

1072 Clear Creek Dr.
Ashland, Oregon 97520

August 31, 2023

Commissioner Lisa Verner
City of Ashland Planning Commission
20 East Main St.
Ashland, Oregon 97520

Re: Proposed UPRR Yard Remediation Alternatives

Dear Commissioner Verner,

I take issue with the assessment of the Oregon DEQ's proposals for the Union Pacific Railroad Rail Yard Site in Ashland as recently recommended. The alternative proposals all seem to prioritize cost savings over public health, and I am concerned about the potential impacts of leaving three acres of the site contaminated with toxic arsenic and volatile hydrocarbons.

I believe that Alternative #3, which calls for the removal of toxic topsoil via rail for offsite disposal, is closest to a responsible option. Alternative #3 should include offsite rail removal of tainted topsoil to at least ten feet. This would ensure that the health of Ashland residents is not put at risk, and it would also allow for the site to be developed in a way that is consistent with the city's environmental values and need for additional affordable resident housing.

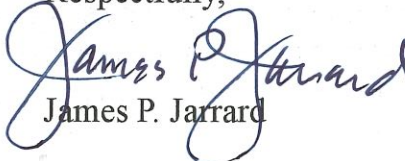
I am disappointed that the Oregon DEQ has not proposed a more comprehensive cleanup plan. I urge them to reconsider their proposals and to make the health of Ashland residents their top priority.

I am also concerned about the future of the Union Pacific Railroad Rail Yard Site. The city of Ashland has a history of approving light-manufacturing flex buildings on the site, but these buildings have often been vacant and have contributed little to the city's tax base. Please assess the vacant condition of many properties near the UPRR acreage.

I believe that the city should focus on developing the site in a way that creates jobs and enhances the existing local economy. This could include mixed-use development that includes housing, retail, entertainment, and office space. It is important to find a way to balance the need for economic development with the need to protect public health.

I hope that the city of Ashland will take the concerns of its residents seriously and will develop a plan for the Union Pacific Railroad Rail Yard Site that is both responsible and sustainable.

Respectfully,


James P. Jarrard

Enclosures



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Salem Office

4026 Fairview Industrial Drive SE

Salem, OR 97302

503-378-8240

FAX 503-378-4196

TTY 711

Aug. 01, 2023

Re: Community Open House
Proposed Cleanup of Ashland Rail Yard
Environmental Cleanup Site Information database (ESCI) ID No. 1146

Dear Ashland Community Member,

You are invited to an open house on Sept. 27, 2023, to hear about a new proposed cleanup plan for Union Pacific's Ashland Rail Yard property.

DEQ Ashland Rail Yard Cleanup Open House

5:30 p.m. Wednesday, Sept. 27, 2023

Ashland Library¹, Gresham Room downstairs

410 Siskiyou Blvd., Ashland, OR 97520

Cleanup officials with DEQ will present the proposed cleanup project and hear questions and concerns from the public. The cleanup plan covers portions of the 21-acre former rail yard property located along A Street in Ashland.

The rail yard was operated by the Southern Pacific Railroad Company for nearly 100 years as a locomotive fueling, maintenance, and railcar repair facility near downtown Ashland until 1986. Over the past 30 years, environmental investigations of the rail yard have shown that soil and groundwater in portions of the property are contaminated with several heavy metals and petroleum products and byproducts. The contamination is at levels that may pose a health risk to people working or living on the rail yard property. Union Pacific Railroad merged with Southern Pacific in 1996 and recently proposed a new cleanup plan for the rail yard that DEQ is prepared to approve.

The new cleanup plan will allow the rail yard to be safely developed for industrial, commercial or urban residential use. The site covered under this cleanup plan is a 11.7-acre area located on the central portion of the former rail yard property. The proposed cleanup plan includes excavation of contaminated soil from the western 8.7-acre area of the site, consolidation on the eastern three-acre area of the site and covering contaminated soil with a protective vegetated cap. For more information and a link to DEQ's Staff Report detailing the revised plan go to ordeq.org/AshlandRailYardInfo.

DEQ has extended the public comment period for the project into September 2023. Public comments are now due by 5 p.m. on Sep. 30, 2023. Comments should be sent by email to DEQ Project Manager Margaret Oscilia at margaret.oscilia@deq.oregon.gov, given by phone call to 503-726-6522, or sent by mail to Western Region DEQ, Attn: Margaret Oscilia, 4026 Fairview Industrial Drive SE, Salem, OR 97302.

DEQ is happy to answer questions anytime and will formally address all comments after the end of the comment period. DEQ will consider all comments and input before making a final decision.

Sincerely,

Margaret L Oscilia

Margaret L. Oscilia P.E, Project Manager
Western Region Cleanup Program
Oregon Department of Environmental Quality

¹ This meeting or event is not sponsored nor endorsed by the library.

RECOMMENDED REVISION OF THE REMEDIAL ACTION
Ashland Union Pacific Railroad Yard

- The paper discusses the evaluation of different alternatives for remedial action at a contaminated site in Ashland, Oregon.
- Alternative 1 is deemed not protective and will not be further evaluated.
- Alternative 2 is considered more protective and allows for unrestricted urban residential and occupational future use without any engineering or institutional controls.
- Alternative 3 is found to be about as protective as Alternative 4.
- The remedial action involves excavation of impacted soil to eliminate risks associated with urban residential exposure scenarios.
- The protectiveness of the shallow excavation in the eastern 3-acre area depends on engineering and institutional controls.
- The western 8.7-acre area does not require deed restrictions or other controls.
- The total volume of soil to be excavated in the western area is 2,710 cubic yards.
- The paper also mentions the time until remedial action objectives are achieved and the long-term reliability of treatment technologies as factors for evaluation.
- The Administrative Record for the site includes the Phase II Environmental Site Assessment conducted by Cascade Earth Sciences Ltd. in 1992.

Alternative 2 from the paper:

- Alternative 2 involves the excavation of soils in the remedial action target areas, specifically the western 8.7-acre area and the eastern 3-acre area.
- Excavation of impacted soil in the western 8.7-acre area would enable unrestricted urban residential and occupational future use without any engineering or institutional controls.
- The protectiveness of the shallow excavation in the eastern 3-acre area would depend on engineering and institutional controls to protect receptors against potential contact with the NAPL-contaminated deep soil.
- Direct receptor exposure to impacted surface soil would be prevented by the removal of shallow soil over the entire 11.7-acre site.
- A deed restriction would be required for the eastern 3-acre area as part of the institutional controls, while no deed restrictions or other controls would be necessary for the western 8.7-acre area.

Deed restriction on the eastern 3-acre area in Alternative 2:

- A deed restriction would be required for the eastern 3-acre area as part of the institutional controls in Alternative 2.
- The deed restriction would restrict the use of the eastern 3-acre area from activities that could potentially result in exposure to the underlying contaminated soil.
- The restriction would prevent single-family residential use without approval from the Department of Environmental Quality (DEQ).
- If the land in the eastern 3-acre area is sold, subdivided, or redeveloped for a different use in the future, additional assessment and approval from DEQ would be required before the intended land use could be changed.

Summary of Alternative 3:

- Alternative 3 involves the excavation and offsite disposal of shallow soil in the western 8.7-acre area and shallow soil in the eastern 3-acre area, along with the implementation of institutional controls.
- The excavation of soil in both areas aims to eliminate risks associated with urban residential exposure scenarios.
- In the western 8.7-acre area, the excavation and offsite disposal of shallow soil would be conducted to protect human health.
- In the eastern 3-acre area, the excavation and offsite disposal of shallow soil would also be carried out, but the protectiveness of this action would depend on the implementation of engineering and institutional controls.
- Alternative 3 is considered to have a similar level of protectiveness as Alternative 4, which involves excavation in the western area and consolidation with a vegetated soil cap in the eastern area.
- The cost estimates for Alternative 3 are significantly higher than Alternative 4, making Alternative 4 a more cost-effective option .

Summary of Alternative 4:

- Alternative 4, recommended for implementation at the UPRR Ashland Site, involves excavation in the western 8.7-acre area and consolidation with a vegetated soil cap in the eastern 3-acre area.
- In Alternative 4, the same quantity of soil will be excavated in the western 8.7-acre area as in Alternatives 2 and 3, ensuring equal effectiveness in achieving protection in this area.
- The most contaminated soil would be removed in the eastern 3-acre area, and **engineering and institutional controls** would be relied upon for effectiveness.
- Alternative 4 is the easiest to implement as it **does not require the removal of contaminated soil from the site**, unlike Alternatives 2 and 3. It is also the most cost-effective option, with significantly lower cost estimates compared to Alternatives 2 and 3.
- Alternative 4 would have the lowest carbon footprint and no waste generation, as all waste would be managed onsite.

Developing the railroad yard without removing most of the toxins in the soil from years of rail operations may not be safe, aesthetically pleasing, or conducive to healthy breathing.

- The rail yard site has been found to be contaminated with various substances, including inorganic lead, arsenic, polynuclear aromatic hydrocarbon compounds (PAHs), and petroleum hydrocarbons.
- The selected remedial action for the site involves excavation and offsite disposal of contaminated soil to prevent human exposure and protect human health.
- Alternative 2 and 3, which involve excavation and offsite disposal of contaminated soil, are considered more protective than Alternative 1.
- Excavation of soil deeper than 5 feet may require additional measures to protect against collapse, and deep contamination could potentially end up in larger excavation areas than estimated.

The remedial action objectives include preventing human exposure to contaminated soil and surface water. Therefore, it is advisable to remove most of the toxins in the soil before developing the railroad yard to ensure the safety, aesthetics, and breathing quality for the humans living in the vicinity of the UPRR rail yard.

CITY OF
ASHLAND

September x, 2023

Resident
North Mountain Avenue
Ashland OR, 97520

RE: Streetside Parking Elimination

Dear Resident,

The Transportation Committee will be holding a public hearing at the September 21, 2023 meeting to take public input on installation of a protected bike lane along North Mountain Avenue. The meeting will be held in person at the Council Chambers, located at 1195 East Main Street. The meeting will start at 6pm.

Protected bike lane improvements have been highly supported by a substantial portion of the community and align with improving multimodal access within the City's transportation network. The inclusion of protected bike lanes along North Mountain Avenue requires the elimination of streetside parking along the west side of North Mountain Avenue from East Main Street to just north of Village Green Drive.

Public input will be utilized by the Transportation Committee to generate a recommendation to the City Council on whether to keep the parking or install protected bike lanes as part of the North Mountain Avenue roadway rehabilitation project.

After the Committee meeting and development of their recommendation, another meeting will be scheduled for discussion at the City Council. The City Council will be asked to make the final policy decision regarding parking versus protected bike lanes.

If you wish to submit written testimony, please send to scott.fleury@ashland.or.us or via regular mail to 20 East Main Street, Ashland

Sincerely,

Scott Fleury PE
Public Works Director
City of Ashland

Linda Peterson-Adams
Ashland Transportation Committee Chair



Memo

CITY OF
ASHLAND

Date: August 10, 2023
From: Scott A. Fleury
To: Transportation Advisory Committee
RE: North Mountain Avenue Rehabilitation Public Hearing Boundary

BACKGROUND:

The Committee previously discussed holding a public hearing to take input on the potential addition of protected bike lanes along North Mountain Avenue as part of the roadway rehabilitation project, which would require the elimination of parking along a section of North Mountain Avenue. This input would then be used as part of the recommendation process to the City Council. The discussion also included the noticing boundary limits for the hearing.

The boundary map has been completed and the TAC requested a couple updates to staff's noticing letter. The TAC also requested to move the meeting to the September date and hold it in person in the Council Chambers.

The new noticing letter is attached for review and the meeting will be held September 21, 2023 in Council Chambers starting at 6pm. This will be the only agenda item for the evening to allow appropriate time for public input and discussion.

The TAC was also interested in potentially recoding the meeting. Currently the only meetings under contract with RVTV to record are the Planning Commission and City Council Meetings. There are no requirements to record committee meetings, only provide appropriate minutes as required by ORS. Neither is their comprehensive direction from Administration to record and post committee meetings. Until such time as direction is given from either Council or Administration, staff will continue to follow the standard practice for committees.

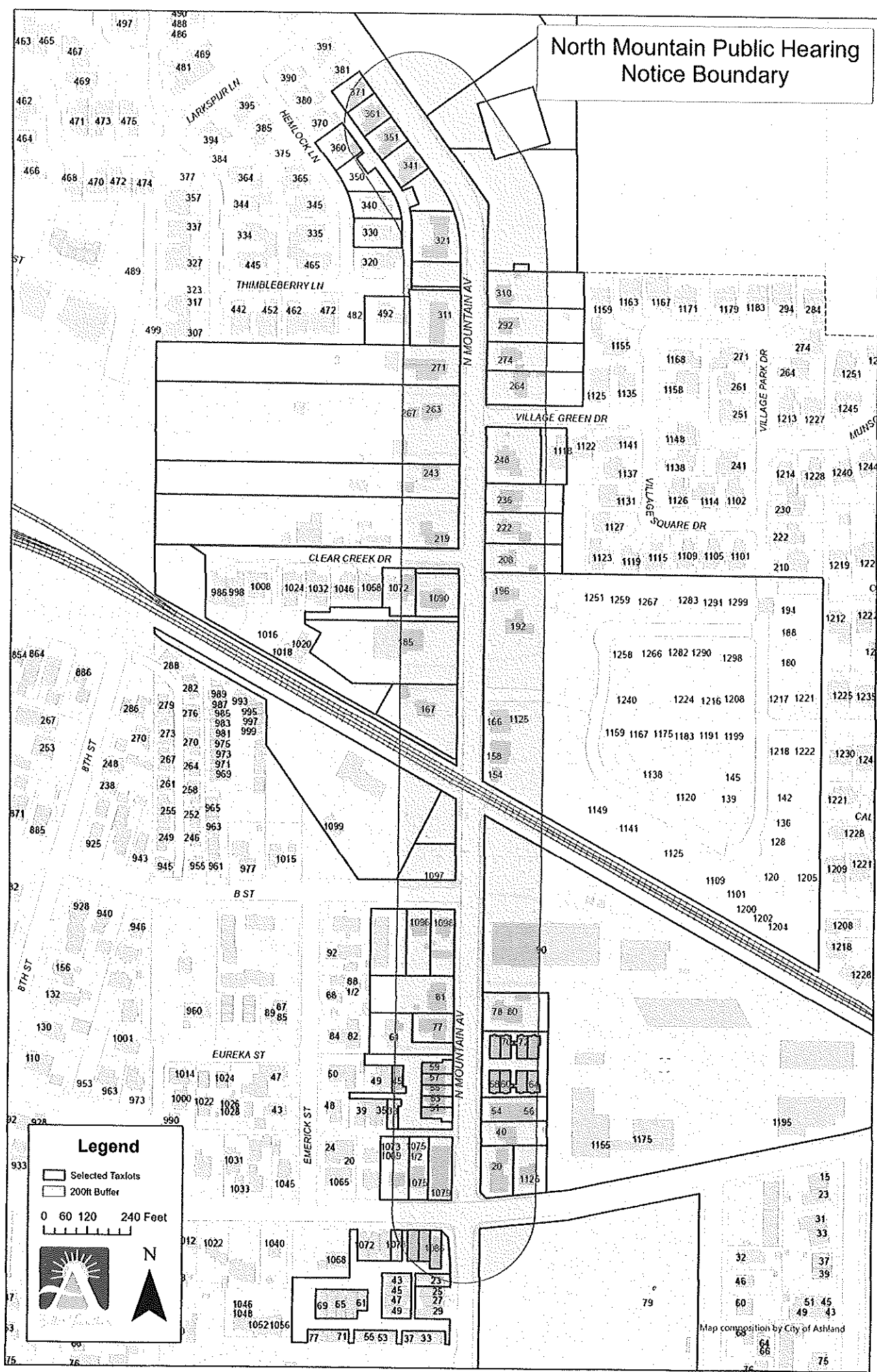
CONCLUSION:

Staff is requesting the TAC confirm the following;

1. Notification Letter is appropriate
2. Define public comment time limits (typically 3 minutes)
3. The meeting to occur in person

This will not be an in-person/hybrid meeting so those wishing to provide public comment can either do so via written comment submitted prior to the meeting date or register and provide comment during the meeting time.

North Mountain Public Hearing Notice Boundary



Map composition by City of Ashland

BEFORE THE PLANNING COMMISSION
September 12, 2023

IN THE MATTER OF PLANNING ACTION #PA-T3-2022-00004, A)
REMAND OF THE ANNEXATION OF 16.86 ACRES LOCATED AT 1511)
HIGHWAY 99 NORTH INTO THE CITY OF ASHLAND, ALONG WITH)
6.6 ACRES OF ADJACENT OREGON DEPARTMENT OF)
TRANSPORTATION (ODOT) STATE HIGHWAY RIGHT-OF-WAY AND)
7.68 ACRES OF CALIFORNIA, OREGON & PACIFIC (CORP) RAILROAD)
PROPERTY. THE PROPERTIES ARE CURRENTLY LOCATED IN)
JACKSON COUNTY AND ARE ZONED RURAL RESIDENTIAL (RR-5);)
WITH ANNEXATION THESE PROPERTIES WOULD BE BROUGHT)
INTO THE CITY AS LOW-DENSITY, MULTI-FAMILY RESIDENTIAL (R-)
2). CONCURRENT WITH ANNEXATION, THE APPLICANT ALSO)
REQUESTS OUTLINE PLAN SUBDIVISION APPROVAL TO CREATE 12)
LOTS; SITE DESIGN REVIEW APPROVAL TO CONSTRUCT 230)
APARTMENTS IN TEN BUILDINGS INCLUDING AT LEAST 38)
AFFORDABLE UNITS; EXCEPTIONS TO THE STREET DESIGN)
STANDARDS; AND TREE REMOVAL PERMITS TO REMOVE TWO)
TREES GREATER THAN SIX-INCHES IN DIAMETER-AT-BREAST-)
HEIGHT (DBH).

**FINDINGS,
CONCLUSIONS &
ORDERS**

OWNER: LINDA ZARE/CASITA DEVELOPMENTS, LLC
APPLICANT: CASITA DEVELOPMENTS, LLC

RECITALS:

- 1) Tax lots #1700 and #1702 of Map 38 1E 32 are located at 1511 Highway 99 North, are presently outside the city limits within the city's urban growth boundary, and are currently zoned RR-5, Jackson County Rural Residential.

- 2) The applicant requested the Annexation of 16.86 acres located at 1511 Highway 99 North into the City of Ashland, along with 6.6 acres of adjacent Oregon Department of Transportation state highway right-of-way and 7.68 acres of California Oregon & Pacific railroad property. The property is currently located in Jackson County and zoned Rural Residential (RR-5); with Annexation these properties would be brought into the City as Low Density, Multi-Family Residential (R-2). Concurrent with Annexation, the application also requests Outline Plan subdivision approval to create 12 lots; Site Design Review to construct 230 apartments in ten buildings including at least 38 affordable units; an Exceptions to the Street Design Standards; and Tree Removal Permits to remove two trees greater than six-inches in diameter at breast height. The proposal is outlined in plans on file at the Department of Community Development.

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

An application for an annexation may be approved if the proposal meets the applicable criteria in subsections A through H below. The approval authority may, in approving the application, impose conditions of approval consistent with the applicable criteria and standards, and grant exceptions and variances to the criteria and standards in this section in accordance with subsection 18.5.8.050.I.

- A. The annexed area is within the City's Urban Growth Boundary.*
- B. The annexation proposal is consistent with the Comprehensive Plan plan designations applicable to the annexed area, including any applicable adopted neighborhood, master, or area plan, and is an allowed use within the proposed zoning.*
- C. The annexed area is contiguous with the city limits.*
- D. Adequate City facilities for the provision of water to the annexed area as determined by the Public Works Department; the transport of sewage from the annexed area to an approved waste water treatment facility as determined by the Public Works Department; the provision of electricity to the annexed area as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided from the annexed area. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities. All required public facility improvements shall be constructed and installed in accordance with 18.4.6.030.A.*
- E. Adequate transportation can and will be provided to serve the annexed area. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*
 - 1. For vehicular transportation a minimum 22-foot wide paved access exists, or can and will be constructed, providing access to the annexed area from the nearest fully improved collector or arterial street. All streets bordering on the annexed area shall be improved, at a minimum, to an applicable City half-street standard. The approval authority may, after assessing the impact of the development, require the full improvement of streets bordering on the annexed area. All streets located within annexed areas shall be fully improved to City standards unless exception criteria apply. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.*
 - 2. For bicycle transportation safe and accessible bicycle facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation)*

exist, or can and will be constructed. Should the annexed area border an arterial street, bike lanes shall be constructed along the arterial street frontage of the annexed area. Likely bicycle destinations within a quarter of a mile from the annexed area shall be determined and the approval authority may require the construction of bicycle lanes or multi-use paths connecting the annexed area to the likely bicycle destinations after assessing the impact of the development proposed concurrently with the annexation.

3. *For pedestrian transportation safe and accessible pedestrian facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation). exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side of all streets bordering on the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the annexed area is within a quarter of a mile of an existing sidewalk system or a location with demonstrated significant pedestrian activity, the approval authority may require sidewalks, walkways or multi-use paths to be constructed and connect to either or both the existing system and locations with significant pedestrian activity.*
4. *For transit transportation, should transit service be available to the annexed area, or be likely to be extended to the annexed area in the future based on information from the local public transit provider, the approval authority may require construction of transit facilities, such as bus shelters and bus turn-out lanes.*
5. *Timing of Transportation Improvements. All required transportation improvements shall be constructed and installed in accordance with 18.4.6.030.A.*

F. *For all residential annexations, a plan shall be provided demonstrating that the development of the annexed area will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units are necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the annexed area shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing unbuildable lots, parcels, or portions of the annexed area such as existing streets and associated rights-of-way, railroad facilities and property, wetlands, floodplain corridor lands, slopes greater than 35 percent, or land area dedicated as a public park, shall not be included.*

G. *Except as provided in 18.5.8.050.G.7, below, annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or*

commercial, employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the following requirements.

1. *The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein. The base density of the annexed area for the purpose of calculating the total number of affordable units in this section shall exclude any unbuildable lots, parcels, or portions of the annexed area such as existing streets and associated rights-of-way, railroad facilities and property, wetlands, floodplain corridor lands, water resource areas, slopes greater than 35 percent, or land area dedicated as a public park.*
 - a. *Ownership units restricted to households earning at or below 120 percent the area median income shall have an equivalency value of 0.75 unit.*
 - b. *Ownership units restricted to households earning at or below 100 percent the area median income shall have an equivalency value of 1.0 unit.*
 - c. *Ownership or rental units restricted to households earning at or below 80 percent the area median income shall have an equivalency value of 1.25 unit.*
2. *As alternative to providing affordable units per section 18.5.8.050.G.1, above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC 501(3)(c) affordable housing developer or public corporation created under ORS 456.055 to 456.235.*
 - a. *The land to be transferred shall be located within the project meeting the standards set forth in sections 18.5.8.050.G.5 and 18.5.8.050.G.6.*
 - b. *All needed public facilities shall be extended to the area or areas proposed for transfer.*
 - c. *Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235.*
 - d. *The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.*
 - e. *Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in 18.5.8.050.G.4.*

3. *The affordable units shall be comparable in bedroom mix with the market rate units in the development.*
 - a. *The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor area based as set forth in Table 18.5.8.050.G.3, or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.*

<i>Table 18.5.8.050.G.3 – Minimum Required Floor Area for</i>	
<i>Unit Type</i>	<i>Minimum Required Unit Floor Area</i>
	<i>(Square Feet)</i>
<i>Studio</i>	<i>350</i>
<i>1 Bedroom</i>	<i>500</i>
<i>2 Bedroom</i>	<i>800</i>
<i>3 Bedroom</i>	<i>1,000</i>
<i>4 Bedroom</i>	<i>1,250</i>

4. *A development schedule shall be provided that demonstrates that that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows.*
 - a. *That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.*
 - b. *Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.*
5. *That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.*
 - a. *The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the*

development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units

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

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

- 1. The annexation proposal shall meet the requirements of subsection 18.5.8.080.B, above.*
- 2. A current or probable danger to public health exists within the proposed area for annexation due to lack of full City sanitary sewer or water services in accordance with the criteria in ORS Chapter 222 or successor state statute.*
- 3. Existing development in the proposed area for annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.*

4. *The proposed area for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.*
5. *The proposed area for annexation is an island surrounded by lands within the city limits.*

I. Exceptions and Variances to the Annexation Approval Criteria and Standards. *The approval authority may approve exceptions to and variances from the approval criteria and standards in this section using the criteria in section 18.4.6.020.B.1 Exceptions to the Street Design Standards or chapter 18.5.5. Variances.*

4) The criteria for Outline Plan subdivision approval are described in 18.3.9.040.A as follows:

Approval Criteria for Outline Plan. *The Planning Commission shall approve the outline plan when it finds all of the following criteria have been met:*

- a. *The development meets all applicable ordinance requirements of the City.*
- b. *Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
- c. *The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the common open space, common areas, and unbuildable areas.*
- d. *The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
- e. *There are adequate provisions for the maintenance of common open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*
- f. *The proposed density meets the base and bonus density standards established under this chapter.*
- g. *The development complies with the street standards.*
- h. *The proposed development meets the common open space standards established under section 18.4.4.070. Common open space requirements may be satisfied by public open space in accordance with section 18.4.4.070 if approved by the City of Ashland.*

Approval of the Outline Plan.

- a. *After the City approves an outline plan and adopts any zone change necessary for the development, the developer may then file a final plan in phases or in its entirety.*
- b. *If an outline plan is phased, 50 percent of the value of the common open space shall be provided in the first phase and all common open space shall be provided when two-thirds of the units are finished.*

- 5) The criteria for Site Design Review approval are described in 18.5.2.050 as follows:
- A. **Underlying Zone:** *The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.*
 - B. **Overlay Zones:** *The proposal complies with applicable overlay zone requirements (part 18.3).*
 - C. **Site Development and Design Standards:** *The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.*
 - D. **City Facilities:** *The proposal complies with the applicable standards in section 18.4.6 Public Facilities and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property and adequate transportation can and will be provided to the subject property.*
 - E. **Exception to the Site Development and Design Standards.** *The approval authority may approve exceptions to the Site Development and Design Standards of part 18.4 if the circumstances in either subsection 1 or 2, below, are found to exist.*
 - 1. *There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty.;*
or
 - 2. *There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards.*
- 6) The criteria for the approval of a Tree Removal Permit are described in 18.5.7.040.B as follows:
- 1. **Hazard Tree.** *A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*
 - a. *The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.*

- b. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*
2. **Tree That is Not a Hazard.** *A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*
- a. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.3.10.*
 - b. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.*
 - c. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.*
 - d. *Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.*
 - e. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*
- 7) The criteria for an Exception to the Street Design Standards are described in AMC Section 18.4.6.020.B.1 as follows:
- a. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
 - b. *The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*
 - i. *For transit facilities and related improvements, access, wait time, and ride experience.*
 - ii. *For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
 - iii. *For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.*

- c. *The exception is the minimum necessary to alleviate the difficulty.*
- d. *The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.*

8) The Planning Commission, following proper public notice held a public hearing on September 13, 2022 at which time testimony was received and exhibits were presented both in person and via Zoom. Prior to the conclusion of this initial evidentiary hearing, participant Steve Rouse representing Rogue Advocates requested an opportunity to present additional evidence, arguments or testimony regarding the application as provided in ORS 197.797(6)(a). The Planning Commission granted this request by continuing the public hearing to October 11, 2022 at 7:00 p.m. at the Ashland Civic Center at 1175 East Main Street.

The Planning Commission reconvened the continued hearing on October 11, 2022 and an opportunity was provided at this continued hearing for persons to present and rebut new evidence, arguments or testimony. Subsequent to the closing of the hearing and the record, the Planning Commission approved the request for Outline Plan subdivision approval to create 12 lots; Site Design Review to construct 230 apartments in ten buildings including at least 38 affordable units; Exceptions to the Street Design Standards; and Tree Removal Permits to remove two trees greater than six-inches in diameter at breast height subject to the City Council's approval of the Annexation request. The Planning Commission also adopted a recommendation that the City Council approve the Annexation request subject to a number of conditions.

9) The City Council, following proper public notice held a public hearing and conducted first reading of an ordinance annexing the property and withdrawing it from Fire District #5 on December 6, 2022, at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the City Council approved the Annexation request subject to a number of conditions. The second reading of the annexing ordinance was conducted on December 20, 2022.

10) Subsequent to the City's approval of the application and mailing of a Notice of Decision, the approval was timely appealed to the Oregon Land Use Board of Appeals (LUBA) by Rogue Advocates. After considering the application on the appeal, LUBA remanded the decision back to the City with regard to two issues:

- 1) That the city erred in approving an exception to the on-street parking requirement in AMC 18.3.9.060; and
- 2) That the affordable unit sizes as approved do not comply with AMC 18.5.8.050.G.3 which requires that affordable studios be a minimum of 350 square feet and that affordable one-bedroom units be a minimum of 500 square feet.

11) The Planning Commission, following proper public notice held a limited public hearing on August 8, 2023, at which time testimony was received and exhibits were presented. As explained in the Notice of Public Hearing, this hearing was strictly limited to consideration of the two remand issues. Subsequent to the closing of the limited hearing and the record, the Planning Commission found that with regard to the first remand issue dealing with on-street parking requirements, the Climate Friendly and Equitable Community parking rules as adopted under OAR660-012-430(3) could be appropriately applied here to not require either on- or off-street parking, and the findings for the original approval amended accordingly. With regard to the minimum size requirements for affordable units, in relation to the stipulated conditions for approval, it

should be noted that the initial approval criteria mandated adherence to the specifications outlined in 18.5.8.050.G. This encompassed the requisite fulfillment of the minimal unit dimensions as outlined in Table 18.5.8.G.3. To elucidate, the original condition of approval could be satisfied through the presentation of architectural layouts by the applicant. These layouts demonstrated the feasibility of accommodating augmented floor areas within the existing building footprints.

The Commission determined that the concern raised in this subsequent remand review is effectively resolved by increasing the size of the one-bedroom units by a *de minimis* amount to comply with AMC 18.5.8.050.G3 and making clear that as configured in the original proposal the studio units need not be considered among the required affordable units. This resolution entails a slight augmentation in the dimensions of the one-bedroom units, an alteration adding one-half of a square-foot to each designated affordable unit, ensuring compliance with AMC 18.5.8.050.G.3. Furthermore, the commission clarified that, as per the initial proposal's configuration, the studio units need not be regarded as mandated affordable units.

In light of this determination, the Planning Commission recommended a modification to the wording of the original condition #7e for the purposes of clarity. Moreover, it proposed that the City Council adopt this course of action in its response to the remand review process. Now, therefore, with regard to the two remand issues, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

SECTION 1. EXHIBITS

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

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

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

SECTION 2. FINDINGS & CONCLUSIONS

2.1 The Planning Commission finds that it has received all information necessary to make a decision with regard to the two remand issues, and to make a recommendation to the City Council based on the staff's report, public hearing testimony and the exhibits received.

2.2 The Planning Commission notes that the originally approved application included a request for Outline Plan subdivision approval under the Performance Standards Options (Chapter 18.3.9) to create ten buildable lots and two common open space properties. During the public hearing process, the Planning Commission noted that AMC 18.3.9.060 dealing with Parking Standards for subdivisions proposed under AMC 18.3.9 requires that:

All development under this chapter shall conform to the following parking standards, which are in addition to the requirements of chapter [18.4.3](#), Parking, Access, and Circulation.

A. On-Street Parking Required. At least one on-street parking space per dwelling unit shall be provided, in addition to the off-street parking requirements for all developments in an R-1 zone, with the exception of cottage housing developments, and for all developments in R-2 and R-3 zones that create or improve public streets.

B. On-Street Parking Standards. On-street parking spaces shall be immediately adjacent to the public right-of-way on publicly or association-owned land and be directly accessible from public right-of-way streets. On-street parking spaces shall be located within 200 feet of the dwelling that it is intended to serve. In addition, on-street public parking may be provided pursuant to minimum criteria established under subsection [18.4.3.060.A](#).

The Planning Commission finds that while no Variance or Exception to this standard was requested as part of the original application, the Planning Commission at the time determined that AMC 18.3.9.060 was applicable, that an Exception to the Street Design Standards was the appropriate procedure if on-street parking could not be provided, and that such an Exception was merited.

The Planning Commission notes that new Climate-Friendly and Equitable Communities (CFEC) rules were adopted July 21, 2022, by the Land Conservation and Development Commission (LCDC) in response to Executive Order #20-04 by Governor Kate Brown and took effect August 17, 2022. The CFEC rules address how cities may regulate a variety of land use and transportation issues, including a number of changes to the ways cities may regulate parking. Among these new CFEC rules:

- Oregon Administrative Rule (OAR) 660-012-0430(2) states that “*Cities and counties may not require more than one parking space per unit in residential developments with more than one dwelling unit on a single legally established property.*” **Parking spaces** are defined in OAR 660-012-00005(29) as meaning “... *on and off-street spaces designated for automobile parking, other than parking spaces reserved for carpools, vanpools, or parking under the Americans with Disabilities Act.*”
- OAR 660-012-430(3) states that, “*Cities and counties may not require parking for the following development types.... (d) Residential units smaller than 750 square feet; (e) Affordable housing as defined in OAR 660-039-0010;*” The Planning Commission notes here that all of the residential units proposed in the application under consideration are smaller than 750 square feet, and under the new CFEC rules the city may not require parking for this development type.
- OAR 660-012-440(3) states that “*Cities and counties may not enforce parking mandates for development on a lot or parcel that includes land within one-half mile of frequent transit corridors, including... corridors with the most frequent transit route or routes in the community if the scheduled frequency is at least once per hour during peak service.*” In OAR 660-012-00005(27),

parking mandates are defined as “*requirements to include a minimum number of off-street parking spaces with development or redevelopment, or a fee-in-lieu of providing parking for residential development.*” In this instance, the Rogue Valley Transit District’s (RVTDs) Route 10 runs on Highway 99 North, which fronts directly on the subject properties here, with a peak hour scheduled frequency of every 20 minutes, and as such qualifies as frequent transit. Under the new CFEC rules, Ashland may not enforce parking mandates (i.e., require off-street parking) for the subject properties.

The Planning Commission further notes that under OAR 660-012-0012(5)(e) cities and counties were required to “*implement the requirements of OAR 660-012-0430 and 660-012-0440 when reviewing development applications submitted after December 31, 2022.*” Guidance from the Department of Land Conservation and Development (DLCDD) has been that cities must either modify their regulations or implement these new rules directly from the OAR and disregard local regulations. Ashland is in the process of amending its parking codes to comply with these new CFEC parking rules, and others which took effect on June 30, 2023, and has received an extension allowing these code amendments to occur no later than December 31, 2023. In the interim, the City has been directly applying the applicable state rules.

With regard to the current application, the Planning Commission notes that it was initially submitted on July 8, 2022, however it remains in process now more than eight months after these new CFEC rules have taken effect. The Commission further notes that the Performance Standards subdivision process requires a preliminary or outline plan review followed by a final plan review, so prior to the physical development of the site, another development application for final plan approval will be required at which time the applicant will not be subject to parking requirements under the new CFEC rules and could request to amend their proposal as it relates to parking.

The Planning Commission further finds that Oregon Revised Statute (ORS) 197.307(4) requires that local governments adopt and apply only clear and objective standards, conditions, and procedures regulating the development of housing, including “needed housing.” Standards and conditions may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. This is to ensure that communities do not use discretionary or subjective criteria to deny housing projects. The Planning Commission finds that the rules having changed so that an applicant proposing needed housing is subject to one set of rules for the first part of a two-part application process and a different set of rules for the second part of the procedure does not provide the applicant a clear path to approval without unreasonable cost or delay. In addition, the city’s parking on-street parking requirement under AMC 18.3.9.060 in this instance would require that the applicant install on-street parking facilities on a state highway for which the city has no jurisdiction and where on-street parking is not allowed by the Oregon Department of Transportation (ODOT), which regulates this roadway. The Planning Commission finds that the city’s on-street parking standard being in direct conflict with ODOT’s standard for the roadway does not provide a clear procedure for the applicant to move forward without unreasonable cost or delay. As such, the Planning Commission finds that this standard should not be applied to the application.

The Planning Commission believes that the Council has the discretion to assess the current request based on the new CFEC rules, which remove the requirement for parking since all proposed residential units are smaller than 750 square feet. The CFEC parking regulations have been in effect for eight months, and the LUBA remand for further review here means the final decision of the City on this application is occurring well after the new regulations were implemented. In addition, the applicant will be required to submit a second development application, Final Plan review, during which the city will be unable to enforce parking requirements under the new Climate Friendly and Equitable Communities rules. The Planning Commission further finds that to comply with ORS 197.307(4), which requires that the City apply only clear and objective standards, conditions, and procedures, when regulating the development of housing, the on-street parking standard in AMC 18.3.9.060 should not be applied. The Planning Commission accordingly recommends that the application be considered by the City Council under the current State law specified in OAR 660-012-0430 and -0440, without requiring on- or off-street parking given the size of the proposed residential units.

DLCD's implementation guidance to cities notes that the parking rule changes seek to help "*meet Oregon's climate pollution reduction targets, while providing more housing and transportation choices and improving equity.*" The Planning Commission finds that applying the new parking rules to a project that combines small market rate units with deed-restricted affordable housing, situated on a transit route and providing substantial improvements to support both transit and pedestrian travel is exactly what the Climate Friendly and Equitable Communities rules seek to enable, and requiring an applicant to withdraw and reapply with an identical proposal now in order to be subject to the new rules, when their application is still in process eight months after the new rules have taken effect, would pose an unreasonable impediment which would discourage the production of needed housing during a housing crisis.

2.3 The Planning Commission notes that the original application identified each of the ten identical buildings proposed as containing 20 one-bedroom units of 499.5 square feet each, and three studio units of 250 square feet each. Two of these ten buildings were to be relied on in meeting the affordability requirements, which were a total of 38 deed restricted affordable units assuming that the applicant either builds the units themselves or does so in cooperation with a non-profit affordable housing provider partner.

AMC 18.5.8.050.G.3 requires that the minimum square footage for affordable one-bedroom units be 500 square feet, and that the minimum square footage for affordable studios be 350 square feet. The adopted conditions relating to affordability were as follows:

Condition #7e. *[That prior to final approval and annexation of the property, the applicant shall provide:]* A deed restriction agreement that development of the property shall comply with the affordability requirements for annexations in AMC 18.5.8.050.G including that where the required number of affordable units is fractional it shall be rounded up, and that should the applicant opt to dedicate land area to an affordable housing provider, it will require that the dedication comply with the requirements of AMC 18.5.8.050.G.2 and dedicate sufficient land area to accommodate 47 ownership units affordable at 100 percent AMI.

Condition #10g. If the applicant opts to dedicate land area to a non-profit affordable housing developer, dedication shall occur in a manner consistent with AMC 18.5.8.050.G.2 and

recording of deed restrictions guaranteed affordability described herein shall occur in conjunction with plat signature and recording.

The Commission notes that the approval was remanded by LUBA on the basis “That the affordable unit sizes as approved do not comply with AMC 18.5.8.050.G.3 which requires that affordable studios be a minimum of 350 square feet and that affordable one-bedroom units be a minimum of 500 square feet.”

In response to this issue, the applicant has provided a revised floor plan demonstrating how the floor area of the one-bedroom units could be modified by reducing their recessed entry depth by three-inches to achieve the required 500 square feet per affordable one-bedroom unit.

- **AS PROPOSED:** $12.5 \times 42 = 525$ square feet less 25.98 square feet for recessed entry = 499.02 square feet.
- **AS MODIFIED:** $12.5 \times 42 = 525$ square feet less 24.8975 feet for recessed entry = 500.1025 square feet.

In addition, the applicant notes that affordable basement level studios could be modified to be 499.5 square feet to significantly exceed the required 350 square feet per affordable studio unit.

The Planning Commission notes that the affordability requirements for the project call for 38 affordable units to be provided. Each building proposed has 20 one-bedroom units and three studio units, and assuming that two buildings will be developed by an affordable housing provider partner or the applicant themselves, the 38 required affordable units could be accommodated entirely with one-bedroom units, leaving one one-bedroom unit and three studios in each of the two buildings to be rented at market rate or provided as voluntarily affordable, rather than being deed-restricted as affordable. Those units not required as affordable would not subject to the square footage requirements of AMC 18.5.8.050.G.3.

The Planning Commission finds that the original condition intended that the units’ sizes would be adjusted a *de minimis* amount (*i.e., a three-inch adjustment to recessed entry depth*) to comply with AMC 18.5.8.050.G, however this should have been articulated in the condition itself. The Commission finds that the second remand issue can be fully addressed by increasing the size of the one-bedroom units by a *de minimis* amount to comply with AMC 18.5.8.050.G.3 and by making clear in the findings that as configured in the original proposal the studio units need not be considered among the required affordable units. The Planning Commission accordingly recommends that the City Council modify the previous Condition #7e as follows:

Condition #7e. A deed restriction agreement that development of the property shall comply with the affordability requirements for annexations in AMC 18.5.8.050.G including that: **1)** where the required number of affordable units is fractional it shall be rounded up, **2) and** that should the applicant opt to dedicate land area to an affordable housing provider, it will require that the dedication comply with the requirements of AMC 18.5.8.050.G.2 and dedicate sufficient land area to accommodate 47 ownership units affordable at 100 percent AMI, **and 3) that each of the required affordable units comply with the minimum affordable units size requirements of AMC 18.5.8.050.G.3, with one bedroom affordable units being a**

minimum of 500 square feet, and any affordable studio units being a minimum of 350 square feet.

2.4 The Planning Commission finds that while the project's density was not an issue under remand, the appellant has provided written testimony questioning the project density both in the original proposal and as modified here through the increase in square footage of the affordable units to comply with AMC 18.5.8.050.G.3. The Planning Commission finds that the *de minimis* increase in affordable unit sizes does nonetheless affect the project density, and as such needs to be addressed. The Planning Commission first notes that no density bonuses were granted with the original proposal. The *base* density of the subject property is 185.625 units (13.75 buildable acres x 13.5 units/acre). The *minimum* density of the subject property as required for annexation is 167.0625 units (0.90 x 185.625). The Planning Commission further notes that as initially proposed, all units were less than 500 square feet, and units less than 500 square feet are counted as 0.75 units for purposes of density calculations as detailed in AMC 18.2.5.080.B.2. The density as originally proposed was 172.5 units (230 x 0.75 units).

The Planning Commission finds that the increase in size of the 38 affordable units from 499.5 square feet to 500 square feet to comply with the minimum affordable unit size requirement will increase the project density to 182 units ([192 x 0.75 units] + [38 x 1.0 units]). The Planning Commission concludes that this is within the 185.625 unit base density of the property without the grant of any bonuses and that it exceeds the minimum 167.0625 unit density required for annexation.

SECTION 3. DECISION

3.1 The issues remanded to the City are limited to addressing the on-street parking requirements of AMC 18.3.9.060, and to the minimum size requirements for studio and one-bedroom affordable units under AMC 18.5.8.050.G.3.

For the first remand issue regarding on-street parking, the Commission notes that the application was initially submitted on July 8, 2022, but remains in process, now more than eight months after new Climate Friendly & Equitable Communities (CFEC) rules limiting cities' abilities to require parking took effect. In addition, the Performance Standards subdivision process requires outline plan review, as requested here, followed by a final plan review, so prior to the physical development of the site, another development application for final plan approval will be required at which time the application will no longer be subject to parking requirements under the new CFEC rules and the applicant could request to amend their proposal as it relates to parking. Oregon Revised Statutes (ORS) 197.307(4) require that local governments adopt and apply only clear and objective standards, conditions, and procedures regulating the development of housing, including "needed housing." The proposal here involves market-rate and deed-restricted affordable multi-family residential rental units, both of which are needed housing types locally. Standards and conditions may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. The Planning Commission finds that rules relating to parking having changed so that an applicant proposing needed housing is subject to one set of rules for the first part of a two-part application process and a different set of rules for the second part of the procedure does not provide the applicant a clear path to their development approval without unreasonable cost or delay. In addition, the city's on-street parking requirement under AMC 18.3.9.060 in this instance requires that

the applicant install on-street parking facilities on a state highway for which the city has no jurisdiction and where on-street parking is not allowed by the Oregon Department of Transportation (ODOT), which has jurisdiction over improvements to the highway. The Planning Commission finds that the city's on-street parking standard being in direct conflict with the standards of the jurisdiction with authority for the roadway does not provide a clear procedure for the applicant to move forward without unreasonable cost or delay. As such, the Planning Commission finds that the on-street parking standard should not be applied to the application, and it should instead be considered in light of the new CFEC parking rules.

The Department of Land Conservation and Development (DLCD) implementation guidance to cities notes that the parking rule changes seek to help “*meet Oregon’s climate pollution reduction targets, while providing more housing and transportation choices and improving equity.*” The Planning Commission finds that applying the new parking rules to a project that combines small market rate units with deed-restricted affordable housing, situated on a transit route and providing substantial improvements to support both transit and pedestrian travel is exactly what the Climate Friendly and Equitable Communities rules seek to enable. The Planning Commission further finds that requiring an applicant to withdraw and reapply with an identical proposal now in order to be subject to the new rules, when their application is still in process eight months after the new rules have taken effect, is not a clear or objective process and would pose an unreasonable impediment which would discourage the production of needed housing during a housing crisis.

For the second remand issue, the Planning Commission notes that the original application identified each of the ten identical buildings proposed as containing 20 one-bedroom units of 499.5 square feet each, and three studio units of 250 square feet each. Two of these ten buildings were to be relied on in meeting the affordability requirements, which were a total of 38 deed restricted affordable units assuming that the applicant either builds the units themselves or does so in cooperation with a non-profit affordable housing provider partner. AMC 18.5.8.050.G.3 requires that the minimum square footage for affordable one-bedroom units be 500 square feet, and that the minimum square footage for affordable studios be 350 square feet. In response to this discrepancy between the proposed and required affordable unit sizes, the applicant has provided a revised floor plan demonstrating that the one-bedroom units could be modified with a de minimis reduction in their recessed entry depth (i.e., reducing the depth by three-inches) to achieve the required 500 square feet per affordable one-bedroom unit. The applicant further indicates that the affordable basement level studios could be modified to be 499.5 square feet to significantly exceed the required 350 square feet per affordable studio unit.

The Planning Commission finds that the affordability requirements for the project call for 38 affordable units to be provided. Each building proposed has 20 one-bedroom units and three studio units, and assuming that two buildings will be developed by an affordable housing provider partner or the applicant themselves, the 38 required affordable units could be accommodated entirely with 19 one-bedroom units in each of the two buildings, leaving one one-bedroom unit and three studios in each of the two buildings to be rented at market rate or provided as voluntarily affordable, rather than being deed-restricted as affordable. Those units not required as affordable would not subject to the square footage requirements of AMC 18.5.8.050.G.3.

The Planning Commission finds that while the original condition intended that the units' sizes would be adjusted a de minimis amount (*i.e., a three-inch adjustment to recessed entry depth*) to comply with AMC 18.5.8.050.G, this was not clearly articulated in the condition itself. The Commission finds that the second remand issue can be fully addressed by increasing the size of the one-bedroom units by a *de minimis* amount to comply with AMC 18.5.8.050.G.3 and by making clear in the findings that as configured in the original proposal the studio units need not be considered among the required affordable units. The Planning Commission accordingly recommends that the City Council modify the previous Condition #7e as follows:

Condition #7e. A deed restriction agreement that development of the property shall comply with the affordability requirements for annexations in AMC 18.5.8.050.G including that: **1)** where the required number of affordable units is fractional it shall be rounded up, **2) and** that should the applicant opt to dedicate land area to an affordable housing provider, it will require that the dedication comply with the requirements of AMC 18.5.8.050.G.2 and dedicate sufficient land area to accommodate 47 ownership units affordable at 100 percent AMI, **and 3) that each of the required affordable units comply with the minimum affordable units size requirements of AMC 18.5.8.050.G.3, with one bedroom affordable units being a minimum of 500 square feet, and any affordable studio units being a minimum of 350 square feet.**

The Planning Commission recommends that the City Council find that the Climate Friendly & Equitable Communities parking rules are appropriate for this planning action, that neither on- or off-site street parking are required in this case, and that the findings for the original approval should be amended accordingly.

Therefore, based on our overall conclusions, the Planning Commission recommends that the City Council adopt findings addressing the two remand issues as discussed above, and modify existing Condition #7e as detailed below, with all other conditions to remain as originally adopted:

#7e) A deed restriction agreement that development of the property shall comply with the affordability requirements for annexations in AMC 18.5.8.050.G including that: **1)** where the required number of affordable units is fractional it shall be rounded up, **2) and** that should the applicant opt to dedicate land area to an affordable housing provider, it will require that the dedication comply with the requirements of AMC 18.5.8.050.G.2 and dedicate sufficient land area to accommodate 47 ownership units affordable at 100 percent AMI, **and 3) that each of the required affordable units comply with the minimum affordable units size requirements of AMC 18.5.8.050.G.3, with one bedroom affordable units being a minimum of 500 square feet, and any affordable studio units being a minimum of 350 square feet.**



Planning Commission Approval

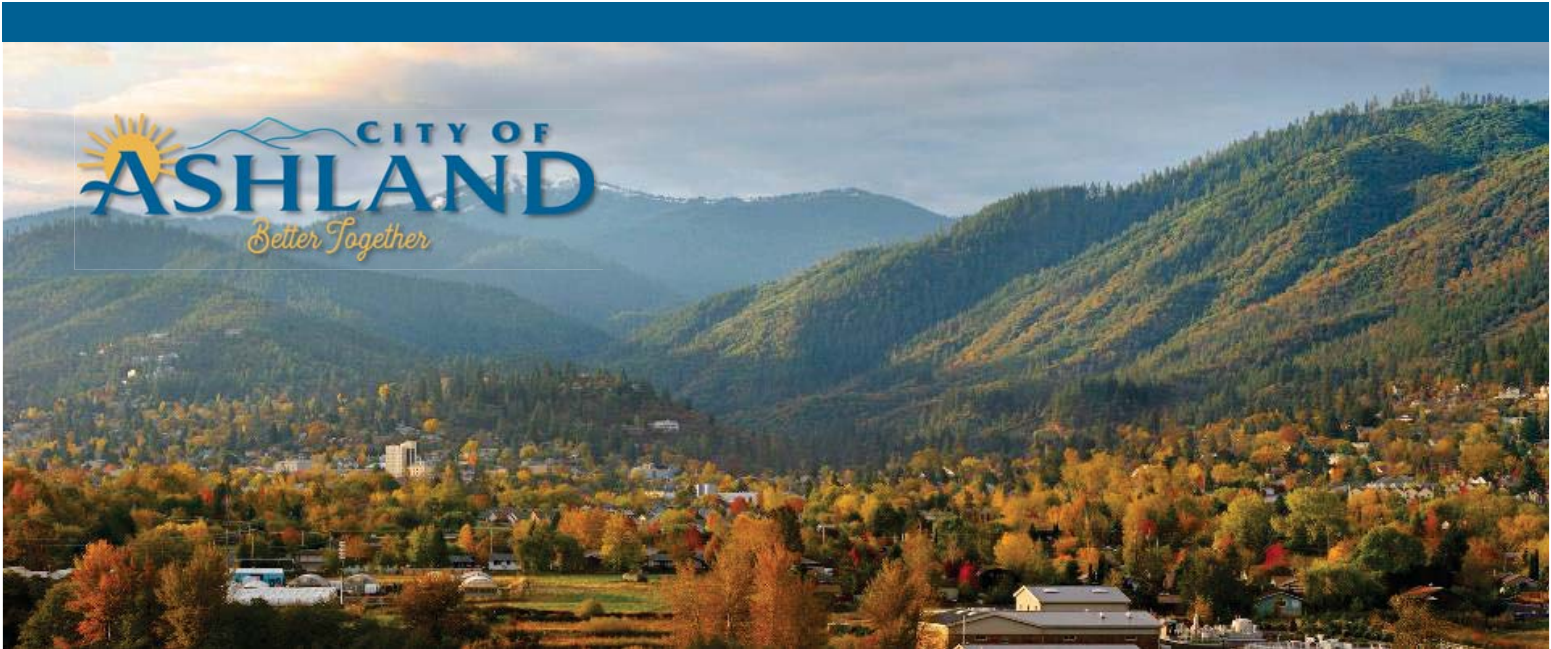
September 12, 2023

Date

REMAND.PA-T3-2022-00004

September 12, 2023

Page 18



CFEC Parking Code Amendments

Planning Commission
September 12, 2023



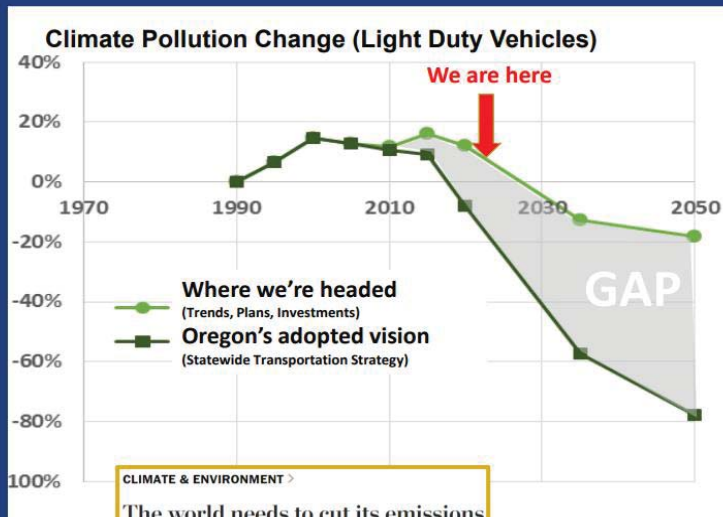
Tom Flood
@tomflood1

If only we were prepared to tackle catastrophic climate change the way we are in the off chance everyone on the planet drives to the same mall on the same day.

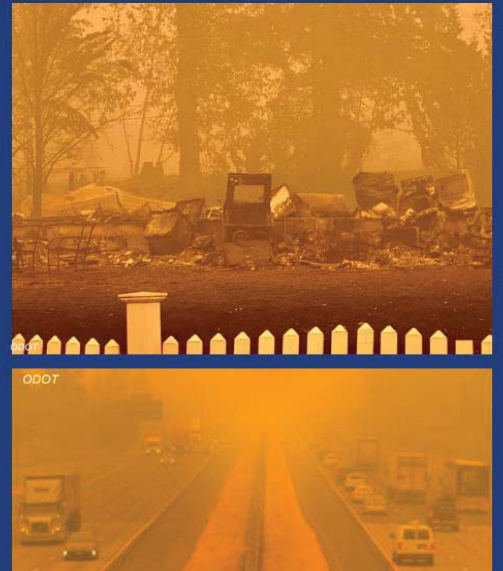


Why these Rules?

Missing Oregon's Pollution Reduction Targets Has Real Costs



CLIMATE & ENVIRONMENT >
The world needs to cut its emissions seven times as fast to hit climate goals, U.N. report finds



DLCD Slides for Climate Friendly & Equitable Community Rule Implementation



Updated Land Use and Transportation Rules

Focus Areas

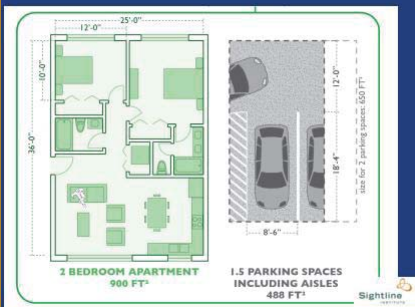
Land Use/Building

- Designate walkable climate-friendly areas
- Reform parking management ←
- Support electric vehicle charging

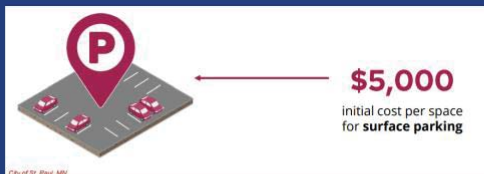
Transportation

- Plan for high quality pedestrian, bicycle, and transit infrastructure
- Go beyond sole focus on motor vehicle congestion standards
- Prioritize and select projects meeting climate/equity outcomes

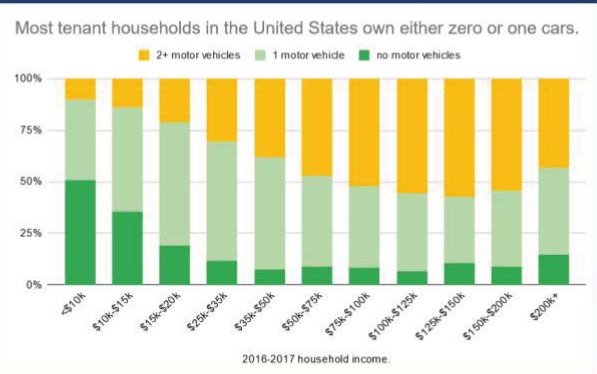




Reforming Costly Parking Mandates



Mandates can prevent housing from being built; parking is a significant cost and displaces housing footprint



Source: Sightline Institute using Census data

People with no cars or few cars are subsidizing parking for those with many

“Form follows parking...”



Reforming Costly Parking Mandates

Corvallis data

Use	% of all city area
Driveways	3.3%
Parking lots	7.2%
On-street parking	Some part of 9.7% for roads

Parking uses huge amount of land, making areas less walkable

Parking behaviour: Bundled parking and travel behavior in American cities

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ARTICLE INFO

Keywords:
Parking

ABSTRACT

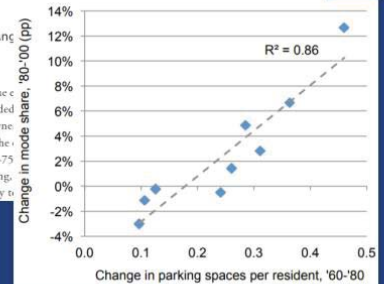
We investigate the relationship between bundled residential parking and travel behavior, with a particular focus on the relationship between bundled parking and car ownership. When the cost of parking is bundled into the cost of housing, car ownership is more likely to increase. These lower costs are more than offset by the higher costs of car ownership. In this article, we use data from the 2000 American Housing Survey. We estimate that the cost of parking is bundled into the cost of housing in 50-75% of households without bundled parking. Cities near transit are twice as likely to have bundled parking.

Bundled parking and vehicle ownership: Evidence from the American Housing Survey

Michael Manville

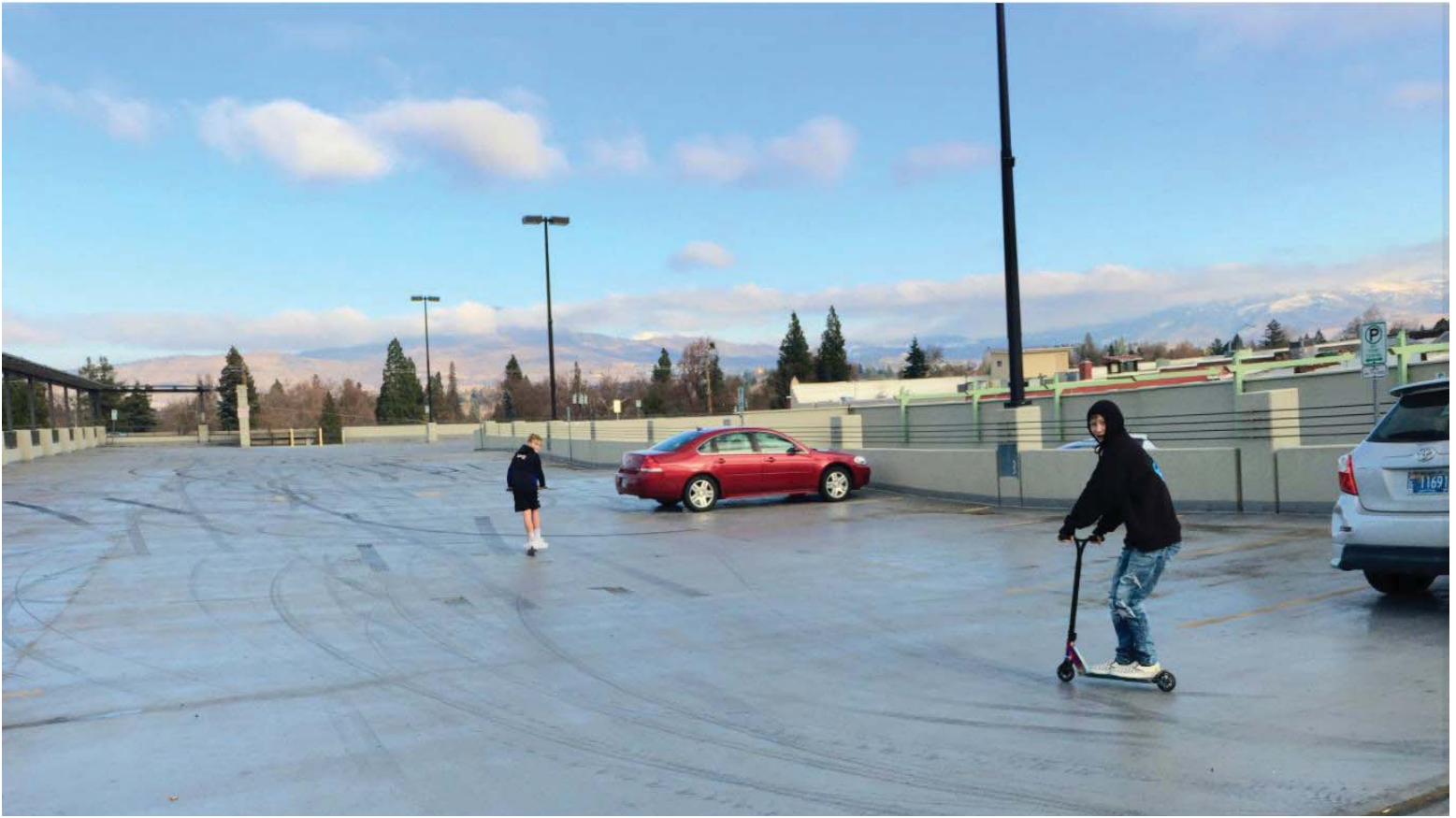
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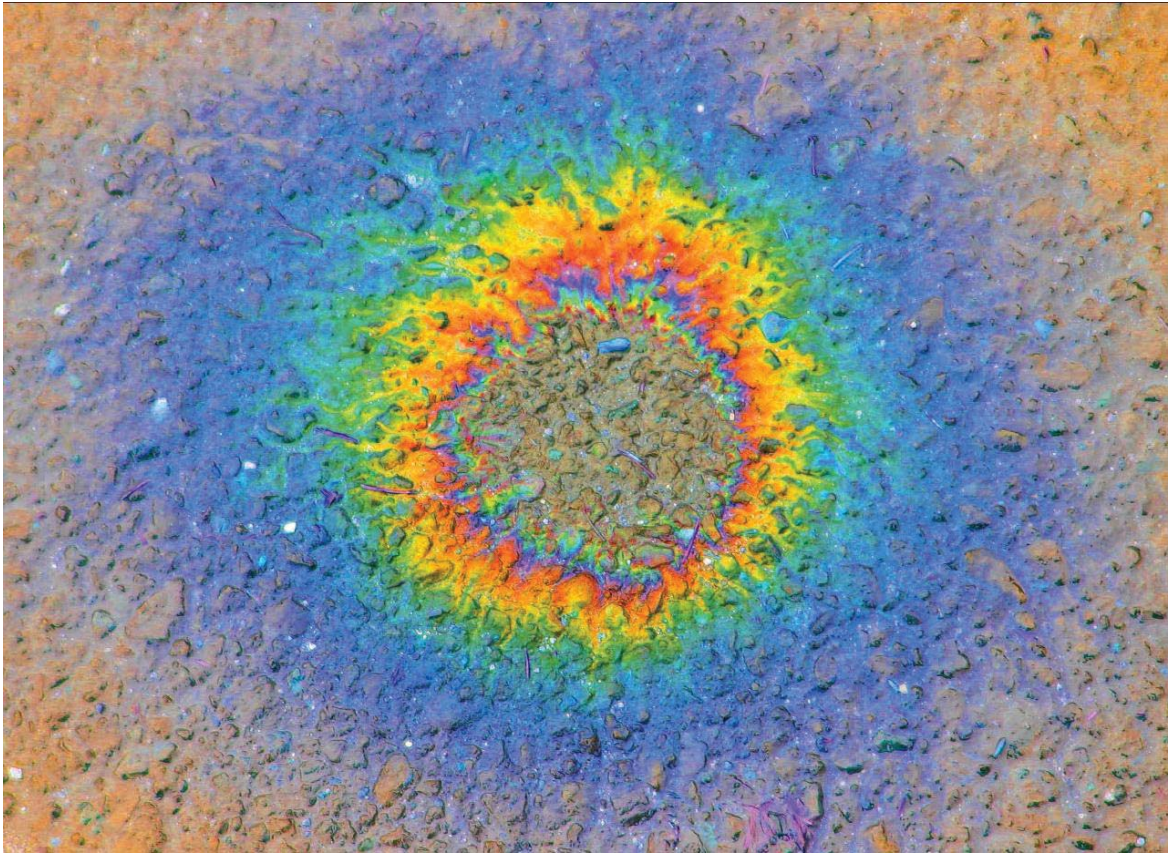
Abstract: This article estimates the relationship between bundled parking and vehicle ownership. When the cost of parking is included in the cost of housing, car ownership is more likely to increase. These lower costs are more than offset by the higher costs of car ownership. In this article, we use data from the 2000 American Housing Survey. We estimate that the cost of parking is bundled into the cost of housing in 50-75% of households without bundled parking. Cities near transit are twice as likely to have bundled parking.



Parking mandates can lead to more car ownership and driving







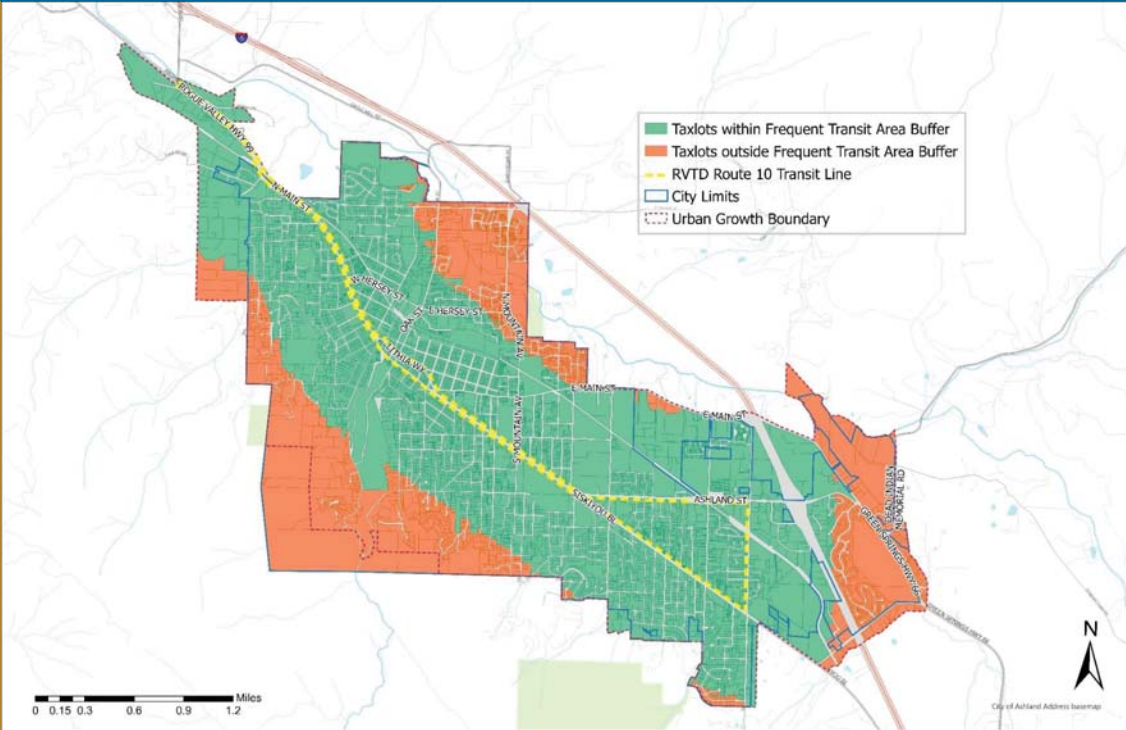


Improving Parking Management



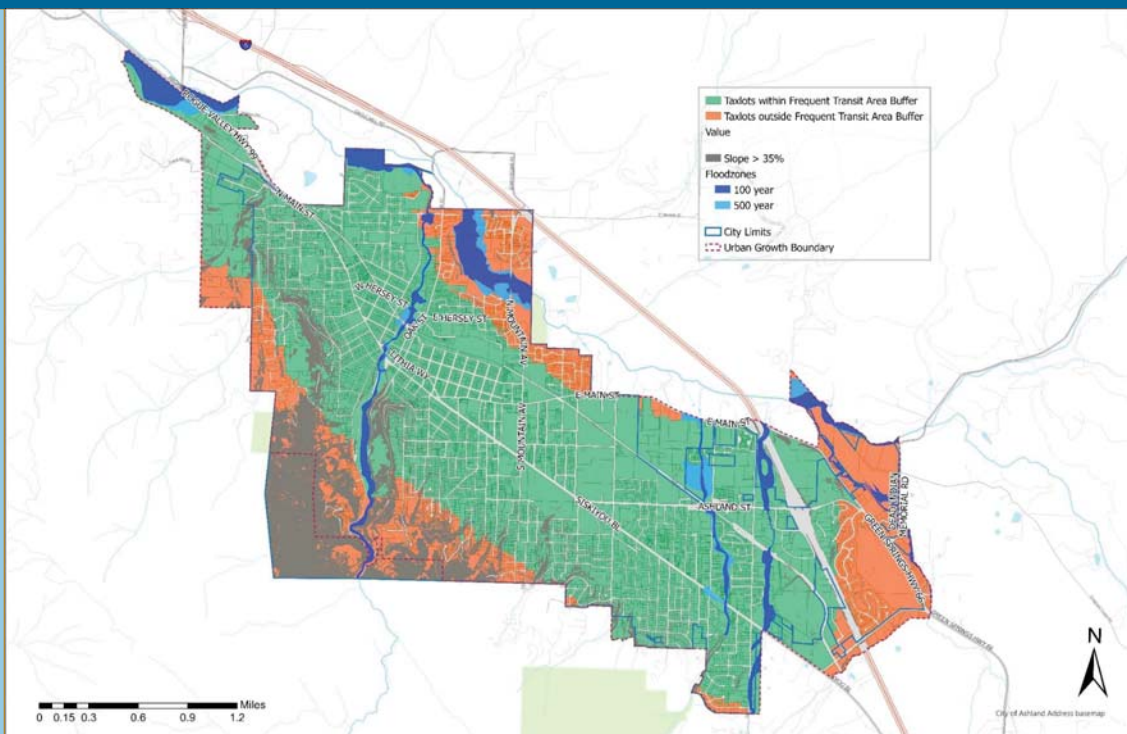
- No parking mandates near frequent transit
- No mandates for shelters, small units, affordable or public housing, childcare, facilities for people with disabilities
- Mandates no higher than one space/unit multifamily Now in Effect
- Cities choose an approach: By 12/31/23*

1	2	3
Repeal parking mandates	Adopt at least three fair parking policies (e.g. unbundling, flexible commute benefit)	Remove mandates for more dev't types and near climate-friendly areas



“Reduced Parking Mandates” Now in Effect





Improving Parking Management

- No parking mandates near frequent transit
- No mandates for shelters, small units, affordable or public housing, childcare, facilities for people with disabilities
- Mandates no higher than one space/unit multifamily **Now in Effect**
- Cities choose an approach: **By 12/31/23***

- 1**
Repeal parking mandates
- 2**
Adopt at least three fair parking policies (e.g. unbundling, flexible commute benefit)
- 3**
Remove mandates for more dev't types and near climate-friendly areas

Option 1 660-012-0420	Options 2 and 3 660-012-0425 through 0450	
Repeal parking mandates	Reduce parking burdens – reduced mandates based on shared parking, solar panels, EV charging, car sharing, parking space accessibility, on-street parking, garage parking. Must unbundle parking for multifamily units near frequent transit. May not require garages/carports.	
	Climate-friendly area parking – remove mandates in and near climate-friendly areas or adopt parking management policies; unbundle parking for multifamily units	
	Cities pop. 100,000+ adopt on-street parking prices for 5% of on-street parking spaces by September 30, 2023 and 10% by September 30, 2025	
no additional action needed	<p style="text-align: center;">Option 2 enact at least three of:</p> <ol style="list-style-type: none"> 1. Unbundle parking for residential units 2. Unbundle leased commercial parking 3. Flexible commute benefit for businesses with more than 50 employees 4. Tax on parking lot revenue 5. No more than ½ parking space/unit mandated for multifamily development 	<p style="text-align: center;">Option 3</p> <p>No mandates for a variety of specific uses, small sites, vacant buildings, studios/one bedrooms, historic buildings, LEED or Oregon Reach Code developments, etc.</p> <p>No additional parking for changes in use, redevelopments, expansions of over 30%.</p> <p>Adopt parking maximums.</p> <p>No mandates within ½ mile walking distance of Climate-Friendly Areas.</p> <p>Designate district to manage on-street residential parking.</p>



Land used for parking in downtown Corvallis

Other Parking Provisions

Best Practices

- Facilitate shared parking
- Convert underused parking
- Larger parking lots provide tree canopy or solar panels
- No garage requirements
- Incentives for car share, EV charging, accessible housing units
- Some parking maximums

Over 100,000 population

- If retaining mandates, price 5% of on-street parking spaces at least 50 cents/day by Sept 30, 2023 and 10% of spaces by Sept 30, 2025

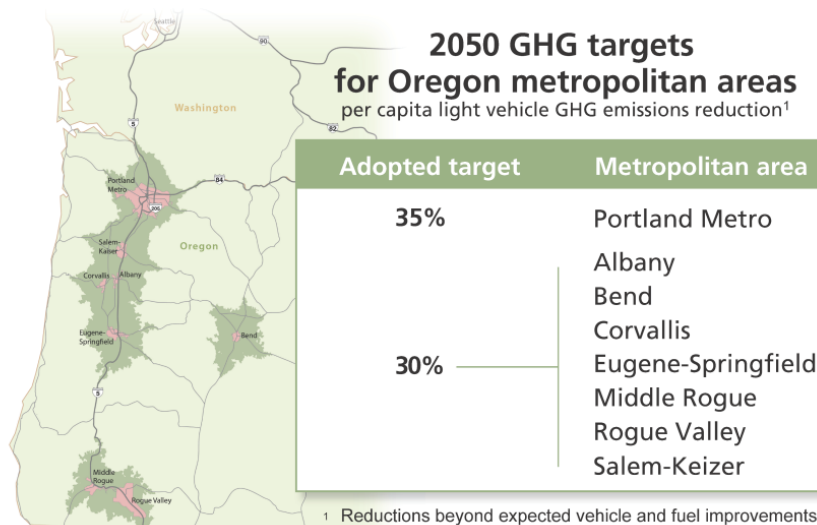


Rules Apply in Oregon's Metropolitan Areas

These contain over 60% of Oregon's population and 70% of jobs



Meeting Oregon's Climate Pollution Reduction Targets



¹ Reductions beyond expected vehicle and fuel improvements



STAFF
RECOMMENDATION

- Select “Option 1” to eliminate parking mandates city-wide.
- Modify codes to require that voluntarily provided parking comply with existing standards (dimensions, circulation, parking lot treatment, etc.)
- Convert bicycle parking requirements so they are no longer based on auto parking requirements and update to comply with new state rules (*well-lit, accommodate cargo & family bikes*)
- Retain existing parking maximums.

STAFF
RECOMMENDATION

- Updated Bicycle Parking Standards & Graphics
- Add specific code language to address on-street parking requirements (can be generally required for market rate units greater than 750 square feet).

Still to come...



ANY QUESTIONS?

