Planning Commission Minutes

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

February 11, 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. Commissioner Perkinson attended the meeting via Zoom.

Commissioners Present:
Lisa Verner
Eric Herron
Gregory Perkinson
Russell Phillips
Susan MacCracken Jain
Kerry KenCairn
John Maher

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

Absent Members:

Council Liaison:
Doug Knauer

II. ANNOUNCEMENTS

1. **Staff Announcements** - None
2. **Advisory Committee Liaison Reports** – None

III. CONSENT AGENDA

1. **Approval of Minutes**
   a. January 14, 2025, Regular Meeting

Commissioners Phillips/KenCairn m/s to approve the Consent Agenda as presented. Voice Vote: All AYES. Motion passed 7-0.

IV. PUBLIC FORUM – None

V. INFINISHED BUSINESS

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

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

Ex Parte Contact

No ex parte contact was disclosed.

Deliberations

Chair Verner asked if Commission Maher had reviewed the January 14, 2025 Regular meeting recording, minutes, and materials in order to vote on the findings. Commission Maher confirmed that he had.

Commissioners KenCairn/Herron m/s to approve the findings as presented. Roll Call Vote: All AYES. Motion passed 7-0.

VI. TYPE II PUBLIC HEARING – CONTINUED

A. 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

A. Settlement of the Record

Chair Verner stated that the Public Hearing had been closed at the January 14, 2025 meeting but that the record had been left open at the request of the applicant to allow for additional comments to be submitted. The Public Record was left open such that only parties-of-record - defined as individuals or entities who have previously provided written or oral testimony on the matter – would be permitted to submit written testimony by 4:30 p.m. on January 22, 2025. Any party-of-record would have until 4:30 p.m. on January 30, 2025 to offer a rebuttal to those comments received by January 22. The applicant would have until 4:30 p.m. on February 7, 2025 to offer final arguments or comments on any materials submitted.

Chair Verner asked the Commission to determine whether written testimony received by non-parties-of-record between January 15, 2025 and January 22, 2025 should be included in the record (see attachment #1).

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Commissioners Phillips/Maher m/s to include written testimony received by non-parties-of-record between January 15, 2025 and January 22, 2025 in the record. Roll Call Vote: All AYES. Motion passed 7-0.

Chair Verner asked the Commission to determine whether written testimony received by non-parties-of-record between January 23, 2025 and January 30, 2025, after the record was closed, should be included in the record (see attachment #2).

Commissioners KenCairn/Phillips m/s to exclude written testimony received by non-parties-of-record between January 23, 2025 and January 30, 2025 from the record. Roll Call Vote: All AYES. Motion passed 7-0.

Chair Verner stated that the applicant had submitted materials challenging four comments that had been submitted into the record and had requested that those comments be stricken or redacted from the record as they contained new evidence(see attachment #3).

Commissioner Phillips noted that the Commission had received a request from Rob Patridge to extend the comment period to allow for additional testimony, and asked how an extension would affect the project's application timeline (see attachment #4). Mr. Goldman explained that a further extension of the timeline could push the application past the 120-day deadline for the City to render a decision, which could result in the application automatically being approved. The Commission determined that the record should not be reopened.

Commissioners Phillips/KenCairn m/s to exclude portions of the January 29, 2025 letter from Sydnee Dreyer, an attachment to a letter submitted on January 29, 2025 by Maylee Oddo and Brock Dumont, Exhibit C of a January 30, 2025 letter from Rob Patridge, and the January 30, 2025 memorandum from the City of Ashland Planning Staff.
DISCUSSION: Commissioner MacCracken Jain requested clarification regarding Mr. Patridge's January 30 submittal and his contention that it should be retained in the record. Mr. Goldman responded that Mr. Patridge had submitted a records request to the Oregon Health Authority seeking information regarding the applicant's project, but had not received the requested information until January 24. Mr. Patridge argued in a February 11, 2025 letter to staff that the information he submitted on January 30th should be included in the record since the lateness of the submittal was outside of his control, and because the information contained within was already known to the applicant. Mr. Goldman pointed out that, while this information was known to the applicant, it was not known to the Commission, and thus constituted new information submitted into the record after the January 22 deadline had expired. **Roll Call Vote: All AYES. Motion passed 7-0.**

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Ex Parte Contact

No ex parte contact was disclosed.

B. Deliberations

Commissioner MacCracken Jain motioned that a Peer Respite Center most closely resembled a Group Living facility. The motion died for lack of a second.

Commissioners KenCairn/Maher m/s that the application most similarly resembled a travelers accommodations, which is a short-term stay of less than 30 day and does not qualify as residential dwelling. DISCUSSION: Commissioner MacCracken Jain stated that the short-term duration is a singular disqualifier in terms of reasonable accommodation, and is overly harsh as there are additional aspects to it, including the collection of fees or whether food or services are provided. **Roll Call Vote: Commissioners KenCairn, Maher, Phillips, Herron, Perkinson, and Verner: AYE. Commissioner MacCracken Jain: NAY. Motion passed 6-1.**

The Commission considered the applicant's request for a reasonable accommodation. Regarding this issue, Commissioner KenCairn noted that cities are not required to disregard their own land use ordinances in order to grant reasonable accommodation requests and suggested that the application failed the two tests required for approval. Chair Verner stated that approving the proposal would alter RR.5 Zones, adding that the purpose of zones is to have orderly locations of uses after logical review and that allowing particular uses in zones where they would otherwise be unpermitted would alter the zone and require a code amendment process.

Commissioners Perkinson/Phillips m/s to deny the application on the basis that a reasonable accommodation does not apply to traveler's accommodations. DISCUSSION: Chair Verner requested clarification on why a reasonable accommodation would not apply. Commissioner Phillips responded that the facility would not be a residence. **Roll Call Vote: All AYES. Motion passed 7-0.**

VII. TYPE III PUBLIC HEARING

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

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Ex Parte Contact

Commissioners Herron, Perkinson, Phillips, and Verner conducted site visits. No ex parte contact was disclosed.

Staff Presentation

Planning Manager Derek Severson outlined the application as including the following requests: an Annexation/Zone change for the 4.8-acre property and adjacent right-of-way (ROW), with eight units designated as affordable housing; Outline Plan approval for a Performance Standards Options (PSO) subdivision; a Limited Activities & Uses Permit for public utilities with the Water Resource Protection Zone (WRPZ); and a Tree Removal Permit to remove four non-hazard trees. The application also requested an Exception to AMC 18.5.8.050.G.3 which requires the affordable units to have a comparable mix of bedrooms to market-rate units. The applicant asserted that they are building the proposed townhomes as rental units, but that they cannot control future developments of attached single-family residential units (see attachment #4). Mr. Severson suggested that, if the Commission were to reject the Exception request, it could add a condition of approval addressing the Final Plan and requiring deed restrictions to meet the affordable bedroom maximum.

Mr. Severson stated that the existing wetland area is significantly smaller than it appears in the City's wetlands inventory, and therefore the applicant has proposed to treat the existing wetland area on the north end of the property as a possible wetland, with a delineating line and 20ft open space buffer. He stated that the Tree Management Advisory Committee recommended approval to remove the four trees requested.

Staff recommended the Commission make a favorable recommendation to the City Council with the six conditions suggested in the staff report.

Questions of Staff

The Commission questioned if the proposed development would satisfy its affordable housing obligations. Commissioner MacCracken Jain questioned granting the applicant's request for an Exception to AMC 18.5.8.050.G.3 due to their stated inability to control the future development of the subdivision.

Applicant Presentation

Applicant Amy Gunter outlined the proposed annexation and subdivision, stating that this project would provide needed housing, would allow for the future growth of Ashland as outlined in the City's Comprehensive Plan, and would comply with the applicable ordinance AMC 18.5.8.050. She stated that the proposed 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, and four open space parcels. She

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noted that the trip generation assessment found that the proposed development is below the requirements for a complete Traffic Impact Analysis (TIA) to be conducted, but that a nearby bus-stop and multiple dispersal points via adjacent neighborhoods would help alleviate traffic. She stated that all required public infrastructure extensions for provisions of city water and electric service are proposed.

Questions of the Applicant

The Commission requested clarification regarding the affordable housing townhomes proposed by the applicant. Ms. Gunter responded that all the 2-bedroom townhomes would likely be kept by the owner as rental units, though they could be sold.

Public Comments

Public speakers Fred Stapenhorst, Suzanne Marie, and Pauline Short all expressed concerns regarding traffic, fire evacuation access, and wetland protection.

Applicant Rebuttal

Ms. Gunter stated that the wetland was found to be smaller than earlier thought, which was codified in a wetland map adoption in 2022. She added that a water-dispersal trench could be installed to provide additional watering to the wetland areas. She noted that the wetland would not be bisected by the proposed street.

She stated that the multi-family dwelling units would have fire suppression systems and fire-resistant exteriors, though she could not speak to fires in the valley.

Chair Verner closed the Public Hearing and Public Record at 8:57 p.m.

Deliberations

Commissioner Phillips asked what the City's responsibility is to man-made wetlands. Mr. Goldman responded that the applicant is required to delineate the current wetland and provide a 20ft buffer.

Commissioners Perkinson/KenCairn m/s to accept staff's recommendation and recommend that the City Council approve the annexation and approve the outline plan with conditions as proposed in the staff report, correcting a non-substantive error in the proposed conditions, and with the addition of a 7th condition stating "*that the final plan submittal shall identify a mix of bedrooms for the affordable units comparable to the bedroom mix of the market rate units and include necessary deed restrictions to ensure compliance.*" DISCUSSION: Commissioner Phillips noted that the applicant had mentioned a financial benefit for all the duplexes to be two-bedroom, and expressed concern about creating additional restrictions to obtain financing for affordable housing. Commissioner KenCairn responded that deed restrictions would only affect future single-family homes and not the townhomes. **Roll Call Vote: All AYES. Motion passed 7-0.**

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VIII. OTHER BUSINESS

Ashland Modified Flood Zone along Hamilton Creek

Staff requested 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. If initiated, final approval would go back before the Commission and Council for adoption.

Commissioners Phillips/Herron m/s for staff to prepare an amendment officially adopting maps removing the Ashland modified floodplain from the subject portion of Hamilton Creek. Voice Vote: all AYES. Motion passed 7-0.

IX. OPEN DISCUSSION

The Commission discussed the recent Commission and Committee Handbook updates and how those effect term limits and members attending meetings virtually.

X. ADJOURNMENT

Meeting adjourned at 9:12 *p.m.*

Submitted by,
Michael Sullivan, Executive Assistant

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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

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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 our 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 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 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. 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	*Field not completed.*
Attachment 2	*Field not completed.*
Attachment 3	*Field not completed.*

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	*Field not completed.*
Attachment 2	*Field not completed.*
Attachment 3	*Field not completed.*

Email not displaying correctly? View it in your browser.

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 polices 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 protype 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

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 Commision
>
> 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

Jennifer M. Bragar
Attorney
Admitted in Oregon, Washington, and California
jbragar@tomasilegal.com

TOMASI BRAGAR DUBAY

121 SW Morrison Street, Suite 1850
Portland, Oregon 97204
Tel 503-894-9900
Fax 971-544-7236
www.tomasilegal.com

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 re-opening 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.

O'CONNOR WEST | LLC
541.702.5350 | 670 G STREET, SUITE B, JACKSONVILLE, OR 97530

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 pre-empt 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 25,0000 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, ithas 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

O'CONNOR WEST | LLC
541.702.5350 | 670 G STREET, SUITE B, JACKSONVILLE, OR 97530

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 pre-empt 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 25,0000 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 and 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 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.
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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

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 say 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 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 an 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,



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

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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

2025-0023 023 01/13/2025

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

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.

Michael Sullivan

From: Rob Patridge <rob@patridge.com>
Sent: Tuesday, February 11, 2025 5:00 PM
To: Michael Sullivan; Derek Severson; Brandon Goldman
Cc: Sydnee Dreyer
Subject: Re: 110 Terrace - Public Comments
Attachments: 2025-02-04_Public Comment_Bragar.pdf

[EXTERNAL SENDER]
Michael, Derek & Brandon,

I am now in Salem. To quickly answer the issues raised by the proponent.

Exhibit B should not be struck from any record. I subbmitted Exhibit B into the public record during my in persontestimony and should be able to reference the materials and argue them.

Exhibit C was requested by the Oregon Health Authority prior to my public testimony. I recieved the information in Exhibit C from OHA's attorney on January 24, 2025. There was no way to recive the information sooner. I and my neighboors will be unfairly predudiced without the information provided to the State of Oregon on January 24, 2025 being entered into the record. I would request that the planning commission continue the hearing to give the proponents time to respond. Be reminded I only submitted evidence that was submitted by the proponent so it is not as if they did not know the evidence existed, it is actually email and documents they created.

Thanks you for your consideration.

Best,

Rob

Rob Patridge
Email: rob@patridge.com
Website: www.robpatridge.com
Phone: 541-840-1600
Fax: 541-646-7037

> On Feb 11, 2025, at 11:35 AM, Michael Sullivan <michael.sullivan@ashland.or.us> wrote:
>
> Good morning Rob and Sydnee,
>
> Attached is the public comment that staff received from the applicant's legal team as part of their final arguments in which they requested that certain comments be redacted from the record.

Thank you,

Michael Sullivan
Executive Assistant
Pronouns he, him

City of Ashland
Community Development Department
51 Winburn Way, Ashland, Oregon 97520
541.552.2072 | TTY 800.735.2900
Michael.sullivan@ashlandoregon.gov

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) 552-2072. Thank you.

Jennifer M. Bragar
Attorney
Admitted in Oregon, Washington, and California
jbragar@tomasilegal.com

TOMASI BRAGAR DUBAY

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Portland, Oregon 97204
Tel 503-894-9900
Fax 971-544-7236
www.tomasilegal.com

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 re-opening 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.

O'CONNOR WEST | LLC
541.702.5350 | 670 G STREET, SUITE B, JACKSONVILLE, OR 97530

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 pre-empt 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 25,0000 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, ithas 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

O'CONNOR WEST | LLC
541.702.5350 | 670 G STREET, SUITE B, JACKSONVILLE, OR 97530

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 pre-empt 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 25,0000 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 and 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 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.

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

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 say 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 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 an 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,



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

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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

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.


CITY OF
ASHLAND
Better Together



300 Clay Street Annexation

PLANNING COMMISSION

FEB 11, 2025

300 Clay Street Request

Annexation/Zone Change for a 4.8-acre property, along with adjacent right-of-way (ROW). Annexations require that at least 25 percent of the base density be provided as affordable housing. Here, eight affordable housing units are proposed at 80 percent of area median income (AMI) to meet this requirement.

29-lot (37 dwelling unit) **Outline Plan approval** for a Performance Standards Option (PSO) subdivision.

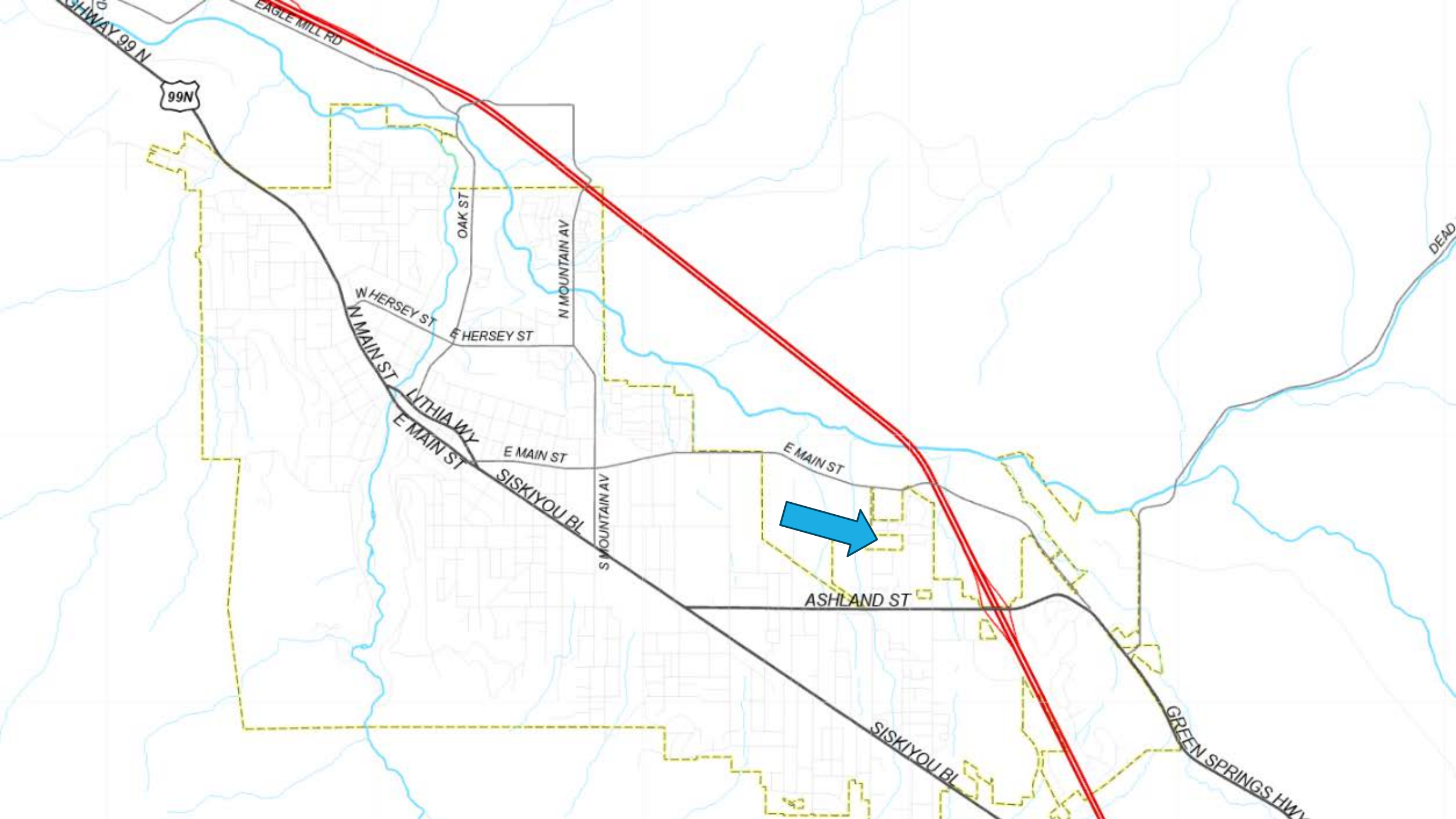
Limited Activities & Uses Permit for public utilities within the Water Resource Protection Zone (WRPZ).

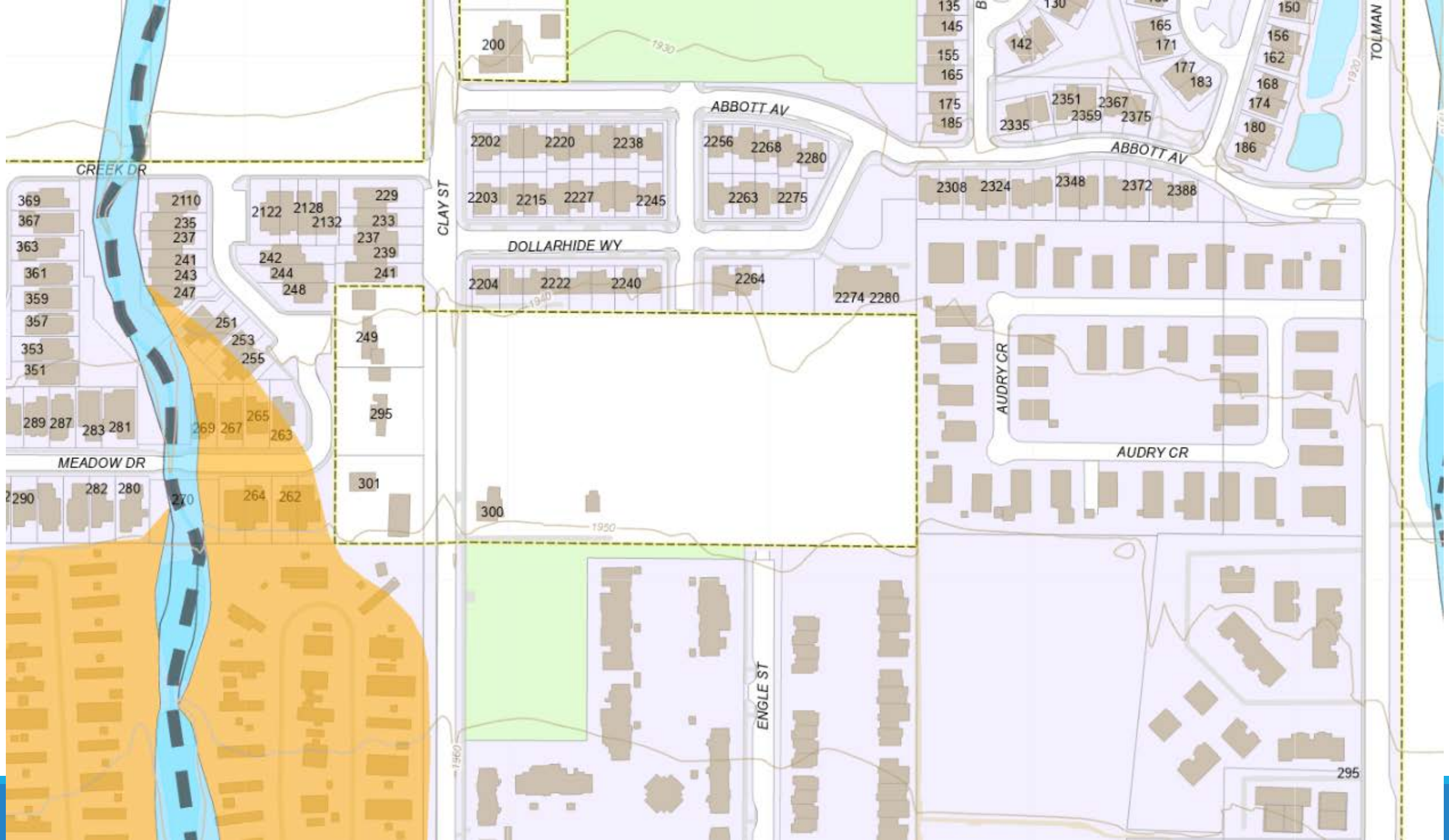
Tree Removal Permit to remove four non-hazard trees within proposed rights-of-way or building envelopes. *(Tree MAC had no issues.)*

300 Clay Street Request*

Exception to AMC 18.5.8.050.G.3 which requires the affordable units to have a comparable mix of bedrooms to the market rate units. [*Not addressed in staff report*.]

- Market rate units are a mix of attached and detached 2-, 3- & 4-bedroom units. Affordable are proposed as only 2-bedroom townhomes.
- Applicant asserts they are building townhomes as rentals, but can't control future development of attached SFR's.
- IF Commission rejects this Exception, could condition to address with Final Plan AND require deed restrictions to meet the affordable bedroom mix.


HIGHWAY 99 N
99N
EAGLE MILL RD
OAK ST
N MOUNTAIN AV
W HERSEY ST
E HERSEY ST
N MAIN ST
LYTHIA WY
E MAIN ST
E MAIN ST
E MAIN ST
SISKIYOU BL
S MOUNTAIN AV
ASHLAND ST
SISKIYOU BL
GREEN SPRINGS HWY


CREEK DR
MEADOW DR
CLAY ST
DOLLARHIDE WY
ABBOTT AV
ABBOTT AV
AUDRY CR
AUDRY CR
ENGLE ST
TOLMAN
200
1930
2202
2220
2238
2203
2215
2227
2245
2256
2268
2280
2263
2275
2204
2222
2240
2264
2274
2280
1940
2308
2324
2348
2372
2388
2335
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1950
1960
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262
295


Wed Jul 3 2024
Imagery © 2025 Nearmap, HERE
50 ft
Nearmap

PRELIMINARY SUBDIVISION

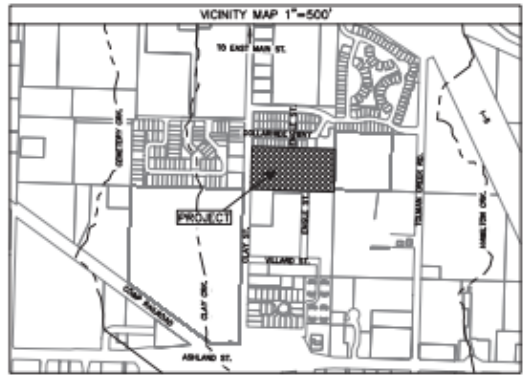
CALDERA OAKS

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: 07-12-2022
CONTOUR INTERVAL = 1'
SCALE: 1"= 30'

LEGEND

- COMM PEDESTAL (CABLE, TELEPHONE)
- 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
- UGE — UNDERGROUND ELECTRIC
- T — UNDERGROUND COMMUNICATIONS
- SS — UNDERGROUND SEWER
- SD — UNDERGROUND STORM
- G — UNDERGROUND GAS
- W — UNDERGROUND WATER
- TREE (SEE TREE TABLE)
- PUE — PUBLIC UTILITY EASEMENT
- PPAE — PUBLIC PEDESTRIAN ACCESS EASE.
- PSDE — PRIVATE STORM DRAINAGE EASEMENT
- CONCRETE SURFACE
- ASPHALT SURFACE

PROJECT NOTES:

1. BASIS OF BEARING WAS DETERMINED BY RTK (REAL TIME KINEMATIC) GPS OBSERVATIONS ORIENTATED TO TRUE GEODETIC NORTH.
2. VERTICAL DATUM IS NGVD(88) AND IS BASED ON CITY OF ASHLAND BENCHMARK "CPS FT. 908", A 3-1/2" BRASS CAP IN THE TOP OF CURB LOCATED IN THE SOUTHWEST QUADRANT OF THE INTERSECTION OF EAST MAIN ST. AND CLAY ST, HAVING A RECORD ELEVATION OF 1912.379' .
3. BOUNDARY LINES SHOWN REPRESENT A FULLY RESOLVED BOUNDARY.
4. UTILITIES SHOWN HEREON ARE FROM FIELD SURVEY TIES OF LOCATE PAINT PER O.U.N.C. TICKET #22190767. 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. 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. *NO LOCATE PAINT FOUND FOR EXISTING CABLE/TELE PEDESTALS ALONG CLAY STREET*
5. EASEMENTS SHOWN ARE FOR TITLE REPORTS PROVIDED BY THE CLIENT. NO OTHER EASEMENT RESEARCH WAS PERFORMED AND NO CLAIM IS MADE THAT ALL EASEMENTS OF RECORD ARE SHOWN HEREON. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO OTHER EASEMENTS AND RESTRICTIONS.
6. CONTOURS ARE 1' INTERVALS.

EASEMENTS SHOWN IN FIRST AMERICAN POLICY NO. 3801852 EFFECTIVE DATE: APRIL 07, 2022.

- #8. THESE PREMISES ARE SITUATED IN THE TALENT IRRIGATION DISTRICT, AND SUBJECT TO THE LEVIES AND ASSESSMENTS THEREOF, WATER AND IRRIGATION DITCHES, EASEMENTS FOR DITCHES AND CANALS AND REGULATIONS CONCERNING THE SAME.
- #11. EASEMENT FOR ELECTRIC TRANSMISSION AND DISTRIBUTION LINES, AND RELATED MATTERS: VOL. 231, PG. 389 – BLANKET IN NATURE AND NOT LOCATABLE.
- #13. IRREVOCABLE CONSENT TO ANNEXATION TO THE CITY OF ASHLAND, DOT. NO. 93-42568

TREE TABLE			
POINT #	TYPE	DIAMETER	NOTES
1269	CONIFER	16"	
1289	CONIFER	12"	
1313	CONIFER	10"	
1314	CONIFER	10"	
1315	CONIFER	18"	
1379	CONIFER	15"	
1380	CONIFER	15"	
1383	CONIFER	12"	

TREE TABLE			
POINT #	TYPE	DIAMETER	NOTES
1199	Oak	16"	DEAD
1215	DECIDUOUS	6"	
1236	DECIDUOUS	6"	
1276	DECIDUOUS	3"	
1277	DECIDUOUS	3"	
1280	DECIDUOUS	3"	
1408	APPLE	10"	
1417	APPLE	6"	

TREE TABLE			
POINT #	TYPE	DIAMETER	NOTES
1421	DECIDUOUS	6"	
1448	CONIFER	12"	
1489	DECIDUOUS	12"	GROUPED
1504	DECIDUOUS	12"	GROUPED
9001	DECIDUOUS	18"	
9002	DECIDUOUS	15"	
9003	DECIDUOUS	18"	
9004	CONIFER	12"	

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 10, 2018
PHILIP J. GROSSOS
90718
RENEWS: 12-31-2023

GRAPHIC SCALE
30 0 15 30 60
(IN FEET)
1 INCH = 30 FEET

TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS
274 FOURTH STREET
ASHLAND, OREGON 97520
(541) 482-6474
tamain@blsp.net

JOB NO. 1635-22

ASSESSOR'S MAP NO. 39 1E 11 CB, TAX LOT 1100

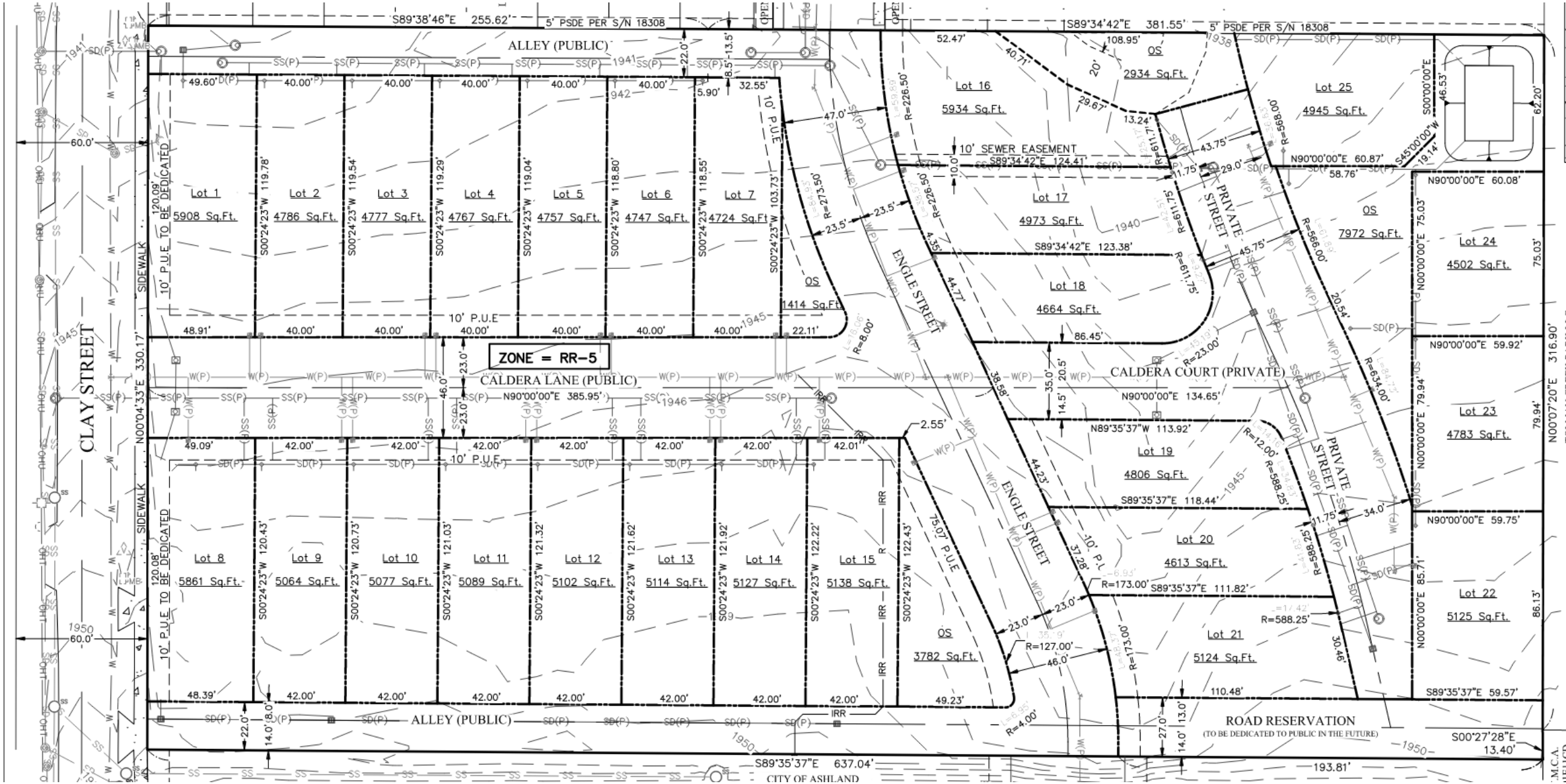
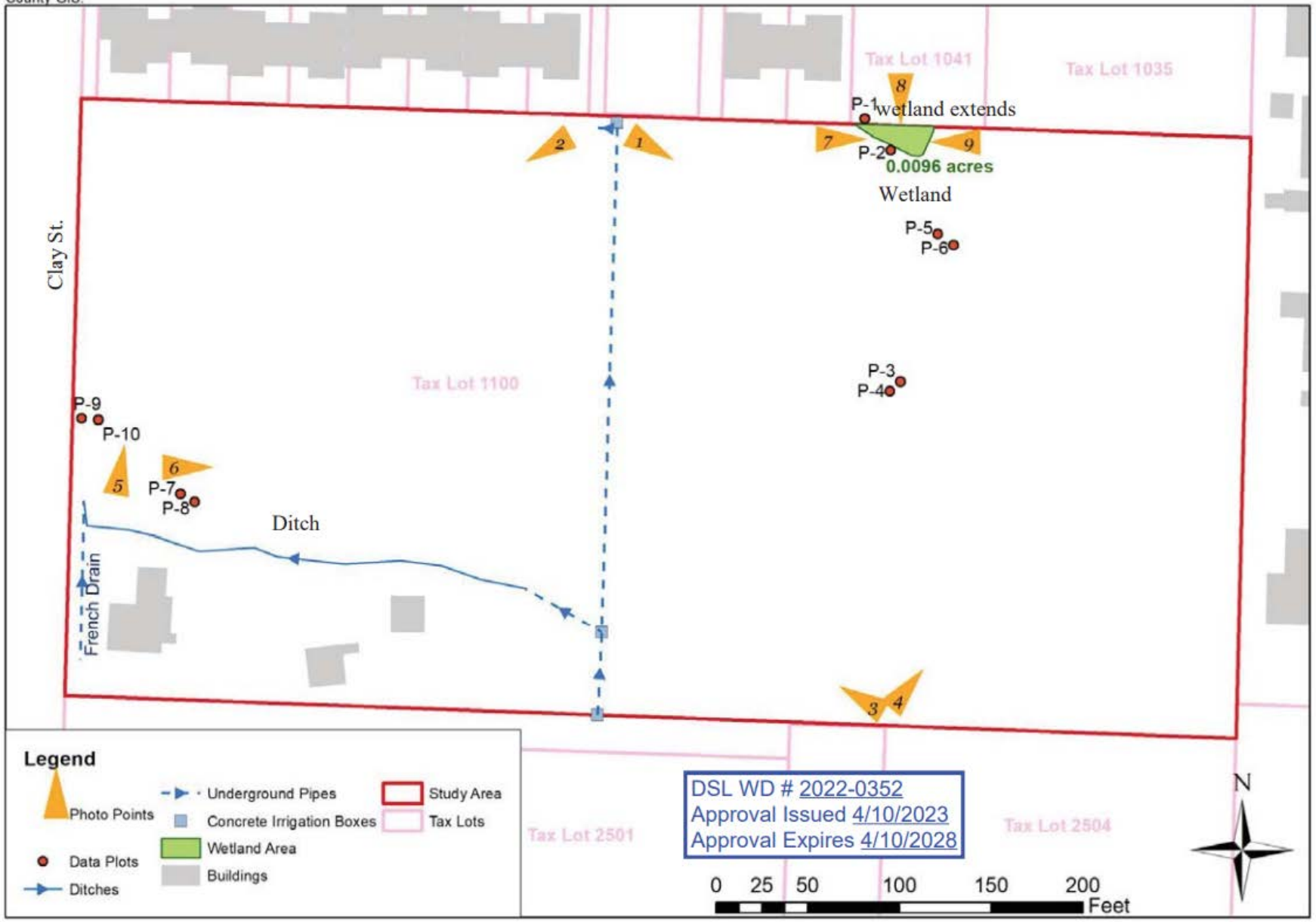

CLAY STREET
ALLEY (PUBLIC)
CALDERA LANE (PUBLIC)
CALDERA COURT (PRIVATE)
ENGLE STREET
PRIVATE STREET
ROAD RESERVATION
(TO BE DEDICATED TO PUBLIC IN THE FUTURE)
ZONE = RR-5
SIDEWALK
10' P.U.E TO BE DEDICATED
10' P.U.E
10' SEWER EASEMENT
Lot 1 5908 Sq.Ft.
Lot 2 4786 Sq.Ft.
Lot 3 4777 Sq.Ft.
Lot 4 4767 Sq.Ft.
Lot 5 4757 Sq.Ft.
Lot 6 4747 Sq.Ft.
Lot 7 4724 Sq.Ft.
Lot 8 5861 Sq.Ft.
Lot 9 5064 Sq.Ft.
Lot 10 5077 Sq.Ft.
Lot 11 5089 Sq.Ft.
Lot 12 5102 Sq.Ft.
Lot 13 5114 Sq.Ft.
Lot 14 5127 Sq.Ft.
Lot 15 5138 Sq.Ft.
Lot 16 5934 Sq.Ft.
Lot 17 4973 Sq.Ft.
Lot 18 4664 Sq.Ft.
Lot 19 4806 Sq.Ft.
Lot 20 4613 Sq.Ft.
Lot 21 5124 Sq.Ft.
Lot 22 5125 Sq.Ft.
Lot 23 4783 Sq.Ft.
Lot 24 4502 Sq.Ft.
Lot 25 4945 Sq.Ft.
OS 1414 Sq.Ft.
OS 3782 Sq.Ft.
OS 2934 Sq.Ft.
OS 7972 Sq.Ft.
S89°38'46"E 255.62'
S89°34'42"E 381.55'
S89°35'37"E 637.04'
N90°00'00"E 385.95'
N90°00'00"E 134.65'
N89°35'37"W 113.92'
S89°35'37"E 118.44'
S89°35'37"E 59.57'
S00°27'28"E 13.40'
N00°04'33"E 330.17'
N00°07'20"E 316.90'
S89°34'42"E 124.41'
S89°34'42"E 123.38'
N90°00'00"E 60.87'
N90°00'00"E 60.08'
N90°00'00"E 59.92'
N90°00'00"E 59.75'
S45°00'00"W 19.14'
R=226.50'
R=273.50'
R=611.75'
R=566.00'
R=634.00'
R=588.25'
R=173.00'
R=127.00'
R=8.00'
R=23.00'
R=12.00'
R=4.00'
1941
1942
1945
1946
1950
1938
1940

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.




NORTH PUBLIC ALLEY (16')
CALDERA LANE - NEW NEIGHBORHOOD STREET
SOUTH PUBLIC ALLEY (16')
EXISTING PATH
CLAY STREET
ENGLE STREET
PRIVATE STREET
EASEMENT (10FT)
ROAD RESERVATION FOR FUTURE PUBLIC RIGHT-OF-WAY
DETENTION POND
OPEN SPACE 3,164 SF
OPEN SPACE 1,517 SF
OPEN SPACE 3,780 SF
OPEN SPACE 9,967 SF
BIKE PARKING STRUCTURE
UNIT TYPE B SINGLE STORY 2 BEDROOM SIDE ENTRY
UNIT TYPE C 2 STORY 2 BEDROOM
UNIT TYPE E 2 STORY 3 BEDROOM
UNIT TYPE A SINGLE STORY 2 BEDROOM
UNIT TYPE G 2 STORY 4 BEDROOM
UNIT TYPE GARAGE
UNIT TYPE H ADU
UNIT TYPE K 1 BEDROOM
UNIT TYPE F 2 STORY 3 BEDROOM ADU
UNIT TYPE D 2 STORY 2 BEDROOM ADU
UNIT TYPE J 2 STORY 2 BEDROOM
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
LOT 10
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
LOT 16
LOT 17
LOT 18
LOT 19
LOT 20
LOT 21
14' (E)
14' (E)

Application includes examples of various proposed unit types



Schematic Design of Townhomes

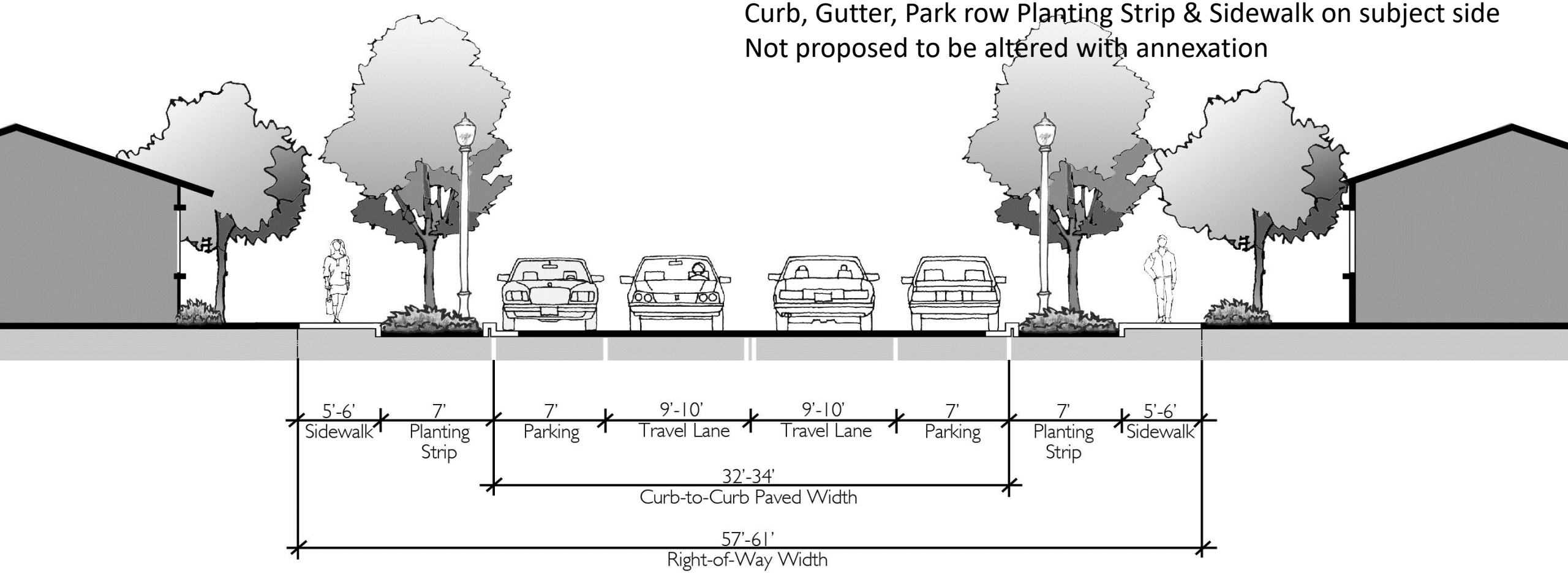
Propose Site Design Review concurrently with Final Plan





Prototypical Section: Residential Neighborhood Collector, Parallel Parking Both Sides

Clay Street Frontage
Current R-o-W Width: 60 Feet
Paved Width: 28 feet
Curb, Gutter, Park row Planting Strip & Sidewalk on subject side
Not proposed to be altered with annexation



300 Clay Street Staff Recommendation

Staff recommend that the Planning Commission make a favorable recommend to the City Council with regard to the Annexation, Outline Plan approval, Limited Uses & Activities Permit and Tree Removal Permit to remove four trees.

If the Planning Commission recommends approval of the application, staff recommend including the six conditions of approval detailed in the staff report in your packets, and any additional conditions the Commission deems necessary to address the mix of bedrooms in the required affordable units.

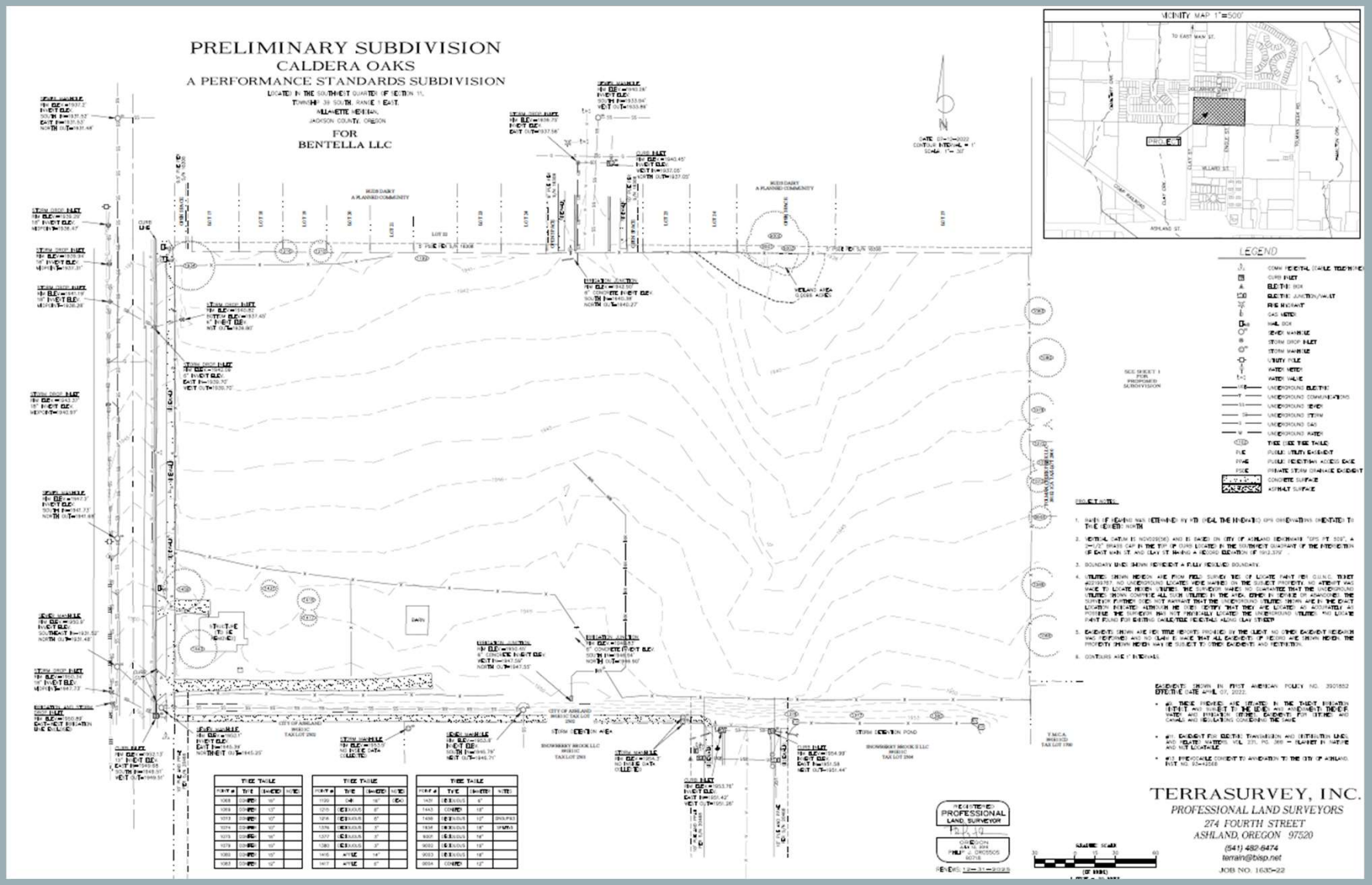


Questions?



CALDERA OAKS
ANNEXATION, SITE DESIGN REVIEW, STREET STANDARDS EXCEPTION AND PERFROMANCE STANDARDS SUBDIVISION OUTLINE PLAN REVIEW


Abbott Ave
Abbott Ave
Creek Dr
Engle St
Dollarhide Way
Clay St
Clay St
300 Clay St
Engle


PRELIMINARY SUBDIVISION
CALDERA OAKS
A PERFORMANCE STANDARDS SUBDIVISION
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15,
TOWNSHIP 39 SOUTH, RANGE 1 EAST,
WILLAMETTE MERIDIAN,
JACKSON COUNTY, OREGON
FOR
BENTELLA LLC
VICINITY MAP 1"=500'
LEGEND
PROJECT NOTES:
1. BASIS OF BEARING WAS DETERMINED BY RTK GPS OBSERVATIONS ORIENTATED TO THE GEODETIC NORTH
2. VERTICAL DATUM IS NGVD1929 AND IS BASED ON CITY OF ASHLAND BENCHMARK "GPS PT 500", A 3½" DIA. BRASS DISK IN THE TOP OF CURB LOCATED IN THE SOUTHWEST QUADRANT OF THE INTERSECTION OF EAST MAIN ST. AND OLAY ST. HAVING A RECORD ELEVATION OF 1912.370'
3. BOUNDARY LINES SHOWN REPRESENT A FULLY RESOLVED BOUNDARY.
4. UTILITIES SHOWN HEREON ARE FROM FIELD SURVEY TIES OF LOCATE PAINT PER O.U.N.C. TICKET #22191787. 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. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES BELIEVE THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES AND LOCATE PAINT FOUND FOR EXISTING CABLE TELEVISION (CATV) ALONG OLAY STREET.
5. EASEMENTS SHOWN ARE PER TITLE REPORTS PROVIDED BY THE CLIENT. NO OTHER EASEMENT RESEARCH WAS PERFORMED AND NO CLAIM IS MADE THAT ALL EASEMENTS OF RECORD ARE SHOWN HEREON. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO OTHER EASEMENTS AND RESTRICTIONS.
6. CONTOURS ARE 1' INTERVALS.
EASEMENTS SHOWN IN FIRST AMERICAN POLICY NO. 3901852 EFFECTIVE DATE APRIL 07, 2022.
• #6 THESE PREMISES ARE SITUATE IN THE DISTRICT BOUNDARY LIMITS AND SUBJECT TO THE RULES AND ASSESSMENTS THEREOF WATER AND IRRIGATION RIGHTS, EASEMENTS FOR DITCHES AND CANALS AND REGULATIONS CONCERNING THE SAME
• #9, EASEMENT FOR ELECTRIC TRANSMISSION AND DISTRIBUTION LINES AND RELATED MATTERS, VOL. 231, PG. 388 — BLANKET IN NATURE AND NOT LOCATABLE
• #13, PRE-POSSIBLE CONSENT TO ANNEXATION TO THE CITY OF ASHLAND, INST. NO. 93-42588
TREE TABLE
TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS
274 FOURTH STREET
ASHLAND, OREGON 97520
(541) 482-6474
terrain@blsp.net
JOB NO. 1630-22
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JULY 13, 2004 PHILIP J. CROSSOS 60716
RENEWS 12-31-2023
GRAPHIC SCALE
(IN FEET)

ANNEXATION REQUEST

Property adjacent to the city limits on three sides.

Comprehensive Plan Designation of the property is Suburban Residential.

Annexation request is consistent with the Comprehensive Plan Designation

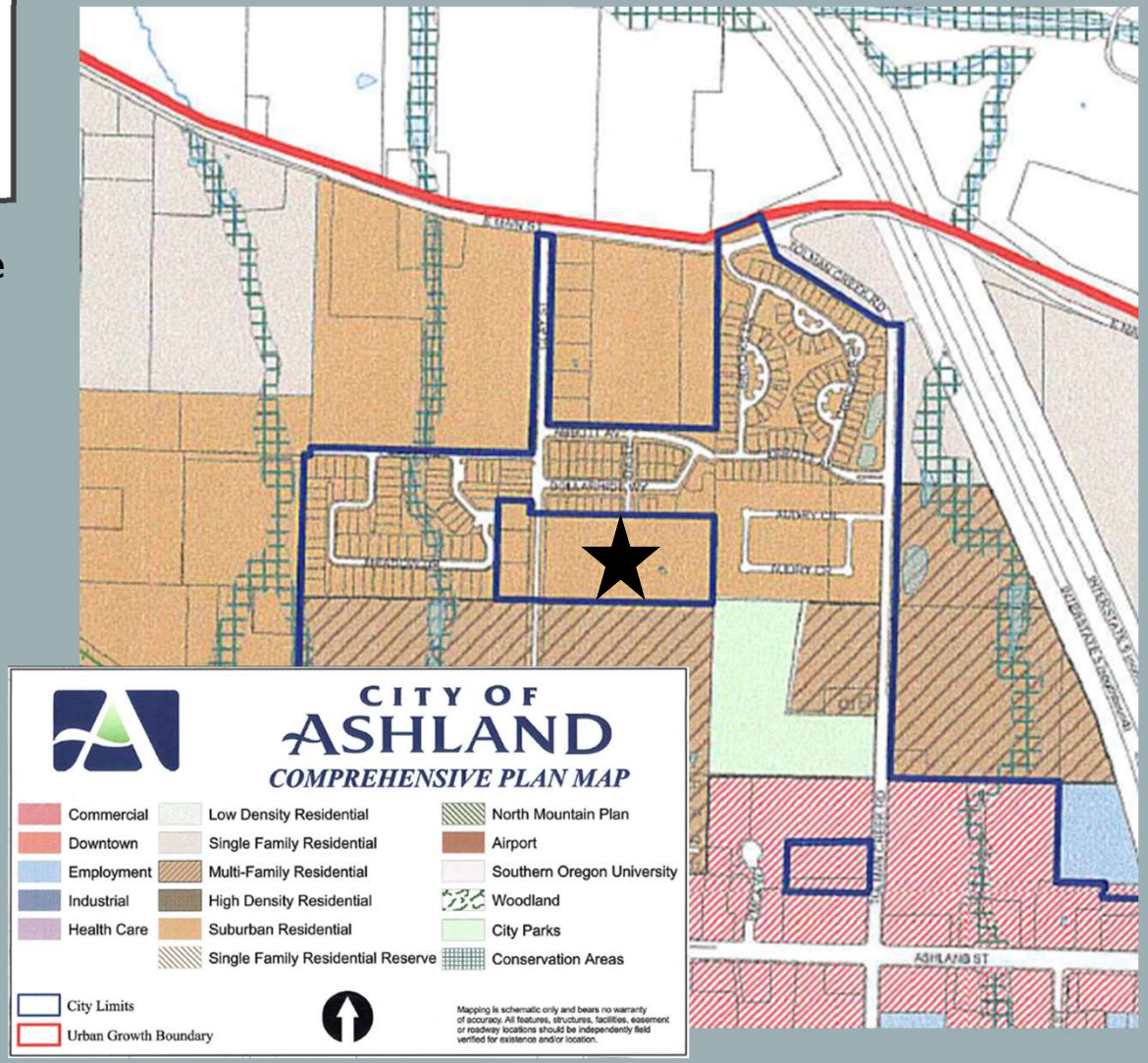
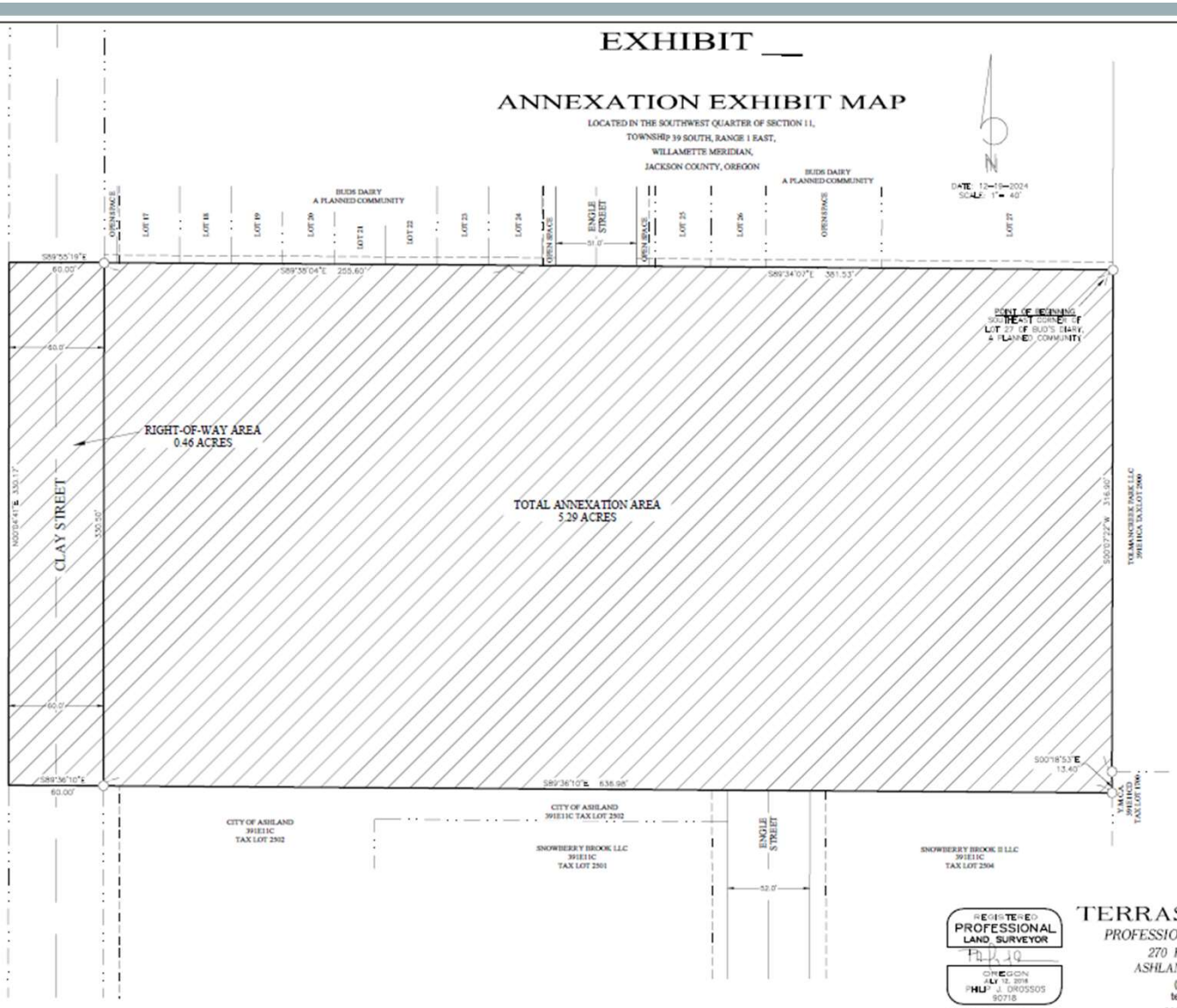


EXHIBIT __

ANNEXATION EXHIBIT MAP

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 11,
TOWNSHIP 39 SOUTH, RANGE 1 EAST,
WILLAMETTE MERIDIAN,
JACKSON COUNTY, OREGON



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 12, 2018
PHILIP J. CROSSOS
90718

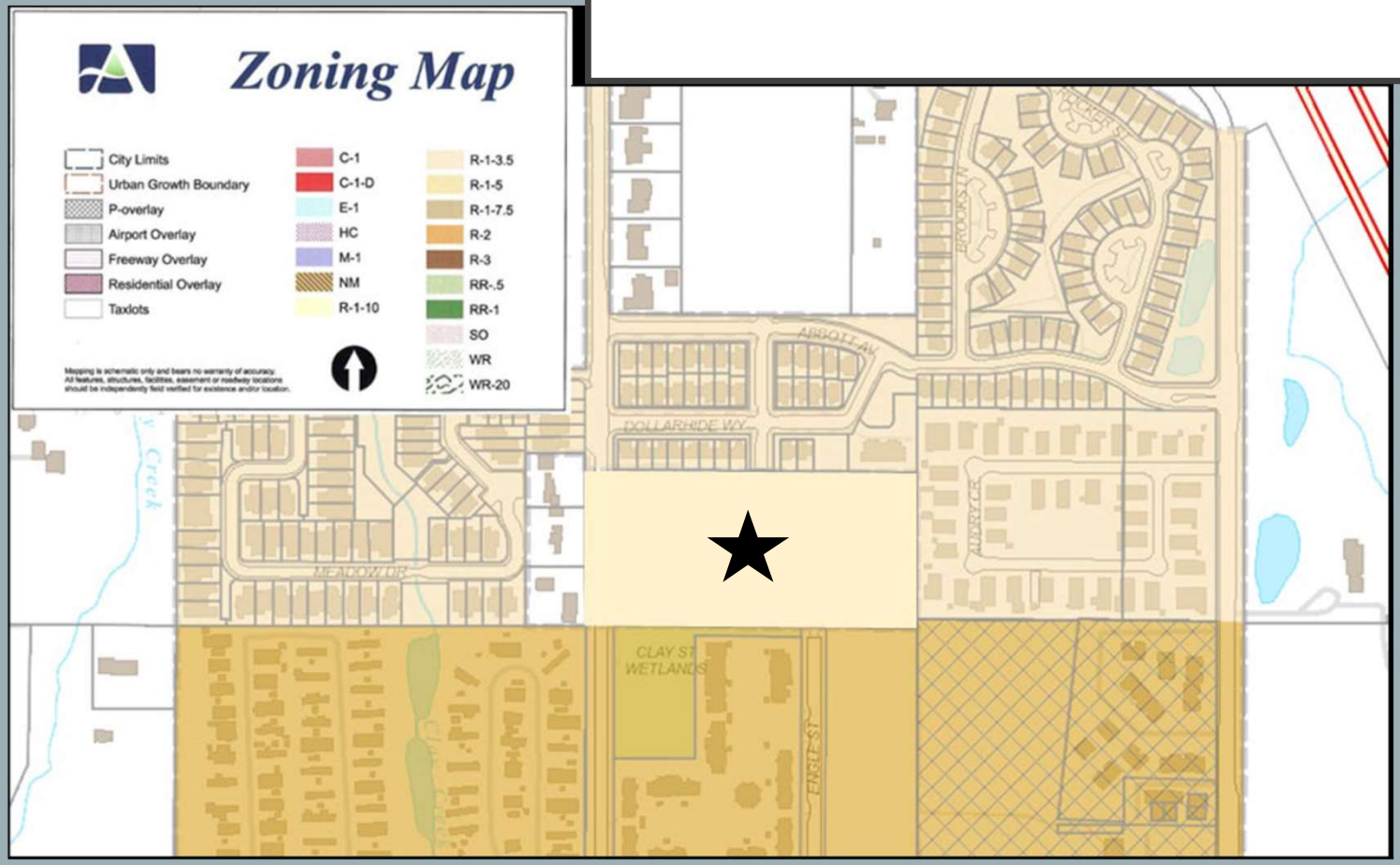
RENEWS: 12-31-2025

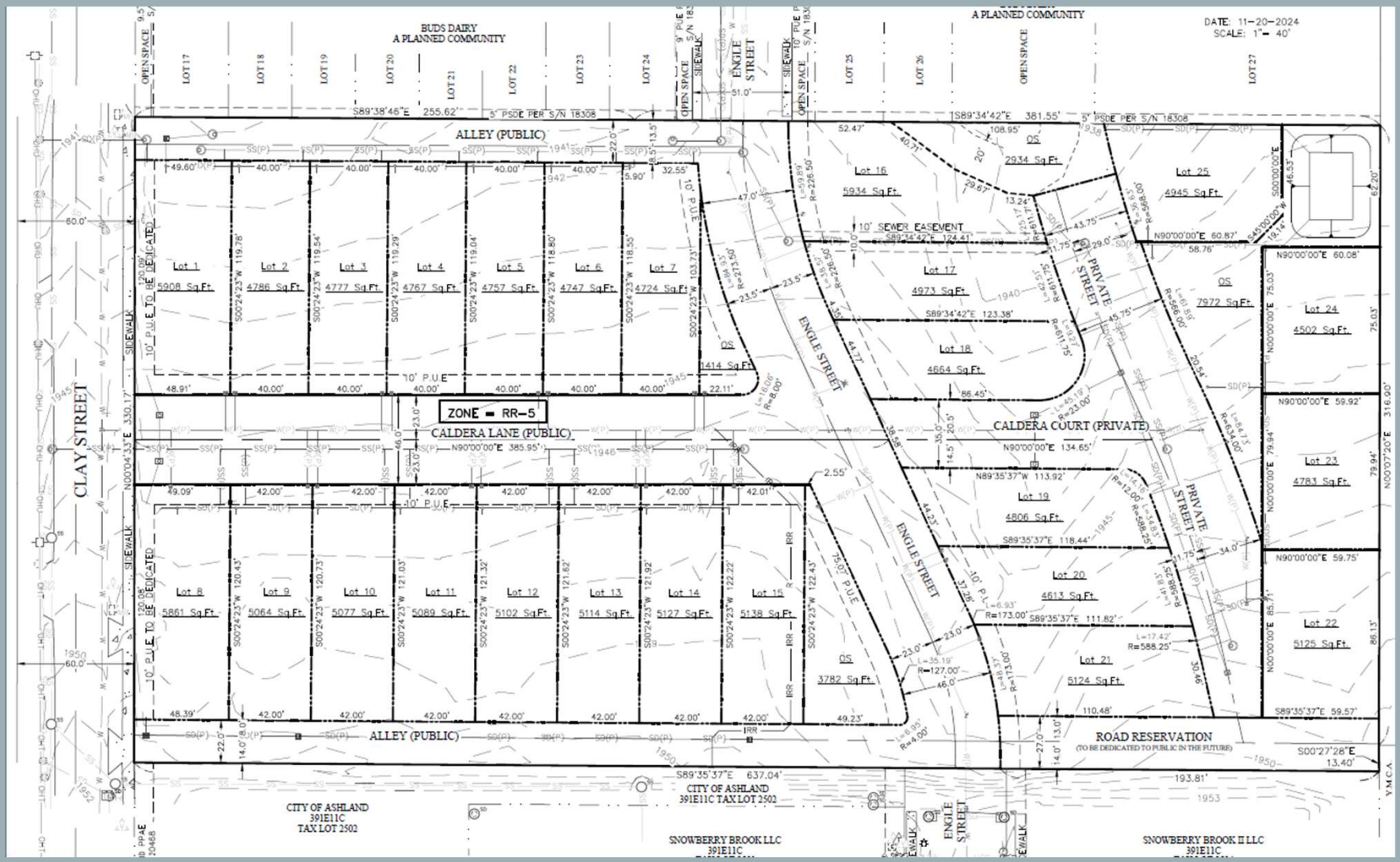
TERRASURVEY, INC.
PROFESSIONAL LAND SURVEYORS
270 FOURTH STREET
ASHLAND, OREGON 97520
(541) 482-6474
terrain@blsp.net

JOB NO. 16553-03

ASSESSOR'S MAP NO. 39 1E 11 CD, TAX LOT 1100 & A PORTION OF CLAY STREET RIGHT-OF-WAY

PROPOSED ZONING

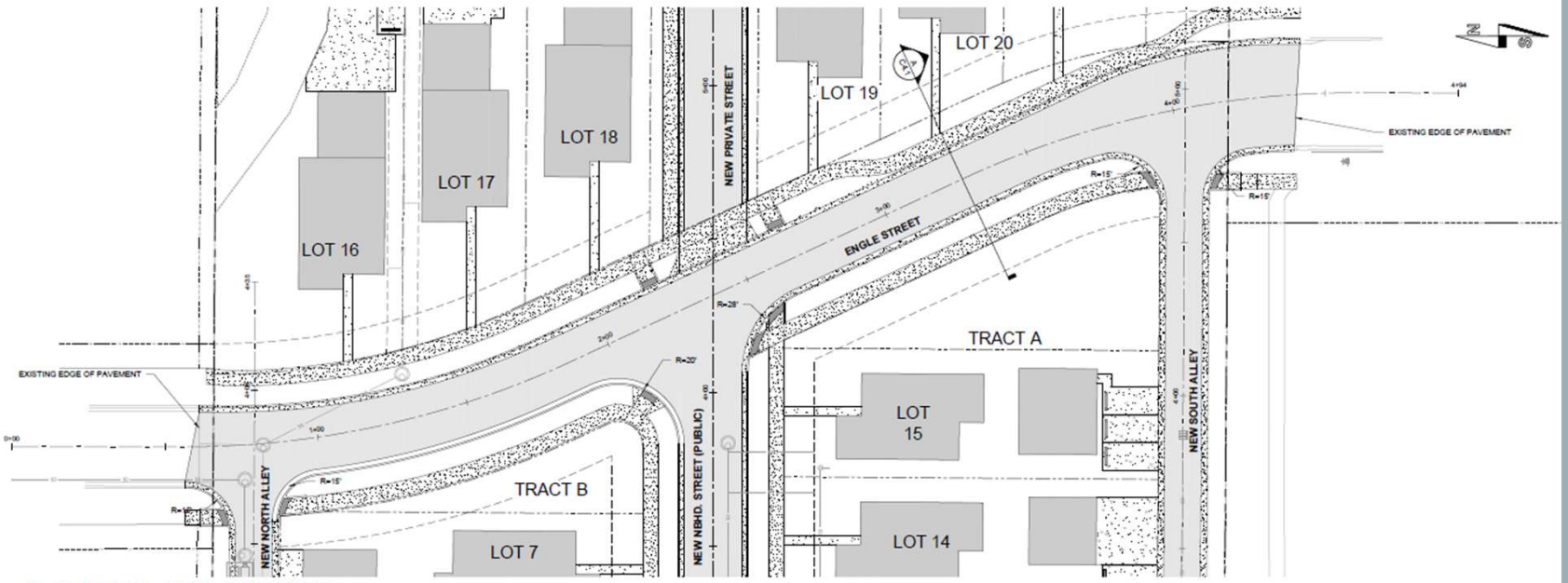



BUDS DAIRY
A PLANNED COMMUNITY
DATE: 11-20-2024
SCALE: 1" = 40'
ALLEY (PUBLIC)
CLAY STREET
ENGLE STREET
PRIVATE STREET
CALDERA LANE (PUBLIC)
CALDERA COURT (PRIVATE)
ZONE = RR-5
ROAD RESERVATION
(TO BE DEDICATED TO PUBLIC IN THE FUTURE)
10' SEWER EASEMENT
10' P.U.E.
10' P.U.E. TO BE DEDICATED
OPEN SPACE
SIDEWALK
Lot 1 5908 Sq.Ft.
Lot 2 4786 Sq.Ft.
Lot 3 4777 Sq.Ft.
Lot 4 4767 Sq.Ft.
Lot 5 4757 Sq.Ft.
Lot 6 4747 Sq.Ft.
Lot 7 4724 Sq.Ft.
Lot 8 5861 Sq.Ft.
Lot 9 5064 Sq.Ft.
Lot 10 5077 Sq.Ft.
Lot 11 5089 Sq.Ft.
Lot 12 5102 Sq.Ft.
Lot 13 5114 Sq.Ft.
Lot 14 5127 Sq.Ft.
Lot 15 5138 Sq.Ft.
Lot 16 5934 Sq.Ft.
Lot 17 4973 Sq.Ft.
Lot 18 4664 Sq.Ft.
Lot 19 4806 Sq.Ft.
Lot 20 4613 Sq.Ft.
Lot 21 5124 Sq.Ft.
Lot 22 5125 Sq.Ft.
Lot 23 4783 Sq.Ft.
Lot 24 4502 Sq.Ft.
Lot 25 4945 Sq.Ft.
OS 1414 Sq.Ft.
OS 2934 Sq.Ft.
OS 7972 Sq.Ft.
OS 3782 Sq.Ft.
CITY OF ASHLAND
391E11C
TAX LOT 2502
SNOWBERRY BROOK LLC
391E11C
SNOWBERRY BROOK II LLC
391E11C
CITY OF ASHLAND
391E11C TAX LOT 2502
Y.M.C.A.

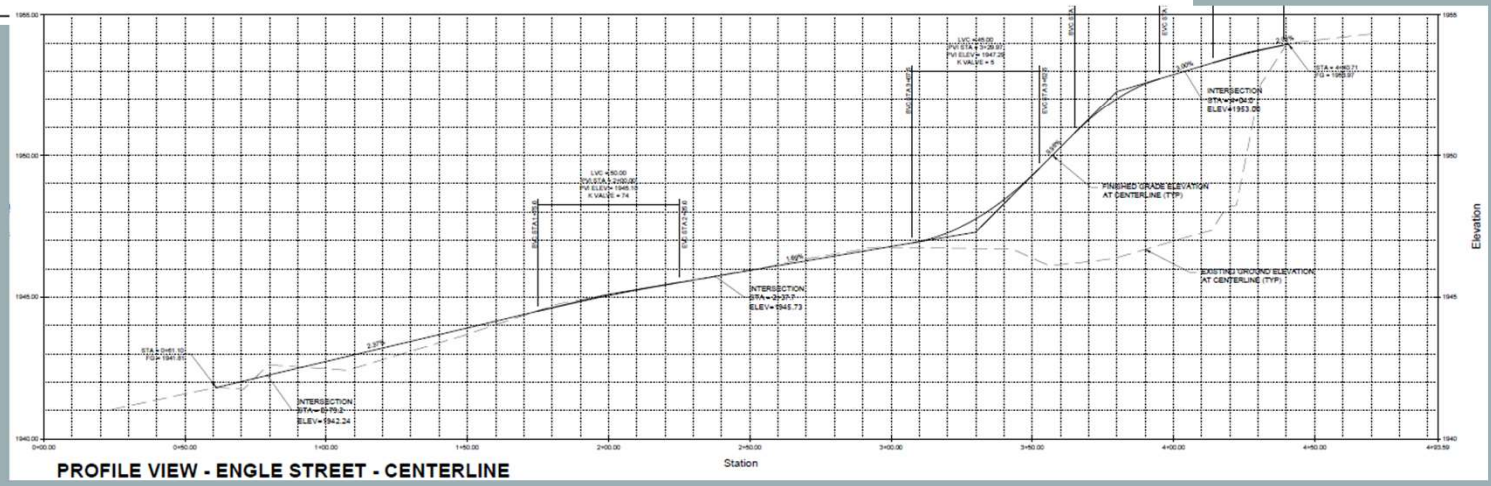


SITE DEVELOPMENT PLAN


EXISTING ENGLE STREET
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
TRACT B
LOT 8
LOT 9
LOT 10
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
TRACT A
LOT 16
LOT 17
LOT 18
LOT 19
LOT 20
LOT 21
LOT 25
TRACT C
TRACT C
LOT 24
LOT 23
LOT 22
EXISTING ENGLE STREET
[N]



PLAN VIEW - ENGLE STREET



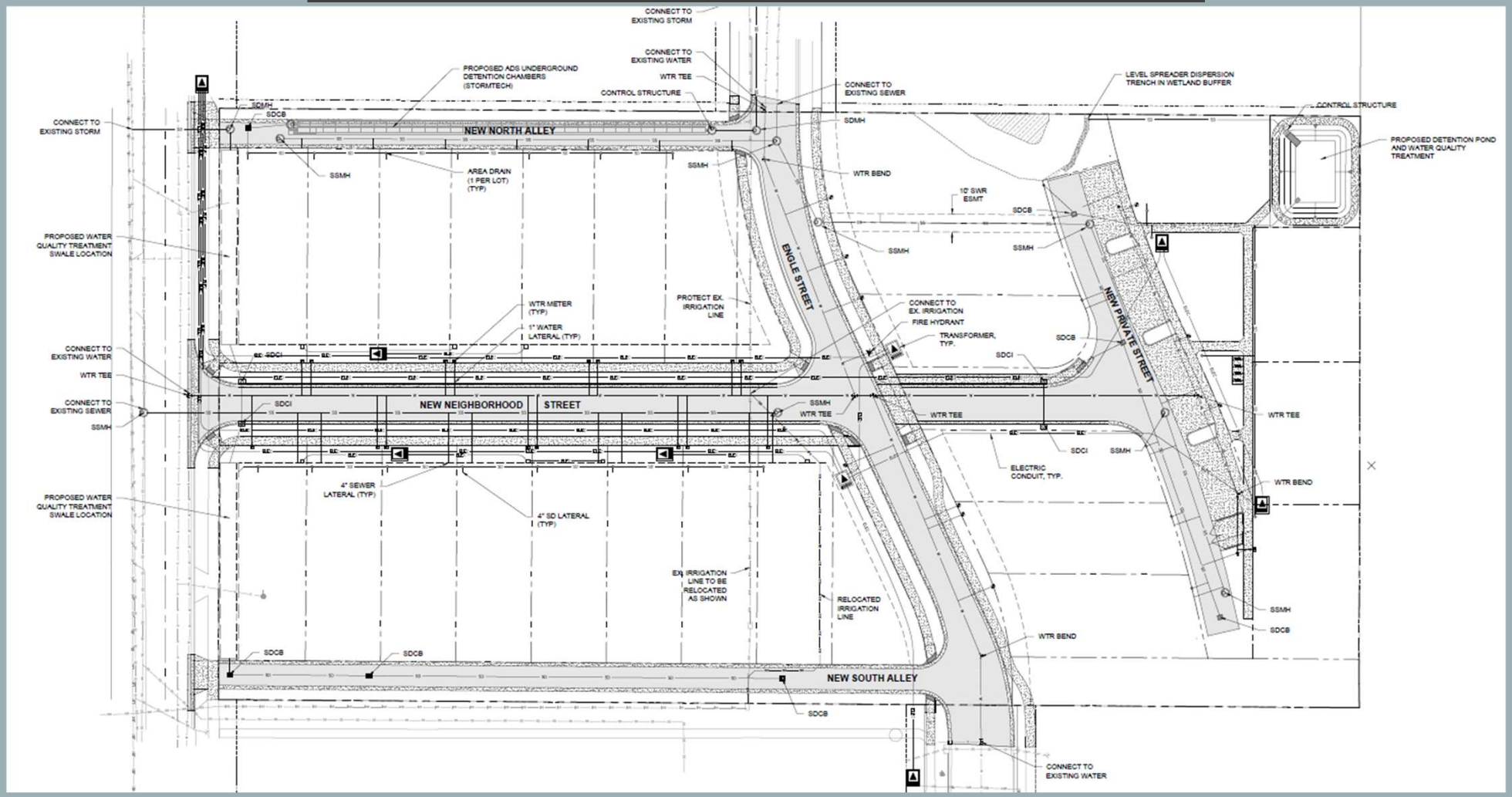
PROFILE VIEW - ENGLE STREET - CENTERLINE

TRIP GENERATION ASSESSMENT

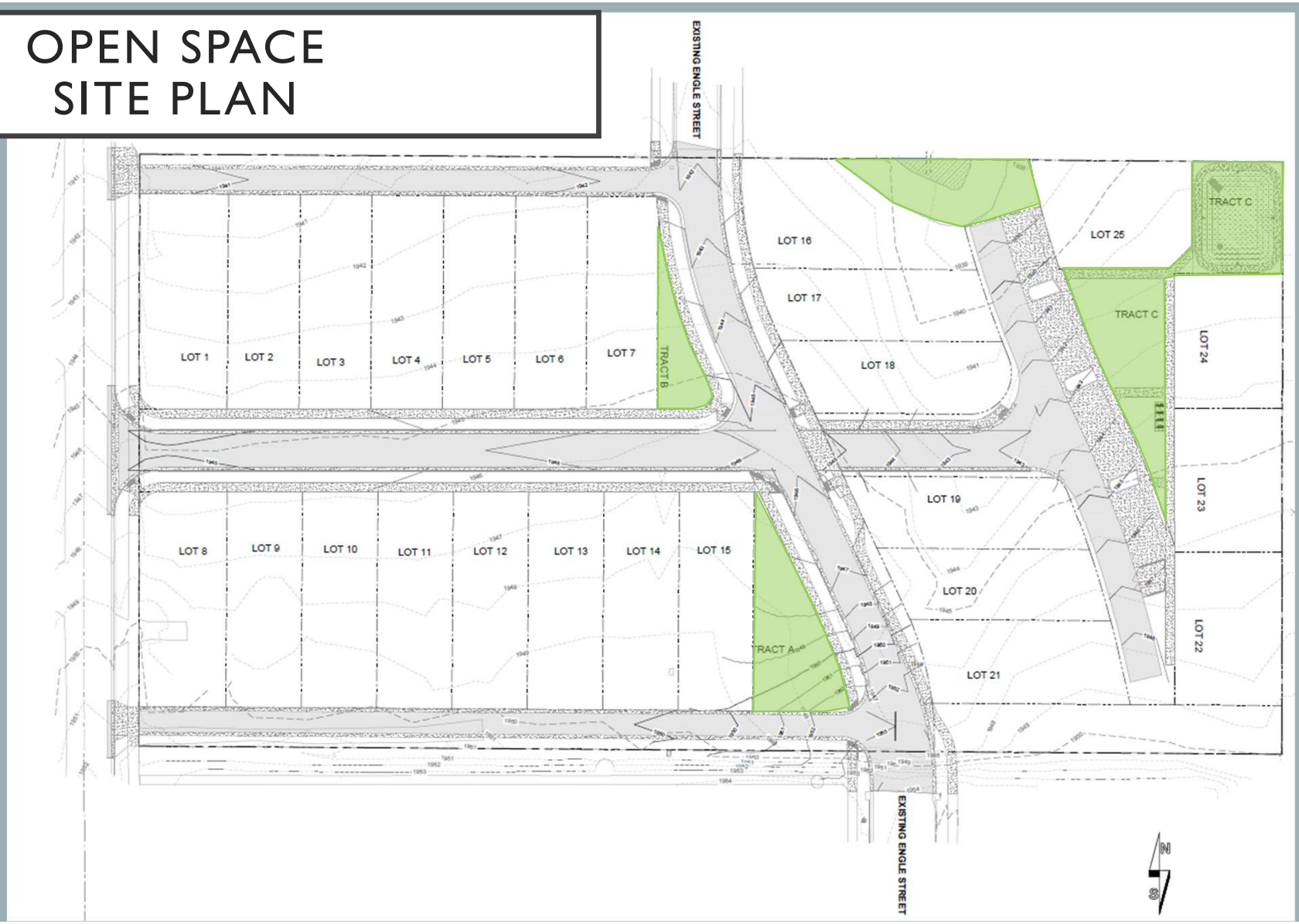
- Due to the limited number of Peak Hour vehicle trips, a Transportation Impact Analysis is not required per Oregon Department of Transportation standards, City of Ashland standards nor Jackson County Standards.
- 24 AM Peak Hour trips and 31 PM Peak Hour trips with multiple dispersal points (Engle St. North to Abbot, then East to Tolman or West to Clay, Clay north to East Main and Clay south to Ashland Street).
- Clay Street is a Neighborhood Collector has a typical average daily trips for between 1,500 and 5,000 average daily trips.
- According to the Transportation Impact Analysis for a recent project in the vicinity (East Main Street Park) there were 1,500 vehicle trips on Clay Street at Abbott Avenue.


300 Clay St
Clay St
Ashland St
Villard St
Eagle St
Audry Cir
Imagery ©2025 Airbus

PUBLIC INFRASTRUCTURE



OPEN SPACE SITE PLAN



DETACHED RESIDENTIAL DWELLINGS

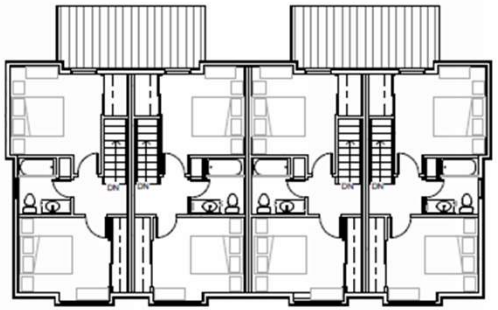


MULTI-FAMILY DWELLINGS





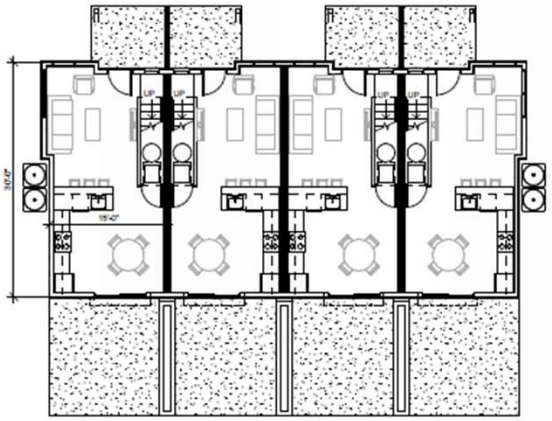
PERSPECTIVE 3



PLAN - LEVEL 2 2

1/8" = 1'-0"

432 S.F. PER END UNIT
420 S.F. PER MID UNIT



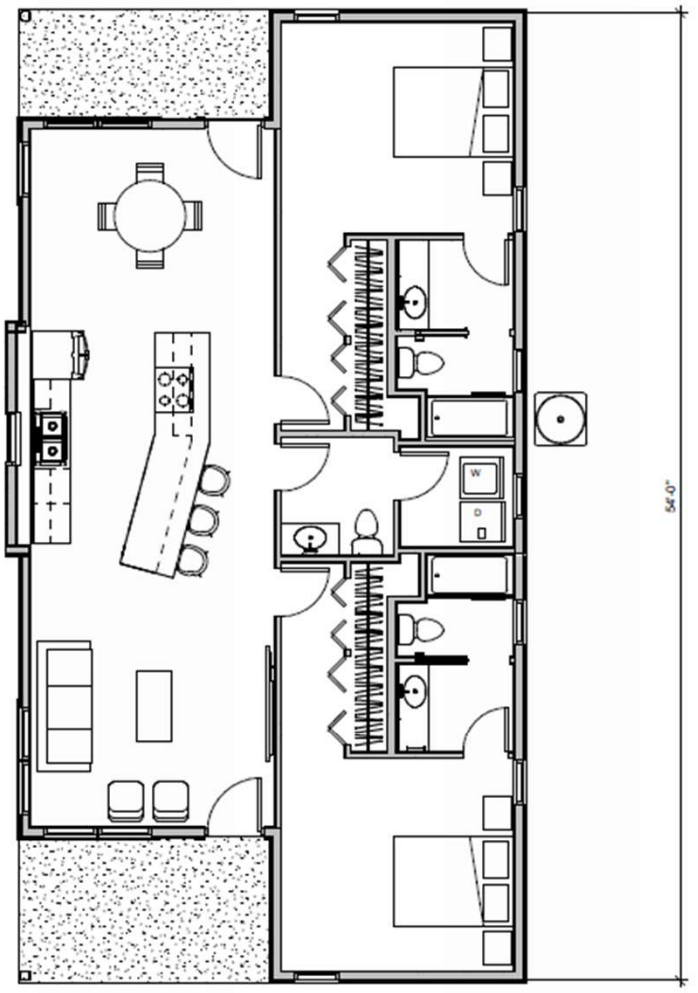
PLAN - LEVEL 1 1

1/8" = 1'-0"

454 S.F. PER END UNIT
441 S.F. PER MID UNIT



PERSPECTIVE 2



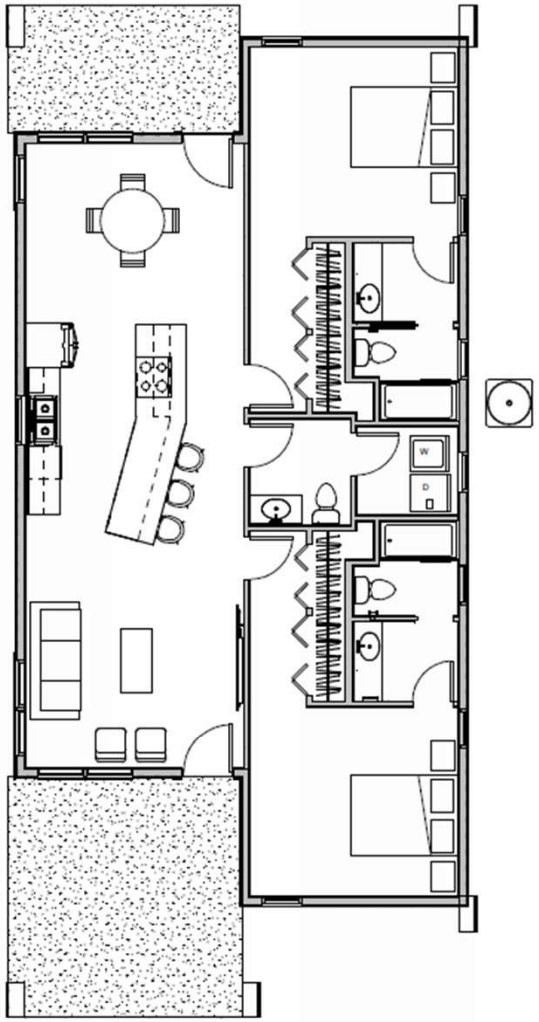
FLOOR PLAN - LEVEL 1 1

1,316 S.F.

1/4" = 1'-0"



PERSPECTIVE 2



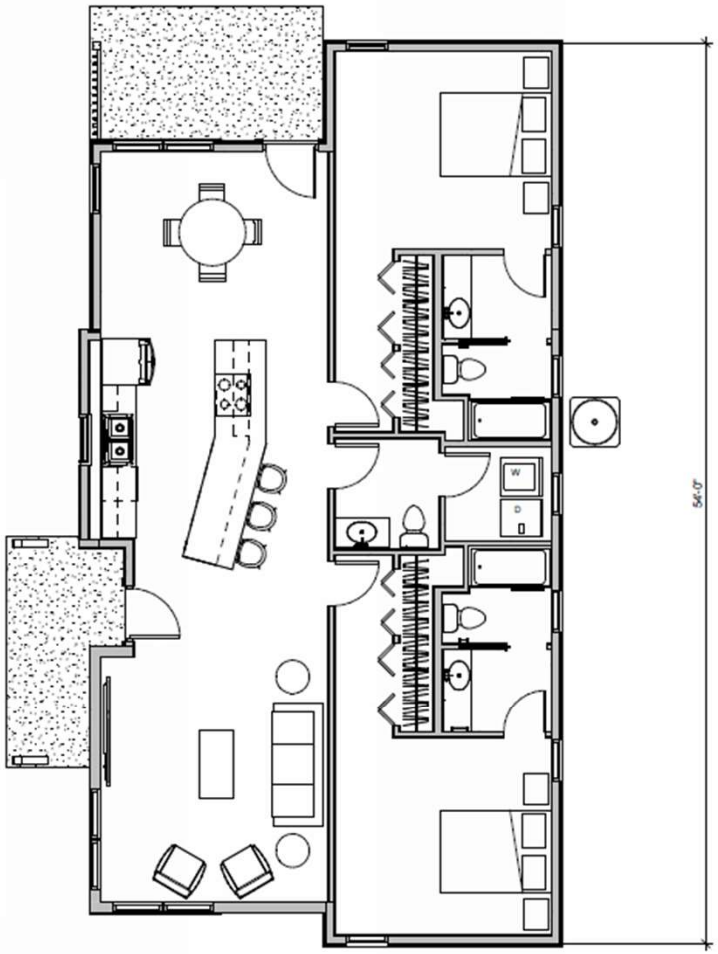
FLOOR PLAN - LEVEL 1 1

1,316 S.F.

1/4" = 1'-0"



PERSPECTIVE 2



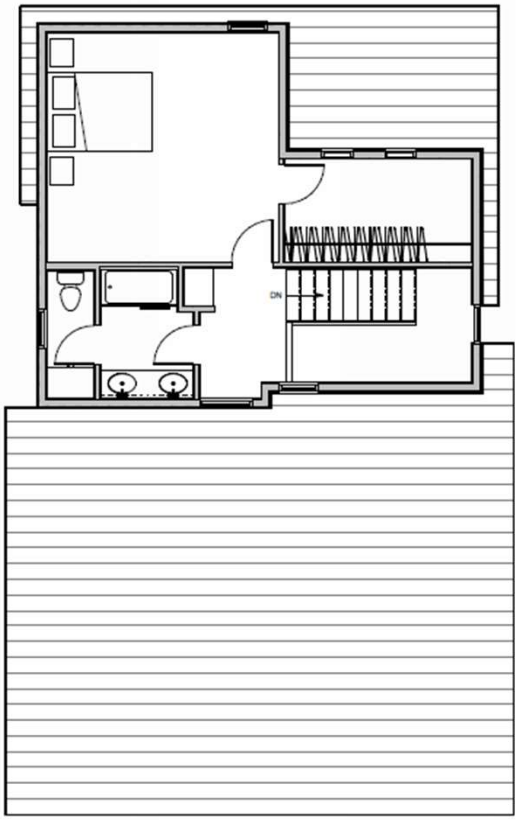
FLOOR PLAN - LEVEL 1 1

1,388 S.F.

1/4" = 1'-0"



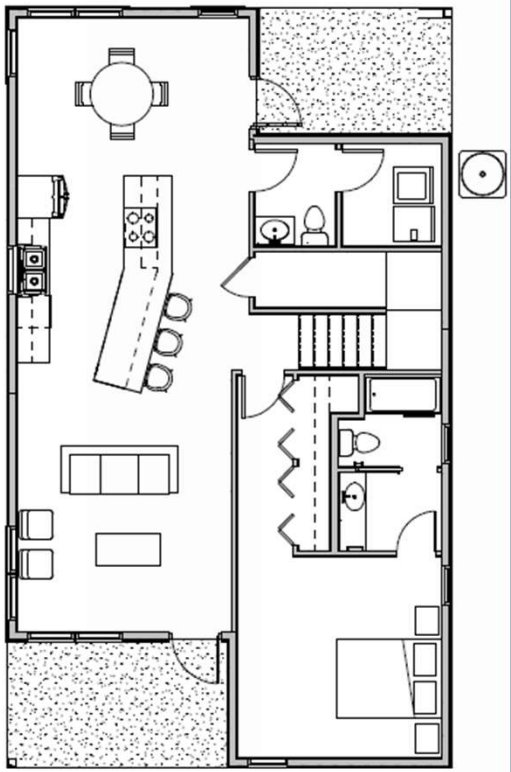
PERSPECTIVE 3



FLOOR PLAN - LEVEL 2 2

470 S.F.

1/4" = 1'-0"



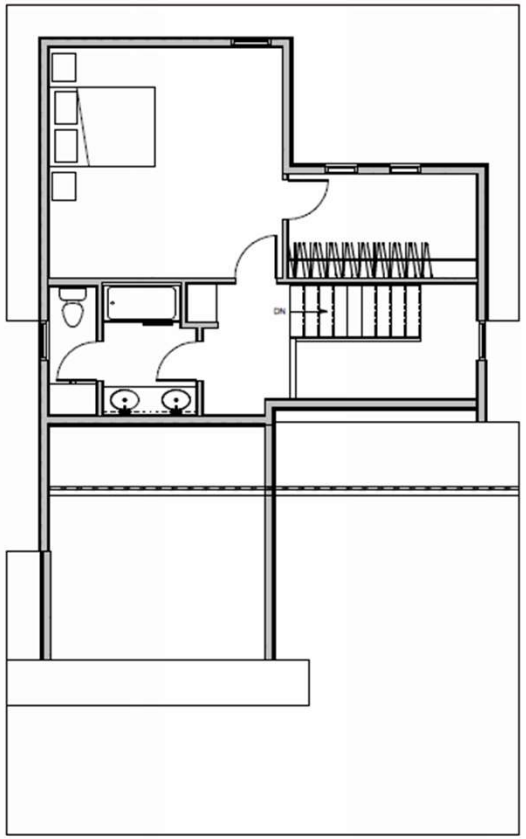
FLOOR PLAN - LEVEL 1 1

1,134 S.F.

1/4" = 1'-0"



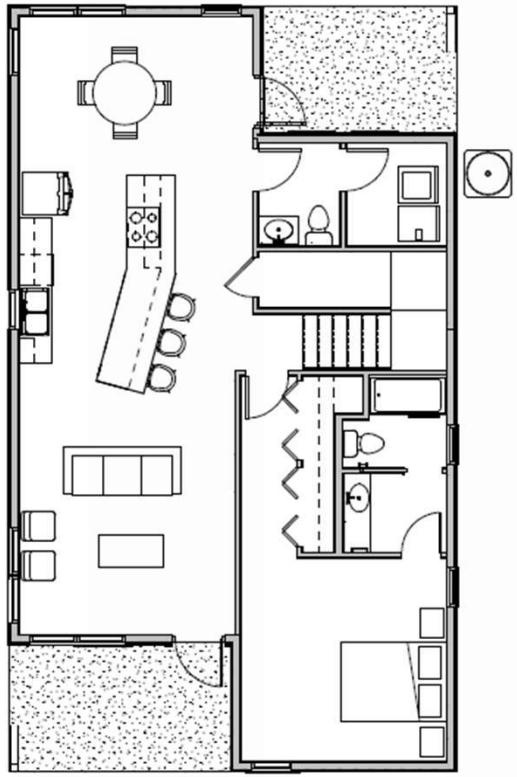
PERSPECTIVE 3



FLOOR PLAN - LEVEL 2 2

470 S.F.

1/4" = 1'-0"



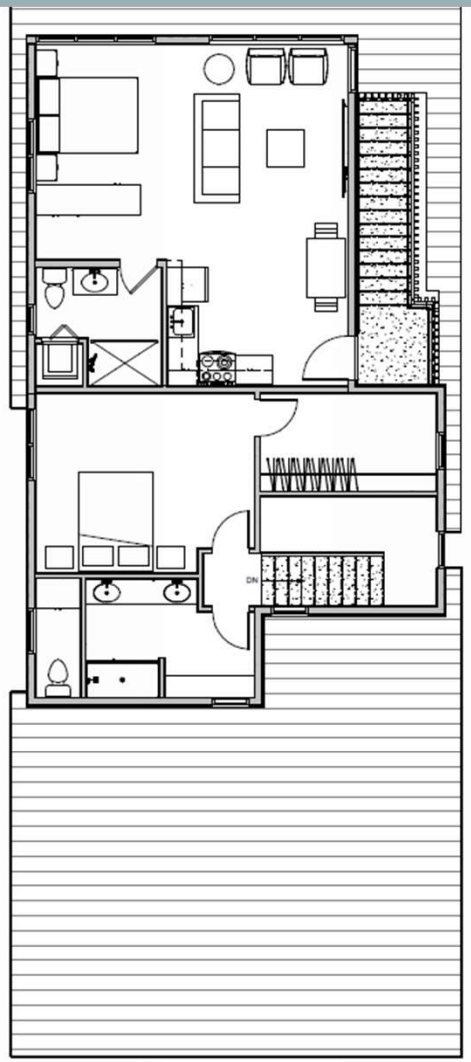
FLOOR PLAN - LEVEL 1 1

1,134 S.F.

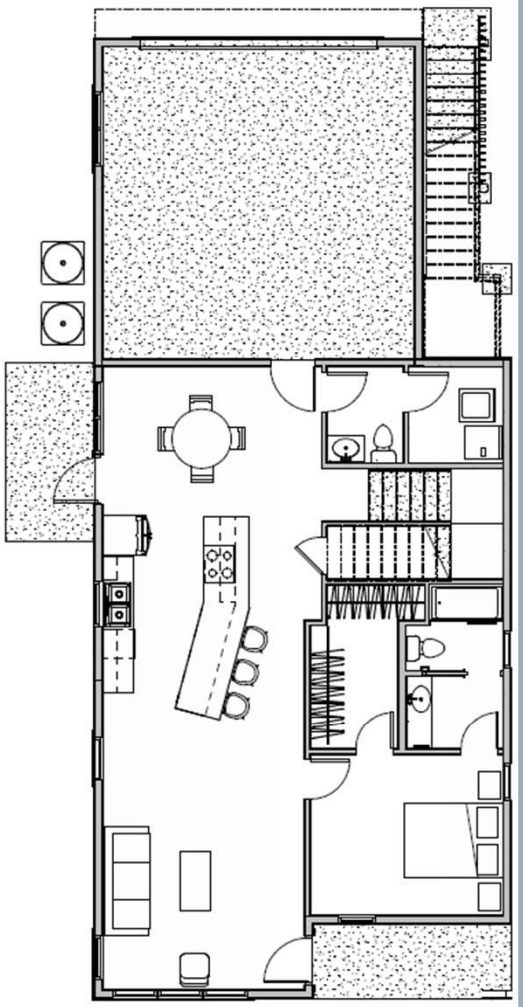
1/4" = 1'-0"



PERSPECTIVE 3



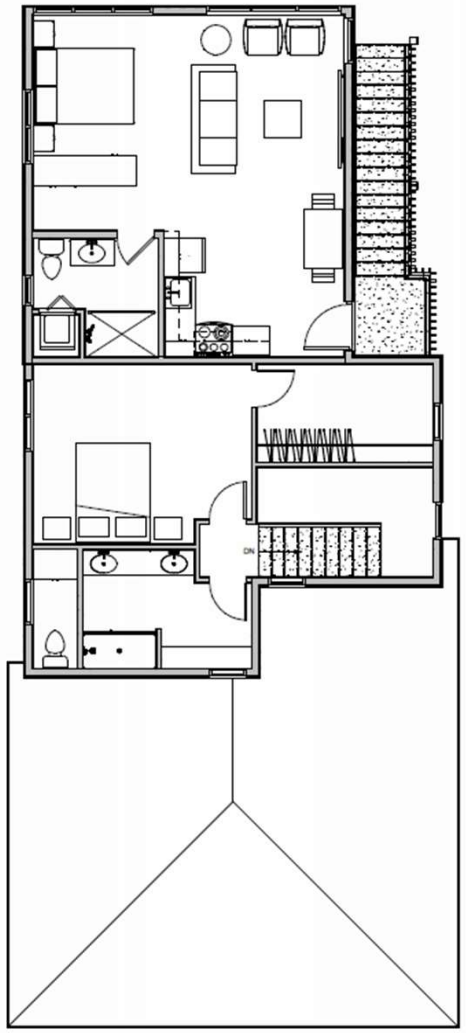
FLOOR PLAN - LEVEL 2 2



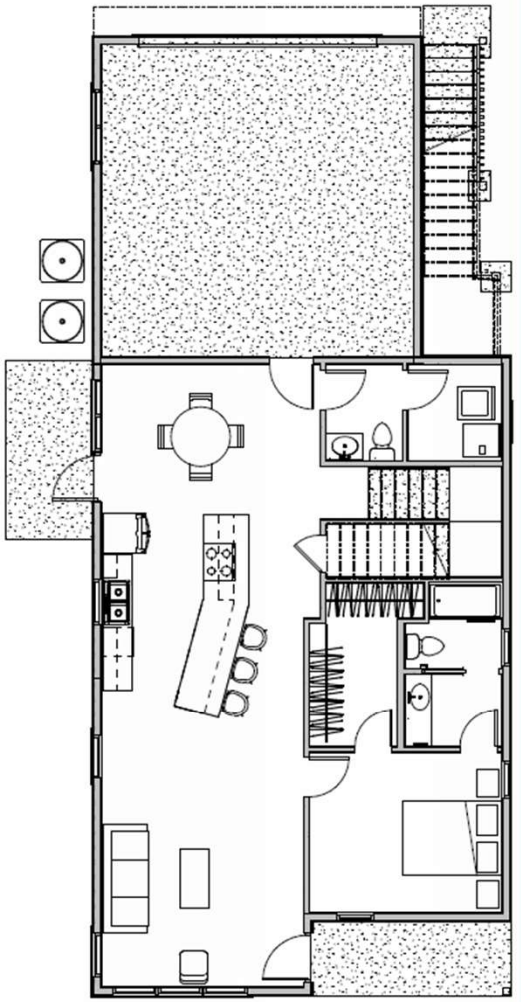
FLOOR PLAN - LEVEL 1 1



PERSPECTIVE 3



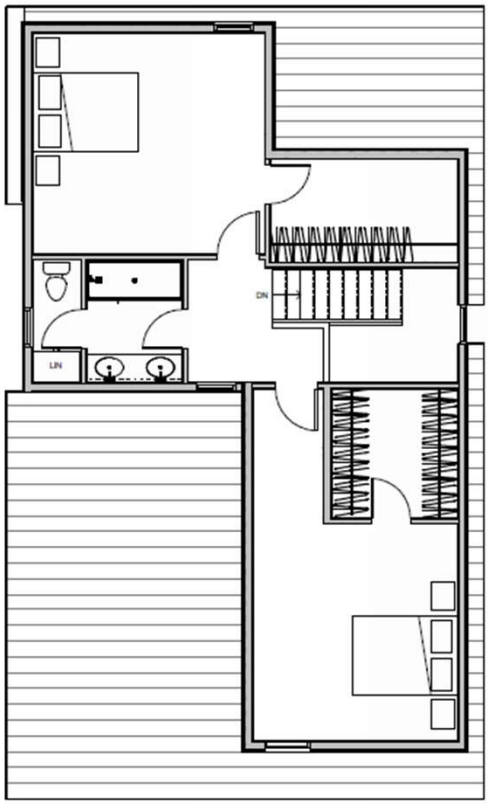
FLOOR PLAN - LEVEL 2 2



FLOOR PLAN - LEVEL 1 1



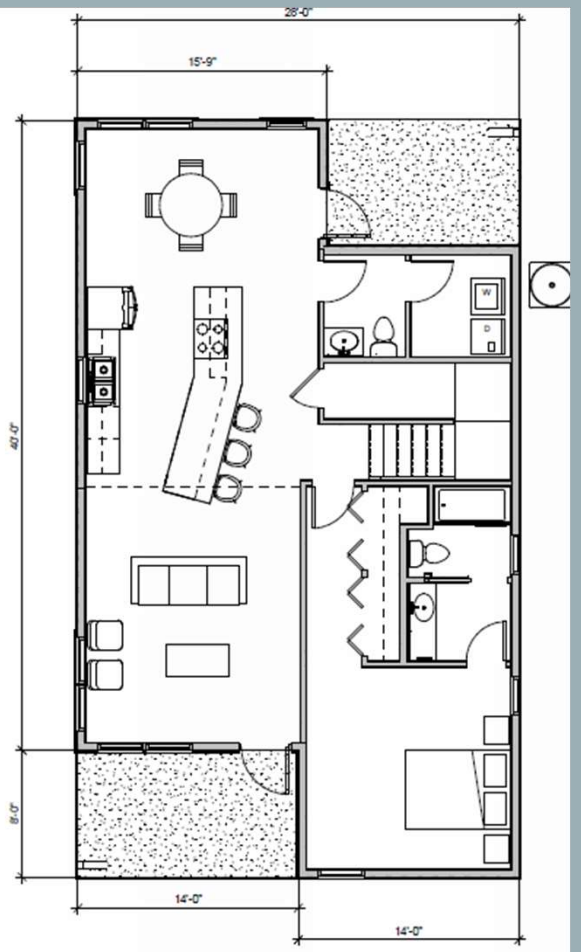
PERSPECTIVE 3



PLAN - LEVEL 2 2

789 S.F.

1/4" = 1'-0"



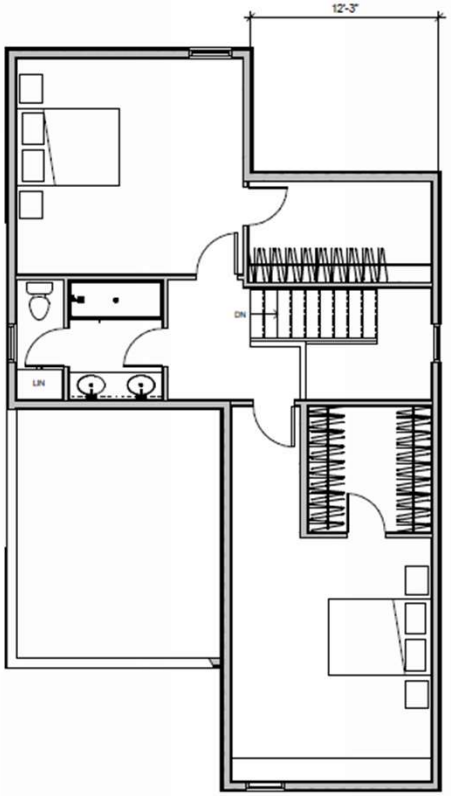
PLAN - LEVEL 1 1

1,134 S.F.

1/4" = 1'-0"



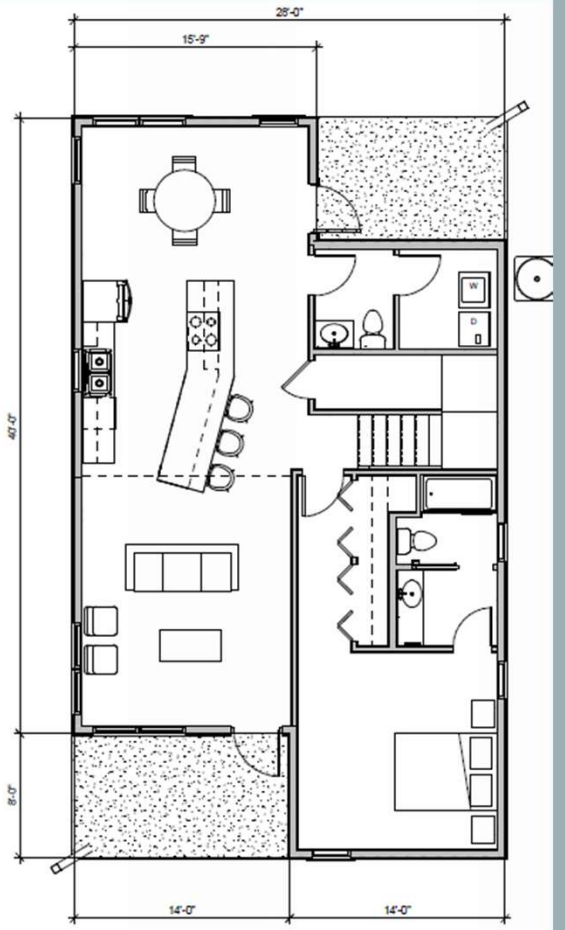
PERSPECTIVE 3



769 S.F.

PLAN - LEVEL 2 2

1/4" = 1'-0"



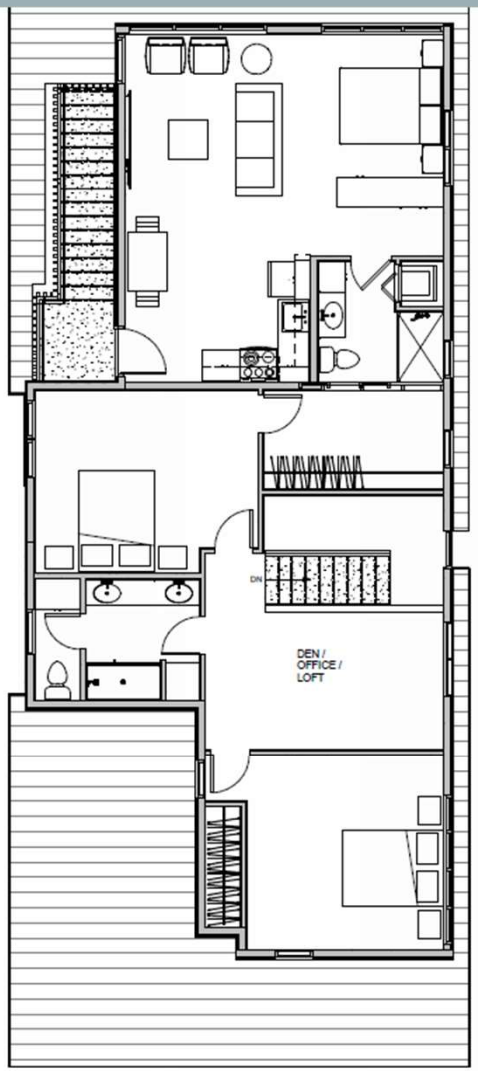
1,134 S.F.

PLAN - LEVEL 1 1

1/4" = 1'-0"



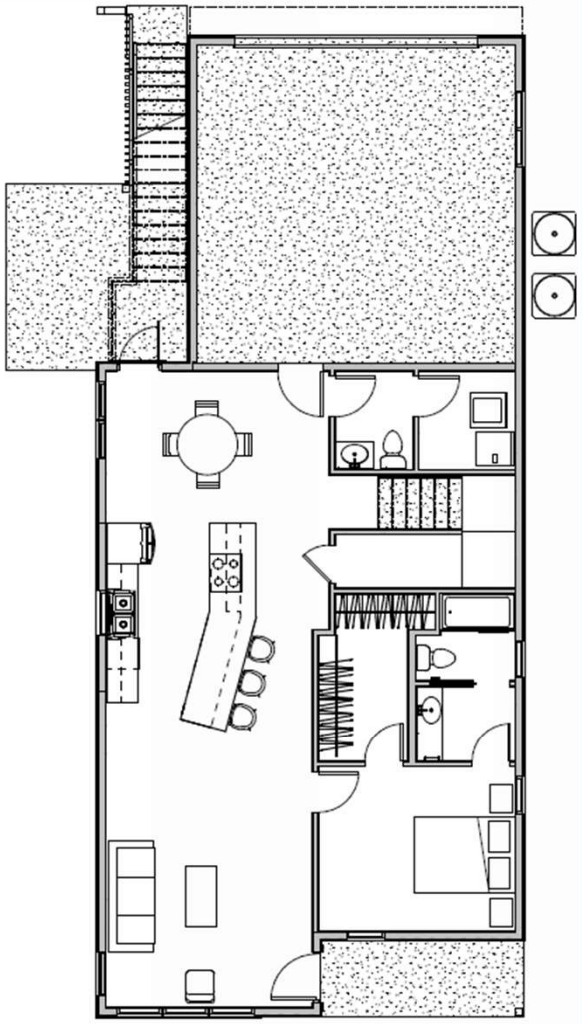
PERSPECTIVE 3



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"











