scenic Dr.

**Solar Setback:** The application will need to demonstrate that a home can be located on the new vacant lot and meet the solar setback requirement as required in section 18.4.8.040.

**Neighborhood Outreach:** Projects involving changes to established neighborhood patterns can be a concern for neighbors, and staff always recommends that applicants approach the affected neighbors, make them aware of the proposal, and try to address any concerns as early in the process as possible. Notices are sent to neighbors within a 200-foot radius of the property.

**Written Findings/Burden of Proof:** Applicants should be aware that written findings addressing the ordinance and all applicable criteria are required, and are heavily depended on when granting approval for a planning action. In addition, the required plans are explained in writing below. The burden of proof is on the applicant(s) to ensure that all applicable criteria are addressed in writing and that all required plans, written findings, and other materials are submitted even if those items were not discussed in specific, itemized detail during this initial pre-application conference.

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## OTHER DEPARTMENTS' COMMENTS

**BUILDING DEPT.:** Please contact the Building Division for any Building Code-related information at 541-488-5305.

**STREETS / PUBLIC WORKS/ENGINEERING DEPT.:** Public Works comments provided at the end of this document. Please contact Karl Johnson of the Engineering Division for any further information at 541-552-2415 or via e-mail to [karl.johnson@ashland.or.us](mailto:karl.johnson@ashland.or.us).

**FIRE DEPARTMENT:** Fire Department comments provided at the end of this document. Please contact Ralph Sartain from the Fire Department for any Fire Department-related information at 541-552-2229 or [ralph.sartain@ashland.or.us](mailto:ralph.sartain@ashland.or.us).

**CONSERVATION:** For more information on available water conservation programs, including any available appliance rebates or assistance with landscaping and irrigation system requirements, please contact Water Conservation Specialist Julie Smitherman of Conservation Division at 541-552-2062 or via e-mail to [julie.smitherman@ashland.or.us](mailto:julie.smitherman@ashland.or.us). For information on any financial or technical assistance available for the construction of Earth Advantage/Energy Star buildings, please contact Conservation Analyst/Inspector Dan Cunningham at 541-552-2063 or via e-mail to [dan.cunningham@ashland.or.us](mailto:dan.cunningham@ashland.or.us)

**WATER AND SEWER SERVICE:** *“If the project will require additional water services the applicant/owner will need to contact the City of Ashland Water Department for the availability, placement and costs associated with the installation of these services (meters). The fees for water service installations are separate charges paid to the water division and will typically run from less than \$500 into the thousands depending on size and number of services.”* Please Contact Steve Walker at 541-552-2326 or ([walkers@ashland.or.us](mailto:walkers@ashland.or.us)) with any questions regarding water utilities.

**STORM WATER DRAINAGE:** Please contact Karl Johnson of the Engineering Division for any further information at 541-552-2415 or via e-mail to [karl.johnson@ashland.or.us](mailto:karl.johnson@ashland.or.us).

**ELECTRIC SERVICE:** Please contact Dave Tygerson in the Electric Department for service and meter location requirements and fee information at 541-552-2389 or via e-mail to [tygersod@ashland.or.us](mailto:tygersod@ashland.or.us). Dave will arrange an on-site meeting, and develop a preliminary electrical service plan for the site. Please allow additional time to accommodate scheduling of this on-site meeting and preparing the preliminary plan. Submittals will not be deemed complete without a preliminary approved plan from the Electric Department.

## UNDERLYING ZONE PROVISIONS (18.2.5.030.A.)

**ZONING:** R-1-7.5, Single Family Residential with a 7,500 square foot minimum lot size. Minimum lot width is 65 feet. Lot depth 80-150 feet. Lot width shall not exceed lot depth.

**OVERLAYS:** *The property is located in the wildfire lands overlay*

**SETBACKS:** Eight feet for unenclosed porches, 15 feet for front yards, and 20 feet for front-facing garages. Six feet for side yards but ten feet for side yards abutting a public street. Ten feet per story and five feet per half-story for rear yards. In addition, the setbacks must comply with the solar access requirements.

**LOT COVERAGE:** A maximum of 45 percent of the lot may be covered with impervious surface. Please identify on site plan and in text all areas of landscaping, impervious surface, patio space, outdoor recreational space, etc.

.....  
**PROCEDURE:** Regulations provide for administrative (“Type I”) decisions on these applications, however there is the possibility for a public hearing if an appeal is requested.

**Application Requirements.** The application is required to include: 1) clear, legible, scalable drawings of the proposal (i.e. plan requirements), and 2) written findings addressing the applicable approval criteria in accordance with the Ashland Land Use Ordinance (ALUO), Chapter 18 of the Ashland Municipal Code.

The following sections include the requirements for plans and approval criteria which are applicable to the proposal as described in the pre-application submittals. When more than one planning approval is required for the proposal, multiple sections of the ALUO may apply. The burden of proof is on the applicant(s) to ensure that all applicable criteria are addressed in writing and that all required plans, written findings, and other materials are submitted even if those items were not discussed in specific, itemized detail during this initial pre-application conference. All submittals must also include:

1. **Application Form and Fee.** Applications for Type II review shall be made on forms provided by the Staff Advisor. One or more property owners of the property for which the planning action is requested, and their authorized agent, as applicable, must sign the application. The required application fee must accompany the application for it to be considered complete.
2. **Submittal Information.** The application shall include all of the following information.
  - a. The information requested on the application form.
  - b. Plans and exhibits required for the specific approvals sought.
  - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail.
  - d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable.
  - e. The required fee.

**1. PLAN & EXHIBIT REQUIREMENTS:** *Two (2) copies of the plans below on paper no larger than 11"x 17". Note: These copies may be used for the Planning Commission packets and for the notices mailed to neighbors - please submit clear, readable, reproducible copies.*

**Two (2) Copies of the preliminary plat as required in section 18.5.3.040.** The following information is required for a partition application submittal.

**A. General Submission Requirements.**

1. Partitions. Information required for a Type I review (see section 18.5.1.050), including but not limited to a written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards.

**B. Preliminary Plat Information.** In addition to the general information described in subsection A, above, and any information required pursuant to chapter 18.3.9 Performance Standards Option, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information, in quantities determined by Staff Advisor.

1. General information

- a. Name of subdivision (partitions are named by year and file number). This name shall not duplicate the name of another land division in the City or vicinity.
- b. Date, north arrow, and scale of drawing.
- c. Location of the development sufficient to define its location in the City, boundaries.
- d. Zoning of parcel to be divided, including any overlay zones.
- e. A title block specifying "minor or major partition" and including the partition number, City of Ashland, the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey.
- f. Identification of the drawing as a "preliminary plat".

2. Existing Conditions. Except where the Staff Advisor deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site.

- a. Streets. Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site.
- b. Easements. Width, location, and purpose of all existing easements of record on and abutting the site;
- c. Utilities. Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Topography and Natural Features. A topographic map showing contour intervals of five feet or less and the location of any physical constrained lands, pursuant to chapter 18.3.10, and any natural features, such as rock outcroppings, wetlands, streams, wooded areas, and isolated preservable trees.
- e. The Base Flood Elevation, Floodplain Corridor Elevation, and Floodplain Boundary, per the Ashland Floodplain Corridor Maps, as applicable.
- f. North arrow and scale.

3. Proposed Development. Except where the Staff Advisor deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development.

- a. Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions.
- b. Location, width, and purpose of all proposed easements;
- c. Approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and private tracts (e.g., private open space, common area, or street).
- d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use.
- e. Proposed public street improvements, pursuant to chapter 18.4.6.
- f. Preliminary design for extending City water and sewer service to each lot, pursuant to chapter 18.4.6.

- g. Proposed method of storm water drainage and treatment, if required, pursuant to chapter 18.4.6.
- h. The approximate location and identity of other facilities, including the locations of electric, fire hydrants, streetlights, and utilities, as applicable.
- i. Evidence of compliance with applicable overlay zones.

**Two (2) Copies of a Tree Protection Plan as required chapter 18.4.5.030.** A tree protection plan shall be approved by the Staff Advisor concurrent with applications for Type I, Type II, and Type III planning actions. If tree removal is proposed, a Tree Removal Permit addressing the tree conservation, protection, and removal standards for Hillside Lands in section 18.3.1.090.D and the requirements of chapter 18.5.7 may be required.

- B. Tree Protection Plan Submission Requirements.** In order to obtain approval of a tree protection plan; an applicant shall submit a plan to the City, which clearly depicts all trees to be preserved and/or removed on the site. The plan must be drawn to scale and include the following.
- 1. Location, species, and diameter of each tree on site and within 15 feet of the site.
  - 2. Location of the drip line of each tree.
  - 3. An inventory of the health and hazard of each tree on site, and recommendations for treatment for each tree.
  - 4. Location of existing and proposed roads, water, sanitary and storm sewer, irrigation, and other utility lines/facilities and easements.
  - 5. Location of dry wells, drain lines and soakage trenches.
  - 6. Location of proposed and existing structures.
  - 7. Grade change or cut and fill during or after construction.
  - 8. Existing and proposed impervious surfaces.
  - 9. Identification of a contact person and/or arborist who will be responsible for implementing and maintaining the approved tree protection plan.
  - 10. Location and type of tree protection measures to be installed per section 18.4.5.030.C.

**2. RELEVANT CRITERIA AND STANDARDS:** *Applicants are advised that in addition to required plans, written findings addressing how the ordinance criteria are satisfied in narrative format are required. The applicable criteria are included below. The Ashland Land Use Ordinance in its entirety may be accessed on-line at: [http://www.ashland.or.us/SIB/files/AMC\\_Chpt\\_18\\_current.pdf](http://www.ashland.or.us/SIB/files/AMC_Chpt_18_current.pdf)*

**Two (2) copies of written findings addressing the preliminary partition plat criteria found in section 18.5.3.050. and .060**

- 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.
- 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**

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 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)



<b>FEES (non-refundable):</b>	Partition	\$ 1,125 + 72.5 per unit
	Variance (Type I)	\$ 1,125

**\*NOTE:** Applications are accepted on a first come-first served basis. All applications received are reviewed by staff, and must be found to be complete before being processed or scheduled at a Planning Commission meeting. Applications will not be accepted without a complete application form signed by the applicant(s) and property owner(s), all required materials and full payment. Applications are reviewed for completeness in accordance with ORS 227.178. The first fifteen COMPLETE applications submitted are processed at the next available Planning Commission meeting.

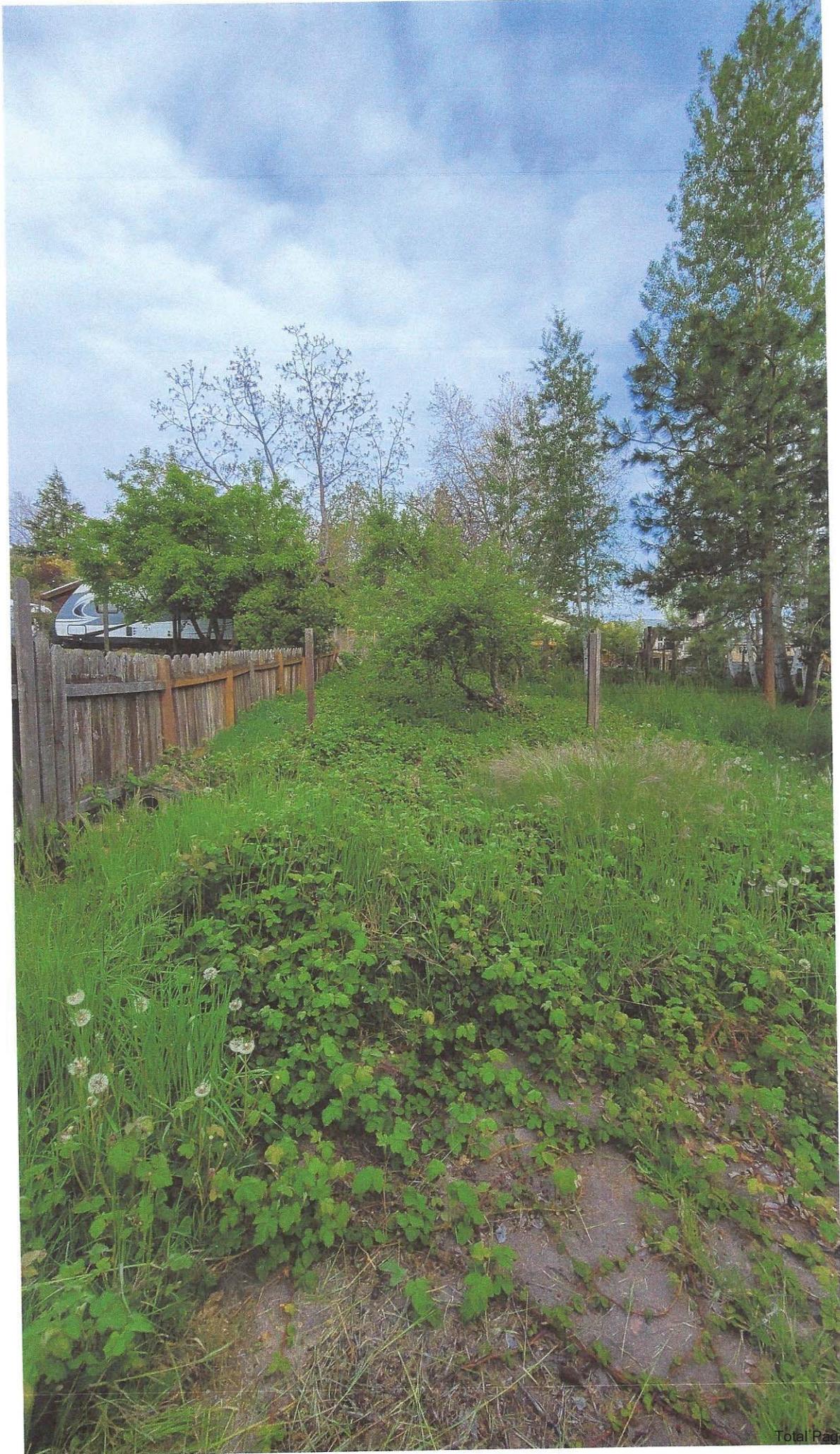
**For further information, please contact:**

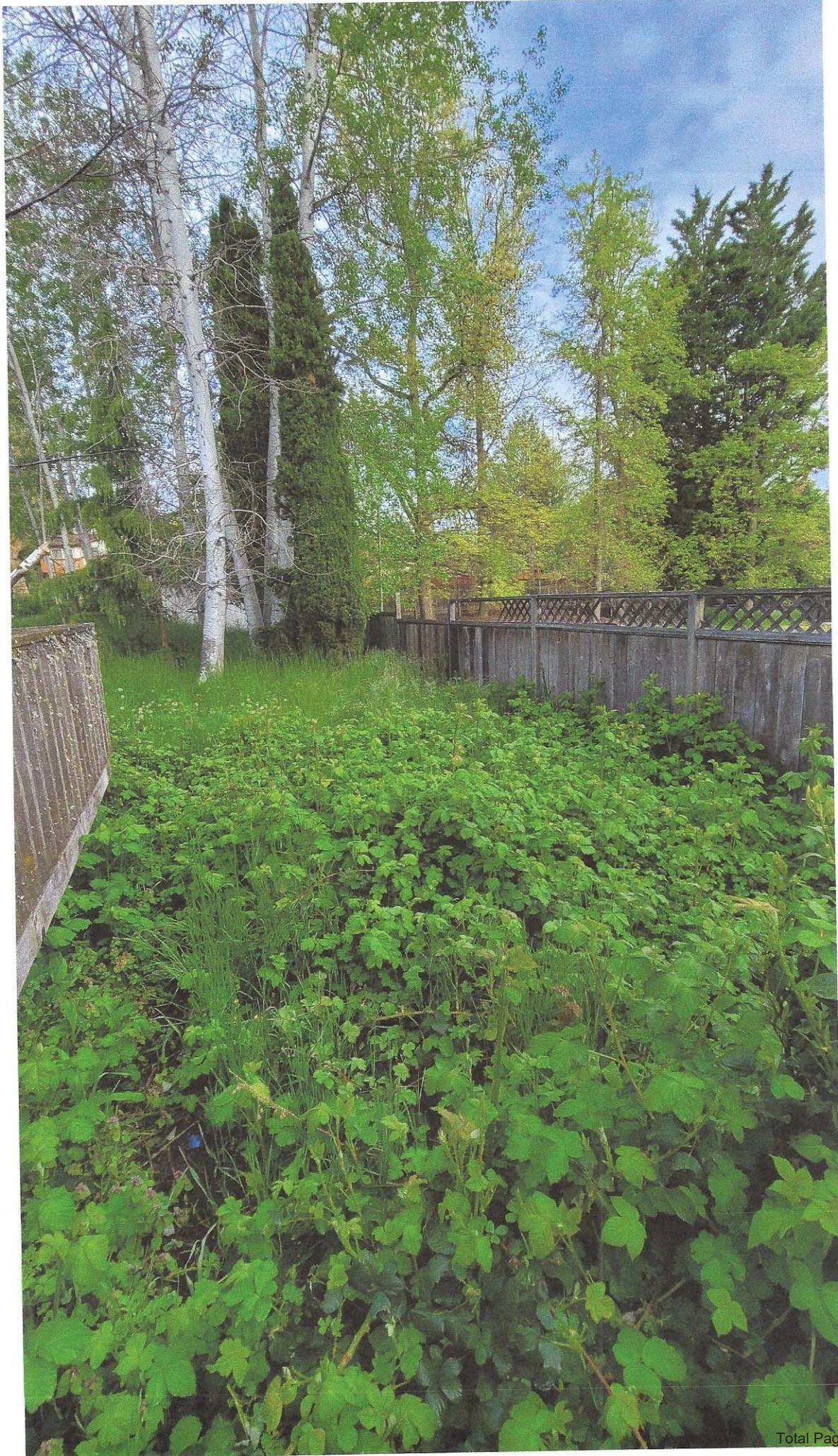
Aaron Anderson, Associate Planner  
City of Ashland, Department of Community Development  
Phone (541) 552-2052 or e-mail [aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)

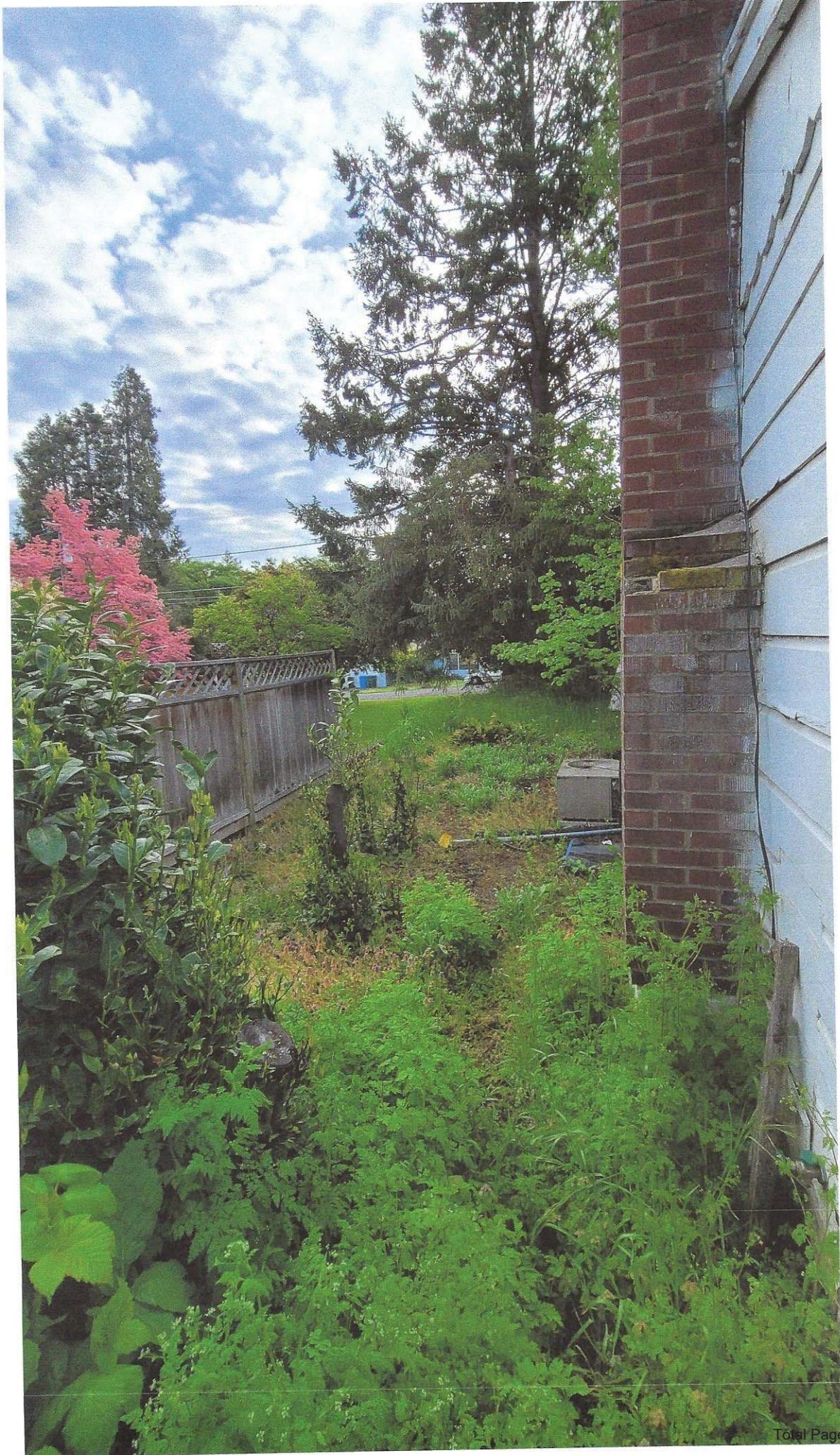
March 16, 2022  
Date

# EXHIBIT "E"







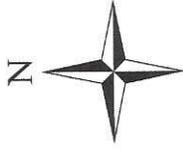




# EXHIBIT "F"

# Fire Prevention & Control Plan

897 Hillview Drive



**Legend**

-  Subject Property
-  Taxlots
-  Fire Hydrant



1 inch = 100 feet



This map is based on a digital database compiled by Jackson County GIS from a variety of sources, and may include field data collected using GPS. We cannot accept responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied.

5/13/2022



# Fire Prevention & Control Plan

897 Hillview Drive

## Inset Map



**Legend**

-  Subject Property
-  Taxlots
-  Proposed Driveway
-  Trees to Preserve
-  High Grass/Blackberry



1 inch = 32 feet



This map is based on a digital database compiled by Jackson County GIS from a variety of sources, and may include field data collected using GPS. We cannot accept responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied. [www.pgcl.com](http://www.pgcl.com)

5/13/2022

