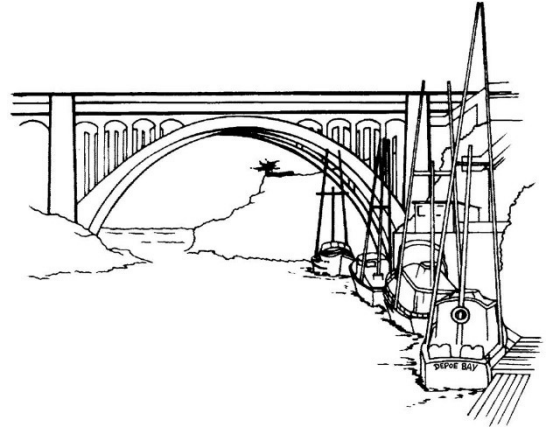


City of Depoe Bay

Planning Commission Special and Public Hearing Meeting

April 17, 2024 – Wednesday, 6:00 PM

Depoe Bay City Hall – 570 SE Shell Avenue



The Meeting Location is Accessible to the Public

To Join from Your Computer, Tablet, or Smartphone:

<https://us02web.zoom.us/j/85727774047?pwd=SHNyMUcrSTVKNIZaZjYVIRKSIFHZz09>

Meeting ID: 857 2777 4047

Passcode: 530799

To Join from Your Phone:

Phone: (253) 215-8782

Meeting ID: 857 2777 4047

Passcode: 530799

Public comments may be made via email up to two hours before the meeting start time at info@cityofdepoebay.org

Please Note: In the event of Zoom Technical Difficulties the Telephone Conference System will be utilized. Dial (888) 204-5987, Access code 9599444

AGENDA

- I. Call Meeting to Order and Establish a Quorum
- II. Announcements
- III. Approval of Minutes: March 13, 2024, Regular Meeting
- IV. Public Hearings
 - A. Case File: #1-CS-PC-24
Applicant: Mary Valeant/Valeant Architecture
Owners: James G. Caldwell & JoLynn Campbell
Application: Coastal Shorelands
Zone, Map and Tax Lot: Residential R-4PD, 09-11-18-AA Tax Lot #00600
Location: 515 SW Spindrift
 - B. Case File: #1-MS-PC-24
Applicant: Charissa Thornley/Adair Homes
Owners: Chad L. & Sandra J. Moeser
Application: Miscellaneous Review (Wetland Delineation)
Zone, Map and Tax Lot: Residential R-4PD, 09-11-17-BC Tax Lot #05000
Location: 260 SW Midden Reach

C. Case File: #1-PD-PC-24 (continued from March 13, 2024)

Applicant: Hills of Depoe Bay, LLC

Owner: Same as applicant

Application: Planned Development (Preliminary Plan for *Whale Watch* Phase 2)

Zone, Map and Tax Lot: Retail Commercial C-1 and Residential R-1, 09-11-05-B0 Tax Lot
#01200

Location: 1032 N Highway 101

V. Unfinished Business

VI. New Business

A. Summary of SB 1537

B. DLCD/OAPA Planning Commissioner Training on May 6, 2024

C. Date change for July 10, 2024, Planning Commission Meeting

VII. Public Comments – Items Not on Tonight's Agenda

VIII. City Council Liaison Report (April: Sherman; May: Moreland)

IX. City Planner and City Recorder Reports

X. Planning Commission Concerns

XI. Adjourn

Depoe Bay City Hall is accessible to the disabled. If special accommodations are needed, please notify
City Recorder at 765-2361 48 Hours in advance of the meeting so that appropriate assistance can be provided.
TTY# 1-800-735-2900

"This institution is an equal opportunity provider"

Coastal Shorelands Overlay Zone Request
Case File: #1-CS-PC-24
Date Filed: Jan. 24, 2024
Application Complete: Feb. 20, 2024
Meeting Date: Apr. 17, 2024, 6:00 pm
120-day Decision Date: May 23, 2024

STAFF REPORT

Depoe Bay Planning Commission Action

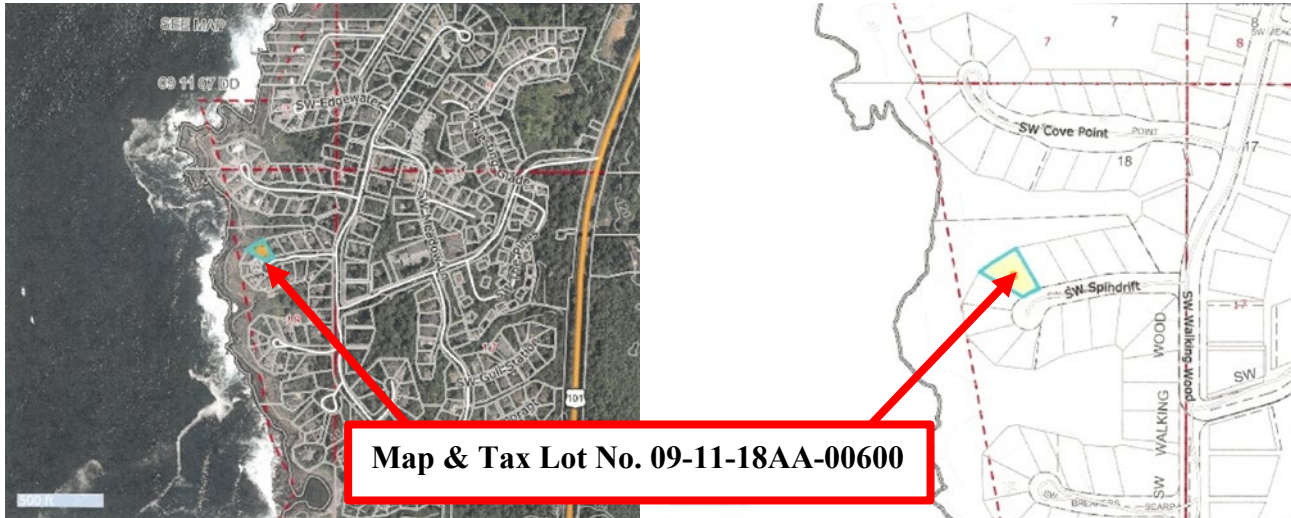
APPLICANT: Mary Valeant, Valeant Architecture

OWNERS: James G. Caldwell & JoLynn Campbell

REQUEST: The applicant requests Coastal Shorelands Overlay Zone approval to construct an addition to an existing, single-family residence in the *Little Whale Cove* community.

A. **RELEVANT FACTS:**

1. **Property Location:** The subject property is located at 515 SW Spindrift, and is further identified on Lincoln County Assessor's Map 09-11-18AA as Tax Lot 00600.



2. **Lot Size and Dimensions:** The lot measures approximately 0.20 acre. The lot is somewhat wedge-shaped, with approximately 45 feet of frontage along SW Spindrift, and a depth that varies from approximately 124 feet (at the west side) to 115 feet (at the east side) between the front and rear property lines. The property has roughly 108 feet of frontage abutting the common area lot (Tract B) on the seaward side of the property.
3. **Zoning Designation:** R-4PD.
4. **Plan Designation:** Residential.
5. **Surrounding Land Use:** Single-family residential uses are located to the east, west, and south, with a common area lot (Tract B) containing a bluff-top trail located to the north.
6. **Topography and Vegetation:** (paraphrased from the 11/14/2023 geotechnical investigation)

The site is located within the Little Whale Cove Subdivision, which is a gated community in southern Depoe Bay, Oregon. The site is located on a basaltic marine terrace and is adjacent to an approximately 45- to 50-foot-high bluff. The subject lot is wedge-shaped and is approximately 45 to 108 feet wide, northeast by southwest, and 115 to 124 feet deep, northwest by southeast. An existing two-story house is on the site. The site is bounded to its southeast by SW Spindrift, to its northwest by a common area and the Pacific Ocean, and to its northeast and southwest by adjacent lots with existing homes.

The site in the area of the house is generally flat to slightly sloping to the northwest. Areas northwest of the house generally slope down to the northwest from approximately 20 to 25 degrees. A paved path is located immediately northwest of the site in the common area. An approximately 20- to 30-foot-high northwest-facing basalt cliff is located approximately 90 feet northwest of the house. Areas within approximately 40 feet of the steep basalt cliff are not vegetated due to wave splash and erosion. Small seeps were observed along the rocky shoreline that appear to emanate from the contact between the basaltic rock and the overlying soil and fractures in the basaltic rock.

7. **Existing Structures:** The site is developed with an existing residence and garage originally constructed in 1983. Previous building permits for additions and modifications to the residence were approved in 1994 and 2015.
8. **Utilities:** The following utilities currently serve the subject property:
 - a. Sewer: Private septic system.
 - b. Water: City water service.
 - c. Electricity: Central Lincoln P.U.D.
9. **Development Constraints:**
 - a. Coastal setbacks for “Areas of Coastal Erosion” and “Areas of Visual Concern” standards of the Coastal Shorelands (C-S) Overlay Zone.

B. EVALUATION OF THE REQUEST:

1. **Relevant Criteria:**

Depoe Bay Zoning Ordinance

- a) Section 152.028: Residential Zone R-4
- b) Section 152.039: Coastal Shorelands Overlay Zone C-S
- c) Section 152.042: Planned Development Zone P-D
- c) Section 152.058: Off-Street Parking and Off-Street Loading Requirements
- d) Section 152.074: Protection of Coastal Headlands, Areas of Exceptional Aesthetic Resources
- e) Sections 152.225 – 152.235: Development Guidelines

Complete descriptions of the relevant criteria are attached to this Staff report.

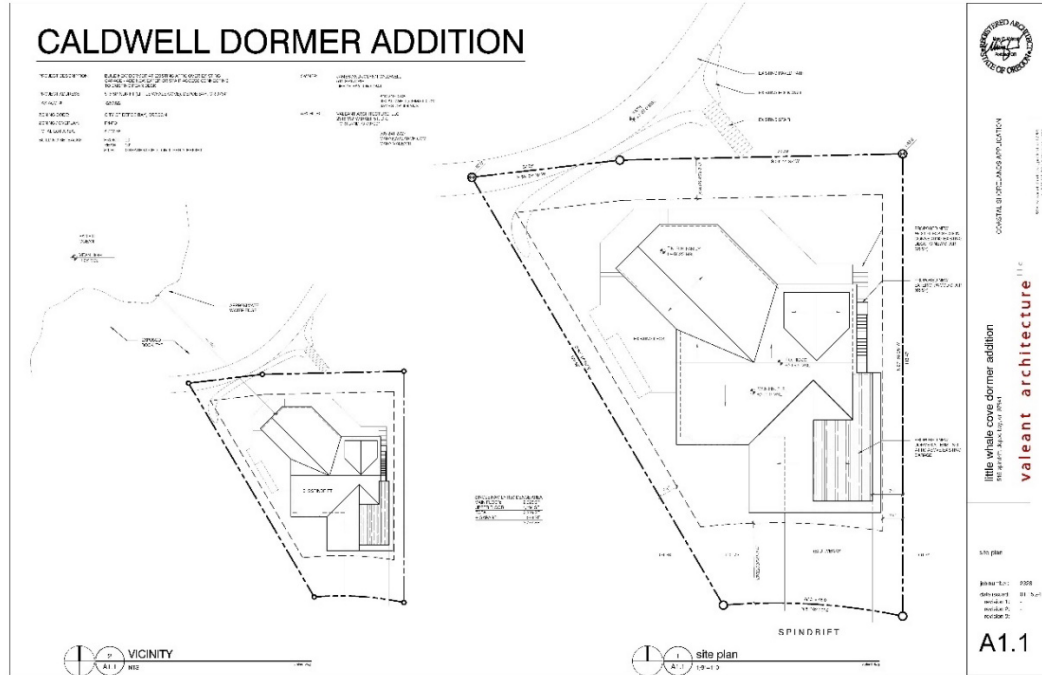
2. **Applicant’s Proposal:**

The applicant requests Coastal Shorelands Overlay Zone approval to construct an additional to an existing single-family residence. The addition primarily consists of a new bonus room above the existing garage, with a new exterior stairway providing access to the addition from the rear yard and easterly side yard areas. The applicant submitted the following:

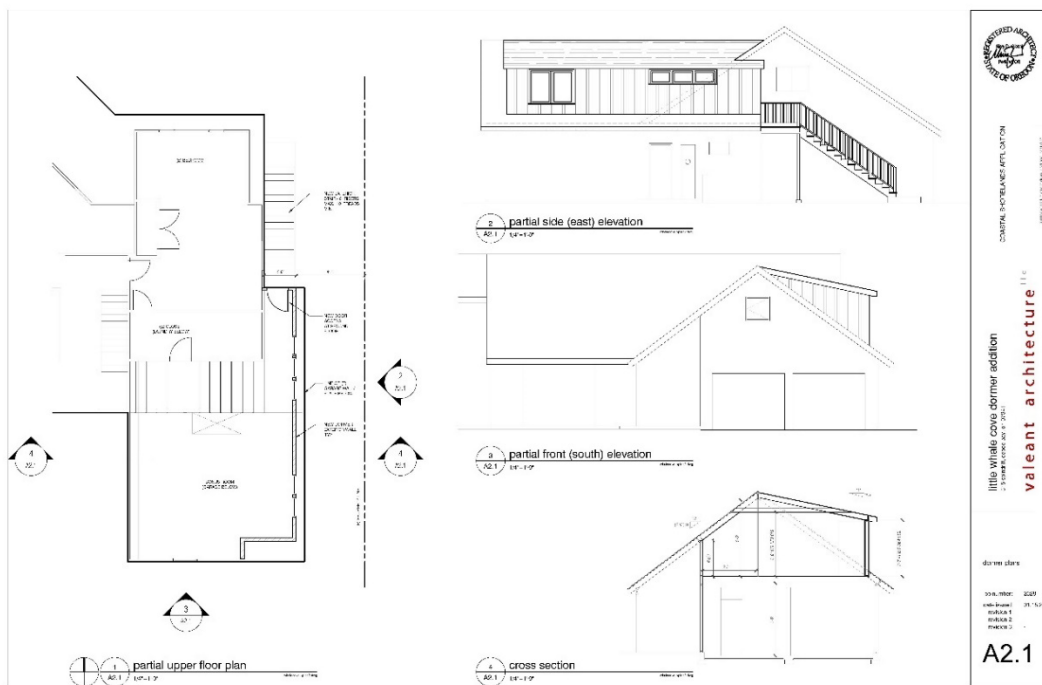
- Application form and fee/deposit for Substantial Development in the Coastal Shorelands Zone

#1-CS-PC-24 (Caldwell)
April 17, 2024, Planning Commission Meeting

- Geologic Hazards and Geotechnical Investigation prepared by H.G. Schlicker & Associates, dated November 14, 2023
- Engineering Geologic Hazards Investigation prepared by H.G. Schlicker & Associates, dated August 3, 2003.
- Proposed site plan, floor plan, and exterior elevations



Site Plan



Floor Plan and Elevations/Section

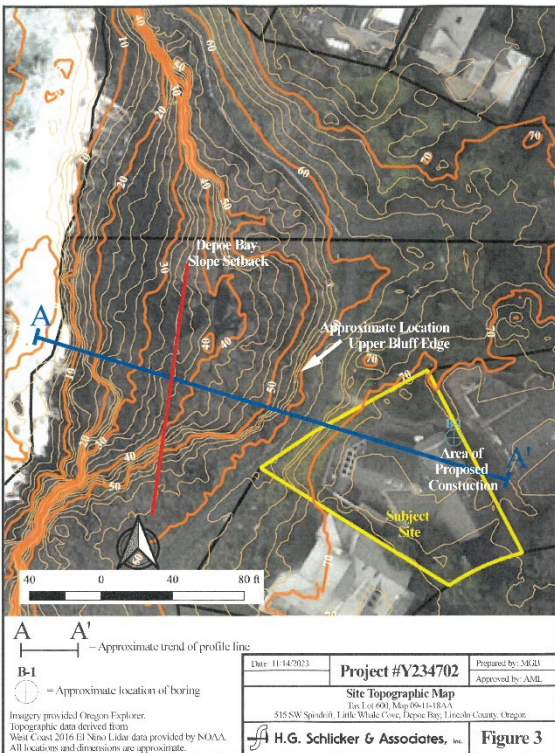
3. **Public Testimony.** Notice of this public hearing was mailed to property owners within a 250-foot radius of the subject property on March 20, 2024, and was published in the Lincoln County *Leader* on March 20, 2024. No written testimony was received at the time this report was completed. On March 29, 2024, Staff received a voicemail from Susan Daniell, a neighboring property owner, with questions about the scope of the proposed project, but no written comments were received.

C. **SUMMARY AND STAFF ANALYSIS:** The Planning Commission reviews the proposal for conformance with the appropriate standards of the Depoe Bay Zoning Ordinance (DBZO). To facilitate review, Staff identifies the following:

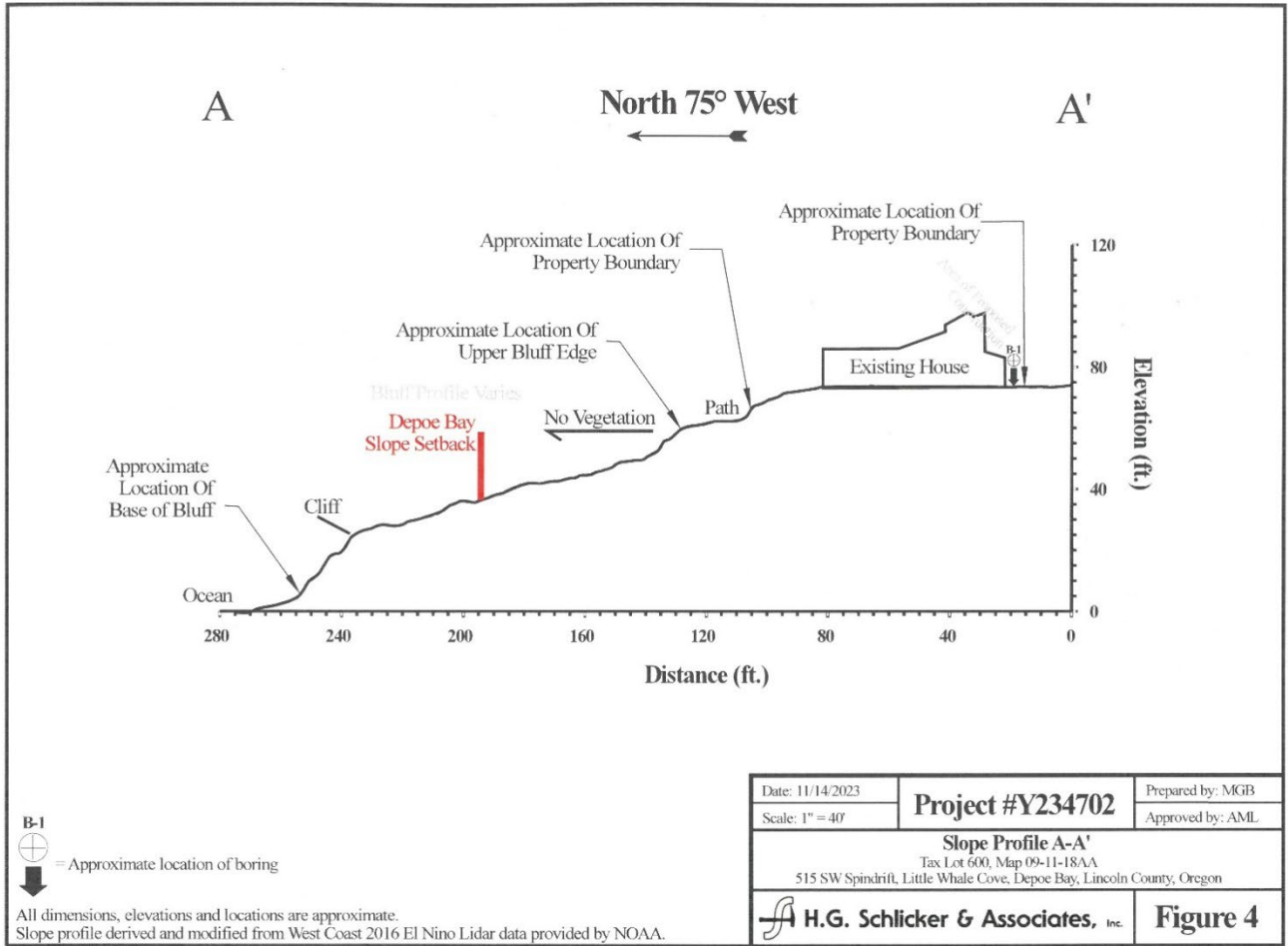
1. **R-4PD Residential Standards.** The following table summarizes the project’s compliance with the development standards for the R-4 zone and the *Little Whale Cove No. 4* planned development. The plans have been reviewed and preliminarily approved by the Little Whale Cove Architectural Committee.

	Standard	Proposed
Front Yard	Min. 20’	26’
West Side Yard	Min. 5’, or 1’ for each 3’ of building height, whichever is greater. The proposed building height is 21’-6”, so the minimum required side-yard setback is 7’-2”.	No change
East Side Yard		7’-6”
Rear Yard	Min. 10’	No change
Building Height	Max. 35’	No change

2. **Coastal Setback – Area of Coastal Erosion.** In the Areas of Coastal Erosion (ACE), no excavating, filling, or placement of retaining walls, deck posts or other permanent structures is allowed, unless based on a Geologic Hazards Report approved by the Planning Commission. Based on the Geologic Hazards and Geotechnical Investigation by H.G. Schlicker & Associates dated November 14, 2023, the applicable area of coastal erosion is the “SLIGHT 45°” standard which requires a 1.0’ setback for every 1.0’ of bank height from the mean higher high-water line (MHHW) and/or the base of the bank, whichever is greater.



Using the 1:1 ratio for slight coastal erosion potential, the calculated coastal setback is roughly 85 feet southeastward from the MHHW, which equates to a coastal erosion setback line located approximately 65 feet northwest of the top of the bluff on the adjacent common area lot. DBZO Section 152.235(A) prohibits excavating, filling, or placement of retaining walls, deck posts or other permanent structures in the ACE setback unless a Geological Hazards Report is approved by the Planning Commission. There are no portions of the proposed structure or improvements that encroach upon the ACE setback, so Staff believes that the proposed project is consistent with the ACE setback requirement for this lot.



3. **Coastal Setback – Area of Visual Concern.** DBZO Section 152.235(A)(3) describes the “Areas of Visual Concern” (AVC) and identifies that the Area of Visual Concern/Exceptional Aesthetic Resources for this subject site extends 25 feet landward from the top of the coastal bluff (see DBZO Section 152.074(B)(1)(b)). In these areas, DBZO Section 152.074(B)(1)(c) requires *“the outer coverings of structures that will be visible from within the aesthetic resource area, including roofing materials, are of natural wood materials or designed to look like natural wood materials or are painted or stained in subdued colors.”* Based upon the site plan, the closest portion of the existing residence is located roughly 50 feet from the top of the bluff, while the closest portion of the proposed addition is located even further away, well outside of the 25-foot AVC setback. Therefore, Staff believes that the proposed project is consistent with the AVC setback requirement for this lot.
4. **Geotechnical Report Recommendations.** The Geologic Hazard and Geotechnical Investigation dated November 14, 2023, includes design and construction recommendations. The recommendations were based on site visits, site observations and measurements, limited review of the geologic literature, interpretation of topographic maps, soils, geology, development plats and aerial photographs. In addition to the minimum setback from the top of the bluff, approval of a geologic hazards permit should include all design and construction recommendations identified in the above-mentioned reports. These reports are attached to this Staff report. Upon an approval, a recommended condition is for the applicant to submit a letter to the City, prepared by an engineering geologist, stating that final building plans are in accordance with all the engineering geologist’s recommendations.

5. **Erosion Control and Drainage Plan.** The City’s Public Works Director requests review and approval of plans for erosion control and storm drainage prior to issuance of a building permit.
6. **Parking.** The DBZO requires two (2) parking spaces for each single-family residence. The existing residence provides the required off-street parking for the site.
7. **Archaeological Resources.** All the Depoe Bay planning area falls within the “high density” archaeological site density classification shown in the 1976 Lincoln County Statewide Inventory Historical Sites and Buildings, published by the Oregon State Historic Preservation Office, Parks and Recreation Branch, Department of Transportation. Although the property is not specifically identified as an archaeological site, the applicant needs to be aware of potential archaeological resources and take feasible action to minimize site disturbance and prevent irreversible loss of archaeological resources. DBZO Section 152.075(B)(1) states that development on identified archaeological sites shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. This does not require the property owner to hire an archaeologist, however, it does require the property owner to be cognizant of archaeological resources when developing the site.
8. **Declaration.** The Applicant/Property Owner shall complete and sign the Declaration of Covenants and Conditions of Responsibility and Indemnity (The Declaration) provided by the City. Prior to issuance of a building permit, the Applicant or Property Owner shall execute and record the Declaration in the deed records of Lincoln County, Oregon.

D. CONCLUSIONS: In evaluating the request, the Planning Commission bases its decision on compliance with the applicable code standards. If the Planning Commission finds the request fails to satisfy the ordinance standards, it can move to deny the request, articulating the basic conclusions and rationale for the decision and directing Staff to prepare findings for adoption.

If the Planning Commission finds the request satisfies the applicable criteria, it can move to approve the request and direct Staff to prepare findings for adoption. In the event of an approval, Staff suggests the following conditions of approval be attached.

1. **Building Permit.** Development shall be accomplished in conformance with the approved plans.
2. **Area of Coastal Erosion and Area of Visual Concern Setbacks.** Development shall be accomplished in conformance with the approved plans.
3. **Geotechnical Construction Recommendations and Inspections.** Development shall be accomplished in conformance with the approved plan, including the recommended plan reviews and site observations specified in the Geologic Hazards and Geotechnical Investigation prepared by H.G. Schlicker & Associates, dated November 14, 2023.
 - a) The applicant will be responsible for submitting a letter to the City prepared by an engineering geologist stating that final building plans are in accordance with all the engineering geologist’s recommendations.
 - b) The applicant will be responsible for submitting a letter to the City prepared by an engineering geologist stating that inspections were performed during construction of soils or foundation related phases of work

4. **Design and Construction Recommendations.** Development shall be accomplished in conformance with the recommendations described in the Geologic Hazards and Geotechnical Investigation prepared by H.G. Schlicker & Associates, dated November 14, 2023:

“The following recommendations shall be adhered to during design and construction. If modifications to the existing structure contribute substantially greater loads to the existing foundations, additional geotechnical investigation, analysis, foundation design and construction recommendations may be required. An inspection by a qualified structural engineer is recommended.

The presence of fill and soft soil in the area of proposed construction, uncertainties regarding the construction of the existing foundation and observations of the current condition of the foundations indicate that modifications to the existing foundations may be necessary to ensure adequate structural support for the second-story expansion. We recommend that the existing foundations be adequately supported during construction to prevent settlement.

Temporary support of the existing structure may be necessary during excavation and construction.

- (a) **Site Preparation and Bluff Setback.** All new footing areas shall be stripped of all organic, disturbed, and loose/soft soils, existing fills, and debris. We anticipate that non-organic, firm soils will be encountered at depths of 4.5 feet; however, depths may vary.

The erosion rate for the area of the site is 0.09 feet/yr (1.08 inches/year). As described in Section 152.234 of the City of Depoe Bay zoning code, the category of coastal erosion for the site is considered "slight." The coastal setback required by the City of Depoe Bay code for Slight Erosion categories is "1 foot of setback for each 1 foot of bank height" measured from the Mean Higher High-Water Line and/or the base of the bluff. The bluff height as measured from the base of the cliff to the top edge of the bluff, which is approximately 50 feet (NAVD 88). The resulting setback required by the City of Depoe Bay code is approximately 50 feet from the base of the cliff (Figures 3 and 4), which is west of the site's westerly property line.

The area of the proposed construction is approximately 210 feet from the base of the cliff and 75 feet east of the upper bluff edge. Based on the location of the proposed improvements, no additional geologic setback is required. Depoe Bay requires an area of visual concern setback of 25 feet landward of the uppermost break in slope, which is approximately at the western property boundary and does not appear to constrain the proposed area of construction.

The Oregon Coast is a dynamic and energetic environment. Most of the coastline is currently eroding and will continue to erode in the future. Most structures built near ocean bluffs will eventually be undermined by erosion and landsliding. The new foundation setback recommendations presented in this report are based on past average erosion rates as determined from aerial photography and past and current geologic conditions and processes. These setbacks are intended to protect the structure(s) from bluff recession for a minimum of 60 years. Geologic conditions and the rates of geologic processes can change in the future. Setbacks greater than our recommended minimum setbacks would provide the proposed structure with greater anticipated life and a lower risk from some geologic hazards.

- (b) **Soil Bearing Capacities.** Footings bearing in undisturbed, native, non-organic, firm soils or properly compacted structural fill placed on these soils may be designed for the following:

ALLOWABLE SOIL BEARING CAPACITIES	
Allowable Dead Plus Live Load Bearing Capacity ^a	1,500 psf
Passive Resistance	200 psf/ft embedment depth
Lateral Sliding Coefficient	0.35
^a Allowable bearing capacity may be increased by one-third for short-term wind or seismic loads.	

- (c) **Foundations.** To help mitigate potential differential settlement, we recommend that the new staircase and deck should be detached and structurally independent from the existing house and deck. We anticipate that new conventional isolated or continuous footings for the proposed improvements will require over-excavation to reach suitably firm soil and replacement with structural fill to achieve desired grades.

Our recommended minimum width and embedment depth for new continuous footings for the staircase and deck are as follows:

MINIMUM FOOTING WIDTHS & EMBEDMENT DEPTHS	
Minimum Footing Width	15 inches
Minimum Exterior Footing Embedment Depth ^a	18 inches
Minimum Interior Footing Embedment Depth ^b	6 inches
^a If foundations will be placed along or immediately adjacent to slopes steeper than 3H:1V, foundation embedments will need to be a minimum of 18 inches, as approved by a representative of our firm.	
^b Interior footings shall be embedded a minimum of 6 inches below the lowest adjacent finished grade, or as otherwise recommended by our firm. In general, interior footings placed on sloping or benched ground shall be embedded or set back from cut slopes in such a manner as to provide a minimum horizontal distance between the foundation component and face of the slope of one foot per every foot of elevation change.	

To avoid extensive over-excavation and replacement, individual augered reinforced concrete footings may be feasible; however, we defer to the project's structural engineer for structural considerations. We recommend a minimum end diameter of 16 inches, embedded a minimum of 8 inches into firm soil or directly on rock if encountered. Any cast-in-place style reinforced isolated footings shall bear in suitably firm soil; to ensure that suitable material has been reached during construction, full-time observation by HGSA may be necessary.

- (d) **Seismic Requirements.** The structure and all structural elements shall be designed to meet current Oregon Residential Specialty Code (ORSC) seismic requirements. Based on our knowledge of subsurface conditions at the site and our analysis using the guidelines recommended in the ORSC, the structure shall be designed to meet the following seismic parameters:

SEISMIC DESIGN PARAMETERS	
Site Class	D
Seismic Design Category	D ₂
Mapped Spectral Response Acceleration for Short Periods	S _S = 1.459 g
Site Coefficients	F _a = 1.2

Design Spectral Response Acceleration at Short Periods	$S_{DS} = 1.167 g$
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- (e) **Structural Fills.** Structural fill supporting loads should consist of imported, granular material, free of organics and deleterious materials, and contain no particles greater than 1 inch in diameter so that nuclear methods (ASTM D6938) can be easily used for field density testing. Fill should contain less than 5% of material passing the 200 mesh sieve based on the minus 3/4-inch fraction and a washed sieve analysis. Structural fill should be placed in lifts not exceeding 8 inches and compacted to a minimum of 95% of the maximum dry density as determined by ASTM D1557. All areas to receive fill should be stripped of all organic soils, organic debris and existing fill and to a depth approved by a representative of HGSA.

STRUCTURAL FILL	
Compaction Requirements	95% ASTM D1557, compacted in 8-inch lifts maximum, at or near the optimum moisture content

Proper test frequency and earthwork documentation usually require daily observation during stripping, rough grading, and placement of structural fill. Field density testing should generally conform to ASTM D6938 or D1556. To minimize the number of field and laboratory tests, fill materials should be from a single source and of a consistent character. Structural fill should be approved and periodically observed by HGSA and tested by a qualified testing firm. Test results will need to be reviewed and approved by HGSA. We recommend that at least three density tests be performed for every 18 inches or every 200 cubic yards of fill placed, whichever requires more testing. Because testing is performed on an on-call basis, we recommend that the earthwork contractor schedule the testing. Relatively more testing is typically necessary on smaller projects.

- (f) **Groundwater.** Groundwater may be encountered at shallow depths in excavations during the wet season. If groundwater is encountered, unwatering of the excavation is required and shall be the contractor's responsibility. Unwatering can typically be accomplished by pumping from one or more sumps or daylighting the excavations to drain.
- (g) **Erosion Control.** Vegetation shall be removed only as necessary, and exposed areas shall be replanted following construction. Disturbed ground surfaces exposed during the wet season (November 1 through April 30) shall be temporarily planted with grasses or protected with erosion control blankets or hydromulch.

Temporary sediment fences shall be installed downslope of any disturbed areas of the site until permanent vegetation cover can be established.

Exposed sloping areas steeper than 3 horizontal to 1 vertical (3H:1V) shall be protected with a straw erosion control blanket (North American Green S150 or equivalent) to provide erosion protection until permanent vegetation can be established. Erosion control blankets shall be installed as per the manufacturer's recommendations.

- (h) **Cut and Fill Slopes.** We do not anticipate any permanent cut slopes related to the proposed development. However, temporary unsupported cut and fill slopes less than 8 feet in height should be sloped no steeper than 1 horizontal to 1 vertical (1H:1V). If temporary slopes greater than 9 feet high are desired, or if water seepage is encountered in cuts, HGSA should be contacted to provide additional recommendations. Temporary cuts in excess of 5 feet high and steeper than

1H:1V will likely require appropriate shoring to provide for worker safety, per OSHA regulations. Temporary cuts should be protected from inclement weather by covering them with plastic sheeting to help prevent erosion and/or failure.

Permanent unsupported cut and fill slopes shall be constructed no steeper than 2 horizontal to 1 vertical (2H:1V).

- (i) **Drainage.** Surface water should be diverted from building foundations and walls to approved disposal points by grading the ground surface to slope away a minimum of 2 percent for 6 feet towards a suitable gravity outlet to prevent ponding near the structures. Permanent subsurface drainage of the building perimeter is recommended to prevent extreme seasonal variation in moisture content of subgrade materials and subjection of foundations and slabs to hydrostatic pressures.

For new and existing conventional isolated and/or continuous foundation elements, we recommend the following:

Footing drains should be installed adjacent to the perimeter footings and sloped a minimum of 2 percent to a gravity outlet. A suitable perimeter footing drain system would consist of 4-inch diameter, perforated PVC pipe (typical) embedded below and adjacent to the bottom of footings, and backfilled with approved drain rock. The type of pipe to be utilized may depend on building agency requirements and should be verified prior to construction. HGSA also recommends lining the drainage trench excavation with a geotextile filter such as Mirafi® 140N or equivalent to increase the life of the drainage system. The perimeter drain excavation should be constructed in a manner that prevents the undermining of foundation or slab components or any disturbance to supporting soils.

All roof drains should be collected and tightlined in a separate system independent of the footing drains, or an approved backflow prevention device shall be used. All roof and footing drains should be discharged to an approved disposal point. If water will be discharged to the ground surface, we recommend that energy dissipaters, such as splash blocks or a rock apron, be utilized at all pipe outfall locations. Water collected on the site should not be concentrated and discharged to adjacent properties.

- (j) **Plan Review and Site Observations.** We shall be provided the opportunity to review all site development, foundation, drainage, and grading plans prior to construction to assure conformance with the intent of our recommendations (Appendix B). The plans, details, and specifications shall clearly show that the above recommendations have been implemented into the design.

We shall observe footing excavations prior to forming and/or pouring of concrete, and observe pavement areas prior to placing fill to assure that suitable bearing soils have been reached. At the time of our observations, we may recommend additional excavation if suitable bearing soils have not been reached. Our recommended site observations and plan reviews are detailed in Appendix B of this report. There will be additional charges for these services.

Please provide us with at least five (5) days' notice prior to any needed site observations. There will be additional costs for these services.”

- 5. **Drainage and Erosion Control.** The City Public Works Director shall review and approve plans for erosion control and storm drainage prior to issuance of a building permit.

6. **Parking.** Two (2) parking spaces shall be provided within the existing garage and driveway.
7. **Archaeological Resources.** Development shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. Before and during excavation, any discovery of archaeological resources shall mean that the applicant shall cease excavation activities, notify the State Historic Preservation Office and Confederated Tribe of Siletz Indians, and meet State statutes before proceeding.
8. **Declaration.** The Applicant/Property Owner shall complete and sign the Declaration of Covenants and Conditions of Responsibility and Indemnity (The Declaration) provided by the City. Prior to issuance of a building permit, the Applicant or Property Owner shall execute and record the Declaration in the deed records of Lincoln County, Oregon.

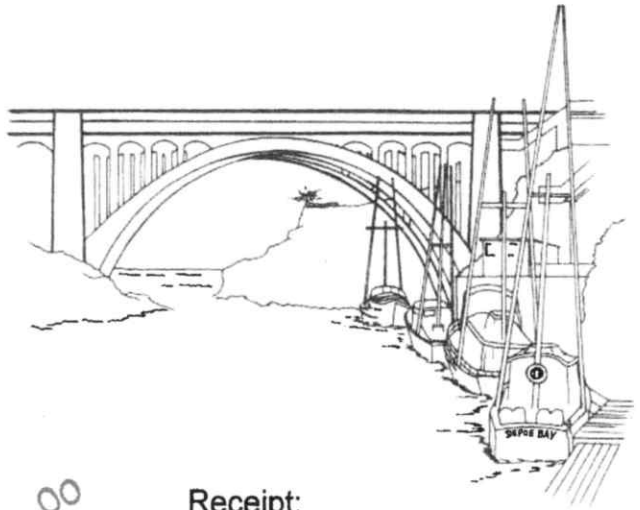
Submitted by,

Kit Fox, AICP
City Planner

- Attachments: Project application forms
Project site plan, floor plan, and elevations/sections
November 14, 2023, Geologic Hazards and Geotechnical Investigation
August 4, 2003, Engineering Geologic Hazards Investigation
February 20, 2024, City Engineer's Approval Letter
Public testimony
Relevant DBZO criteria:
- Section 152.028: Residential Zone R-4
 - Section 152.039: Coastal Shorelands Overlay Zone C-S
 - Section 152.042: Planned Development Zone P-D
 - Section 152.058: Off-Street Parking and Off-Street Loading Requirements
 - Section 152.074: Protection of Coastal Headlands, Areas of Exceptional Aesthetic Resources
 - Sections 152.225 – 152.235: Development Guidelines

CITY of DEPOE BAY

Post Office Box 8 + Depoe Bay, Oregon 97341
Phone (541) 765-2361 + Fax (541) 765-2129
TDD# 1-800-735-2900



Zoning Action Application

TO BE COMPLETED BY OFFICE:

Deposit: \$575⁰⁰

Receipt: _____

Fee: \$276⁰⁰
(Non-Refundable)

1. Date Received _____	Staff Initials _____
1. Case File Number _____	Action: _____ Planning Commission _____
2. Action Requested C.U. _____ N.C.U. _____ Variance _____ Zone Change _____ Geotechnical Report _____ Other <u>Coastal Shorelands Development</u>	
3. Current Zoning _____ Current Plan Designation _____ Lot Size _____	
4. Previous Planning Actions on Property _____	
5. Existing Code Violation(s) _____	

TO BE COMPLETED BY APPLICANT:

Reason For Request ADDITION OF EXTERIOR STAIR TO LIVING AREA OVER GARAGE

Property Description T 9 S, R 11 W, W.M., Section 18 Tax Lot(s) 600

Applicant's Name MARY VALEANT, VALEANT ARCHITECTURE

Address 2318 SW MARKET ST. DR City PORTLAND State OR

Zip Code 97201 Daytime Phone Number 503-241-2727

Relationship to Property ARCHITECT

(Owner, Contract Purchaser, etc.)

Agent (if any) N/A

Directions to Property LITTLE WHALE COVE

Existing Structures SINGLE-FAMILY RESIDENCE

Current/Proposed Utilities: Sewage Water

Anticipated Date of Development SPRING 2024

INFORMATION REQUIRED

For

SUBSTANTIAL DEVELOPMENT IN THE COASTAL SHORELANDS ZONE


For all applications requesting substantial development in the Coastal Shorelands zone, the following minimum information must be submitted for the application to be considered complete:

1. Plot plan, drawn to scale, of the subject property showing:
 - A. all property lines
 - B. all existing and proposed buildings, including floor area, height, use and setbacks from all property lines
 - C. general description of the topography and vegetation
 - D. all wetland areas, streams and waterways, and areas subject to flood hazard.
 - E. location of Mean Higher High Water of the Pacific Ocean and extent of riparian vegetation measured on existing grade, in relation to proposed development
 - F. location of Geologic Hazard setback for erosion in relation to proposed development.
 - G. location of any known or suspected archaeological resources, and methods proposed to minimize to minimize site disturbances and irreversible loss of the resource.
 - H. efforts made to preserve the existing visual character of the area.

**NOTE: ALL APPLICATIONS MUST BE COMPLETE.
FAILURE TO SUBMIT A COMPLETE APPLICATION
WILL DELAY THE ACCEPTANCE AND PROCESSING
OF YOUR APPLICATION.**

  1/23/2024

Signature of Property Owner Date

 1/23/2024

Signature of Applicant (if other than property owner) Date

COASTAL SETBACKS - FOR EROSION

◆ SEVERE 20°

Bank Height / TAN 20° 2.75' to 1' of Bank Height

Bank Height / .36397

◆ MODERATE 25°

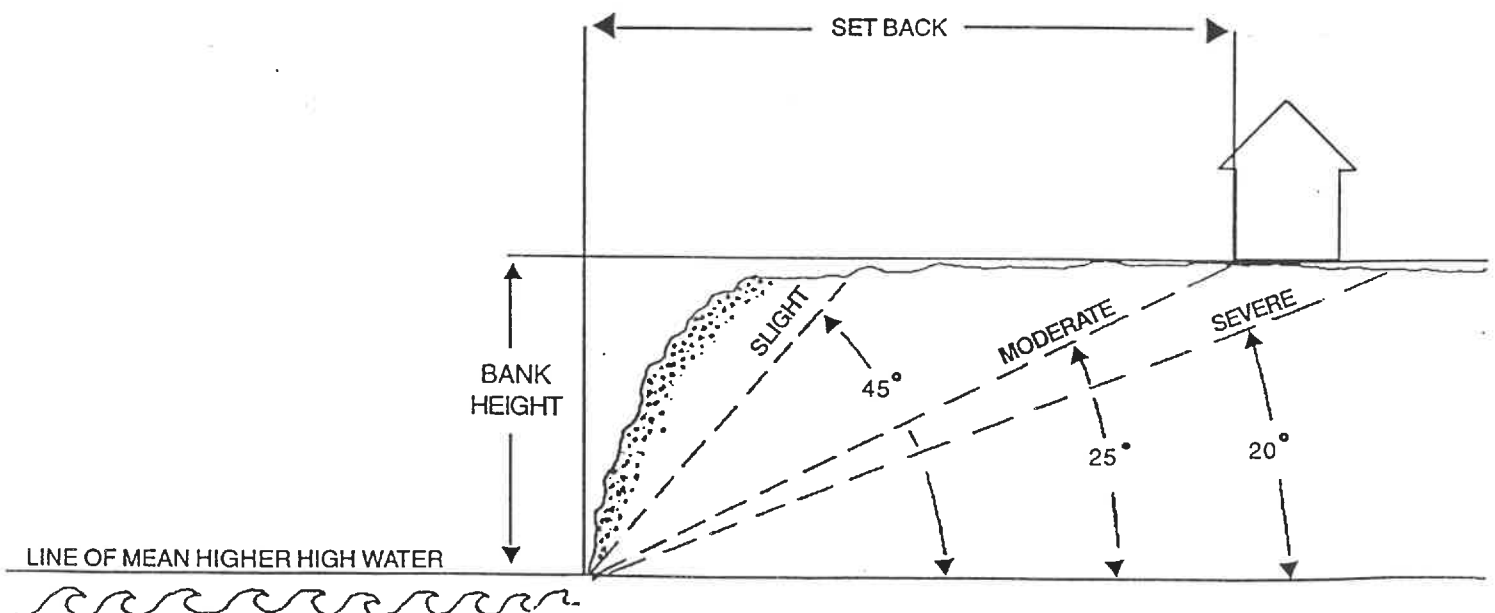
Bank Height / TAN 25° 2.15' to 1' of Bank Height

Bank Height / .46631

◆ SLIGHT 45°

Bank Height / TAN 45° 1' to 1' of Bank Height

Bank Height / 1



CALDWELL DORMER ADDITION

PROJECT DESCRIPTION: BUILD NEW DORMER AT EXISTING ATTIC OVER EXISTING GARAGE - ADD NEW EXTERIOR STAIR ACCESS CONNECTING TO EXISTING REAR DECK

PROJECT ADDRESS: 515 SPINDRIFT (LITTLE WHALE COVE), DEPOE BAY, OR 97341

TAX ACCT#: R259922

ZONING CODE: CITY OF DEPOE BAY, OREGON

ZONING / OVERLAY: R4-PD

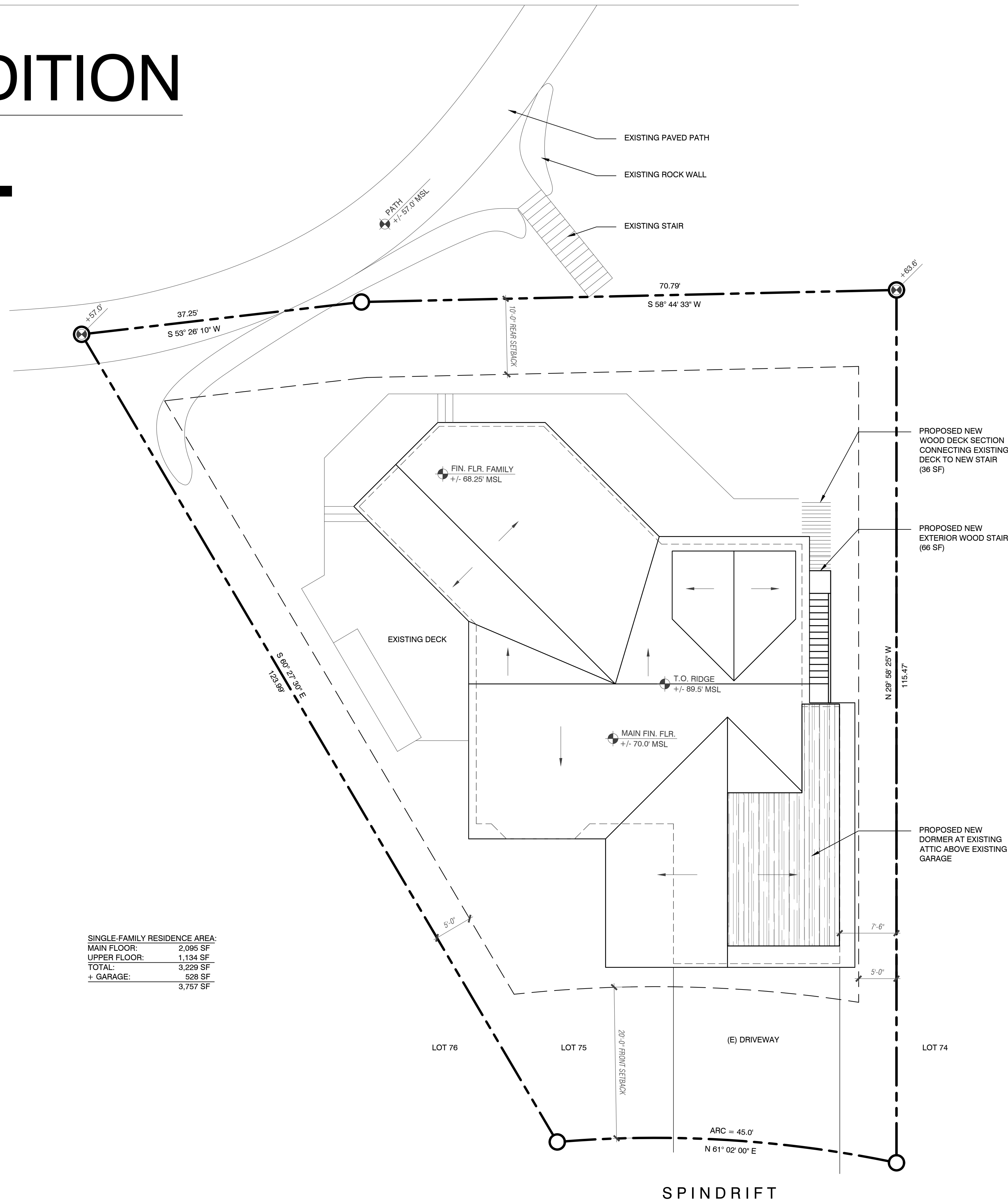
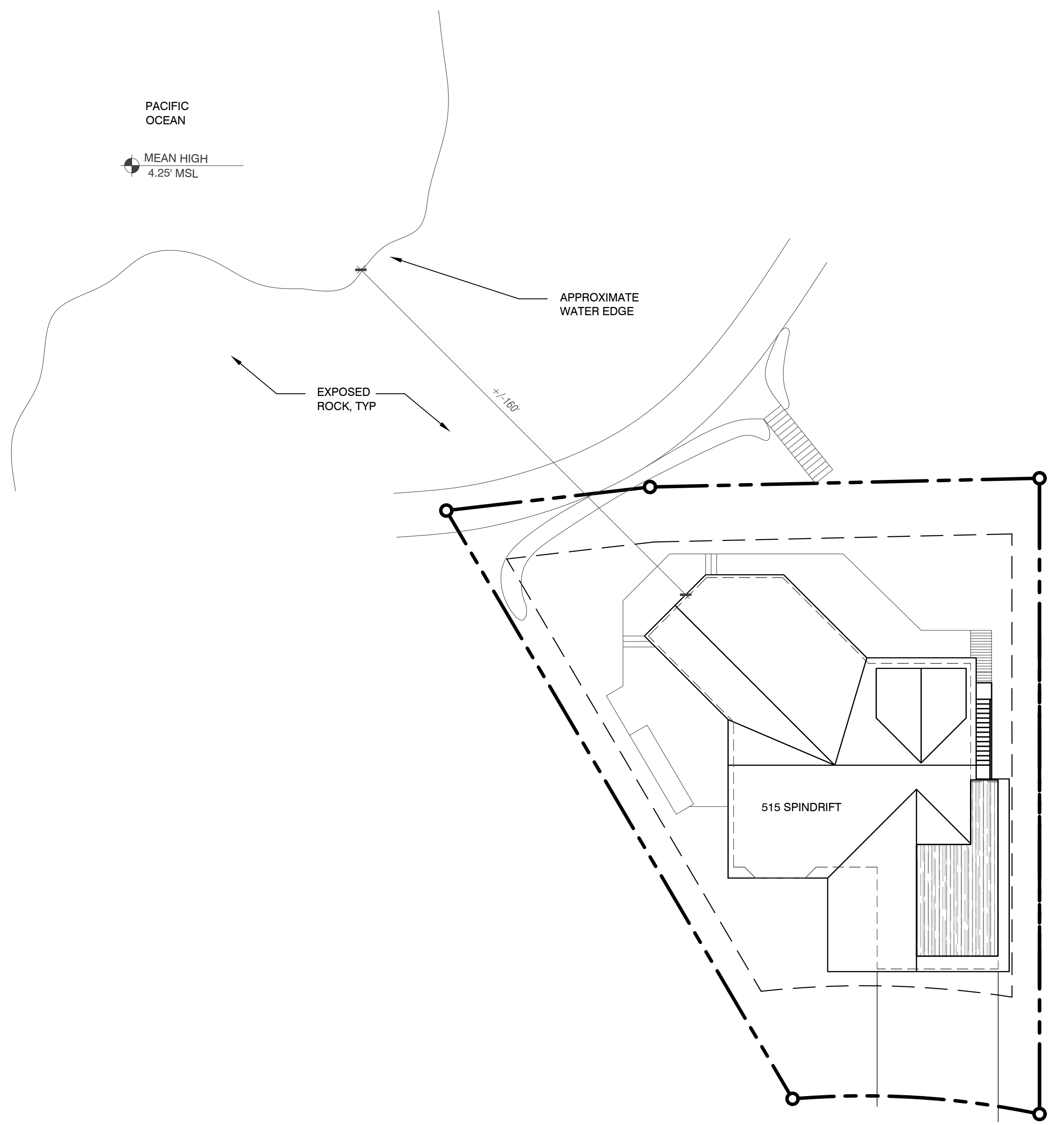
TOTAL LOT AREA: 8,712 SF

BUILDING SETBACKS: FRONT: 20'
REAR: 10'
SIDE: GREATEST OF 5', OR 1' PER 3' HEIGHT

OWNER: JAMES AND JOLYNN CALDWELL

ARCHITECT: VALEANT ARCHITECTURE, LLC
2318 SW MARKET ST. DR.
PORTLAND, OR 97201

503-241-2727
MARY@VALARCH.COM
MARY VALEANT



SINGLE-FAMILY RESIDENCE AREA:	
MAIN FLOOR:	2,085 SF
UPPER FLOOR:	1,134 SF
TOTAL:	3,229 SF
+ GARAGE:	528 SF
	3,757 SF

COASTAL SHORELANDS APPLICATION

little whale cove dormer addition
515 spindrift, depoe bay, or 97341

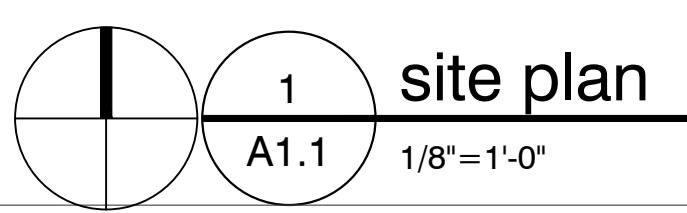
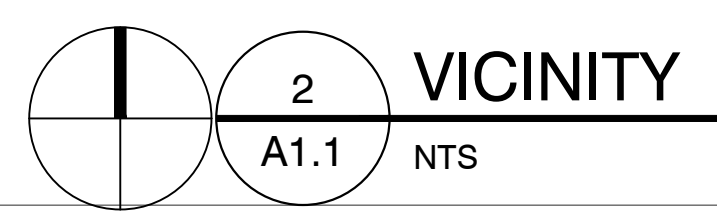
valeant architecture llc

2318 sw market street drive, portland, or 97201
P: 503.241.2727 www.valeant.com

site plan

job number: 2328
date issued: 01.15.24
revision 1: -
revision 2: -
revision 3: -

A1.1



SPINDRIFT



COASTAL SHORELANDS APPLICATION

little whale cove dormer addition
515 spindrift, depoe bay, or 97341

valeant architecture llc

dormer plans

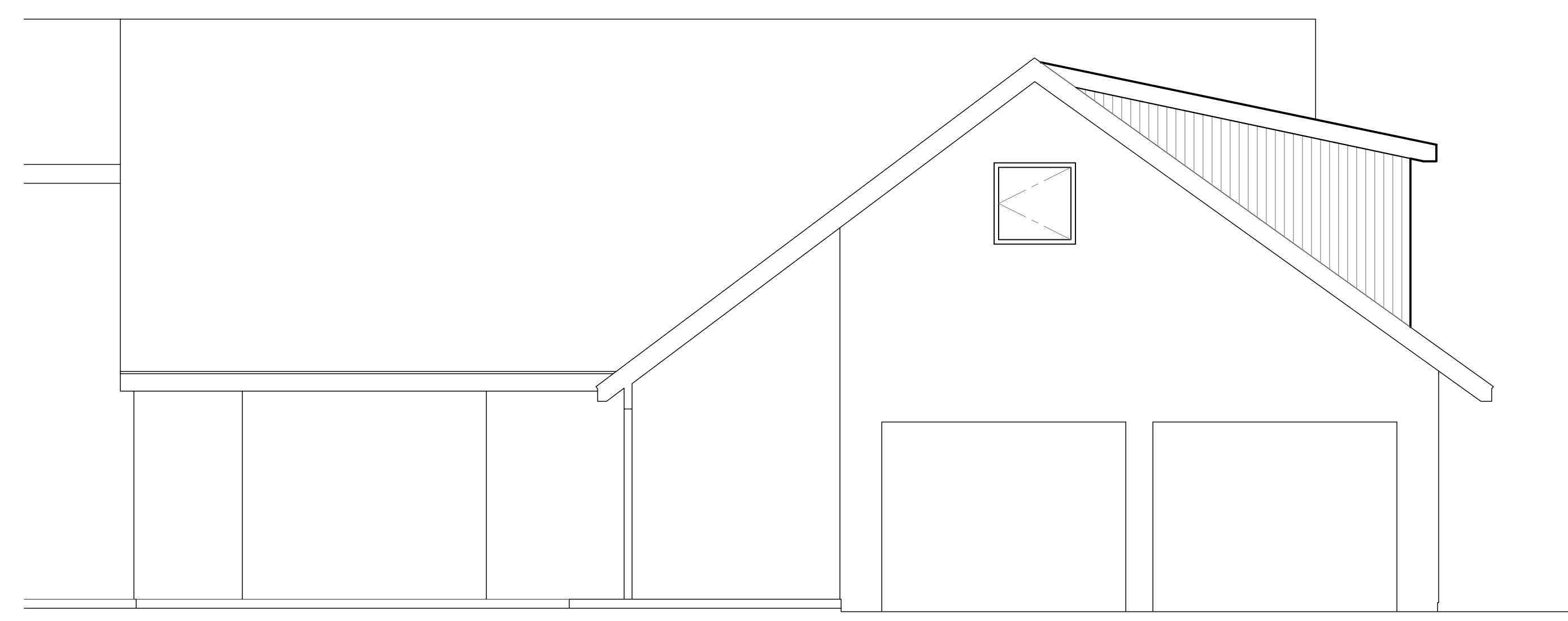
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revision 1: -
revision 2: -
revision 3: -

A2.1

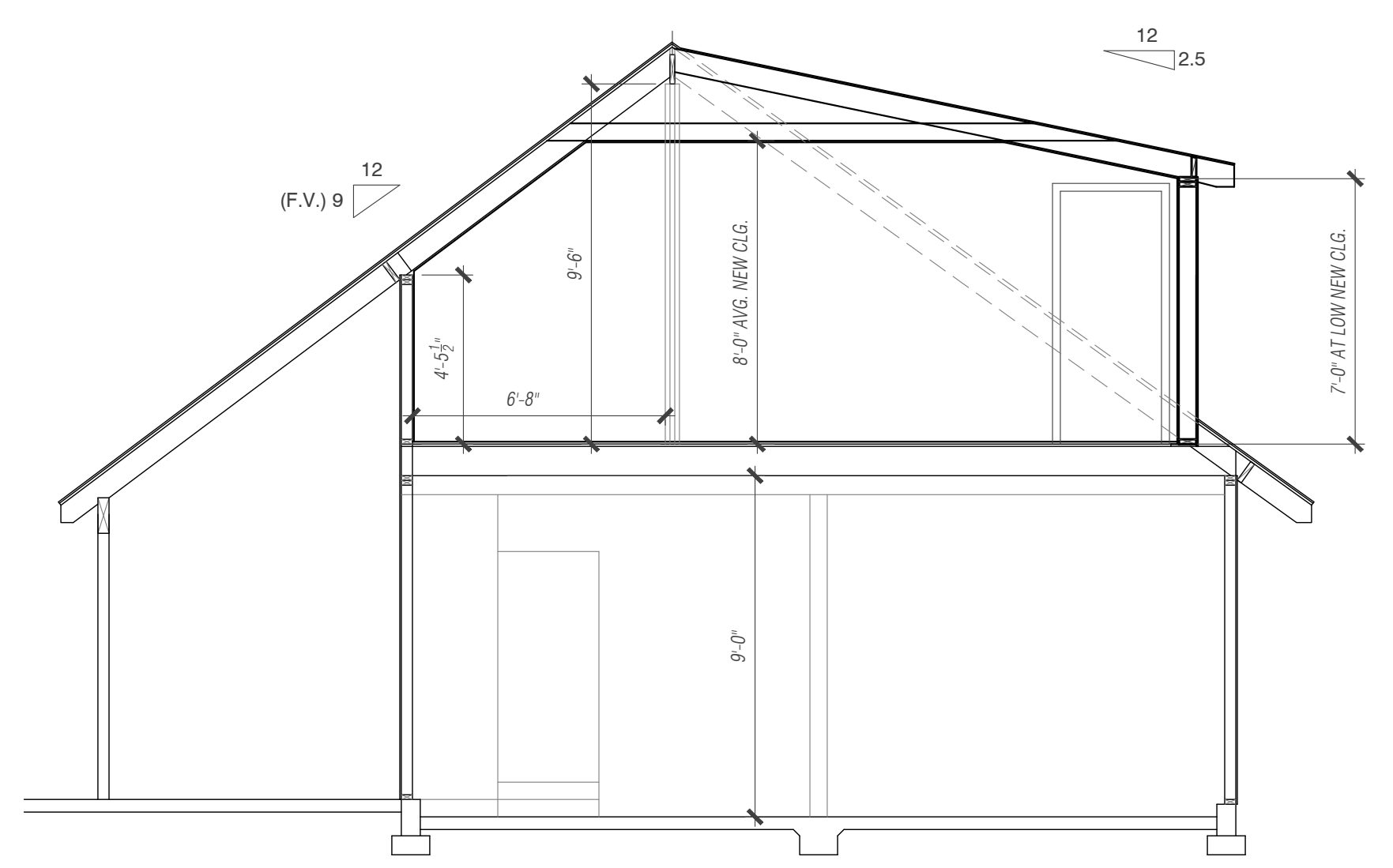
2316 sw market street drive, portland, or 97201
P: 503.241.2727 www.valeant.com



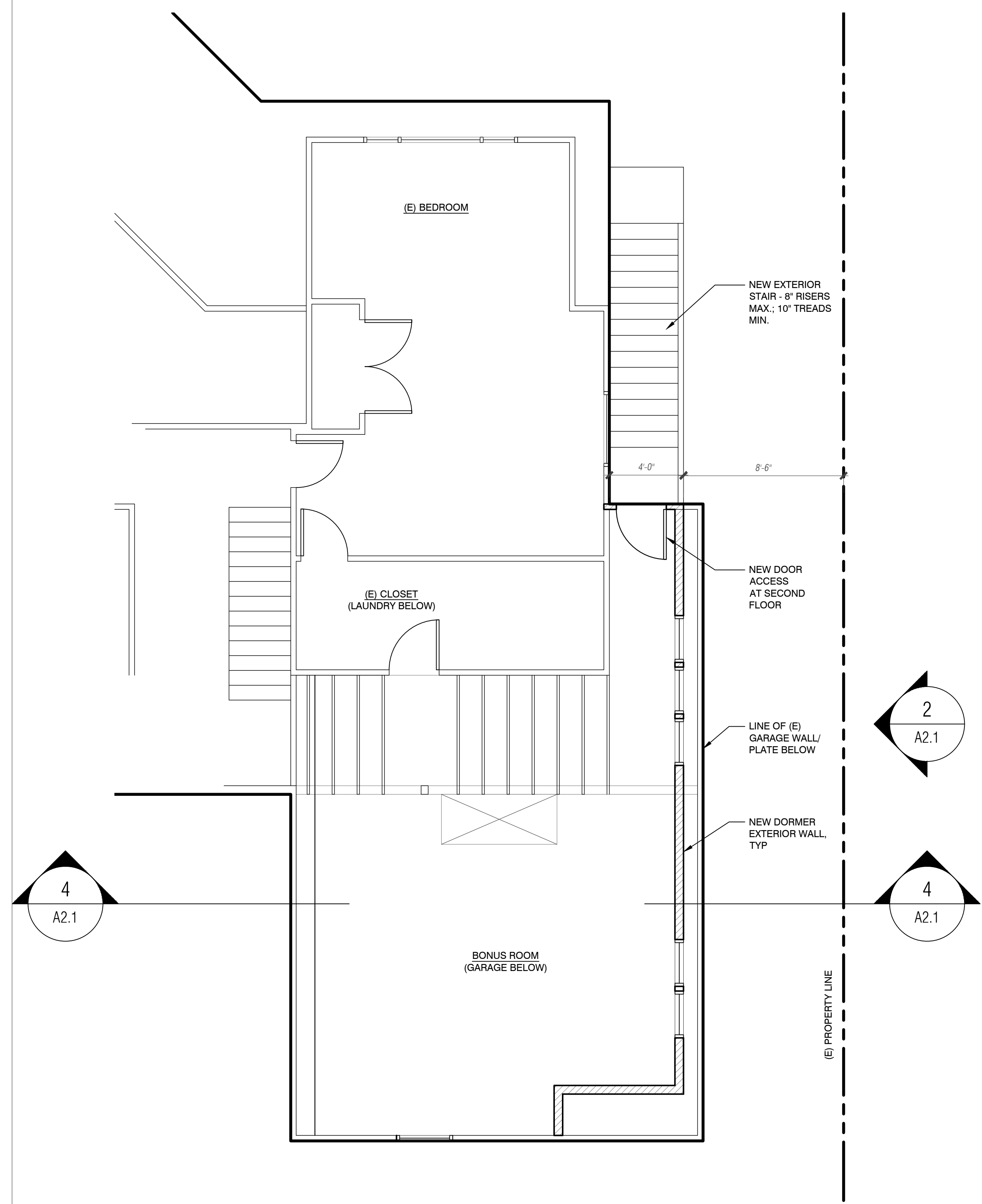
2 partial side (east) elevation
A2.1 1/4"=1'-0" whalecove_xplan2.dwg



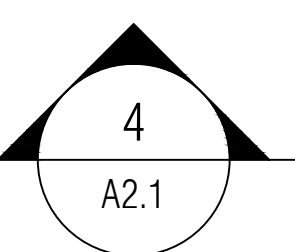
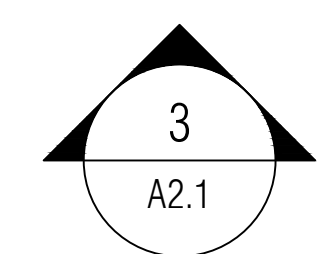
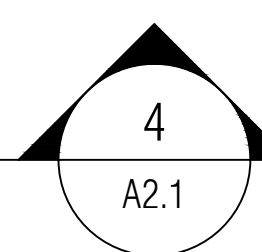
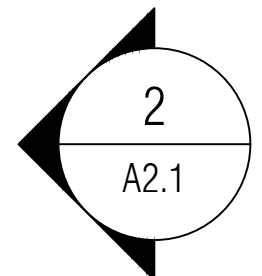
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A2.1 1/4"=1'-0" whalecove_xplan2.dwg



4 cross section
A2.1 1/4"=1'-0" whalecove_xplan2.dwg

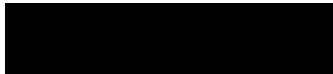


1 partial upper floor plan
A2.1 1/4"=1'-0" whalecove_xplan2.dwg



**Geologic Hazards and
Geotechnical Investigation
Tax Lot 600, Map 09-11-18AA
515 SW Spindrift
Little Whale Cove, Depoe Bay
Lincoln County, Oregon**

**Prepared for:
Mr. Jim Caldwell**



Project #Y234702

November 14, 2023

Project #Y234702

November 14, 2023

To: Mr. Jim Caldwell



**Subject: Geologic Hazards and
Geotechnical Investigation
Tax Lot 600, Map 09-11-18AA
515 SW Spindrift
Little Whale Cove, Depoe Bay
Lincoln County, Oregon**

Dear Mr. Caldwell:

The accompanying report presents the results of our geologic hazards and geotechnical investigation at the above subject site.

After you have reviewed our report, we would be pleased to discuss it and to answer any questions you might have.

This opportunity to be of service is sincerely appreciated. If we can be of any further assistance, please contact us.

H.G. SCHLICKER & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Adam M. Large'.

Adam M. Large, MSc, RG, CEG
President/Principal Engineering Geologist

AML:mgb

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FIGURES

- Figure 1 – Location Map**
- Figure 2 – Plat Map**
- Figure 3 – Site Topographic Map**
- Figure 4 – Slope Profile A-A'**

APPENDICES

- Appendix A – Site Photographs**
- Appendix B – Checklist of Recommended Plan Reviews and Site Observations**

Project #Y234702

November 14, 2023

To: Mr. Jim Caldwell



**Subject: Geologic Hazards and
Geotechnical Investigation
Tax Lot 600, Map 09-11-18AA
515 SW Spindrift
Little Whale Cove, Depoe Bay
Lincoln County, Oregon**

Dear Mr. Caldwell:

1.0 Introduction and General Information

At your request and authorization, a representative of H.G. Schlicker and Associates, Inc. (HGSA) visited the subject site on October 12, 2023, to complete a geologic hazards and geotechnical investigation of Tax Lot 600, Map 09-11-18AA, located in Depoe Bay, Lincoln County, Oregon (Figures 1 and 2; Appendix A). We previously completed an Engineering Geologic Hazards Investigation for the site in 2003. It is our understanding that you are planning an addition to the area above the existing attached garage and constructing an exterior staircase for access. Expansion of the existing ground-level deck is also being considered.

This report addresses the geologic hazards and geotechnics at the site with respect to the proposed improvements. The scope of our work consisted of a site visit, site observations and measurements, a hand augered boring, a slope profile, a limited review of the geologic literature, interpretation of topographic maps, lidar and aerial photographs, and preparation of this report, which provides our findings, conclusions, and recommendations.

2.0 Site Description

The site is located within the Little Whale Cove Subdivision, which is a gated community in southern Depoe Bay, Oregon. The site is located on a basaltic marine terrace and is adjacent to an approximately 45 to 50-foot high bluff (Figure 3; Appendix A). The subject lot is wedge-shaped and is approximately 45 to 108 feet wide, northeast by southwest, and 115 to 124 feet

deep, northwest by southeast (Figure 2). An existing two-story house is on the site. The site is bounded to its southeast by S.W. Spindrift, to its northwest by a common area and the Pacific Ocean, and to its northeast and southwest by adjacent lots with existing homes.

The site in the area of the house is generally flat to slightly sloping to the northwest. Areas northwest of the house generally slope down to the northwest from approximately 20 to 25 degrees. A paved path is located immediately northwest of the site in the common area. An approximately 20 to 30-foot-high northwest-facing basalt cliff is located approximately 90 feet northwest of the house. Areas within approximately 40 feet of the steep basalt cliff are not vegetated due to wave splash and erosion. Small seeps were observed along the rocky shoreline that appear to emanate from the contact between the basaltic rock and the overlying soil and fractures in the basaltic rock.

2.1 Proposed Project

It is our understanding that to provide access to the proposed second-story addition above the existing garage, you would like to construct an exterior staircase along the northeast side of the house. Based on our review of the preliminary plans, the new staircase will require new foundation elements. Additionally, you are considering extending the deck to connect the new staircase to the existing deck. The proposed deck extension would also require new foundations.

2.2 Foundation and Flatwork Observations

At the time of our site visit, we observed the exposed elements of the perimeter foundation in the area of the proposed construction. We observed no indications of cracking or other signs of foundation distress. The north-northeast portion of the existing ground-level deck appears to be supported by wooden skids resting on the ground.

Based on our recent observations and probing, the existing house foundation in the area of the proposed project appears to be an elevated floor and crawlspace design with continuous spread footings. The garage appears to be a slab-on-grade foundation.

Downspouts in the area of proposed construction appeared to be connected to below-grade pipes; however, we were unable to determine their function or performance. The presence of foundation or crawlspace drains associated with the existing house is also unknown.

3.0 Bedrock and Surficial Deposits

The site lies in an area which has been mapped as Tertiary Cape Foulweather Basalt, which consists of flows, extrusive breccia, tuff breccia, and lapilli tuff composed of slightly

porphyritic, glassy or fine- to medium-grained basalt (Schlicker et al., 1973). The Cape Foulweather Basalt is now considered a part of the Wanapum Basalt member of Columbia River Basalt Group (Beeson et al., 1979). The Columbia River Basalt Group consists of flood-basalts which were erupted from fissures in eastern Oregon and Washington, and western Idaho from approximately 16.5 to 6 million years ago and flowed west for hundreds of miles to the Oregon and Washington Coasts. Locally, the Cape Foulweather Basalt is exposed along the unvegetated area northwest of the site and along sea cliffs and consists of dark gray, hard basalt breccia with basalt clasts ¼ to 18 inches in diameter. The Cape Foulweather Basalt is locally overlain by Quaternary marine terrace deposits consisting of semiconsolidated beach sand and fine-grained dune deposits with local lenses of silty claystone and conglomerate (Priest et al., 1994).

At the time of our site visit, we hand augered one boring to a depth of approximately 5 feet below the ground surface (bgs). The approximate location of the boring is shown on Figures 3 and 4. A geologist from our office visually classified the soils encountered according to the Unified Soil Classification System (USCS) as follows:

B-1	<u>Depth (ft.)</u>	<u>USCS</u>	<u>Description</u>
	0 – 0.5	ML/GW (FILL)	Silt and Gravel FILL; black, loose, moist.
	0.5 – 2.0	ML (FILL)	Clayey SILT FILL; brown, soft to medium stiff, moist. Disturbed silt with occasional lenses of cemented sand.
	2.0 – 3.5	ML	Clayey SILT; black, soft, moist. With many small roots.
	3.5 – 4.5	CL	CLAY; red-brown, soft, moist.
	4.5 – 5.0	ML	Sandy Silty CLAY; light brown, stiff, wet.

Soils encountered in the area of proposed construction generally consisted of fill and soft/loose soil overlying firm residual marine terrace soil.

3.1 Geologic Structural Features

Structural deformation and faulting along the Oregon Coast is dominated by the Cascadia Subduction Zone (CSZ), which is a convergent plate boundary extending for approximately 680 miles from northern Vancouver Island to northern California. This convergent plate boundary is defined by the subduction of the Juan de Fuca plate beneath the North America Plate and forms an offshore north-south trench approximately 60 miles west of the Oregon coast shoreline. A resulting deformation front consisting of north-south oriented reverse faults is present along the western edge of an accretionary wedge east of the trench, and a zone of margin-oblique folding and faulting extends from the trench to the Oregon Coast (Geomatrix, 1995).

The nearest mapped fault to the site trends in a northerly direction through the mouth of Little Whale Cove, located approximately 1,000 feet south of the site (Priest, 1994). This fault may underlie the site. However, its northern extent is not exposed due to overlying younger soils. A second fault has been mapped approximately 2,500 feet south of the site, that is, a northwest-trending fault that cuts through Whale Cove. These faults cut Tertiary aged units with no indication of recent movement.

The nearest mapped potentially active fault is the Cape Foulweather Fault, located approximately 1 mile southeast of the site. The Cape Foulweather Fault is a southwest-northeast trending oblique fault with left-lateral strike-slip (Geomatrix, 1995).

Other potentially active faults include the Yaquina Head Fault located approximately 8.4 miles south of the site, and Yaquina Bay Fault, located approximately 11.4 miles south of the site. The Yaquina Bay Fault is a generally east-northeast trending oblique fault that also has left-lateral strike-slip and either contractional or extensional dip-slip offset components (Personius et al., 2003). This fault is believed to extend offshore for approximately 7 to 8 miles and may be a structurally controlling feature for the mouth of Yaquina Bay (Goldfinger et al., 1996; Geomatrix, 1995). At Yaquina Bay, a 125,000-year-old platform has been displaced approximately 223 feet up-on-the-north by the Yaquina Bay Fault. This fault has the largest component of vertical slip (as much as 2 feet per 1,000 years) of any active fault in coastal Oregon or Washington (Geomatrix, 1995). Although the age for the last movement of the Yaquina Bay Fault is not known, the fault also offsets 80,000-year-old marine terrace sediments. The Yaquina Head Fault is an east-trending oblique fault with left-lateral strike-slip and either contractional or extensional dip-slip offset components (Personius et al., 2003). It offsets the 80,000-year-old Newport marine terrace by approximately 5 feet, indicating a relatively low rate of slip, if still active (Schlicker et al., 1973; Personius et al., 2003).

4.0 Slope Stability and Erosion

The site is located adjacent to an approximately 45 to 50-foot high bluff that slopes down to the west from 20 degrees to nearly 90 degrees at the sea cliff and consists of hard basalt breccia. At the time of our site visit, we observed ocean waves impacting the base of the sea cliff. We observed no sand beach at the base of the cliff. The observed basalt breccia is very hard and is highly resistant to ocean wave erosion.

Priest (1994) and Priest et al. (1994) determined an erosion rate for the bluff at the subject site. Average annual erosion rates for the ocean bluff at the subject site was determined to be 0.09 ± 0.16 feet per year (Priest et al., 1994). This erosion rate was calculated by measuring the distance from existing structures in the area to the bluff and compared to distances measured on a 1939 or 1967 vertical aerial photograph (Priest et al., 1994).

During severe storms, ocean waves appear to impact the sea cliff and splash over the cliff. The area within approximately 40 feet southeast of the sea cliff is not vegetated due to wave splash and erosion. The non-vegetated area lies approximately 40 to 50 feet northwest of the house.

The bluff slope at the subject site is also mapped in an area of low regional landslide susceptibility based on the DOGAMI methodology (Burns, Mickelson, and Madin, 2016). DOGAMI maps a shallow rock landslide at the bluff west of the site. However, during our past and recent site visits, we did not observe any indications of ground movement.

Based on mapping completed by Priest and Allan (2004), the area from the bluff edge to the base of the cliff lies within the Active Erosion Hazard Zone. The area of the site within approximately 40 feet of the bluff edge, including the western portion of the site, lies in the Moderate-Risk Erosion Hazard Zone and High-Risk Erosion Hazard Zone. The western portion of the house lies within the Low-Risk Erosion Hazard Zone. The coastal erosion hazard zone definitions and methodology are provided below.

The methodology provided by Priest and Allan (2004) defines four coastal erosion hazard zones for bluffs of Lincoln County, Oregon, as follows:

“The basic techniques used here are modified from Gless and others (1998), Komar and others (1999), and Allan and Priest (2001). The zones are as follows:

- 1) Active hazard zone: *The zone of currently active mass movement, slope wash, and wave erosion.*
- 2) *The other three zones define high-, moderate-, and low-risk scenarios for expansion of the active hazard zone by bluff top retreat. Similar to the dune-backed shorelines, the three hazard zones depict decreasing levels of risk that they will become active in the future. These hazard zone boundaries are mapped as follows:*
 - a. High-risk hazard zone: *The boundary of the high-risk hazard zone will represent a best case for erosion. It will be assumed that erosion proceeds gradually at a mean erosion rate for 60 years, maintaining a slope at the angle of repose for talus of the bluff materials.*
 - b. Moderate-risk hazard zone: *The boundary of the moderate-risk hazard zone will be drawn at the mean distance between the high- and low-risk hazard zone boundaries.*
 - c. Low-risk hazard zone: *The low-risk hazard zone boundary represents a “worst case” for bluff erosion. The worst case is for a bluff to erode gradually at a maximum erosion rate for 100 years, maintaining its slope at the angle of repose for talus of the bluff materials. The bluff will then be assumed to suffer a maximum slope failure (slough or*

landslide). For bluffs composed of poorly consolidated or unconsolidated sand, another worst-case scenario will be mapped that assumes that the bluff face will reach a 2:1 slope as rain washes over it and sand creeps downward under the forces of gravity. For these sand bluffs, whichever method produces the most retreat will be adopted.”

It should be noted that mapping done for the 2004 study was intended for regional planning use, not for site-specific hazard identification.

Oceanfront protection structures are not common along this stretch of the Oregon coast. According to the Oceanshores Atlas Viewer website (Accessed November 2022), the areas west of the site do not appear to be Goal 18 eligible for an oceanfront protective structure; however, this is a legal issue that can have varying interpretations.

5.0 Regional Seismic Hazards

Abundant evidence indicates that a series of geologically recent large earthquakes related to the Cascadia Subduction Zone have occurred along the coastline of the Pacific Northwest. Evidence suggests that more than 40 great earthquakes of magnitude 8 and larger have struck western Oregon during the last 10,000 years. The probability that a Cascadia earthquake and Tsunami will occur in the next 50 years ranges from 7 to 12 percent for a complete rupture affecting the entire fault zone, 16 to 22 percent for a partial rupture that impacts the Oregon and northern California coast, and 37 to 43 percent chance for a partial rupture that would affect just the southern Oregon and northern California coast (OSU News and Research Communications, 2010; Goldfinger et al., 2012; OSSPAC, 2013; Allan and Gabel, 2022). Evidence suggests the last major earthquake occurred on January 26, 1700 and may have been of magnitude 8.9 to 9.0 (Clague et al., 2000; DOGAMI, 2013).

There is now increasing recognition that great earthquakes do not necessarily result in a complete rupture along the full 1,200 km fault length of the Cascadia subduction zone. Evidence in the paleorecords indicates that partial ruptures of the plate boundary have occurred due to smaller earthquakes with moment magnitudes (M_w) < 9 (Witter et al., 2003; Kelsey et al., 2005). These partial segment ruptures appear to occur more frequently on the southern Oregon coast, as determined from paleotsunami studies. Furthermore, the records have documented that local tsunamis from Cascadia earthquakes recur in clusters (~250–400 years) followed by gaps of 700–1,300 years, with the highest tsunamis associated with earthquakes occurring at the beginning and end of a cluster (Allan et al., 2015).

These major earthquake events were accompanied by widespread subsidence of a few centimeters to 1–2 meters (Leonard et al., 2004). More recent modeling by Witter et al. (2011) provides estimates for coastal subsidence that range from 3 to 6 feet for L (~9.0 M_w) to XXL (~9.1 M_w) earthquakes and approximately 2 feet of subsidence along the central Oregon coast

resulting from the most likely (M1) earthquake scenario (Allan and Gabel, 2022). With the lowering of the coast, significant coastal erosion of beaches, dunes, and bluffs, lasting years to decades, is anticipated as the coastline strives to reach a new equilibrium (Allan and Gabel, 2022). Tsunamis appear to have been associated with many of these earthquakes. In addition, settlement, liquefaction and landsliding of some earth materials are believed to have been commonly associated with these seismic events.

Other earthquakes related to shallow crustal movements or earthquakes related to the Juan de Fuca plate have the potential to generate magnitude 6.0 to 7.5 earthquakes. The recurrence interval for these types of earthquakes is difficult to determine from present data, but estimates of 100 to 200 years have been given in the literature (Rogers et al., 1996).

The expected strength of shaking to occur at the site during an earthquake in a 500-year period has been mapped as severe (DOGAMI Oregon HazVu website, accessed November 2023). “Severe” is the second-highest level of a six-level gradation from “Light” to “Violent” in this mapping system.

According to DOGAMI’s HazVu website (<https://gis.dogami.oregon.gov/maps/hazvu/>), the site is outside the areas mapped as having susceptibility to liquefaction.

6.0 Flooding Hazards

Based on the 2019 Flood Insurance Rate Map (FIRM, Panel #41041C0237E), the site lies in an area rated as Zone X, which is defined as an area of minimal flood hazard, determined to be outside the 0.2% annual chance floodplain. The bluff west of the site lies in an area rated as Zone VE (EL 56 Feet), which is defined as a special flood hazard area with base flood elevation (BFE) determined. Also known as coastal high-hazard areas, Zone VE flood zones are subject to the 1% annual chance (base) flood limits and wave effects 3 feet or greater.

Based on Oregon Department of Geology and Mineral Industries mapping (DOGAMI, 2013), the western portion of the site, including a portion of the existing house, appears to lie along the wet/dry zone line of the tsunami inundation zone resulting from an approximately 9.1 and greater magnitude Cascadia Subduction Zone (CSZ) earthquake. The 2013 DOGAMI mapping is based upon 5 computer-modeled scenarios for shoreline tsunami inundation caused by potential CSZ earthquake events ranging in magnitude from approximately 8.7 to 9.1. The January 1700 earthquake event (discussed in Section 5.0 above) has been rated as an approximate 8.9 magnitude in DOGAMI’s methodology. More distant earthquake source zones can also generate tsunamis.

7.0 Climate Change

According to most of the recent scientific studies, the Earth's climate is changing as the result of human activities, which are altering the chemical composition of the atmosphere through the buildup of greenhouse gases, primarily carbon dioxide, methane, nitrous oxide, and chlorofluorocarbons (EPA, 1998). Although there are uncertainties about exactly how the Earth's climate will respond to enhanced concentrations of greenhouse gases, scientific observations indicate that detectable changes are underway (EPA, 1998; Church and White, 2006). Global sea-level rise, caused by melting polar ice caps and ocean thermal expansion, could lead to flooding of low-lying coastal property, loss of coastal wetlands, erosion of beaches and bluffs, and saltwater contamination of fresh groundwater. Global climate change and the resultant sea-level rise will impact the subject site through accelerated coastal erosion. It can also lead to increased rainfall, which can result in an increase in landslide occurrence.

8.0 Conclusions and Recommendations

The main engineering geologic concerns at the site are:

1. Approximately 4.5 feet of soft and loose soils were encountered during our subsurface investigation and are unsuitable for supporting new foundations. The extent and depths of these unsuitable soils may vary across the proposed construction area.
2. The existing house on the site lies on a marine terrace consisting of hard basaltic breccia. There is a steep sea cliff approximately 90 feet northwest of the house, which is undergoing continuous gradual erosion. These hazards are common to oceanfront property in this area.
3. There is an inherent regional risk of earthquakes along the Oregon Coast, which could cause harm and damage structures. The site lies within the mapped tsunami inundation hazard zone, a tsunami impacting the area could cause harm, loss of life, and damage to structures. These risks must be accepted by the owner, future owners, developers, and residents of the site.

The following recommendations shall be adhered to during design and construction:

If modifications to the existing structure contribute substantially greater loads to the existing foundations, additional geotechnical investigation, analysis, foundation design and construction recommendations may be required. An inspection by a qualified structural engineer is recommended.

The presence of fill and soft soil in the area of proposed construction, uncertainties regarding the construction of the existing foundation and observations of the current condition of the foundations indicate that modifications to the existing foundations may be necessary to ensure adequate structural support for the second-story expansion. We recommend that the existing foundations be adequately supported during construction to prevent settlement.

Temporary support of the existing structure may be necessary during excavation and construction.

8.1 Site Preparation and Bluff Setback

All new footing areas shall be stripped of all organic, disturbed, and loose/soft soils, existing fills, and debris. We anticipate that non-organic, firm soils will be encountered at depths of 4.5 feet; however, depths may vary.

The erosion rate for the area of the site is 0.09 feet/yr (1.08 inches/year). As described in Section 13.080 of the City of Depoe Bay code, the category of coastal erosion for the site is considered “slight.” The coastal setback required by the City of Depoe Bay code for Slight Erosion categories is “1 foot of setback for each 1 foot of bank height” measured from the Mean Higher High-Water Line and/or the base of the bluff. The bluff height as measured from the base of the cliff to the top edge of the bluff, which is approximately 50 feet (NAVD 88). The resulting setback required by the City of Depoe Bay code is approximately 50 feet from the base of the cliff (Figures 3 and 4), which is west of the site’s westerly property line.

The area of the proposed construction is approximately 210 feet from the base of the cliff and 75 feet east of the upper bluff edge. Based on the location of the proposed improvements, no additional geologic setback is required. Depoe Bay requires an area of visual concern setback of 25 feet landward of the uppermost break in slope, which is approximately at the western property boundary and does not appear to constrain the proposed area of construction.

The Oregon Coast is a dynamic and energetic environment. Most of the coastline is currently eroding and will continue to erode in the future. Most structures built near ocean bluffs will eventually be undermined by erosion and landsliding. The new foundation setback recommendations presented in this report are based on past average erosion rates as determined from aerial photography and past and current geologic conditions and processes. These setbacks are intended to protect the structure(s) from bluff recession for a minimum of 60 years. Geologic conditions and the rates of geologic processes can change in the future. Setbacks greater than our recommended minimum setbacks would provide the proposed structure with greater anticipated life and a lower risk from some geologic hazards.

8.2 Soil Bearing Capacities

Footings bearing in undisturbed, native, non-organic, firm soils or properly compacted structural fill placed on these soils may be designed for the following:

ALLOWABLE SOIL BEARING CAPACITIES	
Allowable Dead Plus Live Load Bearing Capacity ^a	1,500 psf
Passive Resistance	200 psf/ft embedment depth
Lateral Sliding Coefficient	0.35
^a Allowable bearing capacity may be increased by one-third for short-term wind or seismic loads.	

8.3 Foundations

To help mitigate potential differential settlement, we recommend that the new staircase and deck should be detached and structurally independent from the existing house and deck. We anticipate that new conventional isolated or continuous footings for the proposed improvements will require over-excavation to reach suitably firm soil and replacement with structural fill to achieve desired grades.

Our recommended minimum width and embedment depth for new continuous footings for the staircase and deck are as follows:

MINIMUM FOOTING WIDTHS & EMBEDMENT DEPTHS	
Minimum Footing Width	15 inches
Minimum Exterior Footing Embedment Depth ^a	18 inches
Minimum Interior Footing Embedment Depth ^b	6 inches
^a If foundations will be placed along or immediately adjacent to slopes steeper than 3H:1V, foundation embedments will need to be a minimum of 18 inches, as approved by a representative of our firm.	
^b Interior footings shall be embedded a minimum of 6 inches below the lowest adjacent finished grade, or as otherwise recommended by our firm. In general, interior footings placed on sloping or benched ground shall be embedded or set back from cut slopes in such a manner as to provide a minimum horizontal distance between the foundation component and face of the slope of one foot per every foot of elevation change.	

To avoid extensive over-excavation and replacement, individual augered reinforced concrete footings may be feasible; however, we defer to the project's structural engineer for structural considerations. We recommend a minimum end diameter of 16 inches,

embedded a minimum of 8 inches into firm soil or directly on rock if encountered. Any cast-in-place style reinforced isolated footings shall bear in suitably firm soil; to ensure that suitable material has been reached during construction, full-time observation by HGSA may be necessary.

8.4 Seismic Requirements

The structure and all structural elements shall be designed to meet current Oregon Residential Specialty Code (ORSC) seismic requirements. Based on our knowledge of subsurface conditions at the site and our analysis using the guidelines recommended in the ORSC, the structure shall be designed to meet the following seismic parameters:

SEISMIC DESIGN PARAMETERS	
Site Class	D
Seismic Design Category	D ₂
Mapped Spectral Response Acceleration for Short Periods	S _S = 1.459 g
Site Coefficients	F _a = 1.2
Design Spectral Response Acceleration at Short Periods	S _{DS} = 1.167 g

8.5 Structural Fills

Structural fill supporting loads should consist of imported, granular material, free of organics and deleterious materials, and contain no particles greater than 1 inch in diameter so that nuclear methods (ASTM D6938) can be easily used for field density testing. Fill should contain less than 5% of material passing the 200 mesh sieve based on the minus ¾ inch fraction and a washed sieve analysis. Structural fill should be placed in lifts not exceeding 8 inches and compacted to a minimum of 95% of the maximum dry density as determined by ASTM D1557. All areas to receive fill should be stripped of all organic soils, organic debris and existing fill and to a depth approved by a representative of HGSA.

STRUCTURAL FILL	
Compaction Requirements	95% ASTM D1557, compacted in 8-inch lifts maximum, at or near the optimum moisture content

Proper test frequency and earthwork documentation usually require daily observation during stripping, rough grading, and placement of structural fill. Field density testing should generally conform to ASTM D6938 or D1556. To minimize the number of field

and laboratory tests, fill materials should be from a single source and of a consistent character. Structural fill should be approved and periodically observed by HGSA and tested by a qualified testing firm. Test results will need to be reviewed and approved by HGSA. We recommend that at least three density tests be performed for every 18 inches or every 200 cubic yards of fill placed, whichever requires more testing. Because testing is performed on an on-call basis, we recommend that the earthwork contractor schedule the testing. Relatively more testing is typically necessary on smaller projects.

8.6 Groundwater

Groundwater may be encountered at shallow depths in excavations during the wet season. If groundwater is encountered, unwatering of the excavation is required and shall be the contractor's responsibility. Unwatering can typically be accomplished by pumping from one or more sumps or daylighting the excavations to drain.

8.7 Erosion Control

Vegetation shall be removed only as necessary, and exposed areas shall be replanted following construction. Disturbed ground surfaces exposed during the wet season (November 1 through April 30) shall be temporarily planted with grasses or protected with erosion control blankets or hydromulch.

Temporary sediment fences shall be installed downslope of any disturbed areas of the site until permanent vegetation cover can be established.

Exposed sloping areas steeper than 3 horizontal to 1 vertical (3H:1V) shall be protected with a straw erosion control blanket (North American Green S150 or equivalent) to provide erosion protection until permanent vegetation can be established. Erosion control blankets shall be installed as per the manufacturer's recommendations.

8.8 Cut and Fill Slopes

We do not anticipate any permanent cut slopes related to the proposed development. However, temporary unsupported cut and fill slopes less than 8 feet in height should be sloped no steeper than 1 horizontal to 1 vertical (1 H:1V). If temporary slopes greater than 9 feet high are desired, or if water seepage is encountered in cuts, HGSA should be contacted to provide additional recommendations. Temporary cuts in excess of 5 feet high and steeper than 1 H:1V will likely require appropriate shoring to provide for worker safety, per OSHA regulations. Temporary cuts should be protected from inclement weather by covering them with plastic sheeting to help prevent erosion and/or failure.

Permanent unsupported cut and fill slopes shall be constructed no steeper than 2 horizontal to 1 vertical (2H:1V).

8.9 Drainage

Surface water should be diverted from building foundations and walls to approved disposal points by grading the ground surface to slope away a minimum of 2 percent for 6 feet towards a suitable gravity outlet to prevent ponding near the structures. Permanent subsurface drainage of the building perimeter is recommended to prevent extreme seasonal variation in moisture content of subgrade materials and subsection of foundations and slabs to hydrostatic pressures.

For new and existing conventional isolated and/or continuous foundation elements, we recommend the following:

Footing drains should be installed adjacent to the perimeter footings and sloped a minimum of 2 percent to a gravity outlet. A suitable perimeter footing drain system would consist of 4-inch diameter, perforated PVC pipe (typical) embedded below and adjacent to the bottom of footings, and backfilled with approved drain rock. The type of pipe to be utilized may depend on building agency requirements and should be verified prior to construction. HGSA also recommends lining the drainage trench excavation with a geotextile filter such as Mirafi® 140N or equivalent to increase the life of the drainage system. The perimeter drain excavation should be constructed in a manner that prevents the undermining of foundation or slab components or any disturbance to supporting soils.

All roof drains should be collected and tightlined in a separate system independent of the footing drains, or an approved backflow prevention device shall be used. All roof and footing drains should be discharged to an approved disposal point. If water will be discharged to the ground surface, we recommend that energy dissipaters, such as splash blocks or a rock apron, be utilized at all pipe outfall locations. Water collected on the site should not be concentrated and discharged to adjacent properties.

8.10 Plan Review and Site Observations

We shall be provided the opportunity to review all site development, foundation, drainage, and grading plans prior to construction to assure conformance with the intent of our recommendations (Appendix B). The plans, details, and specifications shall clearly show that the above recommendations have been implemented into the design.

We shall observe footing excavations prior to forming and/or pouring of concrete, and observe pavement areas prior to placing fill to assure that suitable bearing soils have been reached. At the time of our observations, we may recommend additional excavation if suitable bearing soils have not been reached. Our recommended site observations and

plan reviews are detailed in Appendix B of this report. There will be additional charges for these services.

Please provide us with at least five (5) days' notice prior to any needed site observations. There will be additional costs for these services.

9.0 Limitations

The Oregon Coast is a dynamic environment with inherent, unavoidable risks to development. Landsliding, erosion, tsunamis, storms, earthquakes, and other natural events can cause severe impacts to structures built within this environment and can be detrimental to the health and welfare of those who choose to place themselves within this environment. The client is warned that, although this report is intended to identify the geologic hazards causing these risks, the scientific and engineering communities' knowledge and understanding of geologic hazards processes is not complete. This report pertains to the subject site only and is not applicable to adjacent sites, nor is it valid for types of development other than that to which it refers. Geologic conditions, including materials, processes, and rates, can change with time, and therefore, a review of the site and/or this report may be necessary as time passes to assure its accuracy and adequacy.

The boring log and related information depict generalized subsurface conditions only at these specific locations, and at the particular time the subsurface exploration was completed. Soil and groundwater conditions at other locations may differ from the conditions at these locations.

Our investigation was based on engineering geological reconnaissance and a limited review of published information. The information presented in this report is believed to be representative of the site. The conclusions herein are professional opinions derived in accordance with current standards of professional practice, budget, and time constraints. No warranty is expressed or implied. The performance of this site during a seismic event has not been evaluated. If you would like us to do so, please contact us. This report may only be copied in its entirety.

10.0 Disclosure

H.G. Schlicker & Associates, Inc. and the undersigned Certified Engineering Geologist have no financial interest in the subject site, the project, or the Client's organization.

11.0 References

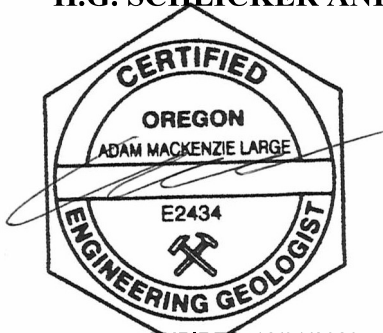
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It has been our pleasure to serve you. If you have any questions concerning this report or the site, please contact us.

Respectfully submitted,

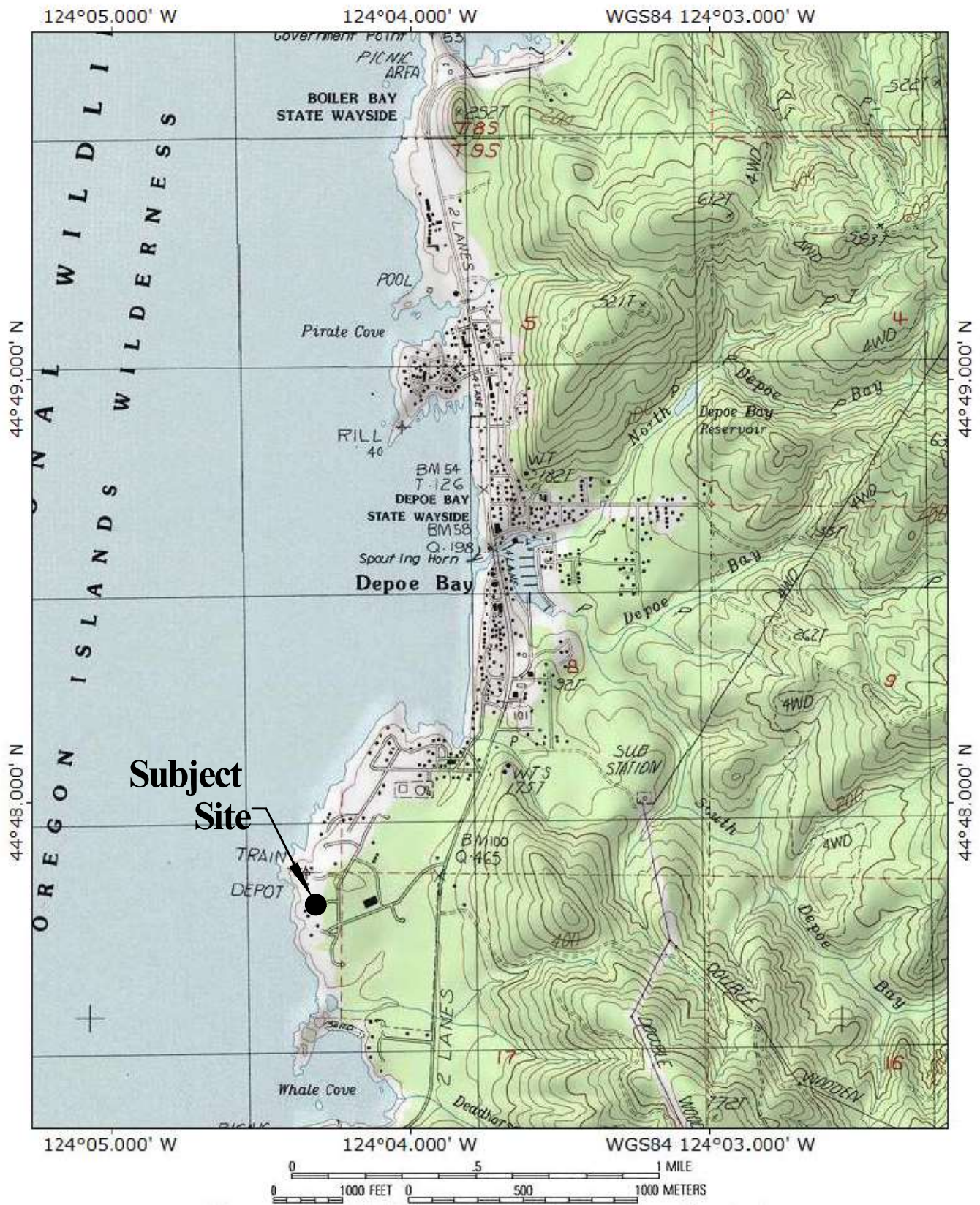
H.G. SCHLICKEK AND ASSOCIATES, INC.



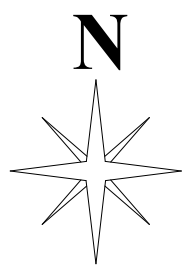
EXPIRES: 12/31/2023

Adam M. Large, MSc, RG, CEG
President/Principal Engineering Geologist

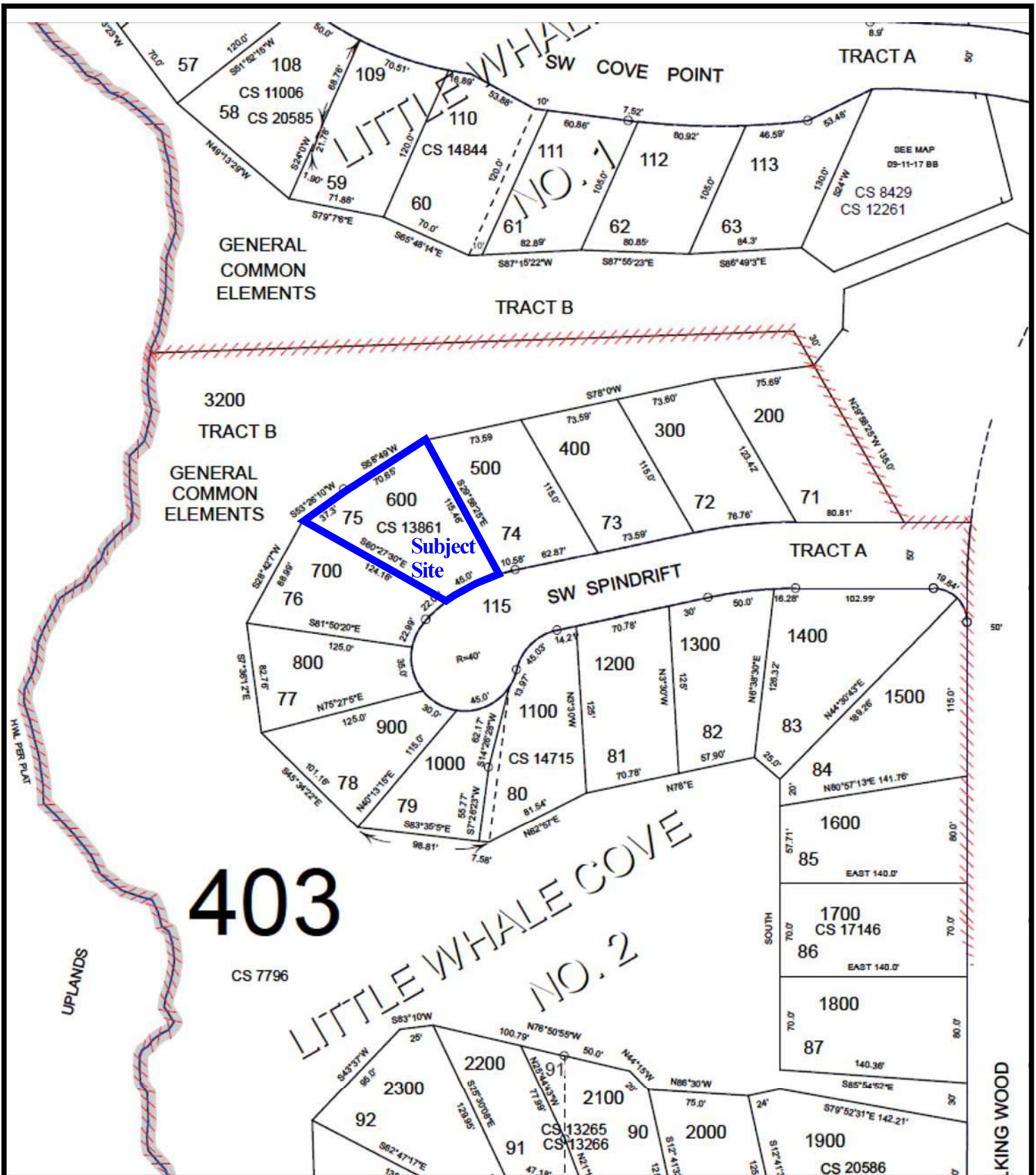
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Subject Site

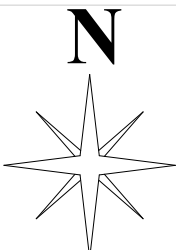


Date: 11/14/2023	Project #Y234702	Prepared by: MGB
Scale: 1" = 2,000'		Approved by: AML
Location Map Tax Lot 600, Map 09-11-18AA 515 SW Spindrift, Little Whale Cove, Depoe Bay, Lincoln County, Oregon		
H.G. Schlicker & Associates, Inc.		Figure 1



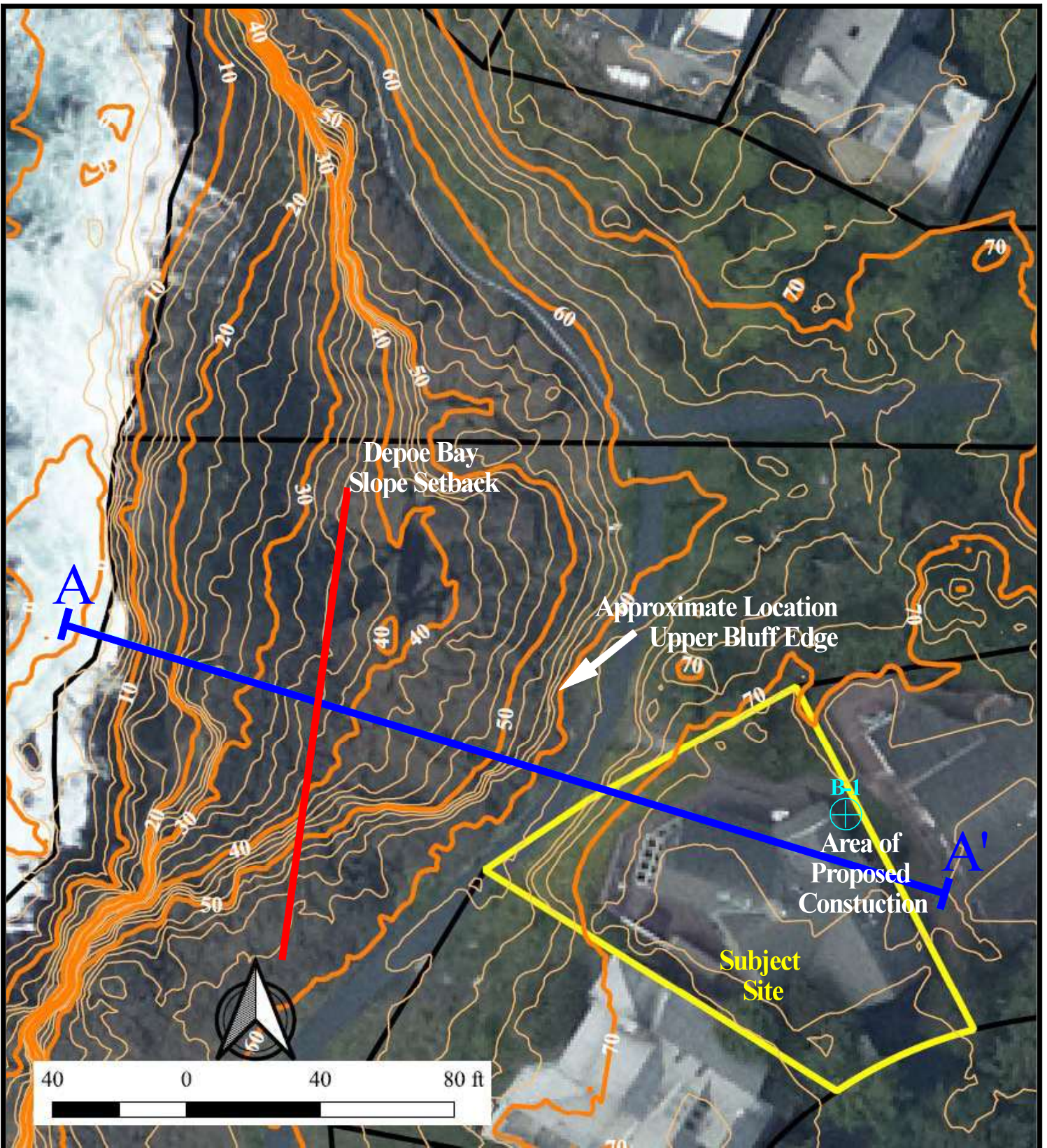
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CS 7796



Modified from Lincoln County Tax Lot Map 09-11-18
All locations and dimensions are approximate.


Date: 11/14/2023	Project #Y234702	Prepared by: MGB
Scale: 1" = 100'		Approved by: AML
Plat Map		
Tax Lot 600, Map 09-11-18AA 515 SW Spindrif, Little Whale Cove, Depoe Bay, Lincoln County, Oregon		
H.G. Schlicker & Associates, Inc.		Figure 2



A — A' = Approximate trend of profile line

B-1 ⊕ = Approximate location of boring

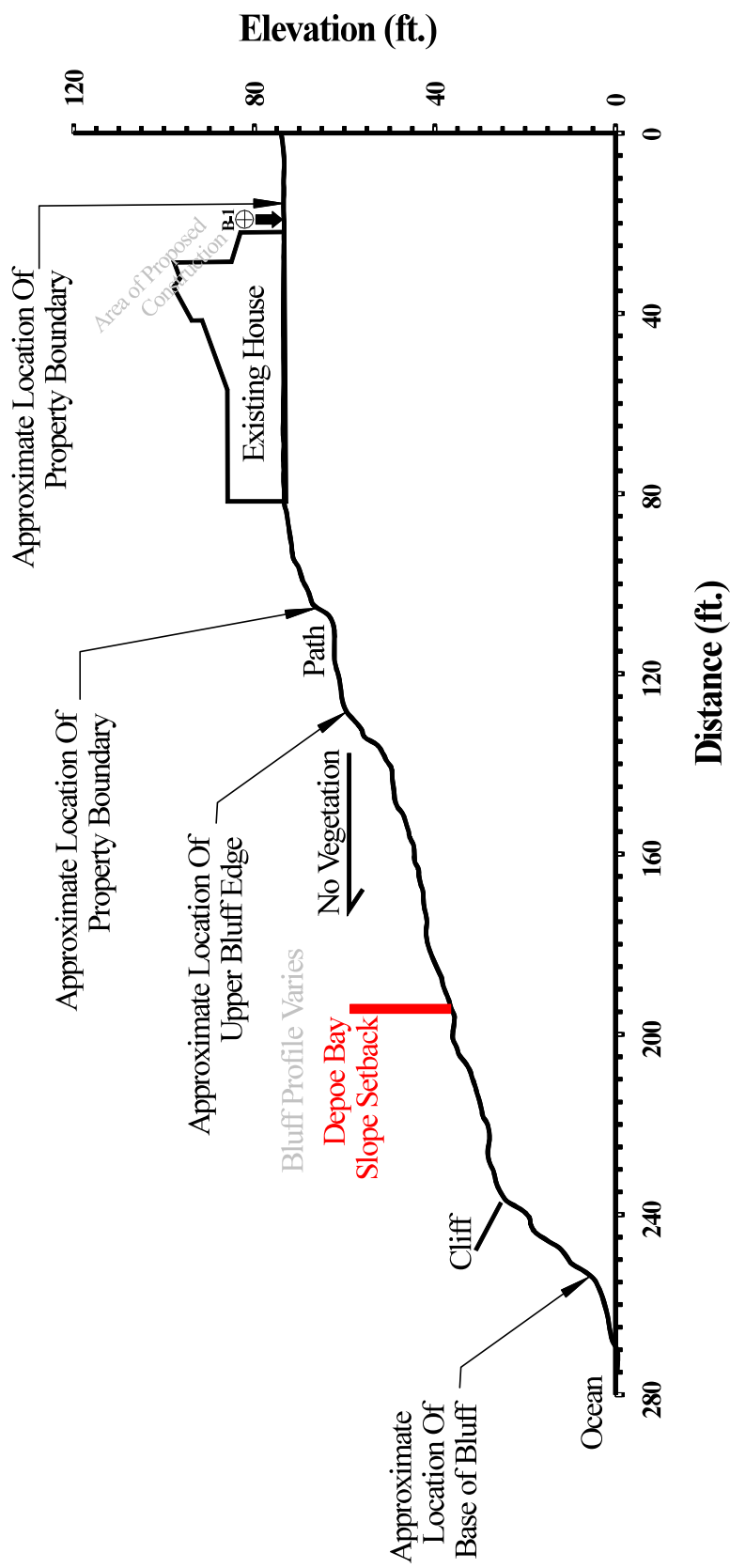
Imagery provided Oregon Explorer.
 Topographic data derived from
 West Coast 2016 El Nino Lidar data provided by NOAA.
 All locations and dimensions are approximate.

Date: 11/14/2023	Project #Y234702	Prepared by: MGB
		Approved by: AML
Site Topographic Map Tax Lot 600, Map 09-11-18AA 515 SW Spindrift, Little Whale Cove, Depoe Bay, Lincoln County, Oregon		
 H.G. Schlicker & Associates, Inc.		Figure 3

A

North 75° West

A'



B-1

= Approximate location of boring

All dimensions, elevations and locations are approximate. Slope profile derived and modified from West Coast 2016 El Nino Lidar data provided by NOAA.

Date: 11/14/2023

Scale: 1" = 40'

Prepared by: MGB

Approved by: AML

Project #Y234702

Slope Profile A-A'

Tax Lot 600, Map 09-11-18AA

515 SW Spindrift, Little Whale Cove, Depoe Bay, Lincoln County, Oregon

H.G. Schlicker & Associates, Inc.

Figure 4

Project #Y234702

Appendix A
- Site Photographs -



Photo 1 – View of the existing house from SW Spindrift.



Photo 2 – Southerly view of the area of proposed construction.



Photo 3 – View along the northeasterly side of the house, in the area of proposed construction.



Photo 4 – View of the northern portion of the existing deck.



Photo 5 – View of the upper basalt bluff west of the site.



Photo 6 – Close-up view of the stiff clay soil encountered in Boring B-1.

Project #Y234702

Appendix B
- Checklist of Recommended Plan Reviews and Site Observations -

Project #Y234702

APPENDIX B

Checklist of Recommended Plan Reviews and Site Observations
To Be Completed by a Representative of H.G. Schlicker & Associates, Inc.


Item No.	Date Done	Procedure	Timing
1*		Review site development, foundation, drainage, grading, and erosion control plans.	Prior to permitting and construction.
2*		Observe foundation excavations.	Following excavation of foundations, and prior to placing fill, forming and pouring concrete. **
3*		Review Proctor (ASTM D1557) and field density test results for all fill placed at the site.	During construction.

* There will be additional charges for these services.

** Please provide us with at least 5 days' notice prior to all site observations.

**Engineering Geologic Hazards Investigation
Tax Lot 600, Map 9-11-18AA
515 S.W. Spindrift, Depoe Bay, Oregon**



 **H.G. Schlicker & Associates, Inc.**

GEOLOGISTS • ENGINEERS • ENVIRONMENTAL SCIENTISTS



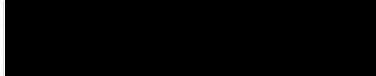
H.G. Schlicker & Associates, Inc.

607 Main Street, Suite 200 • Oregon City, Oregon 97045
(503) 655-8113 • FAX (503) 655-8173

Project #Y032219

August 4, 2003

To: Mr. David Ewy



**Subject: Engineering Geologic Hazards Investigation
Tax Lot 600, Map 9-11-18AA
515 S.W. Spindrift, Depoe Bay, Oregon**

Dear Mr. Ewy:

The accompanying report presents the results of our engineering geologic investigation of the above subject site.

After you have reviewed our report, we would be pleased to discuss the report and to answer any questions you might have.

This opportunity to be of service is sincerely appreciated. If we can be of any further assistance, please contact us.

H.G. SCHLICKER & ASSOCIATES, INC.

J. Douglas Gless, MSc, RG, CEG, LHG
President/Principal Engineering Geologist

JDG:cch

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4.0 Geology 2

5.0 Slope Stability and Erosion 2

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FIGURES

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- Figure 2 - Plat Map
- Figure 3 - Slope Profile, A-A'

APPENDICES

- Appendix A - Site Photograph



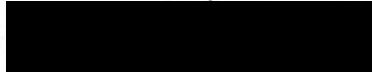
H.G. Schlicker & Associates, Inc.

607 Main Street, Suite 200 • Oregon City, Oregon 97045
(503) 655-8113 • FAX (503) 655-8173

Project #Y032219

August 4, 2003

To: Mr. David Ewy



Subject: Engineering Geologic Hazards Investigation
Tax Lot 600, Map 9-11-18AA
515 S.W. Spindrift, Depoe Bay, Oregon

Dear Mr. Ewy:

1.0 Introduction

At your request, we visited the subject site (Figures 1 and 2) on July 22, 2003 to complete an engineering geologic reconnaissance of Tax Lot 600, Map 9-11-18AA, 515 S.W. Spindrift, Depoe Bay, Oregon. It is our understanding that you would like to purchase the property.

The scope of our work consisted of a site visit, site observations and measurements, a limited review of the geologic literature, interpretation of aerial photographs and topographic maps, and preparation of this report.

2.0 Site Description

The site is located within the Little Whale Cove Subdivision which is a gated community south of Depoe Bay, Oregon. The site is located on a basaltic marine terrace and is adjacent to an approximately 45 to 50 foot high bluff (Figure 3; Appendix A). The subject lot is wedge shaped and is approximately 45 to 108 feet wide, northeast by southwest, and 115 to 124 feet deep, northwest by southeast (Figure 2). One existing two story house is on the site. The site is bound to its southeast by S.W. Spindrift, to its northwest by the Pacific Ocean, and to its northeast and southwest by adjacent lots with existing homes.

The site in the area of the house is generally flat to slightly northwesterly down sloping. Areas northwest of the house generally slope down to the northwest from approximately 20 to 25 degrees with a few steep steps approximately 3 to 5 feet high (Figure 3). An approximately 4.5 foot high rockery wall is located approximately 30 feet northwest of the house. The rockery wall appeared to be a decorative wall and did not appear to be engineered. A paved path is located immediately northwest of the rockery wall. An approximately 20 to 30 foot high northwest facing basalt cliff is located approximately 95 feet northwest of the house. Areas within

approximately 40 feet of the steep basalt cliff are not vegetated due to wave splash and erosion. Small springs are located along the oceanfront. These springs primarily emanate from fractures in the rock.

3.0 Foundation and Flatwork Observations

At the time of our site visit, we observed the exposed elements of the perimeter foundation of the house on the site. We observed no indications of cracking or other signs of foundation distress. We observed sections of the perimeter stemwall that had a "stucco" covering. We observed no cracks in this covering.

There is an asphaltic concrete paved path immediately below the rockery wall northwest of the house. The path has been recently repaved for approximately 240 feet of its length. Repaving of this path may have been to repair damage caused by settlement of the underlying 1½ inch minus crush rock base fill.

4.0 Geology

The site lies in an area which has been mapped as Tertiary Cape Foulweather Basalt which consists of flows, extrusive breccia, tuff breccia, and lapilli tuff composed of slightly porphyritic, glassy or fine- to medium-grained basalt (Schlicker, et. al., 1973). The Cape Foulweather Basalt is now considered a part of the Wanapum Basalt member of Columbia River Basalt Group (Beeson, et. al., 1979). The Columbia River Basalt Group consists of flood-basalts which were erupted from fissures in eastern Oregon and Washington and western Idaho from approximately 16.5 to 6 million years ago and flowed west for hundreds of miles to the Oregon and Washington Coasts. Locally, the Cape Foulweather Basalt is exposed along the unvegetated area northwest of the site and along sea cliffs and consists of dark gray, hard basalt breccia with basalt clasts ¼ to 18 inches in diameter.

The nearest mapped fault to the site trends in a northerly direction through the mouth of Little Whale Cove located approximately 1,000 feet south of the site (Priest, 1994). This fault may underlie the site, however its northern extent is not exposed due to overlying younger soils. A second fault has been mapped approximately 2,500 feet south of the site that is a northwest trending fault which cuts through Whale Cove. These faults cut Tertiary aged units with no indication of recent movement.

5.0 Slope Stability and Erosion

The site is located adjacent to an approximately 45 to 50 foot high bluff that slopes down to the west from 20 degrees to nearly 90 degrees at the sea cliff, and consists of hard basalt breccia. At the time of our site visit we observed ocean waves impacting the base of the sea cliff. We observed no sand beach at the base of the cliff. The observed basalt breccia is very hard and is highly resistant to ocean wave erosion. Priest, et. al. (1994) and Priest (1994) has determined the average erosion rate for the shoreline as 0.09 ± 0.16 feet per year. This erosion rate was calculated by measuring the distance between existing structures and the toe of the slope and

compared to distances measured on a 1939 or 1967 vertical aerial photograph.

During severe storms ocean waves appear to impact the sea cliff and splash over the cliff. The area within approximately 40 feet southeast of the sea cliff is not vegetated due to wave splash and erosion. The nonvegetated area lies approximately 50 to 55 feet northwest of the house.

6.0 Regional Seismic Hazards

Abundant recently acquired evidence indicates that a series of geologically recent serious earthquakes related to the Cascadia Subduction Zone have occurred along the coastline of the Pacific Northwest. Evidence suggests as many as thirteen major earthquakes or more have occurred in about the last 7700 years (Priest, et. al., 1997). These earthquakes were accompanied by widespread subsidence of a few inches to a few feet. Massive waves (tsunamis, also incorrectly termed "tidal waves") appear to have been associated with many of these earthquakes. In addition, settlement, liquefaction and landsliding of some earth materials is believed to have been commonly associated with these seismic events.

These earthquakes were likely of magnitude 8.0 to 9.0, and are believed to have had a mean recurrence interval of 500 to 600 years, however some of the past earthquakes have had intervals less than 300 years (Clague, et. al., 2000). Evidence suggests the last major earthquake probably occurred in 1700 and may have been of magnitude 9.0 (Clague, et. al., 2000). Risks associated with these major earthquakes should be considered in light of the low probability of one occurring in any given year and the high consequences resulting from such an occurrence.

Other earthquakes related to shallow crustal movements or earthquakes related to the Juan de Fuca plate have the potential to generate magnitude 6.0 to 7.5 earthquakes. The recurrence interval for these types of earthquakes is difficult to determine from present data, but, estimates of 100 to 200 years have been given in the literature (Rogers, et. al., 1996).

7.0 Flooding Hazards

Based on the 1980 Flood Insurance Rate Map (FIRM, Panel #410283 0001 B) the area of the house lies in an area rated as Zone C which is defined as an area of minimal flooding. Additionally, the house lies outside the area mapped as subject to possible tsunami hazards as the result of large-scale disturbance of the sea floor resulting from a possible "Great Subduction Zone Earthquake" (Priest, 1995).

8.0 Conclusions

Based on our site observations and review of the geologic literature, there does not appear to be significant geologic issues at the site. The house on the site lies on a marine terrace consisting of hard basaltic breccia. There is a steep sea cliff approximately 95 feet northwest of house which experiences a slow rate of erosion. Based on an anticipated life of the house of 50 years, we believe that the existing 95 foot setback is a more than adequate setback from the cliff to protect the house from ocean wave erosion that may occur along the cliff.

There is an inherent regional risk of earthquakes along the Oregon Coast. These risks must be accepted by the owner, future owners, developers and residents of the site.

The rockery wall located northwest of the house does not appear to have been engineered. This wall may fail in the future and may require repair and reconstruction, however it does appear to be fairly well built.

9.0 Limitations

The Oregon Coast is a dynamic environment with inherent unavoidable risks to development. Landsliding, erosion, tsunamis, storms, earthquakes and other natural events can cause severe impacts to structures built within this environment and can lead to economic losses and potential threats to the safety of those who choose to place themselves within this environment. The client is warned that, although this report is intended to identify the geologic hazards causing these risks, the scientific and engineering communities understanding of geologic hazard processes is not complete. We can interpret conditions and processes and make recommendations to lessen geologic hazard risks, however, in accepting this report, and the information and recommendations contained within it, the client assumes the risks of development and/or residence at the Oregon Coast and accepts final responsibility for all financial and safety risks associated with that decision.

Our investigation was based on engineering geological reconnaissance and a limited review of published information. The data presented in this report are believed to be representative of the site. The conclusions herein are professional opinions derived in accordance with current standards of professional practice and budget constraints. No warranty is expressed or implied. The performance of this site during a seismic event has not been evaluated. If you would like us to do so, please contact us.

10.0 Disclosure

H.G. Schlicker & Associates, Inc., and the undersigned Certified Engineering Geologist have no financial interest in the subject site, the project or the Client's organization.

11.0 References

- Beeson, M. H., Perttu, R., and Perttu, J., 1979, The origin of the Miocene basalts of coastal Oregon and Washington: and alternative hypothesis: Oregon Geology, v. 41, No. 10, p. 159-166.
- Clague, J. J., Atwater, B. F., Wang, K., Wang, Y., and Wong, I., 2000, Penrose Conference 2000 - Great Cascadia Earthquake Tricentennial, Programs Summary and Abstracts: Oregon Department of Geology and Mineral Industries, Special Paper 33, 156 p.
- Priest, G. R., Myers, E., Baptista, A. M., Fleuck, P., Wang, K., Kamphaus, R. A., and Peterson, C. D., 1997, Cascadia Subduction Zone tsunamis: Hazard mapping at Yaquina Bay, Oregon, final technical report to the National Earthquake Hazard Reduction Program:

Oregon Department of Geology and Mineral Industries, Open-File Report.

Priest, G. R., 1995, Tsunami hazard map of the Depoe Bay Quadrangle, Lincoln County, Oregon: Oregon Department of Geology and Mineral Industries, Open-File Report O-95-27, map.

Priest, G. R., 1994, Chronic geologic hazard map of the Depoe Bay area, coastal Lincoln County, Oregon: Oregon Department of Geology and Mineral Industries, Open-File Report O-94-20, aerial photograph.

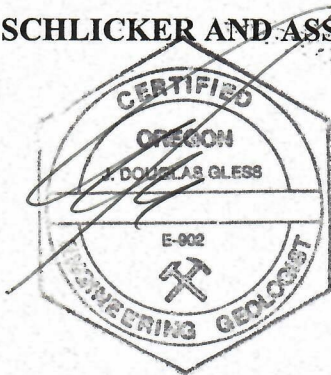
Rogers, A. M., Walsh, T. J., Kockelman, J., and Priest, G. R., 1996, Earthquake hazards in the Pacific Northwest - an overview: U.S. Geological Survey, Professional Paper 1560, p. 1-54.

Schlicker, H. G., Deacon, R. J., Olcott, G. W., and Beaulieu, J. D., 1973, Engineering geology of Lincoln County, Oregon: Oregon Department of Geology and Mineral Industries, Bulletin 81.

It has been our pleasure to serve you. If you have any questions concerning this report, or the site, please contact us.

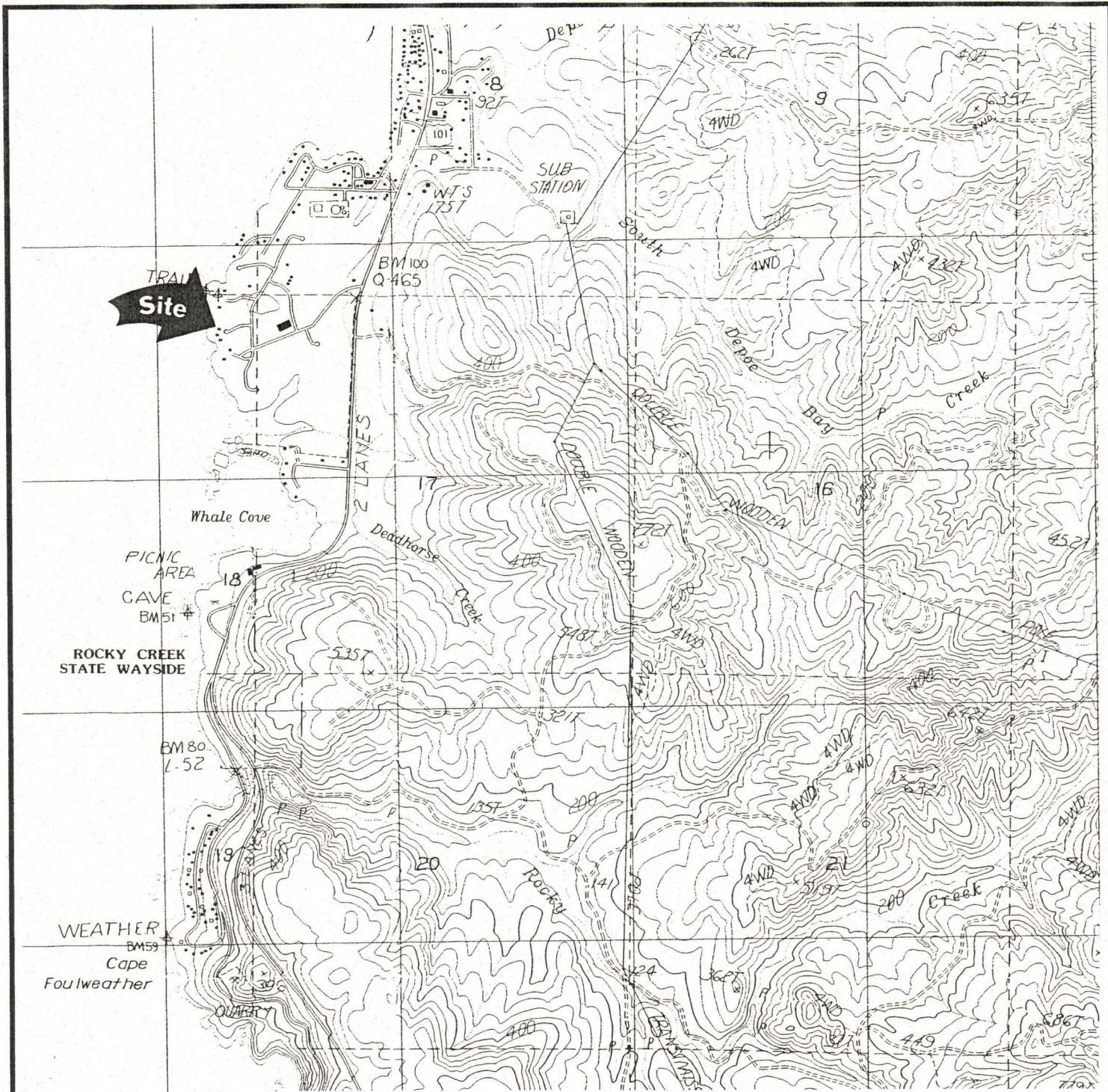
Respectfully submitted,

H.G. SCHLICKER AND ASSOCIATES, INC.

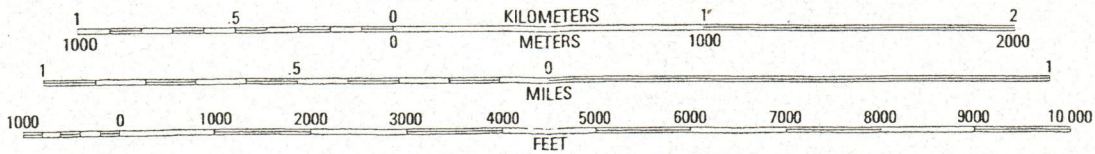


J. Douglas Gless, MSc, RG, CEG, LHG
President/Principal Engineering Geologist

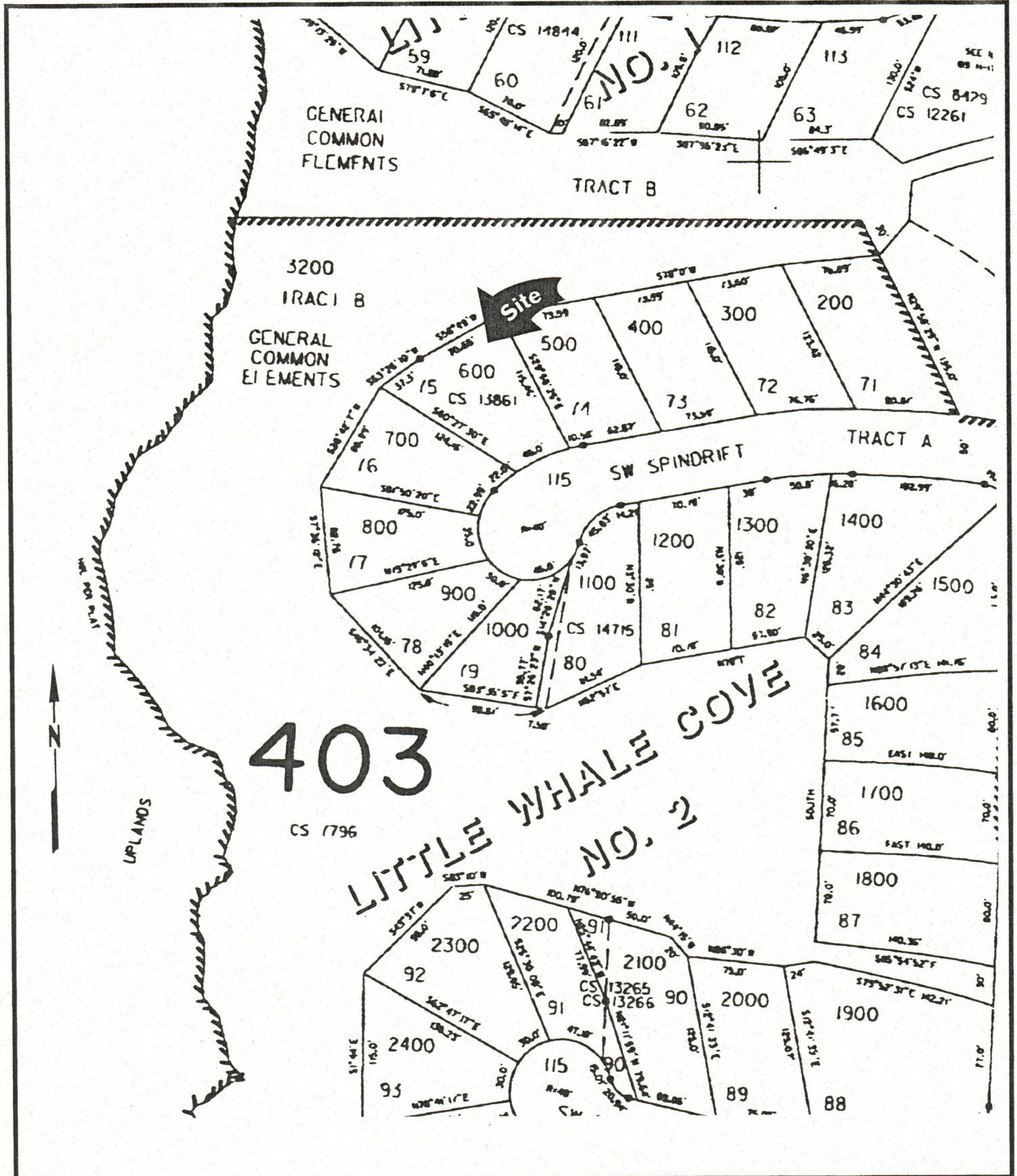
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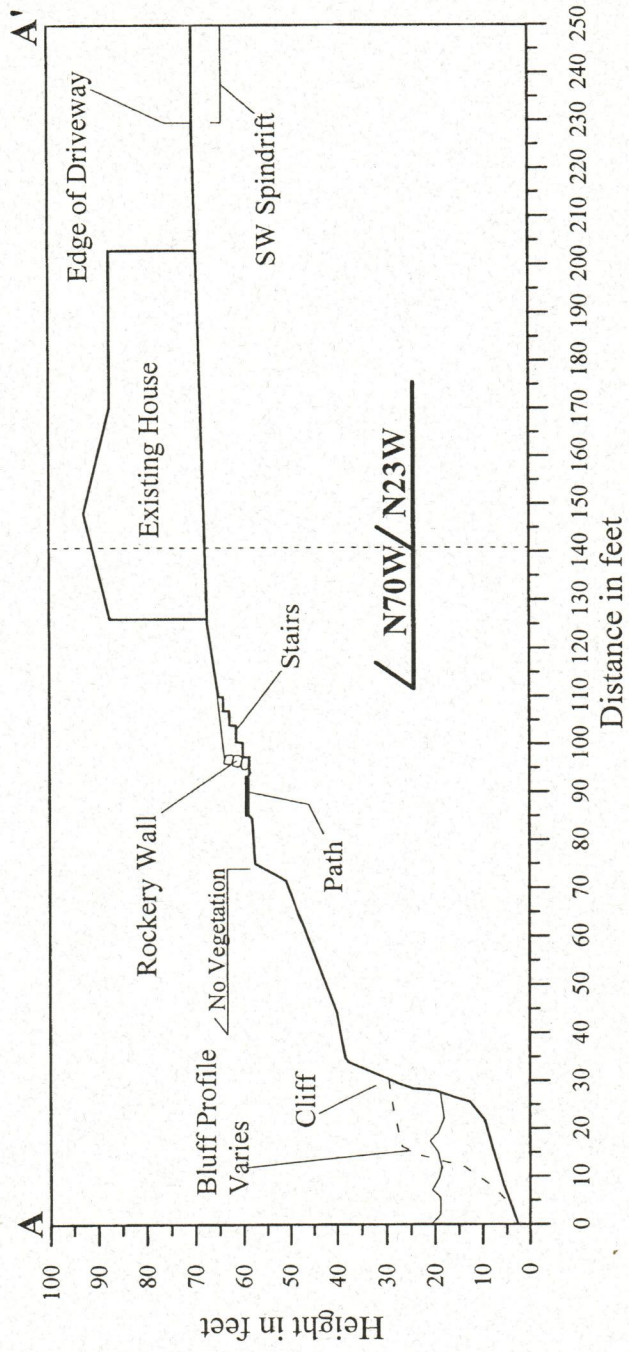
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Date: 08/04/2003	Project #Y032219	Prepared by: CCH
Scale: 1" = 2,000'		Approved by: JDG
Location Map Tax Lot 600, Map 9-11-18AA Depoe Bay, Oregon		
H.G. Schlicker & Associates, Inc.		Figure 1



Date: 08/04/2003	Project #Y032219	Prepared by: CCH
Scale: 1" = 100'		Approved by: JDG
Plat Map Tax Lot 600, Map 9-11-18AA Depoe Bay, Oregon		
H.G. Schlicker & Associates, Inc.		Figure 2



Date: 08/04/2003
 Scale: 1" = 40'

Prepared by: CCH
 Approved by: JDG

Project #Y032219

Slope Profile, A-A'
 Tax Lot 600, Map 9-11-18AA
 Depoe Bay, Oregon

All Measurements and Locations
 are Approximate

APPENDIX A
- Site Photographs -



Photo 1 - Looking south-southwest toward site. Note the rockery wall.



Photo 2 - Looking northwest toward the ocean and bluff from the deck along the northwest side of the house.



Photo 3 - Basaltic breccia exposed along the bluff and sea cliff.



Photo 4 - Looking south toward basalt rock exposed along the upper part of the bluff slope. Springs emanate from some of the fractures in the rock.

February 20, 2024



Kit Fox, AICP
City Planner
City of Depoe Bay
planner@cityofdepoebay.org

**RE: GEOLOGIC HAZARDS REVIEW, SUBMITTAL #1
PROPOSED ADDITION AT 515 SW SPINDRIFT
DEPOE BAY, OREGON**

Mr. Fox:

In accordance with the City's request, the attached pdfs contain our review comments with respect to a proposed new dormer, stairs, and deck addition to an existing home at 515 SW Spindrift. The subject lot with the existing home is generally located along the north side of the SW Spindrift cul-de-sac (Tax Lot 600, Map # 09-11-18AA). Our 1st review as the City's engineering consultant consisted of reviewing and commenting on the following provided documents:

- Geologic Hazards & Geotechnical Investigation report (dated 11/14/23)
- Caldwell Addition architectural drawings by Valeant Architecture (dated 1/15/24)
- 'Historic' Engineering Geologic Hazards Investigation report (dated 8/4/2003)

Documents were reviewed for concurrence with Sections 152.225 through 152.235 of the City of Depoe Bay's (CoDB) Code of Ordinances. For the City's use and reference, the attached pdf provides a 'checklist' against the City's code requirements and provides comments with regard to code compliance. Checkbox items that are unchecked are items that are unable to be confirmed by AKS, are not applicable to the project, or the geologic hazards report does not address/discuss this item.

Based on the documents provided, in our professional opinion, the provided geologic hazards report sufficiently addresses the requirements outlined in the City's Code of Ordinances. Please note that the report identifies that the existing home is situated within the tsunami inundation zone and is subject to the owner notification and declaration of covenant requirements as outlined in Section 152.232(B)(3) of the City code.

The list above is not all inclusive, additional comments are included on the checklist, and is the responsibility of the consultant to ensure all applicable standards and codes are met.

If you have any questions regarding this letter or our review comments, please do not hesitate to email with any questions.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC

A handwritten signature in dark ink that reads "Paul A. Sellke". The signature is written in a cursive, flowing style.

Paul A. Sellke, PE, GE

Project Engineer

503-561-6151 ext. 219 | PaulS@aks-eng.com

Attachments:

- Geologic Hazards Code Review 'Checklist'

Cc: John Christiansen, PE – AKS (johnc@aks-eng.com)
Deza Irving, EIT – AKS (irvingd@aks-eng.com)

GEOLOGIC HAZARDS CODE REVIEW 'CHECKLIST'

Review and confirmation that Geologic Hazards Report for residence addition at 515 SW Spindrift Street, Depoe Bay, Oregon meets City of Depoe Bay Code of Ordinances, Section 152.231

Checkboxes/comments in blue below. Unchecked boxes indicate unresolved comments or additional information is required.

§ 152.225 PURPOSE.

Some areas of the city are located on steep slopes, have erosion or landslide potential, or are otherwise of concern. The purpose of this section is to minimize hazards and threats to life and property by regulating building, grading, land clearing, and other human activities in areas identified with landslide topography, steep slopes, areas subject to erosion, high groundwater table, and other hazards. It is also the intent of this subchapter to protect life and property by reducing building density in these areas, by requiring special construction techniques, and by requiring the study of such areas by a state-registered engineering geologist prior to any activity.

§ 152.226 WEAK FOUNDATION SOILS.

(A) Many areas within the city are located on areas described by the soil conservation service as containing “weak foundation soils” or other soils limitations.

(B) Construction techniques, through the Building Code, require the effect of weak foundation soils or other soil limitations to be considered in the construction process.

(C) Construction of structures on areas of weak foundation soils or other soils limitations is not deemed to pose a significant hazard to life or property outside the property boundaries. The manner provided in the Building Code to address problems arising from weak foundation soils or other soils limitations is deemed to be an adequate means of protection of life and property. This statement serves as a warning for development on weak foundation soils. **Investigation noted soft soils and fill soils beneath the proposed stairs/deck foundation areas. Recommended removal and embedment of foundations beneath these weak soils.**

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.227 DISCHARGE OF SEDIMENT OR WATER.

(A) Property owners or other persons in charge of property shall not cause, or permit to be caused, the discharge of sediment or water onto adjoining property or the public right-of-way unless the permit application is accompanied by a drainage plan accepted by the affected property owners, or the applicant has demonstrated compliance with state laws regarding discharge of sediment or water. **No drainage plan provided, geologic hazards report includes recommendations for surface water control.**

(B) The following measures are suggested as possible means to prevent such discharges:

(1) Minimal removal of vegetative cover, particularly trees; **N/A. Area of constructed limited to areas adjacent to existing home and deck.**

(2) Temporary measures for controlling run-off, such as berms or holding ponds; **None noted.**

(3) The planting of vegetative cover as soon as possible after each phase of construction, including excavation, grading, and/or land clearing; and **This requirement is noted in the erosion control section of the report.**

(4) Design of the site to avoid steep areas or other hazards. **This requirement is met with construction area noted on Site Topo. Map.**

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.228 AFFECTED AREAS.

The following areas and activities shall be subject to the requirements of this subchapter:

(A) Areas identified as being geologically hazardous by Environmental Geology of Lincoln County, Oregon, 1973, Oregon Department of Geology and Mineral Industries, or Environmental Hazard Inventory, Coastal Lincoln County Oregon, RNKR Associates, 1978. These documents are referenced as part of the Comprehensive Plan and are available in the office of the City Recorder;

(B) Areas identified by the Natural Resource Conservation Service as having high groundwater;

(C) Areas containing slopes in excess of 20%. (Areas generally containing significant slopes are identified on the attached map. Sites in this area are “affected” unless shown otherwise per § 152.233 of this subchapter); and

(D) Areas fronting the ocean or coastal bluff that are seaward from the line set by the coastal setback requirements of § 152.234 of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.229 GEOLOGIC PERMIT REQUIRED. [Geologic hazards & Geotechnical Evaluation report provided by applicant/engineering geologist. See section below for comments.](#)

A geologic permit shall be obtained for any development within the affected areas. For subsequent building permits, such as for decks or room additions, the original geologic permit is acceptable, if it is no older than five years and the report author evaluates the new building permit plans and sends a letter to the city that bears the stamp of the licensed geologist or engineering geologist, acknowledging that the submitted plans have been reviewed and that such building activity can be safely accomplished. In areas having slopes greater than 20%, a geologic permit shall also be obtained before removing vegetation from or grading an area in excess of 20,000 square feet or adding or removing 90 cubic yards of earth in an area of 5,000 square feet. Minimal accessory uses that do not require a building permit (playground equipment, small gazebo, and the like) are excluded from the requirements of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.230 PERMIT PROCEDURES. [Geologic hazards & Geotechnical Evaluation report provided by applicant/engineering geologist. See section below for comments.](#)

In order to obtain a geologic permit, the applicant shall submit, along with the appropriate fee, a geologic hazard report which shall be prepared by a registered geologist or a certified engineering geologist recognized by the state and dated no more than one year prior to the application date. The report shall explain fully the activity for which the permit is being sought. If the purpose of the geologic hazard report is for a building permit, then the report shall accompany and address final building plans. Any activities not specifically covered in the report will not be covered by the permit. The report shall also identify the nature, extent, and location of all geologic hazards associated with the proposed site and activity. Finally, the report shall detail exact measures to be taken so as to avoid the occurrence of landslides, erosion, sloughing, puddling, or other identified geologic hazards on the subject and surrounding property or any prohibited activity identified above. For uses requiring removal of vegetation or excavation, plans for the legal disposal of such materials shall be submitted.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.231 SPECIFIC REQUIREMENTS FOR GEOLOGIC HAZARD REPORTS.

Geologic hazard reports provided pursuant to this subchapter shall conform to the following requirements from the Guidelines for Preparing Engineering Geologic Reports in Oregon. The geologist's report shall have reviewed these specific requirements and the

applicant shall address the applicable conditions in the proposal. Sections that are not applicable shall be identified as not applicable.

(A) General information.

- ☒ (1) Client or party that commissioned the report;
- ☒ (2) Name(s) of geologist(s) who did the mapping and other investigation on which the report is based, and dates when the work was done;
- ☒ (3) Location and size of area, and its general setting with respect to major or regional geographic and geologic features, including a statement of existing surrounding and on-site land uses and public facilities, utilities, and easements. The location shall be identified by the tax map, tax lot number, and the street address to eliminate confusion in identifying the property;
- ☒ (4) Purpose and scope of the report and geologic investigation, including the proposed use of the site. Also, identify the level of the study, such as, feasibility, preliminary, final, and the like; [Identified as preliminary report for design. Appendix B checklist identifies additional plan reviews/tasks.](#)
- ☒ (5) Topography and drainage within or affecting the area; [USGS topography map provided, NOAA Lidar contour map provided, and cross-sections provided.](#)
- ☒ (6) General nature, distribution, and abundance of exposures of earth materials within the area;
- ☒ (7) Nature and source of available subsurface information and geologic reports or maps. Suitable explanations of the available data should provide a technical reviewer with the means of evaluating the reliability. Reference to cited works or field observations should be made, to substantiate opinions and conclusions;
- ☒ (8) Disclosure of known or suspected geologic hazards affecting the area, including a statement regarding past performance of existing facilities (such as, buildings or utilities) in the immediate vicinity;
- ☒ (9) Locations of test holes and excavations (drill holes, test pits, and trenches) shown on maps and sections described in the text of the report. The actual data, or processed data upon which interpretations are based, should be included in the report to permit technical reviewers to make their own assessments regarding reliability and interpretation; [Hand auger location identified on Figure 3 and 4 near area of proposed construction.](#)
- ☒ (10) All field and laboratory testing procedures (by ASTM designation, if appropriate) and test results; and
- ☒ (11) The signature and seal of the certified engineering geologist who prepared the report.

(B) Geologic mapping and investigation.

- ☒ (1) Geologic mapping of the area should be done at a scale which shows sufficient detail to adequately define the geologic conditions present.
 - ☒ (a) For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, so independent geologic mapping is needed.
 - ☒ (b) If available published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes which have occurred since map publication.
 - ☒ (c) It may be necessary for the geologist to extend mapping into adjacent areas to adequately define significant geologic conditions. [N/A, landslide mapped offsite according to text.](#)
- ☒ (2) Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base should be included on each map or photo. [Figures 3 & 4 show plan view and cross-section.](#)
- ☒ (3) The geologist doing the investigation and preparing the map should report the nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials exposed and inferred within the area. A clear distinction should be made between observed and inferred features and relationship.
- ☒ (4) The report should include one or more appropriately positioned and scaled cross-sections to show subsurface relationships that cannot be adequately described in words alone. Fence or block diagrams may also be appropriate.

(C) Geologic descriptions.

☒ (1) The report should contain brief but complete descriptions of all natural materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. Describe all field mapping and exploration procedures (surface geologic reconnaissance, drilling, trenching, geophysical survey, and the like).

(2) The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

(a) Bedrock.

- ☒ 1. Identification of rock types;
- ☒ 2. Relative and absolute age and, where possible, correlation with named formations and other stratigraphic units;
- ☒ 3. Surface and subsurface expression, areal distribution, and thickness;

- ☒ 4. Pertinent physical characteristics (such as, color, grain size, nature of stratification, strength, and variability);
- ☒ 5. Distribution and extent of zones of weathering; significant differences between fresh and weathered rock; and
- ☒ 6. Special engineering geologic characteristics or concerns (such as, factors affecting proposed grading, construction, and land use).

(b) Structural features: stratification, faults, discontinuities, foliation, schistosity, and folds.

- ☒ 1. Occurrence, distribution, dimensions, orientation, and variability; both within and projecting into the area;
- ☒ 2. Relative ages, where pertinent;
- ☒ 3. Special features of faults (such as, topographic expression, zones of gouge and breccia, nature of offsets, age of movements, youngest faulted unit, and oldest unfaulted unit); and
- ☒ 4. Other significant structural characteristics or concerns.

(c) Surficial deposits: alluvial, colluvial, eolian, glacial, lacustrine, marine, residual, mass movement, volcanic (such as, cinders and ash), and fill.

- ☒ 1. Identification of material, grain size, relative age, and degree of activity of originating process;
- ☒ 2. Distribution, dimensional characteristics, variations in thickness, degree of soil development, and surface expression;
- ☒ 3. Pertinent physical and engineering characteristics (such as, color, grain size, lithology, compactness, cementation, strength, thickness, and variability);
- ☒ 4. Special physical or chemical features (such as, indications of volume change or instability, such as expansive clays or peat); and
- ☒ 5. Other significant engineering geologic characteristics or concerns.

(d) Surface and shallow subsurface hydrologic conditions, including groundwater, springs, and streams and their possible effect on site. Indicate how conditions may be affected by variations in precipitation, temperature, and the like:

- ☒ 1. Distribution, occurrence, and variations (such as, drainage courses, ponds, swamps, springs, seeps, and aquifers);
- ☒ 2. Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, flow direction, gradient, recharge, and discharge areas;

- ☒ 3. Relationships to topographic and geologic features;
- ☒ 4. Evidence for earlier occurrence of water at localities now dry (such as, vegetation, mineral deposits, and historic records); and
- ☒ 5. Other significant engineering geologic characteristics or concerns, such as fluctuating water table and the effects of proposed modifications on future hydrologic processes.

(e) Seismic considerations.

- ☒ 1. Description of the seismotectonic setting of the area (including size, frequency, and location of historic earthquakes), current seismic zoning, and expected seismic risk;
- ☒ 2. Potential for area to be affected by surface rupture (including sense and amount of displacement, and width of surface deformation zone);
- ☒ 3. Probable response of site to likely earthquakes (estimated ground motion);
- ☒ 4. Potential for area to be affected by earthquake-induced landslides or liquefaction; and
- ☒ 5. Potential for area to be affected by regional tectonic deformation (subsidence or uplift).

(D) Assessment of geologic factors.

☒ (1) Assessment of existing geologic conditions and processes with respect to intended use of the site constitutes the principal contribution of the report. It involves the effects of the geologic features upon the proposed grading, construction, and land use; and the effects of these proposed modifications upon future geologic conditions and processes in the area.

(2) The following checklist includes topics that ordinarily should be considered in discussions, conclusions, and recommendations in geologic reports:

(a) General suitability of proposed land use to geologic conditions.

- ☒ 1. Areas to be avoided, if any, and mitigation alternatives; [Bluff setback identified on figures](#)
- ☒ 2. Topography and slope;
- ☒ 3. Stability of geologic units;
- ☒ 4. Flood and tidal inundation, erosion, and deposition;
- ☒ 5. Problems caused by geologic features or conditions in adjacent properties;
- ☒ 6. Problems related to coastal erosion; and

7. Other general problems.

(b) Identification and extent. Identification and extent of known or probable geologic conditions which may result in risk to the proposed land use (such as, flood inundation, shallow groundwater, storm surge, surface and groundwater pollution, snow avalanche, landslide, debris flow, rock fall, expansive soil, collapsible soil, subsidence, erosion, deposition, earthquake shaking, fault rupture, tectonic deformation, liquefaction, seiche, tsunami, and volcanic eruption). Identifies coastal erosion (varies from high to low risk), ground shaking (severe hazard), soft/loose soils, uncontrolled fill soils, and tsunami inundation as potential geologic hazards for the site. Site is outside the mapped areas susceptible to liquefaction.

(c) Recommendations for site grading.

1. Prediction of what materials and structural features will be encountered in proposed cuts; Included in description of site conditions.

2. Prediction of stability based on geologic factors; recommended avoidance or mitigation alternatives to cope with existing or potential landslide masses; No additional geologic setback is required per report.

3. Excavation considerations (hard or massive rock and groundwater flows); Foundation recommendations identify firm soils for footing subgrades.

4. General considerations of proposed fill masses in canyons or on hillsides; No discussions regarding fill in canyons or hillsides. Report appears to be limited to stairs/deck addition on graded areas adjacent to the existing home.

5. Suitability of on-site material for use as compacted fill; Not discussed, only provides general recommendations for structural fill materials.

6. Recommendations for positioning fill masses, provision for subdrainage, buttressing, and the need for erosion protection on fill slopes; and Report provided foundation drainage and erosion control recommendations. Assumes no additional fills required. To be confirmed with final grading review by consultant.

7. Other recommendations required by the proposed land use, such as the angle of cut slopes, position of drainage terraces, need for rock-fall, and/or erosion protection on cut slopes. Recommendations for cut/fill slopes and erosion control provided.

(d) Drainage considerations.

1. Protection from inundation or wave erosion along shorelines; Identifies that existing home and site is within mapped tsunami inundation

2. Soil permeability and suitability for septic systems; and N/A, City gravity sewer provided to existing home

3. Protection from sheet flood or gully erosion, and debris flows or mud flows.

(e) Limitations of study and recommendations for additional investigations. Considering the scope of work and intended use of the site, provide a statement of the limitations of the study and the need for additional studies outside the stated scope of work.

1. Borings, test pits, and/or trenches needed for additional geologic information; [No additional investigation requirements identified in report.](#)

2. Percolation tests needed for design; [N/A, permanent storm connections recommended and sanitary connection to existing home is provided.](#)

3. Program of subsurface exploration and testing that is most likely to provide data needed by the soils or civil engineer; and [No additional investigation requirements identified in report.](#)

4. Program for long-term monitoring of the site to evaluate geologic conditions (survey hubs, inclinometers, extensometers, and the like). [N/A. Nothing identified or required per report...](#)

(E) Conclusions and recommendations. The reports shall provide a concise set of conclusions and recommendations, including specifics regarding the acceptable locations of structures (addressing setbacks where appropriate) and the acceptable nature and density of development.

(F) Inspection and monitoring. Reports shall specify inspections and/or monitoring required to verify that the development and construction on the site have been completed according to the recommendations contained in the report. Inspection records and/or “as built” certifications shall be provided for all geologic hazard reports. [Appendix B provides recommended plan review and construction observation recommendations.](#)

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.232 DETERMINATION OF COMPLIANCE.

(A) Geologic hazard reports submitted for review in accordance with §§ 152.200 through 152.210 of this chapter, shall be reviewed by the Planning Commission, which shall determine whether the report addresses the provisions of this subchapter as it reviews the entire application. Land use applications before the Planning Commission shall not be approved until such a determination has been made. Regardless of approval by the city, liability remains with the report signator and the applicant, who must conform with the report’s requirements. Signed acceptance of this liability shall accompany the permit application.

(B) In determining compliance, the Planning Commission shall evaluate:

- ☒ (1) If the report appears to adequately recognize the causes, extent, and potential of the hazards and conforms substantively with the requirements found in § 152.231 of this subchapter;
- ☒ (2) If the recommendations to overcome the recognized hazards are set out clearly and specifically and are included in the engineered plans of the development; [General foundation/engineering recommendations outlined for final design with recommendations for plan review/construction inspections.](#)
- ☒ (3) If the geologic hazard report indicates that possible future danger may exist from a hazard, the applicant or property owner shall complete and sign the declaration of covenants and conditions of responsibility and indemnity (the declaration) provided by the city. Prior to issuance of a building permit, the applicant or property owner shall execute and record the declaration in the deed records of the county; [Geologic hazards identified in report. Declaration required for project due to tsunami inundation risk.](#)
- ☒ (4) If the geologic hazard report and the associated plans contain the signature and professional stamp of a licensed geologist or engineering geologist qualified to certify such reports and plans; and [Plan stamped by licensed engineering geologist](#)
- ☒ (5) Authorization of a geologic hazards permit shall be void after five years unless substantial construction pursuant thereto has taken place. [N/A at this time.](#)

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.233 PROVISIONS FOR ADDITIONAL INFORMATION. [Not provided by applicant, therefore, section is N/A.](#)

There may be instances in which specific sites within the area mapped “as having significant slopes” may have topography not exceeding the 20% criterion. Property owners who can demonstrate, through a survey completed within a calendar year of the date of application by a surveyor registered in the state, that their property, or the specific site to be developed, has slopes of less than 20%, shall be exempt from any requirements pertaining to that specific characteristic.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.234 CALCULATION OF COASTAL SETBACKS. [Coastal erosion setback is noted and discussed within report.](#)

Two areas shall be considered in establishing coastal setback requirements and may simultaneously apply to a given piece of property.

- (A) Areas of coastal erosion.

(1) The following categories of coastal erosion are recognized (coastal erosion rates and the methodology used are outlined in the document entitled Geologic Hazards Associated with Lincoln County Coastal Shoreline, prepared by CH2M Hill, Inc., and RNKR Associates, 1977): [Erosion rate noted as 1.08 inches per year. Therefore, slight risk for project/property.](#)

Less than 2.8 inches/year	Slight
2.8 to 11.3 inches/year	Moderate
More that 11.3 inches/year	Severe

(2) The following coastal setbacks are required for the categories listed above in order to limit the need for structural solutions to coastal erosion. All setbacks shall be measured from the mean higher high water line and/or the base of the bank, whichever requires the greater setback. [Coastal erosion setback noted on Figures 3 & 4](#)

Slight erosion	1 foot of setback for each 1 foot of bank height
Moderate erosion	2.15 feet of setback for each 1 foot of bank height
Severe erosion	2.75 feet of setback for each 1 foot of bank height

Example of How to Determine Geologic Setback

(B) Areas of visual concern. This is an area 25 feet landward from the top of a coastal bluff measured on the horizontal, where the top of bluff is the uppermost break in slope (see diagram in division (A) above). Where there is no coastal bluff or no clear break in slope, for example on a smoothly sloping lot, the area of visual concern is an area 25 feet landward (measured on the horizontal) from the line of mean higher high water or the line of non-aquatic vegetation, whichever is the furthest landward.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.235 PROHIBITED ACTIVITIES IN COASTAL SETBACKS. [Project site is not within coastal setback per report. Therefore, section is not applicable.](#)

(A) (1) In the areas of coastal erosion, no excavating, filling, or placement of retaining walls, deck posts, or other permanent structures is allowed, unless based on a geological hazard report approved by the Commission.

(2) Vegetation removal is also prohibited except as allowed in division (A)(2) below with prompt replacement with plants that will stabilize the ground. In this area, such vegetation removal must be in accordance with any required geological hazard report and with a landscaping plan adequately addressing ground stabilization.

(3) In the areas of visual concern, no grading, excavating, or filling that changes the profile of the top of the bluff or the slope seaward from its top; vegetation removal; or placement of a building is allowed except for:

- (a) Minor pruning to maintain views;
- (b) Removal of brush and trees smaller than six inches in diameter measured four feet above ground in preparation for prompt landscape replanting in the area landward from the top of the bluff;
- (c) Removal of vegetation within ten feet of a building allowed per division (A)(1) above;
- (d) Placement of benches, tables, and chairs; and
- (e) Placement of a single gazebo, provided such a structure is less than 100 square feet in size.

(B) If a geological hazard report is required per division (A)(1) above, any vegetation removal or gazebo placement must comply with this section and recommendations of the geological hazard report.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

planner

From: voicemail@kmvoice.com
Sent: Friday, March 29, 2024 8:08 AM
To: planner
Subject: Transcribed Voice Message from [REDACTED] - SUSAN DANIELL
Attachments: [REDACTED]_20240329_080743.mp3

Time: Mar 29, 2024 8:07:43 AM

Voicemail Text:

Hi kid, this is Susan, Danielle and I realize you're not in office today. It's Friday and I was calling concerning a notice of public hearing. On case file 1 DSPC 24. And I wanted to get some more information about it. Whatever basic information you can provide either by mail or over the phone or I can come in, but I don't live in the area full time so. I was wanting to know I'm having trouble reading the some of the printed so small it's hard for me to read to see what exactly the addition is going to be on the home. Could you please return my call when you're back available in the office at [REDACTED] [REDACTED] Thanks very much.

§ 152.028 RESIDENTIAL ZONE R-4.

In an R-4 Zone, the following regulations shall apply.

(A) *Uses permitted outright.* In an R-4 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, and 152.225 through 152.235 where applicable:

- (1) A single-family dwelling built on the site;
- (2) Manufactured home;
- (3) A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle:
 - (a) Is located during the time the construction is underway; and
 - (b) Will not remain more than one year from date of placement or 30 days following substantial completion, whichever is earlier.
- (4) Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further than no commercial structure shall be constructed or maintained on the premises;
- (5) Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building;
- (6) Pre-fabricated or modular dwelling;
- (7) Two-family dwelling;
- (8) Multi-family dwelling;
- (9) Condominiums;
- (10) Residential facility;
- (11) Residential homes;
- (12) Family day care provider;
- (13) Transparent occupation; and
- (14) (a) Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership.
(b) The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous, and cause no odor off-site.

(B) *Conditional uses permitted.* In an R-4 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, and 152.225 through 152.235 where applicable:

- (1) Cemetery;
- (2) Church, non-profit religious, or philanthropic institution;
- (3) Community center;
- (4) Day nursery, nursery school, kindergarten, or similar facility;
- (5) Governmental structure or use of land;
- (6) Home occupation;
- (7) Golf course or country club, but excluding golf driving range miniature golf course, or similar facility;
- (8) Private non-commercial recreation club, such as tennis, swimming, or archery club, but excluding commercial amusement or recreation enterprises;
- (9) Public park, playground, or swimming pool;
- (10) Public school or private school offering curricula similar to public school;
- (11) Public or private utility facility;
- (12) Radio or television transmitter or tower;
- (13) Solid waste disposal transfer station;
- (14) Mobile home park/manufactured dwelling park;
- (15) Retirement home; and

(16) Parking area, meeting the requirements of § 152.058 of this chapter.

(C) *Standards.* Except as provided in §§ 152.055 through 152.076, 152.115 through 152.117, and 152.130 through 152.136 in an R-4 Zone, the following standards shall apply.

(1) *Lot size and dimensions.* The minimum lot size and dimensions in an R-4 Zone shall be as follows:

(a) The lot area shall be 5,000 square feet for a one-family dwelling. The minimum lot area for dwelling unit shall be 2,500 square feet for multi-family dwellings;

(b) The minimum lot width at the front lot line shall be 50 feet for an interior lot and 55 feet for a corner lot, except flag lots. The staff of a flag lot shall have a minimum width and frontage of not less than 25 feet;

(c) The minimum lot depth shall be 80 feet; and

(d) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the landward extent of the property.

(2) *Yards.* The minimum yard requirements in the R-4 Zone shall be as follows:

(a) The front yard shall be a minimum of 20 feet;

(b) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater;

(c) The street side yard shall be a minimum of 20 feet, except this may be reduced by one foot for each foot the average lot width is less than 60 feet, however, no street side yard shall be less than ten feet (see **LOT WIDTH** in § 152.003 of this chapter for method of calculation);

(d) The rear yard shall be a minimum of ten feet, except that on a corner lot, it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater; and

(e) No structure shall be located closer than 60 feet from the center line of any state highway.

(3) *Building height.* No building in the R-4 Zone shall exceed a height of 35 feet.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 130, passed 4-6-1987; Ord. 145, passed 1-3-1989; Ord. 154, passed 9-17-1990; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 186, passed 12-22-1992; Ord. 187, passed 2-16-1993; Ord. 236, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 268, passed 11-2-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.039 COASTAL SHORELANDS OVERLAY ZONE C-S.

(A) *Purpose.*

(1) The purpose of the Coastal Shorelands Overlay Zone is to recognize the value of coastal shorelands for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, recreation, and aesthetics.

(2) The C-S Zone, in conjunction with various underlying zones, implements the coastal shorelands policies contained in the Comprehensive Plan.

(B) *Application.* The provisions of the C-S Zone shall apply to all areas identified as within the coastal shorelands boundary on the shorelands boundary map. The provisions of the C-S Zone are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the C-S Zone and the underlying zone conflict, the more restrictive provisions shall apply. For the purposes of this section, coastal shorelands are those areas identified on the shorelands boundary map and identified on the zoning map overlays located at city hall. Coastal shorelands areas generally include one or more of the following characteristics:

(1) Subject to ocean flooding and lands within 100 feet of the ocean shore, or within 50 feet of the estuary;

(2) Where the geologic instability is related to or will impact a coastal waterbody;

(3) Natural or human-made riparian resources, especially vegetation necessary to stabilize the shoreline and to maintain water quality and temperature necessary for the maintenance of fish and wildlife habitat;

(4) Areas of significant shoreland and wetland biological habitats whose habitat quality is primarily derived from or related to the association with coastal water areas;

(5) Areas necessary for water-dependent and water-related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities, dredge material disposal and mitigation sites, and areas having characteristics suitable for aquaculture;

(6) Areas of exceptional aesthetic or scenic quality, where the quality is primarily derived from or related to the association with coastal water areas; and

(7) Coastal headlands.

(C) *Permitted uses.* In a C-S Overlay Zone, any of the outright or conditional uses authorized in the underlying zone may be permitted, subject to the applicable provisions of §§ 152.040, 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, 152.225 through 152.235 of this chapter, and the additional provisions of this section.

(D) *Procedure.* Applicants requesting approval for any development action within the areas subject to the provisions of the C-S Zone shall submit, along with any application, a detailed site plan and/or written statement demonstrating how the proposed activities will conform to each of the applicable standards contained in the C-S Zone. The Planning Commission shall review the application to determine if each of the applicable criteria are met. Planning Commission review of such applications shall proceed in accordance with the applicable provisions of §§ 152.130 through 152.136, 152.150 through 152.158, 152.170 through 152.173, 152.185 through 152.188, 152.200 through 152.210, and 152.225 through 152.235 of this chapter. Building permit applications that do not enlarge or extend existing structures nor have any ground disturbing activities are exempt from Planning Commission review.

(E) *Standards.* The following standards will be applied in reviewing an application for a development action in the C-S Zone.

(1) *Riparian vegetation.*

(a) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NATIVE PLANTS; NATIVE VEGETATION. Plant species that grow and propagate themselves in coastal shoreland areas along the central Oregon coast through natural processes, are adapted to the weather, soils, and hydrology of the area, and which have evolved in the area or been introduced to the area by natural causes. These plant species are to be distinguished from plant species which have been deliberately or accidentally imported or introduced from other areas by humans or human activities.

ZONE OF RIPARIAN VEGETATION.

a. **OCEAN AND ESTUARY.** The area between the point of mean higher high water and 50 feet landward measured on the horizontal.

b. **STREAMS.** Riparian vegetation is defined and shall be protected subject to the standards in § 152.072 of this chapter.

(b) *Protection.* Ocean/estuary riparian vegetation shall be protected except as provided for below:

1. Removal of riparian vegetation is permitted only in conjunction with a use which requires direct access to water;

2. Removal of non-native vegetation to be replaced with native vegetation is permitted subject to a re-vegetation plan approved by the city which specifies temporary stabilization methods and the method and timing of permanent re-vegetation with native species; and

3. Temporary removal of riparian vegetation may be permitted where there exists no viable alternatives to disturbing the riparian area to allow development on a lot. Such removal is subject to a revegetation plan approved by the city which specifies temporary stabilization methods, and the method and timing of permanent revegetation with native species, and subject to the additional requirements below:

a. The riparian disturbance area (such as, for equipment access or utility placement) shall be a single pathway of the minimum size and length necessary and in no case be wider than 12 feet in width. The pathway shall also be oriented in a manner to minimize riparian area disturbance (such as, oriented perpendicular to the riparian area, not along it);

b. The disturbance pathway is chosen to avoid, to the maximum extent possible, any trees that are six inches or greater in diameter as measured four and one-half feet above the ground or large shrubs on the site. Any site plan proposing a temporary disturbance to the riparian area must show the location of all these trees, and all shrubs over five feet in height, in relationship to this pathway; and

c. Temporary exclusionary fencing must be erected prior to the start of construction at the outer boundaries of the disturbance pathway and must remain in place until that phase of the construction is completed to assure that no damage to areas outside of the access pathway occur.

(c) Except as provided for in division (E)(1)(b) above, no development or development activities which could result in permanent destruction of riparian vegetation shall be located within the zone of riparian vegetation; and

(d) Degraded riparian areas (such as, with little or no native vegetation) shall be restored and enhanced when development or redevelopment occurs.

(2) *Historic and archaeological sites.* Sites subject to this section are identified in the Comprehensive Plan inventory “open spaces, scenic and historic areas, and natural resources.” Development in these areas shall not diminish the values of such sites as historic or archaeological resources. These sites are protected subject to requirements found in § 152.075 of this chapter.

(3) *Exceptional aesthetic resources.* Development in areas of exceptional aesthetic resources or coastal headlands shall not substantially alter the existing visual character of the area. Sites subject to this section are identified in the Comprehensive Plan inventory “open spaces, scenic and historic areas, and natural resources.” Standards for protecting such resources are found in § 152.074 of this chapter.

(4) *Protection of coastal access.*

(a) *Application.* This section applies to public access sites identified in the “Comprehensive Plan inventory” open spaces, scenic and historic areas, and natural resources” and to others that become established and added to the inventory (such as, under division (E)(4)(b) below). These access sites provide physical or visual access to the ocean or bay. Other public rights-of-way, easements, and ownerships may be discovered over time, and/or legally obtained, or become a part of the city through annexation.

(b) *Standards.* Existing public ownerships, rights-of-way, and similar public easements within the coastal shorelands which provide visual or physical access to or along coastal waters shall be retained or replaced if sold, exchanged, or transferred. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site of at least equivalent access value is retained.

(Ord. 85, passed 3-15-1985; Ord. 172, passed 10-7-1991; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.042 PLANNED DEVELOPMENT ZONE (P-D).

(A) *Purpose.* The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design, and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

- (1) Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical, and natural resource values and constraints present on a particular site;
- (2) Respect the surrounding context and enhance community character;
- (3) Provide open space;
- (4) Provide pedestrian and bicycle facilities, such as sidewalks in commercial and high density areas, hiking trails, and bicycle trails;
- (5) Permit greater flexibility in the siting of buildings and other physical improvements, and in the mixing of housing types, in order to accomplish desirable design objectives;
- (6) Provide adequate, structurally sound public and private streets and utilities;
- (7) Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the Comprehensive Plan;
- (8) Ensure the safety of the residents of the city and visitors to the city;
- (9) Allow logical, efficient development or redevelopment of adjacent properties within the P-D and properties adjacent to the P-D;
- (10) Supersede the provisions of §§ 152.250 through 152.265 of this chapter when the latter are expressly contrary to a specific provision of this section, or upon application to and approval by the Planning Commission, provided such approval is consistent with the purpose of this section; and
- (11) Allow for flexibility of land uses, such as allow tourist accommodations in residential zones with standards and ensure the developer and/or management company is responsible for all management of the tourist accommodation, including but not limited to responding to noise, trash, overcrowding, and parking complaints. The intent is to place all responsibility on the developer, management, HOA, or property owner, provide the public with easily-accessible management contact, and minimize city time and expense related to the tourist accommodation use.

(B) *General requirements.* The following general requirements shall govern planned developments.

- (1) A planned development may be established in any zone other than the T-C Zone.
- (2) On land subject to an approved planned development, only those uses, structures, and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.
- (3) (a) A planned development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 Zones may be permitted when compatible with each other and harmonious with adjacent uses.
(b) The one exception to division (B)(3)(a) above is the possible approval of short-term rentals (tourist accommodations per § 152.003 of this chapter and including time shares) to the planned development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 Zones. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres. Tourist accommodations in residential zones shall be limited to single-family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, and the like), buffered (space, sight, and sound buffered) from all adjacent uses other than commercial uses, and buffered from adjacent properties that are outside of the P-D. The following city standards shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.

1. *Nuisance control.* No noise, lights, dust, smoke, odors, and electromagnetic frequencies generated on-site in excess of the amounts normally associated with residential uses shall emanate off-site or interfere with surrounding residential or commercial uses.
2. *Lighting.* Outside lighting shall be restricted to low voltage lighting and/or motion sensor lighting for security.
3. *Off-street parking.* For tourist accommodation dwelling uses, off-street parking space requirements are:
 - a. A single-family or two-family dwelling shall have one on-site parking space for each bedroom. A minimum of two parking spaces shall be provided per dwelling;
 - b. A multi-family dwelling shall have one parking space for each bedroom located immediately adjacent to the unit. A minimum of two parking spaces shall be provided per dwelling;
 - c. A parking lot for overflow vehicles, consisting of one additional space per dwelling unit, that shall be in the

immediate area of the tourist accommodations; and

d. If a dwelling unit is a residence plus a tourist accommodation, two additional spaces are required on the same property.

4. *Solid waste disposal.* For tourist accommodation dwelling uses, a minimum 96-gallon vessel shall be provided for each unit, and the unit shall have “carry-out”/“valet” (no need to put vessels at curb) service. A multi-unit dumpster type unit may be substituted, it must be enclosed to the sight-line. Weekly solid waste pick-up is required during all months of the year.

5. *State law compliance.* It is the property owner’s responsibility to ensure that a tourist accommodation dwelling use remains in substantial compliance with state regulations for the following: health, safety, Building Code, Fire Code, tourist accommodation statutes, and the Uniform Housing Code.

6. *Occupancy.* Tourist accommodation dwellings shall not exceed two persons per bedroom plus one additional person per dwelling.

7. *Signage.* The management entity shall only have one exterior on-site sign for the tourist accommodation area. The sign shall identify the site as a tourist accommodation area; identify a local contact person; state that the local contact person is available 24 hours each day, seven days a week to handle rentals and complaints; and identify the local contact person’s business license number. An interior sign with this same information shall be placed inside each tourist accommodation in a noticeable location, such as, near the front door or in the kitchen.

8. *Business license.* For a tourist accommodation dwelling, the property owner and property management company are required to have a city business license. In addition, for tourist accommodation dwelling uses, transient room tax ordinance provisions shall apply.

9. *Revocation.* Any violation of the requirements or standards of this P-D Zone or any other city ordinance may result in revocation of the transient rental unit business license.

(4) Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other non-residential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.

(5) No building shall exceed the height allowed in the underlying zone.

(6) Yards, setbacks, lot area, lot coverage, and similar dimensional requirements may be reduced, adjusted, or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

(7) In the event of a conflict between any applicable use zone provision and the allowances, limitations, or requirements of an approved preliminary plan, the approved preliminary plan shall control.

(8) A planned development shall have a minimum of two contiguous acres, exclusive of street right-of-way. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres.

(9) Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park, or natural land.

(10) Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40-foot wide designated forested corridor on both sides of Highway 101 right-of-way from south point street south to the city limits which shall instead include a four-foot wide walking/biking path (§ 152.074(B)(3) of this chapter applies). The planned development shall also include a connected pedestrian system/network.

(11) Parking shall conform to § 152.058 and Diagram A of § 152.031, with the exception that all parking areas shall be paved.

(12) A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the city. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

(13) Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, and the like). Section 152.074 of this chapter applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service state listed noxious weeds shall be removed and shall not be planted.

(C) *General approval process.* At a minimum, a preliminary plan and lastly a final plan shall be submitted for approval for all planned developments. Once the preliminary plan is approved and the final engineered plans are reviewed and approved by the city, work on the development’s infrastructure may proceed. The final plan is primarily an as-built of the streets and infrastructure, and no building permits shall be approved until the effective date of the final approval of the plan. If the planned development is to be developed in a number of individual sections or phases, each which is developed separate from the others (a phased planned development), a master plan shall first be submitted for approval. Once the master plan for the entire development is approved, each phase (section) of the development shall follow the standard preliminary plan

and final plan process.

(1) If the planned development is a phased planned development, the initial step is the submission of the master plan for the entire development, which shall be submitted for approval as per division (D) below.

(a) The master plan is the over-arching plan of the entire development and of all phases. The primary purpose of a master plan is to propose and establish the development's overall concept, overall planning, and the integration of all phases. Master plan approval does not permit development or construction to occur.

(b) If a master plan for a phased development is approved, the applicant or its successor shall obtain separate preliminary and final approvals for each phase. For each individual phase, a preliminary plan shall be submitted for approval as per division (E) below prior to any work starting on the infrastructure of that phase.

(c) If a preliminary plan for an individual phase impacts the master plan, an updated master plan shall be submitted with that preliminary plan.

(d) A master plan is not required for a planned development that is not using a phased development approach.

(2) For a planned development that is not a phased planned development, the initial step of a planned development is the submission of a preliminary plan for the complete development, which shall be submitted for approval as per division (E) below. Work on the development's infrastructure may only proceed once the preliminary plan is approved.

(3) A final plan shall be submitted for approval as per division (H) below upon completion of all conditions and requirements of the individual phase preliminary plan or the entire development's preliminary plan. No building permits shall be approved until the effective date of the final approval of the final plan.

(D) *Master plan.* A master plan for planned developments shall be developed as follows.

(1) *Master plan review procedure.* The procedure for application and review of a master plan shall be as set forth in § 152.204(C) of this chapter.

(2) *Content of master plan.* Application for master plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) A narrative describing the plans for phasing (if applicable);

(b) A summary describing the general locations for any reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements of this chapter; and

(c) A summary describing the general locations for any desired variances, exceptions, deviations, waivers, conditional uses, zone changes, and the like, and a supporting narrative that acknowledges the zoning application procedure and criteria order to obtain each approval.

(3) *Approval on findings.* Master plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(4) *Approval date.* Master plan approval is valid from the date all legal appeals are exhausted. Changes to an approved master plan require an application for a master plan amendment to be reviewed and approved by the Planning Commission as set forth in § 152.204(C) of this chapter.

(E) *Preliminary plan.* A preliminary plan for planned developments shall be developed as follows.

(1) *Submittal.* A preliminary plan shall be submitted for a non-phased planned development.

(2) *Phase development.* For a phased development, a preliminary plan shall be submitted for each phase of development.

(a) A preliminary plan may be submitted for a phase concurrent with a master plan application. The Planning Commission will review the preliminary plan the meeting after the master plan is approved.

(b) Each phase shall meet the criteria of divisions (E)(4), (F), and (G) below independently of the other phases.

(3) *Preliminary plan review procedure.* The procedure for application and review of a preliminary plan, which shall be as set forth in § 152.204(C).

(4) *Content of preliminary plan.* Application for preliminary plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) Proposed covenants, restrictions, bylaws, and the like of any homeowners associations and any taxing districts;

(b) A narrative describing the locations for any divergence from this chapter in the form of reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements;

(c) Submittal of any requests for variances, exceptions, deviations, waivers, conditional uses, and the like; and

(d) A narrative describing the specific area of any short-term rentals and describing how the rentals will be managed, policed, the city transient room tax (TRT) and the city transient occupancy tax (TOT) are collected, and city TRT and TOT are forwarded to the city.

(5) *Approval; findings.* Preliminary plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(6) *Approval; final engineering plans.* Based on the preliminary plan approval, the applicant is required to submit final engineering plans to be reviewed and approved by the city prior to any construction. The applicant shall be responsible for all costs the city may incur by hiring a professional engineer to review and comment on the final engineering plans.

(7) *Time limit of preliminary plan approval.* Approval of a preliminary plan in accordance with this section is valid after the exhaustion of all appeals (see § 152.208). Infrastructure (streets and utilities) shall be designed and constructed in accordance with current design standards unless specific exceptions are granted by the Planning Commission.

(F) *Common content of master plan and preliminary plan.* In addition to the forms prescribed by the city, an application for master plan approval or a preliminary plan approval of a planned development shall include the following:

(1) A site plan map or maps depicting:

(a) All proposed residential and non-residential land uses;

(b) Any proposed tourist accommodation area in a residential zoned area, describing the type, location, and number of each type of tourist accommodation (house, apartment, hotel, condo, time-share, and the like), also showing and describing the buffering from adjacent uses;

(c) Parking areas and lots, showing number of spaces;

(d) Proposed lot or parcel boundaries;

(e) Proposed roads;

(f) Proposed pedestrian system and facilities;

(g) Significant natural features, such as wetland, streams courses, environmental hazards, and fish and wildlife habitat areas; and

(h) Proposed open space, recreation areas, or other common elements, and approximate topography with contour intervals of not more than ten feet.

(2) Drawings of the architectural styles of the different areas of the development;

(3) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to divisions (A) and (B) above, including detailed discussion of how the proposal conforms to the requirements of division (G) below, how the development meets the parking requirements of the § 152.058 of this chapter, proposed methods of providing sewer, water, storm drainage, and other utility services, the method proposed for ownership, funding, and maintenance of common areas, buildings, structures, roads, open space, landscaping, parking areas, fences, buffers and/or sight, sound barriers to adjacent properties, or other facilities, public access to and use of the aforementioned, and the proposed time schedule of development; and

(4) Other maps or narrative materials needed to determine compliance with any applicable provisions of this chapter, as determined by initial review of the application for completeness.

(G) *Common master plan and preliminary plan approval criteria.* Approval by the Planning Commission of a master plan or a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

(1) All applicable requirements of this section are met;

(2) The proposed development is consistent with the Comprehensive Plan goals and policies, and zoning provisions for the area;

(3) Per § 152.251 of this chapter, the provisions of §§ 152.250 through 152.265 of this chapter shall be applicable to approval criteria unless expressly contrary to a specific provision of this section;

(4) The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedure: protection of significant natural and cultural features and resources, such as historical, scientific, and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as, as examples only, suitably located open space, recreation facilities, and other common facilities for inhabitants of the planned development; includes pedestrian oriented development which reduces reliance on automobile travel, and provides similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards;

(5) In acting to approve, the Commission shall be mindful of the purposes of this section by encouraging and promoting creativity and innovation in site planning, and by allowing for flexibility in the application of design standards. The Commission may also impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this section; and

(6) The proposed development is in substantial harmony with the area at least 250 feet outside the boundary of the

proposed development. In the case of a phased planned development, all phases shall also be in visible agreement with each other architecturally and otherwise.

(H) *Final plan.* Upon completion of all conditions and requirements of a preliminary plan, application may be made for final approval in accordance with the provisions of this section.

(1) *Final plan review procedure.* The procedure for application and review of a request for final plan approval shall be as set forth in § 152.204(C).

(2) *Certifications required for final plan approval.* Requests for final plan approval shall be accompanied by the following certifications, as applicable:

(a) A copy of all covenants and restrictions;

(b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;

(c) As-built certifications for all required roads and utilities;

(d) If the planned development involves a division of land, the certifications required by §§152.250 through 152.265 of this chapter; and

(e) Other certifications required as a condition of the preliminary plan approval.

(3) *Final plan approval criteria.* The Commission shall approve a final plan provided that:

(a) The submitted final plan is in substantial conformance with the approved preliminary plan and master plan (if a phased planned development); and

(b) All of the certifications required by division (H)(2) above have been submitted in proper form.

(4) *Permits.* No building permits shall be approved until the effective date of the final approval of the final plan.

(I) *Retroactivity.* The provisions in this section shall not apply to planned developments, or phases thereof, which were granted preliminary plan approval prior to the effective date of this section. In those cases the prior version of this section shall apply, unless said approval expires without applicant having obtained the final approval.

(J) *Amending an approved planned development master plan or preliminary plan.* When a developer or owner desires to deviate from an approved master plan or preliminary plan, any applicable documents that would result in modification from that change shall be submitted for approval. The review process is identical as a new planned development approval. As a result of the change, the Planning Commission may require changes to approved uses, structures, and other forms of development to ensure the proposed development remains consistent with the Comprehensive Plan goals, policies, and zoning ordinance provisions for the area, and to ensure all areas of the planned development remain in harmony following division (A) and (B) of this section.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004; Ord. 310, passed 11-1-2016) Penalty, see § 152.999

§ 152.058 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS.

At the time a new structure is erected or the square footage is increased, or the use of the structure is changed, off-street parking spaces, loading areas, and access thereto shall be provided as set forth in this section.

(A) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(B) In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the several uses computed separately.

(C) Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, or contracts to establish the joint use and hours of operation.

(D) Off-street parking spaces for dwellings, hotels, motels, resorts, and time-shares shall be located on the same lot or on a lot immediately adjacent to the lot served by such parking.

(E) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(F) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved adequately for all-weather use, and shall be adequately maintained. Drainage shall conform to the city's storm water master plan and a drainage plan shall be approved the city field superintendent.

(G) Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones, or adjacent to Highway 101, or residential uses shall be designed to minimize visual impacts by use of landscaping or by a fence screened by landscaping.

(H) Parking areas used for public or private parking lots under the conditional use in an R-4 Zone must have garbage containers available for garbage which may be generated by users of the parking lot. Such garbage containers must be emptied on a regular basis and not less than weekly. Parking lots shall be posted with the following sign: "no camping or overnight use" and shall have their hours posted. Parking lot hours shall not extend beyond 10:00 p.m. or open earlier than 4:00 a.m. If the property fails to enforce the parking prohibitions, the Planning Commission may review and consider whether or not to revoke the conditional use permit.

(I) Parking spaces along the outer boundaries of a lot shall contain a curb or bumper rail at least four inches high and set back four feet from the front of the space.

(J) Artificial lighting may be used in parking areas provided it is of low intensity, is pointed generally downward, and is shielded if necessary so as to not create light or glare off-site.

(K) Except with respect to approved driveways, required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(L) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

(M) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(N) Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths of sufficient numbers and size to handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this section may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.

(O) All spaces shall be permanently and clearly marked. Markings which guide safe and efficient traffic flow shall also be permanently and clearly marked. All markings shall be replaced regularly to remain visible.

(P) All improvements, including surfacing, storm water management, striping, and landscaping shall be fully maintained for the life of the parking facility. Failure to maintain such improvements shall constitute a violation of this chapter.

(Q) All parking lots shall be designed with spaces for handicapped drivers as provided for in the Building Code.

(R) The clear vision requirements set forth in § 152.055 of this subchapter shall apply to all parking lots at the intersection of two streets or a street and an alley.

(S) For C-1 Retail Commercial Zoned properties, off-street parking requirements shall be located on the same lot or within 500 feet (as measured by a direct line from the nearest property line to the nearest property line of the parking lot).

(1) On-street parking spaces that front the lot and are adjacent (on the same side of the street) may be counted in the required parking. Over one-half of the parking space shall be directly within the street frontage of the lot in order to be counted in the required parking.

(2) When the square footage of a business or structure is increased, or the use is changed, only the spaces associated with the increased square footage or area of change must be added.

(3) No person who works or resides in properties fronting Highway 101 shall park a vehicle on Highway 101 while in his or her place of employment, or in his or her residence between 9:00 a.m. and 5:00 p.m. on any day. Single-family dwellings are exempt.

(4) Parking on Highway 101 is limited to four hours between 6:00 a.m. and 6:00 p.m.

(5) All parking shall be general purpose parking/public parking with the exception of residential uses which may have designated off-street parking spaces. If required parking is off-site but within 500 feet, the applicant must provide written documentation from the property owner authorizing the parking. If a variance to parking requirements is pursued, the applicant shall demonstrate that off-site parking is not available within 500 feet.

(T) Off-street parking space requirements:

Animal hospital or kennel	1 space per 500 square feet
Any single- or multi-family residential use, including condominium or time share	2 spaces per unit
Church, auditorium, meeting place, theater, gymnasium, mortuary, or similar place of assembly	1 space for each 50 square feet of floor area used for assembly
Dance hall, skating rink, pool hall, aquarium, bowling alley, or similar commercial amusement enterprise	1 space for each 100 square feet of floor area
Day care, nursery school, kindergarten, elementary and middle schools, and similar uses	2 spaces per classroom or instructional area, plus requirements for offices, places of

	assembly, and the like
Financial institution, laboratory, or office	1 space for each 300 square feet of floor area
Golf courses	5 spaces per hole, plus the 75% the ancillary parking requirements
High schools	8 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Hospital	3 spaces for each 2 beds
Laundromat	1 space per three machines
Library or similar facility	1 space for each 300 square feet of floor area
Manufacturing, fabrication, assembly, processing, cabinetry, or similar use	1 space for each 1,000 square feet of floor area
Marina or other moorage facility	1 space per boat mooring space
Medical or dental clinic	1 space for each 200 square feet of floor area
Miniature golf	1.5 spaces per hole
Nursing home, residential facility, residential home, or retirement home	1 space for each 3 beds
Personal or business service	1 space per 250 square feet
Public or private swimming pool	1 space per 100 square feet
Recreational vehicle park	3 spaces for each two RV spaces
Restaurants and bars	1 space for each 100 square feet of serving area (total floor area where public is allowed, excluding restrooms and other specified uses, such as designated retail space)
Retail store not handling bulky merchandise	1 space for each 350 square feet of floor area
Service or repair shop; retail store handling bulky merchandise, such as automobiles, furniture, boats, marine equipment, and the like; automobile service station, feed and seed; heavy equipment; lumber or building supplies; or similar uses	1 space for each 600 square feet of sales, storage, or repair area
Tourist accommodation	1 space for each guest accommodation
Warehouse, storage, and wholesale business	1 space for each 2000 square feet of area

(U) The required size of parking spaces, aisles, driveways, and similar design features are set forth in Diagram A. Required landscaping areas are not shown.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 92, passed 7-7-1982; Ord. 124, passed 7-1-1985; Ord. 130, passed 4-6-1987; Ord. 145, passed 1-3-1989; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 234, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 279, passed - 2007)

§ 152.074 PROTECTION OF COASTAL HEADLANDS; AREAS OF EXCEPTIONAL AESTHETIC RESOURCES.

(A) *Application.* This section's standards shall apply to lands identified as coastal headlands and exceptional aesthetic resources found in the Comprehensive Plan inventory section entitled "open spaces, scenic and historic areas, and natural resources", item f.

(B) *Standards.* Development in areas of exceptional aesthetic resources or coastal headlands shall substantially maintain the existing visual character of the areas. The visual character of the area is deemed to be substantially maintained if the following standards are met.

(1) *For coastal headlands, coastal scenic areas, and the harbor area.*

(a) The coastal headlands remain in their natural state.

(b) The shorelands, cliffs, and immediate environs of the coastal scenic areas comply with the requirements of §§ 152.234 and 152.235 of this chapter, except that the "area of visual concern" for Whale Cove, Pirate's Cove, and the designated faces of north and south points shall extend 40 feet rather than 25 feet landward from the top of the coastal bluff.

(c) In these same areas, the outer coverings of structures that will be visible from within the aesthetic resource area, including the roofing materials, are of natural wood materials or designed to look like natural wood materials or are painted or stained in subdued colors.

(d) Around the city harbor and adjacent park, developments are compatible with the existing character of the area and with the atmosphere of the harbor for boats, and are for water dependent uses.

(e) Lights from any development are shielded and directed downward so as not to illuminate or cause glare outside of their local area. External lighting on structures, streets, signage, or for other uses are restricted to low wattage ground lights less than 12 feet tall.

(f) All communication and utility lines and structures are either underground or not visible over or around a vegetative buffer.

(g) Where a permitted use of a lot existing prior to the establishment of this chapter would be precluded by strict adherence to these requirements, the applicant can ask for an exception to these standards if the applicant meets the following standards:

1. The request is the minimum necessary;
2. Disruption of the visual character of the area has been minimized; and

3. That options such as clustering of improvements, maximizing variance setbacks on the sides of the development away from the aesthetic resource, or other design methods to minimize impact have been exercised or are not feasible.

(2) *For scenic view corridors.*

(a) For the corridor along the west side of Highway 101 between Sunset Street and the bridge, the property owner, whether public or private, maintains vegetation pruned to not obstruct the view.

(b) Developments are to be designed to intrude into the view corridor the minimum necessary and at least 15 feet per 100 feet of frontage remains with an unobstructed view.

(3) *For forested corridors.*

(a) Trees six inches in diameter or greater at four feet above ground shall be retained within 40 feet either side of the Highway 101 right-of-way from South Point Street south to the city limits. This

area may be considered part of the required common space provided in a planned development or land division.

(b) Trees within ten feet of a building may be removed providing the building meets all setback provisions. Trees may also be removed where ingress or egress to a development can only be achieved by access across the corridor. The accessway must be the minimum width allowable and designed to minimize the amount of intrusion along the corridor (such as, by alignment perpendicular to the highway).

(c) Within forested corridors, trees may be removed if determined to be unsafe by a registered, certified arborist. If trees are removed due to unsafe conditions, those areas shall be immediately replanted with trees that will reestablish the forested corridor.

(4) *For forested hillsides.*

(a) In any plan for a subdivision greater than three acres, specific measures are outlined to assure that at least 20% of the area with trees six inches or greater at four feet above ground shall be protected. These areas shall be mapped in the plan, and may be considered part of the required common space provided in a planned development.

(b) Where a permitted use of a lot existing prior to the establishment of this chapter would be precluded by strict adherence to these requirements, the development is the minimum necessary and the forested resource is maintained to the maximum extent possible.

(Ord. 256, passed 4-6-2004)

DEVELOPMENT GUIDELINES

§ 152.225 PURPOSE.

Some areas of the city are located on steep slopes, have erosion or landslide potential, or are otherwise of concern. The purpose of this section is to minimize hazards and threats to life and property by regulating building, grading, land clearing, and other human activities in areas identified with landslide topography, steep slopes, areas subject to erosion, high groundwater table, and other hazards. It is also the intent of this subchapter to protect life and property by reducing building density in these areas, by requiring special construction techniques, and by requiring the study of such areas by a state-registered engineering geologist prior to any activity.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.226 WEAK FOUNDATION SOILS.

(A) Many areas within the city are located on areas described by the soil conservation service as containing “weak foundation soils” or other soils limitations.

(B) Construction techniques, through the Building Code, require the effect of weak foundation soils or other soil limitations to be considered in the construction process.

(C) Construction of structures on areas of weak foundation soils or other soils limitations is not deemed to pose a significant hazard to life or property outside the property boundaries. The manner provided in the Building Code to address problems arising from weak foundation soils or other soils limitations is deemed to be an adequate means of protection of life and property. This statement serves as a warning for development on weak foundation soils.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.227 DISCHARGE OF SEDIMENT OR WATER.

(A) Property owners or other persons in charge of property shall not cause, or permit to be caused, the discharge of sediment or water onto adjoining property or the public right-of-way unless the permit application is accompanied by a drainage plan accepted by the affected property owners, or the applicant has demonstrated compliance with state laws regarding discharge of sediment or water.

(B) The following measures are suggested as possible means to prevent such discharges:

(1) Minimal removal of vegetative cover, particularly trees;

(2) Temporary measures for controlling run-off, such as berms or holding ponds;

(3) The planting of vegetative cover as soon as possible after each phase of construction, including excavation, grading, and/or land clearing; and

(4) Design of the site to avoid steep areas or other hazards.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.228 AFFECTED AREAS.

The following areas and activities shall be subject to the requirements of this subchapter:

(A) Areas identified as being geologically hazardous by *Environmental Geology of Lincoln County, Oregon, 1973*, Oregon Department of Geology and Mineral Industries, or *Environmental Hazard Inventory, Coastal Lincoln County Oregon*, RNKR Associates, 1978. These documents are referenced as part of the Comprehensive Plan and are available in the office of the City Recorder;

(B) Areas identified by the Natural Resource Conservation Service as having high groundwater;

(C) Areas containing slopes in excess of 20%. (Areas generally containing significant slopes are identified on the attached map. Sites in this area are “affected” unless shown otherwise per § 152.233 of this subchapter); and

(D) Areas fronting the ocean or coastal bluff that are seaward from the line set by the coastal setback requirements of § 152.234 of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.229 GEOLOGIC PERMIT REQUIRED.

A geologic permit shall be obtained for any development within the affected areas. For subsequent building permits, such as for decks or room additions, the original geologic permit is acceptable, if it is no older than five years and the report author evaluates the new building permit plans and sends a letter to the city that bears the stamp of the licensed geologist or engineering geologist, acknowledging that the submitted plans have been reviewed and that such building activity can be safely accomplished. In areas having slopes greater than 20%, a geologic permit shall also be obtained before removing vegetation from or grading an area in excess of 20,000 square feet or adding or removing 90 cubic yards of earth in an area of 5,000 square feet. Minimal accessory uses that do not require a building permit (playground equipment, small gazebo, and the like) are excluded from the requirements of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.230 PERMIT PROCEDURES.

In order to obtain a geologic permit, the applicant shall submit, along with the appropriate fee, a geologic hazard report which shall be prepared by a registered geologist or a certified engineering geologist recognized by the state and dated no more than one year prior to the application date. The report shall explain fully the activity for which the permit is being sought. If the purpose of the geologic hazard report is for a building permit, then the report shall accompany and address final building plans. Any activities not specifically covered in the report will not be covered by the permit. The report shall also identify the nature, extent, and location of all geologic hazards associated with the proposed site and activity. Finally, the report shall detail exact measures to be taken so as to avoid the occurrence of landslides, erosion, sloughing, puddling, or other identified geologic hazards on the subject and surrounding property or any prohibited activity identified above. For uses requiring removal of vegetation or excavation, plans for the legal disposal of such materials shall be submitted.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.231 SPECIFIC REQUIREMENTS FOR GEOLOGIC HAZARD REPORTS.

Geologic hazard reports provided pursuant to this subchapter shall conform to the following requirements from the *Guidelines for Preparing Engineering Geologic Reports in Oregon*. The geologist's report shall have reviewed these specific requirements and the applicant shall address the applicable conditions in the proposal. Sections that are not applicable shall be identified as not applicable.

(A) *General information.*

- (1) Client or party that commissioned the report;
- (2) Name(s) of geologist(s) who did the mapping and other investigation on which the report is based, and dates when the work was done;
- (3) Location and size of area, and its general setting with respect to major or regional geographic and geologic features, including a statement of existing surrounding and on-site land uses and public facilities, utilities, and easements. The location shall be identified by the tax map, tax lot number, and the street address to eliminate confusion in identifying the property;
- (4) Purpose and scope of the report and geologic investigation, including the proposed use of the site. Also, identify the level of the study, such as, feasibility, preliminary, final, and the like;
- (5) Topography and drainage within or affecting the area;
- (6) General nature, distribution, and abundance of exposures of earth materials within the area;
- (7) Nature and source of available subsurface information and geologic reports or maps. Suitable explanations of the available data should provide a technical reviewer with the means of evaluating the reliability. Reference to cited works or field observations should be made, to substantiate opinions and conclusions;
- (8) Disclosure of known or suspected geologic hazards affecting the area, including a statement regarding past performance of existing facilities (such as, buildings or utilities) in the immediate vicinity;
- (9) Locations of test holes and excavations (drill holes, test pits, and trenches) shown on maps and sections described in the text of the report. The actual data, or processed data upon which interpretations are based, should be included in the report to permit technical reviewers to make their own assessments regarding reliability and interpretation;
- (10) All field and laboratory testing procedures (by ASTM designation, if appropriate) and test results; and
- (11) The signature and seal of the certified engineering geologist who prepared the report.

(B) *Geologic mapping and investigation.*

- (1) Geologic mapping of the area should be done at a scale which shows sufficient detail to adequately define the geologic conditions present.
 - (a) For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, so independent geologic mapping is needed.
 - (b) If available published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes which have occurred since map publication.
 - (c) It may be necessary for the geologist to extend mapping into adjacent areas to adequately define significant geologic conditions.
- (2) Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base should be included on each map or photo.
- (3) The geologist doing the investigation and preparing the map should report the nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials exposed and inferred within the area. A clear distinction should be made between observed and inferred features and relationship.

(4) The report should include one or more appropriately positioned and scaled cross-sections to show subsurface relationships that cannot be adequately described in words alone. Fence or block diagrams may also be appropriate.

(C) *Geologic descriptions.*

(1) The report should contain brief but complete descriptions of all natural materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. Describe all field mapping and exploration procedures (surface geologic reconnaissance, drilling, trenching, geophysical survey, and the like).

(2) The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

(a) *Bedrock.*

1. Identification of rock types;
2. Relative and absolute age and, where possible, correlation with named formations and other stratigraphic units;
3. Surface and subsurface expression, areal distribution, and thickness;
4. Pertinent physical characteristics (such as, color, grain size, nature of stratification, strength, and variability);
5. Distribution and extent of zones of weathering; significant differences between fresh and weathered rock; and
6. Special engineering geologic characteristics or concerns (such as, factors affecting proposed grading, construction, and land use).

(b) *Structural features: stratification, faults, discontinuities, foliation, schistosity, and folds.*

1. Occurrence, distribution, dimensions, orientation, and variability; both within and projecting into the area;
2. Relative ages, where pertinent;
3. Special features of faults (such as, topographic expression, zones of gouge and breccia, nature of offsets, age of movements, youngest faulted unit, and oldest unfaulted unit); and
4. Other significant structural characteristics or concerns.

(c) *Surficial deposits: alluvial, colluvial, eolian, glacial, lacustrine, marine, residual, mass movement, volcanic (such as, cinders and ash), and fill.*

1. Identification of material, grain size, relative age, and degree of activity of originating process;
2. Distribution, dimensional characteristics, variations in thickness, degree of soil development, and surface expression;
3. Pertinent physical and engineering characteristics (such as, color, grain size, lithology, compactness, cementation, strength, thickness, and variability);
4. Special physical or chemical features (such as, indications of volume change or instability, such as expansive clays or peat); and
5. Other significant engineering geologic characteristics or concerns.

(d) *Surface and shallow subsurface hydrologic conditions, including groundwater, springs, and streams and their possible effect on site.* Indicate how conditions may be affected by variations in precipitation, temperature, and the like:

1. Distribution, occurrence, and variations (such as, drainage courses, ponds, swamps, springs, seeps, and aquifers);
2. Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, flow direction, gradient, recharge, and discharge areas;
3. Relationships to topographic and geologic features;
4. Evidence for earlier occurrence of water at localities now dry (such as, vegetation, mineral deposits, and historic records); and
5. Other significant engineering geologic characteristics or concerns, such as fluctuating water table and the effects of proposed modifications on future hydrologic processes.

(e) *Seismic considerations.*

1. Description of the seismotectonic setting of the area (including size, frequency, and location of historic earthquakes), current seismic zoning, and expected seismic risk;
2. Potential for area to be affected by surface rupture (including sense and amount of displacement, and width of surface deformation zone);
3. Probable response of site to likely earthquakes (estimated ground motion);
4. Potential for area to be affected by earthquake-induced landslides or liquefaction; and
5. Potential for area to be affected by regional tectonic deformation (subsidence or uplift).

(D) *Assessment of geologic factors.*

(1) Assessment of existing geologic conditions and processes with respect to intended use of the site constitutes the principal contribution of the report. It involves the effects of the geologic features upon the proposed grading, construction, and land use; and the effects of these proposed modifications upon future geologic conditions and processes in the area.

(2) The following checklist includes topics that ordinarily should be considered in discussions, conclusions, and recommendations in geologic reports:

(a) *General suitability of proposed land use to geologic conditions.*

1. Areas to be avoided, if any, and mitigation alternatives;
2. Topography and slope;
3. Stability of geologic units;
4. Flood and tidal inundation, erosion, and deposition;
5. Problems caused by geologic features or conditions in adjacent properties;
6. Problems related to coastal erosion; and
7. Other general problems.

(b) *Identification and extent.* Identification and extent of known or probable geologic conditions which may result in risk to the proposed land use (such as, flood inundation, shallow groundwater, storm surge, surface and groundwater pollution, snow avalanche, landslide, debris flow, rock fall,

expansive soil, collapsible soil, subsidence, erosion, deposition, earthquake shaking, fault rupture, tectonic deformation, liquefaction, seiche, tsunami, and volcanic eruption).

(c) *Recommendations for site grading.*

1. Prediction of what materials and structural features will be encountered in proposed cuts;
2. Prediction of stability based on geologic factors; recommended avoidance or mitigation alternatives to cope with existing or potential landslide masses;
3. Excavation considerations (hard or massive rock and groundwater flows);
4. General considerations of proposed fill masses in canyons or on hillsides;
5. Suitability of on-site material for use as compacted fill;
6. Recommendations for positioning fill masses, provision for subdrainage, buttressing, and the need for erosion protection on fill slopes; and
7. Other recommendations required by the proposed land use, such as the angle of cut slopes, position of drainage terraces, need for rock-fall, and/or erosion protection on cut slopes.

(d) *Drainage considerations.*

1. Protection from inundation or wave erosion along shorelines;
2. Soil permeability and suitability for septic systems; and
3. Protection from sheet flood or gully erosion, and debris flows or mud flows.

(e) *Limitations of study and recommendations for additional investigations.* Considering the scope of work and intended use of the site, provide a statement of the limitations of the study and the need for additional studies outside the stated scope of work.

1. Borings, test pits, and/or trenches needed for additional geologic information;
2. Percolation tests needed for design;
3. Program of subsurface exploration and testing that is most likely to provide data needed by the soils or civil engineer; and
4. Program for long-term monitoring of the site to evaluate geologic conditions (survey hubs, inclinometers, extensometers, and the like).

(E) *Conclusions and recommendations.* The reports shall provide a concise set of conclusions and recommendations, including specifics regarding the acceptable locations of structures (addressing setbacks where appropriate) and the acceptable nature and density of development.

(F) *Inspection and monitoring.* Reports shall specify inspections and/or monitoring required to verify that the development and construction on the site have been completed according to the recommendations contained in the report. Inspection records and/or "as built" certifications shall be provided for all geologic hazard reports.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.232 DETERMINATION OF COMPLIANCE.

(A) Geologic hazard reports submitted for review in accordance with §§ 152.200 through 152.210 of this chapter, shall be reviewed by the Planning Commission, which shall determine whether the report addresses the provisions of this subchapter as it reviews the entire application. Land use

applications before the Planning Commission shall not be approved until such a determination has been made. Regardless of approval by the city, liability remains with the report signator and the applicant, who must conform with the report's requirements. Signed acceptance of this liability shall accompany the permit application.

(B) In determining compliance, the Planning Commission shall evaluate:

(1) If the report appears to adequately recognize the causes, extent, and potential of the hazards and conforms substantively with the requirements found in § 152.231 of this subchapter;

(2) If the recommendations to overcome the recognized hazards are set out clearly and specifically and are included in the engineered plans of the development;

(3) If the geologic hazard report indicates that possible future danger may exist from a hazard, the applicant or property owner shall complete and sign the declaration of covenants and conditions of responsibility and indemnity (the declaration) provided by the city. Prior to issuance of a building permit, the applicant or property owner shall execute and record the declaration in the deed records of the county;

(4) If the geologic hazard report and the associated plans contain the signature and professional stamp of a licensed geologist or engineering geologist qualified to certify such reports and plans; and

(5) Authorization of a geologic hazards permit shall be void after five years unless substantial construction pursuant thereto has taken place.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.233 PROVISIONS FOR ADDITIONAL INFORMATION.

There may be instances in which specific sites within the area mapped "as having significant slopes" may have topography not exceeding the 20% criterion. Property owners who can demonstrate, through a survey completed within a calendar year of the date of application by a surveyor registered in the state, that their property, or the specific site to be developed, has slopes of less than 20%, shall be exempt from any requirements pertaining to that specific characteristic.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.234 CALCULATION OF COASTAL SETBACKS.

Two areas shall be considered in establishing coastal setback requirements and may simultaneously apply to a given piece of property.

(A) *Areas of coastal erosion.*

(1) The following categories of coastal erosion are recognized (coastal erosion rates and the methodology used are outlined in the document entitled *Geologic Hazards Associated with Lincoln County Coastal Shoreline*, prepared by CH2M Hill, Inc., and RNKR Associates, 1977):

Less than 2.8 inches/year	Slight
2.8 to 11.3 inches/year	Moderate
More that 11.3 inches/year	Severe

(2) The following coastal setbacks are required for the categories listed above in order to limit the need for structural solutions to coastal erosion. All setbacks shall be measured from the mean higher

high water line and/or the base of the bank, whichever requires the greater setback.

Slight erosion	1 foot of setback for each 1 foot of bank height
Moderate erosion	2.15 feet of setback for each 1 foot of bank height
Severe erosion	2.75 feet of setback for each 1 foot of bank height

Example of How to Determine Geologic Setback

(B) *Areas of visual concern.* This is an area 25 feet landward from the top of a coastal bluff measured on the horizontal, where the top of bluff is the uppermost break in slope (see diagram in division (A) above). Where there is no coastal bluff or no clear break in slope, for example on a smoothly sloping lot, the area of visual concern is an area 25 feet landward (measured on the horizontal) from the line of mean higher high water or the line of non-aquatic vegetation, whichever is the furthest landward.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.235 PROHIBITED ACTIVITIES IN COASTAL SETBACKS.

(A) (1) In the areas of coastal erosion, no excavating, filling, or placement of retaining walls, deck posts, or other permanent structures is allowed, unless based on a geological hazard report approved by the Commission.

(2) Vegetation removal is also prohibited except as allowed in division (A)(2) below with prompt replacement with plants that will stabilize the ground. In this area, such vegetation removal must be in accordance with any required geological hazard report and with a landscaping plan adequately addressing ground stabilization.

(3) In the areas of visual concern, no grading, excavating, or filling that changes the profile of the top of the bluff or the slope seaward from its top; vegetation removal; or placement of a building is allowed except for:

- (a) Minor pruning to maintain views;
- (b) Removal of brush and trees smaller than six inches in diameter measured four feet above ground in preparation for prompt landscape replanting in the area landward from the top of the bluff;
- (c) Removal of vegetation within ten feet of a building allowed per division (A)(1) above;
- (d) Placement of benches, tables, and chairs; and
- (e) Placement of a single gazebo, provided such a structure is less than 100 square feet in size.

(B) If a geological hazard report is required per division (A)(1) above, any vegetation removal or gazebo placement must comply with this section and recommendations of the geological hazard report.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

Miscellaneous Review Application
Case File: #1-MSC-PC-24
Date Filed: Feb. 15, 2023
Application Complete: Mar. 6, 2024
Meeting Date: Apr. 17, 2024, 6:00 p.m.
120-day Decision Date: Jun. 14, 2024

STAFF REPORT Depoe Bay Planning Commission Action

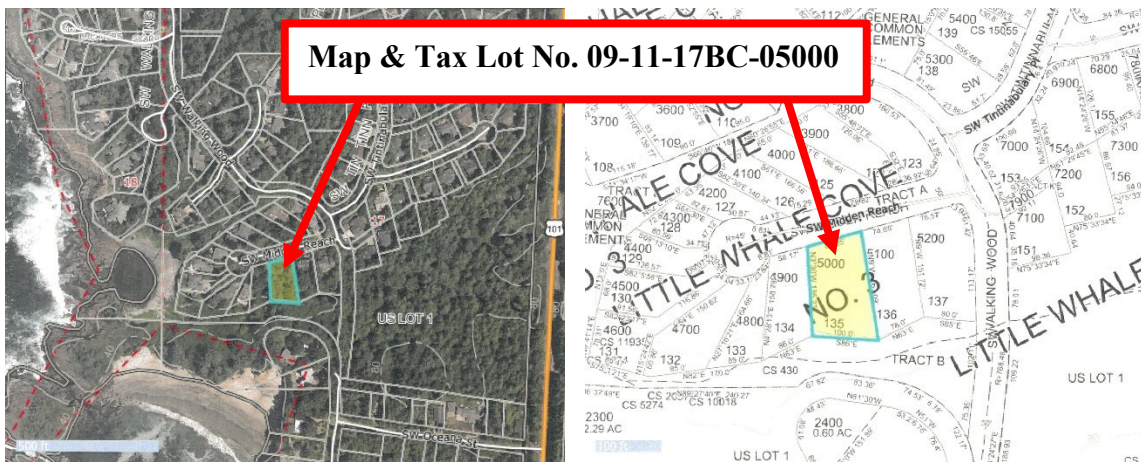
APPLICANT: Charissa Thornley/Adair Homes

OWNER: Chad L. & Sandra J. Moeser

REQUEST: The applicant requests Miscellaneous Review of a wetland delineation for a new, single-family dwelling on SW Midden Reach in the *Little Whale Cove* community.

A. **RELEVANT FACTS:**

1. **Property Location:** The subject property is located at 260 SW Midden Reach, and is further identified on Lincoln County Assessor's Map 09-11-17BC as Tax Lot 05000.



2. **Lot Size:** The property totals 0.29 acres (12,632 sq. ft.).
3. **Zoning Designation:** R-4PD
4. **Plan Designation:** Residential
5. **Surrounding Land Use:** The subject property is surrounded by developed and undeveloped residentially-zoned land in the R-4PD zone (*Little Whale Cove No. 4*) to all sides. A portion of the Whale Cove National Wildlife Refuge is located roughly fifty-three feet (53') south of the southerly property line of the subject property.
6. **Topography & Vegetation:** The subject property slopes down towards the unnamed creek on the adjacent common area lot to the south (Tract B). The property is heavily vegetated.
7. **Existing Structures:** The subject property is undeveloped.

8. **Utilities:** The following utilities currently serve the subject property:
 - a. Sewer: City sewer service.
 - b. Water: City water service.
 - c. Electricity: Central Lincoln PUD.
9. **Development Constraints:**
 - a. Riparian corridor for an unnamed creek draining into Little Whale Cove (according to Local Wetlands Inventory map).

B. EVALUATION OF THE REQUEST:

1. **Relevant Criteria:**
 - DBZO Section 152.028: Residential Zone R-4
 - DBZO Section 152.042: Planned Development Zone P-D
 - DBZO Section 152.058: Off-Street Parking and Off-Street Loading Requirements
 - DBZO Section 152.072: Protection of Streams, Ponds, Wetlands, and Riparian Areas

Complete descriptions of the relevant criteria are attached to this Staff report.

2. **Applicant's Proposal:** The applicant proposes to construct a single-family dwelling on the site. The applicant initially intended to apply for a building permit to develop the lot. In the course of reviewing preliminary plans provided by the applicant, Staff determined that there were potential impacts upon the riparian corridor for an unnamed creek draining into Little Whale Cove, which is located just south of the property. The applicant submitted the application form and fee/deposit for Miscellaneous Review of the wetland delineation for the project on February 15, 2024, accompanied by:
 - Project site plans, elevations, and floor plan
 - Department of State Lands (DSL) off-site determination letter
3. **Public Testimony:** Notice of this public hearing was mailed to property owners within a 250-foot radius of the subject property on March 20, 2024, and was published in the Lincoln County *Leader* on March 20, 2024. On March 7, 2024, the City received an anonymous letter (signed "Friend of the Refuge") advising the Planning Commission to consider the proximity of this project to the Whale Cove National Wildlife Refuge and possible impacts upon sensitive habitats and species therein as a part of its deliberations. The letter (excerpt provided below) is made a part of the record of this application.

REC'D MAR 07 2024

Depoe Bay Planning Commission

There are proposed home builds within Little Whale Cove on lots on both Midden Reach and Cormorant. As these properties somewhat back up to the Whale Cove National Wildlife Refuge, potential impacts of downstream runoff to the Refuge, Lincoln County Endangered vegetation and wildlife habitat should be considered.

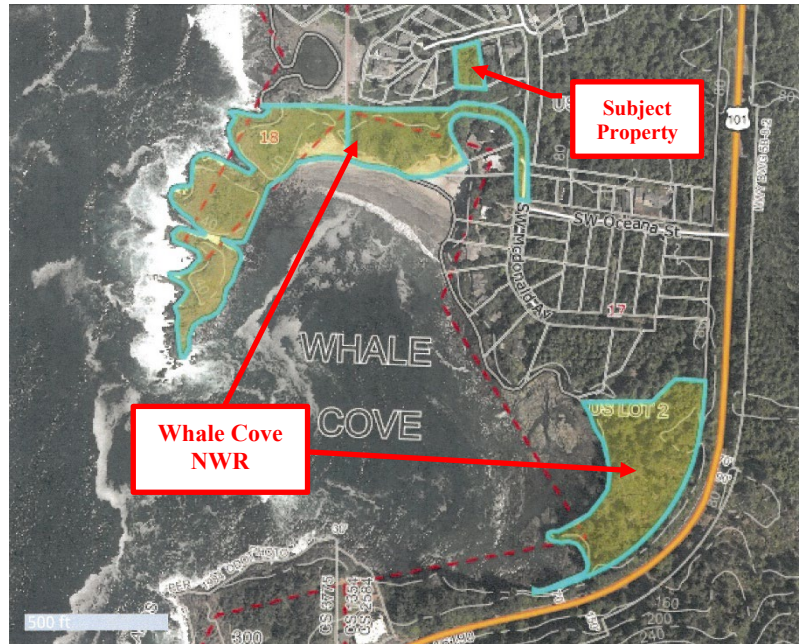
Friend of the Refuge

The owner of the refuge – the U.S. Fish & Wildlife Service (USFWS) – was provided with a public hearing notice for this application since the refuge is located within the 250-foot notification radius. As of the date that this report was completed, USFWS had submitted no public testimony regarding the application. The refuge property is generally located at a higher elevation than the subject property such that any off-site drainage would be directed into the unnamed creek on Tract B rather than

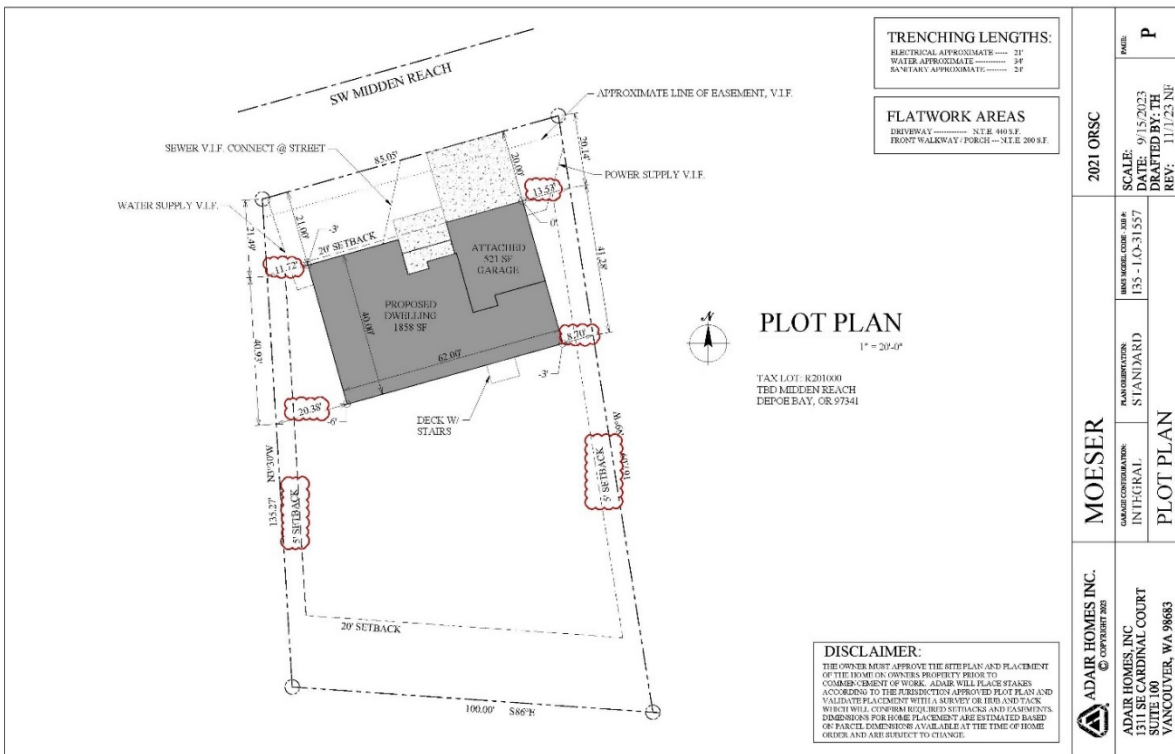
#1-MSC-PC-24 (Moerer)
April 17, 2024, Planning Commission Meeting

into the refuge itself. Therefore, Staff believes that the development of the subject property would not adversely affect any sensitive resources that may exist within nearby portions of the refuge (see aerial photo).

At the March 13, 2024, Planning Commission meeting, the property owner, Sandra Moerer, addressed the Commission under “Public Comments on Matters Not on the Agenda.” She provided a brief description of the proposal, and noted that she would be unable to attend the April 17, 2024, in person due to conflicting travel plans. She offered to provide additional documents related to the proposal. These additional materials are attached to tonight’s report, and made a part of the record of this application.



On March 31, 2024, Staff received an email from Joe DeBilio, the owner of a nearby residence, requesting clarification of the location and scope of the proposed project. Staff responded via email on April 2, 2024.



Site Plan

#1-MSC-PC-24 (Moerer)
 April 17, 2024, Planning Commission Meeting

FRONT ELEVATION
 18'0" x 13'0"

LEFT ELEVATION
 18'0" x 13'0"

RIGHT ELEVATION
 18'0" x 13'0"

REAR ELEVATION
 18'0" x 13'0"

TRADITIONS ELEV. NOTES
 EXTERIOR SIDING & TRIM SPECIFICATIONS
 1. SIDING: FULLY GRADED SHINGLES
 2. SIDING: 1/2" OSB SHEATHING
 3. SIDING: 1/2" OSB SHEATHING
 4. SIDING: 1/2" OSB SHEATHING
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 19. SIDING: 1/2" OSB SHEATHING
 20. SIDING: 1/2" OSB SHEATHING

NOTE:
 EXTERIOR ELEVATIONS ARE DRAWN W/ ESTIMATED GRADES. ONCE SITE CLEARING & EXCAVATION IS COMPLETE, SOME ADJUSTMENTS MAY BE NECESSARY.

HIGH WIND EXPOSURE:
 UPGRADED STRUCTURAL HARDWARE, HAND TABBED ROOF SHINGLES, III-WIND GARAGE DOOR, PREMIUM VINYL WINDOW UPGRADE, SIDING HIGH WIND INSTALLATION GUIDELINES & OTHER REQUIREMENTS TO MEET LOCAL CODE.

CORROSIVE ENVIRONMENT PKG.:
 STAINLESS STEEL FLASHING & NAILS, PLASTIC ROOF VENTS & STAINLESS STEEL 200amp UNDERGROUND ELEC. METER BASE

NOTE:
 THIS LOT IS CONSIDERED FLAT. THE EXISTING GRADE WILL BE THE FINISHED GRADE. THEREFORE, ALL WALLS WILL HAVE THE SAME HEIGHT OF 26'-1 1/8". THIS IS THE AVERAGE OF ALL WALLS AS THEY ARE ALL THE SAME.

MOESER
 ADAIR HOMES INC.
 1311 SE CARDINAL COURT
 SUITE 100
 VANCOUVER, WA 98683

2021 ORSC
 SCALE: 1/8" = 1'-0"
 DATE: 9/15/2023
 DRAFTED BY: TH
 REV:

ADAIR HOMES INC.
 1311 SE CARDINAL COURT
 SUITE 100
 VANCOUVER, WA 98683

Elevations

FLOOR PLAN
 1888 SQ. FT. 1/8" = 1'-0"

FLOOR PLAN NOTES
 1. FLOOR FINISHES SHALL BE 3/4" OSB SHEATHING OVER 1/2" OSB SHEATHING.
 2. FOR STRUCTURAL & LATERAL REQUIREMENTS SEE FRAMING PLANS & ALL "S" SHEETS.

WHOLE HOUSE VENTILATION
 PER TABLE M301.4.2(1) OR M301.4.2(2) FOR E.D., PROVIDE CONTRIBUTION OR RATIO AS SHOWN IN TABLE PER THE CONNECTION TO THE EXISTING SYSTEM AS SHOWN IN THE EXISTING FLOOR PLAN OR SEE 4. MANUAL OVERSEE TO BE PROVIDED PER SECTION M301.4.2

ELECTRICAL LEGEND

ELECTRICAL	SYMBOL
CEILING RECESSED LIGHT	☐
CASET - 600W	☐
CASET - 700W	☐
CASET - 800W	☐
CASET - 1000W	☐
CASET - 1200W	☐
CASET - 1500W	☐
CASET - 1800W	☐
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HIGH WIND EXPOSURE:
 UPGRADED III-WIND GARAGE DOOR, PREMIUM VINYL WINDOW UPGRADE AND OTHER REQUIREMENTS TO MEET LOCAL CODE.

CORROSIVE ENVIRONMENT PKG.:
 STAINLESS STEEL FLASHING & NAILS & STAINLESS STEEL 200amp UNDERGROUND ELEC. METER BASE

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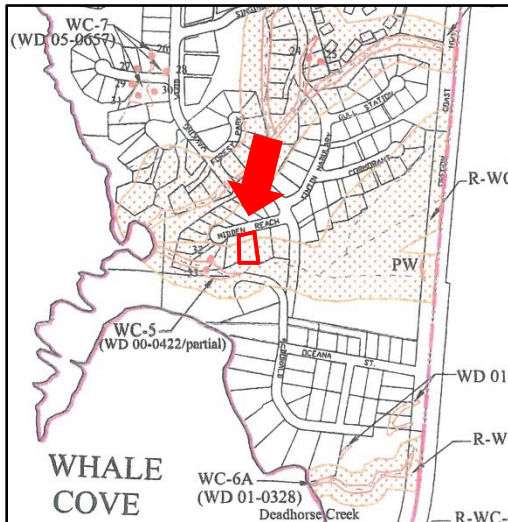
Floor Plan

C. SUMMARY AND STAFF ANALYSIS: The Planning Commission reviews the proposal for conformance with the appropriate standards of the Depoe Bay Zoning Ordinance (DBZO). To facilitate review, Staff provides the following analysis:

- R-4PD Residential Standards and Parking Requirements.** The following table summarizes the project’s compliance with the development standards for the R-4 zone and the *Little Whale Cove No. 4* planned development. The plans have been reviewed and preliminarily approved by the Little Whale Cove Architectural Committee.

Standard	Requirement	Proposed
Building Height	Max. 35’-0”	26’-1 ³ / ₈ ”
Front Yard	Min. 20’-0”	20’-0”
Rear Yard	Min. 10’-0”	72’-10 ¹ / ₄ ”
Side Yard (West)	Min. 8’-8 ³ / ₈ ”	11’-8 ⁵ / ₈ ”
Side Yard (East)	Min. 8’-8 ³ / ₈ ”	8’-8 ³ / ₈ ”
Off-Street Parking	2 spaces	2 spaces

- Riparian Corridor of Unnamed Creek.** An unnamed creek draining into Little Whale Cove traverses the common area lot (Tract B) to the south of the subject property. The City’s local wetlands inventory (LWI) map identifies a riparian corridor for this creek that encompasses roughly three-quarters of the southerly portion of the property, more or less. An excerpt from the LWI map is provided below, with the subject property outlined in **red**.



In about November 2023, the applicant contacted DSL to initiate an “off-site determination” process to see if a formal wetland delineation was required to ensure that the project would maintain an adequate setback from the unnamed creek on Tract B to the south. On December 20, 2023, DSL Staff determined that there might be wetlands on the property, and that a wetland determination or delineation might be needed prior to development of the property. A State permit is required for any project proposing fifty cubic yards (50 CY) or greater of fill, removal, or ground alteration within a wetland or waterway. A copy of DSL’s offsite determination was provided to the City with the project plans.

Pursuant to DBZO Section 152.072(C), development proposals within a designated resource identified in the LWI are required to demonstrate how the proposed development will protect any streams, ponds, wetlands, or riparian areas on or adjacent to the subject property. Such protection may require greater property line setbacks than would otherwise be required under the base zoning standards. The Planning Commission shall review the application in a public hearing and determine if all of the applicable criteria are met. Demonstrating compliance requires the extent of any streams, ponds, wetland, or riparian areas to be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the State of Oregon. Accordingly, the applicant had a wetland delineation prepared for the property (included with information provided by the property owner), and submitted this delineation report to DSL for review.

On March 5, 2024, Staff was advised that DSL determined that no State permit was required because any on- or off-site wetlands would not be disturbed by the proposed project. DSL notes that its determination is predicated upon the condition that less than fifty cubic yards (<50 CY) of removal and/or fill will occur outside of the building footprint. Based upon DSL's determination and the project plans, Staff believes that the proposed project is consistent with the provisions of DBZO Section 152.072.

3. **Erosion Control and Drainage Plan.** Prior to issuance of a building permit, the City's Public Works Director shall review and approve an erosion control and drainage plan. The additional information submitted by the property owner includes a drainage plan.
4. **Archaeological Resources.** All of the Depoe Bay planning area falls within the "high density" archaeological site density classification shown in the 1976 Lincoln County Statewide Inventory Historical Sites and Buildings, published by the Oregon State Historic Preservation Office, Parks and Recreation Branch, Department of Transportation. Although the property is not specifically identified as an archaeological site, the applicant needs to be aware of potential archaeological resources and take feasible action to minimize site disturbance and prevent irreversible loss of archaeological resources. DBZO Section 152.075(B)(1) states that development on identified archaeological sites shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. This does not require the property owner to hire an archaeologist, however, it does require the property owner to be cognizant of archaeological resources when developing the site. The additional information submitted by the property includes an archaeological resources inspection report.
5. **Period of Validity.** DSL's approval of the wetland delineation report for this property is valid for five (5) years. Therefore, authorization to proceed under the Planning Commission's review of this wetland delineation shall be void after five (5) years unless substantial construction pursuant thereto has taken place.

D. CONCLUSIONS: In evaluating the request, the Planning Commission bases its decision on compliance with the applicable code standards. If the Commission finds the request fails to satisfy the ordinance standards, it can move to deny the request, articulating the basic conclusions and rationale for the decision and directing staff to prepare findings.

If the Planning Commission finds the request satisfies the applicable criteria, it can move to approve the request and direct Staff to prepare findings. In the event of an approval, Staff suggests the following conditions of approval:

1. **R-4PD Residential and Parking Standards.** Development shall be accomplished in accordance with the submitted plan and in conformance with all R-4 Residential, the *Little Whale Cove* planned development, and parking standards. This includes a front yard of 20'-0"; a rear yard of 72'-10¹/₄"; a westerly side yard of 11'-8⁵/₈"; and an easterly side yard of 8'-8³/₈". The approved building height is 26'-1³/₈". A minimum 2 on-site parking spaces shall be provided (2 garage spaces and 2 driveway spaces proposed).
2. **Building Permit.** The applicant shall obtain a valid building permit prior to commencement of construction.
3. **Riparian Corridor of Unnamed Creek.** An unnamed creek draining into Little Whale Cove traverses the common area lot (Tract B) to the south of the subject property. The City's local

wetlands inventory (LWI) identifies a riparian corridor that encompasses about two-thirds of the southeasterly portion of the property. In about November 2023, the applicant contacted the Oregon Department of State Lands (DSL) to initiate an “off-site determination” for the property. On December 20, 2023, DSL determined that there might be wetlands on the property, and that a wetland determination or delineation might be needed prior to development. A State permit is required for any project proposing fifty cubic yards (50 CY) or greater of fill, removal, or ground alteration within a wetland or waterway. Pursuant to DBZO Section 152.072(C), development proposals within a designated resource identified in the LWI are required to demonstrate how the proposed development will protect any streams, ponds, wetlands, or riparian areas on or adjacent to the subject property, with the Planning Commission reviewing the application in a public hearing and determining if all of the applicable criteria are met. Demonstrating compliance requires the extent of any streams, ponds, wetland, or riparian areas to be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the State of Oregon. Accordingly, the applicant had a wetland delineation prepared for the property, and submitted this delineation report to DSL for review. On March 5, 2024, DSL issued formal approval of the wetland delineation report.

4. **Erosion Control and Drainage Plan.** Prior to issuance of a building permit, the City’s Public Works Director shall review and approve an erosion control and drainage plan.
5. **Department of State Lands Recommendations.** The Department of State Lands’ approval is conditioned upon the following:
 - a. Less than fifty cubic yards (<50 CY) of removal and/or fill is allowed to occur outside of the building footprint. If more than fifty cubic yards (≥50 CY) of removal and/or fill occurs outside the house footprint during construction, a wetland delineation and a State permit may be required.
6. **Archaeological Resources.** Development shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. Before and during excavation, any discovery of archaeological resources shall mean that the applicant shall cease excavation activities, notify the State Historic Preservation Office and Confederated Tribe of Siletz Indians, and meet State statutes before proceeding.
7. **Period of Validity.** This approval shall be null void after five (5) years from the effective date of the Planning Commission’s approval unless substantial construction pursuant thereto has taken place.

Submitted by,

Kit Fox, AICP
City Planner

#1-MSC-PC-24 (Mooser)

April 17, 2024, Planning Commission Meeting

Attachments: Miscellaneous review and building permit application forms
Project site plan, elevations, and floor plan
December 20, 2023, DSL Off-Site Determination
March 5, 2024, DSL approval of Wetland Delineation Report for Lot 135, *Little Whale Cove No. 4*

Public testimony

Additional information from property owner:

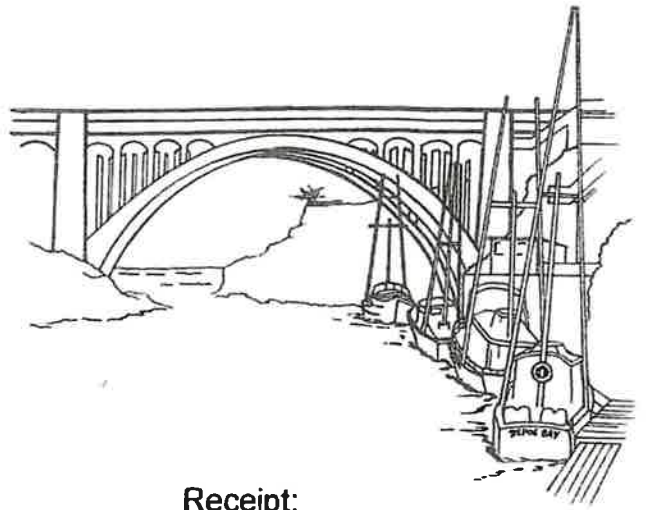
- Wetland Determination (Pacific Habitat Services)
- Archaeological Resources Inspection (Heritage Resource Associates)
- Geotechnical Report (Rapid Soil Solutions)
- Drainage Plan
- Property Survey

Relevant DBZO criteria:

- Section 152.028: Residential Zone R-4
- Section 152.042: Planned Development Zone P-D
- Section 152.058: Off-Street Parking and Off-Street Loading Requirements
- Section 152.072: Protections of Streams, Ponds, Wetlands, and Riparian Areas

CITY of DEPOE BAY

Post Office Box 8 + Depoe Bay, Oregon 97341
Phone (541) 765-2361 + Fax (541) 765-2129
TDD# 1-800-735-2900



Zoning Action Application

Receipt: _____

TO BE COMPLETED BY OFFICE:

Deposit: N/A

Fee: TBD

1. Date Received _____	Staff Initials _____
1. Case File Number _____	Action: _____ Planning Commission _____
2. Action Requested C.U. _____ N.C.U. _____ Variance _____ Zone Change _____	
Geotechnical Report _____	<u>Other</u> <u>BUILDING PERMIT</u>
3. Current Zoning _____ Current Plan Designation _____	Lot Size _____
4. Previous Planning Actions on Property _____	
5. Existing Code Violation(s) _____	

TO BE COMPLETED BY APPLICANT:

Reason For Request New single family dwelling

Property Description T OR S, R 11 W, W.M., Section 17 Tax Lot(s) R201000

Applicant's Name Charissa Thornley

Address 1895 Belmont Loop City Woodland State WA

Zip Code 98074 Daytime Phone Number 360 841 2040

Relationship to Property Builder
(Owner, Contract Purchaser, etc.)

Agent (if any) _____

Directions to Property _____

Existing Structures None

Current/Proposed Utilities: Sewage Sewer Water City

Anticipated Date of Development Summer 2024

SECTION A, SYSTEM DEVELOPMENT CHARGES/CONNECTION FEES

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APPLICANT NAME: Charissa Thornley

MAILING ADDRESS: 1995 Belmont Loop Woodland WA

TELEPHONE: HOME: _____ WORK: 360 841 2410

OWNERS'S NAME, IF OTHER THAN APPLICANT: Chad and Sandra Meeser

PROPERTY ADDRESS: TBD Midden Ranch Depue Bay

LEGAL DESCRIPTION: (EXAMPLE: T 9 R 11 SEC 5AA TAX LOT 100)

T 09 R 11 SEC 17 TAX LOT R201000

DESCRIBE PROPOSED USE/CONNECTION AND PROPOSED DATE OF CONNECTION:

New single family dwelling

1. CITY DOES **NOT** INSTALL SEWER: DO YOU WISH CITY TO INSTALL WATER SERVICE ?
(IF AGREEMENT AVAILABLE) YES _____ NO X
2. **CONNECTION FEES MUST BE PAID AT TIME BUILDING PERMIT IS FILED.**
3. **UPON APPROVAL OF SERVICE CONNECTION, PLEASE NOTIFY CITY HALL ONE WEEK IN ADVANCE OF DESIRED DATE OF CONNECTION.**

"FOR OFFICE USE ONLY"

COMMENTS/REQUIREMENTS FOR SERVICE CONNECTIONS TO PROPERTY:

CITY WATER SERVICE INSTALLATION AGREEMENT AVAILABLE? YES _____ NO _____

TYPE	SDC CHARGE	INSPECT AND/OR INSTALL	TOTAL
WATER SERVICE	_____	_____	_____
SEWER SERVICE	_____	_____	_____
STORM DRAIN	_____	_____	_____
TRANSPORTATION	_____	_____	_____
PARKS	_____	_____	_____
OTHER (CULVERT?) <small>(Per Res. No. 183 and Ord. No. 61)</small>	_____	_____	_____
GRAND TOTAL	_____	_____	_____

SIGNATURE: _____ DATE: _____

Refer to Ordinance # 264 (adopted 6/21/11, eff 7/1/11)

ENR-Construction Cost Index 04/20-03/21 = 2.95%

Water SDC: \$ 3,120/EDU plus applicable inspection/installation fees (see below)

Sewer SDC: \$ 4,343/EDU plus applicable inspection/installation fees (see below)

Storm Drain SDC: \$1,788/EDU

Parks SDC: \$ 771/EDU

Transportation SDC: See attached chart

***Note to Staff: **View of the Bay Lots 1 thru 28** (Phase I) each are credited \$ 160.71 toward the Transportation SDC.
(Ex: SDC for a Single Family Dwelling is **\$ 3,141.29**)

Water & Sewer Inspection/Installation Charges

Rev. 10/2021

Refer to Resolution # 234

CPI-U - Portland-Salem 04/2020-03/2021 = 1.6%

Charges for service connections, in addition to SDC's are as follows:

SEWER: Inspection Only \$ 295

WATER: 5/8" or 3/4" Service:

Inspection Only, includes meter \$ 894

Inspection & Installation \$ 1,586

WATER: 1" Service

Inspection Only, includes meter \$ 1,164

Inspection & Installation \$ 1,856

Water: 1.5" Service

Inspection Only, includes meter \$ 1,220

Inspection & Installation \$ 1,912

WATER: 2" Service

Inspection Only, includes meter \$ 2,338

Inspection & Installation \$ 3,030

WATER: 3", 4" or larger service connections:

Due to the infrequency of these connections the city does not stock these materials, costs shall be based upon actual cost at the time of application.

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**CITY OF DEPOE BAY
TRANSPORTATION SDC FEE SCHEDULE**

Rev. 10/1/2021

LAND USE (ITE CLASS)	ITE TRIP RATE	UNITS BASIS	PASS BY DEPOE BAY VOL.	TRIP RATE	TRIP COST	SDC CHARGE
RESIDENTIAL						
Single Family Detached (210)	9.57	per unit	0%	9.57	364.00	\$ 3,483
Apartment (220)	6.63	per unit	0%	6.63	364.00	\$ 2,413
Condominium Townhouse(230)	5.86	per unit	0%	5.86	364.00	\$ 2,133
Mobile Home Park (240)	4.81	per space	0%	4.81	364.00	\$ 1,751
Planned Unit Dev. (270)	7.5	per unit	0%	7.5	364.00	\$ 2,730
Hotel (310)	8.92	per room	40%	5.35	364.00	\$ 1,947
Suites Hotel (311)	6.24	per room	40%	3.74	364.00	\$ 1,361
Motel (320)	9.11	per room	40%	5.47	364.00	\$ 1,991
Campground/RV Park (416)	9.11	per space	40%	5.47	364.00	\$ 1,991
COMMERCIAL/INDUSTRIAL						
Marina (420)	2.96	per berth	0%	2.96	364.00	\$ 1,077
General Light Industrial (110)	6.97	1,000 SF	0%	6.97	364.00	\$ 2,537
General Heavy Industrial (120)	1.5	1,000 SF	0%	1.5	364.00	\$ 546
Industrial Park (130)	6.96	1,000 SF	0%	6.96	364.00	\$ 2,533
Manufacturing (140)	3.82	1,000 SF	0%	3.82	364.00	\$ 1,390
Warehousing (150)	4.96	1,000 SF	0%	4.96	364.00	\$ 1,805
Mini Storage (151)	2.5	1,000 SF	0%	2.5	364.00	\$ 910
Elementary School (520)	1.02	student	0%	1.02	364.00	\$ 371
Middle School/Jr High (522)	1.45	student	0%	1.45	364.00	\$ 528
High School (530)	1.79	student	0%	1.79	364.00	\$ 652
Jr/Community College (540)	1.54	student	0%	1.54	364.00	\$ 561
University (550)	2.38	student	0%	2.38	364.00	\$ 866
Day Care (565)	79.26	1,000 SF	80%	15.85	364.00	\$ 5,769
Nursing Home (620)	2.61	per bed	40%	1.57	364.00	\$ 571
Clinic (630)	31.45	1,000 SF	20%	25.16	364.00	\$ 9,158
General Office (710)	11.01	1,000 SF	20%	8.8	364.00	\$ 3,203
Medical/Dental Office (720)	36.13	1,000 SF	20%	28.9	364.00	\$ 10,520
Specialty Retail Center (814)	40.67	1,000 SF	40%	24.4	364.00	\$ 8,882
Building Materials/Lumber(812)	39.71	1,000 SF	20%	31.77	364.00	\$ 11,564
Discount Store (815)	56.63	1,000 SF	40%	33.98	364.00	\$ 12,369
Hardware/Paint (816)	51.29	1,000 SF	40%	41.03	364.00	\$ 14,935
Nursery/Garden Center (817)	36.08	1,000 SF	40%	21.65	364.00	\$ 7,881
Shopping Center (820)	42.92	1,000 SF	40%	25.75	364.00	\$ 9,373
Restaurant (831)	89.95	1,000 SF	20%	71.97	364.00	\$ 26,197
High Turnover Restaurant(832)	130.34	1,000 SF	40%	78.2	364.00	\$ 28,465
Fast Food w/Drive Thru (834)	496.12	1,000 SF	80%	99.22	364.00	\$ 36,116
Quick Lube (837)	40	svc pos.	40%	24	364.00	\$ 8,736
Car Sales (841)	67.5	1,000 SF	20%	30	364.00	\$ 10,920
Auto Parts (843)	61.91	1,000 SF	40%	37.15	364.00	\$ 13,523
Fuel Service Station (844)	168.56	fuel pos.	80%	33.71	364.00	\$ 12,270
Fuel Service w/Market (845)	162.78	fuel pos.	80%	32.56	364.00	\$ 11,852
Fuel Svc w/Mkt/Car Wash(846)	152.84	fuel pos.	80%	30.57	364.00	\$ 11,127
Car Wash (847)	5.79	wash stall	80%	1.16	364.00	\$ 422
Supermarket (850)	111.51	1,000 SF	40%	66.91	364.00	\$ 24,355
Convenience Market (851)	737.99	1,000 SF	80%	147.6	364.00	\$ 53,726
Discount Club (861)	41.8	1,000 SF	40%	25.08	364.00	\$ 9,129
Pharmacy/Drugstore (880)	90.06	1,000 SF	40%	54.04	364.00	\$ 19,671
Drive In Bank (912)	265.21	1,000 SF	80%	53.04	364.00	\$ 19,307

ENR of 2.95%

Prior Year was 353.63

SECTION B, BUILDING PERMIT REVIEW FEE

BY AUTHORITY OF CITY OF DEPOE BAY ORDINANCE #245, A DEVELOPMENT REVIEW FEE IS ASSESSED WITH EACH BUILDING PERMIT APPLICATION FOR CONSTRUCTION WITHIN THE CITY. THIS FEE IS DETERMINED BY THE GROSS SQUARE FOOTAGE OF THE AREA OF NEW CONSTRUCTION OR RECONSTRUCTION COVERED BY THE PERMIT. GROSS SQUARE FOOTAGE IS DETERMINED BY EXTERIOR DIMENSIONS OF EACH TYPE OF CONSTRUCTION FOR WHICH A PERMIT IS SOUGHT. PLEASE NOTE GROSS SQUARE FOOTAGE DOES INCLUDE DECKS, GARAGES, PORCHES, ETC.

THE FEE SHALL BE DETERMINED BY THE FOLLOWING SCHEDULE:

<u>TYPE OF CONSTRUCTION</u>	<u>SQUARE FOOTAGE</u>	<u>FEE</u>	<u>TOTAL</u>
RESIDENTIAL: NEW OR REMODEL	<u>1958</u>	X \$.04	<u>74.32</u>
COMMERCIAL: NEW OR REMODEL	<u> </u>	X \$.07	<u> </u>

*** MINIMUM FEE: \$10.00 ***

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS OF SQUARE FOOTAGE ARE TRUE AND ACCURATE



APPLICANT

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CITY OF DEPOE BAY

SINGLE FAMILY DWELLING
STANDARD CERTIFICATION FORM

Applicant/Owner: Charissa Thomley

Subject Property Map and Tax Lot #: 2201000

Section 152.068 Design Features for Single-Family Dwellings (added 12/6/93-ORD 194)

1. All single-family dwellings located within a residential zone (except for manufactured homes located within a manufactured home subdivision or a 'mobile home park') shall utilize at least two of the following design features:

Please indicate which two or more features will be provided with the proposed dwelling:

- a. Dormers
- b. Recessed entries
- c. Cupolas
- d. Bay or bow windows
- e. Window shutters
- f. Off-sets on building face or roof (minimum 12 inches)
- g. Gables
- h. Covered porch entry or unenclosed deck
- i. Pillars or posts
- j. Tile, shake or elongated (not corrugated) metal roofing
- k. Horizontal lap siding or shakes.

2. Individual lots shall be residentially landscaped and maintained similar to surrounding neighborhood development. Use of native vegetation shall be encouraged wherever possible.

3. A driveway having a durable and dustless surface shall be provided.

4. Single-family dwellings and other improvements shall be developed in compliance with applicable provisions set forth in the City Zoning Ordinance.

As the Applicant for a Building Permit to construct a new single family dwelling, I hereby certify that the proposed dwelling will comply with the applicable standards of DBZO Section 152.068.


Signature of Applicant

2/12/24
Date

CITY OF DEPOE BAY APPLICATION FOR WATER AND SEWER SERVICE
P.O. BOX 8, DEPOE BAY, OR 97341 ● 541-765-2361

OFFICE USE ONLY:	Residential / Commercial
Account # -	Former Owner -

Service address: _____

I, _____, certify that I am the owner of the above property as of 9/27/2020 (date), and hereby request water and sewer service be provided.

I agree to comply with the rules and regulations of the City of Depoe Bay, and to pay such rates/charges for water and sewer as established by the City Council. I understand that as the owner of the property to which the service is provided, I shall be legally liable to pay all the service and usage charges and fees, whether service is supplied to the owner, renter, or other occupant.

Signature: _____ **Date:** _____

Mailing Address: _____

City, State, Zip: _____

Home Phone: _____ Work Phone: _____

Email: _____

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The following information is requested by the Federal Government in order to monitor compliance with Federal Laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of individual applicants on the basis of visual observation or surname.

Race: (Mark one or more)

White _____

Black or African American _____

American Indian/Alaska Native _____

Asian _____

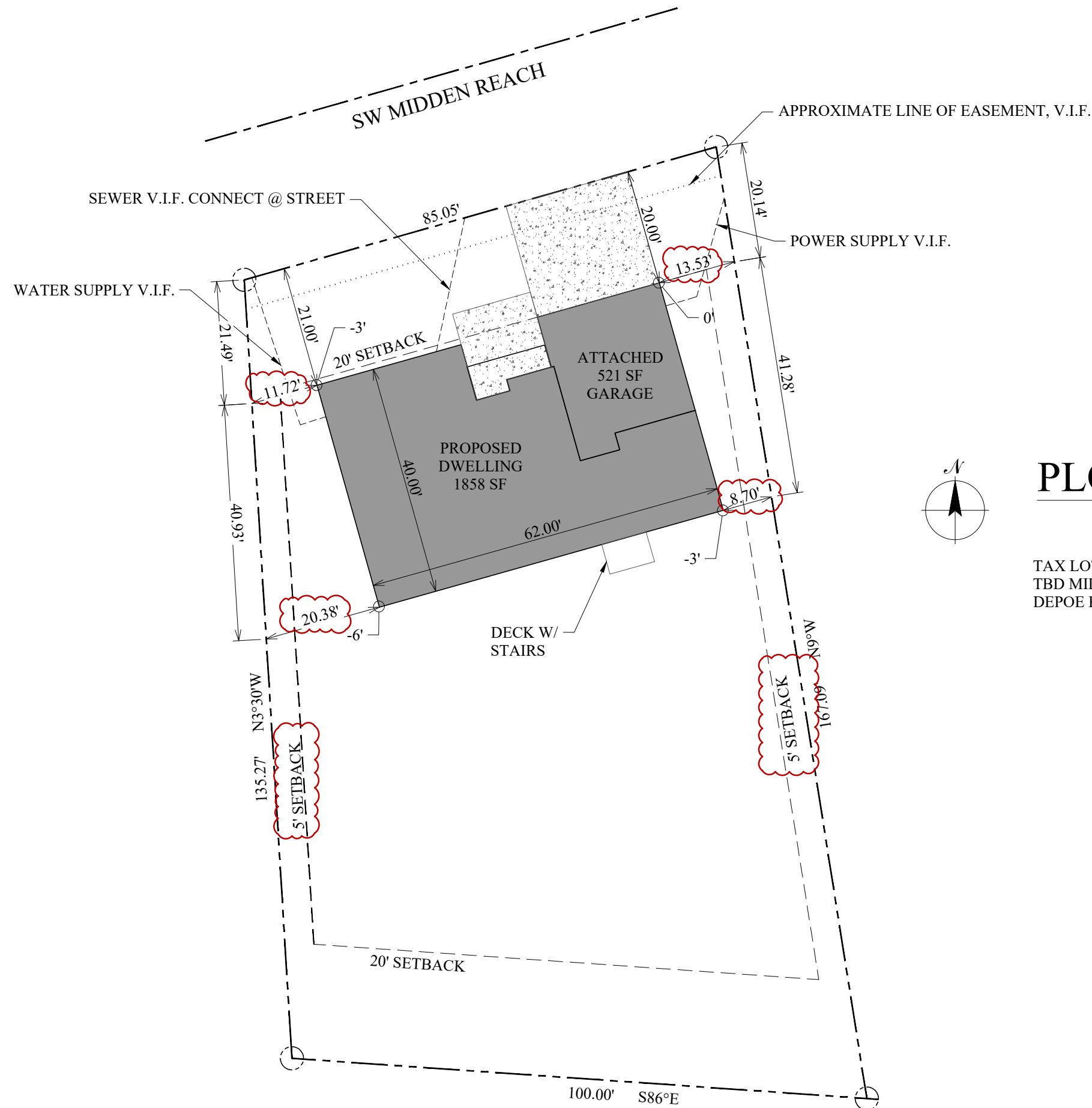
Native Hawaiian or other Pacific Islander _____

Ethnicity:

Hispanic or Latino _____

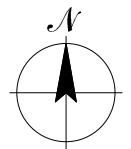
Not Hispanic or Latino _____

Date: _____



TRENCHING LENGTHS:
 ELECTRICAL APPROXIMATE ----- 21'
 WATER APPROXIMATE ----- 34'
 SANITARY APPROXIMATE ----- 24'


FLATWORK AREAS
 DRIVEWAY ----- N.T.E. 440 S.F.
 FRONT WALKWAY / PORCH --- N.T.E. 200 S.F.

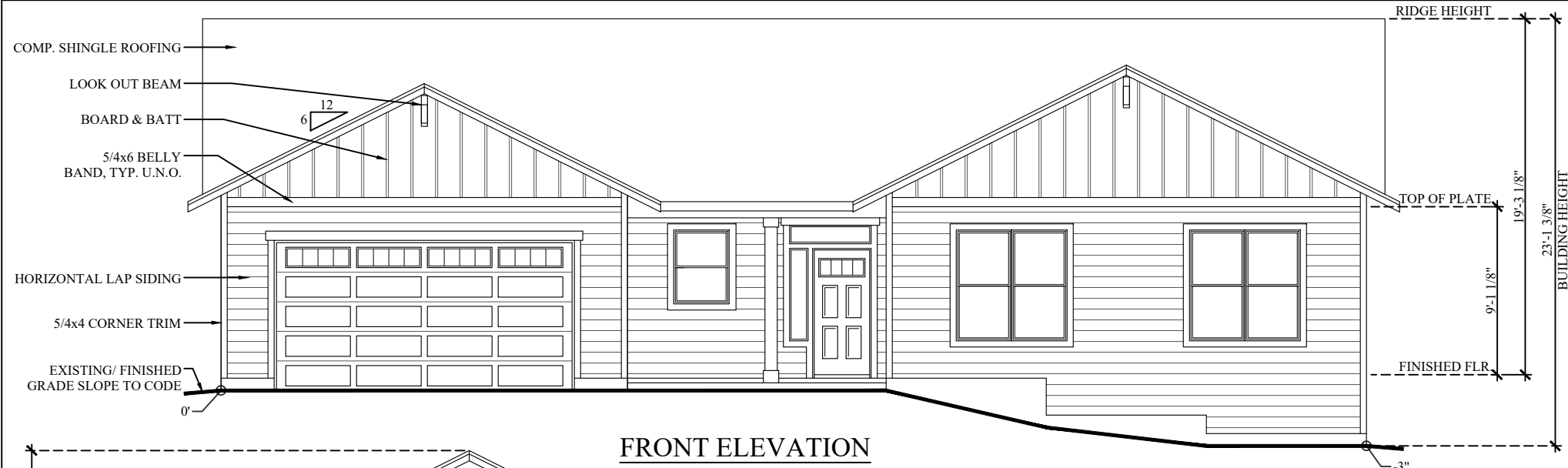


PLOT PLAN
 1" = 20'-0"

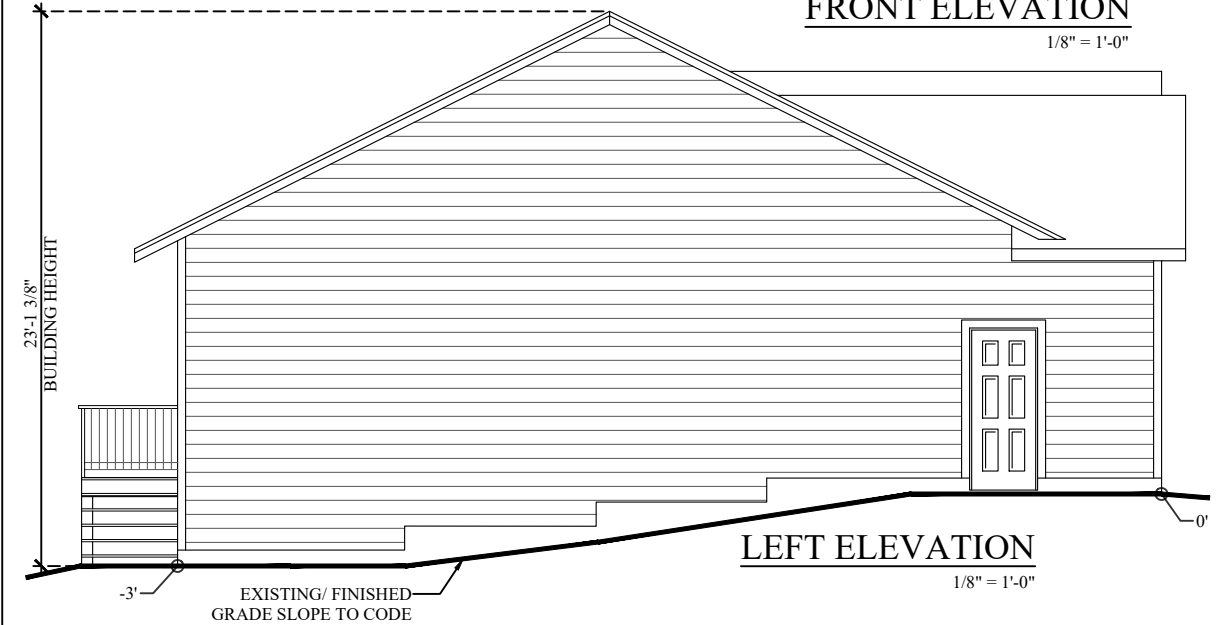
TAX LOT: R201000
 TBD MIDDEN REACH
 DEPOE BAY, OR 97341

DISCLAIMER:
 THE OWNER MUST APPROVE THE SITE PLAN AND PLACEMENT OF THE HOME ON OWNERS PROPERTY PRIOR TO COMMENCEMENT OF WORK. ADAIR WILL PLACE STAKES ACCORDING TO THE JURISDICTION APPROVED PLOT PLAN AND VALIDATE PLACEMENT WITH A SURVEY OR HUB AND TACK WHICH WILL CONFIRM REQUIRED SETBACKS AND EASEMENTS. DIMENSIONS FOR HOME PLACEMENT ARE ESTIMATED BASED ON PARCEL DIMENSIONS AVAILABLE AT THE TIME OF HOME ORDER AND ARE SUBJECT TO CHANGE.

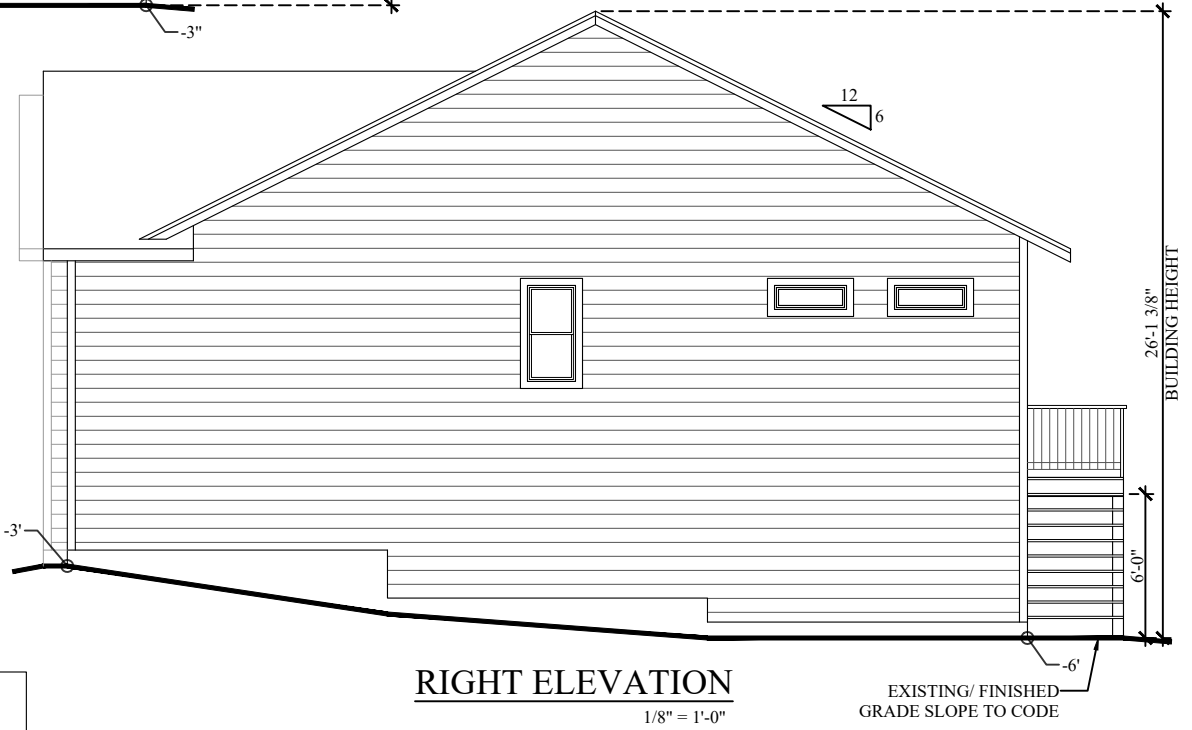
 ADAIR HOMES INC. <small>© COPYRIGHT 2023</small>	MOESER		2021 ORSC
	ADAIR HOMES, INC 1311 SE CARDINAL COURT SUITE 100 VANCOUVER, WA 98683	GARAGE CONFIGURATION: INTEGRAL	PLAN ORIENTATION: STANDARD
PLOT PLAN		SCALE: DATE: 9/15/2023 DRAFTED BY: TH REV: 11/1/23 NF	PAGE: P



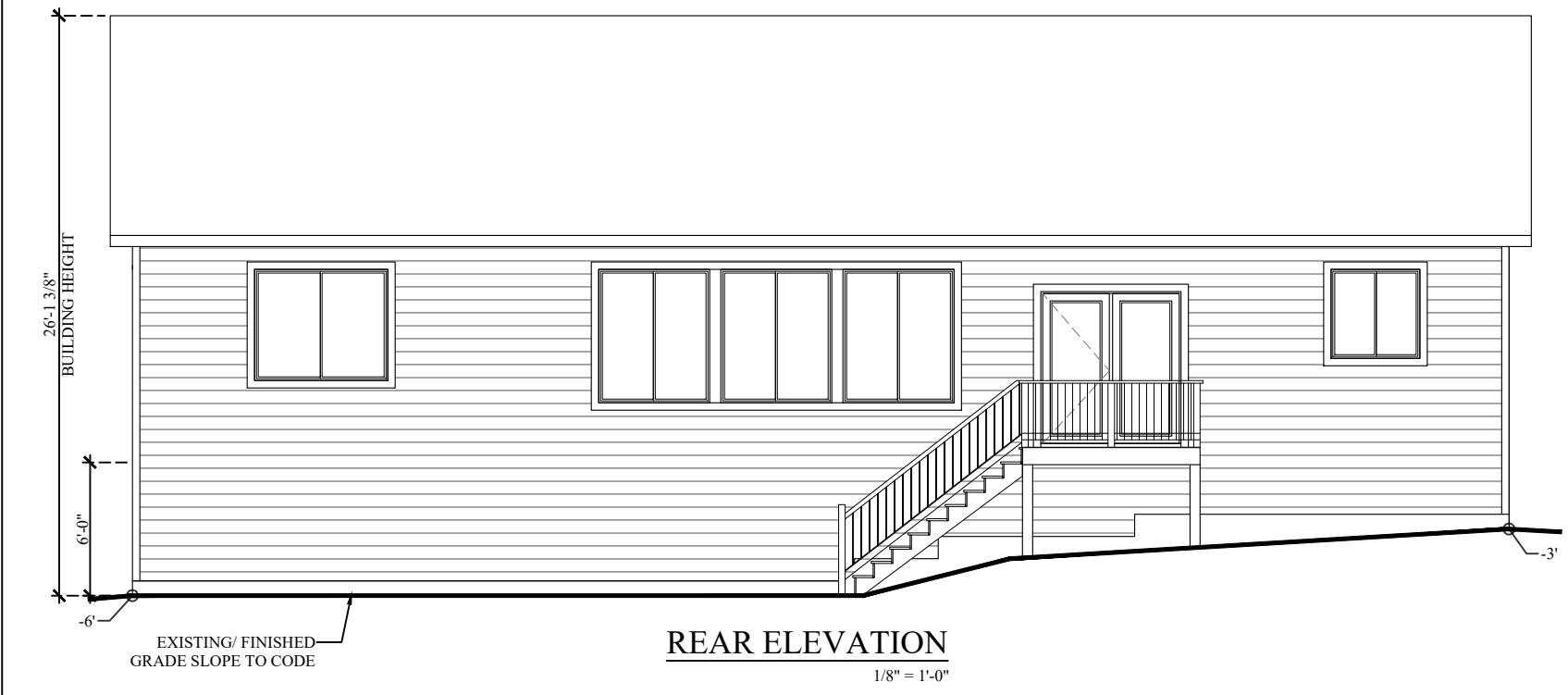
FRONT ELEVATION
1/8" = 1'-0"



LEFT ELEVATION
1/8" = 1'-0"



RIGHT ELEVATION
1/8" = 1'-0"



REAR ELEVATION
1/8" = 1'-0"

- TRADITIONS ELEV. NOTES**
- EXTERIOR SIDING & TRIM SPECIFICATIONS**
- 1) SIDING ON WALLS: HORIZONTAL LAP SIDING.
 - 2) SIDING IN GABLES WHERE SHOWN ON PLANS (TYP. FRONT ONLY): PLAIN PANEL SIDING W/ VERTICAL BATTS AT 16" O.C. OR SHAKE SIDING W/ STAGGERED BOTTOM EDGE.
 - 3) TRIM AT EXTERIOR CORNERS: 5/4x4 EACH WAY.
 - 4) BELLY BAND AT THE BOTTOM OF DESIGNATED GABLES: 5/4x6 TRIM (METAL HEAD FLASHING TO MATCH).
 - 5) LOOK-OUT BEAM AT PEAK OF DESIGNATED GABLE ENDS: 4x6 BEAM, 4x4 ANGLED BRACE, AND 2x4 BACK PLATE.
 - 6) WINDOWS: 5/4x4 TRIM ALL SIDES. ON GROUPED WINDOWS THE VERTICAL CENTER MULLIONS WILL BE 5/4x8 RIPPED TO FIT THE WIDTH BETWEEN WINDOWS.
 - 7) GARAGE AND FRONT ENTRY DOOR TRIM: 5/4x4 TRIM EACH SIDE AND 5/4x6 HEADER TRIM. HEADER TRIM OVERHANGS EACH SIDE 1 1/2". (DOES NOT APPLY TO OTHER EXTERIOR DOORS)
 - 8) SOFFITED AREAS: PLAIN PANEL SIDING WITH 4/4x3 TRIM AT THE PERIMETER.
 - 9) EXTERIOR BEAMS: DF#2 SIZED PER STRUCTURAL ENGINEER
 - 10) POSTS TO BE 4x4 OR 6x6 PT POSTS PER STRUCTURAL ENGINEER
 - 11) WRAPPED PORCH SUPPORT BEAM AND PILLARS: FRONT, BACK, BOTTOM (BETWEEN POSTS) AND EXPOSED ENDS OF THE SUPPORT BEAM TO BE COVERED WITH PLAIN (NO GROOVE) PANEL SIDING. PILLAR COVER TO TERMINATE AT THE BOTTOM 8" BELOW THE TOP OF THE ROUGH FLOOR ELEVATION OF THE HOME. THE OWNER WILL PROVIDE THE FRONT PORCH (WOOD DECK OR CONCRETE SLAB). BASE TRIM TO BE ADJUSTED AS NEEDED.

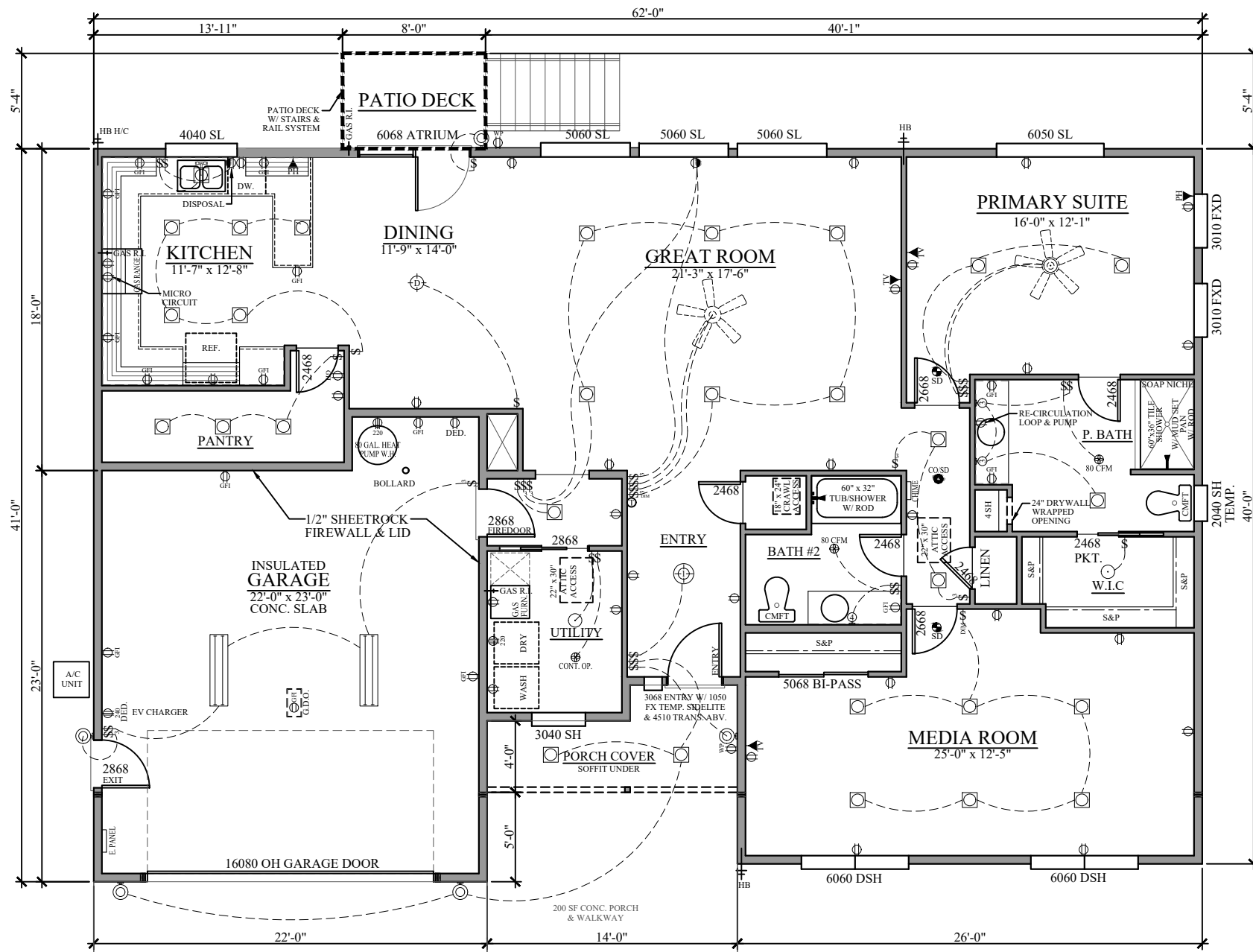
NOTE:
EXTERIOR ELEVATIONS ARE DRAWN W/ ESTIMATED GRADES. ONCE SITE CLEARING & EXCAVATION IS COMPLETE, SOME ADJUSTMENTS MAY BE NECESSARY.

HIGH WIND EXPOSURE:
UPGRADED STRUCTURAL HARDWARE, HAND TABBED ROOF SHINGLES, HI-WIND GARAGE DOOR, PREMIUM VINYL WINDOW UPGRADE, SIDING HIGH WIND INSTALLATION GUIDELINES & OTHER REQUIREMENTS TO MEET LOCAL CODE.

CORROSIVE ENVIRONMENT PKG.:
STAINLESS STEEL FLASHING & NAILS, PLASTIC ROOF VENTS & STAINLESS STEEL 200amp UNDERGROUND ELEC. METER BASE

NOTE:
THIS LOT IS CONSIDERED FLAT. **THE EXISTING GRADE WIL BE THE FINISHED GRADE.** THEREFORE, ALL WALLS WILL HAVE THE SAME HEIGHT OF 26'- 1 3/8". THIS IS THE AVERAGE OF ALL WALLS AS THEY ARE ALL THE SAME.

MOESER	2021 ORSC	PAGE: A1
	SCALE: 1/8" = 1'-0"	DATE: 9/15/2023
GARAGE CONFIGURATION: INTEGRAL	PLAN ORIENTATION: STANDARD	DRAFTED BY: TH
ADAIR HOMES INC. © COPYRIGHT 2023	IHMS MODEL CODE--JOB #: I35 - LO-31557	REV:
ADAIR HOMES, INC 1311 SE CARDINAL COURT SUITE 100 VANCOUVER, WA 98683	ELEVATIONS	



FLOOR PLAN
 1858 SQ. FT. 1/8" = 1'-0"

FLOOR PLAN NOTES

- 1) SEE NOTES SHEET (SHEET 'N') FOR GENERAL FLOOR PLAN NOTES.
- 2) FOR STRUCTURAL & LATERAL REQUIREMENTS SEE FRAMING PLANS & ALL "S" SHEETS.

WHOLE HOUSE VENTILATION

PER TABLE M1505.4.3(1) OR M1505.4.3(2) PAGE EO, PROVIDE CONTINUOUS OR INTERMITTANT EXHAUST FAN INTERCONNECTED TO HVAC SYSTEM FAN AT SAME RATE PER ORSC SECTION M1505.4. MANUAL OVERRIDE TO BE PROVIDED PER SECTION M1505.4.2

ELECTRICAL LEGEND	
ELECTRICAL	SYMBOL
DUCTLESS HEAT PUMP HEAD	MINI SPLIT
CADET - 1600W	1600 W
CADET - 700W	700 W
CADET - 900W	900 W
CADET - 1600W - CEILING	1600 W
CADET - 700W - CEILING	700 W
CADET - 900W - CEILING	900 W
THERMOSTAT	⊕
FAN - CONTINUOUS OPERATING	CONT. OP.
FAN - 80 CFM	80 CFM
FAN - CEILING ROUGH-IN	⊕
LIGHT - WALL MOUNT - EXT.	⊕
LIGHT - DINING ROOM	⊕
LIGHT - KEYLESS	⊕
LIGHT - FOYER - 1 OR 2 STORY	⊕
LIGHT - MUSHROOM	⊕
LIGHT - PENDANT	⊕
LIGHT - LIGHT ROUGH-IN	⊕
LIGHT - LOW PROFILE LED	⊕
LIGHT - W. M. - VANITY - 2, 3, OR 4B	⊕
OUTLET - CEILING GFI	⊕
OUTLET - 110	⊕
OUTLET - 110 QUADPLEX	⊕
OUTLET - WATER PROOF	⊕
OUTLET - 220	⊕
OUTLET - GFI	⊕
OUTLET - HALF HOT	⊕
OUTLET - 3 PRONG RV EXTR. (120v)	⊕
OUTLET - PHONE	⊕
OUTLET - TV	⊕
HEAT DETECTOR	⊕
SMOKE DETECTOR	⊕
SMOKE/CO DETECTOR	⊕
SWITCH - 1, 3, OR 4 WAY	⊕
SWITCH - DIMMER	⊕

HIGH WIND EXPOSURE:
 UPGRADED HI-WIND GARAGE DOOR, PREMIUM VINYL WINDOW UPGRADE AND OTHER REQUIREMENTS TO MEET LOCAL CODE.

CORROSIVE ENVIRONMENT PKG.:
 STAINLESS STEEL FLASHING & NAILS & STAINLESS STEEL 200amp UNDERGROUND ELEC. METER BASE

MOESER

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ADAIR HOMES, INC
 1311 SE CARDINAL COURT
 SUITE 100
 VANCOUVER, WA 98683

2021 ORSC

IHMS MODEL CODE - JOB #:
I35 - LO-31557

PLAN ORIENTATION:
STANDARD

FLOOR PLAN

SCALE: 1/8" = 1'-0"
 DATE: 9/15/2023
 DRAFTED BY: TH
 REV:

PAGE:
A2

OFFSITE WETLAND DETERMINATION REPORT

OREGON DEPARTMENT OF STATE LANDS

WD#: 2023-0493

775 Summer Street NE, Suite 100, Salem OR 97301-1279 Phone: (503) 986-5200

At your request, an offsite wetland determination has been conducted on the property described below.

County: Lincoln

City: Depoe Bay

Owner Name & Address: Chad & Sandra Moeser, [REDACTED]

Township:9S

Range:11W

Section:17

Q/Q:BC

Tax Lot(s):5000

Project Name:

Site Address/Location: Midden Reach, Depoe Bay, OR 97341—no current house number

- Checkboxes for wetland determination criteria: National and Local Wetlands Inventories, county soil survey, jurisdictional wetlands, Removal-Fill Law, state permit requirements, parcel division, wetland delineation, and Army Corps of Engineers.

Note: This report is for the state Removal-Fill Law only. City or County permits may be required for the proposed activity.

Comments: Because other lots in this development were recently determined via a site visit to have hydric soils and high water table, as well as a scattered hydrophytic plant communities, a wetland delineation by a wetland professional is recommended before any further ground disturbance or clearing occurs on this site.

Determination by: [Signature] Date: 12/ 20/ 2023

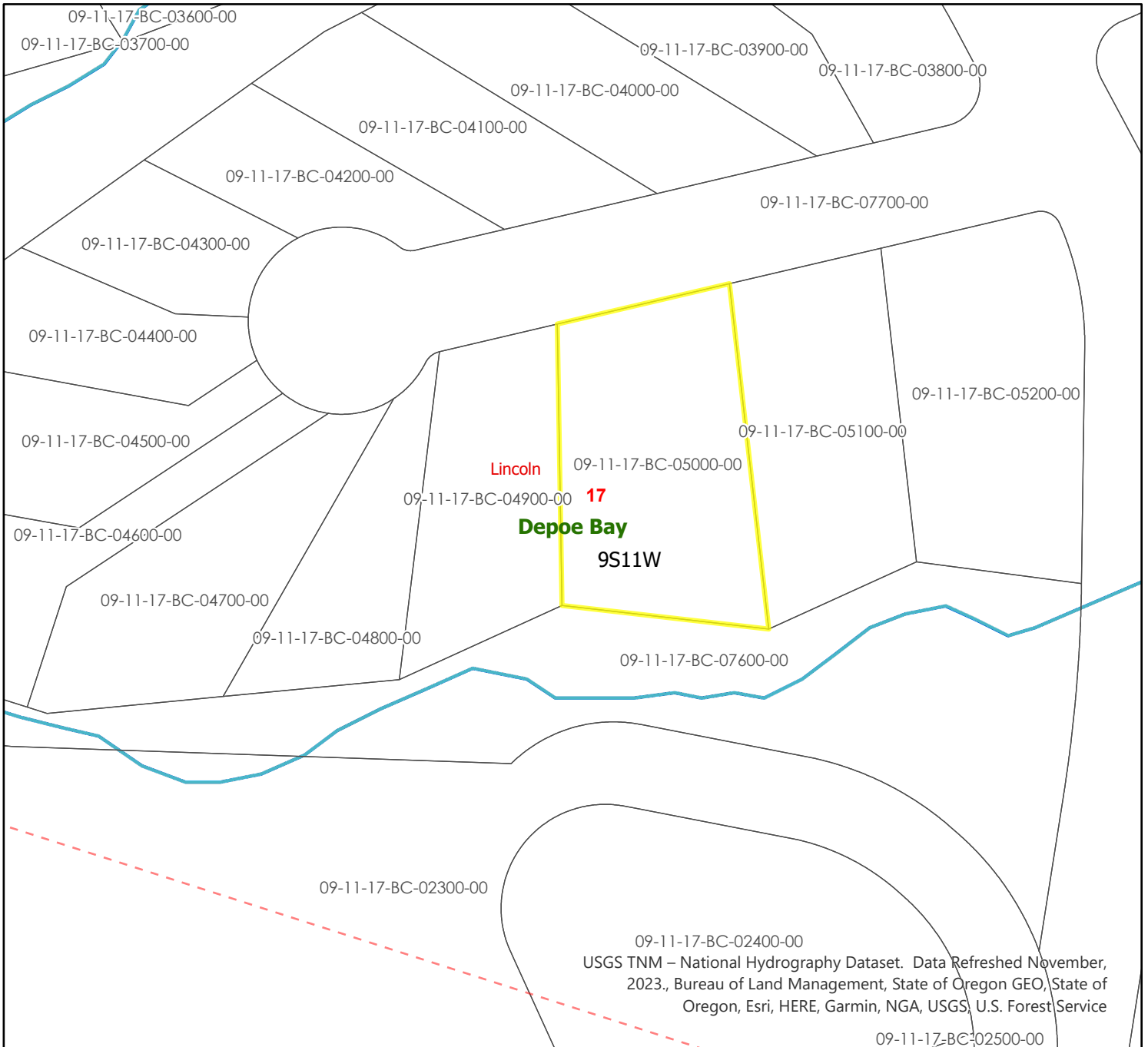
This jurisdictional determination is valid for five years from the above date, unless new information necessitates a revision. Circumstances under which the Department may change a determination and procedures for renewal of an expired determination are found in OAR 141-090-0045 (available on our web site or upon request).

This is a preliminary jurisdictional determination and is advisory only.

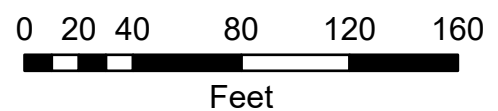
Copy To: [X] Owner Email: moesercat@gmail.com [X] Enclosures: site map showing area checked [X] Depoe Bay Planning Department

FOR OFFICE USE ONLY

Form with fields: Entire Lot(s) Checked?, LWI Area, Has Wetlands?, Adjacent Waterbody, Waters Present, Latitude, Wild & Scenic, State Scenic, Coast Zone, Request Received, Related DSL File #.



WD2023-0493, Site Map showing area checked outlined in yellow





Oregon

Tina Kotek, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

March 5, 2024

State Land Board

Sandra Moeser
[REDACTED]

Tina Kotek

Governor

LaVonne Griffin-Valade

Secretary of State

Re: WD # 2024-0106 **Approved**
Wetland Delineation Report for Little Whale Cove
Lincoln County; T9S R11W S17BC TL5000
City of Depoe Bay Local Wetlands Inventory, Wetland PW

Tobias Read

State Treasurer

Dear Sandra Moeser:

The Department of State Lands has reviewed the wetland delineation report prepared by Pacific Habitat Resources for the site referenced above. Based upon the information presented in the report, we concur that there are no jurisdictional wetlands or other waters of the state within the study area, as indicated on the attached Figure 6 of the report.

This concurrence is for purposes of the state Removal-Fill Law only. Federal, other state agencies or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact Peter Ryan, Aquatic Resource Specialist, SPWS, at (503) 779-4159.

Sincerely,

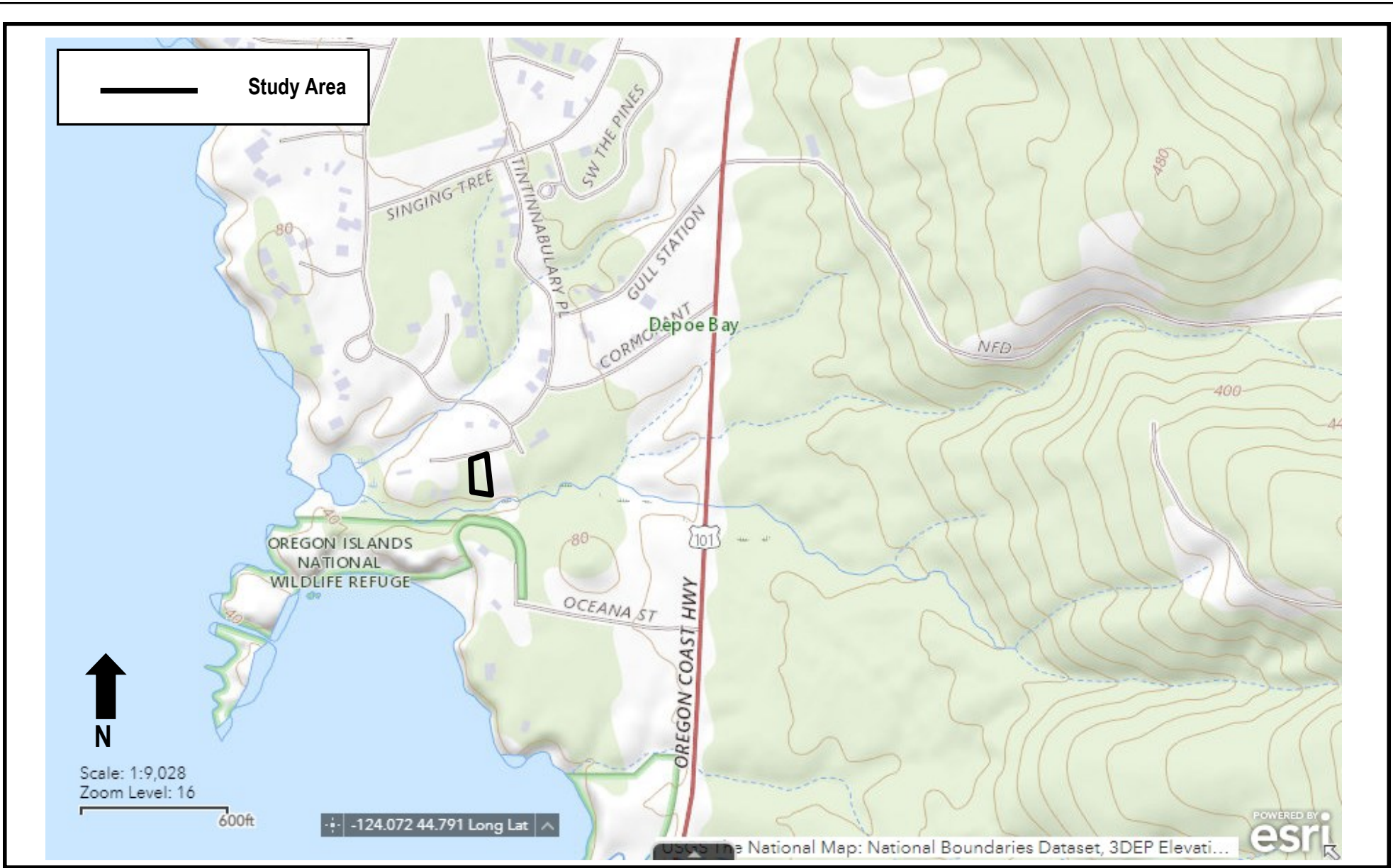
A handwritten signature in black ink, appearing to read "Peter Ryan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter Ryan, SPWS
Aquatic Resource Specialist

Enclosures

ec: Carlee Michelson, PWS, Pacific Habitat Services, Inc.
John van Staveren, Pacific Habitat Services, Inc.
Depoe Bay Planning Department (Maps enclosed for refining LWI)
Alexandra Holecek, Corps of Engineers
Carrie Landrum, DSL
Oregon Coastal Management Program

Section 2. Contact and Authorization Information	
<input type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner Name, Firm and Address: Chad and Sandra Moeser <div style="background-color: black; width: 200px; height: 20px; margin-top: 5px;"></div>	Business phone # [REDACTED] Mobile phone # (optional) E-mail: [REDACTED]
<input type="checkbox"/> Authorized Legal Agent, Name and Address (if different):	Business phone # Mobile phone # (optional) E-mail:
I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the determination, after prior notification to the primary contact.	
Typed/Printed Name: <u>Sandra Moeser</u> Signature: <u>Sandra Moeser</u> Date: _____ Special instructions regarding site access: _____	
Section 3. Project and Site Information	
Project Name: Midden Reach Property	Latitude: 44.7921 Longitude: -124.0691 Decimal Degree required. Provide centroid of site or start & end points of linear project
Proposed Use: Residential Development- Single Family Home	Tax Map # 09 11 17BC Tax Lot(s) 5000 Tax Map # Tax Lot(s)
Site Street Address (or other descriptive location): Midden Reach, south side of street City: Depoe Bay County: Lincoln	Township 9S Range 11W Section 17BC QQSW/NW
Section 4. Additional Site Information (check applicable boxes)	
<input checked="" type="checkbox"/> LWI or SWI shows wetlands or waters within the study area. Wetland LWI ID code(s) <u>Drainage to WC-5</u> <input type="checkbox"/> There are likely wetlands or waters within the tax lot(s) (outside the study area)	<input type="checkbox"/> There has been fill or grading activity within: <input type="checkbox"/> study area. Approx. date(s) _____ <input type="checkbox"/> tax lot(s). Approx. date(s) _____ <input type="checkbox"/> Previous DSL action on tax lot(s) If known, previous DSL # _____
Section 5. Wetland Determination Information	
Primary Contact for determination review and site access is <input checked="" type="checkbox"/> Consultant <input type="checkbox"/> Applicant/Owner <input type="checkbox"/> Authorized Agent	
Wetland Consultant Name, Firm and Address: Carlee Michelson Pacific Habitat Services, Inc. 9450 SW Commerce Circle, Suite 180 Wilsonville, Oregon 97070	Phone # (503) 570-0800 Mobile phone # (if applicable) E-mail: cm@pacifichabitat.com
The information and conclusions on this form and in the attached documents are true and correct to the best of my knowledge.	
Consultant Signature: <u>Carlee Michelson</u>	Date: 02/21/2024
Disclaimer: This report documents the investigation, best professional judgment and conclusions of the investigator. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.	
Section 6. For Office Use Only	
DSL Reviewer: <u>JG</u> Date Fee Paid ___/___/___	DSL WD # <u>2024-0106</u>
Date Determination Received: <u>2 / 21 / 24</u> Scanned: <input type="checkbox"/> Electronic: <input checked="" type="checkbox"/>	DSL App.# _____



Project #7918
2/13/2024



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

General Location and Topography
SW Midden Reach Property - Depoe Bay, Oregon
United States Geological Survey (USGS) Depoe Bay, Oregon 7.5 quadrangle, 2024
(viewer.nationalmap.gov/basic)

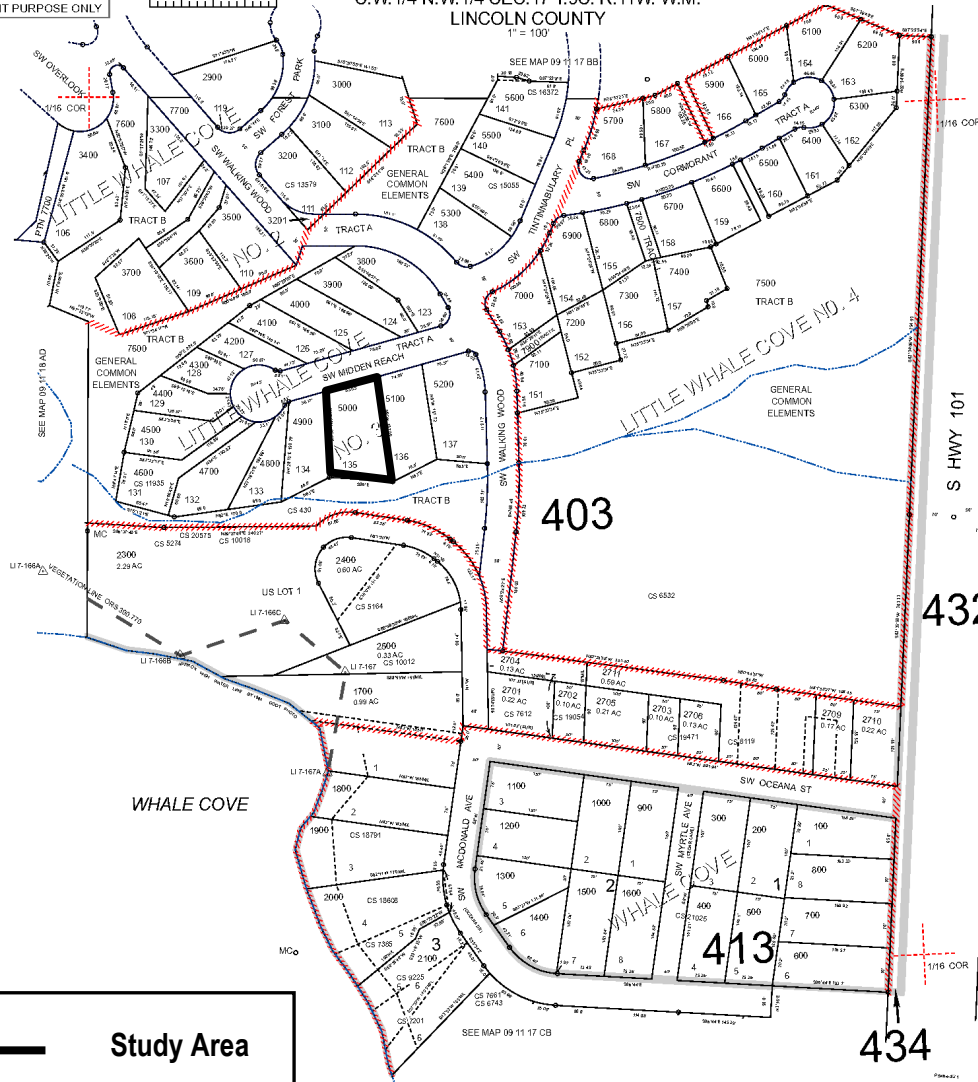
FIGURE
1

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

0 50 100 150 200 Feet
1" = 100'

S.W. 1/4 N.W. 1/4 SEC. 17 T.9S. R.11W. W.M.
LINCOLN COUNTY

09 11 17 BC
DEPOE BAY



Cancelled
1701
1801
2300
2301
2501
2500
2501
2700
2707
2708
2712
2713
2714
2715
2800



Study Area

Revised DMJ
12/08/2021

DEPOE BAY
09 11 17 BC

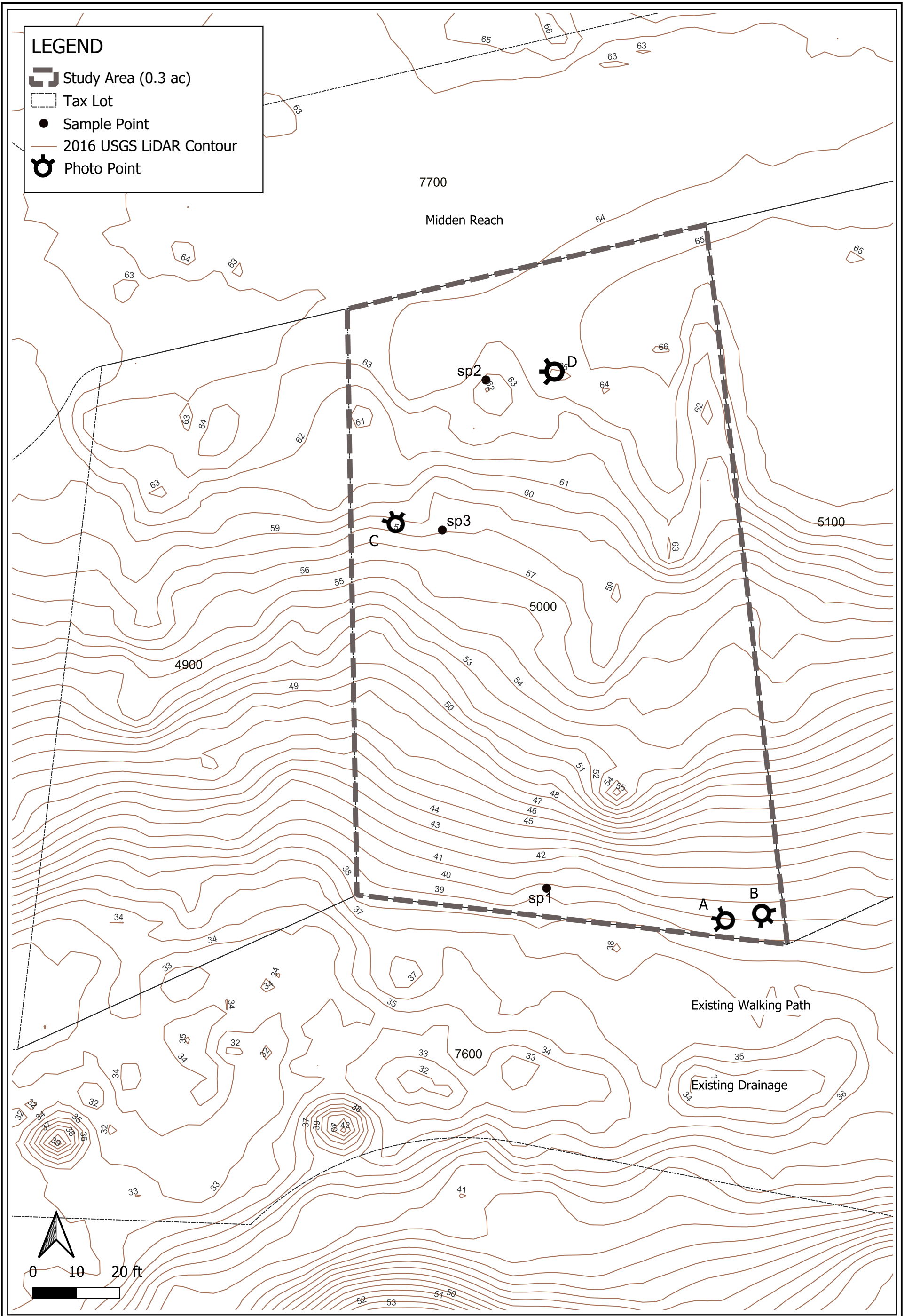
Project #7918
2/13/2024



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

Tax Lot Map
SW Midden Reach Property - Depoe Bay, Oregon
The Oregon Map (ormap.net)

FIGURE
2



REC'D MAR 07 2024

Depoe Bay Planning Commission

There are proposed home builds within Little Whale Cove on lots on both Midden Reach and Cormorant. As these properties somewhat back up to the Whale Cove National Wildlife Refuge, potential impacts of downstream runoff to the Refuge, Lincoln County Endangered vegetation and wildlife habitat should be considered.

Friend of the Refuge

APR 11 2024

PLANNING COMM.

REC'D MAR 07 2024

planner

From: planner
Sent: Tuesday, April 2, 2024 9:17 AM
To: Joe DeBilio
Subject: RE: 260 SW Midden Reach (Lot 135) - Case File #1-MS-PC-24

Dear Mr. DeBilio:

Thank you for your email. You're correct in your assumption that this application involves the lot immediately to the east of yours (Lot 135).

The application is to build a new home on this vacant lot. Based upon the City of Depoe Bay's local wetlands inventory (LWI), the property was "flagged" as potentially containing wetland areas. As you may know, there is a creek on the common area lot to the south of your property (Tract B) that drains into Little Whale Cove.

The property owner was required to prepare special studies to determine whether or not wetlands are present on the lot, and how they might be affected by the proposed construction. Our zoning ordinance requires the Planning Commission to review and approve these studies before a building permit can be obtained to develop the lot. This is the matter that will be reviewed by the Planning Commission at the public hearing on April 17th.

The meeting agenda and Staff reports for the April 17th meeting will be posted on the [City's website](#) on or about Friday, April 12th. Planning Commission meetings are streamed live via Zoom if you would like to view and/or participate in the public hearing. The Zoom link will be provided near the top of the first page of the meeting agenda.

Please feel free to contact me if you have questions or need additional information.

Sincerely,

Kit Fox, AICP (*he/him/his*)
City Planner
City of Depoe Bay
(541) 765-2361 x15
planner@cityofdepoebay.org
Tuesdays and Wednesdays only

From: Joe DeBilio <[REDACTED]>
Sent: Sunday, March 31, 2024 12:20 PM
To: planner <planner@CityofDepoebay.org>
Subject: 280 SW Midden Reach (Lot 134)

Kit Fox - Planner

Good day. I received a letter about 260 SW Midden Reach, and a zoning ordinance change application by this property owner. I own 280 or Lot #134. From this lot on the internet, I cannot pull addresses from this map and your letter does not name the lot number. I gather from the "Tax Lot 05000" that it's my neighboring property just east of mine.

I live in San Diego and cannot come into City Hall to pull records. Could you give me a brief idea as to what purpose is this special filing? Thank you.

<https://ormap.net/Services/OrMap/api/assessormaps/2109.00S11.00W17BC--0000/map>

Respectfully,

Joe DeBilio (714) 745-2514 www.joedebilio.com

Serving high-quality strategic project work to **restless, fiercely independent** owners and leadership who seek competitive greatness.

Industries: Lot-tracked or expiration-sensitive food distribution, production, and warehousing operations.

Founder: 3 for 99® Children's Medical Charity www.3for99charity.org.

Determination Report – No Wetlands or Other Waters



This form may be used to report on the results of an onsite determination for study areas two acres or less that contain **no wetlands or other waters** such as streams, drainages, or ponds. See below for additional eligibility criteria.

A fully completed and signed report form and [applicable fees](#) are required before report review timelines are initiated by the Department of State Lands.

Make checks payable to the Oregon Department of State Lands. Use the [payment portal](#) to make a credit card payment. An electronic report submittal is preferred. A single PDF of the completed form and attachments may be e-mailed to: **Wetland.Delineation@dsl.oregon.gov**. For submittal of PDF files larger than 50MB, e-mail DSL instructions on how to access the file from your ftp or other file sharing website. For paper submittals and fee payments, submit to: **Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279**.

Directions: complete Sections 2 – 5 and submit with required attachments (Section 1).

Section 1. Eligibility and Requirements

Eligibility criteria:

- Study area is 2 acres or less.
- No wetlands or waters within the study area (including the ordinary high water line, highest measured tide, or pool elevation of a nearby water).
- No disturbance has occurred that may obscure wetland indicators or have affected the presence of wetlands or other waters.
- Not currently or recently managed as an agricultural site.
- The field investigation and form must be completed by a wetland professional.

Requirements:

- Wetland determinations must be conducted in accordance with the 1987 U.S. Army *Corps of Engineers Wetlands Delineation Manual*, including regional supplements and applicable guidance and any supporting technical guidance documents issued by the Department.
- Wetland determination data forms must be provided for all suspect areas, including but not limited to areas with mapped wetlands, hydric soils, wet signatures on aerials, low areas, and other areas likely to be wetland.
- Wetland determination map(s) must be at a scale suitable for the study area size and indicate the study area boundary in relation to the parcel boundaries. The map(s) must include numbered sample plots corresponding to data forms, areas of fill or grading or other major alterations, mapping method and estimated mapping precision statement (1 meter requirement) for the study area boundary and data plot points, a north arrow and scale bar, and photograph locations and direction of view.

Required Attachments (all attachments must be legible):

- Figure 1. Location Map (with outline of study area)
- Figure 2. Tax Lot Map (with outline of study area)
- Figure 3. Recent Aerial (with outline of study area)
- Figure 4. Wetland Determination Map(s) (see requirements section)
- Figure 5. Ground level color photos
- Data Forms (meets data form requirements OAR141-090-0035(16))

Failure to meet eligibility criteria and/or requirements:

- Upon rejection of a report, an applicant, landowner, or agent may, with a \$100 fee, resubmit a determination report, if applicable, or submit a wetland delineation report.

Section 2. Contact and Authorization Information

<input type="checkbox"/> Applicant <input type="checkbox"/> Owner Name, Firm and Address:	Business phone # Mobile phone # (optional) E-mail:
---	--

<input type="checkbox"/> Authorized Legal Agent, Name and Address (if different):	Business phone # Mobile phone # (optional) E-mail:
---	--

I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the determination, after prior notification to the primary contact.

Typed/Printed Name: _____ **Signature:** _____
Date: _____ Special instructions regarding site access: _____

Section 3. Project and Site Information

Project Name:	Latitude:	Longitude:		
	Decimal Degree required. Provide centroid of site or start & end points of linear project			
Proposed Use:	Tax Map #			
	Tax Lot(s)			
	Tax Map #			
	Tax Lot(s)			
Site Street Address (or other descriptive location):	Township	Range	Section	QQ
City:	County:			

Section 4. Additional Site Information (check applicable boxes)

<input type="checkbox"/> LWI or SWI shows wetlands or waters within the study area . Wetland LWI ID code(s) _____	<input type="checkbox"/> There has been fill or grading activity within:
<input type="checkbox"/> There are likely wetlands or waters within the tax lot(s) (outside the study area)	<input type="checkbox"/> study area . Approx. date(s) _____
	<input type="checkbox"/> tax lot(s) . Approx. date(s) _____
	<input type="checkbox"/> Previous DSL action on tax lot(s) If known, previous DSL # _____

Section 5. Wetland Determination Information

Primary Contact for determination review and site access is Consultant Applicant/Owner Authorized Agent

Wetland Consultant Name, Firm and Address:	Phone # Mobile phone # (if applicable) E-mail:
--	--

The information and conclusions on this form and in the attached documents are true and correct to the best of my knowledge.

Consultant Signature: *Laurelle* **Date:** _____

Disclaimer: This report documents the investigation, best professional judgment and conclusions of the investigator. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.

Section 6. For Office Use Only

DSL Reviewer: _____	Date Fee Paid ____/____/____	DSL WD # _____
Date Determination Received: ____/____/____	Scanned: <input type="checkbox"/>	Electronic: <input type="checkbox"/> DSL App.# _____



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, Oregon 97070

Telephone number: (503) 570-0800 Fax number: (503) 570-0855

MEMORANDUM

Date: **February 19, 2024**

To: **Chad and Sandra Moeser**
Attn: Lynne McAllister- Jurisdiction Coordinator, Midwest Region
Oregon Department of State Lands

From: **Carlee Michelson, PWS; John van Staveren, SPWS**
Pacific Habitat Services, Inc.

RE: **SW Midden Reach Property - Depoe Bay, Oregon**

Pacific Habitat Services, Inc. (PHS) conducted a wetland determination on a property located on SW Midden Reach in Depoe Bay, Oregon (Township 9 South, Range 11 West, Section 17BC, Tax Lot 5000). The determination found that no wetlands or other waters are located in the study area. This memorandum describes baseline conditions on the site.

This report presents the results of PHS' determination of the study area, which was conducted on February 6, 2024. Weather conditions were in normal range according to the Antecedent Precipitation Tool¹, with a product score of 13. Land use surrounding the study area includes forested residential areas on moderately sloped terrain northeast of Whale Cove in southern Depoe Bay. The surrounding gated community has several meandering roads and pedestrian walking paths that lead to wetlands, beaches, and other recreational areas. Vegetation is mostly native, and dominated by Western hemlock (*Tsuga heterophylla*, FACU), Sitka spruce (*Picea sitchensis*, FAC), red alder (*Alnus rubra*, FAC), salmonberry (*Rubus spectabilis*, FAC), red elderberry (*Sambucus racemose*, FACU), salal (*Gaultheria shallon*, FACU), English ivy (*Hedera helix*, FACU), and deer fern (*Blechnum spicant*, FAC).

The study area is approximately 0.2 miles west of Highway 101, and 0.1 mile east of the Pacific coastline. The study area is undeveloped, forested, and sloping south. Elevations on site range from approximately 40-66 feet NAVD88 (2016 USGS LiDAR). A paved walking path exists directly south and off-site of the lot line, separating the study area from an off-site perennial

¹ Gutenson, J.L (2023) *Antecedent Precipitation Tool* (v2.0) [Computer Software] U.S. Army Corps of Engineers.

drainage flowing southwest. This off-site drainage corresponds to the stream mapped in the Local Wetland Inventory (LWI) shown on figure 3 but does not enter the study area.

Recent understory clearing took place on the site, which removed mostly salal and a few salmonberry shrubs. No soil was removed from the site and the clearing did not interfere with the findings of the determination. Mapped NRCS soils include Bandon fine sandy loam (3-12% slopes, Non-Hydric), and Depoe loam (0-7% slopes, Hydric). Soils observed on site are topped by a thick layer of duff ranging from 9-14 inches. The general soil texture below the duff layer consists of loamy sand, loam, and sandy clay loam. Sand and loam matrix colors were variable and contained some mixed matrix chromas of 10YR 4/1; however, no depletions or depleted matrices meeting wetland criteria were present on site.

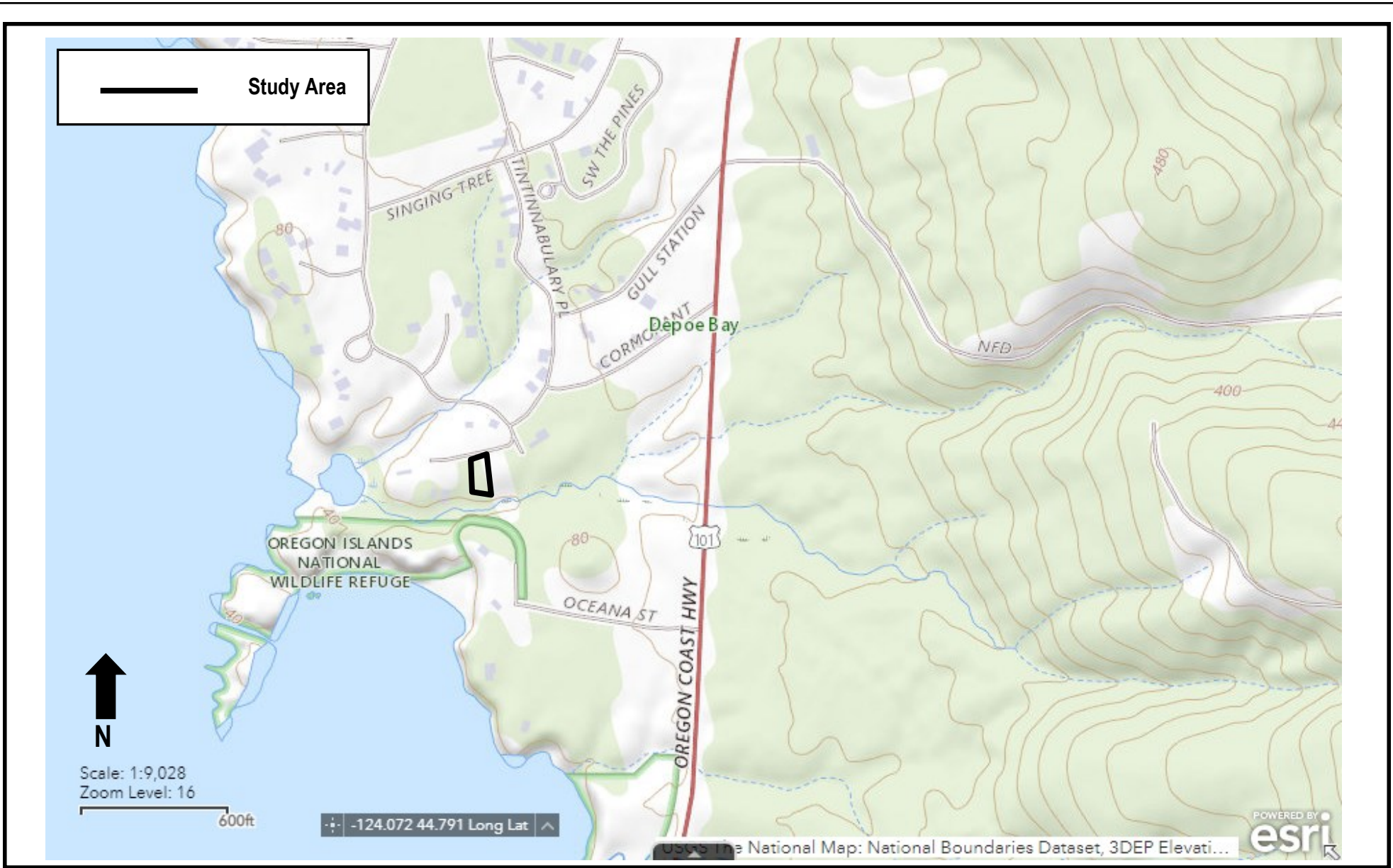
PHS walked the entirety of the site excavating several sample pits to evaluate soils, hydrology, and surrounding vegetation in accordance with the Routine On-site Determination, as described in the *Corps of Engineers Wetland Delineation Manual, Wetlands Research Program Technical Report Y-87-1* ("The 1987 Manual") and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region*. No wetlands or other waters are present within the study area. Three representative upland sample points were collected in both the lowest elevation areas, and areas where minor surface soil disturbances took place and shrubs were removed (Appendix B).

No hydric soils or hydrology are present in the study area, and vegetation did not meet hydrophytic criteria. Extra care was taken to evaluate areas where vegetation removal took place, and in the southern lot, where elevations are lowest and near an off-site drainage. Figures, including a map depicting the location of sample points within the study area, are in Appendix A. Data sheets documenting on-site conditions are provided in Appendix B. Ground-level photos of the site are included in Appendix C.

Appendix A

Figures





Project #7918
2/13/2024



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

General Location and Topography
SW Midden Reach Property - Depoe Bay, Oregon
United States Geological Survey (USGS) Depoe Bay, Oregon 7.5 quadrangle, 2024
(viewer.nationalmap.gov/basic)

FIGURE
1

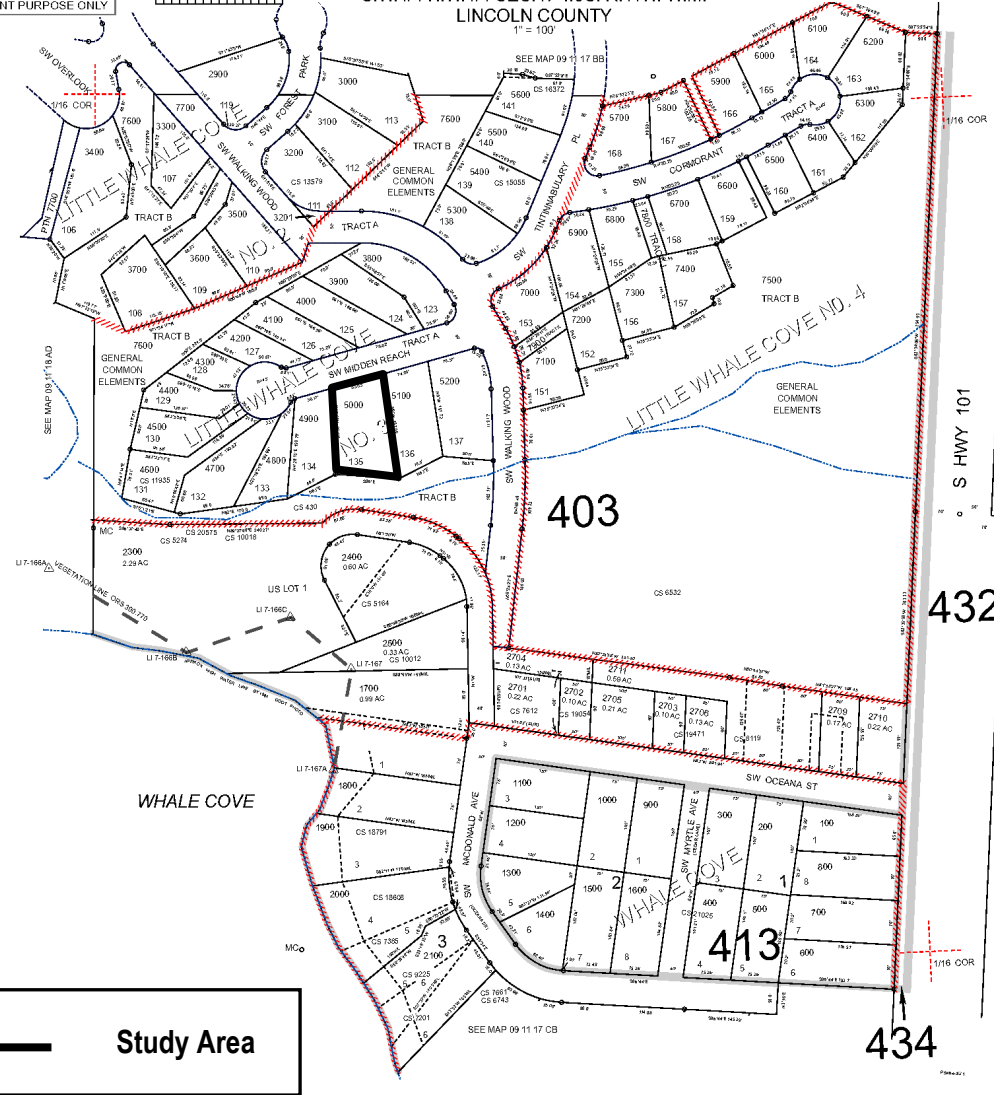
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

0 50 100 150 200 Feet
1" = 100'

S.W. 1/4 N.W. 1/4 SEC. 17 T.9S. R.11W. W.M.
LINCOLN COUNTY
1" = 100'

09 11 17 BC
DEPOE BAY

- Cancelled
- 1701
- 1801
- 2300
- 2301
- 2501
- 2500
- 2501
- 2700
- 2707
- 2708
- 2712
- 2713
- 2714
- 2715
- 2800



Study Area

Revised DMJ
12/08/2021

DEPOE BAY
09 11 17 BC





Project #7918
2/13/2024







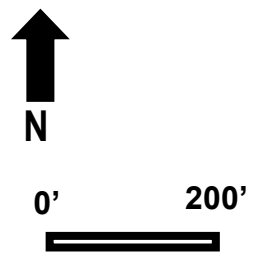
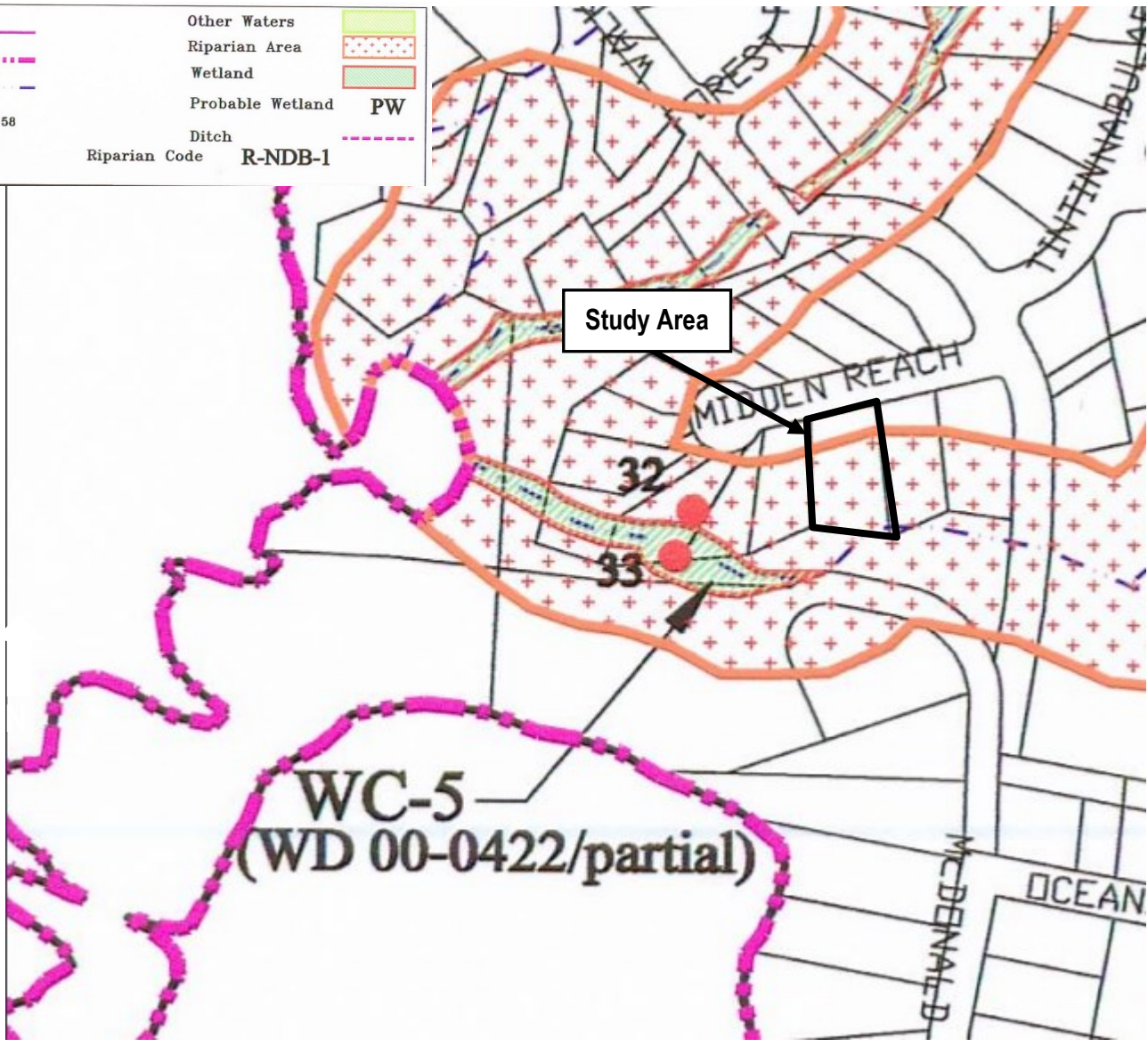
Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

Tax Lot Map
SW Midden Reach Property - Depoe Bay, Oregon
The Oregon Map (ormap.net)

FIGURE
2

Watershed Boundary 
 Project Boundary/UGB 
 Potentially Jurisdictional
 Creeks/drainages 
 Sample Point  58
 Wetland Code **NDB-1**

Other Waters 
 Riparian Area 
 Wetland 
 Probable Wetland **PW**
 Ditch 
 Riparian Code **R-NDB-1**



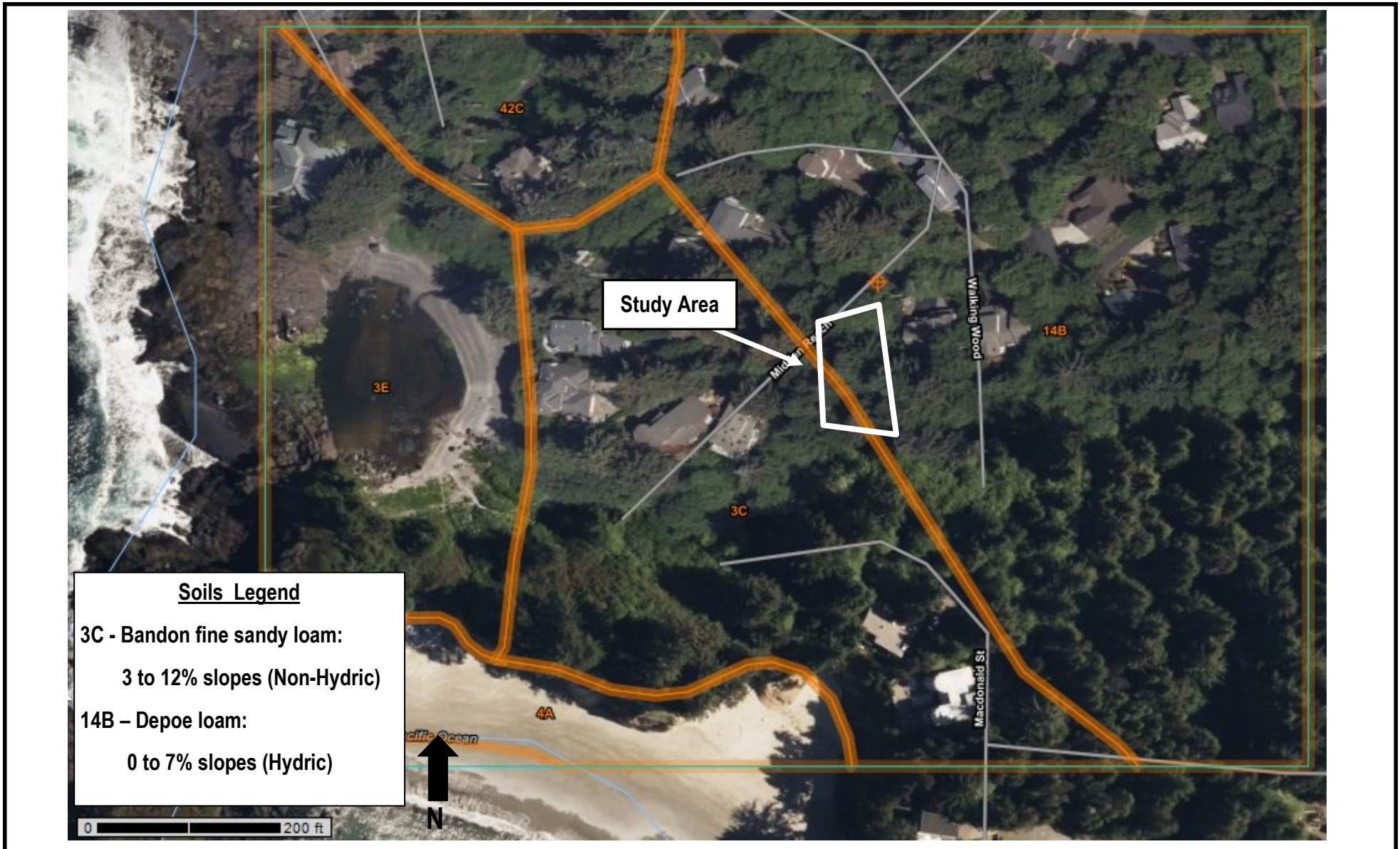
Project #7918
 2/13/2024



Pacific Habitat Services, Inc.
 9450 SW Commerce Circle, Suite 180
 Wilsonville, OR 97070

Local Wetlands Inventory
 SW Midden Reach Property - Depoe Bay, Oregon
 Pacific Habitat Services, 2009

FIGURE
3



Soils Legend

3C - Bandon fine sandy loam:
 3 to 12% slopes (Non-Hydric)

14B - Depoe loam:
 0 to 7% slopes (Hydric)

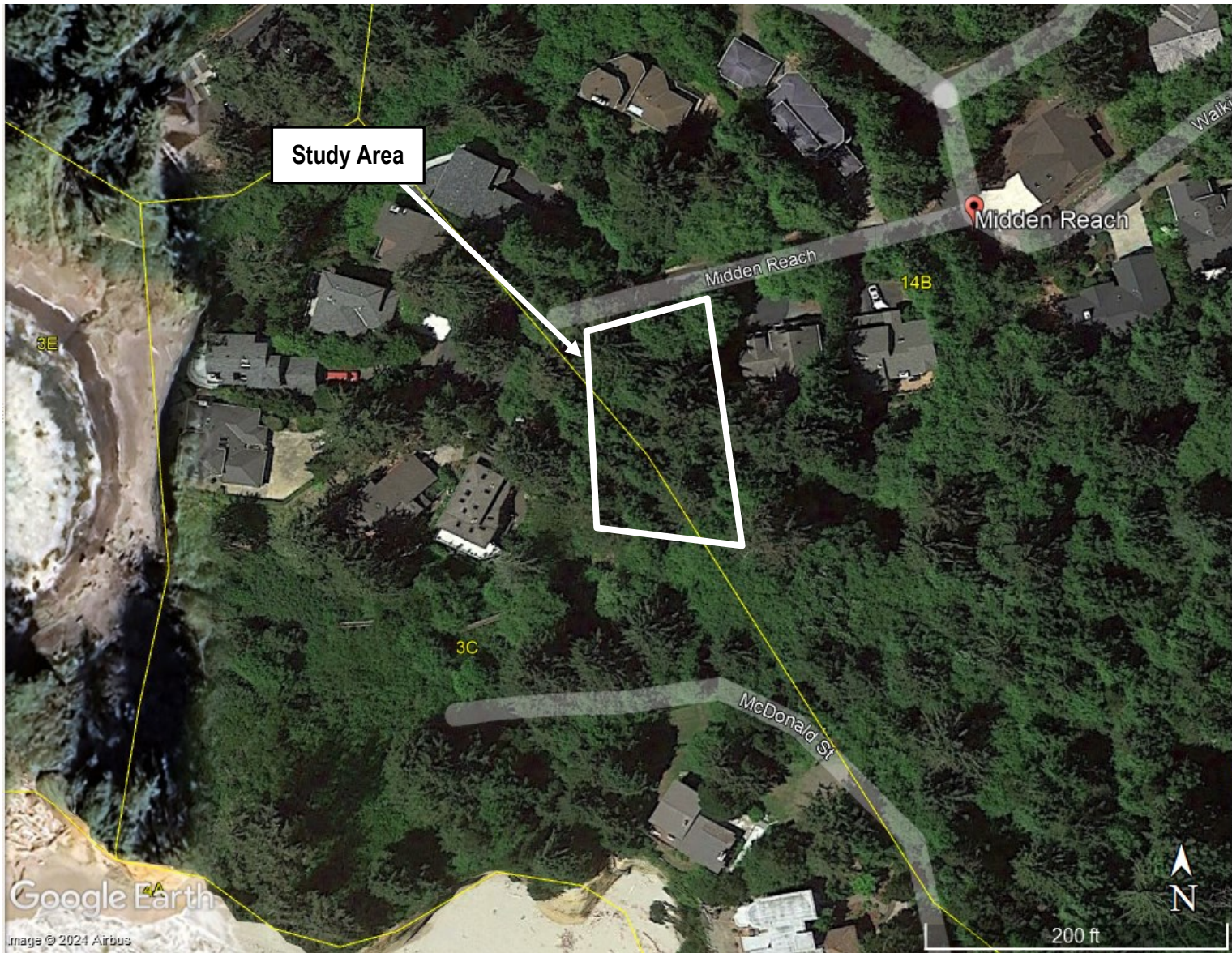
Project #7918
 2/13/2024



Pacific Habitat Services, Inc.
 9450 SW Commerce Circle, Suite 180
 Wilsonville, OR 97070

Soils
 SW Midden Reach Property - Depoe Bay, Oregon
 Natural Resources Conservation Services, Web Soil Survey, 2023
 (websoilsurvey.sc.egov.usda.gov)

FIGURE
 4



Project #7918
2/13/2024

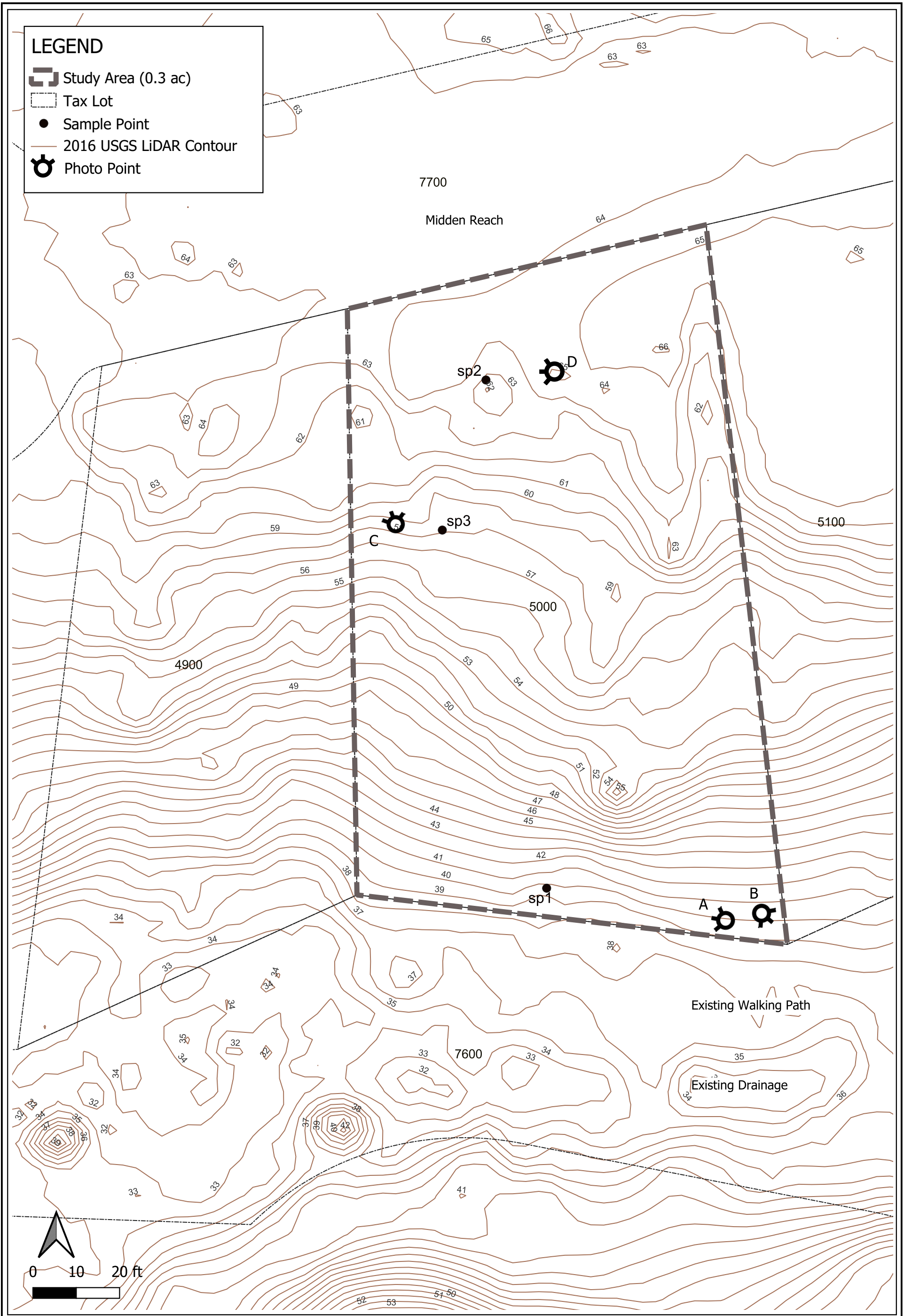


Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

Aerial Photo (October, 2023)
SW Midden Reach Property - Depoe Bay, Oregon
GoogleEarth, 2024

FIGURE

5



Appendix B

Wetland Determination Data Sheets



WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SW Midden Reach City/County: Depeo Bay/Lincoln Sampling Date: 2/6/2024
 Applicant/Owner: Sandra and Chad Moeser State: OR Sampling Point: 1
 Investigator(s): MG/CM Section, Township, Range: Sec 17BC, T9S, R11W
 Landform (hillslope, terrace, etc.): Slope Local relief (concave, convex, none): _____ Slope (%): 5-10
 Subregion (LRR): LRRA Lat: 44.7919 Long: -124.0691 Datum: WGS84
 Soil Map Unit Name: Bandon fine sandy loam NWI Classification: None
 Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No _____ (if no, explain in Remarks)
 Are vegetation _____ Soil _____ or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y
 Are vegetation _____ Soil _____ or Hydrology _____ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No <u>X</u>	Is Sampled Area within a Wetland?	Yes _____	No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>			
Wetland Hydrology Present?	Yes _____	No <u>X</u>			
Remarks:					

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
Tree Stratum (plot size: <u>30</u>)				Dominance Test worksheet:
1 <u><i>Alnus rubra</i></u>	<u>50</u>	<u>X</u>	<u>FAC</u>	Number of Dominant Species
2 <u><i>Tsuga heterophylla</i></u>	<u>30</u>	<u>X</u>	<u>FACU</u>	That are OBL, FACW, or FAC: <u>2</u> (A)
3 <u><i>Picea sitchensis</i></u>	<u>5</u>		<u>FAC</u>	Total Number of Dominant Species Across All Strata: <u>5</u> (B)
4 _____				Percent of Dominant Species
	<u>85</u>	= Total Cover		That are OBL, FACW, or FAC: <u>40%</u> (A/B)
Sapling/Shrub Stratum (plot size: <u>15</u>)				Prevalence Index Worksheet:
1 <u><i>Rubus spectabilis</i></u>	<u>15</u>	<u>X</u>	<u>FAC</u>	Total % Cover of _____ Multiply by: _____
2 <u><i>Sambucus racemosa</i></u>	<u>10</u>	<u>X</u>	<u>FACU</u>	OBL Species _____ x 1 = <u>0</u>
3 <u><i>Polystichum munitum</i></u>	<u>7</u>		<u>FACU</u>	FACW species _____ x 2 = <u>0</u>
4 <u><i>Gaultheria shallon</i></u>	<u>4</u>		<u>FACU</u>	FAC Species _____ x 3 = <u>0</u>
5 <u><i>Corylus cornuta</i></u>	<u>4</u>		<u>FACU</u>	FACU Species _____ x 4 = <u>0</u>
	<u>40</u>	= Total Cover		UPL Species _____ x 5 = <u>0</u>
Herb Stratum (plot size: <u>5</u>)				Column Totals <u>0</u> (A) <u>0</u> (B)
1 <u><i>Blechnum spicant</i></u>	<u>1</u>		<u>FAC</u>	Prevalence Index =B/A = <u>#DIV/0!</u>
2 <u><i>Athyrium cyclosum</i></u>	<u>1</u>		<u>FAC</u>	
3 _____				
4 _____				
5 _____				
6 _____				
7 _____				
8 _____				
	<u>2</u>	= Total Cover		
Woody Vine Stratum (plot size: <u>15</u>)				Hydrophytic Vegetation Indicators:
1 <u><i>Hedera helix</i></u>	<u>20</u>	<u>X</u>	<u>FACU</u>	_____ 1- Rapid Test for Hydrophytic Vegetation
2 _____				_____ 2- Dominance Test is >50%
	<u>20</u>	= Total Cover		_____ 3-Prevalence Index is ≤ 3.0 ¹
				_____ 4-Morphological Adaptations ¹ (provide supporting data in Remarks or on a separate sheet)
				_____ 5- Wetland Non-Vascular Plants ¹
				_____ Problematic Hydrophytic Vegetation ¹ (Explain)
				¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.
				Hydrophytic Vegetation Present? Yes _____ No <u>X</u>
Remarks:				

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-18	10YR 2/2	100					Sandy Clay Loam	Minor organic material mixed in

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.) Indicators for Problematic Hydric Soils³:

<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):
 Type: _____
 Depth (inches): _____

Hydric Soil Present? Yes _____ No X

Remarks:
Thick duff above soil, ~5-10 inches.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input checked="" type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:

Surface Water Present?	Yes _____ No <u>X</u>	Depth (inches): _____	Wetland Hydrology Present? Yes _____ No <u>X</u>
Water Table Present?	Yes _____ No <u>X</u>	Depth (inches): <u>>18</u>	
Saturation Present? (includes capillary fringe)	Yes _____ No <u>X</u>	Depth (inches): <u>>18</u>	

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SW Midden Reach City/County: Depoe Bay/Lincoln Sampling Date: 2/6/2024
 Applicant/Owner: Sandra and Chad Moeser State: OR Sampling Point: 2
 Investigator(s): CM/MG Section, Township, Range: Sec 17BC, T9S, R11W
 Landform (hillslope, terrace, etc.): Slope Local relief (concave, convex, none): Concave Slope (%): 10
 Subregion (LRR): LRRA Lat: 44.7922 Long: -124.0691 Datum: WGS84
 Soil Map Unit Name: Depoe loam NWI Classification: None
 Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No _____ (if no, explain in Remarks)
 Are vegetation X Soil _____ or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? (Y/N) N
 Are vegetation _____ Soil _____ or Hydrology _____ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No <u>X</u>	Is Sampled Area within a Wetland?	Yes _____	No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>			
Wetland Hydrology Present?	Yes _____	No <u>X</u>			
Remarks:					

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status	
<u>Tree Stratum</u> (plot size: <u>30</u>)				Dominance Test worksheet:
1 <u><i>Picea sitchensis</i></u>	<u>50</u>	<u>X</u>	<u>FAC</u>	Number of Dominant Species
2 <u><i>Tsuga heterophylla</i></u>	<u>40</u>	<u>X</u>	<u>FACU</u>	That are OBL, FACW, or FAC: <u>1</u> (A)
3 <u><i>Pseudotsuga menziesii</i></u>	<u>10</u>		<u>FACU</u>	Total Number of Dominant
4 <u><i>Alnus rubra</i></u>	<u>5</u>		<u>FAC</u>	Species Across All Strata: <u>3</u> (B)
	<u>105</u>	= Total Cover		Percent of Dominant Species
<u>Sapling/Shrub Stratum</u> (plot size: <u>15</u>)				That are OBL, FACW, or FAC: <u>33%</u> (A/B)
1 <u><i>Gaultheria shallon</i></u>	<u>50</u>	<u>X</u>	<u>FACU</u>	Prevalence Index Worksheet:
2 <u><i>Cytisus scoparius</i></u>	<u>10</u>		<u>(UPL)</u>	Total % Cover of _____ Multiply by: _____
3 _____				OBL Species _____ x 1 = <u>0</u>
4 _____				FACW species _____ x 2 = <u>0</u>
5 _____				FAC Species _____ x 3 = <u>0</u>
	<u>60</u>	= Total Cover		FACU Species _____ x 4 = <u>0</u>
<u>Herb Stratum</u> (plot size: _____)				UPL Species _____ x 5 = <u>0</u>
1 _____				Column Totals <u>0</u> (A) <u>0</u> (B)
2 _____				Prevalence Index =B/A = <u>#DIV/0!</u>
3 _____				Hydrophytic Vegetation Indicators:
4 _____				_____ 1- Rapid Test for Hydrophytic Vegetation
5 _____				_____ 2- Dominance Test is >50%
6 _____				_____ 3-Prevalence Index is ≤ 3.0 ¹
7 _____				_____ 4-Morphological Adaptations ¹ (provide supporting
8 _____				data in Remarks or on a separate sheet)
	<u>0</u>	= Total Cover		_____ 5- Wetland Non-Vascular Plants ¹
<u>Woody Vine Stratum</u> (plot size: _____)				_____ Problematic Hydrophytic Vegetation ¹ (Explain)
1 _____				¹ Indicators of hydric soil and wetland hydrology must be present, unless
2 _____				disturbed or problematic.
	<u>0</u>	= Total Cover		Hydrophytic Vegetation Present?
% Bare Ground in Herb Stratum <u>100</u>				Yes _____ No <u>X</u>

Remarks:
Gaultheria shallon was recently cleared. Although normal circumstances are not present due to the clearing, it did not affect the outcome of the delineation. Adjacent vegetation is undisturbed and we can clearly see that salal is the dominant species in the cleared area. No trees removed.

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-10	2.5/1	100					Loam	Organic
10-16	10YR 4/5	100					Loamy Sand	

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.) **Indicators for Problematic Hydric Soils³:**

<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):
 Type: _____
 Depth (inches): _____

Hydric Soil Present? Yes _____ No X

Remarks:
14 inches of duff on top of soil profile. Soil begins at 0 inches.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:
 Surface Water Present? Yes _____ No X Depth (inches): _____
 Water Table Present? Yes _____ No X Depth (inches): >16
 Saturation Present? Yes _____ No X Depth (inches): >16
 (includes capillary fringe)

Wetland Hydrology Present?
 Yes _____ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
Recent equipment work left accumulated muddy soil from bore-log pits causing temporary muddy spots. Surface of duff was saturated in two areas, but saturation did not reach soil surface below duff.

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SW Midden Reach City/County: Depoe Bay/Lincoln Sampling Date: 2/6/2024
 Applicant/Owner: Sandra and Chad Moeser State: OR Sampling Point: 3
 Investigator(s): CM/MG Section, Township, Range: Sec 17BC, T9S, R11W
 Landform (hillslope, terrace, etc.): Slope Local relief (concave, convex, none): None Slope (%): 10
 Subregion (LRR): LRRA Lat: 44.7921 Long: -124.0692 Datum: WGS84
 Soil Map Unit Name: Depoe Loam NWI Classification: None
 Are climatic/hydrologic conditions on the site typical for this time of year? Yes X No _____ (if no, explain in Remarks)
 Are vegetation X Soil _____ or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? (Y/N) N
 Are vegetation _____ Soil _____ or Hydrology _____ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No <u>X</u>	Is Sampled Area within a Wetland?	Yes _____	No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>			
Wetland Hydrology Present?	Yes _____	No <u>X</u>			
Remarks:					

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status		
Tree Stratum (plot size: <u>30</u>)				Dominance Test worksheet:	
1 <u><i>Picea sitchensis</i></u>	<u>50</u>	<u>X</u>	<u>FAC</u>	Number of Dominant Species	
2 <u><i>Tsuga heterophylla</i></u>	<u>50</u>	<u>X</u>	<u>FACU</u>	That are OBL, FACW, or FAC: <u>2</u> (A)	
3 _____				Total Number of Dominant	
4 _____				Species Across All Strata: <u>5</u> (B)	
	<u>100</u>	= Total Cover		Percent of Dominant Species	
Sapling/Shrub Stratum (plot size: <u>15</u>)				That are OBL, FACW, or FAC: <u>40%</u> (A/B)	
1 <u><i>Gaultheria shallon</i></u>	<u>90</u>	<u>X</u>	<u>FACU</u>	Prevalence Index Worksheet:	
2 <u><i>Rubus spectabilis</i></u>	<u>10</u>		<u>FAC</u>		
3 _____					
4 _____					
5 _____					
	<u>100</u>	= Total Cover		Total % Cover of _____ Multiply by: _____	
Herb Stratum (plot size: <u>5</u>)				OBL Species _____ x 1 = <u>0</u>	
1 <u><i>Blechnum spicant</i></u>	<u>10</u>	<u>X</u>	<u>FAC</u>	FACW species _____ x 2 = <u>0</u>	
2 _____				FAC Species _____ x 3 = <u>0</u>	
3 _____				FACU Species _____ x 4 = <u>0</u>	
4 _____				UPL Species _____ x 5 = <u>0</u>	
5 _____				Column Totals <u>0</u> (A) <u>0</u> (B)	
6 _____				Prevalence Index =B/A = <u>#DIV/0!</u>	
7 _____				Hydrophytic Vegetation Indicators:	
8 _____					_____ 1- Rapid Test for Hydrophytic Vegetation
	<u>10</u>	= Total Cover			_____ 2- Dominance Test is >50%
Woody Vine Stratum (plot size: <u>30</u>)					_____ 3-Prevalence Index is ≤ 3.0 ¹
1 <u><i>Hedera helix</i></u>	<u>20</u>	<u>X</u>	<u>FACU</u>		_____ 4-Morphological Adaptations ¹ (provide supporting data in Remarks or on a separate sheet)
2 _____				_____ 5- Wetland Non-Vascular Plants ¹	
	<u>20</u>	= Total Cover		_____ Problematic Hydrophytic Vegetation ¹ (Explain)	
% Bare Ground in Herb Stratum <u>90</u>				¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.	
Remarks:				Hydrophytic Vegetation Present? Yes _____ No <u>X</u>	

Gaultheria shallon was recently cleared. Although normal circumstances are not present due to the clearing, it did not affect the outcome of the delineation. Adjacent vegetation is undisturbed and we can clearly see that salal is the dominant species in the cleared area. No trees removed.

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-10	10YR 3/1	90					Sandy Clay Loam	Mixed Matrix
0-10	10YR 4/1	10					Sandy Clay Loam	Mixed Matrix
10-20	10YR 4/5	100					Loamy Sand	40% organic material and wood

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.) **Indicators for Problematic Hydric Soils³:**

<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (explain in Remarks)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):
 Type: _____
 Depth (inches): _____

Hydric Soil Present? Yes _____ No X

Remarks:
First 9 inches above soil profile are duff. 10YR 4/1 is not depleted, not concentrations as depletions, but an amorphous color in the sandy matrix.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water stained Leaves (B9) (Except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water stained Leaves (B9) (MLRA1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Fac-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations:
 Surface Water Present? Yes _____ No X Depth (inches): _____
 Water Table Present? Yes _____ No X Depth (inches): >20
 Saturation Present? Yes _____ No X Depth (inches): >20
 (includes capillary fringe)

Wetland Hydrology Present?
 Yes _____ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
Recent equipment work left accumulated muddy soil from bore-log pits causing temporary muddy spots. Surface of duff was saturated in two areas, but saturation did not reach soil surface below duff.

Appendix C

Site Photos (ground level)





Photo A:

Looking northwest at sample point 1 in an upland area.

Photo taken on February 6, 2024

Photo B:

Looking southeast from the property corner at a walking path off-site.

Photo taken on February 6, 2024



Project #7918

2/19/2024



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

Photo documentation

SW Midden Reach Property – Depoe Bay, Oregon



Photo C:

Looking northwest near sample point 3 at general muddy areas left over from recent boring and plant removal activity.

Photo taken on February 6, 2024

Photo D:

Looking west at sample point 2 and surface saturation from recent boring activity.

Photo taken on February 6, 2024



Project #7918

2/19/2024



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

Photo documentation

SW Midden Reach Property – Depoe Bay, Oregon



HERITAGE
• RESEARCH •
ASSOCIATES, INC
ARCHAEOLOGY & HISTORY

TO: Sandra and Chad Moeser
[REDACTED]
[REDACTED]

FROM: Rick Minor, PhD, RPA
Heritage Research Associates, Inc.
1997 Garden Avenue
Eugene, OR 97403

DATE: August 14, 2020

SUBJECT: Inspection for Archaeological Resources on Lot 135, Little Whale Cove Development, Lincoln County, Oregon

This memorandum addresses an inspection conducted on Lot 135 in the Little Whale Cove Development, Lincoln County, for evidence of archaeological resources on August 12 in the company of Sandra Moeser. As you are considering the purchase of this lot, a concern is for the potential presence of evidence of prehistoric Native Americans occupation or activity on the lot which may be protected under Oregon State law and would require potentially costly measures during construction.

In this coastal context, archaeological evidence is most likely to occur in the form of marine shell fragments characteristically found in “shell middens.” The concern for archaeological resources on this lot is prompted by the results of previous archaeological investigations on Lot 53 and Lot 131 in the Little Whale Cove development, as well as the presence of a major archaeological site represented in an extensive shell midden exposed in the sea cliff on the north shore of Whale Cove a short distance to the south (Figures 1 and 2).

Description of Lot 135

Lot 135 is an undeveloped lot bordered on the north by SW Midden Reach. An existing residence adjacent to Lot 135 on the east has the address 230 SW Midden Reach. Lot 135 is a trapezoid measuring 85.05 feet (25.9 m) on the north along Midden Reach; 167.09 feet (50.9 m) on the east; 135.25 feet (41.2 m) on the west; and 100.6 feet (30.7 m) on the south. Along the southern boundary of the lot is an asphalt path which transitions into a boardwalk that crosses a small stream and wetland that drains into Little Whale Cove. Lot 135 is bordered on the west by another undeveloped lot, next to which on the west is an existing residence with the address of 310 SW Midden Reach.

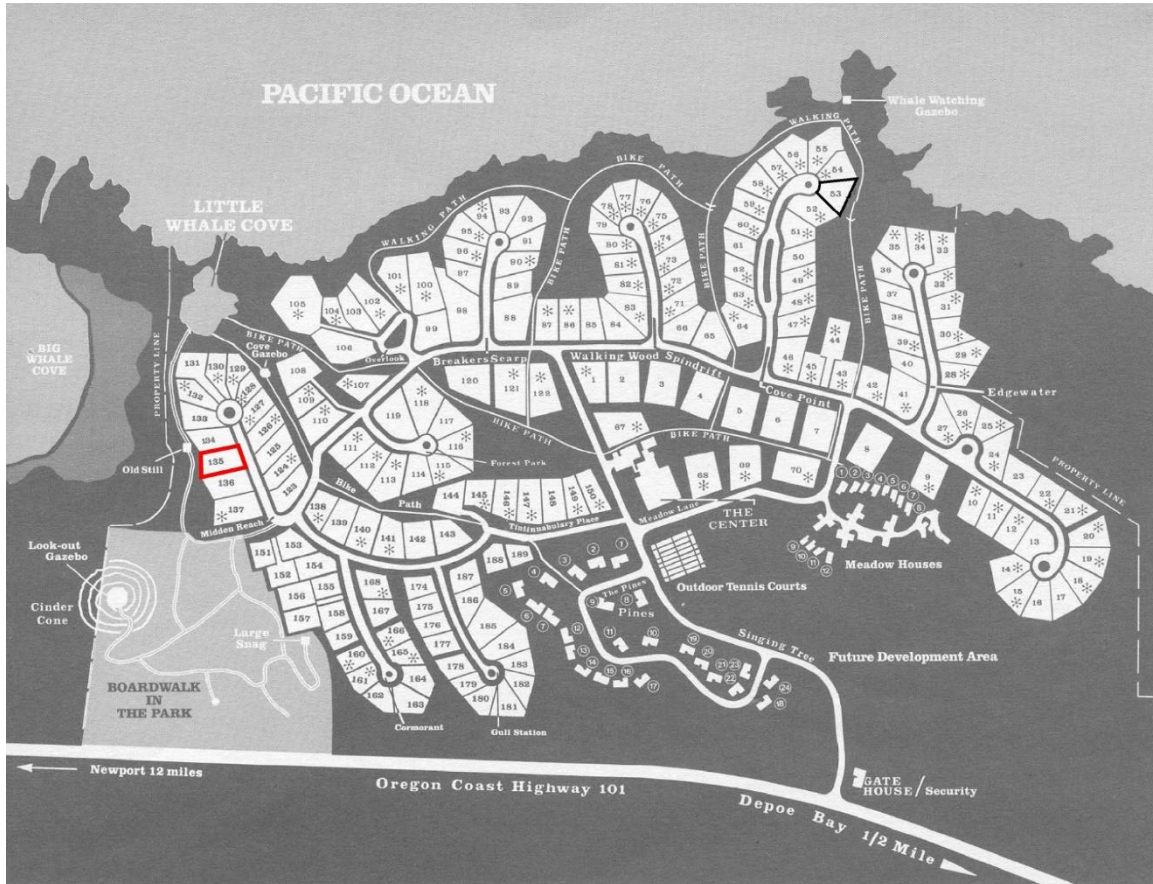


Figure 1. Location of Lot 135 (outlined in red) in the Little Whale Cove development (note west is to the top of the figure).

The ground on Lot 135 slopes downward from northwest to southeast. The slope on the northern portion of the lot is fairly gradual but becomes steeper in roughly the southern one-third of the property. The dense vegetation characteristic of coastal forests greatly hampered inspection of the ground surface, which is covered by standing trees with widely spread root systems, downed trees, understory vegetation, and moss. No natural exposures of mineral soil were observed on the property (Figures 3 through 6).

Field Procedures

The survey of the lot was initiated with a shovel, with the intent of using it to help move the forest duff aside to expose mineral soil and check for archaeological indicators, as is often done during archaeological surveys in forested environments. Instead, the density of the vegetation and the depth of the duff made it necessary to use the shovel to cut through the forest duff covering the surface in small exposures roughly the width of the shovel (12 by 12 inches in size) in order to reach the surface of the mineral soil. The forest duff was quite thick, and its removal was complicated by the extensive root systems of trees and understory vegetation. A thin layer of reddish-brown sandy silt appears to have formed as a result of decomposition of the duff and thus is of recent origin.



Figure 2. Location of Lot 135 in the SW¹/₄ of NW¹/₄ of Section 17, T9S, R11W, W. M. (USGS Depoe Bay 7.5' quadrangles, Oregon 1984).

Below the thin layer of reddish-brown sandy silt was dark brown sandy silt corresponding to the topmost layer of mineral soil. Any evidence of prehistoric or historic occupation or activity would mostly likely be associated with this dark brown sandy silt deposit. All of the shovel exposures were deep enough to expose this soil. Although it was necessary to place the shovel exposures in relatively open spaces where fewer root systems would be encountered, the eight shovel exposures are believed to have provided reasonable sample coverage of the property (an average of one exposure for every 150 square meters).

Inspection of the lot proceeded for the most part along two roughly north-to-south transects, at roughly 15- to 20-m intervals working from two existing pathways in the dense vegetation pointed out by Sandra. The first transect was walked from inside the west boundary of the lot working inland at intervals in a zigzag fashion to work through the vegetation and inspect areas deeper within the lot. Four shovel exposures were made along this transect through forest duff 20-30 cm thick. This transect ended at a boardwalk that crosses a small creek and associated wetland. A metal sign indicates that the property on the south side of this stream is managed as a National Wildlife Refuge.

Adjacent on the north side of the boardwalk are the remains of a local landmark—an historic still (Figure 7 and 8). These remains appear to be a box-like structure, hollow inside with the top covered by a metal plate. The structure consists of six courses of tabular basalt 80 inches high, 64 inches long by 48 inches wide. An interpretive sign reads: “This old still was purported to be built in the early 1930s by enterprising locals. It was rediscovered by Carl Halvorson while surveying for homesites.” The remains of this still appear to lie outside the southern boundary of Lot 135.

To return to the north side of Lot 135, a second transect was walked uphill between the east property line and roughly 5-10 meters toward the interior of the lot, also in a zigzag fashion. Three shovel exposures along this transect reached the dark brown sandy silt deposit at 15 cm, 20 cm, and 25 cm below surface, indicating that the thickness of the forest duff increases from south to north. This transect emerged from the dense vegetation next to a utility box (S2602) near the northeast corner of the property. One more shovel exposure was placed about 10 m south of the Windemere sign situated roughly midway along the north property line. Forest duff was very thick at this location, and the dark brown sandy silt was not reached until 40 cm below surface.

Summary

In view of the dense vegetation that covers the ground surface, the search for archaeological remains involved excavation of eight shovel exposures through duff across the property. All of the shovel exposures extended through forest duff 20-40 cm thick to the top of the underlying mineral soil in which archaeological evidence might be exposed. In particular, white marine fragments indicative of a prehistoric shell midden would clearly stand out against this dark brown soil.

No marine shell fragments or other evidence of prehistoric or historical archaeological artifacts, features, or sites was observed on Lot 135. The apparent absence of archaeological evidence is likely due to the steepness of the terrain and inland location of this lot from the coastal margin. The nearest location to Lot 135 where archaeological evidence has been identified is on Lot 131 where a prehistoric shell midden has been recorded on the point above Little Whale Cove. Based on the negative results of this search for archaeological resources, evidence of prehistoric or historic activity does not appear to be present on Lot 135.

Recommendations and Standard Cautions

It should be kept in mind that there always remains the possibility that buried cultural deposits that were not discovered during the survey may be present within the boundaries of the project. Consequently, although considered unlikely given the results of this search, there is a chance that ground disturbing activities may expose previously undiscovered cultural deposits or materials that are historical or prehistoric in age. If such an event should occur, Oregon State law (ORS 97.740 to 97.760, 358.905 to 358.955, and 390.235) requires that work in the vicinity of such finds be suspended immediately. The State Historic Preservation Office (SHPO) should be notified and a qualified archaeologist should be called in to evaluate the discovery and to recommend subsequent courses of action in consultation with the appropriate tribes and SHPO.

In anticipation of the unlikely discovery of archaeological materials, it would be prudent to conduct any ground-disturbing project activities under an inadvertent discovery protocol (IDP) that would be put in place in advance for implementation by the construction team. Under an IDP, if archaeological resources are inadvertently encountered during this project, all earth disturbance in the vicinity of the find should be halted immediately in accordance with state law as described above. A qualified archaeologist should be consulted to investigate and evaluate any discovery, and to recommend subsequent courses of action in consultation with the Oregon SHPO and appropriate tribes. The IDP will also set forth the specific protocol for protection of grave sites and the notification procedures for the Oregon State Police, the appropriate tribes, Commission on Indian Services, and SHPO.



Figure 3. View south from Midden Reach into dense vegetation on Lot 135.



Figure 4. View downslope on western transect of dense vegetation on Lot 135.



Figure 5. View uphill on eastern transect of dense vegetation on Lot 135.



Figure 6. View of the dark brown sandy silt representing mineral soil below the thick duff layer.



Figure 7. View to west of interpretive sign and still on boardwalk below Lot 135.



Figure 8. Close-up view of courses of tabular basalt in south wall of still.

GEOTECHNICAL REPORT

**Midden Reach lot 135
Depot Bay, OR**

**For
Sandra and Chad Moeser
25 July 2023**



**EXPIRES:
12/31/2024**



3915 SW Plum Street
Portland, OR 97219
503-816-3689

1- INTRODUCTION

Rapid Soil Solutions Inc (RSS) has prepared this geotechnical report, as requested, for the proposed single-family home at the Lincoln County tax lot assigned the map number 09-11-17-BC-05000-00. Currently, no situs address is assigned to the parcel. The 0.29-acres vacant property is situated within the city limits of Depoe Bay.

RSS understands that the proposed development involves a one-story wood framed residence that will be positioned on the greater northern half of the lot. The access driveway is planned close to the northeast corner of the parcel. The 1,833-sf residence is setback at least 31-ft from the north property line, 24-ft from the west margin and 6-ft from its eastern boundary.

This report is based on visual observations of the subject, two shallow test pits, and a review of available literature as referenced at the end of this report. Slopes and disturbance envelopes discussed in this report are approximate, primary based on on-site observations by RSS staff. RSS conducted site investigations on July 18th, 2023.

2- SITE DESCRIPTION

2.1 Location

The vacant property occupies lot 135 of the 'Little Whale Cove'; a planned-unit-development (PUD) tucked in the southern end of Depoe Bay. This gated coastal community encompasses about 140-acres and consists of a total of 268 residential lots. The project site is positioned on the southern edge of Midden Reach; a narrow, asphalt-covered street with no established curbs or sidewalks. The site is located about 215-ft north of McDonald St, 1,165-ft south of Singing Tree, and 955-ft west of N Coast Hwy (Hwy-101).

The site and neighboring parcels are under Residential Zone (R-4) with Planned Development (PD) overlay. Parcels in this zone have minimum lot areas of 5,000-sf for one-family dwelling. Developments across the local slopes is consistent with the zoning; tax lots range in size from 0.11-acres to 0.30-acres. Established parcels neighboring the project site include 230 SW Midden Reach (east) and 275 SW Midden Reach (north).

The site can be found in the southwest quarter of Section 17, Township 9-South, Range 11-West (W.M.) in Lincoln County. The site is assigned the property number R201000 and abbreviated legal description 'LITTLE WHALE COVE NO. 3, LOT 135, DOC202009099'. The latitude and longitude of the site are 44.792231 and -124.069109 (44°47'32.03"N, 124°4'8.79"W). The site can be found in the southern end of the Depoe Bay 7.5-minute quadrangle.

2.2 Slopes

The project site is primarily perched on the southern flank of a small unnamed ridge. The ridge generally dips southwest towards the Little Whale Cove; an oval shaped recess abutting the Pacific Ocean. The access road Midden Reach generally follows the crest of the ridge. The subject site and its adjacent properties to the west and east accommodates slopes that gradually trend southwards towards an unnamed creek. The creek passes just beyond the south margin of the local lots and drains west towards the cove.

The surveyed contour of the property (dated September 2022) suggests that from the northern end of the lot towards its south property line, there is about 29-ft of elevation drop. The northern half of the property contain low relief slopes of within 8%. Descending slopes across its southern majority can reach up to 30%.

The proposed disturbance area is positioned at the northern majority of the lot; within elevations of 94-99 ft AMSL. The slope break is positioned approximately 30-ft due south of the home envelope. From the slope break, the site dips south towards the nearby creek to roughly 22-ft.

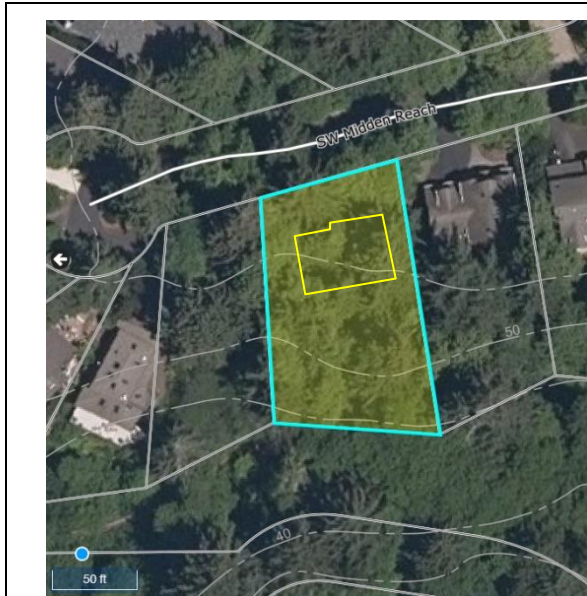


Figure 1: 2021 satellite imagery of the site and 10-ft contour mapping as depicted by the Lincoln County gis map.

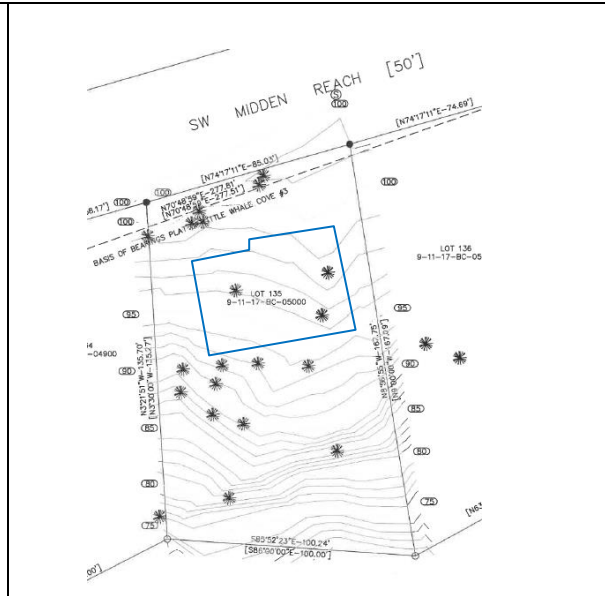


Figure 2: Surveyed 1-ft contour of the subject site, dated Sept 2022.

2.3 Built/ Historical Conditions

Review of historical imagery suggests that internal roads within the gated community of 'Little Whale Cove' were established sometime between 1976-1982. Construction of intermittent residences along the block of Midden Reach were depicted between early 1990s to late 2000s. The project site remained wooded and vacant.

3- GEOLOGY

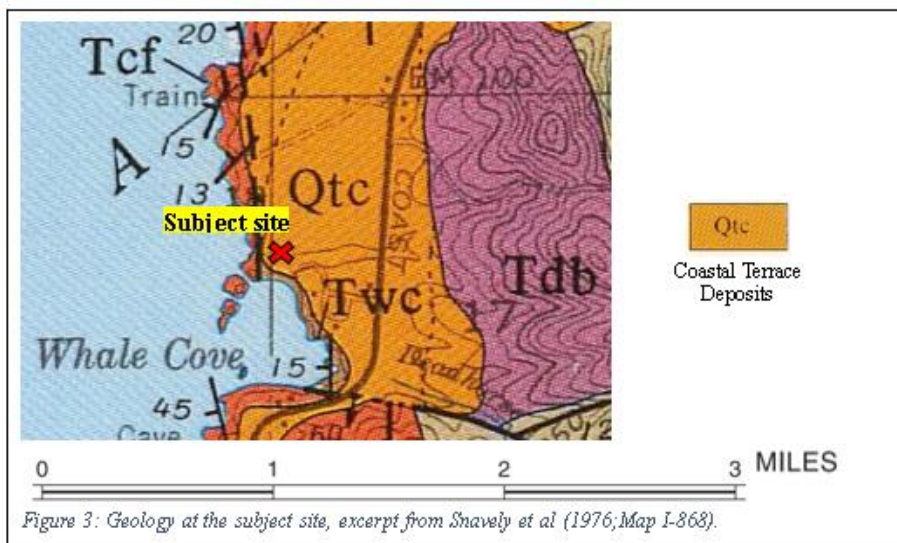
3.1 Regional Geology

The site is tucked along the westernmost edge of the Oregon Coast Range, just before it plunges into the ocean. The Oregon Coast Range is an uplifted belt of land spanning roughly 200 miles and comprised of moderately high mountains (averaging 1,500' in elevation with a maximum of 4,097') that occupies a roughly 30- to 40-mile-wide swath of land along the Pacific Ocean. The mountains rising above the subject site are comprised primarily of accreted oceanic sediments

and synchronously deposited igneous rocks (where the sediments overlay, underlay, and are intruded by the volcanic flows). After the accretion of the Siletz Terrane to the edge of North America, a thick pile of silt, sand, and mud accumulated on the adjacent sea floor. Over tens of millions of years, sediment accumulation continued alongside tectonic impacts of the Cascadia subduction zone and sea level fluctuations. Over time the sedimentary material was scraped onto the edge of the continental plate; uplift, faulting and folding (associated with margin-parallel shortening in the Cascadia subduction zone) lifted the thick stack of sedimentary rock into the heights of the modern mountain range.

The western flank of the Coast Range, which includes the area around the subject site, generally contain varied topography, typically dominated by rugged mountains, bold headlands and marine embayments. Steep canyons cut through the local uplands, emptying into the lowland areas along the coast. The lowland areas of the coastal range include marine embayments, coastal plains and dune areas built up along spits and beaches. The local stretch of coast falls within the lowland category, containing of a bluff-backed sandy beach with adjacent lands underlain by a marine terrace.

3.2 Site Geology



Along the Oregon coast, marine terrace deposits are comprised primarily of loosely cemented sand stone with occasional conglomerates and siltstone beds. Gravels are most commonly found at the base of the formation, directly above the bedrock contact. Interbedded gravels and conglomerates are less common. In some places, wood is abundant. Where the terraces abut basaltic headlands, layers of angular basalt fragments are present; these fragments represent talus deposits that were emplaced concurrent with the main body of the terrace.

3.3 Geologic Hazard Document Review

The Oregon HazVu: Statewide Geohazard Viewer was reviewed 24 July 2023 to investigate mapped geological hazards.

This review indicates that the proposed home envelope is situated outside the 100-year floodplain as mapped by FEMA. The floodplain stretches towards the south margin of the lot; approximately 65-ft from the home envelope. The local tsunami inundation line bisects the property and extends towards the southwest majority of the proposed residence.

The southwest oriented Cape Foulweather fault passes about 0.65-miles southeast from the site. The Siletz Bay faults are located about 3.5-miles north. The expected earthquake-shaking hazard across the site is classified as severe. The earthquake liquefaction hazard is classified as moderate.

The DOGAMI SLIDO interactive map does not indicate the presence of slide within the project site. Fan deposits that are likely influenced by the local bisecting creeks are mapped roughly 630-ft due east of the site. Record shows that the failure occurred prehistorically (more than 150 yrs. ago). The site susceptibility to mass movements ranged from low to high. The north end of the home envelope is situated on low hazard and the south end within moderate hazard.

4- GEOTECHNICAL INVESTIGATION

A geotechnical investigation was conducted July 18^h, 2023. Two shallow hand auger borings were conducted to characterize subsurface soil and collected samples for laboratory analysis. RSS also observed the soils exposed an open test pit, originally excavated for septic permitting.

4.1 Field Exploration Program

The proposed home site was investigated to depth of 4-ft below ground surface. Results of the field explorations are discussed in the Section 5.2.

An Engineer in Training (EIT) observed the test pits and logged the subsurface materials. The soil descriptions were reviewed by a professional engineer. The logs were created using the Unified Soil Classification and Visual Manual Procedure (ASTM-D 2488). Test pit logs are included in the Appendix.

4.2 Laboratory Testing Program

Three soil samples were collected for laboratory analysis. All the samples were analyzed for soil moisture content. Samples collected for laboratory analysis were transported to the lab in sealed plastic bags.

5- RESULTS OF INVESTIGATION

The following sections present the result of the geotechnical investigation of the Site. Presented conclusions are based on site observations, results of soil characterization, and laboratory analyses

5.1 Site Observations/ Conditions

The vacant subject site forms a nearly rectangular shaped boundary. The frontage of the lot stretches about 85-ft along SW Midden Reach. The immediate proximity of the development area is cleared from low- to medium-story vegetation prior to the site visit; scattered tall and mature Evergreen trees remained. RSS understands that roughly 5-6 trees will be removed as

part of this project. The cleared segment of the lot extends to approximately 80-90 from the edge of the road.

The southern half of the property is undisturbed and dominated by thick medium story vegetation and handful of Evergreen trees. Some of the trees exhibit base curvature. This may indicate soil creep; a slow downhill movement of soil due to winter freeze thaw cycle as a tree is growing. A west draining unnamed creek is located just beyond the southern boundary of the subject site. The proposed home envelope is located about 120-ft from the bisecting creek.

5.2 Subsurface Conditions

The development area was investigated by excavating (2) shallow test pits. The locations are shown in the Appendix. Soil units encountered in the test pits are summarized in the following Table 1.

Table 1: Soil Units Encountered

Soil Units		Soil Unit Depths (ft)	
Description	USCS	TP-1	TP-2
TOPSOIL: Dark grey to black, dry to barely damp, moderately- to highly-organic, medium dense	TP (SP)	0.0-1.5	0.0-1.5
SAND: Yellow-orange-tan-brown, barely damp, dense to very dense, includes fraction of coarse to cobble sized weathered rock	SP	1.5-4.0	1.5-4.0

Note: np not present, USCS Unified Soil Classification System Group Symbol (from ASTM D 2487) based on visual observation

Topsoil fine-grained sand with trace of fine gravels. Contain moderate to high amount of organics. Thickness can vary across the development area.

SAND poorly-graded and consistent with the mapped geologic unit at the site: coastal terrace deposits. The sand layer directly underlying the topsoil was found to be dense to very-dense, fine to medium-grained, yellow-orange-tan-brown/rusty brown. The surficial soils then transition to a dense sand mix with scattered clasts of course to cobble sized weathered rock. The weathered rocks were observed to be generally sub-angular.

5.3 Groundwater

At the time of the site visit, no standing or flowing water was observed across the development area. No groundwater was encountered in any of the test pits. No pockets of unusual vegetation were observed.

5.4 Laboratory Tests

The surficial soils encountered from the two test pits is classified as poorly-graded SAND (SP).

6- GEOTECHNICAL DESIGN AND RECOMMENDATIONS

6.1 Foundation Design

The building foundations may be installed on either engineered fill or firm native sub-grade that is found at a depth of about **1.5 foot** into the SAND. This depth may be locally variable and should be confirmed by a geotechnical engineer or their representative at the time of construction. ***Please allow 48hours notice to call for foundation inspections. RSS recommends covering the excavation immediately with 2-3" of ¾" minus to protect the sand.***

Continuous wall and isolated spread footings should be at least 16 and 24 inches wide, respectively. The bottom of exterior footings should be at least 16 inches below the lowest adjacent exterior grade. The bottom of interior footings should be at least 12 inches below the base of the floor slab.

Footings placed on engineered fill or firm native sub-grade should be designed for an allowable bearing capacity of site 2,000psf. The recommended allowable bearing pressure can be increased by 1/3 for short-term loads such as those resulting from wind or seismic forces.

Based on our analysis the total post-construction settlement is calculated to be less than 1 inch, with differential settlement of less than 0.5 inch over a 50-foot span for maximum column, perimeter footing loads of less than 100 kips and 6.0 kips per linear foot.

Lateral loads on footings can be resisted by passive earth pressure on the sides of the structures and by friction at the base of the footings. An allowable lateral bearing pressure of 150 *pounds per cubic foot (psf/f)* below grade may be used. Adjacent floor slabs, pavements or the upper 12-inch depth of adjacent, unpaved areas should not be considered when calculating passive resistance.

Engineering values summary

Bearing capacity soil:	2000psf
Coefficient of friction soil:	0.35
Active pressure	40pcf
Passive pressure	300pcf

6.2 Retaining Walls and Embedded Walls

Default lateral soil load for the design of basement and retaining walls supporting level backfill shall be 35 psf/ft for laterally unrestrained retaining walls and 60 psf/ft for laterally restrained retaining walls.

For embedded building walls, a superimposed seismic lateral force should be calculated based on a dynamic force of $5H^2$ pounds per lineal foot of wall, where H is the height of the wall in feet and applied at 1/3 H from the base of the wall. The wall footings should be designed in accordance with the guidelines provided in the "Foundation Design" section of this report. These design parameters have been provided assuming that back-of-wall drains will be installed to prevent buildup of hydrostatic pressures behind all walls.

The backfill material placed behind the walls and extending a horizontal distance equal to at least half of the height of the retaining wall should consist of granular retaining wall backfill as specified in the “Structural Fill” section of this report. The wall backfill should be compacted to a minimum of 95 percent of the maximum dry density, as determined by ASTM D698. However, backfill located within a horizontal distance of 3 feet from the retaining walls should only be compacted to approximately 92 percent of the maximum dry density, as determined by ASTM D698. Backfill placed within 3 feet of the wall should be compacted in lifts less than 6 inches thick using hand-operated tamping equipment (e.g., jumping jack or vibratory plate compactors). If flat work (e.g., sidewalks or pavements) will be placed atop the wall backfill, we recommend that the upper 2 feet of material be compacted to 95 percent of the maximum dry density, as determined by ASTM D698.

A minimum 12-inch-wide zone of drain rock, extending from the base of the wall to within 6 inches of finished grade, should be placed against the back of all retaining walls. Perforated collector pipes should be embedded at the base of the drain rock. The drain rock should meet the requirements provided in the “Structural Fill” section of this report. The perforated collector pipes should discharge at an appropriate location away from the base of the wall. The discharge pipe(s) should not be tied directly into storm water drain systems, unless measures are taken to prevent backflow into the wall’s drainage system. Settlements of up to 1 percent of the wall height commonly occur immediately adjacent to the wall as the wall rotates and develops active lateral earth pressures.

6.3 Seismic Design Criteria

The seismic design criteria for this project found herein is based on the ASCE 7-16. A summary of IBC seismic design criterion is below it is generated from the USGS web site for earthquake hazards using a latitude of 44.792231 and a longitude -124.069109, soil site class D, Null = see section 11.4.8

	Short Period	1 Second
Maximum Credible Earthquake Spectral Acceleration	$S_S = 1.459 \text{ g}$	$S_1 = 0.741 \text{ g}$
Adjusted Spectral Acceleration	$S_{MS} = 1.459 \text{ g}$	$S_{M1} = \text{null}$
Design Spectral Response Acceleration Perimeters	$S_{DS} = 0.973 \text{ g}$	$S_{D1} = \text{null}$

6.4 Excavations

The initial site preparation will consist of topsoil stripping, and the removal of trees, where applicable. Removal of trees should include removal of the root ball, and any roots greater than ½-inch in diameter.

Excavations can be accomplished with conventional excavating equipment. All excavations for footings and subgrades in the fine-grained silty-clay should be performed by an excavator or backhoe equipped with a smooth-faced bucket (no teeth).

Because of safety considerations and the nature of temporary excavations, the Contractor should be made responsible for maintaining safe temporary cut slopes and supports for utility trenches, etc. We recommend that the Contractor incorporate all pertinent safety codes during

construction, including the latest OSHA revised excavation requirements, and based on soil conditions and groundwater evidenced in cuts made during construction.

6.5 Structural Fills

Depending upon finished building pad elevations, structural fills may be required to raise the site grades. Additionally, fill may be required for the backfilling of the proposed new foundation walls. Native or imported material may be used for fill, provided the soil is free of organics, cobbles larger than 6 inches in maximum diameter, or other deleterious matter; is of low plasticity; and, is at the proper water content.

Fills should be placed on level benches in thin lifts and compacted to a dry density of at least 92% of its Maximum Dry Density (MDD) as determined by the Modified Proctor Test (ASTM D-1557).

For any over-excavation completed in the area of footings or slabs, the backfill material shall consist of free-draining, well-graded, crushed aggregate base with a maximum particle size of $\frac{3}{4}$ inch. The rock shall not contain more than 5% fines (material passing the No. 200 sieve, as tested by ASTM D-1140). The rock shall be compacted to a dry density of at least 92% of its MDD. Compaction tests are required for backfills over two (2) feet and every two (2) feet

6.6 Groundwater Management

The Contractor should be made responsible for temporary drainage of surface water and groundwater as necessary to prevent standing water and/or erosion at the working surface.

The ground surface around the structure should be sloped to create a minimum gradient of 2% away from the building foundations for a distance of at least 5 feet. Surface water should be directed away from all buildings into drainage swales or into a storm drainage system. "Trapped" planting areas should not be created next to any buildings without providing means for drainage. Foundation house drains are required.

6.7 Construction Observation

Prior to pouring any foundation the excavation shall be observed by the Geotechnical Engineer to ensure that the above items have been properly removed. ***Please allow 48-hour notice to call for subgrade inspections.*** Failure to do so can lead to foundation issues with the house. For placement of any backfilling RSS shall be called to provide compaction testing or probing of the fills

6.8 Conclusions

There are no issues with the development of either lot.

7.0 Limitations

This report has been prepared for the exclusive use of the addressee, and their architects and engineers for aiding in the design and construction of the proposed development. It is the

addressee's responsibility to provide this report to the appropriate design professionals, building officials and contractors to ensure correct implementation of the recommendations.

The opinions, comments and conclusions presented in this report were based upon information derived from our literature review, field investigation and laboratory testing. Conditions between, or beyond, my exploratory test pits may vary from those encountered. Unanticipated soil conditions and seasonal soil moisture variations are commonly encountered and cannot be fully determined by merely taking soil samples. Such variations may result in changes to our recommendations and may require that additional expenditures be made to attain a properly constructed project. Therefore, some contingency fund is recommended to accommodate such potential extra costs.

If there is more than 2 years time between the submission of this report and the start of work at the site; if conditions have changed due to natural causes or construction operations at, or adjacent to, the site; or, if the basic project scheme is significantly modified from that assumed, it is recommended this report be reviewed to determine the applicability of the conclusions and recommendations. The work has been conducted in general conformance with the standard of care in the field of geotechnical engineering currently in practice in the Pacific Northwest for projects of this nature and magnitude. No warranty, express or implied, exists on the information presented in this report. By utilizing the design recommendations within this report, the addressee acknowledges and accepts the risks and limitations of development at the site, as outlined within the report.

8.0 References

Lincoln County web maps <https://maps.co.lincoln.or.us/>

Google Maps <https://www.google.com/maps>

Google Earth 2019

DOGAMI Oregon State Wide Geohazard Viewer (HazVu) <https://gis.dogami.oregon.gov/maps/hazvu/>

DOGAMI Lidar Viewer <https://gis.dogami.oregon.gov/maps/lidarviewer/>

DOGAMI Statewide Landslide Information Layer for Oregon <https://gis.dogami.oregon.gov/maps/slido/>

United States Department of Agriculture Natural Resources Conservation Service, Web Soil Survey.
<https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

Snavely, P.D., MacLeod, N.S., Wagner, H.C., and Rau, W.W., 1976, Geologic map of the Cape Foulweather and Euchre Mountain Quadrangles, Lincoln County, Oregon: Reston, Va., U.S. Geological Survey Miscellaneous Investigations Map I-868, scale 1:62,500.

Ma, L., Wells, R.E., Niem, A.R., Niewendorp, C.A., and Madin, I.P., 2009, Preliminary digital compilation map of part of northwestern Oregon: Oregon Department of Geology and Mineral Industries, Open-File Report O-09-03, scale 1:100,000.

Warren, W.C., Norbistrath, Hans, and Grivetti, R.M., 1945, Geology of northwestern Oregon west of Willamette River and north of latitude 45 degrees and 15 minutes: U.S. Geological Survey, Oil and Gas Investigations Map OM-42, scale 1:145,728.

Appendix

U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

DEPOE BAY QUADRANGLE
OREGON-LINCOLN CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)

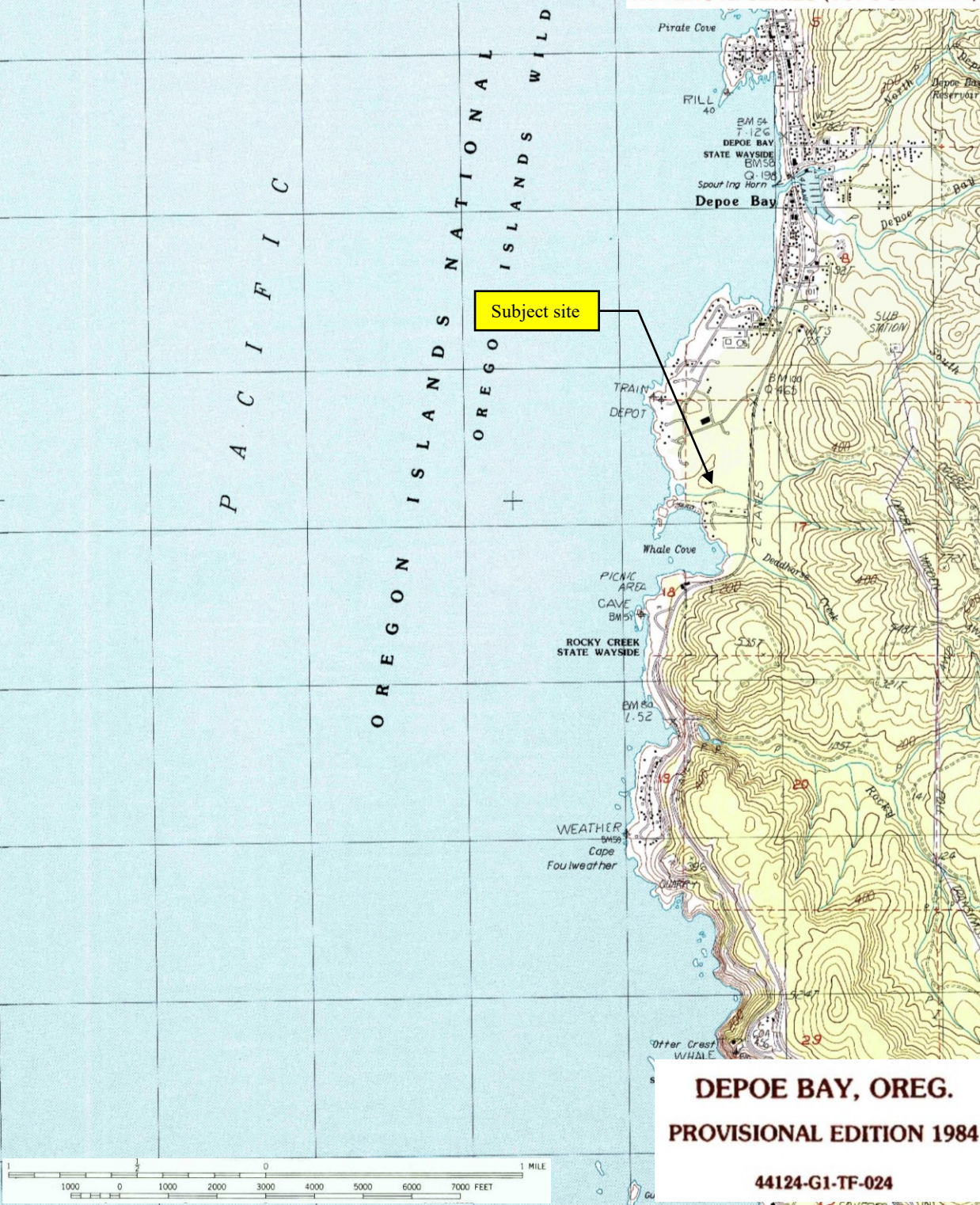


Figure 1: Subject site location on the southwest quarter of the Depoe Bay Quadrangle



Figure 2: Testing Locations

Lab Results

Project Name: Midden Reach (lot 135)

Sample Date 7/18/2023

Moisture

	Sample number	TP-1A	TP-1B	TP-2		
1	Date and time in oven	7/20/2023 - 12:20PM	7/20/2023 - 12:20PM	7/20/2023 - 12:20PM		
2	Date and time out of oven	7/21/2023 - 7:00AM	7/21/2023 - 7:00AM	7/21/2023 - 7:00AM		
3	Depth (ft)	2	4	4		
4	Tare No.	3	4	5		
5	Tare Mass	236	231	235		
6	Tare plus sample moist	1205	1235	1164		
7	Tare plus sample dry	1015	1096	1097		
8	Mass of water (g)	190	139	67		
9	Mass of soil (g)	779	865	862		
10	Water Content (%)	24.4	16.1	7.8		

Classification: SP

TP-1

Surface Elevation:
 Boring Date: 18 July 2023
 Boring Location: Depoe Bay, OR
 Drilling Method: Excavator

SuperLog CivilTech Software, USA www.civiltech.com File: C:\Users\Chelsea\Desktop\Grace 2023\Geotech Reports\Lincoln City, OR\Midden Reach\HAs - Midden Reach.log Date: 7/24/2023

Depth	Remarks	Moisture (%)	Dry Density	Blow Counts	Sample Type	Water Table
0						
0 - 1.5					TP	Top soil: Dry to barely damp, dark grey to black, fine grained with trace fine gravels, moderately- to highly-organic, scattered roots, medium dense, poorly-graded SAND
1.5 - 2.2		24.4			SP	Barely damp, yellow-orange-tan-brown, fine to medium grained with trace fine gravels, dense to very dense, poorly-graded SAND
2.2 - 4.0		16.1			SP	Barely damp, yellow-orange-tan-brown, fine to coarse grained, scattered coarse to cobble size clasts of weathered rock (sub-angular), dense, poorly-graded SAND with occasional gravels/cobbles
4.0					END	Boring completed at depth of 4ft

LOG OF BORING

TP-2

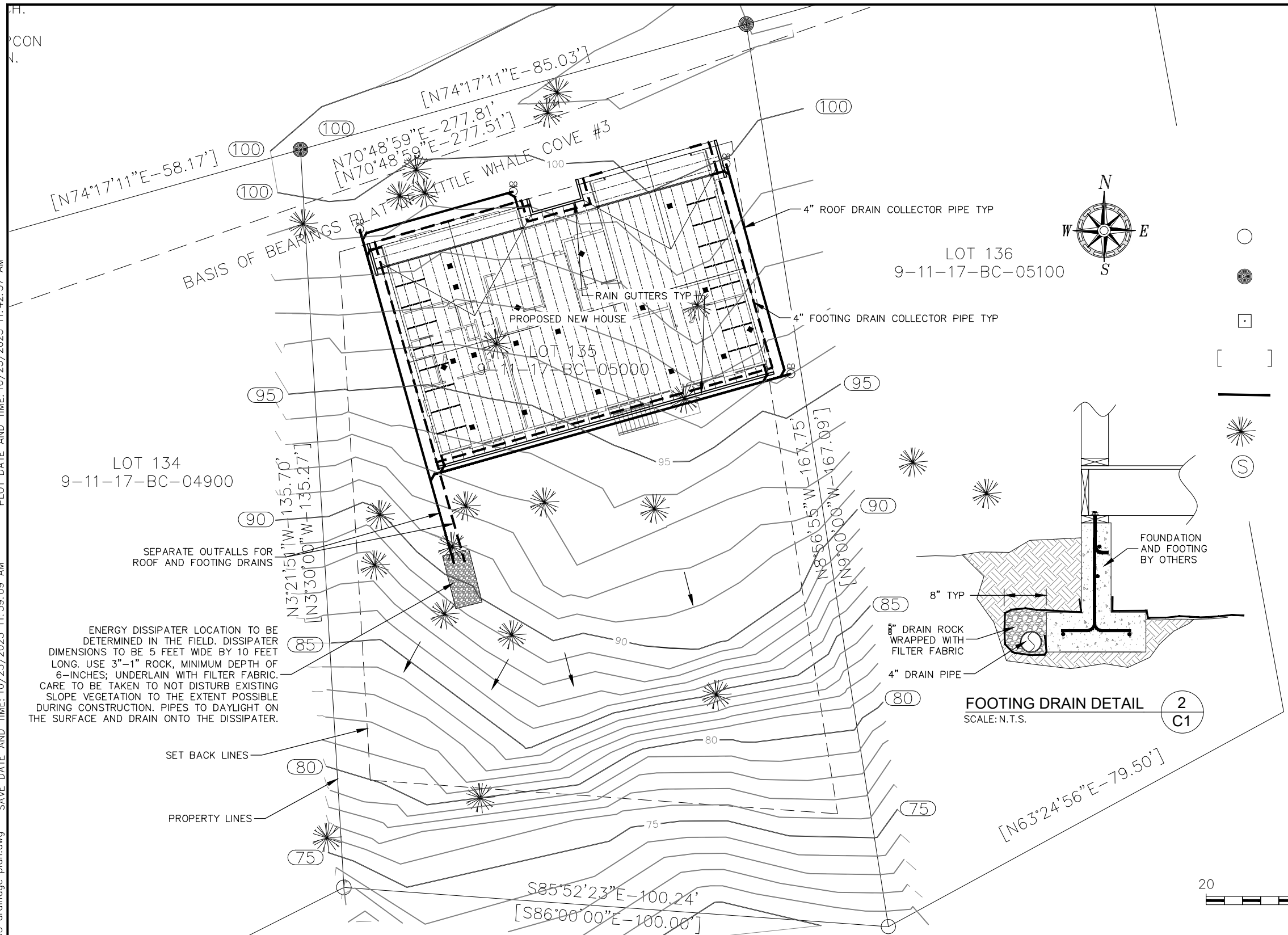
Surface Elevation:
 Boring Date: 18 July 2023
 Boring Location: Depoe Bay, OR
 Drilling Method: Excavator

SuperLog CivilTech Software, USA www.civiltech.com File: C:\Users\Chelsea\Desktop\Grace 2023\Geotech Reports\Lincoln City, OR\Midden Reach\As - Midden Reach.log Date: 7/24/2023

Depth	Remarks	Moisture (%)	Dry Density	Blow Counts	Sample Type	Water Table
0						
0 - 1.5					TP	Top soil: Dry to barely damp, dark grey to black, fine grained with trace fine gravels, moderately- to highly-organic, scattered roots, medium dense, poorly-graded SAND
1.5 - 2.0					SP	Barely damp, rusty brown, fine to medium grained with trace fine gravels, dense to very dense, poorly-graded SAND
2.0 - 3.5					SP	Dry to barely damp, yellow-orange-tan-brown, fine to coarse grained, scattered coarse to cobble size clasts of weathered rock (sub-angular), dense, poorly-graded SAND with occasional gravels/cobbles
3.5 - 4.0		7.8			SP	Dry, tan, fine to medium grained, dense, poorly-graded SAND
4.0					END	Boring completed at depth of 4ft

LOG OF BORING

FILE NAME: 126.23 little whale cove lot 135 drainage plan.dwg SAVE DATE AND TIME: 10/23/2023 11:39:09 AM PLOT DATE AND TIME: 10/23/2023 11:42:37 AM



UNDERGROUND SERVICE ALERT
ONE-CALL NUMBER
1-800-332-2344
CALL TWO BUSINESS DAYS BEFORE YOU DIG

OR

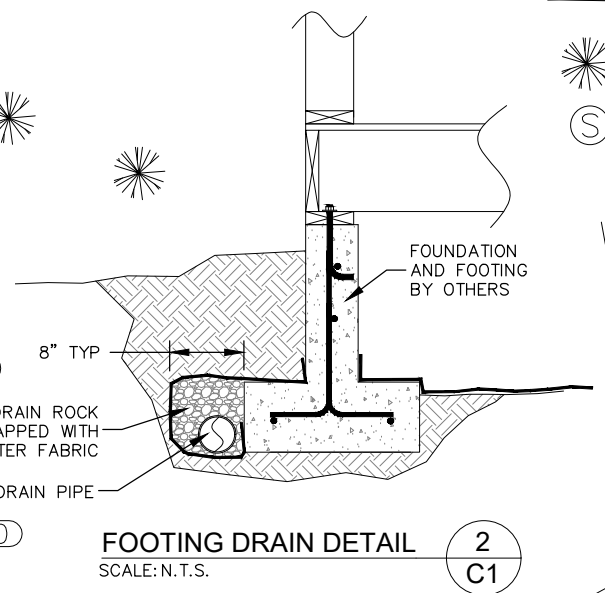
UNDERGROUND SERVICE ALERT
ONE-CALL NUMBER
811
CALL TWO BUSINESS DAYS BEFORE YOU DIG

CONTRACTORS NOTIFICATION REQUIREMENTS LAW

ATTENTION: OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR-952-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE CENTER.

SURVEY AND TOPO PROVIDED BY DAVE LOOMIS SURVEYING

ENERGY DISSIPATER LOCATION TO BE DETERMINED IN THE FIELD. DISSIPATER DIMENSIONS TO BE 5 FEET WIDE BY 10 FEET LONG. USE 3"-1" ROCK, MINIMUM DEPTH OF 6-INCHES; UNDERLAIN WITH FILTER FABRIC. CARE TO BE TAKEN TO NOT DISTURB EXISTING SLOPE VEGETATION TO THE EXTENT POSSIBLE DURING CONSTRUCTION. PIPES TO DAYLIGHT ON THE SURFACE AND DRAIN ONTO THE DISSIPATER.



NOTES:

1. THIS IS A SCHEMATIC DRAINAGE PLAN. THE ACTUAL PLAN MAY VARY DEPENDING ON CONDITIONS IN THE FIELD. THE PURPOSE OF THIS DRAINAGE PLAN IS TO DIVERT ROOF RUNOFF AWAY FROM THE STRUCTURE FOUNDATION, WHILE AVOIDING ANY DETRIMENTAL IMPACTS TO NEIGHBORING PROPERTIES. THE CONTRACTOR SHALL DETERMINE THE OUTFALL LOCATIONS IN THE FIELD.
2. CONTRACTOR TO DETERMINE FINISH FLOOR ELEVATION. FINISH GRADE AROUND THE PERIMETER OF THE STRUCTURE TO BE SLOPED AWAY FROM THE FOUNDATION.
3. INSTALL ALL DRAINAGE PIPING PER BUILDING CODE.
4. PIPE MATERIAL TO BE PVC OR HDPE (SOLID PIPE ONLY), SOLID, FLEXIBLE OR NONFLEXIBLE PIPE DESIGNED AND SUITABLE FOR USE IN RESIDENTIAL DRAINAGE SYSTEMS. MIN 1% SLOPE ON ALL PIPE.
5. CLEANOUTS TO BE PROVIDED AT HIGH END OF RUNS AND EVERY 100FT PER PLUMBING CODE.
6. ALL DRAINAGE ELEMENTS TO REMAIN WITHIN THE LOT BOUNDARY.
7. FOUNDATIONS DRAINS SHOULD NOT BE CONNECTED TO THE ROOF DRAIN SYSTEM.
8. HOUSE LOCATION SHOWN PER SITE PLAN BY OTHERS.

REGISTERED PROFESSIONAL ENGINEER
76978PE
Michael Field
OREGON
SEPT. 13, 2005
MICHAEL K. FIELD
EXPIRES: 12-31-2023

SUBMITTED BY:	DATE:	REVISIONS				DESIGNED:	
APPROVED BY:	DATE:	REVISED	DESCRIPTION	SUBMIT.	APPR'D.	DATE	MKF DRAWN: MKF CHECKED: APPROVED:
							FIELD ENGINEERING MICHAEL K. FIELD, P.E. 320 NW 56TH ST. NEWPORT, OR 97365 (541) 265-2896 (541) 961-3596 cell

LINE IS 1 INCH AT FULL SCALE
IF NOT 1-INCH - SCALE ACCORDINGLY

LITTLE WHALE COVE
LOT 135 - SW MIDDEN REACH
DEPOE BAY, OREGON
RESIDENTIAL DRAINAGE PLAN

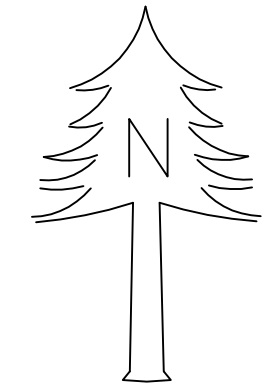
PROJECT NO.	DRAWING NO.
126.23	C1
DATE	SHEET NO.
OCT 2023	1 OF 1

TOPOGRAPHIC SURVEY
FOR SANDRA & CHAD MOESER
LOT 135 OF LITTLE WHALE COVE #3
IN THE SW 1/4 OF THE NW 1/4 OF SECTION 17
TOWNSHIP 9 SOUTH, RANGE 11 WEST, WM
IN DEPOE BAY, LINCOLN COUNTY, OREGON

C.S. # _____
FILED _____
LINCOLN COUNTY SURVEYOR

SURVEYOR'S NARRATIVE

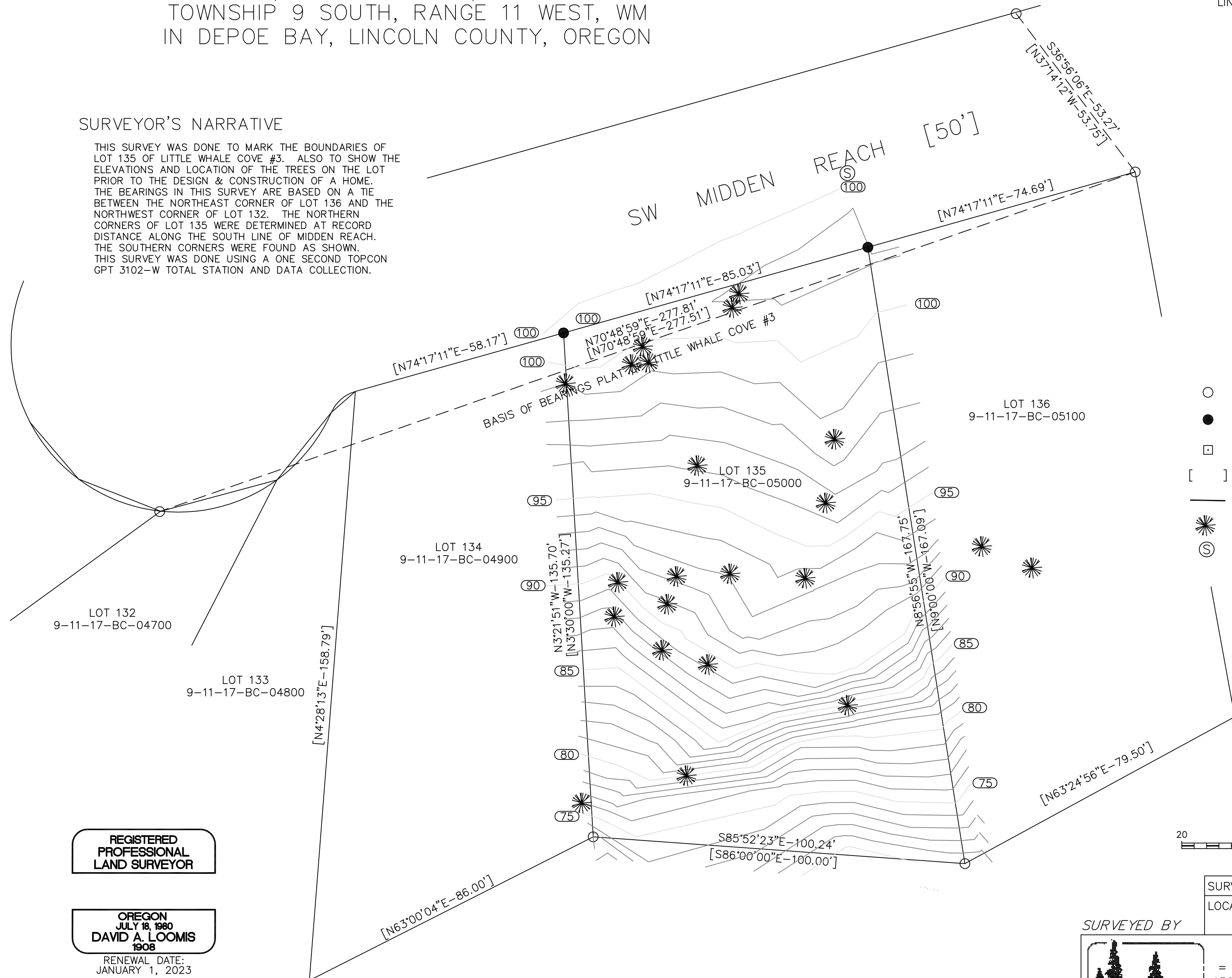
THIS SURVEY WAS DONE TO MARK THE BOUNDARIES OF LOT 135 OF LITTLE WHALE COVE #3. ALSO TO SHOW THE ELEVATIONS AND LOCATION OF THE TREES ON THE LOT PRIOR TO THE DESIGN & CONSTRUCTION OF A HOME. THE BEARINGS IN THIS SURVEY ARE BASED ON A TIE BETWEEN THE NORTHEAST CORNER OF LOT 136 AND THE NORTHWEST CORNER OF LOT 132. THE NORTHERN CORNERS OF LOT 135 WERE DETERMINED AT RECORD DISTANCE ALONG THE SOUTH LINE OF MIDDEN REACH. THE SOUTHERN CORNERS WERE FOUND AS SHOWN. THIS SURVEY WAS DONE USING A ONE SECOND TOPCON GPT 3102-W TOTAL STATION AND DATA COLLECTION.



1" = 20'

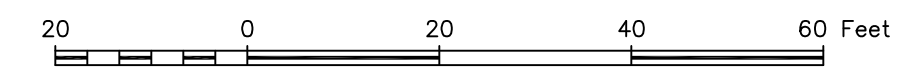
LEGEND

- FOUND SURVEY MONUMENT AS SHOWN
- SET 5/8" x 30" IRON ROD WITH A PLASTIC CAP "LOOMIS PLS 1908"
- CALCULATED POSITION ONLY
- [] RECORD DATA LITTLE WHALE COVE #3
- PROPERTY DEED BOUNDARY
- * EVERGREEN TREE
- Ⓢ EXISTING MANHOLE

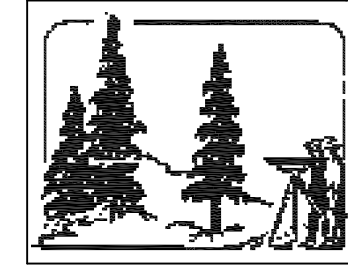


REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 18, 1980
DAVID A. LOOMIS
1908
RENEWAL DATE:
JANUARY 1, 2023



SURVEY FOR: SANDRA & CHAD MOESER	
LOCATION: 9-11-17-BC-05000	
LOT 135 OF LITTLE WHALE COVE #3	
SURVEYED BY DAVID LOOMIS SURVEYING = DAVID A. LOOMIS LS 1908 = 459 PIONEER MOUNTAIN LOOP TOLEDO, OR, 97391 541.270.2928 dave@loomissurveying.com	CHECKED BY: DAL DRAWN BY: DAL SCALE: 1" = 20' DATE: SEPT 2022 No. D122-052



§ 152.028 RESIDENTIAL ZONE R-4.

In an R-4 Zone, the following regulations shall apply.

(A) *Uses permitted outright.* In an R-4 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, and 152.225 through 152.235 where applicable:

- (1) A single-family dwelling built on the site;
- (2) Manufactured home;
- (3) A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle:
 - (a) Is located during the time the construction is underway; and
 - (b) Will not remain more than one year from date of placement or 30 days following substantial completion, whichever is earlier.
- (4) Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further than no commercial structure shall be constructed or maintained on the premises;
- (5) Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building;
- (6) Pre-fabricated or modular dwelling;
- (7) Two-family dwelling;
- (8) Multi-family dwelling;
- (9) Condominiums;
- (10) Residential facility;
- (11) Residential homes;
- (12) Family day care provider;
- (13) Transparent occupation; and
- (14) (a) Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership.
(b) The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous, and cause no odor off-site.

(B) *Conditional uses permitted.* In an R-4 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, and 152.225 through 152.235 where applicable:

- (1) Cemetery;
- (2) Church, non-profit religious, or philanthropic institution;
- (3) Community center;
- (4) Day nursery, nursery school, kindergarten, or similar facility;
- (5) Governmental structure or use of land;
- (6) Home occupation;
- (7) Golf course or country club, but excluding golf driving range miniature golf course, or similar facility;
- (8) Private non-commercial recreation club, such as tennis, swimming, or archery club, but excluding commercial amusement or recreation enterprises;
- (9) Public park, playground, or swimming pool;
- (10) Public school or private school offering curricula similar to public school;
- (11) Public or private utility facility;
- (12) Radio or television transmitter or tower;
- (13) Solid waste disposal transfer station;
- (14) Mobile home park/manufactured dwelling park;
- (15) Retirement home; and

(16) Parking area, meeting the requirements of § 152.058 of this chapter.

(C) *Standards.* Except as provided in §§ 152.055 through 152.076, 152.115 through 152.117, and 152.130 through 152.136 in an R-4 Zone, the following standards shall apply.

(1) *Lot size and dimensions.* The minimum lot size and dimensions in an R-4 Zone shall be as follows:

(a) The lot area shall be 5,000 square feet for a one-family dwelling. The minimum lot area for dwelling unit shall be 2,500 square feet for multi-family dwellings;

(b) The minimum lot width at the front lot line shall be 50 feet for an interior lot and 55 feet for a corner lot, except flag lots. The staff of a flag lot shall have a minimum width and frontage of not less than 25 feet;

(c) The minimum lot depth shall be 80 feet; and

(d) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the landward extent of the property.

(2) *Yards.* The minimum yard requirements in the R-4 Zone shall be as follows:

(a) The front yard shall be a minimum of 20 feet;

(b) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater;

(c) The street side yard shall be a minimum of 20 feet, except this may be reduced by one foot for each foot the average lot width is less than 60 feet, however, no street side yard shall be less than ten feet (see **LOT WIDTH** in § 152.003 of this chapter for method of calculation);

(d) The rear yard shall be a minimum of ten feet, except that on a corner lot, it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater; and

(e) No structure shall be located closer than 60 feet from the center line of any state highway.

(3) *Building height.* No building in the R-4 Zone shall exceed a height of 35 feet.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 130, passed 4-6-1987; Ord. 145, passed 1-3-1989; Ord. 154, passed 9-17-1990; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 186, passed 12-22-1992; Ord. 187, passed 2-16-1993; Ord. 236, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 268, passed 11-2-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.042 PLANNED DEVELOPMENT ZONE (P-D).

(A) *Purpose.* The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design, and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

- (1) Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical, and natural resource values and constraints present on a particular site;
- (2) Respect the surrounding context and enhance community character;
- (3) Provide open space;
- (4) Provide pedestrian and bicycle facilities, such as sidewalks in commercial and high density areas, hiking trails, and bicycle trails;
- (5) Permit greater flexibility in the siting of buildings and other physical improvements, and in the mixing of housing types, in order to accomplish desirable design objectives;
- (6) Provide adequate, structurally sound public and private streets and utilities;
- (7) Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the Comprehensive Plan;
- (8) Ensure the safety of the residents of the city and visitors to the city;
- (9) Allow logical, efficient development or redevelopment of adjacent properties within the P-D and properties adjacent to the P-D;
- (10) Supersede the provisions of §§ 152.250 through 152.265 of this chapter when the latter are expressly contrary to a specific provision of this section, or upon application to and approval by the Planning Commission, provided such approval is consistent with the purpose of this section; and

(11) Allow for flexibility of land uses, such as allow tourist accommodations in residential zones with standards and ensure the developer and/or management company is responsible for all management of the tourist accommodation, including but not limited to responding to noise, trash, overcrowding, and parking complaints. The intent is to place all responsibility on the developer, management, HOA, or property owner, provide the public with easily-accessible management contact, and minimize city time and expense related to the tourist accommodation use.

(B) *General requirements.* The following general requirements shall govern planned developments.

- (1) A planned development may be established in any zone other than the T-C Zone.
- (2) On land subject to an approved planned development, only those uses, structures, and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.
- (3) (a) A planned development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 Zones may be permitted when compatible with each other and harmonious with adjacent uses.
(b) The one exception to division (B)(3)(a) above is the possible approval of short-term rentals (tourist accommodations per § 152.003 of this chapter and including time shares) to the planned development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 Zones. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres. Tourist accommodations in residential zones shall be limited to single-family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, and the like), buffered (space, sight, and sound buffered) from all adjacent uses other than commercial uses, and buffered from adjacent properties that are outside of the P-D. The following city standards shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.

1. *Nuisance control.* No noise, lights, dust, smoke, odors, and electromagnetic frequencies generated on-site in excess of the amounts normally associated with residential uses shall emanate off-site or interfere with surrounding residential or commercial uses.
2. *Lighting.* Outside lighting shall be restricted to low voltage lighting and/or motion sensor lighting for security.
3. *Off-street parking.* For tourist accommodation dwelling uses, off-street parking space requirements are:
 - a. A single-family or two-family dwelling shall have one on-site parking space for each bedroom. A minimum of two parking spaces shall be provided per dwelling;
 - b. A multi-family dwelling shall have one parking space for each bedroom located immediately adjacent to the unit. A minimum of two parking spaces shall be provided per dwelling;
 - c. A parking lot for overflow vehicles, consisting of one additional space per dwelling unit, that shall be in the

immediate area of the tourist accommodations; and

d. If a dwelling unit is a residence plus a tourist accommodation, two additional spaces are required on the same property.

4. *Solid waste disposal.* For tourist accommodation dwelling uses, a minimum 96-gallon vessel shall be provided for each unit, and the unit shall have “carry-out”/“valet” (no need to put vessels at curb) service. A multi-unit dumpster type unit may be substituted, it must be enclosed to the sight-line. Weekly solid waste pick-up is required during all months of the year.

5. *State law compliance.* It is the property owner’s responsibility to ensure that a tourist accommodation dwelling use remains in substantial compliance with state regulations for the following: health, safety, Building Code, Fire Code, tourist accommodation statutes, and the Uniform Housing Code.

6. *Occupancy.* Tourist accommodation dwellings shall not exceed two persons per bedroom plus one additional person per dwelling.

7. *Signage.* The management entity shall only have one exterior on-site sign for the tourist accommodation area. The sign shall identify the site as a tourist accommodation area; identify a local contact person; state that the local contact person is available 24 hours each day, seven days a week to handle rentals and complaints; and identify the local contact person’s business license number. An interior sign with this same information shall be placed inside each tourist accommodation in a noticeable location, such as, near the front door or in the kitchen.

8. *Business license.* For a tourist accommodation dwelling, the property owner and property management company are required to have a city business license. In addition, for tourist accommodation dwelling uses, transient room tax ordinance provisions shall apply.

9. *Revocation.* Any violation of the requirements or standards of this P-D Zone or any other city ordinance may result in revocation of the transient rental unit business license.

(4) Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other non-residential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.

(5) No building shall exceed the height allowed in the underlying zone.

(6) Yards, setbacks, lot area, lot coverage, and similar dimensional requirements may be reduced, adjusted, or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

(7) In the event of a conflict between any applicable use zone provision and the allowances, limitations, or requirements of an approved preliminary plan, the approved preliminary plan shall control.

(8) A planned development shall have a minimum of two contiguous acres, exclusive of street right-of-way. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres.

(9) Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park, or natural land.

(10) Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40-foot wide designated forested corridor on both sides of Highway 101 right-of-way from south point street south to the city limits which shall instead include a four-foot wide walking/biking path (§ 152.074(B)(3) of this chapter applies). The planned development shall also include a connected pedestrian system/network.

(11) Parking shall conform to § 152.058 and Diagram A of § 152.031, with the exception that all parking areas shall be paved.

(12) A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the city. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

(13) Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, and the like). Section 152.074 of this chapter applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service state listed noxious weeds shall be removed and shall not be planted.

(C) *General approval process.* At a minimum, a preliminary plan and lastly a final plan shall be submitted for approval for all planned developments. Once the preliminary plan is approved and the final engineered plans are reviewed and approved by the city, work on the development’s infrastructure may proceed. The final plan is primarily an as-built of the streets and infrastructure, and no building permits shall be approved until the effective date of the final approval of the plan. If the planned development is to be developed in a number of individual sections or phases, each which is developed separate from the others (a phased planned development), a master plan shall first be submitted for approval. Once the master plan for the entire development is approved, each phase (section) of the development shall follow the standard preliminary plan

and final plan process.

(1) If the planned development is a phased planned development, the initial step is the submission of the master plan for the entire development, which shall be submitted for approval as per division (D) below.

(a) The master plan is the over-arching plan of the entire development and of all phases. The primary purpose of a master plan is to propose and establish the development's overall concept, overall planning, and the integration of all phases. Master plan approval does not permit development or construction to occur.

(b) If a master plan for a phased development is approved, the applicant or its successor shall obtain separate preliminary and final approvals for each phase. For each individual phase, a preliminary plan shall be submitted for approval as per division (E) below prior to any work starting on the infrastructure of that phase.

(c) If a preliminary plan for an individual phase impacts the master plan, an updated master plan shall be submitted with that preliminary plan.

(d) A master plan is not required for a planned development that is not using a phased development approach.

(2) For a planned development that is not a phased planned development, the initial step of a planned development is the submission of a preliminary plan for the complete development, which shall be submitted for approval as per division (E) below. Work on the development's infrastructure may only proceed once the preliminary plan is approved.

(3) A final plan shall be submitted for approval as per division (H) below upon completion of all conditions and requirements of the individual phase preliminary plan or the entire development's preliminary plan. No building permits shall be approved until the effective date of the final approval of the final plan.

(D) *Master plan.* A master plan for planned developments shall be developed as follows.

(1) *Master plan review procedure.* The procedure for application and review of a master plan shall be as set forth in § 152.204(C) of this chapter.

(2) *Content of master plan.* Application for master plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) A narrative describing the plans for phasing (if applicable);

(b) A summary describing the general locations for any reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements of this chapter; and

(c) A summary describing the general locations for any desired variances, exceptions, deviations, waivers, conditional uses, zone changes, and the like, and a supporting narrative that acknowledges the zoning application procedure and criteria order to obtain each approval.

(3) *Approval on findings.* Master plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(4) *Approval date.* Master plan approval is valid from the date all legal appeals are exhausted. Changes to an approved master plan require an application for a master plan amendment to be reviewed and approved by the Planning Commission as set forth in § 152.204(C) of this chapter.

(E) *Preliminary plan.* A preliminary plan for planned developments shall be developed as follows.

(1) *Submittal.* A preliminary plan shall be submitted for a non-phased planned development.

(2) *Phase development.* For a phased development, a preliminary plan shall be submitted for each phase of development.

(a) A preliminary plan may be submitted for a phase concurrent with a master plan application. The Planning Commission will review the preliminary plan the meeting after the master plan is approved.

(b) Each phase shall meet the criteria of divisions (E)(4), (F), and (G) below independently of the other phases.

(3) *Preliminary plan review procedure.* The procedure for application and review of a preliminary plan, which shall be as set forth in § 152.204(C).

(4) *Content of preliminary plan.* Application for preliminary plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) Proposed covenants, restrictions, bylaws, and the like of any homeowners associations and any taxing districts;

(b) A narrative describing the locations for any divergence from this chapter in the form of reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements;

(c) Submittal of any requests for variances, exceptions, deviations, waivers, conditional uses, and the like; and

(d) A narrative describing the specific area of any short-term rentals and describing how the rentals will be managed, policed, the city transient room tax (TRT) and the city transient occupancy tax (TOT) are collected, and city TRT and TOT are forwarded to the city.

(5) *Approval; findings.* Preliminary plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(6) *Approval; final engineering plans.* Based on the preliminary plan approval, the applicant is required to submit final engineering plans to be reviewed and approved by the city prior to any construction. The applicant shall be responsible for all costs the city may incur by hiring a professional engineer to review and comment on the final engineering plans.

(7) *Time limit of preliminary plan approval.* Approval of a preliminary plan in accordance with this section is valid after the exhaustion of all appeals (see § 152.208). Infrastructure (streets and utilities) shall be designed and constructed in accordance with current design standards unless specific exceptions are granted by the Planning Commission.

(F) *Common content of master plan and preliminary plan.* In addition to the forms prescribed by the city, an application for master plan approval or a preliminary plan approval of a planned development shall include the following:

(1) A site plan map or maps depicting:

(a) All proposed residential and non-residential land uses;

(b) Any proposed tourist accommodation area in a residential zoned area, describing the type, location, and number of each type of tourist accommodation (house, apartment, hotel, condo, time-share, and the like), also showing and describing the buffering from adjacent uses;

(c) Parking areas and lots, showing number of spaces;

(d) Proposed lot or parcel boundaries;

(e) Proposed roads;

(f) Proposed pedestrian system and facilities;

(g) Significant natural features, such as wetland, streams courses, environmental hazards, and fish and wildlife habitat areas; and

(h) Proposed open space, recreation areas, or other common elements, and approximate topography with contour intervals of not more than ten feet.

(2) Drawings of the architectural styles of the different areas of the development;

(3) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to divisions (A) and (B) above, including detailed discussion of how the proposal conforms to the requirements of division (G) below, how the development meets the parking requirements of the § 152.058 of this chapter, proposed methods of providing sewer, water, storm drainage, and other utility services, the method proposed for ownership, funding, and maintenance of common areas, buildings, structures, roads, open space, landscaping, parking areas, fences, buffers and/or sight, sound barriers to adjacent properties, or other facilities, public access to and use of the aforementioned, and the proposed time schedule of development; and

(4) Other maps or narrative materials needed to determine compliance with any applicable provisions of this chapter, as determined by initial review of the application for completeness.

(G) *Common master plan and preliminary plan approval criteria.* Approval by the Planning Commission of a master plan or a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

(1) All applicable requirements of this section are met;

(2) The proposed development is consistent with the Comprehensive Plan goals and policies, and zoning provisions for the area;

(3) Per § 152.251 of this chapter, the provisions of §§ 152.250 through 152.265 of this chapter shall be applicable to approval criteria unless expressly contrary to a specific provision of this section;

(4) The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedure: protection of significant natural and cultural features and resources, such as historical, scientific, and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as, as examples only, suitably located open space, recreation facilities, and other common facilities for inhabitants of the planned development; includes pedestrian oriented development which reduces reliance on automobile travel, and provides similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards;

(5) In acting to approve, the Commission shall be mindful of the purposes of this section by encouraging and promoting creativity and innovation in site planning, and by allowing for flexibility in the application of design standards. The Commission may also impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this section; and

(6) The proposed development is in substantial harmony with the area at least 250 feet outside the boundary of the

proposed development. In the case of a phased planned development, all phases shall also be in visible agreement with each other architecturally and otherwise.

(H) *Final plan.* Upon completion of all conditions and requirements of a preliminary plan, application may be made for final approval in accordance with the provisions of this section.

(1) *Final plan review procedure.* The procedure for application and review of a request for final plan approval shall be as set forth in § 152.204(C).

(2) *Certifications required for final plan approval.* Requests for final plan approval shall be accompanied by the following certifications, as applicable:

(a) A copy of all covenants and restrictions;

(b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;

(c) As-built certifications for all required roads and utilities;

(d) If the planned development involves a division of land, the certifications required by §§152.250 through 152.265 of this chapter; and

(e) Other certifications required as a condition of the preliminary plan approval.

(3) *Final plan approval criteria.* The Commission shall approve a final plan provided that:

(a) The submitted final plan is in substantial conformance with the approved preliminary plan and master plan (if a phased planned development); and

(b) All of the certifications required by division (H)(2) above have been submitted in proper form.

(4) *Permits.* No building permits shall be approved until the effective date of the final approval of the final plan.

(I) *Retroactivity.* The provisions in this section shall not apply to planned developments, or phases thereof, which were granted preliminary plan approval prior to the effective date of this section. In those cases the prior version of this section shall apply, unless said approval expires without applicant having obtained the final approval.

(J) *Amending an approved planned development master plan or preliminary plan.* When a developer or owner desires to deviate from an approved master plan or preliminary plan, any applicable documents that would result in modification from that change shall be submitted for approval. The review process is identical as a new planned development approval. As a result of the change, the Planning Commission may require changes to approved uses, structures, and other forms of development to ensure the proposed development remains consistent with the Comprehensive Plan goals, policies, and zoning ordinance provisions for the area, and to ensure all areas of the planned development remain in harmony following division (A) and (B) of this section.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004; Ord. 310, passed 11-1-2016) Penalty, see § 152.999

§ 152.058 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS.

At the time a new structure is erected or the square footage is increased, or the use of the structure is changed, off-street parking spaces, loading areas, and access thereto shall be provided as set forth in this section.

(A) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(B) In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the several uses computed separately.

(C) Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, or contracts to establish the joint use and hours of operation.

(D) Off-street parking spaces for dwellings, hotels, motels, resorts, and time-shares shall be located on the same lot or on a lot immediately adjacent to the lot served by such parking.

(E) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(F) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved adequately for all-weather use, and shall be adequately maintained. Drainage shall conform to the city's storm water master plan and a drainage plan shall be approved the city field superintendent.

(G) Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones, or adjacent to Highway 101, or residential uses shall be designed to minimize visual impacts by use of landscaping or by a fence screened by landscaping.

(H) Parking areas used for public or private parking lots under the conditional use in an R-4 Zone must have garbage containers available for garbage which may be generated by users of the parking lot. Such garbage containers must be emptied on a regular basis and not less than weekly. Parking lots shall be posted with the following sign: "no camping or overnight use" and shall have their hours posted. Parking lot hours shall not extend beyond 10:00 p.m. or open earlier than 4:00 a.m. If the property fails to enforce the parking prohibitions, the Planning Commission may review and consider whether or not to revoke the conditional use permit.

(I) Parking spaces along the outer boundaries of a lot shall contain a curb or bumper rail at least four inches high and set back four feet from the front of the space.

(J) Artificial lighting may be used in parking areas provided it is of low intensity, is pointed generally downward, and is shielded if necessary so as to not create light or glare off-site.

(K) Except with respect to approved driveways, required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(L) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

(M) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(N) Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths of sufficient numbers and size to handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this section may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.

(O) All spaces shall be permanently and clearly marked. Markings which guide safe and efficient traffic flow shall also be permanently and clearly marked. All markings shall be replaced regularly to remain visible.

(P) All improvements, including surfacing, storm water management, striping, and landscaping shall be fully maintained for the life of the parking facility. Failure to maintain such improvements shall constitute a violation of this chapter.

(Q) All parking lots shall be designed with spaces for handicapped drivers as provided for in the Building Code.

(R) The clear vision requirements set forth in §152.055 of this subchapter shall apply to all parking lots at the intersection of two streets or a street and an alley.

(S) For C-1 Retail Commercial Zoned properties, off-street parking requirements shall be located on the same lot or within 500 feet (as measured by a direct line from the nearest property line to the nearest property line of the parking lot).

(1) On-street parking spaces that front the lot and are adjacent (on the same side of the street) may be counted in the required parking. Over one-half of the parking space shall be directly within the street frontage of the lot in order to be counted in the required parking.

(2) When the square footage of a business or structure is increased, or the use is changed, only the spaces associated

with the increased square footage or area of change must be added.

(3) No person who works or resides in properties fronting Highway 101 shall park a vehicle on Highway 101 while in his or her place of employment, or in his or her residence between 9:00 a.m. and 5:00 p.m. on any day. Single-family dwellings are exempt.

(4) Parking on Highway 101 is limited to four hours between 6:00 a.m. and 6:00 p.m.

(5) All parking shall be general purpose parking/public parking with the exception of residential uses which may have designated off-street parking spaces. If required parking is off-site but within 500 feet, the applicant must provide written documentation from the property owner authorizing the parking. If a variance to parking requirements is pursued, the applicant shall demonstrate that off-site parking is not available within 500 feet.

(T) Off-street parking space requirements:

Animal hospital or kennel	1 space per 500 square feet
Any single- or multi-family residential use, including condominium or time share	2 spaces per unit
Church, auditorium, meeting place, theater, gymnasium, mortuary, or similar place of assembly	1 space for each 50 square feet of floor area used for assembly
Dance hall, skating rink, pool hall, aquarium, bowling alley, or similar commercial amusement enterprise	1 space for each 100 square feet of floor area
Day care, nursery school, kindergarten, elementary and middle schools, and similar uses	2 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Financial institution, laboratory, or office	1 space for each 300 square feet of floor area
Golf courses	5 spaces per hole, plus the 75% the ancillary parking requirements
High schools	8 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Hospital	3 spaces for each 2 beds
Laundromat	1 space per three machines
Library or similar facility	1 space for each 300 square feet of floor area
Manufacturing, fabrication, assembly, processing, cabinetry, or similar use	1 space for each 1,000 square feet of floor area
Marina or other moorage facility	1 space per boat mooring space
Medical or dental clinic	1 space for each 200 square feet of floor area
Miniature golf	1.5 spaces per hole
Nursing home, residential facility, residential home, or retirement home	1 space for each 3 beds
Personal or business service	1 space per 250 square feet
Public or private swimming pool	1 space per 100 square feet
Recreational vehicle park	3 spaces for each two RV spaces
Restaurants and bars	1 space for each 100 square feet of serving area (total floor area where public is allowed, excluding restrooms and other specified uses, such as designated retail space)
Retail store not handling bulky merchandise	1 space for each 350 square feet of floor area
Service or repair shop; retail store handling bulky merchandise, such as automobiles, furniture, boats, marine equipment, and the like; automobile service station, feed and seed; heavy equipment; lumber or building supplies; or similar uses	1 space for each 600 square feet of sales, storage, or repair area
Tourist accommodation	1 space for each guest accommodation
Warehouse, storage, and wholesale business	1 space for each 2000 square feet of area

(U) The required size of parking spaces, aisles, driveways, and similar design features are set forth in Diagram A. Required landscaping areas are not shown.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 92, passed 7-7-1982; Ord. 124, passed 7-1-1985; Ord. 130, passed 4-6-1987; Ord. 145, passed 1-3-1989; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 234, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 279, passed - -2007)

§ 152.072 PROTECTION OF STREAMS, PONDS, WETLANDS, AND RIPARIAN AREAS.

(A) *Purpose.* The purpose of this section is to provide procedures necessary to secure the desirable attributes of the city from depletion by recognizing the value of streams, ponds, wetlands, and riparian vegetation for fish and wildlife habitat, maintenance of water quality and quantity, alleviation of flooding hazards, storm water control, recreation and aesthetics, and to provide for open space. Protection of the natural drainageways as an integral part of the city environment in accordance with the Local Wetlands and Riparian Inventory (2004) (LWI) is also important in order to manage stormwater drainage, minimize maintenance costs, and protect properties adjacent to drainageways.

(B) *Application.* The provisions of this section shall apply to the streams, significant wetlands, ponds, and riparian areas identified in the Comprehensive Plan's LWI. The provisions of this section shall also apply to existing streams, significant wetlands, and riparian areas that are not yet identified in the LWI. The provisions of this section are to be applied in conjunction with the provisions of the underlying zone and are also subject to the applicable provisions of §§ 152.039, 152.040, 152.076, 152.130 through 152.136, 152.150 through 152.158, 152.170 through 152.173, 152.185 through 152.188, 152.200 through 152.210, and 152.225 through 152.235. Where the provisions of this section and the underlying zone conflict, the more restrictive regulations shall apply. Forestry activities subject to the riparian regulations of the Oregon Forest Practices Act, being O.R.S. 527.610 through 527.810, are exempt from regulation under this section. Forestry activities not subject to the riparian regulations of the Oregon Forest Practices Act are subject to regulation under this section.

(C) *Procedure for development applications.* Applicants requesting approval for any development permit in an area which contains a designated resource identified in division (D) below shall submit, along with any application, a detailed site plan and written statement demonstrating how the proposed activities will conform to each of the applicable standards of this section. The Planning Commission shall review the application in a public hearing and determine if all of the applicable criteria are met.

(D) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRAINAGEWAYS. The streams, channels, springs, lakes, ponds, reservoirs, ponding areas, and wetlands indicated in the LWI and the stormwater master plan maps of existing facilities.

FISH HABITAT. The areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

POND. A small body of intermittent or perennial standing water that is a persistent feature of the landscape.

RIPARIAN AREA. The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

RIPARIAN CORRIDOR. Includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

RIPARIAN CORRIDOR BOUNDARY.

(a) An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation.

(b) Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50 feet inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25 feet inland (or upland) from the upland edge of the wetland or pond.

STREAM. A channel, such as a river or creek, that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding human-made irrigation and drainage channels.

WATER AREA. The area between the banks of a lake, pond, river, or perennial or fish-bearing intermittent stream, excluding human-made farm ponds.

WETLAND. An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(E) *Riparian corridor protection standards.*

(1) The actual location of streams, wetlands, ponds, and riparian areas, shall be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the state. A report and map shall be submitted which documents the boundaries of the resource and its buffer.

(2) The outer boundaries of the riparian corridor shall be clearly marked in the field, and such markings shall remain visible for inspection until all development on the site is complete.

(3) No filling, grading, excavating, or draining is permitted in a wetland area unless such is performed for restoration purposes. Valid permits from the U.S. Army Corps of Engineers and from the Oregon Department of State Lands, or written proof of exemption from these permit programs must be obtained and presented to the city prior to any such work.

(4) The flow from springs, drainages, streams, and other features providing the water necessary to maintain wetlands hydrology, shall not be diminished or substantially increased.

(5) Within the riparian corridor boundary, no grading shall occur, no impermeable surfaces or structures shall be placed, and no vegetation shall be removed or destroyed, except that the following are allowed, provided they are designed and constructed to minimize intrusion into the riparian area:

- (a) Removal of riparian vegetation necessary for a use that requires direct access to the water;
- (b) Placement of utilities, drainage facilities, and irrigation pumps;
- (c) Replacement or enlargement of existing structures with structures in the same location that do not disturb additional riparian surface area;
- (d) The placement of walking paths and road crossings;
- (e) Removal of non-native noxious vegetation, such as scotch broom, blackberries, and ivy, and replacement with native plant species;
- (f) Fish and habitat restoration activities approved by Oregon Department of Fish and Wildlife; and
- (g) Removal of vegetation necessary for the development of water related and water dependent uses.

(6) Before any development activity occurs within a riparian corridor, there must be a review and report prepared by a licensed, certified arborist. The arborist's report must be submitted to the city before any development activity occurs. The responsibility for this review lies with the applicant.

(7) Valid permits from the U.S. Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must be obtained and presented to the city before commencement of any of the activities associated with allowed uses which will impact the streams, ponds, wetlands, and riparian areas.

(8) Development activities shall not change the natural drainage or substantially increase the water flow.

(9) Development activities shall not create erosion into the stream, wetland, pond, or riparian area.

(F) *Drainageway protection standards.*

(1) To prevent new development from significantly increasing the amount or flow rate of surface water run-off destined for the drainageway, any new development or redevelopment proposed on land on or adjoining a drainageway shall:

- (a) Avoid filling in, disturbing, or changing the location of the natural drainageway;
- (b) Avoid placing impervious surfaces within 15 feet of the drainageway;
- (c) Not "hardline" roof and perimeter drains into the drainageway, but provide for infiltration or run-off on site before allowing it to enter the natural drainageway; and
- (d) For subdivisions, provide for engineered stormwater plans that provide for on-site storm water detention and treatment.

(2) This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(G) *Hardship variances.*

(1) *Applicability.* This section applies to lots existing prior to January 1, 1982 in the Coastal Shorelands Overlay Zone or along North and South Depoe Bay Creeks, or prior to January 1, 2001 in other areas of the city.

(2) Where a minimum building footprint of less than 800 square feet would result from application of the rules of this section, reduction or removal of the restrictions under this section can be granted to allow the building of a structure within such a building footprint through the variance procedure. Applicants for variance from this section should demonstrate, in addition to the criteria found in the variance ordinance (§§ 152.170 through 152.173 of this chapter), that intrusion into the required riparian corridor, wetland, or drainageway protection areas has been minimized by maximizing setback variances on property line boundaries away from these resources. Applicants shall consult with a fish biologist regarding impacts to the riparian corridor and stream, and provide that documentation to the city, when requesting intrusion into the required riparian corridor associated with North Depoe Bay Creek or South Depoe Bay Creek.

(H) *Map error.* If the resource is not located on a subject property, although the inventory map indicates it to be, the applicant for a building permit shall follow the following procedure:

- (1) The boundary of the property with proximity to the resource area shall be marked between surveyed property markers with a visible string or tape;
- (2) The applicant shall contact the City Planner and request a site visit;
- (3) The City Planner shall inspect the property and, if the resource is not on the subject property, issue the applicant a note stating the resource is not on the subject property and is exempt from the provisions of this section; and

(4) When the extent of the resource area cannot be determined by the city, the applicant shall seek prompt assistance from a natural resource agency in making that determination, or provide a written report from a properly-qualified specialist describing the boundaries of the resource area in relationship to the property boundaries.

(Ord. 256, passed 4-6-2004; Ord. 278, passed 3-21-2007) Penalty, see § 152.999

Planned Development Application
Case File: #1-PD-PC-24
Date Filed: Feb. 12, 2024
Application Complete: Feb. 14, 2024
1st Meeting Date: Mar. 13, 2024
2nd Meeting Date: Apr. 17, 2024, 6:00 pm
120-day Decision Date: Jun. 11, 2024

STAFF REPORT

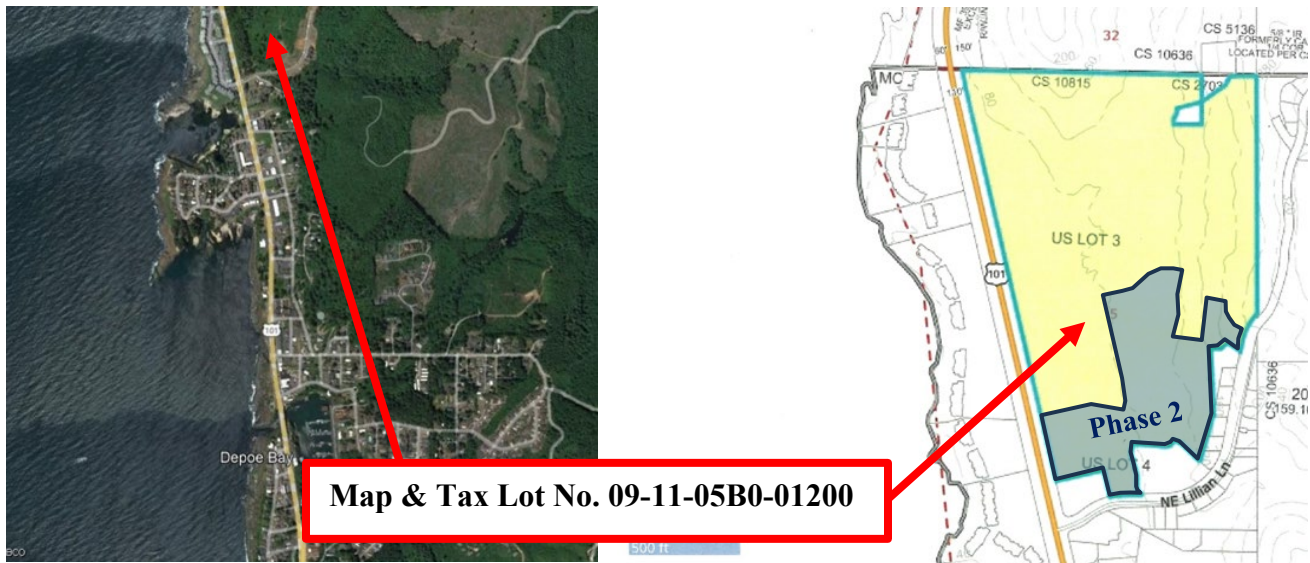
Depoe Bay Planning Commission Action

OWNER/APPLICANT: Hills of Depoe Bay, LLC

REQUEST: The applicant requests approval of the Phase 2 Preliminary Plan for the *Whale Watch* Planned Development. Phase 2 is proposed to consist of forty (40) detached single-family residences, a 4-unit multi-family building, and a 0.15-acre site for a future civic building. There are a total of 44 residential units proposed in this phase. Use of the residential units in this phase as tourist accommodations (vacation rentals) will not be allowed. NE Shoreline Drive is planned to be extended northward from NE Lillian Lane to access Phase 2, with additional streets (NE Sand Dollar Drive and NE Baleen Drive) to provide circulation within the phase.

REPORT OF FACTS:

1. **Property Location:** The subject property is located at 1032 N Highway 101, and is further identified on Lincoln County Assessor's Map 09-11-05B0 as Tax Lot 01200.



2. **Lot Size:** The existing lot totals 42.71 acres in acre, with Phase 2 occupying 9.64 acres.
3. **Zoning Designation:** Retail Commercial C-1 and Residential R-1.
4. **Plan Designation:** Commercial and Residential.

5. **Surrounding Land Use:** Single-family residential dwellings are located south of the site along NE Lillian Lane in *Whale Watch* Phase 1. Land to the east is undeveloped and zoned Timber Conservation T-C, while land in Phase 1 of the *Depoe Hills* Planned Development (zoned R-2PD) is located to the northeast. Tourist accommodations (*Worldmark/Whale Pointe*, *The Village at North Pointe*, and *Thundering Shores*) are located to the west. Boiler Bay State Park abuts the site to the north.
6. **Topography:** The Phase 2 site slopes downward from east to west with the eastern third of the site having some slopes exceeding 20% steepness.
7. **Existing Structures:** None
8. **Utilities:** The following utilities are currently available to serve the subject property:
 - a. Sewer: City sewer service.
 - b. Water: City water service.
 - c. Electricity: Central Lincoln PUD.
9. **Development Constraints:**
 - a. Steep slopes exceeding 20%.
 - b. Wetlands and riparian areas.
 - c. Cultural resources.

EVALUATION OF THE REQUEST:

1. **Relevant Criteria:**

Depoe Bay Zoning Ordinance

- DBZO Section 152.025: Residential R-1
- DBZO Section 152.030: Retail Commercial C-1
- DBZO Section 152.042: Planned Development Zone P-D
- DBZO Section 152.055: Supplemental Regulations
- DBZO Section 152.185: Amendments
- DBZO Section 152.225: Development Guidelines
- DBZO Section 152.250: Land Division

Depoe Bay Comprehensive Plan

- 2017 Depoe Bay Transportation System Plan

Complete descriptions of the relevant criteria are attached to this Staff report. In addition, site development is subject to the current criteria of the *Whale Watch* Master Plan, as recently amended in 2023 (Case File #1-PD-PC-23).

2. **Applicant's Proposal:** The applicant submitted the application forms and fee/deposit for an amendment to the *Whale Watch* Planned Development. The applicant describes its request for *Whale Watch* Phase 2 as follows:

The *Whale Watch* Planned Development – including the proposed Phase 2 Preliminary Plan – would be consistent with the Comprehensive Plan Housing Goal: *To provide for the housing needs of the (year-around and seasonal) residents of the community.* It would also be consistent with the Comprehensive Plan Economy Goal: *To enhance the economic growth of the city while preserving natural resources and character that make Depoe Bay the unique community it is.* Construction of Phase 2 is planned for 2024 through 2025.

This is a request for approval of the Phase 2 Preliminary Plan and Tentative Subdivision Plat for the *Whale Watch* Planned Development. Phase 2 is proposed to build out the north/northwest side of NE Lillian Lane between NE Shoreline Drive and NE Sand Dollar Drive, ending at NE Baleen Drive. Phase 2 consists of forty (40) single-family residential lots, one (1) multi-family residential lot (4 dwelling units) and one (1) civic lot. The proposal also includes a future Zone Change to reconfigure the boundary between the C-1 and R-1 zones, and to apply the P-D suffix to the entire phase. The Planning Commission will consider the Preliminary Plan and Tentative Subdivision Plat, and will forward a recommendation on these and the requested Zone Change to the City Council for its final approval and adoption.

The application was accompanied by the following exhibits and attachments:

- *Whale Watch* Amended Master Plan (Case File #1-PD-PC-23)
- *Whale Watch* Phase 2 Preliminary Plans
- *Whale Watch* Phase 2 Conceptual Architectural Plans
- *Whale Watch* Phase 2 Zone Change

3. **Public Agency Comment:** Relevant portions of the *Whale Watch* Phase 2 application were forwarded to the following agencies for review and comment:

City of Depoe Bay Public Works/City Engineer: The City Engineer has reviewed the proposed plans. A copy of the City Engineer's comments, including recommended conditions of approval, is attached. Aside from the recommended conditions, the City Engineer offers comment on a few issues that will need to be addressed prior to approval of the subdivision and/or building permits for *Whale Watch* Phase 2:

- Sanitary Sewer: The applicant is proposing to extend gravity sewer through the development to serve the proposed lots. The new sewer will connect to the existing gravity system in NE Lillian Lane. The plans show a line in NE Baleen Drive with no connections. This line is presumed to be extended with future phases. The applicant is responsible for ensuring all gravity lines installed within the development are adequately sized to accommodate flows from future phases of the applicant's Master Plan. All sanitary sewer manholes shall be located within the traveled roadway.
- Water: The water system in the proposed development spans two pressure zones, defined as Zones 1 and 2 in the applicant's Water Master plan. Water lines are looped throughout the development and the two pressure zones are connected through a pressure reducing valve assembly located near the intersection of NE Shoreline Drive and NE Baleen Drive. Proposed water lines connect to the existing system in NE Lillian Lane. The preliminary utility plan shows two water lines in what appears to be a shared trench extending from NE Lillian Lane to NE Sand Dollar Drive, within Shoreline Drive. These water lines shall be separated by minimum of six (6) feet during final design.
- Stormwater: Stormwater systems are provided throughout the development to collect and convey stormwater runoff from the roadways and development areas through a series of inlets,

manholes and pipes. The system shall be redesigned to separate inlets from conveyance lines. This can be addressed in final design.

Several open-channel conveyance systems are proposed. Open channels shall be vegetated or armored with rip rap to mitigate scour. This can be addressed in final design.

Stormwater from approximately half of the development area drains to a large stormwater facility located in Tract P. This pond appears generally consistent with what the applicant depicted in the *Whale Watch* Village Master Plan Preliminary Stormwater Management Plan, dated April 2022. The remaining development area drains to an unidentified discharge point near the intersection of NE Shoreline Drive and NE Baleen Drive. Stormwater management for this outfall must be addressed in final engineering.

- Streets: The applicant proposes a 55-foot-wide right-of-way on NE Shoreline Drive, 63-foot-wide rights of way NE Sand Dollar and NE Baleen drives, and a 25-foot-wide right-of-way for the two alleys. The width of travelled way is twenty (20) feet for all roadways. Road Section C – Sand Dollar Drive notes ‘soft surface path where shown’ in lieu of concrete sidewalks. Soft surface paths are not acceptable in the public right-of-way.

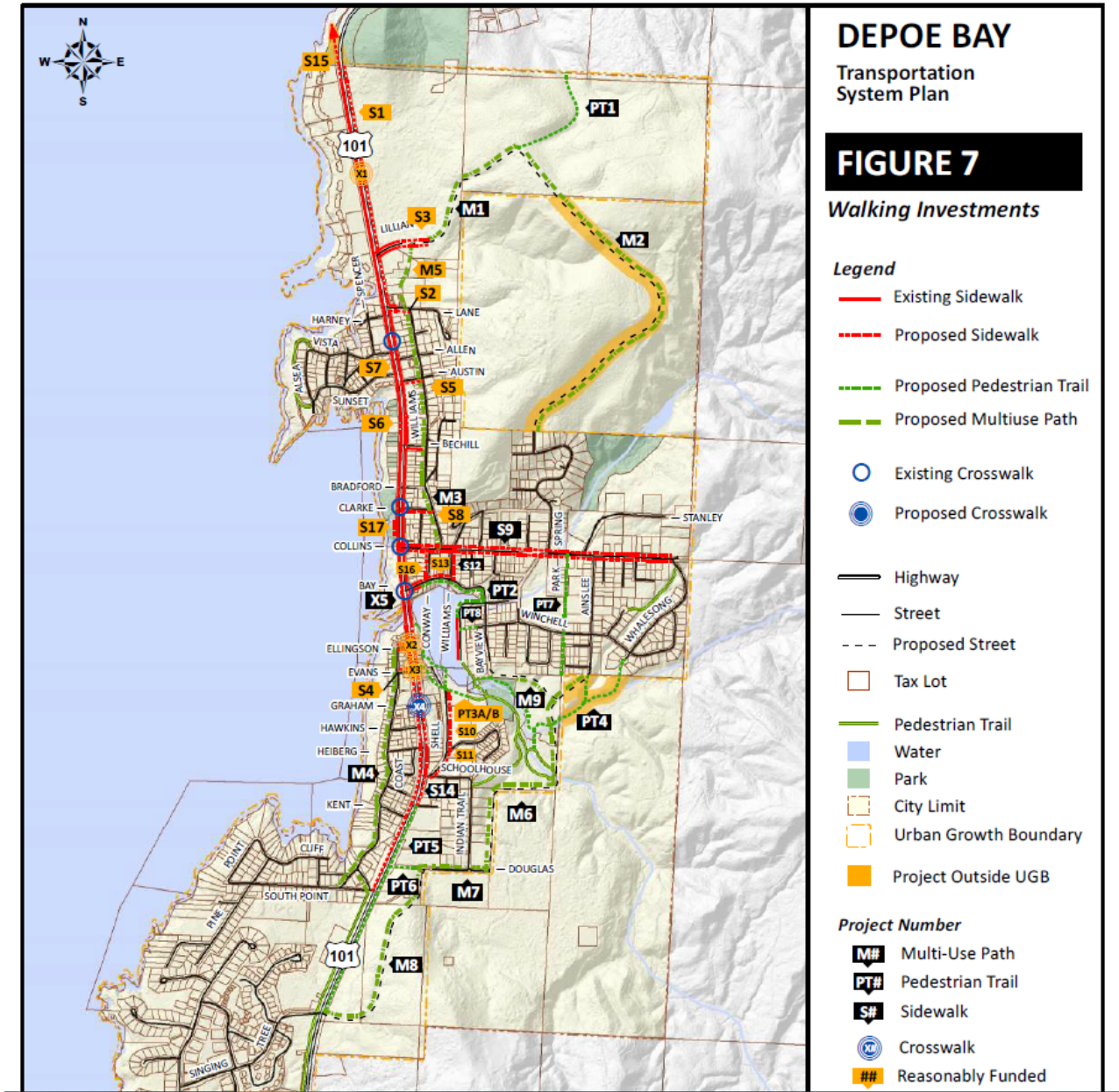
The roadway slope of NE Sand Dollar Drive is 14.97% at the intersection with Alley 2. This slope is too steep for an intersection and should be redesigned in final engineering.

Depoe Bay Rural Fire Protection District: The Depoe Bay Fire Protection District has reviewed the proposed plans, and identified no issues of concern with the proposal.

North Lincoln Sanitary Service: North Lincoln Sanitary Service has reviewed the proposed plans, and has determined that they are able to provide rubbish and recycling pickup from the 25-foot-wide alleys behind the proposed residences, provided that there is no parking allowed within the alleys.

Oregon Department of Transportation (ODOT): Various ODOT Staff members have reviewed the proposed plans. It was noted that the original *Whale Watch* Master Plan approval identified several 2017 Transportation System Plan (TSP) projects to be implemented as a part of the planned development as a whole. These include:

- **Project S1.** *US 101 Sidewalk Infill – North Segment East Side: North city limits to Lane St. on the east side of US 101.*
- **Project S3.** *Lillian Ln. Sidewalk Extension: Extends the existing sidewalk on Lillian Lane east.*
- **Project M1.** *Lillian Lane Extension Multi-use Path: Separate path along Lillian Lane extension.*
- **Project B5.** *Lillian Lane Bike Route: Lillian Ln., from US 101 to the beginning of multi-use path M1.*
- **Project X1.** *Worldmark Crosswalk: US 101 at Worldmark main entrance.*
- **Project T8.** *New Northbound Whale Watch Bus Stop: East side of US 101, near planned Whale Watch entrance.*



Projects S3 (sidewalk), M1 (multi-use trail), and B5 (bike route) are within or adjacent to the right-of-way of NE Lillian Lane in *Whale Watch* Phase 1. These projects are expected to be completed as *Whale Watch* Phase 1 is built out.

Project S1 is a sidewalk along the N Highway 101 frontage of the *Whale Watch* Planned Development. A portion of this sidewalk falls within *Whale Watch* Phase 1 adjacent to a commercially-zoned lot at the northeasterly corner of N Highway 101 and NE Lillian Lane. This sidewalk segment should be implemented when the corner lot is developed. North of this is a portion of proposed *Whale Watch* Phase 2 that would contain a stormwater detention pond. Extending northward from this to the city limit are portions of the N Highway 101 frontage that will be developed as a part of future phases of the *Whale Watch* Planned Development.

Projects X1 (crosswalk) and T8 (transit stop) would be located at the main entrance to the *Whale Watch* Planned Development, which will align with the entry driveway to the existing Worldmark development on the west side of N Highway 101. These projects would be located within the boundaries of future phases of the *Whale Watch* Planned Development.

Based upon their review, ODOT Staff offer several recommendations regarding the approval of *Whale Watch* Phase 2:

- Any work in highway right of way proposed by the applicant, or required by the City, will require the applicant to obtain a permit from ODOT's District 4 Maintenance Permits Office (541 757 4211) prior to commencing any work in highway right of way.
 - As the proposed development changes the current drainage pattern into an existing ODOT culvert under the roadway, ODOT requests to review the Stormwater Drainage Report for this proposed Phase 2 development.
 - Construction of the sidewalk along the east side of N Highway 101 (TSP Project S1) should be deferred until a future development phase that includes the main project entry from N Highway 101 is developed, including the crosswalk on N Highway 101 (TSP Project X1) that aligns with the main entry to the Worldmark development across the street. ODOT Staff also notes that the estimated cost of TSP Project X1 may need to be reassessed when it is implemented in the future and/or as part of any future TSP update.
4. **Public Testimony:** Notice of this public hearing was mailed to property owners within a 250-foot radius of the subject property on February 20, 2024, and was published in the Lincoln County *Leader* on February 20, 2024. As of the date that this report was completed for the initial March 13, 2024, Planning Commission meeting, Staff had received no public testimony regarding this proposal.

At the March 13, 2024, meeting, Staff presented a written report that was not complete. Staff's oral presentation focused on a general description of the proposed preliminary plan, but not upon the consistency of the plan with all applicable provisions of the Depoe Bay Zoning Ordinance (DBZO). The project applicant, Chris van der Velde, provided oral testimony describing their proposal for *Whale Watch* Phase 2. A nearby neighbor, Deborah Peterson, provided oral testimony expressing concern about the removal of trees within *Whale Watch* Phase 2, and related highway noise and view impacts.

There being no additional persons wishing to speak at the March 13, 2024, meeting, the Planning Commission left the public hearing open and continued it to April 17, 2024.



Whale Watch Phase 2 Preliminary Plan Overview

STAFF ANALYSIS:

The Planning Commission reviews the proposal for conformance with the appropriate standards of the Depoe Bay Zoning Ordinance (DBZO). The Planning Commission evaluates the evidence provided in the record, as well as testimony given at the public hearing, to determine whether the facts justify that relevant criteria are satisfied. The following discussion focuses on the proposal’s compliance with the planned development standards from DBZO Section 152.042 and other relevant sections.

(A) General Description of Proposed Whale Watch Planned Development

This is a request for approval of the Phase 2 Preliminary Plan for the *Whale Watch* Planned Development. Phase 2 is proposed to build out the north/northwest side of NE Lillian Lane between NE Shoreline Drive and NE Sand Dollar Drive, ending at NE Baleen Drive. Phase 2 consists of forty (40) single-family residential lots, one (1) multi-family residential lot (4 dwelling units) and one (1) civic lot. The proposal also includes a Zone Change to reconfigure the boundary between the C-1 and R-1 zones, and to apply the P-D suffix to the entire phase. Construction of Phase 2 is planned for 2024 to 2025.

(B) General Requirements of a Planned Development

(1) Zoning.

DBZO 152.042(B)(1): A Planned Development may be established in any zone other than the T-C zone.

APPLICANT RESPONSE: The subject property is zoned R-1 and C-1, zones that permit planned developments. No portion of the subject property is zoned T-C.

(2) Development Plan.

DBZO 152.042(B)(2): On land subject to an approved Planned Development, only those uses, structures and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.

APPLICANT RESPONSE: The uses, structures and other forms of development shown on the Preliminary Plan have changed slightly compared to those shown on the revised master plan approved in 2023. The approved revised master plan included thirty-two (32) single-family lots, parking, landscaping, public pedestrian facilities, open space, streets, and utilities. The Phase 2 Preliminary Plan was altered to accommodate eight (8) additional single-family residential lots to the west of NE Shoreline Drive for the Wetlands Delineation, and to include Baleen Drive to the North, which added the 4-unit multi-family residential and civic building lots.

(3a) Uses.

DBZO 152.042(B)(3)(a): A Planned Development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 zones may be permitted when compatible with each other and harmonious with adjacent uses.

APPLICANT RESPONSE: The uses proposed on Lots 22-53 (in the existing R-1 zone) and Lots 56-63 (in the proposed R-1 zone) are detached and attached single-family homes, which are permitted in all residential zones. Attached, multi-family units proposed for Lot 54, which are allowed in the R-2 through R-5 zones. The proposed zoning for Lot 53 is C-1, where a commercial building is proposed. The building is intended for unspecified civic uses. Governmental use of land is a conditional use in the C-1 zone. Other areas that will retain the current C-1 zoning (Tracts F and P) will be utilized for open space, wetlands, drainage, and storm water purposes, which are conditional uses in the C-1 zone.

(3b) Tourist Accommodations.

DBZO 152.042(B)(3)(b): The one exception to subsection (B)(3)(a) above is the possible approval of short-term rentals (tourist accommodations per DBZO 152.003 Definitions and including time shares) to a subsection of the Planned Development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 zones. A Planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres. Tourist accommodations in residential zones shall be limited to single family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, etc.), buffered (space, sight, and sound buffered) from all adjacent uses other than commercial uses, and buffered from adjacent properties that are outside of the PD. The following City Standards

shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.

APPLICANT RESPONSE: No tourist accommodations are proposed or allowed in *Whale Watch* Phase 2.

(4) Density.

DBZO 152.042(B)(4): Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.

APPLICANT RESPONSE: Phase 2 totals 9.64 acres. Goal 5 resources (wetland and riparian area) are subtracted when calculating maximum allowed density. The Goal 5 resource areas total approximately 4.30 acres. Therefore, the maximum allowed density of Phase 2 is based on 5.34 acres (232,610 sq. ft.), which allows a maximum of forty-seven (47) dwelling units. Forty-four (44) dwelling units are proposed in Phase 2.

STAFF ANALYSIS: The residential zoned area of the entire *Whale Watch* Planned Development allows for a maximum of 216 dwellings, whereas a total of 161 dwelling units are proposed. *Whale Watch* Phase 1 has commenced construction, and includes eighteen (18) single-family lots, a 16-unit multi-family development, and a commercial site at N Highway 101 and NE Lillian Lane.

(5) Building Height.

DBZO 152.042(B)(5): No building shall exceed the height allowed in the underlying zone.

APPLICANT RESPONSE: No building shall exceed the height allowed in the underlying zone.

STAFF ANALYSIS: Maximum building heights are thirty feet (30') in the R-1 zone and thirty-five feet (35') in the C-1 zone.

(6) Yards, Setbacks, Lot Area, Lot Coverage and Similar Dimensional Requirements.

DBZO 152.042(B)(6): Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

APPLICANT RESPONSE: In the Preliminary Plan for Phase 2, specific buildings and lot dimensions are shown. Reductions are proposed to R-1 code standards for front, side, rear, and garage entry setbacks (see Conceptual Architectural Plans). In addition, reductions are proposed to R-1 code standards for lot area, width, and depth (see Tentative Subdivision Plat). No reductions are proposed for Lot 54 (zoned R-1 for a future 4-unit multi-family building) or Lot 55 (zoned C-1 for a future civic building).

Proposed R-1 Setback Exceptions:

- Front yard/Street – 5 feet.
- Side yard, Interior – 3 feet; or 0 feet for attached zero-lot line.
- Side yard, when abutting a common area/open space tract – 3 feet.
- Rear or Alley – 5 feet.
- Garage setback from Alley – 5 feet.

- Garage setback from Street – 20 feet.

Proposed R-1 Lot Dimension Exceptions:

- Minimum lot area – 1,500 square feet.
- Minimum lot width – 30 feet.
- Minimum lot depth – 50 feet.

EXCEPTIONS TO SETBACKS						
LOT #	FRONT (STREET) (20')	SIDE (INTERIOR) (5')	SIDE (COMMON AREA) (10')	REAR (ALLEY) (10')	GARAGE (ALLEY) (No Standard)	GARAGE (STREET) (20')
22	5'	3'	3'	5'	-	20'
23	5'	3'	-	5'	-	20'
24	5'	3'	3'	5'	-	20'
25	5'	3'	3'	5'	5'	-
26	5'	3'	-	5'	5'	-
27	5'	3'	3'	5'	5'	-
28	5'	3'	3'	5'	5'	-
29	5'	3'	-	5'	5'	-
30	5'	3'	-	5'	5'	-
31	5'	3'	3'	5'	5'	-
32	5'	3'	3'	5'	5'	-
33	5'	3'	-	5'	5'	-
34	5'	3'	-	5'	5'	-
35	5'	3'	3'	5'	5'	-
36	5'	3'	3'	5'	5'	-
37	5'	3'	-	5'	5'	-
38	5'	3'	-	5'	5'	-
39	5'	3'	-	5'	5'	-
40	5'	3'	-	5'	5'	-
41	5'	0'	-	5'	5'	-
42	5'	0'	3'	5'	5'	-
43	5'	3'	3'	5'	-	20'
44	5'	3'	-	5'	-	20'
45	5'	3'	-	5'	-	20'
46	5'	3'	3'	5'	-	20'
47	5'	3'	3'	5'	-	20'
48	5'	3'	-	5'	-	20'
49	5'	3'	-	5'	-	20'
50	5'	3'	-	5'	-	20'
51	5'	3'	-	5'	-	20'
52	5'	0'	-	5'	-	20'
53	5'	0'	3'	5'	-	20'
54	R-1 standards apply					
55	C-1 standards apply					
56	5'	3'	3'	5'	5'	-

EXCEPTIONS TO SETBACKS						
LOT #	FRONT (STREET) (20')	SIDE (INTERIOR) (5')	SIDE (COMMON AREA) (10')	REAR (ALLEY) (10')	GARAGE (ALLEY) (No Standard)	GARAGE (STREET) (20')
57	5'	3'	-	5'	5'	-
58	5'	3'	-	5'	5'	-
59	5'	3'	3'	5'	5'	-
60	5'	3'	3'	5'	-	20'
61	5'	3'	-	5'	-	20'
62	5'	3'	-	5'	-	20'
63	5'	3'	3'	5'	-	20'

*Lot 54 to be platted as multi-family (R-1).

**Lot 55 to be platted as commercial (C-1).

Shaded boxes = Exception to Standards

In addition, reductions are proposed to code standards for lot area, width, and depth as shown in the table below.

R-1 Design Standards			
LOT #	AREA (5,000 SF)	WIDTH (50')	DEPTH (80')
22	1,716	30'	58.25'
23	1,653	30'	56.15'
24	1,599	30.26'	54.05'
25	1,828	30'	61.39'
26	1,835	30'	60.97'
27	1,823	30'	60.55'
28	1,950	30'	65'
29	1,950	30'	65'
30	1,950	30'	65'
31	1,950	30'	65'
32	1,868	38.93'	50'
33	1,500	30'	50'
34	1,500	30'	50'
35	1,500	30'	50'
36	1,500	30'	50'
37	1,500	30'	50'
38	1,500	30'	50'
39	1,500	30'	50'
40	1,500	30'	50'
41	1,500	30'	50'
42	1,500	30'	50'
43	1,988	32.11'	64.5'
44	1,994	31.89'	64.5'
45	1,935	30'	64.5'
46	1,936	30'	64.5'
47	1,935	30'	64.5'
48	1,935	30'	64.5'

R-1 Design Standards			
LOT #	AREA (5,000 SF)	WIDTH (50')	DEPTH (80')
49	1,935	30'	64.5'
50	1,935	30'	64.5'
51	1,935	30'	64.5'
52	1,935	30'	64.5'
53	1,885	30'	64.5'
54*	18,360	70'	112.28'
55**	6,509	62.19'	89.42'
56	1,575	30'	54'
57	1,620	30'	54'
58	1,620	30'	54'
59	1,620	30'	54'
60	1,620	30'	54'
61	1,620	30'	54'
62	1,620	30'	54'
63	1,570	30'	54'

*Lot 54 to be platted as multi-family (R-1).

**Lot 55 to be platted as commercial (C-1).

Shaded boxes = Exception to Standards

(7) Conflicting Provisions.

DBZO 152.042(B)(7): In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved Preliminary Plan, the approved Preliminary Plan shall control.

APPLICANT RESPONSE: The approved Preliminary Plan for Phase 2 will prevail over the Zoning Ordinance.

(8) Minimum Size of Planned Development Area.

DBZO 152.042(B)(8): A Planned Development shall have a minimum of two (2) contiguous acres, exclusive of street right of way. A Planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres.

APPLICANT RESPONSE: This standard applies to the total *Whale Watch* Planned Development and was addressed in the amended Master Plan.

(9) Open Space.

DBZO 152.042(B)(9): Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park or natural land.

APPLICANT RESPONSE: It is demonstrated that the gross area of Phase 2, excluding street rights-of-way, is 6.95 acres. Open space would be set aside in designated Tracts per the Preliminary Plan. These tracts total 4.65 acres, or 48% of the gross Phase 2 area.

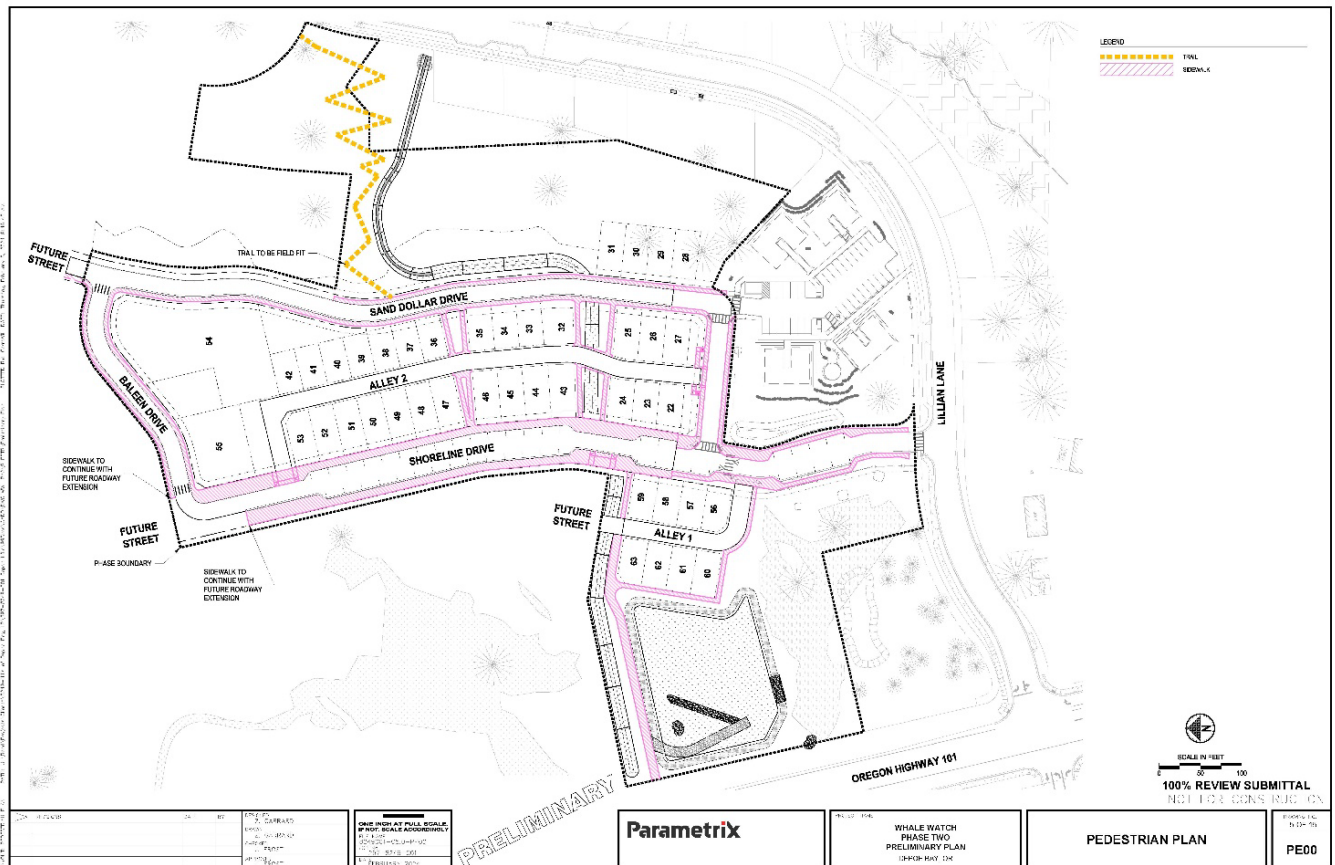
(10) Sidewalks.

DBZO 152.042(B)(10): Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40-foot wide designated Forested Corridor on both sides of Highway 101 right-of-way from South

Point Street south to the city limits which shall instead include a four-foot-wide walking/biking path (Section 152.074(B)(3) applies). The Planned Development shall also include a connected pedestrian system/network.

APPLICANT RESPONSE: Phase 2 includes a connected pedestrian system as proposed on the Preliminary Plan.

STAFF ANALYSIS: The *Whale Watch* Master Plan identifies a connected pedestrian system/network. The Phase 2 Preliminary Plan includes the 5-foot-wide sidewalks along both sides of NE Shoreline Drive, NE Sand Dollar Drive, and NE Baleen Drive (below). Additional 5-foot-wide sidewalks will be provided within Tracts I, J, K and L to provide mid-block connections between NE Shoreline Drive and NE Sand Dollar Drive. Additional 5-foot-wide sidewalks will be provided within Tracts F, O and P to provide access within the open space areas surrounding the detention pond. A pedestrian trail will be provided within Tract E to connect NE San Dollar Drive to NE Lillian Lane.



(11) Parking Area Design

DBZO 152.042(B)(11): Parking shall conform to Section 152.058 and Diagram A of the DBZO, with the exception that all parking areas shall be paved.

APPLICANT RESPONSE: All parking spaces shall conform to the standards of DBZO 152.058.

(12) Parking Area Landscaping.

DBZO 152.042(B)(12): A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the City. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

APPLICANT RESPONSE: All parking areas will be landscaped in accordance with DBZO Section 152.042(B)(12).

STAFF ANALYSIS: A detailed landscape plan for each lot will be submitted to the City for review and approval prior to issuance of building permits.

(13) Landscaping

DBZO 152.042(b)(13): Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, etc.). Section 152.074 of the DBZO applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service State-listed Noxious Weeds, shall be removed and shall not be planted.

APPLICANT RESPONSE: All open spaces disturbed by development will be formally landscaped or re-naturalized. Open space tracts with actively managed landscaping shall be maintained by the Depoe Hills Owners Association, as specified in the Depoe Hills declaration of Covenants, Conditions, Restrictions, and Easements.

Preliminary Plan Compliance with Depoe Bay Zoning Ordinance.

DBZO 152.042(E) describes the Preliminary Plan development requirements. The following discussion addresses the subsections that are relevant to *Whale Watch* Phase 2.

(2)(a) Phasing

A preliminary plan for Phase 2 was submitted subsequent to the review of the revised master plan for *Whale Watch*. The preliminary plan was prepared in accordance with DBZO 152.042(E)(4), 152.042(F), and 152.042(G).

(4)(a) CC&Rs

For the near term, the common area tracts would remain in the possession of the owner. Eventually those could be transferred to a homeowner’s association governed by covenants, conditions, and restrictions. No taxing district is proposed.

(4)(b) Dimensional Requirements

The design of Phase 2 is influenced by topography and clustering of homes. Building placement at minimal setbacks has the effect of framing the streets, thereby tempering the movement of vehicles along the roads. The following table summarizes the adjustments to Depoe Bay Zoning Ordinance standards requested for Phase 2.

Phase 2 Reductions to Development Standards

Requirement	Standard	Affected Lots
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**#1-PD-PC-24 Whale Watch PD Phase 2 Preliminary Plan
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R-1		
Minimum lot area	5,000 SF	22-53, 56-63
Minimum lot width	50 Ft interior lot 55 Ft corner lot	22-53, 56-63 n/a
Minimum lot depth	80 Ft	22-53, 56-63
Minimum front yard	20 feet	22-53, 56-63
Minimum side yard	5 feet*	22-53, 56-63
Minimum rear yard	10 feet**	22-53, 56-63
Maximum lot coverage	No standard	n/a

C-1		
Minimum lot area	No standard	n/a
Minimum lot width	No standard	n/a
Minimum lot depth	No standard	n/a
Minimum front yard	No standard	n/a
Minimum side yard	No standard	n/a
Minimum rear yard	No standard	n/a
Setback to R-1 lot	10 Ft	n/a
Maximum lot coverage	No standard	n/a
Maximum building height	30 feet (R-1) 35 feet (C-1)	n/a n/a

*Or one foot for each 3 feet of building height, whichever is the greater.

**For corner lot, either five feet or one foot for each 3 feet of building height, whichever is greater.

(4)(c) Exceptions

The single-family dwelling units on Lots 41 and 42, and Lots 52 and 53, would be attached to one another, with a zero-foot setback provided along in the interior side property lines between the lots. All other single-family dwelling units in Phase 2 will be detached from one another along the interior side property lines. The attached dwelling units on Lots 42 and 53 will employ a reversed floor plan, allow for side yard area to provide a buffer between these dwellings and the abutting 4-unit multi-family building (Lot 54) and civic building (Lot 55) to the immediate north. Therefore, an exception is requested to allow zero-foot interior side setbacks for Lots, 41, 42, 53, and 53.

None of the single-family dwelling units will have garages, but each lot will provide for two (2) off-street parking spaces. To provide for enclosed storage of refuse/recycling containers and other personal property, each dwelling will include an attached or detached storage building. In addition, certain lots (Unit Type ‘D’ on Lots 22-24 and 43-53) proposed an exterior access stairway that will straddle the property line between the lots. DBZO Section 152.061(A) allows detached, non-habitable accessory structures to encroach up to the property line in rear and side setback areas, but attached structures are otherwise required to meet the same setback requirements as the primary structure. Therefore, an exception is requested to allow attached accessory structures and shared exterior access stairways to encroach into side and rear setback areas on certain lots.

(4)(d) Tourist Accommodations

In *Whale Watch* Phase 2, no tourist accommodations are proposed or allowed on any residential lots.

(6) **Final Engineering Plans**

Per DBZO 152.042(E)(6), based on the Preliminary Plan approval, the applicant is required to submit final engineering plans to be reviewed and approved by the City prior to any construction. The Applicant shall be responsible for all costs the City may incur by hiring a professional engineer to review and comment on the final engineering plans. Final engineering plans pertain to design and construction of infrastructure, i.e. streets, water, sewer, and storm drainage.

(7) **Time Limit of Preliminary Approval**

Per the revised *Whale Watch* Master Plan approval, substantial completion of Phase 2 shall occur by December 31, 2025.

(G) **Common Preliminary Plan Approval Criteria**

DBZO Section 152.042(G) describes Common Master Plan Approval Criteria, including DBZO 152.042 Planned Development; the Depoe Bay Comprehensive Plan; other DBZO provisions, DBZO 152.250, *et seq.* Land Division; providing amenities and protections at a higher level than otherwise provided under conventional land development procedures; encouraging and promoting creativity and innovation; and proposing development in substantial harmony with the surrounding area.

(1) **Applicable Requirements**

The application materials contain a site plan, drawings of architectural styles, narrative, and other materials as required by DBZO 152.042.

(2) **Comprehensive Plan and Zoning Ordinance**

The proposed master plan, including the Phase 2 Preliminary Plan, would be consistent with the Comprehensive Plan Housing Goal: *To provide for the housing needs of the (year-around and seasonal) residents of the community.* It would also be consistent with the Comprehensive Plan Economy Goal: *To enhance the economic growth of the city while preserving natural resources and character that make Depoe Bay the unique community it is.*

(3) **DBZO 152.250, et seq. Land Division**

Compliance of Phase 2 with the City's land division standards is addressed below.

(4) **Amenities and Protections**

The master plan and preliminary plan for Phase 2 are designed as a mixed use, pedestrian-oriented development with a range of residential types and commercial services, providing essential protection of significant natural resources.

(5) **Flexibility and Innovation**

Exceptions to provisions of the Zoning Ordinance are proposed to allow a compact urban form that is conducive to pedestrian activity and natural resource protections. This flexibility encourages adaptive site design that respects the natural setting and adds character to the area.

(6) **Substantial Harmony**

**#1-PD-PC-24 Whale Watch PD Phase 2 Preliminary Plan
April 17, 2024, Planning Commission Meeting**

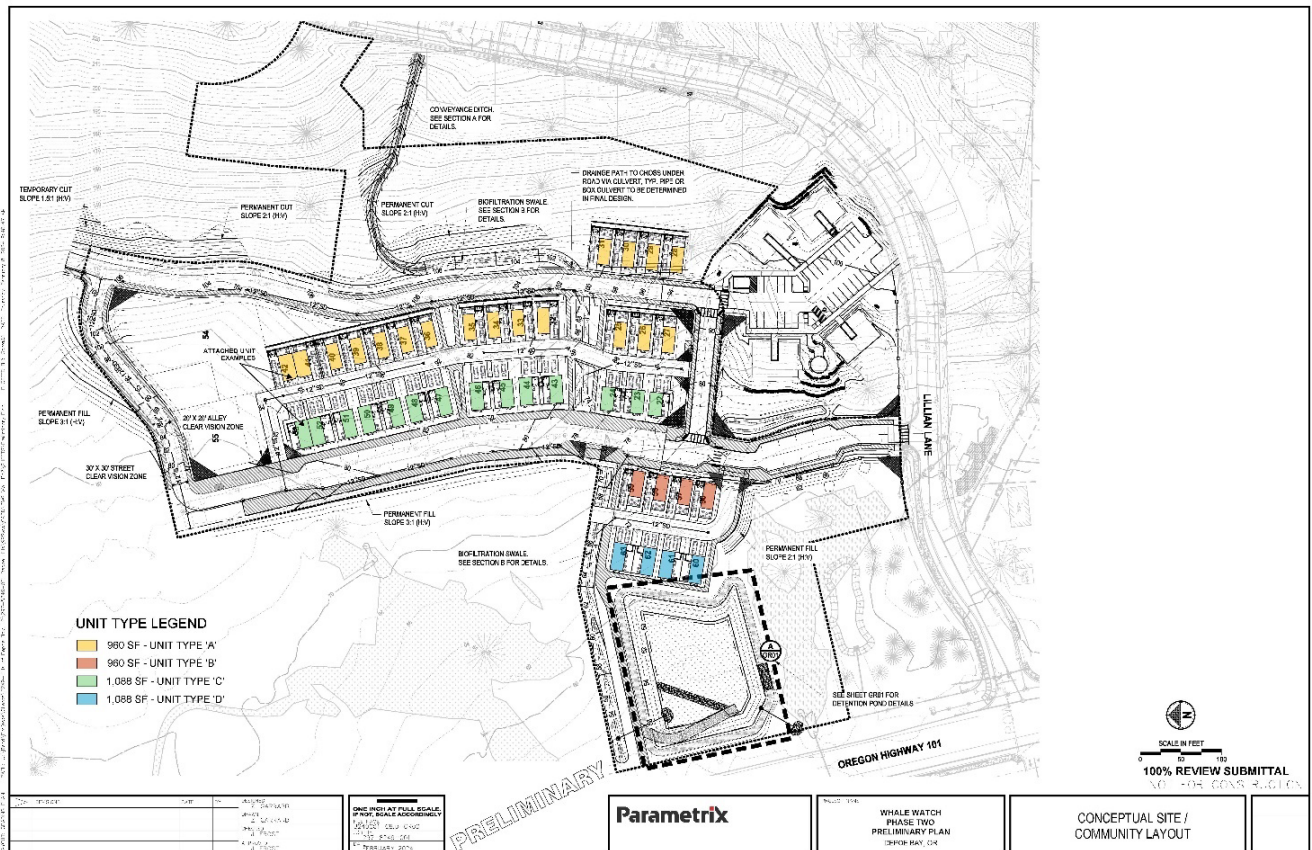
The master plan portrays a mixed-use development of commercial uses along N Highway 101, and residential uses to the east comprised of detached and attached homes, live-work areas, and condominiums, interspersed by open spaces and a network of walks and paths.

The layout is consistent with the overall pattern of land use at the northern end of Depoe Bay. To the south are single family homes in C-1 and R-1 zone; to the west is a concentration of tourist accommodations in the C-1 zone; to the north outside the City limit is State land associated with Boiler Bay State Scenic Viewpoint; and to the east is Phase 1 of the *Depoe Hills* Planned Development Bay (zoned R-2PD) and commercial timber land (zoned T-C) outside the City's urban growth boundary.

Compliance with Other Applicable DBZO Provisions:

DBZO 152.055, et seq. Supplementary Regulations

152.055 Clear Vision Areas. Clear vision areas are designated to ensure adequate sight distances and safe stopping distances for drivers. Clear vision areas were identified in Phase 2 in the Conceptual Site Plan/Community Layout (below). The standards are 30-foot clear vision areas in the R-1 zone, and 15-foot clear vision areas in C-1 zone.



152.056 Manager/Owner/Caretaker Residence. These provisions do not apply because the land is not zoned M-C or L-I. No such residence is proposed.

152.057 Street Vendor Prohibited. These provisions do not apply to the preliminary plan.

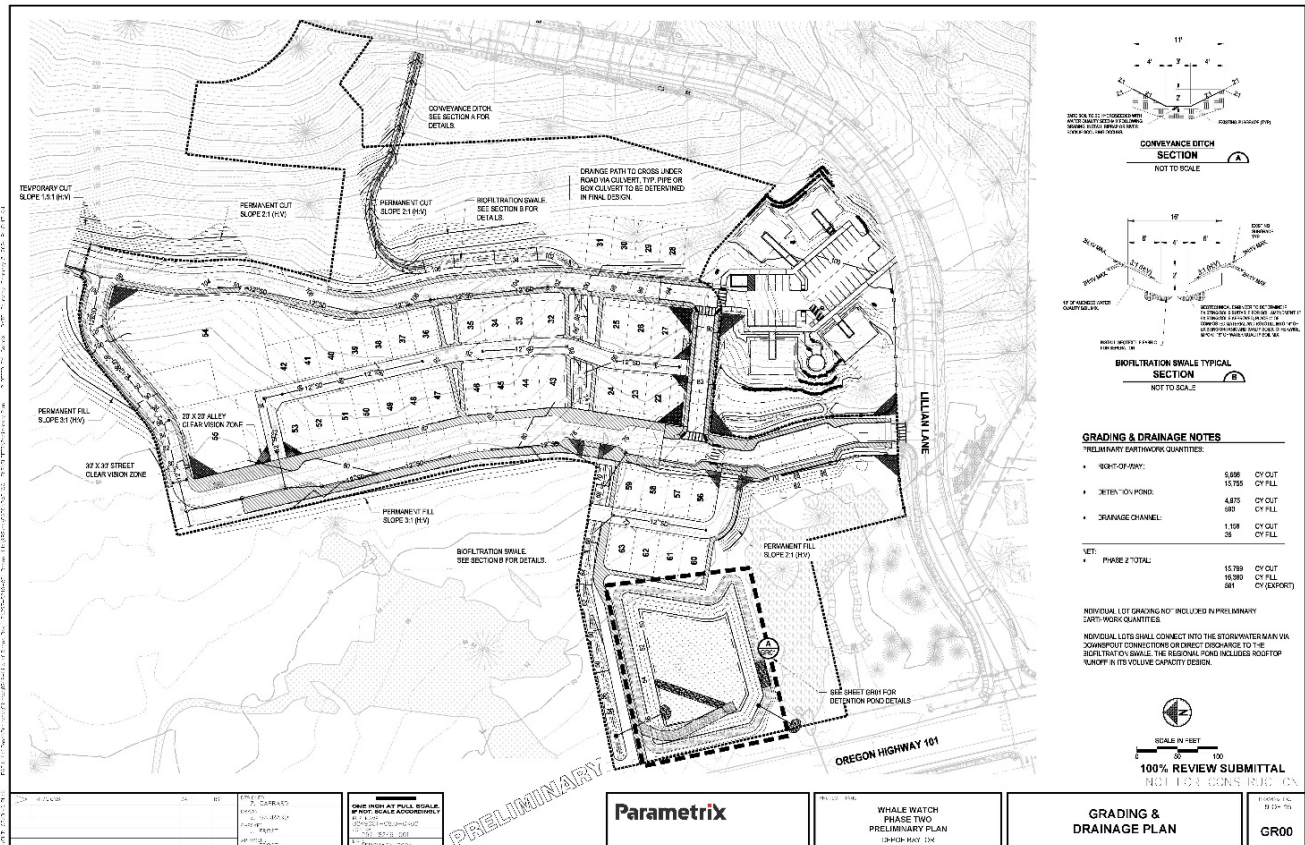
- 152.058 Off-Street Parking and Off-Street Loading Requirements.** The Preliminary Plan for Phase 2 proposes two (2) off-street parking spaces for each of the forty (40) proposed single-family residences (Lots 22-53 and 56-63), which is consistent with the provisions of DBZO Section 152.058(T). Forty-two (42) additional on-street parking space are proposed along NE Shoreline Drive. The future, 4-unit multi-family building on Lot 54 will be required to provide a minimum of eight (8) off-street parking spaces. The parking requirement for the future civic building on Lot 55 will be based upon the proposed use at the time of development, consistent with C-1 zone standards.
- 152.059 Distance from Property Line.** The preliminary plan for Phase 2 demonstrates compliance with the 3-foot side or rear yard setback where the C-1 zone adjoins other C-1 property, and the structure would not be erected at the property line. Compliance with this standard would be determined during plan review for building permits.
- 152.060 Exterior Lighting.** Exterior lighting for uses in commercial and industrial zones shall be located in such a manner so as not to face or shine directly onto a lot in a residential zone, street, or highway. Compliance with this standard would be determined during plan review for building permits.
- 152.061 General Provisions Regarding Accessory Uses, Fences, Retaining Walls, Hedges, and Decks.** Compliance with these provisions would be determined during site development.
- 152.062 Approval by City Inspector.** City approved domestic water supply and sewage disposal would be extended to each building site during infrastructure installation and prior to issuance of building permits.
- 152.063 Review of Fire Department.** Fire hydrant placement, design of fire access roads, and other requirements of the Oregon Fire Code are subject to review and approval by the Depoe Bay Fire District.
- 152.064 Building Permit Approvals.** Construction of buildings and structures shown on the preliminary plan are subject to review and approval of building permits.
- 152.065 Development Guidelines.** The preliminary plan for Phase 2 is subject to any development guidelines adopted by the City pursuant to DBZO 152.065.
- 152.066 Standards and Requirements for Condominiums and Time Share Projects.** These provisions may apply to Lot 54 if it is developed as condominium rather than long-term rental units. The requirement to comply with these provisions will be imposed prior to the development of Lot 54.
- 152.067 Temporary Placement of a Manufactured Dwelling.** This section does not apply because no manufactured dwelling is proposed in the *Whale Watch* Planned Development.
- 152.068 Design Features for Single-Family Dwelling.** Compliance with this section would be determined during plan review for building permits. The applicant indicates that this includes at least two (2) items listed in DBZO 152.068(A)(1)-(11). Properties will be landscaped, and have a durable and dustless driveway surface. Proposed units may utilize a primary entry located on the side of the home to allow connectivity between streets and alley. Preliminary designs submitted are intended to show how single-family designs may be designed for the lot sizes and configuration proposed in the Phase 2 preliminary plan. Preliminary designs are subject to change and additional designs may be added prior to individual building permit submittal.

152.069 Transient Occupancy of Dwelling Units. These provisions do not apply because tourist accommodations are not proposed or allowed under the *Whale Watch* Phase 2 preliminary plan.

152.070 Transient Occupancy Business Registration/Amortization of Short-Term Rentals of Dwellings. These provisions do not apply because they pertain to transient occupancy of existing dwellings in existence at the time those provisions were adopted in 1996. There are no existing dwellings on the subject property.

152.071 Siting Standards for Manufactured Homes. This section does not apply because no manufactured dwellings are proposed in the *Whale Watch* Planned Development.

152.072 Protection of Streams, Ponds, Wetlands and Riparian Areas. The master plan for the *Whale Watch* Planned Development identified wetlands and riparian areas that are located within the boundaries of proposed Phase 2. These resources are mostly contained within Tracts E, F, I, J, O and P as open space areas. The grading and drainage plan (below) identifies a proposed detention pond on Tract P. These drainage and stormwater facilities will capture storm runoff from the development and prevent increased storm water runoff from entering the existing natural drainage channel and the ocean. These drainage and stormwater facilities are subject to State and Federal regulations and permitting requirements.



152.073 Protection of Publicly Owned Lands. There are no publicly owned lands within the *Whale Watch* Planned Development. The State of Oregon owns 25.50 acres adjoining to the north.

152.074 Protection of Coastal Headlands, Areas of Exceptional Aesthetic Resources. The provisions for Forested Hillsides are applicable to the preliminary plan for Phase 2 as a subdivision greater than 3 acres. However, the area of applicability is limited to the riparian corridor along the creek where there are trees greater than 6 inches DBH. No development is allowed in this area under the provisions for Protection of Streams, Ponds, Wetlands and Riparian Areas discussed above.

152.075 Protection of Historic and Archeological Sites. No listed historic sites are located within Phase 2. Archeological records are not available to the public, but cultural resources have been identified within the revised *Whale Watch* Planned Development boundaries. Any resources inadvertently uncovered during site clearing and/or development would be reported to the State Historic Preservation Office, Siletz tribal authorities, and other agencies with jurisdiction over such resources.

152.076 Clearing, Filling, Excavating, and Grading. Pre-development activities to clear and grade streets and building pads are subject to these provisions.

DBZO 152.090, et seq. Signs

Any proposed signs will conform with the provisions of the Depoe Bay Sign Ordinance.

DBZO 152.185, et seq. Amendments (Zone Change Request)

The Zoning Ordinance regulates planned developments through the Planned Development Zone, DBZO 152.042. The Planned Development Zone retains the base zone, and takes on the Planned Development Zone as an overlay to the base zone. The process to apply the Planned Development Zone is the same as a change in the base zone, subject to the Zoning Ordinance provisions for amendments set forth in DBZO 152.185. However, the base zone does not change when the Planned Development Zone is applied. This zone change is required by Condition 4 imposed by approval of the *Whale Watch* Master Plan in 2014:

“Each phase of development requires an application for a zone change. The zone change will include adding the ‘PD’ suffix to the underlying zone. Additional zone change applications may be required.”

The proposed zone change would add the ‘PD’ suffix to all of Phase 2. The underlying zone of Phase 2 is R-1 and C-1. The C-1 zone would be applied to Lot 55 (the future civic building) and Tracts F, O, and P, which would contain and/or provide access to the stormwater detention pond. The R-1 zone would be applied to the remainder of Phase 2 (Lots 22-54 and 56-63, and Tracts E and G-N). The criteria for an amendment for a zone change are set forth in DBZO 152.186(B). The applicable criteria for this request are as follows:

(1) *That the change is in accord with the land use plan for the area; and,*

STAFF ANALYSIS: The proposed zone change is consistent with the revised *Whale Watch* Master Plan, which was approved in 2023.

(2)(a) *That there has either been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or that the zoning adopted for the area was in error.*

STAFF ANALYSIS: The proposed zone change implements the next phase of the revised *Whale Watch* Master Plan. There has been no change in the character of the area since the *Whale Watch*

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Master Plan was originally approved. Furthermore, there is no evidence that the requested zone change is intended to correct an error in the current zoning of the subject property.

(2)(b) *If the proposed change is not in accord with the land use plan for the area, the Planning Commission and the City Council shall seek to determine that an alteration of the plan can be justified on the basis that there has been a substantial change in the character of the area since the plan was adopted and which warrants a change in the plan, or that the plan adopted for the area was in error.*

STAFF ANALYSIS: As described above, the proposed change of zoning is in accord with the existing *Whale Watch* Master Plan.

A zone change requires a recommendation from the Planning Commission and final decision by the City Council. Zone changes in conjunction with Planned Developments are typically not finalized until development occurs. Therefore, the zone change will be forwarded to the City Council once the Planning Commission grants preliminary plan approval for *Whale Watch* Phase 2.



Proposed Zone Change

DBZO 152.225, et seq. Development Standards

The subject includes areas with steep slopes. Per DBZO 152.225, *et seq.*, areas containing slopes in excess of 20% require a geologic hazards permit. Any preliminary plan submittal for an area that includes slopes exceeding 20% shall include a geologic hazard report in accordance with DBZO 152.225, *et seq.*

The applicant prepared a geologic hazard report the entire *Whale Watch* Planned Development in 2021, but a report specific to the limits of proposed Phase 2 has not yet been provided. A geologic hazard report for *Whale Watch* Phase 2 will require Planning Commission approval prior to final subdivision and/or building permit approval. Site specific geologic hazards permits will also be required prior to approval of building permits on individual sites with slopes exceeding 20%.

DBZO 152.250, et seq. Land Division

DBZO 152.254 General Requirements and Minimum Standards of Development Design

- (A) **Conformity to the Comprehensive Plan.** The uses, structures and other forms of development shown on the Preliminary Plan are the same as those shown on the revised master plan. Those include 40 detached homes, a building site (Lot 54) for 4 multi-family attached homes, a building site (Lot 55) for a future civic building, parking, landscaping, off-street paths, open space, streets, and utilities.
- (B) **Relation to Adjoining Street System.** Phase 2 is oriented along NE Shoreline Drive, a two-lane street that will intersect with NE Lillian Lane, and provide access to N Highway 101 for residents and visitors.
- (C) **Access.** There is no shared access proposed for the residential lots in *Whale Watch* Phase 2. Four residences (Lots 28-31) will have direct street access, while thirty-six residences (Lots 22-27 and 32-63) will have direct alley access.
- (D) **Private Streets.** No private streets are proposed in Phase 2.
- (E) **Public Streets.** NE Shoreline Drive, NE Sand Dollar Drive, and NE Baleen Drive will be public streets.
- (F) **Street Intersections.** At the southerly boundary of Phase 2, NE Shoreline Drive will intersect with NE Lillian Lane at a right angle. Within Phase 2, NE Shoreline Drive, NE San Dollar Drive, and NE Baleen Drive will all intersect with one another and/or the two proposed alleys at right angles.
- (G) **Cul-de-Sacs and Turnarounds.** No cul-de-sacs are proposed in Phase 2. A temporary turnaround will be provided at the north end of Alley 1; this alley will eventually extend northward into a future development phase.
- (H) **Easements.** Two alleys are proposed in Phase 2, providing access to 36 of the 44 proposed residences in this phase. All public water, sewer, and drainage improvements are located in the rights-of-way of NE Shoreline Drive, NE Sand Dollar Drive, NE Baleen Drive, and the two alleys. Franchise utilities will be located in utility easements along the street frontages as needed.
- (I) **Blocks.** The block lengths on NE Shoreline Drive and NE Sand Dollar Drive are somewhat constrained by the site's topography. Nevertheless, the streets in Phase 2 provide blocks that comply with the City's 600-foot requirement between street intersections. In addition, the block lengths along NE Shoreline Drive are further broken up proposed pedestrian connections and drainage corridors through open space lots.
- (J) **Public Access Ways.** Phase 2 provides for a number of public access ways. These include sidewalks along the streets in the phase and crossing several of the common open space lots within

the phase. A pedestrian trail connecting NE Sand Dollar Drive to NE Lillian Lane is also proposed, consistent with the revised *Whale Watch* Master Plan.

- (K) **Lots and Parcels.** No flag lots are proposed in Phase 2. Each lot conforms to the minimum frontage standard of 25 feet. Side lines are generally perpendicular to the street. Most of the residential lots have frontage along both a street and an alley. The use of double-frontage lots is warranted due to the site topography. In addition, focusing vehicular access to the alley frontages at the rear of these lots allows for the street frontages to be designed and developed in a pedestrian-friendly style and scale.
- (L) **Utility Easements.** As mentioned above, public utilities will be accommodated within the street and alley rights-of-way within Phase 2.
- (M) **Water.** All lots in Phase 2 would be served by municipal water. Improvements to provide water service to the lot line will be completed prior to final plat approval.
- (N) **Sewer.** All lots in Phase 2 would be served by municipal sewer. Improvements to provide sewer service to the lot line will be completed prior to final plat approval.
- (O) **Surface Drainage and Storm Sewer.** The streets and alleys in Phase 2 will be constructed with stormwater facilities approved by the City. New stormwater facilities are proposed within Phase 2 in the common area lots (Tracts E, I, J, and O), including a new stormwater detention pond located within Tract P.
- (P) **Phase Development.** Phase 2 as shown on the revised master plan is designed to be constructed as a single-phase project.
- (Q) **Geologic Hazards.** As mentioned above, the applicant prepared a geologic hazard report the entire *Whale Watch* Planned Development in 2021, but a report specific to the limits of proposed Phase 2 has not yet been provided. A geologic hazard report for *Whale Watch* Phase 2 will require Planning Commission approval prior to final subdivision and/or building permit approval. Site specific geologic hazards permits will also be required prior to approval of building permits on individual sites with slopes exceeding 20%.
- (R) **Parks and Open Spaces.** The gross area of Phase 2, excluding street rights-of-way, is 6.95 acres. Open space would be set aside in Tracts E-P. These tracts total 4.65 acres, or 48 percent of the gross area.

Transportation Planning Rule – Compliance with Oregon Administrative Rules 660-012-0060

State law defines the methodology for analyzing the transportation impacts of a zone change. That methodology is termed the Transportation Planning Rule (TPR). The zone change to add the ‘PD’ suffix to the underlying R-1 and C-1 zones is the reason for applying the TPR. The Traffic Impact Study for *Whale Watch* and *Hills of Depoe Bay* addresses compliance with the TPR.

The *Whale Watch* and the *Hills of Depoe Bay* master plan approvals include a condition that a transportation compliance letter shall be submitted with each Preliminary Plan submittal in order to address on-site transportation, access, and pedestrian standards, and to ensure that mitigation measures provided in the Traffic Impact Study are applied at the appropriate phase of development. The applicant will be required to submit a transportation compliance letter to the City prior final subdivision or building permit approval.

Geologic Permits Required – Compliance with Depoe Bay Zoning Ordinance 152.225, et seq. Development Guidelines

The subject includes steep slopes. Per DBZO 152.225, *et seq.*, areas containing slopes in excess of 20% require a geologic hazards permit. Any preliminary plan submittal for an area that includes slopes exceeding 20% shall include a geologic hazard report in accordance with DBZO 152.225, *et seq.*

As mentioned above, the applicant prepared a geologic hazard report the entire *Whale Watch* Planned Development in 2021, but a report specific to the limits of proposed Phase 2 has not yet been provided. A geologic hazard report for *Whale Watch* Phase 2 will require Planning Commission approval prior to final subdivision and/or building permit approval. Site specific geologic hazards permits will also be required prior to approval of building permits on individual sites with slopes exceeding 20%.

Comprehensive Plan - 2017 Depoe Bay Transportation System Plan (TSP)

The 2017 TSP identifies six projects in the vicinity of the *Whale Watch* Planned Development. The six projects are identified below with an analysis of the proposed *Whale Watch* Phase 2 preliminary plan.

Project S1. US 101 Sidewalk Infill – North Segment East Side: North city limits to Lane St. on the east side of US 101.

Phase 2 includes approximately 295 lineal feet of N Highway 101 frontage abutting Tract F. The sidewalk, along with bicycle lanes, parking, and transit facilities, is proposed to be designed and constructed by the developer between NE Lillian Lane and NE Baleen Drive, with the approval of ODOT. As discussed above, ODOT Staff recommends deferring construction of this segment of the sidewalk until a future phase when the main entrance to the *Whale Watch* Planned Development at N Highway 101 and NE Baleen Drive is constructed.

Project S3. Lillian Ln. Sidewalk Extension: Extends the existing sidewalk on Lillian Lane east.

Project M1. Lillian Lane Extension Multi-use Path: Separate path along Lillian Lane extension.

Project B5. Lillian Lane Bike Route: Lillian Ln., from US 101 to the beginning of multi-use path M1.

These three (3) projects within the right-of-way of NE Lillian Lane were initiated with the approval of *Whale Watch* Phase 1, and are expected to be completed as this phase is built out in the future.

Project X1. Worldmark Crosswalk: US 101 at Worldmark main entrance.

Project T8. New Northbound Whale Watch Bus Stop: East side of US 101, near planned Whale Watch entrance.

Design and construction of this crosswalk and transit stop will occur during future phases of the *Whale Watch* Planned Development when the main entrance from N Highway 101 and NE Baleen Drive is constructed. The *Whale Watch* TIS recommends installing the transit stop south of NE Baleen Drive to take advantage of future pedestrian crossing opportunities. Also, as mentioned above, ODOT suspects that the cost of the cross walk will need to be re-evaluated in the future since the estimated price listed in the 2017 TSP has probably increased substantially.

CONCLUSION:

In evaluating the request, the Planning Commission bases its decision on compliance with the applicable code standards. The Commission may either:

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- A. Continue the public hearing and request the applicant to provide additional or revised information. In this case, the Commission should provide direction to the applicant on additional or revised information requested.
- B. If the Commission finds the request fails to satisfy the ordinance standards, it can move to deny the request, articulating the basic conclusions and rationale for the decision and directing staff to prepare findings for adoption.
- C. If the Planning Commission finds the request satisfies the applicable criteria, it can move to approve the *Whale Watch* Phase 2 Preliminary Plan with conditions, and direct staff to prepare findings for adoption. In the event of approval, staff recommends the following conditions that may be modified at the discretion of the Planning Commission.
 - 1. **Phase 2 Preliminary Plan Approval.** Approval of the *Whale Watch* Phase 2 Preliminary Plan is based on the submitted application materials and includes build out to the north/northwest side of NE Lillian Lane between NE Shoreline Drive and NE Sand Dollar Drive, ending at NE Baleen Drive. Phase 2 consists of forty (40) single-family residential lots, one (1) multi-family residential lot (4 dwelling units) and one (1) civic lot. The proposal also includes a Zone Change to reconfigure the boundary between the C-1 and R-1 zones, and to apply the P-D suffix to the entire phase. Construction of Phase 2 is planned for 2024 to 2025.
 - 2. **Tourist Accommodations Not Permitted.** The dwelling units in Phase 2 are not permitted to be tourist accommodations.
 - 3. **Building Height.** Buildings on Lots 22-54 and 56-63 shall have a maximum building height of 30 feet. The building on Lot 55 shall have a maximum building height of 35 feet.
 - 4. **Yards, Setbacks, Lot Area, and Similar Dimensional Requirements.** Minimum building setbacks from property lines shall be as shown in the following table.

EXCEPTIONS TO SETBACKS						
LOT #	FRONT (STREET) (20')	SIDE (INTERIOR) (5')	SIDE (COMMON AREA) (10')	REAR (ALLEY) (10')	GARAGE (ALLEY) (No Standard)	GARAGE (STREET) (20')
22	5'	3'	3'	5'	-	20'
23	5'	3'	-	5'	-	20'
24	5'	3'	3'	5'	-	20'
25	5'	3'	3'	5'	5'	-
26	5'	3'	-	5'	5'	-
27	5'	3'	3'	5'	5'	-
28	5'	3'	3'	5'	5'	-
29	5'	3'	-	5'	5'	-
30	5'	3'	-	5'	5'	-
31	5'	3'	3'	5'	5'	-
32	5'	3'	3'	5'	5'	-
33	5'	3'	-	5'	5'	-
34	5'	3'	-	5'	5'	-
35	5'	3'	3'	5'	5'	-
36	5'	3'	3'	5'	5'	-

EXCEPTIONS TO SETBACKS						
LOT #	FRONT (STREET) (20')	SIDE (INTERIOR) (5')	SIDE (COMMON AREA) (10')	REAR (ALLEY) (10')	GARAGE (ALLEY) (No Standard)	GARAGE (STREET) (20')
37	5'	3'	-	5'	5'	-
38	5'	3'	-	5'	5'	-
39	5'	3'	-	5'	5'	-
40	5'	3'	-	5'	5'	-
41	5'	0'	-	5'	5'	-
42	5'	0'	3'	5'	5'	-
43	5'	3'	3'	5'	-	20'
44	5'	3'	-	5'	-	20'
45	5'	3'	-	5'	-	20'
46	5'	3'	3'	5'	-	20'
47	5'	3'	3'	5'	-	20'
48	5'	3'	-	5'	-	20'
49	5'	3'	-	5'	-	20'
50	5'	3'	-	5'	-	20'
51	5'	3'	-	5'	-	20'
52	5'	0'	-	5'	-	20'
53	5'	0'	3'	5'	-	20'
54*	R-1 standards apply					
55**	C-1 standards apply					
56	5'	3'	3'	5'	5'	-
57	5'	3'	-	5'	5'	-
58	5'	3'	-	5'	5'	-
59	5'	3'	3'	5'	5'	-
60	5'	3'	3'	5'	-	20'
61	5'	3'	-	5'	-	20'
62	5'	3'	-	5'	-	20'
63	5'	3'	3'	5'	-	20'

*Lot 54 to be platted as multi-family (R-1).

**Lot 55 to be platted as commercial (C-1).

Shaded boxes = Exception to Standards

In addition, reductions are proposed to code standards for lot area, width, and depth as shown in the following table.

R-1 Design Standards			
LOT #	AREA (5,000 SF)	WIDTH (50')	DEPTH (80')
22	1,716	30'	58.25'
23	1,653	30'	56.15'
24	1,599	30.26'	54.05'
25	1,828	30'	61.39'
26	1,835	30'	60.97'
27	1,823	30'	60.55'
28	1,950	30'	65'

R-1 Design Standards			
LOT #	AREA (5,000 SF)	WIDTH (50')	DEPTH (80')
29	1,950	30'	65'
30	1,950	30'	65'
31	1,950	30'	65'
32	1,868	38.93'	50'
33	1,500	30'	50'
34	1,500	30'	50'
35	1,500	30'	50'
36	1,500	30'	50'
37	1,500	30'	50'
38	1,500	30'	50'
39	1,500	30'	50'
40	1,500	30'	50'
41	1,500	30'	50'
42	1,500	30'	50'
43	1,988	32.11'	64.5'
44	1,994	31.89'	64.5'
45	1,935	30'	64.5'
46	1,936	30'	64.5'
47	1,935	30'	64.5'
48	1,935	30'	64.5'
49	1,935	30'	64.5'
50	1,935	30'	64.5'
51	1,935	30'	64.5'
52	1,935	30'	64.5'
53	1,885	30'	64.5'
54*	18,360	70'	112.28'
55**	6,509	62.19'	89.42'
56	1,575	30'	54'
57	1,620	30'	54'
58	1,620	30'	54'
59	1,620	30'	54'
60	1,620	30'	54'
61	1,620	30'	54'
62	1,620	30'	54'
63	1,570	30'	54'

*Lot 54 to be platted as multi-family (R-1).

**Lot 55 to be platted as commercial (C-1).

Shaded boxes = Exception to Standards

- Sidewalks and Trails.** As depicted on the approved Pedestrian Plan for Phase 2, 5-foot-wide concrete sidewalks shall be constructed within the rights-of-way of NE Shoreline Drive, NE Sand Dollar Drive, and NE Baleen Drive, and within open space areas of Tracts F, G, H, I, J, K, L, O, and P. A pedestrian trail shall be constructed within the open space area of Tract E between NE Sand Dollar Drive and NE Lillian Lane.
- Driveway Access.** Phase 2 driveway accesses shall be in accordance with the submitted plans.

7. **Parking.** The minimum number of required parking spaces for all uses shall be provided on each lot. On-street parking shall also be provided as depicted in the approved Parking Plan.
 - 7a. **No Parking in Alleys.** Alley 1 and Alley shall be posted as fire lanes. No parking will be allowed within the alleys.
 - 7b. **Temporary Turnaround for Alley 1.** Until such time as Alley 1 is extended northward into the next adjacent development phase, a temporary turnaround shall be provided at the end of Alley 1. No parking shall be allowed within the temporary turnaround.
8. **Landscaping.** Landscaping conditions include:
 - 8a. **Parking Areas.** A minimum 5% of each parking area shall be landscaped. Detailed landscape plans for each lot will be submitted to the City for review and approval prior to issuance of building permits.
 - 8b. **Tracts E and F** shall be maintained with native vegetation. Where disturbed by construction activity, these areas shall be replanted with Sitka spruce or similar species with applied groundcover to prevent the growth of invasive species. **Tracts G, H, I, J, K, L, M, N, O, and P** shall have actively managed landscaped areas maintained by the homeowners’ association, including native spaces where feasible or appropriate.
 - 8c. Landscaping and vegetation within and adjacent to the rights-of-way of **NE Shoreline Drive, NE Sand Dollar Drive, and NE Baleen Drive** shall be maintained to retain adequate sight distance.
9. **Dimensional Requirements and Exceptions.**
 - 9a. **R-1 Exceptions.** Dimensional exceptions, including minimum lot area, width, depth, yards, and height shall be in general conformance with submitted plans including:

Phase 2 Reductions to Development Standards

Requirement	Standard	Affected Lots
R-1		
Minimum lot area	5,000 SF	22-53, 56-63
Minimum lot width	50 Ft interior lot 55 Ft corner lot	22-53, 56-63 n/a
Minimum lot depth	80 Ft	22-53, 56-63
Minimum front yard	20 feet	22-53, 56-63
Minimum side yard	5 feet*	22-53, 56-63
Minimum rear yard	10 feet**	22-53, 56-63
Maximum lot coverage	No standard	n/a
C-1		
Minimum lot area	No standard	n/a
Minimum lot width	No standard	n/a
Minimum lot depth	No standard	n/a
Minimum front yard	No standard	n/a

Phase 2 Reductions to Development Standards

Requirement	Standard	Affected Lots
Minimum side yard	No standard	n/a
Minimum rear yard	No standard	n/a
Setback to R-1 lot	10 Ft	n/a
Maximum lot coverage	No standard	n/a
Maximum building height	30 feet (R-1)	n/a
	35 feet (C-1)	n/a

*Or one foot for each 3 feet of building height, whichever is the greater.

**For corner lot, either five feet or one foot for each 3 feet of building height, whichever is greater.

There are no requested exceptions to the C-1 property.

- 9b. **Lots 41, 42, 52, and 52 Building Exceptions; Zero Setback for Attached Dwellings.** The single-family dwelling units on Lots 41 and 42, and Lots 52 and 53, would be attached to one another, with a zero-foot setback provided along in the interior side property lines between the lots. All other single-family dwelling units in Phase 2 will be detached from one another along the interior side property lines. The attached dwelling units on Lots 42 and 53 will employ a reversed floor plan, allow for side yard area to provide a buffer between these dwellings and the abutting 4-unit multi-family building (Lot 54) and civic building (Lot 55) to the immediate north. Therefore, an exception is granted to allow zero-foot interior side setbacks for Lots, 41, 42, 53, and 53.
- 9c. **Lots 22-24 and 43-53 Building Exceptions; Exterior Access Stairway Straddling Property Line.** None of the single-family dwelling units will have garages, but each lot will provide for two (2) off-street parking spaces. To provide for enclosed storage of refuse/recycling containers and other personal property, each dwelling will include an attached or detached storage building. In addition, certain lots (Unit Type ‘D’ on Lots 22-24 and 43-53) propose an exterior access stairway that will straddle the property line between the lots. DBZO Section 152.061(A) allows detached, non-habitable accessory structures to encroach up to the property line in rear and side setback areas, but attached structures are otherwise required to meet the same setback requirements as the primary structure. Therefore, an exception is granted to allow attached accessory structures and shared exterior access stairways to encroach into side and rear setback areas on certain lots.
10. **Clear Vision Areas.** Clear vision areas shall be maintained on the corners of all property at the intersection of two streets per DBZO 152.055 and the submitted plans.
11. **Zone Change.** Upon Planning Commission approval of the Phase 2 preliminary plan, the applicant shall obtain City Council approval of a Phase 2 zone change. The zone change includes amending the R-1 zoning to R-1PD and amending the C-1 zoning to C-1PD, consistent with the submitted zone change diagram.
12. **City Engineer Recommendations and Conditions.** The City Engineer offers the following recommendations and conditions on issues that will need to be addressed prior to approval of the final subdivision and/or building permits for *Whale Watch* Phase 2:
- 12a. **Sanitary Sewer.** The applicant is proposing to extend gravity sewer through the development to serve the proposed lots. The new sewer will connect to the existing gravity system in NE

Lillian Lane. The plans show a line in NE Baleen Drive with no connections. This line is presumed to be extended with future phases. The applicant is responsible for ensuring all gravity lines installed within the development are adequately sized to accommodate flows from future phases of the applicant's Master Plan. All sanitary sewer manholes shall be located within the traveled roadway.

12b. **Water.** The water system in the proposed development spans two pressure zones, defined as Zones 1 and 2 in the applicant's Water Master plan. Water lines are looped throughout the development and the two pressure zones are connected through a pressure reducing valve assembly located near the intersection of NE Shoreline Drive and NE Baleen Drive. Proposed water lines connect to the existing system in NE Lillian Lane. The preliminary utility plan shows two water lines in what appears to be a shared trench extending from NE Lillian Lane to NE Sand Dollar Drive, within Shoreline Drive. These water lines shall be separated by minimum of six (6) feet during final design.

12c. **Stormwater.** Stormwater systems are provided throughout the development to collect and convey stormwater runoff from the roadways and development areas through a series of inlets, manholes and pipes. The system shall be redesigned to separate inlets from conveyance lines. This can be addressed in final design.

Several open-channel conveyance systems are proposed. Open channels shall be vegetated or armored with rip rap to mitigate scour. This can be addressed in final design.

Stormwater from approximately half of the development area drains to a large stormwater facility located in Tract P. This pond appears generally consistent with what the applicant depicted in the *Whale Watch* Village Master Plan Preliminary Stormwater Management Plan, dated April 2022. The remaining development area drains to an unidentified discharge point near the intersection of NE Shoreline Drive and NE Baleen Drive. Stormwater management for this outfall must be addressed in final engineering.

12d. **Streets.** The applicant proposes a 55-foot-wide right-of-way on NE Shoreline Drive, 63-foot-wide rights of way NE Sand Dollar and NE Baleen drives, and a 25-foot-wide right-of-way for the two alleys. The width of travelled way is twenty (20) feet for all roadways. Road Section C – Sand Dollar Drive notes 'soft surface path where shown' in lieu of concrete sidewalks. Soft surface paths are not acceptable in the public right-of-way.

The roadway slope of NE Sand Dollar Drive is 14.97% at the intersection with Alley 2. This slope is too steep for an intersection and should be redesigned in final engineering.

13. **ODOT Recommendations and Conditions.** The Oregon Department of Transportation (ODOT) offers the following recommendations and conditions regarding *Whale Watch* Phase 2:

13a. **ODOT Permit Required.** Any work in highway right of way proposed by the applicant, or required by the City, will require the applicant to obtain a permit from ODOT's District 4 Maintenance Permits Office (541 757 4211) prior to commencing any work in highway right-of-way.

- 13b. **Stormwater Drainage Review.** As the proposed development changes the current drainage pattern into an existing ODOT culvert under the roadway, ODOT requests to review the Stormwater Drainage Report for this proposed Phase 2 development.
- 13c. **Timing of 2017 TSP Project Implementation.** Construction of the sidewalk along the east side of N Highway 101 (TSP Project S1) should be deferred until a future development phase that includes the main project entry from N Highway 101 is developed, including the crosswalk on N Highway 101 (TSP Project X1) that aligns with the main entry to the Worldmark development across the street. ODOT Staff also notes that the estimated cost of TSP Project X1 may need to be reassessed when it is implemented in the future and/or as part of any future TSP update.
14. **Geological Hazard Permits.** A geologic hazard report the entire *Whale Watch* Planned Development was prepared by the developer in 2021, but a report specific to the limits of proposed Phase 2 has not yet been provided. A geologic hazard report for *Whale Watch* Phase 2 will require Planning Commission approval prior to final subdivision and/or building permit approval. Site specific geologic hazards permits will also be required prior to approval of building permits on individual sites with slopes exceeding 20%.
15. **Transportation Compliance Letter.** The *Whale Watch* and the *Hills of Depoe Bay* master plan approvals include a condition that a transportation compliance letter shall be submitted with each Preliminary Plan submittal in order to address on-site transportation, access, and pedestrian standards, and to ensure that mitigation measures provided in the Traffic Impact Study are applied at the appropriate phase of development. The applicant will be required to submit a transportation compliance letter for Phase 2 to the City prior final subdivision or building permit approval.
16. **Architectural Style.** General architectural style of the *Whale Watch* Planned Development shall in accordance with the *Whale Watch* Master Plan approval. Architectural features include large windows for viewing, exposed timber framing, and more recently, use of architectural details appropriated from the American Craftsman style that was popular in the early 1900s.
17. **Archaeological Resources.** Development shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. Before and during excavation, any discovery of archaeological resources shall mean that the applicant shall cease excavation activities, notify the State Historic Preservation Office and the Confederated Tribes of Siletz Indians, and meet State statutes before proceeding.
18. **Time Limits.** This Phase 2 Preliminary Plan approval is valid per the *Whale Watch* Master Plan approval, i.e. substantial construction of streets and utilities for Phase 2 shall be completed by December 31, 2025.
19. **Final Plat Approval.** Requests for final approval of the *Whale Watch* Phase 2 subdivision plat shall be accompanied by the following:
- 19a. A copy of all covenants and restrictions.
 - 19b. Copies of all legal documents required for dedication of public facilities and/or for the creation of a homeowner's association.

**#1-PD-PC-24 *Whale Watch* PD Phase 2 Preliminary Plan
April 17, 2024, Planning Commission Meeting**

- 19c. The certification, bond, performance agreement, or statement regarding the installation of water and sewer services.
- 19d. As-built certifications for all required roads and/or utilities unless otherwise guaranteed by a bond or performance agreement.
- 19e. A plat and one exact copy meeting the requirements of Section 15.100 and ORS 92.050 - 92.100.
- 19f. When access from a State Highway is proposed, a copy of the approach road permit issued by the Oregon Department of Transportation confirming that all required improvements have been satisfactorily completed.

Such other information as is deemed necessary by the City Planner or Planning Commission to verify conformance with the conditions of tentative approval.

Submitted by,

Kit Fox, AICP
City Planner

Attachments: *Whale Watch* Amended Master Plan (Case File #1-PD-PC-23)
Whale Watch Phase 2 Preliminary Plan
Whale Watch Phase 2 Conceptual Architectural Plans
Whale Watch Phase 2 Zone Change
City Engineer Comments and Conditions

Relevant DBZO criteria:

- DBZO Section 152.025 Residential Zone R-1
- DBZO Section 152.030 Retail Commercial Zone C-1
- DBZO Section 152.042 Planned Development Zone P-D
- DBZO Section 152.055 Supplemental Regulations
- DBZO Section 152.185 Amendments
- DBZO Section 152.225 Development Guidelines
- DBZO Section 152.250 Land Division

CITY of DEPOE BAY

Post Office Box 8 + Depoe Bay, Oregon 97341
Phone (541) 765-2361 + Fax (541) 765-2129
TDD# 1-800-735-2900



August 15, 2023

Interested Parties

**SUBJECT: Approval of Case File #1-PD-PC-23, Retail Commercial C-1PD and Residential R-1PD Zones
1032 N Hwy. 101, Depoe Bay, OR 97341
Tax Map 09-11-05B0, Tax Lot 01200**

Dear Interested Party:

On Wednesday, August 9, 2023, the Depoe Bay Planning Commission voted to approve the requested amendment to the *Whale Watch* Planned Development master plan for the above-mentioned property. The signed Findings, Conclusions, and Final Order, dated August 15, 2023, are enclosed.

This decision will become effective on Wednesday, August 30, 2023, at 5:00 p.m. unless an appeal is filed at Depoe Bay City Hall. In order to appeal the decision of the Planning Commission, it is necessary to submit a fee/deposit of \$2,001.00, along with a written statement on the City's appeal form explaining the reason(s) for the appeal.

Please contact me at (541) 765-2361 x15 or planner@cityofdepoebay.org if you have any questions.

Sincerely,

Kit Fox, AICP
City Planner

Enclosure: Findings, Conclusions, and Final Order

BEFORE THE PLANNING COMMISSION

OF

DEPOE BAY, OREGON

Request for Planned Development Amendment
In the Retail Commercial (C-1PD) and
Residential (R-1PD) Zones

) Case File: #1-PD-PC-23

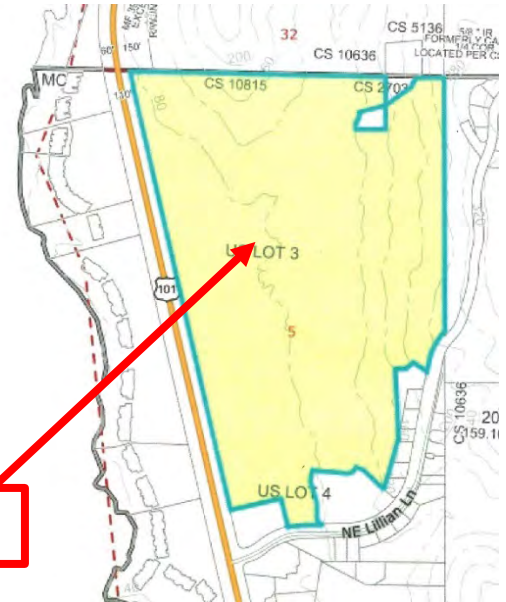
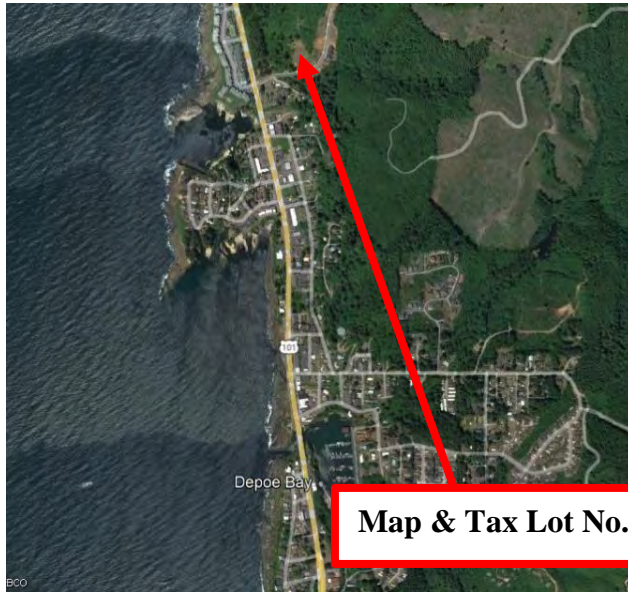
) Findings, Conclusions, and Final Order

APPLICANT/OWNER: The Hills of Depoe Bay, LLC

REQUEST: The applicant requests approval of an amendment to the *Whale Watch* planned development to reflect changes in the configuration and phasing of the planned development to address and protect cultural and riparian resources identified on the undeveloped 42.71-acre site. The amendment does not propose to change the number of dwelling units and/or the mix of allowed commercial uses approved for the *Whale Watch* planned development in 2018.¹

A. REPORT OF FACTS:

1. **Property Location:** The subject property is located at 1032 N Highway 101, and is further identified on Lincoln County Assessor’s Map 09-11-05B0 as Tax Lot 01200.



¹ *Whale Watch* Phase 1 was also approved in 2018, encompassing 6.20 acres at the south end of the planned development along NE Lillian Lane. Phase 1 has been partially constructed at this time, and consists of eighteen (18) single-family lots, a 16-unit multi-family development on a 1.43-acre site, and a 0.77-acre commercial site at the northeasterly corner of N Highway 101 and NE Lillian Lane.

**#1-PD-PC-23 (Whale Watch Master Plan Amendment)
Findings, Conclusions, and Final Order**

2. **Lot Size:** The subject property totals 42.71 acres.
3. **Zoning Designation:** Retail Commercial (C-1), Residential (R-1) and Planned Development (P-D).
4. **Plan Designation:** Commercial and Residential.
5. **Surrounding Land Use:** Vacant, undeveloped land is located to the east of the site, including Phase 1 of the *Depoe Hills* Planned Development. Single-family residential uses in *Whale Watch* Phase 1 are located to the south, and commercial development (timeshare condominiums) are located across N Highway 101 to the west. Boiler Bay State Park is located just outside City limits to the north.
6. **Topography and Vegetation:** The site generally slopes from east to west with the eastern third of the site and a portion of the north end of the site having slopes exceeding 20% in some areas. The western third of the site, near the highway, generally has a gentle slope. The property has been logged in the past however there are numerous trees in the western and northern portions of the site.
7. **Existing Structures:** None
8. **Utilities:** The following utilities are currently available to serve the subject property:
 - a. **Sewer:** City sewer service.
 - b. **Water:** City water service.
 - c. **Electricity:** Central Lincoln P.U.D.
9. **Development Constraints:**
 - a. Slopes exceeding 20% steepness
 - b. Riparian resources
 - c. Cultural resources

B. EVALUATION OF THE REQUEST:

1. **Relevant Criteria:**
 - DBZO Section 152.025 Residential Zone R-1
 - DBZO Section 152.030 Retail Commercial Zone C-1
 - DBZO Section 152.042 Planned Development Zone P-D
 - DBZO Section 152.058 Off-Street Parking and Off-Street Loading Requirements
 - DBZO Sections 152.185-152.188 Amendments
 - DBZO Sections 152.225-152.235 Development Guidelines
 - DBZO Sections 152.250-152.265 Land Division

Complete descriptions of the relevant criteria are attached to this Staff report. In addition, site development is subject to the current criteria of the *Whale Watch* Phase 1 Master Plan.

2. **Applicant's Proposal:** The applicant submitted the application forms and fee/deposit for an amendment to the *Whale Watch* Planned Development Master Plan on June 14, 2023, along with the following material:
 - Master Plan Amendment narrative
 - Master Plan Amendment exhibits

The applicant's narrative describes the following justification and scope of the proposed master plan amendment:

The Whale Watch approved PUD in the city of Depoe Bay, Oregon, occupies a 51-acre site along the Oregon Coast Highway (Hwy 101). In 2014, the site received master plan approval for a mix of uses, with specified quantities for each use outlined. This approval was revised by the original owner and reapproved by the city in 2018.

In February of 2021, the site was purchased by Depoe Hills LLC, the adjacent landowner of The Hills of Depoe Bay. Between March 2021 and November 2021, Depoe Hills LLC completed the wetlands and archaeological studies for the property. The reports provided us with information about important archeological findings on the site as well as a better understanding of the wetlands. Following a careful analysis of the reports, we turned to our land planners, Duany Plater-Zyberg and our engineering team at Parametrix to help us revise the original plans to be responsive to the findings, working toward less impact overall to the site. The amended plan that we are submitting maintains the original approved uses and quantities, however, it makes adjustments to protect the entire Archaeological area, adjusts some wetlands development to reduce it as much as possible and implements a slightly different approach to the commercial area.

Additionally, this proposed amendment to the Whale Watch Master Plan maintains the essential features of the 2018 plan but adopts a focus on creating a walkable mixed-use village neighborhood. With a central village green, a network of small blocks, a main street retail/commercial area, and a variety of housing types. We believe this plan will create a more cohesive, walkable neighborhood environment. The neighborhoods to the east of the village will provide the opportunity to develop a variety of housing types as well: a four-plex apartment, cottages, single family attached homes, single family detached and live-work units.

This Master Plan Amendment creates a slightly different phasing plan that also responds to the study results. While the two primary entries to the site - Shoreline Drive (off Lillian Lane), and Baleen Drive (off Hwy 101) are in the same locations there are slight shifts designed to accommodate grade challenges. As you will see in the attached proposal, the open space percentages, hotel location, commercial square footage, and pedestrian connectivity are unchanged. There is also a chart that demonstrates that the unit counts remain the same.

The revisions involve the following items:

- 1. Roads and accesses:*
 - a. Slight revisions to the interior road configuration have been made to improve the constructability and slope. We are focusing on using the old logging roads, which already exist on the site.*
 - b. The other 2 entries to the site have been slightly realigned: the northwest entry from Hwy 101 and the northeast entry from upper Lillian Lane.*
 - c. Note: The southwest entry from Lillian Lane just above Lot 19 (Phase 1) was removed in previous application because of safety concerns about its location at a curve and its steep slope.*
- 2. Commercial area layout/main entry, Main Street and village green:*

- a. *The creation of a main street on 'Baleen Drive', the primary entry off Hwy 101, with symmetrical building setbacks and welcoming plazas on each side creates a walkable experience offering a variety of commercial opportunities for residents and travelers alike.*
 - b. *The shop-lined main street leads to a small civic building - a village hall, community center or even museum - situated at the base of the hill, overlooking the central green. The green is flanked by retail/live work. We have also included space for a small market.*
 - c. *This layout also preserves many of the existing mature trees - especially at the primary entrance to Whale Watch off Hwy 101. They will provide separation from the highway and help to create a welcoming transition from the highway to main street.*
3. *Archaeological area: To protect the large cultural site, changes to the original plans are required for the road configuration, commercial building location and wetland/water management planning. Emerging at the north end of the green, Baleen Drive now turns to skirt the large open space that preserves the Native American archaeological site and a wetland area.*
 4. *Hotel and restaurant site: Our change to the hotel area is to propose a more intimate cabin/cottage style of lodging experience to take advantage of site's proximity to the state park on the north and rerouting the access road to the highway to keep it out of the sensitive areas.*

As you are aware, Phase I of Whale Watch has already been approved and development is well underway. Several homes have been completed, and several are under construction. Lillian Lane, the current primary access road has been constructed into Phase 1 of The Hills of Depoe Bay (Depoe Hills). In 2017, an amendment to the Phase 1 site plan allowed the 16 condominiums slated for Lots 19 and 20 to be substituted with 16 rental apartments. Those two lots have received approval for consolidation and the plans for the 16 units are in for permit review while final wetland mitigation reviews are being completed by the appropriate agencies with an anticipated approval date of October 2023.

3. **Public Hearing.** A public hearing was held on August 9, 2023, before the Depoe Bay Planning Commission. All interested parties – including the property owner/applicant and surrounding property owners – were given an opportunity to provide written and oral testimony.

At the outset of the public hearing, Commissioner Imbrie recused himself from participating in the public hearing due to previous professional services that he had provided to the developer of the *Whale Watch* planned development. With the absence of Commissioner Moreland from the meeting, only three (3) Commissioners remained to consider the application (President Faucett, Vice President Sherman, and Commissioner Steinke), which did not constitute a quorum of the Commission (Depoe Bay Municipal Code Section 32.02(B)(4)). Following brief discussion with Staff and consultation of the League of Oregon Cities website, the Commission invoked the “Rule of Necessity” under ORS 244.120(2)(b)(B) to allow Commissioner Imbrie to participate for the purpose of achieving a quorum. Commissioner Imbrie was directed to refrain from discussion or deliberation, but was allowed to vote.

4. **Public Testimony:** Notice of this public hearing was mailed to property owners within a 250-foot radius of the subject property on July 19, 2023, and was published in the *Newport News-Times* on July 21, 2023. As of the date that this report was completed, Staff had received no public testimony regarding this proposal. The applicant provided oral testimony in favor of the proposal at the public hearing. Fran Recht provided oral testimony in opposition to the proposal at the public hearing.



PROPOSED MASTER PLAN AMENDMENT
 Whale Watch Master Plan Amendment

June 2023

C. **STAFF ANALYSIS:** The Planning Commission reviews the proposal for conformance with the appropriate standards of the Depoe Bay Zoning Ordinance (DBZO). The Planning Commission should evaluate the evidence provided in the record, as well as testimony given at the public hearing, to determine whether the facts justify that relevant criteria are satisfied.

1. **General Description of Proposed Whale Watch Planned Development:** The *Whale Watch* Planned Development is described in the attached Findings, Conclusions, and Final Order for Case File #2-PD-PC-17, dated January 11, 2018. It includes a hotel, 71,250 square feet of commercial space, and 161 residential dwelling units, including live/work units, attached and detached single-family units, and multi-family units. Thirty-nine percent (39%) of the total site is proposed to be open space. *Whale Watch* Phase 1 has commenced construction, and includes eighteen (18) single-family lots, a 16-unit multi-family development on a 1.43-acre site, and a 0.77-acre commercial site.

As described above in the applicant's narrative, the proposed amendments under Case File #1-PD-PC-23 are primarily for site plan reconfiguration to avoid impacts upon riparian and cultural resource areas. The amended master plan would allow for a hotel, 71,250 square feet of commercial space, and 161 dwelling units. Site open space would increase slightly from 39% to 39.4%. Parking requirements and provisions for the use of certain dwelling units as tourist accommodations would remain the same as approved in 2018.

2. **Amending an Approved Planned Development Master Plan, Preliminary Plan:** DBZO Section 152.042(J) states that the process for amending an approved plan is a new approval by the Planning Commission. The foregoing written narrative and the attached exhibits describe and depict the scope of the proposed amendments to the *Whale Watch* Planned Development Master Plan under Case File #1-PD-PC-23. Unless otherwise modified in the attached narrative and exhibits, the previous findings, conclusions, and final order for Case File #2-PD-PC-17 remain in effect.

3. **General Requirements of a Planned Development:** DBZO Section 152.042(B) lays out the general requirements that govern planned developments. As described above, the proposed master plan amendments involve reconfiguring the site layout to avoid impacts upon riparian and cultural resources. The approved zoning designations, development standards (setbacks and building height), mix of uses, numbers of dwelling units (including units that may be used as tourist accommodations), off-street parking, vehicular access from N Highway 101, open space requirements and other project characteristics will not change with the approval of this master plan amendment.

4. **Master Plan Compliance with Depoe Bay Zoning Ordinance:** DBZO Section 152.042(D) describes the Master Plan Review Procedure and states that the content of a Master Plan shall include all items described in DBZO Section 152.042(F), including (but not limited to) plans/maps, drawings of architectural styles, narrative, additional maps or narrative needed to determine compliance, phasing, requested exceptions, and desired variances, zone changes, etc. As described above, the proposed master plan amendments primarily involve reconfiguring the site layout to avoid impacts upon riparian and cultural resources. The previously-approved mix of uses in the *Whale Watch* Planned Development will not change as a result of this master plan amendment.

The reconfiguration of the site layout does result in changes to the phasing of the project, both in terms of the location and the timing of future development phases. As described above, *Whale Watch* Phase 1 was approved in 2018 and is under construction. In September 2022, the Planning Commission approved 1-year time extensions for future phases of *Whale Watch* as follows:

**#1-PD-PC-23 (Whale Watch Master Plan Amendment)
Findings, Conclusions, and Final Order**

- Phase A1: 2021-2024
- Phase A2: 2024-2027
- Phase B1: 2027-2030
- Phase B2: 2030-2033
- Phase B3: 2033-2036
- Phase C1: 2036-2039
- Phase C2: 2039-2042
- Phase C3: 2042-2045

With the reconfigured site layout, the following project phasing is now proposed:

- Phase 2: 2022-2025
- Phase 3: 2024-2027
- Phase 4: 2027-2030
- Phase 5: 2030-2033
- Phase 6: 2033-2036
- Phase 7: 2036-2039
- Phase 8: 2039-2042

As mentioned in the narrative above, the applicant is still working on final approval of the wetland mitigation plan. As such, Staff recommends granting an additional year for *Whale Watch* Phase 2, which would otherwise expire in January 2024.

5. **Common Master Plan Approval Criteria:** DBZO Section 152.042(G) describes Common Master Plan Approval Criteria including planned development standards; Comprehensive Plan consistency; zoning ordinance provisions; land division criteria; providing amenities and protections at a higher level than otherwise provided under conventional land development procedures; encouraging and promoting creativity and innovation; and proposing development in substantial harmony with the surrounding area. These criteria were found to be satisfied with the approval of the *Whale Watch* Master Plan in 2018, and the scope of the proposed master plan amendments under Case File #1-PD-PC-23 do not conflict with this previous determination. As described above, the proposed master plan amendments involve reconfiguring the site layout to avoid impacts upon riparian and cultural resources. The approved zoning designations, development standards (setbacks and building height), mix of uses, numbers of dwelling units (including units that may be used as tourist accommodations), off-street parking, vehicular access from N Highway 101, open space requirements and other project characteristics will not change with the approval of this master plan amendment.
6. **Off-Street Parking and Off-Street Loading Requirements:** DBZO Section 152.058 describes off-street parking and loading requirements. Specific parking requirements for the *Whale Watch* Master Plan were approved in 2018, including provisions specific to the use of certain dwellings as tourist accommodations. These provisions remain in effect as a part of the requested master plan amendment under Case File #1-PD-PC-23.
7. **Zone Change Request:** The subject property is zoned Retail Commercial C-1 along N Highway 101, with the remainder of the site zoned Residential R-1. Implementing the new site zoning under the *Whale Watch* Planned Development involves adding the ‘PD’ suffix to the underlying zones. In

addition, based upon the 2018 approval of Case File #2-PD-PC-17, 9.35 acres of R-1 zoned land is to be rezoned to C-1. This rezoning is to be accomplished as final approval is granted for each future phase of development. The reconfigured site layout will slightly alter the zoning boundary between the C-1 and R-1 portions of the site. These zone changes will be reviewed by the Planning Commission as future development phases are presented for final approval.

8. **Steep Slopes:** The subject property includes areas of steep slope in excess of 20%. DBZO Section 152.225-152.235 establish the requirement for geologic hazards permits in these steep slope areas. This requirement will continue to apply to the reconfigured master plan area, including the construction of both future streets and buildings. Site specific geologic hazards permits are required prior to approval of building permits on sites with slopes exceeding 20%.
9. **Comprehensive Plan - 2017 Depoe Bay Transportation System Plan (TSP):** The 2017 TSP identifies six projects in the vicinity of the *Whale Watch* Planned Development. The six projects are identified below.
 - **Project S1.** *US 101 Sidewalk Infill – North Segment East Side: North city limits to Lane St. on the east side of US 101.*
 - **Project S3.** *Lillian Ln. Sidewalk Extension: Extends the existing sidewalk on Lillian Lane east.*
 - **Project M1.** *Lillian Lane Extension Multi-use Path: Separate path along Lillian Lane extension.*
 - **Project B5.** *Lillian Lane Bike Route: Lillian Ln., from US 101 to the beginning of multi-use path M1.*
 - **Project X1.** *Worldmark Crosswalk: US 101 at Worldmark main entrance.*
 - **Project T8.** *New Northbound Whale Watch Bus Stop: East side of US 101, near planned Whale Watch entrance.*

The findings, conclusions, and final order for Case File #2-PD-PC-17 describe how these TSP projects are to be implemented with the future development of the *Whale Watch* Planned Development. These requirements continue to be in effect for the amended *Whale Watch* Master Plan under Case File #1-PD-PC-23.

In conclusion, the Planning Commission finds that, other than for the reconfiguration of the site layout to avoid impacts to riparian and cultural resources, the general description of the proposed amendment of the *Whale Watch* planned development master plan is consistent with the previous 2018 approval. The Zoning Ordinance requirements to amend the master plan have been satisfied by the public hearing process through which this request has been reviewed. The amended master plan remains consistent with applicable provisions of Section 152.042 of the Depoe Bay Zoning Ordinance for planned developments. The timing of the next phase of the *Whale Watch* planned development (Phase 2) has been extended for an additional year to 2025, but the subsequent phasing is consistent with the time extensions granted by the Planning Commission in 2022. Off-street parking and loading standards will continue to comply with the provisions of Section 152.058 of the Depoe Bay Zoning Ordinance. The implementation of future zone changes to adjust boundaries between the C-1 and R-1 zones, and to append the PD suffix, shall be accomplished as final approval is granted for each phase of development. Development in areas of steep slopes shall be subject to the provisions of Sections 152.225-152.235 of the Depoe Bay Zoning Ordinance. The amended master plan shall also include the implementation of six (6) adjacent and nearby projects identified in the 2017 Transportation System Plan.

D. CONCLUSION: In evaluating the request, the Planning Commission bases its decision on compliance with the applicable code standards. The Planning Commission finds the request satisfies the applicable criteria, and tentatively approves the requested replat subject to the following conditions of approval:

- 1. Planned Development Master Plan Approval.** Approval of the amended *Whale Watch* Master Plan is based on the submitted narrative and plans dated June 14, 2023, and other submitted materials. The approved master plan includes a hotel, 71,250 square feet of commercial, and 161 residential dwelling units including 20 live/work units, 116 single-family units (attached and detached), and 25 multi-family units (apartments and condominiums). Vehicular access and circulation are substantially the same as approved in the original Master Plan. 39.4% of the total site is proposed to be open space. The Master Plan approval allows for 9.35 acres to be rezoned from R-1 Residential to C-1 Retail Commercial.
- 2. Phasing.** The timing of the Master Plan approval for the entire development is based on the following phasing schedule. Preliminary Plan approval for each phase of development is valid for a period of three years that run concurrently in no particular sequence as follows:

Phase No.	Substantial Completion
1	Approved 2018
2	2022-2025
3	2024-2027
4	2027-2030
5	2030-2033
6	2033-2036
7	2036-2039
8	2039-2042

The Phasing Plan is delineated on Sheets 19 and 20 of the submitted Plans. Each phase shall extend streets and services in a systematic and orderly fashion. The Phasing Plan may be accelerated. Master Plan approval is no longer effective if the phasing schedule is not adhered to.

- 3. Subsequent Review and Approval.** Per DBZO Section 152.042, each phase of development requires preliminary plan approval by the Depoe Bay Planning Commission through a public hearing process. Planned development exceptions may be requested at the time preliminary plans for each phase are submitted. The Planning Commission shall review and make a determination on requested exceptions. Changes to the Master Plan require a Master Plan amendment.
- 4. Zone Changes.** Upon Preliminary Plan approvals for each phase of development, a zone change will occur that adds the 'PD' suffix to the underlying zone, e.g. "C-1 PD" and "R-1 PD".

This Master Plan includes a requested zone change for 9.35 acres from R-1 Residential to C-1 Retail Commercial. The Master Plan approval does not guarantee approval of the zone change from R-1

Residential to C-1 Retail Commercial. The zone change request will be reviewed by the Planning Commission during the Preliminary Plan submittal process, and a recommendation will be made for a final decision by the City Council.

5. **Tourist Accommodations.** Approved Tourist Accommodations shall be in accordance with the following table.

Tourist Accommodation Requirements for a Planned Development Master Plan	
Requirement	Proposed Whale Watch PD
Max. 15% of total land area of underlying R-1 through R-5 zones.	Total proposed residential zoned land = 24.79 acres 15% = 3.72 acres Proposed tourist accommodation area = 3.75 acres (15.13%)
PD shall have a minimum 5 acres.	PD totals 49.22 acres
Tourist accommodations in residential zones are limited to single family and two-family dwellings with a maximum of 5 bedrooms.	Applicant is requesting a PD exception to allow up to 16 condominiums and one 4-plex to be occupied as tourist accommodations. One building in Area 1 is initially proposed as a sales office with 3 guestrooms and eventually a single-family tourist accommodation.
Tourist accommodations shall be contiguous, cohesive, and compatible with the entire development.	Applicant Sheet #7 (for Case File #2-PD-PC-17) identifies the groupings of tourist accommodation areas. Architectural style is proposed to be subject to the same architectural review as other residential homes.
Tourist Accommodation CC&Rs	A requirement of subsequent preliminary plans for phases is to include specific tourist accommodation standards in CC&Rs.

Areas Proposed for Tourist Accommodation			
Area	Number, Type of Residential Units	Acres	Phase
1	10 detached homes, 1 detached home is initially proposed as a sales office with 3 guestrooms.	1.31	1
2	6 detached homes	0.74	1
3	16 condominiums	1.10	1
4	4-plex	0.60	3
Totals	16 detached homes (1 initially with 3 guest rooms) 16- condominiums, 4-plex	3.75	

Tourist accommodations shall be subject to the same architectural review as owner-occupied homes in later phases of *Whale Watch*. They would be buffered by distance, elevation, and orientation from other homes. To mitigate the potential impacts of tourist accommodations, the following standards would apply to each tourist accommodation:

- Guests would be informed in the rental agreement of the “house rules” including a prohibition against excessive noise, lights, dust, smoke, odors, and electromagnetic frequencies.

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August 9, 2023, Planning Commission Meeting

- CC&Rs would inform each Owner that only low voltage lighting and/or motion sensor lighting is allowed.
- CC&Rs would inform each Owner that on-site parking would be provided at the time of construction, including one space per bedroom (two spaces minimum per unit) plus one additional parking space per unit. See Preliminary Plan Sheet 3 (for Case File #2-PD-PC-17).
- Guests would be informed in the rental agreement that a garbage and recycling enclosure would be sited on Lot 21 for the use of detached homes. This arrangement would be temporary, at least for Phase 1. A permanent location would be designated in a future phase. The condominiums would have a similar enclosure.
- CC&Rs would inform each Owner of their responsibility to remain in substantial compliance with applicable provisions of state laws.
- Guests would be informed in the rental agreement that the number of occupants is limited to two persons per bedroom plus one additional person per unit.
- CC&Rs would inform each Owner of their responsibility to maintain a sign posted inside the tourist accommodation unit that identifies a local contact person by name and by license number who is available anytime day or night. An exterior sign shall be posted in the tourist accommodation area containing the same information.
- CC&Rs would inform each Owner of their responsibility to obtain a business from the City of Depoe Bay; to ensure that the property management company has a City business license; and to ensure that transient room taxes are collected and paid to the City. CC&Rs would further notify each Owner that violation of applicable requirements or standards may result in revocation of the business license.

The Master Plan approval does not guarantee approval of the tourist accommodations. The Planning Commission will review and make decisions during the Preliminary Plan submittals when additional detail for the requested tourist accommodations is provided, e.g. size of buildings, number of bedrooms per dwelling, etc.

6. **Traffic Impact Study.** Development shall occur in accordance with recommendations identified in the June 2017 *Whale Watch and Hills of Depoe Bay* Traffic Impact Study (TIS) and in accordance with ODOT and City of Depoe Bay recommendations and approvals. The TIS includes, but is not limited to, the need for traffic signals on Hwy 101 when the developments generate enough trips to warrant the signal(s), sidewalks, crosswalks, and transit facilities. A transportation compliance letter shall be submitted with each Preliminary Plan submittal in order to address on-site transportation, access and pedestrian standards, and to ensure that mitigation measures provided in the TIS are applied at the appropriate phase of development.

The developer and/or homeowners association shall be responsible for maintenance of all streets.

7. **Parking.** Detailed parking plans shall be provided with each Preliminary Plan submittal. Parking plans shall conform to DBZO Section 152.058 and Diagram A. Additionally, parking regulations identified in DBZO Section 152.042 Planned Development shall be addressed, i.e. tourist accommodation parking requirements and that all parking areas shall be paved within the planned development. This Master Plan approval does not grant approval of parking for any phase. With each Preliminary Plan submittal, the Planning Commission will review parking plans and determine if plans

are approved or revisions are required. The applicant stated that preliminary plans will meet DBZO parking requirements.

8. **Open Space.** As identified in the Master Plan, a minimum 39.4% of the site shall be dedicated or reserved for outdoor recreation, park or natural land.
9. **Pedestrian Plan.** The connected public pedestrian network shall be provided as described in the application submittal and illustrated on Sheet 8 of the Plans (for Case File #2-PD-PC-17).
10. **Utilities.** Engineered plans, including capacity analyses of existing and planned city utility systems, shall be submitted with any phase of development for water, sewer, and storm drainage. The City Superintendent shall review and approve water, sewer, and storm drain facilities for each phase of development. Adequate utilities facilities must be provided both on-site and off-site. For example, the wastewater treatment plant must have capacity to accommodate sewer for each phase of development. The applicant shall be responsible for all costs the City may incur by hiring a professional engineer to review and comment on engineering plans. The applicant shall be responsible for obtaining applicable state agency review and approval. The applicant will be responsible for obtaining approval of other utilities, i.e. power, gas, cable, telephone, etc.
11. **Zoning and Requested Exceptions.** Per the Amended Master Plan submittal of June 14, 2023, the applicant may request exceptions at the time a Preliminary Plan is submitted for each phase. Requested zoning amendments and exceptions that may be requested include:
 - a. Along the Oregon Coast Highway approximately 15.5 acres is zoned Commercial. Within that area, four low-lying areas are unsuitable for development and would be enhanced as natural areas. To the east, 33.7 acres are zoned R-1. Proposed Shoreline Drive is aligned with the current zoning boundary between C-1 and R-1. The proposed master plan would refine the location of this zoning boundary according to planned uses. A zone change would be proposed in conjunction with the preliminary plan for Areas A and B to rezone 9.2 acres from R-1 to C-1.
 - b. A Planned Development overlay would be proposed in conjunction with the preliminary plan for each Area. This would allow clustering of home sites which preserves larger tracts of natural areas.
 - c. A limited use overlay would be proposed in conjunction with the preliminary plan for Areas A and B to allow live/work units.
 - d. Exceptions may be requested to standards for front, side, and rear yards, lot area, lot width, and lot depth for topographic reasons.
 - e. Exceptions may be requested to limit building height by CC&Rs to protect view corridors.
 - f. Exceptions may be requested to forested hillsides standards in DBZO Section 152.074(B)(4). It is unclear where this provision is applicable. Merchantable timber was harvested in 2003. Remaining stands of trees are located along the highway frontage. Isolated trees are found throughout the site. The hillside is densely vegetated with blackberries and other opportunistic vegetation.
 - g. An exception may be requested to allow a retirement center as an alternative use to commercial or attached single-family homes. The location would be dependent on compatibility and operational characteristics according to conditional use standards.

#1-PD-PC-23 (Whale Watch Master Plan Amendment)
August 9, 2023, Planning Commission Meeting

- h. A mixed-use building would span Lots 1-3 as shown on Master Plan Sheet 5 (for Case File #2-PD-PC-17). This two-story mixed-use building would be occupied initially as a sales office on the ground floor with guest rooms on the second floor for overnight accommodations. As Hills of Depoe Bay expands at the end of Lillian Lane, the sales office could be replaced by another commercial use.
- i. An exception is proposed in Phase 1 to allow mixed use buildings and condominiums to be occupied as tourist accommodations, a use that is currently limited to single-family and two-family dwellings in a residential zone.
- j. An exception is proposed in Phase 1 to increase on-site parking by one space per unit in lieu of providing an overflow parking lot.

With each requested exception, the Planning Commission will review and determine if any requested exceptions are granted. The applicant acknowledges that the summary of proposed exceptions is simply a declaration for possible future requests, and that approval of the master plan does not constitute approval of any particular exception or zone change.

- 12. **General Architectural Style.** General architectural style of the Whale Watch Planned Development shall in accordance with the submitted Exhibit 5 (six photographs, for Case File #2-PD-PC-17). Architectural features include large windows for viewing, exposed timber framing, and more recently, use of architectural details appropriated from the American Craftsman style that was popular in the early 1900s.
- 13. **Covenants, Conditions & Restrictions (CC&Rs).** In accordance with DBZO Section 152.042(E)(4), Content of Preliminary Plan, application for Preliminary Plan approval of a Planned Development shall include proposed covenants, restrictions, bylaws, etc. of any homeowners' associations and any taxing districts.
- 14. **Geologic Hazard Permits.** Any preliminary plan submittal for an area within identified faults or that includes slopes exceeding 20% shall include a geologic hazard report in accordance with DBZO Sections 152.225-152.235 Development Guidelines.
- 15. **Land Division.** The applicant shall be aware that approval of this Master Plan does not guarantee approval of land division standards. Each phase of development shall be reviewed by the Planning Commission for conformance with DBZO Sections 152.250-152.265 Land Development.
- 16. **Archaeological Resources.** Development shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. Before and during excavation, any discovery of archaeological resources shall mean that the applicant shall cease excavation activities, notify the State Historic Preservation Office and the Confederated Tribes of Siletz Indians, and meet State statutes before proceeding.

E. ORDER:

It is ORDERED by the Depoe Bay Planning Commission that Case File #1-PD-PC-23 be APPROVED for the above-mentioned reasons.

This ORDER was approved by the Depoe Bay Planning Commission on August 9, 2023.



Judy Faucett, President
Depoe Bay Planning Commission

8-15-23

Date

Attachments: Master Plan Amendment application and narrative
Master plan Amendment exhibits
Findings, Conclusions, and Final Order for Case File #21-PD-PC-17
Relevant DBZO criteria:

- DBZO Section 152.025 Residential Zone R-1
- DBZO Section 152.030 Retail Commercial Zone C-1
- DBZO Section 152.042 Planned Development Zone P-D
- DBZO Section 152.058 Off-Street Parking and Off-Street Loading Requirements
- DBZO Sections 152.185-152.188 Amendments
- DBZO Section 152.225-152.235 Development Guidelines
- DBZO Section 152.250-152.265 Land Division

City of Depoe Bay
Application for Planned Development

TO BE COMPLETED BY OFFICE: Deposit: \$2,300⁰⁰ Fee: \$540⁵⁰ Receipt # _____
NON-REFUNDABLE

1. Date Received _____	Staff Initials _____
2. Case File Number _____	Action: _____ Planning Commission _____
3. Action Requested: Planned Development _____ Amendment to Planned Development _____	
4. Current Zoning _____	Current Plan Designation _____ Lot Size _____
5. Previous Planning Actions on Property _____	
6. Existing Code Violation(s) _____	

TO BE COMPLETED BY APPLICANT:

Property Description T 9 S, R 11 W, W.M., Section 5 Tax Lot(s) 80-01200-00

Applicant's Name Hills of Depoe Bay, LLC

Address _____ City _____ State _____

Zip Code _____ Daytime Phone Number _____

Relationship to Property Chris van der Velde, owner
(Owner, Contract Purchaser, etc.)

Agent (include address and phone number)

Existing Structures SFH in platted/approved PHA3 Lot Size _____

Number of Proposed Lots 101 Planned Development tentative name Whale Watch

Current/Proposed Utilities: Sewage yes Water yes Electrical yes

Road District _____ Fire District _____

Anticipated Date of Development In progress

Directions to Property East off 101 onto Lillian Lane

INFORMATION REQUIRED

for

Planned Development

For all planned development applications, the following minimum information must be submitted for the application to be considered complete:

1. A vicinity sketch showing the location of the property in relation to a city or other known landmark.
2. Written narrative and other information addressing Depoe Bay Zoning Code Section 3.410.
3. Plot plan, drawn to scale, of the subject property showing:
 - A. all existing, and approximate location and dimensions of all proposed parcel or lot lines
 - B. size of all proposed parcels or lots in acres and in square feet
 - C. density computation
 - D. location of all proposed streets, a street cross-section showing proposed construction standards, profiles showing approximate grades of all streets in relation to existing ground elevations, and whether they are proposed to be public or private streets
 - E. relationship of proposed roads to adjoining existing and proposed streets
 - F. all existing and proposed buildings and setbacks from all property lines
 - G. the location of water and sewer lines, septic system, well, and all existing and proposed easements
 - H. access to the property, and whether it is a state highway, county road, public road or private easement. Note: Applicant should check to determine if an access permit is required
 - I. all wetland areas, areas of geological hazard, streams and waterways, and areas subject to flood hazard, scenic areas, areas of intertidal habitat, and headlands
 - J. description of the topography and vegetation. Note: plats shall show contours in maximum of 5' intervals
 - K. the date, north point and scale of drawing
 - L. width, depth and direction of flow of all drainage channels on or directly adjacent to the property, and tentative plans of disposal of additional storm water generated by developing the property; indicate proposed cuts and fills or other modifications to existing land conditions.
 - M. if there are to be phases of development, the identification and sequence of each phase
 - N. adjacent land owned by the applicant and proposed development plans, if any
 - O. all existing and proposed easements crossing the property
 - P. existing and proposed land use; include description of proposed recreation facilities, if any
 - Q. illustrate designated open space/ and or common areas.
 - R. describe and illustrate any proposed industrial or commercial development
 - S. describe any signage, lighting, fencing, security systems, and/ entrance gating, if proposed maximum building height of structures; if requested modifications to height, address justification standards as listed in the City of Depoe Bay Zoning Code Section 3.410(2)(e)
 - T. unit types: i.e. number of single-family dwellings, duplexes, multi-family units, manager's or caretaker's residence. Submit typical cross-sections of proposed units.
 - U. address any requested modifications to required development standards
 - V. Other information to address specific site conditions; e.g. wetlands, flood hazard areas, geologic limitations, steep slope areas, inventoried sites, traffic.

4. Other information as may be required by staff to determine compliance with the provisions of and standards and requirements of the City of Depoe Bay Zoning Code.
5. Submit at least 5 copies of Site Plan and written materials

NOTE: ALL APPLICATIONS MUST BE COMPLETE. FAILURE TO SUBMIT A COMPLETE APPLICATION WILL DELAY THE ACCEPTANCE AND PROCESSING OF YOUR APPLICATION.

Chris Van der Valk

Signature of Property Owner

6-28-23

Date

Signature of Applicant (if other than property owner)

Date



June 13, 2023

City of Depoe Bay
c/o Kit Fox, City Planner
PO Box 8
570 SE Shell Avenue
Depoe Bay, OR 97341

Dear Mr. Fox,

The Whale Watch approved PUD in the city of Depoe Bay, Oregon, occupies a 51-acre site along the Oregon Coast Highway (Hwy 101). In 2014, the site received master plan approval for a mix of uses, with specified quantities for each use outlined. This approval was revised by the original owner and reapproved by the city in 2018.

In February of 2021, the site was purchased by Depoe Hills LLC, the adjacent landowner of The Hills of Depoe Bay. Between March 2021 and November 2021, Depoe Hills LLC completed the wetlands and archaeological studies for the property. The reports provided us with information about important archeological findings on the site as well as a better understanding of the wetlands. Following a careful analysis of the reports, we turned to our land planners, Duany Plater-Zyberg and our engineering team at Parametrix to help us revise the original plans to be responsive to the findings, working toward less impact overall to the site. The amended plan that we are submitting maintains the original approved uses and quantities, however, it makes adjustments to protect the entire Archaeological area, adjusts some wetlands development to reduce it as much as possible and implements a slightly different approach to the commercial area.

Additionally, this proposed amendment to the Whale Watch Master Plan maintains the essential features of the 2018 plan but adopts a focus on creating a walkable mixed-use village neighborhood. With a central village green, a network of small blocks, a main street retail/commercial area, and a variety of housing types. We believe this plan will create a more cohesive, walkable neighborhood environment. The neighborhoods to the east of the village will provide the opportunity to develop a variety of housing types as well: a four-plex apartment, cottages, single family attached homes, single family detached and live-work units.

This Master Plan Amendment creates a slightly different phasing plan that also responds to the study results. While the two primary entries to the site – Shoreline Drive (off Lillian Lane), and Baleen Drive (off Hwy 101) are in the same locations there are slight shifts designed to accommodate grade challenges. As you will see in the attached proposal, the open space percentages, hotel location, commercial square footage, and pedestrian connectivity are unchanged. There is also a chart that demonstrates that the unit counts remain the same.



The revisions involve the following items:

1. Roads and accesses:
 - a. Slight revisions to the interior road configuration have been made to improve the constructability and slope. We are focusing on using the old logging roads, which already exist on the site.
 - b. The other 2 entries to the site have been slightly realigned: the northwest entry from Hwy 101 and the northeast entry from upper Lillian Lane.
 - c. Note: The southwest entry from Lillian Lane just above Lot 19 (Phase 1) was removed in previous application because of safety concerns about its location at a curve and its steep slope.
2. Commercial area layout/main entry: Main Street and village green
 - a. The creation of a main street on 'Baleen Drive', the primary entry off Hwy 101, with symmetrical building setbacks and welcoming plazas on each side creates a walkable experience offering a variety of commercial opportunities for residents and travelers alike.
 - b. The shop-lined main street leads to a small civic building – a village hall, community center or even museum – situated at the base of the hill, overlooking the central green. The green is flanked by retail/live work. We have also included space for a small market.
 - c. This layout also preserves many of the existing mature trees – especially at the primary entrance to Whale Watch off Hwy 101. They will provide separation from the highway and help to create a welcoming transition from the highway to main street.
3. Archaeological area: To protect the large cultural site, changes to the original plans are required for the road configuration, commercial building location and wetland/water management planning. Emerging at the north end of the green, Baleen Drive now turns to skirt the large open space that preserves the Native American archaeological site and a wetland area.
4. Hotel and restaurant site: our change to the hotel area is to propose a more intimate cabin/cottage style of lodging experience to take advantage of site's proximity to the state park on the north and rerouting the access road to the highway to keep it out of the sensitive areas.

As you are aware, Phase I of Whale Watch has already been approved and development is well underway. Several homes have been completed, and several are under construction. Lillian Lane, the current primary access road has been constructed into Phase 1 of The Hills of Depoe Bay (Depoe Hills). In 2017, an amendment to the Phase 1 site plan allowed the 16 condominiums slated for Lots 19 and 20 to be substituted with 16 rental apartments. Those two lots have received approval for consolidation and the plans for the 16 units are in for permit review while final wetland



mitigation reviews are being completed by the appropriate agencies with an anticipated approval date of October 2023.

We look forward to discussing these plans with you and answering any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris van der Velde".

Chris van der Velde
Managing Partner
Hills of Depoe Bay LLC



Whale Watch Master Plan Amendment

Depoe Bay, Oregon
June 2023

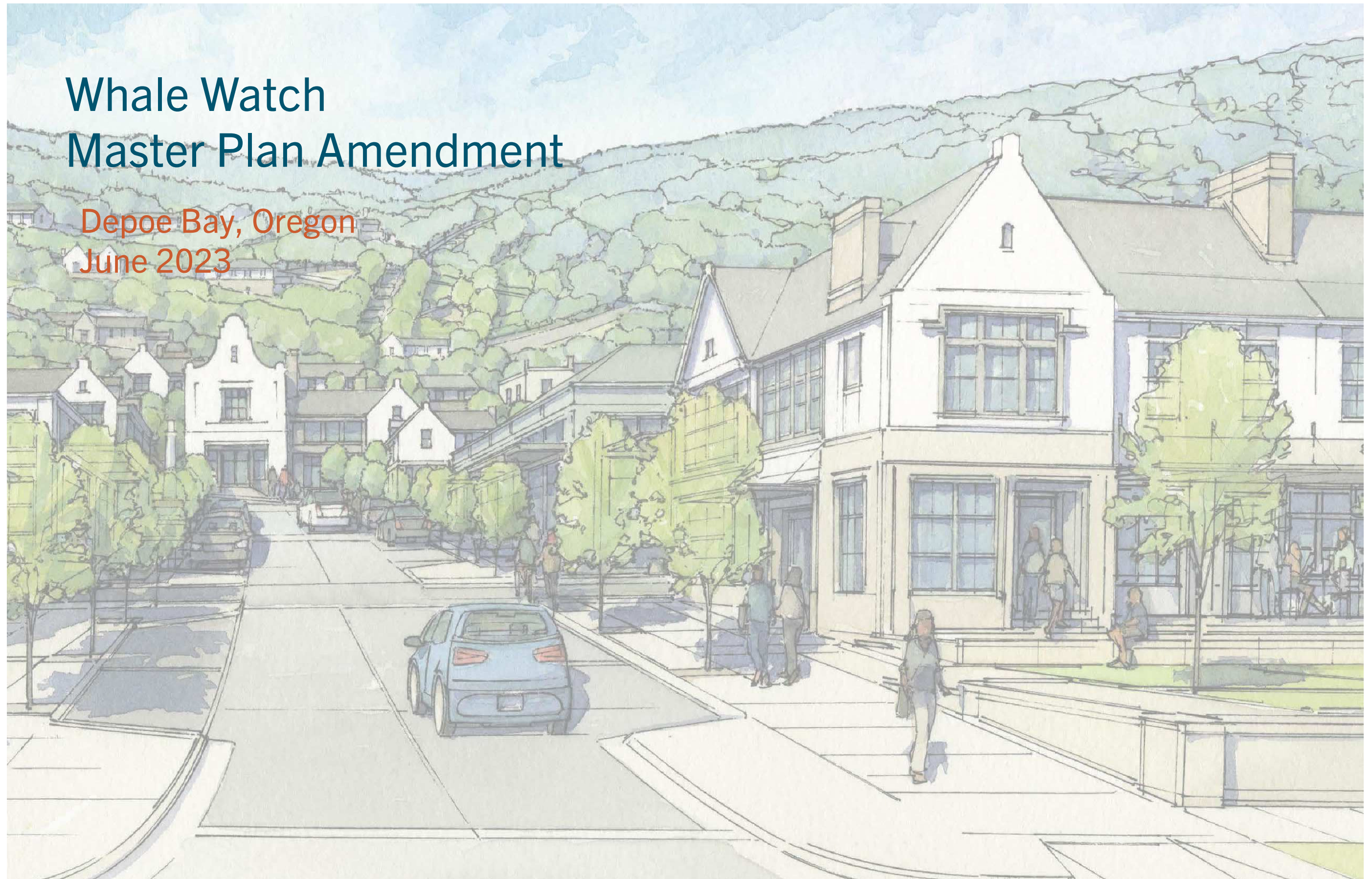


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PROJECT CONSULTANTS

Duany Plater-Zyberk CoDesign (DPZ) – Land Planning & Design
Parametrix – Civil Engineers, Wetlands & Stormwater Management
University of Oregon – Archeological Study
Reece & Associates – Civil Engineering & Land Use Planning

Existing Conditions



SITE AERIAL LOOKING NORTH

Whale Watch Master Plan Amendment



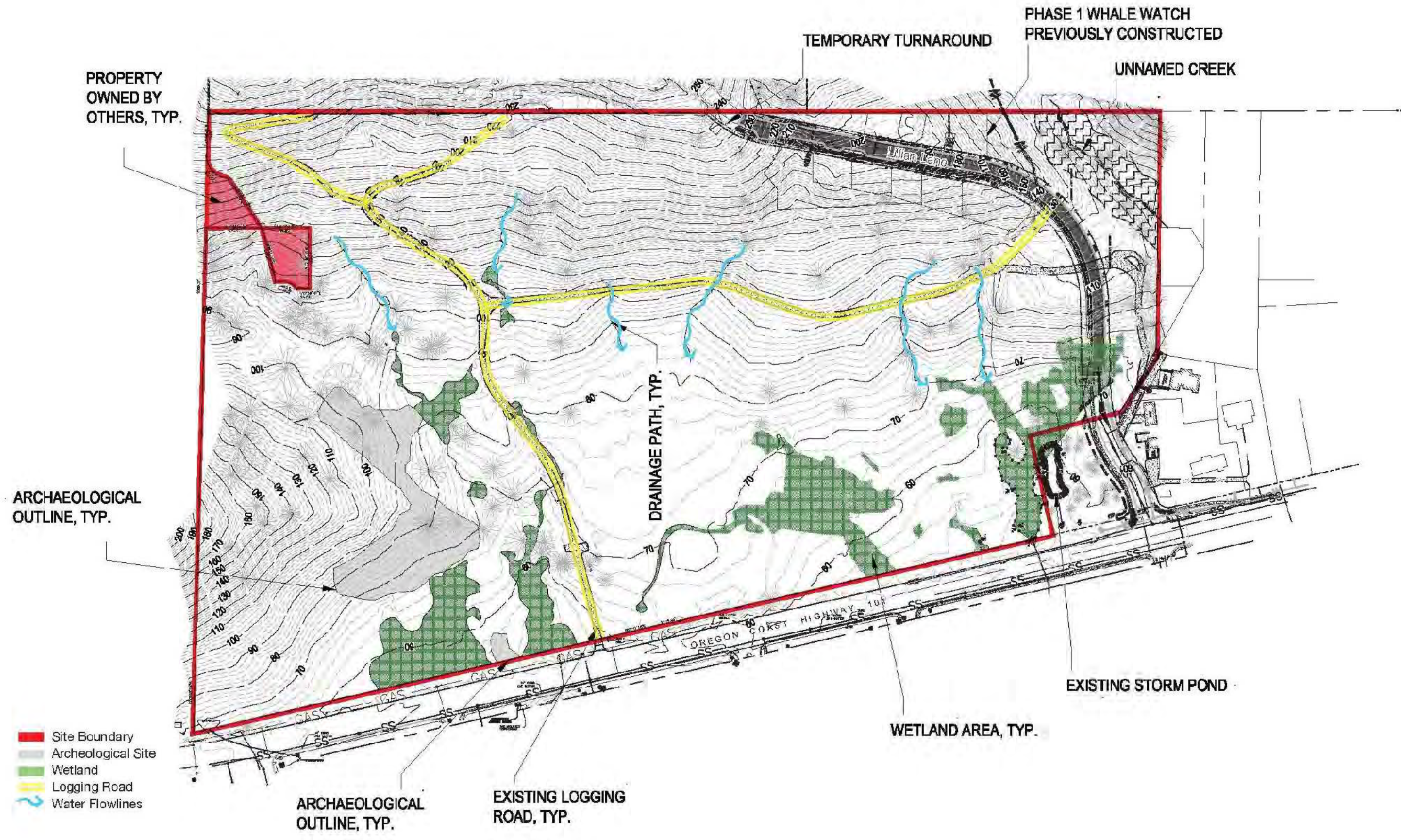
Source: Google Earth

■ Site Boundary

SITE AERIAL WITH BOUNDARY

Whale Watch Master Plan Amendment





CONSTRAINTS MAP - PARAMETRIX

Whale Watch Master Plan Amendment

2018 Approved Master Plan

Table 1, Master Plan Land Uses

Land Use	As Approved	Revision
Hotel	Yes	No change
Commercial	75,000 SF	No change
Live-Work Units	20	No change
Attached Homes	84	64
Detached Homes	40	55
Condominiums	0	22
Open Space*	38%	39%

*Computed before deducting for streets.

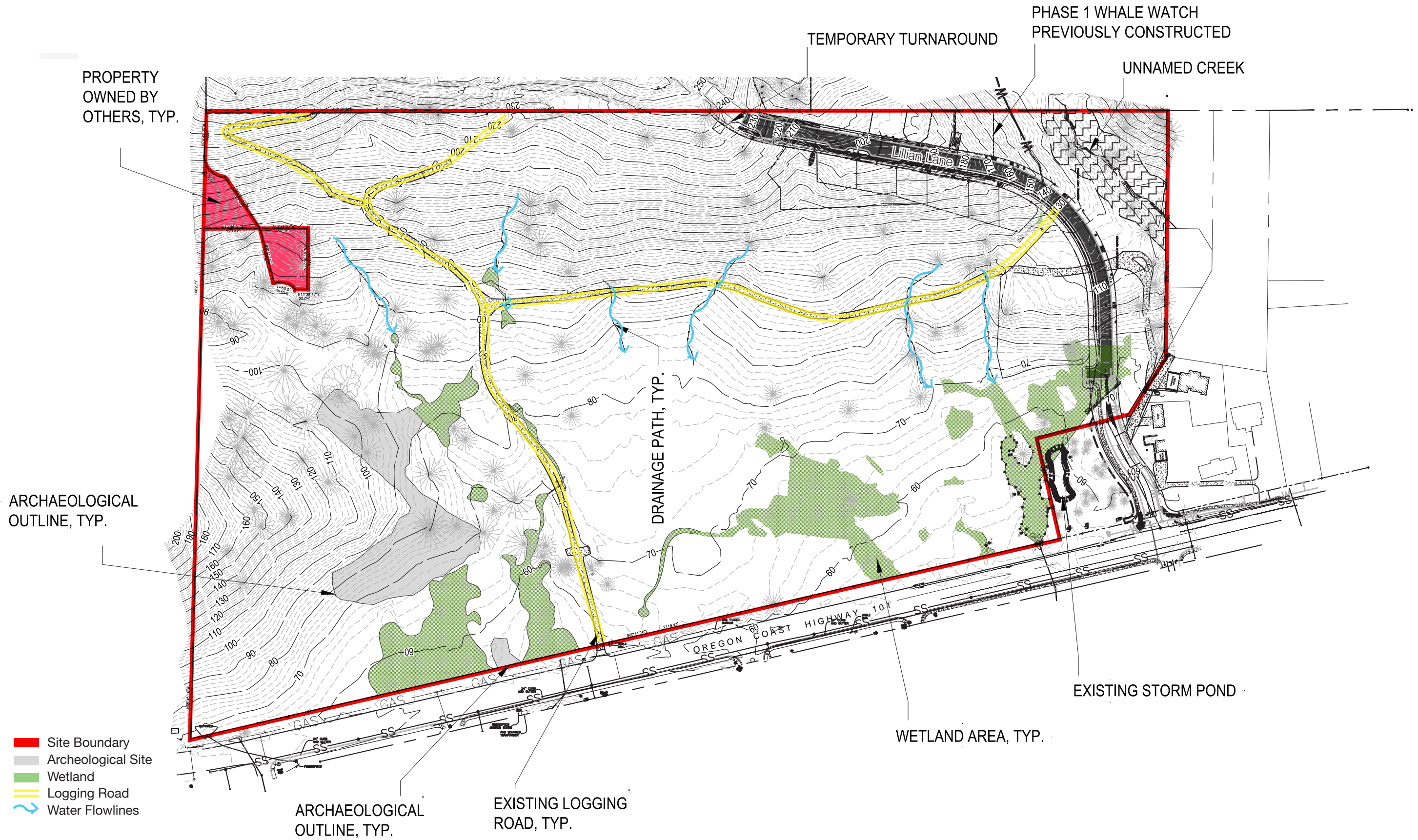
The 2014 phasing plan allocated the Ascent Drive frontage to five phases (A-1, A-2, A-3, C-1, and C-3). The revised phasing plan would consolidate A-3 with portions of A-1, A-2, C-1, and C-3 to form Phase 1. No changes are proposed to Phases B-1, B-2, B-3, or C-2. The resulting adjustments are summarized in Table 2.

Table 2, Summary of Land Uses in Revised Phases

Phase	Acres		Use		Parking Spaces	
	Approved	Revised	Approved	Revised	Approved	Revised
1 [A-3]	[3.10]	6.12	[14 attached homes]	16 detached homes 16 condominiums 3,500 sf commercial bldg	[4/home]	108
A-1	6.40	5.80	34,750 sf retail/office	31,250 sf retail/office	142	123
A-2	2.48	2.08	10 live work units	<i>No change</i>	44	<i>No change</i>
B-1	6.17	4.67	Hotel, 4,000 sf restaurant, 10,000 sf retail/office	<i>No change</i>	100	<i>No change</i>
B-2	6.63	6.60	7,500 sf retail, 15,000 grocery or community center	<i>No change</i>	114	<i>No change</i>
B-3	2.34	2.26	Restaurant, 10 live-work	<i>No change</i>	104	<i>No change</i>
C-1	6.09	4.71	38 attached homes	30 attached homes	4/home	<i>No change</i>
C-2	3.45	3.86	32 attached homes	<i>No change</i>	4/home	<i>No change</i>
C-3	12.49	11.13	40 detached homes, 5-plex	<i>No change</i>	4/home	<i>No change</i>

Tourist Accommodations. The master plan was approved in 2014, prior to the 2016 enactment of amendments to the Zoning Ordinance to allow tourist accommodations in planned developments. Those amendments are now applicable. Prior to the 2016 ordinance, tourist accommodations had been limited to C-1. The amended ordinance now allows tourist accommodations in residential zones, subject to limitations.

2018 MASTER PLAN – CHART OF APPROVED USES



WETLANDS & ARCHAEOLOGICAL STUDY OVERLAYS (on 2018 MP)

Conceptual Master Plan

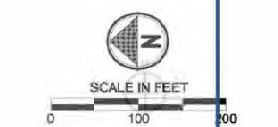


- LEGEND**
- (A) MAIN SQUARE
 - (B) MUSEUM / VILLAGE HALL
 - (C) STORMWATER MANAGEMENT
 - (D) GROCERY
 - (E) VILLAGE ENTRY
 - (F) LODGE / PARKING
 - (G) CABINS
 - (H) APARTMENT MANSIONS
 - (I) TOWNHOUSES
 - (J) LIVE-WORKS
 - (K) ARCHAEOLOGICAL SITE
 - (L) OPEN SPACE

- NOTES**
1. EXACT RIGHT-OF-WAY ON STEEP SLOPES ARE PRELIMINARY AND SUBJECT TO ADJUSTMENT.
 2. WETLAND MITIGATION REQUIREMENTS MAY SUBJECT PLAN TO ADJUSTMENT.

2021 DPZ CoDesign
 REVISIONS
 DATE
 BY
 DESIGNED
 WZG
 DRAWN
 WZG
 CHECKED
 #####
 APPROVED
 #####
 FILE NAME
 X29784249001-DE-B-LOOP
 JOB NO.
 2978249001
 DATE
 JUNE 2021

■ Site Boundary
■ Archeological Site
■ Wetland
■ Logging Road
■ Water Flowlines
■ Archaeological site
■ Delineated wetland



PRELIMINARY 05-11-21

Parametrix
 ENGINEERS • PLANNERS • ENVIRONMENTAL SCIENTISTS

PROJECT NAME
**WHALE WATCH
 MASTER PLAN**
 DEPOE BAY, OR

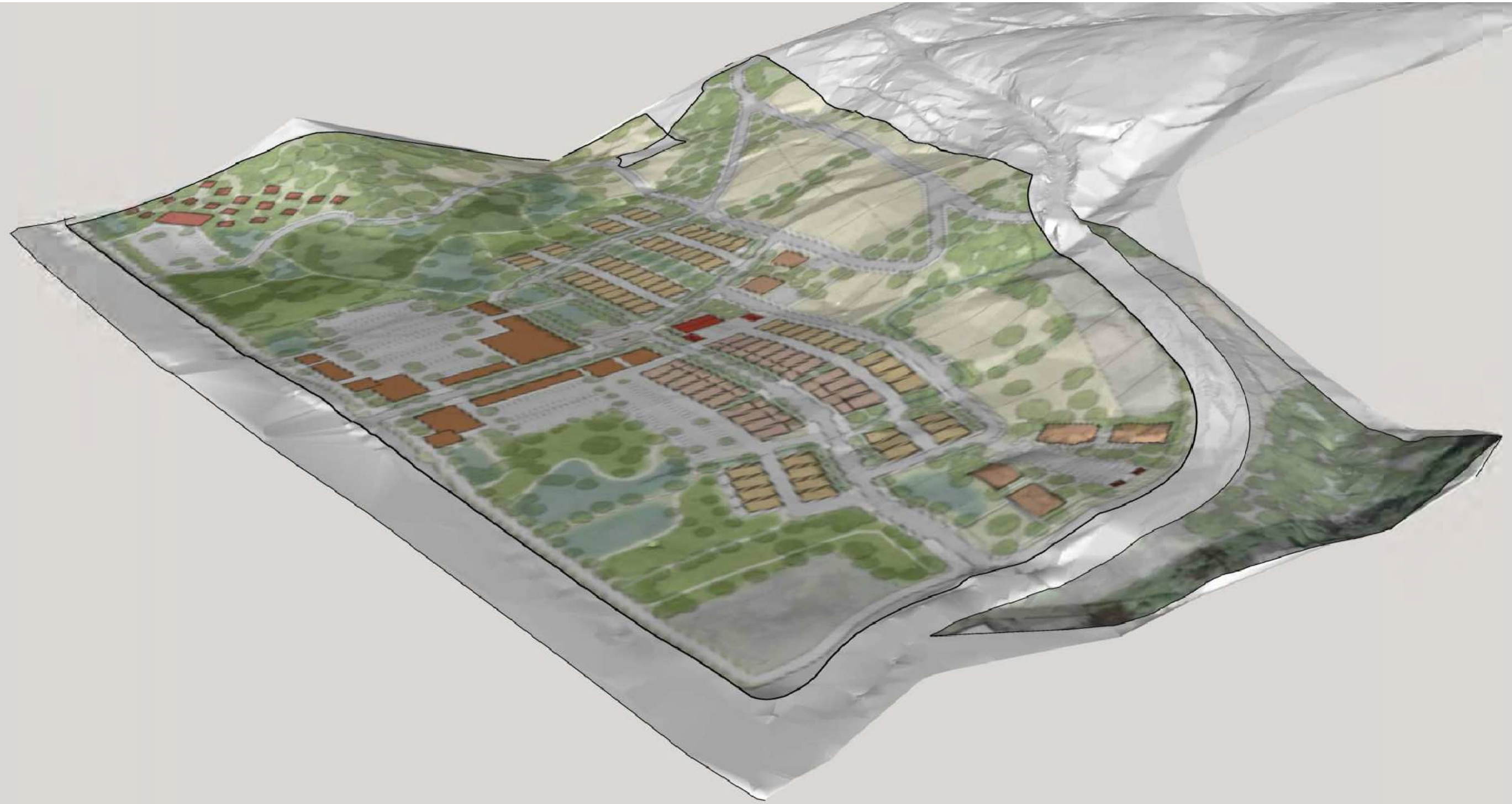
DRAWING NO.
**WHALE WATCH
 MASTER PLAN**
 OF XX

DRAWING NO.
MP00

REVIEW SUBMITTAL
 NOT FOR CONSTRUCTION

CONCEPTUAL MASTER PLAN – DPZ

Whale Watch Master Plan Amendment



CONCEPTUAL AERIAL VIEW OF PLAN ON EXISTING TOPOGRAPHY

Proposed Master Plan Amendment





LEGEND:

- (A) MAIN SQUARE
- (B) VILLAGE HALL
- (C) CIVIC
- (D) RETAIL
- (E) VILLAGE ENTRY
- (F) LODGE / PARKING
- (G) CABINS
- (H) APARTMENTS (4-PLEX UNIT)
- (I) LIVE-WORK
- (J) SINGLE-FAMILY (ATTACHED OR DETACHED)
- (K) STORMWATER MANAGEMENT
- (L) ARCHAEOLOGICAL SITE
- (M) OPEN SPACE
- (N) GENERAL COMMERCIAL
- (O) APARTMENTS ABOVE COMMERCIAL

PROPOSED MASTER PLAN AMENDMENT

Whale Watch Master Plan Amendment



LEGEND:

- DELINEATED WETLAND
- IMPACTED WETLAND AREA
- ARCHAEOLOGICAL SITE
- STORMWATER MANAGEMENT

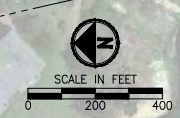
PROPOSED WETLAND IMPACTS:

TOTAL: 62,487 SQ. FT.

WATER MANAGEMENT & WETLAND STUDY PLANS



- LEGEND:
- PRIMARY ROAD
 - SECONDARY ROAD
 - ALLEY
 - PEDESTRIAN WALK/PATH



STREET & PEDESTRIAN PLANS

Whale Watch Master Plan Amendment



Open Space Region	Area (Sq. Ft.)
O1	13,548
O2	60,373
O3	6,169
O4	17,623
O5	4,239
O6	46,522
O7	22,519
O8	74,110
O9	66,417
O10	263,630
O11	78,307
O12	55,470
O13	77,786
O14	24,459
O15	12,975
O16	11,458
O17	6,340
O18	12,150
O19	2,188
O20	3,131
O21	5,799
O22	906
O23	11,789
Total Area in Sq. Ft.	877,908
Total Area in Acres	20.15
Site Total Area in Acres	51.15
Total Area % Open Space	39.40%

OPEN SPACE



LEGEND:

- (A) MAIN SQUARE
- (B) VILLAGE HALL
- (C) CIVIC
- (D) RETAIL
- (E) VILLAGE ENTRY
- (F) LODGE / PARKING
- (G) CABINS
- (H) APARTMENTS (4-PLEX UNIT)
- (I) LIVE-WORK
- (J) SINGLE-FAMILY (ATTACHED OR DETACHED)
- (K) STORMWATER MANAGEMENT
- (L) ARCHAEOLOGICAL SITE
- (M) OPEN SPACE
- (N) GENERAL COMMERCIAL
- (O) APARTMENTS ABOVE COMMERCIAL

PHASING PLAN

Whale Watch Master Plan Amendment

Table 1, Master Plan Land Uses

Land Use	As Approved in 2018	Proposed Amendment 2023
Hotel	Yes	Hotel Cabins, No Change
Commercial	71,250 SF	No Change
Live Work	20	20
Attached Homes (Dwelling Units)	64	-
Detached Homes (Dwelling Units)	55	-
**Subtotal of Single-Family Dwelling Units	119	116
Condominiums/Apartments	22	25
Open Space*	39%	39.4%
Summary of Total Dwelling Units	161	161
Summary of Total Commercial	71,250 SF	71,250 SF

*computed before deducting for streets

Table 2, Summary of Land Uses in Revised Phases

Approved 2018				Proposed Master Plan Amendment 2023							
Phase	Acres	Units	Parking Spaces	Phase	Acres	Single-Family Dwelling Units	Apartment/Condo Dwelling Units	Commercial SF	Live/Work Dwelling Units	Units	Parking Spaces
(A-3)	6.12	16 detached homes, 16 condominiums, 3,500 SF commercial	108	1	8.44	18	16	4,800		As platted on 06/28/18, 18 detached homes*, 16 condominiums/apartments, 3,500 SF commercial	108
A-1	5.8	31,250 SF retail/office	123	2	8.19	32				Retail moved to Phase 4; 32 single-family	2/Dwelling Unit
A-2	2.08	10 live work units	44	3	4.09	25	4	2,450	6	25 single-family; 4 apartments; 6 live work	2/Dwelling Unit
B-1	4.67	Hotel, 4,000 SF restaurant, 10,000 SF retail/office	100	4	3.94	4	5	20,000	14	Hotel/cabinets moved to Phase 8; 4 single-family; 5 apartments; 14 live work	2/Dwelling Unit; 1/350 SF Retail
B-2	6.6	7,500 SF retail, 15,000 SF grocery or community center	114	5	5.09	16				Retail moved to Phase 6; 16 single-family	2/Dwelling Unit
B-3	2.26	Restaurant, 10 live work	104	6	3.15			30,000		No Change; 15,000 SF retail, 15,000 SF grocery or community center/commercial	1/350 SF Retail
C-1	4.71	30 attached homes	4/home	7	10.34	21				21 single-family	2/Dwelling Unit
C-2	3.86	32 attached homes	4/home	8	7.91			14,000		No Change: Hotel cabins, 4000 SF restaurant, 10,000 SF retail/office	1/100 SF Restaurant; 1/Guest
C-3	11.13	40 detached homes, 5-plex	4/home								
Summary of Total	47.23***	161 Units, 71,250 SF commercial			51.15	116	25	71,250	20	161 Units, 71,300 SF commercial	

* Note: 18 detached homes recorded in Phase 1

** miscalculated in 2018 when 3,500 SF moved from A-1 to Phase 1 (A-3)

***Missing 2 acres; 2018 MP approved as 49.23 Acres; Overall Site is 51.15 Acres

CHART OF PHASES

Whale Watch Master Plan Amendment



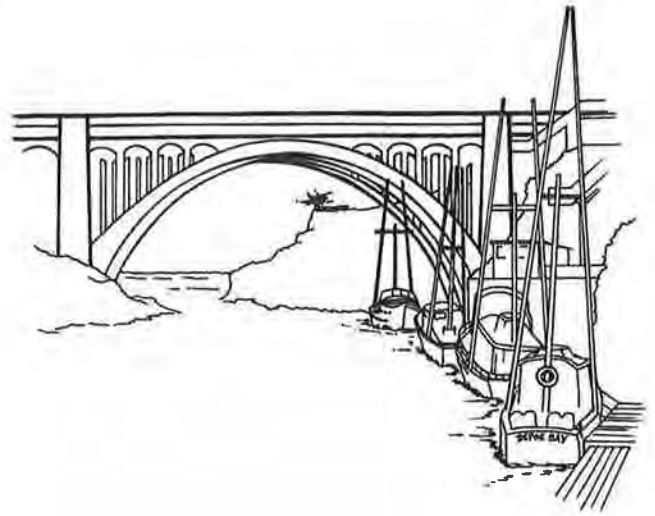
Illustration looking from the main entrance up Balcon Drive towards the civic building and the hillside neighborhood beyond.

CONCEPTUAL VILLAGE ENTRY – DPZ

Whale Watch Master Plan Amendment

CITY of DEPOE BAY

Post Office Box 8 + Depoe Bay, Oregon 97341
Phone (541) 765-2361 + Fax (541) 765-2129
TDD# 1-800-735-2900



January 11, 2018

Martin Boone
Omni Financial LLC & Orbis Financial LLC

**Re: Case File #2-PD-PC-17 Whale Watch Planned Development
Tax Map 09-11-05B, Tax Lot 1109**

Dear Mr. Boone:

On Wednesday, January 10, 2018 the Depoe Bay Planning Commission voted to approve, with conditions, the above request for the Whale Watch Planned Development Master Plan. The Findings, Conclusion, and Final Order are attached.

This decision will become effective on Friday, January 26, 2018 at 5:00 p.m., unless an appeal is filed at Depoe Bay City Hall. In order to appeal the decision of the Planning Commission, it is necessary to submit a fee/deposit of \$1,740.00, along with a written statement explaining the reason for the appeal.

Please contact me if you have any questions.

Sincerely,

Larry Lewis
City Planner

Enclosure: Findings, Conclusions, and Final Order

cc: Rich Catlin/David Reece, Reece & Associates, Inc.
Michele Riley (via email)

BEFORE THE PLANNING COMMISSION

OF

DEPOE BAY, OREGON

**Request for Approval of a Planned Development
Amended Master Plan**

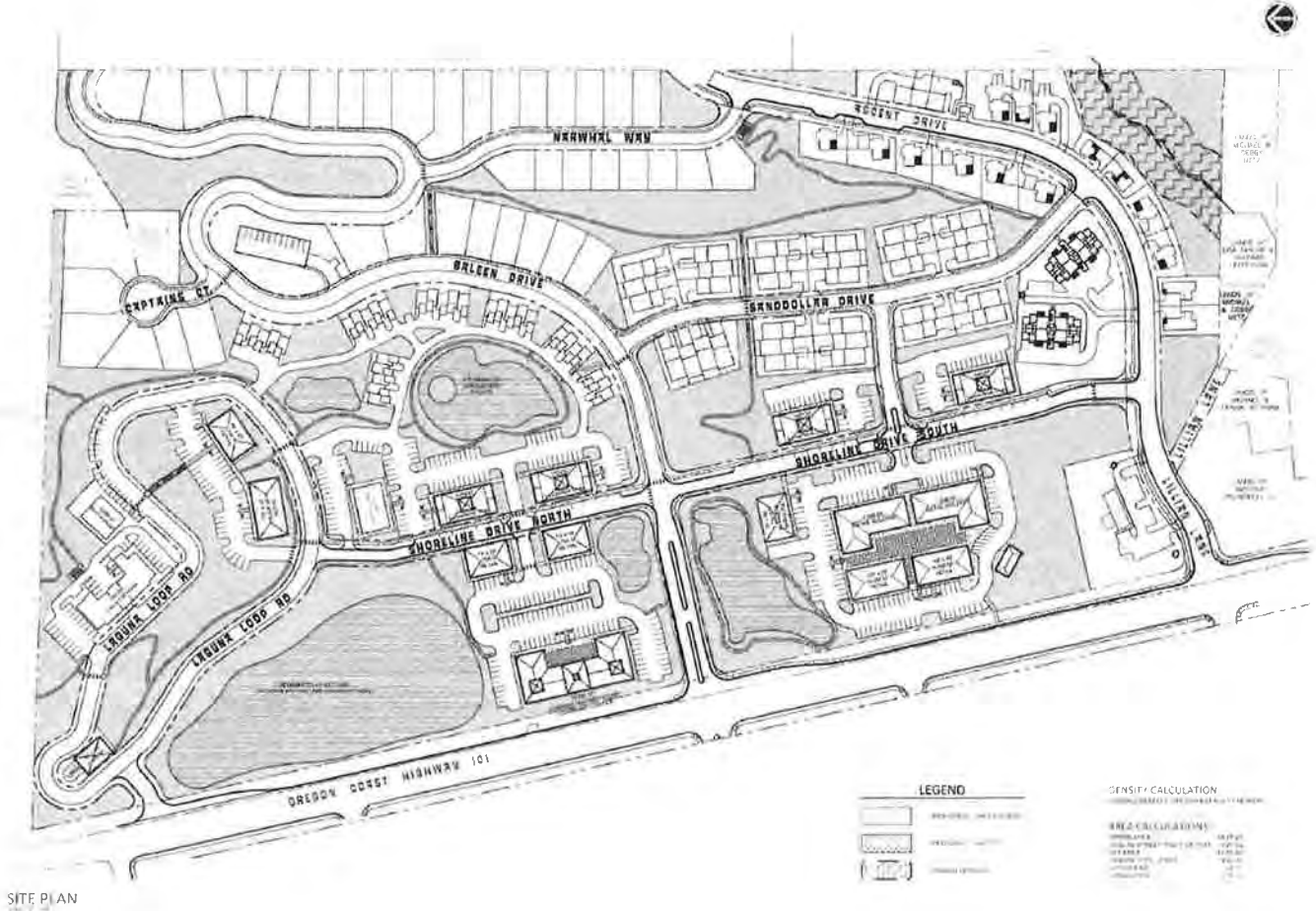
**) Case File: #2-PD-PC-17
) Findings, Conclusions, and Final Order**

Applicant: Martin Boone, Member, Orbis Financial LLC and Omni Financial LLC

Agent: Reece & Associates Inc.

Nature of the Application

The **Whale Watch Planned Development (PD)** application is a request for an amendment to the preliminary approval of a Master Plan. The 49.23 acre property is located on the east side of Hwy 101 at the north end of Depoe Bay. The proposed master plan includes a hotel, 75,000 square feet of commercial, and 161 residential dwelling units including 20 live-work units, 64 attached homes, 55 detached homes, and 22 condominiums. 39% of the total site is proposed to be open space.



Whale Watch Master Plan

#2-PD-PC-17 Whale Watch Planned Development – Master Plan Findings, Conclusions, and Final Order

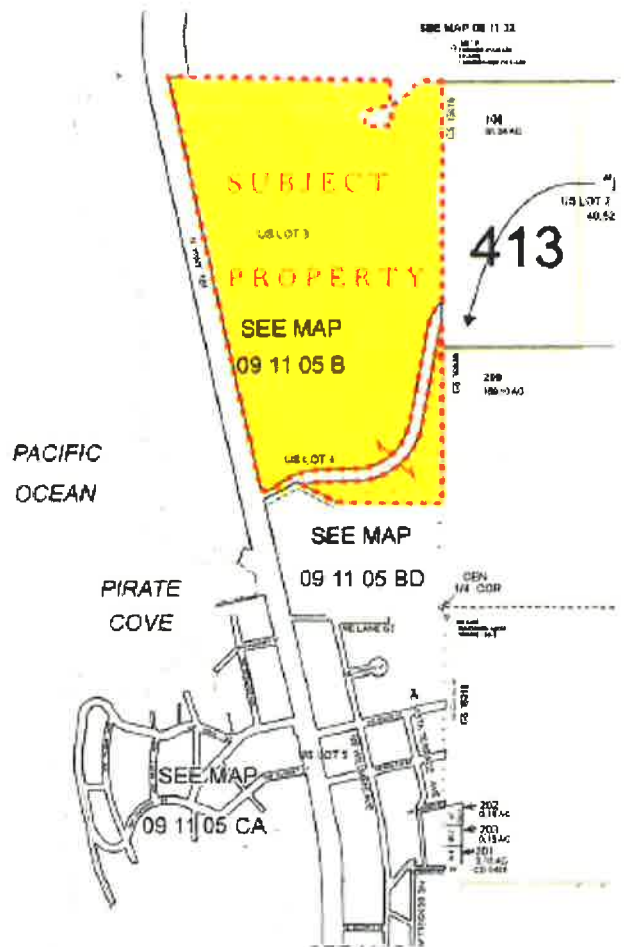
The Master Plan includes a request to rezone 9.35 acres from R-1 Residential to C-1 Retail Commercial.

The proposed master plan identifies multiple future phases of development. Requests for development require Preliminary Plan submittals for each phase in accordance with the Master Plan. Each phase of development requires review and approval by the City.

The Phase 1 Preliminary Plan is submitted concurrent with the amended Master Plan application. The Phase 1 Preliminary Plan will be considered by the Planning Commission at a public hearing following review and decision on the amended Master Plan. The submitted Phase 1 Preliminary Plan would build out both sides of Ascent Drive with 16 detached homes, 16 condominiums in two buildings, and a commercial building. One of the detached homes is initially proposed as a real estate sales office for Whale Watch and the Hills of Depoe Bay with 3 guestrooms and eventually a single family tourist accommodation. Construction of Phase 1 is planned for 2018.

Relevant Facts

1. **Property Location:** The subject property is located at the north end of Depoe Bay city limits on the east side of Highway 101, and is further identified on Lincoln County Assessor’s Map 09-11-05B as tax lot 1109.
2. **Lot Size:** The subject property totals 49.23 acres.
3. **Zoning Designation:** C-1 Retail Commercial and R-1 Residential.
4. **Plan Designation:** Commercial and Residential.
5. **Surrounding Land Use:** Vacant, undeveloped land is located north and east of the site. The planned Hills of Depoe Bay Planned Development is adjacent to the east. Single family residential uses are located to the south, and multi-family development is located west across Highway 101, i.e. Worldmark, Village at North Pointe, and Thundering Shores. Boiler Bay State Park is located across Highway 101 to the northwest. The land adjacent to the north is owned by Oregon Parks & Recreation Department.
6. **Topography and Vegetation:** The site generally slopes from east to west with the eastern third of the site and a portion of the north end of the site having slopes exceeding 20% in some areas. The western third of the site, near the highway, generally has a gentle slope. The property has been logged in the past however there are numerous trees in the western and northern portions of the site.



#2-PD-PC-17 Whale Watch Planned Development – Master Plan Findings, Conclusions, and Final Order

7. **Existing Structures:** None
8. **Utilities:** The following utilities are currently available to serve the subject property:
 - a. Sewer: City sewer service.
 - b. Water: City water service.
 - c. Electricity: Central Lincoln P.U.D.
9. **Development Constraints:** The eastern portion of the property has steep slopes and drainage ways. A designated inland stream with associated riparian area is located in the southeast portion of the site.
10. **Public Meeting:** A public meeting was held December 13, 2017 before the Depoe Bay Planning Commission. Property owners within the notice area were duly notified of the public meeting. All interested parties were given an opportunity to testify.
11. **Public Testimony:** One person submitted written testimony. In summary, the person expressed opposition to developments proposed at the north end of Depoe Bay with concerns about doubling the population and the city capacities of roads, housing, water, the need for low income housing, etc.

The applicant's agent presented and responded to Planning Commission questions and comments at the December 13, 2017 Planning Commission meeting. An Oregon Parks & Recreation Department (OPRD) employee expressed concern about Whale Watch public trails leading to the adjacent unimproved OPRD property on the north side of the Whale Watch site. The applicant's agent noted that the Whale Watch trails will not stub out to the north property line, adjacent to the OPRD property, without first obtaining approval from OPRD.

All oral and written testimony and minutes of the Planning Commission meetings are herein incorporated into the record.

12. **Public Agency Comment:**
Relevant portions of the Whale Watch application were forwarded to the following agencies for review and comment:
 - City of Depoe Bay Public Works
 - Depoe Bay Rural Fire District (DBRFD)
 - Oregon Department of Transportation (ODOT)
 - North Lincoln Sanitary Service

DEPOE BAY CITY SUPERINTENDENT

The City Superintendent stated that water, sewer and storm drain facilities are available and able to accommodate the proposed development with improvements to be made by the developer(s).

Water. The applicant has provided a general plan for water services and the City Superintendent concurs with that general plan, i.e. areas with the development to be served by extensions of the water main, where elevations require additional improvements (e.g. boost pumps). The water main referenced on the east side of Hwy 101 is a 12-inch water main.

Sewer. The City Superintendent concurs with the applicant's general plan to connect sewer on the west side of Hwy 101. There is an adequately sized sewer to accommodate the development. The sewer connection will require boring under Hwy 101 and approval by ODOT.

#2-PD-PC-17 Whale Watch Planned Development – Master Plan Findings, Conclusions, and Final Order

Storm Drain. The City Superintendent concurs with the applicant’s general plan for storm drainage. Any storm drainage connecting to the Hwy 101 storm drain system will require review and approval by ODOT.

The City Superintendent requests review and approval of water, sewer, and storm drain facilities for each phase of development as well as review and approval by applicable state agencies.

OREGON DEPARTMENT OF TRANSPORTATION (ODOT)

ODOT submitted a September 25, 2017 letter (attached). In summary, the letter provides comments regarding required applications for State Highway Approaches and proposed mitigation comments, i.e. frontage improvements, traffic signal installation, and marked pedestrian crossings of US 101.

DEPOE BAY RURAL FIRE DISTRICT (DBRFPD)

DBRFPD provided written comment that generally the accesses appear to be sufficient but DBRFPD wants to make sure that all streets and access widths meet the county street code and the International Fire Code for fire service access, including where they are going to allow on street parking. DBRFPD recognizes they will have a chance to see these with each phase but want the developer to be aware of those requirements. DBRFPD also states that if any buildings are over 30 ft. in height from the street level the road must allow for aerial ladder access. And, any areas that have tourist accommodations need to provide sufficient parking so that fire department access is maintained.

Relevant Criteria

Relevant sections of the Depoe Bay Zoning Ordinance are listed below. Complete descriptions of relevant criteria were provided in the Appendix of the Staff Report and are herein incorporated into the record.

Depoe Bay Zoning Ordinance #24 (as amended):

- | | |
|--|---------------------------------------|
| a) Section 3.010: Residential Zone R-1 | e) Article 9: Amendments |
| b) Section 3.110: Retail Commercial C-1 | f) Article 13: Development Guidelines |
| c) Section 3.410: Planned Development Zone P-D | g) Article 14: Land Division |
| d) Article 4. Supplemental Regulations | |

Depoe Bay Comprehensive Plan

2017 Depoe Bay Transportation System Plan

Applicant’s Proposal:

The applicant submitted the application forms and fee/deposit. Pages i and ii of the application, shown below, identify the submitted material.

Request:	Revision to the Planned Development Master Plan for Whale Watch. Concurrent applications for Phase 1 of Whale Watch: <ul style="list-style-type: none"> • Preliminary Plan • Subdivision Tentative Plan • Zone Change to apply the Planned Development Zone
Location:	Highway 101 & Lillian Lane/Ascent Drive 09 11 05B – 1109
Applicants/	Omni Financial LLC & Contact: Martin Boone

Owners:	Orbis Financial LLC 1260 41 st Avenue, Suite O Capitola, CA 95010	(831) 464-5021 Martin@Shermanandboone.com
Engineer/Planner:	Reece & Associates, Inc. 321 1 st Avenue Suite 3A Albany, OR 97321	Contacts: David Reece, PE dave@r-aengineering.com (541) 926-2428 Rich Catlin rich@r-aengineering.com (541) 926-2428

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IX. SUPPLEMENTARY REGULATIONS

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XII. TRANSPORTATION PLANNING RULE

XIII. CONCLUSION

EXHIBITS

1. Assessor Maps 09s11w05, 09s11w05B
2. City Map
3. Zoning Map
4. Aerial Photo
5. Pacific Northwest Vernacular
6. Transportation Compliance Letter (Kittelsohn Inc.)
7. Geotechnical Investigation (H.G. Schlicker & Associates, Inc.)
8. Wetland Delineations (Zion Natural Resources Consulting)
9. Traffic Impact Study (Kittelsohn Inc.)
10. Water System Analysis (Reece & Associates Inc.)
11. Sanitary Sewer System Analysis (Reece & Associates Inc.)

PLAN SHEETS
REVISED MASTER PLAN

1. Cover
2. Existing Conditions
3. Topographic Elevation Display
4. Percentage Slope Display
5. Master Plan
6. Phasing
7. Tourist Accommodations
8. Pedestrian Network
9. Utilities
10. Typical Sections

The applicant provided the following description of Existing Conditions:

Omni Financial LLC and Orbis Financial LLC are the owners of record of the 49.23-acre subject property (Exhibit 1). Mr. Martin Boone as managing member of both LLCs represents the owners for these applications. Mr. Boone was the applicant for the 2014 master plan as well as the current applications.

The Hills of Depoe Bay LP (HODB) owns the 81.04 acres to the east of Whale Watch (Exhibits 1, 2). HODB had previously secured right-of-way for extension of Lillian Lane through Whale Watch to the HODP land. Earlier this year, a portion of the right-of-way was renamed to Ascent Drive. Construction of the road and installation of utilities progressed in two stages under permits issued by the City of Depoe Bay and ODOT. The first segment from the Oregon Coast Highway to station 3+95 was completed in 2015. The second segment from 3+95 to 15+55 (at the eastern boundary of Whale Watch) is currently under construction. It is scheduled for completion in 2018.

On October 8, 2014, the Planning Commission approved the master plan for Whale Watch Planned Development. A phasing plan and phasing schedule were included with the master plan approval. The phasing plan contained nine individual phases that could be developed as standalone projects in no particular order. The Planning Commission granted flexibility to sequence the phases in whatever order the market allowed. This is explained at the end of Condition 2:

Development of each phase may occur earlier than is noted but shall not extend beyond the specified times. No sequence of development phases is identified. Limited time extensions may be granted only if development of a phase is substantially completed within the three year period.

The construction of Ascent Drive to HODB has opened the opportunity to develop both sides of the street as Phase 1. In the approved master plan, Ascent Drive crosses three phases. The current proposal would revise the master plan to consolidate the frontages of Ascent Drive into a single phase and developed as Phase 1.

The revised master plan is consistent with the approved master plan with some changes:

- Re-alignment of phase boundaries around Ascent Drive.
- Introduction of condominiums.
- Consolidation of driveways on Ascent Drive.
- Application of new provisions for tourist accommodations and parking.

Findings

The Planning Commission reviewed the proposal for conformance with the appropriate standards of the Depoe Bay Zoning Code. The Planning Commission evaluated the evidence provided in the record, as well as testimony given at the public hearing, to determine whether the facts justify that Depoe Bay Zoning Ordinance (DBZO) standards have been satisfied. The Planning Commission finds:

1. General Description of Proposed Whale Watch Planned Development

The **Whale Watch Planned Development** (PD) application is a request for an amendment to the 2014 preliminary approval of a Master Plan. The 49.23 acre property is located on the east side of Hwy 101 at the north end of Depoe Bay. The proposed master plan includes a hotel, 75,000 square feet of commercial, and 161 residential dwelling units including 20 live-work units, 64 attached homes, 55 detached homes, and 22 condominiums. 39% of the total site is proposed to be open space.

The Master Plan includes a request to rezone 9.35 acres from R-1 Residential to C-1 Retail Commercial.

The proposed master plan identifies multiple future phases of development. Requests for development require Preliminary Plan submittals for each phase in accordance with the Master Plan. Each phase of development requires review and approval by the City.

The Phase 1 Preliminary Plan is submitted concurrent with the amended Master Plan application. The Phase 1 Preliminary Plan will be considered by the Planning Commission at a public hearing following review and decision on the amended Master Plan. The submitted Phase 1 Preliminary Plan would build out both sides of Ascent Drive with 16 detached homes, 16 condominiums in two buildings, and a commercial building. One of the detached homes is initially proposed as a real estate sales office for Whale Watch and the Hills of Depoe Bay with 3 guestrooms and eventually a single family tourist accommodation. Construction of Phase 1 is planned for 2018.

The applicant stated that the developer is committed to a mixed housing development with careful attention given to workforce housing. The Planning Commission discussed how the commercial component within the Whale Watch planned development will create the need for service-related employment, which creates the need for workforce housing. The applicant acknowledged the need for workforce housing and stated they will continue efforts to provide workforce housing.

2. Amending an Approved Planned Development Master Plan, Preliminary Plan

The applicant cited Depoe Bay Zoning Ordinance (DBZO) Section 3.410 Planned Development, Subsection 10, which, in part, states that the process for amending an approved plan is a new approval by the Planning Commission. The applicant provided the following narrative describing the requested amendment to the Master Plan:

The construction of Ascent Drive to Hills of Depoe Bay PD (HODB) has opened the opportunity to develop both sides of the street as Phase 1. In the (2014) approved master plan, Ascent Drive crosses three phases. The current proposal would revise the master plan to consolidate the frontages of Ascent Drive into a single phase and developed as Phase 1.

The revised master plan is consistent with the approved master plan with some changes:

- Re-alignment of phase boundaries around Ascent Drive.
- Introduction of condominiums.
- Consolidation of driveways on Ascent Drive.

- Application of new provisions for tourist accommodations and parking.

3. General Requirements of a Planned Development

3a. Zoning.

DBZO: A Planned Development may be established in any zone other than the T-C zone.

The subject property is zoned R-1 and C-1, zones that permit planned developments. No portion of the subject property is zoned T-C, the only zone where planned developments are not allowed.

3b. Development Plan.

DBZO: On land subject to an approved Planned Development, only those uses, structures and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.

The uses, structures and other forms of development shown on the Preliminary Plan are the same as those shown on the revised master plan. Those include 16 detached homes, 16 condominiums in two buildings, 5,400 square feet in a mixed use building, 3,500 square feet of commercial floor area, parking, landscaping, off-street paths, open space, streets, and utilities.

3c. Uses.

DBZO: A Planned Development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 zones may be permitted when compatible with each other and harmonious with adjacent uses.

The uses proposed in R-1 are detached homes, which are permitted in all residential zones. Condominiums are allowed in R-3. The underlying zone for another portion of Phase 1 is C-1. A commercial building is proposed on the portion of Phase 1 in the C-1 zone. The building is intended for several commercial uses including office, retail, and food service. The commercial building is permitted in the underlying C-1 zone¹. With the exception of the mixed use building on Lots 1-3 as described in the preceding Section H, these uses are permitted in the planned development.

3c-1. Tourist Accommodations.

DBZO: The one exception to subsection c above is the possible approval of short-term rentals (tourist accommodations per DBZO Section 1.030 Definitions and including time shares) to a subsection of the Planned Development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 zones. A Planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres. Tourist accommodations in residential zones shall be limited to single family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, etc.), buffered (space, sight, and sound buffered) from all adjacent uses other than

¹ DBZO 3.110.1

commercial uses, and buffered from adjacent properties that are outside of the PD. The following City Standards shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.

Tourist accommodations are permitted outright on the portion of Whale Watch planned for C-1 zoning. The planned development qualifies for tourist accommodations in that the site exceeds the five acre minimum size. An exception is proposed to allow condominiums to be occupied as tourist accommodations and one 4-plex. Whale Watch CC&Rs will prohibit homeowners from renting their houses as overnight lodging units unless they are within the designated areas for tourist accommodations.

Most tourist accommodations would be located along Ascent Drive and a smaller cluster on Baleen Drive. These areas total 3.75 acres, or 15% of the gross land area of the planned R-1 zone. See Master Plan Sheet 7. A summary follows in Table 4.

Table 4, Areas Proposed for Tourist Accommodation

Area	Number, Type of Residential Units	Acres	Phase
1	10 detached homes, 3 guest rooms in one building	1.31	1
2	6 detached homes	0.74	1
3	16 condominiums	1.10	1
4	4-plex	0.60	C-3
Totals	16 detached homes (1 with 3 guest rooms) 16-condominiums, 4-plex	3.75	

The Whale Watch plan for managing the rental units will mirror the management of the tourist accommodations at the Hills of Depoe Bay and Tetherow Resort. There will be a Declaration of Covenants, Conditions, Restrictions and Easements (CC&Rs) for Whale Watch. In these CC&Rs, there will be a restriction on homes so that they cannot be rented as Overnight Vacation Dwellings. A Supplemental Declaration for the vacation rentals/tourist accommodations will be recorded against all properties that are deemed to be Vacation Rental Dwellings (VRDs) in the Final Master Plan. The tourist accommodations will be managed by a single management company located on-site.

All homes in Phase 1 would be available as tourist accommodation in a contiguous, cohesive area along Ascent Drive. These buildings would be subject to the same architectural review as owner-occupied homes in later phases of Whale Watch. They would be buffered by distance, elevation, and orientation from other homes. To mitigate the potential impacts of tourist accommodations, the following standards would apply to each tourist accommodation:

- Guests would be informed in the rental agreement of the “house rules” including a prohibition against excessive noise, lights, dust, smoke, odors, and electromagnetic frequencies.
- CC&Rs would inform each Owner that only low voltage lighting and/or motion sensor lighting is allowed.
- CC&Rs would inform each Owner that on-site parking would be provided at the time of construction, including one space per bedroom (two spaces minimum per unit) plus one

additional parking space per unit. See Preliminary Plan Sheet 3.

- Guests would be informed in the rental agreement that a garbage and recycling enclosure would be sited on Lot 21 for the use of detached homes. This arrangement would be temporary, at least for Phase 1. A permanent location would be designated in a future phase. The condominiums would have a similar enclosure.
- Guests would be informed in the rental agreement that the number of occupants is limited to two persons per bedroom plus one additional person per unit.
- CC&Rs would inform each Owner of their responsibility to maintain a sign posted inside the tourist accommodation unit that identifies a local contact person by name, license number, and telephone number who is available anytime day or night. An exterior sign shall be posted in the tourist accommodation area containing the same information.
- CC&Rs would inform each Owner of their responsibility to obtain a business license from the City of Depoe Bay; to ensure that the property management company has a City business license; and to ensure that transient room taxes are collected and paid to the City and State as applicable. CC&Rs would further notify each Owner that violation of applicable requirements or standards may result in revocation of the business license.

3d. **Density.**

DBZO: Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.

The R-1 zone permits a density of one dwelling unit per 5,000 square feet of gross land area.² The R-1 zone is planned for 24.79 acres for a maximum of 216 dwelling units. Only 144 dwelling units are planned in R-1, or 67% of the maximum density. There is no density or floor area ratio standard for the C-1 zone.³

3e. **Building Height.**

DBZO: No building shall exceed the height allowed in the underlying zone.

The maximum building height is 30 feet in R-1⁴ and 35 feet in C-1.⁵ These standards are not applicable because no buildings are proposed in the revised master plan.

3f. **Yards, setbacks, lot area, lot coverage and similar Dimensional Requirements.**

DBZO: Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

These standards are not applicable to the revised master plan because no buildings are proposed and no specific lot dimensions have been determined at this level. Reductions to yards,

² DBZO 3.010.3.a.1

³ DBZO 3.110.3.b

⁴ DBZO 3.010.3.c

⁵ DBZO 3.110.3.b

setbacks, lot area, lot coverage, and building height may be proposed with each phase of development. Those reductions would be itemized on the preliminary plan for the phase.

3g. Conflicting Provisions.

DBZO: In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved Preliminary Plan, the approved Preliminary Plan shall control.

This subsection is not applicable to Master Plans.

3h. Minimum Planned Development Area.

DBZO: A Planned Development shall have a minimum of two (2) contiguous acres, exclusive of street right of way. A Planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres.

The area of the master plan, 49.23 acres, satisfies the two-acre minimum requirement for a planned development. The R-1 portion of the master plan is for 24.79 acres, well in excess of the five acre minimum size for a planned development with tourist accommodations.

3i. Open Space.

DBZO: Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park or natural land.

Excluding streets, parking, and building pads, 47% of the master plan site would be reserved as outdoor recreation or natural land. See Master Plan Sheet 5.

3j. Sidewalks.

DBZO: Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40 foot wide designated Forested Corridor on both sides of Highway 101 right-of-way from South Point Street south to the city limits which shall instead include a four foot wide walking/biking path (Section 4.820.2.c applies). The Planned Development shall also include a connected pedestrian system/network.

A network of street side concrete sidewalks and off-street paths of various materials create an internal pedestrian and bicycle network and outside connections. A concrete sidewalk along Highway 101 would end at the northernmost highway crossing as requested by ODOT. See Master Plan Sheet 8.

The Planning Commission finds that, per the 2017 Depoe Bay Transportation System Plan, a pedestrian facility should be extended to the northern Laguna Loop Road along or near the Hwy 101 frontage. The Commission acknowledges ODOT's concern that pedestrians should not be crossing Hwy 101 near the 'Boiler Bay' curve. However, the Commission stated there are ways to discourage pedestrians crossing at this northern location through signage and barriers. Pedestrians in the northern portion of the Whale Watch development will be walking (from the hotel, commercial and residential uses). There is an opportunity to provide public pedestrian facilities either along the Hwy 101 frontage in the public right-of-way or a pathway on the Whale Watch property that loops around the wetland/open space area and connects to the nearby uses.

3k. Parking Area Design

DBZO: Parking shall conform to Section 4.030 and Diagram A of the DBZO, with the exception that all parking areas shall be paved.

With the exception of Lots 1-3 which have shared parking, parking is located on each lot commensurate with the use. Some parking is located in garages, some parking underneath the building. All required parking is located off the street. On-street parking is proposed on the upper end of Ascent Drive. All parking areas and accesses would be paved and conform to the standards of Section 4.030.

3l. Parking Area Landscaping.

DBZO: A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the City. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

All parking areas will be landscaped. A detailed landscape plan for each lot will be submitted to the City for review and approval prior to issuance of building permits.

3m. Landscaping

DBZO: Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, etc.). Section 4.820 of the DBZO applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service – Oregon State listed Noxious Weeds, shall be removed and shall not be planted.

Tracts A, C, D, and E are intended for native vegetation. Where disturbed by construction activity, these areas would be replanted with Sitka spruce or similar species with applied groundcover to prevent the growth of invasive species. Tract B and all lots would have actively managed landscaped areas.

4. Master Plan Compliance with Depoe Bay Zoning Ordinance

DBZO Section 3.410.4 describes the Master Plan Review Procedure and states that the content of a Master Plan shall include all items described in subsection 3.410.6 (plans/maps, drawings of architectural styles, narrative, additional maps or narrative needed to determine compliance), phasing, requested exceptions, and desired variances, zone changes, etc. The applicant provided the following narrative (and accompanying maps, aerial photograph, photographs of architectural style, and plan set).

4a. Land Uses.

The approved master plan includes a hotel, commercial buildings, live-work units, attached homes, and detached homes. Open space was reserved on 38% of the total site. As proposed, the revised master plan would not change the layout or design in the area outside the Ascent Drive corridor. No changes are proposed to the hotel or commercial areas. Revisions are proposed to the number and type of residential units as summarized in Table 1.

Table 1, Master Plan Land Uses

Land Use	As Approved	Revision
Hotel	Yes	No change
Commercial	75,000 SF	No change
Live-Work Units	20	No change
Attached Homes	84	64
Detached Homes	40	55
Condominiums	0	22
Open Space*	38%	39%

*Computed before deducting for streets.

The 2014 phasing plan allocated the Ascent Drive frontage to five phases (A-1, A-2, A-3, C-1, and C-3). The revised phasing plan would consolidate A-3 with portions of A-1, A-2, C-1, and C-3 to form Phase 1. No changes are proposed to Phases B-1, B-2, B-3, or C-2. The resulting adjustments are summarized in Table 2.

Table 2, Summary of Land Uses in Revised Phases

Phase	Acres		Use		Parking Spaces	
	Approved	Revised	Approved	Revised	Approved	Revised
1 [A-3]	[3.10]	6.12	[14 attached homes]	16 detached homes 16 condominiums 3,500 sf commercial bldg	[4/home]	108
A-1	6.40	5.80	34,750 sf retail/office	31,250 sf retail/office	142	123
A-2	2.48	2.08	10 live work units	<i>No change</i>	44	<i>No change</i>
B-1	6.17	4.67	Hotel, 4,000 sf restaurant, 10,000 sf retail/office	<i>No change</i>	100	<i>No change</i>
B-2	6.63	6.60	7,500 sf retail, 15,000 grocery or community center	<i>No change</i>	114	<i>No change</i>
B-3	2.34	2.26	Restaurant, 10 live-work	<i>No change</i>	104	<i>No change</i>
C-1	6.09	4.71	38 attached homes	30 attached homes	4/home	<i>No change</i>
C-2	3.45	3.86	32 attached homes	<i>No change</i>	4/home	<i>No change</i>
C-3	12.49	11.13	40 detached homes, 5-plex	<i>No change</i>	4/home	<i>No change</i>

Tourist Accommodations. The master plan was approved in 2014, prior to the 2016 enactment of amendments to the Zoning Ordinance to allow tourist accommodations in planned developments. Those amendments are now applicable. Prior to the 2016 ordinance, tourist accommodations had been limited to C-1. The amended ordinance now allows tourist accommodations in residential zones, subject to limitations.

- Five contiguous acres.
- 15 percent or less of the total land area in a residential zone.
- Maximum of five bedrooms in single family and two family dwellings.
- Contiguous, cohesive, compatible, buffered within and without.
- Off-street parking.
- Other regulations apply including nuisance control, outside lighting, solid waste disposal, adherence to state laws, maximum occupancy, signage, and annual licensing by the City.

The land uses proposed for Phase 1 are shown on Preliminary Plan Sheet 3. A single family dwelling spanning Lots 1-3 would be occupied initially as a sales office on the ground floor with guest rooms on the second floor for overnight accommodations. As Hills of Depoe Bay expands at the end of Ascent Drive, the building will be converted to a single family dwelling and tourist accommodation.

4b. Open Space

No changes are proposed to the open space plan as described in the 2014 master plan:

“The open space plan integrates buildings, streets and other improvements into the natural features of the site. A network of street side sidewalks and meandering paths would enable pedestrians and cyclists to enjoy the natural beauty of the site. The open space plan is based on two natural resources areas that have been mapped on the site. There is an unnamed tributary to the Pacific Ocean that flows from adjacent slopes across Subarea A-3 and into Pirate Cove. It is a significant resource and is protected by a 50-foot riparian buffer measured from the top of each bank [Sec. 4.800]. The second resource is a 1.97-acre isolated wetland at the base of the hillside adjacent to the Coast Highway in Subarea B-2. It is 60 percent emergent wetland and 40 percent shrub-scrub wetland. It is not a locally significant wetland and is not protected by the City but may be subject to state and federal regulation.

With these natural areas as the foundation of an open space plan, five additional areas will be set aside for stormwater management, to slow the flow of runoff and trap sediments and pollutants. Located in Subareas A-1, B-2, and C-2, these areas will be fully vegetated. Some are designed to remain dry except during 25- or 50-year storms while others may be wet year-round. The fringes of these areas may be actively landscaped.

Upland areas between uses will serve as open space buffers. These are located downhill from the hotel site in Subarea B-1, on either side of the live work buildings in Subarea A-2, uphill from attached homes in Subarea C-3, and between the switchbacks of Baleen Drive in Subarea C-3. Trails are proposed through these open areas for recreational purposes.”

Adjustments to the lots in Phase 1 and the adjoining common tracts result in a small change to the open space allotment. Overall, open space is 39% of the gross acreage. Excluding proposed streets (8.20 acres), 47% of the developable land will be dedicated or reserved for outdoor recreation, park, natural land, or landscaping.

A Home Owners Association (HOA) would be formed. The obligations of every owner and the responsibilities of the HOA would be documented in Covenants, Conditions and Restrictions to be recorded as an encumbrance on each property. The HOA would own all tracts. The HOA

would be responsible for management of those tracts and for maintenance of improvements such as the off-street sidewalks / stairs and multi-use paths. HOA dues would be collected for reserve funds designated for maintenance of these facilities and to manage all tracts owned by the HOA.

4c. Vehicular Access

No changes are proposed to access as described in the 2014 master plan:

“The master street plan relies on the existing street system for access to the site and a network of new public streets for internal access to commercial and residential areas. Internal access is based on a grid pattern where topography permits and meandering roads as grades dictate.

The site has approximately 2,100 feet of frontage on the Oregon Coast Highway. Along this frontage the pavement width is 55 feet with one lane in each direction, a center turn refuge, paved shoulders, and a southbound bicycle lane. There is curb, gutter, and sidewalk on the west side, and a roadside ditch on the east side. The posted speed limit is 35 MPH which increases to 45 MPH at the north property line. Commercial areas fronting on the highway would derive access from internal streets. No new driveways to the highway are proposed. In lieu of commercial driveways, three streets would provide access into the site from the highway.

Lillian Lane is a partially completed street within a 60-foot right-of-way extending from the southeast property corner to 81-acres east of the site. The first 400 feet of the street is paved to 36 feet wide with one lane in each direction, center turn refuge, curb, gutter, and sidewalk on both sides. The remaining 1,100 feet of the street would be constructed to the 81-acre parcel. This would be a 28-foot road with a roadside swale and sidewalk on the north side. The City of Depoe Bay will have jurisdiction over this street.

The master plan proposes a second highway access near the mid-point of the frontage at a distance of approximately 920 feet north of Lillian Lane. This new street, Baleen Drive, would intersect the highway opposite a similar access to the Wordmark complex. Baleen Drive would be the primary access to most of the site. It would extend to the 81-acre parcel as a secondary access. There would be a boulevard-style split pavement flanked by wetlands and ponds as entrance features.

Finally, the master plan proposes a third highway access at the north end of the frontage, approximately 1,000 feet north of Baleen Drive. Laguna Loop provides access to hotel and restaurant sites (proposed right in/right out only at Hwy 101). This intersection enables the hotel to develop as a standalone project and also provides alternative emergency vehicle access to the northern commercial area. Sight distance to the north is approximately 450-500 feet. Further analysis by a traffic engineer in conjunction with ODOT would be conducted with preliminary plan for this phase.

Internal to the site, a new parallel street to the Coast Highway would access the commercial areas. Shoreline Drive would be 20 feet wide with a lane in each direction. Parallel parking would be accommodated in parking bays. Commercial driveways are shared to minimize turning conflicts.

Sanddollar Drive and Narwhal Way would be local public streets in the residential areas that connect Baleen Drive and Lillian Lane. Captains Court is a cul-de-sac off Baleen Drive.”

A Traffic Impact Study (TIS) was prepared by Kittelson & Associates Inc. The conclusions of the Kittelson TIS are presented in Section 4e below.

In the Preliminary Plan for Phase 1, Lillian Lane/Ascent Drive provide direct access to all uses. Shared use driveways reduce the number of access to the street.

The Planning Commission questioned the Ascent Drive access for the condominiums located in Phase 1 on the north side of Ascent Drive, and recommended the applicant consider providing an alternative access or a second access on Sanddollar Drive.

4d. Pedestrian & Bicycle Network

The pedestrian and bicycle network described in the 2014 master plan remains largely intact:

“Pedestrian corridors are planned throughout the site with multiple outside connections. All sidewalks and paths would be open for public use. Street side sidewalks and off-street paths through open space would link destinations and create recreational walking loops. Where there are minimal slopes, street side sidewalks are proposed on both sides of the street as in a traditional street design. On steeper slopes, streets would be designed to shed all runoff to the downhill road edge into a roadside swale. The sidewalk would follow the uphill edge of the road and/or follow a direct downhill path. Stairs are necessary in short stretches. Where practical, sidewalks will be widened to accommodate bicycles and pedestrians.

Adjacent to the site, the Oregon Coast Trail follows the sidewalk on the west side of the Coast Highway through Depoe Bay. This scenic pedestrian corridor extends the full length of the Oregon Coast. When the Lillian Lane intersection reaches warrants for a signal, a crosswalk will be installed linking the site to the Oregon Coast Trail. Northward this sidewalk leads to Boiler Bay State Scenic Viewpoint. A recently installed soft path goes farther north along the west edge of the highway to Fogarty Creek State Recreation Site. It is a ¾ mile walk south to the Whale Watching Center. The Oregon Parks and Recreation Department owns 18 acres directly north of the site. This wooded site does not have visitor improvements. Access is generally allowed but it is frustrated by dense undergrowth.”

The Kittelson TIS examined pedestrian accommodations along Highway 101:

“A sidewalk will be provided on US 101 along the site frontage with buildout of the site from Lillian Lane north to the most northern crossing opportunity either at Baleen Drive or a mid-block location north of Baleen Drive. Sidewalks should not be provided further north of the last crossing opportunity.”

This recommendation reflects ODOT concern for pedestrian safety outside designated crossings. However, as stated above, the Planning Commission finds that, per the 2017 Depoe Bay Transportation System Plan, a pedestrian facility should be extended to the northern Laguna Loop Road along or near the Hwy 101 frontage. The Commission acknowledges ODOT’s concern that pedestrians should not be crossing Hwy 101 near the ‘Boiler Bay’ curve. However, the Commission stated there are ways to discourage pedestrians crossing at this northern location through signage and barriers. Pedestrians in the northern portion of the Whale Watch

development will be walking (from the hotel, commercial and residential uses). There is an opportunity to provide pedestrian facilities either along the Hwy 101 frontage in the public right-of-way or a pathway on the Whale Watch property that loops around the wetland/open space area and connects to the nearby uses.

On the revised master plan, a multi-use path is proposed along Baleen Drive from Highway 101 to the northeast corner. A similar path follows Lillian Lane and Ascent Drive from Highway 101 to the east boundary. Both paths are described in the city’s transportation plan. See Master Plan Sheet 8.

In the Preliminary Plan for Phase 1, a multi-use walk is proposed on the north side of Lillian Drive/Ascent Drive. See Preliminary Plan Sheet 3.

4e. Traffic Impact Study

Kittelson & Associates, Inc. conducted a Transportation Impact Analysis (TIA) of the combined effects of two planned developments: Whale Watch and Hills of Depoe Bay (Exhibit 9). Parameters of the study were coordinated with the City of Depoe Bay and the Oregon Department of Transportation. Traffic counts were collected during the summer peak season in August 2016. Turning movements were observed during the same period at five access points to tourist accommodations opposite Whale Watch plus the Bay Street intersection. Trip generation was based on build out of the approved master plan for Whale Watch and the proposed master plan for Hills of Depoe Bay. Trip generation forecasts were prepared for weekday PM peak hour (the standard benchmark) and for the Saturday midday peak hour when tourist-related traffic is highest. To mitigate anticipated traffic impacts, two new traffic signals are proposed on US 101: at the intersection of Ascent Drive, and the future intersection of Baleen Drive. The timing of these improvements is estimated as follows:

“Early phases of the development, which are expected to be concentrated along Ascent Drive, will not generate enough trips to warrant a signal and acceptable operations can be maintained with stop-control. A high-level assessment of projected traffic was conducted to assess when a signal will be warranted, based on the four-hour and eight-hour volume warrants provided in the MUTCD. Assuming all development is initially served by the intersection of US 101/Trend West Access 3/Ascent Drive, a signal is expected to be warranted with about 350 total trips to/from Ascent Drive during the Saturday midday peak hour, equating to about 35% build out of the Whale Watch and Hills of Depoe Bay sites.

Once the intersection of US 101/Trend West Access 3/Ascent Drive is signalized, the site can continue to develop while maintaining acceptable operations. It is anticipated at some point the north and center access locations will be developed, which will initially function as stop control. Once the overall site is generating about 530 total trips during the Saturday midday peak hour, equating to about 53% of buildout of Whale Watch and Hills of Depoe Bay, a signal is anticipated to be warranted at US 101/Trend West Access 1/Baleen Drive as well.”⁶

The Kittelson TIS further recommends periodic re-assessment to keep pace with changing conditions:

⁶ Page 30, Transportation Impact Study, Whale Watch and Hills of Depoe Bay (Kittelson, April 2017)

“While this master plan traffic study documents the transportation implications of the proposed developments at build-out, there are on-site access considerations that will need to be assessed when specific site plan applications are made. Further, the phasing and timing of master plan build-out is likely to evolve over time to adapt to market conditions. Accordingly, it is recommended that a transportation compliance letter be prepared for each preliminary plat or site plan application to address on-site transportation, access and pedestrian standards and to ensure that the mitigation measures provided for in this report are applied at the appropriate phase of development.”⁷

After completion of the traffic study of the Master Plan, Kittelson & Associates, Inc., reviewed Phase 1 to evaluate trip generation effects on intersections studied in the TIS and to assess access safety of Phase 1. See Exhibit 6. Kittelson concluded that no off-site traffic mitigation was needed for Phase 1 and that on-street parking should be restricted inside the curve on Ascent Drive in order to maintain adequate safe stopping distance.

4f. Utilities

No changes are proposed to the utilities plans as described in the 2014 master plan:

“Public and franchise utilities are available along the Coast Highway to serve the site. There is a 10-inch City water main on the east side of the Coast Highway along the southern frontage. New mains would be extended into the site along Lillian Lane, Baleen Drive, and Laguna Loop. These mains would be supplied by the North Reservoir which has a base elevation of 192.9 feet and is capable of serving all of Areas A and B except that individual boosters may be needed for the upper homes in Subarea A-3 and the hotel site. It would also serve the lower half of Area 3. Homes in the upper half of Area 3 could be served by booster pumps. Fire hydrants would be positioned as required by the Depoe Bay Fire District. No deficiencies have been identified in this area although extension of the 10-inch main is listed among the 10-Year Distribution Improvement Projects.”⁸

There is an existing City sanitary sewer on the west side of the Coast Highway. Gravity collection mains would be extended into the site along Lillian Lane, Baleen Drive, and Laguna Loop. Going up the hill they would follow public rights-of-way to the extent possible, but may follow contours onto private property in public easements where necessary.

There is an existing storm drain on the west side of the Coast Highway. This is maintained by ODOT in conjunction with the Coast Highway. New connections are limited to pre-development flows. There are three culverts under the Coast Highway that drain the site (2x18-inch, 1x24-inch). The Stormwater System Master Plan Update indicates the site is located within Basin 4, as area of 58 acres that includes the entire site.⁹ The Plan did not identify any major drainage problems in this Basin. Six detention ponds would slow the flow of runoff and vegetated swales would improve the water quality of runoff before discharge through existing culverts to the ODOT system. As needed, water quality storm manholes may be utilized in the final stormwater design.

⁷ Page 32, IBID

⁸ Appendix C, Water System Master Plan (HBH Consulting Engineers, 2009)

⁹ Page 3-11, Stormwater System Master Plan Update (HBH Consulting Engineers, 2009)

Existing franchise utilities operated by Central Lincoln PUD, Century Link, Wave Communications, Northwest Natural, and Coast Communications would serve the site through underground extensions from existing services along the Coast Highway.”

In the Preliminary Plan for Phase 1, all utilities are installed in conjunction with street construction. A water pressure booster pump station located between Lots 3 and 4 would pump to the site for a future reservoir in HODB. Individual homes in Phase 1 may be served by booster pumps until the reservoir is operational. There is capacity in the existing water system to accommodate Phase 1. See Exhibit 10.

Gravity sanitary sewer connections would be extended to each lot in Phase 1 from the new sanitary sewer main in Ascent Drive. This main connects to an existing 10-inch main in Highway 101. There is capacity in the existing water system to accommodate Phase 1. See Exhibit 11.

Public facilities including the water system, sewer system, drainage system, and streets would be designed to standards approved by the city, and constructed at developer expense after which the developer would petition the City Council to accept maintenance responsibilities. The developer is willing to maintain streets until the urban renewal district is terminated, a period of approximately ten years.

The developer will work with the postmaster to determine whether it’s better to have one centralized post office for the entire community, or cluster mailboxes in each phase.

4g. Phasing

Amending an approved planned development master plan is a new planned development approval.¹⁰ The proposed phase schedule for the amended planned development master plan is similar to the approved schedule in that it would maintain a nine-phase schedule, each phase valid for three years that run concurrently in no particular sequence as shown in Table 3. However changes are proposed to the alignment of the phase boundaries and the schedule of each phase.

Table 3, Phasing Schedule

Phase	Time Period
1	2017-2020
A2	2020-2023
A3	2023-2026
B1	2026-2029
B2	2029-2032
B3	2032-2035
C1	2035-2038
C2	2038-2041
C3	2041-2044

¹⁰ DBZO 3.410.10

4h. Zoning & Requested Exceptions

Ten zoning amendments and exceptions are proposed:

- a. “Along the Coast Highway approximately 15.5 acres is zoned Commercial. Within that area, four low-lying areas are unsuitable for development and would be enhanced as natural areas. To the east, 33.7 acres are zoned R-1. Proposed Shoreline Drive is aligned with the current zoning boundary between C-1 and R-1. The proposed master plan would refine the location of this zoning boundary according to planned uses. A zone change would be proposed in conjunction with the preliminary plan for Areas A and B to rezone 9.2 acres from R-1 to C-1.
- b. A Planned Development overlay would be proposed in conjunction with the preliminary plan for each Area. This would allow clustering of home sites which preserves larger tracts of natural areas.
- c. A limited use overlay would be proposed in conjunction with the preliminary plan for Areas A and B to allow live work units.
- d. Exceptions may be requested to standards for front, side, and rear yards, lot area, lot width, and lot depth for topographic reasons.
- e. Exceptions may be requested to increase or limit building height by CCRs to enhance or protect view corridors.
- f. Exceptions may be requested to forested hillsides standards in Section 4.820.2.d. It is unclear where this provision is applicable. Merchantable timber was harvested in 2003. Remaining stands of trees are located along the highway frontage. Isolated trees are found throughout the site. The hillside is densely vegetated with blackberries and other opportunistic vegetation.
- g. An exception may be requested to allow a retirement center as an alternative use to commercial or attached single-family homes. The location would be dependent on compatibility and operational characteristics according to conditional use standards.”
- h. A mixed use building would span Lots 1-3 as shown on Master Plan Sheet 5. This two-story mixed use building would be occupied initially as a sales office on the ground floor with guest rooms on the second floor for overnight accommodations. As Hills of Depoe Bay expands at the end of Ascent Drive, the sales office could be replaced by another commercial use.
- i. An exception is proposed in Phase 1 to allow mixed use buildings and condominiums to be occupied as tourist accommodations, a use that is currently limited to single-family and two-family dwellings in a residential zone.
- j. An exception is proposed in Phase 1 to increase on-site parking by one space per unit in lieu of providing an overflow parking lot.

4i. Architectural Styles

Images which exemplify the general architectural style were compiled for the revised master plan and the preliminary plan for Phase 1. Features include large windows for viewing, exposed

timber framing, and more recently, use of architectural details appropriated from the American Craftsman style that was popular in the early 1900s. See Exhibit 5.

5. Common Master Plan Approval Criteria

DBZO Section 3.410.7 describes Common Master Plan Approval Criteria including Section 3.410 Planned Development, Comprehensive Plan, zoning ordinance provisions, Article 14 Land Division criteria, providing amenities and protections at a higher level than otherwise provided under conventional land development procedures, encouraging and promoting creativity and innovation, and proposing development in substantial harmony with the surrounding area. The applicant provides the following addressing this criterion:

5a. Applicable Requirements

The application materials contain a site plan, drawings of architectural styles, narrative, and other materials as required by Section 3.410.

5b. Comprehensive Plan and Zoning Ordinance

The proposed master plan would be consistent with the Comprehensive Plan Housing Goal, *To provide for the housing needs of the (year-around and seasonal) residents of the community.*

It would also be consistent with the Comprehensive Plan Economy Goal, *To enhance the economic growth of the city while preserving natural resources and character that make Depoe Bay the unique community it is.*

As discussed elsewhere in this narrative, the proposed master plan complies with zoning ordinance provisions for the R-2 and C-1 to the extent necessary for master plan review. Detailed compliance review would occur with the preliminary plan review for each phase.

5c. Article 14 Land Division

The standards of Article 14 are applicable to the preliminary plan for each phase, but they are not applicable to the master plan.

DBZO Section 14.011 states that the provisions of Article 14 Land Division apply to Planned Developments. Article 14 Land Division addresses, in part, streets, public access ways, lots and parcels, and utilities. The applicant is aware that approval of this Master Plan does not guarantee approval of land division standards. Each phase of development will be reviewed by the Planning Commission for conformance with Land Development standards.

5d. Amenities and Protections

The master plan and preliminary plan for Phase 1 are designed as a mixed use, pedestrian-oriented development with a range of residential types and commercial services, providing essential protection of significant natural resources.

5e. Flexibility and Innovation

Exceptions to provisions of the Zoning Ordinance are proposed to allow a compact urban form that is conducive to pedestrian activity and natural resource protections. This flexibility encourages adaptive site design that respects the natural setting and adds character to the area.

5f. **Substantial Harmony**

The master plan portrays a mixed use development of commercial uses along the Coast Highway and residential uses to the east comprised of detached and attached homes live-work areas, and condominiums, interspersed by open spaces and a network of walks and paths.

The layout is consistent with the overall pattern of land use at the northern end of Depoe Bay. To the south are single family homes in C-1 and R-1, to the west is a concentration of tourist accommodations in the C-1 zone, to the north outside the urban growth boundary is State of Oregon land associated with Boiler Bay State Scenic Viewpoint, and to the east is Hills of Depoe Bay (R-2) and commercial timber land outside the urban growth boundary.

6. **Off-Street Parking and Loading Requirements.**

DBZO Section 4.030. Off-Street Parking and Off-Street Loading Requirements describes parking provisions. Additionally, parking within Planned Developments is required to be paved (DBZO Section 3.410.2.k). The applicant states the following:

The revised Master Plan depicts where off-street parking would be provided for various uses Master Plan Sheet 5). The number of parking spaces and their design is approximate on the Master Plan, subject to detailed design on the Preliminary Plan of each phase.

The Planning Commission determined that there are benefits to having parallel parking along the Hwy 101 frontage. The Hwy 101 parallel parking will provide easy identifiable parking within close proximity to commercial establishments within the Whale Watch development. The Planning Commission discussed the possibility of relaxing the required on-site parking spaces associated with the commercial uses near the highway frontage if parallel parking is provided along the highway frontage. This may be a consideration at the time the preliminary plan for this phase is submitted.

7. **Zone Change Request.**

There are two proposed zone changes that are requested. One, when a Planned Development is approved, the ‘PD’ suffix is added to the underlying zone. Secondly, this amended Master Plan proposes that 9.35 acres of R-1 zoned land be rezoned to C-1 zoning. The initial Whale Watch Master Plan approval included rezoning 9.2 acres from R-1 to C-1. The applicant provided the following narrative regarding the requested zone changes:

The Zoning Ordinance regulates planned developments through the Planned Development Zone, DBZO 3.410. The Planned Development Zone retains the base zone, such as R-1, and takes on the Planned Development Zone as an overlay to the base zone. The process to apply the Planned Development Zone is the same as a change in the base zone, subject to the Zoning Ordinance provisions for amendments set forth in DBZO 10.040. However the base zone does not change when the Planned Development Zone is applied. This zone change is required by Condition 4 imposed by approval of the Whale Watch master plan in 2014:

“Each phase of development requires an application for a zone change. The zone change will include adding the ‘PD’ suffix to the underlying zone. Additional zone change applications may be required.”

The proposed zone change would add the ‘PD’ suffix to all of Phase 1. The underlying zone of Phase 1 is R-1.

The criteria for a quasi-judicial amendment are set forth in DBZO 10.040.2. Compliance with Subsection 2.a is required plus either 2.b or 2.c or 2.d. The applicable criteria in this application are 2.a and 2.d.

City staff noted that a zone change requires a recommendation from the Planning Commission and final decision by the City Council. Zone changes in conjunction with Planned Developments are typically not finalized until development occurs. Therefore the zone change can be recommended as part of the Master Plan approval however the zone change will not be forwarded to City Council until the Planning Commission grants preliminary plan approvals per phase.

8. Steep Slopes.

The subject includes steep slopes. Per DBZO Article 13, areas containing slopes in excess of 20% require a geologic hazards permit. Any preliminary plan submittal for an area that includes slopes exceeding 20% shall include a geologic hazard report in accordance with DBZO Article 13.

The application includes a Percentage Slope Display Map which identifies areas of the property that exceed a 20% slope. The Phase 1 Preliminary Plan, to be reviewed following review and decision of the Master Plan, includes Ascent Drive. Ascent Drive includes slopes exceeding 20%. A geologic hazards permit for Ascent Drive was approved by the Planning Commission (Case file #1-GEO-PC-12). Site specific geologic hazards permits are required prior to approval of building permits on sites with slopes exceeding 20%.

9. Comprehensive Plan - 2017 Depoe Bay Transportation System Plan (TSP).

The 2017 TSP identifies six projects in the vicinity of the Whale Watch Planned Development. The six projects are identified below with an analysis of the proposed Whale Watch PD.

***Project S1.** US 101 Sidewalk Infill – North Segment East Side: North city limits to Lane St. on the east side of US 101.*

The Whale Watch Traffic Impact Study recommends that the sidewalk along Hwy 101 extend only to the northernmost highway crossing, i.e. Baleen Drive or a mid-block location north of Baleen Drive. (See Sheet 8 of the Master Plan). ODOT concurs it is appropriate for the frontage sidewalk to end at the most northern pedestrian crossing (see 9/25/17 ODOT Memo). This recommendation reflects ODOT concern for pedestrian safety outside designated crossings. However, as stated above, the Planning Commission finds that, per the 2017 Depoe Bay TSP, a pedestrian facility should be extended to the northern Laguna Loop Road along or near the Hwy 101 frontage. The Commission acknowledges ODOT's concern that pedestrians should not be crossing Hwy 101 near the 'Boiler Bay' curve. However, the Commission stated there are ways to discourage pedestrians crossing at this northern location through signage and barriers. Pedestrians in the northern portion of the Whale Watch development will be walking (from the hotel, commercial and residential uses). There is an opportunity to provide pedestrian facilities either along the Hwy 101 frontage in the public right-of-way or a pathway on the Whale Watch property that loops around the wetland/open space area and connects to the nearby uses.

***Project S3.** Lillian Ln. Sidewalk Extension: Extends the existing sidewalk on Lillian Lane east.*

The Whale Watch Master Plan (Sheet 8) shows the extension of the sidewalk on Lillian Lane.

***Project M1.** Lillian Lane Extension Multi-use Path: Separate path along Lillian Lane extension.*

The Whale Watch Master Plan proposes multi-use (pedestrian and bicycle) facilities by providing a 5' wide sidewalk and 28' wide shared vehicular/bicycle travel lanes. Note: Lillian Lane/Ascent Drive was approved in 2009, prior to the 2017 TSP.

Project B5. Lillian Lane Bike Route: *Lillian Ln., from US 101 to the beginning of multi-use path M1.*

The Whale Watch Master Plan proposes multi-use (pedestrian and bicycle) facilities by providing a 5' wide sidewalk and a 28' wide shared vehicular/bicycle travel lanes. Note: Lillian Lane/Ascent Drive was approved in 2009, prior to the 2017 TSP.

Project X1. Worldmark Crosswalk: *US 101 at Worldmark main entrance.*

The Whale Watch Traffic Impact Study (TIS) identifies, in the long term, a Hwy 101 crosswalk at signalized locations, i.e. Lillian Lane/Ascent Drive and/or Baleen Drive. In the interim (prior to the need for a traffic signal), the TIS recommends Hwy 101 crosswalks be located based on location of retail development.

Project T8. New Northbound Whale Watch Bus Stop: *East side of US 101, near planned Whale Watch entrance.*

The Whale Watch TIS recommends a bus pullout either north or south of Baleen Drive. The TIS states "A transit stop is recommended along the site frontage with development of the site. It is recommended that the stop be located between Ascent Drive and the site's center access to best serve the retail uses along the site frontage and take advantage of future pedestrian crossing opportunities." Transit improvements will be addressed in the Preliminary Plan phases.

- 10. Easement to Harmsen Properties.** There are two tax lots (Tax Lots 1110 and 1111 of Tax Map 09-11-05B) that are located adjacent to and in the northeast portion of the Whale Watch property that are currently landlocked. During the initial Whale Watch Master Plan submittal in 2014, the owners of Tax Lots 1110 and 1111 (Harmsen) submitted a handwritten Easement Agreement signed by Omni financial and the owners of the two landlocked parcels. The Easement Agreement states, in part, "that Omni agrees to grant Harmsen access to the nearest proposed street within the Whale Watch project. Harmsen agrees to support Omni's proposal and to participate in a prorate portion of the development cost of the road and utilities in the access road benefitting the Harmsen property. Omni agrees at its expense to draw up the easement deed or agreement necessary to formalize this contract."

The Planning Commission finds this proposed easement is in the best interest of the properties and the community because the easement will provide access to the two landlocked parcels.

Conclusions

The record and findings support the conclusion that:

Substantial evidence in the record demonstrates that the proposed application is consistent with applicable Planned Development Master Plan standards set forth under applicable sections of the Depoe Bay Zoning Ordinance 24 (as amended).

Order

It is ORDERED by the Depoe Bay Planning Commission that Case File #2-PD-PC-17 be APPROVED subject to the following conditions:

1. **Planned Development Master Plan Approval.** Approval of the 49.23 acre amended Whale Watch Master Plan is based on the submitted narrative, plans dated 11/8/17, and other submitted materials. The approved Master Plan includes a hotel, 75,000 square feet of commercial, and 161 residential dwelling units including 20 live-work units, 64 attached homes, 55 detached homes, and 22 condominiums. Vehicular access and circulation is the same as approved in the original Master Plan. 39% of the total site is proposed to be open space. The Master Plan approval allows for 9.35 acres to be rezoned from R-1 Residential to C-1 Retail Commercial. The Whale Watch planned development will create the need for service-related employment. The applicant acknowledges the need for workforce housing and they will continue efforts to provide workforce housing.
2. **Phasing.** The timing of the Master Plan approval for the entire development is based on the following phasing schedule. Preliminary Plan approval for each phase of development is valid for a period of three years that run concurrently in no particular sequence as follows:

Phasing Schedule

Phase No.	Substantial Completion
1	2017-2020
A2	2020-2023
A3	2023-2026
B1	2026-2029
B2	2029-2032
B3	2032-2035
C1	2035-2038
C2	2038-2041
C3	2041-2044

The Phasing Plan is delineated on Sheet 6 of the submitted Plans. Each phase shall extend streets and services in a systematic and orderly fashion. The Phasing Plan may be accelerated. Master Plan approval is no longer effective if the phasing schedule is not adhered to.

3. **Subsequent Review and Approval.** Per DBZO 3.410, each phase of development requires preliminary plan approval by the Depoe Bay Planning Commission through a public hearing process. Planned development exceptions may be requested at the time preliminary plans for each phase are submitted. The Planning Commission shall review and make a determination on requested exceptions. Changes to the Master Plan require a Master Plan amendment.
4. **Zone Changes.** Upon Preliminary Plan approvals for each phase of development, a zone change will occur that adds the ‘PD’ suffix to the underlying zone, e.g. “C-1 PD” and “R-1 PD”.

This Master Plan includes a requested zone change for 9.35 acres from R-1 Residential to C-1 Retail Commercial. The Master Plan approval does not guarantee approval of the zone change from R-1 Residential to C-1 Retail Commercial. The zone change request will be reviewed by the Planning Commission during the Preliminary Plan submittal process, and a recommendation will be made for a final decision by the City Council.
5. **Tourist Accommodations.** Approved Tourist Accommodations shall be in accordance with the following tables.

Tourist Accommodation Requirements for a Planned Development Master Plan	
Requirement	Proposed Hills of Depoe Bay PD
Max. 15% of total land area of underlying R-1 through R-5 zones.	Total proposed residential zoned land = 24.79 acres 15% = 3.72 acres Proposed tourist accommodation area = 3.75 acres (15.13%)
PD shall have a minimum 5 acres.	PD totals 49.22 acres
Tourist accommodations in residential zones are limited to single family and two-family dwellings with a maximum of 5 bedrooms.	Applicant is requesting a PD exception to allow up to 16 condominiums and one 4-plex to be occupied as tourist accommodations. One building in Area 1 is initially proposed as a sales office with 3 guestrooms and eventually a single family tourist accommodation.
Tourist accommodations shall be contiguous, cohesive, and compatible with the entire development.	Applicant Sheet #7 identifies the groupings of tourist accommodation areas. Architectural style is proposed to be subject to the same architectural review as other residential homes.
Tourist Accommodation CC&Rs	A requirement of subsequent preliminary plans for phases is to include specific tourist accommodation standards in CC&Rs.

Areas Proposed for Tourist Accommodation			
Area	Number, Type of Residential Units	Acres	Phase
1	10 detached homes, 1 detached home is initially proposed as a sales office with 3 guestrooms.	1.31	1
2	6 detached homes	0.74	1
3	16 condominiums	1.10	1
4	4-plex	0.60	C-3
Totals	16 detached homes (1 initially with 3 guest rooms) 16-condominiums, 4-plex	3.75	

Tourist accommodations shall be subject to the same architectural review as owner-occupied homes in later phases of Whale Watch. They would be buffered by distance, elevation, and orientation from other homes. To mitigate the potential impacts of tourist accommodations, the following standards would apply to each tourist accommodation:

- Guests would be informed in the rental agreement of the “house rules” including a prohibition against excessive noise, lights, dust, smoke, odors, and electromagnetic frequencies.
- CC&Rs would inform each Owner that only low voltage lighting and/or motion sensor lighting is allowed.
- CC&Rs would inform each Owner that on-site parking would be provided at the time of construction, including one space per bedroom (two spaces minimum per unit) plus one additional parking space per unit. See Preliminary Plan Sheet 3.

- Guests would be informed in the rental agreement that a garbage and recycling enclosure would be sited on Lot 21 for the use of detached homes. This arrangement would be temporary, at least for Phase 1. A permanent location would be designated in a future phase. The condominiums would have a similar enclosure.
- Guests would be informed in the rental agreement that the number of occupants is limited to two persons per bedroom plus one additional person per unit.
- CC&Rs would inform each Owner of their responsibility to maintain a sign posted inside the tourist accommodation unit that identifies a local contact person by name, license number, and telephone number who is available anytime day or night. An exterior sign shall be posted in the tourist accommodation area containing the same information.
- CC&Rs would inform each Owner of their responsibility to obtain a business license from the City of Depoe Bay; to ensure that the property management company has a City business license; and to ensure that transient room taxes are collected and paid to the City and State as applicable. CC&Rs would further notify each Owner that violation of applicable requirements or standards may result in revocation of the business license.

The Master Plan approval does not guarantee approval of the tourist accommodations. The Planning Commission will review and make decisions during the Preliminary Plan submittals when additional detail for the requested tourist accommodations are provided, e.g. size of buildings, number of bedrooms per dwelling, etc.

The Whale Watch plan for managing the rental units will mirror the management of the tourist accommodations at the Hills of Depoe Bay and Tetherow Resort. There will be a Declaration of Covenants, Conditions, Restrictions and Easements (CC&Rs) for Whale Watch. In these CC&Rs, there will be a restriction on homes so that they cannot be rented as Overnight Vacation Dwellings. A Supplemental Declaration for the vacation rentals/tourist accommodations will be recorded against all properties that are deemed to be Vacation Rental Dwellings (VRDs) in the Final Master Plan. The tourist accommodations will be managed by a single management company located on-site.

6. **Traffic Impact Study.** Development shall occur in accordance with recommendations identified in the June 2017 Whale Watch and Hills of Depoe Bay Traffic Impact Study (TIS) and in accordance with ODOT and City of Depoe Bay recommendations and approvals. The TIS includes, but is not limited to, the need for traffic signals on Hwy 101 when the developments generate enough trips to warrant the signal(s), sidewalks, crosswalks, and transit facilities. A transportation compliance letter shall be submitted with each Preliminary Plan submittal in order to address on-site transportation, access and pedestrian standards, and to ensure that mitigation measures provided in the TIS are applied at the appropriate phase of development.

The developer and/or homeowners association shall be responsible for maintenance of all streets.

7. **Parking.** Parking plans shall conform to DBZO Section 4.030 and Diagram A. Additionally, parking regulations identified in DBZO Section 4.130 Planned Development shall be adhered to, i.e. tourist accommodation parking requirements and that all parking areas shall be paved within the planned development. Future phases shall include parallel parking along the Hwy 101 frontage.

8. **Open Space.** As identified in the Master Plan, a minimum 39% of the site shall be dedicated or reserved for outdoor recreation, park or natural land.
9. **Streams/Wetlands.** Applications for any phase which contains a designated resource shall conform to requirements of DBZO Section 4.800 Protection of Streams, Ponds, Wetlands and Riparian Areas. This includes but is not limited to a description of measures to be taken to protect the designated inland stream in the southeast portion of the site. Measures shall be taken to maintained water quality of the stream during and post-construction from the Whale Watch property to Pirate Cove.
10. **Pedestrian Plan.** The connected public pedestrian network shall be provided as described in the application submittal and illustrated on Sheet 8 of the Plans. The Whale Watch trails shall not stub out to the north property line, adjacent to the Oregon Parks & Recreation Department (OPRD) property, without first obtaining approval from OPRD.

The public pedestrian network shall include a sidewalk and/or path along the Hwy 101 frontage between Baleen Drive and Laguna Loop Road, and around the adjacent wetland/open space area. Measures shall be taken to restrict pedestrians from crossing Hwy 101 near the ‘Boiler Bay’ curve, i.e. through barriers and signage.

11. **Utilities.** Engineered plans, including capacity analyses of existing and planned city utility systems, shall be submitted with any phase of development for water, sewer, and storm drainage. The City Superintendent shall review and approve water, sewer, and storm drain facilities for each phase of development. Adequate utilities facilities must be provided both on-site and off-site. For example, the wastewater treatment plant must have capacity to accommodate sewer for each phase of development. The applicant shall be responsible for all costs the City may incur by hiring a professional engineer to review and comment on engineering plans. The applicant shall be responsible for obtaining applicable state agency review and approval. The applicant will be responsible for obtaining approval of other utilities, i.e. power, gas, cable, telephone, etc.
12. **Zoning and Requested Exceptions.** Per the Master Plan submittal, the applicant may request exceptions at the time a Preliminary Plan is submitted for each phase. Requested zoning amendments and exceptions that may be requested include:
 - a. “Along the Coast Highway approximately 15.5 acres is zoned Commercial. Within that area, four low-lying areas are unsuitable for development and would be enhanced as natural areas. To the east, 33.7 acres are zoned R-1. Proposed Shoreline Drive is aligned with the current zoning boundary between C-1 and R-1. The proposed master plan would refine the location of this zoning boundary according to planned uses. A zone change would be proposed in conjunction with the preliminary plan for Areas A and B to rezone 9.2 acres from R-1 to C-1.
 - b. A Planned Development overlay would be proposed in conjunction with the preliminary plan for each Area. This would allow clustering of home sites which preserves larger tracts of natural areas.
 - c. A limited use overlay would be proposed in conjunction with the preliminary plan for Areas A and B to allow live work units.
 - d. Exceptions may be requested to standards for front, side, and rear yards, lot area, lot width, and lot depth for topographic reasons.

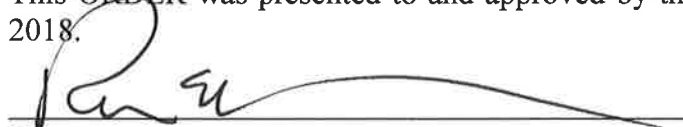
- e. Exceptions may be requested to limit building height by CCRs to protect view corridors or to increase building height to enhance views.
- f. Exceptions may be requested to forested hillsides standards in Section 4.820.2.d. It is unclear where this provision is applicable. Merchantable timber was harvested in 2003. Remaining stands of trees are located along the highway frontage. Isolated trees are found throughout the site. The hillside is densely vegetated with blackberries and other opportunistic vegetation.
- g. An exception may be requested to allow a retirement center as an alternative use to commercial or attached single-family homes. The location would be dependent on compatibility and operational characteristics according to conditional use standards.”
- h. A building is proposed to span Lots 1-3 as shown on Master Plan Sheet 5. This two-story building would be occupied initially as a sales office on the ground floor with guest rooms on the second floor for overnight accommodations. As Hills of Depoe Bay expands at the end of Ascent Drive, the building would be converted to a single family dwelling/tourist accommodation.
- i. An exception is proposed in Phase 1 to allow mixed use buildings and condominiums to be occupied as tourist accommodations, a use that is currently limited to single-family and two-family dwellings in a residential zone.
- j. An exception is proposed in Phase 1 to increase on-site parking by one space per unit in lieu of providing an overflow parking lot.

With each requested exception, the Planning Commission will review and determine if any requested exceptions are granted. The applicant acknowledges that the summary of proposed exceptions is simply a declaration for possible future requests, and that approval of the master plan does not constitute approval of any particular exception or zone change.

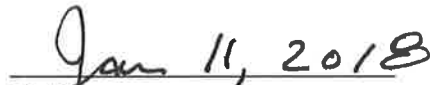
- 13. **General Architectural Style.** General architectural style of the Whale Watch Planned Development shall be in accordance with the submitted Exhibit 5 (six photographs). Architectural features include large windows for viewing, exposed timber framing, and more recently, use of architectural details appropriated from the American Craftsman style that was popular in the early 1900s.
- 14. **Covenants, Conditions & Restrictions (CC&Rs).** In accordance with DBZO 3.410.5.d, Content of Preliminary Plan, application for Preliminary Plan approval of a Planned Development shall include proposed covenants, restrictions, bylaws, etc. of any homeowners associations and any taxing districts.
- 15. **Geologic Hazard Permits.** Any preliminary plan submittal for an area within identified faults or that includes slopes exceeding 20% shall include a geologic hazard report in accordance with DBZO Article 13.
- 16. **Land Division.** The applicant shall be aware that approval of this Master Plan does not guarantee approval of land division standards. Each phase of development shall be reviewed by the Planning Commission for conformance with DBZO Article 14 Land Development standards.

- 17. **Easement Agreement.** Prior to submittal of a Preliminary Plan for Phase C-3, a copy of a recorded Easement Agreement granting access and utilities to Tax Lots 1110 and 1111 of Tax Map 09-11-05B shall be provided to the City.
- 18. **Archaeological Resources.** Development shall be conducted in a manner so as to minimize site disturbance and prevent irreversible loss of archaeological resources. Before and during excavation, any discovery of archaeological resources shall mean that the applicant shall cease excavation activities, notify the State Historic Preservation Office and the Confederated Tribes of Siletz Indians, and meet State statutes before proceeding.

This ORDER was presented to and approved by the Depoe Bay Planning Commission on January 10, 2018.



Roy Hageman, President
Depoe Bay Planning Commission



Date

§ 152.025 RESIDENTIAL ZONE R-1.

In an R-1 Zone, the following regulations shall apply.

(A) *Uses permitted outright.* In an R-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, and 152.225 through 152.235 where applicable:

- (1) A single-family dwelling built on the site;
- (2) Manufactured home;
- (3) Pre-fab heated or modular dwelling;
- (4) A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle:
 - (a) Is located during the time the construction is underway; and
 - (b) Will not remain more than one year from date of placement or 30 days following substantial completion, whichever is earlier.
- (5) Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further that no commercial structure shall be constructed or maintained on the premises;
- (6) Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building;
- (7) Residential homes;
- (8) Family day care provider;
- (9) Transparent occupation; and
- (10) Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous, and cause no odor off-site.

(B) *Conditional uses permitted.* In an R-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, and 152.225 through 152.235 where applicable:

- (1) Cemetery;
- (2) Church;
- (3) Community center;
- (4) Day nursery, nursery school, kindergarten, or similar facility;
- (5) Governmental structure or use of land;
- (6) Home occupation;
- (7) Golf course or country club, but excluding golf driving range, miniature golf course, or similar facility;
- (8) Private non-commercial recreation club, such as tennis, swimming, or archery club, but excluding commercial amusement or recreation enterprises;
- (9) Public park, playground, or swimming pool;
- (10) Public school or private school offering curricula similar to public school;
- (11) Public or private utility facility;
- (12) Radio or television transmitter or tower; and
- (13) Solid waste disposal transfer station.

(C) *Standards.* Except as provided in §§ 152.055 through 152.076, 152.115 through 152.117, and 152.130 through 152.136, in an R-1 Zone, the following standards shall apply.

- (1) *Lot size and dimension.* The minimum lot size and dimension in an R-1 Zone shall be as follows:
 - (a) The minimum lot area shall be 5,000 square feet;
 - (b) The minimum lot width at the front lot line shall be 50 feet for an interior lot and 55 feet for a corner lot, except flag lots. The staff of a flag lot shall have a minimum width and frontage of not less than 25 feet;
 - (c) The minimum lot depth shall be 80 feet; and
 - (d) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the

landward extent of the property.

(2) *Yards.* The minimum yard requirements in the R-1 Zone shall be as follows:

(a) The front yard shall be a minimum of 20 feet;

(b) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever is the greater;

(c) The street side yard shall be a minimum of 20 feet except this may be reduced by one foot for each foot the average lot width is less than 60 feet, however, no street side yard shall be less than ten feet (see **LOT WIDTH** in § 152.003 of this chapter for method of calculation);

(d) The rear yard shall be a minimum of ten feet, except that on a corner lot, it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater; and

(e) No structure shall be located closer than 60 feet from the centerline of any state highway.

(3) *Building height.* No building in the R-1 Zone shall exceed a height of 30 feet.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 187, passed 2-16-1993; Ord. 236, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 268, passed 11-2-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.030 RETAIL COMMERCIAL ZONE C-1.

In a C-1 Zone, the following regulations shall apply.

(A) *Uses permitted outright.* In a C-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, and 152.225 through 152.235 where applicable:

- (1) A single-family dwelling built on the site;
- (2) Manufactured dwelling;
- (3) A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle:
 - (a) Is located during the time the construction is underway; and
 - (b) Will not remain more than one year from date of placement or 30 days following substantial completion, whichever is earlier.
- (4) Agricultural use of land provided that no livestock shall be raised or kept on the premises;
- (5) Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building;
- (6) Pre-fabricated or modular dwelling;
- (7) Two-family dwelling;
- (8) Multi-family dwelling;
- (9) Retail store or shop, such as food store, gift shop, drug store, apparel store, hardware store, furniture store, or similar establishment;
- (10) Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 Zone provided all repair shall occur entirely within an enclosed building;
- (11) The manufacture, fabrication, and/or assembly of those goods offered for sale on the premises, provided all manufacturing, fabricating, assembling, and storage not exceed 50% of the total floor area of the establishment, and provided further that it shall occur within an enclosed building;
- (12) Personal or business service establishment, such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop, or similar establishment;
- (13) Clinic;
- (14) Club, lodge, or fraternal organization;
- (15) Financial institution;
- (16) Indoor commercial amusement or recreation establishment, such as a bowling alley, theater, pool hall, or aquarium;
- (17) Mortuary;
- (18) Newspaper office or print shop;
- (19) Office;
- (20) Private museum, art gallery, or similar facility;
- (21) Restaurant, bar, or tavern;
- (22) Home occupation;
- (23) Automobile service station, including minor repair, provided it is conducted entirely within an enclosed building;
- (24) Laundromat;
- (25) Retail sale of sporting goods or bait;
- (26) Condominiums;
- (27) Public or private parking lots;
- (28) Residential facility;
- (29) Time share project;
- (30) Tourist accommodation or resort; and
- (31) Commercial fishing gear storage in the part of the zone adjacent to the harbor (Tax Map 09-11-08 AB, tax lots

600, 700, 800, 900, 1000, 1100, 1101, 1200, 1201, 7900, 8000, 8100, 8200, 90000, 90001, 90002, and 90003).

(B) *Conditional uses permitted.* In a C-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, and 152.225 through 152.235, where applicable:

- (1) Church, non-profit religious, or philanthropic institution;
- (2) Community center;
- (3) Day nursery, nursery school, kindergarten, or similar activity;
- (4) Governmental structure or use of land;
- (5) Mobile vending stand;
- (6) Private non-commercial recreation club, such as tennis, swimming, or archery club;
- (7) Public park, playground, or swimming pool;
- (8) Public school or private school offering curricula similar to public school;
- (9) Public or private utility facility;
- (10) Radio or television transmitter or tower;
- (11) Solid waste disposal transfer station;
- (12) Recreational vehicle park;
- (13) Outdoor commercial amusement or recreation establishment, such as miniature golf course or drive-in theater, but not including uses, such as race track or automobile speedway;
- (14) Hospital and/or nursing home;
- (15) Drive-in services, such as a drive-in restaurant;
- (16) Billboards;
- (17) Kennel;
- (18) Animal hospital;
- (19) Automobile repair garage, provided all repair shall be conducted entirely within an enclosed building;
- (20) Boat or marine equipment sales, service, storage, or rental; boat or marine equipment minor repair, provided all such repair be conducted entirely within an enclosed building;
- (21) Lumber or building materials, sales, and storage;
- (22) Warehouse or storage area; and
- (23) Child care.

(C) *Standards.* Except as provided in §§ 152.055 through 152.076, 152.115 through 152.117, and 152.130 through 152.136, in any C-1 Zone, the following standards shall apply:

- (1) All yards abutting a lot in a residential zone shall be a minimum of ten feet;
- (2) No building in the C-1 Zone shall exceed a height of 35 feet;
- (3) Outdoor storage shall be screened with a sight-obscuring fence; and
- (4) Kennels shall be located:
 - (a) No closer than 75 feet from a residential zone; and
 - (b) No closer than 20 feet from a property line.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 92, passed 7-7-1982; Ord. 130, passed 4-6-1987; Ord. 154, passed 9-17-1990; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 186, passed 12-22-1992; Ord. 187, passed 2-16-1993; Ord. 217, passed 4-17-1995; Ord. 234, passed 12-16-1996; Ord. 268, passed 11-2-2004; Ord. 279, passed - -2007; Ord. 327-21, passed 4-20-2021) Penalty, see § 152.999

§ 152.042 PLANNED DEVELOPMENT ZONE (P-D).

(A) *Purpose.* The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design, and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

- (1) Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical, and natural resource values and constraints present on a particular site;
- (2) Respect the surrounding context and enhance community character;
- (3) Provide open space;
- (4) Provide pedestrian and bicycle facilities, such as sidewalks in commercial and high density areas, hiking trails, and bicycle trails;
- (5) Permit greater flexibility in the siting of buildings and other physical improvements, and in the mixing of housing types, in order to accomplish desirable design objectives;
- (6) Provide adequate, structurally sound public and private streets and utilities;
- (7) Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the Comprehensive Plan;
- (8) Ensure the safety of the residents of the city and visitors to the city;
- (9) Allow logical, efficient development or redevelopment of adjacent properties within the P-D and properties adjacent to the P-D;
- (10) Supersede the provisions of §§ 152.250 through 152.265 of this chapter when the latter are expressly contrary to a specific provision of this section, or upon application to and approval by the Planning Commission, provided such approval is consistent with the purpose of this section; and

(11) Allow for flexibility of land uses, such as allow tourist accommodations in residential zones with standards and ensure the developer and/or management company is responsible for all management of the tourist accommodation, including but not limited to responding to noise, trash, overcrowding, and parking complaints. The intent is to place all responsibility on the developer, management, HOA, or property owner, provide the public with easily-accessible management contact, and minimize city time and expense related to the tourist accommodation use.

(B) *General requirements.* The following general requirements shall govern planned developments.

- (1) A planned development may be established in any zone other than the T-C Zone.
- (2) On land subject to an approved planned development, only those uses, structures, and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.
- (3) (a) A planned development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 Zones may be permitted when compatible with each other and harmonious with adjacent uses.
(b) The one exception to division (B)(3)(a) above is the possible approval of short-term rentals (tourist accommodations per § 152.003 of this chapter and including time shares) to the planned development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 Zones. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres. Tourist accommodations in residential zones shall be limited to single-family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, and the like), buffered (space, sight, and sound buffered) from all adjacent uses other than commercial uses, and buffered from adjacent properties that are outside of the P-D. The following city standards shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.

1. *Nuisance control.* No noise, lights, dust, smoke, odors, and electromagnetic frequencies generated on-site in excess of the amounts normally associated with residential uses shall emanate off-site or interfere with surrounding residential or commercial uses.
2. *Lighting.* Outside lighting shall be restricted to low voltage lighting and/or motion sensor lighting for security.
3. *Off-street parking.* For tourist accommodation dwelling uses, off-street parking space requirements are:
 - a. A single-family or two-family dwelling shall have one on-site parking space for each bedroom. A minimum of two parking spaces shall be provided per dwelling;
 - b. A multi-family dwelling shall have one parking space for each bedroom located immediately adjacent to the unit. A minimum of two parking spaces shall be provided per dwelling;
 - c. A parking lot for overflow vehicles, consisting of one additional space per dwelling unit, that shall be in the

immediate area of the tourist accommodations; and

d. If a dwelling unit is a residence plus a tourist accommodation, two additional spaces are required on the same property.

4. *Solid waste disposal.* For tourist accommodation dwelling uses, a minimum 96-gallon vessel shall be provided for each unit, and the unit shall have "carry-out"/"valet" (no need to put vessels at curb) service. A multi-unit dumpster type unit may be substituted, it must be enclosed to the sight-line. Weekly solid waste pick-up is required during all months of the year.

5. *State law compliance.* It is the property owner's responsibility to ensure that a tourist accommodation dwelling use remains in substantial compliance with state regulations for the following: health, safety, Building Code, Fire Code, tourist accommodation statutes, and the Uniform Housing Code.

6. *Occupancy.* Tourist accommodation dwellings shall not exceed two persons per bedroom plus one additional person per dwelling.

7. *Signage.* The management entity shall only have one exterior on-site sign for the tourist accommodation area. The sign shall identify the site as a tourist accommodation area; identify a local contact person; state that the local contact person is available 24 hours each day, seven days a week to handle rentals and complaints; and identify the local contact person's business license number. An interior sign with this same information shall be placed inside each tourist accommodation in a noticeable location, such as, near the front door or in the kitchen.

8. *Business license.* For a tourist accommodation dwelling, the property owner and property management company are required to have a city business license. In addition, for tourist accommodation dwelling uses, transient room tax ordinance provisions shall apply.

9. *Revocation.* Any violation of the requirements or standards of this P-D Zone or any other city ordinance may result in revocation of the transient rental unit business license.

(4) Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other non-residential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.

(5) No building shall exceed the height allowed in the underlying zone.

(6) Yards, setbacks, lot area, lot coverage, and similar dimensional requirements may be reduced, adjusted, or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

(7) In the event of a conflict between any applicable use zone provision and the allowances, limitations, or requirements of an approved preliminary plan, the approved preliminary plan shall control.

(8) A planned development shall have a minimum of two contiguous acres, exclusive of street right-of-way. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres.

(9) Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park, or natural land.

(10) Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40-foot wide designated forested corridor on both sides of Highway 101 right-of-way from south point street south to the city limits which shall instead include a four-foot wide walking/biking path (§ 152.074(B)(3) of this chapter applies). The planned development shall also include a connected pedestrian system/network.

(11) Parking shall conform to § 152.058 and Diagram A of § 152.031, with the exception that all parking areas shall be paved.

(12) A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the city. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

(13) Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, and the like). Section 152.074 of this chapter applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service state listed noxious weeds shall be removed and shall not be planted.

(C) *General approval process.* At a minimum, a preliminary plan and lastly a final plan shall be submitted for approval for all planned developments. Once the preliminary plan is approved and the final engineered plans are reviewed and approved by the city, work on the development's infrastructure may proceed. The final plan is primarily an as-built of the streets and infrastructure, and no building permits shall be approved until the effective date of the final approval of the plan. If the planned development is to be developed in a number of individual sections or phases, each which is developed separate from the others (a phased planned development), a master plan shall first be submitted for approval. Once the master plan for the entire development is approved, each phase (section) of the development shall follow the standard preliminary plan

and final plan process.

(1) If the planned development is a phased planned development, the initial step is the submission of the master plan for the entire development, which shall be submitted for approval as per division (D) below.

(a) The master plan is the over-arching plan of the entire development and of all phases. The primary purpose of a master plan is to propose and establish the development's overall concept, overall planning, and the integration of all phases. Master plan approval does not permit development or construction to occur.

(b) If a master plan for a phased development is approved, the applicant or its successor shall obtain separate preliminary and final approvals for each phase. For each individual phase, a preliminary plan shall be submitted for approval as per division (E) below prior to any work starting on the infrastructure of that phase.

(c) If a preliminary plan for an individual phase impacts the master plan, an updated master plan shall be submitted with that preliminary plan.

(d) A master plan is not required for a planned development that is not using a phased development approach.

(2) For a planned development that is not a phased planned development, the initial step of a planned development is the submission of a preliminary plan for the complete development, which shall be submitted for approval as per division (E) below. Work on the development's infrastructure may only proceed once the preliminary plan is approved.

(3) A final plan shall be submitted for approval as per division (H) below upon completion of all conditions and requirements of the individual phase preliminary plan or the entire development's preliminary plan. No building permits shall be approved until the effective date of the final approval of the final plan.

(D) *Master plan.* A master plan for planned developments shall be developed as follows.

(1) *Master plan review procedure.* The procedure for application and review of a master plan shall be as set forth in § 152.204(C) of this chapter.

(2) *Content of master plan.* Application for master plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) A narrative describing the plans for phasing (if applicable);

(b) A summary describing the general locations for any reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements of this chapter; and

(c) A summary describing the general locations for any desired variances, exceptions, deviations, waivers, conditional uses, zone changes, and the like, and a supporting narrative that acknowledges the zoning application procedure and criteria order to obtain each approval.

(3) *Approval on findings.* Master plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(4) *Approval date.* Master plan approval is valid from the date all legal appeals are exhausted. Changes to an approved master plan require an application for a master plan amendment to be reviewed and approved by the Planning Commission as set forth in § 152.204(C) of this chapter.

(E) *Preliminary plan.* A preliminary plan for planned developments shall be developed as follows.

(1) *Submittal.* A preliminary plan shall be submitted for a non-phased planned development.

(2) *Phase development.* For a phased development, a preliminary plan shall be submitted for each phase of development.

(a) A preliminary plan may be submitted for a phase concurrent with a master plan application. The Planning Commission will review the preliminary plan the meeting after the master plan is approved.

(b) Each phase shall meet the criteria of divisions (E)(4), (F), and (G) below independently of the other phases.

(3) *Preliminary plan review procedure.* The procedure for application and review of a preliminary plan, which shall be as set forth in § 152.204(C).

(4) *Content of preliminary plan.* Application for preliminary plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) Proposed covenants, restrictions, bylaws, and the like of any homeowners associations and any taxing districts;

(b) A narrative describing the locations for any divergence from this chapter in the form of reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements;

(c) Submittal of any requests for variances, exceptions, deviations, waivers, conditional uses, and the like; and

(d) A narrative describing the specific area of any short-term rentals and describing how the rentals will be managed, policed, the city transient room tax (TRT) and the city transient occupancy tax (TOT) are collected, and city TRT and TOT are forwarded to the city.

(5) *Approval; findings.* Preliminary plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(6) *Approval; final engineering plans.* Based on the preliminary plan approval, the applicant is required to submit final engineering plans to be reviewed and approved by the city prior to any construction. The applicant shall be responsible for all costs the city may incur by hiring a professional engineer to review and comment on the final engineering plans.

(7) *Time limit of preliminary plan approval.* Approval of a preliminary plan in accordance with this section is valid after the exhaustion of all appeals (see § 152.208). Infrastructure (streets and utilities) shall be designed and constructed in accordance with current design standards unless specific exceptions are granted by the Planning Commission.

(F) *Common content of master plan and preliminary plan.* In addition to the forms prescribed by the city, an application for master plan approval or a preliminary plan approval of a planned development shall include the following:

(1) A site plan map or maps depicting:

(a) All proposed residential and non-residential land uses;

(b) Any proposed tourist accommodation area in a residential zoned area, describing the type, location, and number of each type of tourist accommodation (house, apartment, hotel, condo, time-share, and the like), also showing and describing the buffering from adjacent uses;

(c) Parking areas and lots, showing number of spaces;

(d) Proposed lot or parcel boundaries;

(e) Proposed roads;

(f) Proposed pedestrian system and facilities;

(g) Significant natural features, such as wetland, streams courses, environmental hazards, and fish and wildlife habitat areas; and

(h) Proposed open space, recreation areas, or other common elements, and approximate topography with contour intervals of not more than ten feet.

(2) Drawings of the architectural styles of the different areas of the development;

(3) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to divisions (A) and (B) above, including detailed discussion of how the proposal conforms to the requirements of division (G) below, how the development meets the parking requirements of the § 152.058 of this chapter, proposed methods of providing sewer, water, storm drainage, and other utility services, the method proposed for ownership, funding, and maintenance of common areas, buildings, structures, roads, open space, landscaping, parking areas, fences, buffers and/or sight, sound barriers to adjacent properties, or other facilities, public access to and use of the aforementioned, and the proposed time schedule of development; and

(4) Other maps or narrative materials needed to determine compliance with any applicable provisions of this chapter, as determined by initial review of the application for completeness.

(G) *Common master plan and preliminary plan approval criteria.* Approval by the Planning Commission of a master plan or a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

(1) All applicable requirements of this section are met;

(2) The proposed development is consistent with the Comprehensive Plan goals and policies, and zoning provisions for the area;

(3) Per § 152.251 of this chapter, the provisions of §§ 152.250 through 152.265 of this chapter shall be applicable to approval criteria unless expressly contrary to a specific provision of this section;

(4) The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedure: protection of significant natural and cultural features and resources, such as historical, scientific, and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as, as examples only, suitably located open space, recreation facilities, and other common facilities for inhabitants of the planned development; includes pedestrian oriented development which reduces reliance on automobile travel, and provides similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards;

(5) In acting to approve, the Commission shall be mindful of the purposes of this section by encouraging and promoting creativity and innovation in site planning, and by allowing for flexibility in the application of design standards. The Commission may also impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this section; and

(6) The proposed development is in substantial harmony with the area at least 250 feet outside the boundary of the

proposed development. In the case of a phased planned development, all phases shall also be in visible agreement with each other architecturally and otherwise.

(H) *Final plan.* Upon completion of all conditions and requirements of a preliminary plan, application may be made for final approval in accordance with the provisions of this section.

(1) *Final plan review procedure.* The procedure for application and review of a request for final plan approval shall be as set forth in § 152.204(C).

(2) *Certifications required for final plan approval.* Requests for final plan approval shall be accompanied by the following certifications, as applicable:

(a) A copy of all covenants and restrictions;

(b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;

(c) As-built certifications for all required roads and utilities;

(d) If the planned development involves a division of land, the certifications required by §§152.250 through 152.265 of this chapter; and

(e) Other certifications required as a condition of the preliminary plan approval.

(3) *Final plan approval criteria.* The Commission shall approve a final plan provided that:

(a) The submitted final plan is in substantial conformance with the approved preliminary plan and master plan (if a phased planned development); and

(b) All of the certifications required by division (H)(2) above have been submitted in proper form.

(4) *Permits.* No building permits shall be approved until the effective date of the final approval of the final plan.

(I) *Retroactivity.* The provisions in this section shall not apply to planned developments, or phases thereof, which were granted preliminary plan approval prior to the effective date of this section. In those cases the prior version of this section shall apply, unless said approval expires without applicant having obtained the final approval.

(J) *Amending an approved planned development master plan or preliminary plan.* When a developer or owner desires to deviate from an approved master plan or preliminary plan, any applicable documents that would result in modification from that change shall be submitted for approval. The review process is identical as a new planned development approval. As a result of the change, the Planning Commission may require changes to approved uses, structures, and other forms of development to ensure the proposed development remains consistent with the Comprehensive Plan goals, policies, and zoning ordinance provisions for the area, and to ensure all areas of the planned development remain in harmony following division (A) and (B) of this section.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004; Ord. 310, passed 11-1-2016) Penalty, see § 152.999

§ 152.058 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS.

At the time a new structure is erected or the square footage is increased, or the use of the structure is changed, off-street parking spaces, loading areas, and access thereto shall be provided as set forth in this section.

(A) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(B) In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the several uses computed separately.

(C) Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, or contracts to establish the joint use and hours of operation.

(D) Off-street parking spaces for dwellings, hotels, motels, resorts, and time-shares shall be located on the same lot or on a lot immediately adjacent to the lot served by such parking.

(E) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(F) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved adequately for all-weather use, and shall be adequately maintained. Drainage shall conform to the city's storm water master plan and a drainage plan shall be approved the city field superintendent.

(G) Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones, or adjacent to Highway 101, or residential uses shall be designed to minimize visual impacts by use of landscaping or by a fence screened by landscaping.

(H) Parking areas used for public or private parking lots under the conditional use in an R-4 Zone must have garbage containers available for garbage which may be generated by users of the parking lot. Such garbage containers must be emptied on a regular basis and not less than weekly. Parking lots shall be posted with the following sign: "no camping or overnight use" and shall have their hours posted. Parking lot hours shall not extend beyond 10:00 p.m. or open earlier than 4:00 a.m. If the property fails to enforce the parking prohibitions, the Planning Commission may review and consider whether or not to revoke the conditional use permit.

(I) Parking spaces along the outer boundaries of a lot shall contain a curb or bumper rail at least four inches high and set back four feet from the front of the space.

(J) Artificial lighting may be used in parking areas provided it is of low intensity, is pointed generally downward, and is shielded if necessary so as to not create light or glare off-site.

(K) Except with respect to approved driveways, required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(L) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

(M) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(N) Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths of sufficient numbers and size to handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this section may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.

(O) All spaces shall be permanently and clearly marked. Markings which guide safe and efficient traffic flow shall also be permanently and clearly marked. All markings shall be replaced regularly to remain visible.

(P) All improvements, including surfacing, storm water management, striping, and landscaping shall be fully maintained for the life of the parking facility. Failure to maintain such improvements shall constitute a violation of this chapter.

(Q) All parking lots shall be designed with spaces for handicapped drivers as provided for in the Building Code.

(R) The clear vision requirements set forth in §152.055 of this subchapter shall apply to all parking lots at the intersection of two streets or a street and an alley.

(S) For C-1 Retail Commercial Zoned properties, off-street parking requirements shall be located on the same lot or within 500 feet (as measured by a direct line from the nearest property line to the nearest property line of the parking lot).

(1) On-street parking spaces that front the lot and are adjacent (on the same side of the street) may be counted in the required parking. Over one-half of the parking space shall be directly within the street frontage of the lot in order to be counted in the required parking.

(2) When the square footage of a business or structure is increased, or the use is changed, only the spaces associated

with the increased square footage or area of change must be added.

(3) No person who works or resides in properties fronting Highway 101 shall park a vehicle on Highway 101 while in his or her place of employment, or in his or her residence between 9:00 a.m. and 5:00 p.m. on any day. Single-family dwellings are exempt.

(4) Parking on Highway 101 is limited to four hours between 6:00 a.m. and 6:00 p.m.

(5) All parking shall be general purpose parking/public parking with the exception of residential uses which may have designated off-street parking spaces. If required parking is off-site but within 500 feet, the applicant must provide written documentation from the property owner authorizing the parking. If a variance to parking requirements is pursued, the applicant shall demonstrate that off-site parking is not available within 500 feet.

(T) Off-street parking space requirements:

Animal hospital or kennel	1 space per 500 square feet
Any single- or multi-family residential use, including condominium or time share	2 spaces per unit
Church, auditorium, meeting place, theater, gymnasium, mortuary, or similar place of assembly	1 space for each 50 square feet of floor area used for assembly
Dance hall, skating rink, pool hall, aquarium, bowling alley, or similar commercial amusement enterprise	1 space for each 100 square feet of floor area
Day care, nursery school, kindergarten, elementary and middle schools, and similar uses	2 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Financial institution, laboratory, or office	1 space for each 300 square feet of floor area
Golf courses	5 spaces per hole, plus the 75% the ancillary parking requirements
High schools	8 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Hospital	3 spaces for each 2 beds
Laundromat	1 space per three machines
Library or similar facility	1 space for each 300 square feet of floor area
Manufacturing, fabrication, assembly, processing, cabinetry, or similar use	1 space for each 1,000 square feet of floor area
Marina or other moorage facility	1 space per boat mooring space
Medical or dental clinic	1 space for each 200 square feet of floor area
Miniature golf	1.5 spaces per hole
Nursing home, residential facility, residential home, or retirement home	1 space for each 3 beds
Personal or business service	1 space per 250 square feet
Public or private swimming pool	1 space per 100 square feet
Recreational vehicle park	3 spaces for each two RV spaces
Restaurants and bars	1 space for each 100 square feet of serving area (total floor area where public is allowed, excluding restrooms and other specified uses, such as designated retail space)
Retail store not handling bulky merchandise	1 space for each 350 square feet of floor area
Service or repair shop; retail store handling bulky merchandise, such as automobiles, furniture, boats, marine equipment, and the like; automobile service station, feed and seed; heavy equipment; lumber or building supplies; or similar uses	1 space for each 600 square feet of sales, storage, or repair area
Tourist accommodation	1 space for each guest accommodation
Warehouse, storage, and wholesale business	1 space for each 2000 square feet of area

(U) The required size of parking spaces, aisles, driveways, and similar design features are set forth in Diagram A. Required landscaping areas are not shown.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 92, passed 7-7-1982; Ord. 124, passed 7-1-1985; Ord. 130, passed 4-6-1987; Ord. 145, passed 1-3-1989; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 234, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 279, passed - -2007)

AMENDMENTS

§ 152.185 AUTHORIZATION TO INITIATE AMENDMENTS.

An amendment to the text of this chapter or to a zoning map may be initiated by the City Council, by the Planning Commission, or by application of a property owner.

(Ord. 24, passed 4-5-1976)

§ 152.186 AMENDMENT PROCEDURE.

(A) The procedure for amending the zoning ordinance specified in §§152.200 through 152.210 of this chapter shall be followed.

(B) In considering an amendment to a zoning map, the Planning Commission shall seek to determine the following:

(1) That the change is in accord with the land use plan for the area; and

(2) (a) That there has either been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or that the zoning adopted for the area was in error.

(b) If the proposed change is not in accord with the land use plan for the area, the Planning Commission and the City Council shall seek to determine that an alteration of the plan can be justified on the basis that there has been a substantial change in the character of the area since the plan was adopted and which warrants a change in the plan, or that the plan adopted for the area was in error.

(C) The office of the City Recorder shall maintain records of amendments to the text and map of this chapter in a form convenient for use by the public.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004)

§ 152.187 LIMITATION.

No application of a property owner for an amendment to the text of this chapter or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

(Ord. 24, passed 4-5-1976)

§ 152.188 TIME LIMIT ON A ZONING MAP AMENDMENT.

Approval of a zoning map amendment may be voided after two years, unless otherwise specified, by the Planning Commission upon finding at a public hearing that substantial construction has not taken place on the rezoned property.

(Ord. 24, passed 4-5-1976)

DEVELOPMENT GUIDELINES

§ 152.225 PURPOSE.

Some areas of the city are located on steep slopes, have erosion or landslide potential, or are otherwise of concern. The purpose of this section is to minimize hazards and threats to life and property by regulating building, grading, land clearing, and other human activities in areas identified with landslide topography, steep slopes, areas subject to erosion, high groundwater table, and other hazards. It is also the intent of this subchapter to protect life and property by reducing building density in these areas, by requiring special construction techniques, and by requiring the study of such areas by a state-registered engineering geologist prior to any activity.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.226 WEAK FOUNDATION SOILS.

(A) Many areas within the city are located on areas described by the soil conservation service as containing "weak foundation soils" or other soils limitations.

(B) Construction techniques, through the Building Code, require the effect of weak foundation soils or other soil limitations to be considered in the construction process.

(C) Construction of structures on areas of weak foundation soils or other soils limitations is not deemed to pose a significant hazard to life or property outside the property boundaries. The manner provided in the Building Code to address problems arising from weak foundation soils or other soils limitations is deemed to be an adequate means of protection of life and property. This statement serves as a warning for development on weak foundation soils.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.227 DISCHARGE OF SEDIMENT OR WATER.

(A) Property owners or other persons in charge of property shall not cause, or permit to be caused, the discharge of sediment or water onto adjoining property or the public right-of-way unless the permit application is accompanied by a drainage plan accepted by the affected property owners, or the applicant has demonstrated compliance with state laws regarding discharge of sediment or water.

(B) The following measures are suggested as possible means to prevent such discharges:

- (1) Minimal removal of vegetative cover, particularly trees;
- (2) Temporary measures for controlling run-off, such as berms or holding ponds;
- (3) The planting of vegetative cover as soon as possible after each phase of construction, including excavation, grading, and/or land clearing; and
- (4) Design of the site to avoid steep areas or other hazards.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.228 AFFECTED AREAS.

The following areas and activities shall be subject to the requirements of this subchapter:

(A) Areas identified as being geologically hazardous by *Environmental Geology of Lincoln County, Oregon, 1973*, Oregon Department of Geology and Mineral Industries, or *Environmental Hazard Inventory, Coastal Lincoln County Oregon*, RNKR Associates, 1978. These documents are referenced as part of the Comprehensive Plan and are available in the office of the City Recorder;

(B) Areas identified by the Natural Resource Conservation Service as having high groundwater;

(C) Areas containing slopes in excess of 20%. (Areas generally containing significant slopes are identified on the attached map. Sites in this area are "affected" unless shown otherwise per § 152.233 of this subchapter); and

(D) Areas fronting the ocean or coastal bluff that are seaward from the line set by the coastal setback requirements of § 152.234 of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.229 GEOLOGIC PERMIT REQUIRED.

A geologic permit shall be obtained for any development within the affected areas. For subsequent building permits, such as for decks or room additions, the original geologic permit is acceptable, if it is no older than five years and the report author evaluates the new building permit plans and sends a letter to the city that bears the stamp of the licensed geologist or

engineering geologist, acknowledging that the submitted plans have been reviewed and that such building activity can be safely accomplished. In areas having slopes greater than 20%, a geologic permit shall also be obtained before removing vegetation from or grading an area in excess of 20,000 square feet or adding or removing 90 cubic yards of earth in an area of 5,000 square feet. Minimal accessory uses that do not require a building permit (playground equipment, small gazebo, and the like) are excluded from the requirements of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.230 PERMIT PROCEDURES.

In order to obtain a geologic permit, the applicant shall submit, along with the appropriate fee, a geologic hazard report which shall be prepared by a registered geologist or a certified engineering geologist recognized by the state and dated no more than one year prior to the application date. The report shall explain fully the activity for which the permit is being sought. If the purpose of the geologic hazard report is for a building permit, then the report shall accompany and address final building plans. Any activities not specifically covered in the report will not be covered by the permit. The report shall also identify the nature, extent, and location of all geologic hazards associated with the proposed site and activity. Finally, the report shall detail exact measures to be taken so as to avoid the occurrence of landslides, erosion, sloughing, puddling, or other identified geologic hazards on the subject and surrounding property or any prohibited activity identified above. For uses requiring removal of vegetation or excavation, plans for the legal disposal of such materials shall be submitted.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.231 SPECIFIC REQUIREMENTS FOR GEOLOGIC HAZARD REPORTS.

Geologic hazard reports provided pursuant to this subchapter shall conform to the following requirements from the *Guidelines for Preparing Engineering Geologic Reports in Oregon*. The geologist's report shall have reviewed these specific requirements and the applicant shall address the applicable conditions in the proposal. Sections that are not applicable shall be identified as not applicable.

(A) General information.

- (1) Client or party that commissioned the report;
- (2) Name(s) of geologist(s) who did the mapping and other investigation on which the report is based, and dates when the work was done;
- (3) Location and size of area, and its general setting with respect to major or regional geographic and geologic features, including a statement of existing surrounding and on-site land uses and public facilities, utilities, and easements. The location shall be identified by the tax map, tax lot number, and the street address to eliminate confusion in identifying the property;
- (4) Purpose and scope of the report and geologic investigation, including the proposed use of the site. Also, identify the level of the study, such as, feasibility, preliminary, final, and the like;
- (5) Topography and drainage within or affecting the area;
- (6) General nature, distribution, and abundance of exposures of earth materials within the area;
- (7) Nature and source of available subsurface information and geologic reports or maps. Suitable explanations of the available data should provide a technical reviewer with the means of evaluating the reliability. Reference to cited works or field observations should be made, to substantiate opinions and conclusions;
- (8) Disclosure of known or suspected geologic hazards affecting the area, including a statement regarding past performance of existing facilities (such as, buildings or utilities) in the immediate vicinity;
- (9) Locations of test holes and excavations (drill holes, test pits, and trenches) shown on maps and sections described in the text of the report. The actual data, or processed data upon which interpretations are based, should be included in the report to permit technical reviewers to make their own assessments regarding reliability and interpretation;
- (10) All field and laboratory testing procedures (by ASTM designation, if appropriate) and test results; and
- (11) The signature and seal of the certified engineering geologist who prepared the report.

(B) Geologic mapping and investigation.

(1) Geologic mapping of the area should be done at a scale which shows sufficient detail to adequately define the geologic conditions present.

(a) For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, so independent geologic mapping is needed.

(b) If available published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes which have occurred since map publication.

(c) It may be necessary for the geologist to extend mapping into adjacent areas to adequately define significant geologic conditions.

(2) Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base should be included on each map or photo.

(3) The geologist doing the investigation and preparing the map should report the nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials exposed and inferred within the area. A clear distinction should be made between observed and inferred features and relationship.

(4) The report should include one or more appropriately positioned and scaled cross-sections to show subsurface relationships that cannot be adequately described in words alone. Fence or block diagrams may also be appropriate.

(C) *Geologic descriptions.*

(1) The report should contain brief but complete descriptions of all natural materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. Describe all field mapping and exploration procedures (surface geologic reconnaissance, drilling, trenching, geophysical survey, and the like).

(2) The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

(a) *Bedrock.*

1. Identification of rock types;
2. Relative and absolute age and, where possible, correlation with named formations and other stratigraphic units;
3. Surface and subsurface expression, areal distribution, and thickness;
4. Pertinent physical characteristics (such as, color, grain size, nature of stratification, strength, and variability);
5. Distribution and extent of zones of weathering; significant differences between fresh and weathered rock; and
6. Special engineering geologic characteristics or concerns (such as, factors affecting proposed grading, construction, and land use).

(b) *Structural features: stratification, faults, discontinuities, foliation, schistosity, and folds.*

1. Occurrence, distribution, dimensions, orientation, and variability; both within and projecting into the area;
2. Relative ages, where pertinent;
3. Special features of faults (such as, topographic expression, zones of gouge and breccia, nature of offsets, age of movements, youngest faulted unit, and oldest unfaulted unit); and
4. Other significant structural characteristics or concerns.

(c) *Surficial deposits: alluvial, colluvial, eolian, glacial, lacustrine, marine, residual, mass movement, volcanic (such as, cinders and ash), and fill.*

1. Identification of material, grain size, relative age, and degree of activity of originating process;
2. Distribution, dimensional characteristics, variations in thickness, degree of soil development, and surface expression;
3. Pertinent physical and engineering characteristics (such as, color, grain size, lithology, compactness, cementation, strength, thickness, and variability);
4. Special physical or chemical features (such as, indications of volume change or instability, such as expansive clays or peat); and
5. Other significant engineering geologic characteristics or concerns.

(d) *Surface and shallow subsurface hydrologic conditions, including groundwater, springs, and streams and their possible effect on site.* Indicate how conditions may be affected by variations in precipitation, temperature, and the like:

1. Distribution, occurrence, and variations (such as, drainage courses, ponds, swamps, springs, seeps, and aquifers);
2. Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, flow direction, gradient, recharge, and discharge areas;
3. Relationships to topographic and geologic features;
4. Evidence for earlier occurrence of water at localities now dry (such as, vegetation, mineral deposits, and historic records); and
5. Other significant engineering geologic characteristics or concerns, such as fluctuating water table and the effects

of proposed modifications on future hydrologic processes.

(e) *Seismic considerations.*

1. Description of the seismotectonic setting of the area (including size, frequency, and location of historic earthquakes), current seismic zoning, and expected seismic risk;
2. Potential for area to be affected by surface rupture (including sense and amount of displacement, and width of surface deformation zone);
3. Probable response of site to likely earthquakes (estimated ground motion);
4. Potential for area to be affected by earthquake-induced landslides or liquefaction; and
5. Potential for area to be affected by regional tectonic deformation (subsidence or uplift).

(D) *Assessment of geologic factors.*

(1) Assessment of existing geologic conditions and processes with respect to intended use of the site constitutes the principal contribution of the report. It involves the effects of the geologic features upon the proposed grading, construction, and land use; and the effects of these proposed modifications upon future geologic conditions and processes in the area.

(2) The following checklist includes topics that ordinarily should be considered in discussions, conclusions, and recommendations in geologic reports:

(a) *General suitability of proposed land use to geologic conditions.*

1. Areas to be avoided, if any, and mitigation alternatives;
2. Topography and slope;
3. Stability of geologic units;
4. Flood and tidal inundation, erosion, and deposition;
5. Problems caused by geologic features or conditions in adjacent properties;
6. Problems related to coastal erosion; and
7. Other general problems.

(b) *Identification and extent.* Identification and extent of known or probable geologic conditions which may result in risk to the proposed land use (such as, flood inundation, shallow groundwater, storm surge, surface and groundwater pollution, snow avalanche, landslide, debris flow, rock fall, expansive soil, collapsible soil, subsidence, erosion, deposition, earthquake shaking, fault rupture, tectonic deformation, liquefaction, seiche, tsunami, and volcanic eruption).

(c) *Recommendations for site grading.*

1. Prediction of what materials and structural features will be encountered in proposed cuts;
2. Prediction of stability based on geologic factors; recommended avoidance or mitigation alternatives to cope with existing or potential landslide masses;
3. Excavation considerations (hard or massive rock and groundwater flows);
4. General considerations of proposed fill masses in canyons or on hillsides;
5. Suitability of on-site material for use as compacted fill;
6. Recommendations for positioning fill masses, provision for subdrainage, buttressing, and the need for erosion protection on fill slopes; and
7. Other recommendations required by the proposed land use, such as the angle of cut slopes, position of drainage terraces, need for rock-fall, and/or erosion protection on cut slopes.

(d) *Drainage considerations.*

1. Protection from inundation or wave erosion along shorelines;
2. Soil permeability and suitability for septic systems; and
3. Protection from sheet flood or gully erosion, and debris flows or mud flows.

(e) *Limitations of study and recommendations for additional investigations.* Considering the scope of work and intended use of the site, provide a statement of the limitations of the study and the need for additional studies outside the stated scope of work.

1. Borings, test pits, and/or trenches needed for additional geologic information;
2. Percolation tests needed for design;

3. Program of subsurface exploration and testing that is most likely to provide data needed by the soils or civil engineer; and

4. Program for long-term monitoring of the site to evaluate geologic conditions (survey hubs, inclinometers, extensometers, and the like).

(E) *Conclusions and recommendations.* The reports shall provide a concise set of conclusions and recommendations, including specifics regarding the acceptable locations of structures (addressing setbacks where appropriate) and the acceptable nature and density of development.

(F) *Inspection and monitoring.* Reports shall specify inspections and/or monitoring required to verify that the development and construction on the site have been completed according to the recommendations contained in the report. Inspection records and/or "as built" certifications shall be provided for all geologic hazard reports.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.232 DETERMINATION OF COMPLIANCE.

(A) Geologic hazard reports submitted for review in accordance with §§152.200 through 152.210 of this chapter, shall be reviewed by the Planning Commission, which shall determine whether the report addresses the provisions of this subchapter as it reviews the entire application. Land use applications before the Planning Commission shall not be approved until such a determination has been made. Regardless of approval by the city, liability remains with the report signator and the applicant, who must conform with the report's requirements. Signed acceptance of this liability shall accompany the permit application.

(B) In determining compliance, the Planning Commission shall evaluate:

(1) If the report appears to adequately recognize the causes, extent, and potential of the hazards and conforms substantively with the requirements found in § 152.231 of this subchapter;

(2) If the recommendations to overcome the recognized hazards are set out clearly and specifically and are included in the engineered plans of the development;

(3) If the geologic hazard report indicates that possible future danger may exist from a hazard, the applicant or property owner shall complete and sign the declaration of covenants and conditions of responsibility and indemnity (the declaration) provided by the city. Prior to issuance of a building permit, the applicant or property owner shall execute and record the declaration in the deed records of the county;

(4) If the geologic hazard report and the associated plans contain the signature and professional stamp of a licensed geologist or engineering geologist qualified to certify such reports and plans; and

(5) Authorization of a geologic hazards permit shall be void after five years unless substantial construction pursuant thereto has taken place.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.233 PROVISIONS FOR ADDITIONAL INFORMATION.

There may be instances in which specific sites within the area mapped "as having significant slopes" may have topography not exceeding the 20% criterion. Property owners who can demonstrate, through a survey completed within a calendar year of the date of application by a surveyor registered in the state, that their property, or the specific site to be developed, has slopes of less than 20%, shall be exempt from any requirements pertaining to that specific characteristic.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.234 CALCULATION OF COASTAL SETBACKS.

Two areas shall be considered in establishing coastal setback requirements and may simultaneously apply to a given piece of property.

(A) *Areas of coastal erosion.*

(1) The following categories of coastal erosion are recognized (coastal erosion rates and the methodology used are outlined in the document entitled *Geologic Hazards Associated with Lincoln County Coastal Shoreline*, prepared by CH2M Hill, Inc., and RNKR Associates, 1977):

Less than 2.8 inches/year	Slight
2.8 to 11.3 inches/year	Moderate
More that 11.3 inches/year	Severe

(2) The following coastal setbacks are required for the categories listed above in order to limit the need for structural solutions to coastal erosion. All setbacks shall be measured from the mean higher high water line and/or the base of the bank, whichever requires the greater setback.

Slight erosion	1 foot of setback for each 1 foot of bank height
Moderate erosion	2.15 feet of setback for each 1 foot of bank height
Severe erosion	2.75 feet of setback for each 1 foot of bank height

Example of How to Determine Geologic Setback

(B) *Areas of visual concern.* This is an area 25 feet landward from the top of a coastal bluff measured on the horizontal, where the top of bluff is the uppermost break in slope (see diagram in division (A) above). Where there is no coastal bluff or no clear break in slope, for example on a smoothly sloping lot, the area of visual concern is an area 25 feet landward (measured on the horizontal) from the line of mean higher high water or the line of non-aquatic vegetation, whichever is the furthest landward.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.235 PROHIBITED ACTIVITIES IN COASTAL SETBACKS.

(A) (1) In the areas of coastal erosion, no excavating, filling, or placement of retaining walls, deck posts, or other permanent structures is allowed, unless based on a geological hazard report approved by the Commission.

(2) Vegetation removal is also prohibited except as allowed in division (A)(2) below with prompt replacement with plants that will stabilize the ground. In this area, such vegetation removal must be in accordance with any required geological hazard report and with a landscaping plan adequately addressing ground stabilization.

(3) In the areas of visual concern, no grading, excavating, or filling that changes the profile of the top of the bluff or the slope seaward from its top; vegetation removal; or placement of a building is allowed except for:

- (a) Minor pruning to maintain views;
- (b) Removal of brush and trees smaller than six inches in diameter measured four feet above ground in preparation for prompt landscape replanting in the area landward from the top of the bluff;
- (c) Removal of vegetation within ten feet of a building allowed per division (A)(1) above;
- (d) Placement of benches, tables, and chairs; and
- (e) Placement of a single gazebo, provided such a structure is less than 100 square feet in size.

(B) If a geological hazard report is required per division (A)(1) above, any vegetation removal or gazebo placement must comply with this section and recommendations of the geological hazard report.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

LAND DIVISION

§ 152.250 PURPOSE.

(A) (1) As authorized by law, including O.R.S. Chapter 92, the following requirements and standards relating to the division of land apply to all land within the city.

(2) This subchapter is necessary for the protection of the health, safety, and welfare of the city's citizens, and is designed to promote coordinated and appropriate development of land and to carry out the city's Comprehensive Plan.

(B) These regulations have the following objectives:

- (1) To allow for the proper location of utilities;
- (2) To specify the width, location, and improvement of streets;
- (3) To provide for adequate sewage disposal facilities;
- (4) To provide for adequate water supplies;
- (5) To provide for adequate drainage facilities;
- (6) To reduce danger from geologic hazards, floods, fire, and pollution; and
- (7) To provide for adequate open space.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.251 EXCEPTIONS FOR PLANNED DEVELOPMENTS.

The provisions of §§ 152.250 through 152.261 of this subchapter shall be applicable to § 152.042 of this chapter, unless expressly contrary to a specific provision of § 152.042 of this chapter.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.252 APPROVAL OF PARTITIONS.

(A) A partition of land shall not be valid until it has been approved and recorded as provided for in this subchapter. No person shall convey any interest in a parcel in any partition, or replat of a partition, until the plat of the partition has been recorded as provided for in this chapter. A person may negotiate to sell any parcel in a partition or replat of a partition upon approval of the tentative plan of the partition.

(B) A person may negotiate to sell any parcel in a partition prior to the approval of the tentative plan for such partition, however, no person may sell any parcel in a partition prior to tentative approval.

(C) No building permits shall be approved for any parcel in a partition until the partition has been recorded.

(D) Partitions shall not be approved that will create a lot smaller than the minimum lot dimensions for the zone in which the partition occurs. If a road divides a parcel, the land on each side of the road shall be considered separately for purposes of calculating minimum lot sizes.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.253 APPROVAL OF SUBDIVISIONS.

(A) No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of the city, as provided for in this subchapter.

(B) No person shall negotiate to sell any lot in a subdivision until a tentative plan of that subdivision has been approved, however, no person shall sell any lot in the subdivision prior to final subdivision approval.

(C) No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.

(D) No person shall accomplish a property line adjustment without having first secured the approval of the city as provided for in this chapter.

(E) Approval of street or road creations:

(1) No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the city as provided for in this chapter.

(2) No instrument dedicating land to public use shall have any validity unless such instrument bears the approval of the city as accepting such dedication.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.254 GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DEVELOPMENT DESIGN.

The following are the minimum requirements and standards to which subdivisions and partitions must conform.

(A) *Conformity to the Comprehensive Plan.* All subdivisions and partitions shall conform to applicable portions of §§ 152.225 through 152.235 of this chapter, and the purposes of the goals and policies of the Comprehensive Plan.

(B) *Relation to adjoining street system.* If development of a subdivision or partition would otherwise impede or interfere with access to or through existing streets and rights-of-way, a subdivision or partition shall provide for the continuation of said streets and rights-of-way. If physical conditions make such continuation impractical, exceptions may be made.

(1) If the city finds that the off-site effects of a subdivision warrant the necessity of improved streets or rights-of-way, the city may require that the subdivision or partition provide for them. If no such off-site effects are found, the city may require that the lay-out of the subdivision or partition take into account the future development of streets and rights-of-way with regard to setback, access, parks, and open spaces, as well as other requirements of this subchapter.

(2) When a tract is divided into lots or parcels of a size which could allow for further redivision under current zoning, the city may require an arrangements of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this subchapter.

(C) *Access.*

(1) A subdivision, partition, or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.

(2) A subdivision or partition shall consider vehicular access to the parcel of existing or proposed roads that addresses traffic congestion, speed, stop signs, and turn lanes for the orderly development of traffic accessing the area.

(D) *Private streets.*

(1) No street or road which would serve as a collector from existing public streets shall be approved as a private street.

(2) The establishment of a private street shall not be allowed if it will deny the public access to public areas such as beaches or parks.

(3) No road or street shall be approved as a private road in a case where such a road or street presently is or will in the future be needed to provide access to development on adjacent properties or to serve as a collector for other subdivisions or partitions in the area.

(4) All private streets or roads established for the purpose of subdividing, partitioning, or replatting land shall be surveyed and monumented.

(5) Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.

(6) Private road rights-of-way may be approved of less than 50 feet in width but in no instance shall the road right-of-way be less than 30 feet, except that a private road to two lots may be 20 feet in width. In instances where the road access to more than three lots is less than 50 feet in width, utility/slope easements may be required.

(7) Private road standards shall be the same as those for public streets. No more than three lots shall be exempt from standards for improvements.

(E) *Public streets.*

(1) Right-of-way and improvement requirements for public streets shall conform to the widths as specified in §§152.260 and 152.261 of this subchapter.

(2) If topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements shall be provided.

(3) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.

(4) Street improvements, street grades, and center line radii on curves shall meet the minimum requirements as specified in §§ 152.260 and 152.251 of this subchapter.

(5) The city shall only be responsible for maintenance of a public street when the street is accepted by the City Council through dedication. A street that is accepted by the City Council through dedication shall be referred to as a "city street."

(F) *Street intersections.*

(1) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of

the area and previous adjacent layout.

(2) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections.

(G) *Cul-de-sacs and turnarounds.*

(1) Dead-end (cul-de-sac) streets in partitions and subdivisions shall terminate in a turnaround with a minimum property line radius of 40 feet, or other type of turnaround approved by the city.

(2) Approved turnarounds shall be provided on all dead-end streets.

(3) No dead-end street may be established without Fire Marshal approval.

(H) *Easements.* Where alleys are not provided, easements of not less than six feet in width may be required on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas, and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainageways or channels.

(I) *Blocks.* Normally, no block shall be longer than 600 feet between street lines. Approval for longer blocks can be given where topographical conditions constrain development.

(J) *Public accessways.* When necessary for public convenience and safety, the Planning Commission may require the developer to dedicate to the public reasonable accessways to connect to cul-de-sacs, pass through oddly shaped blocks, provide for networks of public paths according to adopted plans, or to provide access to schools, parks, beaches, or other public areas, or for other such design and location as reasonably required to facilitate public use. A subdivision, partition, or replat shall maintain existing public access points to shorelands as required by § 152.039(E)(4) of this chapter. Such access points shall be ascertained as follows:

(1) By examination of a standard title report;

(2) By consulting city inventory of such points; or

(3) Through presentation of other lawful information.

(K) *Lots and parcels.*

(1) Every lot/parcel shall abut a public street or private road. A flag lot with the staff that does not comply with the required minimum lot widths for the zone it is located in is permitted, but the staff measurement shall not be less than 25 feet minimum frontage.

(2) Each side line shall be as close to perpendicular to the adjacent street/road or radial to a curved street/road as possible.

(3) Lots/parcels with double frontage shall not be permitted unless, in the opinion of the city, the physical characteristics of the land prohibit any other plan for a subdivision.

(4) The staff portion of a flag lot shall not be used in computing lot size for zoning and building purposes.

(L) *Utility easements.*

(1) Where alleys are not provided, easements of not less than ten feet in width may be required on side or rear lines if determined to be necessary for utility lines, wires, conduits, storm and sanitary sewers, gas, and water.

(2) Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainageways or channels.

(M) *Water.* No partition or subdivision shall receive final approval unless the city has received and accepted:

(1) A certification by the Public Works Director, or such other city official as the city may designate, that water will be available to the boundary line of each, and every lot or parcel depicted in the proposed subdivision or partition; or

(2) A performance agreement, bond, contract, or other assurance that a water supply system will be installed to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

(N) *Sewer.* No partition or subdivision shall receive final approval unless the city has received and accepted:

(1) A certification by the Public Works Director, or other officials as the city may designate, that sewer will be available to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition; or

(2) A performance agreement, bond, contract, or other assurance that sewage disposal lines will be installed by or on behalf of the developer to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

(O) *Surface drainage and storm sewer.*

(1) Drainage facilities shall be provided within subdivisions and partitions, and to connect the subdivision or partition drainage to drainageways or storm sewer outside the subdivision or partition. The connection to the city system shall be engineered using standard practices and shall be approved by the city.

(2) Design of drainage within subdivisions and partitions shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the development, as well as to allow extension of the system to serve those areas.

(P) *Phase development.* A plat may be filed on a portion or phase of an approved tentative plan. Each phase of a subdivision must be able to qualify for approval independent of the balance of the approved tentative plan.

(Q) *Geologic hazards.* All land divisions shall comply with the procedures and standards set forth in §§152.225 through 152.235 of this chapter, where applicable.

(R) *Parks and open spaces.* Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park, or natural land, for use by the residents of the subdivision.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.255 TRANSPORTATION IMPACT STUDY (TIS).

The purpose of this section is to implement § 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule that requires the city to adopt standards to protect the future operations of roadways and transit corridors and a process to apply conditions to development proposals in order to protect and minimize adverse impacts to transportation facilities. This section establishes when a TIS must be submitted with a land use application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities.

(A) *Applicability; TIS letter.* A TIS letter shall be required to be submitted with a land use application if the proposal is expected to generate ten to 30 peak hour trips or 100 to 300 daily trips.

(B) *Applicability; TIS report.* A TIS report shall be required to be submitted with a land use application if the proposal is expected to involve one or more of the following:

- (1) The proposed development would generate more than 30 peak hour trips or more than 300 daily trips;
- (2) The proposal is immediately adjacent to an intersection that is functioning at a poor level of service, as determined by the city;
- (3) An increase in use of any direct property approach road to Highway 101 by ten vehicles or more per day that exceed 20,000 pounds gross vehicle weight;
- (4) A new direct approach to Highway 101 is proposed;
- (5) A proposed development or land use action that the road authority states may contribute to operational or safety concerns on its facility(ies); and
- (6) An amendment to the Comprehensive Plan or zoning map is proposed.

(C) *Preparation.*

(1) The TIS letter or TIS report shall be prepared by a state registered professional engineer qualified to perform traffic engineering analysis and will be paid for by the applicant.

(2) The TIS letter or report shall include trip generation estimates that are based on the Institute of Transportation Engineers (ITE) trip generation manual.

(D) *Determination.* Consistent with the city's traffic impact study (TIS) guidelines, the city will determine the project study area, intersections for analysis, scenarios to be evaluated, and any other pertinent information concerning the study that must be addressed in either a TIS letter or a TIS report.

(E) *Approval criteria.* When a TIS letter or report is required, a proposal is subject to the following:

- (1) The TIS addresses the applicable elements identified by the city, consistent with the traffic impact study guidelines;
- (2) The TIS demonstrates that adequate transportation facilities exist to serve the proposed development or, in the case of a TIS report, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the city and, when state highway facilities are affected, to ODOT;
- (3) For affected non-highway facilities, the TIS report establishes that mobility standards adopted by the city have been met; and
- (4) Proposed public improvements are designed and will be constructed consistent with city street design standards and access standards in the transportation system plan.

(F) *Conditions of approval.*

(1) Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.

(2) Where the existing transportation system is shown to be impacted by the proposed use, improvements such as

paving, curbing, installation, or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use may be required.

(3) Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

(Ord. 326-20, passed 7-7-2020)

§ 152.256 DEDICATION OF PUBLIC STREETS APPLICATION.

Any person wishing to create a public road or street which is not a part of a subdivision shall make written application to the City Council. The application shall consist of a letter addressed to the Council requesting acceptance of the dedication; a dedication deed with a proper description of the proposed dedication signed by all owners of the property being dedicated; and a map showing the proposed road and property intended to be served by the road.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.257 REVIEW.

The City Council shall refer the dedication application to the following:

(A) The Public Works Director, or other designated person, who shall check the proposal for grade and conformance to city road standards;

(B) A title insurance company for a standard preliminary title report; and

(C) The Planning Commission which shall review the proposal for compatibility with the city’s Comprehensive Plan, transportation plan, and any adjacent approved tentative plans, plats, or maps.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.258 APPROVAL.

The above reports shall be forwarded to the City Council along with the application for dedication. The dedicator shall furnish a standard title insurance policy insuring title of the dedicated street to the city. A public street will not be maintained by the city unless that street is accepted by the city into the city’s road system.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.259 PROCEDURE FOR ENSURING COMPLETION OF ROADS AND/OR UTILITIES IN SUBDIVISIONS AND PARTITIONS.

(A) The developer’s engineer will prepare cost estimates for completion of roads and/or utilities. Road cost estimates shall be based upon road standards as designated herein. All cost estimates shall be stamped by a registered professional engineer, licensed in the state.

(B) All estimates shall be submitted to the Public Works Director; water and/or sewer cost estimates shall be sent to the Water and Sewer Department for review and approval.

(C) The Public Works Director shall notify the developer as to the amount of bond or other performance agreement required and as to any changes necessary for bond acceptance or other performance agreement.

(D) The developer shall submit the bond or performance agreement and three copies thereof written in favor of the city to city hall for approval.

(E) Upon completion of construction of roads and utilities, the applicant’s engineer shall certify that such improvements are built to the standards approved. This certification of completion shall be submitted prior to the release of any bond or performance agreement.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.260 STREET WIDTH IN SUBDIVISIONS AND PARTITIONS.

<i>Type of Street</i>	<i>Right-of-Way Width (Feet)</i>	<i>Surface Widths (Feet) +</i>
Arterials	80 to 150 ++	40 to 52 ++
Collector streets and all streets other than arterials	40 to 50 ++	28 to 38 ++

Cul-de-sacs	40	28
Circular ends of cul-de-sacs	80 +++	60 +++
+ Surface width is that measured from face to face of curbs or shoulders ++ The Planning Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public, and the traffic needs of the community +++ Measured by diameter of circle constituting circular end		

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.261 STREET IMPROVEMENTS IN SUBDIVISIONS AND PARTITIONS.

Improvements shall meet the following minimum standards unless increased at the request of the Planning Commission:

- (A) All streets shall be rough graded for the full surface width;
- (B) All streets shall have a minimum of eight inches of base material to a minimum width of 28 feet;
- (C) All streets shall have a leveling course of three-fourths inch crushed rock, two inches deep compacted; and
- (D) All streets shall be paved with two inches of asphalt concrete to a minimum of the width required by the Planning Commission.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.262 PROCEDURE FOR SUBDIVIDING, PARTITIONING, OR REPLATTING LAND.

(A) *Pre-application conference.* Prior to submitting a tentative plan of a subdivision, partition, or replat, the applicant should confer with the City Planner regarding the requisites of the tentative plan application and the applicable standards and criteria of this chapter.

(B) *Tentative plan requirements.* The submitted tentative plan for a subdivision, partition, or replat shall contain all of the information listed on the applicable city application form. If the proposal includes new access from a state highway, the applicant shall submit documentation that the Oregon Department of Transportation will be willing to issue the requested road approach permits.

(C) *Tentative plan application and review for subdivisions and partitions.* The procedure for application and review of the tentative plan of a subdivision, and the procedure for application and review of the tentative plan for a partition shall be as set forth in § 152.204(C) of this chapter.

(D) *Tentative plan application and review for replats.*

- (1) The procedure for review and approval of the tentative plan shall be set forth in §152.204(C).
- (2) For replats of previously recorded partition plats, the procedure for review and approval of the tentative plan shall be as set forth in § 152.204(A).

(E) *Time limit for tentative approval.* Approval of a tentative plan in accordance with this section is valid for a period of three years. A single time limit extension may be granted by the Planning Commission only if the development is substantially completed within the three-year time period. A development is deemed to be substantially completed when utilities, streets, and drainage are in and stubbed to the lot line.

(F) *Revision of tentative plan.* If an approved tentative plan for a subdivision is revised in any way, the Planning Commission shall review the proposed revisions to determine if a new application for tentative approval will be required. Such review will be limited to those issues impacted by the revision. If an approved tentative plan is substantially revised, such revision shall be filed as a new application for tentative plan approval.

(G) *Certifications required for final approval.* Requests for final approval of a subdivision, partition, or replat shall be accompanied by the following:

- (1) A copy of all covenants and restrictions;
- (2) Copies of all legal documents required for dedication of public facilities and/or for the creation of a homeowner's association;
- (3) The certification, bond, performance agreement, or statement regarding the installation of water and sewer services;
- (4) As-built certifications for all required roads and/or utilities, unless otherwise guaranteed by a bond or performance agreement;
- (5) A plat and one exact copy meeting the requirements of §152.263 of this subchapter and the applicable state statute;

(6) When access from a state highway is proposed, a copy of the approach road permit issued by the Oregon Department of Transportation confirming that all required improvements have been satisfactorily completed; and

(7) Such other information as is deemed necessary by the City Planner or Commission to verify conformance with the conditions of tentative approval.

(H) *Procedure for final approval of partitions.*

(1) The procedure for application and review of a request for final approval of a partition shall be as set forth in § 152.204(A) of this chapter. All such applications shall be accompanied by the certifications set forth in division (G) above.

(2) Upon granting of final approval, the City Planner shall sign the plat and its exact copy.

(3) Upon signing, the City Planner shall deliver the plat and its exact copy to the County Surveyor who shall follow established procedures for obtaining recordation of the plat.

(I) *Procedure for final approval of replats.*

(1) If the proposed replat involves three lots or less and is for the purpose of lot boundary changes only, procedure for review of final approval shall be as set forth in § 152.204(A) of this chapter.

(2) If the proposed replat involves four lots or more or includes changes to street rights-of-way, utilities, or any other features besides boundary lines, procedures for review of final approval shall be as set forth in § 152.204(B) of this chapter.

(3) Following the signature of the City Planner or Planning Commission chairperson, the city shall deliver the replat and its exact copy to the County Surveyor who shall follow established procedures for obtaining recordation of the plat.

(J) *Procedure for final approval of subdivisions.*

(1) (a) When the City Planner determines that all of the certifications set forth in division (G) above have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the agenda of the next scheduled meeting of the Planning Commission for determination that all requirements have been met.

(b) The Commission shall then approve, disapprove for cause, or, when further information is required, postpone a decision on the plat.

(2) Unless appealed, the decision of the Planning Commission shall become effective 15 days after the decision is rendered. When the approval becomes effective, the Planning Commission chairperson shall sign the plat and its exact copy.

(3) Following the Planning Commission chairperson's signature, the city shall deliver the plat and its exact copy to the County Surveyor. The County Surveyor shall review the plat for conformance with the requirements of § 152.263 of this subchapter and the provisions of the applicable state statute.

(4) Upon approval of the County Surveyor, subdivision plats shall be circulated for signing to the following officials:

(a) The County Treasurer, whose signature shall certify that all taxes on the property have been paid; and

(b) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record.

(5) Upon signing by the County Treasurer and County Assessor, subdivision plats shall be delivered to the County Clerk for recording.

(6) The signature of the chairperson on the final subdivision plat shall be valid for a period of one year. If a plat has not been recorded within one year of the date of the chairperson's signature, the final approval of the plat shall expire, and a new request for final approval shall be required.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.263 PLAT REQUIREMENTS.

(A) *Requirements of survey plats.* The surveys and plats of all subdivisions, partitions, and replats shall be made by a registered professional land surveyor and shall conform to the requirements of the applicable state statute.

(B) *Encroachment or hiatus.* In the event that any encroachment, hiatus, or property line discrepancy exists on the property to be platted, such encroachment, hiatus, or discrepancy shall be clearly shown on the plat.

(C) *Elevation bench marks.* Where required, the location, name, and elevation of any elevation bench marks shall be indicated on the face of the plat. The name, year, and elevation of the bench mark upon which the elevation is based shall also be shown.

(D) *Easements.* All recorded and proposed easements will be shown on the plat, along with the following information:

(1) The specific location and size by dimensions or description;

(2) If previously recorded, the County Clerk's recording reference; and

(3) The purpose or type of easement and whether it is a public or private easement and, if private, who benefits from the easement. Any public or private easement to be created, or any other restriction made, shall be noted in the declaration. Public easements shall include language in the declaration which dedicates the easement to the use of the public.

(E) *Exceptions.*

(1) Parcels created in excess of 80 acres need not be shown on a partition plat.

(2) Parcels in excess of ten acres created by partition plat need not be surveyed or monumented.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.264 STANDARDS AND PROCEDURES FOR PROPERTY LINE ADJUSTMENTS.

(A) *Tentative approval.*

(1) The procedure for application, review, and tentative approval of property line adjustments shall be as set forth in § 152.204(A) of this chapter. A property line adjustment shall be tentatively approved provided that:

(a) No additional lots or parcels will be created;

(b) The subject lots, parcels, or tracts of land will not be reduced in size to below the minimum area required by the applicable use zone;

(c) The proposed lots, parcels, or tracts of land as adjusted will comply with any required minimum width requirement as set forth in the applicable use zone;

(d) The proposed property line adjustment will not reduce any yard or other setback below that required under applicable zoning;

(e) The proposed property line adjustment will not reduce the street or road frontage of the subject lots or parcels to below that required by the city code;

(f) The proposed property line adjustment will not reduce any setback for an existing on-site sewage disposal system or approved replacement area below the required minimum; and

(g) The proposed property line adjustment will not increase the degree of non-conformity on vacant lots, parcels, or tracts that do not conform to lot size, width, or depth requirements, or on developed lots if the increase in non-conformity results in adjacent property becoming further dividable. The proposed property line adjustment will not increase the degree of non-conformity for required yards.

(2) Tentative approval of a property line adjustment is valid for a period of one year. Tentative approval may be extended by the City Planner prior to expiration of tentative approval. Requests shall specify reasons for requiring a time extension, along with a specific plan and timeline for completion. Only one time extension of up to one year may be granted.

(B) *Final approval.*

(1) The procedure for application, review, and final approval of property line adjustments shall be as set forth in § 152.204(B) of this chapter.

(2) Final approval of a property line adjustment shall be granted upon submittal of the following:

(a) A copy of a filed survey of the property line adjustment in accordance with the applicable state statute and in substantial conformance with the tentative approval, except that property line adjustments where all lots, tracts, or parcels affected are greater than ten acres need not be surveyed or monumented;

(b) Copies of recorded conveyances conforming to the tentatively approved property line adjustment and containing the names of the parties with proper acknowledgment; and

(c) Such other documentation as may be required by the City Planner to verify conformance with any requirements or conditions of the tentative approval.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.265 PROPERTY LINE ADJUSTMENTS IN SUBDIVISIONS AND PARTITIONS.

(A) Except as provided for herein, all property line adjustments within recorded plats shall be accomplished by replatting in accordance with § 152.262 of this subchapter.

(B) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments rather than by replatting, when the City Planner determines that:

(1) The property line or lines to be adjusted will not result in a substantial reconfiguration of the affected lots or parcels so as to render them unsuitable for their previously approved purpose;

(2) The property line or lines to be adjusted will not result in an increase in lots;

(3) The property line or lines to be adjusted will not reduce the common open space or park and recreational acreage; and

(4) All of the other requirements for property line adjustments set forth in §152.250 of this subchapter will be met.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.999 PENALTY.

(A) A person violating a provision of this chapter shall, upon conviction, be punished by imprisonment for not more than 30 days or by a fine of not more than \$500 or both. A violation of this chapter shall be considered a separate offense for each day the violation continues. The convicted violator shall be liable for all court costs.

(B) A person violating a provision of § 152.040 shall, upon conviction, be punished by imprisonment for not more than 30 days or by a fine of not more than \$500 or both.

(C) Any person who violates any of the provisions of §§152.090 through 152.103, as now constituted or hereafter amended or revised shall be subject to the procedures and penalties of § 11.99 of this code of ordinances (enforcement procedures). The city may confiscate any sign found to be in violation of §§ 152.090 through 152.103.

(Ord. 24, passed 4-5-1976; Ord. 314, passed 9-5-2017; Ord. 320, passed 10-15-2019)

City of Depoe Bay
Application for Planned Development

TO BE COMPLETED BY OFFICE: Deposit: \$2,300⁰⁰ Fee: \$540⁵⁰ Receipt # _____
NON-REFUNDABLE

1. Date Received _____	Staff Initials _____
2. Case File Number _____	Action: _____ Planning Commission _____
3. Action Requested: Planned Development _____	Amendment to Planned Development _____
4. Current Zoning _____	Current Plan Designation _____ Lot Size _____
5. Previous Planning Actions on Property _____	
6. Existing Code Violation(s) _____	

TO BE COMPLETED BY APPLICANT:

Property Description T 09 S, R 11 W, W.M., Section 05-B0 Tax Lot(s) 01200-00

Applicant's Name Hills of Depoe Bay, LLC

Address ████████████████████ City ██████ State ████

Zip Code ██████ Daytime Phone Number ██████████████

Relationship to Property Owner
(Owner, Contract Purchaser, etc.)

Agent (include address and phone number)

Existing Structures None Lot Size Varies

Number of Proposed Lots 42 Planned Development tentative name Whale Watch Phase 2

Current/Proposed Utilities: Sewage Yes Water Yes Electrical Yes

Road District City of Depoe Bay Fire District Depoe Bay Fire District

Anticipated Date of Development Contingent upon wetland mitigation, estimate Q3 2024

Directions to Property East on NE Lillian Lane, Left onto proposed Shoreline Dr.

INFORMATION REQUIRED

for

Planned Development

For all planned development applications, the following minimum information must be submitted for the application to be considered complete:

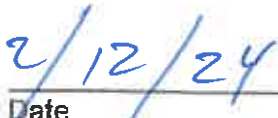
1. A vicinity sketch showing the location of the property in relation to a city or other known landmark.
2. Written narrative and other information addressing Depoe Bay Zoning Code Section 3.410.
3. Plot plan, drawn to scale, of the subject property showing:
 - A. all existing, and approximate location and dimensions of all proposed parcel or lot lines
 - B. size of all proposed parcels or lots in acres and in square feet
 - C. density computation
 - D. location of all proposed streets, a street cross-section showing proposed construction standards, profiles showing approximate grades of all streets in relation to existing ground elevations, and whether they are proposed to be public or private streets
 - E. relationship of proposed roads to adjoining existing and proposed streets
 - F. all existing and proposed buildings and setbacks from all property lines
 - G. the location of water and sewer lines, septic system, well, and all existing and proposed easements
 - H. access to the property, and whether it is a state highway, county road, public road or private easement. Note: Applicant should check to determine if an access permit is required
 - I. all wetland areas, areas of geological hazard, streams and waterways, and areas subject to flood hazard, scenic areas, areas of intertidal habitat, and headlands
 - J. description of the topography and vegetation. Note: plats shall show contours in maximum of 5' intervals
 - K. the date, north point and scale of drawing
 - L. width, depth and direction of flow of all drainage channels on or directly adjacent to the property, and tentative plans of disposal of additional storm water generated by developing the property; indicate proposed cuts and fills or other modifications to existing land conditions.
 - M. if there are to be phases of development, the identification and sequence of each phase
 - N. adjacent land owned by the applicant and proposed development plans, if any
 - O. all existing and proposed easements crossing the property
 - P. existing and proposed land use; include description of proposed recreation facilities, if any
 - Q. illustrate designated open space/ and or common areas.
 - R. describe and illustrate any proposed industrial or commercial development
 - S. describe any signage, lighting, fencing, security systems, and/ entrance gating, if proposed maximum building height of structures; if requested modifications to height, address justification standards as listed in the City of Depoe Bay Zoning Code Section 3.410(2)(e)
 - T. unit types: i.e. number of single-family dwellings, duplexes, multi-family units, manager's or caretaker's residence. Submit typical cross-sections of proposed units.
 - U. address any requested modifications to required development standards
 - V. Other information to address specific site conditions; e.g. wetlands, flood hazard areas, geologic limitations, steep slope areas, inventoried sites, traffic.

4. Other information as may be required by staff to determine compliance with the provisions of and standards and requirements of the City of Depoe Bay Zoning Code.
5. Submit at least 5 copies of Site Plan and written materials

NOTE: ALL APPLICATIONS MUST BE COMPLETE. FAILURE TO SUBMIT A COMPLETE APPLICATION WILL DELAY THE ACCEPTANCE AND PROCESSING OF YOUR APPLICATION.



Signature of Property Owner



Date

Signature of Applicant (if other than property owner)

Date



February 12, 2024

City of Depoe Bay
c/o Kit Fox, City Planner
570 SE Shell Avenue
PO Box 8
Depoe Bay, OR 97341

Dear Mr. Fox,
Please see the narrative below for our Whale Watch Phase 2 Preliminary plan application. We are looking forward to working with you to get this next phase underway.

Sincerely,

A handwritten signature in black ink that reads "Chris van der Velde". The signature is written in a cursive, slightly slanted style.

Chris van der Velde
Vice President
Hills of Depoe Bay, LLC



Whale Watch Phase 2 Preliminary Plan

The Whale Watch Planned Development including the proposed Phase 2 Preliminary Plan would be consistent with the Comprehensive Plan Housing Goal, *To provide for the housing needs of the (year-around and seasonal) residents of the community.* It would also be consistent with the Comprehensive Plan Economy Goal, *To enhance the economic growth of the city while preserving natural resources and character that make Depoe Bay the unique community it is.*

Construction of Phase 2 is planned for 2024 through 2025.

General Description

1. *This is a request for approval of the Phase 2 Preliminary Plan and Subdivision Tentative Plat for the Whale Watch Planned Development. Phase 2 is proposed to build out the north/northwest side of Lillian Lane between Shoreline Drive and Sand Dollar Drive ending at Baleen drive. Phase 2 consists of (40) single-family residential lots, (1) multi-family residential lot and (1) civic lot.*

General Requirements §§[152.042](#) Planned Development Zone (P-D)

1. **Zoning.** *A Planned Development may be established in any zone other than the T-C zone.*

Applicant Response: The subject property is zoned R-1 that permits planned developments. No portion of the subject property is zoned T-C.

2. **Development Plan.** *On land subject to an approved Planned Development, only those uses, structures and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.*

Applicant Response: The uses, structures and other forms of development shown on the Preliminary Plan have changed slightly compared to those shown on the revised master plan. The approved revised master plan included (32) single-family lots, parking, landscaping, public pedestrian facilities, open space, streets, and utilities. The Phase 2 Preliminary Plan was altered to accommodate (8) additional single-family residential lots to the west of Shoreline Drive for the Wetlands Delineation and to include Baleen Drive to the North which added the multi-family residential civic building lots.

3. **Uses.** *A Planned Development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 zones may be permitted when compatible with each other and harmonious with adjacent uses.*
 - a. *The uses proposed in the R-1 are attached or detached homes, which are permitted in all residential zones.*
 - b. **Tourist Accommodations.** *Not applicable for this phase. Will be residential and not subject to the rental pool.*

4. **Lot Standards.** Except as provided in §§ [152.055](#) through [152.076](#), [152.115](#) through [152.117](#), and [152.130](#) through [152.136](#), in an R-1 Zone, the following standards shall apply.

(1) Lot size and dimension. The minimum lot size and dimension in an R-1 Zone shall be as follows:

- (a) The minimum lot area shall be 5,000 square feet;
- (b) The minimum lot width at the front of lot line shall be 50 feet for an interior lot and 55 feet for a corner lot, except flat lots. The staff of a flag lot shall have a minimum width and frontage of not less than 25 feet;
- (c) The minimum lot depth shall be 80 feet; and

Applicant Response: Proposed Lot Size and dimension

The minimum lot area shall be 1,500 square feet.

The minimum lot width shall be 30 feet and minimum lot depth shall be 50 feet.

5. **Building Height.** No building shall exceed the height allowed in the underlying zone.

Applicant Response: No building in the R-1 Zone shall exceed a height of 30 feet.

6. **Yards, Setbacks, Lot Area, Lot Coverage and Similar Dimension Requirements.** Yards, setbacks, lot area, lot coverage and similar dimension requirements may be reduced, adjusted or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

a. Yards. The minimum yard requirement in the R-1 Zone shall be as follows:

- (a) The front yard shall be a minimum of 20 feet;
- (b) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever is greater;
- (c) The street side yard shall be a minimum of 20 feet except this may be reduced by one foot for each foot average lot width is less than 60 feet, however, no street side yard shall be less than ten feet (see LOT WIDTH § [152.003](#) of this chapter for method of calculation);
- (d) The rear yard shall be a minimum of ten feet, except that on a corner lot, it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater; and
- (e) No structure shall be located closer than 60 feet from the centerline of any state highway.

Applicant Response: Proposed Setbacks

Front yard/Street – 5 feet.

*Side yard, Interior** – 3 feet; or Zero feet for attached zero-lot line.*

Side yard, when abutting a common area/open space tract – 3 feet.

Rear or Alley – 5 feet.

Garage setback from Alley – 5 feet.

Garage setback from Street – 20 feet.

7. **Conflicting Provisions.** In the event of a conflict between any applicable use zone provision and the allowances, limitations, or requirements of an approved preliminary plan, the approved preliminary plan shall control.

Applicant Response: The approved Preliminary Plan for Phase 2 will prevail over the Zoning Ordinance.

8. **Minimum Size of Planned Development Area.** A Planned Development shall have a minimum of two (2) contiguous acres, exclusive of street right of way. A planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres.

Applicant Response: This standard applies to the total Whale Watch Planned Development as was addressed in the amended Master Plan.

9. **Open Space.** Excluding streets and parking, at least 39% of the land will be dedicated or reserved for outdoor recreation, park or natural land.

Applicant Response: It is demonstrated that the gross area of Phase 2, excluding street right-of-way is 6.95 acres. Open space would be set aside in designated Tracts per Preliminary Plan. These tracts total 4.65 acres, or 48% of the gross Phase 2 area.

10. **Pedestrian Plan.** The planned development shall also include a connected pedestrian system/network.

Applicant Response: Phase 2 includes a connected pedestrian system as proposed on Preliminary Plan.

11. **Parking Requirements.** Parking shall conform to [§152.058](#) Off-street parking requirements: Any single or multi-family residential use, including condominium or time share: 2 spaces per unit

Applicant Response: All parking spaces to conform to the standards of [§ 152.058](#).

12. **Parking Area Landscaping.** A minimum of 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the city. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

Applicant Response: All parking areas will be landscaped in accordance with requirements.

13. **Landscaping.** Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, and the like). Section [§ 152.074](#) of this chapter applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service state listed noxious weeds shall be removed and shall not be planted.

Applicant Response: All open spaces disturbed by development will be formally landscaped or re-naturalized. Open space tracts with actively managed landscaping shall be maintained by the Depoe Hills Owners Association as specified in the Depoe Hills declaration of Covenants, Conditions, Restrictions and Easements.

14. § 152.068 Design Features for Single-Family Dwellings.

(A) All single-family dwellings located within a residential zone (except for manufactured homes located within a manufactured home subdivision or a “mobile home park”) shall utilize at least two of the following design features:

- (1) Dormers;
- (2) Recessed entries;
- (3) Cupolas;
- (4) Bay or bow windows;
- (5) Window shutters;
- (6) Off-sets on building face or roof (minimum 12 inches);
- (7) Gables;
- (8) Covered porch entry or unenclosed deck;
- (9) Pillars or posts;
- (10) Tile, shake, or elongated (not corrugated) metal roofing; or
- (11) Horizontal lap siding or snakes.

(B) Individual lots shall be residentially landscaped and maintained similar to surrounding neighborhood development. Use of native vegetation shall be encouraged wherever possible.

(C) A driveway having a durable and dustless surface shall be provided.

(D) Single-family dwellings and other improvements shall be developed in compliance with applicable provisions set forth in this chapter.

Applicant Response: All final plans will utilize a minimum of two elements listed in (A) (1)-(11), will be landscaped and have durable and dustless driveway surface.

Proposed units may utilize a primary entry located on the side of the home to allow connectivity between streets and alley. Preliminary designs submitted are intended to show how single-family designs may be designed for the lot sizes and configuration proposed in the Phase 2 preliminary plan. Preliminary designs are subject to change and additional designs may be added prior to individual building permit submittal.

Exhibits:

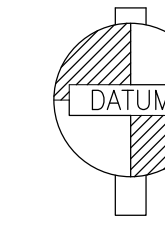
1. [Whale Watch Amended Master Plan – Findings, Conclusions and Final Order](#) Case File #1-PD-PC-23, Tax Map 09-11-05B0, Tax Lot 01200
2. [Whale Watch Phase 2 Preliminary Plans](#) by Parametrix
3. [Whale Watch Phase 2 Conceptual Architectural Plans](#)

WHALE WATCH VILLAGE PHASE TWO - PRELIMINARY PLAN

DEPOE BAY, OREGON

A PORTION OF THE NW 1/4 OF SEC. 5, T. 9 S., R. 11 W
LINCOLN COUNTY, OREGON

CONTROL INFORMATION



BASIS OF BEARING: WASHINGTON STATE PLANE GRID, NORTH ZONE
(NAD83\91), BASED ON STATIC OR RAPID
STATIC GPS MEASUREMENTS. ASTRONOMIC
NORTH BEARS APPROXIMATELY N 00°35'22"W

SITE INFORMATION:

OWNER/APPLICANT:
HILLS OF DEPOE BAY, LP

ENGINEER OF RECORD: JIM FROST, P.E.
PARAMETRIX - BEND OFFICE
150 NW PACIFIC PARK, SUITE 110
BEND, OR 97701

SITE ADDRESS:
N.W.1/4 OF SEC. 5, T.9S., R.11W
LINCOLN COUNTY
PROPERTY ID(S): R531919, R531920
DEPOE BAY, OR 97341

SURVEYING:
COLE SURVEYING, INC
6765 SW PHILOMATH BLVD
P.O. BOX 2258
CORVALLIS, OR 97339
PHONE: 5419295500

HORIZONTAL DATA:
PROPERTY LINES ARE BASED ON FOUND MONUMENTATION AND LINCOLN COUNTY SURVEY NO.
15019.

VERTICAL DATA:
ELEVATIONS ARE BASED ON THE "NGVD 29147" DATUM.

SERVICE PROVIDERS:

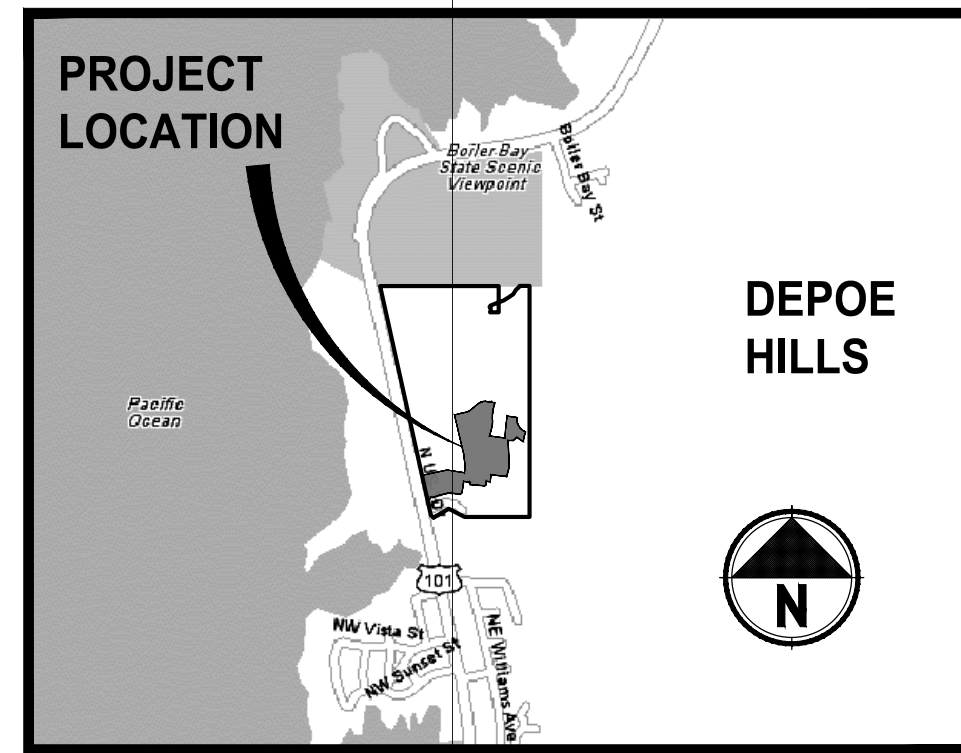
WATER: CITY OF DEPOE BAY
SEWER: CITY OF DEPOE BAY
POWER: CENTRAL LINCOLN P.U.D.
WASTE COLLECTION: NORTH LINCOLN SANITARY
FIRE PROTECTION: DEPOE BAY FIRE DISTRICT



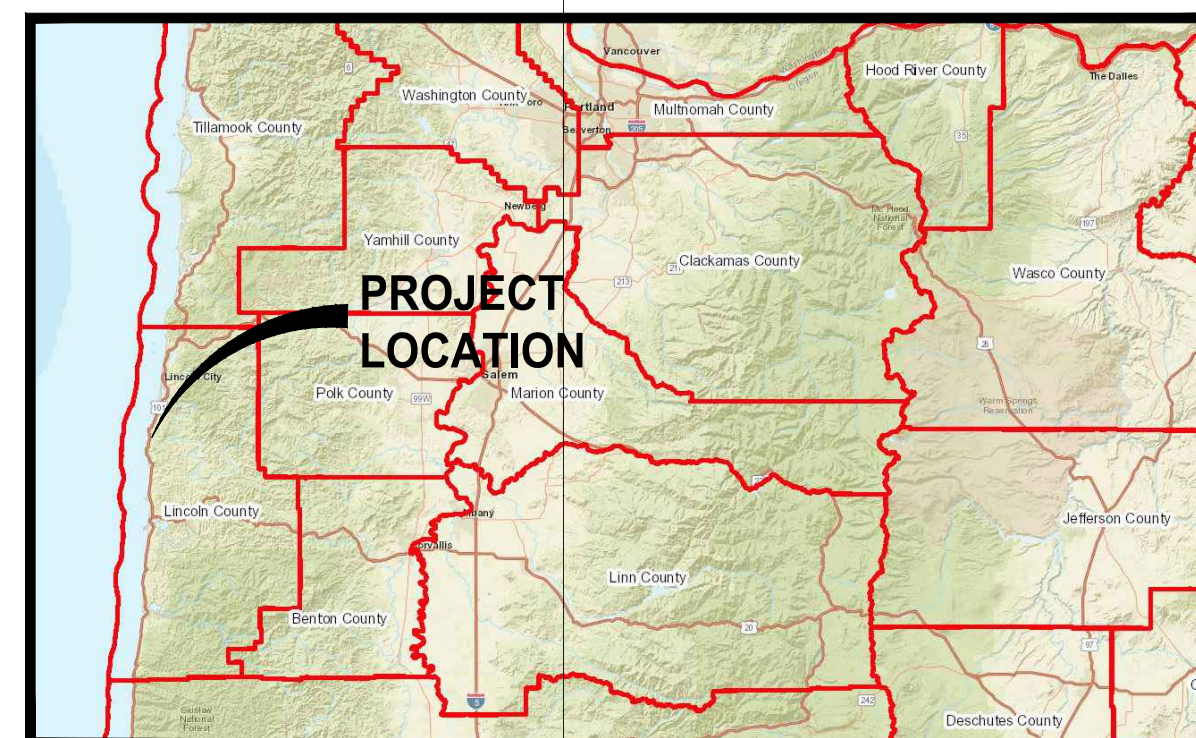
POTENTIAL UNDERGROUND
FACILITY OWNERS
"ONE CALL" UTILITY
NOTIFICATION CENTER
1-800-332-2344

UTILITIES LOCATE NOTE

THE LOCATION OF EXISTING UTILITIES SHOWN HEREON IS BASED ON INFORMATION OBTAINED FROM THE FIELD AND FROM RECORDS. PARAMETRIX ASSUMES NO RESPONSIBILITY FOR EXACT LOCATION OF EXISTING UTILITIES SHOWN OR NOT SHOWN HEREON. CONTRACTOR SHALL VERIFY THE EXACT SIZE, DEPTH, AND LOCATION OF EXISTING UTILITIES PRIOR TO CONSTRUCTION. CONTRACTOR SHALL CALL FOR UNDERGROUND LOCATE AT 811 PRIOR TO START OF CONSTRUCTION. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE RELOCATION OF EXISTING UNDERGROUND UTILITIES DEPICTED OR NOT DEPICTED ON THESE PLANS.



LOCATION MAP
NO SCALE



VICINITY MAP
NO SCALE



PLAN
1" = 50'

SHEET INDEX

SHEET NUMBER	SHEET NAME
CS00	COVER SHEET
EX00	EXISTING CONDITIONS
PP00	PRELIMINARY PLAN
TP00	TENATIVE PLAT
PE00	PEDESTRIAN PLAN
RD00	PROPOSED ROAD PLANS
RD01	PARKING PLANS
EA00	EMERGENCY ACCESS PLAN
GR00	GRADING & DRAINAGE PLAN
GR01	STORM POND DETAIL
UP00	UTILITY PLAN
PR01	STREET PLAN AND PROFILE
PR02	STREET PLAN AND PROFILE
PR03	STREET PLAN AND PROFILE
PR04	STREET PLAN AND PROFILE

PATH: U:\Bend\Projects\Clients\8249-Hills of Depe Bay, LP\297-8249-001 Depee Hills\995vcs\CADD\DWG_VW_Ph2_SHEETS\Preliminary Plan
 PLOTTED BY: GarroWil DATE: Thursday, February 8, 2024 9:41:23 AM
 LAYOUT: COVER SHEET

REVISIONS	DATE	BY

DESIGNED	Z. GARRARD
DRAWN	Z. GARRARD
CHECKED	J. FROST
APPROVED	J. FROST

ONE INCH AT FULL SCALE, IF NOT, SCALE ACCORDINGLY	
FILE NAME	8249001-C1.0-CS00
JOB No.	297-8249-001
DATE	FEBRUARY 2024

PRELIMINARY



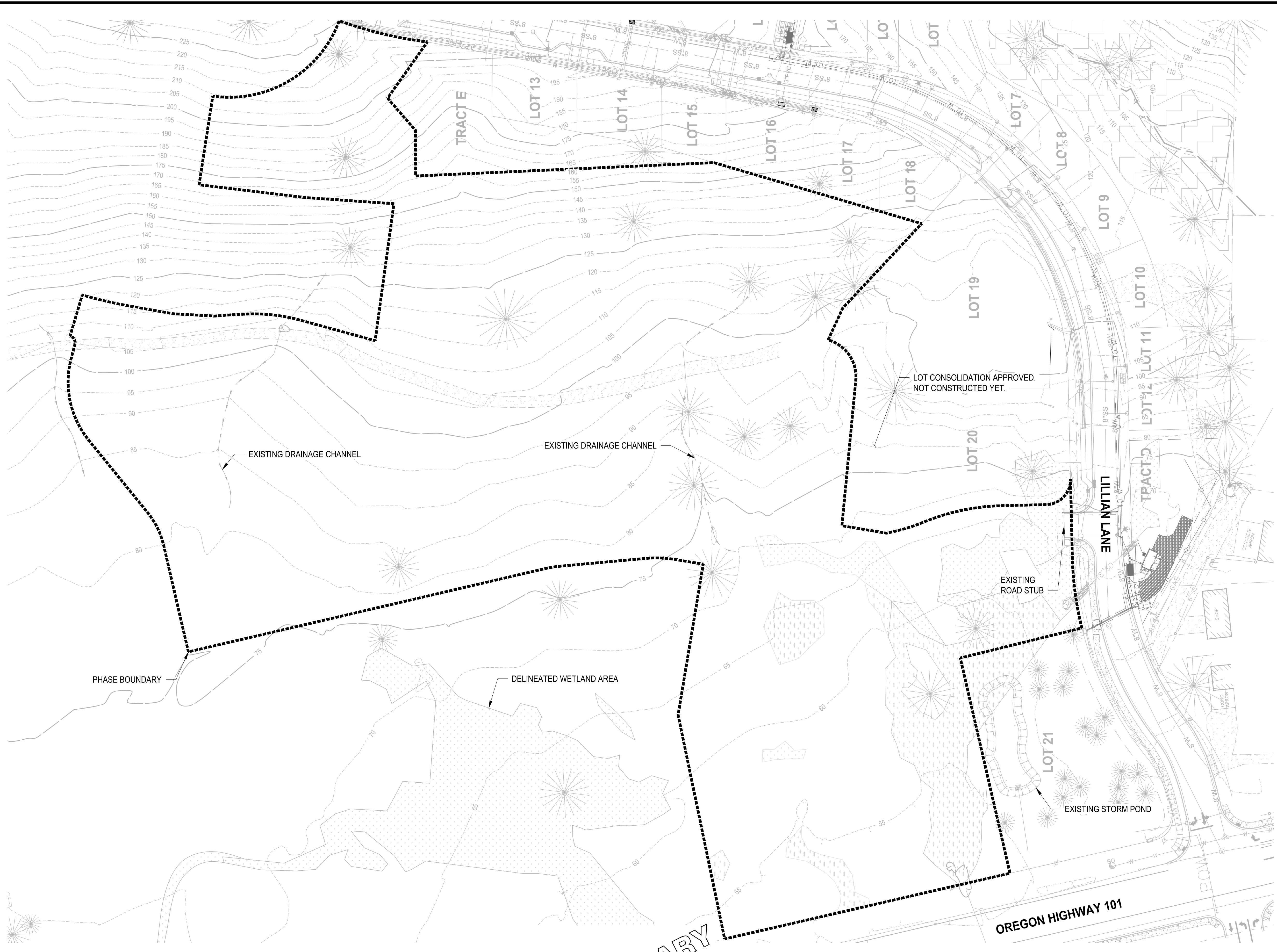
PROJECT NAME	WHALE WATCH PHASE TWO PRELIMINARY PLAN DEPOE BAY, OR
--------------	---

COVER SHEET

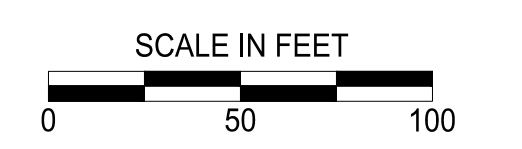
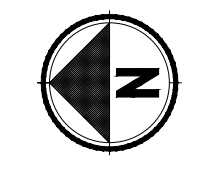
DRAWING NO. 1 OF 15
CS00

100% REVIEW SUBMITTAL
NOT FOR CONSTRUCTION

LAYOUT: EXISTING CONDITIONS PATH: U:\Beno\Projects\Clients\8249-001\Depoe Hills\995ves\CADD\DWG WW Ph2\Sheets\Preliminary Plan PLOTTED BY: GarroWill DATE: Thursday, February 8, 2024 9:42:30 AM



LEGEND	
	PROPERTY LINE
	DRAINAGE CATCHMENT
	70 MAJOR CONTOUR
	64 MINOR CONTOUR
	ROADWAY CENTERLINE
	RIGHT-OF-WAY LINE
	EASEMENT LINE
	SUBJECT PROPERTY LINE
	DRAINAGE DITCH
	EDGE OF GRAVEL
	EDGE OF ASPHALT
	EDGE OF BUILDING
	LOW WALL
	BOULDER WALL
	12" W 12" WATER MAIN
	8" W 8" WATER MAIN
	6" W 6" FIRE LATERAL
	2" W 2" DOMESTIC WATER SERVICE
	8" SS 8" GRAVITY SEWER MAIN
	6" SD 6" STORM MAIN
	12" SD 12" STORM MAIN
	18" SD 18" STORM CULVERT
	ODOT CONCRETE INLET TYPE CG-2
	ODOT TYPE D DITCH INLET
	GUTTER DOWNSPOUT
	PIPE OUTFALL
	CLEAN OUT
	SANITARY SEWER MANHOLE
	FIRE HYDRANT
	GATE VALVE
	CHECK VALVE
	END CAP
	90° BEND
	45° BEND
	22.5° BEND
	REDUCER VALVE
	GRAVEL LOGGING ROAD
	DELINEATED WETLAND AREA



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REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

ONE INCH AT FULL SCALE, IF NOT, SCALE ACCORDINGLY
 FILE NAME: 8249001-C2.0-EX00
 JOB No.: 297-8249-001
 DATE: FEBRUARY 2024

PRELIMINARY



PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

EXISTING CONDITIONS

DRAWING NO.
 2 OF 15
EX00

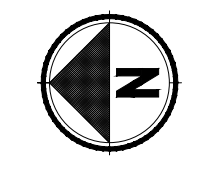
LAYOUT: PRELIMINARY PLAN PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\97-8249-001 Depoe Hills\95\cadd\DWG\MM_Ph2_SHEETS\Preliminary Plan PLOTTED BY: GarraWil DATE: Thursday, February 8, 2024 9:44:07 AM

LEGEND - LAND USES

- OPEN SPACE
- ROADWAY RIGHT-OF-WAY
- SINGLE FAMILY RESIDENTIAL
- MULTI-FAMILY RESIDENTIAL
- CIVIC BUILDING

PRELIMINARY PLAN NOTES:

ZONE:	R-1 PD
DWELLING UNITS:	44 UNITS
DENSITY CALCULATIONS:	
OVERALL DENSITY:	4.56 DU/ACRES
AREA CALCULATIONS:	
PHASE GROSS AREA	9.64 - ACRES
ROADWAY RIGHT-OF-WAY	2.69 - ACRES
NET AREA	6.95 - ACRES
OPEN SPACE AREA	4.65 - ACRES
OPEN SPACE REQUIREMENT	39%
OPEN SPACE PROVIDED	48%



SCALE IN FEET
0 50 100

100% REVIEW SUBMITTAL
NOT FOR CONSTRUCTION

PRELIMINARY

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

**ONE INCH AT FULL SCALE,
IF NOT, SCALE ACCORDINGLY**
FILE NAME
8249001-C3.0-PP00
JOB No.
297-8249-001
DATE
FEBRUARY 2024

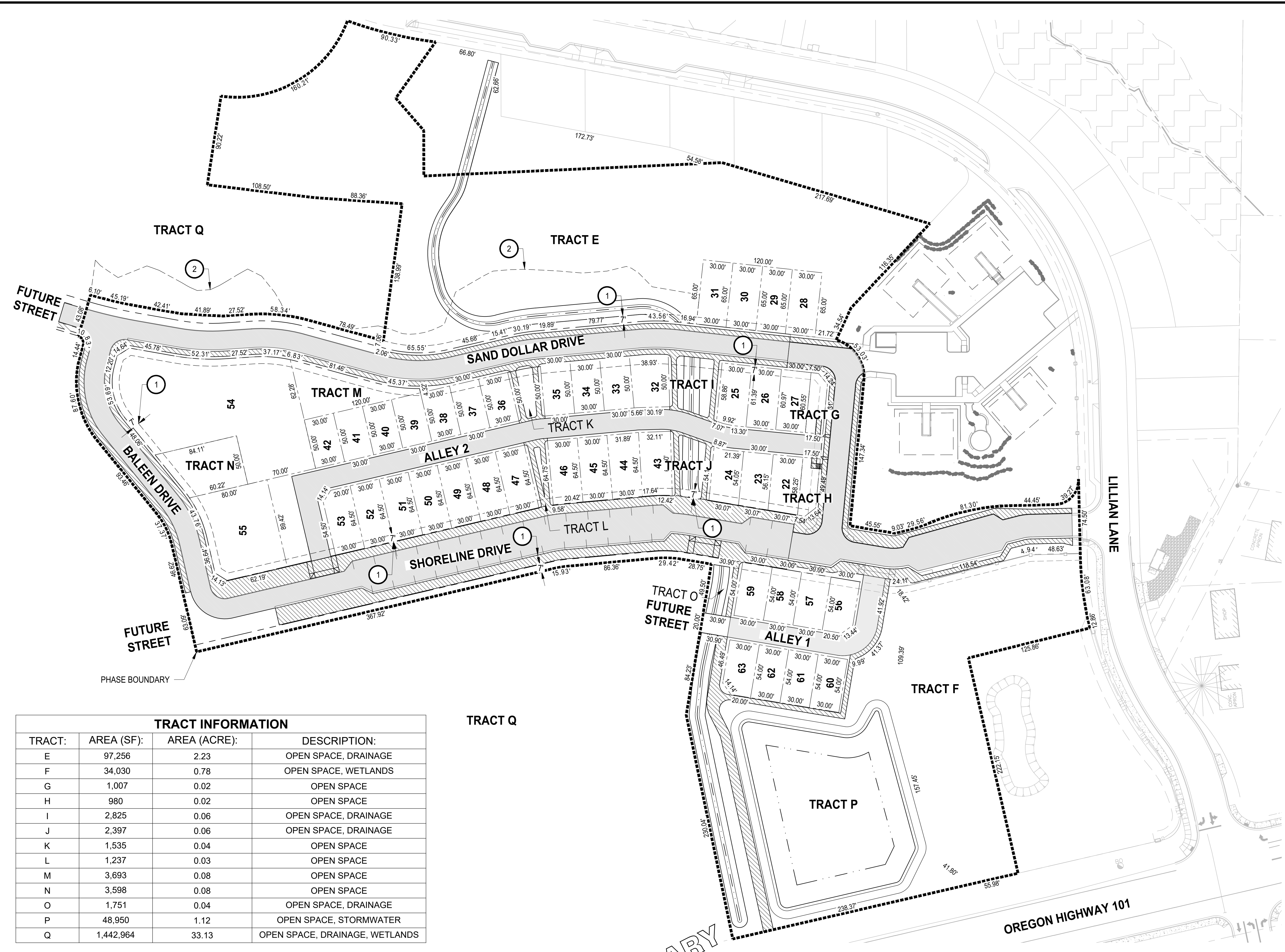


PROJECT NAME
**WHALE WATCH
PHASE TWO
PRELIMINARY PLAN**
DEPOE BAY, OR

PRELIMINARY PLAN

DRAWING NO.
3 OF 15
PP00

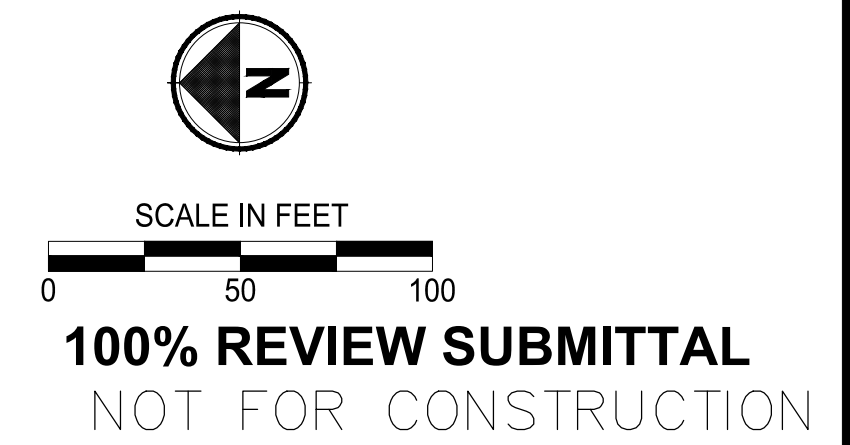
PATH: U:\Bend\Projects\Clients\8249-001\Depoe Hills\995\cs\CADD\DWG\WV_Ph2\SHEETS\Preliminary Plan PLOTTED BY: CorraWil DATE: Thursday, February 8, 2024 9:45:35 AM LAYOUT: TP00



LOT INFORMATION	
LOT #	AREA (SF):
22	1,716
23	1,653
24	1,599
25	1,828
26	1,835
27	1,823
28	1,950
29	1,950
30	1,950
31	1,950
32	1,868
33	1,500
34	1,500
35	1,500
36	1,500
37	1,500
38	1,500
39	1,500
40	1,500
41	1,500
42	1,500
43	1,988
44	1,994
45	1,935
46	1,936
47	1,935
48	1,935
49	1,935
50	1,935
51	1,935
52	1,935
53	1,885
54	18,360
55	6,509
56	1,575
57	1,620
58	1,620
59	1,620
60	1,620
61	1,620
62	1,620
63	1,570

TRACT INFORMATION			
TRACT:	AREA (SF):	AREA (ACRE):	DESCRIPTION:
E	97,256	2.23	OPEN SPACE, DRAINAGE
F	34,030	0.78	OPEN SPACE, WETLANDS
G	1,007	0.02	OPEN SPACE
H	980	0.02	OPEN SPACE
I	2,825	0.06	OPEN SPACE, DRAINAGE
J	2,397	0.06	OPEN SPACE, DRAINAGE
K	1,535	0.04	OPEN SPACE
L	1,237	0.03	OPEN SPACE
M	3,693	0.08	OPEN SPACE
N	3,598	0.08	OPEN SPACE
O	1,751	0.04	OPEN SPACE, DRAINAGE
P	48,950	1.12	OPEN SPACE, STORMWATER
Q	1,442,964	33.13	OPEN SPACE, DRAINAGE, WETLANDS

- TENTATIVE PLAT NOTES:**
- EASEMENT DESCRIPTIONS:
- 7' PUBLIC FRANCHISE UTILITIES EASEMENT
 - SLOPE EASEMENT



REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

ONE INCH AT FULL SCALE, IF NOT, SCALE ACCORDINGLY

FILE NAME: 8249001-C4.0-TP00
JOB No.: 297-8249-001
DATE: FEBRUARY 2024

PRELIMINARY



PROJECT NAME
**WHALE WATCH
PHASE TWO
PRELIMINARY PLAN**
DEPOE BAY, OR

TENTATIVE PLAT

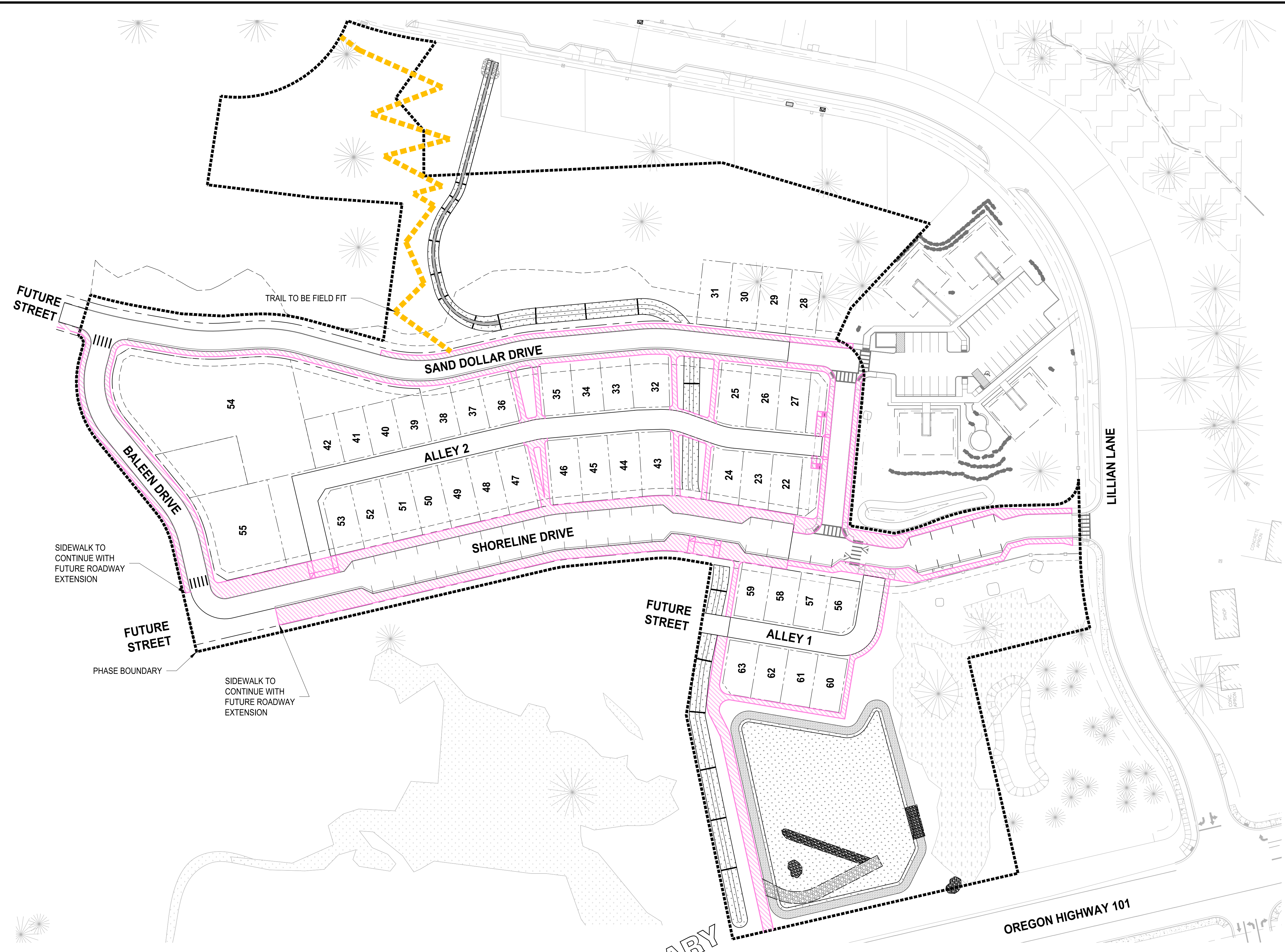
DRAWING NO.
4 OF 15
PP-00

LAYOUT: PEDESTRIAN PLAN
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay, LP\297-8249-001\Depoe Hills\995ves\CADD\DWG\WW_Ph2\SHEETS\Preliminary Plan
 PLOTTED BY: GarraWil DATE: Thursday, February 8, 2024 9:46:48 AM

LEGEND

TRAIL

SIDEWALK



SCALE IN FEET

0 50 100

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 NOT FOR CONSTRUCTION

PRELIMINARY

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			DRAWN Z. GARRARD
			CHECKED J. FROST
			APPROVED J. FROST

**ONE INCH AT FULL SCALE,
 IF NOT, SCALE ACCORDINGLY**

FILE NAME
 8249001-C5.0-PP00

JOB No.
 297-8249-001

DATE
 FEBRUARY 2024

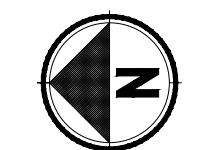
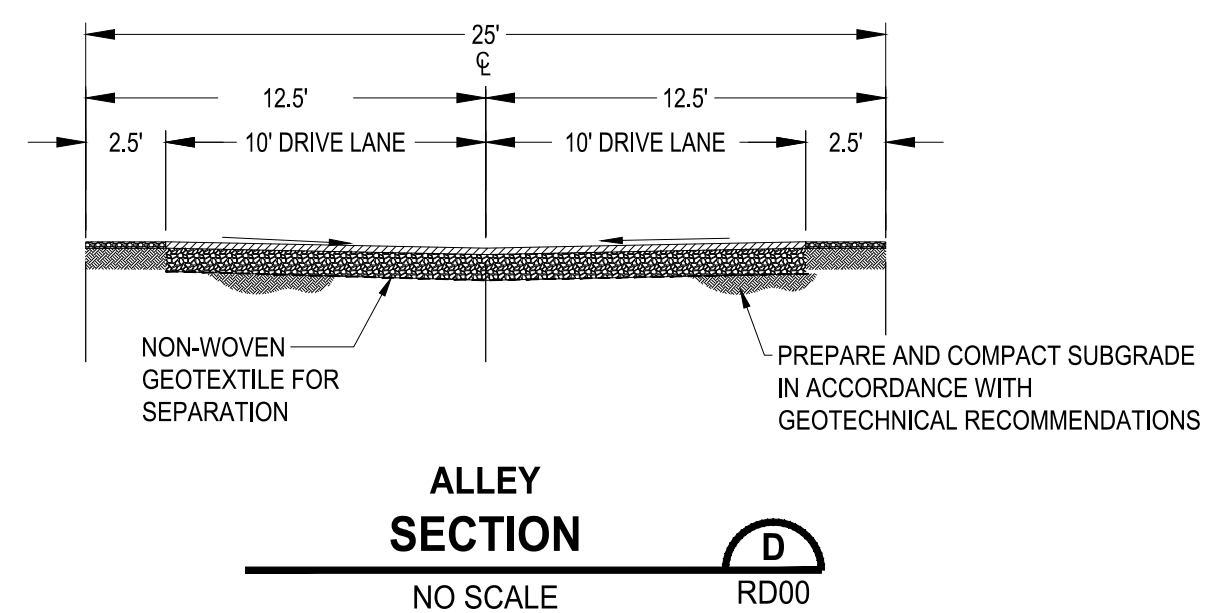
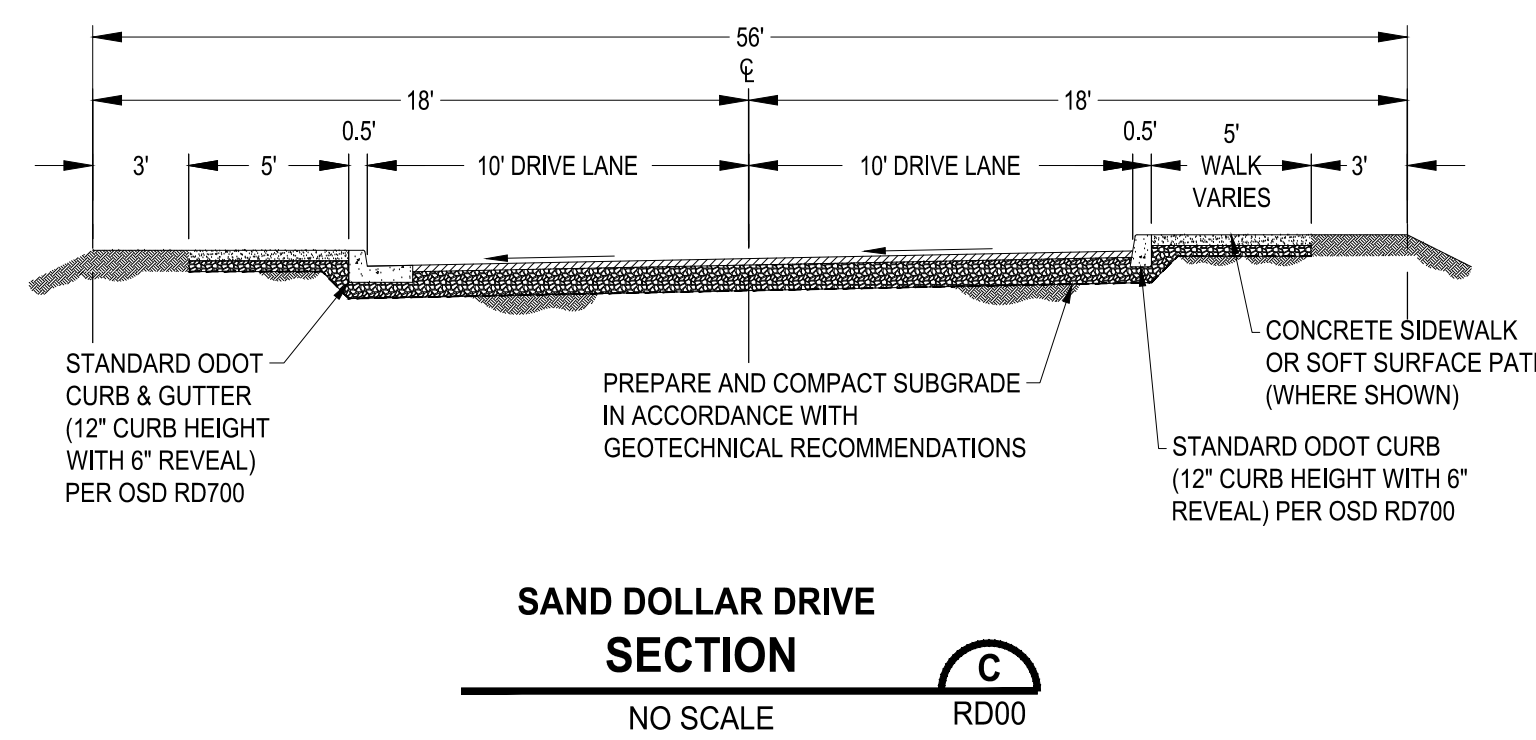
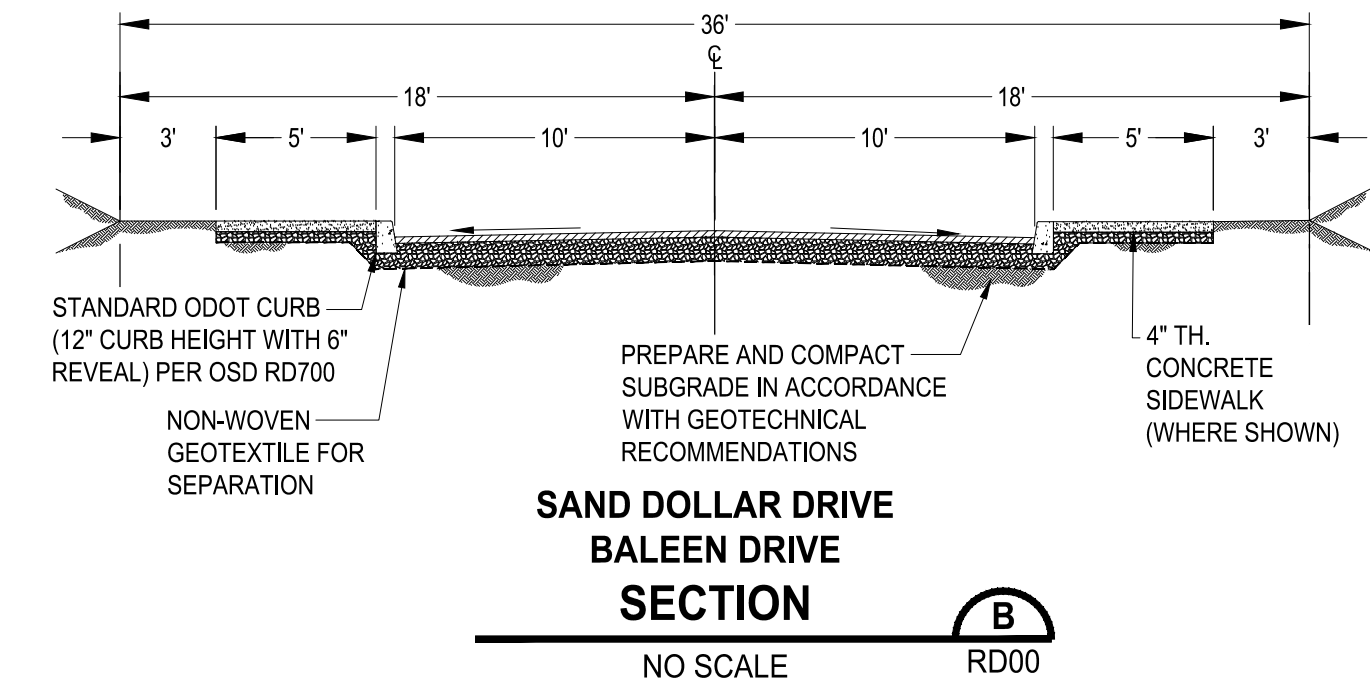
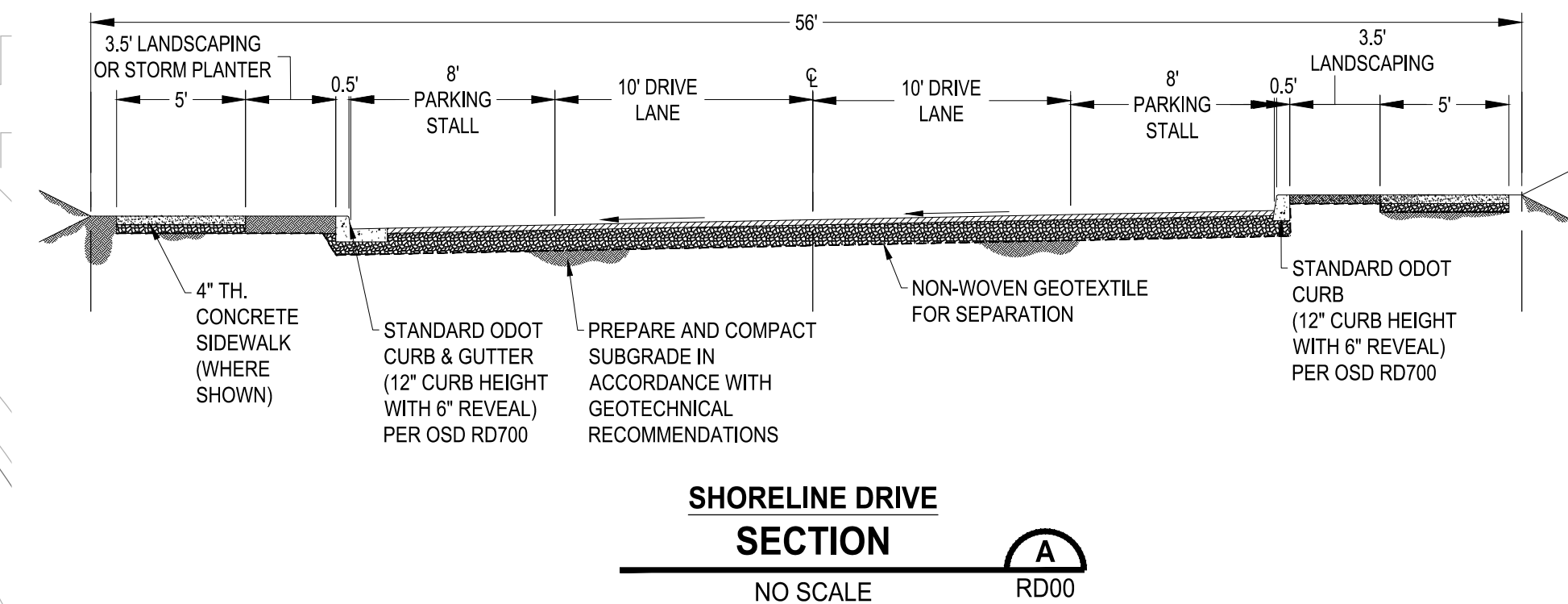
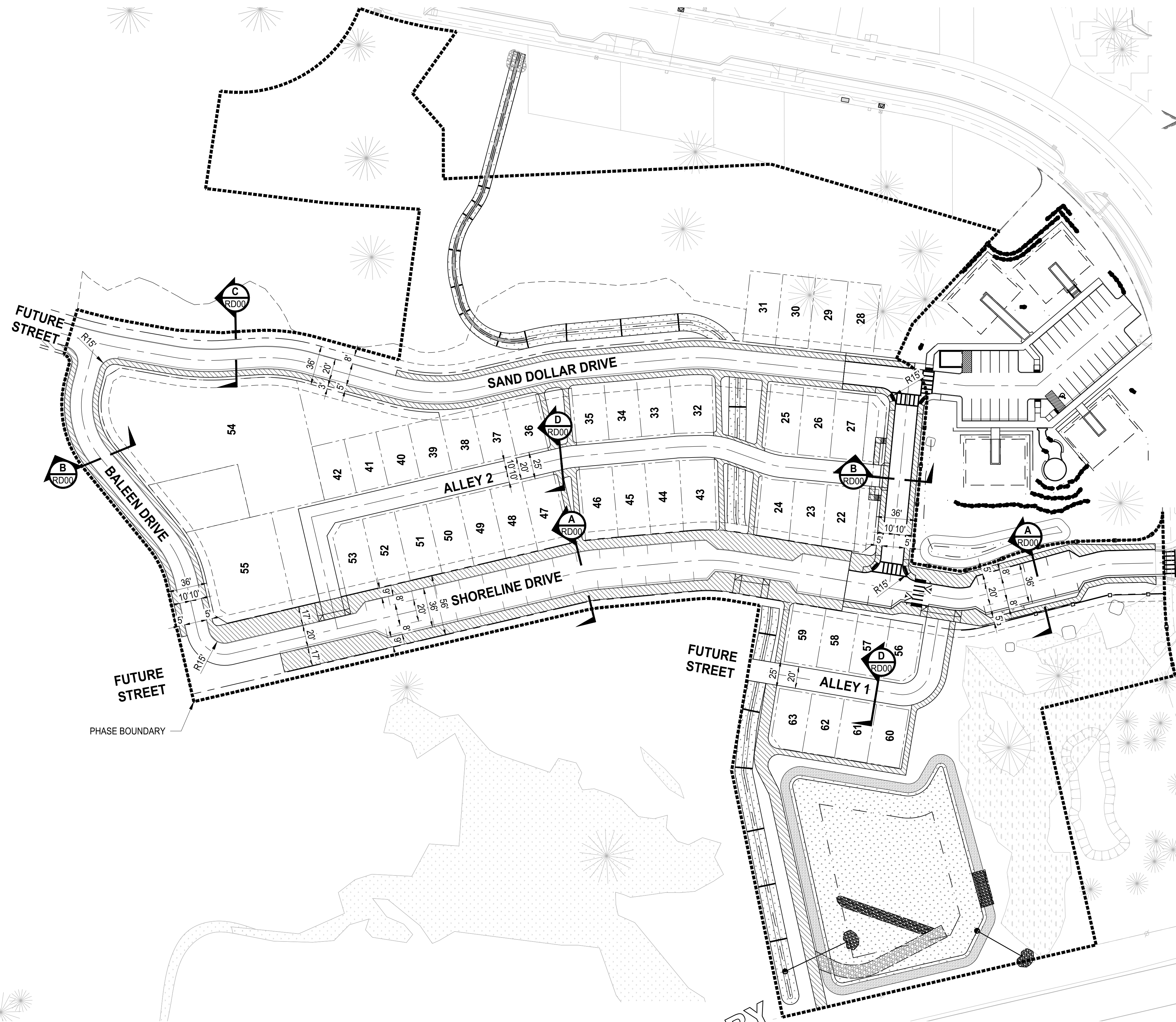
Parametrix

PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

PEDESTRIAN PLAN

DRAWING NO.
 5 OF 15
PE00

LAYOUT: PROPOSED ROAD PLANS PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-001 Depoe Hills\955\cadd\DWG\WW Ph2\Sheets\Preliminary Plan PLOTTED BY: GarraW DATE: Thursday, February 8, 2024 9:46:59 AM



SCALE IN FEET
0 50 100

100% REVIEW SUBMITTAL
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PRELIMINARY

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
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			J. FROST
			J. FROST

ONE INCH AT FULL SCALE, IF NOT, SCALE ACCORDINGLY
FILE NAME: 8249001-C6.0-RD00
JOB No.: 297-8249-001
DATE: FEBRUARY 2024

Parametrix

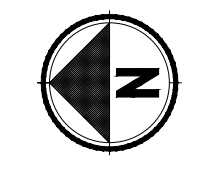
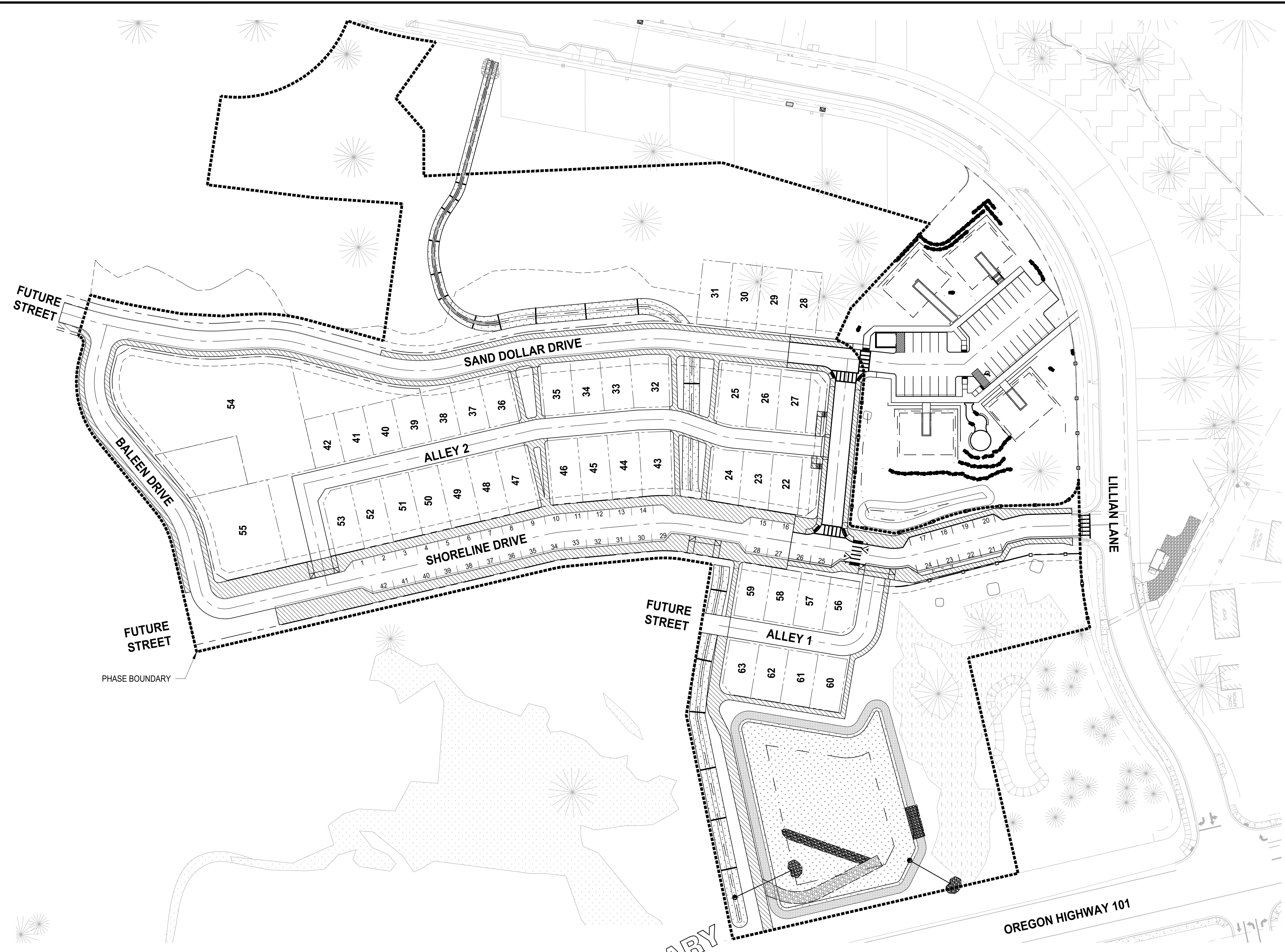
PROJECT NAME
**WHALE WATCH
PHASE TWO
PRELIMINARY PLAN**
DEPOE BAY, OR

PROPOSED ROAD PLANS

DRAWING NO.
6 OF 15
RD00

LAYOUT: PARKING PLANS
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-001 Depoe Hills\995\cadd\DWG\WM_Ph2_SHEETS\ Preliminary Plan
 PLOTTED BY: GarraWi DATE: Thursday, February 8, 2024 9:47:17 AM

PARKING PLAN NOTES:
 PRELIMINARY TOWNHOME DESIGNS FOR LOTS 22-27, 32-53, AND 59-63 INCLUDE COVERED GARAGES PROVIDING 4 STALLS PER UNIT.
 LOT 54 APARTMENT BUILDING WILL BE DESIGNED TO PROVIDE SUFFICIENT PARKING BASED ON AS REQUIRED PER CITY CODE.
 CUSTOM HOMES ON LOTS 28-31 WILL BE DESIGNED TO PROVIDE SUFFICIENT ON-SITE PARKING PER CITY CODE.



SCALE IN FEET
 0 50 100

100% REVIEW SUBMITTAL
 NOT FOR CONSTRUCTION

PRELIMINARY

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			DRAWN Z. GARRARD
			CHECKED J. FROST
			APPROVED J. FROST

**ONE INCH AT FULL SCALE,
 IF NOT, SCALE ACCORDINGLY**
 FILE NAME
 8249001-C6.0-RD00
 JOB No.
 297-8249-001
 DATE
 FEBRUARY 2024

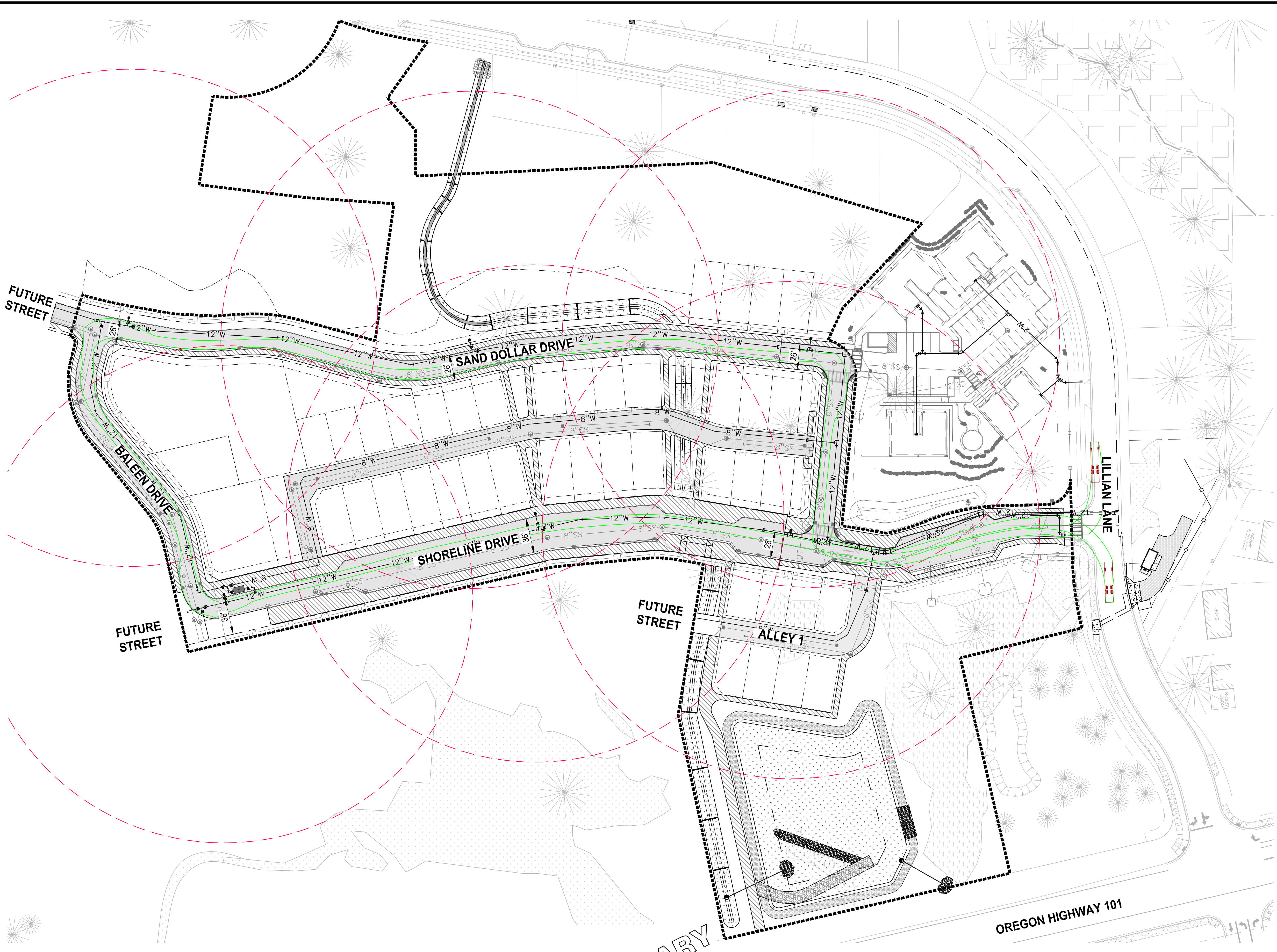


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

PARKING PLANS

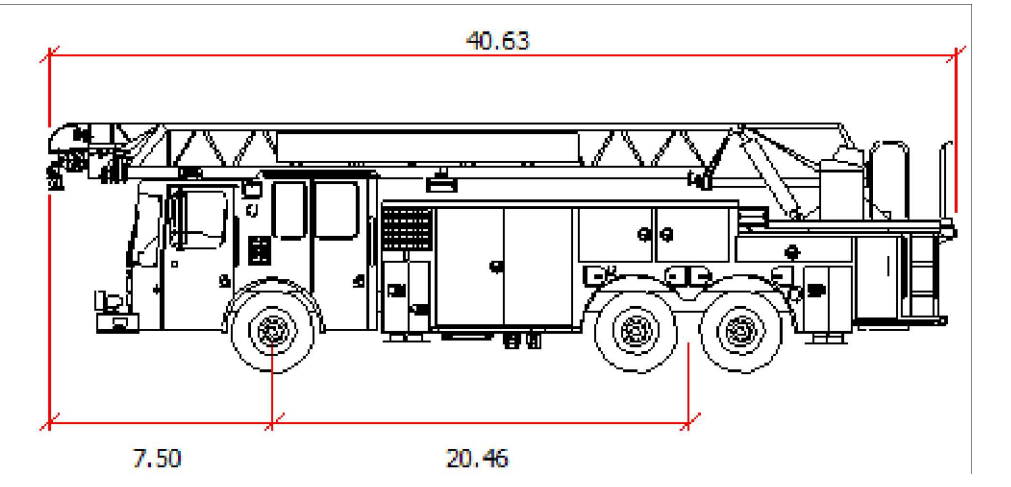
DRAWING NO.
 7 OF 15
RD01

LAYOUT: EMERGENCY ACCESS PLAN
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Box, LP\297-8249-001-Depoe Hills\995ves\CADD\DWG WW Ph2\SHEETS\Preliminary Plan
 PLOTTED BY: Garrowl DATE: Thursday, February 8, 2024 9:48:40 AM



LEGEND

	FIRE HYDRANT
	250' HYDRANT RADIUS

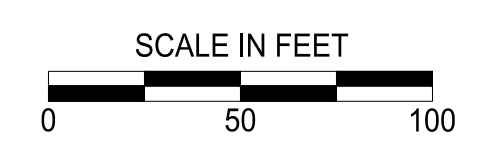
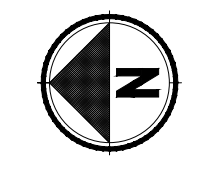


FIRE TRUCK DIMENSIONS AND SPECIFICATIONS

OVERALL LENGTH	40.63FT
OVERALL WIDTH	8.00FT
OVERALL HEIGHT	12.00FT
MIN BODY GROUND CLEARANCE	0.820FT
TRACK WIDTH	8.00FT
LOCK-TO-LOCK TIME	6.00S
MAX WHEEL ANGLE	45.00°

EMERGENCY ACCESS NOTES:

WHERE A FIRE HYDRANT IS LOCATED ON AN EMERGENCY ACCESS ROUTE, THE OREGON FIRE CODE ACCESS WIDTH STANDARD OF MINIMUM 26' SHALL BE MET BY INCLUDING MOUNTABLE CURBS AND SIDEWALKS CAPABLE OF SUPPORTING THE FIRE APPARATUS FOR EMERGENCY USE PENDING APPROVAL BY DEPOE BAY FIRE CHIEF.



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REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

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FILE NAME: 8249001-C7.0-EA00
 JOB No.: 297-8249-001
 DATE: FEBRUARY 2024

PRELIMINARY

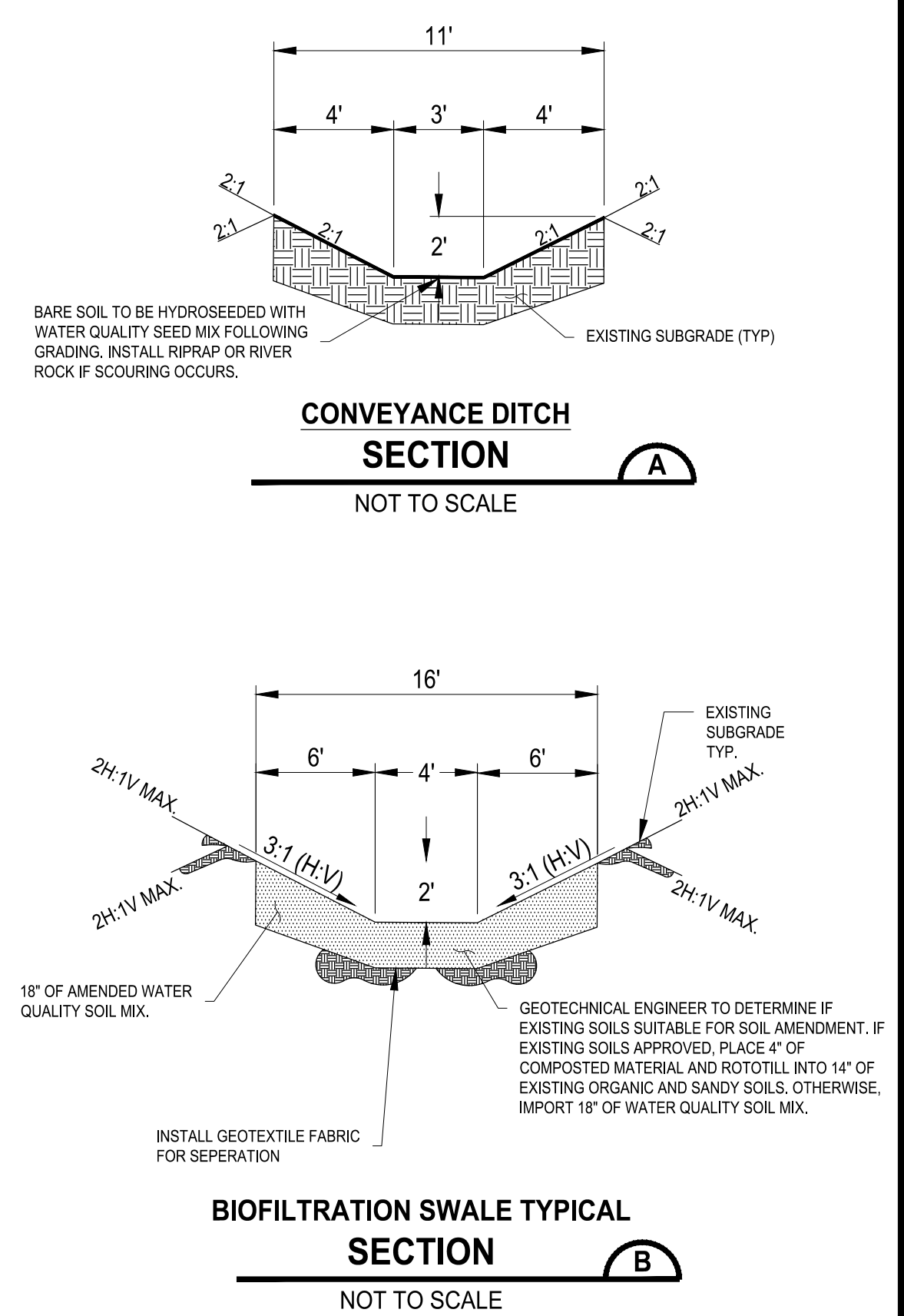
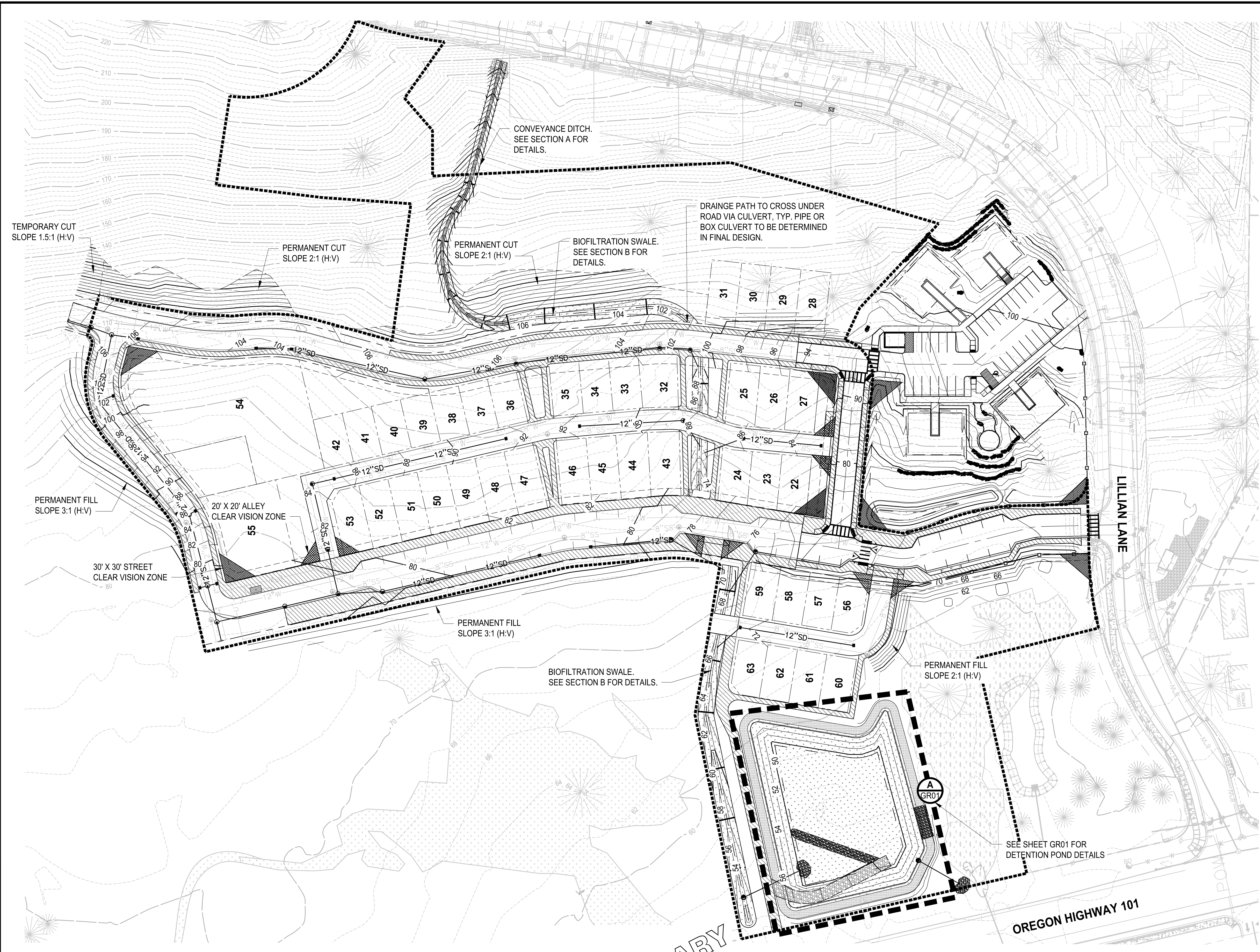


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

EMERGENCY ACCESS PLAN

DRAWING NO.
 8 OF 15
EA00

LAYOUT: GRADING PLAN
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Hill\995\995\CADD\CADD\DWG\W\Ph2\SHEETS\Preliminary Plan
 PLOTTED BY: Corrowill DATE: Thursday, February 8, 2024 9:48:47 AM



GRADING & DRAINAGE NOTES

PRELIMINARY EARTHWORK QUANTITIES:

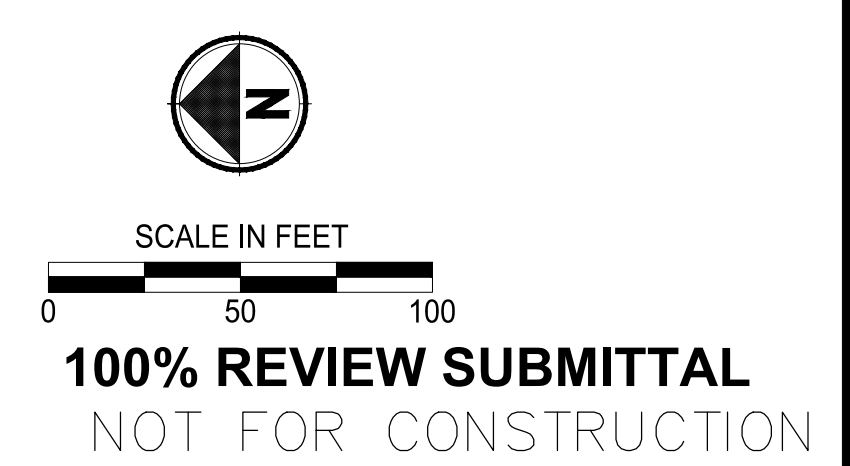
- RIGHT-OF-WAY: 9,666 CY CUT, 15,755 CY FILL
- DETENTION POND: 4,975 CY CUT, 590 CY FILL
- DRAINAGE CHANNEL: 1,158 CY CUT, 35 CY FILL

NET:

- PHASE 2 TOTAL: 15,799 CY CUT, 16,380 CY FILL, 581 CY (EXPORT)

INDIVIDUAL LOT GRADING NOT INCLUDED IN PRELIMINARY EARTHWORK QUANTITIES.

INDIVIDUAL LOTS SHALL CONNECT INTO THE STORMWATER MAIN VIA DOWNSPOUT CONNECTIONS OR DIRECT DISCHARGE TO THE BIOFILTRATION SWALE. THE REGIONAL POND INCLUDES ROOFTOP RUNOFF IN ITS VOLUME CAPACITY DESIGN.



REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

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FILE NAME: 8249001-C8.0-CR00
 JOB No.: 297-8249-001
 DATE: FEBRUARY 2024

PRELIMINARY

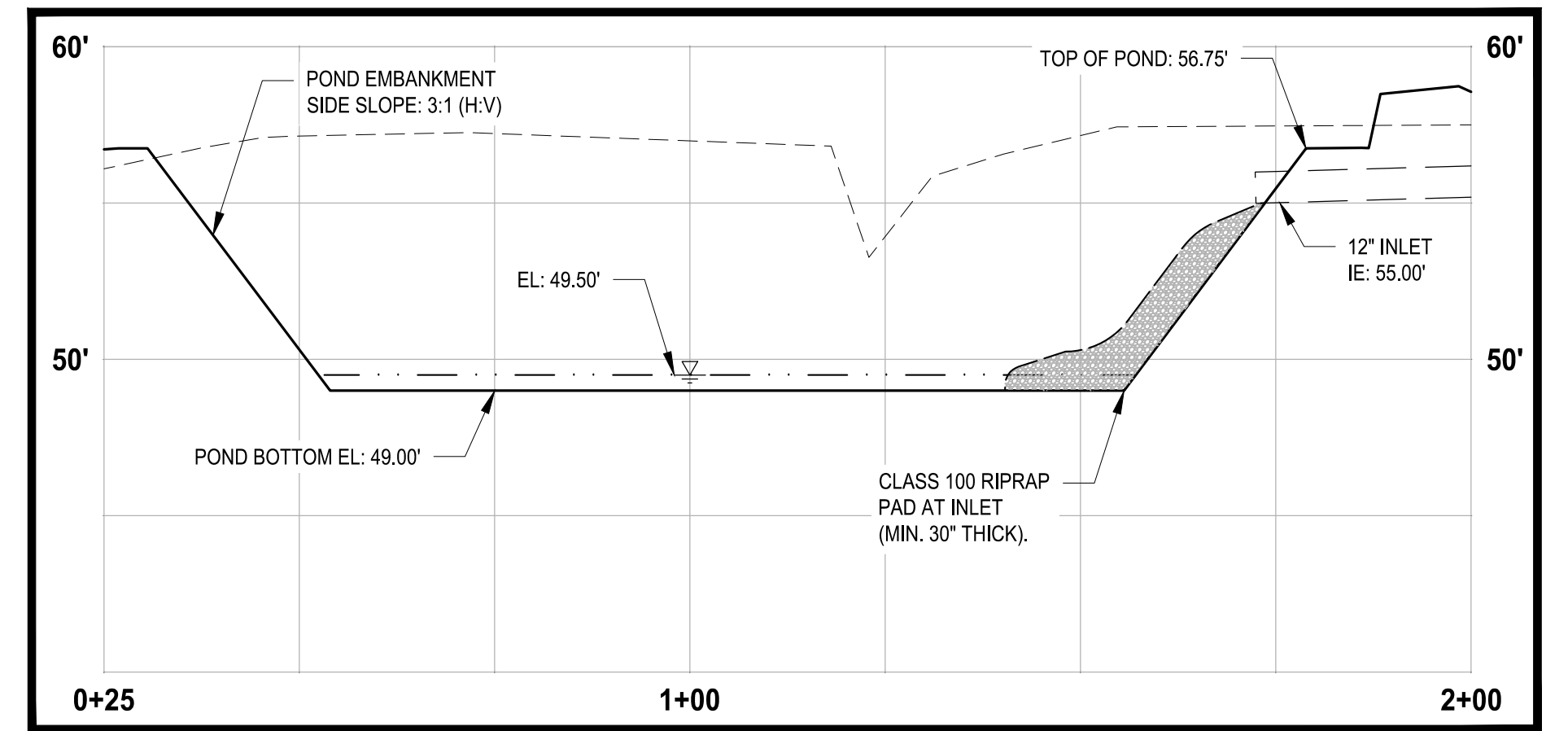
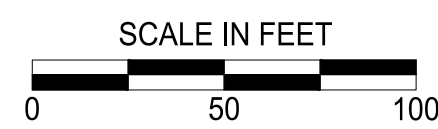
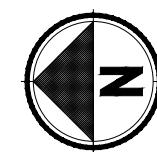
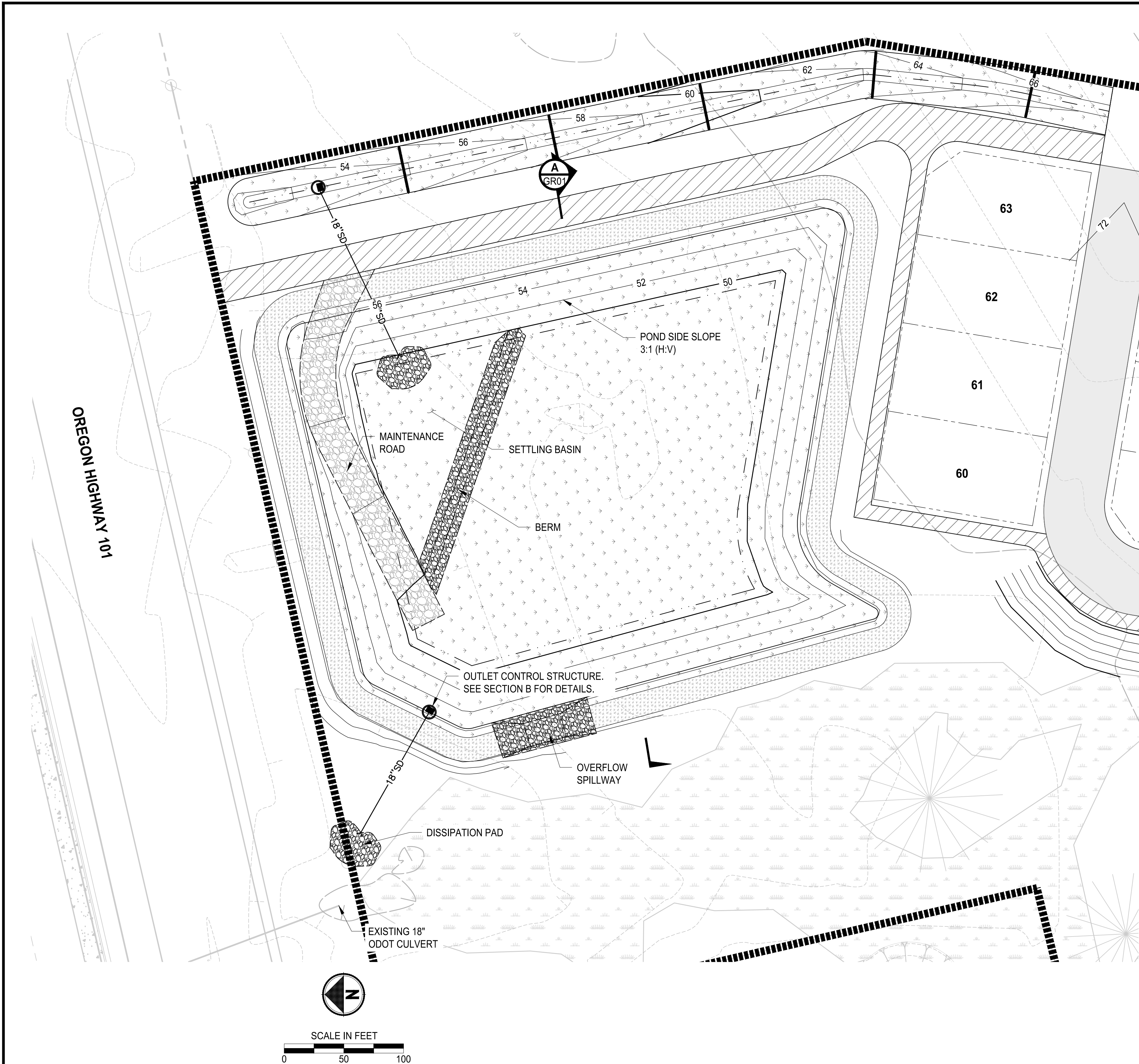


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

**GRADING &
 DRAINAGE PLAN**

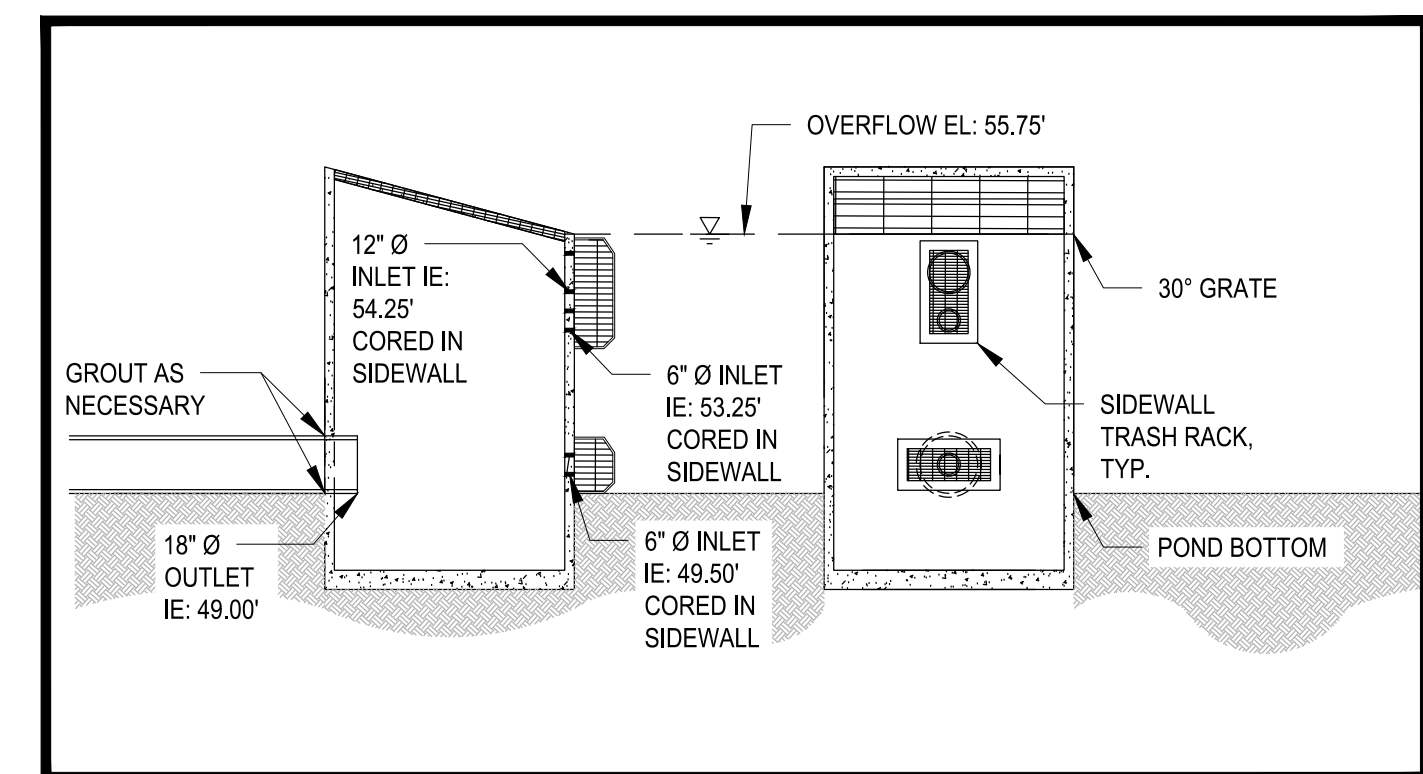
DRAWING NO.
 9 OF 15
GR00

LAYOUT: STORM POND DETAIL
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-01 Depoe Hills\995ves\CADD\DWG WW_Ph2\SHEETS\Preliminary Plan
 PLOTTED BY: Corrowill DATE: Thursday, February 8, 2024 9:48:55 AM



DETENTION POND SECTION
 NOT TO SCALE

DETENTION POND - DETAILS:
 FACILITY BOTTOM EL: 49.00
 WD DESIGN EL: 49.50
 OVERFLOW EL: 56.25
 FREEBOARD EL: 55.75
 BOTTOM AREA: 12,595 SF
 TOP AREA: 23,500 SF



OUTLET CONTROL STRUCTURE DETAIL
 NOT TO SCALE

PRELIMINARY



PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

STORM POND DETAIL

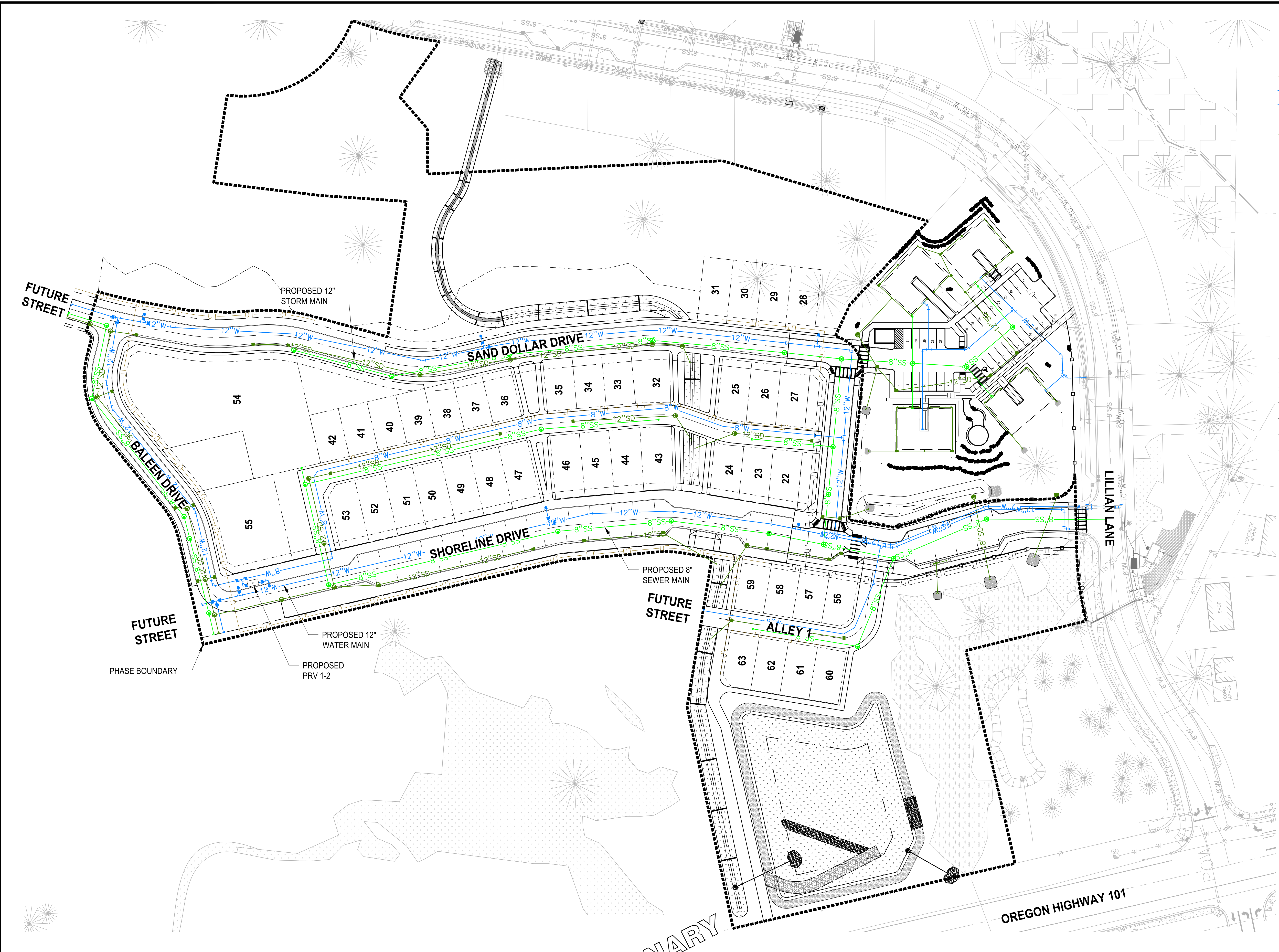
DRAWING NO.
 10 OF 15
GR01

100% REVIEW SUBMITTAL
 NOT FOR CONSTRUCTION

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

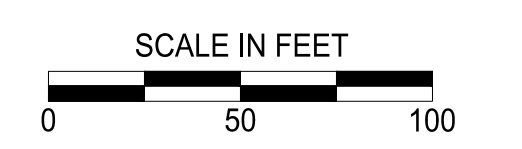
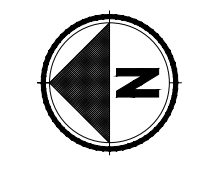
**ONE INCH AT FULL SCALE,
 IF NOT, SCALE ACCORDINGLY**
 FILE NAME
 8249001-CB.0-CR01
 JOB No.
 297-8249-001
 DATE
 FEBRUARY 2024

LAYOUT: UTILITY PLAN
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-001 Depoe Hills\995\cadd\DWG\WW_Ph2\Sheets\Preliminary Plan
 PLOTTED BY: GarraWil DATE: Thursday, February 8, 2024 9:50:35 AM



LEGEND	
PROPOSED	DESCRIPTION
UT	FRANCHISE UTILITIES SHARED TRENCH
8"W	8" WATER MAIN
12"W	12" WATER MAIN
8"SS	8" SEWER MAIN
18"SD	18" STORM CULVERT
CG-2	ODOT CONCRETE INLET TYPE CG-2
Ditch Inlet	ODOT TYPE D DITCH INLET
Circle	PIPE OUTFALL
Circle with cross	CLEANOUT
Circle with cross and dot	SANITARY SEWER MANHOLE
Circle with cross and dot and dot	FIRE HYDRANT
Circle with cross and dot and dot and dot	GATE VALVE
Circle with cross and dot and dot and dot and dot	END CAP
Circle with cross and dot and dot and dot and dot and dot	90° BEND
Circle with cross and dot and dot and dot and dot and dot and dot	45° BEND
Circle with cross and dot and dot and dot and dot and dot and dot and dot	22.5° BEND

LEGEND	
EXISTING	DESCRIPTION
UT	UTILITY MAIN
8"W	8" WATER MAIN
10"W	10" WATER MAIN
12"W	12" WATER MAIN
4"SS	4" SEWER MAIN
6"SS	6" SEWER MAIN
8"SS	8" SEWER MAIN
18"SD	18" STORM CULVERT
CG-2	ODOT CONCRETE INLET TYPE CG-2
Ditch Inlet	ODOT TYPE D DITCH INLET
Circle	GUTTER DOWNSPOUT
Circle	PIPE OUTFALL
Circle with cross	CLEANOUT
Circle with cross and dot	SANITARY SEWER MANHOLE
Circle with cross and dot and dot	FIRE HYDRANT
Circle with cross and dot and dot and dot	GATE VALVE
Circle with cross and dot and dot and dot and dot	CHECK VALVE
Circle with cross and dot and dot and dot and dot and dot	END CAP
Circle with cross and dot and dot and dot and dot and dot and dot	90° BEND
Circle with cross and dot and dot and dot and dot and dot and dot and dot	45° BEND
Circle with cross and dot and dot and dot and dot and dot and dot and dot and dot	22.5° BEND
Circle with cross and dot and dot and dot and dot and dot and dot and dot and dot and dot	REDUCER VALVE



100% REVIEW SUBMITTAL
 NOT FOR CONSTRUCTION

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

ONE INCH AT FULL SCALE, IF NOT, SCALE ACCORDINGLY
 FILE NAME: 8249001-C10.0-UP00
 JOB No.: 297-8249-001
 DATE: FEBRUARY 2024

PRELIMINARY

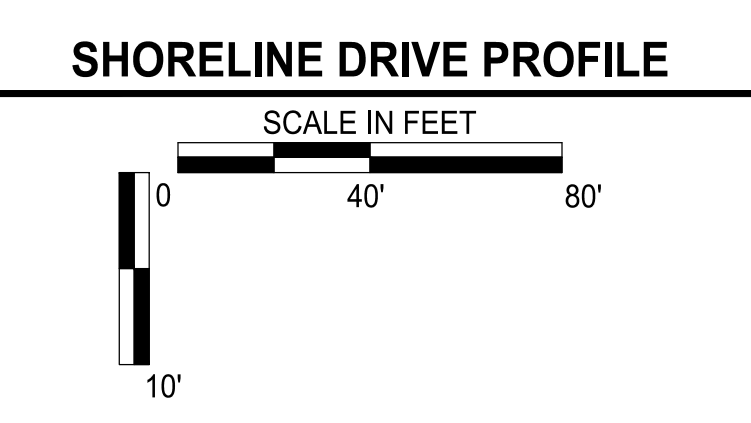
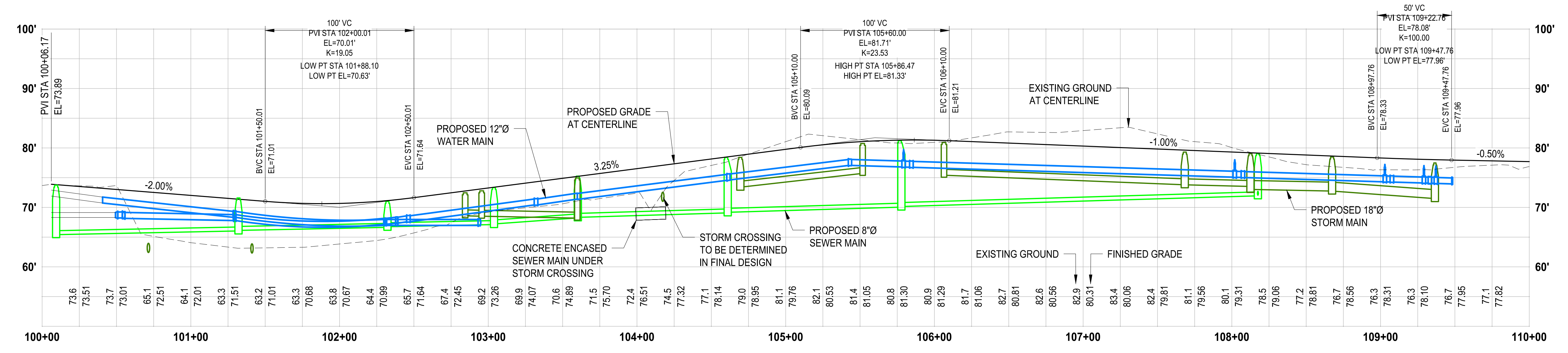
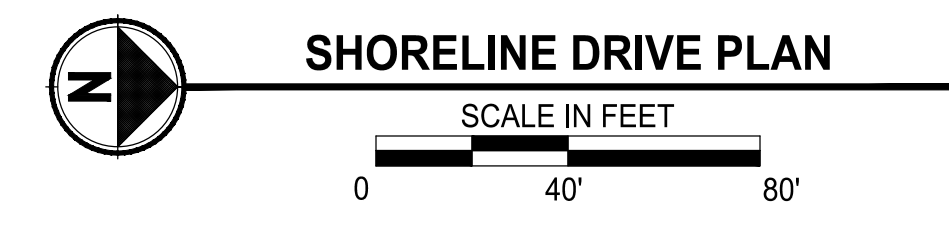
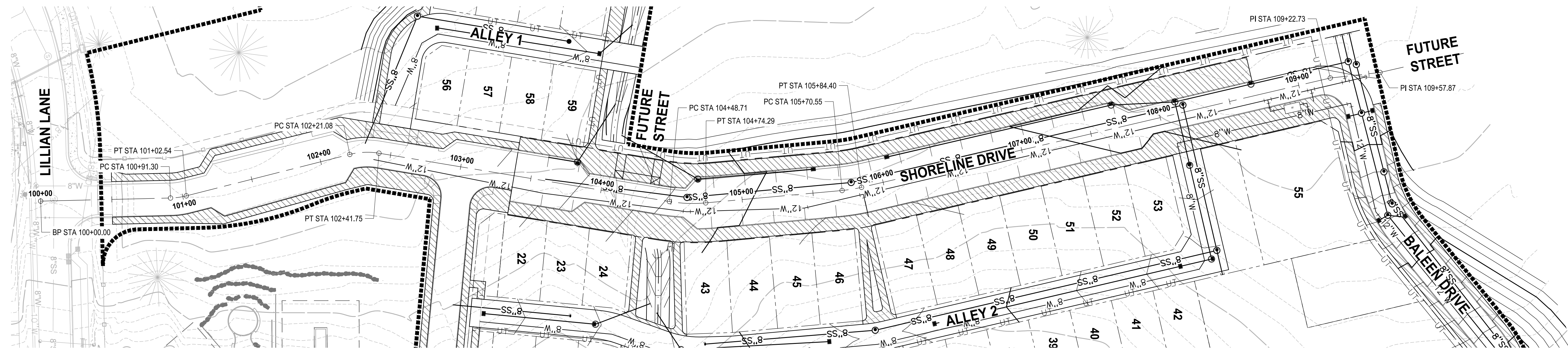


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

UTILITY PLAN

DRAWING NO.
 11 OF 15
UP00

PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-001 Depoe Hills\995\cs\CADD\DWG\W\ P12\ SHEETS\ Preliminary Plan PLOTTED BY: GarraW DATE: Thursday, February 8, 2024 9:50:45 AM
 LAYOUT: STREET PLAN AND PROFILE



PRELIMINARY

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REVISIONS	DATE	BY	DESIGNED
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			Z. GARRARD
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			J. FROST

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 FILE NAME: 8249001-C9.0-PR01
 JOB No.: 297-8249-001
 DATE: FEBRUARY 2024

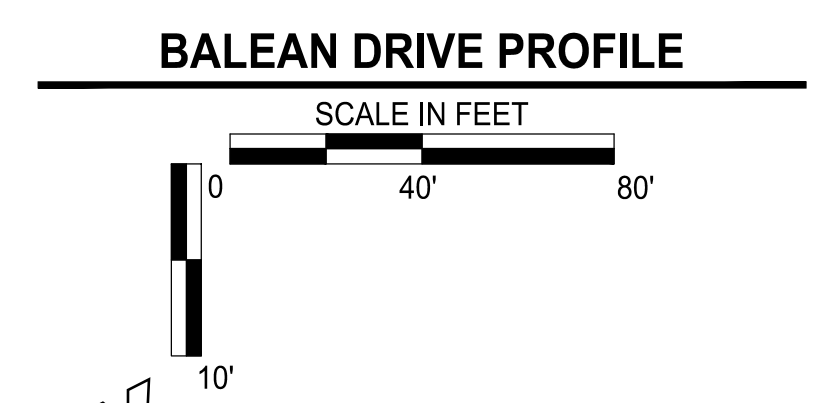
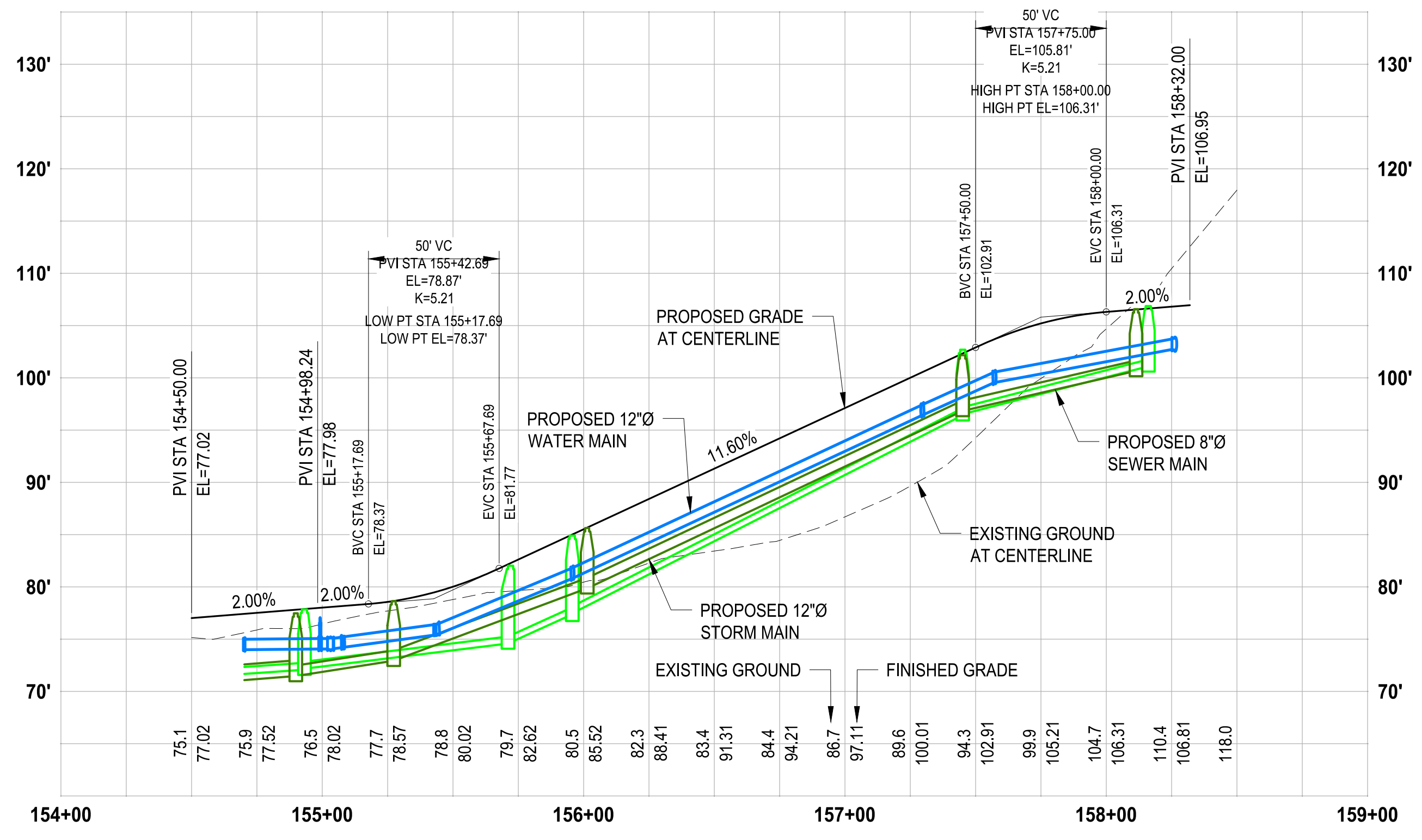
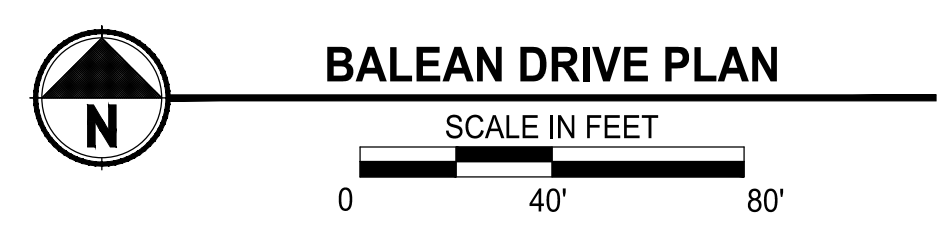
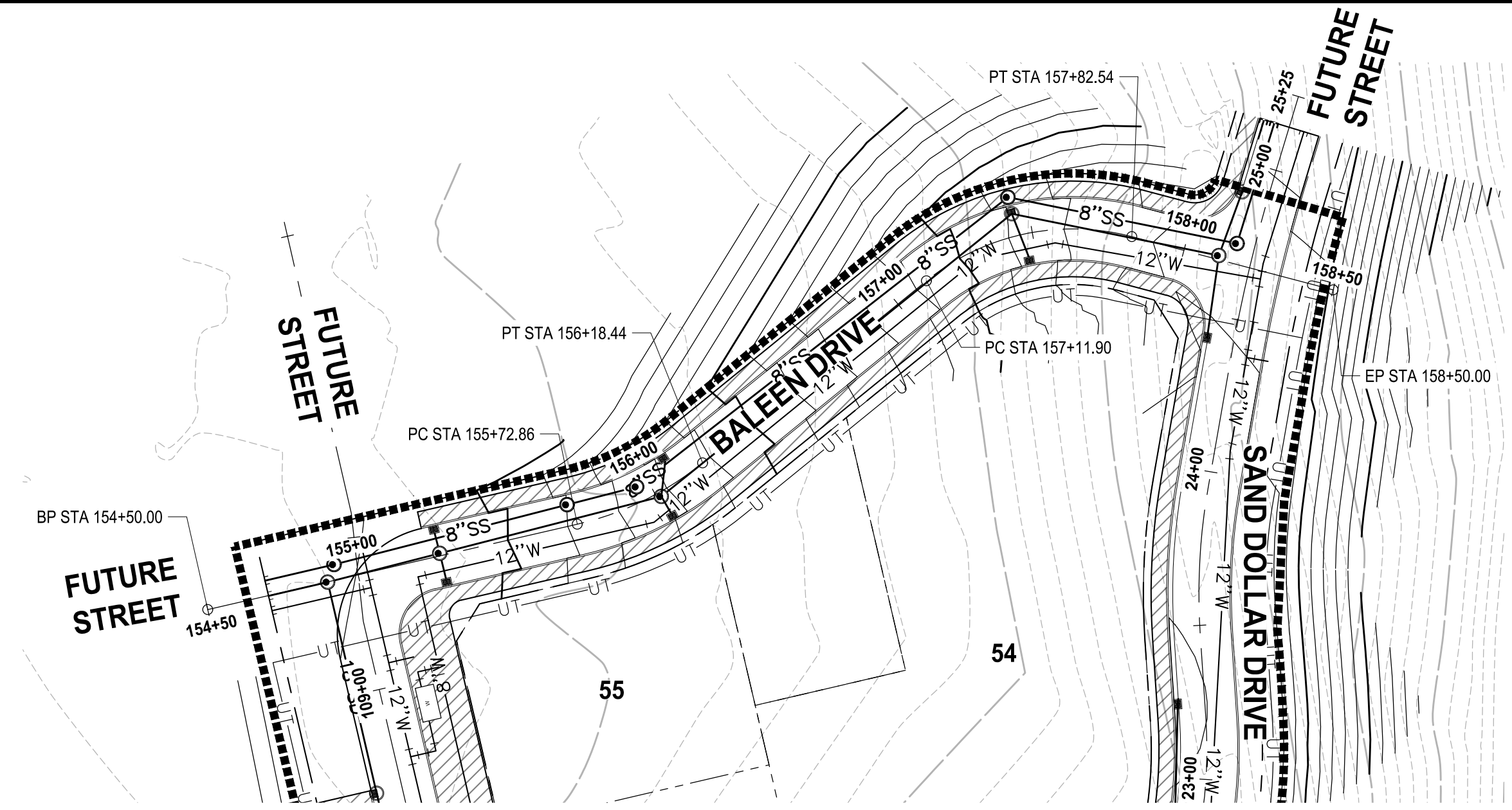


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

**SHORELINE DRIVE
 PLAN & PROFILE**
STA 100+00 TO 110+00

DRAWING NO.
 12 OF 15
PR01

PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-001 Depoe Hills\995\cs\CADD\DWG\W\ P12\SHEETS\Preliminary Plan PLOTTED BY: GarraW DATE: Thursday, February 8, 2024 9:50:51 AM
 LAYOUT: STREET PLAN AND PROFILE



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			CHECKED J. FROST
			APPROVED J. FROST

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 FILE NAME
 8249001-C9_0-PR02
 JOB No.
 297-8249-001
 DATE
 FEBRUARY 2024

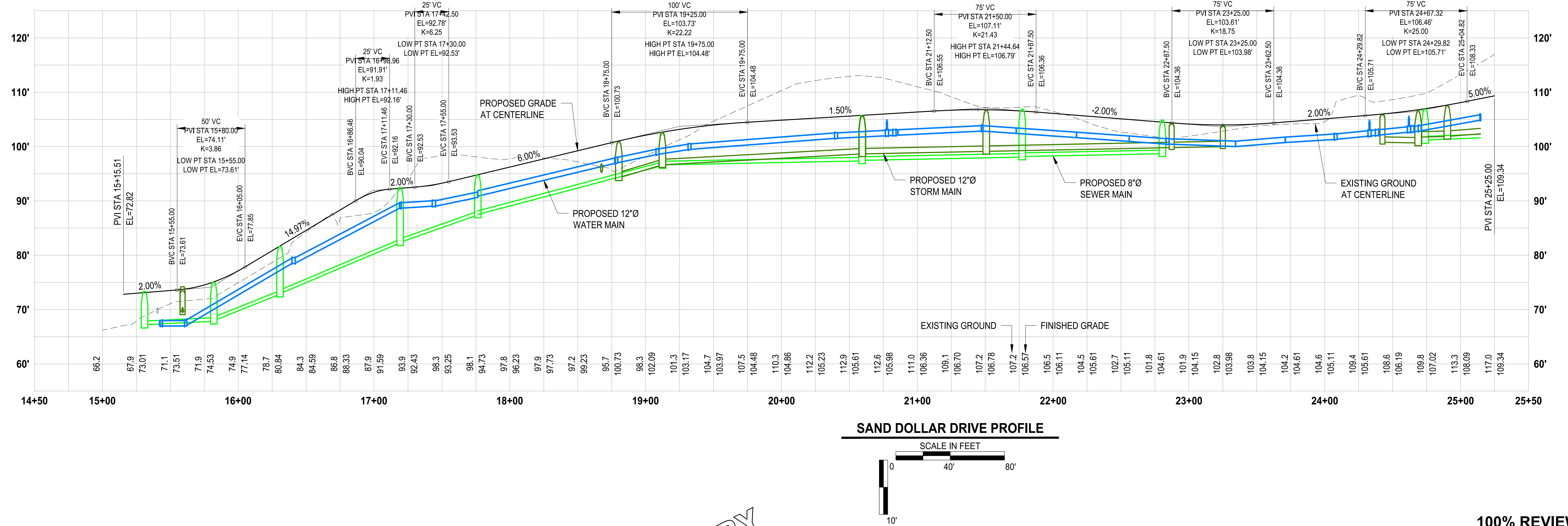
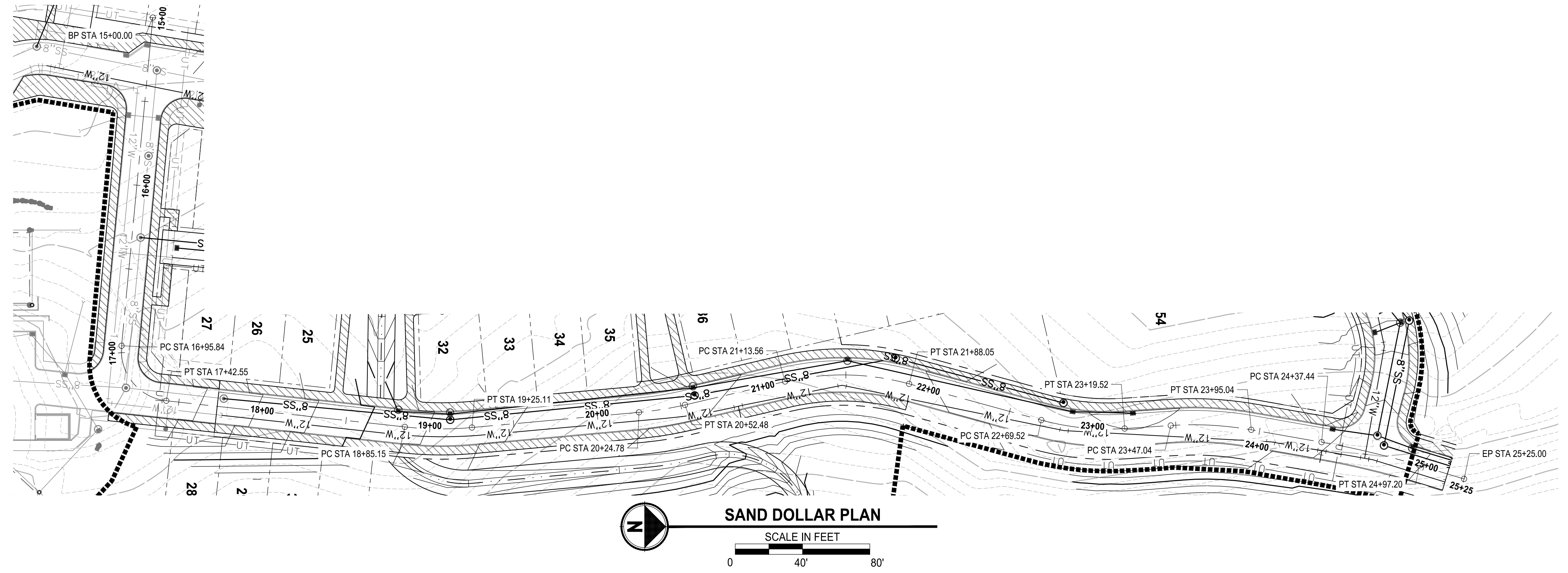


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

**BALEEN DRIVE
 PLAN & PROFILE
 STA 154+50 TO 158+50**

DRAWING NO.
 13 OF 15
PR02

PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay_LP\297-8249-001 Depoe Hills\995\cs\CADD\DWG\W\ P12\SHEETS\ Preliminary Plan PLOTTED BY: GarraW DATE: Thursday, February 8, 2024 9:50:59 AM
 LAYOUT: STREET PLAN AND PROFILE



PRELIMINARY

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			Z. GARRARD
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			Z. GARRARD
			CHECKED
			J. FROST
			APPROVED
			J. FROST

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 IF NOT, SCALE ACCORDINGLY**
 FILE NAME
 8249001-C9.0-PR03
 JOB No.
 297-8249-001
 DATE
 FEBRUARY 2024

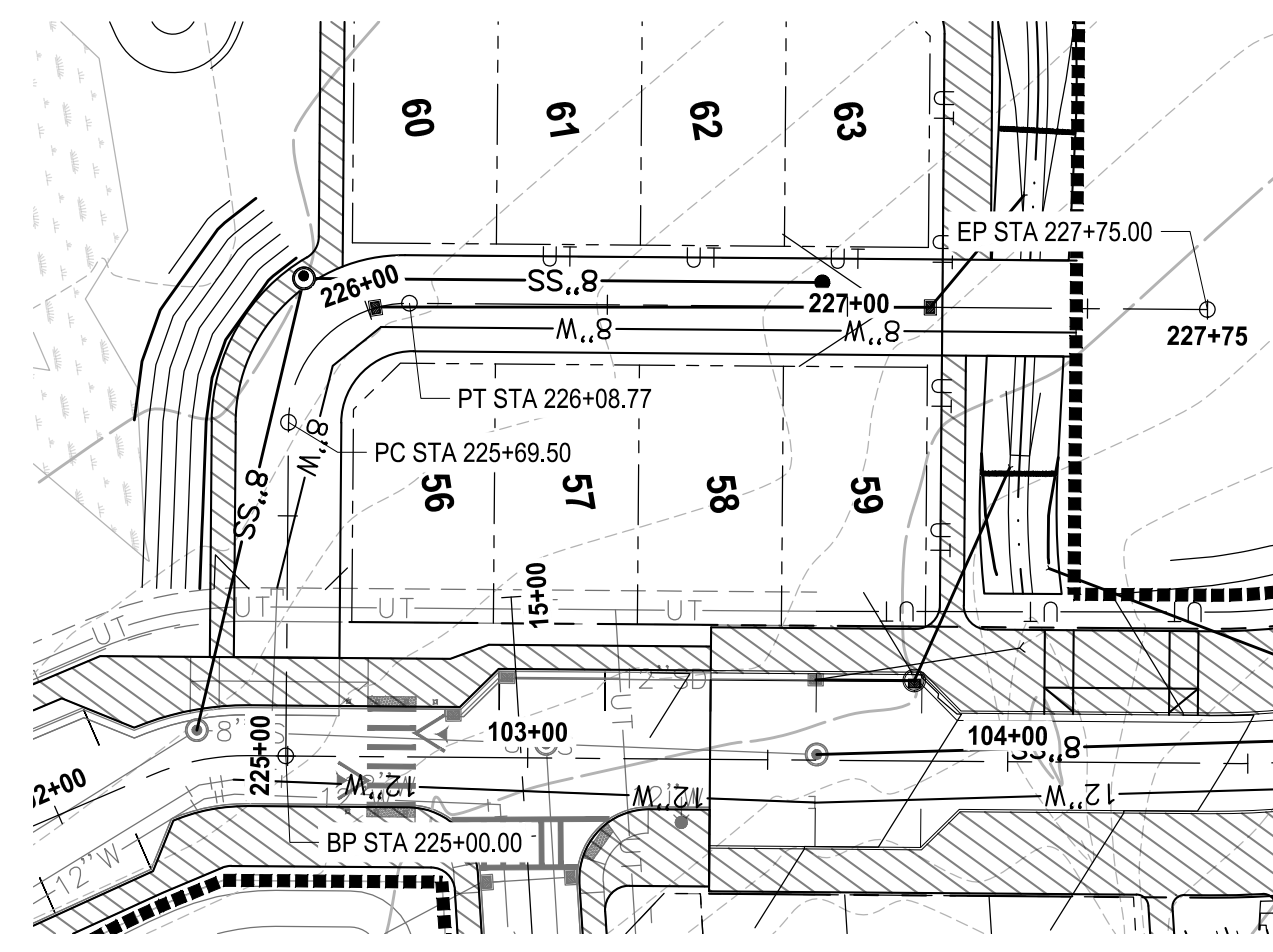


PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

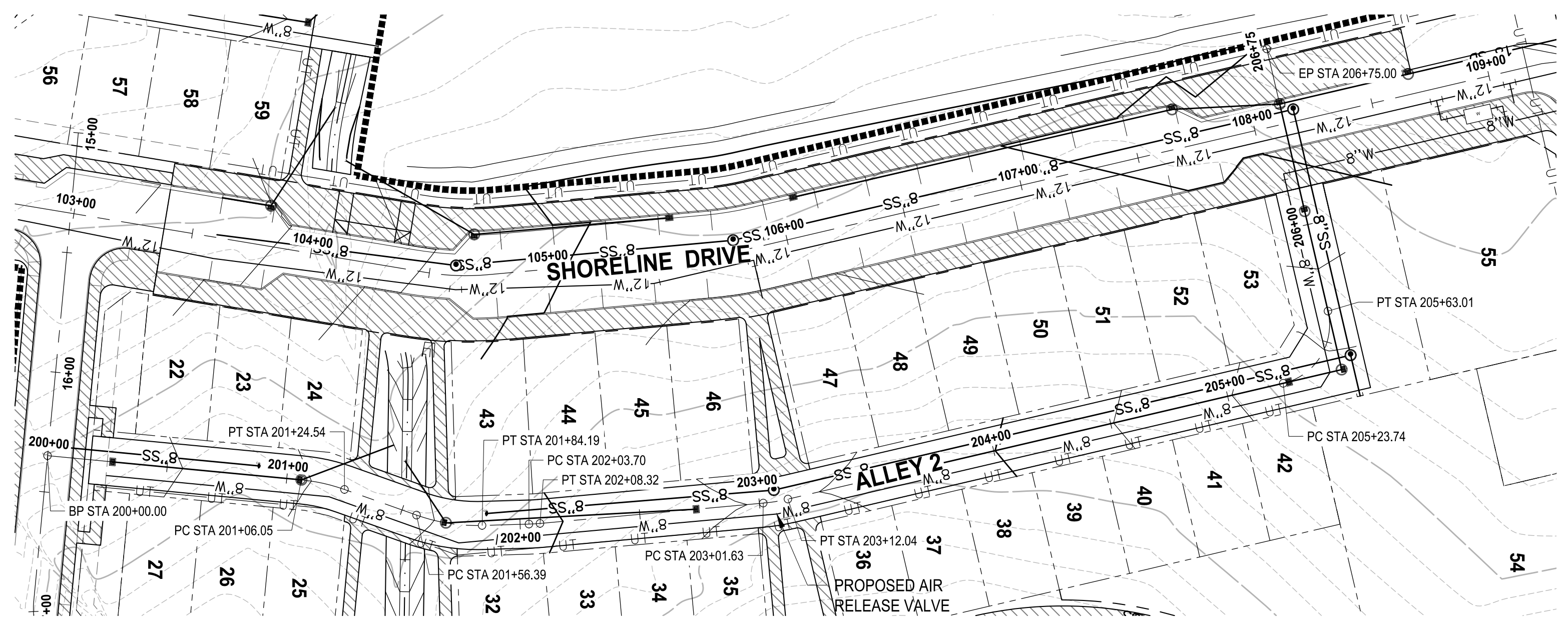
**SAND DOLLAR DRIVE
 PLAN & PROFILE
 STA 15+00 TO 25+25**

DRAWING NO.
 14 OF 15
PR03

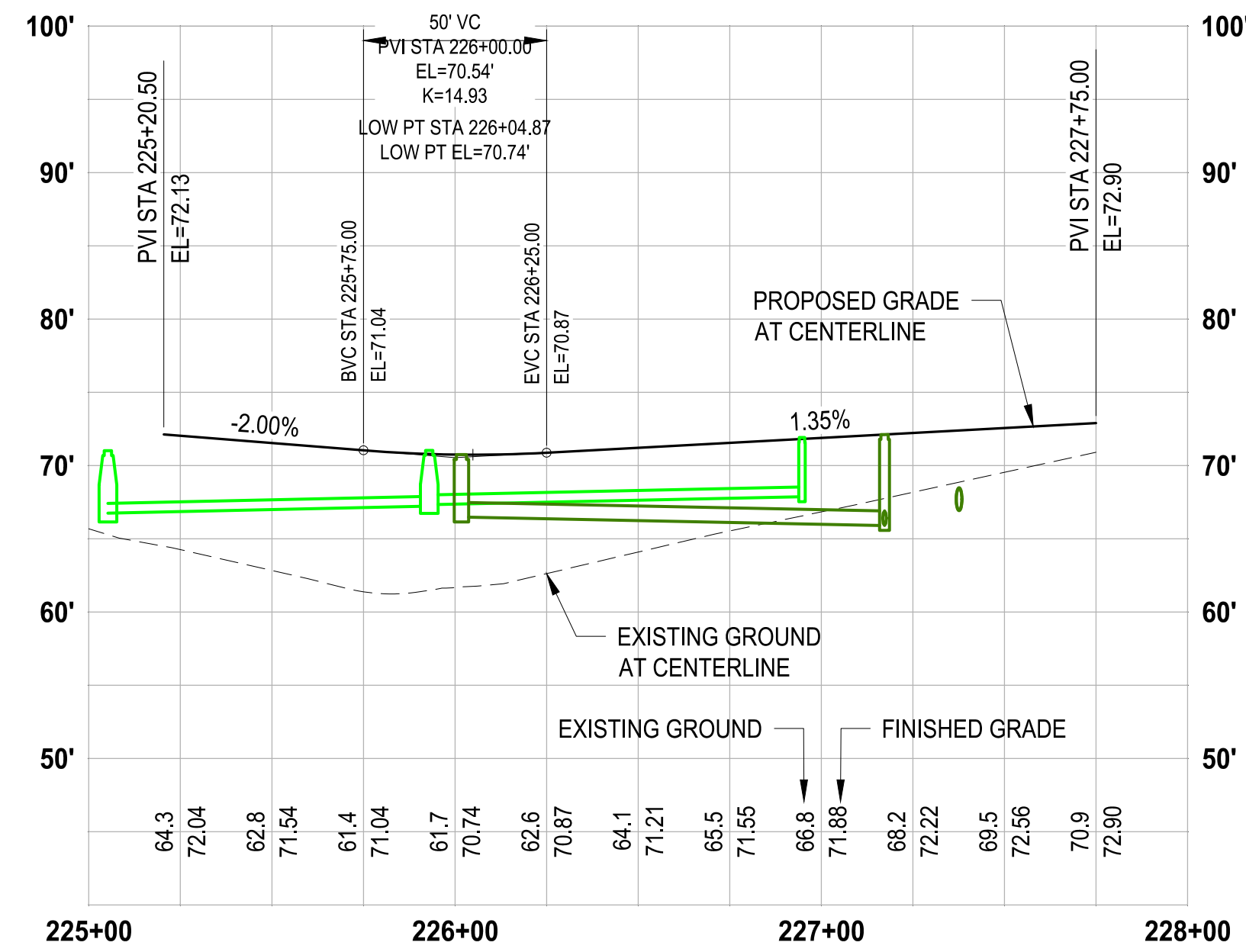
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 LAYOUT: STREET PLAN AND PROFILE



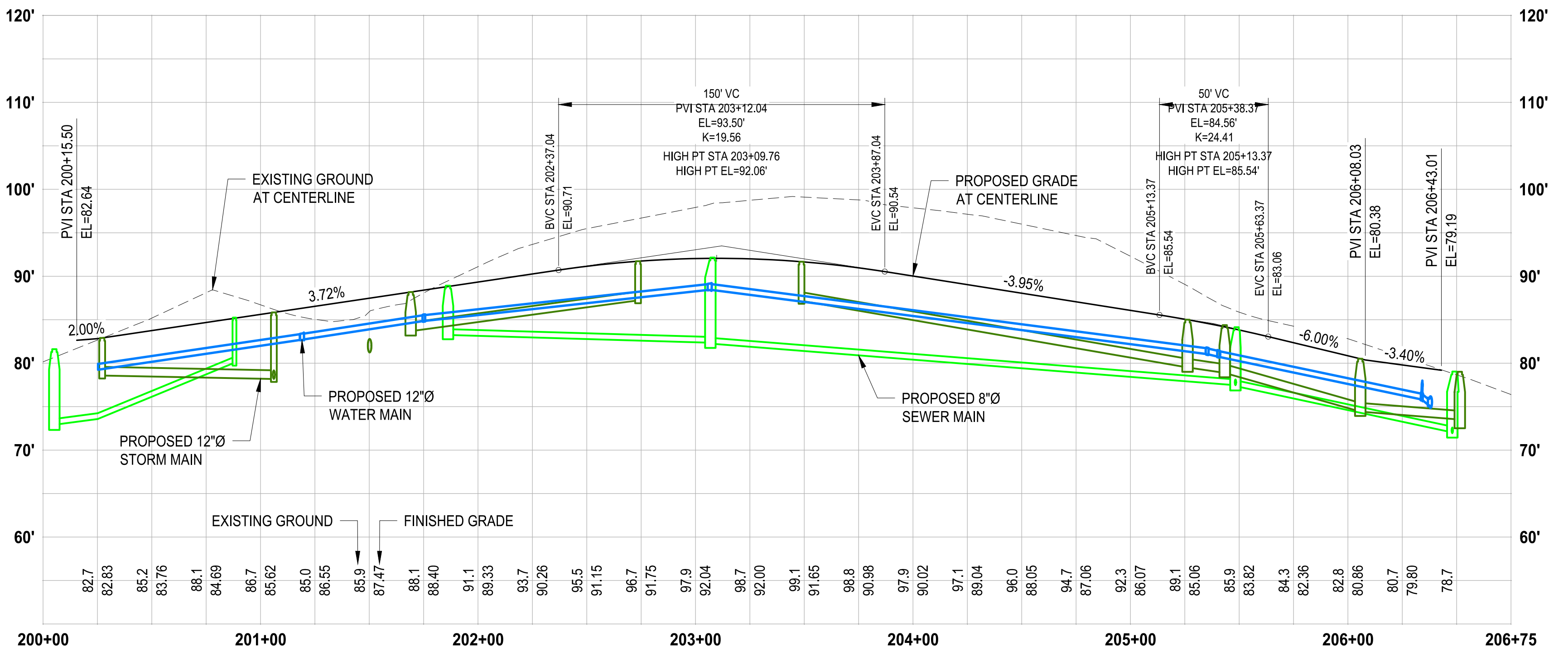
ALLEY 1 PLAN
SCALE IN FEET
0 40' 80'



ALLEY 2 PLAN
SCALE IN FEET
0 40' 80'



ALLEY 1 PROFILE
SCALE IN FEET
0 40' 80'
10'



ALLEY 2 PROFILE
SCALE IN FEET
0 40' 80'
10'

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			Z. GARRARD
			J. FROST
			J. FROST

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 FILE NAME: 8249001-C9.0-PR04
 JOB No.: 297-8249-001
 DATE: FEBRUARY 2024

PRELIMINARY



PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

**ALLEY 1 & ALLEY 2
 PLAN & PROFILE**

DRAWING NO.
 15 OF 15
PR04

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BIRDSEYE VIEW - LOOKING EAST

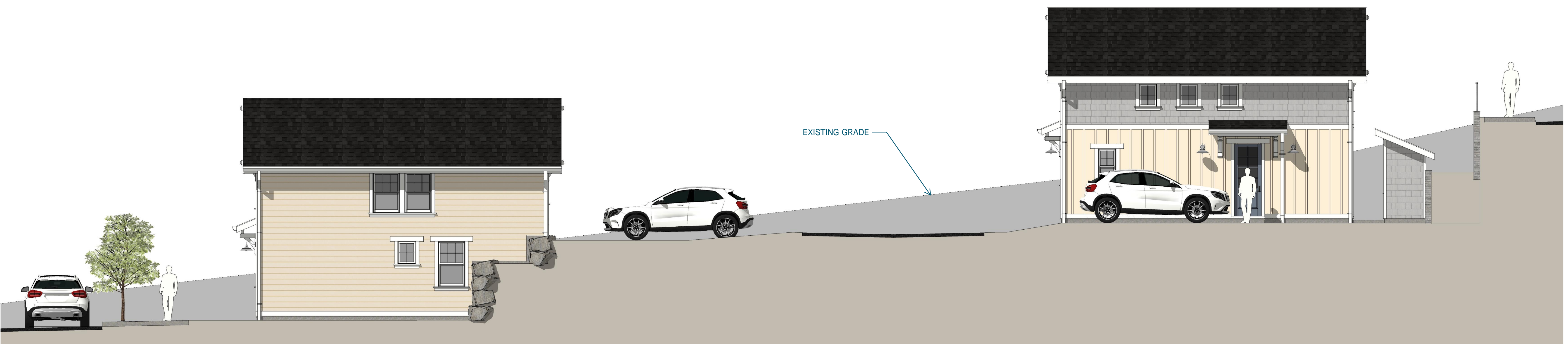


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WHALE WATCH
PHASE 2

project/client description



CONCEPTUAL
PLANS

sheet description

SITE SECTION LOOKING NORTH

DISCLAIMER:
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A1

exhibit

FROM ALLEY - LOOKING NORTH TOWARDS EAST BLOCK - UNIT TYPE 'A'



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DEPOE HILLS
SEA FARTHER LIVE CONNECTED



FROM ALLEY - LOOKING NORTH TOWARDS WEST BLOCK - UNIT TYPE 'C'

WHALE WATCH
PHASE 2

project | client description

CONCEPTUAL
PLANS

sheet description

A2

exhibit

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FROM SHORELINE DRIVE - LOOKING UP (EAST) TOWARDS ALLEY



BIRDSEYE VIEW - LOOKING WEST



WHALE WATCH PHASE 2

project | client description

CONCEPTUAL PLANS

sheet description

A3

exhibit

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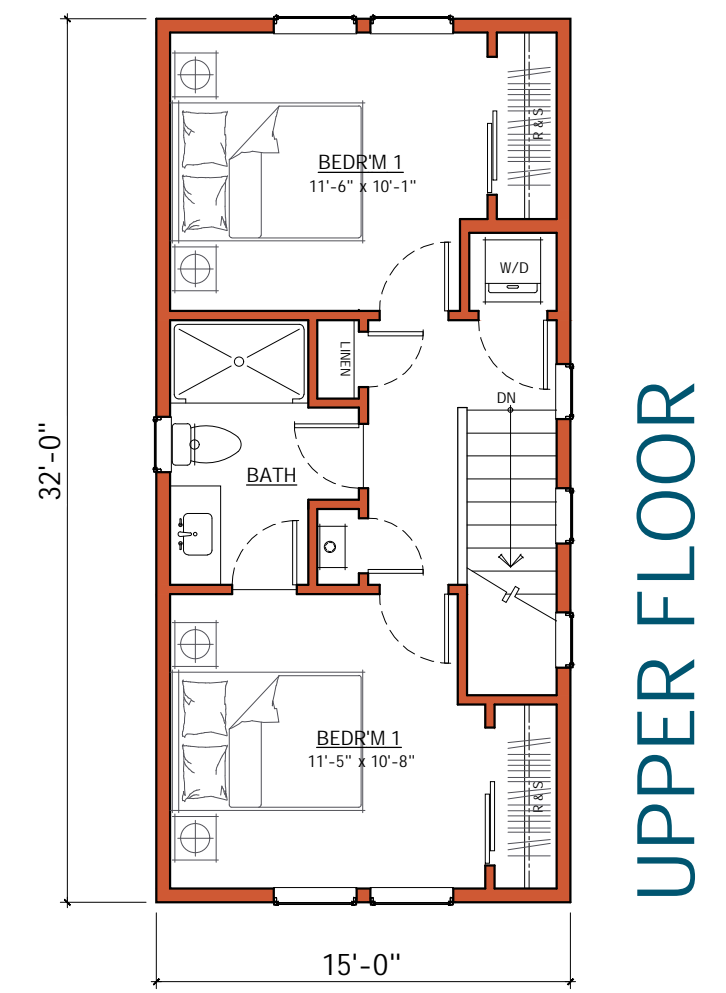
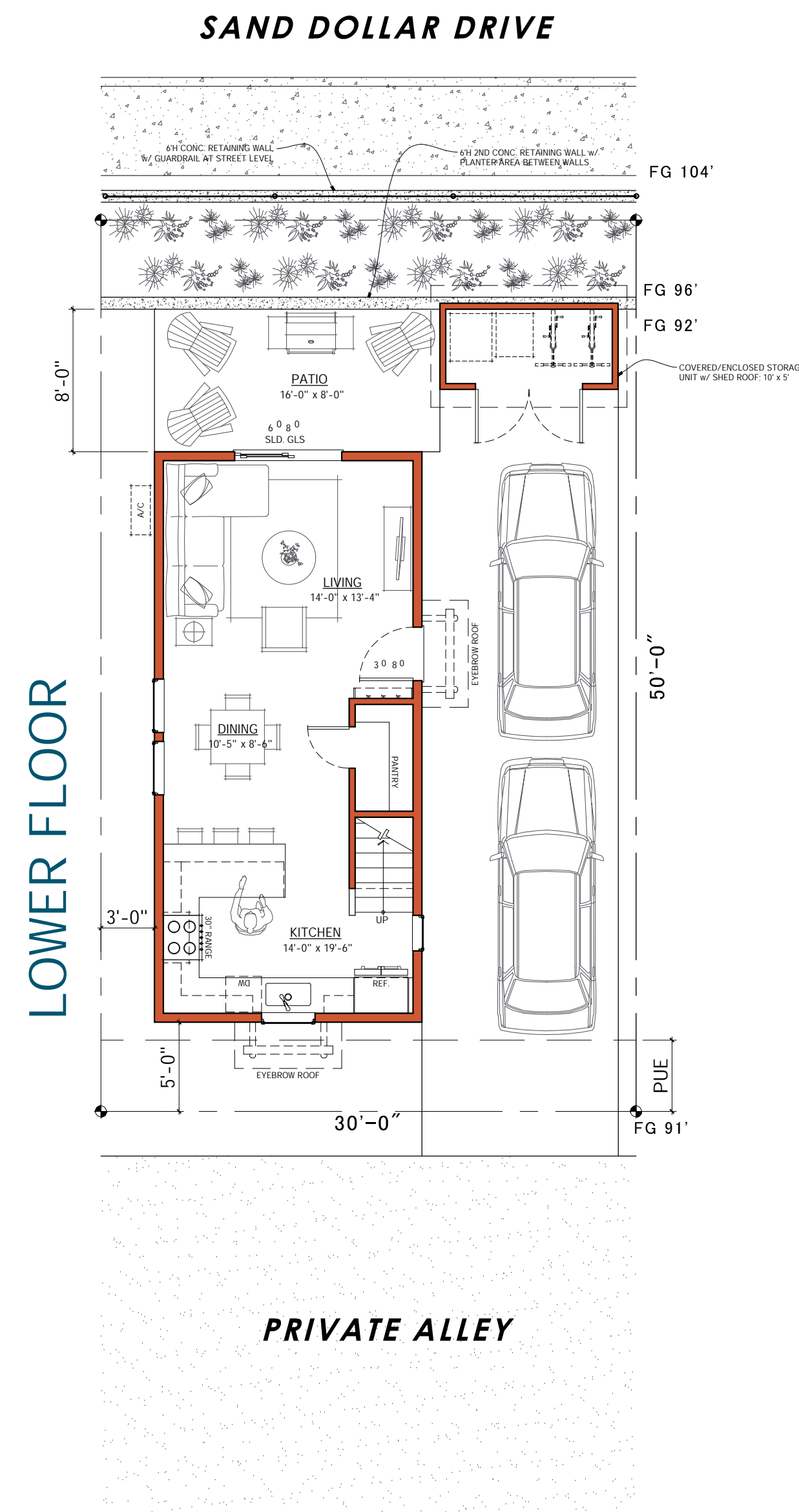
NOTICE: THESE PLANS ARE NOT STAMPED BY AN ENGINEER OR ARCHITECT. LOCAL BUILDING CODES AND/OR OTHER APPLICABLE LAWS, CODES, RULES OR ORDINANCES MAY REQUIRE THESE PLANS TO BE STAMPED BY AN ENGINEER AND/OR ARCHITECT PRIOR TO RECEIPT OF A BUILDING PERMIT. OWNER, CONTRACTORS, AND/OR AGENTS ARE SOLELY RESPONSIBLE FOR OBTAINING ALL STAMPS.

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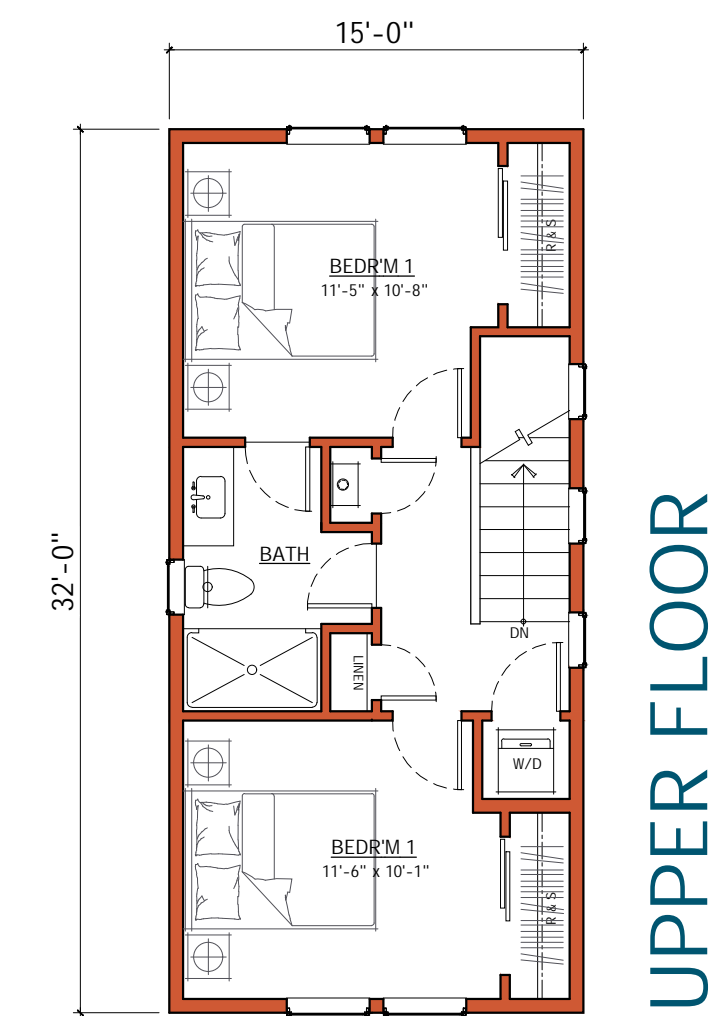
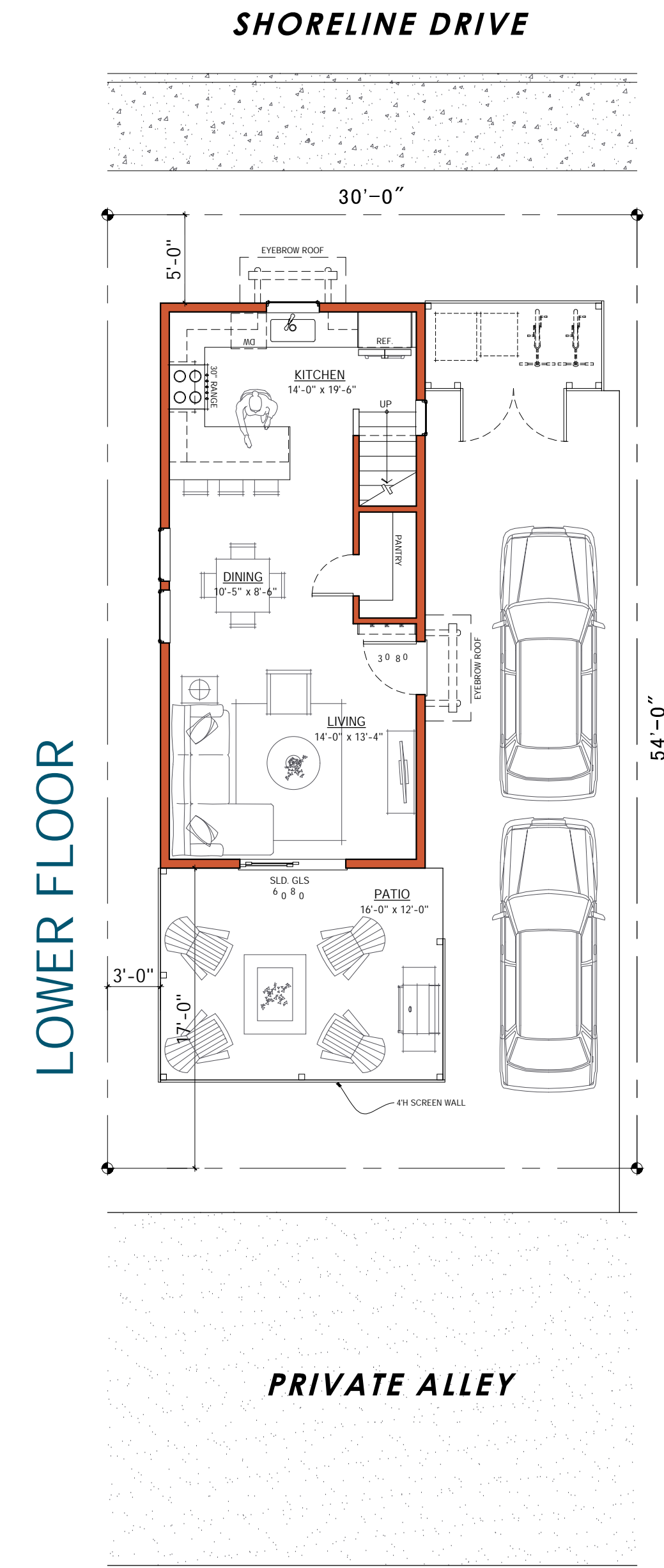
UNIT TYPE 'A'

LOTS 25-42, 56-59
2-STORY, 2 BED, 1 BATH
960 SQ. FT.



UNIT TYPE 'B'

LOTS 56-59
2-STORY, 2 BED, 1 BATH
960 SQ. FT.



WHALE WATCH PHASE 2

project | client description

CONCEPTUAL PLANS

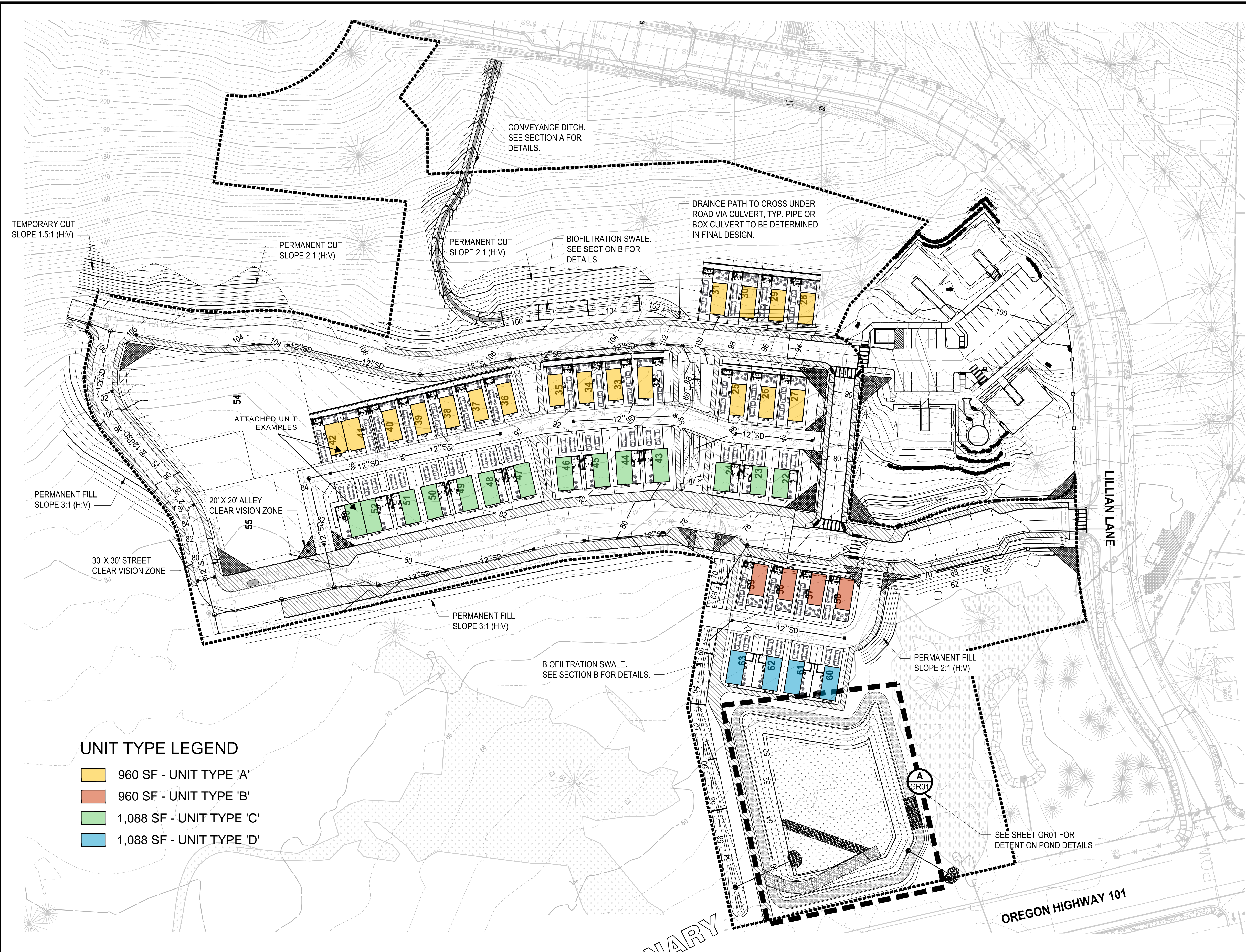
sheet description

A4

exhibit

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LAYOUT: GRADING PLAN
PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Hills\995\95\CADD\CWG_WW_Ph2\SHEETS\Preliminary_Plan
PLOTTED BY: CorroWill DATE: Thursday, February 8, 2024 9:48:47 AM



UNIT TYPE LEGEND

	960 SF - UNIT TYPE 'A'
	960 SF - UNIT TYPE 'B'
	1,088 SF - UNIT TYPE 'C'
	1,088 SF - UNIT TYPE 'D'

SCALE IN FEET
0 50 100
100% REVIEW SUBMITTAL
NOT FOR CONSTRUCTION

PRELIMINARY

REVISIONS	DATE	BY	DESIGNED
			Z. GARRARD
			DRAWN
			Z. GARRARD
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			J. FROST
			APPROVED
			J. FROST

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FILE NAME
8249001-CB.0-CR00
JOB No.
297-8249-001
DATE
FEBRUARY 2024

PROJECT NAME
**WHALE WATCH
PHASE TWO
PRELIMINARY PLAN**
DEPOE BAY, OR

**CONCEPTUAL SITE /
COMMUNITY LAYOUT**



February 23, 2024

Kit Fox, ACIP, City Planner
City of Depoe Bay
570 SE Shell Avenue
Depoe Bay, OR 97341

Dear Mr. Fox:

The Hills of Depoe Bay, LLC is requesting a zone change for Whale Watch Phase 2 to append the Planned Development (PD) suffix to the underlying R-1 and C-1 zones. We are also requesting a boundary change as necessary for the building types proposed which is a combination of single family, multi-family, and a civic building.

Sincerely,

A handwritten signature in black ink that reads "Chris van der Velde".

Chris van der Velde
Vice President

Enclosure: Whale Watch Phase 2 – Zone Change Map

LAYOUT: ZONE CHANGE
 PATH: U:\Bend\Projects\Clients\8249-Hills of Depoe Bay, LP\297-8249-001 Depoe Hills\95\95\95\CADD\DWG\W\ Ph2\Sheets\Preliminary Plan
 PLOTTED BY: GarroW\ DATE: Friday, February 23, 2024 11:25:34 AM

LEGEND - LAND USES

- OPEN SPACE
- ROADWAY RIGHT-OF-WAY
- SINGLE FAMILY RESIDENTIAL
- MULTI-FAMILY RESIDENTIAL
- CIVIC BUILDING

ZONE CHANGE NOTES:

EXISTING ZONING:
R-1, C-1

PROPOSED ZONING:
R-1 PD LOT(S): 22-54, 56-63
C-1 PD LOT(S): 55

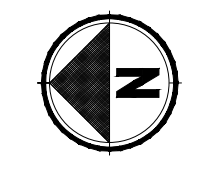
AREA CALCULATIONS:

EXISTING R1	6.81 - ACRES
EXISTING C1	2.83 - ACRES
PROPOSED R1-PD	7.19 - ACRES
PROPOSED C1-PD	2.45 - ACRES



ZONE BOUNDARY
 EXISTING R1
 PROPOSED C1-PD
 PHASE BOUNDARY

APPROXIMATE
 EXISTING ZONE
 BOUNDARY LINE



SCALE IN FEET
0 50 100

100% REVIEW SUBMITTAL
NOT FOR CONSTRUCTION

PRELIMINARY

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			APPROVED
			J. FROST

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 JOB No.
 297-8249-001
 DATE
 FEBRUARY 2024



PROJECT NAME
**WHALE WATCH
 PHASE TWO
 PRELIMINARY PLAN**
 DEPOE BAY, OR

ZONE CHANGE

DRAWING NO.
 16 OF 16
ZN00



March 14, 2024

City of Depoe Bay
570 SE Shell Avenue
PO Box 8
Depoe Bay, OR 97341

RE: Whale Watch Phase 2 Preliminary Plan Application - Engineering Review

AKS has reviewed the Whale Watch Phase 2 Preliminary Plan application materials provided by Hills of Depoe Bay, LLC. Below is a summary of engineering comments. The following application materials were reviewed:

- Preliminary Plans by Parametrix – Dated February 2024
- Preliminary Narrative – Dated 2/12/2024

Project Background: The applicant is proposing a 57-lot residential subdivision of 12.70-acres. This application is part of a master planned developed which has approval from City Planning Commission under Case File #1-PC-PC-23,

Sanitary Sewer:

The applicant is proposing to extend gravity sewer through the development to serve the proposed lots. The new sewer will connect to the existing gravity system in Lillian Lane. The plans show a line in Baleen Drive with no connections. This line is presumed to be extended with future phases. The applicant is responsible for ensuring all gravity lines installed within the development are adequately sized to accommodate flows from future phases of the applicant's Master Plan. All sanitary sewer manholes shall be located within the traveled roadway.

The preliminary sanitary sewer plans appear approvable with minor modifications as listed above.

Water:

The water system in the proposed development spans two pressure zones, defined as Zones 1 and 2 in the applicants Water Master plan. Water lines are looped throughout the development and the two pressure zones are connected through a pressure reducing valve assembly located near the intersection of Shoreline Drive and Baleen Drive. Proposed water lines connect to the existing system in Lillian Lane. The preliminary utility plan shows two water lines in what appears to be a shared trench extending from Lillian Lane to Sand Dollar Drive, within Shoreline Drive. These water lines shall be separated by minimum of 6-ft during final design.

The preliminary water plans appear approvable with minor modifications as listed above.

Stormwater:

Stormwater systems are provided throughout the development to collect and convey stormwater runoff from the roadways and development areas through a series of inlets, manholes and pipes. The system shall be redesigned to separate inlets from conveyance lines. This can be addressed in final design.

Several open-channel conveyance systems are proposed. Open channels shall be vegetated or armored with rip rap to mitigate scour. This can be addressed in final design.

Stormwater from approximately half of the development area drains to a large stormwater facility located in Tract 'P'. This pond appears generally consistent with what the applicant depicted in the *Whale Watch Village Master Plan Preliminary Stormwater Management Plan*, dated April 2022.

The remaining development area drains to an unidentified discharge point near the intersection of Shoreline Drive and Baleen Drive. Stormwater management for this outfall must be addressed in final engineering.

The preliminary stormwater plans appear approvable with minor modifications as listed above.

Streets:

The applicant proposes a 55-ft right-of-way on Shoreline Drive, 63-ft for Sand Dollar and Baleen Drives, and 25-ft right-of-way for the two alleys. The width of travelled way is 20-ft for all roadways. Road Section C – Sand Dollar Drive notes 'soft surface path where shown' in lieu of concrete sidewalks. Soft surface paths are not acceptable in the public right-of-way

The roadway slope of Sand Dollar Drive is 14.97% at the intersection with Alley 2. This slope is too steep for an intersection and should be redesigned in final engineering.

The preliminary street plans appear approvable with minor modifications as listed above.

Conclusion

If the City finds the application approvable, we recommend the following conditions be integrated into the Decision.

Recommended Conditions of Approval:

1. Prior to issuance of construction permits the applicant shall submit and obtain a 1200-C permit from DEQ.
2. Prior to issuance of construction permits the applicant shall provide approvals from Oregon Department of State Lands and US Army Corps of Engineers for any wetland impacted by the development.
3. All sanitary sewer mains shall be gravity with minimum 8" diameter.
4. Prior to issuance of construction permits, the applicant shall obtain approval from Oregon DEQ for all sanitary sewer improvements.
5. All water systems shall be design in accordance with OAR 333-061.
6. Prior to issuance of construction permits, the applicant shall obtain approval from Oregon Health Authority for all water system improvements.
7. Prior to issuance of the construction permits the applicant shall submit a final stormwater report.
8. Storm mains shall be constructed within the roadways with mainline connecting to manholes at maximum 500-ft spacing. Catch basins shall connect directly to manholes. Up to two catch basin leads may be connected prior to connection to the manhole.
9. All public improvements shall be constructed in accordance with the City of Depoe Bay Municipal Code. Where the City Municipal Code is silent, improvements shall meet the 2021 Oregon Standard Specifications for Construction and ODOT design standards.
10. All roadway design shall meet AASHTO's Geometric Design of Highways and Streets, 2018, 7th Addition.
11. A photometric plan shall be submitted for the review of the illumination plan. Lighting levels shall meet ANSI/IES RP-8 American National Standard Practice for Roadway Lighting. Luminaires shall be LED and dark sky compliant.

12. All streets shall be designed to meet 2011 PROWAG guidelines.
13. All trails shall be design in accordance with the Forest Service Trail Accessibility Guidelines (FSTAG) 2013.
14. The applicant shall submit a final geotechnical report with final engineering plans. Site grading must be design in accordance with the recommendations of the geotechnical engineer.

Sincerely,



John P. Christiansen, PE
12965 SW Herman Road, Suite 100
Tualatin, OR 97062
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§ 152.025 RESIDENTIAL ZONE R-1.

In an R-1 Zone, the following regulations shall apply.

(A) *Uses permitted outright.* In an R-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, and 152.225 through 152.235 where applicable:

- (1) A single-family dwelling built on the site;
- (2) Manufactured home;
- (3) Pre-fab heated or modular dwelling;
- (4) A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle:
 - (a) Is located during the time the construction is underway; and
 - (b) Will not remain more than one year from date of placement or 30 days following substantial completion, whichever is earlier.
- (5) Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further that no commercial structure shall be constructed or maintained on the premises;
- (6) Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building;
- (7) Residential homes;
- (8) Family day care provider;
- (9) Transparent occupation; and
- (10) Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous, and cause no odor off-site.

(B) *Conditional uses permitted.* In an R-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, and 152.225 through 152.235 where applicable:

- (1) Cemetery;
- (2) Church;
- (3) Community center;
- (4) Day nursery, nursery school, kindergarten, or similar facility;
- (5) Governmental structure or use of land;
- (6) Home occupation;
- (7) Golf course or country club, but excluding golf driving range, miniature golf course, or similar facility;
- (8) Private non-commercial recreation club, such as tennis, swimming, or archery club, but excluding commercial amusement or recreation enterprises;
- (9) Public park, playground, or swimming pool;
- (10) Public school or private school offering curricula similar to public school;
- (11) Public or private utility facility;
- (12) Radio or television transmitter or tower; and
- (13) Solid waste disposal transfer station.

(C) *Standards.* Except as provided in §§ 152.055 through 152.076, 152.115 through 152.117, and 152.130 through 152.136, in an R-1 Zone, the following standards shall apply.

- (1) *Lot size and dimension.* The minimum lot size and dimension in an R-1 Zone shall be as follows:
 - (a) The minimum lot area shall be 5,000 square feet;
 - (b) The minimum lot width at the front lot line shall be 50 feet for an interior lot and 55 feet for a corner lot, except flag lots. The staff of a flag lot shall have a minimum width and frontage of not less than 25 feet;
 - (c) The minimum lot depth shall be 80 feet; and
 - (d) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the

landward extent of the property.

(2) *Yards.* The minimum yard requirements in the R-1 Zone shall be as follows:

(a) The front yard shall be a minimum of 20 feet;

(b) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever is the greater;

(c) The street side yard shall be a minimum of 20 feet except this may be reduced by one foot for each foot the average lot width is less than 60 feet, however, no street side yard shall be less than ten feet (see **LOT WIDTH** in § 152.003 of this chapter for method of calculation);

(d) The rear yard shall be a minimum of ten feet, except that on a corner lot, it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater; and

(e) No structure shall be located closer than 60 feet from the centerline of any state highway.

(3) *Building height.* No building in the R-1 Zone shall exceed a height of 30 feet.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 187, passed 2-16-1993; Ord. 236, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 268, passed 11-2-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.030 RETAIL COMMERCIAL ZONE C-1.

In a C-1 Zone, the following regulations shall apply.

(A) *Uses permitted outright.* In a C-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, and 152.225 through 152.235 where applicable:

- (1) A single-family dwelling built on the site;
- (2) Manufactured dwelling;
- (3) A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle:
 - (a) Is located during the time the construction is underway; and
 - (b) Will not remain more than one year from date of placement or 30 days following substantial completion, whichever is earlier.
- (4) Agricultural use of land provided that no livestock shall be raised or kept on the premises;
- (5) Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building;
- (6) Pre-fabricated or modular dwelling;
- (7) Two-family dwelling;
- (8) Multi-family dwelling;
- (9) Retail store or shop, such as food store, gift shop, drug store, apparel store, hardware store, furniture store, or similar establishment;
- (10) Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 Zone provided all repair shall occur entirely within an enclosed building;
- (11) The manufacture, fabrication, and/or assembly of those goods offered for sale on the premises, provided all manufacturing, fabricating, assembling, and storage not exceed 50% of the total floor area of the establishment, and provided further that it shall occur within an enclosed building;
- (12) Personal or business service establishment, such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop, or similar establishment;
- (13) Clinic;
- (14) Club, lodge, or fraternal organization;
- (15) Financial institution;
- (16) Indoor commercial amusement or recreation establishment, such as a bowling alley, theater, pool hall, or aquarium;
- (17) Mortuary;
- (18) Newspaper office or print shop;
- (19) Office;
- (20) Private museum, art gallery, or similar facility;
- (21) Restaurant, bar, or tavern;
- (22) Home occupation;
- (23) Automobile service station, including minor repair, provided it is conducted entirely within an enclosed building;
- (24) Laundromat;
- (25) Retail sale of sporting goods or bait;
- (26) Condominiums;
- (27) Public or private parking lots;
- (28) Residential facility;
- (29) Time share project;
- (30) Tourist accommodation or resort; and
- (31) Commercial fishing gear storage in the part of the zone adjacent to the harbor (Tax Map 09-11-08 AB, tax lots

600, 700, 800, 900, 1000, 1100, 1101, 1200, 1201, 7900, 8000, 8100, 8200, 90000, 90001, 90002, and 90003).

(B) *Conditional uses permitted.* In a C-1 Zone, the following uses and their accessory uses are permitted, subject to the provisions of §§ 152.055 through 152.076, 152.115 through 152.117, 152.130 through 152.136, and 152.225 through 152.235, where applicable:

- (1) Church, non-profit religious, or philanthropic institution;
- (2) Community center;
- (3) Day nursery, nursery school, kindergarten, or similar activity;
- (4) Governmental structure or use of land;
- (5) Mobile vending stand;
- (6) Private non-commercial recreation club, such as tennis, swimming, or archery club;
- (7) Public park, playground, or swimming pool;
- (8) Public school or private school offering curricula similar to public school;
- (9) Public or private utility facility;
- (10) Radio or television transmitter or tower;
- (11) Solid waste disposal transfer station;
- (12) Recreational vehicle park;
- (13) Outdoor commercial amusement or recreation establishment, such as miniature golf course or drive-in theater, but not including uses, such as race track or automobile speedway;
- (14) Hospital and/or nursing home;
- (15) Drive-in services, such as a drive-in restaurant;
- (16) Billboards;
- (17) Kennel;
- (18) Animal hospital;
- (19) Automobile repair garage, provided all repair shall be conducted entirely within an enclosed building;
- (20) Boat or marine equipment sales, service, storage, or rental; boat or marine equipment minor repair, provided all such repair be conducted entirely within an enclosed building;
- (21) Lumber or building materials, sales, and storage;
- (22) Warehouse or storage area; and
- (23) Child care.

(C) *Standards.* Except as provided in §§ 152.055 through 152.076, 152.115 through 152.117, and 152.130 through 152.136, in any C-1 Zone, the following standards shall apply:

- (1) All yards abutting a lot in a residential zone shall be a minimum of ten feet;
- (2) No building in the C-1 Zone shall exceed a height of 35 feet;
- (3) Outdoor storage shall be screened with a sight-obscuring fence; and
- (4) Kennels shall be located:
 - (a) No closer than 75 feet from a residential zone; and
 - (b) No closer than 20 feet from a property line.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 92, passed 7-7-1982; Ord. 130, passed 4-6-1987; Ord. 154, passed 9-17-1990; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 186, passed 12-22-1992; Ord. 187, passed 2-16-1993; Ord. 217, passed 4-17-1995; Ord. 234, passed 12-16-1996; Ord. 268, passed 11-2-2004; Ord. 279, passed - -2007; Ord. 327-21, passed 4-20-2021) Penalty, see § 152.999

§ 152.042 PLANNED DEVELOPMENT ZONE (P-D).

(A) *Purpose.* The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design, and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

- (1) Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical, and natural resource values and constraints present on a particular site;
- (2) Respect the surrounding context and enhance community character;
- (3) Provide open space;
- (4) Provide pedestrian and bicycle facilities, such as sidewalks in commercial and high density areas, hiking trails, and bicycle trails;
- (5) Permit greater flexibility in the siting of buildings and other physical improvements, and in the mixing of housing types, in order to accomplish desirable design objectives;
- (6) Provide adequate, structurally sound public and private streets and utilities;
- (7) Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the Comprehensive Plan;
- (8) Ensure the safety of the residents of the city and visitors to the city;
- (9) Allow logical, efficient development or redevelopment of adjacent properties within the P-D and properties adjacent to the P-D;
- (10) Supersede the provisions of §§ 152.250 through 152.265 of this chapter when the latter are expressly contrary to a specific provision of this section, or upon application to and approval by the Planning Commission, provided such approval is consistent with the purpose of this section; and
- (11) Allow for flexibility of land uses, such as allow tourist accommodations in residential zones with standards and ensure the developer and/or management company is responsible for all management of the tourist accommodation, including but not limited to responding to noise, trash, overcrowding, and parking complaints. The intent is to place all responsibility on the developer, management, HOA, or property owner, provide the public with easily-accessible management contact, and minimize city time and expense related to the tourist accommodation use.

(B) *General requirements.* The following general requirements shall govern planned developments.

- (1) A planned development may be established in any zone other than the T-C Zone.
- (2) On land subject to an approved planned development, only those uses, structures, and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.
- (3) (a) A planned development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 Zones may be permitted when compatible with each other and harmonious with adjacent uses.

(b) The one exception to division (B)(3)(a) above is the possible approval of short-term rentals (tourist accommodations per § 152.003 of this chapter and including time shares) to the planned development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 Zones. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres. Tourist accommodations in residential zones shall be limited to single-family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, and the like), buffered (space, sight, and sound buffered) from all adjacent uses other than commercial uses, and buffered from adjacent properties that are outside of the P-D. The following city standards shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.
 1. *Nuisance control.* No noise, lights, dust, smoke, odors, and electromagnetic frequencies generated on-site in excess of the amounts normally associated with residential uses shall emanate off-site or interfere with surrounding residential or commercial uses.
 2. *Lighting.* Outside lighting shall be restricted to low voltage lighting and/or motion sensor lighting for security.
 3. *Off-street parking.* For tourist accommodation dwelling uses, off-street parking space requirements are:
 - a. A single-family or two-family dwelling shall have one on-site parking space for each bedroom. A minimum of two parking spaces shall be provided per dwelling;
 - b. A multi-family dwelling shall have one parking space for each bedroom located immediately adjacent to the unit. A minimum of two parking spaces shall be provided per dwelling;
 - c. A parking lot for overflow vehicles, consisting of one additional space per dwelling unit, that shall be in the

immediate area of the tourist accommodations; and

d. If a dwelling unit is a residence plus a tourist accommodation, two additional spaces are required on the same property.

4. *Solid waste disposal.* For tourist accommodation dwelling uses, a minimum 96-gallon vessel shall be provided for each unit, and the unit shall have “carry-out”/“valet” (no need to put vessels at curb) service. A multi-unit dumpster type unit may be substituted, it must be enclosed to the sight-line. Weekly solid waste pick-up is required during all months of the year.

5. *State law compliance.* It is the property owner’s responsibility to ensure that a tourist accommodation dwelling use remains in substantial compliance with state regulations for the following: health, safety, Building Code, Fire Code, tourist accommodation statutes, and the Uniform Housing Code.

6. *Occupancy.* Tourist accommodation dwellings shall not exceed two persons per bedroom plus one additional person per dwelling.

7. *Signage.* The management entity shall only have one exterior on-site sign for the tourist accommodation area. The sign shall identify the site as a tourist accommodation area; identify a local contact person; state that the local contact person is available 24 hours each day, seven days a week to handle rentals and complaints; and identify the local contact person’s business license number. An interior sign with this same information shall be placed inside each tourist accommodation in a noticeable location, such as, near the front door or in the kitchen.

8. *Business license.* For a tourist accommodation dwelling, the property owner and property management company are required to have a city business license. In addition, for tourist accommodation dwelling uses, transient room tax ordinance provisions shall apply.

9. *Revocation.* Any violation of the requirements or standards of this P-D Zone or any other city ordinance may result in revocation of the transient rental unit business license.

(4) Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other non-residential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.

(5) No building shall exceed the height allowed in the underlying zone.

(6) Yards, setbacks, lot area, lot coverage, and similar dimensional requirements may be reduced, adjusted, or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.

(7) In the event of a conflict between any applicable use zone provision and the allowances, limitations, or requirements of an approved preliminary plan, the approved preliminary plan shall control.

(8) A planned development shall have a minimum of two contiguous acres, exclusive of street right-of-way. A planned development with tourist accommodations in residential zones shall have a minimum of five contiguous acres.

(9) Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park, or natural land.

(10) Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40-foot wide designated forested corridor on both sides of Highway 101 right-of-way from south point street south to the city limits which shall instead include a four-foot wide walking/biking path (§ 152.074(B)(3) of this chapter applies). The planned development shall also include a connected pedestrian system/network.

(11) Parking shall conform to § 152.058 and Diagram A of § 152.031, with the exception that all parking areas shall be paved.

(12) A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the city. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.

(13) Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, and the like). Section 152.074 of this chapter applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service state listed noxious weeds shall be removed and shall not be planted.

(C) *General approval process.* At a minimum, a preliminary plan and lastly a final plan shall be submitted for approval for all planned developments. Once the preliminary plan is approved and the final engineered plans are reviewed and approved by the city, work on the development’s infrastructure may proceed. The final plan is primarily an as-built of the streets and infrastructure, and no building permits shall be approved until the effective date of the final approval of the plan. If the planned development is to be developed in a number of individual sections or phases, each which is developed separate from the others (a phased planned development), a master plan shall first be submitted for approval. Once the master plan for the entire development is approved, each phase (section) of the development shall follow the standard preliminary plan

and final plan process.

(1) If the planned development is a phased planned development, the initial step is the submission of the master plan for the entire development, which shall be submitted for approval as per division (D) below.

(a) The master plan is the over-arching plan of the entire development and of all phases. The primary purpose of a master plan is to propose and establish the development's overall concept, overall planning, and the integration of all phases. Master plan approval does not permit development or construction to occur.

(b) If a master plan for a phased development is approved, the applicant or its successor shall obtain separate preliminary and final approvals for each phase. For each individual phase, a preliminary plan shall be submitted for approval as per division (E) below prior to any work starting on the infrastructure of that phase.

(c) If a preliminary plan for an individual phase impacts the master plan, an updated master plan shall be submitted with that preliminary plan.

(d) A master plan is not required for a planned development that is not using a phased development approach.

(2) For a planned development that is not a phased planned development, the initial step of a planned development is the submission of a preliminary plan for the complete development, which shall be submitted for approval as per division (E) below. Work on the development's infrastructure may only proceed once the preliminary plan is approved.

(3) A final plan shall be submitted for approval as per division (H) below upon completion of all conditions and requirements of the individual phase preliminary plan or the entire development's preliminary plan. No building permits shall be approved until the effective date of the final approval of the final plan.

(D) *Master plan.* A master plan for planned developments shall be developed as follows.

(1) *Master plan review procedure.* The procedure for application and review of a master plan shall be as set forth in § 152.204(C) of this chapter.

(2) *Content of master plan.* Application for master plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) A narrative describing the plans for phasing (if applicable);

(b) A summary describing the general locations for any reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements of this chapter; and

(c) A summary describing the general locations for any desired variances, exceptions, deviations, waivers, conditional uses, zone changes, and the like, and a supporting narrative that acknowledges the zoning application procedure and criteria order to obtain each approval.

(3) *Approval on findings.* Master plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(4) *Approval date.* Master plan approval is valid from the date all legal appeals are exhausted. Changes to an approved master plan require an application for a master plan amendment to be reviewed and approved by the Planning Commission as set forth in § 152.204(C) of this chapter.

(E) *Preliminary plan.* A preliminary plan for planned developments shall be developed as follows.

(1) *Submittal.* A preliminary plan shall be submitted for a non-phased planned development.

(2) *Phase development.* For a phased development, a preliminary plan shall be submitted for each phase of development.

(a) A preliminary plan may be submitted for a phase concurrent with a master plan application. The Planning Commission will review the preliminary plan the meeting after the master plan is approved.

(b) Each phase shall meet the criteria of divisions (E)(4), (F), and (G) below independently of the other phases.

(3) *Preliminary plan review procedure.* The procedure for application and review of a preliminary plan, which shall be as set forth in § 152.204(C).

(4) *Content of preliminary plan.* Application for preliminary plan approval of a planned development shall include all items described in division (F) below. In addition, the following shall be included:

(a) Proposed covenants, restrictions, bylaws, and the like of any homeowners associations and any taxing districts;

(b) A narrative describing the locations for any divergence from this chapter in the form of reducing, adjusting, or otherwise modifying yards, setbacks, lot area, lot coverage, and similar dimensional requirements;

(c) Submittal of any requests for variances, exceptions, deviations, waivers, conditional uses, and the like; and

(d) A narrative describing the specific area of any short-term rentals and describing how the rentals will be managed, policed, the city transient room tax (TRT) and the city transient occupancy tax (TOT) are collected, and city TRT and TOT are forwarded to the city.

(5) *Approval; findings.* Preliminary plan approval by the Planning Commission shall be based on findings that criteria described in division (G) below are satisfied.

(6) *Approval; final engineering plans.* Based on the preliminary plan approval, the applicant is required to submit final engineering plans to be reviewed and approved by the city prior to any construction. The applicant shall be responsible for all costs the city may incur by hiring a professional engineer to review and comment on the final engineering plans.

(7) *Time limit of preliminary plan approval.* Approval of a preliminary plan in accordance with this section is valid after the exhaustion of all appeals (see § 152.208). Infrastructure (streets and utilities) shall be designed and constructed in accordance with current design standards unless specific exceptions are granted by the Planning Commission.

(F) *Common content of master plan and preliminary plan.* In addition to the forms prescribed by the city, an application for master plan approval or a preliminary plan approval of a planned development shall include the following:

(1) A site plan map or maps depicting:

(a) All proposed residential and non-residential land uses;

(b) Any proposed tourist accommodation area in a residential zoned area, describing the type, location, and number of each type of tourist accommodation (house, apartment, hotel, condo, time-share, and the like), also showing and describing the buffering from adjacent uses;

(c) Parking areas and lots, showing number of spaces;

(d) Proposed lot or parcel boundaries;

(e) Proposed roads;

(f) Proposed pedestrian system and facilities;

(g) Significant natural features, such as wetland, streams courses, environmental hazards, and fish and wildlife habitat areas; and

(h) Proposed open space, recreation areas, or other common elements, and approximate topography with contour intervals of not more than ten feet.

(2) Drawings of the architectural styles of the different areas of the development;

(3) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to divisions (A) and (B) above, including detailed discussion of how the proposal conforms to the requirements of division (G) below, how the development meets the parking requirements of the § 152.058 of this chapter, proposed methods of providing sewer, water, storm drainage, and other utility services, the method proposed for ownership, funding, and maintenance of common areas, buildings, structures, roads, open space, landscaping, parking areas, fences, buffers and/or sight, sound barriers to adjacent properties, or other facilities, public access to and use of the aforementioned, and the proposed time schedule of development; and

(4) Other maps or narrative materials needed to determine compliance with any applicable provisions of this chapter, as determined by initial review of the application for completeness.

(G) *Common master plan and preliminary plan approval criteria.* Approval by the Planning Commission of a master plan or a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

(1) All applicable requirements of this section are met;

(2) The proposed development is consistent with the Comprehensive Plan goals and policies, and zoning provisions for the area;

(3) Per § 152.251 of this chapter, the provisions of §§ 152.250 through 152.265 of this chapter shall be applicable to approval criteria unless expressly contrary to a specific provision of this section;

(4) The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedure: protection of significant natural and cultural features and resources, such as historical, scientific, and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as, as examples only, suitably located open space, recreation facilities, and other common facilities for inhabitants of the planned development; includes pedestrian oriented development which reduces reliance on automobile travel, and provides similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards;

(5) In acting to approve, the Commission shall be mindful of the purposes of this section by encouraging and promoting creativity and innovation in site planning, and by allowing for flexibility in the application of design standards. The Commission may also impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this section; and

(6) The proposed development is in substantial harmony with the area at least 250 feet outside the boundary of the

proposed development. In the case of a phased planned development, all phases shall also be in visible agreement with each other architecturally and otherwise.

(H) *Final plan.* Upon completion of all conditions and requirements of a preliminary plan, application may be made for final approval in accordance with the provisions of this section.

(1) *Final plan review procedure.* The procedure for application and review of a request for final plan approval shall be as set forth in § 152.204(C).

(2) *Certifications required for final plan approval.* Requests for final plan approval shall be accompanied by the following certifications, as applicable:

(a) A copy of all covenants and restrictions;

(b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;

(c) As-built certifications for all required roads and utilities;

(d) If the planned development involves a division of land, the certifications required by §§152.250 through 152.265 of this chapter; and

(e) Other certifications required as a condition of the preliminary plan approval.

(3) *Final plan approval criteria.* The Commission shall approve a final plan provided that:

(a) The submitted final plan is in substantial conformance with the approved preliminary plan and master plan (if a phased planned development); and

(b) All of the certifications required by division (H)(2) above have been submitted in proper form.

(4) *Permits.* No building permits shall be approved until the effective date of the final approval of the final plan.

(I) *Retroactivity.* The provisions in this section shall not apply to planned developments, or phases thereof, which were granted preliminary plan approval prior to the effective date of this section. In those cases the prior version of this section shall apply, unless said approval expires without applicant having obtained the final approval.

(J) *Amending an approved planned development master plan or preliminary plan.* When a developer or owner desires to deviate from an approved master plan or preliminary plan, any applicable documents that would result in modification from that change shall be submitted for approval. The review process is identical as a new planned development approval. As a result of the change, the Planning Commission may require changes to approved uses, structures, and other forms of development to ensure the proposed development remains consistent with the Comprehensive Plan goals, policies, and zoning ordinance provisions for the area, and to ensure all areas of the planned development remain in harmony following division (A) and (B) of this section.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004; Ord. 310, passed 11-1-2016) Penalty, see § 152.999

SUPPLEMENTARY REGULATIONS

§ 152.055 CLEAR VISION AREAS.

A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and an alley.

(A) A clear vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting end of the other two sides.

(B) A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height eight feet above grade.

(C) The following measurements shall establish clear vision areas:

(1) In a residential zone, the minimum distance shall be 30 feet; and

(2) In all other zones where yards are required, the minimum distance shall be 15 feet except that when the angle of intersection is less than 30 degrees, the distance shall be 25 feet.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004)

§ 152.056 MANAGER/OWNER/CARETAKER RESIDENCE.

In the M-C and L-I Zones, a residence secondary to the main use of the property is allowed for the sole purpose of providing living quarters for the owner, operator, or caretaker of a new or ongoing commercial or industrial enterprise, provided that:

(A) The living space shall be located in the same building as the principal use of the property;

(B) Non-owner/manager inhabitation of the living space is prohibited; and

(C) The Planning Commission shall review each approval granted under the provisions of this section annually unless determined otherwise by the Planning Commission.

(Ord. 172, passed 10-7-1991; Ord. 256, passed 4-6-2004)

§ 152.057 STREET VENDOR PROHIBITED.

(A) No person shall sell any items, including but not limited to food, beverages, flowers, balloons, or other items, or offer them for sale, from any street, sidewalk, public right-of-way, or public property within the city limits; provided however that items permitted to be sold from a "mobile vending stand" may be sold from public property or public right-of-way which has been closed by motion or resolution of the City Council if the mobile vending stand is doing business in conjunction with a festival/community event.

(B) A "festival or community event" is a temporary use of land for the purpose of providing general community amusement, recognition of historical events or traditions, or celebration of community-wide local products, which are organized by non-profit organizations and the proceeds of the festival or event are used to promote the purposes of the non-profit organization or donated to other non-profit organizations.

(Ord. 93, passed 7-7-1982; Ord. 222, passed 8-7-1995) Penalty, see § 152.999

§ 152.058 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS.

At the time a new structure is erected or the square footage is increased, or the use of the structure is changed, off-street parking spaces, loading areas, and access thereto shall be provided as set forth in this section.

(A) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(B) In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the several uses computed separately.

(C) Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, or contracts to establish the joint use and hours of operation.

(D) Off-street parking spaces for dwellings, hotels, motels, resorts, and time-shares shall be located on the same lot or on a lot immediately adjacent to the lot served by such parking.

(E) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of

trucks used in conducting the business or use.

(F) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved adequately for all-weather use, and shall be adequately maintained. Drainage shall conform to the city's storm water master plan and a drainage plan shall be approved the city field superintendent.

(G) Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones, or adjacent to Highway 101, or residential uses shall be designed to minimize visual impacts by use of landscaping or by a fence screened by landscaping.

(H) Parking areas used for public or private parking lots under the conditional use in an R-4 Zone must have garbage containers available for garbage which may be generated by users of the parking lot. Such garbage containers must be emptied on a regular basis and not less than weekly. Parking lots shall be posted with the following sign: "no camping or overnight use" and shall have their hours posted. Parking lot hours shall not extend beyond 10:00 p.m. or open earlier than 4:00 a.m. If the property fails to enforce the parking prohibitions, the Planning Commission may review and consider whether or not to revoke the conditional use permit.

(I) Parking spaces along the outer boundaries of a lot shall contain a curb or bumper rail at least four inches high and set back four feet from the front of the space.

(J) Artificial lighting may be used in parking areas provided it is of low intensity, is pointed generally downward, and is shielded if necessary so as to not create light or glare off-site.

(K) Except with respect to approved driveways, required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(L) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

(M) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(N) Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths of sufficient numbers and size to handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this section may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.

(O) All spaces shall be permanently and clearly marked. Markings which guide safe and efficient traffic flow shall also be permanently and clearly marked. All markings shall be replaced regularly to remain visible.

(P) All improvements, including surfacing, storm water management, striping, and landscaping shall be fully maintained for the life of the parking facility. Failure to maintain such improvements shall constitute a violation of this chapter.

(Q) All parking lots shall be designed with spaces for handicapped drivers as provided for in the Building Code.

(R) The clear vision requirements set forth in §152.055 of this subchapter shall apply to all parking lots at the intersection of two streets or a street and an alley.

(S) For C-1 Retail Commercial Zoned properties, off-street parking requirements shall be located on the same lot or within 500 feet (as measured by a direct line from the nearest property line to the nearest property line of the parking lot).

(1) On-street parking spaces that front the lot and are adjacent (on the same side of the street) may be counted in the required parking. Over one-half of the parking space shall be directly within the street frontage of the lot in order to be counted in the required parking.

(2) When the square footage of a business or structure is increased, or the use is changed, only the spaces associated with the increased square footage or area of change must be added.

(3) No person who works or resides in properties fronting Highway 101 shall park a vehicle on Highway 101 while in his or her place of employment, or in his or her residence between 9:00 a.m. and 5:00 p.m. on any day. Single-family dwellings are exempt.

(4) Parking on Highway 101 is limited to four hours between 6:00 a.m. and 6:00 p.m.

(5) All parking shall be general purpose parking/public parking with the exception of residential uses which may have designated off-street parking spaces. If required parking is off-site but within 500 feet, the applicant must provide written documentation from the property owner authorizing the parking. If a variance to parking requirements is pursued, the applicant shall demonstrate that off-site parking is not available within 500 feet.

(T) Off-street parking space requirements:

Animal hospital or kennel	1 space per 500 square feet
Any single- or multi-family residential use, including condominium or time share	2 spaces per unit

Church, auditorium, meeting place, theater, gymnasium, mortuary, or similar place of assembly	1 space for each 50 square feet of floor area used for assembly
Dance hall, skating rink, pool hall, aquarium, bowling alley, or similar commercial amusement enterprise	1 space for each 100 square feet of floor area
Day care, nursery school, kindergarten, elementary and middle schools, and similar uses	2 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Financial institution, laboratory, or office	1 space for each 300 square feet of floor area
Golf courses	5 spaces per hole, plus the 75% the ancillary parking requirements
High schools	8 spaces per classroom or instructional area, plus requirements for offices, places of assembly, and the like
Hospital	3 spaces for each 2 beds
Laundromat	1 space per three machines
Library or similar facility	1 space for each 300 square feet of floor area
Manufacturing, fabrication, assembly, processing, cabinetry, or similar use	1 space for each 1,000 square feet of floor area
Marina or other moorage facility	1 space per boat mooring space
Medical or dental clinic	1 space for each 200 square feet of floor area
Miniature golf	1.5 spaces per hole
Nursing home, residential facility, residential home, or retirement home	1 space for each 3 beds
Personal or business service	1 space per 250 square feet
Public or private swimming pool	1 space per 100 square feet
Recreational vehicle park	3 spaces for each two RV spaces
Restaurants and bars	1 space for each 100 square feet of serving area (total floor area where public is allowed, excluding restrooms and other specified uses, such as designated retail space)
Retail store not handling bulky merchandise	1 space for each 350 square feet of floor area
Service or repair shop; retail store handling bulky merchandise, such as automobiles, furniture, boats, marine equipment, and the like; automobile service station, feed and seed; heavy equipment; lumber or building supplies; or similar uses	1 space for each 600 square feet of sales, storage, or repair area
Tourist accommodation	1 space for each guest accommodation
Warehouse, storage, and wholesale business	1 space for each 2000 square feet of area

(U) The required size of parking spaces, aisles, driveways, and similar design features are set forth in Diagram A. Required landscaping areas are not shown.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 92, passed 7-7-1982; Ord. 124, passed 7-1-1985; Ord. 130, passed 4-6-1987; Ord. 145, passed 1-3-1989; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 234, passed 12-16-1996; Ord. 256, passed 4-6-2004; Ord. 279, passed - -2007)

§ 152.059 DISTANCE FROM PROPERTY LINE.

In areas where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

(Ord. 24, passed 4-5-1976)

§ 152.060 EXTERIOR LIGHTING.

Exterior lighting for uses in commercial and industrial zones shall be located in such a manner so as not to face or shine directly onto a lot in a residential zone, street, or highway.

(Ord. 24, passed 4-5-1976)

§ 152.061 GENERAL PROVISIONS REGARDING ACCESSORY USES, FENCES, RETAINING WALLS, HEDGES, AND DECKS.

An accessory use shall comply with all requirements for a principal use, except as this chapter specifically allows to the contrary, and shall comply with the following limitations:

(A) An accessory structure not used for human habitation and separated from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided it is not closer to a property line than the minimum setback required for the zone;

(B) One single-wide manufactured dwelling or recreational vehicle may be located as a temporary accessory use to a legally established dwelling under medical hardship provisions subject to the following requirements:

(1) The medical hardship be established in writing by a medical doctor;

(2) The placement of the unit comply with all residential setback requirements;

(3) A sight-obscuring fence or ornamental hedge may be required to screen the accessory use from other uses off the property;

(4) All appropriate permits, such as placement permits and those required by the city or special districts for water and sewer service be obtained prior to moving the unit on the property;

(5) The mobile home or travel trailer be disconnected from all services and removed as appropriate when the hardship no longer exists; and

(6) The use be reviewed annually to insure compliance with the above.

(C) (1) In a residential area, fences, hedges, and walls extending above the finished grade of an approved dwelling may be located within required yards, but shall not exceed three and one-half feet in height in any required front yard which abuts a street other than an alley or any street side yard, or as otherwise provided for in this chapter.

(2) Fences constructed on vacant lots or parcels may be located anywhere within a parcel's boundary lines but shall not exceed a height of six feet and shall not interfere with clear vision areas. When dwelling construction begins, changes to these fences shall be required, if necessary, to comply with division (C)(1) above.

(D) Unenclosed decks may be located within required yards except for clear vision areas, but shall encroach no further than one-third of the required setback distance;

(E) This provision is to protect the city and adjacent property owners from undesirable, potentially hazardous, and unnecessary development through the use of retaining walls.

(1) No retaining wall shall be constructed for the purpose of back filling to artificially heighten a lot's ground elevation to improve views from the subject property.

(2) No retaining wall shall be constructed to elevate the grade of a lot unless necessary to establish a use or structure permitted in the underlying zone.

(3) Proposed retaining walls over eight feet in height shall be reviewed by the Planning Commission at a public hearing, following the conditional use procedure. Approval of any retaining wall in excess of eight feet in height shall be based on the following findings:

(a) The retaining wall is reasonably necessary for construction of a structure or to establish a use permitted in the underlying zone;

(b) The retaining wall will not be materially detrimental to adjacent or nearby property, or to public safety or welfare;

(c) The retaining wall does not preclude future access to adjacent undeveloped property;

(d) If the retaining wall is a component of a building's foundation, it will comply with setback requirements from side and rear property lines; and

(e) The retaining wall does not conflict with any other provisions of this chapter.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980; Ord. 172, passed 10-7-1991; Ord. 173, passed 12-2-1991; Ord. 256, passed 4-6-2004) Penalty, see § 152.999

§ 152.062 APPROVAL OF CITY INSPECTOR.

No building shall be erected, altered, enlarged, or rebuilt or moved unless it has city-approved domestic water supply and sewage disposal.

(Ord. 24, passed 4-5-1976; Ord. 71, passed 8-19-1980) Penalty, see § 152.999

§ 152.063 REVIEW OF FIRE DEPARTMENT.

(A) With the exception of single-family detached dwellings, all development proposals involving structures shall be submitted to the Fire Department for review, comment, and recommendation.

(B) If no response is received within ten days from the Fire Department, the city may proceed as it deems appropriate.

(Ord. 24, passed 4-5-1976)

§ 152.064 BUILDING PERMIT APPROVALS.

No building or structure shall be erected, enlarged, altered, rebuilt, remodeled, or moved unless in conformance with the requirements of all state and local ordinances applicable to the structure and the land upon which it is proposed.

(Ord. 24, passed 4-5-1976) Penalty, see § 152.999

§ 152.065 DEVELOPMENT GUIDELINES.

In order to protect the quality of the city which makes it a desirable place in which to live, the Planning Commission may recommend and the City Council may adopt as ordinances such development guidelines and accompanying maps as may be necessary for the conservation and development of natural resources; the protection of areas having historical or aesthetic importance; the safe and desirable use of geologically hazardous areas; and utilization and development of any other air, land, or water uses which may have significant impact on the quality of the city. Such development guideline ordinances will be made as addendums to this chapter. Areas to which such ordinances apply will be so designated on the zoning maps of the city.

(Ord. 24, passed 4-5-1976)

§ 152.066 STANDARDS AND REQUIREMENTS FOR CONDOMINIUMS AND TIME SHARE PROJECTS.

Each condominium and time share project shall comply with the following additional standards and requirements.

(A) An association of unit owners shall be organized to serve as a means through which the unit owners shall administer, manage, and operate the condominium, as required by the applicable state statute.

(B) Each time share project shall establish an owners' association or designate another form of managing entity, as required by the applicable state statute.

(C) The owners' association for condominiums, or the owners' association or managing entity for time share projects, shall maintain on record with the City Recorder the name and address of the representative or agent of the owners' association or a natural person as managing entity. That designated person shall receive all notices or orders by the city to the owners' association or managing entity, and shall also thereby be as the agent of the owners' association or managing entity for purposes of service of process.

(D) The person designated by the owners' association or managing entity, as provided above, shall file, from time to time, any required reports or records with the city as may be required, including but not limited to §§ 34.20 through 34.37, the transient room tax ordinance.

(Ord. 130, passed 4-6-1987; Ord. 287, passed 5-4-2010)

§ 152.067 TEMPORARY PLACEMENT OF A MANUFACTURED DWELLING.

A manufactured dwelling may be temporarily placed upon an individual lot upon compliance with the following conditions:

(A) The lot owner shall file an application with the city, requesting a permit to temporarily place a manufactured dwelling upon the lot. The applicant shall certify that the applicant is diligently undertaking efforts to place the manufactured dwelling permanently upon a lot within the city, that the lot upon which the manufactured dwelling will be placed both temporarily and permanently are properly zoned for placement of a manufactured dwelling, that the applicant is the owner or vendee purchaser under contract of the manufactured dwelling, and that if the temporary placement permit is granted, the owner shall comply with the conditions of this section and with such additional conditions as may be imposed by the Planning Commission upon issuance of the temporary placement permit;

(B) The temporary placement of a manufactured dwelling is permitted only in those zones which permit placement of manufactured dwellings; a single-wide manufactured dwelling may be temporarily placed only in an R-3 Zone;

(C) The temporary placement permit shall be valid for a period of 60 days from the date of issuance of the temporary placement permit. If the manufactured dwelling is not permanently sited upon a lot within the city prior to expiration of the 60-day period of the temporary placement permit, the owner may apply to the Planning Commission for an additional 60 days for temporary placement of the manufactured dwelling;

(D) No utilities other than electrical shall be connected to the manufactured dwelling nor shall any person occupy the manufactured dwelling;

(E) The applicant shall comply with other requirements of this chapter, including but not limited to setback requirements, floodplain development, and geologic setbacks and requirements;

(F) Notwithstanding §§ 152.205 through 152.208 of this chapter, the Planning Commission shall not be required to hold a public hearing prior to issuance of the original temporary placement permit if the application complies with all provision of this section. In the event the applicant applies for an extension, the Planning Commission shall hold a public hearing pursuant to § 152.206 of this chapter; and

(G) The applicant shall pay the applicable action fee as provided in §152.205 of this chapter and by resolution of the City Council.

(Ord. 163, passed 9-16-1991; Ord. 173, passed 12-2-1991) Penalty, see § 152.999

§ 152.068 DESIGN FEATURES FOR SINGLE-FAMILY DWELLINGS.

(A) All single-family dwellings located within a residential zone (except for manufactured homes located within a manufactured home subdivision or a "mobile home park") shall utilize at least two of the following design features:

- (1) Dormers;
- (2) Recessed entries;
- (3) Cupolas;
- (4) Bay or bow windows;
- (5) Window shutters;
- (6) Off-sets on building face or roof (minimum 12 inches);
- (7) Gables;
- (8) Covered porch entry or unenclosed deck;
- (9) Pillars or posts;
- (10) Tile, shake, or elongated (not corrugated) metal roofing; or
- (11) Horizontal lap siding or snakes.

(B) Individual lots shall be residentially landscaped and maintained similar to surrounding neighborhood development. Use of native vegetation shall be encouraged wherever possible.

(C) A driveway having a durable and dustless surface shall be provided.

(D) Single-family dwellings and other improvements shall be developed in compliance with applicable provisions set forth in this chapter.

(Ord. 194, passed 12-6-1993)

§ 152.069 TRANSIENT OCCUPANCY OF DWELLING UNITS.

(A) The purpose of this section is to protect the character of the city's residential neighborhoods by prohibiting transient occupancy of dwelling units therein and by implementing the Comprehensive Plan policies relating to housing and transient occupancy. Use of dwellings for transient occupancy purposes has unmitigatable adverse impacts on surrounding residential uses and is therefore prohibited, except as provided for in these zoning regulations. The city finds that transient occupancy of dwelling units has been permitted in the past and that the lawful use of property may continue subject to certain standards contained in these zoning regulations. These regulations include, for transient use of dwellings located within a residential zone, an amortization period of four years and the provision for individualized determinations that lawful investments specifically committed to transient occupancy have been made.

(B) Sections 152.150 through 152.158 (non-conforming uses) shall not apply to uses and structures subject to this section.

(C) No person shall occupy, use, operate, or manage, nor offer or negotiate to use, lease, or rent a dwelling unit in any residential zone for transient occupancy, except a dwelling lawfully used for transient occupancy purposes on the effective date of this section which meets the requirements of § 152.070 of this subchapter.

(D) In the commercial or industrial zones, the rental of a dwelling, or portion thereof, for transient occupancy shall be considered a tourist accommodation and subject to the requirements for tourist accommodations, including compliance with the requirements of § 152.070 of this subchapter.

(E) The use of dwellings or residences within any residential zone for transient occupancy purposes shall be deemed terminated upon the effective date of this section unless the provisions of § 152.070 of this subchapter are met. Persons who fail to register and substantiate the non-conforming use of their property, within the period described, shall be precluded from further use of their dwellings for transient occupancy under the provisions of these zoning regulations.

(Ord. 234, passed 12-16-1996)

§ 152.070 TRANSIENT OCCUPANCY BUSINESS REGISTRATION/AMORTIZATION OF SHORT-TERM RENTALS OF DWELLINGS.

(A) Any person who rented a dwelling unit located within any residential zone to transients between December 1, 1995 and the effective date of this section, or who otherwise claims a non-conforming transient occupancy use, shall establish the non-conforming transient occupancy use status by substantiating their actual use of the property for transient occupancy purposes. Evidence, of a type which provides written documentation and is more than a statement of use, shall be provided to the city within 60 days of the effective date of section, together with the transient occupancy business registration required in division (B) below.

(B) No person shall operate, manage, or maintain a tourist accommodation or be the agent for the owner or operator for the purpose of assisting in the use or maintenance of a tourist accommodation or dwelling in the transient occupancy business or, during the amortization period of use of dwellings for transient occupancy, dwellings for transient occupancy

without registering as a transient occupancy business with the City Recorder. No fee shall be required to register as a transient occupancy business.

(C) The City Recorder shall require such information as convenient or necessary for the registration of transient occupancy businesses, including but not limited to the name of the owner, the name of the operator, the address of the structure or building, and that either the business holds a business license to engage in the transient occupancy business or evidence that the structure or building has been used for transient occupancy business during the period from December 1, 1995 to the effective date of this section or the real property is being held with the expectation of engaging in the transient occupancy business by August 1, 1997. A transient occupancy business license review committee, establishing by resolution or motion of the City Council, shall review the registration application and determine whether the application for registration substantiates transient occupancy use for the required period. Written notice of the decision shall be mailed to the registration applicant. Decisions of the committee may be appealed to the City Council within 20 calendar days of the date of mailing of the written decision of the committee.

(D) Persons shall be permitted 60 days from the date of adoption of this section amendment to register as required above. Within 15 days following the adoption of this section, the City Recorder shall give notice of the adoption of this section and the requirement to register as a transient occupancy business by the following:

- (1) Mailing a copy of this section and a form for registration as a transient occupancy business to all persons or businesses who have filed a transient room tax report within the past eight months;
- (2) Posting a notice, in the form prescribed below, at the public bulletin board at the post office and at the city hall;
- (3) Including a notice, in the form prescribed below, with the next water/sewer billing; and
- (4) Publishing notice of adoption of this section in the News Times and News Guard newspapers, legal notice section, with the following text in the notice:

Notice to all persons who rent or intend to rent to transients, tourists, or short-term (less than 30 days) renters or lodgers. The city has adopted Ordinance 234, which restricts or prohibits the rental or occupancy of lodging facilities or dwellings to short-term renters, transients, or lodgers. Registration as a transient occupancy business is required by February 14, 1997. A copy of the ordinance and registration form may be obtained: in person at the City Hall, 570 SE Shell Ave., Depoe Bay, OR 97341, during regular business hours; by mailing a request for the "transient occupancy business restrictions and registration" to the City Recorder, PO Box 8, Depoe Bay, OR 97341; or by telephone (541-765-2361), requesting the "transient occupancy business restrictions and registration" be mailed to you. Failure to register shall result in the cessation of the transient occupancy business. There is no fee for registering.

(E) The transient occupancy business shall be in compliance with the city business license and the transient room tax ordinances, and shall not be delinquent with each of the requirements of these ordinances.

(F) The non-conforming use of dwellings for transient occupancy shall be amortized within a four-year period from the effective date of this section. At the conclusion of the amortization period, all transient occupancy of dwelling units shall be prohibited, whether or not such use existed prior to the adoption of this section unless hardship relief has been granted pursuant to (G) below.

(G) A hardship provision is established for property owners who can substantiate that an investment made exclusively in the non-conforming use of a dwelling for transient occupancy cannot be adequately amortized within the period of time specified in division (F) above. The purpose of this hardship provision is to permit those who have made substantial investments in transient occupancy improvements to dwellings structures to recover their investment, but only in those cases in which the improvements have committed the structure to transient occupancy, as opposed to long-term residential use. If the improvement may be utilized both for transient occupancy and long-term residential use, this provision shall not apply. An application for hardship relief under the provisions of this section shall also provide information on the specific investments that were made with respect to the non-conforming, short-term rental use of the property. Anyone seeking hardship relief shall file an application for such relief with the City Recorder not later than 60 days from the effective date of this section. The City Council shall determine, based on accepted accounting practices, whether there is a basis for hardship relief and the establishment of a longer amortization period. The hearing upon the hardship petition shall be in accordance with the procedure set forth in § 152.206(B) of this chapter. If the City Council determines that a longer amortization period is warranted, it shall establish a period of time that permits the reasonable amortization, based on accepted accounting practices, of the investment of the property owner. At the conclusion of that specific amortization period, the transient occupancy of the dwelling shall be terminated. If the City Council determines that a longer amortization period is not warranted by nature of the investment, the amortization period specified in division (F) above shall be met. Persons who fail to file an application within the time period established in this section shall be precluded from applying for hardship relief under the provisions of these zoning regulations.

(Ord. 234, passed 12-16-1996) Penalty, see § 152.999

§ 152.071 SITING STANDARDS FOR MANUFACTURED HOMES.

In addition to compliance with provisions set forth under §152.068 of this subchapter, a manufactured home shall be permitted on individual lots in all residential and commercial zones permitting single-family dwellings, subject to the following standards:

- (A) The manufactured home shall be multi-sectional and enclose an area of not less than 1,000 square feet; except, in

the R-3 Zone, a single-wide or multi-sectional home enclosing a floor area of not less than 700 square feet shall be permitted. A manufactured home shall not be considered multi-sectional (double-wide or larger) by virtue of having a tip-out section;

(B) The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with skirting of concrete, concrete block, or masonry. Where the building site has a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home, if the manufactured home is placed on a basement or a garage, the 12-inch limitation will not apply;

(C) The manufactured home shall have a pitched roof, except that no standard shall require a slope greater than a nominal three feet in height for each 12 feet in width;

(D) The manufactured home shall not have corrugated metal but shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City Planner or Planning Commission;

(E) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss levels to the performance standards required of single-family dwellings constructed under the State Building Code as defined in the applicable state statute;

(F) The manufactured dwelling shall have a driveway, which driveway shall have a durable and dustless surface; and

(G) Manufactured dwellings shall not be sited adjacent to any structure listed on the register of historic landmarks and districts.

(Ord. 194, passed 12-6-1993; Ord. 287, passed 5-4-2010)

§ 152.072 PROTECTION OF STREAMS, PONDS, WETLANDS, AND RIPARIAN AREAS.

(A) *Purpose.* The purpose of this section is to provide procedures necessary to secure the desirable attributes of the city from depletion by recognizing the value of streams, ponds, wetlands, and riparian vegetation for fish and wildlife habitat, maintenance of water quality and quantity, alleviation of flooding hazards, storm water control, recreation and aesthetics, and to provide for open space. Protection of the natural drainageways as an integral part of the city environment in accordance with the Local Wetlands and Riparian Inventory (2004) (LWI) is also important in order to manage stormwater drainage, minimize maintenance costs, and protect properties adjacent to drainageways.

(B) *Application.* The provisions of this section shall apply to the streams, significant wetlands, ponds, and riparian areas identified in the Comprehensive Plan's LWI. The provisions of this section shall also apply to existing streams, significant wetlands, and riparian areas that are not yet identified in the LWI. The provisions of this section are to be applied in conjunction with the provisions of the underlying zone and are also subject to the applicable provisions of §§ 152.039, 152.040, 152.076, 152.130 through 152.136, 152.150 through 152.158, 152.170 through 152.173, 152.185 through 152.188, 152.200 through 152.210, and 152.225 through 152.235. Where the provisions of this section and the underlying zone conflict, the more restrictive regulations shall apply. Forestry activities subject to the riparian regulations of the Oregon Forest Practices Act, being O.R.S. 527.610 through 527.810, are exempt from regulation under this section. Forestry activities not subject to the riparian regulations of the Oregon Forest Practices Act are subject to regulation under this section.

(C) *Procedure for development applications.* Applicants requesting approval for any development permit in an area which contains a designated resource identified in division (D) below shall submit, along with any application, a detailed site plan and written statement demonstrating how the proposed activities will conform to each of the applicable standards of this section. The Planning Commission shall review the application in a public hearing and determine if all of the applicable criteria are met.

(D) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRAINAGEWAYS. The streams, channels, springs, lakes, ponds, reservoirs, ponding areas, and wetlands indicated in the LWI and the stormwater master plan maps of existing facilities.

FISH HABITAT. The areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

POND. A small body of intermittent or perennial standing water that is a persistent feature of the landscape.

RIPARIAN AREA. The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

RIPARIAN CORRIDOR. Includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

RIPARIAN CORRIDOR BOUNDARY.

(a) An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation.

(b) Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50 feet inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25 feet inland (or upland) from the upland edge of the wetland or pond.

STREAM. A channel, such as a river or creek, that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding human-made irrigation and drainage channels.

WATER AREA. The area between the banks of a lake, pond, river, or perennial or fish-bearing intermittent stream, excluding human-made farm ponds.

WETLAND. An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(E) *Riparian corridor protection standards.*

(1) The actual location of streams, wetlands, ponds, and riparian areas, shall be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the state. A report and map shall be submitted which documents the boundaries of the resource and its buffer.

(2) The outer boundaries of the riparian corridor shall be clearly marked in the field, and such markings shall remain visible for inspection until all development on the site is complete.

(3) No filling, grading, excavating, or draining is permitted in a wetland area unless such is performed for restoration purposes. Valid permits from the U.S. Army Corps of Engineers and from the Oregon Department of State Lands, or written proof of exemption from these permit programs must be obtained and presented to the city prior to any such work.

(4) The flow from springs, drainages, streams, and other features providing the water necessary to maintain wetlands hydrology, shall not be diminished or substantially increased.

(5) Within the riparian corridor boundary, no grading shall occur, no impermeable surfaces or structures shall be placed, and no vegetation shall be removed or destroyed, except that the following are allowed, provided they are designed and constructed to minimize intrusion into the riparian area:

- (a) Removal of riparian vegetation necessary for a use that requires direct access to the water;
- (b) Placement of utilities, drainage facilities, and irrigation pumps;
- (c) Replacement or enlargement of existing structures with structures in the same location that do not disturb additional riparian surface area;
- (d) The placement of walking paths and road crossings;
- (e) Removal of non-native noxious vegetation, such as scotch broom, blackberries, and ivy, and replacement with native plant species;
- (f) Fish and habitat restoration activities approved by Oregon Department of Fish and Wildlife; and
- (g) Removal of vegetation necessary for the development of water related and water dependent uses.

(6) Before any development activity occurs within a riparian corridor, there must be a review and report prepared by a licensed, certified arborist. The arborist's report must be submitted to the city before any development activity occurs. The responsibility for this review lies with the applicant.

(7) Valid permits from the U.S. Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must be obtained and presented to the city before commencement of any of the activities associated with allowed uses which will impact the streams, ponds, wetlands, and riparian areas.

(8) Development activities shall not change the natural drainage or substantially increase the water flow.

(9) Development activities shall not create erosion into the stream, wetland, pond, or riparian area.

(F) *Drainageway protection standards.*

(1) To prevent new development from significantly increasing the amount or flow rate of surface water run-off destined for the drainageway, any new development or redevelopment proposed on land on or adjoining a drainageway shall:

- (a) Avoid filling in, disturbing, or changing the location of the natural drainageway;
- (b) Avoid placing impervious surfaces within 15 feet of the drainageway;
- (c) Not "hardline" roof and perimeter drains into the drainageway, but provide for infiltration or run-off on site before allowing it to enter the natural drainageway; and
- (d) For subdivisions, provide for engineered stormwater plans that provide for on-site storm water detention and treatment.

(2) This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

However, where this section and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(G) *Hardship variances.*

(1) *Applicability.* This section applies to lots existing prior to January 1, 1982 in the Coastal Shorelands Overlay Zone or along North and South Depoe Bay Creeks, or prior to January 1, 2001 in other areas of the city.

(2) Where a minimum building footprint of less than 800 square feet would result from application of the rules of this section, reduction or removal of the restrictions under this section can be granted to allow the building of a structure within such a building footprint through the variance procedure. Applicants for variance from this section should demonstrate, in addition to the criteria found in the variance ordinance (§§ 152.170 through 152.173 of this chapter), that intrusion into the required riparian corridor, wetland, or drainageway protection areas has been minimized by maximizing setback variances on property line boundaries away from these resources. Applicants shall consult with a fish biologist regarding impacts to the riparian corridor and stream, and provide that documentation to the city, when requesting intrusion into the required riparian corridor associated with North Depoe Bay Creek or South Depoe Bay Creek.

(H) *Map error.* If the resource is not located on a subject property, although the inventory map indicates it to be, the applicant for a building permit shall follow the following procedure:

(1) The boundary of the property with proximity to the resource area shall be marked between surveyed property markers with a visible string or tape;

(2) The applicant shall contact the City Planner and request a site visit;

(3) The City Planner shall inspect the property and, if the resource is not on the subject property, issue the applicant a note stating the resource is not on the subject property and is exempt from the provisions of this section; and

(4) When the extent of the resource area cannot be determined by the city, the applicant shall seek prompt assistance from a natural resource agency in making that determination, or provide a written report from a properly-qualified specialist describing the boundaries of the resource area in relationship to the property boundaries.

(Ord. 256, passed 4-6-2004; Ord. 278, passed 3-21-2007) Penalty, see § 152.999

§ 152.073 PROTECTION OF PUBLICLY-OWNED LANDS.

(A) *Application.* This section shall apply to all publicly-owned lands in the city.

(B) *Standards.* Publicly- owned lands, including street rights-of-way, shall be evaluated before their disposition as to their possible uses as open space or park land or pedestrian and bike pathways, and wherever possible, be retained for those uses.

(Ord. 256, passed 4-6-2004)

§ 152.074 PROTECTION OF COASTAL HEADLANDS; AREAS OF EXCEPTIONAL AESTHETIC RESOURCES.

(A) *Application.* This section's standards shall apply to lands identified as coastal headlands and exceptional aesthetic resources found in the Comprehensive Plan inventory section entitled "open spaces, scenic and historic areas, and natural resources", item f.

(B) *Standards.* Development in areas of exceptional aesthetic resources or coastal headlands shall substantially maintain the existing visual character of the areas. The visual character of the area is deemed to be substantially maintained if the following standards are met.

(1) *For coastal headlands, coastal scenic areas, and the harbor area.*

(a) The coastal headlands remain in their natural state.

(b) The shorelands, cliffs, and immediate environs of the coastal scenic areas comply with the requirements of §§ 152.234 and 152.235 of this chapter, except that the "area of visual concern" for Whale Cove, Pirate's Cove, and the designated faces of north and south points shall extend 40 feet rather than 25 feet landward from the top of the coastal bluff.

(c) In these same areas, the outer coverings of structures that will be visible from within the aesthetic resource area, including the roofing materials, are of natural wood materials or designed to look like natural wood materials or are painted or stained in subdued colors.

(d) Around the city harbor and adjacent park, developments are compatible with the existing character of the area and with the atmosphere of the harbor for boats, and are for water dependent uses.

(e) Lights from any development are shielded and directed downward so as not to illuminate or cause glare outside of their local area. External lighting on structures, streets, signage, or for other uses are restricted to low wattage ground lights less than 12 feet tall.

(f) All communication and utility lines and structures are either underground or not visible over or around a vegetative buffer.

(g) Where a permitted use of a lot existing prior to the establishment of this chapter would be precluded by strict

adherence to these requirements, the applicant can ask for an exception to these standards if the applicant meets the following standards:

1. The request is the minimum necessary;
2. Disruption of the visual character of the area has been minimized; and
3. That options such as clustering of improvements, maximizing variance setbacks on the sides of the development away from the aesthetic resource, or other design methods to minimize impact have been exercised or are not feasible.

(2) *For scenic view corridors.*

(a) For the corridor along the west side of Highway 101 between Sunset Street and the bridge, the property owner, whether public or private, maintains vegetation pruned to not obstruct the view.

(b) Developments are to be designed to intrude into the view corridor the minimum necessary and at least 15 feet per 100 feet of frontage remains with an unobstructed view.

(3) *For forested corridors.*

(a) Trees six inches in diameter or greater at four feet above ground shall be retained within 40 feet either side of the Highway 101 right-of-way from South Point Street south to the city limits. This area may be considered part of the required common space provided in a planned development or land division.

(b) Trees within ten feet of a building may be removed providing the building meets all setback provisions. Trees may also be removed where ingress or egress to a development can only be achieved by access across the corridor. The accessway must be the minimum width allowable and designed to minimize the amount of intrusion along the corridor (such as, by alignment perpendicular to the highway).

(c) Within forested corridors, trees may be removed if determined to be unsafe by a registered, certified arborist. If trees are removed due to unsafe conditions, those areas shall be immediately replanted with trees that will reestablish the forested corridor.

(4) *For forested hillsides.*

(a) In any plan for a subdivision greater than three acres, specific measures are outlined to assure that at least 20% of the area with trees six inches or greater at four feet above ground shall be protected. These areas shall be mapped in the plan, and may be considered part of the required common space provided in a planned development.

(b) Where a permitted use of a lot existing prior to the establishment of this chapter would be precluded by strict adherence to these requirements, the development is the minimum necessary and the forested resource is maintained to the maximum extent possible.

(Ord. 256, passed 4-6-2004)

§ 152.075 PROTECTION OF HISTORIC AND ARCHEOLOGICAL SITES.

(A) *Application.* Sites subject to this section are identified in the Comprehensive Plan inventory "open spaces, scenic and historic areas, natural resources", § i.

(B) *Standards.* These standards shall apply when an archeological site is observed, located, or unearthed or there is indication that an archeological site exists or when the city notifies the applicant it is a known site.

(1) Development in areas with archeological sites shall be conducted in a manner so as to avoid site disturbance to the archeological sites and prevent irreversible loss of archeological resources.

(2) Development in areas with archeological sites shall comply with the applicable state statute.

(3) Development on historic sites shall not diminish the value of such sites as historic resources as determined by the County Historical Society, the State Advisory Committee on Historical Preservation, or other knowledgeable persons or agencies in the identification and preservation of historically important resources.

(4) Alterations to identified historic structures shall be conducted in a manner so as to maintain the historic value of such structures.

(Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.076 CLEARING, FILLING, EXCAVATING, AND GRADING.

(A) *Purpose.* The purpose of this section is to assure that during pre-development activities (such as, clearing a subdivision or a property in preparation for sales to individual home builders) soil disturbance and vegetation removal are kept to the minimum necessary and that soil particles are prevented from moving off the site onto adjoining properties, streets, storm drain systems, or into waterways, wetlands, or other natural areas.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLEARING. The removal of vegetation from a site wherein the root system of the vegetation is disturbed. **CLEARING**, for the purpose of this section, does not include gardening activities.

EROSION. The wearing away of the ground surface as a result of the movement of wind or water.

EXCAVATION. The mechanical removal of earth material.

FILL. The deposit of earth material placed by artificial means.

GRADING. The process of changing the topography of the ground surface.

STREAM. A channel, such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding human-made irrigation and drainage channels.

VEGETATION. Plants of all types, including grasses, ground cover, flowers, bushes, shrubs, and trees.

(C) *Application.* This section applies to any pre-development activity within the city that:

- (1) Involves the clearing, grading, filling, or excavation of more than 5,000 square feet of surface area;
- (2) Involves the felling of more than five trees measuring six inches diameter or greater, at four feet height from the ground surface, within a five thousand square foot area;
- (3) Are conducted within areas of geologic hazards; or
- (4) Are conducted in areas within 100 feet, measured on the horizontal, of the bank of streams or the top of bank whichever distance is greater, or the mean high tide level of the estuary or ocean.

(D) *Standards.*

- (1) Clearing, grading, filling, or excavation of the site shall not be permitted until approval permits have been issued.
- (2) Clearing, grading, filling, or excavation of the site shall be the minimum required to complete the project.
- (3) Prior to site disturbance, markings identifying the limits of clearing, grading, filling, or excavation, and/or safety fencing shall be placed on the site. Such markings or fencing shall remain in place until the clearing, filling, excavating, or grading is completed.
- (4) Pre-development in forested areas (areas larger than one acre containing trees measuring six inches diameter or greater, at four feet height from the ground surface) shall maintain a minimum of 20% of the trees measuring six inches diameter or greater, at four feet height from the ground surface on the site, which can be in the required setback areas. Maintained trees shall be preserved in tree groves where feasible.
- (5) Erosion prevention measures shall be properly installed as per manufacturer's specifications or standards specified in this section to ensure that soil does not leave the property or enter surface water. Erosion prevention and sediment control measures shall remain in place until final landscaping is installed and well established.
- (6) Any soil that leaves the site is the responsibility of the property owner and shall be promptly removed from the off-site area, unless that area is owned by the same property owner, and placed back on the site, or properly disposed of.
- (7) The applicant shall specify the tax lot and location where soil and vegetation removed from the site will be taken for disposal, and shall provide evidence that the owner of the site is willing to accept the material.

(E) *Procedure.* Applicants requesting approval for any pre-development activity subject to the provisions of this section shall clearly show on their application at least the following:

- (1) Areas where soils and vegetation will not be disturbed;
- (2) Areas where clearing, grading, filling, or excavation will occur;
- (3) The location of silt fencing placed along contour lines and constructed to city specified standards;
- (4) A gravel construction entrance constructed to city specified standards;
- (5) The location of natural drainageways and nearby storm drain inlets and the method used to protect the inlet;
- (6) The location of drains, drainage systems, or other outfalls on the property and methods of assuring that soil particles cannot leave the site through these outfall locations; and
- (7) If a site lies within a designated geologically hazardous area, contains slopes of 20% or more, or involves the clearing, grading, filling, or excavation, of more than 15,000 square feet of soil surface, the following additional erosion prevention and sediment control requirements shall also apply. In such situations:
 - (a) All disturbed soils and all soil stockpiles shall be covered between October 1 and March 15 with two-inch depth of mulch (straw, hay, or bark dust), erosion control blankets, or have ground covering (such as, grass) that is well-established and that provides full coverage of the ground surface; or
 - (b) Shall have an erosion prevention and sediment control plan prepared by a person with experience and training in this field. Such a plan must be submitted to the city and the required measures shown on the plans. Such plans shall

describe the qualifications of the person preparing the report and, at a minimum, specify methods to be employed, the timing of ground disturbance, the frequency of inspection during the work period, and the maintenance requirements for each of the control methods used.

(Ord. 256, passed 4-6-2004)

AMENDMENTS

§ 152.185 AUTHORIZATION TO INITIATE AMENDMENTS.

An amendment to the text of this chapter or to a zoning map may be initiated by the City Council, by the Planning Commission, or by application of a property owner.

(Ord. 24, passed 4-5-1976)

§ 152.186 AMENDMENT PROCEDURE.

(A) The procedure for amending the zoning ordinance specified in §§152.200 through 152.210 of this chapter shall be followed.

(B) In considering an amendment to a zoning map, the Planning Commission shall seek to determine the following:

(1) That the change is in accord with the land use plan for the area; and

(2) (a) That there has either been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or that the zoning adopted for the area was in error.

(b) If the proposed change is not in accord with the land use plan for the area, the Planning Commission and the City Council shall seek to determine that an alteration of the plan can be justified on the basis that there has been a substantial change in the character of the area since the plan was adopted and which warrants a change in the plan, or that the plan adopted for the area was in error.

(C) The office of the City Recorder shall maintain records of amendments to the text and map of this chapter in a form convenient for use by the public.

(Ord. 24, passed 4-5-1976; Ord. 256, passed 4-6-2004)

§ 152.187 LIMITATION.

No application of a property owner for an amendment to the text of this chapter or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

(Ord. 24, passed 4-5-1976)

§ 152.188 TIME LIMIT ON A ZONING MAP AMENDMENT.

Approval of a zoning map amendment may be voided after two years, unless otherwise specified, by the Planning Commission upon finding at a public hearing that substantial construction has not taken place on the rezoned property.

(Ord. 24, passed 4-5-1976)

DEVELOPMENT GUIDELINES

§ 152.225 PURPOSE.

Some areas of the city are located on steep slopes, have erosion or landslide potential, or are otherwise of concern. The purpose of this section is to minimize hazards and threats to life and property by regulating building, grading, land clearing, and other human activities in areas identified with landslide topography, steep slopes, areas subject to erosion, high groundwater table, and other hazards. It is also the intent of this subchapter to protect life and property by reducing building density in these areas, by requiring special construction techniques, and by requiring the study of such areas by a state-registered engineering geologist prior to any activity.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.226 WEAK FOUNDATION SOILS.

(A) Many areas within the city are located on areas described by the soil conservation service as containing "weak foundation soils" or other soils limitations.

(B) Construction techniques, through the Building Code, require the effect of weak foundation soils or other soil limitations to be considered in the construction process.

(C) Construction of structures on areas of weak foundation soils or other soils limitations is not deemed to pose a significant hazard to life or property outside the property boundaries. The manner provided in the Building Code to address problems arising from weak foundation soils or other soils limitations is deemed to be an adequate means of protection of life and property. This statement serves as a warning for development on weak foundation soils.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.227 DISCHARGE OF SEDIMENT OR WATER.

(A) Property owners or other persons in charge of property shall not cause, or permit to be caused, the discharge of sediment or water onto adjoining property or the public right-of-way unless the permit application is accompanied by a drainage plan accepted by the affected property owners, or the applicant has demonstrated compliance with state laws regarding discharge of sediment or water.

(B) The following measures are suggested as possible means to prevent such discharges:

- (1) Minimal removal of vegetative cover, particularly trees;
- (2) Temporary measures for controlling run-off, such as berms or holding ponds;
- (3) The planting of vegetative cover as soon as possible after each phase of construction, including excavation, grading, and/or land clearing; and
- (4) Design of the site to avoid steep areas or other hazards.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.228 AFFECTED AREAS.

The following areas and activities shall be subject to the requirements of this subchapter:

(A) Areas identified as being geologically hazardous by *Environmental Geology of Lincoln County, Oregon, 1973*, Oregon Department of Geology and Mineral Industries, or *Environmental Hazard Inventory, Coastal Lincoln County Oregon*, RNKR Associates, 1978. These documents are referenced as part of the Comprehensive Plan and are available in the office of the City Recorder;

(B) Areas identified by the Natural Resource Conservation Service as having high groundwater;

(C) Areas containing slopes in excess of 20%. (Areas generally containing significant slopes are identified on the attached map. Sites in this area are "affected" unless shown otherwise per § 152.233 of this subchapter); and

(D) Areas fronting the ocean or coastal bluff that are seaward from the line set by the coastal setback requirements of § 152.234 of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.229 GEOLOGIC PERMIT REQUIRED.

A geologic permit shall be obtained for any development within the affected areas. For subsequent building permits, such as for decks or room additions, the original geologic permit is acceptable, if it is no older than five years and the report author evaluates the new building permit plans and sends a letter to the city that bears the stamp of the licensed geologist or

engineering geologist, acknowledging that the submitted plans have been reviewed and that such building activity can be safely accomplished. In areas having slopes greater than 20%, a geologic permit shall also be obtained before removing vegetation from or grading an area in excess of 20,000 square feet or adding or removing 90 cubic yards of earth in an area of 5,000 square feet. Minimal accessory uses that do not require a building permit (playground equipment, small gazebo, and the like) are excluded from the requirements of this subchapter.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.230 PERMIT PROCEDURES.

In order to obtain a geologic permit, the applicant shall submit, along with the appropriate fee, a geologic hazard report which shall be prepared by a registered geologist or a certified engineering geologist recognized by the state and dated no more than one year prior to the application date. The report shall explain fully the activity for which the permit is being sought. If the purpose of the geologic hazard report is for a building permit, then the report shall accompany and address final building plans. Any activities not specifically covered in the report will not be covered by the permit. The report shall also identify the nature, extent, and location of all geologic hazards associated with the proposed site and activity. Finally, the report shall detail exact measures to be taken so as to avoid the occurrence of landslides, erosion, sloughing, puddling, or other identified geologic hazards on the subject and surrounding property or any prohibited activity identified above. For uses requiring removal of vegetation or excavation, plans for the legal disposal of such materials shall be submitted.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.231 SPECIFIC REQUIREMENTS FOR GEOLOGIC HAZARD REPORTS.

Geologic hazard reports provided pursuant to this subchapter shall conform to the following requirements from the *Guidelines for Preparing Engineering Geologic Reports in Oregon*. The geologist's report shall have reviewed these specific requirements and the applicant shall address the applicable conditions in the proposal. Sections that are not applicable shall be identified as not applicable.

(A) General information.

- (1) Client or party that commissioned the report;
- (2) Name(s) of geologist(s) who did the mapping and other investigation on which the report is based, and dates when the work was done;
- (3) Location and size of area, and its general setting with respect to major or regional geographic and geologic features, including a statement of existing surrounding and on-site land uses and public facilities, utilities, and easements. The location shall be identified by the tax map, tax lot number, and the street address to eliminate confusion in identifying the property;
- (4) Purpose and scope of the report and geologic investigation, including the proposed use of the site. Also, identify the level of the study, such as, feasibility, preliminary, final, and the like;
- (5) Topography and drainage within or affecting the area;
- (6) General nature, distribution, and abundance of exposures of earth materials within the area;
- (7) Nature and source of available subsurface information and geologic reports or maps. Suitable explanations of the available data should provide a technical reviewer with the means of evaluating the reliability. Reference to cited works or field observations should be made, to substantiate opinions and conclusions;
- (8) Disclosure of known or suspected geologic hazards affecting the area, including a statement regarding past performance of existing facilities (such as, buildings or utilities) in the immediate vicinity;
- (9) Locations of test holes and excavations (drill holes, test pits, and trenches) shown on maps and sections described in the text of the report. The actual data, or processed data upon which interpretations are based, should be included in the report to permit technical reviewers to make their own assessments regarding reliability and interpretation;
- (10) All field and laboratory testing procedures (by ASTM designation, if appropriate) and test results; and
- (11) The signature and seal of the certified engineering geologist who prepared the report.

(B) Geologic mapping and investigation.

(1) Geologic mapping of the area should be done at a scale which shows sufficient detail to adequately define the geologic conditions present.

(a) For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, so independent geologic mapping is needed.

(b) If available published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes which have occurred since map publication.

(c) It may be necessary for the geologist to extend mapping into adjacent areas to adequately define significant geologic conditions.

(2) Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base should be included on each map or photo.

(3) The geologist doing the investigation and preparing the map should report the nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials exposed and inferred within the area. A clear distinction should be made between observed and inferred features and relationship.

(4) The report should include one or more appropriately positioned and scaled cross-sections to show subsurface relationships that cannot be adequately described in words alone. Fence or block diagrams may also be appropriate.

(C) *Geologic descriptions.*

(1) The report should contain brief but complete descriptions of all natural materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. Describe all field mapping and exploration procedures (surface geologic reconnaissance, drilling, trenching, geophysical survey, and the like).

(2) The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

(a) *Bedrock.*

1. Identification of rock types;
2. Relative and absolute age and, where possible, correlation with named formations and other stratigraphic units;
3. Surface and subsurface expression, areal distribution, and thickness;
4. Pertinent physical characteristics (such as, color, grain size, nature of stratification, strength, and variability);
5. Distribution and extent of zones of weathering; significant differences between fresh and weathered rock; and
6. Special engineering geologic characteristics or concerns (such as, factors affecting proposed grading, construction, and land use).

(b) *Structural features: stratification, faults, discontinuities, foliation, schistosity, and folds.*

1. Occurrence, distribution, dimensions, orientation, and variability; both within and projecting into the area;
2. Relative ages, where pertinent;
3. Special features of faults (such as, topographic expression, zones of gouge and breccia, nature of offsets, age of movements, youngest faulted unit, and oldest unfaulted unit); and
4. Other significant structural characteristics or concerns.

(c) *Surficial deposits: alluvial, colluvial, eolian, glacial, lacustrine, marine, residual, mass movement, volcanic (such as, cinders and ash), and fill.*

1. Identification of material, grain size, relative age, and degree of activity of originating process;
2. Distribution, dimensional characteristics, variations in thickness, degree of soil development, and surface expression;
3. Pertinent physical and engineering characteristics (such as, color, grain size, lithology, compactness, cementation, strength, thickness, and variability);
4. Special physical or chemical features (such as, indications of volume change or instability, such as expansive clays or peat); and
5. Other significant engineering geologic characteristics or concerns.

(d) *Surface and shallow subsurface hydrologic conditions, including groundwater, springs, and streams and their possible effect on site.* Indicate how conditions may be affected by variations in precipitation, temperature, and the like:

1. Distribution, occurrence, and variations (such as, drainage courses, ponds, swamps, springs, seeps, and aquifers);
2. Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, flow direction, gradient, recharge, and discharge areas;
3. Relationships to topographic and geologic features;
4. Evidence for earlier occurrence of water at localities now dry (such as, vegetation, mineral deposits, and historic records); and
5. Other significant engineering geologic characteristics or concerns, such as fluctuating water table and the effects

of proposed modifications on future hydrologic processes.

(e) *Seismic considerations.*

1. Description of the seismotectonic setting of the area (including size, frequency, and location of historic earthquakes), current seismic zoning, and expected seismic risk;
2. Potential for area to be affected by surface rupture (including sense and amount of displacement, and width of surface deformation zone);
3. Probable response of site to likely earthquakes (estimated ground motion);
4. Potential for area to be affected by earthquake-induced landslides or liquefaction; and
5. Potential for area to be affected by regional tectonic deformation (subsidence or uplift).

(D) *Assessment of geologic factors.*

(1) Assessment of existing geologic conditions and processes with respect to intended use of the site constitutes the principal contribution of the report. It involves the effects of the geologic features upon the proposed grading, construction, and land use; and the effects of these proposed modifications upon future geologic conditions and processes in the area.

(2) The following checklist includes topics that ordinarily should be considered in discussions, conclusions, and recommendations in geologic reports:

(a) *General suitability of proposed land use to geologic conditions.*

1. Areas to be avoided, if any, and mitigation alternatives;
2. Topography and slope;
3. Stability of geologic units;
4. Flood and tidal inundation, erosion, and deposition;
5. Problems caused by geologic features or conditions in adjacent properties;
6. Problems related to coastal erosion; and
7. Other general problems.

(b) *Identification and extent.* Identification and extent of known or probable geologic conditions which may result in risk to the proposed land use (such as, flood inundation, shallow groundwater, storm surge, surface and groundwater pollution, snow avalanche, landslide, debris flow, rock fall, expansive soil, collapsible soil, subsidence, erosion, deposition, earthquake shaking, fault rupture, tectonic deformation, liquefaction, seiche, tsunami, and volcanic eruption).

(c) *Recommendations for site grading.*

1. Prediction of what materials and structural features will be encountered in proposed cuts;
2. Prediction of stability based on geologic factors; recommended avoidance or mitigation alternatives to cope with existing or potential landslide masses;
3. Excavation considerations (hard or massive rock and groundwater flows);
4. General considerations of proposed fill masses in canyons or on hillsides;
5. Suitability of on-site material for use as compacted fill;
6. Recommendations for positioning fill masses, provision for subdrainage, buttressing, and the need for erosion protection on fill slopes; and
7. Other recommendations required by the proposed land use, such as the angle of cut slopes, position of drainage terraces, need for rock-fall, and/or erosion protection on cut slopes.

(d) *Drainage considerations.*

1. Protection from inundation or wave erosion along shorelines;
2. Soil permeability and suitability for septic systems; and
3. Protection from sheet flood or gully erosion, and debris flows or mud flows.

(e) *Limitations of study and recommendations for additional investigations.* Considering the scope of work and intended use of the site, provide a statement of the limitations of the study and the need for additional studies outside the stated scope of work.

1. Borings, test pits, and/or trenches needed for additional geologic information;
2. Percolation tests needed for design;

3. Program of subsurface exploration and testing that is most likely to provide data needed by the soils or civil engineer; and

4. Program for long-term monitoring of the site to evaluate geologic conditions (survey hubs, inclinometers, extensometers, and the like).

(E) *Conclusions and recommendations.* The reports shall provide a concise set of conclusions and recommendations, including specifics regarding the acceptable locations of structures (addressing setbacks where appropriate) and the acceptable nature and density of development.

(F) *Inspection and monitoring.* Reports shall specify inspections and/or monitoring required to verify that the development and construction on the site have been completed according to the recommendations contained in the report. Inspection records and/or "as built" certifications shall be provided for all geologic hazard reports.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.232 DETERMINATION OF COMPLIANCE.

(A) Geologic hazard reports submitted for review in accordance with §§152.200 through 152.210 of this chapter, shall be reviewed by the Planning Commission, which shall determine whether the report addresses the provisions of this subchapter as it reviews the entire application. Land use applications before the Planning Commission shall not be approved until such a determination has been made. Regardless of approval by the city, liability remains with the report signator and the applicant, who must conform with the report's requirements. Signed acceptance of this liability shall accompany the permit application.

(B) In determining compliance, the Planning Commission shall evaluate:

(1) If the report appears to adequately recognize the causes, extent, and potential of the hazards and conforms substantively with the requirements found in § 152.231 of this subchapter;

(2) If the recommendations to overcome the recognized hazards are set out clearly and specifically and are included in the engineered plans of the development;

(3) If the geologic hazard report indicates that possible future danger may exist from a hazard, the applicant or property owner shall complete and sign the declaration of covenants and conditions of responsibility and indemnity (the declaration) provided by the city. Prior to issuance of a building permit, the applicant or property owner shall execute and record the declaration in the deed records of the county;

(4) If the geologic hazard report and the associated plans contain the signature and professional stamp of a licensed geologist or engineering geologist qualified to certify such reports and plans; and

(5) Authorization of a geologic hazards permit shall be void after five years unless substantial construction pursuant thereto has taken place.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.233 PROVISIONS FOR ADDITIONAL INFORMATION.

There may be instances in which specific sites within the area mapped "as having significant slopes" may have topography not exceeding the 20% criterion. Property owners who can demonstrate, through a survey completed within a calendar year of the date of application by a surveyor registered in the state, that their property, or the specific site to be developed, has slopes of less than 20%, shall be exempt from any requirements pertaining to that specific characteristic.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.234 CALCULATION OF COASTAL SETBACKS.

Two areas shall be considered in establishing coastal setback requirements and may simultaneously apply to a given piece of property.

(A) *Areas of coastal erosion.*

(1) The following categories of coastal erosion are recognized (coastal erosion rates and the methodology used are outlined in the document entitled *Geologic Hazards Associated with Lincoln County Coastal Shoreline*, prepared by CH2M Hill, Inc., and RNKR Associates, 1977):

Less than 2.8 inches/year	Slight
2.8 to 11.3 inches/year	Moderate
More that 11.3 inches/year	Severe

(2) The following coastal setbacks are required for the categories listed above in order to limit the need for structural solutions to coastal erosion. All setbacks shall be measured from the mean higher high water line and/or the base of the bank, whichever requires the greater setback.

Slight erosion	1 foot of setback for each 1 foot of bank height
Moderate erosion	2.15 feet of setback for each 1 foot of bank height
Severe erosion	2.75 feet of setback for each 1 foot of bank height

Example of How to Determine Geologic Setback

(B) *Areas of visual concern.* This is an area 25 feet landward from the top of a coastal bluff measured on the horizontal, where the top of bluff is the uppermost break in slope (see diagram in division (A) above). Where there is no coastal bluff or no clear break in slope, for example on a smoothly sloping lot, the area of visual concern is an area 25 feet landward (measured on the horizontal) from the line of mean higher high water or the line of non-aquatic vegetation, whichever is the furthest landward.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.235 PROHIBITED ACTIVITIES IN COASTAL SETBACKS.

(A) (1) In the areas of coastal erosion, no excavating, filling, or placement of retaining walls, deck posts, or other permanent structures is allowed, unless based on a geological hazard report approved by the Commission.

(2) Vegetation removal is also prohibited except as allowed in division (A)(2) below with prompt replacement with plants that will stabilize the ground. In this area, such vegetation removal must be in accordance with any required geological hazard report and with a landscaping plan adequately addressing ground stabilization.

(3) In the areas of visual concern, no grading, excavating, or filling that changes the profile of the top of the bluff or the slope seaward from its top; vegetation removal; or placement of a building is allowed except for:

(a) Minor pruning to maintain views;

(b) Removal of brush and trees smaller than six inches in diameter measured four feet above ground in preparation for prompt landscape replanting in the area landward from the top of the bluff;

(c) Removal of vegetation within ten feet of a building allowed per division (A)(1) above;

(d) Placement of benches, tables, and chairs; and

(e) Placement of a single gazebo, provided such a structure is less than 100 square feet in size.

(B) If a geological hazard report is required per division (A)(1) above, any vegetation removal or gazebo placement must comply with this section and recommendations of the geological hazard report.

(Ord. 24, passed 4-5-1976; Ord. 85, passed 3-15-1982; Ord. 172, passed 10-7-1991; Ord. 239, passed 6-2-1997; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

LAND DIVISION

§ 152.250 PURPOSE.

(A) (1) As authorized by law, including O.R.S. Chapter 92, the following requirements and standards relating to the division of land apply to all land within the city.

(2) This subchapter is necessary for the protection of the health, safety, and welfare of the city's citizens, and is designed to promote coordinated and appropriate development of land and to carry out the city's Comprehensive Plan.

(B) These regulations have the following objectives:

- (1) To allow for the proper location of utilities;
- (2) To specify the width, location, and improvement of streets;
- (3) To provide for adequate sewage disposal facilities;
- (4) To provide for adequate water supplies;
- (5) To provide for adequate drainage facilities;
- (6) To reduce danger from geologic hazards, floods, fire, and pollution; and
- (7) To provide for adequate open space.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.251 EXCEPTIONS FOR PLANNED DEVELOPMENTS.

The provisions of §§ 152.250 through 152.261 of this subchapter shall be applicable to § 152.042 of this chapter, unless expressly contrary to a specific provision of § 152.042 of this chapter.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.252 APPROVAL OF PARTITIONS.

(A) A partition of land shall not be valid until it has been approved and recorded as provided for in this subchapter. No person shall convey any interest in a parcel in any partition, or replat of a partition, until the plat of the partition has been recorded as provided for in this chapter. A person may negotiate to sell any parcel in a partition or replat of a partition upon approval of the tentative plan of the partition.

(B) A person may negotiate to sell any parcel in a partition prior to the approval of the tentative plan for such partition, however, no person may sell any parcel in a partition prior to tentative approval.

(C) No building permits shall be approved for any parcel in a partition until the partition has been recorded.

(D) Partitions shall not be approved that will create a lot smaller than the minimum lot dimensions for the zone in which the partition occurs. If a road divides a parcel, the land on each side of the road shall be considered separately for purposes of calculating minimum lot sizes.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.253 APPROVAL OF SUBDIVISIONS.

(A) No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of the city, as provided for in this subchapter.

(B) No person shall negotiate to sell any lot in a subdivision until a tentative plan of that subdivision has been approved, however, no person shall sell any lot in the subdivision prior to final subdivision approval.

(C) No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.

(D) No person shall accomplish a property line adjustment without having first secured the approval of the city as provided for in this chapter.

(E) Approval of street or road creations:

(1) No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the city as provided for in this chapter.

(2) No instrument dedicating land to public use shall have any validity unless such instrument bears the approval of the city as accepting such dedication.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010) Penalty, see § 152.999

§ 152.254 GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DEVELOPMENT DESIGN.

The following are the minimum requirements and standards to which subdivisions and partitions must conform.

(A) *Conformity to the Comprehensive Plan.* All subdivisions and partitions shall conform to applicable portions of §§ 152.225 through 152.235 of this chapter, and the purposes of the goals and policies of the Comprehensive Plan.

(B) *Relation to adjoining street system.* If development of a subdivision or partition would otherwise impede or interfere with access to or through existing streets and rights-of-way, a subdivision or partition shall provide for the continuation of said streets and rights-of-way. If physical conditions make such continuation impractical, exceptions may be made.

(1) If the city finds that the off-site effects of a subdivision warrant the necessity of improved streets or rights-of-way, the city may require that the subdivision or partition provide for them. If no such off-site effects are found, the city may require that the lay-out of the subdivision or partition take into account the future development of streets and rights-of-way with regard to setback, access, parks, and open spaces, as well as other requirements of this subchapter.

(2) When a tract is divided into lots or parcels of a size which could allow for further redivision under current zoning, the city may require an arrangements of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this subchapter.

(C) *Access.*

(1) A subdivision, partition, or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.

(2) A subdivision or partition shall consider vehicular access to the parcel of existing or proposed roads that addresses traffic congestion, speed, stop signs, and turn lanes for the orderly development of traffic accessing the area.

(D) *Private streets.*

(1) No street or road which would serve as a collector from existing public streets shall be approved as a private street.

(2) The establishment of a private street shall not be allowed if it will deny the public access to public areas such as beaches or parks.

(3) No road or street shall be approved as a private road in a case where such a road or street presently is or will in the future be needed to provide access to development on adjacent properties or to serve as a collector for other subdivisions or partitions in the area.

(4) All private streets or roads established for the purpose of subdividing, partitioning, or replatting land shall be surveyed and monumented.

(5) Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.

(6) Private road rights-of-way may be approved of less than 50 feet in width but in no instance shall the road right-of-way be less than 30 feet, except that a private road to two lots may be 20 feet in width. In instances where the road access to more than three lots is less than 50 feet in width, utility/slope easements may be required.

(7) Private road standards shall be the same as those for public streets. No more than three lots shall be exempt from standards for improvements.

(E) *Public streets.*

(1) Right-of-way and improvement requirements for public streets shall conform to the widths as specified in §§152.260 and 152.261 of this subchapter.

(2) If topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements shall be provided.

(3) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.

(4) Street improvements, street grades, and center line radii on curves shall meet the minimum requirements as specified in §§ 152.260 and 152.251 of this subchapter.

(5) The city shall only be responsible for maintenance of a public street when the street is accepted by the City Council through dedication. A street that is accepted by the City Council through dedication shall be referred to as a "city street."

(F) *Street intersections.*

(1) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of

the area and previous adjacent layout.

(2) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections.

(G) *Cul-de-sacs and turnarounds.*

(1) Dead-end (cul-de-sac) streets in partitions and subdivisions shall terminate in a turnaround with a minimum property line radius of 40 feet, or other type of turnaround approved by the city.

(2) Approved turnarounds shall be provided on all dead-end streets.

(3) No dead-end street may be established without Fire Marshal approval.

(H) *Easements.* Where alleys are not provided, easements of not less than six feet in width may be required on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas, and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainageways or channels.

(I) *Blocks.* Normally, no block shall be longer than 600 feet between street lines. Approval for longer blocks can be given where topographical conditions constrain development.

(J) *Public accessways.* When necessary for public convenience and safety, the Planning Commission may require the developer to dedicate to the public reasonable accessways to connect to cul-de-sacs, pass through oddly shaped blocks, provide for networks of public paths according to adopted plans, or to provide access to schools, parks, beaches, or other public areas, or for other such design and location as reasonably required to facilitate public use. A subdivision, partition, or replat shall maintain existing public access points to shorelands as required by § 152.039(E)(4) of this chapter. Such access points shall be ascertained as follows:

(1) By examination of a standard title report;

(2) By consulting city inventory of such points; or

(3) Through presentation of other lawful information.

(K) *Lots and parcels.*

(1) Every lot/parcel shall abut a public street or private road. A flag lot with the staff that does not comply with the required minimum lot widths for the zone it is located in is permitted, but the staff measurement shall not be less than 25 feet minimum frontage.

(2) Each side line shall be as close to perpendicular to the adjacent street/road or radial to a curved street/road as possible.

(3) Lots/parcels with double frontage shall not be permitted unless, in the opinion of the city, the physical characteristics of the land prohibit any other plan for a subdivision.

(4) The staff portion of a flag lot shall not be used in computing lot size for zoning and building purposes.

(L) *Utility easements.*

(1) Where alleys are not provided, easements of not less than ten feet in width may be required on side or rear lines if determined to be necessary for utility lines, wires, conduits, storm and sanitary sewers, gas, and water.

(2) Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainageways or channels.

(M) *Water.* No partition or subdivision shall receive final approval unless the city has received and accepted:

(1) A certification by the Public Works Director, or such other city official as the city may designate, that water will be available to the boundary line of each, and every lot or parcel depicted in the proposed subdivision or partition; or

(2) A performance agreement, bond, contract, or other assurance that a water supply system will be installed to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

(N) *Sewer.* No partition or subdivision shall receive final approval unless the city has received and accepted:

(1) A certification by the Public Works Director, or other officials as the city may designate, that sewer will be available to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition; or

(2) A performance agreement, bond, contract, or other assurance that sewage disposal lines will be installed by or on behalf of the developer to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

(O) *Surface drainage and storm sewer.*

(1) Drainage facilities shall be provided within subdivisions and partitions, and to connect the subdivision or partition drainage to drainageways or storm sewer outside the subdivision or partition. The connection to the city system shall be engineered using standard practices and shall be approved by the city.

(2) Design of drainage within subdivisions and partitions shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the development, as well as to allow extension of the system to serve those areas.

(P) *Phase development.* A plat may be filed on a portion or phase of an approved tentative plan. Each phase of a subdivision must be able to qualify for approval independent of the balance of the approved tentative plan.

(Q) *Geologic hazards.* All land divisions shall comply with the procedures and standards set forth in §§152.225 through 152.235 of this chapter, where applicable.

(R) *Parks and open spaces.* Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park, or natural land, for use by the residents of the subdivision.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.255 TRANSPORTATION IMPACT STUDY (TIS).

The purpose of this section is to implement § 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule that requires the city to adopt standards to protect the future operations of roadways and transit corridors and a process to apply conditions to development proposals in order to protect and minimize adverse impacts to transportation facilities. This section establishes when a TIS must be submitted with a land use application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities.

(A) *Applicability; TIS letter.* A TIS letter shall be required to be submitted with a land use application if the proposal is expected to generate ten to 30 peak hour trips or 100 to 300 daily trips.

(B) *Applicability; TIS report.* A TIS report shall be required to be submitted with a land use application if the proposal is expected to involve one or more of the following:

- (1) The proposed development would generate more than 30 peak hour trips or more than 300 daily trips;
- (2) The proposal is immediately adjacent to an intersection that is functioning at a poor level of service, as determined by the city;
- (3) An increase in use of any direct property approach road to Highway 101 by ten vehicles or more per day that exceed 20,000 pounds gross vehicle weight;
- (4) A new direct approach to Highway 101 is proposed;
- (5) A proposed development or land use action that the road authority states may contribute to operational or safety concerns on its facility(ies); and
- (6) An amendment to the Comprehensive Plan or zoning map is proposed.

(C) *Preparation.*

(1) The TIS letter or TIS report shall be prepared by a state registered professional engineer qualified to perform traffic engineering analysis and will be paid for by the applicant.

(2) The TIS letter or report shall include trip generation estimates that are based on the Institute of Transportation Engineers (ITE) trip generation manual.

(D) *Determination.* Consistent with the city's traffic impact study (TIS) guidelines, the city will determine the project study area, intersections for analysis, scenarios to be evaluated, and any other pertinent information concerning the study that must be addressed in either a TIS letter or a TIS report.

(E) *Approval criteria.* When a TIS letter or report is required, a proposal is subject to the following:

- (1) The TIS addresses the applicable elements identified by the city, consistent with the traffic impact study guidelines;
- (2) The TIS demonstrates that adequate transportation facilities exist to serve the proposed development or, in the case of a TIS report, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the city and, when state highway facilities are affected, to ODOT;
- (3) For affected non-highway facilities, the TIS report establishes that mobility standards adopted by the city have been met; and
- (4) Proposed public improvements are designed and will be constructed consistent with city street design standards and access standards in the transportation system plan.

(F) *Conditions of approval.*

(1) Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.

(2) Where the existing transportation system is shown to be impacted by the proposed use, improvements such as

paving, curbing, installation, or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use may be required.

(3) Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

(Ord. 326-20, passed 7-7-2020)

§ 152.256 DEDICATION OF PUBLIC STREETS APPLICATION.

Any person wishing to create a public road or street which is not a part of a subdivision shall make written application to the City Council. The application shall consist of a letter addressed to the Council requesting acceptance of the dedication; a dedication deed with a proper description of the proposed dedication signed by all owners of the property being dedicated; and a map showing the proposed road and property intended to be served by the road.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.257 REVIEW.

The City Council shall refer the dedication application to the following:

(A) The Public Works Director, or other designated person, who shall check the proposal for grade and conformance to city road standards;

(B) A title insurance company for a standard preliminary title report; and

(C) The Planning Commission which shall review the proposal for compatibility with the city's Comprehensive Plan, transportation plan, and any adjacent approved tentative plans, plats, or maps.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.258 APPROVAL.

The above reports shall be forwarded to the City Council along with the application for dedication. The dedicator shall furnish a standard title insurance policy insuring title of the dedicated street to the city. A public street will not be maintained by the city unless that street is accepted by the city into the city's road system.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.259 PROCEDURE FOR ENSURING COMPLETION OF ROADS AND/OR UTILITIES IN SUBDIVISIONS AND PARTITIONS.

(A) The developer's engineer will prepare cost estimates for completion of roads and/or utilities. Road cost estimates shall be based upon road standards as designated herein. All cost estimates shall be stamped by a registered professional engineer, licensed in the state.

(B) All estimates shall be submitted to the Public Works Director; water and/or sewer cost estimates shall be sent to the Water and Sewer Department for review and approval.

(C) The Public Works Director shall notify the developer as to the amount of bond or other performance agreement required and as to any changes necessary for bond acceptance or other performance agreement.

(D) The developer shall submit the bond or performance agreement and three copies thereof written in favor of the city to city hall for approval.

(E) Upon completion of construction of roads and utilities, the applicant's engineer shall certify that such improvements are built to the standards approved. This certification of completion shall be submitted prior to the release of any bond or performance agreement.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.260 STREET WIDTH IN SUBDIVISIONS AND PARTITIONS.

<i>Type of Street</i>	<i>Right-of-Way Width (Feet)</i>	<i>Surface Widths (Feet) +</i>
Arterials	80 to 150 ++	40 to 52 ++
Collector streets and all streets other than arterials	40 to 50 ++	28 to 38 ++

Cul-de-sacs	40	28
Circular ends of cul-de-sacs	80 +++	60 +++
+ Surface width is that measured from face to face of curbs or shoulders ++ The Planning Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public, and the traffic needs of the community +++ Measured by diameter of circle constituting circular end		

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.261 STREET IMPROVEMENTS IN SUBDIVISIONS AND PARTITIONS.

Improvements shall meet the following minimum standards unless increased at the request of the Planning Commission:

- (A) All streets shall be rough graded for the full surface width;
- (B) All streets shall have a minimum of eight inches of base material to a minimum width of 28 feet;
- (C) All streets shall have a leveling course of three-fourths inch crushed rock, two inches deep compacted; and
- (D) All streets shall be paved with two inches of asphalt concrete to a minimum of the width required by the Planning Commission.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.262 PROCEDURE FOR SUBDIVIDING, PARTITIONING, OR REPLATTING LAND.

(A) *Pre-application conference.* Prior to submitting a tentative plan of a subdivision, partition, or replat, the applicant should confer with the City Planner regarding the requisites of the tentative plan application and the applicable standards and criteria of this chapter.

(B) *Tentative plan requirements.* The submitted tentative plan for a subdivision, partition, or replat shall contain all of the information listed on the applicable city application form. If the proposal includes new access from a state highway, the applicant shall submit documentation that the Oregon Department of Transportation will be willing to issue the requested road approach permits.

(C) *Tentative plan application and review for subdivisions and partitions.* The procedure for application and review of the tentative plan of a subdivision, and the procedure for application and review of the tentative plan for a partition shall be as set forth in § 152.204(C) of this chapter.

(D) *Tentative plan application and review for replats.*

- (1) The procedure for review and approval of the tentative plan shall be set forth in §152.204(C).
- (2) For replats of previously recorded partition plats, the procedure for review and approval of the tentative plan shall be as set forth in § 152.204(A).

(E) *Time limit for tentative approval.* Approval of a tentative plan in accordance with this section is valid for a period of three years. A single time limit extension may be granted by the Planning Commission only if the development is substantially completed within the three-year time period. A development is deemed to be substantially completed when utilities, streets, and drainage are in and stubbed to the lot line.

(F) *Revision of tentative plan.* If an approved tentative plan for a subdivision is revised in any way, the Planning Commission shall review the proposed revisions to determine if a new application for tentative approval will be required. Such review will be limited to those issues impacted by the revision. If an approved tentative plan is substantially revised, such revision shall be filed as a new application for tentative plan approval.

(G) *Certifications required for final approval.* Requests for final approval of a subdivision, partition, or replat shall be accompanied by the following:

- (1) A copy of all covenants and restrictions;
- (2) Copies of all legal documents required for dedication of public facilities and/or for the creation of a homeowner's association;
- (3) The certification, bond, performance agreement, or statement regarding the installation of water and sewer services;
- (4) As-built certifications for all required roads and/or utilities, unless otherwise guaranteed by a bond or performance agreement;
- (5) A plat and one exact copy meeting the requirements of §152.263 of this subchapter and the applicable state statute;

(6) When access from a state highway is proposed, a copy of the approach road permit issued by the Oregon Department of Transportation confirming that all required improvements have been satisfactorily completed; and

(7) Such other information as is deemed necessary by the City Planner or Commission to verify conformance with the conditions of tentative approval.

(H) *Procedure for final approval of partitions.*

(1) The procedure for application and review of a request for final approval of a partition shall be as set forth in § 152.204(A) of this chapter. All such applications shall be accompanied by the certifications set forth in division (G) above.

(2) Upon granting of final approval, the City Planner shall sign the plat and its exact copy.

(3) Upon signing, the City Planner shall deliver the plat and its exact copy to the County Surveyor who shall follow established procedures for obtaining recordation of the plat.

(I) *Procedure for final approval of replats.*

(1) If the proposed replat involves three lots or less and is for the purpose of lot boundary changes only, procedure for review of final approval shall be as set forth in § 152.204(A) of this chapter.

(2) If the proposed replat involves four lots or more or includes changes to street rights-of-way, utilities, or any other features besides boundary lines, procedures for review of final approval shall be as set forth in § 152.204(B) of this chapter.

(3) Following the signature of the City Planner or Planning Commission chairperson, the city shall deliver the replat and its exact copy to the County Surveyor who shall follow established procedures for obtaining recordation of the plat.

(J) *Procedure for final approval of subdivisions.*

(1) (a) When the City Planner determines that all of the certifications set forth in division (G) above have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the agenda of the next scheduled meeting of the Planning Commission for determination that all requirements have been met.

(b) The Commission shall then approve, disapprove for cause, or, when further information is required, postpone a decision on the plat.

(2) Unless appealed, the decision of the Planning Commission shall become effective 15 days after the decision is rendered. When the approval becomes effective, the Planning Commission chairperson shall sign the plat and its exact copy.

(3) Following the Planning Commission chairperson's signature, the city shall deliver the plat and its exact copy to the County Surveyor. The County Surveyor shall review the plat for conformance with the requirements of § 152.263 of this subchapter and the provisions of the applicable state statute.

(4) Upon approval of the County Surveyor, subdivision plats shall be circulated for signing to the following officials:

(a) The County Treasurer, whose signature shall certify that all taxes on the property have been paid; and

(b) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record.

(5) Upon signing by the County Treasurer and County Assessor, subdivision plats shall be delivered to the County Clerk for recording.

(6) The signature of the chairperson on the final subdivision plat shall be valid for a period of one year. If a plat has not been recorded within one year of the date of the chairperson's signature, the final approval of the plat shall expire, and a new request for final approval shall be required.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.263 PLAT REQUIREMENTS.

(A) *Requirements of survey plats.* The surveys and plats of all subdivisions, partitions, and replats shall be made by a registered professional land surveyor and shall conform to the requirements of the applicable state statute.

(B) *Encroachment or hiatus.* In the event that any encroachment, hiatus, or property line discrepancy exists on the property to be platted, such encroachment, hiatus, or discrepancy shall be clearly shown on the plat.

(C) *Elevation bench marks.* Where required, the location, name, and elevation of any elevation bench marks shall be indicated on the face of the plat. The name, year, and elevation of the bench mark upon which the elevation is based shall also be shown.

(D) *Easements.* All recorded and proposed easements will be shown on the plat, along with the following information:

(1) The specific location and size by dimensions or description;

(2) If previously recorded, the County Clerk's recording reference; and

(3) The purpose or type of easement and whether it is a public or private easement and, if private, who benefits from the easement. Any public or private easement to be created, or any other restriction made, shall be noted in the declaration. Public easements shall include language in the declaration which dedicates the easement to the use of the public.

(E) *Exceptions.*

(1) Parcels created in excess of 80 acres need not be shown on a partition plat.

(2) Parcels in excess of ten acres created by partition plat need not be surveyed or monumented.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.264 STANDARDS AND PROCEDURES FOR PROPERTY LINE ADJUSTMENTS.

(A) *Tentative approval.*

(1) The procedure for application, review, and tentative approval of property line adjustments shall be as set forth in § 152.204(A) of this chapter. A property line adjustment shall be tentatively approved provided that:

(a) No additional lots or parcels will be created;

(b) The subject lots, parcels, or tracts of land will not be reduced in size to below the minimum area required by the applicable use zone;

(c) The proposed lots, parcels, or tracts of land as adjusted will comply with any required minimum width requirement as set forth in the applicable use zone;

(d) The proposed property line adjustment will not reduce any yard or other setback below that required under applicable zoning;

(e) The proposed property line adjustment will not reduce the street or road frontage of the subject lots or parcels to below that required by the city code;

(f) The proposed property line adjustment will not reduce any setback for an existing on-site sewage disposal system or approved replacement area below the required minimum; and

(g) The proposed property line adjustment will not increase the degree of non-conformity on vacant lots, parcels, or tracts that do not conform to lot size, width, or depth requirements, or on developed lots if the increase in non-conformity results in adjacent property becoming further dividable. The proposed property line adjustment will not increase the degree of non-conformity for required yards.

(2) Tentative approval of a property line adjustment is valid for a period of one year. Tentative approval may be extended by the City Planner prior to expiration of tentative approval. Requests shall specify reasons for requiring a time extension, along with a specific plan and timeline for completion. Only one time extension of up to one year may be granted.

(B) *Final approval.*

(1) The procedure for application, review, and final approval of property line adjustments shall be as set forth in § 152.204(B) of this chapter.

(2) Final approval of a property line adjustment shall be granted upon submittal of the following:

(a) A copy of a filed survey of the property line adjustment in accordance with the applicable state statute and in substantial conformance with the tentative approval, except that property line adjustments where all lots, tracts, or parcels affected are greater than ten acres need not be surveyed or monumented;

(b) Copies of recorded conveyances conforming to the tentatively approved property line adjustment and containing the names of the parties with proper acknowledgment; and

(c) Such other documentation as may be required by the City Planner to verify conformance with any requirements or conditions of the tentative approval.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

§ 152.265 PROPERTY LINE ADJUSTMENTS IN SUBDIVISIONS AND PARTITIONS.

(A) Except as provided for herein, all property line adjustments within recorded plats shall be accomplished by replatting in accordance with § 152.262 of this subchapter.

(B) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments rather than by replatting, when the City Planner determines that:

(1) The property line or lines to be adjusted will not result in a substantial reconfiguration of the affected lots or parcels so as to render them unsuitable for their previously approved purpose;

(2) The property line or lines to be adjusted will not result in an increase in lots;

(3) The property line or lines to be adjusted will not reduce the common open space or park and recreational acreage; and

(4) All of the other requirements for property line adjustments set forth in §152.250 of this subchapter will be met.

(Ord. 24, passed 4-5-1976; Ord. 57, passed 6-4-1979; Ord. 87, passed 3-15-1982; Ord. 111, passed 5-21-1984; Ord. 153, passed 7-16-1990; Ord. 155, passed 9-17-1990; Ord. 256, passed 4-6-2004; Ord. 287, passed 5-4-2010)

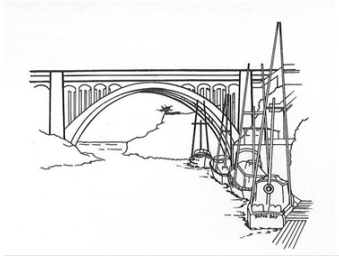
§ 152.999 PENALTY.

(A) A person violating a provision of this chapter shall, upon conviction, be punished by imprisonment for not more than 30 days or by a fine of not more than \$500 or both. A violation of this chapter shall be considered a separate offense for each day the violation continues. The convicted violator shall be liable for all court costs.

(B) A person violating a provision of § 152.040 shall, upon conviction, be punished by imprisonment for not more than 30 days or by a fine of not more than \$500 or both.

(C) Any person who violates any of the provisions of §§152.090 through 152.103, as now constituted or hereafter amended or revised shall be subject to the procedures and penalties of § 11.99 of this code of ordinances (enforcement procedures). The city may confiscate any sign found to be in violation of §§ 152.090 through 152.103.

(Ord. 24, passed 4-5-1976; Ord. 314, passed 9-5-2017; Ord. 320, passed 10-15-2019)



Date: April 17, 2024

To: Depoe Bay Planning Commission

From: Kit Fox, AICP, City Planner

Subject: Summary of SB 1537

During its recently-completed 2024 short session, the State Legislature passed Senate Bill No. 1537 (SB 1537).¹ Introduced on February 5, 2024, SB 1537 is the product of Governor Kotek's Executive Order 23-04, which established a statewide annual housing production target of 36,000 dwelling units, and created the Governor's Housing Production Advisory Council (HPAC). HPAC was tasked with developing recommendations to achieve the Governor's housing production target, and SB 1537 is a reflection of HPAC's recommendations. It was passed in the both houses of the Legislature, and signed by the President of the Senate and the Speaker of the House on March 5, 2024. The bill goes into effect without the Governor's signature on June 6, 2024. Copies of the language of SB 1537 and a legislative staff summary are attached.

There are several major components of SB 1537 (as described in the attached legislative staff summary). Some of these components are likely to have a more significant impact on day-to-day planning processes in the City than are others. Many of the provisions of SB 1537 will go into effect on January 1, 2025, or later.

- A. Housing Accountability and Production Office (Sections 1 – 7):** Effective July 1, 2025, the Department of Land Conservation and Development (DLCD) and the Department of Consumer and Business Services (DCBS) will establish the Housing Accountability and Production Office (HAPO) with a \$5 million appropriation. HAPO is directed to assist local governments in voluntarily undertaking changes to comply with housing laws and reduce barriers to housing development. HAPO is also empowered to investigate and enforce housing law violations by local governments.
- B. Opting In to Amended Housing Regulations (Sections 8 – 9):** SB 1537 allows applicants for permits, limited land use decisions, and zone changes for the development of housing to request their application be reviewed using standards and criteria that become operative while their application is pending. Application timelines may be restarted if a review under different standards is requested. Local governments may assess a fee covering costs incurred by such a request.
- C. Attorney Fees for Needed Housing Challenges (Sections 10 – 11):** SB 1537 modifies existing statute that awards attorney fees to applicants for the development of affordable housing if the applicant prevails in a Land Use Board of Appeals (LUBA) review. If LUBA affirms a decision, attorney fees will be awarded to applicants for any

¹ Substantially similar legislation, Senate Bill No. 3414 (SB 3414), was considered in the State Legislature during the 2023 session. SB 3414 was also supported by the Governor, but it eventually failed to pass by a single vote in the Senate in June 2023.

Summary of SB 1537

April 17, 2024, Planning Commission Meeting

exclusively-housing development, and to any local government approving the land use decision. These provisions apply to decisions appealed to LUBA on or after January 1, 2025.

- D. Infrastructure Supporting Housing Production (Sections 12 – 23):** SB 1537 allocates \$3 million to the Housing Infrastructure Support Fund (HISF). HISF funding will provide capacity and support to municipalities for the planning and financing of infrastructure for water, sewers and sanitation, stormwater, and transportation to produce housing units. HISF sunsets on January 2, 2030.
- E. Housing Project Revolving Loans (Sections 24 – 36):** SB 1537 appropriates \$75 million to establish the Housing Project Revolving Loan Fund. By June 30, 2025, Oregon Housing and Community Services (OHCS) will develop a program to make loans to local jurisdictions, which in turn will award grants to developers to cover eligible costs, including infrastructure and system development charges, predevelopment costs, construction costs, and land write-downs. Funding will be prioritized to housing projects serving households earning 120 percent or less of area median income.
- F. Housing Land Use Adjustments (Sections 37 – 43):** SB 1537 specifies conditions and timelines under which local governments must grant adjustments to existing land use regulation and design and development standards for housing developments. SB 1537 requires local governments to grant up to ten (10) distinct adjustments to development standards for housing projects. Standards eligible for adjustment include (but are not limited to) setbacks, open space and landscape areas, off-street parking requirements, lot sizes and dimensions, and design standards and guidelines. It appears that granting certain mandatory adjustments may not be required for properties within the Coastal Shorelands Overlay Zone; otherwise, these provisions appear to apply within all use zones that allow residential development. Appeals of decisions regarding adjustments are reserved to only the project applicant. Local governments are allowed to apply to HAPO for an exemption to the mandatory adjustment requirement, subject to certain conditions specified in SB 1537. Prior to January 1, 2025, exemption requests may be submitted to DLCDC, whose decision will then be binding upon HAPO. Otherwise, the mandatory adjustment provisions of SB 1537 will sunset on January 2, 2032.
- G. Limited Land Use Decisions (Sections 44 – 47):** SB 1537 expands the definition of “limited land use decision” to include approval or denial of applications for replats, property line adjustments, and extensions, alterations, or expansions of nonconforming uses. HAPO may approve a hardship exemption or time extension to these provisions if the local government demonstrates a hardship would result from implementing a limited land use decision. These limited land use provisions sunset on January 2, 2032.
- H. One-Time Site Additions to Urban Growth Boundaries (Sections 48 – 60):** SB 1537 allows cities outside the Portland Metro Area to add a site to their urban growth boundary (UGB) for the purposes of building housing of specified types and affordability. This addition is limited to 50 net residential acres for cities with less than 25,000 population.

Summary of SB 1537

April 17, 2024, Planning Commission Meeting

Cities must demonstrate need for the UGB amendment using specified criteria, provide public notice and opportunity for public participation, and adopt a conceptual plan subject to the specified requirements. In Depoe Bay, all of the land located outside the UGB is zoned Timber Conservation (T-C), which does not allow residential development. These one-time UGB expansion provisions sunset on January 2, 2033.

Attachments

- SB 1537
- Legislative Staff Summary of SB 1537 (as amended)

Enrolled
Senate Bill 1537

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for Office of the Governor)

CHAPTER

AN ACT

Relating to housing; creating new provisions; amending ORS 183.471, 197.015, 197.195, 197.335, 197.843, 215.427, 227.178 and 455.770; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

HOUSING ACCOUNTABILITY AND PRODUCTION OFFICE

SECTION 1. Housing Accountability and Production Office. (1) The Department of Land Conservation and Development and the Department of Consumer and Business Services shall enter into an interagency agreement to establish and administer the Housing Accountability and Production Office.

(2) The Housing Accountability and Production Office shall:

(a) Provide technical assistance, including assistance through grants, to local governments to:

- (A) Comply with housing laws;
- (B) Reduce permitting and land use barriers to housing production; and
- (C) Support reliable and effective implementation of local procedures and standards relating to the approval of residential development projects.

(b) Serve as a resource, which includes providing responses to requests for technical assistance with complying with housing laws, to:

- (A) Local governments, as defined in ORS 174.116; and
- (B) Applicants for land use and building permits for residential development who are experiencing permitting and land use barriers related to housing production.

(c) Investigate and respond to complaints of violations of housing laws under section 2 of this 2024 Act.

(d) Establish best practices related to model codes, typical drawings and specifications as described in ORS 455.062, procedures and practices by which local governments may comply with housing laws.

(e) Provide optional mediation of active disputes relating to housing laws between a local government and applicants for land use and building permits for residential development, including mediation under ORS 197.860.

(f) Coordinate agencies that are involved in the housing development process, including, but not limited to, the Department of Land Conservation and Development, Department of

Consumer and Business Services, Housing and Community Services Department and Oregon Business Development Department, to enable the agencies to support local governments and applicants for land use and building permits for residential development by identifying state agency technical and financial resources that can address identified housing development and feasibility barriers.

(g) Establish policy and funding priorities for state agency resources and programs for the purpose of addressing barriers to housing production, including, but not limited to, making recommendations for moneys needed for the purposes of section 35 of this 2024 Act.

(3) The Land Conservation and Development Commission and the Department of Consumer and Business Services shall coordinate in adopting, amending or repealing rules for:

(a) Carrying out the respective responsibilities of the departments and the office under sections 1 to 5 of this 2024 Act.

(b) Model codes, development plans, procedures and practices by which local governments may comply with housing laws.

(c) Establishing standards by which complaints are investigated and pursued.

(4) The office shall prioritize assisting local governments in voluntarily undertaking changes to come into compliance with housing laws.

(5) As used in sections 1 to 5 of this 2024 Act:

(a) "Housing law" means ORS chapter 197A and ORS 92.010 to 92.192, 92.830 to 92.845, 197.360 to 197.380, 197.475 to 197.493, 197.505 to 197.540, 197.660 to 197.670, 197.748, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465 and 455.467 and administrative rules implementing those laws, to the extent that the law or rule imposes a mandatory duty on a local government or its officers, employees or agents and the application of the law or rule applies to residential development or pertains to a permit for a residential use or a division of land for residential purposes.

(b) "Residential" includes mixed-use residential development.

SECTION 2. Office responses to violations of housing laws. (1) The Housing Accountability and Production Office shall establish a form or format through which the office receives allegations of local governments' violations of housing laws that impact housing production. For complaints that relate to a specific development project, the office may receive complaints only from the project applicant. For complaints not related to a specific development project, the office may receive complaints from any person within the local government's jurisdiction or the Department of Land Conservation and Development or the Department of Consumer and Business Services.

(2)(a) Except as provided in paragraph (c) of this subsection, the office shall investigate suspected violations of housing laws or violations credibly alleged under subsection (1) of this section.

(b) The office shall develop consistent procedures to evaluate and determine the credibility of alleged violations of housing laws.

(c) If a complainant has filed a notice of appeal with the Land Use Board of Appeals or has initiated private litigation regarding any aspect of the application decision that was alleged to have been the subject of the housing law violation, the office may not further participate in the specific complaint or its appeal, except for:

(A) Providing agency briefs, including briefs under ORS 197.830 (8), to the board or the court;

(B) Providing technical assistance to the local government unrelated to the resolution of the specific complaint; or

(C) Mediation at the request of the local government and complainant, including mediation under ORS 197.860.

(3)(a) If the office has a reasonable basis to conclude that a violation was or is being committed, the office shall deliver written warning notice to the local government specifying

the violation and any authority under this section that the office intends to invoke if the violation continues or is not remedied. The notice must include an invitation to address or remedy the suspected violation through mediation, the execution of a compliance agreement to voluntarily remedy the situation, the adoption of suitable model codes developed by the office under section 1 (3)(b) of this 2024 Act or other remedies suitable to the specific violation.

(b) The office shall prioritize technical assistance funding to local governments that agree to comply with housing laws under this subsection.

(c) A determination by the office is not a legislative, judicial or quasi-judicial decision.

(4) No earlier than 60 days after a warning notice is delivered under subsection (3) of this section, the office may:

(a) Initiate a request for an enforcement order of the Land Conservation and Development Commission by delivering a notice of request under section 3 (3) of this 2024 Act.

(b) Seek a court order against a local government as described under ORS 455.160 (3) without being adversely affected or serving the demand as described in ORS 455.160 (2).

(c) Notwithstanding ORS 197.090 (2)(b) to (e), participate in and seek review of a matter under ORS 197.090 (2)(a) that pertains to housing laws without the notice or consent of the commission. No less than once every two years, the office shall report to the commission on the matters in which the office participated under this paragraph.

(d) Except regarding matters under the exclusive jurisdiction of the Land Use Board of Appeals, apply to a circuit court for an order compelling compliance with any housing law. If the court finds that the defendant is not complying with a housing law, the court may grant an injunction requiring compliance.

(5) The office may not, in the name of the office, exercise the authority of the Department of Land Conservation and Development under ORS 197A.130.

(6) The office shall send notice to each complainant under subsection (1) of this section at the time that the office:

(a) Takes any action under subsection (3) or (4) of this section; or

(b) Has determined that it will not take further actions or make further investigations.

(7) The actions authorized of the office under this section are in addition to and may be exercised in conjunction with any other investigative or enforcement authority that may be exercised by the Department of Land Conservation and Development, the Land Conservation and Development Commission or the Department of Consumer and Business Services.

(8) Nothing in this section:

(a) Amends the jurisdiction of the Land Use Board of Appeals or of a circuit court;

(b) Creates a new cause of action; or

(c) Tolls or extends:

(A) The statute of limitations for any claim; or

(B) The deadline for any appeal or other action.

SECTION 3. Office enforcement orders. (1) The Housing Accountability and Production Office may request an enforcement order under section 2 (4)(a) of this 2024 Act requiring that a local government take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions or actions into compliance with a housing law, except for a housing law that pertains to the state building code or the administration of the code.

(2) Except as otherwise provided in this section, a request for an enforcement order by the office is subject to the applicable provisions of ORS 197.335 and ORS chapter 183 and is not subject to ORS 197.319, 197.324 or 197.328.

(3) The office shall make a request for an enforcement order under this section by delivering a notice to the local government that states the grounds for initiation and summarizes the procedures for the enforcement order proceeding along with a copy of the notice

to the Land Conservation and Development Commission. A decision of the office to initiate an enforcement order is not subject to appeal.

(4) After receiving notice of an enforcement order request under subsection (3) of this section, the local government shall deliver a notice to an affected applicant, if any, in substantially the following form:

NOTICE: The Housing Accountability and Production Office has found good cause for an enforcement proceeding against _____ (name of local government). An enforcement order may be adopted that could limit, prohibit or require the application of specified criteria to any action authorized by this decision but not applied for until after the adoption of the enforcement order. Future applications for building permits or time extensions may be affected.

(5) Within 14 days after receipt by the commission of the notice under subsection (3) of this section, the Director of the Department of Land Conservation and Development shall assign the enforcement order proceedings to a hearings officer who is:

(a) An administrative law judge assigned under ORS 183.635; or

(b) A hearings officer randomly selected from a pool of officers appointed by the commission to review proceedings initiated under this section.

(6) The hearings officer shall schedule a contested case hearing within 60 days of the delivery of the notice to the commission under subsection (3) of this section.

(7)(a) The hearings officer shall prepare a proposed enforcement order or order of dismissal, including recommended findings and conclusions of law.

(b) A proposed enforcement order may require the local government to take any necessary action to comply with housing laws that is suitable to address the basis for the proposed enforcement order, including requiring the adoption or application of suitable models that have been developed by the office under section 1 (3)(b) of this 2024 Act.

(c) The hearings officer must issue and serve the proposed enforcement order on the office and all parties to the hearing within 30 days of the date the record closed.

(8)(a) The proposed enforcement order becomes a final order of the commission 14 days after service on the office and all parties to the hearing, unless the office or a party to the hearing appeals the proposed enforcement order to the commission prior to the proposed enforcement order becoming final.

(b) If the proposed enforcement order is appealed, the commission shall consider the matter at:

(A) Its next regularly scheduled meeting; or

(B) If the appeal is made 45 or fewer days prior to the next regularly scheduled meeting, at the following regularly scheduled meeting or a special meeting held earlier.

(9) The commission shall affirm, affirm with modifications or reverse the proposed enforcement order. The commission shall issue a final order no later than 30 days after the meeting at which it considered the matter.

(10) The commission may adopt rules administering this section, including rules related to standing, preserving issues for commission review or other provisions concerning the commission's scope and standard for review of proposed enforcement orders under this section.

SECTION 4. Housing Accountability and Production Office Fund. (1) The Housing Accountability and Production Office Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Housing Accountability and Production Office Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.

(3) Interest earned by the fund shall be credited to the fund.

(4) Moneys in the fund are continuously appropriated to the Department of Land Conservation and Development to administer the fund, to operate the Housing Accountability and Production Office and to implement sections 1 to 5 of this 2024 Act.

SECTION 5. Reporting. On or before September 15, 2026, the Housing Accountability and Production Office shall:

(1) Contract with one or more organizations possessing relevant expertise to produce a report identifying improvements in the local building plan review approval, design review approval, land use, zoning and permitting processes, including but not limited to plan review approval timelines, process efficiency, local best practices and other ways to accelerate and improve the efficiency of the development process for construction, with a focus on increasing housing production.

(2) Produce a report based on a study by the office of state and local timelines and standards related to public works and building permit application review and develop recommendations for changes to reduce complexity, delay or costs that inhibit housing production, including an evaluation of their effect on the feasibility of varying housing types and affordability levels.

(3) Produce a report summarizing state agency plans, policies and programs related to reducing or eliminating regulatory barriers to the production of housing. The report must also include recommendations on how state agencies may prioritize resources and programs to increase housing production.

(4) Provide the reports under subsections (1) to (3) of this section to one or more appropriate interim committees of the Legislative Assembly in the manner provided in ORS 192.245.

SECTION 6. Sunset. Section 5 of this 2024 Act is repealed on January 2, 2027.

SECTION 7. Operative and applicable dates. (1) Sections 2 and 3 of this 2024 Act become operative on July 1, 2025.

(2) Sections 2 and 3 of this 2024 Act apply only to violations of housing laws occurring on or after July 1, 2025.

(3) The Department of Land Conservation and Development and Department of Consumer and Business Services may take any action before the operative date specified in subsection (1) of this section that is necessary for the departments or the Housing Accountability and Production Office to exercise, on and after the operative date, all of the duties, functions and powers conferred by sections 1 to 5, 35, 39 and 46 of this 2024 Act.

OPTING IN TO AMENDED HOUSING REGULATIONS

SECTION 8. ORS 215.427 is amended to read:

215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing

information. The application shall be deemed complete for the purpose of subsection (1) of this section and ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information[, *as described in subsection (2) of this section,*] within 180 days of the date the application was first submitted [*and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251*], approval or denial of the application [*shall be based*] **must be based:**

(A) Upon the standards and criteria that were applicable at the time the application was first submitted[.]; or

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section and ORS 197A.470 the application is not deemed complete until:

(i) The county determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a county's request;

(C) A county may deny a request under paragraph (a)(B) of this subsection if:

(i) The county has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The county may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the county to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

[(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.]

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a county involving an application for the development of residential structures within an urban growth boundary, where the county has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 215.429 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

SECTION 9. ORS 227.178 is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section or ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted [*and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251*], approval or denial of the application [*shall*] **must** be based:

(A) Upon the standards and criteria that were applicable at the time the application was first submitted[.]; or

(B) **For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.**

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section and ORS 197A.470 the application is not deemed complete until:

(i) The city determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a city's request;

(C) A city may deny a request under paragraph (a)(B) of this subsection if:

(i) The city has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The city may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

[(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.]

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a city involving an application for the development of residential structures within an urban growth boundary, where the city has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit,

limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee; or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

ATTORNEY FEES FOR NEEDED HOUSING CHALLENGES

SECTION 10. ORS 197.843 is amended to read:

197.843. (1) The Land Use Board of Appeals shall award attorney fees to:

(a) An applicant whose application is only for the development of affordable housing[, *as defined in ORS 197A.445, or publicly supported housing, as defined in ORS 456.250*], if the board [*affirms a quasi-judicial land use decision approving the application or*] reverses a quasi-judicial land use decision denying the application[.];

(b) An applicant whose application is only for the development of housing and was approved by the local government, if the board affirms the decision; and

(c) The local government that approved a quasi-judicial land use decision described in paragraph (b) of this subsection.

(2) For housing other than affordable housing, the attorney fees specified in subsection (1)(b) and (c) of this section apply only within urban growth boundaries.

[2] (3) A party who was awarded attorney fees under this section or ORS 197.850 shall repay the fees plus any interest from the time of the judgment if the property upon which the fees are based is developed for a use other than [*affordable*] **the proposed** housing.

[3] (4) As used in this section:

[*(a) "Applicant" includes:*]

[(A) An applicant with a funding reservation agreement with a public funder for the purpose of developing publicly supported housing;]

[(B) A housing authority, as defined in ORS 456.005;]

[(C) A qualified housing sponsor, as defined in ORS 456.548;]

[(D) A religious nonprofit corporation;]

[(E) A public benefit nonprofit corporation whose primary purpose is the development of affordable housing; and]

[(F) A local government that approved the application of an applicant described in this paragraph.]

(a) “Affordable housing” means affordable housing, as defined in ORS 197A.445, or publicly supported housing, as defined in ORS 456.250.

(b) “Attorney fees” includes prelitigation legal expenses, including preparing and processing the application and supporting the application in local land use hearings or proceedings.

SECTION 11. Operative and applicable dates. (1) The amendments to ORS 197.843 by section 10 of this 2024 Act become operative on January 1, 2025.

(2) The amendments to ORS 197.843 by section 10 of this 2024 Act apply to decisions for which a notice of intent to appeal under ORS 197.830 is filed on or after January 1, 2025.

INFRASTRUCTURE SUPPORTING HOUSING PRODUCTION

SECTION 12. Sections 13 and 14 of this 2024 Act are added to and made a part of ORS chapter 285A.

SECTION 13. Capacity and support for infrastructure planning. The Oregon Business Development Department shall provide capacity and support for infrastructure planning to municipalities to enable them to plan and finance infrastructure for water, sewers and sanitation, stormwater and transportation consistent with opportunities to produce housing units at densities defined in section 55 (3)(a)(C) of this 2024 Act. “Capacity and support” includes assistance with local financing opportunities, state and federal grant navigation, writing, review and administration, resource sharing, regional collaboration support and technical support, including engineering and design assistance and other capacity or support as the department may designate by rule.

SECTION 14. Housing Infrastructure Support Fund. (1) The Housing Infrastructure Support Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Housing Infrastructure Support Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.

(3) Interest earned by the fund shall be credited to the fund.

(4) Moneys in the fund are continuously appropriated to the Oregon Business Development Department to administer the fund and to implement section 13 of this 2024 Act.

SECTION 15. Sunset. (1) Sections 13 and 14 of this 2024 Act are repealed on January 2, 2030.

(2) Any unobligated moneys in the Housing Infrastructure Support Fund on January 2, 2030, must be transferred to the General Fund for general governmental purposes.

SECTION 16. Infrastructure recommendation and reporting. (1) On or before December 31, 2024, the Department of Land Conservation and Development, in consultation with the Housing and Community Services Department, the Oregon Business Development Department and other agencies that fund and support local infrastructure projects, shall submit a report to an appropriate interim committee of the Legislative Assembly in the manner provided in ORS 192.245 that includes a list of key considerations and metrics the Legislative Assembly could use to evaluate, screen and prioritize proposed local infrastructure projects that facilitate and support housing within an urban growth boundary.

(2) The Department of Land Conservation and Development shall facilitate an engagement process with local governments, tribal nations, the development community, housing advocates, conservation groups, property owners, community partners and other interested parties to inform the list of key considerations and metrics.

NOTE: Sections 17 through 23 were deleted by amendment. Subsequent sections were not re-numbered.

HOUSING PROJECT REVOLVING LOANS

SECTION 24. As used in sections 24 to 35 of this 2024 Act:

(1) “Assessor,” “tax collector” and “treasurer” mean the individual filling that county office so named or any county officer performing the functions of the office under another name.

(2) “County tax officers” and “tax officers” mean the assessor, tax collector and treasurer of a county.

(3) “Eligible costs” means the following costs associated with an eligible housing project:

(a) Infrastructure costs, including, but not limited to, system development charges;

(b) Predevelopment costs;

(c) Construction costs; and

(d) Land write-downs.

(4) “Eligible housing project” means a project to construct housing, or to convert a building from a nonresidential use to housing, that is:

(a) Affordable to households with low income or moderate income as those terms are defined in ORS 458.610;

(b) If for-sale property, a single-family dwelling, middle housing as defined in ORS 197A.420 or a multifamily dwelling that is affordable as described in paragraph (a) of this subsection continuously from initial sale for a period, to be established by the Housing and Community Services Department and the sponsoring jurisdiction, of not less than the term of the loan related to the for-sale property; or

(c) If rental property:

(A)(i) Middle housing as defined in ORS 197A.420;

(ii) A multifamily dwelling;

(iii) An accessory dwelling unit as defined in ORS 215.501; or

(iv) Any other form of affordable housing or moderate income housing; and

(B) Rented at a monthly rate that is affordable to households with an annual income not greater than 120 percent of the area median income, such affordability to be maintained for a period, to be established by the department and the sponsoring jurisdiction, of not less than the term of the loan related to the rental property.

(5) “Eligible housing project property” means the taxable real and personal property constituting the improvements of an eligible housing project.

(6) “Fee payer” means, for any property tax year, the person responsible for paying ad valorem property taxes on eligible housing project property to which a grant awarded under section 29 of this 2024 Act relates.

(7) “Fire district taxes” means property taxes levied by fire districts within whose territory all or a portion of eligible housing project property is located.

(8) “Nonexempt property” means property other than eligible housing project property in the tax account that includes eligible housing project property.

(9) “Nonexempt taxes” means the ad valorem property taxes assessed on nonexempt property.

(10) “Sponsoring jurisdiction” means:

(a)(A) A city with respect to eligible housing projects located within the city boundaries;
or

(B) A county with respect to eligible housing projects located in urban unincorporated areas of the county; or

(b) The governing body of a city or county described in paragraph (a) of this subsection.

SECTION 25. (1)(a) A sponsoring jurisdiction may adopt by ordinance or resolution a program under which the sponsoring jurisdiction awards grants to developers for eligible costs.

(b) Before adopting the program, the sponsoring jurisdiction shall consult with the governing body of any city or county with territory inside the boundaries of the sponsoring jurisdiction.

(2) The ordinance or resolution shall set forth:

(a) The kinds of eligible housing projects for which a developer may seek a grant under the program; and

(b) Any eligibility requirements to be imposed on projects and developers in addition to those required under sections 24 to 35 of this 2024 Act.

(3) A grant award:

(a) Shall be in the amount determined under section 26 (3) of this 2024 Act; and

(b) May include reimbursement for eligible costs incurred for up to 12 months preceding the date on which the eligible housing project received local site approval.

(4) Eligible housing project property for which a developer receives a grant for eligible costs may not be granted any exemption, partial exemption or special assessment of ad valorem property taxes other than the exemption granted under section 30 of this 2024 Act.

(5) A sponsoring jurisdiction may amend an ordinance or resolution adopted pursuant to this section at any time. The amendments shall apply only to applications submitted under section 26 of this 2024 Act on or after the effective date of the ordinance or resolution.

SECTION 26. (1)(a) A sponsoring jurisdiction that adopts a grant program pursuant to section 25 of this 2024 Act shall prescribe an application process, including forms and deadlines, by which a developer may apply for a grant with respect to an eligible housing project.

(b) An application for a grant must include, at a minimum:

(A) A description of the eligible housing project;

(B) A detailed explanation of the affordability of the eligible housing project;

(C) An itemized description of the eligible costs for which the grant is sought;

(D) The proposed schedule for completion of the eligible housing project;

(E) A project pro forma demonstrating that the project would not be economically feasible but for receipt of the grant moneys; and

(F) Any other information, documentation or attestation that the sponsoring jurisdiction considers necessary or convenient for the application review process.

(c)(A) The project pro forma under paragraph (b)(E) of this subsection shall be on a form provided to the sponsoring jurisdiction by the Housing and Community Services Department and made available to grant applicants.

(B) The department may enter into an agreement with a third party to develop the project pro forma template.

(2)(a) The review of an application under this section shall be completed within 90 days following the receipt of the application by the sponsoring jurisdiction.

(b) Notwithstanding paragraph (a) of this subsection:

(A) The sponsoring jurisdiction may in its sole discretion extend the review process beyond 90 days if the volume of applications would make timely completion of the review process unlikely.

(B) The sponsoring jurisdiction may consult with a developer about the developer's application, and the developer, after the consultation, may amend the application on or before a deadline set by the sponsoring jurisdiction.

(3) The sponsoring jurisdiction shall:

(a) Review each application;

(b) Request that the county tax officers provide to the sponsoring jurisdiction the amounts determined under section 27 of this 2024 Act;

(c) Set the term of the loan that will fund the grant award for a period not to exceed the greater of:

(A) Ten years following July 1 of the first property tax year for which the completed eligible housing project property is estimated to be taken into account; or

(B) If agreed upon by the sponsoring jurisdiction and the department, the period required for the loan principal and fees to be repaid in full;

(d) Set the amount of the grant that may be awarded to the developer under section 29 (2) of this 2024 Act by multiplying the increment determined under section 27 (1)(c) of this 2024 Act by the term of the loan; and

(e)(A) Provisionally approve the application as submitted;

(B) Provisionally approve the application on terms other than those requested in the application; or

(C) Reject the application.

(4)(a) The sponsoring jurisdiction shall forward provisionally approved applications to the Housing and Community Services Department.

(b) The department shall review the provisionally approved applications for completeness, including, but not limited to, the completeness of the project pro forma submitted with the application under subsection (1)(b)(E) of this section and the amounts computed under section 27 (1) of this 2024 Act and notify the sponsoring jurisdiction of its determination.

(5)(a) If the department has determined that a provisionally approved application is incomplete, the sponsoring jurisdiction may:

(A) Consult with the applicant developer and reconsider the provisionally approved application after the applicant revises it; or

(B) Reject the provisionally approved application.

(b) If the department has determined that a provisionally approved application is complete, the approval shall be final.

(c) The sponsoring jurisdiction shall notify each applicant and the department of the final approval or rejection of an application and the amount of the grant award.

(d) The rejection of an application and the amount of a grant award may not be appealed, but a developer may reapply for a grant at any time within the applicable deadlines of the grant program for the same or another eligible housing project.

(6) Upon request by a sponsoring jurisdiction, the department may assist the sponsoring jurisdiction with, or perform on behalf of the sponsoring jurisdiction, any duty required under this section.

SECTION 27. (1) Upon request of the sponsoring jurisdiction under section 26 (3)(b) of this 2024 Act, the assessor of the county in which is located the eligible housing project to which an application being reviewed under section 26 of this 2024 Act relates shall:

(a) Using the last certified assessment roll for the property tax year in which the application is received under section 26 of this 2024 Act:

(A) Determine the amount of property taxes assessed against all tax accounts that include the eligible housing project property; and

(B) Subtract the amount of operating taxes as defined in ORS 310.055 and local option taxes as defined in ORS 310.202 levied by fire districts from the amount determined under subparagraph (A) of this paragraph.

(b) For the first property tax year for which the completed eligible housing project property is estimated to be taken into account:

(A) Determine the estimated amount of property taxes that will be assessed against all tax accounts that include the eligible housing project property; and

(B) Subtract the estimated amount of operating taxes and local option taxes levied by fire districts from the amount determined under subparagraph (A) of this paragraph.

(c) Determine the amount of the increment that results from subtracting the amount determined under subsection (1)(a) of this section from the amount determined under subsection (1)(b) of this section.

(2) As soon as practicable after determining amounts under this section, the county tax officers shall provide written notice to the sponsoring jurisdiction of the amounts.

SECTION 28. (1)(a) The Housing and Community Services Department shall develop a program to make loans to sponsoring jurisdictions to fund grants awarded under the sponsoring jurisdiction's grant program adopted pursuant to section 25 of this 2024 Act.

(b) The loans shall be interest free for the term set by the sponsoring jurisdiction under section 26 (3)(c) of this 2024 Act.

(2) For each application approved under section 26 (5)(b) of this 2024 Act, the Housing and Community Services Department shall:

(a) Enter into a loan agreement with the sponsoring jurisdiction for a payment in an amount equal to the total of:

(A) Loan proceeds in an amount equal to the grant award for the application set under section 26 (3)(d) of this 2024 Act; and

(B) The administrative costs set forth in subsection (3) of this section; and

(b) Pay to the sponsoring jurisdiction the total amount set forth in paragraph (a) of this subsection out of the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) The administrative costs referred to in subsection (2)(a)(B) of this section are:

(a) An amount not greater than five percent of the loan proceeds to reimburse the sponsoring jurisdiction for the costs of administering the grant program, other than the costs of tax administration; and

(b) An amount equal to one percent of the loan proceeds to be transferred to the county in which the sponsoring jurisdiction is situated to reimburse the county for the costs of the tax administration of the grant program by the county tax officers.

(4) The Housing and Community Services Department may assign any and all loan amounts made under this section to the Department of Revenue for collection as provided in ORS 293.250.

(5) The Housing and Community Services Department may:

(a) Consult with the Oregon Business Development Department about any of the powers and duties conferred on the Housing and Community Services Department by sections 24 to 35 of this 2024 Act; and

(b) Adopt any rule it considers necessary or convenient for the administration of sections 24 to 35 of this 2024 Act by the Housing and Community Services Department.

SECTION 29. (1) Upon entering into a loan agreement with the Housing and Community Services Department under section 28 of this 2024 Act, a sponsoring jurisdiction shall offer a grant agreement to each developer whose application was approved under section 26 (5)(b) of this 2024 Act.

(2) The grant agreement shall:

(a) Include a grant award in the amount set under section 26 (3)(d) of this 2024 Act; and

(b) Contain terms that:

(A) Are required under sections 24 to 35 of this 2024 Act or the ordinance or resolution adopted by the sponsoring jurisdiction pursuant to section 25 of this 2024 Act.

(B) Do not conflict with sections 24 to 35 of this 2024 Act or the ordinance or resolution adopted by the sponsoring jurisdiction pursuant to section 25 of this 2024 Act.

(3) Upon entering into a grant agreement with a developer, a sponsoring jurisdiction shall adopt an ordinance or resolution setting forth the details of the eligible housing project that is the subject of the agreement, including but not limited to:

(a) A description of the eligible housing project;

(b) An itemized description of the eligible costs;

- (c) The amount and terms of the grant award;
 - (d) Written notice that the eligible housing project property is exempt from property taxation in accordance with section 30 of this 2024 Act; and
 - (e) A statement declaring that the grant has been awarded in response to the housing needs of communities within the sponsoring jurisdiction.
- (4) Unless otherwise specified in the grant agreement, as soon as practicable after the ordinance or resolution required under subsection (3) of this section becomes effective, the sponsoring jurisdiction shall distribute the loan proceeds received from the department under section 28 (2)(a)(A) of this 2024 Act to the developer as the grant moneys awarded under this section.
- (5) The sponsoring jurisdiction shall forward to the tax officers of the county in which the eligible housing project is located a copy of the grant agreement, the ordinance or resolution and any other material the sponsoring jurisdiction considers necessary for the tax officers to perform their duties under sections 24 to 35 of this 2024 Act or the ordinance or resolution.
- (6) Upon request, the department may assist the sponsoring jurisdiction with, or perform on behalf of the sponsoring jurisdiction, any duty required under this section.

SECTION 30. (1) Upon receipt of the copy of a grant agreement and ordinance or resolution from the sponsoring jurisdiction under section 29 (5) of this 2024 Act, the assessor of the county in which eligible housing project property is located shall:

- (a) Exempt the eligible housing project property in accordance with this section;
 - (b) Assess and tax the nonexempt property in the tax account as other similar property is assessed and taxed; and
 - (c) Submit a written report to the sponsoring jurisdiction setting forth the assessor's estimate of the amount of:
 - (A) The real market value of the exempt eligible housing project property; and
 - (B) The property taxes on the exempt eligible housing project property that would have been collected if the property were not exempt.
- (2)(a) The exemption shall first apply to the first property tax year that begins after completion of the eligible housing project to which the grant relates.
- (b) The eligible housing project property shall be disqualified from the exemption on the earliest of:
 - (A) July 1 of the property tax year immediately succeeding the date on which the fee payment obligation under section 32 of this 2024 Act that relates to the eligible housing project is repaid in full;
 - (B) The date on which the annual fee imposed on the fee payer under section 32 of this 2024 Act becomes delinquent;
 - (C) The date on which foreclosure proceedings are commenced as provided by law for delinquent nonexempt taxes assessed with respect to the tax account that includes the eligible housing project; or
 - (D) The date on which a condition specified in section 33 (1) of this 2024 Act occurs.
 - (c) After the eligible housing project property has been disqualified from the exemption under this subsection, the property shall be assessed and taxed as other similar property is assessed and taxed.

(3) For each tax year that the eligible housing project property is exempt from taxation, the assessor shall enter a notation on the assessment roll stating:

- (a) That the property is exempt under this section; and
- (b) The presumptive number of property tax years for which the exemption is granted, which shall be the term of the loan agreement relating to the eligible housing project set under section 26 (3)(c) of this 2024 Act.

SECTION 31. (1) Repayment of loans made under section 28 of this 2024 Act shall begin, in accordance with section 32 of this 2024 Act, after completion of the eligible housing project funded by the grant to which the loan relates.

(2)(a) The sponsoring jurisdiction shall determine the date of completion of an eligible housing project.

(b)(A) If an eligible housing project is completed before July 1 of the assessment year, repayment shall begin with the property tax year that begins on July 1 of the assessment year.

(B) If an eligible housing project is completed on or after July 1 of the assessment year, repayment shall begin with the property tax year that begins on July 1 of the succeeding assessment year.

(c) After determining the date of completion under paragraph (a) of this subsection, the sponsoring jurisdiction shall notify the Housing and Community Services Department and the county tax officers of the determination.

(3) A loan shall remain outstanding until repaid in full.

SECTION 32. (1) The fee payer for eligible housing project property that has been granted exemption under section 30 of this 2024 Act shall pay an annual fee for the term that shall be the presumptive number of years for which the property is granted exemption under section 30 (3)(b) of this 2024 Act.

(2)(a) The amount of the fee for the first property tax year in which repayment of the loan is due under section 31 (1) of this 2024 Act shall equal the total of:

(A) The portion of the increment determined under section 27 (1)(c) of this 2024 Act that is attributable to the eligible housing project property to which the fee relates; and

(B) The administrative costs described in section 28 (3) of this 2024 Act divided by the term of the grant agreement entered into under section 29 of this 2024 Act.

(b) For each subsequent property tax year, the amount of the fee shall be 103 percent of the amount of the fee for the preceding property tax year.

(3)(a) Not later than July 15 of each property tax year during the term of the fee obligation, the sponsoring jurisdiction shall certify to the assessor each fee amount that became due under this section on or after July 16 of the previous property tax year from fee payers with respect to eligible housing projects located in the sponsoring jurisdiction.

(b) The assessor shall place each fee amount on the assessment and tax rolls of the county and notify:

(A) The sponsoring jurisdiction of each fee amount and the aggregate of all fee amounts imposed with respect to eligible housing project property located in the sponsoring jurisdiction.

(B) The Housing and Community Services Department of each fee amount and the aggregate of all fee amounts with respect to all eligible housing project property located in the county.

(4)(a) The assessor shall include on the tax statement of each tax account that includes exempt eligible housing project property the amount of the fee imposed on the fee payer with respect to the eligible housing project property.

(b) The fee shall be collected and enforced in the same manner as ad valorem property taxes, including nonexempt taxes, are collected and enforced.

(5)(a) For each property tax year in which a fee is payable under this section, the treasurer shall:

(A) Estimate the amount of operating taxes as defined in ORS 310.055 and local option taxes as defined in ORS 310.202 levied by fire districts that would have been collected on eligible housing project property if the property were not exempt;

(B) Distribute out of the fee moneys the amounts determined under subparagraph (A) of this paragraph to the respective fire districts when other ad valorem property taxes are distributed under ORS 311.395; and

(C) Transfer the net fee moneys to the Housing and Community Services Department for deposit in the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act in repayment of the loans to which the fees relate.

(b) Nonexempt taxes shall be distributed in the same manner as other ad valorem property taxes are distributed.

(6) Any person with an interest in the eligible housing project property on the date on which any fee amount becomes due shall be jointly and severally liable for payment of the fee amount.

(7) Any loan amounts that have not been repaid when the fee payer has discharged its obligations in full under this section remain the obligation of the sponsoring jurisdiction that obtained the loan from the department under section 28 of this 2024 Act.

(8) Any fee amounts collected in excess of the loan amount shall be distributed in the same manner as other ad valorem property taxes are distributed.

SECTION 33. (1)(a) A developer that received a grant award under section 29 of this 2024 Act shall become liable for immediate payment of any outstanding annual fee payments imposed under section 32 of this 2024 Act for the entire term of the fee if:

(A) The developer has not completed the eligible housing project within three years following the date on which the grant moneys were distributed to the developer;

(B) The eligible housing project changes substantially from the project for which the developer's application was approved such that the project would not have been eligible for the grant; or

(C) The developer has not complied with a requirement specified in the grant agreement.

(b) The sponsoring jurisdiction may, in its sole discretion, extend the date on which the eligible housing project must be completed.

(2) If the sponsoring jurisdiction discovers that a developer willfully made a false statement or misrepresentation or willfully failed to report a material fact to obtain a grant with respect to an eligible housing project, the sponsoring jurisdiction may impose on the developer a penalty not to exceed 20 percent of the amount of the grant so obtained, plus any applicable interest and fees associated with the costs of collection.

(3) Any amounts imposed under subsection (1) or (2) of this section shall be a lien on the eligible housing project property and the nonexempt property in the tax account.

(4) The sponsoring jurisdiction shall provide written notice of any amounts that become due under subsections (1) and (2) of this section to the county tax officers and the Housing and Community Services Department.

(5)(a) Any and all amounts required to be paid under this section shall be considered to be liquidated and delinquent, and the Housing and Community Services Department shall assign such amounts to the Department of Revenue for collection as provided in ORS 293.250.

(b) Amounts collected under this subsection shall be deposited, net of any collection charges, in the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

SECTION 34. (1) Not later than June 30 of each year in which a grant agreement entered into under section 29 of this 2024 Act is in effect, a developer that is party to the agreement shall submit a report to the sponsoring jurisdiction in which the eligible housing project is located that contains:

(a) The status of the construction or conversion of the eligible housing project property, including an estimate of the date of completion;

(b) An itemized description of the uses of the grant moneys; and

(c) Any information the sponsoring jurisdiction considers important for evaluating the eligible housing project and the developer's performance under the terms of the grant agreement.

(2) Not later than August 15 of each year, each sponsoring jurisdiction shall submit to the Housing and Community Services Department a report containing such information re-

lating to eligible housing projects within the sponsoring jurisdiction as the department requires.

(3)(a) Not later than November 15 of each year, the department shall submit, in the manner required under ORS 192.245, a report to the interim committees of the Legislative Assembly related to housing.

(b) The report shall set forth in detail:

(A) The information received from sponsoring jurisdictions under subsection (2) of this section;

(B) The status of the repayment of all outstanding loans made under section 28 of this 2024 Act and of the payment of all fees imposed under section 32 of this 2024 Act and all amounts imposed under section 33 of this 2024 Act; and

(C) The cumulative experience of the program developed and implemented under sections 24 to 35 of this 2024 Act.

(c) The report may include recommendations for legislation.

SECTION 35. (1) The Housing Project Revolving Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing Project Revolving Loan Fund shall be credited to the fund.

(2) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857, and the earnings from the investments shall be credited to the fund.

(3) Moneys in the Housing Project Revolving Loan Fund shall consist of:

(a) Amounts appropriated or otherwise transferred or credited to the fund by the Legislative Assembly;

(b) Net fee moneys transferred under section 32 of this 2024 Act;

(c) Amounts deposited in the fund under section 33 of this 2024 Act;

(d) Interest and other earnings received on moneys in the fund; and

(e) Other moneys or proceeds of property from any public or private source that are transferred, donated or otherwise credited to the fund.

(4) Moneys in the Housing Project Revolving Loan Fund are continuously appropriated to the Housing and Community Services Department for the purpose of paying amounts determined under section 28 of this 2024 Act.

(5) Moneys in the Housing Project Revolving Loan Fund at the end of a biennium shall be retained in the fund and used for the purposes set forth in subsection (4) of this section.

SECTION 36. (1) The Housing and Community Services Department shall have developed and begun operating the loan program that the department is required to develop under section 28 of this 2024 Act, including regional trainings and outreach for jurisdictional partners, no later than June 30, 2025.

(2) In the first two years in which the loan program is operating, the department may not expend an amount in excess of two-thirds of the moneys appropriated to the department for the purpose under section 62 of this 2024 Act.

HOUSING LAND USE ADJUSTMENTS

SECTION 37. Sections 38 to 41 of this 2024 Act are added to and made a part of ORS chapter 197A.

SECTION 38. Mandatory adjustment to housing development standards. (1) As used in sections 38 to 41 of this 2024 Act:

(a) "Adjustment" means a deviation from an existing land use regulation.

(b) "Adjustment" does not include:

(A) A request to allow a use of property not otherwise permissible under applicable zoning requirements;

(B) Deviations from land use regulations or requirements related to accessibility, affordability, fire ingress or egress, safety, local tree codes, hazardous or contaminated site

clean-up, wildlife protection, or statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes or ocean resources;

(C) A complete waiver of land use regulations or any changes beyond the explicitly requested and allowed adjustments; or

(D) Deviations to requirements related to the implementation of fire or building codes, federal or state air, water quality or surface, ground or stormwater requirements, or requirements of any federal, state or local law other than a land use regulation.

(2) Except as provided in section 39 of this 2024 Act, a local government shall grant a request for an adjustment in an application to develop housing as provided in this section. An application qualifies for an adjustment under this section only if the following conditions are met:

(a) The application is for a building permit or a quasi-judicial, limited or ministerial land use decision;

(b) The development is on lands zoned to allow for residential uses, including mixed-use residential;

(c) The residential development is for densities not less than those required under section 55 (3)(a)(C) of this 2024 Act;

(d) The development is within an urban growth boundary, not including lands that have not been annexed by a city;

(e) The development is of net new housing units in new construction projects, including:

(A) Single-family or multifamily;

(B) Mixed-use residential where at least 75 percent of the developed floor area will be used for residential uses;

(C) Manufactured dwelling parks;

(D) Accessory dwelling units; or

(E) Middle housing as defined in ORS 197A.420;

(f) The application requests not more than 10 distinct adjustments to development standards as provided in this section. A “distinct adjustment” means:

(A) An adjustment to one of the development standards listed in subsection (4) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; or

(B) An adjustment to one of the development standards listed in subsection (5) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; and

(g) The application states how at least one of the following criteria apply:

(A) The adjustments will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;

(B) The adjustments will enable development of housing that reduces the sale or rental prices per residential unit;

(C) The adjustments will increase the number of housing units within the application;

(D) All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate income households as defined in ORS 456.270 for a minimum of 30 years;

(E) At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low income households as defined in ORS 456.270 for a minimum of 60 years;

(F) The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or

(G) All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land

trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.

(3) A decision on an application for an adjustment made under this section is a limited land use decision. Only the applicant may appeal the decision. No notice of the decision is required if the application is denied, other than notice to the applicant. In implementing this subsection, a local government may:

(a) Use an existing process, or develop and apply a new process, that complies with the requirements of this subsection; or

(b) Directly apply the process set forth in this subsection.

(4) A local government shall grant an adjustment to the following development standards:

(a) Side or rear setbacks, for an adjustment of not more than 10 percent.

(b) For an individual development project, the common area, open space or area that must be landscaped on the same lot or parcel as the proposed housing, for a reduction of not more than 25 percent.

(c) Parking minimums.

(d) Minimum lot sizes, not more than a 10 percent adjustment, and including not more than a 10 percent adjustment to lot widths or depths.

(e) Maximum lot sizes, not more than a 10 percent adjustment, including not more than a 10 percent adjustment to lot width or depths and only if the adjustment results in:

(A) More dwelling units than would be allowed without the adjustment; and

(B) No reduction in density below the minimum applicable density.

(f) Building lot coverage requirements for up to a 10 percent adjustment.

(g) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multi-family housing and mixed-use residential housing:

(A) Requirements for bicycle parking that establish:

(i) The minimum number of spaces for use by the residents of the project, provided the application includes at least one-half space per residential unit; or

(ii) The location of the spaces, provided that lockable, covered bicycle parking spaces are within or adjacent to the residential development;

(B) For uses other than cottage clusters, as defined in ORS 197A.420 (1)(c)(D), building height maximums that:

(i) Are in addition to existing applicable height bonuses, if any; and

(ii) Are not more than an increase of the greater of:

(I) One story; or

(II) A 20 percent increase to base zone height with rounding consistent with methodology outlined in city code, if any;

(C) Unit density maximums, not more than an amount necessary to account for other adjustments under this section; and

(D) Prohibitions, for the ground floor of a mixed-use building, against:

(i) Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and

(ii) Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces, except for active uses in specifically and clearly defined mixed use areas or commercial corridors designated by local governments.

(5) A local government shall grant an adjustment to design standards that regulate:

(a) Facade materials, color or pattern.

(b) Facade articulation.

(c) Roof forms and materials.

(d) Entry and garage door materials.

(e) Garage door orientation, unless the building is adjacent to or across from a school or public park.

- (f) Window materials, except for bird-safe glazing requirements.
- (g) Total window area, for up to a 30 percent adjustment, provided the application includes at least 12 percent of the total facade as window area.
- (h) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multi-family housing and mixed-use residential:
 - (A) Building orientation requirements, not including transit street orientation requirements.
 - (B) Building height transition requirements, not more than a 50 percent adjustment from the base zone.
 - (C) Requirements for balconies and porches.
 - (D) Requirements for recesses and offsets.

SECTION 39. Mandatory adjustments exemption process. (1) A local government may apply to the Housing Accountability and Production Office for an exemption to section 38 of this 2024 Act only as provided in this section. After the application is made, section 38 of this 2024 Act does not apply to the applicant until the office denies the application or revokes the exemption.

(2) To qualify for an exemption under this section, the local government must demonstrate that:

(a) The local government reviews requested design and development adjustments for all applications for the development of housing that are under the jurisdiction of that local government;

(b) All listed development and design adjustments under section 38 (4) and (5) of this 2024 Act are eligible for an adjustment under the local government's process; and

(c)(A) Within the previous 5 years the city has approved 90 percent of received adjustment requests; or

(B) The adjustment process is flexible and accommodates project needs as demonstrated by testimonials of housing developers who have utilized the adjustment process within the previous five years.

(3) Upon receipt of an application under this section, the office shall allow for public comment on the application for a period of no less than 45 days. The office shall enter a final order on the adjustment exemption within 120 days of receiving the application. The approval of an application may not be appealed.

(4) In approving an exemption, the office may establish conditions of approval requiring that the city demonstrate that it continues to meet the criteria under subsection (2) of this section.

(5) Local governments with an approved or pending exemption under this section shall clearly and consistently notify applicants, including prospective applicants seeking to request an adjustment, that are engaged in housing development:

(a) That the local government is employing a local process in lieu of section 38 of this 2024 Act;

(b) Of the development and design standards for which an applicant may request an adjustment in a housing development application; and

(c) Of the applicable criteria for the adjustment application.

(6) In response to a complaint and following an investigation, the office may issue an order revoking an exemption issued under this section if the office determines that the local government is:

(a) Not approving adjustments as required by the local process or the terms of the exemption;

(b) Engaging in a pattern or practice of violating housing-related statutes or implementing policies that create unreasonable cost or delays to housing production under ORS 197.320 (13)(a); or

(c) Failing to comply with conditions of approval adopted under subsection (4) of this section.

SECTION 40. Temporary exemption authority. Before January 1, 2025, notwithstanding section 39 of this 2024 Act:

(1) Cities may deliver applications for exemption under section 39 of this 2024 Act to the Department of Land Conservation and Development; and

(2) The Department of Land Conservation and Development may perform any action that the Housing Accountability and Production Office may take under section 39 of this 2024 Act. Decisions and actions of the department under this section are binding on the office.

SECTION 41. Reporting. (1) A city required to provide a report under ORS 197A.110 shall include as part of that report information reasonably requested from the Department of Land Conservation and Development on residential development produced through approvals of adjustments granted under section 38 of this 2024 Act. The department may not develop a separate process for collecting this data or otherwise place an undue burden on local governments.

(2) On or before September 15 of each even-numbered year, the department shall provide a report to an interim committee of the Legislative Assembly related to housing in the manner provided in ORS 192.245 on the data collected under subsection (1) of this section. The committee shall invite the League of Oregon Cities to provide feedback on the report and the efficacy of section 38 of this 2024 Act.

SECTION 42. Operative date. Sections 38 to 41 of this 2024 Act become operative on January 1, 2025.

SECTION 43. Sunset. Sections 38 to 41 of this 2024 Act are repealed on January 2, 2032.

LIMITED LAND USE DECISIONS

SECTION 44. ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) “Acknowledgment” means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) “Board” means the Land Use Board of Appeals.

(3) “Carport” means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) “Commission” means the Land Conservation and Development Commission.

(5) “Comprehensive plan” means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. “Comprehensive” means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. “General nature” means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is “coordinated” when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. “Land” includes water, both surface and subsurface, and the air.

(6) “Department” means the Department of Land Conservation and Development.

(7) “Director” means the Director of the Department of Land Conservation and Development.

(8) “Goals” means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

(C) A decision of a county planning commission made under ORS 433.763;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;

(E) That is an expedited land division as described in ORS 197.360;

(F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

(G) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

(H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12)(a) "Limited land use decision"[.:]

[*a*] means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a nonconforming use.

(b) "**Limited land use decision**" does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(13) "Local government" means any city, county or Metro or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that Metro may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195, 197 and 197A.

(19) "Special district" means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21) "Urban unincorporated community" means an area designated in a county's acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

(22) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(23) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 45. ORS 197.195 is amended to read:

197.195. (1) A limited land use decision shall be consistent with applicable provisions of city or county comprehensive plans and land use regulations. Such a decision may include conditions authorized by law. Within two years of September 29, 1991, cities and counties shall incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS 197.610 to 197.625. If a city or county does not incorporate its comprehensive plan provisions into its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision by the city or county or on appeal from that decision.

(2) A limited land use decision is not subject to the requirements of ORS 197.797.

(3) A limited land use decision is subject to the requirements of paragraphs (a) to (c) of this subsection.

(a) In making a limited land use decision, the local government shall follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.

(b) For limited land use decisions, the local government shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) The notice and procedures used by local government shall:

(A) Provide a 14-day period for submission of written comments prior to the decision;

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local decision making process for the limited land use decision being made.

(4) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(5) A local government may provide for a hearing before the local government on appeal of a limited land use decision under this section. The hearing may be limited to the record developed pursuant to the initial hearing under subsection (3) of this section or may allow for the introduction

of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence shall comply with the requirements of ORS 197.797. Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision.

(6) A city shall apply the procedures in this section, and only the procedures in this section, to a limited land use decision, even if the city has not incorporated limited land use decisions into land use regulations, as required by ORS 197.646 (3), except that a limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by city staff using a ministerial process.

SECTION 45a. Section 46 of this 2024 Act is added to and made a part of ORS chapter 197.

SECTION 46. Applicability of limited land use decision to housing development. (1) The Housing Accountability and Production Office may approve a hardship exemption or time extension to ORS 197.195 (6), during which time ORS 197.195 (6) does not apply to decisions by a local government.

(2) The office may grant an exemption or time extension only if the local government demonstrates that a substantial hardship would result from the increased costs or staff capacity needed to implement procedures as required under ORS 197.195 (6).

(3) The office shall review exemption or time extension requests under the deadlines provided in section 39 (3) of this 2024 Act.

SECTION 47. Sunset. Section 46 of this 2024 Act is repealed on January 2, 2032.

SECTION 47a. Operative date. Section 46 of this 2024 Act and the amendments to ORS 197.015 and 197.195 by sections 44 and 45 of this 2024 Act become operative on January 1, 2025.

ONE-TIME SITE ADDITIONS TO URBAN GROWTH BOUNDARIES

SECTION 48. Sections 49 to 59 of this 2024 Act are added to and made a part of ORS chapter 197A.

SECTION 49. Definitions. As used in sections 49 to 59 of this 2024 Act:

(1) “Net residential acre” means an acre of residentially designated buildable land, not including rights of way for streets, roads or utilities or areas not designated for development due to natural resource protections or environmental constraints.

(2) “Site” means a lot or parcel or contiguous lots or parcels, or both, with or without common ownership.

SECTION 50. City addition of sites outside of Metro. (1) Notwithstanding any other provision of ORS chapter 197A, a city outside of Metro may add a site to the city’s urban growth boundary under sections 49 to 59 of this 2024 Act, if:

(a) The site is adjacent to the existing urban growth boundary of the city or is separated from the existing urban growth boundary by only a street or road;

(b) The site is:

(A) Designated as an urban reserve under ORS 197A.230 to 197A.250, including a site whose designation is adopted under ORS 197.652 to 197.658;

(B) Designated as nonresource land; or

(C) Subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland;

(c) The city has not previously adopted an urban growth boundary amendment or exchange under sections 49 to 59 of this 2024 Act;

(d) The city has demonstrated a need for the addition under section 52 of this 2024 Act;

(e) The city has requested and received an application as required under sections 53 and 54 of this 2024 Act;

(f) The total acreage of the site:

(A) For a city with a population of 25,000 or greater, does not exceed 100 net residential acres; or

(B) For a city with a population of less than 25,000, does not exceed 50 net residential acres; and

(g)(A) The city has adopted a binding conceptual plan for the site that satisfies the requirements of section 55 of this 2024 Act; or

(B) The added site does not exceed 15 net residential acres and satisfies the requirements of section 56 of this 2024 Act.

(2) A county shall approve an amendment to an urban growth boundary made under this section that complies with sections 49 to 59 of this 2024 Act and shall cooperate with a city to facilitate the coordination of functions under ORS 195.020 to facilitate the city's annexation and the development of the site. The county's decision is not a land use decision.

(3) Notwithstanding ORS 197.626, an action by a local government under sections 49 to 59 of this 2024 Act is not a land use decision as defined in ORS 197.015.

SECTION 51. Petition for additions of sites to Metro urban growth boundary. (1) A city within Metro may petition Metro to add a site within the Metro urban growth boundary if the site:

(a) Satisfies the requirements of section 50 (1) of this 2024 Act; and

(b) Is designated as an urban reserve.

(2)(a) Within 120 days of receiving a petition under this section, Metro shall determine whether the site would substantially comply with the applicable provisions of sections 49 to 59 of this 2024 Act.

(b) If Metro determines that a petition does not substantially comply, Metro shall:

(A) Notify the city of deficiencies in the petition, specifying sufficient detail to allow the city to remedy any deficiency in a subsequent resubmittal; and

(B) Allow the city to amend its conceptual plan and resubmit it as a petition to Metro under this section.

(c) If Metro determines that a petition does comply, notwithstanding any other provision of ORS chapter 197A, Metro shall adopt amendments to its urban growth boundary to include the site in the petition, unless the amendment would result in more than 300 total net residential acres added under this subsection.

(3) If the net residential acres included in petitions that Metro determines are in compliance on or before July 1, 2025, total less than 300 net residential acres, Metro shall adopt amendments to its urban growth boundary under subsection (2)(c) of this section:

(a) On or before November 1, 2025, for all petitions deemed compliant on or before July 1, 2025; or

(b) Within 120 days after a petition is deemed compliant after July 1, 2025, in the order in which the petitions are received.

(4) If the net residential acres included in petitions that Metro determines are in compliance on or before July 1, 2025, total 300 or more net residential acres, on or before January 1, 2027, Metro shall adopt amendments to its urban growth boundary under subsection (2)(c) of this section to include the sites in those petitions that Metro determines will:

(a) Best comply with the provisions of section 55 of this 2024 Act; and

(b) Maximize the development of needed housing.

(5) Metro may not conduct a hearing to review or select petitions or adopt amendments to its urban growth boundary under this section.

SECTION 52. City demonstration of need. A city may not add, or petition to add, a site under sections 49 to 59 of this 2024 Act, unless:

(1) The city has demonstrated a need for additional land based on the following factors:

(a)(A) In the previous 20 years there have been no urban growth boundary expansions for residential use adopted by a city or by Metro in a location adjacent to the city; and

(B) The city does not have within the existing urban growth boundary an undeveloped, contiguous tract that is zoned for residential use that is larger than 20 net residential acres; or

(b) Within urban growth boundary expansion areas for residential use adopted by the city over the previous 20 years, or by Metro in locations adjacent to the city, 75 percent of the lands either:

(A) Are developed; or

(B) Have an acknowledged comprehensive plan with land use designations in preparation for annexation and have a public facilities plan and associated financing plan.

(2) The city has demonstrated a need for affordable housing, based on:

(a) Having a greater percentage of severely cost-burdened households than the average for this state based on the Comprehensive Housing Affordability Strategy data from the United States Department of Housing and Urban Development; or

(b) At least 25 percent of the renter households in the city being severely rent burdened as indicated under the most recent housing equity indicator data under ORS 456.602 (2)(g).

SECTION 53. City solicitation of site applications. (1) Before a city may select a site for inclusion within the city's or Metro's urban growth boundary under sections 49 to 59 of this 2024 Act, a city must provide public notice that includes:

(a) The city's intention to select a site for inclusion within the city's urban growth boundary.

(b) Each basis under which the city has determined that it qualifies to include a site under section 52 of this section.

(c) A deadline for submission of applications under this section that is at least 45 days following the date of the notice.

(d) A description of the information, form and format required of an application, including the requirements of section 55 (2) of this 2024 Act.

(2) A copy of the notice of intent under this section must be provided to:

(a) Each county in which the city resides;

(b) Each special district providing urban services within the city's urban growth boundary;

(c) The Department of Land Conservation and Development; and

(d) Metro, if the city is within Metro.

SECTION 54. City review of site applications. (1) After the deadline for submission of applications established under section 55 of this 2024 Act, the city shall:

(a) Review applications filed for compliance with sections 49 to 59 of this 2024 Act.

(b) For each completed application that complies with sections 49 to 59 of this 2024 Act, provide notice to the residents of the proposed site area who were not signatories to the application.

(c) Provide opportunities for public participation in selecting a site, including, at least:

(A) One public comment period;

(B)(i) One meeting of the city's planning commission at which public testimony is considered;

(ii) One meeting of the city's council at which public testimony is considered; or

(iii) One public open house; and

(C) Notice on the city's website or published in a paper of record at least 14 days before:

(i) A meeting under subparagraph (B) of this paragraph; and

(ii) The beginning of a comment period under subparagraph (A) of this paragraph.

(d) Consult with, request necessary information from and provide the opportunity for written comment from:

(A) The owners of each lot or parcel within the site;

(B) If the city does not currently exercise land use jurisdiction over the entire site, the governing body of each county with land use jurisdiction over the site;

- (C) Any special district that provides urban services to the site; and
- (D) Any public or private utility that provides utilities to the site.
- (2) An application filed under this section must:
 - (a) Be completed for each property owner or group of property owners that are proposing an urban growth boundary amendment under sections 49 to 59 of this 2024 Act;
 - (b) Be in writing in a form and format as required by the city;
 - (c) Specify the lots or parcels that are the subject of the application;
 - (d) Be signed by all owners of lots or parcels included within the application; and
 - (e) Include each owner's signed consent to annexation of the properties if the site is added to the urban growth boundary.
- (3) If the city has received approval from all property owners of such lands, in writing in a form and format specified by the city, the governing body of the city may select an application and the city shall adopt a conceptual plan as described in section 55 of this 2024 Act for all or a portion of the lands contained within the application.

(4) A conceptual plan adopted under subsection (3) of this section must include findings identifying reasons for inclusion of lands within the conceptual plan and reasons why lands, if any, submitted as part of an application that was partially approved were not included within the conceptual plan.

SECTION 55. Conceptual plan for added sites. (1) As used in this section:

(a) "Affordable units" means residential units described in subsection (3)(f)(A) or (4) of this section.

(b) "Market rate units" means residential units other than affordable units.

(2) Before adopting an urban growth boundary amendment under section 50 of this 2024 Act or petitioning Metro under section 51 of this 2024 Act, for a site larger than 15 net residential acres, a city shall adopt a binding conceptual plan as an amendment to its comprehensive plan.

(3) The conceptual plan must:

(a) Establish the total net residential acres within the site and must require for those residential areas:

(A) A diversity of housing types and sizes, including middle housing, accessible housing and other needed housing;

(B) That the development will be on lands zoned for residential or mixed-use residential uses; and

(C) The development will be built at net residential densities not less than:

(i) Seventeen dwelling units per net residential acre if sited within the Metro urban growth boundary;

(ii) Ten units per net residential acre if sited in a city with a population of 30,000 or greater;

(iii) Six units per net residential acre if sited in a city with a population of 2,500 or greater and less than 30,000; or

(iv) Five units per net residential acre if sited in a city with a population less than 2,500;

(b) Designate within the site:

(A) Recreation and open space lands; and

(B) Lands for commercial uses, either separate or as a mixed use, that:

(i) Primarily serve the immediate surrounding housing;

(ii) Provide goods and services at a smaller scale than provided on typical lands zoned for commercial use; and

(iii) Are provided at the minimum amount necessary to support and integrate viable commercial and residential uses;

(c) If the city has a population of 5,000 or greater, include a transportation network for the site that provides diverse transportation options, including walking, bicycling and transit use if public transit services are available, as well as sufficient connectivity to existing and

planned transportation network facilities as shown in the local government's transportation system plan as defined in Land Conservation and Development Commission rules;

(d) Demonstrate that protective measures will be applied to the site consistent with the statewide land use planning goals for:

- (A) Open spaces, scenic and historic areas or natural resources;
- (B) Air, water and land resources quality;
- (C) Areas subject to natural hazards;
- (D) The Willamette River Greenway;
- (E) Estuarine resources;
- (F) Coast shorelands; or
- (G) Beaches and dunes;

(e) Include a binding agreement among the city, each owner within the site and any other necessary public or private utility provider, local government or district, as defined in ORS 195.060, or combination of local governments and districts that the site will be served with all necessary urban services as defined in ORS 195.065, or an equivalent assurance; and

(f) Include requirements that ensure that:

(A) At least 30 percent of the residential units are subject to affordability restrictions, including but not limited to affordable housing covenants, as described in ORS 456.270 to 456.295, that require for a period of not less than 60 years that the units be:

(i) Available for rent, with or without government assistance, by households with an income of 80 percent or less of the area median income as defined in ORS 456.270; or

(ii) Available for purchase, with or without government assistance, by households with an income of 130 percent or less of the area median income;

(B) The construction of all affordable units has commenced before the city issues certificates of occupancy to the last 15 percent of market rate units;

(C) All common areas and amenities are equally available to residents of affordable units and of market rate units and properties designated for affordable units are dispersed throughout the site; and

(D) The requirement for affordable housing units is recorded before the building permits are issued for any property within the site, and the requirements contain financial penalties for noncompliance.

(4) A city may require greater affordability requirements for residential units than are required under subsection (3)(f)(A) of this section, provided that the city significantly and proportionally offsets development costs related to:

- (a) Permits or fees;
- (b) System development charges;
- (c) Property taxes; or
- (d) Land acquisition and predevelopment costs.

SECTION 56. Alternative for small additions. (1) A city that intends to add 15 net residential acres or less is not required to adopt a conceptual plan under section 55 of this 2024 Act if the city has entered into:

(a) Enforceable and recordable agreements with each landowner of a property within the site to ensure that the site will comply with the affordability requirements described in section 55 (3)(f) of this 2024 Act; and

(b) A binding agreement with each owner within the site and any other necessary public or private utility provider, local government or district, as defined in ORS 195.060, or combination of local governments and districts to ensure that the site will be served with all necessary urban services as defined in ORS 195.065.

(2) This section does not apply to a city within Metro.

SECTION 57. Department approval of site additions. (1) Within 21 days after the adoption of an amendment to an urban growth boundary or the adoption or amendment of a conceptual plan under sections 49 to 59 of this 2024 Act, and the approval by a county if required

under section 50 (2) of this 2024 Act, the conceptual plan or amendment must be submitted to the Department of Land Conservation and Development for review. The submission must be made by:

- (a) The city, for an amendment under section 50 or 58 of this 2024 Act; or
- (b) Metro, for an amendment under section 51 or 58 of this 2024 Act.

(2) Within 60 days after receiving a submittal under subsection (1) of this section, the department shall:

(a) Review the submittal for compliance with the provisions of sections 49 to 59 of this 2024 Act.

(b)(A) If the submittal substantially complies with the provisions of sections 49 to 59 of this 2024 Act, issue an order approving the submittal; or

(B) If the submittal does not substantially comply with the provisions of sections 49 to 59 of this 2024 Act, issue an order remanding the submittal to the city or to Metro with a specific determination of deficiencies in the submittal and with sufficient detail to identify a specific remedy for any deficiency in a subsequent resubmittal.

(3) If a conceptual plan is remanded to Metro under subsection (2)(b) of this section:

(a) The department shall notify the city; and

(b) The city may amend its conceptual plan and resubmit a petition to Metro under section 51 of this 2024 Act.

(4) Judicial review of the department's order:

(a) Must be as a review of orders other than a contested case under ORS 183.484; and

(b) May be initiated only by the city or an owner of a proposed site.

(5) Following the approval of a submittal under this section, a local government must include the added lands in any future inventory of buildable lands or determination of housing capacity under ORS 197A.270, 197A.280, 197A.335 or 197A.350.

SECTION 58. Alternative urban growth boundary land exchange. (1) In lieu of amending its urban growth boundary under any other process provided by sections 49 to 59 of this 2024 Act, Metro or a city outside of Metro may amend its urban growth boundary to add one or more sites described in section 51 (1)(a) and (b) of this 2024 Act to the urban growth boundary and to remove one or more tracts of land from the urban growth boundary as provided in this section.

(2) The acreage of the added site and removed lands must be roughly equivalent.

(3) The removed lands must have been zoned for residential uses.

(4) The added site must be zoned for residential uses at the same or greater density than the removed lands.

(5)(a) Except as provided in paragraph (b) of this subsection, land may be removed from an urban growth boundary under this section without landowner consent.

(b) A landowner may not appeal the removal of the landowner's land from an urban growth boundary under this section unless the landowner agrees to enter into a recorded agreement with Metro or the city in which the landowner would consent to annexation and development of the land within 20 years if the land remains in the urban growth boundary.

(6) Review of an exchange of lands made under this section may only be made by:

(a) For cities outside of Metro, the county as provided in section 50 (2) of this 2024 Act and by the Department of Land Conservation and Development, subject to judicial review, as provided in section 57 of this 2024 Act; or

(b) For Metro, the Department of Land Conservation and Development, subject to judicial review, as provided in section 57 of this 2024 Act.

(7) Sections 50 (1)(d) to (g), 52, 53, 54, 55 and 56 of this 2024 Act do not apply to a site addition made under this section.

SECTION 59. Reporting on added sites. A city for which an amendment was made to an urban growth boundary and approved under sections 49 to 59 of this 2024 Act shall submit a

report describing the status of development within the included area to the Department of Land Conservation and Development every two years until:

- (1) January 2, 2033; or
- (2) The city determines that development consistent with the acknowledged conceptual plan is deemed complete.

SECTION 60. Sunset. Sections 49 to 59 of this 2024 Act are repealed on January 2, 2033.

APPROPRIATIONS

SECTION 61. Appropriation and expenditure limitation to Department of Land Conservation and Development. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium ending June 30, 2025, out of the General Fund, the amount of \$5,629,017, for deposit into the Housing Accountability and Production Office Fund, established under section 4 of this 2024 Act, to take any action to implement sections 1 to 5, 16, 38 to 41, 46 and 49 to 59 of this 2024 Act and the amendments to ORS 183.471, 197.015, 197.195, 197.335, 215.427 and 227.178 by sections 8, 9, 44, 45, 64 and 65 of this 2024 Act.

(2) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium ending June 30, 2025, out of the General Fund, the amount of \$5,000,000, for deposit into the Housing Accountability and Production Office Fund, established under section 4 of this 2024 Act, for the Housing Accountability and Production Office, established under section 1 of this 2024 Act, to provide technical assistance, including grants, under section 1 (2) of this 2024 Act and to provide required studies under section 5 of this 2024 Act.

(3) Notwithstanding any other law limiting expenditures, the amount of \$10,629,017 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Department of Land Conservation and Development from the Housing Accountability and Production Office Fund established under section 4 of this 2024 Act.

SECTION 62. Appropriation and expenditure limitation to Housing and Community Services Department. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium ending June 30, 2025, out of the General Fund, the amount of \$75,000,000, for deposit into the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(2) Notwithstanding any other provision of law, the General Fund appropriation made to the Housing and Community Services Department by section 1, chapter 390, Oregon Laws 2023, for the biennium ending June 30, 2025, is increased by \$878,071 for administrative expenses related to the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) Notwithstanding any other law limiting expenditures, the amount of \$24,750,000 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Housing and Community Services Department from the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

SECTION 63. Appropriation and expenditure limitation to Oregon Business Development Department. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium ending June 30, 2025, out of the General Fund, the amount of \$3,000,000, for deposit into the Housing Infrastructure Support Fund established under section 14 of this 2024 Act.

(2) Notwithstanding any other law limiting expenditures, the amount of \$3,000,000 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Oregon Business Development Department from the Housing Infrastructure Support Fund established under section 14 of this 2024 Act.

SECTION 63a. Expenditure limitation to Department of Consumer and Business Services. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (6), chapter 354, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Consumer and Business Services, for Building Codes Division, is increased by \$296,944, to support operations of the Housing Accountability and Production Office established under section 1 of this 2024 Act.

CONFORMING AMENDMENTS

SECTION 64. ORS 197.335, as amended by section 17, chapter 13, Oregon Laws 2023, is amended to read:

197.335. (1) [*An order issued under ORS 197.328 and the copy of the order mailed*] **The Land Conservation and Development Commission shall mail a copy of an enforcement order** to the local government, state agency or special district. **An order** must set forth:

(a) The nature of the noncompliance, including, but not limited to, the contents of the comprehensive plan or land use regulation, if any, of a local government that do not comply with the goals or the contents of a plan, program or regulation affecting land use adopted by a state agency or special district that do not comply with the goals. In the case of a pattern or practice of decision-making, the order must specify the decision-making that constitutes the pattern or practice, including specific provisions the [*Land Conservation and Development*] commission believes are being misapplied.

(b) The specific lands, if any, within a local government for which the existing plan or land use regulation, if any, does not comply with the goals.

(c) The corrective action decided upon by the commission, including the specific requirements, with which the local government, state agency or special district must comply. In the case of a pattern or practice of decision-making, the commission may require revisions to the comprehensive plan, land use regulations or local procedures which the commission believes are necessary to correct the pattern or practice. Notwithstanding the provisions of this section, except as provided in subsection (3)(c) of this section, an enforcement order does not affect:

(A) Land use applications filed with a local government prior to the date of adoption of the enforcement order unless specifically identified by the order;

(B) Land use approvals issued by a local government prior to the date of adoption of the enforcement order; or

(C) The time limit for exercising land use approvals issued by a local government prior to the date of adoption of the enforcement order.

(2) Judicial review of a final order of the commission is governed by the provisions of ORS chapter 183 applicable to contested cases except as otherwise stated in this section. The commission's final order must include a clear statement of findings which set forth the basis for the order. Where a petition to review the order has been filed in the Court of Appeals, the commission shall transmit to the court the entire administrative record of the proceeding under review. Notwithstanding ORS 183.482 (3) relating to a stay of enforcement of an agency order, an appellate court, before it may stay an order of the commission, shall give due consideration to the public interest in the continued enforcement of the commission's order and may consider testimony or affidavits thereon. Upon review, an appellate court may affirm, reverse, modify or remand the order. The court shall reverse, modify or remand the order only if it finds:

(a) The order to be unlawful in substance or procedure, but an error in procedure is not cause for reversal, modification or remand unless the court finds that substantial rights of any party were prejudiced thereby;

(b) The order to be unconstitutional;

(c) The order is invalid because it exceeds the statutory authority of the agency; or

(d) The order is not supported by substantial evidence in the whole record.

(3)(a) If the commission finds that in the interim period during which a local government, state agency or special district would be bringing itself into compliance with the commission's order [under ORS 197.320 or subsection (2) of this section] it would be contrary to the public interest in the conservation or sound development of land to allow the continuation of some or all categories of land use decisions or limited land use decisions, it shall, as part of its order, limit, prohibit or require the approval by the local government of applications for subdivisions, partitions, building permits, limited land use decisions or land use decisions until the plan, land use regulation or subsequent land use decisions and limited land use decisions are brought into compliance. The commission may issue an order that requires review of local decisions by a hearings officer or the Department of Land Conservation and Development before the local decision becomes final.

(b) Any requirement under this subsection may be imposed only if the commission finds that the activity, if continued, aggravates the goal, comprehensive plan or land use regulation violation and that the requirement is necessary to correct the violation.

(c) The limitations on enforcement orders under subsection (1)(c)(B) of this section do not affect the commission's authority to limit, prohibit or require application of specified criteria to subsequent land use decisions involving land use approvals issued by a local government prior to the date of adoption of the enforcement order.

(4) As part of its order [under ORS 197.320 or subsection (2) of this section], the commission may withhold grant funds from the local government to which the order is directed. As part of an order issued under this section, the commission may notify the officer responsible for disbursing state-shared revenues to withhold that portion of state-shared revenues to which the local government is entitled under ORS 221.770, 323.455, 366.762 and 366.800 and ORS chapter 471 which represents the amount of state planning grant moneys previously provided the local government by the commission. The officer responsible for disbursing state-shared revenues shall withhold state-shared revenues as outlined in this section and shall release funds to the local government or department when notified to so do by the commission or its designee. The commission may retain a portion of the withheld revenues to cover costs of providing services incurred under the order, including use of a hearings officer or staff resources to monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the funds withheld under this provision shall be released to the local government upon completion of requirements of the [commission] **enforcement** order.

(5)(a) As part of its order under this section, the commission may notify the officer responsible for disbursing funds from any grant or loan made by a state agency to withhold such funds from a special district to which the order is directed. The officer responsible for disbursing funds shall withhold funds as outlined in this section and shall release funds to the special district or department when notified to do so by the commission.

(b) The commission may retain a portion of the funds withheld to cover costs of providing services incurred under the order, including use of a hearings officer or staff resources to monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the funds withheld under this provision shall be released to the special district upon completion of the requirements of the commission order.

(6) As part of its order under this section, upon finding a city failed to comply with ORS 197.320 (13), the commission may, consistent with the principles in ORS 197A.130 (1), require the city to:

(a) Comply with the housing acceleration agreement under ORS 197A.130 (6).

(b) Take specific actions that are part of the city's housing production strategy under ORS 197A.100.

(c) Impose appropriate models that have been developed by department, including model ordinances, procedures, actions or anti-displacement measures.

(d) Reduce maximum timelines for review of needed housing or specific types of housing or affordability levels, [including] through ministerial approval or any other expedited existing approval process.

(e) Take specific actions to waive or amend local ordinances.

(f) Forfeit grant funds under subsection (4) of this section.

(7) The commission may institute actions or proceedings for legal or equitable remedies in the Circuit Court for Marion County or in the circuit court for the county to which the [commission's] order is directed or within which all or a portion of the applicable city is located to enforce compliance with the provisions of any order issued under this section or to restrain violations thereof. Such actions or proceedings may be instituted without the necessity of prior agency notice, hearing [and] or order on an alleged violation.

(8) As used in this section, “enforcement order” or “order” means an order issued under ORS 197.320 or section 3 of this 2024 Act as may be modified on appeal under subsection (2) of this section.

SECTION 65. ORS 183.471 is amended to read:

183.471. (1) When an agency issues a final order in a contested case, the agency shall maintain the final order in a digital format that:

(a) Identifies the final order by the date it was issued;

(b) Is suitable for indexing and searching; and

(c) Preserves the textual attributes of the document, including the manner in which the document is paginated and any boldfaced, italicized or underlined writing in the document.

(2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its designee, with electronic copies of final orders issued by the agency in contested cases. The request must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic copy of all final orders identified in the request.

(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests submitted under this section in a calendar year. For any subsequent request, an agency may impose a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with the request.

(4) For purposes of this section, a final order entered in a contested case by an administrative law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the administrative law judge to conduct the hearing.

(5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final orders issued in contested cases by:

(a) The Department of Revenue;

(b) The State Board of Parole and Post-Prison Supervision;

(c) The Department of Corrections;

(d) The Employment Relations Board;

(e) The Public Utility Commission of Oregon;

(f) The Oregon Health Authority;

(g) The Land Conservation and Development Commission, **except for enforcement orders under section 3 of this 2024 Act;**

(h) The Land Use Board of Appeals;

(i) The Division of Child Support of the Department of Justice;

(j) The Department of Transportation, if the final order relates to the suspension, revocation or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

(k) The Employment Department or the Employment Appeals Board, if the final order relates to benefits as defined in ORS 657.010;

(L) The Employment Department, if the final order relates to an assessment of unemployment tax for which a hearing was not held;

(m) The Employment Department, if the final order relates to:

(A) Benefits, as defined in ORS 657B.010;

(B) Employer and employee contributions under ORS 657B.150 for which a hearing was not held;

(C) Employer-offered benefit plans approved under ORS 657B.210 or terminated under ORS 657B.220; or

(D) Employer assistance grants under ORS 657B.200; or

(n) The Department of Human Services, if the final order was not related to licensing or certification.

SECTION 66. ORS 455.770 is amended to read:

455.770. (1) In addition to any other authority and power granted to the Director of the Department of Consumer and Business Services under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 **and sections 1 to 5 of this 2024 Act**, with respect to municipalities, building officials and inspectors, if the director has reason to believe that there is a failure to enforce or a violation of any provision of the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule adopted under those statutes, the director may:

(a) Examine building code activities of the municipality;

(b) Take sworn testimony; and

(c) With the authorization of the Office of the Attorney General, subpoena persons and records to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise subject to public inspection under ORS 192.311 to 192.478.

(2) The investigative authority authorized in subsection (1) of this section covers the violation or omission by a municipality related to enforcement of codes or administrative rules, certification of inspectors or financial transactions dealing with permit fees and surcharges under any of the following circumstances when:

(a) The duties are clearly established by law, rule or agreement;

(b) The duty involves procedures for which the means and methods are clearly established by law, rule or agreement; or

(c) The duty is described by clear performance standards.

(3) Prior to starting an investigation under subsection (1) of this section, the director shall notify the municipality in writing setting forth the allegation and the rules or statutes pertaining to the allegation and give the municipality 30 days to respond to the allegation. If the municipality does not satisfy the director's concerns, the director may then commence an investigation.

(4) If the Department of Consumer and Business Services or the director directs corrective action[, *the following shall be done*]:

(a) The corrective action [*shall*] **must** be in writing and served on the building official and the chief executive officers of all municipalities affected;

(b) The corrective action [*shall*] **must** identify the facts and law relied upon for the required action; and

(c) A reasonable time [*shall*] **must** be provided to the municipality for compliance.

(5) The director may revoke any authority of the municipality to administer any part of the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule adopted under those statutes if the director determines after a hearing conducted under ORS 183.413 to 183.497 that:

(a) All of the requirements of this section and ORS 455.775 and 455.895 were met; and

(b) The municipality did not comply with the corrective action required.

CAPTIONS

SECTION 67. The unit and section captions used in this 2024 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

EFFECTIVE DATE

SECTION 68. This 2024 Act takes effect on the 91st day after the date on which the 2024 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by Senate February 29, 2024

.....
Obadiah Rutledge, Secretary of Senate

.....
Rob Wagner, President of Senate

Passed by House March 4, 2024

.....
Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

.....
LaVonne Griffin-Valade, Secretary of State

SB 1537 A STAFF MEASURE SUMMARY

Senate Committee On Housing and Development

Action Date: 02/13/24

Action: Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

Vote: 5-0-0-0

Yeas: 5 - Anderson, Jama, Knopp, Patterson, Sollman

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

Prepared By: Kevin Rancik, LPRO Analyst

Meeting Dates: 2/8, 2/13

WHAT THE MEASURE DOES:

The measure establishes the Housing Accountability and Production Office (HAPO) and directs HAPO to assist local governments with housing production. The measure requires local governments to grant land use regulation and design adjustments in certain circumstances and modifies the definition of limited land use decisions. It allows housing permit applicants to opt in to amended housing regulations and expands eligibility of prevailing applicants for housing development to receive attorney fees in a Land Use Board of Appeals review. Establishes the Housing Infrastructure Support Fund to provide capacity and support to municipalities for the planning and financing of infrastructure for housing unit production. Establishes the Housing Project Revolving Loan Fund to cover eligible developer costs, including infrastructure and system development charges, predevelopment costs, construction costs, and land write-downs. The measure allows cities to undergo either a one-time urban growth boundary amendment or a land exchange in specified conditions.

Detailed Summary:

Housing Accountability and Production Office (Sections 1 – 7)

Directs the Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to establish the Housing Accountability and Production Office (HAPO). Appropriates \$5 million to the HAPO Fund, and directs HAPO to prioritize assisting local governments in voluntarily undertaking changes to comply with housing laws and reduce barriers to housing development. Directs HAPO to investigate housing law violations, and describes the process for enforcement orders and allowable actions cities may take to address the basis for an enforcement order. Sets an operative date of July 1, 2025, and applies provisions to violations of housing laws occurring on or after the operative date. Appropriates an unspecified amount to DLCD to implement the provisions of this Act.

Opting In to Amended Housing Regulations (Sections 8 – 9)

Allows applicants for permits, limited land use decisions, and zone changes for the development of housing to request their application be reviewed using standards and criteria that become operative while their application is pending. Restarts application timelines for the purposes of this Act if a review under different standards is requested. Allows cities and counties to require a fee covering costs incurred by the request, to require additional information if the request changes the application or needs context, or to deny a request in specified conditions.

Attorney Fees for Needed Housing Challenges (Sections 10 – 11)

Modifies existing statute that awards attorney fees to applicants for the development of affordable housing if the applicant prevails in a Land Use Board of Appeals (LUBA) review. Awards attorney fees, if the board affirms the decision, to applicants for any exclusively-housing development, and to any local government approving the land use decision. Clarifies attorney fees also include the cost of processing an application. Applies provisions to decisions for which a notice of intent to appeal is filed on or after January 1, 2025.

SB 1537 A STAFF MEASURE SUMMARY

Infrastructure Supporting Housing Production (Sections 12 – 23)

Establishes and allocates \$3 million to the Housing Infrastructure Support Fund (HISF). The HISF is administered by the Oregon Business Development Department to provide capacity and support to municipalities for the planning and financing of infrastructure for water, sewers and sanitation, stormwater, and transportation to produce housing units. Repeals these provisions on January 2, 2030. Requires the DLCD to develop assessment metrics for infrastructure projects. Requires DLCD to report to the Legislative Assembly on or before September 15th each even-numbered year on received infrastructure project proposals and assessments of each project.

Housing Project Revolving Loans (Sections 24 – 36)

Appropriates \$75 million to establish the Housing Project Revolving Loan Fund. Directs Oregon Housing and Community Services (OHCS) to develop a program to make loans to local jurisdictions, which in turn awards grants to developers to cover eligible costs, including infrastructure and system development charges, predevelopment costs, construction costs, and land write-downs. Requires these costs be part of the development of new housing or commercial to residential conversions, for households earning 120 percent or less of area median income. Assesses an annual fee and property tax exemption and notes the exemption in the property's tax records, and limits the fee timeframe to no longer than ten years, unless the sponsoring jurisdiction and OHCS agree a longer term is needed to repay the loan principal and fees. Requires the program be operational no later than June 30, 2025.

Housing Land Use Adjustments (Sections 37 – 43)

Specifies conditions and timelines under which local governments must grant adjustments to existing land use regulation and design and development standards for housing development. Specifies that decisions on adjustment applications are limited land use decisions only the applicant may appeal. Allows local governments to apply to HAPO for an exemption to adjustments, subject to certain conditions. Allows cities to apply for exemptions to DLCD before these provisions' operational date of January 1, 2025; allows DLCD to perform any action HAPO would take in this regard and makes these decisions and actions binding on HAPO. Allows HAPO to establish conditions requiring a city to continue demonstrating it meets the qualification criteria for an exemption and allows HAPO to revoke the exemption if the city fails to comply with conditions of approval. Directs DLCD to provide a report to an interim committee of the Legislative Assembly on the residential development produced through the approvals of adjustments on or before September 15th of each even-numbered year; directs the interim legislative committee to consider feedback on the report from the League of Oregon Cities. Places an operative date on these provisions of January 1, 2025; repeals them on January 2, 2032.

Limited Land Use Decisions (Sections 44 – 47)

Includes approval or denial of applications for replats, property line adjustments, and extension alterations or expansions of a nonconforming use in the definition of "limited land use decision." Directs cities to only apply procedures specified in ORS 197.195 to limited land use decisions. Allows HAPO to approve a hardship exemption or time extension to these provisions if the local government demonstrates a hardship would result from implementing a limited land use decision. Places operative date on these provisions of January 1, 2025; repeals them January 2, 2032.

One-Time Site Additions to Urban Growth Boundaries (Sections 48 – 60)

Allows cities outside Metro to add sites to their urban growth boundary (UGB), and cities within Metro to petition Metro to add a site within the Metro UGB, in specified conditions for the purposes of building housing of specified types and affordability. Limits these additions to 50 net residential acres for cities with populations under 25,000; to 100 acres for cities with populations of 25,000 or greater; and to 300 acres for Metro. Requires cities to demonstrate need for the UGB amendment using specified criteria, provide public notice and opportunity for public participation, and adopt a conceptual plan subject to the specified requirements. Allows cities to perform a land exchange in lieu of a UGB amendment, in which case the residential site being added to the UGB replaces a

SB 1537 A STAFF MEASURE SUMMARY

residential site roughly equivalent in size that is being removed from the UGB. Subjects the UGB amendments and land exchanges allowed by the Act to DLCD review, and requires cities to report development progress of these sites to DLCD every two years until January 2, 2033, or until the development is complete. Repeals these provisions January 2, 2033.

ISSUES DISCUSSED:

- Definitions of housing affordability
- Applicability of attorney fee changes
- Funding for essential services as cities grow
- Applicability and size of urban growth boundary additions
- Options for Metro to use alternative land exchange option
- Provisions of the amendments

EFFECT OF AMENDMENT:

The amendment clarifies the role of the Housing Accountability and Production Office (HAPO) and describes technical assistance the Land Use Board of Appeals (LUBA) may provide to local governments. Modifies timelines and fees for housing applicants requesting to opt in to amended housing regulations. Clarifies conditions under which attorney fees are awarded in housing-related LUBA cases. Removes the Housing Infrastructure Project Fund, Housing Site Readiness Fund, and other initiatives; requires the Department of Land Conservation and Development (DLCD) to develop assessment metrics for infrastructure projects. Modifies loan terms and fee amounts for the Housing Project Revolving Loan Fund; reduces appropriation. Allows DLCD to perform specified HAPO actions prior to the time HAPO becomes operational. Expands definition of “limited land use decision.” Reduces net residential acreage permitted in urban growth boundary (UGB) additions, and allows Metro to use the alternative land exchange option.

Detailed Summary:

Housing Accountability and Production Office (Sections 1 – 7)

Requires the Housing Accountability and Production Office (HAPO) to develop procedures for evaluating the credibility of housing law violations. Allows the Land Use Board of Appeals (LUBA) to provide technical assistance to local governments unrelated to the resolution of complaints involving LUBA appeals or private litigation. Allows local governments to make land use decisions affected by enforcement orders prior to notifying affected applicants. Allows a hearings officer to prepare an enforcement order or an order of dismissal. Expands allowable actions that local governments may take to address the basis for an enforcement order. Removes the appropriation to DLCD to provide technical assistance.

Opting In to Amended Housing Regulations (Sections 8 – 9)

Restarts application timelines for the purposes of this Act if a review under different standards is requested. Permits cities and counties to deny an opt in request if they issued a public notice of the application, or an opt in request was previously made. Clarifies cities and counties may only require the applicant pay a fee to cover costs incurred by the request, and may require a new application or duplicative information only if the request changes other application information or additional context for the change is needed.

Attorney Fees for Needed Housing Challenges (Sections 10 – 11)

Clarifies conditions under which attorney fees are awarded in Land Use Board of Appeals cases involving housing. Clarifies attorney fees also include the cost of processing an application.

Infrastructure Supporting Housing Production (Sections 12 – 23)

Removes sections 17-23 on water infrastructure funding; other utility infrastructure financing; the Housing Infrastructure Project Fund; site mitigation and readiness; the Housing Site Readiness Fund; site acquisition; and electrification incentives (note: subsequent sections were not renumbered). Reduces the appropriation to the Housing Infrastructure Support Fund from \$5 million to \$3 million. Requires the DLCD to develop assessment

SB 1537 A STAFF MEASURE SUMMARY

metrics for infrastructure projects. Requires DLCD to report to the Legislative Assembly on or before September 15th of each even-numbered year on current infrastructure project proposals and assessments of each project.

Housing Project Revolving Loans (Sections 24 – 36)

Adds infrastructure costs as an eligible cost. Includes administrative costs in the loan amount. Establishes that Oregon Housing and Community Services (OHCS) sets a period of affordability for eligible housing projects for at least as long as the term of the loan. Allows the term of the loan to exceed a period of 10 years if agreed upon by the sponsoring jurisdiction and OHCS, if needed in order to fully repay the loan principal and fees. Includes operating taxes and local option taxes in the calculations to determine the grant, tax exemption, and fee amounts. Increases the allowable amount of reimbursement to sponsoring jurisdictions for administrative costs of the grant program to 5 percent of loan proceeds. Limits expenditures from the fund, for the first 2 years of program operation, to 2/3 of the money appropriated to the fund. Reduces appropriation to Housing Project Revolving Loan Fund from \$200 million to \$75 million.

Housing Land Use Adjustments (Sections 37 – 43)

Clarifies that adjustments do not include deviations from land use regulations or requirements related to safety; wildlife protection; fire code implementation; air quality, surface, ground, or stormwater requirements; or changes beyond those explicitly requested and allowed. Allows HAPO to establish conditions requiring a city to continue demonstrating it meets the qualification criteria for an exemption, and allows HAPO to revoke the exemption if the city fails to comply with conditions of approval. Allows cities to apply for exemptions to DLCD before these provisions' operational date of January 1, 2025. Allows DLCD to perform any action HAPO would take in this regard, and makes these decisions and actions binding on HAPO. Clarifies notification requirements and that a decision on an adjustment application is a limited land use decision that only the applicant may appeal.

Limited Land Use Decisions (Sections 44 – 47)

Replaces the provisions. Includes approval or denial of applications for replats, property line adjustments, and extension alterations or expansions of a nonconforming use in the definition of "limited land use decision." Directs cities to only apply procedures specified in ORS 197.195 to limited land use decisions. Allows HAPO to approve a hardship exemption or time extension to these provisions if the local government demonstrates a hardship would result from implementing a limited land use decision.

One-Time Site Additions to Urban Growth Boundaries (Sections 48 – 60)

Clarifies that Metro must adopt urban growth boundary (UGB) amendments for petitions deemed compliant, rather than for all received. Clarifies that demonstration of need also applies to Metro lands adjacent to cities. Provides options to demonstrate need for affordable housing through: 1) having a greater percentage of extremely cost-burdened households than the state average based on data from the Comprehensive Housing Affordability Strategy from the United States Department of Housing and Urban Development, or 2) OHCS equity indicator data showing at least 25 percent of renter households in the city are severely rent burdened.

Requires air, water, and land resource quality to be protected as they relate to statewide land use planning goals. Requires affordable units be dispersed throughout the site. Requires a binding agreement with each owner within the site and applicable providers that the site will receive urban services, for additions of 15 net residential acres or less that do not require a conceptual plan. Modifies land designations for sites removed from a UGB in a land exchange. Requires that sites added in land exchanges be adjacent to the UGB; be in an urban reserve land, nonresource land, or subject to land use goal exceptions; and that the city has not already adopted an amendment or land exchange under this Act.

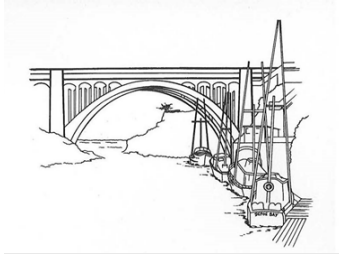
Allows Metro to use the land exchange option. Modifies city population tiers for conceptual plan density requirements. Reduces the net residential acreage which may be added to UGBs to 50 net residential acres for cities with populations under 25,000; to 100 acres for cities with populations of 25,000 or greater; and to 300 acres for Metro.

SB 1537 A STAFF MEASURE SUMMARY

BACKGROUND:

On January 10, 2023, Governor Kotek issued Executive Order 23-04, which established an annual housing production target of 36,000 homes in Oregon, and which established the Governor's Housing Production Advisory Council (HPAC), tasked with providing recommendations to achieve the housing production target. The HPAC's January 2024 [report](#) included recommendations on one-time urban growth boundary (UGB) amendments, funding for infrastructure and affordable housing, and adjustments to land use standards, are incorporated into Senate Bill 1537.

Executive Order 23-04 and the draft HPAC report cite a housing shortage as detailed by the Department of Land Conservation and Development (DLCD), which states in its December 2022 Oregon Housing Needs Analysis (OHNA) Legislative Recommendations [Report](#) that Oregon needs to develop more than 550,000 new housing units across income levels to accommodate 20 years of population growth, and to account for current underproduction and the lack of units for people experiencing homelessness. DLCD notes that of these needed housing units, 20 percent (nearly 112,000 units) must be affordable to moderate income households earning between 80 and 120 percent of area median income, while 10 percent (nearly 56,000 units) be affordable to low-income households earning between 60 and 80 percent of area median income.



Date: April 17, 2024

To: Depoe Bay Planning Commission

From: Kit Fox, AICP, City Planner

Subject: DLCD/OAPA Planning Commissioner Training on May 6, 2024

Periodically, the Oregon Department of Land Conservation and Development (DLCD) and the Oregon chapter of the American Planning Association (OAPA) offer training for planning commissioners. The training is offered on-site at locations that rotate around the State, with an option for online virtual attendance and participation.

The next DLCD/OAPA Planning Commissioner training session will be offered in Baker City in Eastern Oregon on Monday, May 6, 2024, from 5:00 PM to 7:30 PM. Entitled "*Keeping Out of Hot Water: Land Use Decision-making for Planning Commissioners, Elected Officials, City Administrators, and Planners,*" this session will cover the basics of State and local responsibilities; the role of planning commissioners and staff; decision-making bodies; ethical behavior; *ex parte* contact and bias; quasi-judicial vs. legislative hearing processes; and making legally-defensible findings.

Staff believes that this training could be of particular benefit to Commissioner White and Commissioner Whitmire as the City's newest commissioners. Any other commissioners who would like a refresher course are also welcome to attend and participate. The City will cover the \$20 registration fee for virtual attendance.

If you're interested in this training, please let Staff know by April 30, 2025, and provide us with your email address and cellphone number so that you'll receive the necessary link(s) to the virtual meeting.

Attachments

- DLCD/OAPA Eastern Oregon Planners Network Meeting (excerpt)

Depoe Bay, Oregon x ALP Depoe Bay, OR Law x Departments | Linco x Maps | Lincoln Cou... x Google Maps x 97341 Real Estate - x SB1537 2024 Regul... x DLCD/OAPA Eastern x

planning.org/events/eventinfo/9287329/

Gmail YouTube Maps Suralink BuildingPermits.Ore... Host Compliance D... FEMA Flood Map Se... Department of Stat... Adobe Acrobat All Bookmarks

Home > Conferences and Learning > Educational Events >

DLCD/OAPA Eastern Oregon Planners Network Meeting

Informational Event Listing

Conferences and Learning

- Passport
- National Planning Conference
- Planners' Day on Capitol Hill
- Upskilling Planners

APA Oregon Chapter

#9287329

Monday, May 6, 2024, 5 p.m.
Tuesday, May 7, 2024, 5 p.m. PDT

Bakery City, OR, United States

OVERVIEW

[Click here](#) to register. [Click here](#) to apply for a scholarship.

Tentative Agenda (subject to change)

Planning Commissioner Training, Monday, May 6, 2023, 5:00 – 7:30 pm

Keeping Out of Hot Water: Land Use Decision-making for Planning Commissioners, Elected Officials, City Administrators, and Planners – Department of Land Conservation and Development (DLCD) staff will cover the basics of state and local responsibilities, the role of planning commissioners and staff, decision-making bodies, ethical behavior, ex parte contact, quasi-judicial vs. legislative hearings processes, and legally defensible findings.

Speakers: Gordon Howard, Community Services Manager, DLCD, Dan Kearns, Morrow County and Baker City Attorney, and Brenda Ortizoga Bateman, Director, DLCD

46°F Cloudy Search 9:16 AM 4/3/2024

CITY OF DEPOE BAY

2024 LAND USE & BUILDING PERMIT ACTIVITY

March 2024

Date	Applicant	Type of Activity	Zoning District	Location	Description	Status/Comments
3/4/24	C.A. White, Jr.	Building Permit (#6-R5-24)	R-5	09-11-05-DD-00300 565 NE Stanley St.	New residence	Under review
3/5/24	Bob Watkins	Property Line Adjustment (#1-PLA-24)	R-5	09-11-08-AA-00300 & 09-11-08-AA-00305 100-blk. of SE Ainslee Ave.	Adjust boundary between 2 existing lots	Under review
3/5/24	Housing Authority of Lincoln County	Geo Review (#1-GEO-PC-24)	R-4PD	09-11-08-CD-00100 1000-blk. of S Hwy. 101	12-unit affordable townhouse development	Under review
3/19/24	Deanne Parker	Building Permit (#7-R4-24)	R-4	09-11-05-CA-14600 420 NW Spencer Ave.	New residence	Under review

- City Council meeting on March 5, 2024:
 - Received the Planning Commission Liaison report for February 2024.
 - Granted 4% cost-of-living increase to City Planner for 1-year term starting April 1, 2024.
- Planning Commission meeting on March 13, 2024:
 - First meeting for new Planning Commissioners White and Whitmire.
 - Conducted the following public hearings:
 - Approved wetland delineation (Case File #1-MS-PC-23) for new residence on SW Cormorant.
 - Opened public hearing for Preliminary Plan for *Whale Watch* Phase 2 (Case File #1-PD-PC-24), and continued to April 17, 2024.
 - Approved Amendment to *Depoe Hills* Phase 1 (Case File #2-PD-PC-24) for 11-unit townhouse development.
 - Reviewed Planning process for placement of City emergency supply caches.
- City Council meeting on March 19, 2024:
 - Approved license agreement for new Inn at Arch Rock sign in the right-of-way of NW Sunset Street.
 - Received Planning Commission report regarding suggested planning process for City emergency supply caches.