

**ASHLAND CITY COUNCIL
BUSINESS MEETING
DRAFT MINUTES
Tuesday, December 6, 2022**

I. CALL TO ORDER

Mayor Akins called the meeting to order at 6:00 PM.

II. PLEDGE OF ALLEGIANCE

Councilor Hyatt led the Pledge of Allegiance.

III. ROLL CALL

Councilors' Hyatt, Graham, Moran, DuQuenne and Jensen were present. Councilor Seffinger was absent.

IV. MAYOR'S ANNOUNCEMENTS

Councilor Graham read the Land Acknowledgement.

V. APPROVAL OF MINUTES

1. Minutes of the October 31, 2022, Study Session Meeting

2. Minutes of the November 1, 2022, Business Meeting

Graham/Hyatt moved to approve the minutes. Discussion: None. All Ayes. Motion passed unanimously.

I. SPECIAL PRESENTATIONS

1. Band Director Recognition

Jensen asked that agenda item be moved to a future Agenda due to the absence of the Band Director.

Mayor Akins spoke she would be moving Agenda Item #3. Severe Weather Emergency Shelter up in the agenda.

I. PUBLIC FORUM

Miriam Reed-Ashland-Spoke regarding the damage of radiation and suggested Ashland be 5G free.

Kelly Marcotulli-Ashland-Spoke against 5G. She spoke regarding the upcoming Ordinance to be approved by Council.

D'vorah Swanzman -Ashland- Spoke against 5G. Spoke requesting to work on making a healthy environment in Ashland and be 5G free.

I. Mayor Akins moved ORDINANCES, RESOLUTIONS AND CONTRACTS

Item # 3 Severe Weather Emergency Shelter to the next item.

Severe Weather Emergency Shelter

a) Resolution on Severe Weather Emergency Shelter Policy

City Manager Joe Lessard provided the background on the item. Echo Fields, the Housing and Human Services Commission chair provided further background. She explained the need for appropriate shelter for the homeless will increase over time during winter, summer, and periods of intense smoke.

Hyatt confirmed the summer temperature was 95 degrees. Mr. Lessard clarified due to budget, resources, and locations, opening shelters for winter, summer and smoke was a standard and not guaranteed.

Public Testimony

Rich Rohde-Ashland-Supported passing the measure as written. He explained there were three key parts, the activation schedule, communication, and a collaborative debrief following each shelter period.

Hyatt/Graham moved to approve Resolution 2022-33 that supersedes all prior inclement weather policies and sets forth new and comprehensive thresholds for calling an emergency shelter in the instances of severe weather events and outlines a process for enacting a shelter and defines the City's role in that process with the two amendments temperature and inclusion of our youngest citizens.

Discussion: Hyatt noted Council had discussed the emergency manager at the Study Session the night before and it included elements around this policy. She spoke that it would take significant effort to coordinate. Graham noted that this was a good example of Council and Commission working well.

Lessard clarified calling for a shelter operation did not guarantee the shelter would open. It was a volunteer effort and there would be nights where they would not be enough volunteers to support opening a shelter. **Roll Call Vote: Graham, Hyatt, Jensen, DuQuenne, and Moran: YES. Discussion: None. Motion passed unanimously.**

b) Resolution Authorizing Contracts for Severe Weather Emergency Shelter Services for a not to exceed total of \$100,00

Lessard gave a Staff Report.

Mayor Akins questioned whether or not the City would be entering into a contract with OHRA. Housing Program Specialist Linda Reid answered yes. Reid went over the details and history.

Council discussed cost.

Hyatt/Jensen moved to authorize the City Manager to execute a contract with a nonprofit organization for Emergency Shelter Coordination Services utilizing funding appropriated for that purpose to cover the cost of the activity in an amount not to exceed \$100,00.

Discussion: Hyatt commented that it was difficult to target how much was appropriate because it was based on the weather. She spoke to give Lessard the tools needed to execute the policy and Council can revisit the Policy if needed. **Roll Call Vote: Moran, DuQuenne, Jensen, Hyatt, and Graham, YES. Motion passed unanimously.**

**c) Resolution 2022-34 Budget Amendment for Severe Weather
Emergency Shelter Services**

Deputy City Manager Sabrina Cotta explained the Resolution authorized transferring from contingency of the general fund to allow appropriation of the money for the shelter policy.

Councilor Graham wanted to know where the funds would come ongoing. Lessard replied they were looking for an alternative permanent shelter location solution.

Jensen/DuQuenne moved to adopt Resolution 2022-34 authorizing a 2021-23 BN supplemental budget amendment for severe weather emergency shelter services.

Discussion: None. **Roll Call Vote: Councilor Graham, Hyatt, Jensen, DuQuenne, and Moran, YES.**

Motion passed unanimously.

II. CITY MANAGER REPORT

City Manager Joe Lessard went over the City Manager Report. Items discussed were:

- Emergency Weather Shelter
- Holiday Luncheon

Moran addressed Measure 15-211 and asked how the city would fill the gap. Lessard explained they would discuss next steps during a future study session.

Graham addressed Utility Billing Division being short staffed. Lessard confirmed that while billing was late, the public would not incur late fees. He explained City Hall remained closed to the public and Utility Billing had moved temporarily to another building; however the public could drop off payments at City Hall or the kiosk next to the Council Chambers Building.

Council discussed future options for City Hall.

Council and Staff discussed Health Insurance for Elected Officials.

Acting City Attorney Doug McGeary explained there is no source document.

Council and Staff discussed having the constituents vote on this issue.

Councilor Jensen called for a point of order stating this item was not on the agenda. Mayor Akins explained she had requested the topic as an agenda item, and it was not added. This was an emergency as healthcare benefits would cease December 31, 2022. The Mayor would not honor the point of order.

Councilor Jensen appealed the Mayor's ruling.

Mayor Akins requested a Roll Call vote on whether Council upheld the point of order. Roll Call Vote: Hyatt, Graham, Jensen, YES; Moran and DuQuenne, NO.

Moran stated if they Council would not be allowed to speak to this he would excuse himself and leave. Acting City Attorney Doug McGeary explained the vote needed a two-thirds majority vote. Mayor Akins noted the point of order did not stand and Council continued to discuss the item.

Council and Staff discussed options and cost implications.

Mayor Akins spoke to the importance of mutual care to this body regarding health benefits.

Council requested that Staff bring this item back within 90 days for discussion.

III. CONSENT AGENDA

- 1. Transportation Advisory Committee Appointments**
- 2. Rogue Valley Transportation Improvement Funding Letter of Support**
- 3. Resolution 2022-36 Suspending Ordinances Affecting City Commissions Transitioned to Advisory Committees**
- 4. Declaration and Authorization to Dispose of Surplus Property**
- 5. Professional Services contract with GSI Water Solutions Inc. for the development of the Water Management and Conservation Plan (WMCP)**
- 6. Approval of Liquor License for Cocorico LLC**

DuQuenne and Hyatt pulled Consent Agenda item number 3 for discussion.

Graham/Hyatt moved to approve the Consent Agenda items 1, 2, 4, 5 & 6. Roll Call Vote: Hyatt, Jensen, Moran, Graham, and DuQuenne: YES. Discussion: None. Motion passed unanimously.

City Manager Joe Lessard gave a Staff Report regarding Resolution 2022-36.

Hyatt/Graham moved to adopt Resolution 2022-36 that suspends the operations of specific City Commissions established in the Ashland Municipal Code that have transitioned to Standing Advisory Committees or are currently not functioning.

Roll Call Vote: DuQuenne, Hyatt, Moran, Jensen, and Graham: YES. Discussion: None. Motion passed unanimously.

IV. PUBLIC HEARINGS

1. Annexation and Site Review - HWY 99: PA-T3-2022-0004

Mayor Akins read from a script regarding the land use public hearing (*see attached*).

Mayor Akins opened the hearing at 7:57 PM.

Abstentions, Conflicts, Ex Parte Contacts

Councilor Hyatt disclosed she was the Planning Commission Liaison, had heard discussion regarding the planning action but it did not constitute an ex parte contact.

Staff Report

Interim Planning Director Brandon Goldman gave a Staff Report.

Goldman went over the process.

Senior Planner Derek Severson provided a presentation (*see attached*).

Items discussed:

- Annexation Request
- Aerial Maps
- Photos of entry to the city and ditches
- Transportation Improvements
- Site Plan
- Site Plan with night photos
- Site Plan Photos night and day
- Site Plan and Illustration
- Underpass Area Site Plan and photo
- Underpass Improvement
- Photos, steep slopes, and public infrastructure beyond trestle at N. Main and OR HWY
- Engineers Drawings
- Sidewalk Terminates photo
- Crosswalk with Rectangular Rapid Flashing Beacon
- Street Standards Exception
- Cross Section Site Plan
- Vehicle Access Safety Evaluation
- Public Infrastructure Site Plan
- Site Development Plan
- Elevations
- Floor Plans can be modified to adjust affordable housing
- Subdivision Map
- Proposed Tree Removal
- Landscape & Open Space Site Plan

Questions of Staff

Jensen questioned the railroad trestle ped crossing piece regarding west bound. Mr. Severson explained the RR trestle restricted Highway 99 has a bike lane but no room for city standards under the trestle. Tape constriction that meets ODOT safety standard and city standards, exception. Bike Lane vertical barrier, p concrete barrier then sidewalk. ODOT cannot adequately have a sidewalk there. Use multi use path with bike and ped then transition to bike lane only. Applicant needs to finalize with ODOT with recognition they will find a safe way to move through that area for bikes and peds with barrier.

Graham received comment letter regarding procedural issues. She questioned if Staff has received this and if there are any concerns. Goldman spoke that Staff did receive these comments and also provided them to the applicant so they can respond during rebuttal.

Applicant's Presentation

Robert Kendrick and Amy Gunter presented a PowerPoint Presentation (*see attached*).

Items discussed:

- Magnolia Terrace Appeal
- Site Layout
- Grounds for Appeal
- Zoning and Historic Overlays
- Underlying Zoning Standards
- Historic District Design Standards Compliance

Public Testimony

Matthew Havnear-Talent – Spoke that he is Housing Recovery Director for long term recovery group in Jackson County. He spoke in support of the annexation and his reasons why. He spoke that there is a housing crisis in the nation and housing should be considered a priority.

Applicant's Rebuttal

Gunter addressed the letter from Rogue Advocates. She addressed years of meetings and correspondence with ODOT regarding transportation. The indication that improvements cannot be approved by ODOT or will not be is not accurate. Horowitz is available to talk. She explained that ODOT makes an approval. after the plan is approved by city.

Gunter explained the process.

Mayor Akins closed the Public Hearing and record at 9:07 PM.

Council Deliberation and Decision

Graham questioned the traffic study. Goldman explained the City will have to request and it would come through the Public Works Director.

DuQuenne/Hyatt moved to approve first reading of the Ordinance and scheduling a second reading of the Ordinance for December 20, 2022 and directed Staff to prepare written findings for approval of the proposed Annexation, incorporating the Planning Commission's decision and the Staff recommendations, for Council's adoption on December 20, 2022. DISCUSSION: DuQuenne agreed there is a need for additional housing, and this is a beginning of something she hoped would continue. Hyatt spoke to the needs for

middle housing. Graham spoke to the importance to looking at climate work and is pleased to see is that climate is integrated throughout the project. Mayor Akins spoke that she is pleased the progress. **Roll Call Vote: Councilor Moran, Hyatt, Jensen, Graham, and DuQuenne, YES. Motion passed unanimously.**

V. **UNFINISHED BUSINESS** - None

VI. **NEW AND MISCELLANEOUS BUSINESS** - None

VII. **ORDINANCES, RESOLUTIONS AND CONTRACTS**

1. Resolution 2022-35 Canvassing the Vote for the November 8, 2022, General Election

Acting City Attorney Doug McGeary suggested the amendments to the motion.

Hyatt/Graham moved to amend Resolution 2022-35 as written, to renumber Section 7 through Section 10, and add 7 to say read to say Justin Adams is declared to be the duly Parks Commissioner for position number 4, and add Section 9 to declare Measure 15-210 is declared to not be approved; and add section 10 to declare Measure 15-211 is declared to not be approved; and add Section 11 to read: This Resolution was duly passed and approved this 6th of December, 2022 and takes effect upon signing by the Mayor.

Discussion: None. Roll Call Vote: Councilor DuQuenne, Moran, Graham, Jensen, and Hyatt, YES. Discussion: None. Motion passed unanimously.

2. Second Reading SDC Committee Recommended Ordinance Updates for Multi-Family Developments

Public Works Director Scott Fleury gave a brief Staff Report.

Councilor Jensen/Graham moved to approve second reading of Ordinance Number 3214 and advance it to enactment. DISCUSSION: Jensen spoke in appreciation of Staff. Roll Call Vote: Councilor Jensen, DuQuenne, Hyatt, Moran, and Graham, YES. Motion passed unanimously.

3. Severe Weather Emergency Shelter

This Item was moved after Public Forum (see above).

VIII. **OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS**

None.

IX. **ADJOURNMENT OF BUSINESS MEETING**

Graham/DuQuenne moved to adjourn the meeting. Discussion: None. All Ayes. Motion passed unanimously.

Meeting adjourned at 9:21 p.m.

Respectfully Submitted by:

City Recorder Melissa Huhtala

Attest:

Mayor Akins

PROCEDURE FOR PUBLIC HEARING FOR ANNEXATION HEARING: 1511 HIGHWAY 99N

READ ALOUD ALL IN BLUE

FOLLOW THE STEPS AND ASK EACH QUESTION IN FULL

1. CALL TO ORDER

The public hearing is now open. The applicant is requesting annexation of 16.86 acres located at 1511 Highway 99 North into the City of Ashland, along with 6.6 acres of adjacent state highway right-of-way and 7.68 acres of adjacent railroad property. The property is currently located in Jackson County and zoned Rural Residential (RR-5). With annexation, these properties would be brought into the City as Low Density, Multi-Family Residential (R-2) with a base density of 13 ½ dwelling units per acre. The application also includes land use requests for Outline Plan subdivision approval to create 12 lots; Site Design Review to construct 230 apartments in ten buildings including at least 38 affordable units; Exceptions to the Street Design Standards; and two Tree Removal Permits. The Planning Commission has reviewed and approved these land use components subject to the Council's approval of the annexation, and has recommended that the Council approve the annexation. Tonight's proceedings include the annexation hearing and first reading of an Ordinance annexing the property.

The Council will take a few moments to cover some preliminary matters and required statements. Generally, the following procedure will be used in this hearing:

1. Preliminary Matters and Required Statements
2. Staff Report
3. Applicant's Presentation
4. Those wishing to provide testimony
5. Rebuttal by the Applicant
6. Close Public Hearing & Record
7. Advice from Legal Counsel and staff, and
8. Council Deliberation and Decision.

If you wish to participate in this hearing, including challenges for bias, prejudice or conflict of interest, you must complete a speaker request form located at the back of the room and deliver them to the City Recorder. Please do so immediately.

Challenges will be addressed after the reading of the required statements.

Presentations are generally limited to 15 minutes for the applicant and five minutes for testimony, however these may be adjusted if necessary to accommodate the number of those wishing to testify. When recognized by the presiding officer, please come forward to the podium, give your name, address and make your statement. If presenting documents at the time of your statement, these will be considered exhibits. Please submit these to the City Recorder as part of the record when you have completed your statement. Councilors may ask questions of staff and participants without affecting time limits.

2. ABSTENTIONS, CONFLICTS, EX PARTE CONTACTS

Do any members of the council wish to abstain, declare a conflict of interest or report any ex parte contact on this matter?

If contacts are reported, consider the following:

- a. *Ex-parte communications:* If a member has had ex parte communication the substance of the contact must be disclosed. The presiding officer and other members must listen to the disclosures to ensure the member places the substance of the ex parte communication on the record. The presiding officer should question the member if the disclosure of the written or oral communication is not complete. If the presiding officer fails to do so, a member may request a more full disclosure (point of order). Legal counsel will also monitor

the disclosure.

After disclosure of an ex parte contact, (or potential conflict of interest or after a challenge for bias (see below) the member should make the following affirmative statement of impartiality:

“I have not prejudged this application and I am not prejudiced or biased by my prior contacts or involvement or by any personal considerations; I will make this decision based solely on the public interest and the application of the relevant criteria and standards to the facts and evidence in the record of this proceeding.”

After ex parte disclosure the following **must be announced** by the presiding officer:

Any person has the right to rebut the substance of the evidence or information disclosed. Please present your rebuttal evidence on the substance of any ex parte contacts during the normal time allowed for testimony which has been established for this proceeding. Please reduce any bias, conflict of interest and prejudgment challenges to writing with supporting evidence and provide these to the City Recorder

- b. *Conflict of Interest: If a member has an actual or potential Conflict of Interest, the member must both announce the conflict and explain the nature of the conflict. If the Conflict is only a potential conflict the member may participate and vote. If the Conflict is an actual conflict, the member must also announce that the member will not be participating or voting. The member should leave the room to avoid accusations of non-verbal communication. (The only exception to not voting [for the City Council] is for necessity). After disclosure of potential conflict of interest the member should make an affirmative statement of impartiality.*
- c. *Actual personal bias, prejudice: If a member is actually personally biased, that is, the member cannot make the decision based upon applying the relevant Code standards to the evidence and argument presented, the member must announce the nature of the bias and also announce that they will not be participating or voting. The member should leave the room to avoid accusations of non-verbal communication. (see also Challenges below) Remember, if a member refuses to disqualify him or herself, the Council, for the hearings before the Council, shall have the power to remove such member for that proceeding.*

2. READ THE FOLLOWING STATEMENT (pursuant to the City Land Use Code and ORS 197.763(5). (City Recorder will read the following)

(1) The following is a list of the Ashland Municipal Code applicable substantive criteria for this application:

- The criteria for Annexation are described in AMC 18.5.8.050.
- The criteria for Outline Plan approval are described in AMC 18.3.9.040.A.
- The criteria for Site Design Review approval are described in AMC 18.5.2.050
- The criteria for a Tree Removal Permit are described in AMC 18.5.7.040.B.
- The criteria for an Exception to Street Standards are described in AMC 18.4.6.020.B.1.
- The requirements for a City Ordinance are described in Article 10 of the City Charter.

(2) All testimony, arguments and evidence must be directed toward the applicable substantive criteria, or such other criteria in the Plan or Land Use regulations which the speaker believes applies to the decision.

(3) Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

(4) Failure of the applicant to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow the decision maker to respond to the issue precludes any action for damages in Circuit Court.

3. CHALLENGES

City Recorder, do we have any written challenges to members of this hearing body for bias, prejudice or conflict of interest?

If a challenge is made, the challenge needs to be entered into the record and summarized by the presiding officer or legal counsel. The presiding officer, the challenged member and if necessary, the hearing body, will make a determination as how to proceed, including the power to override a member's own decision and remove a member.

There is no opportunity for individuals to disrupt proceedings by making out of order oral presentations or interrogating members under the guise of conflict of interest, prejudice and bias.

If a member is challenged for bias, the following statement should be made:

"I have not prejudged this application and I am not prejudiced or biased by my prior contacts or involvement or by any personal considerations; I will make this decision based solely on the public interest and the application of the relevant criteria and standards to the facts and evidence in the record of this proceeding."

4. STAFF REPORT

Brandon & Derek, please come forward to the podium to present the staff report.

5. APPLICANT'S PRESENTATION

Would the applicant team please come to the podium, state your names, addresses and make any comments you may have for the council regarding the application?

****Applicant is given 15 minutes to present proposal, at 14 minutes they will be asked to conclude their remarks.**

6. THOSE WISHING TO PROVIDE TESTIMONY – IN FAVOR AND OPPOSED

"I will now call forward those who have filed testimony request forms or requested to speak via Zoom. Each person will have 5 minutes. When you are called to speak, please state your name, address and make any comments you may have for the council regarding the application. If you have any documents to be submitted into the record, please deliver them to the City Recorder."

7. REBUTTAL BY THE APPLICANT

Does the applicant have any rebuttal?

****Applicant will be given 5 minutes of rebuttal time, after which the public hearing portion will be closed**

8. CLOSE PUBLIC HEARING

At this time, I will close the public hearing and the record for this application.

9. ADVICE FROM LEGAL COUNSEL AND STAFF

Does the council have any questions of staff or does the staff have any matter they wish to respond to?

10. COUNCIL DELIBERATION AND DECISION

"Is there a motion to begin council deliberation?"

GRAND TERRACE II
ANNEXATION, SITE DESIGN REVIEW, STREET
STANDARDS EXCEPTION AND PERFORMANCE
STANDARDS SUBDIVISION REVIEW

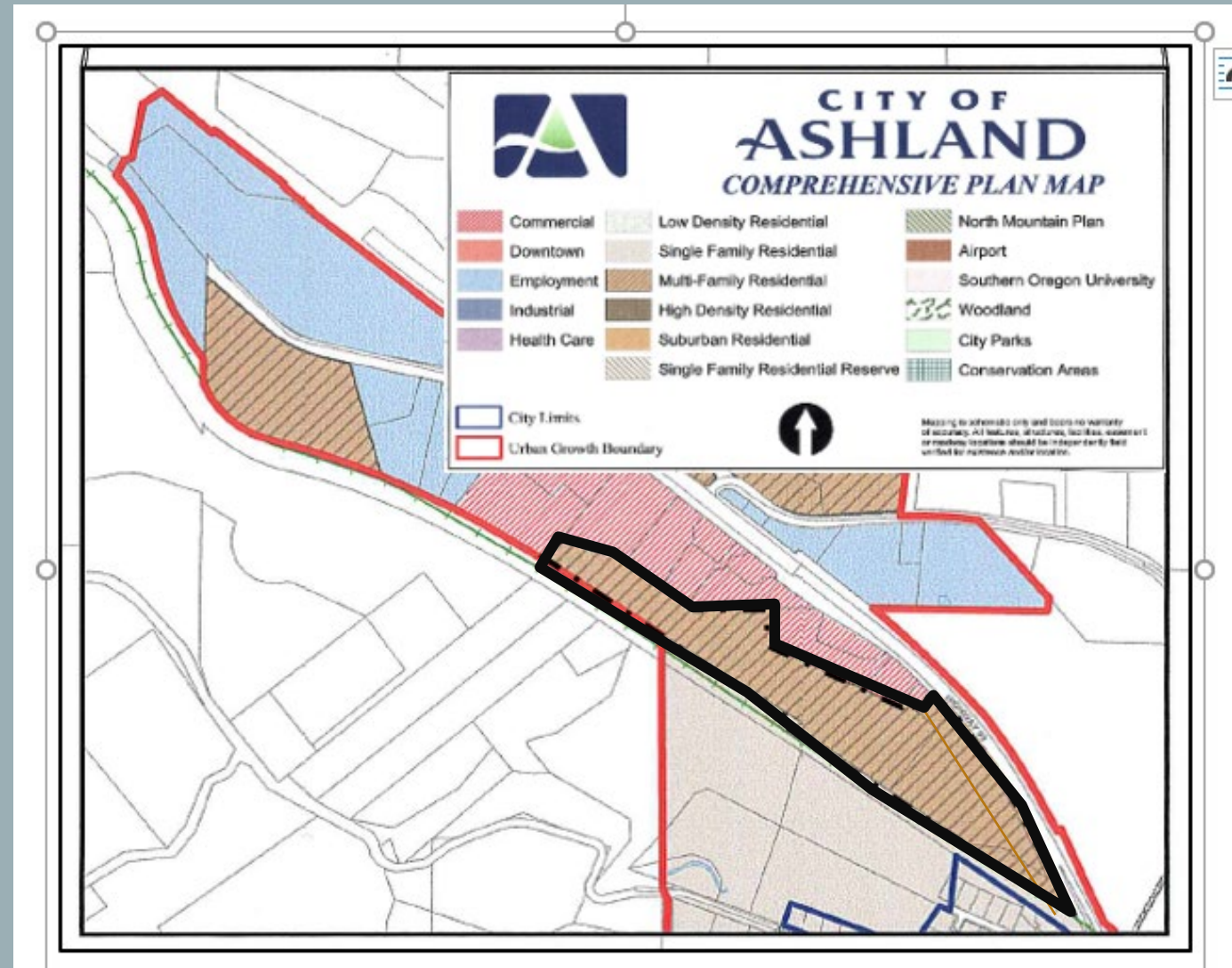


ANNEXATION REQUEST

The property is within the Urban Growth Boundary of the City of Ashland. This area of North Ashland was added 40 years ago. The Comprehensive Plan Designation of the property is Multi-Family Residential.

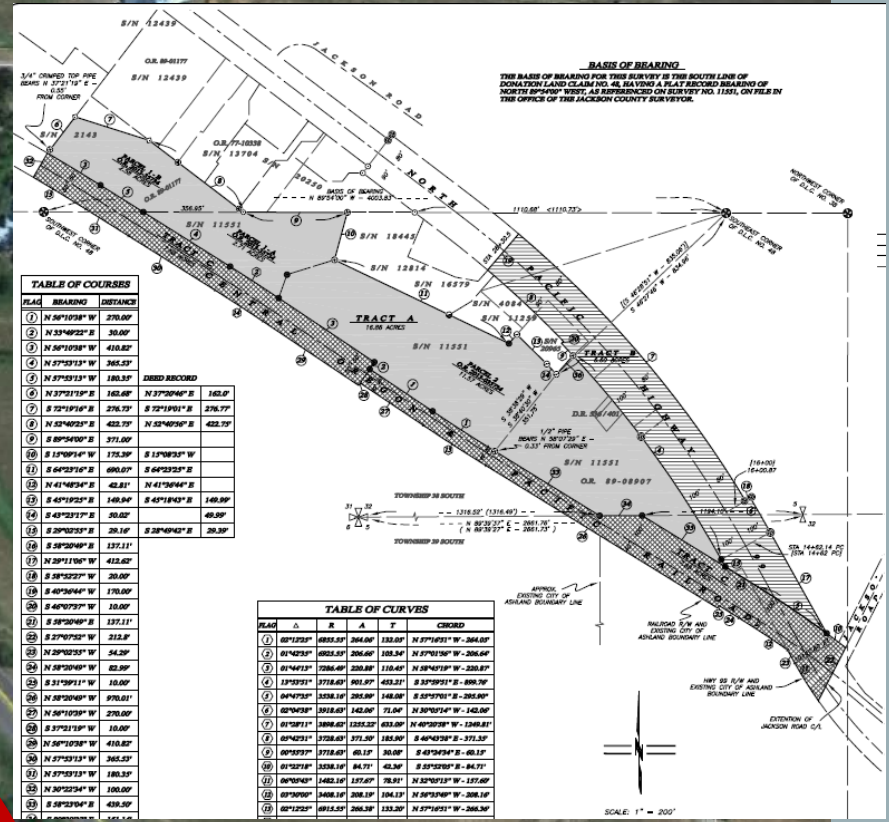
The current zoning of the property is RR-5, Jackson County Rural Residential. The properties to the north are Jackson County Commercial and Jackson County Exclusive Farm Use.

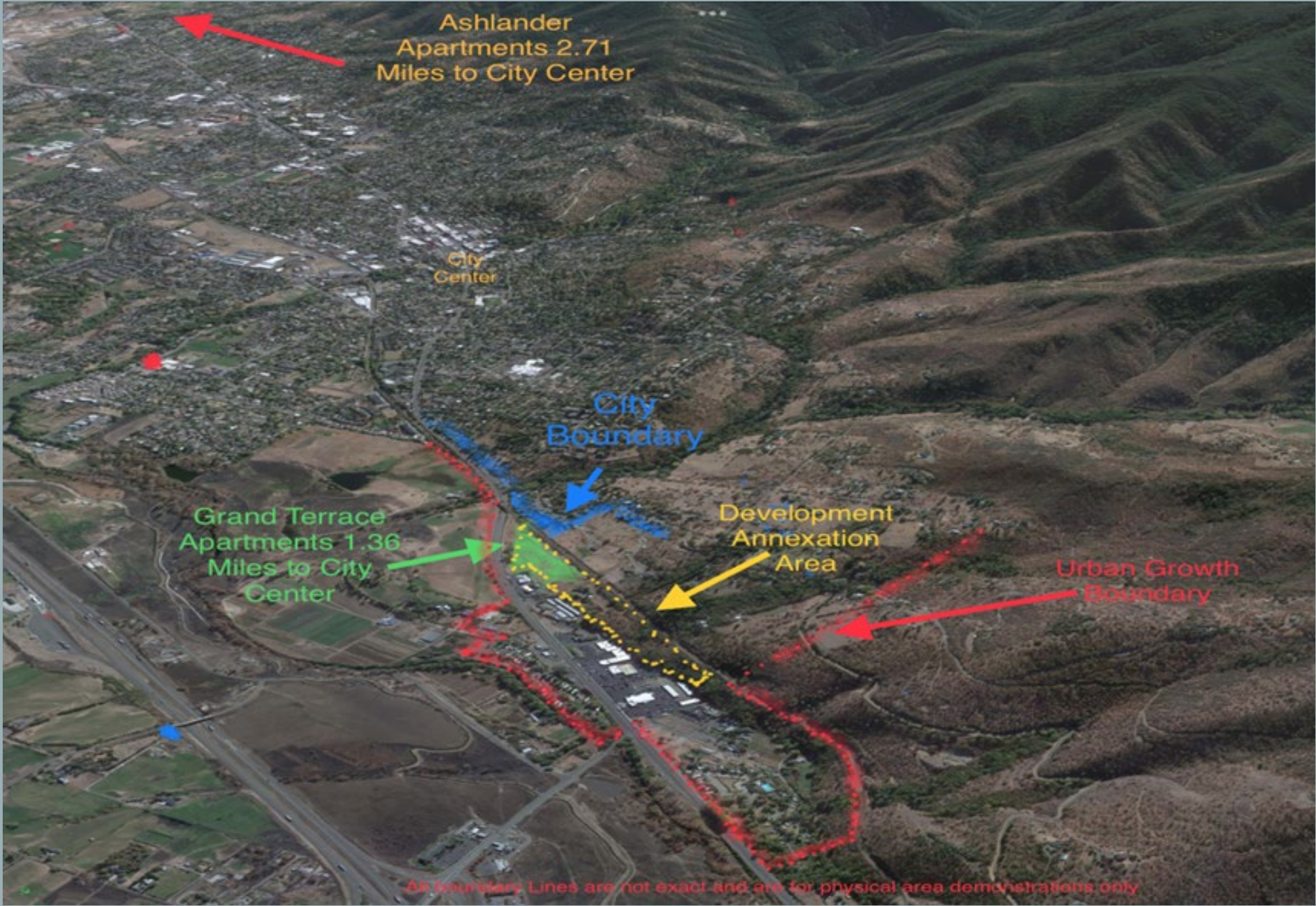
The properties to the S across the tracks are zoned Jackson County Rural Residential and City of Ashland, single family zoning.

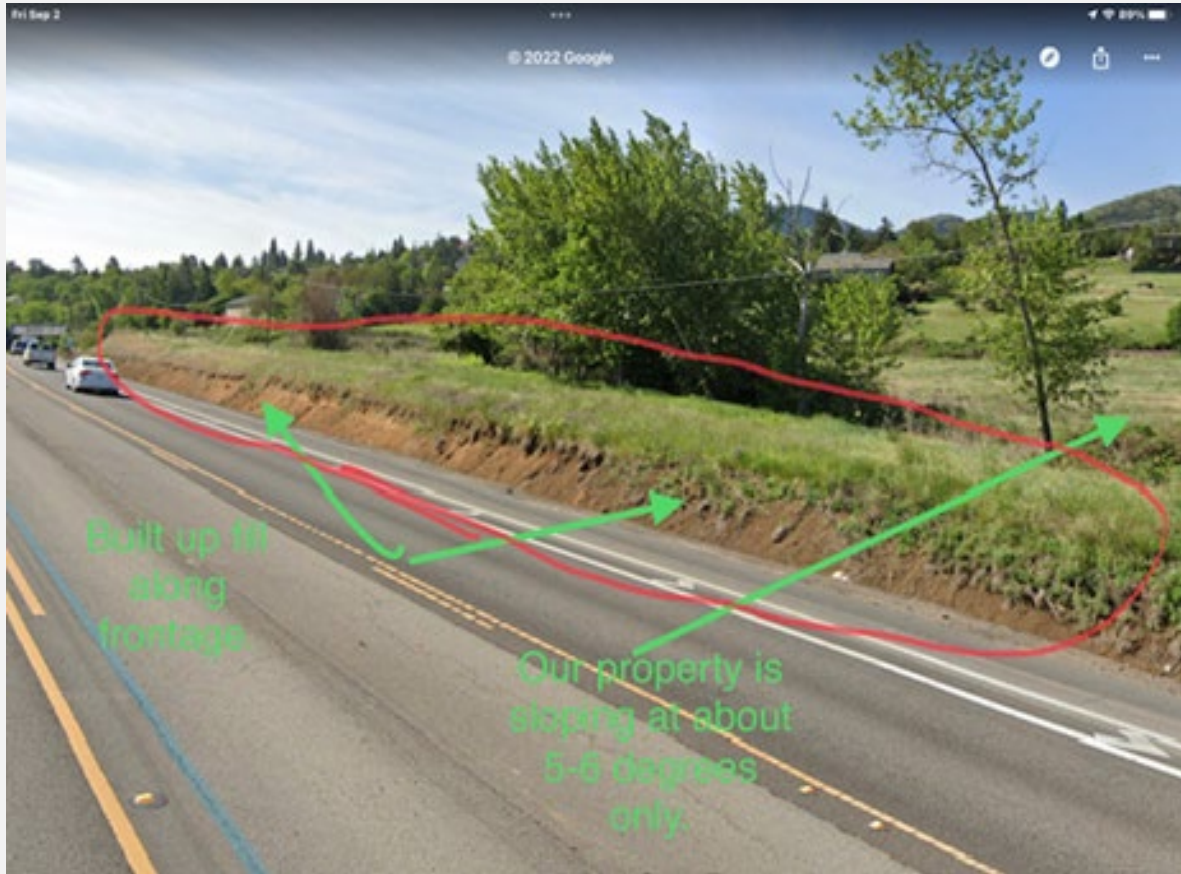


1511 Hwy 99 N, Ashland

39 2E 32: 1700 & 1702



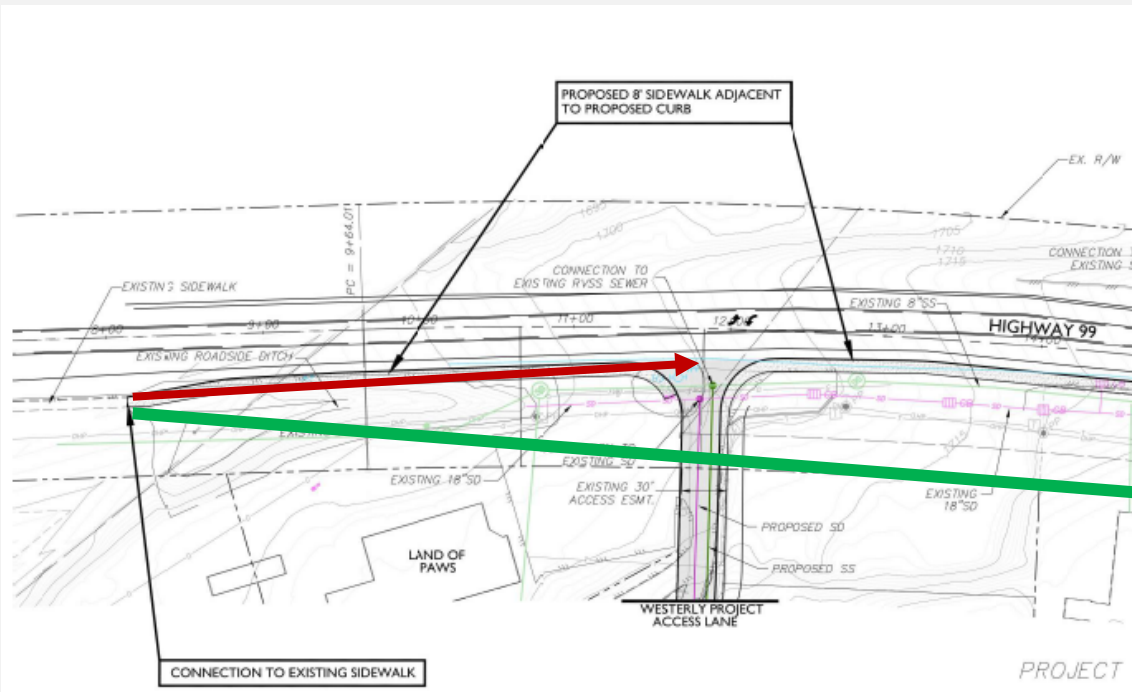




TRANSPORTATION IMPROVEMENTS

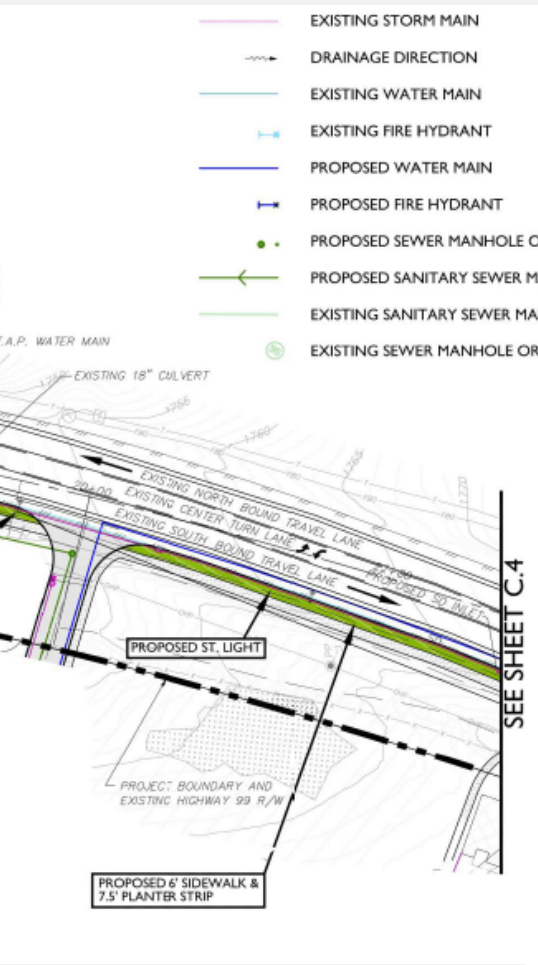
- Major sidewalk improvements
- Underpass improvements
- Rectangular Rapid Flashing Beacon (RRFB) Crosswalk
- Overhead street lighting
- Proposed highway improvement plans currently comply with ODOT Highway Design Manual (HDM) standards, and complies with ODOT 2023 HDM standards, Parts 300, 800 & 900





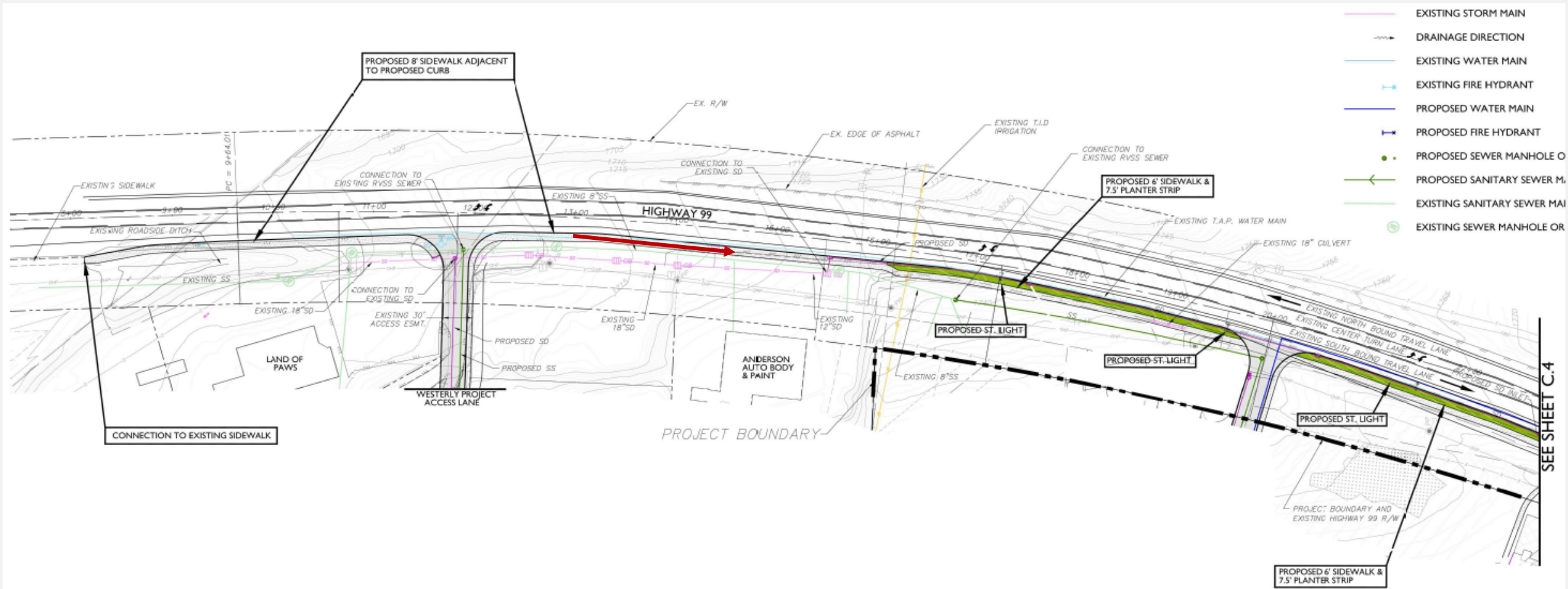
PLAN VIEW - S. PACIFIC HWY RIGHT-OF-WAY IMPROVEMENTS (W)

SCALE: 1" = 50' - 0" (24x36)



SEE SHEET C.4

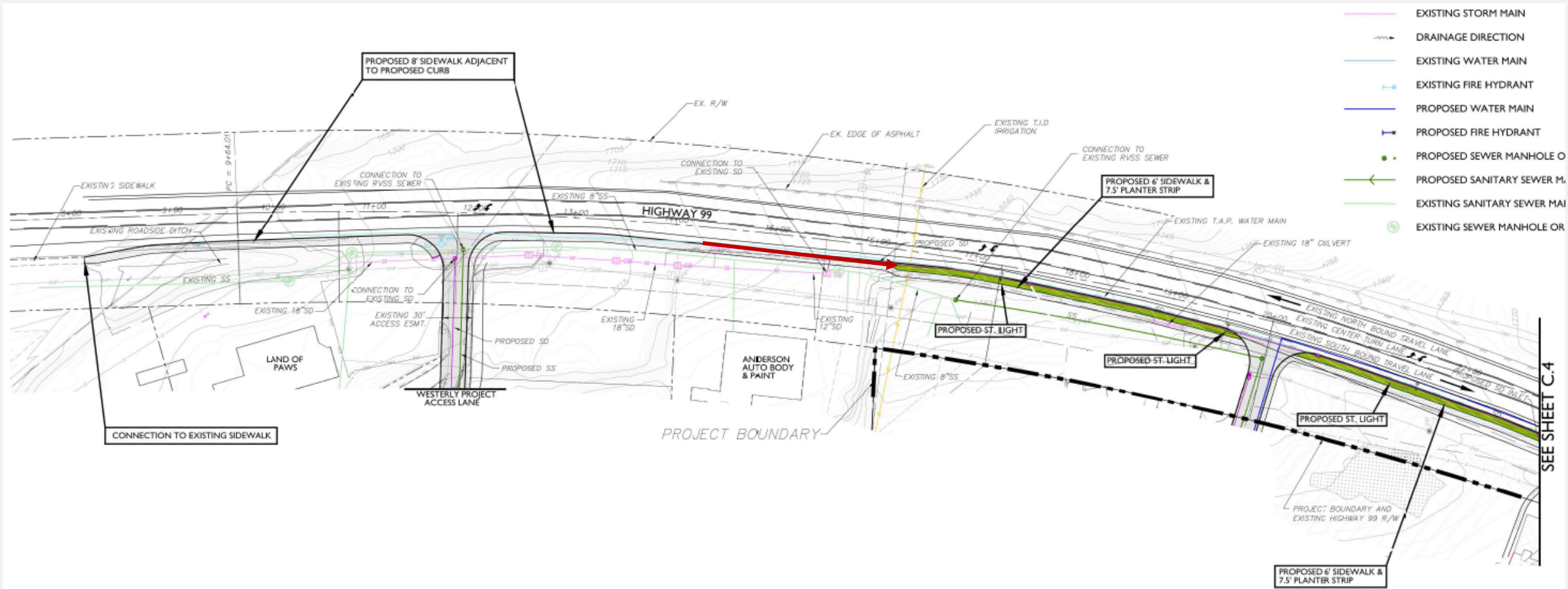




PLAN VIEW - S. PACIFIC HWY RIGHT-OF-WAY IMPROVEMENTS (W)

SCALE: 1" = 50'-0" (24x36)

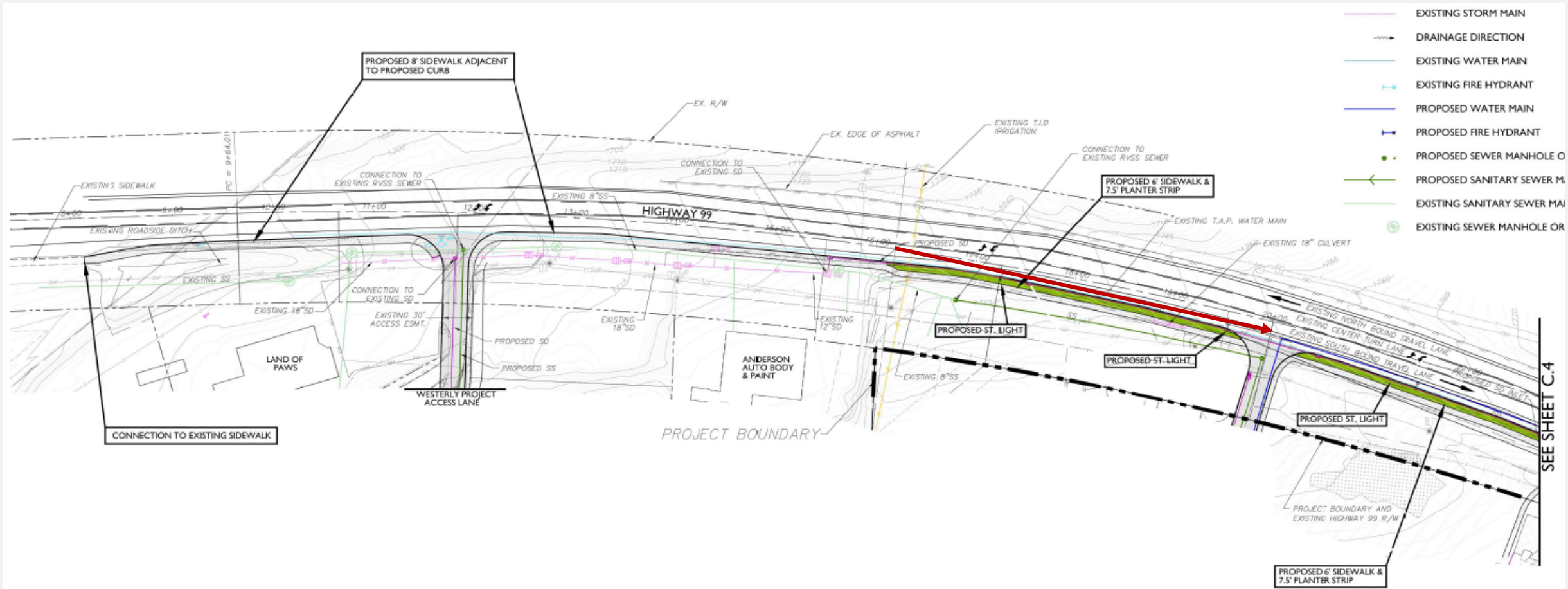




PLAN VIEW - S. PACIFIC HWY RIGHT-OF-WAY IMPROVEMENTS (W)

SCALE: 1" = 50' - 0" (24x36)





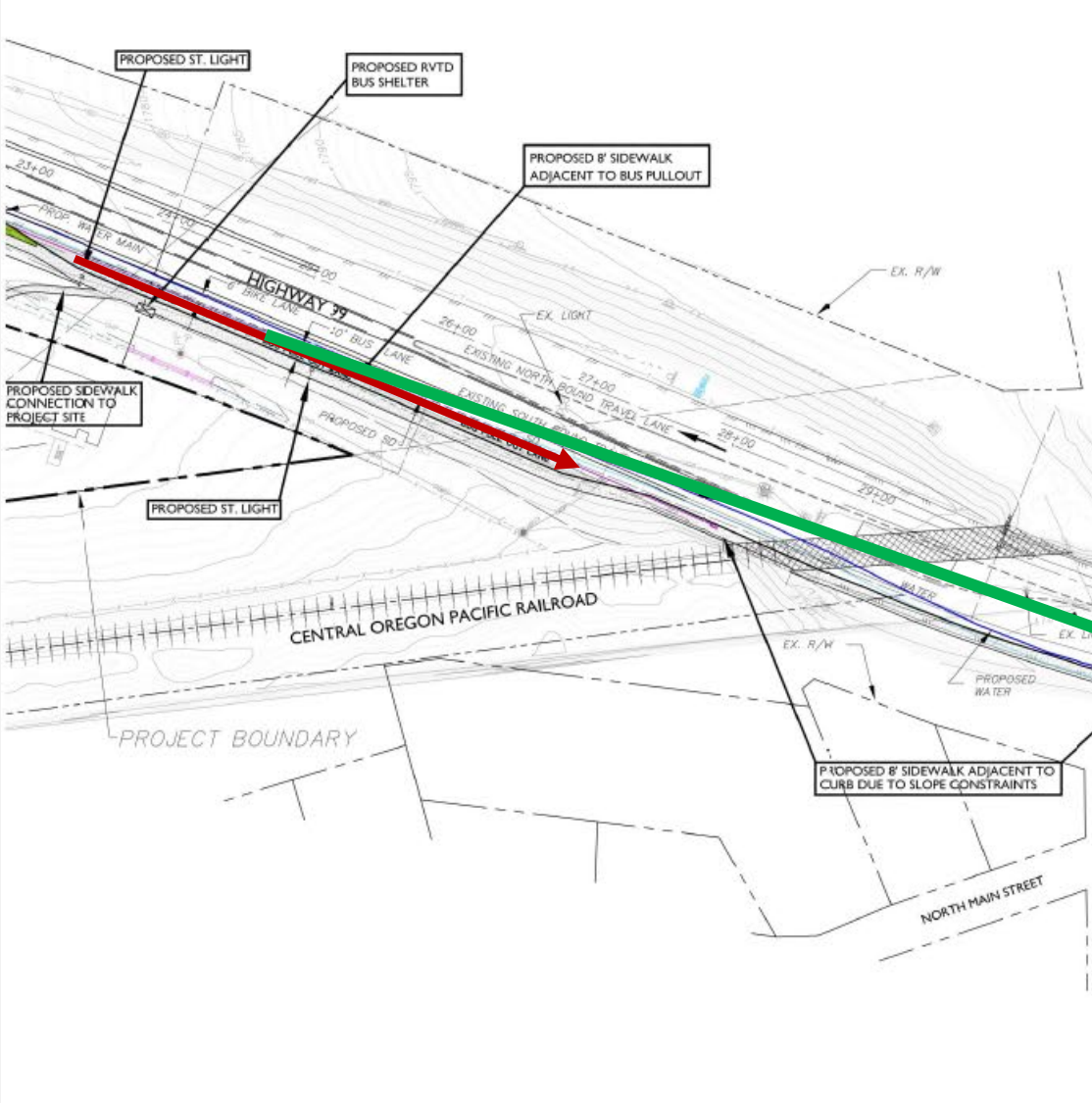
- EXISTING STORM MAIN
- - - DRAINAGE DIRECTION
- EXISTING WATER MAIN
- + EXISTING FIRE HYDRANT
- PROPOSED WATER MAIN
- + PROPOSED FIRE HYDRANT
- PROPOSED SEWER MANHOLE OR
- PROPOSED SANITARY SEWER MAIN
- + EXISTING SANITARY SEWER MAIN
- EXISTING SEWER MANHOLE OR

PLAN VIEW - S. PACIFIC HWY RIGHT-OF-WAY IMPROVEMENTS (W)

SCALE: 1" = 50' - 0" (24x36)

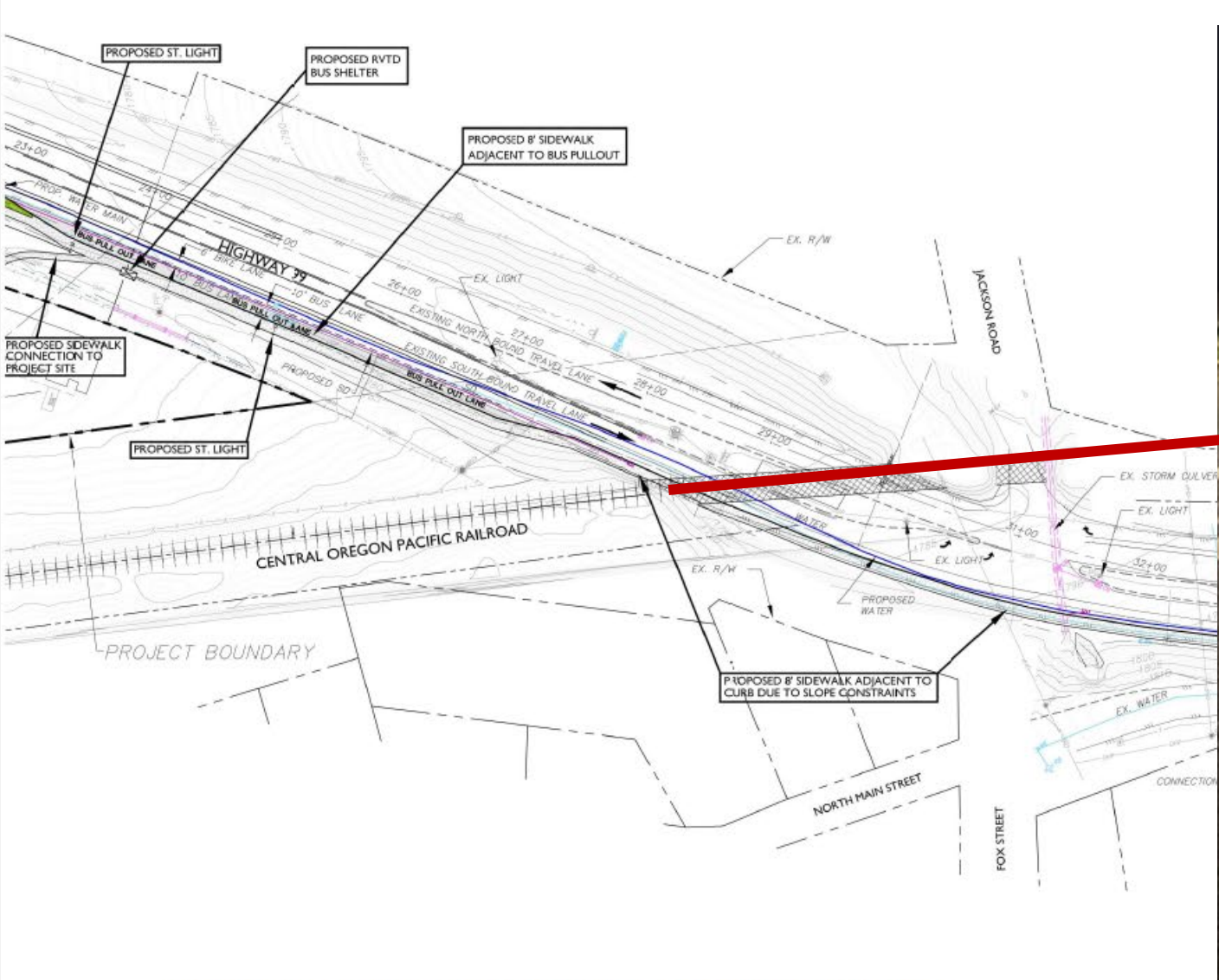
SEE SHEET C.4





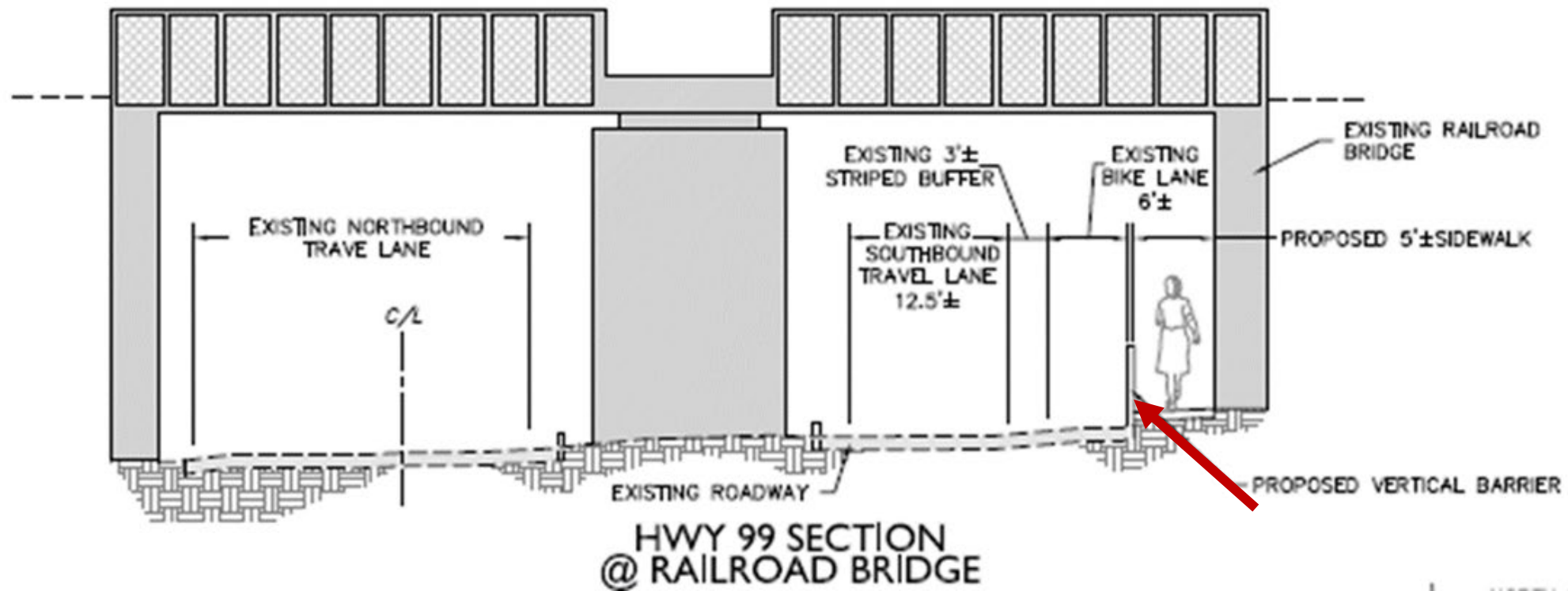
PLAN VIEW - S. PACIFIC HWY RIGHT-OF-WAY IMPROVEMENTS (E)

SCALE: 1" = 50'-0" (24x36)

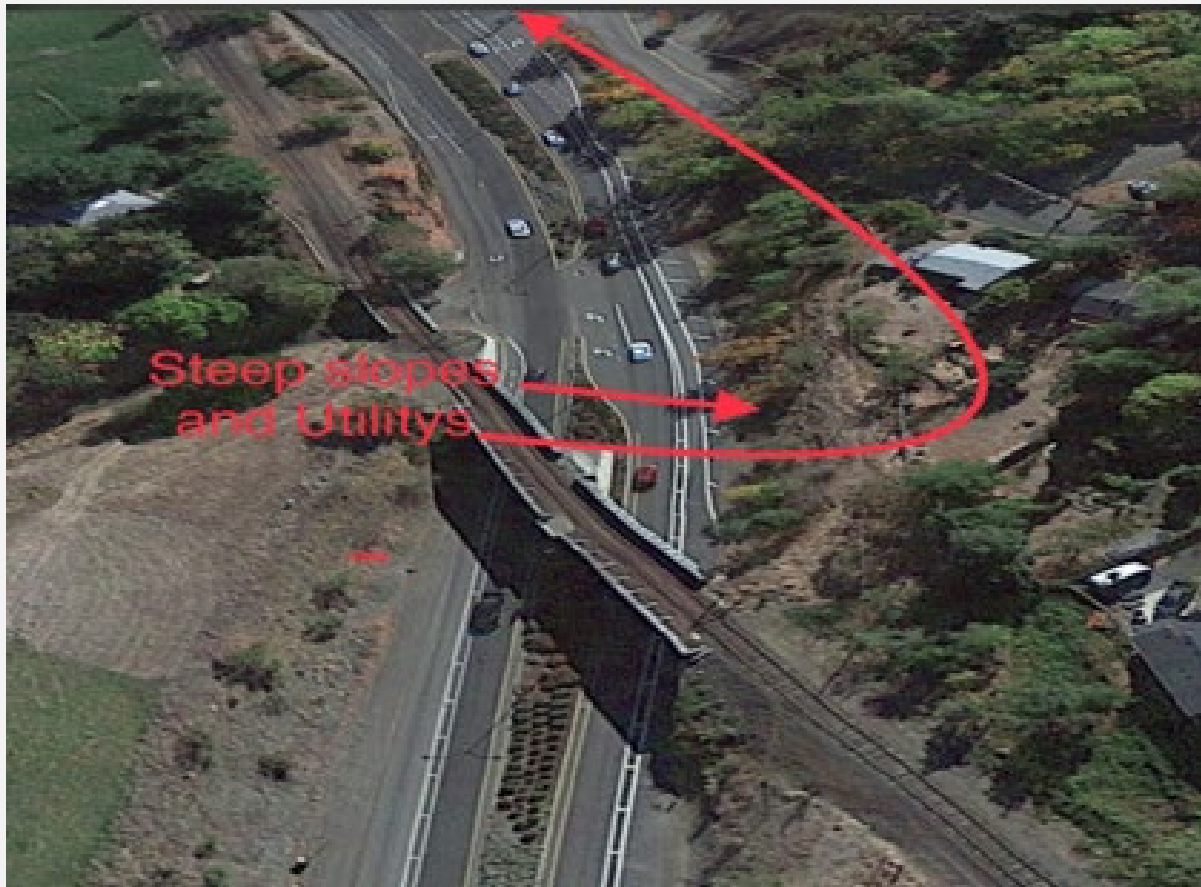


PLAN VIEW - S. PACIFIC HWY RIGHT-OF-WAY IMPROVEMENTS (E)

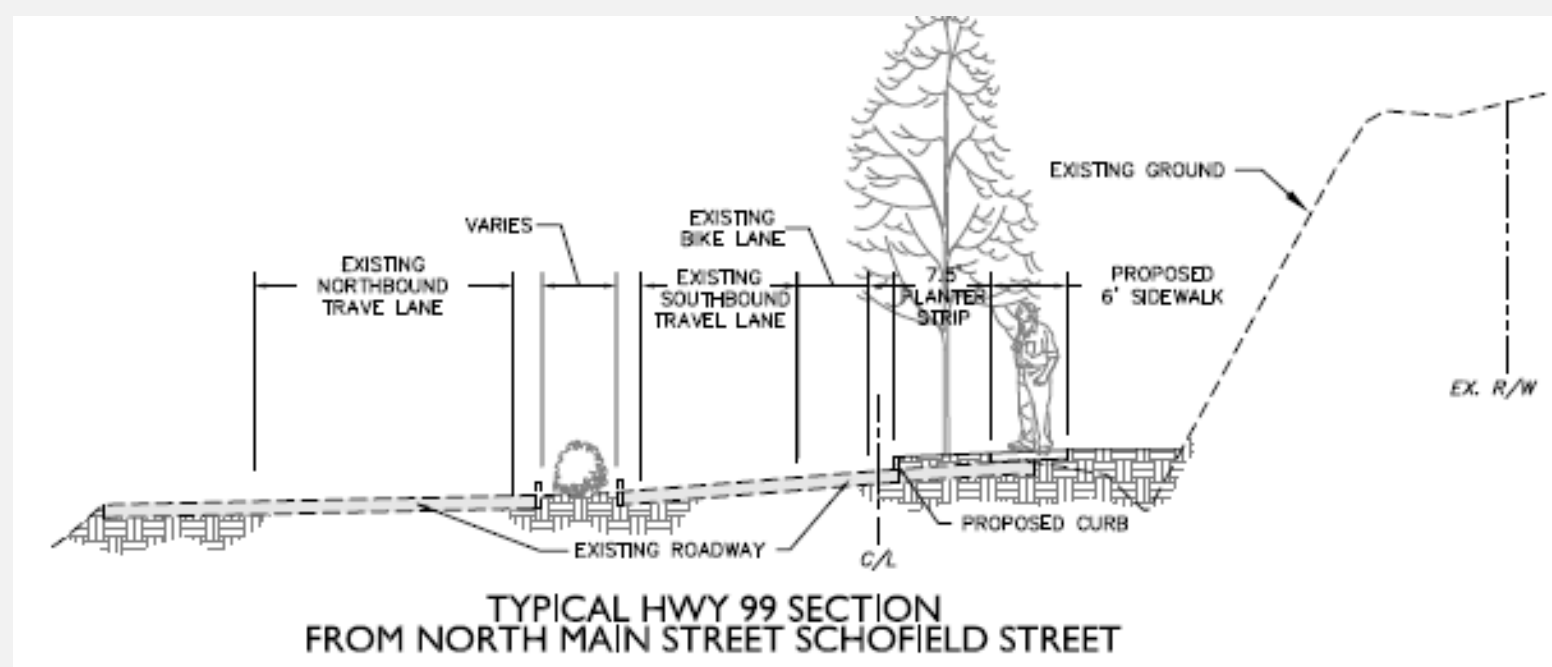
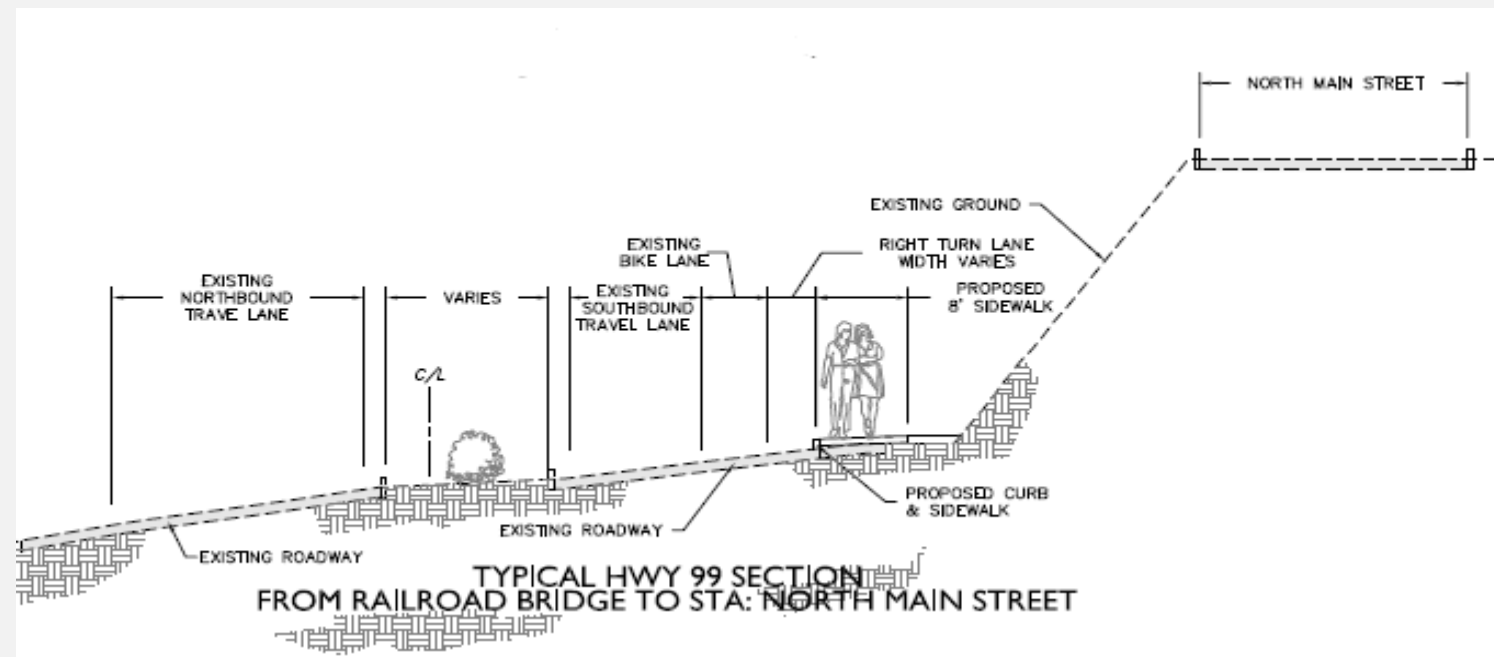
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OR HWY 99 UNDERPASS IMPROVEMENT



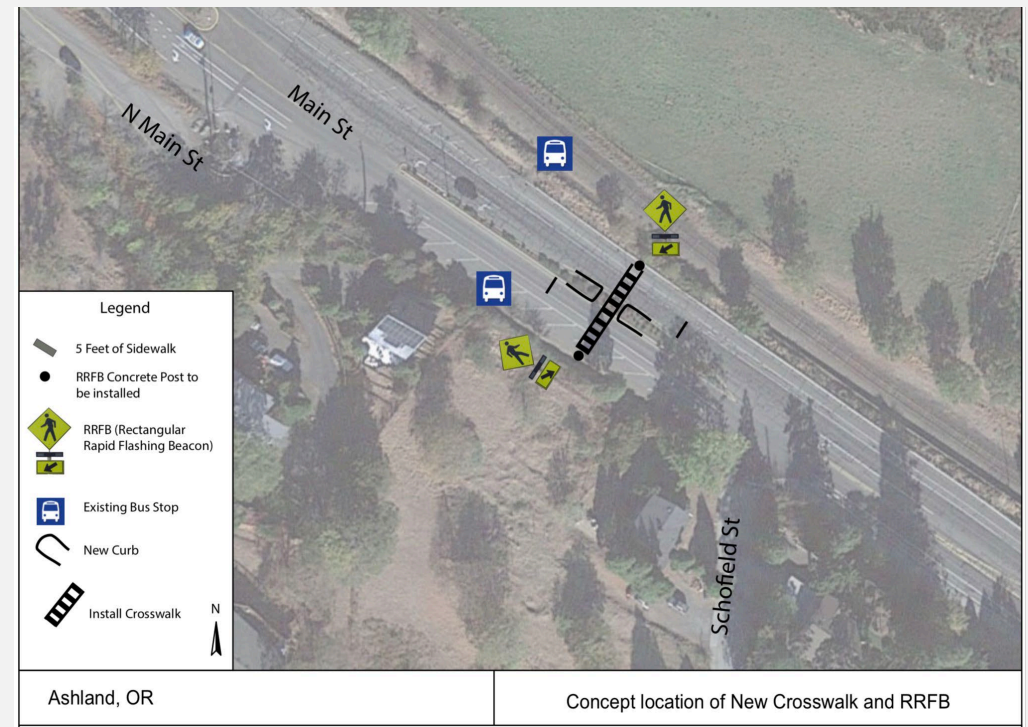
Steep slopes and public infrastructure beyond the trestle at N Main and OR HWY prevent park row and sidewalk. An eight-foot curbside sidewalk is proposed.





CROSSWALK WITH RECTANGULAR RAPID FLASHING BEACON

- New pedestrian crosswalk with a Rectangular Rapid Flashing Beacon (RRFB) has been proposed S of N Main and N of Schofield leading to the northbound bus stop.
- RRFB's increase motorist yielding rates because the lights are controlled by the pedestrian's presence and do not turn off until they are safely out of the crosswalk.
- RRFB crosswalks provide a safe pedestrian and bicyclist crossing for all the residents in north Ashland where none existed before.
- Safe pedestrian access by crossing Hwy 99 to access the North & South bound bus stops and to access Grand Terrace.



Safety Benefits:

RRFBs can reduce crashes up to: 47%
for pedestrian crashes.⁴

RRFBs can increase motorist yielding rates up to: 98%
(varies by speed limit, number of lanes, crossing distance, and time of day).³

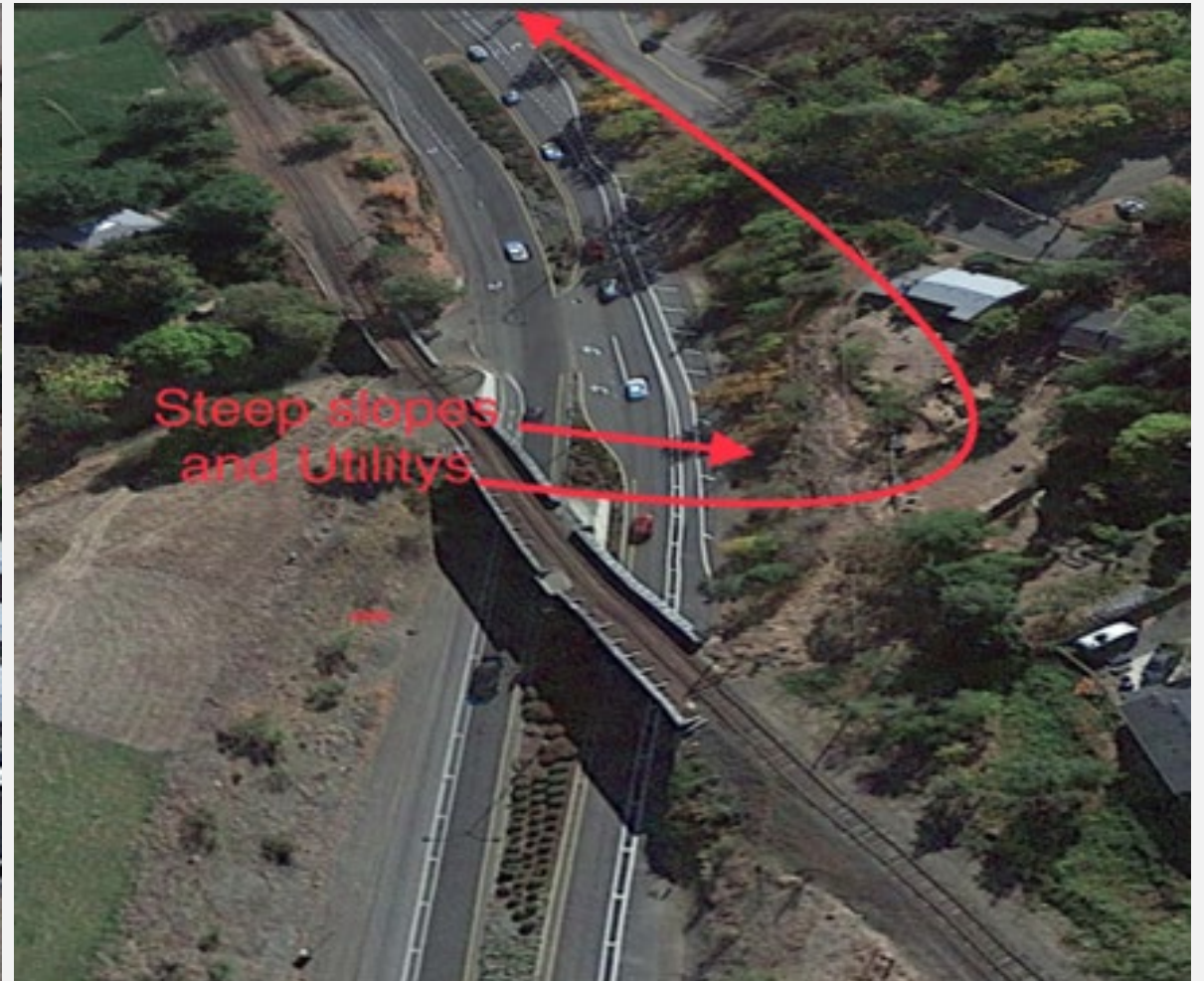


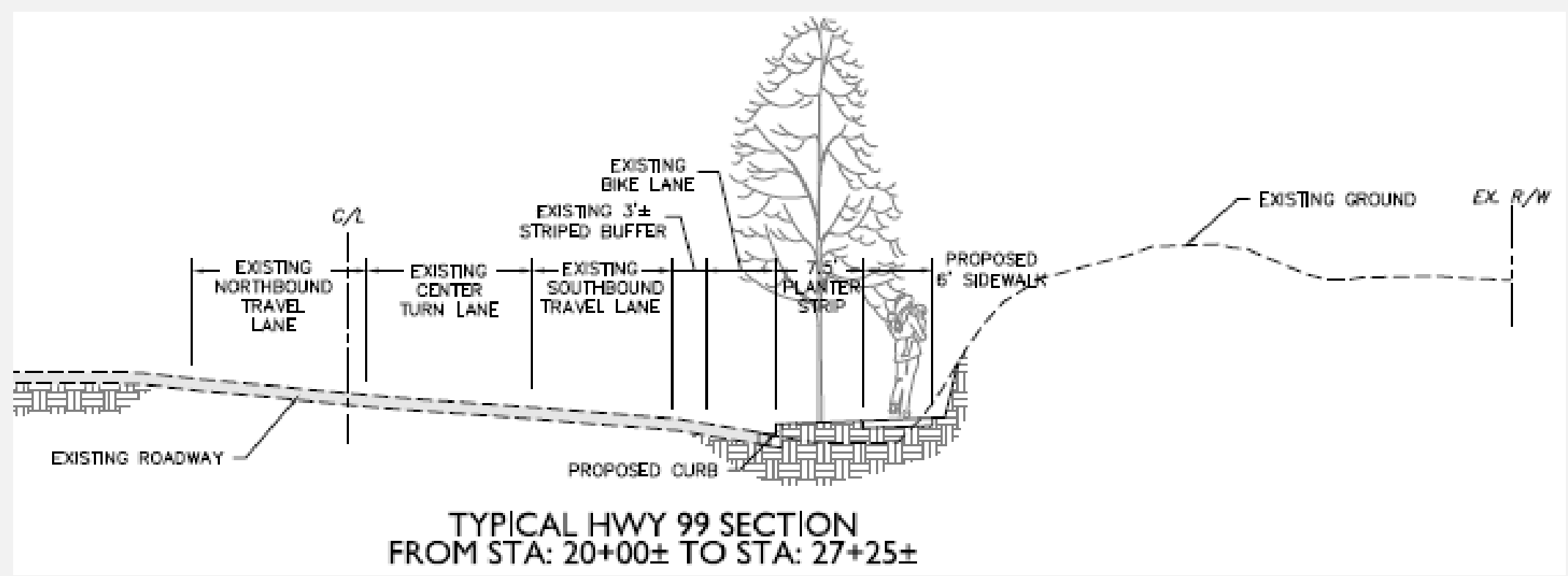
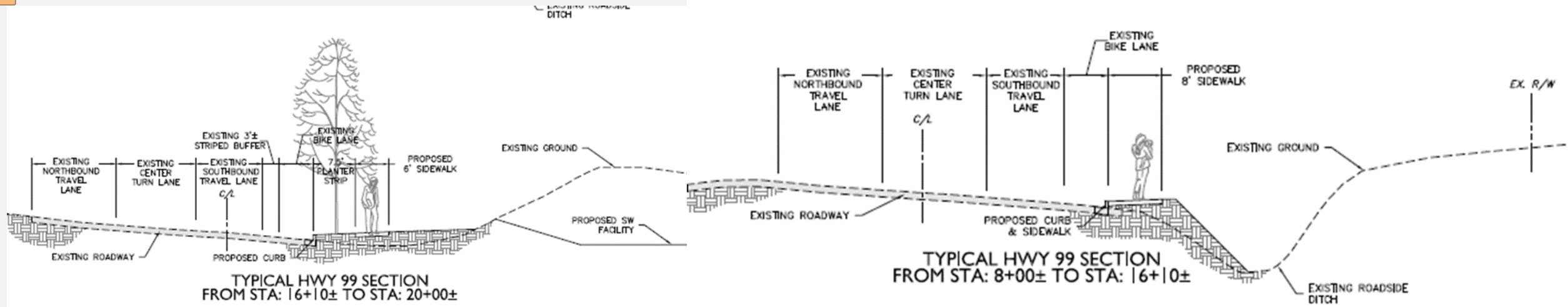
(Photo: ODOT)

STREET STANDARDS EXCEPTION



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





VEHICLE ACCESS SAFETY EVALUATION

CRITERIA FOR SAFETY ACCESS EVALUATION

SIGHT DISTANCE, STOPPING DISTANCE, AND INTERSECTION SIGHT DISTANCE

- **Sight Distance:**

- A safe, clear line of sight exists at the driveways.
- The application has the clear line of sight required for all conditions.

- **Stopping Sight Distance (SSD):**

- Stopping sight distance exceeds requirements.
- SSD based on speed of roadway. As per AASHTO the required SSD is 360 feet for vehicles traveling over 45 MPH. The measured available SSD measured over 700 feet in both directions.
- SSD exceeds the minimum required distance.

- **Intersection Sight Distance**

- Safe reaction time to turn exceeds required distance.



PUBLIC INFRASTRUCTURE

UTILITY STATEMENT:

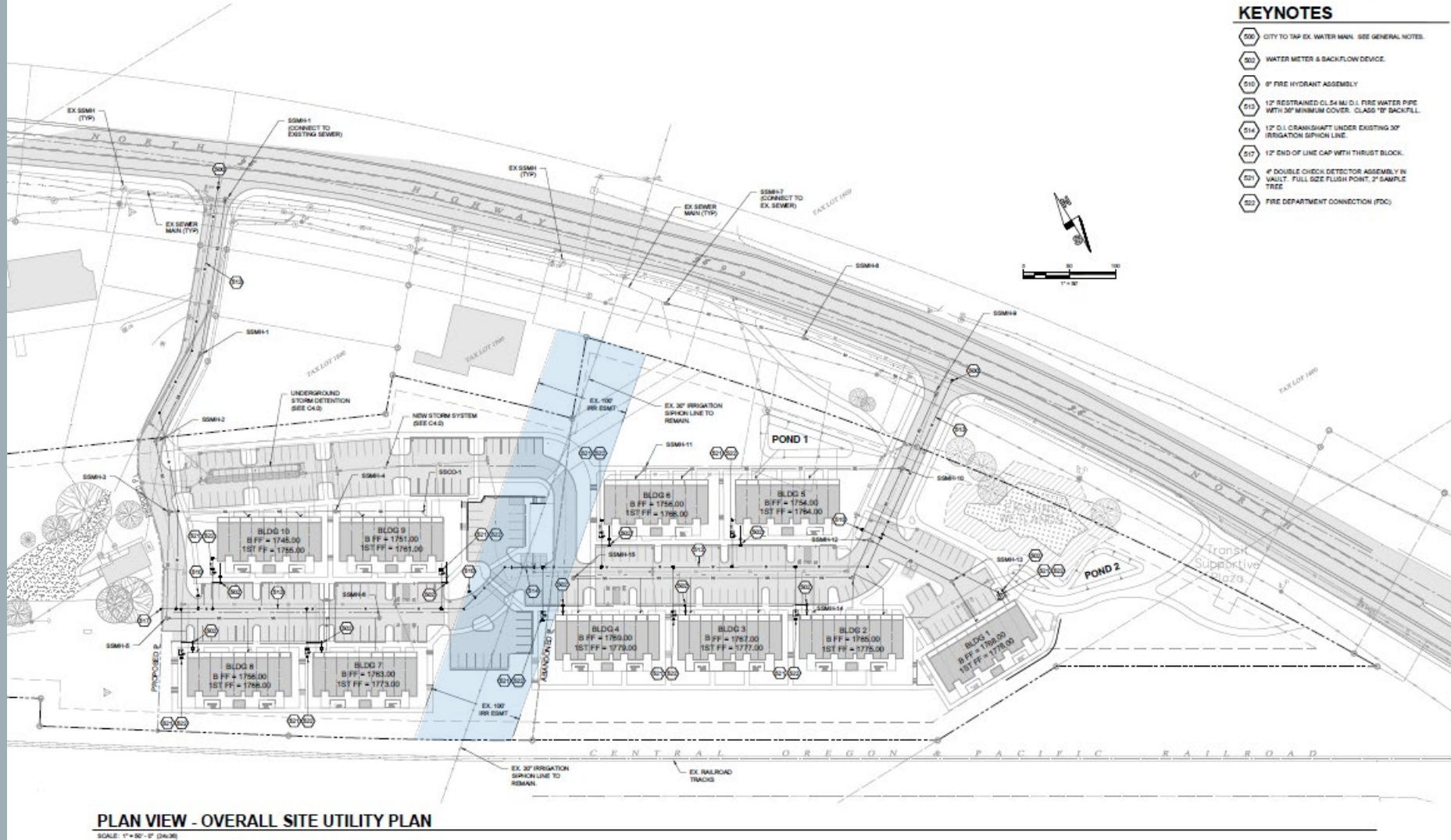
EXISTING UNDERGROUND UTILITIES ILLUSTRATED IN THESE PLANS ARE APPROXIMATED BASED ON MAPS OBTAINED FROM CITY OF ASHLAND GIS OR HAVE BEEN LOCATED BY A UTILITY LOCATOR COMPANY. LAYOUT INDICATED IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. ALL LINES WITHIN PROJECTED WORK ZONE SHALL BE FIELD VERIFIED AS REQUIRED PRIOR TO CONSTRUCTION.

GENERAL NOTES

- SEE LANDSCAPE PLANS FOR PLANTING AND IRRIGATION DETAILS AND SPECIFICATIONS.
- CONTRACTOR TO COORDINATE WATER DISINFECTION TESTING AND WATER TIE-IN WITH CITY SITE INSPECTOR.
- ASHLAND WATER DEPT. WILL EXCAVATE THE ROAD AND SUPPLY ALL MATERIALS AND LABOR TO TAP WATER MAIN AND RUN DUCTILE IRON TO THE OCSA VALVE. THE COST OF THIS WORK WILL BE CHARGED TO THE DEVELOPER OR CONTRACTOR.
- OCSA DEVICE SHALL COME EQUIPPED WITH A BADGER BRAND MODEL 35 CUBIC FOOT WATER METER.

KEYNOTES

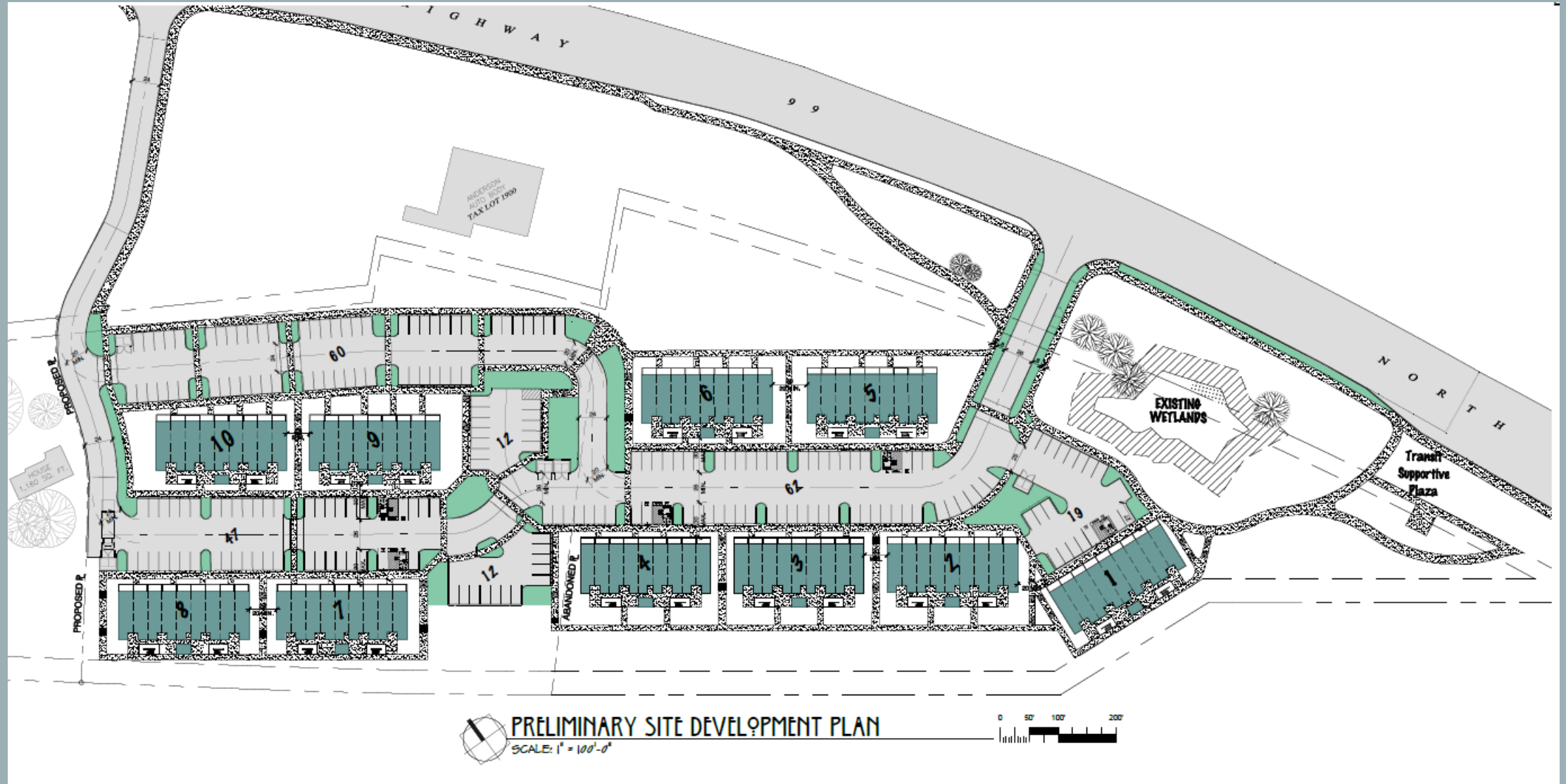
- 500 CITY TO TAP EX. WATER MAIN. SEE GENERAL NOTES.
- 900 WATER METER & BACKFLOW DEVICE.
- 610 6" FIRE HYDRANT ASSEMBLY.
- 612 12" RESTRAINED CL 54 M.J.D.L. FIRE WATER PIPE WITH 30" MINIMUM COVER. CLASS 12" BACKFILL.
- 614 12" O.I. CRANKSHAFT UNDER EXISTING 30" IRRIGATION SIPHON LINE.
- 617 12" END OF LINE CAP WITH THRUST BLOCK.
- 620 4" DOUBLE CHECK DETECTOR ASSEMBLY IN VAULT. FULL SIZE FLUSH POINT, 2" SAMPLE TREE.
- 622 FIRE DEPARTMENT CONNECTION (FDC).



PLAN VIEW - OVERALL SITE UTILITY PLAN

SCALE: 1" = 30' - 0" (24/36)

SITE DEVELOPMENT PLAN





F NORTHWEST EXTERIOR ELEVATION
SCALE: NONE



E SOUTHEAST EXTERIOR ELEVATION
SCALE: NONE



B NORTHWEST BIRDSEYE VIEW
SCALE: NONE

EXTERIOR FINISH & COLOR SCHEDULE				
SYMBOL	FINISH	COLOR	PRODUCT	NOTES
LS-1	FIBER CEMENT SIDING	TBD	NICKERIA OR EQ.	
LS-2	FIBER CEMENT SIDING	TBD	NICKERIA OR EQ.	
LS-3	FIBER CEMENT SIDING	TBD	NICKERIA OR EQ.	
PAINT				
P-1	PAINT 1	MATCH LS-2	SHERRIN WILLIAMS	
P-2	PAINT 2	LIGHT GREY	SHERRIN WILLIAMS	
ROOFING				
RO-1	RAV'S STAIN METAL	SEALED/ENVD	8" D SQUARE	
RO-2	METAL FLASHING	CHARCOAL GREY	8" D SQUARE	
SCREEN/CLADDING				
	SLITTERS	MATCH P-2	8" D SQUARE	
COLOR				
TC-1	WINDOWS - VINYL	WHITE	8" D SQUARE	
TC-2	DOORS - WOOD	CLEAR COAT	8" D SQUARE	
WALKWAYS				
WL-1	STEEL, PAINTED	CHARCOAL GREY	8" D SQUARE	
WL-2	STEEL GRATE & FRAM	GREY	8" D SQUARE	
WL-3	TBD	TBD	8" D SQUARE	
MAINTENANCE				
MR-1	CMU	DRIFTWOOD	MULTI MATERIALS OR EQUAL	



D SOUTHWEST EXTERIOR ELEVATION
SCALE: NONE



C NORTHEAST EXTERIOR ELEVATION
SCALE: NONE



A NORTHEAST BIRDSEYE VIEW
SCALE: NONE

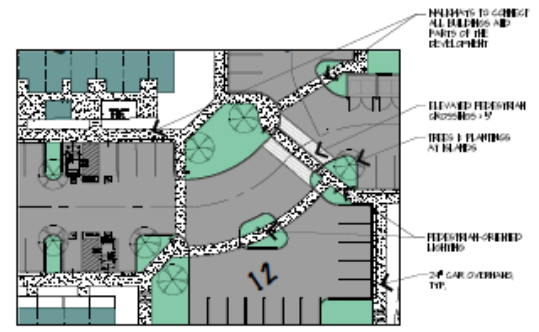


TYPICAL PEDESTRIAN ACCESS & CONNECTIVITY SEE DETAIL 1/A0.1A

PRELIMINARY PEDESTRIAN CONNECTION STUDY
SCALE: 1" = 100'-0"

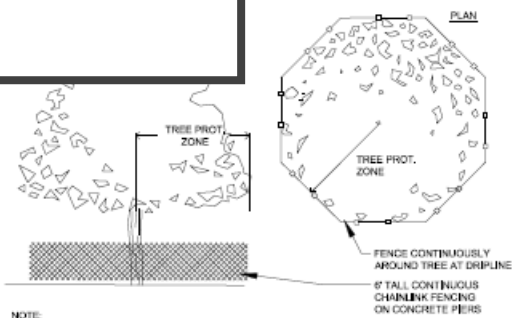
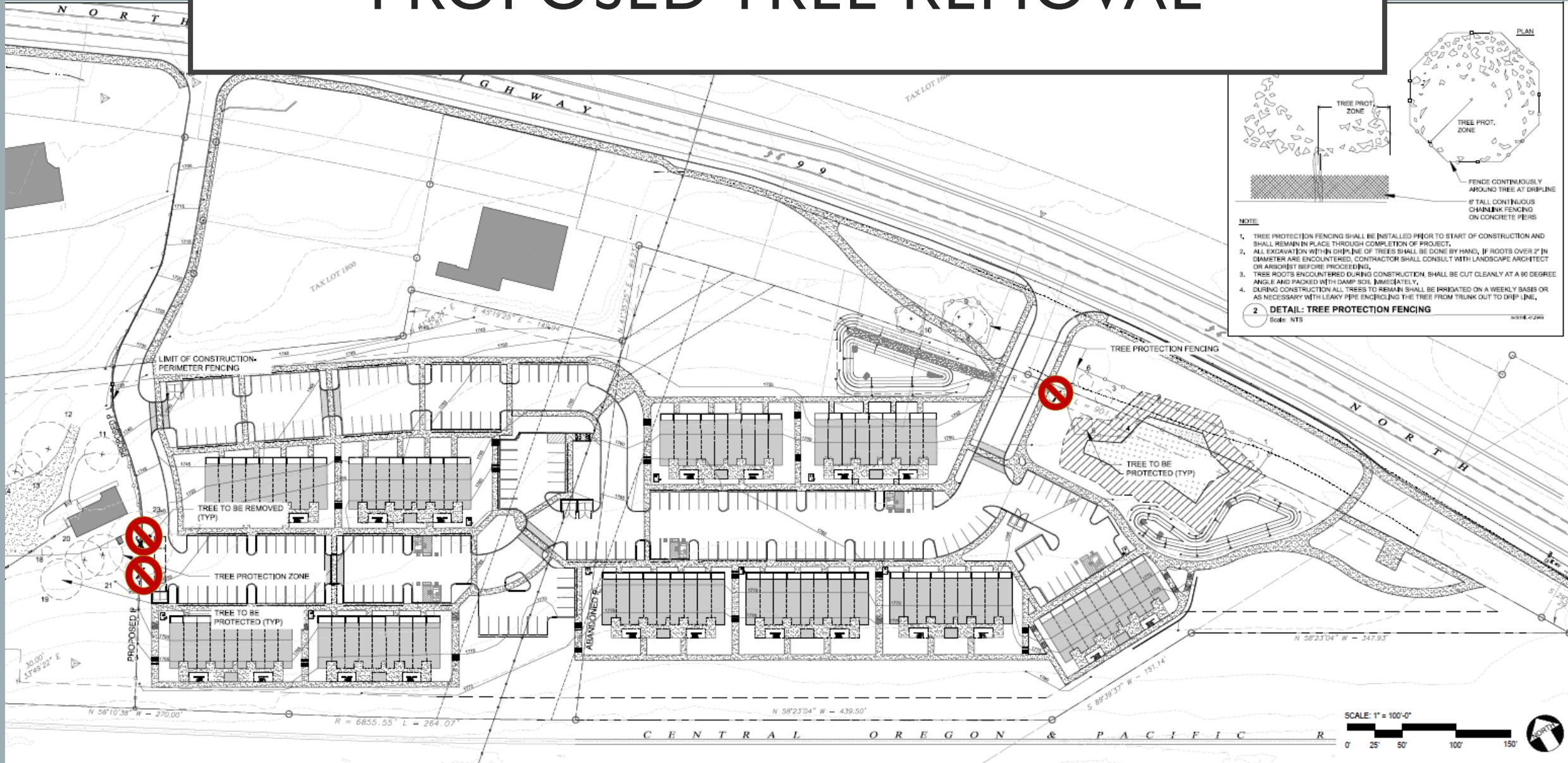


LEGEND:
ORANGE LINE DENOTES AREAS OF PEDESTRIAN CONNECTIVITY

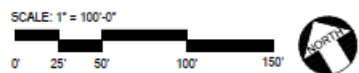


1 TYPICAL PEDESTRIAN ACCESS & CONNECTIVITY DETAIL
SCALE: 1/4" = 1'-0"

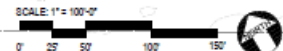
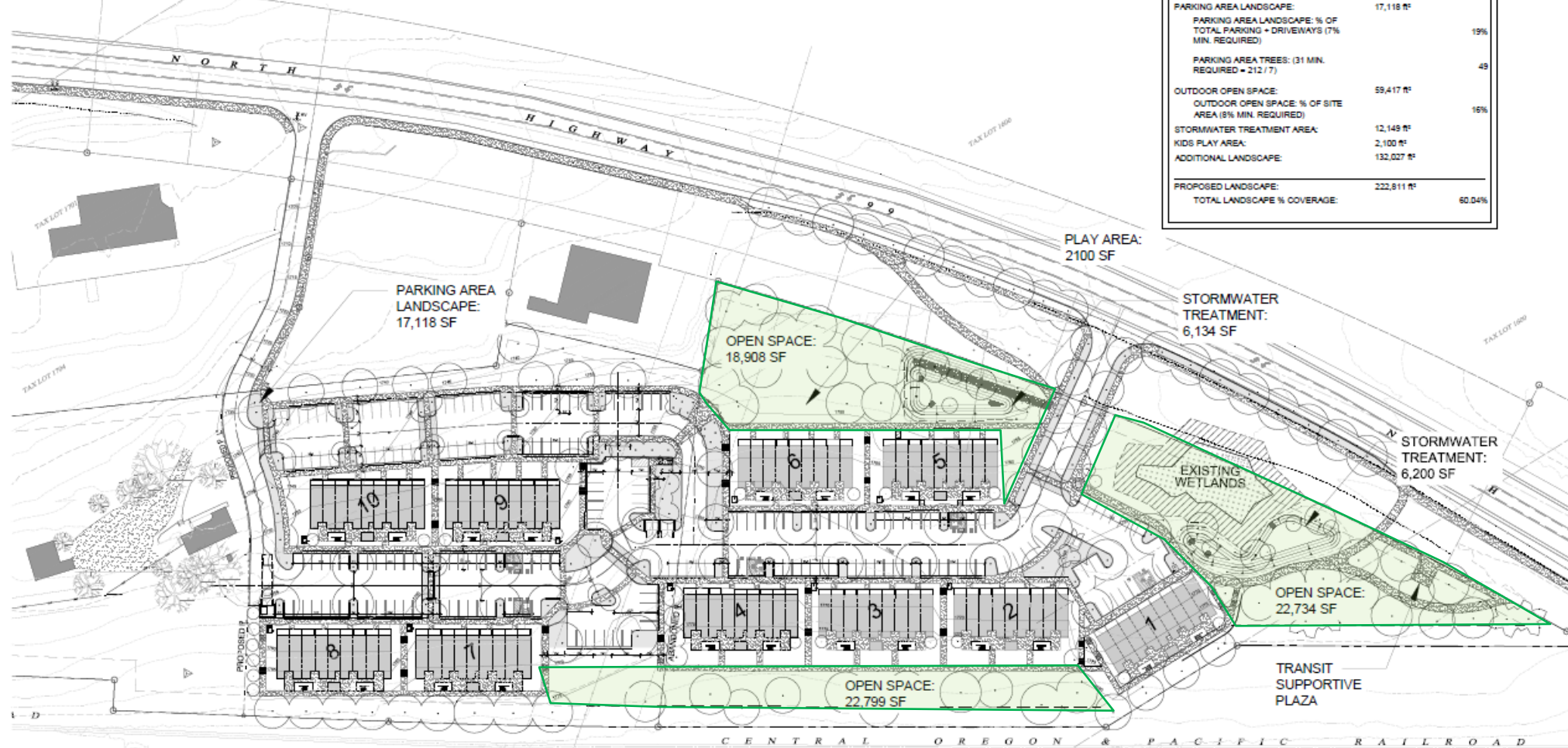
PROPOSED TREE REMOVAL



- NOTE:**
1. TREE PROTECTION FENCING SHALL BE INSTALLED PRIOR TO START OF CONSTRUCTION AND SHALL REMAIN IN PLACE THROUGH COMPLETION OF PROJECT.
 2. ALL EXCAVATION WITHIN DRIP LINE OF TREES SHALL BE DONE BY HAND, IF ROOTS OVER 2" IN DIAMETER ARE ENCOUNTERED, CONTRACTOR SHALL CONSULT WITH LANDSCAPE ARCHITECT OR ARBORIST BEFORE PROCEEDING.
 3. TREE ROOTS ENCOUNTERED DURING CONSTRUCTION, SHALL BE CUT CLEANLY AT A 90 DEGREE ANGLE AND PACKED WITH DAMP SOIL IMMEDIATELY.
 4. DURING CONSTRUCTION ALL TREES TO REMAIN SHALL BE IRRIGATED ON A WEEKLY BASIS OR AS NECESSARY WITH LEAKY PIPE ENCIRLING THE TREE FROM TRUNK OUT TO DRIP LINE.
- 2 DETAIL: TREE PROTECTION FENCING**
Scale: NTS



LANDSCAPE & OPEN SPACE SITE PLAN



DRAWN BY:
ICIX

SCALE
1" = 100'-0"
WHEN PRINTED ON 11X17

GRAND TERRACE
HIGHWAY 99
ASHLAND, OR 97520

JOB NO. 2102
REVISION DATE

LANDSCAPE SITE PLAN

ISSUE DATE:
03.31.22

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DETAILED LANDSCAPE SITE PLAN

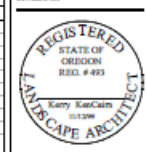
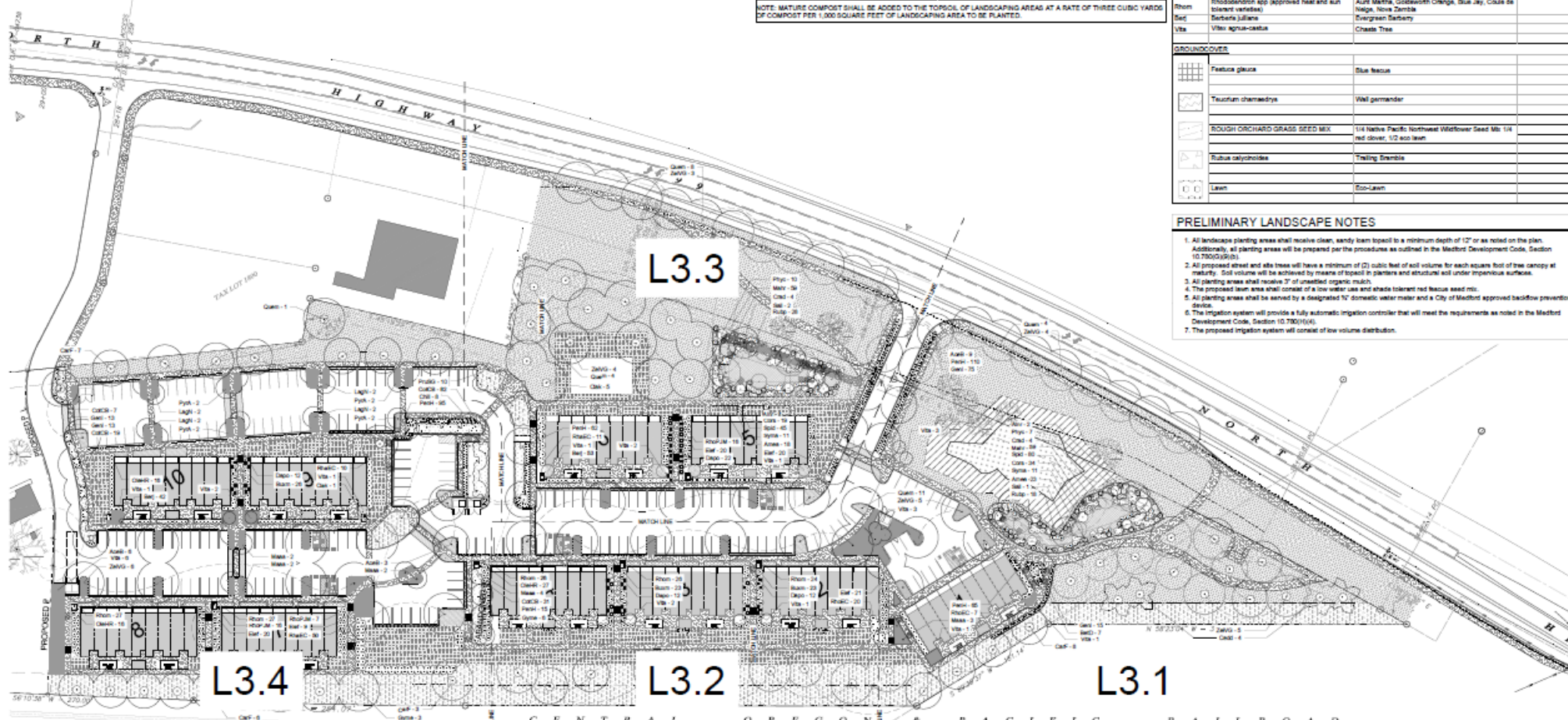
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
Abv	Alnus rubra	Red Alder	
Crst	Cedrus douglasii	Black Heathcote	
Safl	Salix lucida	Pacific Willow	
SHRUBS			
Amso	Amelanchier alnifolia var. pumila	Dwarf Serviceberry	
Corc	Cornus sericea	Red Twig Dogwood	
Maor	Malva rotundifolia	Creeping Oregon Grass	
Phyc	Physocarpus opulifolius	Pacific Ninebark	
Rulp	Rubus parviflorus	Thimbleberry	
Spis	Spirea douglasii	Western Spirea	
Symb	Symphoricarpos albus	Common Snowberry	
GROUNDCOVERS			
WETLAND SEED MIX			
	Tymus glauca	Blue Yarrow	
	Festuca rubra rubra	Native Red Fescue	
	Hordium brachyantherum	Meadow Barley	10.0% OF EACH, PLUGS OR HYDRATED
	Glyceria occidentalis	Northwestern Manngrass	
	Scleria spicata	American Soughgrass	
	Dichanthia capillaris	Yucca Hairgrass	

NOTE: MATURE COMPOST SHALL BE ADDED TO THE TOPSOIL OF LANDSCAPING AREAS AT A RATE OF THREE CUBIC YARDS OF COMPOST PER 1,000 SQUARE FEET OF LANDSCAPING AREA TO BE PLANTED.

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
AmB	Acer x Freemanii 'Amstony'	Amstony Maple	
BeD	Betula nigra 'Dunk Leaf'	Dark Leaf River Birch	
CarF	Carpinus betulus 'Fastigiat'	Columnar European Hornbeam	
DeC	Cedrus deodara	Deodar Cedar	
Clak	Cladonia karkutiae	Heartlily Yellowwood	
Chil	Chilopsis linearis	Queen's Willow	
Fas	Fascia cryptocarpa 'Raywood'	Raywood Ash	
Lagn	Lagotis linearis 'Natchez'	Natchez Crepanmyrtle	
Mas	Mascula emarginata	Amur Masculi	
PrusG	Prunus 'Snow Goose'	Snow Goose Flowering Cherry	
Pyra	Pyrus callidana 'Katherine'	Landrace Flowering Pear	
Quem	Quercus macrocarpa	Sun Oak	
TaVG	Taxodium sempiternum 'Village Green'	Village Green Taxodium	
SHRUBS			
Am	Amelanchier alnifolia var. pumila	Dwarf Serviceberry	
Bum	Buxus microphylla japonica 'Green Beauty'	Green Beauty Boxwood	
ColC	Cotoneaster dameri 'Coral Beauty'	Ground Cover Cotoneaster	
Est	Elaeagnus pungens 'Frutlandi'	Frutland Silverberry	
GerL	Geranium lydia	Lydia Beem	
HarTB	Hamamelis virginiana 'Hardy Red'	Hardy Red Cucumber	
RaEC	Rhamnus californica 'Eve Case'	Coffeeberry	
RhoPJ	Rhododendron PJM	PJM Rhododendron	
Rhom	Rhododendron spp. (Approved heat and sun tolerant varieties)	Aunt Martha, Goldworth Orange, Blue Jay, Coule de Neige, Nova Zembla	
Sed	Sedum julianae	Evergreen Sedum	
Vta	Vitis agri-culata	Chaste Tree	
GROUNDCOVERS			
	Festuca glauca	Blue fescue	
	Tausonium chamaedrye	Wall germander	
	ROUGH ORCHARD GRASS SEED MIX	1/4 Native Pacific Northwest Wildflower Seed Mix, 1/4 red clover, 1/2 eco lawn	
	Rubus calycosides	Trellis Strimbale	
	Lawn	Eco-Lawn	

PRELIMINARY LANDSCAPE NOTES

- All landscape planting areas shall receive clean, sandy loam topsoil to a minimum depth of 12" or as noted on the plan. Additionally, all planting areas will be prepared per the procedures as outlined in the Medford Development Code, Section 10.700(C)(1)-(4).
- All proposed street and site trees will have a minimum of (2) cubic feet of soil volume for each square foot of tree canopy at maturity. Soil volume will be achieved by means of topsoil in planters and structural soil under impervious surfaces.
- All planting areas shall receive 3" of unsettled organic mulch.
- The proposed lawn area shall consist of a low water use and shade tolerant red fescue seed mix.
- All planting areas shall be served by a designated 1/2" domestic water meter and a City of Medford approved backflow prevention device.
- The irrigation system will provide a fully automatic irrigation controller that will meet the requirements as noted in the Medford Development Code, Section 10.700(G)(4).
- The proposed irrigation system will consist of low volume distribution.



DRAWN BY:
IGKK

SCALE:
1" = 100'-0"
WHEN PRINTED ON 11X17

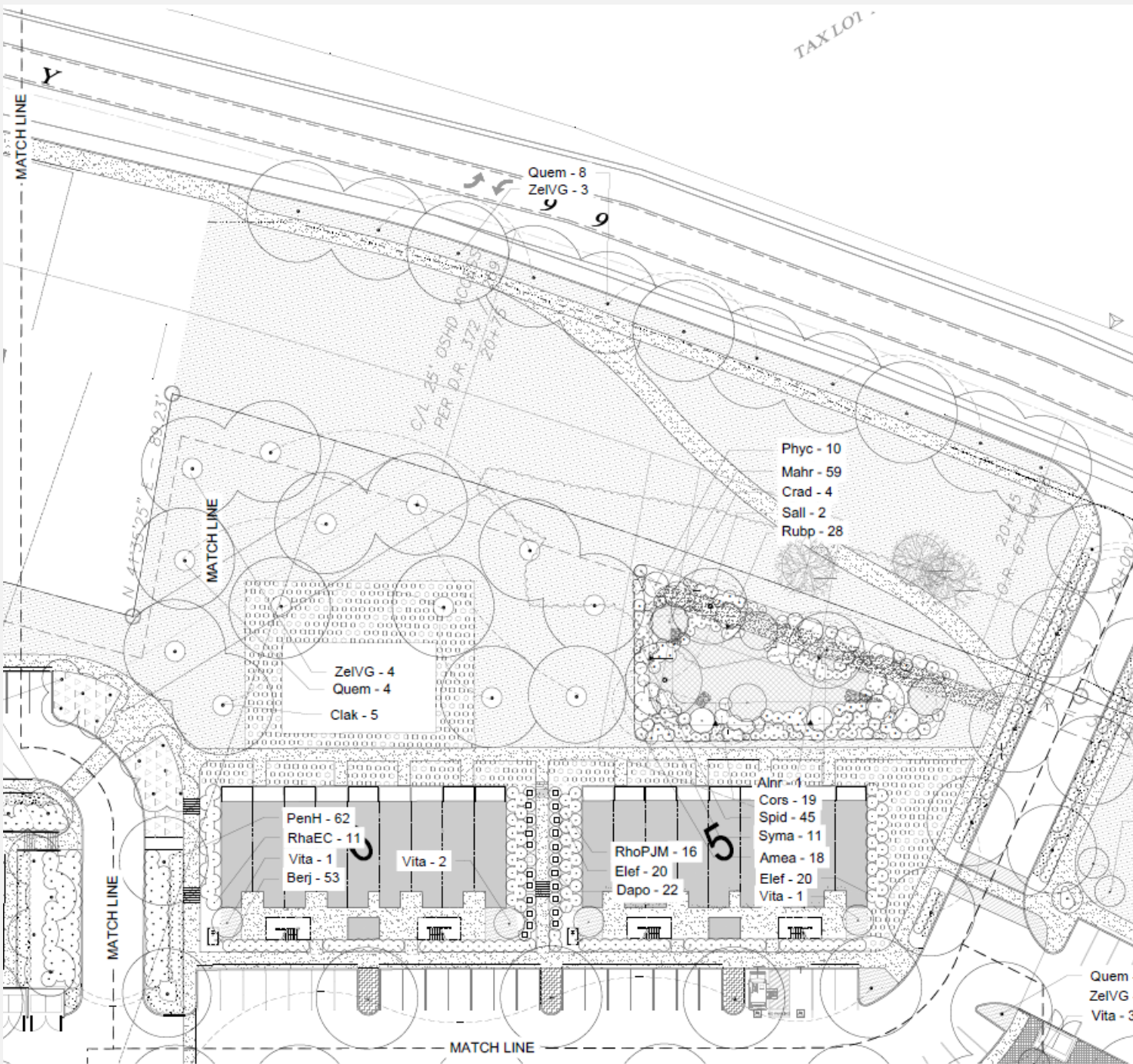
GRAND TERRACE
HIGHWAY 99
ASHLAND, OR 97520

ISSUE NO. 2108
REVISION DATE

PLANTING
PLAN

ISSUE DATE:
03.31.22

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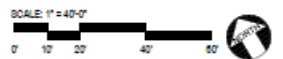


PRELIMINARY PLANT LEGEND			
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
AcaF	Acer x Freemanii Amabong	Amabong Maple	
BaID	Betula nigra 'Dura Heat'	Dura Heat River Birch	
CaEF	Caprea betulae 'Paetiglate'	Columnar European Hornbeam	
CaED	Cornus canadensis	Dogwood Cedar	
Clak	Cladonia luteolusae	Kentucky Yellowwood	
Chi	Chilopsis linearis	Desert Willow	
Frao	Fraxinus sycopsis 'Raywood'	Raywood Ash	
LacH	Lagotis arvensis 'Hatch'	Hatch Creechmyrtle	
Masa	Maackia amurensis	Amur Maackia	
PruGG	Prunus 'Snow Goose'	Snow Goose Flowering Cherry	
Pyra	Pyrus calleryana 'Aristocrat'	Aristocrat Flowering Pear	
Quem	Quercus macrocarpa	Sum Oak	
ZelVG	Zelkova serrata 'Village Green'	Village Green Zelkova	
SHRUBS			
Auc	Amelanchier alnifolia var. pumila	Dwarf Serviceberry	
Bum	Buxus microphylla japonica 'Green Beauty'	Green Beauty Boxwood	
CoCB	Cotoneaster dameri 'Coral Beauty'	Coral Beauty Cotoneaster	
Ear	Elaeagnus pungens 'Thunbergii'	Thunberg Elaeagnus	
Gar	Gardenia yulii	Lydia Broom	
NerRf	Nerium oleander 'Hardy Red'	Hardy Red Oleander	
RhaEC	Rhamnus californica 'Eve Case'	Coffeberry	
RhoPJM	Rhododendron 'PJM'	PJM Rhododendron	
RhoPJM	Rhododendron spp (Approved heat and sun tolerant varieties)	Auril Martha, Goldsworth Orange, Blue Jay, Coule de Neige, Nova Zambie	
Saj	Salix juliana	Swampwillow	
Vita	Viburnum acerifolium	Chastetree	
GROUNDCOVERS			
[Symbol]	Festuca glauca	Blue Fescue	
[Symbol]	Taeniocnemis chamedrya	Wall germander	
[Symbol]	ROUGH ORCHARD GRASS SEED MIX	1/4 Native Pacific Northwest Wildflower Seed Mix, 1/4 red clover, 1/2 eco lawn	
[Symbol]	Rubus calycoides	Trailing Rubus	
[Symbol]	Lawn	Eco-Lawn	

RVSS PLANT LEGEND			
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
Alnr	Alnus rubra	Red Alder	
Crd	Cornus douglasii	Black Hawthorn	
Saj	Salix lucida	Pacific Willow	
SHRUBS			
Amea	Amelanchier alnifolia var. pumila	Dwarf Serviceberry	
Cor	Cornus sericea	Red Twig Dogwood	
MaGr	Mahonia repens	Creeping Oregon Grape	
Phyc	Physocarpus opulifolius	Pacific Shinobu	
Rubp	Rubus parviflorus	Trilliumberry	
Spid	Spirea douglasii	Western Spirea	
Syma	Symphoricarpos albus	Common Snowberry	
GROUNDCOVERS			
WETLAND SEED MIX			
[Symbol]	Elymus glauca	Blue Wildrye	16.9% OF EACH PLUGS OR HYDRIZED
[Symbol]	Festuca rubra rubra	Native Red Fescue	
[Symbol]	Hordium brachyanthum	Meadow Barley	
[Symbol]	Cyperus occidentalis	Northwestern Mannagrass	
[Symbol]	Baccharis angustifolia	American Sloughgrass	
[Symbol]	Dichanthia caespitosa	Tufted Hairgrass	

NOTE: MATURE COMPOST SHALL BE ADDED TO THE TOPSOIL OF LANDSCAPING AREAS AT A RATE OF THREE CUBIC YARDS OF COMPOST PER 1,000 SQUARE FEET OF LANDSCAPING AREA TO BE PLANTED.

- Vita - 3
- Alnr - 2
- Phyc - 7
- Crad - 4
- Mahr - 59
- Spid - 80
- Cors - 34
- Syma - 11
- Amea - 23
- Sall - 1
- Rubp - 18



KenCairn
Landscape Architecture

360 S.W. 17th St., Ashland, OR 97520
503.488.2966

REGISTERED
STATE OF OREGON
REG. # 483

KenCairn
Landscape Architecture
011209

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IGKK

SCALE
1"=40'-0"
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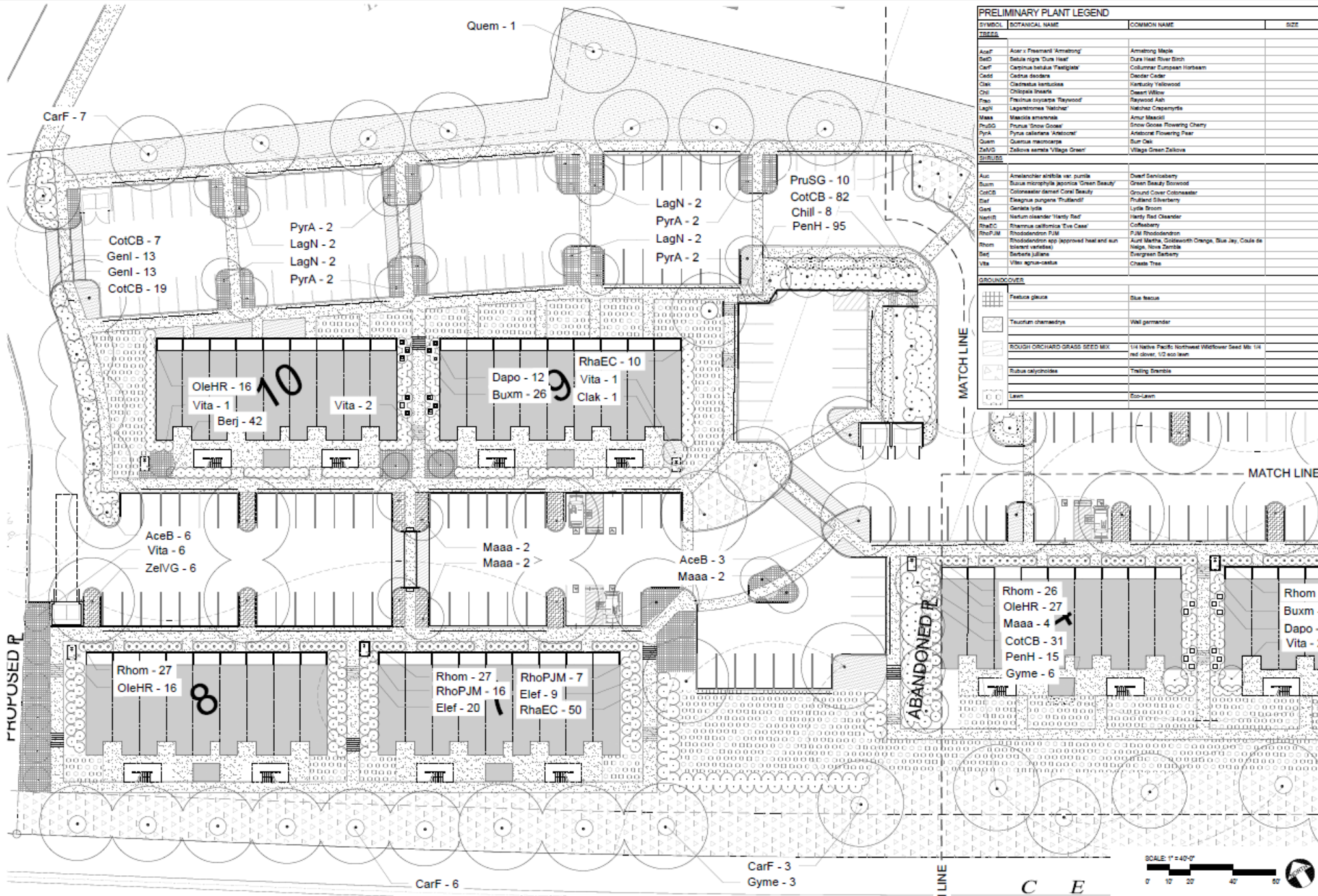
GRAND TERRACE
HIGHWAY 99
ASHLAND, OR 97520

JOB NO. 218
REVISION DATE

PLANTING PLAN
NORTH

ISSUE DATE:
03.31.22

L 3.3



PRELIMINARY PLANT LEGEND			
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
AcaF	Acer x Freemanii 'Armstrong'	Armstrong Maple	
BeeD	Betula nigra 'Dura Leaf'	Dura Leaf River Birch	
CarF	Carpinus betulus 'Fastigiat'	Columnar European Hornbeam	
CoDi	Quercus douglasii	Coastal Cedar	
Clak	Cladonia luteolacca	Kentucky Yellowwood	
Chi	Chilopsis linearis	Desert Willow	
Frao	Fraxinus oxyacantha 'Raywood'	Raywood Ash	
LagN	Lagotis linearis 'Natchez'	Natchez Crapevine	
Maaa	Morinda americana	Amor Morinda	
PruSG	Prunus 'Snow Goose'	Snow Goose Flowering Cherry	
PyrA	Pyrus calleryana 'Aristocrat'	Aristocrat Flowering Pear	
Quem	Quercus macrocarpa	Bur Oak	
ZelVG	Zelkova serrata 'Village Green'	Village Green Zelkova	
SHRUBS			
Ace	Amelanchier alnifolia var. pumila	Dwarf Serviceberry	
Buxm	Buxus microphylla japonica 'Green Beauty'	Green Beauty Boxwood	
CotCB	Cotoneaster dameri 'Coral Beauty'	Ground Cover Cotoneaster	
Pen	Penstemon purpureus 'Purbandit'	Purband Silverberry	
Lyte	Gerardia lydia	Lytle Broom	
HartyR	Nerium oleander 'Harty Red'	Harty Red Oleander	
RhaEC	Rhamnus californica 'Tive Cass'	Coffeeberry	
RhoPJM	Rhododendron PJM	PJM Rhododendron	
Rhom	Rhododendron spp. Approved heat and sun tolerant varieties	Acid Mocha, Golden Orange, Blue Jay, Coals de Indes, Nova Zambie	
Elef	Elephant's Ear	Evergreen Sarcocolla	
Vita	Vitis aestivalis-vastata	Crested Vine	
GROUNDCOVERS			
[Symbol]	Festuca glauca	Blue Fescue	
[Symbol]	Tauschia chamaedrya	Wall germander	
[Symbol]	ROUGH ORCHARD GRASS SEED MIX	1/4 Invis Pacific Northwest Waterfowl Seed Mix 1/4 red clover, 1/2 eco lean	
[Symbol]	Tubus calycioides	Tasting Sarcocolla	
[Symbol]	Lawn	Eco-Lawn	

KenCairn
Landscape Architecture

563 A ST. #19 & ASHLAND, OR 97132
503.688.5756

REGISTERED
LANDSCAPE ARCHITECT

STATE OF OREGON
REG. # 493

Berry KenCairn
01/12/99

DRAWN BY:
IGKK

SCALE
1" = 40'-0"
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PLANTING
PLAN
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ISSUE DATE:
03.31.22

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GRAND TERRACE
HIGHWAY 99
ASHLAND, OR 97520



ADDITIONAL INFORMATION



TRANSPORTATION IMPACT ANALYSIS

Kelly Sandow PE, of Sandow Engineering, LLC has evaluated the impacts of the proposal.

Key findings of the TIA include – these are addressed in the Technical Memorandum and the TIA Review Response Letter from ODOT dated May 7, 2020:

- The TIA shows all studied intersections (Hwy 99N at South Valley View, Highway 99N at Jackson Road, North Main Street at Jackson Road, North Main Street at Maple Street, and Hwy 99N at the project access points) will meet the mobility standards through the Year 2034 with the addition of the traffic associated with anticipated development of the subject property.
- The addition of development traffic will not substantially increase queuing conditions over the background conditions.
- All site driveways are projected to operate safely and efficiently.
- The TIA recommends that Highway 99N be restriped to include a left-turn lane for vehicles entering the site.
- The TIA review by ODOT concludes that the Transportation Planning Rule (TPR) has been met.

ODOT SPEED STUDY

The 2021 Speed Zone Investigation (SZI) was requested by ODOT District 8 Maintenance Management for the reason, "District 8 has received numerous complaints about the safety of this section of roadway and is requesting a SZI to see if a slower speed is warranted and due to the context of roadway changing near the intersection of Sheridan Street the speed change of 25/35 should be placed according to this context change. "

Investigation:

Section Length	0.95 mile
50% Speed	44 MPH
85% Speed	49 MPH
2016-2018 Crash Rate*	1.07
2018 Average Daily Traffic	16,100
Context	Suburban fringe
Culture Type and Density	Light business to rural
Horizontal Alignment	1 Curve
Vertical Alignment	Steady grade
Curve Signs & Speed Riders	None
Existing Posted Speed	45 MPH
Recommended Speed	45 MPH

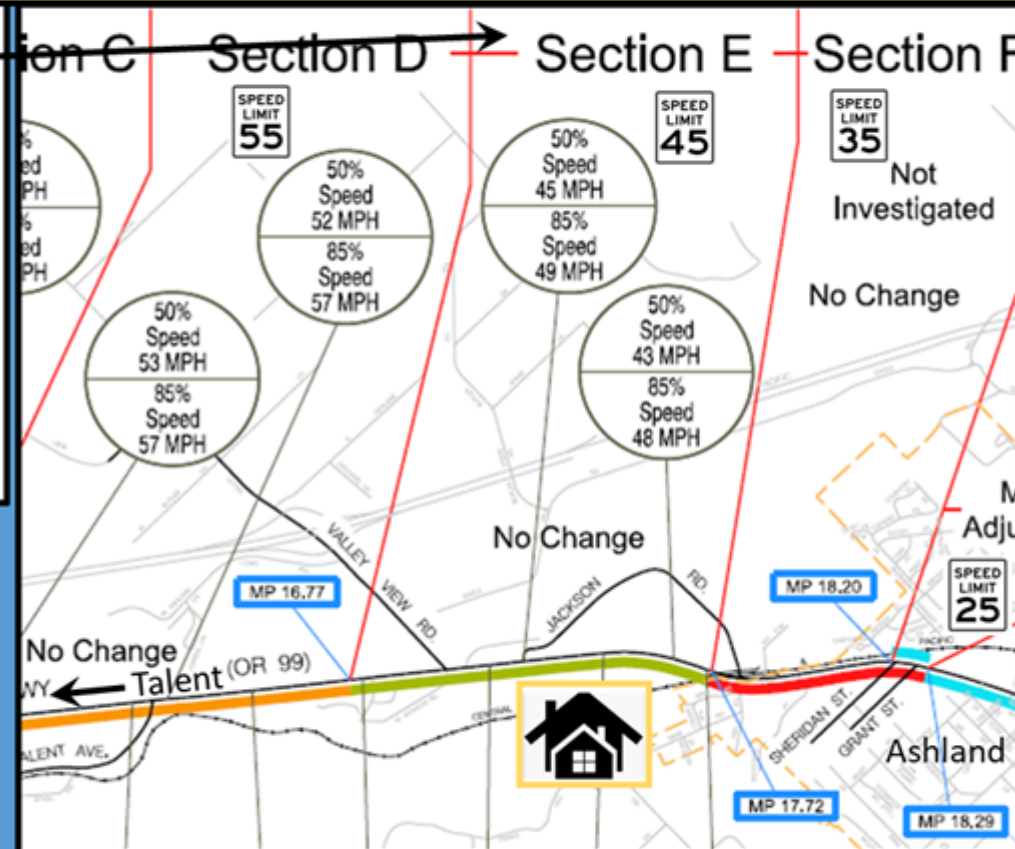
*Crashes per Million Vehicle Miles

Investigated Section E

LEGEND	
	20 MPH
	25 MPH
	30 MPH
	35 MPH
	40 MPH
	45 MPH
	50 MPH
	55 MPH
	60 MPH
	65 MPH
	70 MPH
	City Limits



Denotes development area



2021 investigation resulted in no changes to speed zones in vicinity of proposed development as shown in the summary diagram above.

ORS 222.170 -CONTIGUITY THROUGH CONSENT AT A PUBLIC HEARING

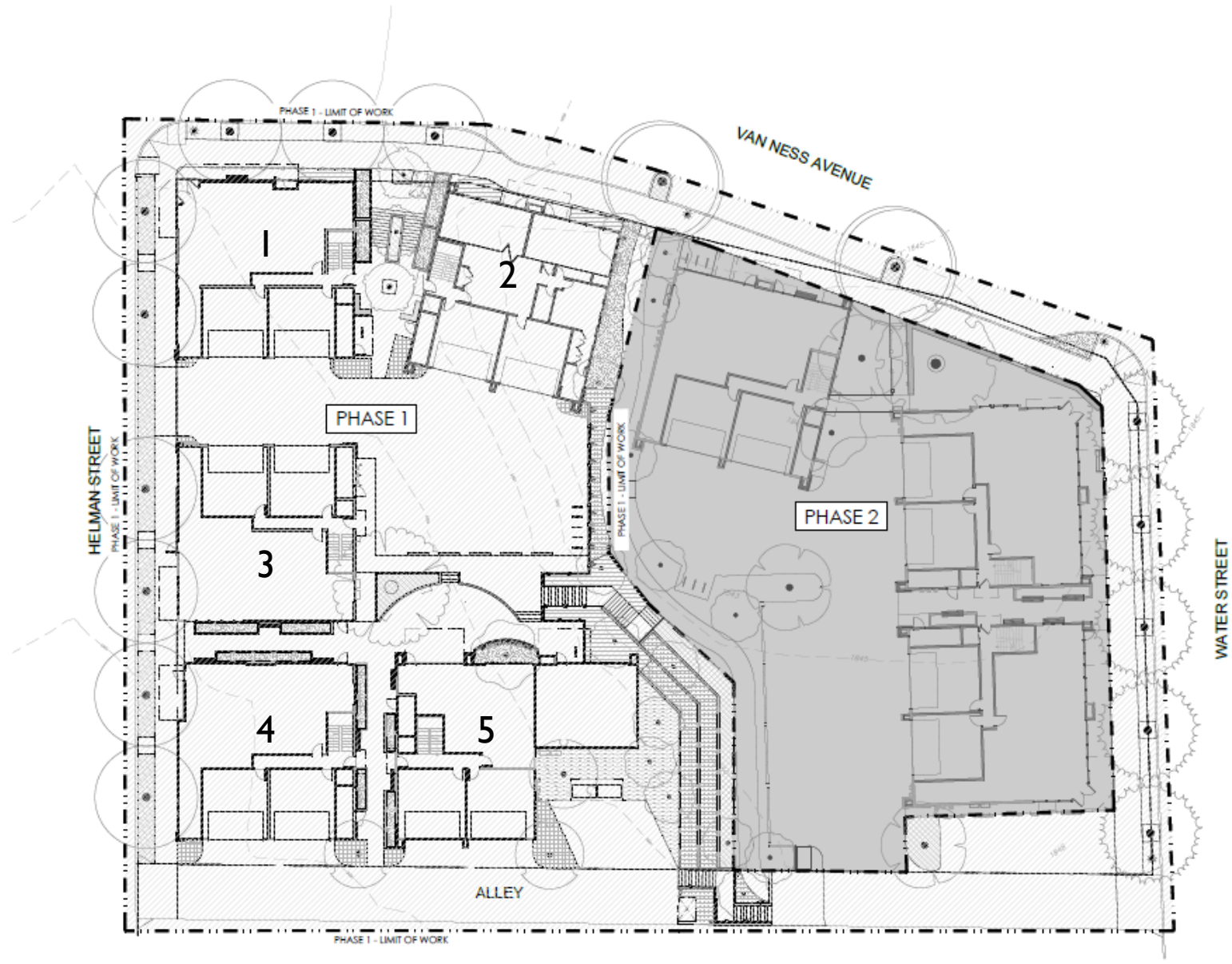
- The applicant proposes that the Council process, as provided in state law (ORS 222.170), an annexation by consent through a public hearing which may be approved without requiring an election, when: more than one-half of the owners with land in the area to be annexed consent to the annexation; owners of more than one-half the land in the area to be annexed consent to the annexation; and that the land represents more than one-half of the total assessed value in the area to be annexed, an annexation can be approved.
- ORS 222.170(4) addresses when one of the properties in the election for consent is owned by the public, is right-of-way for a utility...or railroad, or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation, unless the owner of such property files a statement consenting to or opposing the annexation with the legislative body of the city on or before the day the public hearing is held.
- The annexed area of the subject properties and the ODOT right-of-way is substantially more land area than the property controlled by the railroad company.
- ORS 222.170 provides contiguity with the majority of the owners in favor of annexation before a public hearing.
- AMC 18.5.8.060 has been used numerous times over the years to reach across the railroad property and annex it into the city to provide a more logical and orderly expansion of the boundaries of the city.
- City of Ashland Charter, Article 1, Section 3, Boundaries. This states that the City Council has the power to modify the boundaries.

MAGNOLIA TERRACE

APPEAL



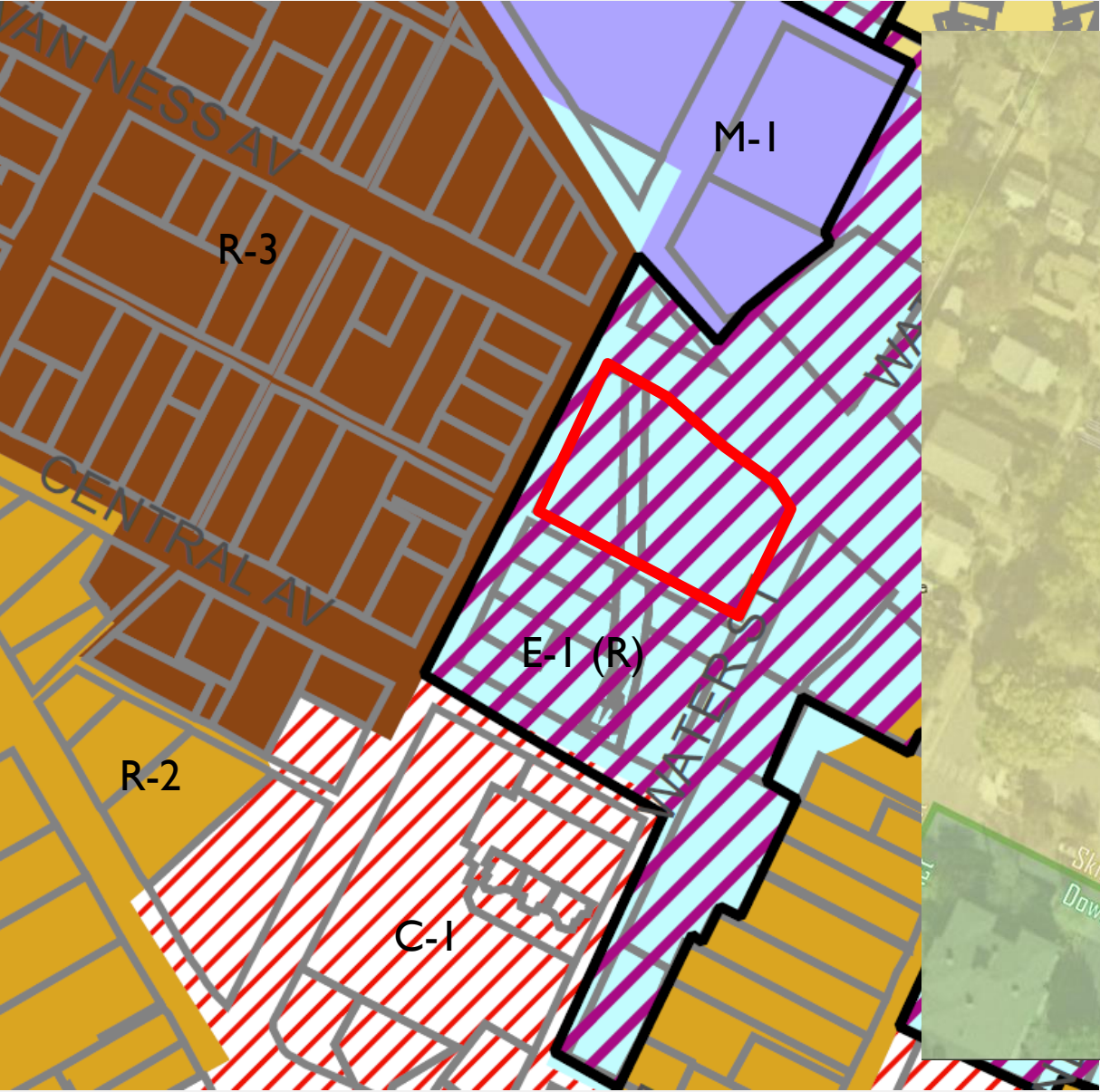
SITE LAYOUT



GROUNDS FOR APPEAL

- The specific ground for which the decision should be reversed or modified is Application of the Historic District Development Standards in Transitional Areas
- Denial on this grounds is an error because the applicable criteria or procedure in the Ashland Municipal Code 18.4.2.050 states that projects at the boundary between zones or overlays may have appropriate adjustments considered, but the underlying zoning standards and requirements applicable to the subject property must be kept in sight.

ZONING AND HISTORIC OVERLAYS



UNDERLYING ZONING STANDARDS

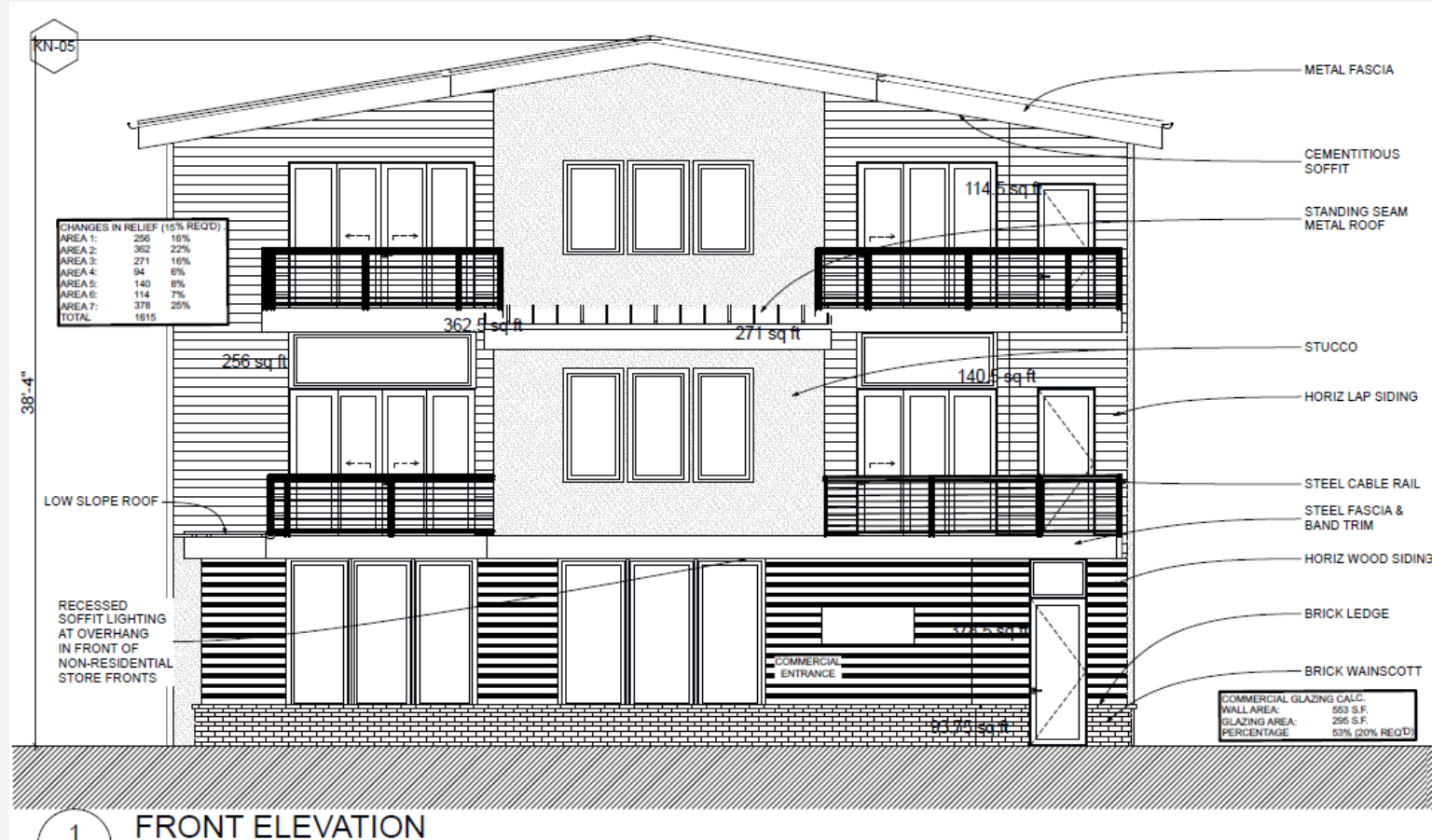
SUBJECT PROPERTY, ADJACENT PROPERTIES TO SOUTH AND WEST

- 18.2.6 STANDARDS FOR NON-RESIDENTIAL ZONES
- Purpose: 18.2.6 sets forth lot and development standards, including minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development, for Ashland's base employment zones, pursuant to the Comprehensive Plan and the purposes of this ordinance.
- No minimum lot area, lot width or lot depth
- There is no minimum front, side, or rear yard required, except where buildings on the subject site abut a residential zone, in which case a side of not less than 10 ft and a rear yard of not less than 10 ft per story is required.
- Maximum height of 40-feet
- Minimum Floor Area Ratio of $\frac{1}{2}$ the acreage of the property
- Minimum Landscape area of 15%
- Maximum coverage area of 85%

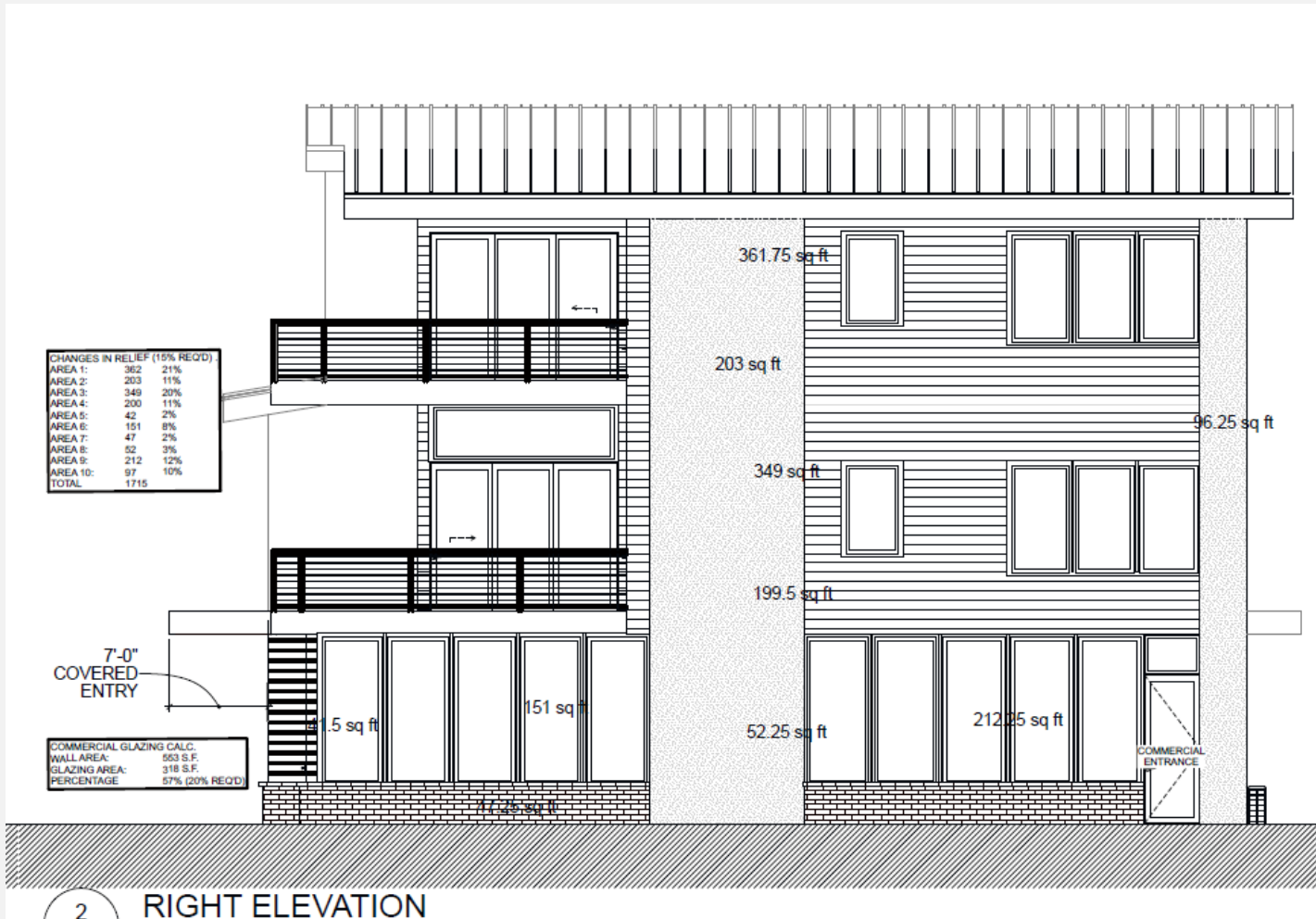


HISTORIC DISTRICT DESIGN STANDARDS COMPLIANCE

- AMC 18.4.2.050.B
- 1. Transition Zone compliance
- 2. Height: All buildings are less than the maximum in the zone which is 40'.
- 3 & 4. Massing and Scale:
 - The roofline has been cut back substantially to reduce the massing of the overhang.
 - The center bay of the third floor on Buildings 3 and 4 steps back three feet from the wall plane of the second floor and a shed roof has been added that emphasize the step back.
 - Recessed corners on ground floor to provide variation in the façade.



HISTORIC DISTRICT DESIGN STANDARD COMPLIANCE



- 6. Roof: The shape, pitch and materials are consistent with buildings in the vicinity
- 7. Rhythm of Openings: The proposed pattern of wall to door and window openings on the street frontages are clearly defined.
- 8. Base or Platforms: Buildings 3 & 4 both include a brick base to ground the building.
 - The use of a darker material on the lower levels enhances and adds strength to the base.
- 9. Form: The proposal has a form appropriate in a commercial zone.
- 10. Entrances: The commercial entrances are well defined and covered.

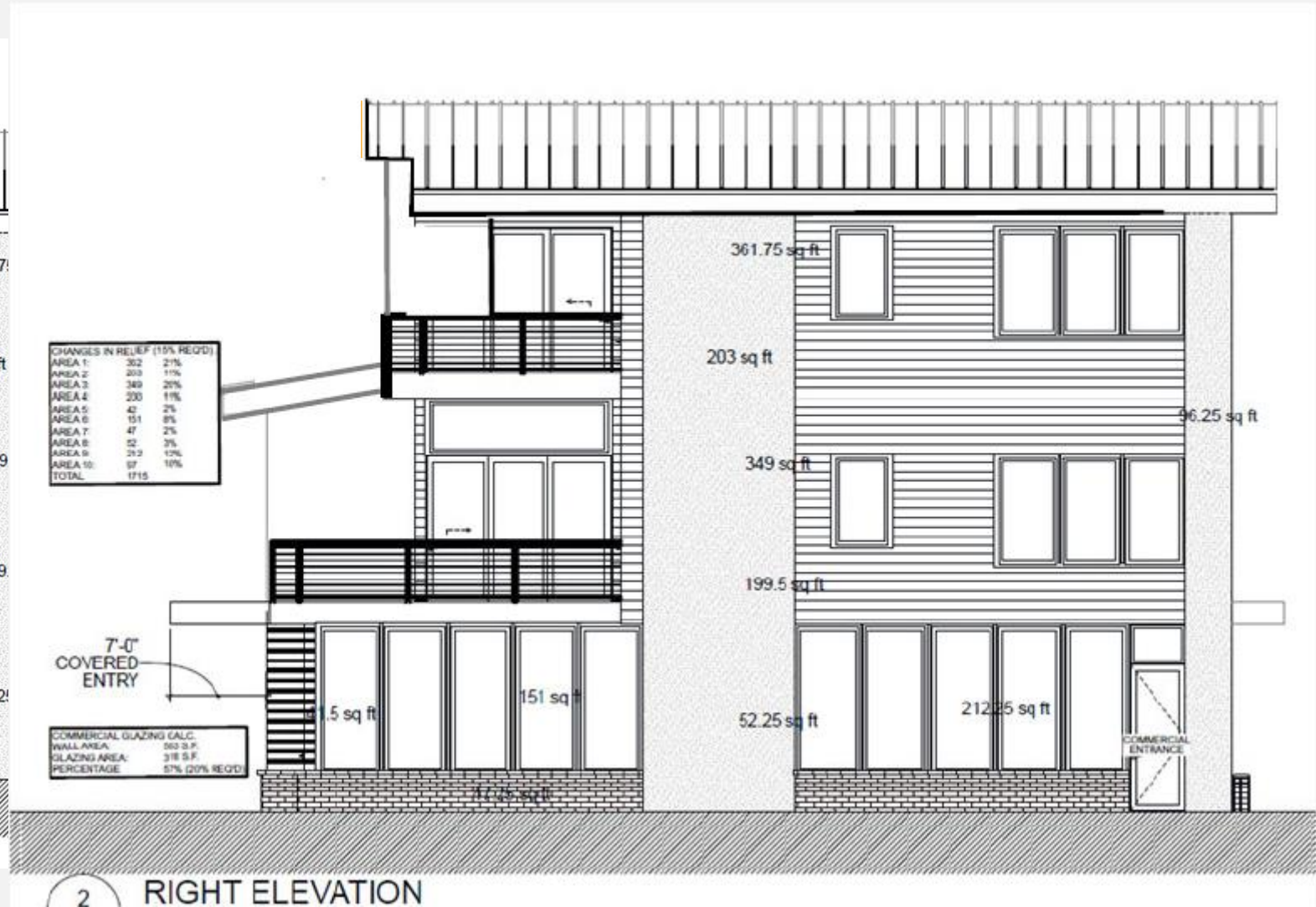
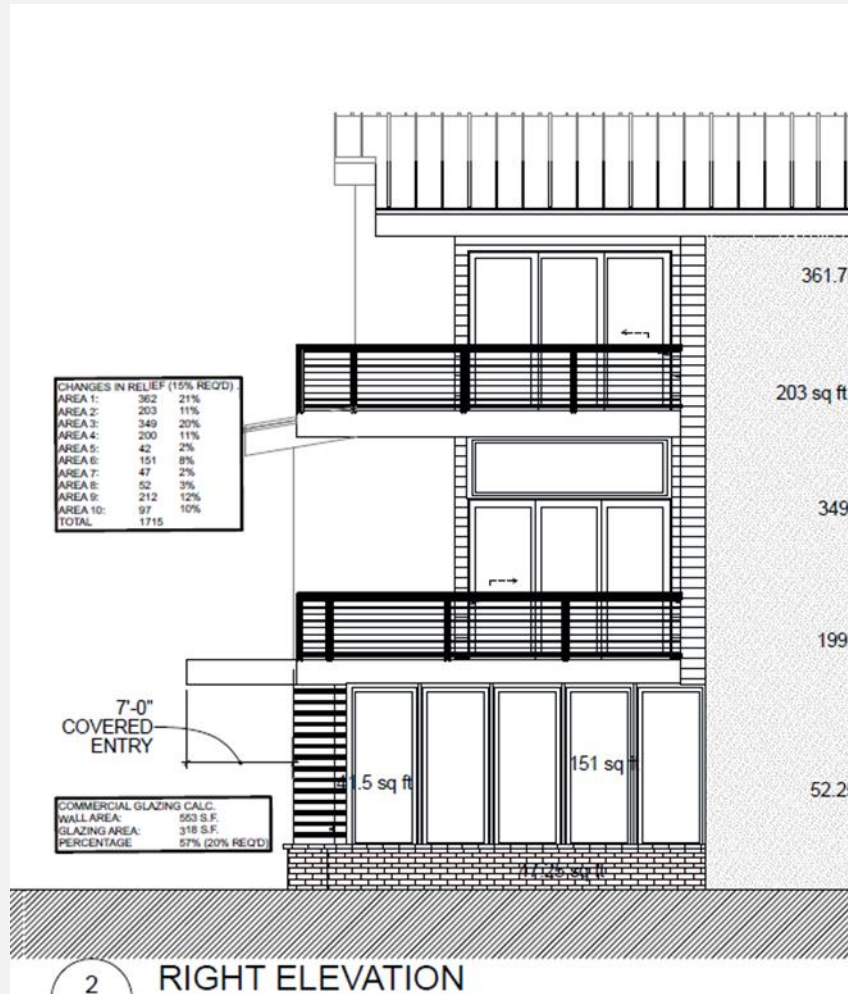


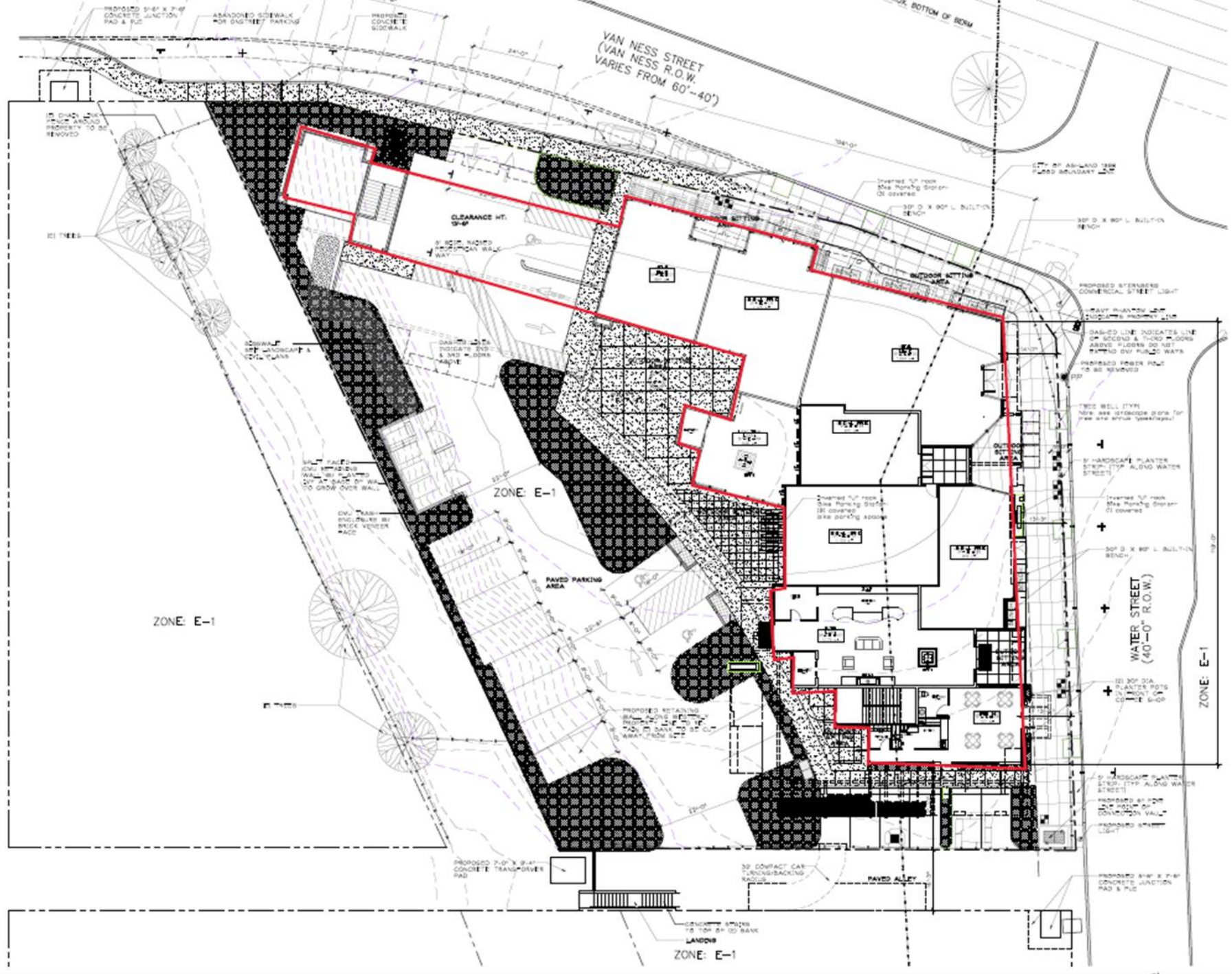
Building 3 (Helman Street)
Original Elevation

Building 3 (Helman Street)
Revised Elevation



SOLUTION TO CONCERNS OF MASSING & SCALE







3 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



3 EAST ELEVATION
SCALE: 1/8" = 1'-0"



December 6, 2022

RE: Comments on Grand Terrace Annexation – Planning Action #PA-T3-2022-00004

Dear Ashland City Council,

Rogue Advocates is a land use advocacy organization with members in Ashland. We support Ashland's goal of increasing the availability of affordable housing and we are particularly supportive of Ashland's longstanding efforts to accomplish their housing goals within a broader context that emphasizes reduced dependency on the automobile while improving conditions for walking, cycling and transit.

Since LUBA's reversal of the City's approval in May of 2021, Ashland has amended its municipal code in multiple ways in order to accommodate this proposal. However, as detailed below, we again find that the proposed annexation does not meet legal requirements and should therefore be denied. Because the City's process here is a legislative decision (AMC 18.5.8.030.A), the "raise it or waive it" requirements of ORS 197.763(1) do not apply.

Issue #1: The City's adopted procedures have not been followed.

The applicable criteria are:

18.5.8.030 - Applicability and Review Procedure

All annexations shall be processed under the Type III procedure (emphasis added). *Except for City-initiated annexations, annexation applications require an accompanying planning application for the development of the entirety of the annexed area in accordance with applicable procedure and approval criteria in chapter 18.5.1, General Review Procedures, concurrent with the annexation application.*

18.5.1.010 - Purpose and Applicability

A. Purpose. This chapter establishes procedures to initiate and make final decisions on planning actions under the Land Use Ordinance ("this ordinance"), pursuant to City policy and state law.
*B. Applicability of Review Procedures. All planning actions shall be subject to processing by **one*** (emphasis added) *of the following procedures summarized in subsections 1 - 4, below...*

The above criteria function together and allow for **ONE** application type. The criteria require that a Type III procedure be used for all annexations, which includes concurrent review of an accompanying planning application. Applicant's request for annexation with an accompanying request for outline plan subdivision and site design review approval cannot be separately granted by the Planning Commission through a Type II process.

Planning action PA-T3-2022-00004 was included on the September 13th Planning Commission agenda as a Type III process (See Exhibit A) and the Council's initial public hearing on this action is agendized as "Annexation and Site Review - HWY 99: PA-T3-2022-0004" (See Exhibit B), clearly indicating that site review is part of the Council's decision. The City's findings impermissibly divide one planning action into multiple approval processes in violation of AMC 18.5.1.010.B.

BOARD MEMBERS

Jamie Talarico Jimmy MacLeod Steve Rouse Hugo Hamblin-Agosto Pepper Trail Robin Elliott
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Issue #2: The City impermissibly imposes conditions of approval to satisfy approval criterion.

The City's "Findings, Conclusions and Orders" (hereinafter, "Findings") conclude that:

"Over 3,000 linear feet of sidewalk installation is proposed, and of this only approximately 900 linear feet directly fronts upon the applicant's properties. Along the applicant's frontage, an Exception is requested to allow curbside sidewalks in order to install a bus pull-out lane, bus stop and transit supportive plaza. The remainder of the areas to be improved are outside the applicant's ownership or control."

We agree that, apart from the applicant's frontage, the areas "proposed" for improvement along Highway 99 between El Tapatio restaurant and Schofield Street are outside the applicant's control. These areas are also outside of the City of Ashland's control. Consequently, these areas are not governed by any conditions imposed by the City.

ODOT has not approved the installation of sidewalks along their right-of-way between El Tapatio restaurant and Schofield Street. And, apart from the area along the applicant's frontage, there is no evidence that they will. To do so would involve the restriction of access and other impositions to multiple private properties and businesses along Highway 99. Similarly, ODOT has not granted permission for the installation of a Rectangular Rapid Flashing Beacon (RRFB) crossing or for improvements to bike/ped facilities underneath the CORP railroad trestle.

Although ODOT's permission *could* be the granted for such improvements, there is no evidence that such permissions *will* be granted. Approvals from the Federal Highway Administration must also be obtained for installation of an RRFB crossing per Interim Approval 21 (See Exhibit C). The City of Ashland has no authority to require ODOT (or FHWA) to approve such improvements and any conditions of approval to that effect are therefore legally non-binding.

Additionally, established case law requires the City to adopt findings showing both nexus and rough proportionality when requiring improvements - particularly costly improvements such as these - that extend well beyond the applicant's property. If anything, the City's findings do the opposite by recognizing pre-existing "dangerous" conditions for pedestrians along Highway 99 that result from non-conforming and/or unimproved driveway access, signage and lighting. Such findings make a case for why *other* property owners (or ODOT) should pay for improvements, not the applicant.

Rogue Advocates asserts that, apart from the frontage under applicant's control, any findings of legal compliance relying on the "proposed" installation of sidewalks, lighting, RRFB crossings, or "multi-use" path improvements under the CORP railroad trestle are without merit because they rely on unenforceable conditions of approval that have not been justified under *Nollan/Dolan* (nexus and rough proportionality) legal precedent.

Issue #3: Adequate water facilities and/or performance guarantees have not been demonstrated.

The applicable criteria are:

AMC 18.5.8.050.D - Adequate City facilities for the provision of water to the annexed area as determined by the Public Works Department...can and will be provided from the annexed area...

All required public facility improvements shall be constructed and installed in accordance with subsection 18.4.6.030.A.

AMC 18.4.6.030.A - Public Improvement Requirement. No building permit may be issued until all required public facility improvements are installed in accordance with the approved design, approved by the City Engineer, or a financial guarantee is provided pursuant to 18.4.6.030.E, below.

AMC 18.4.6.030.E - Performance Guarantee Required. The City may approve a final plat or building permit prior to completion of required public improvements when it determines that enough of the public improvements required for the site development or land division, or phase thereof, are complete and the applicant has an acceptable assurance for the balance of said improvements. The applicant shall provide a bond issued by a surety authorized to do business in the State of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the City, cash, or other form of security acceptable to the City.

With regard to the above criteria, applicant states:

“The proposal is to extend the City of Ashland, eight-inch water main within the Hwy. 99 N, ODOT right-of-way to the property. Presently, a 12-inch water main terminates in the Hwy. 99 right-of-way, approximately 766-feet south of the subject property frontage. The proposal requests extension of the city of Ashland water main as a public facility within the ODOT Highway right-of-way to the property under the railroad property through easement and connecting to the ODOT right-of-way where a private line will be extended through the site.”

The Findings state:

“The City will require the applicant to extend the existing 12-inch main line at a location uphill and south of the site, between Fox & Schofield Streets, to a location north of the railroad trestle at the site’s northernmost driveway. Final engineered details of the exact location and method of connection to the existing 12-inch city-owned water main will be included in the final engineered plans provided with the Final Plan submittal. In preparing the final civil drawings, consultation with RH2 Engineering, the contract engineer for the City, and use of the city’s water model may be required to evaluate domestic consumption and fire flow needs for Grand Terrace, the potential future extension of the main further to the north and resultant impacts to the city system.

As this is at the low end of the City’s water system, the applicant must anticipate high water pressures at the meter (160+ psi). This will require a pressure reducing valve (PRV) station at the point of connection. The final type, size, and location of the PRV station will need to be determined in consultation with the project civil engineer, the city-approved PRV supplier and Water Department staff based on the city water model currently managed by RH2 Engineering. PRV stations of this size are typically in underground vaults big enough to walk around in and will need to be in a location where regular maintenance can be performed without stopping traffic or endangering Water Division personnel. The applicant’s design team should also evaluate the need for PRV’s for each building. The final civil drawings provided with the Final Plan submittal shall include complete PRV details.”

There is a significant discrepancy between applicant's above proposal and what has been outlined in the Findings. In particular, extending a 12-inch main line from "a location uphill and south of the site, between Fox & Schofield Streets, to a location north of the railroad trestle at the site's northernmost driveway" is significantly different than "extend(ing) the City of Ashland, eight-inch water main within the Hwy. 99 N, ODOT right-of-way to the property." Applicant makes no mention of a pressure reducing valve (PRV) station in an underground vaults "big enough to walk around in."

What's involved in extending a 12-inch main line from between Fox & Schofield Streets to the subject property? Does such an extension involve traversing multiple private properties, including the railroad, as it would appear by looking at a map?

What's involved in installing a pressure reducing valve (PRV) station in an underground vault "big enough to walk around in?" Where will this station be located so as to satisfy the City's requirements?

These would appear to be substantial public works projects with equally substantial costs. Are these costs paid exclusively by the developer or are they paid through System Development Charges? Are easements required of private property owners to get a 12" main to the subject property?

Such questions remain unanswered, the applicant's civil drawings to not address them, and findings of adequate water facilities can therefore not be made.

Additionally, the City Council has passed first reading of "ORDINANCE NO. 3214 AN ORDINANCE AMENDING SECTION 4.20 OF THE ASHLAND MUNICIPAL CODE: SYSTEMS DEVELOPMENT CHARGES" with a scheduled second reading immediately following consideration of this annexation proposal. The City's adoption of this ordinance may, or certainly appears to, have direct bearing on applicant's ability to satisfy the above criteria.

Some of the changes made through this ordinance, which comes to the City Council based on recommendations made by a committee on which the applicant was a member, include:

"4.20.090 Collection of Charge A. The systems development charge is payable upon, and as a condition of, issuance or approval of:

...7. **Certificate of occupancy issued by the Building Division for multifamily development properties.**"

and

"System development charge payments for multiple-family residential rental projects may be deferred through an installment loan which shall not be subject to an annual interest rate provided all charges are paid prior to two years following the date of issuance of the Certificate of Occupancy." (bold, underlined text represents proposed modification to code).

How does Ordinance No. 3214 (See Exhibit D) relate to the above criteria; i.e., provision of adequate water to the subject property and the timing of payments?

With the above outstanding questions, AMC 18.5.8.050.D and the two other implicated code sections cited above have not been adequately addressed. [We also note that 18.5.8.050.E.5 - Timing of Transportation Improvements, is similarly implicated by the City's adoption of Ordinance No. 3214.]

Issue #4: Inadequacy of Safety Analysis for Bicycle/Pedestrian Transportation:

The applicable criteria are:

AMC 18.5.8.050.E Adequate transportation can and will be provided to serve the annexed area. For the purposes of this section, "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards:

- 2. For bicycle transportation, safe and accessible bicycle facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation) exist, or can and will be constructed.*
- 3. For pedestrian transportation, safe and accessible pedestrian facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation) exist, or can and will be constructed.*

The above criteria require that "safe and accessible" bicycle and pedestrian facilities "according to the safety analysis and standards of the governing jurisdiction of the facility or street exist or can and will be constructed." The plain language of this text requires that the governing jurisdiction (ODOT, in this case) complete a "safety analysis" against their standards.

Here, the applicant has submitted an "Access Safety Evaluation" at https://www.ashland.or.us/SIB/files/Comm%20Dev/Planning/Grand%20Terrace%20Annex/03_Grand_Terrace_Access_Safety_Evaluation_1_26_22_sgn.pdf [Note: Mistakenly dated "2021"] and not a "safety analysis." Applicant's "Access Safety Evaluation" does not purport to address ODOT's standards with respect to providing "safe and accessible" bicycle and pedestrian facilities nor does it identify what those standards are. There is no evidence that applicant's "Access Safety Evaluation" has been reviewed by ODOT, the governing jurisdiction.

The language contained within AMC 18.5.8.050.E.2&3 has been recently adopted. A November 9, 2021 video recording of a discussion between City planner Maria Harris and Planning Commissioner Lynn Thompson explains the City's intent behind this language. (@ minute 54:00 of: https://videoplayer.telvue.com/player/w9sPsSE7vna3XTN_39bs1rEXjVWF0kfP/media/681097?fullscreen=false&showtabssearch=true&autostart=true)

During the course of the above-referenced discussion, Ms. Harris says:

"Each jurisdiction has... a safety analysis manual that, when a traffic engineer, whether it's the City or State person, or if it's a private engineer, they have to go to this manual and do a safety and engineering analysis based on that manual. And then the jurisdiction has criteria that... apply to when and what kind of facilities you need. When they do a safety analysis some of the things they look at are crash data, crossings, sight distance, what lighting is in place, channelization, turn lanes - it's quite in-depth. They would be looking at accidents involving bicyclists or pedestrians... in the same way you would a vehicle - where the crossings are, how good the lighting is... how good can you see - the sight distance. Crossings are part of that analysis."

Kelly Sandow's "Access Safety Evaluation" doesn't identify a single standard of the "governing jurisdiction." It doesn't reference a "safety analysis manual" or any criteria used to do the analysis. The bicycle portion of Sandow's "Access Safety Evaluation" (entitled "bicycle access") takes up less than a single page and doesn't mention anything about crossing the highway. And there's also no mention of crash data, sight distances, lighting, channelization or turn lanes. It mentions bicycle lanes on the other side of the highway without describing how a bicyclist is supposed to get there.

The pedestrian portion of Sandow's evaluation (entitled "pedestrian access") takes up slightly more than one page and largely relies on the installation of a new RRFB crossing proposed near Schofield Street to conclude that pedestrians will be safe to cross Highway 99.

The proposed RRFB crossing is along a section of highway with a speed limit of 35 mph. On the east side there is a guardrail and shoulder, but no sidewalk. There are no destinations on the east side of the highway apart from an RVTB "flag stop," which is an unmarked, informal place where you can get on or off the bus from Ashland to Medford. It is unusual to see pedestrians on the east side of the roadway or to see passengers embarking/disembarking the bus at this flag stop [Note: Author is the former Senior Planner/Support Services Manager for RVTB and a former frequent passenger on this bus route].

Ms. Sandow's "Access Safety Evaluation" relies on applicant's "proposal" to build 3,088 linear feet of sidewalk along the west side of Highway 99 along with an RRFB crossing. As discussed above under issue #2, the City cannot rely on conditions of approval for the installation of improvements on facilities that are not under the City's jurisdiction. Further, the City has not adopted the requisite *Nollan/Dolan* findings to support requiring the applicant to undertake such extremely costly and potentially disruptive projects on a State highway so far outside of the applicant's control and so far from the applicant's property.

Additionally, applicant has used the City's "exception" process to deviate from the City's Street Design Standards along approximately 2,100 feet of the 3,088 foot length of Highway 99 where improvements have been "proposed."

As explained under Finding 2.5:

"The Planning Commission notes that requests to depart from the Street Design Standards in AMC 18.4.6.040 are subject to Exception to the Street Design Standards. The Planning Commission further notes that with the current request, over 3,000 linear feet of sidewalk installation is proposed, and of this only approximately 900 linear feet directly fronts upon the applicant's properties. Along the applicant's frontage, an Exception is requested to allow curbside sidewalks in order to install a bus pull-out lane, bus stop and transit supportive plaza. The remainder of the areas to be improved are outside the applicant's ownership or control, and there are impediments to city-standard parkrow and street tree installation due to steepness of other's properties adjacent to the right-of-way; obstructions created by private property owners, and privately-owned encroachments into the highway right-of-way; and physical barriers including private property curbing and the railroad overpass."

The City's Findings note that "the applicant emphasizes that the installation of a continuous sidewalk system will have a positive impact on the adjacent properties while providing greater connectivity, comfort and safety for bicyclists, pedestrians and transit users." We agree. However, the City cannot lawfully require the applicant to construct these improvements absent prior approval by the governing

jurisdiction(s) and without the cooperation of numerous private property owners. The applicant's "proposals," however well-intended, are meaningless in this context.

The above argument is further supported by Findings that state:

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

The Findings explain that the applicant will be responsible for completing that which is "under his control," or approximately 900 feet of frontage along Highway 99. This equates to less than 30% of the length of sidewalks "proposed" by applicant, the construction of which forms the factual basis of Sandow's "Access Safety Evaluation."

With respect to the "proposed" RRFB crossing, the Findings state:

"The application further notes that mid-block crosswalks are dangerous, and RRFBs increase the safety of pedestrians and cyclists crossing when compared to a traffic signal."

Neither the City nor the applicant provide any evidence to support the claim that RRFBs provide a safer crossing than a traffic signal. Exhibits C and E rebut this erroneous finding:

Exhibit C - (*Federal Highway Administration - Interim Approval 21 – Rectangular Rapid-Flashing Beacons at Crosswalks*):

"There was a wide range of yielding rates, with some as low as 19 percent."

Exhibit E - (*Transportation Research Record - A Study of Driver Noncompliance with Traffic Signals*):

"In another study it was found that the violation rate (i.e., not stopping when required) increased from 0.1 percent to 0.6 percent when the signal configuration changed from regular operation to flashing red."

Exhibits C and E show that RRFBs have a yielding rate as low as 19%, whereas the yielding rate for traffic signals is typically in the range 99.9%. It is simply inaccurate to claim, without any supporting evidence, that "RRFBs increase the safety of pedestrians and cyclists crossing when compared to a traffic signal."

The "proposed" RRFB near Schofield Street is not near a school, does not connect to a sidewalk on the east side, and is not in an area where pedestrians would be expected to cross. According to expert research, all of these factors will likely contribute to a lower yielding rate - much lower than would otherwise be expected at a traffic signal - reducing the safety and effectiveness of an RRFB crossing at this location particularly as compared to a traffic signal.

Additionally, an RRFB crossing at this location requires placement of poles on the edges of the roadway for signage and for push-button actuation. Since there is no sidewalk on the east side of the roadway, it

will be difficult, if not impossible, to install such a pole in this location without greatly modifying the roadway. This issue is not addressed by applicant.

The Findings and the application (but not the "Access Safety Evaluation") suggest that northbound bicyclists wishing to access the proposed development will use the RRFB to cross the highway and then walk their bikes approximately 0.3 miles along the "proposed" sidewalk on the west side of Highway 99.

Although this is certainly a possibility, it's unlikely. Bicyclists are more likely to stay mounted on their bikes, particularly in this downhill section of Highway 99. If they did use the RRFB to cross, they would be unlikely to walk their bikes on the sidewalk for 1/3 mile to the development. They would be much more likely to ride their bikes the wrong way in the bike lane or on the sidewalk, either of which is illegal and extremely dangerous. This is similar to what was communicated to the Planning Commission during the previous consideration of this application by City Public Works Director Scott Fleury. [Note: Author is a former transportation planner and a bicyclist with 15 years of bike commuting experience between Ashland and Medford on this highway segment.]

In summary:

- AMC 18.5.8.050.E.2&3 cannot be satisfied based on the imposition of unenforceable conditions of approval to construct sidewalks, an RRFB crossing and a multi-use bike/ped facility under the CORP railroad trestle.
- Applicant's Civil Engineering drawings showing a sidewalk connection between El Tapatio restaurant and Schofield Street (C7.0 - C7.2 @ https://www.ashland.or.us/SIB/files/Comm%20Dev/Planning/Grand%20Terrace%20Annex/02_00_2022-04-15_Grand_Terrace_Land_Use_Set_-_Civil.pdf) are the only drawings from Powell Engineering that are not stamped. They are the only drawings that contain the statement: "SECTIONS CREATED BY OTHERS DURING ANNEXATION APPLICATION AND APPROVAL PROCESS. SHOWN FOR REFERENCE ONLY." They show curbs and sidewalks running continuously from the "westerly"/north project access lane to the proposed main entrance without any curb cuts for driveways, thus eliminating access to Paradise Supply and Anderson Auto Body. They do not show an RRFB crossing. These drawings function as further evidence that the "proposal" for sidewalk improvements cannot be relied on for findings of compliance with AMC 18.5.8.050.E.2&3.
- Kelly Sandow's "Access Safety Evaluation," in addition to relying on improvements that cannot be assured through conditions of approval, does not address the criteria in AMC 18.5.8.050.E.2&3 that require a "safety analysis" as described in the language of the code nor by City staff during the development of this criteria.

Issue #5: The requested exception to City street standards does not meet the requirements of 18.4.6.020.B.1.a.iii:

The applicable criteria are:

*AMC 18.4.6.020.B.1 - Exception to the Street Design Standards
The approval authority may approve exceptions to the street design standards in section 18.4.6.040 if the circumstances in either subsection B.1.a or b, below, 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; and the exception is the minimum necessary to alleviate the difficulty; and the exception is consistent with the purpose, intent, and background of the street design standards in subsection 18.4.6.040.A; and the exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable:

iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safely and efficiently cross roadway;

Applicant argues that:

“There is demonstrable difficulty in meeting the specific Street Design Standards from 18.4.6 for continuous landscape park row, **sidewalks** (emphasis added) and curbs. The exceptions and impediments are in areas that are not part of the development.

Issues of impediments to the standard are steepness of other’s properties adjacent to the right-of-way; obstructions created by private property owners, and privately owned encroachments into the highway right-of-way. These are physical barriers like private property curbing and the railroad overpass. These are all other private property ownerships the applicant legally cannot enter upon and built upon.

The Grand Terrace development frontage is approximately 900 lineal feet and an exception at this location is only requested to accommodate a public benefit of a new bus stop and plaza. If the applicant were not voluntarily contributing this public benefit no exception would be requested.

All other requested exception to the Street Design Standards are outside the applicants control. The request is the minimum necessary considering the 3000+ feet of improvements are mostly in areas that are not part of the development and in areas that are owned by others.

Although there are exceptions requested most of the important improvements of providing safe transportation of pedestrians and bicyclist can be done. The installation of a continuous sidewalk system will have a positive impact on the adjacent properties and increase property values by improving their property and increasing the visual beautification of the local, and increased access of pedestrians and bicyclist.

It will provide connectivity and be safer and comfortable for the transit of pedestrians and bicyclist. The requested exception is consistent with the purpose and intent which is ‘to enhance the environment for walking, cycling, and mass transit use, and to ensure that high quality development is maintained throughout the city.’”

Here, the applicant employs a verbal contortion act to present a convoluted and disingenuous case for an exception to the City’s street standards. Contrary to the requirements under 18.4.6.020.B.1.a.iii, the requested exception will result in an island of sidewalks surrounded by a sea of “dangerous” obstacles for pedestrians, whose numbers can only be multiplied by the proposed development.

On the one hand, applicant argues that various impediments - including physical constraints and private property issues - limit the ability of applicant to provide a continuous sidewalk connection along

Highway 99 and therefore warrant an exception to such requirements. On the other hand, applicant “proposes” a continuous sidewalk between El Tapatio restaurant and Schofield Street, arguing that such improvements “can be done” and “will have a positive impact on the adjacent properties and increase property values by improving their property.”

We agree with applicant that the existing pedestrian conditions along Highway 99 between where the sidewalk ends just south of El Tapatio restaurant and where it begins again at Schofield Street (approximately 3,100’ distance) are dangerous. We agree that crossing Highway 99 by any means, but particularly by foot or by bike, is EXTREMELY dangerous. We agree that there are all sorts of impediments to constructing a continuous sidewalk along this length. We agree that the applicant has no control over other private properties along this segment of roadway. And finally, we point out that the City of Ashland has no jurisdiction, authority, legal basis, or ability to require the applicant to build a continuous sidewalk system in this location. Likewise, and as previously argued, the City cannot require the applicant to do anything about the area underneath the railroad trestle, or to construct an RRFB crossing.

Therefore, with respect to the 2,218’ of Highway 99 frontage not under the applicant’s control:

- City standards (AMC 18.4) require that a continuous sidewalk (among other improvements) be present as a condition of annexation;
- Applicant credibly argues that they must take an exception to such standards;
- Applicant “proposes” various improvements to remedy “dangerous” pre-existing conditions for pedestrians along this highway segment while simultaneously arguing that they have no control over the completion of said improvements;
- Applicant takes credit for their “proposed” improvements and thereby claims that the requirements under 18.4.6.020.B.1.a.iii (among others) have been met.

As stated under Issues #2 & #4 above, conditions of approval requiring applicant to construct improvements - including a continuous sidewalk from El Tapatio restaurant to Schofield Street, an RRFB crossing, and a multi-use path under the CORP railroad trestle - cannot be used to demonstrate compliance with any criteria that rely on the completion of these improvements. This is for the simple and obvious fact that the City has no jurisdiction to impose these conditions and they have not completed the requisite legal findings to do so in any case.

Issue #6: Affordability requirements of AMC 18.5.8.050(G) are not met:

The applicable criteria are:

AMC 18.5.8.050.G

1 - The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein. The base density of the annexed area for the purpose of calculating the total number of affordable units in this section shall exclude any unbuildable lots, parcels, or portions of the annexed area such as existing streets and associated rights-of-way, railroad facilities and property, wetlands, floodplain corridor lands, water resource areas, slopes greater than 35 percent, or land area dedicated as a public park.

a. Ownership units restricted to households earning at or below 120 percent of the area median income shall have an equivalency value of 0.75 unit.

- b. Ownership units restricted to households earning at or below 100 percent of the area median income shall have an equivalency value of 1.0 unit.*
 - c. Ownership or rental units restricted to households earning at or below 80 percent of the area median income shall have an equivalency value of 1.25 unit.*
- 2. As an alternative to providing affordable units per section 18.5.8.050.G.1, above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC 501(3)(c)) affordable housing developer or public corporation created under ORS 456.055 to 456.235.*
 - a. The land to be transferred shall be located within the project meeting the standards set forth in sections 18.5.8.050.G.5 and 18.5.8.050.G.6.*
 - b. All needed public facilities shall be extended to the area or areas proposed for transfer.*
 - c. Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(c)(3) organization, or a public corporation created under ORS 456.055 to 456.235.*
 - d. The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.*
 - e. Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in subsection 18.5.8.050.G.4.*
- 3. The affordable units shall be comparable in bedroom mix with the market rate units in the development.*
 - a. The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor area based as set forth in Table 18.5.8.050.G.3, or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.*
- 4. A development schedule shall be provided that demonstrates that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows:*
 - a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.*
 - b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.*

AMC 18.5.8.050.G requires that either, under subsection 1, the applicant provide the affordable units, or under subsection 2, the applicant provide title to a sufficient amount of land for someone else to build the units. In order to meet the requirements of subsection 4, either one or the other option must be determined prior to satisfying this criterion.

Here, applicant wants both options to be available and commits to neither. As such, it is not possible to make findings related to the quantity of land needed to build the units or how and when (i.e., a "development schedule") the units will be built.

The application proposes 10 separate lots with 10 separate buildings, each with the capacity to contain 23 separate units. The proposal is for 2 of these buildings (or the equivalent land area) to be dedicated to affordable housing.

Applicant states that:

“The site development includes ten, 2 ½ story, garden flat style apartments. Each of the buildings are proposed to have twenty, 499-square foot, one-bedroom units and three, 250 square foot studio units.”

Findings state that:

“The Planning Commission notes that AMC 18.5.8.050.G.7 provides that the total number of affordable units described in AMC 18.5.8.050.G shall be determined by rounding up fractional answers to the nearest whole unit. Twenty-five percent of the 185.625 dwelling unit base density is 46.406 affordable units, which rounds up to 47 units ($185.625 \text{ d.u.} \times 0.25 = 46.406$, which rounds up to 47 units). When the 1.25- unit equivalency factor is applied for the 80 percent AMI affordability level for rental units this equates to 38 units ($46.406/1.25 = 37.125$ units, which rounds up to 38 units.). The Planning Commission finds that these rounded-up numbers will need to be addressed in the required affordability agreement and in the development proposal for the Final Plan submittal.”

As mentioned in the Findings, the above numbers don't add up. That is, if 47 units are required, and there is only capacity for 46 (23 units X 2 buildings), then findings of conformance cannot be made under AMC 18.5.8.050.G.

Additionally, applicant proposes units that are 499 square feet (one bedroom units) and 250 square feet (studio units). The minimum square footage required per table 18.5.8.050.G.3 is 500 and 350, respectively. Consequently, requirements under 18.5.8.050.G.3 also cannot be met.

Issue #7: Performance Standards Option of AMC 18.3.9.040(A)(3)(g) is not met:

The applicable criteria are:

AMC 18.3.9.040.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.

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:

g. The development complies with the street standards.

AMC 18.3.9.040(A)(3)(g) requires that “the development complies with the street standards.” There is no provision for an exception to the street standards within the Performance Standards Option. Here, applicant is requesting an exception to the street standards.

Issue #8: Performance Standards Option of AMC 18.3.9.060(A) is not met:

The applicable criteria are:

AMC 18.3.9.060 - Parking Standards

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

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

No on-street parking is provided and no exceptions are allowed under the Performance Standards Option, i.e., 18.3.9.040.a - *The development meets all applicable ordinance requirements of the City.*

CONCLUSION

The above evidence and argument demonstrate that findings under PA-T3-2022-00004 do not satisfy the requirements as set forth in the applicable sections of the Ashland Municipal Code.

Respectfully submitted,

Craig Anderson
Member Rogue Advocates

Exhibit A - Planning Commission Agenda, September 13, 2022
Exhibit B - City Council Agenda, December 6, 2022
Exhibit C - Federal Highway Administration Interim Approval 21
Exhibit D - City of Ashland Ordinance No. 3214
Exhibit E - Transportation Research Record 1168

Agendas and Minutes

City of Ashland

Planning Commission ([View All](#))

Hybrid Planning Commission Regular Meeting

Agenda

Tuesday, September 13, 2022

[View Minutes](#)[Attachments](#)

The hybrid public hearing will be held at 7:00 p.m. on September 13, 2022 at the Ashland Civic Center, 1175 Ashland Street, OR. The Public Hearing can also be attended via Zoom. The meeting will be televised on local channel 9 or channels 180 and 181 for Charter Communications customers or will also be available live stream by going to rvtv.sou.edu and selecting RVTV Prime.

Written testimony will be accepted for the public hearing agenda items via email to PC-public-testimony@ashland.or.us with the subject line "09/13/22 PC Hearing Testimony" by 10:00 a.m. on Monday, September 12, 2022. Written testimony will not be accepted on findings because the record is closed. If the applicant wishes to provide a rebuttal to the testimony, they can submit the rebuttal via e-mail to PC-public-testimony@ashland.or.us with the subject line "09/13/22 PC Hearing Testimony" by 10:00 a.m. on Tuesday, September 13, 2022. Written testimony received by the deadlines will be available to the Planning Commission before the meeting and will be included in the meeting minutes.

Oral testimony will be taken via Zoom during the electronic public hearing. If you wish to provide oral testimony during the electronic meeting, send an email to PC-public-testimony@ashland.or.us by 10:00 a.m. on Monday, September 12, 2022. In order to provide testimony at the public hearing, please provide the following information: 1) make the subject line of the email "09/13/22 Speaker Request", 2) include your name, 3) specify the date and



commission meeting you wish to virtually attend or listen to, 4) specify if you will be participating by computer or telephone, and 5) the name you will use if participating by computer or the telephone number you will use if participating by telephone.

If you would like to watch and listen to the Planning Commission meeting virtually, but not participate in any discussion, you can use the Zoom link below to join the meeting as an attendee.

ASHLAND PLANNING COMMISSION

REGULAR MEETING

September 13, 2022

<https://zoom.us/j/96613154440>

I. CALL TO ORDER: 7:00 PM

II. ANNOUNCEMENTS

III. CONSENT AGENDA

A. Approval of Minutes

1. August 9, 2022 Regular Meeting

B. Initiation of an Ordinance Amendment Relating to Food Trucks & Food Carts

IV. PUBLIC FORUM

V. TYPE I PUBLIC HEARING

PLANNING ACTION: PA-APPEAL-2022-00016 (Appealing PA-T1-2022-00187)

SUBJECT PROPERTY: 580 Clover Ln

APPLICANT/OWNER: Tesla / Asia Johnson

APPELLANT: Stracker Solar / Jeff Sharpe

DESCRIPTION: An appeal of the staff decision approving a request for a Conditional Use Permit and Site Design Review approvals to allow for the installation of an asphalt-paved parking lot with approximately 24 electric vehicle (EV) charging stalls on an undeveloped site. The project proposes to install associated electrical equipment (transformers, switchgears, Tesla supercharger cabinets and surcharger posts), storm 

drainage and water (for onsite irrigation only) utilities, and landscaping. **COMPREHENSIVE PLAN**

DESIGNATION: Employment; **ZONING:** E-1;

ASSESSOR'S MAP: 39 1E 14 AA; **TAX LOT:** 6801.

VI. TYPE III PUBLIC HEARING

PLANNING ACTION: PA-T3-2022-00004

SUBJECT PROPERTY: 1511 Highway 99 North

APPLICANT/OWNER: Casita Developments, LLC for owner Linda Zare

DESCRIPTION: A request for the Annexation of 16.86 acres located at 1511 Highway 99 North into the City of Ashland, along with 6.6 acres of adjacent Oregon Department of Transportation state highway right-of-way and 7.68 acres of California Oregon & Pacific railroad property. The property is currently located in Jackson County and zoned Rural Residential (RR-5); with Annexation these properties would be brought into the City as Low Density, Multi-Family Residential (R-2). Concurrent with Annexation, the application also requests: Outline Plan subdivision approval to create 12 lots; Site Design Review to construct 230 apartments in ten buildings including 37 affordable units; an Exception to the Street Design Standards; and Tree Removal Permits to remove two trees greater than six-inches in diameter at breast height. **COMPREHENSIVE PLAN DESIGNATION:** Multi-Family Residential; **ZONING:** Existing – County RR-5 Rural Residential, Proposed – City R-2 Low Density Multi-Family Residential; **ASSESSOR'S MAP:** 38 1E 32; **TAX LOT #'s:** 1700 & 1702

VII. ADJOURNMENT

Online City Services

Pay Your Utility Bill



Request Conservation
Evaluation



[City Utilities – Pay Online, Connect/Disconnect and More](#)

Agendas and Minutes

City of Ashland



City Council ([View All](#))

Council Business Meeting

Agenda

Tuesday, December 06, 2022

**ASHLAND CITY COUNCIL
BUSINESS MEETING AGENDA
Tuesday, December 6, 2022**

View on Channel 9 or Channels 180 and 181 (Charter Communications) or live stream via rvtv.sou.edu select RVTV Prime.

HELD HYBRID (Limited In-Person Social Distancing Seating and Zoom Meeting Access)

The Special Business Meeting will be held in Council Chambers, 1175 E. Main Street.

Written and oral testimony will be accepted for public input. For written testimony, email public-testimony@ashland.or.us using the subject line: Ashland City Council Public Testimony.

For oral testimony, fill out a [Speaker Request Form](http://ashland.or.us/speakerrequest) at ashland.or.us/speakerrequest and return to the City Recorder.

5:30 PM Executive Session

The Ashland City Council will hold an Executive Session and may conduct the following:

1. Consultation with the City Attorney on current or likely litigation pursuant to ORS



192.660(2)(h)

2. Deliberations with persons designated by the governing body to carry on labor negotiations, pursuant to ORS 192.660(2)(d)

6:00 PM Regular Business Meeting*

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. MAYOR'S ANNOUNCEMENTS**

Land Acknowledgement**

V. APPROVAL OF MINUTES

- 1. Minutes of the October 31, 2022 Study Session Meeting**
- 2. Minutes of the November 1, 2022 Business Meeting**

Minutes of Boards, Commissions and Committees***

VI. SPECIAL PRESENTATIONS

1. Band Director Recognition

7. CITY MANAGER REPORT

8. PUBLIC FORUM

9. CONSENT AGENDA

- 1. Transportation Advisory Committee Appointments**
- 2. Rogue Valley Transportation Improvement Funding Letter of Support**
- 3. Resolution Suspending City Commissions Transitioned to Advisory Committees**
- 4. Declaration and Authorization to Dispose of Surplus Property**
- 5. Professional Services contract with GSI Water Solutions Inc. for the development of the Water Management and Conservation Plan (WMCP)**
- 6. Approval of Liquor License for Cocorico LLC**

10. PUBLIC HEARINGS

- 1. Annexation and Site Review - HWY 99: PA-T3-2022-0004**



11. UNFINISHED BUSINESS**12. NEW AND MISCELLANEOUS BUSINESS****13. ORDINANCES, RESOLUTIONS AND CONTRACTS**

1. **Resolution Canvassing the Vote for the November 8, 2022, General Election**
2. **Second Reading SDC Committee Recommended Ordinance Updates for Multi-Family Developments**
3. Severe Weather Emergency Shelter
 - a. **Resolution on Severe Weather Emergency Shelter Policy**
 - b. **Resolution Authorizing Contracts for Severe Weather Emergency Shelter Services for a not to exceed total of \$100,000**
 - c. **FY 2022-2023 Budget Amendment for Severe Weather Emergency Shelter Services**

XIV. OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS**XV. ADJOURNMENT OF BUSINESS MEETING**

* Items on the Agenda not considered due to time constraints are automatically continued to the next regularly scheduled Council meeting [AMC 2.04.030.(D)(3)]

**** LAND ACKNOWLEDGEMENT**

We acknowledge and honor the aboriginal people on whose ancestral homelands we work—the Ikirakutsum Band of the Shasta Nation, as well as the diverse and vibrant Native communities who make their home here today. We honor the first stewards in the Rogue Valley and the lands we love and depend on: Tribes with ancestral lands in and surrounding the geography of the Ashland Watershed include the original past, present and future indigenous inhabitants of the Shasta, Takelma, and Athabaskan people. We also recognize and acknowledge the Shasta village of K'wakhakha - "Where the Crow Lights" - that is now the Ashland City Plaza.

***Agendas and minutes for City of Ashland's Boards and Commissions meetings may be found at the City's website, <https://www.ashland.or.us/Agendas.asp> . Use the View By box to select the Board or Commission information you are seeking.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Manager's office at (541) 488-6002 (TTY



FHWA Policy Memorandums

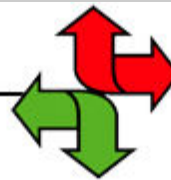
 Manual on Uniform Traffic
 Control Devices (MUTCD)


Exhibit C

[Resources](#) > [Interim Approvals Issued by FHWA](#)

Interim Approval 21 – Rectangular Rapid-Flashing Beacons at Crosswalks

[PDF Version](#), 606KB

 You may need the [Adobe® Reader®](#) to view the PDFs on this page.

 U.S. Department of Transportation
Federal Highway Administration

Memorandum

 Subject: **INFORMATION:** MUTCD – Interim Approval for Optional Use of Pedestrian-Actuated Rectangular Rapid-Flashing Beacons at Uncontrolled Marked Crosswalks (IA-21)

Date: March 20, 2018

 From: Martin C. Knopp
 Associate Administrator
 for Operations

 In Reply
 Refer To: HOTO-1

 To: Federal Lands Highway Division Directors
 Division Administrators

Purpose: The purpose of this memorandum is to issue an Interim Approval for the optional use of Rectangular Rapid-Flashing Beacons (RRFB) as pedestrian-actuated conspicuity enhancements for pedestrian and school crossing warning signs under certain limited conditions. Interim Approval allows interim use, pending official rulemaking, of a new traffic control device, a revision to the application or manner of use of an existing traffic control device, or a provision not specifically described in the *Manual on Uniform Traffic Control Devices for Streets and Highways* (MUTCD). State and local agencies must request and receive permission to use this new Interim Approval, designated IA-21, from the Federal Highway Administration (FHWA) in accordance with the provisions of Section 1A.10 of the MUTCD before they can use the RRFB, even if prior approval had been given for Interim Approval 11 (IA-11), now terminated. The issuance of this new Interim Approval does not reinstate IA-11 either in whole or in part.

Background: The Florida Department of Transportation has requested that the FHWA issue an Interim Approval to allow the use of RRFBs as pedestrian-actuated conspicuity enhancements to supplement standard pedestrian and school crossing warning signs at uncontrolled marked crosswalks. The RRFB does not meet the current standards for flashing warning beacons as contained in the 2009 edition of the MUTCD, Chapter 4L, which requires a warning beacon to be circular in shape and either 8 or 12 inches in diameter, to flash at a rate of approximately once per second, and to be located no less than 12 inches outside the nearest edge of the warning sign it supplements. The RRFB uses rectangular-shaped high-intensity light-emitting-diode (LED)-based indications, flashes rapidly in a combination wig-wag and simultaneous flash pattern, and may be mounted immediately adjacent to the crossing sign.

Research on the RRFB: The City of St. Petersburg, Florida, experimented with the RRFB at 18 pedestrian crosswalks across uncontrolled approaches and submitted its final report in 2008. In addition to "before" data, the city collected "after" data at intervals for one year at all 18 sites and for two years at the first two implemented sites. For the first two sites, the city collected data for overhead and ground-mounted pedestrian crossing signs supplemented with standard circular yellow flashing warning beacons, for comparison purposes, before the RRFBs were installed. The data showed

higher motorist yielding rates at crosswalks where the RRFBs had been installed in comparison to lower rates for standard warning beacons. The higher yielding rates were sustained even after two years of operation, and no identifiable negative effects were found. The St. Petersburg data also showed that drivers exhibit yielding behavior much farther in advance of crosswalks with RRFBs than with standard circular yellow flashing warning beacons.

In addition to the St. Petersburg locations, experimentation with RRFBs was also conducted at other uncontrolled marked crosswalks in Florida and other States. Data from locations other than St. Petersburg was limited, but did show results similar to those found in St. Petersburg.

The Texas Transportation Institute (TTI) conducted a Federally funded research project¹ that developed and tested a new flash pattern for the RRFB that was shown to be at least as effective as the flash pattern that was initially tested in St. Petersburg, Florida, and that showed that mounting the RRFB unit above the sign was at least as effective as mounting the RRFB unit below the sign. In this project, the results were generally favorable, however there was a wide range of yielding rates, with some as low as 19 percent. This broad range indicates that there might be certain factors or characteristics of locations at which the RRFB might not be effective.

A separate project² conducted by TTI examined data from multiple projects to determine various factors that influenced driver yielding rates at RRFB locations. In this project, the researchers found that intersection configuration, presence of a median refuge, crossing distance, approach to the crossing, and one-way vs. two-way traffic significantly affected the rate of driver yielding. Additional factors including posted speed limit, mounting of the beacons (overhead or roadside), and the type of crossing and sign—Pedestrian (W11-2) or School (S1-1) sign compared with the Trail Crossing (W11-15) sign—were also significant.

FHWA Evaluation of Results: The Office of Transportation Operations reviewed the available data in 2008 and considered the RRFB to be highly successful for the applications tested (uncontrolled marked crosswalks). The RRFB offers significant potential safety and cost benefits because it achieves high rates of compliance at a low relative cost in comparison to other more restrictive devices that provide comparable results, such as full midblock signalization or pedestrian hybrid beacons.

The FHWA granted interim approval status to the RRFB on July 16, 2008, and designated that action as Interim Approval 11 (IA-11).

The FHWA was later informed that the concept of the RRFB had been patented by a private company. Because patented traffic control devices are not allowed to be included in the MUTCD, are not allowed to be given interim approval status, and are not allowed to be a part of an official experiment, the FHWA terminated Interim Approval 11 on December 21, 2017.

The FHWA has confirmed that the patents on the RRFB device that was the subject of Interim Approval 11 have been expressly abandoned and the concept of the RRFB is now in the public domain. Because of this action, the RRFB is once again eligible for interim approval status and the FHWA is issuing this new Interim Approval for the RRFB.

Interim Approval 11 (IA-11) remains terminated. Agencies that previously had been approved to use RRFBs under IA-11 are not covered by this new Interim Approval to install new RRFBs. If agencies that had approval under IA-11 wish to continue to install new RRFBs, then they must submit a new request to the FHWA and agree to comply with the terms and conditions of IA-21.

This Interim Approval does not create a new mandate compelling installation of RRFBs, but will allow agencies to install this traffic control device, pending official MUTCD rulemaking, to provide a degree of enhanced pedestrian safety at uncontrolled marked crosswalks.

Conditions of Interim Approval: The FHWA will grant Interim Approval for the optional use of the RRFB as a pedestrian-actuated conspicuity enhancement to supplement standard pedestrian crossing or school crossing signs at uncontrolled marked crosswalks to any jurisdiction that submits a written request to the Office of Transportation Operations. A State may request Interim Approval for all jurisdictions in that State. Jurisdictions using RRFBs under this Interim Approval must agree to the following:

- Comply with the Technical Conditions detailed in this memorandum;
- Maintain an inventory list of all locations at which the RRFB is installed; and
- Comply with all the conditions as listed in Paragraph 18 of Section 1A.10 of the MUTCD.

In addition, any agency that receives this approval must acknowledge agreement with the following:

- That an agency will furnish its list of locations where implemented if requested by FHWA;
- That FHWA has the right to rescind this Interim Approval at any time; and
- That issuance of this Interim Approval does not guarantee that the provisions, either in whole or part, will be adopted into the MUTCD.

1. General Conditions:

- a. Each RRFB unit shall consist of two rapidly flashed rectangular-shaped yellow indications with an LED-array-based light source, and shall be designed, located, and operated in accordance with the detailed requirements specified below.
- b. The use of RRFBs is optional. However, if an agency opts to use an RRFB under this Interim Approval, the following design and operational requirements shall apply, and shall take precedence over any conflicting provisions of the MUTCD for the approach on which RRFBs are used:

2. Allowable Uses:

- a. An RRFB shall only be installed to function as a pedestrian-actuated conspicuity enhancement.
- b. An RRFB shall only be used to supplement a post-mounted W11-2 (Pedestrian), S1-1 (School), or W11-15 (Trail) crossing warning sign with a diagonal downward arrow (W16-7P) plaque, or an overhead-mounted W11-2, S1-1, or W11-15 crossing warning sign, located at or immediately adjacent to an uncontrolled marked crosswalk.
- c. Except for crosswalks across the approach to or egress from a roundabout, an RRFB shall not be used for crosswalks across approaches controlled by YIELD signs, STOP signs, traffic control signals, or pedestrian hybrid beacons.
- d. In the event sight distance approaching the crosswalk at which RRFBs are used is less than deemed necessary by the engineer, an additional RRFB may be installed on that approach in advance of the crosswalk, as a pedestrian-actuated conspicuity enhancement to supplement a W11-2 (Pedestrian), S1-1 (School), or W11-15 (Trail) crossing warning sign with an AHEAD (W16-9P) or distance (W16-2P or W16-2aP) plaque. If an additional RRFB is installed on the approach in advance of the crosswalk, it shall be supplemental to and not a replacement for the RRFBs at the crosswalk itself.

3. Sign/Beacon Assembly Locations:

- a. For any approach on which RRFBs are used to supplement post-mounted signs, at least two W11-2, S1-1, or W11-15 crossing warning signs (each with an RRFB unit and a W16-7P plaque) shall be installed at the crosswalk, one on the right-hand side of the roadway and one on the left-hand side of the roadway. On a divided highway, the left-hand side assembly should be installed on the median, if practical, rather than on the far left-hand side of the highway.
- b. An RRFB unit shall not be installed independent of the crossing warning signs for the approach that the RRFB faces. If the RRFB unit is supplementing a post-mounted sign, the RRFB unit shall be installed on the same support as the associated W11-2, S1-1, or W11-15 crossing warning sign and plaque. If the RRFB unit is supplementing an overhead-mounted sign, the RRFB unit shall be mounted directly below the bottom of the sign.

4. Beacon Dimensions and Placement in the Sign Assembly:

- a. Each RRFB shall consist of two rectangular-shaped yellow indications, each with an LED-array-based light source. The size of each RRFB indication shall be at least 5 inches wide by at least 2 inches high.
- b. The two RRFB indications for each RRFB unit shall be aligned horizontally, with the longer dimension horizontal and with a minimum space between the two indications of at least 7 inches, measured from the nearest edge of one indication to the nearest edge of the other indication.
- c. The outside edges of the RRFB indications, including any housings, shall not project beyond the outside edges of the W11-2, S1-1, or W11-15 sign that it supplements.
- d. As a specific exception to Paragraph 5 of Section 4L.01 of the 2009 MUTCD, the RRFB unit associated with a post-mounted sign and plaque may be located between and immediately adjacent to the bottom of the crossing warning sign and the top of the supplemental downward diagonal arrow plaque (or, in the case of a supplemental advance sign, the AHEAD or distance plaque) or within 12 inches above the crossing warning sign, rather than the recommended minimum of 12 inches above or below the sign assembly. (See the example photo that is shown below.)

5. Beacon Flashing Requirements:

- a. When actuated, the two yellow indications in each RRFB unit shall flash in a rapidly flashing sequence.
- b. As a specific exception to the requirements for the flash rate of beacons provided in Paragraph 3 of Section 4L.01, RRFBs shall use a much faster flash rate and shall provide 75 flashing sequences per minute. Except as provided in Condition 5f below, during each 800-millisecond flashing sequence, the left and right RRFB indications shall operate using the following sequence:

The RRFB indication on the left-hand side shall be illuminated for approximately 50 milliseconds.
Both RRFB indications shall be dark for approximately 50 milliseconds.

The RRFB indication on the right-hand side shall be illuminated for approximately 50 milliseconds.
Both RRFB indications shall be dark for approximately 50 milliseconds.

The RRFB indication on the left-hand side shall be illuminated for approximately 50 milliseconds.
Both RRFB indications shall be dark for approximately 50 milliseconds.

The RRFB indication on the right-hand side shall be illuminated for approximately 50 milliseconds.
Both RRFB indications shall be dark for approximately 50 milliseconds.

Both RRFB indications shall be illuminated for approximately 50 milliseconds.
Both RRFB indications shall be dark for approximately 50 milliseconds.

Both RRFB indications shall be illuminated for approximately 50 milliseconds.
Both RRFB indications shall be dark for approximately 250 milliseconds.

- c. The flash rate of each individual RRFB indication, as applied over the full flashing sequence, shall not be between 5 and 30 flashes per second to avoid frequencies that might cause seizures.
- d. The light intensity of the yellow indications during daytime conditions shall meet the minimum specifications for Class 1 yellow peak luminous intensity in the Society of Automotive Engineers (SAE) Standard J595 (Directional Flashing Optical Warning Devices for Authorized Emergency, Maintenance, and Service Vehicles) dated January 2005.
- e. To minimize excessive glare during nighttime conditions, an automatic signal dimming device should be used to reduce the brilliance of the RRFB indications during nighttime conditions.
- f. Existing RRFB units that use the flashing sequence that was specified in the Interim Approval 11 memorandum and a subsequent interpretation (the RRFB indication on the left-hand side emits two slow pulses of light after which the RRFB indication on the right-hand side emits four rapid pulses of light followed by one long pulse of light) should be reprogrammed to the flash pattern specified above in Condition 5b as part of a systematic upgrading process, such as when the units are serviced or when the existing signs are replaced.

6. Beacon Operation:

- a. The RRFB shall be normally dark, shall initiate operation only upon pedestrian actuation, and shall cease operation at a predetermined time after the pedestrian actuation or, with passive detection, after the pedestrian clears the crosswalk.
- b. All RRFB units associated with a given crosswalk (including those with an advance crossing sign, if used) shall, when actuated, simultaneously commence operation of their rapid-flashing indications and shall cease operation simultaneously.
- c. If pedestrian pushbutton detectors (rather than passive detection) are used to actuate the RRFB indications, a Push Button To Turn On Warning Lights (R10-25) sign shall be installed explaining the purpose and use of the pedestrian pushbutton detector.
- d. The duration of a predetermined period of operation of the RRFBs following each actuation should be based on the procedures provided in Section 4E.06 of the 2009 MUTCD for the timing of pedestrian clearance times for pedestrian signals.
- e. The predetermined flash period shall be immediately initiated each and every time that a pedestrian is detected either through passive detection or as a result of a pedestrian pressing a pushbutton detector, including when pedestrians are detected while the RRFBs are already flashing and when pedestrians are detected immediately after the RRFBs have ceased flashing.
- f. A small pilot light may be installed integral to the RRFB or pedestrian pushbutton detector to give confirmation that the RRFB is in operation.

7. Accessible Pedestrian Features:

- a. If a speech pushbutton information message is used in conjunction with an RRFB, a locator tone shall be provided.
- b. If a speech pushbutton information message is used in conjunction with an RRFB, the audible information device shall not use vibrotactile indications or percussive indications.
- c. If a speech pushbutton information message is used in conjunction with an RRFB, the message should say, "Yellow lights are flashing." The message should be spoken twice.

Any questions concerning this Interim Approval should be directed to Mr. Duane Thomas at duane.thomas@dot.gov.



Figure 1. Example of an RRFB dark (left) and illuminated during the flash period (center and right) mounted with W11-2 sign and W16-7P plaque at an uncontrolled marked crosswalk.

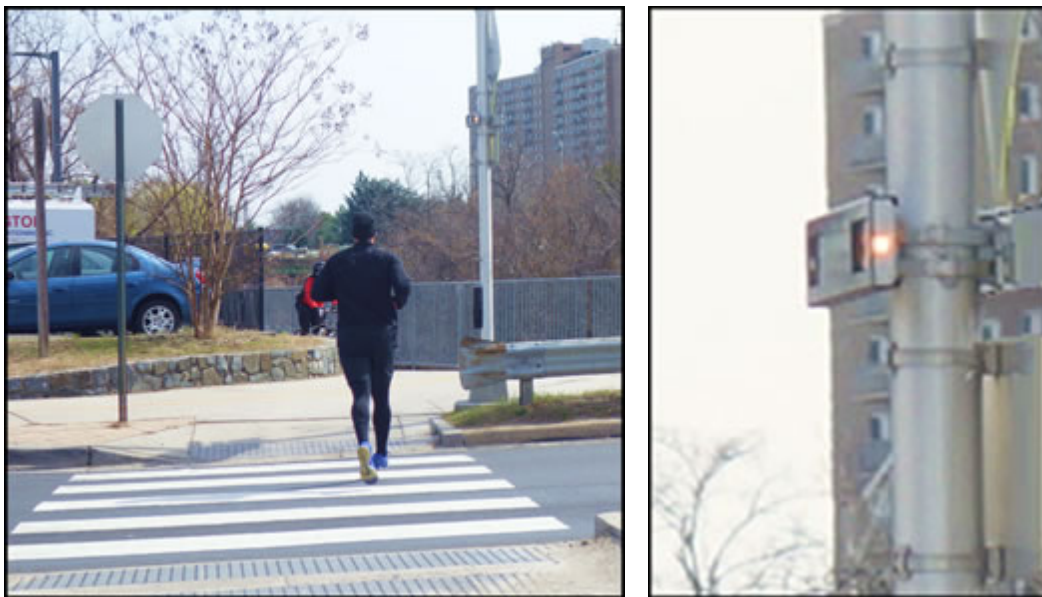


Figure 2. View of pilot light to pedestrian at shared-use path crossing with median refuge. Enlargement of pilot light at right.

Figure 3. Example of pedestrian pushbutton and R10-25 sign with pilot light for pedestrian actuation.



cc:

Associate Administrators
Chief Counsel
Chief Financial Officer
Directors of Field Services
Director of Technical Services

1 Fitzpatrick, K., R. Avelar, M. Pratt, M. Brewer, J. Robertson, T. Lindheimer, and J. Miles. *Evaluation of Pedestrian Hybrid Beacons and Rapid Flashing Beacons*. Report No. FHWA-HRT-16-040, pp. 88-106. Texas Transportation Institute, College Station, Texas. July 2016. <https://www.fhwa.dot.gov/publications/research/safety/16040/index.cfm> [Return to Note 1]

2 Fitzpatrick, K., M. Brewer, R. Avelar, and T. Lindheimer. *Will You Stop for Me? Roadway Design and Traffic Control Device Influences on Drivers Yielding to Pedestrians in a Crosswalk with a Rectangular Rapid-Flashing Beacon*. Report No. TTI-CTS-0010. Texas A&M Transportation Institute, College Station, Texas. June 2016. <https://static.tti.tamu.edu/tti.tamu.edu/documents/TTI-CTS-0010.pdf> [Return to Note 2]



ORDINANCE NO. 3214
AN ORDINANCE AMENDING SECTION 4.20 OF THE ASHLAND MUNICIPAL CODE: SYSTEMS DEVELOPMENT CHARGES

Annotated to show ~~deletions~~ and additions to the 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 City desires to amend the systems development charges ordinance

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

SECTION 1. Chapter 4.20 is hereby amended to read as follows:

4.20.010 Definitions

The following words and phrases, as used in Chapter 4.20 of the Ashland Municipal Code, have the following definitions and meanings:

A. Capital Improvement(s). Public facilities or assets used for any of the following:

1. Water supply, treatment and distribution;
2. Sanitary sewers, including collection, transmission and treatment;
3. Storm sewers, including drainage and flood control;
4. Transportation, including but not limited to streets, sidewalks, bike lanes and paths, street lights, traffic signs and signals, street trees, public transportation, vehicle parking, and bridges; or

1 5. Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood
2 parks, community parks, public open space and trail systems, buildings, courts, fields and other
3 like facilities.

4 B. Development. As used in Sections 4.20.020 through 4.20.180 means constructing or
5 enlarging a building or adding facilities, or making a physical change in the use of a structure or
6 land, which increases the usage of any capital improvements or which will contribute to the need
7 for additional or enlarged capital improvements.

8 C. Improvement Fee. A fee for costs associated with capital improvements to be constructed
9 after the effective date of this ordinance.

10 D. Qualified Public Improvements. A capital improvement that is:

11 1. required as a condition of development approval; and

12 2. is identified in the plan adopted pursuant to section

13 4.20.080 and is either:

14 a. Not located on or contiguous to property that is the subject of development approval, or

15 b. Located on or contiguous to the property that is the subject of development approval and is

16 required to be built larger or with greater capacity than is necessary for the particular

17 development project to which the improvement fee is related.

18 E. Reimbursement Fee. A fee for costs associated with capital improvements constructed or
19 under construction on the date the fee is adopted pursuant to Section 4.20.040.

20 F. Systems Development Charge. A reimbursement fee, a public improvement charge or a
21 combination thereof assessed or collected at any of the times specified in Section 4.20.070. It

22 shall not include connection or hook-up fees for sanitary sewers, storm drains or water lines,

23 since such fees are designed by the City only to reimburse the City for the costs for such

24 connections. Nor shall the SDC include costs for capital improvements which by City policy and

25 State statute are paid for by assessments or fees in lieu of assessments for projects of special

26 benefit to a property (Ord. 2791 § 1, amended, 1997), or the cost of complying with requirements

27 or conditions imposed by a land use decision.

28 4.20.020 Purpose

29 The purpose of the systems development charge (SDC) is to impose an equitable share of the

30 public costs of capital improvements upon those developments that create the need for or

increase the demands on capital improvements.

1
2 4.20.030 Scope

3 The systems development charge imposed by Chapter 4.20 is separate from and in addition to
4 any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by
5 law or imposed as a condition of development. A systems development charge is to be
6 considered in the nature of a charge for service rendered or facilities made available, or a charge
7 for future services to be rendered on facilities to be made available in the future.

8
9 4.20.040 Systems Development Charge Established

10 A. Unless otherwise exempted by the provisions of this Chapter or other local or state law, a
11 systems development charge is hereby imposed upon all development within the City; and all
12 development outside the boundary of the City that connects to or otherwise uses the sanitary
13 sewer system, storm drainage system or water system of the City. The City Manager is
14 authorized to make interpretations of this Section, subject to appeal to the City Council.

15 B. Systems development charges for each type of capital improvement may be created through
16 application of the methodologies described in Section 4.20.050 of this code. The amounts of
17 each system development charge shall be adopted initially by Council resolution following a
18 public hearing. Changes in the amounts shall also be adopted by resolution following a public
19 hearing, except changes resulting solely from inflationary cost impacts. Inflationary cost impacts
20 shall be measured and calculated annually by the City Manager and charged accordingly. Such
21 calculations will be based upon changes in the Engineering News Record Construction Index
22 (ENR Index) for Seattle, Washington. (Ord. 2791 § 2, amended, 1997)

23
24 4.20.050 Methodology

25 A. The methodology used to establish a reimbursement fee shall consider the cost of then-
26 existing facilities, prior contributions by then-existing users, gifts or grants from federal or state
27 government or private persons, the value of unused capacity, rate-making principles employed to
28 finance publicly owned capital improvements, and other relevant factors identified by the City
29 Council. The methodology shall promote the objective that future systems users shall contribute
30 an equitable share of the cost of then-existing facilities.

1 B. The methodology used to establish the improvement fee shall consider the cost of projected
2 capital improvements identified in an improvement plan (see Subsection 4.20.080) that are
3 needed to increase the capacity of the systems to which the fee is related.

4 C. The methodologies used to establish the systems development charge shall be adopted by
5 resolution of the Council following a public hearing.

6 1. The City shall provide written notice to persons who have requested notice of any adoption or
7 modification of SDC methodology at least 90 days before the hearing. If no one has requested
8 notice, the City shall publish notice in a newspaper of general circulation in the City at least 90
9 days before the hearing.

10 2. The revised methodology shall be available to the public at least 60 days before the first
11 public hearing of the adoption or amendment of the methodology.

12 D. A change in the amount of a reimbursement fee or an improvement fee is not a modification
13 of the SDC methodology if the change is based on a change in project costs, including cost of
14 materials, labor and real property, or on a provision for a periodic adjustment included in the
15 methodology or adopted by separate ordinance or resolution, consistent with State law.

16 E. A change in the amount of an improvement fee is not a modification of the SDC
17 methodology if the change is the result of a change in the Improvement Plan adopted in accord
18 with Subsection 4.20.080.

19 F. The formulas and calculations used to compute specific systems development charges are
20 based upon averages and typical conditions. Whenever the impact of individual developments
21 present special or unique situations such that the calculated fee is grossly disproportionate to the
22 actual impact of the development, alternative fee calculations may be approved or required by
23 the City Manager under administrative procedures prescribed by the City Council. All data
24 submitted to support alternate calculations under this provision shall be site specific. Major or
25 unique developments may require special analyses to determine alternatives to the standard
26 methodology.

27 G. When an appeal is filed challenging the methodology adopted by the City Council, the City
28 Manager shall prepare a written report and recommendation within twenty (20) working days of
29 receipt for presentation to the Council at its next regular meeting. The council shall by
30 resolution, approve, modify or reject the report and recommendation of the City Manager, or

1 may adopt a revised methodology by resolution, if required. Any legal action contesting the City
2 Council's decision in the appeal shall be filed within sixty (60) days of the Council's decision.

3
4 4.20.060 Authorized Expenditures

5 A. Reimbursement Fees shall be spent on capital improvements associated with the systems for
6 which the fees are assessed, including expenditures relating to repayment of indebtedness.

7 B. Improvement fees shall be spent only on capacity increasing improvements for which the fees
8 are assessed, including repayment of indebtedness. An increase in system capacity occurs if a
9 capital improvement increases the level of performance or service provided by existing facilities
10 or provides new facilities. The portion of such improvements funded by improvement SDCs
11 must be related to the need for increased capacity to provide service for future users.

12 C. Notwithstanding subsections (A) and (B) of this section, SDC revenues may be expended on
13 the direct costs of complying with the provisions of this chapter, including the costs of
14 developing SDC methodologies, system planning, providing an annual accounting of SDC
15 expenditures and other costs directly related to or required for the administration and operation
16 of this SDC program.

17
18 4.20.070 Expenditure Restrictions

19 A. SDCs shall not be expended for costs associated with the construction of administrative
20 office facilities that are more than an incidental part of other capital improvements, or for costs
21 of the operation or routine maintenance of capital improvements.

22 B. A capital improvement being funded wholly or in part from revenues derived from the
23 improvement fee shall be included in the plan adopted by the city pursuant to section 4.20.080 of
24 this ordinance.

25
26 4.20.080 Improvement Plan

27 A. Prior to the establishment of a system development charge, the city council shall prepare a
28 capital improvement plan, public facilities plan, master plan, or other comparable plan that
29 includes:

- 1 1. A list of the capital improvements that the city council intends to fund, in whole or in part,
2 with revenues from improvement fees;
 - 3 2. The estimated cost and time of construction of each improvement and the percentage of that
4 cost eligible to be funded with improvement fee revenue; and
 - 5 3. A description of the process for modifying the plan.
- 6 B. In adopting a plan under Section 4.20.080(A) of this ordinance, the city council may
7 incorporate by reference all or a portion of any capital improvement plan, public facilities plan,
8 master plan, or other comparable plan that contains the information required by this section.
- 9 C. The city council may modify such plan and list, as described in Section 4.20.080(A) of this
10 ordinance, at any time. If a system development charge will be increased by a proposed
11 modification to the list to include a capacity increasing public improvement, the city council
12 will:
- 13 1. At least thirty (30) days prior to the adoption of the proposed modification, provide written
14 notice to persons who have requested notice pursuant to Section 4.20.120 of this ordinance;
 - 15 2. Hold a public hearing if a written request for a hearing is received within seven (7) days of
16 the date of the proposed modification.
- 17 D. A change in the amount of a reimbursement fee or an improvement fee is not a modification
18 of the system development charge if the change in amount is based on:
- 19 1. A change in the cost of materials, labor, or real property applied to projects or project
20 capacity as set forth on the list adopted pursuant to Section 4.20.080(A) of this ordinance;
 - 21 2. The periodic application of one or more specific cost indexes or other periodic data sources,
22 including the cost index identified in Section 4.20.040 of this ordinance. A specific cost index or
23 periodic data source must be:
 - 24 a. A relevant measurement of the average change in prices or costs over an identified
25 time period for materials, labor, real property, or a combination of the three;
 - 26 b. Published by a recognized organization or agency that produces the index or data
27 source for reasons that are independent of the system development charge methodology; and
28
 - 29 c. Incorporated as part of the established methodology or identified and adopted by the
30 city council in a separate resolution, or if no other index is identified in the established
methodology, then the index stated in Section 4.20.040 of this ordinance.

1
2 4.20.090 Collection of Charge

3 A. The systems development charge is payable upon, and as a condition of, issuance or approval
4 of:

5 1. A building permit;

6 2. A development permit;

7 3. A permit for a development not requiring the issuance of a building permit; or

8 4. A permit or other authorization to connect to the water, sanitary sewer or storm drainage
9 systems.

10 5. A right-of-way access permit

11 6. A planning action or change in occupancy (as defined in the Uniform Building Code) that will
12 increase the demands on any public facility for which systems development charges are charged.

13 7. **Certificate of occupancy issued by the Building Division for multifamily development**
14 **properties.**

15 B. If development is commenced or connection is made to the water system, sanitary sewer
16 system or storm sewer system without an appropriate permit, the systems development charge is
17 immediately payable upon the earliest date that a permit was required, and it will be unlawful for
18 anyone to continue with the construction or use constituting a development until the charge has
19 been paid or payment secured to the satisfaction of the City Manager.

20 C. Any and all persons causing a development or making application for the needed permit, or
21 otherwise responsible for the development, are jointly and severally obligated to pay the charge,
22 and the City Manager may collect the said charge from any of them. The City Manager or his/her
23 designee shall not issue any permit or allow connections described in Subsection 4.20.090.A
24 until the charge has been paid in full or until an adequate secured arrangement for its payment
25 has been made, within the limits prescribed by resolution of the City Council.

26 D. An owner of property obligated to pay a system development charge may apply to pay the
27 charge in semi-annual installments over a period not exceeding ~~ten~~ **twenty** years as provided in
28 this section.

29
30 1 The minimum charge subject to payment by installments shall be \$2,000 ~~and the maximum~~
~~charge that may be subject to payment by installments shall not exceed \$200,000.~~ The

1 minimum semi-annual installment shall be-\$1000. Installments shall include interest on the
2 unpaid balance at annual rate of **3% above the Federal Reserve prime rate. The date of rate**
3 **establishment will coincide with the date a building permit is issued for the development**
4 **utilizing the installment payment program. 6% for a five-year installment loan or 7% for a**
5 **10-year installment loan.** A one-year installment loan shall not be subject to an annual interest
6 rate provided all charges are paid **prior** to the City's **within one year of** issuance of the
7 Certificate of Occupancy, **or by** time of sale, ~~or within one year of when the charge was~~
8 ~~imposed~~, whichever comes first.

9 **System development charge payments for multiple-family residential rental projects may**
10 **be deferred through an installment loan which shall not be subject to an annual interest**
11 **rate provided all charges are paid prior to two years following the date of issuance of the**
12 **Certificate of Occupancy.**

13 2. The installment application shall state that the applicant waives all irregularities or defects,
14 jurisdictional or otherwise, in the proceedings to cause the system development charge.

15 3. The application shall also contain a statement, by lots or blocks, or other convenient
16 description of the property meeting the requirements of ORS 93.600, subject to the charge.

17 4. A systems development charge subject to installment payments shall be chargeable as a lien
18 upon the property subject to the charge. Pursuant to ORS 93.643(2)(c), the City recorder shall
19 record notice of the installment payment contract with the Jackson County Clerk. The applicant
20 shall pay the recording charges. (Ord. 2791 § 5, amended, 1997; Ord. 2670, amended, 1992)

21
22 4.20.100 Exemptions

23 The conditions under which all or part of the systems development charges imposed in Section
24 4.20.040 may be waived are as follows:

25 A. Structures and uses established and legally existing on or before the effective date of this
26 ordinance are exempt from a system development charge, except water and sewer charges, to the
27 extent of the structure or use then existing and to the extent of the parcel of land as it is
28 constituted on that date. Structures and uses affected by this subsection shall pay the water or
29 sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to
30 the water or sewer system.

1 B. Housing for low income or elderly persons which is exempt from real property taxes under
2 state law. (Ord. 2791 § 7, amended, 1997)

3
4 4.20.105 Deferrals for Affordable Housing

5 A. The systems development charge for the development of qualified affordable housing under
6 the City's affordable housing laws shall be deferred until the transfer of ownership to an
7 ineligible buyer occurs. Deferred systems development charges shall be secured by a second
8 mortgage acceptable to the City, bearing interest at not less than five percent per annum.
9 Accrued interest and principal shall be due on sale to an ineligible buyer.

10 B. The systems development charge and second mortgage for the development of qualified
11 affordable housing shall terminate 30 years after the issuance of a certificate of occupancy if the
12 housing unit(s) have continued to meet the affordable housing requirements during the 30 year
13 period. (Ord. 2791 § 8, amended, 1997; Ord. 2670, amended, 1992)

14
15 4.20.110 Credits

16 A. When development occurs that gives rise to a system development charge under Section
17 4.20.040 of this Chapter, the system development charge for the existing use shall be calculated
18 and if it is less than the system development charge for the proposed use, the difference between
19 the system development charge for the existing use and the system development charge for the
20 proposed use shall be the system development charge required under Section 4.20.040. If the
21 change is use results in the systems development charge for the proposed use being less than the
22 system development charge for the existing use, no system development charge shall be
23 required; however, no refund or credit shall be given.

24 B. The limitations on the use of credits contained in this Subsection shall not apply when credits
25 are otherwise given under Section 4.20. 110. A credit shall be given for the cost of a qualified
26 public improvement associated with a development. If a qualified public improvement is located
27 partially on and partially off the parcel of land that is the subject of the approval, the credit shall
28 be given only for the cost of the portion of the improvement not attributable wholly to the
29 development. The credit provided for by this Subsection shall be only for the improvement fee
30 charged for the type of improvement being constructed and shall not exceed the improvement fee
even if the cost of the capital improvement exceeds the applicable improvement fee. Credits paid

1 as a permit for development will expire five years after paid. The credit shall be apportioned
2 equally among all single-family residential lots (where such credit was granted for subdivisions).
3 Credits for other types of developments shall be allocated to building permits on a first-come,
4 first served basis until the credit is depleted.

5 C. Applying the methodology adopted by resolution, the City Manager or designee shall grant a
6 credit against the improvement fee, for a capital improvement constructed as part of the
7 development that reduces the development's demand upon existing capital improvements or the
8 need for future capital improvements or that would otherwise have to be provided at City
9 expense under then existing Council policies.

10 D. Credits for additions to dedicated park land, or development of planned improvements on
11 dedicated park land, shall only be granted by the City Manager upon recommendation by the
12 Park and Recreation Commission for land or park development projects identified in the Capital
13 Improvement Plan, referred to in Section 4.20.070.B.

14 E. In situations where the amount of credit exceeds the amount of the system development
15 charge, the excess credit is not transferable to another development. It may be transferred to
16 another phase of the original development.

17 F. Credit shall not be transferable from one type of capital improvement to another. (Ord. 2791 §
18 9, amended, 1997)

19
20 4.20.120 Notification

21 A. The city shall maintain a list of persons who have made a written request for notification
22 prior to adoption or modification of a methodology for any system development charge. Written
23 notice shall be mailed to persons on the list as provide in sections 4.20.050 and 4.20.080. The
24 failure of a person on the list to receive a notice that was mailed does not invalidate the action of
25 the city.

26 B. The city may periodically delete names from the list, but at least thirty (30) days prior to
27 removing a name from the list, the city must notify the person whose name is to be deleted that a
28 new written request for notification is required if the person wishes to remain on the notification
29 list.

30
4.20.130 Segregation and Use of Revenue

1 A. All SDC proceeds are to be segregated by accounting practices from all other funds of the
2 City. SDC proceeds shall be used only for capital improvement of the type for which they were
3 collected and authorized costs and overhead.

4 B. The City Manager shall provide the City Council with an annual accounting, based on the
5 City's fiscal year, for SDCs showing the total amount of SDC revenues collected for each type of
6 facility and the projects funded from each account in the previous fiscal year. A list of the
7 amounts spent on each project funded in whole or in part with SDC revenues shall be included in
8 the annual accounting.

9 C . The monies deposited into each SDC account shall be used solely as allowed by this chapter
10 and State law, including, but not limited to:

- 11 1. Design and construction plan preparation;
- 12 2. Permitting and fees;
- 13 3. Land, easements, and materials acquisition, including any cost of acquisition or
14 condemnation, including financing, legal and other costs;
- 15 4. Construction of capital improvements;
- 16 5. Design and construction of new utility facilities required by the construction of capital
17 improvements and structures;
- 18 6. Relocating utilities required by the construction of improvements;
- 19 7. Landscaping;
- 20 8. Construction management and inspection;
- 21 9. Surveys, soils, and materials testing;
- 22 10. Acquisition of capital equipment;
- 23 11. Repayment of monies transferred or borrowed from any budgetary fund of the City which
24 were used to fund any of the capital improvements as herein provided; and
- 25 12. Payment of principal and interest, necessary reserves and cost of issuance under bonds or
26 other indebtedness issued by the City to fund capital improvements.

27
28 4.20.140 Refunds

29 A. Refunds shall be given by the City Manager upon finding that there was a clerical error in
30 the calculation of a system development charge.

1 B. Refunds shall not be allowed for failure to timely claim a credit under Section 4.20.110 of
2 this ordinance, or for failure to seek an alternative system development charge rate calculation at
3 the time of submission of an application for a building permit.

4 C. Refunds may be given on application of a permittee if the development did not occur and all
5 permits for the development have been withdrawn.

6
7 4.20.150 Appeal Procedures

8 A. As used in this Section “working day” means a day when the general offices of the City are
9 open to transact business with the public.

10 B. A person aggrieved by a decision required or permitted to be made by the City Manager or
11 designee under Sections 4.20.010 through 4.20.130 or a person challenging the propriety of an
12 expenditure of systems development charge revenues may appeal the decision or expenditure by
13 filing a written request with the City Recorder for consideration by the City Council. Such appeal
14 shall describe with particularity the decision or the expenditure from which the person appeals
15 and shall comply with subsection D of this section.

16 C. An appeal of an expenditure must be filed within two years of the date of alleged improper
17 expenditure. An appeal petition challenging the adopted methodology shall be filed not later than
18 sixty (60) days from the date of the adoption of the methodology. Appeals of any other decision
19 must be filed within 10 working days of the date of the decision.

20 D. The appeal shall state:

- 21 1. The name and address of the appellant;
- 22 2. The nature of the determination being appealed;
- 23 3. The reason the determination is incorrect; and
- 24 4. What the correct determination should be.

25 An appellant who fails to file such a statement within the time permitted waives any objections,
26 and the appeal shall be dismissed.

27 E. Unless the appellant and the City agree to a longer period, an appeal shall be heard within 30
28 days of the receipt of the written appeal. At least 10 working days prior to the hearing, the City
29 shall mail notice of the time and location thereof to the appellant.

30 F. The City Council shall hear and determine the appeal on the basis of the appellant’s written
statement and any additional evidence the appellant deems appropriate. At the hearing, the

1 appellant may present testimony and oral argument personally or by counsel. The City may
2 present written or oral testimony at this same hearing. The rules of evidence as used by courts of
3 law do not apply.

4 G. The appellant shall carry the burden of proving that the determination being appealed is
5 incorrect and what the correct determination should be.

6 H. The City Council shall render its decision within 15 days after the hearing date and the
7 decision of the Council shall be final. The decision shall be in writing but written findings shall
8 not be made or required unless the Council in its discretion, elects to make findings for
9 precedential purposes.

10 Any legal action contesting the Council's decision on the appeal shall be filed within 60 days of
11 the Council's decision. (Ord. 2791 § 10, amended, 1997)

12 13 4.20.160 Prohibited Connection

14 After the effective date of this chapter, no person may connect any premises for service, or cause
15 the same to be connected, to any sanitary sewer, water system, or storm sewer system of the City
16 unless the appropriate systems development charge has been paid or payment has been secured
17 as provided in this chapter.

18 19 4.20.170 Enforcement - Violation

20 Any service connected to the City water, sewer or storm sewer system after the effective date of
21 this chapter for which the fee due hereunder has not been paid as required or an adequate secured
22 arrangement for its payment has been made, is subject to termination of service under the City's
23 utility disconnect policy. In addition to any other remedy or penalty provided herein, any
24 connection to the City water, sewer or storm system made without payment as specified in this
25 Chapter shall be considered a Class I violation. (Ord. 3023, amended, 08/03/2010)

26 27 4.20.180 Classification of the Fee

28 System development charges as set forth in Chapter 4.20 of the Ashland Municipal Code are
29 classified as not subject to the limits of Section 11b of Article XI of the Oregon Constitution
30 (Ballot Measure No. 5) (Ord. 2791 § 11, amended, 1997)

1 **SECTION 2. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
2 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
3 validity of the remaining sections, subsections, paragraphs and clauses.
4

5 **SECTION 3. Codification.** Provisions of this Ordinance shall be incorporated in the City Code,
6 and the word “ordinance” may be changed to “code”, “article”, “section”, or another word, and
7 the sections of this Ordinance may be renumbered or re-lettered, provided however, that any
8 Whereas clauses and boilerplate provisions (*i.e.*, Sections [No(s.)] need not be codified, and the
9 City Recorder is authorized to correct any cross-references and any typographical errors.
10

11 The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C)
12 of the City Charter on the ____ day of _____, ~~2019~~ **2022**, and duly PASSED and
13 ADOPTED this ____ day of _____, ~~2019~~ **2022**.
14

15 _____
16 Melissa Huhtala, City Recorder
17

18 SIGNED and APPROVED this ____ day of _____, ~~2019~~ **2022**.
19

20 _____
21 ~~John Stromberg~~ **Julie Akins**, Mayor
22

23 Reviewed as to form:
24

25 _____
26 ~~David H. Lohman~~ **Doug McGeary, Interim** City Attorney
27
28
29
30

A Study of Driver Noncompliance with Traffic Signals

STEWART R. GORDON AND H. DOUGLAS ROBERTSON

There is a perception among traffic engineers that driver noncompliance with traffic control devices is a significant problem. Summarized in this paper are the results of a study of driver noncompliance at 12 signalized intersections in the Washington, D.C., metropolitan area to determine whether driver noncompliance is a problem and to define its relationship to intersection operational characteristics and roadway features. The results indicated that driver noncompliance is a problem that requires attention. It was found that higher violation rates occurred at intersections with low annual average daily traffic volume levels. These high violation rates were predominant on one-lane approaches during the off-peak hours. A correlation analysis indicated moderately high associations between high traffic signal violation rates and low traffic volumes. This research study recommends that drivers, local police, and local traffic engineers be informed that driver noncompliance with traffic signals is a problem with potential safety consequences and should be addressed through education, increased enforcement, and the application of sound engineering principles.

Traffic engineers have expressed a growing concern over the lack of driver compliance with traffic control devices in recent years. Driver noncompliance with traffic control devices, especially regulatory control devices, has been increasing significantly over the years. Drivers' apparent disregard for and perhaps lack of confidence in traffic control devices has been recognized by the American Association of State Highway and Transportation Officials' (AASHTO) Highway Subcommittee on Traffic Engineering. The AASHTO Standing Committee on Highways conducted a nationwide survey in October 1985 to determine if a driver noncompliance problem exists and, if so, what can be done to correct it. Surveys were sent to each state and the District of Columbia traffic engineer. They were asked to comment on motorist noncompliance with traffic control devices. To the question "Is traffic control device noncompliance a significant problem?" 34 of the 46 respondents said "yes" while 12 states answered "no" (1).

Other research studies in recent years have indicated that specific traffic control devices are being violated more than others. For example, studies have found that the violation rate with stop signs has been increasing linearly since 1935 (2). In another study it was found that the violation rate (i.e., not stopping when required) increased from 0.1 percent to 0.6 percent when the signal configuration changed from regular operation to flashing red (3). In another instance, the violation

rate increased by a factor of five when sign configurations (a symbol only, instead of a symbol and message) were changed (4).

The traffic control device violations may result from the combined effects of human behavior characteristics and related traffic operational characteristics. Such human factors might include the driver age, vision, and perceived travel time. Highway geometrics and such traffic operation characteristics as volume, type of regulatory control, and speed may also affect driver noncompliance.

In order to develop solutions, however, the problem of driver noncompliance must be defined in terms of where, when, how, how much, how serious, and why. The objective of this study was to determine the magnitude of driver noncompliance with traffic signals at intersections as it related to roadway features and traffic operational characteristics.

Driver noncompliance with traffic signals was studied at 12 intersections in Virginia, Maryland, and the District of Columbia during June and July of 1986. Drivers were observed under various operational conditions at signalized intersections during the peak and off-peak day and nighttime hours. Violation frequencies, operational characteristics, and roadway features were recorded and analyzed. The results of this study, which was sponsored by the Federal Highway Administration's Graduate Research Fellowship Grant program, are documented fully elsewhere (5).

METHODOLOGY

The experimental plan for determining the magnitude of driver noncompliance with traffic signals was made up of five parts:

1. Measures of effectiveness (MOEs),
2. Sample size,
3. Site selection criteria,
4. Data collection procedures, and
5. An analysis plan.

Measures of Effectiveness

The principal MOEs were the four driver violation types defined as follows. Each type was expressed in terms of hourly frequency and rate—violations per 100 vehicles.

- Running the red signal (RUNRED)—the number of through and left-turning vehicles entering the intersection past the near curb line after the onset of the red signal indication.
- Right-turn-on-red (NOSTOP)—the number of right turning vehicles not coming to a complete stop during the red signal indication.

S. R. Gordon, Edwards and Kelcey, Inc., 70 South Orange Avenue, Livingston, N.J. 07039. Current affiliation: Garmen Associates, 150 River Road, Building E, Montville, N.J. 07045. H. D. Robertson, University of North Carolina at Charlotte, Civil Engineering Department, Charlotte, N.C. 28223.



Oregon

Kate Brown, Governor

Department of Transportation
Region 3 Planning and Programming
100 Antelope Drive
White City, Oregon 97503
Phone: (541) 774-6299

December 6, 2022

Mr. Derek Severson
City of Ashland – Community Development
51 Winburn Way
Ashland, OR 97529

RE: PA-T3-2022-00004, 1511 Highway 99 North

Dear Mr. Severson,

Thank you for providing the Oregon Department of Transportation (“ODOT”) with the opportunity to provide comments associated with the proposed annexation and zone change of approximately 16.86 acres at 1511 Highway 99 North (“Subject Property”).

When evaluating development proposals adjacent to ODOT managed transportation facilities, we assess the existing and proposed conditions of the site. This evaluation includes review of the proposed use in relation to the local jurisdiction Transportation System Plan (“TSP”). Standards defining pedestrian and bicycle improvements are identified in the City’s TSP and in ODOT’s Highway Design Manual.

In review of proposals for development within Urban Growth Boundaries ODOT typically recommends that the local jurisdiction require curb, sidewalk and bikeway frontage improvements consistent with the local transportation system plan along the site’s highway frontage.

In this instance, bicycle facilities were installed along the Highway 99 corridor during the roadway reconfiguration which restriped the 4 lane Highway cross section to a 3 lane configuration with buffered bike lanes and striped shoulder facilities a few years ago. Pedestrian sidewalk facilities currently do not exist along the parcel frontage and ODOT has recommended the City require installation of frontage improvements consistent with the City code and the TSP, a southbound transit stop and a RRFB and striped crossing to connect with a northbound transit stop south of the Subject Property.

Please feel free to contact me at Michah.HOROWITZ@odot.state.or.us or 541-774-6331 should you have any questions or concerns.

Sincerely,

Micah Horowitz, AICP
Senior Transportation Planner

Michael Sullivan

From: Alex Knecht <alex@pacificwallsystems.com>
Sent: Tuesday, December 06, 2022 7:21 PM
To: Public Testimony
Subject: Annexation

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

We have been ashland residents for over 40 years and appreciate the need for good solid safe affordable housing. The project proposed should be approved as we hope you will do so again.

Thank You,
Alex Knecht
WWW.Pacificwallsystems.com
541-664-1214