

UNION PACIFIC RAILROAD RESTRICTIVE COVENANT AMENDMENT REQUEST

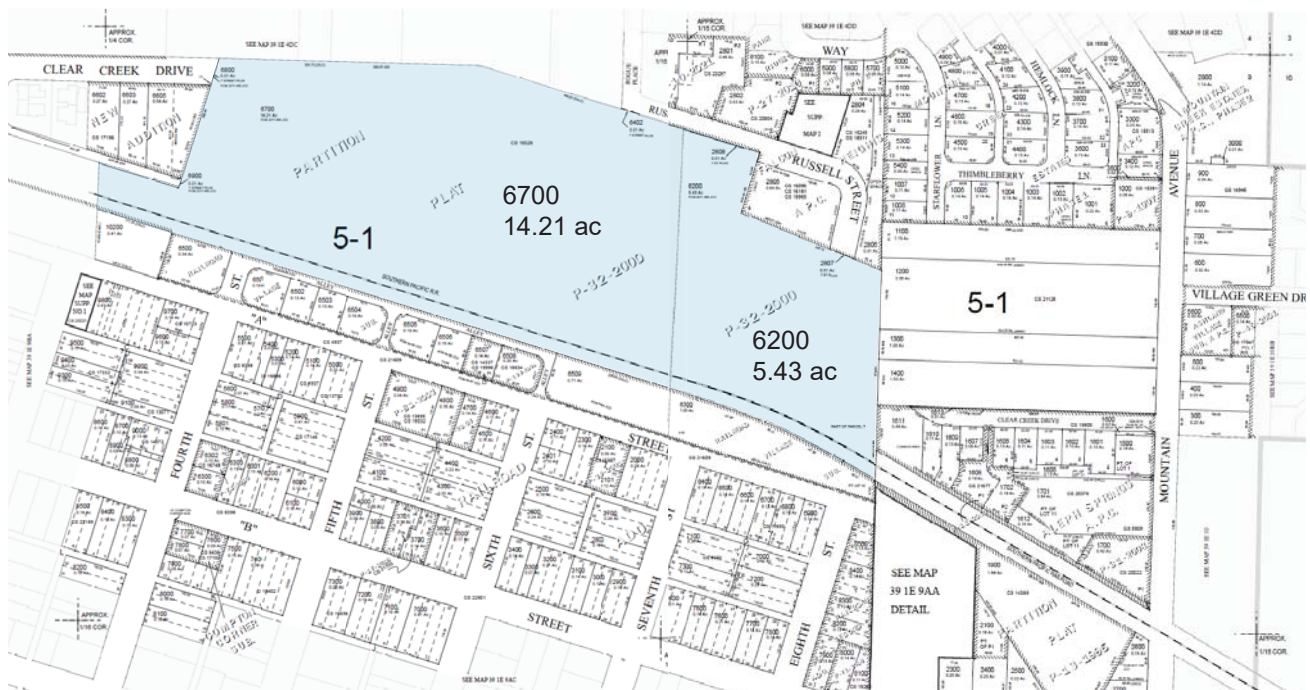
Union Pacific Railroad – Former Ashland Railyard

Ashland Planning Commission Meeting
May 9, 2023

Jacobs



Parcel 7 of Partition Plan No. P-32-2000



Proposed Covenant Modification (Condition 9 of PA 2016-00684)

Parcel 7 is restricted from further development or land division until Grantor obtains a determination from the Department of Environmental Quality that the property meets cleanup standards applicable to a single residential property. Thereafter, development of or any subdivided parcel cannot occur until Grantor obtains a determination from the Department of Environmental Quality that the property meets cleanup standards applicable to the use proposed for the subdivided parcel. Grantor will provide written document from the Department of Environmental Quality demonstrating compliance with these standards to the City.

Parcel 7 is restricted from further development or land division until Grantor obtains a determination from the Department of Environmental Quality that the property meets cleanup standards consistent with the current and likely future land use zoning for the property applicable to a single residential property. These land uses correspond with the Department of Environmental Quality Urban Residential and/or Occupational exposure scenarios. Thereafter, development of ~~or~~ any subdivided parcel cannot occur until Grantor obtains a determination from the Department of Environmental Quality that the property meets cleanup standards applicable to the use proposed for the subdivided parcel. This covenant will be removed from the property, and/or any subdivided parcel(s), upon the gGrantor will provide-providing the City written document~~ation~~ from the Department of Environmental Quality demonstrating compliance with these standards to the City.



Estimated Timeline – Next Steps

- **Spring 2023:** Planning Commission approval of covenant modification
- **Summer 2023:** Public town hall and City Council Study Session
- **Fall 2023:** DEQ finalizes Record of Decision
- **Winter 2023:** Complete remedial design remedial action work plan
- **Spring 2024:** Solicit bids from remediation contractors
- **Summer 2024:** Commence remediation activities
- **Fall 2024:** Completion of remediation activities





QUESTIONS

- More information:
 - <https://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=1146&SourceIdType=11>
- ODEQ contact:
 - margaret.oscilia@deq.oregon.gov

Risk-Based Concentrations for Shallow Soil

| Analyte | Single-Family Residential (mg/kg) | Urban Residential (mg/kg) | Occupational (mg/kg) | Basis |
|-------------------------|-----------------------------------|---------------------------|----------------------|--|
| Arsenic | 18 30 | 30 | 30 | Site-specific background (refer to Section 3.2.2) |
| Lead | 400 ^a | 400 ^a | 426 800 ^a | Oregon Department of Environmental Quality (DEQ). 2018. Risk Based Concentrations. May. |
| TPH as diesel | 1,100 1,830 | 2,200 | 14,000 | Oregon Department of Environmental Quality (DEQ). 2018. Risk Based Concentrations. May. |
| TPH as gasoline | 1.83 1,200 | 2,500 | 20,000 | Oregon Department of Environmental Quality (DEQ). 2018. Risk Based Concentrations. May. |
| TPH as oil ^b | 2,300 2,940 | 4,600 | 29,000 | Oregon Department of Environmental Quality (DEQ). 2019. Calculating RBCs for Total Petroleum Hydrocarbons. http://www.deq.state.or.us/Docs/cu/RBCsTPH11a.xlsm |
| PAHs as BaP-Equiv | 0.06 0.11 | 0.25 | 2.1 | Oregon Department of Environmental Quality (DEQ). 2018. Risk Based Concentrations. May. |

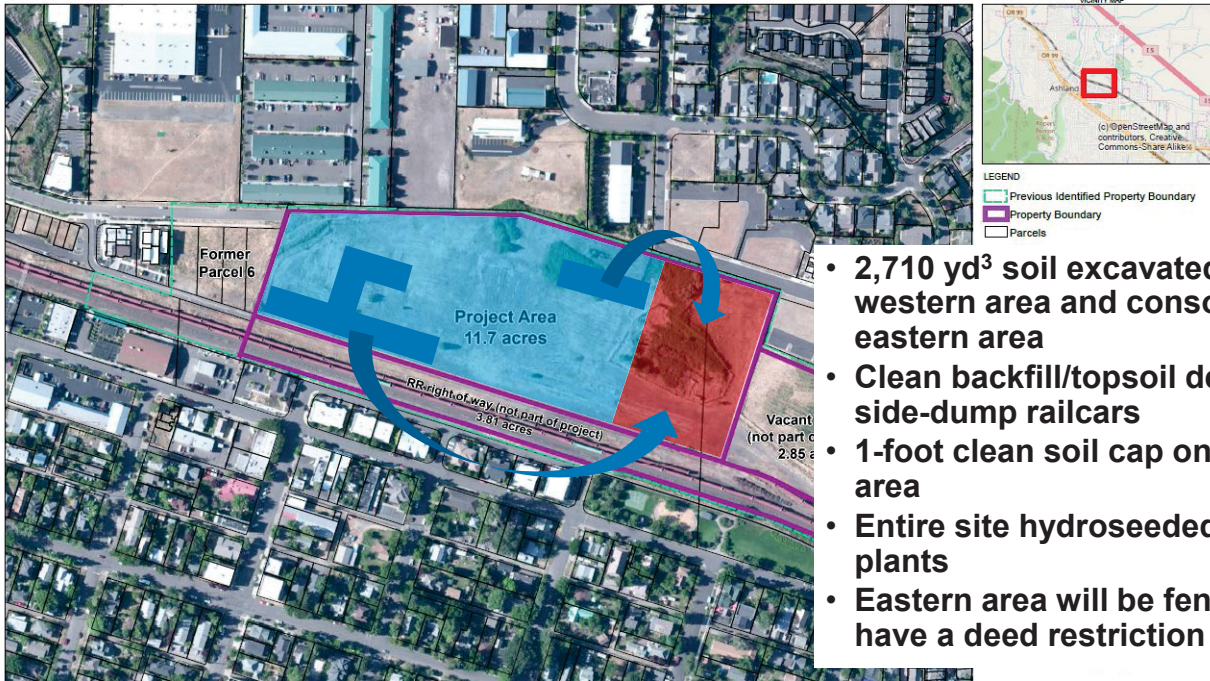
^a Concentrations of lead above 1,000 mg/kg should be addressed although the statistical calculations showed acceptable risk for some scenarios (refer to Section 3.2.2).

^b Calculated using DEQ (2019) and default exposure assumptions for Residential and Occupational scenarios, assuming a 0%/100% mixture of high carbon range (>C21-C34) aliphatic/aromatic compounds. For the Urban Residential scenario, the default exposure frequency was changed to 175 days per year (Jacobs 2019).

mg/kg = milligram(s) per kilogram
 PAHs as BaP-Equiv = polycyclic aromatic hydrocarbons, calculated as total benzo(a)pyrene equivalents
 TPH = total petroleum hydrocarbons



Cleanup Plan



- 2,710 yd³ soil excavated from western area and consolidated in eastern area
- Clean backfill/topsoil delivered by side-dump railcars
- 1-foot clean soil cap on eastern area
- Entire site hydroseeded with native plants
- Eastern area will be fenced and have a deed restriction



Eric Elerath
419 Clinton St.
Ashland, OR 97520
(310) 429-8093

May 8, 2023

Ashland Planning Commission / Community Development Department
City of Ashland
51 Winburn Way
Ashland, OR 97520
(541) 488-5305

PLANNING ACTION: PA-T1-2023-00041
SUBJECT PROPERTY: Tax Lot 404 Clinton St.
OWNER: Magnolia Heights LLC
SUBJECT: REQUEST FOR CONTINUANCE
REQUEST FOR INJUNCTION

Dear Planning Commission / Community Development Department:

My name is Eric Elerath, and I have lived at 419 Clinton St. in Ashland since 2017. I am a full-time resident, taxpayer, and homeowner, and I received written Notice by mail from the City of Ashland regarding the application for the subdivision noted above. I (hereafter, "Mr. Elerath") write to object to the municipal proceedings and the content of the application for the reasons which follow.

I request a continuance to the proceedings and an injunction against the Owner/Applicant and the owner/applicant's 'team' prohibiting further business activities within the City limits until they show evidence of compliance with Ashland municipal law and Oregon State law.

Respectfully,



Eric Elerath

Attachments:

City of Ashland Business License search results: 3 pages, Attachments 1 - 3
Riverwalk HOA CCRs, Recitals, p. 2: 1 pg., Attachment 4

I. REQUEST FOR CONTINUANCE

Mr. Elerath requests that this proceeding be continued for a period of 30 days to allow further review of the material presented by the Applicant parties and to assemble and prepare evidence in rebuttal. There is a significant amount of information involved and the Subject Property has been the subject of multiple planning actions in the past.

On information and belief, it appears that the Applicants will have 15 minutes to present their case, while affected respondent property owners will have only 3 minutes each in rebuttal. The owner and his 'team' have had ample time to prepare, but affected property owners have not had adequate time to prepare for rebuttal, and the 14 day time frame is insufficient and unfair.

ORS 197.797(6)a provides that:

(6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (b) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (c) of this subsection.

II. REQUEST FOR JUDICIAL / ADMINISTRATIVE NOTICE

To the extent allowed and required by these administrative proceedings, Mr. Elerath requests notice of prior subdivision and development applications, findings of fact and conditions of future approvals relating to the Subject Property, including:

- PA-T1-2020-00109 <http://records.ashland.or.us/WebLink/0/doc/130491/Page1.aspx>;
- PA-APPEAL-2020-00011 <http://records.ashland.or.us/weblink/0,0/doc/130490/Page1.aspx>

He also requests notice of the Riverwalk Homeowners' Association (HOA) governing documents, covenants, codes and restrictions (CCRs), which read in part:

Recitals

¶ 2 "Declarant desires to provide for the preservation and enhancement of the property values, amenities, and opportunities in the Riverwalk subdivision and desires to subject the Property ... each and all of which is for the benefit of the Property and each Owner of any Lot thereof." ¹

¹ See Attachment 4. Mr. Elerath does not represent the Riverwalk HOA, but includes the attachment in support of his rights to maintain property values, among others.

III. REQUEST FOR INJUNCTION

1.) Ashland Municipal Code Chapter 18.2.3 - Special Use Standards reads, in part: ²

18.2.3.150 Home Occupation

D. Permit Required – Application.

1. No person shall conduct a home occupation without **first** [bold added] obtaining a home occupation permit from the Planning Department and a valid business license as required under AMC title 6.

3. The home occupation permit is valid only to the person named on the permit and for the business to be conducted at the location stated on the permit. The permit is not transferable to another location or to another applicant.

2.) Ashland Municipal Code Chapter 6.04 - Business Licenses

6.04.030 Business License Required

It shall be unlawful for any persons for themselves, or as agent or employee of another, to undertake a business activity within the City of Ashland, Oregon, unless:

A. Such business activity has been duly licensed as herein provided; and the license is valid at the time of the business activity; or

B. The business activity is exempt pursuant to AMC 6.04.085 (Ord. 3087, amended, 10/01/2013)

Pursuant to a license search performed on May 8, 2023, at the website of Ashland's designated business license processor, ³ neither Magnolia Heights LLC, nor Magnolia Fine Homes, nor Mr. Gil Livni has a current business license or conditional use permit to operate within the City of Ashland. It appears that Magnolia Fine Homes was licensed for one year - 2015 - at a different location, 234 Tucker St. - but Magnolia Heights LLC appears never to have had a business license or conditional use permit to conduct business at 2974 Chapman Lane, a residential zone. Applicant appears to be "undertaking a business activity" in violation of law.⁴

Mr. Elerath requests an injunction prohibiting Mr. Livni, or any entity with which he is associated, from continuing to conduct business within the City until the entity produces evidence of compliance with the above municipal ordinances, including: the time period during which the Applicant purchased the Subject Property from the prior owners; the time Applicant submitted the application to the City for approval; the time during which the City considered Applicant's submittal documents; and the time during which the Applicant has been contracting with other entities, such as realtors, subcontractors, and consultants.

² <https://ashland.municipal.codes/LandUse/18.2.3.150>

³ <https://ashlandor.hdlgov.com/Search/>

⁴ See Attachments 1-3

Federal Law

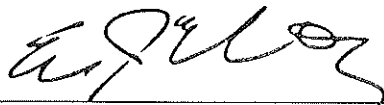
Mr. Elerath objects to the proceedings on the grounds that the review scheme under which the City's Community Development Department / Planning Commission process, review and approve land use applications - including the instant application - deprives him of rights to procedural and substantive due process. The argument is not developed here, but the objection is lodged.

Due Process:

1. Mr. Elerath has a right to due process. Mr. Elerath's property rights are affected. Those property rights include the right to its quiet use and enjoyment, the preservation of its character, and the maintenance of his property's value. These rights are not abstract or conceptual; they are affirmed in the CCRs and governing documents of the adjacent Riverwalk HOA,⁵ which was not only approved, but required by the City as a condition of the Riverwalk property's development. His property rights are well-established under federal case law, and he has standing to object to the process by which his property rights are affected, including their potential devaluation.

2. The process appears to lack the required elements of a valid administrative proceeding. In *Thunder Basin Coal Co. v. Reich*, 510 U.S. 200 (1994) ("*Thunder Basin*") the U.S. Supreme Court affirmed certain principles related to administrative proceedings. It also established criteria for concurrent jurisdiction under federal law, recently affirmed and upheld in *Axon Enterprise, Inc. v. Federal Trade Commission, et al.* No. 21-86 (U.S. Apr. 14, 2023) ("*Axon*"). It is beyond the scope of this objection to argue this point, but Mr. Elerath asserts that the process lacks the required elements established by *Thunder Basin* and affirmed in *Axon*.

Respectfully submitted



Eric J Elerath
Ashland, OR

May 8, 2023

Date

⁵ See Attachment 4



City of Ashland
Processing Center

Guest

Home Report a Problem

Business Search

Search By

Business Address

Value

2974 Chapman

Specify Start Date Range (Optional)

Start Date Range From

01/01/2000

To

05/08/2023



No records found that match your search criteria.

Contact Us



City of Ashland
Processing Center

Guest

Home Report a Problem

Business Search

Search By

Business Name

Value

Magnolia

Specify Start Date Range (Optional)

Start Date Range From

01/01/2016

To

05/08/2023



No records found that match your search criteria.

Contact Us



City of Ashland
Processing Center

Guest

Home Report a Problem

Business Search

Search By

Business Name

Value

Magnolia

Specify Start Date Range (Optional)

Start Date Range From

01/01/2015

To

01/01/2016

Search

Business Name

MAGNOLIA FINE HOMES
LLC

Business Type

CONTRACTOR -
GENERAL

Address

453 TUCKER ST, ASHLAND, OR
97520-1531

Total records found: 1

**Declaration of Covenants, Conditions, and Restrictions
for The Riverwalk Homeowners' Association**

THIS DECLARATION is made on the date last written below by Nomoco, LLC, an Oregon limited liability company (referred to below as "Declarant").

Recitals

Declarant is the owner of all the real Property described in Exhibit "A" attached hereto and made a part hereof, including Lots 1 through 62 depicted in the plat of The Riverwalk Subdivision, filed in the Plat Records of Jackson County, Oregon (the "Property"), and desires to create thereon a planned community to be known as The Riverwalk Subdivision, with permanent roadways and utility installations for the benefit of such community.

→ Declarant desires to provide for the preservation and enhancement of the property values, amenities, and opportunities in The Riverwalk Subdivision and desires to subject the Property to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner of any Lot thereof.

Declarant has deemed it desirable for the efficient preservation of the values and amenities in such community to create a non-profit corporation, to which should be delegated and assigned the powers of owning, maintaining, and administering the Common Property and facilities, and administering and enforcing the covenants, conditions and restrictions, and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety, and welfare of the residents.

Now, therefore, the Declarant declares that the Property shall be held, transferred, sold, conveyed, and occupied subject to the provisions of the Oregon Planned Community Act, ORS 94.550 et seq., and to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth in this Declaration.

**ARTICLE I
DEFINITIONS**

1.1 "Articles" shall mean the Articles of Incorporation for the non-profit corporation, The Riverwalk Homeowners' Association, Inc., as filed with the Oregon Corporation Commissioner

1.2 "Association" shall mean and refer to The Riverwalk Homeowners' Association, Inc., its successors, and assigns.

1.3 "Bylaws" shall mean and refer to the Bylaws of the Association.

1.4 "Common Property" shall mean and refer to that area of land outside of Lots 1 through 62 shown on the recorded plat of the Property, including any improvements thereon, which land will be conveyed to the Association.

1.5 "Declaration" shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration of Covenants, Conditions, and Restrictions for The Riverwalk Subdivision.

1.6 "Declarant" shall mean and refer to Nomoco, LLC, an Oregon limited liability company, its successors, or assigns, or any successor or assign to all remainder of his or her interest in the development of the Property.

1.7 "General Plan of Development" shall mean the Declarant's general plan of development of the Property as approved by appropriate governmental agencies and as set forth in this Declaration

Michael Sullivan

From: Aaron Anderson
Sent: Tuesday, May 09, 2023 8:39 AM
To: Michael Sullivan
Subject: FW: Comment on Planning Action PA-T2-2023-00041
Attachments: PA-T2-2023-00041 B Long Comment.docx

Follow Up Flag: Follow up
Flag Status: Flagged

From: Brian Long <blong873@yahoo.com>
Sent: Monday, May 08, 2023 8:06 PM
To: Aaron Anderson <aaron.anderson@ashland.or.us>
Subject: Comment on Planning Action PA-T2-2023-00041

[EXTERNAL SENDER]

Hi Mr Anderson,

Attached you'll find my comments regarding planning action PA-T2-2023-00041. Please let me know if you have trouble with the document.

Thanks for your consideration.

Brian Long

Ashland Planning Commission,

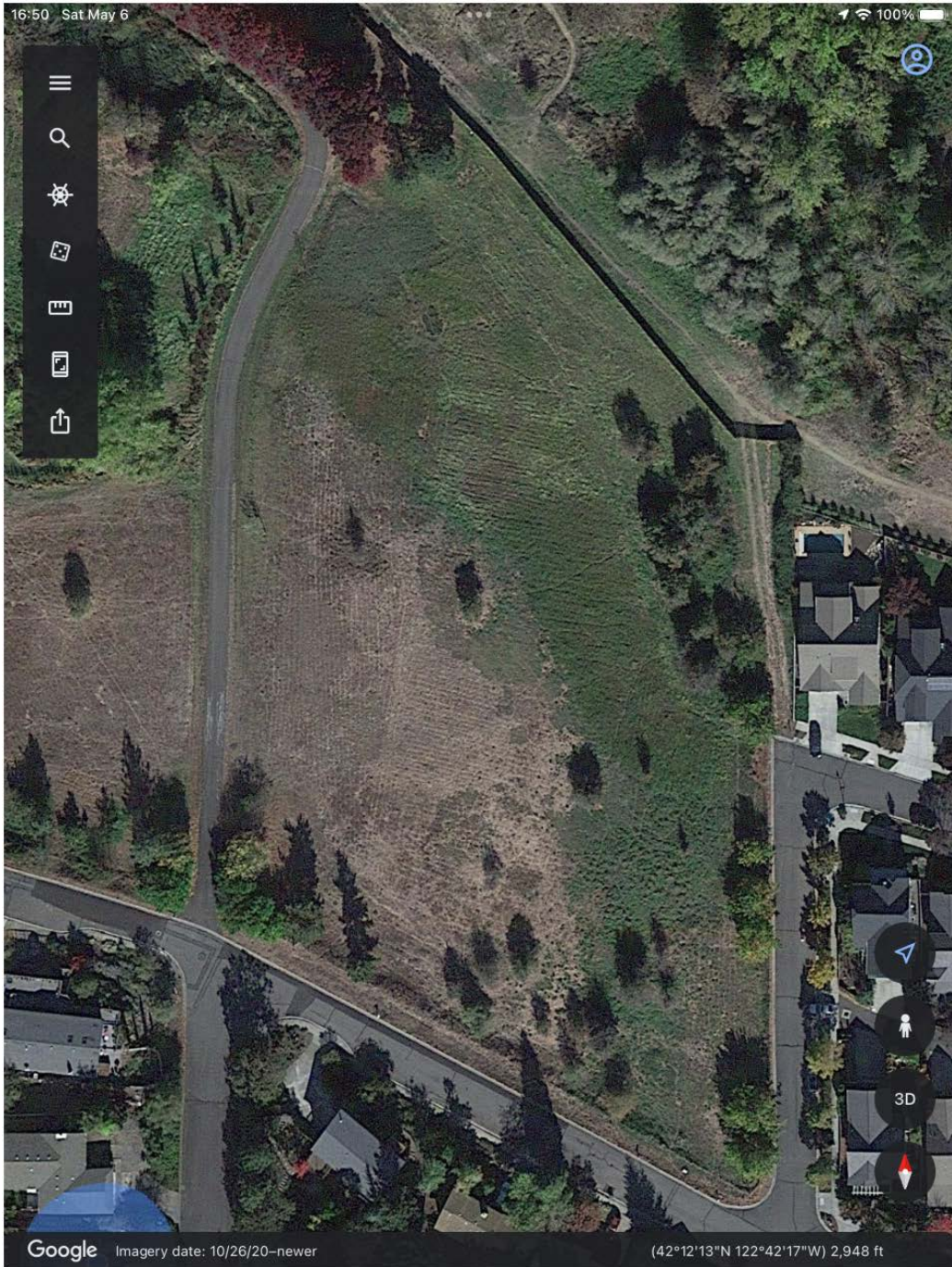
I live at 547 Phelps Street and I recently received a copy of the Notice of Application for tax lot 404 Clinton Street, planning action PA-T2-2023-00041 and I have a couple of comments concerning the project that I would like to have considered.

I downloaded and reviewed the outline plan for Magnolia Meadows subdivision and though at this time in the process it is not determined if it will be 11 single family units or 11 duplexes my first concern has to do with traffic. I know according to city regulations a traffic study is not needed if the anticipated peak hour vehicle trips doesn't exceed a threshold and in the case it is 50 (Pg7). I feel this regulation doesn't really take into account the potential for traffic issues with a development. There should be some consideration based on scale. For instance, in this case Phelps street is being extended and will be one of the primary access points to the development, but currently Phelps street only has 9 residences that use Phelps street for access. In this case the development could more than double the amount of traffic on Phelps street, which is a pretty significant increase in traffic and could have potential impacts.

Phelps street currently has no sidewalks and many residents park on the street and with the steep blind hill, there should be some consideration for people that walk the street and for those residents like myself when backing out of our driving. All the intersections in this area have no stop or yield signs and have recently been identified as near miss accident locations (May Ashland Sneak Preview). My concern is that Magnolia Meadows residents will use Phelps street and with the blind hill will come at a high rate of speed endangering walkers and residents that live up from the development on Phelps street.

I have to admit I would love to see the bottom of Phelps street designed more as an alley access to the neighborhood rather than a full neighborhood street to cut down on speed, but I realize that may not be practical. So, at a minimal I would like to see stop signs on Phelps on each side of Clinton, so those departing and entering the neighborhood would stop and then something to address the traffic traveling down Phelps off of Hersey. I know Ashland isn't real keen on speed bumps that actually work, but I'd suggest something like the topes in Mexico, that would be adequate. 😊

My second concern is the wetland delineation. The report summary states that based on vegetation, soils and hydrology data no wetland waters were identified and that there is essentially a significant deviation between the LWI and NWI (Figure 3 and COA Local Wetlands Inventory map). Looking at Figure 3: Wetland inventory map, I feel that this is closer to what the wetland should be delineated as, but it might even fall a little short. I understand wetlands were identified by vegetation, soil and hydrology, but when I looked at the Google Earth image of the area taken on 10/26/20 (see below), at the driest part of the year there is clearly green thriving vegetation which must indicate that there is water present year-round in that area. All the surrounding vegetation is bone dry and brown, so clearly the vegetation isn't green due to precipitation, but from groundwater. Given that wetlands play an important roll in our environment that support wildlife and help to control erosion and groundwater and with over a 50% decline of wetlands in the continental US, I would think protecting a wetland even though it may not meet the strictest definition should be a priority of any development.



Thank you for your consideration of my comments.

Brian Long

Brian Long
547 Phelps Street

Michael Sullivan

From: City of Ashland, Oregon <administration@ashland.or.us>
Sent: Monday, May 08, 2023 9:05 PM
To: Public Testimony; Dorinda Cottle; Dana Smith
Subject: Council Public Testimony Form Submitted

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

*** FORM FIELD DATA***

Full Name: **Nancy Martin**

Phone: **5412009167**

Email: **Nancyelizamartin@gmail.com**

Meeting Date : **05/09/2023**

Type of Testimony: **WRITTEN**

Written Testimony: **Dear Members of the Ashland City Council, Wouldn't it be wonderful if the land on the corner of Ann and Clinton could be turned into a park or protected as part of a nature conservancy for bird habitat, instead of replaced with more dense housing? I live a block away from the field, and I walk past it every day with my baby. I've had ample time to observe it through the seasons and my concerns about developing it include: ?The land is clearly wonderful bird habitat. I see more birds in that field than anywhere nearby. More than in North Mountain Park. There is a Great Heron who lives there. I've seen him multiple times and watched him hunt for mice. I would love to have the city protect his home. ?More dense housing by Bear Creek worries me because of fire danger. I think there are better places in Ashland to develop where there is less risk, like out by Tolman Creek road. Oak street is also being developed, and apartments are being built on Garfield St where the church used to be. Can we make sure to preserve some land as natural habitat in the midst of all this development? ?There are places where the land isn't wildlife habitat that would be preferable for building (such as the places listed above). ?Part of the reason my family and I chose to live here was because of this open land. Everyone in the neighborhood loves having it open and undeveloped. Last night a neighbor stopped my family to whisper to us to keep an eye out for the mother goose and her little babies, who have been wandering through that field for the last several evenings. We love the animals it provides a home for. ?It is prone to flooding. I walk on the trail next to it every day, except for when the trail is completely flooded and impassable, which has been over seven times this spring. I know we are having heavy rains this season, but with weather patterns continuing to become more severe, it seems this easily flooded area is not ideal for construction. I think it's better suited for the bathing habits of the Great Heron, the finches, the geese, and the robins. I hope you will consider preserving this land as a park or as a nature reserve. The city has done this in the past with the land next to Terrace St. I grew up there with a beautiful field that was at risk of being developed until neighbors got together to ask for it to be a park. The company graciously sold the land to the city and the city made it into a park, and we and the wildlife have enjoyed the natural landscape since. I hope the field on Clinton and Ann, with its beautiful flowering trees, hidden foxes, and abundant birds, will have the same lovely fate. Thank you for considering making it into a park or nature reserve! Sincerely, Nancy Martin 343 Patterson St Ashland**

*** USER INFORMATION ***

SubscriberID: **-1**

SubscriberUserName:

SubscriberEmail:

RemoteAddress: **66.241.70.76**

RemoteHost: **66.241.70.76**

RemoteUser:

May 9, 2023

To: Gil Livni
Magnolia Heights LLC

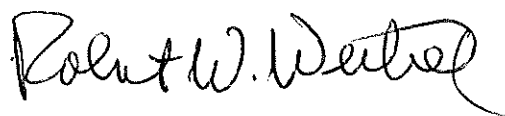
Re: Magnolia Meadows Subdivision

1. We would like to see a subdivision that blends in with and enhances the character of the neighborhoods surrounding the proposed building area. Hopefully, this would be a mix of housing sizes that would appeal to families as well as adults. We think the houses you built at Helman Springs would be a great fit for the new subdivision, and are in line with your proposal description of the houses to be built, i.e. "Modern Craftsman Bungalows."
2. With the expected increase in traffic, we hope you'll work to minimize that impact on the neighborhoods, with yield and stop signs and other means to slow traffic and to create multiple ways of leaving and entering the subdivision so that not just one or two streets end up with the bulk of the traffic flow.
3. We have questions about the report regarding what constitutes a wetland. We've observed that some of the areas proposed for building have seasonal ponds depending on the amount of rainfall that year. Not only will this be a problem for the homebuyer but also for plants and animals that are using those areas.
4. The proposed building site area has been home to multiple species of animals, including rabbits, coyotes, foxes, and varieties of birds, and provides feeding, nesting and resting places. Whenever possible we hope that you'll consider the impact of this subdivision on the wildlife and the plants that live in and outside the wetland areas. Please take advantage of the natural beauty of the property and incorporate this into your subdivision layout.
5. Riverwalk storm drains were purposely over-engineered by a factor of three to avoid flooding, which has proved successful. We hope that will also be considered.
6. Please use streetlights similar to those used in Riverwalk that provide safety but have low impact on the neighborhoods.
7. It would be greatly appreciated if you would bring neighbors into decision making whenever possible. The developers of Riverwalk were will-

ing to meet and work together with neighbors to provide input on critical issues. We hope you'll be open to that possibility. We believe that this open line of communication helped add to the ultimate success of the design and function of that project. It is now a highly desirable neighborhood.

Bob Weibel

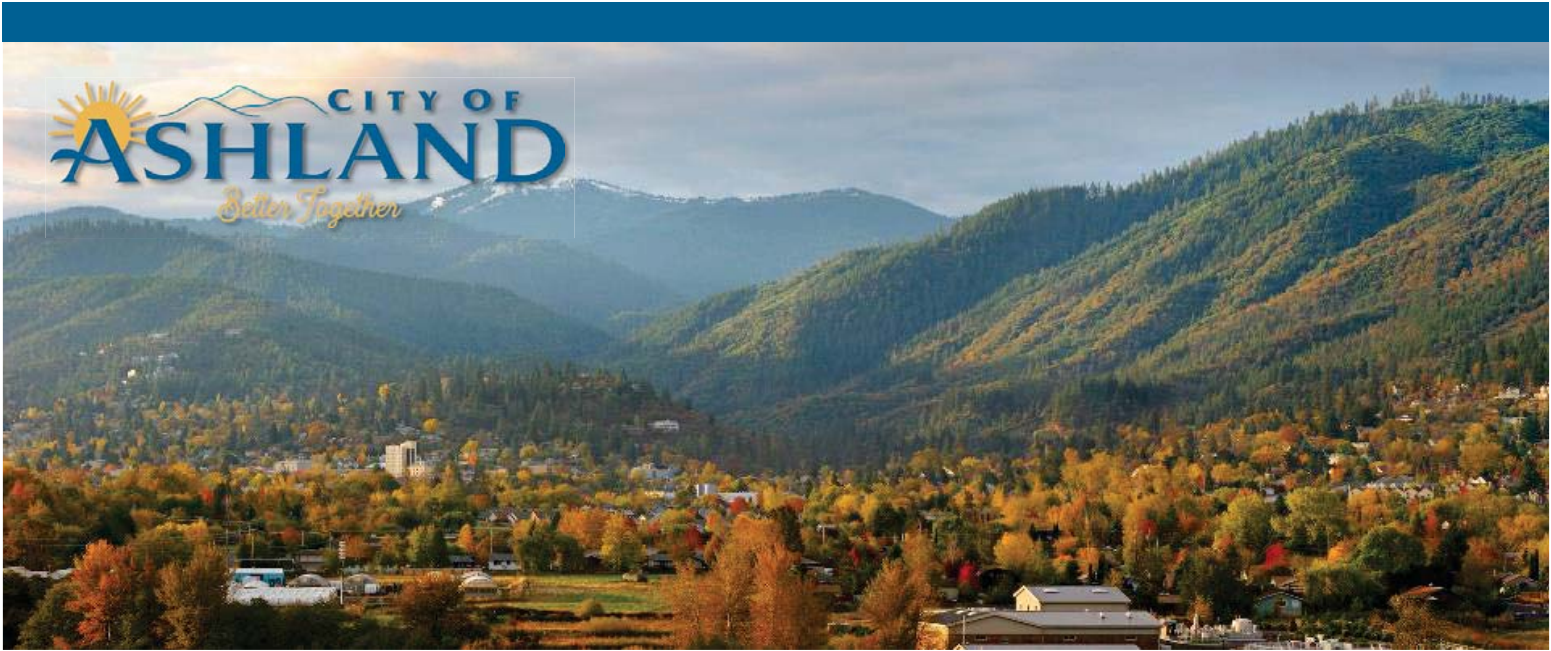
541-499-2798
bweibel1@mind.net

A handwritten signature in cursive script that reads "Robert W. Weibel". The letters are fluid and connected, with a prominent initial 'R'.

Diana Standing

A handwritten signature in cursive script that reads "Diana Standing". The signature is elegant and well-proportioned.

541-499-2414
dianas@mind.net



Magnolia Meadows

PLANNING COMMISSION

MAY 9, 2023





PA-T2-2023-00041

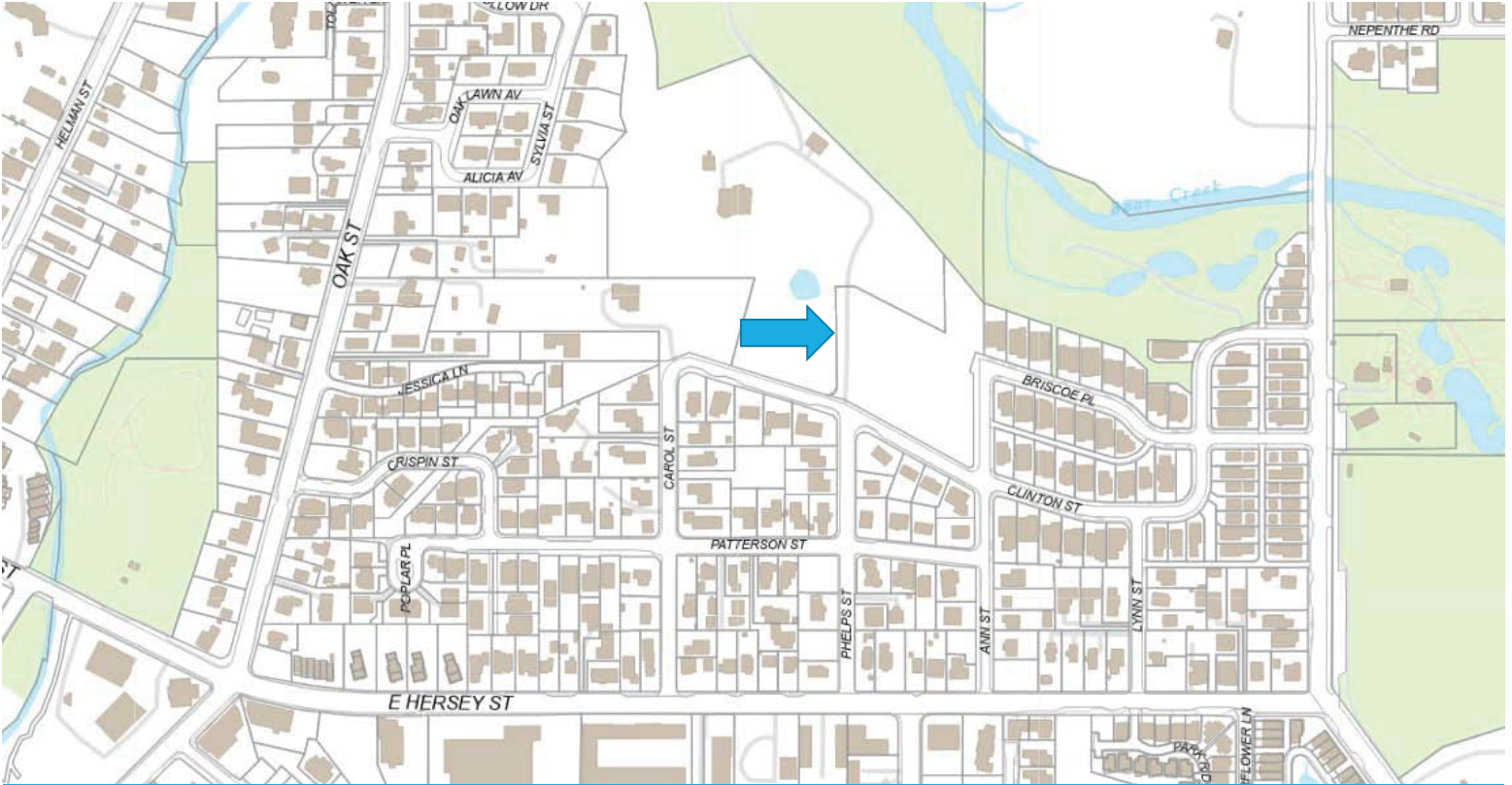
Request for outline plan approval for a 12 lot, 11 residential unit subdivision. Included in the application is a request for an exception to street standards, a tree removal permit for two significant trees and a minor map amendment to the adopted physical and environmental constraint map



PA-T2-2023-00041

We have received a request for a continuance.

The Planning Commission shall either grant the continuance to a 'date and time certain' or leave the record open pursuant to ORS 197.797(6)...



Site Description

The subject property is 2.66 acres in area and zoned R-1-5 (Single Family Residential) and within the Performance Standards Overlay (PSO). The property is currently vacant.

The property was created in its current configuration on Partition Plat No. P-30-2022 recorded as CS 23736 and approved as City of Ashland Planning Action PA-T1-2020-00109



Performance Subdivision

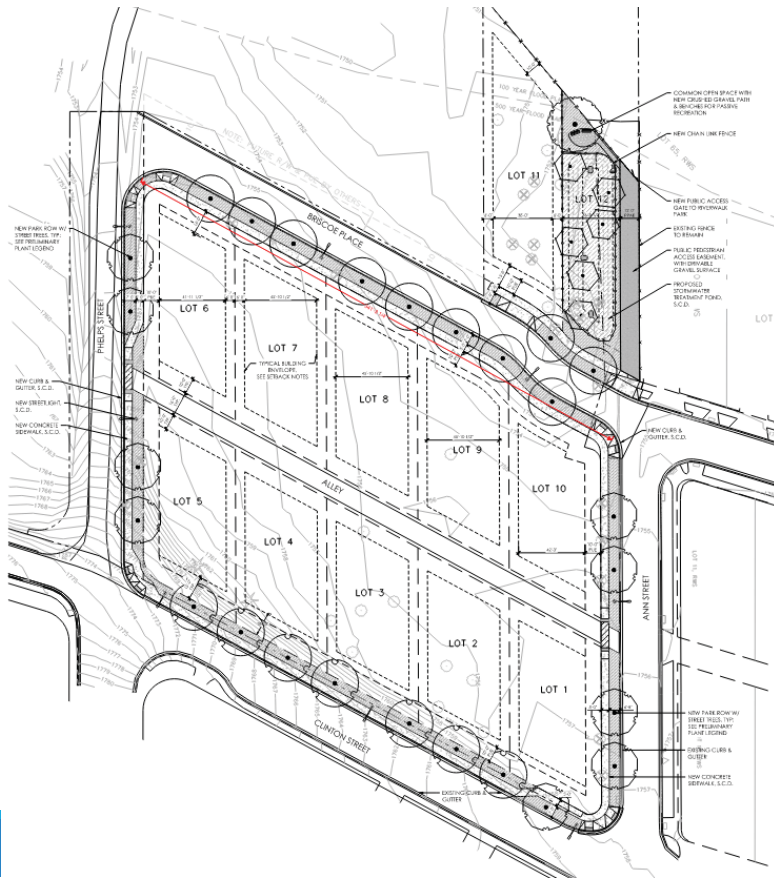
As proposed, the is to be subdivided to create 11 residential lots and a single common area lot. A new extension of both Phelps and Briscoe create a new block very similar in size to the western block of Riverwalk Subdivision to the east.

An Exception to the Street Design Standards is requested to not install a park row planting strip in the southwest corner of the subdivision due to an immediate change in grade.

Allowed density = 4.5/ac.

$$2.66 \times 4.5 = 11.97$$





Physical and Environmental Constraints

AMC 18.3.10.070 provides for “Minor amendments of the maps to correct mapping errors when the amendments are intended to more accurately reflect” the conditions on the ground.

During site visits there was no evidence of a drainage in the area.

The application states that the area does “not contain the physiographic conditions or significant natural vegetation or trees or soil characteristics to warrant calling it a stream or a protected floodplain.”

Staff recommends a minor amendment is appropriate to ‘more accurately reflect’ the conditions on the ground and formally amend the adopted Physical and Environmental map herein.



Water Resource Protection Zone

The Water Resource Protection Zone applicability at AMC 18.3.11.020 puts the burden on the property owner that the regulations of AMC 18.3.11 “are met or are not applicable” to a proposed development.

The application included a wetland delineation acknowledged by the Department of State Lands concluding that there is no regulated wetland on the subject property.





Date: 1/12/2023

Data Source: ESRI, 2020 Jackson County GIS, Dept., 2019; DOGAMI, 2009

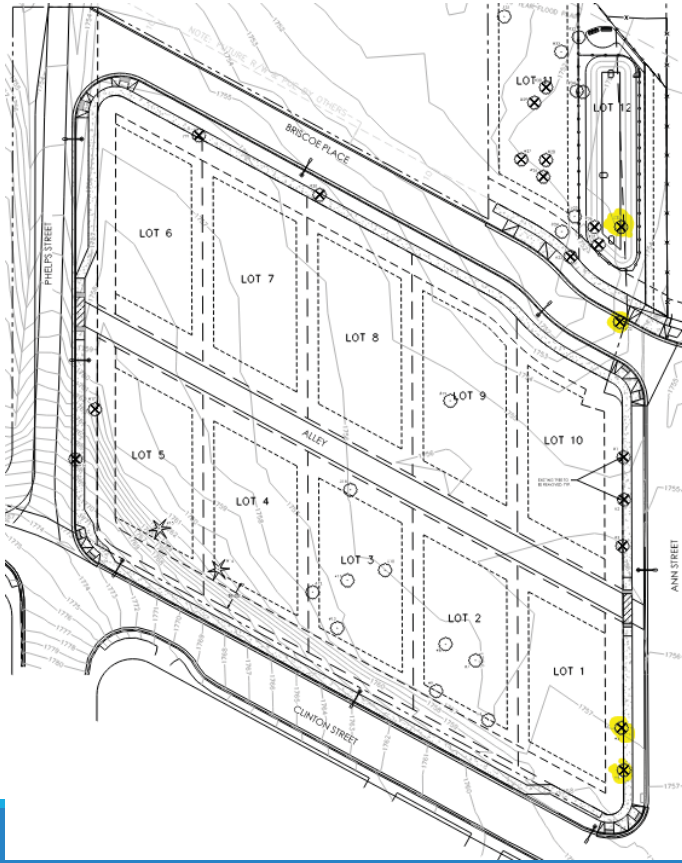
Figure 6. Wetland Delineation Map

Tree Removal

The four significant trees are all proposed to be removed due to be located either in the proposed right-of-way or in the storm water facility which will require significant grading.

The Ashland Tree Management Advisory Committee has reviewed the proposal and recommended approval.





| EXISTING TREE INVENTORY | | | |
|-------------------------|-----------------|--------------------|--------------------|
| TREE DESCRIPTION | | | |
| # | DBH (APPROX) | BOTANICAL NAME | COMMON NAME |
| 1 | 8" | MORUS SPP. | MULBERRY |
| 2 | 8" | MORUS SPP. | MULBERRY |
| 3 | 10" | MORUS SPP. | MULBERRY |
| 4 | 12" | MORUS SPP. | MULBERRY |
| 5 | 12" | MORUS SPP. | MULBERRY |
| 6 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 7 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 8 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 9 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 10 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 11 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 12 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 13 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 14 | 14" | PINUS MONTICOLA | WESTERN WHITE PINE |
| 15 | 14" - 2 LEADERS | PINUS MONTICOLA | WESTERN WHITE PINE |
| 16 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 17 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 18 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 19 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 20 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 21 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 22 | 12" | MORUS SPP. | MULBERRY |
| 23 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 24 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 25 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 26 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 27 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 28 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 29 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 30 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 31 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 32 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 33 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 34 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 35 | 16" | MORUS SPP. | MULBERRY |
| 36 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |
| 37 | MULTI | CRATAEGUS MONOGYNA | COMMON HAWTHORNE |

NOTES:
1. TREE LOCATIONS WERE TAKEN FROM PRELIMINARY PLAT SURVEY, DATED JANUARY 10, 2023.

Staff Recommendation

Staff recommends that the application be approved with the conditions detailed in the attached draft findings.



QUESTIONS?



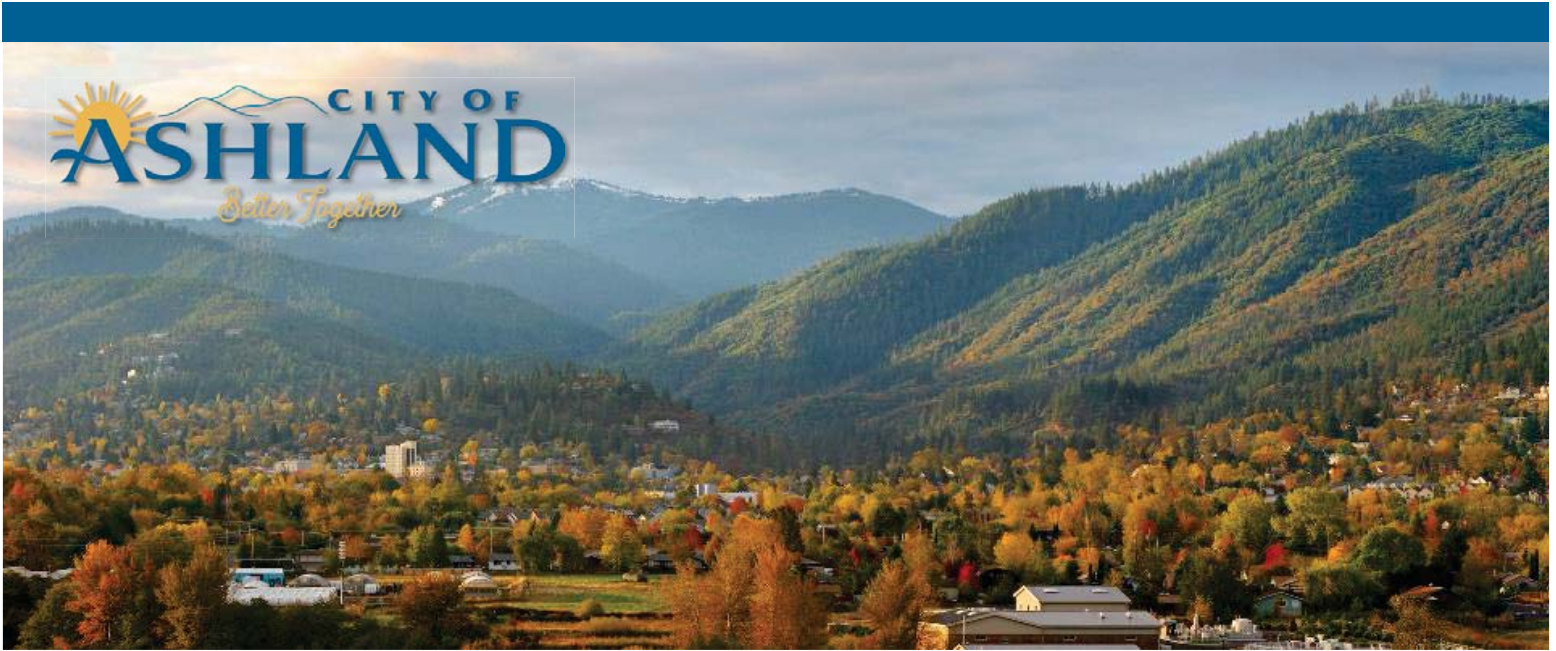
Timeline

| | |
|------------------------------|----------------|
| SUBMITTAL DATE: | March 6, 2023 |
| DEEMED COMPLETE DATE: | April 19, 2023 |
| HEARING NOTICE: | April 25, 2023 |
| PUBLIC HEARING: | May 9, 2023 |

We have received a request for a continuance. The Planning Commission shall either grant the continuance to a date and time certain or leave the record open pursuant to ORS 197.797(6)...

| | |
|--|-------------------------|
| New Evidence or Argument from Parties: | May 16, 2023 @ 4:30 pm |
| Parties May Respond to New Submittals: | May 23, 2023 @ 4:30 pm |
| Final Legal Argument from Applicant: | May 30, 2023 @ 4:30 pm |
| Next Regular PC Meeting Date: | June 13, 2023 @ 7:00 pm |
| Potential Deliberation Findings adoption | June 27, 2023 |

120-DAY DEADLINE: August 17, 2023



Density

18.3.9.050 Performance Standards for Residential Developments

A. Base Densities. The density of the development shall not exceed the density established by this section. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the final answer, after bonus point calculations, shall not apply towards the total density. Accessory residential units and **duplexes are not required to meet the density requirements** of this chapter in accordance with sections [18.2.3.040](#) and [18.2.3.110](#).



Density

Density(ies). A measurement of the number of dwelling units in relationship to a specified amount of land. A common standard is dwelling units per acre.

Dwelling. A structure conforming to the definition of a dwelling under applicable building codes and providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar. For the purposes of this title, the following types of dwelling units are defined as follows:

- Duplex. Two dwellings on one lot in any configuration including either in attached or detached structures. 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.



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ORS 197.797(6) (a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (b) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (c) of this subsection.



(b) If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(c) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.

(d) A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is requested or agreed to by the applicant.

(e) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

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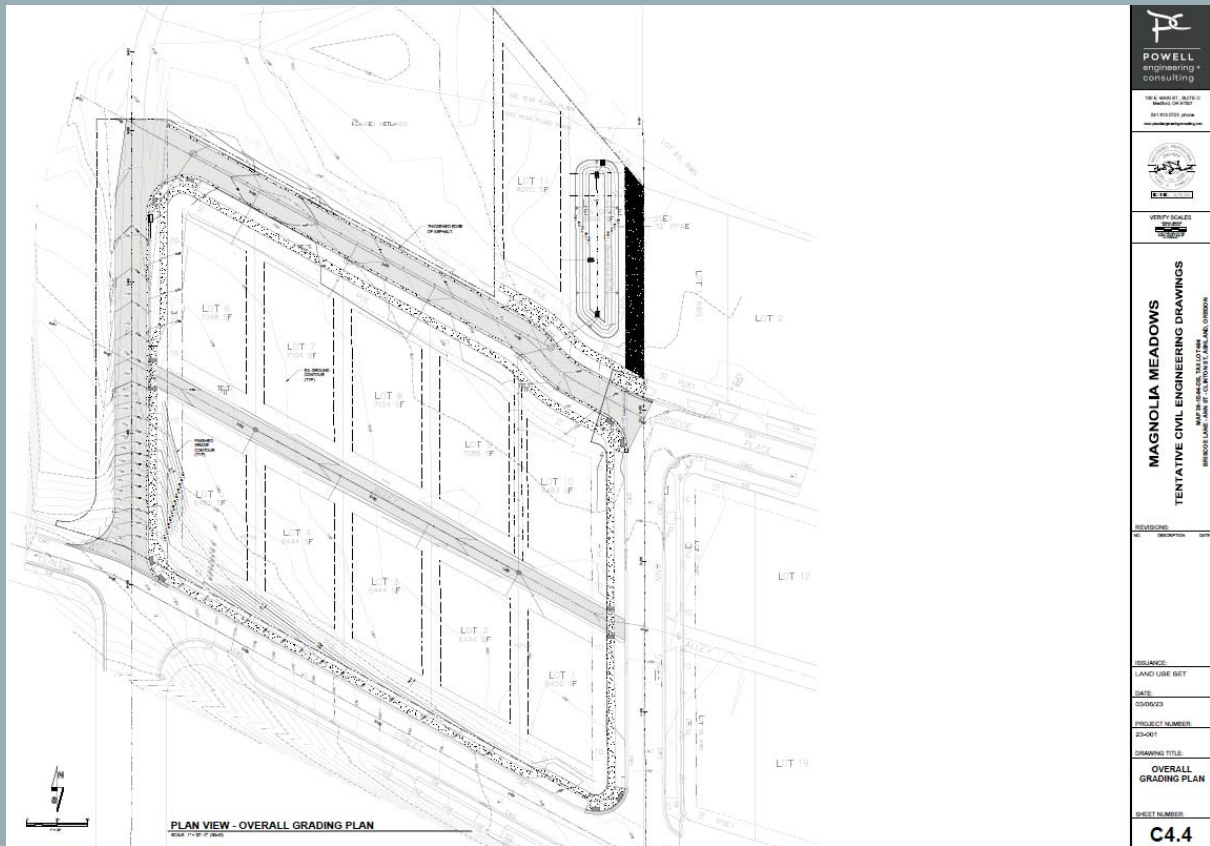
REQUEST FOR OUTLINE PLAN APPROVAL
12 LOT SUBDIVISION

Clinton Street

39 1E 04DB: Tax Lots: 404







CONCLUSION

- The proposal complies with the criteria for a Performance Standards Subdivision.
- All proposed lot area and dimensions exceed the minimum lot size in the R-1-5-P zone.
- Adequate vehicular, pedestrian and bicycle access is proposed through the improvements to the streets, the extension of streets, sidewalks, a pedestrian/bicycle pathway access to the public parkland north of the subject site.
- Ample open space with connection to the public park.

May 9, 2023

To: Gil Livni
Magnolia Heights LLC

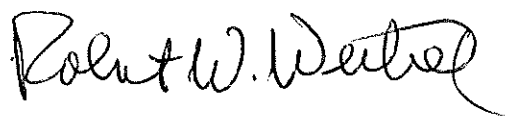
Re: Magnolia Meadows Subdivision

1. We would like to see a subdivision that blends in with and enhances the character of the neighborhoods surrounding the proposed building area. Hopefully, this would be a mix of housing sizes that would appeal to families as well as adults. We think the houses you built at Helman Springs would be a great fit for the new subdivision, and are in line with your proposal description of the houses to be built, i.e. "Modern Craftsman Bungalows."
2. With the expected increase in traffic, we hope you'll work to minimize that impact on the neighborhoods, with yield and stop signs and other means to slow traffic and to create multiple ways of leaving and entering the subdivision so that not just one or two streets end up with the bulk of the traffic flow.
3. We have questions about the report regarding what constitutes a wetland. We've observed that some of the areas proposed for building have seasonal ponds depending on the amount of rainfall that year. Not only will this be a problem for the homebuyer but also for plants and animals that are using those areas.
4. The proposed building site area has been home to multiple species of animals, including rabbits, coyotes, foxes, and varieties of birds, and provides feeding, nesting and resting places. Whenever possible we hope that you'll consider the impact of this subdivision on the wildlife and the plants that live in and outside the wetland areas. Please take advantage of the natural beauty of the property and incorporate this into your subdivision layout.
5. Riverwalk storm drains were purposely over-engineered by a factor of three to avoid flooding, which has proved successful. We hope that will also be considered.
6. Please use streetlights similar to those used in Riverwalk that provide safety but have low impact on the neighborhoods.
7. It would be greatly appreciated if you would bring neighbors into decision making whenever possible. The developers of Riverwalk were will-

ing to meet and work together with neighbors to provide input on critical issues. We hope you'll be open to that possibility. We believe that this open line of communication helped add to the ultimate success of the design and function of that project. It is now a highly desirable neighborhood.

Bob Weibel

541-499-2798
bweibel1@mind.net

A handwritten signature in cursive script that reads "Robert W. Weibel". The letters are fluid and connected, with a prominent initial 'R'.

Diana Standing

A handwritten signature in cursive script that reads "Diana Standing". The signature is elegant and flowing, with a large 'D' and 'S'.

541-499-2414
dianas@mind.net