



Planning Commission Meeting Agenda

ASHLAND PLANNING COMMISSION

REGULAR MEETING AGENDA

Tuesday, February 11, 2025

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.

I. CALL TO ORDER

7:00 p.m., Civic Center Council Chambers, 1175 E. Main Street

II. ANNOUNCEMENTS

1. Staff Announcements
2. Advisory Committee Liaison Reports

III. CONSENT AGENDA

1. Approval of Minutes
 - a. January 14, 2025 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-public-testimony@ashland.or.us by February 11, 2025 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/95600353277>

V. UNFINISHED BUSINESS

Approval of Findings for PA-T1-2024-00254, Sutton Place TL 1600, The Oaks of Ashland Subdivision

VI. TYPE II PUBLIC HEARINGS - CONTINUED

- A. Settlement of the Record
- B. Deliberations

PLANNING ACTION: PA-T1-2024-00255

SUBJECT PROPERTY: 110 Terrace St.

OWNER: Shirley D Patton Trust

APPLICANT: Rogue Planning & Development

DESCRIPTION: This is a request for a formal interpretation of the Ashland Land Use Ordinance as it applies to how a Peer Respite Home (as defined at ORS 430.626) are regulated. The interpretation requests that the proposed Peer Respite Home in the existing residence at 110 Terrace Street be classified as a similar use to types of Group Living that are permitted in all residential zones, and that such interpretation would provide a reasonable accommodation consistent with the Fair Housing Act and Americans with Disability Act.

COMPREHENSIVE PLAN DESIGNATION: Single-Family; **ZONING:** RR-.5; **MAP:** 39-1E-09-BC; **TAX LOT:** 8000

VII. TYPE III PUBLIC HEARINGS





Planning Commission Meeting Agenda

PLANNING ACTION: PA-T3-2024-00010

SUBJECT PROPERTY: 300 Clay St.

OWNER: Bentella LLC

APPLICANT: Rogue Development

DESCRIPTION: A request for annexation and zone change for a 4.8-acre property, along with adjacent Right-of-Way (ROW), for the property located at 300 Clay Street. The application also includes a request for a 25-lot (37 dwelling unit) Outline Plan Approval for a Performance Standards Option (PSO) Subdivision, as well as a limited activities WRPZ permit. **COMPREHENSIVE PLAN DESIGNATION:** Suburban Residential;

ZONING: County RR-5 (R-1-3.5 requested); **MAP:** 39-1E-11-CB Tax Lot 1100; **TAX LOT:** 1100

VIII. OTHER BUSINESS

Ashland Modified Flood Zone along Hamilton Creek

IX. OPEN DISCUSSION

X. ADJOURNMENT

Next Meeting Date: February 25, 2025

Next Meeting Date:

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please email planning@ashlandoregon.gov. 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 1).



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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.

January 14, 2025

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 Perkinson and Phillips attended the meeting via Zoom.

Commissioners Present:

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

Staff Present:

Brandon Goldman, Community Development Director
Derek Severson, Planning Manager
Carmel Zahran, Assistant City Attorney
Michael Sullivan, Executive Assistant

Absent Members:

Council Liaison:

Vacant

II. ANNOUNCEMENTS

1. Staff Announcements:

Community Development Director Brandon Goldman made the following announcements:

- The City's annual town hall meeting was scheduled for January 22, 2025.
- The Jackson County Planning Commission will be hearing a request for the Urban Growth Boundary line adjustment related to 375 and 475 East Nevada Street on January 15, 2025. This item previously came before the Commission in 2021, PA-T2-2021-00031.
- City Manager Sabrina Cotta will present the updated Commissions and Committees handbook at the January 28, 2025 Study Session.
- Appointments for Council Liaisons to Commissions and Committees will be determined by the Mayor and are scheduled for January 21, 2025.
- The Commission will review an application for the annexation of 300 Clay Street at its February 11, 2025 meeting.

2. Advisory Committee Liaison Reports – None

III. CONSENT AGENDA

1. Approval of Minutes

- December 10, 2024 Regular Meeting





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Commissioner MacCracken Jain asked that her question on page 3 of the minutes be amended to more accurately reflect her inquiry regarding the density requirements of Area 7.

Commissioners Perkinson/Phillips m/s to approve the Consent Agenda with the correction requested by Commissioner MacCracken Jain. Voice Vote: All AYES. Motion passed 6-0.

IV. **PUBLIC FORUM** – None

V. **FINISHED BUSINESS**

A. Approval of Findings for PA-T2-2024-00054, Kestrel Park Phase III

Chair Verner stated that a non-substantive spelling error in the findings had been pointed out by Commissioner Phillips to staff. This change was made to the draft findings prior to the meeting.

Commissioners MacCracken Jain/Phillips m/s to approve the findings with the non-substantive correction noted by Commissioner Phillips. Commissioners KenCairn and Herron recused themselves due to past involvement with the applicant. Roll Call Vote: All AYES. Motion passed 4-0.

VI. **TYPE II PUBLIC HEARINGS**

PLANNING ACTION: PA-T1-2024-00255

SUBJECT PROPERTY: 110 Terrace St.

OWNER: Shirley D Patton Trust

APPLICANT: Rogue Planning & Development

DESCRIPTION: This is a request for a formal interpretation of the Ashland Land Use Ordinance as it applies to how a Peer Respite Home (as defined at ORS 430.626) are regulated. The interpretation requests that the proposed Peer Respite Home in the existing residence at 110 Terrace Street be classified as a similar use to types of Group Living that are permitted in all residential zones, and that such interpretation would provide a reasonable accommodation consistent with the Fair Housing Act and Americans with Disability Act.

COMPREHENSIVE PLAN DESIGNATION: Single-Family; **ZONING:** RR-.5; **MAP:** 39-1E-09-BC; **TAX LOT:** 8000

Chair Verner noted that staff had received numerous public comments since the meeting packet had been distributed (see attachment #1).





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Ex Parte Contact

Commissioners MacCracken Jain, KenCairn, Herron, and Verner disclosed site visits.

Chair Verner disclosed ex parte contact with a member of the public who informed her that this item was on the agenda.

Commissioner MacCracken Jain disclosed three ex parte contacts, but stated that they were unsolicited and did not get into the content of the project, merely that this meeting was scheduled.

Staff Presentation

Mr. Goldman briefly described a Peer Respite Center and that the interpretation request argued that the proposed Peer Respite Home in the existing residence at 110 Terrace Street should be classified as a similar use to Group Living, that are permitted in all residential zones, and that such interpretation would provide a reasonable accommodation consistent with the Fair Housing Act and Americans with Disabilities Act. Mr. Goldman stated that staff's focus of the interpretation came down to a determination of whether the proposed Peer Respite Center is a group-living situation, as suggested by the applicant, or a Traveler's Accommodation as interpreted by staff per the Ashland Municipal Code (AMC).

Questions of Staff – None

Applicant Presentation

Property owner Kent Patton stated that this facility would serve the community by assisting those who suffer from mental illness or are unable to help themselves.

Attorney for the applicant Jennifer Bragar stated that federal law requires a dialogue between the City and the applicant for such a project, but that the City does not have reasonable accommodation processes and has not been in communication with the applicant since the proposal was submitted. Ms. Bragar stated that only one Peer Respite Center had been approved in Jackson County thus far.

Ms. Bragar stated that no person seeking respite would be charged rent, unlike short-term tourists, and that residents would return to it when needed, which would designate the facility as a home under the Fair Housing Act.

Questions of the Applicant

Commissioner Herron asked if the owner would live on site. Ms. Bragar responded that they would not.

Commissioner MacCracken Jain asked if the applicant sought other locations for the facility that



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would not require accommodations. Ms. Bragar responded that no RR.5 Zone would permit this facility.

Public Comments

The following public speakers spoke in favor of the applicant:

- Tom Stenson
- Victor Rico
- Debbie Neisewander
- Grace Pettygrove

The following speakers spoke in favor of the staff interpretation:

- Rob Patridge
- Sydnee Dreyer
- Ron Rusnak
- Karen Grove
- Jay Ach
- David Allman
- David Downey Jr.
- James McGinnis

Mr. Goldman read a public comment that was submitted into the record by the Fair Housing Council of Oregon just prior to the meeting (see attachment #2).

Applicant Rebuttal

Applicant Shirley Patton stated that she regretted any distress that the application had caused her former neighbors but that the proposed home would benefit those in need. Ms. Bragar requested that the meeting be continued and that the record be left open to allow additional testimony to be submitted.

The Public Hearing was closed at 8:45 p.m.

The Public Record was left open to allow written testimony to be submitted by 4:30 p.m. on January 22, 2025. Any party-of-record will then have until 4:30 p.m. on January 30, 2025 to offer a rebuttal to those comments received by January 22. The applicant will have until 4:30 p.m. on February 7, 2025 to offer final arguments or comments.

PLANNING ACTION: PA-T1-2024-00254

SUBJECT PROPERTY: The Oaks of Ashland Open Space – Sutton Place (Tax Lot #1600)
554 Sutton Place (Tax Lot #1500)
562-570 Sutton Place (Tax Lot #1800)





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PROPERTY OWNERS: The Oaks of Ashland Homeowners Association (HOA) (Tax Lot #1600)

Mukesh & Sheetal Sheoran (554 Sutton Place, Tax Lot #1500)

Bruce A. Theisen Trust (562-570 Sutton Place, Tax Lot #1800)

APPLICANTS: Vincent Haynes, Michael Thornton and Fred Frantz for The Oaks of Ashland HOA

DESCRIPTION: A request for an amendment of The Oaks of Ashland subdivision approval (PA #2000-127) to remove a condition of approval which required that a Public Pedestrian Access Easement (PPAE) be provided to connect Highway 66 to Sutton Place through the subdivision open space and continuing on between the properties at 554 Sutton Place and 562/570 Sutton Place. **COMPREHENSIVE PLAN DESIGNATION:** Single-Family; **ZONING:** R-1-10; **MAP:** 39 1E 11 DD; **TAX LOTS:** 1500, 1600 & 1800

Ex Parte Contact

Commissioners Herron, KenCairn, and Verner disclosed site visits. Chair Verner disclosed that she was approached by a former Commissioner about this project.

Staff presentation

Planning Manager Derek Severson briefly described the subject easement, properties, and as-built plans from the Public Works Department. He stated that the planned pedestrian connectivity had not been realized and that existing slopes discouraged the easement's full use. Staff recommended that the Commission approve the requested modifications to Condition #17 of the Oaks of Ashland Subdivision approval, PA-2000-127, with the addition of two conditions suggested by staff.

Applicant Presentation

Applicant Vincent Haynes, President of the Oaks of Ashland Homeowner's Association (HOA) stated that the removal of the easement would not deprive nearby residents of any key aspects of the HOA, and the its removal would benefit the neighborhood and requested that the application be approved.

Chair Verner closed the Public Hearing and Public Record at 9:06 p.m.

Deliberations and Decision

Commissioners Perkinson/KenCairn m/s to support staff's recommendation and approve the request with the two conditions suggested by staff. Roll Call Vote: All AYES. Motion Passed 6-0.

VII. OPEN DISCUSSION

Chair Verner asked if any Commissioners wished to put forth a candidate for Vice-Chair.

Commissioners Phillips/Herron m/s to elect Commissioner KenCairn as Vice-Chair. Voice Vote: All



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AYES. Motion Passed 6-0.

Chair Verner stated that the Mayor had appointed John Maher to occupy the vacant seat on the Commission.

VIII. ADJOURNMENT

Meeting adjourned at 9:12 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*



ATTENTION

**For attachments to the January 14, 2025 Minutes
please use the link below:**

<https://ashlandor.portal.civicclerk.com/event/212/files/agenda/1054>

**For Video Testimony Submitted into the Record,
please use the link below:**

**[http://records.ashland.or.us/WebLink/Browse.aspx?
id=143033&dbid=0&repo=CITY-RECORDS](http://records.ashland.or.us/WebLink/Browse.aspx?id=143033&dbid=0&repo=CITY-RECORDS)**

FINDINGS

**Approval of Findings for Sutton Place, Tax
Lot 1600, The Oaks of Ashland Open Space**

THE CITY OF ASHLAND
BEFORE THE PLANNING COMMISSION

February 11, 2025

IN THE MATTER OF PLANNING ACTION #PA-T1-2024-00254, A)
REQUEST FOR A MAJOR MODIFICATION OF THE OAKS OF ASHLAND)
SUBDIVISION APPROVAL (PA #2000-127) TO AMEND A CONDITION)
OF APPROVAL #17 WHICH REQUIRED THAT A PUBLIC PEDESTRIAN)
ACCESS EASEMENT (PPAE) BE PROVIDED TO CONNECT HIGHWAY)
66 TO SUTTON PLACE THROUGH THE SUBDIVISION OPEN SPACE)
AND CONTINUING ON BETWEEN THE PROPERTIES AT 554 SUTTON)
PLACE AND 562/570 SUTTON PLACE.)

OWNER:THE OAKS OF ASHLAND HOMEOWNERS' ASSOCIATION)
(HOA) (TAX LOT #1600))
MUKESH & SHEETAL SHEORAN (554 SUTTON PLACE, TAX LOT)
#1500))
BRUCE A. THEISEN TRUST (562-570 SUTTON PLACE, TAX LOT)
#1800))
APPLICANT: VINCENT HAYNES, MICHAEL THORNTON AND FRED)
FRANTZ FOR)
THE OAKS OF ASHLAND HOMEOWNERS ASSOCIATION (HOA))

**FINDINGS,
CONCLUSIONS,
AND ORDERS.**

RECITALS:

- 1) The subject properties are tax lots 1500, 1600 and 1800 of Assessor's Map 39 1E 11DD and are addressed as 554 Sutton Place and 562-570 Sutton Place. The open space under HOA ownership has no address. The properties were created as Lots 11 and 12 and Open Space #2 of The Oaks of Ashland Subdivision approved through Planning Actions #2000-127 and #2001-022 and recorded as County Survey #17184.
- 2) The properties are 0.22 acres, 0.15 acres, and 0.39 acres in size and are zoned Single-Family Residential (R-1-10) and located in the PSO and Airport overlays. The minimum lot size in the R-1-10 zone is 10,000 square feet as set out at Ashland Municipal Code (AMC) 18.2.5.030 which provides the 'Unified Standards for Residential Zones.'
- 3) The properties are steeply sloped at approximately 27 percent average slope down to the Northeast towards Ashland Street/Highway 66.
- 4) The Ashland Street/Highway 66 right-of-way (ROW) is fully improved with curb, gutter, and curbside sidewalks in place along the full frontage of The Oaks of Ashland Subdivision.
- 5) The Ashland Municipal Code (AMC) Chapter 18 is the City's Land Use Ordinance (LUO). Chapter 18.5.3 provides for regulations for land divisions which are "clear and objective."

- 6) The request is for modification to the list of conditions of the original 27-lot subdivision approval, which included twenty-four (24) residential lots and three (3) common open space areas, to amend condition of approval #17 which required a public pedestrian access easement (PPAE) along the shared boundary between Lots 11 and 12 and through Open Space #2 of The Oaks of Ashland subdivision. The proposed amendment is to remove the PPAE requirement.
- 7) The applicant's proposal is detailed in plans which are on file at the Department of Community Development and by their reference are incorporated herein as if set out in full.
- 8) The criteria of approval for Outline Plan are described in **AMC 18.3.9.040.A.3** as follows:
 - 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.
- 9) The criteria for approval for Major Modification are described in **AMC 18.5.6.030.C.** as follows:
 1. Major Modification applications are subject to the same approval criteria used for the initial project approval, except that the scope of review is limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc.
 2. A modification adding or altering a conditional use, or requiring a variance, administrative variance, or exception may be subject to other ordinance requirements.
 3. The approval authority shall approve, deny, or approve with conditions the application, based on written findings. (Ord. 3229 § 13, amended, 12/19/2023)
- 10) The Planning Commission, following proper public notice, held a public hearing on January 14, 2025. Testimony was received, and exhibits were presented. Following the close of the public hearing, the Planning Commission deliberated and approved the application subject to

conditions of approval.

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

SECTION 1. EXHIBITS

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

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

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

SECTION 2. CONCLUSORY FINDINGS OF FACT

2.1 The Planning Commission notes that chapter 18 of the Ashland Municipal Code (AMC) is the City's Land Use Ordinance (LUO). The LUO regulates the development pattern envisioned by the Comprehensive Plan and encourages efficient use of land resources among other goals. The Planning Commission notes that when considering the decision to approve or deny an application the Planning Commission considers the application materials against the relevant approval criteria in the AMC.

2.2 The Planning Commission finds that it has received all information necessary to render a decision based on the application itself, the January 8th, 2025 Staff Report, the applicant's testimony, the exhibits received and public testimony received at the public hearing.

2.3 The Planning Commission notes that the application was deemed complete and that the notice for the public hearing was both posted at the frontage of the subject property and mailed to all property owners within 200-feet of the subject property on December 19, 2024 (26 days prior to the January 14, 2025 hearing).

2.4 The Planning Commission notes that the subject property was subdivided in 2001 into its present configuration, and discussion during that hearing suggested that the PPAE was not viewed as necessary if full frontage improvements were provided along the subject property's Highway 66 frontage. The Commission finds that while the original subdivision conditions ultimately required the PPAE and called for it to be paved and improved to meet accessibility standards, the average slope within the PPAE is approximately 27 percent which makes paving or meeting accessibility standards difficult or impossible. The Commission further finds that the PPAE as provided is redundant in light of the full frontage improvements, and does not provide any real accessibility benefit versus using the sidewalk.

2.5 The Planning Commission finds that the request to modify Condition #17 of PA #2000-

127 is considered a Major Modification per AMC 18.5.6.030.A.7, as it involves a “*Change to a condition of approval...that could have a detrimental impact on adjoining properties...*” Major Modification applications are subject to the same approval criteria used for the initial project approval, except that the scope of review is limited to the modification request.

2.6 The Planning Commission finds that the proposal to modify the conditions of the approval for the 2001 Oaks of Ashland Subdivision Outline Plan meets all applicable criteria as described in AMC 18.3.9.040.A.3 and AMC 18.5.6.030.C. as detailed below.

2.6.1 The first relevant approval criterion for Outline Plan approval is that: “*The development meets all applicable ordinance requirements of the City.*” The Planning Commission notes that this is an all-encompassing criterion and that it has considered which City Ordinances are applicable. The Planning Commission notes that for the purposes of resolving this criterion we rely on the entirety of the record including the applicant’s submittal, and the Staff Report dated January 8th. The Planning Commission notes that with the findings that are set out below, and the adopted conditions of approval that the proposal will meet all applicable ordinance requirements and finds that this criterion of approval is satisfied.

2.6.2 The second and third relevant approval criterion are that “*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.*” [emphasis added] and that “*The development complies with street standards.*” The Planning Commission notes that due to the steep slope within the required PPAE, it cannot be paved or meet the originally-intended accessibility standards but that the sidewalk provided along Highway 66 provided the desired accessibility to achieve adequate transportation, making the PPAE largely redundant. The Planning Commission finds that this criterion of approval is satisfied.

2.6.3 The fourth relevant criterion for approval of an Outline Plan is that, “*The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*” The Planning Commission finds that the development of The Oaks of Ashland subdivision has not prevented the adjacent lands from being developed as envisioned in the Comprehensive Plan and finds that this criterion of approval is satisfied.

The Planning Commission concludes based on the above that all applicable approval criteria for Outline Plan subdivision approval have been satisfied.

2.7 The Planning Commission notes that following proper public notice, a public hearing was held on January 14th, 2025, where testimony was received, and exhibits were presented. The Planning Commission deliberated, and a motion was made approving the modification to the Outline Plan to allow for removal of a condition of approval. The application was approved subject to the conditions of approval in the Staff Report.

2.8 The Planning Commission notes that the record includes the applicant’s submittal, and the Staff Report dated January 8th. Each of these by their reference are incorporated herein as if set out in full.

2.8.1 The Planning Commission finds that there is substantial evidence in the record to make findings that each of the criteria of **approval** for Major Modification and Outline Plan have been met.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearings on this matter, the Planning Commission concludes that the request for a Major Modification of The Oaks of Ashland subdivision approval (PA #2000-127) to amend condition of approval #17 is supported by evidence contained within the whole record and is **approved** including the conditions of approval below.

The conditions of approval are below:

1. That Condition #17 of PA #2000-127 is amended to remove the public pedestrian access easement requirement through Open Space #2. All remaining conditions of approval of Planning Action #2000-127 shall remain in effect.
2. That the applicants shall be responsible for completing any required public process for the city to abandon the public pedestrian access easement through Open Space #2 and Subdivision Lots #11 and #12 which will likely require requests to the Public Works Department and City Manager's office to conduct a required public hearing and approve the signature of a quitclaim deed.

Planning Commission Approval

February 11, 2025
Date

PUBLIC HEARING - CONTINUED

**110 Terrace St,
PA-T1-2024-00255**

PUBLIC COMMENTS

**Applicant's Final Submittal Materials
Received by 02-07**



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February 7, 2025

BY EMAIL

City of Ashland Planning Commission
20 E Main Street
Ashland, OR 97520

Re: Applicant's Final Written Argument - City File No. PA-T1-2024-00255

Dear Commissioners:

As you know, this office represents Stabbin' Wagon ("Applicant"), in the above-referenced application for a reasonable accommodation and code interpretation to operate a respite home at property located at 110 Terrace Street, Ashland, Oregon (the "Mountain Beaver House"). Applicant has received a grant from the Oregon Health Authority ("OHA") to provide peer respite housing and services to four members of the community experiencing mental illness at any given time, and to use the Mountain Beaver House as a stable, safe environment for providing such services. This letter is submitted as Applicant's final written argument in the record for the above-referenced file in support of the application. Please include this letter in the record.

The Planning Commission should approve the application based on Applicant's request for a reasonable accommodation to operate a peer respite home in the RR-.5 zone under the Fair Housing Act ("FHA") and Americans with Disability Act ("ADA"). Further, the Planning Commission should also find that the Ashland Land Use Ordinance ("ALUO" or "Code") allows for approval of Applicant's proposed use under the Code's similar use provision, and that the application materials and Applicant's submittals during the open record period support a finding that Applicant's proposed use is a similar use to Group Living, in particular Residential Care Homes, which are permitted outright in the RR-.5 zone. To be clear, peer respite is a type of Group Living and is most similar to Residential Care, but recall that the list of Group Living examples in the Code is not exclusive. Finally, it would be a violation of federal nondiscrimination laws for the Planning Commission to base its decision on testimony which asserts generalized fears and unfounded concerns arising from stereotypes of people experiencing mental illness.

- I. The City should grant Applicant's request for a similar use interpretation because a peer respite home is a similar use to Group Living, in particular Residential Care Homes, which are permitted outright in the RR-.5 zone.

Under ALUO 18.1.5.040, where a proposed use is not specifically identified by the Code, or the Code is unclear as to whether the use is allowed in a particular zone, another, similar use that is permitted in the subject zone may be identified, and the Code may be applied accordingly.

A peer respite home is similar to Group Living, such as Residential Care Homes, which are permitted in all residential zones, including the RR-.5 zone. ALUO 18.2.2.030. Group Living is the residential occupancy of a structure by a group of people. ALUO 18.6.1.030 (Group Living definition). Group Living structures do not include self-contained units but rather have common facilities for residents including those for dining, social and recreational, and laundry. ALUO 18.6.1.030 (Group Living definition). A Residential Care Home is a residential treatment home, as defined in ORS 443.400. ALUO 18.6.1.030 (Residential Care Home definition). Under ORS 443.400, a "residential treatment home" is a facility that provides for five or fewer individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.

Like a Residential Care Home, Applicant's peer respite home will serve as a residence for a group of four people—Applicant has voluntarily limited the number of people served to four. Also like a Residential Care Home, Applicant's peer respite home will not include self-contained units, but rather will provide common facilities for residents. Under Applicant's OHA Grant Agreement ("Grant Agreement"), Applicant must:

"Manage a home-like space ("home").... The home must:

- i. Have a private room for each participant.
- ii. Have shared community spaces including common areas and a full kitchen.
- iii. Be stocked with basic food in the kitchen for participants' consumption, free of charge." Applicant's Open Record Letter of January 22, 2025 ("Open Record Letter"), Attachment 6, p. 8.

Like a Residential Care Home, Applicant's peer respite home will provide residential care and treatment to individuals experiencing mental or emotional disturbance. For the purposes of the Grant Agreement, these individuals are people with mental illness or trauma response symptoms who are experiencing acute distress, anxiety, or emotional pain. Open Record Letter, Attachment 6, p. 7. The objective of Applicant's peer respite home is to provide voluntary, non-clinical, peer-delivered services for crisis support in a home-like setting to people who need a safe space to seek support, stabilize, and/or coordinate higher levels of psychiatric care. Open Record Letter, Attachment 6, p. 7.

The location of Mountain Beaver House is essential to Applicant's mission of providing respite to its clients. People stay at peer respites for any number of reasons: recent trauma and loss; avoiding hospitalization and overwhelmed by distressing urges or disturbing or suicidal thoughts; being overwhelmed by their current living situation; or perhaps they are feeling very alone in the world and wanting to be around caring people. Open Record Letter, Attachment 5, pp. 8-10. In all cases, it is important for respite to occur in a stable, safe, and homelike environment such as exists at Mountain Beaver House, to help people who are experiencing mental illness. Open Record Letter, Attachment 6, p. 6. This location in a quiet, residential neighborhood with proximity to Lithia Park is ideal in that it facilitates recovery through respite activities such as hiking, biking, gardening, getting out into nature, doing yoga or meditating, and taking space to clear one's thoughts. Open Record Letter, Attachment 5, p. 10. That the property is well-suited as a place for such activities is shown in the photographs of Mountain Beaver House in Open

Record Letter, Attachment 7, and in what appears to be drone footage submitted by Mr. Patridge on January 14, 2025. This setting is necessary for the respite environment to allow residents to stabilize their mental state and to have a place to live.

The Applicant is aware that under ALUO 18.1.5.040, uses that are specifically prohibited by the Code, and uses that are similar to uses that are specifically prohibited by the Code, are not allowed. A peer respite home is not similar to a Travelers' Accommodation, which is primarily distinguishable from residential uses in that a Traveler's Accommodation is made available to travelers—as opposed to members of the community—for-pay or other compensation. ALUO 18.6.1.030, defining Travelers' Accommodations; *and see* definitions for Hotel/Motel, Hostel, Room and Board Facility. Travelers' Accommodations are not required to provide communal spaces, meals, and the like. *See, e.g.*, ALUO 18.6.1.030 (Hotel/Motel definition). It stands to reason that such uses would not be allowed in residential zones, such as the RR-.5 zone, in that they operate in a fundamentally different fashion than a residence.

Opponents attempt to make much out of the grant funding supporting the Applicant's work. But, having state support for an organization that funds both the physical respite home and the peer-to-peer support workers does not transform this accommodation for people with disabilities to living and enjoy a housing opportunity in the RR-.5 zone into a Traveler's Accommodation. Rather, the grant supports the workers who are necessary in providing care and connection to services to individuals seeking respite and a place to call home during the respite. The fact that peer-to-peer support workers are necessary and available to allow these people experiencing mental illness to enjoy the home is exactly why the Code provides for Group Living use classifications. Further, the setup for the respite home is to keep people experiencing mental illness from becoming transient and to allow them to avoid hospitalization or residing in hotels and motels, shelters, or on the streets while they are experiencing mental illness.

Unlike a Traveler's Accommodation, Applicant's peer respite home will cater specifically to local residents at no cost. The stated purpose of Applicant's peer respite home is to serve members of the Southern Oregon community, not vacationers or other travelers. Open Record Letter, Attachment 6, p. 6. Applicant's services, which are unpaid, are intended and designed to be a part of the local continuum of care, providing additional support to complement existing crisis response services operating in the area. Open Record Letter, Attachment 6, pp. 6, 9. In particular, individuals, including persons of color and people who experience behavioral health needs, who are not comfortable engaging in services or treatment at traditional medical facilities may feel more comfortable accessing support in a peer respite setting, resulting in more individuals receiving the support they need to live independently in their communities. Open Record Letter, Attachment 6, p. 6. In this way, Applicant's peer respite home will help to allow local residents to remain a part of the fabric of the community as they cope with or overcome mental illness or emotional pain.

The sole point of comparison between a peer respite home and a Travelers' Accommodation is the duration of occupancy by an individual occupant during a single stay. The Memoranda of Planning Staff and the Assistant City Attorney too narrowly and resolutely focus on this point. Not only does this limited focus disregard the more numerous and significant differences between a peer respite home and a Travelers' Accommodation detailed above, it fails

to acknowledge that the duration of occupancy by a resident is frequently temporary for residential uses. As Applicant has previously stated, the City does not monitor single-family homes or residential care homes to ensure that each resident, guest, lessee, or sub-lessee occupies a residential structure for the requisite period to qualify as a "long-term occupancy" under the code. Categorizing a peer respite home as a Traveler's Accommodation based solely on the length of an individual stay is at odds with the whole text of the code defining a Traveler's Accommodation and impermissibly treats residential use by individuals experiencing mental illness differently than other residential uses.

The crux of a reasonable accommodation claim is a facially neutral requirement that is consistently enforced. *McGary v. City of Portland*, 386 F.3d 1259, 1266 (9th Cir. 2004). The way in which Planning Staff suggest that the Commission interpret the Code, despite its apparent neutrality by focusing on duration of stay to the exclusion of all else, burdens people experiencing mental illness in a manner different and greater than it burdens others, and therefore will necessitate an accommodation. *Id.* at 1267. The purpose of the ADA's reasonable accommodation requirement is to guard against the facade of "equal treatment" when particular accommodations are necessary to level the playing field. *Id.* (citing *Fortyone v. Am. Multi-Cinema, Inc.*, 364 F.3d 1075, 1086 (9th Cir. 2004)).

Under ALUO 18.1.5.040, the City is empowered to adapt its Code to new uses by analogy to similar uses already defined under the Code. Here, Applicant's peer respite home is easily analogous to Residential Care Homes, which are allowed outright in the RR-.5 zone. The City need not inflexibly interpret and apply its Code to foreclose a peer respite home in the RR-.5 by pigeonholing a use that is otherwise indistinguishable from permitted residential uses. This is an ill-fitting and unnecessary categorization that places a greater burden on people with disabilities. As noted in the Assistant City Attorney's Memorandum of January 22, 2025, entitled "RE: 110 Terrace Street," "It is worth noting that while our previous opinion concluded that the peer respite center most closely resembled a 'traveler's accommodation,' an alternative interpretation is possible." This Commission can level the playing field for community members experiencing mental illness by interpreting the Code, as is easily done within the existing framework, to allow them to live and receive the support they need in the RR-.5 zone. The Commission need only acknowledge that Applicant's proposed use is similar to Residential Care Facilities, and not Traveler's Accommodations, as is demonstrated above.

To the extent that it excludes Applicant's peer respite home from the RR-.5 zone, Planning Staff's original recommended code interpretation, and where it appears to rest in its January 30, 2025 memorandum, is discriminatory because people who do not have mental illnesses or other similar disabilities do not need to reside, short or long term, in peer respite homes. To argue that such an interpretation does not discriminate against people with disabilities is to say that *people without disabilities* are equally unable to occupy peer respite homes in RR-.5 zoned areas, homes that they neither need nor want. This is akin to arguing that zoning out a dialysis center from a neighborhood is not discriminatory because it equally excludes people with and without kidney disease from getting dialysis. It is an act of discrimination against those with disabilities in violation of the ADA and FHA. The Commission can further avoid a discriminatory outcome by approving the Applicant's reasonable accommodation request.

- II. The City should grant Applicant's request for a reasonable accommodation because permitting a peer respite home in the RR-.5 zone does not fundamentally alter the City's zoning scheme.

Applicant appreciates that the additional Staff Memorandum of January 22, 2025, entitled "Re: Fair Housing and Reasonable Accommodation," provides resources related to the FHA and encourages the Planning Commission to seriously consider granting Applicant's request for a reasonable accommodation. A reasonable accommodation is appropriate here because Applicant's peer respite home is not meaningfully distinguishable in terms of its nature or intensity of use from other residential uses allowed outright in the RR-.5 zone, namely, single-family homes. As a result, the City cannot demonstrate that permitting Applicant's peer respite home in the RR-.5 zone will fundamentally alter the City's zoning scheme, and, therefore, the City must grant Applicant's request for a reasonable accommodation. 28 CFR § 35.130(b)(7).

As an initial matter, the January 29, 2025 letter from Sydnee Dreyer, entitled "Re: PA-T1-2024-00255 – 110 Terrace Street" ("Dreyer Rebuttal Letter") states that Applicant's proposed use does not qualify as a "dwelling" under the FHA. Dreyer Rebuttal Letter, p. 1. This is against the weight of authority. Courts have previously found that the transitory use of a property for noncommercial housing purposes is consistent with the definition of a dwelling under the FHA. *See, e.g., Step by Step, Inc. v. City of Ogdensburg*, 176 F. Supp. 3d 112, 126 (N.D.N.Y. 2016) (holding specifically that a respite house constitutes a dwelling under the FHA).

In an attempt to support the assertion that Applicant's use is not a dwelling within the meaning of the FHA, the Dreyer Rebuttal Letter improperly cites to *Lakeside Resort Enter v. Sup'rs of Palmyra TP* ("*Lakeside*"), 455 F.3d 154, 158 (3rd Cir. 2006). However, the 3rd Circuit Court of Appeals in *Lakeside* acknowledges that several other courts have addressed the issue of whether transitory uses may qualify for FHA protections, "coming out on both sides." *Id.* Further, the court ruled that a stay of 14.8 days in a drug and alcohol treatment facility is longer than the average stay in a hotel/motel or bed and breakfast (or in Ashland's terms a traveler's accommodation). *Id.* at 159. The 14 day period for respite housing is similar to *Lakeside*, in that residents will use respite instead of becoming transients who need to rely on hotels, motels, or shelters. The Mountain Beaver House residents intend to and will treat the home as a place of return during their residency. *Id.* In other words, a respite home is a dwelling under the FHA.

More importantly, there is more persuasive case law, particularly from our own 9th Circuit Court of Appeals, holding that transitory housing can come within the scope of "dwelling" as contemplated by the FHA. *West v. City & Cnty. of San Francisco*, No. 21-CV-02370-EMC, 2022 WL 1556415, at *16-18 (N.D. Cal. May 17, 2022); *cf. Turning Point, Inc. v. City of Caldwell*, 74 F.3d 941, 945 (9th Cir. 1996) (assuming that a homeless shelter is a dwelling for purposes of FHA).

At the same time, the Dreyer Rebuttal Letter makes no mention of the ADA, which requires a reasonable accommodation independently of the FHA. Even assuming, *arguendo*, Applicant's proposed use were not a "dwelling" under the FHA (which it is), the ADA would *still* require the City to make reasonable accommodations in non-dwelling zoning situations involving people with disabilities. *Bay Area Addiction Rsch. & Treatment, Inc. v. City of Antioch*, 179 F.3d 725, 730

(9th Cir. 1999). Either way, the reasonable accommodation process is required, and any discussion of the "dwelling" issue is a red herring while the ADA remains in play.

The only question is whether the accommodation is reasonable. A reasonable accommodation, such as the accommodation that Applicant requests, is one which does not fundamentally alter the City's zoning scheme. 28 CFR § 35.130(b)(7). Implicit in the rhetoric of project opponents and Planning Staff is the assumption that the distinction between a 30-day occupancy and a 14-day occupancy is somehow a fundamental element of the Code. This is a wholly unexamined, unsupported position. Meanwhile, Applicant's peer respite home is not, in any significant respect, distinguishable in terms of its nature or intensity of use from a single-family home used as a single-family home.

Like a single-family home, Applicant's peer respite home will occupy a single dwelling unit, including independent living facilities for a group of people operating much like a family. ALUO 18.6.1.030; ALUO 18.6.1.030. Intrinsic to the nature of a peer respite home is that residents, like members of a family, make shared use of communal spaces and engage in group activities, as well keeping engaged with their individual school, work, or community obligations. Open Record Letter, Attachment 5, p. 9. Accordingly, Applicant's requested accommodation does not undermine the City's existing zoning scheme and is clearly reasonable.

No information in the record supports the assertions that the accommodation of a single peer respite home with no more than four residents will result in increased traffic, parking issues, and fire risk beyond a single-family home. To the extent that reasons for the forgoing concerns have been offered during this process, that reasoning can be applied equally to single-family homes. As examples: residents of single-family homes may come and go by vehicle as they please, have unlimited visitors and deliveries, and may require frequent in-home medical care or other services received at the residence; residents of single family homes may own and store number of vehicles on their properties; and residents of single-family homes may smoke and dispose of cigarettes outdoors in ashtrays. Applicant's proposed use is formally the same and functionally similar to a single-family home, and is unlikely to result in any greater adverse negative neighborhood impacts than a single-family home.

In fact, Applicant's proposed use is likely less intense than a single-family home. Under the Grant Agreement, Applicant must keep a stocked pantry, obviating the need for uncoordinated grocery trips by residents or food deliveries by outside providers, and Applicant must ensure that the home is a safe place, reducing any risk of fire. Open Record Letter, Attachment 6, pp. 8-9. Additionally, as shown by the photographs of Mountain Beaver House, the property has ample onsite parking, and will not contribute to demands for street parking. Open Record Letter, Attachment 7. Finally, as the Grant Agreement requires, the respite home will always be staffed as an additional layer of support for residents experiencing mental illness and residents will not be alone in dealing with home safety and fire risk. Open Record Letter, Attachment 6, page 8.

Applicant's request is for the City to reasonably accommodate one respite home with no more than four residents to be located at the Mountain Beaver House in order to allow people experiencing mental illness to reside in the RR-.5 zone. The project opponents and record do not demonstrate that granting Applicant's request will result in a greater intensity of use than a single-

family home, or that permitting Mountain Beaver House to operate as a peer respite home will fundamentally alter the City's zoning scheme. The fact that the Assistant City Attorney acknowledges in her Memorandum of January 22, 2025, entitled "Re: 110 Terrace Street," ("January 22 Attorney Memorandum") that it is already possible to interpret the City's code to allow a peer respite home in the RR-.5 zone reinforces that Applicant's request for a reasonable accommodation will not fundamentally undermine the City's zoning scheme. Accordingly, the City must grant Applicant's request for a reasonable accommodation. 28 CFR § 35.130(b)(7).

Applicant generally agrees with the Assistant City Attorney that future Code modifications may be warranted to allow future use of peer respite homes specifically. See January 22 Attorney Memorandum, p. 2. However, if the Planning Commission elects to deny Applicant's request for a reasonable accommodation and, instead, consider potential future Code modifications as the Assistant City Attorney has suggested as the resolution, this is still a denial of Applicant's request in violation of the ADA and FHA. *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 806 (9th Cir. 1994), *aff'd sub nom. City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725 (1995); *Pac. Shores Properties, LLC v. City of Newport Beach*, 730 F.3d 1142, 1157 n.15 (9th Cir. 2013).

Further, requiring Applicant and Applicant's clients to stand by for an indefinite period of time while the City contemplates the possibility of a legislative fix would lead to uncertainty and cause undue delay in allowing people experiencing mental illness to receive treatment and to live in the RR-.5 zone. Such decision would, therefore, have a disparate impact on people with disabilities. Likewise, requiring Applicant to secure a conditional use permit for a structure in a multi-family zone (as a Traveler's Accommodation with all of the siting constraints), as Planning Staff have previously suggested, severely limits the neighborhoods where people with disabilities may live and increases the cost of their housing, and, therefore impacts them disparately. Such discriminatory effects are also in violation of the FHA and ADA. 24 CFR 100.500(a); 42 USC § 12101(a)(5). Regardless of whether the City may consider future Code modifications for peer respite homes, the Planning Commission must grant Applicant's present request for a reasonable accommodation.

Finally, the City may not attach conditions of use that the City does not impose on other homes to the approval of Applicant's request for reasonable accommodation of a home for people with disabilities, as project opponents have suggested the City should. Such conditions single out Applicant's clients with disabilities by burdening them with unnecessarily greater restrictions than are applied to their neighbors without disabilities. No one else in the neighborhood is required to: forfeit their home should anyone on the premises have a prior criminal conviction and any person who is required to register for an offense is required to do so as a matter of law enforcement; refrain from coming going from their residence past 10:00 pm or before 7:00 am; or establish an evacuation plan and limitations on visitors. Finally, the Grant Agreement requires the Applicant to comply with all laws, which includes use or distribution of controlled substances, which shall not occur on the property. Open Record Letter, Attachment 6, p. 16. Project opponents provide no basis for imposing additional restrictions on Applicant's peer respite home than those imposed on single-family homes and, therefore, the proposed conditions of use are unreasonable.

Notwithstanding the unreasonableness of the proposed conditions in the Dreyer Rebuttal Letter, which conditions could have and should been offered during open record period to allow Applicant to further respond, the Applicant is willing to agree to the following conditions:

1. The House Rules shall state that the illegal use, manufacture, or distribution of a controlled substance shall not be allowed.
2. No new resident to the respite home shall arrive for the first time before 9:00 am or after 9:00 pm.
3. The House Rules shall include an evacuation and safety plan.
4. The House Rules will state that visiting hours to the respite home are 9:00 am to 9:00 pm.
5. House Rules shall be distributed to each resident.
6. The Applicant shall install an address sign at the top of the entry driveway with appropriate lighting that is consistent with City Code.

As with Applicant's reasonable approach to this application, it is willing to subject Mountain Beaver House to certain rules that would not otherwise apply to other single-family residences. In addition, this is a reminder that the reasonable accommodation process includes a conversation, and if the Planning Commission has questions about the Mountain Beaver House operations, it may ask the Applicant during the February 11, 2025 meeting.¹

III. The City cannot incorporate private discrimination into its decision-making process.

As the Assistant City Attorney's Memorandum of January 3, 2025, entitled "Re: Letter of Interpretation – Re. 110 Terrace Street, Ashland OR" mentions, the City has a duty to ensure equal and non-discriminatory housing and zoning practices. The City may not base its decisions on perceived harm from stereotypes and generalized fears, and it may not incorporate private discrimination—especially that received through public testimony—in its decision-making process. *Innovative Health Sys., Inc. v. City of White Plains*, 117 F.3d 37, 49 (2nd Cir. 1997).

Many of the public comments received by this Commission are from neighbors voicing generalized fears rooted in stereotypes and misunderstanding of people experiencing mental illness. As an example, the multitude of comments about increased fire risk are based on the unfounded assumption that people experiencing mental illness are more likely than the general population to be smokers, to dispose of cigarettes improperly, and to otherwise start fires. Not only do the comments related to fire risk derive from negative stereotypes of people experiencing mental illness, those comments are also based on the misconception that the fire risk at 110 Terrace Street is greater than in other places in Ashland where Applicant might otherwise be permitted to site its proposed use. The Ashland-area fire risk map submitted by project opponents shows that the Mountain Beaver House at 110 Terrace Street, Ashland, is in a moderate fire risk—as opposed

¹ While some public comments contend that prior land use discussions with City staff stand in place for a dialogue regarding reasonable accommodation, no support for such an assertion exists. While Applicant may have had earlier interactions with planning staff through its consultants and other attorneys, a reasonable accommodation request was only made with the present application.

to high fire risk—area.² The map also shows that much of the built part of Ashland, including the downtown core and almost everything below Siskiyou Boulevard is also in a moderate risk area. This includes substantial areas zoned for higher intensity uses, such as R-2, C-1, and C-1-D. Thus, no information related to fire risk demonstrates that Applicant's peer respite home for four people is unsafe, particularly where room and boarding facilities and concert halls are permitted outright and electrical substations and fueling stations are permitted conditionally in areas of the City that are also located in a moderate fire risk area.

Likewise, comments related to a general increase in crime are based on the misconception that people experiencing mental illness are more likely to commit crimes or to associate with people who commit crimes. The comments fail to provide any relevant support for such an assertion. In particular, one comment that associates Applicant's proposed use with increased crime cites to an article discussing that the presence of AirBnB and VRBO rentals have been found to lead to increased crime in neighborhoods because, among other things, "[s]hort-term renters may be more likely to carry valuable items" and "offenders may learn to return to areas with more short-term rentals to find unguarded targets."³ These observations are inapplicable to Applicant's proposed use, which is not a short-term rental and is not in an area with short-term rentals.

Similarly, comments that assume that Applicant's clients experiencing mental illness will be drug users and manufacturers and sex offenders are unsupported and prejudiced. The comments mentioning drug use and needle exchange conflate the Applicant with the people on whose behalf the reasonable accommodation is requested. Just like a City with various departments tasked with the provision of different services, a non-profit organization may also have multiple internal divisions that provide services that are separate and distinct from one another. In this manner, Applicant's needle exchange program is separate and distinct from Applicant's housing and peer-to-peer respite services program. The needle exchange aspect of Applicant's services will not operate out of the Mountain Beaver House. As the Grant Agreement specifies, only respite housing and services are authorized on the property, and OHA provides significant oversight to the grant recipient. The comments discussing a prohibition against sex offenders on the property mistake the province of Oregon's land use system, which is not to track sex offenders. Criminal statutes, namely the provisions of ORS Ch. 163A, provide registration and reporting requirements for sex offenders. The requirements under ORS Ch. 163A apply to Applicant's clients in the same manner that they apply to all other residents of the state.

Finally, comments suggesting that the operation of a peer respite home at Mountain Beaver House may decrease property values are likewise invalid and without basis. *Innovative Health Sys.*, 117 F.3d at 42; *and see* Open Record Letter, Attachments 10 and 11. The purpose of a reasonable accommodation is to allow people with disabilities an equal opportunity to use and enjoy a dwelling. Excluding disabled people from Ashland's residential neighborhoods to preserve property values works in the opposite direction and is an act of discrimination. In general, the fears asserted by neighbors are without grounds and amount to thinly-veiled discrimination against

² Comment entitled, "Subj: PA-T1-2024-00255, NOTICE OF APPLICATION FOR FORMAL INTERPRETATION OF ASHLAND LAND USE ORDINANCE" and dated January 10, 2025, Figures 1-3.

³ Comment entitled "Zoning Decision: Concerns Regarding Requested Land-Use at 110 Terrace Street" and dated January 8, 2025.

people experiencing mental illness, and the Planning Commission may not rely on them in its decision-making process.

IV. Further response to Planning Staff's January 30, 2025 memorandum.

On February 3, 2025, Applicant submitted its Objection and Request to Reject New Evidence Improperly Submitted, which the Planning Commission has not yet ruled on. Applicant reiterates its request for the Commission to reject the new evidence improperly submitted by project opponents and Planning Staff after the close of the open record period on January 22, 2025. If the Commission declines to do so, Applicant reminds the Commission that it has not requested an accommodation for a Traveler's Accommodation. The City's track record of enforcing its prohibition on Traveler's Accommodation in single-family residential zones is not relevant here. The City continues to insist on comparing apples to oranges; Applicant's proposed use does not involve lodging made available to travelers for compensation. Rather, Applicant proposes to provide housing and respite services to members of the community at no cost. If the Planning Commission embraces Planning Staff's position (Traveler's Accommodation or a legislative process to amend the Code) then it will only be evidence that the reasonable accommodation had been denied from the outset, that no dialogue ever occurred, and that a reasonable accommodation was not fairly considered as the outcome was subject to prejudgment.⁴

CONCLUSION

For the foregoing reasons, and all the materials and information provided by the Applicant in the record, Applicant respectfully request that the Commission determine that Applicant's peer respite home is allowed as a Group Living with similar use to a Residential Care Facility in the RR-.5 zone, or, alternatively, the Commission should make a reasonable accommodation to allow up to four people experiencing mental illness to reside in the Mountain Beaver House at 110 Terrace Street to receive respite services and housing.

If a reasonable accommodation is granted, the Applicant is willing to accept the following conditions:

1. The House Rules shall state that the illegal use, manufacture, or distribution of a controlled substance shall not be allowed.
2. No new resident to the respite home shall arrive for the first time before 9:00 am or after 9:00 pm.
3. The House Rules shall include an evacuation and safety plan.
4. The House Rules will state that visiting hours to the respite home are 9:00 am to 9:00 pm.
5. House Rules shall be distributed to each resident.
6. The Applicant shall install an address sign at the top of the entry driveway with appropriate lighting that is consistent with City Code.

⁴ In fact, Planning Staff's willingness to suggest a code amendment as a potential resolution is acknowledgement that such change would not fundamentally undermine the zoning scheme.

TOMASI BRAGAR DUBAY

February 7, 2025

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Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer M. Bragar". The signature is fluid and cursive, with the last name "Bragar" being more prominent.

Jennifer M. Bragar

cc: (all by email)
client
Matthew Tschabold
Representative Pam Marsh
Oregon Health Authority



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February 3, 2025

BY EMAIL

City of Ashland Planning Commission
20 E Main Street
Ashland, OR 97520

Re: Applicant's Objection and Request to Reject New Evidence Improperly
Submitted – City File No. PA-T1-2024-00255

Dear Commissioners:

As you know, this office represents Stabbin' Wagon ("Applicant"), in the above-referenced application for a reasonable accommodation and code interpretation to operate a respite home at property located at 110 Terrace Street, Ashland, Oregon (the "Mountain Beaver House"). This letter is submitted as Applicant's objection and request that the Planning Commission reject new evidence improperly submitted by project opponents and by planning staff during the rebuttal period. Please include this letter in the record, as Applicant is required to raise procedural errors to preserve the issue for appeal. *Brown v. City of Portland*, 33 Or LUBA 700, 704 (1997), and *Frewing v. City of Tigard*, 47 Or LUBA 331 (2004) (citing the due process protections under *Fasano*).

When a local government receives new evidence after the evidentiary record is closed, even from City staff, the local government must either: (1) reject the new evidence as untimely; or (2) reopen the record to allow other participants an opportunity to respond to the new evidence. *Ploeg v. Tillamook County*, 50 Or LUBA 608, 617-618 (2005). To do otherwise constitutes a procedural error. *J4J Misc PAC v. City of Jefferson*, 75 Or LUBA 120, 142-143 (2017).

Pursuant to ORS 197.797(6)(c) and ALUO 18.5.1.060(D)(6), Applicant's express request at the January 14, 2025 hearing, and the Planning Commission's grant of that request, all new evidence in this matter was required to be submitted into the record by January 22, 2025, at which point the evidentiary record was closed. Therefore, the appropriate time for project opponents and planning staff to submit new evidence related to issues raised at the hearing or already in the record was on or before January 22, 2025.

However, between January 23, 2025 and January 30, 2025, project opponents and planning staff impermissibly submitted several pieces of new evidence that could have and should have been submitted during the open record period. Although these parties had the right to respond to new issues raised, there was no continuing right to include new evidence between January 23, 2025 and January 30, 2025. To extend that right would lead to a never-ending open record period,

which would inordinately delay and prolong the land use review period beyond allowable timelines and increase the burden to the Applicant who is requesting a reasonable accommodation.

In all cases, the project opponents and planning staff were well aware of the content of the application and all the issues targeted by the new evidence were aired either in written materials before the Planning Commission at the hearing on January 14, 2025, or raised during the hearing. The improper submittals between January 23, 2025 and 30, 2025 could all have been made by January 22, 2025. The specific objections set forth below describe where during the hearing or in the Applicant's (or record) materials the issues were on record during the open record period between January 14, 2025 and January 22, 2025.

Importantly, Applicant has not been provided with an adequate opportunity to respond to this new evidence, prejudicing Applicant's substantial rights. Applicant's substantial rights have been prejudiced because, should the new evidence been submitted at the appropriate time, Applicant could have and would have provided a response during the open record period to any such evidence.

The Planning Commission should resolve this procedural error committed by project opponents and planning staff and reject the following improperly submitted evidence as part of the Commission's deliberative process at its meeting on February 11, 2025, prior to making its decision on the merits of the application:

Portions of January 29, 2025 Letter from Sydnee Dreyer (pp. 1-17)¹

- Exhibit A is new evidence improperly submitted and should be rejected; and the link to the September 2022 Peer Run RFPG Information Session ("RFPG Information Session") on page 3 is an attempt to improperly submit new evidence and should be rejected. Therefore, the paragraph on page 3 of the letter beginning with "The proposed use" includes arguments that incorporate and rely on Exhibit A and should be rejected. The application materials addressed Applicant's proposed use, and any comments regarding the Applicant's operations could have been correctly raised, and any new evidence related to those comments could have been correctly submitted during the open record period that ended January 22, 2025.
- Exhibit B is new evidence improperly submitted and should be rejected. Therefore, the paragraph beginning with "The applicant indicates" includes arguments that incorporate and rely on Exhibit B and should be rejected. At the hearing, Applicant explained that a request for a reasonable accommodation is intended to be a dialogue between the party seeking the accommodation and the governmental body responsible for considering the request. At the same time, the Applicant raised the issue that the City has not engaged in dialogue with the Applicant. Planning Commission Hearing, January 14, 2025, minutes 31:04 - 32:25. If the project opponents represented by Sydnee Dreyer wanted to question whether a reasonable

¹ The new evidence is incorporated into comments shared with the Applicant by the City on January 30, 2025 as a PDF entitled "110 Terrace St - Public Comment Rebuttals Received by 01/30/25." Page numbers identifying specific comments herein correspond to the page numbers of the PDF and should be rejected.

accommodation dialogue had occurred, they could have presented the evidence by January 22, 2025.

The January 29, 2025 Letter from Sydnee Dreyer should be rejected, or a redacted version of the letter that omits the improperly submitted materials should be considered by the Planning Commission. Such redacted letter is attached here as Attachment 1.

Attachment to January 29, 2025 Letter from Maylee Oddo and Brock Dumont (pp. 20-39)

- The aforementioned letter from Sydnee Dreyer is included as an attachment to this letter. The same portions of that letter as discussed above should be rejected here, too.

The January 29, 2025 Letter from Maylee Oddo and Brock Dumont should be rejected, or a redacted version of the letter that omits the improperly submitted materials should be considered by the Planning Commission. Such redacted letter is attached here as Attachment 2.

Portions January 30, 2025 Letter from Rob Patridge (pp. 43-68)

- Exhibit B is new evidence improperly submitted and should be rejected. Under item 3), on page 3 (Mr. Patridge's page numbering), the paragraph beginning with "While I would not recommend it," includes arguments that improperly incorporate and rely on Exhibit B and should be rejected. Applicant's proposed number of residents and staffing requirements under the grant were discussed at length during the hearing on January 14, 2025. Planning Commission Hearing, January 14, 2025, minutes 43:58 – 45:12. This project opponent could have submitted the new evidence contained in Exhibit B during the open record period ending on January 22, 2025, just as he did with his earlier submittal of Exhibit A, which is a repeat submittal in this letter.
- Exhibit C is new evidence improperly submitted and should be rejected. Under item 3), on page 4, the paragraph beginning with "Before you try to draw" includes arguments that improperly incorporate and rely on Exhibit C and should be rejected. During the January 14, 2025 hearing, Planning Commissioners asked about Applicant's site selection process. Planning Commission Hearing, January 14, 2025, minutes 49:20 – 49:35. If this project opponent had evidence he wanted to submit about site selection, he could have done so during the open record period ending January 22, 2025.

The January 30, 2025 Letter from Rob Patridge should be rejected, or a redacted version of the letter that omits the improperly submitted materials should be considered by the Planning Commission. Such redacted letter is attached here as Attachment 3.

January 30, 2025 Memorandum of City of Ashland Planning Staff (pp. 69-70)

- The list of past code enforcement cases and other new factual information on page 1 (planning staff's page numbering) is new evidence improperly submitted. On page 1, the paragraph beginning with "The City of Ashland Code Compliance Division regularly enforces" and

ending with "Traveler's Accommodations are not permitted in single family neighborhoods" includes arguments that improperly incorporate and rely on the list of past code enforcement cases and should be rejected. On page 2, the paragraph beginning with "Concerns regarding potential disparate enforcement," also improperly includes arguments that rely on the list of past code enforcement cases and should be rejected. Applicant raised the issue that the City does not monitor the length of occupancy by guests or lessees of owners of single-family dwellings in the City's residential zones during and prior to the January 14, 2024 hearing. Planning Commission Hearing, January 14, 2025, minutes 47:20 – 47:44; and January 14, 2025, Applicant Letter, p. 7. Planning staff could have submitted evidence intended to counter these concerns by January 22, 2025.

The January 30, 2025 Memorandum of Planning Staff should be rejected, or a redacted version of the letter that omits the improperly submitted materials should be considered by the Planning Commission. Such redacted letter is attached here as Attachment 4.

Applicant requests that the Planning Commission reject the foregoing new evidence improperly submitted by project opponents and Planning Staff after the close of the evidentiary record in order to avoid prejudicing Applicant's substantial rights. The original versions should be rejected, and the redacted versions in Attachments 1-4 could be accepted instead.

Alternately, Applicant requests that the Planning Commission reopen the record to allow Applicant to respond to the new evidence submitted. However, the Applicant cautions the Commission that an unreasonable delay in granting a request for a reasonable accommodation has been interpreted by some courts as a show of bad faith in the interactive process of negotiating an accommodation, or even an outright failure to provide an accommodation. *See, e.g., Beck v. Univ. of Wis. Bd. of Regents*, 75 F.3d 1130, 1135 (7th Cir. 1996) (stating that "[a] party that obstructs or delays the interactive process is not acting in good faith"); *Valle-Arce v. P.R. Ports Auth.*, 651 F.3d 190, 200-201 (1st Cir. 2011) (stating that "unreasonable delay may amount to a failure to provide reasonable accommodations"); see also guidance in the record attached to the January 22, 2025, Assistance City Attorney Memo stating that local governments should review reasonable accommodation requests through mechanisms "that operate promptly and efficiently, without imposing significant costs or delays." Reopening the record at this time will prolong review and cause undue delay to Applicant's request for reasonable accommodation to provide housing and peer respite service to members of the Ashland community experiencing mental illness, which is a recognized disability under the FHA and ADA.

Further, ORS 197.797(6)(c) and ALUO 18.5.1.060(D)(6) provide a particular format and timeline which the Planning Commission should adhere to. No reason has been given for reopening the record or deviating from the established protocol in this case. To the extent the Planning Commission gives special indulgence and extra opportunity for objectors to the present application that it does not routinely extend to developments not involving people with disabilities, that effort to expand the record appears to be discriminatory. The ADA and the FHA prohibit requiring one procedure for people with disabilities "but not of other people," nor may the Planning Commission apply a "procedure, neutral on its face . . . in a discriminatory manner." *United States v. Vill. of Palatine, Ill.*, 37 F.3d 1230, 1234 (7th Cir. 1994).

In order to make the timeline more reasonable if the record is reopened, Applicant would recommend an abbreviated version of the response to open record arrangement under ORS 197.797. If the Planning Commission moves forward in this manner, the Applicant requests a three (3) day response to the new evidence submitted January 30, 2025, to February 14, 2025, and three (3) day period for the Applicant to submit final written argument to February 19, 2025, and requests that the Commission set a special meeting as soon as possible thereafter to reach a decision on the application to reduce the burden of a prolonged review.² Further, if the Planning Commission decides to reopen the record instead of rejecting the new evidence, the Applicant will not waive the 120-day deadline for the City to issue its final decision.

The Applicant fully retains the right to submit final written argument as the schedule presently instructs by the February 7, 2025 deadline, and this letter should be treated independently as a separate objection and request to reject new evidence that was improperly submitted.

Thank you for your prompt consideration of this request.

Sincerely,



Jennifer M. Bragar

Enclosures

cc: (by email)
client

² This request assumes that the Planning Commission does not rule on this matter until February 11, 2025.



January 29, 2025

City of Ashland Planning Commission
c/o Brandon Goldman brandon.goldman@ashland.or.us
20 E. Main Street
Ashland, OR 97520

Re: PA-T1-2024-00255 – 110 Terrace Street

Dear Commissioners:

As previously stated, our office represents David W. and Carolyn Allman, the owners of property located at 134 Terrace Street, Ashland. This letter is submitted for the record in response to the materials submitted during the first open record period of the foregoing matter.

As testified previously, our client contends that the proposed use is not similar to a residential use under the Ashland Municipal Code (AMC) and therefore should not be approved under AMC 18.1.5.040. Moreover, if the legislature had intended to preempt cities' zoning laws, it would have done so (*See HB 2006* which explicitly exempted emergency shelters from local land use regulation; *HB 2001* requiring cities with a population of at least 25,000 to allow middle housing in residential areas).

Nor is the use a "dwelling" under the Fair Housing Act (FHA). To qualify as a "dwelling" under the FHA the use must meet a 2-factor test: 1) whether the facility is intended or designed for occupants who would intend to remain for a significant period of time; and 2) whether the occupants view the facility as a place to return to. *Lakeside Resort Enter v. Sup'rs of Palmyra TP*, 455 F/3d 154. 158 (3rd Cir. 2006).

A determination of whether a stay is a significant period of time is fact specific. In *Lakeside*, the court found that although the average stay was 14.8 days the facility qualified as a dwelling because the actual duration of stay varied widely, sometimes up to a year, and the short duration was usually caused by health conditions or insurance issues. Therefore, since the stay length was kept short by outside factors the average stay length was not dispositive, and the facility was a dwelling because it was intended for longer use.

In contrast, here, the intended stay is of short duration; specifically, a stay cannot exceed 14-days. ORS 430.275(2)(a). In fact, the very definition of a peer respite service means: “voluntary, nonclinical, short-term residential peer support.” ORS 430.275(1)(a)(Emphasis added). (“Each peer respite center may provide up to two weeks of continuous ...services). ORS 430.275(2)(a)(Emphasis added). Applicant argues that since there is no guarantee an individual resides long-term in a single-family home or residential care home, duration should not be a factor here. However, as with *Lakeside*, the fact that someone might move out sooner due to outside factors is not determinative of whether a person can remain for a significant period of time. The statute makes clear that a peer respite center is not intended for significant or long-term residential stays and therefore is not a dwelling under the FHA.

As for the Applicant’s request for a reasonable accommodation, the City need not reasonably accommodate this particular use in this particular location. The applicant states: “Excluding people experiencing mental illness, particularly those who need and desire respite housing as a means to stabilize their mental illness, from living in the RR-.5 zones, and for that matter, all single-family zones, is likely to reinforce existing patterns of segregation and to have a disparate impact on people with disabilities. (*Letter from Jennifer M. Bragar*, January 14, 2025, p.4). However, City zoning does not prohibit disabled individuals from living in this zone. Disabled (including mentally ill) individuals may reside in a single-family home alone, or with family or friends, or in a residential care home, as an outright permitted use. Additionally, nursing homes, convalescent homes and residential care facilities are permitted in the RR-.5 zone as a conditional use. It is an unfounded statement that because a peer respite center cannot be located here, the City’s zoning code discriminates against disabled persons living in a single-family zone.

As noted in the Joint Statement of the Department of Justice and the Department of Housing and Urban Development (<https://www.justice.gov/crt/joint-statement-department-justice-and-department-housing-and-urban-development>) (the DOJ Memo), included in the record, a reasonable accommodation might mean waiving a setback requirement to allow better access for those with mobility impairments, but not all requested modifications are reasonable. To determine whether a modification is reasonable the City must look to: 1) whether the request imposes an under burden or expense on the local government; and 2) does it create a fundamental alteration of the zoning scheme. *Id.*

Here the requested accommodation creates a fundamental alteration of the zoning scheme, as the use is not residential in nature, but rather transitory as argued previously in the record. It is expressly intended to provide “short-term residential” use, inconsistent with the City’s definition of Residential Use which is: “Long-term occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods (i.e., less than 30 days) of time is considered an overnight accommodation for transient individuals. See also, definitions of Accessory

Travelers' Accommodation, Hotel/Motel, and Travelers' Accommodation." AMC 18.6.1. Unlike a request to merely allow an increased setback as a reasonable accommodation, the current request requires the City to fundamentally alter its zoning scheme to allow a prohibited transitory use and is therefore not a reasonable accommodation request.

In the alternative, and without waiving the foregoing arguments, should the City determine that it is necessary or desirable to grant a reasonable accommodation, conditions should be imposed to ensure that the proposed use does not create an undue burden to neighboring properties or property owners. It is noteworthy that the proposed application provides no information as to how the program will be run. For example, when can an individual move in or out of the facility? Will prospective guests come and go 24/7? What steps are in place should an individual arrive at the premises but be turned down either because the 4-beds are filled or because the individual's mental state is such that the person cannot be served by the facility. These questions are particularly problematic because the state has yet to establish any rules as to how such a facility will operate, what safety plans should be in place, what to do if a person is turned away for service, etc.

Has any such plan been provided to the City and are there steps in place to ensure the facility is prepared to address emergencies, evacuations, or turning a prospective guest away, who may be in a state of mental crisis, from the facility? Are there any standards to prevent housing of "current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders" who, per the DOJ Memo, are not considered disabled under the FHA by virtue of that status.

The proposed use at this location presents particular challenges unique to this site. Access to the site is via a blind driveway shared with our clients, the driveway surface to the premises is not in good repair is in a high wildfire risk zone, and is difficult to find at night

In this case, given the access to the site, the inadequate driveway condition, and the hazard zone, conditions should be imposed for the protection of the respite center as well as neighboring property owners to ensure that potential guests can find the facility safely, do not disturb our clients in the middle of the night because of confusion as to the location of the site, can exit in the event of emergency evacuation, etc. To that end, any approval should include conditions of approval that may include, but not be limited to, the following:

- 1) Evidence of rules restricting guests from active use of controlled substances while on the premises.
- 2) Evidence of rules restricting those convicted of illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, from staying at the premises.
- 3) Rules prohibiting smoking outdoors and/or rules to ensure that any outdoor smoking is contained within a designated area designed to reduce the risk of wildfire.
- 4) Rules prohibiting checking in or out of the facility between the hours of 10pm to 7am to limit disruption to neighbors.
- 5) Potential signage and lighting to identify the driveway, with lighting designed to shield the light away from the property located at 134 Terrace Street.
- 6) Requirement that the site be assessed by Ashland Fire and Rescue to determine whether any items need to be addressed to reduce fire risk.
- 7) Evidence of an evacuation and safety plan in the event of emergencies.
- 8) Evidence of a plan to address turning away guests arriving at the premises (for example will staff drive them elsewhere, get them a ride, etc. so a person in a state of mental distress is not simply wandering from a relatively remote location back to town).
- 9) Evidence of a plan to deal with violations such as illegal drug use, violent behavior or other severe safety hazards (for example, will such issues result in eviction from the premises).
- 10) Information as to whether there are rules regarding visitors and how that will be handled.
- 11) Evidence of adequate insurance to address potential hazards involved in running this facility. For example, if a guest damages neighboring property, is there adequate insurance to cover these costs.

The applicant indicates that the City has failed to engage in a dialogue regarding the requested reasonable accommodation.

It is also apparent that the applicant moved forward with a lease and investment

In conclusion, the application should be denied as the use is not permitted in the zone. A reasonable accommodation is not required as the use is not a dwelling under the FHA and the accommodation request is not reasonable in that it would result in a

fundamental alteration of the zoning scheme. In the event that the City disagrees and moves forward with approval of the use, reasonable conditions should be imposed to ensure that the use does not have an undue impact on the property or the neighbors.

O'CONNOR WEST, LLC

/s/ Sydnee Dreyer

Sydnee B. Dreyer, OSB No. 954710
sbd@PacificLand.law

SBD:
c: Clients

Michael Sullivan

From: J Maylee Oddo <j.maylee.oddo@gmail.com>
Sent: Wednesday, January 29, 2025 6:37 PM
To: planning
Cc: Brandon Goldman
Subject: Re: Zoning Decision: Concerns Regarding Requested Land-Use at 110 Terrace Street
Attachments: Record Submission 1-29-25 - Allman (3).pdf; Untitled attachment 00012.htm; image1.png; Untitled attachment 00015.htm; Untitled attachment 00018.htm

Dear Aaron,

We understand that the determination of land use at 110 Terrace Street is still being decided.

We would like to add further input. Please see the attached Record Submission document by Sydnee B. Dreyer. We lend our full support and agreement with the statements in this document.

Furthermore, we ask that you deny this request for a variance to existing zoning rules for the applicants of 110 Terrace Street. This decision does not just affect our neighborhood; making an exception for this applicant will create a precedent that will impact other areas of Ashland with zoning such as ours, eroding the intent, purpose, and safety of single family zoning.

Thank you for your time and consideration.

Sincerely,
Maylee Oddo & Brock Dumont
Terrace Street Residents

On Jan 8, 2025, at 6:24 PM, J Maylee Oddo <j.maylee.oddo@gmail.com> wrote:

Dear Aaron,

I would like to share with the Ashland Planning Commissions my concerns on the application for a Peer Respite Home at 110 Terrace Street.

I am a resident of Terrace Street and feel approval of this application would negatively impact our household.

Although I am in support of creating affordable housing and generating income for others, this application only allows a maximum of 14-day residency which resembles a Traveler's Accommodation which is not allowable for our Zone RR-.5/RR-1 area. The research indicates that this type of type of short term residency has a **negative** effect on providing affordable housing by its nature in increasing property cost and value. (c.f. [urblandland article](#).)

Traveler's Accommodation resembles AirBnb and VRBO rentals which, though it provides economic benefit to the property owner, it has been found to have a [negative impact on neighborhoods](#):

- **Creating opportunities for crime:** Short-term renters may be more likely to carry valuable items, making them targets for theft. They may also be less likely to report criminal activity.
- **Eroding the social fabric of a neighborhood:** The transient nature of short-term rentals can make it harder for neighborhoods to manage crime.
- **Attracting offenders:** Offenders may learn to return to areas with more short-term rentals to find unguarded targets.
- **Increasing the proportion of vacant properties:** Vacant properties are easier to burgle.
- **Increasing the likelihood of criminal damage:** Temporary occupants may be more likely to cause criminal damage.

Also, given the nature of Peer Respite Home zoning, I believe that it will increase traffic on our narrow gravel road that is very frequently used by families (including those with young children) for walking and biking, creating increased safety hazards.

I urge the planning committee to deny this application and others like it within our community.

Thank you for taking the time to read this email and consider these arguments against this application.

Sincerely,

J. Maylee Oddo
Brock Dumont
601 Terrace Street
Ashland, OR 97520



January 29, 2025

City of Ashland Planning Commission
c/o Brandon Goldman brandon.goldman@ashland.or.us
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O'CONNOR WEST, LLC

/s/ Sydnee Dreyer

Sydnee B. Dreyer, OSB No. 954710

sbd@PacificLand.law

SBD:

c: Clients

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Rob Patridge
5 Hillcrest St.
Ashland, OR 97520

January 30, 2025

City of Ashland Planning Commission
20 East Main Street
Ashland, OR 97520

RE: PA-T1-2024-00255, 110 Terrace Street

Members of the Planning Commission,

My family and I live at 5 Hillcrest Street, immediately downhill from the subject property at 110 Terrace Street. The subject property looks into our backyard and our home. We purchased our home five years ago and have substantially improved our 1,170-square-foot home and grounds to improve fire resiliency and clean up the property. I appreciate your community commitment as a servant leader by serving as a member of the Planning Commission. I would like you to offer the following ideas and framework to consider during your deliberations.

1) Look at the property so you have context.

Many of you at the January hearing said you did a site visit. For those unable to visit or as a refresher, I encourage you to view the four-minute video of the site I submitted to the public record before the planning committee meeting. Because of the time limits for public testimony, I could not show you the video at the meeting. The video will give you context for the site. It will show the character of the neighborhood as well as the condition of roads and the limited ingress and egress to the property for public safety vehicles.

2) Examine the purpose of land use planning and zoning.

The Oregon Constitution, home rule, Senate Bill 100, various statutes, and the Department of Land Conservation and Development and its administrative rules have created a rich opportunity for cities to chart their course for zoning. Zoning is part of the fabric of Oregon to ensure livability in our State and communities and allows cities to intentionally and proactively create community.

As you know, zoning is based on “police power,” a legal doctrine that gives states and local governments the authority to regulate land use to protect public interests, such as health, safety, the environment, and the general welfare of the community.

I urge you to consider why we allow single-family zoning in Oregon and Ashland. I submit that the primary reason people desire to live in various neighborhoods/zones is lifestyle. We create and move to neighborhoods based on many things, including but not limited to the environment, schools, taxes, and public safety. We choose to live in old neighborhoods, new neighborhoods, planned communities, downtown, rural areas, wildland-urban interfaces, and compact urban environments, to name just a few. Many of us who choose to live in this neighborhood/zone desire to participate with our neighbors and connect to build our neighborhood and the broader community. We desire a home where people watch out for each other and our property. We want to build long-term connections and a stable support network. The vision of having a backyard BBQ with neighbors you know and trust in your home is a clear goal for many. Since I've been in this neighborhood, I've been called upon by an octogenarian neighbor to climb through their window when they were locked out, have a group text string with ten neighbors to alert each other about bears in our area and public safety, and I've lent and borrowed tools for home projects. These interactions build community and result from residents remaining in this zone/neighborhood for a significant period of time. We have had time to get to know each other and our families. We recognize each other on the local street, downtown, at school, in the grocery store, or volunteering at local events. Long-term residents develop a sense of neighborhood commitment, pride, caring, and kinship. We are invested not only in our property but also in this community. We get to know each other and bring over a casserole when someone is sick or have a drink together after a hard week at work. We have single-family residential neighborhoods and zoning for many reasons good reasons.

3) Look at the City Code to determine what uses are allowed.

I agree with the city that this use proposed by the proponent is most like transient lodging. It is more like transient lodging, primarily because of the statutory short-term or temporary stay. Ask yourself why we don't allow transient lodging in this zone. If you look at public input, the last time legislative action was taken regarding this zone, I understand that short-term stay properties were considered and not included. The citizens of Ashland desired that neighborhoods zoned like ours create the sense of community that is desired by not having properties filled with short-term stay individuals like tourists who have no commitment to each other or this community. The council and commission recognized the benefits of having long-term residents in single-family residential zones and neighborhoods.

In this case, the proponents choose to promote a short-term stay Center. ORS 430.275(2)(a) defines the maximum number of days individuals can stay in a Center, "[e]ach peer respite center shall provide up to two weeks of continuous peer respite services to six or fewer individuals." I believe City staff have followed the legislative history and desires of the citizenry and denied this short-term property stay in the zone. They have done so not because of the type of residents but objectively. City staff has informed you there is history and precedence for disallowing this type of short-term use.

If cities cannot use the objective mechanism of the length of stay for this zone, what mechanism can the city use to place any controls on use in this zone? The length of stay provides a straightforward objective test for this area. Many court cases exist in this area, and your staff and other attorneys in this record have supported the objective short-stay approach. I suggest that the Commission utilize this objective test and disallow this use for the property rather than attempt to adjudicate this matter and leave the adjudication to a court if necessary. I would suggest your findings do not go further than these objective criteria, as it has been applied fairly and consistently.

While I would not recommend it, if the Commission desires to look further than the length of stay, it is reasonable to look at the impact on the zone/neighborhood. I contend that the proponents are attempting to turn this longstanding residence into a commercial property. I suggest the Commission first look at objective items. Evidence already contained in the public record includes items obtained from OHA as part of a records request comprising the proponent's grant application, grant contract, financials, and other correspondence. I would first direct you to the budget submitted by the proponents to OHA (Exhibit A).

The information shows the Center will be staffed by eleven (11) separate part-time staff and no full-time staff. If this facility remains full with five residents staying a maximum of 14 days, there would be over 130 different individuals with mental illness or trauma response symptoms staying at the Center and the record is unclear if visitors will also be allowed. The 2023 U.S. Census data for the City of Ashland shows the average person per household is 1.97, much smaller than the occupancy proposed by the applicants and more like a commercial use. Further, the Census data for 2023 shows that 77.9% of households have remained in their residence year-over-year, showing the long-term nature of our neighborhoods in Ashland. What is being proposed is more like zones that allow mixed-use or commercial properties, including hotels or short-term rental homes. The planned property use is well beyond what would typically be anticipated for a single-family residential home in Ashland and will substantially disrupt the residential character of the neighborhood.

If the Commission wishes to draw a parallel, I contend there is inadequate information in the record for you to draw a subjective conclusion regarding similarities. The proponents have provided little information regarding the operations of the proposed Center. The argument advanced by the proponents is that this is like group housing. However, the proponent fails to outline how this Center is like "group housing," merely arguing that it is a rotating group of people experiencing mental illness. After examining the record and sitting through the hearing, the record does not talk about nor compare the statutory and programmatic goals between the numerous types of behavioral health facilities or "group housing" authorized by the State of Oregon in ORS 443 and a Peer Respite Facility under ORS 430.275. It is clear from the current Statutes, Administrative Rules, and City Code, as well as local and statewide providers whom I have spoken to, that "group housing" in Oregon is generally meant to create long-term or extended-stay housing in a facility or residence that people consider their home as opposed to a

temporary respite. Those housed in a group home expect to return to the home over an extended period of time. The residents in the group homes get to help build community between and amongst each other as well as in their neighborhood and the City of Ashland. The individuals that Stabbin Wagon brings in can be from anywhere. There is no requirement that they are from or are connected to the City of Ashland, Jackson County, or the State of Oregon. There is no evaluation or clinical analysis or evaluation as you would have in a group home. The individual and the proponents have no agreements on house rules and stay requirements that you would see in a group home. According to their application and governing law, the proposed Center is very unlike a group home in terms of its operation, goals, outcomes, and program. The proponents should not be able to overcome zoning regulations by arguing the home is more like a group home without any clear facts in the record comparing the operations.

Before you try to draw a parallel, I would urge you to consider Oregon's land use planning Goal 1, which provides for Citizen Involvement and "the opportunity for citizens to be involved in all phases of the planning process." The citizens, planning commission, and council have all been involved in setting up the zoning regulatory process for the City of Ashland.

Instead of being transparent and collaborative with the City of Ashland and the community or finding a location where a Center's use was clearly permitted, the proponents chose to lawyer up rather than take proactive steps like educating the neighbors, community, and council. They choose instead to try and accuse the City and its citizens of discriminating against the mentally ill, which is clearly not the case. They could have conducted town halls, done outreach, or proactively worked with the neighbors. I have tried reaching out to them for a meeting and received some early response that they would refer me to their lawyer but I have heard nothing back. Make the proponents properly use Oregon's land use code and system of citizen involvement.

If the proponents want this to be a permitted use then they should make an application under AMC 18.5.9.020 for Plan Amendments and Zone Changes. Local community leaders have advised the proponents to find another location that is clearly permitted by the zoning regulations so services can be delivered. The proponents have failed to secure an alternate location in almost 14 months of knowing there were issues with the zoning at 110 Terrace Street. You may ask what the agenda is for the proponents by failing to work with the City of Ashland and the Community? Is there goal to create an use in this location to make way for their clear anti-government political agenda. Please note, this grant is anticipated to expire June 30, 2025 (See the Grant Application and Contract in the Public Record). Also, note the Public Records provided by OHA indicate that the proponents have received \$750,000 from OHA and have not provide any actual client services. Finally, know that the OHA has refused to pay the last two attempted grant draws for \$18 each for failing to provide the services contracted for. I wonder why

a not-for-profit who is allegedly working for our community goals has bunkered down and is failing to proactively communicate rather than cast aspersions on the City and our neighbors.

The State legislature when it passed the HB2980 in 2021 that authorized these Centers left it to local jurisdictions and did not exempt Peer Respite Centers from local land use zoning. There is nothing in the legislative record amendments to indicate any amendments that contemplate exemptions nor indicate a Center should be treated like group housing.

Finally, though I disagree that an analysis needs to be done if Commission decides it wants to draw a parallel I would say that this facility would be more like a hospital, residential care facility, or nursing home all of which would require a conditional use permit under the Ashland Municipal Code.

4) Determine if the Fair Housing Act Applies

If you do move beyond the opinion of your City staff make the proponents prove that the Fair Housing Act applies in this matter. I believe the information submitted by the applicant provides insufficient fact to demonstrate the FHA applies.

Many courts have used a two-part test to determine if something qualifies as a dwelling and thus making it subject to the Fair Housing Act. Quoting from *Lakeside Resort Enters., LP v. Bd. of Supervisors of Palmyra Twp.*, [455 F.3d 154, 158](#) (3d Cir. 2006).

(1) whether the facility is intended or designed for occupants who intend to remain in the facility for any significant period of time; and (2) whether those occupants would view the facility as a place to return to during that period.”

In the present matter think about the analysis applied by the Lakeside case and its progeny. These individuals can only reside in the facility for a period of 14-days pursuant to the grant and State law. Is 14-days a significant period of time? I believe that 14-days is not a significant period of time. Further, the proponents have entered nothing in the record that suggests that the occupants would view this place as a place to return over a “significant period of time.” A Respite Center, by statutory definition, is “short-term.” Further, the definition of “respite” by Merriam-Webster always includes the word “temporary” regardless if it is used as a noun, verb, or adjective. By its very nature and statutory and grant construction the definition falls outside of the test of a dwelling. Ask yourself based upon the tests applied if the Fair Housing Act is being violated. Your City staff and outside attorney for one of the neighbors come to the same conclusion that the City of Ashland would not be violating the Fair Housing Act by a denial.

I appreciate the Commission time to consider this framing and analysis. Please know that I believe that if you do not follow staff’s recommendation your decision could have a broad ripple

impact on Ashland's zoning. By abandoning the objective length of stay requirement and allowing the Center to persist you then enter into a set of subjective criteria that creates further litigation risk for the City of Ashland and substantial cost to the citizens of Ashland. The proponents have failed to prove their case, or to openly and transparently try to change what is allowed in a single-family residential area through the Ashland Municipal Code Process.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Patridge", with a long horizontal stroke extending to the right.

Rob Patridge

EXHIBIT A

Attachment 2 - Budget Proposal				
RFGP #OHA-S-44300-00004104				
A. Expenditures			Notes	
	1. Personnel Expenditures		For personnel, please include staff title, hourly wage, hours worked per week in this column. For benefits, please describe what benefits will be provided with funds requested.	
	a. Employee Salary			
	i. Employee 1		Peer Support Worker – 24 hours a week \$25/hour	\$ 60,172
	ii. Employee 2		Peer Support Worker – 24 hours a week \$25/hour	\$ 60,172
	iii. Employee 3		Bilingual Peer Support Worker – 24 hours a week \$30/hour	\$ 72,206
	iv. Employee 4		Peer Support Worker – 36 hours a week \$25/hour	\$ 93,857
	v. Employee 5		Peer Support Worker – 36 hours a week \$25/hour	\$ 93,857
	vi. Employee 6		Peer Support Worker – 36 hours a week \$25/hour	\$ 93,857
	vii. Employee 7		Bilingual Peer Support Worker – 36 hours a week \$30/hour	\$ 108,309
	viii. Employee 8		Bilingual Peer Support Worker – 36 hours a week \$30/hour	\$ 108,309
	ix. Employee 9		Peer Support Worker – 18 hours a week \$25/hour	\$ 46,929
	x. Employee 10		Outreach/Admin Coordinator – 37 hours a week \$25/hour	\$ 92,765
	xi. Employee 11		Bilingual Outreach/Admin Coordinator – 37 hours a week \$30/hour	\$ 115,757
	Advisory Board and Community Participants		Previous peer respite guests who will sit on hiring committees and educational opportunities	\$ 18,000
	Participant Incentives		Compensation for surveys and formal feedback opportunities	\$ 6,000
	b. Subtotal of all salaries			\$ 970,190
	c. Employee Benefits			
	i. Part time benefits		20% of employees salaries will be provided so that workers can obtain competitive health care insurance, paid time off, language learning classes including Spanish and ASL, and wellness programs.	\$ 47,896
	ii. Full time benefits		20% of employees salaries will be provided so that workers can obtain competitive health care insurance, paid time off, language learning classes including Spanish and ASL, and wellness programs.	\$ 141,342
	iii. Subtotal of benefits			\$ 189,238
	Subtotal of Personnel Expenditures			\$ 1,159,428
	2. Operating Expenditures		Please describe items here, if needed. For items you are not requesting funding for, please write "N/A" in this column.	
	a. Rent		5 bedroom houses in our area cost approximately \$3,700 to rent. We may adjust this depending on availability at the time of receiving the grant.	\$ 96,200
	b. Utilities		Utilities for peer respite house to include heating, water, garbage, etc.	\$ 12,000
	c. Office Supplies		Ongoing purchases of basic office supplies for use by staff and guests at the respite	\$ 11,500
	e. Telephone and cell phones		4 cell phones (including service plans for all), one for the respite house which can be used for intakes, staff and guest usage; two for outreach/admin coordinators, and one for on call shifts.	\$ 4,600

	f. Web/internet	\$100/month for home wifi internet	\$ 2,400
	g. Insurance	Liability Insurance (CGL & PL) and Workers Comp	\$ 9,000
	h. Staff training and development	All staff will received peer respite training from the Wildflower Alliance, State of Oregon Peer Support Specialist / Intentional Peer Support training and certification, anti-racism training, and accessibility trains - additional training opportunities will be provided to staff and community as needed	\$ 40,000
	i. Staff finger-printing/background checks	For new hires	\$ 860
	j. Art Activities	\$200 a month for art supplies, books, music equipment	\$ 15,000
	k. Zoom Pro	For guests to use as needed and for outreach meetings	\$ 360
	l. Adobe Pro	For guests to use as needed and for outreach tasks	\$ 360
	m. Outreach and educational materials (English)	For outreach to community partners, promoting the peer respite throughout the region	\$ 4,800
	n. Interpretation/translation services	To support outreach to community partners and as needed to support guests at the respite - ASL, Spanish, Vietnamese, and Mandarin as needed	\$ 7,000
	o. Food Pantry	\$800 per month to keep basic essentials stocked in the kitchen	19,200.00
	p. Transportation Stipends	Funds to help people travel to and from the respite	6,000.00
	q. Staff Travel Funds	For outreach and training related travel	4,000.00
	Subtotal of Operating Expenditures		\$ 233,280
	3. Start Up Costs (please describe)		
	Mattresses	For guest rooms	9,000.00
	Bed Frames	For guest rooms	600.00
	Bed Sheets	For guest rooms	300.00
	Couches	For common areas in the respite	1,000.00
	Desks for rooms	For guest rooms	600.00
	Desks for staff	For use in common areas / for staff	500.00
	Office Chairs	For guests, staff and common areas	300.00
	LaserJet Printer/Scanner/Fax/copier	For use by guests and staff	1,500.00
	ADA Home Requirements	This money will be used to create an ADA required first floor bathroom and an ADA entrance ramp.	50,000.00
	MS Office for Mac	For respite computers (to be used by guests and staff)	621.00
	Office Supplies	Initial purchases of basic office supplies for use by staff and guests at the respite	1,000.00
	Locking filing cabinet	For storing of private information and items	250.00
	Kitchen supplies	A pot and pan set, kitchen aid mixer, plates, utensils, and other misc items.	700.00
	Computers	Laptops and desk tops for both staff and guests	\$ 5,000
	Subtotal One-Time Start-up Costs		\$ 71,371
	4. Admin/Indirect costs, please describe in "notes" column	Bookkeeping and payroll for 11 employees	\$ 34,560
	Subtotal Admin/Indirect Costs		\$ 34,560
	D. Total Proposed Operational Budget		\$ 1,498,639

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Memo

DATE: January 30, 2025
TO: Planning Commission
FROM: Brandon Goldman, Community Development Director
RE: 110 Terrace Street – PA T1-2024-00255
Traveler Accommodation City enforcement

During the public comment period following the close of the public hearing on January 14th, written testimony was received asserting that the City of Ashland's enforcement of prohibitions on Traveler's Accommodations (TAs) in single-family zones is disproportionate in its application, particularly as it pertains to individuals with disabilities.

The City of Ashland Code Compliance Division regularly enforces the prohibition of Traveler's Accommodations (TA) in single-family residential zones.

Those inquiring are informed that Traveler's Accommodations are not a permitted use in single family zones.

Given Ashland's status as a well-established tourist destination, the City's land use ordinances are intentionally structured to balance tourism-related accommodations with the preservation of long-term residential housing stock. The

COMMUNITY DEVELOPMENT DEPARTMENT

51 Winburn Way
Ashland, Oregon 97520
ashlandoregon.gov

Tel: 541.488.5305
Fax: 541.552.2050
TTY: 800.735.2900





prohibition of Traveler's Accommodations (TAs) in single-family residential zones serves to protect housing availability for full-time residents and maintain the character and stability of established neighborhoods. At the same time, the Ashland Land Use Ordinance directs TAs to areas that are more suitable for short-term lodging, including neighborhoods in closer proximity to tourist destinations, commercial centers, and higher-capacity streets. This strategic placement ensures that visitors can readily access amenities, dining, and entertainment options without adding unnecessary vehicle trips through lower-density residential areas.

By concentrating short-term rental activity in higher-density, mixed-use, and commercially zoned areas, the City seeks to support the economic vitality of its tourism sector while minimizing potential disruptions to neighborhoods primarily intended for long-term residential use. This policy framework not only protects housing for residents but also facilitates a more seamless visitor experience by locating short-term accommodations within walking distance of Ashland's key attractions and commercial centers. By applying these zoning standards consistently, the City ensures that its approach to regulating Traveler's Accommodations aligns with both housing preservation goals and the economic realities of a tourism-driven community.

It is important to clarify that the current land use interpretation request regarding 110 Terrace Street is not an enforcement action by the City of Ashland. Rather, it is a request initiated by the applicant seeking clarity on whether the proposed use as a Peer Respite Center should be classified under the Ashland Land Use Ordinance as a Residential Care Home, rather than as Traveler's Accommodation. To the City's knowledge, the applicants sought this interpretation before commencing any operation of a Peer Respite Center at the subject property.

Concerns regarding potential disparate enforcement were raised in public testimony. |

The prohibition of Traveler's Accommodations in single-family zones is not subject to discretionary interpretation based on the intent of the property owner or the nature of the guests but is instead a straightforward application of land use regulations intended to distinguish between permanent housing and transient lodging. Indeed, providing for a use exception here is asking for the City to not neutrally apply its own code. This approach ensures the consistent application of zoning standards and reflects the City's ongoing efforts to maintain compliance with Ashland's land use regulations and preserve residential neighborhoods for long-term occupancy.

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PUBLIC COMMENTS

**Public Comments Received by
Parties-of-Record Between 01-15 & 01-22**

Michael Sullivan

From: Allie Rosenbluth <allie1rose@gmail.com>
Sent: Tuesday, January 14, 2025 6:00 PM
To: planning
Subject: Comments regarding City File No. PA-T1-2024-00255

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Dear Planning Commission,

My name is Allie Rosenbluth and I am a member of the Rogue Valley community who has great excitement for the Mountain Beaver House Project. This email is in support of the reasonable accommodation request made to the Commission by Stabbin' Wagon (the Applicant) under the Fair Housing Act and the Americans with Disability Act. The Applicant has submitted its request in order to provide peer respite services to members of the community who are experiencing mental illness. I support Stabbin' Wagon's efforts to house our neighbors as they are coping with or are recovering from acute distress, anxiety, or emotional pain. The Commission's approval of this reasonable accommodation request is a minor request that will allow people with disabilities to live in the RR-.5 zone. To do otherwise will have a discriminatory effect on people experiencing mental illness by keeping them from having an equal opportunity to be housed in this zone. I respectfully ask that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

Sincerely,
Allie Rosenbluth

--
Allie Rosenbluth

Michael Sullivan

From: Mike Vediner <vediner@gmail.com>
Sent: Thursday, January 16, 2025 8:46 AM
To: planning; David Allman; Carolyn Allman
Subject: 110 Terrace Street (Proposed Peer Respite Home)

[EXTERNAL SENDER]

Attn: Aaron Anderson

Thank you for the opportunity to provide written comment. I have standing in this matter under the 7-7-7 timeframe, having provided written comment prior to the Commissioner's meeting of January 14, 2025.

I read Brandon Goldman's staff memo to the Commission dated January 14, 2025 regarding the peer respite center use interpretation. I also read Assistant City Attorney Carmel Zahran's memo dated Jan. 3, 2025 on the same subject.

Both of these documents thoroughly and clearly conclude that the requested Peer Respite Center is most similar to traveler's accommodations which is not allowed on R-1 zoning.

I attended the Planning Commission meeting on January 14, 2025 where the applicant's attorney stated that the Planning Department's interpretation was discriminatory under FHA and ADA because they had made a "reasonable" request for accommodations in zoning. Are they asking that the City ignore the zoning ordinances in order to grant their request?

To the contrary, there is nothing discriminatory in the interpretation. Both of the documents referenced above also clearly state that the requested use of a Peer Respite Center can be accommodated on Residential (R-2, R-3) Zones or Commercial Zones.

As a homeowner in Ashland, I strongly support the Planning Department's analysis of this issue and trust the Planning Commission will deny this applicant's request for a Peer Respite Center in an R-1 zone.

Thank you for your time and consideration,

Mike Vediner



Jennifer M. Bragar
Attorney

Admitted in Oregon, Washington,
and California
jbragar@tomasilegal.com

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January 22, 2025

BY EMAIL

City of Ashland Planning Commission
20 E Main Street
Ashland, OR 97520

Re: Applicant's Open Record Submission - City File No. PA-T1-2024-00255

Dear Commissioners:

As you know, this office represents Stabbin' Wagon ("Applicant"), in the above-referenced application for a reasonable accommodation and code interpretation to operate a respite home at property located at 110 Terrace Street, Ashland, Oregon (the "Mountain Beaver House"). Applicant wishes to provide peer respite housing and services to four members of the community experiencing mental illness at any given time, and to use the Mountain Beaver House as a stable, safe environment for providing such services. This letter is submitted in further support of the application. Please include this letter in the record.

I. A peer respite at Mountain Beaver House will be a benefit to the community.

According to the 2024 State of Mental Health in America Report, Oregon ranked 47th out of 50 states in terms of access to care compared to the prevalence of mental illness. Attachment 1. In Governor Kotek's 2025 State of the State address, she acknowledged the significant work that needs to be done to ease Oregon's ongoing mental health crisis. Attachment 2, pp. 2-3. In particular, the Governor highlighted residential and community-based providers as a means for increasing capacity for mental health and substance abuse treatment and as an alternative to hospitalization or homelessness. Attachment 2, p. 3. Mountain Beaver House meets that need.

Turning to Ashland, between January 2024 and November 2024, 29 community members attempted or died by suicide, 15 community members overdosed, some fatally, and 5 community members were placed on psychiatric hold. Attachment 3. In response to inadequate access to mental and substance use disorder treatment, Ashland City Council's 2024 Homeless Service Masterplan Report proposes that the City "establish medical respite beds (step down housing after hospitalization/treatment)" and "make zoning changes to facilitate innovation around service provision." Attachment 4.

A primary aim of peer respite is to support people through difficult times while avoiding hospitalization and other invasive and life-disrupting interventions—just as state and local leaders

have called for. See Attachment 5, excerpts from Peer Respite Handbook¹ which is the guidebook for Mountain Beaver House staff and a nationally recognized recovery model to help people who are experiencing mental illness, and Attachment 6, Oregon Health Authority ("OHA") Grant Agreement, p. 6. The proposed Mountain Beaver House peer respite will help to close the immense gap between people experiencing mental illness in solitude and available care options. The Mountain Beaver House peer respite will also provide links to further assistance that Ashland community members so truly need. As Ms. Neisewander's testimony at the hearing expressed, even just a single day can make a significant difference in the lives and outcomes for people experiencing mental illness.

The location of Mountain Beaver House is essential to Applicant's mission of providing respite to its clients. People stay at peer respites for any number of reasons: recent trauma and loss; avoiding hospitalization and overwhelmed by distressing urges or disturbing or suicidal thoughts; being overwhelmed by their current living situation; or perhaps they are feeling very alone in the world and wanting to be around caring people. Attachment 5, pp. 8-10. As recognized by Oregon's legislature, respite homes have been created to support people with disabilities in high need of care and treatment. House Bill 2980 (2021). In all cases, it is important for respite to occur in a stable, safe, and homelike environment such as exists at Mountain Beaver House, to help people who are experiencing mental illness. Attachment 6, p. 6. This location in a quiet, residential neighborhood with proximity to Lithia Park is ideal in that it facilitates recovery through respite activities such as hiking, biking, gardening, getting out into nature, doing yoga or meditating, and taking space to clear one's thoughts. Attachment 5, p. 10, and shown in photographs of Mountain Beaver House in Attachment 7. This setting is necessary for the respite environment to allow residents to stabilize their mental state and to have a place to live.

Siting a peer respite at Mountain Beaver House will be a benefit for the community. Residents of peer respite homes have a relatively low likelihood of risky or unsafe behavior because their presence and treatment is voluntarily and the relationship established between residents, care providers, and the broader community is one of mutuality and respect. Attachment 5, p. 5. Peer respite clients are community members, and allowing them to remain a part of the community fabric through difficult times creates safer, not more dangerous, neighborhoods. Attachment 5, p. 7.

As the excerpts from the Peer Respite Handbook and the photographs in Attachment 7 show, the Mountain Beaver House peer respite will provide exactly what mental health professionals and leaders describe as needed services and housing for people experiencing mental illness, and will be a positive contribution to the overall wellbeing of the neighborhood and community. The fact that 110 Terrace Street, Ashland, is available for such use and fits the respite environment so well is a gift for Ashland, and the City should grant Applicant's request for a reasonable accommodation to allow peer respite at Mountain Beaver House.

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¹ Davidow, Sera. *Peer Respite Handbook: A Guide to Understanding and Developing Supportive Peer Respites*. Western Massachusetts Recovery Learning Center Community. Denver: Outskirts Press, 2017.

II. The City must respond with flexibility to Applicant's request for a reasonable accommodation.

The staff report ignores that the Mountain Beaver House is a dwelling. Both Applicant and Disability Rights Oregon ("DRO") have cautioned this Commission that the City has an obligation under the Americans with Disabilities Act ("ADA") and Fair Housing Act ("FHA") to make reasonable accommodations to enable people with disabilities, including those experiencing mental illness, to live in the RR-.5 zone. *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 806 (9th Cir. 1994), *aff'd sub nom*; *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725 (1995); *Pac. Shores Properties, LLC v. City of Newport Beach*, 730 F.3d 1142, 1157 n.15 (9th Cir. 2013); and see DRO's January 13, 2025 letter (the "DRO Letter"), p. 2.

The City has not engaged in a dialogue with Applicant about the request for reasonable accommodation to reach a solution that allows for flexibility to enable people with disabilities to live in the RR-.5 zone. 28 CFR § 35.130(b)(7). It is not too late for the Commission to work with Applicant to develop a mutual solution and address this necessary request to allow therapeutic respite at the Mountain Beaver House location. If after reading all of this information, the Commission (or staff) have any questions about how the respite home will operate, please let us know and we will respond. Again, a reasonable accommodation request involves a conversation, so the strict confines of land use review processes do not foreclose continuing the conversation, notwithstanding the open record, response, and final written argument period currently applied to this application review process.

III. The City may not rely on the length of occupancy, traffic, or parking requirements as grounds for denial of Applicant's request for a reasonable accommodation where those characteristics are indistinguishable from those impacts from uses permitted outright in the RR-.5 zone.

The City cannot demonstrate how Applicant's requested modifications would fundamentally alter the essential nature of the City's zoning scheme. 28 CFR § 35.130(b)(7). As Applicant has previously explained, in its January 14, 2025, letter the Planning Commission, the Staff Report fails to meet this requirement. Applicant's proposal is for the residential use of an existing house. Housing four people in an existing house does not fundamentally alter the rural residential zoning scheme because it makes anticipated use of an existing property for continued residential purposes.

In addition to the reasons previously articulated, Applicant's proposed use is not meaningfully distinguishable from uses permitted outright in the RR-.5 zone for the following reasons.

A. The City does not monitor the length of occupancy for residents in single-family homes.

As noted in the DRO Letter,

"the [C]ity's definition of a single-family dwelling does not require a long-term occupancy. Nothing in the code clearly prevents homeowners from leasing or subleasing their home for short periods of time. Nothing in the code clearly prevents homeowners from leasing or subleasing their home for short periods of time. A quick review of VRBO and AirBnB postings shows dozens of homes for rent for short periods of time in residential zones of Ashland, either where traveler's accommodations are prohibited or where conditional use permits are required but are not listed in the advertisement. Taking steps to enforce a short-term occupancy requirement selectively against homes for people with disabilities violates the FHA. *Pac. Shores Properties*, 730 F.3d at 1164." DRO Letter, p. 5, see also Attachment 8.

Applicant reiterates DRO's observation that the City does not monitor the length of occupancy of single-family homes with regard to leases and subleases. Applicant also adds that the City does not monitor other forms of temporary occupancies of single-family homes, such as overnight visitors—guests from out-of-town, romantic partners staying the night, and children's sleepovers. As described at the hearing, the fundamental nature of the use is indistinguishable from other residential uses except that the people experiencing mental illness require respite workers on site to enjoy the residence in the RR-.5 zone.²

B. Applicant's proposed use will not result in greater traffic than a single-family home.

The Applicant proposes to allow four residents to live in Mountain Beaver House, coinciding with the number of bedrooms in the house. Generally, the comments submitted voicing concerns related to increased traffic do not offer any evidence to show a greater impact than from any other house in the RR-.5 zone. Some comments point to visits from police, fire trucks, and emergency medical services. It is unreasonable to assume that these types of visits will happen with sufficient frequency to cause significant traffic concerns, or at any greater frequency than any other residential use in the zone. Other comments point to food service, property maintenance, and family visits. These comments ignore the fact that single-family homes also receive a variety of deliveries—from Amazon, from FedEx, from Uber Eats—all with unregulated frequency. Such comments also ignore the fact that single-family homes also require maintenance from contractors and that single families receive visitors, family and otherwise.

The record does not support a claim that operating a peer respite at Mountain Beaver House will cause more traffic impacts than other residential uses in the RR-.5 zone.

² As Applicant stated at the hearing, the Traveler's Accommodation comparison is a straw man intended to transform a reasonable accommodation for housing into an economic development endeavor. Attached is Ordinance 3108, adopting the City's Traveler's Accommodation rules, which seek to prevent these short-term vacation rental type uses from changing the character of the residential neighborhood. Applied to this context, "neighborhood character" is coded language used to keep people with disabilities out of residential neighborhoods. Attachment 9.

C. The Mountain Beaver House has sufficient onsite parking for Applicant's proposed use.

When compared to parking requirements for related uses, Applicant's proposed use would require a maximum of one space per three beds/rooms. ALUO 18.4.3.040 (providing parking requirements for convalescent homes), or two parking spots. A single-family residence has no maximum number of parking space limitation. ALUO 18.4.3.040. Given that Applicant has agreed to limit the number of residents to four at any given time, the total required number of parking spaces is two, if using the convalescent home measurement. Even assuming each resident and staff member requires their own parking space, there is more than adequate space on the property to accommodate six vehicles, two in the carport and at least four alongside the driveway. Attachment 7, pp. 6-7. The property can comfortably accommodate at least six parked vehicles without interfering with the driveway or neighboring roadway.

Significantly, there are no parking requirements for single-family homes. ALUO 18.4.3.040. However, it is not difficult to imagine a scenario where a single family could require six parking spaces at a given time. For example, a couple and their two teenage children, each of whom own a car, live in a house together. The couple has developed, as of right, an Accessory Dwelling Unit on their property for one partner's aging parents, each of whom own a car. More common, a family owning two cars frequently has four guests, all of whom arrive in a separate vehicle.

The record does not support a claim that operating a peer respite at Mountain Beaver House will cause more parking impacts than other residential uses in the RR-.5 zone.

IV. Property value is not a criterion for approval of this application, but even if it were, group homes have been shown not to impact property values.

During the public hearing, opponents of Applicant's reasonable accommodation request made statements suggesting that their concerns about the operation of a peer respite at Mountain Beaver House are rooted in the perception that such recovery housing may decrease property values.

Applicant provides the following evidence of peer-reviewed studies performed that show that group homes providing services to people with mental illness had no adverse effect on property values in surrounding neighborhoods. Attachment 10 and Attachment 11. These studies support that the Mountain Beaver House proposal for respite will not adversely impact neighboring property values and that public concerns regarding property values do not match the data.

CONCLUSION

For the foregoing reasons, Applicant respectfully reiterates its request for a reasonable accommodation. The Planning Commission should approve the reasonable accommodation request to allow up to four people experiencing mental illness to reside in the Mountain Beaver

TOMASI BRAGAR DUBAY

January 22, 2025

Page 6

House to receive respite services for 14 days as allowed by statute at 110 Terrace Street, Ashland, Oregon.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer M. Bragar". The signature is fluid and cursive, with the last name "Bragar" being more prominent.

Jennifer M. Bragar

cc: (all by email)
client
Representative Pam Marsh
Matthew Tschabold
Oregon Health Authority

THE STATE OF MENTAL HEALTH IN AMERICA



2024
Edition

Acknowledgments

Mental Health America (MHA) was founded in 1909 and is the leading national nonprofit dedicated to the promotion of mental health, well-being, and illness prevention. Our work is informed, designed, and led by the lived experience of those most affected. Operating nationally and in communities across the country, Mental Health America advocates for closing the mental health equity gap, while increasing nationwide awareness and understanding through public education, direct services, tools, and research, making MHA a national standard bearer in public mental health advocacy and community-based solutions.

MHA dedicates this report to mental health advocates who fight tirelessly to help expand access to care and reduce disparities and inequities for people with mental health concerns. To our affiliates, thank you for your incredible state-level advocacy and dedication to promoting recovery and protecting the rights of all.

Special thanks to:

The Substance Abuse and Mental Health Services Administration (SAMHSA), the Centers for Disease Control and Prevention (CDC), the University of Wisconsin Population Health Institute, the U.S. Department of Health and Human Services Health Resources and Services Administration (HRSA) Maternal and Child Health Bureau (MCHB), and the Department of Education (DoE), who every year invest time and money to collect the national survey data, without which this report would not be possible.

This report was researched, written, and prepared by Maddy Reinert, Danielle Fritze and Theresa Nguyen.

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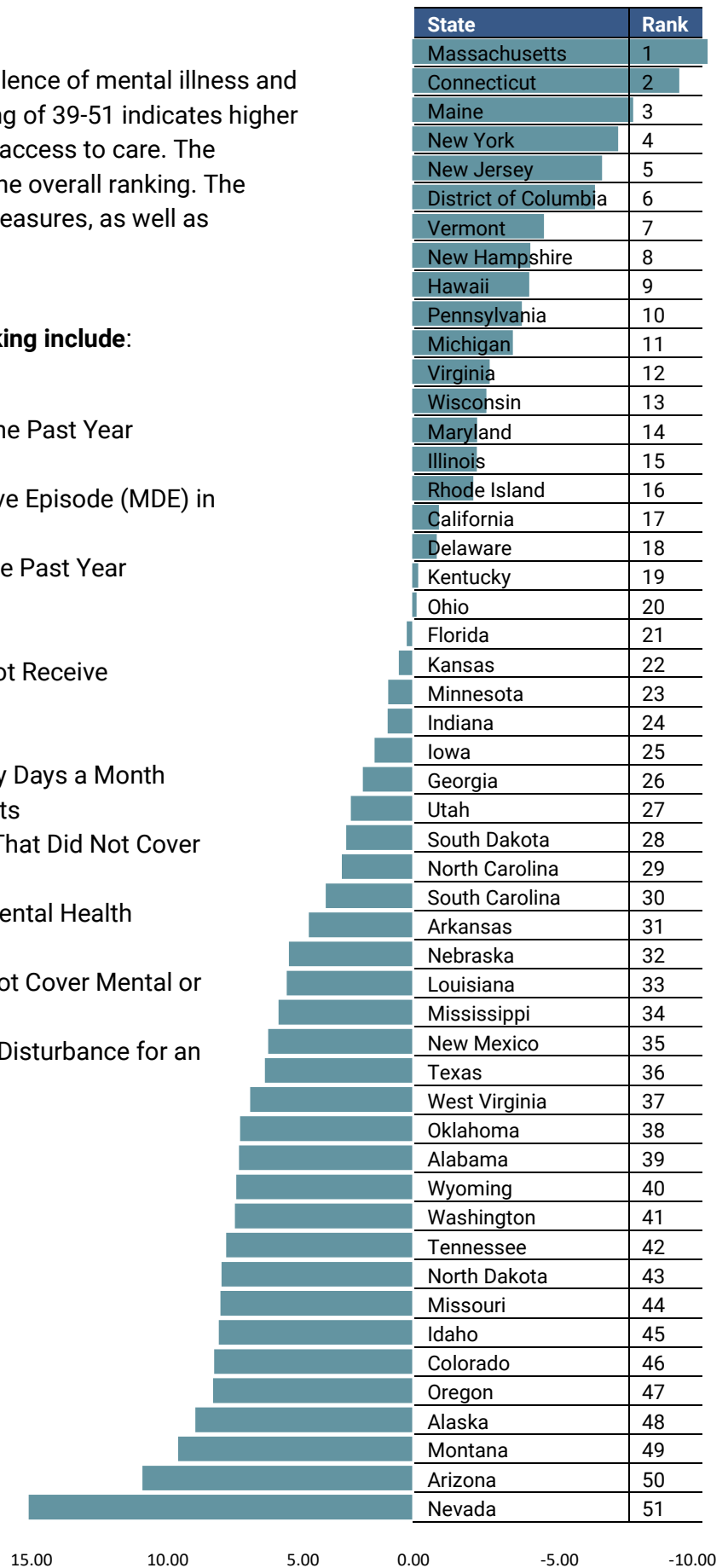
Overall Ranking

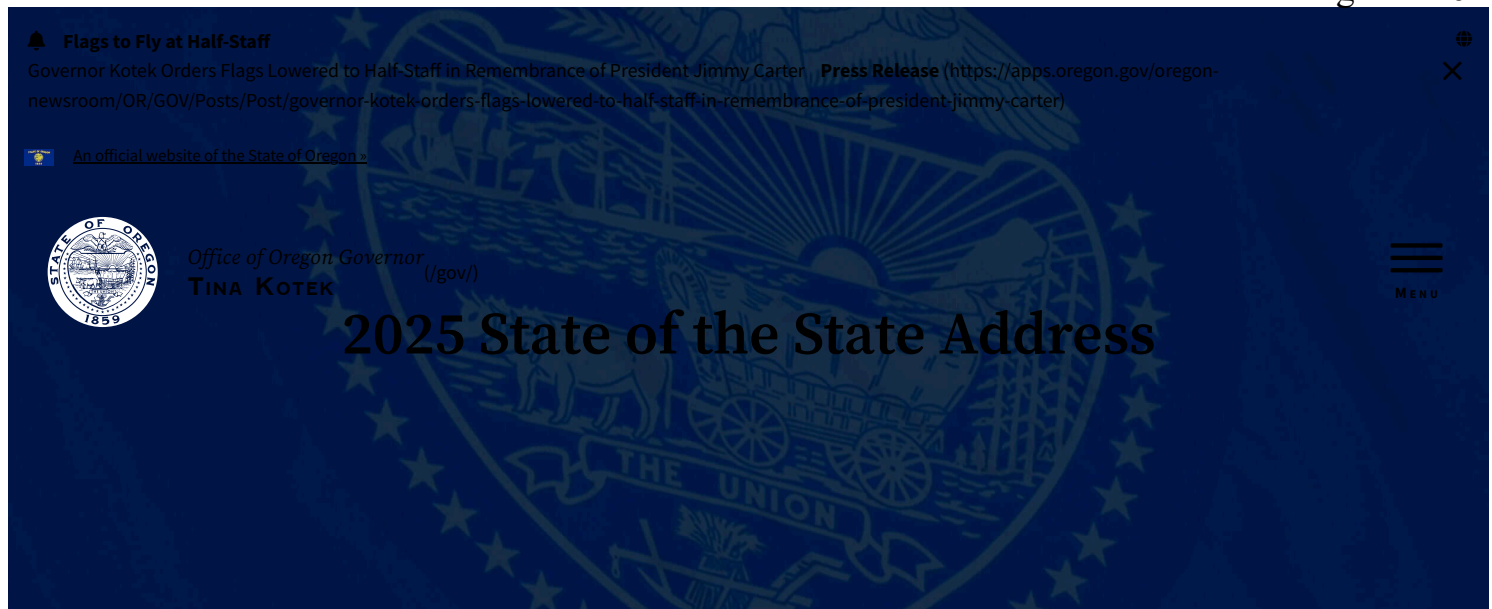
An overall ranking of 1-13 indicates lower prevalence of mental illness and higher rates of access to care. An overall ranking of 39-51 indicates higher prevalence of mental illness and lower rates of access to care. The combined scores of all 15 measures make up the overall ranking. The overall ranking includes both adult and youth measures, as well as prevalence and access to care measures.

The 15 measures that make up the overall ranking include:

1. Adults with Any Mental Illness (AMI)
2. Adults with Substance Use Disorder in the Past Year
3. Adults with Serious Thoughts of Suicide
4. Youth with at Least One Major Depressive Episode (MDE) in the Past Year
5. Youth with Substance Use Disorder in the Past Year
6. Youth with Serious Thoughts of Suicide
7. Youth (Ages 6-17) Flourishing
8. Adults with SUD Who Needed But Did Not Receive Treatment
9. Adults with AMI Who Are Uninsured
10. Adults Reporting 14+ Mentally Unhealthy Days a Month Who Could Not See a Doctor Due to Costs
11. Adults with AMI with Private Insurance That Did Not Cover Mental or Emotional Problems
12. Youth with MDE Who Did Not Receive Mental Health Services
13. Youth with Private Insurance That Did Not Cover Mental or Emotional Problems
14. Students (K+) Identified with Emotional Disturbance for an Individualized Education Program
15. Mental Health Workforce Availability

The chart is a visual representation of the sum of the scores for each state. It provides an opportunity to see the difference between ranked states. For example, Massachusetts (ranked one) has a score that is lower (better than the average) than Virginia (ranked 12). Ohio (ranked 20) has a score that is closest to zero (the average).





2025 State of the State Address ([Spanish \(/gov/speeches/Pages/2025-1-13-state-of-the-state-remarks.aspx/#Spanish\)](https://www.oregon.gov/speeches/Pages/2025-1-13-state-of-the-state-remarks.aspx/#Spanish))

January 13, 2025

Resilience and Partnership to Solve Problems

Good afternoon. It is good to be with you in this biennial joint session of the Oregon House and the Oregon Senate, along with so many distinguished guests. A warm greeting to those who are watching online.

This new year, 2025, carries a clear charge for all of us: to summon our unyielding spirit of resilience, to tackle problems with purpose, and to embrace opportunities for change together. Oregon's ability to move ahead is grounded in the soil from which we have grown – together.

If we stretch our minds back to five years ago, we will recall the concerning reports coming out of China of an outbreak of an unknown disease. By February 2020, we had our first case of COVID in Oregon. And later that year, we experienced the heartbreaking destruction caused by the 2020 Labor Day fires that changed the trajectories of many lives and many communities.

I bring up these enormous past shared traumas because, despite everything, Oregon is still standing, our faith in ourselves as Oregonians remains true, and we have developed new skills and insights to withstand the uncertainties of tomorrow. It is fertile soil indeed that we now take on the challenges in front of us and ahead of us.

Oregon's fortitude was tested again last year, as wildfires roared across our landscapes with an intensity that was unprecedented in both size and scope, demanding incredible courage from thousands of firefighters who stood between flames and what Oregonians hold most dear.

And we made it through. Another recovery is demanded of us and our communities, and we will stay focused on that — but we made it through. Thank you, from the bottom of my heart, to all the emergency responders, both paid and volunteer, who kept Oregon as safe as possible. Thank you to the legislators in the room for coming together just a few weeks ago, for the shortest special session ever, to allocate the necessary funds to pay our firefighting bills before the year's end.

And let us keep our thoughts and prayers with the people of Los Angeles, who are experiencing horrific devastation of their homes and businesses. We know what this means. We are responding with mutual aid – 440 Oregon firefighters and 235 engines have been deployed there – because that's what Oregonians do for our neighbors.

Our resilience as a state is grounded in partnerships. Today, here in the front row, are the leaders representing Oregon's nine federally recognized Tribal nations. Thank you for being here and for what you do as sovereign governments to help your citizens as well as the broader community of your ancestral lands.

Also here today, at my invitation, are elected leaders from our county governments, as well as leadership from the League of Oregon Cities. I am humbled and inspired by my partners in local government, public servants who are on the ground every day in their communities meeting the needs of Oregonians. Visiting all of Oregon's counties and all nine Tribal nations in my first two years has profoundly informed my appreciation and understanding of how critical local partnerships are to Oregon's resilience and Oregon's ability to solve problems. Thank you for what you do.

Today, I am renewing a conversation with you about Oregon's future and how we build shared prosperity over the next two years. We are making progress, despite entrenched challenges, but that progress is fragile and requires all of us to be persistent and not get distracted. We are beginning to see a glimpse of a brighter horizon ahead. Let's focus on that horizon — and be sure to keep our feet firmly planted on the road of hard work and partnership.

So, where are we and what's on the horizon?

It will come as no surprise to anyone, I hope, that I will mostly speak about homelessness and housing, mental health and addiction treatment, and improving student success. I also want to touch on resilience in the face of climate change and improving the business of state government.

HOMELESSNESS/HOUSING

Let's start with homelessness and housing. First, I want to thank the legislature, local government, and community partners for walking side by side with me to start addressing our crisis of homelessness and our housing supply deficit at the scale that is required to make a difference.

From substantial new state investment to new coordinated systems at the community level to a gritty can-do attitude, we have blunted the humanitarian crisis on our doorsteps. By this July, the actions related to the homelessness state of emergency initiated two years ago are projected to rehouse 3,300 households and prevent another 24,000 households from experiencing homelessness in the first place. Our state shelter program now supports over 4,800 shelter beds to help people stay off the streets and have access to transitional stability.

And we know housing supply is the long-term solution. Together, by July, the state will have financed 2,800 affordable housing units and provided infrastructure for over 25,000 affordable and market rate housing units. The Housing Accountability and Production Office is now up and running to reduce barriers to production, and there are new tools for local jurisdictions to get more housing into production faster.

It's a strong start, but only a starting point.

According to the most recent federal Point in Time count data, homelessness has continued to increase across the nation. Recent federal data show that, on average, the United States saw an 18% increase in homelessness between 2023 and 2024. Oregon came in below the national average increase at 13%. Our prevention efforts are making a difference, but I extended the homelessness state of emergency again last week because we still need an "all hands on deck" urgency and administrative flexibility to meet the moment.

I was in Astoria this past November. When I took office, Clatsop County had the highest unsheltered homelessness rate per capita in the state and virtually no capacity to meet the need. Now, the county has eighty (80) 24/7 shelter beds, tighter coordination between its housing service providers, behavioral health providers, and law enforcement, and they are on track to produce 83 units of new affordable housing.

This is incredible progress. And a testament to what our local leaders are accomplishing.

But I will not be satisfied until the job is done.

When I was in Clatsop County, I met with a single parent, a devoted father of two school-aged children, who is living in the Columbia Inn, the motel-turned-shelter in Astoria. He is so thankful to have a roof over his head.

You see, he was evicted without cause, his lease wasn't renewed, even though he'd been paying his rent. Facing the possibility of living outside with his kids, he fortunately was referred and had access to the Columbia Inn.

He is grateful. But that's not what he wants. He can work. And he wants an affordable home of his own for his family. But that is so very hard to find in his community, and almost every community throughout our state.

I would bet that every person in this chamber knows where they will sleep tonight, safely and comfortably.

I want that for every Oregonian.

I am impatient about the pace of progress, and some days just plain angry that we're in this predicament at all and that we can't move faster to get more housing built. Please, my friends, let's do more, let's be bolder.

To our local leaders, thank you for strategizing how to bring more land to the table and additional resources for planning and development. Like the conversation happening in the Metro area, resources must both support homeless services and facilitate more production of affordable housing.

In the weeks ahead, you'll hear more about my priorities for the legislative session to serve our unsheltered neighbors statewide and make even more progress on housing production. I implore you to take my budget recommendations and policy proposals seriously, keep our collective foot on the pedal of progress, and not deviate from the path to success that we have built together.

BEHAVIORAL HEALTH

Now to Oregon's mental health and addiction treatment system. We have to push harder to get Oregonians the treatment they need and deserve. There is simply too much pain on our streets, in our homes, in our schools.

When it comes to the connection to homelessness, it's important to recognize that not everyone who's experiencing homelessness is dealing with a mental health or addiction challenge. But many are. Someone's ability to get and maintain treatment directly impacts their ability to get and maintain housing. And let's remember that the trauma of extended homelessness is devastating to a person's health and well-being.

Although there's much yet to do, we have made some progress:

Last year, after the finalization of a study I commissioned to understand regional treatment gaps, I identified a target of adding 465 new treatment beds by the end of 2026. There's now a public online dashboard so we can track our progress with the investments already in the pipeline.

To strengthen the workforce needed to help more people, I have focused on eliminating the backlog at Oregon's health licensing boards so qualified counselors and social workers can get to work. My agencies have implemented the vision lawmakers put forward to fix Measure 110 with precision and intention, helping communities set up evidence based deflection programs across the state. And I continue to support the Oregon State Police's efforts to get illicit drugs off of our streets and hold drug dealers accountable.

But there has to be more done to meet people's needs. My recommended budget for the next two years continues to deploy a dual strategy of increasing treatment capacity and strengthening the available workforce, with \$90 million for another 363 treatment beds and \$50 million to bolster the provider pipeline and stabilize worker retention.

And it's not just about money. Complex problems rarely are just about the money. I want Oregon to do more intentionally and strategically to help individuals living with serious mental illness. Why is it ok that we watch very ill people harm themselves because we are unwilling or unable to get them the health care they so desperately need?

There is significant interest in improving access to the Oregon State Hospital for individuals who are accused of crimes – most often misdemeanors – but who are unable to help in their own defense because of mental illness. Today, unlike in the past, the vast majority of Oregon State Hospital patients are now there for treatment so they can go back to court to “aid and assist” in their own defense. It is nearly impossible to get long-term psychiatric hospital-level care through civil commitment or voluntary commitment because of the needs of the judicial system filling up Oregon State Hospital beds. We have to change this.

Nearly 3 out of every 4 individuals at the Oregon State Hospital for “aid and assist” treatment were either homeless or in shelter at the time of their arrest. And 6 out of 10 “aid and assist” patients are diagnosed with schizophrenia or another psychotic disorder.

I believe we can do a better job of coordinating shelter services with access to mental health care, and by doing so help people stabilize before they decompensate, and a crime is committed. By doing so, we will keep our communities safer, reduce the logjam at the Oregon State Hospital and, most importantly, meet the needs of our neighbors more humanely.

Our systems of care need so much work. We didn't get here overnight, and it's complex. In my visits around the state and through many conversations with people doing the work, it's clear there are things that are making a difference – we just need more of them in more places. I know the herculean efforts that community providers are making to meet the health care needs of Oregonians with serious mental illness. Thank you and please keep going.

So, how about we renew our efforts on what can be and should be?

My recommended budget to improve access to mental health care is a floor – let's try to raise the ceiling as you go through the budget process. I believe we need to humanely improve criteria for civil commitment, make sure community options exist to serve a larger civil commitment population, and dedicate permanent supportive housing dollars to expand housing with enhanced on-site services so more people have long-term living options that can support their health status. I have directed my team to develop a new model of permanent supportive housing – what we're calling “intensive permanent supportive housing” or PSH double plus plus – that can more effectively serve people with serious mental health needs who can live independently.

Finally, before I move on to education, I want to emphasize that we cannot overlook our children and youth. Too many of Oregon's kids are struggling with things they shouldn't have to deal with. From homelessness to acute mental health disorders to addiction, we have to help our children and youth now, so they have a better, healthier path to their future. That means painting with a broad brush for better outcomes in every aspect of a child's life, including improved access to behavioral health care, working toward better outcomes for children in the state's care, and working to address youth homelessness.

Ensuring that Oregon's students have adequate access to behavioral health services in and out of school settings is critical to supporting Oregon's children and their families. That includes specific supports for mental health and substance abuse, including targeted residential and community-based treatment capacity, and suicide prevention programming. When a young person develops an addiction, we need residential facilities that can care for them and help them manage the factors that led them to substance use in the first place.

I know there are many leaders here working on these issues, and I look forward to partnering together for more progress.

EDUCATION

Now, let's turn to K-12 education.

We all know it's been a turbulent five years for our K-12 schools. Parents, students, and educators are truly the rock stars of resilience. To them, I say thank you. Thank you for your perseverance.

In my first two years as Governor, my goal has been twofold: focus on the fundamentals of what will improve student success – from birth through graduation – and create as much fiscal certainty for school districts as possible. For the fundamentals, I thank the legislature for being a partner with me in early literacy and summer learning investments. I really believe these solutions — retooling the way school districts teach our students how to read through incentivizing evidence-based practices and reducing learning disruption through reliable summer education programs — will make a difference in the future trajectory of our children and youth. And my recommended budget asks you to stay on this path with me.

As for improved certainty as the largest funder of K-12 education, my team has worked diligently with education stakeholders to propose changes to the way Current Service Level funding for the State School Fund is calculated. There will be a bill to codify some of that work, and my recommended budget takes a big leap forward to help school

districts with their base funding.

But this is not a blank check. I believe increased investment must come with deeper accountability, which is a focal point of my 2025 education agenda.

I will be bringing forth a plan that will emphasize stewardship of resources, measurable outcomes, and transparency. It is way past time to untangle and reimagine a system that can serve every student seamlessly. My goal is to develop a clear continuum of support for improved outcomes at the district and school levels, which should include increased transparency by exploring a single, statewide, publicly accessible student information system, and streamlined processes by consolidating operations for new programs into existing reporting and the corresponding data collection to reduce administrative burden and duplication of efforts.

My legislation will run in tandem with a set of administrative actions to ensure that the Oregon Department of Education holds up its end of the bargain on accountability. The bottom line is this: When a district's numbers show failure for their students, there will be help and attention – not voluntarily requested, but required, direct assistance to make sure all resources are pointed toward better student outcomes.

CLIMATE / RESILIENCE

I'd like to return to the focus on resilience.

As stewards of our air, water, and landscapes, we must rise to the challenge of fighting climate change, both by continuing our efforts to reduce carbon emissions and by taking strong action to enhance the resiliency of our natural resources and communities. Our most vulnerable communities, our working and natural lands, our wildlife, and our rivers, lakes and streams all face an existential threat, as the relentless march of climate change tests our resolve to protect that which sustains us.

Last year, my administration focused on bringing in as much federal Bipartisan Infrastructure Law and Inflation Reduction Act funding as possible for Oregon's priority natural resource needs. State agencies submitted or collaborated on 23 applications, and Oregon was awarded more than \$43 million for habitat restoration, wildfire mitigation, water management, and species conservation. Oregon was also awarded nearly \$90 million to expand Solar for All.

Oregon also won the largest award in the Pacific Northwest from the Environmental Protection Agency – nearly \$200 million – to fund resilient communities, accelerate the clean energy transition, modernize the energy grid, and help lower residential energy bills. And Oregon received \$52 million through the National Electric Vehicle Infrastructure Program to create a better network of public fast chargers throughout frequently used highway corridors. This is the kind of teamwork and success that happens when we get down to brass tacks, focus on what works, and refuse to waiver in our commitment to a cleaner, sustainable future.

We must continue to fight climate change – and we also need to strengthen our defenses for the changes that are upon us. Last year's wildfire season was another potent reminder of the threat.

The historic 2024 wildfire season burned over 1.9 million acres and cost a record \$350 million, over twice the highest fire costs in our history.

Oregon needs two things to be better prepared. First, we need dedicated reserves to manage for substantial wildfire suppression costs in the future, and second, we need ongoing dedicated funding for wildfire mitigation and readiness programs. That's why my budget recommends \$150 million from the ending fund balance to go to reserves instead of the normal allocation to the Rainy Day Fund. Call it money for a Very Very Bad Smoky Day. Additionally, we need at least \$130 million every two years to follow the guidance of the Wildfire Programs Advisory Council – to provide resources for hazard reduction strategies, like prescribed fire and preparing homes to withstand fire damage, to responsibly fund ongoing firefighting resources, and to stabilize the partnerships that are the backbone of the state's wildfire protection system.

I look forward to the revenue recommendations of the Wildfire Funding Workgroup, and I hope we can work together to guarantee ongoing resources for community resiliency.

STATE GOVERNMENT EXPECTATIONS

Before closing, I'd like to speak briefly about the state of state government.

One of the reasons I ran for Governor was my desire to help state agencies and their programs operate more effectively. I saw state agencies buckling under the weight of the pandemic crisis and a significant expansion in lawmaker-directed responsibilities. I believe we needed to get back to the fundamentals of good governance.

Within my first week in office, I sent a letter of expectations to our state agencies about improving our business operations. In my two years at the helm, I have hired more than a dozen new agency directors. Since setting specific expectations, agencies have made measurable progress in key areas of accountability. We now move two weeks faster in hiring, staff vacancy rates have fallen by a third, and employees are more engaged. Agencies have widely succeeded in their strategic planning around operations, emergencies, technology processes, and diversity, equity and inclusion goals, and they have developed systems to track, report, and analyze implementation of audit recommendations. And there is a dashboard to track progress on all of this.

Our current project is to improve transparency and consistency in state agency rulemaking. I've heard loud and clear that state government has work to do in this area. I'm listening and changes are coming.

I am thankful for all the state employees committed to these improvements. Being dedicated to excellent customer service, transparency, and tangible metrics of success will build public confidence in our efforts and ensure we have the capacity to take risks and lead courageously, together.

MORE ON THE TABLE

Without a doubt, there are many things we need to focus on to realize the progress that Oregonians are demanding. We can't let up on the top three priorities that I started

with – housing, mental health, and education. And we have to muster the stamina to find success on other issues as well.

The executive branch just welcomed the Oregon Public Defense Commission to its agency ranks, and I look forward to working with the legislature and the public defense community to succeed in our constitutional obligation to provide every defendant with an attorney in a timely and cost-efficient manner.

My administration is committed to meeting its obligations to improve child welfare outcomes at the Oregon Department of Human Services, including continuing to implement evidence-based programs to support parents and mental health and addiction prevention and treatment for families across our state.

Finally, legislators are already well into their work to pass a transportation package this session, after completing an important statewide listening tour last year. Thank you for your commitment. I look forward to working with you to translate what you’ve learned into a legacy package to serve Oregon’s transportation needs for years to come.

CLOSING

I’d like to close with some thoughts about putting hope into practice for progress.

I tend to think that a prerequisite for public service is a fundamental belief that “the future will be better” – a confidence in a brighter tomorrow, the potential for progress – basically, hope for the future.

I know my sense of hope comes from my personal faith in God, as it does for many of you. It was also reinforced practically from my experience playing sports when I was young. I ran track in high school, and one of my events was the 400 meter relay, where four athletes have to run really fast and work as a team to pass a baton between each other three times before the finish line. Well, when we missed our mark and the baton fell in a race, what I learned was – don’t worry, practice harder, you’ll get to the finish line. And we did. In playing sports, I learned that good things could happen when you practice the fundamentals and stay the course.

The choices we make as leaders will have a ripple effect on generations to come, and the good choices will yield health, prosperity, and community resilience. We do not always agree on what those choices are, but I encourage each and every one of us to rise above the maze of politics – its false starts, circles, and dead ends – and see the path forward, with one voice, speaking one unifying idea into existence: improve the everyday lives of Oregonians, in every part of the state. To move forward together, we must forge a shared path, one guided by focus, resilience, and the courage to take risks. We are all responsible for being a part of the solution.

As I cross the halfway mark of my first term and ask myself what it will take to see through the commitments I have made to Oregonians, I keep coming back to the knowledge that we can harness our resilience and our partnerships to solve problems. My work comes from a place of deep optimism that an answer actually exists for every problem – and if we just ask the right questions, listen, and adapt, we can also solve every problem. In my office, we often remind ourselves: “hope is not a strategy.” But hope is necessary to stay the course and not give up.

My focus continues to be doing the most I can to chip away at our challenges and help make Oregon a place where everyone can be successful. I hope you will walk with me on this journey – today, tomorrow, over the next two years, and past that.

I will always fight for the Oregon I know is possible. An Oregon where no one has to live in a tent on a sidewalk. Where Oregonians seeking help for a mental health concern or substance use issue can find and afford the support they need. An Oregon where every child has a safe place to receive a high-quality public education. An Oregon where everyone has financial stability and pathways to greater opportunity. And, in these uncertain times, an Oregon where we safeguard our values and take care of each other, regardless of the federal landscape.

I am so incredibly thankful for everyone in this room and every Oregonian who has and continues to contribute to this shared vision for our state. Thank you for listening. God bless you and God bless Oregon.

[Spanish \(/gov/speeches/Pages/2024-05-06-housing-and-homelessness-signing-ceremony-remarks.aspx\)](#)

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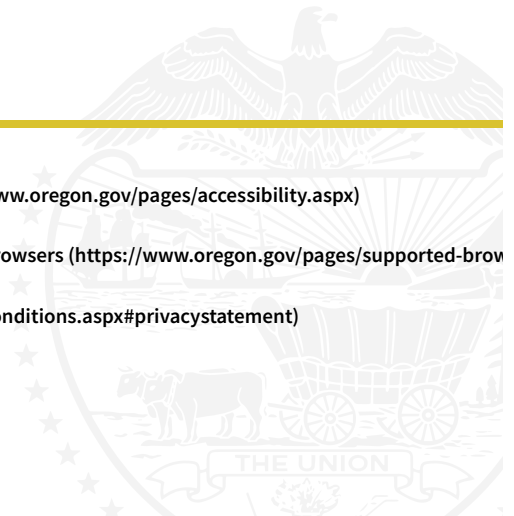
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**Data collected from Ashland Police Department by Ms. Debbie Neisewander
January 2024-November 2024**

January 2024

Overdose (2)

1/13 - Garfield St. – non-fatal
1/22 – 100 blk Helman – fatal

Suicide Attempt (4)

1/15 - 400 blk Stadium
1/20 - 100 blk Hargadine
1/21 - 2300 blk Ashland St.
1/29 - 400 blk Stadium

Sudden Death (2)

1/26 - 600 blk E Main
1/29 - 600 blk Liberty

February 2024

Overdose (3)

2/17 - 1100 blk E Main
2/26 - 2200 blk Ashland St.
2/10 - 0 blk Central Ave – non-fatal (Narcan) – redacted info

Suicide Attempt (4)

2/6 – location redacted
2/19 - location redacted
2/24 - location redacted
2/27 - location redacted

Sudden Death (3)

2/1 - 200 blk VanNess
2/25 – 200 blk Walker
2/27 – 500 blk N Main

Psych Hold (1)

2/7 – location redacted

March 2024

Overdose (2)

3/7 – 1400 blk Ashland St – no info

3/29 – 1500 blk Siskiyou – non-fatal/Narcan

Suicide Attempt (8)

3/6 800 blk Siskiyou

3/6 – 300 blk W Nevada

3/15 – 100 blk Lincoln – attempt

3/18 – 200 blk Lithia Way

3/23 – 700 blk Ashland St

3/25 – 2300 blk Siskiyou

3/26 – 300 blk Engle

3/29 – 400 blk Siskiyou

Sudden Death (4)

3/9 – 1500 blk Oregon St

3/10 – 300 blk Holly

3/19 – 500 blk Faith

3/24 – 500 blk Laurel

April 2024

Overdose (1)

4/10 – 1200 blk Siskiyou – non-fatal/Narcan

May 2024

Suicide/Attempt (1)

5/19 – 400 blk Stadium – transported

Overdose (1)

5/27 – 1000 blk Oak Knoll – no further information

Psych Hold (1)

5/19 – 500 blk Siskiyou

June 2024

Overdose (3)

6/17 – 100 blk Lincoln – Narcan – no information – 24-1288

6/8 - 3rd/A St. – no information - 24-1217

6/24 – 2300 blk Ashland St. – 24-1345

Suicide/Attempt (5)

6/7 – 0 blk Winburn Way - 24-1207

6/11 – 300 blk Engle – 24-1245
6/13 – 00 blk Engle – 24-1262
6/14 – 100 blk Lincoln – 24-1271
6/20 – 1300 blk Quincy St – 24-1310

Sudden Death (6)

6/7 – 100 blk S. Pacific Hwy – 24-1215
6/15 – 300 blk Oxford – 24-1279
6/16 – 100 blk Lincoln – 24-1287
6/18 – 600 blk Oak St – 24-1298
6/20 – 100 blk Maple – 24-1313
6/30 – 100 blk California A/M – 24-1382

Psych Hold (1)

6/4 – 400 blk Chestnut – 24-1190

July 2024

Suicide (3)

7/6 – 200 blk Siskiyou – 24-1426
7/7 – Oak Knoll/Salishan Court
7/11 – 24-1466 – 2200 blk Ashland St

Sudden Death (4)

7/2 – 400 blk N Main – 24-1396
7/11 – 100 blk Mtn View – 24-1465
7/14 – 300 blk Oxford – 24-1484 (12 y/o boy)
7/17 – 2300 blk Black Oak – 24-1504

Overdose (0)

August 2024

Suicide (1)

8/24 – 1600 blk Ashland St – 24-1778

Sudden Death (2)

8/21 – 1800 blk Ventura – 24-1749
8/25 – 200 blk N Mtn – 24-1780

Overdose (2)

8/5 – 2300 blk Ashland St – 24-1647
8/13 – 1600 blk Ashland St – 24-1698

Mental Health Hold (2)

8/15 – Garfield Park – Becca Battaglia – 24-1711

8/13 – 200 blk Grant St. – 24-1771

CPR (1)

8/7 – Blue Sky Lane – 24-1655

Person Down (1)

8/9 – 200 blk Pioneer – 24-1666

September 2024

Overdose (1)

9/24 – 300 blk High St – 24-1986

Sudden Death (2)

9/20 – 800 blk Oak St. – 24-1954

9/21 – 2200 blk Ashland St – 24-1968

October 2024

Suicide (1)

10/5 – 0 blk Garfield – 24-2063

Sudden Death (4)

10/2 – 100 blk W Hersey – 24-2050

10/2 – 100 blk Logan – 24-2053

10/7 – 0 blk Logan – 24-2078

10/18 – 1100 blk Siskiyou – 24-2136

November 2024

Suicide (2)

11/2 – 400 blk Park Ridge Place – 24-2226

11/7 – 300 blk Grant St – 24-2260

Sudden Death (3)

11/21 – 500 blk Clover Lane – 24-2336

11/23 – 800 blk Plum Ridge – 24-2356

11/25 – 0 blk Garfield St. – 24-2366



Homeless Services Masterplan

Outlining the City's role in providing and supporting resources and services that address the issues of homelessness in the Ashland community.

2024

Created by the Homeless Services Masterplan Subcommittee, July 2, 2024
Reviewed by the Housing & Human Services Advisory Committee, July 18, 2024
Presented to City Council, August 5, 2024

The National State of Homelessness

Below are excerpts from the [2022 report to the President from the U.S. Interagency Council on Homelessness](#) (USICH) identifying the needs and challenges to addressing the issues of homelessness.

Communities face many challenges in the work to prevent and end homelessness, including:

- **Lack of Housing Supply:** *Housing ultimately ends homelessness, but prior to the pandemic, the U.S. lacked an estimated 7 million affordable and available homes for renters with the lowest incomes, disproportionately impacting people of color—especially Black/African Americans.*

- **Rise of Rent Amid Slow Wage Growth:** *Wages continue to fail to keep up with rising rents. According to a 2021 report, in no state can a person working full-time at the federal minimum wage afford a two-bedroom apartment at the fair market rent. As a result, 70% of the lowest-wage households routinely spend more than half of their income on rent, placing them at risk of homelessness if any unexpected expenses or emergencies arise.*

- **Inadequate Access to Quality Health Care, Education, and Supportive Services:** *Low-barrier, culturally and linguistically competent, and accessible supportive services—including mental and substance use disorder treatment—often are not available or funded at a level to meet the need, especially in rural areas. People seeking these services may face long waits or may not receive them at all, and service providers may only be reimbursed for a fraction of the cost of care.*

- **Limited Alternatives to Unsheltered Homelessness:** *The number of people living in tents and vehicles continues to rise. In many communities, a rise in encampments has resulted in the criminalization of homelessness through encampment clearings, public camping bans, and other policies. These “out of sight, out of mind” policies can lead to lost belongings and identification; trauma and distrust; breakdowns in connection with outreach teams, health care facilities, and housing providers; and overall disruption to the work of ending homelessness.*

- **Fatigue Among Providers:** *The pandemic has strained the capacity of service providers—many of whom earn wages low enough to qualify them for the programs they help administer. Many are overwhelmed and exhausted from the pressure and trauma associated with supporting not only the people they serve but also themselves and their families during a sustained global pandemic. As a result, many programs experience high rates of staff turnover, which can disrupt continuity of care and limit positive outcomes.*

Opportunities
• More services – geriatric • Create shared standards of care • More outreach • Long term programs • Recruit/provide opportunities for younger work force • Community education

Street Outreach

Street outreach is regarded as a critical component for successful transition from homelessness to housing.(footnote) It can also provide much-needed triage for health and safety concerns.

Potential Actions:

- Housing-focused Street Outreach
- Outreach that meets the needs of the older population
- An outreach “hotline” anyone can call when concerned

Residential Needs from Shelter to Housing

With an estimated 230-320 people experiencing homelessness in Ashland, there are only 117 beds (occupied).

Potential Actions:

- Incentivize development of housing that is affordable.
- Support more Affordable Housing (subsidized, regulated, low-rent units).
- Advocate for more Permanent Supportive Housing (for those with disabilities).
- Create access in Ashland to Rapid Rehousing (12-24 months of financial assistance and case management).
- Explore the need for more Transitional Housing.
- Expand Emergency Shelter (immediate access, ideally with supportive services and housing-focused case management).
- Establish Medical Respite beds (step down housing after hospitalization/treatment).

Emergency Shelter / Transitional Housing <- - -> Rapid Rehousing / Supportive Housing

Opportunities
• Volunteer, partners, food bank • More state funding – homeless and fire • Education tuition reimbursement • Promote/hiring new staff

Opportunities
• Continuous improvement, education, and development for staff • Improve coordinated entry system • Increased actions to improve transportation • Build more capacity in smaller organizations • Standardize definitions of “wrap around” services • 18–24-year-olds need more services

Examples of the types of resources and information that would make frontline staff more successful:

More resources, such as:	More information about things, such as:
○ More grant funds ○ Childcare resources ○ Car repair/financial help ○ Mental health supports ○ Co-occurring treatment centers ○ Secure/safe mental health housing ○ Low barrier shelters ○ Assess to treatment beds ○ Same day access to medication assisted treatment and primary care providers	○ Available funds for housing and utilities assistance ○ Who has funding and how to access it ○ Permanent housing ○ Childcare ○ How to engage clients ○ Pathways for systems change around mental health needs



What action could the City of Ashland take that would be more helpful to your work?

- Provide a year-round safe place for shelter and navigation.
- Provide space for an urban rest stop / day center where homeless people can gather and meet with social service agency members, wash clothes, shower, and eat.
- Extend the ALIEAP utility assistance program to operate year around for low-income persons and families of any age and condition (not just seniors or the disabled).
- Exempt low-income families from the approximately \$100 in fees that appear on each utility bill before a tap is turned on or a light switch is flipped.
- Make zoning changes to facilitate innovation around service provision.
- Provide consistent places and rules for unhoused individuals to perform daily tasks of living (eating, sleeping, using restrooms).
- Sheltering options with targeted case management and access to a continuum of housing services and treatment.

Residential Needs - from Shelter to Housing

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Peer Respite Handbook:

A Guide to Understanding, Building and Supporting Peer Respite

*Created by the Western Mass Recovery Learning Community
in Collaboration with Intentional Peer Support*

***This handbook has been funded, in part, by
Intentional Peer Support and the Woodhouse Foundation***



Funding does not imply agreement with or endorsement of these materials.

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A word (or two) on how we ask that this book be used:

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Suggested citation: Davidow, Sera. *Peer Respite Handbook: A Guide to Understanding, Developing and Supporting Peer Respites*. Western Mass Recovery Learning community. Denver: Outskirts Press, 2017.

MYTHS AND MISCONCEPTIONS

Myth #1: Peer respites are for people who need a bit of rest; NOT for people in serious distress.

Peer respites will not be a good fit for everyone. That's the grain of truth in this particular myth. But, neither are traditional respites or hospitals a good fit for everyone. There are actually two issues with this particular myth. First, distress is entirely subjective; in a peer respite, team members try to make decisions that are not based on how much distress THEY believe a person to be in, but by how the person *themselves* defines their experience and whether they believe a peer-to-peer environment could support them through that struggle. For some, the loss of a beloved pet will be equally as distressing as the loss of a parent. Some thrive in a fast-paced, unforgiving work environments, while others will need to take a break. Some have spent years struggling with distress in and out of the mental health system, and others are experiencing a first major disruption to their lives and may not quite know what to make of it. So much of our ability to sit with stress has to do with what has come before in our lives, so flatly deciding that someone's self-defined crisis is "too big" or "too small" is presumptuous and not in line with the concept of meeting someone where they are at.

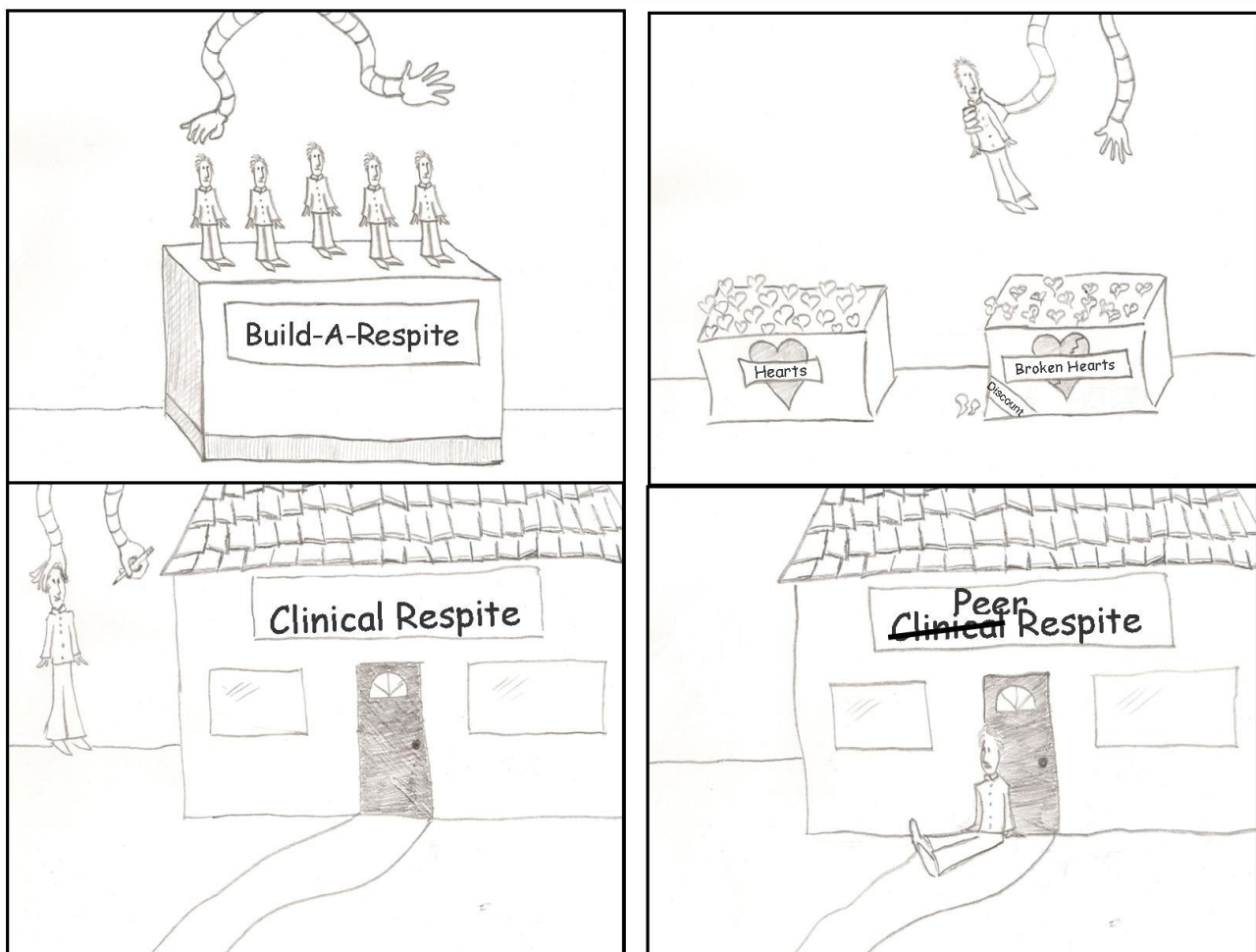
But, more importantly (where this myth is concerned), peer respites see people in any number of states. Some do call feeling stressed, near but not quite at a breaking point, and needing time off from roommates or work life. However, many others call because they are seriously thinking about killing themselves, hurting someone else, or taking some other action that could have serious negative impact for their lives. Others are overwhelmed by hearing distressing voices or disturbing thoughts, are being threatened with involuntary commitment to the hospital, and so on. All of these experiences would be a potential fit for peer respite. People working in peer roles are well-trained (by a mixture of life and on-the-job experience and many formal trainings) to support people moving through distress, and so peer respite is often a great fit for people who are struggling deeply.

Myth #2: The main difference between a peer respite and a clinical respite is the identity of the people working there.

A major qualification of working in a peer role is having been through significant life struggles (trauma, psychiatric diagnosis, addiction, homelessness, hospitalization, losing custody of one's children, etc.), and having an understanding of the marginalization and losses that can result. There is something extremely powerful about sharing one's story with someone else who has walked in their shoes (or, at least, been in the same shoe store) and has felt similar pain from the inside out. It's all the more powerful to then have that person be willing to talk about their story. In many traditional spaces, it is frowned upon to share too much of one's own history or life beyond the most superficial facts. There is a fear that it may burden the other person, making them feel worse. There also sometimes seems to be a

fear that respect for the person in the supporter role may be lost if they reveal their vulnerabilities. Whatever the reason may be for this closed-offness, the fact is that, time and again, it has been shown that offering up relevant bits of who one is in a genuine way creates a connection which helps others to feel heard and seen in deep ways, possibly in even deeper ways than if they were paying for a therapist to see them in a clinical light.

However, peer-to-peer support is about so much more than that. It's really a way of *being with* someone. Rather than assessing someone or their "level of safety," it's about hearing them out and keeping an open mind and heart so that judgment and fear don't get in the way of seeing that person for who they are and how they are struggling. It's about two people sitting side by side without a clinical veneer or power dynamics at play. There is no expert, and knowledge is a shared entity. It is about two people who have seen the depths of hell looking at each other honestly and building a connection from which *both* people can learn and grow.



Comic illustration by Sera Davidow

Other more concrete differences between peer respites and clinical settings may include the set-up, structure of the days, and (as briefly aforementioned) power dynamics. Peer respites are most commonly set up for each person to have their own private room. The structure is very open (as discussed elsewhere in this book) and the power dynamics between “staff” and “clients” are minimized as much as possible (including avoidance of those terms altogether). This is a result of the peer support model, but also because people in peer roles are not administering medication or holding people’s money, and are not trained to come from a place of assessment and diagnosis, all of which amount to having a great deal of power over someone (even when used with the best of intents).

Myth #3: A respite can’t possibly be “safe” if there’s no clinician there to assess risk.

Many peer respites have reported that some of the most difficult situations (people acting with disregard toward the space or other people, etc.) they’ve faced have involved people who *have* been assessed by clinicians who then encouraged them to stay. This is likely because peer support needs to be freely chosen. It is a relationship that asks for mutuality and trust. If someone is told to call a peer respite and stay there simply because they don’t have another place to go, or because their insurance has run out in a clinical environment, it is not an ideal starting point for a peer-to-peer relationship.

This calls into question the whole notion of assessing risk, especially since research suggests that the practice of risk assessment tends not to be particularly effective in any setting.¹ There are many stories of people who reportedly have “violent histories” staying at peer spaces where they do not end up having any issues of that nature and have built incredibly strong connections. Some of these same people also share stories of having only acted out physically when subjected to force and restrictive environments. While there are likely to be a number of factors involved, it seems worth considering how much environment might play into someone acting in “risky” ways.

¹ Wand, Timothy. *Investigating the Evidence for the Effectiveness of Risk Assessment in Mental Health Care. Issues in Mental Health Nursing. Volume 3, 2011—Issue 1.*



Comic illustration by Sera Davidow

Myth #4: If people can still go to work or a group in the community, then they can't be in *that* bad of a place.

The stereotype or media image of someone who is in a really bad place —thinking about suicide, experiencing an increase in hearing distressing voices, or whatever else is commonly portrayed— is of someone who can barely move or get around in the world. While this sometimes happens, it's just not true for many people. In fact, it may be the work or community connections that are supporting a person the most! Cutting someone off from their community based on an assumption that, if they were really suffering, they wouldn't be able to handle work or school or life, is simply nonsensical. And it can cause even greater distress, trauma and loss if that person is kicked out of college, fired from a job, or risks their living situation or custody of their children as a result of hospitalization.

A peer respite is one of the few environments that fully supports people to decide for themselves exactly what they need a break from and to what (and whom) they wish to stay connected. People who stay can go to work, school, and appointments and lead their full lives, if that's what they choose to do. On the other hand, if someone is looking to take a break from all that, a peer respite makes space for that, as well. In fact, when someone calls looking for anyone at a peer respite, confidentiality is upheld. A standard response will be something like "I cannot confirm or deny whether that person is here" (or similar), although messages are also taken and passed along, so that the relevant person can decide whether or not they would like to get in touch.

Myth #5: The best thing for people who are thinking about killing themselves is to be in a locked place where they can't possibly cause any harm, not a peer respite where they are free to come and go.

Studies show that suicide rates are highest directly after someone is released from a locked psychiatric unit.² How are we defining 'safe' and what does it mean for someone's life over the long-term? Many people who have thought about suicide will say that what most helped them get through their darkest times was space to talk about where they were at and the opportunity to feel connected to others who were open to hearing them and their pain. People who work in peer respites can be trained to stay present with people through these difficult conversations, but are ideally hired for their natural inclination to want to be "with" people through these times, rather than pressing the panic button. Imagine being able to say the "S" word without medications, assessments and hospitalizations being forced on you. Many people stay silent in clinical environments due to fear of what will happen if they say specific words. As a result, they find themselves struggling even more.

² Large, M. M., & Ryan, C. J. (2014). Disturbing findings about the risk of suicide and psychiatric hospitals. *Social Psychiatry and Psychiatric Epidemiology*, 49(9), 1353

It's important to note that the idea that there is a place where no one can cause any harm to themselves or others is simply wishful thinking. Many people have killed or done serious harm to themselves (or others) while *in* a locked psychiatric unit. Furthermore, sometimes when people are locked up and their freedoms are taken away, they can become angry and/or desperate to reclaim some of their power, leading them to lash out toward themselves or others in ways they wouldn't normally.



Comic illustration by Sera Davidow

Myth #6: Respite bring dangerous people into the neighborhood.

Most respites have a small area (a handful of cities, a few counties, etc.) that they are funded to support, and thus people are often limited in accessing the respite based on their geography. Therefore, if you happen to live in the same area, everyone who comes to stay at a particular peer respite will generally be your neighbor, a part of your community, your fellow human beings walking down the streets with you.

This myth suggests that people are somehow safer staying disconnected and leaving others who are struggling alone. However, most experience suggests that this is just not true. Instead, what experience suggests is that there is a need for *more* spaces that are welcoming and support people in transforming crisis into opportunity. *More* spaces are needed where people can talk about the big feelings they have, including wanting to die and wanting to hurt others (and maybe, just maybe decreasing the likelihood that people will act on those feelings). This society has become increasingly disconnected and spaces like peer respites hold connection above any other value and motivation.

DAY-TO-DAY STRUCTURE

As noted in the charter, the intention behind peer respites is that there is no set structure to the days. There is no wake-up time or bedtime, and whatever happens in between those two points is decided by the person staying. During the initial conversation with someone who is seeking respite, there may be some discussion around what their time at the space might look like. This is primarily to get a sense of what they are seeking, and is also an opportunity to explain what sorts of supports and resources are readily available.

Additionally, when someone arrives to the space, there may be paperwork which asks if they have any specific aspirations or hopes for what they might do during their stay. These conversations and pieces of paper are just intended as signposts pointing toward what someone finds helpful during crisis. They are not binding contracts that force a person to fulfill whatever is said or written.

What might seem helpful one day may be the absolute wrong thing for a person the next day. It may be helpful to think about your own life when you're struggling. Sometimes you need friends, family, people around you to talk things out and think things through. At other times, that may be the last thing in the world that you want or need. So, quiet time with a cup of tea in the backyard may be more in order.

"I was staying in a clinical respite, and one night I tried to go downstairs after 11:00pm, but the staff told me I had to stay in my room because it was after the house bedtime. However, I had a roommate who was screaming in his sleep which wasn't so restful, and was actually pretty distressing to be around. How is making me stay upstairs in my room supposed to help in a situation like that?"

- Former guest at a peer respite

With no set structure, it leaves room for someone to:

- Determine what it is they would like for themselves.
- Think about what has been helpful when moving through distress in the past.
- Examine even negative experiences and build understanding about them.
- Consider fears and places of "stuckness" without pressure to actually face those fears or make change in that moment.
- Experiment with resources, supports and ideas they've never tried or even heard of before.
- Grow, change and evolve during the course of the stay.

People will come to stay at peer respites for any number of reasons. Some may stay because of recent

trauma and loss; others might be avoiding hospitalization and overwhelmed by distressing voices or urges or disturbing or suicidal thoughts. Some may be overwhelmed by their current living situation or perhaps they are feeling very alone in the world and wanting to be around caring people. Due to the wide number of reasons people come to respite, there are a variety of things it will make sense for people to do once there.



Some of these activities may include (but are certainly not limited to):

- Talking with people working or other people staying at the respite.
- Meeting basic needs like catching up on sleep or eating healthfully.
- Getting support to address concrete problems with housing, legal issues, employment, etc.
- Continuing with school, work, community obligations (i.e., keeping engaged in one's life and responsibilities as desired and makes sense!).
- Playing a wide range of games and, generally, having fun.
- Hiking, biking and other forms of exercise, both indoors and outdoors.
- Gardening and getting out in nature.
- Processing recent trauma.
- Doing yoga or meditating.
- Cooking and sharing meals.
- Researching and trying out groups and events in the broader community.
- Learning and/or teaching specific skills or areas of interest.
- Learning about or developing a Wellness Recovery Action Plan (WRAP) or other similar approach.
- Writing, journaling, reading or making art or music.
- Taking space to clear one's thoughts.
- Re-evaluating or making new plans for moving forward.
- Watching TV and/or movies to distract from hard stuff.

- Learning about new ideas and community resources such as the Hearing Voices Network and Alternatives to Suicide.
- Trying a healing modality they've never tried (Reiki, acupuncture, etc.).
- Relishing the privacy of one's own bedroom.

But some of the examples above sound way more serious than others. Is there really value in making art or playing games? Or does that just validate that the people staying in the respite aren't really in need of serious support?

The reality is that "real" support can look like many different things. Some people benefit from talking directly about what's bothering them, and they're ready to talk as soon as they arrive. However, others either feel like more talking just keeps them stuck in the bad stuff, or are wary of too much, too fast before they've had a chance to develop trust with the person with whom they're speaking. In those instances, just being with someone or being open to engaging in something simple like playing cards can be exactly what is needed to form a connection that works. Many people also find that an enjoyable distraction can provide a non-threatening space to process and think.

Additionally, in some instances, people do want to speak but don't have the words for what they want to say, and drawing, painting, writing, or making music allows them to communicate their pain and other emotions in a way that makes sense to them. Feeling silenced when you want to speak can be extremely painful, but sometimes there needs to be room for the "speaking" to happen in non-literal ways.

Okay, but what if the person literally wants to do nothing but sleep or sit around and watch TV. What then?

It's hard to define doing "nothing," exactly. Some people find that they shut down completely (to the point of not being able to speak or respond to others) when they aren't eating and/or sleeping enough. Others report feeling more and more revved up and unable to sleep the less sleep they've been able to get. Still others say that those are the times when they think about suicide the most or hear the most distressing voices. In all of these situations, giving someone the time and space to simply sleep at length may be *exactly* what they need, and judging or chastising them for that could be extremely counterproductive.

Similarly, someone may simply appear to be watching an endless amount of television/movies, but underneath that, they may actually just be taking the break they need to recharge themselves in order to face a big challenge or trying to distract themselves from disturbing thoughts or voices until they pass. It's also important to note that our minds work differently, and some people (autistic or neurodivergent

folks, for example) may simply have a way of processing information or finding balance that means they benefit from lengthy periods focusing on outside stimuli (viewing a movie, watching a fire, etc.). It's hard to tell without asking, and asking is unlikely to generate an honest response unless the question comes with an open heart and mind to whatever the answer might be.

There may, in fact, be times when it really does seem like someone isn't making good use of the respite space. However, it's critical to not have cookie cutter rules about what that looks like, and to simply be open to figuring out what "good use" means for each and every person, and then to be willing to talk about that when it comes up.

Alright, I hear you. But, what if someone just seems at a loss for ideas of what to do? Should I keep a list of ideas at the ready to share with them?

Sure. Although it's important to not present lists of ideas as if they are the be-all and end-all of all possibilities, it can be useful to have some ideas on hand to share with someone *if they're interested*. All of us have the potential to lose touch with the things that we enjoy or find supportive when we're in a bad place, and sometimes all it takes to bring them back is a quick reminder. New ideas can be great, too.

However, there's a huge difference between having some ideas ready for those who want them, and pushing them on people who already have their own thoughts about how to use their time. Bear in mind that even presenting unsolicited ideas can sometimes come across as a demand, a rule, or as the only option available. This tends to be especially true for people who have spent a lot of time in a system where they're used to being told what they need to do. So it may be best to keep these sorts of tools aside unless they're requested, which doesn't preclude giving someone a tour and pointing out the various resources and supplies that are around, or inviting them to join you in a particular activity.

What if someone *wants* more structure to their day? Some people *do* like that, you know.

Absolutely. Some people really do like structure, and there are many reasons why. In some instances, people like structure because it's what they're most used to, and in those situations, they may benefit most from a conversation that simply explores what they like about that structure and if it's just that it's familiar or if it's actually what they want moving forward.

Others like it because it's how they find that they thrive. In those instances, and as noted on the following page, there are at least three choices about how to move forward.

- **Sit down and support the person to develop their own structure.** Just because there isn't a set structure in place for everyone who walks through the door doesn't mean that that particular person can't develop a specific schedule for themselves.
- **Combine peer respite with another support.** Occasionally, someone will choose to both stay at a peer respite and combine that with attending a day program or partial hospitalization program that offers structured activities and some clinical supports for part of the day, but leaves room for the person to return to the peer respite in the evening and overnight. For individuals who want the reassurance of structure for part of their day while still staying out of the hospital and not being alone later in the day, this option can be of use. **NOTE:** This should not be the norm or an expectation, and should only occur when someone truly is seeking and wanting clinical supports in addition to what the peer respite has to offer. Some people are also able to combine alternatives like meditation programs with and other healing workshops with a stay at peer respite, too.
- **Check out other options for support.** If someone truly wants a highly structured environment and they are not interested in creating that structure for themselves, then maybe peer respite just isn't the right place for them right now, and that's okay, too.

Okay, let's say that we're good and the person's good with how they're choosing to spend their time at the respite, but we're required to take notes that demonstrate that the person's accomplishing certain outcomes. Then what?

First of all, in a peer respite environment, it's really best if notes are extremely minimal or don't happen at all. This is a point where solid advocacy may be required during the initial set-up process. (See the documentation section for more on this topic.) However, if a peer respite team finds themselves in a place where there's absolutely no other choice, then it's important to start thinking creatively and to commit to collaborative and transparent processes so that you are still modeling the idea of "nothing about us without us."

To be creative in this way, it's important to know two things:

1. **What's the "worldview" of the person or organization that's requiring the note to be written?** Is there some specific outcome the funder's trying to track? Are they trying to prove "medical necessity?" Are they worried about liability? Are they somehow tied to clinical expectations of what a peer respite should be? (NOTE: These questions are not meant to indicate that proving "medical necessity," or other similar priorities are *good* things. In fact, they run quite counter to a peer respite's mission and values. However, it's nonetheless important to understand what's on someone's mind when they are pushing for things to happen in a certain way.)

2. What's the "worldview" of the person about whom the note is supposed to be written?

Regardless of what someone else observes going on on the outside, what does that person say it means to them on the inside? What do they say their hopes are for being in the space? Does what others are seeing actually mean they're lost and aimless, or do they have an idea of where they're headed?

Having a clearer idea of the funder or organization's goal will give team members a better idea of what constitutes more and less than is needed, and will help them define the "wiggle room." Knowing the individual's worldview will give them the words needed to take the next step.

For example, did someone sleep all day, or did they work on re-regulating their sleep schedule? Did they just sit around watching television, or were they exploring new ways of coping with their distress? Did they refuse to communicate with anyone, or were they meditating?

To be clear, this is not a suggestion to simply start making things up, but it is a suggestion to talk with the person, being transparent if you need to write notes, and, *at the very least, offering to do the notes with the person*. Most importantly, be genuine in your curiosity about what's actually going on for them. Once you understand more about their worldview and what's happening on the inside for them, then finding a way to create a note (or, better yet, having them do it) may get a lot easier.

WHO USES A PEER RESPITE?

There have already been several references to who uses a peer respite in this handbook, but in short, many people of many different types and experiences have used peer respite.

From a demographic perspective, of course, people of any race, religion, sexual orientation, gender identity and age (18 and up) are able to access peer respites (although occasionally one is set up to cater to a particular demographic, such as people of certain ages). Although it can be a struggle to create a peer respite space that feels welcoming to people from varied backgrounds (this can include taking a hard look at the different backgrounds and characteristics represented on the team, the language used, the assumptions and biases carried, etc.), it is clearly something for which respite spaces should strive.

The experiences of and reasons motivating people to seek the support of a peer respite are equally as varied. Some examples include:

- Avoiding psychiatric hospitalization.
- Overwhelmed by distressing voices or disturbing thoughts or urges.
- Struggling with suicidal thoughts.
- Grieving and loss.
- Recent or resurfaced trauma.
- Struggling with addiction or substance use.
- Struggling with impact of taking or stopping psychiatric medications.
- Overwhelmed by a chaotic living environment.
- Difficulty taking care of basic needs (eating and sleeping regularly).
- Struggling with deep sadness or highs and lows.
- Overwhelmed by the stress of school and/or work.
- * Struggling with the impact of racism, poverty, misogyny and other forms of systemic oppression.
- Struggling with the impact of homelessness. (Some respites will not accept someone who does not have a home to which they can return, and most others will not accept someone if they are strictly just looking for a place to crash, but the trauma and stress that can result from homelessness itself is a valid reason for some peer respite spaces.)



Photo credit: Sera Davidow

This is by no means a comprehensive list. As previously mentioned, what's more important than the "what is going on" for someone is the "how it's impacting them" piece, and whether or not they think a peer-to-peer environment might be a useful support.



Grant Agreement Number 180848

**STATE OF OREGON
GRANT AGREEMENT**

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Agreement Administrator at the contact information found below. We accept all relay calls.

This Agreement is between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as “OHA,” and

**Stabbin Wagon
PO Box 8814
Medford, Oregon 97504
Attn: Melissa Jones
Telephone: (541) 292-7016
E-mail address: info@mountainbeaverhouse.org**

hereinafter referred to as “**Recipient.**”

The program to be supported under this Agreement relates principally to OHA’s

**Health Systems
Behavioral Health Adult Mental Health Program
500 Summer Street NE
Salem, Oregon 97301
Agreement Administrator: Kendall Burns or delegate
Telephone: (971) 239-6455
E-mail address: kendall.f.burns@oha.oregon.gov**

- 1. Effective Date and Duration.** This Agreement shall become effective on the later of: (I) the last date all required signatures in Section 6., below have been obtained, or (II) **November 1, 2023**, provided it is (i) signed by all parties on or before such date, and (ii) when required, approved in writing by the Oregon Department of Justice on or before such date, and (iii) when required, approved in writing by the Oregon Department of Administrative Services. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2025**. Agreement termination shall not extinguish or prejudice OHA’s right to enforce this Agreement with respect to any default by Recipient that has not been cured.

2. Agreement Documents.

- a.** This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Disbursement and Financial Reporting
- (3) Exhibit A Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Insurance Requirements
- (6) Exhibit D: Recipient Budget
- (7) Attachment 1 Template Declaration of Restrictive Covenants

There are no other Agreement documents unless specifically referenced and incorporated into this Agreement.

- b.** In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits B, A, D and C.

- 3. Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$1,500,000.00**. OHA will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. OHA will disburse the grant to Recipient as described in Exhibit A.

- 4. Contractor or Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, OHA's determination is that:

☐ Recipient is a subrecipient ☐ Recipient is a contractor ☒ Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: N/A

5. Recipient Information and Certification.**a. Recipient Information.** Recipient shall provide the information set forth below.**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION****Recipient Name (exactly as filed with the IRS):** _____

Stabbin Wagon

Street address: PO Box 8814

City, state, zip code: Medford OR 97501

Email address: weenlissa@gmail.com

Telephone: (541-316)-0709 Fax: ()

Is Recipient a nonresident alien, as defined in 26 USC § 7701(b)(1), a foreign person, or a foreign entity? (Check one box): ☐ YES ☒ NO**Business Designation.** (Check one box):

☐ Professional Corporation	☒ Nonprofit Corporation	☐ Limited Partnership
☐ Limited Liability Company	☐ Limited Liability Partnership	☐ Sole Proprietorship
☐ Corporation	☐ Partnership	☐ Other

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein and required by Exhibit C, must be in effect prior to Agreement execution.

Professional Liability Insurance Company: Durham & Bates Insurance

Policy #: 2023-75706 Expiration Date: 9/21/24

Commercial General Liability Insurance Company: Durham & Bates

Policy #: 2023-75706 Expiration Date: 09/21/24

Automobile Liability Insurance Company: Geico

Policy #: 4554387680 Expiration Date: 02/6/24

Workers' Compensation: Does Recipient have any subject workers, as defined in ORS 656.027? (Check one box): ☐ YES ☒ NO If YES, provide the following information:

Workers' Compensation Insurance Company: _____

Policy #: EIG512252700 Expiration Date: 11/18/2024

b. Certification. Without limiting the generality of the foregoing, by signature on this Agreement, the undersigned hereby certifies under penalty of perjury that:

- (1) Recipient is in compliance with all insurance requirements in Exhibit C of this Agreement and notwithstanding any provision to the contrary, Recipient shall deliver to the OHA Agreement Administrator (see page one of this Agreement) the required Certificate(s) of Insurance within 30

days of execution of this Agreement. By certifying compliance with all insurance as required by this Agreement, Recipient acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. Recipient may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;

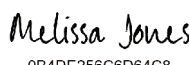
- (2) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient;
- (3) The information shown in this Section 5.a. “Recipient Information”, is Recipient’s true, accurate and correct information;
- (4) To the best of the undersigned’s knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (5) Recipient and Recipient’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (6) Recipient is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/SAM>;
- (7) Recipient is not subject to backup withholding because:
 - (a) Recipient is exempt from backup withholding;
 - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding.
- (8) Recipient’s Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to OHA is true and accurate. If this

information changes, Recipient shall provide OHA with the new FEIN or SSN within 10 days.

RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

6. **Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

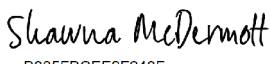
Stabbin Wagon

By: DocuSigned by:  0B4DE256C6D64C8...	<u>Melissa Jones</u>
Authorized Signature	Printed Name
Director	11/8/2023
Title	Date

State of Oregon, acting by and through its Oregon Health Authority

By: DocuSigned by:  E36AB1717C8B41E...	<u>Jon Collins</u>
Authorized Signature	Printed Name
Business Operations Administrator 2	11/9/2023
Title	Date

Approved by: Interim Director, OHA Health Systems Division

B: DocuSigned by:  B805FBC EE2F248F...	<u>Shawna McDermott</u>	<u>Interim Director, Health Systems Division</u>	<u>11/9/2023</u>
Authorized Signature	Printed Name	Title	Date

Approved for Legal Sufficiency:

Approved via email by Shannon O'Fallon, Senior Assistant Attorney General on October 27, 2023; email in agreement file.

EXHIBIT A**Part 1
Program Description****1. Purpose.**

This work will implement House Bill 2980 (2021), codified at ORS 430.275, which established and funded four Peer-Run Respite Programs in Oregon. Programs will be located in the following areas of the state: The Portland Metro Area, Central or Eastern Oregon, Southern Oregon, and the coastal region; this specific Program will operate in the Southern area of Oregon. This Program will provide Culturally and Linguistically Responsive Services. The Program must provide support for up to six individuals for up to two weeks at a time. ORS 430.275(2)(a).

2. Program Description and Overview.

Peer-Run Respites are voluntary, non-clinical, short-term residential peer support provided in a home-like setting to individuals in mental or emotional distress whose experiences may lead to the need for a higher level of care such as psychiatric inpatient hospital services. These supports are provided by a peer run organization and directed and delivered by individuals with lived experience in coping with, seeking recovery from or overcoming challenges related to mental health or trauma responses.

Peer-Run Respites are fully independent, separate, and autonomous from other mental health agencies and the majority of individuals who oversee the organization's operations have received behavioral health services and/or have lived experience with behavioral health needs.

Persons of color often face historical trauma and structural racism in accessing traditional medical settings. Individuals, including persons of color and people who experience behavioral health needs, who are not comfortable engaging in services or treatment at traditional medical facilities may feel more comfortable accessing support in a peer respite setting, resulting in more individuals receiving the support they need to live independently in their communities. By providing a place for individuals to receive support before they reach a crisis point, this could result in reduced numbers of individuals ending up in the hospital or jail – two outcomes that disproportionately impact communities of color.

Peer-Run Respite Programs will complement existing local crises response services. OHA will collaborate with county behavioral health departments, contractors, and other mental health agencies and organizations to incorporate peer run respites into the overall continuum of care.

3. Definitions.

The terms below shall have the following meanings:

- a. **Culturally and Linguistically Responsive Services** means the provision of effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural beliefs and practices, preferred languages, health literacy, and other communication needs.
- b. **Gender-affirming and responsive services** means services that holistically attend to but are not limited to transgender, gender-nonconforming, non-binary, Two Spirit and intersex people's physical, mental, and social health needs and well-being while respectfully affirming their gender identity. Gender affirming care is sensitive and responsive to an individual's gender identities and expressions. Gender affirming care complies with non-discrimination laws.
- c. **Guest** means an individual with mental illness or trauma response symptoms who is experiencing acute distress, anxiety or emotional pain.
- d. **LGBTQIA2S+ affirming and inclusive services** means services that proactively create an environment that intentionally and purposefully supports members of the LGBTQIA2S+ community and are services that treat LGBTQIA2S+ community members with respect, dignity and provide equitable access to services, supports, and opportunities in a manner that sustains their whole selves.
- e. **Peer-run organization** has the meaning given that term in ORS 430.275.
- f. **Peer Respite Services** has the meaning given that term ORS 430.275.
- g. **Recovery Principles** means a set of principles and values that are holistic, strength-based, mutually supportive, respectful, individualized and person-directed, and that support self-direction, empowerment, responsibility, and hope for people.
- h. **Trauma Informed Practices** means strengths-based practices that seek to understand trauma and how it impacts people's lives. Trauma-informed practices emphasize physical, psychological, and emotional safety for everyone and supports people in having choice and control of their own lives.

4. Goals and Objectives.

The funding provided through this Grant Agreement will allow Recipient to provide voluntary, non-clinical, peer-delivered services for crisis support in a home like setting, provided by people who have lived experience with mental health services, to guests across Oregon who need a safe space to seek support, stabilize, and/or coordinate higher levels of psychiatric care.

By creating a safe space and resource for guests who do not need a hospital level or emergency department level of support will create a lower cost, person centered, and trauma informed alternative to emergency room visits or hospitalization for individuals experiencing mental distress.

5. General Grant Activities.

Recipient must:

- a. Collect data on guests in accordance with OAR Chapter 950, Division 030.
- b. Comply with the requirements set out in ORS 430.275 and OAR 309, Division 20.
- c. Manage a home-like space (“home”) for at least four (4) but not more than six (6) guests who may stay for up to two weeks at a time. Guests may have multiple stays as long as they are not consecutive. The home must:
 - i. Have a private room for each participant.
 - ii. Have shared community spaces including common areas and a full kitchen.
 - iii. Be stocked with basic food in the kitchen for participants’ consumption, free of charge.
 - iv. Meet applicable ADA requirements.
- d. Provide voluntary peer-support services to guests at the home.
- e. Hire staff that provide services at the home and who operate the home that are peers with first-hand lived experience with mental health challenges, emotional distress, extreme states, and / or trauma.
- f. To the extent practicable, hire bilingual Spanish speaking staff.
- g. Comply with these minimum staffing requirements:
 - i. Have at least two peer support workers present at the home from 9 AM to 9 PM daily.
 - ii. Have at least one peer support worker in the house at all times.
 - iii. Have at least one on-call worker available at all times.
 - iv. Have two outreach and administrative coordinators to:
 1. Schedule work shifts, trainings and staff meetings
 2. Maintain relations with community partners.
 3. Create opportunities for supervision and co-reflection.
- h. Provide staff training and ensure all staff are appropriately trained prior to services being offered in the home. Training must include but is not limited to OHA approved adult mental health peer specialist training.
- i. Require staff providing services at the home to have the following certifications:
 - i. Peer Support Specialist Adult Mental Health; or

- ii. Peer Wellness Specialist.
- j. Ensure that on-site staff are responsible for the tasks associated with daily operations, including but not limited to the delivery of peer services, participant intake, turning over rooms for new arrivals, administering evaluation forms to program participants and ensuring that the program maintains the values of a peer respite at all times.
- k. Develop programs for guests rooted in values of self-determination, recovery principles, and the idea that an experience of crisis can be turned into an opportunity for learning and growth, including but not limited to
 - i. Creating opportunities for guests to provide feedback, share their experiences, engage in advocacy, and participate in collective decision making about operations at the respite.
 - ii. Collecting feedback from guests on their experiences staying at peer respite.
 - iii. Utilizing feedback to develop and or make changes to programmatic policy and procedure as feasible.
 - iv. Elevating the voices, experiences, and needs of current and or former guests to the OHA technical assistance learning collaborative meetings.
- l. Conduct community-based outreach and education regarding peer respite services that are offered, by at a minimum:
 - i. Connecting with relevant community partners and providers throughout the continuum of care.
 - ii. Providing community partners with necessary information on how to make referrals to the peer respite program.
 - iii. Providing ongoing outreach to develop working relationships with community partners, as well as local and statewide behavioral healthcare providers to ensure that peer respite guests have access to higher levels of care if needed.
- m. Have policies and procedures that:
 - i. Ensure initial interactions with guests seek to understand guest's hopes for staying at the home.
 - ii. Ensure clear communication with guests about the voluntary nature of the services, house rules, length of stay, no cost for services, services offered, participation in services being self-directed, services are non-clinical, and recipient's values.
 - iii. Provide meaningful opportunities for guests to take part in decision-making, program planning, and program evaluation.
 - iv. Ensures the home is a safe space for staff and guests.
- n. Have an advisory board that is majority peer based.

- o. Hold monthly team meetings for all staff.
- p. Provide staff supervision.
- q. Provide staff the opportunity for peer-based co-reflection.

6. Oversight and Coordination Requirements

Recipient must:

- a. Allow OHA or its designees to access the peer respite center to conduct investigations and assessments, as necessary, to ensure residents receive the quality and scope of services required.
- b. Participate in quarterly technical assistance meetings with OHA and other peer respite programs on a schedule provided by OHA, which OHA shall provide in writing.

7. Reporting Requirements.

Recipient shall provide the following program reports:

- a. **Program Evaluation Report.** Submit an evaluation summary that gauges the fidelity of the Recipient's program to the peer run-respite model. Additional details of this evaluation can be found in the handbook created by advocates who have experience implementing these programs in other states. Peer Respite Handbook: A guide to understanding, building, and supporting peer respites. <https://www.peerrespite.com/manuals> Evaluation

Reporting Period	Report Due
November 1, 2023 – June 30, 2024	July 31, 2024
July 1, 2024 – January 31, 2025	February 28, 2025
February 1, 2025 – June 30, 2025	July 31, 2025

- b. **Quarterly Report.** OHA will establish reporting format requirements for the Quarterly Report by providing written notice to Recipient at least 30 days prior to the due date of a report. Reporting will include the following information:
 - (1) Number of guests served.
 - (2) Average duration of the stay at the home.
 - (3) Demographic data on guests, including self-reported demographics, in accordance with OAR 950, Division 30.
 - (4) Data on gender, and age of residents, if not captured under (3).
 - (5) Grievances and safety concerns of guests and staff.
 - (6) Summary of Recipient's community engagement efforts.
 - (7) Summary of feedback received in guest surveys.
 - (8) Summary of any additional feedback or narratives highlighting the successes, recovery, and resilience of residents.

Reporting Period	Report Due
November 1, 2023 – June 30, 2024	July 31 st 2024
July 1, 2024 – September 30, 2024	October 31, 2024
October 1, 2024 – December 29, 2024	January 31, 2025
January 1, 2025 – March 31, 2025	April 30, 2025
April 1, 2025 – June 30, 2025	July 31, 2025

EXHIBIT A
Part 2
Disbursement and Financial Reporting

1. Grant Payment Disbursement.

- a.** Recipient shall prepare and electronically submit written invoices or documentation to hsd.contracts@odhsoha.oregon.gov. Recipient shall include in each invoice, in addition to the information required in paragraphs c and d below, at a minimum, the Agreement number; reference to the particular budget category included in Exhibit D; the invoice period dates; and the invoice totals for the subject period.
- b.** Within 15 calendar days of execution of Agreement, OHA will disburse \$25,000.
- c.** OHA will disburse grant monies related to the lease of property or property purchase as applicable based on the grant proposal, within 15 calendar days of receipt of an invoice, if the costs are consistent with Exhibit D:

 - An invoice for up-front lease costs must include but is not limited to identifying the property for lease, the lease period, the rental amount, any deposit required, and the total amount due upon execution of the lease.
 - An invoice for property purchase costs must include but is not limited to identifying the property to be purchased, the property purchase total cost, the amount of a down payment, loan interest rate if applicable, estimated amount of mortgage payments if applicable, and closing costs.
- d.** OHA will disburse grant monies for service start-up costs, within 15 calendar days of receipt of an invoice, if costs are consistent with Exhibit D. The invoice must include an attestation that Recipient will be ready to provide services within 6 months of receipt of the start-up costs with a detailed description of start-up costs needed, including but not limited to supplies and staff costs.
- e.** For the quarter following disbursement of grant funds related to service start-up costs, and for the remaining quarters in the grant period, OHA will disburse the remaining grant funds in equal quarterly amounts. Disbursement will be made by the 10th day of the end of the quarter.
- f.** Allowable expenses.

All grant funds provided under this Agreement must be spent by Recipient on expenses reasonably necessary to carry out the grant requirements described in this Agreement, including Exhibit A Part 1, in accordance with the specific constraints set forth below in (i) and (ii), and in accordance with Recipient's

budget incorporated as Exhibit D. Recipient will keep detailed records of the grant funds spent. Upon OHA written request to Recipient to review the detailed records of grant funds spent, Recipient will provide OHA access to these records within 72 hours.

- g.** Any funding unexpended or uncommitted at the end of the Agreement period must be promptly, and in no case exceed 45 days from the expiration or cancellation of this Agreement, returned to OHA. Funding may not be used for any expenses incurred prior to the start date of this Agreement.
- h.** Notwithstanding paragraphs b. through e. above, OHA will not disburse more than \$750,000.00 in any fiscal year.

EXHIBIT A**Part 3
Special Provisions**

- 1. Real Property Purchase, Renovation, or Improvement.** Except as otherwise expressly agreed by OHA in writing, when grant funds under this Agreement in the amount of \$10,000 and above are to be used for purchase of or improvements to real property, Recipient shall, prior to such expenditure, notify OHA and execute a Declaration of Restrictive Covenants to secure such real property or improvements. The Declaration of Restrictive Covenants shall be substantially in the form attached to this Agreement as Attachment 1 and shall be filed, at the Recipient's expense, in the real property records of each county in which the real property is located. Notwithstanding any provision of this Agreement, the obligations set forth in the Declaration of Restrictive Covenants shall continue in force and effect until the expiration of such obligations under the terms of the Declaration of Restrictive Covenants, and the Recipient acknowledges and agrees that such obligations will survive the expiration or termination of this Agreement.

- 2. Vehicle funding request for grants:**

When OHA payments in the amount of \$1,000 and above are to be used for purchase of a vehicle, as security for the Recipient's performance of its obligations under this Agreement, the Recipient grants to OHA a security interest in all of the Recipient's rights, title, and interest in and to the goods, i.e., the vehicle. The Recipient agrees that from time to time, at its expense, the Recipient will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that OHA may reasonably request, in order to perfect and protect the security interest granted under this Agreement or to enable OHA to exercise and enforce its rights and remedies under this Agreement with respect to the vehicle. Recipient must forward by e-mail a copy of the title application showing the OAC c/o Oregon Health Authority, Health Systems Division as the Security Interest Holder to OHA within five (5) calendar days of the acquisition from the seller.

Recipient shall submit copy of the title application to OHA via. email at HSD.Contracts@odhsoha.oregon.gov.

File Security Interest Holder information as follows:

Oregon Health Authority
Health Systems Division
500 Summer Street NE, E86
Salem, OR 97302

3. Dedicated Use Requirement

Vehicles costing \$1,000 or more must be used to provide the service for which OHA approved the payments. Dedicated use must continue for the useful life of the vehicle or five years whichever is less.

4. Removal of Liens

The following steps describe the process for removal of liens prior to the expiration of the dedicated use period described in Section 4 of this Exhibit A, Part 3:

To release a vehicle title on which OHA is listed security interest holder, Recipient must make a request in writing to OHA. The request must specify why the vehicle is being disposed of and the intended use of any payments realized for the transaction. OHA may approve or deny the request in its sole discretion.

EXHIBIT B**Standard Terms and Conditions**

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OHA or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.
2. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.
3. **Independent Parties; Conflict of Interest.**
 - a. Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
 - b. If Recipient is currently performing work for the State of Oregon or the federal government, Recipient by signature to this Agreement, represents and warrants that Recipient's participation in this Agreement creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Recipient currently performs work would prohibit Recipient's participation under this Agreement. If disbursement under this Agreement is to be charged against federal funds, Recipient certifies that it is not currently employed by the federal government.
4. **Grant Funds; Disbursements.**
 - a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that OHA's participation in this Agreement is contingent on OHA receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
 - b. **Disbursement Method.** Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT). Upon request, Recipient shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT disbursement. Recipient shall maintain at its own expense a single

financial institution or authorized disbursement agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient shall provide this designation and information on a form provided by OHA. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any disbursement made using EFT procedures, the Recipient shall provide the changed information or designation to OHA on an OHA-approved form. OHA is not required to make any disbursement under this Agreement until receipt of the correct EFT designation and disbursement information from the Recipient.

5. **Recovery of Overpayments and Misexpended Funds.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement or expended while Recipient is in violation of any term or condition of this Agreement “Misexpended Funds” or that remain unexpended on the earlier of termination or expiration of this Agreement “Unexpended Funds” must be returned to OHA. Recipient shall return all Misexpended Funds to OHA promptly after OHA’s written demand and no later than 15 days after OHA’s written demand. Recipient shall return all Unexpended Funds to OHA within 14 days after the earlier of termination or expiration of this Agreement. OHA, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 13 of this Exhibit.
6. Reserved.
7. **Indemnity.** RECIPIENT SHALL DEFEND (SUBJECT TO ORS CHAPTER 180) SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND OHA AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF RECIPIENT OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

8. **Default; Remedies; Termination.**

- a. Default by Recipient. Recipient shall be in default under this Agreement if:
- (1) Recipient institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
 - (2) Recipient no longer holds a license or certificate that is required for Recipient to perform its obligations under the Agreement and Recipient

has not obtained such license or certificate within 14 calendar days after OHA's notice or such longer period as OHA may specify in such notice; or

- (3) Recipient commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any obligation under this Agreement within the time specified herein or any extension thereof, or so fails to pursue performance of any obligation as to endanger Recipient's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after OHA's notice, or such longer period as OHA may specify in such notice.

b. OHA's Remedies for Recipient's Default. In the event Recipient is in default under Section 8.a., OHA may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

- (1) termination of this Agreement under Section 8.e.(2);
- (2) withholding all or part of funds not yet disbursed by OHA to Recipient;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments and misexpended under Section 5. of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and OHA may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Recipient was not in default under Section 8.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 8.e.(1).

c. Default by OHA. OHA shall be in default under this Agreement if OHA commits any material breach or default of any covenant, warranty, or obligation under this Agreement, and such breach or default is not cured within 30 calendar days after Recipient's notice or such longer period as Recipient may specify in such notice.

d. Recipient's Remedies for OHA's Default. In the event OHA terminates the Agreement under Section 8.e.(1), or in the event OHA is in default under Section 8.c. and whether or not Recipient elects to exercise its right to terminate the Agreement under Section 8.e.(3), Recipient's sole monetary remedy will be a claim for unpaid invoices or for reimbursement or disbursement of funds authorized by this Agreement but not yet invoiced. In no event shall OHA be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits or loss.

e. Termination.

- (1) OHA's Right to Terminate at its Discretion. At its sole discretion, OHA may terminate this Agreement:
 - (a) For its convenience upon 30 days' prior written notice by OHA to Recipient;
 - (b) Immediately upon written notice if OHA fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that OHA's support of the program under this Agreement is prohibited or OHA is prohibited from paying for such support from the planned funding source.
 - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or benefitting from services under this Agreement "OHA Client", including any Medicaid Eligible Individual, under its care.
- (2) OHA's Right to Terminate for Cause. In addition to any other rights and remedies OHA may have under this Agreement, OHA may terminate this Agreement immediately upon written notice to Recipient, or at such later date as OHA may establish in such notice if Recipient is in default under Section 8.a.
- (3) Recipient's Right to Terminate for Cause. Recipient may terminate this Agreement upon 30 days written notice to OHA or at such later date as Recipient may establish in such notice, if OHA is in default under Section 8.c. and OHA fails to cure such default within 30 calendar days after OHA receives Recipient's notice or such longer period as Recipient may specify in such notice.
- (4) Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (5) Return of Property. Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to OHA all of OHA's property that is in the possession or under the control of Recipient at that time. This Section 8.e.(5) survives the expiration or termination of this Agreement.
- (6) Effect of Termination. Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to OHA, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by OHA, OHA expressly directs otherwise.

9. **Insurance.** Recipient shall maintain insurance as set forth in Exhibit C, attached hereto.
10. **Records Maintenance, Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OHA and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:
- a. Six years following final disbursement and termination of this Agreement;
 - b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
 - c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.
11. **Information Privacy/Security/Access.** If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants Recipient or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.
12. **Assignment of Agreement, Successors in Interest.**
- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by OHA. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA in addition to those set forth in this Agreement.
 - b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.
13. **Resolution of Disputes.** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.
14. **Subcontracts.** Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without OHA's prior written consent. In addition to any

other provisions OHA may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that OHA will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 9, 10, 11, 12, 14, 15, and 16 of this Exhibit B. OHA's consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

15. **No Third Party Beneficiaries.** OHA and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.
16. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.
17. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or OHA at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

OHA: Office of Contracts & Procurement
500 Summer Street NE, E-03
Salem, OR 97301
Telephone: 503-945-5818
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

18. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
19. **Amendments; Waiver; Consent.** OHA may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, approved by the Oregon Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.
20. **Merger Clause.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.

EXHIBIT C**Insurance Requirements**

Recipient shall obtain at Recipient's expense the insurance specified in this Exhibit prior to performing under this Grant Agreement and shall maintain it in full force and at its own expense throughout the duration of this Grant Agreement, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Recipient shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OHA. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Recipient shall pay for all deductibles, self-insured retention and self-insurance, if any.

1. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements. If Recipient is a subject employer, as defined in ORS 656.023, Recipient shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Recipient is an employer subject to any other state's workers' compensation law, Recipient shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

1. COMMERCIAL GENERAL LIABILITY

☒ **Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant Agreement, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

2. AUTOMOBILE LIABILITY INSURANCE

☒ **Required** ☐ **Not required**

Automobile Liability Insurance covering Recipient's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

3. PROFESSIONAL LIABILITY:

☒ **Required** ☐ **Not required**

Professional Liability covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Agreement by the Recipient and Recipient's

subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Recipient shall provide continuous claims made coverage as stated below.

4. EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

5. WAIVER OF SUBROGATION

Recipient shall waive rights of subrogation which Recipient or any insurer of Recipient may acquire against OHA or State of Oregon by virtue of the payment of any loss. Recipient will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OHA has received a waiver of subrogation endorsement from the Recipient or the Recipient's insurer(s).

6. TAIL COVERAGE

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Recipient shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Grant Agreement, for a minimum of 24 months following the later of (i) Recipient's completion and OHA's acceptance of all activities required under this Grant Agreement, or, (ii) OHA or Recipient termination of this Grant Agreement, or, (iii) The expiration of all warranty periods provided under this Grant Agreement.

7. CERTIFICATE(S) AND PROOF OF INSURANCE

Recipient shall provide to OHA Certificate(s) of Insurance for all required insurance before performing any activities required under this Grant Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant Agreement. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, OHA has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant Agreement.

8. NOTICE OF CHANGE OR CANCELLATION

The Recipient or its insurer must provide at least 30 days' written notice to OHA before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

9. INSURANCE REQUIREMENT REVIEW

Recipient agrees to periodic review of insurance requirements by OHA under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and OHA.

10. STATE ACCEPTANCE

All insurance providers are subject to OHA acceptance. If requested by OHA, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to OHA's representatives responsible for verification of the insurance coverages required under this Exhibit.

Exhibit D

Budget

Budget worksheet - Peer Run Respite Program (Year 1: 5 months set up, operational for 7 months; Year 2: 12 months operational)			
A. Expenditures		Notes	
1. Personnel Expenditures		For personnel, please include staff title, hourly wage, hours worked per week in this column. For benefits, please describe what benefits will be provided with funds requested.	
a. Employee Salary			
	a. Set up staff 1 (first 14 weeks)	30 hours a week \$25/hour	\$ 10,500
	b. Set up staff 2 (first 14 weeks)	30 hours a week \$25/hour	\$ 10,500
	c. Set up staff 3 (first 14 weeks)	30 hours a week \$25/hour	\$ 10,500
	d. Set up staff 4 (first 14 weeks)	30 hours a week \$25/hour	\$ 10,500
	e. Set up staff 5 (bilingual) (first 14 weeks)	30 hours a week \$30/hour	\$ 12,600
	i. Employee 1 (90 weeks)	Peer Support Worker – 24 hours a week \$25/hour	\$ 54,000
	ii. Employee 2 (90 weeks)	Peer Support Worker – 24 hours a week \$25/hour	\$ 54,000
	iii. Employee 3 (90 weeks)	Bilingual Peer Support Worker – 24 hours a week \$30/hour	\$ 64,800
	iv. Employee 4 (90 weeks)	Peer Support Worker – 35 hours a week \$25/hour	\$ 78,750
	v. Employee 5 (90 weeks)	Peer Support Worker – 35 hours a week \$25/hour	\$ 78,750
	vi. Employee 6 (90 weeks)	Peer Support Worker – 35 hours a week \$25/hour	\$ 78,750
	vii. Employee 7 (90 weeks)	Bilingual Peer Support Worker – 35 hours a week \$30/hour	\$ 94,500
	viii. Employee 8 (90 weeks)	Bilingual Peer Support Worker – 35 hours a week \$30/hour	\$ 94,500
	ix. Employee 9 (90 weeks)	Peer Support Worker – 18 hours a week \$25/hour	\$ 40,500
	x. Employee 10 (90 weeks)	Outreach/Admin Coordinator – 35 hours a week \$25/hour	\$ 78,750
	xi. Employee 11 (90 weeks)	Bilingual Outreach/Admin Coordinator – 35 hours a week \$30/hour	\$ 94,500
	On Call Stipend - \$50 per night	This is an on-call stipend for 1 on-call staff person every night we are operational. First year is operational for 28 weeks. Second year is 52 weeks.	\$ 28,000
	Per Diem Coverage	For per diem to cover open shifts and for any work that is a result of on call staff needing to come in (additionally, any budgeting from staff vacancies will also automatically be re-allocated to per diem budget)	\$ 50,000
	Advisory Board, Community Participants, Participant Incentives, Volunteers	Advisory board stipends; previous peer respite guests who will sit on hiring committees and educational opportunities; compensation for surveys and formal feedback opportunities	\$ 24,000
	b. Subtotal of all salaries		\$ 968,400
	c. Employee Benefits		
	i. Part time and full time benefits	25% of employees salaries will be provided so that workers can obtain competitive health care insurance, paid time off, language learning classes including Spanish and ASL, wellness programs, and other essential benefits.	216,600
	ii. Subtotal of benefits		\$ 216,600
	Subtotal of Personnel Expenditures		\$1,185,000

			Please describe items here, if needed. For items you are not requesting funding for, please write "N/A" in this column.	
2. Operating Expenditures				
			5 bedroom houses in our area cost approximately \$3,700 to rent. We may adjust this depending on availability at the time of receiving the grant. This amount includes deposit, security fee, etc. Any extra funds will be re-allocated for other house expenses (utilities, furniture, etc.)	\$ 96,200
	a. Rent			
			Utilities for peer respite house to include heating, water, garbage, etc.	\$ 12,000
	b. Utilities			
			Ongoing purchases of basic office and cleaning supplies for use by staff and guests at the respite	\$ 11,500
	c. Office and Cleaning Supplies			
			4 phones (including service plans) and monthly internet for the house.	\$ 7,000
	d. Phone and internet services			
			Liability Insurance (CGL & PL) and Workers Comp	\$ 9,000
	e. Insurance			
			Set up staff will receive peer respite training from the Wildflower Alliance, all staff State of Oregon Peer Support Specialist / Intentional Peer Support training and certification, anti-racism training, and accessibility trains - additional training opportunities will be provided to staff and community as needed	\$ 40,000
	f. Staff training and development			
			For new hires	\$ 860
	g. Staff finger-printing/background checks			
			For art supplies, books, music equipment, etc., to allow house activities for healing and self-expression.	\$ 15,000
	h. Arts & House Activities			
			For outreach to community partners, promoting the peer respite throughout the region. To support outreach to community partners and as needed to support guests at the respite.	\$ 11,800
	i. Outreach materials and translation/interpretation services (ASL, Vietnamese, Mandarin and			
			To keep food and other basic essentials stocked in the kitchen	20,000.00
	j. Food Pantry			
			Staff outreach and travel to trainings, funds to help people travel to and from the respite	10,000.00
	k. Transportation Funds			
	Subtotal of Operating Expenditures			\$ 233,360
3. Start Up Costs (please describe)				
			Home furnishing and office equipment	20,000.00
			ADA Home Requirements & Other Home Modifications	27,080.00
	Subtotal One-Time Start-up Costs			\$ 47,080
4. Admin/Indirect costs, please describe in "notes" column				
			Bookkeeping, payroll and other admin support	\$ 34,560
				\$ 34,560
	Subtotal Admin/Indirect Costs			
D. Total Proposed Operational Budget				\$1,500,000

Attachment 1

After Recording Return to:

Oregon Health Authority
Health Systems Division
500 Summer St SE, E86
Salem, OR 97301

SPACE ABOVE FOR RECORDER'S USE

**STATE OF OREGON
OREGON HEALTH AUTHORITY**

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (this “**Declaration**”) is made and entered into this day of [insert date when ready to sign] (the “**Effective Date**”) by and between Stabbin Wagon, an Oregon 501c3 Nonprofit Organization (“**Declarant**”) and the State of Oregon, acting by and through the Oregon Health Authority and its Health Systems Division (“**OHA**”) pursuant to ORS 430.275 and Oregon Laws 2021, chapter 626. OHA and Declarant may be referred to herein jointly as the “**Parties**” or individually as a “**Party**”.

RECITALS

A. The Oregon State Legislature appropriated \$6 million in funds for the biennium ending June 30, 2023 in House Bill 2980 (2021) (now codified as Oregon Laws 2021, chapter 626) (“**2980 Funds**”) to OHA for capital, start-up, and operational costs related to Peer Run Respite statewide. HB 2980 provides funding for four peer run respite homes in the following regions, The Portland Metropolitan Area, Southern Oregon, The Coastal Region, and Central or Eastern Oregon.

B. OHA issued two Request for Grant Proposals for the creation and operation of Peer-Run Respite Programs in Oregon (as hereinafter defined) for peer run organizations to pilot peer respite service. “Peer respite services” means voluntary, nonclinical, short-term residential peer support provided in a homelike setting to individuals with mental illness or trauma response symptoms who are experiencing acute distress, anxiety or emotional pain that may lead to the need for a higher level of care such as psychiatric inpatient hospital services.

C. Declarant applied and awarded an amount not to exceed ONE AND A HALF MILLION DOLLARS, \$1,500,000.00 in 2980 Funds (the “**Peer Run Respite Grant**”) pursuant to that certain Grant Agreement dated [insert month and day of grant agreement –executed date (date last signed)-- and as amended if there is that date too], 2023 by and between the Parties (the “**Peer Run Respite Grant Agreement**”).

D. The Oregon State Legislature’s Joint Committee on Ways and Means stated in the Budget Report and Measure Summary for House Bill 2980 that the OHA was appropriated funds for the creation and

operation of Peer-Run Respite Programs in Oregon (“**2980 Funds**”). 2980 Funds are for the creation and operation of Peer-Run Respite Programs in Oregon.

E. Declarant applied and awarded an amount not to exceed ONE AND A HALF MILLION DOLLARS, \$1,500,000 in 2890 Funds (the “**Peer Run Respite Grant**”) pursuant to that certain Grant Agreement dated [insert month and day of grant agreement –executed date (date last signed)-- and as amended if there is that date too], 2022 by and between the Parties (the “**Peer Run Respite Grant Agreement**”).

F. Declarant’s use of the Grant is for the purpose of funding the purchase of real property, construction, and renovation or other eligible capital costs related to the Project (as hereinafter defined) that will serve individuals with a [insert population diagnosis including but not limited to SPMI, SUD or other as applicable to respective questions] (collectively, the “**Improvements**”). The Improvements will be situated on certain real property located in the city of [City], [County] County (the “**County**”), State of Oregon, as more particularly described in Exhibit A attached hereto (the “**Property**”). The Property, together with the Improvements, is referred to herein as the “**Project**”.

G. A condition of the Grant Agreement provides that to the extent that Grant funds are to be used for purchase, construction or renovation of real property, Declarant is required to execute a Declaration. Pursuant to that condition, OHA has required Declarant to execute this Declaration, as a condition to Declarant’s use of the Grant for the purchase or renovation of the Property for purposes of the Project.

H. The Parties desire that this Declaration be recorded in the relevant records of the County at Declarant’s cost and that certain terms herein constitute restrictive covenants and equitable servitudes running with the Property and governing, among other things, the maintenance, monitoring, and operation of the Project.

AGREEMENT

NOW, THEREFORE, for good and sufficient consideration, including the terms, conditions, covenants, warranties, and undertakings set forth herein, the Parties agree as follows:

1. INCORPORATION.

The foregoing recitals and exhibit(s) to this Declaration are incorporated into this Declaration by reference to the same extent and with the same force and effect as if fully set forth herein, provided, however, that the incorporated items do not modify the express provisions of this Declaration.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DECLARANT.

Declarant represents, warrants and covenants that:

2.1. Organization and Authority.

(a) Declarant is a 501c3 Nonprofit Organization validly created and existing under the laws of the State of Oregon.

(b) Declarant has all necessary right, power and authority under its organizational documents to

(a) execute, deliver and record this Declaration, and (b) incur and perform its obligations under this Declaration.

2.2. Use of Grant Funds. Declarant has used or will use the Grant funds only for the Project costs as provided for in the Grant Agreement.

2.3. Full Disclosure. Declarant has disclosed in writing to OHA all facts that may materially adversely affect the Project, or the ability of Declarant to perform all obligations required by this Declaration. Declarant has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading, regarding the Grant, the Project and this Declaration. The information contained in this Declaration is true and accurate in all respects.

2.4. Pending Litigation. Declarant has disclosed in writing to OHA all proceedings, environmental or otherwise, pending (or to the knowledge of Declarant, threatened) against or affecting Declarant, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Declarant to perform all obligations required by this Declaration.

2.5. No Defaults.

(a) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Declaration.

(b) Declarant has not violated and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Declarant to perform all obligations required by this Declaration.

2.6. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Declaration will not: (i) cause a breach of a material agreement, indenture, mortgage, deed of trust, or other instrument, to which Declarant is a party or by which the Project or any of Declarant's property or assets may be bound; (ii) violate any provision of the applicable enabling statutes, code, charter, ordinances or other Oregon law pursuant to which Declarant was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Declarant, the Project or Declarant's properties or operations.

2.7. Governmental Consent. Declarant has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Declaration and undertaking and completion of the Project, including without limitation, all land use approvals and development permits required under local zoning or development ordinances, state law and federal law for the use of the land on which the Project will be located.

2.8. Responsibility. Declarant assumes full responsibility for timely and appropriate completion of the Project, for ownership of the Project, for its operation in accordance with this Declaration and the Grant Agreement and acknowledges that OHA has no direct or contractual responsibility for the Project, for ownership of the Project, or for its operation.

3. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF DECLARANT.

Declarant also represents, warrants, and covenants that:

3.1. Fair Housing and Other Civil Rights Compliance. Declarant shall comply with all applicable state and federal nondiscrimination laws, including but not limited to the Fair Housing Act and the Americans with Disabilities Act.

3.2. Use Restrictions.

(a) **Peer Respite** will provide continuous peer support to a minimum of 4 guests and a maximum of 6 for up to two weeks at a time in a homelike setting to individuals with mental illness or trauma response symptoms who are experiencing acute distress, anxiety or emotional pain that may lead to the need for a higher level of care such as psychiatric inpatient hospital services. For the duration of the Use Restriction Period (as hereinafter defined), Declarant will continuously rent or hold vacant and available within the Project, [4-6 units or beds or other] of Peer Respite Beds (collectively, the “**Housing Units [or Beds]**”) to serve individuals with mental illness or trauma response symptoms who are experiencing acute distress, anxiety or emotional pain that may lead to the need for a higher level of care such as psychiatric inpatient hospital (collectively, the “**Use Restrictions**”). For the purposes of this Declaration, “[Type of housing or other] means [peer respite beds] for individuals with mental illness or trauma response symptoms who are experiencing acute distress, anxiety or emotional pain that may lead to the need for a higher level of care such as psychiatric inpatient hospital.

(b)

Use Restriction Period. For a period of twenty (20) years from December 31st of the year that the Project is completed or until **December 31, 2043**, whichever is later (the “**Use Restriction Period**”), Declarant is required to provide and comply with the requirements of the Use Restrictions.

3.3. Habitability; Other Compliance. Throughout the Use Restriction Period, Declarant will manage the Project in a safe and sanitary condition that is satisfactory to OHA and in accordance with applicable zoning, code and habitability requirements.

3.4. Financial Records. Declarant shall keep accurate books and records regarding use of the Grant and maintain them according to generally accepted accounting principles applicable to Declarant in effect at the time.

3.5. Inspections; Information. Declarant shall permit the State and any party designated by the State: (i) to inspect the Project and (ii) to inspect and make copies of any accounts, books and records, including, without limitation, Declarant’s records regarding receipts, disbursements, contracts, investments and any other related matters.

3.6. Reports.

(a) Declarant shall prepare and electronically submit written quarterly reports that satisfy OHA requirements of the continued use of the Project for the agreed purpose as defined in this

Declaration.

(b) The quarterly reports are due to OHA no later than April 15 (January 1-March 31), July 15 (April 1- June 30), October 15 (July 1- September 30), and January 15 (October 1-December 31) each year.

(c) The quarterly reports will provide data as OHA requests, including data on clients served by the property/ facility. OHA will provide the reporting form and instructions for completion and submission of this quarterly compliance report. Recipient may be required to provide capacity and utilization rates every 60 days or more frequently as requested by OHA.

(d) Declarant shall supply any other reports and information related to the Project as the State may reasonably require.

3.7. Records Maintenance. Declarant shall retain and keep accessible all books, documents, papers, and records that are directly related to this Declaration, the Project, or the Grant throughout the Use Restriction Period and for a minimum of six (6) years, or such longer period thereafter, as may be required by OHA.

3.8. Corrective Action. As a consequence of its monitoring, review of quarterly reports or otherwise, OHA may identify deficiencies in Declarant's compliance with this Declaration. OHA may require action by Declarant (satisfactory to OHA) to correct such deficiencies. Declarant must correct such deficiencies within thirty (30) days of notice by OHA of such deficiencies unless earlier correction is required by OHA to address material health or safety needs of Project users. The reasonableness of such corrective actions is subject to OHA in its sole discretion. Nothing in this Section 3.8 is intended or may be construed to impose any duty on OHA to identify deficiencies in Declarant's compliance with this Declaration or to require any action by Declarant to correct such deficiencies, and Declarant remains solely responsible for compliance with this Declaration.

3.9. Insurance, Damage. Declarant shall maintain insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by entities constructing, operating and maintaining similar properties/facilities.

4. FURTHER ASSURANCES.

4.1. Further Acts. Declarant, at any time upon request of OHA, will do, make, execute and deliver all such additional and further acts, instruments or papers as OHA may require in its sole discretion to protect OHA's rights under this Declaration.

4.2. Reliance. OHA may rely upon statements, certificates, and other records of Declarant and its agents and assigns, including as to accuracy, genuine nature, and proper execution of such statements, certificates, and other records.

5. COVENANTS AND EQUITABLE SERVITUDES TO RUN WITH THE LAND.

5.1. Inducement. Declarant represents, covenants and warrants that the issuance to it of the Grant described herein by OAC is an inducement to Declarant to complete the Project and to operate the Project in accordance with the Grant Agreement and this Declaration. In consideration of the issuance of the

Grant, Declarant has entered into this Declaration and has agreed to restrict the operation of and uses to which the Project can be put on the terms and conditions set forth herein. Therefore, Declarant covenants, agrees and acknowledges that OAC has relied on this Declaration in determining to issue the Grant.

5.2. Covenants; Equitable Servitudes.

(a) OHA and Declarant hereby declare their express intent that throughout the Use Restriction Period the covenants, restrictions, charges and easements set forth herein, including the Use Restrictions, will be deemed covenants running with the Property and will create equitable servitudes running with the Property, and will pass to and be binding upon OHA's and Declarant's successors in title including any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein.

(b) Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein will contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument will conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

(c) Any and all legal requirements for the provisions of this Declaration to constitute restrictive covenants running with the Property and applying to the Project as a whole, or to create equitable servitudes with respect to same in favor of OHA, are deemed satisfied in full.

(d) The consent of any recorded prior lien holder on the Project, including the Property, is not required in connection with recording this Declaration, or if required, such consent has been or will be obtained by Declarant.

5.3. Burden and Benefit.

(a) Declarant hereby declares its understanding and intent that the burdens of the covenants and equitable servitudes, including the Use Restrictions, set forth herein touch and concern the Property, and the Project as a whole, in that Declarant's legal interest in the Project is rendered less valuable thereby.

(b) Declarant hereby further declares its understanding and intent that the benefits of such covenants and equitable servitudes touch and concern the Property, and the Project as a whole, by enhancing and increasing the enjoyment and use of the Project by tenants, intended beneficiaries (in addition to OHA) of such covenants, reservations and restrictions, and by furthering the public purposes for which the Grant was issued.

5.4 Right of Modification.

OHA may compromise, waive, amend or modify the terms of this Declaration including, but not limited to the restrictive covenants and equitable servitudes created hereby, with the written consent of Declarant or subsequent Project owners, as it so determines in OHA's sole discretion to be to the benefit of OHA, the Project, or OHA efforts to provide or maintain safe and sanitary conditions of the Project.

To be effective, any compromise, waiver, amendment or modification of this Declaration must be in writing, signed by an authorized OHA representative.

6. GENERAL PROVISIONS.

6.1. Compliance with Applicable Laws and Requirements.

(a) **Compliance.** Declarant shall comply with and shall ensure that the Project complies with all federal, state and local laws, rules regulations, codes, ordinances, and orders applicable to the Project.

(b) **Contracts; Subcontracts.** Declarant shall ensure that all contracts and subcontracts related to the Project or this Declaration comply with the terms and conditions hereof, including containing a provision to that effect therein.

(c) **Endurance of Obligations.** Declarant will remain fully obligated under the provisions of this Declaration notwithstanding its designation of any third-party or parties for the undertaking of all or any part of the Project with respect to which Grant funding is being provided.

6.2. Indemnity. Declarant assumes sole liability for breach of the conditions of the Grant Agreement (including all terms and conditions of this Declaration) by Declarant or any of its officers, agents, employees, and assigns. Declarant will save, hold harmless, indemnify and defend the State of Oregon, OAC, OHA and their officers, agents, employees, members and assigns, from all suits, actions, claims, losses or damages, liabilities, costs and expenses of whatsoever nature, kind or description, including attorney fees (collectively, "**Claims**") related to the Grant, the Project, this Declaration or resulting from or arising out of the acts, omissions, neglect or misconduct of Declarant or its subcontractors, agents, or employees under this Declaration or related to the Grant, Project, to the extent permitted by law. Neither Declarant nor any attorney engaged by Declarant may defend any Claim in the name of the State of Oregon (including any agency of the State of Oregon), nor purport to act as legal representative for the State of Oregon, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may Declarant settle any Claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, Declarant will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charged by the Oregon Department of Justice.

6.3. Time of the Essence. Time is of the essence in the performance by Declarant of the terms of this Declaration.

6.4. No Discrimination; Marketing. Except as permitted by law, Declarant will not inappropriately discriminate in the provision of housing or services on the basis of race, creed, color, sex, national origin, religion, marital status, sexual orientation, family status, age, disability or the receipt of public assistance.

6.5. Notice. Except as otherwise expressly provided in this Declaration, any notices required or permitted to be given under this Declaration will be given in writing, by personal delivery, or mailing the same, postage prepaid, to OHA or Declarant at the following addresses:

If to OHA: Oregon Health Authority
Health Systems Division
500 NE Summer Street – E-86
Salem, OR 97301

If to Declarant: [insert Recipient's name]
[insert Recipient's preferred mailing address]
[Insert attention to: name if they have one]

or to such other address a party may indicate to the other pursuant to this Section. Any notice so addressed and mailed will be effective five (5) days after mailing. Any notice by personal delivery will be deemed to be given when actually delivered.

6.6. No Third-Party Beneficiaries. Unless and only to the degree expressly provided otherwise in this Declaration, OHA on behalf of the OAC, and Declarant are the only Parties to this Declaration and are the only Parties entitled to rely on and enforce the terms of this Declaration. Nothing in this Declaration gives, is intended to give, or will be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly indirectly or otherwise, to third persons unless such third persons are expressly identified in this Declaration and only to the degree they are expressly described as intended beneficiaries of particular terms of this Declaration and only with such remedies as expressly given herein with respect to such interests.

6.7. Declarant Status.

(a) Independent Contractor. Declarant shall perform all obligations under this Declaration and will timely satisfy its obligations hereunder as an independent contractor. Declarant is not an officer, employee or agent of the State, as those terms are used in ORS 30.265 or otherwise, with respect to performance under this Declaration.

(b) Declarant Responsible for Insurance Coverage. Declarant agrees that insurance coverage, whether purchased or by self-insurance, for Declarant's agents, employees, officers and/or subcontractors is the sole responsibility of Declarant.

(c) Non-Federal Employment Certification. Declarant certifies that it is not employed by or contracting with the Federal Government for performance covered by this Declaration.

(d) Good Standing Certification. Declarant certifies to the best of its knowledge and belief that neither Declarant nor any of its principals, officers, directors or employees providing services under this Declaration:

(i) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any state or federal department or agency;

(ii) Has within a three (3) year period preceding this Declaration been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract related to a public transaction; violation of federal or state antitrust statutes; or

commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(iii) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subsection (d)(ii) of this Section;

(iv) Has within a three (3) year period preceding this Declaration had one or more public transactions (federal, state or local) terminated for cause or default; and

(v) Is included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

6.8. Termination. OHA may terminate this Declaration in whole or in part, without further liability and without impairment of its remedies, effective upon delivery of written notice to Declarant, under any of the following conditions:

- (a) If funding from federal, state, or other sources is not obtained or is not continued at levels sufficient to allow for delivery of full Grant funding; or
- (b) If federal or state laws, regulations, rules or other requirements are modified or interpreted in such a way that the intended use of Grant funding for the Project is no longer allowable or appropriate or the Project is no longer eligible for the Grant funding identified in this Declaration from the planned funding source(s); or
- (c) If any authority required by law or regulation to be held by Declarant to complete the Project ends for any reason; or
- (d) If Declarant is unable or fails to commence the Project within six (6) months from the date of this Declaration; or
- (e) If Declarant breaches or fails to timely perform any of its obligations under this Declaration, or any other applicable Grant document and such breach is not cured within the grace period, if any, provided for cure in the applicable document; or
- (f) If OHA determines that any representation, warranty or covenant of Declarant, whether in whole or in part, is false, invalid, or in default; or
- (g) If Declarant (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all or substantially all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) is adjudicated as bankrupt or insolvent, (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an

involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect), or (viii) takes any action for the purpose of effecting any of the foregoing.

(h) Termination of this Declaration does not terminate or otherwise impair or invalidate any remedy available to OHA or to Declarant hereunder, at law, or otherwise.

6.9. Declarant Default. Any of the following constitutes an “**Event of Default**” of Declarant:

(a) Any false or misleading representation is made by or on behalf of Declarant, in this Declaration or in any document provided by Declarant to OHA related to this Grant or the Project.

(b) Declarant fails to perform any obligation required under this Declaration and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Declarant by OHA, or such longer period as OHA may agree to in writing, if OHA determines in its sole discretion that Declarant has instituted and is diligently pursuing corrective action.

(c) Declarant: (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the Federal Bankruptcy Code, (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (viii) takes any corporate action for the purpose of effecting any of the foregoing.

(d) A proceeding or case is commenced, without the application or consent of Declarant, in any court of competent jurisdiction, seeking: (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Declarant, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of Declarant or of all or any substantial part of its assets, or (iii) similar relief in respect to Declarant under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty (60) consecutive days, or an order for relief against Declarant is entered in an involuntary case under the Federal Bankruptcy Code.

6.10. OHA Default. OHA will be in default under this Declaration if it fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Declaration.

6.11. Remedies.

(a) **Repayment.** If this Declaration or any part hereof, terminates prior to the term of the Use Restriction Period, Declarant will, within thirty (30) days of written demand for repayment by OHA on behalf of OAC, repay the Grant multiplied by a fraction, the numerator of which is 20 minus the number of full years that have transpired between the year the Project is completed and the year of Payee’s demand and the denominator of which is 20. The Parties recognize that the Grant amount in this formula for the amount subject to demand for repayment by OHA on the behalf of OAC is

subject to change. The Grant amount will be reduced to the amount of Grant funds actually used and in Declarant's final budget approved for Project costs under the terms of the Grant Agreement. Upon repayment of the Grant less any reduction under the formula, this Declaration shall terminate.

(b) Deficiencies. OHA may, from time to time, identify and direct Declarant to correct deficiencies (including deficiencies by the Owner) in its compliance with this Declaration, which it shall correct as so directed.

(c) Extension of Use Restriction Period. OHA may by written notice extend the Use Restriction Period described in this Declaration for periods of time matching corresponding periods of time during which OHA determines Declarant to be in material noncompliance with any of the terms of this Declaration. Such extensions may be recorded in the county's property records.

(d) Additional Remedies. If Declarant defaults in the performance or observance of any covenant, agreement or obligation set forth in this Declaration (including correction of deficiencies), and if such default remains uncured by Declarant for a period of thirty (30) days or less (depending upon the requirements of the notice, lesser notice periods being reserved for matters that OHA determines in its sole discretion relate to material health or safety needs of Project occupants) after notice thereof shall have been given by OHA, or if such default runs for a period of thirty (30) days from the date Declarant should, with due diligence, have discovered such default, then OHA may declare an Event of Default to have occurred hereunder provided, however, if a default is not reasonably capable of being cured within thirty (30) days or any lesser notice period provided by OHA, OHA may, in its sole discretion, extend the correction period for up to six (6) months, but only if OHA determines in its sole discretion there is good cause for granting the extension; and provided further, however, in the event of a foreclosure, deed in lieu of foreclosure, or similar event with respect to the Project or the Property, the correction period for the successor for an existing default will be no less than thirty (30) days from the earlier of the date the successor obtains control or becomes the owner of the Project. To the extent that the default is not corrected within the above-described period including extensions, if any, granted by OHA, an Event of Default will be deemed to occur and OHA may exercise its rights and remedies under this Section. Following the occurrence of an Event of Default hereunder OHA may, at its option, take any one or more of the following steps in addition to all other remedies provided in this Declaration, by law, or in equity:

i. By mandamus or other suit, action or proceeding at law or in equity, require Declarant specifically to perform its obligations under this Declaration or enjoin any acts or things that may be unlawful or in violation of the rights of OHA under this Declaration;

ii. Obtain the appointment of a receiver to operate the Project in compliance with this Declaration;

iii. Withhold from Declarant, suspend or terminate, or (upon thirty (30)-days written demand) require the repayment of all or part of any disbursed Grant funds or other funding assistance provided by OHA to Declarant with respect to the Project;

iv. Declare Declarant, its owners, principals, employees, and agents ineligible to receive further OAC or OHA funds or other OAC or OHA financial assistance, including with respect to other projects or requests for same, for such period as OHA determines in its sole discretion;

v. Offset amounts due from repayment of the Grant against other funding awarded or to be awarded to Declarant;

vi. Have access to, and inspect, examine and make copies of, all of the books and records of Declarant pertaining to the Project and to inspect the Project itself;

vii. Enter onto the Property and correct Events of Default with respect to the Project at Declarant's expense, which expense Declarant will repay to OHA within ten (10) days of any presentment of charges for same; and

viii. Take such other action under this Declaration, at law, in equity, or otherwise as may be available to OHA.

(e) **Survival of Remedies; Remedies Not Exclusive; Non-Waiver.** The rights and remedies of OHA provided for in this Declaration, which by their nature are intended to survive termination of this Declaration, will survive the termination of the Use Restriction Period and of this Declaration. Furthermore, such remedies will not be exclusive and are in addition to any other rights and remedies available at law, in equity or otherwise. No failure of or delay by OHA to enforce any provision of this Declaration will constitute a waiver by OHA of that or any other provision, nor will any single or partial exercise of any right, power or privilege under this Declaration preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

6.12. Severability. If any term or provision of this Declaration is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if this Declaration did not contain the particular term or provisions held to be invalid.

6.13. Survival of Obligations. The obligations of Declarant as set forth in this Declaration will survive the expiration or termination of the Grant Agreement.

6.14. Attorney Fees. Subject to Article XI, Section 7, of the Oregon Constitution, in the event a lawsuit or other proceeding is instituted regarding this Declaration, the prevailing party in any dispute arising under this Declaration will, to the extent permitted by law, be entitled to recover from the other(s) its reasonable attorney fees and all costs and disbursements incurred at trial, in mediation, and on appeal. Reasonable attorney fees will not exceed the rate charged to OHA by its attorneys. This provision does not apply to lawsuits or other proceedings instituted or maintained by or against tenants or other third-party beneficiaries hereunder, if any, for which lawsuits or other proceedings no award of attorney fees is permitted.

6.15. Construction. The Parties to this Declaration acknowledge that each party and its counsel have participated in the drafting and revision of this Declaration (or knowingly and voluntarily waived the party's right to do so). Accordingly, the Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in the interpretation of this Declaration or any amendment, modification, supplementation or restatement of the foregoing or of any exhibit to this Declaration.

6.16. Captions. The captions or headings in this Declaration are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Declaration.

6.17. Execution and Counterparts. This Declaration may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

6.18. Governing Law; Venue: Consent to Jurisdiction. This Declaration will be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “**Claim**”) related to this Declaration will be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the real property is located) or, if necessary, the United States District Court for the District of Oregon. In no event will this provision be construed as a waiver by OHA or the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. OHA and the State of Oregon expressly reserve all sovereignty rights. DECLARANT, BY EXECUTION OF THIS DECLARATION, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

6.19. Merger Clause. This Declaration, along with the Grant Agreement constitutes the entire agreement between the Parties on the subject matter hereof. No modification or amendment of this Declaration will bind either Party unless in writing and signed by the Parties (and the necessary approvals obtained), and no waiver or consent will be effective unless signed by the party against whom such waiver or consent is asserted. Such waiver or consent, if given, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Declaration.

6.20. No Limitations on Actions of OHA in Exercise of Its Governmental Powers. Nothing in this Declaration is intended, nor will it be construed, to in any way limit the actions of OHA in the exercise of its governmental powers. It is the express intention of the Parties hereto that OHA will retain the full right and ability to exercise its governmental powers with respect to Declarant, the Project, this Declaration, and the transactions contemplated by this Declaration to the same extent as if it were not a party to this Declaration or the transactions contemplated hereby, and in no event will OHA have any liability in contract arising under this Declaration, or otherwise by virtue of any exercise of its governmental powers.

(Signature Pages Follow)

IN WITNESS WHEREOF, OHA and Declarant have caused this Declaration to be signed by their duly authorized officers on the Effective Date.

OHA:

STATE OF OREGON, acting by and through its
OREGON HEALTH AUTHORITY (OHA)
Health Systems Division

By: _____

STATE OF OREGON)
 : ss
County of Marion)

This instrument was acknowledged before me this ____ day of _____ 2023,
by _____, for and on behalf of the State of Oregon, acting by and through its
_____.

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____

**DECLARANT:
Agreement]**

[use same signature block as was use for Grant

By: _____

[Insert Recipient signer's name]

STATE OF OREGON)
 : ss
County of [insert county name])

This instrument was acknowledged before me this ____ day of _____ 2023,
by _____, for and on behalf of _____ acting by and through its
_____.

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____

EXHIBIT A
Legal Description

Real property in the County of [insert county where property is located], State of Oregon, described as follows:

[Insert legal description].

Situs Address: [insert street, city, state, zip address of where property is located]















Can I operate a Traveler's Accommodation in a residential area?

Operating a vacation rental or traveler's accommodation, from a private residence such as renting a second unit, a cottage, or a room in a home on a short-term basis (less than 30-days), in the City of Ashland requires a Conditional Use Permit (CUP).

Short-term accommodations are prohibited in the Single Family Zones (R-1) however they are permitted in the two multi-family residential zones (R-2 and R-3) with a CUP. A CUP is a land use application processed through the Community Development Department and that requires public noticed to surrounding properties.

General requirements for establishing a Traveler's Accommodation include: the business owner of the accommodation must reside on the property; the primary residence on the site must be 20 years old and the property must be located within 200 feet of an arterial or collector street. Arterial and Collectors are the major streets in town such as Siskiyou, North and East Main, Wimer, Iowa, Wightman, Ashland, Mountain, Beach Street and Morton.

Additionally, Traveler's Accommodations must meet all applicable building, fire and related safety codes at all times and must be inspected by the fire department before occupancy. The business-owner must maintain a city business license and pay all transient occupancy tax. Lastly, advertising for any traveler's accommodation must include the City of Ashland Planning Action number assigned to the land use approval and offering the availability of residential property for use as a traveler's accommodation without a valid Conditional Use Permit approval, current business license, and Transient Occupancy Tax registration is prohibited.

Below are the relevant City of Ashland code sections:

1. 18.2.3.220 Travelers' Accommodations in R-2 and R-3
2. Conditional Use Permits 18.5.4

Categories

- [All Categories](#)
- [About Smokewise](#)
- [Ashland Fiber Network](#)
- [Community Development](#)
- [Curiosity](#)
- [Electric User Tax](#)
- [Emergency Preparedness](#)
- [Fire Department](#)
- [Home - FAQs](#)
- [Municipal Court](#)
- [Outdoor Burn Permit](#)
- [Parks & Recreation](#)
- [Police](#)
- [Public Works - Water Treatment Plant](#)
- [Smoke & Your Health](#)
- [Transient Lodging Tax](#)
- [Utility Billing FAQ](#)
- [Weed Abatement](#)
- [Wildfire Mitigation Project](#)

Select Language ▼

▼ Community Development

[Show All Answers](#)

1. What is the zoning district for my property?
2. Is a permit required to install or replace a fence on my property?
3. Can I remove a tree on my property?
4. Is my property in a floodplain?
5. How can I find out about proposed development in my neighborhood?
6. What uses are allowed in my zoning district?
7. What is needed to install an Electric Vehicle charger at my residence?
8. Are chickens allowed in the City of Ashland?
9. Can I operate a Traveler's Accommodation in a residential area?
10. How do I open a marijuana-related business dispensary?
11. What is an accessory residential unit, and what are the requirements?
12. How do I find information on a specific property?
13. Can I install a deer fence around my property?
14. How many marijuana plants can I grow on my property?
15. What is solar access? What are solar setbacks?

ORDINANCE NO. 3108

**AN ORDINANCE AMENDING CHAPTERS 18.2.2, 18.2.3, 18.4.3, 18.4.7,
AND 18.6.1 OF THE ASHLAND LAND USE ORDINANCE RELATING TO
DEFINITIONS AND ACCESSORY TRAVELERS' ACCOMMODATIONS
IN VARIOUS RESIDENTIAL ZONING DISTRICTS.**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the City Council has determined that preservation of the character of residential neighborhoods is a legitimate and beneficial goal; and

WHEREAS, the City Council has found an increasing number of residential dwellings are being rented to transients on a short-term basis, for less than thirty (30) days; and

WHEREAS the City Council has determined the City has a substantial interest in ensuring that all transient occupancy tax required to be collected and remitted is in fact collected and remitted on a fair and equitable basis; and

WHEREAS, the City Council has determined it is necessary to establish rules and regulations to permit transient lodging within the City that allows a variety of choices, while ensuring the safety and convenience of transients, and to preserve the peace, safety and general welfare of the long-term resident of neighboring properties; and

WHEREAS, the Planning Commission of the City of Ashland conducted on January 30, 2015 a duly advertised public hearing on amendments to the Ashland Municipal Code and Land Use Ordinances concerning accessory travelers' accommodations; and

WHEREAS, the City Council of the City of Ashland, following the close of the public hearing and record, deliberated and conducted first and second readings approving adoption of the Ordinance in accordance with Article 10 of the Ashland City Charter; and

WHEREAS, the City Council of the City of Ashland has determined that in order to protect and benefit the health, safety and welfare of existing and future residents of the City, it is necessary

to amend the Ashland Municipal Code and Land Use Ordinance in the manner proposed, that an adequate factual base exists for the amendments, the amendments are consistent with the comprehensive plan and that such amendments are fully supported by the record of this proceeding.

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

SECTION 1. Chapter 18.2.2 [Base Zones and Allowed Uses] of the Ashland Land Use Ordinance is hereby amended as follows:

18.2.2.030 Allowed Uses

- A. Uses Allowed in Base Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to approval of a conditional use permit. Where Table 18.2.2.030 does not list a specific use and chapter 18.6 does not define the use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of section 18.1.5.040. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. For uses allowed in special districts CM, HC, NM, and SOU, and for regulations applying to the City's overlays zones, refer to part 18.3.
- B. Permitted Uses and Uses Permitted Subject to Special Use Standards.** Uses listed as "Permitted (P)" are allowed. Uses listed as "Permitted Subject to Special Use Standards (S)" are allowed, provided they conform to chapter 18.2.3 Special Use Standards. All uses are subject to the development standards of zone in which they are located, any applicable overlay zone(s), and the review procedures of part 18.5. See section 18.5.1.020.
- C. Conditional Uses.** Uses listed as "Conditional Use Permit Required (CU)" are allowed subject to the requirements of chapter 18.5.4.
- D. Prohibited Uses.** Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use following the procedures of section 18.1.5.040 are prohibited. Prohibited uses are subject to the violations, complaints, and penalties sections in 18-1.6.080, 18-1.6.090, and 18-1.6.100.
- E. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2, additional land use standards or use restrictions apply within overlay zones. An overlay zone may also provide for exceptions to some standards of the underlying zone. For regulations applying to the City's overlays zones, please refer to part 18.3.
- F. Accessory Uses.** Uses identified as "Permitted (P)" are permitted as primary uses and as accessory uses. For information on other uses that are customarily allowed as accessory, please refer to the description of the land use categories in part 18.6 Definitions.
- G. Mixed-Use.** Uses allowed in a zone individually are also allowed in combination with one another, in the same structure or on the same site, provided all applicable development standards and building code requirements are met.
- H. Temporary Uses.** Temporary uses require a Conditional Use Permit under chapter 18.5.4; except as follows:
 - 1. Short-Term Events. The Staff Advisor may approve through Ministerial review short-term temporary uses occurring once in a calendar year and lasting not more than 72 hours including set up and take down. Activities such as races, parades, and festivals that occur on public property (e.g., street right-of-way, parks, sidewalks, or other public grounds)

- require a Special Event Permit pursuant to AMC 12.03.
2. **Garage Sales.** Garage sales shall have a duration of not more than two days and shall not occur more than twice within any 365-day period. Such activity shall not be accompanied by any off-premises advertisement. For the purpose of this ordinance, garage sales meeting the requirements of this subsection shall not be considered a commercial activity.
 3. **Temporary Buildings.** Temporary occupancy of a manufactured housing unit or similar structure may be permitted for a period not to exceed 90 calendar days upon the granting of a permit by the Building Official. Such occupancy may only be allowed in conjunction with construction on the site. Said permit shall not be renewable within a six-month period beginning at the first date of issuance, except with approval of the Staff Advisor.
- I. Disclaimer.** Property owners are responsible for verifying whether a proposed use or development meets the applicable standards of this ordinance.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
A. Agricultural Uses¹										
Agriculture and Farm Use, except Livestock	P	P	P	P	P	P	N	N	N	Animal sales, feed yards, keeping of swine, commercial compost, or similar uses not allowed
Keeping of Bees	S	S	S	S	S	S	S	N	N	
Keeping of Livestock	S	N	N	N	S	S	N	N	N	See Keeping of Livestock and Bees standards in Sec. 18.2.3.160
Keeping of Micro-Livestock	S	S	S	S	S	S	N	N	N	
B. Residential Uses										
Single-Family Dwelling	P	P	P	P	P	P	S	S	N	See Single-Family standards in Sec. 18.2.5.090 Sec. 18.2.3.130 for C-1 zone and E-1 zone Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120 and 18.2.5.070
Accessory Residential Unit	S	S	S	S	S	N	N	N	N	Sec. 18.2.3.040
Duplex Dwelling	S	P	P	P	N	N	S	S	N	Sec. 18.2.3.110 Duplex Dwelling
Manufactured Home on Individual Lot	S	S	S	S	N	N	N	N	N	Sec. 18.2.3.170 and not allowed in Historic District Overlay
Manufactured Housing Development	N	S	CU+S	N	N	N	N	N	N	Sec. 18.2.3.180
Multifamily Dwelling	N	P	P	P	N	N	S	S	N	Sec. 18.2.3.130 for C-1 zone and E-1 zone Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120 and 18.2.5.070
Rental Dwelling Unit Conversion to For-Purchase Housing	N	N	S	S	N	N	N	N	N	Sec. 18.2.3.200

¹ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
B. Residential Uses² (continued)										
Home Occupation	S	S	S	S	S	S	S	S	N	Sec. 18.2.3.150
C. Group Living										
Nursing Homes, Convalescent Homes	CU	CU	CU	CU	CU	CU	N	N	N	See chapter 18.3.3 Health Care Services
Residential Care Home	P	P	P	P	P	P	N	N	N	Subject to State licensing requirements
Residential Care Facility	CU	P	P	P	CU	CU	N	N	N	Subject to State licensing requirements
Room and Boarding Facility	N	P	P	P	N	N	N	N	N	
D. Public and Institutional Uses										
Airport										See chapter 18.3.7 Airport Overlay
Public Parking Facility	N	N	N	N	N	N	P	N	N	
Cemetery, Mausoleum, Columbarium	N	N	N	N	CU	N	N	N	N	
Child Care Facility	CU	CU	CU	CU	CU	CU	P	P	P	Family Child Care Home exempt from planning application procedure pursuant to ORS 329A.440, see part 18.6 for definition Subject to State licensing requirements
Club Lodge, Fraternal Organization	CU	CU	CU	CU	CU	CU	P	CU	CU	
Community Service, includes Governmental Offices and Emergency Services (e.g., Police, Fire); excluding Outdoor Storage	CU	CU	N	N	CU	CU	P	P	P	
Electrical Substation	N	N	N	N	N	N	CU	CU	P	
Hospitals	CU	CU	CU	CU	CU	N	N	N	N	See chapter 18.3.3 Health Care Services
Governmental Offices and Emergency Services (e.g., Police, Fire); excluding Outdoor Storage	CU	CU	N	N	CU	CU	P	P	P	

² KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
D. Public and Institutional Uses (continued) ³										
Mortuary, Crematorium	N	N	N	N	CU	N	P	P	P	
Public Park, Open Space, and Recreational Facility, including playgrounds, trails, nature preserves, athletic fields, courts, swim pools, similar uses	P	P	P	P	P	P	N	N	N	
Public Works/Utilities Storage Yard; includes vehicle and equipment, maintenance, repair	N	N	N	N	N	N	N	P	P	
Recycling Depot	N	N	N	N	N	N	N	P	P	Not allowed within 200 ft of a residential zone
Religious Institution, Houses of Worship	CU	CU	CU	CU	CU	CU	CU	CU	CU	
School, Private (Kindergarten and up)	CU	CU	CU	CU	CU	CU	N	N	N	
School, Public (Kindergarten and up)	P	P	P	P	P	CU	N	N	N	
School, Private College/Trade/Technical School	N	N	N	N	N	N	N	CU	P	
Utility and Service Building, Yard and Structure, Public and Quasi-Public, excluding underground utilities and electrical substations	CU	CU	N	N	CU	CU	P	P	P	Yards not allowed in the C-1 zone
Wireless Communication Facility	CU	CU	CU	CU	CU	CU	P/ CU	P/ CU	P/ CU	Sec.18.4.10
E. Commercial Uses										
Amusement/Entertainment, includes theater, concert hall, bowling alley, miniature golf, arcade; excluding drive-up uses	N	N	N	N	N	N	P	CU	P	
Automotive and Truck Repair, or Service; includes fueling station, car wash, tire sales and repair/replacement, painting, and other repair for automobiles, motorcycles, aircraft, boats, RVs, trucks, etc.	N	N	N	N	N	N	S or CU	S or CU	P	Sec. 18.2.3.050 In C-1 zone, fuel sales and service limited to Freeway Overlay, see chapter 18.3.8 In E-1 zone, fuel sales requires CU permit

³ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
E. Commercial Uses <i>(continued)</i> ⁴										
Automotive Sales and Rental, except within the Historic Interest Area; includes motorcycles, boats, RVs, and trucks	N	N	N	N	N	N	CU	CU	P	Except not allowed within Historic District Overlay
<u>Accessory Travelers' Accommodation</u> <u>(See also Travelers' Accommodation)</u>	<u>N</u>	<u>N</u>	<u>CU+</u> <u>S</u>	<u>CU+</u> <u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Sec. 18.2.3.220</u>
Bakery, except as classified as Food Processing	N	N	N	N	N	N	P	P	P	
Commercial Laundry, Cleaning, and Dyeing Establishment	N	N	N	N	N	N	S	S	P	Sec. 18.2.3.080
Commercial Recreation, includes country club, golf course, swimming club, and tennis club; excluding intensive uses such as driving range, race track, or amusement park	CU	CU	N	N	CU	CU	N	N	N	
Commercial Retail Sales and Services, except Outdoor Sales and Services	N	N	CU+	N	N	N	P	S	S	In R-2 zone, uses limited to personal and professional services, except see Sec. 18.2.3.210 for retail uses allowed in Railroad Historic District In E-1 zone, Retail limited to 20,000 sq ft of gross leasable floor space per lot. In M-1 zone, uses limited to serving persons working in zone
Drive-Up Use	N	N	N	N	N	N	S	N		Per Sec. 18.2.3.100, Drive-Up uses are limited to area east of Ashland St at intersection of Ashland St/Siskiyou Blvd
Hostel	N	N	CU	CU	N	N	CU*	N	N	*In C-1 zone, requires annual Type I review for at least the first three years, after which time the Planning Commission may approve a permanent facility through the Type II procedure
<u>Hotel/Motel</u> <u>(See also Hostel and Traveler's Accommodation)</u>	N	N	N	N	N	N	CU	CU	P	
Kennel (See also Veterinary Clinic)	N	N	N	N	N	N	S	S	CU	No animals kept outside within 200 feet of a residential zone

⁴ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
E. Commercial Uses (continued) ⁵										
Limited Retail Uses in Railroad Historic District	N	CU	CU	CU	N	N	N	N	N	Sec. 18.2.3.210 for Retail Uses Allowed in Railroad Historic District
Lumber Yard and Similar Sales of Building or Contracting Supplies, or Heavy Equipment	N	N	N	N	N	N	N	CU	P	
Medical Marijuana Dispensary	N	N	N	N	N	N	S or CU	S or CU	S	Sec. 18.2.3.190
Nightclub, Bar	N	N	N	N	N	N	S	CU	P	Not allowed within the Historic District Overlay unless located in C-1-D
Office (See also Commercial Services)	N	N	CU	CU	N	N	P	P	P	
Outdoor Storage of Commodities or Equipment associated with an allowed use	N	N	N	N	N	N	CU	CU	P	
Plant Nursery, Wholesale	N	N	CU	CU	N	N	N	N	N	
Self-Service Storage, Commercial (Mini-Warehouse)	N	N	N	N	N	N	N	CU	P	
Traveler's Accommodation (See also Accessory Travelers' Accommodation Hostel and Hotel)	N	N	CU+S	CU+S	N	N	N	N	N	Sec. 18.2.3.220
Veterinary Clinic	N	N	N	N	N	N	P	P	P	
F. Industrial and Employment Uses										
Cabinet, Carpentry, and Machine Shop, and related Sales, Services, and Repairs	N	N	N	N	N	N	N	S/ CU	P	In the E-1 zone, uses within 200 feet of a residential zone require CU permit
Commercial Excavation and Removal of Sand, Gravel, Stone, Loam, Dirty or Other Earth Products	N	N	N	N	CU+S	N	N	N	N	Sec. 18.2.3.070
Concrete or Asphalt Batch Plant	N	N	N	N	N	N	N	N	CU	
Dwelling for a caretaker or watchman	N	N	N	N	N	N	N	CU	CU	

⁵ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

F. Industrial and Employment Uses <i>(continued)</i> ⁶										
Food Products Manufacture/Processing/Preserving, including canning, bottling, freezing, drying, and similar processing and preserving.	N	N	N	N	N	N	S	S	P	In the C-1 zone, manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet In the E-1 zone, See Sec. 18.2.3.140
Manufacture, General	N	N	N	N	N	N	N	P	P	
Manufacture, Light; excluding saw, planning or lumber mills, or molding plants.	N	N	N	N	N	N	S	P	P	Requires assembly, fabricating, or packaging of products from previously prepared materials such as cloth, plastic, paper, cotton, or wood In the C-1 zone, manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet
Outdoor Storage of Commodities or Equipment associated with an allowed use	N	N	N	N	N	N	CU	CU	P	
Television and Radio Broadcasting Studio	N	N	N	N	N	N	N	P	P	
Wholesale Storage and Distribution	N	N	N	N	N	N	N	N	P	Distribution uses within 200 feet of an residential zone limited to 9PM-7AM
Wrecking, Demolition, and Junk Yards	N	N	N	N	N	N	N	N	CU	
G. Other Uses										
Temporary Tree Sales	N	N	N	N	N	N	P	N	N	Allowed from November 1 to January 1
Temporary Use	CU, except uses lasting less than 72 hours are subject to Ministerial review, per Sec. 18.2.2.030.H									

⁶ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

SECTION 2. Chapter 18.2.3 [Special Use Standards] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.2.3.220 Travelers' Accommodations in R-2 and R-3 Zones

Where traveler's accommodations **and accessory travelers' accommodations** are allowed, they require a Conditional Permit under chapter 18.5.4, are subject to Site Design Review under chapter 18.5.2, and shall meet the following requirements. **See definitions of travelers' accommodation and accessory travelers' accommodation in part 18-6.**

A. Travelers' Accommodations and Accessory Travelers' Accommodations. Travelers' accommodations and accessory travelers' accommodations shall meet all of the following requirements.

- 1. An accommodation must meet all applicable building, fire, and related safety codes at all times and must be inspected by the Fire Department before occupancy following approval of a Conditional Use Permit and periodically thereafter pursuant to AMC 15.28.**
- 2. The business-owner of a travelers' accommodation or the property owner of an accessory travelers' accommodation must maintain a City business license and pay all transient occupancy tax in accordance with AMC 4.24 and AMC 6.04 as required.**
- 3. Advertising for an accommodation must include the City planning action number assigned to the land use approval.**
- 4. Offering the availability of residential property for use as an accommodation without a valid Conditional Use Permit approval, current business license and transient occupancy tax registration is prohibited and shall be subject to enforcement procedures.**

B. Travelers' Accommodations. In addition to the standards described above in section 18.23.220.A, travelers' accommodations shall meet all of the following requirements.

- 1B.** The property is located within 200 feet of a boulevard, avenue, or neighborhood collector as identified on the Street Dedication Map in the Comprehensive Plan. Distances to the property from a boulevard, avenue, or neighborhood collector shall be measured via a public street or public alley to a lot line.
- 2A.** During operation of a traveler's accommodation, the property on which the traveler's accommodation is sited must be the primary residence of the business-owner. "Business-owner" shall be defined as a person or persons who own the property and accommodation outright; or who have entered into a lease agreement with the property owner(s) allowing for the operation of the accommodation. Such lease agreement must specifically state that the property owner is not involved in the day-to-day operation or financial management of the accommodation, and that the business-owner has actual ownership of the business and is wholly responsible for all operations associated with the accommodation, and has actual ownership of the business.
- 3C.** The primary residence on the site must be at least 20 years old. The primary residence may be altered and adapted for traveler's accommodation use, including expansion of floor area. Additional structures may be allowed to accommodate additional units, but must be in conformance with all setback and lot coverage standards of the underlying zone.

~~4D.~~ The number of traveler's' accommodation units allowed shall be determined by the following criteria.

~~a1.~~ The total number of units, including the business-owner's unit, shall be determined by dividing the total square footage of the lot by 1,800 square feet. Contiguous lots under the same ownership may be combined to increase lot area and the number of units, but not in excess of the maximum established by this ordinance. The maximum number of accommodation units shall not exceed nine per approved traveler's' accommodation with primary lot frontage on boulevard streets. For traveler's' accommodation without primary lot frontage on a designated boulevard, but within 200 feet of a boulevard, avenue, or neighborhood collector street, the maximum number of units shall be seven. Street designations shall be as determined by the Street Dedication Map in the Comprehensive Plan. Distances to the property from a boulevard, avenue, or neighborhood collector shall be measured via a public street or public alley to a lot line.

~~b2.~~ Excluding the business-owner's unit and the area of the structure it will occupy, there must be at least 400 square feet of gross interior floor space remaining per unit.

~~5E.~~ Each accommodation must have one off-street parking space and the business-owner's unit must have two parking spaces. All parking spaces shall be in conformance with chapter 18.4.3.

~~6F.~~ Only one ground or wall sign, constructed of a non-plastic material, non-interior illuminated, and a maximum of six square feet total surface area is allowed. Any exterior illumination of signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the traveler's' accommodation in accordance with subsection 18.4.4.050.C.1.

~~G. Traveler's accommodations must met all applicable building, fire, and related safety codes at all times and must be inspected by the Fire Department before occupancy following approval of a Conditional Use Permit and periodically thereafter pursuant to AMC 15.28.~~

~~7H.~~ An annual inspection by the Jackson County Health Department shall be conducted as required by the laws of Jackson County or the State of Oregon.

~~I. The business owner must maintain a city business license and pay all transient occupancy tax in accordance with AMC 4.24 and AMC 6.04 as required.~~

~~J. Advertising for any traveler's accommodation must include the City planning action number assigned to the land use approval.~~

~~K. Offering the availability of residential property for use as a traveler's accommodation without a valid Conditional use Permit approval, current business license and Transient Occupancy Tax registration is prohibited and shall be subject to enforcement procedures.~~

~~8L.~~ Transfer of business-ownership of a traveler's' accommodation shall be subject to all requirements of this section and conform with the criteria of this section. Any further modifications beyond the existing approval shall be in conformance with all requirements of this section.

C. Accessory Travelers' Accommodations. In addition to the standards in section 18.2.3.220.A, accessory travelers' accommodations shall meet all of the following requirements.

- 1. The operator of the accessory travelers' accommodation must be the property owner and the property must be the operator's primary residence. The operator must be present during operation of the accessory travelers' accommodation.**
- 2. The property is limited to having one accessory travelers' accommodation unit, covered under a single reservation and consisting of two or fewer bedrooms. Meals are not provided and kitchen cooking facilities are not permitted with an accessory travelers' accommodation, with the exception of kitchen cooking facilities for the primary residence.**
- 3. The total number of guests occupying an accessory travelers' accommodation must not exceed two people per bedroom.**
- 4. The property must have two off-street parking spaces. The total number of guest vehicles associated with the accessory travelers' accommodation must not exceed one.**
- 5. Signs are not permitted in conjunction with the operation of an accessory travelers' accommodation.**

SECTION 3. Chapter 18.4.3 [Parking, Access, and Circulation] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.4.3.040 Parking Ratios

Except as provided by section 18.4.3.030, the standard ratios required for automobile parking are as follows. See also, accessible parking space requirements in section 18.4.3.050.

Table 18.4.3.040 – Automobile Parking Spaces by Use

Use Categories	Minimum Parking per Land Use (Based on Gross Floor Area; fractions are rounded to whole number.)
Residential Categories	
Single Family Dwelling	2 spaces for the primary dwelling unit and the following for accessory residential units. a. Studio units or 1-bedroom units less than 500 sq. ft. -- 1 space/unit. b. 1-bedroom units 500 sq. ft. or larger -- 1.50 spaces/unit. c. 2-bedroom units -- 1.75 spaces/unit. d. 3-bedroom or greater units -- 2.00 spaces/unit.
Multifamily	a. Studio units or 1-bedroom units less than 500 sq. ft. -- 1 space/unit. b. 1-bedroom units 500 sq. ft. or larger -- 1.50 spaces/unit. c. 2-bedroom units -- 1.75 spaces/unit. d. 3-bedroom or greater units -- 2.00 spaces/unit. e. Retirement complexes for seniors 55-years or greater -- One space per unit.
Manufactured Housing	Parking for Manufactured Home on Single-Family Lot is same as Single Family Dwelling; for Manufactured Housing Developments, see sections 18.2.3.170 and 18.2.3.180.

Table 18.4.3.040 – Automobile Parking Spaces by Use	
Use Categories	Minimum Parking per Land Use (Based on Gross Floor Area; fractions are rounded to whole number.)
Performance Standards Developments	See chapter 18.3.9.
Commercial Categories	
Auto, boat or trailer sales, retail nurseries and other open-space uses	1 space per 1,000 square feet of the first 10,000 square feet of gross land area; plus 1 space per 5,000 square feet for the excess over 10,000 square feet of gross land area; and 1 space per 2 employees.
Bowling Alleys	3 spaces per alley, plus 1 space for auxiliary activities set forth in this section.
Chapels and Mortuaries	1 space per 4 fixed seats in the main chapel.
Hotels	1 space per guest room, plus 1 space for the owner or manager; see also, requirements for associated uses, such as restaurants, entertainment uses, drinking establishments, assembly facilities.
Offices	General Office: 1 space per 500 sq. ft. floor area. Medical/Dental Office: 1 space per 350 sq. ft. floor area.
Restaurants, Bars, Ice Cream Parlors, Similar Uses	1 space per 4 seats or 1 space per 100 sq. ft. of gross floor area, whichever is less.
Retail Sales and Services	General: 1 space per 350 sq. ft. floor area. Furniture and Appliances: 1 space per 750 sq. ft. floor area.
Skating Rinks	1 space per 350 sq. ft. of gross floor area.
Theaters, Auditoriums, Stadiums, Gymnasiums and Similar Uses	1 space per 4 seats.
Traveler's Accommodations	1 space per guest room, plus 2 spaces for the owner or manager.
Industrial Categories	
Industrial, Manufacturing and Production, Warehousing and Freight	1 space per 1,000 sq. ft. of gross floor area, or 1 space for each 2 employees whichever is less, plus 1 space per company vehicle.
Institutional and Public Categories	
Clubs, Fraternity and Sorority Houses; Rooming and Boarding Houses; Dormitories	2 spaces for each 3 guest rooms; in dormitories, 100 sq. ft. shall be equivalent to a guest room.
Daycare	1 space per two employees; a minimum of 2 spaces is required.
Golf Courses	Regular: 8 spaces per hole, plus additional spaces for auxiliary uses. Miniature: 4 spaces per hole.
Hospital	2 space per patient bed.
Nursing and Convalescent Homes	1 space per 3 patient beds.
Public Assembly	1 space per 4 seats

Table 18.4.3.040 – Automobile Parking Spaces by Use	
Use Categories	Minimum Parking per Land Use (Based on Gross Floor Area; fractions are rounded to whole number.)
Religious Institutions and Houses of Worship	1 space per 4 seats.
Rest Homes, Homes for the Aged, or Assisted Living	1 space per 2 patient beds or 1 space per apartment unit.
Schools	Elementary and Junior High: 1.5 spaces per classroom, or 1 space per 75 sq. ft. of public assembly area, whichever is greater
	High Schools: 1.5 spaces per classroom, plus 1 space per 10 students the school is designed to accommodate; or the requirements for public assembly area, whichever is greater
	Colleges, Universities and Trade Schools: 1.5 spaces per classroom, plus 1 space per five students the school is designed to accommodate, plus requirements for on-campus student housing.
Other Categories	
Temporary Uses	Parking standards for temporary uses are the same as for primary uses, except that the City decision-making body may reduce or waive certain development and designs standards for temporary uses.

SECTION 4. Chapter 18.4.7 [Signs] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.4.7.060 Residential and North Mountain Sign Regulations

Signs in the residential zones and North Mountain Neighborhood District (NM) shall conform to the following regulations.

A. Special Provisions

1. No sign or portion thereof shall extend beyond any property line of the premises on which such sign is located.
2. Internally illuminated signs shall not be permitted.
3. Nothing contained herein shall be construed as permitting any type of sign in conjunction with a commercial use allowed as a home occupation, as no signs are allowed in conjunction with a home occupation. Signs in residential areas are only permitted in conjunction with a Conditional Use Permit.

B. Type of Signs Permitted

1. Neighborhood Identification Signs. One sign shall be permitted at each entry point to residential developments not exceeding an area of six square feet per sign with lettering not over nine inches in height, located not over three feet above grade.
2. Conditional Uses. Uses authorized in accordance with the chapter 18.5.4 Conditional Use Permits may be permitted one ground sign not exceeding an overall height of five feet and an area of 15 square feet, set back at least ten feet from property lines; or one wall sign in lieu of a ground sign. Such signs shall be approved in conjunction with the

issuance of such Conditional Use Permit. Said signs shall not use plastic as part of the exterior visual effect and shall not be internally illuminated.

3. Retail and Traveler's Accommodation Uses. Retail commercial uses allowed as a conditional use in the Railroad District and traveler's accommodations in residential zones shall be allowed one wall sign or one ground sign that meets the following standards, **except as otherwise prohibited for accessory travelers' accommodations.**
 - a. The total size of the sign is limited to six square feet.
 - b. The maximum height of any ground sign is to be three feet above grade.
 - c. The sign must be constructed of wood and cannot be internally illuminated.
4. North Mountain Neighborhood District (NM) Signs. Signs for approved non-residential uses within the NM-R-1-5, NM-C and NM Civic zones shall be permitted one ground sign not exceeding an overall height of five feet and an area of 15 square feet, set back at least ten feet from property lines; or one wall or awning sign in lieu of a ground sign. Said signs shall not use plastic as part of the exterior visual effect and shall not be internally illuminated.

SECTION 5. Chapter 18.6.1 [Definitions] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Accessory Travelers' Accommodation. Transient lodging in a residential zone where the property owner resides in a dwelling on its own lot and rents no more than two bedrooms under a single reservation to overnight guests on one or more occasions for a period of less than 30 consecutive days.

Group Living. Group living is characterized by the long-term residential occupancy of a structure by a group of people. The size of the group typically is larger than the average size of a household. Group Living structures do not include self-contained units but rather have common facilities for residents including those for dining, social and recreational, and laundry. Residential Care Homes, Residential Care Facilities, and Room and Board Facilities are types of Group Living.

- **Residential Care Home.** A residential treatment or training or adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. (See also, ORS 197.660).
- **Residential Facility.** Residential facilities provide housing and care for 6 to 15 individuals who need not be related as defined under ORS 430.010 (for alcohol and drug abuse programs); ORS 443.400 (for persons with disabilities); and ORS 443.880. Staff persons required to meet State-licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents.
- **Room and Board Facility.** Group living establishment located in a dwelling or part thereof, other than a traveler's accommodation or hotel, where lodging, with or without meals, is provided for compensation for a minimum period of 30 days. Personal care, training, and/or treatment is not provided at a room and board facilities. Examples include dormitories, fraternities, sororities, and boarding houses.

Hotel/Motel. A building or portion thereof designed and used for ~~occupancy of~~ transient lodging individuals in a non-residential zone for a period of less than 30 days, lodged with or without meals and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities. (See ORS 446.310)

Residential or Residential Use. Long-term occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods (i.e., less than 30 days) of time is considered an overnight accommodation for transient individuals. See also, definitions of Accessory Travelers' Accommodation, Hotel/Motel, and Traveler's Accommodation.

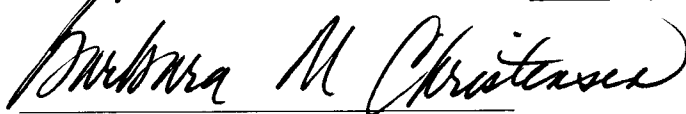
Traveler's Accommodations. Transient lodging in a residential zone having a room, rooms, or dwellings rented or kept for rent to travelers or transients for a charge or fee paid or to be paid for rental or use of such facilities on one or more occasions for a period of less than 30 consecutive days, ~~as is rental of a dwelling, building, or any portion hereof on two or more occasions within a 30-day.~~ See also, definition of accessory travelers' accommodation.

SECTION 6. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 7. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

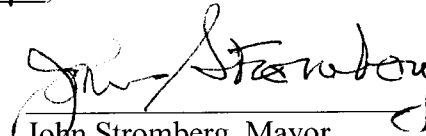
SECTION 8. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 6-7) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 17 day of March, 2015, and duly PASSED and ADOPTED this 7 day of April, 2015.

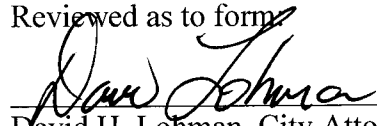


Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 8 day of April, 2015.


John Stromberg, Mayor

Reviewed as to form


David H. Lohman, City Attorney

**IMPACTS ON THE SURROUNDING NEIGHBORHOOD
OF GROUP HOMES FOR PERSONS
WITH DEVELOPMENTAL DISABILITIES**

by

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PLANNING/COMMUNICATIONS

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Jacksonville: City of Jacksonville's Building and Zoning Inspector Dan Griffin; Grojean Realty's Dorothy Matthews and Dorothy Floreth.

Rockford: Department of Community Development's Barb Davidson; Rockford Board of Realtors' Executive Vice-President Donald C. Nyman and Ms. Terri Hall.

Northwestern University Departments of Mathematics and Statistics: Associate Professor Sandy Zabell.

James Greer, who gathered sales data for half the sites and control areas and performed the statistical tests for this study.

Illinois Department of Law Enforcement: Jo Ellyn Reeder, I-UCR Program Manager, Bureau of Identification.

In addition, thanks go to the 74 operators of group homes in Illinois who responded to our crime survey. They constituted 93.6 percent of all group home operators in the state. Such a high response rate enabled us to identify a highly reliable crime rate among persons with developmental disabilities who live in group homes in Illinois.

EXECUTIVE SUMMARY

THE ISSUE

As the nation continues to shift the care of persons with developmental disabilities to family-like settings in group homes located in our cities and villages, there are citizens who fear that group homes will adversely affect their neighborhoods. Most frequently voiced are concerns that a group home will reduce property values, upset neighborhood stability, and jeopardize safety in the surrounding neighborhood.

Most citizens are unaware that the findings of more than 20 studies conducted around the country show that these concerns are unfounded.¹ Motivated by these fears, neighbors of proposed group homes have often opposed efforts to open group homes in the safe, residential neighborhoods in which they belong.

Because none of these studies examines the effects of group homes on Illinois communities, the Governor's Planning Council commissioned this study to:

- (1) Determine what effect, if any, group homes for persons with developmental disabilities have on property values in the surrounding community in different types of municipalities;
- (2) Determine what effect, if any, group homes for persons with developmental disabilities have on neighborhood stability in different types of municipalities; and
- (3) Determine what effect, if any, group homes for persons with developmental disabilities have on safety in the surrounding neighborhood.

PURPOSE OF THIS STUDY

This study provides the concrete evidence local officials need at zoning hearings to identify the actual effects of group homes on the surrounding community. According to the United States Supreme Court, a municipality does not have to conduct its own studies of the impacts of a land use to arrive at conclusions or findings as to what that use's effects are. Instead, it can base its findings of the proposed land use's impacts on studies conducted in other communities.² Consequently, zoning boards can use this study's findings - and those of the other studies on the effects of group homes - to arrive at conclusions as to the impacts a proposed group home would have on the surrounding neighborhood.

1. Appendix D lists the studies on property values and turnover. See infra notes 7 and 8 for studies on crime and safety.

2. See City of Renton v. Playtime Theatres, Inc., 106 S.Ct. 925 (1986).

Similarly, local officials can rely on these findings when they revise their zoning provisions for group homes to comply with the standards set by the Supreme Court that require governments to zone for group homes in a rational manner.³

This study can also be used to fully inform the neighbors of a proposed group home what effects, if any, the proposed group home would actually have on their neighborhood. By presenting this information to prospective neighbors well before any zoning hearing, group home operators can alleviate concerns based on unfounded myths.

FINDINGS AND CONCLUSIONS

This study tracked the sales of 2261 residential properties in the immediate neighborhoods surrounding 14 group home sites and 14 control neighborhoods⁴ to determine whether group homes for persons with developmental disabilities have any effect on the value of neighboring properties or on the rate at which properties are sold in the immediate neighborhood.

The data conclusively showed that:

- (1) Group homes do not affect the value of residential property in the surrounding neighborhood, and
- (2) Group homes do not affect the stability of the surrounding neighborhood.

This study also tracked, over a three year period, the activities of over 2200 persons with developmental disabilities who live in Illinois community residences, including group homes, to identify any criminal activities in which they may have participated.

This exhaustive survey of all operators of residences for persons with developmental disabilities conclusively found that:

The crime rate for persons with developmental disabilities who live in Illinois group homes is substantially lower than the crime rate for the general Illinois population. These group home residents pose no threat to safety in the neighborhood surrounding the group home.

This study's findings comport with those of more than 20 other studies of the impacts of group homes. Together they form one of the most exhaustive bodies of research on any specific land use. They offer sound evidence that group homes do not adversely affect the surrounding community.

3. See City of Cleburne v. Cleburne Living Center, 105 S.Ct. 3249 (1985).

4. Each control neighborhood was similar to the corresponding group home neighborhood except there was no group home in the control neighborhood. For an explanation of the role of control neighborhoods in this study, see infra, the section on methodology.

INTRODUCTION: PURPOSE OF THIS STUDY

As the deinstitutionalization of persons with developmental disabilities continues in Illinois, the need for group homes to house and support these deinstitutionalized individuals grows. But neighborhood opposition to such community residences has all-too-often effectively stymied efforts to locate group homes in the safe, quiet, residential neighborhoods in which they belong.

This opposition stems largely from myths about the impacts group homes and their residents have on property values, neighborhood stability, and neighborhood safety. Because local zoning ordinances in Illinois generally require a group home sponsor to obtain a special use permit before opening the home, the sponsor must win approval from both a zoning board and city council. Both bodies may conduct public hearings at which opponents typically voice their fears and produce a local Realtor or real estate appraiser who, on the basis of mere speculation, testifies that the proposed group home will lower property values and upset the stability of the neighborhood. Proponents may produce their own real estate expert to testify to the contrary, again without any data to back her up.

But neither witness is nearly as credible as the expert who can identify scientifically-sound studies of the effects of a group home on the surrounding neighborhood. At least twenty scientific studies have been conducted.⁵ They all show no adverse effects. Albeit credible and scientifically sound, these studies have not been conducted in Illinois. An Illinois study is necessary to satisfy the objection sometimes made at zoning hearings that, "Sure, that's what they found in Wisconsin and New York. But this is Illinois and we just aren't the same animal!"

This study overcomes this objection by furnishing scientifically-sound data on the actual effects group homes for persons with developmental disabilities have on residential property values, neighborhood stability, and neighborhood safety. Service providers can use this study to reliably answer the questions neighbors of a proposed group home often have concerning the impacts, if any, a group home actually has on the surrounding community. The study can be used by local planners charged with making local zoning ordinance provisions for group homes more rational, and before zoning boards, city councils, and in court by expert witnesses who seek to identify the actual effects, if any, that group homes for individuals with developmental disabilities have on the surrounding neighborhood.

As one local newspaper recently reported, neighbors of a proposed group home also frequently voice concerns over neighborhood safety: "More than a half-dozen Hanover Park homeowners - relieved that a single-family home for mentally retarded adults won't be operated in their neighborhood - told [village] trustees Monday night that they 'feared' for their lives until the real estate deal fell through."⁶

Despite over 66 years of research showing that persons with developmental

5. See infra Appendix D for a list and brief description of these studies.

6. Owner nixes site sale for Clearbrook home, Daily Herald, Feb. 17, 1981, at 1-3.

disabilities are not criminally prone,⁷ many citizens fear that a group home for persons with developmental disabilities could reduce safety in the surrounding neighborhood. It appears that only a 1979 Virginia study had previously examined crime rates among persons with developmental disabilities who lived in group homes.⁸ That study found that persons with a developmental disability are less likely to engage in criminal activity than the general population. The study found a crime rate of 0.8 percent for developmentally disabled individuals living in the community, compared to a crime rate of 4 to 6 percent for the United States as a whole for 1976-1978.

As with the studies on property values and turnover, there has been no study of the effects of group homes on neighborhood safety in Illinois communities. This study fills that gap by identifying the crime rate among persons with developmental disabilities who live in the community and comparing it to the crime rate for the general population in Illinois.

7. The first such study, of 1537 persons with mental retardation released from institutions over a 25-year period, found an 8 percent crime rate among males. Walter Fernald, State Program for the Care of the Mentally Retarded, 3 Mental Hygiene 566 (1919). Five years later Fernald's study of 5000 Massachusetts school children with mental retardation found that less than 8 percent, a relatively low proportion, showed signs of antisocial or troublesome behavior. Walter Fernald, Thirty Years Progress in the Care of the Feeble-minded, 290 Journal of Psycho-Asthenics 206 (1924).

For more recent research, see MacEachron, Mentally Retarded Offenders: Prevalence and Characteristics, 84 American Journal of Mental Disability 165, 175 (1979); D. Biklen and S. Mlinarcik, Criminal Justices, in 10 Mental Retardation and Developmental Disabilities (J. Wortis ed. 1978); D. Biklen, Myths, Mistreatments, and Pitfalls, 45 Mental Retardation 51 (Aug. 1977); Santamour and West, The Mentally Retarded Offender and Corrections 3, 28 (National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Agency, U. S. Dept. of Justice 1977); The Mentally Retarded Citizen and the Criminal Justice System (working papers for Charleston, S.C. Symposium, Santamour ed. Feb. 23-25, 1975).

8. Peggy Gould, Report on the Incidence of Client Crime within Community-Based Programming 7 (1979).

Gould contacted 86 Virginia agencies that operated group homes and other residential arrangements, or that furnished day care support programming for individuals with developmental disabilities. She gathered data on all types of criminal activity by the 4,538 persons living in or participating in these programs. She found a crime rate of 0.8 percent for persons with developmental disabilities who live in the community (in group homes, boarding houses, or on their own) and a rate of 1.6 percent for those who participate only in day programs. *Id.* at 2-3, 7. Only eight of the 1,061 persons living in the community were involved in criminal acts as follows: theft (4), sexual assault (1), drunken and disorderly conduct (2), other (1). *Id.* at 2. Overall, 56 of 4,538 individuals with developmental disabilities participated in criminal activities as follows: theft (13), breaking and entering (3), sexual assault (3), rape (0), disturbing the peace (10), assault with a deadly weapon (3), marijuana possession (1), drunken and disorderly conduct (12), other (15). *Id.* at 6.

Among persons with developmental disabilities, only 56 participated in crimes. On the average, out of 4,538 nonhandicapped persons, 182 to 272 could be expected to engage in criminal activity.

METHODOLOGY

The first two parts of this study examined the effects on residential property values and turnover of 14 of the 164 group homes for persons with developmental disabilities in Illinois. The homes were selected from lists of two group home funding programs - Community Residential Alternatives (CRA) and Home Individual Programs (HIP Homes)⁹ - furnished by several state agencies. The 14 homes were selected to assure that there would be several from each of the following types of municipalities: (1) high density urban neighborhoods in Chicago; (2) suburban municipalities (Glenview, Mount Prospect, and Schaumburg); (3) two sizeable municipalities in rural counties (Rockford and Champaign); and (4) a small municipality in a rural county with no town larger than 25,000 population (Jacksonville).¹⁰ Four of the selected homes are HIP Homes; ten are CRAs.

The third part of this study was a mail survey of all operators of community living arrangements for persons with developmental disabilities in Illinois to determine the rate at which residents of these homes engaged in criminal activities. Several state agencies furnished lists of these operators. A follow-up telephone survey of a random sample of 10 percent of the operators revealed that every one had consulted agency records to complete their survey form.

Property Values

To determine a group home's effect on property values, we compared the mean (average) sales price of all residential ownership property sales¹¹ within a five-block radius of each group home for two years before and two years after the home opened.¹² If the presence of a group home actually reduces property values, the mean sale price after the group home opened would be less than the mean sale price before the group home opened, and this difference in mean sale price would be statistically significant.¹³

9. See infra the section on Neighborhood Safety, on pages 7 and 8, for brief descriptions of the group homes funded under these two programs.

10. See infra Appendix B for a description and data on each group home examined in this study.

11. "Residential ownership property sales" include the sale of single-family houses, duplexes, three-flats, and condominiums. None of the areas studied included mobile home parks. Sales of special properties, such as retirement village units, mobile homes, and empty lots, were excluded so they would not skew the data.

12. The five-block radius was used to assure there would be a sufficient number of sales to produce useable statistics. Because they were expected to be denser and have greater real estate activity, a smaller, four-block radius was used for each of the Chicago and suburban sites. A two-year time frame was used whenever possible. However, some homes opened less than two years ago. A shorter time frame was employed for these homes and corresponding control neighborhoods. For the time frame used for each house, see the individual group home descriptions in Appendix B.

13. See infra Appendix A for an explanation of statistical significance.

In addition, we identified a "control" neighborhood for each group home. A control neighborhood is another neighborhood, in the same city as the group home, that is virtually identical to the neighborhood in which the group home is located. Each of these was selected to match, as closely as possible, one of the group home neighborhoods in terms of age of housing, housing mix, racial composition, and mean price of ownership residential units.¹⁴ The key difference between each group home neighborhood and each matching control neighborhood was the absence of a group home in the control neighborhood. We conducted on-site inspections of the group home and control neighborhoods to confirm their comparability and corroborate the census data. We designated a site in the center of each control neighborhood around which we established the same radius and collected residential property sales for the same time intervals as for the corresponding group home neighborhood.¹⁵ In some cities, we employed the same control neighborhood for each of two group homes because that control neighborhood was the best match for both group home neighborhoods. However, because the time frames studied for each group home differed, we obtained different data for the corresponding control neighborhoods. Consequently, using the same control neighborhoods in conjunction with two group home sites does not confound the data.

Control neighborhoods were identified in case the research found a statistically significant decline in mean sale price for any group home neighborhood after the group home opened. If that had happened, it would have been necessary to compare this difference to the data for the corresponding control neighborhood to see if the control neighborhood, without a group home, experienced a similar statistically significant decline in mean sale price. If it did, then the decline in mean sale price after the group home opened would most likely have been due to a general decline in the market and not due to the group home. If it didn't, then the group home would have been the most probable cause of the decline in property values. However, it is important to note here that in no instance was there a statistically significant decline in property values after a group home opened.¹⁶

Sales data came from two types of sources. We extracted sales prices from the Multiple Listing Service records for the study areas in Rockford, Champaign, and Jacksonville. For the Chicago, Glenview, Morton Grove, and Schaumburg sites, we culled the **Realty Sales Guide** published quarterly by the Law Bulletin Publishing Company. Both of these sources furnish highly reliable samples of nearly all residential property sales.

14. For the four Chicago sites, 1980 census tract data was used, as published in The Local Community Fact Book - Chicago Metropolitan Area, edited by the Chicago Fact Book Consortium (Chicago: Department of Sociology, University of Illinois at Chicago, 1984). Block-by-block data from the 1980 United States Census prepared by the Chicago Area Geographic Information Study of the Geography Department at the University of Illinois at Chicago, was used for the ten other sites.

15. See Appendix C for a list of the control neighborhoods.

16. See *infra* Table 1. The one instance where there was a statistically significant increase (Schaumburg, site S-7) should not be attributed to opening the group home.

The data on mean sale price before and after the dates on which group homes opened, and the applicable statistical tests, appear in tables 1 and 2 in the Findings section of this report.

Neighborhood Stability

The same study and control areas, and time frames, used in the property value part of this study were used here to identify annualized turnover rates to determine if the presence of a group home affected neighborhood stability. If the presence of a group home actually affects the stability of the surrounding neighborhood, the average difference between the change in turnover rates after group homes opened in the 14 group home neighborhoods, and the change in turnover rates in the 14 corresponding control neighborhoods, would be statistically significant. No statistical test could be applied directly to the individual turnover rates because they are rates and not a data sample. However, a Matched Pair Analysis, could be applied to the average difference in the change in turnover rates for the 14 group home and control neighborhoods. This analysis and statistical test are described in Appendix A.

We determined the number of residential ownership properties in each geographic area by examining city records and with on-site inspections when the character of a property was not clear. Annualized turnover rates were determined by first dividing the number of residential ownership property sales by the number of residential ownership properties in the geographic area, and then adjusting this figure to reflect the annualized rate of sales.

The turnover rate data appear in Table 3. The statistical test on the average difference in turnover rates appears in Table 4 in the Findings section of this report.

Neighborhood Safety

To determine whether persons with developmental disabilities who live in the community pose any threat to neighborhood safety, it was necessary to determine their crime rate and compare it to the crime rate of the general population in Illinois. A crime rate is expressed as "x" number of crimes per 1000 persons. If the crime rate for persons with developmental disabilities who live in community residences, including group homes, is higher than that of the general population, then group homes would pose a threat to neighborhood safety. If their crime rate is the same or less than the crime rate for the general population, then group homes pose no threat to neighborhood safety.

To determine the crime rate for persons with developmental disabilities who lived in community residences during 1983, 1984, and 1985, we conducted a mail survey of the 79 agencies that operated these residences in Illinois during those years. Seventy-four of the 79 operators returned completed surveys. This 93.6 percent response rate was so high that the results constitute virtually the entire universe of community residences, including group homes, in Illinois, not just a statistical sample, and make the results highly reliable.

The questionnaire, reproduced in Appendix E, divided the surveyed community residences into three types based on size:

- (1) "Residences for 1 to 3 persons" refer to independent living arrangements like Home Individual Programs (HIP Homes) and Supported Living Arrangements (SLAs) for one to three persons with developmental disabilities.

These residences are usually located in rented apartments where staff assistance ranges from around the clock supervision to periodic visits by support staff for persons with the least disabling conditions.

- (2) "Residences for four to eight persons" include group homes funded as Community Residential Alternatives (CRA) and Intermediate Care Facilities for the Developmentally Disabled (ICF/DD for 15 and fewer). Twenty-four hour staff supervision is the norm. Staff may consist of live-in house parents or be furnished on a shift basis, or a combination thereof.
- (3) "Residences for nine to 20 persons" include Community Living Facilities (CLF) and ICF/DDs for 15 or fewer residents. Twenty-four hour staff supervision is the norm. Staff may consist of live-in house parents or be furnished on a shift basis, or a combination of both.

The survey asked agency staff to examine agency records to identify, by year and type of residence, the number of residents who had been accused of a crime, and the number actually convicted. For this survey "accused of a crime" meant any instance where someone, including another group home resident, claimed a group home resident had committed a crime, whether or not charges were actually filed or the accusation was determined to be unfounded. These figures include complaints to group home operators whether or not a formal criminal charge was made. Unfounded accusations include instances where a "stolen" article turns out to have been merely misplaced, and where in one case, a group home resident who charged another with rape later admitted she fabricated the whole story.

The crime rate for the general Illinois population includes only those crimes reported to the police for which there is some foundation. Reported crimes later learned to be unfounded - such as a theft report where the owner later discovers he had merely misplaced the "stolen" item - are excluded from the crime rate for the general population shown in Table 7 in the Findings section of this report.

In the survey for this report, the number of accusations overstates the actual crime rate because many accusations prove to be unfounded. Consequently, the number of accusations, by itself, is not comparable to the crime rate for the general population. To develop some basis to compare the crime rate of the general population to that of persons with developmental disabilities living in community residences, we also asked the surveyed agencies to report the number of their residents actually convicted of a crime. By itself, the conviction rate understates the actual crime rate because the judicial process does not result in a conviction for every criminal act. The actual Illinois crime rate for persons with developmental disabilities who live in community residences lies somewhere between the rate of convictions (minimum crime rate) and accusations (maximum crime rate). This range is reported in Table 7 in the Findings section of this report.

FINDINGS

Property Values

FINDING:

Property values rose in 79 percent of the neighborhoods with a group home and in 71 percent of the neighborhoods that did not contain a group home.

This finding reflects the data and statistical tests shown in Table 1: Changes in Mean Sales Price Before and After Dates on Which Group Homes Opened.¹⁷ After a group home opened, property values rose in 11 of the 14 group home neighborhoods and in 10 of the 14 corresponding control neighborhoods. Three group home neighborhoods experienced minor decreases in average sale price: MP-6 (-\$614 or -0.67%), J-8 (-\$105 or -0.3%), and C-10 (-\$513 or -1.3%). The decreases in three of the four control neighborhoods that experienced declines were more substantial: CHI-4 (-\$1988 or -3.7%), G-5 (-\$74 or -0.1%), J-8 (-\$5904 or -14.9%), and R-14 (-\$1628 or -3.0%).

By itself, this raw data could lead to an unwarranted conclusion that the presence of a group home generally leads to increased property values. However, the change in before and after mean sale price for each group home neighborhood must still be subjected to one of the most rigorous statistical tests, the student's t-test, to determine whether the difference between the before and after mean sale price is due to chance or to establishing the group home.¹⁸

Applying the t-test, which is explained in Appendix A, Table 1 shows that only one of the differences in before and after mean sale prices is statistically significant. That is, in all but one case, the differences could be due solely to chance. The only statistically significant change was the 21 percent increase in the neighborhood around the Schaumburg group home. This increase was probably due to factors other than opening the group home. The data in Table 1 strongly indicate that opening a group home does not affect property values in the surrounding community.

FINDING:

Changes in mean sale price after group homes opened were unrelated to opening the group homes.

17. Clearly, property values generally rose during the study period. The average mean sale price in the 14 group home neighborhoods rose from \$60,303 to \$63,318 after group homes opened, an average increase of \$3015. The average mean sale price in the 14 control neighborhoods rose \$4099, from \$57,831 to \$61,930. Both increases were statistically significant, indicating that property values really did rise in general. (T-Statistic for group home neighborhoods: -2.19, significance of t-statistic: 0.048; t-statistic for control neighborhoods: -2.63, significance of t-statistic: 0.021. For the difference to be statistically significant, the significance of the t-statistic must be 0.05 or less.) However, Table 2 and the accompanying text reveal that the difference in the magnitude of the increases is statistically insignificant, and therefore due to chance.

18. See Appendix A for a discussion of the Student's t-test.

TABLE 1: CHANGES IN MEAN SALES PRICE BEFORE AND AFTER DATES ON WHICH GROUP HOMES OPENED

GROUP HOME SITE	GROUP HOME NEIGHBORHOODS				CONTROL AREA NEIGHBORHOODS			
	MEAN SALE PRICE		T-Statistic/Before/After Mean Sale Price		Significance of T-Statistic		Difference in mean sale price is statistically insignificant when greater than 0.05.	
	Before Date Group Home Opened	After Date Group Home Opened	Before Date Group Home Opened	After Date Group Home Opened	Before Date Group Home Opened	After Date Group Home Opened	Before Date Group Home Opened	After Date Group Home Opened
CHICAGO SITES								
CHI-1	\$78,948	\$87,873	-1.13		0.265		-1.37	0.175
CHI-2	\$43,579	\$44,476	-0.18		0.860		-1.35	0.181
CHI-3	\$56,368	\$56,897	-0.09		0.925		-0.71	0.482
CHI-4	\$58,051	\$59,110	-0.13		0.898		0.26	0.797
SUBURBAN SITES								
GLENVIEW: G-5	\$84,872	\$88,429	-0.55		0.585		0.01	0.992
MOUNT PROSPECT: MP-6	\$110,705	\$110,091	0.04		0.966		-2.85	0.006
SCHAUMBURG: S-7	\$85,856	\$103,894	-3.47		0.001		-1.24	0.223
DOWNSTATE SITES								
JACKSONVILLE J-8	\$40,720	\$40,615	0.02		0.981		1.60	0.119
J-9	\$35,806	\$36,703	0.01		0.991		-0.80	0.427
CHAMPAIGN C-10	\$37,613	\$37,110	0.27		0.789		-0.82	0.413
C-11	\$60,663	\$61,984	-0.40		0.692		-0.47	0.636
C-12	\$41,374	\$41,987	-0.45		0.657		-1.41	0.162
C-13	\$48,281	\$48,870	-0.48		0.633		-2.04	0.043
ROCKFORD: R-14	\$61,407	\$68,412	-0.90		0.373		-0.58	0.563

This finding reflects the data and statistics shown in Table 1, note 16, and the statistical test in Table 2 below. Table 2 shows the results of comparing the change in mean sale price for each group home neighborhood with the change in mean sale price for its corresponding control neighborhood, for all of the 14 group home-control neighborhood pairs. See Appendix A for a discussion of the methodology. If the average difference is due to chance and not to the presence or absence of a group home, then the average difference would be relatively small and be statistically insignificant. Here the difference of \$1083.71 is relatively small - it's less than 2 percent of any of the mean sale price figures given in note 16. Table 2 shows that the average difference in the change in mean sales price for the 14 group home-control neighborhood pairs was statistically insignificant and, therefore, is not attributable to the absence or presence of a group home.

TABLE 2:
AVERAGE DIFFERENCE IN CHANGE IN MEAN SALES
PRICE FOR EACH GROUP HOME NEIGHBORHOOD COMPARED
TO ITS CORRESPONDING CONTROL NEIGHBORHOOD

Average Difference in Before and After Mean Sale Price for Each Group Home Neighborhood and Its Corresponding Control Neighborhood	T-Statistic	Significance of T-Statistic (Statistically insignificant if greater than 0.05)
- \$1083.71	- 0.52	0.609

Methodology: Matched Pair Analysis. See Appendix A for description.

This data further confirms that opening a group home does not affect property values in the immediate neighborhood around the group home.

Neighborhood Stability

FINDING:

**Opening a group home did not affect turnover rates
in the surrounding community.**

Table 3 shows the number of sales in each group home and corresponding control neighborhood as well as the annual turnover rate of residential ownership property. In the control neighborhoods, the change ranged from -2.3 to +4.7 percentage points. With just two exceptions, the change in turnover rate in the group home neighborhoods ranged from -1.7 to +2.5 percentage points. The two substantial deviations from these minimal changes occurred in Mount Prospect (-9.2 percentage points) and Schaumburg (+15.4 percentage points) where the corresponding control neighborhoods experienced changes in the same directions, albeit not to as great an extent. Given the overall pattern of the data, and the opposite directions of change in Mount Prospect and Schaumburg, there clearly is no cause and effect relationship between opening the group homes in those two suburbs and the change in turnover rates. One can only speculate that the extremes in Mount Prospect and Schaumburg resulted from the unique nature of the marketplace in those two rapidly growing suburbs.

The statistical test in Table 4 confirms this finding. For all of the 14 group home-control neighborhood pairs, Table 4 shows the results of comparing the change in turnover rate for each group home neighborhood to the change in turnover rate for its corresponding control neighborhood. It shows that the

TABLE 3: CHANGES IN TURNOVER RATES BEFORE AND AFTER DATES ON WHICH GROUP HOMES OPENED

GROUP HOME SITE	GROUP HOME NEIGHBORHOODS						CONTROL NEIGHBORHOODS					
	NUMBER OF SALES IN STUDY AREA			NUMBER OF OWNERSHIP RESIDENCES IN STUDY AREA			NUMBER OF SALES IN CONTROL AREA			NUMBER OF OWNERSHIP RESIDENCES IN CONTROL AREA		
	Before Date Group Home Opened	After Date Group Home Opened	ANNUALIZED TURNOVER RATE Before Date Group Home Opened	Before Date Group Home Opened	After Date Group Home Opened	ANNUALIZED TURNOVER RATE Before Date Group Home Opened	Before Date Group Home Opened	After Date Group Home Opened	ANNUALIZED TURNOVER RATE Before Date Group Home Opened	Before Date Group Home Opened	After Date Group Home Opened	ANNUALIZED TURNOVER RATE Before Date Group Home Opened
CHICAGO SITES												
CHI-1	25	37	5.0 %	496	7.5 %	31	53	2.8 %	1122	4.7 %		
CHI-2	24	38	1.9 %	1288	3.0 %	24	62	2.0 %	1221	5.1 %		
CHI-3	28	31	2.7 %	1036	3.0 %	39	27	7.7 %	504	5.4 %		
CHI-4	37	20	3.6 %	1036	1.9 %	26	37	5.2 %	504	7.3 %		
SUBURBAN SITES												
GLENVIEW: G-5	20	21	10.4 %	193	10.9 %	29	41	11.4 %	254	16.1 %		
MOUNT PROSPECT: MP-6	30	11	14.5 %	207	5.3 %	36	34	13.2 %	273	12.5 %		
SCHAUMBURG: S-7	16	55	6.3 %	254	21.7 %	24	34	6.6 %	366	9.3 %		
DOWNSTATE SITES												
JACKSONVILLE J-8	30	30	1.5 %	819	1.5 %	23	34	1.0 %	951	1.4 %		
J-9	32	33	1.6 %	980	1.6 %	30	43	1.5 %	951	2.2 %		
CHAMPAIGN C-10	40	29	2.6 %	782	1.9 %	33	32	2.0 %	819	1.9 %		
C-11	106	115	3.4 %	1546	3.7 %	75	68	3.6 %	1046	3.2 %		
C-12	49	38	5.6 %	440	4.3 %	69	68	3.0 %	1152	3.0 %		
C-13	81	100	3.4 %	1176	4.3 %	59	75	2.6 %	1152	3.3 %		
ROCKFORD: R-14	15	26	1.7 %	429	3.0 %	34	59	2.6 %	664	4.4 %		

average difference in the change in turnover rate for the 14 group home-control neighborhood pairs was statistically insignificant and, therefore, cannot be attributed to the absence or presence of a group home.

TABLE 4:
AVERAGE DIFFERENCE IN CHANGE IN TURNOVER RATES
FOR EACH GROUP HOME NEIGHBORHOOD COMPARED TO
ITS CORRESPONDING CONTROL NEIGHBORHOOD

Mean Difference in Before and After Turnover Rates of Each Group Home Neighborhood Compared to Its Corresponding Control Neighborhood	T-Statistic	Significance of T-Statistic (Statistically insignificant if greater than 0.05)
0.395 %	0.290	0.780

Methodology: Matched Pair Analysis. See Appendix A for description.

Neighborhood Safety

FINDING:

The crime rate for persons with developmental disabilities who live in community residences, including group homes, is substantially lower than the crime rate for the general Illinois population.

This finding is based on the results of this study's statewide survey of criminal activity among persons with developmental disabilities who live in these residences. This study gathered the following data for 1983 through 1985, to determine the crime rate for residents of these group homes and other community residential living arrangements: (1) the number of these residents, (2) the number convicted of a crime, and (3) the number accused of a crime. To determine whether these residences pose any threat to neighborhood safety, this study then compared these crime rates to those of the general state population.

Table 5 identifies the total number of persons living in these residences by size of home for each of the three survey years: 1983, 1984, and 1985.

TABLE 5:
NUMBER OF ILLINOIS COMMUNITY RESIDENCES AND
THEIR RESIDENTS, 1983-1985

Size of Community Residence	Number of This Size Residence Operated in:			Total Number of Different Individuals Who Lived in This Size Residence in:		
	1983	1984	1985	1983	1984	1985
1 to 3 residents	258	321	352	366	486	544
4 to 8 residents	61	97	121	266	536	735
9 to 20 residents	37	46	46	743	873	904
Total by year	356	464	519	1375	1907	2195

Table 6 reports the number of these residents who were convicted of or accused of a crime in each of the three study years by size of community residence.

TABLE 6:
NUMBER OF COMMUNITY RESIDENTS INVOLVED IN CRIMINAL ACTIVITY

Size of Community Residence	Number Convicted of a Crime in:			Number Accused of a Crime in:		
	1983	1984	1985	1983	1984	1985
1 to 3 residents	0	1	7	7	14	17
4 to 8 residents	0	2	1	3	8	19
9 to 20 residents	0	1	1	4	7	4
Total - All Homes	0	4	9	14	29	40

To be meaningful, the raw data in Table 6 must be converted to crime rates, as described earlier in the section on methodology, and compared to the crime rate for the general Illinois population.

For each of the three study years, Table 7 shows the crime rate range, per 1000 persons, for each size of community residence and the crime rate, per 1000 persons, for the general Illinois population.



Pictured above is one of the Downstate group homes examined in this study.

TABLE 7:
CRIME RATE RANGE OF COMMUNITY RESIDENTS AND
CRIME RATE FOR THE GENERAL ILLINOIS POPULATION

Size of Community Residence	Crime Rate by Year Per 1,000 population		
	(First figure represents convictions, second figure represents accusations - see methodology discussion)		
	1983	1984	1985
	C R I M E R A T E R A N G E		
1 to 3 residents	0 - 19	2 - 28	13 - 30
4 to 8 residents	0 - 11	3 - 14	0 - 26
9 to 20 residents	0 - 5	2 - 8	1 - 4
Total - All Residences	0 - 10	2 - 15	3 - 18
Illinois General Population ¹⁹	C R I M E R A T E		
	101	104	112

To place this data in perspective, there were 112 crimes committed for every 1000 people in Illinois in 1985. But for every 1000 persons with a developmental disability who lived in an Illinois group home or other community residence in 1985, there were between 3 (convictions) and 18 (accusations) crimes committed. In fact, the highest crime rate for all homes, 18 per 1000 population, in 1985 was just 16 percent of the crime rate for the general population (112 per 1000 persons) that year!

FINDING:

Persons living in one size of community residence are no more or less likely to commit a crime than persons living in any other size community residence.

We applied the statistical t-test to determine if residents of any one size community residence were more prone to engage in criminal activity. However, as Table 8 shows, the differences in crime rate (based on accusations) between the three types of living arrangements are so small that the differences are statistically insignificant.²⁰

19. Sources of crime statistics for Illinois: **Crime in Illinois, 1983, Crime in Illinois, 1984, and Crime in Illinois, 1985** available from the Illinois Department of Law Enforcement, Division of Support Services (726 S. College, Springfield, IL 62704).

20. T-statistics and significance calculations could not be generated for convictions because the number of convictions was too small.

TABLE 8:
COMPARISON OF CRIME RATES BY SIZE OF COMMUNITY RESIDENCE

Size of Community Residence	Crime Rate in Terms of Accusations, 1983-1985	T-Statistic	Significance of T-statistic
1 to 3 residents	27.0 per 1000 persons	0.244	0.28 Insignificant
4 to 8 residents	19.5 per 1000 persons	0.520	0.09 Insignificant
9 to 20 residents	5.9 per 1000 persons	0.466	0.12 Insignificant

FINDING:

Criminal behavior among persons with developmental disabilities who live in community residences generally involves minor crimes against property, disturbing the peace, or disorderly conduct. Crimes against another person are extremely rare.

Finally, Table 9 identifies all the types of crimes of which group home residents were convicted or accused during the three study years. These figures represent the total for all three types of residences. They cannot be compared directly to the rates for the general population because these categories do not precisely match the categories the state uses. However, in those instances where a comparison could be made, the rates in this study were far below the rates for the general population.



Two of the Chicago group homes studied here appear above.

TABLE 9:
TYPES OF CRIMINAL ACTIVITY AMONG GROUP HOME RESIDENTS

TYPE OF CRIMINAL ACTIVITY	Number Convicted of This Crime in:			Number Accused of This Crime in:		
	1983	1984	1985	1983	1984	1985
Burglary	0	0	0	0	1	0
Theft	0	0	1	9	9	12
Breaking and Entering	0	0	0	0	1	0
Disturbing the Peace	0	0	1	0	3	7
Drunken/disorderly Conduct	0	1	0	1	5	6
Destruction of property	0	0	2	2	2	6
Driving Under the Influence	0	1	2	0	1	2
Public indecency	0	0	1	0	1	1
Sexual Assault/Misconduct	0	0	1	1	2	3
Rape	0	0	0	1	0	0
Arson	0	1	0	0	1	0
Murder	0	0	0	0	1	0
Assault with Deadly Weapon	0	0	0	0	0	2
Assault	0	0	1	0	1	1
Battery	0	1	0	0	1	0
Other	0	0	0	0	0	0



One of the suburban Chicago group homes examined here appears above.

CONCLUSIONS

This study examined neighborhoods surrounding 14 group homes for persons with developmental disabilities in seven different municipalities: four neighborhoods in Chicago; three neighborhoods in Chicago suburbs (Glenview, Mount Prospect, and Schaumburg); one neighborhood in a sizeable city in a predominantly rural county in northern Illinois (Rockford); four neighborhoods in a sizeable city in a predominantly rural county in central Illinois (Champaign); and two neighborhoods in a small municipality in a rural county in central Illinois (Jacksonville).

Based on an examination of the sale price and number of homes sold in 14 neighborhoods, before and after the group home at each neighborhood's center opened, and an examination of the price and number of homes sold in 14 comparable control neighborhoods distinguishable from the corresponding group home neighborhood by the absence of a group home, it is clear that:

Group homes do not affect the value of residential ownership property in the surrounding neighborhood.

and

Group homes do not affect the stability of the surrounding neighborhood.

This study also conducted a comprehensive statewide survey of over 2200 persons with developmental disabilities who live in community residences to identify any criminal activities in which they engaged from 1983 through 1985. This survey covered all community residences ranging in size from 1 to 3 residents to as many as 9 to 20 residents, including group homes for 4 to 8 persons. The survey revealed that the crime rate for persons with developmental disabilities living in community residences is substantially lower than the crime rate for the general Illinois population. This research conclusively shows that:

Persons with developmental disabilities who live in group homes pose no threat to the safety of their neighbors or the surrounding community.

This study's findings and conclusions comport with those of the other studies of group homes described in Appendix D. Together they form one of the most exhaustive bodies of research on any specific land use. They offer convincing evidence that group homes generate no adverse impacts on the surrounding neighborhood.

APPENDIX A: DESCRIPTION OF STATISTICAL TESTS

Student's T-Test

The Student's t-test is a way to answer the question whether the differences between data samples, here the mean sales price before and after a group home opened, is really different or just due to chance. Answering this question requires more than just calculating the average value of each sample. It requires examining how the raw data are distributed around that mean. Are the sale prices more or less similar and closely clustered around the mean, or are there wide variations in sale prices? The t-test measures the number of cases in a sample that fall into the extremes, or "tail," of one distribution (the before sample), and compares it with the number of cases in the tails of the other distribution (the after sample). A substantial discrepancy in the tails of the two samples being compared indicates that the difference in the means of the two samples is unlikely to be due to chance, namely that the difference is statistically significant!

The t-statistic is calculated as follows:

$$t = \frac{\bar{X}_1 - \bar{X}_2}{\sqrt{(S_1^2 / N_1) + (S_2^2 / N_2)}}$$

where:
 $\bar{X}_n$ = mean of sample n
 S_n^2 = variance of sample n
 N_n = size of sample n

The level of significance, the most important finding from the t-test, is found in a standardized table. The significance level reflects the probability that the differences between the two samples could be due to chance alone. For example, when the significance of the t-statistic is .981, there is a 98.1 percent probability that the difference between the before and after mean sale prices in the neighborhood surrounding group home J-8 in Jacksonville (see Table 1) is due solely to chance.

At some point, the probability of the difference being due solely to chance is so low that statisticians accept the difference as statistically significant and probably caused by some factor other than chance. The statisticians place this point at .05 (5 percent). This is called the standard "decision" rule where statisticians interpret the t-test results by assuming there is no significant difference in the means of the two samples (known as the "null hypothesis") unless the level of significance is less than .05. When the level of significance is less than .05, the differences between the two means is considered to be statistically significant and the null hypothesis that there is no significant difference in the means of the two samples, must be rejected. Only then do statisticians assign the cause of the differences between the two means to some factor other than chance.

Table 1 shows that the difference in before and after mean sale price was statistically significant for only 1 of the 14 group home neighborhoods, and 2 of the 14 control neighborhoods (sites MP-6 and C-13). The only statistically significant difference in a group home neighborhood was for Site S-7 (Schaumburg), where the average sales price increased from \$85,860 to \$103,890. However, it is not contended that the presence of the group home caused this significant increase in mean sale price.

Matched Pair Analysis

For tables 2 and 4, Matched Pair Analysis employing a single-sample t-test was used to determine whether the average difference, for the 14 group home-control neighborhood pairs, in the change in mean sale price after the date each group home opened, was due to chance or to opening the group homes (Table 2). The explanation of this methodology also applies to the similar analysis that was conducted for turnover rates (Table 4).

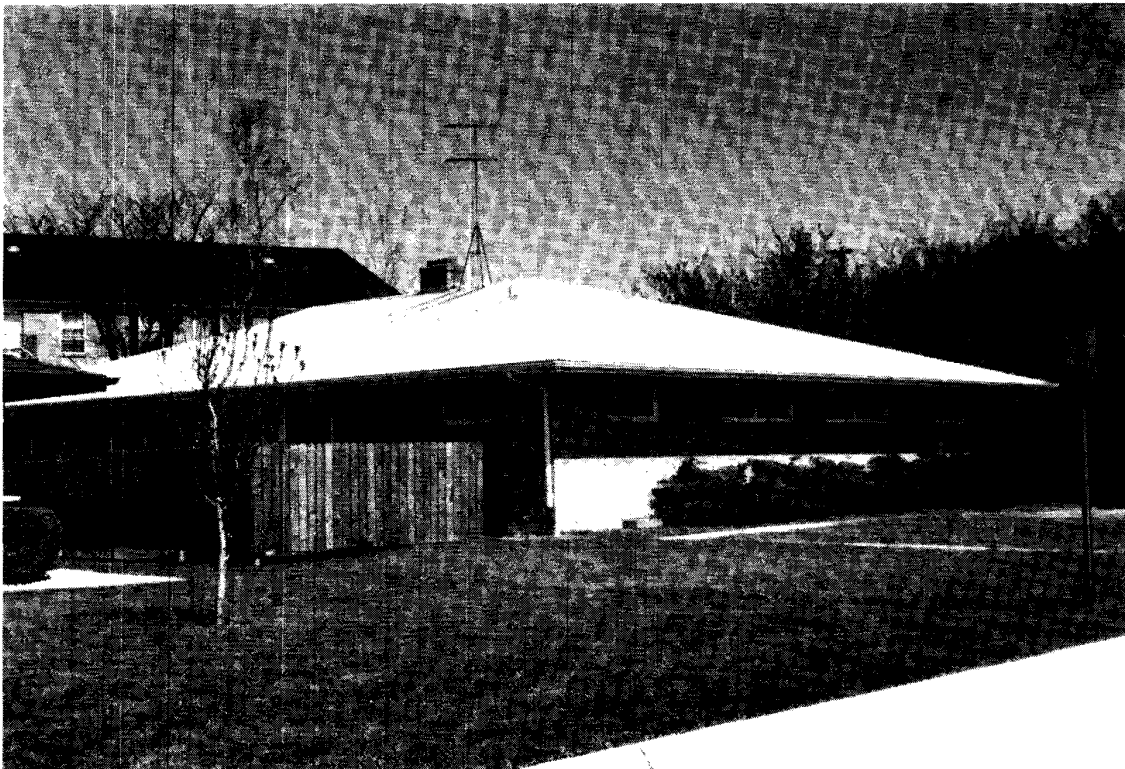
For each of the 14 group home-control neighborhood pairs, the difference in the change in mean sales price after the date each group home opened was calculated as follows:

$(GH^n_{\text{After}} - GH^n_{\text{Before}}) - (C^n_{\text{After}} - C^n_{\text{Before}})$, where:

GH^n_{After} = mean sale price for group home neighborhood "n" after date group home opened

C^n_{Before} = mean sale price for control neighborhood "n" before date group home opened

This set of calculations yielded 14 figures, one for each group home-control neighborhood pair. The average difference in change was derived by adding these 14 figures and dividing by 14. If the average difference in the change in mean sale price between each group home-control neighborhood pair was due to chance, the average difference would be relatively small and relatively close to zero, and therefore statistically insignificant under a t-test. Next, a single-sample t-test was applied to determine whether the average difference was statistically significant.



Pictured above is the Rockford group home examined in this study.

APPENDIX B: GROUP HOMES STUDIED

GROUP HOME SITE: CHI-1, located in Chicago
SPONSORING AGENCY: Augustana Center

NUMBER OF RESIDENTS: 8
POPULATION SERVED: Moderate to severely retarded adults
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: July 12, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	496		1122	
Number of Sales	25	37	31	53
Annualized Turnover Rate	5.0%	7.5%	2.8%	4.7%
PROPERTY VALUES				
Mean Sales Price	\$78,948	\$87,873	\$74,206	\$87,083
Percent Change in Mean Sales Price	+11.3%		+17.4%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

The home is a brick two-flat, located in a quiet, middle-class neighborhood dominated by bungalows and two-flat owner-occupied apartment buildings.

Relations with the few neighbors who know this is a group home have been cooperative.

GROUP HOME SITE: CHI-2, located in Chicago
SPONSORING AGENCY: Victor C. Neumann Association

NUMBER OF RESIDENTS: 4
POPULATION SERVED: Female adult with behavior disorders; moderate level of functioning; age range: 34-50
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: July 23, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	1288		1221	
Number of Sales	24	38	24	62
Annualized Turnover Rate	1.9%	3.0%	2.0%	5.1%
PROPERTY VALUES				
Mean Sales Price	\$43,579	\$44,476	\$43,542	\$51,273
Percent Change in Mean Sales Price	+2.1%		+17.8%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

This brick two-flat is located in a largely lower-middle class neighborhood of small homes and two-flat apartments.

The home moved in without any neighborhood opposition. Neighbors were unaware the group home existed.

GROUP HOME SITE: CHI-3, located in Chicago
SPONSORING AGENCY: Victor C. Neumann Association

NUMBER OF RESIDENTS: 7
POPULATION SERVED: Male and female adults with behavior disorders; low to mid-moderate functioning level; age range: 30-50
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: December 10, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	1036		504	
Number of Sales	28	31	39	27
Annualized Turnover Rate	2.7%	3.0%	7.7%	5.4%
PROPERTY VALUES				
Mean Sales Price	\$56,368	\$56,897	\$55,456	\$62,518
Percent Change in Mean Sales Price	+0.9%		+12.7%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

This wood-framed house is located in a heavily Hispanic, lower-middle class neighborhood. Much of the surrounding property is composed of two-flat and three-flat apartments buildings and small single-family houses.

The operator reports that the home initially faced opposition from Caucasian neighbors because one resident and most of the staff were Black. Since the early weeks following the opening, neighbors have become friendly to the extent of inviting group home residents to visit.

GROUP HOME SITE: CHI-4, located in Chicago
SPONSORING AGENCY: The Center for the Rehabilitation and Training of the Disabled

NUMBER OF RESIDENTS: 8
POPULATION SERVED: Previously institutionalized persons with severe behavior disorders; male and female; age range: 20-40
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: July 12, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	1036		504	
Number of Sales	37	20	26	37
Annualized Turnover Rate	3.6%	1.9%	5.2%	7.3%
PROPERTY VALUES				
Mean Sales Price	\$58,051	\$59,110	\$54,388	\$52,400
Percent Change in Mean Sales Price	+1.8%		-3.7%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

This brick, three-flat's immediate surroundings are dominated by deteriorating houses and three-flat apartment buildings. There is some renovation in the largely Hispanic neighborhood. The home faced no neighborhood opposition.

GROUP HOME SITE: G-5, located in Glenview
SPONSORING AGENCY: Rimland School for Autistic Children

NUMBER OF RESIDENTS: 3
POPULATION SERVED: Autistic adults; age range: 26-32
STAFFING: 24 hour; shift basis; no live-in staff; two staff present during waking hours

DATE OF OCCUPANCY: July 6, 1983
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	193		254	
Number of Sales	20	21	29	41
Annualized Turnover Rate	10.4%	10.9%	11.4%	16.1%
PROPERTY VALUES				
Mean Sales Price	\$84,872	\$88,429	\$104,895	\$104,821
Percent Change in Mean Sales Price	+4.2%		-0.1%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

This brick bungalow is located in a middle- to upper-middle class single-family neighborhood developed during the last 25 years. There's a large park at the south end of the block.

GROUP HOME SITE: MP-6, located in Mount Prospect
SPONSORING AGENCY: Glenkirk

NUMBER OF RESIDENTS: 5
POPULATION SERVED: Female adults aged 21-30; severe and profoundly retarded
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: April 5, 1985
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	207		273	
Number of Sales	30	11	36	34
Annualized Turnover Rate	14.5%	5.3%	13.2%	12.5%
PROPERTY VALUES				
Mean Sales Price	\$110,705	\$110,091	\$91,004	\$105,885
Percent Change in Mean Sales Price	-0.6%		+16.4%	

COMMENTS:

The differences in the before and after mean sale prices for the group home neighborhood were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

This group home is actually a wood and stone two-flat which, in all outward appearance, looks like the other single-family houses in the neighborhood. Newer, medium-sized single-family homes comprise this middle-class neighborhood close to shopping and major thoroughfares.

The home initially faced strong neighborhood opposition which later dissipated. The neighbors are now friendly.

GROUP HOME SITE: S-8, located in Schaumburg
SPONSORING AGENCY: Blare House, Inc.

NUMBER OF RESIDENTS: 4
POPULATION SERVED: Autistic and autistic-like males and females aged 20-27
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: May 14, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 12 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	254		366	
Number of Sales	16	55	24	34
Annualized Turnover Rate	6.3%	21.7%	6.6%	9.3%
PROPERTY VALUES				
Mean Sales Price	\$85,856	\$103,894	\$79,367	\$82,874
Percent Change in Mean Sales Price	+21.0%		+4.4%	

COMMENTS:

The increase in mean sale price after the group home opened is statistically significant. However, it is likely that factors other than opening the group home account for this large increase in value.

This wood-frame and brick bungalow is located in a newer single-family, middle-class neighborhood with mostly good-sized single-family houses. An apartment complex lies one block north of the home.

Those neighbors who were initially upset with the group home opening are reportedly pretty friendly these days.

GROUP HOME SITE: J-8, located in Jacksonville
SPONSORING AGENCY: Jacksonville Association for Retarded Citizens

NUMBER OF RESIDENTS: 2
POPULATION SERVED: Profoundly retarded male adults
STAFFING: Married couple as live-in houseparents

DATE OF OCCUPANCY: August 17, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 19 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	819		951	
Number of Sales	30	30	23	34
Annualized Turnover Rate	1.5%	1.5%	1.0%	1.4%
PROPERTY VALUES				
Mean Sales Price	\$40,720	\$40,615	\$39,496	\$33,592
Percent Change in Mean Sales Price	-0.3%		-14.9%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

Jacksonville has suffered many economic setbacks in the last few years. This home is located in a predominantly middle- and lower-middle class neighborhood of single-family homes of all sizes, generally in pretty good condition. Nearly half the dwelling units were built before 1949.

This wood-framed house is located within four short blocks of the other group home this study examined in Jacksonville, site J-9.

GROUP HOME SITE: J-9, located in Jacksonville
SPONSORING AGENCY: Jacksonville Association for Retarded Citizens

NUMBER OF RESIDENTS: 8
POPULATION SERVED: Profoundly retarded and multiply-handicapped adults
STAFFING: Two staff on duty 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: April 24, 1984
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 23 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	980		951	
Number of Sales	32	33	30	43
Annualized Turnover Rate	1.6%	1.6%	1.5%	2.2%
PROPERTY VALUES				
Mean Sales Price	\$35,806	\$36,703	\$33,510	\$35,702
Percent Change in Mean Sales Price	+2.5%		+6.5%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

Jacksonville has suffered many economic setbacks in the last few years. This home is located in a predominantly middle- and lower-middle class neighborhood of single-family homes of all sizes, generally in pretty good condition. Nearly two-thirds of the dwelling units were built before 1949. In 1980, about 15 percent of the neighborhood was Black.

This large, wood-framed house is located within four short blocks of the other group home this study examined in Jacksonville, site J-8.

GROUP HOME SITE: C-10, located in Champaign
SPONSORING AGENCY: Developmental Services Center of Champaign County

NUMBER OF RESIDENTS: 2
POPULATION SERVED: Moderately to severely retarded children, aged 7-14
STAFFING: Individual houseparent lives-in with relief on weekends

DATE OF OCCUPANCY: April 11, 1983
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 24 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	782		819	
Number of Sales	40	29	33	32
Annualized Turnover Rate	2.6%	1.9%	2.0%	1.9%
PROPERTY VALUES				
Mean Sales Price	\$37,613	\$37,110	\$31,573	\$33,305
Percent Change in Mean Sales Price	-1.3%		+5.5%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

Located across from a public elementary school, this small, wood-framed bungalow is surrounded by similarly modest single-family houses in a lower-middle class, but stable neighborhood. This neighborhood is in the far northwest corner of Champaign, far from the University of Illinois.

There's been no neighborhood opposition to this home.

GROUP HOME SITE: C-11, located in Champaign
SPONSORING AGENCY: Champaign County Association for the Mentally Retarded

NUMBER OF RESIDENTS: 6
POPULATION SERVED: Four women and two men with mild to moderate mental retardation; age range: 23-46
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: May 14, 1982
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 24 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	1546		1046	
Number of Sales	106	115	75	68
Annualized Turnover Rate	3.4%	3.7%	3.6%	3.2%
PROPERTY VALUES				
Mean Sales Price	\$60,663	\$61,984	\$43,629	\$45,654
Percent Change in Mean Sales Price	+2.2%		+4.6%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

The surrounding neighborhood features mostly medium and large single-family houses. Since it's fairly close to the University of Illinois, there is a substantial proportion of rental property in the neighborhood. Slightly more than two-thirds of the dwelling units were built before 1949.

The group home operated in this very large, wood-framed house for several years before the neighbors realized it is a group home. There's been no neighborhood opposition.

GROUP HOME SITE: C-12; located in Champaign
SPONSORING AGENCY: Developmental Services Center of Champaign County

NUMBER OF RESIDENTS: 2
POPULATION SERVED: Moderately retarded adult women
STAFFING: One live-in houseparent

DATE OF OCCUPANCY: April 1, 1982
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 24 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	440		1152	
Number of Sales	49	38	69	68
Annualized Turnover Rate	5.6%	4.3%	3.0%	3.0%
PROPERTY VALUES				
Mean Sales Price	\$41,374	\$41,987	\$51,572	\$57,598
Percent Change in Mean Sales Price	+1.5%		+11.6%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

Located in the extreme southwest corner of Champaign, this small, wood-framed house is surrounded by similar modest single-family houses, nearly all of which are of fairly recent vintage. The 1980 census showed a 15 percent Black population.

There's been no opposition from neighbors. Residents have interacted with neighbors.

GROUP HOME SITE: C-13, located in Champaign
SPONSORING AGENCY: Developmental Services Center of Champaign County

NUMBER OF RESIDENTS: 2
POPULATION SERVED: Moderate to mildly retarded adult women
STAFFING: Married couple as live-in houseparents

DATE OF OCCUPANCY: July 25, 1983
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 24 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	1176		1152	
Number of Sales	81	100	59	75
Annualized Turnover Rate	3.4%	4.3%	2.6%	3.3%
PROPERTY VALUES				
Mean Sales Price	\$48,281	\$48,870	\$52,647	\$61,588
Percent Change in Mean Sales Price	+1.2%		+16.9%	

COMMENTS:

The differences in the before and after mean sale prices for the group home neighborhood were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

Located in the far southwest corner of Champaign, this medium-sized, wood-framed bungalow is surrounded by other modest single-family houses built during the last 30 years. There's been no neighborhood opposition to this home.

GROUP HOME SITE: R-14, located in Rockford
SPONSORING AGENCY: Milestone, Inc.

NUMBER OF RESIDENTS: 8
POPULATION SERVED: Men and women with moderate to low-mild mental retardation, aged 18-30
STAFFING: 24 hour; shift basis; no live-in staff

DATE OF OCCUPANCY: February 14, 1983
NUMBER OF MONTHS STUDIED BEFORE AND AFTER: 24 months

DATA

	Site		Control	
	Before	After	Before	After
TURNOVER				
Number of Units in Area	429		664	
Number of Sales	15	26	34	59
Annualized Turnover Rate	1.7%	3.0%	2.6%	4.4%
PROPERTY VALUES				
Mean Sales Price	\$61,407	\$68,412	\$54,353	\$52,725
Percent Change in Mean Sales Price	+11.4%		-3.0%	

COMMENTS:

The differences in the before and after mean sale prices were not statistically significant. They are due to chance, not to the presence of a group home. See supra tables 1 through 4 and accompanying text.

Situated at the end of a dead end street, on the edge of an area of open space, this spacious brick ranch house is surrounded largely by modest, single-family houses built in the last 25 years. The west end of the neighborhood features larger homes of more recent vintage.

When the home first opened, only the tenants next door opposed it. Subsequent tenants do not object to the group home.

APPENDIX C: LIST OF CONTROL NEIGHBORHOODS

City and Site Number	Address of Center of Control Neighborhood	Months Studied Before/ After Date on Which Group Home Opened
CHICAGO		
CHI-1	4636 N. Western	12/12
CHI-2	2425 S. Springfield	12/12
CHI-3	2912 W. McLean *	12/12
CHI-4	2912 W. McLean *	12/12
CHICAGO SUBURBS		
Glenview G-5	277 W. Beverly	12/12
Mount Prospect MP-6	212 W. Shobonee Trail	12/12
Schaumburg S-7	520 Cambridge Drive	12/12
DOWNSTATE		
Jacksonville J-8	552 S. Hardin *	19/19
J-9	552 S. Hardin *	23/23
Champaign C-10	1404 Sunset	24/24
C-11	502 Columbia	24/24
C-12	1212 Western *	24/24
C-13	1212 Western *	24/24
Rockford R-14	4002 Buckingham	24/24

A five block radius around the group home and around the center of the control neighborhood was used for all downstate sites. A four block radius was used for the Chicago and suburban sites.

* A control area was used twice when it was the best match for two group home study areas in terms of the key characteristics used to select control areas. This practice does not confound findings because the data for each group home - control area pair was collected for different periods of time.

APPENDIX D: STUDIES ON IMPACTS OF GROUP HOMES AND HALFWAY HOUSES ON PROPERTY VALUES AND TURNOVER

I. DEVELOPMENTALLY DISABLED POPULATIONS ONLY

Studies that deal exclusively with group homes for developmentally disabled populations are:

D. Lauber, Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities, (Governor's Planning Council on Developmental Disabilities, Springfield, Illinois, Sept. 1986)(found no effect on property value or turnover due to any of 14 group homes for up to eight residents; also found crime rate among group home residents to be a small fraction of crime rate for general population).

L. Dolan and J. Wolpert, Long Term Neighborhood Property Impacts of Group Homes for Mentally Retarded People, (Woodrow Wilson School Discussion Paper Series, Princeton University, Nov. 1982)(examined long-term effects on neighborhoods surrounding 32 group homes for five years after the homes were opened and found same results as in Wolpert, infra).

Minnesota Developmental Disabilities Program, Analysis of Minnesota Property Values of Community Intermediate Care Facilities for Mentally Retarded (ICF-MRs) (Dept. of Energy, Planning and Development 1982)(no difference in property values and turnover rates in 14 neighborhoods with group homes during the two years before and after homes opened, as compared to 14 comparable control neighborhoods without group homes).

Dirk Wiener, Ronald Anderson, and John Nietupski, Impact of Community-Based Residential Facilities for Mentally Retarded Adults on Surrounding Property Values Using Realtor Analysis Methods, 17 Education and Training of the Mentally Retarded 273 (Dec. 1982)(used realtors' "comparable market analysis" method to examine neighborhoods surrounding eight group homes in two medium-sized Iowa communities; found property values in six subject neighborhoods comparable to those in control areas; found property values higher in two subject neighborhoods than in control areas).

Montgomery County Board of Mental Retardation and Developmental Disabilities, Property Sales Study of the Impact of Group Homes in Montgomery County (1981)(property appraiser from Magin Realty Company examined neighborhoods surrounding seven group homes; found no difference in property values and turnover rates between group home neighborhoods and control neighborhoods without any group homes).

Martin Lindauer, Pauline Tung, and Frank O'Donnell, Effect of Community Residences for the Mentally Retarded on Real-Estate Values in the Neighborhoods in Which They are Located (State University College at Brockport, N.Y. 1980)(examined neighborhoods around seven group homes opened between 1967 and 1980 and two control neighborhoods; found no effect on prices; found a selling wave just before group homes opened, but no decline in selling prices and no difficulty in selling houses; selling wave ended after homes opened; no decline in property values or increase in turnover after homes opened).

Julian Wolpert, Group Homes for the Mentally Retarded: An Investigation of Neighborhood Property Impacts (New York State Office of Mental Retardation and Developmental Disabilities Aug. 31, 1978)(most thorough study of all; covered 1570 transactions in neighborhoods of ten New York municipalities surrounding 42 group homes; compared neighborhoods surrounding group homes and comparable control neighborhoods without any group homes; found no effect on property values; proximity to group home had no effect on turnover or sales price; no effect on property value or turnover of houses adjacent to group homes).

Burleigh Gardner and Albert Robles, The Neighbors and the Small Group

Homes for the Handicapped: A Survey (Illinois Association for Retarded Citizens Sept. 1979)(real estate brokers and neighbors of existing group homes for the retarded, reported that group homes had no effect on property values or ability to sell a house; unlike all the other studies noted here, this is based solely on opinions of real estate agents and neighbors; because no objective statistical research was undertaken, this study is of limited value).

Zack Cauklins, John Noak and Bobby Wilkerson, Impact of Residential Care Facilities in Decatur (Macon County Community Mental Health Board Dec. 9, 1976)(examined neighborhoods surrounding one group home and four intermediate care facilities for 60 to 117 persons with mental disabilities; members of Decatur Board of Realtors report no effect on housing values or turnover).

II. STUDIES COVERING ADDITIONAL SPECIAL POPULATIONS

Several studies covered the effects of group homes for persons with developmental disabilities and for other special populations, as well as halfway houses and foster care homes (other populations studied appear in parentheses). Using the same types of research techniques employed in the first set of studies above, these all found that the group homes and other residential facilities they examined had no effect on property values or turnover.

Suffolk Community Council, Inc., Impact of Community Residences Upon Neighborhood Property Values (July 1984)(compared sales 18 months before and after group homes opened in seven neighborhoods and comparable control neighborhoods without group homes; found no difference in property values or turnover between group home and control neighborhoods).

Metropolitan Human Services Commission, Group Homes and Property Values: A Second Look (Aug. 1980)(Columbus, Ohio)(halfway house for persons with mental illness; group homes for neglected, unruly male wards of the county, 12-18 years old).

Christopher Wagner and Christine Mitchell, Non-Effect of Group Homes on Neighboring Residential Property Values in Franklin County (Metropolitan Human Services Commission, Columbus, Ohio, Aug. 1979)(halfway house for persons with mental illness; group homes for neglected, unruly male wards of the county, 12-18 years old).

Tom Goodale and Sherry Wickware, Group Homes and Property Values in Residential Areas, 19 Plan Canada 154-163 (June 1979)(group homes for children, prison pre-parolees).

City of Lansing Planning Department, Influence of Halfway Houses and Foster Care Facilities Upon Property Values (Lansing, Mich. Oct 1976)(adult ex-offenders, youth offenders, ex-alcoholics).

One study grouped residential homes for all populations together with nonresidential human service facilities (such as job counseling, nursing homes, adult education and day care, and drug detoxification services). Using this broader group of human service facilities, it found that in Oakland, California, these facilities for adults had an adverse effect on property values in the nonwhite housing submarket, but a positive effect in the white submarket. It found that these facilities for juveniles adversely affected property values in the white submarket, but had a positive effect in the nonwhite submarket. Stuart Gabriel and Jennifer Wolch, Spillover Effects of Human Service Facilities in a Racially Segmented Housing Market 19 (March 1983)(available from Wolch, University of Southern California, School of Urban and Regional Planning, Los Angeles). This study is unique, not only for its findings, but for its methodology of segmenting the housing market by race.

The authors' methodology is radically different from that of the other

studies noted here. The other studies used a number of techniques which basically compared the sales prices (or a reasonable surrogate) for houses within a specific radius of a group home both before and after the group home opened. In addition, most of the other studies also compared these figures to sales figures for control areas with relevant characteristics nearly identical to the areas surrounding the group homes under study, except that there was no group home in the control areas (the more vigorous studies used regression analysis to control for extraneous variables). Gabriel and Wolch did not make these kinds of comparisons. Instead they examined property sales at a single point in time. The value of their study is to show that there is a **possibility** that human service facilities may have different effects in white and nonwhite housing submarkets. But because the study mixes residential and nonresidential facilities, its application to the question at hand - the effect of group homes on property values - is highly problematic.

III. STUDIES NOT COVERING HOMES FOR DEVELOPMENTALLY DISABLED

A third group of studies examined the effects of group homes and halfway houses only for populations that neighbors might view as more threatening than persons with developmental disabilities, such as prison pre-parolees, drug addicts, alcoholics, juvenile delinquents, and former mental patients. None of these studies could find any effect on property values or turnover.

Michael Dear and S. Martin Taylor, Not on Our Street 133-144 (1982)(group homes for persons with mental illness have no effect on property values or turnover).

John Boeckh, Michael Dear, and S. Martin Taylor, Property Values and Mental Health Facilities in Metropolitan Toronto, 24 The Canadian Geographer 270 (Fall 1980)(residential mental health facilities have no effect on the volume of sales activities or property values; distance from the facility and type of facility had no significant effect on price).

Michael Dear, Impact of Mental Health Facilities on Property Values, 13 Community Mental Health Journal 150 (1977)(persons with mental illness; found indeterminate impact on property values).

Stuart Breslow, The Effect of Siting Group Homes on the Surrounding Environs (1976)(unpublished)(although data limitations render his results inconclusive, the author suggests that communities can absorb a "limited" number of group homes without measurable effects on property values).

P. Magin, Market Study of Homes in the Area Surrounding 9525 Sheehan Road in Washington Township, Ohio (May 1975)(available from County Prosecutors Office, Dayton, Ohio).

Eric Knowles and Ronald Baba, The Social Impact of Group Homes: a study of small residential service programs in first residential areas (Green Bay, Wisc. Plan Commission June 1973)(disadvantaged children from urban areas, teenage boys and girls under court commitment, infants and children with severe medical problems requiring nursing care, convicts in work release or study release programs).

FOR AN UPDATED BIBLIOGRAPHY OF STUDIES

The Mental Health Law Project maintains an frequently updated annotated bibliography of studies on the impacts of group homes and halfway houses. Write to the Mental Health Law Project, Suite 800, 2021 L Street, NW, Washington, DC 20036-4909 (phone: 202/467-5730) for a copy. For ten cents a page, the MHLP will furnish a photocopy of any studies it has.

APPENDIX E: CRIMINAL INVOLVEMENT SURVEY

Please complete all items. Type or print legibly.
Please return the completed survey by February 26, 1986 to:
Planning/Communications • 1035 Dobson • Evanston, IL 60202

ALL QUESTIONS REFER ONLY TO THE YEARS 1983, 1984, 1985

ITEM 1

We need to know who you are so we can reach you for clarification and follow-up. Remember our data will be reported in gross figures so your agency cannot be identified in our final report.

- 1a) Sponsoring Organization: _____
1b) Name of person completing this survey: _____
1c) Phone number of person completing this survey: Area Code: ____ - _____
1d) City of Sponsoring Organization: _____

ITEM 2

In order to analyze our data, we need to know a little about the types of residential facilities you operate and the number of people who lived in them during each year.

TYPES OF FACILITIES:

"Independent Living Facilities" refer to living arrangements like HIP Homes and SLAs for 1 to 3 persons with developmental disabilities.

"Group Homes" for eight or fewer residents and for nine to 20 residents include CLFs, CRAs, ICF/DDs, SNFs and similar licensed group homes.

Type of Residential Facility	Number of This Kind of Facility Your Organization Operated in:			*Total Number of Individuals Who Lived in This Kind of Facility in:		
	1983	1984	1985	1983	1984	1985
Independent Living Facility [1-3 DD residents]						
Group Home (CRA) [8 or fewer DD residents]						
Group Home [9 to 20 DD residents]						

* Here we're asking for the total number of different individuals who lived in each of these types of facilities during each of the three years. For example, suppose you operate a group home for six persons. If, during the course of 1983, nine different persons with developmental disabilities lived in the home, nine is the total number of individuals who lived in this kind of facility in 1983.

- Survey continued on other side -

ITEM 3

We need to know how many residents of your residential facilities, if any, were involved in criminal activity. For each type of residential facility, please indicate the number of residents accused of a crime and the number convicted of a crime for each year.

For purposes of this survey, accused means any accusation even if charges were not filed.

If zero, fill in a zero - do not leave any boxes blank.

Type of Residential Facility	Number <u>Accused</u> of a Crime in:			Number <u>Convicted</u> of a Crime in:		
	1983	1984	1985	1983	1984	1985
Independent Living Facilities						
Group Homes [8 or fewer]						
Group Homes [9 - 20]						

ITEM 4

We need to know the kinds of crimes in which residents of the different types of residential facilities were involved each year.

SPECIAL INSTRUCTIONS:

Use the first table for residents of Independent Living Facilities only. The second table is for residents of Group Homes (CRA) for eight or fewer persons. The third table is for residents of Group Homes for nine to 20 persons.

If zero, fill in a zero - do not leave any boxes blank.

If you are uncertain of the definition of a particular crime, place a question mark in the **left hand margin** next to it and we will call you to explain it.

* If the same individual committed a type of crime more than once, count each offense as a separate offense. For example, if the same person was accused of theft three times in 1983, that counts as three thefts.

Tables for answering this item appear on the next two sheets.

FOR RESIDENTS OF INDEPENDENT LIVING FACILITIES ONLY

CRIME	*Number <u>Accused</u> of This Crime in:			*Number <u>Convicted</u> of This Crime in:		
	1983	1984	1985	1983	1984	1985
a) Murder						
b) Assault with a Deadly Weapon						
c) Burglary						
d) Theft						
e) Breaking and Entering						
f) Sexual Assault						
g) Rape						
h) Disturbing the Peace						
i) Drug Abuse						
j) Marijuana Possession						
k) Drunken/disorderly Conduct						
l) Destruction of property						
m) Other (specify):						

FOR RESIDENTS OF GROUP HOMES FOR 8 OR FEWER RESIDENTS ONLY						
CRIME	*Number <u>Accused</u> of This Crime in:			*Number <u>Convicted</u> of This Crime in:		
	1983	1984	1985	1983	1984	1985
a) Murder						
b) Assault with a Deadly Weapon						
c) Burglary						
d) Theft						

- Table continued on other side -

TABLE FOR GROUP HOMES OF 8 OR FEWER - CONTINUED

CRIME	*Number <u>Accused</u> of This Crime in:			*Number <u>Convicted</u> of This Crime in:		
	1983	1984	1985	1983	1984	1985
e) Breaking and Entering						
f) Sexual Assault						
g) Rape						
h) Disturbing the Peace						
i) Drug Abuse						
j) Marijuana Possession						
k) Drunken/disorderly Conduct						
l) Destruction of property						
m) Other (specify):						

RESIDENTS OF GROUP HOMES FOR 9 TO 15 RESIDENTS ONLY

CRIME	*Number <u>Accused</u> of This Crime in:			*Number <u>Convicted</u> of This Crime in:		
	1983	1984	1985	1983	1984	1985
a) Murder						
b) Assault with a Deadly Weapon						
c) Burglary						
d) Theft						
e) Breaking and Entering						
f) Sexual Assault						
g) Rape						
h) Disturbing the Peace						

- Table continued on next page -

APPENDIX E-4

TABLE FOR GROUP HOMES FOR 9 TO 15 - CONTINUED

CRIME	*Number <u>Accused</u> of This Crime in:			*Number <u>Convicted</u> of This Crime in:		
	1983	1984	1985	1983	1984	1985
i) Drug Abuse						
j) Marijuana Possession						
k) Drunken/disorderly Conduct						
l) Destruction of property						
m) Other (specify):						

THANK YOU FOR YOUR CANDID RESPONSES TO THIS SURVEY.
PLEASE RETURN THIS SURVEY IN THE ENCLOSED PRE-ADDRESSED
ENVELOPE (YOU MUST ADD POSTAGE) BY FEBRUARY 26, TO:

Planning/Communications • 1035 Dobson • Evanston, IL 60202

Effects of Group Homes on Neighborhood Property Values

Carey S. Ryan and Ann Coyne

Abstract: Several indicators of property values were examined to determine the effect that group homes have on property values. Data were collected for 525 houses which sold around 13 group homes. Independent variables were the time of sale (before or after group home occupancy) and distance from the group home. No significant differences were found in length of time on the market and sale/list ratios. Exceptionally high sale prices in certain areas are believed to have accounted for significant differences in list and sale prices. The results support the notion that group homes do not adversely affect neighborhood property values.

The Eastern Nebraska Community Office of Retardation (ENCOR) was formed in 1970 to provide community-based services to persons with mental retardation. Their services include residential services which are provided through the establishment of small group homes in which individuals with mental retardation live with staff support.

Group homes located in two of the five counties served by ENCOR were selected for the Study. Douglas County (population approximately 411,000) includes the city of Omaha—a metropolitan area of Nebraska. Omaha is described as a medium sized service center. A substantial proportion of its economic activity stems from agriculture.

Sarpy County (which is adjacent to Douglas County) is the location of the Strategic Air Command (SAC)—Offutt Air Force Base. SAC is an important part of the economy in Sarpy County and the leading employer in the metropolitan area.

The stability of the population in the Omaha metropolitan area is comparable to cities of similar size in the United States.

Approximately 12% of the population is black, which is about the national average. About 2.1% is Chicano according to documented reports (D. Dimartino, University of Nebraska at Omaha Center for Applied Urban Research, personal communication, February, 1985).

The purpose of ENCOR's residential services is to prepare children and adults with mental retardation for the independent use of the same residential environments and other community resources and settings available to all citizens. Some individuals live in a group of two or three. Others live in their own homes or apartments

with friends or alone. Skills and abilities determine the level of staff support. In some cases, it may be 24-hour supervision. In others, staff persons may drop in for only an hour or two each week.

ENCOR maintains residences within neighborhoods such that they are not landmarks. Neither the residential facilities nor their residents are intended to be more conspicuous than any other segment of their community.

Residential services, like all other ENCOR services, are based on the theory of normalization. That is, they are based on the belief that all people, whether or not they have mental retardation, should have the opportunity to enjoy the same environment and have access to the same resources. Indeed, such opportunities are essential if people are to grow and learn to live as part of the larger society.

There are two aspects involved in living as part of the larger society. One is the physical setting or integration of the person's home. The other is social integration or the day-to-day interaction with other individuals in the community including neighbors, merchants, etc. Exclusion by the community can be a major barrier facing providers and consumers of community-based residential services. The community may exclude persons with mental retardation by blocking their entrance into the community through zoning laws, city ordinances, and various informal methods such as neighborhood and community pressure (Aviram & Segal, 1973). Thus, neighborhood and community acceptance is an important part of assisting persons with mental retardation to live as part of the larger society.

Before making a decision to rent a house in which to provide residential services to persons

with mental retardation. ENCOR staff persons routinely conduct neighborhood surveys. Staff persons inform the neighbors of the agency's programs and goals, provide some reading material, answer questions, and solicit their opinion on having a residence in their neighborhood. i.e., favorable, no opinion, or unfavorable. Their responses are only one factor on which the decision to rent a house is made.

One area of concern to potential and current neighbors of ENCOR residences and to the agency, is the effect that group homes have on neighborhood property values. Such community concerns can be a major barrier towards the physical and social integration of persons with mental retardation. This study examines several measures of property values to determine what effects, if any, the presence of ENCOR group homes have on neighborhood property values. Such research should prove useful as a source of information to the agency and property owners.

Literature Review

Several studies (Caulkins, Noak & Wilkerson, 1976; City of Lansing Planning Department, 1976; Dear, 1977; Developmental Disabilities Program, 1982; Knowles & Baba, 1973; Wiener, Anderson & Nietupski, 1982) examining various measures of property values have revealed no evidence that neighborhood values are adversely affected by the presence of a group home.

A study issued by the Metropolitan Human Services Commission (Wagner & Mitchell, 1980) in Columbus, Ohio examined real estate transactions which occurred before and after the location of group homes serving a variety of populations including developmentally disabled women. No statistical differences were found between the before and after measures of property values. Indicators of value used were the time that a parcel remained on the market and sale price as a percentage of list price. A quick sale was assumed to be more beneficial to the seller so that a better investment could be made and the inconvenience involved in the sales process could be eliminated. The price ratio was used to permit comparisons of different real properties and to decrease the biasing effects of time and history.

According to Wagner and Mitchell (1980), the study was criticized for defining location date as the purchase date of the facilities studied. That is, it was suggested that property values would not be affected by the presence of a group home until the neighborhood became fully aware of the

intended use of a house as a group home. Thus, the study was replicated and the date of occupancy was used to define the establishment of the group home.

Again, the results showed that group homes did not adversely affect neighborhood property values. Three homes showed no statistically significant differences in the before and after measures for the two variables. For two homes, there was a statistically significant difference such that the measures after the date of occupancy were more positive than the before measures for at least one of the variables.

Other researchers have reported that property values in communities with group homes had the same increase (or decrease) in market prices as other similar neighborhoods; that the close proximity of neighboring properties to a group home did not significantly affect their market values; that adjacent properties did not experience property value declines; and that the establishment of the group homes did not generate a higher degree of neighboring property turnover than in other similar neighborhoods (Mambort Thomas & Few, 1981; Wolpert, 1978).

In another study, property transactions were examined for houses located in the immediate area of a group home, those located on the same street, and those located in the same block. An analysis of turnover rates, mean selling prices, mean annual rates of appreciation, the mean number of days properties were listed before selling, and the actual selling prices as percentages of the asking prices showed no evidence that property values or marketability were adversely affected by the establishment or presence of group homes in residentially zoned neighborhoods (Wickware & Goodale, 1981).

Thus, researchers examining a number of possible indicators of property values have found no evidence that the presence of group homes affects property values. The methodology has included the analysis of real estate transactions occurring before the establishment of group homes with those occurring after, the use of comparison neighborhoods or a matched control group, and the analysis of real estate transactions for houses located at progressively further distances from the group home.

Method

Overview

In order to determine the effects that group homes serving individuals with mental retardation

tion have on *neighborhood* property values, property transactions occurring during a period if time both before and after the occupancy dates of group homes were analyzed. In addition, property transactions were analyzed in relation to their distance from the group homes. Thus, effects, if any, can be seen as occurring after the establishment of the group homes and/or as a result of proximity to the group homes (diminishing as distance from the group home increases).

Group Home Selection

Thirteen group homes administered by ENCOR were selected for the study. The following criteria were used in the selection process: (1) 24-hour staff coverage; (2) occupancy by two or more clients; (3) location in Douglas or Sarpy County, Nebraska; and (4) location in a primarily non-rental neighborhood (e.g., not located in an apartment complex). Facilities established prior to 1978 were not included because of a lack of available information.

Data Collection

Data were collected from the *Omaha Statistical Marketing Analysis* (Multiple Listing Service) and included the following: (1) the date each house sold; (2) the amount of each transaction; (3) the list price of each house sold; (4) the number of days each house was on the market; and (5) the address of each house sold. Data was also collected from the 1980 Census on Population and Housing on median housing value for each group home neighborhood. Data did not include those houses sold by the owner (which, according to a local real estate agent are minimal) and those houses that never sold and went off the market as this information was not available.

Data were collected on a total of 525 homes for the period of time from one year before ($n = 198$) to three years after ($n = 327$) the date of occupancy for each group home. Occupancy dates were used rather than dates of leases as it is believed that it is at occupancy when neighbors become aware that individuals with mental retardation have moved into the homes. It should be noted that neighborhood surveys (the soliciting of neighbors' opinions prior to renting) were begun by ENCOR only in July of 1980. Thus, for two of the thirteen group homes, neighbors would have become aware of the potential establishment of a group home in their neighborhood

prior to the date of occupancy. For the other eleven group homes neighbors would not have known.

Data were collected for those homes that sold within 1200 feet of each group home. Each house was determined to be in a certain zone with reference to the group home, i.e., Zone 1 included houses located within 400 feet of the group home. Zone 2 included those located between 400 and 800 feet of the group home, and Zone 3 included those located between 800 and 1200 feet of the group home. In cases where the dividing line ran through a house, the house was included in the zone nearest to the group home.

Of the 537 houses located in the Zone 1 areas around the group homes, 111 sales took place. Of the 1,118 houses in the Zone 2 areas, 246 sales took place. Finally, of the total 1,381 houses located in the Zone 3 areas, 225 sales took place.

Turnover rates were calculated for each zone of each group home based on the number of property transactions that occurred and the total number of houses in each zone. The latter information was derived from aerial photographs which were obtained from the Omaha and Bellevue (Nebraska) City Planning Departments. Rates were calculated separately for before and after the group home occupancy dates as well as by zone.

Sale price/list price percentages were individually calculated for each transaction.

Results and Discussion

Market Time

A two-way analysis of variance indicated there were no statistically significant differences in the number of days that houses were on the market before being sold. This held true for both independent variables—distance from the group home and whether a house sold before or after the occupancy date of the group home. There was also no significant interaction.

Turnover Rate

Turnover for homes before and after the establishment of the group homes was analyzed using chi-square. The chi-square $\chi^2 = 7.82$, $df = 1$ was significant at the .05 level. Turnover after the establishment of the group homes was significantly lower than turnover before. While this most likely represents a slow-down in the housing

market, it also indicates that presence of a group home does not increase turnover.

It can be concluded that the presence of a group home in a neighborhood did not adversely affect (i.e., cause an increase in) the number of property transactions in a neighborhood.

List Price, Sale Price, and

Sale/List Rates

Two-way analyses of variance revealed a significant interaction effect of distance from the group home and time of sale (i.e., whether the house sold before or after the occupancy date of the group home) on both list and sale prices ($F = 3.33, 2/254 \text{ df}, p < .022$ and $F = 4.19, 2/523 \text{ df}, p < .016$ respectively). After group home establishment, there was a greater increase in list prices and sale prices further away from some of the group homes. However, there was no significant difference in the sale/list ratios (i.e., sale prices expressed as percentages of list prices). Thus, homeowners were still getting the same percentage of their asking price for their property regardless of the distance from the group home or whether the house sold before or after the group home was established.

Overall the list and sale prices increased in every zone after the group homes were established. However, it appeared that in Zone 3 list prices were considerably higher after the establishment of the group homes. Table 1 shows the mean list and sale prices and the mean sale/list ratios by zone and time of sale.

It appeared however that these differences by zone existed only around four of the thirteen group homes where exceptionally high sales appear to have occurred in Zone 3 after the estab-

lishment of the four group homes. An analysis was done on the list and sale prices for properties around the nine other group homes in = 273 and $n = 277$, respectively). There were no significant differences by zone when data for one year before the establishment of the group homes were compared with the data for one year after the establishment of the group homes.

The median housing value for Zone 3 areas around and the four group homes where exceptional sales occurred was \$44,320. In contrast, the mean list price for homes in those areas that sold after the establishment of the group homes was \$65,670 and the mean sale price was \$63,230. Some of the actual sale prices in this group were \$107,500, \$80,000, \$95,000, and \$82,500.

The median housing value for Zone 3 around the nine group homes where no exceptional sales occurred was \$45,270. The mean list and sale prices were \$43,160 and \$41,350, respectively. Thus, the data suggests that for some reason (probably unrelated to the presence of a group home in the neighborhood) a few exceptionally high sales occurred in Zone 3 around four of the group homes after group home establishment which may have caused a significant difference by zone in the overall analysis.

Discussion

The results of this analysis of several possible indicators of property values are very similar to those that have been reported in similar studies of group home effects on property values. Results for three of the five indicators—the length of time a house remained on the market, the rate of turnover in the neighborhood, and the sale-price as a percentage of the list price—lend sup-

TABLE
MEAN PRICES AND SALE/LIST RATIOS BY ZONE AND TIME OF SALE

Zone ^a	Number of sales ^b	List price ^{**}		Sale price ^{**}		Sale/list ratio [*]	
		Before	After	Before	After	Before	After
1	111	38.52	44.38	36.63	42.90	.959	.962
2	246	39.66	42.24	38.75	40.85	.980	.983
3	225	39.71	50.22	37.98	48.08	.959	.958
	582						

Note. Prices are expressed in thousands of dollars. Before and after indicate time of sale in relation to group home occupancy dates.

^a Zone 1 = 0–400 feet from group home, Zone 2 = 400–800 feet from group home, Zone 3 = 800–1200 feet from group home.

^b Number of sales = 582, Number of houses = 525.

^{*} $p < .30$, ^{**} $p < .022$, ^{***} $p < .016$.

port to the notion that group homes do not adversely affect neighborhood property values. Indeed, turnover rates appeared to be lower and the sale prices and list prices significantly increased after group homes were established. This is probably the result of the overall slowdown of the housing market and inflation of housing costs in the 1979-83 period of the study rather than anything related to group home establishment. Although differences were found in list and sale prices by zone, there is evidence to suggest that these differences may be due to factors unrelated to the presence of group homes. In four specific areas exceptionally high list and sale prices for homes selling after the establishment of the group homes were noted. When these areas were Removed from the analysis the apparent differences disappeared. It appears that neighborhood fears of lowered property values are unfounded.

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Memo

DATE: 1/22/2025
TO: Ashland Planning Commission
FROM: Carmel Zahran, Assistant City Attorney
RE: 110 Terrace Street

Our previous opinion, detailed in the January 3rd memorandum, utilized statutory construction to determine how the Oregon Revised Statute (ORS) definition of a peer respite center aligns with the Ashland Municipal Code. This interpretation highlighted the significant emphasis on long-term occupancy in the definitions of other group living uses within the code, leading us to conclude that the closest equivalent to a peer respite center was a "traveler's accommodation."

This interpretation must be considered in conjunction with Director Goldman's memorandum, which emphasizes the current lack of a comprehensive legislative framework governing peer respite center operations. This absence of specific rules necessitates a reliance on the plain language of our existing zoning code. Peer respite centers are new and no precedent or established procedures exist for their classification. This is similar to the situation with the legalization of marijuana dispensaries, when that occurred a few years ago, where the state provided a timeframe for the city to update its code accordingly.

Our previous interpretation centered on the ORS's explicit 14-day limit on peer respite stays. While bright-line rules (in contrast with discretionary standards) are common in law, the 14-day restriction strongly suggested a transitory use, akin to "traveler's accommodation." Had the group living situation involved a more permanent occupancy (30 days or longer), the need for statutory interpretation would have been unnecessary, as it would have clearly fallen under existing code provisions. It's important to note the City's neutral application of this rule. In the past, the City has previously denied other transitory uses in similar residential zones, specifically yoga and woodworking classes, which were also based on short-term occupancy models.

While arguments in support of the application emphasized the facility's function, the central issue is the program's inherently transient nature, reflected in its 14-day stay limit. Policy discussions regarding the intended uses of different zones are important but should occur separately from this interpretation, in a legislative, policy-making setting.

Memo

The central issue remains the transitory aspect of the program. Further context is provided by the City's understanding that the applicant secured a lease agreement before contacting the City, and initial discussions with the planning department indicated a classification more closely resembling a "traveler's accommodation."

This lack of clarity, led to the current timing of this question of interpretation being presented before the Planning Commission: a focused analysis of this specific property's use instead of a broader discussion about potential code modifications or other areas in the City that where the statutory construction is better applied.

It is worth noting that while our previous opinion concluded that the peer respite center most closely resembled a "traveler's accommodation," an alternative interpretation is possible. The Planning Commission could instead agree with the Applicant's classification of a peer respite center as a form of "group living" and not take the same emphasis that staff has taken.

This office reviewed the case law provided by the applicant and advocates and broadly agree with many of the statements and positions taken. However, the cases are so fact-specific and this office did not find a direct enough equivalent to change statutory construction approach this office took in approaching this novel question.

This situation warrants a broader discussion regarding potential code modifications to address peer respite centers specifically, as suggested by Director Goldman's memorandum.

Memo

DATE: January 22, 2025
TO: Planning Commission
FROM: Brandon Goldman, Community Development Director
RE: Fair Housing and Reasonable Accommodation

During the January 14th public hearing regarding the land use interpretation application for a "Peer Respite Center" under the Ashland Land Use Ordinance (PA-TI- 2024-00255), and in materials submitted with the application, the Applicant requested that the Planning Commission consider the application of Fair Housing and Reasonable Accommodation guidance in evaluation of the land use planning application. To support this request and provide a thorough framework for evaluation, the Applicant also requested that the record remain open for the submission of additional written testimony.

In response to this request, Planning Staff has provided the following resources to ensure the Commission is equipped with relevant and authoritative guidance regarding the Fair Housing Act and its implications for zoning and land use decisions:

1. **Group Homes, Local Land Use and the Fair Housing Act - Joint Statement of the Department of Justice and the Department of Housing and Urban Development.** This document addresses the relationship between group homes, local land use regulations, and the Fair Housing Act, providing clarity on how zoning practices should support inclusivity and compliance with federal law.
2. **Building Inclusive Communities- Fair Housing Council of Oregon Guide for Public Officials** This guide offers practical advice and best practices for fostering inclusivity in local communities. It emphasizes the role of public officials in creating equitable housing opportunities.
3. **Planning and Fair Housing – American Planning Association (APA) Planning Advisory Service Paper.** This paper provides an overview of the intersection of planning practices and fair housing regulations, highlighting the importance of recognizing group homes as a residential use under zoning codes.

These documents collectively outline the principles of the Fair Housing Act and its application to land use and zoning, particularly regarding the inclusion of group homes within residential zones. Planning Staff believes this information will assist the Planning Commission in evaluating the proposed Peer Respite Center use within the context of applicable laws and best practices.

COMMUNITY DEVELOPMENT DEPARTMENT

51 Winburn Way
Ashland, Oregon 97520
ashlandoregon.gov

Tel: 541.488.5305
Fax: 541.552.2050
TTY: 800.735.2900



Should you have any questions or require further clarification, please contact Planning Staff prior to the continuation of the public hearing. Thank you for your careful consideration of this matter.

Attachments:

COMMUNITY DEVELOPMENT DEPARTMENT

51 Winburn Way
Ashland, Oregon 97520
ashlandoregon.gov

Tel: 541.488.5305
Fax: 541.552.2050
TTY: 800.735.2900



ATTENTION

**For video testimony submitted into the record by
Rob Patridge, please use the link below:**

**[http://records.ashland.or.us/WebLink/Browse.aspx?
id=143033&dbid=0&repo=CITY-RECORDS](http://records.ashland.or.us/WebLink/Browse.aspx?id=143033&dbid=0&repo=CITY-RECORDS)**

**For Video Testimony Submitted into the Record,
please use the link below:**

**[http://records.ashland.or.us/WebLink/Browse.aspx?
id=143033&dbid=0&repo=CITY-RECORDS](http://records.ashland.or.us/WebLink/Browse.aspx?id=143033&dbid=0&repo=CITY-RECORDS)**

PUBLIC COMMENTS

**Public Comments Received by
Non-Parties-of-Record Between 01-15 & 01-22
For the Commission's Consideration for
Inclusion in the Record**

Michael Sullivan

From: Aki Robinson <akisoccer8@gmail.com>
Sent: Wednesday, January 15, 2025 9:37 AM
To: planning
Subject: Support for Mountain Beaver House

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

hello,

my name is aki, i am an ashland resident and local architectural and graphic designer. i work for a local architecture firm and a maker space non profit, using my design skills to build community.

This email is in support of the reasonable accommodation request made to the Commission by Stabbin' Wagon (the Applicant) under the Fair Housing Act and the Americans with Disability Act, of this reasonable accommodation request is a minor request that will be allow people with disabilities to live in the RR-.5 zone.

Stabbin wagon and Mountain Beaver House is putting so much work into offering a unique form of housing and support to our city, and we need to support each other to work towards a diverse robust strategy for supporting unhoused people in our community. The Commission's approval of this reasonable accommodation request is a minor request that will allow people with disabilities to live in the RR-.5 zone. Although what is being offered looks a little different than traditional renting or owning, this is residential use is a residential area. I respectfully ask that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

Sincerely,
Aki Robinson

--

Michael Sullivan

From: Mike Workman <spidermanissupercool@hotmail.com>
Sent: Wednesday, January 15, 2025 10:12 AM
To: planning
Subject: Comments regarding City File No. PA-T1-2024-00255

[EXTERNAL SENDER]

This email is in support of the reasonable accommodation request made to the Commission by Stabbin' Wagon (the Applicant) under the Fair Housing Act and the Americans with Disability Act. The Applicant has submitted its request in order to provide peer respite services to members of the community who are experiencing mental illness.

I was not doing so well when I first started running into Stabbin Wagon and its members. Since meeting them I have been helped through a crisis of uncertainty. They have helped me to be a healthy member of society and in turn I have completed my Peer Support Certification to be a registered Traditional Health Care Worker so that I might help others as they helped me.

I work as a Resource Specialist at the Ashland Library and know that if you can help to accommodate them, they will help to take pressure of city services that are already beyond capacity.

The Commission's approval of this reasonable accommodation request is a minor request that will be allow people with disabilities to live in the RR-.5 zone. To do otherwise will have a discriminatory effect on people experiencing mental illness by keeping them from having an equal opportunity to be housed in this zone. [Individual/organization] respectfully asks that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

Michael Sullivan

From: Sam Inada <samdinada@proton.me>
Sent: Wednesday, January 15, 2025 1:43 PM
To: planning
Subject: Mountain Beaver House

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Dear Planning Commission,

Hello, my name is Sam Inada. I am a longtime resident of Ashland, and I am writing in support of the request made to the Commission by Stabbin' Wagon under the Fair Housing Act and the Americans with Disability Act. They have submitted their request in order to provide peer respite services to members of the community who are experiencing mental illness, and I feel like this service is essential. I support their efforts to house our neighbors as they are coping with or are recovering from acute mental illness and pain. The Commission's approval of this reasonable accommodation request is a minor request that will be allow people with disabilities to live in the RR-.5 zone. I kindly request that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

Sincerely,
Sam Inada

Michael Sullivan

From: Ryan Hartman <ryanhartmansemail@gmail.com>
Sent: Wednesday, January 15, 2025 2:50 PM
To: planning
Subject: Comments regarding City File No. PA-T1-2024-00255

[EXTERNAL SENDER]

Hello Planning Commission,

My name is Ryan Hartman and I have some things to say about your consideration to approve the request of the Mountain Beaver House.

I know many people who have homes and don't have mental health issues have trouble seeing folks who don't have home and/or do have mental health issues. It's much easier if you walk past the dirty child asking for money--telling yourself that you're going to be late for work or that there's nothing you can do--than it is to consider the fact that they are a living, breathing human with a soul and good work to do. I understand the fear that isolated people feel when they see or hear someone having a mental breakdown on the street. It's easy to not think about the fact that we all have bad days, but some people don't have a roof and four walls to have theirs behind. It's easy to call 911 and have someone else deal with it, as long as you don't think about the way they're going to deal with it.

Contrary to popular belief though, there are people who view those who need the most as still parts of our human community. These people talk to folks on the streets and help them meet their needs. That seems like a crazy concept this day and age, when most of us have virtual friends and spend a big chunk of our time staring at screens instead of into the eyes of our neighbors; and yes, these people are our neighbors whether you like it or not.

While I can understand being afraid of people who are different, I can't understand stopping other people from offering help. Too often today we have the "not in my backyard" mentality. Who's backyard then?

Please grant the reasonable request to allow all sorts of human beings to reside in Ashland (even those with disabilities). The benefit of not discriminating against people is that you'll probably avoid a few lawsuits too.

Have a good day,

Ryan Hartman

Michael Sullivan

From: RADIO HEDGE <radiohedge@hotmail.com>
Sent: Wednesday, January 15, 2025 4:07 PM
To: planning
Subject: Fair Housing Act and the Americans with Disability Act.

Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL SENDER]

Dear Planning Commission,

Greetings. My name is Josh Hedge, and I'm one of the co-founders of the Hawthorne Daily Potluck, a free lunch program that feeds 10,000 hungry neighbors per year. This email is in support of the reasonable accommodation request made to the Commission by Stabbin' Wagon (the Applicant) under the Fair Housing Act and the Americans with Disability Act. The Applicant has submitted its request in order to provide peer respite services to members of the community who are experiencing mental illness. The Hawthorne Daily Potluck supports Stabbin' Wagon's efforts to house our neighbors as they are coping with or are recovering from acute distress, anxiety, or emotional pain. The Commission's approval of this reasonable accommodation request is a minor request that will be allow people with disabilities to live in the RR-.5 zone. To do otherwise will have a discriminatory effect on people experiencing mental illness by keeping them from having an equal opportunity to be housed in this zone. The Hawthorne Daily Potluck and our volunteers respectfully ask that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

Sincerely,
Josh Hedge, Co-Founder of the Hawthorne Daily Potluck

Michael Sullivan

From: Michael Sullivan
Sent: Thursday, January 16, 2025 11:41 AM
To: Michael Sullivan
Subject: FW: Comments Regarding City File No. PA-T1-2024-00255

From: Danielle Garten <gartendanielle@gmail.com>
Sent: Thursday, January 16, 2025 11:13 AM
To: planning <planning@ashland.or.us>
Subject: Comments Regarding City File No. PA-T1-2024-00255

Dear Planning Commission,

My name is Danielle Garten, and I am writing this email in support of the reasonable accommodation request made to the Commission by Stabbin' Wagon (the Applicant) under the Fair Housing Act and the Americans with Disability Act. The Applicant has submitted its request in order to provide peer respite services to members of the community who are experiencing mental illness. I support Stabbin' Wagon's efforts to house our neighbors as they are coping with or are recovering from acute distress, anxiety, or emotional pain. The Commission's approval of this reasonable accommodation request is a minor request that will allow people with disabilities to live in the RR-.5 zone. To do otherwise will have a discriminatory effect on people experiencing mental illness by keeping them from having an equal opportunity to be housed in this zone. I respectfully ask that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

I have personally had a positive experience with the folks at Stabbin' Wagon. My roommate had a severe mental health episode while I was out of town and unable to help, and I was able to call a friend of mine at Stabbin' Wagon who brought out a small team to go to my roommate and calm them down. They spent all night speaking with them and mitigating the situation. I am very grateful for them and the good work that they do and I think the Rogue Valley desperately needs more mental health care options. I truly urge you to let them give this a shot.

Sincerely,

Danielle Garten

Michael Sullivan

From: Michael Sullivan
Sent: Thursday, January 16, 2025 12:27 PM
To: Michael Sullivan
Subject: Respite Center at 110 terrace

Regina Ayers
reginariley@jeffnet.org

Planning Commission
Chair and Members

I am in support of the Respite Center at 110 Terrace. I attended the commission meeting 1/14/25 and heard many of my neighbors voice their concern, upset, anger about the possibility of a Respite Center for those in crisis moving into a vacant house in our neighborhood. The owner of the property was a long term member of our community who wants part of her legacy to be the establishment of a home setting to help move people out of crisis due to mental, emotional, spiritual issues. The maximum number of adults would be four for a maximum period of 14 days supported by two staff members during the day and 1 staff member through the night. The center would be run by a non-profit financed by a state grant.

I do not live adjacent or directly across the street from the home. I do live next to a rental that houses a rotating group of 6-7 young adults plus their friends coming and going. I do not imagine this respite house would generate any more activity than the renters. Would I prefer a home owner rather than renters next door to me. Yes but I appreciate the lack of rentals in town and the need for young adults, families, elders, to have a place to live. I also rent out the first floor of my home so another person has a place to call home. Rentals are needed everywhere in Ashland.

People are afraid that these people will change the character of our quiet residential area. Due to the short stay, they will not integrate into our neighborhood and not appreciate what makes our community unique. There are concerns like increased traffic, motor and foot traffic.

We have plenty of foot traffic already; bikers, hikers, dog walkers, tourists checking out the hills. Drivers use the street to get to Lithia Park and trail heads. Strangers move through our neighborhood all the time.

Those of us living in this upscale neighborhood are fortunate. More than fortunate to be able to afford a home in Ashland and in this part of town. Life is not fair. Life does not equitably hand out privileges and opportunities to succeed. Some of us would like to think that we deserve all the credit for our current station in life; the money in the bank, the home on the hill, the fancy car in the driveway but not so. I know I cannot take all the credit for where I am today. Yes, I worked for it but I got to start the race ahead of many others; race, parental support, stability.

We are part of a society and a community full of many people who don't look the same, who came from different places, who came from different backgrounds but we are all here in the same glorious place. How about we share our prosperity when we can.

I support the establishment of a Respite Center at 110 Terrace.

Regina Ayars
199 Hillcrest
Ashland

Michael Sullivan

From: noreply@civicplus.com
Sent: Saturday, January 18, 2025 11:43 AM
To: planning
Subject: Online Form Submittal: Contact Planning Commission

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Contact Planning Commission

Full Name	Mark D Chirgwin
Phone	541-941-1749
Email Address	chirgwinm@stifel.com
Subject	proposed exception to zoning rules for Beaver House Respite Center
Type of Testimony	Written
Message	I've lived in the Rogue Valley all of my life (actually 3rd generation). We recently acquired the residence at 18 Hillcrest Street, which we intend on moving into soon. We currently reside in Medford. I also own an office building at 2770 Biddle Road, in Medford. The building sets on 1 acre of land with several dozen large conifer trees. In 2020 a member of the Medford City Council called me. The city was considering a large outdoor space for homeless camps, directly across Biddle Road from my property. Knowing full well this would create a nuisance, I gave my approval. At the time, there was a tremendous need to accommodate unhoused people, and the area was zoned commercial and light industrial. It was as appropriate a location as any. In the following years I dealt daily with a large number of individuals sleeping on my property, leaving garbage, needles, excrement, etc. I experienced vandalism and theft. I got to know the Medford Police livability team. One thing that became apparent in this is that the unhoused community, is a

community. If their friends lived in the camp, but they did not, they wanted to be nearby. It occasionally took several days to get people to leave my property.

Out of all the challenges regarding that situation the one thing that concerned me the most was the potential of fire. My property is covered with 70- to 90-foot-tall Pines, Firs, Cedars and Redwoods. Especially the Pines and Firs are home to Pine and Fir beetles. The trees defense to those beetles is to produce large amounts of sap, or pitch which mires the beetle down. Most Fir and Pine trees in the dryer regions of the Pacific Northwest have been exposed to these beetles. As long as the trees get enough water to produce the sap, they can defend themselves. The problem is that this sap (pitch) is incredibly flammable.

Individuals have thrown lit cigarettes onto my property. Some have even lit campfires. I am continually doing everything I can to lessen the possibility of fire, including removing trees.

From my observation, the Patten property being considered for a respite center is similar. It is a wood structure surrounded by Firs and Pines. The potential for fire is huge.

Mark Chirgwin
224 Saginaw Drive
Medford, OR 97504

Attachment 1	<i>Field not completed.</i>
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Attachment 2	<i>Field not completed.</i>
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Attachment 3	<i>Field not completed.</i>
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Email not displaying correctly? [View it in your browser.](#)

Michael Sullivan

From: noreply@civicplus.com
Sent: Sunday, January 19, 2025 2:20 PM
To: planning
Subject: Online Form Submittal: Contact Planning Commission

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Contact Planning Commission

Full Name	Peggy Chirgwin
Phone	541-734-7230
Email Address	markandpeggys@gmail.com
Subject	110 Terrance Street
Type of Testimony	Electronic (to appear electronically)
Message	To the Planning Commission. My name is Peggy Chirgwin, future resident of 18 Hillcrest St. I am writing to you regarding the zoning request change at 110 Terrace St. (proposed "Mountain Beaver House", for use as a peer supported temporary stay respite center) . I oppose the zoning change based on the experiences we dealt with in a similar situation: My husband and I own an office building on Biddle Road in Medford. This is in a Commercial / Industrial zone. In 2020, after the Alameda Fire, a temporary camping site for the homeless was made available. We supported this effort. With that said, we observed that this camp attracted more people than could be served, or that a choice was made by some to stay on the street because they did not want to abide by the rules of the camp. At any rate, an overflow of people occurred in the surrounding area. The increase in activity was disruptive to business operations and caused safety concerns on multiple occasions. Direct experience with the overflow of people included: General nuisance – sleeping / makeshift camps, trash and soiled

clothing and sleeping bags; Property damage and theft; Lewd behavior; Life safety issues - human feces and other bodily fluids, drug paraphernalia (including used needles), people with hunting knives, “camp” fires, and tossing of lit cigarettes into the landscaping consisting of a lot of pines and other highly flammable trees; And lastly, people refusing to leave – it took the livability team over two weeks to encourage one individual to move from the sidewalk in front of the office. After all, the sidewalk is public property and he had the right to be there. In this case, it was at the expense of everyone else. It is also important to note, that property owners are responsible for what happens on their property regardless of who has caused the problem,

While we support and thank those that help to serve those in crisis, we also support single family residential zoning. A conditional use permit for transient lodging for people in crisis, risks putting a whole neighborhood in crisis as well. And although our experience was not positive, we would support a temporary stay crisis center in a commercial / industrial zone which would be better suited for the transient nature of the program.

Single Family Residential Zoning is important – it helps to provide stability for the entire community.

Thank you,
Peggy Chirgwin

Attachment 1	<i>Field not completed.</i>
Attachment 2	<i>Field not completed.</i>
Attachment 3	<i>Field not completed.</i>

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Housing Land — Advocates —

January 20, 2025

BY EMAIL (planning@ashland.or.us and derek.severson@ashland.or.us)

City of Ashland Planning Commission
20 E. Main Street
Ashland, OR 97520

Re: Response to Staff Report's recommendation to refuse reasonable accommodations related to 110 Terrace Street – Planning Action PA-T1-2024-00255

Dear Commission Members:

I am writing on behalf of Housing Land Advocates (HLA) in support of Stabbin' Wagon's request for a reasonable accommodation. We have been advised of the Staff Report's recommendation against a reasonable accommodation in its rules, policies, practices or procedures related to the siting of a group respite home at 110 Terrace Street. The request was made on December 6, 2024 on behalf of Applicant Stabbin' Wagon, whose request for reasonable accommodation was for the city to recognize a respite home as a similar use to a group living home, such that its development would be permitted in the RR-.5 zone that includes the subject property.

Since 2004, Housing Land Advocates (HLA) has worked to ensure that Oregonians of all income levels and abilities can obtain adequate and affordable housing. We are a proponent for land use policies and planning choices that advance affordable, fair and equitable housing outcomes. Since 2019, HLA has participated in state initiatives to reform the Goal 10 Planning system for Housing, beginning with the development of a prototype RHNA and the adoption of Administrative Rules to implement the Housing Production strategy, both authorized by HB 2003 and further reinforced by H.B. 2001 (2023 session).

We have worked to ensure as much accessible housing as possible is provided, specifically for people with a variety of disabilities, including mental health disabilities. Governor Kotek has taken firm leadership on this need, and the Stabbin' Wagon application is in furtherance of that need.

On January 13, 2024, Disability Rights Oregon (DRO) sent a letter to the City's Planning Commission to challenge the city's reasoning, and to point out that the city's basis for denying Stabbin' Wagon's request was either disingenuous, poorly reasoned, or both. HLA cannot restate these objections with more accuracy or force that DRO has already provided. We agree with the assertions made by DRO. We adopt and incorporate their objections and reasoning as our own.

We ask that the Commission grant Stabbin' Wagon's request for reasonable accommodation. Please email your notice of decision to housing.land.advocates.or@gmail.com.

Last, to the extent the City believes the open record period is limited to only participants on record as of the date of the public hearing, such rule would violate ORS 197.797(6) which leaves the record completely open for the first eight days as requested by the applicant at the hearing. Please include these comments in the record.

Sincerely,

/s/ Kathleen L. Wilde

Kathleen L. Wilde
Board Member, Housing Land Advocates

cc: HLA Board

PUBLIC COMMENTS

**Parties-of-Record Rebuttals
Received between 01-23 & 01-30**

January 29, 2025

City of Ashland Planning Commission
c/o Brandon Goldman brandon.goldman@ashland.or.us
20 E. Main Street
Ashland, OR 97520

Re: PA-T1-2024-00255 – 110 Terrace Street

Dear Commissioners:

As previously stated, our office represents David W. and Carolyn Allman, the owners of property located at 134 Terrace Street, Ashland. This letter is submitted for the record in response to the materials submitted during the first open record period of the foregoing matter.

As testified previously, our client contends that the proposed use is not similar to a residential use under the Ashland Municipal Code (AMC) and therefore should not be approved under AMC 18.1.5.040. Moreover, if the legislature had intended to preempt cities' zoning laws, it would have done so (*See HB 2006* which explicitly exempted emergency shelters from local land use regulation; *HB 2001* requiring cities with a population of at least 25,000 to allow middle housing in residential areas).

Nor is the use a “dwelling” under the Fair Housing Act (FHA). To qualify as a “dwelling” under the FHA the use must meet a 2-factor test: 1) whether the facility is intended or designed for occupants who would intend to remain for a significant period of time; and 2) whether the occupants view the facility as a place to return to. *Lakeside Resort Enter v. Sup'rs of Palmyra TP*, 455 F/3d 154. 158 (3rd Cir. 2006).

A determination of whether a stay is a significant period of time is fact specific. In *Lakeside*, the court found that although the average stay was 14.8 days the facility qualified as a dwelling because the actual duration of stay varied widely, sometimes up to a year, and the short duration was usually caused by health conditions or insurance issues. Therefore, since the stay length was kept short by outside factors the average stay length was not dispositive, and the facility was a dwelling because it was intended for longer use.

In contrast, here, the intended stay is of short duration; specifically, a stay cannot exceed 14-days. ORS 430.275(2)(a). In fact, the very definition of a peer respite service means: “voluntary, nonclinical, short-term residential peer support.” ORS 430.275(1)(a)(Emphasis added). (“Each peer respite center may provide up to two weeks of continuous ...services). ORS 430.275(2)(a)(Emphasis added). Applicant argues that since there is no guarantee an individual resides long-term in a single-family home or residential care home, duration should not be a factor here. However, as with *Lakeside*, the fact that someone might move out sooner due to outside factors is not determinative of whether a person can remain for a significant period of time. The statute makes clear that a peer respite center is not intended for significant or long-term residential stays and therefore is not a dwelling under the FHA.

As for the Applicant’s request for a reasonable accommodation, the City need not reasonably accommodate this particular use in this particular location. The applicant states: “Excluding people experiencing mental illness, particularly those who need and desire respite housing as a means to stabilize their mental illness, from living in the RR-.5 zones, and for that matter, all single-family zones, is likely to reinforce existing patterns of segregation and to have a disparate impact on people with disabilities. (*Letter from Jennifer M. Bragar*, January 14, 2025, p.4). However, City zoning does not prohibit disabled individuals from living in this zone. Disabled (including mentally ill) individuals may reside in a single-family home alone, or with family or friends, or in a residential care home, as an outright permitted use. Additionally, nursing homes, convalescent homes and residential care facilities are permitted in the RR-.5 zone as a conditional use. It is an unfounded statement that because a peer respite center cannot be located here, the City’s zoning code discriminates against disabled persons living in a single-family zone.

As noted in the Joint Statement of the Department of Justice and the Department of Housing and Urban Development (<https://www.justice.gov/crt/joint-statement-department-justice-and-department-housing-and-urban-development>) (the DOJ Memo), included in the record, a reasonable accommodation might mean waiving a setback requirement to allow better access for those with mobility impairments, but not all requested modifications are reasonable. To determine whether a modification is reasonable the City must look to: 1) whether the request imposes an under burden or expense on the local government; and 2) does it create a fundamental alteration of the zoning scheme. *Id.*

Here the requested accommodation creates a fundamental alteration of the zoning scheme, as the use is not residential in nature, but rather transitory as argued previously in the record. It is expressly intended to provide “short-term residential” use, inconsistent with the City’s definition of Residential Use which is: “Long-term occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods (i.e., less than 30 days) of time is considered an overnight accommodation for transient individuals. See also, definitions of Accessory

Travelers' Accommodation, Hotel/Motel, and Travelers' Accommodation." AMC 18.6.1. Unlike a request to merely allow an increased setback as a reasonable accommodation, the current request requires the City to fundamentally alter its zoning scheme to allow a prohibited transitory use and is therefore not a reasonable accommodation request.

In the alternative, and without waiving the foregoing arguments, should the City determine that it is necessary or desirable to grant a reasonable accommodation, conditions should be imposed to ensure that the proposed use does not create an undue burden to neighboring properties or property owners. It is noteworthy that the proposed application provides no information as to how the program will be run. For example, when can an individual move in or out of the facility? Will prospective guests come and go 24/7? What steps are in place should an individual arrive at the premises but be turned down either because the 4-beds are filled or because the individual's mental state is such that the person cannot be served by the facility. These questions are particularly problematic because the state has yet to establish any rules as to how such a facility will operate, what safety plans should be in place, what to do if a person is turned away for service, etc. In fact, in reviewing the September 2022 Peer Run Respite RFGP Information Session (<https://youtu.be/faP7eh5bnTk>) many of these questions were raised by prospective grantees and the state acknowledged that it did not have answers and that it would be up to each individual facility to provide a plan for emergencies, or to deal with guests who arrive but cannot be served. Has any such plan been provided to the City and are there steps in place to ensure the facility is prepared to address emergencies, evacuations, or turning a prospective guest away, who may be in a state of mental crisis, from the facility? Are there any standards to prevent housing of "current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders" who, per the DOJ Memo, are not considered disabled under the FHA by virtue of that status.

The proposed use at this location presents particular challenges unique to this site. Access to the site is via a blind driveway shared with our clients, the driveway surface to the premises is not in good repair and measures only 7' 8" wide, is not lighted, is in a high wildfire risk zone, and is difficult to find at night (See Exhibit A, Photos of Driveway and Entrance off Terrace). In viewing the September 2022 RFGP Information Session cited above, the state advises that use and access to a facility will be flexible, and that "people can refer themselves". People can "show up and ask for support". *Id.* In this case, given the access to the site, the inadequate driveway condition, and the hazard zone, conditions should be imposed for the protection of the respite center as well as neighboring property owners to ensure that potential guests who just "show up" can find the facility safely, do not disturb our clients in the middle of the night because of confusion as to the location of the site, can exit in the event of emergency evacuation, etc. To that end, any approval should include conditions of approval that may include, but not be limited to, the following:

- 1) Evidence of rules restricting guests from active use of controlled substances while on the premises.
- 2) Evidence of rules restricting those convicted of illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, from staying at the premises.
- 3) Rules prohibiting smoking outdoors and/or rules to ensure that any outdoor smoking is contained within a designated area designed to reduce the risk of wildfire.
- 4) Rules prohibiting checking in or out of the facility between the hours of 10pm to 7am to limit disruption to neighbors.
- 5) Potential signage and lighting to identify the driveway, with lighting designed to shield the light away from the property located at 134 Terrace Street.
- 6) Requirement that the site be assessed by Ashland Fire and Rescue to determine whether any items need to be addressed to reduce fire risk.
- 7) Evidence of an evacuation and safety plan in the event of emergencies.
- 8) Evidence of a plan to address turning away guests arriving at the premises (for example will staff drive them elsewhere, get them a ride, etc. so a person in a state of mental distress is not simply wandering from a relatively remote location back to town).
- 9) Evidence of a plan to deal with violations such as illegal drug use, violent behavior or other severe safety hazards (for example, will such issues result in eviction from the premises).
- 10) Information as to whether there are rules regarding visitors and how that will be handled.
- 11) Evidence of adequate insurance to address potential hazards involved in running this facility. For example, if a guest damages neighboring property, is there adequate insurance to cover these costs.

The applicant indicates that the City has failed to engage in a dialogue regarding the requested reasonable accommodation. However, information received pursuant to a public records request indicates that the applicant has been involved in a dialogue with the City for over a year and yet it does not appear that any evidence has been provided as to how this facility will be run, and how it will address potential emergencies. (See Exhibit B, *Timeline of Events*). It is also apparent that the applicant moved forward with a lease and investment in the use before it ever applied to the City for approval. The application should not be approved simply because the applicant proceeded without assuring this location was legally permissible or adequate. While it is an unfortunate series of events that is undoubtedly costly and frustrating to the applicant, that could have been avoided had the applicant completed its due diligence before proceeding with development of the site.

In conclusion, the application should be denied as the use is not permitted in the zone. A reasonable accommodation is not required as the use is not a dwelling under the FHA and the accommodation request is not reasonable in that it would result in a

fundamental alteration of the zoning scheme. In the event that the City disagrees and moves forward with approval of the use, reasonable conditions should be imposed to ensure that the use does not have an undue impact on the property or the neighbors.

O'CONNOR WEST, LLC

/s/ Sydnee Dreyer

Sydnee B. Dreyer, OSB No. 954710

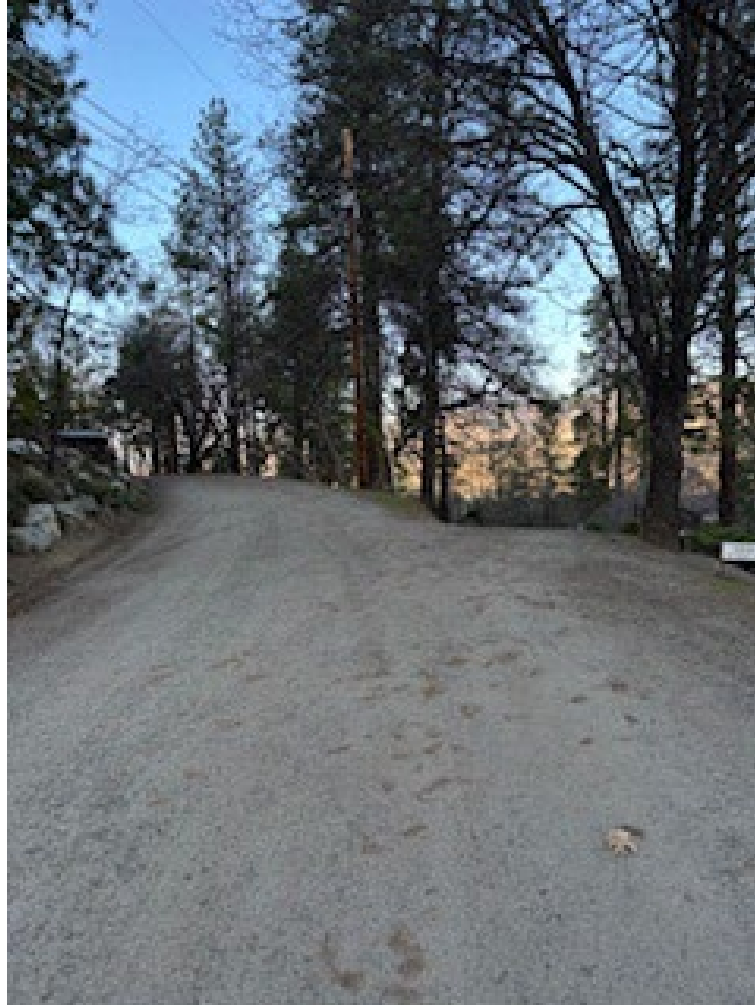
sbd@PacificLand.law

SBD:

c: Clients

EXHIBIT A

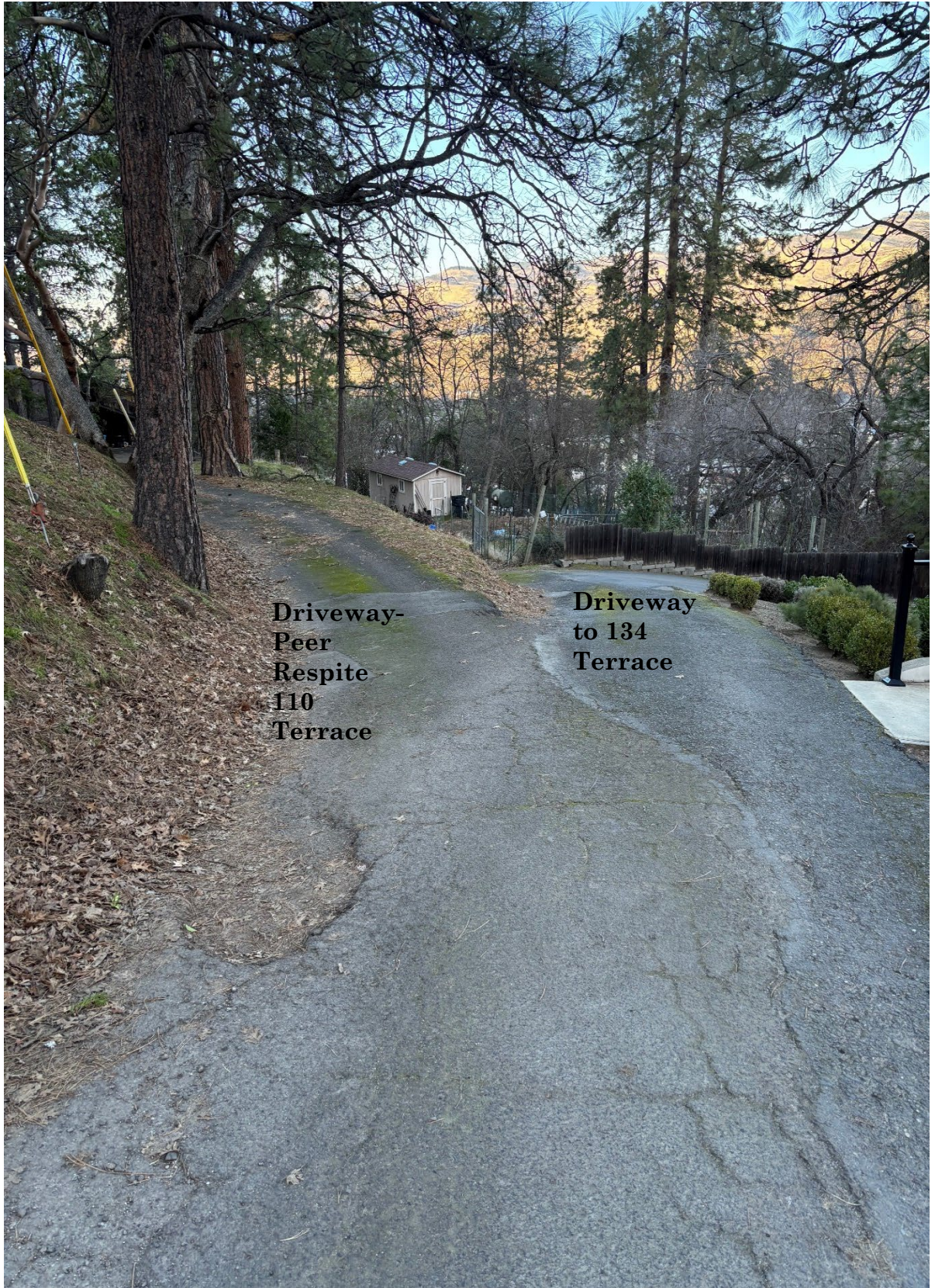
Photos of Driveway



A view of the blind driveway entrance from Terrace



A view of the driveway entrance – Allman Property to the right of the driveway





Narrow driveway to premises – measures 7' 8"

EXHIBIT B

Email regarding Timeline

From: info@mountainbeaverhouse.org
To: [Burns Kendall Frances](#)
Cc: [Rappaport Beau](#); [Haiani Israa A](#); [kelly szott](#)
Subject: Zoning timeline and overview
Date: Friday, October 4, 2024 1:07:28 PM
Attachments: [MBH Zoning Timeline.docx](#)

Hi Kendall and Beau,

Kendall, here is an overview of the steps we have taken to obtain zoning. Please let us know if you need any additional information or have questions.

As you know, we've balanced this work with other work including policy and procedure development, staff trainings, etc.

I do want to highlight that our current timeline has not changed substantially since our Quarter 1 report was submitted to OHA on July 1, 2024. At that time, we documented the communications we had received from OHA regarding delays and the issue of contract compliance: "we currently anticipate that our opening will be delayed until [at] least January 1, 2025. As stated by OHA staff, we remain compliant with our contract and we will not be penalized for these delays."

I've mentioned this previously, but I wanted to let you know we are in the final steps of hiring 5 additional per diem employees. We intend to hire additional employees this fall, to ensure we have proper staffing when we open.

We'll look forward to meeting with you and Beau soon.

Thanks,

Derek

On 2024-10-03 16:36, info@mountainbeaverhouse.org wrote:

> Hi Kendall,
>
> thanks for your call yesterday.
>
> You requested a detailed write-up of the steps we've taken to resolve
> the zoning issues. We are working on that for you.
>
> Regarding the next steps around a "request for reinterpretation" that
> our land use consultant and attorney advised, we are working to get
> that for you as well, but may be delayed because our land use
> consultant is currently experiencing a medical emergency.
>
> please let us know if you need anything else.
>
> Thanks,
>
> Derek
>
> On 2024-10-02 11:39, Burns Kendall Frances wrote:

>> Hello,

>>

>> Please see section EXHIBIT A Part 2 Disbursement and Financial
>> Reporting. Please note that further invoices will not be approved as
>> the organization is out of compliance with the terms of the grant and
>> has not met milestone of opening within six months of the start up
>> costs being received. At this time, the organization has not provided
>> a sufficient plan or timeline for opening in Southern Oregon. I need a
>> detailed plan and timeline for opening within 3 months. I've cc'd
>> Israa to assist us in scheduling a time to meet with myself and Beau.

>>

>> Regards,

>>

>> Kendall Burns (she/her)
>> Peer-Run Respite Coordinator
>> Oregon Health Authority
>> Office of Recovery and Resilience
>> 971-239-6455

>>

>> -----Original Message-----

>> From: info@mountainbeaverhouse.org <info@mountainbeaverhouse.org>
>> Sent: Monday, September 30, 2024 4:53 PM
>> To: HSD Contracts <HSD.Contracts@odhsoha.oregon.gov>
>> Cc: Burns Kendall Frances <Kendall.F.Burns@oha.oregon.gov>
>> Subject: Invoices 500 + 600

>>

>> Think twice before clicking on links or opening attachments. This
>> email came from outside our organization and might not be safe. If you
>> are not expecting an attachment, contact the sender before opening it.

>>

>>

>>

>> Hello,

>>

>> Here are our invoices for Q1 and Q2 of the 2024-2025 fiscal year.
>> Please let us know if you need anything else.

>>

>> thanks,

>>

>> Derek

Applicant's Timeline of Events

Attachment to October 4, 2024 Email to Kendall Burns

This is a timeline and basic overview of the steps we have taken to secure a rental and zoning approval for the peer respite.

November 2023

- We began looking for rental properties.

December 2023

- We made initial contact with the local municipalities regarding zoning peer respites.
- We met with OHA and FolkTime for TA in-person training. We showed OHA and FolkTime images of the house at 110 Terrace Street; Kendall Burns and Peter Starkey advised us to secure the property first and address zoning with the city after securing the lease.
- Based on initial discussions with the City of Ashland, City planning staff stated that our zoning “is most similar to either a convalescent home or residential care facility.” City staff outlined the process for being zoned as such via a Conditional Use Permit process.
- We began contacting lawyers who could help us with the conditional use permit process. We spoke with Alecia Leduc-Montgomery, Corinne Celko and Tonia Moro.
- We began working with the landlord, Kent Patton, to secure the house.
- We conducted outreach to other peer respites to understand how they had been zoned.

January 2024

- We continued consulting lawyers with next steps along the conditional use permit process, including Lanier Land Consulting LLC. We chose to work with land use consultant, Amy Gunter and land use attorney, Chris Hearn.

February 2024

- We worked with Amy Gunter and Chris Hearn to submit our pre-application paperwork to the city of Ashland, we secured a March 20th 2024 date for our pre-application meeting.

March 2024

- We continue to work with Amy Gunter in preparation of our March 20th meeting

- The written comments from our pre-application meeting with the City stated: “If it can be demonstrated that the proposal meets the definition of a ‘residential care facility’ then it would require a Conditional Use Permit (CUP). In the Land Use Ordinance, the definition of Residential Care Facility falls under ‘Group Living.’ The ‘Group Living’ definition invokes long-term residential occupancy. For staff the concern is whether the transient nature of the proposed respite center would offend the definition of ‘Residential Care Facility’... Due to the transient nature of the proposal, it may be determined that it qualifies as a ‘Travelers’ Accommodations,’ in which case it would be a prohibited use in the zone and not able to be approved.”
- In our pre-application meeting with the City, city staff stated that they would be able to re-interpret zoning if they receive a declaration from OHA or a letter of intent from legislators stating how the respites should be zoned.
- We scheduled a meeting with Amy Gunter and our staff to begin discussions with OHA regarding a path forward. In an email to OHA staff, Amy Gunter stated: “In my experience as a planning consultant, Peer Respite homes will face challenges in many Oregon communities without further guidance from the Oregon Housing Authority on the intent of the emergency Legislative Action (House Bill 2980 (2021))... A letter from the OHA that directs cities to allow for Peer Respite in residential settings similar to all other addiction/recovery homes, domestic violence shelter type of facilities that provide housing for five or fewer individuals with mental, emotional, or behavioral disturbances or alcohol or drug dependence, residential care, and treatment in one or more buildings on contiguous properties are similar in type, kind, and function as the intended legislative action for Peer Respite Centers would eliminate the city desire to use discretion because they don't know what to call a Peer Respite Center within the context of their codes.”

April 2024

- We continued discussions with Amy Gunter, our staff, OHA and the City of Ashland including a meeting with all parties on April 23rd.
- During meetings between our staff and OHA, OHA informed us that we would not be penalized or viewed as out of compliance for opening delays caused by zoning issues. We reiterated this mutual understanding in an email to Kendall Burns, dated April 16, 2024: “As discussed, this delay is caused by zoning issues outside of our control, and OHA has stated that we will not be penalized or considered out of compliance with our contract for zoning-related delays.” In this same email, we said our hope was to resolve zoning issues by July 25, 2024.

- We followed up on outreach to other peer respites to understand how they had been zoned.

May 2024

- We received a detailed explanation and next steps for zoning from our land use consultant. This explained the timeline for zoning with the City of Ashland, given the results of our pre-application meeting:
 - “The city has a 30-day review window from when the application is submitted and paid. In that 30-day window, the application is deemed complete or incomplete. When the application is deemed complete, a notice of application (if a staff decision) or notice of hearing (what they said they would do to notify the neighborhood) goes out to all property owners within 200 feet of the property boundaries.
 “Staff Decision (Type 1): A typical CUP for a Traveler's Accommodation or a Residential Care Facility (similar in type, kind, and function) would be reviewed within 30-day, noticed for 14 day public comment period, staff takes about 20 days following the comment period to make their decision. That decision is sent to the same notice area with a 12 day appeal period. The city averages about 75 days to process these. They have 120 days by state statute.
 “Assuming there will be a public hearing because staff believes that it should be considered like a Transient Occupancy vacation rental...
 “The application is a Type 2 and is heard before the planning commission as a quasi-judicial procedure. The meeting follows Roberts Rules of Order. A hearing is opened and there are specific rules to who can participate based on signing up during the public testimony stage. A planning commission hearing is typically about 45 days after submittal.
 “The planning commission reviews the application during their meeting, takes public testimony, and reviews the staff recommendations. The applicant gives a 15-minute presentation and the public gets 3-5 min to comment. The hearing closes and no more public comment is allowed. The Planning Commission forms a decision and makes findings based on the code criteria recommending approval or denial. The following month, the findings are adopted. When the hearings process is involved, the timeline is approximately 160 days (30-day pre-review and 130-day application processing period). The decision can be appealed by anyone in the applicant, anyone in the notice area or anyone in the public that commented during the public

comment period or during a hearing.

In both decision processes, state law gives the city 180 days to process the decision.”

- We began outreach to community partners to receive support related to our zoning issues.
- We met with attorney Chris Hearn to proceed with next steps with our conditional use permit process. Chris stated he would research the issues for the best path forward, given our goals and timeline.
- We requested that land use consultant Amy Gunter research additional locations where we could operate a peer respite with fewer zoning barriers.

June 2024

- We pursued a three pronged plan for next steps: (1) work with land use consultant and land to obtain zoning at 110 Terrace Street; (2) research other properties in Jackson or Josephine county where we could move without zoning barriers; (3) contact local elected officials to problem solve zoning.
- We updated OHA on these steps and our timeline via an email on June 28, 2024, including: “as previously discussed, we are still compliant with our contract and we will not be penalized for these delays.” In this email, we stated: “we anticipated that our opening will be delayed until [at] least January 1, 2025.”
- We began outreach to Representative Pam Marsh regarding our zoning delays.

July 2024

- Our staff and landlord had multiple conversations with Representative Pam Marsh regarding zoning issues, Representative Marsh conducted outreach to the Oregon Department of Land Conservation and Development, Rep. Nosse, Kevin Fitts, ABLE House, FolkTime, and others. Our landlord also informed us that we would speak with a former Ashland city administrator regarding these issues.
- Based on his review and interpretation of materials, our attorney Chris Hearn advised that he “call [Ashland] City Attorney Doug McGeary and see if he will get the Planning Department to re-interpret the provisions of City’s short-term rental ordinance differently.” Hearn also advised that we should conduct outreach to Representative Pam Marsh.
- Amy Gunter completed research regarding additional municipalities where we could move with fewer zoning restrictions: “All localities (Ashland, Talent, Phoenix, Medford, Central Point, Jackson County have some sort of

restriction upon occupancy of any sort that is 30 days or less... a political challenge could be raised where there are occupancy specifications in the ordinance.”

- After requesting an extension on our grant contract we were informed by Kendall Burns: “At this time [the contract] cannot be extended past June 30th 2025.”
- Due July 31, 2024, our Quarter 1 report provided substantial updates to OHA regarding our zoning.
 - We set a 3 month goal to “determine the appropriate path forward for becoming zoned, and continuing working toward the goal of zoning.”
 - We set 6 month goals: “analyze and if needed revise peer respite budget to be consistent with current timelines around zoning, staffing, etc.” and “obtain zoning necessary to operate peer respite.”
 - In response to the question “Please list obstacles you have overcome, that you are currently facing, and those you anticipate?” we stated: “The Office of Recovery and Resilience staff are aware of the current details regarding our obstacles to obtaining zoning approval from the City of Ashland, and more details can be provided if needed. In short, our zoning obstacles have delayed opening of the peer respite by at least 6 months. Our current timeline for opening is January 2025, however, this is contingent on zoning approval from the City of Ashland.”
 - In response to a question about our timeline for opening, we stated: “As described in an email to OHA dated 6/28/24, we currently anticipate that our opening will be delayed until [at] least January 1, 2025. As stated by OHA staff, we remain compliant with our contract and we will not be penalized for these delays.”

August 2024

- On August 22, our attorney Chris Hearn stated via email that he had a “favorable discussion” with city attorney Doug McGeary wherein McGeary said he would “see what he could do in terms of potentially advising Planning staff to adopt a more favorable interpretation of the City’s ordinance provisions relating to travelers accommodations and group homes.
- We continued discussions with our landlord on how to proceed with obtaining support from Representative Pam Marsh.
- On August 30, Chris Hearn informed us of his most recent communications with Ashland Attorney Doug McGeary. Via email, McGeary stated to Hearn:

"You make a compelling argument that the peer respite center does not operate on a commercial basis, but it also doesn't fit within the single-family residential use category either. In fact, as Brandon indicated (and this has probably been your concern), there isn't a permitted use category under which you could apply for a Conditional Use Permit in this zone. Brandon and his team have discussed this issue with the state, and their recommendation is to find a location where such use is allowed, most likely in multi-family residential zones (R-2, R-3) or commercial zones. It seems the city has been considering psilocybin health centers in commercial zones with minimal resistance, so your client's use would not be unusual. I understand this is of little comfort if your clients have already purchased or leased the house with the intent to use it as a peer respite center."

September 2024

- We discussed next steps with attorney Chris Hearn and Amy Gunter, and conducted outreach again to Rep. Marsh.
 - Rep. Marsh discussed the Feb - June legislative session, and stated via email "Unfortunately, I don't know any quick solutions."
- We updated Kendall Burns with our barriers to zoning, and asked whether OHA had any thoughts on next steps. We also inquired whether there were other OHA staff outside of the Office of Recovery and Resilience we should engage with.
- Kendall Burns referred us to Steve Sadden of Bay Area First Step, and we had a meeting to discuss how Bay Area First Step has resolved zoning issues on the South Coast. Sadden referred us to a Portland attorney named Jennifer Bragar for additional guidance regarding ADA accommodations and zoning.
- In a meeting with Chris Hearn and Amy Gunter we determined two paths forwards: (1) in lieu of a Conditional Use Permit application, we will submit a "request for formal interpretation" with the City of Ashland; (2) we will continue looking for alternative properties where we can move the respite, and if possible, hire realtors and Amy Gunter to aid in this search.

October 2024

- We contacted Jennifer Bragar regarding guidance around ADA accommodations and zoning, per Sadden's recommendation.
- We visited a new potential property where we could move to in Ashland.

I am writing to express my continued support for the Zoning Interpretation by Ashland Planning staff and the City Attorney, that a Peer Respite Center **is not** a permitted use in a RR-.5 Zone and that FHA/ADA **does not** require a “reasonable accommodation” for this proposed use.

The important factors in making such a Zoning Interpretation are:

- 1) Client stays at the proposed facility are limited to 14 days by Oregon law. There would be no long-term residents at the facility, therefore the proposed facility would not be a “residence” or “home” under legal definition or under any common sense understanding of the terms;
- 2) The facility, under Stabbin’ Wagon would legally be a business operation, albeit a non-profit business. The property is leased from a Portland owner for \$3,850/month. The facility would be staffed by paid employees, there to care for short-term clients. Oregon OHA will pay for the client care under the grant to Stabbin’ Wagon. This model is no different than, for example, *La Clinica*’s mission to provide low or no-cost healthcare, with reimbursement for care coming from OHA. An office of *La Clinica* would not be permitted in a RR-.5 Zone, despite the organization’s value to the community.
- 3) There are existing zones in Ashland where a Peer Respite Center could be located without a zoning change or interpretation. Stabbin’ Wagon was made aware of these zones early in its interactions with Ashland Planning. Undoubtedly Stabbin’ Wagon’s planning consultant was also well aware of the existing zoning and likely passed this information on to their client.
- 4) FHA and ADA define certain “protected classes” of people who are covered by these two laws. People having psychiatric disabilities are one protected class. However FHA/ADA strictly define psychiatric disabilities. Most of the client conditions described in Stabbin’ Wagon’s application, supporting materials, and comments, and those conditions listed in the Peer Respite Handbook, **are not** conditions covered under ADA (*EEOC Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities*, 915.002, dated 3-25-97 and updated 3-25-2011). Additionally, use of illegal drugs specifically disqualifies anyone from claims under FHA/ADA.
- 5) Even if Stabbin’ Wagon’s clientele was determined to qualify for FHA/ADA protections, the laws require only “reasonable accommodation.” FHA/ADA guidance documents, e.g., *Joint Statement of DOJ & HUD, group Homes, Local Land Use, and the Fair Housing Act*, 8-18-1999, state that these Federal laws **do not** pre-empt local zoning codes. Furthermore, this guidance states that if “the proposed use create(s) fundamental alteration in the zoning scheme . . . the requested accommodation is unreasonable.”
- 6) Allowing a short-term treatment business in a RR-.5 Zone is a fundamental zoning change. Such a zoning change could reasonably foreseen to lead to legal challenges of Ashland’s restrictions on travelers’ accommodations and/or home-based businesses, both of which require owners to live on-premises, unlike the proposed facility. It could potentially set a precedent to opening all residential areas to any businesses whatsoever.

Any one of these six factors individually is grounds for disallowing a Peer Respite Center business in an RR-.5 Zone. A decision informed by all six of these factors can only be to disallow the facility.

In short, the City of Ashland has strong legal reasons to disallow the proposed facility in a RR-.5 zone. I support such a decision to disallow the facility.

TO: Ashland Planning Commission

RE: Stabbin' Wagon's application for a zoning interpretation that would allow them to run a peer-respite center in a RR-.5 neighborhood (Planning Action PA-T1-2024-00255)

DATE: January 29, 2025

I have read the materials submitted by Stabbin' Wagon and the city of Ashland since the Planning Commission meeting on January 14, 2025. I continue to support the initial interpretation by Ashland Planning Staff and Ashland City Attorney that a peer respite center is most similar to traveler's accommodation, a short-term occupancy that is not allowed in our neighborhood zoned RR-.5.

It should be noted that most of the homes in our neighborhood are owner occupied. One reason people chose to purchase homes in this neighborhood is because the zoning prohibits business-type activities such as AirB&Bs. If the city changes the zoning to allow a short-term occupancy business, they will have betrayed the residents by changing the rules of the neighborhood after people have already purchased their home. Does the city really want to inject a business facility into a RR-.5 neighborhood, thus opening a "pandora's box" of AirB&Bs and other businesses?

Stabbin' Wagon is a business—it is receiving state funds to run the center (\$750,000 has already been received with no result produced) and the house's owners (who live in the Portland area) are receiving an above-market rent of \$3850/month. Stabbin' Wagon is receiving funds to provide services to clients; therefore, it is a business.

I have read the materials submitted by Stabbin' Wagon about Mental Health in America, Homeless Services, and Peer Respite Centers (in general) and their application to the Oregon Health Authority. But nowhere in these materials is specific information provided about how Stabbin' Wagon plans to run their facility, *e.g.: how do clients qualify for the maximum 14-day occupancy and who makes that decision?; what if people show up at the door when they are already full?; what will they do if clients refuse to leave after 14 days?; how will they prevent the use of illegal drugs, an activity prohibited in the facility by State law.* This last question is particularly concerning given that the applicant's previous experience has been "harm reduction" services to drug addicts, a group not included in the list of disabilities addressed by the Americans with Disability Act (ADA).

In summary, if the facility was actually a group home where people with mental disabilities lived together on a semi-permanent basis, they could be integrated into our congenial neighborhood as welcomed residents. Such a use might be consistent with our zoning. However, this short-term residency business, with unknown rules and regulations, is not consistent with our zoning. This reasoning is supported by Planning staff and the City Attorney. We urge you to disallow this facility in a RR-.5 zone.

Sincerely, Karen Grove, 131 Terrace St, Ashland OR

Michael Sullivan

From: J Maylee Oddo <j.maylee.oddo@gmail.com>
Sent: Wednesday, January 29, 2025 6:37 PM
To: planning
Cc: Brandon Goldman
Subject: Re: Zoning Decision: Concerns Regarding Requested Land-Use at 110 Terrace Street
Attachments: Record Submission 1-29-25 - Allman (3).pdf; Untitled attachment 00012.htm; image1.png; Untitled attachment 00015.htm; Untitled attachment 00018.htm

Dear Aaron,

We understand that the determination of land use at 110 Terrace Street is still being decided.

We would like to add further input. Please see the attached Record Submission document by Sydnee B. Dreyer. We lend our full support and agreement with the statements in this document.

Furthermore, we ask that you deny this request for a variance to existing zoning rules for the applicants of 110 Terrace Street. This decision does not just affect our neighborhood; making an exception for this applicant will create a precedent that will impact other areas of Ashland with zoning such as ours, eroding the intent, purpose, and safety of single family zoning.

Thank you for your time and consideration.

Sincerely,
Maylee Oddo & Brock Dumont
Terrace Street Residents

On Jan 8, 2025, at 6:24 PM, J Maylee Oddo <j.maylee.oddo@gmail.com> wrote:

Dear Aaron,

I would like to share with the Ashland Planning Commissions my concerns on the application for a Peer Respite Home at 110 Terrace Street.

I am a resident of Terrace Street and feel approval of this application would negatively impact our household.

Although I am in support of creating affordable housing and generating income for others, this application only allows a maximum of 14-day residency which resembles a Traveler's Accommodation which is not allowable for our Zone RR-.5/RR-1 area. The research indicates that this type of type of short term residency has a **negative** effect on providing affordable housing by its nature in increasing property cost and value. (c.f. [urblandland article](#).)

Traveler's Accommodation resembles AirBnb and VRBO rentals which, though it provides economic benefit to the property owner, it has been found to have a [negative impact on neighborhoods](#):

- **Creating opportunities for crime:** Short-term renters may be more likely to carry valuable items, making them targets for theft. They may also be less likely to report criminal activity.
- **Eroding the social fabric of a neighborhood:** The transient nature of short-term rentals can make it harder for neighborhoods to manage crime.
- **Attracting offenders:** Offenders may learn to return to areas with more short-term rentals to find unguarded targets.
- **Increasing the proportion of vacant properties:** Vacant properties are easier to burgle.
- **Increasing the likelihood of criminal damage:** Temporary occupants may be more likely to cause criminal damage.

Also, given the nature of Peer Respite Home zoning, I believe that it will increase traffic on our narrow gravel road that is very frequently used by families (including those with young children) for walking and biking, creating increased safety hazards.

I urge the planning committee to deny this application and others like it within our community.

Thank you for taking the time to read this email and consider these arguments against this application.

Sincerely,

J. Maylee Oddo
Brock Dumont
601 Terrace Street
Ashland, OR 97520

January 29, 2025

City of Ashland Planning Commission
c/o Brandon Goldman brandon.goldman@ashland.or.us
20 E. Main Street
Ashland, OR 97520

Re: PA-T1-2024-00255 – 110 Terrace Street

Dear Commissioners:

As previously stated, our office represents David W. and Carolyn Allman, the owners of property located at 134 Terrace Street, Ashland. This letter is submitted for the record in response to the materials submitted during the first open record period of the foregoing matter.

As testified previously, our client contends that the proposed use is not similar to a residential use under the Ashland Municipal Code (AMC) and therefore should not be approved under AMC 18.1.5.040. Moreover, if the legislature had intended to preempt cities' zoning laws, it would have done so (*See HB 2006* which explicitly exempted emergency shelters from local land use regulation; *HB 2001* requiring cities with a population of at least 25,000 to allow middle housing in residential areas).

Nor is the use a “dwelling” under the Fair Housing Act (FHA). To qualify as a “dwelling” under the FHA the use must meet a 2-factor test: 1) whether the facility is intended or designed for occupants who would intend to remain for a significant period of time; and 2) whether the occupants view the facility as a place to return to. *Lakeside Resort Enter v. Sup'rs of Palmyra TP*, 455 F/3d 154. 158 (3rd Cir. 2006).

A determination of whether a stay is a significant period of time is fact specific. In *Lakeside*, the court found that although the average stay was 14.8 days the facility qualified as a dwelling because the actual duration of stay varied widely, sometimes up to a year, and the short duration was usually caused by health conditions or insurance issues. Therefore, since the stay length was kept short by outside factors the average stay length was not dispositive, and the facility was a dwelling because it was intended for longer use.

In contrast, here, the intended stay is of short duration; specifically, a stay cannot exceed 14-days. ORS 430.275(2)(a). In fact, the very definition of a peer respite service means: “voluntary, nonclinical, short-term residential peer support.” ORS 430.275(1)(a)(Emphasis added). (“Each peer respite center may provide up to two weeks of continuous ...services). ORS 430.275(2)(a)(Emphasis added). Applicant argues that since there is no guarantee an individual resides long-term in a single-family home or residential care home, duration should not be a factor here. However, as with *Lakeside*, the fact that someone might move out sooner due to outside factors is not determinative of whether a person can remain for a significant period of time. The statute makes clear that a peer respite center is not intended for significant or long-term residential stays and therefore is not a dwelling under the FHA.

As for the Applicant’s request for a reasonable accommodation, the City need not reasonably accommodate this particular use in this particular location. The applicant states: “Excluding people experiencing mental illness, particularly those who need and desire respite housing as a means to stabilize their mental illness, from living in the RR-.5 zones, and for that matter, all single-family zones, is likely to reinforce existing patterns of segregation and to have a disparate impact on people with disabilities. (*Letter from Jennifer M. Bragar*, January 14, 2025, p.4). However, City zoning does not prohibit disabled individuals from living in this zone. Disabled (including mentally ill) individuals may reside in a single-family home alone, or with family or friends, or in a residential care home, as an outright permitted use. Additionally, nursing homes, convalescent homes and residential care facilities are permitted in the RR-.5 zone as a conditional use. It is an unfounded statement that because a peer respite center cannot be located here, the City’s zoning code discriminates against disabled persons living in a single-family zone.

As noted in the Joint Statement of the Department of Justice and the Department of Housing and Urban Development (<https://www.justice.gov/crt/joint-statement-department-justice-and-department-housing-and-urban-development>) (the DOJ Memo), included in the record, a reasonable accommodation might mean waiving a setback requirement to allow better access for those with mobility impairments, but not all requested modifications are reasonable. To determine whether a modification is reasonable the City must look to: 1) whether the request imposes an under burden or expense on the local government; and 2) does it create a fundamental alteration of the zoning scheme. *Id.*

Here the requested accommodation creates a fundamental alteration of the zoning scheme, as the use is not residential in nature, but rather transitory as argued previously in the record. It is expressly intended to provide “short-term residential” use, inconsistent with the City’s definition of Residential Use which is: “Long-term occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods (i.e., less than 30 days) of time is considered an overnight accommodation for transient individuals. See also, definitions of Accessory

Travelers' Accommodation, Hotel/Motel, and Travelers' Accommodation." AMC 18.6.1. Unlike a request to merely allow an increased setback as a reasonable accommodation, the current request requires the City to fundamentally alter its zoning scheme to allow a prohibited transitory use and is therefore not a reasonable accommodation request.

In the alternative, and without waiving the foregoing arguments, should the City determine that it is necessary or desirable to grant a reasonable accommodation, conditions should be imposed to ensure that the proposed use does not create an undue burden to neighboring properties or property owners. It is noteworthy that the proposed application provides no information as to how the program will be run. For example, when can an individual move in or out of the facility? Will prospective guests come and go 24/7? What steps are in place should an individual arrive at the premises but be turned down either because the 4-beds are filled or because the individual's mental state is such that the person cannot be served by the facility. These questions are particularly problematic because the state has yet to establish any rules as to how such a facility will operate, what safety plans should be in place, what to do if a person is turned away for service, etc. In fact, in reviewing the September 2022 Peer Run Respite RFGP Information Session (<https://youtu.be/faP7eh5bnTk>) many of these questions were raised by prospective grantees and the state acknowledged that it did not have answers and that it would be up to each individual facility to provide a plan for emergencies, or to deal with guests who arrive but cannot be served. Has any such plan been provided to the City and are there steps in place to ensure the facility is prepared to address emergencies, evacuations, or turning a prospective guest away, who may be in a state of mental crisis, from the facility? Are there any standards to prevent housing of "current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders" who, per the DOJ Memo, are not considered disabled under the FHA by virtue of that status.

The proposed use at this location presents particular challenges unique to this site. Access to the site is via a blind driveway shared with our clients, the driveway surface to the premises is not in good repair and measures only 7' 8" wide, is not lighted, is in a high wildfire risk zone, and is difficult to find at night (See Exhibit A, Photos of Driveway and Entrance off Terrace). In viewing the September 2022 RFGP Information Session cited above, the state advises that use and access to a facility will be flexible, and that "people can refer themselves". People can "show up and ask for support". *Id.* In this case, given the access to the site, the inadequate driveway condition, and the hazard zone, conditions should be imposed for the protection of the respite center as well as neighboring property owners to ensure that potential guests who just "show up" can find the facility safely, do not disturb our clients in the middle of the night because of confusion as to the location of the site, can exit in the event of emergency evacuation, etc. To that end, any approval should include conditions of approval that may include, but not be limited to, the following:

- 1) Evidence of rules restricting guests from active use of controlled substances while on the premises.
- 2) Evidence of rules restricting those convicted of illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, from staying at the premises.
- 3) Rules prohibiting smoking outdoors and/or rules to ensure that any outdoor smoking is contained within a designated area designed to reduce the risk of wildfire.
- 4) Rules prohibiting checking in or out of the facility between the hours of 10pm to 7am to limit disruption to neighbors.
- 5) Potential signage and lighting to identify the driveway, with lighting designed to shield the light away from the property located at 134 Terrace Street.
- 6) Requirement that the site be assessed by Ashland Fire and Rescue to determine whether any items need to be addressed to reduce fire risk.
- 7) Evidence of an evacuation and safety plan in the event of emergencies.
- 8) Evidence of a plan to address turning away guests arriving at the premises (for example will staff drive them elsewhere, get them a ride, etc. so a person in a state of mental distress is not simply wandering from a relatively remote location back to town).
- 9) Evidence of a plan to deal with violations such as illegal drug use, violent behavior or other severe safety hazards (for example, will such issues result in eviction from the premises).
- 10) Information as to whether there are rules regarding visitors and how that will be handled.
- 11) Evidence of adequate insurance to address potential hazards involved in running this facility. For example, if a guest damages neighboring property, is there adequate insurance to cover these costs.

The applicant indicates that the City has failed to engage in a dialogue regarding the requested reasonable accommodation. However, information received pursuant to a public records request indicates that the applicant has been involved in a dialogue with the City for over a year and yet it does not appear that any evidence has been provided as to how this facility will be run, and how it will address potential emergencies. (See Exhibit B, *Timeline of Events*). It is also apparent that the applicant moved forward with a lease and investment in the use before it ever applied to the City for approval. The application should not be approved simply because the applicant proceeded without assuring this location was legally permissible or adequate. While it is an unfortunate series of events that is undoubtedly costly and frustrating to the applicant, that could have been avoided had the applicant completed its due diligence before proceeding with development of the site.

In conclusion, the application should be denied as the use is not permitted in the zone. A reasonable accommodation is not required as the use is not a dwelling under the FHA and the accommodation request is not reasonable in that it would result in a

fundamental alteration of the zoning scheme. In the event that the City disagrees and moves forward with approval of the use, reasonable conditions should be imposed to ensure that the use does not have an undue impact on the property or the neighbors.

O'CONNOR WEST, LLC

/s/ Sydnee Dreyer

Sydnee B. Dreyer, OSB No. 954710

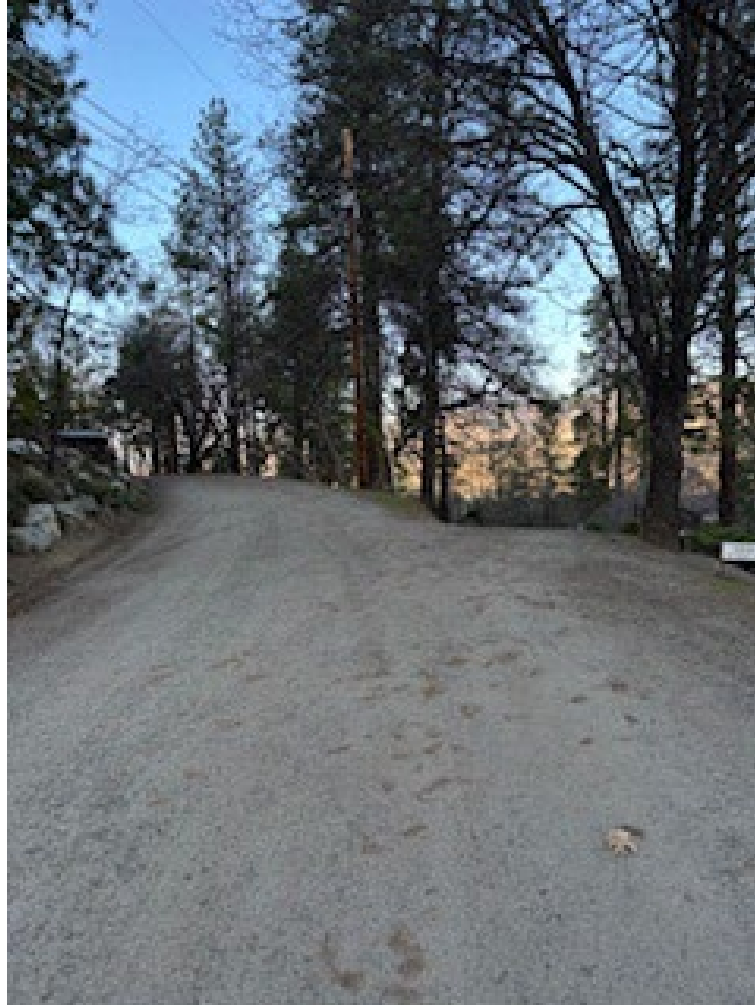
sbd@PacificLand.law

SBD:

c: Clients

EXHIBIT A

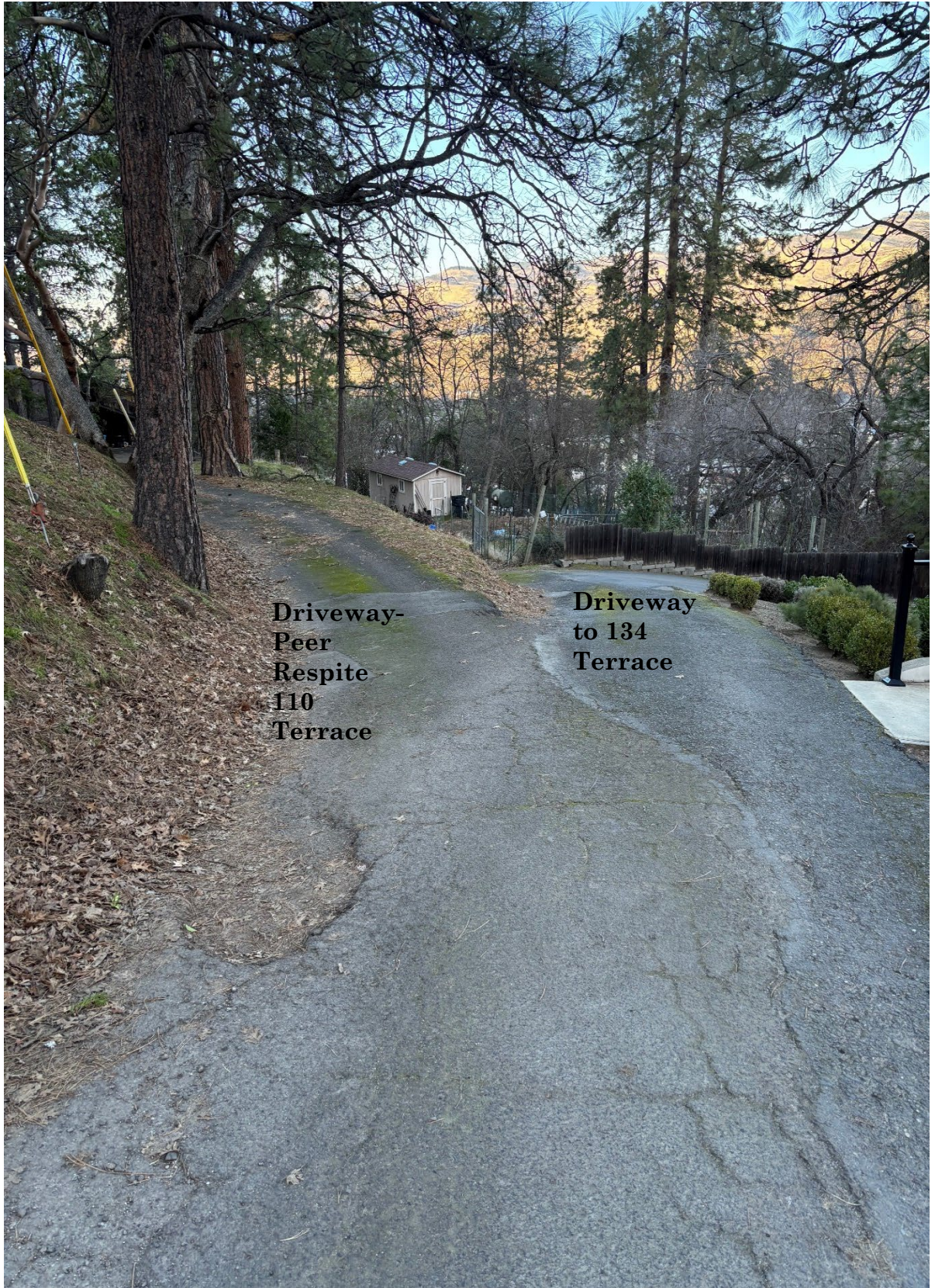
Photos of Driveway



A view of the blind driveway entrance from Terrace



A view of the driveway entrance – Allman Property to the right of the driveway





Narrow driveway to premises – measures 7' 8"

EXHIBIT B

Email regarding Timeline

From: info@mountainbeaverhouse.org
To: [Burns Kendall Frances](#)
Cc: [Rappaport Beau](#); [Haiani Israa A](#); [kelly szott](#)
Subject: Zoning timeline and overview
Date: Friday, October 4, 2024 1:07:28 PM
Attachments: [MBH Zoning Timeline.docx](#)

Hi Kendall and Beau,

Kendall, here is an overview of the steps we have taken to obtain zoning. Please let us know if you need any additional information or have questions.

As you know, we've balanced this work with other work including policy and procedure development, staff trainings, etc.

I do want to highlight that our current timeline has not changed substantially since our Quarter 1 report was submitted to OHA on July 1, 2024. At that time, we documented the communications we had received from OHA regarding delays and the issue of contract compliance: "we currently anticipate that our opening will be delayed until [at] least January 1, 2025. As stated by OHA staff, we remain compliant with our contract and we will not be penalized for these delays."

I've mentioned this previously, but I wanted to let you know we are in the final steps of hiring 5 additional per diem employees. We intend to hire additional employees this fall, to ensure we have proper staffing when we open.

We'll look forward to meeting with you and Beau soon.

Thanks,

Derek

On 2024-10-03 16:36, info@mountainbeaverhouse.org wrote:

> Hi Kendall,
>
> thanks for your call yesterday.
>
> You requested a detailed write-up of the steps we've taken to resolve
> the zoning issues. We are working on that for you.
>
> Regarding the next steps around a "request for reinterpretation" that
> our land use consultant and attorney advised, we are working to get
> that for you as well, but may be delayed because our land use
> consultant is currently experiencing a medical emergency.
>
> please let us know if you need anything else.
>
> Thanks,
>
> Derek
>
> On 2024-10-02 11:39, Burns Kendall Frances wrote:

>> Hello,

>>

>> Please see section EXHIBIT A Part 2 Disbursement and Financial
>> Reporting. Please note that further invoices will not be approved as
>> the organization is out of compliance with the terms of the grant and
>> has not met milestone of opening within six months of the start up
>> costs being received. At this time, the organization has not provided
>> a sufficient plan or timeline for opening in Southern Oregon. I need a
>> detailed plan and timeline for opening within 3 months. I've cc'd
>> Israa to assist us in scheduling a time to meet with myself and Beau.

>>

>> Regards,

>>

>> Kendall Burns (she/her)
>> Peer-Run Respite Coordinator
>> Oregon Health Authority
>> Office of Recovery and Resilience
>> 971-239-6455

>>

>> -----Original Message-----

>> From: info@mountainbeaverhouse.org <info@mountainbeaverhouse.org>
>> Sent: Monday, September 30, 2024 4:53 PM
>> To: HSD Contracts <HSD.Contracts@odhsoha.oregon.gov>
>> Cc: Burns Kendall Frances <Kendall.F.Burns@oha.oregon.gov>
>> Subject: Invoices 500 + 600

>>

>> Think twice before clicking on links or opening attachments. This
>> email came from outside our organization and might not be safe. If you
>> are not expecting an attachment, contact the sender before opening it.

>>

>>

>>

>> Hello,

>>

>> Here are our invoices for Q1 and Q2 of the 2024-2025 fiscal year.
>> Please let us know if you need anything else.

>>

>> thanks,

>>

>> Derek

Applicant's Timeline of Events

Attachment to October 4, 2024 Email to Kendall Burns

This is a timeline and basic overview of the steps we have taken to secure a rental and zoning approval for the peer respite.

November 2023

- We began looking for rental properties.

December 2023

- We made initial contact with the local municipalities regarding zoning peer respites.
- We met with OHA and FolkTime for TA in-person training. We showed OHA and FolkTime images of the house at 110 Terrace Street; Kendall Burns and Peter Starkey advised us to secure the property first and address zoning with the city after securing the lease.
- Based on initial discussions with the City of Ashland, City planning staff stated that our zoning “is most similar to either a convalescent home or residential care facility.” City staff outlined the process for being zoned as such via a Conditional Use Permit process.
- We began contacting lawyers who could help us with the conditional use permit process. We spoke with Alecia Leduc-Montgomery, Corinne Celko and Tonia Moro.
- We began working with the landlord, Kent Patton, to secure the house.
- We conducted outreach to other peer respites to understand how they had been zoned.

January 2024

- We continued consulting lawyers with next steps along the conditional use permit process, including Lanier Land Consulting LLC. We chose to work with land use consultant, Amy Gunter and land use attorney, Chris Hearn.

February 2024

- We worked with Amy Gunter and Chris Hearn to submit our pre-application paperwork to the city of Ashland, we secured a March 20th 2024 date for our pre-application meeting.

March 2024

- We continue to work with Amy Gunter in preparation of our March 20th meeting

- The written comments from our pre-application meeting with the City stated: “If it can be demonstrated that the proposal meets the definition of a ‘residential care facility’ then it would require a Conditional Use Permit (CUP). In the Land Use Ordinance, the definition of Residential Care Facility falls under ‘Group Living.’ The ‘Group Living’ definition invokes long-term residential occupancy. For staff the concern is whether the transient nature of the proposed respite center would offend the definition of ‘Residential Care Facility’... Due to the transient nature of the proposal, it may be determined that it qualifies as a ‘Travelers’ Accommodations,’ in which case it would be a prohibited use in the zone and not able to be approved.”
- In our pre-application meeting with the City, city staff stated that they would be able to re-interpret zoning if they receive a declaration from OHA or a letter of intent from legislators stating how the respites should be zoned.
- We scheduled a meeting with Amy Gunter and our staff to begin discussions with OHA regarding a path forward. In an email to OHA staff, Amy Gunter stated: “In my experience as a planning consultant, Peer Respite homes will face challenges in many Oregon communities without further guidance from the Oregon Housing Authority on the intent of the emergency Legislative Action (House Bill 2980 (2021))... A letter from the OHA that directs cities to allow for Peer Respite in residential settings similar to all other addiction/recovery homes, domestic violence shelter type of facilities that provide housing for five or fewer individuals with mental, emotional, or behavioral disturbances or alcohol or drug dependence, residential care, and treatment in one or more buildings on contiguous properties are similar in type, kind, and function as the intended legislative action for Peer Respite Centers would eliminate the city desire to use discretion because they don't know what to call a Peer Respite Center within the context of their codes.”

April 2024

- We continued discussions with Amy Gunter, our staff, OHA and the City of Ashland including a meeting with all parties on April 23rd.
- During meetings between our staff and OHA, OHA informed us that we would not be penalized or viewed as out of compliance for opening delays caused by zoning issues. We reiterated this mutual understanding in an email to Kendall Burns, dated April 16, 2024: “As discussed, this delay is caused by zoning issues outside of our control, and OHA has stated that we will not be penalized or considered out of compliance with our contract for zoning-related delays.” In this same email, we said our hope was to resolve zoning issues by July 25, 2024.

- We followed up on outreach to other peer respites to understand how they had been zoned.

May 2024

- We received a detailed explanation and next steps for zoning from our land use consultant. This explained the timeline for zoning with the City of Ashland, given the results of our pre-application meeting:
 - “The city has a 30-day review window from when the application is submitted and paid. In that 30-day window, the application is deemed complete or incomplete. When the application is deemed complete, a notice of application (if a staff decision) or notice of hearing (what they said they would do to notify the neighborhood) goes out to all property owners within 200 feet of the property boundaries.
 “Staff Decision (Type 1): A typical CUP for a Traveler's Accommodation or a Residential Care Facility (similar in type, kind, and function) would be reviewed within 30-day, noticed for 14 day public comment period, staff takes about 20 days following the comment period to make their decision. That decision is sent to the same notice area with a 12 day appeal period. The city averages about 75 days to process these. They have 120 days by state statute.
 “Assuming there will be a public hearing because staff believes that it should be considered like a Transient Occupancy vacation rental...
 “The application is a Type 2 and is heard before the planning commission as a quasi-judicial procedure. The meeting follows Roberts Rules of Order. A hearing is opened and there are specific rules to who can participate based on signing up during the public testimony stage. A planning commission hearing is typically about 45 days after submittal.
 “The planning commission reviews the application during their meeting, takes public testimony, and reviews the staff recommendations. The applicant gives a 15-minute presentation and the public gets 3-5 min to comment. The hearing closes and no more public comment is allowed. The Planning Commission forms a decision and makes findings based on the code criteria recommending approval or denial. The following month, the findings are adopted. When the hearings process is involved, the timeline is approximately 160 days (30-day pre-review and 130-day application processing period). The decision can be appealed by anyone in the applicant, anyone in the notice area or anyone in the public that commented during the public

comment period or during a hearing.

In both decision processes, state law gives the city 180 days to process the decision.”

- We began outreach to community partners to receive support related to our zoning issues.
- We met with attorney Chris Hearn to proceed with next steps with our conditional use permit process. Chris stated he would research the issues for the best path forward, given our goals and timeline.
- We requested that land use consultant Amy Gunter research additional locations where we could operate a peer respite with fewer zoning barriers.

June 2024

- We pursued a three pronged plan for next steps: (1) work with land use consultant and land to obtain zoning at 110 Terrace Street; (2) research other properties in Jackson or Josephine county where we could move without zoning barriers; (3) contact local elected officials to problem solve zoning.
- We updated OHA on these steps and our timeline via an email on June 28, 2024, including: “as previously discussed, we are still compliant with our contract and we will not be penalized for these delays.” In this email, we stated: “we anticipated that our opening will be delayed until [at] least January 1, 2025.”
- We began outreach to Representative Pam Marsh regarding our zoning delays.

July 2024

- Our staff and landlord had multiple conversations with Representative Pam Marsh regarding zoning issues, Representative Marsh conducted outreach to the Oregon Department of Land Conservation and Development, Rep. Nosse, Kevin Fitts, ABLE House, FolkTime, and others. Our landlord also informed us that we would speak with a former Ashland city administrator regarding these issues.
- Based on his review and interpretation of materials, our attorney Chris Hearn advised that he “call [Ashland] City Attorney Doug McGeary and see if he will get the Planning Department to re-interpret the provisions of City’s short-term rental ordinance differently.” Hearn also advised that we should conduct outreach to Representative Pam Marsh.
- Amy Gunter completed research regarding additional municipalities where we could move with fewer zoning restrictions: “All localities (Ashland, Talent, Phoenix, Medford, Central Point, Jackson County have some sort of

restriction upon occupancy of any sort that is 30 days or less... a political challenge could be raised where there are occupancy specifications in the ordinance.”

- After requesting an extension on our grant contract we were informed by Kendall Burns: “At this time [the contract] cannot be extended past June 30th 2025.”
- Due July 31, 2024, our Quarter 1 report provided substantial updates to OHA regarding our zoning.
 - We set a 3 month goal to “determine the appropriate path forward for becoming zoned, and continuing working toward the goal of zoning.”
 - We set 6 month goals: “analyze and if needed revise peer respite budget to be consistent with current timelines around zoning, staffing, etc.” and “obtain zoning necessary to operate peer respite.”
 - In response to the question “Please list obstacles you have overcome, that you are currently facing, and those you anticipate?” we stated: “The Office of Recovery and Resilience staff are aware of the current details regarding our obstacles to obtaining zoning approval from the City of Ashland, and more details can be provided if needed. In short, our zoning obstacles have delayed opening of the peer respite by at least 6 months. Our current timeline for opening is January 2025, however, this is contingent on zoning approval from the City of Ashland.”
 - In response to a question about our timeline for opening, we stated: “As described in an email to OHA dated 6/28/24, we currently anticipate that our opening will be delayed until [at] least January 1, 2025. As stated by OHA staff, we remain compliant with our contract and we will not be penalized for these delays.”

August 2024

- On August 22, our attorney Chris Hearn stated via email that he had a “favorable discussion” with city attorney Doug McGeary wherein McGeary said he would “see what he could do in terms of potentially advising Planning staff to adopt a more favorable interpretation of the City’s ordinance provisions relating to travelers accommodations and group homes.
- We continued discussions with our landlord on how to proceed with obtaining support from Representative Pam Marsh.
- On August 30, Chris Hearn informed us of his most recent communications with Ashland Attorney Doug McGeary. Via email, McGeary stated to Hearn:

"You make a compelling argument that the peer respite center does not operate on a commercial basis, but it also doesn't fit within the single-family residential use category either. In fact, as Brandon indicated (and this has probably been your concern), there isn't a permitted use category under which you could apply for a Conditional Use Permit in this zone. Brandon and his team have discussed this issue with the state, and their recommendation is to find a location where such use is allowed, most likely in multi-family residential zones (R-2, R-3) or commercial zones. It seems the city has been considering psilocybin health centers in commercial zones with minimal resistance, so your client's use would not be unusual. I understand this is of little comfort if your clients have already purchased or leased the house with the intent to use it as a peer respite center."

September 2024

- We discussed next steps with attorney Chris Hearn and Amy Gunter, and conducted outreach again to Rep. Marsh.
 - Rep. Marsh discussed the Feb - June legislative session, and stated via email "Unfortunately, I don't know any quick solutions."
- We updated Kendall Burns with our barriers to zoning, and asked whether OHA had any thoughts on next steps. We also inquired whether there were other OHA staff outside of the Office of Recovery and Resilience we should engage with.
- Kendall Burns referred us to Steve Sadden of Bay Area First Step, and we had a meeting to discuss how Bay Area First Step has resolved zoning issues on the South Coast. Sadden referred us to a Portland attorney named Jennifer Bragar for additional guidance regarding ADA accommodations and zoning.
- In a meeting with Chris Hearn and Amy Gunter we determined two paths forwards: (1) in lieu of a Conditional Use Permit application, we will submit a "request for formal interpretation" with the City of Ashland; (2) we will continue looking for alternative properties where we can move the respite, and if possible, hire realtors and Amy Gunter to aid in this search.

October 2024

- We contacted Jennifer Bragar regarding guidance around ADA accommodations and zoning, per Sadden's recommendation.
- We visited a new potential property where we could move to in Ashland.

Rob Patridge
5 Hillcrest St.
Ashland, OR 97520

January 30, 2025

City of Ashland Planning Commission
20 East Main Street
Ashland, OR 97520

RE: PA-T1-2024-00255, 110 Terrace Street

Members of the Planning Commission,

My family and I live at 5 Hillcrest Street, immediately downhill from the subject property at 110 Terrace Street. The subject property looks into our backyard and our home. We purchased our home five years ago and have substantially improved our 1,170-square-foot home and grounds to improve fire resiliency and clean up the property. I appreciate your community commitment as a servant leader by serving as a member of the Planning Commission. I would like you to offer the following ideas and framework to consider during your deliberations.

1) Look at the property so you have context.

Many of you at the January hearing said you did a site visit. For those unable to visit or as a refresher, I encourage you to view the four-minute video of the site I submitted to the public record before the planning committee meeting. Because of the time limits for public testimony, I could not show you the video at the meeting. The video will give you context for the site. It will show the character of the neighborhood as well as the condition of roads and the limited ingress and egress to the property for public safety vehicles.

2) Examine the purpose of land use planning and zoning.

The Oregon Constitution, home rule, Senate Bill 100, various statutes, and the Department of Land Conservation and Development and its administrative rules have created a rich opportunity for cities to chart their course for zoning. Zoning is part of the fabric of Oregon to ensure livability in our State and communities and allows cities to intentionally and proactively create community.

As you know, zoning is based on “police power,” a legal doctrine that gives states and local governments the authority to regulate land use to protect public interests, such as health, safety, the environment, and the general welfare of the community.

I urge you to consider why we allow single-family zoning in Oregon and Ashland. I submit that the primary reason people desire to live in various neighborhoods/zones is lifestyle. We create and move to neighborhoods based on many things, including but not limited to the environment, schools, taxes, and public safety. We choose to live in old neighborhoods, new neighborhoods, planned communities, downtown, rural areas, wildland-urban interfaces, and compact urban environments, to name just a few. Many of us who choose to live in this neighborhood/zone desire to participate with our neighbors and connect to build our neighborhood and the broader community. We desire a home where people watch out for each other and our property. We want to build long-term connections and a stable support network. The vision of having a backyard BBQ with neighbors you know and trust in your home is a clear goal for many. Since I've been in this neighborhood, I've been called upon by an octogenarian neighbor to climb through their window when they were locked out, have a group text string with ten neighbors to alert each other about bears in our area and public safety, and I've lent and borrowed tools for home projects. These interactions build community and result from residents remaining in this zone/neighborhood for a significant period of time. We have had time to get to know each other and our families. We recognize each other on the local street, downtown, at school, in the grocery store, or volunteering at local events. Long-term residents develop a sense of neighborhood commitment, pride, caring, and kinship. We are invested not only in our property but also in this community. We get to know each other and bring over a casserole when someone is sick or have a drink together after a hard week at work. We have single-family residential neighborhoods and zoning for many reasons good reasons.

3) Look at the City Code to determine what uses are allowed.

I agree with the city that this use proposed by the proponent is most like transient lodging. It is more like transient lodging, primarily because of the statutory short-term or temporary stay. Ask yourself why we don't allow transient lodging in this zone. If you look at public input, the last time legislative action was taken regarding this zone, I understand that short-term stay properties were considered and not included. The citizens of Ashland desired that neighborhoods zoned like ours create the sense of community that is desired by not having properties filled with short-term stay individuals like tourists who have no commitment to each other or this community. The council and commission recognized the benefits of having long-term residents in single-family residential zones and neighborhoods.

In this case, the proponents choose to promote a short-term stay Center. ORS 430.275(2)(a) defines the maximum number of days individuals can stay in a Center, "[e]ach peer respite center shall provide up to two weeks of continuous peer respite services to six or fewer individuals." I believe City staff have followed the legislative history and desires of the citizenry and denied this short-term property stay in the zone. They have done so not because of the type of residents but objectively. City staff has informed you there is history and precedence for disallowing this type of short-term use.

If cities cannot use the objective mechanism of the length of stay for this zone, what mechanism can the city use to place any controls on use in this zone? The length of stay provides a straightforward objective test for this area. Many court cases exist in this area, and your staff and other attorneys in this record have supported the objective short-stay approach. I suggest that the Commission utilize this objective test and disallow this use for the property rather than attempt to adjudicate this matter and leave the adjudication to a court if necessary. I would suggest your findings do not go further than these objective criteria, as it has been applied fairly and consistently.

While I would not recommend it, if the Commission desires to look further than the length of stay, it is reasonable to look at the impact on the zone/neighborhood. I contend that the proponents are attempting to turn this longstanding residence into a commercial property. I suggest the Commission first look at objective items. Evidence already contained in the public record includes items obtained from OHA as part of a records request comprising the proponent's grant application, grant contract, financials, and other correspondence. I would first direct you to the budget submitted by the proponents to OHA (Exhibit A) and the invoices they have already sent to OHA (Exhibit B). The information shows the Center will be staffed by eleven (11) separate part-time staff and no full-time staff. If this facility remains full with five residents staying a maximum of 14 days, there would be over 130 different individuals with mental illness or trauma response symptoms staying at the Center and the record is unclear if visitors will also be allowed. The 2023 U.S. Census data for the City of Ashland shows the average person per household is 1.97, much smaller than the occupancy proposed by the applicants and more like a commercial use. Further, the Census data for 2023 shows that 77.9% of households have remained in their residence year-over-year, showing the long-term nature of our neighborhoods in Ashland. What is being proposed is more like zones that allow mixed-use or commercial properties, including hotels or short-term rental homes. The planned property use is well beyond what would typically be anticipated for a single-family residential home in Ashland and will substantially disrupt the residential character of the neighborhood.

If the Commission wishes to draw a parallel, I contend there is inadequate information in the record for you to draw a subjective conclusion regarding similarities. The proponents have provided little information regarding the operations of the proposed Center. The argument advanced by the proponents is that this is like group housing. However, the proponent fails to outline how this Center is like "group housing," merely arguing that it is a rotating group of people experiencing mental illness. After examining the record and sitting through the hearing, the record does not talk about nor compare the statutory and programmatic goals between the numerous types of behavioral health facilities or "group housing" authorized by the State of Oregon in ORS 443 and a Peer Respite Facility under ORS 430.275. It is clear from the current Statutes, Administrative Rules, and City Code, as well as local and statewide providers whom I have spoken to, that "group housing" in Oregon is generally meant to create long-term or extended-stay housing in a facility or residence that people consider their home as opposed to a

temporary respite. Those housed in a group home expect to return to the home over an extended period of time. The residents in the group homes get to help build community between and amongst each other as well as in their neighborhood and the City of Ashland. The individuals that Stabbin Wagon brings in can be from anywhere. There is no requirement that they are from or are connected to the City of Ashland, Jackson County, or the State of Oregon. There is no evaluation or clinical analysis or evaluation as you would have in a group home. The individual and the proponents have no agreements on house rules and stay requirements that you would see in a group home. According to their application and governing law, the proposed Center is very unlike a group home in terms of its operation, goals, outcomes, and program. The proponents should not be able to overcome zoning regulations by arguing the home is more like a group home without any clear facts in the record comparing the operations.

Before you try to draw a parallel, I would urge you to consider Oregon's land use planning Goal 1, which provides for Citizen Involvement and "the opportunity for citizens to be involved in all phases of the planning process." The citizens, planning commission, and council have all been involved in setting up the zoning regulatory process for the City of Ashland. The proponents, according to their own timeline submitted to OHA, have known that the property and its zoning were problematic for their use since December of 2023 when they entered into the lease (See the attached email and timeline prepared by Stabbin Wagon to OHA marked as Exhibit C to this letter). Instead of being transparent and collaborative with the City of Ashland and the community or finding a location where a Center's use was clearly permitted, the proponents chose to lawyer up rather than take proactive steps like educating the neighbors, community, and council. They choose instead to try and accuse the City and its citizens of discriminating against the mentally ill, which is clearly not the case. They could have conducted town halls, done outreach, or proactively worked with the neighbors. I have tried reaching out to them for a meeting and received some early response that they would refer me to their lawyer but I have heard nothing back. Make the proponents properly use Oregon's land use code and system of citizen involvement.

If the proponents want this to be a permitted use then they should make an application under AMC 18.5.9.020 for Plan Amendments and Zone Changes. Local community leaders have advised the proponents to find another location that is clearly permitted by the zoning regulations so services can be delivered. The proponents have failed to secure an alternate location in almost 14 months of knowing there were issues with the zoning at 110 Terrace Street. You may ask what the agenda is for the proponents by failing to work with the City of Ashland and the Community? Is there goal to create an use in this location to make way for their clear anti-government political agenda. Please note, this grant is anticipated to expire June 30, 2025 (See the Grant Application and Contract in the Public Record). Also, note the Public Records provided by OHA indicate that the proponents have received \$750,000 from OHA and have not provide any actual client services. Finally, know that the OHA has refused to pay the last two attempted grant draws for \$18 each for failing to provide the services contracted for. I wonder why

a not-for-profit who is allegedly working for our community goals has bunkered down and is failing to proactively communicate rather than cast aspersions on the City and our neighbors.

The State legislature when it passed the HB2980 in 2021 that authorized these Centers left it to local jurisdictions and did not exempt Peer Respite Centers from local land use zoning. There is nothing in the legislative record amendments to indicate any amendments that contemplate exemptions nor indicate a Center should be treated like group housing.

Finally, though I disagree that an analysis needs to be done if Commission decides it wants to draw a parallel I would say that this facility would be more like a hospital, residential care facility, or nursing home all of which would require a conditional use permit under the Ashland Municipal Code.

4) Determine if the Fair Housing Act Applies

If you do move beyond the opinion of your City staff make the proponents prove that the Fair Housing Act applies in this matter. I believe the information submitted by the applicant provides insufficient fact to demonstrate the FHA applies.

Many courts have used a two-part test to determine if something qualifies as a dwelling and thus making it subject to the Fair Housing Act. Quoting from *Lakeside Resort Enters., LP v. Bd. of Supervisors of Palmyra Twp.*, [455 F.3d 154, 158](#) (3d Cir. 2006).

(1) whether the facility is intended or designed for occupants who intend to remain in the facility for any significant period of time; and (2) whether those occupants would view the facility as a place to return to during that period.”

In the present matter think about the analysis applied by the Lakeside case and its progeny. These individuals can only reside in the facility for a period of 14-days pursuant to the grant and State law. Is 14-days a significant period of time? I believe that 14-days is not a significant period of time. Further, the proponents have entered nothing in the record that suggests that the occupants would view this place as a place to return over a “significant period of time.” A Respite Center, by statutory definition, is “short-term.” Further, the definition of “respite” by Merriam-Webster always includes the word “temporary” regardless if it is used as a noun, verb, or adjective. By its very nature and statutory and grant construction the definition falls outside of the test of a dwelling. Ask yourself based upon the tests applied if the Fair Housing Act is being violated. Your City staff and outside attorney for one of the neighbors come to the same conclusion that the City of Ashland would not be violating the Fair Housing Act by a denial.

I appreciate the Commission time to consider this framing and analysis. Please know that I believe that if you do not follow staff’s recommendation your decision could have a broad ripple

impact on Ashland's zoning. By abandoning the objective length of stay requirement and allowing the Center to persist you then enter into a set of subjective criteria that creates further litigation risk for the City of Ashland and substantial cost to the citizens of Ashland. The proponents have failed to prove their case, or to openly and transparently try to change what is allowed in a single-family residential area through the Ashland Municipal Code Process.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Patridge', with a stylized, sweeping flourish extending from the end of the name.

Rob Patridge

EXHIBIT A

RFGP #OHA-S-44300-00004104

2025-0023 022 01/13/2025

		f. Web/internet	\$100/month for home wifi internet	\$ 2,400
		g. Insurance	Liability Insurance (CGL & PL) and Workers Comp	\$ 9,000
		h. Staff training and development	All staff will received peer respite training from the Wildflower Alliance, State of Oregon Peer Support Specialist / Intentional Peer Support training and certification, anti-racism training, and accessibility trains - additional training opportunities will be provided to staff and community as needed	\$ 40,000
		i. Staff finger-printing/background checks	For new hires	\$ 860
		j. Art Activities	\$200 a month for art supplies, books, music equipment	\$ 15,000
		k. Zoom Pro	For guests to use as needed and for outreach meetings	\$ 360
		l. Adobe Pro	For guests to use as needed and for outreach tasks	\$ 360
		m. Outreach and educational materials (English)	For outreach to community partners, promoting the peer respite throughout the region	\$ 4,800
		n. Interpretation/translation services	To support outreach to community partners and as needed to support guests at the respite - ASL, Spanish, Vietnamese, and Mandarin as needed	\$ 7,000
		o. Food Pantry	\$800 per month to keep basic essentials stocked in the kitchen	19,200.00
		p. Transportation Stipends	Funds to help people travel to and from the respite	6,000.00
		q. Staff Travel Funds	For outreach and training related travel	4,000.00
		Subtotal of Operating Expenditures		\$ 233,280
		3. Start Up Costs (please describe)		
		Mattresses	For guest rooms	9,000.00
		Bed Frames	For guest rooms	600.00
		Bed Sheets	For guest rooms	300.00
		Couches	For common areas in the respite	1,000.00
		Desks for rooms	For guest rooms	600.00
		Desks for staff	For use in common areas / for staff	500.00
		Office Chairs	For guests, staff and common areas	300.00
		LaserJet Printer/Scanner/Fax/copier	For use by guests and staff	1,500.00
		ADA Home Requirements	This money will be used to create an ADA required first floor bathroom and an ADA entrance ramp.	50,000.00
		MS Office for Mac	For respite computers (to be used by guests and staff)	621.00
		Office Supplies	Initial purchases of basic office supplies for use by staff and guests at the respite	1,000.00
		Locking filing cabinet	For storing of private information and items	250.00
		Kitchen supplies	A pot and pan set, kitchen aid mixer, plates, utensils, and other misc items.	700.00
		Computers	Laptops and desk tops for both staff and guests	\$ 5,000
		Subtotal One-Time Start-up Costs		\$ 71,371
		4. Admin/Indirect costs, please describe in "notes" column	Bookkeeping and payroll for 11 employees	\$ 34,560
		Subtotal Admin/Indirect Costs		\$ 34,560
		D. Total Proposed Operational Budget		\$ 1,498,639

EXHIBIT B

STABBIN WAGON GRANT AGREEMENT 180848 - PEER RUN RESPITE

Invoice #	Date	Amount	Approved/Denied	Notes from Grant Recipient																												
1	11/23/23	\$25,000	Approved	<table><tr><th>Description</th><th>Line Item</th></tr><tr><td>3 Employee Salaries</td><td>\$8,250.00</td></tr><tr><td>Benef ts</td><td>\$2,062.50</td></tr><tr><td>Insurance (CGL & PL Liability and Workers Comp)</td><td>\$9,000.00</td></tr><tr><td>Employee fingerprinting & background checks</td><td>\$860.00</td></tr><tr><td>Bookkeeping, payroll and other admin support</td><td>\$3,000.00</td></tr><tr><td>Advisory Board, Commu n ty Participants, Participant Incentives, Volunteers</td><td>\$1,827.50</td></tr><tr><td>TOTAL</td><td>\$25,000.00</td></tr></table>	Description	Line Item	3 Employee Salaries	\$8,250.00	Benef ts	\$2,062.50	Insurance (CGL & PL Liability and Workers Comp)	\$9,000.00	Employee fingerprinting & background checks	\$860.00	Bookkeeping, payroll and other admin support	\$3,000.00	Advisory Board, Commu n ty Participants, Participant Incentives, Volunteers	\$1,827.50	TOTAL	\$25,000.00												
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TOTAL	\$25,000.00																															
2	12/16/2023	\$11,200	Approved	<table><tr><th>Description</th><th>Line Item</th></tr><tr><td>Up-front lease costs for 110 Terrace Street, Ashland, OR - includes first and last month rent and security deposit. Lease will run 1/1/24 - 12/31/25. Monthly rent is \$3,850.00.</td><td>\$10,200.00</td></tr><tr><td>Admin support/indirect costs</td><td>\$1,000.00</td></tr><tr><td>TOTAL</td><td>\$11,200.00</td></tr></table>	Description	Line Item	Up-front lease costs for 110 Terrace Street, Ashland, OR - includes first and last month rent and security deposit. Lease will run 1/1/24 - 12/31/25. Monthly rent is \$3,850.00.	\$10,200.00	Admin support/indirect costs	\$1,000.00	TOTAL	\$11,200.00																				
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TOTAL	\$11,200.00																															
3	12/16/23	\$395,180	Approved	This is an invoice for service start-up costs totaling \$395,180. Please see the next page for a detailed description of start-up costs. (see detail below**) By submitting this invoice, we attest that we will be ready to prov de serv ces within 6 months of receiving the start-up cost funding.																												
250	5/21/2024	\$318,620	Approved	<table><tr><th>Description</th><th>Line item</th></tr><tr><td>Staffing wages, on call stipends, per diem coverage, and employee taxes</td><td>\$138,443.43</td></tr><tr><td>Part time and full time benefits</td><td>\$50,000</td></tr><tr><td>Rent</td><td>\$20,000</td></tr><tr><td>Util ties</td><td>\$5,000</td></tr><tr><td>Office, House and Cleaning Supplies</td><td>\$8,176.57</td></tr><tr><td>Phone and Internet Services</td><td>\$4,000</td></tr><tr><td>Staff Training and Development\$</td><td>\$25,000</td></tr><tr><td>Arts and House Activ ties</td><td>\$5,000</td></tr><tr><td>Transportation Fund</td><td>\$13,000</td></tr><tr><td>Home Furnishing and Office Equipment</td><td>\$5,000</td></tr><tr><td>ADA Home Requirement & Other Home Modificat ons</td><td>\$10,000</td></tr><tr><td>Bookkeeping, payroll and other admin support - includes land use and zoning consultations. labor and fees</td><td>\$35,000</td></tr><tr><td>TOTAL</td><td>\$318,620</td></tr></table>	Description	Line item	Staffing wages, on call stipends, per diem coverage, and employee taxes	\$138,443.43	Part time and full time benefits	\$50,000	Rent	\$20,000	Util ties	\$5,000	Office, House and Cleaning Supplies	\$8,176.57	Phone and Internet Services	\$4,000	Staff Training and Development\$	\$25,000	Arts and House Activ ties	\$5,000	Transportation Fund	\$13,000	Home Furnishing and Office Equipment	\$5,000	ADA Home Requirement & Other Home Modificat ons	\$10,000	Bookkeeping, payroll and other admin support - includes land use and zoning consultations. labor and fees	\$35,000	TOTAL	\$318,620
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TOTAL	\$318,620																															
500	9/30/2024	\$187,500	Denied	"2024-2025 Q1 quarterly disbursements"																												
600	9/30/2024	\$187,500	Denied	"2024-2025 Q2 quarterly disbursements"																												
TOTAL APPROVED Amount to Date		\$750,000																														

**

Stabbin Wagon

Invoice

Submitted on 11/23/2023

Invoice for
Oregon Health Authority

Payable to
Stabbin Wagon

Invoice Period Dates
11/23/23 - 12/31/23

Grant Agreement #
180848

Invoice #
1

Description

Line Item

3 Employee Salaries	\$8,250.00
Benefits	\$2,062.50
Insurance (CGL & PL Liability and Workers Comp)	\$9,000.00
Employee fingerprinting & background checks	\$860.00
Bookkeeping, payroll and other admin support	\$3,000.00
Advisory Board, Community Participants, Participant Incentives, Volunteers	\$1,827.50

TOTAL	\$25,000.00
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Stabbin Wagon

Invoice

Submitted on 12/16/2023

Invoice for	Payable to	Invoice Period Dates
Oregon Health Authority	Stabbin Wagon	12/16/23 - 1/5/24
Grant Agreement #	Invoice #	
180848	2	

Description	Line Item
Up-front lease costs for 110 Terrace Street, Ashland, OR - includes first and last month rent and security deposit. Lease will run 1/1/24 - 12/31/25. Monthly rent is \$3,850.00.	\$10,200.00
Admin support/indirect costs	\$1,000.00
TOTAL	\$11,200.00

Stabbin Wagon

Invoice

Submitted on 12/16/2023

Invoice for

Oregon Health Authority

Grant Agreement #

180848

Payable to

Stabbin' Wagon

Invoice #

3

Invoice Period Dates

12/16/23 - 5/31/24

Invoice and Description

This is an invoice for service start-up costs totaling \$395,180. Please see the next page for a detailed description of start-up costs. By submitting this invoice, we attest that we will be ready to provide services within 6 months of receiving the start-up cost funding.

Stabbin Wagon

Invoice

Submitted on 5/21/2024

Invoice for

Oregon Health Authority

Grant Agreement #

180848

Payable to

Stabbin' Wagon

Invoice #

450

Invoice Period Dates

Startup period (2023-2024 fiscal year)

Invoice and Description

Description	Line item
Staffing wages, on call stipends, per diem coverage, and employee taxes	\$138,443.43
Part time and full time benefits	\$50,000
Rent	\$20,000
Utilities	\$5,000
Office, House and Cleaning Supplies	\$8,176.57
Phone and Internet Services	\$4,000
Staff Training and Development	\$25,000
Arts and House Activities	\$5,000
Transportation Fund	\$13,000
Home Furnishing and Office Equipment	\$5,000
ADA Home Requirement & Other Home Modifications	\$10,000
Bookkeeping, payroll and other admin support - includes land use and zoning consultations. labor and fees	\$35,000
TOTAL	\$318,620

EXHIBIT C

EXHIBIT B

Email regarding Timeline

From: info@mountainbeaverhouse.org
To: [Burns Kendall Frances](#)
Cc: [Rappaport Beau](#); [Haiani Israa A](#); [kelly szott](#)
Subject: Zoning timeline and overview
Date: Friday, October 4, 2024 1:07:28 PM
Attachments: [MBH Zoning Timeline.docx](#)

Hi Kendall and Beau,

Kendall, here is an overview of the steps we have taken to obtain zoning. Please let us know if you need any additional information or have questions.

As you know, we've balanced this work with other work including policy and procedure development, staff trainings, etc.

I do want to highlight that our current timeline has not changed substantially since our Quarter 1 report was submitted to OHA on July 1, 2024. At that time, we documented the communications we had received from OHA regarding delays and the issue of contract compliance: "we currently anticipate that our opening will be delayed until [at] least January 1, 2025. As stated by OHA staff, we remain compliant with our contract and we will not be penalized for these delays."

I've mentioned this previously, but I wanted to let you know we are in the final steps of hiring 5 additional per diem employees. We intend to hire additional employees this fall, to ensure we have proper staffing when we open.

We'll look forward to meeting with you and Beau soon.

Thanks,

Derek

On 2024-10-03 16:36, info@mountainbeaverhouse.org wrote:

> Hi Kendall,
>
> thanks for your call yesterday.
>
> You requested a detailed write-up of the steps we've taken to resolve
> the zoning issues. We are working on that for you.
>
> Regarding the next steps around a "request for reinterpretation" that
> our land use consultant and attorney advised, we are working to get
> that for you as well, but may be delayed because our land use
> consultant is currently experiencing a medical emergency.
>
> please let us know if you need anything else.
>
> Thanks,
>
> Derek
>
> On 2024-10-02 11:39, Burns Kendall Frances wrote:

>> Hello,

>>

>> Please see section EXHIBIT A Part 2 Disbursement and Financial
>> Reporting. Please note that further invoices will not be approved as
>> the organization is out of compliance with the terms of the grant and
>> has not met milestone of opening within six months of the start up
>> costs being received. At this time, the organization has not provided
>> a sufficient plan or timeline for opening in Southern Oregon. I need a
>> detailed plan and timeline for opening within 3 months. I've cc'd
>> Israa to assist us in scheduling a time to meet with myself and Beau.

>>

>> Regards,

>>

>> Kendall Burns (she/her)
>> Peer-Run Respite Coordinator
>> Oregon Health Authority
>> Office of Recovery and Resilience
>> 971-239-6455

>>

>> -----Original Message-----

>> From: info@mountainbeaverhouse.org <info@mountainbeaverhouse.org>
>> Sent: Monday, September 30, 2024 4:53 PM
>> To: HSD Contracts <HSD.Contracts@odhsoha.oregon.gov>
>> Cc: Burns Kendall Frances <Kendall.F.Burns@oha.oregon.gov>
>> Subject: Invoices 500 + 600

>>

>> Think twice before clicking on links or opening attachments. This
>> email came from outside our organization and might not be safe. If you
>> are not expecting an attachment, contact the sender before opening it.

>>

>>

>>

>> Hello,

>>

>> Here are our invoices for Q1 and Q2 of the 2024-2025 fiscal year.
>> Please let us know if you need anything else.

>>

>> thanks,

>>

>> Derek

Applicant's Timeline of Events

Attachment to October 4, 2024 Email to Kendall Burns

This is a timeline and basic overview of the steps we have taken to secure a rental and zoning approval for the peer respite.

November 2023

- We began looking for rental properties.

December 2023

- We made initial contact with the local municipalities regarding zoning peer respites.
- We met with OHA and FolkTime for TA in-person training. We showed OHA and FolkTime images of the house at 110 Terrace Street; Kendall Burns and Peter Starkey advised us to secure the property first and address zoning with the city after securing the lease.
- Based on initial discussions with the City of Ashland, City planning staff stated that our zoning “is most similar to either a convalescent home or residential care facility.” City staff outlined the process for being zoned as such via a Conditional Use Permit process.
- We began contacting lawyers who could help us with the conditional use permit process. We spoke with Alecia Leduc-Montgomery, Corinne Celko and Tonia Moro.
- We began working with the landlord, Kent Patton, to secure the house.
- We conducted outreach to other peer respites to understand how they had been zoned.

January 2024

- We continued consulting lawyers with next steps along the conditional use permit process, including Lanier Land Consulting LLC. We chose to work with land use consultant, Amy Gunter and land use attorney, Chris Hearn.

February 2024

- We worked with Amy Gunter and Chris Hearn to submit our pre-application paperwork to the city of Ashland, we secured a March 20th 2024 date for our pre-application meeting.

March 2024

- We continue to work with Amy Gunter in preparation of our March 20th meeting

- The written comments from our pre-application meeting with the City stated: “If it can be demonstrated that the proposal meets the definition of a ‘residential care facility’ then it would require a Conditional Use Permit (CUP). In the Land Use Ordinance, the definition of Residential Care Facility falls under ‘Group Living.’ The ‘Group Living’ definition invokes long-term residential occupancy. For staff the concern is whether the transient nature of the proposed respite center would offend the definition of ‘Residential Care Facility’... Due to the transient nature of the proposal, it may be determined that it qualifies as a ‘Travelers’ Accommodations,’ in which case it would be a prohibited use in the zone and not able to be approved.”
- In our pre-application meeting with the City, city staff stated that they would be able to re-interpret zoning if they receive a declaration from OHA or a letter of intent from legislators stating how the respites should be zoned.
- We scheduled a meeting with Amy Gunter and our staff to begin discussions with OHA regarding a path forward. In an email to OHA staff, Amy Gunter stated: “In my experience as a planning consultant, Peer Respite homes will face challenges in many Oregon communities without further guidance from the Oregon Housing Authority on the intent of the emergency Legislative Action (House Bill 2980 (2021))... A letter from the OHA that directs cities to allow for Peer Respite in residential settings similar to all other addiction/recovery homes, domestic violence shelter type of facilities that provide housing for five or fewer individuals with mental, emotional, or behavioral disturbances or alcohol or drug dependence, residential care, and treatment in one or more buildings on contiguous properties are similar in type, kind, and function as the intended legislative action for Peer Respite Centers would eliminate the city desire to use discretion because they don't know what to call a Peer Respite Center within the context of their codes.”

April 2024

- We continued discussions with Amy Gunter, our staff, OHA and the City of Ashland including a meeting with all parties on April 23rd.
- During meetings between our staff and OHA, OHA informed us that we would not be penalized or viewed as out of compliance for opening delays caused by zoning issues. We reiterated this mutual understanding in an email to Kendall Burns, dated April 16, 2024: “As discussed, this delay is caused by zoning issues outside of our control, and OHA has stated that we will not be penalized or considered out of compliance with our contract for zoning-related delays.” In this same email, we said our hope was to resolve zoning issues by July 25, 2024.

- We followed up on outreach to other peer respite to understand how they had been zoned.

May 2024

- We received a detailed explanation and next steps for zoning from our land use consultant. This explained the timeline for zoning with the City of Ashland, given the results of our pre-application meeting:
 - “The city has a 30-day review window from when the application is submitted and paid. In that 30-day window, the application is deemed complete or incomplete. When the application is deemed complete, a notice of application (if a staff decision) or notice of hearing (what they said they would do to notify the neighborhood) goes out to all property owners within 200 feet of the property boundaries.
 “Staff Decision (Type 1): A typical CUP for a Traveler's Accommodation or a Residential Care Facility (similar in type, kind, and function) would be reviewed within 30-day, noticed for 14 day public comment period, staff takes about 20 days following the comment period to make their decision. That decision is sent to the same notice area with a 12 day appeal period. The city averages about 75 days to process these. They have 120 days by state statute.
 “Assuming there will be a public hearing because staff believes that it should be considered like a Transient Occupancy vacation rental...
 “The application is a Type 2 and is heard before the planning commission as a quasi-judicial procedure. The meeting follows Roberts Rules of Order. A hearing is opened and there are specific rules to who can participate based on signing up during the public testimony stage. A planning commission hearing is typically about 45 days after submittal.
 “The planning commission reviews the application during their meeting, takes public testimony, and reviews the staff recommendations. The applicant gives a 15-minute presentation and the public gets 3-5 min to comment. The hearing closes and no more public comment is allowed. The Planning Commission forms a decision and makes findings based on the code criteria recommending approval or denial. The following month, the findings are adopted. When the hearings process is involved, the timeline is approximately 160 days (30-day pre-review and 130-day application processing period). The decision can be appealed by anyone in the applicant, anyone in the notice area or anyone in the public that commented during the public

comment period or during a hearing.

In both decision processes, state law gives the city 180 days to process the decision.”

- We began outreach to community partners to receive support related to our zoning issues.
- We met with attorney Chris Hearn to proceed with next steps with our conditional use permit process. Chris stated he would research the issues for the best path forward, given our goals and timeline.
- We requested that land use consultant Amy Gunter research additional locations where we could operate a peer respite with fewer zoning barriers.

June 2024

- We pursued a three pronged plan for next steps: (1) work with land use consultant and land to obtain zoning at 110 Terrace Street; (2) research other properties in Jackson or Josephine county where we could move without zoning barriers; (3) contact local elected officials to problem solve zoning.
- We updated OHA on these steps and our timeline via an email on June 28, 2024, including: “as previously discussed, we are still compliant with our contract and we will not be penalized for these delays.” In this email, we stated: “we anticipated that our opening will be delayed until [at] least January 1, 2025.”
- We began outreach to Representative Pam Marsh regarding our zoning delays.

July 2024

- Our staff and landlord had multiple conversations with Representative Pam Marsh regarding zoning issues, Representative Marsh conducted outreach to the Oregon Department of Land Conservation and Development, Rep. Nosse, Kevin Fitts, ABLE House, FolkTime, and others. Our landlord also informed us that we would speak with a former Ashland city administrator regarding these issues.
- Based on his review and interpretation of materials, our attorney Chris Hearn advised that he “call [Ashland] City Attorney Doug McGeary and see if he will get the Planning Department to re-interpret the provisions of City’s short-term rental ordinance differently.” Hearn also advised that we should conduct outreach to Representative Pam Marsh.
- Amy Gunter completed research regarding additional municipalities where we could move with fewer zoning restrictions: “All localities (Ashland, Talent, Phoenix, Medford, Central Point, Jackson County have some sort of

restriction upon occupancy of any sort that is 30 days or less... a political challenge could be raised where there are occupancy specifications in the ordinance.”

- After requesting an extension on our grant contract we were informed by Kendall Burns: “At this time [the contract] cannot be extended past June 30th 2025.”
- Due July 31, 2024, our Quarter 1 report provided substantial updates to OHA regarding our zoning.
 - We set a 3 month goal to “determine the appropriate path forward for becoming zoned, and continuing working toward the goal of zoning.”
 - We set 6 month goals: “analyze and if needed revise peer respite budget to be consistent with current timelines around zoning, staffing, etc.” and “obtain zoning necessary to operate peer respite.”
 - In response to the question “Please list obstacles you have overcome, that you are currently facing, and those you anticipate?” we stated: “The Office of Recovery and Resilience staff are aware of the current details regarding our obstacles to obtaining zoning approval from the City of Ashland, and more details can be provided if needed. In short, our zoning obstacles have delayed opening of the peer respite by at least 6 months. Our current timeline for opening is January 2025, however, this is contingent on zoning approval from the City of Ashland.”
 - In response to a question about our timeline for opening, we stated: “As described in an email to OHA dated 6/28/24, we currently anticipate that our opening will be delayed until [at] least January 1, 2025. As stated by OHA staff, we remain compliant with our contract and we will not be penalized for these delays.”

August 2024

- On August 22, our attorney Chris Hearn stated via email that he had a “favorable discussion” with city attorney Doug McGeary wherein McGeary said he would “see what he could do in terms of potentially advising Planning staff to adopt a more favorable interpretation of the City’s ordinance provisions relating to travelers accommodations and group homes.
- We continued discussions with our landlord on how to proceed with obtaining support from Representative Pam Marsh.
- On August 30, Chris Hearn informed us of his most recent communications with Ashland Attorney Doug McGeary. Via email, McGeary stated to Hearn:

"You make a compelling argument that the peer respite center does not operate on a commercial basis, but it also doesn't fit within the single-family residential use category either. In fact, as Brandon indicated (and this has probably been your concern), there isn't a permitted use category under which you could apply for a Conditional Use Permit in this zone. Brandon and his team have discussed this issue with the state, and their recommendation is to find a location where such use is allowed, most likely in multi-family residential zones (R-2, R-3) or commercial zones. It seems the city has been considering psilocybin health centers in commercial zones with minimal resistance, so your client's use would not be unusual. I understand this is of little comfort if your clients have already purchased or leased the house with the intent to use it as a peer respite center."

September 2024

- We discussed next steps with attorney Chris Hearn and Amy Gunter, and conducted outreach again to Rep. Marsh.
 - Rep. Marsh discussed the Feb - June legislative session, and stated via email "Unfortunately, I don't know any quick solutions."
- We updated Kendall Burns with our barriers to zoning, and asked whether OHA had any thoughts on next steps. We also inquired whether there were other OHA staff outside of the Office of Recovery and Resilience we should engage with.
- Kendall Burns referred us to Steve Sadden of Bay Area First Step, and we had a meeting to discuss how Bay Area First Step has resolved zoning issues on the South Coast. Sadden referred us to a Portland attorney named Jennifer Bragar for additional guidance regarding ADA accommodations and zoning.
- In a meeting with Chris Hearn and Amy Gunter we determined two paths forwards: (1) in lieu of a Conditional Use Permit application, we will submit a "request for formal interpretation" with the City of Ashland; (2) we will continue looking for alternative properties where we can move the respite, and if possible, hire realtors and Amy Gunter to aid in this search.

October 2024

- We contacted Jennifer Bragar regarding guidance around ADA accommodations and zoning, per Sadden's recommendation.
- We visited a new potential property where we could move to in Ashland.

City of Ashland

Community Development Department

51 Winburn Way, Ashland, Oregon 97520

541.552.2072 | TTY 800.735.2900

Michael.sullivan@ashlandoregon.gov

From: Ron Rusnak and Lisa Zingarelli
326 Ridge Road
Ashland, Oregon

Regarding: Peer Respite Home at 110 Terrace

The Shirley D. Patton Trust. Kent Patton (son)

Neighborhood Character

By changing the zoning of 110 Terrace Street, it will forever alter the
Character of the Neighborhood.

Neighborhood character should be the number one issue.

◇. The owners and applicants do not live here in Ashland. There will be no one to supervise or manage how the Peer Respite Home will be run or used as stated. Just a small amount of media research about Beaver Mt. House, and Stabbin Wagon will show that they do not have good standing in any of the communities where they have tried to gain a foothold.

◇. There is a possibility the **people who should not be there** will be using the house and hanging out there. Will the number of people on the property be restricted to the number of people sleeping in the house? *Mark my words.* There will be a gang of people. They have a Truck/Van which they use to dispense needles and medication it will most likely be parked on the 110 Terrace property. It could be a place drug addicts will hang out. This truck will probably be on the property and used to dispense to drug addicts. These people may not be sleeping in the house, but hanging out there all day.

◇. Who will monitor the place and the business they are running. How will the people who will stay there be selected? Will the staff be able to stay there? Is the Peer House staff certified? How do they get certified and who checks to see that they are?

◇. It is our opinion that if this passes and zoning is changed, you will see Camper Vans, tents, people sleeping in cars, people loitering and littering at the 110 Terrace address. Others may be dispensing, using, selling, growing, formulating controlled substances.

◇. How will the applicants possibly manage all the requirements: Safety, building codes, egress, needle and drug waste, parking, the list goes on and on. What assurances or BOND has been shown that they will fulfill the rules and codes?

◇. The property is only reached by a shared driveway causing huge problems to the neighbors. How many cars and trucks a day will use the property? How many vehicles will be allowed to park on the property. If not regulated, too many cars could cause havoc in case of fire or health emergency.

◇. Kent Patton (son of owner Shirley Patton) applied for zoning variances just a couple of years ago, **and that was denied.** His intention was to subdivide and plot lots to build additional houses. His mother, Mrs. Patton, was ok with that also. We have questions of how sincere the Patton Trust is.

◇. Planning commission; If you grant this application, we believe you will be seeing Kent Patton in the coming days seeking additional approval for the right to build more units so they can have more people stay there.

◇. And lastly, This group...Beaver Mt.House, and Stabbin Wagon group is working with a very specific grant. It is even questionable that the grant will be extended. If they do not receive additional and continued funding...then what is to become of the rezoning?

◇. If you agree to this, then you must agree to all Respite Homes and short term housing in a similar property. Does this mean that this zone change would allow everyone in Ashland to have AirB&B stays up to 14 days?

◇. In conclusion, We keep hearing from neighbors that if the City of Ashland does not allow the rezoning there will be a court fight from the applicants, Beaver Mt.House, and Stabbing Wagon. Please do not buckle under this threaten of lawsuits and do the right thing for Ashland. ***Keep our neighborhood character and preserve our town.***

We vote NO on this rezoning, or reinterpretation of zoning as it is presented.

Thank You

Ron Rusnak and Lisa Zingarelli

Memo

DATE: January 30, 2025
TO: Planning Commission
FROM: Brandon Goldman, Community Development Director
RE: 110 Terrace Street – PA T1-2024-00255
Traveler Accommodation City enforcement

During the public comment period following the close of the public hearing on January 14th, written testimony was received asserting that the City of Ashland's enforcement of prohibitions on Traveler's Accommodations (TAs) in single-family zones is disproportionate in its application, particularly as it pertains to individuals with disabilities.

The City of Ashland Code Compliance Division regularly enforces the prohibition of Traveler's Accommodations (TA) in single-family residential zones. The enforcement of land use regulations related to short-term rental operations is an ongoing effort intended to maintain the availability of long-term residential housing and ensure compliance with Ashland's zoning regulations. Specifically, in the last two years:

- 2023: There were nine (9) TA enforcement cases, of which six (6) were operating in single-family zones illegally, and 3 were operating in allowable zones (R-2/R-3) but without a Conditional Use Permit (CUP).
- 2024: There were twelve (12) TA enforcement cases, of which six (6) were operating in single-family zones illegally, and 6 were operating in allowable zones but without a CUP.
- 90% of cases were initiated proactively by Code Compliance, with the remaining 10% resulting from neighbor complaints.

These recent enforcement efforts do not include the routine inquiries received by the Planning Division from residents exploring short-term rental opportunities through the use of their homes in single family neighborhoods. Those inquiring are informed that Traveler's Accommodations are not a permitted use in single family zones.

Given Ashland's status as a well-established tourist destination, attracting approximately 400,000 visitors annually, the City's land use ordinances are intentionally structured to balance tourism-related accommodations with the preservation of long-term residential housing stock. The

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prohibition of Traveler's Accommodations (TAs) in single-family residential zones serves to protect housing availability for full-time residents and maintain the character and stability of established neighborhoods. At the same time, the Ashland Land Use Ordinance directs TAs to areas that are more suitable for short-term lodging, including neighborhoods in closer proximity to tourist destinations, commercial centers, and higher-capacity streets. This strategic placement ensures that visitors can readily access amenities, dining, and entertainment options without adding unnecessary vehicle trips through lower-density residential areas.

By concentrating short-term rental activity in higher-density, mixed-use, and commercially zoned areas, the City seeks to support the economic vitality of its tourism sector while minimizing potential disruptions to neighborhoods primarily intended for long-term residential use. This policy framework not only protects housing for residents but also facilitates a more seamless visitor experience by locating short-term accommodations within walking distance of Ashland's key attractions and commercial centers. By applying these zoning standards consistently, the City ensures that its approach to regulating Traveler's Accommodations aligns with both housing preservation goals and the economic realities of a tourism-driven community.

It is important to clarify that the current land use interpretation request regarding 110 Terrace Street is not an enforcement action by the City of Ashland. Rather, it is a request initiated by the applicant seeking clarity on whether the proposed use as a Peer Respite Center should be classified under the Ashland Land Use Ordinance as a Residential Care Home, rather than as Traveler's Accommodation. To the City's knowledge, the applicants sought this interpretation before commencing any operation of a Peer Respite Center at the subject property.

Concerns regarding potential disparate enforcement were raised in public testimony. However, the City actively monitors and enforces its prohibition of unpermitted Traveler's Accommodations in single-family residential zones, applying the same standards uniformly to all property owners and occupants without regard to their characteristics, identity, or personal circumstances. As evidenced by past Code Compliance cases, the City's enforcement actions are based solely on the use of the property for short-term stays of less than 30 days, which effectively change the nature of the dwelling from long-term residential use to short-term, intermittent occupancy.

The prohibition of Traveler's Accommodations in single-family zones is not subject to discretionary interpretation based on the intent of the property owner or the nature of the guests but is instead a straightforward application of land use regulations intended to distinguish between permanent housing and transient lodging. Indeed, providing for a use exception here is asking for the City to not neutrally apply its own code. This approach ensures the consistent application of zoning standards and reflects the City's ongoing efforts to maintain compliance with Ashland's land use regulations and preserve residential neighborhoods for long-term occupancy.

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PUBLIC COMMENTS

**Public Comments Received by
Non-Parties-of-Record Between 01-23 & 01-30
For the Commission's Consideration for
Inclusion in the Record**

Michael Sullivan

From: Ollie Harkola <oliverharkola@gmail.com>
Sent: Thursday, January 23, 2025 3:02 PM
To: planning
Subject: Comments regarding City File No. PA-T1-2024-00255

Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL SENDER]

Dear Planning Commission,

This email is in support of the reasonable accommodation request made to the Commission by Stabbin' Wagon (the Applicant) under the Fair Housing Act and the Americans with Disability Act. The Applicant has submitted its request in order to provide peer respite services to members of the community who are experiencing mental illness.

My name is Oliver Harkola, and I've been living in the Rogue Valley for almost 8 years now. Although I've recently moved to Medford, I first landed here in Ashland and it was living there that started my long-standing love affair with this place. One of the reasons that sparked my deep love for Ashland and the Rogue Valley was because of the myriad of ways I saw community members rallying to support each other while paying special attention to those who are often disregarded: people of color, women, queer and trans people, people living on the street, and people who are disabled and/or experiencing mental illness. (In fact, I wrote my entire Masters thesis about it.)

I wholeheartedly support Stabbin' Wagon's efforts to house our neighbors as they are coping with or are recovering from acute distress, anxiety, or emotional pain. The Commission's approval of this reasonable accommodation request is a minor request that will allow people with disabilities to live in the RR-.5 zone. To do otherwise will have a discriminatory effect on people experiencing mental illness by keeping them from having an equal opportunity to be housed in this zone. I respectfully ask that the Commission grant the reasonable accommodation request to allow equal access to housing in Ashland for people with disabilities.

Sincerely,
Oliver Harkola

Michael Sullivan

From: Susan MacShara-Semelka <frankensue2@gmail.com>
Sent: Friday, January 24, 2025 10:41 AM
To: planning
Subject: 110 Terrace St. proposed peer respite home

[EXTERNAL SENDER]

Dear Aaron Anderson,

My husband and I live at 100 Ridge Rd. in Ashland. We just got back home from an extended holiday trip to find notification of the proposed zoning change for 110 Terrace St. just below us. Our property abuts that property so we are directly affected. I see we missed the date for submission of objection and also missed the city meeting but I do want to notify the city of our objection to this proposed plan so you are aware of how many neighbors have grave concerns. The reason we bought into this particular neighborhood was for the peace, tranquility, and safety this neighborhood provides. We specifically checked the zoning to make sure short term lodging was not permitted. We paid top dollar to make sure that was not allowed here. We have lived in a neighborhood that it is allowed and have experienced first hand the turmoil and safety problems that can occur. People who don't have a vested interest in a property often do not take care of it. Terrace St. is a very narrow dirt road that is heavily used by pedestrians and bikes - including children. We are very concerned about parking and increased car traffic. We are also VERY concerned about fire danger since this is a heavily wooded area. That particular property has several dead pine trees on it. We are also very concerned about crime which is something else we have experienced first hand elsewhere.

We vehemently object to this proposed project. This neighborhood is not zoned for travelers accommodations and we want to keep it that way due to the concerns listed.

Please add us to the list of neighbors that strongly object to changing the zoning to allow this use.

Thank you.

Susan and Frank Semelka
100 Ridge Rd., Ashland,

Michael Sullivan

From: Susan MacShara-Semelka <frankensue2@gmail.com>
Sent: Thursday, January 30, 2025 2:10 AM
To: planning
Subject: Fwd: 110 Terrace St. proposed peer respite home/street zoning/interpretation

Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL SENDER]

Sent from my iPhone

Begin forwarded message:

From: Susan MacShara-Semelka <frankensue2@gmail.com>
Date: January 30, 2025 at 2:58:30 AM MST
To: citymanageroffice@ashlandoregon.gov
Subject: **110 Terrace St. proposed peer respite home/street zoning/interpretation**

Dear members of City Council and Mayor of Ashland, and Planning Commission

Please forward this email to the correct addresses so it is seen by all involved.

My husband and I live at 100 Ridge Rd. , Ashland .

We got back from a holiday trip to find notification of the proposed zoning change for 110 Terrace St. just below us. We got back to learn about this after the deadline to submit objections to be considered for the Jan. 14th meeting. This meeting, according to the letter sent out, was to “clarify” just exactly what this zoning change would mean - “interpretation” was the word used. Now it seems that meeting was to determine if the applicants request can be approved???? And if you didn’t submit comments before Jan. 14th your objections and concerns will not be considered. Am I wrong in that? I certainly hope so. Sending this letter out during a holiday is wrong and to not allow objections after such a short time is unfathomable. The letter notification was so extremely vague it was impossible to realize the destructive impact to our neighborhood that was being proposed. By design???

After submitting my concerns to the planning commission, I received a response from Micheal Sullivan letting me know my “public comment” had been received and was unable to be included in the record since it was past the the deadline. I am following up with this letter to you, members of the council and Mayor of Ashland. I want to go on record with all of you, of our vehement objections to this proposal even if it cannot be submitted in record of public comments.

Our property abuts 110 Terrace Rd. We are just above that property so are directly

affected. The sole reason we bought into this neighborhood was for the peace, tranquility, and above all, the safety it provided. We specifically checked the zoning to make sure short term lodging was not permitted. We paid top dollar to get into a neighborhood that provided those attributes. We have lived in a neighborhood where short term housing was allowed and experienced first hand the turmoil and safety problems that occur. This was from just a vacation rental, not housing “disabled” people with drug problems or prior criminal behavior. (Also, as a side note: the term “disabled” being very vaguely used, is obviously strategic.)

People who do not have a vested interest in a property or the neighborhood often do not care about it or care about the consequences of their actions. People who have mental challenges, depending on what that means, may not have control of their behavior and consequences of it. Safety is our very biggest concern. We have been victims of property damage, crime and theft. Luckily we were not home when the crimes occurred or it could have been much worse. Besides increased risk of property crimes and assaults we are extremely concerned with increased fire risk due to carelessness and lack of responsibility or concern. We live in a heavily wooded area, VERY close to downtown. A fire would not only be disastrous to our neighborhood, but to the entire town. Is the city really willing to take on that responsibility by allowing this zoning change and proposed “respite retreat”??? A zoning law cannot be changed with the sleight of hand that is going on here. The neighborhood has the right to know what exactly is being proposed and what effect that will have, as well as the right to have adequate time to respond and object.

I understand and am empathetic to the need but this is not the place. The risk here is too great. There have recently been several devastating fires in the immediate area. Has that been forgotten? In addition, that property is not in a location that can accommodate the increase in traffic- both people and cars. Besides increased crime and fire risk, Terrace St., and all the roads of the neighborhood are narrow mountain roads, used by pedestrians and bicycles- including children. If this proposed change is allowed there will be a significant increase in people traffic, car traffic and parking issues. This neighborhood is NOT set up for this type of business. And, it is a business, no matter how anyone tries to sugar coat the verbiage for usage. This is a SINGLE family neighborhood. That is the way it is zoned. This neighborhood is not zoned for travelers accommodations, it is not zoned for “respite” lodging. Especially for the clientele proposed. I know the city is sensitive to “discrimination” but must also avoid discrimination against law abiding, tax paying neighbors who live here, paid to be here, and are terrified of the impact this will have on our very peaceful, quiet, safe, and tranquil neighborhood. We bought this property as a respite property for ourselves, which was very badly needed. The difference is we are a single family that complies with the zoning laws, we pay mortgage and property taxes and fire insurance (which has doubled this year due to fire risk in the area) so we have a vested interest in keeping the area nice.

Do not let this proposal be approved. If it is, the onus is on you and the City of Ashland. All resulting incidents will be met with prompt legal action. Please stop and think of what this would mean to you and your families, your children, if this was to be allowed next to your homes.

I am aware of planned city proceedings. I am aware that as of now my concerns will not be allowed into public comments, which is wrong. This letter does establish a legal record

and will be used for future proceedings as needed. We appeal to the Council for more responsible consideration of this requested zoning change.

We acknowledge that potential lawsuits from special interest groups may be a concern. However, the city should be very much concerned about legal action from impacted residents - especially when it's on record that the City of Ashland has been warned about the outcome such a change is likely to have.

Thank you.

Susan and Frank Semelka

100 Ridge Rd. Ashland

Sent from my iPhone

Michael Sullivan

From: Christie Riggins <riggins5678@gmail.com>
Sent: Sunday, February 02, 2025 4:12 PM
To: Michael Sullivan
Subject: Opposed to Peer Respite Home 110 Terrace

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Dear Mr. Sullivan and Ashland City Council,

We are opposed to approving a peer respite home at 110 Terrace (Shirley Patton property) for many reasons:

- As a nutritionist (Christie Riggins) working at an addiction treatment center for many years, I saw that many people in recovery smoke cigarettes. We are very concerned about fire safety and know that if even one person carelessly throws a burning butt onto the ground, it could ignite a fire, one that could devastate our entire town.
- We are strongly opposed to changing the zoning of our neighborhood, which would negatively affect its character. We do not want AirB&Bs and Bed & Breakfast establishments on or near our home.
- If approved, there would be additional traffic in our neighborhood, which would negatively impact the many walkers, runners, bikers, children and elderly who daily use the streets for exercise, errands and socialization.
- The property is only reached by a shared driveway, so the numbers of people and vehicles coming and going to the Patton property will negatively impact the neighbors.
- Can the unpaved road handle additional vehicles? Who will pay for roadwork?
- We are concerned that this home will draw people affiliated with the guests who may be mentally unstable, violent, abusive, or scoping out the neighborhood.

Thank you,
Christie Riggins, M.S.
Karl Knudsen, M.D.
270 Ridge Road
541.891.0053

PUBLIC HEARING

**300 Clay Street,
PA-T3-2024-00010**

NOTICE OF APPLICATION

PLANNING ACTION: PA-T3-2024-00010

SUBJECT PROPERTY: 300 Clay St.

OWNER: Bentella LLC

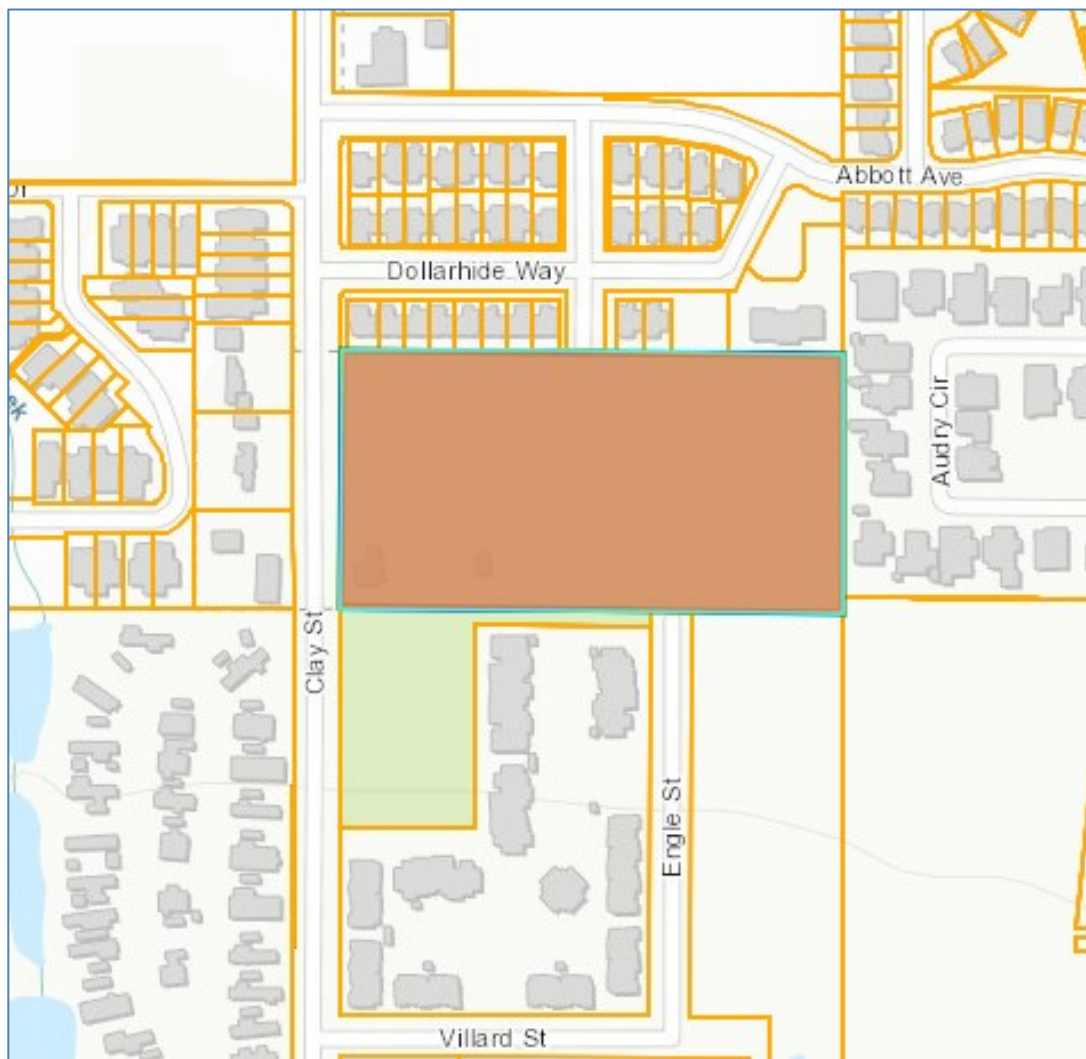
APPLICANT: Rogue Development

DESCRIPTION: A request for annexation and zone change for a 4.8-acre property, along with adjacent Right-of-Way (ROW), for the property located at 300 Clay Street. The application also includes a request for a 25-lot (37 dwelling unit) Outline Plan Approval for a Performance Standards Option (PSO) Subdivision, as well as a limited activities WRPZ permit.

COMPREHENSIVE PLAN DESIGNATION: Suburban Residential; ZONING: County RR-5 (R-1-3.5 requested);

MAP: 39-1E-11-CB Tax Lot 1100; TAX LOT: 1100

ASHLAND PLANNING COMMISSION MEETING: *Tuesday February 11, 2025 at 7:00 PM, Ashland Civic Center, 1175 East Main Street*



COMMUNITY DEVELOPMENT DEPARTMENT

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TTY: 800.735.2900

PLANNING COMMISSION HEARING

Notice is hereby given that a PUBLIC HEARING on the following request with respect to the ASHLAND LAND USE ORDINANCE will be held before the ASHLAND PLANNING COMMISSION on meeting date shown above. The meeting will be at the ASHLAND CIVIC CENTER, 1175 East Main Street, Ashland, Oregon. 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 <https://rvtv.sou.edu> and selecting 'RVTV Civic.' Join the Zoom meeting at: <https://zoom.us/j/95600353277>.

All application materials are available on-line and written comments will be accepted via e-mail to PC-public-testimony@ashlandoregon.gov or can be provided in person or via Zoom during the public hearing. A copy of the application, including all documents, evidence and applicable criteria will be available on-line at "What's Happening in my City" at <https://gis.ashland.or.us/developmentproposals/> no less than 20 days prior to the meeting date shown above. A copy of the staff report will be available on-line in the Commission packet at: https://ashlandor.portal.civicclerk.com/?category_id=30 seven days prior to the meeting date shown above. Copies of application materials will be provided at reasonable cost, if requested. Application materials may be requested to be reviewed in-person during business hours at the Ashland Community Development & Engineering Services Building, 51 Winburn Way, via a pre-arranged appointment by calling (541) 488-5305 or emailing planning@ashland.r.us.

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

Anyone wishing to submit comments can do so by sending an e-mail to PC-public-testimony@ashlandoregon.gov with the subject line "**February 11 PC Hearing Testimony**" by 10:00 a.m. on Monday, February 10, 2025. If the applicant wishes to provide a rebuttal to the testimony, they can submit the rebuttal via e-mail to PC-public-testimony@ashlandoregon.gov with the subject line "**February 11 PC Hearing Testimony**" by 10:00 a.m. on Tuesday, February 11, 2025. 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 be taken both in person and via Zoom during the public hearing. If you wish to provide oral testimony via Zoom, please send an email to PC-public-testimony@ashlandoregon.gov by 10:00 a.m. on Monday, February 10, 2025. In order to provide testimony at the public hearing, please provide the following information: 1) make the subject line of the email "**February 11 PC 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. Join the Zoom meeting at: <https://zoom.us/j/95600353277>

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

If you have questions or comments concerning this request, please feel free to contact Senior Planner Aaron Anderson, the staff planner assigned to this project, at 541-552-2052 or via e-mail to: aaron.anderson@ashland.or.us.

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

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

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

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

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

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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.

COMMUNITY DEVELOPMENT DEPARTMENT

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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(c)(3)) 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.

Table 18.5.8.050.G.3 – Minimum Required Floor Area for Affordable Units	
Unit Type	Minimum Required Unit Floor Area (Square Feet)
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.

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- 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.

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Staff Report

**ASHLAND PLANNING DEPARTMENT
STAFF REPORT**

Before the Planning Commission – February 11, 2024

PLANNING ACTION: PA-T3-2024-00010
OWNER: Bentella LLC
APPLICANT: Rogue Planning & Development Services

LOCATION: 300 Clay Street.
39-1E-11-CB Tax Lot 1100

ZONE DESIGNATION: County RR-5 (R-1-3.5 requested)
COMP. PLAN DESIGNATION: Suburban Residential

ORDINANCE REFERENCES:

18.2.4	General Regulations for Base Zones
18.2.5	Standards for Residential Zones
18.3.9	Performance Standards Overlay
18.3.11	Water Resources Protection Zones
18.4.5	Tree Preservation and Protection
18.5.1	General Review Procedures
18.5.3	Land Divisions & Property Line Adjustments
18.5.7	Tree Removal Permits
18.5.8	Annexations
18.5.9	Comp Plan, Zoning & LUO Amendments
18.6.1	Definitions

APPLICATION DATE: September 18, 2024
APPLICATION COMPLETE: December 20, 2024
DLCD NOTICE: January 6, 2025 *36 days in advance*
PUBLIC MEETING NOTICE: January 22, 2025 *20 days in advance*
MEETING DATE: February 11, 2025

120-DAY DEADLINE: (*Type III applications not subject to 120-day limits)

PROPOSAL: A request for annexation and zone change for a 4.8-acre property, along with adjacent Right-of-Way (ROW), for the property located at 300 Clay Street. The application also includes a request for a 29-lot (37 dwelling unit) Outline Plan approval for a Performance Standards Option (PSO) subdivision, as well as a limited activities permit for public utilities within the Water Resource Protection Zone (WRPZ). Annexations require that at least 25% of the base density be affordable housing. In the present application there are eight affordable housing units proposed at 80% area median income (AMI) to meet this requirement.

I. Introduction

The proposed PSO subdivision includes a total of 25-lots for residential development, 21 of them are proposed for single family residential (SFR) development, four lots proposed with four-plex townhomes, and four additional lots to be dedicated as open space area. The SFR lots may be

developed with either Accessory Residential Units (ARU) or duplexes as required by House Bill 2001. The 16 dwellings in the fourplexes plus the 21 SFR lots sums to a proposed density of 37 dwelling units. Because the proposal is an annexation there is also a requirement for affordable housing which is discussed further below. The application also includes a request to remove four trees.

The Ashland Land Use Ordinance requires a two-step procedure for subdivisions for subdivisions greater than ten lots. This means that following this planning action an application for Final Plan Approval will still be required prior to review and approval of the final plat. The townhomes development is presented as a concept design and is not seeking Site Design Review at this time, and instead the application indicates that the Site Design Review will be applied for concurrently with the application for Final Plan approval.

1) Site Description

The subject property is Tax lot #1100 of Assessor Map 39-1E-11-CB and is addressed as 300 Clay Street. The subject property is 4.8 acres and gentle slopes to the north at approximately three percent slope. The property has 328 feet of frontage along Clay St. which is fully improved with curb, gutter, sidewalk and park row. Engle Street terminates on both the north and south side of the property.

The property is mostly vacant with the exception of a small residence that the County Assessor indicates was built in 1920. The residence is listed as 631 square feet and is indicated to be in poor condition. The application materials indicate that to the east of the home that there is also *“an 819 square foot shed, a small horse shelter, and a 208 square foot carport structure.”*

2) Natural Features

The application explains that the trees on the property consist of *“a 16-inch diameter at breast height (DBH) conifer tree directly adjacent to the southwest corner of the existing residence. A 16-inch DBH Cottonwood tree in the northwest corner of the property and grouping of willows including a 16-inch DBH, 15-inch DBH and 18-inch DBH willow tree.”* The application explains that *“The majority of trees are landscape trees on the adjacent properties. There is a row of Leyland Cypress along the east property line and shade trees in the yards of the properties to the north of the subject property.”*

The adopted Wetland Resource Protection Zone (WRPZ) maps indicate wetlands in two locations; however, the application materials include a wetland delineation, reviewed and approved by the Department of State Lands (DSL), which determined that the actual area of wetland is much smaller than on the City’s adopted WRPZ maps. The application notes that over the years as development has occurred more of the irrigation waters that used to be in open ditches have instead been rerouted to pipe and other storm drain infrastructure. This has caused a great reduction in water that has historically fed some of these wetlands and resulted in a reduction in their size over the years. In 2022 the most recent wetland delineation was performed and approved by the DSL. The map from the approved wetland delineation shows the extent of the wetland at the north of the subject property and indicates that the area of the wetland is 0.0096 acres or 418 square feet. The application materials propose a twenty-foot buffer around the identified wetland to be dedicated as an open space amenity.

II. Project Proposal – Annexation and Outline Plan Subdivision

1) Annexation

AMC 18.5.8.030 provides that: “*all annexations shall be processed under the Type III procedure.*” A type III planning action is a legislative decision by definition. Legislative requests are not subject to the 120-day review period under subsection 18.5.1.090.B (ORS 227.178). Type III actions are reviewed by the Planning Commission, which makes a recommendation to the City Council. The Council makes final decisions on legislative proposals through the enactment of an ordinance.

The approval criteria for annexation can be summarized as follows:

- A.** That the annexed area is within the City’s Urban Growth Boundary (UGB).
- B.** That the annexation proposal is consistent with the Comprehensive Plan designations.
- C.** That the annexed area is contiguous with the city limits.
- D.** That adequate City facilities are available as determined by Public Works.
- E.** That adequate transportation can and will be provided to serve the annexed area.
- F.** That the development of the annexed area will ultimately occur at a minimum density of 90 percent of the base density for the zone,
- G.** The total number of affordable units shall be equal to or exceed 25 percent of the base density as calculated.
- H.** This is a provision to allow certain properties to annex even if their development is not consistent with the Comprehensive Plan. *(Not applicable in the present case as the application is consistent with the Comprehensive Plan.)*
- I.** Exceptions and Variances to the Annexation Approval Criteria and Standards

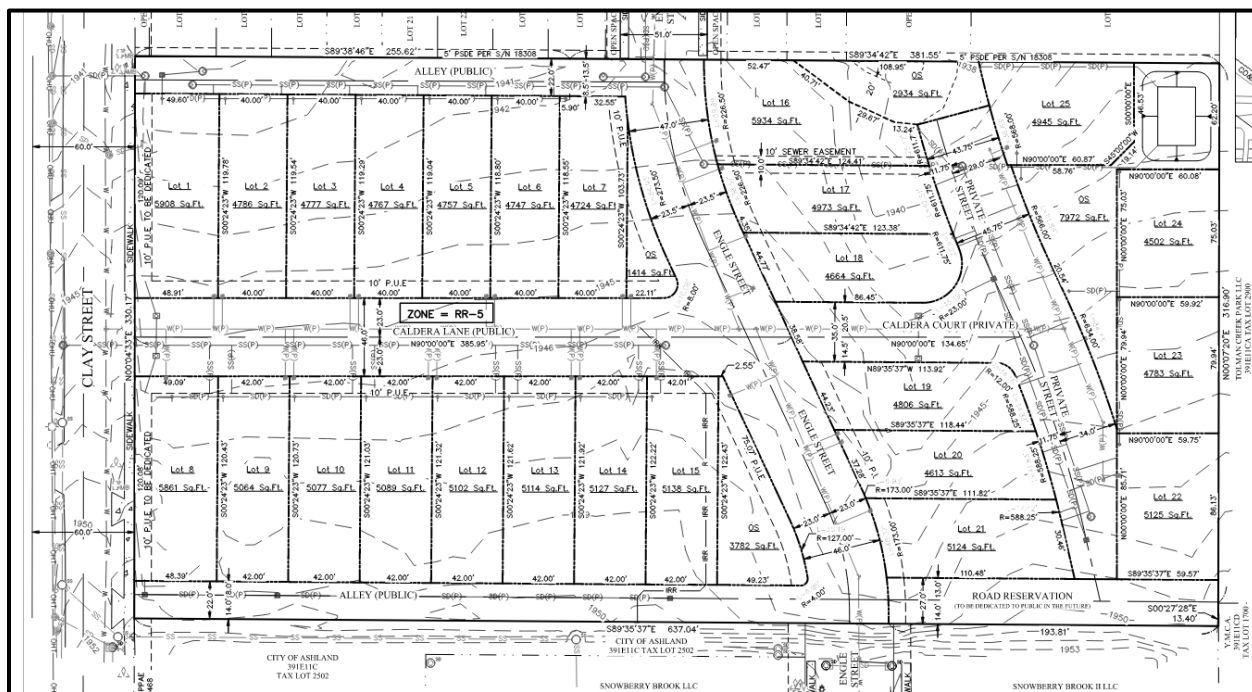
The property is both within the UGB and contiguous with the city limits as shown in the City geographic information system (GIS) and shown below.



The UGB runs along East Main Street which is 0.2 miles to the north demonstrating that the property is within the UGB. The subject property is immediately adjacent to City Limits to the north, south and east as shown above. This satisfies the first and third approval criteria.

The second criteria of approval for annexation are that the “*proposal is consistent with the Comprehensive Plan designations.*” As mentioned above, the comprehensive plan designation of the property is suburban residential, and the property does not yet have an assigned zone. The application requests a zone change to R-1-3.5 which would be appropriate for the comprehensive plan designation of suburban residential. AMC 18.3.9.050 which provides the residential density for a PSO subdivision. For the R-1-3.5 zone it specifies a residential density of 7.2 dwelling unit per acre. The Comprehensive Plan requires that a proposal in this zone to develop with at least 90% of the base density ($4.8 \times 7.2 = 34.56 \times 0.9 \sim 31$ dwelling units).

The present proposal leverages affordable housing density bonus, discussed further below, to exceed the base density for a total of 37 dwellings. Based on the allowed bonus findings can be made that the proposed density of residential development, including the proposed affordable housing, is consistent with the Comprehensive Plan Designation. Staff conclude that based on the proposed number of dwellings, the size of the property, and the requested zoning, that findings can be made that this approval criterion will be met.



The fourth approval criterion for annexation is that “*Adequate City facilities as determined by the Public Works Department.*” The property is served by all city utilities. Clay Street contains an eight-inch water main, eight-inch sewer main, and an 18” storm water main. Engle has eight-inch water mains at both the north and south of the property as well as an eight-inch sewer main and a ten-inch sewer main at the north stub of Engle Street. Due to the nature of gravity systems and the topography of the site no sewer or storm is needed on the southern stub of Engle Street. The Public Works Department has confirmed that there are no concerns regarding the capacity of any

City facilities. Staff conclude that based on the proposed facilities that findings can be made that this approval criterion will be met.

The fifth approval criterion for annexation is that *“Adequate transportation can and will be provided to serve the annexed area.”* The application material includes a trip generation assessment and Transportation Planning Rule (TPR) findings prepared by Southern Oregon Transportation and Engineering. These materials detail the expected trip generation of the proposed development and show that the proposed development is below the requirements for a complete Traffic Impact Analysis (TIA) as the development is expected to only generate 30 weekday peak hour trips where the threshold for a TIA is 50 newly generated vehicle trips. The proposed development includes the creation of new local neighborhood roads connecting Engle Street, as well as a new neighborhood street connecting to Clay Street. All proposed public facilities are proposed to be constructed to City of Ashland Standards. Staff conclude that based on the proposed facilities as well as the engineering memo that findings can be made that this approval criterion will be met.

The sixth approval criteria for annexation is *“That the development of the annexed area will ultimately occur at a minimum density of 90 percent of the base density for the zone.”* As was discussed above 90% of the base density for the property is 31 units ($4.8 \times 7.2 = 34.56 \times 0.9 \sim 31$). The present proposal leverages affordable housing density bonus to exceed the base density for a total of 37 dwellings. Staff notes that 37 exceeds 31 and conclude that findings can be made that this approval criterion is met.

The seventh approval criteria for annexation is that *“The total number of affordable units shall be equal to or exceed 25 percent of the base density as calculated.”* AMC 18.5.8.050.G.1 provides that “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 area including wetlands. Additionally, AMC 18.5.8.050.G.7 provides that “The total number of affordable units described in this subsection shall be determined by rounding up fractional answers to the nearest whole unit. As discussed above the wetland delineation determined that the area of the wetland is 0.12 acres. Therefore, for the purpose of calculating the total number of affordable units we calculate the density excluding the wetland area, as follows: $4.8 \text{ acres} - 0.012 \text{ acres} = 4.788 \text{ acres} \times 7.2 \text{ dwelling units per acer} = 34.47 \text{ dwelling units} \times 0.25 = 8.6 \sim 9$ affordable dwelling units.

The application materials propose eight units targeted to households earning 80% area median income (AMI) or less. Affordable units at 80% AMI units have an ‘equivalent value’ of 1.25. To determine how many 80% AMI units are required to meet the calculated number of affordable units you take the calculated value, in this case nine dwelling units, and divide by 1.25 which is the ‘equivalent value’ for units restricted to 80% AMI. The quotient provides the number of 80% AMI units required to meet that value which is then rounded up ($9 \text{ affordable units} / 1.25 \text{ the } 80\% \text{ equivalent value} = 7.2 \sim 8$). Therefore, a total of eight 80% AMI units satisfies the nine affordable units required. Staff conclude that findings can be made that this approval criterion will be met.

The eighth approval criterion for annexation is a provision to allow properties to annex even if their development is not consistent with the Comprehensive Plan in particular circumstances. The criterion requires at least one of five standards to be met. The first of these is that *“The*

annexation proposal shall meet the requirements of subsection 18.5.8.050.B, above.” * The citation to AMC 18.5.8.050.B is actually the second approval criterion. As discussed above, the second approval criterion provides that the *“proposal is consistent with the Comprehensive Plan designations.”* Since the second criterion of approval was satisfied above then it follows that this eighth approval criterion is also satisfied.

The ninth and final approval criterion for annexation relates to requested exceptions. The present application includes no requests for exceptions or variances and can be found to be satisfied.

Finally, the Land Use Ordinance requires that *“the applicant for the annexation shall also declare which procedure under ORS chapter 222 the applicant proposes that the Council use, and supply evidence that the approval through this procedure is likely”* (AMC 18.5.8.070). The application states that the annexation procedure outlined in ORS 222.125 should be utilized for the annexation and goes on to say that *“This procedure allows for annexation without the need for an election when all landowners in the proposed territory, as well as a majority of the electors, consent in writing. The applicant is the sole owner and can provide written consent within the annexation territory.”* Based on the fact that there is a single property being proposed to annex Staff conclude that findings can be made that this standard is met.

2) Performance Standards Option (PSO) Subdivision – Outline Plan Approval

The Purpose of the Performance Standards Option is set out at AMC 18.3.9.010 and states that *“The purpose of this chapter is to allow an option for more flexible design than is permissible under the conventional zoning codes. The design should stress energy efficiency, architectural creativity, and innovation; use the natural features of the landscape to their greatest advantage; provide a quality of life equal to or greater than that provided in developments built under the standard zoning codes; be aesthetically pleasing; provide for more efficient land use; and reduce the impact of development on the natural environment and neighborhood.”* The property is not within the PSO overlay however the code provides at AMC 18.3.9.030.D four situations where the use of the Performance standard are allowed. The first of these is that the property is greater than 2 acres and also greater than 200’ in average width. The subject property meets both of these requirements to utilize the PSO standards outside of the overlay.

The proposal includes twenty-one lots for single family homes, and four lots in the east of the subdivision that will be each developed with fourplex townhomes. There is a private street that extends into the development to provide rear-loaded access to six of the single-family lots as well as private parking for the town homes. There are also four lots providing open space one of

* The other four options are for the situations where the annexation would be allowed even if the development is not consistent with the Comprehensive plan:

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.

which includes the delineated wetland and another for storm water retention. The proposed subdivision Site Plan is shown below:



The approval criteria for outline plan include eight items which are summarized as follows:

- 1) The development meets all applicable ordinance requirements of the city.
- 2) Adequate key City facilities can be provided including water, sewer, paved access.
- 3) The natural features, such as wetlands and large trees, are included in unbuildable areas.
- 4) The development of the land will not prevent adjacent land from being developed.
- 5) There are adequate provisions for the maintenance of common open space.
- 6) The proposed density meets the base and bonus density standards.
- 7) The development complies with the street standards.
- 8) The proposed development meets the common open space standards.

Next, we briefly address each of the approval criteria, and any needed conditions of approval to demonstrate compliance with the applicable standards.

The first approval criterion is that “*the development meets all applicable ordinance requirements of the city.*” This is an all-encompassing criterion that allows the Planning Commission to make findings that it has considered which City Ordinances are applicable and how the requirements of them have been met.

The application materials explain that the proposal utilizes the Performance Standards Option Chapter 18.3.9, and that the development demonstrates compliance with the standards from AMC 18.3.9.050 – 18.3.9.070. The Staff notes that as a Performance Standards Options proposal, the application is not required to meet the minimum lot size, lot width, lot depth or setback standards of part 18.2.

First, we address AMC 18.3.9.050 which provides for residential density for a PSO subdivision. As discussed above, for the R-1-3.5 zone is a density of 7.2 dwelling unit per acre. As discussed further below in the sixth approval criterion, this section also provides the details for Density Bonus Point Calculations and provides that *“a maximum bonus of 35 percent is allowed. Developments shall receive a density bonus of two units for each affordable housing unit provided.”* The base density for the zone is 34.56 . The proposed 37 dwellings utilize only 3 of the available bonus units.

Next, AMC 18.3.9.060 provides the requirements for the provision of on-street parking which requires one parking space per lot, with the exception that *“the total number of on-street spaces required should not surpass the available street frontage.”* The proposed site plans show a total of 21 parking spaces along one side of both streets throughout the subdivision.

Finally, AMC 18.3.9.070 provides for the setback standards for a PSO subdivision. The Code requires that *“Setbacks along the perimeter of the development shall have the same setbacks as required in the parent zone.”* Staff notes that Clay Street is the ‘front yard’ frontage for the parent parcel, as such a fifteen foot setback along Clay Street is required, which is what is shown in the applicants site plan. For the PSO Solar Setback the section invokes the standards at AMC 18.4.8. which requires that *“land divisions which create new lots shall be designed to permit the location of a 21-foot high structure with a setback which does not exceed 50 percent of the lot's north-south lot dimension”* when taking into account the slope of the property. Based on the slope of the property and the equations in the code this requires a North-South dimension of at least 71.9-feet. Lots #1 through #15 all have a N/S dimension of over 100-feet meeting this requirement. Lots #16 through #21, due to their orientation, do not meet this standard and instead have a N/S dimension of roughly 40-feet, and multi-family lots #24 and #25 also fail to meet this standard.

The code provides that *“If the applicant chooses not to design a lot so that it meets the standards set forth in subsection A, above, a solar envelope shall be used to define the height requirements that will protect the applicable solar access standard.”* In the present application the applicant proposes what has historically been referred to as the ‘Mill Pond standard’ and states that *“the request would be to allow a five-foot shadow up the adjacent south wall of the structure to the north.”* and suggests that this will allow for the construction of two-story homes on these lots. A condition of approval invoking the ‘Mill Pond standard’ has been included below, but staff has reservations that it will enable two story construction on these lots. Staff believe that the multi-family fourplexes and two-story construction on lots #17-#21 may require solar variances to enable two story construction. Because lots #16 and #25 are adjacent to the perimeter of the property they will either need to meet Solar Standard A or secure a solar variance from the property to the north.

The applicant has provided findings addressing each of the approval criteria in detail, and by their reference are incorporated herein as if set out in full. With the application materials fully considered staff concluded that findings can be made that all applicable ordinance requirements have been met and that the first criterion of approval has been met.

The second approval criterion is that *“adequate key City facilities can be provided including water, sewer, paved access.”* As discussed in the fourth approval criteria for annexation above the property is served by all city utilities. Clay Street contains an eight-inch water main, eight-inch

sewer main, and an 18” storm water main. Engle has eight-inch water mains at both the north and south of the property as well as an eight-inch sewer main and a ten-inch sewer main at the north stub of Engle Street. Due to the nature of gravity systems and the topography of the site no sewer or storm is needed on the southern stub of Engle Street. The Public Works Department has confirmed that there are no concerns regarding the capacity of any City facilities. Staff conclude that, based on the proposed facilities, that findings can be made that this approval criterion will be met.

The third approval criterion is that *“the natural features, such as wetlands and large trees, are included in unbuildable areas.”* The primary natural features on the site are a delineated wetland that was discussed above and several trees. The map from the approved wetland delineation shows the extent of the wetland at the north of the subject property and indicates that the area of the wetland is 0.0096 acres or 418 square feet. The application materials propose a twenty-foot buffer around the identified wetland to be dedicated as an open space amenity. In addition to the wetland there are a number of significant tree on the property including: *“a 16-inch diameter at breast height (DBH) conifer tree directly adjacent to the southwest corner of the existing residence. A 16-inch DBH Cottonwood tree in the northwest corner of the property and grouping of willows including a 16-inch DBH, 15-inch DBH and 18-inch DBH willow tree nears the north property line, east of Engle Street intersection into the property.”* Four of these trees are proposed for removal as they are in conflict with the proposed street right-of-way (ROW) and building envelopes. When considering the wetland delineation and the open space being dedicated for its protection Staff conclude that, based on the proposed facilities, that findings can be made that this approval criterion will be met.

The fourth approval criterion is that *“the development of the land will not prevent adjacent land from being developed.”* The subject property is surrounded by lands that are fully developed. To the north is Bud’s Dairy Subdivision, to the south is the Snowberrybrook development, and to the east is a manufactured home park. The western side of the project fronts Clay Street. Based on the above Staff conclude that findings can be made that this approval criterion is met

The fifth approval criterion is that *“there are adequate provisions for the maintenance of common open space.”* The application states that *“With the Final Plan application, the subdivision Homeowners Association formation documents and Covenants, Conditions & Restrictions will be provided. The CC&Rs will provide details regarding the maintenance of the open spaces, common areas, wetlands area and buffer maintenance and management within the subdivision.”* A condition of approval has been included below that will require the applicant to provide CC&R’s for review that include sufficient maintenance for the private drive and all common area amenities. The CC&Rs shall also address fence standards adjacent to open space. Staff conclude that with the creation of the HOA with binding CC&R’s findings can be made that this approval criterion has been met.

The sixth approval criterion is that *“the proposed density meets the base and bonus density standards.”* As discussed in the second approval criteria for annexation the application requests a zone change from the county zone to R-1-3.5. As discussed above, the base density for the zone is 34.56 ($4.8 \times 7.2 = 34.56$). AMC 18.3.9.050.B.3 provides a density bonus of two units for each affordable housing unit provided up to maximum bonus of 35-percent, this would allow for up to an additional 12 units over the based density. The proposed 37 dwellings utilize only 3 of the

available bonus units for calculated bonus of 8.7%, which is well below the 35 percent available. Staff conclude that the proposed 37 dwellings are within the allowed base and bonus density standards and that findings can be made that this approval criterion will be met.

The seventh approval criterion is that *“the development complies with the street standards.”* The application includes detailed civil engineering plans including street cross sections showing a 47’ ROW, 22’ paved width including seven-foot planter strip and five-foot sidewalk which meets the standards shown in Figure 18.4.6.040.G.4.b. ‘Neighborhood Street, Parking One Side.’ There are however two locations on the preliminary plat and civil site plans that show only 46’ feet of proposed ROW dedication. A condition of approval is included below that will require the revised civil plans at Final Plan approval to indicate 47’ of ROW dedication. Staff conclude that with the condition of approval added below that this approval criterion will be met.

The eighth and final approval criterion is that *“the proposed development meets the common open space standards.”* The proposed subdivision includes four open space areas totaling 16,102 square feet. The requirement for minimum open space for a PSO subdivision is five percent of total lot area for developments with a base density of 10 units or more. The subject property is 209,088 square feet in size, five percent of that is 10,454. Based on the above the applicant is providing a total of 7.7% in open space which exceeds the required minimum. Staff conclude that findings can be made that this approval criterion is met

3) Limited Activities And Uses in the WRPZ

As explained above the property has locally identified wetlands from the City’s Local Wetland Inventory (LWI). Since that time there have been two separate wetland delineations performed by qualified environmental specialists. The first was conducted in 2015 and was approved by the Department of State Lands (DSL), however wetland delineations expire after five years. Because the 2015 delineation expired an additional delineation was conducted and approved by the DSL in 4/10/2023 (see DSL WD# 2022-0352). The application states that based on the area of the wetland, the wetland is not a Significant Wetland, but a small, 418.76 square foot (.0096 acre) wetland area, as such they propose a twenty-foot buffer around this 419 square foot area.

Among the listed “limited activities and uses” that are allowed in the WRPZ area is the Installation of public and private storm water treatment facilities. The application states that *“The proposed stormwater lateral dispersal trench is a permitted use within the Water Resource Protection Zone. The utility is outside of the wetland area and is proposed at the outer edge of the 20-foot wetland buffer zone.”*, and that *“The areas of disturbance will be reseeded with a native grass mix that is appropriate for planting in the wetland buffer zone.”* The application suggests that the installation of the storm water dispersal may in fact actually help preserve the wetland while so many wetlands are starved from their natural water sources.

4) Site Design Concept

Attached townhome style housing requires Site Design Review. In the present application no Site Design Review approval is being requested, instead the Site Design Review will be conducted concurrently with the second step of the PSO subdivision which is Final Plan Approval. For this reason, we do not dwell on the details of the four proposed four-plex buildings other than to remark that this is consistent with the proposed density.

5) Tree Removal

The application includes a request to remove four trees. The application describes the removals as follows: *“There are three deciduous trees that have a DBH of 12-inches or more that are proposed for removal and one tree conifer tree greater than 16 inches DBH. These trees are within the area of the public streets, the alley and within the building envelope area of the development area of the lots. The tree removal is necessitated by the construction of public streets, an alley and residential dwellings.”* (Applicant findings p. 46).

To approval the removal of a non-hazard tree it needs to be shown that “The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards.” When considering the location of these trees being within the proposed street dedication and building envelopes, the proposed removals are, in staffs view, found to meet the standards. Pursuant to AMC 18.5.7.040.B.2.e the applicant will be required to mitigate for the removal of each tree. In review of the preliminary landscape plan, it is demonstrated that the number of trees to be planted far exceeds the four that are required to mitigate these proposed removals.

The application will be reviewed by the Tree Management Advisory Committee at their February 6th meeting, and their findings will be presented at the hearing before the Planning Commission.

6) Public Input

Notice was posted at the property frontage, as well at the end of each street stub, and mailed to all properties of record within 200’ of the subject property on January 22, 2025. At the time of this writing no formal public comment has been received.

III. Procedural – Approval Criteria

1) Annexation

AMC 18.5.8.050 provides the approval criteria and standards for annexation:

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 [I](#).

- A. The annexed area is within the City’s Urban Growth Boundary.
- B. The annexation proposal is consistent with the Comprehensive 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 subsection [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 multiuse 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 multiuse 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 turnout lanes.
5. Timing of Transportation Improvements. All required transportation improvements shall be constructed and installed in accordance with subsection [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 subsection [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 of the area median income shall have an equivalency value of 0.75 unit.

- b. Ownership units restricted to households earning at or below 100 percent of the area median income shall have an equivalency value of 1.0 unit.

- c. Ownership or rental units restricted to households earning at or below 80 percent of the area median income shall have an equivalency value of 1.25 unit.

2. As an alternative to providing affordable units per section [18.5.8.050.G.1](#), above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection [18.5.8.050.G.1.b](#), above, through transfer to a non-profit (IRC 501(3)(c)) affordable housing developer or public corporation created under ORS [456.055](#) to [456.235](#).

- a. The land to be transferred shall be located within the project meeting the standards set forth in sections [18.5.8.050.G.5](#) and [18.5.8.050.G.6](#).

- b. All needed public facilities shall be extended to the area or areas proposed for transfer.

- c. Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(c)(3) organization, or a public corporation created under ORS [456.055](#) to [456.235](#).

- d. The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.
 - e. Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in subsection [18.5.8.050.G.4](#).
- 3. The affordable units shall be comparable in bedroom mix with the market rate units in the development.
 - a. The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor area based as set forth in Table [18.5.8.050.G.3](#), or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.
- 4. A development schedule shall be provided that demonstrates that the affordable housing units per subsection [18.5.8.050.G](#) shall be developed, and made available for occupancy, as follows:
 - a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.
 - b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.
- 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 subsections [18.5.8.050.G.2](#) through [18.5.8.050.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, than 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 subsection 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 [18.5.8.050.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.

2) Outline Plan

AMC 18.3.9.040.A.3 provides the approval criteria and standards for Outline Plan approval.

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.

3) Water Resource Protection Zone (WRPZ)

AMC 18.3.11.060.D provides the approval criteria and standards for a WRPZ Limited Activities and Uses Permit.

D. Limited Activities and Uses Permit. All limited activities and uses described in section 18.3.11.060 shall be subject to a Type I procedure in section 18.5.1.050. An application for a limited activities and uses permit shall be approved if the proposal meets all of the following criteria:

1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resource Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on water resources.
3. On stream beds or banks within the bank-full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110, Mitigation Requirements.
6. Long-term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

4) Tree Removal

AMC 18.5.7.040.B.2 provides the approval criteria and standards for a Tree Removal Permit for a non-hazardous tree.

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.

IV. Conclusion and Recommendations

Staff recommend that the Planning Commission recommend to the city council approval the annexation and Outline Plan for the subdivision. If the Planning Commission recommends approval of the application, staff recommends including the following conditions of approval below:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise specifically modified herein.
- 2) That the applicant apply for final plan approval pursuant to AMC 18.3.9.040.B within 18 months of this outline plan approval. The application for Final Plan approval will be required to include the following:
 - a. That the revised civil and site plans that are to be submitted with Final Plan approval indicate 47' of ROW for both Engle and Street and Caldera Lane.
 - b. Provide CC&R's for review that include sufficient maintenance for the private drive and all common area amenities.
 - c. That pursuant to AMC 13.24.010.C that the applicant shall consult with the Public Works Director for approval of the proposed street name of Calera Lane.

- 3) That permits shall be obtained from the Ashland Public Works Department prior to any additional work in the public right of way.
- 4) That a final survey plat shall be submitted within 12 months of Final Plan approval and approved by the City of Ashland within 18 months of this approval. Prior to submittal of the final subdivision survey plat for signature:
 - a. All easements including but not limited to public and private utilities, public pedestrian and public bicycle access, drainage, irrigation, and fire apparatus access shall be indicated on the final subdivision plat submittal for review by the Planning, Engineering, Building and Fire Departments.
 - b. Subdivision infrastructure improvements including but not limited to utilities, driveways, streets and common area improvements shall be completed according to approved plans, inspected and approved.
 - c. Electric services shall be installed underground to serve all lots, inspected and approved. The final electric service plan shall be reviewed and approved by the Ashland Electric, Building, Planning and Engineering Divisions prior to installation.
 - d. That the sanitary sewer laterals and water services including connection with meters at the street shall be installed to serve all lots within the applicable phase, inspected and approved.
- 5) That a final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
- 6) That the building permit submittals shall include the following:
 - a. Identification of all easements, including but not limited to any public and private utility easements, mutual access easements, and fire apparatus access easements.
 - b. For Lots #1-16 & 25 Solar setback calculations demonstrating that all units comply with Solar Setback Standard A in the formula $[(\text{Height} - 6) / (0.445 + \text{Slope}) = \text{Required Solar Setback}]$ and elevations or cross section drawings clearly identifying the highest shadow producing point(s) and the height(s) from natural grade.
 - c. For Lots #16-24 Demonstrate compliance with the approved solar setback showing that any shadows cast do not exceed five feet above the finished floor elevation of the main level of a house on the respective lots to their north, assuming the affected house is built six feet from the shared property line.
 - d. Final lot coverage calculations demonstrating how lot coverage is to comply with the applicable coverage allowances of the R-1-3.5 zoning district. Lot coverage includes all building footprints, driveways, parking areas and other circulation areas, and any other areas other than natural landscaping.
 - e. That storm water from all new impervious surfaces and runoff associated with peak rainfalls must be collected on site and channeled to the City storm water collection system through the curb or gutter at a public street, a public storm pipe,

an approved public drainage way, or through an approved alternative in accordance with Ashland Building Division policy BD-PP-0029. On-site collection systems shall be detailed on the building permit submittals.

Public Comments

Michael Sullivan

From: Divina Jack Braun <dvjacj@gmail.com>
Sent: Thursday, January 30, 2025 10:09 PM
To: Planning Commission - Public Testimony
Subject: 37 Units across from Clay Street

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

This turns my stomach. We are already concerned about traffic if there is a fire. This would create a disaster for sure. It's always about 'money.' What about the safety of the people? Most of the mobile homes are for senior living. Please, this would create so much congestion on Clay Street. It is already difficult to exit from Clay onto Hwy. 99 (Ashland Street). And all the water needed to serve 37 units. I hope you will take these and more factors into consideration.

We will try to get to the meeting but being 78 and 84 years of age has limited out night driving.

Divina Braun
Jack Braun
321 Clay Street
Ashland, Or.

Michael Sullivan

From: Alan Ackroyd <aackroyd46@gmail.com>
Sent: Friday, January 31, 2025 4:25 PM
To: Planning Commission - Public Testimony; Wingspread Intranet
Subject: Planning Action: PA-T3-2024-00010

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

To whom it may concern:

I am a resident of Wingspread Mobile Home Park. We will be directly affected by this proposed annexation. I have several concerns in regard to this proposal.

- 1) Clay St., which borders our Park, is quite narrow in several places, especially where it enters E. Main; I am concerned that the increased volume of traffic will be a problem, especially if, as proposed, a bike lane might be added. In addition, there are times when vehicles, especially RV's, are parked by the side of the road. It can be dicey to negotiate in the face of oncoming traffic, even with a small car such as mine.
- 2) This section of Clay street is marked by potholes and uneven areas, compounding the proposed increase in traffic. Also, where the street intersects with Ashland Street, it can be difficult to make a left turn because of traffic coming from the south on the RR overpass, which impedes vision. If more vehicles are added, I foresee a logjam. I recommend a traffic light be installed, especially if this proposal is implemented.
- 3) We have only one exit--Clay Street. In the event of an emergency evacuation, Wingspread residents would be stalled by a huge backlog of vehicles trying to exit on Clay Street. We desperately need an easement from the back of the property in order to have any chance of a timely exit. More cars equals more time stalled in the face, potentially, of a deadly wildfire.
- 4) Residents adjacent to Clay St. report problems with speeding vehicles and pleas to implement speed bumps have gone unheeded, reportedly. More traffic is problematic.

I plan on attending the Tuesday Meeting via Zoom and will be happy to dialog with anyone wanting to discuss this matter. Thank you for attention to my concerns, Alan Ackroyd

Michael Sullivan

From: Roux51 <Roux51@protonmail.com>
Sent: Friday, January 31, 2025 4:44 PM
To: Alan Ackroyd
Cc: Planning Commission - Public Testimony; Wingspread Intranet
Subject: Re: Planning Action: PA-T3-2024-00010

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]



On Fri, Jan 31, 2025 at 4:25 PM, members <members@wingspread.sites.community> wrote:

To whom it may concern:

I am a resident of Wingspread Mobile Home Park. We will be directly affected by this proposed annexation. I have several concerns in regard to this proposal.

- 1) Clay St., which borders our Park, is quite narrow in several places, especially where it enters E. Main; I am concerned that the increased volume of traffic will be a problem, especially if, as proposed, a bike lane might be added. In addition, there are times when vehicles, especially RV's, are parked by the side of the road. It can be dicey to negotiate in the face of oncoming traffic, even with a small car such as mine.
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posted by Alan Ackroyd

Michael Sullivan

From: Jill Limerick <limerickjill@gmail.com>
Sent: Friday, January 31, 2025 4:56 PM
To: Roux51
Cc: Alan Ackroyd; Planning Commission - Public Testimony; Wingspread Intranet
Subject: Re: Planning Action: PA-T3-2024-00010

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Thanks so much for putting your time and energy into this, Alan.

On Fri, Jan 31, 2025 at 4:46 PM members <members@wingspread.sites.community> wrote:



On Fri, Jan 31, 2025 at 4:25 PM, members <members@wingspread.sites.community> wrote:

To whom it may concern:

I am a resident of Wingspread Mobile Home Park. We will be directly affected by this proposed annexation. I have several concerns in regard to this proposal.

- 1) Clay St., which borders our Park, is quite narrow in several places, especially where it enters E. Main; I am concerned that the increased volume of traffic will be a problem, especially if, as proposed, a bike lane might be added. In addition, there are times when vehicles, especially RV's, are parked by the side of the road. It can be dicey to negotiate in the face of oncoming traffic, even with a small car such as mine.
- 2) This section of Clay street is marked by potholes and uneven areas, compounding the proposed increase in traffic. Also, where the street intersects with Ashland Street, it can be difficult to make a left turn because of traffic coming from the south on the RR overpass, which impedes vision. If more vehicles are added, I foresee a logjam. I recommend a traffic light be installed, especially if this proposal is implemented.
- 3) We have only one exit--Clay Street. In the event of an emergency evacuation, Wingspread residents would be stalled by a huge backlog of vehicles trying to exit on Clay Street. We desperately need an easement from the back of the property in order to have any chance of a timely exit. More cars equals more time stalled in the face, potentially, of a deadly wildfire.
- 4) Residents adjacent to Clay St. report problems with speeding vehicles and pleas to implement speed bumps have gone unheeded, reportedly. More traffic is problematic.

I plan on attending the Tuesday Meeting via Zoom and will be happy to dialog with anyone wanting to discuss this matter. Thank you for attention to my concerns, Alan Ackroyd

Michael Sullivan

From: Jean S <jeanashland@gmail.com>
Sent: Friday, January 31, 2025 5:45 PM
To: Alan Ackroyd; Roux51
Cc: Planning Commission - Public Testimony; Wingspread Intranet
Subject: Re: Planning Action: PA-T3-2024-00010

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Great letter, Alan. Thank you!

On Friday, January 31, 2025 at 04:46:37 PM PST, members <members@wingspread.sites.community> wrote:



On Fri, Jan 31, 2025 at 4:25 PM, members <members@wingspread.sites.community> wrote:

To whom it may concern:

I am a resident of Wingspread Mobile Home Park. We will be directly affected by this proposed annexation. I have several concerns in regard to this proposal.

- 1) Clay St., which borders our Park, is quite narrow in several places, especially where it enters E. Main; I am concerned that the increased volume of traffic will be a problem, especially if, as proposed, a bike lane might be added. In addition, there are times when vehicles, especially RV's, are parked by the side of the road. It can be dicey to negotiate in the face of oncoming traffic, even with a small car such as mine.
- 2) This section of Clay street is marked by potholes and uneven areas, compounding the proposed increase in traffic. Also, where the street intersects with Ashland Street, it can be difficult to make a left turn because of traffic coming from the south on the RR overpass, which impedes vision. If more vehicles are added, I foresee a logjam. I recommend a traffic light be installed, especially if this proposal is implemented.
- 3) We have only one exit--Clay Street. In the event of an emergency evacuation, Wingspread residents would be stalled by a huge backlog of vehicles trying to exit on Clay Street. We desperately need an easement from the back of the property in order to have any chance of a timely exit. More cars equals more time stalled in the face, potentially, of a deadly wildfire.
- 4) Residents adjacent to Clay St. report problems with speeding vehicles and pleas to implement speed bumps have gone unheeded, reportedly. More traffic is problematic.

I plan on attending the Tuesday Meeting via Zoom and will be happy to dialog with anyone wanting to discuss this matter. Thank you for attention to my concerns, Alan Ackroyd

posted by Alan Ackroyd

Michael Sullivan

From: Jyothi Rundel <jyothirundel@gmail.com>
Sent: Saturday, February 01, 2025 9:37 AM
To: Jean S
Cc: Alan Ackroyd; Roux51; Planning Commission - Public Testimony; Wingspread Intranet
Subject: Re: Planning Action: PA-T3-2024-00010

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Thank you Alan. Excellent.

~Jyothi

On Fri, Jan 31, 2025 at 5:46 PM members <members@wingspread.sites.community> wrote:
Great letter, Alan. Thank you!

On Friday, January 31, 2025 at 04:46:37 PM PST, members <members@wingspread.sites.community> wrote:



On Fri, Jan 31, 2025 at 4:25 PM, members <members@wingspread.sites.community> wrote:

To whom it may concern:

I am a resident of Wingspread Mobile Home Park. We will be directly affected by this proposed annexation. I have several concerns in regard to this proposal.

1) Clay St., which borders our Park, is quite narrow in several places, especially where it enters E. Main; I am concerned that the increased volume of traffic will be a problem, especially if, as proposed, a bike lane might be added. In addition, there are times when vehicles, especially RV's, are parked by the side of the road. It can be dicey to negotiate in the face of oncoming traffic, even with a small car such as mine.

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Michael Sullivan

From: pickedandpressed@gmail.com
Sent: Monday, February 03, 2025 10:51 AM
To: Planning Commission - Public Testimony
Subject: February 11PC hearing testimony

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL SENDER]

Hello,

I am writing to you in regards to the new development proposal for 37 units on lower Clay street. I have lived in Wingspread mobile home park for over 17 years and feel very fortunate to have my home here! My concern for ongoing development on this street has to do with increased traffic. When Snowberry Brook went in our little street was overwhelmed with cars. The street itself is in very poor condition with no room for parking or bike lanes. I think daily of what it would be like in an evacuation scenario and it's not good. Trying to turn left onto Ashland St. is a challenge as it is, I can't imagine how it would work with all of us living here and up and down the street trying to get out. PLEASE listen to our concerns and consider improving our infrastructure here so that we can support the increasing population on this side of town!!

Thanks!
Shelly Jillson
Sent from my iPhone

Applicant Submittal



Planning Division
51 Winburn Way, Ashland OR 97520
541-488-5305 Fax 541-488-6006

PLANNING ACTION FEES

DESCRIPTION OF PROPERTY

Street Address 300 Clay Street

APPLICANT

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

Address 270 Fourth Street City Carlsbad, CA State OR Zip 97501

FEE SCHEDULE – Please Mark All That Apply

ADMINISTRATIVE ACTIONS

				Total
	Zoning Permit - FENCE			\$36.25
	Zoning Permit - HOME OCCUPATION			\$36.25
	Zoning Permit - ACCESSORY STRUCTURE			\$36.25
	Street Tree Removal			\$100.00
	Land Use Approval Extension			\$435.00
	Lot Line Adjustment			\$435.00
	Any Other Administrative Action			\$435.00
		Base Fee	# of Lots	Total
	Final Plat Review - PARTITIONS	\$171.25	+ _____ x \$13.25 per lot	\$
	Final Plat Review - SUBDIVISIONS	\$435.00	+ _____ x \$36.25 per lot	\$
		Base Fee	Per Sq. Ft.	
	Sign Permit - NEW	\$171.25	+ _____ x \$3.00 per sq.ft.	\$
	Sign Permit - REPLACEMENT	\$36.25	+ _____ x \$3.00 per sq.ft.	\$

TYPE I REVIEWS

				Total
☒	Tree Removal Permit (not associated with another action)			\$100.00
☒	Solar Setback Variance			\$1,315.50
☒	Amendments to Conditions			\$1,315.50
	Physical & Environmental Constraints			\$1,315.50
	Conditional Use Permit			\$1,315.50
	Variance			\$1,315.50
☒	Any other Type I Review			\$1,315.50
	Independent Review of Wireless Communications Facilities			\$5,000.00
		Base Fee	# of Units	Total
	Residential Site Review	\$1,315.50	+ <u>8</u> x \$87.25 per unit	\$
	Final Plan/Performance Standards Subdivision	\$1,315.50	+ _____ x \$87.25 per unit	\$
	Land Partition	\$1,315.50	+ _____ x \$87.25 per unit	\$
		Base Fee	Valuation	Total
	Commercial Site Review	\$1,315.50	+ _____ x 0.5%	\$

TYPE II REVIEWS					
					Total
	Conditional Use Permit				\$2,756.25
	Variance				\$2,756.25
	Any other Type II Review				\$2,756.25
	Independent Review of Wireless Communications Facilities				\$5,000.00
		Base Fee		# of Lots	Total
✓	Outline or Preliminary Plat for Subdivision	\$2,756.25	+	28 x \$176.00 per lot	\$7693.25
	Final Plan with Outline/Performance Standards Subdivision	\$3,516.00	+	_____ x \$176.00 per lot	\$
		Base Fee		Valuation	
	Commercial Site Review	\$2,756.25	+	_____ x 0.5%	\$
TYPE III REVIEWS					
					Total
	Zone/Comprehensive Plan Map Change				\$3,515.75
	Comprehensive Plan Change				\$3,515.75
	Annexation				\$5,288.75
	Urban Growth Boundary Amendment				\$5,288.75
	Any other Type III Review				\$1,932.25
LEGISLATIVE AMENDMENTS					
					Total
	Comprehensive Plan Map/Large Zoning Map Amendment				\$6,172.00
	Land Use Ordinance Amendment				\$6,172.00
	Comprehensive Plan Amendment				\$6,172.00
APPEALS					
					Total
	Appeal for Initial Public Hearing (Planning Commission/Building Appeals Board/Demolition Review Board)				\$150.00
	Appeal for Final Decision of the City (Planning Commission or City Council)				\$325.00
SOLAR ACCESS					
		Base Fee		# of Lots	Total
	Solar Access Permit (not a Solar Variance)	\$62.50	+	_____ x \$14.25 per lot	
TOTAL FEES:		\$ 14,297.5			

Applicant's Signature

Date

Property Owner's Signature

Date

AMC 18.5.1.050.A.1 & AMC 18.5.2.060.A.1

Application Form and Fee. Applications for Type I review shall be made on forms provided by the Staff Advisor. One or more property owners of the property for which the planning action is requested, and their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless the appropriate application fee accompanies it.

300 CLAY STREET

CALDERA OAKS

ANNEXATION & OUTLINE PLAN FOR A PERFORMANCE STANDARDS
SUBDIVISION



ROGUE PLANNING & DEVELOPMENT SERVICES, LLC

**Residential Annexation
Outline Plan for Performance Standards Subdivision**

Subject Property

Property Address: 300 Clay Street
Map & Tax Lots: 39S 1E 11CB Tax Lot: 1100
**Comprehensive
Plan Designation:** Suburban Residential (R-1-3.5)
Zoning: Jackson County Rural Residential (RR-5)
Adjacent Zones: Ashland R-1-3.5, Ashland R-2 and Jackson County RR-5

Property Owner: Bentella LLC
7184 Aviara Dr.
Carlsbad, CA 92011

Architectural Planning: KSW Architects
66 Water Street, Suite 100
Ashland, OR 97520

Land Surveying: Terra Surveying Inc.
274 Fourth Street
Ashland, OR 97520

Civil Engineering: Powell Engineering & Consulting
100 E. Main Street, Suite O
Medford, OR 97501

Transportation Consulting: Southern Oregon Transportation Engineering
112 Monterey Drive
Medford, OR 97504

Wetlands Biologist: K&C Environmental Services Inc.
215 Scenic Drive
Ashland, OR 97520

Land Use Consultation: Rogue Planning & Development Services
1314-B Center Dr., PMB #457
Medford, OR 97501

PROJECT INFORMATION:

Request for Annexation of the 4.80-acre parcel at 300 Clay Street (39S 1E 11CB; Tax Lot 1100) into the city of Ashland. The proposed zoning of the property upon Annexation is consistent with the Comprehensive Plan and the property will be zoned Suburban Residential (R-1-3.5) with the Performance Standards Overlay.

Outline Plan approval under the Performance Standards Subdivision Option for a 29-lot subdivision is included in the application. The proposal includes a conceptual development plan for a 16-unit Multi-family Site Design Review that will accompany the Final Plan application for the Subdivision.

A Limited Activities Permit for public utilities within the Water Resource Protection Zone for a delineated wetland. Additionally, the application includes tree removal permit criteria to remove four trees.

SUBJECT PROPERTY:

The subject property is a 4.80-acre parcel located on the east side of Clay Street. The property has 328.35 feet of frontage along Clay Street and extends 633.61 feet to the west.

The property is 64.70 feet south of Dollarhide Way a east to west public street that connects to Abbott Avenue then extends to Tolman Creek Road. The property is 515.86 feet north of Villard Street, this street is an east/west oriented street that terminates into Engle Street. Engle Street is a public street that terminates into the north and south lot lines of the subject property.

The subject property is occupied by a 631 square foot, single-story residence that was constructed in the early 1900s. The structure is occupied but has fallen into disrepair. To the east of the structure is an 819 square foot shed, a small horse shelter, and a 208 square foot carport structure also occupy the property.



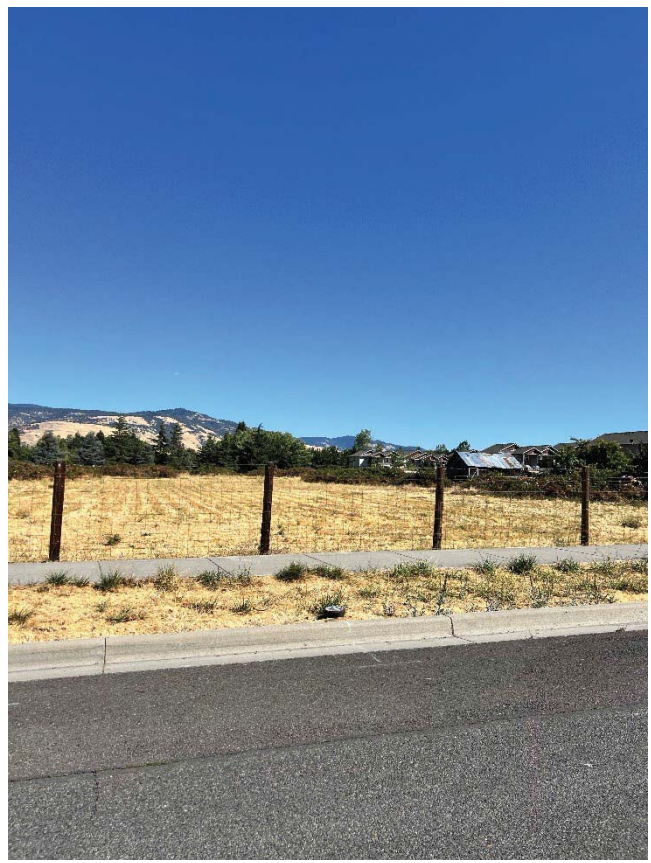
Natural Features:

The site is relatively flat with a gentle slope from south to north. There are few natural features on the property.

There are a few significant stature trees on the subject property. There is a 16-inch diameter at breast height (DBH) conifer tree directly adjacent to the southwest corner of the existing residence. A 16-inch DBH Cottonwood tree in the northwest corner of the property and grouping of willows including a 16-inch DBH, 15-inch DBH and 18-inch DBH willow tree nears the north property line, east of Engle Street intersection into the property. The majority of trees are landscape trees on the adjacent properties. There is a row of Leyland Cypress along the east property line and shade trees in the yards of the properties to the north of the subject property.



1: Northwest corner of 200 Clay Street



2: 300 Clay Street mid-block



3: 300 Clay Street residence (SW corner of property)



4: View to North/Northwest

According to the 2007 Local Wetlands Inventory (LWI) there is a significant wetland that transects the property, and a potential wetland near Clay Street. This wetland (W13) is identified as a Freshwater Emergent Wetland (PEM1C). This wetland area appears to have been part of a larger wetland that was created by decades of flood irrigation of the subject property and adjacent properties to the south and north with water from the Talent Irrigation District. There are flood irrigation ditches that run through the property and a primary service line in an open ditch that extends through the site. As development to the south has occurred and the open canals and service ditches were replaced with hard pipe, the containment of the irrigation waters has greatly reduced and nearly eliminated the previously identified significant wetland on the subject property and properties further south.

A wetland delineation was performed by a qualified wetlands specialist in 2015 that substantially reduced the area of the wetland areas and modified the LWI. In 2022, another wetlands delineation was performed. The 2022 wetland delineation was approved by the state of Oregon Department of Lands and again modified the LWI. Based on the area of the wetland, the wetland is no longer a Significant Wetland, but a small, 418.76 square foot (.0096 acre) wetland area near the northeast corner of the property.

According to OAR 141-086-0350 Locally Significant Wetland Criteria (1) Exclusions, wetlands shall not be designated as locally significant if they are less than one acre in size and created unintentionally because of irrigation water overflow or leakage. Based on this language, the remaining area of the wetland is not a locally significant wetland but has been identified as a wetland with a 20-foot buffer zone.

Access:

Clay Street extends along the frontage of the property. According to the Transportation System Plan, Clay Street is a Neighborhood Collector. It has a 60-foot-wide public right of way along the frontage of the property. The street is improved with 28-feet of pavement, landscape park row, sidewalks, concrete curb, and gutter.

Engle Street, a Neighborhood Street intersects the property roughly halfway between the east and west property lines on both the north and south property lines. Engle Street has between 50 – 52 feet of public right-of-way. The southern portion is improved with curb, gutter, park row, and sidewalk on the east and west sides of the street. The north portion of Engle Street within the Eastfield Subdivision is also improved with curb, gutter, park row, and sidewalk.

There is a decomposed granite surface walkway that extends from Clay Street and continues through to Engle Street is present on the property to the south.

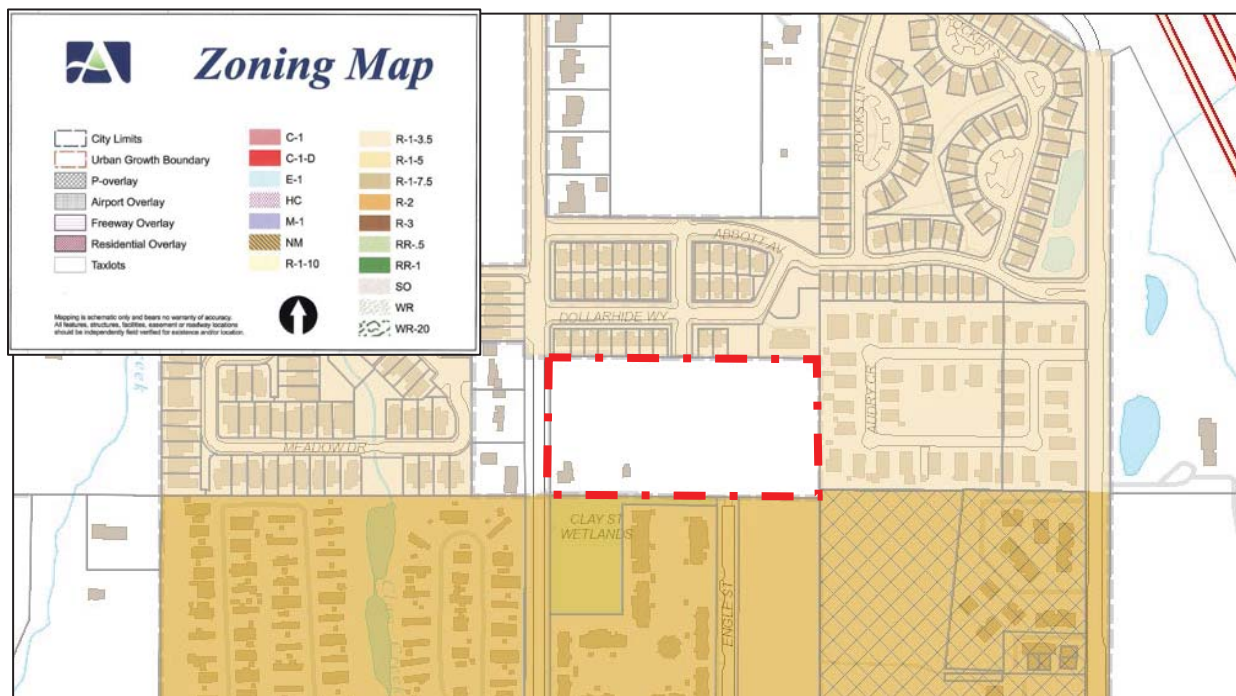
Transit service via Route 17, the Ashland Circulator has a southbound bus service that stops near the entrance to Wingspread, approximately 900 feet to the south. Other transit via Ashland Route 10 and the Medford Ashland Express is available on Ashland Street which is just over 1,800 feet to the south via Clay Street or Engle Street to McCall Drive. These bus services provide frequent transit service throughout Ashland, through Talent and Phoenix, and into Medford to the transfer station.

The Central Ashland Bike Path is accessible from an informal path that crosses ODOT right of way of Ashland Street and connects to the bike path after crossing the railroad tracks. To the north, eventually accessible from Engle Street where it connects to Abbott Avenue to the north will be a future city of Ashland park. One of the proposed features of this park is a bicycle pump track. The public right of way will provide direct access to this park.

Comprehensive Plan Designation and Zoning:

The subject property and three large area parcels immediately to the west across Clay Street from the subject property are outside of the city limits. All properties are within the Urban Growth Boundary (UGB). Wingspread Mobile Home park is to the southwest of the property. The subject property is identified on the Comprehensive Plan Map as Suburban Residential.

The properties to the south are zoned Low Density, Multiple-Family Residential (R-2). These properties are occupied by an open space/wetland area owned by the city of Ashland and a multiple-family apartment complex. This is the area of 'Snowberry Brook'. The uses to the east include a residential manufactured home park, an apartment complex, and the soccer fields for the Ashland Family YMCA. The properties to the north are zoned Suburban Residential R-1-3.5. These lots are occupied by attached and detached single-family residential units within the Bud's Dairy Subdivision Chataqua Trace Subdivision.



PROPOSAL:

Annexation:

The request is for Annexation to include the 4.8-acre property into the City of Ashland. The annexation allows for the change in zoning designation of the properties from Jackson County Rural Residential, five-acre minimum (RR-5), to Ashland, Suburban Residential (R-1-3.5) as envisioned on the Comprehensive Plan Map and incorporates the property into the city limits. Clay Street right of way along the frontage of the property will be incorporated into the annexation area. The property is directly adjacent to the city limits and the adjacent properties are zoned city of Ashland residential zones.

The annexation request is consistent with the Comprehensive Plan designation of the property. Annexation of the property is consistent with the city of Ashland goals and policies of the Comprehensive Plan as they relate to urbanization and housing standards, providing needed housing, provides deed restricted, affordable housing, provides protections of the natural environment, and provides vehicular and pedestrian connectivity to and through the subject property and to the adjacent properties within the city.

Outline Plan Approval for Performance Standards Subdivision:

Additionally, the application seeks application of the Performance Standards Overlay to the Zonin Outline Plan approval for a Performance Standards Subdivision for a 29-lot subdivision. The development types include 21 lots for detached residential and attached residential (duplex and/or accessory residential units) and four lots that accommodate four, four-plex multi-family units, one on each lot for a total of 37 dwellings.

The property does not have the PSO-Overlay as it is not within the city limits but 18.3.9.030. D.1. allows for application of PSO standards when the parcel is larger than two acres and is greater than 200 feet in average width.

The proposed street layout is a gridded street system that includes the connection of an incomplete Neighborhood Street (Engle Street) and development of a new public street, Caldera Lane. There are two public alleys and the use of a private street / private driveway to access the eastern portion of the property. Included in the proposal is the preservation of a future east to west connection R-22, as envisioned in the 2013 Transportation System Plan Street Dedication map. The proposed layout provides for standard block lengths, widths, and connectivity are proposed that comply with the standards for public streets and emergency vehicle access. The new neighborhood street is proposed to intersect with the extension of Engle Street. Caldera Lane will "T" into a private street/driveway that provide for fire apparatus access rear lot access and provides the parking area for the future four plex development.

Pedestrian connectivity to the north Engle Street connection at the property line is provided through the proposed open space. The open space includes the 20-foot wetland protection buffer zone for the 418.76 square foot wetland to the east of the new Engle Street connection. This wetland crosses the property boundary and extends north into the East Village Subdivision on Dollarhide Way and Abbott Avenue.

Upon annexation, the property will become subject to the standards for development from the Ashland Municipal Code including the Physical and Environmental Constraints Section of the code, the Water Resource Protection Zone standards, and is included in the Wildfire Overlay. The property will be included in the City of Ashland Fire Protection areas and removed from Jackson County Fire District 5.

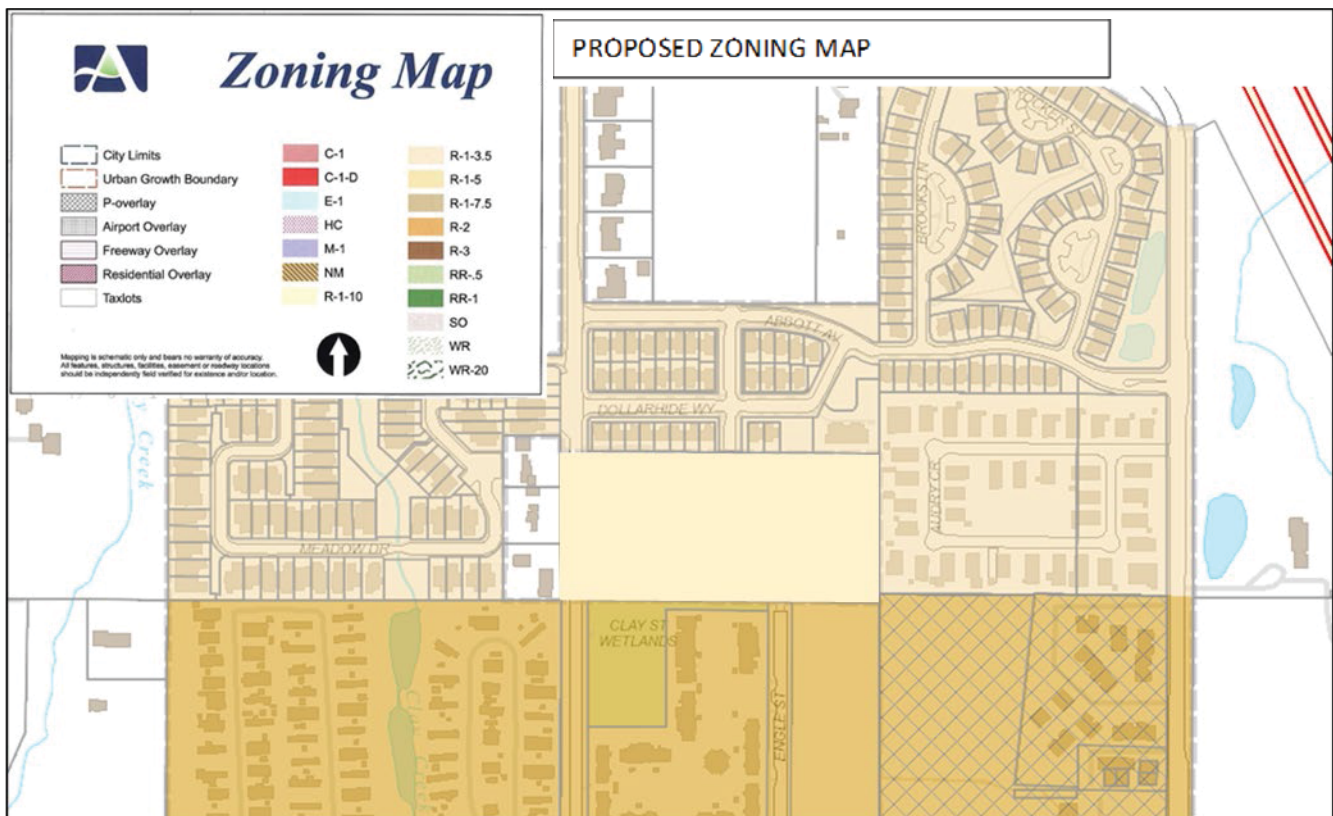
Water Resource Protection Zone Limited Use Permit:

A Limited Uses permit for minor impacts to Water Resources Protection Zones for the installation of stormwater infiltration into the buffer zone is requested.

PROPSAL DETAILS:

Zoning:

The proposed annexation and zoning designation as Suburban Residential (R-1-3.5) is consistent with the Comprehensive Plan Designation of the property. The properties to the north and east are also Suburban Residential (R-1-3.5). The property to the south is zoned Low Density, Multi-Family Residential (R-2). The subject property is contiguous with the current city limits on three sides.



Density:

The property is 4.8 acres (209,088 square feet in area). Of the 4.8 acres, the .0096-acre (~418 SF) wetland area and the approximate buffer area (increases wetland areas by 25% (104.6 SF) for a total wetland

protection area of approximately .012 acres (522.6 SF) that is undevelopable. This reduces the developable area to 4.79 acres. The density of R-1-3.5 zoned properties is 7.2 dwelling units per acre.

Property Area excluding the wetland and wetland buffer zone:

4.79×7.2 (dwelling units per acre) = 34.48 dwellings Base Density

Minimum Density for Annexation = 90 percent

$34.48 \times .90 = 31$ dwellings

The conceptual proposal includes 37 dwellings for the purposes of density calculations. The 21 detached residential lots include a duplex or accessory residential unit potential. There are four lots for the development of each with a four plex for a total of 16 apartment units.

To meet 37 dwellings, we will use Affordable Housing density bonuses which is outlined in the next section.

There is a mixture of housing types proposed. There are detached residential, duplex or accessory residential units and multi family dwellings. Within the impact area of the proposed development there are detached and attached single family residential units, manufactured housing units, and multi-family housing.

Affordable Housing:

The number of affordable housing units proposed is calculated as 25 percent of the base density. With a density of 34.48 dwelling units, 25 percent results in 8.6 affordable dwelling units. However, as per AMC 18.5.8.050.G.7, any fractional number is rounded up to the nearest whole unit, which means that the required number of affordable housing units is nine.

The proposal includes the construction of eight affordable rental units restricted to households earning 80 percent of the Area Median Income (AMI). Each 80 percent AMI unit has an equivalency value of 1.25, meaning that to determine the number of these units required to meet the affordability standard, the required number of units (9) should be divided by the equivalency value (1.25). This calculation ($9 / 1.25$) results in 7.2, which rounds up to 8. Therefore, to meet the requirement of nine affordable units, the project must provide at least eight affordable units at 80 percent AMI.

In line with this understanding, there are eight (8) affordable rental units restricted to households earning 80 percent of the AMI, which satisfies the requirement under AMC 18.5.8.050.G.

Additionally, the proposal leverages the available density bonuses from affordable housing. Under AMC 18.3.9.050.B.3, based on the density of the project (34.48), up to 12 units of density bonus based on affordable housing ($34.48 \times 0.35 = 12$) is permitted. The proposal accounts for three density bonus units to meet the proposed 37 dwelling units.

Affordable housing will be developed to meet the standards outlined in AMC 18.2.5.050.

Lot Layout:

The layout of the proposed subdivision includes a mixture of housing types. The subdivision lot layout was predicated by the north/south orientation of Clay Street, the stubbed locations of Engle Street, intersection spacing, Transportation System Plan future street dedication locations, the topography along the south property boundary, solar access and orientation, and the adjacent neighborhood development patterns and existing uses.

The conceptual layout proposes 25 lots for residential development and four common area lots.

Lots 1- 21 lots are envisioned as detached residential development lots. These lots range in lot area between 4,577 square feet to 7,451 square feet. With the majority of the lots have a lot width of between 40-feet to 49.09 feet, and a depth of 118.55 feet to 124.41-feet.

Lots 22 – 25 are intended for the development of four, four plex apartment buildings. There are 16 apartment units proposed. These units are located to the east of the proposed private street that extends from Engle Street and the intersection of the new east/west street, Caldera Lane.

There are four common area lots totaling more than 16,000 square feet in area. Three of the common area lots are open space areas that provide areas for both passive and active recreational opportunities. The other includes the wetland and buffer area.

The future lots will be developed with residences that comply with the general setbacks of the perimeter and excepting attached unit, zero lot line structures, the standard setbacks in the R-1-3.5 zone will apply. The lot coverage will be 55 percent of the lot area (with a 200 square foot pervious surface credit) and 45 percent of each lot as landscape area. Conceptual building footprints have been provided for upon each development lot.

Natural Areas and Open spaces:

A variety of positive green spaces and recreational open spaces are proposed. The open space areas are proposed to be more than 16,000 square feet, which accounts for more than five percent of the total site area (10,454 square feet). There are four distinct open space areas, as well as a detention pond in the northeast corner. Walkways are provided that connect to the public sidewalks that allow for the daily use of the open spaces by all residents of the subdivision.

Excepting the grouping of willow trees within the wetland and the buffer zone, the other significant trees on the property will be removed to accommodate the public road, alley and future building envelopes.

Building Design:

The residential development has similar in height, massing, scale, area, as the other attached and narrow lot residential developments found in the subdivision to the north and in the East Village Subdivision, northeast in Chautauqua Trace, and to the northwest in the Creekview Subdivision.

The exterior design is more modern aesthetic than what is found in these late 1990s – mid 2000s developments. The proposed exterior elevations utilize a combination of roofline heights, cascading roof form. The cascading roofs allow for large surface areas for the installation of solar panels as desired by the homeowner. Each dwelling has a strong sense of entry, and material choices that are reflective of the surrounding neighborhood which includes residential and multi-family residential uses. The design proposes for the buildings to have the façade broken into smaller elements using reveals, recesses, trim, window sizes, and locations.

Solar Performance Standard:

The majority of the lots comply with solar setback. The 15 detached residential lots are oriented on a north to south axis. The buildings are designed to have maximum roof area on the west and south exposures for future solar panel installation.

Due to the location of Engle Streets north to south orientation, and its intersection with the subject property, the layout of the subdivision east of the street had to be creative in layout in order to provide adequate lot area, mixed housing types, variation in building design, a connected transportation system and wetland preservation. The street on the north south axis forced some of the lots into a narrow north to south lot width that does not meet the required solar width of the lot which is nearly 22-feet wider than required in the zone.

The solar slope to the north is 2.83 percent downhill to the north. This requires a minimum lot width for each lot of 71.93 feet wide. The minimum lot width in the R-1-3.5 zone is 50-feet in width and the Performance Standards Subdivision allows for further reduced lot widths within the PSO overlay.

There are four of the detached residential lots (17, 18, 20 and 21) and the three multi-family lots (22, 23 and 24) are proposed to have residential dwellings that are a modest height, but due to the solar standards, these lots would be required to be substantially wider than the minimum lot width in the zone.

It is not unreasonable for homes in an urban residential zone to be two stories and to be separated by not more than 12-feet. The application seeks flexibility to allow for the shadow of the adjacent buildings on the lots to shade the structure to the north more than a six-foot fence would. Each building is not designed but the request would be to allow a five-foot shadow up the adjacent south wall of the structure to the north. Separation between the buildings is preferred to attached wall housing which necessitates the Solar Performance Standard.

Transportation Improvements:

With the annexation application, an extension of the transportation system is required to provide adequate multi-modal transportation improvements to serve the annexed area. The subject property abuts Clay Street along the west property frontage and Engle Street, which terminates at both the north and south property boundaries. Clay Street is designated as a Neighborhood Collector according to the Transportation System Plan. When 380 Clay Street, located to the south, was annexed in 2009, frontage

improvements along Clay Street were installed to the standards that were applicable at that time. Clay Street is improved with 28 feet of pavement overlay, curb, gutter, park row, and sidewalk. No changes are proposed to the Clay Street improvements.

Engle Street is proposed to be extended through the property and connect the right of ways. Engle Street is a Neighborhood Street. It will be improved with 15-feet of pavement, seven-foot park row, five foot sidewalk, curb and gutter. On-street parking is proposed on the west side of the street.

A new Neighborhood Street, Caldera Lane, is proposed to enter the property approximately 213-feet south of Dollarhide Way. The new street has a 47-foot-wide public right of way. Caldera Lane will be developed with a 15-foot travel lane, on-street curbside parking on the southside, curb, gutter, seven-foot park row, and five-foot sidewalks.

Caldera Lane and Engle Street are proposed to provide primary vehicular access through the site. East of the intersection of Caldera Lane and Engle Lane, Caldera Court, a private street terminates into a hammerhead. This private street functions like an alley or a driveway and provides vehicular access to the multi-family development area and provides rear access to the Engle Street fronting residential lots. This private street/driveway will be developed with improvements similar to a “Shared Street” from the street standards but there is a five-foot pedestrian sidewalk provided leading from Engle Street through to the common area, the future play area and the multi-family.

Along the south side of the property, east of Engle Street is a future right-of-way dedication for a future street to connect to the adjacent property to the east. Currently this area is not part of the vehicular circulation pattern for the proposed development and there is no development to the east. In fact, there are residential dwellings that prevent the extension of this street system until a future date. This area is preserved for future dedication but not dedicated so that it remains in the maintenance and care of the Caldera Oaks Subdivision.

The proposed future right of way is 27-feet because on the south side of the street there is 20-feet of future public right of way and the 27-feet is needed to complete a Neighborhood Street as envisioned in the Comprehensive Plan. In addition to the grade change there are storm drainage infrastructure basins within 20-feet of the property line preventing R22 along the property boundary.

Along the south property line is a 16-foot-wide public alley, though a public street is notated in the Transportation System Plan, as previously discussed the topography and grade change along the south property line prevents a traditional four-way intersection at the actual intersection of Engle Street, the subject property, and the property to the south. The grade of the proposed street as it enters the subject property is nearly ten percent which would be a difficult street cross grade.

The proposed street layout completes a gridded street system that provides connectivity to the other streets in the vicinity and provides for future right of way to connect to future streets outside of the development area. The proposed layout includes public alleys and no street driveways from Clay Street, Caldera Lane or Engle Street. This layout allows vehicular access and vehicular maneuvering at the rear of the residential properties limiting curb cuts on the new streets.

A Transportation Impact Study has been conducted by Southern Oregon Transportation Engineering. It was found that the thresholds for a Traffic Impact Analysis are not met. There are less than 50 AM or PM peak hour trips, there are no Heavy Vehicle trips generated by the development and there are less than 200 daily trips. Transportation Planning Rule findings drafted by a traffic engineer have been completed.

Utilities:

The proposed development will extend the City infrastructure to and through the development to service the proposed parcels. When Clay Street and Engle Street were improved by the developments to the north and south, frontage improvements and utility extensions were made along the frontage of the property, stubbing into the property on the north and south side within the public right of ways to serve the proposed development. Existing and proposed services have been identified in the conceptual utility and drainage plans provided in this submittal.

Parking:

Though off-street parking is not mandated, there are off-street parking spaces provided for each of the 15 detached residential lots. The vehicle maneuvering and parking areas are accessed from the alleys and the private street. There is a 21-space parking area including one ADA accessible parking space for the multi-family housing accessed from the private street. The proposed parking area has been designed to the Climate Friendly Equitable Community Standards and the parking area design standards. There will be conduit installed for the future connectivity for eight vehicle charging stations. There is an adequate back-up area for the vehicles provided within the 40-foot wide tract for vehicle maneuvering.

There will be a variety of bicycle parking available. For the detached residential units on lots 1 – 15, the bicycle parking is provided within garages. There are 24, sheltered bicycle parking spaces required for the multi-family units. There will be covered rack provided that provides for 12 of the sheltered spaces. The other 12 spaces will be provided via a hanging rack within each of the four plex units.

There are 31 on-street parking spaces required in the Performance Standards Subdivision. These are provided for upon Clay Street, on the south side of the new street Caldera Lane, on the west side of Engle Street and within the private street, common area tract.

Conclusion:

Based on the most currently available data, Ashland is presently deficient in providing an adequate land area of buildable land available for multi-family zoned property. Utilizing the data provided in the Ashland Buildable Lands Inventory (2011), the Housing Needs Analysis (2012), and the 2020 Housing Capacity analysis, and further evidenced by the less than one percent vacancy rate in available housing stock, Ashland lacks an adequate supply of vacant land area for multi-family and suburban levels of residential development.

The proposed annexation can be found to be consistent with the standards of the Ashland Municipal Land Use Ordinance and the proposal furthers the purpose and intent of the Comprehensive Plan of the City.

Annexation of additional suburban residential zoned land is consistent with the present Housing Element (V-I) and the proposed Ashland Housing Strategy Implementation Plan that is presently under review by the city that seeks remedies to reducing barriers to residential development including the annexation of land to provide additional area for multi-family housing.

The Annexation, Outline Plan for Performance Standards Subdivision and future multi-family residential development complies with Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces, through the protection and preservation of the wetland and its buffers and the creation of substantial areas of open space.

The 2021-2041 Housing Capacity Analysis (HCA) found that annexation of land from the urbanizing area (UGB) into the city limits is necessary to accommodate Ashland's population growth over the next 20 years." It was found that the municipal codes created obstacles to annexing land within the UGB for housing that contributed to higher land costs and makes it difficult to find land for larger housing developments. The Ashland Comprehensive Plan includes a housing goal to "support the creation and preservation of housing that is affordable to low- and moderate-income households and that is commensurate with the incomes of Ashland's workforce (6.10.02). The proposal was reviewed by the Housing Committee in May of 2024 and general support was expressed with the desire for the affordable units to be spread throughout the development instead of the proposed to provide seven of the units as affordable rentals clustered with the other four plex units. Due to the nature of financing for construction, the immediate construction of the deed restricted affordable units as some of the first vertical development on the site, the lower affordable threshold for the tenants and that the affordable rentals are held for 60 years versus 30 years of a for purchase unit, the proposal is better for achieving affordable housing goals and adding to the diversity of affordable housing units available in Ashland.

The proposed development provides a gridded transportation system that includes connections to multi-modal transportation options, creates a walkable neighborhood, and proposed housing types including apartments that are currently not provided for adequate numbers. The Transportation Advisory Committee reviewed the proposal in June and expressed their support for the development.

The proposed development ensures and provides for a needed housing type, specifically addressing the goals of providing "a range of different dwelling types" which this development is doing.

Findings addressing the criteria are provided on the following pages.

FINDINGS OF FACT ADDRESSING THE ASHLAND MUNICIPAL CODE CRITERIA

Ashland Municipal Code 18.5.8.020

Application Submission Requirements

Except for annexations initiated pursuant to section 18.5.8.040, application for annexation shall include the following information.

A. Consent to annexation, which is non-revocable for a period of one year from its date.

Finding:

A non-revocable consent to annex has been provided by the property owner.

B. Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.

Finding:

An amount sufficient to retire any special district debt will be deposited if determined necessary.

C. Boundary description and map prepared in accordance with ORS 308.225. Such description and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed and monumented as required by statute subsequent to City Council approval of the proposed annexation.

Finding:

A boundary description and map prepared by an Oregon Licensed Land Surveyor and in accordance with ORS 308.225 is provided with the application. The boundary description map includes the Clay Street right-of-way. Upon City Council approval of the proposed annexation, the map will be done again with the boundaries as indicated and will resurveyed and monumented again.

D. Written findings addressing the criteria and standards in section 18.5.8.050.

Finding:

Findings addressing 18.5.8.050 criteria are included and attached below.

E. Written request by the property owner for a zone change. Provided, however, no written request shall be necessary if the annexation has been approved by a majority vote in an election meeting the requirements of Section 11g of Article XI of the Oregon Constitution (Ballot Measure No. 47).

Finding:

The property owner under this proposal requests an annexation in conformance with the city of Ashland's zoning designation as noted in the Ashland Comprehensive Plan designation for the property, Suburban Residential (R-1-3.5).

F. For annexation applications not initiated by the City, a concurrent filing of a planning application (e.g., Site Design Review, Subdivision, or Land Division) for the development of the annexed area.

Finding:

A planning application for Outline Plan for Performance Standards Subdivision and a conceptual plan for the Multi-Family Site Design Review of the four plex apartment buildings have been submitted concurrently with the Annexation application for the proposed development of the annexed area.

18.5.8.030 Applicability and Review Procedure

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

A. Legislative Authority. Annexations are a legislative decision, and the City Council makes the final decision on annexations in accordance with subsection 18.5.1.010.B.4. The City Council may require improvements to public facilities, such as utilities and streets, as a condition to annexation approval, in addition to the requirements of section 18.5.8.050, and grant exceptions and variances to the criteria and standards in accordance with subsection 18.5.8.050.I

Finding:

The application includes conceptual civil engineering plans for improvements to public facilities including utilities and street improvements along with the annexation, subdivision and site development request.

18.5.8.040 Initiation by City Council or Planning Commission

The City Council or Planning Commission on its own motion may initiate a proposal for annexation. The applicable approval criteria and standards in section 18.5.8.050 shall apply to City-initiated annexation applications. Annexations initiated to address dangers to public health shall follow the process and be subject to the criteria in ORS Chapter 222 or successor state statute.

Finding:

AMC Section 18.5.8.040 does not apply. The request for annexation is proposed by a landowner and was not initiated by the City Council or Planning Commission. Findings addressing AMC 18.5.8.050 are provided herein.

18.5.8.050 - Annexation Approval Criteria and 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.

18.5.8.050 A. The annexed area is within the City's Urban Growth Boundary.

Finding:

The annexed area is currently within the city of Ashland, Urban Growth Boundary as designated in the adopted Ashland Comprehensive Plan.

18.5.8.050 B. The annexation proposal is consistent with the Comprehensive Plan designations applicable to the annexed area, including any applicable adopted neighborhood, master, or area plan, and is an allowed use within the propose zoning.

Finding:

The annexation proposal is consistent with the Comprehensive Plan designation applicable to the area. The proposed zoning of the property is Suburban Residential (R-1-3.5) and is consistent with the designation indicated on the Comprehensive Plan Map.

18.5.8.050 C. The annexed area is contiguous with the city limits.

Finding:

The property is contiguous with City limits on three sides.

18.5.8.050 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

Finding:

Adequate City facilities can and will be extended to and through the annexed area. At no time has any city department indicated capacity issues.

Electric: Electric infrastructure can be extended to and through the site that provides ample service for the proposed residential development. An Electric Distribution Plan has been created by the city of Ashland Electric Division.

Water:

The property is currently served by an 8-inch water main in Clay Street. There is another water main within both extensions of Engle Street that will be extended through the property. The water mains will be extended from Clay Street within the Caldera Lane right of way and connect to the extended water main in Engle Street. Domestic service lines will be extended to each lot and irrigation meters will be provided for the open space/common areas.

There are substantial water pressures in the area and according to the Water Division Supervisor, pressure reduction valves (PRV) will be necessary.

The Comprehensive Plan, Urban Services, Chapter 9, states that the goal of the city is “To provide public utilities, services and facilities in an orderly, efficient and environmentally sensitive way and in sufficient quantity to meet city needs now and in the future.” (9.01.03)

The Water Supply and Services section states the goal of the City of Ashland is “To provide sufficient water supply for Ashland citizens” (9.03.04). Through the annexation of the subject property and the proposal to extend the water main to the proposed driveway where the meters are proposed achieves the Comprehensive Plan Goals of the City of Ashland.

The city of Ashland Public Works Department requires that the municipal water system be engineered by the current, contracted public utility water system engineers of record for Ashland. This is understood by the property owner, and the project civil engineer and the project is in the construction design phases being reviewed by the proper authority.

There is a Talent Irrigation District (TID) main line that runs through the property. This open ditch will be replaced with a tight line. The civil engineer will work in conjunction with the Bureau of Reclamation and the TID to verify there will be no disruption in service.

Sanitary Sewer Service:

The property is currently served by an 8-inch sanitary sewer main in Clay Street. There is an 8-inch sanitary sewer main within Engle Street to the north. There is a sanitary sewer lateral along the south property line. There is adequate capacity within the city’s sanitary sewer system for the additional dwellings.

Stormwater Drainage:

The property is currently served by an 18-inch storm drain in Clay Street. There is also an 18-inch storm drain in Engle Street to the north. The proposed development of the site with physical improvements are engineered and demonstrate compliance with the Rogue Valley Sanitary

Sewer Services, Stormwater Quality Design Manual. The project Civil Engineer has determined the approximate size and locations for on-site detention and treatment facilities. The property is served by RVSS Storm Sewer Services, and the storm water management plan has been designed in accordance with the most current Rogue Valley Stormwater Quality Design Manual standards at the time of building permit submittal. There is adequate capacity for the additional very limited impacts on the system.

18.5.8.050 E. Adequate transportation can and will be provided to and through to serve the subject 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.

Finding:

Clay Street is a Neighborhood Street that has 28 feet of paved width along the full frontage of the property. Clay Street has curb, gutter, park row and sidewalk along the frontage of the property and the improved street extends to the nearest fully improved collector or arterial street, Ashland Street to the south. To the north, Clay Street is improved intersection of Clay Street and Creekside Way where the improvements extend along the west side of Clay Street to East Main Street.

The extension of Engle Street will be developed to city standards for a Neighborhood Street. connecting the two terminus of Engle Street on the north and south sides of the property. Engle Street is proposed to connect the existing five-foot-wide sidewalks and seven-foot landscape park rows, and 15-foot driving lanes to the street standards through the site.

A new public street, Caldera Lane, is proposed to extend from Clay Street through to Engle Street. Caldera Lane will intersect with Engle Street. Caldera Lane is proposed to be improved to the standards for a Neighborhood Street and has a 47-foot-wide public right of way. Caldera Lane will be developed with a 15-foot travel lane, on-street curbside parking on the southside, curb, gutter, seven-foot landscape park row, and five-foot sidewalks.

There are two public alleys proposed along the north and south sides of the property completing the gridded street system.

The Transportation System Street Dedication Map includes a future right-of-way (R22) along the southern boundary of the property. This future street is partially incorporated into the development as a 27-foot wide “future road reservation area” in the southwest corner of the property. A 20-foot future right of way is dedicated upon a portion of the adjacent property to the south within the Snowberry Brook subdivision, allowing a segment of east / west connection from the development to the east towards Tolman Creek Road when the properties between the subject property and Tolman Creek Road develop.

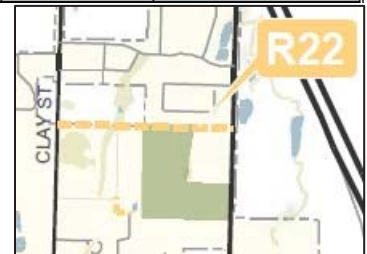
Ashland Transportation System Plan

*October 2012
Intersection and Roadway Plan*

Table 10-3 Preferred Plan Intersection and Roadway Projects

(Project #) Name	Description	Reasons for the Project	Priority (Timeline)	Cost ²
(R22) New Roadway (B)	Construct a New Roadway from Clay Street to Tolman Creek Road consistent with the IAMP Exit 14 Access Management on Ashland Street (OR 66) if and when Tolman Creek Manufactured Park is redeveloped. The location of the connection shall be determined at the time of redevelopment of the manufactured home park.	Facilitate Economic Growth Balance Mobility and Access	Development & Access Management Driven	Developer Responsibility

The new Neighborhood Street and the future right of way fulfills a substantial portion of the Transportation System Plan Preferred Plan Intersection and Roadway Projects Table 10-3 of an east to west connection through this property (R22).



R22 is not located in the exact location as to where it's shown on the TSP. This is due to the topography along the southern property line. The property to the south is approximately five to eight feet higher than the subject property. Additionally, there is large capacity storm drain and sanitary sewer infrastructure adjacent to the south property line and within the area envisioned as R22 future right of way.



Due to the topography along the south property line where Engle Street terminates and the improvements within the actual street right of way had to be shifted north to provide adequate area for the grade change between the properties and a public street could not be placed directly on the south property line.

Additionally, there is no dedicated right-of-way for future street on the adjacent property to the south except in the area to the east of Engle Street. It's owned by the city of Ashland but not dedicated or reserved.

The elevation difference between the properties and the intersection of Engle Street into the property created a situation that pushed the street right of way to north. This proposal provides for a public alley along the south property line that is 16-feet in width. This alley will be extended to Engle Street.

Additionally, the east/west connection is maintained through the development of Caldera Lane and the Engle Street connection to Dollarhide Way and Abbott Avenue to the north. Abbott Avenue intersects with Tolman Creek Road. The future street to the east through to Tolman Creek Road is preserved through the road reservation area.

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 multiuse paths

connecting the annexed area to the likely bicycle destinations after assessing the impact of the development proposed concurrently with the annexation.

Finding:

Clay Street, Engle Street and Caldera Lane are Neighborhood Collector streets and separate bike lanes are not required and bicyclist share the street. The proposed annexation does not impact the existing frontage improvements to Clay Street.

The Central Ashland Bike Path is accessible from Clay Street where there is an informal path that crosses ODOT right of way of Ashland Street and connects to the bike path after crossing the railroad tracks. A better route is the roads to Ashland Street, use the bike lane on Ashland Street and enter the bike path from Shamrock Lane or through the Ashland Street Cemetery and Normal Avenue.

To the south from Engle Street there is a pedestrian/bicycle connected alley way that leads to McCall Drive a Public Street that connects back to Clay Street near the Ashland Street and Clay Street intersection.

There is not a direct route or other pathway to create connectivity to the Central Ashland Bike Path other than the Ashland Street corridor.

To the north, eventually accessible from Engle Street where it connects to Abbott Avenue to the north will be a future city of Ashland park. One of the proposed features of this park is a bicycle pump track. The public right of way provides direct access to this park.

Though there are not separate bike lanes, Clay Street leads to East Main Street which has or will have dedicated bike lanes as it develops. Additionally, cyclists can utilize Abbott Avenue which connects which leads to Tolman Creek Road. There are dedicated bike lanes on the lower section of Tolman Creek Road. Tolman Creek Road leads to the commercial corridor of Ashland Street and there are public schools accessible from East Main Street.

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 multiuse paths to be constructed and connect to either or both the existing system and locations with significant pedestrian activity.

Finding:

Clay Street includes sidewalks that extend from Ashland Street through to East Main Street. The proposed Neighborhood Streets include safe and accessible pedestrian facilities through the development through the development of buffered sidewalks. A pedestrian access easement terminates near the north property line, east of the wetland area. A pedestrian access easement and pedestrian walkway that connects to the public and private sidewalks within the development is proposed. The pedestrian sidewalk is proposed to extend along the north side of the private street that connect to the sidewalks within the open spaces areas.

The pedestrian connectivity is provided in a similar manner as the bicycle facilities with Engle Street to the south leading to McCall Drive, or via Clay Street as explained in the findings above.

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 turnout lanes.

Finding:

Transit service via Route 17, the Ashland Circulator has a southbound bus service that stops near the entrance to Wingspread, approximately 900 feet to the south. Other transit via Ashland Route 10 and the Medford Ashland Express is available on Ashland Street which is just over 1,800 feet to the south via Clay Street or Engle Street to McCall Drive. These bus services provide frequent transit service throughout Ashland, through Talent and Phoenix, and into Medford to the transfer station.

5. Timing of Transportation Improvements. All required transportation improvements shall be constructed and installed in accordance with subsection 18.4.6.030.A.

Finding:

The transportation improvements will be constructed as part of the first phases of the development. The transportation improvements will be installed in accordance with 18.4.6.030.A.

18.5.8.050.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.

Finding:

The proposal demonstrates 90 percent of the base density in the zone at annexation.

The property area excluding the wetland and wetland buffer zone is 4.79 acres.

$4.79 \times 7.2 = 34.48$ (35) dwellings Base Density

Minimum Density for Annexation = 90 percent

$34.47 \times .90 = 31$ dwellings

There are 37 dwellings proposed which exceeds the minimum density and the base density. A density bonus as allowed through 18.3.9.050.B.3 Affordable Housing is included herein to increase the density from 34.48 to 37 dwellings.

18.5.8.050 G. Except as provided in subsection 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.

- c. Ownership or rental units restricted to households earning at or below 80 percent of area median income shall have an equivalency value of 1.25 unit.

Finding:

The number of affordable housing units is 25 percent of the base density. There are 34.47 dwelling units as the base density, 25 percent of that is 8.6 (9) affordable dwelling units.

The proposal is to construct eight (8) affordable rental units restricted to households earning 80 percent of the Area Median Income (AMI) in two of the four plex units. Rental units restricted for renters at 80 percent of the AMI have an equivalency value of 1.25 per unit value. Therefore, the proposed eight units is

equivalent to 7.2 (8) which meets the required number of deed restricted affordable rental units.

The property owner/developer will be developing eight affordable rental units within two buildings of the 16-unit fourplex structures.

2. As an alternative to providing affordable units per section 18.5.8.050.G.1, above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC 501(3)(c)) affordable housing developer or public corporation created under ORS 456.055 to 456.235.

Finding:

Not applicable. Affordable housing is proposed to be constructed.

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.

Table 18.5.8.050.G.3. Minimum Required Floor Area for Affordable Units

Unit Type	Minimum Required Unit Floor Area (Square Feet)
Studio	350
1 bedroom	500
2 bedroom	800
3 bedroom	1,000
4 bedroom	1,250

Finding:

The proposal is to provide the eight affordable housing units as rental units within two of the proposed four plex buildings. There are 16, two-bedroom apartment units proposed, eight of which will be restricted affordable rental units. It is unknown the number of bedrooms within the 21 residential lots. An exception to this standard is requested because only the number of bedrooms within the proposed four-plex units is known.

The proposed exception allows for the development of the affordable housing units by the developer and on the front end of the vertical construction within the development.

The proposal provides for 16 two-bedroom apartments that are more than 800 square feet whether market rate or affordable.

4. A development schedule shall be provided that demonstrates that the affordable housing units per subsection [18.5.8.050.G](#) shall be developed, and made available for occupancy, as follows:

- a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.
- b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.

Finding:

The development schedule is that the Annexation and the Outline Plan for Performance Standards Subdivision approval be rendered with this application. The multi-family site development review for the attached wall construction will occur with the Final Plan application for the Caldera Oaks Performance Standards Subdivision.

The affordable units are proposed to be constructed prior to the issuance of the first 50 percent of the market rate units. It is anticipated that the fourplexes will be constructed at the same time, thus all the market and affordable apartments are developed simultaneously.

Prior to the issuance of any 50 percent of the market rate dwellings, 50 percent of the affordable units will be constructed and prior to issuance of the building permits for the final ten percent of market rate units, 50 percent of the affordable units will have 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.

Finding:

The exterior appearance of the affordable units is visually compatible with the market rate units. The proposed four plex structure are proposed to be similar in exterior materials and finishes as all of the structures within the subdivision. The building materials and finishes will be substantially the same in type and quality for the affordable units as for the 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.

Finding:

The affordable units are proposed as deed restricted apartments. The eight affordable units are the same as the other market rate rental apartments with regard to floor area, interior materials and housing type. There is a market rate unit within one of the fourplexes that will have the affordable units as well.

The housing type, floor area, finishes and materials vary for the detached type residential than the affordable apartment units because they are proposed as apartments and not detached single family residential type of construction. The units will have generally comparable energy efficiency, plumbing, insulation, window types, applicants and heating and cooling systems.

6. Exceptions to the requirements of subsections [18.5.8.050.G.2](#) through [18.5.8.050.G.5](#), above, may be approved by the City Council upon consideration of one or more of the following:

Finding:

Exception to 18.5.8.050.G.3.a. The affordable units shall be comparable in bedroom mix with the market rate units in the development for 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 is necessary because the developer intends to build all of the fourplex rental apartments, but not all of the residential homes thus the number of bedrooms cannot be controlled.

a. That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of subsection [18.5.8.050.G.2](#).

Finding:

Not applicable.

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.

Finding:

Not applicable.

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.

Finding:

The proposed exception is to allow for all of the affordable housing units to be constructed within two of the structures at the same time, by the developer and to be held as affordable rental units for those making at or less than 80 percent of the Area Median Income.

The exception to allow for all of the units to be two-bedroom apartments and not detached residential lots and to be construed using commercial financing available for development of apartment dwellings.

This allows for immediate injection of new deed restricted affordable housing into the market.

The affordable units share space with the market rate units. All subdivision amenities are available to all units within the development.

7. The total number of affordable units described in this subsection 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.

Finding:

The total number of affordable units is rounded up to fractional answers to the nearest whole unit. The proposal is to construct eight (8) affordable rental units restricted to households earning 80 percent of the Area Median Income (AMI) in two of the four plex units. Rental units restricted for renters at 80 percent of the AMI have an equivalency value of 1.25 per unit value. Therefore, the proposed eight units are equivalent to 7.2 (8)

which meets the required number of deed restricted affordable rental units. The affordable rentals will be deed restricted for 60 years.

18.5.8.050 H. One or more of the following standards are met:

1. The annexation proposal shall meet the requirements of subsection [18.5.8.050.B](#), above.

Finding:

It can be found that the proposal is consistent with the Comprehensive Plan designations applicable to the annexed area and the proposed residential development including detached and attached residential housing for purchase and for rent are allowed uses in the proposed zoning district.

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.

Finding:

Not applicable.

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.

Finding:

Not applicable.

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.

Finding:

Not applicable.

5. The proposed area for annexation is an island surrounded by lands within the City limits.

Finding:

There are annexed areas on three of the four sides of the property.

18.5.8.050 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.

Finding:

The exception requested to 18.5.8.050.G.6 is addressed within the findings section above.

18.5.8.060 Boundaries

When an annexation is initiated by an applicant other than the City, the Staff Advisor may include other land in the proposed annexation in order to make a boundary extension more logical, to address the effective extension of public facilities, or to avoid an area of land which is not incorporated but is partially or wholly surrounded by the City. The Staff Advisor, in a report to the Planning Commission and City Council, shall justify the inclusion of any land other than the land for which the annexation is filed.

Finding:

It is unknown if the Staff Advisor will be including other land in the proposed annexation to make the boundary extension more logical. The right-of-way of Clay Street is included allowing the extension of public facilities.

18.5.8.070 Statutory Procedures

The applicant for the annexation shall also declare which procedure under ORS chapter [222](#) the applicant proposes that the Council use, and supply evidence that the approval through this procedure is likely.

Finding:

ORS 222.111 allows for annexation of properties that are contiguous with city limits. The subject property is contiguous to the city limits.

The applicant proposes that the City Council utilize the annexation procedure outlined in ORS 222.125 for this application. This procedure allows for annexation without the need for an election when all landowners in the proposed territory, as well as a majority of the electors, consent in writing. The applicant is the sole owner and can provide written consent within the annexation territory. These materials will provide documented evidence to demonstrate that the proposed annexation is likely to be approved, thereby fulfilling the requirements set forth in AMC 18.5.8.070.

PERFORMANCE STANDARDS SUBDIVISION

18.3.9.030 – PSO Overlay

The proposed Performance Standards Subdivision, Caldera Oaks, complies with the criteria that allows for the use of the Performance Standards Overlay to the property upon the Annexation. The property does not have the PSO-Overlay as it is not within the city limits but 18.3.9.030. D.1. allows for application of PSO standards when the parcel is larger than two acres and is greater than 200 feet in average width.

The use of the PSO is requested consistent with the Purpose Statement from AMC 18.3.9.010. The proposed development is consistent with the standards for Performance Standards Subdivisions and the proposal stresses, energy efficiency, architectural creativity, uses the natural features of the landscape to their advantage and provides for an efficient land use and reduces the development impacts on the environment.

The lot layout includes narrowed street right of ways within parking on one-side limiting pavement width, large open spaces and wetland preservation stress efficient use of the land and limits the impacts of the development on the environment. The proposed structures exterior layout design and construction methods stress energy efficiency. Exteriors will be fire resistant materials and interior areas will have fire suppression systems where required by building code. Architectural creativity is expressed throughout the development, its innovation is driven by the changing demographics as they apply to the diminishing household size, increase material and construction costs.

The Caldera Oaks Subdivision is visually appealing and aesthetically complimentary to the area and the community while using the space and the land efficiently.

The layout of the units and the window locations and sizes increase passive solar efficiencies. The homes will be energy efficient and solar ready.

Sustainable materials used in the construction such as indoor building materials with low VOC's such as paint and other materials can be eliminated or reduced throughout the building process.

Highly efficient HVAC mini-split systems and PTAC Units will be used and incorporated into the buildings for energy efficiency. These systems reduce the number of structural penetrations and reduce the use of building materials unfriendly to the environment. All condensers will have a low decibel rating, most units are ~35 dB and are very efficient and a common HVAC system worldwide.

The parking area accessed from the private street/driveway has electric vehicle charging station conduit for future EV chargers. Units with garages will be able to install EV charging docks for personal vehicles.

The private street/driveway and parking area surfacing and design complies with the Climate Friendly and Equitable Communities standards with light colored material for 50 percent of the surface, substantial shade tree coverage, and filtration of surface stormwater through the landscape medians before it enters the site storm water detention system.

The layout with connected sidewalks and streets provides for a walkable neighborhood in an efficient layout with higher density and larger open spaces including preservation of the wetland feature.

Due to the limited existing site improvements, the stormwater facilities are designed to the Rogue Valley Stormwater Quality Design Manual standards and there is no off-site peak flows of stormwater generated on this site post development that exceeds the current pre-development stormwater flow. This means that virtually all stormwaters will be retained, detained and treated before it enters the city system outside of the subdivision. This allows for on-site infiltration, and reduces pollution impacts from developed surfaces from entering the stormwater system in Clay Street and Engle Street.

The development will be financed by private lending through a federally backed loan. The property owner, Bentella LLC is the developer and is seeking approval to begin construction in late 2024 and early 2025.

18.3.9.040 Review Procedures and Criteria

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

- a.** The development meets all applicable ordinance requirements of the City.

Finding:

The proposed development is seeking the application of the Performance Standards Overlay to the subject property with the Annexation. The proposed Caldera Oak Subdivision presented herein is exercising the Performance Standards Overlay and demonstrates compliance with these standards.

The development demonstrates compliance with the standards from 18.3.9.050 – 18.3.9.080, and the provisions of this chapter. The other applicable sections of this ordinance including: 18.4.3 Parking, Access, & Circulation; 18.4.6 Public Facilities; 18.4.8 Solar Access Performance Standard, 18.5.7 Tree Removal Permits, and 18.3.11 Limited Use Activity in the Water Resource Protection Zone for a stormwater dispersal feature.

The PSO – Overlay development is subject to chapter 18.3.9 and is not required to meet the minimum lot size, lot width, lot depth, and setback standards of part 18.2, and other standards as specifically provided by this chapter.

The subdivision residences will consist of one- and two-family dwellings and multi-family residential as allowed in the R-1-3.5 zone.

The layout of the proposed subdivision includes a mixture of housing types. The subdivision lot layout was predicated by the north/south orientation of Clay Street, the stubbed locations of Engle Street, intersection spacing, Transportation System Plan future street dedication locations, the topography along the south property boundary, solar access and orientation, and the adjacent neighborhood development patterns and existing uses.

The conceptual layout proposes 25 lots for residential development and four common area lots.

Lots 1- 21 lots are envisioned as detached residential development lots. These lots range in lot area between 4,577 square feet to 7,451 square feet. With the majority of the lots have a lot width of between 40-feet to 49.09 feet, and a depth of 118.55 feet to 124.41-feet.

Lots 22 – 25 are intended for the development of four, four plex apartment buildings. There are 16 apartment units proposed. These units are located to the east of the proposed private street that extends from Engle Street and the intersection of the new east/west street, Caldera Lane.

The front yard setbacks abutting Clay Street provide for a 15-foot setback for the ‘front’ but the homes will be oriented towards Caldera Lane, the new street.

The buildings are proposed to be separated by a minimum of 12-feet as measured at the two closest exterior walls. There are building envelopes shown on the site plans demonstrating the setback standards from the zone and the performance standards option are met.

The future lots will be developed with residences that comply with the general setbacks of the perimeter and excepting attached unit, zero lot line structures, the standard setbacks in the R-1-3.5 zone will apply.

The lot coverage will be 55 percent of the lot area (with a 200 square foot pervious surface credit) and 45 percent of each lot as landscape area. Conceptual building footprints have been provided for upon each development lot.

A demolition permit for the existing the structure will be obtained as necessary. Any required state or federal permits will be obtained prior to site development.

18.2.2.030 Allowed Uses

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

Finding:

A Performance Standards Subdivision for the creation of a 29-lot subdivision is a permitted use in the R-1-3.5 zone. The proposed Caldera Oaks, a Performance Standards Subdivision proposes twenty-one residential lots, four, multi-family development lots

with the intention of four-plex units upon each, and four common area/open space parcels.

18.2.5.090 Standards for Single-Family Dwellings

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

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

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

Finding:

The attached conceptual renderings of residences demonstrate that two or more of the design features listed above are to be provided on the proposed on all residential dwelling units.

Solar Access (18.4.8.040): Assignment of solar factor.

The majority of the lots proposed lots are subject to solar setback standard A.

Compliance with the solar setback assignment will be demonstrated with the building permit submittals for each of the dwellings on Lots 1 - 15. The slope of each lot varies slightly between two to four percent downhill to the north. All of the lots exceed the minimum north / south dimension required for solar setback standard A lots and a 21-foot tall structure setback will not exceed the lots north/south dimension by 50 percent.

Due to the location of Engle Streets north to south orientation, and its intersection with the subject property, the layout of the subdivision east of the street had to be creative in layout in order to provide adequate lot area, mixed housing types, variation in building design, a connected transportation system and wetland preservation. The street on the north south axis forced some of the lots into a narrow north to south lot width that does not meet the required solar width of the lot which is nearly 22-feet wider than required in the zone.

The solar slope to the north is 2.83 percent downhill to the north. This requires a minimum lot width for each lot of 71.93 feet wide. The minimum lot width in the R-1-3.5 zone is 50-feet in width and the Performance Standards Subdivision allows for further reduced lot widths within the PSO overlay.

There are six of the detached residential lots and the three multi-family lots (22, 23 and 24) are proposed to have residential dwellings that are a modest height, but due to the solar standards, these lots would be required to be substantially wider than the minimum lot width in the zone.

It is not unreasonable for homes in an urban residential zone to be two stories and to be separated by not more than 12-feet. The application seeks flexibility to allow for the shadow of the adjacent buildings on the lots to shade the structure to the north more than a six-foot fence would. Each building is not designed but the request would be to allow a five-foot shadow up the adjacent south wall of the structure to the north. Separation between the buildings is preferred to attached wall housing which necessitates the Solar Performance Standard.

All of the dwellings within the subdivision are conceptually designed to have maximum roof area on the west and south exposures for future solar panel installation to aid in energy efficiencies.

Common Area:

There are four common area types of lots of more than 16,000 square feet in area. Three of the common area lots are open space areas that provide areas for both passive and active recreational opportunities.

There are four common open spaces provided in the form of natural areas, wetlands, active and passive recreational areas in common ownership. There is a variety of positive green spaces and recreational open spaces are proposed. The open space area proposed is more than 16,000 square feet, which accounts for more than five percent of the total site area (10,454 square feet).

There are two open space areas on the west side of Engle Street at the intersection of Caldera Lane and Engle Street and at the intersection of the south alley and Engle Street. The other open space areas are the wetland area, a common area between the parking area and the apartment buildings that will include a play structure and the stormwater detention facility that includes a walking path around the perimeter.

Walkways are provided that connect to the public sidewalks that allow for the daily use of the open spaces by all residents of the subdivision.

Fencing on lots that abut the open space areas will be limited to four feet of solid panel fencing.

A Homeowner's Association (HOA) with Covenants, Conditions and Restrictions, and By-Laws will be created with a land use attorney. The provisions for the maintenance of the common open space, the driveway area, stormwater detention facility and the wetland and the buffer area maintenance and management as required in AMC 18.3.11.090.D will be addressed in the subdivision governing documents and submitted with the Final Plan application.

An agreement with the city Public Works Department will be rendered to address the maintenance and management of the storm water facility.

b. Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.

Finding:

Adequate City facilities can and will be provided to and through the annexed area and within the subdivision.

There is adequate water pressure for the future dwellings, common area irrigation and fire hydrants. Pressure reduction valves will likely be necessary to reduce water pressures.

The proposed sanitary sewer lines are shown on the conceptual utility plan.

Storm drainage system has been conceptually designed. There are below grade collection systems and open space parcel areas that will have dry pond storm drain facility. These types of facilities are not a standing water pond, and the open space area lot will typically remain dry except during extreme weather events. Even then, the drainage will be designed in a manner that does not allow water to 'stand' in the facility. Additionally, there will be a dispersal trench for the treated stormwater to supplement the wetland area hydrology.

Transportation:

The proposed layout provides a complete street system. The City's Comprehensive Plan and Land Use Ordinance require connected streets and to avoid dead ends or cul-de-sacs, the existing streets provide logical connections. A larger discussion of the transportation system can be found on pages 19 - 21 within the Annexation Criteria section regarding transportation improvements.

The proposed public and private streets and alleys are interconnected to reduce travel distance, promote the use of alternative modes, provide for efficient provision of utilities and emergency services, and provide multiple travel routes. The smaller block lengths provide for a human scale, walkable neighborhood. The Clay Street block length from Villard Street to the proposed street

intersection, Caldera Lane, the block length is 652-feet. Where the block length along Clay Street is in excess of 400-feet it is due to the physical features of the land to the south where the wetland area/public park land, storm drainage infrastructure exist along the south property line.

To mitigate the long block, a public alley is provided that leads into the subdivision, south of the subject property and on the city parks property to the south, there is pedestrian access from Clay Street that extends to Engle Street reducing any perceived negative impacts. The provision of on-street parking on one side of the street, landscape park rows and pedestrian refuges at the intersections provide traffic calming. The streets are also not completely linear with slight curvature and slope aid in reducing speeds through the development.

The proposed annexation and associated development has been reviewed by a Traffic Engineer and based on the proposed development and unit types there are less than 50 AM or PM peak hour trips generated by the dwellings, and the proposed development appears to not trigger a Traffic Impact Analysis.

Table 1 – RR-5 to R-1-3.5 Annexation / Zone Change Trip Generations									
Land Use	Unit	Size	Daily Trips	Weekday AM Peak Hour			Weekday PM Peak Hour		
				Total	(In)	(Out)	Total	(In)	(Out)
<i>Existing RR-5 Zoning</i>									
210 – Single Family Detached	DU	1	9	1	0	1	1	1	0
Total Existing Trips			9	1			1		
<i>Proposed R-1-3.5 Zoning</i>									
210 – Single Family Detached	DU	21	240	18	5	13	23	14	9
220 – Multifamily Housing	DU	16	108	6	1	5	8	3	5
Total Proposed Trips		37	348	24			31		
Net Difference			+339	+23			+30		
DU = dwelling unit									

There are numerous traffic dispersal points accessible from the proposed streets. The connection of Engle Street through the development allows for vehicular, pedestrian and bicycle traffic to enter / exit the property from the south via Clay Street and Villard Street or Clay Street and McCall Drive.

The extension of Engle Street to the north will allow for traffic dispersal via Dollarhide Way, and Abbott Avenue, both of which connect from Clay Street to Tolman Creek Road to the east.

Traffic on Clay Street will disperse north to East Main Street, and south to Ashland Street from Caldera Lane and Clay Street intersection.

All utilities will extend to and through the property as identified on the Conceptual Utility Plans. At the time of Final Plan submittal, the final Civil Engineering drawings will be submitted

identifying specific utility details and information. It can be found that adequate utilities and transportation can be provided to and through the subdivision with the proposed street extensions, the public alleys and the reservation of future area for the extension of an east to west corridor.

In initial discussions with the City of Ashland utility departments, all facilities in the area are adequate for the proposed development and will not operate beyond their capabilities.

c. The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.

Finding:

The existing natural features of the land including the small wetland and the large trees within it, are identified on the plan, the wetland and the willow trees are protected within the wetland area. There are four other trees that are considered significant. There is an 18-inch pine tree and a group of cottonwoods directly adjacent to the residence. To the rear of the residence are three apple trees including one that is considered significant, and in the northwest corner of the property where the northern most public alley right of way will be located is a multi-stemmed Cottonwood tree. There are no other significant natural features on the subject property.

The three willows are proposed for preservation. The other trees, the cottonwoods, a pine, and the apple tree will be removed as they are within the public right of ways, or within the buildable area of the residential lots. The majority of the trees exist at the perimeter of the property on the adjacent parcels. These trees are protected via six-foot tall fencing along the north and east property lines.

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

Finding:

The proposed Outline Plan Subdivision will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan. The proposed right of ways and future right of way, pedestrian walkways connect the adjacent lands and provide potential for future connectivity to the east.

e. There are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.

Finding:

With the Final Plan application, the subdivision Homeowners Association formation documents and Covenants, Conditions & Restrictions will be provided. The CC&Rs will provide details regarding the maintenance of the open spaces, common areas, wetlands area and buffer maintenance and management within the subdivision.

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

Finding:

The proposed density meets the base and bonus density standards established. The property area excluding the wetland and wetland buffer zone is 4.79 acres. There are 7.2 dwelling units per acre required in the R-1-3.5 zone. The base density is 34.48 (35) dwelling units.

$4.79 \times 7.2 = 34.48$ (35) dwellings Base Density

There are 37 dwellings proposed which exceeds the minimum density and the base density. A density bonus as allowed through 18.3.9.050.B.3 Affordable Housing is requested to increase the density from 34.48 to 37 dwellings. Additional findings regarding the density bonus are found in the Affordable Housing section of this code.

18.3.9.050.B.3 Affordable Housing: A maximum bonus of 35 percent is allowed. Developments shall receive a density bonus of two units for each affordable housing unit provided. Affordable housing bonus shall be for residential units that are guaranteed affordable in accordance with the standards of section 18.2.5.050, Affordable Housing Standards. (Ord. 3199 § 17, amended, 06/15/2021; Ord. 3190 § 3, amended, 11/17/2020; Ord. 3155 § 7, amended, 07/17/2018; Ord. 3147 § 6, amended, 11/21/2017)

g. The development complies with the Street Standards.

Finding:

The proposed streets demonstrate compliance with the street standards. The proposed streets are intended to be extended as Neighborhood Streets.

The proposed right-of-way widths and improvements and conforms to the standards for residential neighborhood streets.

The subdivision layout allows for accommodation for emergency vehicles. All turning radii accommodate large vehicles such as fire trucks and delivery vehicles.

The proposed neighborhood streets are designed in a manner that allows for shared street space and the curb-to-curb area accommodates vehicular traffic, parked cars and bicycles. Each street is proposed to provide for a seven-foot landscape park row, and a five-foot sidewalk.

As provided on the attached Conceptual Civil Engineering drawings, the proposed streets comply with the City's adopted Street Standards and are consistent with existing and proposed right-of-way widths and street improvements.

Cul-de-sacs and other dead-end streets are not proposed as there are no areas where topographic, wetland, and other physical features preclude connectivity. The proposed streets have been designed to meet the needs of automobiles, pedestrians and bicyclists, thus encouraging walking and bicycling. There are sidewalks, parking rows and ample travel lanes that can accommodate one side, on-street parking, moving automobile and bicycle traffic.

There are no driveway curb cuts with all vehicular access to the residential lots via the public alley at the rear of the property or via the private street / driveway that serves the rear of the Engle Street fronting lots and the parking area for the multi-family four plex lots.

The streets are designed to accommodate the local, neighborhood traffic. The proposed streets connect incomplete neighborhood streets and provide vehicular, bicycle and pedestrian connectivity.

Street trees are proposed to buffer pedestrians and adjacent residences from traffic, enhance street image and neighborhood character, calm motor vehicle traffic speeds, and enhance neighborhood identity or sense of place. The trees planted in the park row will be selected be from the Ashland Recommended Street Tree Guide.

Residential style Sternberg, pedestrian scale streetlights are proposed.

On-street parking is proposed in compliance with AMC 18.3.9.060.A.1 with more than 25 on-street parking spaces provided which meets the requirement that there be one, on-street parking space per lot. The on-street parking areas are within the adjacent public right of way and within the private street tract which is on common area that is association owned and directly accessible from the street.

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.

Finding:

There are four common open spaces provided in the form of natural areas, wetlands, active and passive recreational areas in common ownership. There is a variety of positive green spaces and recreational open spaces are proposed. The open space area proposed is more than 16,000 square feet, which accounts for more than five percent of the total site area (10,454 square feet).

There are two open space areas on the west side of Engle Street at the intersection of Caldera Lane and Engle Street. One of these open space areas is 3,782 square feet in area, one of these open space areas is small (1,414 square feet) and dimensionally does not contribute to the open space areas.

The wetland area and the buffer open space area is a 2,934 square foot area that includes the small wetland and the wetland buffer area. The primary open space area is between the parking spaces within the common area and private street tract. This area accounts for 7,972 square feet in area.

Walkways are provided that connect to the public sidewalks that allow for the daily use of the open spaces by all residents of the subdivision.

The common open space features meet the standards and provide for functional areas that will likely be used by the majority of the subdivision residents.

4. Approval of the Outline Plan.

a. After the City approves an outline plan and adopts any zone change necessary for the development, the developer may then file a final plan in phases or in its entirety.

Finding:

The final plan will be filed after the necessary Annexation that would allow for the development. The final plan will be filed in phases as proposed with the phase plan provided herein.

b. If an outline plan is phased, 50 percent of the value of the common open space shall be provided in the first phase and all common open space shall be provided when two-thirds of the units are finished.

Finding:

The application will phase the Outline Plan. See the phasing document provided herein. The common open space shall be provided in accordance with the standards where 50 percent of the value of the open space shall be provided in the first phase and all common open space will be provided when two-thirds of the units are finished.

WATER RESOURCE PROTECTION ZONE

Chapter 18.3.11

18.3.11.020 – Applicability

C. The burden is on the property owner to demonstrate that the requirements of this chapter are met or are not applicable to development activity or other proposed use or alteration of land. *The Staff Advisor may make a determination based on the Water Resources map, field check, and any other relevant maps, site plans, and information that a Water Resource or Water Resource Protection Zone is not located on a particular site or is not impacted by proposed development, activities or uses.* In cases where the location of the Water Resource or Water Resource Protection Zone is unclear or disputed, the Staff Advisor may require a survey, delineation prepared by a natural resource professional, or a sworn statement from a natural resource professional that no Water Resources or Water Resource Protection Zones exist on the site.

Finding:

The 2007 LWI indicates there is a significant wetland in the northeast corner of the property and a potential wetland near Clay Street. This wetland (W13) is identified as a Freshwater Emergent Wetland (PEM1C). There is a delineated wetland on the subject property. Two wetlands' delineations have been approved by the Department of State Lands (DSL). The delineations amend the 2007 Local Wetlands Inventory (LWI).

This wetland area was part of a larger wetland that appears to have been created by years of flood irrigation of the subject property and properties to the south with water from the Talent Irrigation District. There are flood irrigation ditches that run through the property and a primary service line in an open ditch that extends through the site. As development to the south has occurred and the open canals and service ditches were replaced with hard pipe, the containment of the irrigation waters has greatly reduced and nearly eliminated the previously identified significant wetland on the subject property and properties further south.

A wetland delineation was performed by a qualified wetlands specialist in 2015 that substantially reduced the area of the wetland areas and modified the LWI. In 2022, another wetlands delineation was performed. The 2022 wetland delineation was approved by the state of Oregon Department of Lands and again modified the LWI. Based on the area of the wetland, the wetland is no longer a Significant Wetland, but a small, 418.76 square foot (.0096 acre) wetland area near the northeast corner of the property.

According to OAR 141-086-0350 Locally Significant Wetland Criteria (1) Exclusions, wetlands shall not be designated as locally significant if they are less than one acre in size and created unintentionally because of irrigation water overflow or leakage. This wetland is not subject to the mapping of it as a significant wetland. Based on this language, the remaining area of the wetland is not a locally significant wetland but has been identified as a wetland with a 20-foot buffer.

The Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter in 18.3.11.060.A. Limited Activities and Uses within the Water Resource Protection Zones.

18.3.11.060.A.

Limited Activities and Uses within the Water Resource Protection Zones

The following activities and uses within Water Resource Protection Zones are allowed provided the activities or uses comply with the review procedure and approval standards set forth in subsection 18.3.11.060.D:

18.3.11.060.A.3. Building, Paving, and Grading Activities.

Permanent alteration of Water Resource Protection Zones by grading or by the placement of structures, fill or impervious surfaces may be authorized as follows:

- a. New Public Utilities. The location and construction of public...utilities deemed necessary to maintain a functional system and upon finding that no other reasonable alternate location outside of the Water Resource Protection Zone exists.
- c. Storm Water Treatment Facility Installation. Installation of public and private storm water treatment facilities such as detention ponds or sediment traps, vegetated swales, and constructed wetlands.

18.3.11.060. D. Limited Activities and Uses Permit. All limited activities and uses described in section 18.3.11.060 shall be subject to a Type I procedure in section 18.5.1.050. An application for a limited activities and uses permit shall be approved if the proposal meets all of the following criteria:

1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resource Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.

Finding:

The proposed stormwater lateral dispersal trench is a permitted use within the Water Resource Protection Zone. The utility is outside of the wetland area and is proposed at the outer edge of the 20-foot wetland buffer zone.

2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on water resources.

Finding:

The proposed utility installation has been designed, is located and will be constructed to minimize excavation and grading within the water resource protection zone. The stormwater dispersal trench will not cause a loss of native vegetation, will not cause erosion or other adverse impacts. The introduction of clean water will actually help preserve the shrinking wetland.

3. On stream beds or banks within the bank-full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.

Finding:

There is no excavation or other impacts proposed within the wetland area. The only areas of disturbance are within the buffer zone and no facilities are within the wetland itself.

4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.

Finding:

The storm drain system is designed to have metered outflow into the wetland buffer which will then be infiltrated into the buffer zone before entering the boundaries of the wetland to avoid accidental discharges.

5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110, Mitigation Requirements.

Finding:

The proposal does not includes a wetland restoration and enhancement plan. The area of disturbance for the stormwater dispersal trench is minimal (less than 200 square feet in area) and will not result in the permanent removal of native vegetation within the wetland buffer.

The areas of disturbance will be reseeded with a native grass mix that is appropriate for planting in the wetland buffer zone.

6. Long-term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

Finding:

The long-term conservation, maintenance and management of the Water Resource Protection zone will be ensured through the preparation and recording of a management plan consistent with AMC 18.3.11.110.C. This long-term maintenance and management plan will be submitted with the Final Plan application.

TREE REMOVAL PERMIT CRITERIA

18.5.7.040

B. Tree Removal 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.

Finding:

There are three deciduous trees that have a DBH of 12-inches or more that are proposed for removal and one tree conifer tree greater than 16 inches DBH. These trees are within the area of the public streets, the alley and within the building envelope area of the development area of the lots. The tree removal is necessitated by the construction of public streets, an alley and residential dwellings.

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.

Finding:

The removal of the four trees will not have a significant impact on erosion, soil stability or protection of adjacent trees. The trees are not part of any windbreak. There are numerous cottonwood and other conifer trees within 200-feet of the property.

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.

Finding:

There are three significant deciduous trees, and one conifer tree proposed for removal. The removal of these trees will not have a significant impact on tree densities, sizes, canopies or species diversity. There are substantial numbers of deciduous trees and conifer trees of the same species within 200 feet of the property.

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.

Finding:

The tree removal facilitates the development of a vacant R-1-3.5 zoned parcel with a small subdivision and housing as envisioned by the Comprehensive Plan designation of the property upon annexation. The trees proposed for removal are not especially unique, are none are in excellent health.

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.

Finding:

There are numerous new street trees proposed. This substantially mitigates any tree removal on the property.

Attachments:

Consent to Annex Agreement
Special District Debt Payment Agreement
Email from Jackson County Roads agreeing to annexation
Annexation Area Legal Description
Preliminary Topographical Map
Preliminary Subdivision Plat Map
Architectural Planning Set
Civil Engineering Plan Set
Electric Distribution Plan
Trip Generation Assessment and Transportation Planning Rule Findings
Wetlands Delineation Report(s)

ANNEXATION AGREEMENT
TO DEPOSIT AN AMOUNT SUFFICIENT TO RETIRE ANY OUTSTANDING
INDEBTEDNESS OF SPECIAL DISTRICTS

Between

Ryan Csaftis (Bentella LLC)

and

CITY OF ASHLAND

THIS AGREEMENT entered into by and between Bentella LLC,
hereinafter referred to as "APPLICANT" and the CITY OF ASHLAND, hereinafter referred to
as "CITY",

WITNESSETH:

WHEREAS, pursuant to ORS 222.520(2)(b), the CITY elects to pay the bonds of the
special districts when such property subject to special district indebtedness is annexed by the
CITY.

WHEREAS, Ashland Municipal Code, Sections 4.14.020, 14.08.030(E) and
18.5.8.020(B), require that an applicant for annexation must agree to deposit an amount
sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510 as
part of an annexation application.

NOW, THEREFORE, as part of the annexation application for the property described in
APPENDIX "A", APPLICANT agrees to deposit an amount sufficient to retire any outstanding
indebtedness of special district defined in ORS 222.510. In the event that no special district
requests from the CITY an amount to be paid to retire indebtedness within one (1) year from the
date of annexation, the full amount deposited to the CITY shall be returned to the APPLICANT.
In the event that a special district requires an amount less than the amount deposited, the CITY
shall return the remainder to the APPLICANT.

APPLICANT FOR ANNEXATION:

Signed:

Date:

CITY OF ASHLAND:

Signed:

Date:

IRREVOCABLE CONSENT TO ANNEXATION

The undersigned, referred to in this document as "Owner" whether singular or plural, owns or is the purchaser under a recorded land sale contract of real property in Jackson County, Oregon, described below and referred to in this document as "the property":

See attached Exhibit "A"

In consideration of the application for annexation and subsequent connections from the property to City of Ashland services, Owner declares and agrees that the property shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions which shall constitute covenants running with the land and shall be binding on all parties, their heirs, successors and assigns, having any right, title, or interest in the property or any part thereof:

Whenever a proposal to annex the property is initiated by the City of Ashland or otherwise, Owner shall consent and does consent to the annexation of the property (Tract B per preliminary map of survey of annexed area) to the City of Ashland. Owner agrees this consent to annexation is irrevocable for one year.

Dated this 16th day of December, 2024.

Signature: _____

Owner

State of California)
~~Oregon~~

County of San Diego)
~~Jackson~~

SS:

Personally appeared the above named Lujan John Craftir and acknowledged the foregoing instrument to be his voluntary act and deed.

Notary Public for Oregon California

My Commission expires: April 26, 2026

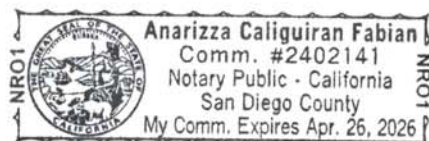


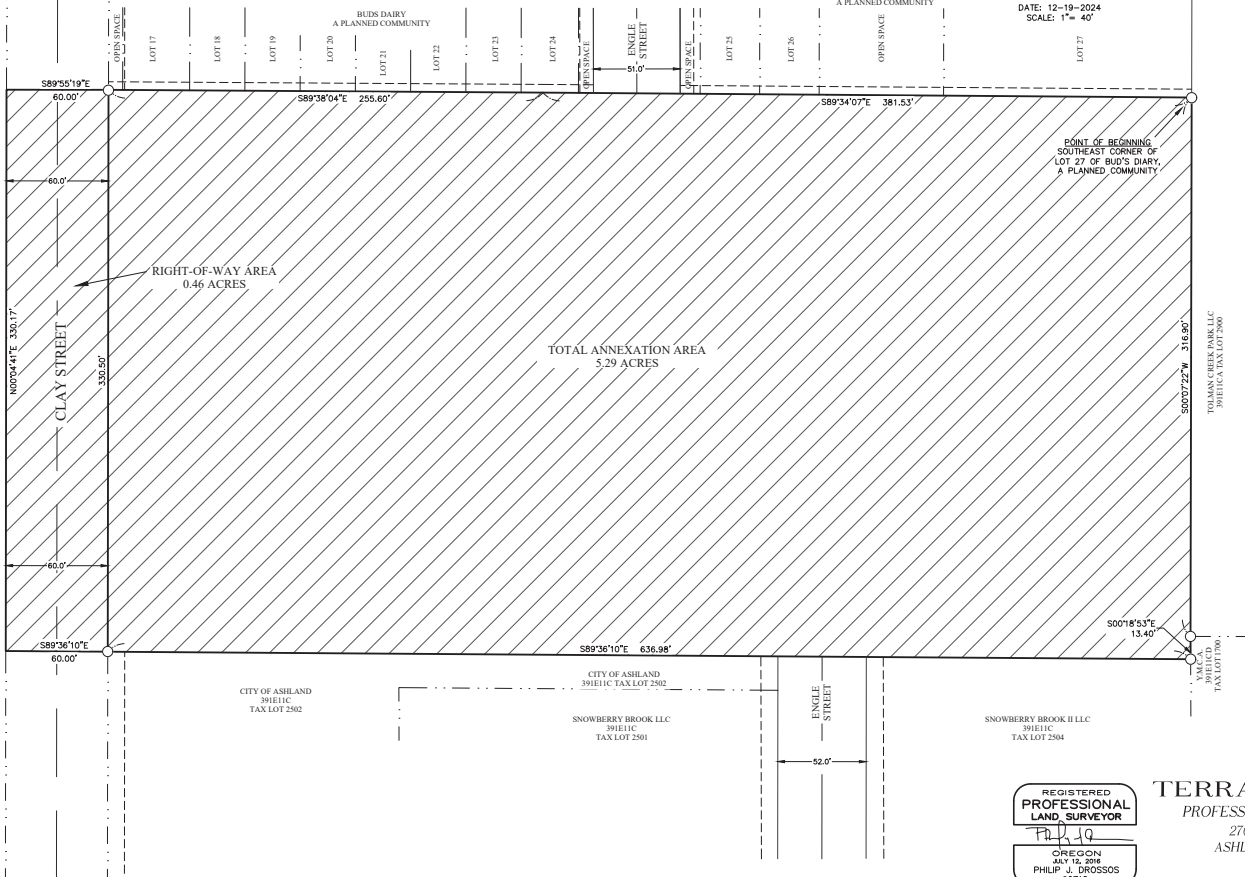
EXHIBIT —

ANNEXATION EXHIBIT MAP

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 11,
TOWNSHIP 39 SOUTH, RANGE 1 EAST,
WILLAMETTE MERIDIAN,
JACKSON COUNTY, OREGON



DATE: 12-19-2024
SCALE: 1"= 40'



ASSESSOR'S MAP NO. 39 1E 11 CD, TAX LOT 1100 & A PORTION OF CLAY STREET RIGHT-OF-WAY



TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS
270 FOURTH STREET
ASHLAND, OREGON 97520
(541) 482-6474
terrain@tisp.net
JOB NO. 1653-23

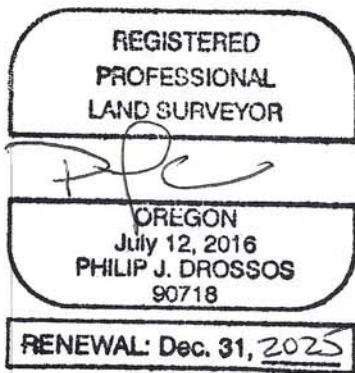


EXHIBIT A

LEGAL DESCRIPTION

BEGINNING at a point on the existing City of Ashland Boundary, said point being the Southeast corner of Lot 27 of BUD'S DAIRY, A PLANNED COMMUNITY, according to the official plat thereof, now of record, in Jackson County, Oregon and being a point on the West line of that tract or parcel of land as set forth in City of Ashland Ordinance No. 2293; thence along said existing City of Ashland Boundary and said West line, South $00^{\circ}07'22''$ West, 316.90 feet to a $5/8$ " rebar situated at the Southwest corner of said tract or parcel of land as set forth in the hereinabove mentioned referred to Ordinance No. 2293 and also being situated at the Northwest corner of that tract or parcel of land as set forth in City of Ashland Ordinance No. 2109; thence continue along said existing City of Ashland Boundary and along the West line of said tract or parcel of land as set forth in the hereinabove mentioned referred to Ordinance No. 2109, South $00^{\circ}18'53''$ East, 13.40 feet to a $5/8$ " rebar situated at the Northeast corner of that tract of parcel of land as set forth in City of Ashland Ordinance No. 2928; thence leaving said West line and continue along said existing City of Ashland Boundary and along the North line of said hereinabove mentioned referred to Ordinance No. 2928, North $89^{\circ}36'10''$ West, 636.98 feet to the East line of Clay Street; thence continue North $89^{\circ}36'10''$ West, 60.00 feet to the West line of Clay Street; thence along said West line, North $00^{\circ}04'41''$ East, 330.17 feet; thence leaving said West line, South $89^{\circ}55'19''$ East, 60.00 feet to a $5/8$ " rebar being a point on the East line of Clay Street and marking the Southwest corner of hereinabove mentioned BUD'S DAIRY, A PLANNED COMMUNITY and being a point on the South line of that tract or parcel of land as set forth in City of Ashland Resolution No. 2003-40; thence along said South line of the existing City of Ashland Boundary and of BUD'S DAIRY, A PLANNED COMMUNITY, South $89^{\circ}38'04''$ East, 255.60 feet; thence continue along said South line, South $89^{\circ}34'07''$ East, 381.53 feet to the **POINT OF BEGINNING.**

TRACT TO BE ANNEXED
391E11CB TAX LOT 1100 &
CLAY STREET RIGHT-OF-WAY

Prepared by Terrasurvey, Inc
270 4th Street
Ashland, OR 97520
December 19, 2024

300 Clay Street, Ashland and Annexation of Clay Street Right of Way

James Philp <PhilpJW@jacksoncountyor.gov>
To: Amy Gunter <amygunter.planning@gmail.com>
Cc: "bentellaproperties@gmail.com" <bentellaproperties@gmail.com>, phil drossos <philterrasurvey@gmail.com>, Scott Fleury <scott.fleury@ashland.or.us>

Fri, Oct 4, 2024 at 1:44 PM

Amy,

Jackson County Roads has no opposition to the City annexing in Clay Street. We ask that the City request jurisdiction of Clay Street from East Main Street to Ashland Street.

(Please Note the Change in Email Address)

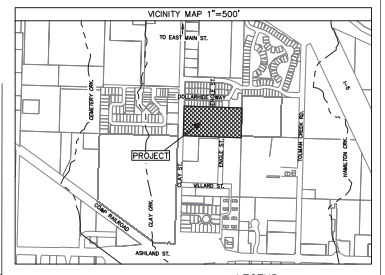
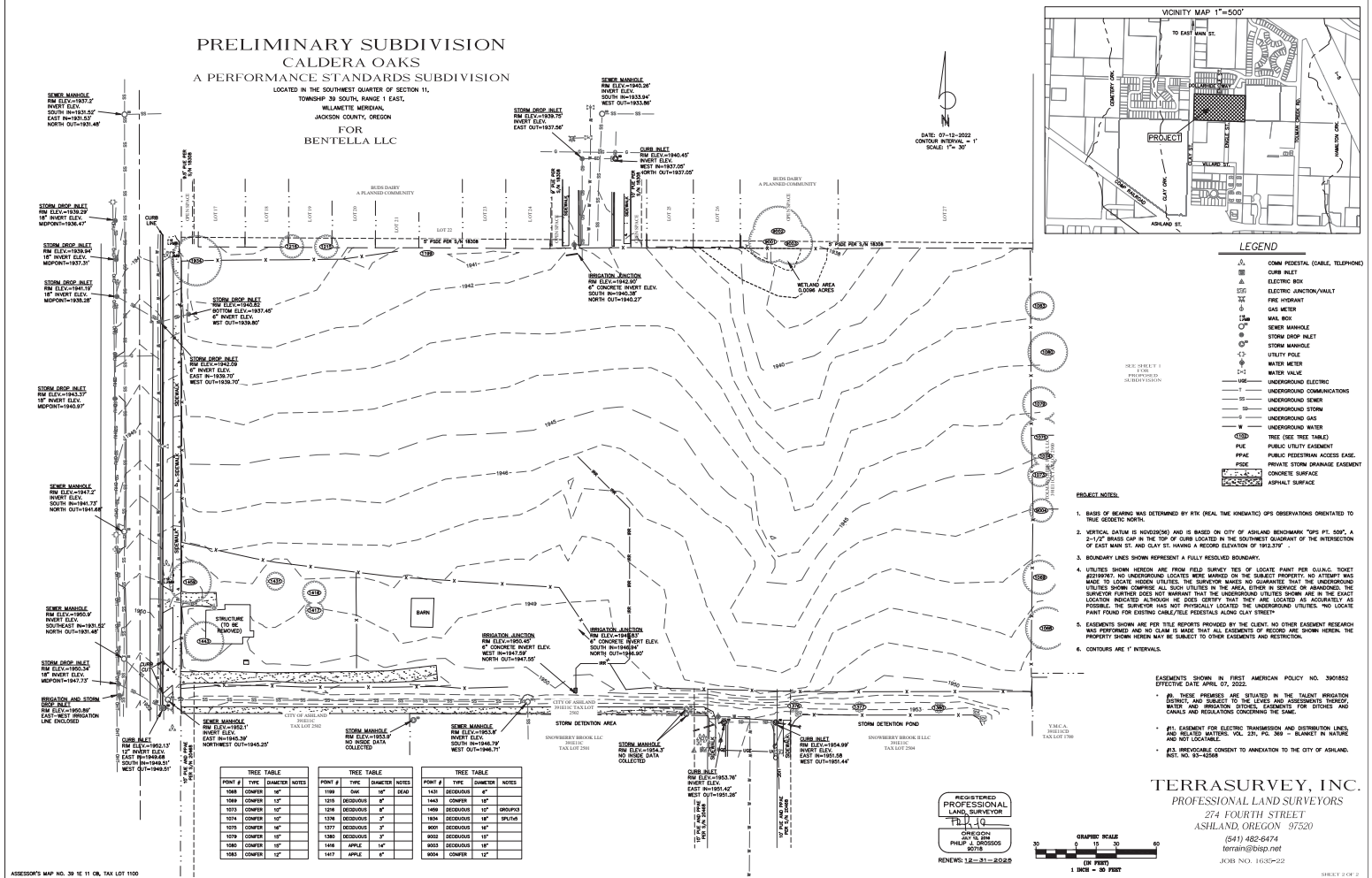
James Philp, P.E.

County Engineer
Jackson County Roads Department
200 Antelope Road
White City, OR 97503
Phone: (541) 774-6236
Fax: (541) 774-6295



[Quoted text hidden]

PRELIMINARY SUBDIVISION CALDERA OAKS A PERFORMANCE STANDARDS SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 36 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, JACKSON COUNTY, OREGON FOR BENTELLA LLC



- LEGEND**
- CONV. PEDESTAL (CABLE, TELEPHONE)
 - CONV. INLET
 - ELECTRIC POLE
 - ELECTRIC JUNCTION/VALVE
 - FIRE HYDRANT
 - GAS METER
 - MAIL BOX
 - SEWER MANHOLE
 - STORM DROP INLET
 - STORM MANHOLE
 - UTILITY POLE
 - WATER METER
 - WATER VALVE
 - UNDERGROUND ELECTRIC
 - UNDERGROUND COMMUNICATIONS
 - UNDERGROUND SEWER
 - UNDERGROUND STORM
 - UNDERGROUND GAS
 - UNDERGROUND WATER
 - TREE (SEE TREE TABLE)
 - PUBLIC UTILITY EASEMENT
 - PRIVATE PEDESTRIAN ACCESS EASE
 - PRIVATE STORM DRAINAGE EASEMENT
 - CONCRETE SURFACE
 - ASPHALT SURFACE

- PROJECT NOTES**
1. BASE OF BEARING WAS DETERMINED BY RTN (REAL TIME KINEMATIC) GPS OBSERVATIONS ORIENTED TO TRUE MAGNETIC NORTH.
 2. VERTICAL DATUM IS NAD83/NAVD83 AND IS BASED ON CITY OF ASHLAND BENCHMARK "TOPS PT. 550", A 2-1/2" BRASS CAP IN THE TOP OF CURB LOCATED IN THE SOUTHWEST QUARTER OF THE INTERSECTION OF EAST MAIN ST. AND CLAY ST. HAVING A RECORD ELEVATION OF 1913.37'.
 3. BOUNDARY LINES SHOWN REPRESENT A FULLY RESOLVED BOUNDARY.
 4. UTILITIES SHOWN HEREIN ARE FROM FIELD SURVEY. TOP OF LOCATE POINT FOR CABLE, FIBER, GAS, WATER, AND SEWER. NO UNDERGROUND LOCATES WERE MADE ON THE SUBJECT PROPERTY. NO ATTEMPT WAS MADE TO LOCATE EXISTING UTILITIES. THE SURVEYOR DOES NOT GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPARE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES AND LOCATES POINT FOUND FOR EXISTING CABLE/ELE. PEDESTALS ALONG CLAY STREET.
 5. EASEMENTS SHOWN ARE FOR THE BENEFIT PROVIDED BY THE EASEE. NO OTHER EASEMENT RECORDATION WAS PERFORMED AND NO CLAIM IS MADE THAT ALL EASEMENTS OF RECORD ARE SHOWN HEREIN. THE PROPERTY SHOWN HEREIN MAY BE SUBJECT TO OTHER EASEMENTS AND RESTRICTIONS.
 6. CONTOURS ARE 1' INTERVALS.

EASEMENTS SHOWN IN FIRST AMERICAN POLICY NO. 300852 EFFECTIVE DATE APRIL 01, 2022.

- IF THESE PREMISES ARE SITUATED IN THE "TALENT" PRODUCTION DISTRICT, AND SUBJECT TO THE LEVELS AND REQUIREMENTS THEREOF, WATER AND IRRIGATION STOCKS (EASEMENTS) FOR STOCKS AND CANALS AND REGULATIONS CONCERNING THE SAME.
- IF EASEMENT FOR ELECTRIC TRANSMISSION AND DISTRIBUTION LINES AND RELATED MATTERS, VOL. 221, PG. 364 - "BURNETT" IN NATURE AND NOT LOCATABLE.
- IF EASEMENT CONSENT TO ANNEXATION TO THE CITY OF ASHLAND, DIST. NO. 83-0268.

TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS
274 FOURTH STREET
ASHLAND, OREGON 97520
(841) 482-6474
tss@tssurvey.com
JOB NO. 1625-22
SHEET 2 OF 2

POINT #	TYPE	DIAMETER	NOTES
1009	CONCRETE	12"	
1010	CONCRETE	12"	
1011	CONCRETE	12"	
1012	CONCRETE	12"	
1013	CONCRETE	12"	
1014	CONCRETE	12"	
1015	CONCRETE	12"	
1016	CONCRETE	12"	
1017	CONCRETE	12"	
1018	CONCRETE	12"	
1019	CONCRETE	12"	
1020	CONCRETE	12"	

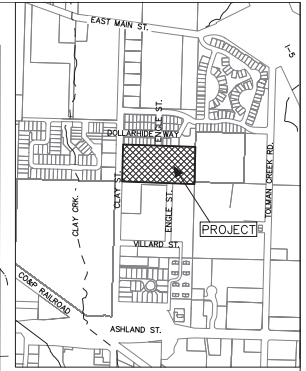
ASSessor's MAP NO. 39 1E 11 OR, TAX LOT 1100

PRELIMINARY SUBDIVISION CALDERA OAKS A PERFORMANCE STANDARDS SUBDIVISION

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 11,
TOWNSHIP 39 SOUTH, RANGE 1 EAST,
WILLAMETTE MERIDIAN,
JACKSON COUNTY, OREGON

FOR
BENTELLA LLC

DATE: 11-20-2024
SCALE: 1" = 40'



VICINITY MAP 1"=600'

SEE SHEET 2
FOR
CURRENT
CONDITIONS

LEGEND

	COMM PEDESTAL (CABLE, TELE)
	CURB INLET
	ELECTRIC BOX
	ELECTRIC JUNCTION/VAULT
	FIRE HYDRANT
	GAS METER
	MAIL BOX
	SEWER MANHOLE
	STORM DROP INLET
	STORM MANHOLE
	UTILITY POLE
	WATER METER
	WATER VALVE
	UNDERGROUND ELECTRIC
	UNDERGROUND COMMUNICATIONS
	UNDERGROUND SEWER
	UNDERGROUND STORM
	UNDERGROUND GAS
	UNDERGROUND WATER
	PROPOSED
	PUBLIC UTILITY EASEMENT
	PUBLIC PEDESTRIAN ACCESS EASE
	PRIVATE STORM DRAINAGE EASE
	OPEN SPACE

PROJECT NOTES:

1. ALL PROPOSED PUBLIC STREET RIGHT-OF-WAYS AND PUBLIC UTILITY EASEMENTS (PUE) ARE TO BE DEDICATED TO THE CITY OF ASHLAND ON THE FINAL SUBDIVISION PLAT.
2. BASIS OF BEARINGS WAS DETERMINED BY RTK (REAL TIME KINEMATIC) GPS OBSERVATIONS ORIENTED TO TRUE GEODETIC NORTH.
3. VERTICAL DATUM IS NAD83(11) AND IS BASED ON CITY OF ASHLAND BENCHMARK "GPS PT. 509".
4. UTILITIES SHOWN HEREON ARE FROM FIELD SURVEY TIES OF LOCATE PAINT PER O.U.N.C. NO UNDERGROUND LOCATES WERE MARKED ON THE SUBJECT PROPERTY. NO ATTEMPT WAS MADE TO LOCATE HIDDEN UTILITIES. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED.
5. CONTOURS ARE 1' INTERVALS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

PH 19
OREGON
JULY 12, 2018
PHILIP J. DROSSOS
90718

RENEW: 12-31-2025

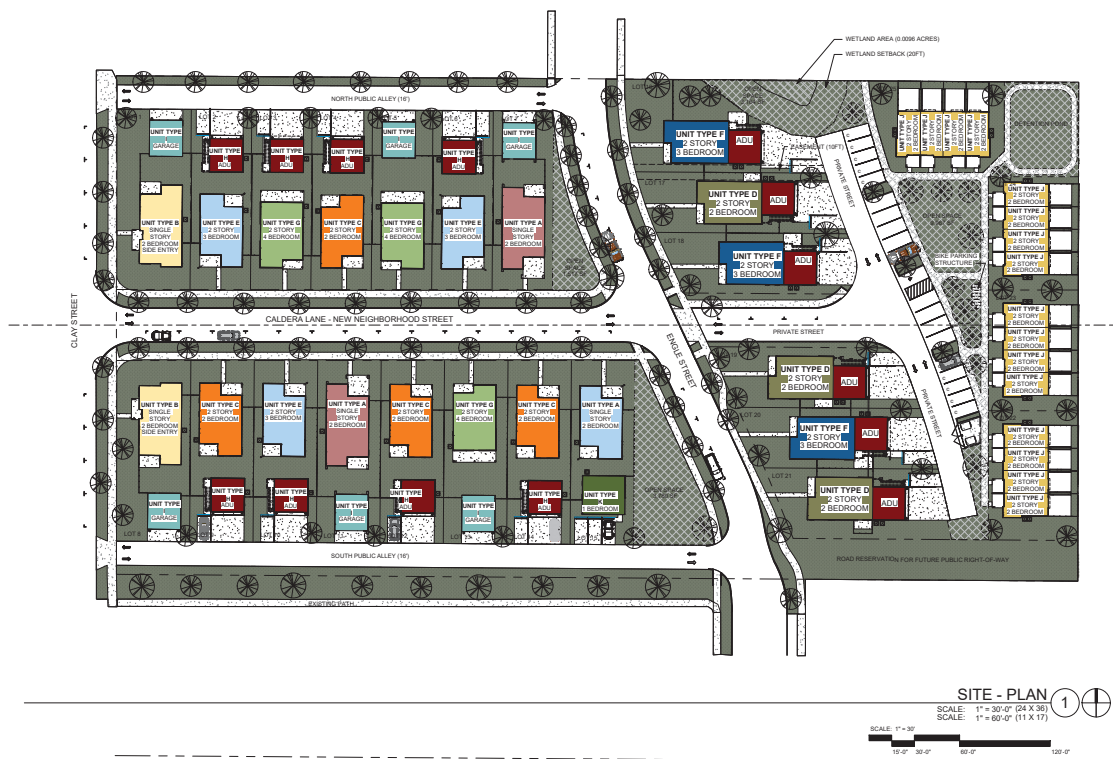
TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS

270 FOURTH STREET
ASHLAND, OREGON 97520

(541) 482-6474
terra@bisp.net

JOB NO. 1653-23

SHEET 1 OF 2





300 CLAY STREET

CONCEPT DESIGN

09/09/2023

SITE PLAN PERSPECTIVE

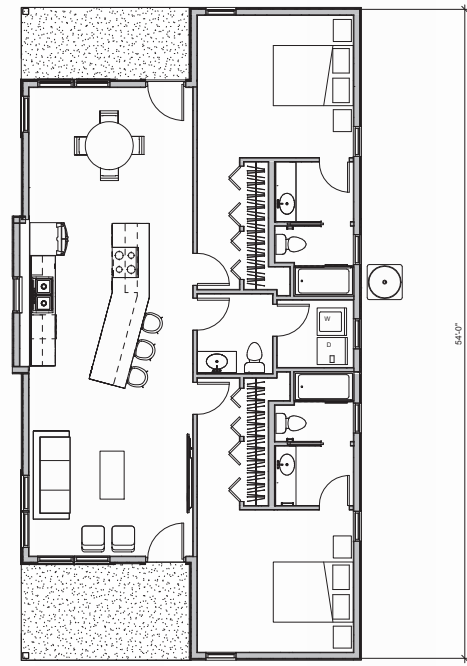
A0



SOUTH ELEVATION OF STREET 1
1" = 10'-0"



PERSPECTIVE 2

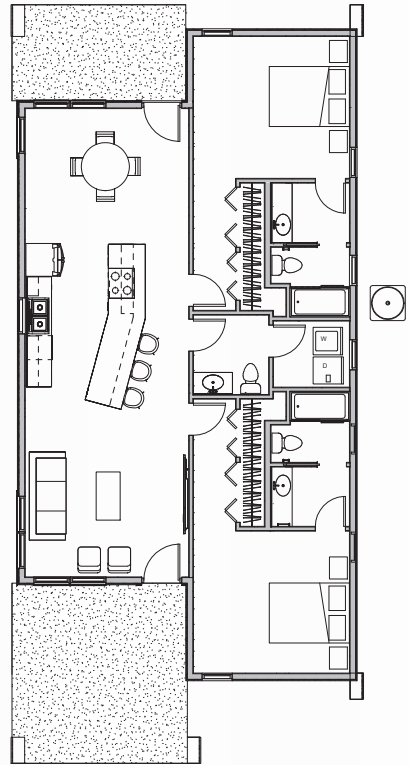


FLOOR PLAN - LEVEL 1 1
1,316 S.F. 1/4" = 1'-0"





PERSPECTIVE ②



FLOOR PLAN - LEVEL 1 ①
1,316 S.F. 1/4" = 1'-0"

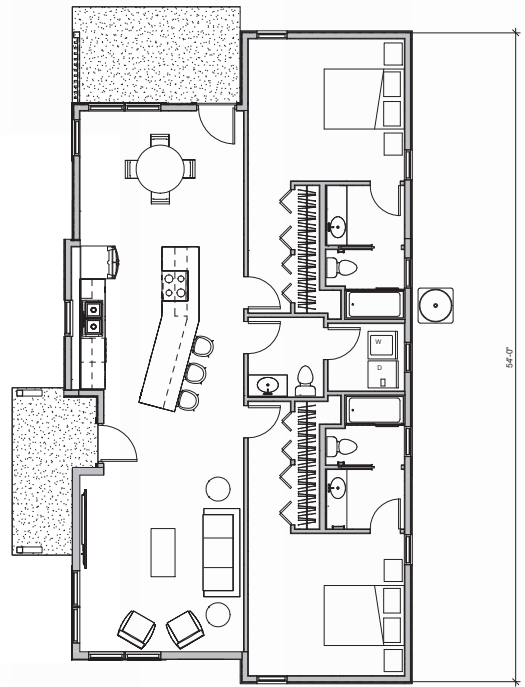


UNIT A OPTION B

A1



PERSPECTIVE 2



FLOOR PLAN - LEVEL 1 1
1,388 S.F. 1/4" = 1'-0"



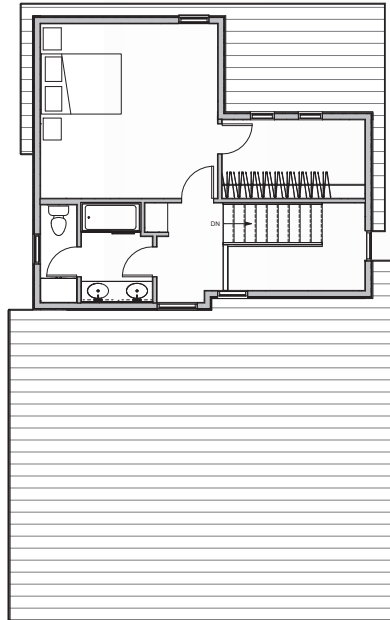
300 CLAY STREET
SCHEMATIC DESIGN
9.7.20

UNIT B EXTERIOR PERSPECTIVES

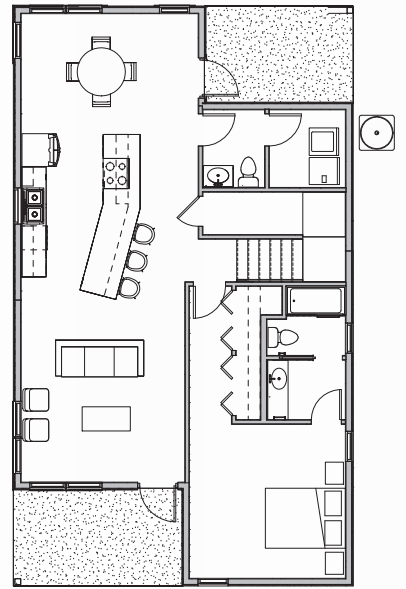
A2



PERSPECTIVE 3



FLOOR PLAN - LEVEL 2 2
470 S.F. 1/4" = 1'-0"



FLOOR PLAN - LEVEL 1 1
1,134 S.F. 1/4" = 1'-0"

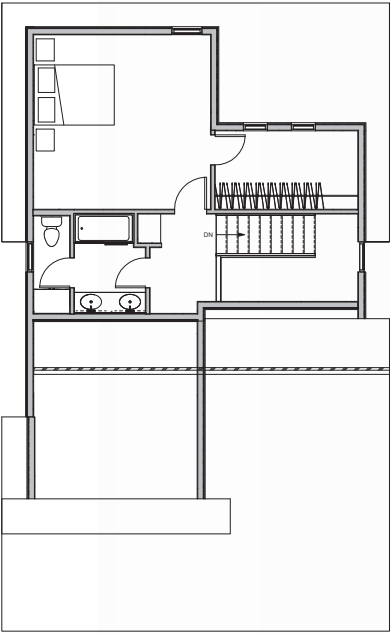
1,134 S.F. FIRST FLOOR
470 S.F. SECOND FLOOR
1,604 S.F. TOTAL
SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"



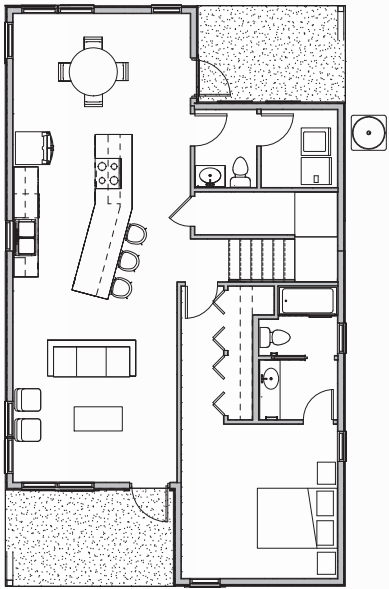
300 CLAY STREET
SCHEMATIC DESIGN
9.7.20



PERSPECTIVE 3



470 S.F. FLOOR PLAN - LEVEL 2 2
1/4" = 1'-0"



1,134 S.F. FLOOR PLAN - LEVEL 1 1
1/4" = 1'-0"

1,134 S.F. FIRST FLOOR
470 S.F. SECOND FLOOR
1,604 S.F. TOTAL

SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

UNIT C OPTION B

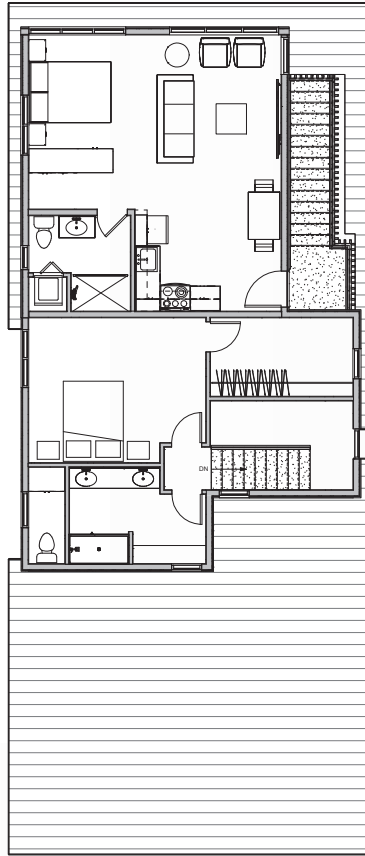
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300 CLAY STREET
SCHEMATIC DESIGN
9.7.20



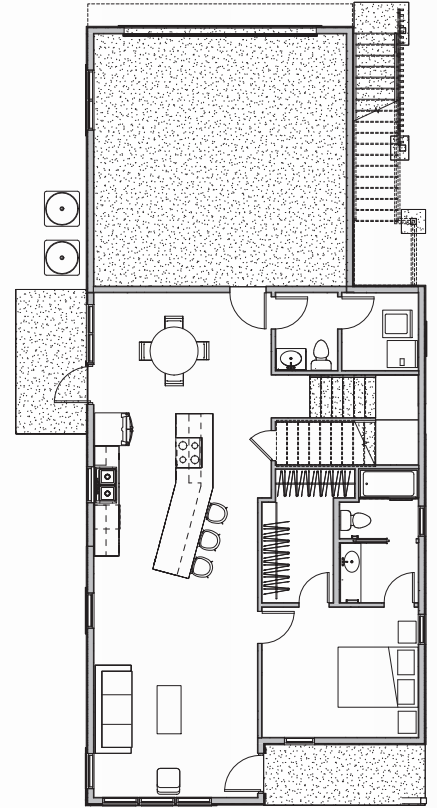
PERSPECTIVE 3



FLOOR PLAN - LEVEL 2 2

428 S.F.
518 S.F. ADU

1,137 S.F. FIRST FLOOR
428 S.F. SECOND FLOOR
518 S.F. SECOND FLOOR ADU
1,565 S.F. TOTAL



FLOOR PLAN - LEVEL 1 1

1,137 S.F.
518 S.F. GARAGE

SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

UNIT D OPTION A

A1

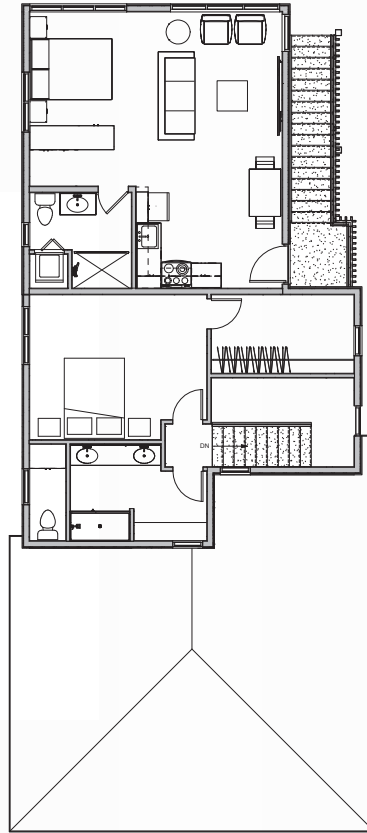
ksw
ARCHITECTS

300 CLAY STREET
SCHEMATIC DESIGN
10.11.23





PERSPECTIVE ③

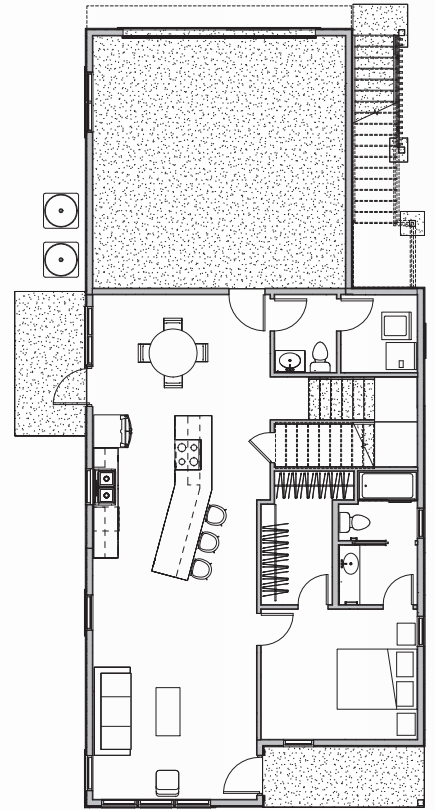


FLOOR PLAN - LEVEL 2 ②

428 S.F.
518 S.F. ADU

1/4" = 1'-0"

1,137 S.F. FIRST FLOOR
428 S.F. SECOND FLOOR
518 S.F. SECOND FLOOR ADU
1,565 S.F. TOTAL



FLOOR PLAN - LEVEL 1 ①

1,137 S.F.
518 S.F. GARAGE

SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

UNIT D OPTION B

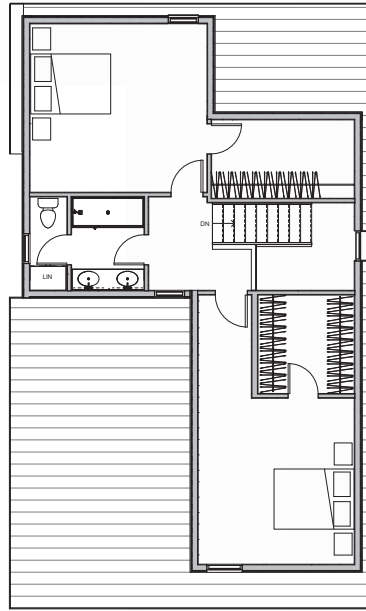
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ksw
ARCHITECTS

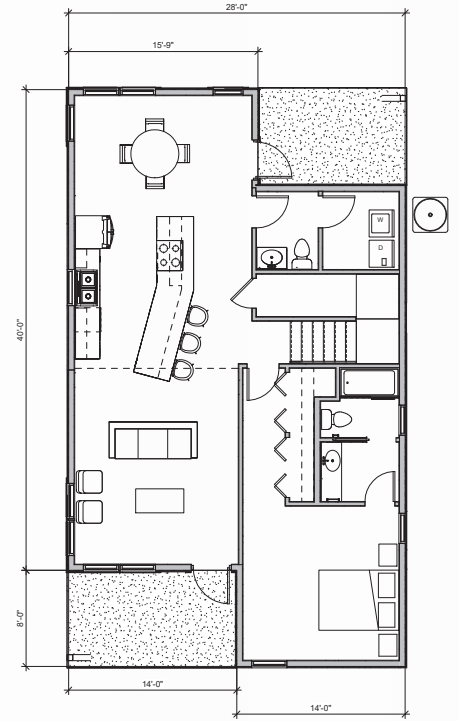
300 CLAY STREET
SCHEMATIC DESIGN
10.11.23



PERSPECTIVE ③



PLAN - LEVEL 2 ②
789 S.F. 1/4" = 1'-0"



PLAN - LEVEL 1 ①
1,134 S.F. 1/4" = 1'-0"

1,134 S.F. FIRST FLOOR
789 S.F. SECOND FLOOR
1,923 S.F. TOTAL
SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

UNIT E OPTION A

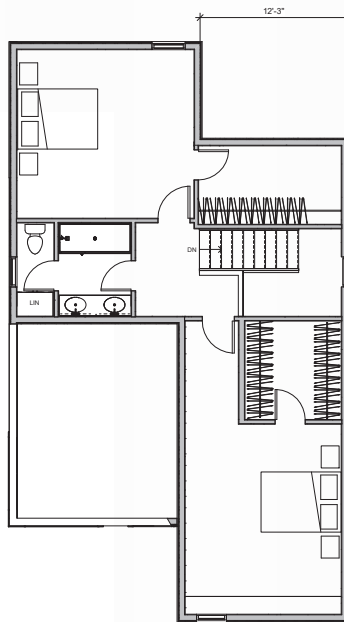
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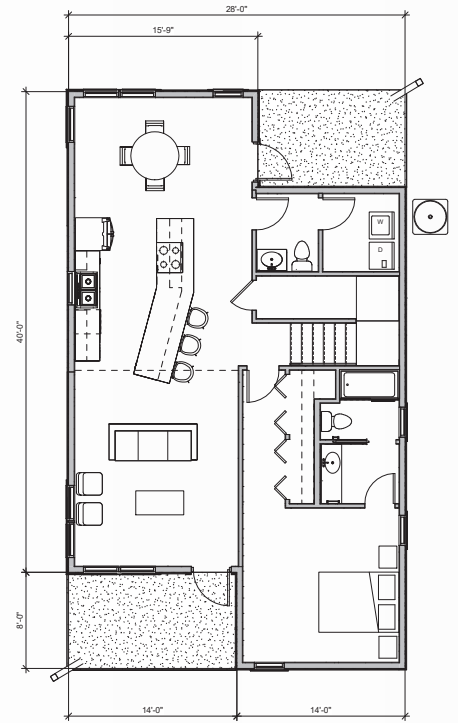
300 CLAY STREET
SCHEMATIC DESIGN
9.7.20



PERSPECTIVE 3



PLAN - LEVEL 2 2
789 S.F. 1/4" = 1'-0"



PLAN - LEVEL 1 1
1,134 S.F. 1/4" = 1'-0"

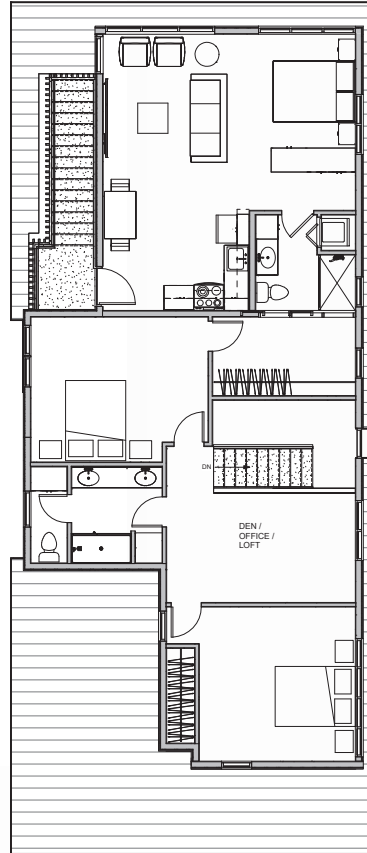
1,134 S.F. FIRST FLOOR
789 S.F. SECOND FLOOR
1,923 S.F. TOTAL
SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

UNIT E OPTION B

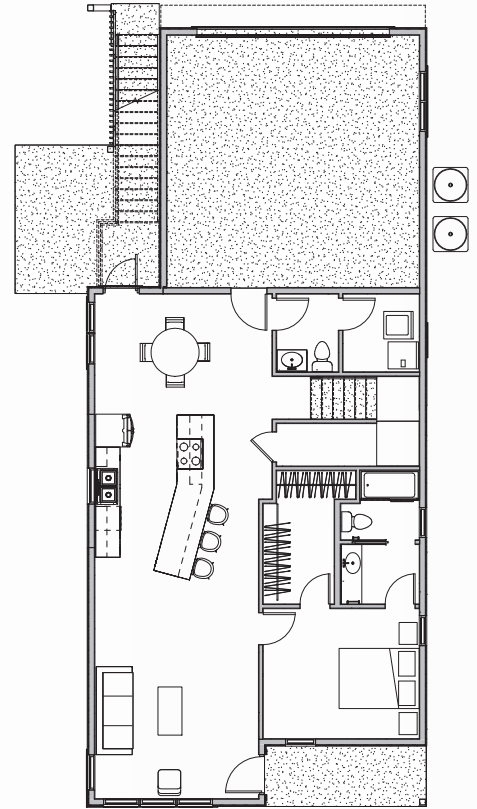
A1



PERSPECTIVE 3



FLOOR PLAN - LEVEL 2 2
781 S.F. 1/4" = 1'-0"



FLOOR PLAN - LEVEL 1 1
1,137 S.F. 1/4" = 1'-0"

1,137 S.F. - FIRST FLOOR
781 S.F. - SECOND FLOOR
1,918 S.F. - TOTAL



UNIT F OPTION A

A1

ksw
ARCHITECTS

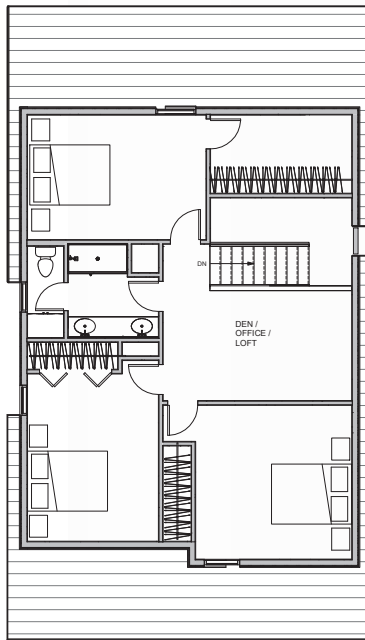
300 CLAY STREET
SCHEMATIC DESIGN
10.11.23



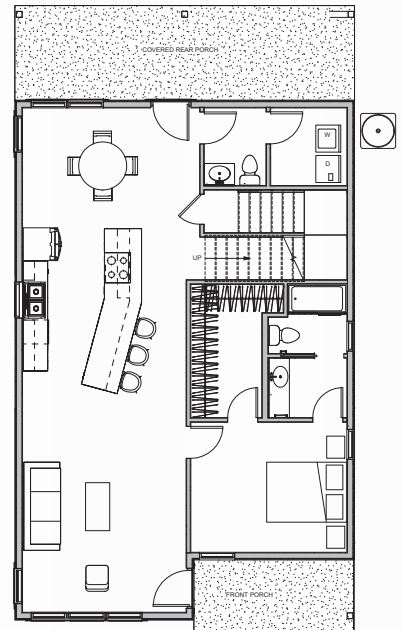
300 CLAY STREET
SCHEMATIC DESIGN
9.7.20



PERSPECTIVE 3



PLAN - LEVEL 2 2
952 S.F. 1/4" = 1'-0"



PLAN - LEVEL 1 1
1,137 S.F. 1/4" = 1'-0"

1,137 S.F. FIRST FLOOR
952 S.F. SECOND FLOOR
2,089 S.F. TOTAL
SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

UNIT G OPTION A

A1

ksw
ARCHITECTS

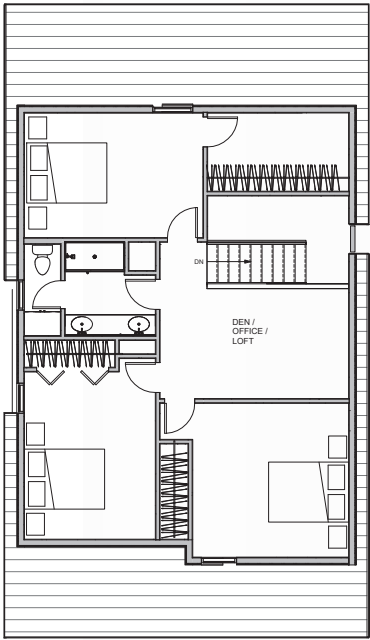
300 CLAY STREET
SCHEMATIC DESIGN
10.11.23



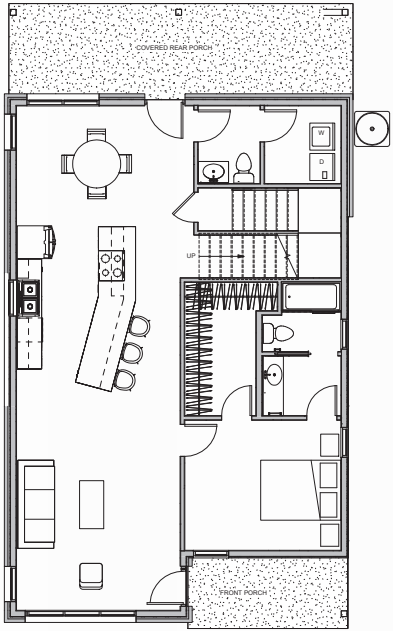
300 CLAY STREET
SCHEMATIC DESIGN
9.7.20



PERSPECTIVE 3



PLAN - LEVEL 2 2
952 S.F. 1/4" = 1'-0"



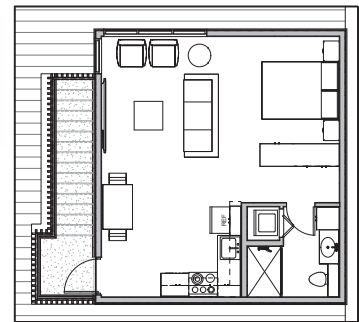
PLAN - LEVEL 1 1
1,137 S.F. 1/4" = 1'-0"

1,137 S.F. FIRST FLOOR
952 S.F. SECOND FLOOR
2,089 S.F. TOTAL
SCALE: 1/4" = 1'-0"
2'-0" 4'-0" 8'-0" 16'-0"

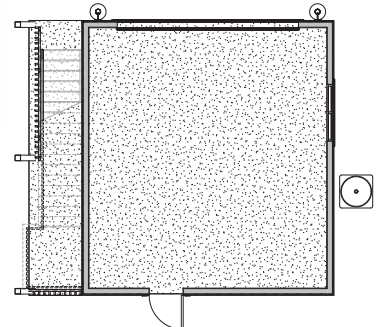
UNIT G OPTION B

A1





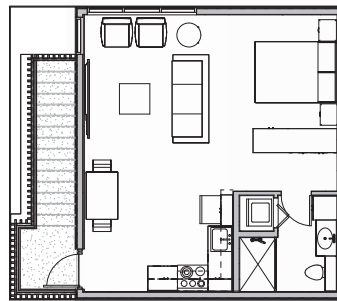
FLOOR PLAN - LEVEL 2
648 S.F. 1/4" = 1'-0"



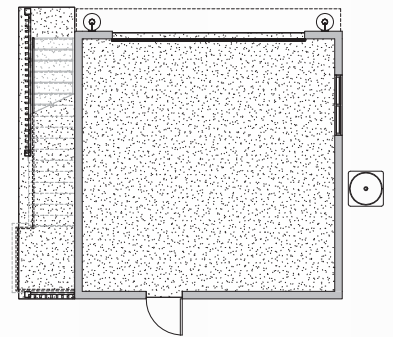
FLOOR PLAN - LEVEL 1
556 S.F. 1/4" = 1'-0"



PERSPECTIVE 3



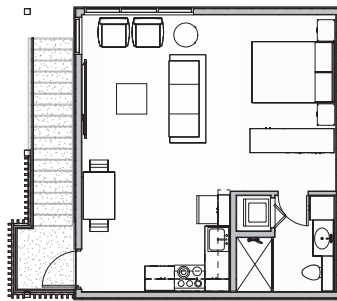
SECOND FLOOR PLAN 2
648 S.F. 1/4" = 1'-0"



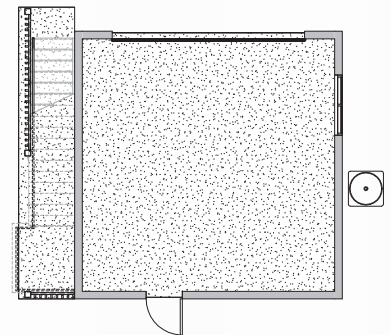
FIRST FLOOR PLAN 1
556 S.F. 1/4" = 1'-0"



PERSPECTIVE 3



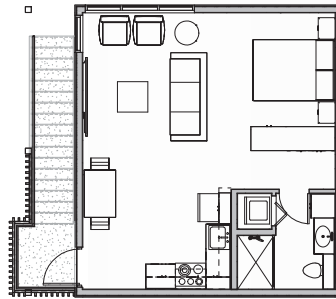
SECOND FLOOR PLAN 2
648 S.F. 1/4" = 1'-0"



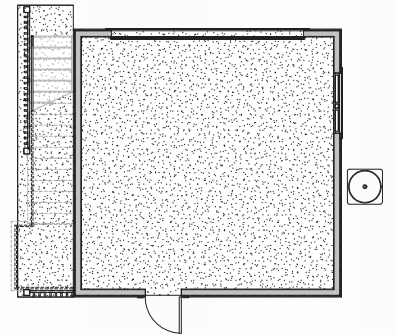
FIRST FLOOR PLAN 1
556 S.F. 1/4" = 1'-0"



PERSPECTIVE 3



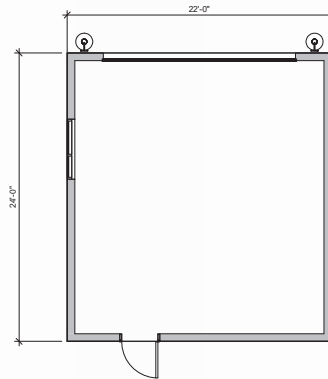
648 S.F. SECOND FLOOR PLAN 1/4" = 1'-0" 2



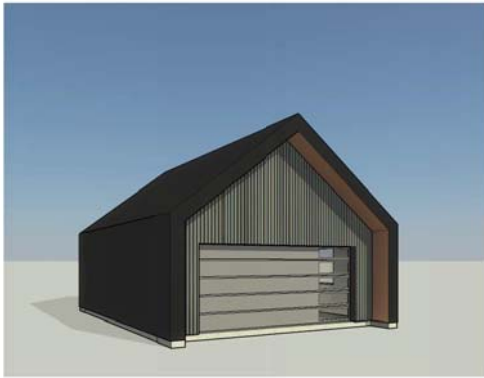
556 S.F. FIRST FLOOR PLAN 1/4" = 1'-0" 1



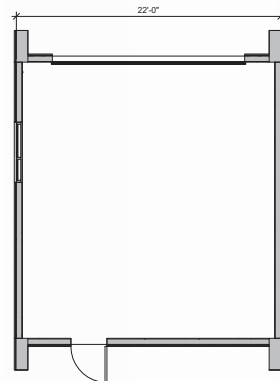
PERSPECTIVE ②



FLOOR PLAN - LEVEL 1
598 S.F. 1/4" = 1'-0"



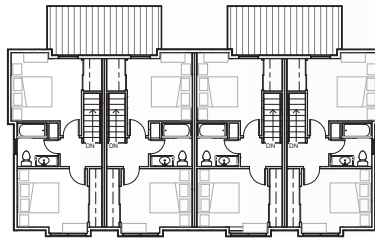
PERSPECTIVE ②



FLOOR PLAN - LEVEL 1 ①
556 S.F. 1/4" = 1'-0"

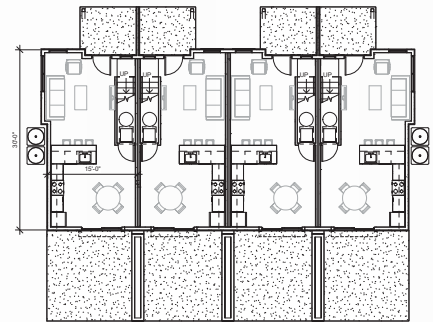


PERSPECTIVE 3



432 S.F. PER END UNIT
420 S.F. PER MID UNIT

PLAN - LEVEL 2 2



454 S.F. PER END UNIT
441 S.F. PER MID UNIT

PLAN - LEVEL 1 1

454 S.F. FIRST FLOOR (END UNITS)
432 S.F. SECOND FLOOR (END UNITS)
886 S.F. TOTAL

441 S.F. FIRST FLOOR (MID UNITS)
420 S.F. SECOND FLOOR (MID UNITS)
861 S.F. TOTAL

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

UNIT J - OPTION A

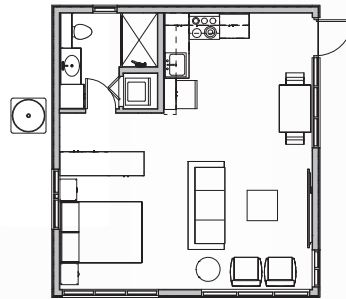
A1

ksw
ARCHITECTS

300 CLAY STREET
SCHEMATIC DESIGN
10.11.23



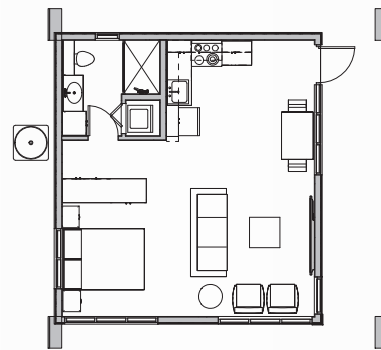
PERSPECTIVE ⑤



FIRST FLOOR PLAN ①
528 S.F. 1/4" = 1'-0"



PERSPECTIVE 5

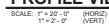


FIRST FLOOR PLAN 1
528 S.F. 1/4" = 1'-0"





NO.	REVISION DESCRIPTION	DATE						
DRAWN BY:		TDP						
DESIGNED BY:		TDP						
CHECKED BY:		TDP						
ISSUE DATE:		11/27/24						
LAND USE SET								
JOB NO.		NBHD. ST. PLA & PROFILE						
22-033		C4.1						

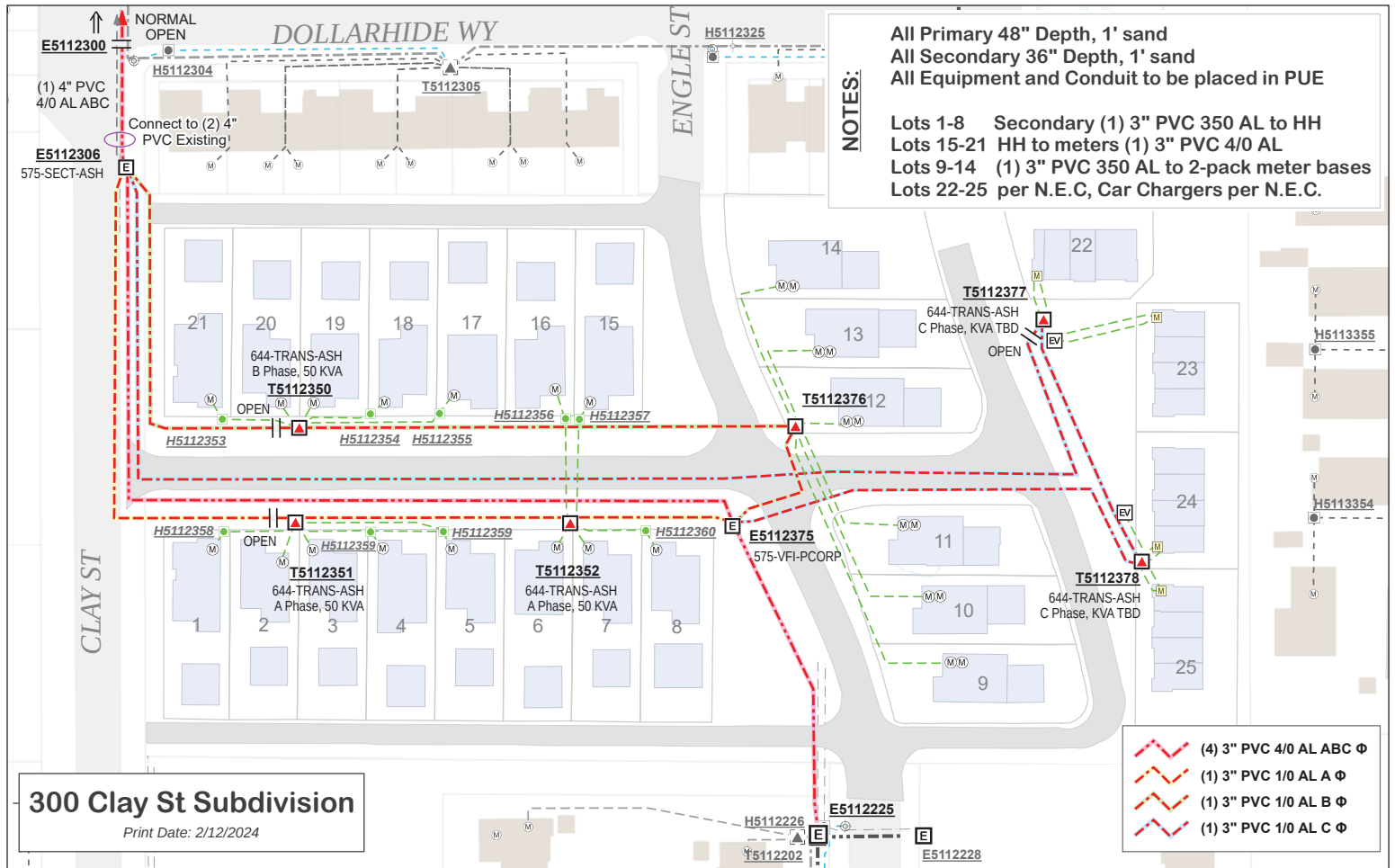


SCALE: 1" = 20' - 0" (22x34)

SCALE: 1" = 20' - 0" (HORIZ)
1" = 4' - 0" (VERT)



DATE									
REVISION DESCRIPTION									
NO.									
DRAWN BY:	TDP								
DESIGNED BY:	TDP								
CHECKED BY:	TDP								
ISSUE DATE:	11/27/24								
LAND USE SET									
JOB NO.	22-033								
SITE UTILITY PLAN C5.0									



MEMORANDUM

To: Rogue Planning & Development Services
1314-B Center Drive, PMB #457
Medford, OR 97501

319 Eastwood Drive
Medford, OR 97504
Telephone 541.941.4148
Kim.parducci@gmail.com

Date: 9/13/2024

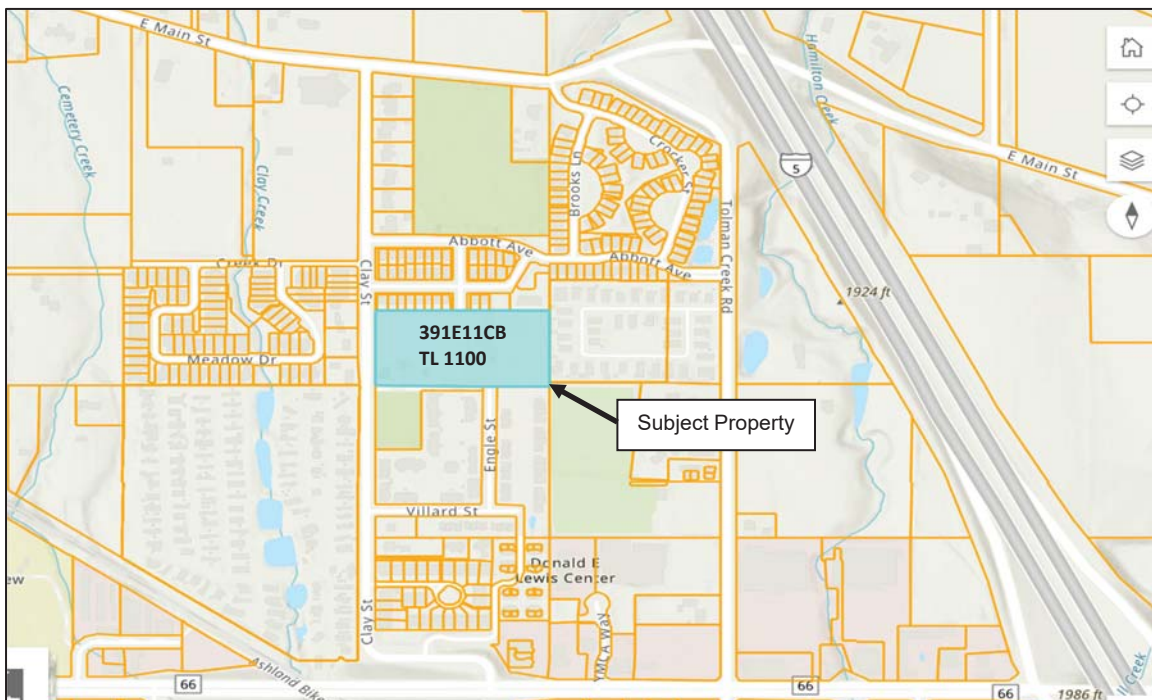
Project: RR-5 to R-1-3.5 Zone Change / Annexation – 300 Clay Street (391E11CB TL 1100)

Subject: Trip Generation Assessment and TPR Findings

Southern Oregon Transportation Engineering prepared a trip generation assessment with Transportation Planning Rule (TPR) findings for a proposed annexation / zone change from Jackson County Rural Residential (RR-5) to City Suburban Residential (R-1-3.5) on approximately 4.8 acres located along the east side of Clay Street, north of Snowberry Brook Phase 2 in Ashland, Oregon. Our assessment is provided below.

BACKGROUND

An annexation and zone change from RR-5 to R-1-3.5 is proposed at 300 Clay Street (39S-1E-11CB Tax Lot 1100) in Jackson County. The site is currently occupied by one single family residence. Under County RR-5 zoning, the property is allowed one single family residential dwelling unit. City of Ashland R-1-3.5 zoning allows 7.2 dwellings per acre, which results in 34 base dwelling units on the property. A density bonus allows three additional dwelling units for a total of 37 dwellings. Our assessment evaluates 37 dwelling units to present a reasonable worst-case scenario for addressing the Transportation Planning Rule.



TRIP GENERATION

The Institute of Transportation Engineers (ITE) *Trip Generation Manual, 11th Edition* was used to generate trips for the proposed annexation / zone change. Land Use Codes (LUC) 210 – Single Family Detached Housing and 220 – Multifamily Housing (Low-Rise) were selected to represent a potential mix of proposed residential units. A summary is provided in Table 1. ITE graphs and descriptions are provided in the attachments.

Table 1 – RR-5 to R-1-3.5 Annexation / Zone Change Trip Generations									
Land Use	Unit	Size	Daily Trips	Weekday AM Peak Hour			Weekday PM Peak Hour		
				Total	(In)	(Out)	Total	(In)	(Out)
<i>Existing RR-5 Zoning</i>									
210 – Single Family Detached	DU	1	9	1	0	1	1	1	0
Total Existing Trips			9	1			1		
<i>Proposed R-1-3.5 Zoning</i>									
210 – Single Family Detached	DU	21	240	18	5	13	23	14	9
220 – Multifamily Housing	DU	16	108	6	1	5	8	3	5
Total Proposed Trips		37	348	24			31		
Net Difference			+339	+23			+30		

DU = dwelling unit

AGENCY REQUIREMENTS

The City of Ashland Public Works Department requires a Traffic Impact Analysis (TIA) for all land use actions that either propose direct or indirect access to a State highway or a boulevard if the proposed land use meets one or more of the following thresholds.

1. Trip Generation Threshold: 50 newly generated vehicle trips (inbound and outbound) during the adjacent street peak hour;

The proposed zone change to R-1-3.5 has the potential to generate 31 p.m. peak hour trips, which is a net increase of 30 peak hour trips on the transportation system. This threshold is not satisfied.

2. Mitigation Threshold: Installation of any traffic control device and/or construction of any geometric improvements that will affect the progression or operation of traffic traveling on, or exiting the highway;

No mitigation is proposed as part of the annexation / zone change application. This threshold is not satisfied.

3. Heavy Vehicle Trip Generation Threshold: 20 newly generated heavy vehicle trips (inbound and outbound) during the day;

No increase in heavy vehicle trip generation is expected with the proposed annexation / zone change. This threshold is not satisfied.

4. If any of the above thresholds are satisfied, then a TIA is required by a registered engineer in accordance with ODOT's development review guidelines.

None of the four thresholds are satisfied. Based on this, a TIA is not shown to be required for the proposed annexation / zone change from RR-5 to R-1-3.5.

TRANSPORTATION PLANNING RULE

Oregon Administrative Rule 660-012-0060(1) Plan and Land Use Regulation Amendments

A plan or land use regulation amendment significantly affects a transportation facility if it would:

- a. Change the functional classification of an existing or planned transportation facility.
No change in functional classification of an existing or planned transportation facility is expected to occur as a result of the proposed zone change from RR-5 to R-1-3.5. The proposed Suburban Residential (R-1-3.5) zoning designation has the potential to generate a net increase of 339 average daily trips (ADT) with 30 trips occurring during the peak hour. Clay Street is estimated, based on current counts, to carry approximately 1,350 ADT with 136 trips during the peak hour. This is shown to be well below the capacity of a Minor Collector for Jackson County (1,500-4,000 ADT) or Neighborhood Collector for the City of Ashland (1,500 to 5,000 ADT).
- b. Change standards implementing a functional classification system; or
The proposed annexation / zone change from RR-5 to R-1-3.5 will not change standards implementing a functional classification system
- c. Result in any of the effects listed in (A) through (C)
 - A. Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility
The proposed annexation / zone change will not result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility.
 - B. Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standard identified in the Transportation System Plan (TSP) or comprehensive plan; or
The proposed annexation / zone change will not degrade the performance of any existing or planned transportation facility.
 - C. Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.
There is no identified existing or planned transportation facility in the area that is projected to not meet the performance standards in the City of Ashland TSP or comprehensive plan. The proposed annexation / zone change, therefore, will not degrade the performance of any existing or planned transportation facility projected to not meet the performance standards identified in the City of Ashland TSP or comprehensive plan.

This completes our traffic assessment and TPR findings. Please feel free to contact us with any questions.

Respectfully,

Kimly P.

Kimberly Parducci, PE PTOE
Firm Principal
Southern Oregon Transportation Engineering, LLC

Attachments: ITE Graphs
City of Ashland Public Works TIA Thresholds



ATTACHMENTS

Land Use: 210

Single-Family Detached Housing

Description

A single-family detached housing site includes any single-family detached home on an individual lot. A typical site surveyed is a suburban subdivision.

Specialized Land Use

Data have been submitted for several single-family detached housing developments with homes that are commonly referred to as patio homes. A patio home is a detached housing unit that is located on a small lot with little (or no) front or back yard. In some subdivisions, communal maintenance of outside grounds is provided for the patio homes. The three patio home sites total 299 dwelling units with overall weighted average trip generation rates of 5.35 vehicle trips per dwelling unit for weekday, 0.26 for the AM adjacent street peak hour, and 0.47 for the PM adjacent street peak hour. These patio home rates based on a small sample of sites are lower than those for single-family detached housing (Land Use 210), lower than those for single-family attached housing (Land Use 251), and higher than those for senior adult housing -- single-family (Land Use 251). Further analysis of this housing type will be conducted in a future edition of *Trip Generation Manual*.

Additional Data

The technical appendices provide supporting information on time-of-day distributions for this land use. The appendices can be accessed through either the ITETripGen web app or the trip generation resource page on the ITE website (<https://www.ite.org/technical-resources/topics/trip-and-parking-generation/>).

For 30 of the study sites, data on the number of residents and number of household vehicles are available. The overall averages for the 30 sites are 3.6 residents per dwelling unit and 1.5 vehicles per dwelling unit.

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in Arizona, California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Minnesota, Montana, New Jersey, North Carolina, Ohio, Ontario (CAN), Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Vermont, Virginia, and West Virginia.

Source Numbers

100, 105, 114, 126, 157, 167, 177, 197, 207, 211, 217, 267, 275, 293, 300, 319, 320, 356, 357, 367, 384, 387, 407, 435, 522, 550, 552, 579, 598, 601, 603, 614, 637, 711, 716, 720, 728, 735, 868, 869, 903, 925, 936, 1005, 1007, 1008, 1010, 1033, 1066, 1077, 1078, 1079

Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 174

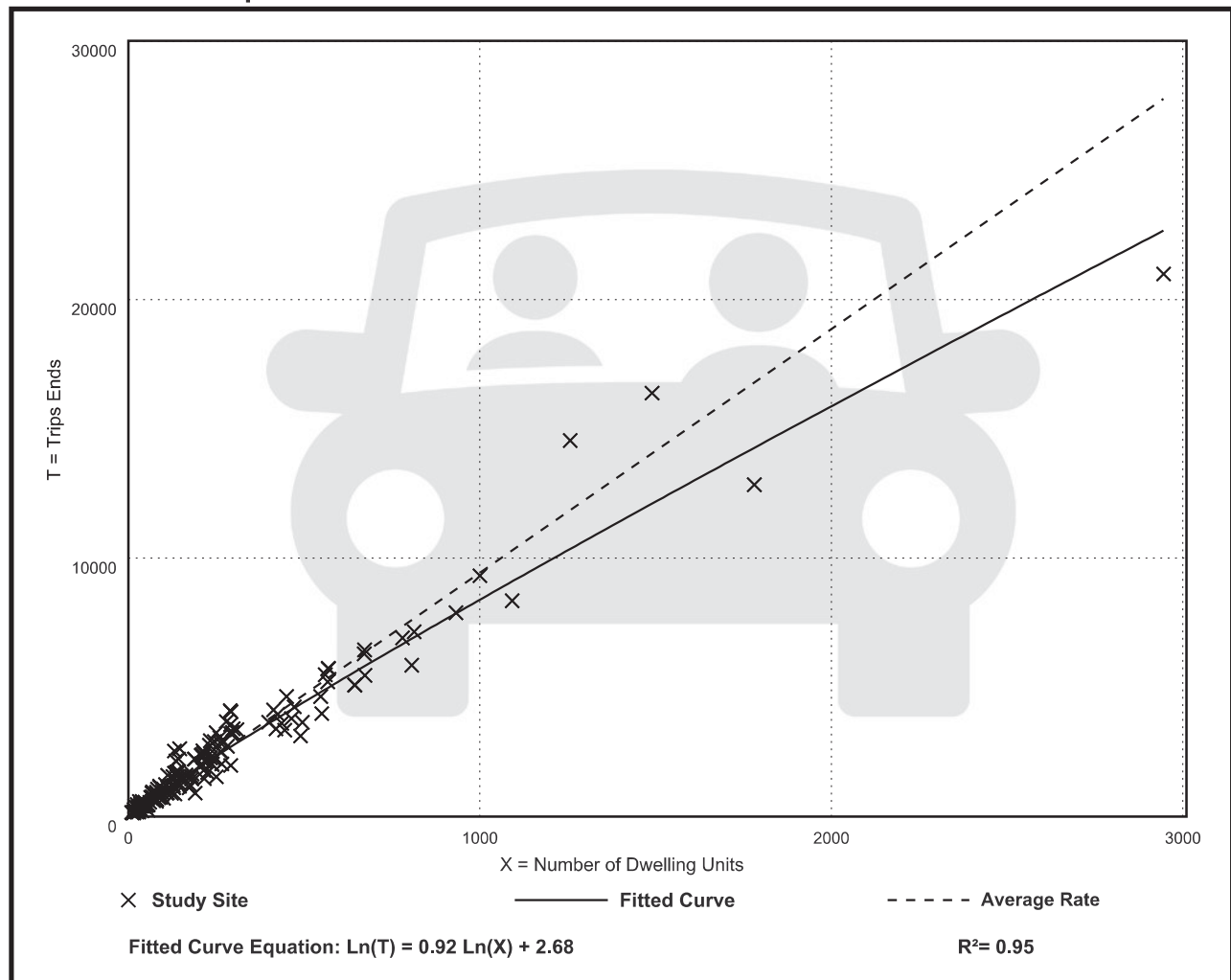
Avg. Num. of Dwelling Units: 246

Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
9.43	4.45 - 22.61	2.13

Data Plot and Equation



Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 192

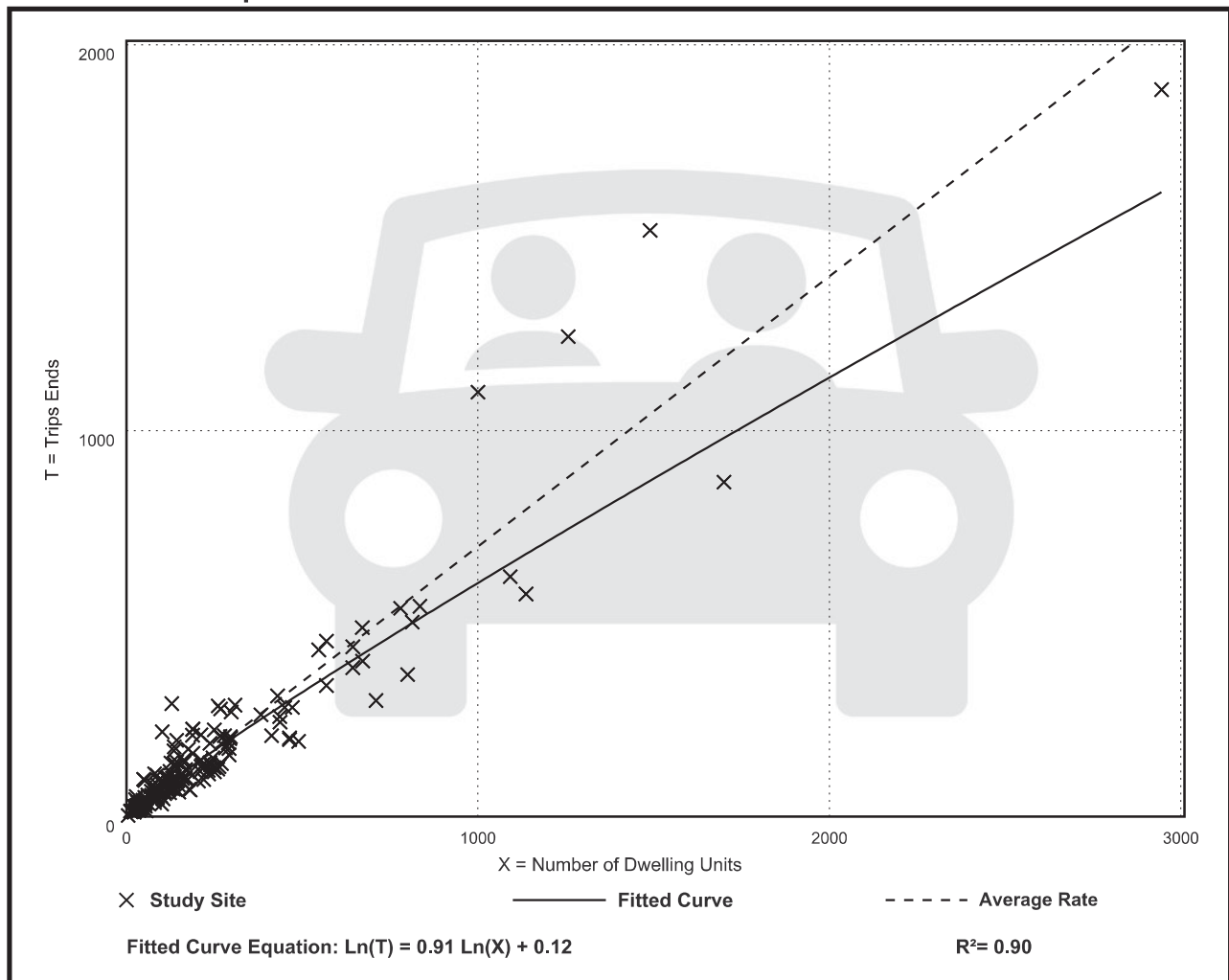
Avg. Num. of Dwelling Units: 226

Directional Distribution: 26% entering, 74% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.70	0.27 - 2.27	0.24

Data Plot and Equation



Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 208

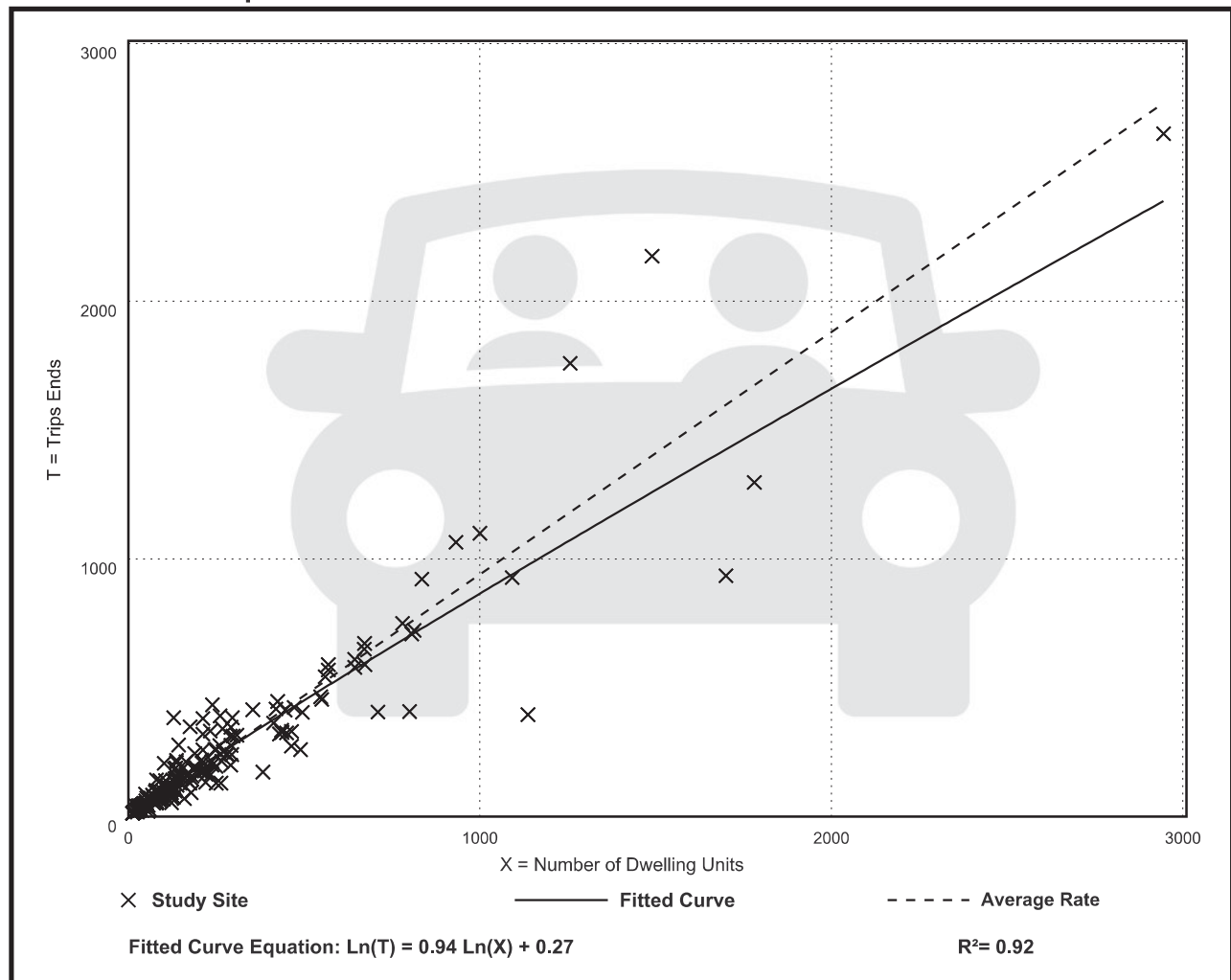
Avg. Num. of Dwelling Units: 248

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.94	0.35 - 2.98	0.31

Data Plot and Equation



Land Use: 220

Multifamily Housing (Low-Rise)

Description

Low-rise multifamily housing includes apartments, townhouses, and condominiums located within the same building with at least three other dwelling units and that have two or three floors (levels). Various configurations fit this description, including walkup apartment, mansion apartment, and stacked townhouse.

- A walkup apartment typically is two or three floors in height with dwelling units that are accessed by a single or multiple entrances with stairways and hallways.
- A mansion apartment is a single structure that contains several apartments within what appears to be a single-family dwelling unit.
- A fourplex is a single two-story structure with two matching dwelling units on the ground and second floors. Access to the individual units is typically internal to the structure and provided through a central entry and stairway.
- A stacked townhouse is designed to match the external appearance of a townhouse. But, unlike a townhouse dwelling unit that only shares walls with an adjoining unit, the stacked townhouse units share both floors and walls. Access to the individual units is typically internal to the structure and provided through a central entry and stairway.

Multifamily housing (mid-rise) (Land Use 221), multifamily housing (high-rise) (Land Use 222), affordable housing (Land Use 223), and off-campus student apartment (low-rise) (Land Use 225) are related land uses.

Land Use Subcategory

Data are presented for two subcategories for this land use: (1) not close to rail transit and (2) close to rail transit. A site is considered close to rail transit if the walking distance between the residential site entrance and the closest rail transit station entrance is ½ mile or less.

Additional Data

For the three sites for which both the number of residents and the number of occupied dwelling units were available, there were an average of 2.72 residents per occupied dwelling unit.

For the two sites for which the numbers of both total dwelling units and occupied dwelling units were available, an average of 96.2 percent of the total dwelling units were occupied.

The technical appendices provide supporting information on time-of-day distributions for this land use. The appendices can be accessed through either the ITETripGen web app or the trip

generation resource page on the ITE website (<https://www.ite.org/technical-resources/topics/trip-and-parking-generation/>).

For the three sites for which data were provided for both occupied dwelling units and residents, there was an average of 2.72 residents per occupied dwelling unit.

It is expected that the number of bedrooms and number of residents are likely correlated to the trips generated by a residential site. To assist in future analysis, trip generation studies of all multifamily housing should attempt to obtain information on occupancy rate and on the mix of residential unit sizes (i.e., number of units by number of bedrooms at the site complex).

The sites were surveyed in the 1980s, the 1990s, the 2000s, the 2010s, and the 2020s in British Columbia (CAN), California, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Minnesota, New Jersey, Ontario (CAN), Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, and Washington.

Source Numbers

188, 204, 237, 300, 305, 306, 320, 321, 357, 390, 412, 525, 530, 579, 583, 638, 864, 866, 896, 901, 903, 904, 936, 939, 944, 946, 947, 948, 963, 964, 966, 967, 1012, 1013, 1014, 1036, 1047, 1056, 1071, 1076

Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 22

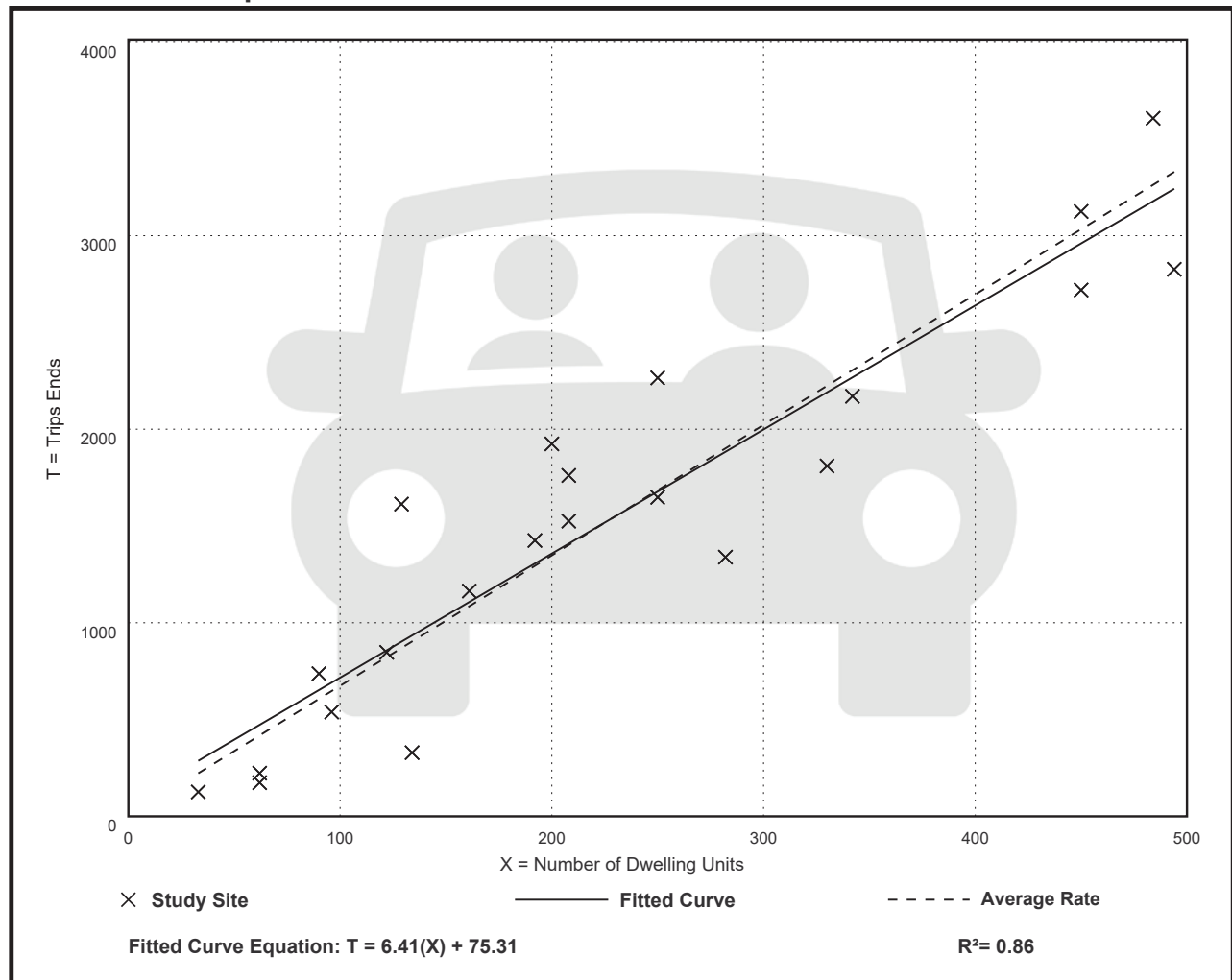
Avg. Num. of Dwelling Units: 229

Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
6.74	2.46 - 12.50	1.79

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 49

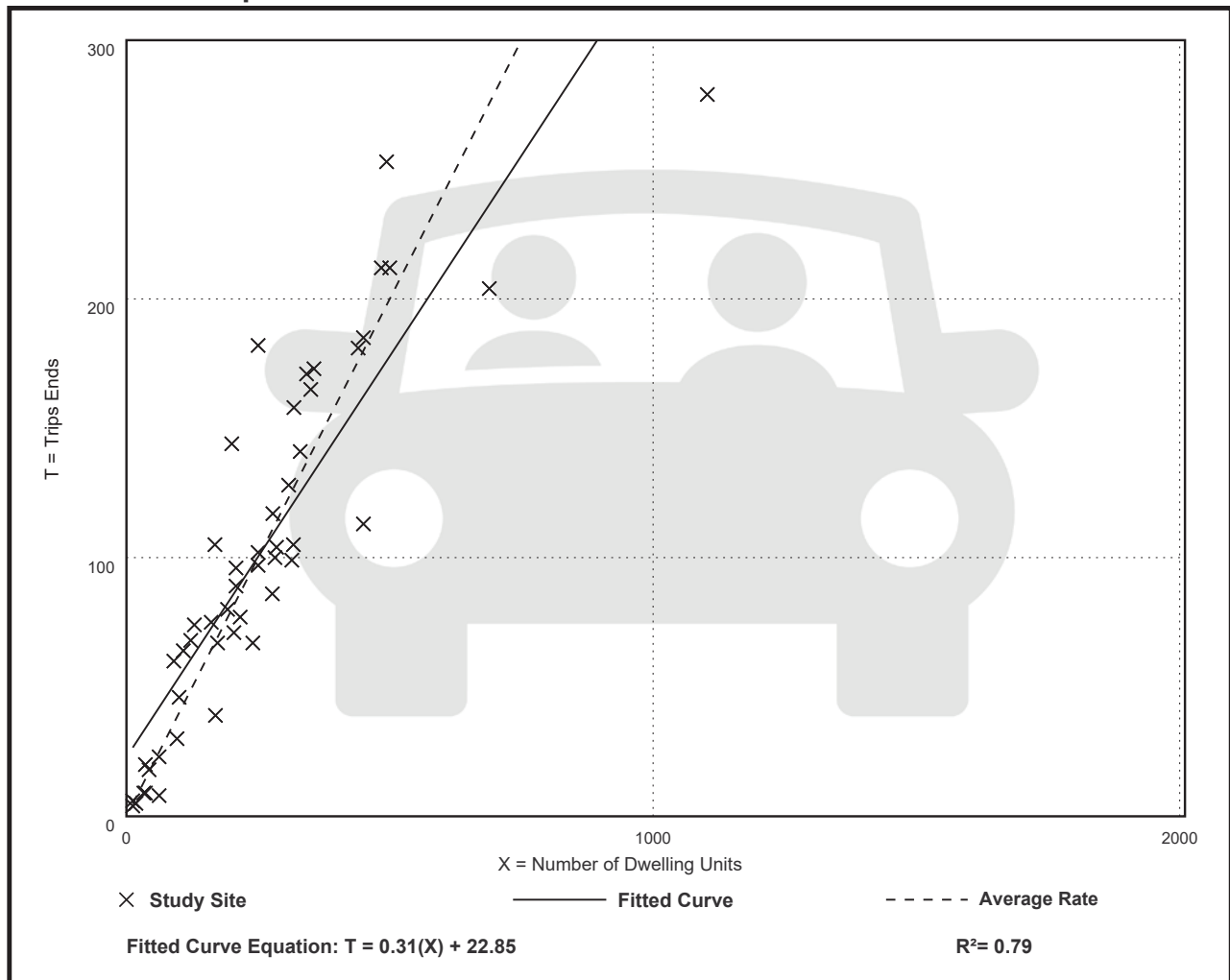
Avg. Num. of Dwelling Units: 249

Directional Distribution: 24% entering, 76% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.40	0.13 - 0.73	0.12

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 59

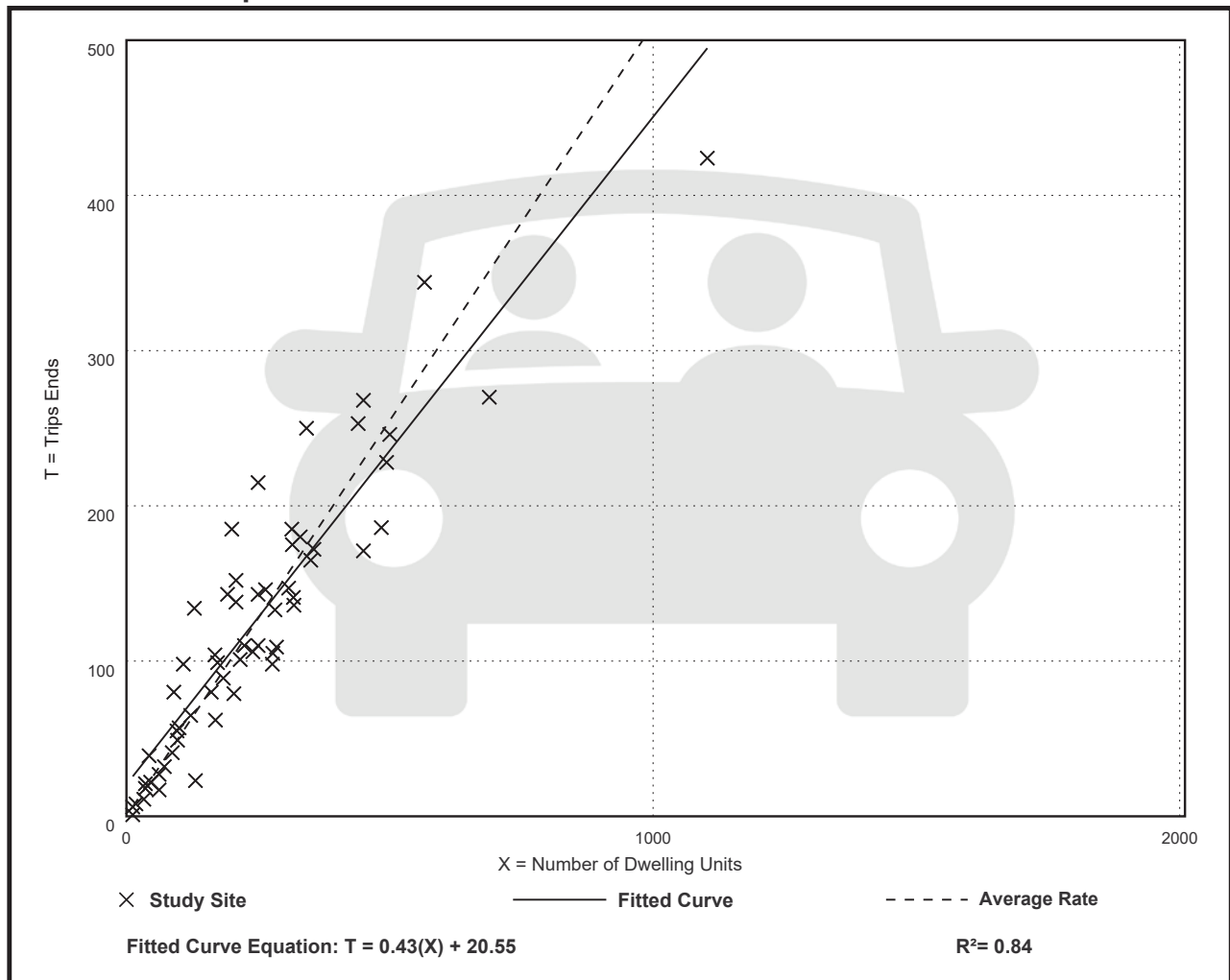
Avg. Num. of Dwelling Units: 241

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.51	0.08 - 1.04	0.15

Data Plot and Equation



City of Ashland TIA Requirement

TIA (Transportation Impact Analysis) – All land use actions that either propose direct or indirect access to a State highway or a boulevard will need to provide the City of Ashland with the information outlined below. The governing jurisdiction will then inform ODOT of the intended land use action and provide pertinent review material. These guidelines are intended to ensure that developments do not negatively impact the operation and/or safety of the roadway.

- A. Applicants must submit a preliminary site plan for review to the City of Ashland, prior to the pre-application conference. At a minimum, the site plan shall illustrate:
 1. The location of existing access point(s) on both sides of the road within 500 feet in each direction for Category 4 segments or 5 lane boulevards, and 300 feet for Category 5 segments and 3 lane arterials;
 2. Distances to neighboring constructed public access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property (this should include the section of roadway between the nearest upstream and downstream collector);
 3. Number and direction of site access driveway lanes to be constructed, as well as an internal signing and striping plan;
 4. All planned transportation features on the State highway/boulevard (such as auxiliary lanes, signals, etc.);
 5. Trip generation data or appropriate traffic studies (See the following section for the state's traffic impact study requirement thresholds.);
 6. Parking and internal circulation plan;
 7. Plat map showing property lines, right of way, and ownership of abutting properties;
 8. A detailed description and justification of any requested access variances;
- B. Proposed land use actions, new developments, and/or redevelopment accessing a State highway/boulevard, directly or indirectly (via collector or local streets), will need to provide traffic impact studies to the respective local reviewing jurisdiction(s) and ODOT, if the proposed land use meets one or more of the following traffic impact study thresholds. A traffic impact study will not be required of a development that does not exceed the stated thresholds.
 1. **Trip Generation Threshold:** 50 newly generated vehicle trips (inbound and outbound) during the adjacent street peak hour;
 2. **Mitigation Threshold:** Installation of any traffic control device and/or construction of any geometric improvements that will affect the progression or operation of traffic traveling on, entering, or exiting the highway;
 3. **Heavy Vehicle Trip Generation Threshold:** 20 newly generated heavy vehicle trips (inbound and outbound) during the day;
 4. All traffic impact studies will need to be prepared by a registered professional engineer in accordance with ODOT's development review guidelines.

C. Traffic Impact Study Requirements

1. The following is a summary of the Oregon State Highway minimum requirements for a traffic report. ODOT views the following requirements as the minimum considerations to be dealt with by Professional Traffic Engineering Consultants in their analysis of traffic impacts resulting from new developments adjacent to State highways.
2. The analysis shall include alternates other than what the developer originally submits as a proposal for access to state highways, city streets, and county roads.
3. The analysis of alternate access proposals shall include:
 - (a) Existing daily and appropriate design peak hour counts by traffic movements, at intersections which would be affected by traffic generated by the development (use traffic flow diagrams).
 - (b) Projected daily and appropriate design peak hour volumes for these same intersections, and at the proposed access points after completion of the development. If the development is to be constructed in phases, projected traffic volumes at the completion of each phase should be determined.
 - (c) Trip Generation shall be calculated using the Institute of Transportation Engineers' manual "TRIP GENERATION 5th Edition" or other, more current, and/or applicable information.
 - (d) A determination of the need for a traffic signal based on warrants in the "Manual on Uniform Traffic Control Devices."
4. The recommendations made in the report should be specific and shall be based on a minimum level of service "D" when the development is in full service. As an example, if a traffic signal is recommended, the recommendations should include the type of traffic signal control and what movements should be signalized. If a storage lane for right turns or left turns is needed, the recommendations should include the amount of storage needed. If several intersections are involved for signalization, and an interconnect system is considered, specific analysis should be made concerning progression of traffic between intersections.
5. The internal circulation of parking lots must be analyzed to the extent that it can be determined whether the points of access will operate properly.
6. The report shall include an analysis of the impacts to neighboring driveway access points and adjacent streets affected by the proposed new development driveways.
7. The report should include a discussion of bike and pedestrian usage and the availability of mass transit to serve the development.

Karl Johnson, E.I.T.
Assistant Engineer
City of Ashland

20 East Main St
Ashland, OR 97520
p. (541) 488-5347
f. (541) 488-6006
e. johnsonk@ashland.or.us



Oregon

Kate Brown, Governor

December 8, 2016

John and Glen Cooper
2478 Vineyard Road
Novato, CA 94947

Re: WD #2016-0283 Wetland Delineation Report for Clay Street,
Jackson County; T 39S R 1E S 11 TL 1100;
City of Ashland Local Wetland Inventory W13

Dear Mr. Cooper:

The Department of State Lands has reviewed the wetland delineation report prepared by K & C Environmental Services, Inc. for the site referenced above. Based upon the information presented in the report, and additional information submitted upon request, we concur with the wetland boundaries as mapped in revised Figure 5 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, two wetlands, totaling approximately 0.27 acres and a ditch were identified. The wetlands are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in the wetlands or below the ordinary high water line (OHWL) of a waterway (or the 2 year recurrence interval flood elevation if OHWL cannot be determined). The ditch is non jurisdictional per OAR 141-085-0515(9).

This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will review the report and make a determination of jurisdiction for purposes of the Clean Water Act at the time that a permit application is submitted. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

Kate Brown

Governor

Jeanne P. Atkins

Secretary of State

Ted Wheeler

State Treasurer

request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. Please phone me at 503-986-5246 if you have any questions.

Sincerely,



Chris Stevenson
Jurisdiction Coordinator

Approved by



Kathy Verble, CPSS
Aquatic Resource Specialist

Enclosures

cc: Steve Koskella, K & C Environmental Services, Inc.
City of Ashland Planning Department (Maps enclosed for updating LWI)
Omar Ortiz, Corps of Engineers
Bob Lobdell, DSL

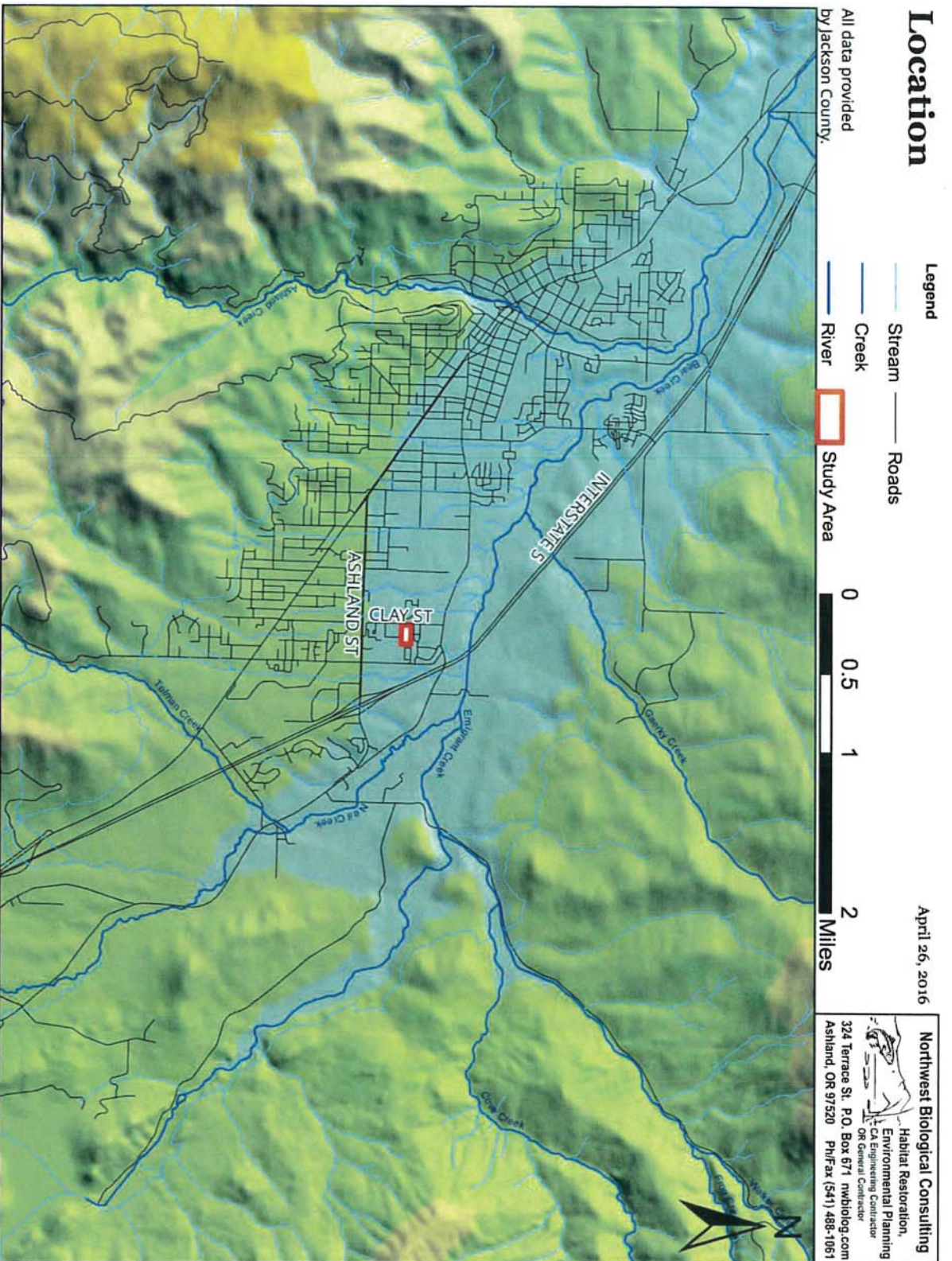


Figure 1

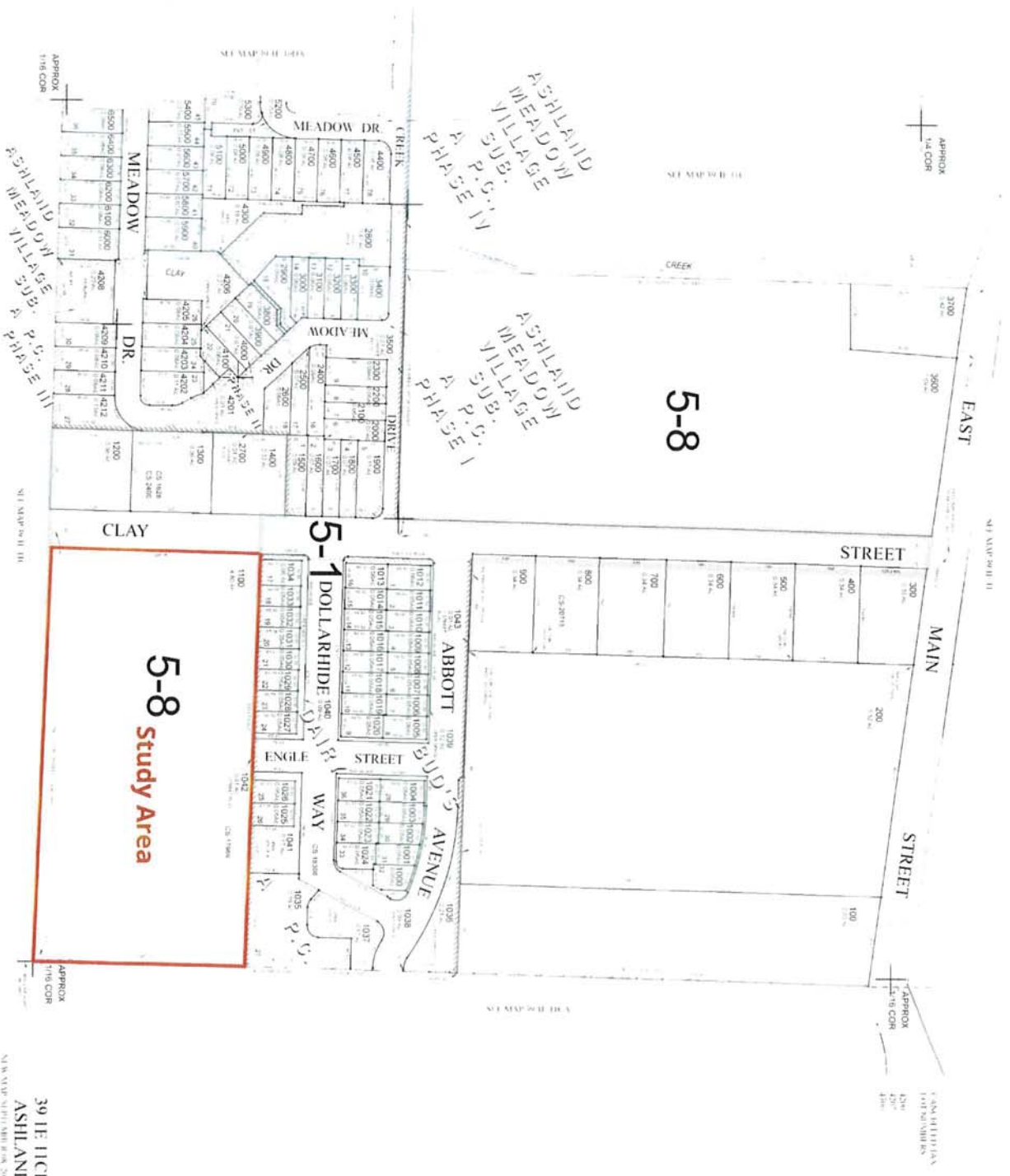


Figure 2

Wetland Delineation

July 3, 2016



Northwest Biological Consulting
Habitat Restoration,
Environmental Planning
CA Engineering Contractor
OR General Contractor
324 Terrace St., P.O. Box 671 nwbiolog.com
Ashland, OR 97520 Ph/Fax (541) 488-1661

Data plots, wetland boundary, and photo points, were mapped to submeter accuracy on the ground with a Trimble Geo XT GPS unit. All other data provided by Jackson County.

0 25 50 100 150 200 Feet



DBL WD # 2016-0283
Approval Issued 12-08-16
Approval Expires 12-08-21

Figure 5



Oregon

Tina Kotek, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

April 10, 2023

State Land Board

K&C Bentella LLC
Attn: Ryan Csaftis
7184 Aviara Drive
Carlsbad, CA 92011

Tina Kotek
Governor

Re: WD # 2022-0352 **Approved**
Wetland Delineation Report for Clay Street
Jackson County; T39S R1E S11CB TL1100
Ashland Local Wetlands Inventory, Wetland W13

Shemia Fagan
Secretary of State

Tobias Read
State Treasurer

Dear Ryan Csaftis:

The Department of State Lands has reviewed the wetland delineation report prepared by K&C Environmental Services Inc., for the site referenced above. Based upon the information presented in the report, and additional information submitted upon request, we concur with the wetland boundaries as mapped in revised Figure 5 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, one wetland (Wetland, totaling approximately 0.0096 acres) and one ditch (Ditch) were identified. The wetland is subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined). The ditch is exempt per OAR 141-085-0515(8); therefore, it is not subject to these state permit requirements.

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal, other state agencies or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact the Jurisdiction Coordinator for Jackson County, Matt Unitis, at (503) 986-5262.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Ryan", with a stylized flourish at the end.

Peter Ryan, SPWS
Aquatic Resource Specialist

Enclosures

ec: Steve Koskella, K&C Environmental Services, Inc.
City of Ashland Planning Department (Maps enclosed for updating LWI)
Kirsten Hines, Corps of Engineers
Lauren Stebbins, PWS, DSL

A complete report and signed report cover form, along with [applicable review fee](#), are required before a report review timeline can be initiated by the Department of State Lands. All applicants will receive an emailed confirmation that includes the report's unique file number and other information.

Ways to submit report:

- ❖ Under 50MB - A single unlocked PDF can be emailed to: wetland.delineation@dsl.oregon.gov.
- ❖ 50MB or larger - A single unlocked PDF can be uploaded to [DSL's Box.com](#) website. After upload notify DSL by email at: wetland.delineation@dsl.oregon.gov.
- ❖ OR a hard copy of the unbound report and signed cover form can be mailed to: Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279.

Ways to pay review fee:

- ❖ By credit card on [DSL's epayment portal](#) after receiving the unique file number from DSL's emailed confirmation.
- ❖ By check payable to the Oregon Department of State Lands attached to the unbound mailed hardcopy OR attached to the complete signed cover form if report submitted electronically.

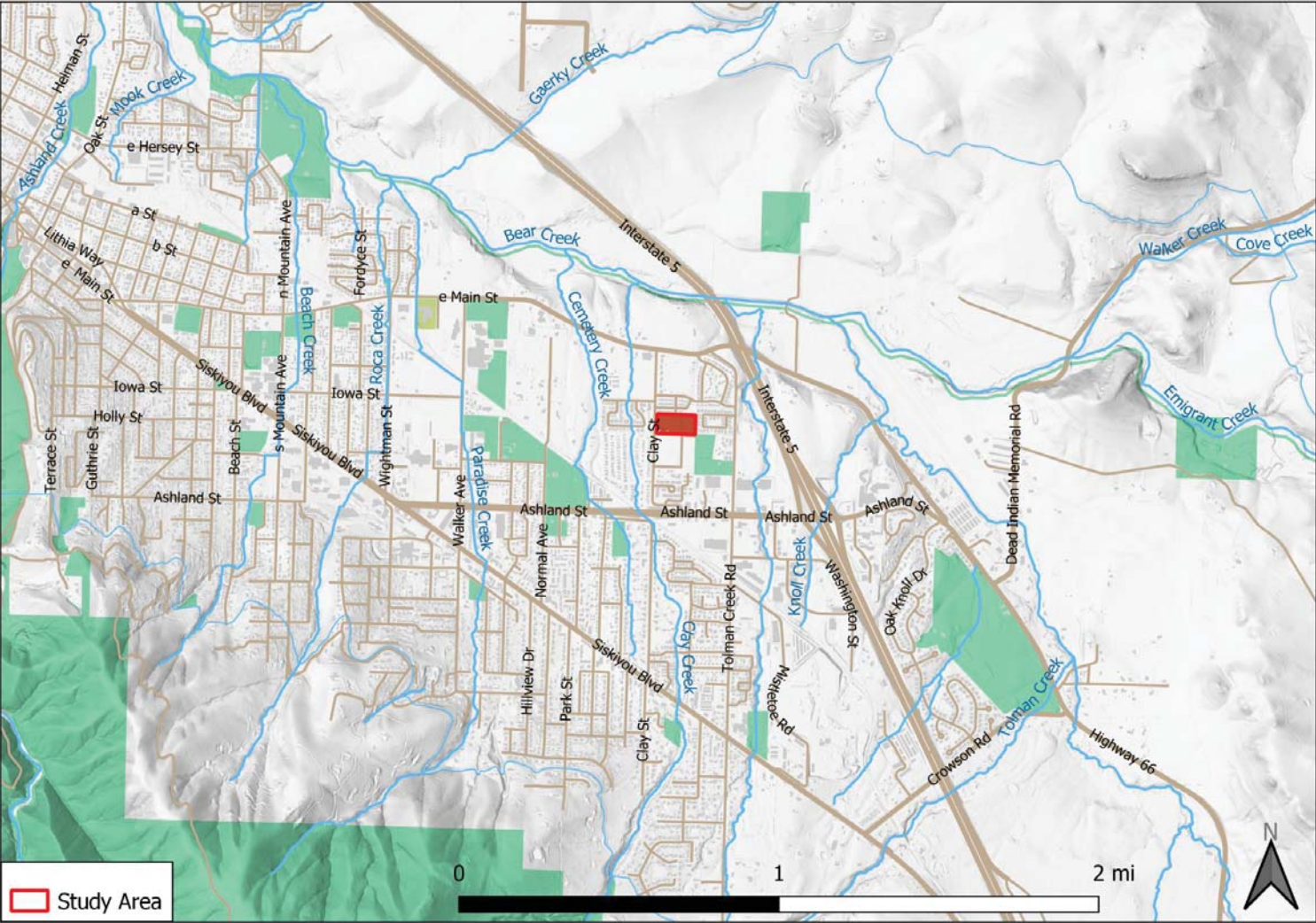
Contact and Authorization Information	
☒ Applicant ☐ Owner Name, Firm and Address: Bentella LLC 7184 Aviaara Drive Carlsbad, CA 92011	Business phone # (760) 485-4185 Mobile phone # (optional) E-mail: ryan@palomarcoast.com
☐ Authorized Legal Agent, Name and Address (if different):	Business phone # Mobile phone # (optional) E-mail:
I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.	
Typed/Printed Name: <u>Ryan Csaftis of Bentella LLC</u> Signature: <u>[Signature]</u>	
Date: _____ Special instructions regarding site access: _____	
Project and Site Information	
Project Name: <u>Clay Street</u>	Latitude: 42 Deg. 11' 23" N Longitude: 122 Deg. 40' 31" W decimal degree - centroid of site or start & end points of linear project
Proposed Use: <u>Residential Development</u>	Tax Map #391E11CB Tax Lot(s) 391 E11CB 1100
Project Street Address (or other descriptive location): <u>300 Clay Street</u>	Tax Map # Tax Lot(s)
City: <u>Ashland</u> County: <u>Jackson</u>	Township 39S Range R1E Section 11 QQ NW1/4 Use separate sheet for additional tax and location information
Waterway: _____ River Mile: _____	
Wetland Delineation Information	
Wetland Consultant Name, Firm and Address: K&C Environmental Services Inc. 215 Scenic Drive Ashland, OR 97520	Phone # Mobile phone # (if applicable) (541) 890-2438 E-mail: kcenvirom4@gmail.com
The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.	
Consultant Signature: <u>[Signature]</u>	Date: <u>6/13/22</u>
Primary Contact for report review and site access is ☒ Consultant ☐ Applicant/Owner ☐ Authorized Agent	
Wetland/Waters Present? ☒ Yes ☐ No Study Area size: 4.8 acres Total Wetland Acreage: 0.0096	
Check Applicable Boxes Below	
☐ R-F permit application submitted	☐ Fee payment submitted \$ _____
☐ Mitigation bank site	☐ Resubmittal of rejected report (\$100)
☐ EFSC/ODOE Proj. Mgr: _____	☐ Request for Reissuance. See eligibility criteria. (no fee)
☐ Wetland restoration/enhancement project (not mitigation)	DSL # _____ Expiration date _____
☒ Previous delineation/application on parcel If known, previous DSL # <u>WD#2016-0283</u>	☒ LWI shows wetlands or waters on parcel Wetland ID code <u>PEMC</u> <u>W13</u>
For Office Use Only	
DSL Reviewer: <u>MU</u>	Fee Paid Date: <u>07 / 01 / 2022</u>
Date Delineation Received: <u>06 / 23 / 2022</u>	DSL WD # <u>2022-0352</u>
DSL App.# _____	

RECEIVED
JUL 01 2022
RECEIVED \$ 500.⁰⁰
DEPARTMENT OF STATE LANDS
CK#7751

Figure 1: Location

June 6, 2022

All data from Jackson County GIS.



N.W.1/4 S.W.1/4 SEC.11 T.39S. R.1E. W.M.
JACKSON COUNTY
1" = 100'

391E11CB
ASHLAND

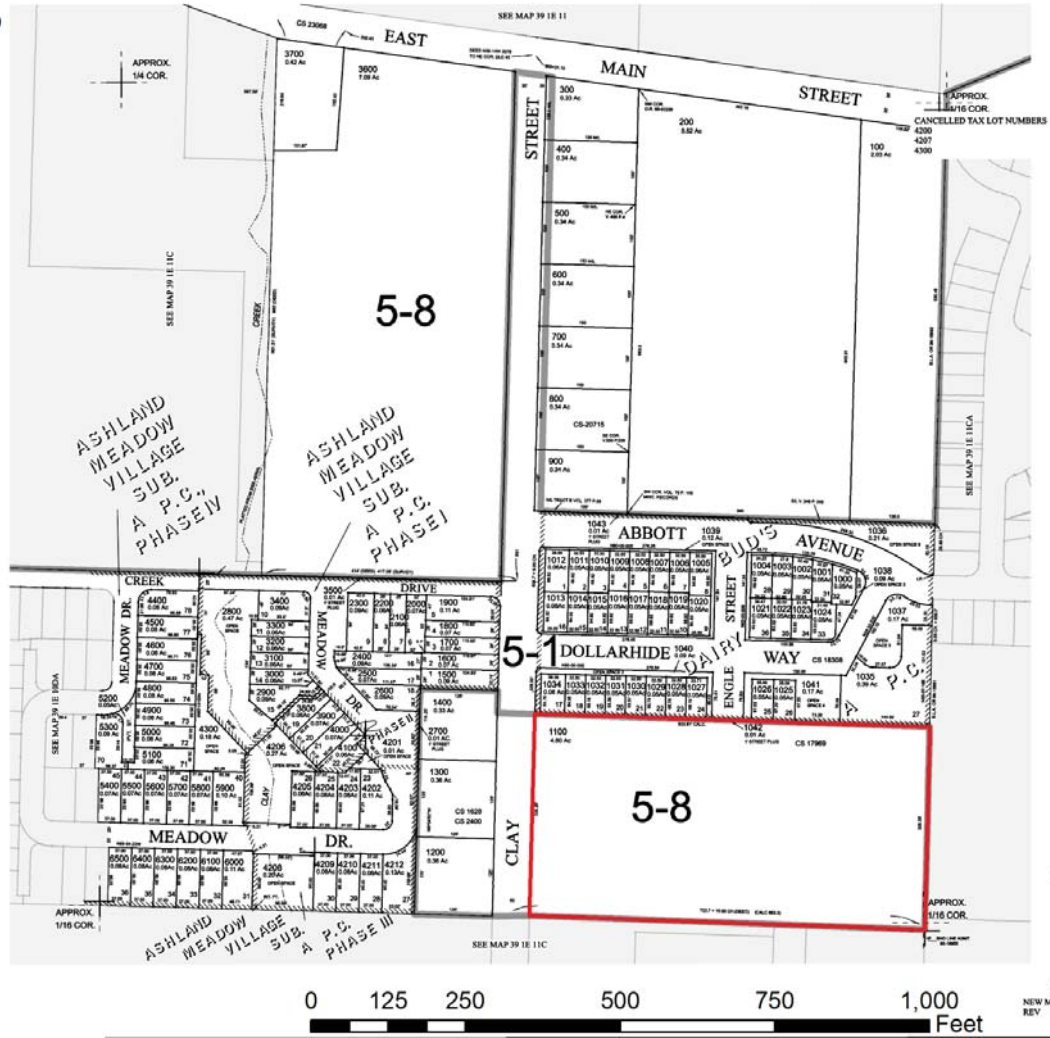
Figure 2: Assessor Map

June 6, 2022

Assessor map from Jackson County
Property Data Online. Study area
derived from tax lot polygon from
Jackson County GIS.

Legend

 Study Area



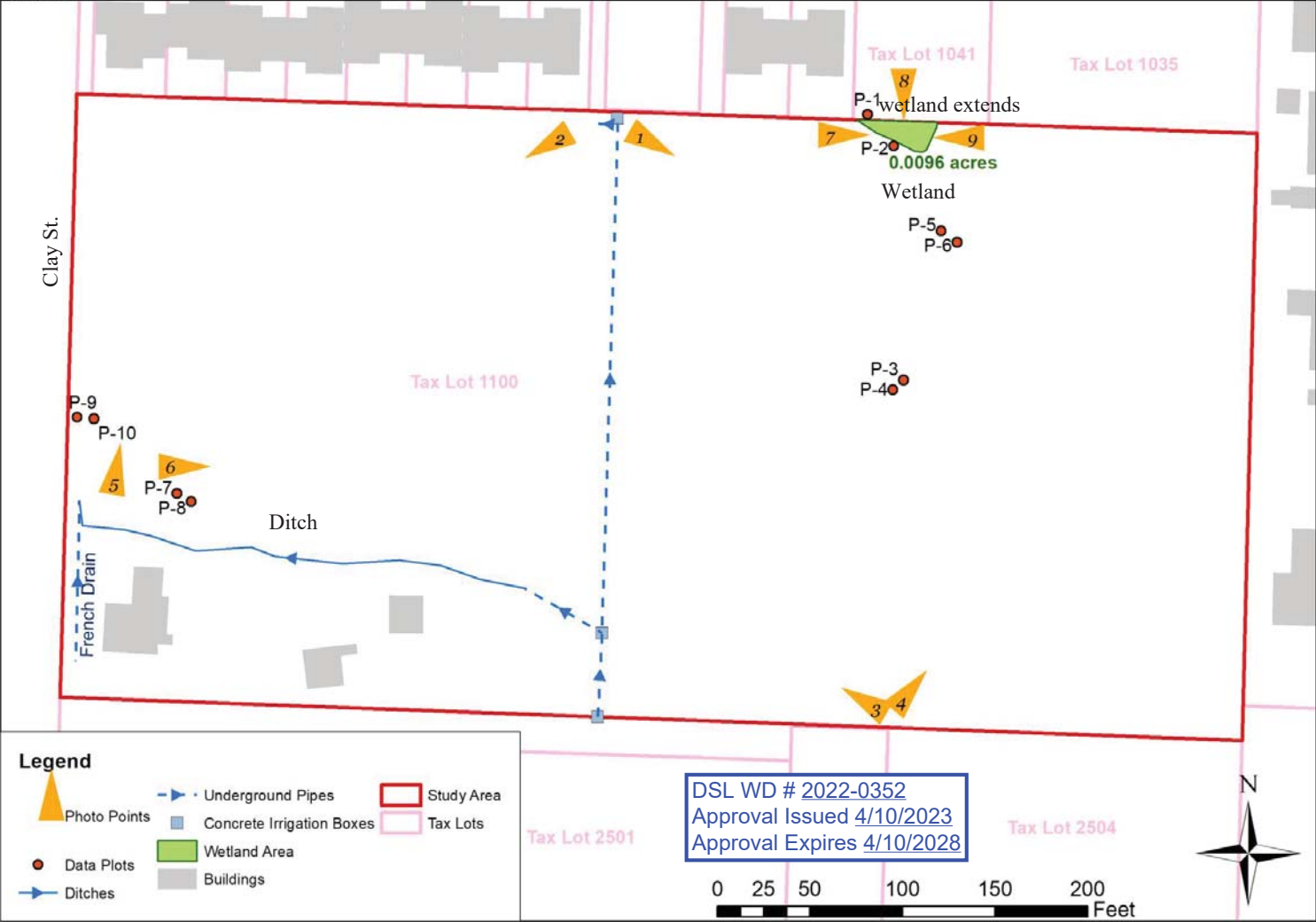
391E11CB
ASHLAND

NEW MAP September 8, 2008
REV November 22, 2010

Figure 5: Wetland Delineation

June 12, 2022

Data plots and wetland boundary were mapped to submeter accuracy on the ground with a Trimble Geo XT GPS unit. Photo point locations estimated from air photo. All other data provided by Jackson County GIS.



Aaron Anderson

From: Amy Gunter <amygunter.planning@gmail.com>
Sent: Thursday, January 30, 2025 12:35 PM
To: Aaron Anderson
Subject: Re: 300 Clay - Tree removal
Attachments: Tree Removals.pdf; Pine Tree.jpg; Pine and Cottonwood Trees - Clay Street.jpg; Cottonwood Tree.jpg

[EXTERNAL SENDER]

Hi Aaron,
Sorry for the lack of detail on the trees.

There are four to be removed. One is an 18" Pine, one is a 14" apple, one is a multi-stemmed Cottonwood tree that is 10" X 3 and the other is an 18" X 5 Cottonwood.

Attached are three photos showing the Pine, one with the Pine and the multi-stemmed 10" X 3 Cottonwood, and the other showing the larger cottonwood.

All of the off-site trees are protected with fencing on the property lines.

Thank you,
Amy

Amy Gunter
Rogue Planning & Development Services
541-951-4020
www.rogueplanning.com

This communication, including any attachments hereto or links contained herein, is for the sole use of the intended recipient(s) and may contain confidential or legally protected information. If you are not the intended recipient, you are hereby notified that any review, disclosure, copying, dissemination, distribution, or use of this communication is prohibited. If you have received this communication in error, please notify the sender immediately by return e-mail message and delete the original and all copies of the communication, along with any attachments from your system.

While Rogue Planning and Development Services, LLC strives to make the information in all reports as timely and accurate as possible, Rogue Planning makes no claims, promises, or guarantees about the accuracy, completeness, or adequacy of the contents of this report, and expressly disclaims liability for errors and omissions in the contents of this report.

On Thu, Jan 30, 2025 at 11:32 AM Aaron Anderson <aaron.anderson@ashland.or.us> wrote:

Hi Amy,

Thanks for your time on the phone just now...

As we discussed the findings state:

There are three deciduous trees that have a DBH of 12-inches or more that are proposed for

removal and one tree conifer tree greater than 16 inches DBH. These trees are within the area of the public streets, the alley and within the building envelope area of the development area of the lots. The tree removal is necessitated by the construction of public streets, an alley and residential dwellings.

Can you please use the attached plan and indicate which of the trees on that plan correspond with the proposed removals.

I need to get this sent out to the Tree MAC today so that they can review it next week, so if you can get this back to me quickly I'd appreciate it.

Thank you!

Aaron Anderson CFM, Sr. Planner

Pronouns he, him



City of Ashland

Community Development

51 Winburn Way, Ashland, Oregon 97520

541.552.2052 | TTY 800.735.2900

aaron.anderson@ashland.or.us

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

This email transmission is official business of the City of Ashland, and it is subject to Oregon Public Records Law for disclosure and retention. If you have received this message in error, please contact me at 541.552.2052

OTHER BUSINESS

**Ashland Modified Flood Zone
along Hamilton Creek**

Memo

From: Aaron Anderson, CFM, Senior Planner

To: Planning Commission

Date: February 11, 2025

RE: Ashland Modified Flood zone along Hamilton Creek



Summary

Staff requests that the Planning Commission initiate a planning action as allowed by AMC 18.5.8.040 to make an amendment to the officially adopted maps of the “Ashland Modified Floodplain.” The reason for this amendment is that it has come to Staff’s attention that the stretch of Hamilton Creek, while shown on the official maps, was adopted in error sometime between 2008 and 2010. Direction from the Commission would initiate an amendment as a city-initiated action to correct a mapping error effecting multiple properties along the full length of the mapped Ashland modified floodplain corridor for Hamilton Creek but would not alter the FEMA-regulated floodplain.

Introduction

Opportunities for Housing, Resources, & Assistance (OHRA) operates at 2350 Ashland St. in the former Super 8 Motel. The property is shown at right with both the FEMA A flood zone as well as the hatched “Ashland Modified Floodplain.”

OHRA have plans to expand and construct additional facilities in areas shown to be covered in the adopted “Ashland Modified Floodplain.” In preparation for those additions, they have been in contact with city staff who advised that a map amendment was required. In preparing for an application of a map amendment their land use consultant did extensive research into the history of the Hamilton Creek portion of the Ashland Floodplain.

The Physical & Environmental (P&E) Constraints Map has been updated three times in recent history, 2008, 2010, and then again in 2017. The stretch of Hamilton Creek is not shown on the



COMMUNITY DEVELOPMENT DEPARTMENT

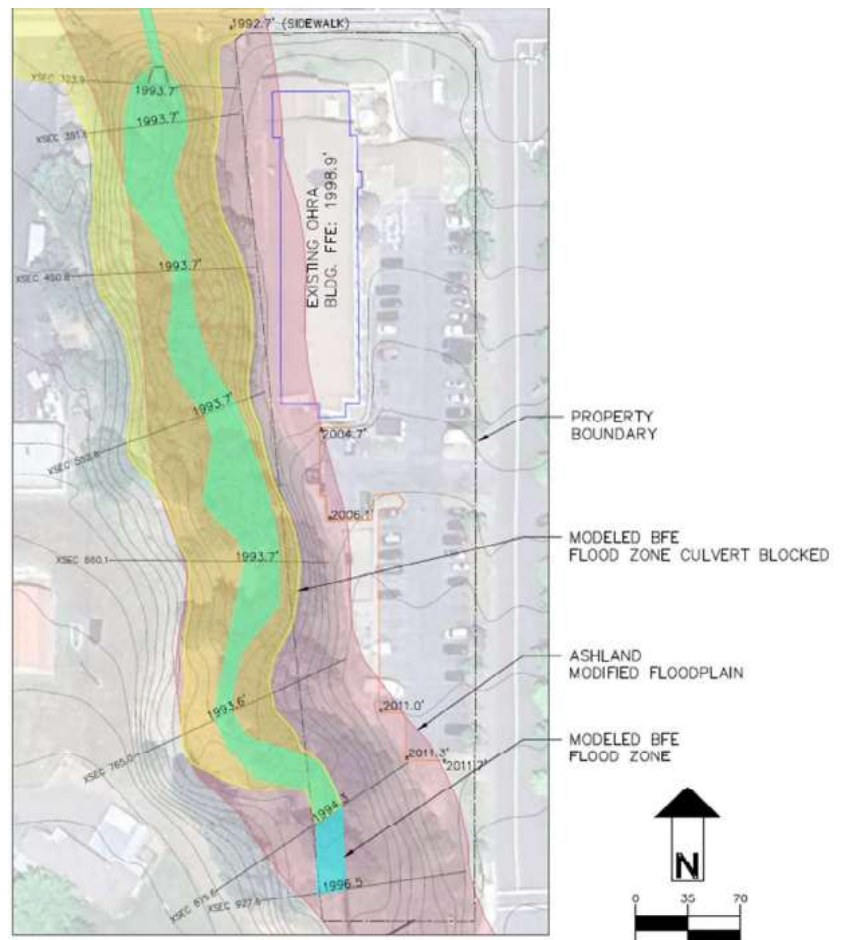
51 Winburn Way Tel: 541.488.5305
Ashland Oregon 97520 Fax: 541.552.2050
Ashland.or.us TTY: 800.735.2900

2008 map, but then starting in 2010 Hamilton Creek is shown to have the “Ashland Modified Floodplain” as well as the 2017 map.

Based on the research from OHRA’s land use consultant, as well as meta data recorded to the GIS file, staff believe that the Hamilton Creek section of the Ashland Modified Flood plain was added sometime following the approval of the 2008 map at the request of the Planning Department. Subsequent updates addressing the official maps in 2010 (with the adoption of the Water Resource Protection Zones) and again in 2017 (updating the FEMA maps) did include Hamilton Creek, but this was not discussed in the findings. Therefore, it appears to be a graphical error to have Hamilton Creek covered by the Ashland Floodplain.

In addition to research into the history of the adopted maps OHRA has also undertaken an Engineering Hydraulics Report prepared by Rogue Tech Civil Engineering. This report shows that even with the culvert under Ashland Street completely blocked the modeled Base Flood Elevation (BFE) is well below the high bank, as such the extent of the “Ashland Modified Floodplain” far exceeds the area that is at risk of inundation during a base flood event even under the most dire conditions (culvert blocked).

Shown at right is the modeled BFE with the Ashland Street culvert blocked during a base flood event.



Conclusion

When considering both the legislative history as well as the engineering report provide staff believe that the correct course of action is to amend the officially adopted maps removing the ‘Ashland Modified Floodplain from this portion of Hamilton Creek. At the Planning Commission’s request, staff will prepare findings to amend the official maps so that they can then be forwarded to the City Council for their approval.

COMMUNITY DEVELOPMENT DEPARTMENT

51 Winburn Way Tel: 541.488.5305
Ashland Oregon 97520 Fax: 541.552.2050
Ashland.or.us TTY: 800.735.2900