



Planning Commission Agenda

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note the public testimony may be limited by the Chair.

December 12, 2023 REGULAR MEETING AGENDA

I. **CALL TO ORDER:** 7:00 p.m., Civic Center Council Chambers, 1175 E. Main Street

II. **ANNOUNCEMENTS**

III. **CONSENT AGENDA**

1. **Approval of Minutes**

- a. November 14, 2023 Regular Meeting
- b. November 28, 2023 Special Meeting

IV. **PUBLIC FORUM**

Note: To speak to an agenda item in person you must fill out a speaker request form at the meeting and will then be recognized by the Chair to provide your public testimony. Written testimony can be submitted in advance or in person at the meeting. If you wish to discuss an agenda item electronically, please contact PC-publictestimony@ashland.or.us by December 12, 2023 to register to participate via Zoom. If you are interested in watching the meeting via Zoom, please utilize the following link: <https://zoom.us/j/98191446530>

V. **UNFINISHED BUSINESS**

A. **Approval of Findings for PA-T2-2023-00043, 192 North Mountain Avenue**

VI. **TYPE II PUBLIC HEARING**

A. **PLANNING ACTION:** PA-T2-2023-00044

SUBJECT PROPERTY: 822 Oak Street

OWNER / APPLICANT: Suzanne Zapf for Overlook Drive, LLC

DESCRIPTION: A request for Outline and Final Plan approval for a five-lot/four-unit Performance Standards subdivision for the properties located at 822 Oak Street. The Subdivision was previously approved in 2021 and some infrastructure work has been completed, however land use approval subsequently expired. The application also includes requests for: a Variance to allow a private driveway to serve four units (AMC 18.4.6.040.C.1) where dedication of a public street is typically required, an Exception to Street Standards to not install city standard street frontage improvements along Oak Street. Finally, the





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application requests relief from the adopted Physical and Environmental constraints maps to reflect the topography on site and allow minor encroachment into slopes exceeding 35%.

COMPREHENSIVE PLAN DESIGNATION: R-1-5; **ZONING:** Single Family Residential; **ASSESSOR'S MAP:** 39 1E 04CA; **TAX LOT:** 200 & 201.

~~VII. TYPE III PUBLIC HEARING~~

~~A. Recommendation of draft ordinance for Parks, Trails, and Open Space Map Update~~

VIII. OPEN DISCUSSION

IX. ADJOURNMENT

Next Scheduled Meeting Date: January 9, 2024 Regular Meeting



Planning Commission Minutes

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November 14, 2023

REGULAR MEETING

***DRAFT* Minutes**

I. CALL TO ORDER:

Chair Verner called the meeting to order at 7:00 p.m. at the Civic Center Council Chambers, 1175 E. Main Street. She noted that Commissioner Phillips was attending the meeting via Zoom.

Commissioners Present:

Lisa Verner
Doug Knauer
Eric Herron
Russell Phillips
Susan MacCracken Jain

Staff Present:

Brandon Goldman, Community Development Director
Derek Severson, Planning Manager
Aaron Anderson, Senior Planner
Michael Sullivan, Executive Assistant

Absent Members:

Kerry KenCairn
Gregory Perkinson

Council Liaison:

Paula Hyatt (absent)

II. ANNOUNCEMENTS

Community Development Director Brandon Goldman made the following announcements:

- The City's new emergency shelter at 2200 Ashland Street opened on November 1, 2023. There are currently thirty unhoused persons residing there, including children. The site will also serve as an inclement weather shelter.
- Staff received building permit applications for the Les Schwab Tire Center and for Habitat for Humanity's two proposed buildings in the Beach Creek Subdivision.
- The Ashland Parks & Recreation Department will be presenting an update to the Park, Trails, and Open Space map of the City's Comprehensive Plan to the Commission at its November 28, 2023 meeting.
- The City Council will be holding a Special Meeting regarding the workplans of the City's Commissions and Committees, where the Council will also hold an appreciation event for these groups.
- The December Study Session will fall on December 26, 2023. The Commission agreed to cancel the meeting.
- The annual Planning Commission update to Council will be held on March 4, 2023.





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III. CONSENT AGENDA

1. Approval of Minutes

- a. October 10, 2023, Regular Meeting

Commissioners Knauer/Herron m/s to approve the consent agenda as presented. Voice Vote: All AYES. Motion passed 5-0.

IV. PUBLIC FORUM – None

V. TYPE II PUBLIC HEARING

A. PLANNING ACTION: PA-T2-2023-00043

SUBJECT PROPERTY: 192 North Mountain Avenue

OWNER / APPLICANT: KDA Homes, LLC

DESCRIPTION: A request for a modification of the previously approved Outline Plan (PA-T3-2021-00003), and revised Final plan for the third phase of the Beach Creek Subdivision. The proposal revises the subdivision plan to include a private alley and to add one additional lot. The project is currently under construction with Phases I and II recorded and houses under construction. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-5; **ASSESSOR'S MAP:** 39 1E 10; **TAX LOT #'s:** 800

Ex Parte Contact

Chair Verner recused herself from participating in the discussion of this item because of her previous contact with one of the applicant's, Mark Knox, and because she has resided in two homes developed by the owner, KDA Homes. Vice-Chair Knauer presided over this portion of the meeting. No ex parte contact or site visits were reported.

Staff Presentation

Senior Planner Anderson stated that the proposal is requesting a minor modification to the already approved outline plan, which would add a private alley and one additional lot to the Beach Creek subdivision. He gave a brief timeline, starting with the Commission's approval of the original project on September 28, 2021, and ending with the current proposal's 120-day application timeline on February 22, 2024. He noted that development would still be within the allowed density, even with the additional lot (see attachment #1).

Mr. Anderson noted that staff had received comments from nearby residents during the public noticing period regarding various aspects of the project, including grading and solar access, development of affordable housing, and an existing storm drain on the property. He stated that he had met with members of the adjacent Homeowner's Association (HOA) to discuss their solar





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access and setback concerns, and that there would be no changes to the number of affordable housing units proposed. Mr. Anderson stated that, per a meeting the City's Public Works Department and the applicant's engineer of record, the aforementioned private storm drain would need to be rehabilitated.

Questions of Staff

Vice-Chair Knauer asked if staff had satisfied the HOA's concerns regarding solar setbacks. Mr. Anderson responded that they appeared to be satisfied.

Commissioner MacCracken Jain asked if the proposed amendments would result in any changes to public or open spaces, and Mr. Anderson responded that they would not. Commissioner MacCracken Jain inquired if the affordable housing units would change under the new proposal. Mr. Anderson responded that the locations of the affordable housing units had not been finalized.

Commissioner Herron asked if the recorded easement would benefit the 6-7 units adjacent to it, or if it would affect the whole neighborhood. Mr. Anderson stated that the easement would likely only affect the adjacent lots, and as such would not pose any potential issues. Commissioners Herron and Knauer expressed concern over parking access along the alley. Mr. Anderson responded that the alley meets the City's parking standards.

Applicant Presentation

Mark Knox noted that he is retired, but had returned to help complete this project. He stated that the proposal is relatively simple and that he will reserve much of his presentation for rebuttal.

Mr. Knox briefly described the circumstances that led to the proposed creation of the additional lot and alley, and that the development conforms well with the space. He stated that the findings of fact are contained within the application, and that he saw no need to request exceptions or variances. Mr. Knox stated that he met with nearby residents to address their concerns regarding solar access. He also noted that lots 44 and 48 would be used for affordable housing, and would be accessed by a driveway from Orchid Street.

Questions of the Applicant

Vice-Chair Knauer requested clarification regarding the orientation of lots 45 and 46 in relation to Hagen Way. Mr. Goldman responded that those lots would be accessed from Rosemary Alley, but would be facing Hagen Way. Mr. Knox added that Hagen Way will have street trees planted along it.

Public Comments

Laz Ayala/Mr. Ayala submitted a speaker request form but declined to comment.

Sue Whiteman/Ms. Whiteman distributed an informational packet to the Commission outlining her



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concerns (see attachment #2). She stated that she is a member of the Ashland Village HOA adjacent to the subject property, and that her main concern is the state of the existing storm drain on the property that is not in accordance with engineering requirements. Ms. Whiteman related her repeated attempts to contact KDA Homes, which were unsuccessful, resulting in her meeting with Mr. Anderson on November 3, 2023 to discuss the drainage area, where the City determined that the storm drain was not in compliance. She added that she was able to meet with KDA Homes on November 13, 2023, regarding proposed changes to the drainage area.

Ms. Whiteman stated that Ashland Village HOA had been restoring its section of Beach Creek for the last two and a half years under guidance from the state, the City, KDA Homes, and the Jackson Soil and Water Conservation District (JSWCD). She asked why KDA Homes was not being required to reseed the area surrounding the storm fall, and requested that the City provide a copy of its final inspection of the storm drain to the Ashland Village HOA.

Vice-Chair Knauer asked for the location of the storm fall. Mr. Anderson responded that it is within the common area associated with Bear Creek, and that the storm drain is on private property. He added that the applicant's engineer is working with the City's Public Works department to ensure that all appropriate corrections are made.

Commissioner MacCracken Jain asked how storm drain concern would affect the development of phase III of this project. Mr. Anderson responded that the recording of phase III would not be approved until all concerns with the subdivision have been addressed, including the storm drain. Mr. Severson added that some items from phase II are still being addressed, including landscaping near the bridge installation, and the applicant submitted a letter of credit to secure those approval criteria in order to get the phase II plat signed.

Vice-Chair Knauer asked Ms. Whiteman how the status of the storm fall would affect the Ashland Village HOA, particularly in terms of erosion. Ms. Whiteman responded that it is largely an ecological concern, and that this issue was brought up by the Jackson Soil and Water Conservation District.

Applicant's Rebuttal

Mr. Knox stated that he met with Ms. Whiteman and other members of the HOA on November 13, 2023 to address their concerns, and apologized for not being more available over the past four months of this project's development. He stated that the applicant team is working with the Lomakatsi Restoration project to create a cohesive corridor along the property, and that they have planted over 400 trees as part of a fuel management program. Mr. Knox explained that they are also intending on reinforcing the sides of the storm fall and adding netting, and that this issue is currently being addressed. Vice-Chair Knauer asked if these improvements would meet Jackson County standards. Mr. Knox responded that the proposed improvements are all in accordance with engineering



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specifications. He informed the Commission that the applicant team donated to the HOA to assist in mitigating any possible erosion.

Deliberation and Decision

Vice-Chair Knauer directed attention to public comments received from the public in advance of the meeting (see attachment #3). He stated that James Jarrard had directed inflammatory remarks towards each member of the Commission, as well as Mr. Goldman and Councilor Paula Hyatt. He stated that these comments were false and despicable.

Commissioners Herron/MacCracken Jain m/s to approve the application with staff's recommendations, including a final approval by staff of the storm drain. Roll Call Vote: All AYES. Motion passed 4-0.

VI. TYPE III PUBLIC HEARING

A. TO CONSIDER AN ORDINANCE AMENDING THE ASHLAND LAND USE ORDINANCE TO REMOVE AUTOMOBILE PARKING MANDATES AND AMEND PARKING STANDARDS SET FORTH IN ASHLAND MUNICIPAL CODE SECTIONS 18.2.2, 18.2.3, 18.3.14, 18.3.2, 18.3.4, 18.3.5, 18.3.9, 18.4.2, 18.4.3, 18.4.4, 18.4.6, 18.5.2, 18.5.3, 18.5.4, 18.5.5, AND 18.5.6.

Chair Verner returned to preside over the remainder of the meeting.

Staff Presentation

Mr. Goldman described how new state guidelines that went into effect earlier this year prohibit cities from mandating parking within a half mile of public transit routes. He related how Oregon had adopted Climate-Friendly and Equitable Communities (CFEC) rules relating to parking in July, 2022, with the goal of reducing greenhouse gas emissions by promoting alternative modes of transportation. Cities were then given three options for how to adopt these rules, with the Commission and City Council directing staff to explore Option 1, which would eliminate parking mandates City-wide. This option was selected because the removal of parking mandates within a half mile of public would eliminate parking mandates for much of the City, particularly with the designation of future Climate-Friendly Areas (CFAs).

Mr. Goldman briefly detailed the CFEC guidelines with regards to parking, then described amendments that the City is considering that are not required by the new state guidelines (see attachment #4). These City-specific amendments included new draft codes for the City's ADA-accessible parking requirements; conditional use permits for excess parking; amendments to on-street parking in subdivisions; driveway separation standards; vehicular circulation width standards; and maximum grade for flag drives.





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Mr. Goldman outlined the timeline for adoption of the CFEC parking reforms, with the adoption of Findings at the November 28, 2023 Commission meeting, before going to the City Council on December 5 and December 19, 2023 for a first and second reading, respectively.

Questions of Staff

Commissioner Herron requested clarification regarding proposed accessible parking standards to Ashland Municipal Code (AMC) 18.4.3.050, which state *"in cases where no parking spaces are voluntarily proposed for commercial, industrial, public use, mixed-use, and multifamily developments with three or more units, it is mandatory to provide at least one accessible parking space."* Mr. Goldman responded that this change was made to differentiate multi-family units from duplexes, single-family residential units, or even two units on one lot which would be considered multi-family units. He elaborated that an ADA-accessible parking space would not be required for a duplex. Commissioner Herron suggested that this be amended to include only residential units.

Commissioner Herron noted that buildings in C-1-D zones are not required to provide parking, and asked if the proposed changes to AMC 18.4.3.050 would result in current businesses being out of compliance if they don't offer ADA-accessible parking. Mr. Goldman responded that staff had not considered that impact, and that the Commission could make a recommendation to change this before a final decision is made by the Commission and Council.

Commissioner MacCracken Jain requested clarification regarding sections of the draft ordinance that were included in the packet from the September 12 Commission meeting that were crossed out. Mr. Severson responded that the September 12, 2023 meeting presented two sets of code changes, which were combined in preparation for the current meeting.

The Commission engaged in a discussion about unbundling parking spaces from rental units. Mr. Goldman noted that a decision to unbundle parking is not being included as part of the proposed amendments, and that the CFEC guidelines require that cities notify all those affected by such changes before any amendments can be made. There was general agreement among the Commission that unbundling parking should be reviewed more closely at a future date.

Commissioner MacCracken Jain asked if all existing parking would be grandfathered in with the proposed changes. Mr. Goldman responded that all required parking would convert to voluntary parking, which would not be required to be maintained. Commissioner Phillips asked if existing voluntary parking could be converted to other types of buildings or areas. Mr. Goldman responded that voluntary parking areas could be considered developable land, though any such proposals would be required to undergo site review before being approved.

Chair Verner closed the Public Hearing and Public Record at 8:27 p.m.



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Deliberation and Decision

The Commission expressed anticipation in discussing unbundling parking at a later date, and also appreciation for the public comments received on this matter.

Commissioners MacCracken Jain/Phillips m/s to approve staff's proposal with the changes discussed. Roll Call Vote: All AYES. Motion passed 5-0.

VII.

UNFINISHED BUSINESS

A. Approval of Findings for PA-APPEAL-2023-00018, 321 Clay Street.

Ex Parte Contact

No ex parte contact or site visits were declared.

Deliberation and Decision

Commissioner MacCracken Jain noted that sections 3.1 and 3.2 of the findings made mention of a partition, which is not part of original application. Mr. Severson responded that those sections should refer to the tree removal, and that this would be changed in the final draft of the findings.

Commissioners MacCracken Jain/Verner m/s to approve the Findings with the corrections suggested by Commissioner MacCracken Jain. Roll Call Vote: All AYES. Motion passed 5-0.

VIII. OPEN DISCUSSION

Commissioner MacCracken Jain asked if the Commission needed to take any further action on the comments received by Mr. Jarrard. Mr. Goldman responded that staff believed that the accusations from Mr. Jarrard may have been made in error due to an editing mistake, because a digital copy of those letters was also received that did not include those claims. He outlined the City's Acting City Attorney submitted a letter into the record refuting these claims, and that there should be no need for any further action.

IX. ADJOURNMENT

Meeting adjourned at 8:37 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*





PA-T2-2023-00043

Beach Creek

PLANNING COMMISSION

NOV 14, 2023

3

Current Request

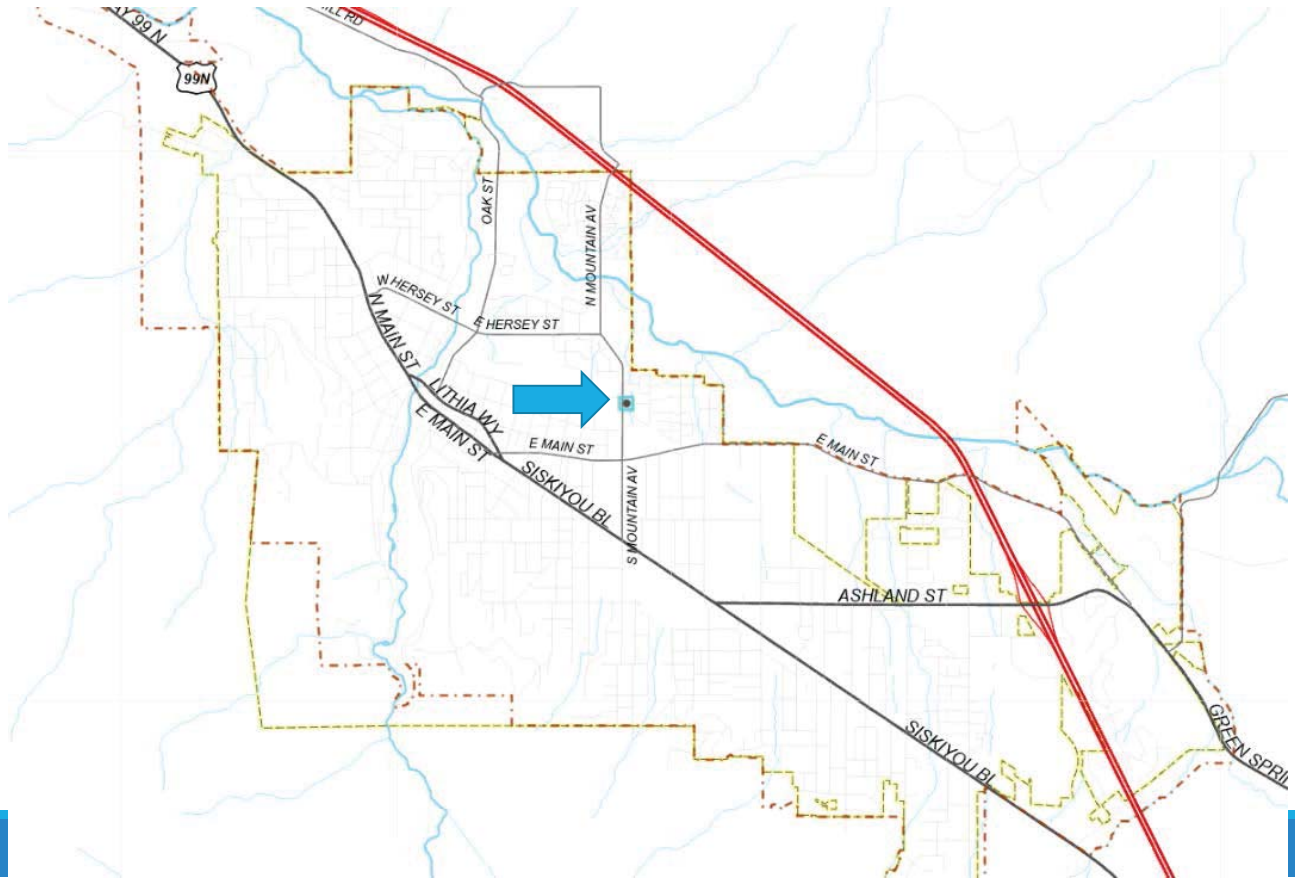


A Minor Modification to revise the approved subdivision plan to include a private alley and to add one additional parcel within the Phase III area of the development.

This increases the total number of residential lots from 52 to 53.

The modification is to the outline plan (for the overall subdivision) and concurrent review of the resultant final plan.

4



Thu Jun 15 2023

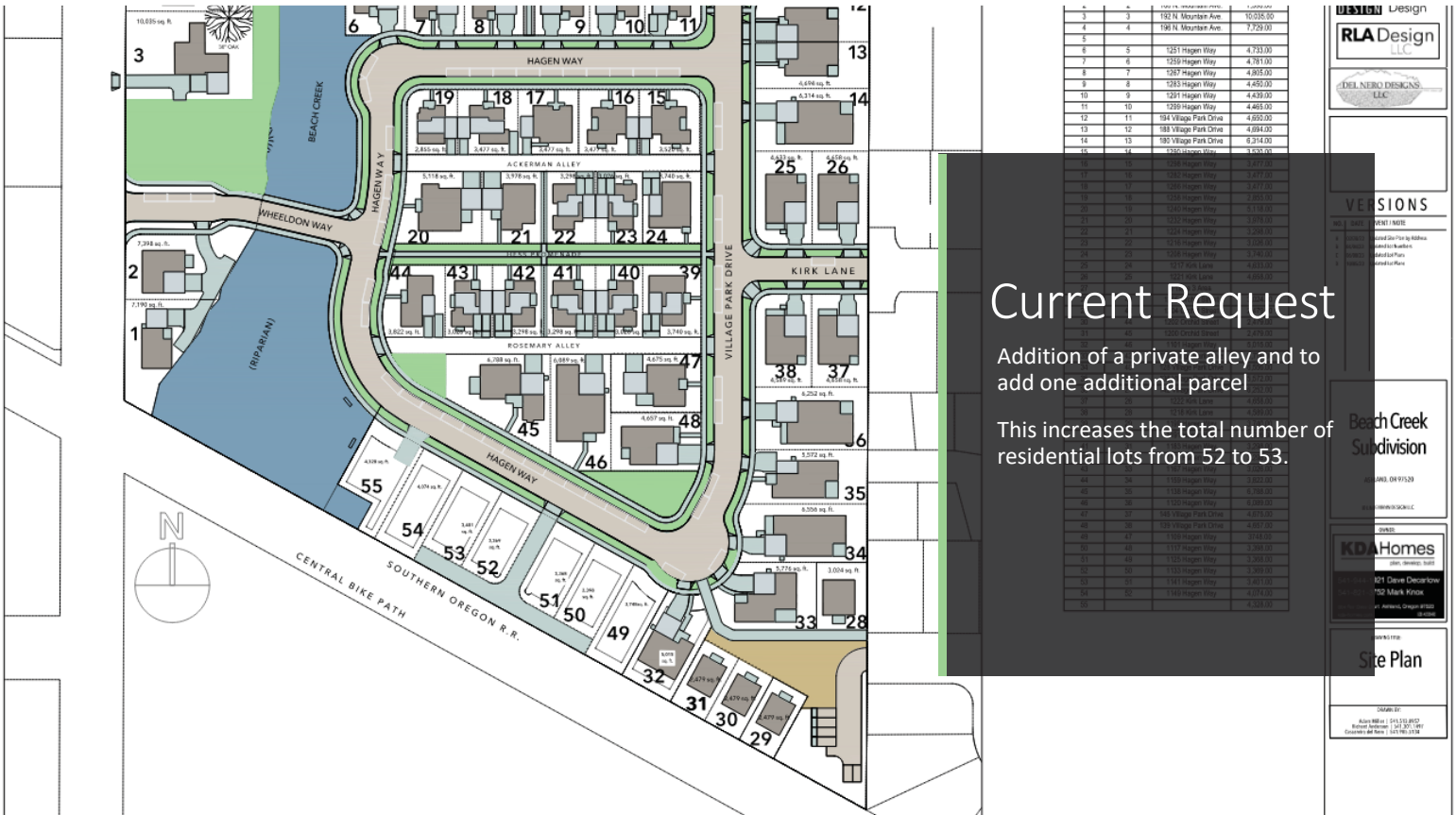
Imagery © 2023 Nearmap, Inc. 80 ft



History of development / timeline



PC Approval	9/28/2021	
Council Approval	11/2/2021	ORD 3203
Phase 1 recorded	7/12/22	CS23684
Phase 2 recorded	9/27/23	CS23991
Application	10/12/23	
Hearing	11/14/23	
120 Day	2/22/24	



Current Request
 Addition of a private alley and to add one additional parcel
 This increases the total number of residential lots from 52 to 53.

Allowed density



Better Together

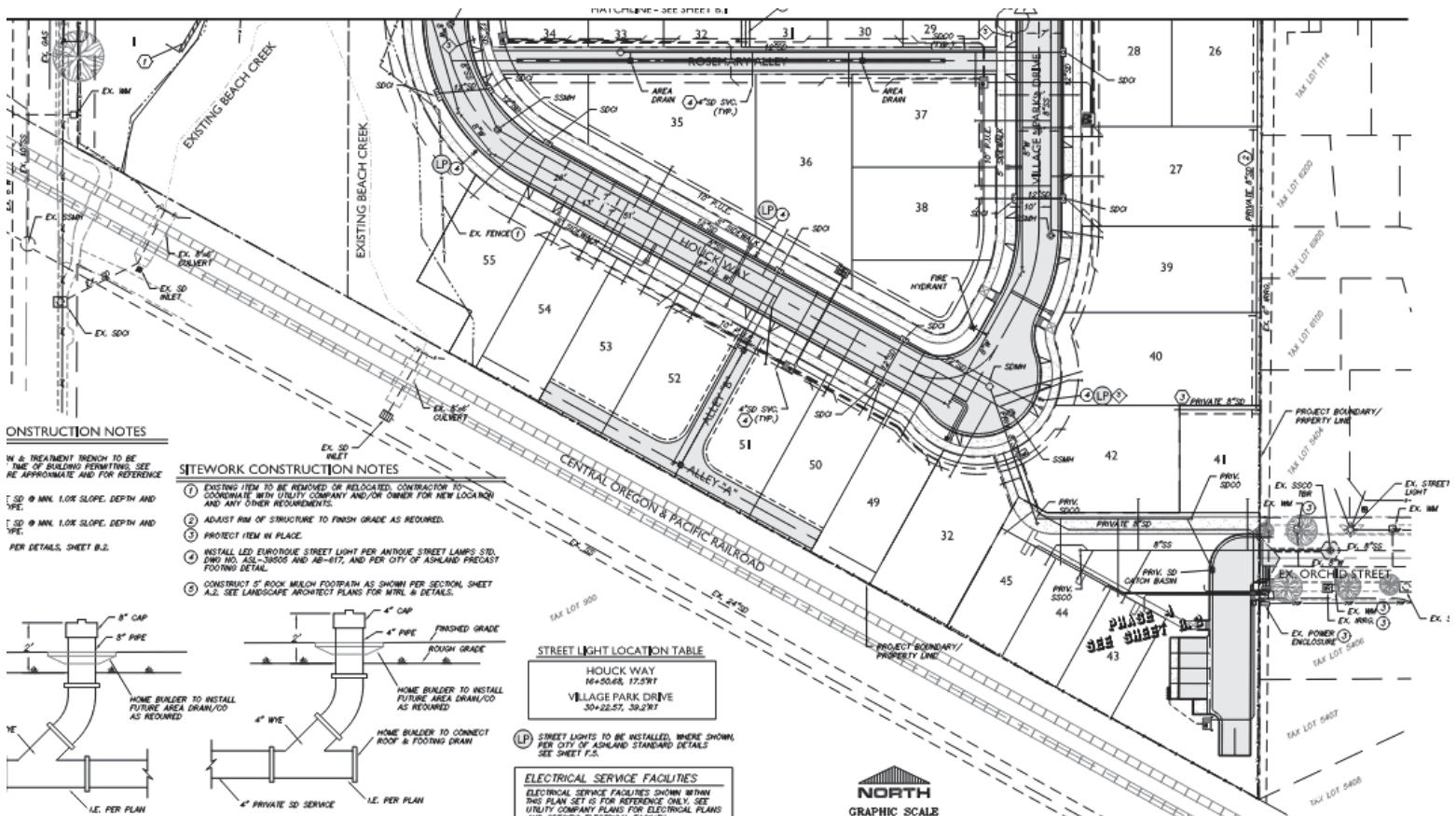
10 acres x 4.5 du/ac = 45

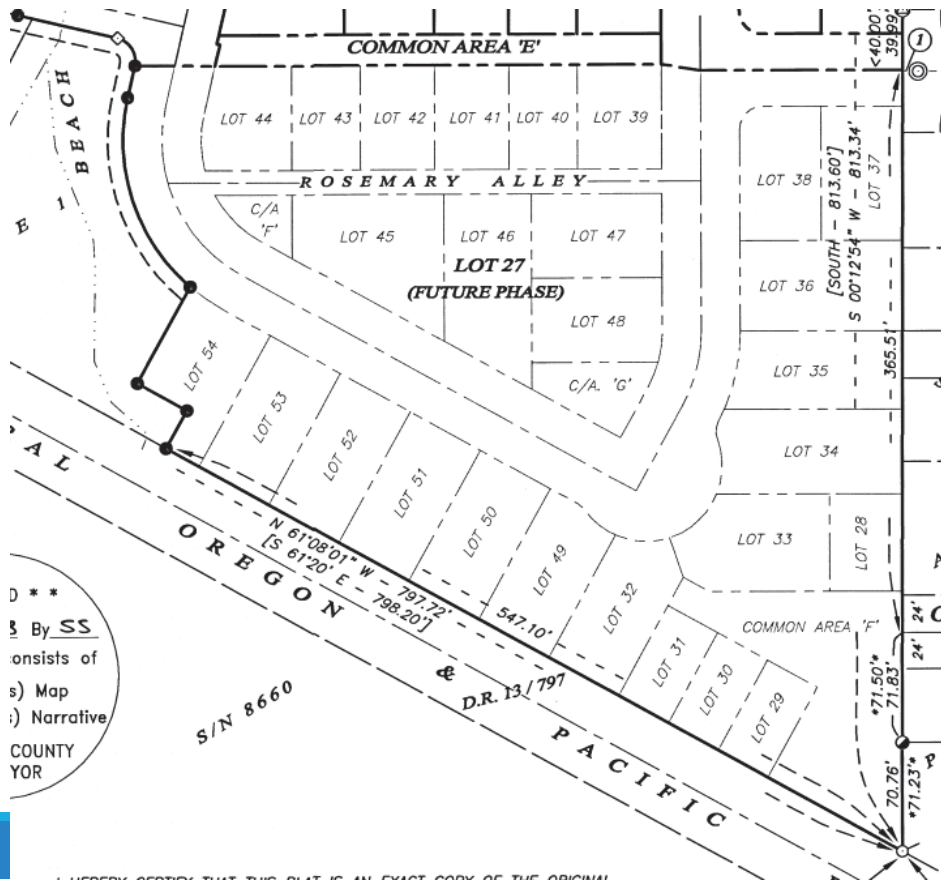
- Bonus Density Strategies: total 60%
- Conservation housing: 15%
- Open space: 10%
- Affordable Housing: (up to) 35%

Total allowed density with bonus: 45 x 1.6 = 72

53 < 72

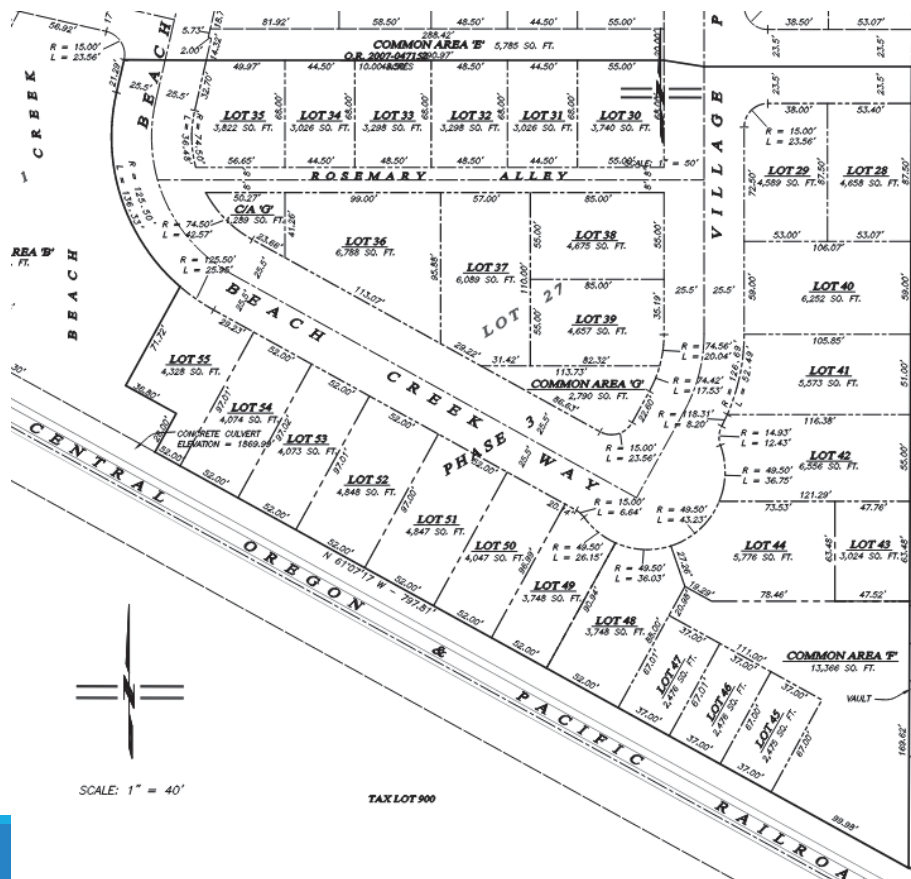
53 units is 18%





D * *
By SS
consists of
s) Map
i) Narrative
COUNTY
YOR

HEREBY CERTIFY THAT THIS PLAN IS A TRUE COPY OF THE ORIGINAL



SCALE: 1" = 40'

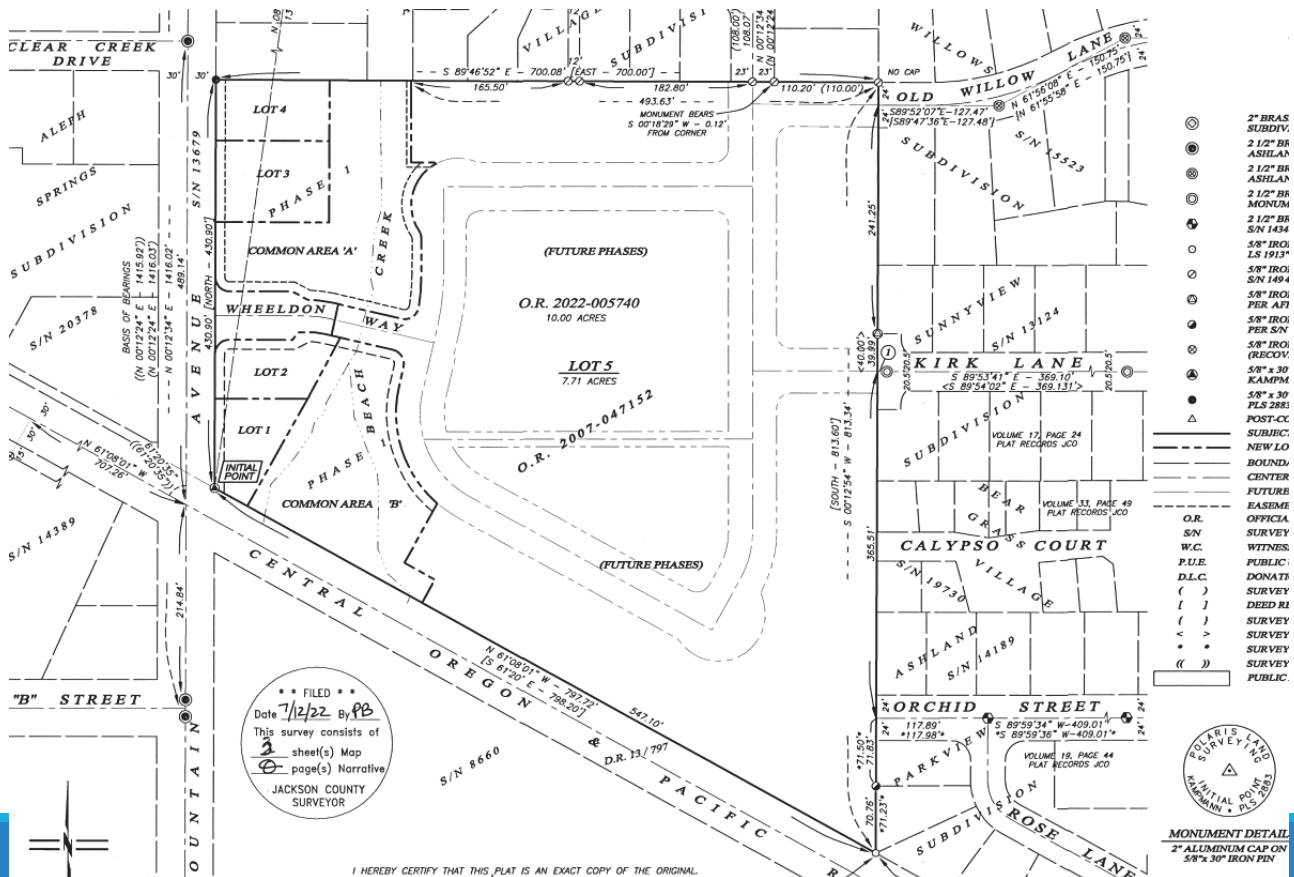
TAX LOT 900

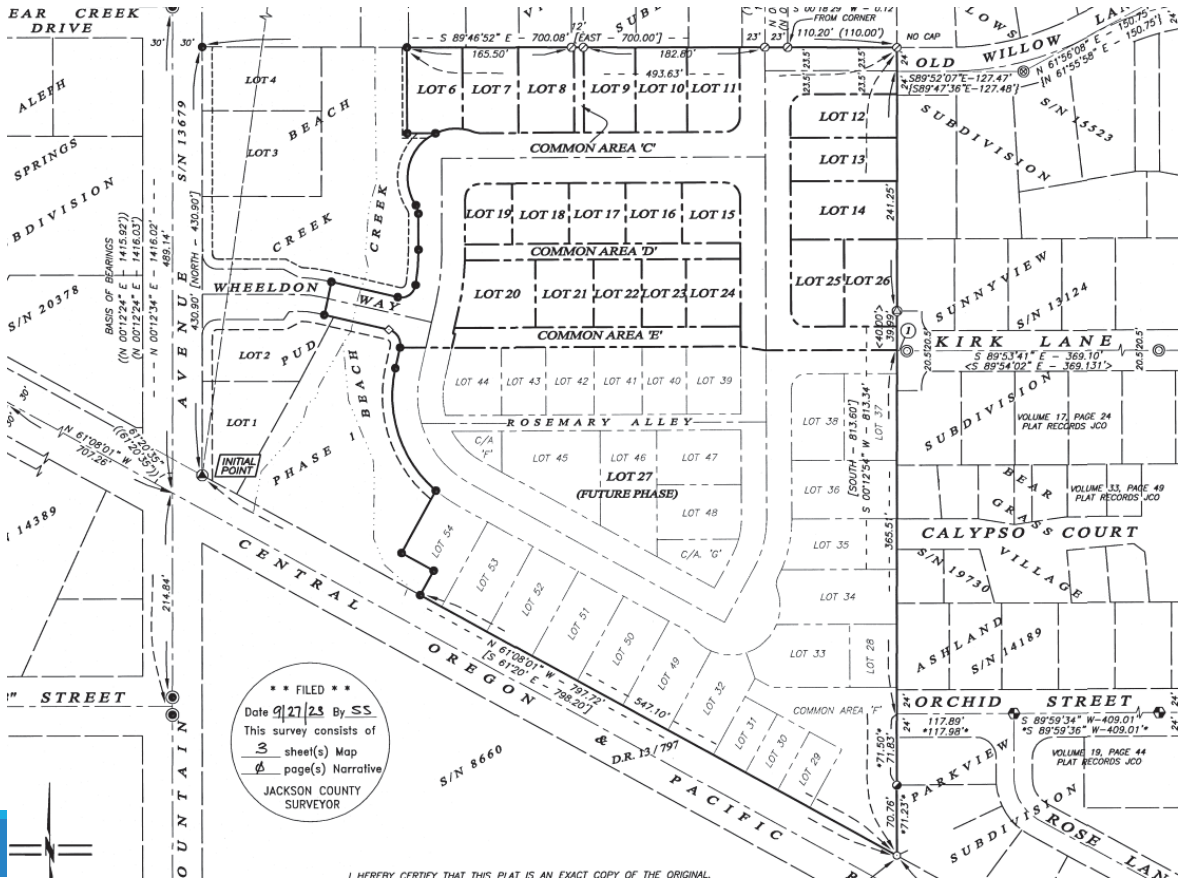
number of lots / numbering



Better Together

Phase 1:	1-5	4 home sites	lot 5 future
Phase 2:	6-27	21 home sites	lot 27 future
Phase 4:	28-55	28 home site	
Total residential lots		53	





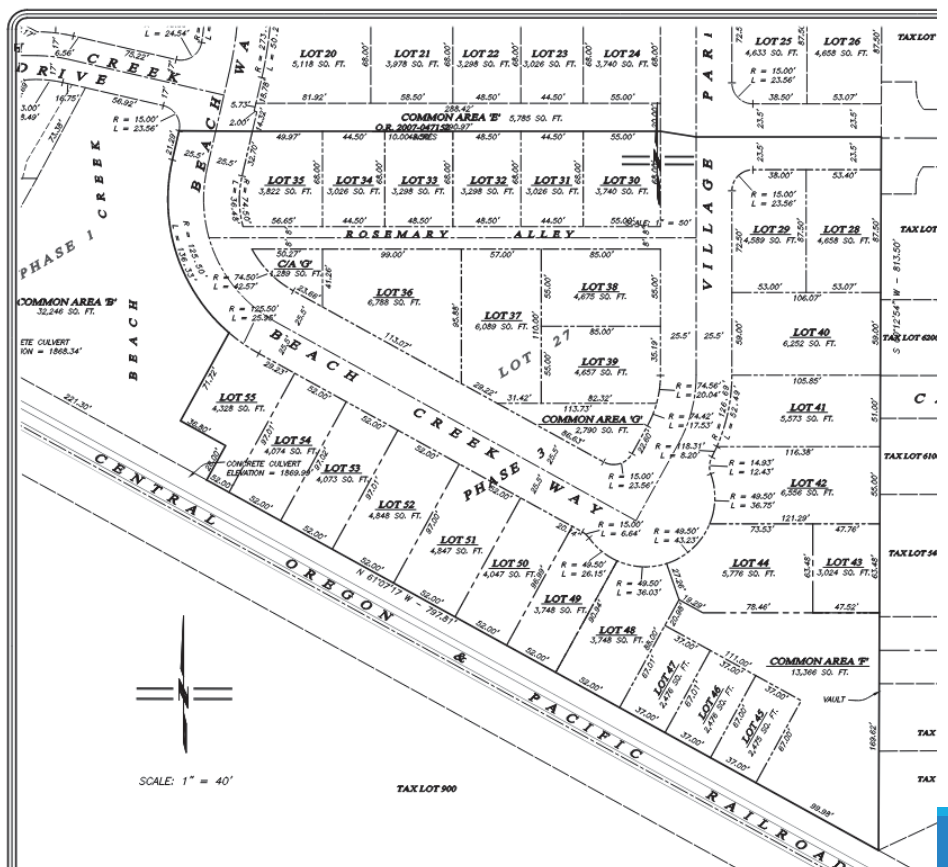
- ⊙ 2" BRASS SUBDIVI
- ⊙ 2 1/2" BR. ASHLAN
- ⊙ 2 1/2" BR. ASHLAN
- ⊙ 2 1/2" BR. MONUM.
- ⊙ 2 1/2" BR. S/N 14344
- ⊙ 5/8" IRON LS 1913"
- ⊙ 5/8" IRON S/N 14944
- ⊙ 5/8" IRON PER. AFF.
- ⊙ 5/8" IRON PER. S/N.
- ⊙ 5/8" IRON HIBBS (R)
- ⊙ 5/8" x 30" KAMPM
- ⊙ 5/8" x 30" KAMPM
- ⊙ 1" BERNY 2883" (E)
- ⊙ SUBJECT NEW LOT
- ⊙ BOUNDARY CENTER
- ⊙ FUTURE EASEMENT
- ⊙ OFFICIAL SURVEY WITNESS
- ⊙ PUBLIC DONATION SURVEY
- ⊙ DEED RE SURVEY
- ⊙ SURVEY PUBLIC

*** FILED ***
 Date 9/27/23 By SS
 This survey consists of
 3 sheet(s) Map
 6 page(s) Narrative
 JACKSON COUNTY SURVEYOR



MONUMENT DETAIL
 2" ALUMINUM CAP ON
 5/8" x 30" IRON PIN

I HEREBY CERTIFY THAT THIS PLAT IS AN EXACT COPY OF THE ORIGINAL.



SCALE: 1" = 40'

Public input / concerns



Grading / Solar Access

Development of Affordable Housing

Storm Drain

Affordable Housing



There are no changes to the number of affordable units required or provided.

Habitat has ownership and has applied for 2 building permits in phase 2

Lot 27 is deed restricted to ensure the development of six more.





Ashland Planning Commission Meeting 11/14/23
KDA Storm Drain Outfall

Sue Whiteman, Ashland Village HOA Representative
Gery Whiteman, Resident
Sarah Seybold, Co-President AVHOA

Our HOA borders the KDA development. We are speaking today about the storm drain outfall area close to the border between KDA and Ashland Village HOA (AVHOA). As outlined by Aaron Anderson it is not in accordance with engineering requirements.

Over the past 2 ½ years, AVHOA has been restoring our section of Beach Creek under the guidance of the State, City, KDA, and Jackson Soil and Water Conservation District (JSWCD). Lomokatsi is contracted with KDA and AVHOA for the restoration.

Under our JSWCD grant we are required to have regular onsite visits over 3 years to assure a successful project. Following our 8/29/23 visit, we attempted to contact KDA with our concerns about the drainage area. Since we were unsuccessful, we contacted Aaron and met with him on 11/3/23.

On Monday, 11/13/23, we met with KDA and their contractors about the proposed changes to the drainage.

We would like to review a few pictures and the JSWCD 8/29/23 report to acquaint you with the project followed by our questions and concerns.

Review handouts

Question:

Why is KDA not planting or seeding the area closest to the storm drain outfall? The pictures show that this has been done further to the south where erosion is less significant. In JSWCD's report they recommend smoothing out the banks **and planting**. Also "**Need for soil protection on the KDA side for fall/winter rains; exposed soil will flow into creek**". This has been done on AVHOA side.

AVHOA would like a copy of the City's final inspection stating the changes made in the storm drain outfall area has been constructed in accordance with the City's engineering requirements and riparian standards.

Thank you for your attention to this matter.



KDA
(5/17/18)

BEFORE

AVHOK
(11/14/18)

4/18/21

Cover

CURRENT

7/4/23

AVHDA (north)

KDA (south)



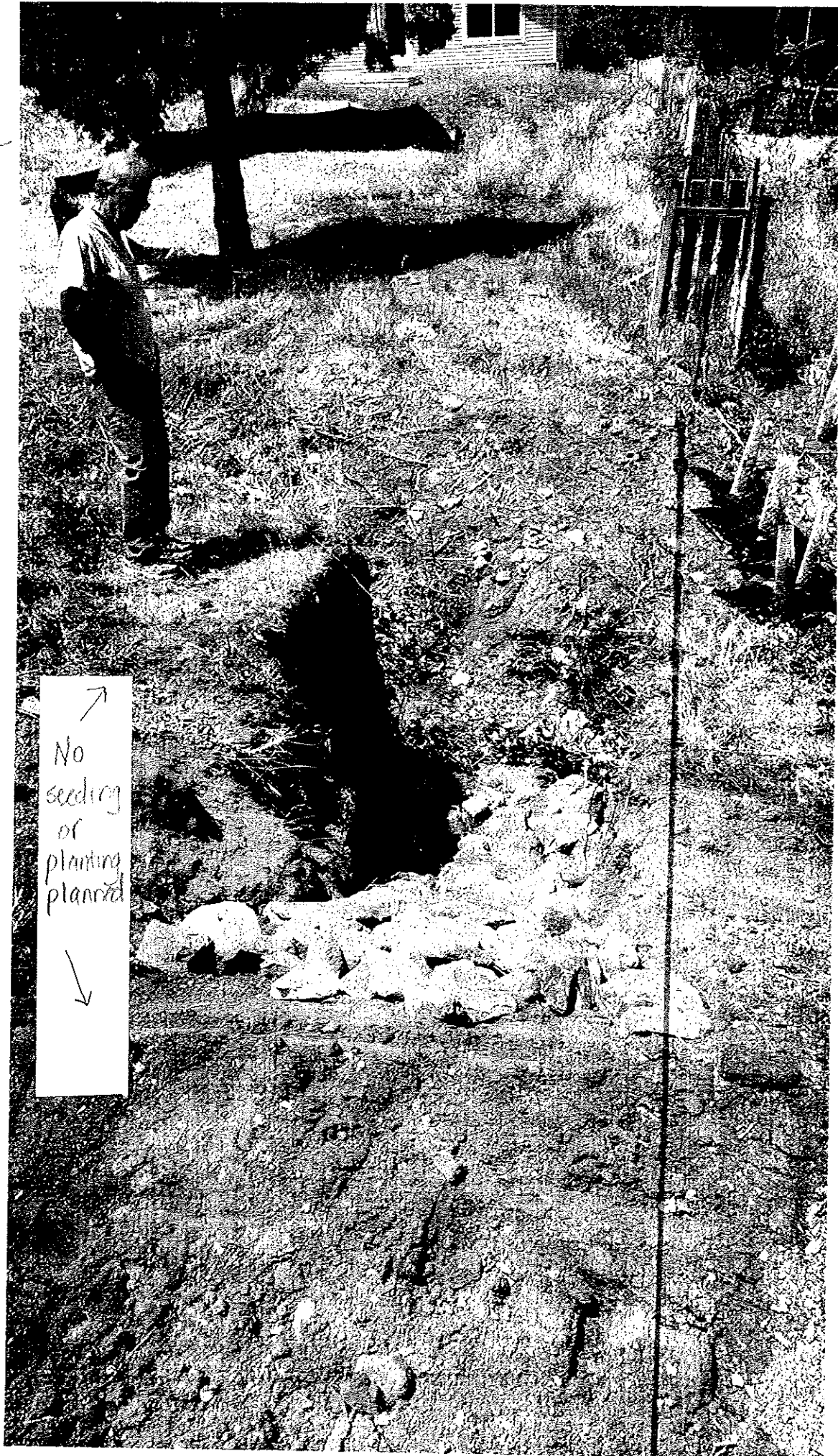
6/21/23

CURRENT

KDA
(south)

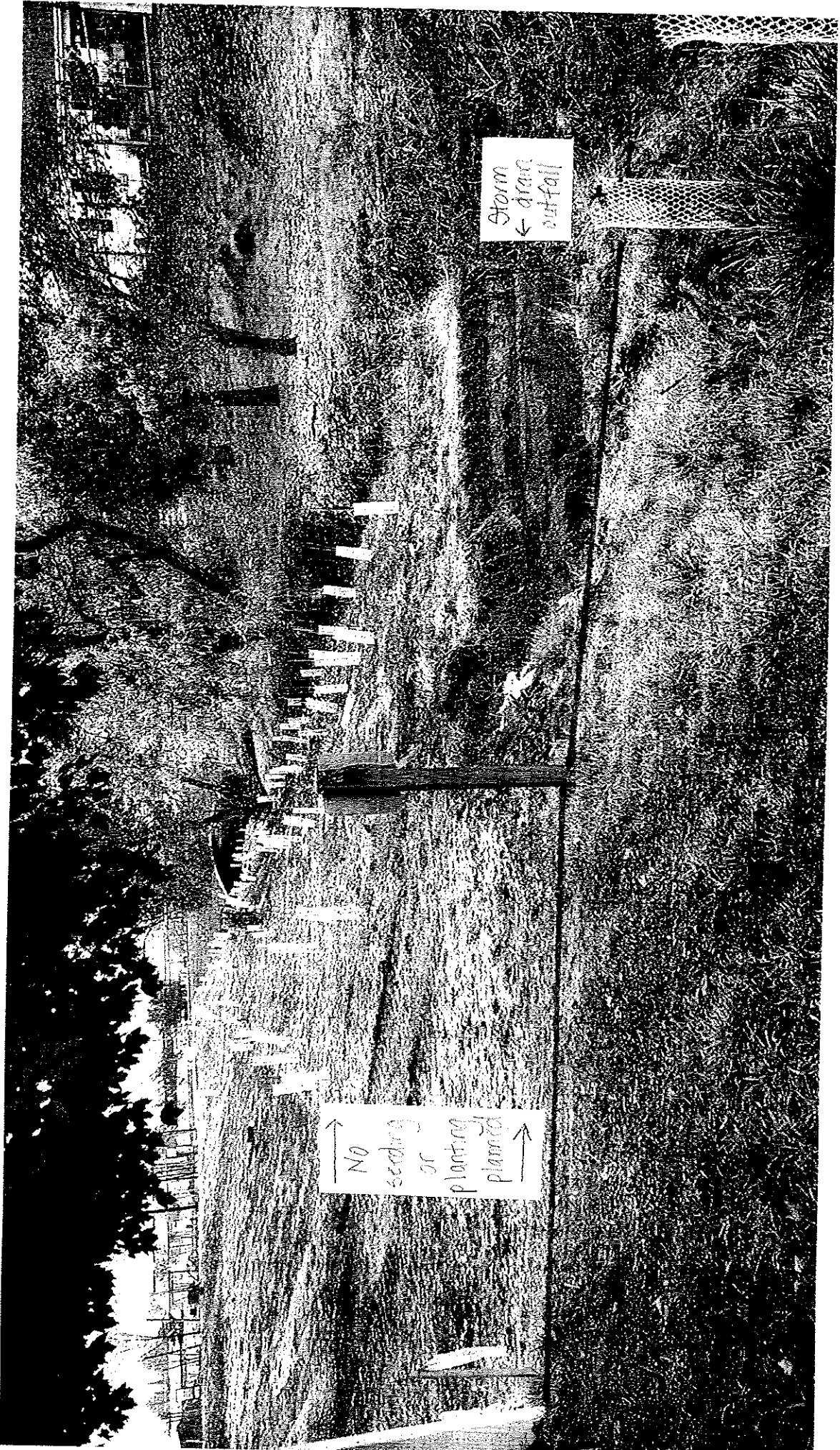
AVHSA
(north)

↑
No seeding
or planting
planned
↓



11/13/20

CURRENT
KDA (south)



AVHDA (north)



Jackson Soil & Water Conservation District
 89 Alder Street Central Point OR 97502
 Telephone: 541-423-6159 Fax: 541-727-7471
www.jswcd.org

AVHOA - SITE VISIT SUMMARY

PROPERTY ADDRESS:	1123 Village Square Drive, Ashland OR
TAXLOT(s):	391E1OBB, 3718
WATERSHED (HUC12):	Hamilton Creek-Bear Creek (171003080105)
DATE OF SITE VISIT:	August 29, 2023

ATTENDEES	ORGANIZATION	CONTACT INFORMATION
Sue & Gery Whiteman	AVHOA Landowners	suewhiteman063@gmail.com ; 970-217-9956
Jack Seybold	AVHOA Co-presidents, Landowners	sseybold@mind.net gael63@mind.net
Clint Nichols	Jackson SWCD	clint.nichols@jswcd.org 541-423-6180
Kora Mousseaux	Jackson SWCD	kora.mousseaux@jswcd.org 541-423-6181

Dear Sue & Team,

Thank you for inviting JSWCD staff to your property. We look forward to assisting you in achieving your natural resource goals. Below please find a summary of our recommendations.

Natural Resource Concerns & Recommendations

Primary Concern: Erosion Control

- Sheer face dug on KDA side, need for bank protection
 - Smooth banks out/pull back & plant OR
 - Back fill with soil, install willow mattress, plant top
 - Isn't all the way to creek, likely above the ordinary high water mark
- Take pictures during storms
- Need for soil protection on KDA side for fall/winter rains; exposed soil will flow into creek
 - KDA has a drainage plan in the opposite direction of the creek to the East



Sue Whiteman <suewhiteman063@gmail.com>

Ashland Village HOA site visit 11/3/23 with City of Ashland

Aaron Anderson <aaron.anderson@ashland.or.us>
To: Sue Whiteman <suewhiteman063@gmail.com>
Cc: Derek Severson <derek.severson@ashland.or.us>

Mon, Nov 13, 2023 at 11:25 AM

Hi Sue,

I wanted to let you know that I have heard back from the engineering dept and they confirm that the storm drain outfall closest to your home is not constructed in accordance with the engineering requirements. I was told that KDA is aware, and their engineering firm is working on it. I have provided your contact information as they need to coordinate with your HOA as repair will require encroaching on your land (I presume for the excavator)

Please let me know if you have any questions, and I look forward to seeing you tomorrow.

[Quoted text hidden]

Fw: Public Comment, PA-T2-2023-00043

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

Mon 2023-10-30 11:54 AM

To: Mark Knox <knox@mind.net>; 'Laz Ayala' <laz@kda-homes.com>

Cc: Aaron Anderson <aaron.anderson@ashland.or.us>; Brandon Goldman <brandon.goldman@ashland.or.us>

Mark & Laz,

FYI The comments below were received from James Jarrard. We'll add these to the record and address in the staff report, and I wanted to make you aware.

Thanks,

Derek Severson, Planning Manager

[Pronouns](#) He/him/his



City of Ashland

Community Development

51 Winburn Way, Ashland, Oregon 97520

541.552.2040 | TTY 800.735.2900

derek.severson@ashland.or.us

Online ashland.or.us; social media (Facebook [@CityOfAshlandOregon](#) | Twitter [@CityofAshland](#))

This email transmission is official business of the City of Ashland, and it is subject to Oregon Public Records Law for disclosure and retention. If you have received this message in error, please contact me at 541.552.2040.

From: James Jarrard <jjarrard51@gmail.com>

Sent: Monday, October 30, 2023 11:47 AM

To: planning <planning@ashland.or.us>

Cc: James Jarrard <jjarrard51@gmail.com>; Designated Agent <designated.agent.256@gmail.com>

Subject: Public Comment, PA-T2-2023-00043

[EXTERNAL SENDER]

October 30, 2023

TO: City of Ashland
Community Development Department

RE: PA-T2-2023-00043, October 25, 2023

I am writing to express concern about proposed changes to the Beach Creek subdivision plan before the builder fulfills its original affordable housing obligations. The proposed changes are distributed to nearby city residents as Planning Action: PA-T2-2023-00043 dated October 25, 2023.

As I understand, the initial agreement required the builder to provide 8 lots to nonprofit organizations for affordable housing, with no infrastructure costs. However, the builder later asked the nonprofits to pay \$70,000 per lot for infrastructure. This caused the initial partner, Habitat for Humanity, to withdraw. Subsequently, the builder agreed to fulfill its obligations for 25% of its obligations (2 of 8 lots)

While the builder has since provided 2 affordable lots, they still need to find nonprofit partners for the remaining 6 before any modifications should be approved. The builder made a commitment to this community to provide 8 affordable lots, and it is imperative that the full obligation is met. While I understand the builder's desire for flexibility, it is imperative that the city holds firm on the initial affordable housing obligations. Ashland is facing a severe shortage of affordable workforce housing. This obligation may also be codified in Ashland Municipal Code (AMC).

I urge the Commission to reject any proposed subdivision changes until the builder secures partners for the remaining 6 affordable lots. The City of Ashland has a severe shortage of affordable workforce housing. Reducing guaranteed affordable units from 8 to 2 would represent a major setback in addressing this critical need. In the absence of effective leadership in Ashland, responsibility of upholding community standards falls to the Planning Commission on this issue. The wealth and community heft of the builder (KDA Homes, Incorporated) should hold no sway with the Planning Commission.

Please stand firm and require the builder to fulfill the original affordable housing commitment of 8 lots before approving any modifications. Doing so will demonstrate Ashland's dedication to equitable development and serving the housing needs of all its residents.

Thank you for your strong leadership on this issue. I am confident the Commission will make the fair decision and hold the builder accountable to their promises.

--signed--

Sincerely,
James P. Jarrard

Ashland Resident
1072 Clear Creek Drive
Ashland, Oregon 97520

October 30, 2023

City of Ashland
ATTN: Lisa Verner, Commission Chairperson
City Planning Commission
51 Winburn Way
Ashland, Oregon 97520

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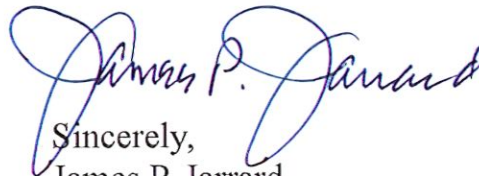
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James P. Jarrard

Ashland Resident
1072 Clear Creek Drive
Ashland, Oregon 97520



From: [Brandon Goldman](#)
To: [Doug McGeary](#)
Cc: [Carmel Zahran](#); [Michael Sullivan](#); [Lisa Verner](#); [Derek Severson](#); [Paula Hyatt](#)
Subject: Jerrard Public Comment PA-T2-2023-0043
Date: Friday, November 03, 2023 3:14:40 PM
Attachments: [image001.png](#)
[2023-10-25 Public Comment Jarrard - Goldman.pdf](#)
[image002.png](#)

City Attorney McGeary,

I am writing to address a matter of significant concern related to the public comments submitted by Mr. Jerrard on a proposed amendment to the Beach Creek Subdivision recently submitted by KDA Homes. Both the City Planning Department and individual Planning Commissioners have received correspondence from Mr. Jerrard urging the Commission not to approve the aforementioned amendment which was publicly noticed and will be presented to the Planning Commission in the coming month. These public comment letters submitted by Mr. Jerrard were received within the stipulated timeframe and will be included in the upcoming Planning Commission packets relating to the planning action.

I am not reaching out to discuss Mr. Jerrard's position on the planning application proposed but to address a specific allegation made in his letters.

Mr. Jerrard asserts that the developer, KDA Homes, requested a payment of \$70,000 be made by Habitat for Humanity, to me directly in connection with their affordable housing partnership. I want to clarify unequivocally that this claim is entirely false. There appears to be a critical error in his letters, as it has come to my attention that the same accusation was made against various recipients including Staff, Planning Commissioners, and the Council Liaison to the Planning Commission, with the insertion of their individual names into the text concerning the alleged payment. A snippet of the letter is below with the relevant sentence highlighted.

As I understand, the initial agreement required the builder to provide 8 lots to nonprofit organizations for affordable housing, with no infrastructure costs. However, the builder later asked the nonprofits to pay Brandon Goldman \$70,000 per lot for infrastructure. This caused the initial partner, Habitat for Humanity, to

For the record, it is my understanding that KDA Homes had indeed requested that Habitat for Humanity contribute \$70,000 per lot to KDA Homes to assist with the development infrastructure costs for the affordable housing units. However, upon review, the board of Habitat for Humanity elected not to meet this request, and subsequently, KDA Homes donated two lots to Habitat for Humanity without any requirement for payment.

The erroneous assertion by Mr. Jerrard that City Staff, Planning Commission members, or the Council Liaison were to be paid direct payments in relation to this subdivision is not only baseless but also damaging. There is no truth to this allegation, and I am concerned that such misinformation now part of the public record, even if made in error, could be misconstrued as fact. To address this potential, a copy of this response clarification letter will also be included in the planning record.

Given that the receipt of these letters could raise questions during the upcoming deliberations on the planning application, I felt it necessary to inform you of this issue promptly. It is important that both the integrity of our processes and the reputations of the individuals and entities involved are not wrongfully tarnished by such allegations.

Attached please find a copy of Mr. Jerrard's letter which was addressed to me directly and received by mail today. Should you require any further clarification on this matter or if any questions arise, please do not hesitate to reach out to me.

Thank you for your attention to this important issue.

Brandon Goldman, AICP

Director of Community Development

Pronouns: he, him, his



Better Together

City of Ashland

Community Development

51 Winburn Way, Ashland, Oregon 97520

541-552-2076 | TTY 800.735.2900

Brandon.goldman@ashland.or.us

Online ashland.or.us; social media (Facebook @CityOfAshlandOregon | Twitter @CityofAshland)

This email transmission is official business of the City of Ashland, and it is subject to Oregon Public Records Law for disclosure and retention. If you have received this message in error, please contact me at 541-552-2076.

cc. Carmel Zahan
Lisa Verner
Michael Sullivan
Derek Severson
Paula Hyatt

From: [Doug McGeary](#)
To: [Brandon Goldman](#)
Cc: [Carmel Zahran](#); [Michael Sullivan](#); [Lisa Verner](#); [Derek Severson](#); [Paula Hyatt](#)
Subject: RE: Jerrard Public Comment PA-T2-2023-0043
Date: Monday, November 06, 2023 12:50:06 PM
Attachments: [image002.png](#)
[image003.png](#)

Dear Brandon,

I appreciate our phone conversation last Friday regarding Mr. Jarrard's letter. It served as a reminder that our office had advised staff not to engage with Mr. Jarrard's repeated and confrontational comments. However, this time, his accusations have crossed a line and become part of the public record in the land use matter, necessitating a response.

In his letter, Mr. Jarrard alleges that you received money from the land use applicant through one of the involved parties. While Mr. Jarrard's statement could be seen as an accusation of wrongdoing against you and others, such a significant claim should, in theory, be evident to everyone and easily refuted due to the lack of evidence or explanation. Additionally, you noted that essentially identical letters, with only the names changed, have been sent to other official parties involved in this matter. We both observed that there is an absence of spacing between your name and the dollar sign in the alleged monetary figure. This suggests a likely systemic error in inserting names in the word processing process. Such errors make the preposterousness of his claims even more evident.

Considering Mr. Jarrard's history and the identical letters sent to others, it's clear that these accusations lack credibility. Rather than seeking a retraction from Mr. Jarrard, which I doubt he would provide, your response letter effectively addresses the issue and documents our stance. If you believe it would be beneficial, I'm willing to include this response in the official record for a more comprehensive review.

Thank you for your attention to this matter.

Douglas M McGeary
Acting City Attorney
City of Ashland
20 E. Main Street
Ashland, Oregon 97520
(541) 552-2091

This electronic transmission contains **PRIVILEGED AND CONFIDENTIAL** information and is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any dissemination, use, distribution or copying of this communication is strictly prohibited.

From: Brandon Goldman <brandon.goldman@ashland.or.us>

Sent: Friday, November 3, 2023 3:15 PM

To: Doug McGeary <doug.mcgeary@ashland.or.us>

Cc: Carmel Zahran <carmel.zahran@ashland.or.us>; Michael Sullivan <michael.sullivan@ashland.or.us>; Lisa Verner <lisaverner815@icloud.com>; Derek Severson <derek.severson@ashland.or.us>; Paula Hyatt <Paula.Hyatt@council.ashland.or.us>

Subject: Jerrard Public Comment PA-T2-2023-0043

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cc. Carmel Zahan
Lisa Verner
Michael Sullivan
Derek Severson
Paula Hyatt

From: [Kay Sandberg](#)
To: [planning](#)
Cc: [Aaron Anderson](#)
Subject: questions for 11/14/23 meeting
Date: Monday, November 06, 2023 3:18:21 PM

[EXTERNAL SENDER]

Hello,

I have a few questions for the 11/14 meeting regarding the Beach Creek development that I ask to be included in the meeting that evening...

1. What are the specific plans for affordable housing--all/only cottages? locations? all to be completed by Habitat for Humanity and if so, when (please update)?
2. What is the timeframe for phase 3; is this the parcel of field nearest the tracks?
3. Who may we contact at KDA Homes with further questions or concerns who will be responsive to our inquiries and answer in a timely manner?
4. When will the Orchid Street entrance no longer be used for trucks and other construction vehicles (approximate date)?
5. Will the public be permitted to ask questions and make comments at the meeting?

Thank you. kind regards,
Kay Sandberg

Eliminating Parking Minimums

Ray Chirgwin <rayc@kswarchitects.com>

Fri 2022-10-14 10:18 AM

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

[EXTERNAL SENDER]

Derek – Please forward this to Ashland Planning Commission and Staff. Thank you!

Dear Members of the Ashland Planning Staff and Commission –

On behalf of KSW Architecture and Planning, we have compiled important resources on eliminating mandatory parking minimums.

Please take sufficient time to study these as you consider parking reform as a part of the “Climate-Friendly and Equitable Communities” rulemaking.

Videos:

<https://www.strongtowns.org/journal/2017/7/24/parking-has-shaped-our-cities>

<https://www.youtube.com/watch?v=lgA4FIWjlj8>

<https://www.youtube.com/watch?v=H6wBSRj3NWg>

<https://www.youtube.com/watch?v=3g-z-PEzTas>

Articles/ Reports/ Resources:

https://www.oregon.gov/lcd/CL/Documents/StPaulMN_ParkingSlides.pdf

https://www.mba.org/docs/default-source/research---riha-reports/18806-research-riha-parking-report.pdf?sfvrsn=d59a2d33_0

<https://www.strongtowns.org/parking>

<https://www.eesi.org/articles/view/how-eliminating-parking-actually-makes-cities-better>

We hope that you find this informative.

KSW fully supports the removal of mandatory parking minimums. The benefits include:

- Promotes infill development
- Increases tax value of properties
- Reduces pressure on surrounding rural land
- Reduces pressure on existing road capacity and maintenance
- Increases places for humans to enjoy (green space, pedestrian space, etc)
- Promotes healthier lifestyles (physical and social)
- Reduces stormwater pollution and heat island effect
- Promotes healthier forms of transportation (bike, walk, transit)
- Community resiliency in the wake of Amazon, work-from-home, ride-share & autonomous vehicles, cyber-Monday
- Reduces single occupancy vehicle trips counts and distances
- Reduces noise pollution
- Promotes better building design and landscape design

Remember that removing parking minimums will not drastically change our city overnight. Any change will be very slow.

Developers and designers can continue to build parking. It just gives us more opportunities to build slightly better places for our community.

Please don't hesitate to call and discuss parking with us more. We would appreciate the opportunity!

Kindest regards,

Ray Chirgwin R.A., LEED AP

KSW Architects

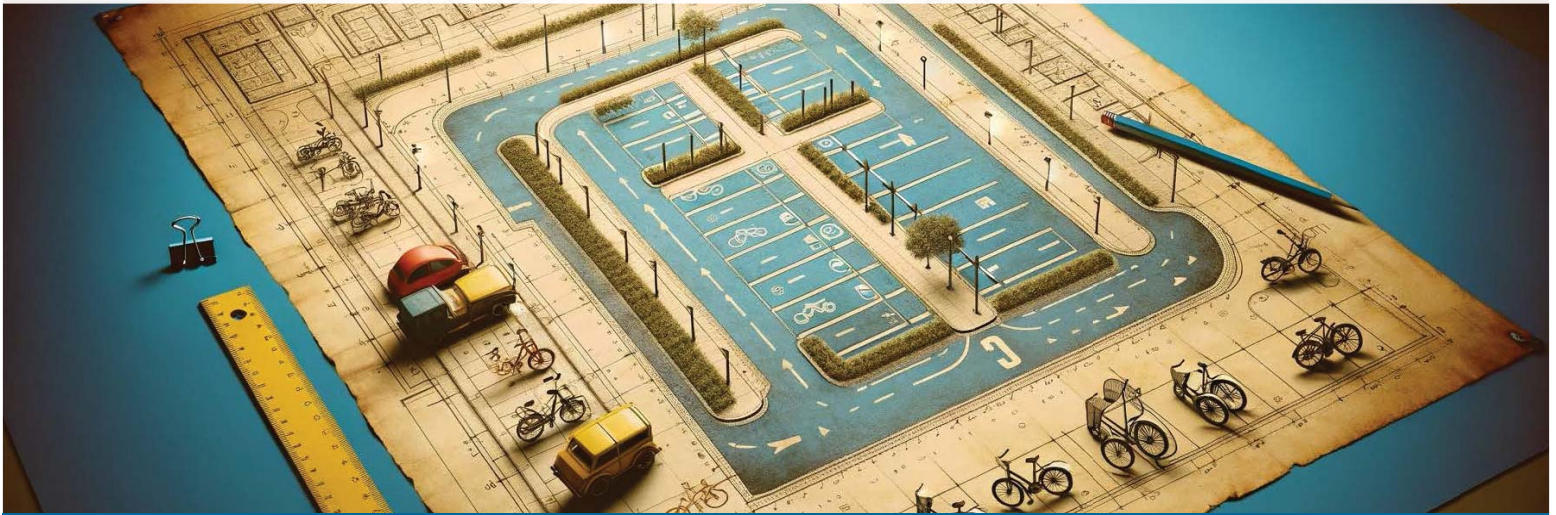
66 Water Street Suite 101

Ashland, OR 97520

m. 541.601.9478 (primary)

o. 541.488.8200 x.19

rayc@kswarchitects.com



Climate Friendly Equitable Communities Parking Reform

Planning Commission
11/14/2023

State Rules

- State Adopted CFEC Parking rules
- Adopted by LCDC July 2022
- Aimed at promoting climate friendly and equitable urban development
- Statewide implementation effective January 1, 2023

Select Options

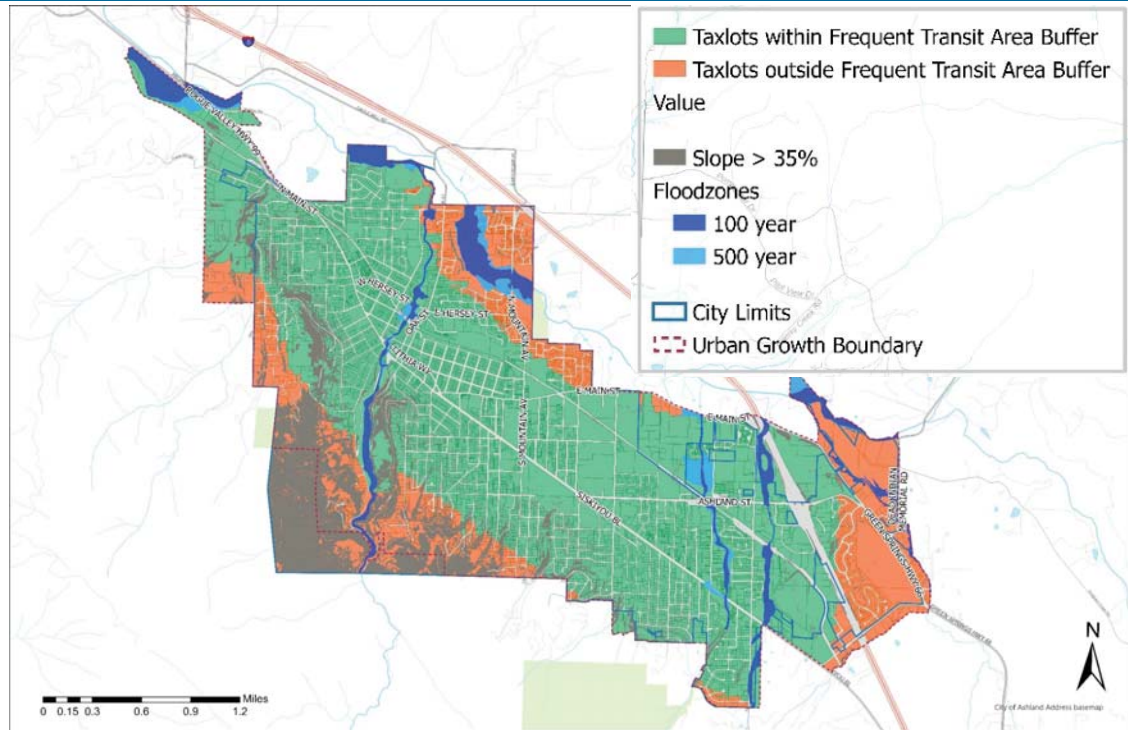
- City to select approach to address parking under CFEC rules, and Draft Ordinance amendments
 - **Option 1** – Eliminate all parking mandates citywide
 - **Option 2** – Maintain some parking mandates (in 20% of City) and apply new detailed standards and performance measures

Adopt

- Adopt Land Use changes by December 31, 2023
- Implement



<p>Option 1 660-012-0420</p>	<p>Options 2 and 3 660-012-0425 through 0450</p>	
<p>Repeal parking mandates</p>	<p>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.</p>	
	<p>Climate-friendly area parking – remove mandates in and near climate-friendly areas or adopt parking management policies; unbundle parking for multifamily units</p>	
	<p>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</p>	
<p>no additional action needed</p>	<p>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>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>



Climate Friendly and Equitable Communities (CFEC) rules

Aim: To help local governments in Oregon create Climate Friendly Areas (CFAs) for more housing and transportation choices, aligning with Oregon's 2050 Climate Pollution Reduction Targets.

CFEC rules require metropolitan cities (including Ashland) to reform in parking standards, promoting diverse development by addressing current parking standards:

- Eliminate parking minimums and set maximum parking allowances
- Mandating bike parking spaces based on development type - Cargo-Bike and Bicycle Parking graphics updated
- Requiring new multifamily-housing/mixed-use developments to have electrical conduit extended for Electric Vehicles to 40% of parking spots voluntarily provided.
- Establishes tree canopy coverage and landscaping requirements for parking lots



CFEC Parking Reforms

5

Climate Friendly and Equitable Communities (CFEC) rules

Eliminating mandated parking requirements

- Removing parking mandates gives developers the discretion to include parking based on project-specific needs and contexts, rather than following a uniform requirement.
- Developers can assess factors like location, target demographic, and access to public transportation to determine if parking is necessary for their project.
- The elimination of mandated parking removes the requirement for on-site vehicular parking ratios by use, thereby enabling property developers and landlords to voluntarily unbundle parking from housing and commercial spaces.



CFEC Parking Reforms

6

City of Ashland specific amendments (not CFEC required)

Aim: The aim of the City of Ashland's additional parking requirements, such as permitting exceptions to exceed maximum thresholds, mandating accessible parking for certain developments, and revising past parking and circulation ordinances, is to enhance flexibility, accessibility, and regulatory consistency in urban development while aligning with broader climate and community goals.



CFEC Parking Reforms

7

City of Ashland specific amendments (not CFEC required)

ADA-Accessible Parking Requirement: New draft code mandates at least one ADA-accessible parking space in developments where no other parking is proposed, ensuring accessibility compliance. (18.4.3.050).



Where parking is proposed with a development the State Building Code stipulates the requisite number of accessible spaces required based on the size of the parking lot.



CFEC Parking Reforms

8

City of Ashland specific amendments (not CFEC required)

Conditional Use Permit for Excess Parking: Added draft code language allows applicants to request a Conditional Use Permit when demand exceeds maximums parking space allotment, offering flexibility in parking planning (18.4.3.030.B.2)



CFEC Parking Reforms

9

City of Ashland specific amendments (not CFEC required)

On-Street Parking in Subdivisions: Amended code language focuses on the association of on-street parking with Performance Standards Options in subdivisions, aiming to streamline and clarify parking regulations in these areas. (18.3.9.060.A)

For all Performance Standards Subdivisions in R-1 zones, and for all Performance Standards Subdivisions in R-2 or R-3 zones which create or improve city streets, at least one on-street parking space per proposed lot shall be provided with the following exceptions.

- 1. Where on-street parking is provided on newly created or improved streets, the total number of on-street spaces required should not surpass the available street frontage, with each parking space being considered equivalent to 22 feet in length without interruption and exclusive of designated no-parking areas.*
- 2. Streets outside the City of Ashland's jurisdiction, such as those overseen by the State of Oregon Department of Transportation (ODOT) or Jackson County, which are improved by a development, are not required to provide on-street parking as outlined in this requirement if prohibited or exempted by the governing jurisdiction.*
- 3. Lots containing cottage housing developments, housing units smaller than 750 square feet, or affordable housing are not subject to the requirement of providing on-street parking in Performance Standards Subdivisions.*



CFEC Parking Reforms

10

City of Ashland specific amendments (not CFEC required)

Driveway Separation Standards: Removed the 50' driveway separation requirement on neighborhood streets for lots serving three or more units, retaining the 24' separation standard for these lower order streets. (18.4.3.080.C.3.c.i)

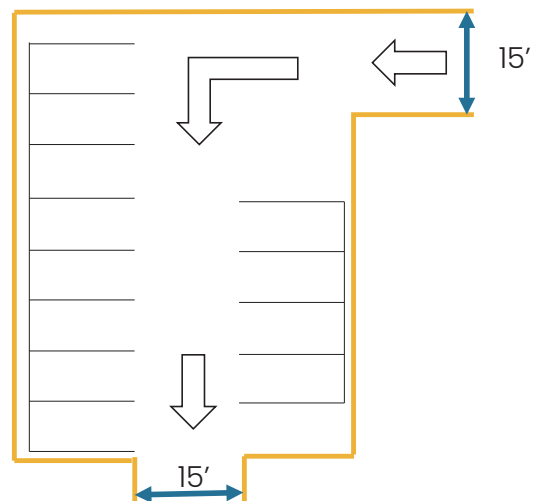
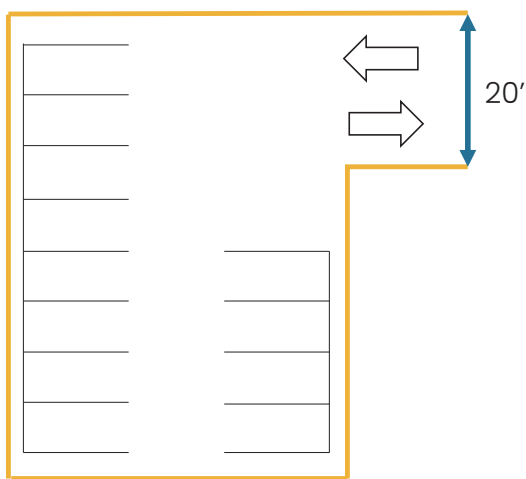
i. Distance between driveways.

on boulevard streets:	100 feet
on collector streets:	75 feet
on neighborhood streets:	24 feet for 2 units or fewer per lot, 50 feet for three or more units per lot



City of Ashland specific amendments (not CFEC required)

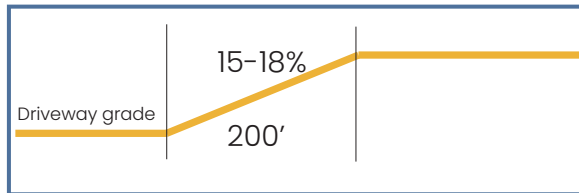
Vehicular Circulation Width Standards: Amended code for two-way and one-way vehicular circulation width, aligning with past variance approvals for consistency. (18.4.3.080.D.3).



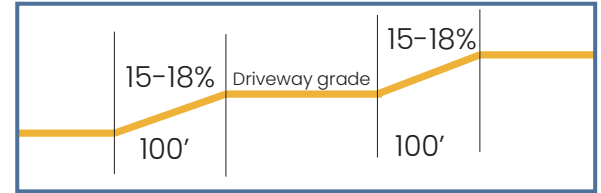
CFEC Parking Reforms

City of Ashland specific amendments (not CFEC required)

Maximum Grade for Flag Drives: Revised code to allow flag drives multiple sections to exceed a 15% grade, up to a maximum of 18%, ensuring clarity and consistency with previous variance approvals. (18.5.3.060.F)



Existing



Proposed

*Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent ~~for not more than~~ **provided that the cumulative length of such variances across multiple sections of the flag drive does not exceed** 200 feet. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5 Variances.*



CFEC Parking Reforms

13

NEXT STEPS

Planning Commission Public Hearing:	11/14
Transportation Advisory Committee:	11/16
Planning Commission Adoption of Findings:	11/28
City Council Public Hearing & First Reading:	12/05
City Council Second Reading:	12/19

Local Adoption and State Acknowledgement by 12/31/2023



CFEC Parking Reforms

14



Planning Commission Minutes

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note the public testimony may be limited by the Chair.

November 28, 2023

SPECIAL MEETING

DRAFT Minutes

I. CALL TO ORDER:

Chair Verner called the meeting to order at 7:00 p.m. at the Civic Center Council Chambers, 1175 E. Main Street.

Commissioners Present:

Lisa Verner
Kerry KenCairn
Doug Knauer
Eric Herron
Gregory Perkinson
Russell Phillips
Susan MacCracken Jain

Staff Present:

Brandon Goldman, Community Development Director
Derek Severson, Planning Manager
Michael Sullivan, Executive Assistant

Absent Members:

Council Liaison:

Paula Hyatt

II. ANNOUNCEMENTS

Community Development Director Brandon Goldman made the following announcement:

- The December 26, 2023 Planning Commission Study Session has been cancelled. The City Council will be holding an event to acknowledge and show appreciation for City Commissions and Committees on December 18, 2023.

III. PUBLIC FORUM - None

IV. OTHER BUSINESS

A. Approval of Findings for Climate-Friendly and Equitable Communities Parking Code Amendments, PA-T3-2023-00006

Commissioner Knauer noted several typos within the headers of the Findings. Mr. Goldman responded that these would be corrected before being presented to the Council. He also noted that





Planning Commission Minutes

the corrections suggested by Commissioner Phillips and the rest of the Commission at the November 14, 2023 meeting had been included in the Findings.

Commissioners Herron/Knauer m/s to approve the Findings with the corrections suggested by Commissioner Knauer. Commissioners KenCairn and Perkinson attested that they had reviewed the November 14, 2023 Planning Commission meeting materials and video before casting their vote. Roll Call Vote: All AYES. Motion passed 7-0.

V. OTHER BUSINESS

A. Parks, Trails, and Open Space Map Update

Senior Planner Derek Severson informed the Commission that the City Parks and Recreation Department had developed this Parks, Trails, and Open Space map amendment over the course of two years, which would replace the current map that was adopted in 2002. He noted that an amendment to the map was proposed in 2012, but was never adopted.

Presentation

Interim Parks and Recreation Director Leslie Eldridge began by outlining the development of the map update, which started with the creation of a subcommittee two years ago. This subcommittee met six-seven times and provided a recommendation to the Parks and Recreation Commission in the form of the current proposal.

Ms. Eldridge informed the Commission that a study conducted in 2002, which helped inform the current map, showed that the City had less land per capita than cities like Roseburg, Medford, and Klamath Falls, and sought to rectify this by acquiring land and ensuring that there was a park within one quarter miles of each resident. Ms. Eldridge stated that this target was largely achieved, and that the goal has shifted to one of conservation and preservation of land. She commented that the Croman Mill site is the only space not within a quarter mile of a park.

Ms. Eldridge described the various ways in which this goal could be achieved, including the purchase of land, securing easements, and the donation of land. She mentioned that the proposed update is primarily based on the 2012 map that was never adopted, and that her team is seeking recommendations or suggestions before moving forward with adoption. She added that the map update contains redundancies, and that not all spaces within the proposal would need to be acquired in order to achieve its goal.

Questions

Commissioner KenCairn noted that some of the proposed areas on the map update are unnumbered, and Ms. Eldridge responded that those exclusions are based on the older map.



Planning Commission Minutes

Commissioner KenCairn pointed out that area #18 on the proposed map is privately-owned and may potentially be developed in the future. She asked if this space was included in the proposal due to its proximity to a riparian area, and Ms. Eldridge responded in the affirmative.

Commissioner Perkinson expressed appreciation for the clarity of the map, and asked how the Parks and Recreation Department envisioned the integration of forest management evolving in the future. Ms. Eldridge responded that her department has a good working relationship with Chris Chambers, Forestry Division Chief of the City's Fire and Rescue Department, and the City's Wildfire Division which advises her department on wildfire issues, but that this relationship is not codified. She stated that her department has a small forestry program, but that it is not as extensive as the Fire and Rescue Department's Forestry Division. Commissioner Perkinson suggested that this update could provide an opportunity for proactive messaging relating to smoke and wildfire, and recommended that this be included in the update.

Commissioner Knauer asked how the conservation of the south side of Grizzly Peak falls within the scope of the Parks and Recreation Department. Ms. Eldridge responded that the view of Grizzly Peak is of value to the City, so preserving the south side of it from development was included as a goal. Commissioner Knauer asked if the proposed conservation of undeveloped areas was to protect them from future development, or if these spaces were being preserved for later recreational use. Ms. Eldridge responded that many of the spaces outlined in the map update have potential recreational use, but that the conservation of these spaces would also be considered. She stated that if the presence of pets, such as dogs, had a negative effect on local wildlife of recreational areas, then they would be prohibited from those spaces. Commissioner MacCracken Jain suggested that this topic be heavily considered as the Parks and Recreation Department becomes more involved in the conservation of land.

Commissioner Knauer asked if the Parks and Recreation Department is ever in conflict with other conservation groups. Ms. Eldridge responded that she is unaware of any such conflicts, and that conservation groups are primarily interested in larger tracts of land.

Commissioner MacCracken Jain inquired if the subcommittee considered the Chamber of Commerce's concept of the City being used as a future hub for outdoor activities in the region. Ms. Eldridge responded that the use of parks as staging areas was considered, and that her team is aware of the Chamber's Economic Diversification plan and is excited about the prospect of turning the City into a hub for outdoor recreational activities.

Commissioner MacCracken Jain asked if the Rogue Valley Mountain Bike Association provided any recommendations for the map update. Ms. Eldridge responded that representatives from the Ashland Watershed Trails Association and the Ashland Woodland & Trails Association provided feedback on trails and mountain biking. City Councilor Eric Hansen also represented the mountain



Planning Commission Minutes

biking community on the subcommittee and helped develop the proposal. She stated that Councilor Hansen and herself worked with the Rogue Valley Mountain Bike Association and are aware of their sustainability plan, and believe that their interests have been represented in the proposal.

Commissioner MacCracken Jain asked why the map update in 2012 was never adopted. Mr. Goldman responded that the 2012 map was largely aspirational regarding the properties it proposed be obtained for future recreational development. However, many of these properties were purchased subsequently, leaving the map outdated and rendering it largely obsolete. He added that the City's comprehensive plan indicates that staff work with owners to acquire properties, which are pursued if the land is available. There was also a general consensus at the time that the 2012 map update did not go far enough in identifying new opportunities for the acquisition of land.

Commissioner MacCracken Jain commended the aspirational aspects of the proposed map update, particularly with regards to the connectivity of existing trail systems. She suggested that more information be included regarding the future of recreation in the area and the fostering of a relationship with the Forest Service. She added that there was a typo within that document that incorrectly labeled Roca Canyon as "Roca Cannon."

Commissioner MacCracken Jain inquired if area #18, the Croman Mill Site, would be excluded from the map update. Mr. Goldman responded that it is not being excluded, but that Townmakers LLC, the group interested in purchasing and developing that property, have contacted the Parks and Recreation Department to discuss the parks and riparian area and if area #18 can be removed from the list.

Commissioner MacCracken Jain requested clarification regarding the use of the designation "no fiscal impact" within the proposal. Ms. Eldridge responded that this refers to the fiscal impact of developing the plan and updating the Comprehensive Plan with the map update proposal.

Commissioner Knauer directed the Commission's attention to a public comment received by Amy Gunter which expressed concern that the proposed map update includes the property at 755 North Mountain Avenue, the inclusion of which could preclude the property from being redeveloped (see attachment #1). Commissioner Knauer asked if the proposal included any language regarding designating areas of interest to the Parks and Recreation Department that would preclude it from being redeveloped. Mr. Goldman responded that the City could seek to purchase the land or request an easement, but that the owners are not compelled to comply with that request. Commissioner KenCairn asked if there is a right-of-way (ROW) through the property in question, and if the existence of one meant that a street connection would be developed if the existing structure was removed. Mr. Goldman responded that no new dwelling could preclude that ROW access, but that the installation of a street connection would not be compulsory.





Planning Commission Minutes

Ms. Eldridge remarked that she is hoping to rework the Systems Development Charges (SDCs) taken in by the Parks and Recreation Department in the near future. She stated that they likely have not been updated within the last 20 years, and don't appear to have a cohesive methodology in how they are calculated.

Mr. Goldman stated that a draft ordinance of the proposed map update will come back to the Commission at its December 12, 2023 meeting for a recommendation to the Council.

VI. OPEN DISCUSSION – None

VII. ADJOURNMENT

Meeting adjourned at 7:45 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*

755 N Mountain Avenue discussion

Amy Gunter <amygunter.planning@gmail.com>

Mon 2023-11-27 02:21 PM

To: Brandon Goldman <brandon.goldman@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>
Cc: Steven Matiaco <steven.matiaco@ashland.or.us>; Don Jones <dj@spartan1.com>; Raymond Kistler
<raymondk@kswarchitects.com>

[EXTERNAL SENDER]

Hello Brandon and Derek,
Hope you are well and enjoyed the holiday.

I'm reaching out to you on behalf of Don Jones in regards to the house at 755 N Mountain Avenue, its condition, and what Don's options are to help alleviate some of the dangerous conditions on the site and the dangerous building. Don and I would like to meet with staff to go over our concerns sometime this week.

Gates, chains, signs, and other barriers to prevent trespassing are removed on a routine basis.

Steve Matiaco and I met at the site and I toured the structure and took numerous photos of its condition last week.

One of the concerns is that the property owner will lose their ability to reconstruct a single-family residence on the property (outside of the environmentally constrained areas) if the building is deemed unsafe and needs to be removed from the property.

It has been our understanding that a replacement dwelling is expected to achieve compliance with the North Mountain Neighborhood Master Plan lot layout and its street configurations, as well as the Transportation System Plan, and Street Dedication map. This will be very difficult because the N Mountain Neighborhood Plan and the Street Dedication Map differ and in both instances, the street depicted on both maps could not possibly be constructed to street standards due to topography, trees, and vision clearance issues on the hillslope.

RE: Site #7 on Parks, Trails & Open Space Draft Map

This leads me to the next concern which was peaked by the Planning Commission packet for the Study Session with Parks on Tuesday, November 28th. It appears that the subject property area included in the Parks and Openspace Master Plan is increasing in area. Some of the property was already included which made sense as it was the Bear Creek Floodplain Area and the area designated as NM-G. The draft Parks and Openspace Master Plan now includes the area of the property where the existing residence is located which is also the area where the replacement dwelling would likely be located.

The inclusion of the entire 11-acre property into the Parks and Openspace Master Plan creates an additional regulatory barrier to the reconstruction of a single-family home. The inclusion of the entire 11-acre property appears to be in conflict with the Buildable Lands Inventory and the Housing Needs Analysis, and in conflict with the Comprehensive Plan Designation and the Zoning per the North Mountain Park Neighborhood Plan. Changes to the Comprehensive Plan or zoning of the area would at a minimum necessitate a modification of the North Mountain Neighborhood Plan.

Can staff provide a few options to have a quick discussion with Don and myself?

Tuesday, Thursday, or Friday?

Thank you,
Amy

Amy Gunter

Rogue Planning & Development Services

541-951-4020

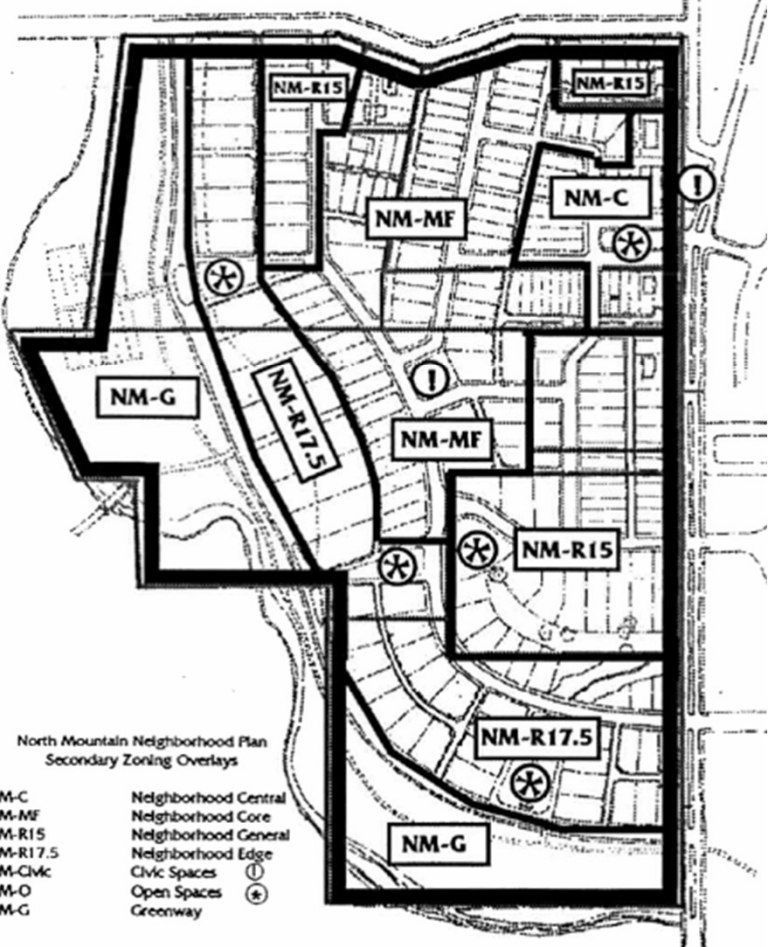
www.rogueplanning.com

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Neighborhood Plan

Proposed Secondary Zoning

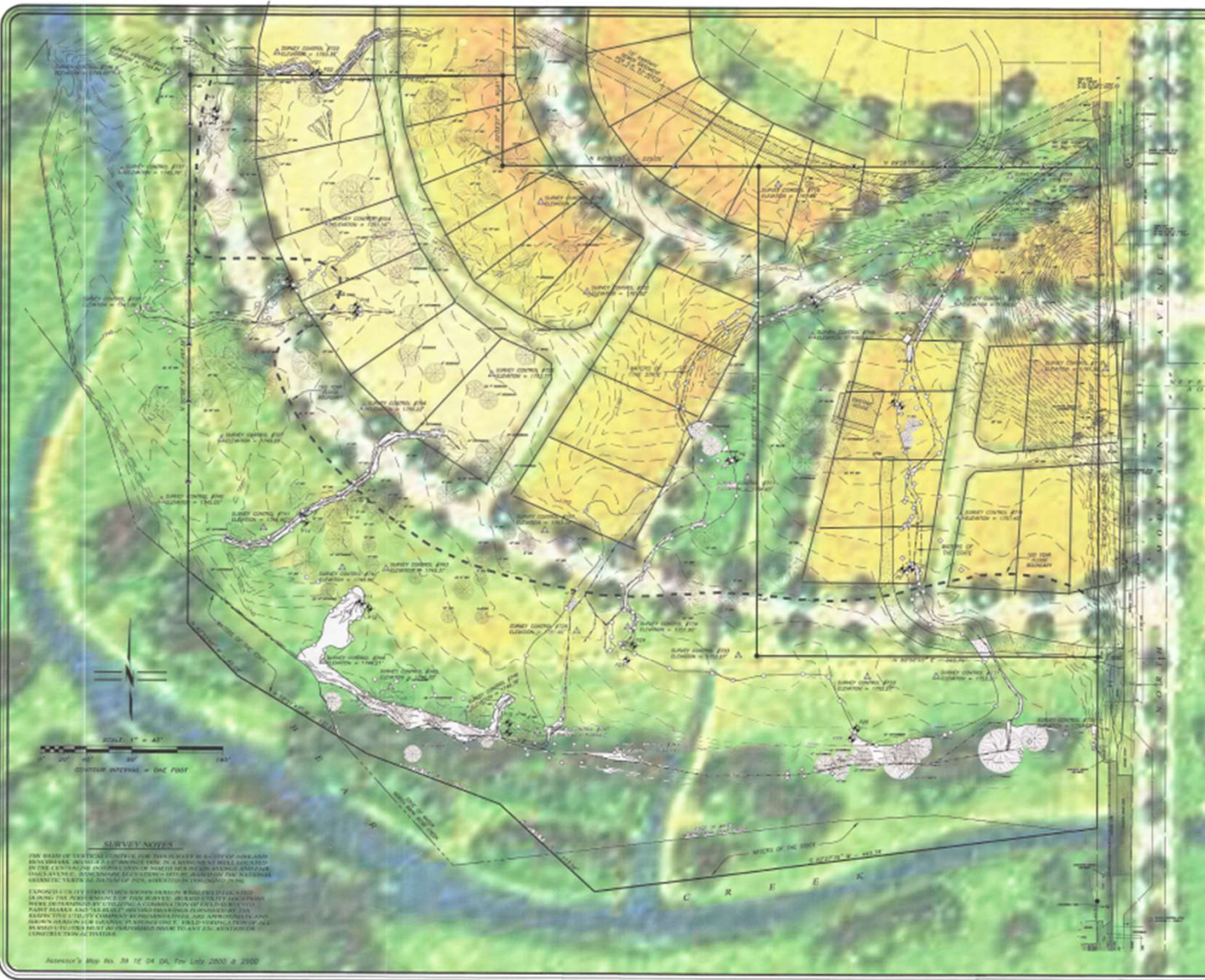


AMC 18.3.5.090 North Mountain Greenway Zone (NM-G)

A. **Applicability.** All projects containing land identified on the North Mountain Neighborhood Plan map as part of the North Mountain/Bear Creek Greenway shall dedicate that area so designated to the City for park purposes. It is recognized that previous zone changes allowing increases in allowable development density (up-zoning) as part of the North Mountain Neighborhood Plan imparted significant value to properties, and the required dedication of those lands within the North Mountain/Bear Creek Greenway for park purposes is both necessary based on the impacts of planned development and proportional to the value bestowed upon the property through the change in zoning designation.

B. **Dedication on Final Survey Plat.** The dedication of lands within the North Mountain/Bear Creek Greenway shall be indicated on the final survey plat accompanying all partitions, subdivisions, and Performance Standards developments.

C. **Development Restrictions.** It is recognized that lands within the North Mountain/Bear Creek Greenway are identified as part of Ashland's Floodplain Corridor Lands, and are prohibited from further development, except as outlined in chapter [18.3.10](#) Physical and Environmental Constraints Overlay.



FINDINGS

Approval of Findings for PA-T2-2023-00043, 192 North Mountain Avenue

BEFORE THE PLANNING COMMISSION
DECEMBER 12, 2023

IN THE MATTER OF PLANNING ACTION PA-T2-2023-00043 A)
REQUEST FOR A MODIFICATION OF THE PREVIOUSLY APPROVED)
OUTLINE PLAN (PA-T3-2021-00003), AND REVISED FINAL PLAN FOR)
THE THIRD PHASE OF THE BEACH CREEK SUBDIVISION. THE)
PROPOSAL REVISES THE SUBDIVISION PLAN TO INCLUDE A)
PRIVATE ALLEY AND TO ADD ONE ADDITIONAL LOT. THE)
PROJECT IS CURRENTLY UNDER CONSTRUCTION WITH PHASES I)
AND II RECORDED AND HOUSES UNDER CONSTRUCTION.)

**FINDINGS,
CONCLUSIONS,
AND ORDERS.**

OWNER & APPLICANT: KDA HOMES)
_____)

RECITALS:

- 1) Tax lot #800 of Map 39 1E 10 is located at 192 North Mountain Avenue, on the east side of North Mountain Avenue between the railroad tracks and Clear Creek Drive. The subject property prior to the subdivision was ten acres in area. While both phase 1 and phase 2 have been platted the County has not yet completed the cartography work. The subject property of phase 3 is platted as Lot 27 of Phase 2 and is 4.25 Acres.
- 2) The applicant is requesting a modification of the previously approved Outline Plan (PA-T3-2021-00003), and revised Final plan for the third phase of the Beach Creek Subdivision. The proposal revises the subdivision plan to include a private alley and to add one additional lot. The project is currently under construction with Phases I and II recorded under construction.
- 3) The applicant provides the following history: “The Planning Commission and eventually the City Council approved the property’s annexation into the City in November of 2021, (PA-T3-2021-0003). The Final Plan and Site Review was approved in March of 2022 (PA-T1-2021-00173).
- 4) The approval criteria for a minor modification are provided at AMC 18.5.6.040.C and shall be approved only upon the approval authority finding that all of the following criteria are met.
 1. Minor Modification applications are subject to the same approval criteria used for the initial project approval, except that the scope of review is limited to the modification request. For example, a request to modify a commercial development’s parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with chapter 18.5.1.
 2. A modification adding or altering a conditional use, or requiring a variance, administrative variance, or exception may be deemed a Major Modification and/or may be subject to other ordinance requirements.

3. The approval authority shall approve, deny, or approve with conditions the application, based on written findings; except that conditions of approval do not apply, and findings are not required, where the original approval was approved through a Ministerial review.

5) The approval criteria for Outline Plan are provided at AMC 18.3.9.040.A.3 and shall be approved only upon the approval authority finding that all of the following criteria are 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.

6) The approval criteria for Final plan are provided at AMC 18.3.9.040.B.5 and shall be approved only upon the approval authority finding that all of the following criteria are met:

- a. The number of dwelling units vary no more than ten percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.
- b. The yard depths and distances between main buildings vary no more than ten percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this ordinance.
- c. The common open spaces vary no more than ten percent of that provided on the outline plan.
- d. The building size does not exceed the building size shown on the outline plan by more than ten percent.

- e. The building elevations and exterior materials are in conformance with the purpose and intent of this ordinance and the approved outline plan.
- f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
- g. The development complies with the street standards.
- h. Nothing in this section shall limit reduction in the number of dwelling units or increased open space; provided, that if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the common open space reduced below that permitted in the outline plan.

- 7) The Planning Commission, following proper public notice, held a public hearing on November 14, 2023 at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the Planning Commission approved the Minor Modification, the Outline Plan and Final Plan approval subject to the existing conditions of approval from the modified action.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

SECTION 1. EXHIBITS

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

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, 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 based on the staff report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the proposal meets all applicable criteria for a Minor Modification to an approved plan described in AMC 18.5.6.040.C, Outline Plan approval described in AMC 18.3.9.040.A.3, and Final Plan approval described in AMC 18.3.9.040.B.5. Each of the relevant approval criteria for these actions are addressed in the sections below.

2.3.1 The Planning Commission finds that the first approval criteria for a Minor Modification is that "Minor Modification applications are subject to the same approval criteria used for the initial project approval, except that the scope of review is limited to the modification request." The Planning Commission notes all of the relevant approval criteria are addressed in sections 2.4 and 2.5 below. The Planning Commission finds that this satisfies the first approval

criterion.

2.3.2 The Planning Commission finds that the second approval criteria for a Minor Modification is “A modification adding or altering a conditional use, or requiring a variance, administrative variance, or exception may be deemed a Major Modification.” The Planning Commission finds that the modification request does not seek a new or alter an existing Conditional Use Permit or seek a Variance, Administrative Variance, or Exception request.” The Planning Commission finds that the second approval criterion is satisfied.

2.3.3 The Planning Commission finds that the third approval criteria for a Minor Modification is “The approval authority shall approve, deny, or approve with conditions the application, based on written findings.” The Planning Commission notes that it is adopting written findings approving the application satisfying this approval criterion.

2.4 The Planning Commission notes that the scope of review is limited to only the relevant approval criteria to the modification request; and that the only relevant approval criterion to Outline Plan approval is “F.”

2.4.1 The Planning Commission finds approval criteria F for outline plan is “The proposed density meets the base and bonus density standards.” The Planning Commission notes that the original subdivision was 10 acres with an allowed density of 4.5/acre which totals 45 units. The Planning Commission notes several density bonuses applied to the project including conservation housing (15%), additional open space (10%), and affordable housing (up to 35%). The Planning Commission finds that this qualifies the subdivision to more a 25% bonus when only considering the open space and conservation housing bonuses. The Planning Commission notes that the original subdivision was approved with 52 units (16% bonus density). The Planning Commission notes that in the present modification the applicant is requesting one additional unit for a total of 53. The Planning Commission notes that 53 units calculates to an 18% bonus over the allowed base density. The Planning Commission finds that 18% well within the allowed density with additional unrealized bonus density available. The Planning Commission finds that this approval criterion is satisfied.

2.4.2 The Planning Commission finds that the Outline Plan is approved, and The Planning Commission will now consider its subsequent final plan approval below.

2.5 The Planning Commission notes that the scope of review is limited to only the relevant approval criteria to the modification request; and that the only relevant approval criteria to Final Plan approval are “A” & “B”

2.5.1 The Planning Commission finds approval criteria A for Final Plan is “The number of dwelling units ... in no case shall the number of units exceed those permitted in the outline plan.” The Planning Commission notes that the outline plan approval had 53 lots and concludes that the final plan also has 53 lots. The Planning Commission finds that this approval criterion is satisfied.

2.5.2 The Planning Commission finds approval criteria B for Final Plan is “The yard depths and distances between main buildings vary no more than ten percent of those shown on

the approved outline plan.” The Planning Commission notes that the final plan is identical to the Outline Plan. The Planning Commission finds that this approval criterion is satisfied.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal is supported by evidence contained within the whole record and is approved. The following are the conditions of approval

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
- 2) That all conditions of the original approvals (PA-T3-2021-0003 and PA-T1-2021-00173) shall remain in effect except as specifically modified herein.
- 3) That a final survey plat shall be submitted for review and approval within 18 months of the final decision date of this approval.
- 4) That prior to the submittal of the final survey plat for the review, approval and signature of the Ashland Planning Division:
 - a) All easements for public and private utilities, fire apparatus access, and reciprocal utility, maintenance, and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.

Planning Commission Approval

December 12, 2023
Date

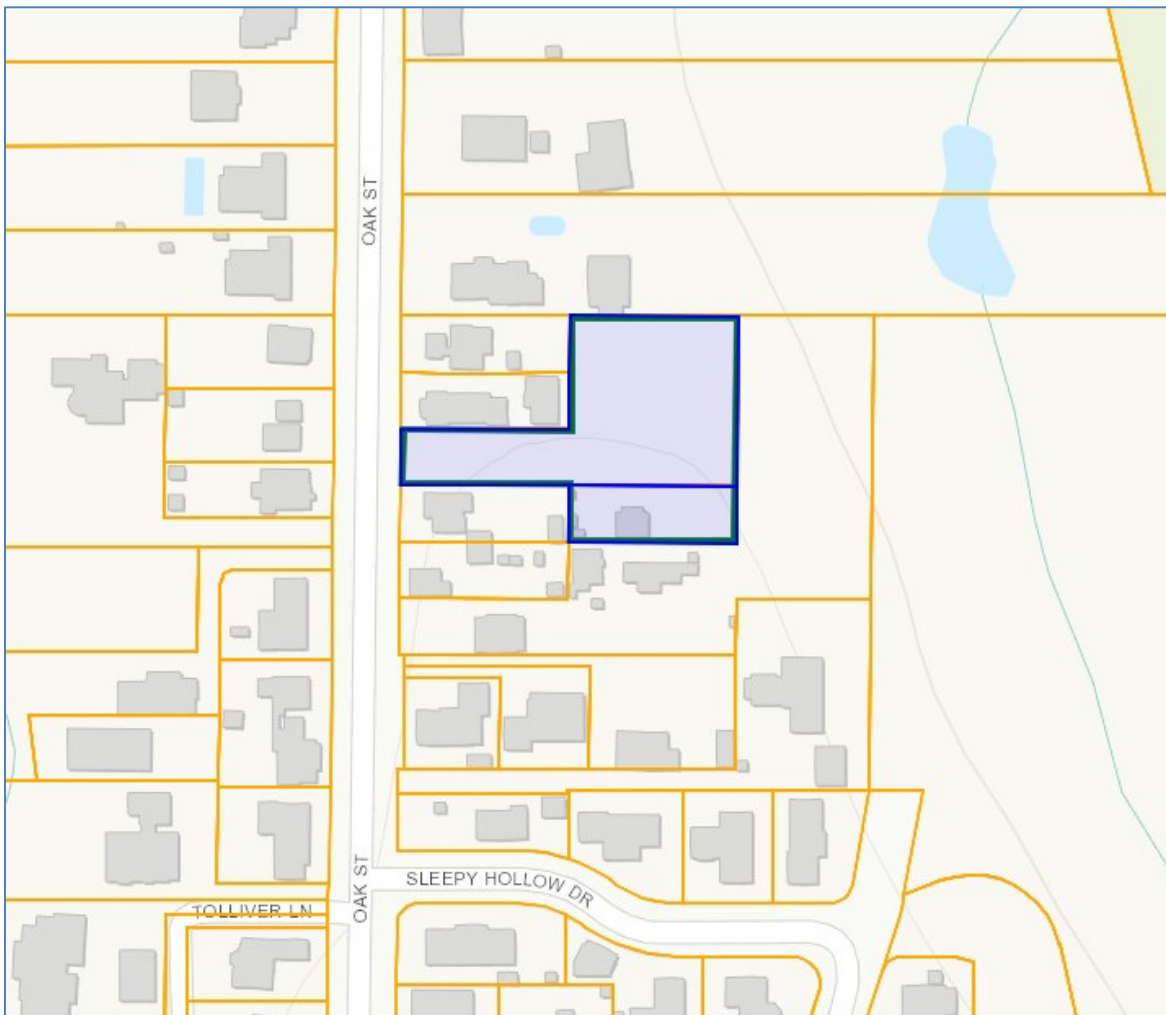
**TYPE II
PUBLIC HEARING**

**PA-T2-2023-00044
822 Oak Street**

NOTICE OF APPLICATION

PLANNING ACTION: PA-T2-2023-00044
SUBJECT PROPERTY: 822 Oak Street
APPLICANT/OWNER: Suzanne Zapf for Overlook Drive, LLC
DESCRIPTION: A request for Outline and Final Plan approval for a five-lot/four-unit Performance Standards subdivision for the properties located at 822 Oak Street. The Subdivision was previously approved in 2021 and some infrastructure work has been completed, however land use approval subsequently expired. The application also includes requests for: a Variance to allow a private driveway to serve four units (AMC 18.4.6.040.C.1) where dedication of a public street is typically required, an Exception to Street Standards to not install city standard street frontage improvements along Oak Street. Finally, the application requests relief from the adopted Physical and Environmental constraints maps to reflect the topography on site and allow minor encroachment into slopes exceeding 35%. **COMPREHENSIVE PLAN DESIGNATION:** R-1-5; **ZONING:** Single Family Residential; **ASSESSOR'S MAP:** 39 1E 04CA; **TAX LOT:** 200 & 201.

ASHLAND PLANNING COMMISSION MEETING: *Tuesday December 12, 2023 at 7:00 PM, Ashland Civic Center, 1175 East Main Street*



COMMUNITY DEVELOPMENT DEPARTMENT

51 Winburn Way
 Ashland, Oregon 97520
ashland.or.us

Tel: 541.488.5305
 Fax: 541.552.2050
 TTY: 800.735.2900

Notice is hereby given that a PUBLIC HEARING on the following request with respect to the ASHLAND LAND USE ORDINANCE will be held before the ASHLAND PLANNING COMMISSION on meeting date shown above. The meeting will be at the ASHLAND CIVIC CENTER, 1175 East Main Street, Ashland, Oregon.

A copy of the application, including all documents, evidence and applicable criteria are available online at "What's Happening in my City" at <https://gis.ashland.or.us/developmentproposals/>. Copies of application materials will be provided at reasonable cost, if requested. Application materials may be requested to be reviewed in-person at the Ashland Community Development & Engineering Services Building, 51 Winburn Way, via a pre-arranged appointment by calling (541) 488-5305 or emailing planning@ashland.or.us.

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

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

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

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

OUTLINE PLAN SUBDIVISION APPROVAL (AMC 18.3.9.040.A.3)

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 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 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 CRITERIA FOR FINAL PLAN

18.3.9.040.B.5

Final Plan approval shall be granted upon finding of substantial conformance with the Outline Plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan meets all of the following criteria.

- a. The number of dwelling units vary no more than ten percent of those shown on the approved outline plan, but in no case shall

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- the number of units exceed those permitted in the outline plan.
- b. The yard depths and distances between main buildings vary no more than ten percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Ordinance.
 - c. The open spaces vary no more than ten percent of that provided on the outline plan.
 - d. The building size does not exceed the building size shown on the outline plan by more than ten percent.
 - e. The building elevations and exterior materials are in conformance with the purpose and intent of this ordinance and the approved outline plan.
 - f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
 - g. The development complies with the Street Standards.
 - h. Nothing in this section shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan.

EXCEPTION TO STREET STANDARDS

18.4.6.020.B.1

Exception to the Street Design Standards. The approval authority may approve exceptions to the standards section in 18.4.6.040 Street Design Standards if all of the following circumstances are found to exist.

- a. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.
- 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.

VARIANCE

18.5.5.050

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

PHYSICAL & ENVIRONMENTAL CONSTRAINTS

18.3.10.050

An application for a Physical Constraints Review Permit is subject to the Type I procedure in section 18.5.1.050 and shall be approved if the proposal meets all of the following criteria.

- A. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
- B. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
- C. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.

COMMUNITY DEVELOPMENT DEPARTMENT

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STAFF REPORT

**ASHLAND PLANNING DEPARTMENT
STAFF REPORT**

December 12, 2023

PLANNING ACTION: PA-T2-2023-00044
OWNER: Overlook Drive, LLC
APPLICANT: Rogue Planning & Development Services, LLC
LOCATION: 822 Oak St.
391E04CA Tax Lots 200 & 201

ZONE DESIGNATION: R-1-5
COMP. PLAN DESIGNATION: Single Family Residential
ORDINANCE REFERENCES: 18.2.4 General Regulations for Base Zones
18.2.5 Standards for Residential Zones
18.3.8 Performance Standards Overlay
18.4.8 Solar Access
18.5.1 General Review Procedures
18.5.3 Land Divisions and Property Line Adjustments
18.6.1 Definitions

APPLICATION DATE: November 7, 2023
PUBLIC NOTICE: November 20, 2023
MEETING DATE: December 12, 2023
120-DAY DEADLINE: March 19, 2024

PROPOSAL: A request for Outline and Final Plan approval for a five-lot/four-unit Performance Standards subdivision for the properties located at 822 Oak Street. The subdivision was previously approved in 2021 and some infrastructure work has been completed, however the land use approval subsequently expired prior to getting the survey plat recorded. The application also includes requests for a Variance to allow a private driveway to serve four units (AMC 18.4.6.040.C.1) where dedication of a public street is typically required, and an Exception to Street Standards to not install city standard street frontage improvements along Oak Street. This variance and exception were also previously approved. Finally, the application requests ‘relief from the adopted Physical and Environmental constraints maps’ to reflect the topography on site and allow minor encroachment into slopes exceeding 35%.

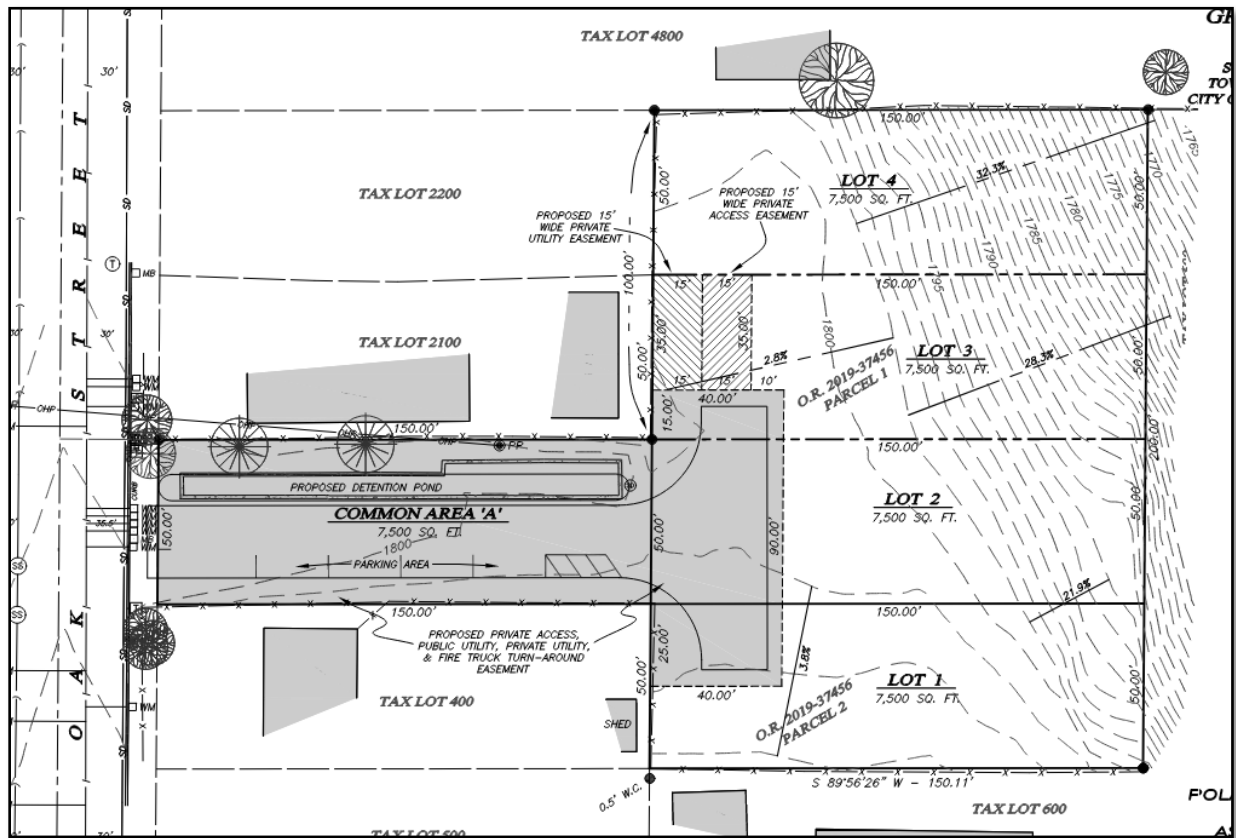
I. Introduction

1) Overview

The application materials provide the following history “*The property received approval for a largely similar subdivision in 2021. The property owner/developer’s excavation contractor was installing utilities and doing site work towards completion of the infrastructure portion of the project and compliance with the conditions of approval to achieve plat approval. There was additional geological investigation of the property for slope and soils analysis necessary to do the site work and excavation for the construction of the site infrastructure. It was then that the areas mapped as ‘severe’ constraints on the city of Ashland maps were found to be debris and*

debris fill slopes with concrete and asphalt rubble. The overburdened hillside was removed with the soils and other materials that were removed under the supervision of the project Geotechnical Expert. Following debris removal, the grades of the property were reevaluated by an Oregon Licensed Surveyor. In the meantime, the previous decision expired thus a new Subdivision application is requested herein.”

The previous approval was final on October 12, 2021, which was valid for 18 months. The land use approval expired on April 12, 2023, as no extension was requested by the applicant.



2) Site Description

The subject properties are Tax lots #200 and #201 of Assessor Map 39 1E 04CA are vacant parcels. The current street address for the property is 822 Oak Street. The property is located on the east side of Oak Street between East Nevada Street and Sleepy Hollow Drive. The tax lots are zoned R-1-5 (Single Family Residential) and are a combined area 37,500 sq. ft. (0.86 ac.). The property has steep slopes on the eastern portion of the property. The preliminary plat for the proposed subdivision is shown above and includes the topography as it exists today following site grading that occurred following the prior approval.

3) Previous Condition of Approval

As mentioned above this subdivision was previously approved in 2021. Hearings were held on Aug 10, 2021, and September 14, 2021. During the hearings there was substantial discussion about potential development in slopes greater than 25% and severe constraint slopes in excess of

35%. When Planning Commission Findings and Orders were adopted on October 12, 2021, they included the following condition of approval #10b:

*The areas at the east edge of the property overlooking the Bear Creek floodplain corridor with slopes in excess of 35 percent are unbuildable under AMC 18.3.10.090.A.1 and shall not be included in building envelopes, as proposed by the applicant. **Prior to disturbance of any slopes greater than 25 percent within the building envelopes, the applicant shall first provide a geotechnical report prepared by a geotechnical expert indicating that the site is stable for the proposed use and development. [emphasis added]***

4) Geotechnical Studies and Site Work

The application includes a detailed Geotechnical study and a follow up memo both prepared by The Galli Group. The Galli Group Report dated Dec 12, 2021 explained the details of their November 11th 2021 site visit. It found that there was “*undocumented fill consists of a mixture of the silty sands, gravels and cobbles mixed with chunks of asphalt, concrete and other construction debris and garbage.*” It recommended removal of this fill and provided detailed instructions for clearing and grading. The application indicates that in addition to years of use as a dump, that when the houses that were previously on the site were demolished in 1989, and states that, “It appears that the contents of the structures and the materials within may have been discarded on the east side of the property.”

In September and December of 2022 there were three Public Works Department permits issued. These permits were related to sewer, gas, and stormwater connections to serve the development.

On January 26, of 2023, at the applicant’s request, staff met onsite to discuss their concerns about how to move forward with the application considering the previous condition of approval (10b). Staff communicated to the applicant that they should apply for a modification of the previous land use approval to move forward with the degree of excavation and grading proposed. There was no application for a modification.

The follow up memo from The Galli Group is dated June 28, 2023. It details site visits through the month of May 2023 and a final visit on June 26, 2023. The report states that:

“We observed all the undocumented fill at the eastern edge of the project area had been satisfactorily removed, eliminating the artificially induced, overstep slopes created by the buried manmade materials and loose soil and restoring stability of soils in this location.”

And concludes:

“In accordance with The Galli Group’s geotechnical recommendation, the undocumented fill at the site had been removed. This undocumented fill was full of manmade materials and loosely placed on steep slopes. The loose soils and deleterious materials, pushed over the edge of cuts and onto the native hillside, created very steep and unstable slopes on the eastern area of the parcels. The removal of the undocumented fill has restored the site to its native condition, with slopes between 25% and 30%, fully mitigating the slope

instability potential at the site. In addition, due to the removal of the undocumented fill, and the exposure of the underlying dense to very dense native soils, structures foundation may be constructed per the geotechnical report without the need for excessive over-excavation at the site.”

Staff notes that with the final report from The Galli Group the stipulation in condition 10b, requiring a geotechnical report prepared by a geotechnical expert indicating that the site is stable for the proposed use and development, from the previous land use approval has been met.

II. Subdivision Proposal

1) Variance & Exception to Street Standards

Following the submission of the present application, the applicant reached out to the Community Development Department Director to inquire about waiving the application fees predicated on the previous review and approval. Upon review the Department Director determined that the site work in support of the driveway approach, including installation of storm drain facilities and related utility work, vested the variance as well as the exception to street standards. As such, the application fee for the variance was removed from the invoice on this application. Because the variance and exception to street standards were considered vested and are unchanged by this proposal, we do not discuss the related approval criteria for these elements of the application.

2) Performance Standards Subdivision

Lot Size, base standards of the zone, etc.

The prior review, in 2021, addressed in detail all of the proposed elements of the subdivision. In summary, the subdivision request will create four new residential lots, each 50' x 150' (7500 sq ft), along with and a single common lot that will serve all four residential lots with a private access drive that is substantially complete (including associated storm drain facilities and city utility extension). As previously mentioned, the variance allowing four to be served by a private drive, the exemption from dedicating a public road, and the exception to street standards are considered vested and are not discussed further.

Solar Access – a primer

The purpose of Solar Access is to provide protection of a reasonable amount of sunlight from shade from structures and vegetation whenever feasible to all parcels in the City to preserve the economic value of solar radiation falling on structures, investments in solar energy systems, and the options for future uses of solar energy. The code provides a specific way to measure the slope for solar setback* (SSB), which adjusts the amount of setback to be a function of slope. It requires two measurements, one on each side of the property with the results then averaged. In the present case the standard procedure creates a calculated slope that is not representative of the entire lot.

* Slope, Solar Setback: A vertical change in elevation divided by the horizontal distance of the vertical change. Slope is measured along lines extending 150 feet north from the end points of a line drawn parallel to the northern lot line through the midpoint of the north-south lot dimension. North facing slopes will have negative (-) values and south facing slopes will have positive (+) values.

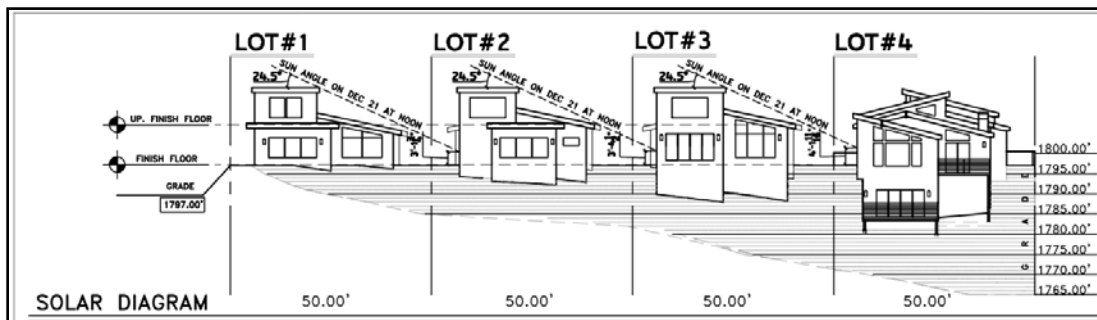
For example, on the southernmost residential lot (Lot 1) as proposed the difference in elevation 150' feet apart N/S at its far western edge is 2', on the eastern side it is 22'. The result is that applying the standard solar method would be to apply an average calculated slope of nearly -0.08. It is for these reasons that this application asks to use a Performance Standard Solar Envelope.

Solar Access Performance Standard

When subdividing land an applicant is provided two options, either:

- A) “new lots shall be designed to permit the location of a 21-foot high structure with a setback which does not exceed 50 percent[†] of the lot's north-south lot dimension[†]”
or;
- B) “a solar envelope shall be used to define the height requirements that will protect the applicable solar access standard”

In this proposal the applicant has presented a performance standard solar envelope (option B above) for lots 1,2 and 3 utilizing the Solar Setback Exception Standards as provided at AMC18.4.8.020.C.1, and as illustrated below.



First however, the application includes the following statement regarding the northern most residential lot (Lot 4), and it is memorialized here that:

“Lot 4 will comply with the solar setback standard A that applies to the northern property line as the property to the north is outside of the subdivision development.”

This means that when a building permit for Lot 4 is submitted it will need to demonstrate that it meets Solar Setback A. Staff has analyzed the City GIS topography and measured a slope of -.03 on the western side of proposed Lot 4 and -.13 slope on the eastern side. These average for a slope of -.08. The standard for calculating Solar Setback (SSB) from the north property line is provided in the following equation $SSB = (H-6)/(0.445+S)$, where S is slope and H is the shade producing height. To simplify the equation for a 21' tall shade producing height the equation becomes $SSB = 15/0.365 = 41'1''$.

In the present case, due to the nature of the site topography all four home sites have a level area at the western side, with a grade drop off toward Bear Creek along the western portion of the residential lots proposed. The application indicates all four homes will have an identical finished

[†] This standard would require the creation of lots that have a N/S dimension of nearly 82' given the topography.

floor level. Based on these elevations and roof orientations, on December 21st at noon, the day when the sun is lowest in the sky, the shadow cast from each home will not shade the lowest main level window located four feet above finished floor elevation on the home to the north.

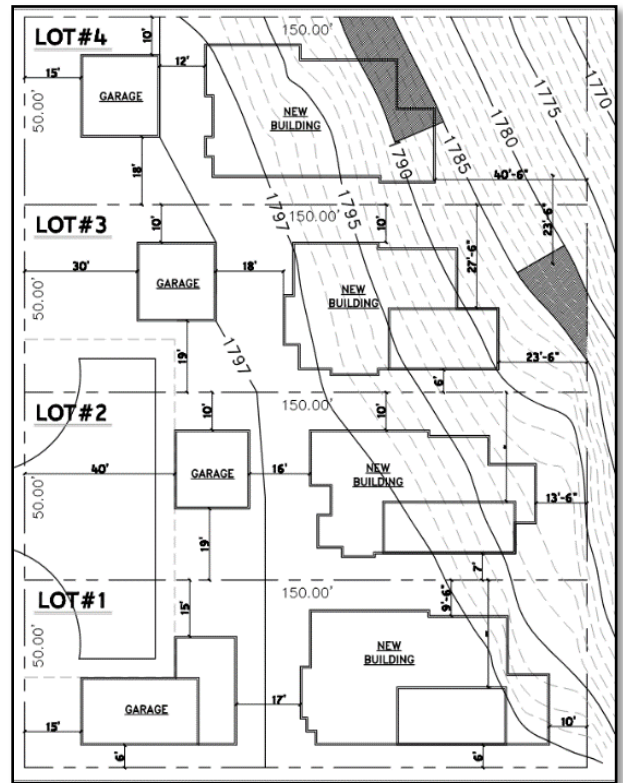
As mentioned above the building permit for Lot 4 will be required to show compliance with Setback A. Considering the nature of the cross slope of the property, the application of the performance standard solar envelope appears to be warranted. The standard setback formula, when applied to the proposed residential lots, reveals considerable disparities in permissible heights for shadow-producing points and solar setback requirements. This is due to the significant elevation differences between the eastern and far western boundaries of each lot. The relatively flat areas designated for the homes are more effectively managed by acknowledging the finished floor levels, ensuring that windows on the first floor, situated 4 feet above the floor level, remain unshaded. Therefore, the application of the performance standard solar envelope is a suitable approach in this context in staff’s assessment.

3) Physical and Environmental Constraints Permit

The application also asks for ‘relief from the Severe Constraints Standards.’ While the application does not expressly say that it is asking for an Exception to the Hillside standards it has addressed the second, third and fourth approval criteria in their application immediately following the Physical and Environmental Constraints (P&E) approval criteria. Based on the inclusion of these responses to the approval criteria for an exception, staff understands that the applicant is requesting an exception to allow a portion of the building envelope on Lot 4 to encroach on lands that, based on the applicant’s submittal, are shown to be steeper than 35% (unbuildable[‡]).

The Site plan with building envelopes is shown at right (the shaded areas are presented as being severely constrained – slopes greater than 35%)

The application includes the exact code language and provides a response below each standard. However, where the application begins to address the exception criteria (pg. 39) the first standard is left out[§]. In its



[‡] AMC 18.3.10.090.A.1 “All development shall occur on lands defined as having buildable area. Slopes greater than 35 percent shall be considered unbuildable” also AMC 18.6.1.030 Definitions “Unbuildable Area. That portion of an existing or proposed lot that building upon is restricted by regulations. Unbuildable area includes but is not limited to required yards, easements, and flood plain corridor, hillside, and severe constraints lands as classified in section 18.3.10.060.”

[§] AMC 18.10.3.090.H.1 “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.”

place is an argument in favor of the proposed encroachment into severely constrained lands suggesting that is needed to meet the statutory requirements for ‘clear and objective’ standards^{**} for ‘needed housing’. Furthermore, there is no response to the first approval criterion showing that there is difficulty in meeting the specific standard [building envelope location] or the ‘unique or unusual’ nature of the site.

Staff understands that the applicant is suggesting that determining which lands are greater than 35% does not meet the clear or objective standard. Staff would note that it is the applicants’ site map that delineates areas of slopes greater than 35%, based on data by a professional land surveyor. LUBA has found that regulations are not clear and objective if they impose value laden or subjective analysis. LUBA has also noted that there is a safe harbor, albeit small, where numerical and absolute standards can be clear and objective^{††}. Staff responds that thirty-five percent is a numerical and absolute standard that is ‘clear and objective’ and that the applicant’s surveyor has already demarcated those areas.

Furthermore, *and more importantly*, staff contend that the relief being sought is not authorized in the code. Staff understands that the applicant believes that the standards for buildable area at AMC 18.3.10.090.A.1 allows for exceptions as provided at AMC 18.3.10.090.H. Staff responds that the standards allowing an exception to buildable area only applies to ‘**existing** parcels’ and it is the following section, part 2 (below) that provides for the building envelopes for ‘**newly created** parcels’, at AMC 18.3.10.090.A.2 to wit:

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

It is this standard that the applicant is requesting an exception from in order to build a structure on slopes greater than 35%, and this passage offers no opportunity for an exception and includes the directive language of ‘*shall*.’ Staff communicated with the applicant and property owner on November 20th via email that it would be staff’s recommendation that “the proposed building envelopes be modified to not encroach in the area of slopes greater than 35%.”

4) Public Input

Notice was posted at the property frontage and mailed to all properties within 200’ on November 20, 2023. Since that time, to the best of staff knowledge, there were two phone calls inquiring about the project from adjacent property owners, and one email. Staff spoke with both property

^{**} ORS 197.307(4): Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

(a) May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

^{††} “However, even if particular numerical or absolute standards are clear and objective, once one departs from the relatively small and shallow safe harbor of numerical and absolute standards, few tasks are less clear or more subjective than attempting to determine whether a particular land use approval criterion is clear and objective. [underline in original, footnote omitted]” *Rogue Valley Association of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998) (at 17)

owners and reiterated the hearing date and opportunities to submit formal comment either electronically or in person. The email was replied to answering their questions. No one has submitted a formal comment on the planning action to date.

III. Procedural – Approval Criteria

1) Outline Plan

AMC 18.3.9.040.a.3. 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.*

2) Final Plan

18.3.9.040.B.5. Approval Criteria for Final Plan. Final plan approval shall be granted upon finding of substantial conformance with the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan meets all of the following criteria:

- a. The number of dwelling units vary no more than ten percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.*
- b. The yard depths and distances between main buildings vary no more than ten percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this ordinance.*
- c. The common open spaces vary no more than ten percent of that provided on the outline plan.*

- d. *The building size does not exceed the building size shown on the outline plan by more than ten percent.*
- e. *The building elevations and exterior materials are in conformance with the purpose and intent of this ordinance and the approved outline plan.*
- f. *That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.*
- g. *The development complies with the street standards.*
- h. *Nothing in this section shall limit reduction in the number of dwelling units or increased open space; provided, that if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the common open space reduced below that permitted in the outline plan.*

3) *Physical & Environmental Constraints*

18.3.10.050 Approval Criteria - An application for a Physical Constraints Review Permit is subject to the Type I procedure in section 18.5.1.050 and shall be approved if the proposal meets all of the following criteria.

- A. *Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.*
- B. *That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.*
- C. *That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.*

4) *Exception to the Development Standards for Hillside Lands.*

18.3.10.090.H. Exception to the Development Standards for Hillside Lands. An exception under this section is not subject to the variance requirements of chapter 18.5.5, Variances. An application for an exception is subject to the Type I procedure in section 18.5.1.050 and may be granted with respect to the development standards for Hillside Lands if the proposal meets all of the following criteria:

- 1. *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.*
- 2. *The exception will result in equal or greater protection of the resources protected under this chapter.*
- 3. *The exception is the minimum necessary to alleviate the difficulty.*
- 4. *The exception is consistent with the stated Purpose and Intent of chapter 18.3.10, Physical and Environmental Constraints Overlay, and section 18.3.10.090, Development Standards for Hillside Lands.*

5) *Solar Setback Exception*

- b. *The approval authority finds all of the following criteria are met.*

- i. The exception does not preclude the reasonable use of solar energy (i.e., passive and active solar energy systems) on the site by future habitable buildings.*
- ii. The exception does not diminish any substantial solar access which benefits a passive or active solar energy system used by a habitable structure on an adjacent lot.*
- iii. There are unique or unusual circumstances that apply to this site which do not typically apply elsewhere.*

IV. Conclusion and Recommendations

Staff recommend that the Planning Commission approve the Outline and Final Plan for the subdivision including the proposed performance solar envelopes for Lots 1, 2, and 3, but deny the request to establish building envelopes in lands that are classified as severely constrained.

If the Planning Commission approves the application, staff recommends including the conditions of approval below:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise specifically modified herein.
- 2) That permits shall be obtained from the Ashland Public Works Department prior to any additional work in the public right of way.
- 3) That a final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
- 4) That a final survey plat shall be submitted within 12 months of Final Plan approval and approved by the City of Ashland within 18 months of this approval. Prior to submittal of the final subdivision survey plat for signature:
 - a. All easements including but not limited to public and private utilities, public pedestrian and public bicycle access, drainage, irrigation, and fire apparatus access shall be indicated on the final subdivision plat submittal for review by the Planning, Engineering, Building and Fire Departments.
 - b. Subdivision infrastructure improvements including but not limited to utilities, driveways, streets and common area improvements shall be completed according to approved plans, inspected and approved.
 - c. Irrigated street trees selected from the Recommended Street Tree Guide and planted according to city planting and spaces standards shall be planted along the full project frontage.
 - d. Electric services shall be installed underground to serve all lots, inspected and approved. The final electric service plan shall be reviewed and approved by the Ashland Electric, Building, Planning and Engineering Divisions prior to installation.

- e. That the sanitary sewer laterals and water services including connection with meters at the street shall be installed to serve all lots within the applicable phase, inspected and approved.
- 5) That the building permit submittals shall include the following:
- a. Identification of all easements, including but not limited to any public and private utility easements, mutual access easements, and fire apparatus access easements.
 - b. Demonstrate compliance with the approved solar setback: That Lots 1, 2, and 3 demonstrate that any shadows cast do not exceed four feet above the finished floor elevation of the main level of a house at the south edge of the building envelope on the respective lots to their north. That Lot #4 shall have Solar setback calculations demonstrating that all new construction complies with Solar Setback Standard A.
 - i. As memorialized above: Unless it can be demonstrated by a professional surveyor otherwise the City GIS indicates a slope of -0.03 on the western side of Lot 4 and -0.13 on the eastern side. These average for a slope of -0.08. The standard for calculating Solar Setback is provided in the following equation $SSB = (H-6)/(0.445+S)$, where SSB is the required solar setback, S is slope and H is the shade producing height from natural grade. To simplify the equation $SSB = H-6/0.365$.
 - c. Final lot coverage calculations demonstrating how lot coverage is to comply with the applicable coverage allowances of the R-1-5 zoning district. Lot coverage includes all building footprints, driveways, parking areas and other circulation areas, and any other areas other than natural landscaping.

APPLICANT SUBMITTAL



Planning Division
 51 Winburn Way, Ashland OR 97520
 Phone: 541-488-5305 Fax: 541-488-6006
 Email: Planning@ashland.or.us

ZONING PERMIT APPLICATION

FILE # _____

DESCRIPTION OF PROJECT Outline & Final Plan application for five lot/four unit subdivision, Variance to not have private driveway, P&E Severe Constraints

DESCRIPTION OF PROPERTY

Pursuing LEED® Certification? YES NO

Street Address 822 Oak Street

Assessor's Map No. 39 1E 04CA Tax Lot(s) 200 and 201

Zoning R-1-5 Comp Plan Designation Single Family Residential

APPLICANT

Name Rogue Planning & Development, LLC Phone 541-951-4020 E-Mail amygunter.planning@gmail.com

Address 1314-B Center Dr., PMB #457 City Medford Zip 97501

PROPERTY OWNER

Name Overlook Drive LLC Phone 215-990-7759 E-Mail suzannezapf@hotmail.com

Address 602 Sutton Place City Ashland Zip 97520

SURVEYOR, ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OTHER

Title Surveyor Name Polaris Land Surveing Phone 541-482-5009 E-Mail shawn@polarislandsurvey.com

Address PO BOX 459 City Ashland Zip 97520

Title Geo-technical Engineer Name Galli Group - Attn: Dennis Duru Phone 541-955-1611 E-Mail dduru@galligroup.com

Address 612 NW Third Street City Grants Pass Zip 97586

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

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

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

[Signature] Date 11/3/23
Applicant's Signature

As owner of the property involved in this request, I have read and understood the complete application and its consequences to me as a property owner.
[Signature] Date 11/3/23
Property Owner's Signature (required)

[To be completed by City Staff]

Date Received _____ Zoning Permit Type _____ Filing Fee \$ _____

OVER ►►

OVERLOOK DRIVE LLC

Grizzly Peak View Subdivision



November 3, 2023

**Grizzly Peak View Subdivision
Performance Standards Subdivision**

Subject Property:

Address: 822 Oak Street
Map & Tax Lot: 39 1E 04 CA; Tax Lot 200 & 201

Property Owner: Overlook Drive LLC
602 Sutton Place
Ashland, OR 97520

Applicant: Suzanne Zapf
602 Sutton Place
Ashland, OR 97520

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

Engineer: KAS and Associates
304 N Holly Street
Medford, OR 97501

Surveyor: Polaris Land Surveying
PO Box 459
Ashland, OR 97520

Subject Property

Map & Tax Lot: 39 1E 05AD; Tax Lot 201 and 200
Comprehensive Plan Designation: Single Family Residential
Zoning: R-1-5
Adjacent Zones: R-1-5 and R-1-5-P

Lot Area: TL#200: 30,000 square feet
TL#201: 7,500 square feet

Overlay Zones: Wildfire Overlay
Severe Constraints

Request:

The request is for approval of an Outline and Final Plan Approval of five lot, Performance Standards Subdivision (AMC 18.3.9). There are four residential development lots and a common area lot for the development of a private driveway and a stormwater detention facility. Two, significant stature Cedar trees are preserved within the common area lot.

A variance to utilize a private driveway is proposed to access the four lots (AMC 18.4.6.040.G.5.) instead of dedication of the right-of-way necessary to construct a Neighborhood Street.

An exception to street standards to not install seven-foot landscape park row and six foot sidewalk on Oak Street to retain consistency with the previously improved public street through the Local Improvement District procedure is requested (AMC 18.4.6.020.B).

The proposal seeks relief from the Severe Constraints Standards for development as per the official maps of the city. This is because the slopes are depicted as areas that were comprised of an unstable, debris fill slope created by previous property owners. The natural slope of the majority of the property is less than 35 percent. This slope is not a significant natural feature and cannot be preserved.

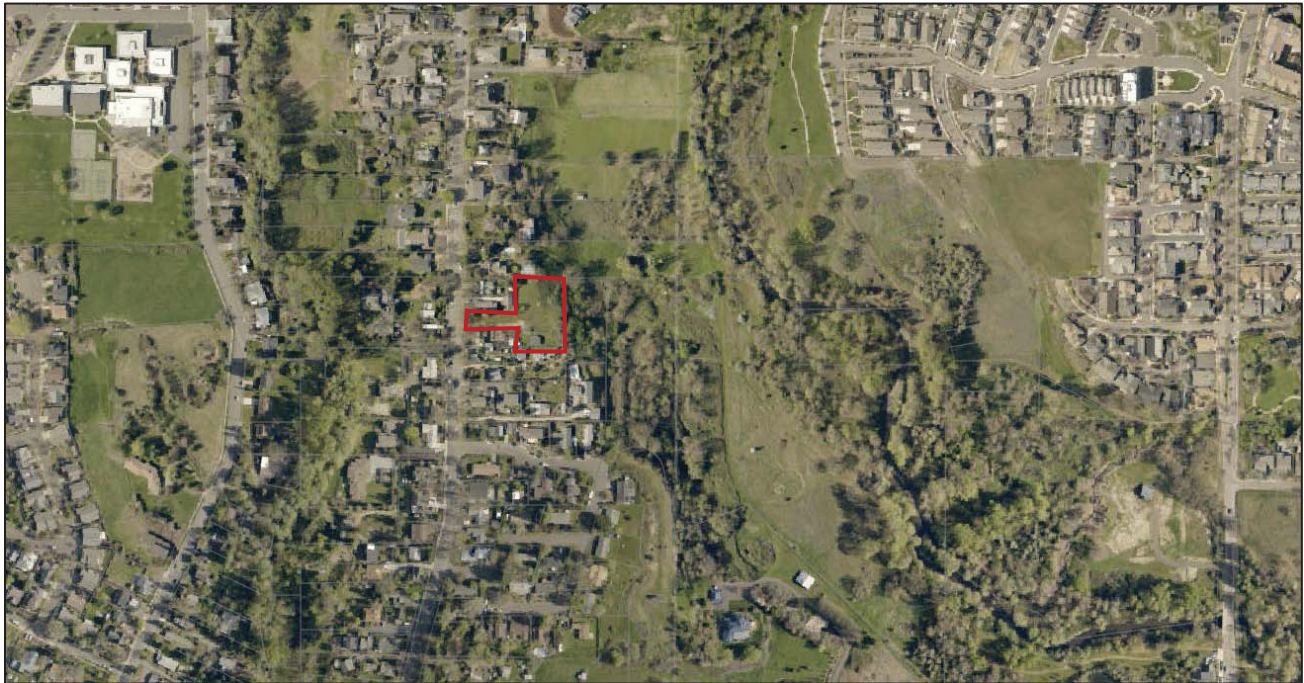
Site Description:

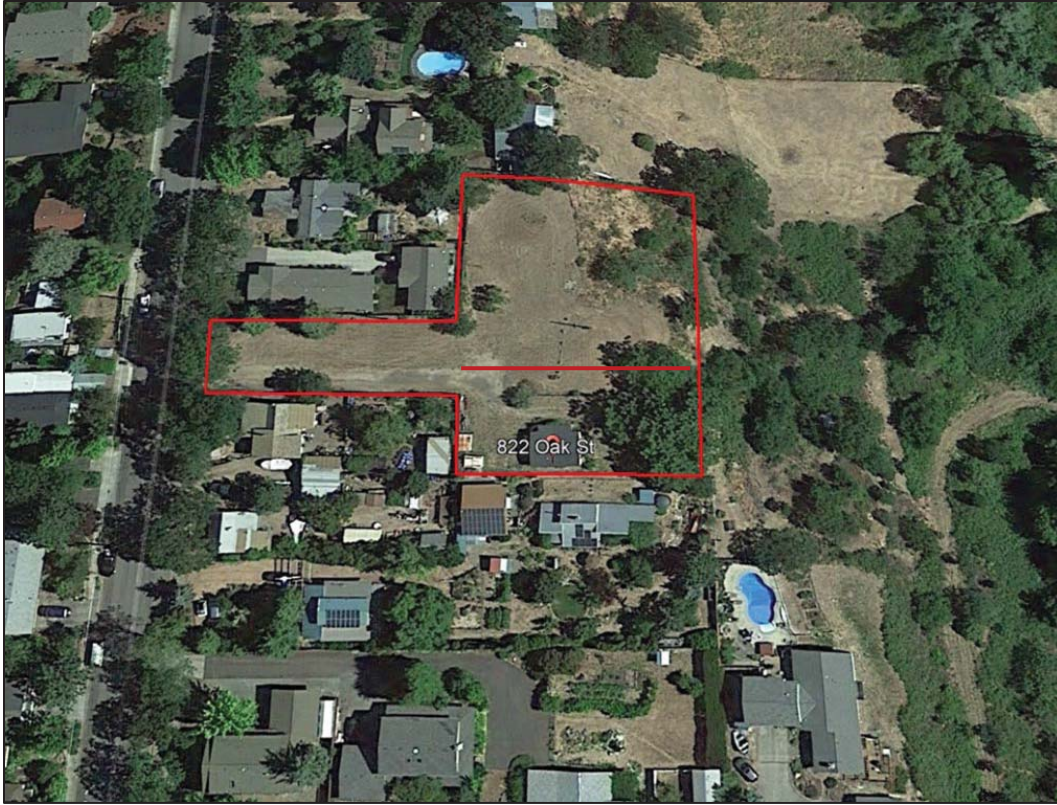
The subject properties are is on the east side of Oak Street, 321.63 feet north of the intersection of Oak and Sleepy Hollow Drive.

Tax Lot #200 has 50-feet of frontage on Oak Street, extends 150-feet to the east, 100-feet north, 150-feet west, 150-feet south, and 300-feet west back to Oak Street. The lot area is 30,000 square feet. This lot is vacant of structures. Based on the Jackson County Assessor’s data, from 1985 to 1989 this property was occupied by two residences. One was a 1947, 747 square feet, two-bedroom, one bath, single story structure. The other was a 1940s, 997 square feet, three bedroom, one bath, single story residence. The 1985 appraisal accounts for the two dwellings, by the end of 1989, both of these residential structures are noted as “gone”. Based on the discussion with neighbors, these structures were bulldozed. As noted later in the findings and from the Geotechnical Engineer evaluation of the “severe constraints” slope area, it appears that the houses were removed and scraped over the hillside off the east side of the property.



Tax Lot #201 at 822 Oak Street is a 50-foot by 150-foot lot, 7,500 square feet. This lot is to the south of Tax lot #200. This lot is accessed via a driveway through TL#200. There was a 588 square foot, single-story, residence that was constructed in the 1940s on the property. The dilapidated building was approved for demolition and removed from the property in 2020.





Oak Street is classified as an Avenue in the Transportation System Plan. Oak Street is improved to ~40-feet of curb-to-curb pavement. There is a five-foot landscape park row and a five foot sidewalk on the west side of Oak Street. There are no sidewalks along the frontage of the property. Oak Street was substantially improved in the mid-2000s through a Local Improvement District (LID) with curb, gutter, sidewalk, intermittent park row and speed bumps. The Local Improvement District (LID) that engineered the street improvements based on the safety of pedestrians, speeds of and volumes of traffic and the pedestrian crossings were limited. The LID process also sought to save the Oak trees for which Oak Street is known for. There are no sidewalks on the entire east side of this block of Oak Street excepting a small section at 780 Oak Street and south of Jessica Lane to Oak Street.

There is a 6-inch water main in Oak Street. There is a fire hydrant directly south of the property on Oak Street. According to the most current pressure tests there is adequate pressure in the water main to support the development of a five-lot subdivision. A 6-inch sanitary sewer main is available in Oak Street. There is a 24-in storm sewer main in Oak Street. Electric infrastructure is present on Oak Street.

There are two 18-inch DBH Cedar trees and a smaller stature Oak tree on the north property line of Tax Lot #200, these are in good condition. There is an 8-inch DBH Oak on the south side of the property that is on the adjacent property to the south. This tree is in good health.

The property has slopes leading downhill to the adjacent property to the east. These slopes vary from less than two percent along to 35 percent along the northeastern property boundaries.

The property and the adjacent properties are zoned Single Family Residential (R-1-5). The subject properties and those to the south are also outside of the Performance Standards Overlay District. Properties in the vicinity are developed with single family homes and associated outbuildings.



The property further east is the Bear Creek Valley and Riverwalk park. The North Mountain Neighborhood, Meadowbrook Park II Subdivision (PA2003-0158) and the Kestrel Park Subdivision (PA-T2-2018-0005) are across the valley to the east.

The property received approval for a largely similar subdivision in 2021. The property owner/developer's excavation contractor was installing utilities and doing site work towards completion of the infrastructure portion of the project and compliance with the conditions of approval to achieve plat approval. There was additional geological investigation of the property for slope and soils analysis necessary to do the site work and excavation for the construction of the site infrastructure. It was then that the areas mapped as 'severe' constraints on the city of Ashland maps were found to be debris and detritus fill slopes with concrete and asphalt rubble. The overburdened hillside was removed with the soils and other materials that were removed under the supervision of the project Geotechnical Expert.

Following debris removal, the grades of the property were reevaluated by an Oregon Licensed Surveyor. In the meantime, the previous decision expired thus a new Subdivision application is requested herein.

Detailed Proposal:

The request is for approval of Grizzly Peak View Subdivision, Outline and Final Plan of a Performance Standards Subdivision. There are four residential development lots and a common area lot for the development of a private driveway.

The proposed subdivision area includes the existing 50' X 150', 7,500 square foot single family residential lot at 39S 1E 05AD; 201, and the creation of three new single-family lots and a common area lot from the 30,000 square foot parcel at 39S 1E 05AD; 200. Lots 1 – 4, proposed for development exceed minimum lot dimensions and exceeds minimum lot areas for the zone.

The proposal is to construct a private drive that extends from Oak Street, 150-feet to the east where it terminates into a fire apparatus access hammerhead turn around area. The private drive and the common area lot provide vehicular, pedestrian, utility access to the four development lots.

A Performance Standards Subdivision is requested because as noted in the Purpose statement (AMC 18.3.9.010), the Performance Standards option should be used to allow an option for more flexible design than is permissible under the conventional zoning codes. The property lacks significant natural features except the preserved, large stature Cedar trees that are within the common area lot.

The use of the Performance Standards Option is necessary due to the shape of the parent parcel and its configuration and limited access to Oak Street, the preservation of two large stature trees, and the sites east to west topography and the slope impacts on the solar setbacks and the need for a Solar Performance Standard are further justification of the need for the use of the Performance Standards Subdivision procedure.

The proposed home designs stress energy efficiency with each unit constructed to Earth Advantage Standards. The proposed homes are architecturally creative and are designed in a manner to not prevent the lot to the north from access to passive solar, but also preserves active solar. The roof design is to allow for solar panel installation on the southern exposure. The layout proposes to use the sloped hillside to their greatest advantage through the incorporation of below grade living spaces.

Within the Common Area lot, there are two large stature Cedar trees and the subdivision stormwater bioswale feature that is required for the detention, retention, and treatment of all potential impervious surfaces. This facility has been installed and is connected to the city system. This area was installed under the guidance of the project arborist and the project civil engineer to limit disturbance to the root zones. The common area and the features within are covered with a maintenance agreement and standards for care requirements for the Cedar trees and the future landscaping, driveway maintenance and stormwater facility maintenance standards specified in the Homeowners Association (HOA) and Covenants, Conditions and Restrictions (CC&Rs).

All necessary public utilities have been installed from the Oak Street public right of way and terminate into public utility easements that provide service from the public facilities to the individual development lots.

The city continues to state the repeated goal of the need for the development of more housing. The application of clear and objective standards is necessary. Use of the Performance Standards option should be considered to allow the development of four, Earth Advantage Certified residential homes that provide adequate access, parking, ample landscape areas, meet stormwater retention standards

with no impacts to the public system greater than pre-development, ample police and fire protection and preserve the two significant natural features that exist on site.

Solar Performance Standard:

The proposal seeks approval of a Solar Performance Standard 18.4.8.040.B, which allows for pre-determined shadow point. The requested allowance of a Solar Performance Standard can be found to be similar to those that have been allowed within the Meadowbrook Park II Subdivision (PA2003-0158) and the Kestrel Park Subdivision Phase 1 and 2 (PA-T2-2018-0005).

The application of solar performance standards allows for the moderately steep east to west slope and the impacts that the east/west slope impacts the heights of downhill walls and creates below grade rooms and basements while also increasing the height of the structure from natural grade to the shade producing point.

The solar graphic provided on Plan Sheet A1.1 demonstrates where the solar shadow is cast from the adjacent residence to the south upon the residence to the north.

The proposed solar performance envelope is requested specifically for Lots 1 – 3. Lot 4 will comply with the solar setback standard A that applies to the northern property line as the property to the north is outside of the subdivision development.

See the findings addressing the Solar Performance Standard specifically.

Severe Constraints:

The proposal seeks relief from the Severe Constraints Standards for development as per the official maps of the city. This is because the slopes are depicted as areas that were comprised of an unstable fill slope created by previous owners. The natural slope of the majority of the property is less than 35 percent. This slope is not a significant natural feature and the materials that made up the slope cannot be preserved.

The fill dirt was laden with household trash including various old food containers from the 1980s, glass jars, bottles, aluminum and tin food containers, partially disintegrated clothing, bike parts and metal furniture parts, concrete and asphalt rubble, burned lumber, and soil material. Note that Tax Lot 200 was occupied by two previous residential dwellings in disrepair, one of which was destroyed in a fire and both demolished in December 1989. It appears that the contents of the structures and the materials within may have been discarded on the east side of the property.

This type of soil and subgrade material cannot be retained in a yards or within the development area as the material continues to surface with freeze/thaw effect. The “fill” could never be built upon or adjacent too as it was not a stable material, and most construction sites require removal of fill dirt and excavation to native grade.

The excavation contractor removed all undocumented, all unnatural fill that contained garbage on the East slope of the property and did so under the direction of a Geotechnical Engineer, Dennis Duru of the Galli Group. Mr. Duru visited the site multiple times while removal of the fill was underway. It was under the geotechnical expert’s advice that there was unstable garbage in this previously described “natural feature” area, and that this garbage needed to be removed to stabilize the slope for any adjacent home development. The description of “natural feature” of this garbage-ridden area is a misnomer.

This fill that is memorialized on a map cannot be retained on site as a natural feature, and thus the fill debris was removed under the observation and guidance of the project geotechnical expert. The area should have had an excavation permit but relief from the application of the severe constraints standard should be provided.

The building envelopes are based on the grade of the property post removal of the fill. A very small (188.5 square feet) are within the actual slope of 35 percent is depicted on the building envelope exhibit (Site Plan A1.0) within the footprint of the home on Lot 4. This encroachment request is the same as the application of the Severe Constraints Standards to the Meadowbrook Park Subdivision and the Kestrel Park Subdivision across the Bear Creek valley where slopes of more than 35 percent were disturbed with the construction of structures, and more than 1,000 square feet in area were disturbed. This is an unclear and unobjective standard if not adjudicated the same when considering the topographical constraints, physical orientation of the lots, access, and zoning is generally the same. This small encroachment is warranted, minimal and allows the creation of needed housing.

The Severe Constraints and application of the Hillside Development ordinance due to the make-up of the majority of the area of 35 percent not being a “significant natural feature”, in fact a very unnatural feature, as debris and unconsolidated fill materials to this property and not others that are outside of the Hillside Overlay, and that have similar topography and residential development is not a balanced application of AMC 18.3.10.090 and 18.3.10.110.

Access and Circulation:

A subdivision with four residential lots requires the dedication of a public street. When a Performance Standards Subdivision, private drives are allowed. The proposal seeks flexibility through the Performance Standards to provide a private drive within a common lot to provide access and not dedicate individual flag poles.

The proposal is to create a safe, human-scale, neighborhood. Due to the intersection spacing standards, impacts to setback standards for the adjacent properties, it can be found a private driveway that serves a limited number of units, anticipates low numbers of vehicle trips, lacks connectivity further east, north or south due to adjacent development patterns, preserves trees, and minimizes impacts to the adjacent properties is the most appropriate access type for the proposed development.

Private drives are meant for developments with less than 100 motor vehicle trips per day. The four lots would generate less than 40 trips per International Transportation Engineering Manual (ITE) which finds detached single-family residential units each generate less than 10 vehicle trips per day (AMC 18.4.6.040.G.5).

The driveway curb cut is a fully lowered 22-foot-wide approach. The proposed driveway has a 22-foot-wide paved surface. There is a 15-foot clear travel lane with 7-feet of parallel parking spaces on the south side of the driving surface to provide for guest parking. There is a five-foot landscape buffer along the south property line.

The proposed drive has a 22-foot paved width and a 15-foot clear access width, this complies with the minimum standards for fire apparatus access.

Driveways greater than 50-feet in length are also considered flag driveways and subject to the standards there of. The flag driveway standards would require 15-feet of paved width and 20-foot clear width.

The proposed driveway complies with the improvement widths, weight requirements and turnaround area required for emergency vehicle and fire apparatus accesses. The driveway terminates into an adequately sized fire truck apparatus access hammerhead turnaround. This type of layout is proposed due to the lack of future street connectivity on the adjacent properties. The topography along the east property line of the subject property and those further east and north, limit the future connectivity of public streets. Additionally, the location of structures including residences to the south prevents future connectivity.

Flag driveways required screening adjacent to the driveway. The outer property lines adjacent to the driveway and the common area are screened with 6-foot cedar panel fencing, the south side of the driveway is screened with fencing and buffer strip. The common area improvements provides ample buffer from the north property line.

The proposed private drive layout is responsive to the sites physical features and makes every attempt to preserve character of the Oak Street frontage of both the subject property, and not create non-conforming or future variance situations for the adjacent properties. Additionally, the proposed layout

provides adequate area to preserve the Cedar trees on the north property line as required by development to Performance Standards Subdivision standards while outside of the Performance Standards Overlay (PSO).

Trees:

The expired subdivision approval gave approval to remove three Oak trees along the frontage of the property at Oak Street this occurred and the public utilities that are necessary for residential development were installed. The trees will be mitigated for with a new street tree and the other two within the Common Area A lot.

The Cedar trees, and the two small diameter Oak trees on the adjacent properties to the south of TL#200 and north of TL#200 were protected as part of the development of the stormwater swale. The fencing has been removed and the trees remain in a healthy condition post construction.

Conclusion:

The proposal provides for energy efficient housing, that provides needed housing including, detached single family housing for both owner and renter occupancy. The requested application of the Performance Standards Subdivision is necessary to preserve the two significant trees and allows for the use of a private driveway and not install a large, dead end public street that serves a limited number of dwellings with a very limited number of vehicle trips.

The proposal allows for the preservation of common area that is not required by code for stormwater treatment facility and the significant natural features. The code seeks minor exception and variance to street design standards, solar envelopes and encroachment into the area defined as severe constraints. In reviewing the most adjacent subdivision Kestel Park that is just across the creek valley from the subject property, the request for disturbance and solar shadow is consistent with other Performance Standards Subdivision and the necessary clear and objective standards that apply to all housing development.

The proposed residential development furthers the goals of the Comprehensive Plan and allows for urbanization of a residential area. Increases the number of tax lots and residential dwellings achieving both Housing production and Economic Development through the creation of additional tax base.

Thank you for your consideration on the development of this uniquely shaped, topographically and locationally challenged property intended for development of four residential dwellings.

On the following pages, findings of fact addressing the criteria from the Ashland Municipal Code are provided on the following pages. For clarity, the criteria are in Times New Roman font and the applicant's responses are in Calibri font.

Findings of Fact

PERFORMANCE STANDARDS CHAPTER

18.3.9.030

A. Purpose. The purpose of the PSO overlay is to distinguish between those areas that have been largely developed under the subdivision code, and those areas which, due to the undeveloped nature of the property, sloping topography, or the existence of vegetation or natural hazards, are more suitable for development under Performance Standards.

Finding:

The property is mostly undeveloped excepting infrastructure improvements. The property has sloping topography towards the Bear Creek Valley and two large stature Cedar trees. The property is within a largely developed residential area with existing single-family residences and outbuildings on the adjacent properties. The property is across the Bear Creek Valley and Riverwalk Park from the North Mountain Neighborhood, Kestrel Park Subdivision. The property location, access limitation, topography and significant tree preservation is suitable for development under Performance Standards.

B. Applicability. This chapter applies to properties located in the Performance Standards Option Overlay (PSO) as depicted on the Zoning Map. All developments in the PSO overlay, other than partitions and development of individual dwelling units, shall be processed under this chapter. The minimum number of dwelling units for a Performance Standards Subdivision within residential zoning districts is three.

Finding:

The property is not within the PSO on the zoning map.

C. Permitted Uses. In a PSO overlay, the granting of the application shall be considered an outright permitted use, subject to review by the Planning Commission for compliance with the standards set forth in this ordinance and the guidelines adopted by the City Council.

Finding:

The property is not in the PSO overlay.

D. Development Outside PSO-Overlay. If a parcel is not in a PSO overlay, then development under this chapter may only be approved if one or more of the following conditions exist.

2. That development under this chapter is necessary to protect the environment and the neighborhood from degradation which would occur from development to the maximum density allowed under subdivision standards or would be equal in its aesthetic and environmental impact.

Finding:

The property is outside of the PSO-Overlay. The proposal is to allow for a subdivision that is superior in aesthetic and the same environmental impact as a standard subdivision but allows for flexibility with use of a private driveway to access the subject lots for development which are located 150-feet to the east of Oak Street and not install a 50-foot-wide public street to access four lots.

A Performance Standards Subdivision is requested because as noted in the Purpose statement (AMC 18.3.9.010), the Performance Standards option should be used to allow an option for more flexible design than is permissible under the conventional zoning codes. The property lacks significant natural features except the preserved, large stature Cedar trees that are within the common area lot.

The property is eligible for Performance Standards Subdivision due to the unique lot layout of the parent parcels. One lacks physical connection to the public street frontage. The other includes a developable area that is separated from the public street by a 50' X 150' area.

The use of the private driveway access as permitted through the PSO overlay allows the preservation of the natural features which are two, large stature Cedar trees that would be eliminated to install a public street.

Additionally, stormwater detention facility location and driveway access occur on the narrow lot that abuts the street leading 150-feet to the east to the buildable areas. The lot configuration of the parent tract requires the use of the flexibility provided within the Performance Standards Subdivision because of the limits on the number of lots accessed via a flag driveway and to utilize a private driveway, Performance Standards Subdivision procedure allows for alternative access, lot layout, Solar Performance Setbacks, etc.

Though steep slopes appear on the city of Ashland maps that depict large portions of the east and northeast portion of the property as severely constrained, and the previous subdivision was conditioned to retain the "significant natural feature" those severe constraints were explored under the supervision and guidance of a Geotechnical Expert, Physical Engineer from Galli Group and found to be far from natural.

The overly steep areas (more than 35 percent slopes) were composed of a pushed around material. The fill slope was laden with burned materials including household garbage that consisted of decomposed fabric, glass jars and glass and plastic bottles, cans and other household type detritus mixed with fill dirt, concrete and asphalt materials that was removed. The removal of the debris and bad fill dirt altered the slope. The majority of the property is not 35 percent per topographical map created via on-site survey work following removal of the unnatural, over-steepened hillside due to an effective trash dump. A minor area of 35 percent is present on proposed Lot 4 within the building footprint (approximately 188.5 square feet).

The proposed home designs stress energy efficiency with each unit constructed to Earth Advantage Standards. The proposed homes are architecturally creative and are designed in a manner to not prevent the lot to the north from access to passive solar, but also preserves active solar. The roof design is to allow for solar panel installation on the southern exposure. The layout proposes to use the sloped hillside to their greatest advantage through the incorporation of below grade living spaces.

The proposed subdivision is within walking distance of downtown and the A Street commercial area.

A. Outline Plan. A proposed outline plan shall accompany applications for subdivision approval under this chapter. For developments of fewer than ten lots, the outline plan may be filed concurrently with the final plan, as that term is defined in subsection 18.3.9.040.B.4. For developments of ten or more lots, prior outline plan approval is mandatory.

Finding:

The attached subdivision plans including topographical survey, building envelope, conceptual grading, erosion control, drainage and utility plan address the submittal requirements of the Outline Plan and Final Plan.

The proposal is for concurrent review of Outline and Final Plan because there are fewer than ten units.

The proposed subdivision utilizes conventional financing through FDIC lending institutions. The land proposed for development is owned by Overlook Drive LLC.

The proposed common lot, stormwater detention facility and private driveway have maintenance stipulations outlined in the Homeowner's Association and Covenants, Conditions & Restriction Documents. The site work will continue in earnest to complete the infrastructure extensions of electrical lines within the installed conduit, placement of the water meter for the first residential home building permit and submit a building permit for the site work to complete necessary site work that will trigger preliminary plat submittal.

3. 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.

Finding:

The proposed development is exercising the Performance Standards Option. The development demonstrates compliance with the standards from 18.3.9.050 – 18.3.9.080, and the provisions this chapter. The other applicable sections of this ordinance including: 18.4.3 Parking, Access, & Circulation; 18.4.6 Public Facilities; 18.4.8 Solar Access Performance Standard and relief from the Severe Constraints maps based on the findings of the soil conditions of the Geotechnical Engineer.

The PSO development is subject to chapter 18.3.9 and is not required to meet the minimum lot size, lot width, lot depth, and setback standards of part 18.2, and other standards as specifically provided by this chapter. The proposed development seeks relief from the access and setback standards as part of 18.4.8 for a Solar Performance Standard but generally complies with all applicable standards from the R-1-5 zone.

Proposed Lot #1 is the existing legal lot of record that previously was occupied by a depilated residence that was removed with a 2020 demolition permit. The lot is and remains 50' X 150' with an area of 7,500 square feet. Proposed Lot 1 has a setback of 15-feet along its western property line. That is consistent with the perimeter setbacks from AMC 18.39.050.

Proposed Lots #2-4 are also 50' X 150' and are 7,500 square feet in area. Each lot meets or exceeds the minimum lot dimensions and lot areas. The setbacks are found to be most cohesive to the neighborhood development pattern with front property lines adjacent to the west and rear property lines to the east. Side property lines to the north and south. South side yard is six-feet and north is subject to the Solar Performance Standard and site Plan as depicted on sheets A0.1. and A1.1.

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.

Finding:

The proposed layout provides adequate key City facilities. Water lines have been extended to the meter box bases that are installed in the public utility easement along Oak Street.

The site grading plan anticipates individual sanitary sewer ejector pumps to the sanitary sewer main in Oak Street. There have no indications that the sewer mains are not adequate for the additional flows from the new residences. The stormwater will be captured and detained onsite in an engineered swale. The swale will overflow to the city system. There have not been any indications that there were issues with the existing service.

The electric distribution plan provides a vault on the north side of the driveway within PUE along Oak Street.

All of the utilities will have easements from the Common Area Lot and from the adjacent lots through which utilities cross. These utilities are detailed on the Preliminary Plat map.

Most of the utilities were installed in 2022.

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.

Finding:

There are two, large stature Cedar trees that are proposed to be preserved within the Common Area Lot A.

With the previous proposal, staff required the preservation of the areas shown as Severe Constraints on the city of Ashland Physical and Environmental and Severe Constraints map adopted by the City Council in 2008 see graphic below. These areas were described as “significant natural features” in the staff report and Planning Commission findings.

The majority of the slope on the subject property turned out to be garbage and debris. This slope area cannot be preserved as it is not natural and could be deemed hazardous due to its unknown compaction, materials, density, and other factors necessary for consideration when constructing a building. The discussion why these areas are not preserved as a natural feature is explained in the previous discussion, and within the Geotechnical Report.



d. The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.

Finding:

The adjacent properties are zoned residential. The properties to the north and south of the property have limited development potential due to the location of the existing structures and lot configurations. There is a larger parcel on the north side of the proposed Lot #4 that may have development potential but the steep topography in the subject property’s northeast property line continues north with similar topography. The adjacent property developments, topography and trees prevents extension of any contemplated public street connection to the east, to the north or to the south.

The proposed development does not prevent the adjacent properties from further development with their vehicular access from Oak Street.

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.

Finding:

A Homeowner's Association (HOA) with Covenants, Conditions and Restrictions, By-Laws and a Stormwater Quality Management Plan are provided herein.

The construction phases of development include the utility installation and driveway construction phase of the development, installation of the common lot 1 improvements (landscaping and street trees) then platting of the subdivision lots.

The subdivision is not phased.

f. The proposed density meets the base and bonus density standards established under this chapter.

Finding:

The density of the R-1-5 P-Overlay lot is 4.5 dwelling units per acre. The parent parcel area is 37,500 square feet (.86 acres) $.86 \times 4.5 = 3.87$ is the base density.

The proposed density is four (4) units. Each residence will comply with Earth Advantage Standards which allows for a 15 percent density bonus ($3.87 \times 1.15 = 4.45$).

The proposal complies with the minimum density and bonus density standards with the development of the Earth Advantage Certified dwelling units.

g. The development complies with the street standards.

Finding:

An exception to street standards is sought to not install a public sidewalk and landscape park row along the Oak Street frontage. See exception findings for reasons not to install a 28-foot long section of sidewalk that has no connection to adjacent sidewalks as they exist nearly entirely on the west side of Oak Street.

No new public streets are proposed.

h. The proposed development meets the common open space standards established under section 18.4.070. 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.

Finding:

There is no open space required when the minimum density is less than 10 units. The common area lot preserves the Cedar trees, has a stormwater detention facility, and will include landscaping to improve the aesthetics of the space. There is effectively 1,875 square feet of open space within the common area lot which is in excess where none is required. This provides additional environmental protections in a much greater area than the limited areas of disturbance into the 35 percent slopes.

4. 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.

Finding:

The plan is filed 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.

Finding:

The application is not for a phased subdivision.

B. Final Plan.

5. Approval Criteria for Final Plan. Final plan approval shall be granted upon finding of substantial conformance with the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan meets all of the following criteria:

- a. The number of dwelling units vary no more than ten percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.
- b. The yard depths and distances between main buildings vary no more than ten percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this ordinance.
- c. The common open spaces vary no more than ten percent of that provided on the outline plan.
- d. The building size does not exceed the building size shown on the outline plan by more than ten percent.

- e. The building elevations and exterior materials are in conformance with the purpose and intent of this ordinance and the approved outline plan.
- f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
- g. The development complies with the street standards.
- h. Nothing in this section shall limit reduction in the number of dwelling units or increased open space; provided, that if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the common open space reduced below that permitted in the outline plan.

Finding:

With the concurrent proposal, there are no intended modifications between outline and final plan.

6. Any substantial amendment to an approved final plan shall follow a Type I procedure in section 18.5.1.040 and be reviewed in accordance with the above criteria.

Finding:

It is understood substantial amendment would require additional review.

LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

18.5.3.020 Applicability and General Requirements

A. Applicability. The requirements for partitions and subdivisions apply, as follows.

- 1. Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one calendar year.

Finding:

The request is for approval of a subdivision, there is an existing lot, and a four-lot partition of the larger parcel, the proposed subdivision creates more than four lots from one parent tract of land.

B. Land Survey. Before any action is taken pursuant to this ordinance that would cause adjustments or realignment of property lines, required yard areas, or setbacks, the exact lot lines shall be validated by location of official survey pins or by a survey performed by a licensed surveyor.

Finding:

An official survey of the property has been performed by an Oregon licensed surveyor.

C. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation.

- 1. The preliminary plat must be approved before the final plat can be submitted for review.

2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Finding:

The proposal is for a Outline and Final Subdivision plat review.

D. Compliance With Oregon Revised Statutes (ORS) chapter 92. All subdivision and partitions shall conform to state regulations in Oregon Revised Statute (ORS) chapter 92, Subdivisions and Partitions.

Finding:

The subdivision will conform to state regulations in ORS chapter 92.

E. Future Re-Division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The approval authority may require a development plan indicating how further division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future. If the Planning Commission determines that an area or tract of land has been or is in the process of being divided into four or more lots, the Commission can require full compliance with all subdivision regulations.

Finding:

The proposal is for a five-lot subdivision. There are four, residential lots and a common lot. There are no areas beyond the lots that are able to be developed to a greater intensity. The topography of the east side of the subject property, the adjacent property to the east does not allow additional development.

18.5.3.050 Preliminary Partition Plat Criteria

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

Finding:

The proposed subdivision utilizes the entire property and there are no remnant portions of the tract.

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

Finding:

The proposal does not prevent any adjacent parcels from developing to their densities as envisioned in the Comprehensive Plan. The adjacent properties are developed in a manner that prevents additional residential subdivision development due to access constraints and topographical constraints. This

proposal does not impact the existing developments nor does it put constraints on the adjoining properties.

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

Finding:

There are no neighborhood or district plans. There were previous land use approvals that imposed conditions of approval on the subject property which have expired leading to this application.

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

Finding:

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

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

Finding:

The proposed subdivision layout complies with the standards of the underlying R-1-5 zone. Each lot is proposed to exceed the minimum lot area for the zone. The lots are proposed are 50-feet wide and 150-feet deep. Each lot can comply with minimum front, side and rear yard setbacks. The lot orientation is determined by the right of way and the proposed lot orientation is determined by the necessary access and by the adjacent neighborhood development patterns.

Detailed building envelopes are shown that demonstrate the buildable area and the setbacks in a substantially more refined manner than the previous subdivision application. The perimeter setbacks of the underlying property are met as are the applicable setbacks in the residential zone.

18.2.2.030 Allowed Uses

A. Uses Allowed in Base Zones. Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to approval of a conditional use permit.

Finding:

A Subdivision to create a five-lot, single family residential subdivision is a permitted use in the zone. The proposed subdivision seeks to create three new single family residential lots in addition to the existing parcel of record, create a common space lot with a private driveway.

Single family residences are a permitted use in the zone.

18.2.5.090 Standards for Single-Family Dwellings

A. The following standards apply to new single-family dwellings constructed in the R-1, R-1-3.5, R-2, and R-3 zones; the standards do not apply to dwellings in the WR or RR zones.

B. Single-family dwellings subject to this section shall utilize at least two of the following design features to provide visual relief along the front of the residence:

1. Dormers
2. Gables
3. Recessed entries
4. Covered porch entries
5. Cupolas
6. Pillars or posts
7. Bay window (min. 12" projection)
8. Eaves (min. 6" projection)
9. Off-sets in building face or roof (min. 16")

Finding:

The submitted concepts of residences and designs are of a similar aesthetic as the adjacent property. The elevations demonstrate that two or more of the design features listed above will be provided on the proposed single-family residential units.

Each lot is 7,500 square feet in lot area. The lot coverage of each development lot is 3,750 square feet of impervious surface (Lot #1 has credit from Demolition Permit approval) and an additional 200 square feet of permeable surface area.

The fences and walls within the development will comply with the fence and wall standards from 18.4.4.060 specifically adjacent to the open space where a not more than four foot fence will be proposed. The "front" lot lines of Lots 1 and 4 abut rear yards of adjacent properties which already have 6.5 foot tall solid panel fences. To retain consistency, the fences on the West properties lines of Lots 1 and 4 should be allowed to be 6.5 feet tall as existing on the property boundaries.

Fence permits will be obtained and will be provided for on the building permit submittals.

There is no flammable vegetation on site and no prohibited flammable plants are proposed in the common area lot.

It was during the building envelope determination process that it was determined the need for a Solar Performance Standard through the Solar Setback Standards exception process. See additional findings.

The buildable areas of Lot 4 encroach slightly into an area of more than 35 percent slopes. This situation is similarly found in the Meadowbrook Park Subdivision (approved in 2003 and platted in 2006), Lots #34 – 51, and 54-36). Also, “severely constrained” slopes were permitted to be developed without substantial evaluation in the Kestrel Park Subdivision that was recently approved in 2018, Lots #12 – 15 in Phase 1 and Lots #28 and 29 in Kestrel Park Subdivision Phase II. These subdivisions and the residences constructed most recently in 2021 and 2022 were done so without Severe Constraints building envelope restrictions. (See attached graphic that depicts the steep slopes within the footprints of structures)

As with the equitable application of the Solar Setback Standards, the property owner is seeking clear and objective standards that are applicable in all development scenarios when the similar physical constraints rules and regulations are applied as directed by the ORS in the quest for the development of needed housing.

The driveway apron is 22-feet wide to provide adequate fire apparatus access into the property from Oak Street. The driveway is a 22-foot paved surface with seven feet of parking to the south of the driveway surface and a five-foot landscape buffer. These areas were approved through the previous subdivision approval and have been largely installed on the site.

The large stature Cedar trees north of the driveway and stormwater detention facility are preserved within the common area lot. They were evaluated by an arborist that supervised on site construction as per the tree protection and preservation plan.

Solar Access (18.4.8.040):

The average slope of each lot to the north for the purposes of solar setbacks is approximately eight (8) percent downhill. This slope is based on the steep slope of the properties to the north along the east property line. The east to west topography increases from one percent to greater than 25 percent as the hill slopes down to the east. It is for the steeper cross slope and its impacts on building height through a Solar Performance Standard (AMC 18.4.8.040.B) is requested. The Solar Performance Standard allows for pre-determined shadow point to be created. The requested allowance of a Solar Performance Standard can be found to be similar to those that have been allowed within the Meadowbrook Park II Subdivision (PA2003-0158) and the Kestrel Park Subdivision (PA-T2-2018-0005).

Solar Setback Exception

18.4.8.020.C.1. Solar Setback Exception. The approval authority through a Type I review pursuant to section 18.5.1.050 may approve exceptions to the standards in 18.4.8.030, Solar Setbacks, if the requirements in subsection a, below, are met and the circumstances in subsection b, below, are found to exist.

Finding:

Proposed lots 1, 2 and 3 Solar Access:

The proposal seeks a Solar Access Performance Standard as allowed in AMC 18.4.8.040.B. through the approval of a Solar Setback Exception. Due to the slope east to west increasing the wall height as the structure moves downhill, the developer chooses not to design a lot so that it meets the standards set forth in subsection A, (limiting shadow to six foot fence on the north property line), a solar envelope shall be used to define the height requirements that will protect the applicable solar access standard. The solar envelope and written description of its effects shall be filed with the land partition or subdivision plat for the lot(s).

The approval authority finds all of the following criteria are met.

- i. The exception does not preclude the reasonable use of solar energy (i.e., passive and active solar energy systems) on the site by future habitable buildings.

Finding:

Access to the passive and active solar and compliance with the purpose and intent of the ordinance are met. Each lot within the subdivision will have reasonable use of passive and active solar. Habitable portion of the building will have access to passive solar into the windows and active solar on the roof. This request does not preclude future habitable buildings from reasonable use of solar. The requested Solar Performance Standard seeks the same clear and objective standards to be shared throughout the community when similar development circumstances are considered.

- ii. The exception does not diminish any substantial solar access which benefits a passive or active solar energy system used by a habitable structure on an adjacent lot.

Finding:

It can be found that the requested Solar Performance Standard provides protection of a reasonable amount of sunlight from shade from structures whenever feasible and to preserve the economic value of the solar radiation falling on the structures, their solar energy systems and future solar system installations.

iii. There are unique or unusual circumstances that apply to this site which do not typically apply elsewhere. (Ord. 3147 § 8, amended, 11/21/2017)

Finding:

The requested Solar Performance Standard is due to the topography of the property as it falls west to east downhill. This moderate slope of 15 – 18 percent to the east increases the building height, yet the area of the control point (driveway grades) for beginning construction of the residences, is relatively flat. This sloping scenario increases the shadow as the grade falls away from the residence to the north.

Each structure has a solar performance setbacks and corresponding structure height as depicted on the solar shadow plan sheet (Sheet A1.1).

The proposed shadow cast by the structure on Lot 1 and 2 will be less than four feet in height upon the adjacent property to the north. The structure proposed on Lot 4 will have a shadow from the structure on Lot 3 that is just over 4-feet. These solar shadows fall at or below the windowsill of the bedroom and dining areas where the shadow falls upon the structure.

This circumstance of the east to west slope is more pronounced on this property but not on the adjacent properties to the east and south. Additionally, access is limited via lot dimensions, which determines lot layout, orientation, setbacks and structure placement. These factors all create unique and unusual circumstances that necessitate the approval of a solar performance standard.

All structures on a lot affected by a solar envelope shall comply with the height requirements of the solar envelope.

The requested allowance of a Solar Performance Standard can be found to be similar to those that have been allowed within the Meadowbrook Park II Subdivision (PA2003-0158) and the Kestrel Park Subdivision Phase 1 and 2 (PA-T2-2018-0005).

These subdivisions have similar topography and lot configurations. These properties are found directly across the Bear Creek valley from the subject property. The application of solar performance standards allows for the moderately steep east to west slope and the impacts that the east/west slope impacts the heights of downhill walls and creates below grade rooms and basements while also increasing the height of the structure from grade to the shade producing point. This situation does not typically exist elsewhere.

The solar graphic provided on Plan Sheet A1.1 demonstrates where the solar shadow is cast from the adjacent residence to the south upon the residence to the north.

The proposed solar performance envelope is requested specifically for Lots 1 – 3. Lot 4 will comply with the solar setback standard A that applies to the northern property line as the property to the north is outside of the subdivision development.

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

Finding:

The access to the individual lots will be from the private drive. This requires a variance to the number of lots access via a private driveway. The proposed private drive is designed in a manner to accommodate expected traffic on the site.

AMC 18.4.3.080. Vehicle Area Design

A. Parking Location

Finding:

Per 18.4.3.080 Vehicle Area Design, each lot will have two parking spaces within a garage accessed from the private drive either directly or from a driveway extension. The residential parking is not within any required yard area.

a. In no case shall driveways be closer than 24 feet as measured from the bottom of the existing or proposed apron wings of the driveway approach.

Finding:

The existing driveways are separated by more than 24-feet. The driveway serving the residence to the south is approximately 36-feet from the existing driveway apron. The driveway apron serving the subject property is 16-feet wide and is proposed to be widened to 22-feet. The driveway to the north is more than 24-feet from the widened driveway apron but less than 100-feet.

b. Partitions and subdivisions of property located in an R-2, R-3, C-1, E-1, CM, or M-1 zone shall meet the controlled access standards set forth below. If applicable, cross access easements shall be required so that access to all properties created by the land division can be made from one or more points.

Finding:

The subject property is zoned R-1-5 and is not subject to the controlled access standards per this section.

c. Street and driveway access points in an R-2, R-3, C-1, E-1, CM, or M-1 zone shall be limited to the following.

i. Distance between driveways.

on boulevard streets: 100 feet

on collector streets: 75 feet

on neighborhood streets: 24 feet for 2 units or fewer per lot, 50 feet for three or more units per lot

ii. Distance from intersections.

on boulevard streets: 100 feet

on collector streets: 50 feet

on neighborhood streets: 35 feet

Finding:

The property is zoned R-1-5 and not subject to the standards.

d. Access Requirements for Multi-family Developments. All multi-family developments which will have automobile trip generation in excess of 250 vehicle trips per day shall provide at least two driveway access points to the development. Trip generation shall be determined by the methods established by the Institute of Transportation Engineers.

Finding:

Not applicable.

4. Shared Use of Driveways and Curb Cuts.

a. Plans submitted for developments subject to a planning action shall indicate how driveway intersections with streets have been minimized through the use of shared driveways and all necessary access easements. Where necessary from traffic safety and access management purposes, the City may require joint access and/or shared driveways in the following situations.

i. For shared parking areas.

- ii. For adjacent developments, where access onto an arterial is limited.
- iii. For multi-family developments, and developments on multiple lots.

Finding:

The proposed access uses an existing driveway apron and widens it slightly to provide adequate access to the private drive. This single, narrow driveway minimizes access points and reduces impacts from the access point.

- b. Developments subject to a planning action shall remove all curb cuts and driveway approaches not shown to be necessary for existing improvements or the proposed development. Curb cuts and approaches shall be replaced with standard curb, gutter, sidewalk, and planter/furnishings strip as appropriate.

Finding:

The proposal is to develop a standard driveway approach where presently one does not exist. There are no additional, unnecessary approaches.

- c. If the site is served by a shared access or alley, access for motor vehicles must be from the shared access or alley and not from the street frontage.

Finding:

The proposal is to create a shared, private drive to reduce access.

- 5. Alley Access. Where a property has alley access, vehicle access shall be taken from the alley and driveway approaches and curb cuts onto adjacent streets are not permitted.

Finding:

There is no alley access.

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

Finding:

All of the proposed infrastructure and the driveway has been designed by an Oregon Licensed Civil Engineer. The utility plan conforms to the requirements of AMC 18.4.

Right of way dedication and development for the public street to the design standards is required when there are four lots. The proposal included originally a Shared Street but that was not a preferred street type by the city of Ashland as it only services four lots with no future connectivity. Additionally, street dedication would alter adjacent property setbacks and introduce a new public street intersection when the small development is better served by a private drive. The adjacent development patterns do not allow for further extensions of public infrastructure to service additional development areas as there are none.

All of the proposed transportation facilities include street like features the pavement, on-street like parking, curb, gutter are within a private access easement.

With a 22-foot-wide paved width, including 15-feet of travel lane for driving surface, parallel parking to the south of the driveway and shared pedestrian/bicycle access within the driveway the proposed driveway is similar to a shared street and exceeds the standards for a flag driveway.

The proposed driveway is intended to be the least disruptive to the present Oak Street neighborhood layout. The driveway is designed with the street standards in mind and provides preservation of existing natural features.

The private drive dead ends into an adequately sized fire truck apparatus access hammerhead turnaround. This type of layout is proposed due to the lack of north/south connectivity for future public streets on the adjacent properties. The narrow width, private drive is proposed to respond to the low volumes of traffic to and from the property considering there are only four residential lots. The private driveway and the proposed improvements encourage a mix of pedestrian, bicycle and adequate width to allow low speed vehicle traffic.

The private driveway is less than 200-feet in length and meets the city standards for the distance length and the turnaround dimensions. The design provides adequate access from Oak Street to the hammerhead for emergency service vehicles. This will be signed no-parking in accordance with the Oregon Fire Codes. In the event of an emergency, the emergency vehicle can use the shoulder as a work area.

A private drive that terminates into a fire apparatus access hammerhead is proposed because the constraints of the subject properties and the adjacent properties prevent the development of a gridded street system. There are steep slopes along the east property line on the subject properties. The adjacent property to the north has a large barn structure and beyond that there is a pool and residential homes in the path of any future north street connection.

Similarly, the property to the south is also developed along the shared property line with a large berm and the single-family residence beyond. Steep slopes down to the Bear Creek Valley are present on the east side of the lots to the north, east and south preventing connection for vehicles. These adjacent developments and physical constraints connectivity. Ownership of these properties prevent pedestrian or bicycle connections through the subject property down to the Riverwalk Park and Bear Creek valley further east.

The grade of the private drive is minimal and substantially less than the maximum street grades per the standards.

The stormwater bioswale that is adequately sized to meet the requirements of 18.4.6.080, and demonstrates compliance with the Rogue Valley Stormwater Design Manual Standards. This facility complies with the standards and provides ample storage for further stormwater. No offsite flow greater than pre-development peak flows are permitted with the design.

EXCEPTION TO STREET STANDARDS

18.4.6.020.B.1.

Finding:

The proposal does not include improvements to Oak Street thus an exception to Street Standards is required.

1. Exception to the Street Design Standards. The approval authority may approve exceptions to the standards section in 18.4.6.040 Street Design Standards if all of the following circumstances are found to exist.
 - a. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.

Finding:

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

The property has a 50-foot-wide frontage to Oak Street. Along the frontage of the property and the adjacent properties to the north and south, there is approximately 8.5-feet of right of way. This right of way width is not adequate to install required improvements. The narrow width of the property frontage following the installation of the driveway leaves 28-feet of frontage for a small sidewalk. There are no sidewalk connections off-site of the subject property to the north or south. The unique situation includes the development and prevention of a sidewalk and park

row system that goes nowhere.

Oak Street is an avenue and requires a right-of-way of 59 – 86 feet. The standards seek 32-33 feet of curb-to-curb pavement, five – eight feet of landscape park row, and six – ten-feet of sidewalk on both sides. There is inadequate right-of-way on the east side of Oak Street to provide the city standard improvements, but the right-of-way width is adequate for an avenue and to extend a park row and sidewalk beyond the property would require dedication of right-of-way by adjacent property owners and a substantial alteration to the trees and utilities within the right-of-way.

There are large stature Oak trees on the adjacent properties to the north and south. The only way to preserve the neighbors' trees is to use the narrowest driveway allowed and not a public street with sweeping curb lines.

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

Finding:

The proposed frontage improvements will include regrading of the berming behind the curblines, installation of a driveway apron and the planting of two large stature Oak street trees to replace the street trees removed. The frontage improvements are similar to the existing Oak Street improvements on the east side where no sidewalks present.

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

Finding:

The proposed exception is to not provide any sidewalk or parkrow improvements in the 28-foot north of the proposed driveway curb cut. There is inadequate right-of-way to achieve park row and sidewalk improvements. Not installing sidewalk alleviates the difficulty in extensions of said sidewalks in a logical and functional manner on properties that are not associated with the proposed development and based on existing development, will not redevelop in a manner that would require dedication of right-of-way or removal of trees.

In the event there is frontage improvements required, a five-foot wide curbside sidewalk with a larger street trees planted behind the sidewalk could be installed.

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

Finding:

The Purpose and Intent of the Street Standards section speaks to connectivity and design focus on a safe environment for all users, design streets as public spaces, and enhance the livability of neighborhoods, consistent with the Comprehensive Plan. There are very limited sidewalks with park row on the east side of Oak Street. This is due to a many year, very involved LID process to improve Oak Street. The exception seeks to not install sidewalks and park row along the frontage of the property. This is due to the limited length of the sidewalk north of the driveway (28-feet), the lack of right-of-way to install improvements and that not installing sidewalk and park row will not negatively impact the vehicular, bicycle and pedestrian experience.

H. Unpaved Streets.

Finding:

Not applicable, Oak Street is a paved street.

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

Finding:

There is not an alley adjacent to the property, nor does the subdivision layout provide for alley connectivity.

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

Finding:

There are no State or Federal permits necessary for the development of the property.

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

Finding:

Not applicable

VARIANCE CRITERIA

18.5.5.050 - Approval Criteria

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

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

Finding:

The variance to the number of lots accessed from a private driveway is necessary due to special and unique physical circumstances. The narrow lot connection to Oak Street and public street installation for four residential lots would require the removal of the two large stature cedar trees. When considering the neighborhood development pattern, the topography, the lack of connectivity and other similar circumstances there are hardships to the public street right of way and infrastructure that is above and beyond the impact of four residences.

These include the slope of the subject property near the east property line. That slope prevents extension of any public street system. The property to the east beyond the subject property is steep as it leads to the city park property. The adjacent development to the north and south of the developable area of the subject property prevents extension of a public street system. Due to the narrow lot frontage along Oak Street, dedication of a public right-of-way with the smallest public right-of-way at 25-feet of a Shared Street to 47-feet for a Residential Street and the impacts from the creation of a new public street intersection would have substantial impacts on the large Oak trees on the adjacent properties to the north and south.

The code provision that when more than three-lots accessed via a private driveway is overly restrictive and burdens the community with small, dead end public streets that serve smaller, limited traffic residential subdivisions.

The slope of the property and the properties further east are too steep for extension of a public street system. The properties to the north and south of the developable area of the subject property are developed in a manner that prevents extension of a public street system. It should be noted that the standards from AMC 18.3.9 use lots and units interchangeably which is not a clear or objective standard and causes confusion within the code sections.

A private drive and/or flag lot provides for a narrower, often more neighborhood compatible driveway type of development instead of a public street where even the smallest street the

Shared Street has a wide curb radius that allows for fire apparatus access but also changes the character of Oak Street by adding a new public right of way and intersection. Intersections restrict the availability of public, on-street parking presently available on Oak Street and would have a greater negative impact on the adjacent properties because of separation standards than the proposed driveway.

A private drive is proposed to allow the property owner to assume all burdens for construction, maintenance and future maintenance falls upon the users of the private drive easement.

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

Finding:

The requested variance to allow for four lots instead of three to be accessed from a Private Drive that is a dedicated fire apparatus access instead of dedication of a public right-of-way is the minimum necessary to address special or unique circumstances relating to this site and the impacts that the development of this site with a public street and the resulting curb radii and restricted parking along Oak Street, impacts to side yard setbacks which a public street cause are reduced with the request for a private drive.

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

Finding:

The proposals benefits include removal of any public responsibility for a small, dead end street that provides no vehicular access to future properties within the vicinity due to topography and existing development patterns and a public street cannot be extended beyond the property boundaries. The property owner and future property owners and their HOA will own the private driveway and the utilities within the driveway. The owners bear all responsibility and does not impact the public's ownership and responsibilities.

The proposed driveway apron has less of an impact on the Oak Street streetscape than the dedicated public street would be due to curb radii and how intersections are built vs. how a driveway apron is constructed.

The purpose and intent of the Comprehensive Plan for the Single-Family zone is to seek responsible, environmentally conscious design that complies with the city standards and

expectations. This proposal conforms and achieves both stated plan goals and most of the criteria for development from the Ashland municipal code. The proposal furthers the purpose and intent of the stated housing development goals of the city.

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

Finding:

The need for the variance is to allow for private ownership of a driveway that serves only four lots as part of a single subdivision and to not dedicate a public street or to only allow three single family lots. The narrow lot width along Oak Street, the steep slopes that prevent connectivity to the east, and the adjacent developments to the north and south of the subject property that prevent public street development were not created by the applicant or the property owner. These circumstances and the lack of public use of the access due to the lack of connectivity, create the need for variance. There are no previous property line adjustments or land division approvals for the property that remain valid that necessitated the variance request.

18.3.10.020.A.

Physical Constraints Review Permit

- A. 1. Alteration of Land. The alteration of the land surface by any of the following activities in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraint Land.
- a. Earth-moving activities such as grading, filling, stripping, or cutting involving more than 20 cubic yards on any lot, or earth-moving activity disturbing a surface area greater than 1000 square feet on any lot.

Finding:

The majority of the area that was identified as Severe Constraints on the city of Ashland maps consisted of unknown and unconsolidated fill materials that required removal from the site due to its material conditions.

Except an area of approximately 1,050 square feet in the northeast portion of the property between contours 1790' and 1775' that is 35.8 percent slope, the areas of mapped severe constraints consisted of what appears to have been a result of previous structure demolition, trash burial, and other earth moving activities that pushed fill around creating an artificially, over steeped embankment along the eastern side of the property.

Under the guidance of the project geotechnical expert who evaluated the site prior to finalization of the civil engineering drawings in order to develop the percolation tests and other soils analysis, then again during the necessary excavation and grading activities that removed the unconsolidated fill materials to native grades, the material could not be maintained on the property as it was not natural and was actually highly unnatural.

The amount of trash, debris, concrete, asphalt, rubble, sand and gravel that was removed amounted to more than 20 cubic yards of material. The area of grading was more than 1,000 square feet in area (approximately 1,500 square feet along the north and northeast portion of proposed Lot 3). Additionally, it was presumed that these areas would eventually have a structure either retaining wall or building constructed.

- b. Construction of a building, road, driveway, parking area, or other structure; except that additions to existing buildings of less than 300 square feet to the existing building footprint shall not be considered development for section 18.3.10.090 Development Standards for Hillside Lands.

Finding:

The proposal involves the construction of a structure that encroaches into the area of 'severe' constraints post subdivision. This area is minor at less than 190 square feet of structure. Per this standard, the area of encroachment could be added post construction of the residence with no development procedure imposed therefore it is requested at this time.

It should be noted that this topographical situation and encroachment into the 'severe' constraints with the structure to a minor extent is not unlike what was allowed within Meadowbrook Park II Subdivision originally approved in 2003 with construction not beginning until 2005/2006, and the Kestrel Park Subdivision across the valley without 18.3.10.020.A.b. for Severe Constraints and Hillside Development procedure imposed.

It is here that the property and owner and applicant seek relief from the Physical Constraints Review for Severe Constraints.

The materials that created the majority of the site slopes was material that absolutely had to be removed. The resulting slope of the property at the actual grade is less than 35 percent and the application of this code section is unnecessary and overly burdensome to needed housing objectives and city of Ashland development standards and goals.

Physical and Environmental Constraints Review

18.3.10.050

Approval Criteria

An application for a Physical Constraints Review Permit is subject to the Type I procedure in section 18.5.1.050 and shall be approved if the proposal meets all of the following criteria.

A. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.

Finding:

The property is seeking relief from the application of the standards for development standards.

The site should not be considered severely constrained. The properties severe constraints were artificially created with material that could not remain on site. The property is not within the Hillside Overlay and the imposition of development standards at 25 percent are not applicable. The city has standards protecting areas of more than 35 percent slopes through the application of Severe Constraint Standards. There is only a small area of the entire property that consists of slopes of more than 35 percent.

The severe constraints slopes that were removed consisted of materials that are not safe to be retained on a property the is being developed and cannot be built upon because construction sites are cleared to native grade to create a buildable area. The materials of the fill slope creating the application of this code could cause adverse impacts and actual create the hazard. The construction of engineered foundations for residences does not increase the hazard and in fact reduces adverse impacts from the steep slopes as they didn't exist except for in the most minor of area that is proposed to have a 188.5 square foot encroachment.

Relief from the application of the Severe Constraints standards for residential construction is sought based on that the majority of the area that is considered severe constraints consisted of unconsolidated fill. Upon inspection by the Geotechnical Expert and the project excavation contractor was determined to include trash, concrete, asphalt, and other debris to create a flat yard area for a large portion of the property.

The property is a sloping lot that has an average slope of six percent on the south side increasing to an average slope of 20 percent. There is a minor area of slopes that are more than 35 percent (approximately 1,080 SF in the northeast portion of the property).

B. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.

Finding:

There was and has been silt fencing and other erosion control measures installed on the site since early 2022. The silt fencing was at the perimeter of the project.

The earth moving activities occurred in the presence of and under the guidance of a Geotechnical Engineer. The removal of the unconsolidated fill removed the potential hazards from the site.

The small area of encroachment of the northeast corner of the proposed residence on Lot 4 is minimis and will not create any potential hazards from a structurally engineered foundation. This structure is stepped down the hillside to achieve solar setbacks due to this lot actually have the most slope. The majority of Lot 4 is not severely constrained, only 1,050 square feet of the 7,5000 square foot lot and the area of encroachment is minor when considering the overall substantial impacts to the adjacent properties that were potentially affected by the hazards created by leaving the unconsolidated materials.

C. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.

Finding:

Under the guidance of the Geotechnical Expert the fill material was removed. Since it was of items, object, things and materials that cannot remain within the construction area or yard area because it in and of itself was the hazard. The preservation of the material could create irreversible actions that severely impact the ability to construct residential dwellings.

The narrow lot and the prescriptive standards for perimeter setbacks require that the house have a large setback on the west (flat) and pushes the structure downhill and 188.5 SF of the footprint encroaches into an area of 35 percent.

To meet the needed housing standards for clear and objective standards, requiring hillside development permit for a small area of encroachment is an unequal application of the code. The small area of encroachment is less than the footprint of the residences within the Kestrel Park Subdivision that was just approved in 2021 and 2022.

2. The exception will result in equal or greater protection of the resources protected under this chapter.

Finding:

The exception results in equal protection of the resource and allows for the development of a modest size, solar compliant, Earth Advantage certified residence.

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

Finding:

The exception is the minimum necessary to alleviate the difficulty and allows for equal application of the land use ordinance when it comes to needed housing production. The exception to allow for the encroachment of less than 200 square feet into the area that is actually 35.8 percent slope is the minimum necessary to alleviate the difficulty caused by the solar ordinance compliance and stepping the structure down the hill with the minor encroachment.

4. The exception is consistent with the stated Purpose and Intent of chapter 18.3.10, Physical and Environmental Constraints Overlay, and section 18.3.10.090, Development Standards for Hillside Lands. (Ord. 3199 § 18, amended, 06/15/2021; Ord. 3191 § 18, amended, 11/17/2020; Ord. 3158 § 4, amended, 09/18/2018)

Finding:

The exception is consistent with the stated purpose and intent of the Physical and Environmental Constraints Overlay chapter and the Development Standards for Severe Constraints. The authors never anticipated that the slopes would apply in this type of manner and thus the exception is completely warranted when considering that just across the Bear Creek valley the same (if not greater) level of encroachment is permitted without this level of review.

The proposed exception is not seeking to build on in areas that are dangerous or erosive or exhibit other factors that are sought to be protected. The proposed site development protects the

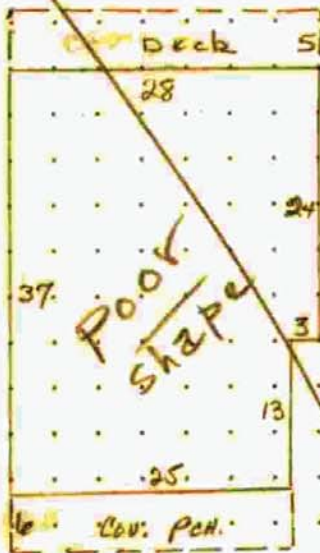
majority of the site's severe slopes with only 188.5 square feet of the 1,080 square foot area is encroached upon.

Attachments:

- 1) Assessor's documentation of previous structure on TL200
- 2) Physical and Environmental Constraints graphic of Meadowbrook Park and Kestrel Park slopes
- 3) Geotechnical Evaluations from Galli Group (December 21, 2021, and June 28, 2023)
- 4) Homeowners Association and Covenants, Conditions and Restrictions Documents
- 5) Preliminary Subdivision Plat (Polaris Land Surveying)
- 6) Site plans and Building Elevations (A0.1 – A2.1)
- 7) Subdivision Civil Engineering Documents (KAS and Associates)
- 8) Stormwater Calculations (KAS and Associates)

PERMANENT RECORD
BUILDING DIAGRAM AND OUTBUILDINGS

REMARKS:
 MEASURED BY: HANSON, J. W. DATE: 1 20 4
 SQUARE FOOTAGE CHECKED BY: E. ZWANS



$$3 \times 24 = 72$$

$$25 \times 37 = 925$$

$$\hline 997 \square$$

Fire
Pentagon
No Value

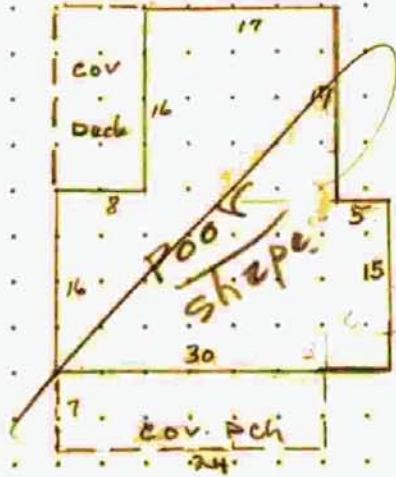
#64
 8-7-89
Removed
 12-22-89
 #64

NO.	TYPE		DESCRIPTION					DIMENSIONS	AREA S.F. BASE ADJ BASE
	USE		FOUND	FLOOR	ROOF	WALLS	MISC.		
1	Cov	Pch						6 x 25	150
2	Deck							5 x 28	140
3	Heat								997
4									
5									
6									
7									
8									
3									

PERMANENT RECORD

BUILDING DIAGRAM AND OUTBUILDINGS

REMARKS: HANSEN 207
 MEASURED BY: DATE: 20.4.
 SQUARE FOOTAGE CHECKED BY: L. ZWAN.



$$16 \times 17 = 272$$

$$16 \times 25 = 400$$

$$5 \times 15 = 75$$

$$747 \#$$

cov. Deck
 $8 \times 16 = 128 \#$

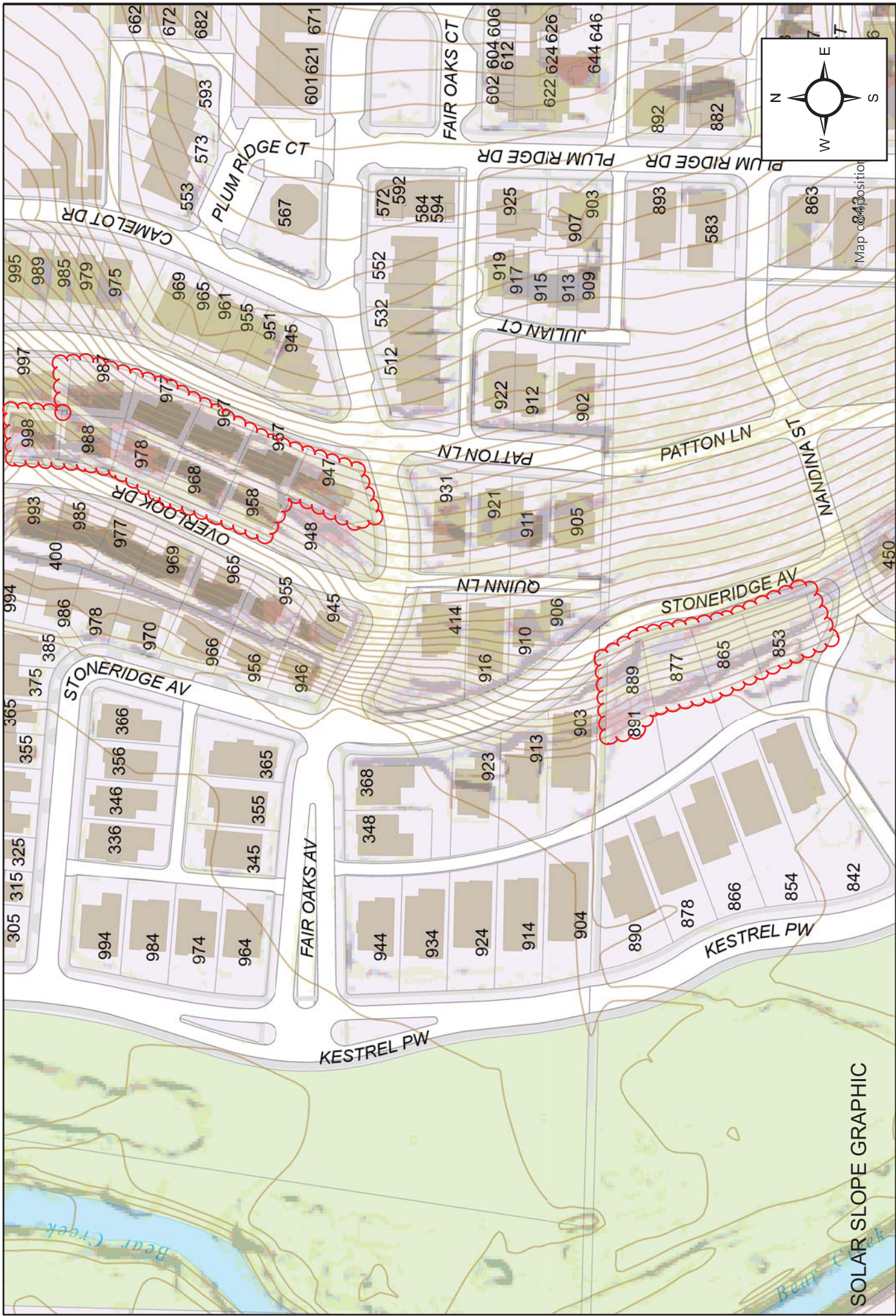
cov. Pch
 $7 \times 24 = 168 \#$

Roof fully in
No value
unpt for
living
#64

8-7-89

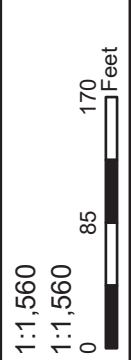
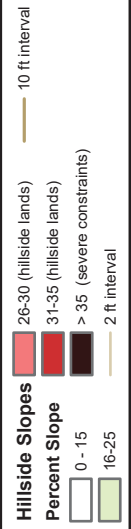
Removal
12-23-89
#64

NO.	TYPE		DESCRIPTION					DIMENSIONS	AREA S.F. BASE ADJ BASE
	USE		FOUND	FLOOR	ROOF	WALLS	MISC.		
1	Heat							X	747
								X	
								X	
2	cov							8x16	128
	Deck							X	
								X	
3	cov							X	
	Pch							X	
	768							7x24	168
								X	
								X	
5								X	
								X	
								X	
6								X	
								X	
								X	
7								X	
								X	
								X	
8								X	
								X	
								X	
3								X	
								X	
								X	

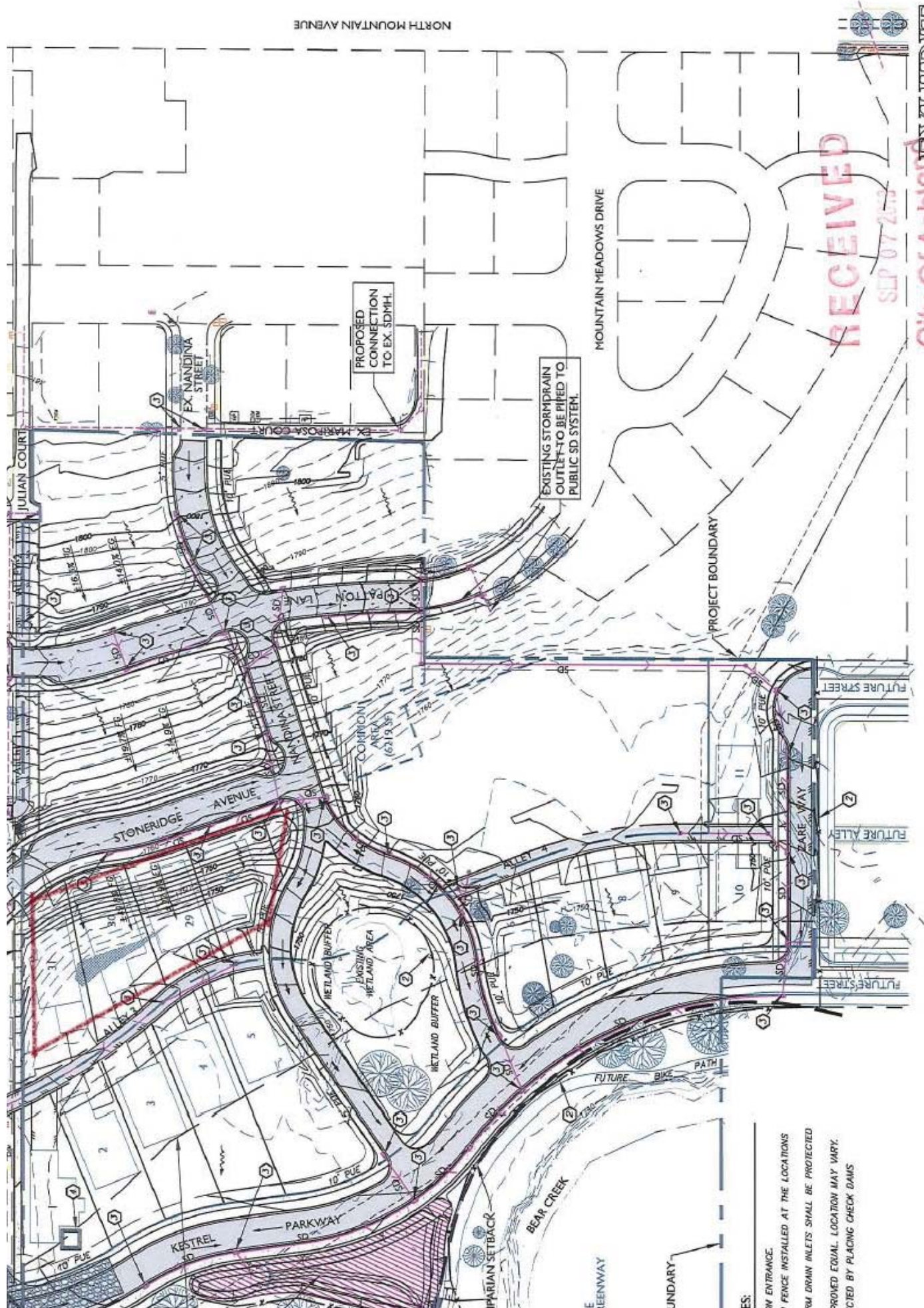


Date Printed: 11/6/2023

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



SOLAR SLOPE GRAPHIC



NOTES:
 1. PROTECTION FENCE INSTALLED AT THE LOCATIONS
 2. ALL STORM DRAIN INLETS SHALL BE PROTECTED
 3. FOR APPROVED EQUAL LOCATION MAY VARY.
 4. PROTECTED BY PLACING CHECK DAMS

RECEIVED
 SEP 07 2013

City of Ashland EXHIBIT C.5



**STEEP SLOPE AND GEOTECHNICAL
DESIGN REPORT
OVERLOOK DRIVE 4-LOT SUBDIVISION
822 OAK STREET
ASHLAND, OREGON**

For: Suzanne Zapf
Overlook Drive, LLC
602 Sutton Place,
Ashland, Oregon 97520

By: **THE GALLI GROUP**
612 NW Third Street
Grants Pass, OR 97526
(541) 955-1611

02-6062-01
December 12, 2021

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APPENDIX B: Onsite Permeability Test Results



THE GALLI GROUP
Geotechnical Consulting

**STEEP SLOPE AND GEOTECHNICAL
DESIGN REPORT
OVERLOOK DRIVE 4-LOT SUBDIVISION
822 OAK STREET
ASHLAND, OREGON**

1.0 INTRODUCTION

This report presents results of our geotechnical evaluation of the site for the proposed for the new Overlook Drive 4-Lot Subdivision at 822 Oak Street in Ashland, Oregon. The project site is a 0.86 acre, two lot parcel located on the east side of Oak Street. The parcel is bounded by residential development to the north, south and east. Please see Figure 1, Vicinity Map, for a more precise site location.

The purpose of this investigation and report was to evaluate the surface and subsurface conditions with a series of nine (9) borings in order to provide geotechnical recommendations, steep slope considerations and a geologic hazard review for design and construction of the proposed development, including cuts, fills, structure foundations, floor slab support and related items for the proposed residential development.

2.0 SITE AND PROJECT DESCRIPTION

The subject site is located in the northern portion of Ashland, near Bear Creek and Interstate 5, and is situated across the top and along the east descending side of a small spur extending across the valley floor. The site is generally flat to very gently sloping along the flag and on the west and center portions of the property. This flat area gives way to the steep to very steep slopes (from 30% to greater than 45%) located along the eastern edges and northeast corner of the project. We understand that previous cut/fill grading work was accomplished to create the flat areas on this site. We also understand that this site has previously been developed with a manufactured residence, and may have previously been used as a dump site for construction debris.

The subject proposed project consists of redeveloping this currently vacant site into four separate residential lots. The site will also have a new shared access road, parking and a stormwater detention swale located on the western “flag” of the parcel (per site plan provided by KAS & Associates). We understand the structures will be constructed using conventional wood framing, concrete slab-on-grade floor and various siding materials. We understand that underground levels/daylight basements may be utilized in the construction of the new residential structures. This would entail the construction of concrete or CMU retaining walls. Loads will likely be on the order of 2 kips to 5 kips for

isolated spread footings and 1 to 1.5 kips per lineal foot for strip footings. Associated utility and landscaping improvements will also be included.

3.0 FIELD EXPLORATION

3.1 EXPLORATORY BORINGS

On November 11, 2021, our Staff Associate, Benjamin Dean, E.I.T., and drilling crew members visited the site to accomplish the subsurface investigation. A total of nine (9) exploratory borings were drilled around the areas of proposed development. Three (3) additional permeability test holes were drilled. The boring and permeability test hole locations are shown on Figure 2, Site Plan with Testing Locations.

The drilling was accomplished with our ATV-mounted solid stem auger drill rig. Borings penetrated to depths of between 3.0 feet (auger refusal) to 9.0 feet through the surficial silty Sand layers and into the underlying, dense to very dense weathered bedrock. Borings were advanced with sample collection and testing being accomplished at various depths. Upon completion, each boring was backfilled with drill spoils.

Standard Penetration Testing (SPT) was accomplished in each boring. This entails driving a 2-inch O.D. steel split spoon sampler by dropping a 140-pound weight for a 30-inch drop. The total number of blows it takes to drive the sampler the last 12 inches of an 18-inch drive is called the SPT N-value. These can be correlated with soil strength and density parameters from testing on thousands of other projects.

Our representative identified the exploration locations away from utilities, logged subsurface soils and water conditions and obtained soil samples for transport to our laboratory. Visual classifications of the soils were made in the field and are presented in the Boring Logs in Appendix A, at the end of this report. Please note that in the logs, soil changes are depicted as distinct layers, while in nature they may be more gradual.

3.2 FIELD PERMEABILITY TESTING

In order to evaluate on-site soil permeability, the Galli Group performed field falling-head permeability tests on three (3) augured borings in the locations shown on Figure 2. The augured hole diameter was 7-inches in all three of the permeability test locations, with drilled depths of between 2.38 and 2.83 feet. All permeability test holes encountered the silty Sand soils. The augured holes were pre-soaked, then filled with water to near the top of the silty Sand soil layer. Falling head measurements were then obtained at various time intervals, with a record of the depth of water and elapsed time since the last reading.

The field data was “reduced” by our firm and yielded the calculated permeability rates of 4.22×10^{-5} , 8.20×10^{-5} , and 6.01×10^{-5} inches per second, or 0.152 in./hr., 0.295 in./hr., and 0.217 in./hr., respectively. See [Appendix B](#) for additional detail regarding the field data and permeability calculations and results.

4.0 LABORATORY TESTING

Soil samples collected were tested for natural moisture content. The soil moisture contents are shown in the Boring Logs in Appendix A at the end of this report.

5.0 SUBSURFACE CONDITIONS

5.1 SOIL

In general, the majority of the site investigated had somewhat similar soils conditions. The current surface layer (top 2-6 inches) across the site consisted of either grassy vegetation with a thin underlying rootzone and topsoil layer or, at existing access roadway locations, crushed rock fill. Beneath this thin surficial layer, it appears the entire site is covered with approximately 1.5 to 3.75 feet of loose to medium dense, dark brown, silty Sand with scattered to numerous gravels and cobbles. Based on the depth and location, it is possible and likely that these gravelly, silty Sand soils are old fill soils, used for leveling the site (at least 25 years old). These surficial soils appear to be granitic in nature and are common to this site and this area of Ashland. These soils were underlain in all borings by medium dense to very dense, tan, silty Sand (also granitic derived) with variable gravel, cobble and boulder inclusions. This dense, tan, sandy layer is the top of the highly weathered granitic bedrock of the Grayback Pluton (See Section 6.0 for more information regarding the geologic site conditions).

Undocumented fill was previously placed across an approximately 60' long portion of the existing steep slopes on the east edge of the site to extend the level pad areas approximately 20' to 30' further east (see Figure 2 for the approximate location and extents of the undocumented fill). This undocumented fill consists of a mixture of the silty sands, gravels and cobbles mixed with chunks of asphalt, concrete and other construction debris and garbage. The fill was approximately 8 to 10 feet thick in Boring B-4, measured vertically from near the top edge of the slope. The fill slope extends up to 30 feet down slope and appears to cross the property line, in some locations.

Please see more specific soils information in the Boring Logs in Appendix A. Please note that the soils are shown as distinct layers in the Boring Logs while in nature they may change more gradually. Soils conditions may also change somewhat between the locations investigated.

5.2 GROUNDWATER

The soils encountered across the site during our investigation were dry to moist. No free water (groundwater) was encountered in the borings. We do not anticipate the water table getting close to the surface, given the subsurface conditions encountered and the site slopes. However, due to the flatness across much of the site and loose to medium dense nature of the surficial soils and the underlying shallow, very dense soils and weathered bedrock, subsurface seepage or a perched water zone may be present at the soil/rock

interface during wet weather months. In some areas of the site, surface soils will likely become wet or saturated and disturbed during wet weather months.

6.0 GEOLOGIC HAZARDS AND SEISMICITY

The project site is located within Oregon's Klamath Mountains Physiographic Province which consists of Jurassic/Triassic intrusives, metamorphic, volcanoclastic and marine sedimentary rock units. Specifically, the project area is underlain by the alluvial fan deposits of the Bear Creek and its tributaries, over the Nevada Intrusives (Granitic Intrusives of the Grayback Plutons) and Mitchell Group (Hornbrook formation Sandstone, Siltstone and Conglomerate). Generally, these bedrock units are very stable. Below we have provided a review of typical geologic hazards that could impact the site.

6.1 GEOLOGIC HAZARDS

Flooding. The project is not within any designated FEMA Special Flood Hazard Area ("100-year" flood), as shown on online mapping (OregonRiskMap, 2018). Risk of flood damage to the project site is considered to be very low.

Landslides / Slope Instability. The entire project site is within the mapped Quaternary landside (Qaf). This mapped feature is present on the state landslide database (Statewide Landslide Information Database for Oregon; SLIDO, 2021). Based upon the published mapping, general geomorphology, review of 2-foot contours generated from Lidar datasets (Dogami, 2021) and aerial photos (Google Earth, 2021), as well as subsurface data obtained in this investigation, the mapped landslide feature in the project area is interpreted to be a shallow alluvial fan deposit of material originating upslope.

No recent movement or damage to structures has been associated with this feature in readily available published accounts or general geotechnical or geological knowledge of the area. It is therefore assumed this is an inactive "older" and compacted deposit. Given how at relatively shallow depth the subsurface becomes very dense in the area of the mapped feature within the project site, it is apparent that this landslide feature would not adversely impact the proposed use of the subject site. There is a steep downslope on the eastern edge of the property. This slope appeared to have been steepened during past grading operation with undocumented manmade fill consisting of old construction debris (concrete and asphalt) mixed into silty sand soils. The State Landslide Information Database for Oregon (SLIDO, 2021) mapped this steep downslope area within the eastern edge of the property as moderate to high risk for a regional scale landslide. Therefore, cuts into these slopes must follow all aspects of the cut slope section of this report during the design and construction of the project.

Recommendations for site grading and proper methods of cut-and-fill construction are provided in the geotechnical recommendations section of this report, and it is essential these recommendations be followed closely in order to minimize slope instability, both during and after construction. Similarly, recommendations addressing surface and

subsurface drainage in the project area, as well as erosion control measures, will be also be provided and must be followed during and, in some cases, after construction to maintain slope stability in the project area. In-progress grading inspections should be made during construction to note any adverse conditions which could negatively affect cut slopes or general site grading.

Expansive Soils. Soils encountered during our subsurface investigation are not expansive.

Liquefaction. The project subsurface soils consist of unsaturated dense to very dense silty Sand. These soils with their densities are not known to liquefy in a seismic event. The upper 2.5 feet of the site soils are loose to medium dense. However, these soils will be redensified in areas of development and groundwater is not expected to be close to these upper loose to medium dense soils. Therefore, the risk of liquefaction on this site is considered low.

Ground Rupture. No Quaternary faults are shown to cut across the project site, based on geologic mapping (OGDC, 2017; USGS; 2017a; Wiley and Smith, 1993; Wiley et al, 2011). Therefore, the risk of surface fault rupture is considered to be very low at the project site.

Ground Shaking. Project structures, retaining walls, and fills should be designed according to the Oregon Structural Specialty Code (OSSC; 2019). Based on obtained subsurface data during subsurface exploration and desk study, a Site Class of C should be used for the project. Seismic design recommendations are provided in Table 1 of Section 6.2, below.

Seismic Ground Amplification or Resonance. No unexpectedly hazardous amplification or resonance effects from seismic waves have been associated with the soil subsurface conditions in the project area. Potential amplification or resonance effects in the project area should be accounted for in the ASCE 7-16 seismic design methods, as prescribed in OSSC, 2019. The risk of damage at the site from unexpectedly severe shaking due to seismic wave amplification is low.

Tsunami and Seiche. The project site is located approximately 80 miles inland, and is therefore not subject to inundation from a tsunami. The site is located on elevated ground above the nearby Ashland and Bear Creeks and not located close to or directly downstream of any dams, reservoirs, lakes, or any significant body of water. Therefore, the risk of damage to the site due to hazard from seiche or seismic-induced flooding is very low.

6.2 2019 OSSC AND 2016 ASCE DESIGN EARTHQUAKE

The design earthquake for the project area is based upon the established values and methodology in ASCE 07-16, as recommended by the Oregon Residential Specialty Code (ORSC, 2021) and the Oregon Structural Specialty Code (OSSC 2019). The Maximum

Considered Earthquake (MCE_R) and spectral response accelerations were established as set forth in Chapter 11, and were obtained from the online Applied Technology Council website (ATC, 2021). The site class was determined using the method in chapter 20 of ASCE 7/16. The site class for this project is Class C.

Given the short-period design spectral acceleration, SD_s , determined for the project site (see Table 1, below), the structure must be designed and constructed based on a Seismic Design Category C designation, in accordance with the ORSC, 2021. Table 1 below provides the design acceleration parameters recommended to be used during the project design.

Table 1 – DESIGN EARTHQUAKE (ASCE 7-16)

822 Oak Street, Ashland (02-6062-01)		
Project Area: Ashland, Oregon	Latitude: 42.20725847093085	
	Longitude: -122.7085044245369	
Risk Category (Table 1.5-1, ASCE 7-16)	II	
Mapped Spectral Response Acceleration, MCE_R Short Period S_s , 0.2s (from Figure 22-1) ASCE 7-16	59.4% of g =	0.594 g
MCE_R 1 sec Period S_1 , (from Figure 22-2) ASCE 7-16	33.6% of g =	0.336 g
Site Class	C	
Site Coefficients F_a , Short Period (Table 11.4-1 ASCE 7-16)	1.262	
Site Coefficients F_v , 1 sec Period (Table 11.4-2 ASCE 7-16)	1.500	
Spectral Response Acceleration, S_{MS} , Short Period ($F_a * S_s$ equation 11.4-1 ASCE 7-16)	0.750 g	
Spectral Response Acceleration, S_{M1} , 1 sec Period ($F_v * S_s$ equation 11.4-1 ASCE 7-16)	0.504 g	
Design Spectral Acceleration S_{DS} , Short Period ((2/3)* S_{MS} equation 11.4-3 ASCE 7-16)	0.500 g	
Design Spectral Acceleration S_{D1} , 1 sec Period ((2/3)* S_{M1} equation 11.4-3 ASCE 7-16)	0.336 g	
MCE_G , PGA (Figure 22-9 ASCE 7-16)	27.7% of g =	0.227 g
Site coefficient, F_{PGA} (Table 11.8-1 ASCE 7-16)	1.200	
MCE_G adjusted for site class effects, $PGAm$ ($F_{PGA} * PGA$ equation 11.8-1 ASCE 7-16)	0.272 g	
Seismic Design Category SDC (Table R301.2.2.1.1 ORSC, 2021)	0.33 < S_{Ds} ≤ 0.50 = C	

7.0 STEEP SLOPE CONSIDERATIONS

7.1 CONCLUSIONS AND SLOPE STABILITY

Based on the borings accomplished and our evaluation of the site geology, the parcel is considered to be stable. The site has variable, shallow to moderate depths of loose to dense silty Sand soils over relatively shallow, weathered granitic bedrock. The majority of the site is relatively flat (less than 3% slopes). The native slopes on the east side of the project area range from moderately steep to steep (15% to 35%) and there is very little water present (no seepage or groundwater in borings).

There is no evidence that the site is part of an active, recurring zone of instability. There is also no evidence that it is part of an ancient landslide mass that is now inactive. **The removal of the existing undocumented fill and re-grading of the site for the proposed access road and new residential structures, when constructed properly and in accordance with this Geotechnical Design Report, will not adversely impact the general slope stability of this or adjacent parcels. Proper erosion control measures, grading techniques (fill removal, cut and fill slope construction, fill placement and compaction, and fill-on-slope construction/reconstruction and protection) and proper surface water control on all parts of the site will assure that the overall stability of this or adjacent parcels is not compromised.**

Therefore, in our professional opinion, construction of the roadway on this parcel will not adversely impact the slope stability of this or adjacent parcels and will maintain public safety in the immediate area.

7.2 EROSION CONSIDERATIONS

The subject granitic soils and any loose fills can be very erosive when disturbed. This potential erosion can be decreased significantly by proper fill compaction, surface preparation, construction practices and by limiting disturbed areas on the site during construction. Migration of soil fines off site can be limited by proper erosion control, prior to and during construction. This would include the normal use of silt fences below all disturbed areas, hay bale V's, Bio Bags and settling ponds or rock lined ditches with settling ponds, in areas of concentrated flow. The entrance to the site should have a crushed rock/shale covering for at least 50 feet to limit mud tracking onto the street.

Proper construction erosion control and construction practices will limit site erosion for this project. Based on its location, it is very unlikely that soil fines from the site will create turbidity above acceptable ODEQ levels in the distant creeks if such good practices are used and erosion is prevented. Therefore, in our opinion, the subject project can be developed without a significant increase in erosion or impact on surface streams.

7.3 SURFACE WATER CONTROL

Installation of the paved, shared access roadway and construction of the homes and associated hardscape improvements will increase the impermeable surfacing at this site.

This will cause an increase in the peak runoff from the site as a result of the development. However, based on the results of the on-site permeability testing we accomplished and the preliminary site plan by the project Civil Engineer (KAS and Associates), it appears that stormwater drainage and detention/retention features will be provided. **Therefore, runoff conveyance will be controlled with standard engineering design and construction practices to ensure that no increase from pre-development peak runoff flows would result from the completed project.**

7.4 IMPACTS ON WATER HYDROLOGY

7.4.1 Surface Water

There are no surface water resources on this parcel that will be adversely impacted by the proposed residential construction. The site topography shows no evidence of drainage swales or ephemeral stream channels. We also did not see any of these features during our site investigation.

Surface runoff currently takes place as general sheet flow across the grass covered flat areas and slopes on the parcel. This small amount of sheet flow runoff does not constitute useable surface water resources. After development, all site runoff will end up in the same location downslope of the site as it does now.

Therefore, the proposed residential construction will not adversely impact surface water resources or alter these resources down-basin of the site.

7.4.2 Groundwater

As noted in the Boring Logs and earlier sections of this report, no free groundwater or seepage was encountered during our subsurface investigation of the parcel. Minor perched water could be present on top of the dense rock zones during wet months of the year. However, accumulations in excavations would be small and pumping such accumulated water will have no impact on groundwater resources in the area. There are no shallow (less than 30 feet) groundwater levels at the parcel. Wells in the area draw from fractures deep into the rock, not from shallow soil deposits. There is no opportunity for the proposed development to impact subsurface water sources.

Therefore, in our professional opinion, this proposed site development will not have an adverse impact on groundwater resources on this or adjacent parcels.

7.5 GRADING AND DRAINAGE PROCEDURES

Proper grading procedures and surface water control will help maintain slope stability, reduce erosion and provide for good long-term performance of the site.

7.5.1 Grading Issues

In general, careful planning and execution of site grading and surface water control will help with long-term performance of the site. Executing cuts and fills per the geotechnical design recommendations, will mitigate any adverse impacts of the grading work.

Specific items which must be done are as listed below:

1. Cuts and fills to be constructed at inclinations no steeper than recommended in this report.
2. Cuts will be limited to only the height necessary to create building pads or benched home site for the basement.
3. All fills on the slope must have a toe key and be placed on level benches cut into the slope.
4. If fills are placed on slopes steeper than 10%, they must be accomplished consistent with Figure 3, Fill on Steep Slope.
5. Subsurface drainage must be installed below fills when deemed necessary by the Geotechnical Engineer.
6. Only those materials allowed/specified for Structural Fill beneath the driveway and the structures may be used.
7. Place and compact the structural fill in level lifts and to densities specified later in this report.
8. Create site shape when grading to help convey site runoff to erosion protected collection and conveyance works.
9. Have all portions of the excavation and grading observed and verified as in compliance with the Geotechnical Recommendations.

7.5.2 Water Control Issues

Proper surface water runoff control will help with the proper performance of any hillside development. The following items must be adhered to for this subdivision.

1. All concentrated runoff entering the lot must be intercepted.
2. Runoff from all new impermeable surfaces (driveways, parking, roof, etc.) must be collected in erosion protected ditches or a piped system (gutters, downspouts and discharge pipe).
3. Do not allow collected runoff to flow over the crest and down any cut or fill slopes.
4. Convey all collected runoff in solid wall drainage pipe/culverts or in erosion protected ditches/swales.
5. Discharge all conveyance pipes or swales into the public right-of-way, roadside ditch or other approved discharge location which is properly protected against erosion.
6. Verify all erosion control items on the parcel and within the conveyance systems are in place prior to construction and are performing properly.
7. Verify all water conveyance works are sized and designed in accordance with the standards set forth by the City of Ashland and the Rogue Valley Stormwater

- Quality Design Manual (RVSQDM) with no damage to the development or adjacent parcels.
8. Have all drainage and conveyance works inspected and verified by the design engineer.

8.0 GEOTECHNICAL RECOMMENDATIONS

In our professional opinion, based on our field investigation, laboratory testing and office review, the soils conditions at the site are suitable for the proposed development, provided the recommendations of our report are incorporated in the design and construction of the project. A portion has undocumented fills placed over the slope that must be removed and wasted off site.

Design recommendations in this section are focused on 1) limiting total and differential settlement of footings, 2) providing prudent loading recommendations for footings, 3) providing loads for retaining walls, 4) providing prudent cut and fill slope inclinations, 5) providing wet weather requirements to help construction proceed more smoothly in the winter and spring wet months when site surface soils can disturb easily and become unworkable.

CAUTION: Manmade Fill is present.

8.1 SITE PREPARATION AND GRADING

The site has scattered debris from previous (demolished) structure developments, including concrete debris and miscellaneous small construction debris. This lot is also covered with scattered grasses and some shrubbery and trees around the perimeter of the parcel. Normal methods of debris removal, clearing, grubbing, stripping for organic and old fill with construction debris removal, as well as subgrade soil preparation will apply.

8.1.1 Manmade Fill & Debris Considerations

The project site was previously developed and portions of the site may contain manmade debris embedded in the subsurface. In particular, the existing undocumented fill located on the eastern side slopes appears to have been pushed over the slope, and contains chunks of asphalt, concrete, and bricks and other construction debris. This undocumented and potentially unstable fill on slope, as well as all other previously placed (undocumented) fill soils and any manmade debris encountered on the site's surface or embedded in the subsurface, including, concrete, rebar, nails, and steel brackets and all old construction debris encountered during construction, must be removed. Soil that is clear of debris can be used in landscape berms. All other debris or debris laden soil must be wasted off site. Old fill that is reasonably clear of organics and debris may be reused (after review and approval) on the site as specified later in this report. The full extent of any waste fill removal will be determined by the geotechnical engineer or his representative, during site stripping operations.

8.1.2 Clearing, Grubbing and Stripping

All areas proposed for the residential structures, access roads, parking areas, sidewalks, or structural fill beneath these items shall have all construction debris (including old foundations, septic tank and drain fields and water lines) removed and be cleared and grubbed of all trees, stumps, brush and other debris and/or deleterious materials. The site shall then be stripped and cleared of all vegetation, sod and organic topsoil. *It appears that a stripping depth of from 4 to 6 inches will be required in most areas.* Additional stripping (or excavations) will most likely be required to remove root balls, any loose waste fill areas or old foundations or other structures encountered. The stripped materials and loose fill soils removed must be hauled from the site or used in landscape berms. This material shall not be used in structural fill or trench backfill.

Abandoned utility lines, storm drains, underground tanks or other items which provide void space beneath the surface must be removed or effectively plugged. Movement of surface and/or groundwater through these old conduits can create the potential for piping of soils (the removal of soil fines by water seeping into the void spaces or through conduits), resulting in subsidence of the surface or settlement of structures and paved areas.

Holes or depressions resulting from the removal of underground obstructions or excavations for old foundations or old fill that extend below the finish subgrade and will be beneath structures, walkways, parking or roadways shall be cleared of all loose material and dished to provide access for compaction equipment. These areas shall then be backfilled and compacted with approved stockpiled rock or imported structural fill, as described later in this report.

It is recommended that grubbing and stripping of the site, old fill and debris removal and backfill and compaction of depressions below finish subgrade, be observed by the project engineer or his representative from The Galli Group.

8.1.3 Subgrade Densification

After removal of all vegetation, organic soil and deleterious materials and when the subgrade has been cut to grade, it must have the surface layer redensified. The exposed subgrades shall be redensified by numerous passes with a heavy vibratory roller. This densification shall be accomplished under all areas of the site, including outside of the structure. This includes concrete walks and slabs and asphalt areas. *Redensification shall be discontinued if it starts to “pump up” the subgrade. Care must be used to not disturb prepared subgrade areas.*

8.1.4 Subgrade Proofrolling

The exposed final soil subgrade throughout the site which will support structures, roadways, exterior slabs, fills, driveways and sidewalks shall be proofrolled (after grubbing and stripping and overexcavation, where required) under the observation of a

representative from The Galli Group. **Note:** All areas cut into the dense, tan granite will not have to be proofrolled.

The proofrolling may be accomplished with a loaded to partially loaded dump truck, water truck or large heavy roller (no vibration). Proofrolling shall be discontinued if it appears the operation is pumping moisture up to the surface or otherwise disturbing the in-place soils. *When proofrolling, a successful test is when the tires of a loaded or partially loaded truck do not deflect the soils more than $\frac{3}{8}$ inch.*

Where subgrade soils are disturbed or do not demonstrate a firm, unyielding condition when proofrolled, the soil should be redensified or aerated and redensified, or removed and replaced with imported granular fill. The imported fill material shall be compacted to a minimum of 95 percent of the maximum dry density as determined by ASTM Test Method D-698 (Standard Proctor). All soft and/or unstable areas shall be over-excavated and backfilled with granular structural fill.

We recommend our firm observe proofrolling of the subgrade after excavations are complete and prior to placement of structural fill. After completion of site stripping and/or excavation to subgrade, the contractor must take care to protect the subgrade from disturbance due to construction equipment, especially during very wet weather.

8.2 UTILITY AND SITE EXCAVATIONS

During the construction of the project, cuts and fills of 4 to 10 feet could be required for this site. These must be constructed at proper inclinations and be of the recommended materials to remain stable. We anticipate utility excavations will be required for construction of utility lines. Utility excavations will likely encounter medium dense to dense, silty Sand soils and the dense weathered rock.

Excavations. Excavators of medium to large size should have no major difficulty in excavating trenches to all depths, if required. Trench excavations during dry weather should stand for short periods of time (several hours) in shallow trenches (4 feet or less). *However, these are likely to have some sloughing or rockfall off the walls.* Seepage or wet weather and long-term dry weather can cause the soils to slough into the trench. Excavations deeper than 3 feet may require the use of temporary shoring, trench boxes and/or temporary cut slopes to protect workmen. *Some areas will likely have rockfall off deeper trenches.*

Temporary Cut Slopes. During short term dry condition, temporary cut slopes may be cut at 1.0H:1V or flatter for cuts up to 4 feet. However, minor sloughing may take place. Seepage or wet weather and long-term dry weather, can cause the soils to slough into the trench. During extended periods of dry weather or heavy rains, the contractor must be prepared to flatten temporary cut slopes.

Please note, that while we have commented on the anticipated stability of the soil in trenches and cuts, we are not responsible for job site safety. The contractor is at all

times responsible for job site safety, including worker and excavation safety. We recommend all local, state and federal safety regulations be adhered to.

Permanent Cut Slopes. Permanent cut slopes may be cut at 2.5H:1V or flatter for cuts up to 8 feet. Cut slopes must be revegetated for long term erosion protection.

Existing Fill Slope. Based our site observations and on the results of our SPT's during drilling, it appears the existing fill on this site was placed on the existing steep slopes and consists of the native on-site soils and construction/deleterious materials. Also, it appears that the existing fill prism was likely placed directly on the existing, steep slopes without proper keying and benching. In our opinion, this is not a structural or engineered fill-on-steep-slope and, in its current state, cannot support the proposed residential development without a high risk of down slope creep/settlement or slope failure. We recommend that all fill be constructed in accordance with the following sections of this report. Specifically, we recommend the subject existing large, deep fill on this site (hatched area on Figure 2) must be completely removed and reconstructed or additional retaining wall support provided.

Permanent Fill Slopes. Fill slopes may be used to create building pads and/or to widen other areas of the site. These fills shall be constructed as described below.

Fill slope inclinations shall be as follows:

Angular Crushed Rock	1.75H:1V
Angular Clean Jaw Raw Shale	2.0H:1V
Pulverized On-Site Weathered Rock	2.0H:1V
Sandy Decomposed Granite	2.0H:1V
Dirty Jaw-Run Shale or On-site Silty Sand	2.25H:1V

All such fills shall be placed and compacted as Structural Fill as described later in this report. In order to decrease surface sloughing and erosion of all fill except the crushed rock slopes, these must be overbuilt and then cut back to a compacted fill face.

Fill on Steep Slopes. All fills placed on slopes steeper than 10% shall be placed and configured as shown in Figure 4. This requires a key trench across the toe and level benches be cut back up the slope. Place and compact the fill in level lifts as Structural Fill. As noted, drainage beneath the fill (at least in the key area) may be required by the geotechnical engineer at the time of excavation.

Note: Our personnel must inspect and verify the key and bench cuts, the drainage installation (if needed) and all fill placement and compaction that will support (vertically or laterally) any portion of the structures or that are on slopes greater than 10%.

Please note, that while we have commented on the anticipated stability of the soil in trenches and cuts, we are not responsible for job site safety. The contractor is at all times responsible for job site safety, including excavation safety. We recommend all local, state and federal safety regulations be adhered to.

8.3 STRUCTURAL FILL PLACEMENT AND COMPACTION

8.3.1 Beneath Structures and Roadways

Structural fill is defined as any fill placed and compacted to specified densities and used in areas that will be under roadways, structures, driveways, sidewalks and other load-bearing areas or that will create fill slopes. It appears that building pad, footings, exterior slabs and sidewalks will have structural fill below them. The subgrade needs to be prepared properly and the fill must be placed and compacted correctly for proper long-term performance.

Structural Fill Materials. Ideally, and particularly for wet weather construction, structural fill shall consist of a free-draining granular material (non-expansive) with a maximum particle size of six inches. The material shall be reasonably well-graded with less than 5 percent fines (silt and clay size passing the No. 200 mesh sieve). During dry weather, any organic-free, non-expansive, compactable granular material, meeting the maximum size criteria, is typically acceptable for this purpose. Locally available crushed rock and jaw-run crushed "shale" has performed adequately for most applications of structural fill. The on-site silty Sand soils may be utilized for this purpose. *Note: It is the contractor's responsibility to understand the impending weather and plan for use of structural fill that will be capable of being compacted properly and remain stable in all weather that could arise during the project construction. See Materials Specifications in Section 9.0.*

Structural Fill Placement. All structural fill shall be placed in horizontal lifts not exceeding 8 inches loose thickness (less, if necessary to obtain proper compaction) for heavy compaction equipment and three to four inches for light and hand-operated equipment. Each lift must be compacted to a minimum of 98 percent of the maximum dry density, as determined by ASTM Test Method D-698 (Standard Proctor).

A large smooth drum vibratory roller shall be utilized when compacting rock materials such as imported crushed rock or jaw-run "shale". *The contractor should use the equipment that will help gain the best compaction without damaging the subgrade.*

Beneath Footings. When structural fill is used beneath footings or other structural elements, the structural fill must extend laterally beyond all sides of such elements a distance equal to at least ½ the total depth of the structural fill beneath the structural element in question for vertical support (i.e., for 2 feet of structural fill beneath footings, extend the fill at least 1 foot past all edges of the footings). Use the structural fill materials beneath footings as described in the Foundation Section later in this report.

Note: Lateral support of footings on fill will have to be reviewed on a case-by-case basis. Typically, this requires that the outside bottom edge of the footing be removed (set back) at least 5 feet horizontally from the edge of the descending fill slope.

To facilitate the earthwork and compaction process, the earthwork contractor shall place and compact fill materials at or slightly above their optimum moisture content. If fill soils are too high on the wet side of optimum, they can be dried by continuous windrowing and aeration or by intermixing lime or Portland Cement to absorb excess moisture and improve soil properties. If soils become dry during the summer months, a water truck shall be available to help keep the moisture content at or near optimum during compaction operations.

Fill Placement Observation and Testing Methods. The required construction monitoring of the structural fill utilizing standard nuclear density gauge testing and standard laboratory compaction curves (ASTM D-698 specified) is applicable to materials 2-inch size and smaller. Larger (2½" or above) jaw-run "shale" or crushed rock do not yield consistent results with this type of testing. The high percentage of rock particles greater than ¾'s of an inch in these materials causes laboratory and field density test results to be erratic and does not provide an adequate representation of the density achieved. Therefore, construction specifications for this type of material typically specify method of placement and compaction coupled with visual observation during the placement and compaction operations and proofrolling of lifts, instead of nuclear density testing.

Observation of Fill Placement. For these larger rock materials, we recommend the 8-inch lift (after being "worked in" with a dozer) be compacted by a minimum of 3 passes with a heavy vibratory roller. One "pass" is defined as the roller moving across an area once in both directions. The placement and compaction shall be observed by our representative. After compaction, as specified above, is completed, the entire area must be proofrolled with a loaded dump truck to verify density has been achieved. *All areas which exhibit movement or compression of the rock material more than ¼ inch, under proofrolling, shall be reworked or removed and replaced as specified above.*

Nuclear Density Testing of Fill. Field density testing by nuclear density gage would be adequate for verifying compaction of 2-inch to ¾-inch minus crushed base rock, silty sandy soils, crushed rock and other materials 2 inches or smaller in size. Therefore, typical % compaction specifications would suffice. Testing shall be accomplished in a systematic manner on all lifts as they are placed. Testing only the upper lifts is not adequate.

8.3.2 Non-Structural Fill

Any waste soil, organic strippings or other deleterious soil would be considered non-structural fill. These materials may make reasonable landscape soils and lawn topsoil material. This material may be placed in landscape areas and waste soil areas such as berms with slopes at 3.0H:1.0V or flatter. It shall not be placed under structures, sidewalks, roadways, parking areas or as part of a structural fill slope. It is recommended that when these soils are used, they be given a moderate level of compaction (90 to 92 percent) to help seal them from surface water.

8.4 UTILITY LINE RECOMMENDATIONS

Below we have provided general recommendations for utility construction for the project. Recommendations are based upon observations from our field investigation and experience on other projects in similar soils conditions.

Trench Excavation. Trenches will be required across the site for utility installation of various kinds. Shallow (2 to 4 feet) trench excavations should be relatively easy to excavate in all areas of the site. *Sideslopes can ravel and slough at times.* Deeper trenches into the dense weathered bedrock will likely require larger excavators with good teeth.

Trench Backfill and Compaction. The new utility lines will require trench backfill and compaction along the entire alignment. The pipes need to be adequately supported and the trenches need to be backfilled and compacted properly to prevent subsidence of the surface or damage to utility lines or the potential overlying pavement section.

In our experience, utility trench backfill has been the source of the majority of post-construction fill settlement problems in paved areas. They are also areas which cause early pavement failure due to inadequate subgrade support.

Pipe Bedding. The bottom of the trench must be shaped out of acceptable bedding materials (refer to manufacturer's recommendations) to fit the pipe base prior to placement of the pipe. It is critical to the long-term performance of the pipe that the bottom and haunches be fully supported by a dense bedding which decreases pipe distortion from load. Finer crushed rock materials (such as 3/4-inch minus crushed rock) usually provide the best bedding material.

Pipe bedding shall be compacted to 95% of ASTM D-698 (Standard Proctor) or to that which is specified by the pipeline designer. Cement-treated pea-gravel or sand/cement slurry (with at least 200 pounds of cement per cubic yard) will solidify and would typically not require compaction after placement and also makes good bedding material. Care must be taken to make sure the pipe does not "float" up in the fluid mix prior to it "setting".

Pipe Zone Material. All of the lines shall be backfilled around and to approximately 12-inches (more, if required by manufacturer or project specifications) above the pipe with an acceptable "pipe zone" material. This may consist of finer crushed rock, cement-treated pea gravel, sand/cement slurry, coarse sand with fine gravel, or other material acceptable to the client and pipeline designers. The pipe zone material shall be well compacted on each side of the pipe, and to at least 12 inches above the pipe. Mechanical means will be required to densify these materials to the required densities (unless a cement-treated material is used).

Density requirements for "pipe zone" backfill shall be per the manufacturer's specifications for the type of pipe being used (we recommend using 95% to 97% of

ASTM D-698). Care must be taken when compacting close to and immediately above the pipe so as to not damage the pipe.

General Trench Backfill. Above the “pipe zone” the backfill materials would typically consist of any compactable material that does not have excessive voids (such as gap-graded large gravels and cobbles), organics, expansive clay, debris or other deleterious material. Crushed rock, jaw-run shale and sand and gravel usually works well for general trench backfill. The on-site gravelly sand soils may also be used.

Where laterals of any kind, or valuing, extend upward from the lines, we recommend the trench areas adjacent to these items be backfilled with the “pipe zone” backfill materials. This will prevent the larger pieces of other backfill materials from damaging the valves and/or other equipment.

We strongly recommend that all general trench backfill be placed and compacted in the same manner as for general structural fill. Trench backfill beneath asphalt pavements but not under structures should be compacted to at least 95 percent of the maximum dry density, as determined by ASTM Test Method D-698 (Standard Proctor. Trench backfill in landscape areas, that are not part of a cut or fill slope, may be compacted to at least 93 percent of the maximum dry density.

8.5 BUILDING SUPPORT

Support of all areas of the structures must be founded over materials that will not have adverse impacts on the structure. Support shall be as listed in the sections below.

8.5.1 Footing Support Recommendations

Foundations must be placed directly on structural rock fill placed over the weathered rock, directly on the rock or on dense overlying soils close to the weathered rock. The footings must be constructed and designed as described below.

1. Excavate down to the dense weathered rock or overlying dense native soils.
2. Cut the subgrade into level benches for the footings to bear on.
3. Footings placed on the dense native soil/weathered rock covered with at least 4 inches of crushed rock structural fill may be designed for an allowable bearing pressure of 2,500 pounds per square foot. A 1/3 increase in this allowable bearing pressure may be used when considering short-term transitory wind and seismic loads.
4. Spread footings shall have the base buried a minimum of 18 inches below finish grade in order to provide lateral support and frost protection.
5. We recommend minimum lateral dimensions of 12 inches for continuous load bearing footings and 18 inches for isolated spread footings constructed in this manner.

Note: It is important to try to have all footings founded on similar support conditions. Where footings run from dense rock support to manmade fill or dense soils there is the potential for differential settlement. These areas should be reviewed by the Geotechnical Engineer prior to final plans.

Foundation Settlement. For footings constructed as listed above we anticipate total and differential settlement to be less than 1/2 inch and 3/8 inch, respectively.

Foundation Drains. We recommend all footings be installed with a footing drain to intercept seepage. Footing drains consist of a rigid, smooth-wall perforated pipe surrounded by drain rock (sides and above), all wrapped in a non-woven geotextile fabric and should be placed adjacent to the footings. See Figures 4 and 5 for details. This is addressed more fully later in this report (Section 8.9)

8.5.2 Interior Floor Slabs

A properly prepared building pad area of at least 6 inches of 3/4" minus crushed rock over the dense native soil or weathered rock will provide good support for concrete slabs-on-grade. Do not place slabs over the loose decomposed granite.

Slab Section. The following recommendations are provided for any interior floor slabs constructed on the densified native soil building pad.

Floor support should be as follows:

1. Excavate down to the dense native soil or weathered rock.
2. Densify exposed/disturbed soils.
3. Place and compact structural rock fill (minimum of 6 inches) of 3/4" minus crushed rock to at least 98% of ASTM D-698 up to the slab subgrade. Depending upon the site layout, the upper 6 inches may have to be 1/4" to 1/2" clean (washed) crushed rock as a drainage layer and capillary break. If the subgrade is sandy, a filter fabric will have to be placed below the drainage layer.
4. Cover top of rock with a durable vapor barrier such as Stego Industries 15-mil Stego Wrap. Seal all seams, tears and punctures with Stego recommended tape. Install per all manufacturer's recommendations.

Floor Subdrains. In areas where the crushed rock beneath the interior slabs will be below exterior grades, the drainage layer and floor subdrain system shall be included. This shall be constructed as shown in Figure 6 and as described in Section 8.8 below.

8.6 LATERAL LOAD RESISTANCE

Lateral loads exerted upon these structures can be resisted by passive pressure acting on buried portions of the foundations, retaining walls and other buried structures and by friction between the bottom of structural elements of the wall and slabs and the underlying soil.

We recommend the use of passive equivalent fluid pressures of the following values for portions of the structure and foundations embedded into the native soils.

- Native silty Sand Soils 200 pcf
- Very Dense Weathered Rock 450 pcf
- Dense Compacted Crushed Rock (4' wide minimum) 450 pcf

A coefficient of friction of 0.55 can be used for elements poured neat against crushed rock structural fill. These should be reduced to 0.20 for areas over a vapor barrier and 0.4 over the sandy native soils and weathered rock.

8.7 RETAINING WALLS

Lateral earth pressures will be imposed on all below ground and backfilled structures or walls, including foundations which do not have uniform heights of fill on both sides and grade separation retaining walls. The following recommendations are provided for design and construction of conventional reinforced concrete or CMU block retaining walls:

We recommend walls which are free to rotate at the top (unrestrained) when backfilled, be designed for the following loads.

Pulverized Native Rock EFP	45 pcf
Imported Low Grade Angular Rock EFP	40 pcf
Imported Crushed Rock EFP	35 pcf
Seismic Coefficient	0.12 g

Walls that are fixed at the top (restrained) when backfilled should be designed for the following loads.

Imported Pulverized Native Rock EFP	60 pcf
Imported Low Grade Angular Rock EFP	50 pcf
Imported Crushed Rock EFP	45 pcf
Seismic Coefficient	0.12 g

- The walls all must have full drainage as described in Section 8.9 and as shown on Figures 7 and 8.
- These equivalent fluid pressures are to be used for the soil through which the anticipated failure plane will develop (assume envelope beginning 2 feet behind base of wall and rising up and away from wall at 60 degrees off the horizon).
- A wet soil unit weight of 135 pcf should be used for design of retaining walls which are backfilled with crushed rock or jaw-run “shale”. Use 130 pcf for native soil backfill.
- These values are for properly compacted, free draining walls. Imported crushed rock or clean jaw-run “shale” work well for wall backfill materials.

- These design values assume the wall or structure is fully drained, has a flat backfill and has no surcharge loads from traffic or other structures. The structural designer should include surcharge loading from traffic, building loads and/or sloped backfill.
- We recommend designing retaining walls to resist seismic loading. A horizontal acceleration component of at least 0.12 g shall be applied to the mass of an enlarged active wedge of soil behind the walls and utilized in a pseudo-static analysis. The wedge length back from the wall along the ground surface may be taken to be $0.8H$, where H is the height of the wall.
- The backfill must be placed in lifts at near the optimum moisture content (clayey soils at 2% to 3% above optimum) and compacted to between 93 and 95 percent of the maximum dry density as determined by laboratory procedure ASTM D-698 (Standard Proctor). Loosely placed backfill will exert greater pressures on the wall than the pressures provided above and must be avoided.
- To prevent damage to the wall, backfill and compaction against walls or embedded structures should be accomplished with lighter hand-operated equipment within a distance of $1/2 h$ (h being the vertical distance from the level being compacted down to the surface on the opposite side of the wall). Outside this distance, normal compaction equipment may be used.

While proper compaction of wall backfill is critical to the proper performance of the walls, care should be taken to not over-compact the backfill materials. Over-compaction can induce greater lateral loads on the wall or structure than the design pressures given above.

8.8 FOUNDATION, FLOOR AND RETAINING WALL DRAINS

All exterior foundations and embedded structures shall have proper drainage.

Footing Drains. Foundation drainage should consist of a rigid smooth wall perforated pipe with at least 6 inches of drain rock on top and one side, all wrapped in a non-woven geotextile designed as a filter fabric (such as Mirafi 140N or equivalent). The perforated pipe should be located on the footing next to the stem wall (or beside the footing), provided this is at least 12 inches below underslab drain rock. Please see Figures 4 and 5.

Floor Drains. Where the drain rock layer below slabs will be lower than the adjacent exterior grades and there are water bearing zones that can saturate the underslab rock, water will usually tend to accumulate in this low area. One method to drain this water is to include a series of subdrains at the bottom of the drain rock layer beneath the slab. The drain rock section should be thickened to at least 8-inches for such lower areas. The subdrain lines typically consist of 3-inch diameter, smooth interior, solid wall, perforated pipe at spacing of 10 feet (or less) across the structure (and around the interior perimeter). The perforated pipe is placed in a deepened zone of the drain layer as shown on Figure 6. The pipes are sloped to drain and collected by a tightline which leads to the stormwater disposal system. We recommend we be allowed to review the subdrain system design prior to final plan submittal or construction bidding.

Retaining Wall Drainage. Wall drains should also have a minimum 12-inch-wide drainage zone of drain rock wrapped in non-woven filter fabric immediately behind the wall extending up from the drainage section to within 12 to 18 inches of the surface. A preformed, fabric-wrapped, polymer sheet drain, such as Amerdrain, Linq Drain or Enkamat must be placed against the wall. Exterior wall drains, which will not be sealed on top by asphalt or concrete, should have the upper 12 inches backfilled with compacted onsite silty clay soils to minimize intrusion of surface waters into the wall drain system. Please see Figure 7.

Walls that should not pass water vapor (for aesthetics or livable space) must be fully sealed (with a bitumen-based sealer that will not harden or crack) before the sheet drain is attached. Wall seal such as MasterBlend HLM5000 or equivalent, shall be used and applied per the manufacturer's recommendations. Multiple coats are preferred.

All drains should be tightlined and positively sloped to an approved stormwater disposal location into the public right-of-way. **Note:** In no case shall water be collected and/or directed or discharged close to the foundations. Such improper water discharge can cause added water related problems.

We strongly recommend against connecting roof drains or surface area drains to foundation or wall drains unless it is to a common discharge line far away from the structure. All drains must consist of rigid, smooth-wall pipe. The rigid smooth-wall pipe can be cleaned out by means of a "roto-rooter" type system should it become plugged with sediment or fine roots. We recommend cleanouts be placed periodically by the designer to facilitate cleaning and maintenance of the drains.

8.9 EXTERIOR CONCRETE FLATWORK DESIGN

Reinforced concrete could be utilized for walkways, garage floors, patios and other residential flatwork. These perform best when over a crushed rock base. We assume that standard duty concrete sections would be used in the walkways, and patio areas. Heavy duty concrete slab areas will be the garage floors.

These are NOT intended for heavy truck traffic (see section 8.11.2).

Standard Duty Concrete (Walks and Patios).

3-1/2" Portland Cement Concrete (4,000 psi mix)
4" Aggregate Base (3/4" or 1" minus Crushed Rock)
Redensified Subgrade

Heavy Duty Concrete (Auto Parking).

5" Portland Cement Concrete (4,000 psi mix)
6" Aggregated Base (3/4" or 1" Minus Crushed Rock)
Redensified Subgrade

Note: *These Portland Cement Concrete (PCC) section designs assume the subgrade is the properly prepared sand and gravel.*

The following items shall be part of the concrete design and construction.

Aggregate Base: Extend beyond edges of concrete at least 4 inches.

Reinforcing: No. 4's @ 16" O.C. (parking); No.3's @ 16" O.C. (walks and patios) each way; Include continuous edge bars at 3" to 4" from all edges. Reinforcing to be continuous across all different pours or joints. Overlap all bars at least 24 inches. At all corners use rebar hooks 30" each way.

Concrete: 4,000 psi 28-day strength mix; 6% ± 2% entrained air; place at 4" slump or use admixtures to keep same water/cement ratio for higher slump. Do not use steel trowel on surface, which can trap bleed moisture below the finish and lead to freeze-thaw damage. Should have moderately rough broom finish for skid resistance (rough broom or grooved for sloped driveway areas). We also recommend that colored surface seals not be used which can seal in bleed water. This can increase freeze thaw damage on the surface.

Note: It must be recognized that "Night Sky Cooling" can cause the surface of newly poured slabs-on-grade to have temperatures 7° to 8° below the ambient air temperature. Therefore, any time the temperature is forecast to be 40° or below, precautions must be taken to prevent freezing of the slab for at least 96 hours.

Surface Jointing: Surface jointing at 6 to 10 feet on center each way will help decrease cracking in the "field". If saw cutting is used (or tool joints) it must be done as soon as the surface will support the work to make sure cracks do not develop within the concrete mass prior to the surface cutting. **Note:** A 12 hour wait (which usually means the next morning) is too long. Cracks will already be formed in the concrete. *The saw cuts must be made the same day as the pour, as soon as the concrete surface will not tear during sawing; typically within 4+ hours.*

Note: All reinforcing and construction details for concrete work should be reviewed and affirmed or changed by the project structural engineer.

8.10 ASPHALTIC PAVEMENTS

It is our understanding that the proposed new shared access roadway/private street from Oak Street will likely consist of Hot Mix Asphaltic Concrete (HMAC) paved surface. The following sections provide recommendations for HMAC section design and construction.

8.10.1 Pavement Subgrade & Traffic Loading

The subject site is underlain by medium dense to dense silty Sand to sandy Silt with gravels. These soils will provide good support for the asphaltic concrete paving.

We used the R-value for the soils of 30 for design of the asphalt sections (based on testing on other sites). Assumes there will be a recompacted layer of site soils for the subgrade as recommended earlier in Section 8.1.2 and 8.1.3 of this report.

The following sections were designed utilizing a Crushed Rock Equivalent (CRE) method. Sufficient thickness of asphaltic concrete and/or rock materials are used to provide the computed crushed rock equivalent needed to protect the subgrade soils and successive rock layers from anticipated traffic loads.

In our professional opinion, the following Traffic Indices (TI), as listed, and respective design sections are adequate for use on this project. We anticipate the traffic loading to consist of autos, pick-ups and occasional heavy delivery trucks. Only medium heavy (3 axle or 4 axle) truck traffic is anticipated. The TI values are based on the anticipated traffic numbers, axle loads from trucks and for a 20-year life.

Project Area	Traffic Index (TI)
Access Drive	5.0
Parking	4.0

The successful performance of pavement structures is a function of subgrade material properties, traffic conditions, drainage conditions, the pavement material properties and design, careful construction, and ongoing maintenance.

8.10.2 Asphaltic Concrete Pavement Design

We have designed the pavement sections using the Traffic Indices (TI) listed above. Based on these TI's and R-values of 30, 60 and 85, (prepared subgrade soil, 4" minus or low-grade subbase and 3/4" or 1" minus crushed rock, respectively), we have computed asphalt design sections (utilizing the Crushed Rock Equivalent Method) with the following results.

Standard Duty Pavement (Access Drive)

3" AC
 10" AB (3/4" or 1" minus Crushed Rock)
 Woven Geotextile Support Fabric (ACF 180 or Equivalent)
 Redensified Subgrade

Alternate Pavement (Access Drive)

3" AC
 4" AB (3/4" or 1" minus Crushed Rock)
 8" ASB (4" minus crushed rock on clean Jaw Jun Shale)
 Woven Geotextile Support Fabric (ACF 180 or Equivalent)
 Redensified Subgrade

Light Duty Pavement (Parking)

2 1/2" AC

6" AB (3/4" or 1" minus Crushed Rock)

Redensified Subgrade

*Use Fabric if heavy vehicles will be parked here.

The compacted subgrade and crushed rock shall extend at least 12 inches beyond the edge of the hard surfacing (AC or PCC) of the access roadway and parking areas.

Note: Any areas that will have heavy trailers or motor homes parked on them should have reinforced concrete pavement. This will alleviate AC “pushing” that occurs when heavy tire loads sit on the AC during hot weather (results in ruts in surface where tires sit).

8.10.3 Portland Cement Concrete Pavement Design

Exterior areas that will have Portland Cement concrete (PCC) paving subjected to heavy trucks shall have the following section.

Heavy Duty Concrete Pavement

6" Portland Cement Concrete (3,500 psi mix)

10" Aggregate Base (3/4" or 1" minus Crushed Rock)

Woven Geotextile Support Fabric (ACF 180, S200 or Equivalent)

Redensified Subgrade

These Portland Cement Concrete (PCC) section designs assume the subgrade is the properly prepared. For these sections, extend crushed rock beyond slab edges at least 6 inches. This slab should normally be reinforced with at least No. 4 rebar at 12" on center both ways; with bars at the center of the slab.

8.10.4 General Recommendations

Subgrade Preparation. The subgrade should be shaped to a uniform surface running reasonably true to established line and grade described in the contract documents. Subgrade preparation should include cleaning, redensification and proofrolling (as described earlier in this report) to identify soft and disturbed subgrade areas. Areas so specified must be redensified and/or backfilled with structural fill. It is important that dense, stable conditions of the subgrade be maintained until the subgrade is covered with the subbase aggregate.

After subgrade preparation is completed, the upper 10 inches of exposed subgrade prepared for the pavement structure should demonstrate a firm and unyielding condition as shown by proofrolling.

Soft or loose materials disturbed during the site preparation process, incapable of achieving the compaction criteria should be removed to appropriate bearing materials prior to replacing with structural fill. Where loose or softened subgrade areas are

identified, the area should be over-excavated and replaced with imported granular fill with less than 10 percent passing the number 200 sieve.

It should be noted that in no case should construction trucks be allowed to “run” directly on top of the subgrade soils until they are covered with rock. This could result in the disturbance of the subgrade soils due to the heavily loaded vehicles (which would result in additional over-excavation to remove softened soils). We recommend covering the subgrade soils with at least 10 inches of crushed rock or “shale” over the woven fabric prior to light construction truck traffic traversing the area. Therefore, construction traffic must be carefully coordinated in order to minimize disturbance to the underlying fine-grained soils.

Wet Weather Construction. We recommend that for construction during very wet weather, in all construction roads and drive lanes, the subgrade should be covered with a woven geotextile support fabric (ACF 180, S200 or equivalent) and a minimum of 12 inches of imported granular 4-inch minus crushed rock. Compaction of the fill should not begin until a minimum of 8 inches of rock is placed above the fabric. Compact carefully so as not to disturb the subgrade. This should provide an adequate working surface and help protect the subgrade from damage from construction traffic. Construction traffic should not be allowed to traverse the area until the minimum of 12 or more inches of compacted material has been placed and compacted over the support fabric.

Geotextile Fabric Placement. When the subgrade soils have been properly prepared, the described subgrade areas shall be covered with the woven geotextile support fabric. We recommend a fabric such as ACF 180, S200 or equivalent. The fabric shall be laid longitudinally with the direction of traffic. All ends and edges should be overlapped a minimum of 5 and 2 feet, respectively. Fabric layout shall be such that it “runs” aligned with the lane traffic directions.

Care must be taken to not damage the fabric. In no case shall track vehicles be allowed on the fabric. At least 10 inches of rock (12 inches during wet weather) should be over the fabric prior to allowing repeated truck traffic in the area. Be careful not to disturb the subgrade when compacting the rock.

Drainage. Adequate provision should be made to direct surface water away from the pavement section and subgrade. Ponded water adjacent to the asphalt areas can saturate the subgrade resulting in loss of support. Therefore, we recommend the areas along the edge of the asphalt be well drained. All paved areas should be sloped and drainage gradients maintained to carry surface water to catch basins or ditches for transmission off the roadway and parking areas. Excessive landscape watering can also saturate the subgrade and decrease pavement life. Deep curbs, drip irrigation and/or use of dry-land plants will mitigate these affects.

Note: If construction traffic begins to “pump” the subgrade soils “haul roads” with 18” or more of crushed rock over fabric shall be established. These are particularly helpful

near the structure where concrete trucks and lift trucks will be situated during building construction. The excess rock on these “roads” may be pulled off and used in the AC areas when final rock placement takes place.

Maintenance. Pavement life can be extended by providing proper maintenance and overlays as needed. Cracks in the pavement should be filled to prevent intrusion of surface water into the subbase. Asphalt pavements typically require seal coats or overlays after 10 to 12 years to maintain structural performance and aesthetic appearance.

9.0 MATERIALS SPECIFICATIONS

The following materials specifications shall apply to the materials as used on this project.

Aggregate Base Rock (AB) Acceptable for Structural Fill

- Angular Crushed Rock (3/4” or 1” Minus); R=85 or greater; Well Graded (No Gaps and at least 60% retained on the No. 4 sieve).
- Maximum passing the No. 200 sieve $\leq 5\%$.
- Compacted to 98% of the maximum dry density as determined by ASTM D698 or AASHTO T-99.

Aggregate Subbase Rock (ASB) Acceptable for Structural Fill

- Angular Clean Crushed (jaw run) hard “Shale” (4" Minus Jaw-Run) or Crushed Rock (2" to 4" Minus); R=60 or greater; Angular and Reasonably Well Graded.
- At Least 60% retained on the No. 4 Sieve.
- Maximum passing the No. 200 sieve $\leq 7\%$ Total; $\leq 3\%$ Clay Size
- During wet weather; passing No. 200 sieve $\leq 5\%$.
- Compacted to 95% of the maximum dry density as determined by ASTM D698 or AASHTO T-99; initial lift may not attain 95% due to soft subgrade; Engineer to decide in the field.

Embankment Fill (Acceptable for Structural Fill During Dry Weather)

- Reasonably well graded (not open work).
- Has at least 60% retained on the No. 4 sieve.
- Has no more than 30% passing No. 200 sieve.
- Passing No. 200 sieve must have less than 20% clay size.

On-Site Fill (Acceptable for certain applications of structural fill)

- Sand and Gravel clear of debris as specified.
- Proposed use must be reviewed and accepted by project engineer prior to placement.

Clean Sand

- Clean washed sand or sand and gravel, less than 2% passing No. 200.
- Gravel to be rounded or subrounded (no fracture faces), 1" or less.
- Must have less than 30% gravel by weight.

Note: Some fill materials will be difficult to nearly impossible to compact during wet weather. *The contractor must select the type of structural fill that will be able to be placed and compacted to specified conditions during the weather conditions that can take place during the construction schedule.*

Drain Rock (For Drainage Sections)

- Clean washed rounded or angular openwork drain rock.
- Gradation to be 1/4" and greater, sized to not move into and through perforations in the pipe.
- 1/4" to 3/4" clean crushed, 3/4" to 1" clean rounded rock, and 1" to 2" clean angular rock are all acceptable.
- Clean means washed rock with NO coating of silt, clay or sand; less than 2% passing No. 200 sieve.

Note: All types may be used in all applications of drain rock that are not beneath Asphaltic Concrete paved areas. In all AC areas angular clean drain rock must be used for AC support.

Note: Drainage layer drain rock that is beneath floor slabs must be the angular clean drain rock.

Geotextile Filter Fabric

- Non-woven geotextile filter fabric for wrapping drainage sections and separation of openwork rock from sands or soils fines.
- Meet specifications as per Mirafi 140N or equivalent (unless otherwise specified).
- Overlap all edges at least 24 inches (12" for drainage section envelope).
- Secure in place such that overlaps will not move during covering operation.

Geotextile Support Fabric

- Woven geotextile support fabric designed for separation of crushed rock and subgrade soil and for rock section support.
- Meet specifications as per ACF180 or S200 woven support fabric (unless otherwise specified).
- Overlap edges at least 2 feet and ends at least 5 feet.
- Align roll lengthwise with direction of traffic in all drive lanes.
- Pull tight full length and keep tight during placement of crushed rock above fabric.
- Do not drive on the fabric until it is covered with rock.

Perforated Pipe

- 3", 4" or 6" rigid wall, smooth interior perforated pipe.
- Secure all joints with solvent weld glue. DO NOT use only compression push together fittings.
- Slope to drain per specifications in report or on plan sheets (minimum 1%).
- Align perforations in the downward direction.
- Must always be placed within filter fabric wrap unless specified otherwise.
- Protect from construction traffic until buried at least 2 times pipe diameter (minimum 8 inches) of angular rock fill.

Wall Sheet Drain

- Polymer sheet drain with filter fabric attached 1 or 2 sides, designed for drainage of vertical embedded foundation or retaining walls.
- For walls up to 10 feet tall. Must meet specifications as for American Wick Drain's AMERDRAIN 200 or 220 (unless otherwise specified).
- Install and splice and patch per manufacturer's recommendations.
- Install with fabric side towards the backfill.
- Attach to wall per manufacturer's recommendations.
- Extend down wall all the way to bottom of drainage section around perforated pipe.
- Protect from damage when backfilling with crushed rock larger than 2-inch minus.
- Repair all damaged areas prior to final backfill.

Asphaltic Concrete

- Type 2 Dense Graded HMAC
- PG 64-22
- The 3" AC may be placed in 1 lift if vibratory rollers are used.
- Compacted to between 91% and 95% of "Maximum Specific Gravity" for first courses; between 92% and 95% for wearing course.
- Must have densification completed while temperature is above 185 degrees F.
- Do not over densify as this will significantly decrease frost heave protection of internal air voids.
- The contractor must provide a HMAC design mix for review and approval.
- All aspects of the asphaltic paving shall be accomplished in accordance with applicable ODOT standards and recommendations.

These materials shall be used on this project as specified in this report and on project plans or specifications.

NOTE: DEVIATIONS FROM SPECIFIED MATERIALS MUST BE APPROVED IN WRITING BY THE GEOTECHNICAL ENGINEER, OWNER AND OWNER'S OTHER CONSULTANTS/DESIGN ENGINEERS PRIOR TO USE AT THE SITE.

10.0 SITE DRAINAGE

The site shall be graded during construction such that surface water does not pond within or around the proposed buildings or access drive/parking locations. **Note:** This is critical to limiting subgrade damage during wet weather. Surface runoff shall be controlled during construction and with final site grading. All areas adjacent to the structures shall have a permanent slope away from the foundations at an inclination of at least 6 inches in eight (8) feet. This surface water shall be channeled into landscape area drains or catch basins, or shall be conveyed around the structure and to collection/detention areas. Where items such as landscape areas and walkways block the flow of surface water, small area drains should be installed to collect the surface runoff. Good site design accommodates all site runoff and conveys it away from the structures and off the site to an acceptable disposal location or to detention facilities.

All roof downspouts shall be connected to a sealed tightline system, which discharges to an acceptable disposal location. In no case should these be connected to footing drains or subdrains beneath floors.

Stormwater conveyance across the site can easily be handled by proper grading techniques and utilization of erosion-protected ditches and catch basins. Erosion can be handled by a shale lining over fabric and flow velocities can be slowed by periodic rock "check dams". Then all runoff can be conveyed to on-site catch basins/area drains and tightlined to an approved discharge location. As such, runoff is not being conveyed into a different location. Therefore, runoff conveyance and control should not be a difficult issue for the proposed development. These can easily be controlled with standard engineering design and construction practices.

11.0 EROSION CONTROL

The site soils are highly susceptible to erosion. The site grades are relatively flat to very steep in the areas which will be disturbed by construction. Therefore, site erosion should be moderate to high. This potential erosion can be decreased significantly by proper fill compaction, surface preparation, construction practices and by limiting disturbed areas on the site during construction. Migration of soil fines off site can be limited by proper erosion control prior to and during construction.

Construction Erosion Control. All disturbed areas shall have the low side surrounded by a silt fence with the bottom edge embedded in the soil at least two (2) inches. If needed at select locations, settling ponds of hay-bale backed silt fence should be established to decrease silt content of water flowing across the site. All disturbed areas that are left exposed during construction shall be covered with a 2" to 3" thick layer of straw mulch protection during wet weather. Rock check dams in the new on-site ditches will help collect sediment and decrease discharge water velocity. Protect all on-site catch

basins, project drainage system discharge pipe outlets and all catch basins within 300 feet of the site with biobags.

The site will also require crushed rock (or shale) entrances to prevent "tracking" of mud by construction vehicles onto the roads. These are typically required to be 50 feet long and constructed of a 12" section of angular, open-work rock over a woven fabric (more if needed to protect the subgrade soils).

Permanent Erosion Control. Permanent project landscaping and paving as required by the City/County will meet most needs of long-term erosion control. All disturbed areas on the site, but outside the developed area of the project, must be reseeded with local native grasses for erosion prevention. These areas shall be graded reasonably smooth and the surface scarified to 1/2 inch deep. The area should then be hydroseeded with a combination of erosion control grass seed, fertilizer and mulch OR should be covered with a thin layer of crushed rock or landscaping/mulch.

12.0 ADDITIONAL SERVICES AND LIMITATIONS

12.1 ADDITIONAL SERVICES

We should review construction plans and specifications for this project as they are being developed. In addition, The Galli Group should be retained to review all geotechnical-related portions of the plans and specifications to evaluate whether they are in conformance with the recommendations provided in our report. Additionally, to observe compliance with the intent of our recommendations, design concepts, and the plans and specifications, all construction operations dealing with earthwork, foundations and rock placement and compaction should be observed by a representative from The Galli Group.

For this project, we anticipate additional services could include the following:

- Review of final construction plans and specifications for compliance with geotechnical recommendations.
- Review of subdrain layout (if used).
- Possible project team meetings to clarify issues and proceed smoothly into and through the construction process.
- Observation and/or testing of over-excavated areas, subgrade preparation, building pad areas, structural fill placement, subgrade proofrolling, pavement subgrade preparation, footing subgrade and over-excavation, aggregate base placement and compaction, final site grading and backfill and compaction of utility trenches.
- Observation of completed drainage items.
- Periodic construction field reports, as requested by the client and final report required by the building department.

We would provide these additional services on a time-and-expense basis in accordance with our current Standard Fee Schedule and General Conditions at the time of construction. If we are not retained to provide these services, we cannot be held responsible for the decisions by others or geotechnical related issues in the constructed product which we do not verify.

12.2 LIMITATIONS

The analyses, conclusions and recommendations contained in this report are based on site conditions and assumed development plans as they existed at the time of the study, and assume soils, rock and groundwater conditions exposed at the site and observed in the borings during our investigation are representative of soils and groundwater conditions throughout the site. If during construction, subsurface conditions or assumed design information is found to be different, we should be advised at once so that we can review this report and reconsider our recommendations in light of the changed conditions. If there is a significant lapse of time (5 years) between submission of this report and the start of work at the site, if the project is changed, or if conditions have changed due to acts of God or construction, at or adjacent to the site, it is recommended that this report be reviewed in light of the changed conditions and/or time lapse.

This report was prepared for the use of the developer and their design and construction team for the design and construction of the project. It should be made available to contractors for information and factual data only. This report should not be used for contractual purposes as a warranty of site subsurface conditions. It should also not be used at other sites or for projects other than the one intended.

We have performed these services in accordance with generally accepted geotechnical engineering practices in the state of Oregon, at the time the study was accomplished. No other warranties, either expressed or implied, are provided.

THE GALLI GROUP GEOTECHNICAL CONSULTING



Benjamin Dean, E.I.T.
Staff Associate

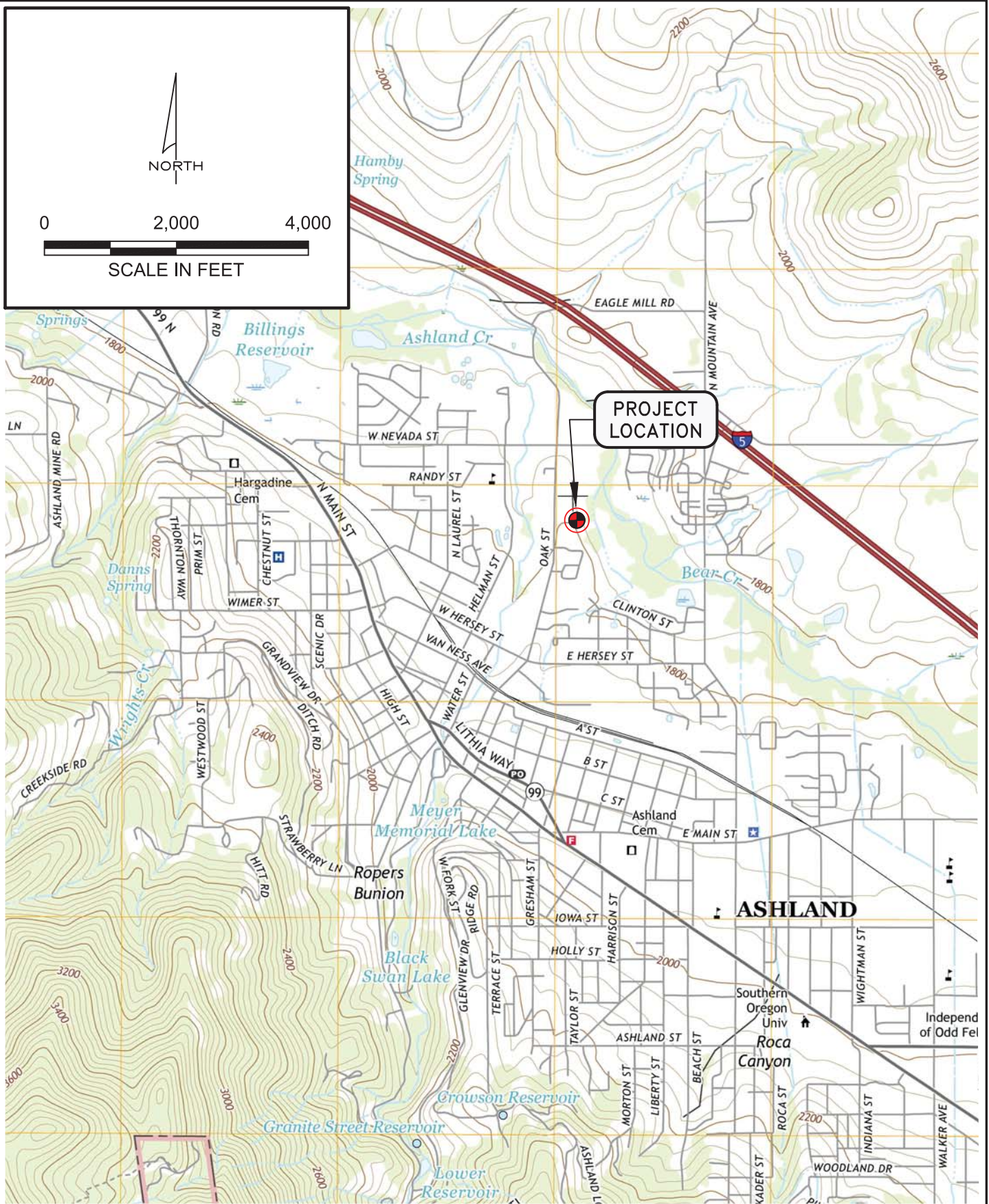



Melvin J. Galli III, P.E.
Principal Engineer



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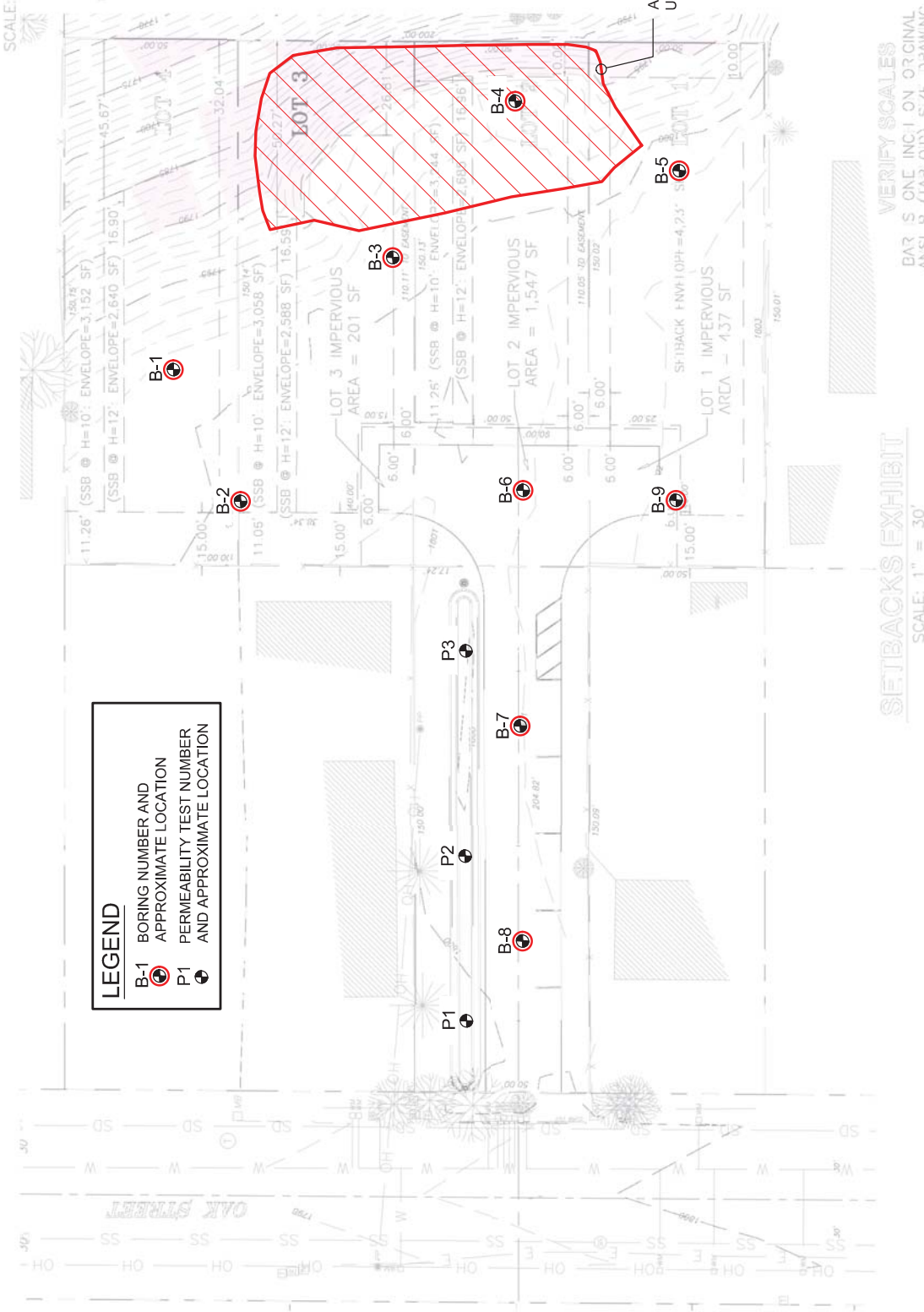

THE GALLI GROUP
 GEOTECHNICAL CONSULTING
 612 NW 3rd Street
 Grants Pass, OR 97526

VICINITY MAP
OVERLOOK DRIVE SUBDIVISION
ASHLAND, OREGON

DATE: NOVEMBER 2021
 JOB NO: 02-6062-01
 REV: 11/23/2021 3:32 PM
 PREPARED BY: BD
6062 Overlook Drive - 01 - Vicinity.dwg

FIGURE:
1

SCALE: 1" = 30'



LEGEND
 B-1 BORING NUMBER AND APPROXIMATE LOCATION
 P-1 PERMEABILITY TEST NUMBER AND APPROXIMATE LOCATION



REGISTERED PROFESSIONAL ENGINEER
 MATTHEW G. GALL
 NO. 15,234
 STATE OF OREGON
 EXPIRES: 12-31-2022

OVERLOOK DRIVE & LOT SUBDIVISION
 822 OAK STREET
 ASHLAND, OREGON 97520

SETBACKS EXHIBIT

NO.	REVISION	DATE

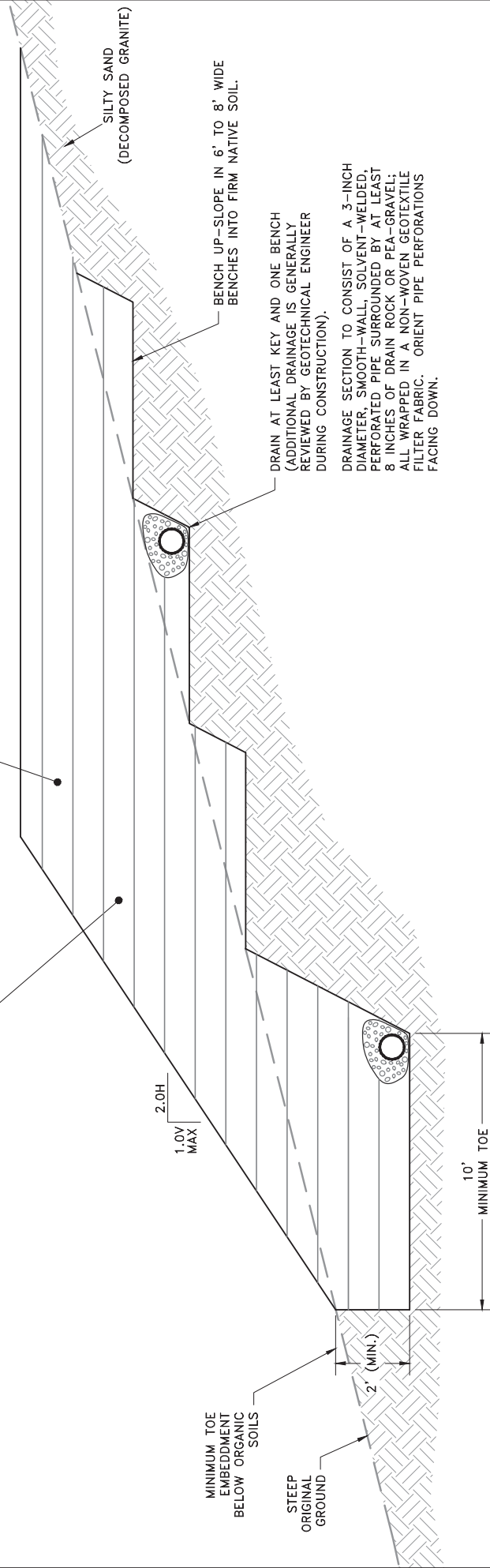
VERIFY SCALES
 DAR S ONE INCH ON ORIGINAL
 AND A (1/8) INCH ON DRAWING

SETBACKS EXHIBIT
 SCALE: 1" = 30'

	THE GALL GROUP GEOTECHNICAL CONSULTING 612 NW 3rd Street Grants Pass, OR 97526	DATE: NOVEMBER 2021 JOB NO: 02-6062-01 REV: 12/10/2021 5:38 PM PREPARED BY: BD <small>822 Oak Street - 2nd Floor</small>	FIGURE: <h1>2</h1>
	SITE PLAN WITH TESTING LOCATIONS OVERLOOK DRIVE SUBDIVISION ASHLAND, OREGON		

FOR AREAS BENEATH STRUCTURES AND ROADWAYS, PLACE AND COMPACT IN LEVEL LIFTS TO AT LEAST 98% OF THE MAXIMUM DRY DENSITY PER ASTM D-698.

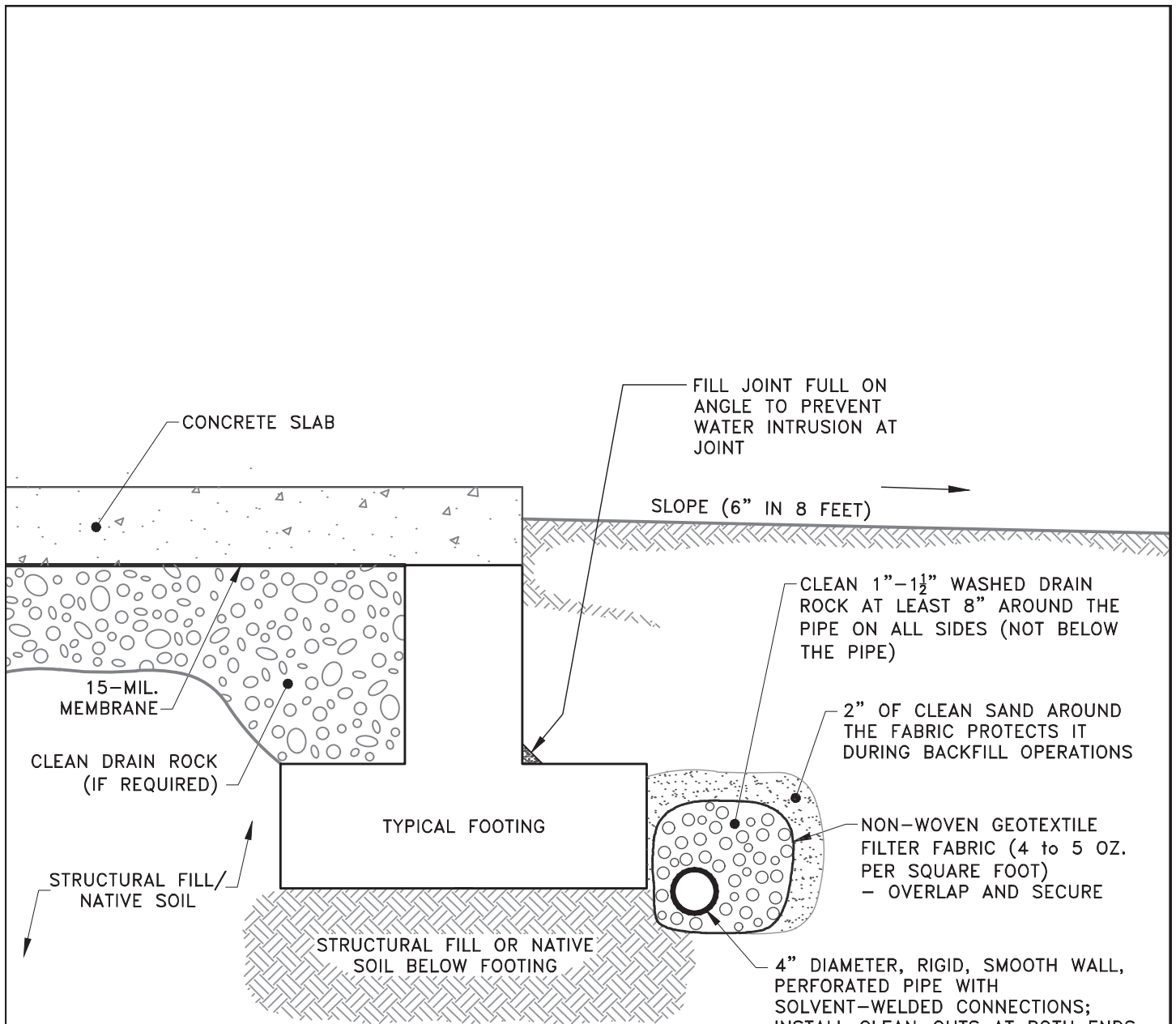
STRUCTURAL FILL MATERIALS TO CONSIST OF APPROVED ON SITE NON-EXPANSIVE DECOMPOSED GRANITE (MAXIMUM SLOPE OF 2.0H:1V). IN NO CASE SHOULD THE ORGANIC TOPSOIL SOILS OR OTHER ORGANIC DEBRIS BE USED FOR STRUCTURAL FILL. PLEASE SEE FILL SLOPE RECOMMENDATIONS IN OUR DESIGN REPORT FOR RECOMMENDED FILL SLOPE ANGLES.



NOTE:
THIS IS A GENERAL CROSS-SECTION FOR FILL PLACED ON SLOPES.
IT IS NOT INTENDED AS A SPECIFIC DESIGN FOR THIS PROJECT.

FOR ILLUSTRATION PURPOSES ONLY
NOT TO SCALE


 <p>THE GALLI GROUP GEOTECHNICAL CONSULTING 612 NW 3rd Street Grants Pass, OR 97526</p>	<p>FILL ON STEEP SLOPE CROSS-SECTION OVERLOOK DRIVE SUBDIVISION ASHLAND, OREGON</p>	<p>DATE: NOVEMBER 2021 JOB NO: 02-6062-01 REV: 11/23/2021 3:11 PM PREPARED BY: BD <small>602 Overlook Drive - 02 - Silver Lake, OR</small></p>	<p>FIGURE: 3</p>
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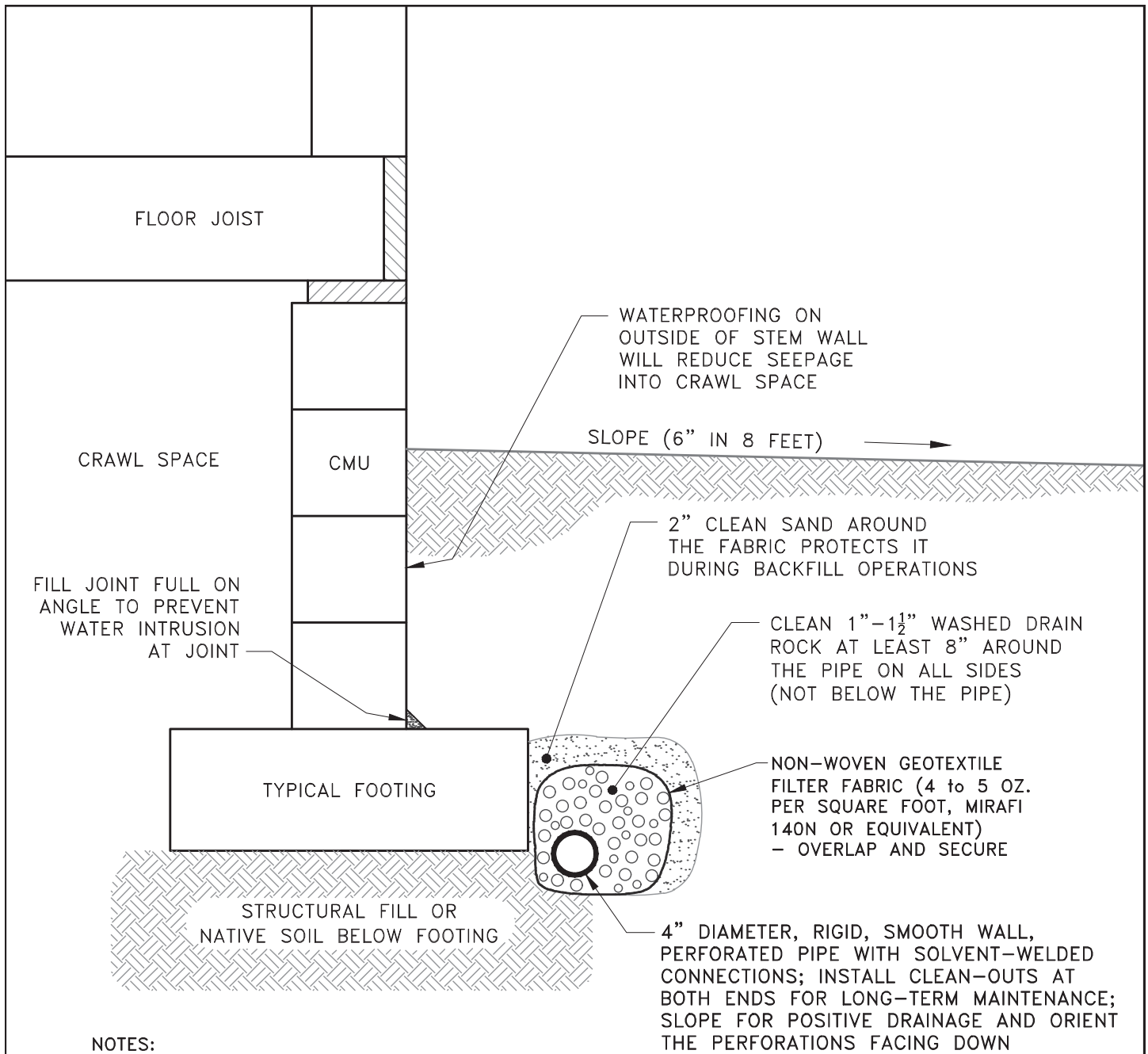


NOTES:

- (1) VAPOR BARRIER TO BE STEGO INDUSTRIES 15mil STEGO WRAP OR EQUIVALENT.
- (2) CAPILLARY BREAK ROCK BELOW VAPOR BARRIER TO BE 1/4" TO 3/4" CLEAN CRUSHED ROCK OR EQUIVALENT.

FOR ILLUSTRATION PURPOSES ONLY
NOT TO SCALE

	THE GALLI GROUP GEOTECHNICAL CONSULTING 612 NW 3rd Street Grants Pass, OR 97526	TYPICAL FOUNDATION DRAIN SLAB ON GRADE FLOOR OVERLOOK DRIVE SUBDIVISION ASHLAND, OREGON	DATE: NOVEMBER 2021 JOB NO: 02-6062-01 REV: 11/23/2021 3:08 PM PREPARED BY: BD <small>6062 Overlook Drive - 04 - Slab OG.dwg</small>	FIGURE: 4	



NOTES:

- (1) VAPOR BARRIER TO BE STEGO INDUSTRIES 15mil STEGO WRAP OR EQUIVALENT. OWNER MY CHOOSE TO USE 6mil VISQUENE, UNDERSTANDING IT WILL NOT WORK AS WELL.
- (2) CAPILLARY BREAK ROCK BELOW VAPOR BARRIER TO BE 1/4" TO 3/4" CLEAN CRUSHED ROCK OR EQUIVALENT.

FOR ILLUSTRATION PURPOSES ONLY – NOT FOR CONSTRUCTION
NOT TO SCALE

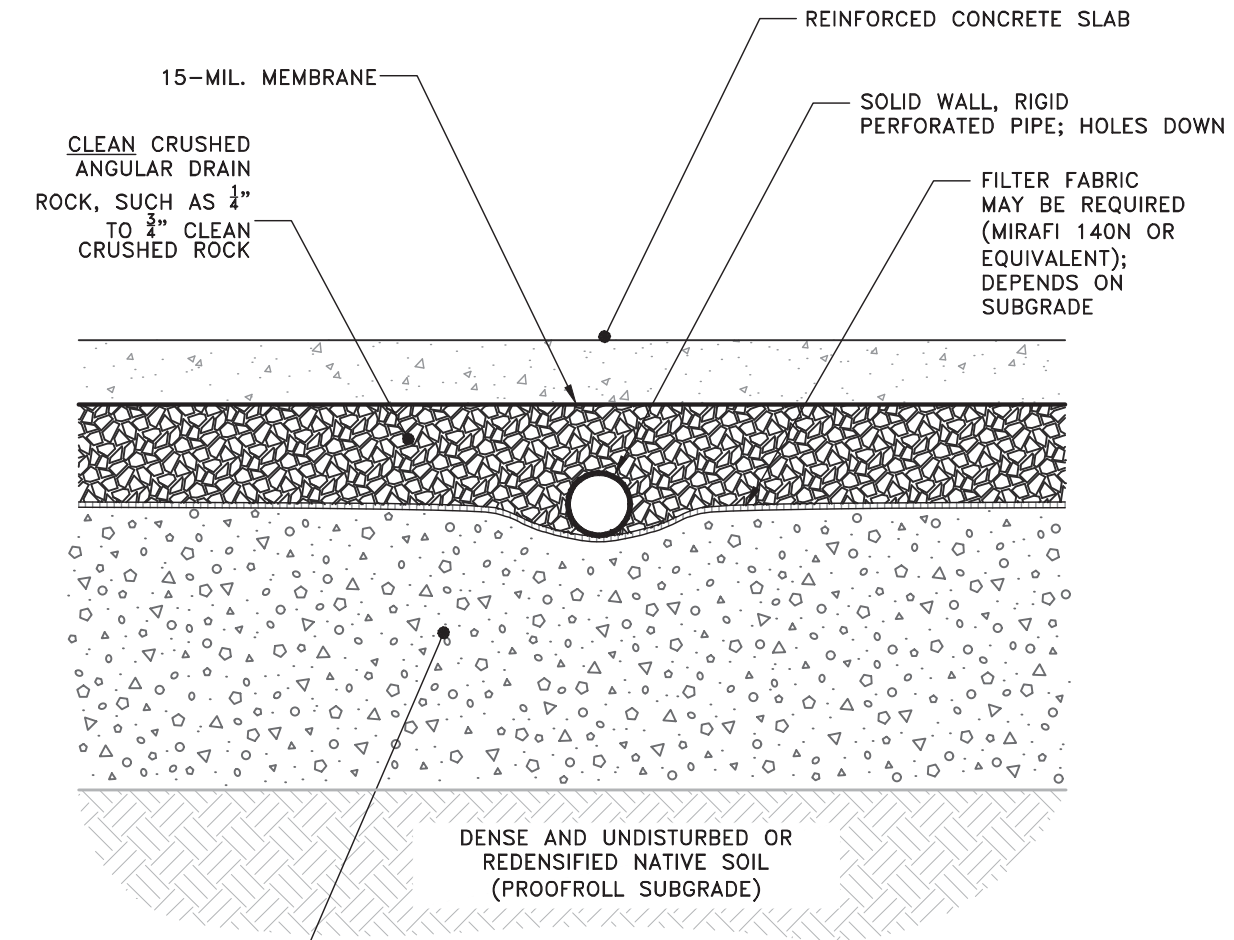


THE GALLI GROUP
GEOTECHNICAL CONSULTING
612 NW 3rd Street
Grants Pass, OR 97526

TYPICAL FOUNDATION DRAIN
WITH CRAWL SPACE
OVERLOOK DRIVE SUBDIVISION
ASHLAND, OREGON

DATE: NOVEMBER 2021
JOB NO: 02-6062-01
REV: 11/23/2021 3:08 PM
PREPARED BY: BD
6062 Overlook Drive - 05 - Crawl Dm.dwg

FIGURE:
5



POSSIBLE
STRUCTURAL FILL
(THICKNESS VARIES)
- OR NATIVE SOIL
COMPACTED TO AT
LEAST 98% OF ASTM
D-698

NOTES:

- (1) MAXIMUM SPACING IS 10 TO 15 FEET.
- (2) ORIENT PIPE PERFORATIONS TO BOTTOM.
- (3) ASSEMBLE PIPE USING SOLVENT-WELDED CONNECTIONS.
- (4) DO NOT DRIVE OVER DRAIN LINES.
- (5) DRAIN ROCK AND STRUCTURAL FILL TO MEET SPECS. IN REPORT BODY - SLOPE PIPE TO DRAIN.
- (6) MAY REQUIRE FILTER FABRIC ON NATIVE SUBGRADE OR IF STRUCTURAL FILL IS VERY SILTY OR SANDY.
- (7) BEST VAPOR BARRIER IS STEGO INDUSTRIES 15mil STEGO WRAP (OR EQUIVALENT).

FOR ILLUSTRATION PURPOSES ONLY
NOT TO SCALE



THE GALLI GROUP
GEOTECHNICAL CONSULTING
612 NW 3rd Street
Grants Pass, OR 97526

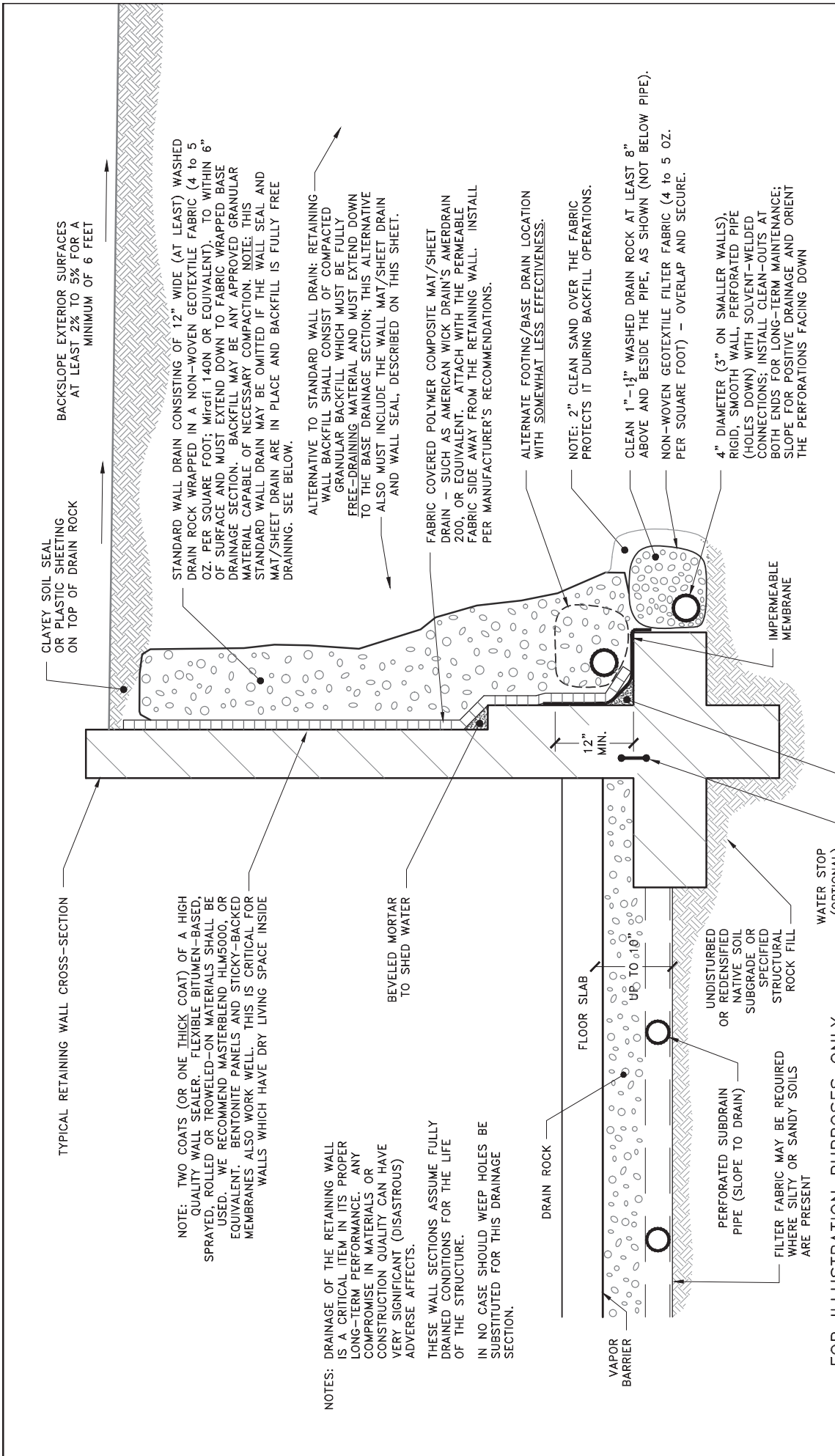
FLOOR SUBDRAIN DETAIL

OVERLOOK DRIVE SUBDIVISION
ASHLAND, OREGON

DATE: NOVEMBER 2021
JOB NO: 02-6062-01
REV: 11/23/2021 3:07 PM
PREPARED BY: BD
6062 Overlook Drive - 06 - Slabsub.dwg

FIGURE:

6



TYPICAL RETAINING WALL CROSS-SECTION

NOTE: TWO COATS (OR ONE THICK COAT) OF A HIGH QUALITY WALL SEALER, FLEXIBLE BITUMEN-BASED, SPRAYED, ROLLED OR TROWELED-ON MATERIALS SHALL BE USED. WE RECOMMEND MASTERBLEND HLM5000, OR EQUIVALENT. BENTONITE PANELS AND STICKY-BACKED MEMBRANES ALSO WORK WELL. THIS IS CRITICAL FOR WALLS WHICH HAVE DRY LIVING SPACE INSIDE

NOTES: DRAINAGE OF THE RETAINING WALL IS A CRITICAL ITEM IN ITS PROPER LONG-TERM PERFORMANCE. ANY COMPROMISE IN MATERIALS OR CONSTRUCTION QUALITY CAN HAVE VERY SIGNIFICANT (DISASTROUS) ADVERSE EFFECTS.

THESE WALL SECTIONS ASSUME FULLY DRAINED CONDITIONS FOR THE LIFE OF THE STRUCTURE.

IN NO CASE SHOULD WEEP HOLES BE SUBSTITUTED FOR THIS DRAINAGE SECTION.

CLAYEY SOIL SEAL OR PLASTIC SHEETING ON TOP OF DRAIN ROCK

BACKSLOPE EXTERIOR SURFACES AT LEAST 2% TO 5% FOR A MINIMUM OF 6 FEET

STANDARD WALL DRAIN CONSISTING OF 12" WIDE (AT LEAST) WASHED DRAIN ROCK WRAPPED IN A NON-WOVEN GEOTEXTILE FABRIC (4 TO 5 OZ. PER SQUARE FOOT; Mirgrfi 140N OR EQUIVALENT). TO WITHIN 6" OF SURFACE AND MUST EXTEND DOWN TO FABRIC WRAPPED BASE DRAINAGE SECTION. BACKFILL MAY BE ANY APPROVED GRANULAR MATERIAL CAPABLE OF NECESSARY COMPACTION. NOTE: THIS STANDARD WALL DRAIN MAY BE OMITTED IF THE WALL SEAL AND MAT/SHEET DRAIN ARE IN PLACE AND BACKFILL IS FULLY FREE DRAINING. SEE BELOW.

ALTERNATIVE TO STANDARD WALL DRAIN: RETAINING WALL BACKFILL SHALL CONSIST OF COMPACTED GRANULAR BACKFILL WHICH MUST BE FULLY FREE-DRAINING MATERIAL AND MUST EXTEND DOWN TO THE BASE DRAINAGE SECTION; THIS ALTERNATIVE ALSO MUST INCLUDE THE WALL MAT/SHEET DRAIN AND WALL SEAL, DESCRIBED ON THIS SHEET.

FABRIC COVERED POLYMER COMPOSITE MAT/SHEET DRAIN - SUCH AS AMERICAN WICK DRAIN'S AMERDRAIN 200, OR EQUIVALENT. ATTACH WITH THE PERMEABLE FABRIC SIDE AWAY FROM THE RETAINING WALL. INSTALL PER MANUFACTURER'S RECOMMENDATIONS.

ALTERNATE FOOTING/BASE DRAIN LOCATION WITH SOMEWHAT LESS EFFECTIVENESS.

NOTE: 2" CLEAN SAND OVER THE FABRIC PROTECTS IT DURING BACKFILL OPERATIONS.

CLEAN 1" - 1 1/2" WASHED DRAIN ROCK AT LEAST 8" ABOVE AND BESIDE THE PIPE, AS SHOWN (NOT BELOW PIPE). NON-WOVEN GEOTEXTILE FILTER FABRIC (4 TO 5 OZ. PER SQUARE FOOT) - OVERLAP AND SECURE.

4" DIAMETER (3" ON SMALLER WALLS), RIGID, SMOOTH WALL, PERFORATED PIPE (HOLES DOWN) WITH SOLVENT-WELDED CONNECTIONS; INSTALL CLEAN-OUTS AT BOTH ENDS FOR LONG-TERM MAINTENANCE; SLOPE FOR POSITIVE DRAINAGE AND ORIENT THE PERFORATIONS FACING DOWN

IMPERMEABLE MEMBRANE

WATER STOP (OPTIONAL) BEVELED MORTAR TO SHED WATER TO SHED WATER

FLOOR SLAB

DRAIN ROCK

VAPOR BARRIER

PERFORATED SUBDRAIN PIPE (SLOPE TO DRAIN)

FILTER FABRIC MAY BE REQUIRED WHERE SILTY OR SANDY SOILS ARE PRESENT

UNDISTURBED OR REDENSIFIED NATIVE SOIL SUBGRADE OR SPECIFIED STRUCTURAL ROCK FILL

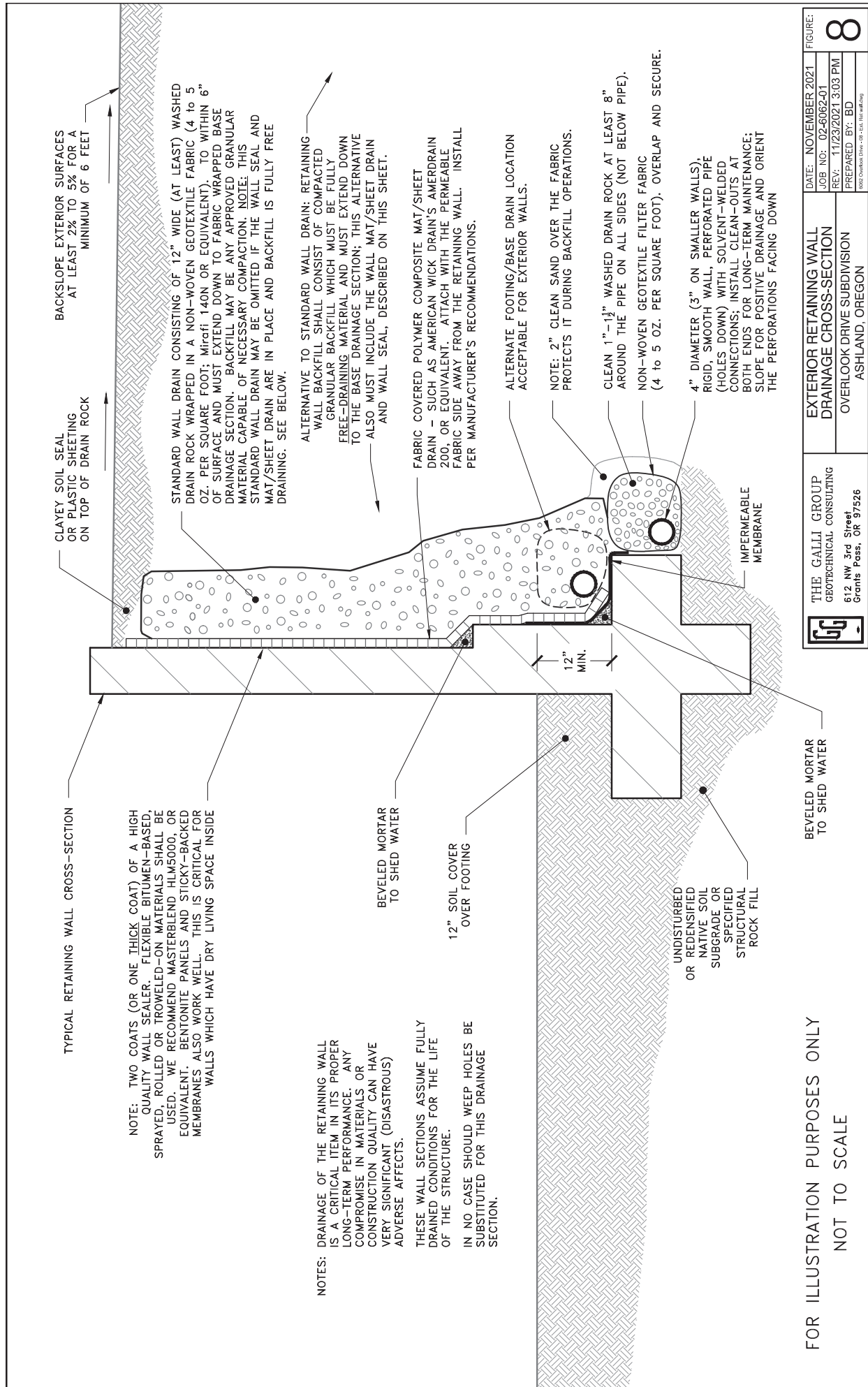
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NOT FOR CONSTRUCTION; NOT TO SCALE

THE GALLATI GROUP
GEOTECHNICAL CONSULTING
612 NW 3rd Street
Grants Pass, OR 97526

BASEMENT RETAINING WALL
DRAINAGE CROSS-SECTION
OVERLOOK DRIVE SUBDIVISION
ASHLAND, OREGON

DATE: NOVEMBER 2021
JOB NO: 02-6062-01
REV: 11/23/2021 3:05 PM
PREPARED BY: BD
6022 Overlook Drive - Ashland, Oregon

FIGURE:
7



 <p>THE GALLI GROUP GEOTECHNICAL CONSULTING 612 NW 3rd Street Grants Pass, OR 97526</p>	<p>EXTERIOR RETAINING WALL DRAINAGE CROSS-SECTION</p>	<p>DATE: NOVEMBER 2021 JOB NO: 02-6062-01 REV: 11/23/2021 3:03 PM PREPARED BY: BD <small>©2021 The Galli Group - All Rights Reserved</small></p>	<p>FIGURE: 8</p>
	<p>OVERLOOK DRIVE SUBDIVISION ASHLAND, OREGON</p>		

FOR ILLUSTRATION PURPOSES ONLY
NOT TO SCALE

APPENDIX A

BORING LOGS

BORING LOG B-1

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL	Organics/Rootzone Layer	0.3						
	SM	Loose to medium dense, dark brown, silty Sand with scattered to numerous subround to subangular gravels and cobbles; damp.	1.5						
	SM	Dense to very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry	3.0	S-1	1%	50			●
			4.5						
			6.0	S-2	6%	85			●85 →
			6.5						
		Bottom of boring at 6.5', auger refusal No Freewater Encountered	7.5						
			9.0						
			10.5						

Legend of Samplers: Grab sample SPT sample Shelby tube sample


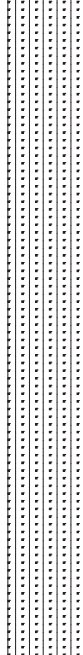
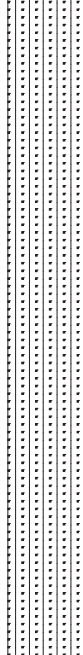
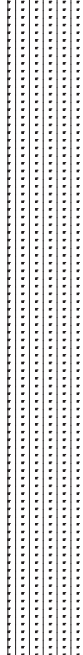


This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-2

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL	Organics/Rootzone Layer	0.3						
	SM	Medium dense, dark brown, silty Sand with scattered to numerous subround to subangular gravels and cobbles; damp.	1.5						
	SM	Dense to very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry.	3.0	S-1	2%	27			
	SM		4.5						
	ROCK	Dense to very dense, brown/tan, weathered granitic bedrock; damp to dry.	5.5	S-2	11%	50			
		Bottom of boring at 6.0', auger refusal No Freewater Encountered	6.0						
			7.5						
			9.0						
			10.5						

Legend of Samplers: Grab sample SPT sample Shelby tube sample


This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-3

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL SM	Organics/Rootzone Layer	0.2						
		Medium dense to dense, dark brown, silty Sand with scattered to numerous subround to subangular gravels and cobbles.	1.5						
	SM	Very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry.	3	S-1	1%	61			61
		Bottom of boring at 3.75', auger refusal No Freewater Encountered	3.75						
			4.5						
			6						
			7.5						
			9						
			10.5						

Legend of Samplers: Grab sample SPT sample Shelby tube sample

This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-4

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL	Organics/Rootzone Layer	0						
	FILL	Loose to very dense, tan/dark brown, silty Sand increasingly coarse with depth; asphalt, concrete, brick, and other miscellaneous construction debris encountered throughout, damp.	1.5	S-1	7%				
			3	S-2	6%	7	●		
			4.5						
			6	S-3	3%	33	●		
		7.5							
		9.0	9	S-4	3%	64	●	64	→
		Bottom of boring at 9.0', augar refusal No Freewater Encountered	9						
			10.5						

Legend of Samplers: Grab sample SPT sample Shelby tube sample


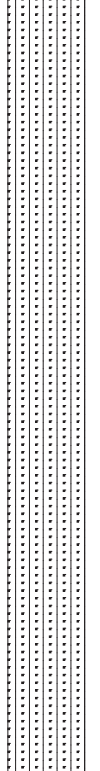

This information pertains only to this boring and should not be interpreted as being indicative of the site.


BORING LOG B-5

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL	Organics/Rootzone Layer	0.2						
	SM	Medium dense to very dense, dark brown, silty Sand with scattered to numerous subround to subangular gravels and cobbles.							
			1.5						
			3	S-1	3%	24			
	SM	Dense to very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry							
			4.5						
			6	S-2	3%	52			
			6.3						
	ROCK	Dense to very dense, brown/tan, weathered granitic bedrock; damp to dry.	6.5		4%				
		Bottom of boring at 6.5', auger refusal No Freewater Encountered							
			7.5						
			9						
			10.5						

Legend of Samplers:  Grab sample  SPT sample  Shelby tube sample


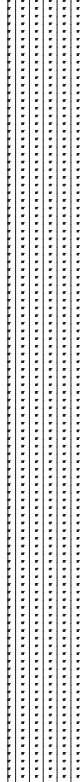
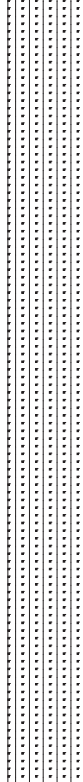
This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-6

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL	Organics/Rootzone Layer	0 - 0.3						
	SM	Medium dense to dense, dark brown, silty Sand with scattered to numerous subround to subangular gravels and cobbles	0.3 - 1.5						
	SM	Medium dense to very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry	1.5 - 6.5						
			6.5	S-1	6%	24			
			6.5	S-2	6%	45			
		Bottom of boring at 6.5', auger refusal No Freewater Encountered	6.5 - 10.5						

Legend of Samplers:  Grab sample  SPT sample  Shelby tube sample

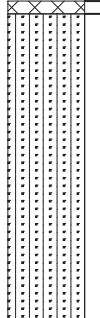

This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-7

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water > Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL SM	3/4" crushed rock and decomposed granite mixture Medium dense to dense, dark brown, silty Sand with scattered to numerous subround to subangular gravels and cobbles	0.1 0 1.5 2.5						
	ROCK	Dense to very dense, tan, weathered granitic bedrock; damp to dry. Bottom of boring at 3.0', augar refusal No Freewater Encountered	3.0 3 4.5 6 7.5 9 10.5	S-1	4%	50			●

Legend of Samplers:  Grab sample  SPT sample  Shelby tube sample

This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-8

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water > Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL SM	Organics/Rootzone Layer	0.2						
	SM	Medium dense to dense, Very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry	0						
			1.5						
			3	S-1	6%	47			●
	SM	Dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry.	4.5						
			6	S-2	5%	50			●
			6.5						
		Bottom of boring at 6.5', auger refusal No Freewater Encountered	7.5						
			9						
			10.5						

Legend of Samplers: Grab sample SPT sample Shelby tube sample

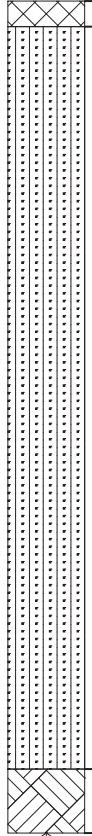
This information pertains only to this boring and should not be interpreted as being indicative of the site.

BORING LOG B-9

Project: 822 Oak Street
 Client: Overlook Drive, LLC
 Location: See Figure 2, Site Plan with Testing Locations
 Driller: The Galli Group (Blake and Nick)
 Drill Rig: ATV Mounted 4" SSA
 Depth To Water> Initial ∇ : NONE

Project No.: 6062
 Date: November 11, 2021
 Elevation:
 Logged By: Benjamin Dean

At Completion ∇ : NONE

Graphic Log	USCS	Description	Depth	Sample No. and Type	NMC	Standard Penetration Test			
						N	CURVE		
							10	30	50
	FILL SM	Organics/Rootzone Layer Medium dense to very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry.	0.2						
		Medium dense to very dense, tan, silty Sand (granitic); variable gravel, cobble and boulder inclusions, damp to dry.	1.5						
			3	S-1	2%	24			
			4.5						
			6.0	S-2	13%	65			
	ROCK	Dense to very dense, brown/tan, weathered granitic bedrock; damp to dry.	6						
		Bottom of boring at 6.5', auger refusal No Freewater Encountered	6.5						
			7.5						
			9						
			10.5						

Legend of Samplers: Grab sample SPT sample Shelby tube sample

This information pertains only to this boring and should not be interpreted as being indicative of the site.

APPENDIX B

ON SITE PERMEABILITY DATA

FALLING HEAD PERMEABILITY TESTING



Client: Overlook Drive, LLC
 Project: 822 Oak Street
 Job No.: 02-6062-01
 Test Date: November 11, 2021

Test Hole No.: **P-1**
 Soils Log:
 Depth of Hole (FT): 2.83
 Diameter (IN): 7.0
 Note:

Actual Time	Lapsed Time (s)	Water Depth (ft)	(1) Dh (in)	(2) Dt (s)	(3) V (in ³)	(4) Q (in ³ /s)	(5) L (in)	(6) Hc (in)
9:45:00	0	1.75	0.0	0	0.0	0.000	0.0	0.0
10:20:00	2100	1.96	2.5	2100	96.2	0.046	32.8	16.4
10:52:00	1920	2.06	1.3	1920	48.1	0.025	33.4	16.7
10:53:00	60	0.46	-19.3	60	-740.5	-12.341	43.6	21.8
11:37:00	2640	1.10	7.8	2640	298.1	0.113	30.1	15.1
12:09:00	1920	1.29	2.3	1920	86.5	0.045	32.9	16.4
12:10:00	60	0.50	-9.5	60	-365.4	-6.090	38.8	19.4
12:48:00	2280	0.96	5.5	2280	211.6	0.093	31.3	15.6
13:27:00	2340	1.23	3.3	2340	125.0	0.053	32.4	16.2
13:48:00	1260	1.35	1.5	1260	57.7	0.046	33.3	16.6

Actual Time	(7) mL/D	(8) (1+(mL/D) ²) ^{0.5}	(9) ln (7)+(8)	(10) 2pLHc	(11) (4)/(10)	(12) k (in/s)	k (in/hr)
10:20:00	4.68	4.78	2.25	3369.6	1.36E-05	3.054E-05	0.110
10:52:00	4.77	4.87	2.27	3499.4	7.16E-06	1.621E-05	0.058
10:53:00	6.23	6.31	2.53	5978.9	-2.06E-03	-5.221E-03	-18.794
11:37:00	4.30	4.42	2.17	2851.0	3.96E-05	8.578E-05	0.309
12:09:00	4.70	4.80	2.25	3395.3	1.33E-05	2.989E-05	0.108
12:10:00	5.54	5.63	2.41	4717.3	-1.29E-03	-3.115E-03	-11.212
12:48:00	4.46	4.57	2.20	3068.0	3.02E-05	6.658E-05	0.240
13:27:00	4.63	4.73	2.24	3292.8	1.62E-05	3.628E-05	0.131
13:48:00	4.75	4.85	2.26	3473.2	1.32E-05	2.983E-05	0.107

Average Permeability Coefficient (k): 4.22E-05 in/sec

Average Permeability Coefficient (k): 0.152 in/hr

FALLING HEAD PERMEABILITY TESTING



Client: Overlook Drive, LLC
 Project: 822 Oak Street
 Job No.: 02-6062-01
 Test Date: November 11, 2021

Test Hole No.: **P-2**
 Soils Log: silty Sand
 Depth of Hole (FT): 2.38
 Diameter (IN): 7.0
 Note:

Actual Time	Lapsed Time (s)	Water Depth (ft)	(1) Dh (in)	(2) Dt (s)	(3) V (in ³)	(4) Q (in ³ /s)	(5) L (in)	(6) Hc (in)
9:45:00	0	1.88	0.0	0	0.0	0.000	0.0	0.0
10:20:00	2100	2.06	2.3	2100	86.5	0.041	27.4	13.7
10:51:00	1860	2.38	3.8	1860	144.2	0.078	26.6	13.3
10:52:00	60	0.50	-22.5	60	-865.5	-14.424	39.8	19.9
11:36:00	2640	1.33	10.0	2640	384.7	0.146	23.5	11.8
12:08:00	1920	1.56	2.8	1920	105.8	0.055	27.1	13.6
12:09:00	60	0.52	-12.5	60	-480.8	-8.014	34.8	17.4
12:47:00	2280	1.17	7.8	2280	298.1	0.131	24.6	12.3
13:26:00	2340	1.52	4.3	2340	163.5	0.070	26.4	13.2
13:49:00	1380	1.71	2.3	1380	86.5	0.063	27.4	13.7

Actual Time	(7) mL/D	(8) (1+(mL/D) ²) ^{0.5}	(9) ln (7)+(8)	(10) 2pLHc	(11) (4)/(10)	(12) k (in/s)	k (in/hr)
10:20:00	3.91	4.04	2.07	2354.3	1.75E-05	3.629E-05	0.131
10:51:00	3.80	3.93	2.05	2227.0	3.48E-05	7.124E-05	0.256
10:52:00	5.68	5.77	2.44	4963.9	-2.91E-03	-7.083E-03	-25.499
11:36:00	3.36	3.50	1.93	1734.9	8.40E-05	1.617E-04	0.582
12:08:00	3.88	4.00	2.06	2311.5	2.38E-05	4.919E-05	0.177
12:09:00	4.96	5.06	2.31	3793.7	-2.11E-03	-4.870E-03	-17.531
12:47:00	3.52	3.66	1.97	1905.0	6.86E-05	1.352E-04	0.487
13:26:00	3.77	3.90	2.04	2185.4	3.20E-05	6.511E-05	0.234
13:49:00	3.91	4.04	2.07	2354.3	2.66E-05	5.522E-05	0.199

Average Permeability Coefficient (k): 8.20E-05 in/sec

Average Permeability Coefficient (k): 0.295 in/hr

FALLING HEAD PERMEABILITY TESTING



Client: Overlook Drive, LLC
 Project: 822 Oak Street
 Job No.: 02-6062-01
 Test Date: November 11, 2021

Test Hole No.: **P-3**
 Soils Log: silty Sand
 Depth of Hole (FT): 2.46
 Diameter (IN): 7.0
 Note:

Actual Time	Lapsed Time (s)	Water Depth (ft)	(1) Dh (in)	(2) Dt (s)	(3) V (in ³)	(4) Q (in ³ /s)	(5) L (in)	(6) Hc (in)
9:46:00	0	2.17	0.0	0	0.0	0.000	0.0	0.0
10:19:00	1980	2.35	2.3	1980	86.5	0.044	28.4	14.2
10:47:00	1680	2.46	1.3	1680	48.1	0.029	28.9	14.4
10:48:00	60	0.92	-18.5	60	-711.6	-11.860	38.8	19.4
11:36:00	2880	1.79	10.5	2880	403.9	0.140	24.3	12.1
12:07:00	1860	1.90	1.3	1860	48.1	0.026	28.9	14.4
12:08:00	60	0.88	-12.3	60	-471.2	-7.853	35.6	17.8
12:46:00	2280	1.50	7.5	2280	288.5	0.127	25.8	12.9
13:25:00	2340	1.73	2.8	2340	105.8	0.045	28.1	14.1
13:50:00	1500	1.85	1.5	1500	57.7	0.038	28.8	14.4

Actual Time	(7) mL/D	(8) (1+(mL/D) ²) ^{0.5}	(9) ln (7)+(8)	(10) 2pLHc	(11) (4)/(10)	(12) k (in/s)	k (in/hr)
10:19:00	4.05	4.18	2.11	2529.4	1.73E-05	3.642E-05	0.131
10:47:00	4.13	4.24	2.12	2619.4	1.09E-05	2.321E-05	0.084
10:48:00	5.54	5.63	2.41	4717.3	-2.51E-03	-6.065E-03	-21.835
11:36:00	3.46	3.61	1.96	1847.5	7.59E-05	1.485E-04	0.534
12:07:00	4.13	4.24	2.12	2619.4	9.87E-06	2.097E-05	0.075
12:08:00	5.09	5.19	2.33	3987.1	-1.97E-03	-4.589E-03	-16.520
12:46:00	3.68	3.81	2.01	2083.1	6.07E-05	1.223E-04	0.440
13:25:00	4.02	4.14	2.10	2485.0	1.82E-05	3.818E-05	0.137
13:50:00	4.11	4.23	2.12	2596.7	1.48E-05	3.141E-05	0.113

Average Permeability Coefficient (k): 6.01E-05 in/sec

Average Permeability Coefficient (k): 0.217 in/hr



02-6062-02

June 28, 2023

Suzanne Zapf
Overlook Drive, LLC
602 Sutton Place,
Ashland, Oregon 97520

Subject: **SLOPE STABILITY MITIGATION COMPLETION LETTER
PROPOSED GRIZZLY PEAK VIEW SUBDIVISION
LOT 2 AND LOT 3
822 OAK STREET
ASHLAND, OREGON**

Suzanne,

In accordance with your request, we are writing this letter to document our observation of the removal of the debris laden and undocumented fill as it relates to slope stability for the above referenced site. This letter summarizes our observations and professional opinion on the stability of the site, and its suitability for the proposed development following the fill removal.

PROJECT DESCRIPTION

The owner intends to subdivide this parcel into 4 residential lots. The Galli Group investigated the site and prepared a “Steep Slope and Geotechnical Design Report” dated December 12, 2021. In the report, it was noted that undocumented, manmade fill, consisting of silty Sand intermixed with asphalt, brick, concrete and other deleterious construction debris, was encountered on the eastern edge of Lot 2 and Lot 3 within the proposed subdivision (see figure 2 in the original report for more information). With visual observation, based on the unusual geometry of the surface soils and visible portions of exposed materials, it was apparent that debris laden fill was loosely pushed over the existing native slope, creating a much steeper (up to 45%) and unstable slope in this area of the parcel. In our report, we recommended several options to deal with the undocumented fill which included, complete removal of the fill, excavating through the fill (9 feet in some areas) to native soil for foundation placement, or the use of retaining walls to stabilize the unstable slopes caused by the poorly placed soils. The owner elected to remove all the undocumented fill slopes, in order to restore the site to native slope conditions.

FILL REMOVAL

On May 15, 2023, The Galli Group's Senior Project Engineer and Engineering Geologist, Dennis Duru, PE, CEG, RG, visited the site to determine the area and extent of undocumented fill at the site. Upon arrival, we met with the excavator operator, Joe with Ledford Construction. The area of the undocumented fill was immediately apparent in the surficial soils at the site, characterized by a "knob" at the eastern edge of the site with visible waste debris (concrete and asphalt) and sparse, grassy vegetation growth. To determine the full extent of the fill (depth), we excavated two exploratory test pits. The first test pit, at the easternmost edge of the fill slope, was observed to have fill material extending from the surface to approximately 10 feet in depth before encountering native soils. The second test pit, approximately 20 to 25 feet to the west of the first test pit, encountered undocumented fill that extended approximately 4.5 feet deep from the existing surface. Undocumented fill material observed in these test pits consisted of loose, silty Sand mixed with some wood, plastic and large amounts of concrete and asphalt debris as well as miscellaneous personal items such as old shoes and clothing.

On May 22, 2023, our personnel visited the site again and observed the progress of the undocumented fill removal. The debris laden soil was being removed following The Galli Group's recommendation. Since our previous visit, the excavator contractor had excavated a significant portion of the fill area to expose the native soils. The excavated debris and soils were hauled off the site.

We were informed on June 19, 2023 that the excavation crew had completed the fill removal. On June 26, 2023, we visited the site to verify the removal and to observe the site slopes and overall surface conditions. At this time, we observed all the undocumented fill at the eastern edge of the project area had been satisfactorily removed, eliminating the artificially induced, overstep slopes created by the buried manmade materials and loose soil and restoring stability of soils in this location. Exposed site soils consist of very dense, silty Sand with gravel and cobbles, native to the area. After the undocumented fill removal, the site slopes had been restored to moderately steep (25 % to 30%) aligning with native slope conditions at this site and adjacent (nearby) locations.

CONCLUSION

In accordance with The Galli Group's geotechnical recommendation, the undocumented fill at the site had been removed. This undocumented fill was full of manmade materials and loosely placed on steep slopes. The loose soils and deleterious materials, pushed over the edge of cuts and onto the native hillside, created very steep and unstable slopes on the eastern area of the parcels. The removal of the undocumented fill has restored the site to its native condition, with slopes between 25% and 30%, fully mitigating the slope instability potential at the site. In addition, due to the removal of the undocumented fill, and the exposure of the underlying dense to very dense native soils, structures foundation may be constructed per the geotechnical report without the need for excessive over-excavation at the site.

EROSION CONTROL CONSIDERATION

The newly exposed native site soils consist of silty Sand with some gravel and cobbles. These soils have moderate to high erosion potential. The removal of the undocumented fill at the eastern area of the site also removed any protective vegetative cover, exposing the site soils to potential erosion. If it is determined that construction will be delayed into or beyond the wet season, we recommend that all exposed and bare areas of the site be revegetated to protect this area and the neighboring properties from potential silt laden runoff (sediment) leaving the site during storm events. During construction of the proposed project, all aspects of the geotechnical report prepared for this development must be followed including the erosion and drainage control portion of the report.

We hope this meets your needs currently. Please contact us if you have any questions.

Respectfully Submitted,

THE GALLI GROUP
GEOTECHNICAL CONSULTING



Dennis Duru, P.E., C.E.G., R.G.
Senior Engineer/Geologist

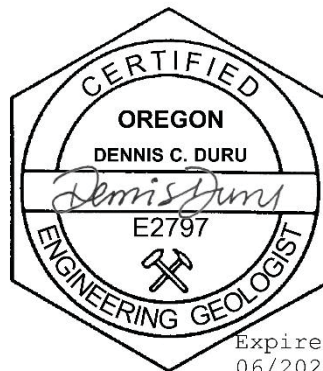


Exhibit "C"

**BYLAWS
OF
GRIZZLY PEAK VIEW HOMEOWNERS' ASSOCIATION
AN OREGON NONPROFIT CORPORATION**

**ARTICLE I
NAME, LOCATION, AND DEFINITIONS**

1.1. Name. The name of the corporation is GRIZZLY PEAK VIEW HOMEOWNERS' ASSOCIATION, (hereinafter referred to as the "Association"). The Association is organized under the Oregon Nonprofit Corporation Law. The principal office of the Association shall be located in the City of Ashland, County of Jackson, State of Oregon, but meetings of Members and Directors may be held at such other places as close as possible to the property within Jackson County, Oregon, as may be designated by the Board.

1.2. Definitions. The terms used herein shall have the meanings set forth in Section 1, Declaration of Covenants, Conditions and Restrictions for Grizzly Peak View Subdivision, (hereinafter referred to as the "Project") to which these Bylaws are attached as Exhibit "C" and made a part thereof.

**ARTICLE II
ASSOCIATION, MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES**

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board either within the Project or as convenient thereto as possible and practical.

2.3. Annual Meetings. The first meeting of the Members of the Association, whether a regular or special meeting, shall be held within 45 days after the conveyance of 51% of the Lots in the Project to Retail Owners, but not later than 12 months after the first conveyance of a Lot to a Retail Owner. Subsequent regular annual meetings shall be set by the Board so as to occur at least 30 days but not more than 120 days before the close of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 25% of the Members of the Association.

The Association shall call special meetings as required by ORS 94.604 and ORS 94.616. If the Board or Declarant fails to call the meeting, any Member may call the meeting in accordance with ORS 94.609.

2.5. Notice of Meetings. Written notice of each meeting of the Members, whether annual or special, shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, in person, by E-mail, or by mailing a copy of such notice by first-class mail at least ten (10) days, but not more than fifty (50) days, before such meeting to each Member entitled to vote thereat and to each mortgagee requesting such notice. With respect to Members, notice shall be addressed to the Member's E-mail or mailing address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes or any proposal to remove a Director or Officer.

2.5.1 Notwithstanding subsection 2.5, electronic mail, facsimile or other form of electronic communication may not be used to give notice of:

- (a) Failure to pay an assessment;
- (b) Foreclosure of an association lien under ORS 94.709; or
- (c) An action the association may take against a Member.

An owner may decline to receive notice by electronic mail, facsimile or other form of electronic communication and may direct the board of directors to provide notice by mailing a copy of such notice by first-class mail. Mailed notices shall be deemed received when deposited in the United States mail, with postage fully paid thereon.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of time and place for reconvening the meeting shall be given in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less

than a quorum, provided that any action taken is approved by at least a majority of the votes present.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. Voting of the Members at a meeting may be by voice, written ballot, or electronic ballot as provided in ORS 94.661.

2.9. Proxies. At all meetings of Members, each Member may vote in person or by proxy on all matters. All proxies shall be in writing, dated and filed with the Secretary before the commencement of any meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot, or upon the death or incapacity of the Member who executed the proxy. A proxy shall terminate eleven (11) months after its execution, unless a shorter period of time is specified. Except as otherwise provided in the Articles or these Bylaws, a majority of the voting power present, in person or by proxy, shall prevail at such meeting.

2.10. Majority. As used in these Bylaws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence of the Members representing at least thirty percent (30%) of the total votes in the Association shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13. Action without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting by written ballots as provided in ORS 94.647. Such ballots shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting.

ARTICLE III **BOARD OF DIRECTORS, NUMBER, POWERS, MEETINGS**

A. Composition and Selection.

3.1. Initial Board of Directors. During the period of Declarant control, the initial Board of Directors shall be appointed by Declarant until such time as the Declarant turns over responsibility of the Association to its Members. Thereafter, the Board shall be elected as provided in Section 3.2. The initial Board of Directors shall consist of a minimum of one (1) Director.

3.2. Election of Directors and Terms of Office. Notwithstanding anything herein to the contrary, the initial Board of Directors shall serve as the Board of Directors and govern all

affairs of the Association until such time as one hundred percent (100%) of all lots have been sold and until the turnover meeting as provided in Section 3.7 hereof. At turnover, the Board of Directors shall consist of a minimum of three (3) members. At each annual meeting the Members shall elect the Board of Directors as hereinafter set forth. All elected directors must be Owners.

3.3. Removal of Directors and Vacancies. Whenever the best interests of the Association may be served thereby, a Director may be removed with or without cause at a meeting called expressly for that purpose by vote of the majority of all Members then entitled to vote at an election of Directors.

B. Meetings.

3.4. Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.5. Regular Meetings. Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least one meeting each calendar year shall take place. Notice of the time and place of the meeting shall be posted in a prominent place within the Property and communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.6. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone facsimile communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) electronic mail. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall be posted in a prominent place within the Project. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

3.7. Turnover Meeting. Within 90 days after one hundred percent (100%) of the Lots are sold to purchasers other than Declarant, or when Declarant elects to turn over control, whichever occurs sooner, Declarant shall call a meeting for the purpose of turning over administrative responsibility for the Project to the Association. If the Declarant does not call a meeting for such purpose, any Member may call a meeting for such purpose. At the Turnover Meeting the Declarant shall turn over to the Association administrative control of the Association, and the Association shall accept administrative control from the Declarant. If a quorum of the Members is present, the Members shall elect the new Board of Directors. If a quorum is not present, the Association shall notice a special meeting to nominate and elect the new Board of

Directors. The Declarant shall turnover the Association records as provided in ORS 94.616 as hereafter amended.

3.8. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.9. Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.10. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association, other than the Declarant, at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.11. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of meetings of the Board, recording all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings.

3.12. Open Meetings. Subject to the provisions of Section 3.13, all meetings of the Board shall be open to all Members, but a Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.13. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote. Written consent or consents shall be filed with the minutes of the proceedings of the board. An explanation of the action to be taken or actually taken by the Board shall be given to the Members of the Association within three days after all written consents have been obtained. The explanation shall be given in the same manner as provided in the Bylaws for the giving of notice of regular meetings of the Board. Failure to give notice shall not render the action to be taken or actually taken invalid.

C. Powers and Duties

3.14. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things as are by the Declaration, Articles, these Bylaws, or Oregon law directed to be done and exercised exclusively by the Members or the membership generally.

3.15. Duties. The Duties of the Board shall include, without limitation:

- (a) preparation and adoption of annual budgets and establishing each Member's share of the Common Expenses;
- (b) levying and collecting assessments from the Members to fund the Common Expenses;
- (c) providing for the operation, care, upkeep, and maintenance of the Common Area;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;
- (f) making and amending rules and regulations;
- (g) opening bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these Bylaws;

(i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;

(j) obtaining and carrying property and liability insurance, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Members;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Lot, any Member, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration, the Articles of Incorporation, the Bylaws, rules and all other books, records, and financial statements of the Association;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the properties;

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is allowed by Oregon law, the Articles of Incorporation and the Declaration; and

(p) assisting in the resolution of disputes between Members and others without litigation, as set forth in the Declaration.

3.16. Right of Class "B" Member to Disapprove Actions. Until one hundred percent (100%) of the Lots are owned by Retail Owners, the Declarant shall have a right to disapprove any action, policy or programs of the Association, the Board and any committee which, in the judgment of the Declarant, would tend to impair rights of the Declarant under the Declaration or these Bylaws, or interfere with development, construction of any portion of the Project, or diminish the level of services being provided by the Association.

No such action, policy or program shall become effective or be implemented until and unless:

(a) The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies,

as to the Board meetings, with Section 3.5, 3.6, and 3.8 of these Bylaws and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within 10 days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

(c) This Section may not be amended without the express written consent of the Declarant until 100% of the Lots have been conveyed to Retail Owners.

3.17. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy making authority or those duties set forth in Sections 3.15(a) and 3.15(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 30 days written notice.

3.18. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) accounting and controls should conform to generally accepted accounting principles;
- (b) cash accounts of the Association shall not be commingled with any other accounts;

(c) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(d) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(e) the following financial and related information shall be regularly prepared and distributed by the Board to all Members of the Association:

(i) The Board shall cause an "Annual Budget" for the Association to be prepared for each fiscal year of the Association. A summary of the adopted Annual Budget shall be distributed to each Member within 30 days after adoption. If the Board fails to adopt a budget, the last adopted annual budget shall continue in effect. In calculating the Annual Budget, the Board shall account for the following:

(A) the estimated revenue and expenses of the Association for the forthcoming fiscal year;

(B) the amount of the total cash reserves of the Association currently available for the replacement or major repair of the Common Area and for contingencies;

(C) an estimate of the current replacement costs of the estimated remaining useful life of, and the methods of funding to defray future repair, replacement or additions to, those major components of the Common Area; and

(D) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves, if any, to defray the future repair, replacement or additions to major components of the Common Area.

(ii) Within 90 days after the end of the fiscal year, the Board shall cause an annual report consisting of a balance sheet and income and expense statement ("Financial Statement") to be prepared and distributed to each Member of the Association. A copy of the Financial Statement shall be distributed personally or by mail or other manner reasonably designed to provide delivery to each of the Members of the Association.

(iii) The Board shall do the following not less frequently than quarterly:

(A) cause a current reconciliation of the Association's operating accounts to be made and review the same;

(B) cause a current reconciliation of the Association's reserve account, if any, to be made and review the same;

(C) review the current year's actual reserve revenues, if any, and expenses compared to the current year's Budget;

(D) review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts;

(E) review an income and expense statement for the Association's operating and reserve accounts; and

(F) review the delinquency report listing all Members who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent. (Any assessment or installment thereof shall be considered to be delinquent on the 31st day following the due date unless otherwise determined by the Board.)

(iv) A statement of the Association's policies and practices in enforcing its remedies against Members for default in the payment of assessments, including the recording and foreclosing of liens against Lots, shall be distributed to Members of the Association within 60 days before the beginning of each fiscal year.

3.19. Borrowing. No loan shall be contracted on behalf of the Association, and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors and approved by the affirmative vote of the owners of seventy five percent (75%) of the Project. Such authority may be general or confined to specific instances.

3.20. Rights of the Association. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, cooperatives, or other owners or residents associations, both within and outside the Project. Such agreements shall require the consent of a majority of the total number of directors of the Association.

3.21. Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable fines. A fine, other than a penalty for nonpayment of assessments, shall constitute a lien upon the Lot of the violating Member pursuant to Section 4.2 of the Declaration. The Board shall also have the power to suspend an Member's right to vote for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder. In addition, the Board may suspend any services provided by the Association to an Member or the Member's Lot if the Member is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Lot violates the Declaration, Bylaws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Member shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of

the Declaration, Bylaws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) **Notice.** Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator written notice stating (i) the violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 15 days within which the alleged violator may present a written request for a hearing to the Board and; (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 15 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) **Hearing.** If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The decision of the Board is Final.

(c) **Additional Enforcement Rights.** Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws, or the rules of the Association by self-help (specifically including but not limited to, the towing of vehicles that are in violation of parking rules and regulation however, only in accordance with any applicable ordinances(s) of the City of Ashland, if applicable) or, following compliance with the procedures set forth in the Declaration, by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Member or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

3.22. Prohibited Acts. The Board shall not take any of the following actions except with the written consent or vote of the Members representing at least a majority of the Members other than the Declarant:

(a) to incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 20% of the budgeted Common Expenses of the Association for that fiscal year;

(b) to pay compensation to directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association;

(c) to enter into a contract with a third Person wherein the third Person will furnish goods or services for the Area of Common Responsibility or the Association for a term longer than one year with the following exceptions:

(i) a management contract, the terms of which have been approved by the U.S. Department of Veterans Affairs ("VA") or the U.S. Department of Housing and Urban Development ("HUD") if either agency is guaranteeing or insuring a mortgage in the Project;

(ii) a contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(iii) prepaid casualty and/or liability insurance policies not to exceed three years duration, provided that the policy permits short rate cancellation by the insured;

(iv) agreements for cable television services and equipment or satellite television services and equipment not to exceed five years duration, provided that the supplier is not an entity in which Declarant has a direct or indirect interest of 10% or more; and

(v) agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services thereof, not to exceed five years duration, provided that the supplier is not an entity in which Declarant has direct or indirect interest of 10% or more.

(d) no contract with the Association negotiated by Declarant shall exceed a term of one year except as may otherwise be provided in paragraph (d) of this Section, and all contracts entered into prior to the turnover meeting provided for in ORS 94.609 are subject to the requirements of ORS 94.700.

ARTICLE IV **OFFICERS**

4.1. Officers. The Officers of the Association shall be a President, a Secretary and a Treasurer, and such other Officers as the Board may from time to time deem necessary. A person may simultaneously hold more than one office, and Officers need not be a member of the Board of Directors or Owners of Lots in the Project.

4.2. Election and Term of Office. Following Turnover, the officers of the Association shall be elected annually by the Board, effective the first meeting of the Board as set forth in Article 3.7, and annually thereafter.

4.3. Removal and Vacancies. Any officer may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office

arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association (other than for the withdrawal of reserve funds) shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board. The Board shall require signatures for the withdrawal of reserve funds of either two members of the Board or a member of the Board and officer of the Association who is not also a member of the Board. For purposes of this section, "reserve funds" means monies the Board has identified in the Budget for use to defray the future repair or replacement of, or additions, to those major Common Areas which the Association is obligated to maintain.

ARTICLE V

LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS AND COMMON INTERESTED DIRECTORS.

5.1 Liability and Indemnification of Officers and Directors. The Association shall indemnify every Officer and Director of the Association against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any Officer or Director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors of the Association) to which he/she may be made a party by reason of being or having been an Officer or Director of the Association whether or not such person is an Officer or Director at the time such expenses are incurred. The Officers and Directors of the Association shall not be liable to the Members for any mistakes of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Officers and Directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such Officers or Directors may also be Owners of Lots) and the Association shall indemnify and forever hold each such Officer and Director free and harmless against any and all liabilities to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Officer or Director of the Association or former Officer or Director of the Association may be entitled.

5.2 Common Interested Directors. The Directors shall exercise their powers and duties in good faith and with a view of the interests of the Association. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association (including the Declarant), in which one or more of the Directors of the Association are Directors or Officers or are pecuniarily or otherwise interested, is either void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the Minutes, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for that purpose; or

(b) The fact of the common directorate or interest is disclosed or known to the Members, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for that purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Common or interested Directors may be counted in determining the presence of a quorum at any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if he/she were not such Director or Officer of such Association or not so interested.

ARTICLE VI **INSURANCE**

6.1 Insurance to be Obtained by Association. The Association shall obtain and maintain at all times insurance, as set forth herein, including insurance against fire, vandalism and malicious mischief, where applicable and appropriate, with endorsement for extended coverage, or other perils, for the full insurable replacement value of the Association property. The insurer shall be governed by the following provisions:

(a) The insurer shall waive its rights of subrogation to any claims against the Declarant, the Board of Directors, the Association, the Managing Agent, the Owners and their respective agents, employees, tenants, guests and, in the case of Owners, the members of their households.

(b) The master policy on the Association property shall not be cancelled, invalidated, or suspended on account of the conduct of any Member of the Board, Officer or employee of the Board of the Board of Directors or the Managing Agent or Owners, without a prior demand in writing that the Board of Directors or the Managing Agent cure the defect.

(c) The policy may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Board of Directors.

(d) The net proceeds of such policies shall be payable to the Association.

(e) All policies of insurance shall be written with a company licensed to do business in the State of Oregon and holding a rating of "A+" or better by the Best's Insurance Reports, or equivalent.

(f) In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their mortgagees.

6.2 Coverage.

(a) **Casualty.** All improvements, which the Board decides should be insured, in the Common Area shall be insured in an amount to be determined annually by the Board of Directors. If determined appropriate by the Board, such coverage shall afford protection against:

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

(ii) Such other risks as from time to time shall customarily be covered with respect to similar construction as found in the Common Area, including, but not limited to, vandalism and malicious mischief.

(b) **Liability Insurance.** Public liability insurance shall be obtained in such amounts and with coverages as shall be required by the Board of Directors, and shall include, but not be limited to, hired automobile and non-owned automobile coverage if necessary, with a cross-liability endorsement to cover liabilities of the Owners as a group to an Owner. The Board of Directors shall review such limits once a year. It shall be the responsibility of each Owner to obtain, at his/her own expense, liability insurance with respect to his/her ownership and/or use of his/her Dwelling Unit and Lot, and the Board of Directors shall not be responsible for obtaining such insurance.

(c) **Other Coverage.** In addition, the Board shall obtain the following coverages.

(i) Worker's compensation insurance meeting all the requirements of the laws of the State of Oregon, if applicable.

(ii) Directors and Officers liability insurance, if the Board deems necessary.

(iii) Fidelity bond coverage in such minimum amounts required by ORS 94.675, as hereafter amended, for:

(A) All persons with access to Association funds, including directors, officers, employees, managing agents and employees of a management company or other entity with which the association contracts.

(B) Computer fraud and funds transfer fraud.

(C) Following the turnover meeting, the Board may annually, with the approval of owners representing a majority of the votes present at a meeting, elect for the following year to not maintain the fidelity bond coverage required hereunder or to maintain fidelity bond coverage in an amount less than that required by statute for the following year.

(iv) Such other insurance as the Board of Directors shall determine from time to time to be desirable.

6.3 Premiums. Premiums for insurance policies purchased by the Association shall be assessed by the Association against the Members as part of the Common Expenses.

6.4 Payment of Proceeds to Association. All insurance policies purchased by the Association shall be for the benefit of the Association and shall provide that all proceeds covering property losses shall be paid to the Association.

6.5 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed in the following manner.

(a) **Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided.

(b) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds may be used by the Association for such Common Area improvements as it shall deem appropriate.

6.6 Insurance to Be Obtained By Owner. Each Owner of a Lot shall insure his Dwelling Unit at its full insurable replacement value against fire, vandalism and malicious mischief with an endorsement for extended coverage. Each Owner shall obtain from his/her insurance carrier a waiver of its subrogation rights to any claims against the Declarant, the Board of Directors, the Association, the Managing Agent, the Owners and their respective agents, employees, tenants, guests and, in the case of Owner, the members of their households.

ARTICLE VII
MISCELLANEOUS

7.1 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board. In the absence of a resolution, the fiscal year shall be the calendar year.

7.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Oregon law, the Articles of Incorporation, the Declaration, or these Bylaws.

7.3 Conflicts. If there are conflicts between the provisions of Oregon law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Oregon law, the Declaration, the Articles of incorporation, and the Bylaws (in that order) shall prevail.

7.4 Books and Records

(a) **Inspection by Members and Mortgagees.** The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Declaration, Bylaws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, the most recent Financial Statement, the current Budget, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Project as the Board shall designate.

(b) **Rules for Inspection.** The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made;
- (iii) payment of the cost of reproducing copies of documents requested.

(c) **Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

7.5 Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the mailing or email address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

7.6 Amendment.

(a) **By Declarant Member.** Prior to the conveyance of the first Lot, Declarant may unilaterally amend these Bylaws. After the conveyance of any Lot to a Retail Owner, the Declarant may unilaterally amend these Bylaws at any time if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots; or (iv) otherwise necessary to satisfy the requirements of any governmental agency for approval of these Bylaws. However, any such amendment shall not adversely affect the title to any Lot unless the affected Owner shall consent thereto in writing.

(b) **By Members Generally.** Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 51% of each class of Members.

(c) **Validity and Effective Date of Amendments.** Amendments to these Bylaws shall become effective upon recordation in the Office of the County Clerk unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

If an Member consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Member has the authority so to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Discrimination Prohibited (ORS 93.270). These Restated Bylaws do not contain any restriction, rule or regulation against the use of the community or the lots by a person or group of persons because of race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, disability, or the number of individuals,

including family members, persons of close affinity or unrelated persons who are simultaneously occupying a dwelling unit within occupancy limits, or genetic information as set forth in applicable state and federal law and the Association and its Members are prohibited from discriminating against any individuals based on the foregoing.

ADOPTION OF BYLAWS

The undersigned hereby adopt the foregoing on behalf of the Association as the Bylaws of the Grizzly Peak View Homeowners' Association, this ____ day of _____, 20__.

GRIZZLY PEAK VIEW HOMEOWNERS'
ASSOCIATION

By: _____
_____, President

By: _____
_____, Secretary

After Recording Return to:
Overlook Drive, LLC
602 Sutton Place
Ashland, OR 97520

Grantor:
Overlook Drive, LLC

Grantee:
Grizzly Peak View
Homeowners' Association

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

GRIZZLY PEAK VIEW SUBDIVISION

A PLANNED COMMUNITY

Overlook Drive, LLC, an Oregon limited liability company, is the Owner in fee simple of real property commonly referred to as Grizzly Peak View Homeowners' Association (hereinafter referred to as "the Project") located in the City of Ashland, County of Jackson, State of Oregon, more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference, and made a part hereof.

RECITALS, INTENT, AND PURPOSE

- A.** Grizzly Peak View Subdivision, a planned unit development is a Class II Planned Community and is subject to the Planned Community Act (ORS 94.550-94.783).
- B.** The Bylaws have been adopted under ORS 94.625 and shall be recorded herewith.
- C.** It is the desire and intention of Declarant to subject the Project to the covenants, conditions and restrictions set forth in this Declaration.

DECLARATION

Now, therefore, Declarant hereby declares that the Project shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved, subject to the following covenants, conditions and restrictions, all of which are in furtherance of a plan for the subdivision, improvement and sale of the Project as an interrelated development, and which are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Project. All of the covenants, conditions and restrictions herein set forth shall run with the

Project and shall be binding on all parties having or acquiring any right, title or interest in the Project or any part thereof and shall be for the benefit of each Owner of any portion of the Project, or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest of such Owners.

NAME

The name by which the Project shall be known is Grizzly Peak View.

ARTICLE 1 DEFINITIONS

In addition to the terms defined in ORS Chapter 94 and elsewhere defined herein, the following terms shall have the following meanings whenever used in this declaration.

1.1 Articles; Bylaws. The Bylaws are recorded herewith in the Official Records of Jackson County, attached as Exhibit "C," and incorporated herein by reference and made a part thereof.

1.2 Association. The Grizzly Peak View Homeowners' Association.

1.3 Board. The Board of Directors of the Association.

1.4 City Code. The code and any other relevant ordinances, laws, or regulations of the City of Ashland, Oregon.

1.5 Common Area. All of the property less the Lots as defined in Section 1.11 below, as depicted in the site plan at Exhibit "B" incorporated herein by reference, and which includes private driveway and turn around, guest parking, open space, and storm water detention and drainage system. Full scale size print copies are available for review upon request by Association Members.

1.6 Project. All the real property described on Exhibit "A" attached hereto, commonly referred to as Grizzly Peak View.

1.7 Declarant. Overlook Drive, LLC, its successors and assigns.

1.8 Declaration. This Declaration as from time to time amended or supplemented.

1.9 Dwelling Unit. The residential structure, including any patio, porch, or other physical appurtenance to such structure, constructed on a Lot by the Declarant or by a successor Owner. Dwelling Unit is also referred to as a "Dwelling."

1.10 Fiscal Year. The fiscal year shall run from January 1 through December 31.

1.11 Lot. That portion of the Project conveyed or to be conveyed by the Declarant to an individual Owner in fee simple. For the purposes of this Declaration, a Lot shall exist from and after the date of recording an instrument making such Lot subject to this Declaration.

1.12 Mortgage. Mortgage or a deed of trust of record encumbering a Lot. The term "mortgagee" shall include the beneficiary under a deed of trust and the vendor under a recorded land-sale contract or recorded memorandum of a land-sale contract.

1.13 Owner. The record Owner or Owners, if more than one of a Lot, including Declarant and including a vendee under a recorded land-sale contract or recorded memorandum of land-sale contract.

1.14 Private Yard. The portion of a Lot not occupied by the Dwelling Unit, including consisting of front, side or rear yards, subject to maintenance by the Lot owner.

1.15 PUE. Public Utility Easement as shown on the final plat of this PUD.

1.16 Successor Owner. The owner of a Lot purchased from Declarant or purchased from another Successor Owner.

ARTICLE 2 **ASSOCIATION**

2.1. Organization. The Association is a nonprofit corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with the Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The Board, and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with the Articles and Bylaws as from time to time amended.

2.2 Membership. Each Owner shall be a Member of the Association and shall be entitled to one membership for each Lot owned. Each Member shall have the rights, duties, and obligations set forth in this Declaration, the Articles, the Bylaws, and the Association Rules as the same may from time to time be amended. The membership of each Owner in the Association shall be appurtenant to the Lot giving rise to such membership and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon the transfer of title to such Lot and then only to the transferee of title thereto. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof. For purposes of membership, the recording of a land-sale contract or memorandum thereof shall constitute a transfer of the title to a Lot.

2.3 Voting.

(a) Members Entitled to Vote. Only Members of the Association shall be entitled to vote. The voting privileges of Members shall be as provided herein. Any action by the

Association which must have the approval of the Association membership before being undertaken shall expressly require the vote or written assent of a prescribed percentage of the total voting power of the Association as more particularly stated within the Declaration. The Association shall have two classes of voting:

(1) **Class A Members.** Class A Members shall have one (1) vote for each Lot. When more than one person owns a single Lot, all Owners shall be Members of the Association. However, the vote for each Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner (or Owners) casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Owner(s) was acting with the authority and consent of any other Owners of said Lot. The right to vote may not be severed or separated from the Lot ownership to which it is appurtenant, and any sale, transfer, or conveyance of such Lot to a new Owner(s) shall operate to transfer the appurtenant vote without the requirement of any expressed reference thereto.

(2) **Class B Member.** The Class B Member shall be the Declarant, its successors and assigns. The Class B Member shall be entitled to four (4) votes for each Lot in which it holds the interest required for membership as provided in Section 2.3(a) above. Class B membership shall be converted to Class A membership and shall forever cease to exist when one hundred percent (100%) of the Lots are conveyed to retail Owners other than Declarant.

(b) **Voting Procedures.** Any vote may be cast in person or by proxy. All proxies shall be in writing, dated, and signed by the Owner giving the proxy and filed with the Secretary before the commencement of any meeting. The proxy shall terminate eleven (11) months after its date unless the proxy specifies a shorter term. Every proxy shall automatically cease upon the sale of the Lot by the Owner and upon the death or incapacity of the Member who executed the proxy.

(c) **Declarant's Right to Vote.** Notwithstanding any other provision of this Declaration, and except as provided in Section 9.1, any provision of this Declaration that provides for approval by a prescribed percentage of Members' votes, other than the Declarant, shall be effective and construed also to require the affirmative vote of a majority of the total votes of all Members, including the Declarant.

(d) **Suspension of Voting Rights.** The voting rights of an Owner shall be suspended during such period as any assessment due hereunder from such Owner remains unpaid for more than thirty (30) days after the due date; provided, however, that the Board shall give any such Owner at least fifteen (15) days' notice prior to such suspension and such Owner shall be entitled to a hearing before the Board in accord with Section 3.4 of the Bylaws.

2.4 Initial Board of Directors. Declarant shall appoint the initial Board. Thereafter, the Board shall be elected as provided in the Bylaws.

2.5 Duties of the Association. The Association shall have the obligation and duties subject to and in accordance with this Declaration to do and perform the following acts for the benefit of its Members and for the maintenance and improvement as follows:

(a) **Common Area Maintenance and Operation.** To maintain and otherwise manage the Common Area, after such property is conveyed or otherwise transferred to it, all improvements located thereon, all easements for operation and maintenance purposes over the Common Area, and all easements for the benefit of Members and the Association within the Common Area. The Common Area includes but is not limited to, landscaped open space, private driveway and turnaround, four guest parking spaces, stormwater detention/bioswale area, and street trees. In addition, the Association shall maintain that 16.5-foot-wide private utility easement and 16-foot-wide private access easement located on Lot 3 for access and utilities to Lot 4, as depicted at Exhibit “B”. The Association’s duty to maintain the Common Area includes:

- (1) Removal of any debris deposited by winter storms;
- (2) Annual (spring) inspection and start-up of irrigation system;
- (3) Annual (fall) maintenance of the irrigation system, including inspection of heads, winterization and coverage;
- (4) Semi-annual maintenance of porous concrete in parking area;
- (5) Semi-annual maintenance of private drive; and
- (6) All other responsibilities as provided in that Declaration of Covenants for Operation and Maintenance of Stormwater Facilities separately recorded in the Official Records of Jackson County.

(b) **Utilities.** To acquire, provide and/or pay for water, sewer, garbage disposal and pickup, electrical, gas and other necessary utility services for the Common Area.

(c) **Walkways, Mailboxes, Etc.** The Association shall, after construction thereof by Declarant as a part of the initial development of the Project, maintain, repair, replace, reconstruct and relocate pathways, lighting, signs, any shared mail and post boxes, as initially designated on the plans filed with the Association or as initially constructed by Declarant.

(d) **Other.** To perform such other acts whether or not expressly authorized by this Declaration as may be reasonably necessary to enforce any of the provisions of this Declaration, the Bylaws, and the Association Rules.

2.6 Powers and Authority of the Association. The Association shall have all of the powers of a nonprofit corporation organized under the general nonprofit corporation laws of the State of Oregon subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, Bylaws, or this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles, and the Bylaws and to do and to perform any and all acts which may be necessary and proper for or incidental to the exercise of any of the express powers of the Association, including without limitation:

(a) **Assessments.** To levy assessments on the Owners and enforce payment of such assessments all in accordance with the provisions of Sections 3 and 4 of this Declaration.

(b) **Right of Entry and Enforcement.** To enter upon any Lot for the purpose of performing the duties of the Association set forth in Section 2.5 of this Declaration; in enforcing by peaceful means any of the provisions of this Declaration; and maintaining or repairing any area on each Lot in a neat and attractive manner required to be maintained by an Owner if for any reason such Owner fails to maintain or repair such area. Such entrance upon a Lot shall be after seventy-two (72) hours' prior written notice to the Owner; provided, however, that such entrance shall be permitted upon consent of at least one Board Member without any prior notice in the event of an emergency. An emergency shall be deemed to exist when there is a condition causing peril or threat to persons or property. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner or Owners who consent thereto to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration and to enforce by mandatory injunction or otherwise all the provisions hereof. These rights will be exercised in such a manner as reasonable to minimize any adverse impact upon the Owner's right of enjoyment of his/her Lot.

(c) **Easements and Rights-of-Way.** To grant and convey to any third party easements and rights-of-way in, on, over, and under the Project for the purpose of constructing, erecting, operating, or maintaining thereon, therein or thereunder, overhead, or underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes; public sewers; storm water drains and pipes; water systems; sprinkling systems; water and gas lines or pipes; cable T.V. lines; security system lines; and any similar public or quasi-public improvements or facilities.

(d) **Employment of Manager.** To employ the services of a person or firm to manage the Project and the affairs of the Association (the "Manager") to the extent deemed advisable by the Board, as well as other such personnel as the Board shall deem to be necessary or proper for the operation of the Project, whether such personnel are employed directly by the Association or are furnished by the Manager.

(e) **Services.** To contract for materials and/or services for the Project or the Association. Any such service contract or management contract pursuant to Section 2.6(d) of the Declaration shall be subject to termination by either party without cause upon thirty (30) days' notice in writing to the other party.

(f) **Rules.** By majority vote of the Board and from time to time to adopt, amend, enforce, and repeal such rules and regulations as the Board shall determine to be necessary or proper to the operation of the Project (the "Association Rules"). The Association Rules shall govern the use of the Project by any Owner, by the family of such Owner, or by any invitee, licensee, or tenant of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles, or Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if set forth in and a part of this

Declaration. The Association Rules shall not materially change the rights or privileges of any person or the restrictions on any Lot as herein set forth.

ARTICLE 3 **FUNDS AND ASSESSMENTS**

3.1 Operating Fund. The Association shall establish and maintain an operating fund into which shall be deposited all moneys paid to the Association as regular, special, and emergency assessments and miscellaneous fees and from which fund the Association shall make disbursements in the performance of its rights and duties as provided for in this Declaration.

3.2 Reserve Fund. The Association may also establish and maintain a reserve fund for replacement of all items of Common Area which will normally require replacement in whole or in part in more than three (3) and less than thirty (30) years including but not limited to: repaving/resurfacing of parking area and drive aisle; major maintenance of stormwater detention facility; and for such other items as may be required by this Declaration or the Bylaws. In the event the Board establishes a reserve fund, it shall annually review and, if necessary, update any reserve study and existing maintenance responsibilities for the Common Area to determine the reserve account requirements and a reasonable reserve assessment. The operating fund and the reserve fund, if any, shall be kept in separate accounts.

3.3 Regular Assessments. Within forty-five (45) days prior to the beginning of each fiscal year, the Board shall estimate the costs and expenses to be incurred by the Association during such fiscal year in performing its rights and duties under this Declaration, including a reasonable provision for unanticipated expenses and replacements and less any anticipated surplus from a prior year's fund provided that the Board may not, without the vote or written assent of the majority of the voting power of the Association residing in Members other than the Declarant, impose a regular annual assessment per Lot which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year. Such estimated amount shall be assessed equally to the Owners. The amount per Lot so assessed to each Owner is called the "Regular Assessment."

3.4 Special or Emergency Assessments. In addition to the Regular Assessments, the Board may levy during any fiscal year a special or emergency assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction (including reconstruction costs in excess of insurance proceeds), repair of any common watered areas or utilities, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto, or any extraordinary expenses not contemplated by this Declaration of whatsoever nature provided that in any fiscal year the Board may not, without the vote or written assent of a majority of the voting power of the Association residing in Members other than the Declarant, levy special or emergency assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. No special or emergency assessment shall be levied with respect to the initial construction of the Project, it being understood that all such construction shall be at the sole cost and expense of the Declarant. Except as otherwise provided herein, special and emergency assessments shall be assessed to the

Owners equally and shall be paid as the Board shall determine. The provisions herein with respect to special and emergency assessments do not apply in the case where the special assessment against a Member is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the Member and his/her Lot into compliance with the provisions of this Declaration or the Bylaws.

3.5 Reimbursement Assessment. The Board shall levy an assessment against any Owner who has failed to comply with or has breached this Declaration or the Association Rules or Bylaws for whom moneys or expenses were expended or incurred by the Association from the operating fund in performing its functions or enforcing the provisions of this Declaration, the Association Rules, or Bylaws. Such assessment shall be for the purpose of reimbursing the Association and shall be limited to the amounts so expended or incurred, along with any penalties or interest, and shall be due and payable to the Association when levied.

3.6 Payment of Assessments. Each Owner shall be obligated to pay Regular Assessments made pursuant to this Article 3, as well as any Reserve Assessment which may be adopted by the Board, to the Association in equal monthly installments on or before the first day of each month in advance or at such other times as the Board shall designate. The Board shall provide each Owner with a statement of the annual assessment within ten (10) days prior to the beginning of each fiscal year but shall not be obligated to provide monthly statements to any Owner thereafter. Special assessments shall be payable in such manner as the Board shall designate.

3.7 Commencement of Assessments. The Regular Assessments shall commence as to each respective Lot upon the close of the sale of the Lot to someone other than the Declarant. The first Regular Assessment shall be adjusted according to the number of months remaining in the fiscal year, and the initial payment due with respect to a partial month from an Owner, other than the Declarant, shall be prorated as of the close of escrow for the purchase of such Owner's Lot. Notwithstanding any other provisions herein, in the event that assessments benefit fewer than all of the Lots such costs may be assessed exclusively against those benefitted Lots.

ARTICLE 4 **ENFORCEMENT OF ASSESSMENTS**

4.1 Covenant to Pay Assessments. Declarant covenants for each Lot owned and each Owner, other than Declarant, by acceptance of a deed to a Lot, shall be deemed to covenant to pay assessments levied in accordance with Article 3.

4.2 Enforcement. Each assessment levied hereunder shall be a separate, distinct, and personal debt and obligation of the person who is the Owner of such Lot at the time such assessment became due and payable. In the event of a default in payment of any such assessment, the Association may enforce each such obligation by any and all remedies provided by law. In the event the Association brings an action to enforce each such assessment obligation, any judgment rendered in any such action shall include a sum for reasonable attorney fees in such amount as the court may adjudge against the defaulting Owner, including reasonable attorney fees on appeal.

At any time when an assessment of any type provided for by this Declaration or an installment thereof is delinquent, the Association, by and through its Board or designated agent, may file a notice of lien in the deed records of Jackson County, Oregon, against the Owner and Lot to which the assessment pertains as provided by ORS 94.709.

Notwithstanding any other provision of this document, any general, special or other assessment levied under the authority of this document against a property in the Project by the Association shall at all times be second, inferior and subordinate to the lien of a mortgage or deed of trust and related loan documents, in favor of a bank or lending institution, and this provision may not be altered or amended without the express approval of a lender holding any such mortgage, deed of trust or other loan documents.

ARTICLE 5

LANDSCAPE AND ARCHITECTURAL REVIEW

5.1 Board Review of Landscape and Architectural Plans. It shall be the duty of the Board to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof to ensure that overall building designs, roof pitch, painting or exterior coverings, window placements and sizes, or improvements constructed, which shall also include landscaping and plantings, in the Project by anyone other than Declarant, conform to plans approved by the Board. No person shall make any alterations to the exterior of a Dwelling Unit until the complete plans and specifications showing the location, nature, shape, height, and form of change (including without limitation any other information specified by the Board) have been submitted to and approved in writing as to overall appearance and harmony of design and location in relation to the surrounding structures and topography by the Board.

5.2 Architectural Rules. The Board may, from time to time, in its sole and absolute discretion, adopt, amend, and repeal rules and regulations to be known as "Architectural Rules." Said rules shall interpret and implement this Declaration by setting forth the standards and procedures for any Board review and the design guidelines for architectural design, placement of buildings, landscaping, exterior finishes, and materials, and similar features which are recommended for use within the Project. These rules shall not conflict with the special limitations set forth in this Declaration.

5.3 Application for Approval of Improvements. Any Owner, except the Declarant and its designated agents, proposing to perform any work of any kind which requires the prior approval of the Board pursuant to any provision in this Declaration, shall apply to the Board for approval by notifying the Board of the nature of the proposed work in writing and furnishing such information as the Board may require.

5.4 Approval/Disapproval. All approvals given under this Article 5 shall be in writing. If a requested approval has not been granted within forty-five (45) days from the date of submission of all information requested by the Board, the proposal shall be deemed approved. The Board's decision shall be final.

5.5 Completion of Work. An Owner shall complete the construction, reconstruction, refinishing, or alteration of any such improvement within twelve (12) months after commencing construction thereof, except for so long as such completion is rendered impossible or will result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or his/her agents. If the Owner fails to comply with this Section 5.5, the Board shall proceed in accordance with the provisions of Section 5.6 as though the failure to complete improvement were noncompliance with approved plans. Landscaping on each Lot shall comply with the Project approved landscape plan.

5.6 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any construction or reconstruction or the alteration or refinishing of the exterior of any improvements or upon the completion of any other work for which approved plans are required under this Article 5, the Owner shall give written notice thereof to the Board.

(b) Within thirty (30) days thereafter, the Board or its duly authorized representatives may inspect such improvement to determine whether it was constructed, reconstructed, altered, or refinished to substantial compliance with the approved plans. If the Board finds that such construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance specifying particulars of noncompliance and shall require the Owner to remedy such noncompliance.

(c) If upon the expiration of thirty (30) days from the date of such notification, the Owner shall have failed to remedy such noncompliance, the Board shall set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall be not more than thirty (30) days nor less than fifteen (15) days after notice thereof by the Board to the Owner, and in the discretion of the Board, to any other interested party. The hearing procedure shall conform to subsection (d) below and any Rules adopted by the Board pursuant to the Bylaws.

(d) At the hearing, the Owner, and in the Board's discretion, any other interested person, may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance, and if so, the nature thereof and the estimated costs of remedying the noncompliance. If noncompliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such a period or within any extension of such period the Board, in its discretion, may either remove the noncompliant improvement or remedy the noncompliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Reimbursement Assessment against such Owner pursuant to Section 3.5 hereof.

(e) If for any reason the Board fails to notify the Owner of any noncompliance within forty-five (45) days after receipt of said notice of completion from the Owner, the improvement shall be deemed to be in accordance with the said approved plans.

5.7 Liability. Neither the Board nor any member thereof or their delegates shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of plans, drawings, and specifications whether or not defective; (b) the construction or performance of any work whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Project; or (d) the execution and filing of an estoppel certificate whether or not the facts therein are correct, provided, however, that such member has acted in good faith on the basis of such information as may be possessed by said Board member. Without in any way limiting the generality of the foregoing, the Board or any member thereof may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Board. Approval by the Board does not mean the Board is warranting or incurring any liability for the structural adequacy of the plans, drawings, and specifications submitted to and approved by said Board. Plans, specifications, and drawings may require building permits and other entitlements from the appropriate governmental agencies.

5.8 Termination of Architectural Review. A majority of the Board may vote to terminate requirements to submit for architectural review of Dwellings, landscaping, or fencing.

ARTICLE 6

PROPERTY RIGHTS AND EASEMENTS

6.1 Conveyance of Common Area. Declarant hereby covenants for itself, successors, and assigns that prior to or at the Turnover Meeting provided for in the Bylaws, it will convey fee simple title to any common area to the Association free and clear of all liens and encumbrances except the covenants, conditions, and restrictions herein set forth, easements, and utility rights-of-way then of record. All said facilities shall be for the use and benefit of the Owners, tenants, guests and licensees in the Project.

6.2 Easements in Common Area. Every Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Area and any easements shown on the final plat, a nonexclusive easement for ingress and egress over and through the Common Area, and a nonexclusive easement for vehicular ingress and egress over and through those portions of the Common Area which shall be designated as a driveway or parking area as depicted on the Plat. Such easements shall be appurtenant to the right of the Association to sell, transfer, or encumber all or any portion of the Common Area to a person, firm, or entity, whether public or private, and the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such sale, transfer, encumbrance, or dedication shall be effective except upon compliance with the City's Land Use Ordinance and current final order of approval for the Project, and the prior vote or written consent of Members representing seventy-five percent (75%) of the total voting power of Members without any weighted vote; provided, however, that a dedication

required by a governmental agency as a condition to recording a final plat covering any portion of the real property shall require no such prior vote or written consent.

6.3 Utility Easements. Each Lot shall be conveyed to Owners, other than Declarant, subject to any and all easements of record for the use and benefit of several authorized public and/or private utilities, including but not limited to cable T.V., sanitary sewer, water, gas, electrical, and drainage easements, and no Owner shall damage or interfere with the installation or maintenance of such utilities or in any manner change the direction or flow of drainage channels in any such easements or in any manner construct or retard the flow of water through drainage channels in any such easement.

6.4 Blanket Easements for Private Utilities, Internal Sidewalks and Walkways. Each Owner has an easement for reasonable access and use of, in, and through each other Lot, and the Common Area, for private utility easements, and other service elements, and for reasonable access required to effectuate and continue proper operation of the Dwelling Units and Common Area. Each Lot and all the Common Area are specifically subject to the foregoing easement for access and use as required for the private utility lines and services for each Unit, including private water, sewer and storm lines. The rights described in this Section may be exercised only upon reasonable notice to the other Owner, at such time or times reasonably convenient to the other Owner, and in a manner that minimizes any interference with the other Owner's use and enjoyment of their Lot. Each Owner shall have an easement over the Common Area for reasonable ingress to and egress from the Owner's Lot. Such easement shall be perpetual and appurtenant to the Lot ownership. Each Owner hereby further grants to each other Owner, by accepting title to a Lot, a non-exclusive right of passage on and over such pathways or sidewalks that traverse over its Lot for the further purpose of access to and from any Common Area or Lot.

6.5 Easements Granted by Owners of Lots. Declarant hereby declares a non-exclusive easement of ingress and egress to the Association, on behalf of Owners accepting title to Lots, their successors and assigns, to that portion of an Owner's Lot as may be reasonably acquired by the Association to exercise and otherwise perform its rights under Section 2.5.

6.6 Delegation. Any Owner may delegate his right of use and enjoyment to the Common Area to the Members of his family or tenants who reside on his Lot. Tenants shall not have the right to further delegate the Owner's right to use and enjoy the Common Area. As to tenants, such Owner shall notify the Association in writing of such delegation and the names of such delegees. The rights and privileges of any delegee shall be in accordance with and subject to this Declaration; provided, however, that the Owner making such delegation (and his Lot) shall remain liable for the assessments herein provided for and subject to all of the terms and conditions of this Declaration.

ARTICLE 7 **USE RESTRICTIONS**

The use of the Lots and the Common Area shall be restricted in accordance with the following provisions in addition to all other covenants, conditions, and restrictions herein contained.

7.1 Residential Use. The Lots and Dwelling Units shall be used for residential purposes only except as specifically provided for in this Declaration.

7.2 Owners Obligations of Maintenance/Insurance. Each Owner shall maintain and keep his or her Dwelling (including exterior paint, siding, and roof) and Lot in a clean, sanitary, and attractive condition. If an Owner fails to maintain their Dwelling Unit, Yard and/or Lot, as required herein, the Association shall have the right to go upon the Owner's Lot and perform such maintenance pursuant to the Association's authority set forth in Section 2.6 hereof. The costs incurred by the Association shall be assessed against the Lot as a Reimbursement Assessment pursuant to Section 3.5. In order to provide for repair or reconstruction following casualty damage, Owners shall carry such insurance coverage as required by the Bylaws of the Association.

7.3 Commercial Use. No industry, business, trade, occupation, or profession of any kind shall be conducted, maintained, or permitted on any part of the Project, unless specifically allowed by this Declaration or approved as a home occupation by the City of Ashland and any other applicable governmental authority.

7.4 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot. Dogs, cats or other tame, domestic household pets are allowed in the Project, provided that such household pets are not kept, bred, or maintained for any commercial purpose. Such pets as herein permitted shall be housed within the Dwelling and under no condition shall any Lot be used as a kennel. Dogs and cats shall not exceed a total of three (3) in number. Caged birds shall be limited to five (5) in number. Household pets shall not be allowed to make an unreasonable amount of noise or otherwise to become a nuisance. No dog shall be permitted outside of the Yard of the Owner or person in control unless it is leashed and under the control of a responsible person. Upon request of any Owner, the Board shall determine, in its sole discretion, whether for the purpose of this Section, a particular animal shall be considered a house pet or a nuisance. The Owner of any pet shall be responsible for cleaning up after said pet on any property within the Project. Any structure for the care, housing, or confinement of any pet shall be approved by the Board for its design and placement on each Lot.

7.4.1 Feral Animals. Owners are discouraged from feeding feral animals or wildlife. In order to avoid disruption within the Project and to ensure the safety of all animals within the Project, any Owner who feeds feral cats must provide proof to the Board that such feral cats have been spayed or neutered.

7.5 Outside Storage. No exterior storage of any items of any kind shall be permitted unless such exterior storage is in areas screened or concealed from view from neighboring Lots and streets. This shall apply but not be limited to, campers, boats and trailers.

7.6 Trash Receptacles. No part of the Project shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other waste. Trash and garbage shall be deposited in appropriate covered trash receptacles.

7.7 **Recycling.** Storage of materials to be recycled shall be kept at all times within each garage, except on designated refuse/recycling pickup days.

7.8 **Bicycle Parking.** Bicycle parking is only permitted within a Dwelling Unit garage or behind a screened area.

7.9 **Growing of Marijuana Prohibited.** The Association desires to ensure the peace and enjoyment of property owners within their Lots and to reduce nuisance created from odors as a result of growing, cultivating and/or producing marijuana, and to protect the safety, welfare and benefit of existing and future Owners of the Lots within the Project. To that end, all outdoor growth, cultivation and production of marijuana is prohibited within the Project. In the event this provision is challenged in a court of law or other proceeding, the Board may, in its sole discretion, amend this Declaration without a vote of the Members to delete this restriction, if it determines that it would be in the best interest of the Association to avoid the costs of such defense.

7.10 **Firearms.** No firearms or archery equipment shall be used or discharged on any Lot or Common Area. However, such items may be kept inside any residence as legally permitted.

7.11 **Fencing.** Fences shall be consistent with the fencing plan and the provisions of the “Fence and Walls” requirements in the Ashland Municipal Code, Section 18.4.4.060. A copy of the Fencing Plan is on file with the Association and available upon request. Notwithstanding any provision in the Ashland Municipal Code to contrary, no fence shall exceed 4-feet in height and chain link fences are prohibited. All fences shall require prior approval of the Board.

7.12 **Hedges.** Hedges or site obscuring plantings shall not exceed 3-feet in height in the front yard or on the side parcel lines forward of the front building line. Hedges or site obscuring plantings in rear yards shall not exceed 4-feet in height along rear and rear side yards.

7.13 **Street Trees.** The Association shall prune street trees to provide at least 8-feet of clearance above sidewalks and 12-feet of clearance above street roadway surfaces.

7.14 **Nuisances.** No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Lot except such machinery or equipment, such as private workshop equipment, as is usual and customary in connection with the use or maintenance of a Dwelling Unit. No noxious or offensive condition, including activity causing excessive smoke, dust, noise, or debris, shall be permitted upon any part of the Project. Motorized transportation may be operated on a Lot solely for the purpose of transporting it from a residence to a public roadway for off-site use but recreational use of such machinery within the Project is not allowed. This section shall not prohibit the use of motorized transport for medical reasons, such as motorized wheelchairs/scooters.

7.15 **Diseases and Insects.** No Owner shall permit anything or condition to exist upon his Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

7.16 **Mineral Exploration.** No property shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, or any other

such substance or other mineral of any kind except for any excavation that may be done in connection with the construction of a dwelling in the Project.

7.17 Tenant Leases. All Owners shall supply tenants with a copy of this Declaration, as well any adopted rules and regulations that are provided to each Lot Owner.

7.18 Construction Debris. The Owner of each Lot is responsible for the temporary containment and permanent removal of all construction debris on the Lot and any debris which is windblown or in any way displaced from the construction site to adjoining property. The Owner is also responsible for the cleanup of any dirt or mud tracked into public streets during the course of construction of improvements on his property. The Owner shall not allow the accumulation of large quantities of debris, on or off site, during the course of construction.

7.19 Common Area Maintenance. No Lot Owner shall do any alteration, work, or maintenance within the Common Area, nor within unenclosed areas of Lots, without the approval of the Board.

7.20 Guest Parking. The four parking spaces located within the private driveway shall be reserved for guest parking and deliveries. Parking within the guest parking spaces shall be limited to a maximum of 72-consecutive hours and after such use, the vehicle must not occupy a guest parking space for a minimum of 48-hours.

7.21 Use of Garages/Driveway. Garages shall be used for parking of motor vehicles, storage and permitted workshop purposes only. Owners are required to park their vehicles in garages and/or driveways as shared parking areas are reserved for guest parking and delivery.

7.22 Recreational Vehicles. No recreational vehicles (RV's) are to be stored or parked on a permanent basis anywhere on the Project. A RV may be allowed temporarily on private driveways for a period not to exceed 72-hours at any one time for purposes of loading and unloading. Special garages for RV's are not permitted. Guests of residents of the development are not allowed to store or park their RV's anywhere on the property.

7.23 Additional Vehicular Restrictions. Only passenger automobiles, pickup trucks, vans and station wagons without advertising symbols and messages painted or otherwise applied or visible from the exterior shall be parked on any part on the Project except within the confines of a private garage. No maintenance or repair work on vehicles with the exception of emergency work, shall be done the Property.

7.24 Oversized Vehicles. No motor vehicles over 20,000 pounds gross vehicle weight shall be allowed on the Project, except service, moving or maintenance vehicles serving said premises and vehicles commonly required during construction.

7.25 Signs. No sign of any kind shall be displayed to the public view on any Lot or Dwelling within the Project except one professional sign of not more than six square feet advertising the property for sale or rent or signs used by the declarant to advertise the property

during the construction and sale period. In addition, one for-sale or for-rent sign may be placed within the Common Area so long as it does not restrict vehicle access or parking.

7.26 Sheds Prohibited. No structure of a temporary appearance or nature, including but not limited to, metal and plastic utility sheds or shacks shall be placed or constructed upon the Project.

7.27 Permanent Structures. No trailer or mobile home shall be allowed as a residence upon the any Lot in the Project or the Common Areas.

7.28 Firewood and Tarps. Firewood shall be stored in an appropriate manner so as to minimize the visual impact on the residents of the Project. No brightly colored covers or tarps will be allowed.

7.29 Burn Barrels Prohibited. No burning in outside burn barrels is allowed. No outdoor fires are allowed other than barbeques, or fire pits which have received prior approval of the Board. Fire pits must be located behind the rear elevation of a Dwelling unit and be located within either a concrete or other nonflammable patio area.

7.30 Retaining Walls. Retaining walls may only be installed with prior approval of the Board and shall be installed so as not to cause run off or debris falling onto a neighboring property.

7.31 Paint Colors. The original exterior colors of all buildings, including the accent and trim colors shall be earth tone or other neutral colors. Bright neon colors, pink, purple are prohibited.

7.32 Tree Protection Plan. Any deviation from the Tree Protection Plan for the Project, is deemed a violation of the planning application approval and may be subject to penalties under City Code. Any proposed deviation to the plan must receive prior written approval from the City of Ashland's Planning Department.

7.33 Fire Protection Plan. The Association and the Members shall comply with the Fire Prevention and Control Plan requirements of City Code, including the Prohibited Flammable Plants List adopted by the City.

7.34 Local Improvement District. As a condition of taking title to a Lot, the City of Ashland required the Declarant to sign in favor of and agree to participate in a Local Improvement District (LID) for future construction of Oak Street improvements including sidewalks, park row with irrigated street trees, curb, gutters and storm drainage. The Agreement shall run with the land and shall be binding on all future Owners of Lots. Nothing in this restriction is intended to prohibit an Owner, their successors or assigns from exercising their rights to freedom of speech and expression by orally objecting or participating in any future LID hearing or to take advantage of any protection afforded any party by City ordinances and resolutions.

7.35 Right of Inspection. Upon seventy-two (72) hours' written notice (emergencies excepted) and during reasonable hours, any authorized Member of the Board, or any authorized

representative of any Board Member, shall have the right to enter upon and inspect the Lot and the exterior of the Dwelling Unit or any of the improvements thereon for the purpose of ascertaining whether or not the provisions of these covenants, conditions and restrictions, the Bylaws and the rules and regulations adopted by the Board, have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry or inspection. These rights shall be exercised in such a manner as to reasonably minimize any adverse impact upon the Owner's right to enjoyment of his/her Lot. Any privately-owned space not within a fence is deemed common area and is not subject to the seventy-two (72) hours' written notice provision referenced above. A report shall be made to the full Board, and the Board shall determine the appropriate action to be taken.

ARTICLE 8 **DEVELOPMENT RIGHTS**

8.1 Limitations of Restrictions. Declarant is undertaking the work of constructing improvements identified in Exhibit B. The completion of that work and the sale, rental, and other disposal of Lots is essential to the establishment and welfare of said property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in these restrictions shall be understood or construed to:

(a) Prevent Declarant, its contractors, subcontractors, or permittees from obtaining reasonable access over and across the Common Area of the Project or from doing, on any Lot or any portion of the Project, whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant from maintaining such signs within the Project, as may be necessary for the sale or disposition of the Lots therein.

8.2 Declarant's Development Rights. Notwithstanding any other provision herein contained, Declarant expressly retains unalterable rights to develop the Project subject to this Declaration. Nothing in the Declaration shall limit the right of Declarant to commence and complete construction of improvements to the Project or to alter the foregoing or to construct such additional improvements as Declarant deems appropriate prior to the sale of all of the real property described in Exhibit A.

ARTICLE 9 **AMENDMENTS**

9.1 Period of Declarant Control. Until Declarant shall sell all Lots in the Project, no amendment to this Declaration shall be effective to curtail or eliminate Declarant's development rights set forth herein without Declarant's consent. Prior to the turnover meeting, any such amendment shall be approved by seventy-five percent (75%) of the total voting power of the Association and by Declarant; provided that the Declarant shall have the unilateral power and authority to amend this Declaration when required by a governmental agency as a condition to obtaining a permit. Upon approval pursuant to this section, the amending instrument shall be

signed by the President and Secretary of the Association, certifying that the amendment has been approved as provided herein. The instrument shall be recorded in the official records of Jackson County, Oregon and shall be effective upon recording.

9.2 Post-Declarant Control. After the turnover meeting, any such amendment shall be approved by seventy-five percent (75%) of the total voting power of the Association. Upon approval pursuant to this section, the amending instrument shall be signed by the President and Secretary of the Association, certifying that the amendment has been approved as provided herein. The instrument shall be recorded in the official records of Jackson County, Oregon and shall be effective upon recording.

ARTICLE 10 **GENERAL PROVISIONS**

10.1 Binding Effect; Term. The covenants, conditions, and restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns.

10.2 Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether the relief sought is negative or affirmative action, by Declarant, the Association, or any Owner.

10.3 Violation of Law. Any violation of any federal, state, municipal, local law, regulation or ordinance, or regulation pertaining to the ownership, occupation, or use of the Project or any part thereof is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.

10.4 Condemnation of Common Area. If at any time all or any portion of any Common Area, or any interest therein, be taken for any public or quasi-public use under any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the entire award in condemnation shall be paid to the Association. Any such award to the Association shall be deposited into the operating fund of the Association. No Owner shall be entitled to any portion of such award, and no Owner shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation, such right of participation being herein reverted exclusively to the Association or other holder of the fee title which shall, in its name alone, represent the interests of all Lot Owners to the extent such Lot Owners have any interest.

10.5 Obligations of Owner. No Owner may avoid the burdens or obligations imposed on said Owner by this Declaration through non-use of the Common Area or by abandonment of their Lot. Upon the conveyance, sale, assignment, or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any such assessments levied with respect to such Lot after the date of such transfer, and no person, after the termination of their status as an Owner and prior to their again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under this Declaration.

10.6 Notice of Sale. Within five (5) business days after the consummation of the sale of any Lot under circumstances whereby the transferee becomes an Owner thereof, the transferee shall notify the Association in writing of such sale. Such notification shall set forth (a) the name of the transferee and his/her transferor; (b) the street address of the Lot purchased by the transferee; (c) the transferee's mailing address; and (d) the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association or the Board shall be deemed to be duly made and given to the transferee if duly and timely made and given to his/her transferor.

10.7 Notices. Except as provided in ORS 94.652 regarding electronic notice to owners and directors, any written notice or other documents relating to or required by this Declaration may be delivered either personally, by electronic delivery (including email and facsimile) or by mail. If by mail, such notice or document shall be deemed to have been delivered and received five (5) calendar days after a copy thereof has been deposited in the United States Postal Service, postage prepaid, addressed as follows:

(a) If to the Association, to the address designated by the Association as its principal office address in the Articles.

(b) If to an Owner, to the address of any Lot owned in whole or in part by him/her or to any other address last furnished by an Owner to the Association.

(c) If to Declarant:
Overlook Drive, LLC
602 Sutton Place
Ashland, OR 97520

Provided, however, that any such address may be changed at any time by the party concerned by delivering a written notice of change of address to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association and shall promptly notify the Association in writing of any subsequent change of address.

10.8 Cumulative Remedies. Each remedy provided by this Declaration is cumulative and not exclusive.

10.9 Partial Invalidity. The invalidity or partial invalidity of any provision of this Declaration shall not affect the validity of, or enforceability of, any other provision.

10.10 Number; Gender. As used herein, the singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter as the context requires.

10.11 Discrimination Prohibited (ORS 93.270). These Covenants do not contain any restriction, rule or regulation against the use of the community or the lots by a person or group of persons because of race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, disability, or the number of individuals,

including family members, persons of close affinity or unrelated persons who are simultaneously occupying a dwelling unit within occupancy limits, or genetic information as set forth in applicable state and federal law and the Association and its Members are prohibited from discriminating against any individuals based on the foregoing.

10.12 City Enforcement. The City of Ashland reserves the right to enforce and assess the Association for maintenance of common areas.

10.13 Mediation and Arbitration.

(a) Meet and Confer. In the event of any dispute concerning this Agreement, excepting disputes involving non-payment of assessments or other fee, the parties shall, at the request of either of them, meet and confer in an effort to resolve the dispute. If the parties cannot resolve the dispute within thirty (30) days following the initial request to meet and confer, the dispute shall be submitted to arbitration as provided in Section 10.13(b), below.

(b) Arbitration. Except for claims and controversies involving non-payment of assessments or fees, all controversies or claims arising out of or relating to this Agreement; which are not resolved as provided in Section 10.13(a) above, including, without limitation, the making, performance, or interpretation of this Agreement, shall be settled by binding arbitration. Unless otherwise agreed, the arbitration shall be conducted in the county of the state where the Association is located, in accordance with the rules of the Arbitration Service of Portland. Judgment on the award rendered by the arbitrator may be entered in the circuit court in the county in which the arbitration occurs, and the resolution of the disputed matter as determined by the arbitrator shall be binding on the parties.

IN WITNESS THEREOF, Declarant has executed this Declaration the date set forth below.

Overlook Drive, LLC

By: _____
SUZANNE ZAPF, Member

By: _____
STEPHEN ZAPF, Member

STATE OF OREGON)
) ss. _____, 2022
County of Jackson)

On this _____ day of _____, 2022, before me, the undersigned Notary Public in and for said State, personally appeared SUZANNE ZAPF, MEMBER OF OVERLOOK DRIVE, LLC, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that said instrument was signed and sealed on behalf of said company by authority of its members, and she acknowledged said instrument to be its voluntary act and deed.

Notary Public for the State of Oregon
My Commission Expires

STATE OF OREGON)
) ss. _____, 2022
County of Jackson)

On this _____ day of _____, 2022, before me, the undersigned Notary Public in and for said State, personally appeared STEPHEN ZAPF, MEMBER OF OVERLOOK DRIVE, LLC, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that said instrument was signed and sealed on behalf of said company by authority of its members, and he acknowledged said instrument to be its voluntary act and deed.

Notary Public for the State of Oregon
My Commission Expires

Exhibit "A"
Legal Description of Project

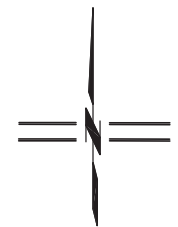
Exhibit "B"
Site Plan

Exhibit "C"
Bylaws

PRELIMINARY MAP
GRIZZLEY VIEW PEAK PUD

LYING SITUATE WITHIN
 SOUTHWEST QUARTER OF SECTION 4
 TOWNSHIP 39 SOUTH, RANGE 1 EAST, W. M.
 CITY OF ASHLAND, JACKSON COUNTY, OREGON

FOR
Overlook Drive LLC
 602 Sutton Place
 Ashland, Oregon 97520



SCALE: 1" = 30'

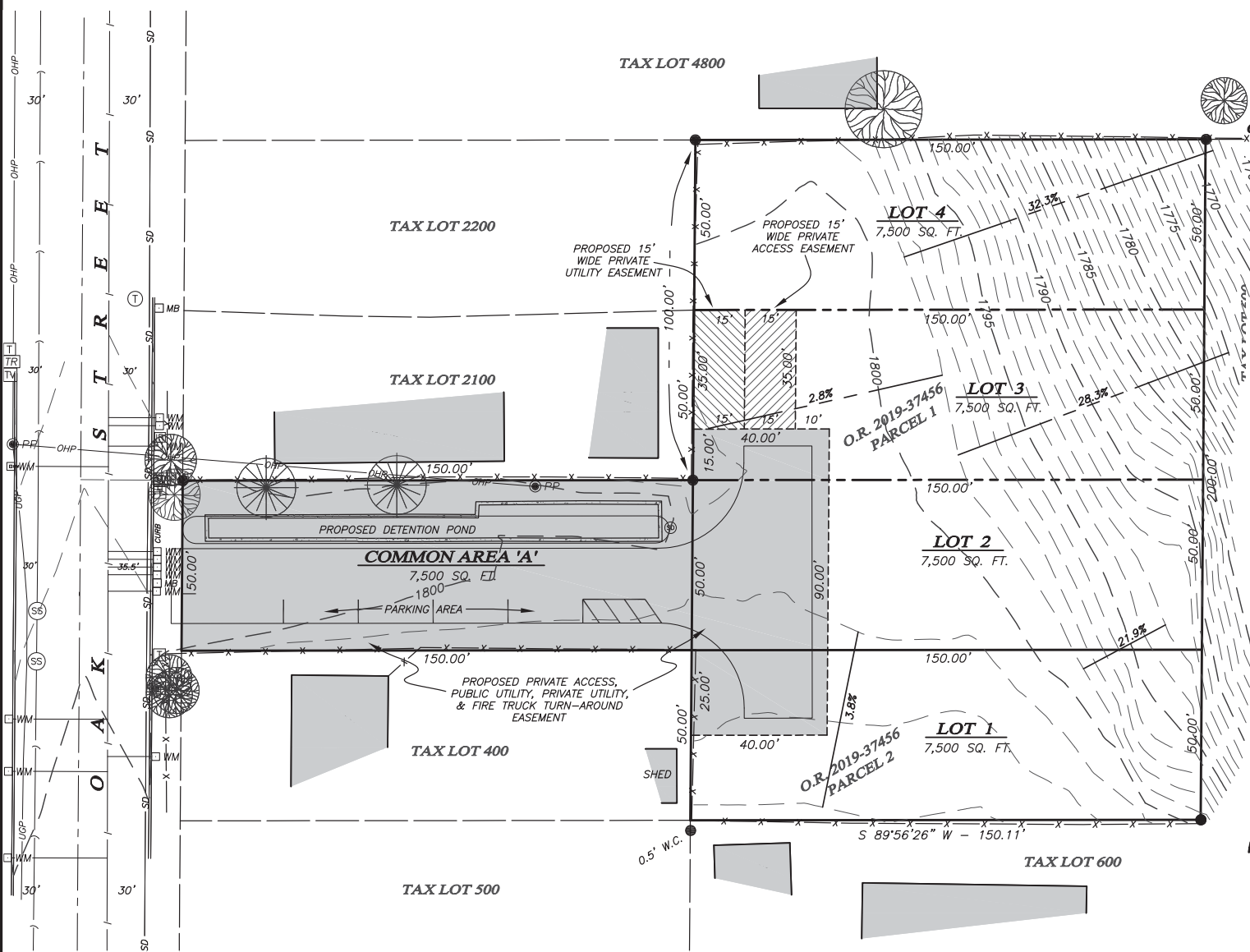
REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 14, 1998
 SHAWN KAMPMANN
 2883 LS

RENEWAL DATE: 6/30/2025

SURVEYED BY:
POLARIS LAND SURVEYING LLC
 P.O. BOX 459
 ASHLAND, OREGON 97520
 (541) 482-5009

DATE: AUGUST 31, 2023
 PROJECT NO. 1316-20



Assessor's Map No. 39 1E 04 CA, Tax Lots 200 & 201

POLARIS LAND SURVEYING



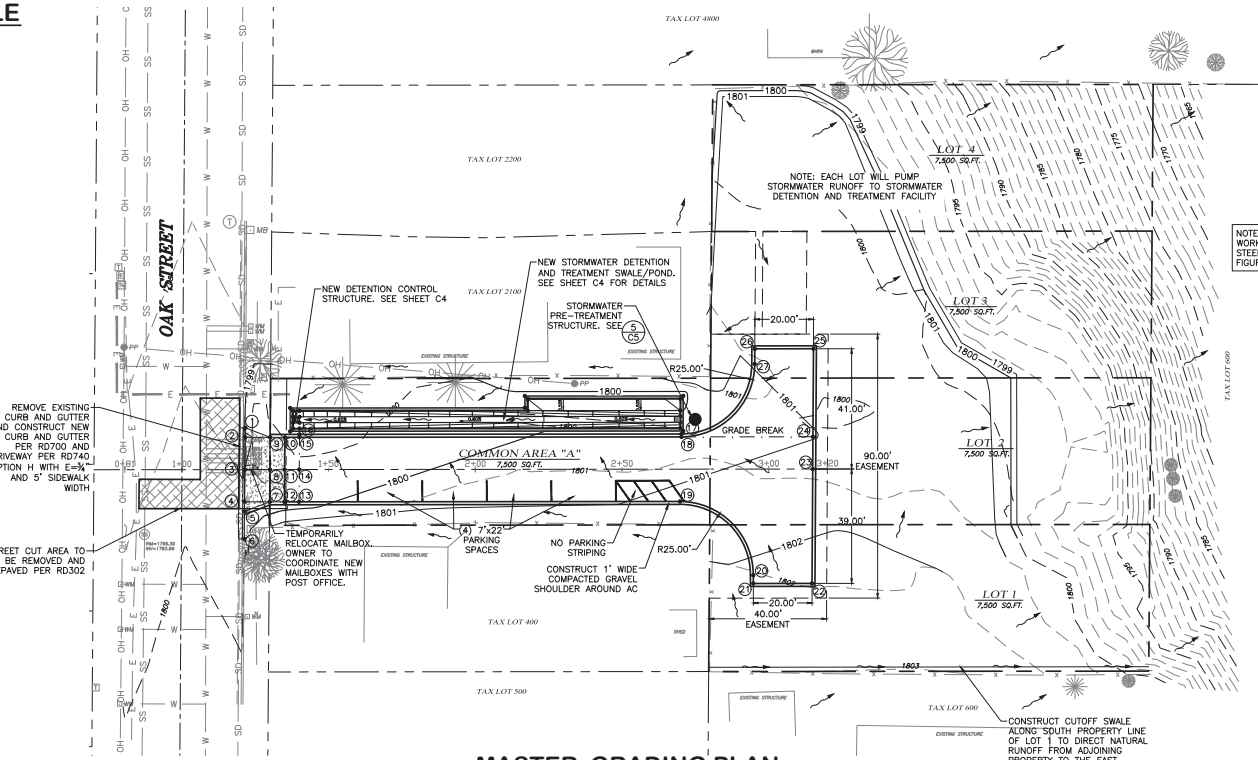
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 CIVIL
 STRUCTURAL
 PLANNING
 822 Oak Street, Ashland, Oregon 97521
 Phone: (541) 724-8807
 Fax: (541) 724-8801
 www.kasinc.com

**GRIZZLY PEAK VIEW
 SUBDIVISION**

**MASTER GRADING
 PLAN**

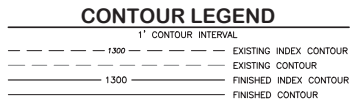
FINISH GRADE SCHEDULE

- ① STA 0+21.64/14.25' LT TBC=1799.21(MATCH)
- ② STA 0+21.59/11.00' LT TBC=1798.82
- ③ STA 0+21.43 CL TBC=1799.01
- ④ STA 0+21.34/11.00' RT TBC=1799.19
- ⑤ STA 0+21.31/14.25' RT TBC=1799.69
- ⑥ STA 0+21.25/23.62' RT TBC=1799.88(MATCH)
- ⑦ STA 0+29.91/11.00' RT FSW=1799.80
- ⑧ STA 0+30.00 CL FSW=1799.62
- ⑨ STA 0+30.09/11.00' LT FSW=1799.43
- ⑩ STA 0+35.09/11.00' LT BSW=1799.51
- ⑪ STA 0+35.00 CL BSW=1799.70
- ⑫ STA 0+34.91/11.00' RT BSW=1799.88
- ⑬ STA 0+40.00/11.00' RT EP/GB=1799.88
- ⑭ STA 0+40.00 CL GB/LP=1799.55
- ⑮ STA 0+40.00/11.00' LT EP/LP=1799.22
- ⑯ STA 0+40.00/12.00' LT FG/LP=1799.19
- ⑰ STA 1+70.31/12.00' LT FG/LP=1800.49
- ⑱ STA 1+70.31/11.00' LT EP/PC=1800.52
- ⑲ STA 1+69.79/11.00' RT EP/PC=1801.18
- ⑳ STA 1+94.79/36.18' RT EP/PT=1802.19
- ㉑ STA 1+94.77/39.00' RT EP/AP=1802.27
- ㉒ STA 2+14.77/39.00' RT EP/AP=1802.47
- ㉓ STA 2+15.05 CL EP=1801.30
- ㉔ STA 2+15.13/11.00' LT EP/LP=1800.97
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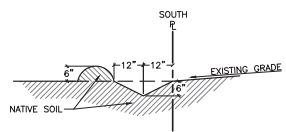
MASTER GRADING PLAN

SCALE: 1" = 20'



NOTE: SEE "STEEP SLOPE AND GEOTECHNICAL DESIGN REPORT, OVERLOOK DRIVE 4+LOT SUBDIVISION, 822 OAK STREET, ASHLAND, OREGON" BY THE GALLI GROUP, DATED DECEMBER 12, 2021

NOTE: UNCONSOLIDATED FILL IS PRESENT ON-SITE. REMOVE AND REPLACE PER RECOMMENDATIONS IN THE GEOTECHNICAL REPORT.



VERIFY SCALES
 BAR IS ONE INCH ON ORIGINAL DRAWING
 0 1" 1"

IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

NO.	REVISION	DATE	BY

REVISED AS CONSTRUCTED BY
 CITY OF ASHLAND
GRIZZLY PEAK VIEW SUBDIVISION

DESIGN BY: SDP	DATE: 03/30/22	CITY PROJECT NO.
DESIGNED BY: SDP	DATE: 03/30/22	
DRAWN BY: JAMES		SHEET NO.
APPROVED BY: PETER WOOD		
APPROVED BY: GREGORY M.C.		

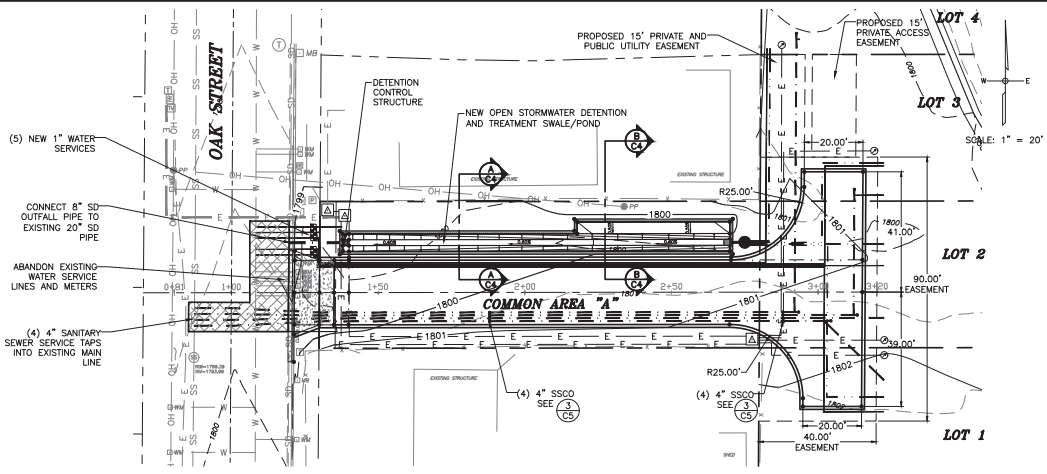
C1



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 ASHLAND, OR 97521
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 Fax: (541) 772-6887
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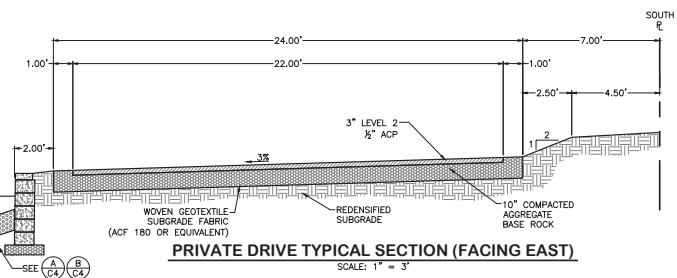
**GRIZZLY PEAK VIEW
 SUBDIVISION**

**PRIVATE DRIVE
 PLAN & PROFILE,
 TYPICAL SECTION**



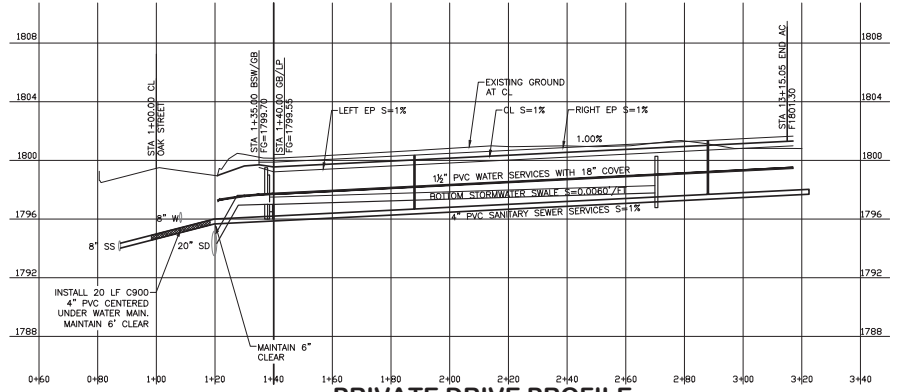
PRIVATE DRIVE PLAN
 SCALE: 1" = 20'

NOTE: COMMON AREA "A" AND EASEMENTS SHOWN ON LOTS 1, 2, AND 3 ARE PROPOSED PRIVATE ACCESS, PUBLIC UTILITY, PRIVATE UTILITY, AND FIRE TRUCK TURN-AROUND EASEMENTS



PRIVATE DRIVE TYPICAL SECTION (FACING EAST)
 SCALE: 1" = 3'

NOTE: SEE GEOTECHNICAL REPORT BY THE GALLI GROUP DATED DECEMBER 12, 2021 FOR OTHER RECOMMENDATIONS AND DETAILS



PRIVATE DRIVE PROFILE

HORIZ SCALE: 1" = 20'
 VERT SCALE: 1" = 4'

VERIFY SCALES
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NO.	REVISION	DATE	BY

REVISED AS CONSTRUCTED BY
 CITY OF ASHLAND
GRIZZLY PEAK VIEW SUBDIVISION

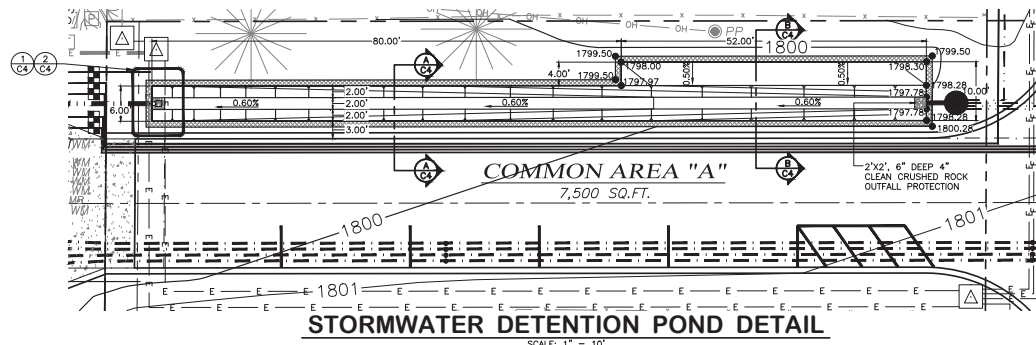
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ISSUED BY: SDP	DATE: 03/30/22	
REVISION BY: [blank]	DATE: [blank]	SHEET NO.:
DESIGNED BY: [blank]	DATE: [blank]	C2
APPROVED BY: [blank]	DATE: [blank]	



KAS
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 PLANNING
 1687 Vermont Ave. (S41) #784801
 Medford, OR 97504
 Ph: (541) 772-8887
 kase@kasciv.com www.kasciv.com

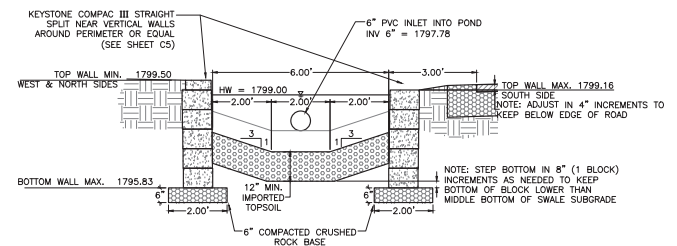
**GRIZZLY PEAK VIEW
 SUBDIVISION**
 822 OAK STREET
 ASHLAND, OR 97521

**STORMWATER
 FACILITY DETAILS**

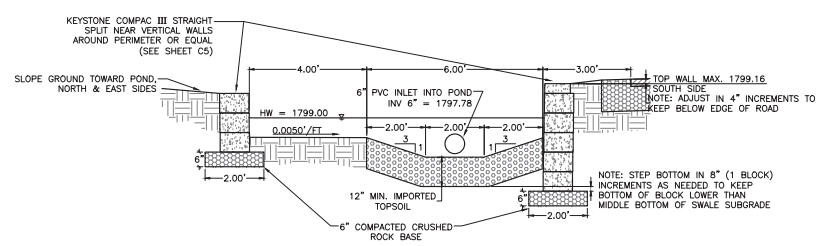


NOTE: THIS WATER QUALITY CONVEYANCE SWALE WHERE IMPORTED TOP SOIL IS REQUIRED IS DESIGNED PER SECTION 4.4.4 OF THE ROGUE VALLEY STORMWATER DESIGN MANUAL. OWNER SHALL SUBMIT A LANDSCAPE PLAN TO THE CITY MEETING THE REQUIREMENTS OF SECTION 4.4.4, APPENDIX A TABLES A-1A-3 AND CHAP. 6.3 OF THE ROGUE VALLEY STORMWATER DESIGN MANUAL, CURRENT EDITION.

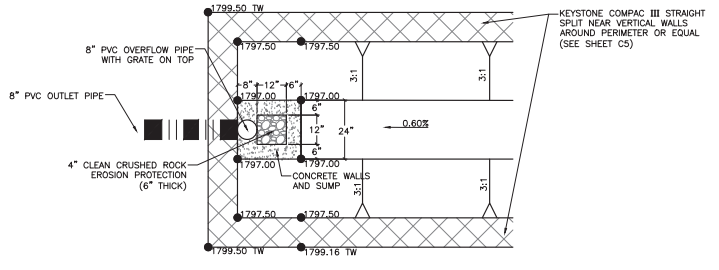
STORMWATER DETENTION POND DETAIL
 SCALE: 1" = 10'



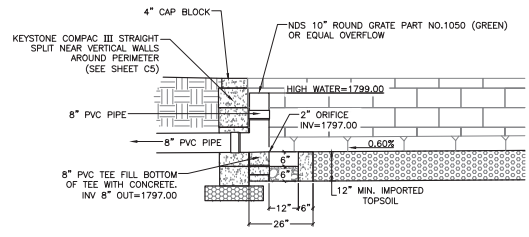
DETENTION POND SECTION A-A
 SCALE: 1" = 2'



DETENTION POND SECTION B-B
 SCALE: 1" = 2'



DETENTION CONTROL STRUCTURE PLAN
 SCALE: 1" = 2'



DETENTION CONTROL STRUCTURE SECTION
 SCALE: 1" = 2'

VERIFY SCALES
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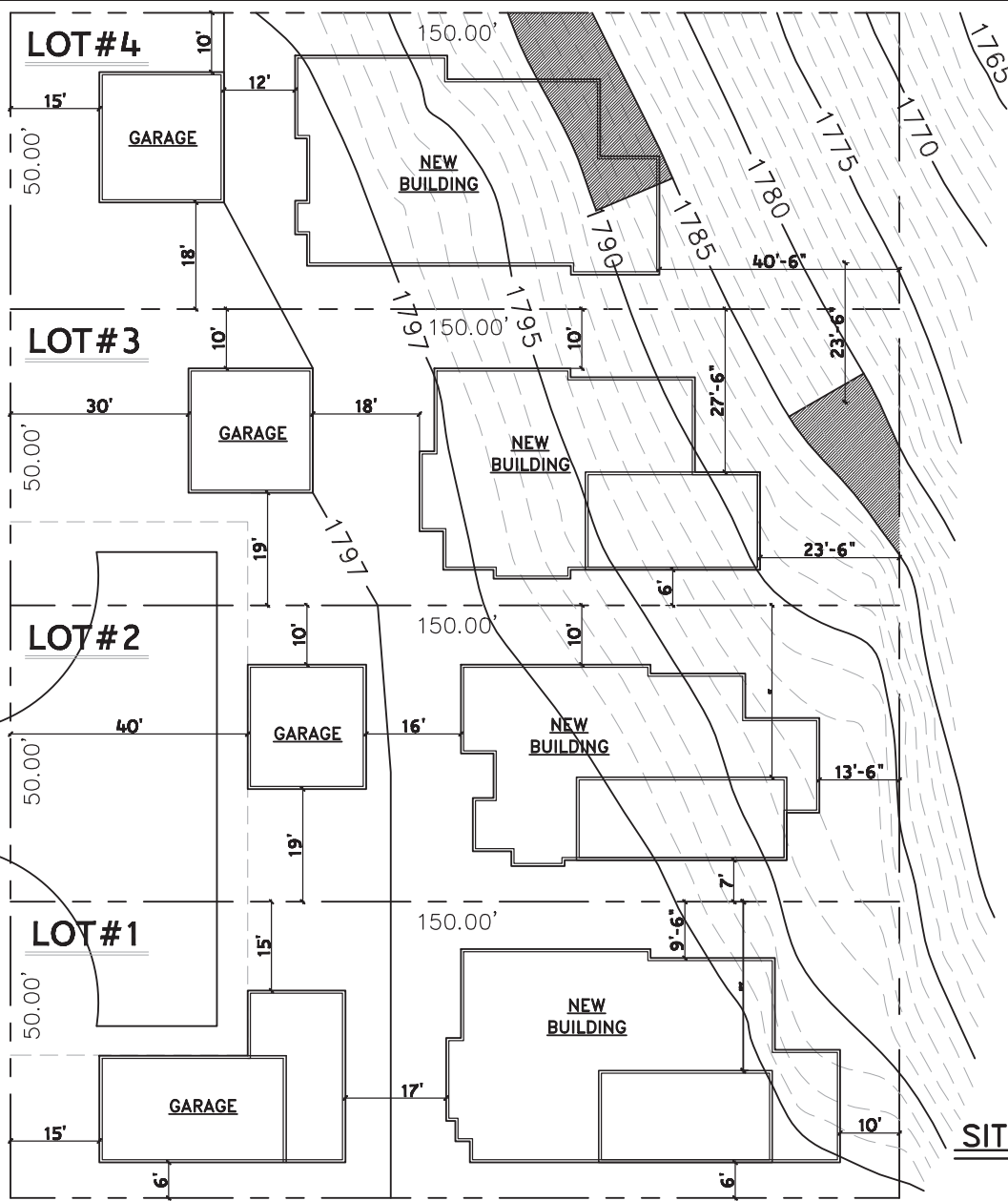
NO.	REVISION	DATE	BY

REVISED AS CONSTRUCTED BY
 CITY OF ASHLAND
GRIZZLY PEAK VIEW SUBDIVISION

DRAWN BY: SDP	DATE: 03/30/22	CITY PROJECT NO.
DESIGNED BY: SDP	DATE: 03/30/22	
REVIEWED BY: [blank]		SHEET NO.
APPROVED BY: [blank]		C4
APPROVED BY: [blank]		

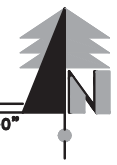
(OVERLOOK DRIVE LLC) KAS 20-240

Drawing Name: P:\Projects\2020\20-240 Grizzly Peak View\Drawings\Stormwater\20-240 SW-Facility Details.dwg
 Date: 03/30/22
 User: SDP
 Project: 20-240 Grizzly Peak View
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SITE PLAN

SCALE 1" = 20'-0"



SUZANNE ZAPF
602 SUTTON PLACE
ASHLAND, OR 97520

ARCHITECTURAL DESIGN:
VADIM AGAKHANOV
ARCHITECTURAL DRAWINGS:
RUSLAN BRUSENTSOV

GRIZZLY PEAK VIEW SUBDIVISION
822 Oak Street Ashland, OR 97520

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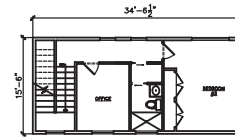
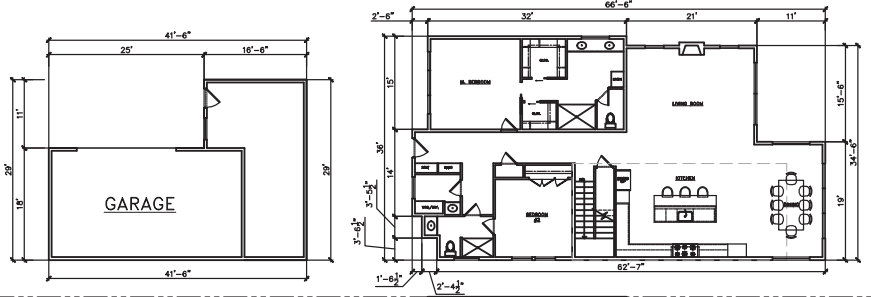


11/03/2023

LOT #1

NOTED
MAIN LEVEL
FLOOR PLAN

SCALE 1" = 20'-0"



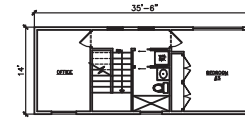
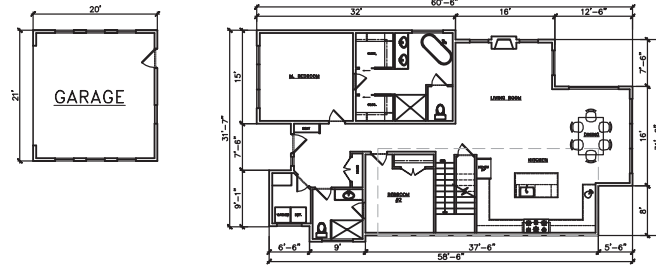
NOTED UPPER LEVEL
FLOOR PLAN

SCALE 1" = 20'-0"

LOT #2

NOTED
MAIN LEVEL
FLOOR PLAN

SCALE 1" = 20'-0"



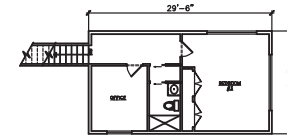
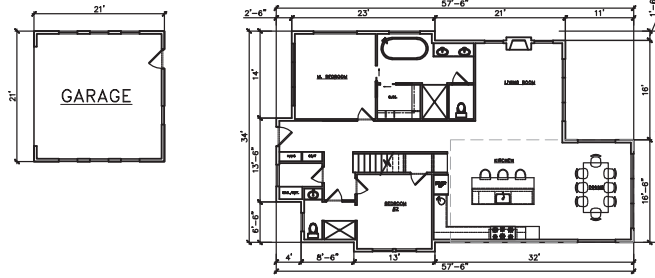
NOTED UPPER LEVEL
FLOOR PLAN

SCALE 1" = 20'-0"

LOT #3

NOTED
MAIN LEVEL
FLOOR PLAN

SCALE 1" = 20'-0"

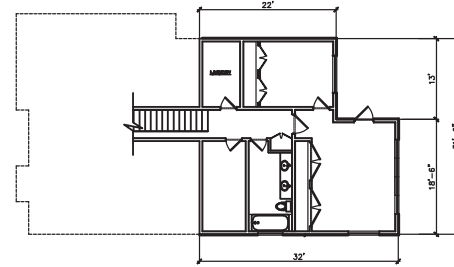
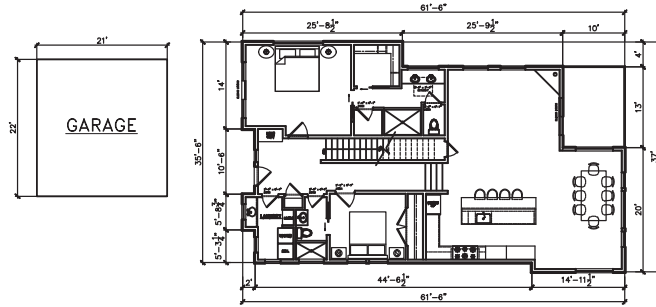


NOTED UPPER LEVEL
FLOOR PLAN

LOT #4

NOTED
MAIN LEVEL
FLOOR PLAN

SCALE 1" = 20'-0"



SCALE 1" = 20'-0"



SUZANNE ZAPF
602 SUTTON PLACE
ASHLAND, OR 97520

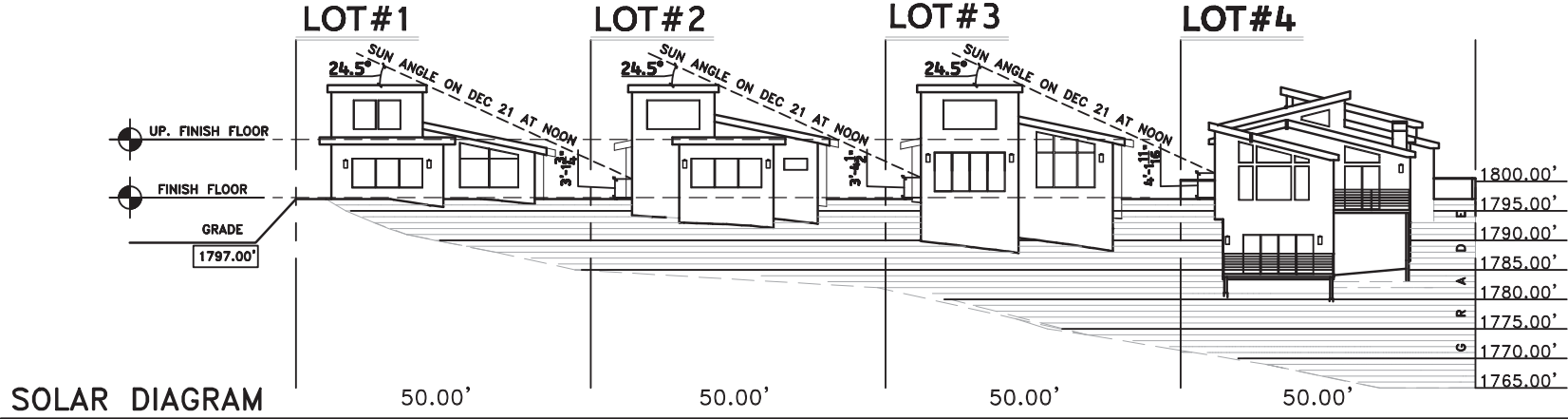
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ARCHITECTURAL DRAWINGS:
RUSLAN BRUSENTOV

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822 Oak Street Ashland, OR 97520

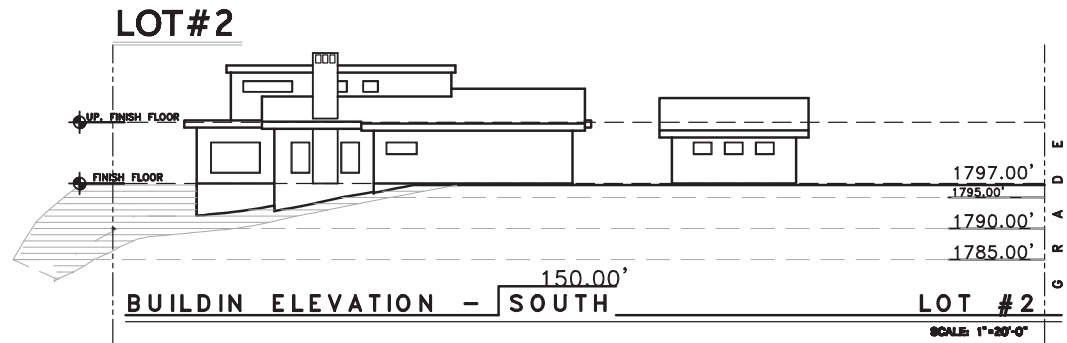
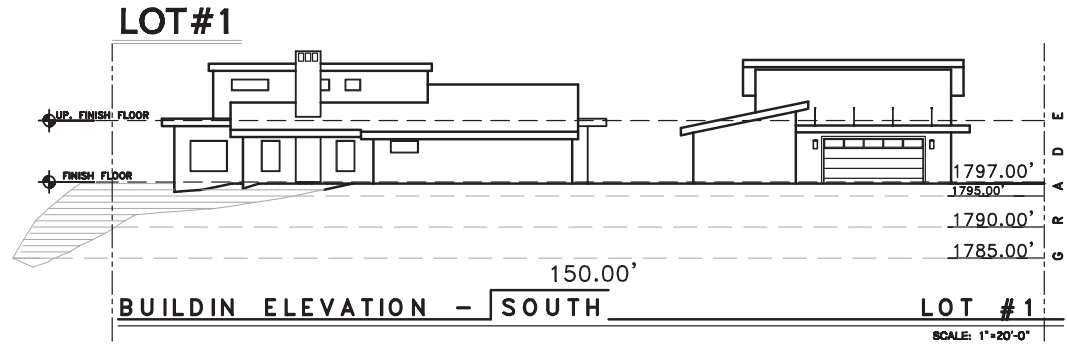
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11/03/2023



SCALE 1" = 20'-0"



SUZANNE ZAPF
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ASHLAND, OR 97520

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11/03/2023



SUZANNE ZAPF
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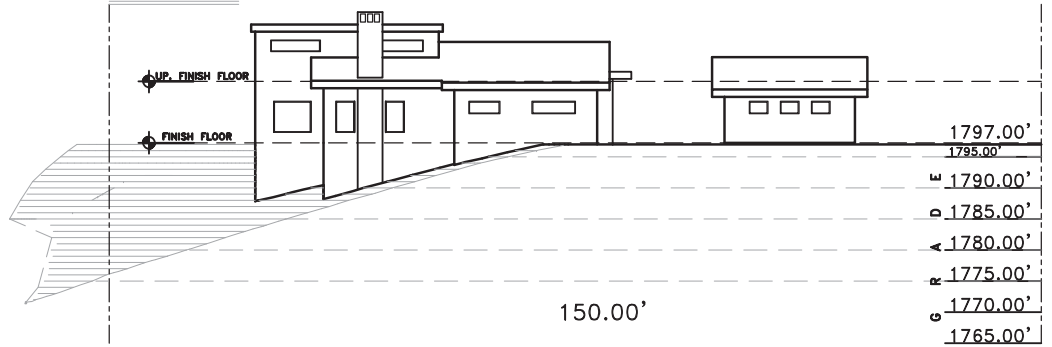
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822 Oak Street Ashland, OR 97520

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11/03/2023

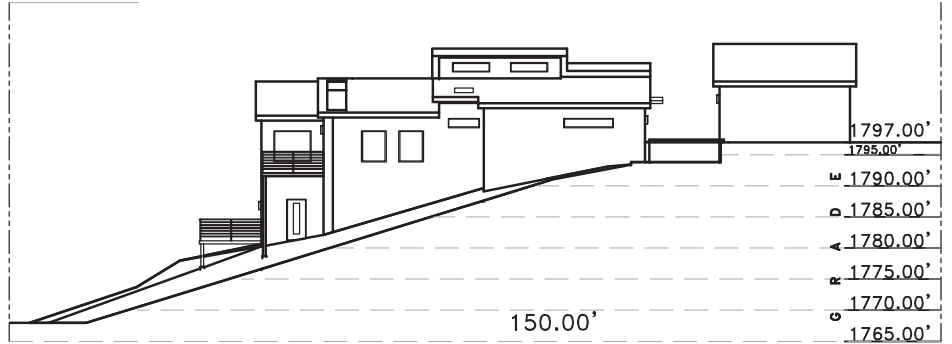
LOT #3



BUILDIN ELEVATION - SOUTH LOT #3

SCALE 1"=20'-0"

LOT #4



BUILDIN ELEVATION - SOUTH LOT #4

SCALE 1"=20'-0"

TYPE III PUBLIC HEARING

Recommendation of draft ordinance for Parks, Trails, and Open Space Map Update

ASHLAND PLANNING DIVISION
STAFF REPORT
December 12, 2023

PLANNING ACTION: PA-T3-2023-00007

APPLICANT: Ashland Parks & Recreation

ORDINANCE REFERENCES:

AMC 18.5.9 Comprehensive Plan, Zoning and Land Use
Ordinance Amendments

Ashland Comprehensive Plan “Parks, Open Space, and Aesthetics”
Element (Chapter VIII)

REQUEST: The application requests the adoption of an updated version of the Parks and Open Space Map by ordinance as an official map in support of the Ashland Comprehensive Plan’s ‘Parks, Open Space, and Aesthetics’ element (Chapter VIII). This map would replace the current “Parks, Trails and Open Space Program 2002-2012” which was approved by the City Council in July of 2002.

I. Ordinance Amendments

A. Project Background

Ashland’s Comprehensive Plan contains a policy within the ‘Parks, Open Space and Aesthetics’ Element (Chapter VIII, policy 8.16.6)) directing the City to adopt an official map that will identify the planned areas for parks, new natural areas, conservation areas and trails.

The city approved a Parks, Trails and Open Space Map on July 2, 2002, and updated the map in 2012. These maps are now outdated and no longer reflect the existing inventory of parks lands or adequately identify the properties that could be acquired or developed in furtherance of the Comprehensive Plan goal to provide the people of Ashland with a variety, quantity and quality of parks, park facilities, open spaces, trails, and visual resources sufficient for their needs.

Since May of 2022, the Parks, Trails, and Open Space Map Update Subcommittee has been working on assessing the current map and identifying necessary updates. The subcommittee completed its work in October of 2023 and sent its recommendations to the Ashland Parks and Recreation Commission (APRC). APRC considered adoption of an updated map as an official map to support the Comprehensive Plan at its October 11 and December 6, 2023, meetings and unanimously recommended approval of the updated map.

The Planning Commission conducted a study session to consider the proposed revisions to the existing map on November 28, 2023, and the map now comes to the Planning Commission for a public hearing to consider the proposed recommendations and make a formal recommendation to the City Council on the map's adoption.

B. Summary of Proposed Amendments

In discussing the proposed map update, Parks staff have noted that the current situation with Ashland's parkland is very different than it was in 1991, when the Comprehensive Plan was first developed and approved by the City Council. At that time, Ashland had less park land per capita than Roseburg, Medford, or Klamath Falls. Now, after 30-plus years of effort, Ashland's per capita park land ranks it among the State's leaders. One of the goals of the City's Comprehensive Plan is to have a neighborhood park located within a ¼-mile of every resident living inside the current city limits, and with the exception of the Mistletoe/Croman area, APRC has determined that sufficient property has been obtained to meet this goal.

The proposed updated map presented represents a shift in priorities from seeking to acquire park land within ¼-mile of every residence to focus much more on seeking to conserve sensitive areas along riparian corridors while improving the connectivity of Ashland's trail system. As presented, the updated map reflects the removal from the map of approximately 277 acres of property that had formerly been identified for purchase including:

- **(A) Billings Property southern portion** – only northern portion of property has potential for sports fields
- **(B & C) Helman Street Property** – within ¼ mile of Ashland Creek Park
- **(D) Helman to Oak partial corridor** – no longer available as corridor
- **(E) Cottle Phillips tiny portion to the West** – park within ¼ mile
- **(F) Upper Elkader/Roca Canyon** – developed
- **(G) Willow Wind school site** – Ashland School District owned
- **(H) Property on lower Clay Street** – developed
- **(I) Property on lower Clay Street** – park within ¼ mile
- **(J) Snowberry Brook** – developed
- **(K) Middle Clay** – park within a 1/4 mile
- **(L) Chitwood Property on Upper Clay Street** – developed
- **(M) Crowson Road Extension** – no longer needed no plans to expand
- **(N) Normal Street extension** – park within ¼ mile
- **(O) Upper Paradise Creek** – developed
- **(P) Ashland Loop Road** – acquired trail easements, no longer needed

Parks staff have indicated that the majority of properties left on the map for future purchase provide protection of significant natural areas like streams and riparian areas and/or are land and easements that provide trail connectivity. The connectivity goal is to secure land, through outright purchase, donation, grants, or easements, on which to develop a trail

system that would provide connecting links to neighborhoods and additional trails throughout the city and surrounding area for non-motorized, recreational use. Efforts to accomplish this goal will be advanced through collaboration with other organizations such as the Ashland Woodland and Trails Association, Rogue Valley Mountain Bike Association and Southern Oregon Land Conservancy.

The following properties are proposed to be designated for purchase or easement acquisition, along with their projected use:

- **(#1) Billings Property.** North part of property for possible sports fields and protection for riparian zone
- **(#2) Wright’s Creek Parcel.** Trail corridor and protection for riparian zone.
- **(#3) Grizzly Peak.** Conservation easements on the south slopes of Grizzly visible from Ashland would not only protect iconic view visible from most of Ashland, but would also reduce development pressure on rare and sensitive flora and on large mammals.
- **(#4 & #5) Ashland Creek Corridor** – Year-round stream, significant wildlife habitat and potential pedestrian/bicycle connection
- **(#6) Nevada St to North Mountain Ave.** (Bear Creek Corridor) Riparian area.
- **(#7) Property across from Riverwalk.** Riparian area.
- **(#8) Willows area** – potential trail connection and riparian area.
- **(#9) Bear Creek riparian/floodplain corridor from east of North Mountain Park.** Significant wildlife habitat, natural area that is potentially a part of the Greenway extension.
- **(#10) Walker Ave. East Main Street.** Possible sports fields
- **(#11) Talent Irrigation Ditch Segment**
- **(#12 & #13) West side watershed (Hitt Road)** Trail connectivity.
- **(#14) 440 Granite Street.** Surrounded on three sides by Lithia Park. Only private property on the east side of Granite above Nutley not part Lithia Park. Lithia Park Master Plan recommends purchase of property.
- **(#15) Lincoln School.** Critical to goal of neighborhood park within ¼ mile of all residents. Many low-income residents in the area.
- **(#16 & #17) Upper Liberty St/Ivy Ln Forest/Urban Interface.** Connects southern residential neighborhoods with trail network.
- **(#18) Tolman Creek/Mistletoe Road Area** – potential neighborhood park site.

The Parks, Trails, and Open Space Map Update Subcommittee recommended adding approximately 98 acres to the map including properties numbered 12,13,14,16 and 17 in the list above.

II. Procedural

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

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

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

In this instance, the build-out of a parks system that previously lagged behind many other cities in the region in terms of park land per capita and that has now, 30 years later, become a leader in the state and the associated shift to seeking to conserve sensitive streams and riparian corridors while also expanding trail system connectivity are the changes in circumstances that necessitate this map update. Staff believes that the proposed map update is clearly in line with the standards described for an update of an official map supporting the Comprehensive Plan.

III. Conclusions and Recommendations

Staff recommends that the Planning Commission recommend approval of the attached draft ordinance and adoption of the 2023 Parks & Open Space Map as an official map supporting the Ashland Comprehensive Plan's Chapter VIII 'Parks, Open Space & Aesthetics'.

If the Planning Commission recommends approval of the attached ordinance and adoption of the updated Parks & Open Space Map, staff will prepare written findings for adoption at the Commission's January 9, 2024, meeting. The Planning Commission's recommendations will be forwarded to the City Council for consideration at the public hearing and First Reading of the draft Ordinance in early 2024.

Attachments

- Memo from Interim Parks Director Leslie Eldridge
- Adopted Parks & Open Space Map 2002-2012 for reference
- Comparison Map (Changes from 2002 to 2023) for reference
- Draft Ordinance #3232 for Council Adoption
- Draft 'Parks & Open Space Map' for Council Adoption (Ord. #3232, Exhibit A)
- Public Comments Received
 - Amy Gunter
 - Gary Schaff (2)

ASHLAND PARKS & RECREATION COMMISSION

340 S PIONEER STREET • ASHLAND, OREGON 97520

COMMISSIONERS:

Rick Landt
Jim Bachman
Justin Adams
Jim Lewis
Stefani Seffinger



Leslie Eldridge
Interim Director
541.488.5340
AshlandParksandRec.org
parksinfo@ashland.or.us

STAFF MEMORANDUM

TO: Ashland Parks and Recreation Commissioners

FROM: Interim Director Eldridge

DATE: Dec 5, 2023

SUBJECT: Ashland Parks and Recreation Commission: Parks and Open Space Map Update

SUMMARY

The Parks and Open Space Map is a part of the City of Ashland's Comprehensive Plan. The map is a guide for APRC land acquisition and designates properties for different usage including neighborhood parks, potential sports fields, open spaces, trail connectivity, and riparian areas. It is intended to be used in conjunction with the APRC Trails Master Plan, which was approved by APRC, City Planning, Public Works and Transportation Commission in 2020 as a technical report supporting the Parks, Open Space, and Aesthetic Chapter (Chapter VII) of the City of Ashland Comprehensive Plan.

POLICIES, PLANS & GOALS SUPPORTED

APRC Goal #6: Continue to improve and develop our watershed pedestrian and MTB trail network, including connectivity to adjacent National Forest Land and town centers on city ownership, as well as securing easements on private property that protect public access to this network.

Council Priorities:

Planning and Growth- Protecting the community's character; community land use planning.

Quality of Life: Open space and parks improvements (trails, wildlife habitat protection, etc.)

Economic Opportunity/Vitality: Attract more families to live in Ashland.

BACKGROUND AND ADDITIONAL INFORMATION

The last official update of the Map was done in 2002 with a "Light Update" done by APRC in 2012. The current situation with Ashland's park land is very different than in 1991 when the Comprehensive Plan was first

developed and approved by City Council. At that time, Ashland had less park land per capita than Roseburg, Medford, and Klamath Falls. Now, after 30-plus years of effort, Ashland's per capita park land ranks it among the State's leaders. One of the goals of the City's Comprehensive Plan is to have a neighborhood park located within a 1/4 mile of every resident living inside the current city limits. Except for the Mistletoe (Croman) area Commissioners have deemed that sufficient property has been obtained to meet this goal.

The APRC Trails Master Plan, which identifies critical bike and pedestrian corridors in Ashland, was approved by City Council in 2020 as a technical report supporting the Parks, Open Space, and Aesthetic Chapter (Chapter VII) of the City of Ashland Comprehensive Plan.

Since May of 2022 the Parks, Trails, and Open Space Map Update Subcommittee has been working on assessing the current map. The subcommittee completed its work in October of 2023 and sent its recommendations to the Parks Commissioners. At the October 5 APRC Business Meeting, Commissioners unanimously recommended the updated map for review by the Planning Commission and approval by City Council.

APRC Recommendations

APRC recommends that approximately 277 acres of property that had been formerly identified for purchase be removed from the Map.

Properties Removed from Map (shown on the "Comparison Map" only)

- (A) Billings Property southern portion – only northern portion of property has potential for sports fields
- (B & C) Helman Street Property – within ¼ mile of Ashland Creek Park
- (D) Helman to Oak partial corridor – no longer available as corridor
- (E) Cottle Phillips tiny portion to the West – park within ¼ mile
- (F) Upper Elkader/Roca Cannon – developed
- (G) Willow Wind school site – Ashland School District owned
- (H) Property on lower Clay Street – developed
- (I) Property on lower Clay Street – park within ¼ mile
- (J) Snowberry Brook – developed
- (K) Middle Clay – park within a 1/4 mile
- (L) Chitwood Property on Upper Clay Street – developed
- (M) Crowson Road Extension – no longer needed no plans to expand OKGC
- (N) Normal Street extension – park within ¼ mile
- (O) Upper Paradise Creek – developed
- (P) Ashland Loop Road – acquired trail easements, no longer needed

The majority of properties left on the map for future purchase provide protection of significant natural areas like streams and riparian areas and/or are land and easements that provide trail connectivity. The connectivity goal is to secure land, through outright purchase, donation, grants, or easements, on which to develop a trail system that would provide connecting links to neighborhoods and additional trails throughout the City and surrounding area for non-motorized, recreational use. Efforts to accomplish this goal will be advanced through collaboration with other organizations, such as the Ashland Woodland and Trails Association, Rogue Valley Mountain Bike Association and Southern Oregon Land Conservancy.

Properties Designated Purchase or Easements and Projected Use

- (#1) Billings Property. North part of property for possible sports fields and protection for riparian zone
- (#2) Wright's Creek Parcel. Trail corridor and protection for riparian zone.
- (#3) Grizzly Peak. Conservation easements on the south slopes of Grizzly visible from Ashland would not only protect iconic view visible from most of Ashland, but would also reduce development pressure on rare and sensitive flora and on large mammals.
- (#4 & #5) Ashland Creek Corridor – Year-round stream, significant wildlife habitat and potential pedestrian/bicycle connection
- (#6) Nevada St to North Mountain Ave. (Bear Creek Corridor) Riparian area.
- (#7) Property across from Riverwalk. Riparian area.
- (#8) Willows area – potential trail connection and riparian area.
- (#9) Bear Creek riparian/floodplain corridor from east of North Mountain Park. Significant wildlife habitat, natural area that is potentially a part of the Greenway extension.
- (#10) Walker Ave. East Main Street. Possible sports fields
- (#11) Talent Irrigation Ditch Segment
- (#12 & #13) West side watershed (Hitt Road) Trail connectivity.
- (#14) 440 Granite Street. Surrounded on three sides by Lithia Park. Only private property on the east side of Granite above Nutley not part Lithia Park. Lithia Park Master Plan recommends purchase of property.
- (#15) Lincoln School. Critical to goal of neighborhood park within ¼ mile of all residents. Many low-income residents in the area.
- (#16 & #17) Upper Liberty St/Ivy Ln Forest/Urban Interface. Connects southern residential neighborhoods with trail network.
- (#18) Tolman Creek/Mistletoe Road Area – potential neighborhood park site.

FISCAL IMPACTS

No fiscal impacts




REFERENCES & ATTACHMENTS



**CITY OF
ASHLAND**

*Parks, Trails, and
Open Space Program
2002-2012*

Approved by the City Council July 2, 2002


Urban Growth Boundary 
 City Limits 
 Water Features 


Updated April 1, 2005

Properties Identified

Short Term Plan


Neighborhood Parks 
 - (1) Jaquelyn St and Grizzly Dr Property
 - (2) Upper Clay St Properties


Active Athletic Fields 
 - (3) Property on Clay St
 (adjacent to YMCA City Park)
 - (4) Helman St Property
 (adjacent to Helman School)

Open Space & Trails 
 - (5) East Main along Bear Creek
 - (6) Wrights Creek Corridor
 - (7) Upper Liberty St Property
 - (8) Nevada St to N Mountain Av
 (Bear Creek Corridor)
 - (9) Willows area trail connection
 (Railroad property)
 - (20) Talent Irrigation Ditch Segments

Long Term Plan

- (10) Ashland Creek Corridor
 (Hersey St to Eagle Mill Rd)
 - (11) Hamilton Creek Corridor
 - (12) Walker site, East Main St
 - (13) Billing's Property
 - (14) Crowson Rd Extension
 - (15) Helman St property
 (Barn, farm area)
 - (16) Property across from N Mountain Park
 - (17) Tolman Creek/Mistletoe Rd area
 - (18) Waldorf School site
 - (19) Grizzly Peak


**Lands Identified in Adopted
Parks and Open Space Plan
not yet acquired by city. These
properties remain on the
proposed plan.** 

**Lands Acquired by the City
as Parks and Open Space
which were identified in the
Adopted Open Space Plan.** 

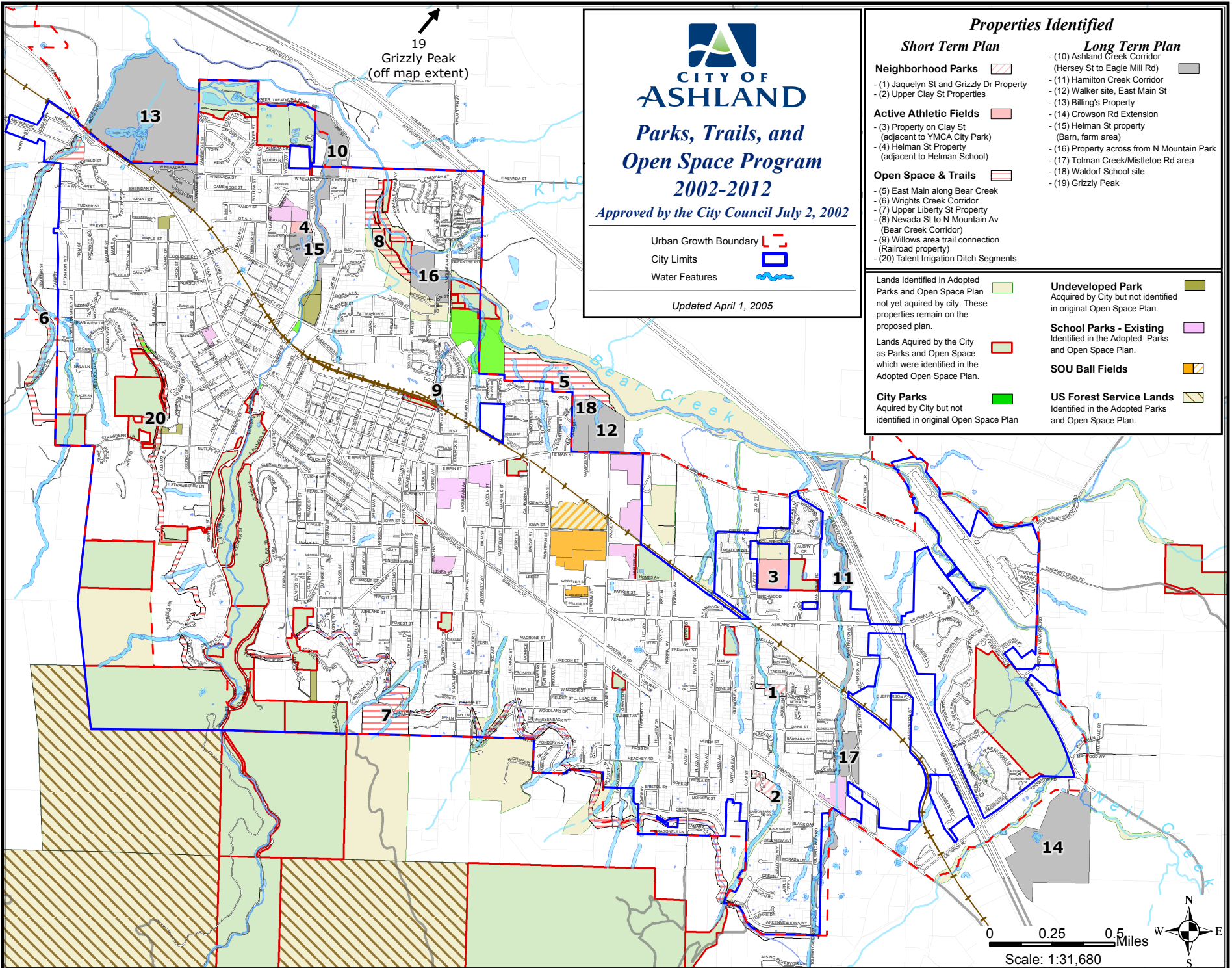
City Parks
Acquired by City but not
identified in original Open Space Plan 

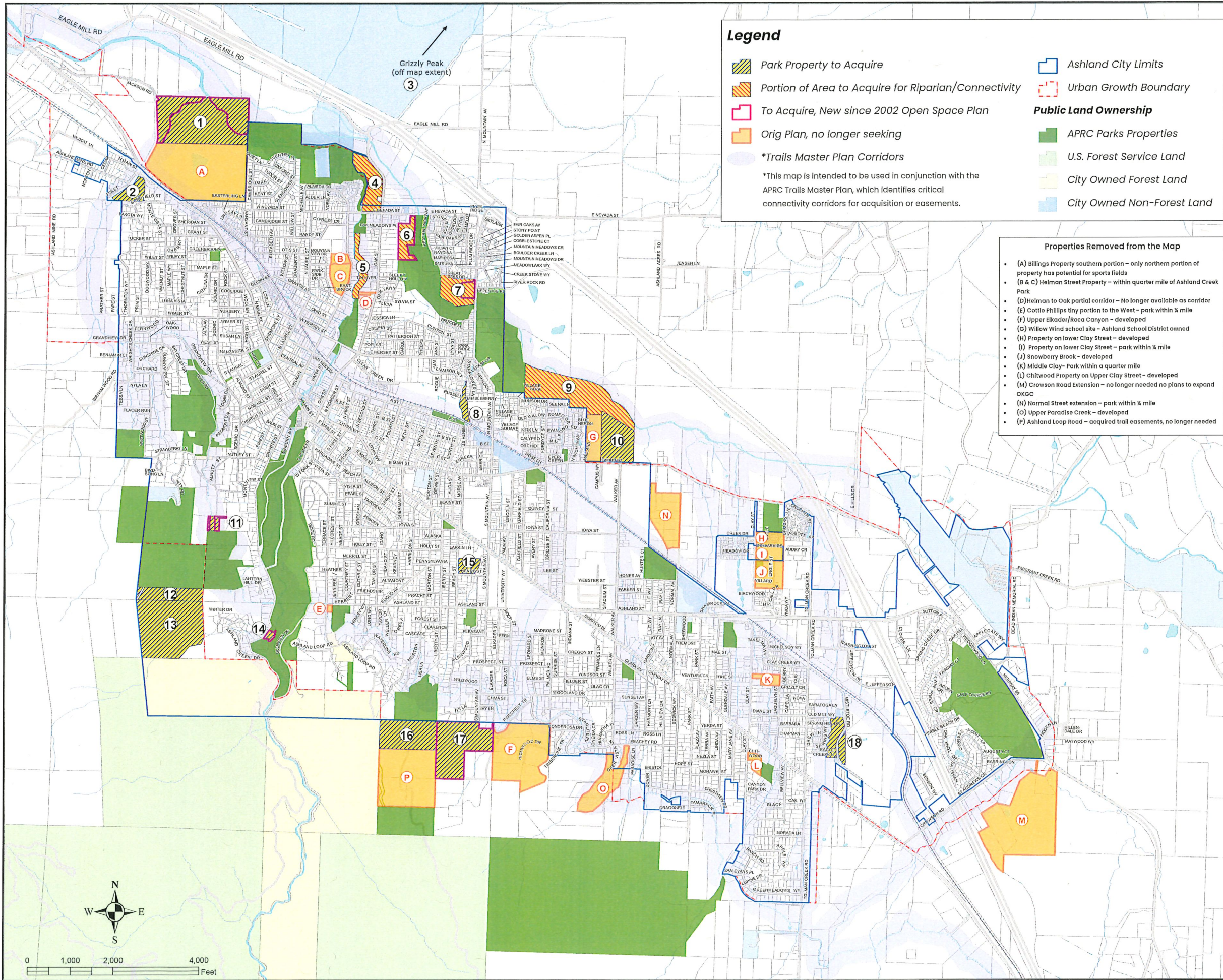
Undeveloped Park
Acquired by City but not identified
in original Open Space Plan. 

School Parks - Existing
Identified in the Adopted Parks
and Open Space Plan. 

SOU Ball Fields 

US Forest Service Lands
Identified in the Adopted Parks
and Open Space Plan. 





Legend

- Park Property to Acquire
 - Portion of Area to Acquire for Riparian/Connectivity
 - To Acquire, New since 2002 Open Space Plan
 - Orig Plan, no longer seeking
 - *Trails Master Plan Corridors
 - Ashland City Limits
 - Urban Growth Boundary
- Public Land Ownership**
- APRC Parks Properties
 - U.S. Forest Service Land
 - City Owned Forest Land
 - City Owned Non-Forest Land
- *This map is intended to be used in conjunction with the APRC Trails Master Plan, which identifies critical connectivity corridors for acquisition or easements.

- Properties Removed from the Map**
- (A) Billings Property southern portion - only northern portion of property has potential for sports fields
 - (B & C) Helman Street Property - within quarter mile of Ashland Creek Park
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A goal of the Ashland Parks & Recreation Commission (APRC), Board of Commissioners' (the "Commissioners") is to update the Parks, Trails & Open Space Plan (the "Plan") every ten years. Although a "Light Update" was done by APRC in 2012, it was not reviewed and approved by City Council. The last official update of the Plan was done in 2002.

In preparation for the 2002 update, APRC held a series of community meetings to gather input from citizens on updating the 1991 plan. Following the meetings, Commissioners developed an updated Plan map that included changing the name of the program to the "Parks, Trails and Open Space Plan". For the 2023 update, a Parks, Trails and Open Space Subcommittee (the "Subcommittee") was formed by the Commissioners to review the Plan and make recommendations. The Subcommittee has prepared the 2023 update and that body has recommended the 2023 Plan for approval by the Commissioners and City Council. There have been seven APRC meetings where public input was solicited. This Plan was approved by Commissioners on October 11, 2023 and by City Council XXXX.

The current situation with Ashland's Park land is very different than in 1991 when the Comprehensive Plan was first developed and approved by City Council. In 1991, Ashland had less park land per capita than Roseburg, Medford and Klamath Falls. Now, after 30-plus years of effort, Ashland's per capita park land ranks it among the State's leaders. It has been determined that procurement of land for developed parks is no longer a high priority. Additionally, because City legislation accompanying the Plan specifically mandated that no land would be obtained by condemnation, originally more property than needed was on the Plan to ensure sufficient land could be acquired from willing sellers. For the reasons stated and after careful review by the Subcommittee and approval by APRC Commissioners, roughly 200 acres of property projected for purchase from the 2005 Plan map has been removed from this updated 2023 Plan.

One of the goals of the City's Comprehensive Plan is to have a neighborhood park located within a 1/4 mile of every resident living inside the current city limits. With the exceptions of the Mistletoe (Croman) neighborhood, fully developed sections of the City where no open lands exist, and areas in the urban-forest interface characterized by large lots where Commissioners have deemed that the benefits are not great enough to justify the costs, sufficient property has been obtained to meet this goal. If the City's boundaries are expanded, additional property may need to be identified, for example, a part of the Billings Ranch and acquired to meet the neighborhood goal.

The majority of properties left on the Plan for future purchase provide protection of significant natural areas like streams and riparian areas and/or are land and easements that provide trail connectivity. The connectivity goal is to secure land, through outright purchase, donation, grants, or easements, on which to develop a trail system that would provide connecting links to neighborhoods and additional trails throughout the City and surrounding area for non-motorized, recreational use. Efforts to accomplish this goal will be advanced through collaboration with other organizations, such as the Ashland Woodland and Trails Association, Rogue Valley Mountain Bike Association and Southern Oregon Land Conservancy.

Properties Designated Purchase or Easements and Projected Use

- (#1) Billings Property, North part of property for possible sports fields and riparian zone protection
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- (#3) Grizzly Peak, Conservation easements on the south slopes of Grizzly visible from Ashland would not only protect iconic view visible from most of Ashland but would also reduce development pressure on rare and sensitive flora and on large mammals.
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- (#8) Willows area potential trail connection and riparian zone
- (#9) Bear Creek riparian/floodplain corridor from east of North Mountain Park. Significant wildlife habitat, natural area that is potentially a part of the Greenway extension.
- (#10) Walker Ave. East Main Street, Possible sports fields
- (#11) Talent Irrigation Ditch Segment
- (#12 & #13) West side watershed (Hitt Road) Trail connectivity.
- (#14) 440 Granite Street, Surrounded on three sides by Lithia Park. Only private property on east side of Granite above Nutley not part Lithia Park. Lithia Park Master Plan recommends purchase of property.
- (#15) Lincoln School, Critical to goal of neighborhood park within 1/4 mile of all residents. Many low-income residents in the area.
- (#16 & #17) Upper Liberty St/vy Ln Forest/Urban Interface. Connects southern residential neighborhoods with trail network.
- (#18) Tolman Creek/Mistletoe Road Area potential neighborhood park site

ORDINANCE NO. 3232

AN ORDINANCE AMENDING THE CITY OF ASHLAND COMPREHENSIVE PLAN TO ADOPT THE PARKS AND OPEN SPACE MAP AS AN OFFICIAL MAP IN SUPPORT OF THE PARKS, OPEN SPACE, AND AESTHETICS ELEMENT OF THE ASHLAND COMPREHENSIVE PLAN.

Annotated to show deletions and additions to the Ashland Municipal Code sections being modified. Deletions are ~~bold lined through~~, and additions are **bold underlined**.

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

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

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

WHEREAS, the Ashland Comprehensive Plan contains a policy within the Parks, Open Space and Aesthetics Element (Chapter VIII, policy 8.16.6)) directing the City to adopt an official map that will identify the planned areas for parks, new natural areas, conservation areas and trails.

WHEREAS, the City approved a Parks, Trails and Open Space Map on July 2nd, 2002, and updated the map in 2012, which are now outdated and no longer reflect the existing inventory of parks lands or adequately identify those properties that could be acquired or developed in furtherance of the Comprehensive Plan goal to provide the people of Ashland with a variety, quantity and quality of parks, park facilities, open spaces, trails, and visual resources sufficient for their needs.

WHEREAS, the City of Ashland Parks and Recreation Commission considered the above-referenced amendment to the Comprehensive Plan to adopt of the Parks and Open Space Map as an official map on October 11, and December 6, 2023, and following deliberations, recommended approval of the amendment by a **unanimous** vote; and

WHEREAS, the City of Ashland Planning Commission considered the above-referenced amendment to the Comprehensive Plan to adopt of the Parks and Open Space Map as an official map at a duly advertised public hearing on December 12, 2023, and following deliberations, recommended of the amendments by a vote of **-**; and

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the above-referenced amendments on _____; and

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

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

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

SECTION 1. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. The City of Ashland Comprehensive Plan, Chapter VIII, [PARKS, OPEN SPACE, AND AESTHETICS] is hereby amended to replace the *2002 Parks, Trails and Open Space Map*, with the *Parks and Open Space Map*, attached hereto as Exhibit A, as an official City map and made a part hereof by this reference.

SECTION 3. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

The foregoing ordinance was first ready by title only in accordance with Article X, Section 2(C) of the City Charter on the _____ day of _____, 2024, and duly PASSED and ADOPTED this _____ day of _____, 2024.

PASSED by the City Council this _____ day of _____, 2024.

ATTEST:

Alissa Kolodzinski, City Recorder

SIGNED and APPROVED this _____ day of _____, 2024.

Tonya Graham, Mayor

Reviewed as to form:

Douglas M. McGeary, Acting City Attorney

PARKS AND OPEN SPACE MAP



CITY OF ASHLAND
Better Together

- Park Property to Acquire
- Portion of Area to Acquire for Riparian/Connectivity
- *Trails Master Plan Corridors

Urban Growth Boundary

Ashland City Limits

Public Land Ownership

- City-Owned Forest Lands
- City-Owned Non Forest Lands
- U.S. Forest Service
- Ashland Parks Land

*This map is intended to be used in conjunction with the APRC Trails Master Plan, which identifies critical connectivity corridors for acquisition or easements.

NOT TO SCALE



- (#1) Billings Property. North part of property for possible sports fields and riparian zone protection
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- (#15) Lincoln School. Critical to goal of neighborhood park within ¼ mile of all residents. Many low-income residents in the area.
- (#16 & #17) Upper Liberty St/Ivy Ln Forest/Urban Interface. Connects southern residential neighborhoods with trail network.
- (#18) Tolman Creek/Mistletoe Road Area potential neighborhood park site

This is to Certify that this is the approved final version of the official Parks and Open Space Map.

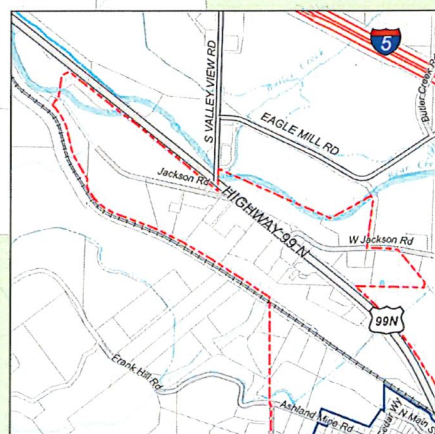
Signed:

Mayor _____ Date _____

City Recorder _____ Date _____

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

↑ INSET MAP:
Northwest UGB



PUBLIC COMMENTS

755 N Mountain Avenue discussion

Amy Gunter <amygunter.planning@gmail.com>

Mon 2023-11-27 02:21 PM

To: Brandon Goldman <brandon.goldman@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>
Cc: Steven Matiaco <steven.matiaco@ashland.or.us>; Don Jones <dj@spartan1.com>; Raymond Kistler
<raymondk@kswarchitects.com>

[EXTERNAL SENDER]

Hello Brandon and Derek,
Hope you are well and enjoyed the holiday.

I'm reaching out to you on behalf of Don Jones in regards to the house at 755 N Mountain Avenue, its condition, and what Don's options are to help alleviate some of the dangerous conditions on the site and the dangerous building. Don and I would like to meet with staff to go over our concerns sometime this week.

Gates, chains, signs, and other barriers to prevent trespassing are removed on a routine basis.

Steve Matiaco and I met at the site and I toured the structure and took numerous photos of its condition last week.

One of the concerns is that the property owner will lose their ability to reconstruct a single-family residence on the property (outside of the environmentally constrained areas) if the building is deemed unsafe and needs to be removed from the property.

It has been our understanding that a replacement dwelling is expected to achieve compliance with the North Mountain Neighborhood Master Plan lot layout and its street configurations, as well as the Transportation System Plan, and Street Dedication map. This will be very difficult because the N Mountain Neighborhood Plan and the Street Dedication Map differ and in both instances, the street depicted on both maps could not possibly be constructed to street standards due to topography, trees, and vision clearance issues on the hillslope.

RE: Site #7 on Parks, Trails & Open Space Draft Map

This leads me to the next concern which was peaked by the Planning Commission packet for the Study Session with Parks on Tuesday, November 28th. It appears that the subject property area included in the Parks and Openspace Master Plan is increasing in area. Some of the property was already included which made sense as it was the Bear Creek Floodplain Area and the area designated as NM-G. The draft Parks and Openspace Master Plan now includes the area of the property where the existing residence is located which is also the area where the replacement dwelling would likely be located.

The inclusion of the entire 11-acre property into the Parks and Openspace Master Plan creates an additional regulatory barrier to the reconstruction of a single-family home. The inclusion of the entire 11-acre property appears to be in conflict with the Buildable Lands Inventory and the Housing Needs Analysis, and in conflict with the Comprehensive Plan Designation and the Zoning per the North Mountain Park Neighborhood Plan. Changes to the Comprehensive Plan or zoning of the area would at a minimum necessitate a modification of the North Mountain Neighborhood Plan.

Can staff provide a few options to have a quick discussion with Don and myself?

Tuesday, Thursday, or Friday?

Thank you,
Amy

Amy Gunter

Rogue Planning & Development Services

541-951-4020

www.rogueplanning.com

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From: gshaff@gmail.com
To: [Parks Information](#)
Cc: [Brandon Goldman](#); [Derek Severson](#); [Paula Hyatt](#)
Subject: 11/28 Planning Commission Study Session
Date: Wednesday, November 29, 2023 8:50:28 AM

[EXTERNAL SENDER]

Hi Leslie,

I have a few comments and a question about the materials that were reviewed at last night's Planning Commission study session.

Foremost, I believe that there is an error on the Parks, Open Space and Trails map (p. 26 in the PC packet). More particularly, the Cottle Phillips property fronting on Terrace (labeled as property E on the map) is not developed. It is however, assessed as open space which limits its development, absent paying back taxes, and because of that, may make it an attractive acquisition for APRC.

It also bears noting the the city holds a pedestrian access easement on my property (516 Herbert Street) and my neighbor's to the east. That easement is not shown on the map but serves to provide access to the Cottle Phillips open space. I would encourage you to include easements on the map using a distinctive pattern and distinguish it from outright ownership. I believe easements are currently used in other locations to provide trail connectivity and, I expect, APRC will find easements a useful tool, in the future, to protect stream side habitats.

My question relates to the use and approval of the map on page 26, showing future APRC acquisition priorities. Will the acquisition priorities be approved by Council as a part of the Comprehensive Plan amendment and, if not, when?

Thank you,
Gary Shaff
516 Herbert

Re: Parks, Trails and Open Space map - comp plan amendment

Leslie Eldridge <leslie.eldridge@ashland.or.us>

Thu 2023-11-30 11:12 AM

To: Brandon Goldman <brandon.goldman@ashland.or.us>; Gary Shaff <gshaff@gmail.com>

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

Hello Mr. Shaff,

In regards to your concerns with bike transportation and the Central Bike Path specifically. In the latest version of the Parks and Open Space map, we have added an explicit "Note" to the Layer entitled "Trails Master Plan Corridors". That note says:

*This map is intended to be used in conjunction with the APRC Trails Master Plan, which identifies critical connectivity corridors for acquisition or easements.

The blue layer referred to above is the foundation of the Trails Master Plan. The link below shows all the public involvement that went into that document. It also has a link to the actual Trails Master Plan, which has a chapter dedicated solely to the long term goals for the Central Bike Path.

<https://www.ashland.or.us/Page.asp?NavID=14080>

I hope this addresses your concerns,
Leslie

From: Brandon Goldman <brandon.goldman@ashland.or.us>

Sent: Thursday, November 30, 2023 10:02 AM

To: Gary Shaff <gshaff@gmail.com>

Cc: Leslie Eldridge <leslie.eldridge@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

Subject: RE: Parks, Trails and Open Space map - comp plan amendment

Gary,

The City submitted a post acknowledgement plan amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) about the Open Space Plan update on November 7th, 2023.

Regarding public involvement, the processes includes the public meetings of the Parks Commission, the study session before the Planning Commission, a public hearing before the Planning Commission, and hearings by the City Council, which are all in line with Goal 1 requirements.

The Planning Commission will not make a final decision; instead, they will offer a recommendation to the City Council. Comments gathered at the Planning Commission's hearing on December 12th will help shape this recommendation and will also be considered during the City Council's public hearing, which is yet to be scheduled. The first Council meeting hearing will also include the first reading of the ordinance and will be noticed in advance. Therefore, these public hearings are the primary opportunities for public input on any legislative amendment including this official map update. As you know Ashland has a history of exceeding the minimum requirements for public involvement beyond just the requisite public hearings noted above. This is evident in the creation of the APRC subcommittee and outreach to various organizations that has occurred in advance of the Commission meetings. However, to my knowledge there was not a city-wide public meeting regarding updating the plan held at the initiation of this project. Rather the APRC has regularly been discussing the issue at their public meetings over the last 2 years.

Leslie Eldridge, the Interim Parks Director, can provide more details about the outreach efforts and address your concerns about the Central Bike Path, so I have copied her on this reply. As you noted, the Central Bike Path

extension serves as both a transportation and recreational facility. As such, it included in the Transportation System Plan (TSP) and remains a priority for the city.

Brandon Goldman, AICP
Director of Community Development

Pronouns: he, him, his



City of Ashland
Community Development

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Brandon.goldman@ashland.or.us

Online ashland.or.us; social media (Facebook @CityOfAshlandOregon | Twitter @CityofAshland)

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From: gshaff@gmail.com <gshaff@gmail.com>
Sent: Wednesday, November 29, 2023 12:00 PM
To: Brandon Goldman <brandon.goldman@ashland.or.us>
Subject: Parks, Trails and Open Space map - comp plan amendment

[EXTERNAL SENDER]

Hi Brandon,

Sorry to be in your hair but I have some real concerns about the planned amendment to the city's plan.

As I shared with you earlier this week, I believe that the APRC priorities should include extension of the Central Bike Path to the south and north city limits. That would be consistent with the city's Transportation System Plan which identifies that project (Table 8-1, project TR-1) as one of its "high" priorities (constructed within 0 to five years following the plan's 2013 adoption). That project will also implement the city's Climate Energy Action Plan which calls for the reduction in vehicle miles of travel. That will occur because the Central Bike Path is used for everyday travel by Ashland residents and is a part of the developing, citywide "all ages and abilities" bicycle network.

I recognize the Parks Department engaged a subcommittee of the APRC and other citizen representatives (hiking and mountain biking enthusiasts) to help set the priorities. Notices of their meetings were posted on the city's website. And I also recognize that Parks coordinated with the Fire Department and the Ashland Forest Resiliency. Do those efforts, in your opinion, satisfy the requirement of Statewide Planning Goal 1, AMC 2.12.070 or Goal 3.03 of the city's comprehensive plan, and the city's agency involvement program?

I presume the Statewide Planning Goal 2, subsection E, Major Revisions and Minor Changes in the Plan and Implementation Measures is incorporated into the city's plan amendment procedures. It states "the citizens in the area and any affected governmental unit should be given an opportunity to review and comment prior to any changes in the plan and implementation ordinances. There should be at least 30 days notice of the public hearing on the proposed change." Have you already provided post- acknowledgement plan amendment notice to DLCD?

Basically, I want to ensure that the community, as a whole, has an opportunity to help set the parks, trails, and open space acquisition priorities. At this point, I don't believe they have. The scheduled Planning Commission public hearing on December 12 seems premature.

Please share your thoughts with me.

Thanks,
Gary