



# Planning Commission Agenda

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

**August 8, 2023**  
**REGULAR MEETING**  
**AGENDA**

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

**II. ANNOUNCEMENTS**

**III. CONSENT AGENDA**

**1. Approval of Minutes**

- a. June 27, 2023 Study Session
- b. July 11, 2023 Regular Meeting

**IV. PUBLIC FORUM**

Note: To speak to an agenda item in person you must fill out a speaker request form at the meeting and will then be recognized by the Chair to provide your public testimony. Written testimony can be submitted in advance or in person at the meeting. If you wish to discuss an agenda item electronically, please contact [PC-publictestimony@ashland.or.us](mailto:PC-publictestimony@ashland.or.us) by August 8, 2023 to register to participate via Zoom. If you are interested in watching the meeting via Zoom, please utilize the following link: <https://zoom.us/j/94873447272>

**V. TYPE III PUBLIC HEARING**

**A. PLANNING ACTION:** PA-T3-2022-00004

**SUBJECT PROPERTY:** 1511 Highway 99 North

**OWNER:** Casita Developments, LLC for owner Linda Zare

**DESCRIPTION:** The City Council previously approved 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. These properties are located in Jackson County and zoned Rural Residential (RR-5); with Annexation they are to be brought into the City as Low Density, Multi-Family Residential (R-2). In addition to Annexation, the approved application included 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. *This approval was appealed to the Land Use Board of Appeals (LUBA) and has been remanded to the city to consider two issues: 1) That the city erred in approving an exception to the on-street parking requirement in AMC 18.3.9.060; and 2) That the affordable unit sizes as approved do not comply with AMC 18.5.8.050.G.3 which requires that affordable studios be a minimum of 350 square feet and that affordable one-bedroom units be a minimum of 500 square feet. This Planning Commission hearing will be strictly*





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*limited in scope to the consideration of these two issues on remand.*

**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.

**VI. OTHER BUSINESS**

**A. Croman Mill Site Sampling Results & Next Steps**

**B. Discussion of August 29, 2023 Planning Commission Retreat Details**

**VII. OPEN DISCUSSION**

**VIII. ADJOURNMENT**

**Next Scheduled Meeting Date:** August 22, 2023





# Planning Commission Minutes

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**June 27, 2023**

**STUDY SESSION**

**DRAFT MINUTES**

## **I. CALL TO ORDER:**

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

### **Commissioners Present:**

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

### **Staff Present:**

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

### **Absent Members:**

### **Council Liaison:**

Paula Hyatt

## **II. ANNOUNCEMENTS**

Community Development Director Brandon Goldman made the following announcements:

- The City Council approved the findings for PA-T2-2023-00041, Tax Lot 404 Clinton Street at their last meeting, and that the timeframe to submit an appeal has closed.
- The applicants for PA-T3-2023-00004, 1511 Highway 99 North have asked staff to review the articles of remand that were sent by the Land Use Board of Appeals (LUBA).

## **III. PUBLIC FORUM – None**

## **IV. DISCUSSION ITEMS**

### **A. Ashland Chamber of Commerce Economic Diversification Study (Chamber Staff)**

#### **Presentation**

Mr. Goldman stated that two pieces of public testimony were submitted to staff prior to the meeting, both of which were shared with the Commission (see attachment #1).





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Sandra Slattery, Executive Director of the Ashland Chamber of Commerce, spoke about the diversification strategies being considered by the City to revitalize the economy following the COVID-19 pandemic. The Chamber of Commerce employed the services of ECONorthwest, which also conducted the City's Housing Production Strategy (HPS) study, to assist in identifying potential revitalization strategies (see attachment #2).

Ms. Slattery stated that the Chamber and ECONorthwest conducted a study and developed an actionable plan, while also engaging in public out-reach to garner feedback from the community. Through these methods ECONorthwest and the Chamber were able to develop a plan that utilized the strengths and weaknesses of the City. Ms. Slattery stated that this resulted in the development of a plan with four core pillars to increase the economic diversification of the City; 1) fostering business growth by improving public sector collaboration, supporting specialty districts, and establishing small batch Ashland; 2) diversifying tourism by providing more opportunities for residents to engage with nature and the community; 3) rediscovering downtown by investing in public spaces; 4) expanding the City's talent pool by hiring qualified workers to fill vacancies in the workforce, particularly in health care.

### **Questions**

Commissioner Knauer asked if the Chamber spoke with business owners about the types of buildings they look for and want to see developed more. Ms. Slattery responded that they ensured that developers were present during the process, who were able to provide valuable feedback for the study. Commissioner Knauer asked if the City had that building space available, and Ms. Slattery responded that it would need to be built.

Commissioner MacCracken Jain asked how the Chamber and ECONorthwest identified the four pillars in their presentation. Ms. Slattery responded that they were developed through the study and as part of the public outreach process. She added that some of the priorities identified could evolve in the future and as the City's goals change. She emphasized that it will be a fluid process.

Chair Verner asked what the implementation timeframe would be. Ms. Slattery stated that separate groups handling the different pillars have already begun to establish their own timelines, with some groups also creating subcommittees to assist in the implementation process.

Commissioner Perkinson inquired about the challenges to implementation that the City could face. Ms. Slattery responded that ECONorthwest determined that success would be dependent upon the coordinated efforts of both staff and the participating committees. Commissioner Perkinson asked how the community would be involved in the process, and Ms. Slattery replied that the Chamber has an extensive and multi-layered communications plan to inform the community, including utilizing social media. Councilor Hyatt added that the Chamber has a record of successfully convening





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partners and that the Council is has heard the call from the community to revitalize the downtown area.

Commissioner Knauer commended Ms. Slattery for her report, but lamented the lack of a core objective. Ms. Slattery agreed, stating that the values of the community will help guide the initiatives. She emphasized the importance of community members like the Commission in helping drive those conversations. She commented that ECONorthwest is excited about the Chamber's work, and that the goals and initiatives will evolve as time goes on.

Chair Verner invited Ms. Slattery to return in a year to give the Commission an update on the Chamber's progress.

### **Public Testimony**

**Michael Orendurff**/Mr. Orendurff commended the Chamber's plan, but stated there were some aspects unaccounted for in its study. He implored the City to develop a plan to make biking more accessible and safer in the City, citing economical, environmental, and safety reasons for encouraging cycling and the creation of dedicated bike lanes.

### **B. Ashland Climate & Environmental Policy Advisory Committee Natural Gas Ordinance Update** (CEPAC Chair Bryan D. Sohl)

#### **Presentation**

Chair Bryan Sohl of the Climate & Environmental Policy Advisory Committee (CEPAC) provided the Commission with a brief update regarding legislation to reduce greenhouse emissions. He was encouraged by Climate Friendly Areas (CFA) guidelines that promote pedestrian-safe works, but stated that Oregon is significantly behind in reducing greenhouse gas emissions. Chair Sohl voiced his support for an ordinance developed by young activists to eliminate the use of gas in all new commercial and residential developments in the City. He stated that an edict of the Ashland Climate Plan is to educate City staffers about it, and so all Commissions and Committees should consider climate action goals in every decision they make.

Chair Sohl stated that there is an increased risk of childhood asthma associated with increased exposure to methane gas. He informed the Commission that the Rogue Climate Action Team (RCAT) brought an ordinance proposal before the Council that would eliminate gas from any new developments, and that the CEPAC had been directed to study the feasibility of such an ordinance. Chair Sohl stated that the city of Berkeley had approved a similar ordinance, but it was struck down by the California 9<sup>th</sup> Circuit Court of Appeals. The RCAT has now limited the ordinance to only effect residential developments in the hope of passing a more legally viable version.





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Chair Sohl stated that the RCAT and CEPAC have identified three alternative options for an ordinance applying to new residential construction; 1) an emissions based strategy; 2) a local amendment to the State Building Code; 3) and applying restrictions in new rights-of-way (ROW). He stated that the CEPAC had requested that the Council direct City staff to work CEPAC to create the new ordinance, and provided the Commission with an outline of an adoption schedule (see attachment #3).

### C. DRAFT Ashland Climate Friendly Area (CFA) Study

#### **Staff Presentation**

Mr. Severson briefly provided a background on the Climate Friendly Area (CFA) guidelines and their goal of reducing greenhouse gas emissions. These guidelines are targeted at metropolitan areas and would affect 60% of the Oregon population. With regards to land use, these guidelines would designate walkable areas, reform parking, and support electric vehicles.

Mr. Severson described how the City has employed a public engagement process for this initiative, and has received assistance from the Rogue Valley Council of Governments (RVCOG) in this endeavor. The City has identified The Croman Mill Site, the Railroad Property, and the Transit Triangle as potential sites for CFAs, which would need to accommodate 30% of the City's current population and expected growth by 2041. Downtown would serve as a secondary CFA site if necessary, but is already largely built out with limited capacity for development.

Mr. Severson spoke to the viability of establishing CFAs in the identified sites, and noted that staff is working on several plans to mitigate any potential population displacement as a result of redevelopment (see attachment #4).

#### **Questions of Staff**

Chair Verner expressed concern that the housing density guidelines from the state were not viable, and asked how staff saw the City developing in the coming years. Mr. Goldman stated that staff's goal is to apply CFA guidelines to areas that are readily available for development or redevelopment, and not merely to apply the guidelines to areas that already have high density housing. He added that the CFA guidelines call for a density of 15 units per square acre at a minimum, and the City need not exceed that rate.

Commissioner Knauer asked if the City was directed to identify more than one area as a CFA, and whether the development of all three designated areas would be more than the City would require. Mr. Severson responded that the state was satisfied with the City's first site, but that staff wanted to find a viable way to meet these guidelines and therefore chose three sites.

Commissioner MacCracken Jain asked if having CFAs would be practical for the City to manage,





## Planning Commission Minutes

and commented that the vision for Ashland should fit into the broader strategy for the City. Mr. Goldman responded that the Commission has not yet conducted an assessment of the designated areas, and that this is merely an initial presentation based on the report done by RVCOG. The City can now refine its plan and create a final document by the end of the year. Chair Verner asked what the Commission's timeline will be in reviewing these initiatives. Mr. Goldman responded that it would begin in October or November of 2023, starting with a review of the parking initiatives.

### **Public Comments**

**Robert Cortright**/Mr. Cortright stated that he had submitted written comments to staff before the meeting. He informed the Commission that he previously worked with the DLCD regarding climate issues before he retired. He stated that the City does not need paper capacity, it requires the land necessary to accommodate the City's needs over the next 20-25 years. He also encouraged staff to use the alternative path allowed by the Climate Friendly and Equitable Communities (CFEC) guidelines to develop a more practical estimate of the housing capacity for CFAs.

### **D. 2023 Annual Planning Commission Retreat**

The Commission discussed which items should be reviewed at the annual retreat. Chair Verner and Commissioner Knauer expressed an interest in learning more about protocols and proper meeting procedures for the Commission, as well as how to effectively run a public meeting. The Commission also discussed relationship between the Council and the Commission, particularly with regards to larger projects, like the Croman Mill Site development. Councilor Hyatt commented that she had benefited from a review of the difference between Type I, Type II, and Type III planning actions, and recommended a review of those items for all new Commissioners.

Mr. Goldman informed the Commission that there are no items scheduled for the July 11, 2023 meeting, and that all of these items could be reviewed in a similar manner to a Study Session. The Commission agreed.

The Commission decided to hold its annual retreat on August 29, 2023.

### **V. ADJOURNMENT**

Meeting adjourned at 8:53 p.m.

*Submitted by,  
Michael Sullivan, Executive Assistant*



**From:** [gshaff@gmail.com](mailto:gshaff@gmail.com) <[gshaff@gmail.com](mailto:gshaff@gmail.com)>

**Sent:** Sunday, June 25, 2023 4:17 PM

**To:** [testimony@ashland.or.us](mailto:testimony@ashland.or.us) <[testimony@ashland.or.us](mailto:testimony@ashland.or.us)>

**Subject:** CFA Candidate Sites - 6/27/23 Planning Commission CFA Discussion

It would appear that the designation of the Croman Mill CFA would largely eliminate the majority of the industrial lands included in Croman Mill Master Plan. If so, that change will mean that the city of Ashland will no longer have, among its inventory of developable lands, moderately sized industrial sites. Industrial sites of a moderate size are rare in the Rogue Valley, except for those in White City and, as such, is a unique asset to the city and southern Jackson County.

Vacant industrial lands that can meet the needs of larger scale development are a fundamental requirement to diversify the local economy. The fact that this type of development has not happened on the Croman Mill site does not justify changing the land use laws to allow for commercial and residential development. Industrial development occurs at a slow pace; it can take decades to see industrial sites develop. One only need to look at White City and its slow rate of development. Retaining these lands for industrial use is pivotal to the city's economic diversification.

The fact that the combined total housing potential of the proposed candidate CFA's can readily meet the 30% housing need threshold indicates that a sizable portion of Croman site can (and should) be retained for industrial use. It should also be noted that there is significant additional redevelopable lands owned by SOU, which are currently excluded from the Transit Triangle CFA, that could be included if there was any concern about meeting the State's standard.

The fact that some of SOU's lands are included in an approved Master Plan should not be used to justify excluding lands from the Transit Triangle CFA. The Transit Triangle is, and has long been recognized as a priority area for the type of mixed-use development envisioned in the CFA rules. Further, SOU has the potential to leverage its ownership to secure private and public (i.e. State grant) funding. The potential should not be constrained by a decades old master plan.

Finally, it bears asking if the Croman CFA is designated as proposed, would the city, in the future, undertake an UGB amendment to meet its industrial land needs? Would the Billings Ranch be among those lands considered?

Gary Shaff

516 Herbert St



June 26, 2023

Dear Members of the Ashland Planning Commission,

Re: Economic Diversification Strategy

The merits of transforming the city transportation system to make bicycling a practical, safe and efficient way for people of all ages and abilities to get around town was not acknowledged in the [Economic Diversification Strategy](#) developed by ECONorthwest. A safe city transportation system that meets the needs of all users would accomplish many of the strategies that they identified and recommended including:

- reducing the cost of housing for Ashland's young families and workers, who now must live out-of-town
- creating a "base camp" for outdoor recreation
- responding to climate change by reducing pollution
- economic diversification

Each merit is briefly discussed below.

**Reducing the cost of housing:** Transportation accounts for roughly 20 to 30 percent of household expenditures depending upon household size and income. It is estimated that a single person household in Ashland spends roughly \$10,000 per year on transportation (including insurance, maintenance, fuel, and car payments). ( [Cost of Living in Ashland, Oregon – 24/7 Wall St. \(247wallst.com\)](#)) This expense is second only to the cost of housing. In comparison, the cost to bicycle is minuscule. Transforming the transportation system to conform to the requirements of the Transportation Planning Rule, would make it safe and convenient to live car-free in Ashland. It would be a game changer for the city's young families and workforce and their ability to afford to live here.

**Base Camp:** While most of the attention is on mountain biking and the trails in the city's watershed, even mountain bikers use the city's (and ODOT's) roads to get around town. An on-street transportation system that meets the needs of mountain bikers also would meet the needs of everyone; people of all ages and abilities whether residents or visitors. Due to the city's small geographic size, a bicycle ride is an easy way to go shopping, run errands, visit friends and family, get to the library or school, grab an ice cream, and most other trip types.

**Climate Change:** Choosing a bike over a car for just one trip per day reduces the average person's [carbon emissions from transportation by 67 percent](#). (See also: <https://drive.google.com/file/d/1ncSbM9gIM-kX-cSr9i83Yw6UAcstDRvb/view?pli=1> <https://www.sciencedaily.com/releases/2021/02/210208104624.htm> and <https://www.peopleforbikes.org/news/tackling-climate-change-one-ride-at-a-time>).

It is estimated, based upon [research](#) in other metropolitan areas, that roughly half of Ashland residents would choose to bicycle if they didn't have to share the roads with cars. Protected bike lanes on major streets make possible. This is the reason that the community has been so vocal in its support for their addition to major streets. If half of Ashland's residents bicycled for just one trip per day instead of driving, annual transportation emissions in the city would fall by one-third or almost 28,000 metric tons and would translate into a 9% reduction in total citywide pollution.

**Economic Diversification:** The authors, on Page 75, suggest that “bikeways to or through downtown” be developed. The notion that bikeways be developed only “to” the downtown rather than through is not different to the existing bike facilities serving the downtown. Protected bike lanes are essential to both downtown and on all major streets. People riding bicycles, just as those driving cars, require safe, convenient and efficient facilities. Additionally, ECONorthwest didn’t acknowledge the virtual absence of bicycle parking in the downtown which the city’s Transportation Advisory Committee is currently investigating.

Here are a few examples where cities have reaped the financial benefit to providing bike infrastructure including protected bike lanes:

- Bikers out-consumed drivers at bars, restaurants and convenience stores. See Bloomberg article: [Cyclists and Pedestrians Can End Up Spending More Each Month Than Drivers](#)
- [Salt Lake City cuts car parking, adds bike lanes, sees retail boost](#)

Please take this information into account as you explore ways to make Ashland a better, more unique, attractive, and inviting place for residents and visitors.

Thank you,  
Vicki Orendurff  
Streets For Everyone Team  
Ashland Climate Collaborative

June 27, 2023

TO: Ashland Planning Commission

FROM: Bob Cortright<sup>1</sup>

SUBJECT: CLIMATE FRIENDLY AREA STUDY SUGGESTIONS

As you review the draft study of Climate Friendly Areas (CFAs) please consider and focus on the goal and intended outcome of this work: which is that at least 30% of the city's total housing units would be located in CFAs. For Ashland, that means by 2041 a total of about 3500 housing units would be in CFA neighborhoods. It is not clear from the CFA study whether the city will achieve this goal.

I have two suggestions for your consideration:

1. **Direct city staff to calculate how much of the city's future housing growth will need to be located in CFAs to meet the 30% goal.** As noted above, the CFA study indicates that about 3500 housing units will be needed in CFAs. However, while the study estimates the housing capacity of proposed CFAs, it does not indicate how much housing is currently located in these areas. That's significant because the city expects only about 900 additional housing units to be built in the city by 2041. (Packet, page 175) Consequently, unless there are about 2600 housing units currently in these CFAs and "abutting areas"<sup>2</sup> it's unclear that the city will reach the 30% goal.

Census information is readily available to estimate how much housing is currently in these areas. In addition, the city should estimate how much housing is expected in each of these areas under existing adopted plans. Local and regional transportation plans include detailed housing allocations to specific areas - transportation analysis zones - TAZs which provide this information.

2. **Encourage the city staff to use the alternative path allowed by CFEC rules to prepare a more realistic estimate of the capacity of proposed CFAs.** The draft study uses the "prescriptive" path in the CFEC rules to estimate housing capacity of proposed CFAs. It should be apparent that the prescriptive method- which assumes

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<sup>1</sup> Retired Transportation Planner. For 25 years, I served as the lead transportation planner for the Oregon Department of Land Conservation and Development (DLCD). I currently work with several environmental and climate advocacy groups in Oregon to support efforts to revise state, regional and local land use and transportation plans to meet state goals to reduce climate pollution.

<sup>2</sup> CFEC rules allow the city to count "abutting" or adjoining areas with high density residential that are outside of CFAs as part of CFAs for purposes of meeting the 30% goal. The idea is to include areas that are "close enough" to CFAs so that they function as part of a CFA because people might walk or bike to the CFA. The CFEC rule requires that such areas be within a 1/2 mile "walking distance" of a CFA in order to qualify.

that lands within CFAs will be uniformly developed or redeveloped at high densities (50-70 units per acre) dramatically overestimates the capacity of these areas to accommodate new development over the next 20 years.

While the CFEC rules include the “prescriptive method” they also allow cities to use alternative methods that better reflect local plans and conditions. In January, 1000 Friends and I wrote to metropolitan cities alerting them to likely problems with DLCDs “prescriptive method” and [recommending use of the alternative option](#) allowed by the CFEC rules. As the city moves forward, you should take advantage of this alternative approach to use local knowledge and information to develop a more reasonable and realistic estimate of the capacity of these areas to accommodate new housing over the next 20-25 years.



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January 11, 2022

**TO:** City Planners for Oregon's larger metropolitan cities  
(Albany, Ashland, Bend, Corvallis, Central Point, Eugene, Grants Pass, Keizer, Medford, Salem, Springfield)

**FROM:** Mary Kyle McCurdy, Deputy Director, 1000 Friends of Oregon  
Bob Cortright, Retired Transportation Planner

**SUBJECT:** CLIMATE FRIENDLY AREA HOUSING CAPACITY ANALYSIS  
RECOMMENDATIONS

As you conduct CFA studies over the next few months, we urge you to carefully review existing plans and other local information to accurately assess the capacity of potential Climate Friendly Areas (CFAs) to accommodate 30% of the city's total housing needs. We encourage you to use an "alternative method" for calculating CFA capacity as allowed for in the Climate Friendly & Equitable Communities (CFEC) rules. We would be happy to follow up with you to discuss these suggestions.

### Background / Summary

To meet greenhouse gas (GHG) reduction goals, Oregon's urban areas need to locate most new housing (and other supporting uses including employment) in walkable, mixed use, "climate-friendly" areas - where people can meet daily needs with much less driving. Over the next year, your cities will be preparing studies to identify potential "climate friendly areas" (CFAs) that can accommodate 30% of your city's total housing needs. We are concerned that the "prescriptive path" outlined in DLCD's rule (OAR 660-012-315(2)) and the CFA Methods Guide that DLCD asks you to use could dramatically overestimate the housing capacity of potential CFAs because it makes unrealistic assumptions about future densities and redevelopment and, consequently, will produce much less real capacity for housing in climate friendly areas than is needed to meet GHG reduction goals.

Accordingly, we recommend that you carefully review and evaluate whether estimates produced using the CFEC prescriptive method are reasonable and realistic based on your adopted city plans, actions you plan to take to encourage and diversify housing in

these areas, and your knowledge of local markets and trends. If you find that the prescriptive method significantly overestimates the capacity of potential CFAs, we encourage you to take advantage of CFEC rule provisions (in OAR 660-012-320) that allow you to use an “alternative method” to produce a more realistic estimate of CFA capacity.

## Recommendations

The standard scope of work for CFA studies involves several tasks and preparation of accompanying technical memos that will be produced over the next two to three months. Our recommendations center on Task 2, which is intended to estimate the number of housing units needed to meet the 30% target and calculate the development capacity of potential CFAs. We have the following recommendations for completing this work.

### **Recommendation #1: Estimate the amount of existing and future housing in CFAs.**

**Task 2 technical memos should provide detailed information about the amount of existing and future housing in CFA study areas.** We recommend that this analysis include the following information:

1. The number of existing housing units that are located in CFA study areas.
2. The number of future housing units that are expected to locate in CFAs based on existing adopted plans and any actions the city has committed to take to increase housing in CFAs.
3. The number of **new** housing units that will need to be located in CFAs over the next 20-30 years to meet the CFEC goal to locate 30% of all housing.

Information about existing and planned housing and jobs in CFA study areas should be readily available from the housing and employment allocations included in your most recent local or regional transportation system plan. These allocations are part of adopted plans and reflect each region’s or city’s best estimate of the likely outcome of adopted plans over the next 20-25 years.

The approach outlined in DLCD’s CFA methods guide might not provide this information because it asks only for a calculation of the total number of housing units that need to be located in CFAs to meet the 30% goal.<sup>1</sup> But what is most useful for local planners

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<sup>1</sup> The CFA Methods Guide and Rule 315(2) direct locals to calculate the total number of housing units needed in CFAs without identifying how many existing housing units are in CFAs:

and officials to know is how much new housing needs to be located in CFAs to meet the goal for 30% of all housing to be located in CFAs. (That's because planning is mostly about how we plan for new development.) If we don't calculate how many existing housing units are in CFAs, we won't know how much new housing needs to happen in those areas to meet the 30% goal. That's critical because our goal is not just providing "capacity," or the potential, for housing in CFAs, but rather to use many tools to actually get at least 30% of all housing located in CFAs over the next 20-25 years. If we don't, we won't provide the type of healthy, walkable, mixed-use neighborhoods with abundant and diverse housing needed to meet Oregon's climate goals.

This approach is important because Oregon is far short of where we need to be to meet our climate goals: In 2018, DLCDC estimated that most metropolitan areas have only about 15% of all housing in walkable, mixed use, CFA-like areas, and that adopted plans would make only small (2-3%) improvements. Making up the difference, i.e., going from 15 - 20% of all housing in CFAs to 30%, is a large task because progress depends mostly, if not entirely, on where we locate new housing and jobs. Filling that gap means that approximately 50% of all new housing will need to be located in CFAs. That's a change from existing plans, which anticipate that most new development will be located outside CFAs.

**Recommendation #2: Evaluate whether estimates of zoned capacity are reasonable.**

**As part of Task 2, cities should evaluate whether the results of the prescriptive estimate of “zoned capacity” in CFAs are realistic and achievable given existing local plans and local knowledge about development potential over the next 20-30 years.**

Again, we're concerned that the prescriptive path outlined in the CFEC rule could dramatically overestimate the capacity for development in CFAs because it makes unrealistic assumptions about future densities and rates of infill and redevelopment. DLCDC's guidance for this analysis says basically that cities should estimate zoned building capacity by assuming that every parcel in a proposed CFA - vacant or developed - will be built or redeveloped to the highest allowed density:

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“The total number of housing units necessary to meet all current and future housing needs shall be determined from the local government's most recently adopted and acknowledged housing capacity analysis, by adding the total number of existing dwelling units identified in the buildable land inventory to the anticipated number of future needed housing units over the planning period of the housing capacity analysis” OAR 660-012-0315(1). CFA Methods Guide, page 20

"zoned building capacity" ... simply means the largest building footprint area in square feet allowed by the land use regulations (zoning ordinances) that apply to each parcel in the CFA.

Capacity Calculations Are Done Regardless of Existing Development

It is important to note here that *net developable area is calculated "regardless of existing development"* (OAR 660-012-315(2)(a)). What this means is that the area for each parcel is calculated as if the parcel was not developed. In this sense, under the prescriptive path in the rule and for the purposes of the capacity calculations, every lot in the CFA is treated as developable if it is vacant and redevelopable if it has existing development.

(p. 14)<sup>2</sup>

City planners have considerable information and knowledge about densities of recent and new development and extent of redevelopment that is occurring or is likely to occur in different parts of the city. This includes the housing, economic, and transportation elements of adopted plans which are, as mentioned above, reflected in detailed housing and employment allocations included in adopted transportation system plans. Planners should, as part of the Task 2 analysis, compare the results of the prescriptive method with forecasts in adopted plans and local knowledge about market conditions to assess whether the prescriptive estimates make sense.

**Recommendation #3. Consider an alternative method for calculating CFA capacity.**

**If cities find that the prescriptive method overestimates housing capacity of CFAs, they should opt for use of an alternative method for calculating CFA capacity as allowed for in CFEC Rule 320**

As outlined above, the CFEC prescriptive analysis is a new and untried method that we believe could significantly overestimate the housing capacity of potential CFAs, which could also impact the accuracy of a city's Goal 10 housing needs analysis. Relying on this method is likely to result in providing much less actual capacity for housing in CFAs than will be needed to meet the 30% target in the CFEC rules.

Fortunately, the CFEC rules provide an option<sup>3</sup> that allows local governments to propose and use an "alternative method" for estimating capacity of CFAs if it is "equal or

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<sup>2</sup> See TPR Rule 315(2) which includes detailed guidance for estimating housing capacity in CFAs.

<sup>3</sup> Rule 320(10) "A local government may provide an alternative methodology for zoned residential building capacity calculations that differs from OAR 660-012-0315(2). The methodology must clearly describe all assumptions and calculation steps, and must demonstrate that the methodology provides an equal or better system for determining the zoned residential building capacity sufficient to accommodate at least



better” than the prescriptive method. We believe that a local method that considers adopted local plans and market trends and that makes ambitious but attainable estimates for future housing densities and redevelopment rates would meet this obligation. This could also result changes to the geographic size of a CFA and/or designation of additional CFAs, such as neighborhood-scale CFAs. Further, at its “office hours” discussion on December 13th, DLCDC staff advised that the scope of work for CFA studies would allow cities to opt for and use an alternative method as provided in 320.

## **Follow Up**

We appreciate that CFA studies and planning represent an additional planning task for already overworked local planners. We - and other advocates - will be following the CFA studies closely to assure that the CFEC rules and Oregon’s underlying climate goals are met on time, and we have and will continue to advocate for funding for implementation. We hope to provide timely and constructive comments on your CFA studies. We'd welcome the opportunity to meet with you to discuss the suggestions in this memo. Also, we request that you add us to your city’s distribution list for CFA Study Technical Memos and other related materials. ([23cort@gmail.com](mailto:23cort@gmail.com) and [mkm@friends.com](mailto:mkm@friends.com) )

Thank you.

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30 percent of the total identified number of housing units necessary to meet all current and future housing needs within climate-friendly areas. The alternative methodology shall be supported by studies of development activity in the region, market studies, or similar research and analysis.”

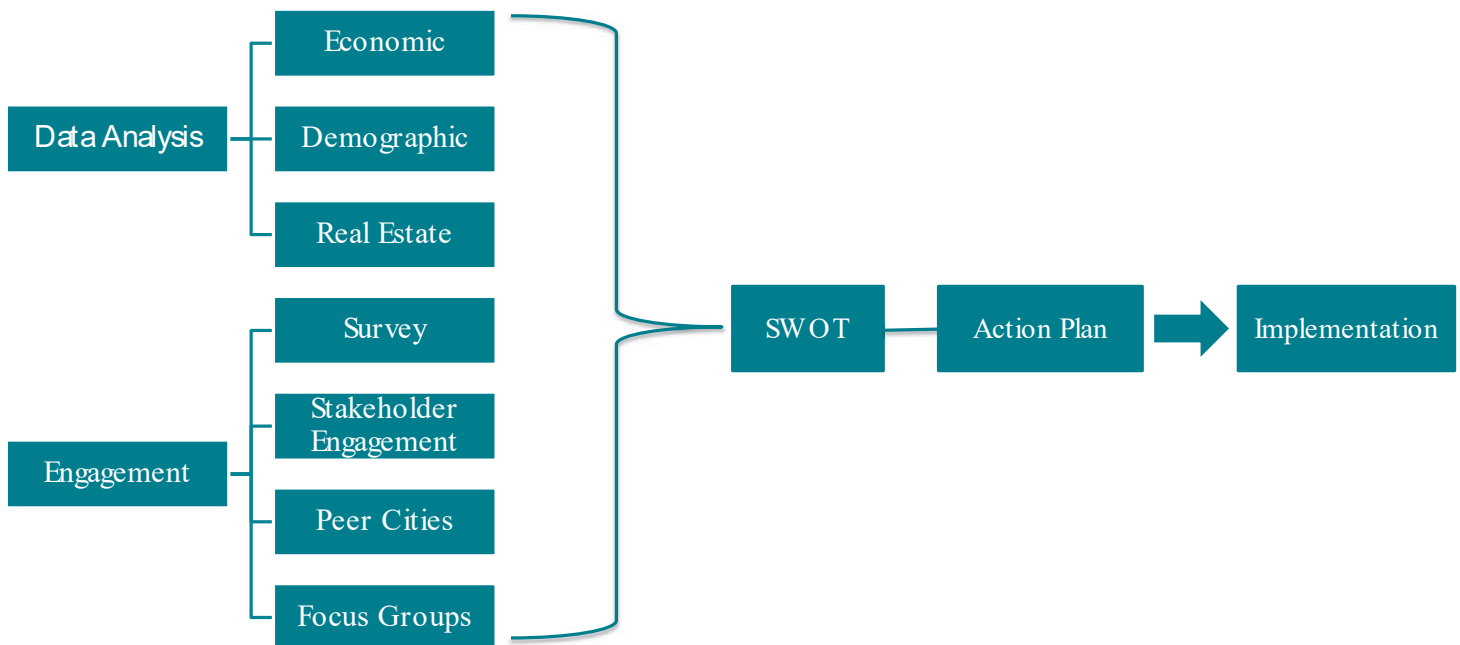
# Ashland Economic Diversification Ashland Chamber of Commerce

City of Ashland  
Planning Commission Study Session  
June 27, 2023

**ECONorthwest**  
ECONOMICS • FINANCE • PLANNING

Develop an economic plan that **leverages existing strengths, addresses weaknesses, and explores exciting new initiatives** to further diversify the local economy.

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- 231 Survey Respondents



- 45 Stakeholder Conversations



- 4 Focus Groups



- 4 Peer City Conversations

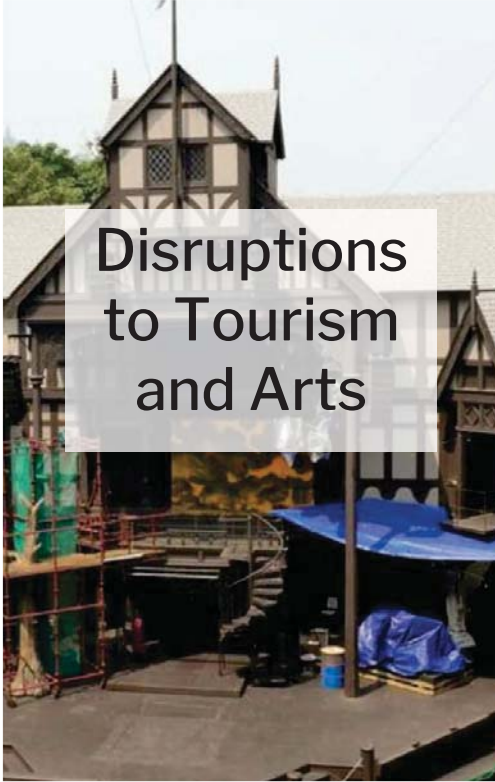
# Wide Range of Input



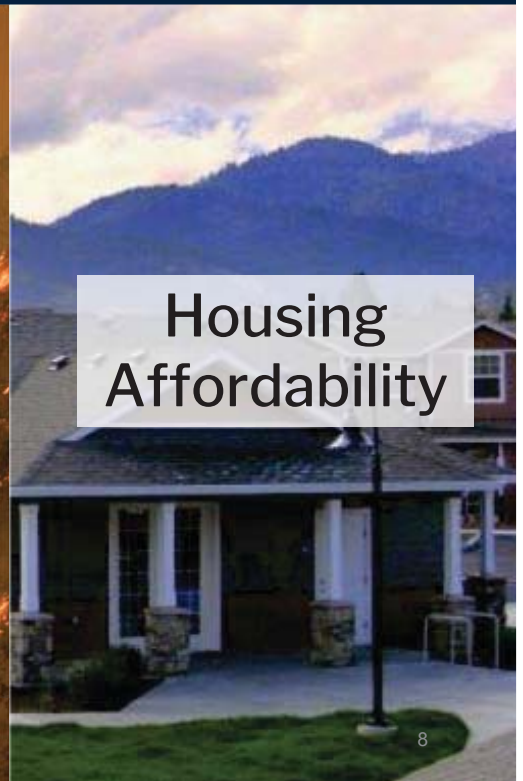
# What are Ashland's greatest strengths?



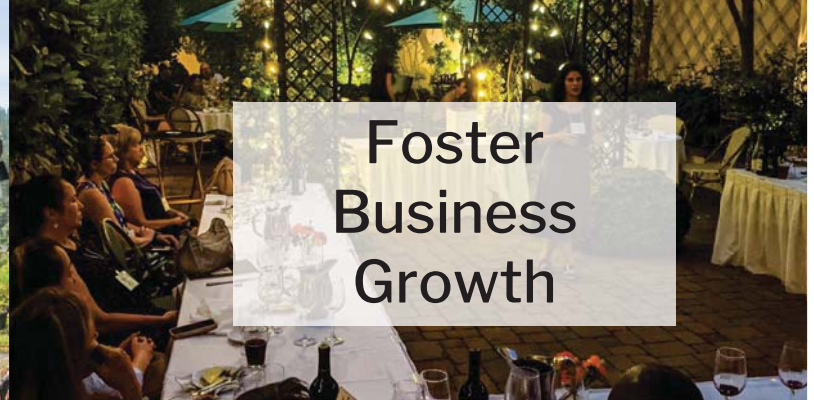
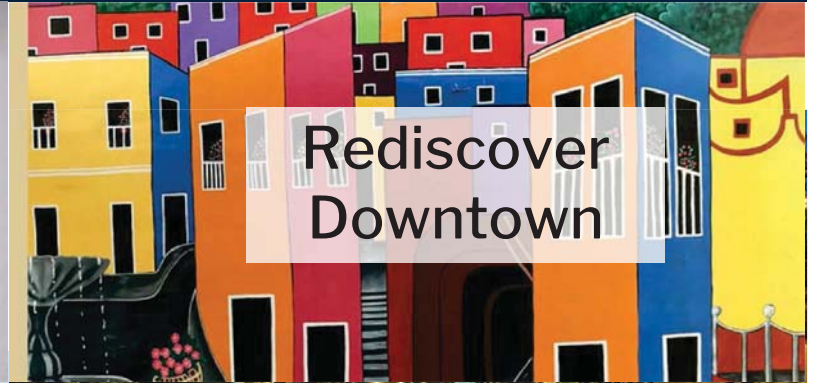
## What are Ashland's greatest weaknesses?



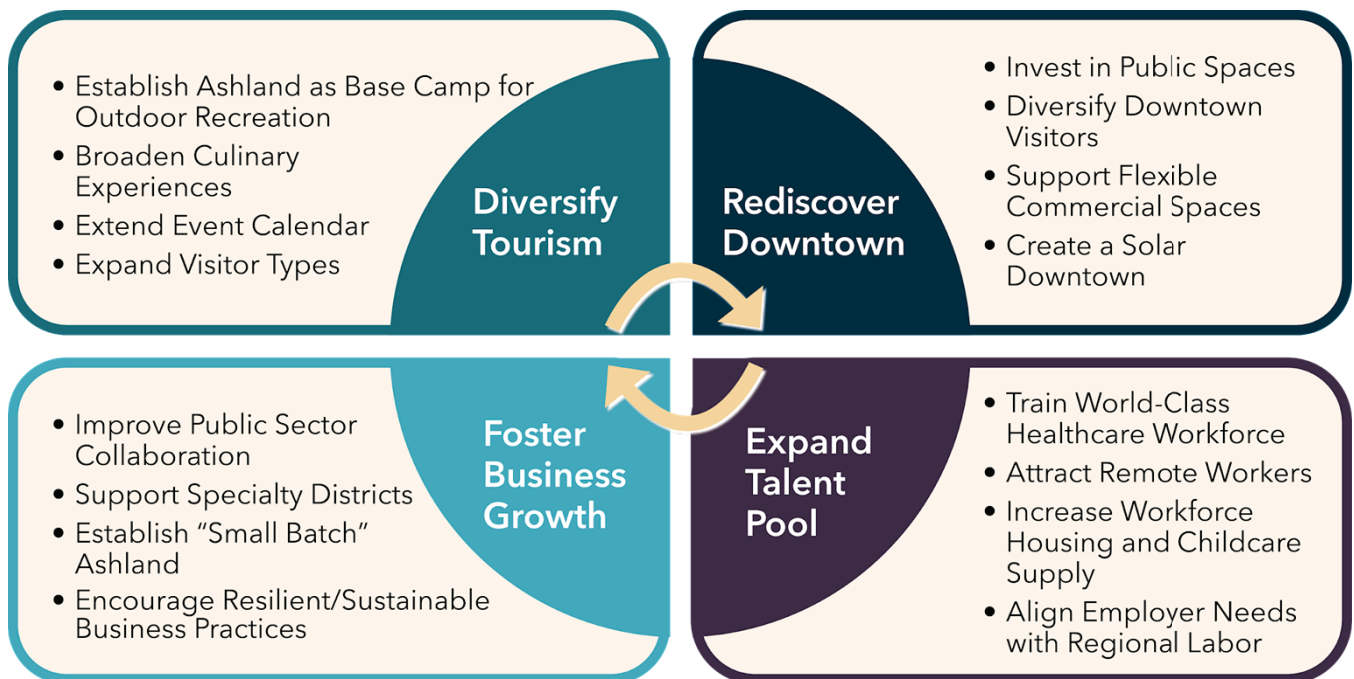
## What are Ashland's greatest threats?



# What are Ashland's greatest opportunities?



## Strategy Groupings - Four Pillars



# THE COMMITTEE

## Membership

- Experienced business leaders have been selected to lead each pillar committee. The chair or co-chairs of the committee worked with chamber leadership to identify the first goal for the committee to work on.
- Chair (with chamber consultation) identifies the community members that could help the most on achieving the identified goal
- The committees are intentionally small (5-7) so that they can be flexible and nimble but also utilizing SMES (subject matter experts) as needed

## Rotating Members

- Once the goal is complete, the chair may choose to change membership that best fits the next identified goal (SMES)
- While the chair or co-chairs will remain the same to encourage continuity of the vision and increase efficiency, rotating membership will
  - Encourage more participation due to the smaller time commitment
  - Allow for goals to be specifically targeted with subject matter experts
  - Involve a greater number of committee members with the project

## Pillar One: Foster Business Growth - Four focus areas

A strong economy is one in which innovative, responsible business owners are supported and trusted to execute on their vision. Currently Ashland's economy is facing some headwinds as the risk of change can dampen the potential for positive growth. But the risk of not allowing for growth is already showing in the inability for businesses to expand in the city or for many Ashland workers to live in town. Action is needed – though much of it depends more on mindset than money.

This pillar is a continuation of the successful Business Retention and Expansion (BRE) program the Chamber has run for more than 15 years.

### 1. Improve Public Sector Collaboration

The key to Ashland developing the variety of firms needed for a dynamic, balanced economy is allowing young companies to find space, establish themselves and grow. Based on data and stakeholder discussions, there are currently challenges to business retention and growth. Unfortunately, many come from the public sector. This challenge is not unique to Ashland, as many communities struggle to balance the fears of existing residents with the hope of future workers and residents that would also like to benefit from opportunities in Ashland. We believe the two biggest barriers are simple: culture and clarity. Of specific concern is clarity, with businesses expressing frustration that expectations shift during a permitting process or are left to discretionary actors facing political pressure.



## 2. Support Specialty Districts

A balanced economy can also be reflected in a city's geography and having different areas with identities that each exert their own gravity. In addition to Downtown, there are three districts that show strong potential to continue developing into distinct, mixed-use areas of the city: University District, Railroad District, and the Croman Mill District. Each brings its own potential to expand past residential and commercial into areas like research, flex industrial, entertainment or small manufacturing.

1. **University District** – Southern Oregon University has the potential to transform not only a few properties on its campus, but its role within the city. We are excited to see the plans developing for some strategic locations into dense, mixed-use buildings that cater to students, young professionals and even seniors. The organization can establish an anchor for both residential and commercial development. The Chamber is already working with SOU on a University District committee.
1. **Railroad District** – Already a popular part of the city, with some strategic investments this area could act as a walkable, nearby counterbalance to the Downtown and provide the opportunity to define a separate cluster of retail and nightlife activities.
1. **Croman Mill District** – Perhaps the property with the most potential to redefine its area, the former Croman Mill site can provide the type of residential and commercial development at scale to significantly expand the growth of the city.



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## 3. Establish Small Batch Ashland



Key ingredients to a thriving micro-batch community are:

- (1) A strong customer base that has disposable incomes and values authentic goods;
- (2) A city brand that signifies quality and craft; and
- (3) A culinary community that supports restaurateurs and food entrepreneurs.

These are all elements that few cities outside of Ashland have in high concentration.

To better support current (or future) small food and beverage manufacturers, the city can provide the tools for those entrepreneurs to easily scale production. By partnering with an operator of a co-working or makerspace, a small facility could be developed with the equipment (bottling, labeling, etc.) that can be a common barrier to growth.

This same model can be created for the visual arts producer underscoring the creative class that chooses to live in Ashland and could better thrive with more collaboration and support. This also ties into the Revitalize the Downtown pillar to more effectively use commercial properties.

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## 4. Resilient/Sustainable Business Practices

- A resilient economy is only as strong as its individual businesses, and one strategy to make the entire local economy more flexible is to help those businesses develop plans to manage disruptions. Many businesses have adjusted their operations over the previous three years in response to the ongoing challenges of the pandemic.
- Expand the *Chamber's Emergency Preparedness Tool Kit* and the *Smokewise Ashland Website* in partnership with Ashland Fire & Rescue and Jackson County Emergency Preparedness
- Expand the successful *Language of Business* series to help small businesses find needed resources for business growth and expansion
- Provide technical assistance for businesses and expand partnerships
- Encourage businesses to develop continuity of operations plans



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## Pillar Two: Diversify Tourism - Four focus areas

As noted in the SWOT analysis, tourism may be Ashland's biggest strength but it also has weaknesses. From the location quotient analysis, it is clear that tourism generates significant employment in the service industry, lodging and retail services. Specifically, concerns relate to the previous overreliance on specific institutions to drive visitors to the city, primarily the Oregon Shakespeare Festival have created new opportunities for expansion and growth.

The last few years have revealed how the tourism industry will need to continue to evolve to maintain the level of visitors to which Ashland is accustomed. In terms of sectors, outdoor recreation and culinary experiences are an obvious area for growth that have already been successful particularly in the last decade but have even more opportunities for growth. With regard to the structure of the tourist season, the key objective is to more evenly spread visitation throughout the year to avoid smoke disruptions. Additionally, younger visitors appear to favor a more diverse array of activities and amenities.

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## 1. Outdoor Recreation

- Outdoor Recreation has always been as a regional attraction. The Rogue Valley provides a wide variety of hiking, rafting, biking, snow sports and other ways to enjoy the area's distinct natural beauty. Ashland's unique role in this industry's ecosystem is its ability to provide quality lodging, quality food options, and ample shopping.

- Encourage amenities that signal to outdoor recreation enthusiasts that their needs are being considered (private/public bike storage, trail information, river conditions, dog boarding needs).

- Expand opportunities for children to participate in outdoor activities. (Day camps, trails, climbing)

- Partner with event coordinators to bring wider variety of events into the downtown and other areas of the city. Build live music, food around them.

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## 2. Broaden Culinary Experiences:

- Ashland has a strong reputation of great restaurants, spectacular vineyards, and specialty item like high-quality chocolate. With a growing interest in how products are made and access to fresh ingredients, more visitors would take advantage of unique opportunities for culinary experiences while in the area.

- Cross-promote the various existing experiences that exist (wine tours, farm visits, etc.) to visitors coming for different reasons (theater, outdoor recreation, etc.) by continuing and expanding partnering with Rogue Valley Vintners, Rogue Valley Food Trail and established culinary entities that can collaborate.

- Explore experiences such as cooking classes, coffee roasting, chocolate making, etc. that local experts could host and cater to both visitors as well as residents.

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### 3. Extend the Event Calendar



- Plan more spring, fall, and winter events. Create new fall event for 2023, spring 2024.  
*Ashland Mystery Fest – October 20-22, 2023*
- Market experiences like fall foliage, continue to promote holiday shopping and family travel, winter skiing or spring break trips to pull more visitors in during non-summer months.
- Support performing arts businesses that attempt to expand their offerings into other seasons.
- Create opportunities for pop-up music events throughout the year especially in the Downtown.
- Leverage partners and opportunities in the off-season such as new winery events with Rogue Table and Rogue Valley Vintners.
- Bring back elements of the former Ashland Culinary festival such as chef demos, winemaker and beer dinners and pairings and tours. 4.

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### 4. Expand Visitor Types

- Ashland has a strong potential to evolve its visitor given the foundation of its new brand launched by Travel Ashland in 2021 that provides a platform for targeting established personas, interests such as the outdoors, wine and culinary, family fun and the way in which they travel.

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## Pillar Three: Rediscover Downtown - Four focus areas

**Objective:** *Create a Vibrant Downtown through investing in public spaces, diversifying our visitors, and building flexible commercial spaces.*

The core of every city is its downtown. Downtowns create economic efficiencies through the concentration and specialization of firms. Moreover, the economic health of a downtown area typically reflects the overall economic health of a locality. In short, downtown is the living room of a town and reflects the overall community.

Ashland's downtown is a key asset to the local economy in multiple ways, some of which have been maximized, and others which remain underleveraged. For tourists, the downtown brings together performing arts, shopping, dining, and park amenities all within a walkable area. For residents, there is a symbolic value to the downtown. Even if they may not be attending performances or shopping regularly at some of the stores, they appreciate certain elements (farmers markets, holiday shopping, etc.) at certain times of the year.

A targeted approach to update and invigorate downtown will not only support the tourist market in attracting more and more diverse visitors, but also strengthen an asset that may prove attractive to future residents. Young professionals have come to assume that a central business district will be walkable, mixed use and full of bars and restaurants to appreciate after work hours.

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## 1. Invest in Public Spaces

- The downtown is emerging not only from a period of pandemic-induced dormancy, but also a transition from a focus on a certain era of OSF visitors to a broader group with broader needs. It is an opportune time to explore updating the look and feel of the public spaces.
- Ashland's downtown is welcoming and walkable downtown with a series of wide, tree-lined sidewalks and pedestrian-friendly crosswalks. There is a need for additional investment in the public space: bump out crosswalks, bike infrastructure, contemporary wayfinding, improved lighting, landscaping, maintenance and public art.
- There is also need for strategic façade improvements and related public-facing private investments that help to maintain the charm of the downtown but create a more contemporary feel.
- To add a more unique, authentic vibrancy, additional creative placemaking could be used to partner with artist, entrepreneurs and the community to activate underutilized spaces. For the downtown to maintain and grow its number of visitors, there is a need to expand the tourist base to include more young families, people of color, and customers of different types of goods and services.
- Maintain public safety

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## 2. Diversify Downtown Visitors



- This action ties in with the Diversify Tourism pillar but expands beyond overnight visitors to include residents of Ashland and the Rogue Valley and day visitors.
- These events and draws can be short term in duration and specific to a particular type of demographic
- Working closely with locals interested in creating more events but needing streamlining of permitting is critical
- Creating events and assisting others through process and promotions

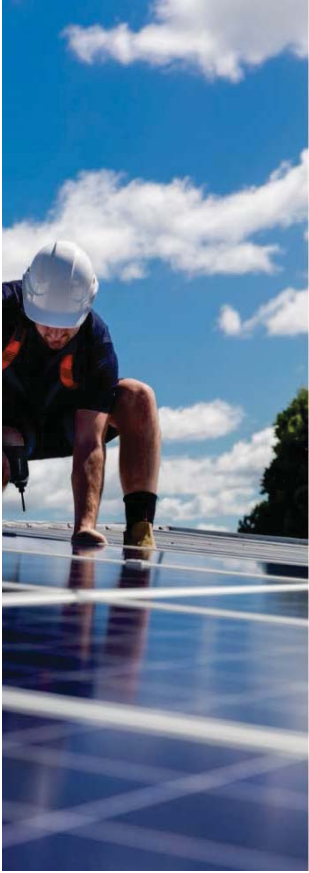
23



## 3. Support Flexible Commercial Spaces

- The traditional separation of spaces into specific uses has been eroding over the last decade as some business owners are rethinking what a store, bar, office, etc. means.
- Current business owners may need more flexible or outdoor spaces; for example a retail location that includes space in the back for fabrication, a restaurant that would like to put outdoor seating in parking spaces, artist studios that also include a gallery, co-working spaces that want to partner with a bottle shop, bars that want to allow for live music, art galleries that are wine bars or restaurants that are just take-out windows.
- The pandemic particularly showed how vibrant Ashland's outdoor spaces can be with some minimal flexibility.

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## 4. Create a Solar Downtown

Climate change haunts Ashland. While there are few things that can directly mitigate the risk of future wildfires, the city can embrace the challenge of minimizing its carbon footprint and meeting the ambitious targets identified in the City's climate action plan. The city can mobilize its downtown building owners to embrace rooftop solar and demonstrate the potential of renewable energy. Given the number of visitors that come to the downtown, the city has an opportunity to educate and empower visitors to embrace the challenge ahead. Engaging digital signage can show in real time the power that could be generated by collective action from a cohort of responsible business owners. Not only would this help Ashland in its efforts to demonstrate its modern sensibility, but it would support a burgeoning local solar industry.

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## Pillar Four: Expand Talent Pool - Four focus areas

Without qualified workers, Ashland employers will be unable to expand and develop the next generation of local leadership in the private sector. Labor attraction, availability, and skills sets are already hindering growth. The causes are both obvious and obscure, but one is clear: lack of workforce housing. The lack of supply and cost of existing housing causes a large number of Ashland workers to live in other communities. This impacts traffic (and related environmental effects), reliability during weather emergencies, enrollment levels at local schools, local political representation, and commitment to the long-term viability of Ashland. There are various approaches that Ashland and the region can and are taking to address this structural challenge.

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## 1. Train World-Class Healthcare Workforce

**Objective:** *Identify the root causes/drivers related to the barriers to workforce growth and development in the healthcare sector for our region and make recommendations for improvements.*

- The healthcare industry generates a significant array of accessible and in-demand careers that provide family-sustaining wages. Ashland has large local employers, a growing senior population that will require additional assistance in the future, and local educational resources to train the future of healthcare.
- The healthcare community is also aware of the changes underway in the industry: more outpatient services, a focus on wellness and functional medicine, and development of regional approaches to patient attraction. Fully leveraging the opportunities available in health care may be the most direct approach to generating quality jobs that allow workers to live in Ashland and the Rogue Valley.

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## 2. Attract Remote Workers



One of the traditional assumptions of job creation is that local job growth depends on local company growth. This has been diminished by the economic adjustments that took place during the pandemic. For an increasing number of workers, the workplace is wherever they can open a laptop and connect to the internet. Ashland is the type of place that can benefit from these changes, with the features that attract many remote workers: strong quality of life amenities and a fast internet connection. The benefit to Ashland is more talented young workers that support other local businesses and may settle down and start families.

## 3. Increase Workforce Housing & Childcare Supply

The lack of childcare in Ashland and the region were cited as significant hindrances to employee attraction and retention.

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## 4. Align Employer Needs with Regional Labor

One of the challenges in the local labor market is a disconnect from what employers need and the skill set of local workers. In some cases, this relates to midcareer workers and in others with young workers. To benefit both workers and employers, more can be done to align needs and resources to develop those skills, either via educational institutions or via employer training programs.

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## Partnerships are critical to the success of the plan

- Each pillar includes Ashland businesses, government and regional partners
- The Ashland Chamber – convenes, facilitates and pursues needed changes after clearly defining obstacles to growth and identifying opportunities to pursue
- Public/private organizations and non profits participate on each pillar – SOREDI, SCORE, Rogue Workforce Partnership, Rogue Valley Food Systems, Rogue Valley Vintners, Travel Southern Oregon, and others
- Education – Southern Oregon University, Rogue Community College
- Government – City of Ashland, Jackson County, SBA/SBDC, Travel Oregon, Business Oregon, staff and elected officials at all levels where appropriate
- This plan is meant to leverage our strengths as a community and region

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Thank you  
Questions?



## CEAP Goals

### CEAP Goal #1: REDUCE GREENHOUSE GAS EMISSIONS!

- For the Community: Reduce GHG emissions 8% per year on average, every year to 2050.
- *We are not meeting our goals!*

How are We  
Doing?

**POORLY!**

1. Community “Natural” Gas Consumption Rose 10% from 2015 to 2020
2. Gas Meters in Ashland increased 5% from 2015 to 2020
  - 2015 - 6598 Residential + 807 Commercial = 7375 Gas Meters
  - 2020 – 6903 Residential + 842 Commercial = 7745 Gas Meters

Methane is the  
SECOND Most  
Important GHG

“Natural” Gas is composed primarily of methane, which is 80x more potent than CO<sub>2</sub>.

Reducing the use of “natural” gas is important because:

- It is a mechanism to reach our CEAP goals and reduce community greenhouse gas emissions.
- There are risks to public health when using “natural gas” in a house.

Health Impacts  
of Methane  
Exposure

- Up to a 40% increased risk of childhood asthma exacerbations and wheezing.
- Up to a 24% increased risk of new asthma.



How did we get here?

1. The Rogue Climate Action Team (RCAT) youth bring Ordinance Proposal to City Council & Council Directs CEPAC to Study Ordinance.
2. US 9th District Court rules Berkeley Ordinance not in compliance with federal statute.
3. RCAT proposes change in ordinance to:
  - A) New Ordinance to include new *Residential* construction only
  - B) Resolution to further study options re: Commercial, Industrial, and substantial remodels



How did we get here?

4. RCAT and CEPAC have identified 3 alternative options for an ordinance applying to new residential construction:
  - Emissions based strategy
  - Local Amendment to the State Building Code
  - Apply Restrictions in New Rights-of-Way

## What is the Ask of Council?

CEPAC (May 24, 2023 ) moves (10-1) to ask City Council to:

1. Direct City Staff (particularly Legal and planning ) to work with CEPAC to bring an appropriate ordinance and resolution back to council ASAP
2. Direct that resources (hours) be given to such an effort
3. Direct CEPAC and RCAT to develop a stakeholder engagement plan.

## Timeline

- Today... Council directs City Planning and Legal Resources to study ordinance and work with CEPAC to draft Ordinance/Resolution
- ASAP... CEPAC and RCAT start stakeholder engagement process planning
- July 12 - Staff and Working Group bring ordinance/resolution to CEPAC Meeting
- Late July, Early August - Formal stakeholder engagement
- Aug - CEPAC votes on final Ordinance/Resolution
- Aug 09 or Sept 05 Council Meeting – First reading of Ordinance.



Where Do  
Ashland Emissions  
Come From?

25% from Residential ,  
Commercial, Industrial Energy  
use:

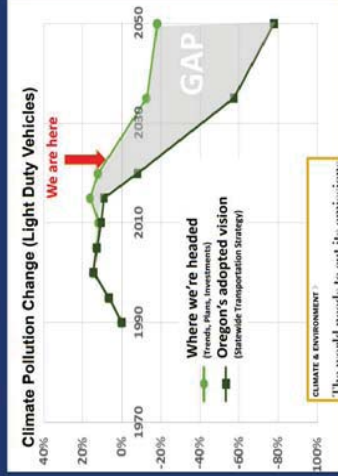
- 13% Residential
- 11% Commercial
- 1% industrial



# Climate Friendly Areas (CFAs) Study

Planning Commission Study Session  
June 27, 2023

## Why these Rules? Missing Oregon's Pollution Reduction Targets Has Real Costs



## Rules Apply in Oregon's Metropolitan Areas

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



## Updated Land Use and Transportation Rules

Focus Areas

- ### Land Use/Building
- Designate walkable climate-friendly areas
  - Reform parking management
  - Support electric vehicle charging

### Transportation

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





## What is a Climate Friendly Area?

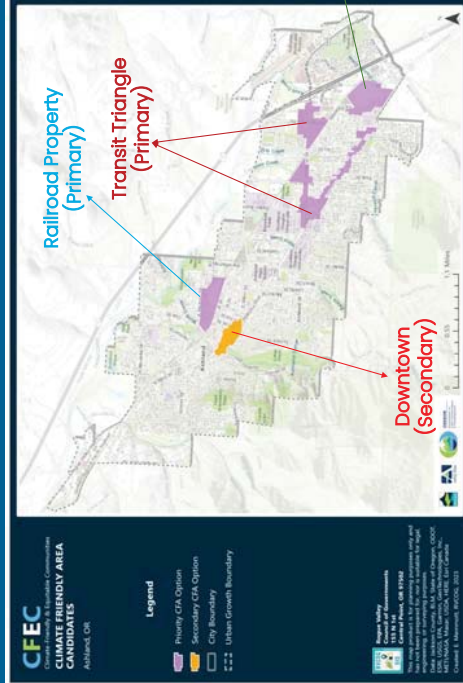
- Imagine downtowns and neighborhood centers
- Walkable area with a mix of residential, office, retail, services, and public uses
- High-quality pedestrian, bicycle, and transit services
- Parking is well-managed



CFEC Parking Minimums (Parking I) by December 31, 2022	NOW IN EFFECT
CFEC Electrical Vehicle Conduit Requirements by March 31, 2023 THROUGH BUILDING CODES	
CFEC Parking Minimums (Parking II) by June 30, 2023	FOR ASHLAND 12/31/23
Climate Friendly Areas (CFA) Study consultant work through June 30, 2023	UNDERWAY NOW!
[Technical Assistance by Rogue Valley Council of Gov'ts]	
CFA Public Engagement Process consultant work through June 30, 2023	UNDERWAY NOW!
[Technical Assistance by 3J Consulting, Inc.]	
Final CFA Study report due to DLCD by December 31, 2023	
CFA Transportation Modeling by June 30, 2024	
CFA Designation, Maps & Code Amendments consultant work through June 30, 2024	
[Consultants still to be determined based on available Technical Assistance funds.]	
CFA Designation, Maps and Code Amendments Adoption by 12/31/2024	



## CF&EC Implementation Timeline



## Candidate CFAs



- Approx. 92 acres total
  - Masterplan Adopted 2008
  - Remains Largely Undeveloped
  - *Clean-Up Plan in process*
  - Townmakers, LLC currently looking at code changes to develop approx. 65 acres.
- By *prescriptive* methodology:
- 5,142 new dwelling units
  - 79 dwelling units per acre
  - 148 percent of needed housing

## Croman Mill District

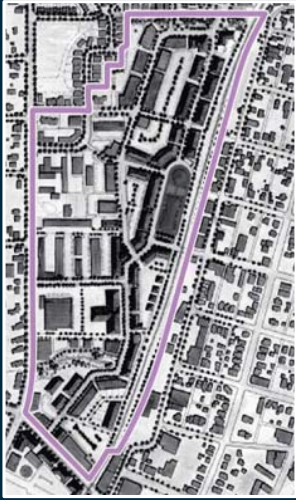


Image 3 - Railroad Property



Image 4 - Railroad Property Master Plan

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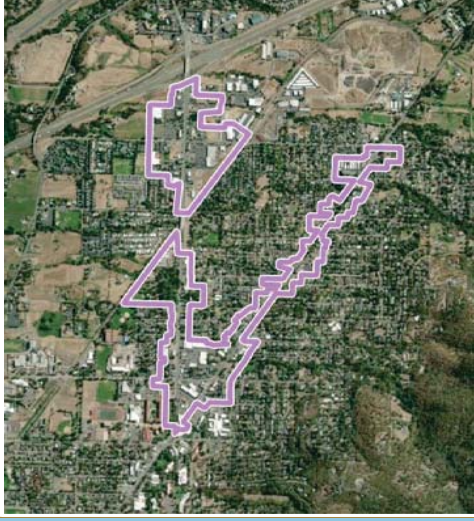
- Approx. 57 acres.
- Southern portion largely undeveloped.
- Clean-up Plan under development.
- 2001 Masterplan not adopted. Street plan adopted.

- By the *prescriptive* methodology:
- 2,226 new dwelling units
  - 58 dwelling units per acre
  - 64 percent of needed housing.

## Railroad Property



## Transit Triangle



### Transit Triangle

- Approximately 167 acres
- Undeveloped or underdeveloped
- Largely auto-dependent uses in "strip development" pattern
- Likely a center of future growth

- By the *prescriptive* methodology:
- 7,524 new dwelling units
  - 52 dwelling units per acre
  - 207 percent of needed housing.



## Downtown

- Largely Developed without off-street parking requirements
- National Register-Listed Historic District

Given the level of development and the historic status, the Downtown was considered a potential secondary CFA and was not analyzed under the lens of the prescriptive CFA methodology.

The prescriptive methodology set forth in the CFEC rules and associated guidance looks at the full potential developability or re-developability of a CFA – less an allowance for streets – as though it will redevelop from bare ground without consideration for existing buildings, code-required on-site stormwater detention, parking that might be voluntarily provided (*though no longer required*), or any project-specific open space, plaza space or landscaping. Under this methodology, the potential build-out of the Croman Mill District by itself is envisioned at a density of 79 dwelling units per acre yielding 5,142 dwelling units and more than providing for the 30 percent of current and future housing required under the CFEC rules.



## Downtown

## Prescriptive Methodology

While Croman by itself could satisfy the CFEC requirements based upon the methodology prescribed, for staff the underlying assumptions of that methodology do not seem totally in line with real world experience.

- In those areas where there is some measure of existing development such as in the downtown, it is neither realistic nor desirable to assume that all existing development will be razed in pursuit of this new vision.
- While parking is no longer required, it seems safe to assume that developers, tenants, buyers and financial institutions will at least in the near-term want some parking to accommodate the motor vehicles.
- Even with increased height and no limits on density, in the near-term developers will likely work within the framework and scale they are familiar with in southern Oregon.

With these factors in mind, staff believe that the combination of CFAs under consideration here are a more realistic attempt to not only meet the CFEC requirements, but also to achieve their underlying intent. To that end, staff note that, if future development were to provide only 15 dwelling units per acre density, which is one of the minimum development metrics under the CFEC rules, the combined potential CFA's identified in the study would yield 3,770 units. The projected housing need required to be addressed under CFEC for Ashland is 3,469 units.



## Prescriptive Methodology

on 1.44 acres = 28.47 units per acre density



### Anti-Displacement Mitigation Strategies

These are consultant-recommendations based on a state-provided menu of strategic options. Staff are working to update this section as a number of the recommendations are already in place in Ashland, including:

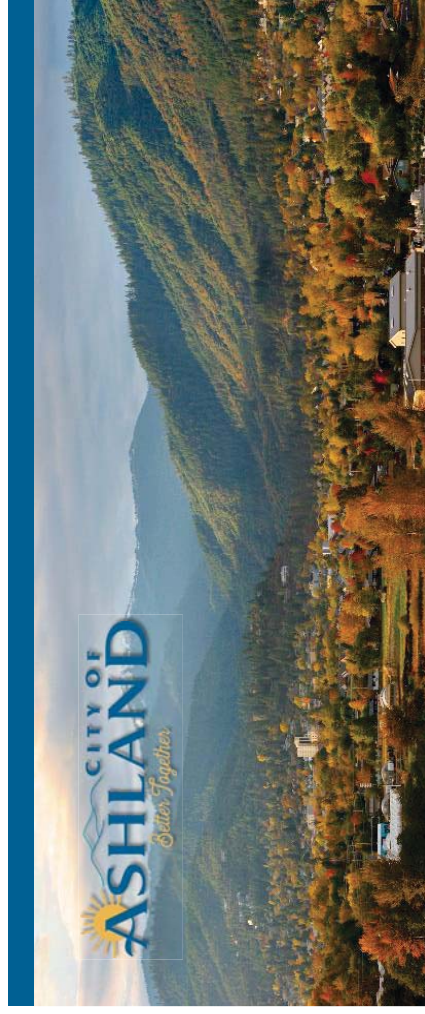
- A03: Density bonuses for affordable [Already in place]
- A14: Re-Examine Mandated Ground Floor Use [Recent process]
- B10: Public Facility Planning [Looking at TIF for Croman]
- C01: Reduce or exempt SDCs for needed housing [Already in place for affordable housing.]
- E03: Vertical Housing Development Zone Tax Abatement [Already in place]



## Next-Up: Parking

# Climate Friendly Areas (CFAs) Study

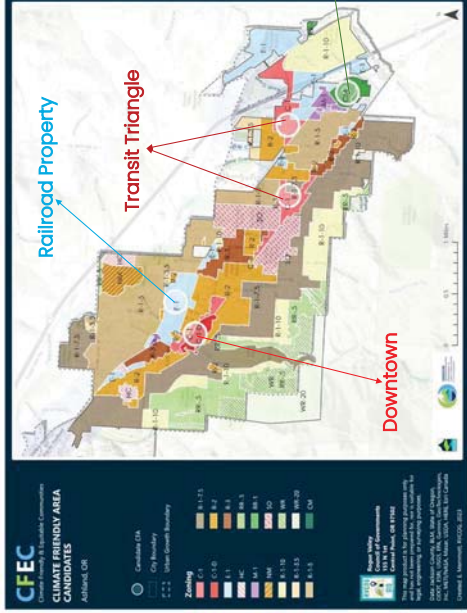
Planning Commission Study Session  
June 27, 2023



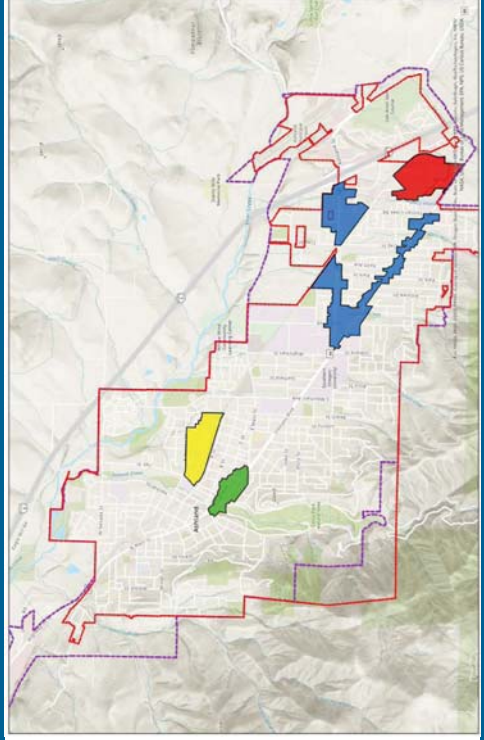
<http://www.ashland.or.us/climatefriendly>

## Climate-Friendly & Equitable Communities Timeline

<p><b>'Parking A'</b>                  &lt; 1/2 mile to Rt. 10                  12/31/2022  <i>In Effect Now</i></p>	<p><b>CFA Study</b>  <i>In Progress</i>                  Complete by 12/31/2023</p>	<p><b>'Parking B'</b>                  Eliminate Mandates or                  Select Options                  Complete by 12/31/2023</p>	<p><b>CFA Zoning</b>                  Comp. Plan Element,                  Maps &amp; Codes                  Complete by 12/31/2024</p>
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## Candidate CFAs



## Potential CFAs being analyzed

Regional plans to  
 achieve pollution  
 reduction targets

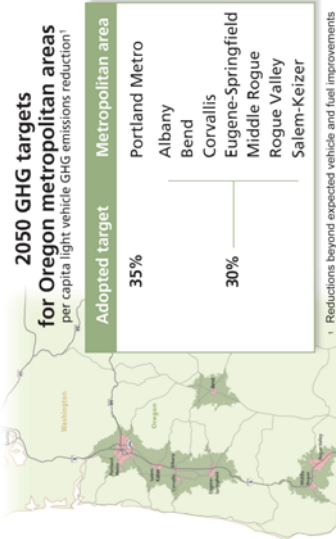
Land use and  
 transportation rules  
 reducing pollution and  
 promoting equity

## Two Categories of Rulemaking

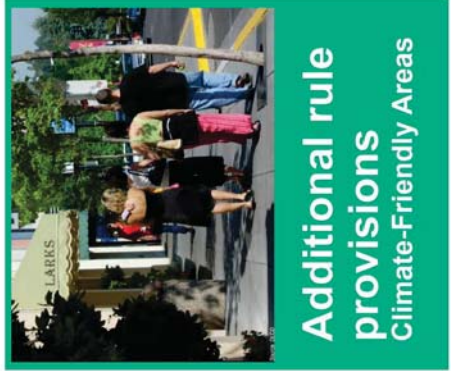
Performance monitoring  
 and reporting under both



# Meeting Oregon's Climate Pollution Reduction Targets



- Sized so zoned building capacity in combined Climate-Friendly Area(s) can accommodate 30+% of community housing needs (or 25 acres for cities 5,000-10,000 population)
- May include abutting high density residential or employment areas
- Local governments may choose prescriptive or outcome-based standards (next slide)



Population	Climate Friendly Area Size	Prescriptive Option	Outcomes Option
5,001 – 9,999	25+ acres	<b>Minimum Density</b> (for single-use residential) 15 dwelling units/net acre  <b>Maximum Allowed Building Height No Less Than</b> (for at least one CFA) 50 feet	<b>Target Development Level</b>  20 homes and jobs/net acre
10,000 – 24,999	Could fit 30% of housing	50 feet	20 homes and jobs/net acre
25,000 – 49,999	Could fit 30% of housing	50 feet	20 homes and jobs/net acre
50,000+	Could fit 30% of housing	60 feet	30 homes and jobs/net acre
		85 feet	40 homes and jobs/net acre



- Stronger planning for:
- Pedestrian
  - Bicycle
  - Public Transportation
- Also plan for freight, car travel
- Connected, safe, and complete networks
- Prioritize:
- Climate friendly areas
  - Neighborhoods with underserved populations
  - Access to key destinations



Inventory existing conditions, key destinations, and gaps

Plan for a complete, low stress network, prioritized projects

Require bicycle parking

Identify priority transit corridors

## Transportation Planning

Specific Provisions

Project selection is based on a variety of factors

- Projects across a city must work to meet climate goals

### Measuring success

- Look at two or more measures, not only moving cars

### Significant street expansions

- Review alternatives
- Engage the public

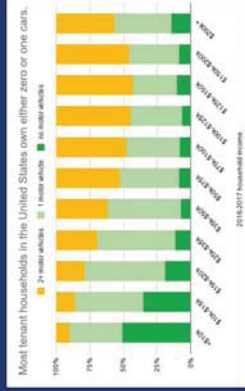


## Reforming Costly Parking Mandates



**\$5,000**  
for surface parking

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



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



## Reforming Costly Parking Mandates

Corvallis data

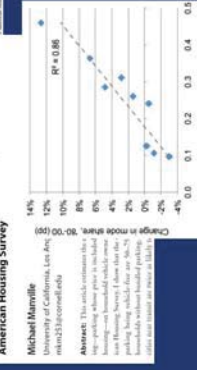
Use	% of all city area
Driveways	3.3%
Parking lots	7.2%
On-street parking	Some part of 9.7% for roads

Parking uses huge amount of land, making areas less walkable

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

Michael Manville  
University of California, Los Angeles  
mmanville@ucla.edu

**Abstract:** This article examines the relationship between bundled parking and vehicle ownership. It does so by using data from the American Housing Survey, a large-scale survey of housing units in the United States. The article finds that bundled parking is associated with higher rates of vehicle ownership.



Parking mandates can lead to more car ownership and driving





## Improving Parking Management

- No parking mandates near frequent transit
- No mandates for shelters, small units, affordable or public housing, childcare, facilities for people with disabilities
- Mandates no higher than one space/unit multifamily **Now in Effect**

- Cities choose an approach: **By 12/31/23\***

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



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



## Best Practices

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

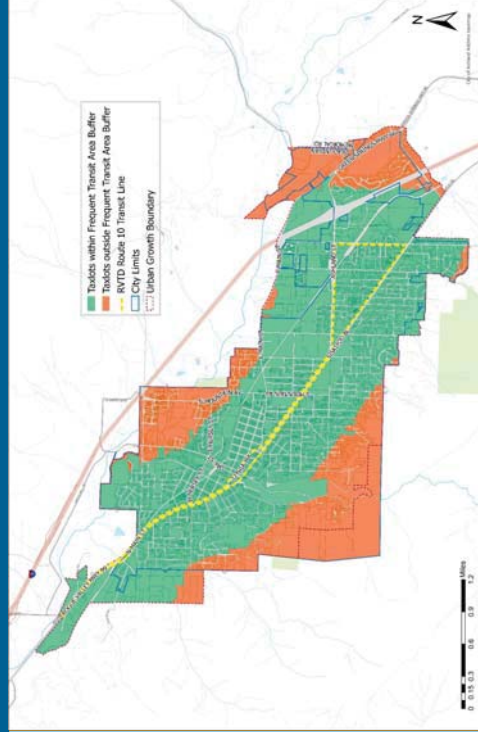
## Over 100,000 population

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

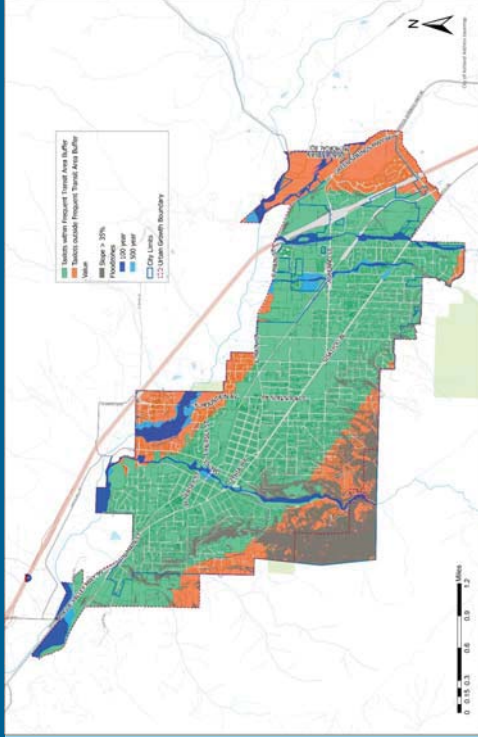


Land used for parking in downtown Corvallis

## Other Parking Provisions



“Reduced Parking Mandates” Now in Effect



## Electric Vehicle Charging



New multifamily and multi-use development must include electrical conduit to serve 40% of parking spaces

Minimum five residential units  
Charging stations, wiring, and power not required  
Implemented through Building Codes



Kestrel Park Cottages



## ASHLAND



### Climate-Friendly Area (CFA) Analysis/Report

#### Geo-Spatial Analysis by 6/30/2023

Consultant: Rogue Valley Council of Governments (RVCOG)  
Identify potential CFA's to accommodate 30 percent of projected total population in mixed-use, pedestrian friendly areas.

#### Public Engagement Plan Implementation by 6/30/2023

Consultant: 3J Consulting  
Public Engagement Plan, Stakeholder Interviews to identify underserved populations impacted in seeking to insure equitable outcomes.

Final Study/Report Identifying Potential CFA's to Dept. of Land Conservation & Development by 12/31/2023







# Planning Commission Minutes

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

**July 11, 2023**  
**REGULAR MEETING**  
**DRAFT Minutes**

## **I. CALL TO ORDER:**

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

### **Commissioners Present:**

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

### **Staff Present:**

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

### **Absent Members:**

### **Council Liaison:**

Paula Hyatt

## **II. ANNOUNCEMENTS**

Community Development Director Brandon Goldman made the following announcement:

- The City Council is holding a retreat on July 17, 2023, where they will discuss the role of Advisory Committees, as well as an overview of master plans regarding the future development of the southeast portion of the City.

## **III. CONSENT AGENDA**

### **A. Approval of Minutes**

1. June 16, 2023, Regular Meeting

Commission MacCracken Jain noted a non-substantive grammatical correction to page 5 of the minutes.

**Commissioners Perkinson/KenCairn m/s to approve the consent agenda with a correction. Voice Vote: All AYES. Motion passed 7-0.**

## **IV. PUBLIC FORUM – None**





# Planning Commission Minutes

## V. **OTHER BUSINESS**

### A. **Oregon's Land Use Planning Program**

Mr. Goldman gave a brief background on Planning in Oregon, starting in 1973 with Oregon Senate Bill 100, also known as the Oregon Land Use Act. This established a comprehensive land use planning program in the state, and was aimed at protecting the state's natural resources, and marked a significant shift in Oregon's land use planning. Mr. Goldman detailed Oregon's 19 Statewide Land Use Planning Goals, but noted that only the first 14 goals apply to the City. He noted several key components of Oregon's Land Use Program, including; the establishment of goal-based planning; statewide planning goals; the establishment of Urban Growth Boundaries (UGBs); citizen involvement; economic development; providing for housing development to meet the needs of the population; and the integration of transportation systems (see attachment #1).

#### **Discussion**

Commissioner Knauer requested clarification regarding local and state guidelines over land use. Mr. Goldman responded that local governments could pass ordinances are still required to meet statewide goals. States can find that a city is not meeting certain goals, but cities are given a level of discretion based on their specific needs. Mr. Goldman noted that there has been a recent shift from the state handing down statewide requirements that will override local decisions, such as the elimination of parking requirements for new developments.

Councilor Hyatt asked staff what prohibited the City from expanding its UGB line. Mr. Goldman responded that these limits fall under the statewide goals, and that each city is required to identify its population growth per year. Using this figure, the City is expected to have enough land to accommodate its predicted population growth until 2041. Mr. Severson added that the City had committed to using its available land before increasing its UGB. The Commission discussed how population growth is calculated by Portland State University. Commissioner KenCairn asked why properties off of East Main Street had not been annexed into the City yet. Mr. Goldman responded that all annexed properties need to be adjacent to the City Limits, and that one of the greatest obstacles to annexation is the properties' lack of access to City utilities. The Commission briefly discussed the process for annexing land into the City.

#### o **Decision Making & Meeting Procedure**

Mr. Severson spoke to the difference between the different types of permits that the Planning Division reviews, focusing on those that do not go before the Commission. These include permits for food trucks, fences, signs, and Land Use Compliance Statements, and are completed by planners





## Planning Commission Minutes

provided the applications meet requirements. Mr. Goldman informed the Commission that preapplications are required before any land use decisions are made, and must be submitted six months before development begins. A conference is scheduled between staff and the applicants two weeks after the application is received, allowing time for comments to be submitted by City departments and any issues to be raised with the applicant prior to them submitting an application. Mr. Goldman noted that preapplications are a conceptual process where staff can warn an applicant if their submittal is unviable or if revisions should be made.

Mr. Goldman briefly described the differences between Type I, Type II, and Type III planning actions. He stated that Type I planning actions are reviewed by staff only, and are only seen by the Commission if they get appealed. The City is required to make a final decision 120 days after the application is determined to be complete, including time for any appeals made, though the applicant can opt to extend the decision period past 120 days.

Commissioner Knauer asked if staff had ever reviewed their noticing distance of 200ft around the subject property of a planning action. Mr. Goldman responded that the state guideline is 100ft from the subject property, so the City has doubled this noticing area in order to garner maximum feedback from potentially affected parties.

Mr. Severson detailed how Type II applications require approval from the Commission before findings are approved and adopted, provided no participating parties appeal the decision. He described how the Commission is required to either Continue a Public Hearing or to leave the Record open for at least seven days if a party requests it. These extensions take place within the 120-day decision period, so staff must remain aware of this when scheduling reviews by the Commission. Chair Verner asked if the Commission has the ability to schedule an additional meeting if under a time constraint to review an application. Mr. Severson responded that the City needs to adhere to noticing requirements, which would make adding impromptu meetings difficult. Commissioner Knauer asked if the 120-day approval period is definitive. Mr. Goldman responded that it can be extended up to 365 days with the explicit approval from the applicant.

Mr. Severson stated that Type III planning actions are items that require ordinance changes, such as the Grand Terrace annexation, and also require noticing to the Department of Land Conservation and Development (DLCD). These items receive a recommendation from the Commission, with the Council making the final determination.

Mr. Severson stated that parties can appeal a decision to the Land Use Board of Appeals (LUBA), which can affirm, remand, or reverse a decision back to the City. If remanded, the City has 120 days to address the issues for which it was remanded. Chair Verner asked how many times an application can be appealed to LUBA, and Mr. Severson responded that any appeal must be limited to issues from the most recent application. The Commission discussed the recent remand of the Grand





## Planning Commission Minutes

Terrace annexation at 1511 Highway 99 North, which was remanded on two main issues. The Commission will have a limited Public Hearing to address those remand issues at its August 8, 2023 meeting.

- **Public Meeting Law**

Mr. Goldman informed the Commission that Public Meeting Law (PML) applies to all public governing bodies with the authority to render decisions on policy or administration. All public meetings are open to the public unless an executive session is authorized. Notices are provided to all interested parties, minutes are taken for the meeting, and all votes are cast publicly. The City issues public notices to the Ashland News to inform the community of all upcoming meetings. Mr. Goldman stated that all meetings between members of the governing body must comply with PML, including in-person meetings, group emails or communications, lunch meetings, or phone calls. Staff recommended that Commissioners not meet in person outside of an established meeting, even if they would not have a quorum.

Mr. Goldman described how the Oregon Government Ethics Law applies to all public officials or those serving the state of Oregon, whether they be paid or not. These ethics standards are particularly important during elections, as no official can advocate for or against any candidate or position in their official capacity.

Mr. Goldman briefly defined a conflict of interest, whether it be actual or potential. He stated that an actual conflict of interest is one where any action, decision, or recommendation by a person acting in an official capacity would gain from a decision made by that official. An official must announce this conflict publicly and recuse themselves. A potential conflict of interest is one that could provide a tangential benefit to the official, such as a review of a planning action that involves a friend or family member. An official is not necessarily required to recuse themselves from such a decision, but must publicly announce the conflict of interest. Councilor Hyatt suggested that any Commissioner who believes they have a conflict of interest contact the City Attorney prior to the meeting.

### **B. Discussion of City Council and Planning Commission Coordination**

Mr. Goldman began by emphasizing the importance of having a Commissioner present at Council meetings where a planning action that the Commission made a recommendation on is being reviewed. He stated that the Council values the opinion of the Commission, and weighs its recommendation greatly. He informed the Commission that Commissioner Knauer had attended a number of Council meetings as a private citizen, similar to the late Michael Dawkins who attended Council meetings as a de facto liaison. The Commission discussed designating a member of the





## Planning Commission Minutes

Commission as one who could attend all Council meetings where an item that was previously reviewed by the Commission will be discussed (see attachment #2).

Commissioner Knauer asked what the Commission's role will be in regards to the Croman Mill Site project. Councilor Hyatt stated that the Council will be garnering feedback from as many advisory bodies as possible, and that Council relies of the Commission's recommendations when making decisions, particularly for appeals. She commented that the Croman Mill Site project is in a nebulous state because no application has been submitted yet, but that it will go through all proper procedures once one has been submitted.

Commissioner MacCracken Jain if the liaison position is formalized, Mr. Goldman responded that the liaison is an official role but does not have a vote on the Commission. Councilor Hyatt commented that she will publicly announce any prior knowledge if the Council will be reviewing an item that was previously seen by the Commission, but that all Commission meetings are open to the Council to view.

### **VI. OPEN DISCUSSION**

Mr. Goldman announced that the Department of Environmental Quality (DEQ) will be providing preliminary results on July 31, 2023 from their tests of the Croman Mill Site. The site will need to undergo a cleanup before development can begin. The Commission discussed the Croman Mill Site development, and Mr. Goldman announced that Townmakers, LLC will be providing an update to the Commission at its July 25, 2023 Study Session.

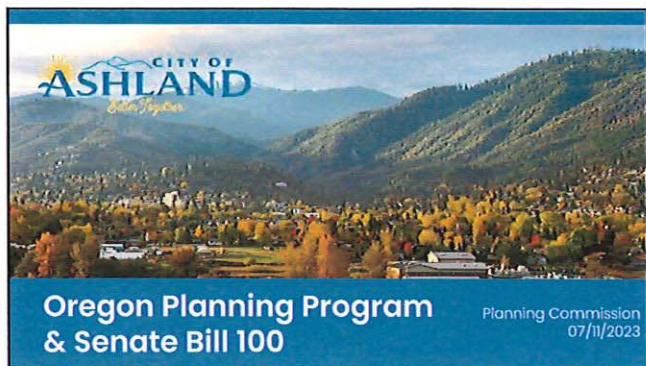
Commissioner MacCracken Jain asked if the Commission has any directive to work with the Transportation Advisory Committee (TAC), and if there were opportunities for better coordination between bodies. Councilor Hyatt stated that there is an intersection between land use and transportation, but that a planning action also needing to go before the TAC could result in the application going beyond its 120-day review period. Mr. Goldman pointed out that the TAC does provide recommendations to the Commission. Mr. Severson added that the City's Public Works Department will be developing a new transportation plan to coincide with the Climate Friendly and Equitable Communities guidelines, which the Commission will be involved in.

### **VII. ADJOURNMENT**

*Meeting adjourned at 8:47 p.m.*


*Submitted by,  
Michael Sullivan, Executive Assistant*





1

### Passage of Senate Bill 100 in 1973



- In 1973, Oregon passed Senate Bill 100, also known as the Oregon Land Use Act, which established a comprehensive land use planning program in the state.
- The bill aimed to protect Oregon's natural resources, manage urban growth, and preserve the state's agricultural and forest lands.
- Senate Bill 100 marked a significant shift in land use planning, making Oregon the first state in the U.S. to adopt a statewide land use program.

2

### Oregon's 19 Statewide Land Use Planning Goals

<a href="#">Goal 1</a> Citizen Involvement	<a href="#">Goal 11</a> Public Facilities and Services
<a href="#">Goal 2</a> Land Use Planning	<a href="#">Goal 12</a> Transportation
<a href="#">Goal 3</a> Agricultural Lands	<a href="#">Goal 13</a> Energy Conservation
<a href="#">Goal 4</a> Forest Lands	<a href="#">Goal 14</a> Urbanization
<a href="#">Goal 5</a> Natural Resources, Scenic and Historic Areas, and Open Spaces	<a href="#">Goal 15</a> Willamette River Greenway
<a href="#">Goal 6</a> Air, Water and Land Resources Quality	<a href="#">Goal 16</a> Estuarine Resources
<a href="#">Goal 7</a> Areas Subject to Natural Hazards	<a href="#">Goal 17</a> Coastal Shorelands
<a href="#">Goal 8</a> Recreational Needs	<a href="#">Goal 18</a> Beaches and Dunes
<a href="#">Goal 9</a> Economic Development	<a href="#">Goal 19</a> Ocean Resources
<a href="#">Goal 10</a> Housing	

3

### Key Components of Oregon's Land Use Program

- **Goal-based Planning:** The program requires cities and counties to create comprehensive plans based on statewide planning goals that address various land use issues, such as housing, transportation, and natural resource conservation.
- **Statewide Planning Goals:** There are 19 statewide planning goals that cover various aspects of land use, including agriculture, forestry, air quality, water resources, and historic preservation.
- **Urban Growth Boundaries (UGBs):** One of the key components of the program is the establishment of UGBs, which define the areas where urban development can occur.

4

### Examples of Land Use Planning goals

- **Citizen Involvement (Goal 1):** Public involvement is a required part of land use planning in Oregon. Citizens should have the opportunity to be involved in all phases of the planning process. The goal also calls for local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.
- **Economic Development (Goal 9):** Support economic growth by designating areas for commercial and industrial activities. It involves identifying suitable locations for businesses, promoting employment opportunities, and fostering vibrant economic centers.

5



### Examples of Land Use Planning goals

- **Housing (Goal 10):** Providing for housing development to meet the needs of the population. It involves zoning regulations that encourage a mix of housing types, affordable housing requirements, and strategies to address housing affordability, density, and accessibility. This ensures a diverse range of housing options and promotes equitable and inclusive communities.
- **Transportation (Goal 12):** Integration of transportation systems with land development. It includes strategies such as transit-oriented development, mixed-use zoning, and pedestrian-friendly infrastructure to reduce dependence on cars, alleviate traffic congestion, and enhance accessibility.

6


**Examples of Land Use Planning goals**

- **Urbanization (Goal 14):** Designing urban areas to accommodate population growth and ensure efficient land use. This includes establishing urban growth boundaries, promoting compact development, and creating vibrant, walkable neighborhoods.





7

**Effects of Senate Bill 100 on Land Use Planning**



- Introduced a comprehensive and coordinated approach to land use planning.
- Shifted decision-making power from local to state level, ensuring consistency.



8

**Positive Impacts of Oregon's Land Use Program**


- **Preservation of Farmland:** The program has helped protect agricultural lands from urban sprawl and encouraged sustainable farming practices.
- **Natural Resource Conservation:** By managing development and promoting conservation, the program has safeguarded vital natural resources, such as forests, rivers, and wildlife habitats.
- **Planned Growth and Efficient Infrastructure:** The program has directed growth into existing urban areas, promoting efficient use of infrastructure and reducing the need for costly expansions.



9

**Challenges of Oregon's Land Use Program**


- **Implementation Complexity:** The program's complexity and the need for coordination among various stakeholders have presented challenges in its implementation.
- **Balancing Interests:** Striking a balance between development needs, environmental conservation, and community interests can be a delicate task.
- **Adaptability:** Adapting the land use program to address changing circumstances, such as population growth, evolving industries, and climate change, remains an ongoing challenge.




10

**50 year Legacy and Future of Oregon's Land Use Program**


- Oregon's Land Use Program has been recognized as a pioneering model for comprehensive land use planning in the United States.
- The program continues to evolve and adapt to changing needs and challenges, such as population growth, climate change, and affordable housing.
- Its legacy includes the protection of farmland, conservation of natural areas, and the creation of livable communities, ensuring a sustainable future for Oregon.



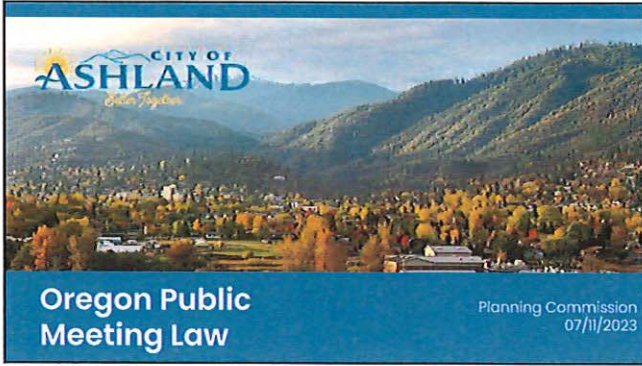
11



**QUESTIONS?**



12



1

### Who Does the Public Meetings Law (PLM) Apply to?

- Governing Bodies of public bodies (Council)
- Advisory body or subcommittee of a public body if it has authority to make decisions for or recommendations to a public body on policy or administration, (Standing Advisory Committees, Ad Hoc Committees, Commissions)

2

### What is a Governing Body?

- "Governing body" means the members of any public body consisting of two or more members with authority to:
  - Make decisions for a public body on policy or administration; or
  - Make recommendations to a public body on policy or administration. ORS 192.610(3).

3

### Basic Requirements of the PML

- Meetings must be open to the public unless executive session authorized
- Advance notice to interested parties of meetings, location, principal subjects
- Minutes must be taken at meetings, or the meetings must be recorded
- Votes must be cast publicly and recorded
- Meetings must be accessible to persons with disabilities

4

### Types of Meetings that must comply with the Public Meetings Law (PLM)

In Person or Electronic Meetings	Group email communications	"Serial" email communications
Lunch meetings	Phone Calls	The purpose of the meeting defines whether it must comply with the PML.


5

### Serial/Private Communications

- A series of private communications, via email, for example, can violate the PML.
- It is recommended that Commissioners not meet in private to discuss business before the Commission, or exchange private communications about business, even if those involved constitute less than a quorum.


6






### Oregon Ethics Law

- The Oregon Government Ethics Law is a code of ethical conduct for persons who serve public bodies in Oregon. ORS 244
- The Oregon Government Ethics Commission enforces the law.




7




### Who does the ethics law apply to?

- All "public officials."
- "Public official" includes any person who is serving the State of Oregon as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services. ORS244.020(15).




8




### Basic Requirements of the Ethics Law

- A public official may not use or attempt to use official position or office to:
  - Obtain financial gain
  - Avoid financial detriment
- Prohibition applies to financial gain or avoidance of financial detriment for relatives, members of the public officials' household, or businesses with which the public official or a relative or member of the household of the public official is associated.




9




### Conflicts of Interest

- **Actual conflict of interest** = Any action, decision or recommendation by a person acting in a capacity as a public official, that is to the private pecuniary benefit or detriment of the person, the person's relative, or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of the circumstances of a potential conflict of interest.




10




### Conflicts of Interest

- **Potential conflict of interest** = Any action, decision or recommendation by a person acting in a capacity as a public official, that could be to the private pecuniary benefit or detriment of the person, the person's relative, or a business with which the person or the person's relative arises out a general association or membership of a class, business, or industry, required as a prerequisite to hold the office, or if any action of the public official would affect to the same degree all members of the class.




11



- If a Committee member has an actual or potential conflict of interest, the member must:
- If it's a potential conflict of interest announce publicly the nature of the potential conflict prior to taking any action.
- If it's an actual conflict of interest, announce publicly the nature of the actual conflict and:
  - Refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue. (exceptions may exist if a member's vote is required for a quorum, however they may not participate in discussion or debate)

• ORS 244.120, 244.130



12

**TYPE III  
PUBLIC HEARING**

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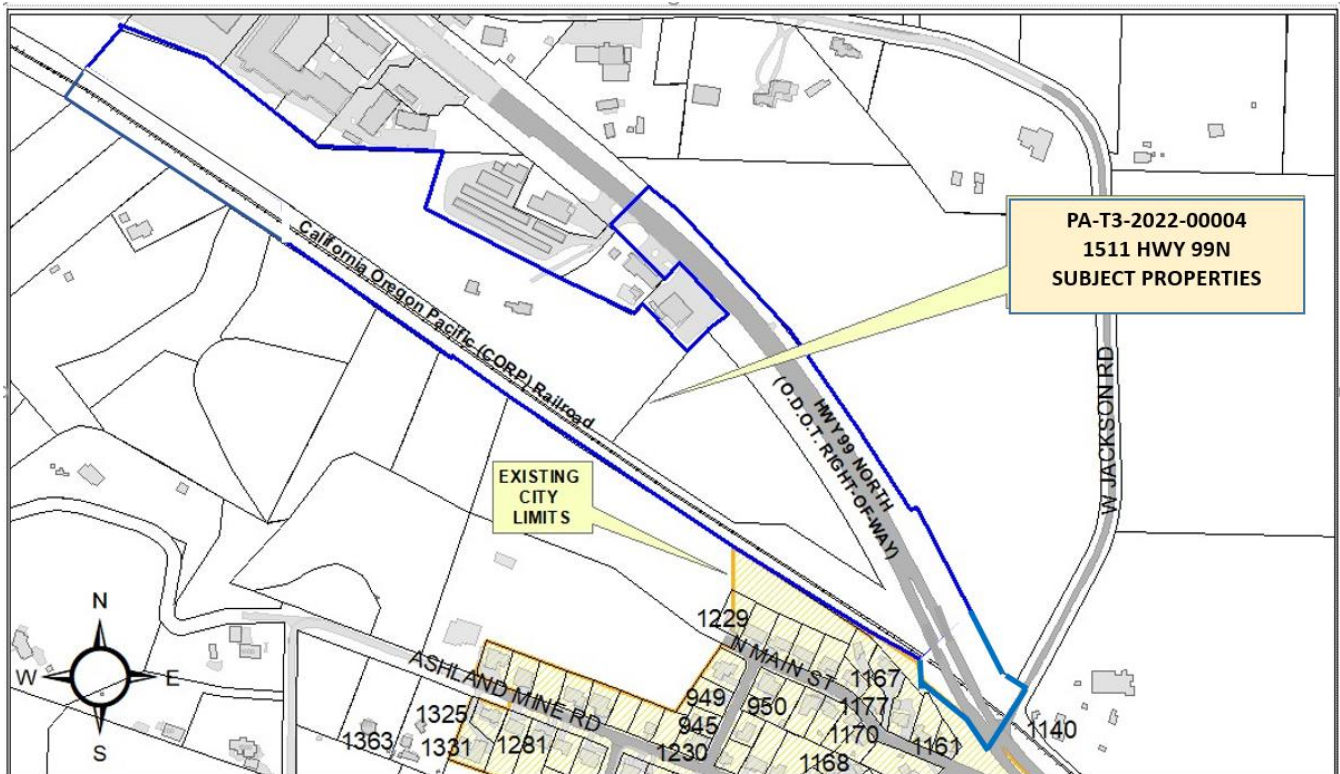
**PA-T3-2022-00004  
1511 Highway 99 North**



**NOTICE OF LIMITED PUBLIC HEARING**

**PLANNING ACTION:** PA-T3-2022-00004  
**SUBJECT PROPERTY:** 1511 Highway 99 North  
**APPLICANT/OWNER:** Casita Developments, LLC for owner Linda Zare  
**DESCRIPTION:** The City Council previously approved 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. These properties are located in Jackson County and zoned Rural Residential (RR-5); with Annexation they are to be brought into the City as Low Density, Multi-Family Residential (R-2). In addition to Annexation, the approved application included **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. *This approval was appealed to the Land Use Board of Appeals (LUBA) and has been remanded to the city to consider two issues: 1) That the city erred in approving an exception to the on-street parking requirement in AMC 18.3.9.060; and 2) That the affordable unit sizes as approved do not comply with AMC 18.5.8.050.G.3 which requires that affordable studios be a minimum of 350 square feet and that affordable one-bedroom units be a minimum of 500 square feet. This Planning Commission hearing will be strictly limited in scope to the consideration of these two issues on remand.*

**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



**PLANNING COMMISSION LIMITED PUBLIC HEARING**  
*Tuesday, August 8, 2023 at 7:00 p.m.*  
*at the Ashland Civic Center/City Council Chambers, 1175 East Main Street*

**PLANNING COMMISSION HEARING**

Notice is hereby given that the Ashland Planning Commission will hold a limited public hearing on the above described remand issues for PA-T3-2022-00004 on the meeting date and time shown above. The meeting will be held at the Ashland Civic Center/Ashland City Council Chambers at 1175 East Main Street in Ashland, Oregon. You can watch the meeting on local channel 9, on Charter Communications channels 180 & 181, or you can stream the meeting via the internet by going to [rvtv.sou.edu](http://rvtv.sou.edu) and selecting 'RVTV Prime.'

The ordinance criteria applicable to this planning action are attached to this notice. Oregon law states that failure to raise an objection concerning this application, or failure to provide sufficient specificity to afford the decision makers an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court. **This hearing will be limited to the two issues on remand as they relate to the applicable criteria.**

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

During the Public Hearing, the Planning Commission Chairperson will allow testimony from the applicant and those in attendance only concerning the two remand issues described above. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the two remand issues.

Those wishing to submit written comments can do so by sending an e-mail to [PC-public-testimony@ashland.or.us](mailto:PC-public-testimony@ashland.or.us) with the subject line "**August 8<sup>th</sup> PC Hearing Testimony**" by 10:00 a.m. on Monday, August 7, 2023. If the applicant wishes to provide a rebuttal to the testimony, they can submit the rebuttal via e-mail to [PC-public-testimony@ashland.or.us](mailto:PC-public-testimony@ashland.or.us) with the subject line "**August 8<sup>th</sup> PC Hearing Testimony**" by 10:00 a.m. on Tuesday, August 8, 2023. *Written testimony received by these deadlines will be available for Planning Commissioners to review before the hearing and will be included in the meeting minutes.*

Oral testimony will also be taken via Zoom during the in-person public hearing. If you wish to provide oral testimony via Zoom during the hearing, send an email to [PC-public-testimony@ashland.or.us](mailto:PC-public-testimony@ashland.or.us) by 10:00 a.m. on Monday, August 7, 2023. In order to provide testimony at the public hearing, please provide the following information: 1) make the subject line of the email "**August 8 Speaker Request**", 2) include your name, 3) the agenda item on which you wish to speak on, 4) specify if you will be participating by computer or telephone, and 5) the name you will use if participating by computer or the telephone number you will use if participating by telephone.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at 541-488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting. (28 CFR 35.102.-35.104 ADA Title I). If you have questions or comments concerning this request, please feel free to contact Planning Manager Derek Severson, the staff planner assigned to this application, at 541-552-2040 or e-mail: [derek.severson@ashland.or.us](mailto:derek.severson@ashland.or.us).

### **AMC 18.5.8.050 Annexation Approval Criteria & Standards**

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

- A. The annexed area is within the City's Urban Growth Boundary.
- B. The annexation proposal is consistent with the Comprehensive Plan plan designations applicable to the annexed area, including any applicable adopted neighborhood, master, or area plan, and is an allowed use within the proposed zoning.
- C. The annexed area is contiguous with the city limits.
- D. Adequate City facilities for the provision of water to the annexed area as determined by the Public Works Department; the transport of sewage from the annexed area to an approved waste water treatment facility as determined by the Public Works Department; the provision of electricity to the annexed area as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided from the annexed area. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities. All required public facility improvements shall be constructed and installed in accordance with 18.4.6.030.A.
- E. Adequate transportation can and will be provided to serve the annexed area. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.
  - 1. For vehicular transportation a minimum 22-foot wide paved access exists, or can and will be constructed, providing access to the annexed area from the nearest fully improved collector or arterial street. All streets bordering on the annexed area shall be improved, at a minimum, to an applicable City half-street standard. The approval authority may, after assessing the impact of the development, require the full improvement of streets bordering on the annexed area. All streets located within annexed areas shall be fully improved to City standards unless exception criteria apply. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.
  - 2. For bicycle transportation safe and accessible bicycle facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation) exist, or can and will be constructed. Should the annexed area border an arterial street, bike lanes shall be constructed along the arterial street frontage of the annexed area. Likely bicycle destinations within a quarter of a mile from the annexed area shall be determined and the approval authority may require the construction of bicycle lanes or multi-use paths connecting the annexed area to the likely bicycle destinations after assessing the impact of the development proposed concurrently with the annexation.
  - 3. For pedestrian transportation safe and accessible pedestrian facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation) exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side of all streets bordering on the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the annexed area is within a quarter of a mile of an existing sidewalk system or a location with demonstrated significant pedestrian activity, the approval authority may require sidewalks, walkways or multi-use paths to be constructed and connect to either or both the existing system and locations with significant pedestrian activity.
  - 4. For transit transportation, should transit service be available to the annexed area, or be likely to be extended to the annexed area in the future based on information from the local public transit provider, the approval authority may require construction of transit facilities, such as bus shelters and bus turn-out lanes.
  - 5. **Timing of Transportation Improvements.** All required transportation improvements shall be constructed and installed in accordance with 18.4.6.030.A.
- F. For all residential annexations, a plan shall be provided demonstrating that the development of the annexed area will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units are necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the annexed area shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing unbuildable lots, parcels, or portions of

the annexed area such as existing streets and associated rights-of-way, railroad facilities and property, wetlands, floodplain corridor lands, slopes greater than 35 percent, or land area dedicated as a public park, shall not be included.

- G.** Except as provided in 18.5.8.050.G.7, below, annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the following requirements.
1. The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein. The base density of the annexed area for the purpose of calculating the total number of affordable units in this section shall exclude any unbuildable lots, parcels, or portions of the annexed area such as existing streets and associated rights-of-way, railroad facilities and property, wetlands, floodplain corridor lands, water resource areas, slopes greater than 35 percent, or land area dedicated as a public park.
    - a. Ownership units restricted to households earning at or below 120 percent the area median income shall have an equivalency value of 0.75 unit.
    - b. Ownership units restricted to households earning at or below 100 percent the area median income shall have an equivalency value of 1.0 unit.
    - c. Ownership or rental units restricted to households earning at or below 80 percent the area median income shall have an equivalency value of 1.25 unit.
  2. As alternative to providing affordable units per section 18.5.8.050.G.1, above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC 501(3)(c) affordable housing developer or public corporation created under ORS 456.055 to 456.235.
    - a. The land to be transferred shall be located within the project meeting the standards set forth in sections 18.5.8.050.G.5 and 18.5.8.050.G.6.
    - b. All needed public facilities shall be extended to the area or areas proposed for transfer.
    - c. Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235.
    - d. The land to be transferred shall be deed restricted to comply with Ashland’s affordable housing program requirements.
    - e. Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in 18.5.8.050.G.4.
  3. The affordable units shall be comparable in bedroom mix with the market rate units in the development.
    - a. The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor area based as set forth in Table 18.5.8.050.G.3, or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.

<b>Unit Type</b>	<b>Minimum Required Unit Floor Area (Square Feet)</b>
Studio	350
1 Bedroom	500
2 Bedroom	800
3 Bedroom	1,000
4 Bedroom	1,250

4. A development schedule shall be provided that demonstrates that that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows.
  - a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.
  - b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.
5. That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.
  - a. The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units
  - b. Affordable units may differ from market-rate units with regard to floor area, interior finishes and materials, and housing type provided that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.
6. Exceptions to the requirements of 18.5.8.050, subsections G.2 – G.5, above, may be approved by the City Council upon consideration of one or more of the following.
  - a. That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, then would development meeting the on-site dedication requirement of subsection 18.5.8.050.G.2.
  - b. That the alternative phasing proposal not meeting subsection 18.5.8.050.G.4 provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion.
  - c. That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per subsection 18.5.8.050.G.5, are necessary due to local, State, or Federal Affordable Housing standards or financing limitations.
7. The total number of affordable units described in this section 18.5.8.050.G shall be determined by rounding up fractional answers to the nearest whole unit. A deed restriction or similar legal instrument shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years for units qualified as affordable rental housing, or 30 years for units qualified as affordable for-purchase housing.

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

1. The annexation proposal shall meet the requirements of subsection 18.5.8.080.B, above.
2. A current or probable danger to public health exists within the proposed area for annexation due to lack of full City sanitary sewer or water services in accordance with the criteria in ORS Chapter 222 or successor state statute.
3. Existing development in the proposed area for annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.
4. The proposed area for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.
5. The proposed area for annexation is an island surrounded by lands within the city limits.

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

### **AMC 18.3.9.040.A Performance Standards Options Subdivision/Outline Plan Approval Criteria & Standards**

3. **Approval Criteria for Outline Plan.** *The Planning Commission shall approve the outline plan when it finds all of the following criteria have been met:*
- a. *The development meets all applicable ordinance requirements of the City.*
  - b. *Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
  - c. *The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the common open space, common areas, and unbuildable areas.*
  - d. *The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
  - e. *There are adequate provisions for the maintenance of common open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*
  - f. *The proposed density meets the base and bonus density standards established under this chapter.*
  - g. *The development complies with the street standards.*
  - h. *The proposed development meets the common open space standards established under section [18.4.4.070](#). Common open space requirements may be satisfied by public open space in accordance with section [18.4.4.070](#) if approved by the City of Ashland.*
4. **Approval of the Outline Plan.**
- a. *After the City approves an outline plan and adopts any zone change necessary for the development, the developer may then file a final plan in phases or in its entirety.*
  - b. *If an outline plan is phased, 50 percent of the value of the common open space shall be provided in the first phase and all common open space shall be provided when two-thirds of the units are finished.*

### **AMC 18.5.2.050 Site Design Review Approval Criteria & Standards**

*An application for Site Design Review shall be approved if the proposal meets the criteria in subsections A, B, C, and D below. The approval authority may, in approving the application, impose conditions of approval, consistent with the applicable criteria.*

- A. Underlying Zone.** *The proposal complies with all of the applicable provisions of the underlying zone (part [18.2](#)), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.*
- B. Overlay Zones.** *The proposal complies with applicable overlay zone requirements (part [18.3](#)).*
- C. Site Development and Design Standards.** *The proposal complies with the applicable Site Development and Design Standards of part [18.4](#), except as provided by subsection E, below.*
- D. City Facilities.** *The proposal complies with the applicable standards in section 18.4.6 Public Facilities, and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property, and adequate transportation can and will be provided to the subject property.*
- E. Exception to the Site Development and Design Standards.** *The approval authority may approve exceptions to the Site Development and Design Standards of part [18.4](#) if the circumstances in either subsection 1, 2, or 3, below, are found to exist.*



1. *There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty;*
2. *There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards; or*
3. *There is no demonstrable difficulty in meeting the specific requirements for a cottage housing development, but granting the exception will result in a design that equally or better achieves the stated purpose of section [18.2.3.090](#). (Ord. 3147 § 9, amended, 11/21/2017)*

#### **AMC 18.4.6.020.B Exception to the Street Design Standards Approval Criteria & Standards**

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1. **Exception to the Street Design Standards.** *The approval authority may approve exceptions to the standards section in [18.4.6.040](#) Street Design Standards if all of the following circumstances are found to exist.*
  - a. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
  - b. *The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*
    - i. *For transit facilities and related improvements, access, wait time, and ride experience.*
    - ii. *For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
    - iii. *For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.*
  - c. *The exception is the minimum necessary to alleviate the difficulty.*
  - d. *The exception is consistent with the Purpose and Intent of the Street Standards in subsection [18.4.6.040.A](#).*

#### **AMC 18.5.7.040.B Tree Removal Permit Approval Criteria & Standards**

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1. **Hazard Tree.** *A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*
  - a. *The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part [18.6](#).*
  - b. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section [18.5.7.050](#). Such mitigation requirements shall be a condition of approval of the permit.*
2. **Tree That is Not a Hazard.** *A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*
  - a. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part [18.4](#) and Physical and Environmental Constraints in part 18.3.10.*
  - b. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.*

- c. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.*
- d. *Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.*
- e. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*

# Memo

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**DATE:** August 8, 2023  
**TO:** Planning Commissioners  
**FROM:** Derek Severson, Planning Manager  
**RE:** Land Use Board of Appeals (LUBA) Remand of PA-T3-2022-00004  
1511 Highway 99 North "Grand Terrace" Annexation Approval

## **Background**

In December of 2022, the City Council approved the Annexation of 16.86 acres located at 1511 Highway 99 North into the City of Ashland, along with 6.6 acres of adjacent Oregon Department of Transportation (ODOT) state highway right-of-way and 7.68 acres of California Oregon & Pacific (CORP) railroad property. These properties are currently zoned Rural Residential (RR-5) in Jackson County; with Annexation they are to be brought into the City as Low Density, Multi-Family Residential (R-2). In addition to Annexation, the approved application included Outline Plan subdivision approval to create 12 lots; Site Design Review to construct 230 apartments in ten buildings including 38 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. The record for this application can be reviewed on-line at: <https://www.ashland.or.us/grandterrace>.

The City's approval of the project was subsequently appealed to the Land Use Board of Appeals (LUBA) and has been remanded to the City to consider two issues:

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

## **COMMUNITY DEVELOPMENT DEPARTMENT**

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**350 square feet and that affordable one-bedroom units be a minimum of 500 square feet.**

To consider these two remand issues, staff has scheduled this limited public hearing before the Planning Commission. The notices mailed to parties made clear that the substance of the hearing would be strictly limited in scope to the consideration of only these two issues on remand from LUBA.

**Remand Issue #1: On-Street Parking Exception**

The originally approved application included a request for Outline Plan subdivision approval under the Performance Standards Options (Chapter 18.3.9) to create 10 buildable lots and two common open space properties. During the public hearing process, the Planning Commission noted that AMC 18.3.9.060 dealing with Parking Standards for subdivisions proposed under AMC 18.3.9 required that:

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

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

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

While no Variance or Exception to this standard had been requested as part of the original application, the Planning Commission determined that AMC 18.3.9.060 was applicable, that

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an Exception to the Street Design Standards was the appropriate procedure if on-street parking would not be provided, and that such an Exception was merited.

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

- Oregon Administrative Rule (OAR) 660-012-0430(2) states that *“Cities and counties may not require more than one **parking space** per unit in residential developments with more than one dwelling unit on a single legally established property.”* **Parking spaces** are defined in OAR 660-012-00005(29) as meaning *“... on and off-street spaces designated for automobile parking, other than parking spaces reserved for carpools, vanpools, or parking under the Americans with Disabilities Act.”*
- OAR 660-012-430(3) states that, *“Cities and counties may not require parking for the following development types.... (d) Residential units smaller than 750 square feet; (e) Affordable housing as defined in OAR 660-039-0010;”* All of the residential units proposed in the application under consideration are smaller than 750 square feet, and under the new CFEC rules the city may not require parking for this development type.
- OAR 660-012-440(3) states that *“Cities and counties may not enforce **parking mandates** for development on a lot or parcel that includes land within one-half mile of frequent transit corridors, including... corridors with the most frequent transit route or routes in the community if the scheduled frequency is at least once per hour during peak service.”* In OAR 660-012-00005(27), **parking mandates** are defined as *“requirements to include a minimum number of off-street parking spaces with development or redevelopment, or a fee-in-lieu of providing parking for residential development.”* In this instance, the Rogue Valley Transit District’s (RVTDs) Route 10 runs on Highway 99 North, which fronts directly on the subject properties here, with a peak hour scheduled frequency of every 20 minutes, and as such qualifies as frequent transit. Under the new CFEC rules, Ashland may not enforce parking mandates (i.e., require off-street parking) for the subject properties.

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

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

In staff’s view, the Planning Commission and Council have the discretion to assess the current request based on the new CFEC rules, which remove the requirement for parking since all proposed residential units are smaller than 750 square feet. The fact that the CFEC parking regulations have been in effect for eight months, along with the LUBA remand for further review leading to the final decision of the City to occur after the new regulations were implemented, supports the consideration of the application under the current State law specified in OAR 660-012-0430 and 0440. Additionally, the applicant will need to submit a second development application, Final Plan review, during which the city will be unable to enforce parking requirements under the new Climate Friendly and Equitable Communities rules. Therefore, the staff recommends evaluating the current request under the new CFEC rules without requiring parking, considering the nature of the proposed residential units.

DLCD’s implementation guidance to cities notes that the parking rule changes seek to help *“meet Oregon’s climate pollution reduction targets, while providing more housing and transportation choices and improving equity.”* In staff’s view, applying the new parking rules to a project that combines small market rate units with deed-restricted affordable housing, situated on a transit route and providing substantial improvements to support transit and pedestrian travel is exactly what the Climate Friendly and Equitable Communities rules seek

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to enable, and requiring an applicant to withdraw and reapply with an identical proposal now in order to be subject to the new rules, when their application is still in process eight months after the new rules have taken effect, would pose an unreasonable impediment which would discourage the production of needed housing during a housing crisis.

In staff's view, the Planning Commission should advise the City Council to determine that the CFEC parking rules are appropriate here, to not require either on- or off-street parking, and to amend the findings for the original approval accordingly.

### **Remand Issue #2: Affordable Unit Sizes**

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

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

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

**Condition #10g.** If the applicant opts to dedicate land area to a non-profit affordable housing developer, dedication shall occur in a manner consistent with AMC 18.5.8.050.G.2 and recording of deed restrictions guaranteed affordability described herein shall occur in conjunction with plat signature and recording.

### **COMMUNITY DEVELOPMENT DEPARTMENT**

51 Winburn Way  
Ashland, Oregon 97520  
[ashland.or.us](http://ashland.or.us)

Tel: 541.488.5305  
Fax: 541.552.2050  
TTY: 800.735.2900





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

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

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

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

Here, staff would also note that the affordability requirement for this project calls for 38 affordable units to be provided. Each building proposed has 20 one-bedroom units, and assuming that two buildings will be developed by an affordable housing provider partner or the applicant themselves, the 38 required affordable units could be accommodated entirely with one-bedroom units, leaving one one-bedroom unit and three studios in each of the two buildings to be rented at market rate or provided as voluntarily affordable (*i.e. not deed-restricted and not subject to the square footage requirements of AMC 18.5.8.050.G.3.*)

Staff believe that the second remand issue can be fully addressed by increasing the size of the one-bedroom units by a *de minimis* amount to comply with AMC 18.5.8.050.G.3 and making clear that as configured in the original proposal the studio units need not be considered among the required affordable units. If this approach is satisfactory to the Planning Commission and City Council, staff would recommend that Condition #7e be modified as follows:

**Condition #7e.** A deed restriction agreement that development of the property shall comply with the affordability requirements for annexations in AMC 18.5.8.050.G including that: **1)** where the required number of affordable units is fractional it shall be rounded up, **2)** **and** that should the applicant opt to

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dedicate land area to an affordable housing provider, it will require that the dedication comply with the requirements of AMC 18.5.8.050.G.2 and dedicate sufficient land area to accommodate 47 ownership units affordable at 100 percent AMI, **and 3) that each of the required affordable units comply with the minimum affordable units size requirements of AMC 18.5.8.050.G.3, with one bedroom affordable units being a minimum of 500 square feet, and affordable studio units being a minimum of 350 square feet.**

If the Planning Commission accepts the approaches outlined above for both of the remand issues, staff will draft findings and bring them back to the September meeting for adoption.

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## REQUEST TO PROCEED WITH APPLICATION ON LUBA REMAND

Robert Kendrick <bobk213@icloud.com>

Fri 2023-06-30 04:09 PM

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

Cc: Derek Severson <derek.severson@ashland.or.us>; Doug McGeary <doug.mcgeary@ashland.or.us>; Chris Hern <chearn@davishearn.com>; Amy Gunter <amygunter.planning@gmail.com>; Robert J Kendrick <bobk213@icloud.com>

[EXTERNAL SENDER]

Brandon Goldman  
Director of Community Development  
City of Ashland Community Development

June 30, 2023

Re: LUBA Decision Rogue Advocates vs City of Ashland  
LUBA Case No. 2023-007  
REMANDED 05/09/2023

Following up on LUBA's remand in case number 2023-007, this email is the applicant's request pursuant to ORS 227.181 for the city to proceed with the application on remand.

Please advise us as to the next steps.

Thank You  
Robert Kendrick  
Casita Developments LLC



July 18, 2023

## **REQUEST FOR REVIEW OF LUBA No. 2023-007 REMAND**

On behalf of the Property Owner, Casita Development LLC, please accept this request for review and public hearing of the Remand of a Land Use Board of Appeals Decision LUBA No. 2023-007, Final Opinion and Order, published on May 09, 2023.

It can be found that the information herein, the original application materials and supplemental record of PA-T3-2022-0004, the conditions of approval, and the record demonstrates compliance with the City of Ashland standards subject to remand.

Summary of Assignments of Error Subject to Remand:

### **FIRST ASSIGNMENT OF ERROR**

#### **B . Second Subassignment of Error**

AMC 18.3.0.060(A) provides:

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 development in an R-1 zone, with the exception of cottage housing developments, and for all developments in the R-2 and R-3 zones that create or improve public streets.

LUBA found in part that, the city council did not conclude that Casita's application satisfies AMC 18.3.9.060(A) at all, let alone by AMC 18.3.9.060(B). Record 69 (expressly concluding that Casita's application does not satisfy AMC 18.3.9.060). Rather, the city council approved an exception to the on-street parking requirement. Because this alternative basis is not presented in the city council's findings and appears for the first time in the respondent's brief, we will not consider it. The city may choose, on remand, to consider whether its decision could be justified on that basis. *Anderson v. Coos County*, 51 Or LUBA 454,472 (2006) (LUBA will remand a decision where an alternative theory for affirming the decision does not appear in the challenged findings). (LUBA Final Opinion and Order Pg. 10; Lines 16 – 24; Pg. 11; Lines 1 and 2).

Based on this finding, the second sub-assignment of error was sustained. The first assignment of error is sustained, in part.



**RESPONSE:**

Recent legislative amendments to the Oregon Administrative Rules (OAR) and Oregon Revised Statutes (ORS) which direct cities and counties on Comprehensive Plan and Land Use Ordinance compliance with state law and legislative rulemaking adopted, Climate Friendly and Equitable Communities (CFEC) Rules that have direct consequences on the city's ability to require both on-site and off-site parking. The adopted OAR mandated that larger cities such as Ashland remove parking mandates.

As of January 1, 2023, consistent with OAR 660-012-400, Parking Management, that required that cities removed their parking mandates, Ashland no longer requires on-site parking from AMC 18.4.3.040, for dwelling units that are less than 750 square feet in area (OAR 660-012-0430(3d), for qualified affordable housing (OAR 660-12-0430)(3e) on properties that are within 1/2 mile of frequent transit corridors (OAR 660-012-440(3)). OR HWY 99 is a frequent transit corridor with Rogue Valley Transit District (RVTD) Route 10 and a transit stop for the southbound bus is proposed on the property frontage. RVTD Route 10 qualifies as Ashland's most frequent transit route per OAR 660-012-0440(3c). See attached emails from Ashland Planning Department.

Following State approval of amendments to OAR 660-012-400 through OAR 660-012-0450, a map depicting the areas of town where the parking mandates are no longer enforced as of January 1, 2023 was presented to Ashland Planning Commission at a regularly noticed public meeting on August 9<sup>th</sup>, 2022. This map is included as an exhibit.

Where parking areas are provided, the construction of the parking area must comply with the CFEC standards, Oregon Building Code Standards for access to EV charging (OAR 660-012-0410), and city of Ashland Standards for landscaping, stormwater management, accessibility, and the city's parking area development standards.

This addresses the remand of the First Assignment of Error, Second Sub assignment of Error (LUBA Final Opinion and Order. Pages 9-11 and Page 12 Lines 1-4).

**B. Fourth Assignment of Error**

**Second Sub Assignment of Error** - The City's decision is inconsistent with AMC 18.5.8.050.G3. AMC 18.5.8.05.G.3 requires that the minimum square footage of each affordable unit shall comply with the minimum required floor area based as outlined in Table 18.5.8.050.G.c, The application materials propose units that are 499 square feet (one-bedroom units) and 250 square feet (studio units). This issue was remanded for clarification.

**RESPONSE:**

The attached floor plan graphic demonstrates how with a minor adjustment to the floor area, any designated affordable one-bedroom units are enlarged to 500 square feet in gross habitable



floor area. Any designated affordable studio units will be enlarged to no less than 350 square feet. This is in conformance with the city of Ashland Condition of Approval #7e which states.

*“A deed restriction agreement that development of the property shall comply with the affordability requirements for annexations in AMC 18.5.8.050.G including that where the required number of affordable units is fractional it shall be rounded up, and that should the applicant opt to dedicate land area to an affordable housing provider, it will require that the dedication comply with the requirements of AMC 18.5.8.050.G.2 and dedicate sufficient land area to accommodate 47 ownership units affordable at 100 percent AMI.”*

These square footages are consistent with the Housing and Urban Development (HUD) unit size standards as found in Table 18.5.8.050(G)(3).

Therefore, it can be found that the information provided herein demonstrates that the city of Ashland can take further action to comply with Oregon amend their decision to comply with the Oregon Climate Friendly and Equitable Communities rule changes effective January 1, 2023 in lieu of applying parking mandates under AMC 18.4.3.040 and as directed in the LUBA Final Opinion and Order to Remand PA-T3-2022-0004.

Thank you,

Amy Gunter  
Rogue Planning & Development Services, LLC

Attachments:

LUBA Final Opinion and Order  
Unit Schematics  
Floor Plans (First Floor and Basement)  
CFEC Parking Handout Rapid Transit Map  
Ashland Planning Division Staff email

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

ROGUE ADVOCATES,  
*Petitioner,*

vs.

CITY OF ASHLAND,  
*Respondent.*

LUBA No. 2023-007

FINAL OPINION  
AND ORDER

Appeal from City of Ashland.

Sean Malone filed the petition for review and reply brief and argued on behalf of petitioner.

Douglas M. McGeary, Acting City Attorney, filed the respondent's brief and argued on behalf of respondent.

RYAN, Board Member; RUDD, Board Chair; ZAMUDIO, Board Member, participated in the decision.

REMANDED 05/09/2023

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

1 Opinion by Ryan.

2 **NATURE OF THE DECISION**

3 Petitioner appeals a city council decision approving (1) the annexation of  
4 two parcels totaling 16.86 acres, a railroad track corridor totaling 7.68 acres, and  
5 highway right-of-way totaling 6.6 acres; (2) an exception to the city’s street  
6 design standards; (3) an outline plan for a subdivision creating 12 lots; (4) a site  
7 design for 230 apartments in 10 buildings; and (5) tree removal permits.

8 **FACTS**

9 This is the second time that the city has approved the challenged  
10 annexation. *Rogue Advocates v. City of Ashland*, \_\_\_ Or LUBA \_\_\_ (LUBA No  
11 2021-009, May 12, 2021) (*Casita I*). We restate the description of the property  
12 from our decision in *Casita I*:

13 “[Casita Developments (Casita)] own[s] two parcels (the property)  
14 totaling 16.8[6] acres that are located outside the city limits but  
15 within the city’s adopted urban growth boundary (UGB). The  
16 property is zoned Rural Residential 5-acre minimum (RR-5) by  
17 Jackson County and contains an existing dwelling. The property  
18 slopes from the southeast to the northwest, with slopes generally  
19 between 10 and 15 percent. The portion of the property west of the  
20 existing residence contains steep slopes in excess of 35 percent.

21 “The property is arrow-shaped, with the arrow ‘tip’ at the  
22 southeastern end of the property:

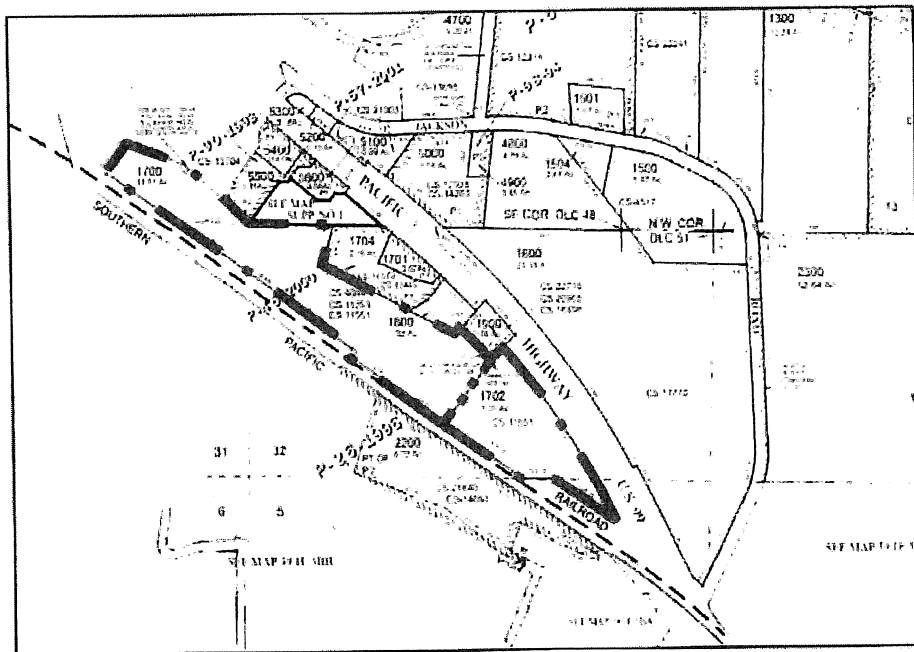


Figure 1: Assessor's Map

1

2 “The property is bounded on the west by Central Oregon and Pacific  
 3 Railroad (COPR) tracks, which separate the property from the  
 4 existing city boundary; on the south by the junction of the railroad  
 5 tracks and Highway 99 North; on the east by Highway 99 North and  
 6 commercial development adjacent to Highway 99 North; and on the  
 7 north by commercial development on lands that are within the  
 8 county’s jurisdiction and within the city’s UGB. Highway 99 North  
 9 is owned and managed by the Oregon Department of Transportation  
 10 (ODOT).” \_\_\_ Or LUBA at \_\_\_ (citation omitted) (slip op at 3-4).

11 In *Casita I*, we explained that Casita applied to the city to annex its property, and  
 12 city staff subsequently included both the adjacent railroad tracks and the portion  
 13 of Highway 99 North adjacent to Casita’s property in the annexation proposal. In  
 14 *Casita I*, we sustained the first assignment of error, and reversed the city’s  
 15 decision. *Id.* at \_\_\_ (slip op at 12-19).



1           In December 2021, in response to our decision in *Casita I*, the city council  
2 amended the Ashland Municipal Code (AMC) to require that annexation  
3 applications be accompanied by planning applications for the annexation area,  
4 and to expressly allow the city to approve an annexation application with an  
5 exception to the city’s street design standards. In July 2022, Casita again applied  
6 to the city to annex the property (and the adjacent railroad corridor and highway  
7 right-of-way) and zone it Residential – Low Density Multiple Family (R-2).  
8 Casita’s application proposed sidewalk improvements along the property’s  
9 frontage on Highway 99 North and beyond the property’s frontage to connect to  
10 existing sidewalks north and south. In addition, the application proposed a new  
11 bus shelter, bus pull-out lane, and rectangular rapid flashing beacon (RRFB)  
12 crosswalk. Because only a portion of the proposed sidewalk improvements would  
13 have met the city’s street design standards, the application requested an exception  
14 to those standards pursuant to AMC 18.4.6.020(B).<sup>1</sup> The application also

---

<sup>1</sup> The city council’s decision explains:

“There are some areas where Exceptions to the Street Standards are requested due to topographical difficulties, utility encroachments, and physical encumbrances in the form of the railroad trestle, a drainage ditch, private driveway approaches and other private property encroachments. The proposal seeks Exceptions to the Street Design Standards for the sidewalk and bike lane under the overpass of the railroad trestle where a shared sidewalk will be installed, and where city standard sidewalks are not possible due to physical constraints, ODOT-compliant frontage improvements are proposed. In addition, on-street parking is not proposed.” Record 18.

1 requested approval of an outline plan to subdivide the property into 12 lots, a site  
2 design for 230 apartments in 10 buildings, and tree removal permits.

3 The planning commission held hearings on the application and, at the  
4 conclusion, voted to recommend approval to the city council. The city council  
5 held a hearing and voted to approve the application. This appeal followed.

6 **FIRST ASSIGNMENT OF ERROR**

7 Casita sought to subdivide the property under the “performance standards  
8 option” in AMC chapter 18.3.9. “The purpose of [AMC chapter 18.3.9] is to  
9 allow an option for more flexible design than is permissible under the  
10 conventional zoning codes.” AMC 18.3.9.010. Casita’s application requested  
11 approval of an outline plan to subdivide the property.<sup>2</sup>

12 In the first assignment of error, petitioner argues that the city council  
13 improperly construed the outline plan approval criteria. ORS 197.835(9)(a)(D).

14 **A. First Subassignment of Error**

15 AMC 18.3.9.040(A)(3) provides, in part:

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

19 “\* \* \* \* \*

---

<sup>2</sup> There are two required steps under the performance standards option: outline plan approval and final plan approval.

1           “g. The development complies with the street standards.”  
2                           (Underscoring in original.)

3 The city council adopted the planning commission’s findings by reference.

4 Record 31. The planning commission found:

5           “[Casita is] requesting Exceptions to the Street Design Standards to  
6           install some portions of the proposed sidewalks at curbside, without  
7           a city-standard parkrow planting strip between the curb and  
8           sidewalk, and to not install on-street parking along the highway.  
9           These Exceptions are discussed in Section E below. The Planning  
10          Commission finds that other than those areas where these  
11          Exceptions have been requested, the street improvements proposed  
12          are to be consistent with the applicable street design standards.”  
13          Record 59.

14          In the first subassignment of error, petitioner argues that the city council  
15          improperly construed AMC 18.3.9.040(A)(3)(g) in concluding that it could  
16          approve an exception to the requirement that an outline plan comply with the  
17          “street standards.” Petitioner argues that while AMC 18.4.6.020(B)(1) authorizes  
18          “exceptions to the street design standards in section 18.4.6.040,” neither that  
19          provision nor any provision in AMC chapter 18.3.9 authorizes exceptions to the  
20          “street standards” referenced in AMC 18.3.9.040(A)(3)(g). Petitioner argues that  
21          the city may therefore not approve an exception to those “street standards” in  
22          approving an outline plan.

23          The city responds that the “street standards” referenced in AMC  
24          18.3.9.040(A)(3)(g) are the street design standards in AMC 18.4.6.040. The city  
25          argues that applications for approval of an outline plan under the city’s  
26          performance standards option require a Type II review procedure and public

1 facility improvements. We understand the city to argue that such applications are  
2 “planning actions requiring a Type I, Type II, or Type III review procedure” for  
3 purposes of AMC 18.4.6.020(A), and that the city may therefore approve  
4 exceptions to the referenced “street standards” pursuant to AMC 18.4.6.020(B).<sup>3</sup>

5 Under ORS 197.829(1), as construed in *Siporen v. City of Medford*, 349  
6 Or 247, 259, 243 P3d 776 (2010), LUBA must defer to a local governing body’s  
7 interpretation of its comprehensive plan and land use regulations unless the local  
8 government’s interpretation is inconsistent with the express language, purpose,  
9 or underlying policy of the comprehensive plan or land use regulation. *Crowley*  
10 *v. City of Hood River*, 294 Or App 240, 244, 430 P3d 1113 (2018). In *Crowley*,  
11 an appeal that involved the city council’s interpretation of the city’s  
12 comprehensive plan, the Court of Appeals explained:

13 “Whether the city’s interpretation of its comprehensive plan is  
14 inconsistent with the plan, or the purposes or policies underlying  
15 that plan, depends on whether the interpretation is plausible, given  
16 the interpretive principles that ordinarily apply to the construction  
17 of ordinances under the rules of *PGE v. Bureau of Labor and*  
18 *Industries*, 317 Or 606, 610-12, 859 P2d 1143 (1993), as modified

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<sup>3</sup> AMC 18.4.6.020(A) provides:

“**Applicability.** This chapter applies to all new development *and planning actions requiring a Type I, Type II, or Type III review procedure* where public facility improvements are required. All public facility improvements within the City shall occur in accordance with the standards and procedures of this chapter.” (Emphasis added.)

1 by *State v. Gaines*, 346 Or 160, 171-72, 206 P3d 1042 (2009).” *Id.*  
2 (quoting *Friends of the Hood River Waterfront v. City of Hood*  
3 *River*, 263 Or App 80, 88-89, 326 P3d 1229 (2014)) (internal  
4 quotation marks and brackets omitted).

5 The standard of review under ORS 197.829(1) and *Siporen* is “highly deferential”  
6 to the city, and the “existence of a stronger or more logical interpretation does  
7 not render a weaker or less logical interpretation ‘implausible.’” *Mark Latham*  
8 *Excavation, Inc. v. Deschutes County*, 250 Or App 543, 555, 281 P3d 644 (2012)  
9 (citing *Siegert v. Crook County*, 246 Or App 500, 509, 266 P3d 170 (2011)). Our  
10 task in this appeal, as it was in *Casita I*, is to determine whether the city council’s  
11 interpretation of the relevant provisions of the AMC plausibly accounts for the  
12 text and context of those provisions.

13 We conclude that an implied interpretation of the interrelationship between  
14 AMC 18.3.9.040(A)(3)(g) and AMC 18.4.6.020 can be understood from the  
15 findings in support of the decision and is adequate for review. *Alliance for*  
16 *Responsible Land Use v. Deschutes Cty.*, 149 Or App 259, 266-67, 942 P2d 836  
17 (1997), *rev dismissed as improvidently allowed*, 327 Or 555 (1998). As seen in  
18 the findings quoted above, the planning commission and then the city council  
19 interpreted the “street standards” in AMC 18.3.9.040(A)(3)(g) to be the street  
20 design standards in AMC 18.4.6.040 and that it interpreted the exception  
21 standards at AMC 18.4.6.020(B) as being applicable to applications for approval  
22 of an outline plan under the city’s performance standards option. Petitioner has  
23 not established that that interpretation is implausible.

24 The first subassignment of error is denied.

1           **B.     Second Subassignment of Error**

2           AMC 18.3.9.060(A) provides:

3           **“On-Street Parking Required.** At least one on-street parking space  
4           per dwelling unit shall be provided, in addition to the off-street  
5           parking requirements for all developments in an R-1 zone, with the  
6           exception of cottage housing developments, and for all  
7           developments in R-2 and R-3 zones that create or improve public  
8           streets.” (Boldface in original.)

9           The city council applied the exception standards at AMC 18.4.6.020(B) and  
10          found that “the approval criteria for an Exception to the Street Design Standards  
11          to not provide on-street parking with the limited street improvements proposed  
12          have been satisfied.” Record 70.

13          In the second subassignment of error, petitioner argues that the city council  
14          improperly construed AMC 18.3.9.060(A) in concluding that it could approve an  
15          exception to the requirement that an outline plan provide on-street parking. While  
16          AMC 18.4.6.020(B) authorizes “exceptions to the street design standards in  
17          section 18.4.6.040,” petitioner observes that neither that provision nor any  
18          provision in AMC chapter 18.3.9 authorizes exceptions to the requirement for  
19          on-street parking in AMC 18.3.9.060(A). Petitioner argues that the city may  
20          therefore not approve an exception to that requirement in approving an outline  
21          plan.

22          The city does not dispute that the city council erred in approving an  
23          exception to the requirement for on-street parking in AMC 18.3.9.060(A).  
24          Instead, in the respondent’s brief the city argues that “under Oregon’s Equitable

1 Communities and Climate Friendly Act of 2023, as of January 1, 2023, cities  
2 within Oregon’s [eight] Metropolitan Planning Organizations (MPOs), including  
3 the City of Ashland, can no longer require more tha[n] one parking space per  
4 multi-family unit.” Respondent’s Brief 10. The city argues that because Casita’s  
5 application proposes one off-street parking space per unit, the referenced  
6 legislation prevents it from requiring on-street parking as well. We understand  
7 the city to argue that the issue of whether the city council improperly construed  
8 AMC 18.3.9.060(A) is moot because the city is precluded from applying that  
9 provision by virtue of the described legislation.

10 Petitioner replies that, because the described legislation took effect on  
11 January 1, 2023, and the challenged decision was made on December 20, 2022,  
12 the legislation does not apply to Casita’s application. Neither the city nor  
13 petitioner provides us with a citation to or a reference to the text of “Oregon’s  
14 Equitable Communities and Climate Friendly Act of 2023.” However, we  
15 assume, as the parties appear to agree in their briefs, that the legislation exists  
16 and that it did not take effect before January 2023. Because the challenged  
17 decision was made in December 2022, we agree with petitioner the legislation  
18 does not apply to Casita’s application. The city may or may not be correct that  
19 the legislation prevents it from requiring more than one parking space per multi-  
20 family unit and that, on remand, it will be unable to apply the requirement for on-  
21 street parking in AMC 18.3.9.060(A). However, the city does not develop that  
22 argument sufficiently for our review in the respondent’s brief. We will therefore

1 not conclude that the issue of whether the city council improperly construed  
2 AMC 18.3.9.060(A) is moot.

3 AMC 18.3.9.060(B) provides:

4 **“On-Street Parking Standards.** On-street parking spaces shall be  
5 immediately adjacent to the public right-of-way on publicly or  
6 association-owned land and be directly accessible from public right-  
7 of-way streets. On-street parking spaces shall be located within 200  
8 feet of the dwelling that it is intended to serve. In addition, on-street  
9 public parking may be provided pursuant to minimum criteria  
10 established under subsection 18.4.3.060.A.” (Boldface in original.)

11 The city asserts that the on-street parking spaces proposed in Casita’s application  
12 will be on association-owned land. We understand the city to argue that, even if  
13 the issue is not moot, Casita’s application satisfies AMC 18.3.9.060(A) because  
14 AMC 18.3.9.060(B) allows the required on-street parking spaces to be located on  
15 association-owned land.

16 The problem with that argument is that the city council did not conclude  
17 that Casita’s application satisfies AMC 18.3.9.060(A) at all, let alone by virtue  
18 of AMC 18.3.9.060(B). Record 69 (expressly concluding that Casita’s  
19 application does not satisfy AMC 18.3.9.060). Rather, the city council approved  
20 an exception to the on-street parking requirement. Because this alternative basis  
21 is not presented in the city council’s findings and appears for the first time in the  
22 respondent’s brief, we will not consider it. The city may choose, on remand, to  
23 consider whether its decision could be justified on that basis. *Anderson v. Coos*  
24 *County*, 51 Or LUBA 454, 472 (2006) (LUBA will remand a decision where an



1 alternative theory for affirming the decision does not appear in the challenged  
2 findings).

3 The second subassignment of error is sustained.

4 The first assignment of error is sustained, in part.

5 **SECOND ASSIGNMENT OF ERROR**

6 Petitioner's second assignment of error generally relates to the  
7 improvements that the application proposes along and beyond the property's  
8 frontage on Highway 99 North.

9 **A. First Subassignment of Error**

10 In the first subassignment of error, petitioner makes a variety of arguments  
11 that the city's findings are inadequate and unsupported by substantial evidence.  
12 Because the parties agree that the challenged decision is legislative, we assume  
13 for purposes of this opinion only that the decision is a legislative decision.<sup>4</sup> There  
14 is no generally applicable requirement that legislative land use decisions be  
15 supported by findings. However, the decision and record must be sufficient to  
16 demonstrate that applicable criteria were applied and "required considerations  
17 were indeed considered." *Citizens Against Irresponsible Growth v. Metro*, 179  
18 Or App 12, 16 n 6, 38 P3d 956 (2002). In addition, Statewide Planning Goal 2

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<sup>4</sup> AMC 18.5.8.030 provides that all annexations must be processed under the city's Type III procedure, which applies to legislative decisions. The record demonstrates that the city processed the application according to that procedure. Record 579 (staff report explaining that the 120-day rule for quasi-judicial actions at ORS 227.178 did not apply to the application).

1 (Land Use Planning) requires that a legislative land use decision be supported by  
2 “an adequate factual base,” which is an evidentiary standard that is equivalent to  
3 the requirement that a quasi-judicial decision be supported by substantial  
4 evidence in the whole record. *1000 Friends of Oregon v. City of North Plains*, 27  
5 Or LUBA 372, 378, *aff’d*, 130 Or App 406, 882 P2d 1130 (1994). Substantial  
6 evidence exists to support a finding of fact when the record, viewed as a whole,  
7 would permit a reasonable person to make that finding. *Dodd v. Hood River*  
8 *County*, 317 Or 172, 179, 855 P2d 608 (1993); *Younger v. City of Portland*, 305  
9 Or 346, 351-52, 752 P2d 262 (1988).

10 **1. ODOT Standards**

11 The annexation standards at AMC 18.5.8.050(E)(2) and (3) provide:

12 “2. For bicycle transportation, *safe and accessible bicycle*  
13 *facilities according to the safety analysis and standards of the*  
14 *governing jurisdiction of the facility or street (e.g., City of*  
15 *Ashland, Jackson County, [ODOT]) exist, or can and will be*  
16 *constructed*. Should the annexed area border an arterial street,  
17 bike lanes shall be constructed along the arterial street  
18 frontage of the annexed area. Likely bicycle destinations  
19 within a quarter of a mile from the annexed area shall be  
20 determined and the approval authority may require the  
21 construction of bicycle lanes or multiuse paths connecting the  
22 annexed area to the likely bicycle destinations after assessing  
23 the impact of the development proposed concurrently with the  
24 annexation.

25 “3. For pedestrian transportation, *safe and accessible pedestrian*  
26 *facilities according to the safety analysis and standards of the*  
27 *governing jurisdiction of the facility or street (e.g., City of*  
28 *Ashland, Jackson County, [ODOT]) exist, or can and will be*  
29 *constructed*. Full sidewalk improvements shall be provided

1 on one side of all streets bordering on the proposed annexed  
2 area. Sidewalks shall be provided as required by ordinance on  
3 all streets within the annexed area. Where the annexed area is  
4 within a quarter of a mile of an existing sidewalk system or a  
5 location with demonstrated significant pedestrian activity, the  
6 approval authority may require sidewalks, walkways or  
7 multiuse paths to be constructed and connect to either or both  
8 the existing system and locations with significant pedestrian  
9 activity.” (Emphases added.)

10 To demonstrate compliance with AMC 18.5.8.050(E), Casita submitted a  
11 Traffic Impact Analysis (TIA) and an Access Safety Evaluation, both of which  
12 were prepared by Sandow Engineering. Record 1244-505. With respect to AMC  
13 18.5.8.050(E)(2), the city council found:

14 “With regard to bicycle transportation, the application materials  
15 explain that Highway 99 N[orth] which is an arterial street and state  
16 highway, currently has bicycle lanes buffered by striping along the  
17 frontage of the property, with bicycle lanes on both sides of the  
18 highway extending north of Valley View Road and south into  
19 downtown Ashland. The bike lanes are of typical width and the  
20 striped buffer along the frontage provides an additional measure of  
21 safety. The proposal maintains these bicycle lanes in accordance  
22 with City standards along the frontage with two multi-use path  
23 connections into the site. A crossing will be installed on Highway  
24 99 N[orth] at Schofield Street with pedestrian- or cyclist-activated  
25 [RRFBs] to support crossing Highway 99 N[orth] near RVTD’s  
26 northbound flag stop. *The bicycle facilities that exist or will be  
27 provided as part of the annexation comply with the design and safety  
28 criteria for ODOT as the governing jurisdiction, and [Casita] thus  
29 asserts that this criterion is satisfied.*

30 “Bicycle destinations within 1/4-mile include two coffee shops, two  
31 restaurants, a new financial institution now under construction, and  
32 a bicycle shop, and the Bear Creek Greenway is accessible at Valley  
33 View Road within 1/2-mile of the site. The application materials  
34 assert that all of these destinations are easily accessed from the

1 existing protected bicycle lanes which are to be maintained, and that  
2 these bicycle lanes continue the 1 1/4-miles into downtown  
3 Ashland.” Record 20 (emphasis added).

4 With respect to AMC 18.5.8.050(E)(3), the city council found:

5 “In responding to the safe and accessible pedestrian facilities  
6 criterion, [Casita] explains that there are currently no sidewalks  
7 along Highway 99 N[orth] on either side of the street between the  
8 subject properties’ frontage and Schofield Street to the south which  
9 limits pedestrian access and safety for north Ashland residents.  
10 [Casita] proposes street frontage improvements including sidewalk  
11 improvements which comply with the design and safety criteria of  
12 ODOT as the governing jurisdiction, and as such asserts that this  
13 criterion is satisfied.

14 “There are no interior streets proposed within the development,  
15 however the site circulation system includes pedestrian connections  
16 between the public sidewalks along the highway, the apartments,  
17 parking areas and other areas of the site. These include two ADA-  
18 compliant multi-use paths through the landscape open spaces into  
19 the site from the north and the south along the highway frontage for  
20 pedestrians and bicycles, including the main entrance driveway with  
21 adjacent sidewalks that are also ADA-compliant.

22 “To the south of the project, towards Ashland, the width of the  
23 highway is restricted to the single travel lane, bike lane and shoulder  
24 by the railroad overpass. The railroad overpass currently lacks any  
25 sidewalk or lighting, but a shared bicycle and pedestrian path with  
26 overhead lighting is proposed. As an extra measure of caution, a  
27 vertical barrier will be provided at the curb. This will provide a safer,  
28 well-lit area increasing the comfort and safety over what currently  
29 exists. *[Casita] emphasizes that ODOT Engineering staff have been*  
30 *actively involved in this design, and has confirmed that all the*  
31 *improvements conform to ODOT standards.*

32 “The application materials further explain that [Casita] will be  
33 providing a high-visibility crosswalk across Highway 99 N[orth]  
34 with [RRFBs]. The application further notes that mid-block

1 crosswalks are dangerous, and RRFBs increase the safety of  
2 pedestrians and cyclists crossing when compared to a traffic signal.  
3 The application materials go on to indicate that studies have shown  
4 that RRFBs increase motorist yielding rates because the lights are  
5 controlled by the pedestrian's presence and will not go off until they  
6 are safely out of the crosswalk. The proposed RRFB crossing is to  
7 be placed between North Main Street at Schofield Street, between  
8 the north- and south-bound bus stops. The RRFB crossing will  
9 provide a safe pedestrian and bicyclist crossing for all the residents  
10 in north Ashland where none existed before, both to access to Grand  
11 Terrace and to cross the highway to access these bus stops safely.  
12 [Casita] notes that local ODOT authorities have given preliminary  
13 approval to install a crossing with RRFBs in this location, and that  
14 final approval will be subject to review of the final engineered  
15 designs by the regional office in Salem. The developer will be  
16 responsible for the design, cost and installation of the crosswalk and  
17 RRFBs. A condition has been included below requiring that the final  
18 location and design of the RRFB crossing be detailed in the Final  
19 Plan submittal." Record 20-21 (emphasis added).

20 Petitioner argues that the city council's findings that AMC  
21 18.5.8.050(E)(2) and (3) are satisfied are inadequate and not supported by  
22 substantial evidence. Petitioner argues that the city council's findings that the  
23 proposed bicycle and pedestrian facilities satisfy those standards are inadequate  
24 and not supported by substantial evidence where neither Casita's Access Safety  
25 Evaluation nor the findings identify the ODOT standards that they applied to  
26 reach those conclusions.

27 We agree with the city's response that the city council was not required to  
28 list and apply ODOT's standards. In response, the city points to a letter that  
29 ODOT submitted into the record stating that ODOT reviewed Casita's TIA,  
30 stating that the city's street design standards exceed ODOT's standards,

1 acknowledging that exceptions would be required in some areas, and approving  
2 the proposed improvements with certain refinements.<sup>5</sup> Record 481. The city

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<sup>5</sup> ODOT's letter provides, as relevant here:

“ODOT has worked with the City and [Casita] to try to find solutions which work for all parties. ODOT supports the proposal with conditions described below.

“i. ODOT has reviewed the [TIA] prepared by Sandow Engineering and generally agree with the findings, believing that the analysis satisfies the requirements of the Transportation Planning Rule related to Plan and Land Use Amendments (OAR 660-012-0060).

“ii. ODOT supports frontage improvements consistent with City of Ashland standards and the adopted Transportation System Plan, which exceed minimum standards identified in the State Highway Design Manual. We understand Right-of-Way constraints will require exceptions in certain locations.

“iii. The most recent set of civil plans will need to be further refined prior to approval by ODOT. City of Ashland Municipal Code 18.4.6.030 requires installation of public improvements prior to issuance of building permits. No disturbance or construction within the State Right of Way is permitted until [Casita] has obtained an ODOT misc./utility permit. Legal access will not be granted to Highway 99 North until [Casita] has obtained an ODOT reservation indenture and access permit.

“iv. Refined civil plans will need to incorporate:

“a. Access points and curb cuts along the frontage improvements at existing accesses[, and]

1 council also imposed conditions of approval requiring Casita to (1) submit final  
2 civil plans for the street improvements for review and approval by ODOT at the  
3 final plan approval stage, (2) provide engineered construction drawings for the  
4 required street improvements for review and approval by ODOT, and (3) obtain  
5 any necessary permit approvals from ODOT prior to any work within the right-  
6 of-way. Record 34-35, 37. In light of ODOT's letter, a reasonable person could  
7 find that safe and accessible bicycle and pedestrian facilities, according to  
8 ODOT's standards, can and will be constructed. The city council's findings that  
9 AMC 18.5.8.050(E)(2) and (3) are satisfied are adequate and supported by  
10 substantial evidence.

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“b. Details related to the striped pedestrian crossing and [RRFB] in the vicinity of North Main Street.

“v. ODOT has had discussions with the City, [Casita] and Rogue Valley Transit District about the proposed bus pull out and bus stop within the State Right of Way and is supportive pending review and approval of final civil plans.

“vi. ODOT's Region 3 staff supports the proposal for a striped crossing and RRFB. ODOT Region 3 Traffic evaluated a number of potential locations, and recommend a location south of the Subject Property near North Main Street. Approval from the State Traffic Engineer in Salem will be required once civil plans have been reviewed and accepted by local staff.” Record 481.

1                   **2.     *Nollan/Dolan Findings***

2           As explained above, Casita’s application proposed sidewalk improvements  
3 along the property’s frontage on Highway 99 North and beyond the property’s  
4 frontage to connect to existing sidewalks north and south. In addition, the  
5 application proposed a new bus shelter and bus pull-out lane, and an RRFB  
6 crosswalk. The city council imposed conditions of approval incorporating all of  
7 the application’s proposals and setting out the required improvements along  
8 different segments of Highway 99 North. Record 32, 35-36.

9           Petitioner argues that the city council’s findings are inadequate because  
10 they do not address the requirements of the United States Supreme Court  
11 decisions *Nollan v. California Coastal Comm’n*, 483 US 825, 107 S Ct 3141, 97  
12 L Ed 2d 677 (1987), and *Dolan v. City of Tigard*, 512 US 374, 114 S Ct 2309,  
13 129 L Ed 2d 304 (1994). In *Nollan*, the Court held that “a permit condition that  
14 serves the same legitimate police-power purpose as a refusal to issue the permit  
15 [is] not \* \* \* a taking if the refusal to issue the permit would not constitute a  
16 taking.” 483 US at 836. *Nollan* requires an “essential nexus” between a permit  
17 condition and the public purpose the condition is intended to further. In *Dolan*,  
18 the Court discussed the required relationship between a development and a  
19 proposed exaction, concluding:

20           “[A] term such as ‘rough proportionality’ best encapsulates what we  
21 hold to be the requirement of the Fifth Amendment. No precise  
22 mathematical calculation is required, but the city must make some  
23 sort of individualized determination that the required dedication is  
24 related both in nature and extent to the impact of the proposed



1 development.” 512 US at 391.

2 In *Koontz v. St. Johns River Water Mgmt. Dist.*, the Court explained that  
3 *Nollan* and *Dolan* “reflect an overarching principle, known as the  
4 unconstitutional conditions doctrine, that vindicates the Constitution’s  
5 enumerated rights by preventing the government from coercing people into  
6 giving them up.” 570 US 595, 604, 133 S Ct 2586, 186 L Ed 2d 697 (2013). In  
7 other words, the requirements of *Nollan* and *Dolan* protect land use permit  
8 applicants from being *coerced* into giving up their Fifth Amendment right to just  
9 compensation for property the government takes.

10 We agree with the city that those requirements do not apply where, as here,  
11 the applicant proposes the improvements themselves and the local government  
12 merely accepts that proposal and memorializes it in the decision as a condition of  
13 approval. Accordingly, petitioner’s *Nollan/Dolan* argument provides no basis for  
14 reversal or remand.

### 15 **3. Inconsistent Findings**

16 We understand petitioner to argue that the city’s findings are inconsistent  
17 because they simultaneously (1) require Casita to construct certain improvements  
18 along and beyond the property’s frontage on Highway 99 North and (2) conclude  
19 that it would be impossible for Casita to construct those improvements. The city  
20 found:

21 “[P]hysical barriers are present for approximately 2,218-feet of the  
22 approximately 3,088-feet of frontage proposed to be improved as  
23 part of this annexation. \* \* \* [T]he combination of unique and

1 unusual aspects makes the installation of city-standard  
2 improvements impossible when private ownership of much of the  
3 abutting property is taken into consideration.” Record 67.

4 Petitioner misreads the above-quoted findings. The city did not find that it  
5 would be impossible for Casita to construct the proposed improvements. Rather,  
6 the city found that it would be impossible for Casita to construct improvements  
7 that comply with the street design standards in AMC 18.4.6.040 in some cases.  
8 That is in part why the city council granted the exception to those standards  
9 pursuant to AMC 18.4.6.020(B). There is no inconsistency.

10 **4. Curb Cuts and RRFB Crosswalk**

11 The city council relied on Casita’s proposal to construct an RRFB  
12 crosswalk on Highway 99 North to conclude that AMC 18.5.8.050(E)(3) is  
13 satisfied. Petitioner argues that certain drawings in the record do not depict the  
14 RRFB crosswalk among the proposed improvements. Petition for Review 20  
15 (citing Record 707-08). Petitioner also argues that the drawings show a  
16 continuous sidewalk along Highway 99 North with no curb cuts, which,  
17 petitioner argues, will cut off access to several existing businesses. We  
18 understand petitioner to argue that, for those reasons, the city’s conclusion that  
19 the proposed pedestrian facilities will be safe and accessible, as required by AMC  
20 18.5.8.050(E)(3), is not supported by substantial evidence.

21 First, AMC 18.5.8.050(E)(3) does not require that pedestrian facilities be  
22 “safe and accessible” generally. Rather, the provision requires that pedestrian  
23 facilities be safe and accessible “according to the safety analysis and standards

1 of the governing jurisdiction of the facility or street.” We conclude above that  
2 substantial evidence supports the city’s conclusion that safe and accessible  
3 pedestrian facilities, according to ODOT’s standards, can and will be constructed.  
4 Accordingly, any arguments that the proposed pedestrian facilities will not be  
5 safe and accessible, as a general matter, provide no basis for reversal or remand.

6 Second, to the extent that petitioner is arguing that curb cuts and an RRFB  
7 crosswalk are required by ODOT’s standards, we agree with the city that a  
8 reasonable person could find that they can and will be constructed. We agree with  
9 the city that the drawings to which petitioner refers are preliminary. As petitioner  
10 itself concedes, the drawings contain a note which reads, “Plan created by others  
11 during annexation applicant and approval process. Shown for reference only.”  
12 Record 707-08. The drawings also contain text which reads, “Not for  
13 construction.” Record 707-09. In addition, unlike other drawings in the record,  
14 the drawings to which petitioner refers are not stamped by a registered  
15 professional engineer. As explained above, ODOT submitted a letter approving  
16 the proposed improvements with certain refinements. That letter provides:

17 “ODOT supports the proposal with conditions described below.

18 “\* \* \* \* \*

19 “iv. Refined civil plans will need to incorporate:

20 “a. Access points and curb cuts along the frontage  
21 improvements at existing accesses[, and]

1                   “b. Details related to the striped pedestrian crossing and  
2                   [RRFB] in the vicinity of North Main Street.” Record  
3                   481.

4 The city council imposed conditions of approval setting out the required  
5 improvements along different segments of Highway 99 North, including an  
6 RRFB crosswalk. Record 35. The city council also imposed conditions of  
7 approval requiring Casita to (1) submit final civil plans for the street  
8 improvements for review and approval by ODOT at the final plan approval stage,  
9 (2) provide engineered construction drawings for the required street  
10 improvements for review and approval by ODOT, and (3) obtain any necessary  
11 permit approvals from ODOT prior to any work within the right-of-way. Record  
12 34-35, 37. In order to satisfy the conditions of approval, Casita will be required  
13 to construct ODOT-approved curb cuts and an RRFB crosswalk. The city  
14 council’s conclusion that the proposed pedestrian facilities satisfy AMC  
15 18.5.8.050(E)(3) is supported by substantial evidence.

16                   **5. Effectiveness of RRFB Crosswalks**

17                   With respect to the proposed RRFB crosswalk, the city council found:

18                   “The application materials further explain that [Casita] will be  
19                   providing a high-visibility crosswalk across Highway 99 N[orth]  
20                   with [RRFBs]. The application further notes that *mid-block*  
21                   *crosswalks are dangerous, and RRFBs increase the safety of*  
22                   *pedestrians and cyclists crossing when compared to a traffic signal.*  
23                   The application materials go on to indicate that studies have shown  
24                   that RRFBs increase motorist yielding rates because the lights are  
25                   controlled by the pedestrian’s presence and will not go off until they  
26                   are safely out of the crosswalk. The proposed RRFB crossing is to  
27                   be placed between North Main Street at Schofield Street, between

1 the north- and south-bound bus stops. The RRFB crossing will  
2 provide a safe pedestrian and bicyclist crossing for all the residents  
3 in north Ashland where none existed before, both to [provide] access  
4 to Grand Terrace and to cross the highway to access these bus stops  
5 safely. [Casita] notes that local ODOT authorities have given  
6 preliminary approval to install a crossing with RRFBs in this  
7 location, and that final approval will be subject to review of the final  
8 engineered designs by the regional office in Salem. The developer  
9 will be responsible for the design, cost and installation of the  
10 crosswalk and RRFBs. A condition has been included below  
11 requiring that the final location and design of the RRFB crossing be  
12 detailed in the Final Plan submittal.” Record 21 (emphasis added).

13 In concluding that RRFB crosswalks are more effective than traffic lights, the  
14 city council relied on Casita’s representation that

15 “RRFB’s increase the safety of pedestrians and cyclists crossing  
16 when compared to a traffic signal, and mid-block crosswalks are  
17 dangerous. Studies have shown that RRFB’s increase motorist  
18 yielding rates because the lights are controlled by the pedestrians[’]  
19 presence and will not go off until they are safely out of the  
20 crosswalk.”<sup>6</sup> Record 1176.

21 Petitioner argues that the city council’s conclusion that RRFB crosswalks  
22 are more effective than traffic lights is not supported by substantial evidence.  
23 Petitioner points to studies that it submitted into the record indicating that traffic  
24 lights have higher yield rates than RRFB crosswalks and that the former are  
25 therefore more effective than the latter. Given those studies, petitioner argues that

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<sup>6</sup> As far as we know, the studies to which Casita referred were not submitted into the record.

1 a reasonable person would not rely on Casita's mere representations to conclude  
2 that RRFB crosswalks are more effective than traffic lights.

3 As explained above, AMC 18.5.8.050(E)(3) requires that pedestrian  
4 facilities be safe and accessible "according to the safety analysis and standards  
5 of the governing jurisdiction of the facility or street." Petitioner does not explain  
6 how the city council's finding that RRFB crosswalks are more effective than  
7 traffic lights is necessary to support its conclusion that the proposed pedestrian  
8 facilities will be safe and accessible according to ODOT's standards. *Krueger v.*  
9 *Josephine County*, 17 Or LUBA 418, 421 (1989) (citing *Pardee v. City of Astoria*,  
10 17 Or LUBA 226, 240 (1988); *Bonner v. City of Portland*, 11 Or LUBA 40, 52  
11 (1984)). Accordingly, absent any argument that the city's finding is necessary to  
12 support its conclusion, petitioner's argument provides no basis for reversal or  
13 remand.

#### 14 **6. Suggestion in Access Safety Evaluation**

15 The RRFB crosswalk is proposed to be located southeast of the property's  
16 frontage on Highway 99 North. According to petitioner, Casita's Access Safety  
17 Evaluation assumes that bicyclists wishing to access the property from the  
18 southeast will dismount when they reach the crosswalk, walk their bikes south  
19 through the crosswalk, and then walk their bikes northwest on the sidewalk for  
20 .3 miles until they reach the property. Petitioner argues that that assumption is  
21 unsupported by substantial evidence and that bicyclists are more likely to ride  
22 their bikes through the crosswalk and then continue until they reach the property

1 either (1) going the wrong way in the bike lane or (2) riding their bikes on the  
2 sidewalk, both of which are dangerous.

3 Petitioner does not explain how the assumption in Casita’s Access Safety  
4 Evaluation was necessary to support the city council’s conclusion that the  
5 proposed bicycle and pedestrian facilities will be safe and accessible according  
6 to ODOT’s standards. Accordingly, petitioner’s argument provides no basis for  
7 reversal or remand. *Krueger*, 17 Or LUBA at 421.

8 The first subassignment of error is denied.

9 **B. Second Subassignment of Error**

10 The improvements beyond the property’s frontage on Highway 99 North  
11 are proposed to be located within the Highway 99 North right-of-way, which is  
12 owned and managed by ODOT. In the second subassignment of error, petitioner  
13 argues that the city’s conclusion that safe and accessible bicycle and pedestrian  
14 facilities, according to ODOT’s standards, can and will be constructed, as  
15 required by AMC 18.5.8:050(E)(2) and (3), is not supported by substantial  
16 evidence because there is no evidence in the record that it is feasible for Casita  
17 to obtain ODOT’s approval to construct improvements within the right-of-way.

18 In *Bouman v. Jackson County*, we explained:

19 “[W]here a local government finds that approval criteria will be met  
20 if certain conditions are imposed, and those conditions are  
21 requirements to obtain state agency permits, \* \* \* a decision  
22 approving the subject application simply requires that there be  
23 substantial evidence in the record that the applicant is not precluded  
24 from obtaining such state agency permits as a matter of law. There

1 does not have to be substantial evidence in the record that it is  
2 feasible to comply with all discretionary state agency permit  
3 approval standards because the state agency, which has expertise  
4 and established standards and procedures, will ultimately determine  
5 whether those standards are met.” 23 Or LUBA 628, 646-47 (1992).

6 The city council imposed conditions of approval (1) setting out the  
7 required improvements along different segments of Highway 99 North and (2)  
8 requiring Casita to obtain any necessary permit approvals from ODOT prior to  
9 any work within the right-of-way. Record 35-36, 37. If Casita is unable to obtain  
10 ODOT’s approval, it will be unable to proceed with the development. As  
11 explained in *Bouman*, the record need not demonstrate that it is feasible for Casita  
12 to obtain ODOT’s approval to construct the improvements, only that Casita is not  
13 precluded as a matter of law from obtaining such approval. Petitioner does not  
14 contend that Casita is precluded as a matter of law from obtaining ODOT’s  
15 approval. Accordingly, petitioner’s argument provides no basis for reversal or  
16 remand.

17 The second subassignment of error is denied.

18 **C. Third Subassignment of Error**

19 In the third subassignment of error, petitioner argues that “[t]he street  
20 design standards are intended to provide safe pedestrian and bicycle facilities,  
21 and the exception creates dangerous conditions for those same pedestrian and  
22 bicycle facilities[.]” Petition for Review 25-26. Petitioner does not develop this  
23 argument further. AMC 18.4.6.020(B)(1)(a) allows the city to grant an exception  
24 to the street design standards where, as relevant here, “the exception is consistent



1 with the purpose, intent, and background of the street design standards in  
2 subsection 18.4.6.040.A[.]” The city adopted findings addressing that criterion.<sup>7</sup>  
3 Record 70. To the extent that petitioner argues that those findings misconstrue

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<sup>7</sup> The city found:

“AMC 18.4.6.040.A details the purpose and intent of the standards as, *‘This section contains standards for street connectivity and design as well as cross sections for street improvements. The standards are intended to provide multiple transportation options, focus on a safe environment for all users, design streets as public spaces, and enhance the livability of neighborhoods, consistent with the Comprehensive Plan.’* The Planning Commission here finds that the exception is consistent with the intent of providing for multiple transportation options focused on a safe environment for all users and designing streets as public spaces which enhance livability. As noted, both jurisdictional limitations and physical constraints in the form of a larger than normal separation between the development and the right-of-way and the presence within that separation of other properties, significant grade changes, and an identified wetland pose difficulties in providing on-street parking immediately adjacent to the roadway as envisioned in the standard street cross-section, however such on-street parking here would also conflict with the bus pull-out lane being required as a condition of the annexation, and with the desire to better accommodate bicycles along the frontage. The proposal seeks to provide needed housing in the form of smaller and more affordable rental units along a transit corridor with a focus on providing increased connectivity not just for motor vehicles, but also for pedestrians, cyclists and transit users. The Planning Commission concludes that this is in keeping with the purpose and intent of the street standards, consistent with the Comprehensive Plan vision, and ultimately in line with the recently passed Climate Friendly and Equitable Communities rulemaking just adopted by the State of Oregon.” Record 70 (italics in original).

1 AMC 18.4.6.020(B)(1) or AMC 18.4.6.040(A), are inadequate, or are  
2 unsupported by substantial evidence, petitioner does not develop that argument  
3 sufficiently for our review. We will not develop that argument for petitioner.  
4 *Deschutes Development v. Deschutes Cty.*, 5 Or LUBA 218, 220 (1982).

5 The third subassignment of error is denied.

6 The second assignment of error is denied.

7 **THIRD ASSIGNMENT OF ERROR**

8 **A. Feasibility**

9 AMC 18.4.6.020(B) provides:

10 **“Exceptions and Variances.** Requests to depart from the  
11 requirements of this chapter are subject to chapter 18.5.5, Variances,  
12 except that deviations from section 18.4.6.040, Street Design  
13 Standards, are subject to subsection B.1, Exception to the Street  
14 Design Standards, below.

15 “1. Exception to the Street Design Standards. The approval  
16 authority may approve exceptions to the street design  
17 standards in section 18.4.6.040 if the circumstances in either  
18 subsection B.1.a or b, below, are found to exist.

19 “a. There is demonstrable difficulty in meeting the specific  
20 requirements of this chapter due to a unique or unusual  
21 aspect of the site or proposed use of the site; and the  
22 exception is the minimum necessary to alleviate the  
23 difficulty; and the exception is consistent with the  
24 purpose, intent, and background of the street design  
25 standards in subsection 18.4.6.040.A; and the  
26 exception will result in equal or superior transportation  
27 facilities and connectivity considering the following  
28 factors where applicable:

- 1                    “i. For transit facilities and related improvements,  
2                    access, wait time, and ride experience.
- 3                    “ii. For bicycle facilities, feeling of safety, quality of  
4                    experience (i.e., comfort level of bicycling along  
5                    the roadway), and frequency of conflicts with  
6                    vehicle cross traffic.
- 7                    “iii. For pedestrian facilities, feeling of safety,  
8                    quality of experience (i.e., comfort level of  
9                    walking along roadway), and ability to safely  
10                    and efficiently cross roadway; or
- 11                    “b. There is no demonstrable difficulty in meeting the  
12                    specific requirements, but granting the exception will  
13                    result in a design that equally or better achieves the  
14                    stated purposes, intent, and background of the street  
15                    design standards in subsection 18.4.6.040.A.”  
16                    (Boldface and underscoring in original.)

17                    Again, the improvements beyond the property’s frontage on Highway 99  
18                    North are proposed to be located within the Highway 99 North right-of-way,  
19                    which is owned and managed by ODOT. In the third assignment of error,  
20                    petitioner argues that the city’s conclusion that the application satisfies the  
21                    exception standards at AMC 18.4.6.020(B) is not supported by substantial  
22                    evidence because there is no evidence in the record that it is feasible for Casita  
23                    to obtain ODOT’s approval to construct those improvements. Petitioner argues  
24                    that without ODOT’s approval to construct those improvements, the city’s  
25                    decision will result in an “island of sidewalk” along the property’s frontage on  
26                    Highway 99 North, which will not “result in equal or superior transportation  
27                    facilities and connectivity” considering “feeling of safety,” “quality of

1 experience,” “frequency of conflicts with vehicle cross traffic,” and “ability to  
2 safely and efficiently cross roadway,” as required by AMC 18.4.6.020(B).  
3 Petition for Review 28.

4 Again, the city council imposed conditions of approval (1) setting out the  
5 required improvements along different segments of Highway 99 North and (2)  
6 requiring Casita to obtain any necessary permit approvals from ODOT prior to  
7 any work within the right-of-way. Record 35-36, 37. If Casita is unable to obtain  
8 ODOT’s approval, it will be unable to proceed with the development at all. As  
9 explained in *Bouman*, the record need not demonstrate that it is feasible for Casita  
10 to obtain ODOT’s approval to construct the improvements, only that Casita is not  
11 precluded as a matter of law from obtaining such approval. 23 Or LUBA 628.  
12 Petitioner does not contend that Casita is precluded as a matter of law from  
13 obtaining ODOT’s approval. Accordingly, petitioner’s argument provides no  
14 basis for reversal or remand.

15 **B. Contradictory Statements in Application**

16 Petitioner argues that Casita’s application simultaneously states that (1)  
17 various impediments, including physical constraints and private property issues,  
18 limit Casita’s ability to construct sidewalk improvements beyond the property’s  
19 frontage on Highway 99 North and (2) constructing those improvements  
20 nevertheless “can be done.” Petition for Review 28-29. We understand petitioner  
21 to argue that those statements are contradictory and that, given that contradiction,  
22 the city’s conclusion that there is “demonstrable difficulty” in meeting the street

1 design standards, as required by AMC 18.4.6.020(B), is unsupported by  
2 substantial evidence.

3 The statements to which petitioner refers appear in Casita’s submittal.  
4 Record 681-82, 1116-17, 1197-98. Petitioner misreads those statements. Casita  
5 did not state that there were physical and legal impediments to constructing the  
6 *proposed* sidewalk improvements. Rather, Casita stated that there were physical  
7 and legal impediments to constructing sidewalk improvements *that comply with*  
8 *the street design standards in AMC 18.4.6.040*. There is no contradiction.

9 The third assignment of error is denied.

10 **FOURTH ASSIGNMENT OF ERROR**

11 Petitioner’s fourth assignment of error generally relates to the affordable  
12 units that will be provided as part of the development.

13 **A. First Subassignment of Error**

14 The annexation standards at AMC 18.5.8.050(G)(1) and (2) provide:

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

- 1           “a.    Ownership units restricted to households earning at or  
2                   below 120 percent of the area median income shall  
3                   have an equivalency value of 0.75 unit.
  
- 4           “b.    Ownership units restricted to households earning at or  
5                   below 100 percent of the area median income shall  
6                   have an equivalency value of 1.0 unit.
  
- 7           “c.    Ownership or rental units restricted to households  
8                   earning at or below 80 percent of the area median  
9                   income shall have an equivalency value of 1.25 unit.
  
- 10         “2.    As an alternative to providing affordable units per section  
11                   18.5.8.050.G.1, above, the applicant may provide title to a  
12                   sufficient amount of buildable land for development  
13                   complying with subsection 18.5.8.050.G.1.b, above, through  
14                   transfer to a non-profit (IRC 501(3)(c)) affordable housing  
15                   developer or public corporation created under ORS 456.055  
16                   to 456.235.
  
- 17         “a.    The land to be transferred shall be located within the  
18                   project meeting the standards set forth in sections  
19                   18.5.8.050.G.5 and 18.5.8.050.G.6.
  
- 20         “b.    All needed public facilities shall be extended to the area  
21                   or areas proposed for transfer.
  
- 22         “c.    Prior to commencement of the project, title to the land  
23                   shall be transferred to the City, an affordable housing  
24                   developer which must either be a unit of government, a  
25                   non-profit 501(c)(3) organization, or a public  
26                   corporation created under ORS 456.055 to 456.235.
  
- 27         “d.    The land to be transferred shall be deed restricted to  
28                   comply with Ashland’s affordable housing program  
29                   requirements.
  
- 30         “e.    Transfer of title of buildable land in accordance with  
31                   this subsection shall exempt the project from the

1 development schedule requirements set forth in  
2 subsection 18.5.8.050.G.4.”

3 With respect to AMC 18.5.8.050(G)(1), the city council found:

4 “The application materials explain that the proposed annexation has  
5 a density of more than four residential units, that the development  
6 proposal demonstrates that minimum density can be met with the  
7 future development of the residentially zoned land, and that 25  
8 percent of the base density shall be dedicated as affordable housing.  
9 The proposed units will be rentals under item ‘c’. The application  
10 further asserts that the proposal provides the necessary land area for  
11 the development for the affordable housing required, as the  
12 ordinance stipulates that when utilized as rentals, the affordable  
13 units would be restricted to households earning 80 percent or less of  
14 the area median income (AMI), with an equivalency value of 1.25  
15 units. Twenty-five percent of the 185.625 base density is 46.406  
16 units, which the application equates to 37 affordable units being  
17 required ( $46.406/1.25 = 37.125$ ).” Record 25-26.

18 With respect to AMC 18.5.8.050(G)(2), the city council found:

19 “The application materials indicate that [Casita] intends to create  
20 separate lots for legally separate title to provide the flexibility to  
21 transfer a legal lot to a non-profit. These lots are to have in place all  
22 the infrastructure, driveways, parking and open space. [Casita]  
23 indicates that the land area will be provided and thus the criterion is  
24 satisfied. The application materials further explain that the land to  
25 be transferred is located within the project and the affordable units  
26 will meet the standards set forth in AMC 18.5.8.050.G.5 and G.6  
27 below. The land area is proposed as two of the building pads in the  
28 proposed Grand Terrace development as illustrated on the  
29 preliminary property boundary map provided. The necessary  
30 facilities for the area of the affordable housing units to be transferred  
31 will be extended to the building pad area. The common area  
32 improvements include the utility infrastructure, sidewalks, curbs,  
33 gutters, parking lot improvements, shade trees for the development  
34 of the affordable housing units. The building pad areas for the  
35 affordable housing are to be the same as the building pad areas of

1 the market rate building areas. The title to the land area for  
2 development of the affordable housing units will be transferred to  
3 the city, an affordable housing development or other appropriate  
4 non-profit organization or public corporation that meets the ORS  
5 456.055 to 456.235 prior to the commencement of the project, and  
6 the land transferred will be deed restricted to comply with the  
7 affordable housing program requirements.” Record 26-27.

8 The city council explained:

9 “[U]ncertainty over whether the developer will provide the required  
10 affordable units themselves or dedicate the required land area to an  
11 affordable housing provider poses some potential complication  
12 \* \* \*. \* \* \* The City Council has included a condition of approval  
13 requiring that the Final Plan submittal make clear how the  
14 affordability requirements are to be addressed, and that if [Casita]  
15 opts to dedicate land to an affordable housing provider, rather than  
16 constructing them themselves or with a provider partner, that the  
17 dedication comply with the requirements of AMC 18.5.8.050.G.2  
18 and include adequate land area to accommodate the required number  
19 of 47 affordable ownership units at 100 percent AMI on the final  
20 plat. A condition has also been included below to require that a deed  
21 restriction be recorded on the property to require that the  
22 affordability requirements for annexation be addressed with any  
23 future development of the site.” Record 30.

24 Condition 7 provides, in part:

25 “[P]rior to final approval and annexation of the property, [Casita]  
26 shall provide:

27 “\* \* \* \* \*

28 “e. A deed restriction agreement that development of the  
29 property shall comply with the affordability requirements for  
30 annexations in AMC 18.5.8.050.G including that where the  
31 required number of affordable units is fractional it shall be  
32 rounded up, and that should [Casita] opt to dedicate land area  
33 to an affordable housing provider, it will require that the  
34 dedication comply with the requirements of AMC



1 18.5.8.050.G.2 and dedicate sufficient land area to  
2 accommodate 47 ownership units affordable at 100 percent  
3 AMI.” Record 33-34.

4 In *Rhyne v. Multnomah County*, we explained:

5 “Where the evidence presented during the first stage approval  
6 proceedings raises questions concerning whether a particular  
7 approval criterion is satisfied, a local government essentially has  
8 three options potentially available. First, it may find that although  
9 the evidence is conflicting, the evidence nevertheless is sufficient to  
10 support a finding that the standard is satisfied or that feasible  
11 solutions to identified problems exist, and impose conditions if  
12 necessary. Second, if the local government determines there is  
13 insufficient evidence to determine the feasibility of compliance with  
14 the standard, it could on that basis deny the application. Third, if the  
15 local government determines that there is insufficient evidence to  
16 determine the feasibility of compliance with the standard, instead of  
17 finding the standard is not met, it may defer a determination  
18 concerning compliance with the standard to the second stage. In  
19 selecting this third option, the local government is not finding all  
20 applicable approval standards are complied with, or that it is feasible  
21 to do so, as part of the first stage approval (as it does under the first  
22 option described above). Therefore, the local government must  
23 assure that the second stage approval process to which the decision  
24 making is deferred provides the statutorily required notice and  
25 hearing, even though the local code may not require such notice and  
26 hearing for second stage decisions in other circumstances.” 23 Or  
27 LUBA 442, 447-48 (1992) (footnotes and citation omitted).

28 In the first subassignment of error, petitioner argues that, by imposing  
29 Condition 7(e), which allows Casita to determine whether it wishes to comply  
30 with AMC 18.5.8.050(G)(1) or (2) at a later time, the city council improperly  
31 deferred findings of compliance with either AMC 18.5.8.050(G)(1) or (2) to a  
32 subsequent proceeding that does not provide an opportunity for notice or public

1 participation, contrary to *Rhyne*. The city responds, initially, that petitioner failed  
2 to preserve this argument below and is precluded from raising it for the first time  
3 at LUBA. ORS 197.835(3); ORS 197.195(3); ORS 197.797(1). The so-called  
4 “raise or waive it” doctrine applies only to quasi-judicial proceedings. *Columbia*  
5 *Pacific v. City of Portland*, 76 Or LUBA 15, 24-25 (2017), *rev’d and rem’d on*  
6 *other grounds*, 289 Or App 739, 412 P3d 258, *rev den*, 363 Or 390 (2018); *DLCD*  
7 *v. Columbia County*, 24 Or LUBA 32, 36, *aff’d*, 117 Or App 207, 843 P2d 996  
8 (1992); *Parmenter v. Wallowa County*, 21 Or LUBA 490, 492 (1991).  
9 Throughout its brief, the city takes the position that the challenged decision is  
10 legislative. We explained above that we assume for purposes of this opinion that  
11 the decision is legislative. Accordingly, we agree with petitioner that it is not  
12 precluded from raising this argument for the first time at LUBA.

13         However, we reject petitioner’s argument on the merits. We do not  
14 understand the city council to have concluded, as petitioner argues, that there is  
15 insufficient evidence to determine Casita’s compliance with either AMC  
16 18.5.8.050(G)(1) or (2). We do not understand Condition 7(e) to be the city  
17 council’s attempt to defer a determination of the feasibility of Casita’s  
18 compliance with either AMC 18.5.8.050(G)(1) or (2) to a second stage. Rather,  
19 we understand the city council to have concluded that “the evidence \* \* \* is  
20 sufficient to support a finding that the standard is satisfied, or that feasible  
21 solutions to identified problems exist” under the first *Rhyne* option. 23 Or LUBA  
22 at 447. In other words, we understand the city council to have concluded that it

1 is feasible to meet either AMC 18.5.8.050(G)(1) or (2) and to leave it to Casita  
2 to choose the path.

3 The first subassignment of error is denied.

4 **B. Second Subassignment of Error**

5 AMC 18.5.8.050(G)(3) provides:

6 “The affordable units shall be comparable in bedroom mix with the  
7 market rate units in the development.

8 “a. The number of bedrooms per dwelling unit in the affordable  
9 units within the residential development shall be in equal  
10 proportion to the number of bedrooms per dwelling unit in the  
11 market rate units within the residential development. This  
12 provision is not intended to require the same floor area in  
13 affordable units as compared to market rate units. The  
14 minimum square footage of each affordable unit shall comply  
15 with the minimum required floor area based as set forth in  
16 Table 18.5.8.050.G.3, or as established by the U.S.  
17 Department of Housing and Urban Development (HUD) for  
18 dwelling units developed under the HOME program.”

19 The minimum floor area in AMC Table 18.5.8.050(G)(3) for studios is 350  
20 square feet, and the minimum floor area in AMC Table 18.5.8.050(G)(3) for one-  
21 bedroom units is 500 square feet.

22 Casita’s application proposes 230 apartments in 10 buildings. “Each of the  
23 buildings are proposed to have twenty, 499-square foot, one-bedroom units and  
24 three, 250 square foot studio units.” Record 1506. The city council found:

25 “The application materials indicate that the required affordable units  
26 are proposed to be developed by the developer or by others, and that  
27 in either case the units will be comparable to the proposed one  
28 bedroom deluxe and micro-studio units. The proportion of

1 affordable units and the unit types and sizes will be similar in  
2 proportion to the market rate units as detailed in Table  
3 18.5.8.050.G.3.” Record 27.

4 In the second subassignment of error, petitioner argues that the city council  
5 improperly construed AMC 18.5.8.050(G)(3) in concluding that Casita’s  
6 application satisfies that provision. Petitioner argues that an application that  
7 proposes affordable units with square footages lower those set forth in AMC  
8 Table 18.5.8.050(G)(3) does not comply with AMC 18.5.8.050(G)(3).

9 The city does not dispute that an application that proposes affordable units  
10 with square footages lower than those set forth in AMC Table 18.5.8.050(G)(3)  
11 does not comply with AMC 18.5.8.050(G)(3). Instead, the city responds that  
12 Casita will be required to demonstrate compliance with AMC 18.5.8.050(G)(3)  
13 at the final plan approval stage under the city’s performance standards option.  
14 The city also argues that Casita “will be required to meet the conditions of  
15 approval included in the final decision of Respondent’s Council with respect to  
16 the minimum square footage required by Respondent’s code.” Respondent’s  
17 Brief 37.

18 We do not understand either of the city’s arguments. Under AMC  
19 18.3.9.040(B)(5), final plan approval requires the city to demonstrate “substantial  
20 conformance with the outline plan.” The city does not identify a provision of the  
21 AMC, or a condition of approval, that requires Casita to demonstrate compliance  
22 with AMC 18.5.8.050(G)(3) at the final plan approval stage, and we are aware of  
23 none.

1           Moreover, the city council did not, as the city argues, conclude that Casita  
2 will be required to demonstrate compliance with AMC 18.5.8.050(G)(3) at the  
3 final plan approval stage. The city council concluded that Casita’s application  
4 satisfied AMC 18.5.8.050(G)(3) because it proposed affordable units with square  
5 footages “comparable” or “similar” to those set forth in AMC Table  
6 18.5.8.050(G)(3). Record 27. Accordingly, we agree with petitioner that the city  
7 council’s interpretation of AMC 18.5.8.050(G)(3) as being satisfied where the  
8 proposed square footages are “comparable” or “similar” to those set forth in  
9 AMC Table 18.5.8.050(G)(3) is inconsistent with the express language of AMC  
10 18.5.8.050(G)(3), which provides that the proposed square footages “shall”  
11 comply with those set forth in AMC Table 18.5.8.050(G)(3). ORS 197.829(1)(a).

12           The second subassignment of error is sustained.

13           The fourth assignment of error is sustained, in part.

14           The city’s decision is remanded.

## Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2023-007 on May 9, 2023, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Douglas M. McGeary  
Acting City Attorney, City of Ashland  
20 E Main St  
Ashland, OR 97520

Sean T. Malone  
Attorney at Law  
259 E. 5th Avenue, Suite 200-C  
Eugene, OR 97401

Dated this 9th day of May, 2023.



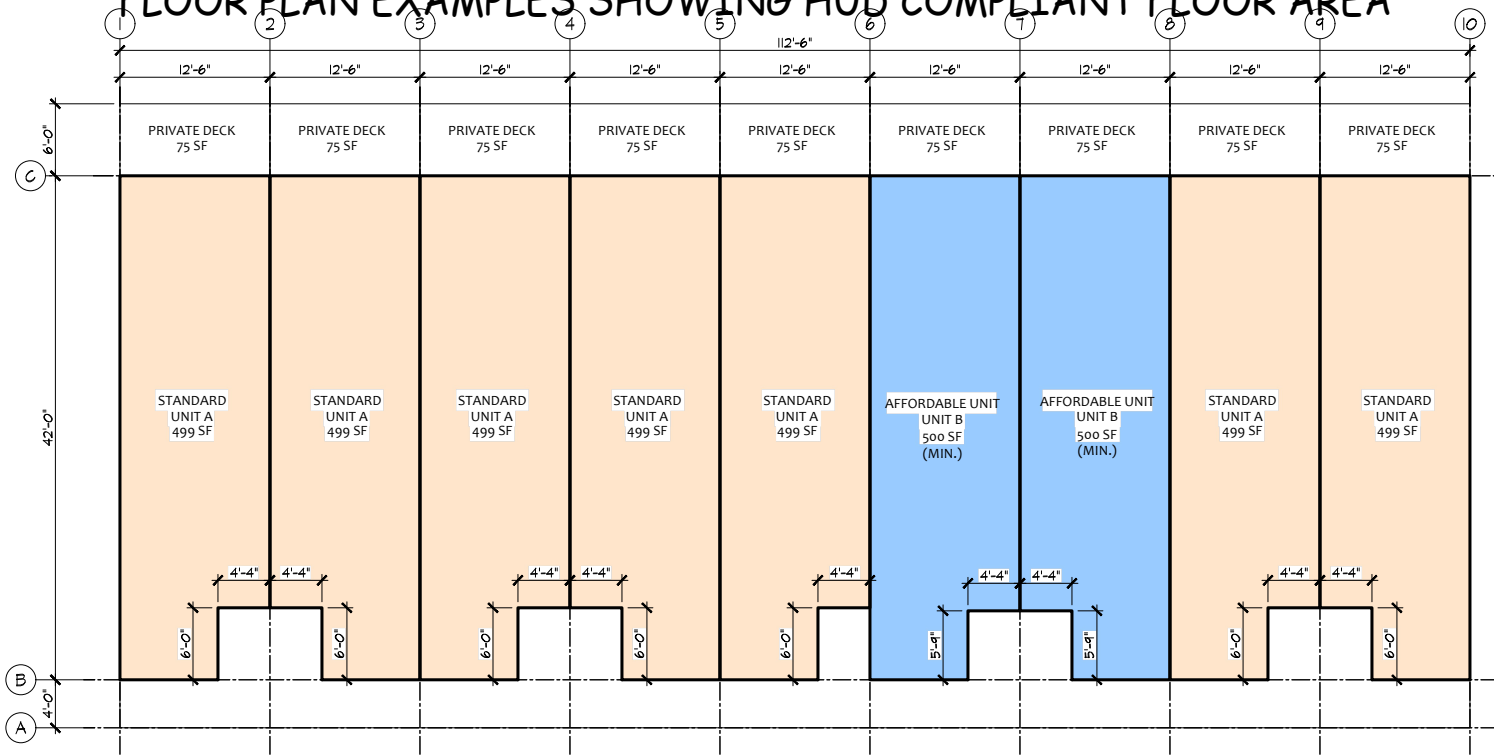
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Erin Pence  
Executive Support Specialist

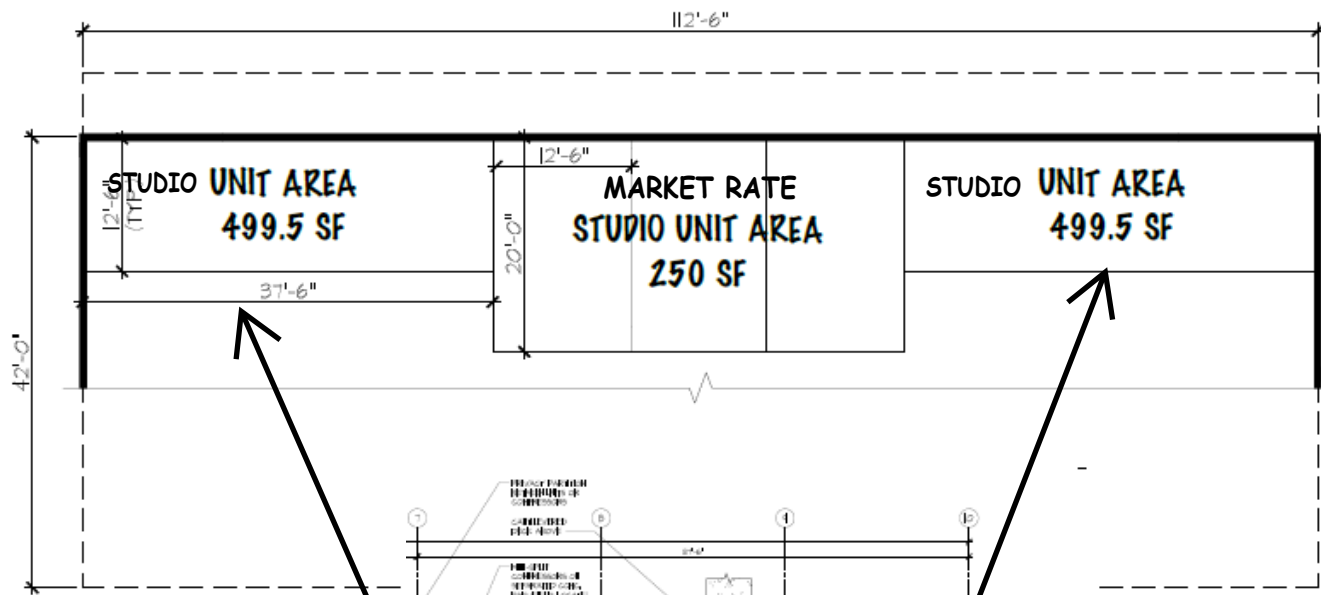
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Jessica Loftis  
Executive Support Specialist

# FLOOR PLAN EXAMPLES SHOWING HUD COMPLIANT FLOOR AREA

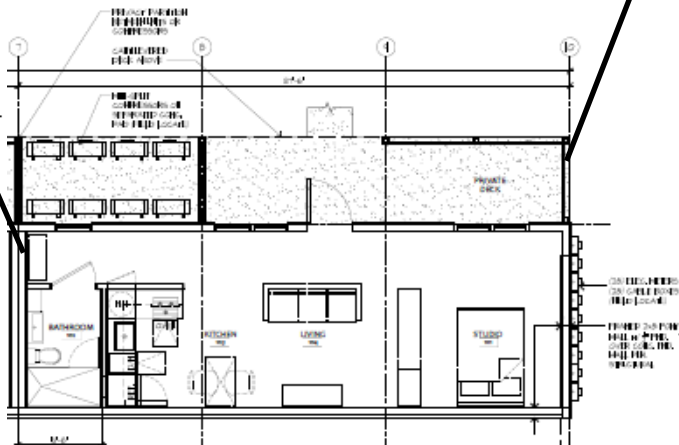


GROUND FLOOR / SECOND FLOOR SCHEMATIC  
UNIT PLAN SUMMARY



BASEMENT FLOOR SCHEMATIC  
UNIT PLAN SUMMARY

-18\OT\_40.1 Site Plan\_03.04.22.dwg  
Block - 11/17/2022





GARY R. CAPERNA  
**ARCHITECT**

architecture  
planning

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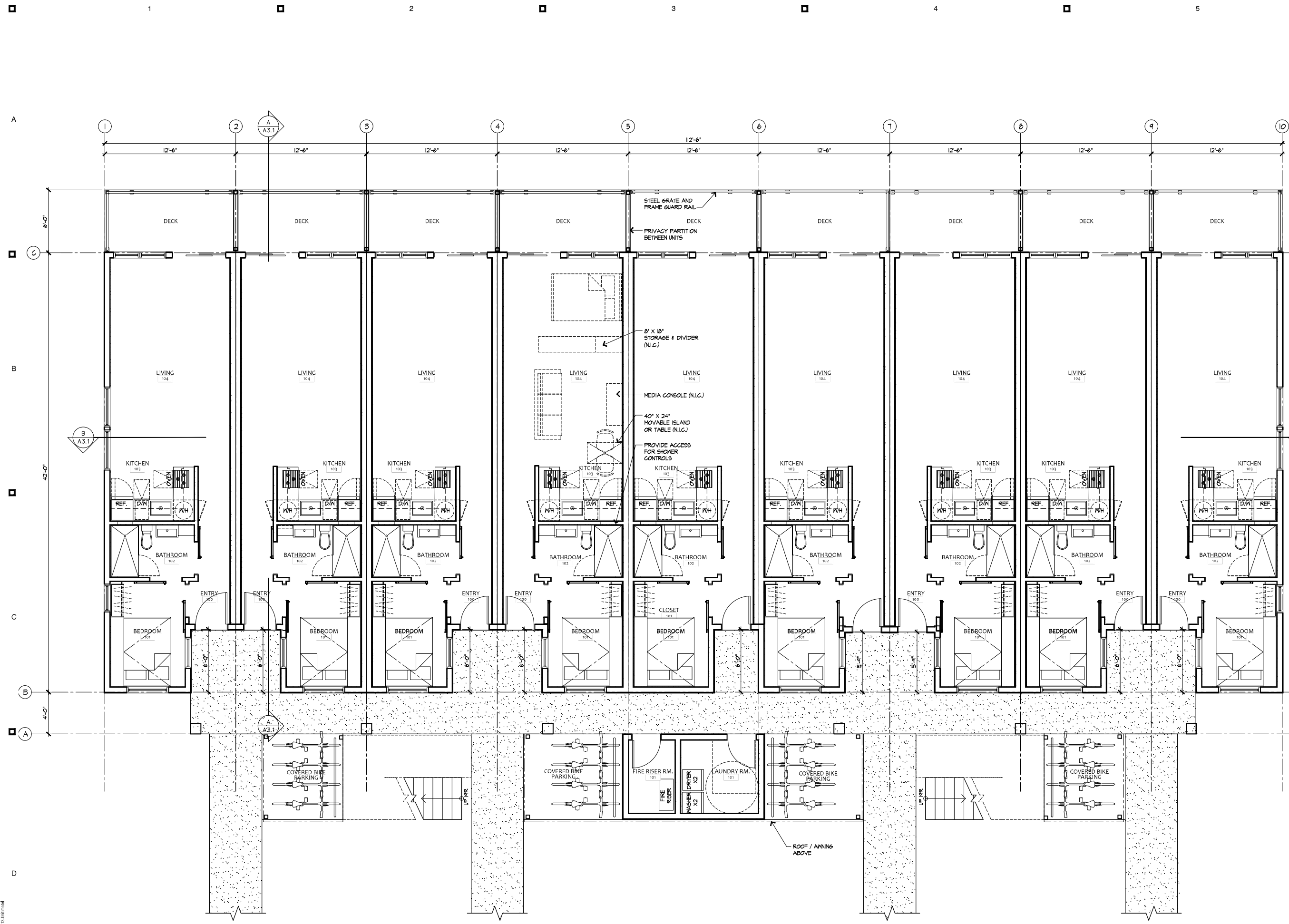
PROJECT: A NEW HOUSING DEVELOPMENT FOR  
**GRAND TERRACE**

Client:  
KENDRICK ENTERPRISES LLC  
153 Will Dodge Way, Ashland, OR 97520  
Project Location:  
Highway 99, Ashland, OR 97520  
Map & Tax Lot #: 35-1E-32, 1700 & 1702

APPROVED BY:		
A	04/12/21	VE #1
B	04/06/22	UNIT REVISION
C	07/16/23	UNIT REVISION
MARK	DATE	DESCRIPTION
ISSUE DATE: 7/16/2023 2:48 PM		
PROJECT NO: 2737-1B		
DRAWN BY: JK		
CHECKED BY: GRC		

SHEET TITLE:  
**CONCEPTUAL  
1ST FLOOR PLAN**

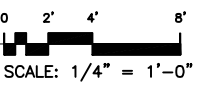
**A1.1**  
PRELIMINARY  
NOT FOR CONSTRUCTION



**FIRST FLOOR PLAN**

SCALE: 1/4" = 1'-0"

HUD COMPLIANT UNIT AREA = 500 SF.  
STANDARD UNIT AREA = 444 SF.



Logon Name: jernak  
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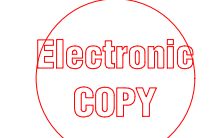
GARY R. CAPERNA  
**ARCHITECT**

architecture  
planning

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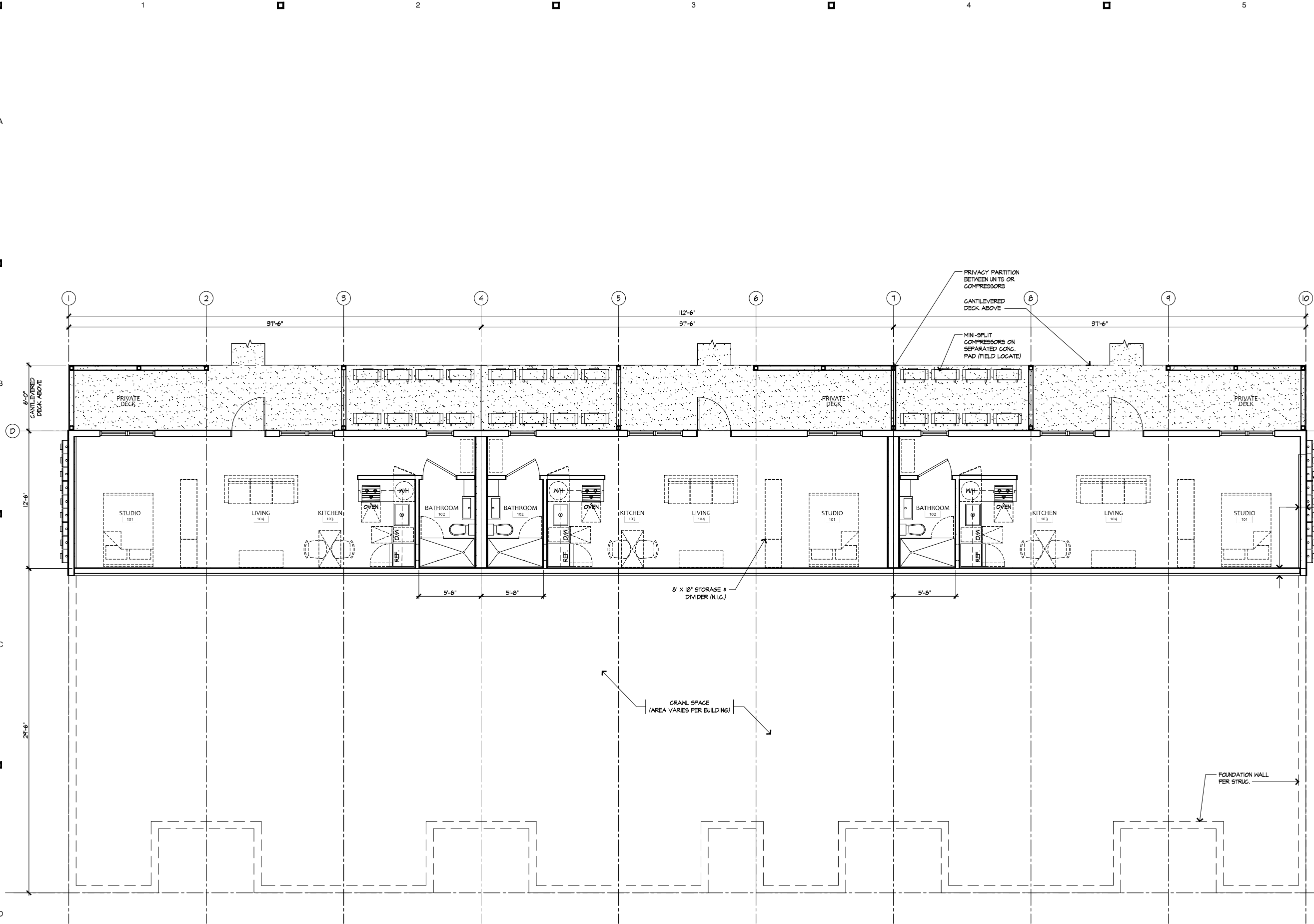
PROJECT: A NEW HOUSING DEVELOPMENT FOR  
**GRAND TERRACE**

Client:  
KENDRICK ENTERPRISES, LLC  
153 Will Dodge Way, Ashland, OR 97520  
Project Location:  
Highway 99, Ashland, OR 97520  
Map & Tax Lot #: 38-1E-32, 1700 & 1702

APPROVED BY:		
△	04/12/21	VE #1
△	04/06/22	UNIT REVISION
△	07/16/23	UNIT REVISION
MARK	DATE	DESCRIPTION
ISSUE DATE: 7/16/2023 2:50 PM		
PROJECT NO: 2737-18		
DRAWN BY: <b>JMK</b>		
CHECKED BY: <b>GRC</b>		

SHEET TITLE:  
**BASEMENT FLOOR PLAN**

**A1.3**  
PRELIMINARY  
NOT FOR CONSTRUCTION



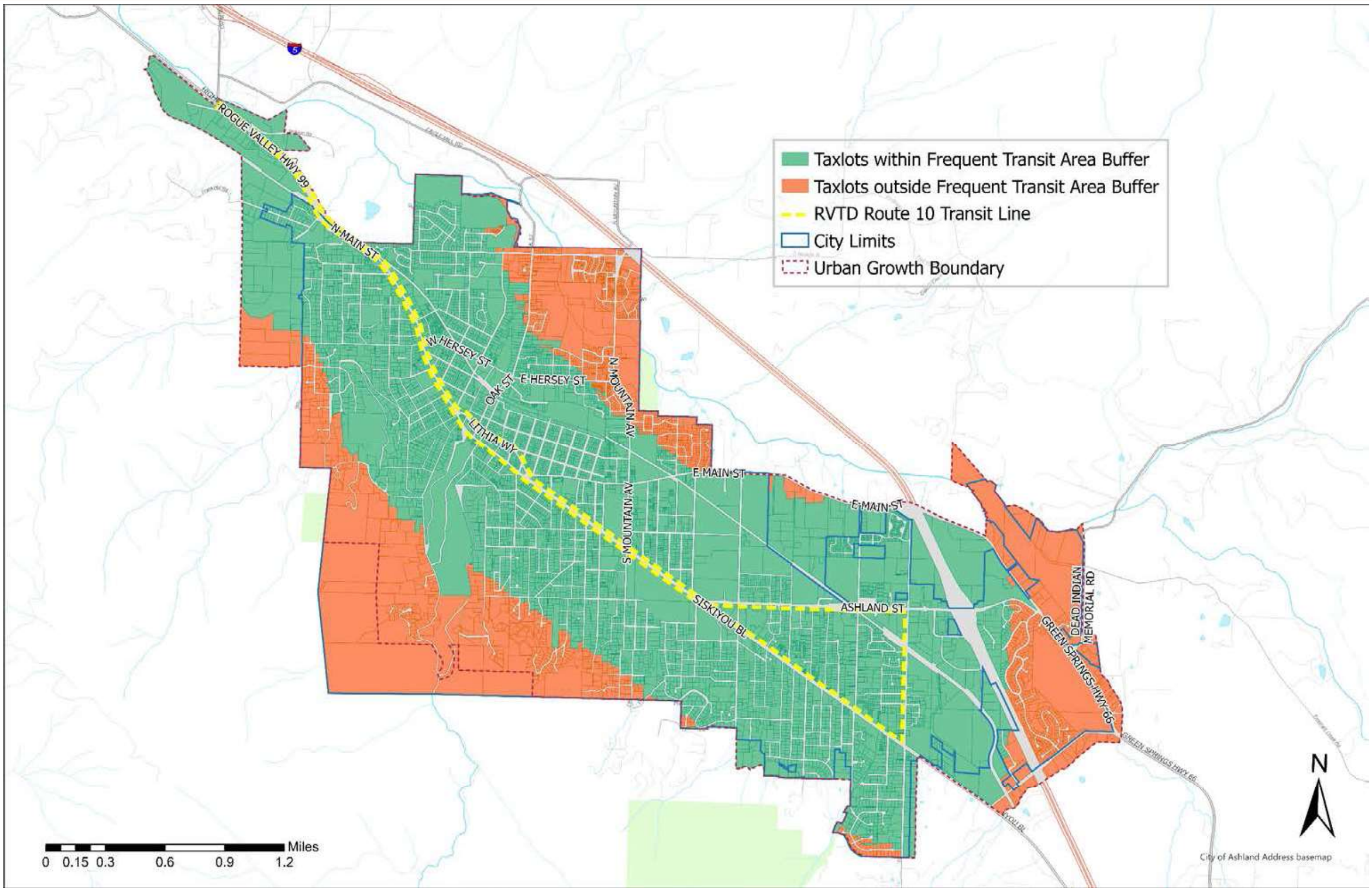
**BASEMENT FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

STUDIO UNIT 468.75 SF

SCALE: 1/4" = 1'-0"

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User: GRC  
Date: 7/16/2023 2:50:14 PM

Based on new "Climate Friendly & Equitable Community" rules adopted by the State of Oregon, beginning on **January 1, 2023** the cities in Oregon's eight metro areas (including Ashland) will no longer be able to enforce any minimum parking requirements within a ½-mile buffer of frequent transit routes (i.e. the area in green on the map below, which is within ½-mile of RVTD's Route 10). In addition, cities can no longer mandate parking for small units (<750 s.f.), affordable units, single room occupancy housing, shelters, child care facilities, or facilities for people with disabilities or shelters, and cities can no longer require more than one parking space per dwelling unit for residential developments with more than one dwelling unit.



**Fwd: PA-T3-2022-00004 remand**

1 message

**Robert Kendrick** <bobk213@icloud.com>  
To: Amy Gunter <amygunter.planning@gmail.com>

Tue, Jul 18, 2023 at 2:10 PM

Sent from my iPad

Begin forwarded message:

**From:** Derek Severson <derek.severson@ashland.or.us>  
**Date:** June 27, 2023 at 3:35:50 PM PDT  
**To:** Robert Kendrick <bobk213@icloud.com>  
**Subject:** Re: PA-T3-2022-00004 remand

Bob,

The Climate Friendly &amp; Equitable Communities rules, adopted by the state in July of 2022, are such that:

- Cities can no longer mandate parking within ½ mile of frequent transit. That rule took effect on January 1, 2023 and is the basis for the map I sent you previously. We are not enforcing any parking mandates in areas within ½ mile of frequent transit (RVTD Routes 10 & 17) even though parking regulations remain in our code.
- In addition, cities can no longer mandate parking for small units (<750 s.f.), affordable units, single room occupancy housing, shelters, child care facilities, or facilities for people with disabilities or shelters. Ashland will also no longer require more than one parking space per dwelling unit for residential developments with more than one dwelling unit.
- As a next step, cities have to either change their codes to eliminate parking mandates city-wide or adopt new rules from a menu of options. Ashland has received an extension for this step and we are scheduled to adopt new rules by the end of the year. We are auditing codes relative to parking now in preparation for that process.

Elimination of parking mandates citywide is discussed in the Oregon Administrative Rules (OAR) in OAR 660-012-420. The menu of other options are in OAR 660-012-425 to -450. See <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3062>.

The state's climate friendly page has a lengthy list of explanatory materials on parking at <https://www.oregon.gov/lcd/CL/Pages/CFEC.aspx> under "Parking Reform & Guidance."

Just to be clear, *since I fully agree this is all confusing*, none of this at this point is in city codes - OAR 660-012-440(3) under the new rules says that cities may not enforce parking mandates (i.e. the requirements currently in the cities' codes) within ½ mile of frequent transit. So by state rule, we have to ignore our current parking codes until we go through the process of updating them. You would want to reference the state rules as the basis for the different treatment of parking.

**Derek Severson, Planning Manager***Pronouns He/him/his***City of Ashland****Community Development**

51 Winburn Way, Ashland, Oregon 97520

541.552.2040 | TTY 800.735.2900

[derek.severson@ashland.or.us](mailto:derek.severson@ashland.or.us)Online [ashland.or.us](http://ashland.or.us); social media (Facebook @CityOfAshlandOregon | Twitter @CityofAshland)

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

**From:** Robert Kendrick <bobk213@icloud.com>  
**Sent:** Tuesday, June 27, 2023 03:04 PM  
**To:** Brandon Goldman <brandon.goldman@ashland.or.us>  
**Cc:** Amy Gunter <amygunter.planning@gmail.com>; Chris Hearn <chearn@davishearn.com>; Derek Severson <derek.severson@ashland.or.us>; Robert J Kendrick <bobk213@icloud.com>  
**Subject:** Re: PA-T3-2022-00004 remand

[EXTERNAL SENDER]

Brandon, Derek

One another subject. We talked about the elimination of parking and no parking mandated, and i'm told there is a schedule on the look ahead to make it official, and also the city no longer mandates parking. This gives me a little pause to move because I'm confused.

On your June 12 email you said, " However, due to the CFEC rules Ashland is no longer mandating on-site parking at this time."

Bob, We have been working on formal code revisions relating to parking with the expectation of presenting them at Public Hearings for adoption in Oct, Nov, and December to the PC and CC. DLCD has provided for such changes to be completed by December 31, 2023. Ashland City Council's second hearing on the elimination of Parking mandates is on their look ahead for December 19, 2023. **However, due to the CFEC rules Ashland is no longer mandating on-site parking at this time.**

I was also sent some maps [https://www.ashland.or.us/SIB/files/FINAL\\_CFEC\\_Parking\\_Handout\(2\).pdf](https://www.ashland.or.us/SIB/files/FINAL_CFEC_Parking_Handout(2).pdf) of the areas where parking is eliminated from Derek and a copy of the state requirements <https://www.oregon.gov/lcd/CL/Documents/ParkingReformOverview.pdf>.

The City map says the following

"Based on new rules adopted by the State of Oregon, beginning January 1, 2023 the cities in Oregon's eight metro areas (including Ashland) will no longer enforce minimum parking requirements within a 1/2-mile buffer of frequent transit routes (the green area on the map below is within 1/2-mile of RVTD's Route 10). In addition, **Ashland will no longer mandate parking for small units (<750 s.f.), affordable units**, single room occupancy housing, shelters, child care facilities, or facilities for people with disabilities or shelters. Ashland will also no longer require more than one parking space per dwelling unit for residential developments with more than one dwelling unit".

Im sorry about my persistent questioning but I need some definitive answers so i can move forward.

This is what is confusing me:

1. You said parking is no longer mandated.
2. The city is working on the final code revisions for the parking and it's elimination.
3. There is a statement attached to the map that says the City is no Longer enforcing minimum parking requirements.

My question is "what can i refer to in the City that officially says parking is not required in the areas noted above in the emails and the Map and the Look Ahead agenda"?

Like i said i understand what I'm being told, but i want to make sure we are going to state exactly what is legal and official in the city for Grand Terrace to comply. Since the City hasn't adopted the new regulations does that mean the state law trumps the City and I refer to the State Law, or do I point to the just the Map of the areas that are exempt and to what I've been told in the emails from both you and Derek.

I want to make sure we do this correct.

Thanks for all your help.

Bob  
Kendrick Enterprise LLC  
Casita Developments LLC

Sent from my iPad

On Jun 27, 2023, at 12:23 PM, Brandon Goldman <[brandon.goldman@ashland.or.us](mailto:brandon.goldman@ashland.or.us)> wrote:

Bob, you are correct, I was incorrectly referencing the ORS citation in the example letter you sent, which applies to Counties, not cities.

So as noted the correct reference for a City remand from LUBA is ORS 227.181.

(1)

*Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 (Review procedures) remanding a decision to a city, the governing body of the city or its designee shall take final action on an application for a permit, limited land use decision or zone change within 120 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850 (Judicial review of board order) (3). If judicial review of a final order of the board is sought under ORS 197.830 (Review procedures), the 120-day period established under this subsection shall not begin until final resolution of the judicial review.*

Moving forward, the City's actions will commence once you formally request in writing that the application proceed on remand. Please note that you have 180 days from the effective LUBA order to make this request. It would be wise to determine the best course of action before submitting the request, as the City will follow the review procedures (120 days) outlined in ORS 227.181 once we receive the written request.

**Brandon Goldman, AICP**  
**Director of Community Development**

Pronouns: he, him, his



**City of Ashland**  
**Community Development**

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541-552-2076 | TTY 800.735.2900

[Brandon.goldman@ashland.or.us](mailto:Brandon.goldman@ashland.or.us)

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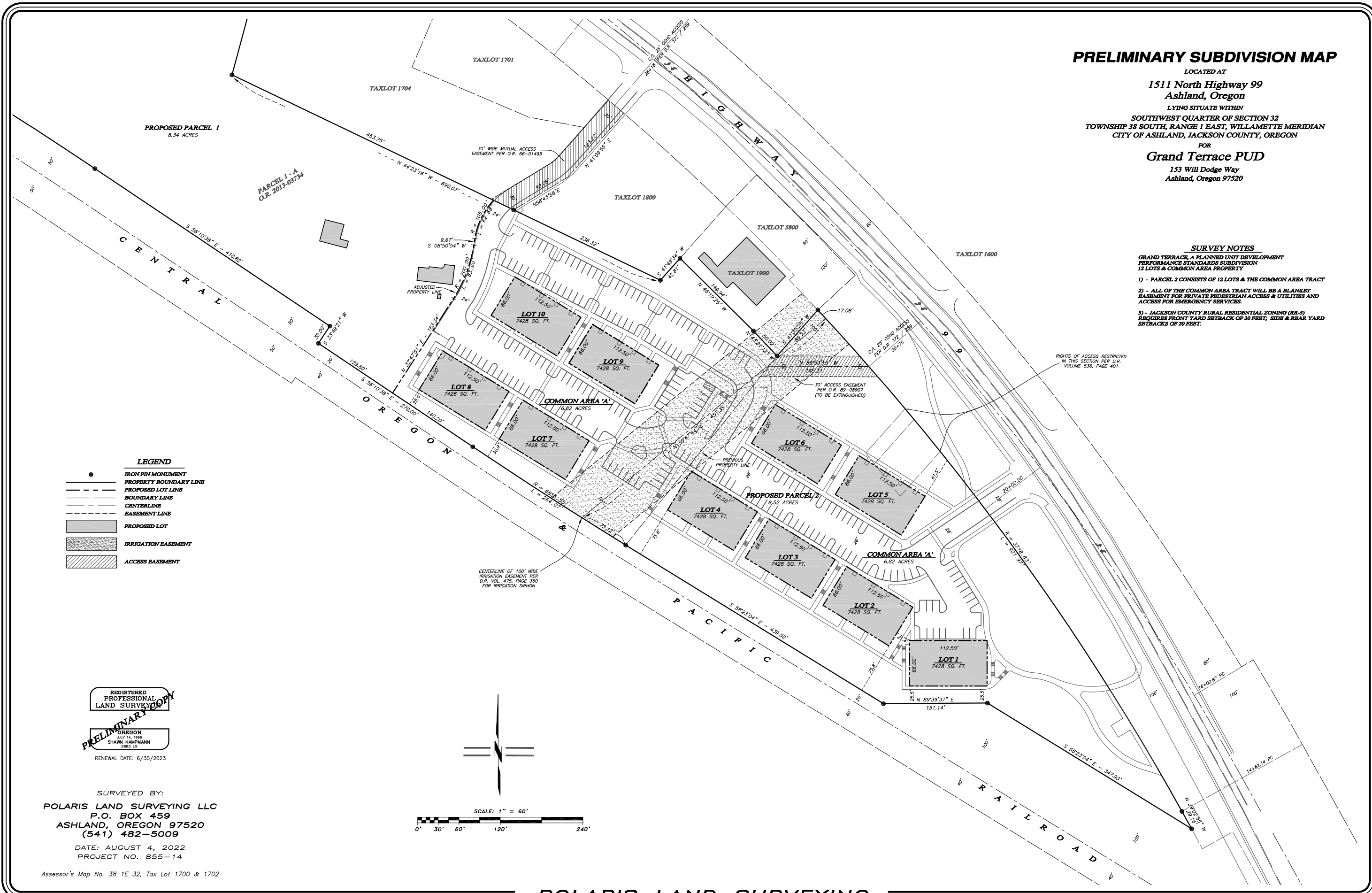
**From:** Robert Kendrick <[bobk213@icloud.com](mailto:bobk213@icloud.com)>  
**Sent:** Tuesday, June 27, 2023 10:45 AM  
**To:** Brandon Goldman <[brandon.goldman@ashland.or.us](mailto:brandon.goldman@ashland.or.us)>

# PRELIMINARY SUBDIVISION MAP

LOCATED AT  
**1511 North Highway 99**  
**Ashland, Oregon**  
 LYING SITUATE WITHIN  
 SOUTHWEST QUARTER OF SECTION 32  
 TOWNSHIP 38 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN  
 CITY OF ASHLAND, JACKSON COUNTY, OREGON  
 FOR  
**Grand Terrace PUD**  
 153 Will Dodge Way  
 Ashland, Oregon 97520

## SURVEY NOTES

- GRAND TERRACE, A PLANNED UNIT DEVELOPMENT  
 PERFORMANCE STANDARDS SUBDIVISION  
 12 LOTS & COMMON AREA PROPERTY
- 1) - PARCEL 2 CONSISTS OF 12 LOTS & THE COMMON AREA TRACT
  - 2) - ALL OF THE COMMON AREA TRACT WILL BE A BLANKET EASEMENT FOR PRIVATE PEDESTRIAN ACCESS & UTILITIES AND ACCESS FOR EMERGENCY SERVICES.
  - 3) - JACKSON COUNTY RURAL RESIDENTIAL ZONING (RR-5) REQUIRES FRONT YARD SETBACK OF 30 FEET; SIDE & REAR YARD SETBACKS OF 20 FEET.



## LEGEND

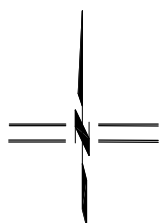
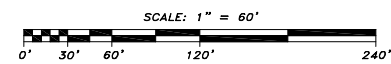
- IRON PIN MONUMENT
- PROPERTY BOUNDARY LINE
- - - PROPOSED LOT LINE
- BOUNDARY LINE
- CENTERLINE
- - - EASEMENT LINE
- PROPOSED LOT
- ▨ IRRIGATION EASEMENT
- ▧ ACCESS EASEMENT

REGISTERED PROFESSIONAL LAND SURVEYOR

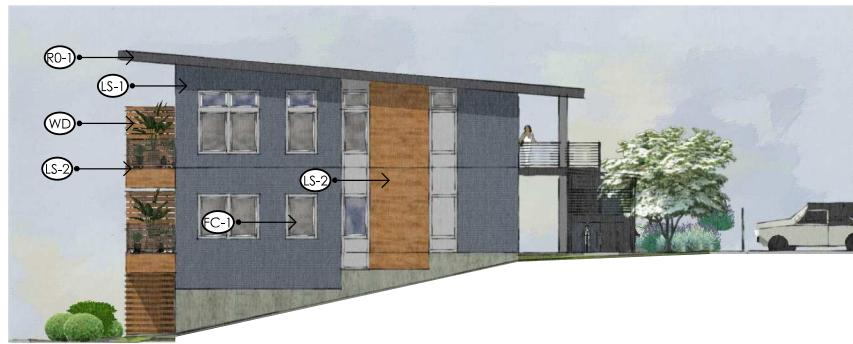
OREGON  
 JULY 14, 1998  
 SHAWN KAMPMANN  
 2883 LS

RENEWAL DATE: 6/30/2023

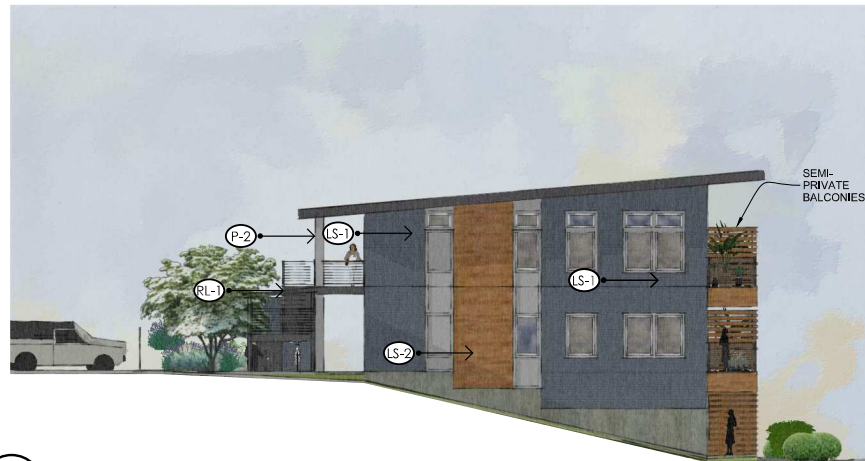
SURVEYED BY:  
**POLARIS LAND SURVEYING LLC**  
 P.O. BOX 459  
 ASHLAND, OREGON 97520  
 (541) 482-5009  
 DATE: AUGUST 4, 2022  
 PROJECT NO. 855-14



Assessor's Map No. 38 1E 32, Tax Lot 1700 & 1702



**F NORTHWEST EXTERIOR ELEVATION**  
SCALE: NONE



**E SOUTHEAST EXTERIOR ELEVATION**  
SCALE: NONE



**B NORTHWEST BIRDSEYE VIEW**  
SCALE: NONE



**D SOUTHWEST EXTERIOR ELEVATION**  
SCALE: NONE



**C NORTHEAST EXTERIOR ELEVATION**  
SCALE: NONE



**A NORTHEAST BIRDSEYE VIEW**  
SCALE: NONE

EXTERIOR FINISH & COLOR SCHEDULE				
SYMBOL	FINISH	COLOR	PRODUCT	NOTES
LS-1	FIBER CEMENT SIDING	TBD	NICHIHA OR EQ.	
LS-2	FIBER CEMENT SIDING	TBD	NICHIHA OR EQ.	
LS-3	FIBER CEMENT SIDING	TBD	NICHIHA OR EQ.	
<b>PAINT</b>				
P-1	PAINT 1	MATCH LS-2	SHERWIN WILLIAMS	
P-2	PAINT 2	LIGHT GREY	SHERWIN WILLIAMS	
<b>ROOFING</b>				
RO-1	RASED SEAM METAL	GALVANIZED	BID SOURCE	
RO-2	METAL FLASHING	CHARCOAL GREY	BID SOURCE	
<b>FENESTRATION</b>				
	GUTTERS	MATCH P-2	BID SOURCE	
<b>COLOR</b>				
FC-1	WINDOWS - VINYL	WHITE	BID SOURCE	
FC-2	DOORS - WOOD	CLEAR COAT	BID SOURCE	
<b>RAILINGS</b>				
RL-1	STEEL, PAINTED	CHARCOAL GREY	BID SOURCE	
RL-2	STEEL GRATE & FRAME	GALV.	BID SOURCE	
RL-3	TBD	TBD	BID SOURCE	
<b>MASONRY</b>				
M-1	CMU	DRIFTWOOD	MUTUAL MATERIALS OR EQUAL	

**GARY R. CAPERNA ARCHITECT**  
ARCHITECTURE PLANNING

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Oregon Architect License 5247  
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STAMP

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OR CCB # 22599  
WA CC JUSTICES319T CA 298104 A and B  
ID RCE-42730  
NM 391362  
Web: [WWW.IBSTEELINC.COM](http://WWW.IBSTEELINC.COM)

**PROJECT:**  
GRAND TERRACE

**PROJECT LOCATION:**  
Highway 99  
Ashland, Oregon 97520  
Map & Taxlot Reference:  
381E32 1700 & 1702

**CLIENT:**  
Kendrick Enterprise LLC  
153 Will Dodge Way  
Ashland, Oregon 97520

APPROVED FOR THE OWNER: \_\_\_\_\_ DATE: \_\_\_\_\_

ISSUE: April 6, 2022  
PROJECT No.: 2737-18  
DRAWN BY: JMK  
CHECKED BY: -

MARK	DATE	DESCRIPTION

SHEET TITLE:  
**Conceptual Perspective Views & Exterior Elevations**

**A2.0**  
FOR APPLICATION APPROVAL

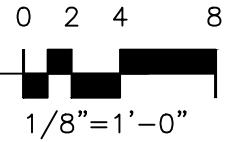




NOTE: SEE A2.0 FOR EXTERIOR FINISHES AND FINISH KEY

### NORTHWEST EXTERIOR ELEVATION

SCALE: 1/8" = 1'-0"



SURFACE MOUNTED ELECTRICAL METERS AND CABLE BOXES

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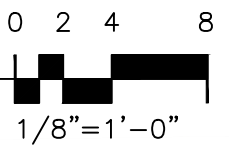
**J.B. STEEL, INC.**  
 COMMERCIAL & INDUSTRIAL  
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 Office: 541.773.8325 : Fax: 541.773.6523  
 OR CCB # 22999 : CA 298104 AAB : ID RCE-42730 : NM 391392  
 Web: [WWW.JBSTEELINC.COM](http://WWW.JBSTEELINC.COM)



NOTE: SEE A2.0 FOR EXTERIOR FINISHES AND FINISH KEY

### SOUTHEAST EXTERIOR ELEVATION

SCALE: 1/8" = 1'-0"



SURFACE MOUNTED ELECTRICAL METERS AND CABLE BOXES

PROJECT: AN APARTMENT COMPLEX FOR  
**GRAND TERRACE**  
 CLIENT: Kendrick Enterprises LLC  
 153 Will Dodge Way, Ashland, OR 97520  
 Project Location: Highway 99, Ashland, OR 97520  
 Map & Tax Lot #: 381E32, 1700 & 1702

MARK	DATE	DESCRIPTION

ISSUE DATE: 7/29/2022 9:20 AM  
 PROJECT NO: 2737-18  
 DRAWN BY: JK  
 CHECKED BY: ORC

SHEET TITLE:  
**CONCEPTUAL ELEVATIONS**  
 DRAWING NUMBER:  
**A2.0B**  
 FOR LAND USE APPROVAL  
 NOT FOR CONSTRUCTION

1/8" = 1'-0" SCALE  
 0 2 4 8  
 1/8" = 1'-0"



# **DISCUSSION ITEM**

---

## **Croman Mill Site Sampling Results & Next Steps**

# Memo

---

**DATE:** August 8, 2023  
**TO:** Planning Commissioners  
**FROM:** Derek Severson, *Planning Manager*  
**RE:** Croman Mill Site Sampling Results & Next Steps

## **Background**

On-site sampling at the Croman Mill site was conducted on during the first week of May by the property owners' environmental consultants. The Oregon Department of Environmental Quality (DEQ) was on hand to oversee this sampling work and to answer questions from interested parties including citizens, staff, and Council members. Preliminary results of that sampling work have come back, and the property owners representatives, their environmental consultants and DEQ staff were on hand to discuss the preliminary results and next steps at the July 31, 2023, Council study session.

As Planning Commissioners are aware, Townmakers LLC has expressed interest in acquiring the property for redevelopment, and the city is currently analyzing the property's potential for designation as a Climate Friendly Area (CFA) under the state's new Climate Friendly and Equitable Communities (CFEC) rules. Ultimately, the cleanup of the property is the necessary first step for any sort of redevelopment to move forward.

The Oregon Department of Environmental Quality (DEQ) serves as the regulatory agency responsible for overseeing the voluntary cleanup of the former Croman Mill site, and It is important to note that the City of Ashland does not possess review or approval authority over the cleanup plan.

## **COMMUNITY DEVELOPMENT DEPARTMENT**

51 Winburn Way  
Ashland, Oregon 97520  
[ashland.or.us](http://ashland.or.us)

Tel: 541.488.5305  
Fax: 541.552.2050  
TTY: 800.735.2900

## **Test Results**

Testing supervised by the Oregon Department of Environmental Quality (DEQ) the week of May 5th at the former Croman Mill site revealed the presence of diesel and oil-range hydrocarbons in groundwater and pondwater, exceeding safe drinking water limits. Some shallow soils contained dioxins and furans above acceptable levels, while other soil detections were generally within permissible limits, with a few exceptions. In communications with Planning staff, Anthony B. Chavez, RG, the Project Manager/Geologist for Western Region Environmental Cleanup & Emergency Response with the Oregon DEQ, provided the following initial summary of the results:

- Diesel and oil-range hydrocarbons were present in groundwater and pondwater exceeding DEQ's residential drinking water threshold of 100 parts per billion (ppb). The highest detection was 1,100 ppb from the pond. Groundwater had up to 720ppb oil. Other tested compounds in groundwater and pondwater were found below DEQ risk thresholds. Generally, this type of groundwater contamination is not considered "risky" when municipal supplies are available for consumption. The pond may need to be evaluated for potential ecological concerns.
- Dioxins and furans were found in shallow soils (0-6 inches) at a few locations above DEQ risk levels. The highest concentration was found at the south wood burner, location DU03 at 152.5 parts per trillion (ppt). Expected screening levels for dioxin in shallow soil will be future residential (4.7ppt), urban residential (12ppt), occupational workers(16ppt), construction workers (170ppt), and excavation workers (4,800ppt). For the planned mixed-use development, the dioxin needs to meet the residential standards. This can be done either by direct removal and sampling confirmation or by covering with clean fill and maintaining a minimum three-foot layer thickness.
- Except for oil and benzo(a)pyrene detections (2,200 parts per million [ppm] and 160ppm respectively) from shallow soil at the maintenance shop at DU06, remaining soil detections are below DEQ thresholds. DEQ's residential thresholds for oil and benzo(a)pyrene are 1,100ppm and 0.11ppm, respectively.

### **COMMUNITY DEVELOPMENT DEPARTMENT**

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### **Next Steps**

To address the identified contamination, SCS Engineers, Environmental Consultants and Contractors, will develop a work plan for DEQ's approval. This plan will include targeted soil removal, confirmation soil sampling, and additional shallow soil sampling to assess potential offsite contaminant migration. Moreover, surrounding areas of the planned excavation will undergo further sampling to determine the extent of the contamination.

The July 31<sup>st</sup> Council packet includes the full sampling report at:

[https://www.ashland.or.us/SIB/files/2023-07-31\\_Croman\\_Cleanup\\_Update\\_CC.pdf](https://www.ashland.or.us/SIB/files/2023-07-31_Croman_Cleanup_Update_CC.pdf).

The meeting video will be posted at: <https://www.ashland.or.us/Page.asp?NavID=745> when available.

### **REFERENCES & ATTACHMENTS**

**Attachment #1:** Preliminary Data Table with Test Results from SCS Engineers

**Attachment #2:** Sampling Map (Figure 4-1)

**Attachment #3:** Staff Questions/DEQ Responses

### **COMMUNITY DEVELOPMENT DEPARTMENT**

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Tel: 541.488.5305  
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Table 1. Preliminary Summary of Groundwater and Surface Water Analytical Results  
Croman Site, Ashland, OR

Sample ID	B02-15GW	B03-19GW	DU05-SU05-230505-Pond01	DU05-SU05-230505-Pond02	DEQ RBC Screening Levels	DEQ RBC Screening Levels	DEQ Chronic Screening Values	DEQ Chronic Screening Values
Area of the Site	GW from temporary boring near pump	GW from boring north of former USTs	Pond Water	Pond Water	Residential (DS)	Occupational (DS)	Residential (WI)	Commercial (WI)
<b>NWTPH- Gx, Dx (µg/L)</b>								
gasoline	50U	50U	50U	50U	110	450	120	520
Diesel	<b>230</b>	<b>250</b>	<b>590</b>	<b>600</b>	100	430	400	1700
Motor Oil	<b>420</b>	<b>720</b>	<b>1100</b>	<b>1100</b>	100	430	400	1700
<b>RCRA 8 Metals (dissolved) (µg/L)</b>								
Silver			10 U	10 U	100	820	NV	NV
arsenic			15 U	15 U	0.052	0.31	NV	NV
Barium			57	40	4000	33000	NV	NV
Cadmium			0.29 J	0.19 J	20	160	NV	NV
Chromium			1.8 J	1.1 J	---	---	NV	NV
Lead	9.0 U	9.0 U	9.0 U	9.0 U	15	15	NV	NV
Selenium			20 U	20 U	---	---	NV	NV
<b>PAHs (µg/L)</b>								
2-Methylnaphthalene	0.065 J	0.03 J	0.1 U	0.11 U	---	---	NITI	NITI
Acenaphthene	0.081 J	0.032 J	0.0089 J B	0.11 U	510	2500	NITI	NITI
Acenaphthylene	0.094 U	0.017 J	0.0061 J B	0.11 U	---	---	---	---
Benzo[a]anthracene	0.094 U	0.098 J	0.033 J B	0.11 U	0.03	0.38	190	2300
Benzo[a]pyrene	0.094 U	0.09 J	0.1 U	0.11 U	0.025	0.47	NV	NV
Benzo[b]fluoranthene	0.094 U	0.1	0.1 U	0.11 U	0.25	>S	NV	NV
Benzo[g,h,i]perylene	0.094 U	0.1	0.1 U	0.11 U	---	---	---	---
Benzo[k]fluoranthene	0.094 U	0.096 J	0.025 J B	0.11 U	>S	>S	NV	NV
Chrysene	0.094 U	0.1	0.1 U	0.11 U	>S	>S	NV	NV
Dibenz(a,h)anthracene	0.094 U	0.094 J	0.1 U	0.11 U	0.025	0.47	NV	NV
Fluoranthene	0.094 U	0.096 J	0.1 U	0.11 U	>S	>S	NITI, NV	NITI, NV
Fluorene	0.094	0.034 J	0.1 U	0.11 U	280	1300	NITI	NITI
Indeno[1,2,3-cd]pyrene	0.094 U	0.097 J	0.1 U	0.11 U	>S	>S	NV	NV
Naphthalene	0.049 J	0.1 U	0.1 U	0.11 U	0.17	0.72	11	50
Phenanthrene	0.049 J	0.063 J	0.1 U	0.11 U	---	---	---	---
Pyrene	0.094 U	0.096 J	0.1 U	0.11 U	110	>S	NITI	NITI
Anthracene	0.094 U	0.055 J	0.1 U	0.11 U	>S	>S	NITI	NITI
1-Methylnaphthalene	0.058 J	0.027 J	0.1 U	0.11 U	---	---	NITI	NITI
<b>VOCs (µg/L)</b>								
Acetone	40	15 U	11 J	6.7 J	---	---	NITI	NITI
Toluene	1.0 U	0.33 J	1.4	1.0 U	1100	6300	36000	150000

Notes:

GW = groundwater µg/L = micrograms per liter

DS = ingestion or inhalation from tap water.

WI = groundwater volatilization to indoor air

analyses not performed

**230** = above the DEQ RBC for this analyte

J = estimated concentration above detection limit but below the method reporting limit

U = not detected above the MRL shown.

B = analyte detected in the sample and the laboratory blank.

NITI = no inhalation toxicity

NV = not volatile

--- = RBC not listed for this analyte

>S = The groundwater RBC exceeds the solubility limit.

Oregon RBCs from "Risk Based Concentrations for Individual Chemicals, Revision May 2018 and amended June 2023.

Volatilization to indoor air screening values from the June 2023 DEQ Table 1. Chronic and Acute Vapor Intrusion Risk-Based Concentrations.

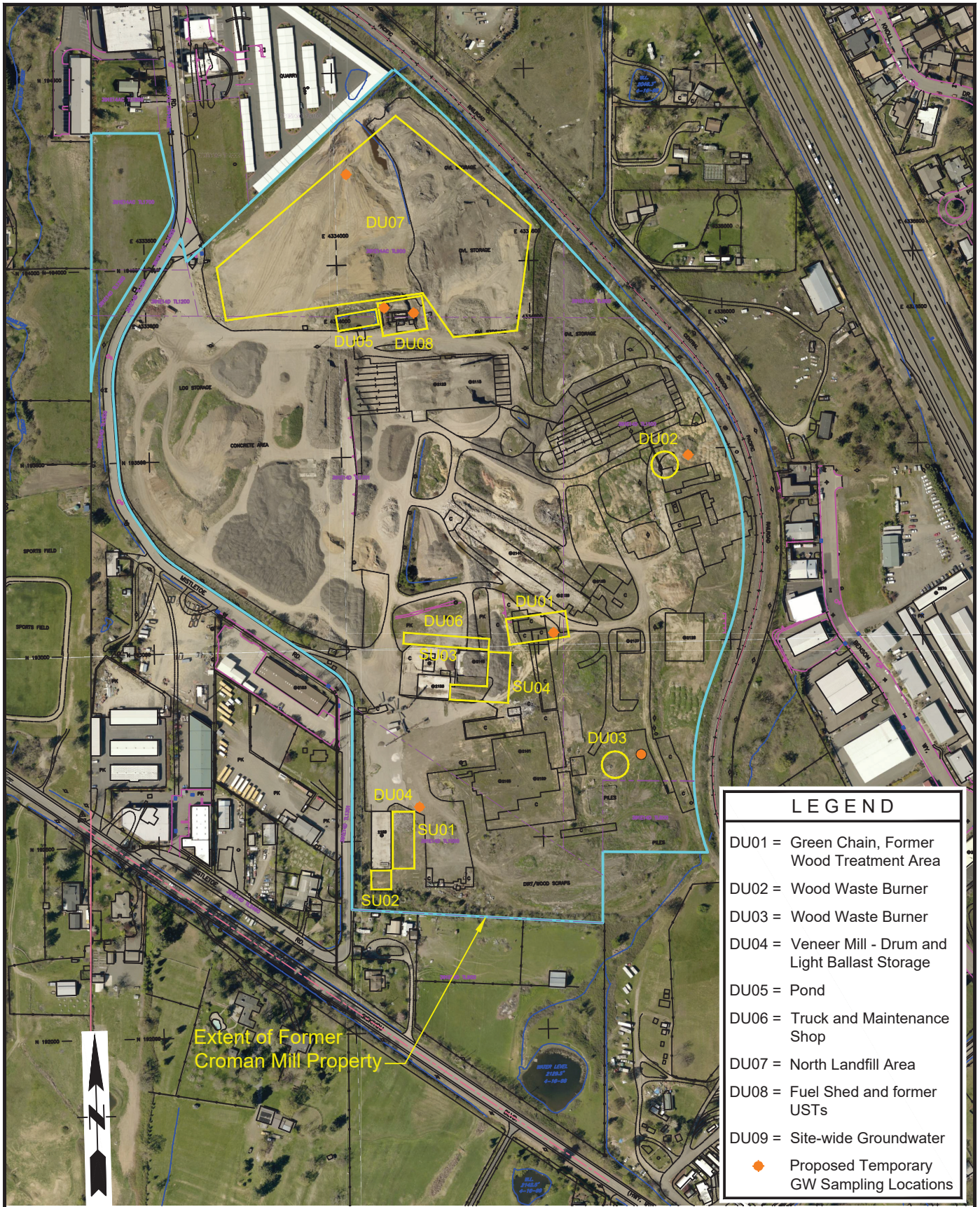
Table 2. Preliminary Summary of Analytical Results from Soil and Sediment Samples  
Croman Site, Ashland, Oregon

Sample ID	B02-8	B03-17	DU01-230504-0.5	DU01-230504-0.5 REP1	DU01-230504-0.5 REP2	DU02-230504-0.5	DU03-230505-0.5	DU03-230505-0.5 REP1	DU03-230505-0.5 REP2	DU04-SU01-230504-0.5	DU04-SU02-230504-0.5	DU05-SU06-230505-COMP01	DU05-SU06-230505-COMP02	DU06-SU03-230504-0.5	DU06-SU04-230505-0.5	DU07-230502-Fill	DU07-230502-Native	DEQ RBC Screening Level	DEQ RBC Screening Level	DEQ RBC Screening Level
Area of the Site	Temporary boring NW of former USts	Temporary boring near pump	Wood treatment Dip Tank	Wood treatment Dip Tank	Wood treatment Dip Tank	North Wood Burner	South Wood Burner	South Wood Burner	South Wood Burner	Veneer mill - east	Veneer Mill south	Pond Sediments	Pond Sediments	Maintenance Shop - north	Maintenance Shop - East	North Landfill Area	North Landfill Area	Residential (DC)	Occupational (DC)	Excavation Worker (DC)
<b>NWTPH- Gx, Dx (mg/Kg)</b>																				
gasoline (GRO)	5.9 U	6.2 U										7.1 U	8.4 U					1200	20000	> Max
Diesel (DRO)	66	58 U	15 J	16 J	15 J	12 J	35 J	27 J	35 J	56		22 J	18 J	280	62	48 U H	49 U H	1100	14000	> Max
heavy oil (RRO)	190	28 J	180	200	190	110	360	300	360	350		310	240	<b>2200</b>	360	41 J H	49 U H	1100	14000	> Max
<b>RCRA 8 Metals (mg/Kg)</b>																				
Silver			0.8 U	0.71 U	0.73	0.76 U	0.68 U	0.76 U	0.72 U			0.89 U	0.87 U	0.72 U	0.67 U	0.75 U	0.73 U	390	5800	49000
Arsenic			2.3	2.3	2.2	2.9	2.2	2.3	2.3			1.1 J	1.5 J	2.2	2.3	4.9	2.3	0.43	1.9	420
Barium			51	56	53	110	75	95	98			44	57	57	49	200	81	15,000	220,000	>Max
Cadmium			0.038 J	0.035 J	0.37 U	0.058 J	0.047 J	0.046 J	0.059 J			0.45 U	0.43 U	0.13 J	0.11 J	0.045 J	0.37 U	78	1100	9700
Total Chromium			12 B	13 B	11 B	22 B	15 B	18 B	18 B			7.6	11	14 B	21 B	31 B	20 B	---	---	---
Lead	2.9	6.9	5.2	4.8	4.2	11	8.2	7.5	8.7	9.5		4.3	5.9	20	9.4	3.4	400	800	800	
Selenium			1.4 U	1.3 U	1.3 U	1.4 U	1.2 U	1.4 U	1.3 U			1.6 U	1.6 U	1.3 U	1.2 U	1.3 U	1.3 U	---	---	---
Total Mercury			0.036	0.061	0.04	0.039	0.12	0.089	0.097	0.05		0.013 J	0.014 J	0.049	0.043	0.057	0.019	23	350	2900
<b>PAHs (µg/Kg)</b>																				
2-Methylnaphthalene	4.4 J	34 U	330 U	320 U	330 U	1.9 J	4.8 J	3.8 J	5.4 J	16		3.7 J	4.4 J	14	8.2 J	1 J	10 U	---	---	---
Acenaphthene	33 U	34 U	330 U	320 U	330 U	10 U	9.7 U	9.9 U	10 U	6.6 J		35 U	35 U	2.8 J	6.3 J	9.9 U	10 U	4,700,000	70,000,000	590,000,000
Acenaphthylene	33 U	34 U	330 U	320 U	330 U	1.7 J	9.7 U	9.9 U	10 U	9.9 U		35 U	35 U	3.3 J	3.3 J	9.9 U	10 U	---	---	---
Benzo[a]anthracene	33 U	34 U	36 J	22 J	32 J	10 U	2.8 J	3.2 J	10 U	1.8 J		35 U	35 U	8.5 J	140	2.7 J	10 U	---	---	---
Benzo[a]pyrene	5.5 J	34 U	90 J	76 J	87 J	2.6 J	9.7 U	9.9 U	10 U	9.9 U		35 U	35 U	8.4 J	<b>160</b>	2.6 J	10 U	110	2100	490,000
Benzo[b]fluoranthene	9.6 J	34 U	200 J	170 J	200 J	2.9 J	4.8 J	3.7 J	3.6 J	9.9 U		35 U	12 J	15	210	4.7 J	10 U	1100	21000	4,900,000
Benzo[g,h,i]perylene	33 U	34 U	330 U	320 U	330 U	2.7 J	2.2 J	2.3 J	10 U	9.9 U		34 J	40	13	92	2.5 J	10 U	---	---	---
Benzo[k]fluoranthene	33 U	34 U	330 U	320 U	330 U	10 U	9.7 U	9.9 U	10 U	9.9 U		35 U	35 U	3.5 J	76	9.9 U	10 U	>Csat	>Csat	>Csat
Chrysene	8.2 J	34 U	36 J	32 U	32 J	3.2 J	5.6 J	5.6 J	4.5 J	3.7 J		9.8 J	35 U	17	170	4 U	10 U	>Csat	>Csat	>Csat
Dibenz[a,h]anthracene	33 U	34 U	330 U	320 U	330 U	10 U	9.7 U	9.9 U	10 U	9.9 U		35 U	35 U	10 U	29	9.9 U	10 U	110	2,100	490,000
Fluoranthene	7.3 J	34 U	330 U	320 U	330 U	5.8 J	6.5 J	7.7 J	7.7 J	14		24 J	24 J	17	180	4.5 J	10 U	>Csat	>Csat	>Csat
Fluorene	33 U	34 U	330 U	320 U	330 U	10 U	2.9 J	2.4 J	2.9 J	4.5 J		9.1 J	3.9 J	10 U	8.2 J	9.9 U	10 U	>Csat	>Csat	>Csat
Indeno[1,2,3-cd]pyrene	33 U	34 U	330 U	320 U	330 U	2.2 J	9.7 U	9.9 U	10 U	9.9 U		28 J	29 J	8.9 J	97	9.9 U	10 U	1,100	21,000	4,900,000
Naphthalene	5.4 J	11 J	330 U	320 U	330 U	7.5 J	20	17	22	10		8.6 J	9.9 J	8 J	17	1.8 J	1.1 J	5,300	23,000	>Csat
Phenanthrene	11 J	34 U	330 U	320 U	330 U	7.7 J	17	15	17	26		22 J	23 J	20	78	3.4 J	10 U	---	---	---
Pyrene	33 U	34 U	29 J	20 J	25 J	4.7 J	4.2 J	6.4 J	6 J	8.9 J		10 J	9.6 J	24	180	3.9 J	10 U	>Csat	>Csat	>Csat
Anthracene	33 U	34 U	330 U	320 U	330 U	10 U	2 J	9.9 U	9.9 U	9.9 U		35 U	35 U	8 J	21	9.9 U	10 U	>Csat	>Csat	>Max
1-Methylnaphthalene	2.7 J	34 U	330 U	320 U	330 U	1.3 J	3.1 J	2.3 J	3.6 J	7.9 J		1.9 J	2.4 J	6.6 J	4 J	0.62 J	10 U	---	---	---
<b>PCBs (µg/Kg)</b>																				
total PCBs										40 J	92U/64U	340 U/240 U	340 U/240 U	91U/64U	90U/63U	87U /61U	92U/65U	230	590	140,000
<b>SVOCs (µg/Kg)</b>																				
Remaining SVOCs			ND	ND	ND															
<b>Dioxins and Furans (pg/g)</b>																				
2,3,7,8-TCDD equivalent			<b>23.60</b>	<b>39.97</b>	<b>20.65</b>	<b>146.3</b>	<b>122.2</b>	<b>152.5</b>	<b>24.77</b>			<b>6.82 J</b>	<b>6.91 J</b>					4.7	16	4800
95%UCL			<b>54.27</b>					<b>267.8</b>												
Average			28.1					99.8												

Notes:  
DC = dermal contact, inhalation, ingestion  
DU01 analyzed for full list of SVOCs, which includes PAHs, by EPA 8270D. Elevated reporting limits due to the method.  
analyses not performed  
J = estimated concentration above detection limit but below the method reporting limit.  
H = sample analyzed past holding time; B = analyte detected in the sample and the laboratory blank.  
mg/Kg = milligram per kilogram; µg/Kg = microgram per kilogram; pg/g = picogram per gram  
ND = not detected above the laboratory method detection limit  
U = not detected above the MRL shown.  
MRL = method reporting limit  
160 = above the DEQ RBC for this analyte  
-- = RBC not listed for this analyte  
>Csat = This soil RCB exceeds the limit of three-phase equilibrium partitioning. If concentrations greater than Csat, then free product is present.  
>Max = This constituent RBC for this pathway is greater than 1,000,000 mg/Kg, therefore is deemed not to pose a risk in this scenario.  
Oregon RBCs from "Risk Based Concentrations for Individual Chemicals, Revision May 2018 and amended June 2023.

Table 2. Preliminary Summary of Analytical Results from Soil and Sediment Samples  
Croman Site, Ashland, Oregon

Sample ID	Clean Fill and/or Background Metals (Cascade Range)
Area of the Site	Clean Fill
<b>NWTPH- Gx, Dx (mg/Kg)</b>	
gasoline (GRO)	
Diesel (DRO)	
heavy oil (RRO)	
<b>RCRA 8 Metals (mg/Kg)</b>	
Silver	0.17
Arsenic	19
Barium	630
Cadmium	0.54
Total Chromium	200
Lead	34
Selenium	0.52
Total Mercury	0.24
<b>PAHs (µg/Kg)</b>	
2-Methylnaphthalene	11000
Acenaphthene	250
Acenaphthylene	120000
Benzo[a]anthracene	730
Benzo[a]pyrene	110
Benzo[b]fluoranthene	1100
Benzo[g,h,i]perylene	25000
Benzo[k]fluoranthene	11000
Chrysene	3100
Dibenz[a,h]anthracene	110
Fluoranthene	10000
Fluorene	3700
Indeno[1,2,3-cd]pyrene	1100
Naphthalene	77
Phenanthrene	5500
Pyrene	10000
Anthracene	6800
1-Methylnaphthalene	360
<b>PCBs (µg/Kg)</b>	
total PCBs	230
<b>SVOCs (µg/Kg)</b>	
Remaining SVOCs	
<b>Dioxins and Furans (pg/g)</b>	
2,3,7,8-TCDD equivalent	0.29
95%UCL	
Average	



LEGEND	
DU01	Green Chain, Former Wood Treatment Area
DU02	Wood Waste Burner
DU03	Wood Waste Burner
DU04	Veneer Mill - Drum and Light Ballast Storage
DU05	Pond
DU06	Truck and Maintenance Shop
DU07	North Landfill Area
DU08	Fuel Shed and former USTs
DU09	Site-wide Groundwater
●	Proposed Temporary GW Sampling Locations

<b>SCS ENGINEERS</b> Environmental Consultants and Contractors 15940 SW 72nd Avenue Portland, Oregon 97224 (503) 639-9201 FAX: (503) 684-6948	PROJECT NO. 04222021.00	DES BY L.E.L.	<b>SITE PLAN</b>  <b>CROMAN PROPERTY</b> 146 MISTLETOE ROAD ASHLAND, OREGON 97520	DATE FEBRUARY 2023
	SCALE AS SHOWN	CHK BY B.L.		FIGURE <b>4-1</b>
	CAD FILE FIGURE 4-1	APP BY S.L.		



**From:** CHAVEZ Anthony \* DEQ <Anthony.CHAVEZ@deq.oregon.gov>  
**Sent:** Monday, July 17, 2023 02:17 PM  
**To:** Greg Aitken <greg.aitken@external.ashland.or.us>  
**Cc:** HANSON Don \* DEQ <Don.HANSON@deq.oregon.gov>; SHULTZ Brad \* DEQ <Brad.Shultz@deq.oregon.gov>; ZANNI Jason \* DEQ <Jason.ZANNI@deq.oregon.gov>; Brandon Goldman <brandon.goldman@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>; SAWKA Nancy \* DEQ <Nancy.SAWKA@deq.oregon.gov>  
**Subject:** RE: July 31 Ashland city council study session re: former Croman Mill

[EXTERNAL SENDER]

Hi Greg, please see embedded DEQ responses below **in blue bold**.

Thank you,  
Anthony

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**From:** Greg Aitken <greg.aitken@external.ashland.or.us>  
**Sent:** Monday, July 17, 2023 9:34 AM  
**To:** CHAVEZ Anthony \* DEQ <Anthony.CHAVEZ@deq.oregon.gov>  
**Cc:** HANSON Don \* DEQ <Don.HANSON@deq.oregon.gov>; SHULTZ Brad \* DEQ <Brad.Shultz@deq.oregon.gov>; ZANNI Jason \* DEQ <jason.zanni@deq.oregon.gov>; Brandon Goldman <brandon.goldman@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>  
**Subject:** July 31 Ashland city council study session re: former Croman Mill

Thank you for the preliminary report, Anthony, and your assistance in making good progress with environmental site investigation of the former Croman property.

By this Thursday, July 20, City staff need to produce an information packet for Council members that includes a simplified plain language summary of the preliminary results. Are you able to generate something along these lines, along with a site plan showing sampling locations? We would also like to include this on our city website for public information about the Croman project.

1. Please include the property owner's estimated schedule for the submittal of the interim remedial action workplan to DEQ, and the anticipated schedule for interim actions.  
**We have inquired with Croman's consultant and will follow up when a response is received. The work plan is anticipated quickly, as their contractor has some time this summer.**
2. The reported dioxin and TPH results indicate that it would be prudent to sample downgradient surface water in order to rule out off-site impacts. Did DEQ have an

opportunity to consider the merit of sampling potential ditch locations raised by city staff at the May 2 site visit and in the May 4, 2023 email?

**DEQ previously and currently advised that surface water or sediment sampling be completed near the site border to assess for potential offsite migration. In our most recent meeting, Croman agreed to more reconnaissance and surface water (or sediment) sampling where possible between the source areas and receiving water bodies.**

3. By Thursday, July 20, city staff need to finalize the list of project representatives attending the Council study session, and provide participants with a videoconference link. Please provide a list of participants. Will the property owner be represented by SCS Engineers?

**DEQ has not communicated with Croman about their potential attendance at the City Council meeting. Please remind us when this meeting is occurring so we can let the owner know, and DEQ can confirm what staff will be able to attend.**

4. In light of the dioxin results, will site security be enhanced to clearly identify and prevent access to the three identified areas of concern? At a minimum, it would be prudent to post signage and install fencing to secure the wood treatment dip tank area, the north wood burner, and the south wood burner. These areas are currently not secure to prevent access to trespassers and authorized site workers.

**Based on current site security measures (private fenced property) and moderate dioxin detections, DEQ does not believe additional security is needed.**

5. Please be prepared to address the current regulatory status of the stockpiled materials.

**DEQ's solid waste program will answer. The owner indicated during our last meeting that no materials, except for some asphalt and solid waste, have left the site for several months, and that they were giving notice to the City prior to that of other materials going off-site (i.e., wood waste).**

City staff would welcome an opportunity to discuss these items further, in advance of the Council study session. Please let us know how we can facilitate your work on this important project, thank you Anthony.

**We could meet prior to the study session. If you would like to do that, please provide some days/times for consideration.**

Greg Aitken  
Community Development, City of Ashland