CITY OF OREGON CITY
CITY COMMISSION REGULAR MEETING
AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, March 02, 2022 at 7:00 PM

REGULAR MEETING OF THE CITY COMMISSION

Ways to participate in this public meeting:

- *Attend in person, location listed above*
- *Register to provide electronic testimony (email recorderteam@orcity.org or call 503-496-1509 by 3:00 PM on the day of the meeting to register)*
- *Email recorderteam@orcity.org (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

1. CONVENE MEETING AND ROLL CALL

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

4. CITIZEN COMMENTS

Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Commission does not generally engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Commission.

5. PRESENTATIONS

5a. Library Board Annual Report

6. ADOPTION OF THE AGENDA

7. CONSENT AGENDA

This section allows the City Commission to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may only be discussed if it is pulled from the consent agenda.

7a. City Tree Removal Adjacent to 1508/1510 Jefferson Street

7b. Personal Services Agreement with Murraysmith for the Boynton and Barlow Crest Reservoirs Condition Assessment and Seismic Evaluation Project (PS 22-008)

7c. OLCC: Liquor License Application – Don Chuy's Authentic Mexican Food LLC, 1346 Leland Road, Space B, Oregon City

7d. Minutes of the December 15, 2021 Regular Meeting

7e. Minutes for the January 19, 2022 Work Session

8. PUBLIC HEARINGS

8a. Appeal of Historic Review Board Approval of an ADA Ramp and Foundation Height Change Located at 1020 5th St (AP-21-00006, GLUA 21-00052, HR-21-00020, Modification of HR 20-00001)

9. GENERAL BUSINESS

10. COMMUNICATIONS

City Manager

Commissioners

Mayor

11. ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.

CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: City Commission **Agenda Date:** 03/02/2022

From: Community Development Director Aquilla Hurd-Ravich

SUBJECT:

City Tree Removal Adjacent to 1508/1510 Jefferson Street

STAFF RECOMMENDATION:

Approve removal of hazardous tree adjacent to 1508/1510 Jefferson Street

EXECUTIVE SUMMARY:

Oregon City Public Works has submitted an application for tree removal of a Big Leaf Maple located in an unimproved right-of-way between 1508 and 1510 Jefferson Street. The tree is approximately 45” DBH, and is in poor structural condition with a high risk of failure. City-initiated tree removal of trees greater than 40” DBH requires City Commission approval.

BACKGROUND:

Effective December 4, 2020, the City Commission passed Resolution No. 20-33, which adopted a policy for additional permitting, notification and other requirements for removal of significant city trees. This policy applies to removal of trees on city-owned land or any tree removal by city staff in addition to existing tree removal permit requirements. The policy is triggered when trees over a certain diameter are proposed for removal. City-initiated tree removal of trees greater than 40” DBH requires City Commission approval.

Oregon City Public Works has submitted an application for tree removal of a Big Leaf Maple located in an unimproved right-of-way between 1508 and 1510 Jefferson Street. The tree is approximately 45” DBH and approximately 60-70 feet tall.

The applicant has submitted an arborist report and alternatives memorandum from Teragan & Associates Arboricultural Consultants. The arborist report identifies that the

tree is in poor structural condition with a high risk of failure. Though the alternatives memorandum identifies alternatives to removal, such as reducing the crown, and cabling, bracing or guying the tree, the arborist identifies that these alternatives will only temporarily reduce the likelihood of failure, and the tree will continue to decay. The arborist report concludes that removal of the tree is the only means of mitigating all risk. The applicant has proposed to replant a Skyrocket Oak mitigation tree in the same location in the unimproved right-of-way between 1508 and 1510 Jefferson Street.

All required application materials have been submitted, and public notice was provided in accordance with the City's policy for removal of significant public trees. Planning staff will process the City Staff Application for Removal of Significant Public Trees and the Street Tree Removal application subsequent to the City Commission's determination and the end of the public comment period at 4:00 PM on March 2, 2022.

OPTIONS:

1. Approve the removal of a 45" DBH Big Leaf Maple located in the unimproved right-of-way between 1508 and 1510 Jefferson Street
2. Do not approve the removal of a 45" DBH Big Leaf Maple located in the unimproved right-of-way between 1508 and 1510 Jefferson Street

OREGON CITY

Planning Division

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

City Staff Application for Removal of Significant Public Trees

Please complete this packet and attach all required application materials. If any section of the application form is incomplete, the application will be returned.

This section to be completed by staff only:

Reviewed By: _____ Date: _____ Associated Permit #: _____

☐ Tree Removal Subject to Public Tree Removal Policy ☐ Tree Removal Exempt from Public Tree Removal Policy

Pursuant to City Commission Resolution No. 20-33 (Effective 12/04/2020)

Please use this form is for tree removal on City-owned property, Urban Renewal owned property, City-initiated tree removal within the public right-of-way to determine whether or not the City's public tree removal policy applies to the proposed tree removal. The purpose of this review is to reduce unnecessary tree removal by the City and provide public notification and other best practices when such removal occurs.

Applicant Name: Wes Wilson Department: Public Works; Operations; Street

Phone: 503-519-1560 Email: wwilson@orcity.org

Address or Map and Tax Lot: Public Right-of-way adjacent to 1510 Jefferson

1. Permits Required

Depending on the location of the trees proposed to be removed, additional permits are required. Please complete and attach the additional forms required.

Location of Tree(s) Proposed to be Removed:

☐ City-owned property or Urban Renewal owned property
In addition to this form, please complete and attach a Type I Site Plan and Design Review Main Application, and Addendum 4b for Tree Removal.

☒ Public Right-of-Way
In addition to this form, please complete and attach a Street Tree Removal permit application form.

Staff Only
Have required permit applications been submitted?
☐ Yes ☐ No

2. Applicability of Public Tree Removal Policy

Please identify the number of trees being removed which meet the size requirements listed. If the trees being removed are smaller than the sizes listed in the table below, please continue to the Section 3 (Exemptions).

Tree Species	Threshold (D.B.H)*	Actual D.B.H.	# of Trees Being Removed
Oregon White Oak (Quercus garrayana)	*8"+*		
Douglas Fir (Pseudotsuga menziesii)	*18"+*		
Western Red Cedar (Thuja plicata)	*12"+*		
Ponderosa Pine (Pinus ponderosa)	*12"+*		
Western Yew (Taxus brevifolia)	*6"+*		
Pacific Dogwood (Cornus nuttallii)	*5"+*		
Coastal Redwood (Sequoia sempervirens)	*12"+*		
Giant Sequoia (Sequoiadendron giganteum)	*12"+*		
Pacific Madrone (Arbutus menziesii)	*5"+*		
Other deciduous tree species	*20"+*	45"	Big Leaf Maple
Other evergreen trees	*18"+*		

**D.B.H. = Diameter at Breast Height = 4.5 feet above ground.*

3. Exemptions

Please identify if any of the following exemptions apply to the proposed tree removal.

- ☐ The trees are smaller than the minimum D.B.H. identified in the table above.
- ☐ The trees are within a habitat restoration area. Please note the habitat restoration project must have been approved by the Planning Division through the appropriate land use process.
- ☐ The trees are within or abutting water quality facilities.
- ☐ The trees are on the Oregon City Nuisance Plant List or otherwise classified as invasive or problem species in the region.
- ☐ The trees are imminent hazard trees. Imminent hazard trees, as defined in OCMC 17.04.1370 may be removed without notification before a permit is obtained due to the necessity to respond to the hazard and restore public safety as soon as possible. Examples include if the tree has fallen across the roadway or if it is leaning significantly due to a heavy windstorm and likely to fall within the next 72 hours, or when a tree is damaged by a vehicle collision. A determination of imminent hazard is made in the field by the City of Oregon City Public Works, or emergency personnel, a forester, or a certified arborist. **Permits shall be obtained after the imminent hazard has been removed and any applicable replacement requirements shall be followed.** The responding personnel shall provide details of the tree species, size and condition to the extent practicable. Photos and documentation of the hazardous conditions shall be provided with the permit application for tree removal to verify the tree was hazardous, but arborist reports are not required.

17.04.1370 - Tree, imminent hazard.
"Imminent hazard tree" means a hazardous tree as defined in OCMC 12.32.020, all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed.

If the proposed tree removal is exempt from the public tree removal policy in accordance with one of the exemptions above, you have completed the worksheet. If the proposed tree removal is not exempt, please proceed to Consideration of Alternatives to Tree Removal.

Staff Only
Is the project exempt from the public tree removal policy?
Yes ☐ No ☐ Initial_____

If the project is not exempt, please continue the form.

4. Consideration of Alternatives to Tree Removal: Initial Documentation

The department requesting removal shall document the tree location, size, and species (if known), the reason for the proposed removal, and alternatives considered in a written justification memo. The memorandum must contain an analysis of alternatives to removal, which may include one or more of the following methods:

- Root pruning
- Canopy pruning
- Changing the location of existing or proposed structures and public utilities
- Other alternatives as applicable.

Following analysis of alternatives the memo shall include a recommended course of action, which takes into account the alternatives considered and whether the alternative is / is not feasible, and why.

Please attach the alternatives analysis in a separate memo or complete the following:

Tree Location (Include Map): Public right-of-way adjacent to 1510 Jefferson St.

Size: 45" DBH 60-70' tall

Species: Big Leaf Maple

Reason for Removal:

City staff was made aware of the tree by the adjacent homeowner, through the Lucity work request system. Work request # 21-000339. Jayson Thornberg (Transportation Maintenance Manager) and Wes Wilson (Street Dept. Team Leader) did a site visit. At the site visit it was decided that the opinion of a professional arborist was needed. Teragan & Associates were contacted to perform a Basic Tree Risk Assessment. Their assessment recommended removal of the tree.

Alternatives to Removal and Rough Cost Estimate:

Alternative #1:

Alternative #2:

Alternative #3:

Conclusions/Recommended Course of Action:

Name of Staff who Completed Analysis: Wes Wilson

5. Consideration of Alternatives to Tree Removal: Third Party Review

The above will be reviewed by a department manager, who will send the memo to a third party (an arborist or a staff assessment team) for review. The department may choose to send the justification memo to either:

- Option #1: A Certified Arborist (Required for Trees over 40" D.B.H.)
- Option #2: Staff Assessment (A minimum of 2 Public Works/Parks staff members and 1 from Planning)

Please identify all of the third-party reviewers, who have reviewed the justification memo, and submit their written conclusions.

☐ Certified Arborist Name: Christine Johnson Certification #: PN-8730A

☐ Staff Assessment Team

Name _____ Department _____

Name _____ Department _____

Name _____ Department _____

Has the third-party reviewers' written conclusion memo been submitted? ☒ Yes ☐ No

Staff Only
Have all required memos been submitted? ☐ Yes ☐ No Initial_____

6. Public Notice

The following public notices are required and will be prepared by Planning staff:

- Physical Notice

A physical notice is required to be posted on the tree proposed for removal for a minimum of 14 calendar days. This period is intended to provide an opportunity for the public to contact the applicant with questions and comments about the proposed tree removal. Notices shall be provided by the Planning Division on 8.5 X 11 laminated paper with the words "NOTICE OF PROPOSED TREE REMOVAL" in bold, 48-point font and the website where the public may download the permits, arborist reports and associated documentation. Notices shall be tied to the tree with twine or wire. No screws or nails shall be used. The notice will be created by the Planning Division, but will be placed and monitored by the department proposing removal.

- Email Transmittal

Staff will send email transmittal to affected departments and agencies requesting comment on the proposed tree removal.

- City Manager Review

If there remain unresolved questions or concerns regarding the proposed tree removal after the public notice, the removal shall be referred to the City Manager for further review. The City Manager may decide to move forward with the tree removal or cease the tree removal process.

Staff Only

Date Notice Posted on Website: _____

Affidavit Submitted: ☐ Yes ☐ No

Email Transmittal Sent Out: ☐ Yes ☐ No

Comment Period Deadline: _____

City Manager Review Required? ☐ Yes ☐ No

7. Additional Requirements

Reuse/Repurposing of Wood

Trees proposed for removal which are subject to this policy, free from infestation, and 25 inches D.B.H. or greater, shall be repurposed for use by the City and/or public if feasible. Depending on the quality of the wood, it may be utilized for environmental enhancement, furniture or crafts. The Natural Resources Committee recommends that in natural areas and next to streams, leaving large woody debris in place may help to improve fish and wildlife habitat, and that the use of wood for firewood should be allowed only if the wood cannot be repurposed any other way (e.g. cottonwood).

Does the proposed tree removal include removal of trees greater than 25 inches DBH which are free from infestation? ☑ Yes ☐ No

Is reuse/repurposing of wood proposed? ☑ Yes ☐ No

If yes, please explain how the wood would be reused or repurposed: _____

Wood will be repurposed as firewood.

_____

Staff Only

Reuse of Wood Approved? ☐ Yes ☐ No Initial_____

City Commission Hearing

Trees greater than 40" D.B.H. shall be placed on a City Commission consent agenda and notification will be sent to the Natural Resources Committee, Parks and Recreation Committee, and the Transportation Advisory Committee. The City Commission may decide to move forward with the tree removal or cease the tree removal process.

Does the proposed tree removal include removal of trees greater than 40 inches DBH? ☑ Yes ☑ No

Staff Only

City Commission hearing required? ☐ Yes ☐ No Initial_____

Large Tree Mitigation

Trees proposed for removal that are 50 inches or greater D.B.H. shall be mitigated with tree plantings within the city limits. No fee-in-lieu is allowed.

Does the proposed tree removal include removal of trees greater than 50 inches DBH? ☐ Yes ☑ No

Are all mitigation trees proposed to be planted within city limits? ☑ Yes ☐ No

Is fee-in-lieu of planting mitigation trees proposed? ☐ Yes ☑ No

Staff Only

Approved? ☐ Yes ☐ No Initial_____

OREGON CITY

Planning Division

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

Street Tree Removal Application

Please complete this packet and attach a site plan. If any section of the application form is incomplete, the application will be returned.

This section to be completed by staff only:

Approval By: _____ Date: _____ Permit #: _____

# of Trees to be Replanted: _____ Replanting Deadline: _____ # of Trees for Fee-In-Lieu: _____

Refer to chapter 12.08 of the Oregon City Municipal Code or contact Planning at 503.722.3789 for additional information. Sidewalk Repair requires a separate permit from the Public Works Department.

Applicant Name: Wes Wilson Signature: _____

Phone: 503-519-1560 Email: wwilson@orcity.org

Address or Map and Tax Lot: 2-2E-29cc-04900

How many trees would you like to remove?

Number of Street Trees Proposed to be Removed: 1

Trees that are approved for removal must be removed fully to the ground level.

Determine the Number of Mitigation Trees Required

1. Is the tree species listed as invasive or nuisance on the Oregon City Nuisance Plant List, Portland Plant List, Oregon Department of Agriculture, or Clackamas Soil and Water District? ☐ Yes ☒ No, go to #2
   Number of trees invasive or hazardous: N/A
   Species: N/A
   Which list identifies the tree as invasive or nuisance? N/A
   No trees are required to be planted to make up for the removal of a qualifying invasive or nuisance tree. A picture of each tree(s) proposed to be removed is required to be submitted.

2. Did a Certified Arborist identify the tree(s) as dead, diseased, or hazardous? ☒ Yes ☐ No, go to #3
   Number of trees designated as dead, diseased, or hazardous: 1
   One tree is required to be planted to make up for each designated tree being removed. A map identifying the location of the tree(s) as well as **written documentation from a certified arborist is required**.

3. Did the tree lift the sidewalk, creating a lip more than ¼ inch or otherwise conflict with the American with Disabilities Act? ☐ Yes ☒ No, go to #4
Number of Trees: N/A Height of Lip: N/A
One tree is required to be planted to make up for each tree being removed which causes a hazard. A map identifying the location of the tree(s) and a picture of the hazard is required.

4. For any trees not included in 1-3 above, use the chart below to identify the number of trees to be planted to make up for the tree removed.

Diameter of Tree to be Removed (Inches at 4-ft Height)	Number of Trees Required to Be Planted for Each Tree Removed	Number of Replacement Trees Required
Less than 6"	1 Tree	# of Trees ≤6" _____ x 1 = _____
6" to 12"	2 Trees	# of Trees 6"-12" _____ x 2 = _____
13" to 18"	3 Trees	# of Trees 13"-18" _____ x 3 = _____
19" to 24"	4 Trees	# of Trees 19"-24" _____ x 4 = _____
25" to 30"	5 Trees	# of Trees 25"-30" _____ x 5 = _____
31" and over	8 Trees	# of Trees ≥31" _____ x 8 = _____

Total Number of Trees Removed: 1

Total Number of Replacement Trees Required: 1

5. Total number of mitigation trees required: 1

Staff Only
Approved? ☐ Yes ☐ No Initial_____

Determine Mitigation Method and Replanting Location

The locations for replanting are listed below in prioritized order. You must demonstrate how the highest priority option cannot be met prior to proceeding with a lower priority option.

All trees planted in the right-of-way are required to meet the following clearance distances:

- 25 feet from another street tree on the same side of the street (measured trunk to trunk).
- 15 feet from streetlights
- 5 feet from fire hydrants
- 20 feet from a street intersection (measured from edge of pavement)
- 5 feet from all public utilities (i.e. sewer, storm and water lines, utility meters, etc.)

In addition, the planning location must be a minimum of 2.5 feet wide.

<u>Planting Option #1: Replanting in the public right-of-way abutting your property.</u>

Replanting trees in the right-of-way abutting your property (e.g. the planter strip) if the size and spacing requirements can be met is the City's highest priority. Only if it can be demonstrated that there is not sufficient space for replanting based on the clearance distances above can other replanting locations be explored.

Can all of the required trees to be replanted fit along the street? ☒ Yes ☐ No
How many trees can be planted meeting the clearance distances above? 1
Provide a simple site plan including:

- The location of the removed tree(s)
- The location of the replaced tree(s)
- The location of streetlights, fire hydrants, street intersections, and public utilities as well as distance from trees proposed to be planted.

Root barriers are recommended to provide additional protection from sidewalk and curb damage.

Alternate Planting Options

If it can be demonstrated that it is infeasible to plant the required trees in accordance with Planting Option #1, any combination of the following options may be utilized.

- Replanting Elsewhere in the Right-of-Way

  Trees may be planted in the right-of-way (such as a planter strip) next to someone else's property if they have given you permission. A map demonstrating the clearance requirements are being met as identified in #1 is required, as well as written approval from the abutting property owner (since they will be responsible for maintenance of the trees).
  Number of trees proposed to be planted in the right-of-way offsite: N/A

- Replanting on Public Property

  The City may have options for replanting the trees at parks, in stormwater facilities, or elsewhere on land owned by Oregon City. A minimum number of trees may be required for this option. Please contact Public works at 503.657-8241 to learn more.
  Number of trees proposed to be on City property offsite: N/A

- Replanting in Your Front Yard
  Replacement tree(s) may be planted on your property, within ten feet of the property line. Trees using this option are required to be a minimum of 2 inches in caliper, larger in size than the other options. In order to assure protection and replacement of the trees, a covenant is required to be recorded on your title identifying the tree(s) are subject to the protections and replacement requirements the same as street trees. A map demonstrating the clearance requirements are being met as identified in #1 is required.
  Number of trees proposed for replanting in the front yard: N/A

- Payment of a Fee in Lieu of Planting
  The 2020 fee amount is $342 as identified in the fee schedule. The fee is dedicated towards planting new trees or tree protection or education within Oregon City.
  Number of trees proposed for a fee-in-lieu: N/A
  Total fee due: N/A x $342 = N/A

Number of Trees Proposed in Abutting Right-of-Way (Planter Strip): 1
Number of Trees Proposed in Right-of-Way Not Abutting Your Property: 0
Number of Trees Proposed on City Property: 0
Number of Trees to Pay a Fee-In-Lieu: 0
Total Replacement Trees Required: 1

Staff Only Approved?
☐ Yes ☐ No Initial_____

Select Species and Size of Mitigation Tree(s)

Oregon City has adopted a list of tree species appropriate for growing in specific planting areas. Though developers still have an opportunity to choose the type of tree they prefer to plant, as of 1999, all subdivisions were required to plant a species either from the list, or approved by a certified arborist. Your planter strip may be narrower than our current standard of 5 feet, so the list includes a wide variety of acceptable trees sized for the planting area.

Tree Size

New street trees are required to be a minimum of 1.5 inches in caliper, measured 6-inches from the ground, at the time of planting. Trees planted in yards are required to be a minimum of 2 inches in caliper.

Size of tree proposed to be planted: 2"

Tree Species

- Street trees should be chosen from:
  a. The City's recommended street tree list,
  b. Another municipality's street tree list in the metro area such as Portland, Gresham, Beaverton, or Milwaukie.
  c. A written recommendation by a certified arborist indicating that the species is appropriate for the specific planting location.
- All trees planted beneath powerlines shall be selected from the associated list and also approved by the associated franchise powerline utility company (generally PGE).
- You are required to install the replacement trees by the date indicated by staff on the permit approval form. It is best to plant during the fall and winter prior to bud break. Extensions may be granted on case-by-case basis.

Species of tree proposed to be planted: Skyrocket Oak

Please identify the list the species was chosen from:

- [X] Oregon City Street Tree List
- [ ] Recommended by a Certified Arborist (written documentation must be provided)
- [ ] Another municipality's street tree list _____

Applicable Overlay Zones

Please identify all overlay districts identified on your Property Zoning Report. If any of the items below are marked, please contact the Planning Division to Determine if additional review is needed.

☐ Geologic Hazards Overlay District ☒ Historic Overlay District ☐ Flood Management Overlay District

☐ Willamette River Greenway Overlay District ☐ Natural Resources Overlay District ☐ None

Staff Only
Additional Review Required? ☐ Yes ☐ No Initial_____

Please submit this fully completed form to the Planning Division at planning@orcity.org.
There is no application fee and permits are generally reviewed within 24 hours.

I agree to comply with City of Oregon City Code Chapter 12.08 - PUBLIC AND STREET TREES, regarding street tree removal and replacement. I agree to hold harmless the City of Oregon City, its agents, officers, and employees for any damage or injury caused by reason of planting, placement, maintenance, or removal of street trees. I understand that as the abutting property owner, I shall be responsible for the maintenance of street trees and planting strips and that I shall be solely liable for any damages. I understand that replanting is a condition of removing street trees and that the City of Oregon City may require greater than 1:1 replacement pursuant to the adopted code. I understand that I am responsible for the successful establishment of the replanted trees.

_____
Abutting Property Owner's Signature *Date*

Submit this Application and a Planting Plan to: Oregon City Planning Division, 695 Warner Parrott Rd Oregon City, OR 97045. Phone: (503) 722-3789 / Fax (503) 722-3880. Email: planning@orcity.org

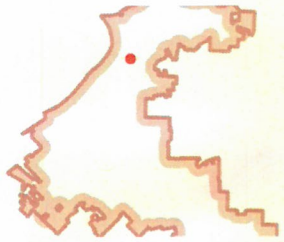
Oregon City GIS Map

Legend

- Street Names
- Taxlots
- Taxlots Outside UGB
- Unimproved ROW
- City Limits
- UGB
- Basemap

Notes

Overview Map



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, neering, surveying or navigation purposes. fication of any errors is appreciated.

created 2/14/2022

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City of Oregon City
PO Box 3040
625 Center St
Oregon City
OR 97045
(503) 657-0891
www.orcity.org

TERAGAN & ASSOCIATES, INC.
ARBORICULTURAL CONSULTANTS

1/19/2022

Wes Wilson
City of Oregon City, Public Works Department
13895 Fir Street
Oregon City, OR 97045

RE: Level II, Basic Tree Risk Assessment for 45" DBH bigleaf maple (*Acer macrophyllum*)

Summary

Mr. Wes Wilson (City of Oregon City Public Works Department) contacted Teragan & Associates, Inc. regarding a large bigleaf maple on city property between 1508 Jefferson St and 1510 Jefferson St located in a city right of way. The bigleaf maple in question is in fair health and poor structural condition. Three codominant leaders and suspected stem and root decay are the conditions of concern. A Level II basic tree risk assessment was performed and resulted in a **high** risk rating. Tree removal is recommended to mitigate the high risk rating.

Assignment

Conduct a Level II, basic tree risk assessment on one (1) tree on city property between 1508 Jefferson St and 1510 Jefferson St. Document observations, assessed risk, and risk mitigation recommendations in a written report.

Background

The bigleaf maple in question has a history of branch failure on the north side. Per conversations with Mr. Wilson, the residents are concerned about continuing branch failure and whole tree failure.

Observations

I visited the site and met with Mr. Wilson on January 13, 2022. I assessed one (1) bigleaf maple from the ground on all sides. I used a diameter tape to measure the tree's diameter, a rubber mallet to sound the tree, a Bosch Professional GLM 50C laser measurer to measure distances from the tree to nearby structures, and a metal probe to search for pockets of decay on buttress and surface roots. The tree in question is 45" DBH and is approximately 60-70' tall.

I rated the tree as having fair health and fair structural condition. Dead twigs and branches make up 25% of the canopy. The canopy is slightly unbalanced to the southwest. The reported history of branch failure by the residents has been on the north/northeast side of the canopy which is comparatively thinner than the rest of the canopy. A 4"-wide conk, likely *Ganoderma*, was observed on the east side of the trunk approximately 8" above ground level. A sample could be sent to OSU Plant Clinic for confirmation, if necessary.

The tree splits into three codominant leaders at approximately 10' above ground level. Included bark may be present, but is hard to confirm with the moss growing on the trunk, which is also twisted. I sounded the trunk and buttress roots with a rubber mallet on all sides from ground level to approximately 3' above

ground level on the uphill side. The east and south sides of the tree sounded hollow when compared to the west and north sides of the tree which sounded denser. These differences in tone variation suggest internal decay may be present, or more prominent, on the south and east sides of the tree. A decay pocket, minimum 12" deep, is present on the south side of the tree where the roots are exposed on the steep slope. The tree straddles two slopes and is on a west and south facing aspect.

Appendix 3 provides a site map. Appendix 4 provides photographs of the trees and site.

Risk Assessment Methodology and Ratings

Teragan & Associates, Inc. rated the trees for risk utilizing the visual risk assessment process. We utilize the standards for a Level II, basic tree risk assessment found in the American National Standards Institute (ANSI) A300 standards[1] and the International Society of Arboriculture's (ISA) best management standards for Level II, basic tree risk assessment[2]. The risk assessment timeframe was set at five (5) years.

Targets

A *target* is defined as any person, structure, object, or service disruption within reach of a falling tree or part of a tree, that may be injured, damaged, or disrupted. If a target is within 1-times the height of the tree being assessed, it is typically included in a risk assessment. This parameter is based off the ISA's basic tree risk assessment process and is a good guideline when considering what property or who may be impacted by a tree or tree part failure. Three targets were assessed: the house at 1508 Jefferson St (21' south), the house at 1510 Jefferson St (14' north), and a shed west of 1510 Jefferson (12' northwest). An *occupancy rate* (constant, frequent, occasional, rare) is associated with a target. The homes and shed have a constant occupancy rate.

Risk Categorization

Tree risk assessment is conducted using a systematic approach to identify, analyze, and evaluate tree risk. If targets are present, then risk is assessed. When performing a tree risk assessment, an arborist's task is to evaluate the parameters of the site and the trees' characteristics, taking note of any defects or unusual features the tree and/or the site may have or pose to the stability of the tree or parts of the tree.

From the collection of data, the arborist then uses three factors to calculate the overall risk rating: (1) the likelihood of failure, (2) the likelihood of impact, and (3) the consequence of failure. In the following paragraphs I will explain each category. The results of the risk assessment are presented in Table 1 and discussed in the next section.

Likelihood of failure is the chance of a tree or tree part failing within the stated time frame of five years. There are four levels: improbable, possible, probable, and imminent. A tree would be given an improbable likelihood of failure if it were healthy and not likely to fail in normal or even stormy weather conditions. Possible likelihood of failure would mean that there may be a significant defect, but the tree is not expected to fail in normal storm events, or even in storms that would be expected to occur every year. Probable likelihood rating would indicate that the defect is likely to cause failure within the stated time frame. A tree would be given an imminent likelihood of failure if it has already started to fail or would fail in the near future, within three weeks or so.

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[1]American National Standards Institute. (2017). *ANSI A300 (Part 9) - 2017 Tree Risk Assessment a. Tree Failure.* A revision of ANSI A300 (Part 9) – 2011.
[2]International Society of Arboriculture. (2017). *Tree Risk Assessment Manual* (2nd ed.) Champaign, IL: International Society of Arboriculture.

Likelihood of impact assesses that once the tree or tree part with the defect has failed, what is the likelihood of the tree or tree part impacting the target. There are four levels: very low, low, medium, and high. A tree would be given a very low likelihood of impact if the occupancy rate of the target of concern in that area is rare. A low rating would mean the target of concern being struck by the failing tree or tree part is less than 50 percent but greater than rare. A rating of medium is given if the target of concern is as likely to get struck as not. A tree would be given a high likelihood of impact if it is likely to impact the target when it fails.

Consequences of failure is the level of damage associated with a tree or tree part failure that has struck a target of concern. There are four levels: negligible, minor, significant, and severe. A negligible consequence would consist of a tree or tree part failing and resulting in no injuries to people and little to no damage to property or disruption to service. A minor consequence would be damage that could be repaired at a reasonable cost or injuries that people could heal quickly from and would not necessitate a hospital stay. Examples would be a damaged gutter, or a cut or minor bone breakage on a person. Significant consequences would be damage with higher repair costs and injuries that would require a hospital stay but one could expect a full recovery with no lingering impacts. An example of significant property damage would be where a roof's structural support is significantly damaged. A severe consequence would be a tree or tree part failing and resulting in a serious injury with lifelong impacts or death, or property damage with very high repair costs.

Table 1 Summary of risk assessment ratings.

Target	Tree Part	Condition of Concern	Likelihood of Failure[1]	Likelihood of Impact[2]	Consequence of Failure[3]	Risk Rating[4]
1508 (21' S)	20" diameter codominant leaders	Inclusion	Possible	High	Severe	Moderate
	45" DBH trunk	Conk (stem decay)	Probable	Medium	Severe	Moderate
	Roots	Root decay	Probable	Low	Severe	Low
1510 (14' N)	20" diameter codominant leaders	Inclusion	Possible	Medium	Significant	Low
	45" DBH trunk	Conk (stem decay)	Probable	Medium	Severe	Moderate
	Roots	Root decay	Probable	High	Severe	**High**
Shed at 1510 (12' N)	20" diameter codominant leaders	Inclusion	Possible	High	Significant	Moderate
	45" DBH trunk	Conk (stem decay)	Probable	Medium	Significant	Moderate
	Roots	Root decay	Probable	Low	Significant	Low

[1]Likelihood of Failure: Improbable, Possible, Probable, Imminent.
[2]Likelihood of Impact: Very low, Low, Medium, High.
[3]Consequence of Failure: Negligible, Minor, Significant, Severe.
[4]Risk rating: Low, Moderate, High, Extreme.

Discussion and Risk Mitigation Recommendations

The highest risk rating calculated was **high**. The likelihood that the roots on the south side of the 45" bigleaf maple would fail in the next five years and cause the tree to fall north onto 1510 Jefferson St causing damage to the home with high repair costs is high. The prevailing wind direction is from the south/southwest so the likely direction of failure would be to the north/northeast, in the path of 1510 Jefferson St. The size of the trees' trunk and the spread of the canopy in combination with its proximity to the home results in a high likelihood of impact and a severe consequence of failure.

Moderate risk was calculated in multiple scenarios and necessitates some discussion. From below ground to about 10' above ground this tree has multiple conditions of concern that in a failure event could cause the tree to fail at an unpredictable point on the roots or trunk and fall in an unpredictable direction. The connective tissues between the codominant leaders are weak, and in this case, they also appear to be twisted, which may be creating unstable or unequal forces along the areas where the connective tissues interact. Parts of the tree could tear and fail in several different directions. The possibility of the tree failing south as opposed to north should not be discounted.

The conk observed on the east side of the trunk, suspected to be *Ganoderma*, is an indicator that decay is present and could be impacting wood strength at the site of the conk and 3-6' above and below the conk. *Ganoderma* is a white rot, breaking down lignin and cellulose, two cell components that create cell structure and flexibility. Trees can put on wood to compensate for strength loss around the areas of decay, known as response wood. On this tree, response growth is inadequate. It is likely that the tree is not healthy enough to be able to form enough response growth to compensate for the wood strength loss. Advanced tools, such as sonic tomography, would need to be applied to confirm the remaining shell wall thickness, (sound wood) is adequate to support the tree. Sonic tomography will only provide information on stem decay (several inches above ground level and above) and cannot be applied to roots. If additional information is desired to determine root decay, testing several roots with a resistograph would be recommended. An air spade excavation would have to be done to expose the bottom of the structural roots. It is not likely that the results of these advanced assessment tools will drastically change the overall risk the tree poses to the homes.

The bigleaf maple is at its peak maturity and may be entering the stages of senescence, the process of deterioration with age. Its health and structural condition are not likely to improve with time. It has multiple conditions of concern and it is in close proximity to high value targets. Tree removal is recommended to mitigate for the high-risk rating.

If there is a desire to retain this tree, another mitigation option would be to reduce the size of the crown of the tree. This would reduce the weight in the tree that the decay compromised roots and trunk have to support and reduce the wind force that the tree has to resist. The reality is that while such reduction could reduce the likelihood of failure short term, the fungal organism that has caused the decay will continue to spread and continue to reduce the strength of the remaining roots and trunk wood.

Conclusion

The Level II, basic tree risk assessment conducted on the 45" DBH bigleaf maple resulted in a high-risk rating. Removing the tree is recommended to mitigate the high risk.

Sincerely,

Christine Johnson

Christine Johnson, MS
ISA Certified Arborist, PN-8730A
ISA Tree Risk Assessment Qualified
Member, American Society of Consulting Arborists
E: christine@teragan.com | C: 971.978.9381

Enclosures:

Appendix 1:	Certification of Performance
Appendix 2:	Assumptions and Limiting Conditions
Appendix 3:	Site Map for 1508/1510 Jefferson St
Appendix 4:	Photographs of the Tree and Site

Appendix 1: Certification of Performance

I, Christine Johnson, certify:

- That a representative of Teragan & Associates, Inc., has inspected the tree(s) and/or the property referred to in this report. The extent of the evaluation is stated in the attached report.
- That Teragan & Associates, Inc. has no current or prospective interest in the vegetation of the property that is the subject of this report, and Teragan & Associates, Inc. has no personal interest or bias with respect to the parties involved.
- That Teragan & Associates, Inc.'s compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party, or upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.
- That the analysis, opinions, and conclusions that were developed as part of this report have been prepared according to commonly accepted arboricultural practices.
- That a Board-Certified Master Arborist has overseen the gathering of data.

Appendix 2: Assumptions and Limiting Conditions

1. Any legal description provided to the consultant is assumed to be correct. Teragan and Associates, Inc. checked the species identification and tree diameters in the field.
2. It is assumed that this property is not in violation of any codes, statutes, ordinances, or other governmental regulations.
3. The consultant is not responsible for information gathered from others involved in various activities pertaining to this project. Care has been taken to obtain information from reliable sources.
4. Loss or alteration of any part of this delivered report invalidates the entire report.
5. Drawings and information contained in this report may not be to scale and are intended to be used as display points of reference only.
6. The consultants' role is only to make recommendations. Inaction on the part of those receiving the report is not the responsibility of the consultant.
7. This report is to certify the trees that are on site, their size and condition and assessed risk.

Appendix 4: Photographs of the Trees and Site

Figure 1 The 45" DBH bigleaf maple looking east. 1/13/2022.

Item 7a.

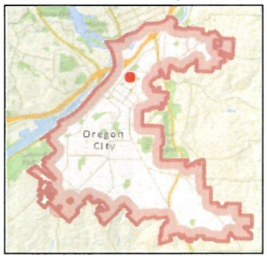
Appendix 3: Site Map for 1508/1510 Jefferson St

Legend

- Street Names
- Taxlots
- Taxlots Outside UGB
- Unimproved ROW
- City Limits
- UGB
- Basemap

Notes

Overview Map



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Oregon City GIS Map

Map created 1/15/2022

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625 Center St
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Figure 2 Inclusion between the codominant leaders. Picture taken looking north. 1/13/2022.

Figure 3 Inclusion between the codominant leaders. Picture taken looking southwest. 1/13/2022.

Figure 4 The conk on the east side of the trunk. 1/13/2022.

Figure 5 A close up of the conk, which was approximately 4" across and was 8" above ground level. 1/13/2022.

Figure 6 A cavity found on the south side of the tree between surface roots. The probe is approximately 12" in length. 1/13/2022.

TERAGAN & ASSOCIATES, INC.
ARBORICULTURAL CONSULTANTS

ADDENDUM

DATE:	2/1/2022
TO:	Wes Wilson, City of Oregon City
FROM:	Christine Johnson, ISA Certified Arborist®, PN-8730A
RE:	Discussion of Risk Mitigation Options for 45" DBH bigleaf maple (*Acer macrophyllum*)
SITE ADDRESS:	1508/1510 Jefferson St

This memo is an addendum to the Level II, Basic Tree Risk Assessment report dated 1/19/2022 for one (1) 45" DBH bigleaf maple (*Acer macrophyllum*). Per my discussions with Mr. Wilson, the City has requested information about risk mitigation alternatives to removal.

(1) The first alternative briefly mentioned at the end of the report is that of crown reduction. Crown reduction is the process of carefully reducing the size of the crown evenly across the tree as a means of reducing the load and dynamic forces the tree is supporting and counteracting. This work would need to be completed a qualified and experienced ISA Certified Arborist® and would be expected to cost between $2,000.00-$4,000.00.

This risk mitigation strategy may reduce the likelihood of failure in the short term, but it would not guarantee that failure would not occur. It also does not directly address the defect that is most likely to cause tree failure – the fungal organism in the lower trunk. Additionally, reducing the crown size would not reduce the impact that the tree could have on either home if it were to fail because large parts of the tree could still reach either home and cause significant or severe property damage.

(2) A second alternative not discussed in the report is the possibility of cabling, bracing, and/or guying the tree and/or tree parts. *Cabling* is the process of installing steel or loosely fitted fiber cables, attached to lag screws or bolts placed in tree limbs, to provide additional support or to limit movement and stress of limbs. *Bracing* is the process of installing steel rods or bolts through the stems or limbs, to reduce twisting or splitting of the wood. Cabling and bracing could be used in combination with one another to stabilize the three codominant leaders and likely inclusion. *Guying* is the process of anchoring or securing a tree that is poorly anchored or has low wood strength to a secure anchor point some distance away. These systems can be expensive to install properly and must be regularly inspected and maintained to function as designed. Depending on what materials were selected for installation and where and how they would be installed, the initial costs could range from $3,000.00-$6,000.00. Installation would have to be completed a qualified ISA Certified Arborist® that has experience installing these systems and could install them to the current ANSI standards.

While this is an option for risk mitigation, it is not necessarily a practical option because there is active decay in the stem. These systems require drilling multiple holes into sound wood for proper installation. Each hole creates an area for the fungal organism to invade and establish.

Teragan & Associates, Inc.
3145 Westview Circle, Lake Oswego, OR 97034
E: info@teragan.com | O: 503.697.1975

Sonic tomography would be required at the recommended anchoring points to ensure that the wood is sound. This would add an additional cost of $500.00- $1,000.00. So, these systems *could* reduce the risk some, but more information on the trees' extent of decay would be necessary and installing them would pose additional risk of decay spreading to other parts of the tree.

It is my professional opinion that the trees' fair health and history of branch failure signals that the tree is likely senescing, or actively fighting and/or possibly succumbing to the fungal disease. Reducing the crown may reduce the likelihood of failure but would not reduce the likelihood of impact or consequences of failure. A combination of cabling, bracing or guying the tree could reduce the likelihood of failure initially but may end up spreading the fungal disease more. Removal is the only means of mitigating all risk.

Sincerely,

Christine Johnson

Christine Johnson, MS
ISA Certified Arborist®, PN-8730A
Member, American Society of Consulting Arborists
E: christine@teragan.com | C: 971.978.9381

Enclosures:

Appendix 1: Certification of Performance
Appendix 2: Assumptions and Limiting Conditions

Appendix 1: Certification of Performance

I, Christine Johnson, certify:

- That a representative of Teragan & Associates, Inc., has inspected the tree(s) and/or the property referred to in this report. The extent of the evaluation is stated in the attached report.
- That Teragan & Associates, Inc. has no current or prospective interest in the vegetation of the property that is the subject of this report, and Teragan & Associates, Inc. has no personal interest or bias with respect to the parties involved.
- That Teragan & Associates, Inc.'s compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party, or upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.
- That the analysis, opinions, and conclusions that were developed as part of this report have been prepared according to commonly accepted arboricultural practices.
- That a Board-Certified Master Arborist has overseen the gathering of data.

Appendix 2: Assumptions and Limiting Conditions

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6. The consultants' role is only to make recommendations. Inaction on the part of those receiving the report is not the responsibility of the consultant.

Item 7a.

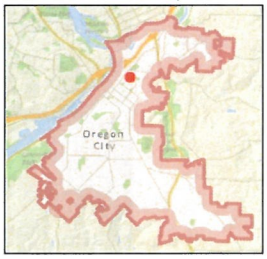
Appendix 3: Site Map for 1508/1510 Jefferson St

Legend

- Street Names
- Taxlots
- Taxlots Outside UGB
- Unimproved ROW
- City Limits
- UGB
- Basemap

Notes

Overview Map



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Oregon City GIS Map

Map created 1/15/2022

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Oregon City GIS Map

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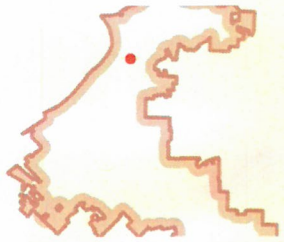

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created 2/14/2022

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(503) 657-0891
www.orcity.org

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION

DATE: February 9, 2022
TO: Diliana Vassileva, Assistant Planner
FROM: McLoughlin Neighborhood Association
RE: Comments on TREE-22-00002
1508/1510 Jefferson Street Tree Removal

Thank you for the opportunity to review the above-referenced application.

City Staff Tree Removal Form:

Item 4: The cost comparison for alternatives is appreciated, thank you. Can you provide an estimate for the proposed removal as well?
Fill in staff reviewer information.

Item 5: Please complete this section.

Item 7: The tree is free of infestation and over 25" dbh, and therefore subject to repurposing. Please elaborate on why repurposing is not proposed. If distributing to citizens for firewood is approved, how will this be accomplished?
Fee-in-lieu of planting is checked, but it appears that replanting is proposed.

Street Tree Removal Application:

Planting Options: It is not clear where the replacement tree will be planted. Option 1 indicates it can be replaced in the right-of-way where removal will occur, but it is proposed in an unspecified offsite location. Please clarify.

Overlay Zones: The tree is located in the Geologic Hazards and Historical Overlay Districts; will additional review be required?

Thank you for your consideration.

Post Office Box 1027, Oregon City, Oregon 97045 • https://www.orcity.org/community/mcloughlin-neighborhood-association

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 03/02/2022

From: Public Works Director John M. Lewis, PE

SUBJECT:

Personal Services Agreement with Murraysmith for the Boynton and Barlow Crest Reservoirs Condition Assessment and Seismic Evaluation Project (PS 22-008)

STAFF RECOMMENDATION:

Award the contract and authorize the City Manager to execute the Contract Agreement with Murraysmith in the amount of $161,473.00 for reservoir analysis and rehabilitation recommendations for the Boynton and Barlow Crest Reservoirs Condition Assessment and Seismic Evaluation Project (PS 22-008).

EXECUTIVE SUMMARY:

The City's 2019 Water Distribution System CIP update identified near-term coating and seismic upgrade improvements to the Boynton Reservoir and Pump Station, and coating, safety, and seismic upgrade improvements to the Barlow Crest Reservoir. The City intends to conduct a condition assessment and seismic evaluation of the reservoirs and pump station to further identify required improvements for implementation in the near-term fiscal years.

BACKGROUND:

The Boynton Reservoir and Pump Station were constructed in 1984, and in combination with the Henrici Reservoir, serves the upper zone of the city. The City's 2019 Water Distribution System CIP update identified coating and seismic upgrade improvements in the near-term with reservoir replacement as a potential improvement to be considered. The pump station was intended to serve as an emergency pump station to increase system pressure under emergency conditions, but it is currently not used by the City for emergency water supply. The pump station building houses electrical and SCADA equipment for the reservoir and will also be evaluated for necessary seismic upgrades.

The Barlow Crest Reservoir was constructed in 1999 and serves the Park Place Intermediate Zone, View Manor, and Livesay areas. The 2019 Water Distribution

System CIP update identified coating, safety, and seismic upgrade improvements to the reservoir in the near-term.

The attached scope of work (Exhibit A) outlines the detail by which the project will move forward through the analysis and evaluation phase, and the issuance of the final report.

It is anticipated that the analysis and evaluation will be completed this spring and that the final report will be submitted to the City by June 2022.

Murraysmith is a consultant on the City's engineering consulting firms to provide Utility Infrastructure Improvements, including design and engineering services.

OPTIONS:

1. Authorize the City Manager to execute the Agreement.
2. Authorize the City Manager to execute the Agreement with specific modifications.
3. Deny the Agreement. If the Commission chooses to deny the Agreement, staff requests direction on how to proceed.

BUDGET IMPACT:

Amount:	$161,473.00
FY(s):	2021/22
Funding Source(s):	Water Fund

Point of Contact: John Burre
Term of Contract: December 31, 2022

CITY OF OREGON CITY
PERSONAL SERVICES AGREEMENT

BOYNTON AND BARLOW CREST RESERVOIRS CONDITION ASSESSMENT AND SEISMIC EVALUATION PROJECT (PS 22-008)

This PERSONAL SERVICES AGREEMENT ("Agreement") is entered into between the CITY OF OREGON CITY ("City") and **MURRAYSMITH** ("Consultant").

RECITALS

A. City requires services that Consultant is capable of providing under the terms and conditions hereinafter described.

B. Consultant is able and prepared to provide such services as City requires under the terms and conditions hereinafter described.

The parties agree as follows:

AGREEMENT

1. Term. The term of this Agreement shall be from the date the contract is fully executed until **December 31, 2022**, unless sooner terminated pursuant to provisions set forth below. However, such expiration shall not extinguish or prejudice City's right to enforce this Agreement with respect to (i) breach of any warranty; or (ii) any default or defect in Consultant's performance that has not been cured.

2. Compensation. City agrees to pay Consultant on a time-and-materials basis for the services required. Total compensation, including reimbursement for expenses incurred, shall not exceed **one hundred sixty-one thousand, four hundred seventy-three dollars and no cents ($161,473.00)**.

3. Scope of Services. Consultant's services under this Agreement shall consist of services as detailed in Exhibit A, attached hereto and by this reference incorporated herein.

4. Standard Conditions. This Agreement shall include all of the standard conditions as detailed in Exhibit B, attached hereto and by this reference incorporated herein.

5. Schedule. The components of the project described in the Scope of Services shall be completed according to Term, above.

6. Integration. This Agreement, along with the description of services to be performed attached as Exhibit A and the Standard Conditions to Oregon City Personal Services Agreement attached as Exhibit B, contain the entire agreement between and among the parties, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all prior written or oral discussions or agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

7. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, by hand delivery or by electronic means. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

To the City:

City of Oregon City
13895 Fir Street
Oregon City, OR 97045
Attention: John M. Lewis

To Consultant:

MURRAYSMITH
888 SW 5th Avenue, Suite 1170
Portland, OR 97204
Attention: Adam Crafts, PE

Consultant shall be responsible for providing the City with a current address. Either party may change the address set forth in this Agreement by providing notice to the other party in the manner set forth above.

8. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on this _____ day of _____, 20____.

CITY OF OREGON CITY

By: _____
John M. Lewis, P.E.
Title: Public Works Director

DATED: _____, 20___.

By: _____
Anthony J. Konkol III
Title: City Manager

DATED: _____, 20___.

APPROVED AS TO LEGAL SUFFICIENCY:

By: _____
City Attorney

MURRAYSMITH

By: _____

Name: _____

Title: _____

DATED: _____, 20___.

ORIGINAL CITY COMMISSION APPROVAL (IF APPLICABLE):

DATE: _____

P:\PublicWorks\CIP_PS_RFQ_RFP\PS_Open\PS 22-008 Boynton and Barlow Crest Reservoir Analysis\CONTRACT\Form - PSA_Consultant.docx

SCOPE OF WORK

ENGINEERING SERVICES FOR CONDITION ASSESSMENT AND SEISMIC EVALUATION OF THE BARLOW CREST RESERVOIR, AND BOYNTON RESERVOIR AND PUMP STATION PROJECT CITY OF OREGON CITY

Background

The City of Oregon City (City) 2019 Water Distribution System CIP Update identifies near-term coating, safety, and seismic upgrade improvements to the Barlow Crest Reservoir, and coating and seismic upgrade improvements to the Boynton Reservoir and Pump Station. The City intends to conduct a condition assessment and seismic evaluation of the reservoirs and pump station to further identify required improvements for implementation in the near-term fiscal years.

The City owns and operates the 1.75 million gallon (MG) Barlow Crest Reservoir, which is a ground level, welded steel water storage tank located on S Oyer Drive in the northeast corner of the City's urban growth boundary (UGB). The tank was constructed in 1999 and serves Park Place Intermediate Zone, View Manor, Livesay, and CRW MM13 (Forsythe), and provides suction supply for the Barlow Crest Pump Station that is jointly owned with the Clackamas River Water District (CRW). The City's 2019 Water Distribution System CIP Update identifies coating, safety, and seismic upgrade improvements to the reservoir in the near term.

The City owns and operates the 2.0 MG Boynton Reservoir, which is a welded steel, stand pipe style, water storage tank located west of the intersection of Boynton Street and Buol Street. The tank was constructed in 1984 and, in combination with the Henrici Reservoir, serves the Upper Pressure Zone by gravity and provides suction supply for the Fairway Downs Pump Station. The City's 2019 Water Distribution System CIP Update identifies coating and seismic upgrade improvements to the reservoir in the near to mid-term, with reservoir replacement as a potential improvement to be considered. The Boynton Pump Station was intended to serve as an emergency pump station to increase system pressure under emergency conditions, but the pump station is currently not used by the City for emergency water supply. Instead, the Boynton Pump Station building houses electrical and SCADA equipment for the adjacent reservoir, so it should also be evaluated for necessary seismic upgrades to protect the building structure and SCADA/Electrical operations from potential seismic vulnerability.

The City has requested that Murraysmith (Consultant) prepare the following scope of work and accompanying fee estimate to provide engineering services for the Condition Assessment and Seismic Evaluation project. The primary objective of this project is to perform a thorough,

comprehensive evaluation of the reservoirs and pump station including a condition assessment and seismic evaluation. The general overall condition (Condition Assessment) of the facilities will include items such as coatings, safety and sanitary features, and other appurtenances not related to the facility's structural and seismic performance. The Condition Assessment will include consideration of water quality and will be carried out in accordance with applicable design standards/manuals/ guidelines such as AWWA D100, AWWA M42, ACI, OSHA, and current industry best practices. The structural/seismic evaluation will include evaluating the reservoir with respect to its conformance to current seismic standards and identifying necessary upgrades to comply with current seismic codes.

City Responsibilities

The City will be responsible for the following.

- Provide a project manager who is responsible for overall project management and will provide coordination between the Consultant and the City.
- Provide the Consultant copies of all available and relevant City utility "as-built" plans, topographical maps, reports, and studies pertinent to the project.
- Provide timely review and comment on all reports and information submitted by Consultant to City for review and approval.
- Maintain records and process Consultant invoices.
- Provide access to reservoirs and attend field inspections with project team.
- Respond to questions from project team.
- Provide air blower and gas monitor for reservoir entry, as needed (not anticipated as no drained interior inspections to be conducted).

Scope of Services

The proposed Scope of Work for the project is divided into the following work tasks.

Task 1 - Project Management

This task includes the administration and coordination of the Consultant’s staff, subconsultants, and the interface with the City project manager and other City staff. The work will include the following subtasks.

- Coordinate and attend a project kick-off meeting and additional telephone conferences with City staff as required to discuss project related tasks. Kick-off meeting to be held remotely through a virtual meeting platform.

- Overall project coordination including preparation and maintenance of the overall project schedule, internal project meetings, and managing staff, subconsultants, and other resources as needed to meet scheduled milestones.

- Prepare a Health and Safety Plan to address staff safety for work in Murraysmith offices as well as site work on project sites (non-active construction).

- Process and submit monthly billings with a summary of project status by task and subtask, including a summary of invoicing from subconsultants retained for this project.

Task 1 Deliverables

- Prepare agenda and summary of kick-off meeting
- Health and Safety Plan
- Invoices and Progress Reports (monthly, assume four (4) months)

Task 2 - Data Collection and Review

Prepare an updated list of data and information needed for the project and submit to City and coordinate with City on data provided. This list will build upon the initial data previously provided by the City. Collect available drawings, specifications, calculations, geotechnical reports, as-built drawings, submittals, and prior inspection reports and evaluations. The City provided information during project scoping. This previously-provided information will be reviewed in further detail under this task. Prepare a summary of information gathered and list missing information and data.

The materials to be collected are anticipated to include the following.

- Original design drawings and/or as-built plans
- Original construction specifications
- Construction shop drawings, photographs, and reports
- Previous seismic assessment reports
- Past geotechnical reports
- Records of any upgrades after original construction
- Inspection and maintenance records, including CP system
- OHA water system survey reports
- Other relevant materials as available

Provided by the City

- Provide available as-built documents, specifications, shop drawings, tank inspection reports, diving inspection videos and reports, geotechnical investigation reports, SCADA data, demand data, and other relevant information for the facilities.

- Respond to questions from project team.

- Timely responses to data requests.

Task 2 Assumptions

- Task 2 will include the following two (2) Phases.
  - Phase 2.A Data Collection and Review - Boynton Reservoir and Pump Station
  - Phase 2.B Data Collection and Review - Barlow Crest Reservoir
- One (1) data request list will be developed and submitted to the City.

Task 2 Deliverables

- Data request list

Task 3 - Condition Assessment Field Data Collection

Perform reconnaissance and inspection of the Barlow Crest Reservoir and the Boynton Reservoir and Pump Station. The reservoirs will not be drained, so inspection of the interior of the reservoir will be limited to only those areas visible through the roof hatch and review of recent dive inspection reporting. Prepare field report summarizing observations and findings.

In addition to the condition assessment of the structure, an inspection and review of coatings and appurtenances to determine condition relative to applicable standards and best practices will be conducted. Concurrent corrosion inspection and inspection of the reservoir structures and pumpstation by a structural engineer will be completed under Task 5. Non-destructive measurements of steel plate thickness and coating dry film thickness (DFT) will be performed, as well as coating adhesion testing on the exterior paint. The site visits will include inspections of the following reservoir elements.

- Appurtenances
  - Interior and exterior ladders and stairways
  - Handrails
  - Vents and screens
  - Hatches
  - Overflow weirs (capacity and coatings)
  - Piping and valving
    - Identify need for flexible couplings, isolation, and seismic isolation valve installation

- Interior piping
- Safety equipment

- Interior ceilings and wall surfaces
- Interior coatings, including:
  - Coating DFT measurements
- Exterior coatings, including:
  - Coating DFT measurements
  - Comparison to SSPC-VIS 2 Standard Method of Evaluating Degree of Rusting on Painted Steel Surface
  - It is anticipated that the tank coating does not contain lead, based on the construction year. Consultant can test for lead using disposable instant lead test swabs. If lead is detected, paint sampling and total lead analysis can be completed outside this scope of work via a City-issued amendment.
  - Adhesion testing of exterior coating
- Foundations for visual structural concerns
- Tank walls
  - Measurement of thickness of wall plates with ultra-sonic thickness testing equipment
- Overflow/drain piping (condition and configuration related to sanitary/water quality concerns)
- Observable structural deficiencies and issues
- Prepare a field report documenting field inspection activities.

Task 3 Assumptions

- Task 3 will include the following two (2) Phases.
  - Phase 3.A Condition Assessment Field Data Collection - Boynton Reservoir and Pump Station
  - Phase 3.B Condition Assessment Field Data Collection - Barlow Crest Reservoir
- Inspections will be completed at the two (2) sites on separate days.

- The reservoirs will not be drained, so inspection of the interior of the reservoir will be limited to only those areas visible through the roof hatch and review of recent dive inspection reporting.
- Up to two (2) Consultant staff members will attend field inspection, in addition to subconsultant members of project team.
- Consultant team will provide their own fall protection harnesses for tank climbing.
- Exterior paint adhesion testing will be the only destructive testing conducted. Consultant shall not perform paint spot repair on test locations.

Task 3 Deliverables

- There are no specific deliverables associated with this task as the inspection data will be used to complete subsequent tasks.

Task 4 - Geotechnical Investigation

Coordinate with geotechnical engineer and review draft and final geotechnical reports. Geotechnical services will be completed by Murraysmith subconsultant, Shannon & Wilson, Inc., as described in more detail below.

4.1 Geotechnical Engineering

Geotechnical work includes review of existing available data and field investigation to determine general site-specific geological conditions and slope stability issues and the identification of fatal flaws or conditions that may impact existing structure. Murraysmith subconsultant Shannon & Wilson, Inc. will provide geotechnical engineering services under this task. Shannon & Wilson will perform field investigation, geotechnical analyses, and document all findings and recommendations in a technical memorandum.

4.1.1 Conduct Geotechnical Field Investigation

Review available geotechnical, geologic, and project documentation, and perform site visit investigation with project team. It is assumed that additional field exploration will not be required to develop the seismic determinations necessary to support structural engineering analyses.

4.1.2 Geotechnical Analysis

Complete geotechnical analyses to develop the following information.

- Description of site conditions including detailed subsurface soil and groundwater conditions encountered based on results of the previous field explorations and geotechnical laboratory analysis

- Evaluation of liquefaction potential, including estimated liquefaction-induced subsidence, as appropriate, based on available existing information
- Seismic design criteria based on AWWA and IBC including soil profile type, spectral response accelerations, seismic coefficients, site class, and seismic use group
- Allowable bearing pressure
- Lateral passive earth pressures and coefficient of friction values for the existing tank foundations

4.1.3 Prepare Geotechnical Summary Report

Present geotechnical findings and recommendations in a written report with supporting site plan, boring logs, and other applicable figures. In addition to the results of analyses performed, the report will include description of site conditions, including detailed subsurface soil and groundwater conditions observed based on results of the previous field explorations and proposed site visit.

Task 4 Assumptions

- Task 4 will include the following two (2) Phases.
    - Phase 4.A Geotechnical Engineering - Boynton Reservoir and Pump Station
    - Phase 4.B Geotechnical Engineering - Barlow Crest Reservoir
- No additional explorations will be required
- Geotechnical field investigations will be conducted at the same time as field inspections described under Task 3.
- Scope does not meet the full requirements of Oregon City Code of Ordinances Chapter 17.44. If deficiencies or data gaps are identified during this study, additional work will be required.

Task 4 Deliverables

- Geotechnical Summary Report including complete data on prior bore holes and other related analyses will be submitted electronically to the City in PDF format. This will be attached to the Final Assessment Report as an appendix.

Task 5 - Structural Evaluation

5.1 Structural Engineering

Coordinate structural evaluation tasks with structural engineer and review draft and final structural evaluation reports. Structural engineering services will be completed by Murraysmith subconsultant, Peterson Structural Engineers (PSE), including reviewing seismic and structural data provided by the City, performing site visits, structural analysis, and preparing a memorandum with recommendations, as described in more detail below.

5.1.1 Field Inspections

Perform a detailed inspection of each structure to determine the structural condition of the facility.

5.1.2 Structural Analysis and Design Checks Reservoirs

Perform structural calculations to verify structural adequacy of reservoirs related to current codes. Calculations will be based on the governing codes and any specific reservoir standards such as:

- General Codes – 2018 IBC as amended by the State of Oregon, Clackamas County, and ASCE 7-10
- Steel Reservoirs – AWWA Standard D100-11
- The foundation analysis shall be based on any geotechnical investigation and reporting associated with Task 4.

5.1.3 Structural Analysis and Design Checks Boynton Pump Station

Perform structural calculations to verify structural adequacy of the Boynton pump station related to current codes. Calculations will be based on the governing codes and any specific reservoir standards such as:

- General Codes: 2018 IBC as amended by the State of Oregon, City of Oregon City, and ASCE 7-16
- Provided prior geotechnical reports and pending information
- Analysis - Current code seismic evaluation of the CMU pump station. Note, this proposal assumes that the pump station is a single-story building of typical CMU construction with wood truss roof system, roughly rectangular in shape, and approximately 1,000 square feet in plan.

- Tier 1 Screen – Visual assessment of nonstructural elements (limited to SCADA and electrical equipment) present in the pump station according to current ASCE 41 Tier 1 requirements; no calculations will be performed for these nonstructural elements.

- Deficiency Identification - Identify seismic deficiencies based upon analysis results.

5.1.3 Field Evaluation Reports

Develop structural evaluation reports for the reservoir including the following.

- Facility general conditions including general design comments and other noted deficiencies with any issues of immediate concern identified

- Identification of any "fatal-flaw" issues requiring immediate remediation

- Results of structural analysis

- Identification of areas requiring structural repairs and/or retrofits

5.1.4 Final Structural Evaluation Report

Prepare a final structural evaluation report summarizing the results of all field evaluation reports.

Task 5 Assumptions

- Task 5 will include the following two (2) Phases.

    - Phase 5.A Structural Evaluation - Boynton Reservoir and Pump Station
    - Phase 5.B Structural Evaluation - Barlow Crest Reservoir

- Structural field inspections will be conducted at the same time as field inspections described under Task 3.

Task 5 Deliverables

- Structural evaluation report will be submitted electronically to the City in PDF format. This will be attached to the Final Assessment Report as an appendix.

Task 6 – Corrosion Control Assessment

6.1 Corrosion Control Assessment

Murraysmith subconsultant Cascade Corrosion Consulting Services, Inc (CCCS) will perform corrosion control system inspection for the reservoir, along with a report of findings and

recommendations for corrosion control upgrades. Specific services to be performed include the following.

- Perform a checkout of the existing cathodic protection (CP) equipment.
- Adjust cathodic protection equipment as necessary to confirm corrosion protection criteria is being met, if requested by City.
- Determine if existing CP system can be reused, or should be replaced, after proposed reservoir painting work.
- Prepare a report of findings along with recommendations for corrosion control upgrades. This report will be included as an appendix to the final report.

Task 6 Assumptions

- Task 6 will include the following two (2) Phases.
    - Phase 6.A Corrosion Control Assessment - Boynton Reservoir and Pump Station
    - Phase 6.B Corrosion Control Assessment - Barlow Crest Reservoir
- Corrosion control inspections will be conducted at the same time as field inspections described under Task 3.

Task 6 Deliverables

- Corrosion control assessment report will be submitted electronically to the City in PDF format. This will be attached to the Final Assessment Report as an appendix.

Task 7 – Condition Assessment and Report

Based upon the findings of the data collection and field inspections, Consultant will assess the condition of the structures. Improvements will be identified to resolve existing deficiencies. Alternative improvements will be identified as applicable, and planning level cost estimates will be developed to provide the City with sufficient information to select and prioritize preferred alternatives in the next phase of the project. An assessment report will be prepared documenting inspection, condition assessment, geotechnical evaluation, structural analysis, corrosion control inspection, and improvement alternatives.

7.1 Reservoir and Pump Station Condition Assessment

The assessment work will involve the following.

- Assessment of the appurtenances relative to meeting intended function, corrosion, and current AWWA, OHA, and OSHA standards.

- Interior piping will be assessed relative to mixing water in the reservoir and ability to promote water quality in the reservoir.
- The coatings will be assessed relative to general conditions, remaining useful life, adhesion, and the ability to overcoat.
- Summarize deficiencies to be corrected in order to bring reservoirs into compliance with applicable codes and best practices.

7.2 Improvement Identification and Cost Estimation

Identify conceptual level improvements to resolve deficiencies documented in the Condition Assessment and identify alternatives, as applicable. Develop planning level project cost estimates for improvement alternatives.

7.3 Draft Assessment Report

Prepare a draft report and submit to City for review and comment. Attend meeting with City to review recommended improvement options and identify next steps moving forward.

7.4 Final Assessment Report

Prepare a final assessment report incorporating City's review comments.

Assumptions

- Up to two (2) improvement alternatives will be developed for each reservoir, as applicable.
- A single-sheet conceptual figure will be prepared for each improvement alternative, as applicable.
- Conceptual figures will be prepared using information from City GIS and other readily available information. Surveying work for sites will not be conducted.
- No designs will be completed in this phase of the project.
- The Geotechnical Summary Report, Structural Evaluation Report, and Corrosion Assessment Report will be included in the Assessment Report as appendices.

Task 7 Deliverables

- Conceptual improvement figures in pdf format
- Planning level project cost estimates
- Assessment report in pdf and Word format (Draft and Final)

Proposed Fee Estimate

The proposed fee estimate is attached to this scope of work as Attachment B. Consultant proposes to perform the work tasks on a time and expense basis with a total not-to-exceed amount of $161,473 in accordance with the attached fee estimate.

Proposed Project Schedule

Consultant shall begin work immediately upon receipt of Notice to Proceed from the City and proceed according to the proposed schedule presented below.

Notice to Proceed	Early March 2022
Reservoir Inspection/Evaluation	Mid-March 2022
Draft Assessment Report	May 1, 2022
Final Assessment Report	June 15, 2022

CITY OF OREGON CITY
BARLOW CREST RESERVOIR AND BOYNTON RESERVOIR AND PUMP STATION ASSESSMENT
PROPOSED FEE ESTIMATE - Draft 1/31/2022

	LABOR CLASSIFICATION (HOURS)																	
											Subconsultants							
	Principal Engineer V	Principal Engineer IV	Professional Engineer VII	Professional Engineer VI	Engineering Designer III	Technician IV	Administrative I	Administrative II	Hours	Labor	PSE	CCCS	S&W	Multiplier % Markup	Subconsultant Total with Markup	Expenses	CADD Units $18/hr	Total
	$279.86	$269.19	$205.16	$195.67	$168.39	$167.21	$96.06	$109.10										
Staff Name	Ginter	Boland	Ford	FosterB	Connors	Harjala	Gillis	Steinberg										
Task 1 - Project Management (4 month Duration)																		
Task 1.1 - Meetings (2 meetings)	2	6		8					16	$ 3,740				1.1	$ -	$ -	$ -	$ 3,740
Task 1.2 - Project Administration		14		8				3	25	$ 5,661				1.1	$ -	$ -	$ -	$ 5,661
Task 1.3 - Health and Safety Plan		1		2					3	$ 661				1.1	$ -	$ -	$ -	$ 661
Task 1.4 - Monthly Progress Reports & Invoicing		2		4			4		10	$ 1,705				1.1	$ -	$ -	$ -	$ 1,705
Task 1 Subtotal	**2**	**23**	**0**	**22**	**0**	**0**	**4**	**3**	**54**	**$ 11,767**	**$ -**	**$ -**	**$ -**		**$ -**	**$ -**	**$ -**	**$ 11,767**
Task 2 - Data Collection and Review																		
Phase 2.A Data Collection and Review - Boynton Reservoir and Pump Station	2	8		10					20	$ 4,670				1.1	$ -	$ 50	$ -	$ 4,720
Phase 2.B Data Collection and Review - Barlow Crest Reservoir		8		10					18	$ 4,110				1.1	$ -	$ 50	$ -	$ 4,160
Task 2 Subtotal	**2**	**16**	**0**	**20**	**0**	**0**	**0**	**0**	**38**	**$ 8,780**	**$ -**	**$ -**	**$ -**		**$ -**	**$ 100**	**$ -**	**$ 8,880**
Task 3 - Condition Assessment Field Data Collection																		
Phase 3.A Condition Assessment Field Data Collection - Boynton Reservoir and Pump Station		16		16					32	$ 7,438				1.1	$ -	$ -	$ -	$ 7,438
Phase 3.B Condition Assessment Field Data Collection - Barlow Crest Reservoir		16		16					32	$ 7,438				1.1	$ -	$ -	$ -	$ 7,438
Task 3 Subtotal	**0**	**32**	**0**	**32**	**0**	**0**	**0**	**0**	**64**	**$ 14,876**	**$ -**	**$ -**	**$ -**		**$ -**	**$ -**	**$ -**	**$ 14,876**
Task 4 - Geotechnical Investigation																		
Phase 4.A Geotechnical Engineering - Boynton Reservoir and Pump Station		2		2					4	$ 930			$ 9,649	1.1	$ 10,614	$ -	$ -	$ 11,544
Phase 4.B Geotechnical Engineering - Barlow Crest Reservoir		2		2					4	$ 930			$ 12,852	1.1	$ 14,137	$ -	$ -	$ 15,067
Task 4 Subtotal	**0**	**4**	**0**	**4**	**0**	**0**	**0**	**0**	**8**	**$ 1,859**	**$ -**	**$ -**	**$ 22,501**		**$ 24,751**	**$ -**	**$ -**	**$ 26,611**
Task 5 - Structural Evaluation																		
Phase 5.A Structural Evaluation - Boynton Reservoir and Pump Station		3		5					8	$ 1,786	$ 32,200			1.1	$ 35,420	$ -	$ -	$ 37,206
Phase 5.B Structural Evaluation - Barlow Crest Reservoir		3		5					8	$ 1,786	$ 18,200			1.1	$ 20,020	$ -	$ -	$ 21,806
Task 5 Subtotal	**0**	**6**	**0**	**10**	**0**	**0**	**0**	**0**	**16**	**$ 3,572**	**$ 50,400**	**$ -**	**$ -**		**$ 55,440**	**$ -**	**$ -**	**$ 59,012**
Task 6 - Corrosion Control Assessment																		
Phase 6.A Corrosion Control Assessment - Boynton Reservoir & Pump Station		3		1					4	$ 1,003		$ 2,846		1.1	$ 3,131	$ -	$ -	$ 4,134
Phase 6.B Corrosion Control Assessment - Barlow Crest Reservoir		3		1					4	$ 1,003		$ 2,846		1.1	$ 3,131	$ -	$ -	$ 4,134
Task 6 Subtotal	**0**	**6**	**0**	**2**	**0**	**0**	**0**	**0**	**8**	**$ 2,006**	**$ -**	**$ 5,692**	**$ -**		**$ 6,261**	**$ -**	**$ -**	**$ 8,268**
Task 7 - Condition Assessment and Report																		
Task 7.1 - Reservoir and Pump Station Condition Assessment	2	16	2	16					36	$ 8,408				1.1	$ -	$ -	$ -	$ 8,408
Task 7.2 - Improvement Identification and Cost Estimation		4	2	24	8	8			46	$ 8,868				1.1	$ -	$ -	$ 144	$ 9,012
Task 7.3 - Draft Assessment Report	2	12	4	16	4	8		4	50	$ 10,189				1.1	$ -	$ -	$ 144	$ 10,333
Task 7.4 - Final Assessment Report		8		8		2		2	20	$ 4,272				1.1	$ -	$ -	$ 36	$ 4,308
Task 7 Subtotal	**4**	**40**	**8**	**64**	**12**	**18**	**0**	**6**	**152**	**$ 31,736**	**$ -**	**$ -**	**$ -**		**$ -**	**$ -**	**$ 324**	**$ 32,060**
TOTAL - ALL TASKS	***8***	***127***	***8***	***154***	***12***	***18***	***4***	***9***	***340***	***$ 74,597***	***$ 50,400***	***$ 5,692***	***$ 22,501***		***$ 86,452***	***$ 100***	***$ 324***	***$ 161,473***

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

1. Consultant Identification. Consultant shall furnish to City its taxpayer identification number, as designated by the Internal Revenue Service, or Consultant's social security number, as City deems applicable.

2. Payment.

(a) Invoices submitted in connection with this Agreement shall be properly documented and shall identify the pertinent agreement and/or purchase order numbers.

(b) City agrees to pay Consultant within thirty (30) days after receipt of Consultant's itemized statement. Amounts disputed by City may be withheld pending settlement.

(c) City certifies that sufficient funds are available and authorized for expenditure to finance the cost of the services to be provided pursuant to this Agreement.

(d) City shall not pay any amount in excess of the compensation amounts set forth above, nor shall City pay Consultant any fees or costs that City reasonably disputes.

3. Independent Contractor Status.

(a) Consultant is an independent contractor and is free from direction and control over the means and manner of providing labor or services, subject only to the specifications of the desired results.

(b) Consultant represents that it is customarily engaged in an independently established business and is licensed under ORS chapter 671 or 701, if the services provided require such a license. Consultant maintains a business location that is separate from the offices of the City and bears the risk of loss related to the business as demonstrated by the fixed price nature of the contract, requirement to fix defective work, ~~**warranties provided**~~ and indemnification and insurance provisions of this Agreement. Consultant provides services for two or more persons within a 12 month period or routinely engages in advertising, solicitation or other marketing efforts. Consultant makes a significant investment in the business by purchasing tools or equipment, premises or licenses, certificates or specialized training and Consultant has the authority to hire or fire persons to provide or assist in providing the services required under this Agreement.

(c) Consultant is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law (including applicable City or Metro business licenses as per Oregon City Municipal Code Chapter 5.04). Consultant shall furnish the tools or equipment necessary for the contracted labor or services. Consultant agrees and certifies that:

(d) Consultant is not eligible for any federal social security or unemployment insurance payments. Consultant is not eligible for any PERS or workers' compensation benefits from compensation or payments made to Consultant under this Agreement.

(e) Consultant agrees and certifies that it is licensed to do business in the state of Oregon and that, if Consultant is a corporation, it is in good standing within the state of Oregon.

4. Early Termination.

(a) This Agreement may be terminated without cause prior to the expiration of the agreed-upon term by mutual written consent of the parties or by the City upon ten (10) days written notice to the Consultant, delivered by certified mail or in person.

(b) Upon receipt of notice of early termination, Consultant shall immediately cease work and submit a final statement of services for all services performed and expenses incurred since the date of the last statement of services.

(c) Any early termination of this Agreement shall be without prejudice to any obligation or liabilities of either party already accrued prior to such termination.

(d) The rights and remedies of City provided in this Agreement and relating to defaults by Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

5. No Third-Party Beneficiaries. City and Consultant are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

6. Payment of Laborers; Payment of Taxes.

(a) Consultant shall:

(i) Make payment promptly, as due, to all persons supplying to Consultant labor and materials for the prosecution of the services to be provided pursuant to this Agreement.

(ii) Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Agreement.

(iii) Not permit any lien or claim to be filed or prosecuted against City on account of any labor or materials furnished.

(iv) Be responsible for all federal, state, and local taxes applicable to any compensation or payments paid to Consultant under this Agreement and, unless Consultant is subject to back-up withholding, City will not withhold from such compensation or payments any amount(s) to cover Consultant's federal or state tax obligation.

(v) Pay all employees at least time and one-half for all overtime worked in excess of forty (40) hours in any one week, except for individuals excluded under ORS 653.100 to 653.261 or under 29 U.S.C. §§ 201 to 209 from receiving overtime.

(b) If Consultant fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Agreement as such claim becomes due, City may pay such claim to the person furnishing the labor or services and shall charge the amount of the payment against funds due or to become due Consultant by reason of this Agreement.

(c) The payment of a claim in this manner shall not relieve Consultant or Consultant's surety from obligation with respect to any unpaid claims.

(d) Consultant and subconsultants, if any, are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires provision of workers' compensation coverage for all workers.

7. Subconsultants and Assignment. Consultant shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Consultant.

8. Access to Records. City shall have access to all books, documents, papers and records of Consultant that are pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcripts.

9. Ownership of Work Product; License. All work products of Consultant that result from this Agreement (the "Work Products") are the exclusive property of City. In addition, if any of the Work Products contain intellectual property of Consultant that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Consultant hereby grants City a perpetual, royalty-free, fully paid, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part (and to authorize others to do so), all such Work Products and any other information, designs, plans, or works provided or delivered to City or produced by Consultant under this Agreement. The parties expressly agree that all works produced (including, but not limited to, any taped or recorded items) pursuant to this Agreement are works specially commissioned by City, and that any and all such works shall be works made for hire in which all rights and copyrights belong exclusively to City. Consultant shall not publish, republish, display or otherwise use any work or Work Products resulting from this Agreement without the prior written agreement of City**. Reuse or modification of such Work Products by City or others for purposes outside this Agreement shall be without liability to Consultant, and City agrees to indemnify and**

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

hold Consultant harmless from all claims, damages and expenses, including reasonable attorneys' fees, arising out of such reuse by City or others acting through City.

10. Compliance With Applicable Law. Consultant shall comply with all federal, state, and local laws and ordinances applicable to the services to be performed pursuant to this Agreement, including, without limitation, the provisions of ORS 279B.220, 279C.515, 279B.235, 279B.230 and 279B.270. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990 (Pub. L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation and other applicable statutes, rules and regulations.

11. Professional Standards. Consultant shall be responsible, to the level of competency presently maintained by others practicing in the same type of services in City's community, for the professional and technical soundness, accuracy and adequacy of all services and materials furnished under this authorization.

12. Modification, Supplements or Amendments. No modification, change, supplement or amendment of the provisions of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

13. Indemnity and Insurance.

(a) Indemnity. Consultant acknowledges responsibility for liability arising out of Consultant's negligent performance of this Agreement and shall hold City, its officers, ~~agents.~~ Consultants, and employees harmless from, and indemnify them for, any and all liability, settlements, loss, costs, and expenses, including **reasonable** attorney fees, in connection with any action, suit, or claim **to the extent** caused ~~or alleged to be caused~~ by the negligent acts, omissions, activities or services by Consultant, ~~or the agents,~~ Consultants **of Consultant,** or employees of Consultant provided pursuant to this Agreement.

(b) Workers' Compensation Coverage. Consultant certifies that Consultant has qualified for workers' compensation as required by the state of Oregon. Consultant shall provide the Owner, within ten (10) days after execution of this Agreement, a certificate of insurance evidencing coverage of all subject workers under Oregon's workers' compensation statutes. The insurance certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to City. All ~~agents or~~ Consultants of Consultant shall maintain such insurance.

(c) Comprehensive, General, and Automobile Insurance. Consultant shall maintain comprehensive general and automobile liability insurance for protection of Consultant and City and for their directors, officers, ~~agents,~~ and employees, insuring against liability for damages because of personal injury, bodily injury, death, and broad-form property damage, including loss of use, and occurring as a result of, or in any way related to, Consultant's operation, each in an amount not less than $1,000,000 combined, single-limit, per-occurrence/annual aggregate. Such insurance shall name City as an additional insured, with the stipulation that this insurance, as to the interest of City, shall not be invalidated by any act or neglect or breach of this Agreement by Consultant.

(d) Errors and Omissions Insurance. Consultant shall provide City with evidence of professional errors and omissions liability insurance ~~**for the protection of Consultant and its employees, insuring against bodily injury and property damage arising out of Consultant's negligent acts, omissions, activities or services**~~ in an amount not less than $500,000 combined, single limit. Consultant shall maintain in force such coverage for not less than three (3) years following completion of the project. ~~**Such insurance shall include contractual liability**~~

Within ten (10) days after the execution of this Agreement, Consultant shall furnish City a certificate evidencing the dates, amounts, and types of insurance that have been procured pursuant to this Agreement. Consultant will provide for not less than thirty (30) days' written

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

notice to City before the policies may be revised, canceled, or allowed to expire. Consultant shall not alter the terms of any policy without prior written authorization from City. The provisions of this subsection apply fully to Consultant and its Consultants ~~and agents~~.

14. Legal Expenses. In the event legal action is brought by City or Consultant against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorney fees, costs, and expenses as may be set by a court. "Legal action" shall include matters subject to arbitration and appeals.

15. Severability. The parties agree that, if any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

16. Number and Gender. In this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others or other whenever the context so requires.

17. Captions and Headings. The captions and headings of this Agreement are for convenience only and shall not be construed or referred to in resolving questions of interpretation or construction.

18. Hierarchy. The conditions contained in this document are applicable to every Personal Services Agreement entered into by the City of Oregon City in the absence of contrary provisions. Should contrary provisions be included in a Personal Services Agreement, those contrary provisions shall control over these conditions.

19. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the state of Oregon, except that, if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day that is not a Saturday, Sunday or legal holiday.

20. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses listed in the Agreement attached hereto. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

21. Nonwaiver. The failure of City to insist upon or enforce strict performance by Consultant of any of the terms of this Agreement or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights of any future occasion.

22. Information and Reports. Consultant shall, at such time and in such form as City may require, furnish such periodic reports concerning the status of the project, such statements, certificates, approvals, and copies of proposed and executed plans and claims, and other information relative to the project as may be requested by City. Consultant shall furnish City, upon request, with copies of all documents and other materials prepared or developed in relation with or as a part of the project. Working papers prepared in conjunction with the project are the property of City, but shall remain with Consultant. Copies as requested shall be provided free of cost to City.

23. City's Responsibilities. City shall furnish Consultant with all available necessary information, data, and materials pertinent to the execution of this Agreement. City shall cooperate with Consultant in carrying out the work herein and shall provide adequate staff for liaison with Consultant.

24. Arbitration. All disputes arising out of or under this Agreement shall be timely submitted to nonbinding mediation prior to commencement of any other legal proceedings. The subsequent measures apply if disputes cannot be settled in this manner.

(a) Any dispute arising out of or under this Agreement shall be determined by binding arbitration.

(b) The party desiring such arbitration shall

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

give written notice to that effect to the other party and shall in such notice appoint a disinterested person of recognized competence in the field as arbitrator on its behalf. Within fifteen (15) days thereafter, the other party may, by written notice to the original party, appoint a second disinterested person of recognized competence as arbitrator on its behalf. The arbitrators thus appointed shall appoint a third disinterested person of recognized competence, and the three arbitrators shall, as promptly as possible, determine such matter, provided, however, that:

(i) If the second arbitrator is not appointed as described above, then the first arbitrator shall proceed to determine such matter; and

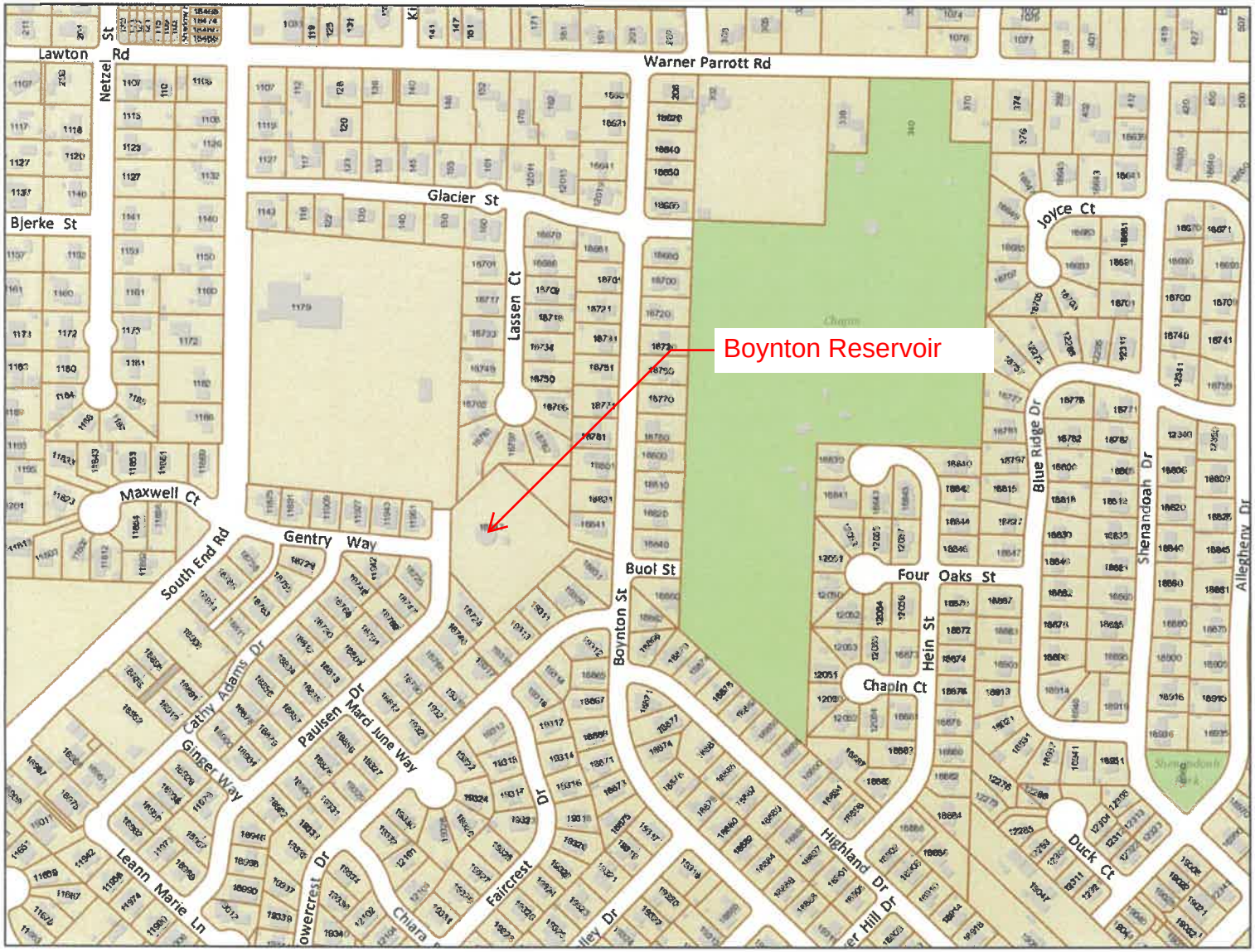
(ii) If the two arbitrators appointed by the parties are unable to agree, within fifteen (15) days after the second arbitrator is appointed, on the appointment of a third arbitrator, they shall give written notice of such failure to agree to the parties and, if the parties fail to agree on the selection of the third arbitrator within fifteen (15) days after the arbitrators appointed by the parties give notice, then, within ten (10) days thereafter, either of the parties, on written notice to the other party, may request such appointment by the presiding judge of the Clackamas County Circuit Court.

(c) Each party shall each be entitled to present evidence and argument to the arbitrators. The determination of the majority of the arbitrators or the sole arbitrator, as the case may be, shall be conclusive on the parties, and judgment on the same may be entered in any court having jurisdiction over the parties. The arbitrators or the sole arbitrator, as the case may be, shall give written notice to the parties, stating the arbitration determination, and shall furnish to each party a signed copy of such determination. Arbitration proceedings shall be conducted pursuant to ORS 33.210 et seq. and the rules of the American Arbitration Association, except as provided otherwise.

(d) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the fees and expenses of the third arbitrator, if any.

25. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

Oregon City GIS Map



Legend

- Street Names
- Taxlots
- Taxlots Outside UGB
- Unimproved ROW
- City Limits
- UGB
- Basemap

Notes

Overview Map

The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, surveying or navigation purposes. Notification of any errors is appreciated.

Map created 2/17/2022

N

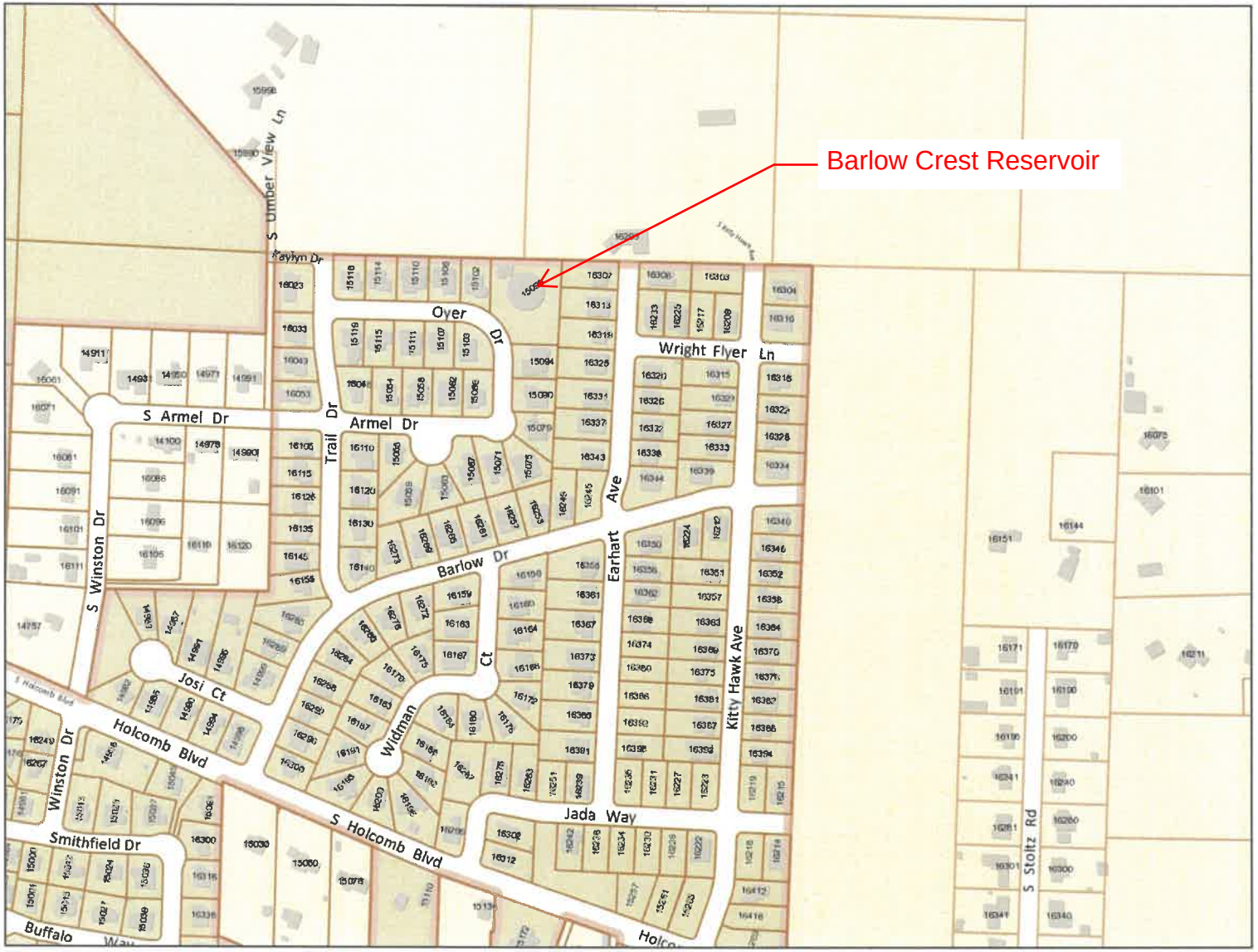
0 400 800 Feet

1: 4,800

Boynton Reservoir

City of Oregon City
PO Box 3040
625 Center St
Oregon City
OR 97045
(503) 657-0891
www.orcity.org

Oregon City GIS Map



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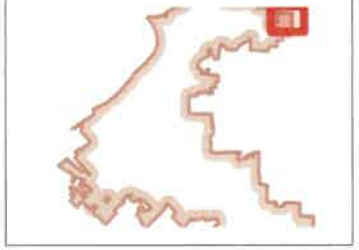

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Map created 2/17/2022

N

0 400 800 Feet

1: 4,800

Barlow Crest Reservoir

City of Oregon City
PO Box 3040
625 Center St
Oregon City
OR 97045
(503) 657-0891
www.orcity.org

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 03/02/2022

From: Chief of Police Jim Band

SUBJECT:

OLCC: Liquor License Application – Don Chuy's Authentic Mexican Food LLC, 1346 Leland Road, Space B, Oregon City

STAFF RECOMMENDATION:

Staff recommends the City Commission approve the OLCC Application for Don Chuy's Authentic Mexican Food LLC, 1346 Leland Road, Suite B, Oregon City

EXECUTIVE SUMMARY:

The attached application is for an OLCC Limited On-Premises, Commercial license for Don Chuy's Authentic Mexican Food LLC

BACKGROUND:

The Oregon City Police Department ran background checks on Amulfo Medina and Jesus Brambila-Gonzalez, and they are eligible to hold a liquor license. All applicants must obtain an Oregon City business license before submitting their application for an OLCC liquor license. The Oregon City business license application process includes routing of the application for review through various City departments.

OPTIONS:

1. Approve the OLCC Application for Don Chuy's Authentic Mexican Food LLC
2. Deny the OLCC Application for Don Chuy's Authentic Mexican Food LLC

OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

PRINT FORM
Gonzalez
RESET FORM

1. Application. Do not Include any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
☐ Brewery 1st Location	Date application received and/or date stamp:
Brewery Additional location (2nd) ☐ (3rd) ☐	
☐ Brewery-Public House (BPH) 1st location	
BPH Additional location (2nd) ☐ (3rd) ☐	Name of City or County:
☐ Distillery	
☐ Full On-Premises, Commercial	Recommends this license be:
☐ Full On-Premises, Caterer	☐ Granted ☐ Denied
☐ Full On-Premises, Passenger Carrier	By:
☐ Full On-Premises, Other Public Location	
☐ Full On-Premises, For Profit Private Club	Date:
☐ Full On-Premises, Nonprofit Private Club	
☐ Grower Sales Privilege (GSP) 1st location	**OLCC USE ONLY**
GSP Additional location (2nd) ☐ (3rd) ☐	Date application received: 11/29/21
☒ Limited On-Premises	
☐ Off-Premises	Date application accepted: 12/2/21
☐ Warehouse	
☐ Wholesale Malt Beverage & Wine	
☐ Winery 1st Location	License Action(s):
Winery Additional location (2nd) ☐ (3rd) ☐ (4th) ☐ (5th) ☐	N/O

2. Identify the applicant(s) applying for the license(s). ***ENTITY (example: corporation or LLC) or INDIVIDUAL(S)***[1] applying for the license(s):

Don Chuy's Authentic Mexican Food, LLC

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See)
Don Chuy's Authentic Mexican Food

4. Business Address (Number and Street Address of the Location that will have the liquor license)
1346 Leland Road Space B

City	County	Zip Code
Oregon City	Clackamas	97045

[1] Read the instructions on page 1 *carefully*. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.

OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

5. Trade Name of the Business (Name Customers Will See) Don Chuy's Authentic Mexican Food			
6. Does the business address currently have an OLCC liquor license? ☐ YES ☒ NO			
7. Does the business address currently have an OLCC marijuana license? ☐ YES ☒ NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your license certificate, renewal application and other mailings as described in OAR 845-004-0065[1].) 16771 SE 80th PL			
City Portland	State OR	Zip Code 97267	
9. Phone Number of the Business Location (503) 381.6409	**10.** Email Contact for this Application and for the Business amulfomedina86@gmail.com		
11. Contact Person for this Application Amulfo Medina	Phone Number (503) 381-6409		
Contact Person's Mailing Address (if different)	City	State	Zip Code

Please note that liquor license applications are public records. A copy of the application will be posted on the OLCC website for a period of several weeks.

ATTESTATION: **READ CAREFULLY AND MAKE SURE YOU UNDERSTAND BEFORE SIGNING THIS FORM**

I understand that marijuana is prohibited on the licensed premises. This includes marijuana use, consumption, ingestion, inhalation, samples, give-away, sale, etc. I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application are true and complete.

I affirm that I have read OAR 845-005-0311 and all individuals (sole proprietors) or entities with an ownership interest (other than waivable ownership interest per OAR 845-005-0311[6]) are listed as license applicants in #2 above. I understand that failure to list an individual or entity who has an unwaivable ownership interest in the business may result in denial of my license or the OLCC taking action against my license in the event that an undisclosed ownership interest is discovered after license issuance.

Applicant(s) Signature

- Each individual (sole proprietor) listed as an applicant must sign the application below.
- If an applicant is an entity, such as a corporation or LLC, at least one ***INDIVIDUAL who is authorized to sign for the entity*** must sign the application.
- An individual with the authority to sign on behalf of the applicant (such as the applicant's attorney or an individual with power of attorney) may sign the application. If an individual other than an applicant signs the application, please provide written proof of signature authority. Attorneys signing on behalf of applicants may list the state of bar licensure and bar number in lieu of written proof of authority from an applicant. ***Applicants are still responsible for all information on this form.***

Amulfo Medina	Amulfo Medina	09/22/2021	
App. #1: (PRINT NAME)	App #1: (SIGNATURE)	App #1: Signature Date	Atty. Bar Information (if applicable)
Jesus Brambila-Gonzalez		09/22/2021	
App. #2: (PRINT NAME)	App #2: (SIGNATURE)	App #2: Signature Date	Atty. Bar Information (if applicable)
App. #3: (PRINT NAME)	App #3: (SIGNATURE)	App #3: Signature Date	Atty. Bar Information (if applicable)
App. #4: (PRINT NAME)	App #4: (SIGNATURE)	App #4: Signature Date	Atty. Bar Information (if applicable)

OREGON LIQUOR CONTROL COMMISSION

OLCC's Role in the Liquor License Refusal Process

- The OLCC has sole authority to grant and refuse liquor licenses. (ORS 471.045)
- The OLCC is required to grant a liquor license unless there is a basis to refuse it. (ORS 471.313)
- The standards upon which the OLCC may refuse a liquor license are in Oregon Revised Statutes (ORS 471.313) and Oregon Administrative Rules (OAR 845, Division 5). The OLCC must follow these standards to refuse a liquor license.

Local Governing Body's Role in the Liquor License Refusal Process

- The Local Governing Body is authorized to make a recommendation to the OLCC on a liquor license application before the OLCC makes a decision on the license. (ORS 471.166)
- In order for the OLCC to consider an unfavorable recommendation by the Local Governing Body, the basis for City's recommendation must be within the same standards that the OLCC must follow. Those are 471.313 and OAR 845, Division 5. (OAR 845-005-0308)

COMMON QUESTIONS

1. May the OLCC refuse a liquor license based on saturation?

In 1973 the Oregon Court of Appeals held that the OLCC may not refuse a liquor license based on the number of already licensed premises in the area without first adopting rules that define the standards for license denial on this basis. The OLCC has not developed any rules related to the number of licensed premises in a given area.

2. May the OLCC refuse a liquor license based on issues that are not included in ORS 471.313 and Oregon Administrative Rules OAR 845, Division 5? (The common issues not included are such things as parking, lighting, traffic congestion, traffic noise, homelessness, noncompliance with city zoning, litter in the area, and nonpayment of property taxes.)

The OLCC may not refuse a liquor licensed based on issues that are not included in in ORS 471.313 and Oregon Administrative Rules OAR 845, Division 5.

3. May the OLCC refuse a liquor license based exclusively on the fact that the addres the proposed premises is within a certain proximity of a school?

The OLCC is not allowed to refuse a liquor license based exclusively on the fact that the address of the proposed premises is within a certain proximity of a school.

However, OAR 845-005-0326(2) does provide a liquor license refusal basis if both of the following factors are present:

- If the address of the proposed premises is within the city limits and within 500 feet of a school; **AND**
- The licensed premises will adversely impact* the school.

* Adverse impact requires a showing that the operation of the licensed premises will interfere or conflict with the specialized activities of the facility. The burden is on the claimant to communicate specifically what the projected harm or impact will be to the facility and how it will occur. Objections to licensed businesses in general or alcohol consumption in general are not sufficient to show adverse impact.

The adverse impact must be related to the operation of the license privilege (the sale and service of alcohol), not the general impact of any commercial business. A claim of negative economic impact doesn't count as adverse impact under this rule. Objections based on the type of entertainment offered by the proposed premises do not establish adverse impact.

4. May the OLCC restrict the sale of alcoholic beverages associated with street drinkers?

The OLCC may place a restriction on the license if **all** of the following factors are present:

- The license privilege allows "to-go" sales of beer, wine, or cider; **and**
- That within the past 12 months in the area within 500 feet of the premises there have been at least 50 incidents documented by a police report of unlawful drinking of alcohol in public, disorderly conduct, minor in possession of alcohol, or furnishing alcohol to a minor.

If all of the factors are present, the OLCC may place these three restrictions on the license:

1. This license does not permit the sale of malt beverages containing more than 6% alcohol by volume.
2. This license does not permit the sale of wine containing more than 13.8% alcohol by volume.
3. This license does not permit the sale of malt beverages in single containers.

471.313 Grounds for refusing to issue license or for issuing restricted license. The Oregon Liquor Control Commission may refuse to issue a license, or may issue a restricted license, to any applicant under the provisions of this chapter if the commission has reasonable ground to believe any of the following to be true:

(1) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

(2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

(4) That the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(d) Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(e) Has maintained an insanitary establishment.

(f) Is not of good repute and moral character.

(g) Did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the commission when previously licensed.

(h) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.

(i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(j) Is unable to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the commission.

(5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

845-005-0308
Valid Bases for Adverse Local Government Recommendations
and for Commission Use of Information Received from the Public
(1) ORS 471.166(1) authorizes the Commission to take into consideration the recommendation of the local governing body before granting or denying a license. ORS 471.166(5) requires the Commission to state by rule the valid grounds for a local governing bodys unfavorable recommendation on any license application, and requires the Commission to limit valid grounds to those considered by the Commission in making an unfavorable determination on a license application.
(2) For purposes of this rule an unfavorable determination is license refusal or license restriction.
(3) For the unfavorable recommendation of a local governing body to be valid, the grounds must be found in the license refusal bases of ORS 471.313(4), 471.313(5), OAR 845-005-0320, 845-005-0325 or 845-005-0326, or the license restriction bases of 845-005-0355, and must be supported by reliable factual information.
(4) Organizations, facilities, government agencies, or individuals may give the Commission reliable factual information concerning whether there is a basis to grant or deny a license or to impose license restrictions under the laws specified in section (3) of this rule. Reliable factual information includes personal observations of activities in or around the proposed licensed location, as opposed to opinion, hearsay, feelings, beliefs or speculation.

845-005-0326
License Not Demanded by Public Interest or Convenience
ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. The following are some of the public interest or convenience reasons for which the Commission may deny a license unless the applicant shows good cause to overcome the criteria:
(1) Alcohol-Related Problems at Other Licensed Premises:
(a) The applicant has had repeated problems at another licensed location during the two years preceding this application or has had a license canceled or renewal refused because of problems with disturbances, unlawful activities or noise. These problems:
(A) Must occur on the licensed premises or be caused by patrons in the immediate vicinity of the licensed premises;
(B) Include, but are not limited to, obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol-related litter; trespassing on private property; and public urination; and
(C) Must be related to the sale or service of alcohol under the exercise of the license privileges.
(b) Good cause to overcome this criterion is a showing by the applicant that the applicant will reasonably control all of the applicant's licensed premises to prevent problems described in paragraphs (1)(a)(A), (B), and (C) of this rule. Factors that affect this good cause determination may include, but are not limited to:
(A) Applicant is currently licensed at an outlet that has not had the problems described in paragraphs (1)(a)(A), (B), and (C) of this rule in the past year;
(B) Applicant successfully regained control of premises that had problems described in paragraphs (1)(a)(A), (B), and (C) of this rule;
(C) Applicant has a corrective plan that is likely to be effective;
(D) License conditions or restrictions would enable control of applicant's premises; and
(E) Applicant did not participate in the daily operation of the problem outlet, and there has not been a pattern of problems described in paragraphs (1)(a)(A), (B), and (C) of this rule at other outlets where applicant has been licensed.
(c) This criterion does not apply to renewal applications.
(2) Proximity to Facilities:

(a) The licensed premises:
(A) Will be located within 500 feet in urban or suburban areas or within 1,500 feet in a rural area of the boundary (measured property line to property line) of a licensed child care facility or elementary or secondary school; a church; a hospital, nursing care facility or convalescent care facility; a park or children-oriented recreational facility; or alcohol and other drug treatment or rehabilitation facility; and
(B) Will adversely impact the facility.
(b) Good cause to overcome this criterion includes, but is not limited to, a showing by the applicant that:
(A) The proposed operation is consistent with the zoning where the proposed premises will be located, is consistent with the general character of the area and the adverse impact will not unreasonably affect the facility; or
(B) The size of the proposed premises' community is so small that the proposed location is a reasonable location for the proposed operation.
(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.
(3) Problem Areas:
(a) The licensed premises will be located in an area that has a history of serious or persistent problems with unlawful activities, noise or disturbances. These problems need not be alcohol-related;
(b) Good cause to overcome this refusal basis includes, but is not limited to, a showing by the applicant that:
(A) Alcoholic beverage sale or service at the premises will not contribute to the problems, and
(B) The applicant has a willingness and ability to control the proposed premises and patrons' behavior near the licensed premises. When assessing the applicant's willingness and ability, the Commission will consider factors including but not limited to the applicant's relevant experience, and the applicant's reasonable and credible operating and security plans.
(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.
(4) Off-Premises Sales License: The applicant seeks an Off-Premises Sales license at an outlet that sells petroleum products and does not or will not maintain a wide variety of grocery items available for immediate sale. "Wide variety" means an inventory at a cost to the applicant of not less than $5,000 of foods that satisfy the general public's ordinary eating habits and personal and household products. "Wide variety" does not include alcoholic beverages or tobacco products. It also does not include snack food items that exceed ten percent of the inventory's value.
(5) Licensed physician or other professional evaluations of the applicant or any on-premises manager's mental, emotional or physical condition that show incompetence or physical inability to manage the business the applicant wants licensed. ORS 471.313(4)(c) allows the Commission to deny a license if the applicant is incompetent or physically unable to manage the business the applicant wants licensed. These evaluations are some indicators of this incompetence or physical inability.

845-005-0355
Restricting License Privileges and Conduct of Operations
(1) The Commission may restrict a license or service permit when:
(a) In the absence of a restriction, the Commission has a basis to cancel, suspend/fine or deny the license or service permit;
(b) In addition to all or part of a suspension or fine, a restriction may prevent the recurrence of the problem(s) that caused the violation(s);
(c) The Commission determines that a restriction is in the public interest or convenience; or
(d) The Commission has a basis to refuse the license and the applicant or licensee has submitted a qualifying control or operating plan as good cause to overcome the refusal basis. In these

circumstances the Commission shall impose as restrictions those elements of the control or ope plan that the Commission determines are essential to overcoming the refusal basis.
(2) In determining public interest or convenience reasons to restrict a license or permit, the Commission considers factors that include but are not limited to:
(a) The character or environment of the neighborhood in which the licensed premises operate;
(b) The need to eliminate or prevent conditions that have contributed to or that the Commission reasonably believes will contribute to liquor or criminal law violations by the licensee, patrons of the licensed premises or the public, including conditions that have or are likely to contribute to noise, music or sound vibrations from inside or outside the premises that a reasonable person would consider excessive or obtrusive; or
(c) The need to limit the availability of alcohol to minors, visibly intoxicated persons or street drinkers.
(3) The Commission has determined that it is not in the public interest or convenience to issue or renew:
(a) A license that allows off-premises sales in an area frequented by street drinkers, unless the Commission restricts the sales of the alcoholic beverages associated with street drinkers;
(b) A license to a relative or associate of a person whose license was cancelled, surrendered or not renewed because of problems at the premises that involved the person, unless the Commission restricts the relative or associate from permitting the person from being on the premises;
(c) A license or permit to a person who has a recent history or record of alcohol or drug problems, unless the Commission requires the person to complete an alcohol/drug treatment program and follow the program's recommendations regarding alcohol/drug use or to abstain from alcohol/drug use.
(4) When the Commission restricts a license or service permit, it notifies the licensee or permittee. If the licensee or permittee disagrees with the restriction, the licensee or permittee has the right to a hearing under the procedures in ORS Chapter 183; OAR chapter 137, division 3; and chapter 845, division 3.
(5) A licensee or permittee who has a restricted license or permit must exercise license or permit privileges only in compliance with the restriction(s). Failure to comply with the restriction(s) is a Category I violation.
(6) A restriction remains in effect until the Commission removes it. The licensee or permittee may ask the Commission to remove or modify a restriction. The written request must explain why the licensee or permittee believes the Commission should remove or modify the restriction. The Commission will notify the licensee or permittee, in writing, of its decision to approve or deny the request and the basis for its decision. If the Commission denies the request, the licensee or permittee has the right to a hearing under the procedures in ORS Chapter 183; OAR chapter 137, division 003; and chapter 845, division 003.
(7) As used in subsections (2)(c) and (3)(a) of this rule, "street drinkers" means people who drink unlawfully in streets, alleys, parks and other similar public places.
(8) As used in subsection (2)(b) of this rule, "conditions" means conditions in the immediate vicinity of the premises that are related to the exercise of the license privileges and conditions in the premises or in the areas around the premises that the applicant/licensee controls.

CITY OF OREGON CITY
CITY COMMISSION REGULAR MEETING - 2ND REVISED
DRAFT MINUTES

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, December 15, 2021 at 7:00 PM

EXECUTIVE SESSION OF THE CITY COMMISSION

The Executive Session began immediately after the adjournment of the regular meeting:

• Pursuant to ORS 192.660(2)(f): To consider information or records that are exempt by law from public inspection; and

• Pursuant to ORS 192.660(2)(h): To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

REGULAR MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

Mayor Lyles Smith convened the meeting at 7:02 PM.

PRESENT: 5 - Mayor Rachel Lyles Smith, Commissioner Adam Marl, Commissioner Denyse McGriff, Commissioner Frank O'Donnell, and Commissioner Rocky Smith

STAFFERS: 10 - City Manager Tony Konkol, City Attorney Bill Kabeiseman, Assistant City Recorder Jakob Wiley, Interim Community Development Director Aquilla Hurd-Ravich, Parks & Recreation Director Kendall Reid, Planner Kelly Reid, Assistant to the City Manager Lisa Oreskovich, Police Chief James Band, Finance Director Matt Zook, Library Director Greg Williams, and Human Resources Director Patrick Foiles

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

4. CITIZEN COMMENTS

Betty Mumm, resident of Oregon City, had emailed the Commission about items on the November Work Session, but only heard back from two people. She asked the Commission to respond to citizen's emails.

Liz Hannum, Executive Director of the Downtown Oregon City Association, thanked everyone for the support and help with the tree lighting ceremony.

5. PRESENTATIONS

5a. USS Oregon (SSN 793) Presentation by Steven Daniels

Steven Daniels, Outreach Chair of the Commissioning Committee, talked about a new submarine named the USS Oregon SSN-793. He gave a history of the USS Oregon BB-3, which was the first ship named

for the state and a history of submarines in the US Navy. He explained the construction and design of the new submarine, improved technology, and missions of the submarine. He showed pictures of the crew, christening, and inside and outside of the submarine. He then discussed the purpose of the Commissioning Committee. Water was collected from Crater Lake and transported to the launching ceremony, so the first water that touched the hull was from Oregon. Mr. Daniels said the submarine would be commissioned on March 12, 2022.

Jack Hammond, Commissioning Committee member, spoke about the christening coin that included the Oregon Trail. He discussed the history of the USS Oregon in the Spanish American War and World War II. Arlough Gatro, retired senior chief, explained how the Committee supported the crew with funding.

The group provided the City with a two-sided commemorative medallion depicting the submarine pulling a covered wagon on one side and the submarine and two salmon over United States and State of Oregon flags on the reverse, serial numbered 516.

6. ADOPTION OF THE AGENDA

Commissioner McGriff asked to pull item 7a from the consent agenda. The agenda was adopted as amended.

7. CONSENT AGENDA

Motion made by Commissioner McGriff, Seconded by Commissioner Smith, to approve the consent agenda except Item 7a. The motion passed with the following vote:

Yea: Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

7a. IGA with ODOT for Willamette Falls Path and OR 99E Enhancement Project (CI 22-002)

John Lewis, Public Works Director, explained this agreement was for study work, not construction, which would be funded through a federal grant and City match. ODOT would administer the funds and the work would provide a preferred alternative and 30% design.

There was discussion about the benefits of the project.

Motion made by Commissioner McGriff, Seconded by Commissioner Smith, to approve the IGA with ODOT for the Willamette Falls Path and OR 99E Enhancement Project (CI 22-002). The motion passed with the following vote:

Yea: Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

7b. Personal Services Agreement with DKS Associates, Inc for the Beavercreek Road All Roads Transportation Safety (ARTS) Project (CI 21-006)

7c. Professional Services Agreement Between the City of Oregon City and Kimberly Graves for Prosecution Services

7d. Public Improvement Contract with Black Rock Underground, LLC for the Sanitary Sewer I/I Rehabilitation – Rivercrest Basin Project: Phase 1 (CI 20-010)

7e. Minutes of the October 20, 2021 Regular Meeting

7f. Minutes of the November 9, 2021 Work Session

8. PUBLIC HEARINGS

8a. Second Reading of Ordinance 21-1014, Legislative Application for Housing Needs Analysis (GLUA 21-00057 and LEG 21-00004)

Aquilla Hurd-Ravich, Interim Community Development Director, said the revisions had been incorporated into Exhibit A.

Mayor Lyles Smith opened the public hearing.

There was no public testimony.

Mayor Lyles Smith closed the public hearing.

Commissioner Smith asked Commissioners McGriff and O'Donnell why they voted no on the first reading.

Commissioner McGriff said she had voted no due to the why and how they got here with the document. She thought it should have been specific, neighborhood by neighborhood, and looking at the needs and land availability for each area.

Commissioner O'Donnell agreed. It came down to home rule and the state dictating to cities what they had to do without regard to the impact. He did not think using the term Latinx was appropriate.

Tony Konkol, City Manager, said the Commission had discussed a more granular Housing Needs Analysis at the Commission Retreat and the preference of the Commission was not to make it a goal, but to do the study that had been done. If the proposed Housing Needs Analysis was not adopted prior to December 31, 2021, the City would be required to revise the document prior to December 31, 2022. If this document was adopted, they would not be required to update it for six more years. They could still go neighborhood by neighborhood at a later date.

Commissioner Marl thought in light of a recent article, the term Latinx was offensive and should not be used. He thought it should be Latino.

Ms. Hurd-Ravich said there would be required changes to the content if they did not approve the document by the deadline.

Bill Kabeiseman, City Attorney, said the Commission could approve the second reading to make it effective by the end of the year, and staff could amend the document early next year to change Latinx to Latino. He did not think it was a substantive change.

Motion made by Commissioner Marl, Seconded by Commissioner McGriff, to approve the second reading and final adoption of Ordinance 21-1014 with the replacement of the name Latinx to Latino wherever it appeared in the ordinance and exhibits. The motion passed with the following vote:

Yea: Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, Commissioner Smith

8b. First Reading of Ordinance 21-1016, the Adoption of Park Place Urbanization Plan, an Amendment to the Transportation System Plan (LEG-21-00003)

Kelly Reid, Planner, provided the staff report. This was a request to adopt the Park Place Urbanization Plan as part of the Transportation System Plan. She explained the process, proposal, revisions, Planning Commission recommendation, approval criteria, City Commission review, and options.

Commissioner McGriff asked if staff had responded to the citizen comments.

Ms. Reid said yes, and explained what had been said. They were also acknowledged in the issues matrix.

Mayor Lyles Smith opened the public hearing.

There was no public testimony.

Mayor Lyles Smith closed the public hearing.

Motion made by Commissioner McGriff, Seconded by Commissioner Smith, to approve the first reading of Ordinance 21-1016. The motion passed with the following vote:

Yea: Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, and Commissioner Smith

Abstain: Commissioner O'Donnell

9. GENERAL BUSINESS

9a. Resolution 21-58, Recognizing the Renaming of Barclay Hills Neighborhood Association to Elyville Neighborhood Association

Karla Laws, Chair of the Elyville Neighborhood Association, gave a background on the name change. Barclay Hills was not the original name of the area, it was originally called Elyville. She shared Sanborn Maps that showed the historic name of Elyville for this area.

Karin Ely, resident of Oregon City, shared photos and the history of the Ely family.

There was discussion regarding the research.

Motion made by Commissioner Marl, Seconded by Commissioner McGriff, moved to approve Resolution 21-58. The motion passed with the following vote:

Yea: Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

10. COMMUNICATIONS

11. City Manager

There was no City Manager report.

12. Commissioners

There were no City Commission reports.

13. Mayor

The Mayor did not provide a report.

14. ADJOURNMENT

Mayor Lyles Smith adjourned the meeting at 8:48 PM.

Respectfully submitted,

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Jakob S. Wiley, Assistant City Recorder

CITY OF OREGON CITY
CITY COMMISSION WORK SESSION
DRAFT MINUTES

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, January 19, 2022 at 6:00 PM

CONVENE WORK SESSION AND ROLL CALL

Mayor Lyles Smith convened the meeting at 6:01 PM.

PRESENT: 5 - Commissioner Frank O'Donnell, Commissioner Denyse McGriff, Commissioner Rocky Smith, Commissioner Adam Marl, and Mayor Rachel Lyles Smith

STAFFERS: 10 - City Manager Tony Konkol, City Recorder Jakob Wiley, Interim Community Development Director Aquilla Hurd-Ravich, Asst. to the City Manager Lisa Oreskovich, Police Chief Jim Band, Finance Director Matt Zook, Library Director Greg Williams, Asst. City Engineer Josh Wheeler, Parks and Recreation Director Kendall Reid, and Public Works Director John Lewis

DISCUSSION ITEMS

1. Update on the American Rescue Plan Act of 2021 (ARPA) funding received by the City of Oregon City

The Commission was presented with an estimated award amount and proposed uses during the 2021-23 biennial budget adoption process in May 2021. On January 6, 2022, the U.S. Treasury released the much-anticipated final rule governing spending guidelines, effective April 1, 2022. The Commission will have the opportunity to formally approve future expenditures as necessary through the presentation of contracts over $50,000 and a supplemental budget.

Matt Zook, Finance Director, provided the staff report. The American Rescue Plan Act (2021) (ARPA) is expected to provide the City with $8,293,549.00, which is more than expected in the adopted budget. Mr. Zook reviewed the four eligible uses:

- *Response to the public health emergency or its negative economic impacts*
- *Premium pay to eligible workers performing essential work*
- *Investment in water, sewer, or broadband infrastructure*
- *Provision of government services to the extent of reduction in revenue due to the pandemic.*

Tony Konkol, City Manager, asked for clarification on the changes in the final rules related to the ARPA funds. Mr. Zook identified that the restrictions on funds were waived for allocations below $10,000,000.00, like the City. There was discussion on the actual revenue loss experienced by Oregon City and the Federal calculation.

Commissioner O'Donnell cautioned about making quick choices with such large sums of money. Mr. Konkol provided some background on items in the budget identified as receiving the proposed ARPA funds.

Commissioner McGriff suggested using some of the money for securing the Municipal Elevator, due to several break-ins recently after-hours and traffic improvements at 10th and Main Street. She suggested increasing the amount allocated to premium staff pay for essential workers.

Mayor Lyles Smith asked why all of the funds weren't allotted to water services? Mr. Konkol and Mr. Zook provided information on how the funding breakdown was arrived at. Mayor Lyles Smith commented on some of the proposed expenditures and felt some of the funding amounts were too much.

Mayor Lyles Smith noted that she did not support premium employee salaries, as requested by the Oregon City Police Employee Association. Mayor Lyles Smith asked about the specific items for the Library. Greg Williams, Library Directory, discussed the expenses related to COVID-19 and reestablishing services.

Commissioner O'Donnell asked about the end date of using the funding and would like to see the justifications for any department requesting funds. Mr. Konkol and Mr. Zook provided information on the end dates of using the funds by 2026. Commissioner O'Donnell did not support premium employee pay for COVID reasons. Commissioner O'Donnell supported using funding for increased security in City parks and other facilities, including the Municipal Elevator. Commissioner Smith would like to discuss the items more in-depth at another work session.

Commissioner Marl commented he was not aware the City was proposing contributing funds to relocating the Father's Heart homeless facility and that the funds proposed for the Cayuse Five Tribute were too much.

Mr. Konkol asked the Commission what they wanted to see come back for further discussion. Commissioner O'Donnell commented on the Cayuse Five Tribute and that the tribes have a distinct role in the project and that the City has not received definable input from the tribes on the memorial. Mayor Lyles Smith asked Mr. Konkol to come back with more narrative for each proposed item. Commissioner McGriff would like to see additional information presented to the Commission on premium pay for essential employees. Chief Band expressed his support for the premium pay for essential employees and sited examples from the law enforcement officer perspective.

ADJOURNMENT

Mayor Lyles Smith adjourned the meeting at 6:54 PM.

Respectfully submitted,

_____

Jakob S. Wiley, City Recorder

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 3/2/2022

From: Aquilla Hurd-Ravich, AICP, Community Development Director

SUBJECT:

Appeal of Historic Review Board Approval of an ADA Ramp and Foundation Height Change Located at 1020 5th St (AP-21-00006, GLUA 21-00052, HR-21-00020, Modification of HR 20-00001)

STAFF RECOMMENDATION:

Staff recommends that the City Commission adopt findings for Planning Files AP 21-00006

EXECUTIVE SUMMARY:

Staff has written findings to address the City Commission's tentative decisions for the proposed ADA ramp at 1020 5th Street. The findings include:

1. Upholding the HRB findings and decision to deny the larger ADA ramp to the rear and approve a shorter ADA ramp to the side entrance.
2. Response to public comment from AP 21-00006

See attached findings for full details.

BACKGROUND:

All background information and attachments from previous hearings are included in the agenda packet.

OPTIONS:

1. Adopt the findings and conditions as written.
2. Revise the findings and/or conditions, then adopt them as a final decision.

OREGON CITY

Community Development – Planning

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

CITY OF OREGON CITY FINAL DECISION AND ORDER

IN THE MATTER OF AN APPEAL OF THE	**)**	
HISTORIC REVIEW BOARD APPROVAL OF AN	**)**	
APPLICATION FOR EXTERIOR MODIFICATIONS	**)**	**AP 21-00006**
TO A PREVIOUSLY APPROVED LIVE/WORK BUILDING	**)**	
IN THE MCLOUGHLIN CONSERVATION DISTRICT	**)**	

I. Overview

The matter for City Commission consideration is an appeal from a Historic Review Board (HRB) decision to approve, in part, and deny, in part, an application to modify a previously approved live/work building in the McLoughlin Conservation District. The HRB decision granted approval for the requested ramp along the side of the structure on the south elevation but denied the request for the rear ramp on the ground that the proposed ramp undermined the significance of the Conservation District without mitigation and that other less intrusive, yet financially viable alternatives were not considered.

The applicant below and appellant in this matter was the owner's representative Bogdon Smolinets (hereinafter "appellant") who appealed the HRB's decision arguing that the HRB decision did "not meet the owner's family medical care needs" as well as the "Federal ADA Standards." After hearing oral testimony from the appellant, as well as the oral and written testimony of parties with standing to participate in the appeal, on February 16, 2022, the City Commission voted 4 to 0 to tentatively affirm the HRB decision including conditions of approval and deny the appeal.

II. The Record

Pursuant to Oregon City Municipal Code (OCMC) Section 17.50.190(F), the City Commission's review is limited solely to the record developed before the HRB and it cannot consider any new evidence or facts presented on appeal. Therefore, the record includes the entire file for GLUA 21-0052 / HR 21-00020 Modification of HR 20-00001 considered by the HRB and included within the agenda for the City Commission's consideration during its February 16, 2022 regular meeting. The record also includes written testimony received by the McLoughlin Neighborhood Association dated January 26, 2022 and an email from Jilene Modlin dated February 16, 2022. As participants in the proceedings before the HRB, these parties have standing to participate on appeal and the written testimony was included in the record and considered by the Commission in making its decision.

At the February 16 hearing, oral testimony was presented that included a number of new facts raised for the first time. In an effort to elaborate on how the appellant concluded that the proposed design was the only option, the appellant's representative presented a number of new facts including an assertion that ramps are the most common way to achieve wheelchair accessibility, life safety limitations associated with an internal elevator or chair lift, and summaries of conversations with State Historic Preservation Office representatives or individuals familiar with how Portland resolves ADA accessibility

issues. Whether offered as elaboration or because they were "common knowledge," as the appellant claims, they are still facts that are not part of the record and therefore, cannot be considered. Similarly, the effort by the appellant's representative to further explain topographic limitations associated with the site qualifies as new facts.

Similarly, in challenging the appeal for lack of specificity and waiver, the McLoughlin Neighborhood Association representative asserted this appellant's presentation would be rejected if presented before a trial court.

As identified, these are new facts that are rejected, not considered part of the record on review, and were not considered by the Commission in making this decision.

III. Findings of Fact

The City Commission hereby adopts the following Findings supporting approval of the application in part, and rejecting the appeal, including the facts and analysis set forth in the following documents, which are adopted by reference:

a. The Staff Report- Revised GLUA 21-00052, HR-21-0020, Modification of HR 20-00001 dated November 13, 2022
b. The HRB Notice of Decision dated December 2, 2021
c. The Supplemental Staff Report including exhibits dated January 26, 2022; and
d. The Power Point presentation presented by staff at the February 16 hearing.

The incorporated staff reports, HRB decision and Power Point presentation are collectively referred to as the "Incorporated Findings". If there is a conflict between these Findings and the Incorporated Findings, these findings shall control.

The single issue raised by the appellant for the Commission's consideration provides:

> "The Historic Review Board decision does not meet the owner's family medical care needs, also the applicable Federal ADA standards, and Federal ADA Law. ADA Act 42 USC §12182 et seq (ADA) mobility impairments requiring the use of a wheelchair."

During the hearing before the HRB, the project owner testified that she has wheelchair-bound family members who will reside in this building and require access. The Owner's Representative testified that the HRB-approved ramp to the south elevation is not a solution as it fails to provide wheelchair access to the residence on the second floor and that the demands of the providing a 1:12 maximum slope ramp recommended by the ADA dictated its design. Opponents argued that the lack of developed argument relating to the ADA on appeal or that any ADA-related relief was raised for the first time on appeal precluded the City Commission's consideration of the issue. In rebuttal, the appellant's representative testified that what was proposed was the only solution from a "tactical point of view." In the alternative, the appellant sought an opportunity to present additional evidence before the HRB and indicated a willingness to extend the 120-day time limit to accommodate this request.

After considering all of the oral and written argument presented by the parties, as well as the facts and arguments contained in the record before the HRB, the City Commission finds that the HRB analysis was accurate and complete. The City Commission finds that the appellant failed to respond to the HRB findings that, as designed, the proposed ramp elongated the structure so that it no longer reflected a

Foursquare-inspired design when viewed from the side. The Commission agreed with the HRB that this side view was highly visible from 5th Ave. The record does not reflect any effort at mitigation or to evaluate alternative materials or design elements that might reduce the overall massing as required by OCMC 17.40.060(G).

With respect to the appellant's request for remand to the HRB, the Commission acknowledges that the HRB provided the appellant with a specific list of additional documents necessary to evaluate the appropriateness of the proposed design and the appellant failed to provide this requested documentation. More specifically, the list of items that HRB identified that the City Commission agreed would be necessary, included:

- A revised landscape plan with additional mitigation plantings;
- An alternative design that does not have a rear porch or greater explanation for porch compatibility;
- Analysis of why an interior ADA option is not feasible and some explanation for why the evaluation of alternatives is limited solely to that which is commercial grade; and
- Additional site photos of the side and rear elevation (to and from) – at least six photos

Without this additional documentation, the HRB was incapable of concluding that the applicable approval criteria of 17.40.060(G) were satisfied or reviewing alternatives that may be available to the applicant. The City Commission agrees with the HRB approach.

In light of the Applicant raising the ADA as the basis for relief for the first time on appeal, the City recognizes its obligation to make land use decisions that ensure access and that the owner's demands for wheelchair access to house her elderly mother and brother do qualify as disabilities covered by the ADA. However, these facts alone are insufficient to demand approval of the ramp as it was proposed without some explanation of efforts to preserve the character of the Conservation District or why such effort should not be required. As designed, the proposed ramp results in a building that is nearly twice as long as it is wide, compromising the square, boxy design that is typical of the Foursquare style. The appellant failed to establish that this particular design – one that compromised the character of the district – was the only viable option. It is not enough in a historically protected area to do only that which may be feasible from an engineering or "tactical" perspective alone, either under OCMC 17.40.060(G) or the ADA.

Nothing about this decision precludes or restricts the owner from filing a new application should additional plan drawings, photographic evidence, and explanation of the infeasibility of alternatives, as necessary to respond to the criteria of OCMC 17.40.060 or to assist the HRB in identifying the appropriate balance that will accommodate ADA-related accessibility issues as well as design.

In conclusion, the City Commission finds that the record lacks evidence necessary to conclude that the proposed rear ramp, as designed, satisfied the criteria set forth in OCMC 17.40.060(G) and that the lack of any specificity or developed argument with respect to a single citation to the extensive body of laws that are included within the ADA fail to provide sufficient basis for further relief.

The City Commission hereby rejects the Appeal, affirms the Historic Review Board's decision and approves the Application based on the Incorporated Findings, the findings set forth herein and subject to the following conditions of approval:

1. The Applicant shall obtain all needed Building permits, any additional Geohazard Review, and Type I Site Plan and Design Review for the ADA ramp prior to construction. (B,P,DS)
2. The City Commission does not approve the rear access ADA ramp as submitted. If the applicant wishes to further pursue this option, they should submit for a separate HRB review under a new application. (P)
3. The City Commission finds that the full ADA ramp to the rear elevation and revised foundation height cannot be found to be compatible with the massing and design of the approved structure and sufficiently mitigated; therefore, the following requirements apply:
    a. The ADA ramp shall be revised to access the side door only.
    b. The Applicant shall provide a plan to backfill the remainder of the side yard with rockery walls to the extent practicable and appropriate for a geohazard area and provide mitigation planting with the same type of plants proposed in the submitted landscape plan. Landscape plant details may change but must meet the minimum mature height and width of the approved plant types.
    c. The smaller ADA ramp shall utilize the proposed enclosed lap siding design or a simple balusters style handrail with top and bottom rails attached perpendicularly to the balusters.
    d. The ADA ramp structure shall start at or beyond the front porch and connect to the sidewalk via a concrete ADA path. The front portion of the ADA ramp in front of the porch shall be poured concrete.
    e. The Applicant shall utilize foundation vent wells to allow as much backfill soil as possible adjacent to the foundation wall.
    f. The ADA ramp elements shall be painted or paint-stained to match the body paint of the house.
    g. No exposed pressure-treated wood is allowed.
    h. All walls associated with the ramp shall be poured in place concrete, real basalt veneer, or natural rockery walls. The existing wall built without permits shall be revised to meet the above material standard per HR 20-01 Conditions of Approval.
    i. The HRB encourages the Applicant to work with the Building Division to design an internal ADA access to the upper floors. (B,P)

The following conditions are not part of AP -21-0006, but are included for the record as part of approved GLUA 21-0052 / HR 21-00020.

4. The following windows are approved.
    - **Window 7** – an additional fixed square dormer window does not change the compatibility of the elevation- approved by Staff.
    - **Window set 5 –** Revised the window set was lowered to match the abutting window set after the front dormer was required to be removed from the final plans per HR 20-01 (P)

5. Proposed revisions to the side elevations included in the record for this application will continue to be reviewed and approved by Staff per HR 20-01 Conditions of Approval #4. All new windows not proposed in HR 20-01 shall be 1:1 hung windows or fixed/awning/casement square windows. (P)

OREGON CITY

Community Development – Planning

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

January 26, 2022

To: Honorable Mayor Lyle-Smith and City Commission

From: Christina Robertson-Gardiner AICP, Senior Planner
Carrie Richter, Deputy City Attorney

Re: Supplemental Staff Report – 5th Avenue Live/Work ADA Ramp

File #s: AP 21-00006 Appeals of the November 30, 2021, Historic Review Board Approval with conditions of Planning Files GLUA 21-00052 / HR-21-00020 Modification of HR 20-00001

Executive Summary:

The Historic Review Board (HRB) recently approved in part and denied in part, a Type III application filed by the owner's representative, Bogdon Smolinets (Applicant or Appellant) , for exterior modifications to a previously approved new live/work building in the McLoughlin Conservation District (HR 20-01). The HRB approval authorized a change in the window configuration, the final foundation height as well as an ADA ramp providing access to the commercial studio through a side door. The HRB denied the request to extend the ADA ramp around to the back of the structure to serve the third floor of the residence.

The Applicant has appealed HRB's decision, identifying a single issue for the Commission's consideration:

> "The Historic Review Board decision does not meet the owner's family medical care needs, also the applicable Federal ADA standards, and Federal ADA Law. ADA Act 42 USC §12182 et seq (ADA) mobility impairments requiring the use of a wheelchair."

Although requirements of the Americans with Disabilities Act (ADA) do apply to structures that are subject to historic resource protections, the ADA does not exempt owners from complying with historic resource requirements, to the extent possible. In other words, every effort must be made to accommodate this ramp while, at the same time, not damaging or destroying the integrity of the District.

The HRB found that the design of the proposed rear ramp elongated the structure so that it no longer reflected a Foursquare-inspired design when viewed from the side. The HRB found that the side view was highly visible from 5th Ave and that the Applicant failed to provide the necessary evidence to show that screening through landscaping was possible. Given the significant impact on the historic resource, the HRB concluded that the Applicant had failed to show that the proposed ramp design was the only financially feasible alternative.

The City Commission's review is limited solely to the record developed before the HRB; neither the Appellant nor any other party may offer any additional evidence with respect to design compatibility, mitigation, or the feasibility of other alternatives. The parties are limited to only making arguments regarding the identified issue.

The options before the City Commission on this Appeal include:

- Option 1: Affirm the HRB decision with additional findings responding to the argument presented on appeal, perhaps including additional mitigation conditions.
- Option 2: Remand the matter to the HRB to consider evidence regarding alternative ADA accommodations including, but not limited to: internal chair lifts or residential-scaled elevator, other internal or external configurations, and further material and design study of the ramp so as to reduce the massing and/or reinforce the Foursquare style and/or provide greater detail on the proposed side elevation landscaping for the HRB to conclude that the visual impact will be mitigated. This option will require extending or waiving the 120-day limit.
- Option 3: Revise the HRB approval to allow the rear ramp with additional conditions of approval that might provide adequate screening through landscaping or other mitigation.

Overview of Proposal

The following overview is limited to the single issue raised in the Appeal above. Other alterations included in the record and discussed by the HRB or in the staff report were not raised in the Appeal, are not discussed in this memo, and are not before the City Commission for consideration. Excerpts of relevant plans, drawings and photos are attached in an annotated Exhibit and are referenced throughout the memo. The full Historic Review Board record is attached to the City Commission agenda and is part of the Record for the Commission's consideration.

This structure, originally approved by the Historic Review Board in 2020 as file HR 20-01, was approved as a live/work building that allocated a commercial area in the front half of the ground floor area and a 10-bedroom residence on the second and third floors of the structure. The main entry for the commercial space is located in the center of the ground floor porch accessed from 5th Street. The residential portion of the building is on the second and third floors and is accessed through an internal stairwell from the side door on the south elevation.

Subsequently, the proposed development was reviewed for compliance with the Geohazard Overlay District through GLUA 20-0024: GEO 20-0002 SP 20-0052. The site is cross-sloped with elevation dropping from the rear and top front of the site. The geohazard review and HR 20-01 Conditions of Approval directed the application to minimize cuts and fills, which resulted in an exposed foundation approximately 4 feet taller at the south side door entrance at the finished grade on the downhill side elevation than reflected in the plans approved by the HRB in HR 20-01.

The Applicant's original plans assumed that residential access would occur at grade through the south side door *(Exhibit A, Figure 3).* With a better understanding of the site conditions, coupled with the need to provide greater accessibility, the Applicant's building permit plan set package included an ADA ramp, located at the low point of the slope, providing access to the side and rear doors, which were now much higher above grade than originally anticipated. The ADA ramp was not approved during the Building Permit review as it was not consistent with HR 20-01.

Traditional Foursquare and larger Bungalow-styled buildings that utilize a full foundation have a foundation line/top of the floor that is around 3 ½ feet above grade, typically to be in line with a front porch at the elevation of the interior floors, depending on the specifics of the site. In this instance, as originally proposed, the interior floor height was a little lower, around 2-tall at the closest point at the front corner, and sloped up to an at-grade side entrance with a retaining wall. Traditionally, the side door would be accessed from a 3-5 step side porch. However, the Applicant has requested an ADA access ramp rather than a step-served side porch to allow for elderly family members better access to the upper stories. The commercial space is accessed from the front porch entrance and is ADA accessible. In addition to serving the side door, the Applicant proposes to extend the side-serving ramp around the back of the house to access the residential living area on the second floor.

September 28, 2021 Historic Review Board Meeting

The Applicant's original submittal included an ADA ramp that hugged the side and rear of the building with stairs leading up to the rear door *(Exhibit A, Figure 5)*. The plans did not reflect any wheelchair accommodation along these rear stairs. The ramp was designed with lap siding to match the house with railings attached on the inside to minimize the massing and reduce its appearance as a separate building element. After hearing testimony from interested parties, the HRB expressed concerns that the proposed slope was too extreme and the external stairs would not satisfy ADA standards. As a result, the hearing was continued and the Applicant was asked to verify compliance with the ADA.

October 26, 2021 Historic Review Board Meeting

The Applicant submitted a revised plan for consideration by the HRB at its October 26, 2021 meeting. Reducing the slope of the ramp and removing the stairs to satisfy the ADA significantly increased the length of the ramp, thereby requiring the incorporation of switchbacks to reach the third floor. This switchback enclosed ramp was sided with horizontal siding, thereby appearing to extend the overall length of the structure by an additional 19 feet. The revised drawing was submitted to staff eight days before the October 26, 2021 hearing and one day before the agenda and staff report analysis was posted online (October 19, 2021). Therefore, staff did not have the opportunity to provide any detailed evaluation of the proposal.

At its meeting on October 26, 2021, the HRB indicated that they had outstanding questions about the design of the full rear access ramp and felt that there was missing information from the application. The HRB continued the file to November 30, 2021, and asked the Applicant to provide the HRB with the following information:

1. Revised landscape plan with additional mitigation plantings.
2. Revision to site plan and elevation that show the ADA ramp starting beyond the front porch (per condition of approval)
3. Provide a site plan ADA option that does not have rear porch.
4. Provide a revised final rear elevation that details the rear ADA ramp.
5. Provide revised findings that show how you are mitigating the impact of the additional massing of the rear ADA ramp and porch.
6. Provide findings showing how the rear deck is compatible and can be mitigated.
7. Analysis of why an interior ADA option is not feasible, why does the ADA option need to be commercial grade?
8. Additional site photos of the side and rear elevation (to and from) -at least six photos
9. Updated lot coverage analysis- with revised ADA ramp and rear porch.

November 30, 2021 Historic Review Board Meeting

On November 15, 2021 the Applicant responded by submitting a response to the Historic Review Board questions, a revised site plan, revised elevation drawings including rendered landscape screening on the side and rear elevations, site photos, and the unrevised September 7, 2012 Landscape Plan. *(Exhibit A, Figures 7-13).* The site photos also showed an unpermitted CMU retaining wall along the side yard that did not meet the material requirements of HR 20-01.[1]

At its hearing on November 30, 2021, the HRB reviewed the additional material. At the hearing, the Applicant focused largely on the mathematical calculations dictating the overall ramp length, arguing that these demands alone justified the ramp location and design. The Applicant's representative testified that the proposed ramp offered "the most cost-effective solution." When asked about the

[1] CMU is an unpermitted material for retaining walls within the conservation district. Therefore, this wall will need be removed and replaced with a more appropriate material and the Appellant has not challenged this requirement.

consideration of internal alternatives, the Applicant responded that "the cost of installing a commercial elevator would be over a hundred thousand dollars." With respect to mitigation, the Applicant's representative testified that the ramp is at the rear of the structure and would not be visible from the Street.

Historic Review Board Deliberations and Decision

In deliberation, the HRB discussed the fixed nature of the ramp requirements and saw no indication that materials or design detailing necessary to achieve compatibility, or other mitigation were considered. They questioned why the Applicant did not consider employing any form of internal accommodation such as a residential styled ADA chair or lift. Therefore, the HRB concluded that the Applicant failed to provide analysis to show that the larger ramp, as designed, was necessary. Without necessity and/or sufficient mitigation, the Board found that the Applicant failed to demonstrate that the proposed design would contribute to the character of the District. Lengthening the overall form by an additional 19' compromised the boxy, square form that is an essential element of the Foursquare style. HR 20-01 authorized a somewhat longer footprint than a classic foursquare square with a 70' 3" length of the building to 47' width (without garage) through an iterative design process over many meetings. The Board also found that the Applicant did not address the applicable design standards, OCMC 17.40.060.G criteria, and did not offer any detailed explanation for why other less character impacting alternatives such as a residential elevator or chair lift using the existing internal staircase were not feasible.

The HRB went on to find that they were not confident that the Applicant could install the mitigation plantings as shown in the November elevation drawings *(Exhibit A, Figures 7&8)*, especially along the side property line when much of this area would now be occupied by an ADA ramp, as well as the newly installed retaining wall, without an updated landscape plan to provide additional clarity to this potential conflict.

The HRB agreed that, without the necessary information, it could not approve the full length, expanded ramp as proposed. They found that the more conservative approach of a reduced ADA ramp to the side door conditionally could meet the Guidelines for New Construction and OCMC 17.40.060(G) *construction of new structures in a historic or conservation district.* The HRB acknowledged that the Design Guidelines prohibit "buildings with excessive mass for the style chosen or neighborhood in which located." P 40.

The Historic Review Board voted to 4 to 0 to approve the application with conditions that allowed a shorter ADA ramp to the side door of the south elevation with conditions of approval acknowledging that the rear ramp could be accommodated through a subsequent review. These conditions included:

> *2. The Historic Review Board does not approve the rear access ADA ramp as submitted. If the Applicant wishes to further pursue this option, they should submit for a separate HRB review under a new application. (P)*
>
> *3. The Board finds that the full ADA ramp to the rear elevation and revised foundation height cannot be found to be compatible with the massing and design of the approved structure and sufficiently mitigated; therefore, the following requirements apply:*
>
> *a. The ADA ramp shall be revised to access the side door only.*
> *b. The Applicant shall provide a plan to backfill the remainder of the side yard with rockery walls to the extent practicable and appropriate for a geohazard area and provide mitigation planting with the same type of plants proposed in the submitted landscape plan. Landscape plant details may change but must meet the minimum mature height and width of the approved plant types.*

c. *The smaller ADA ramp shall utilize the proposed enclosed lap siding design or a simple balusters style handrail with top and bottom rails attached perpendicularly to the balusters.*
d. *The ADA ramp structure shall start at or beyond the front porch and connect to the sidewalk via a concrete ADA path. The front portion of the ADA ramp in front of the porch shall be poured concrete.*
e. *The Applicant shall utilize foundation vent wells to allow as much backfill soil as possible adjacent to the foundation wall.*
f. *The ADA ramp elements shall be painted or paint-stained to match the body paint of the house.*
g. *No exposed pressure-treated wood is allowed.*
h. *All walls associated with the ramp shall be poured in place concrete, real basalt veneer, or natural rockery walls. The existing wall built without permits shall be revised to meet the above material standard per HR 20-01 Conditions of Approval.*
i. *The HRB encourages the Applicant to work with the Building Division to design an internal ADA access to the upper floors. (B,P)*

Response to Issues Raised in the Appeal

Restated again for ease of reference, the Notice of Appeal identified the following issue:

> "The Historic Review Board decision does not meet the owner's family medical care needs, also the applicable Federal ADA standards, and Federal ADA Law. ADA Act 42 USC §12182 et seq (ADA) mobility impairments requiring the use of a wheelchair."

The Americans with Disabilities Act (ADA) laws are lengthy and cover a wide range of accessibility issues both within and outside of the land use context. The need to accommodate a wheelchair is a disability recognized under the ADA. Short of identifying a need for wheelchair access, the Appellant does not explain how or why he believes that the HRB erred by approving a limited ramp, consistent with the original assumed primary residential access through the side door. Although the ADA does generally call for "full and equal" access, the extent of the access obligation is highly dependent on the facts of the case as well as the legal standards at issue. It is not enough to merely cite to a wide-ranging series of civil rights laws as a basis for Appeal because these laws do not necessarily require summary approval of the rear access ramp in the configuration and design that the Appellant has requested. Therefore, this report provides a broad overarching explanation of ADA requirements framing how the City Commission might consider the issues on Appeal.

Broadly stated, the ADA prohibits discrimination against any individual "on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." 42 USC §12182(a). Although private residential living by an owner is not a "place of public accommodation" subject to the ADA like commercial structures, the courts have found that land use permit decisions fall squarely within the type of public activities covered by the ADA. Thus, the City has an obligation to ensure equal access in order to satisfy the ADA.

That said, in enacting the ADA, Congress also recognized the national interest in preserving significant historic structures by imposing requirements that allow operators of such structures to become ADA compliant without threatening the historic significance of such structures. 42 USC §12204(C) and 28 CFR §405. "Qualified" buildings or facilities are those buildings and facilities "that are eligible for listing in the National Register of Historic Places, or such properties designated as historic under a statute of the appropriate state or local government body."

Although this situation is slightly different because the proposed alteration does not affect a historic structure, the alteration to the existing structure will occur within the "qualifying" McLoughlin Conservation District and the proposed alteration is subject to historic overlay review requirements as set forth in OCMC Chapter 17.40. By subjecting new construction (and modifications to the same) within the McLoughlin Conservation District to an additional historic overlay review, the City provides: "the protection, enhancement, perpetuation and use of improvements of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people." OCMC 17.40.010. Courts have recognized that the desire to preserve particular objectives through historic protections applied to special areas is a valid government concern under the ADA.

One of the ways that the special historic character of the McLoughlin District is preserved is by requiring that all new infill be designed to reflect prevalent historic building styles so as to reinforce the historic context. The Guidelines note: "Use of other styles dilutes and distracts from the historic context of the district." P 7. The existing structure approved in 2020 was designed in the Foursquare style. As the HRB found, one of the hallmarks of the Foursquare style is the basic square, boxy design where the front width is comparable with the length. Lengthening the building by an additional 19' at the rear makes the building nearly twice as long as it is wide. The Design Guidelines prohibit "buildings with excessive mass for the style chosen or neighborhood in which located." P 40. The HRB concluded that this additional structure length, without mitigation, failed to reinforce the context of the conservation district, in violation of the Guidelines and, in turn, OCMC 17.40.060.(G).

The Appellant disputed that the ramp would have any visual impact as it would be located to the rear and would not be visible to the public driving by on 5th Ave. The HRB disagreed finding that the additional building length would be highly visible from the side elevation. Although the Design Guidelines do discuss locating garages, patios, or parking to the rear, they do not expressly exempt areas that are not visible from the public ways from compliance. The HRB also concluded that the record did not provide sufficient evidence to indicate that screening in the form of additional landscaping could be accommodated taking into account the width the ramp and retaining wall.

The Appellant's invocation of the ADA occurred for the first time in this Appeal, after the evidentiary record was closed. To make a claim under the ADA, an applicant must do more than just allege a qualifying disability subject to protection under the ADA as the Appellant has done here. A party must show that what is proposed is necessary to achieve some therapeutic purpose or because of financial ability. The Appellant's only proffered explanation for this ramp design was that it was the "most cost-effective" solution and that "installing a commercial elevator would cost over one hundred thousand dollars." The Appellant did not show is that the proposed ramp – its style and detailing – was the only financially viable option available. There was no evidence to indicate that other alternatives, such as a chair lift, a residential elevator, or the incorporation of different material or ramp design that might complement rather than, as the HRB found, compromise the Foursquare style, were considered.

During its deliberation, the HRB acknowledged that a number of other solutions might be available that would achieve the Appellant's accessibility objectives without requiring a fundamental alteration to the City's historic preservation standards. Whether those alternatives are financially feasible is not clear from the record. Rather, the record reflects that the historic overlay requirements of OCMC 17.40.060 and the ADA are not necessarily at odds with one another given the facts presented. Should the City Commission agree with the HRB that the proposed rear ramp would violate the historic overlay standards, it may deny this Appeal and affirm the HRB decision authorizing a more limited ramp.

That said, the ADA is also fairly stringent in requiring accessibility where it is requested, so long as the historic attributes of the resource are not lost. Providing for greater accessibility through the use of an

exterior ramp is quite common for historic buildings. The US Department of the Interior National Park Service, Cultural Resources Division has promulgated a Preservation Brief dealing specifically with accessibility, which is attached here and may provide a suitable reference for how the City might interpret its historic standards with respect to the ADA. (This Preservation Brief was cross-referenced in the staff report before the HRB and may be considered by the Commission.) Although the Preservation Brief is focused on increasing accessibility for historic structures, in order to "identify and evaluate accessibility options within a preservation context," the Brief recommends identifying a solution that "provide the greatest amount of accessibility without threatening or destroying those materials and features that make a property significant." P 2. This "threaten or destroy" threshold appears to set a fairly high bar when considering new construction as opposed to a contributing structure that is historic in its own right or, in the district context, the overall historic character of the surroundings. As a new structure that is not surrounded by any contributing buildings located at the edge of the district, the City Commission might determine that the ramp can be approved without "threatening or destroying" the overall character of the District. This finding could be limited in direct response to the ADA, thereby avoiding any precedent-setting concerns. Perhaps further mitigation could be accomplished by requiring planting of certain tree heights and species for screening coupled with long-term maintenance obligations to ensure their success.

Another alternative would be to remand the matter back to the HRB with instructions to explore and consider the financial and design viability of other alternatives, including but not limited to, a residential elevator, a chair lift, or material/design alternatives that would have less impact on the Foursquare design. The Commission could urge the Applicant to secure counsel from an expert qualified architect or designer in historic preservation and accessibility options who could help to inform the effort. Proceeding with this approach would require agreement by the Applicant to extend or, better yet, waive the 120-day limit in order to identify the most appropriate accessibility solution.

The following is a list of alternatives that the Commission might ask that the Applicant analyze for HRB consideration on remand:

1. An interior ADA access from the ground floor through the garage, interior stairway, or other means.
2. A noncommercial interior chair lift or residential elevator.
3. A chair lift accommodation along exterior stairs that hugged the building.
4. An ADA-complaint design relying on the existing uphill topography on the left or southeast side elevation.
5. The use of materials and design that create a lighter, airier appearance, such as painted metal.
6. Consider whether the removal or reduction in the length of the rear porch would reduce the massing of the ADA ramp
7. Utilizing a taller retaining wall (assuming that it is made of appropriate materials) toward the rear along the side to provide some level of initial screening that can be further subsidized with plantings
8. Provide a revised landscape plan that incorporates the proposed replacement retaining wall and mitigation planting to ensure that the selected plant types are appropriate for the location.

Conclusion

The City Commission's review is limited to a single issue: a request to allow the proposed extended rear ramp to serve the 2nd-story residence under the ADA. The impact of the ADA is a new issue raised for the first time in this Appeal and therefore requires the Commission to reweigh the evidence to determine if

the Appellant has shown that the proposed ramp adequately responds to and protects the significance of the McLoughlin Conservation District as the only viable alternative.

If the answer to this question is "no:"

- The Commission could affirm the HRB's decision approving in part and denying in part the Applicant's request.
- The Commission could remand the decision back to the HRB but only if the Appellant is willing to extend or waive the 120-day limit accordingly; or
- If the Appellant is not willing to engage in further proceedings before the HRB or extend the 120-day limit, the Commission may uphold the HRB's decision finding that the Appellant failed to respond to the historic overlay requirements or necessity under the ADA and deny the appeal.

If the answer to this question is "yes" i.e. the application is sufficient or the historic significance of the area would allow the proposed design, this ramp may be approved, perhaps with revised conditions of approval.

Exhibits

A. Annotated excerpts of relevant plans, drawings and photos
B. Preservation Brief 32: Making Historic Properties Accessible

OREGON CITY

Community Development – Planning

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

Supplemental Staff Report – 5th Avenue Live/Work ADA Ramp

File #s: AP 21-00006 Appeals of the November 30, 2021, Historic Review Board Approval with conditions of Planning Files GLUA 21-00052 / HR-21-00020 Modification of HR 20-00001

Exhibit a. Annotated excerpts of relevant plans, drawings and photos

Figure 1 Vicinity Map (Conservation district shown in purple)

Figure 2- Aerial phot and topography- arrow showing cross- slope

Figure 3- approved original HR 20-01 right elevation (downhill side)- at grad side entrance.

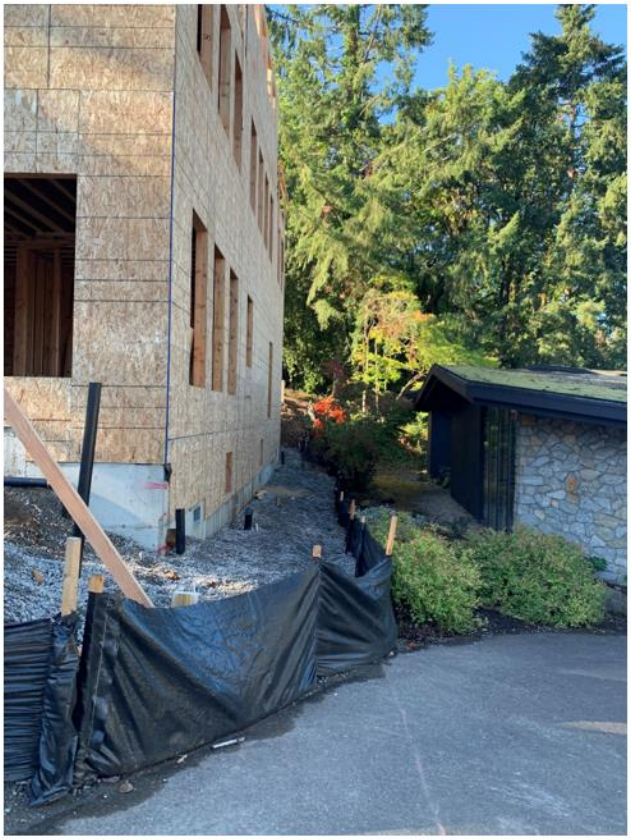


Figure 4 Existing condition of exposed foundation- September 21, 2021

The existing condition of the foundation can be seen in the photo taken on September 21, 2021. It shows a floor height of approximately 2- feet above the proposed final grade at the front corner and approximately 4 feet at the side entrance (please note that the existing gravel is not the final grade).

Figure 5- Initial ramp approach reviewed at the September 26, 2021 Historic Review board meeting.

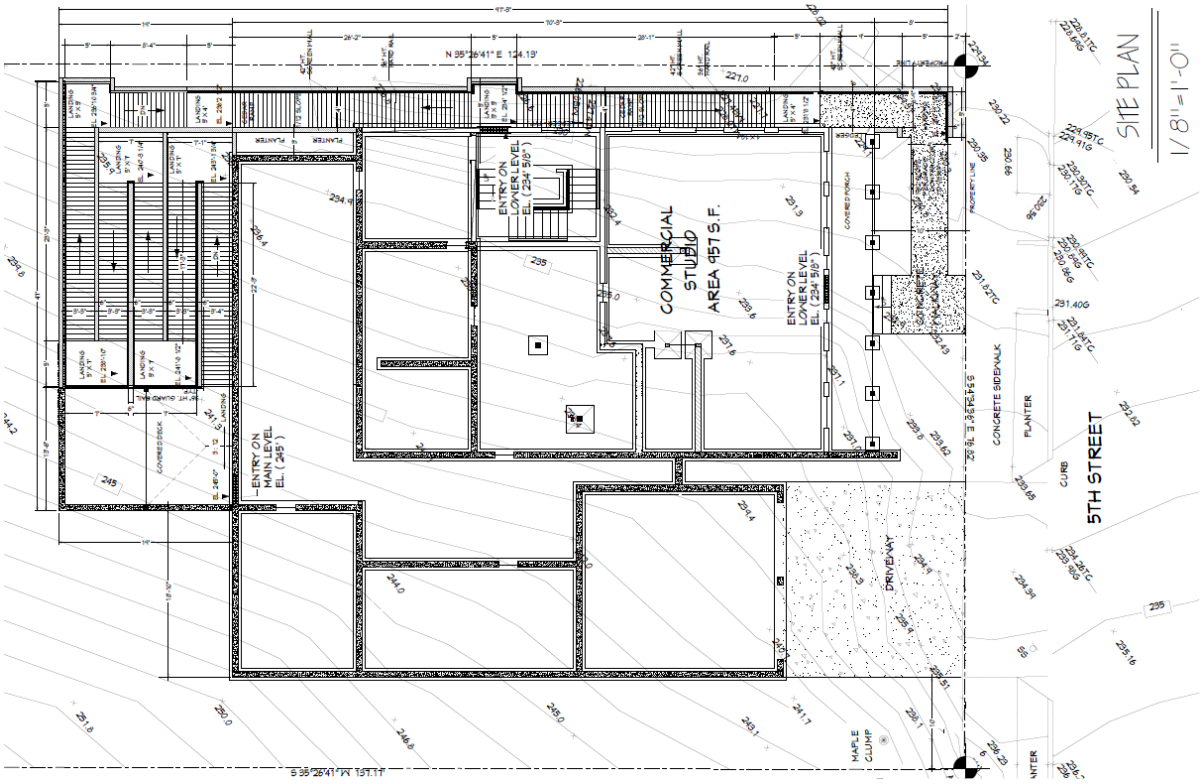
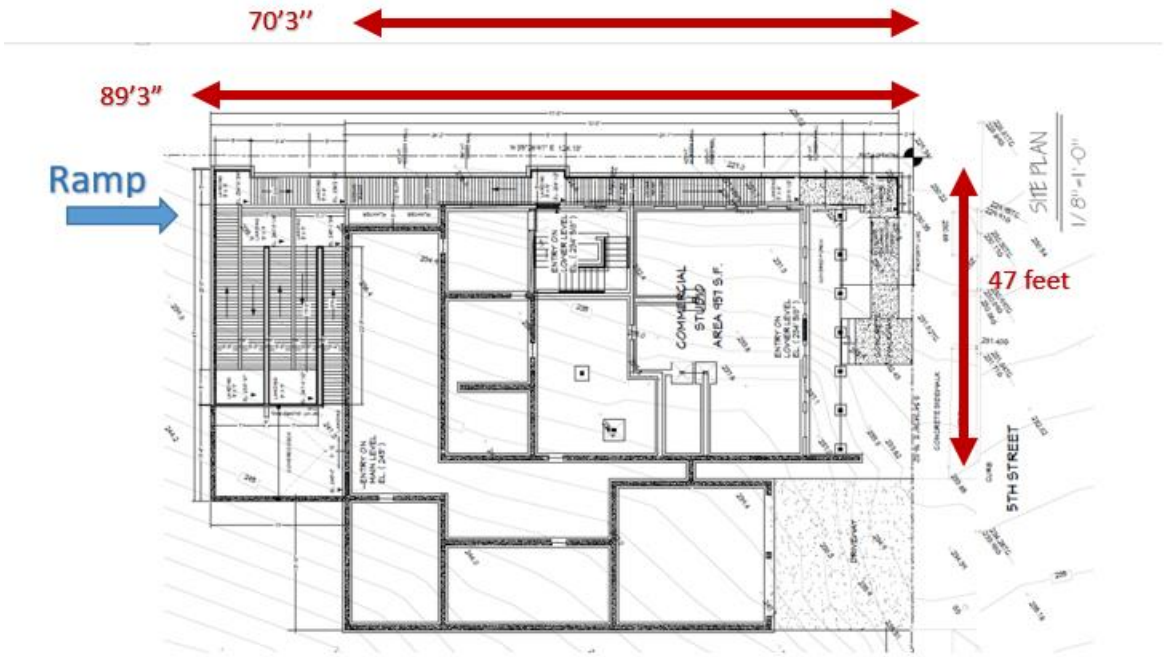


Figure 6- Nov 15, 2021 revised site plan showing latest full ADA ramp approach accounting for site contours for November 30, 2021 Historic Review Board meeting which does not include any proposed landscaping.

Figure 7- Revised rear elevation drawing showing latest full ADA ramp approach (submitted 11.15.21)

Figure 8- Revised side elevation drawing showing latest full ADA ramp approach (submitted 11.15.21)



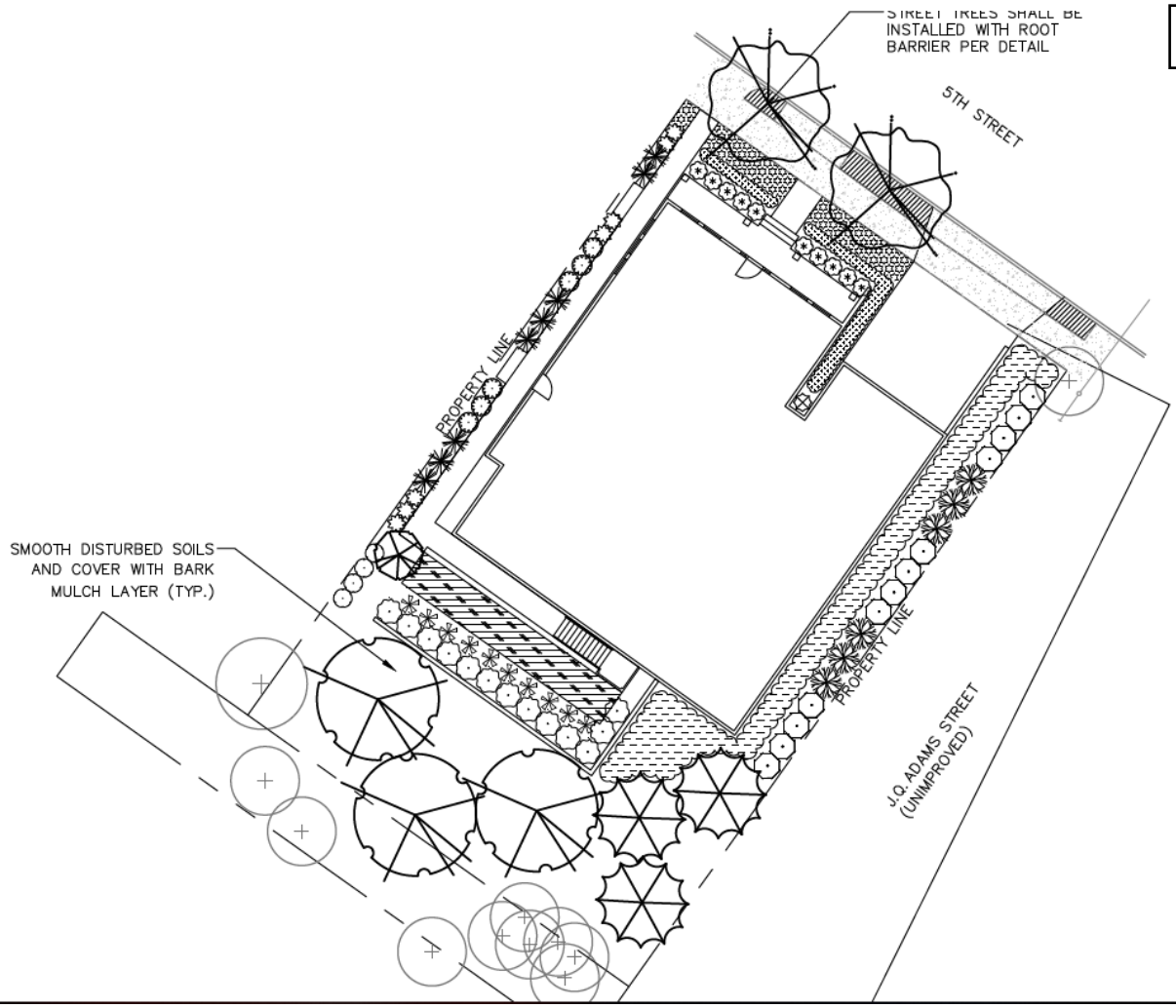
Revised Site Plan

Figure 9- Revised side elevation drawing showing latest full ADA ramp approach (submitted 11.15.21)

Figure 10- Rear elevation photo (submitted 11.15.21)

Figure 11- Side and rear elevation photo (submitted 11.15.21)- showing unpermitted retaining wall

Figure 12- Side elevation photo (submitted 11.15.21) showing unpermitted retaining wall



PLANT LIST:

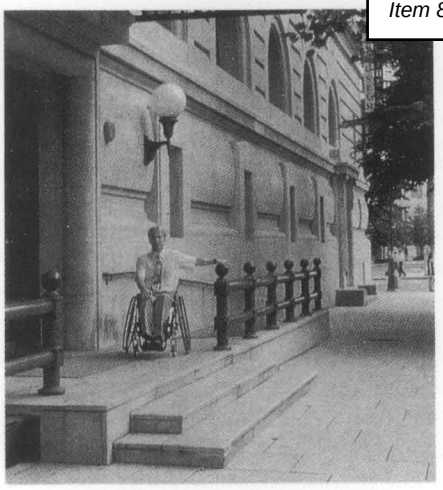
SYMBOL	QTY.	LATIN NAME/ Common Name	SIZE	SPACING
		STREET TREES		
	2	SYRINGA RETICULATA Japanese Tree Lilac	2" cal.	As Shown
		MITIGATION TREES		
	3	CORNUS NUTALLII Pacific Dogwood	2" cal.	As Shown
	3	TSUGA HETEROPHYLLA Western Hemlock	6' ht.	As Shown
	1	ACER JAPONICUM 'ACONITIFOLIUM' Full Moon Maple	6' ht.	As Shown
		SHRUBS		
	29	NANDINA DOMESTICA 'HARBOR BELLE' Harbor Belle Nandina	2 gal.	2' o.c.
	10	PIERIS JAPONICA 'LITTLE HEATH' Little Heath Pieris	5 gal.	3' o.c.
	1	TAXUS MEDIA 'STONEHENDGE' Stonehendge Yew	5 gal.	3' o.c.
	6	CORNUS ALBA 'BAILHALO' Ivory Halo Dogwood	2 gal.	5' o.c.
	12	VACCINIUM OVATUM Evergreen Huckleberry	5 gal.	4' o.c.
	32	LEUCOTHOE FONTANESIANA 'NANA' Dwarf Leucothoe	2 gal.	3' o.c.
	13	AUCUBA JAPONICA 'MR. GOLDSTRIKE' Mr. Goldstrike Aucuba	5 gal.	4' o.c.
	35	MAHONIA REPENS Creeping Mahonia	1 gal.	3' o.c.
	6	CAMELLIA 'FAIRY BLUSH' Fairy Blush Camellia	2 gal.	3' o.c.
	8	CEPHALOTAXUS HARRINGTONIA 'FASTIGIATA' Upright Japanese Plum Yew	5 gal.	2' o.c.
	7	SARCOCOCCA RUSCIFOLIA Sweet Box	1 gal.	3' o.c.
		GROUNDCOVER		
	14	ARCTOSTAPHYLOS U.U. 'WOOD'S DWARF' Wood's Dwarf Kinnikinnick	1 gal.	3' o.c.
	63	EPIMEDIUM PERRALCHICUM 'FROHNLEITEN' Frohnleiten Bishop's Hat	1 gal.	2' o.c.
	44	LIRIOPE MUSCARI 'BIG BLUE' Big Blue Lily Turf	1 gal.	2' o.c.

Figure 13- Landscape Plan dated 9.7.2021- resubmitted on 11.15.21

GENERAL NOTES:

1. Contractor is to verify all plant quantities.
2. Adjust plantings in the field as necessary.
3. Project is to be irrigated by an automatic, underground system, which will provide full coverage for all plant material. System is to be design/ build by Landscape Contractor. Guarantee system for a minimum one year. Show drip systems as alternate bid only.
4. All plants are to be fully foliaged, well branched and true to form.
5. Contractor is to notify Landscape Architect or Owner's Representative of any site changes or unforeseen conditions that may be detrimental to plant health, or cause future problems to any structural elements of the project.
6. Invasive plant species shall be removed from all landscape areas prior to approval of final occupancy permit.

32 PRESERVATION BRIEFS



Making Historic Properties Accessible

Thomas C. Jester and Sharon C. Park, AIA

U.S. Department of the Interior
National Park Service
Cultural Resources

Heritage Preservation Services

Historically, most buildings and landscapes were not designed to be readily accessible for people with disabilities. In recent years, however, emphasis has been placed on preserving historically significant properties, and on making these properties—and the activities within them—more accessible to people with disabilities. With the passage of the Americans with Disabilities Act in 1990, access to properties open to the public is now a civil right.

This Preservation Brief introduces the complex issue of providing accessibility at historic properties, and underscores the need to balance accessibility and historic preservation. It provides guidance on making historic properties accessible while preserving their historic character; the Brief also provides examples to show that independent physical accessibility at historic properties can be achieved with careful planning, consultation, and sensitive design. While the Brief focuses primarily on making buildings and their sites accessible, it also includes a section on historic landscapes. The Brief will assist historic property owners, design professionals, and administrators in evaluating their historic properties so that the highest level of accessibility can be provided while minimizing changes to historic materials and features. Because many projects encompassing accessibility work are complex, it is advisable to consult with experts in the fields of historic preservation and accessibility before proceeding with permanent physical changes to historic properties.

Modifications to historic properties to increase accessibility may be as simple as a small, inexpensive ramp to overcome one entrance step, or may involve changes to exterior and interior features. The Brief does not provide a detailed explanation of local or State accessibility laws as they vary from jurisdiction to jurisdiction. A concise explanation of several federal accessibility laws is included on page 13.

Planning Accessibility Modifications

Historic properties are distinguished by features, materials, spaces, and spatial relationships that contribute to their historic character. Often these elements, such as steep terrain, monumental steps, narrow or heavy doors, decorative ornamental hardware, and narrow pathways and corridors, pose barriers to persons with disabilities, particularly to wheelchair users (See Figure 1).

A three-step approach is recommended to identify and implement accessibility modifications that will protect the integrity and historic character of historic properties:

1) Review the historical significance of the property and identify character-defining features;
2) Assess the property's existing and required level of accessibility; and
3) Evaluate accessibility options within a preservation context.

1) Review the Historical Significance of the Property

If the property has been designated as historic (properties that are listed in, or eligible for listing in the National Register of Historic Places, or designated under State or local law), the property's nomination file should be reviewed to learn about its significance. Local preservation commissions and State Historic Preservation Offices can usually provide

Figure 1. It is important to identify the materials, features, and spaces that should be preserved when planning accessibility modifications. These may include stairs, railings, doors, and door surrounds. Photo: National Park Service files.

copies of the nomination file and are also resources for additional information and assistance. Review of the written documentation should always be supplemented with a physical investigation to identify which character-defining features and spaces must be protected whenever any changes are anticipated. If the level of documentation for a property's significance is limited, it may be necessary to have a preservation professional identify specific historic features, materials, and spaces that should be protected.

For most historic properties, the construction materials, the form and style of the property, the principal elevations, the major architectural or landscape features, and the principal public spaces constitute some of the elements that should be preserved. Every effort should be made to minimize damage to the materials and features that convey a property's historical significance when making modifications for accessibility. Very small or highly significant properties that have never been altered may be extremely difficult to modify.

Secondary spaces and finishes and features that may be less important to the historic character should also be identified; these may generally be altered without jeopardizing the historical significance of a property. Non-significant spaces, secondary pathways, later additions, previously altered areas, utilitarian spaces, and service areas can usually be modified without threatening or destroying a property's historical significance.

2) Assess the Property's Existing and Required Level of Accessibility

A building survey or assessment will provide a thorough evaluation of a property's accessibility. Most surveys identify accessibility barriers in the following areas: building and site entrances; surface textures, widths and slopes of walkways; parking; grade changes; size, weight and configuration of doorways; interior corridors and path of travel restrictions; elevators; and public toilets and amenities (See Figure 2). Simple audits can be completed by property owners using readily available checklists (See Further Reading). Accessibility specialists can be hired to assess barriers in more complex properties, especially those with multiple buildings, steep terrain, or interpretive programs. Persons with disabilities can be particularly helpful in assessing specific barriers.

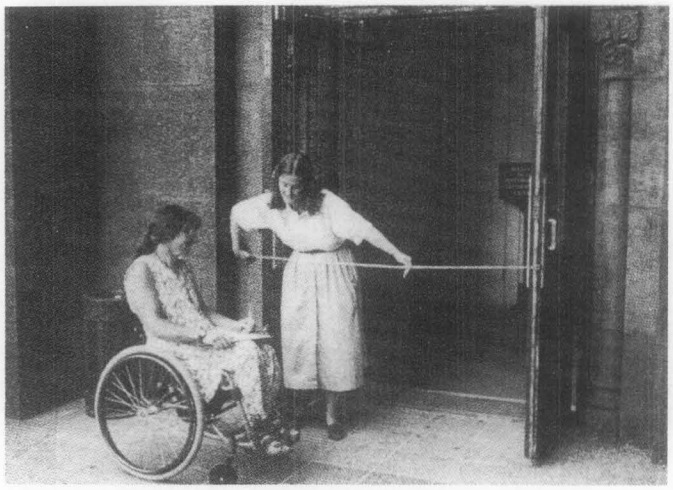


Figure 2. Surveys of historic properties can identify accessibility barriers. Persons with disabilities and accessibility consultants should participate whenever possible. Photo: Thomas Jester.

All applicable accessibility requirements—local codes and federal laws— should be reviewed carefully before undertaking any accessibility modification. Since many States and localities have their own accessibility regulations and codes (each with their own requirements for dimensions and technical requirements), owners should use the most stringent accessibility requirements when implementing modifications. The Americans with Disability Act Accessibility Guidelines (ADAAG) is the document that should be consulted when complying with the Americans with Disabilities Act (ADA) requirements.

3) Identify and Evaluate Accessibility Options within a Preservation Context

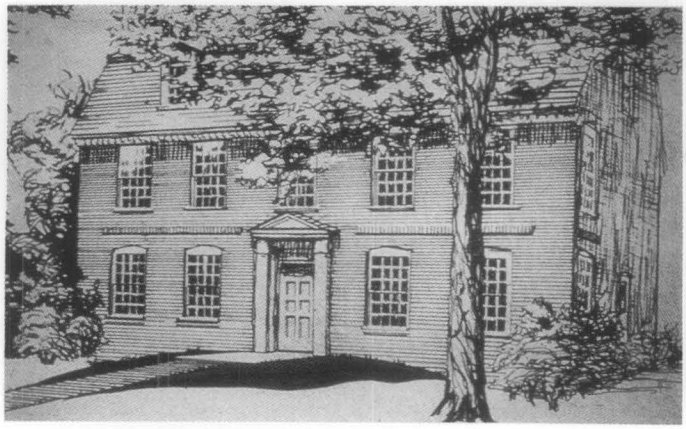
Once a property's significant materials and features have been identified, and existing and required levels of accessibility have been established, solutions can be developed (See Figure 3). Solutions should provide the greatest amount of accessibility without threatening or destroying those materials and features that make a property significant. Modifications may usually be phased over time as funds are available, and interim solutions can be considered until more permanent solutions are implemented. A team comprised of persons with disabilities, accessibility and historic preservation professionals, and building inspectors should be consulted as accessibility solutions are developed.

Modifications to improve accessibility should generally be based on the following priorities:

1) Making the main or a prominent public entrance and primary public spaces accessible, including a path to the entrance;
2) Providing access to goods, services, and programs;
3) Providing accessible restroom facilities; and,
4) Creating access to amenities and secondary spaces.

All proposed changes should be evaluated for conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties," which were created for property owners to guide preservation work. These Standards stress the importance of retaining and protecting the materials and features that convey a property's historical significance. Thus, when new features are incorporated for accessibility, historic materials and features should be retained whenever possible. Accessibility modifications should be in scale with the historic property, visually compatible, and, whenever possible, reversible. Reversible means that if the new feature were removed at a later date, the essential form and integrity of the property would be unimpaired. The design of new features should also be differentiated from the design of the historic property so that the evolution of the property is evident. See Making Historic Buildings Accessible on page 9.

In general, when historic properties are altered, they should be made as accessible as possible. However, if an owner or a project team believes that certain modifications would threaten or destroy the significance of the property, the State Historic Preservation Officer should be consulted to determine whether or not any special accessibility provisions may be used. Special accessibility provisions for historic properties will vary depending on the applicable accessibility requirements.



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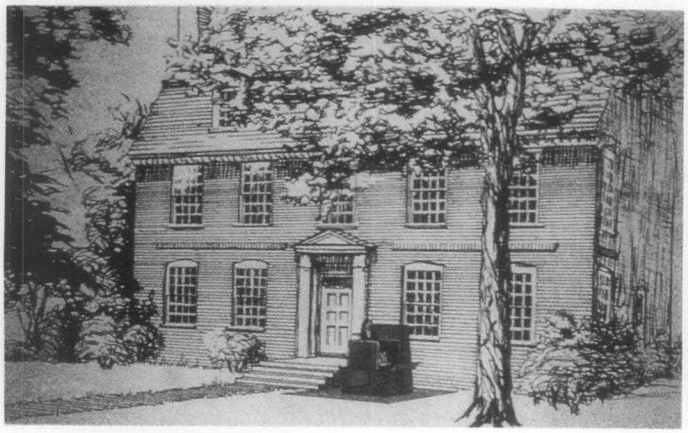

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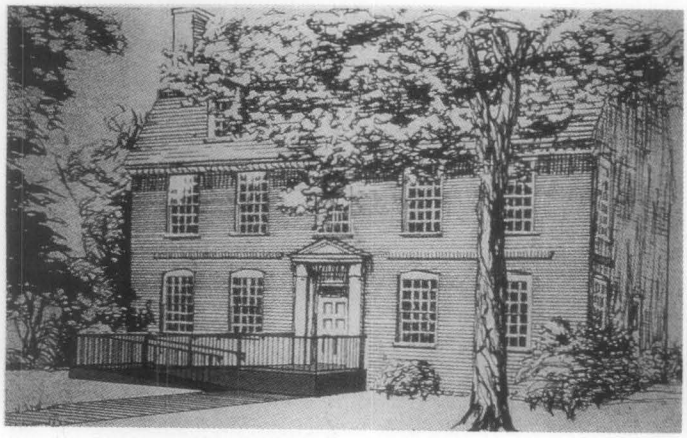

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Figure 3. Before implementing accessibility modifications, owners should consider the potential effect on their historic property. At the Derby House in Salem, Massachusetts, several solutions to make the entrance accessible were considered, including regrading (a); a lift (b); and a ramp (c). The solution, an entrance on a secondary elevation, preserves the building's architectural significance and is convenient to designated parking. Drawings: National Park Service Files..

In some cases, programmatic access may be the only option for extremely small or unaltered historic properties, such as a two-story house museum with no internal elevator. Programmatic access for historic properties refers to alternative methods of providing services, information, and experiences when physical access cannot be provided. It may mean offering an audio-visual program showing a inaccessible upper floor of a historic house museum, providing interpretive panels from a vista at an inaccessible terraced garden, or creating a tactile model of a historic monument for people with visual impairments.

Accessibility Solutions

The goal in selecting appropriate solutions for specific historic properties is to provide a high level of accessibility without compromising significant features or the overall character of the property. The following sections describe accessibility solutions and offer guidance on specific historic property components, namely the building site, entrances, interiors, landscapes, amenities, and new additions. Several solutions are discussed in each section, referencing dimensions and technical requirements from the ADA's accessibility guidelines, ADAAG. State and local requirements, however, may differ from the ADA requirements. Before making any modification owners should be aware of all applicable accessibility requirements.

The Building Site

An accessible route from a parking lot, sidewalk, and public street to the entrance of a historic building or facility is essential. An accessible route, to the maximum extent possible, should be the circulation route used by the general public. Critical elements of accessible routes are their widths, slopes, cross slopes, and surface texture. Each of these route elements must be appropriately designed so that the route can be used by everyone, including people with disabilities. The distance between the arrival and destination points should also be as short as possible. Sites containing designed landscapes should be carefully evaluated before making accessibility modifications. Historic landscapes are described in greater detail on pages 10 and 11.

Providing Convenient Parking. If parking is provided, it should be as convenient as possible for people with disabilities. Specially designated parking can often be created to improve accessibility (See Figure 4). Modifications to parking configurations and pathways should not alter significant landscape features.

Creating an Accessible Route. The route or path through a site to a historic building's entrance should be wide enough, generally at least 3 feet (91 cm), to accommodate visitors

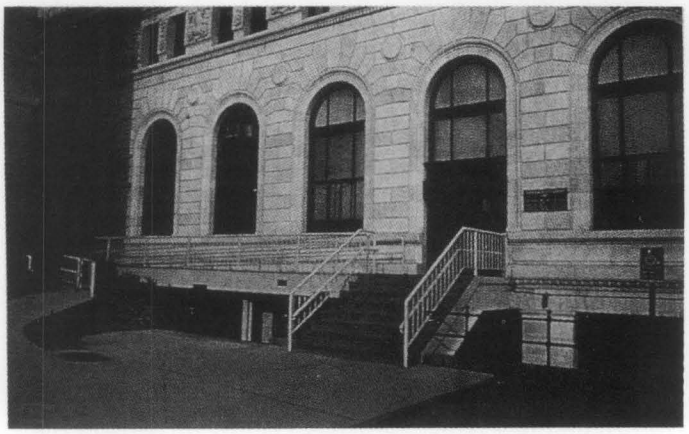


Figure 4. Parking designated for people with disabilities is provided near an accessible entrance to the Springfield Library in Springfield, Massachusetts. Photo: William Smith.

with disabilities and must be appropriately graded with a stable, firm, and slip-resistant surface. Existing paths should be modified to meet these requirements whenever possible as long as doing so would not threaten or destroy significant materials and features.

Existing surfaces can often be stabilized by providing a new base and resetting the paving materials, or by modifying the path surface. In some situations it may be appropriate to create a new path through an inaccessible area. At large properties, it may be possible to regrade a slope to less than 1:20 (5%), or to introduce one or more carefully planned ramps. Clear directional signs should mark the path from arrival to destination.

Entrances

Whenever possible, access to historic buildings should be through a primary public entrance. In historic buildings, if this cannot be achieved without permanent damage to character-defining features, at least one entrance used by the public should be made accessible. If the accessible entrance is not the primary public entrance, directional signs should direct visitors to the accessible entrance (See Figure 5). A rear or service entrance should be avoided as the only mean of entering a building.

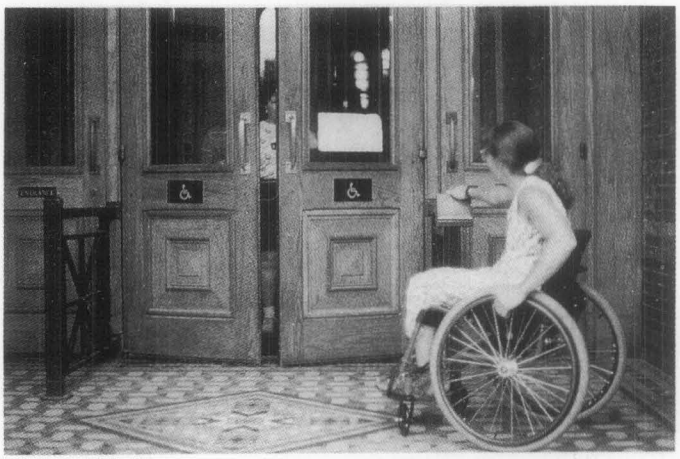
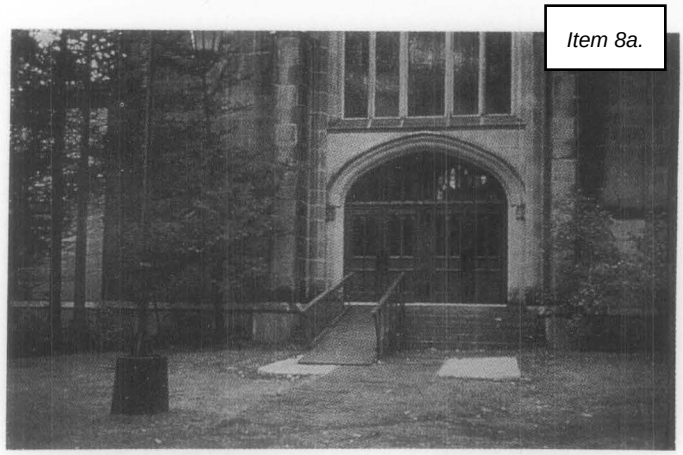


Figure 5. A universal access symbol clearly marks the Arts and Industries Building in Washington, D.C., and a push plate (right) engages the automatic door-opener. Photo: Thomas Jester.

Creating an accessible entrance usually involves overcoming a change in elevation. Steps, landings, doors, and thresholds, all part of the entrance, often pose barriers for persons with disabilities. To preserve the integrity of these features, a number of solutions are available to increase accessibility. Typical solutions include regrading, incorporating ramps, installing wheelchair lifts, creating new entrances, and modifying doors, hardware, and thresholds.

Regrading an Entrance. In some cases, when the entrance steps and landscape features are not highly significant, it may be possible to regrade to provide a smooth entrance into a building. If the existing steps are historic masonry, they should be buried, whenever possible, and not removed (See Figure 6).

Incorporating Ramps. Permanent ramps are perhaps the most common means to make an entrance accessible. As a new feature, ramps should be carefully designed and appropriately located to preserve a property's historic character (See Figure 7). Ramps should be located at public



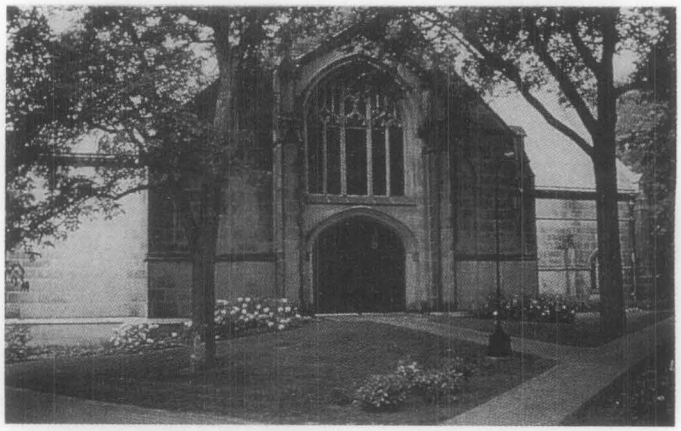


Figure 6. Entrances can be regraded to make a building accessible as long as no significant landscape features will be destroyed and as long as the building's historic character is preserved. The Houghton Chapel (a) in Wellesley, Massachusetts, was made accessible by regrading over the historic steps (b). Photos: Carol R. Johnson & Associates.

Figure 7. This ramp is convenient for visitors with disabilities and preserves the building's historic character. The design is also compatible in scale with the building. Photo: William Smith.

entrances used by everyone whenever possible, preferably where there is minimal change in grade. Ramps should also be located to minimize the loss of historic features at the connection points—porch railings, steps, and windows—and should preserve the overall historic setting and character of the property. Larger buildings may have below grade areas that can accommodate a ramp down to an entrance (See Figure 8). Below grade entrances can be considered if the ramp leads to a publicly used interior, such as an auditorium, or if the building is serviced by a public elevator. Ramps can often be incorporat

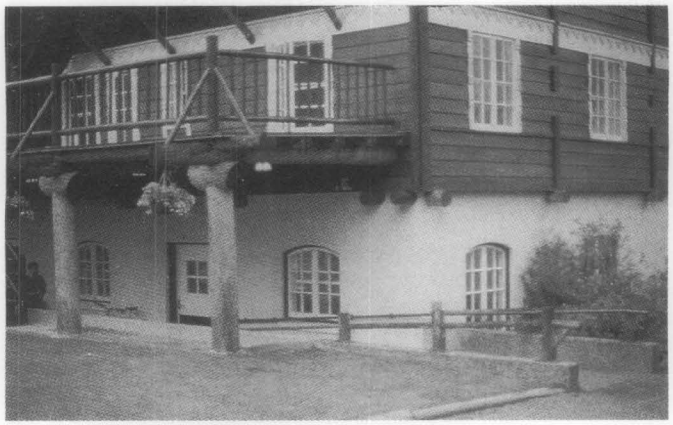


Figure 8. A new below-grade ramp provides access to Lake MacDonald Lodge in Glacier National Park. Photo: Thomas Jester

historic features, such as cheek-walls or railings, to minimize the visual effect (See Figure 9).

The steepest allowable slope for a ramp is usually 1:12 (8%), but gentler slopes should be used whenever possible to accommodate people with limited strength. Greater changes in elevation require larger and longer ramps to meet accessibility scoping provisions and may require an intermediate landing. Most codes allow a slightly steeper ramp for historic buildings to overcome one step.

Ramps can be faced with a variety of materials, including wood, brick, and stone. Often the type and quality of the materials determines how compatible a ramp design will be with a historic property (See Figure 10). Unpainted pressure-treated wood should not be used to construct ramps because it usually appears temporary and is not visually compatible with most historic properties. Railings

Figure 9. This ramp was created by infilling the window-well and slightly modifying the historic railing. The ramp preserves this building's historic character. Photo: Thomas Jester.

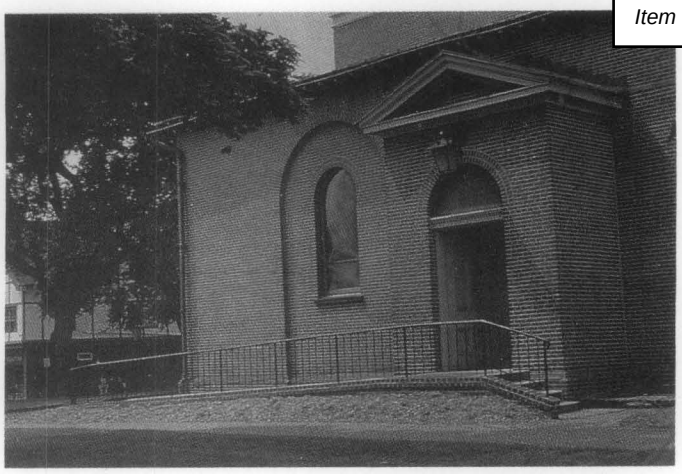


Figure 10. This brick ramp provides access to St. Anne's Episcopal Church in Annapolis, Maryland. Its design is compatible with the historic building. Photo: Charity V. Davidson.

should be simple in design, distinguishable from other historic features, and should extend one foot beyond the sloped area (See Figure 11).

Ramp landings must be large enough for wheelchair users, usually at least 5 feet by 5 feet (152.5 cm by 152.5 cm), and the top landing must be at the level of the door threshold. It may be possible to reset steps by creating a ramp to accommodate minor level changes and to meet the threshold without significantly altering a property's historic character. If a building's existing landing is not wide or deep enough to accommodate a ramp, it may be

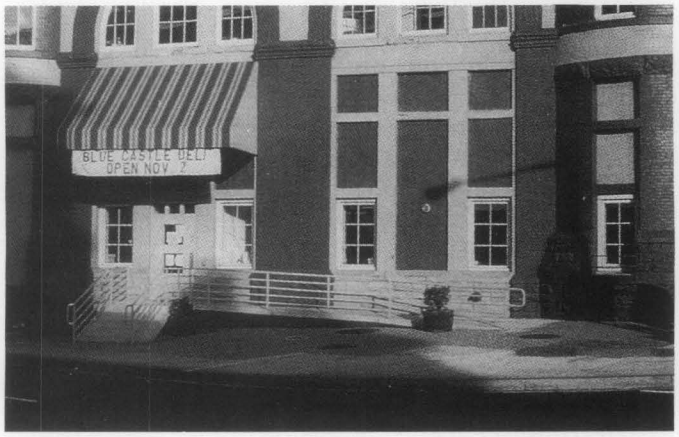


Figure 11. Simple, contemporary railings that extend beyond the ramp slope make this ramp compatible with the industrial character of this building. Photo: Thomas Jester.

necessary to modify the entry to create a wider landing. Long ramps, such as switchbacks, require intermediate landings, and all ramps should be detailed with an appropriate edge and railing for wheelchair users and visually impaired individuals.

Temporary or portable ramps are usually constructed of light-weight materials and, thus, are rarely safe or visually compatible with historic properties. Moreover, portable ramps are often stored until needed and, therefore, do not meet accessibility requirements for independent access. Temporary and portable ramps, however, may be an acceptable interim solution to improve accessibility until a permanent solution can be implemented (See Figure 12).

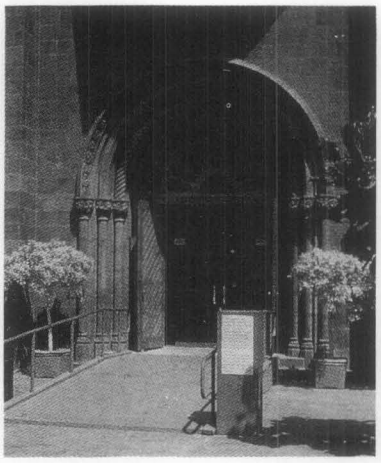


Figure 12. The Smithsonian Institution installed a temporary ramp on its visitor's center to allow adequate time to design an appropriate permanent ramp. Photo: Thomas Jester.

Installing Wheelchair Lifts. Platforms lifts and inclined stair lifts, both of which accommodate only one person, can be used to overcome changes of elevation ranging from three to 10 feet (.9 m-3 m) in height. However, many States have restrictions on the use of wheelchair lifts, so all applicable codes should be reviewed carefully before installing one. Inclined stair lifts, which carry a wheelchair on a platform up a flight of stairs, may be employed selectively. They tend to be visually intrusive, although they are relatively reversible. Platform lifts can be used when there is inadequate space for a ramp. However, such lifts should be installed in unobtrusive locations and under cover to minimize maintenance if at all possible (See Figure 13). A similar, but more expensive platform lift has a retracting railing that lowers into the ground, minimizing the visual effect to historic properties (See Figure 14). Mechanical lifts have drawbacks at historic properties with high public visitation because their capacity is limited, they sometimes cannot be operated independently, and they require frequent maintenance.

Considering a New Entrance. When it is not possible to modify an existing entrance, it may be possible to develop a new entrance by creating an entirely new opening in an appropriate location, or by using a secondary window for an opening. This solution should only be considered after exhausting all possibilities for modifying existing entrances (See Figure 15).

Retrofitting Doors. Historic doors generally should not be replaced, nor should door frames on the primary elevation be widened, as this may alter an important feature of a historic design. However, if a building's historic doors have been removed, there may be greater latitude in designing a compatible new entrance. Most accessibility standards require at least a 32" (82 cm) clear opening with manageable door opening pressures. The most desirable preservation solution to improve accessibility is retaining historic doors and upgrading the door pressure with one of several devices. Automatic door openers

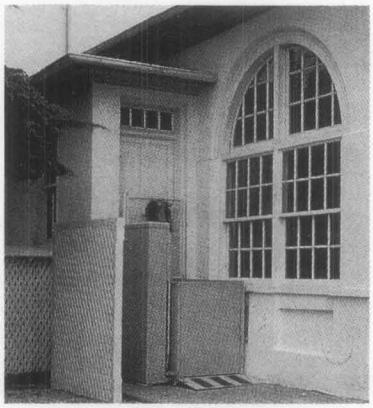
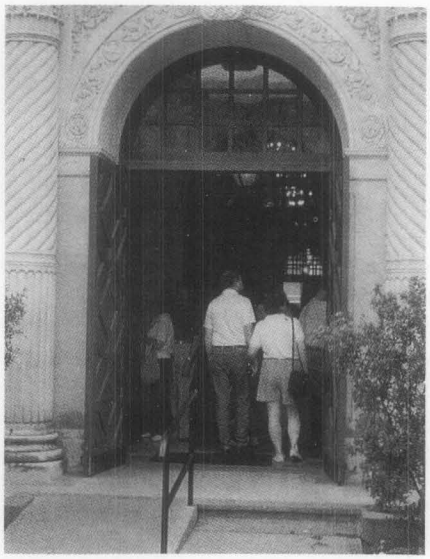


Figure 13. Platform lifts like the one used on this building require minimal space and can be removed without damaging historic materials. Shielded with lattice work, this lift is also protected by the roof eaves. Approach path should be stable, firm, and slip resistant. Photo: Sharon Park.

Readily Achievable Accessibility Modifications



Many accessibility solutions can be implemented easily and inexpensively without destroying the significance of historic properties. While it may not be possible to undertake all of the modifications listed below, each change will improve accessibility.

Sites and Entrances

- Creating a designated parking space.
- Installing ramps.
- Making curb cuts.

Interiors

- Repositioning shelves.
- Rearranging tables, displays, and furniture.
- Repositioning telephones.
- Adding raised markings on elevator control buttons.
- Installing flashing alarm lights.
- Installing offset hinges to widen doorways.
- Installing or adding accessible door hardware.
- Adding an accessible water fountain, or providing a paper cup dispenser at an inaccessible water fountain.

Restrooms

- Installing grab bars in toilet stalls.
- Rearranging toilet partitions to increase maneuvering space.
- Insulating lavatory pipes under sinks to prevent burns.
- Installing a higher toilet seat.
- Installing a full-length bathroom mirror.
- Repositioning the paper towel dispenser.

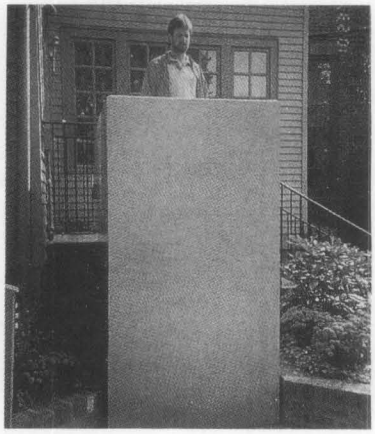


Figure 14. At the Lieutenant Governor's Mansion in Frankfort, Kentucky, a retracting lift (b) was installed to minimize the visual effect on this historic building when not in use (a). Photos: Aging Technology Incorporated.

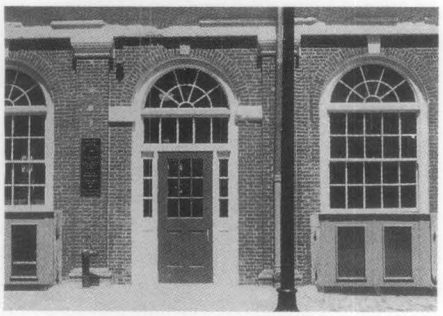


Figure 15. A new entrance to the elevator lobby replaces a window at Faneuil Hall in Boston, Massachusetts. The new entrance is appropriately differentiated from the historic design. Photo: Paul Holtz.

(operated by push buttons, mats, or electronic eyes) and power-assisted door openers can eliminate or reduce door pressures that are accessibility barriers, and make single or double-leaf doors fully operational (See Figure 16).

Adapting Door Hardware. If a door opening is within an inch or two of meeting the 32" (81 cm) clear opening requirement, it may be possible to replace the standard hinges with off-set hinges to increase the size of the door opening as much as 1 1/2" (3.8 cm). Historic hardware can be retained in place, or adapted with the addition of an automatic opener, of which there are several types. Door hardware can also be retrofitted to reduce door pressures. For example, friction hinges can be retrofitted with ball-bearing inserts, and door closers can be rethreaded to reduce the door pressure.

Altering Door Thresholds. A door threshold that exceeds the allowable height, generally 1/2" (1.3 cm), can be altered or removed with one that meets applicable accessibility

Figure 16. During the rehabilitation of the Rookery in Chicago, the original entrance was modified to create an accessible entrance. Two revolving doors were replaced with a new one flanked by new doors, one of which is operated with a push-plate door opener. Photo: Thomas Jester.

requirements. If the threshold is deemed to be significant, a bevel can be added on each side to reduce its height (See Figure 17). Another solution is to replace the threshold with one that meets applicable accessibility requirements and is visually compatible with the historic entrance.

Moving Through Historic Interiors

Persons with disabilities should have independent access to all public areas and facilities inside historic buildings. The extent to which a historic interior can be modified depends on the significance of its materials, plan, spaces, features, and finishes. Primary spaces are often more difficult to modify without changing their character. Secondary spaces may generally be changed without compromising a building's historic character. Signs should clearly mark the route to accessible restrooms, telephones, and other accessible areas.

Installing Ramps and Wheelchair Lifts. If space permits, ramps and wheelchair lifts can also be used to increase accessibility inside buildings (See Figures 18 & 19). However, some States and localities restrict interior uses of wheelchair lifts for life-safety reasons. Care should be taken to install these new features where they can be readily accessed. Ramps and wheelchair lifts are described in detail on pages 4–6.

Upgrading Elevators. Elevators are an efficient means of providing accessibility between floors. Some buildings have existing historic elevators that are not adequately accessible for persons with disabilities because of their size, location, or detailing, but they may also contribute to the historical significance of a building. Significant historic elevators can usually be upgraded to improve accessibility. Control panels can be modified with a "wand" on a cord to make the control panel accessible, and timing devices can usually be adjusted.

Retrofitting Door Knobs. Historic door knobs and other hardware may be difficult to grip and turn. In recent years, lever-handles have been developed to replace door knobs. Other lever-handle devices can be added to existing hardware. If it is not possible or appropriate to retrofit existing door knobs, doors can be left open during operating hours (unless doing so would violate life safety codes), and power-assisted door openers can be installed. It may only be necessary to retrofit specific doorknobs to create an accessible path of travel and accessible restr

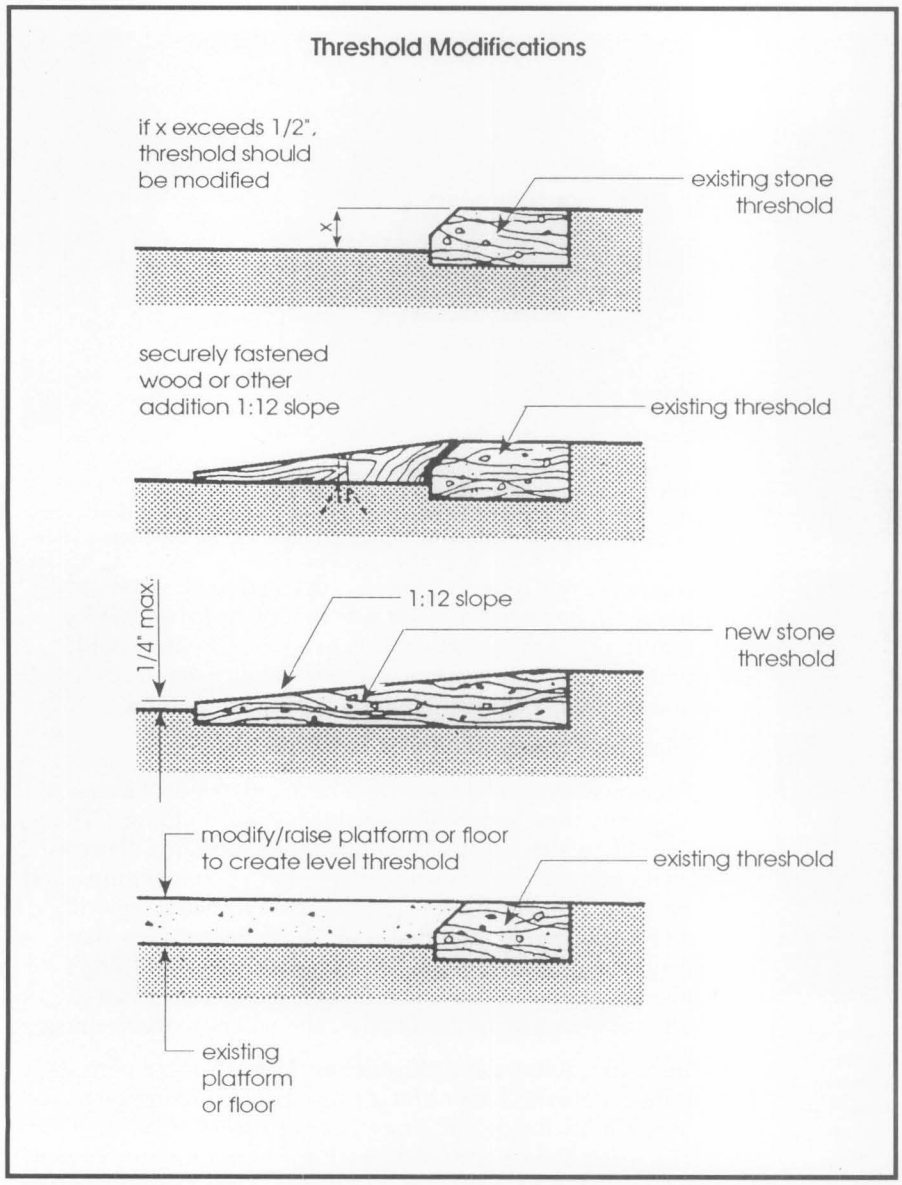


Figure 17. Thresholds that exceed allowable heights can be modified several ways to increase accessibility. Source: Uniform Federal Accessibility Standard (UFAS) Retrofit Manual.

Modifying Interior Stairs. Stairs are the primary barriers for many people with disabilities. However, there are some ways to modify stairs to assist people who are able to navigate them. It may be appropriate to add hand railings if none exist. Railings should be 1 1/4" (3.8 cm) in diameter and return to the wall so straps and bags do not catch. Color-contrasting, slip-resistant strips will help people with visual impairments. Finally, beveled or closed risers are recommended unless the stairs are highly significant, because open risers catch feet (See Figure 20).

Building Amenities

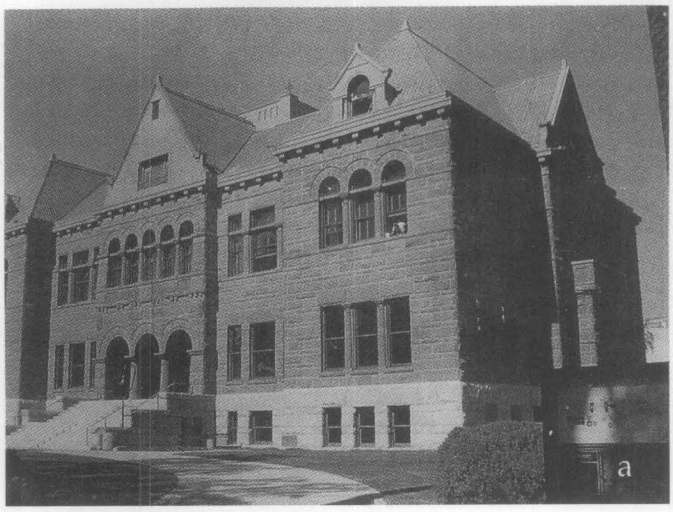
Some amenities in historic buildings, such as restrooms, seating, telephones, drinking fountains, counters, may contribute to a building's historic character. They will often require modification to improve their use by persons with disabilities. In many cases, supplementing existing amenities, rather than changing or removing them, will increase access and minimize changes to historic features and materials.

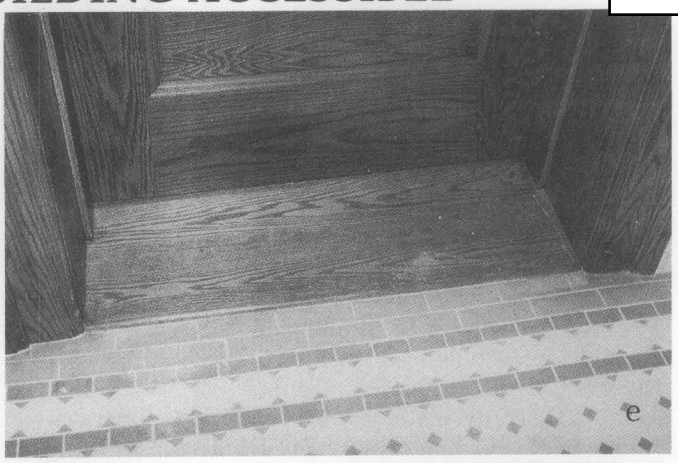
Upgrading Restrooms. Restrooms may have historic fixtures such as sinks, urinals, or marble partitions that can be retained in the process of making modifications. For example, larger restrooms can sometimes be reconfigured by relocating or combining partitions to create an accessible toilet stall. Other changes to consider are adding grab bars around toilets, covering hot water pipes under sinks with insulation to prevent burns, and providing a sink, mirror, and paper dispenser at a height suitable for wheelchair users. A unisex restroom may be created if it is technically infeasible to create two fully accessible restrooms, or if doing so would threaten or destroy the significance of the building. It is important to remember that restroom fixtures, such as sinks, urinals, and partitions, may be historic, and therefore, should be preserved whenever possible.

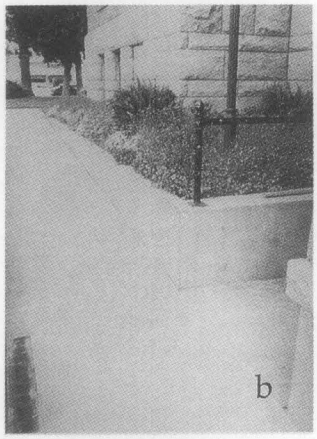
Modifying Other Amenities. Other amenities inside historic buildings may require modification. Seating in a theater, for example, can be made accessible by removing some seats in several areas (See Figure 21). New seating that is accessible can also be added at the end of existing rows, either with or without a level floor surface. Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users. Historic water fountains can be retained and new, two-tiered fountains installed if space permits. If public telephones are provided, it may be necessary to install at least a Text Telephone (TT), also known as a Telecommunication Device for the Deaf (TDD) (See Figure 22). Historic service counters commonly found in banks, theaters, and hotels generally should not be altered. It is preferable to add an accessible counter on the end of a historic counter if feasible. Modified or new counters should not exceed 36" (91.5 cm) in height.

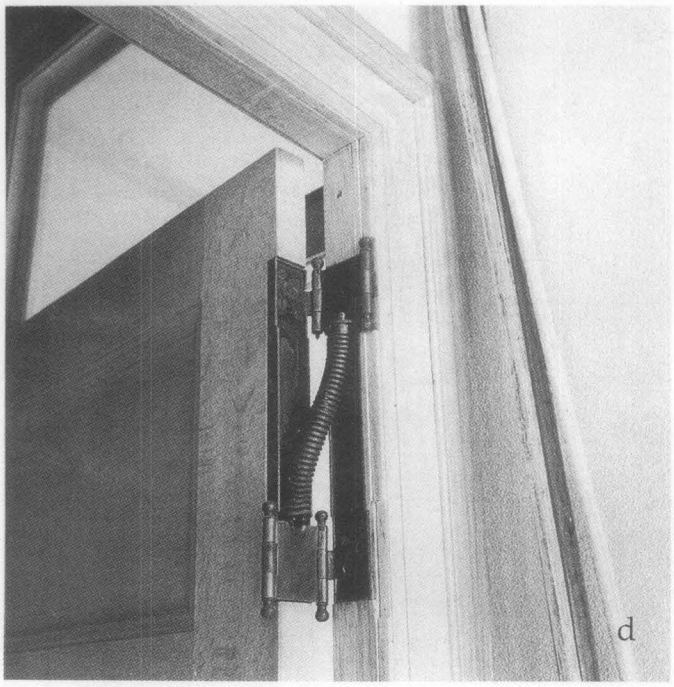
Figure 18. Symmetrical ramps at the Mayflower Hotel in Washington, D.C., provide access to the hotel's lower level. The design for the ramps respects the historic character of this landmark building. Photo: Thomas Jester.

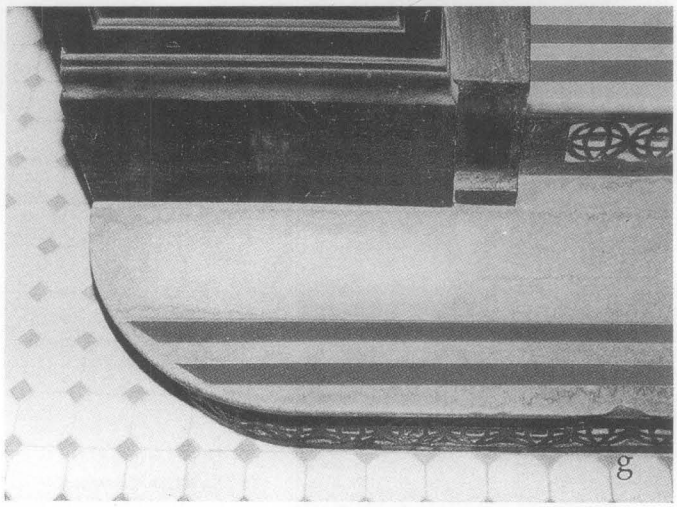
MAKING A HISTORIC BUILDING ACCESSIBLE











The Orange County Courthouse (a), located in Santa Ana, California, was rehabilitated in the late 1980s as a county museum. As part of the rehabilitation, the architect sensitively integrated numerous modifications to increase accessibility. To preserve the building's primary elevation, a new public entrance was created on the rear elevation where parking spaces are located. A ramp (b) leads to the accessible entrance that can be opened with a push-plate automatic door-opener (c). Modifications to interior features also increased accessibility. To create an accessible path of travel, offset hinges (d) were installed on doors that were narrower than 32 inches (81.3 cm). Other doors were rethreaded to reduce the door pressure. Beveling the 1" high thresholds (e) reduced their height to approximately 1/4 inch (.64 cm). The project architect also converted a storeroom into an accessible restroom (f). The original stairway, which has open grillwork, was made more accessible by applying slip-resistant pressure tape to the marble steps (g). And the original elevator was upgraded with raised markings, alarm lights, and voice floor indicators. Photos: Milford Wayne Donaldson, FAIA.

MAKING HISTORIC LANDSCAPES ACCESSIBLE

To successfully incorporate access into historic landscapes, the planning process is similar to that of other historic properties. Careful research and inventory should be undertaken to determine which materials and features convey the landscape's historical significance. As part of this evaluation, those features that are character-defining (topographical variation, vegetation, circulation, structures, furnishings, objects) should be identified. Historic finishes, details, and materials that also contribute to a landscape's significance should also be documented and evaluated prior to determining an approach to landscape accessibility. For example, aspects of the pedestrian circulation system that need to be understood include walk width, aggregate size, pavement pattern, texture, relief, and joint details. The context of the walk should be understood including its edges and surrounding area. Modifications to surface textures or widths of pathways can often be made with minimal effect on significant landscape features (a) and (b).

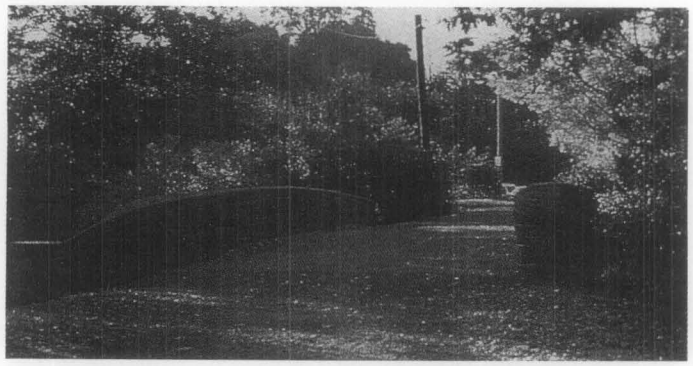
Additionally, areas of secondary importance such as altered paths should be identified -- especially those where the accessibility modifications will not destroy a landscape's significance. By identifying those features that are contributing or non-contributing, a sympathetic circulation experience can then be developed.

After assessing a landscape's integrity, accessibility solutions can be considered. Full access throughout a historic landscape may not always be possible. Generally, it is easier to provide accessibility to larger, more open sites where there is a greater variety of public experiences. However, when a landscape is uniformly steep, it may only be possible to make discrete portions of a historic landscape accessible, and viewers may only be able to experience the landscape from selected vantage points along a prescribed pedestrian or vehicular access route. When defining such a route, the interpretive value of the user experience should be considered; in other words, does the route provide physical or visual access to those areas that are critical to understand the meaning of the landscape?

The following accessibility solutions address three common landscape situations: 1) structures with low integrity landscapes; 2) structures and landscapes of equal significance; and, 3) landscapes of primary significance with inaccessible terrain.

1. The Hunnewell Visitors Center at the Arnold Arboretum in Jamaica Plain, Massachusetts, was constructed in 1892. Its immediate setting has changed considerably over time (c). Since the existing landscape immediately surrounding this structure has little remaining integrity, the new accessibility solution has the latitude to integrate a broad program including site orientation, circulation, interpretation, and maintenance.

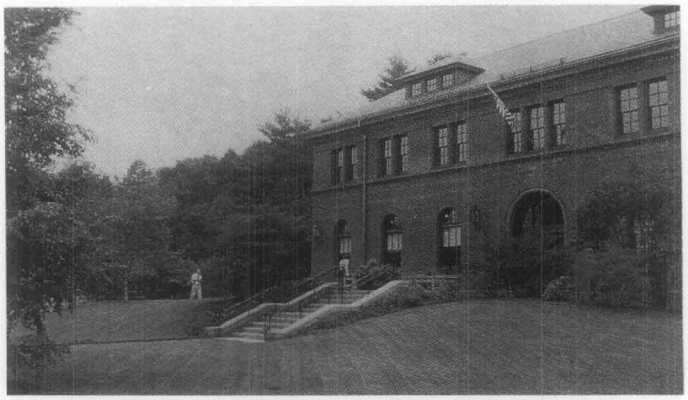
   The new design, which has few ornamental plants, references the original planting design principles, with a strong emphasis on form, color, and texture. In contrast with the earlier designs, the new plantings were set away from the facade of this historic building,



(a.) To improve accessibility in Boston's Emerald Necklace Parks, standard asphalt paving was replaced in selected areas with an imbedded aggregate surface that is more in keeping with the landscape's historic appearance. Photo: Charles Birnbaum.

(b.) The Friendly Garden at Ranchos Los Alamitos, a historic estate with designed gardens in southern California, was made accessible with limited widening of its existing approach path. Photo: Ranchos Los Alamitos Foundation.

(c.) Hunnewell Visitor's Center before rehabilitation, revealing the altered landscapes. Photo: Jennifer Jones, Carol R. Johnson and associates.

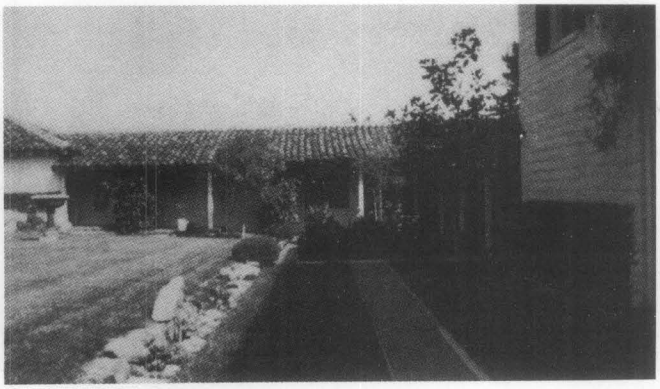


(d.) Hunnewell Visitors Center's entrance following rehabilitation, integrating an accessible path (left), platform, and new steps. Photo: Charles Birnbaum.

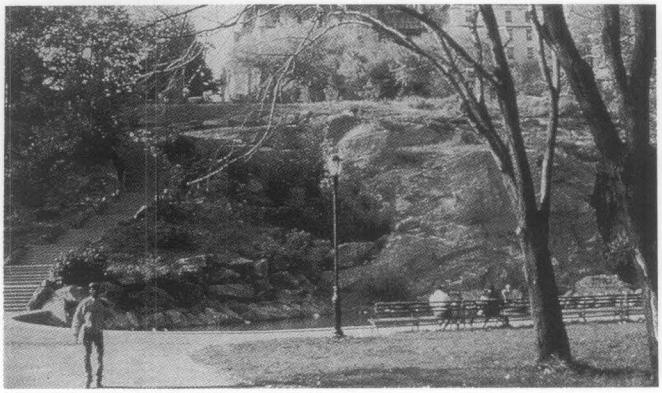
allowing the visitor to enjoy its architectural detail. A new walk winds up the gentle earthen berm and is vegetated with plantings that enhance the interpretive experience from the point of orientation (d). The new curvilinear walks also provide a connection to the larger arboretum landscape for everyone.

2. The Eugene O'Neill National Historic Site overlooks the San Ramon Valley, twenty-seven miles east of San Francisco, California. The thirteen-acre site includes a walled courtyard garden on the southeast side of the Tao House, which served as the O'Neill residence from 1937-44 (e). Within this courtyard are character-defining walks that are too narrow by today's accessibility standards, yet are a character-defining element of the historic design. To preserve the garden's integrity, the scale and the characteristics of the original circulation were maintained by creating a wheelchair route which, in part, utilizes reinforced turf. This route allows visitors with disabilities to experience the main courtyard as well.

3. Morningside Park in New York City, New York, designed by Frederick Olmstead, Sr., and Calvert Vaux in 1879, is sited on generally steep, rocky terrain (f). Respecting these dramatic grade changes, which are only accessible by extensive flights of stone stairs, physical access cannot be provided without destroying the park's integrity. In order to provide some accessibility, scenic overlooks were created that provide broad visual access to the park.



(e.) This view shows the new reinforced turf path at the Eugene O'Neill National Historic Site that preserved the narrow Historic Path. Photo: Patricia M. O'Donnell.



(f.) Steep terrain at Morningside Park in New York City cannot be made accessible without threating or destroying this landscape's integrity. Photo: Quennell Rothschild Associates.

Figure 19. Inclined lifts can sometimes overcome interior changes of elevation where space is limited. This lift in Boston's Faneuil Hall created access to the floor and stage level of the State Room. Photo: Paul Holtz.

Considering a New Addition as an Accessibility Solution

Many new additions are constructed specifically to incorporate modern amenities such as elevators, restrooms, fire stairs, and new mechanical equipment. These new additions often create opportunities to incorporate access for people with disabilities. It may be possible, for example, to create an accessible entrance, path to public levels via a ramp, lift, or elevator (See Figure 23). However, a new addition has the potential to change a historic property's appearance and destroy significant building and landscape features. Thus, all new additions should be compatible with the size, scale, and proportions of historic features and materials that characterize a property (See Figure 24).

New additions should be carefully located to minimize connection points with the historic building, such that if the addition were to be removed in the future, the essential form and integrity of the building would remain intact. On the other hand, new additions should also be conveniently located near parking that is connected to an accessible route for people with disabilities. As new additions are incorporated, care should be taken to protect significant landscape features and archeological resources. Finally, the design for any new addition should be differentiated from the historic design so that the property's evolution over time is clear. New additions frequently make it possible to increase accessibility, while simultaneously reducing the level of change to historic features, materials, and spaces.

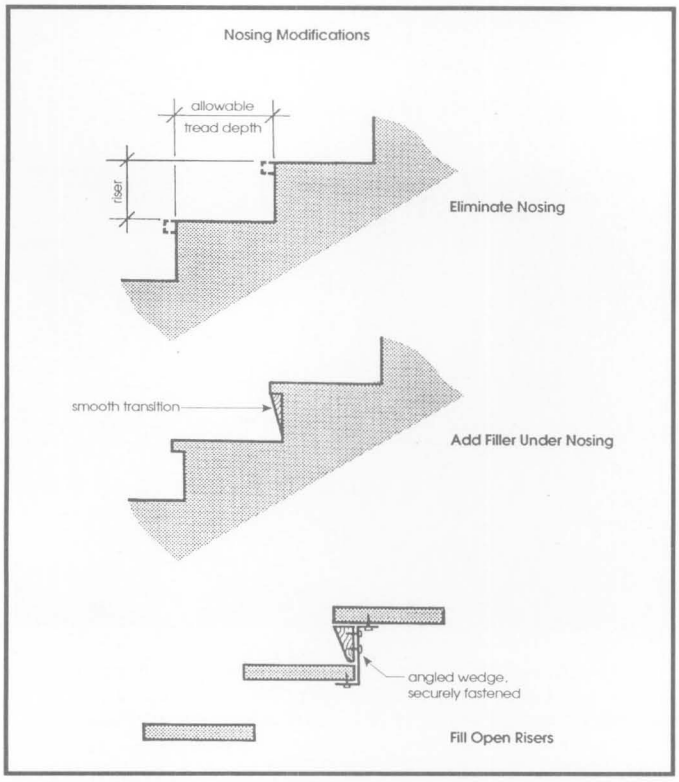


Figure 20. In certain situations it may be appropriate to modify stair nosings for persons with mobility impairments. Whenever possible, stairs should be modified by adding new materials rather than removing historic materials. Source: UFAS Retrofit Manual.

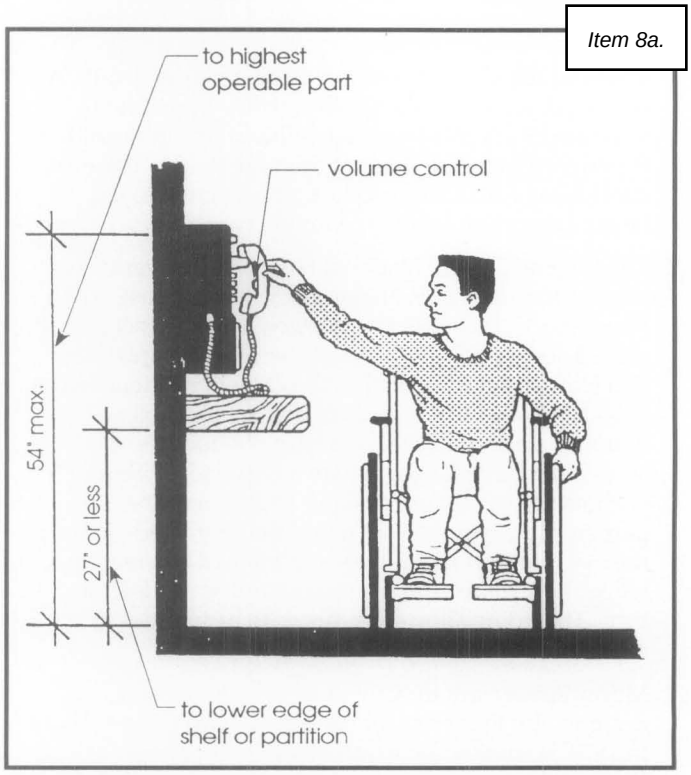


Figure 22. Amenities such as telephones should be at height that wheelchair users can reach. Changes to many amenities can be adapted with minimal effect on historic materials, features, and spaces. Source: UFAS Retrofit Manual.

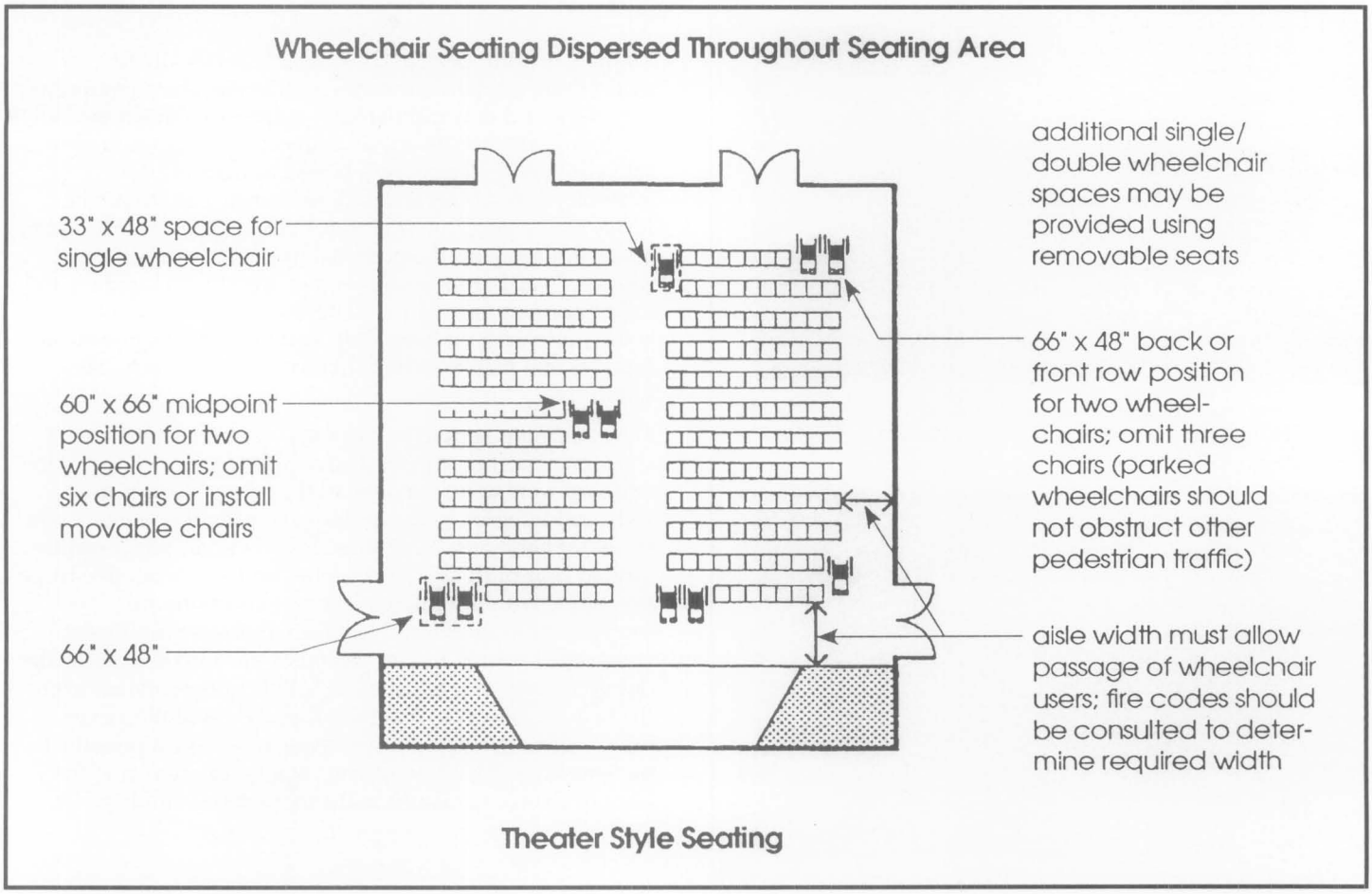


Figure 21. Seating in historic theaters and auditoriums can be changed to accommodate wheelchair users. Accessible seating areas should be c accessible route from the building entrance. Source: UFAS Retrofit Manual.

Federal Accessibility Laws

Today, few building owners are exempt from providing accessibility for people with disabilities. Before making any accessibility modification, it is imperative to determine which laws and codes are applicable. In addition to local and State accessibility codes, the following federal accessibility laws are currently in effect:

Architectural Barriers Act (1968)

The Architectural Barriers Act stipulates that all buildings designed, constructed, and altered by the Federal Government, or with federal assistance, must be accessible. Changes made to federal buildings must meet the Uniform Federal Accessibility Standards (UFAS). Special provisions are included in UFAS for historic buildings that would be threatened or destroyed by meeting full accessibility requirements.

Rehabilitation Act (1973)

The Rehabilitation Act requires recipients of federal financial assistance to make their programs and activities accessible to everyone. Recipients are allowed to make their properties accessible by altering their building, by moving programs and activities to accessible spaces, or by making other accommodations.

Americans with Disabilities Act (1990)

Historic properties are not exempt from the Americans with Disabilities Act (ADA) requirements. To the greatest extent possible, historic buildings must be as accessible as non-historic buildings. However, it may not be possible for some historic properties to meet the general accessibility requirements.

Under Title II of the ADA, State and local governments must remove accessibility barriers either by shifting services and programs to accessible buildings, or by making alterations to existing buildings. For instance, a licensing office may be moved from a second floor to an accessible first floor space, or if this is not feasible, a mail service might be provided. However, State and local government facilities that have historic preservation as their main purpose—State-owned historic museums, historic State capitols that offer tours—must give priority to physical accessibility.

Under Title III of the ADA, owners of "public accommodations" (theaters, restaurants, retail shops, private museums) must make "readily achievable" changes; that is, changes that can be easily accomplished without much expense. This might mean installing a ramp, creating accessible parking, adding grab bars in bathrooms, or modifying door hardware. The requirement to remove barriers when it is "readily achievable" is an ongoing responsibility. When alterations, including restoration and rehabilitation work, are made, specific accessibility requirements are triggered.

Recognizing the national interest in preserving historic properties, Congress established alternative requirements for properties that cannot be made accessible without "threatening or destroying" their significance. A consultation process is outlined in the ADA's Accessibility Guidelines for owners of historic properties who believe that making specific accessibility modifications would "threaten or destroy" the significance of their property. In these situations, after consulting with persons with disabilities and disability organizations, building owners should contact the State Historic Preservation Officer (SHPO) to determine if the special accessibility provisions for historic properties may be used. Further, if it is determined in consultation with the SHPO that compliance with the minimum requirements would also "threaten or destroy" the significance of the property, alternative methods of access, such as home delivery and audio-visual programs, may be used.

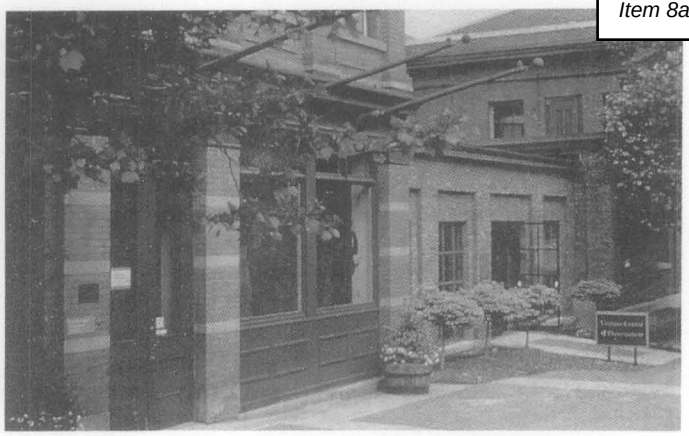


Figure 23. New additions to historic buildings can be designed to increase accessibility. A new addition links two adjacent buildings used for the Albany, New York, Visitor's Center, and incorporates an accessible entrance, restrooms, and signage. Photo: Clare Adams.

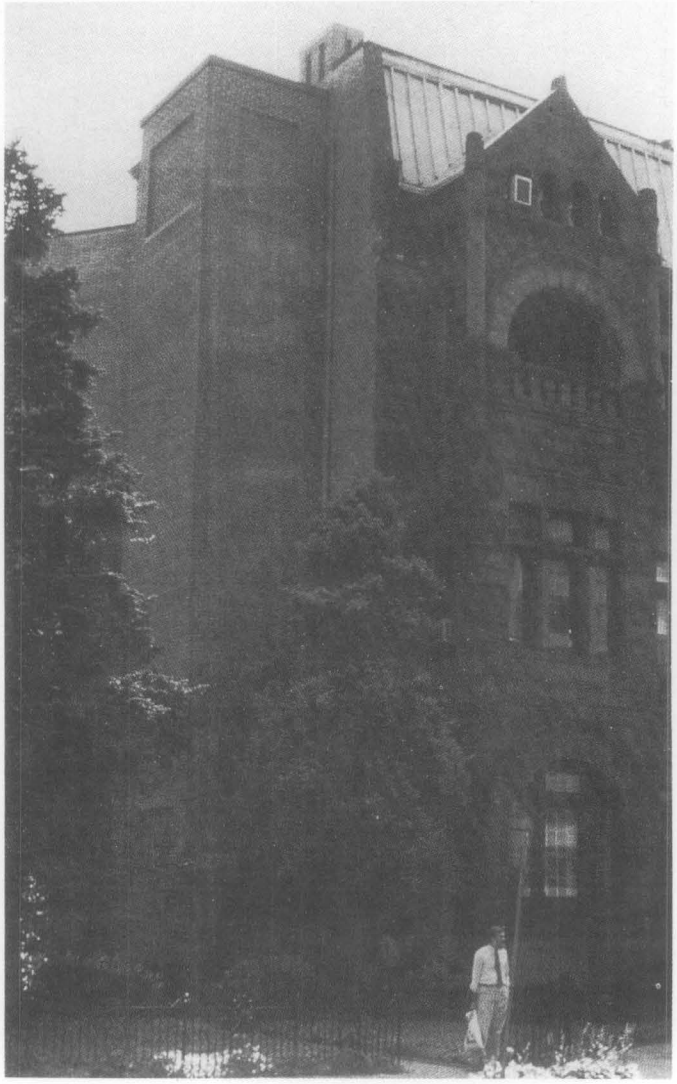


Figure 24. Creating an accessible entrance with a new elevator tower requires a compatible design. This elevator addition blends in with the historic building's materials and provides access to all public levels. Photo: Sharon Park.

Conclusion

Historic properties are irreplaceable and require special care to ensure their preservation for future generations. With the passage of the Americans with Disabilities Act, access to historic properties open to the public is a now civil right, and owners of historic properties must evaluate existing buildings and determine how they can be made more accessible. It is a challenge to evaluate properties thoroughly, to identify the applicable accessibility requirements, to explore alternatives and to implement solutions that provide independent access and are consistent with accepted historic preservation standards. Solutions for accessibility should not destroy a property's significant materials, features and spaces, but should increase accessibility as much as possible. Most historic buildings are not exempt from providing accessibility, and with careful planning, historic properties can be made more accessible, so that all citizens can enjoy our Nation's diverse heritage.

Photo: Massachusetts Historical Commission.

Additional Reading

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Acknowledgements

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PRESERVATION BRIEFS

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Making Historic Properties Accessible

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Accessible historic building. Photo: NPS files.

Historically, most buildings and landscapes were not designed to be readily accessible for people with disabilities. In recent years, however, emphasis has been placed on preserving historically significant properties, and on making these properties-and the activities within them-more accessible to people with disabilities. With the passage of the Americans with Disabilities Act in 1990, access to properties open to the public is now a civil right.

A significant entrance may be difficult to modify. Although a special challenge, sensitive changes can almost always be made to provide access while preserving the unique historic character. Photo: NPS files.

This Preservation Brief introduces the complex issue of providing accessibility at historic properties, and underscores the need to balance accessibility and historic preservation. It provides guidance on making historic properties accessible while preserving their historic character; the Brief also provides examples to show that independent physical accessibility at historic properties can be achieved with careful planning, consultation, and sensitive design. While the Brief focuses primarily on making buildings and their sites accessible, it also includes a section on historic landscapes. The Brief will assist historic property owners, design professionals, and administrators in evaluating their historic properties so that the highest level of accessibility can be provided while minimizing changes to historic materials and features. Because many projects encompassing accessibility work are complex, it is advisable to consult with experts in the fields of historic preservation and accessibility before proceeding with permanent physical changes to historic properties.

Modifications to historic properties to increase accessibility may be as simple as a small, inexpensive ramp to overcome one entrance step, or may involve changes to exterior and interior features. The Brief does not provide a detailed explanation of local or State accessibility laws as they vary from jurisdiction to jurisdiction. A concise explanation of several federal accessibility laws is included below.

Planning Accessibility Modifications return to top ▲

Historic properties are distinguished by features, materials, spaces, and spatial relationships that contribute to their historic character. Often these elements, such as steep terrain, monumental steps, narrow or heavy doors, decorative ornamental hardware, and narrow pathways and corridors, pose barriers to persons with disabilities, particularly to wheelchair users.

A three-step approach is recommended to identify and implement accessibility modifications that will protect the integrity and historic character of historic properties:

1. Review the historical significance of the property and identify character-defining features;
2. Assess the property's existing and required level of accessibility; and
3. Evaluate accessibility options within a preservation context.

1. Review the Historical Significance

If the property has been designated as historic (properties that are listed in, or eligible for listing in the National Register of Historic Places, or designated under State or local law), the property's nomination file should be reviewed to learn about its significance. Local preservation commissions and State Historic Preservation Offices can usually provide copies of the nomination file and are also resources for additional information and assistance. Review of the written documentation should always be supplemented with a physical investigation to identify which character defining features and spaces must be protected whenever any changes are anticipated. If the level of documentation for a property's significance is limited, it may be necessary to have a preservation professional identify specific historic features, materials, and spaces that should be protected.

This accessibility ramp is compatible with the historic building in scale and materials. Photo: William Smith.

For most historic properties, the construction materials, the form and style of the property, the principal elevations, the major architectural or landscape features, and the principal public spaces constitute some of the elements that should be preserved. Every effort should be made to minimize damage to the materials and features that convey a property's historical significance when making modifications for accessibility. Very small or highly significant properties that have never been altered may be extremely difficult to modify.

Secondary spaces and finishes and features that may be less important to the historic character should also be identified; these may generally be altered without jeopardizing the historical significance of a property. Nonsignificant spaces, secondary pathways, later additions, previously altered areas, utilitarian spaces, and service areas can usually be modified without threatening or destroying a property's historical significance.

2. Assess the Property's Existing and Required Level of Accessibility

A building survey or assessment will provide a thorough evaluation of a property's accessibility. Most surveys identify accessibility barriers in the following areas: building and site entrances; surface textures, widths and slopes of walkways; parking; grade changes; size, weight and configuration of doorways; interior corridors and path of travel restrictions; elevators; and public toilets and amenities. Simple audits can be completed by property owners using readily available checklists (See Further Reading). Accessibility specialists can be hired to assess barriers in more complex properties, especially those with multiple buildings, steep terrain, or interpretive programs. Persons with disabilities can be particularly helpful in assessing specific barriers.

All applicable accessibility requirements—local codes, State codes and federal laws—should be reviewed carefully before undertaking any accessibility modification. Since many States and localities have their own accessibility regulations and codes (each with their own requirements for dimensions and technical requirements), owners should use the most stringent accessibility requirements when implementing modifications. The Americans with Disability Act Accessibility Guidelines (ADAAG) is the document that should be consulted when complying with the Americans with Disabilities Act (ADA) requirements.

3. Identify and Evaluate Accessibility Options within a Preservation Context

Once a property's significant materials and features have been identified, and existing and required levels of accessibility have been established, solutions can be developed. Solutions should provide the greatest amount of accessibility without threatening or destroying those materials and features that make a property significant. Modifications may usually be phased over time as funds are available, and interim solutions can be considered until more permanent solutions are implemented. A team comprised of persons with disabilities, accessibility and historic preservation professionals, and building inspectors should be consulted as accessibility solutions are developed.

Modifications to improve accessibility should generally be based on the following priorities:

1. Making the main or a prominent public entrance and primary public spaces accessible, including a path to the entrance;

2. Providing access to goods, services, and programs;
3. Providing accessible restroom facilities; and,
4. Creating access to amenities and secondary spaces.

The ramp's scale and materials are inconsistent with the historic character of the building. Photo: NPS files.

All proposed changes should be evaluated for conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties," which were created for property owners to guide preservation work. These Standards stress the importance of retaining and protecting the materials and features that convey a property's historical significance. Thus, when new features are incorporated for accessibility, historic materials and features should be retained whenever possible. Accessibility modifications should be in scale with the historic property, visually compatible, and, whenever possible, reversible. Reversible means that if the new feature were removed at a later date, the essential form and integrity of the property would be unimpaired. The design of new features should also be differentiated from the design of the historic property so that the evolution of the property is evident.

In general, when historic properties are altered, they should be made as accessible as possible. However, if an owner or a project team believes that certain modifications would threaten or destroy the significance of the property, the State Historic Preservation Officer should be consulted to determine whether or not any special accessibility provisions may be used. Special accessibility provisions for historic properties will vary depending on the applicable accessibility requirements.

In some cases, programmatic access may be the only option for extremely small or unaltered historic properties, such as a two-story house museum with no internal elevator. Programmatic access for historic properties refers to alternative methods of providing services, information, and experiences when physical access cannot be provided. It may mean offering an audio-visual program showing an inaccessible upper floor of a historic house museum, providing interpretive panels from a vista at an inaccessible terraced garden, or creating a tactile model of a historic monument for people with visual impairments.

Accessibility Solutions return to top ▲

The goal in selecting appropriate solutions for specific historic properties is to provide a high level of accessibility without compromising significant features or the overall character of the property. The following sections describe accessibility solutions and offer guidance on specific historic property components, namely the building site, entrances, interiors, landscapes, amenities, and new additions. Several solutions are discussed in each section, referencing dimensions and technical requirements from the ADA's accessibility guidelines, ADAAG. State and local requirements, however, may differ from the ADA requirements. Before making any modification owners should be aware of all applicable accessibility requirements.

The Building Site

An accessible route from a parking lot, sidewalk, and public street to the entrance of a historic building or facility is essential. An accessible route, to the maximum extent possible, should be the circulation route used by the general public. Critical elements of accessible routes are their widths, slopes, cross slopes, and surface texture. Each of these route elements must be appropriately designed so that the route can be used by everyone, including people with disabilities.

The significant building site is now accessible to people with disabilities (note steps in front of ramp). Photo: NPS files.

The distance between the arrival and destination points should also be as short as possible. Sites containing designed landscapes should be carefully evaluated before making accessibility modifications. Historic landscapes are described in greater detail below.

Providing Convenient Parking

If parking is provided, it should be as convenient as possible for people with disabilities. Specially designated parking can often be created to improve accessibility. Modifications to parking configurations and pathways should not alter significant landscape features.

Creating an Accessible Route

The route or path through a site to a historic building's entrance should be wide enough, generally at least 3 feet (91 cm), to accommodate visitors with disabilities and must be appropriately graded with a stable, firm, and slip-resistant surface. Existing paths should be modified to meet these requirements whenever possible as long as doing so would not threaten or destroy significant materials and features.

Existing surfaces can often be stabilized by providing a new base and resetting the paving materials, or by modifying the path surface. In some situations it may be appropriate to create a new path through an inaccessible area. At large properties, it may be

possible to regrade a slope to less than 1:20 (5%), or to introduce one or more carefully planned ramps. Clear directional signs should mark the path from arrival to destination.

Entrances

The historic threshold was made accessible with a 1/2" wood bevel. Photo: NPS files.

Whenever possible, access to historic buildings should be through a primary public entrance. In historic buildings, if this cannot be achieved without permanent damage to character-defining features, at least one entrance used by the public should be made accessible. If the accessible entrance is not the primary public entrance, directional signs should direct visitors to the accessible entrance. A rear or service entrance should be avoided as the only mean of entering a building.

Creating an accessible entrance usually involves overcoming a change in elevation. Steps, landings, doors, and thresholds, all part of the entrance, often pose barriers for persons with disabilities. To preserve the integrity of these features, a number of solutions are available to increase accessibility. Typical solutions include regrading, incorporating ramps, installing wheelchair lifts, creating new entrances, and modifying doors, hardware, and thresholds.

Regrading an Entrance

In some cases, when the entrance steps and landscape features are not highly significant, it may be possible to regrade to provide a smooth entrance into a building. If the existing steps are historic masonry, they should be buried, whenever possible, and not removed.

Incorporating Ramps

Permanent ramps are perhaps the most common means to make an entrance accessible. As a new feature, ramps should be carefully designed and appropriately located to preserve a property's historic character.

A new elevator entrance was provided next to the stairs to provide universal access to the services inside. Photo: Courtesy, GSA.

Ramps should be located at public entrances used by everyone whenever possible, preferably where there is minimal change in grade. Ramps should also be located to minimize the loss of historic features at the connection points-porch railings, steps, and windows-and should preserve the overall historic setting and character of the property. Larger buildings may have below grade areas that can accommodate a ramp down to an entrance. Below grade entrances can be considered if the ramp leads to a publicly used interior, such as an auditorium, or if the building is serviced by a public elevator. Ramps can often be incorporated behind historic features, such as cheek-walls or railings, to minimize the visual effect.

The steepest allowable slope for a ramp is usually 1:12 (8%), but gentler slopes should be used whenever possible to accommodate people with limited strength. Greater changes in elevation require larger and longer ramps to meet accessibility scoping provisions and may require an intermediate landing. Most codes allow a slightly steeper ramp for historic buildings to overcome one step.

Ramps can be faced with a variety of materials, including wood, brick, and stone. Often the type and quality of the materials determines how compatible a ramp design will be with a historic property. Unpainted pressure-treated wood should not be used to construct ramps because it usually appears temporary and is not visually compatible with most historic properties.

Railings should be simple in design, distinguishable from other historic features, and should extend one foot beyond the sloped area.

Ramp landings must be large enough for wheelchair users, usually at least 5 feet by 5 feet (152.5 cm by 152.5 cm), and the top landing must be at the level of the door threshold. It may be possible to reset steps by creating a ramp to accommodate minor level changes and to meet the threshold without significantly altering a property's historic character. If a building's existing landing is not wide or deep enough to accommodate a ramp, it may be necessary to modify the entry to create a wider landing. Long ramps, such as switchbacks, require intermediate landings, and all ramps should be detailed with an appropriate edge and railing for wheelchair users and visually impaired individuals.

Temporary or portable ramps are usually constructed of light-weight materials and, thus, are rarely safe or visually compatible with historic properties. Moreover, portable ramps are often stored until needed and, therefore, do not meet accessibility requirements for independent access. Temporary and portable ramps, however, may be an acceptable interim solution to improve accessibility until a permanent solution can be implemented.

Installing Wheelchair Lifts

Platform lifts and inclined stair lifts, both of which accommodate only one person, can be used to overcome changes of elevation ranging from three to 10 feet (.9 m-3 m) in height. However, many States have restrictions on the use of wheelchair lifts, so all applicable codes should be reviewed carefully before installing one. Inclined stair lifts, which carry a wheelchair on a platform up a flight of stairs, may be employed selectively. They tend to be visually intrusive, although they are relatively reversible. Platfor

can be used when there is inadequate space for a ramp. However, such lifts should be installed in unobtrusive locations and un cover to minimize maintenance if at all possible. A similar, but more expensive platform lift has a retracting railing that lowers the ground, minimizing the visual effect to historic properties. Mechanical lifts have drawbacks at historic properties with high public visitation because their capacity is limited, they sometimes cannot be operated independently, and they require frequent maintenance.

Considering a New Entrance

When it is not possible to modify an existing entrance, it may be possible to develop a new entrance by creating an entirely new opening in an appropriate location, or by using a secondary window for an opening. This solution should only be considered after exhausting all possibilities for modifying existing entrances.

Retrofitting Doors

Historic doors generally should not be replaced, nor should door frames on the primary elevation be widened, as this may alter an important feature of a historic design. However, if a building's historic doors have been removed, there may be greater latitude in designing a compatible new entrance. Most accessibility standards require at least a 32" (82 cm) clear opening with manageable door opening pressures. The most desirable preservation solution to improve accessibility is retaining historic doors and upgrading the door pressure with one of several devices. Automatic door openers (operated by push buttons, mats, or electronic eyes) and power-assisted door openers can eliminate or reduce door pressures that are accessibility barriers, and make single or double-leaf doors fully operational.

Adapting Door Hardware

If a door opening is within an inch or two of meeting the 32" (81 cm) clear opening requirement, it may be possible to replace the standard hinges with off-set hinges to increase the size of the door opening as much as 1 Ω" (3.8 cm). Historic hardware can be retained in place, or adapted with the addition of an automatic opener, of which there are several types. Door hardware can also be retrofitted to reduce door pressures. For example, friction hinges can be retrofitted with ball-bearing inserts, and door closers can be rethreaded to reduce the door pressure.

This door handle has been retrofitted to meet ADA requirements. Photo: NPS files.

Altering Door Thresholds

A door threshold that exceeds the allowable height, generally 1/2" (1.3 cm), can be altered or removed with one that meets applicable accessibility requirements. If the threshold is deemed to be significant, a bevel can be added on each side to reduce its height. Another solution is to replace the threshold with one that meets applicable accessibility requirements and is visually compatible with the historic entrance.

Readily Acheivable Accesibility Options

Many accessibility solutions can be implemented easily and inexpensively without destroying the significance of historic properties. While it may not be possible to undertake all of the modifications listed below, each change will improve accessibility.

Sites and Entrances

- Creating a designated parking space.
- Installing ramps.
- Making curb cuts.

Interiors

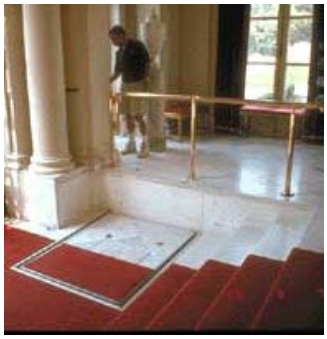
- Repositioning shelves.
- Rearranging tables, displays, and furniture.
- Repositioning telephones.
- Adding raised markings on elevator control buttons.
- Installing flashing alarm lights.
- Installing offset hinges to widen doorways.
- Installing or adding accessible door hardware.
- Adding an accessible water fountain, or providing a paper cup dispenser at an inaccessible water fountain.

Restrooms

- Installing grab bars in toilet stalls.
- Rearranging toilet partitions to increase maneuvering space.

- Insulating lavatory pipes under sinks to prevent burns.
- Installing a higher toilet seat.
- Installing a full-length bathroom mirror.
- Repositioning the paper towel dispenser.

Moving Through Historic Interiors



A retractable lift for this historic building foyer was created using "like" materials. Photo: NPS files.

Persons with disabilities should have independent access to all public areas and facilities inside historic buildings. The extent to which a historic interior can be modified depends on the significance of its materials, plan, spaces, features, and finishes. Primary spaces are often more difficult to modify without changing their character. Secondary spaces may generally be changed without compromising a building's historic character. Signs should clearly mark the route to accessible restrooms, telephones, and other accessible areas.

Installing Ramps and Wheelchair Lifts

If space permits, ramps and wheelchair lifts can also be used to increase accessibility inside buildings. However, some States and localities restrict interior uses of wheelchair lifts for life-safety reasons. Care should be taken to install these new features where they can be readily accessed. Ramps and wheelchair lifts are described below.

Upgrading Elevators

Elevators are an efficient means of providing accessibility between floors. Some buildings have existing historic elevators that are not adequately accessible for persons with disabilities because of their size, location, or detailing, but they may also contribute to the historical significance of a building. Significant historic elevators can usually be upgraded to improve accessibility. Control panels can be modified with a "wand" on a cord to make the control panel accessible, and timing devices can usually be adjusted.

Retrofitting Door Knobs

Historic door knobs and other hardware may be difficult to grip and turn. In recent years, lever-handles have been developed to replace door knobs. Other lever-handle devices can be added to existing hardware. If it is not possible or appropriate to retrofit existing door knobs, doors can be left open during operating hours (unless doing so would violate life safety codes), and power-assisted door openers can be installed. It may only be necessary to retrofit specific doorknobs to create an accessible path of travel and accessible restrooms.

Modifying Interior Stairs

Stairs are the primary barriers for many people with disabilities. However, there are some ways to modify stairs to assist people who are able to navigate them. It may be appropriate to add hand railings if none exist. Railings should be 1 º" (3.8 cm) in diameter and return to the wall so straps and bags do not catch. Color-contrasting, slip-resistant strips will help people with visual impairments. Finally, beveled or closed risers are recommended unless the stairs are highly significant, because open risers catch feet.

Building Amenities

Some amenities in historic buildings, such as restrooms, seating, telephones, drinking fountains, counters, may contribute to a building's historic character. They will often require modification to improve their use by persons with disabilities. In many cases, supplementing existing amenities, rather than changing or removing them, will increase access and minimize changes to historic features and materials.

Upgrading Restrooms

Restrooms may have historic fixtures such as sinks, urinals, or marble partitions that can be retained in the process of making modifications. For example, larger restrooms can sometimes be reconfigured by relocating or combining partitions to create an accessible toilet stall. Other changes to consider are adding grab bars around toilets, covering hot water pipes under sinks with insulation to prevent burns, and providing a sink, mirror, and paper dispenser at a height suitable for wheelchair users. A unisex restroom may be created if it is technically infeasible to create two fully accessible restrooms, or if doing so would threaten or destroy the significance of the building. It is important to remember that restroom fixtures, such as sinks, urinals, and partitions, may be historic, and therefore, should be preserved whenever possible.

Modifying Other Amenities

Other amenities inside historic buildings may require modification. Seating in a theater, for example, can be made accessible by removing some seats in several areas. New seating that is accessible can also be added at the end of existing rows, either with or without a level floor surface. Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users. Historic water fountains can be retained and new, two-tiered fountains installed if space permits. If public telephones are provided, it may be necessary to install at least a Text Telephone (TT), also known as a Telecommunica

Device for the Deaf (TDD. Historic service counters commonly found in banks, theaters, and hotels generally should not be alte It is preferable to add an accessible counter on the end of a historic counter if feasible. Modified or new counters should not ex 36" (91.5 cm) in height.

Considering a New Addition as an Accessibility Solution return to top ▲

Many new additions are constructed specifically to incorporate modern amenities such as elevators, restrooms, fire stairs, and new mechanical equipment. These new additions often create opportunities to incorporate access for people with disabilities. It may be possible, for example, to create an accessible entrance, path to public levels via a ramp, lift, or elevator. However, a new addition has the potential to change a historic property's appearance and destroy significant building and landscape features. Thus, all new additions should be compatible with the size, scale, and proportions of historic features and materials that characterize a property.

New additions should be carefully located to minimize connection points with the historic building, such that if the addition were to be removed in the future, the essential form and integrity of the building would remain intact. On the other hand, new additions should also be conveniently located near parking that is connected to an accessible route for people with disabilities. As new additions are incorporated, care should be taken to protect significant landscape features and archeological resources. Finally, the design for any new addition should be differentiated from the historic design so that the property's evolution over time is clear. New additions frequently make it possible to increase accessibility, while simultaneously reducing the level of change to historic features, materials, and spaces.

Making Historic Landscapes Accessible return to top ▲

To successfully incorporate access into historic landscapes, the planning process is similar to that of other historic properties. Careful research and inventory should be undertaken to determine which materials and features convey the landscape's historical significance. As part of this evaluation, those features that are character-defining (topographical variation, vegetation, circulation, structures, furnishings, objects) should be identified. Historic finishes, details, and materials that also contribute to a landscape's significance should also be documented and evaluated prior to determining an approach to landscape accessibility. For example, aspects of the pedestrian circulation system that need to be understood include walk width, aggregate size, pavement pattern, texture, relief, and joint details. The context of the walk should be understood including its edges and surrounding area. Modifications to surface textures or widths of pathways can often be made with minimal effect on significant landscape features.

Additionally, areas of secondary importance such as altered paths should be identified-especially those where the accessibility modifications will not destroy a landscape's significance. By identifying those features that are contributing or non-contributing, a sympathetic circulation experience can then be developed.

After assessing a landscape's integrity, accessibility solutions can be considered. Full access throughout a historic landscape may not always be possible. Generally, it is easier to provide accessibility to larger, more open sites where there is a greater variety of public experiences. However, when a landscape is uniformly steep, it may only be possible to make discrete portions of a historic landscape accessible, and viewers may only be able to experience the landscape from selected vantage points along a prescribed pedestrian or vehicular access route. When defining such a route, the interpretive value of the user experience should be considered; in other words, does the route provide physical or visual access to those areas that are critical to understand the meaning of the landscape?

Federal Accessibility Laws return to top ▲

The automatic door to this museum building is a practical solution for

Today, few building owners are exempt from providing accessibility for people with disabilities. Before making any accessibility modification, it is imperative to determine which laws and codes are applicable. In addition to local and State accessibility codes, the following federal accessibility laws are currently in effect:

Architectural Barriers Act (1968)

The Architectural Barriers Act stipulates that all buildings designed, constructed, and altered by the Federal Government, or with federal assistance, must be accessible. Changes made to federal buildings must meet the Uniform Federal Accessibility Standards (UFAS). Special provisions are included in UFAS for historic buildings that would be threatened or destroyed by meeting full accessibility requirements.

Rehabilitation Act (1973)

The Rehabilitation Act requires recipients of federal financial assistance to make their programs and activities accessible to everyone. Recipients are allowed to make their properties accessible by altering their building, by moving programs and activities to accessible spaces, or by making other accommodations.

universal entry. Photo: NPS files.

Americans with Disabilities Act (1990)

Historic properties are not exempt from the Americans with Disabilities Act (ADA) requirements. To the greatest extent possible, historic buildings must be as accessible as non-historic buildings. However, it may not be possible for some historic properties to meet the general accessibility requirements.

Under Title II of the ADA, State and local governments must remove accessibility barriers either by shifting services and programs to accessible buildings, or by making alterations to existing buildings. For instance, a licensing office may be moved from a second floor to an accessible first floor space, or if this is not feasible, a mail service might be provided. However, State and local government facilities that have historic preservation as their main purpose-State-owned historic museums, historic State capitols that offer tours-must give priority to physical accessibility.

Under Title III of the ADA, owners of "public accommodations" (theaters, restaurants, retail shops, private museums) must make "readily achievable" changes; that is, changes that can be easily accomplished without much expense. This might mean installing a ramp, creating accessible parking, adding grab bars in bathrooms, or modifying door hardware. The requirement to remove barriers when it is "readily achievable" is an ongoing responsibility. When alterations, including restoration and rehabilitation work, are made, specific accessibility requirements are triggered.

Recognizing the national interest in preserving historic properties, Congress established alternative requirements for properties that cannot be made accessible without "threatening or destroying" their significance. A consultation process is outlined in the ADA's Accessibility Guidelines for owners of historic properties who believe that making specific accessibility modifications would "threaten or destroy" the significance of their property. In these situations, after consulting with persons with disabilities and disability organizations, building owners should contact the State Historic Preservation Officer (SHPO) to determine if the special accessibility provisions for historic properties may be used. Further, if it is determined in consultation with the SHPO that compliance with the minimum requirements would also 'threaten or destroy" the significance of the property, alternative methods of access, such as home delivery and audio-visual programs, may be used.

Summary and References return to top ▲

Historic properties are irreplaceable and require special care to ensure their preservation for future generations. With the passage of the Americans with Disabilities Act, access to historic properties open to the public is a now civil right, and owners of historic properties must evaluate existing buildings and determine how they can be made more accessible. It is a challenge to evaluate properties thoroughly, to identify the applicable accessibility requirements, to explore alternatives and to implement solutions that provide independent access and are consistent with accepted historic preservation standards. Solutions for accessibility should not destroy a property's significant materials, features and spaces, but should increase accessibility as much as possible. Most historic buildings are not exempt from providing accessibility, and with careful planning, historic properties can be made more accessible, so that all citizens can enjoy our Nation's diverse heritage.

Acknowledgements

Thomas C. Jester is an Architectural Historian with the Preservation Assistance Division of the National Park Service. **Sharon C. Park**, AIA, is the Senior Historical Architect with the Preservation Assistance Division, National Park Service.

The authors wish to thank Charles A. Birnbaum, ASLA, Historical Landscape Architect with the Preservation Assistance Division, National Park Service, for contributing the section on historic landscapes. The authors gratefully acknowledge the invaluable comments made by the following individuals who reviewed the draft manuscript: William Smith, Massachusetts Historical Commission; Kay Weeks, H. Ward Jandl, Michael Auer, and Charles A. Birnbaum, Preservation Assistance Division, National Park Service; Clare Adams, New York Department of Parks, Recreation and Historic Preservation; Lauren Bowlin, Maryland Historical Trust; Tom Mayes, National Trust for Historic Preservation; Elizabeth Igleheart, Maine Historic Preservation Commission; Milford Wayne Donaldson, FAIA; Paul Beatty, U.S. Architectural and Transportation Barriers Compliance Board; Mid-Atlantic Regional Office, National Park Service; Western Regional Office, National Park Service.

This publication has been prepared pursuant to the National Historic Preservation Act of 1966, as amended, which directs the Secretary of the Interior to develop and make available information concerning historic properties. Technical Preservation Services (TPS), National Park Service prepares standards, guidelines, and other educational materials on responsible historic preservation treatments for a broad public.

September 1993

Reading List return to top ▲

Ballantyne, Duncan S. and Harold Russell Associates, Inc. *Accommodation of Disabled Visitors at Historic Sites in the National Park System.* Washington, D.C.: Park Historic Architecture Division, National Park Service, U.S. Department of the Interior, 1983.

Goldman, Nancy. Ed. *Readily Achievable Checklist: A Survey for Accessibility.* Boston: Adaptive Environments Center, 1993.

Hayward, Judith L. and Thomas C. Jester, compilers. *Accessibility and Historic Preservation Resource Guide.* Windsor, Vermont: Historic Windsor, Inc., 1992, revised 1993.

Jester, Thomas C. *Preserving the Past and Making it Accessible for People with Disabilities.* Washington, D.C.: Preservation Assistance Division, National Park Service, U.S. Department of the Interior, 1992.

Parrott, Charles. *Access to Historic Buildings for the Disabled.* Washington, D.C.: U.S. Department of the Interior, 1980.

Secretary of the Interior's Standards for the Treatment of Historic Properties. Washington, D.C.: Preservation Assistance Division, National Park Service, U.S. Department of the Interior, 1993.

Smith, William D. and Tara Goodwin Frier. *Access to History: A Guide to Providing Access to Historic Buildings for People with Disabilities*. Boston: Massachusetts Historical Commission, 1989.

Standards for Accessible Design: ADA Accessibility Guidelines (ADAAG). Washington, D.C.: U.S. Department of Justice, 1991.

From: NWKayakgirl Kayak
To: Christina Robertson-Gardiner
Subject: RE: AP-21-00006.
Date: Wednesday, February 16, 2022 4:04:43 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greetings to Oregon City City Commission
Christina Roberston-Gardiner, Senior Planner

Please accept my reflection and comments on the proposal for application for ADA proposed ramp on the 5th street and Jackson construction. I have attended all the previous meetings, but I am called to work tonight and unable to present any comments in person.

I continue to ask the questions and have yet to see anything that satisfactorily addresses the concerns that were raised by myself and the McLoughlin Neighborhood Association. We have asked for a demonstration for why residential ADA accommodations cannot be used on this "residential building". There are excellent ADA wheelchair affordable options without sacrificing the historic look of the historic residential/business building that was approved in the initial stages. We have also inquired about additional surveys for the stability of the hillside or encroachment into the forest, and yet to receive further information.

Thus far there are little to no details that address these concerns. Personally, I read the phrases “family medical care needs” and quotes of random ADA laws, these do not answer the questions. I see their concerns for a family medical needs, which leads me to wonder, why these were not addressed from the start of the project and only now raised after the building is nearing completion.

Please continue to ask the questions and protect the integrity of the buildings in this neighborhood, the safety of construction on the hillside, and the preservation of the forest that holds back the hillside from the buildings below. The owner's submissions continue to be incomplete and do not answer the questions raised.

Thank you for your diligence.

Jilene Modlin

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION

DATE: January 26, 2022
TO: Oregon City City Commission
Christina Robertson-Gardiner, Senior Planner
FROM: McLoughlin Neighborhood Association
RE: AP-21-00006
1020 5th Street

As has been the case with all submittals on the subject development, the applicant has provided little to no detail to afford adequate review.

The application - in its entirety - states:

"The Historic Review Board decision does not meet the owner's family medical care needs, also the applicable Federal ADA standards and applicable Federal ADA Law ADA Act 42 USC &12182 et seq (ADA) mobility impairment requirement use of wheelchair."

U.S. Code Title 42—THE PUBLIC HEALTH AND WELFARE is the overarching title which encompasses Chapter 126 regarding disabilities.

§12182. Prohibition of discrimination by public accommodations
This section addresses access to public spaces and does not apply to the private residence under review.

The "family medical care needs" are not described. The applicant has not even made the effort to cite the relevant chapter of the US Code, and refers to one section that is inapplicable. No analysis or argument beyond the above citations has been provided. The applicant has repeatedly failed to consider feasible alternatives to the ramp or provide cost comparisons. Once again, the applicant's submittal is incomplete for review.

Thank you for your consideration.

CITY OF OREGON CITY

Community Development Department, 320 Warner Milne Road,
P.O. Box 3040, Oregon City, OR 97045, (503) 657-0891
www.ci.oregon-city.or.us

APPEAL OF A LAND USE DECISION

FILE # AP EL UA 21-00052 (of File #) HR-21-00020 DATE: 12/16/2021

NAME: Bogdan Smolinets TELEPHONE #: 503-504-6754

ADDRESS: 15730 SE Bybee DR Portland OR 97236

ADDRESS OR PROPERTY DESCRIPTION (T/R/S) OF SUBJECT PROPERTY:

1020 5th Street Oregon City, OR 97045

SUBJECT OF APPEAL: NOTICE OF DECISION DATE: 12/02/21 For File #:

The undersigned hereby appeal(s) the decision of the Historic Review Board

concerning the subject case. The decision to approve_____ deny ____ the application was made at the meeting held on November 30th.

REASONS FOR APPEAL: Please include a statement identifying which approval criteria are violated by the decision and an explanation of how those criteria are violated, or stating how the decision is otherwise in violation of applicable law. Please see Chapter 17.50 of Oregon City Municipal Code for Administration & Procedures concerning Appeals.

Historic review board decision does not meet the owners family medical care needs, also the applicable Federal ADA Standards, and Federal ADA law. ADA Act, 42. U.S.C & 12182 et seq. (ADA), Mobility impairments requiring the use of a wheel chair.

FILING FEE PAID: _____ DATE PAID: _____ RECEIPT NO.: _____

Property Owner Signature — Address: 5835 SW Hamilton St. Portland, OR 97221

Property Owner Signature — Address

****SIGNATURES REQUIRED IF APPLICABLE****

Signature — Address

_____ Contract Purchaser _____ Lessee ____ Prospective Purchaser

OREGON CITY

Community Development – Planning
695 Warner Parrott Rd. | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

TYPE III – HISTORIC REVIEW
NOTICE OF DECISION
December 1, 2021

FILE NO.:	GLUA 21-00052 / HR-21-00020 Modification of HR 20-00001
1at HEARING DATE:	September 28,- 2021 7:00 p.m. – Commission Chambers, Libke Public Safety Building 1234 Linn Ave Oregon, City, Oregon 97045
APPLICANT:	Bogdan Smolinets NW Custom Homes Inc. 15730 SE Bybee Rd Portland, OR 97236
OWNER:	Teresa Yip 5835 SW Hamilton St Portland, OR 97221
LOCATION:	1020 5th Street Oregon City, OR 97045 Clackamas County Map 2-2E-31DA-10900
REQUEST:	Exterior modifications to HR 20-01 including but not limited to the inclusion of an ADA ramp and change in final foundation height for a new live/work building in the McLoughlin Conservation District.
DECISION:	On November 30, 2021, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Oregon City Historic Review Board voted 4-0 to approve the proposal with conditions. The Oregon City Historic Review Board adopted as its own the Staff Report with findings and Conditions of Approval for File Number HR 21-20. The complete record for the Historic Review Board decision is on file at the Planning Division.

Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. The process for these land use decisions is controlled by ORS 197.763 and identified in OCMC 17.50. The decision of the Historic Review Board is appealable to the City Commission within fourteen days of the issuance of the final decision. Please be advised that any issue that is intended to provide a basis for appeal must be raised before the close of the hearing, in person or by letter, with sufficient specificity to afford the Historic Review Board and the parties an opportunity to respond to the issue. Failure to raise an issue with sufficient specificity will preclude any appeal on that issue. The decision of the Historic Review Board may be appealed to the City Commission by parties with standing. Any appeal will be based on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The City Commission decision on appeal from the planning commission is the city's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

Additional Findings by the Historic Review Board

During the deliberation of this application, the Board found that the applicant failed to provide an adequate alternatives analysis to demonstrate that the larger ramp that access the rear of the building was the only feasible option. The Board also found that the applicant failed to provide sufficient findings to demonstrate that the design was compatible with the district. They additionally found that the larger rear access ramp design further erodes the foursquare architectural design of the building by lengthening the massing 19 additional feet.

Conditions of Approval

HR 21-20

These conditions modify but do no replace the conditions found in HR 20-01. The applicant shall continue to reference both approvals as they finalize the building and ramp design.

(P) = Verify that condition of approval has been met with the Planning Division.
(DS) = Verify that condition of approval has been met with the Development Services Division.
(B) = Verify that condition of approval has been met with the Building Division.
(F) = Verify that condition of approval has been met with Clackamas Fire Department.

1. The Applicant shall obtain all needed Building permits, any additional Geohazard Review, and Type I Site Plan and Design Review for the ADA ramp prior to construction. (B,P,DS)
2. The Historic Review Board does not approve the rear access ADA ramp as submitted. If the applicant wishes to further pursue this option, they should submit for a separate HRB review under a new application. (P)
3. The Board finds that the full ADA ramp to the rear elevation and revised foundation height cannot be found to be compatible with the massing and design of the approved structure and sufficiently mitigated, the following requirements apply:
    a. The ADA ramp shall be revised to access the side door only.
    b. The Applicant shall provide a plan to backfill the remainder of the side yard with rockery walls to the extent practicable and appropriate for a geohazard area and provide mitigation planting with the same type of plants proposed in the submitted landscape plan. Landscape plant details may change but must meet the minimum mature height and width of the approved plant types.
    c. The smaller ADA ramp shall utilize the proposed enclosed lap siding design or a simple balusters style handrail with top and bottom rails attached perpendicularly to the balusters.
    d. The ADA ramp structure shall start at or beyond the front porch and connect to the sidewalk via a concrete ADA path. The front portion of the ADA ramp in front of the porch shall be poured concrete.
    e. The Applicant shall utilize foundation vent wells to allow as much backfill soil as possible adjacent to the foundation wall.
    f. The ADA ramp elements shall be painted or paint-stained to match the body paint of the house.
    g. No exposed pressure-treated wood is allowed.
    h. All walls associated with the ramp shall be poured in place concrete, real basalt veneer, or natural rockery walls. The existing wall built without permits shall be revised to meet the above material standard per HR 20-01 Conditions of Approval.
    i. The HRB encourages the Applicant to work with the Building Division to design an internal ADA access to the upper floors. (B,P)

3. The following windows are approved by the Historic Review Board

- **Window 7** – an additional fixed square dormer window does not change the compatibility of the elevation- approved by Staff.
- **Window set 5 –** Revised the window set was lowered to match the abutting window set after the front dormer was required to be removed from the final plans per HR 20-01 (P)

4. Proposed revisions to the side elevations included in the record for this application will continue to be reviewed and approved by Staff per HR 20-01 Conditions of Approval #4. All new windows not proposed in HR 20-01 shall be 1:1 hung windows or fixed/awning/casement square windows (P)

OREGON CITY

Community Development – Planning

695 Warner Parrott Rd. | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

Historic Review
REVISED
Staff Report and Recommendation
November 23, 2021

A preliminary analysis of the applicable approval criteria is enclosed within the following staff report. All applicable criteria shall be met or met with conditions in order to be approved. The Historic Review Board may choose to adopt the findings as recommended by Staff or alter any finding as determined appropriate.

FILE NO.:	GLUA 21-00052 / HR-21-00020 Modification of HR 20-00001
1st HEARING DATE:	September 28,- 2021 7:00 p.m. – Commission Chambers, Libke Public Safety Building 1234 Linn Ave Oregon, City, Oregon 97045
APPLICANT:	Bogdan Smolinets NW Custom Homes Inc. 15730 SE Bybee Rd Portland, OR 97236
OWNER:	Teresa Yip 5835 SW Hamilton St Portland, OR 97221
LOCATION:	1020 5th Street Oregon City, OR 97045 Clackamas County Map 2-2E-31DA-10900
REQUEST:	Exterior modifications to HR 20-01 including but not limited to the inclusion of an ADA ramp and change in final foundation height for a new live/work building in the McLoughlin Conservation District.
REVIEWER:	Christina Robertson-Gardiner, AICP crobertson@orcity.org
RECOMMENDATION:	If the Board finds that the full ADA ramp to the rear elevation and revised foundation height cannot be sufficiently mitigated through the proposed Conditions of Approval, Staff recommends that the Historic Review Board approve the ADA ramp to the side door only and backfill the remainder of the side yard with rockery walls and mitigation planting with the same type of plants proposed in the proposed landscape plan and approve the condition for the window revisions and encourage the Applicant to pursue ADA access internal to the structure. Staff additional recommends Approval with conditions of all proposed window revisions on the front elevation and rebuild the unpermitted side

CMU retaining wall to meet the material conditions approval of HR 20-01 (poured concrete, rear basalt veneer, natural rockery)

CRITERIA: Administration and Procedures are set forth in Chapter 17.50, Chapter 17.40, Historic Overlay District in Chapter 17.40, and "MUC" Mixed-Use Corridor District in Chapter 17.29 of the Oregon City Municipal Code. The City Code Book is available on-line at www.orcity.org.

Please be advised that any issue that is intended to provide a basis for appeal must be raised before the close of the hearing, in person or by letter, with sufficient specificity to afford the Historic Review Board and the parties an opportunity to respond to the issue. Failure to raise an issue with sufficient specificity will preclude any appeal on that issue. The decision of the Historic Review Board may be appealed to the City Commission by parties with standing within fourteen (14) calendar days of the notice of decision. Any appeal will be based on the record. The procedures that govern the hearing will be posted at the hearing and are found in OCMC Chapter 17.50 and ORS 197.763. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290(C) must officially approve the request through a vote of its general membership or Board at a duly announced meeting prior to the filing of an appeal.

Recommended Conditions

If the Historic Review Board finds that the Applicant can comply with the applicable criteria, the following conditions of Approval apply.

(P) = Verify that condition of Approval has been met with the Planning Division.
(DS) = Verify that condition of Approval has been met with the Development Services Division.
(B) = Verify that condition of Approval has been met with the Building Division.
(F) = Verify that condition of Approval has been met with Clackamas Fire Department.

1. The Applicant shall obtain all needed Building permits, any additional Geohazard Review, and Type I Site Plan and Design Review for the ADA ramp prior to construction.
2. If the HRB finds that the full ADA ramp to the rear elevation, adjacent rear porch, and revised foundation (based on 11.15.21 revised drawings) can be found to be compatible with the massing and design of the approved structure and will not adversely impact the significance of the McLoughlin Conservation District, the following requirements apply:
    a. The ADA ramp structure shall start at or beyond the front porch and connect to the sidewalk via a concrete ADA path. The front portion of the ADA ramp in front of the porch shall be poured concrete.
    b. The Applicant shall utilize foundation vent wells to allow as much backfill soil as possible adjacent to the foundation wall.
    c. The ADA ramp elements shall be painted or paint-stained to match the body paint of the house.
    d. If directed by the Historic Review Board, the Applicant can choose to return at the next HRB meeting with a revised design that utilizes metal or wood railings with simple balusters style handrail with top and bottom rails attached perpendicularly to the balusters instead of the proposed siding approach in an effort to reduce the massing of the larger ADA switchback design
    e. No exposed pressure-treated wood is allowed.

f. Landscape plant details may change but must meet the minimum mature height and width of the approved plant types.
g. The Applicant can work with the Building Offical to revise the design of the ramp to be of a greater slope base don the building codes, which will allow a reduced massing, with the understanding that the revised ramp will not meet ADA slope standards and will be classified as a generic deck ramp.
h. All walls associated with the ramp shall be poured in place concrete, real basalt veneer, or natural rockery walls. The existing wall built without permits shall be revised to meet the above material standard per HR 20-01 Conditions of Approval.

3. If the HRB finds that the full ADA ramp to the rear elevation and revised foundation height cannot be found to be compatible with the massing and design of the approved structure and sufficiently mitigated, the following requirements apply:
   a. The ADA ramp shall be revised to access the side door only.
   b. The Applicant shall provide a plan to backfill the remainder of the side yard with rockery walls to the extent practicable and appropriate for a geohazard area and provide mitigation planting with the same type of plants proposed in the submitted landscape plan. Landscape plant details may change but must meet the minimum mature height and width of the approved plant types.
   c. The smaller ADA ramp shall utilize the proposed enclosed lap siding design or a simple balusters style handrail with top and bottom rails attached perpendicularly to the balusters.
   d. The ADA ramp structure shall start at or beyond the front porch and connect to the sidewalk via a concrete ADA path. The front portion of the ADA ramp in front of the porch shall be poured concrete.
   e. The Applicant shall utilize foundation vent wells to allow as much backfill soil as possible adjacent to the foundation wall.
   f. The ADA ramp elements shall be painted or paint-stained to match the body paint of the house.
   g. No exposed pressure-treated wood is allowed.
   h. All walls associated with the ramp shall be poured in place concrete, real basalt veneer, or natural rockery walls. The existing wall built without permits shall be revised to meet the above material standard per HR 20-01 Conditions of Approval.
   i. The HRB encourages the Applicant to work with the Building Divison to design an internal ADA access to the upper floors.

3. The following windows are approved by the Historic Review Board
- **Window 7** – an additional fixed square dormer window does not change the compatibility of the elevation- approved by Staff.
- **Window set 5 –** Revised the window set was lowered to match the abutting window set after the front dormer was required to be removed from the final plans per HR 20-01

4. Proposed revisions to the side elevations included in the record for this application will continue to be reviewed and approved by Staff per HR 20-01 Conditions of Approval #4. All new windows not proposed in HR 20-01 shall be 1:1 hung windows or fixed/awning/casement square windows

PROJECT DESCRIPTION

The Applicant was approved under HR 20-01 to build a live/work building that contains a commercial space on the ground level front and a large, 10-bedroom dwelling in the remaining portions of the structure. The main entry for the commercial space is located in the center of the ground floor porch accessed from 5th Street. The residential entry is on the south elevation, with internal stairs leading to the main residential floor.

The project is a live/work dwelling. The City's definition of live/work is as follows:

17.04.645 - Live/work dwelling.

"Live/work dwelling" a dwelling in which a business is designed to be operated on the ground floor. The ground floor commercial, personal service, or office space has visibility, signage, and access from the primary Street.

The Applicant additionally was reviewed for compliance with the Geohazard Overlay District through GLUA 20-0024: GEO 20-0002 SP 20-0052. The site is crossed sloped with elevation dropping from the rear and top front of the site. The low point of the slope is at the NW elevation. At the front lower corner of the lot at the location of the proposed ADA ramp. The geohazard review and Conditions of Approval directed the application to minimize cuts and fills, which resulted in an exposed foundation approximately 4 feet taller at the side door entrance at the finished grade on the downhill side elevation than reflected in the approved HR plans.

With a better understanding of the site conditions, the Applicant submitted an ADA ramp with the Building Permit package. The ADA ramp and retaining walls not associated with the building foundation were not part of the approval package as the Building Division needed additional information. Staff was waiting for the additional information before determining if the ramp needed to be reviewed by the HRB. The submitted ADA ramp plans incorporate the existing site conditions and detail an approach to access the side and rear of the site.

The Applicant originally planned to access the side elevation door with an at-grade side entrance and retaining wall to the rear. With the revised elevation level, the Applicant proposes to utilize an ADA ramp to access the side and rear entrance. The ADA ramp is designed with lap siding to match the house with railings attached on the inside to minimize the massing of the ramp and reduce the visual appearance of the ramp as a separate building element.

The existing condition of the foundation can be seen in the photo taken on September 21, 2021. It shows a floor height of approximately 2- feet above the proposed final grade at the front corner and approximately 4 feet at the side entrance (please note that the existing gravel is not the final grade). Traditionally, Foursquare buildings have a foundation line/top of the floor, typically around 2-4 feet above grade, to be in line with a front porch depending on the specifics of the site. In this instance, the proposed floor height was a little lower in the approved plans for HR 20-01, around 2 feet tall at the front corner, which then sloped up to an at-grade side entrance.

The Geohazard Review and Conditions of Approval directed the Applicant to minimize cuts and fills, which resulted in an exposed foundation 4 feet taller at the side entrance on the downhill side elevation than reflected in the approved HR plans, which is the lowest point of the cross sloped lot. Further cutting into the slope would have been required to meet the preliminary HRB elevation, which was not recommended in the geo review. The Applicant has also indicated that the backfill of soil will be at the top of the foundation vents as the Applicant indicated that they can build foundation wells for the vents. This has been added as a condition of Approval.

Traditionally Foursquare and larger Bungalow-styled buildings that utilize a full foundation have a foundation line/top of the floor typically around 3 ½ feet above grade to be in line with a front porch depending on the specifics of the site. In this instance, the proposed floor height was a little lower, around 2-tall at the closest point of the front, and sloped up to an at-grade side entrance with a retaining wall. Traditionally, the side door would be accessed from a 3-5 step side porch. In this instance, the Applicant has requested an ADA access ramp rather than a side porch to allow for elderly family members better access to the upper stories as the commercial space is accessed from the front porch entrance.

The Applicant has submitted two additional sets of revised drawings. All three sets are attached to the staff report. The analysis and proposed conditions of Approval are based on the most updated revised set (11.15.21)

- Applicant Submittal
- Applicant's Revised Submittal 10.5.21
- **Applicant's Revised Submittal 11.15.21**

Staff will be reviewing the following items in this application and will provide the Board with suggested Conditions of Approval.

1. ADA ramp/foundation height

2. Window revisions not covered by HR 20-0001 Condition of Approval #4 Minor changes to window location or size on the side and rear facades will be acceptable and may be approved at a staff level prior to building permit issuance.

3. Unpermitted CMU retaining wall.

Staff has also provided findings for compliance with the applicable sections of the Design Guidelines for New Construction and the approval criteria in OCMC 17.40 Historic Overlay District. If the Board believes additional findings are needed by the Applicant- they should provide that direction at the meeting.

Staff Recommendation

Staff recommends that the Historic Review Board approve the ADA ramp to the side door and backfill the remainder of the side yard with rockery walls and mitigation planting with the same type of plants proposed in the proposed landscape plan and allow the full ADA ramp if the Board can provide finding for compatibility and mitigation of the impact of the pedestrian view looking up from 5th Street. This approach provides the needed ADA access with a structure that is comparable to the massing of a traditional side porch. Staff finds that the more conservative approach of a reduced ADA ramp to the side door clearly meets the standards for New Construction, and the full Ada ramp to rear elevation can be found to be compatible as conditioned with more dictionary review by the Historic Review Board.

Allowing the larger ADA ramp is not out of the line with the discretion of the HRB and would allow greater access to the building for elderly residents and visitors and would fit the character of a more commercial building in a Commercial District. The Secretary of the Interior provides **guidance** on how to design compatible ADA ramps for historic structures, recognizing that access is an important component to both private and public spaces. While this proposal is new construction of a live/work building, reviewing how ADA ramps can be made to fit historic resources can provide background to the best approach for this project. As there are no specific Design Guidelines for ADA access, the Historic Review

Board should review the proposal and see if the design and mitigation measures as outlined in the Conditions of Approval can be found to be compatible with the District and provide the best option to allow access for visitors and residents.

Analysis Overview

The Historic Review Board and Staff is the review and after the fact proposal to build an ADA ramp on a recently approved infill new construction in the McLoughlin Conservation District. The subject property was approved for conduction of a Live/Works unit comprised of a single-family residence with a small commercial space on the ground floor accessed from the front porch. The second and third floors comprise the dwelling unit which is accessed by stairs from a side door entrance. The site was reviewed for Geologic Hazards in the winter of 2020.

The Applicant has indicated that there will be future elderly residents that will want access to the second floor through a ramp system beyond the existing internal stairwell. There is no city requirement for ADA access for a single-family residence.

The Applicant has recently provided a request to increase the slope allowed for the ramp to reduce the size and potential switchbacks to a ramp that can access the rear of the site. An attached email from Tracy Turner, Residential Plans Examiner, provides direction to the Residential Building Code that describes the maximum slope allowed for a residential deck ramp. This revised ramp would not be considered ADA accessible but could be used by the residents of the single-family dwelling unit.

Staff initially recommended the applicant design the ADA ramp with siding to match the house (September meeting) when it was proposed as a simpler L-shaped ramp that wrapped around to the rear of the house. This recommendation was to lessen the impact the ramp has as a new element. However, with the larger switchback design, Staff's recommendation to utilize a siding approach may create a much larger massing than anticipated. The Historic Review Board and the application might want to pursue other railing designs (metal, wood) that could create an airier approach.

The crux of the Historic Review and analysis for this proposal and the burden of the Applicant is to provide adequate findings to support a large exterior ramp to allow residents to access the second floor of the house on a sloped lot.

The Historic Review Board deliberated over multiple meetings in the Spring of 2020 to address massing concerns on the proposed live-work design based on a Foursquare architectural design. The Historic Review Board allowed an attached garage, with conditions, understanding that the need to reduce cuts and fills on the site was reasonable. At no time during this analysis was the need for a ADA access was brought up as part of the design discussion. The Historic Review Board spent the majority of their deliberations discussing the large massing of the building; this included dropping the wall height, removing ornamentation, and requiring a visual separation of the garage from the main volume of the housing.

If ADA access was proposed during the initial HR 20-01 review. Staff would have recommended the Applicant look at access from the upper sloped side of the lot (JQ Adams), or pursue an internal ramping or chair lift design. Staff provided the following findings in HR 20-01 *"The Applicant has proposed the foursquare style. The hallmarks of the style include a basically square, boxy design, two-and-one-half stories high, usually with four large, boxy rooms to a floor, a center dormer, and a large front porch with wide stairs. The proposed structure is boxy with a hip roof, large eaves, and symmetrical arrangement, which resembles a foursquare.* ". The Applicant has not provided sufficient findings for how the larger

switchback ramp will retain the boxy foursquare feeling of the approved design. HR 20-01 allowed a somewhat longer footprint than a class square with a 70' 3" length of the building to 47' width w/o garage) The proposed rear switchback ramp looks to add 19 additional feet to the rear of the site, which further erodes the appearance of a boxy foursquare design.

Staff also encourages the Applicant to coordinate with Development Services as soon as possible to better understand if the proposed ramp design will trigger additional geohazard review and if there are alternative ramp approaches that would stay within the original Geohazard review approval GLUA 20-0024: GEO 20-0002 SP 20-0052).

To be clear, the burden for providing sufficient findings is on the Applicant for this after-the-fact ramp proposal. Staff and the Historic Review Board can assist by providing additional direction on what they believe could meet the Design Guidelines for New Construction and the criteria found in OCMC 17.40 Historic Overlay District. However, it is within the purview of the Historic Review Board to deny the request for the larger rear ADA ramp based on a concern for the massing and lack of findings. If the Board wishes to continue working with the Applicant to further refine the ramp drawings, they can provide direction and request to see the final redesigned ramp prior to final Approval. This will require the Applicant to continue the 120-day deadline, 30 additional days for December 28, 2021 or 60 days for a January 25, 2021 Historic Review Board meeting.

Staff is looking for the Historic Review Board to determine if a revision to the approved plans can be found to meet the standards for new construction in the Historic District.

1. **If the proposed full ADA ramp is compatible with the McLoughlin Conservation District and can visually be mitigated through the proposed design and plantings and the Applicant has provided sufficient findings/drawing for meeting the Design Guidelines for New Construction for the revised elements or can be met with the proposed Conditions of Approval.**
   a. **If the Board finds that the full ADA ramp to the rear elevation cannot be sufficiently mitigated through the proposed design and plantings, Staff recommends that Historic Review Board approve the ADA ramp to the side door only and backfill the remainder of the side yard with natural rockery walls, to the extent allowed by Oregon City Development Services and mitigation planting with the same type of plants in the proposed landscape plan that will cover 100% of the exposed area and encourage the Applicant to pursue internal ADA access options for the site or provide specific direction for how they want the larger ramp to be redesigned.**
   b. **If the Board can provide direction on how a larger ramp can be redesigned, the Applicant should continue the 120 date deadline and return at a future HRB meeting for review of the final ramp design before formally approving the application.**

2. Does the Board supports the proposed Conditions of Approval for window revisions on the front elevation not covered by HR 20-0001?

BACKGROUND

Site and Context

The site is located in the McLoughlin Conservation District in the Mixed-Use Corridor Zone. The property is approximately 9500 square feet and has 77 feet of frontage on 5th Avenue. It also borders unimproved JQ Adams Street, which is heavily forested and includes a pedestrian walkway

up to the Barclay Hills and Rivercrest neighborhoods. The site is crossed slope upward from 5th and to the back of the lot (see figure 2)

The property is on the edge of the McLoughlin Conservation District.

Figure 1 Vicinity Map (Conservation district shown in purple)

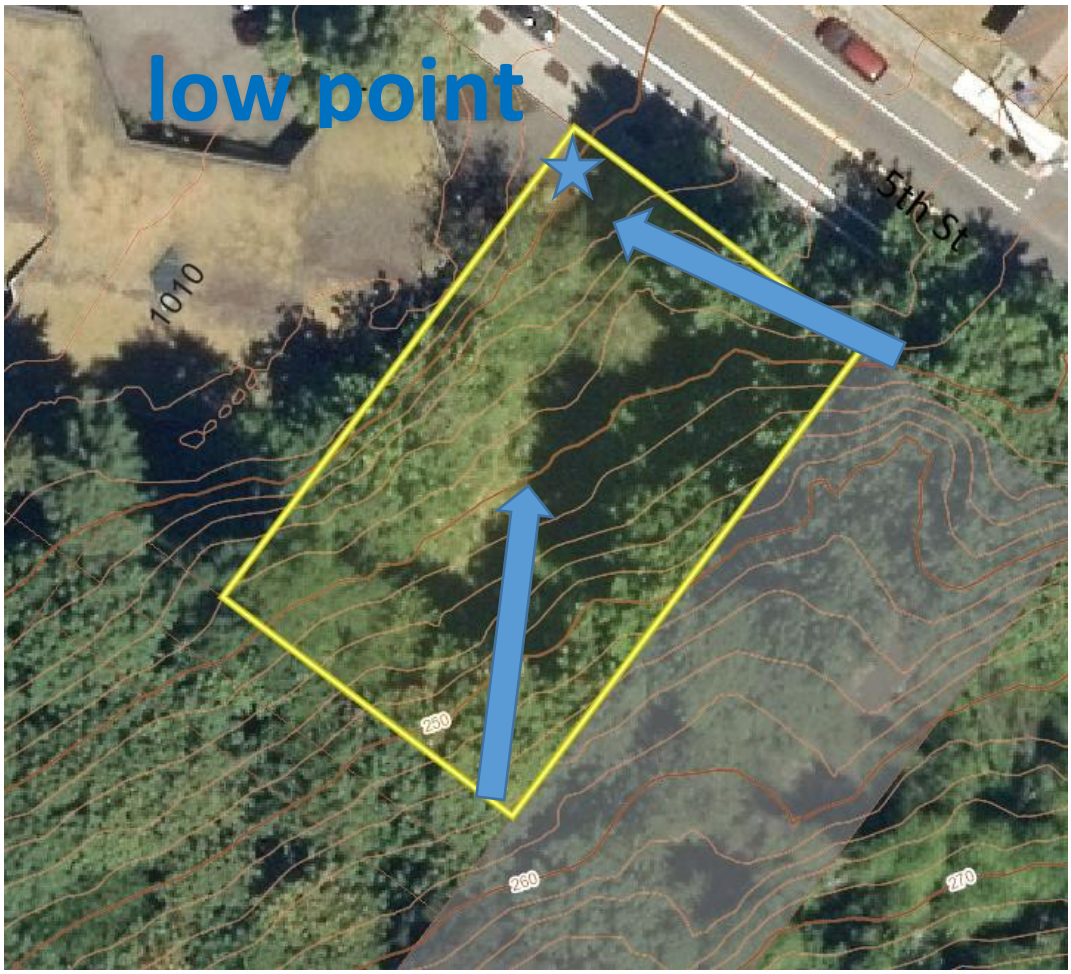


Figure 2-Aerial photo and topography- arrow showing cross-slope

Figure 3 Zoning Map

Figure 4 Existing condition of exposed foundation- September 21, 2021

Figure 5 Existing condition showing unpermitted CMU wall. Provided in 11.15.21 Applicant's resubmittal. The CMU wall does not meet Conditions of Approval 3 and 7 of HR 20-01 and will need to be rebuilt using poured in place concrete, basalt veneer, or natural rockery.

Figure 6 Neighboring building at 1010 5th Street; a modern commercial building with a low shed roof, roughly U-shaped. The offices are sited in the eastern portion of the building, with a small courtyard framed by the low roof on the west side. The building is primarily clad with stone veneer, but some portions have vertical groove plywood siding. The windows are fixed aluminum sash and are located primarily on the east and west sides of the building. It is not a designated structure in the Mcloughlin Conservation District. (Google Maps- taken prior to construction)

Figure 7-Stevens Crawford House, 603 6th Street. An example of a larger Foursquare/bungalow design with a foundation height of 3 ½ to 4 feet.

Figure 8 -909 Washington Street- Charles Caufield House. An example of a side porch and stair with a 3 ½ to 4-foot foundation height on a sloping site.

Comparison of Approved Site Plan (HR 20-00001 and HR 21-00020)

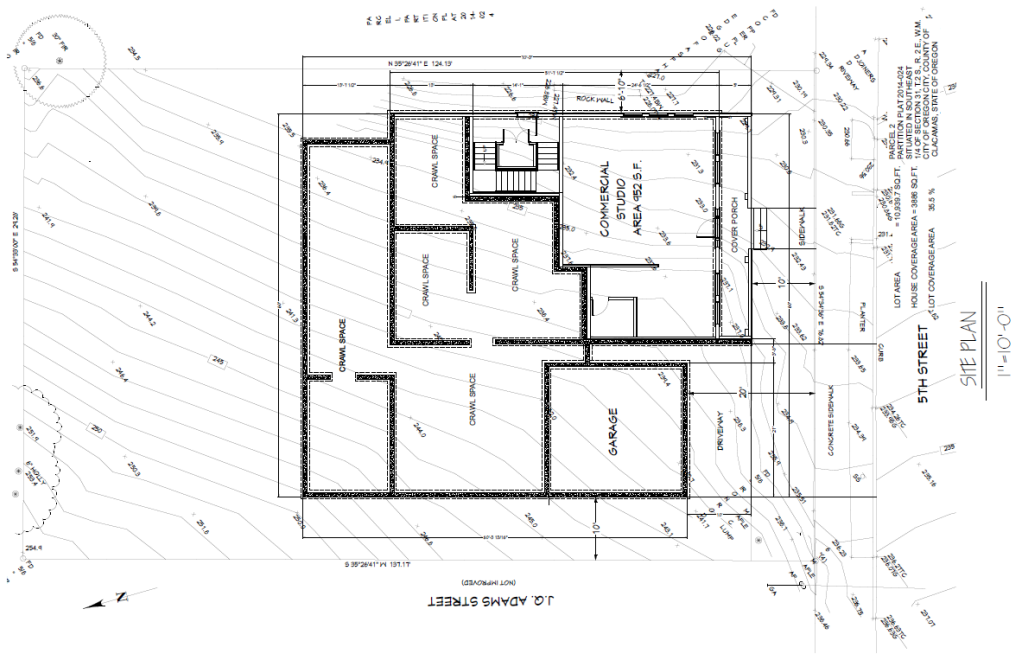
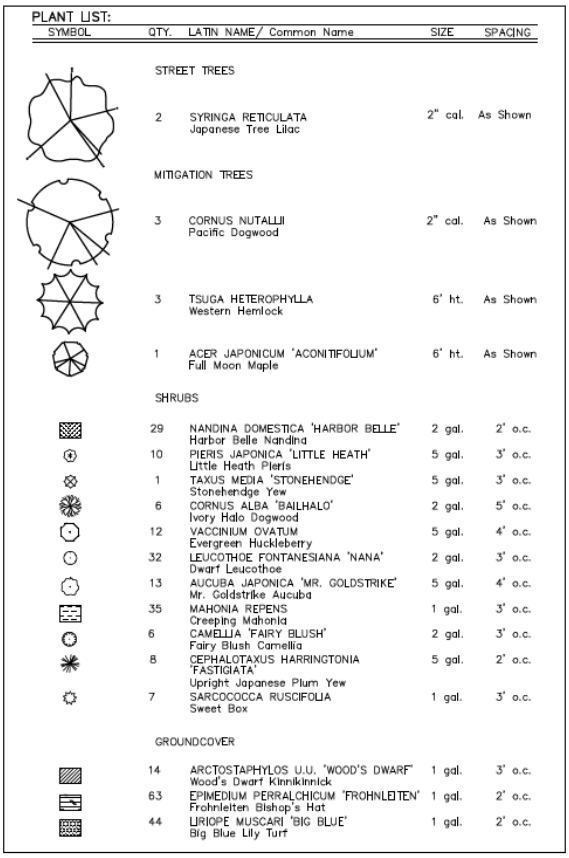


Figure 9 Approved HR 20-01 Site PLan



PLANT LIST:

SYMBOL	QTY.	LATIN NAME/ Common Name	SIZE	SPACING
		STREET TREES		
	2	SYRINGA RETICULATA Japanese Tree Lilac	2" cal.	As Shown
		MITIGATION TREES		
	3	CORNUS NUTALLII Pacific Dogwood	2" cal.	As Shown
	3	TSUGA HETEROPHYLLA Western Hemlock	6' ht.	As Shown
	1	ACER JAPONICUM 'ACONITIFOLIUM' Full Moon Maple	6' ht.	As Shown
		SHRUBS		
	29	NANDINA DOMESTICA 'HARBOR BELLE' Harbor Belle Nandina	2 gal.	2' o.c.
	10	PIERIS JAPONICA 'LITTLE HEATH' Little Heath Pieris	5 gal.	3' o.c.
	1	TAXUS MEDIA 'STONEHENDGE' Stonehendge Yew	5 gal.	3' o.c.
	6	CORNUS ALBA 'BAILHALO' Ivory Halo Dogwood	2 gal.	5' o.c.
	12	VACCINIUM OVATUM Evergreen Huckleberry	5 gal.	4' o.c.
	32	LEUCOTHOE FONTANESIANA 'NANA' Dwarf Leucothoe	2 gal.	3' o.c.
	13	AUCUBA JAPONICA 'MR. GOLDSTRIKE' Mr. Goldstrike Aucuba	5 gal.	4' o.c.
	35	MAHONIA REPENS Creeping Mahonia	1 gal.	3' o.c.
	6	CAMELLIA 'FAIRY BLUSH' Fairy Blush Camellia	2 gal.	3' o.c.
	8	CEPHALOTAXUS HARRINGTONIA 'FASTIGIATA' Upright Japanese Plum Yew	5 gal.	2' o.c.
	7	SARCOCOCCA RUSCIFOLIA Sweet Box	1 gal.	3' o.c.
		GROUNDCOVER		
	14	ARCTOSTAPHYLOS U.U. 'WOOD'S DWARF' Wood's Dwarf Kinnikinnick	1 gal.	3' o.c.
	63	EPIMEDIUM PERRALCHICUM 'FROHNLEITEN' Frohnleiten Bishop's Hat	1 gal.	2' o.c.
	44	LIRIOPE MUSCARI 'BIG BLUE' Big Blue Lily Turf	1 gal.	2' o.c.

GENERAL NOTES:

1. Contractor is to verify all plant quantities.
2. Adjust plantings in the field as necessary.
3. Project is to be irrigated by an automatic, underground system, which will provide full coverage for all plant material. System is to be design/ build by Landscape Contractor. Guarantee system for a minimum one year. Show drip systems as alternate bid only.
4. All plants are to be fully foliaged, well branched and true to form.
5. Contractor is to notify Landscape Architect or Owner's Representative of any site changes or unforeseen conditions that may be detrimental to plant health, or cause future problems to any structural elements of the project.
6. Invasive plant species shall be removed from all landscape areas prior to approval of final occupancy permit.

Figure 10 -2021 Proposal Landscape Plan Details

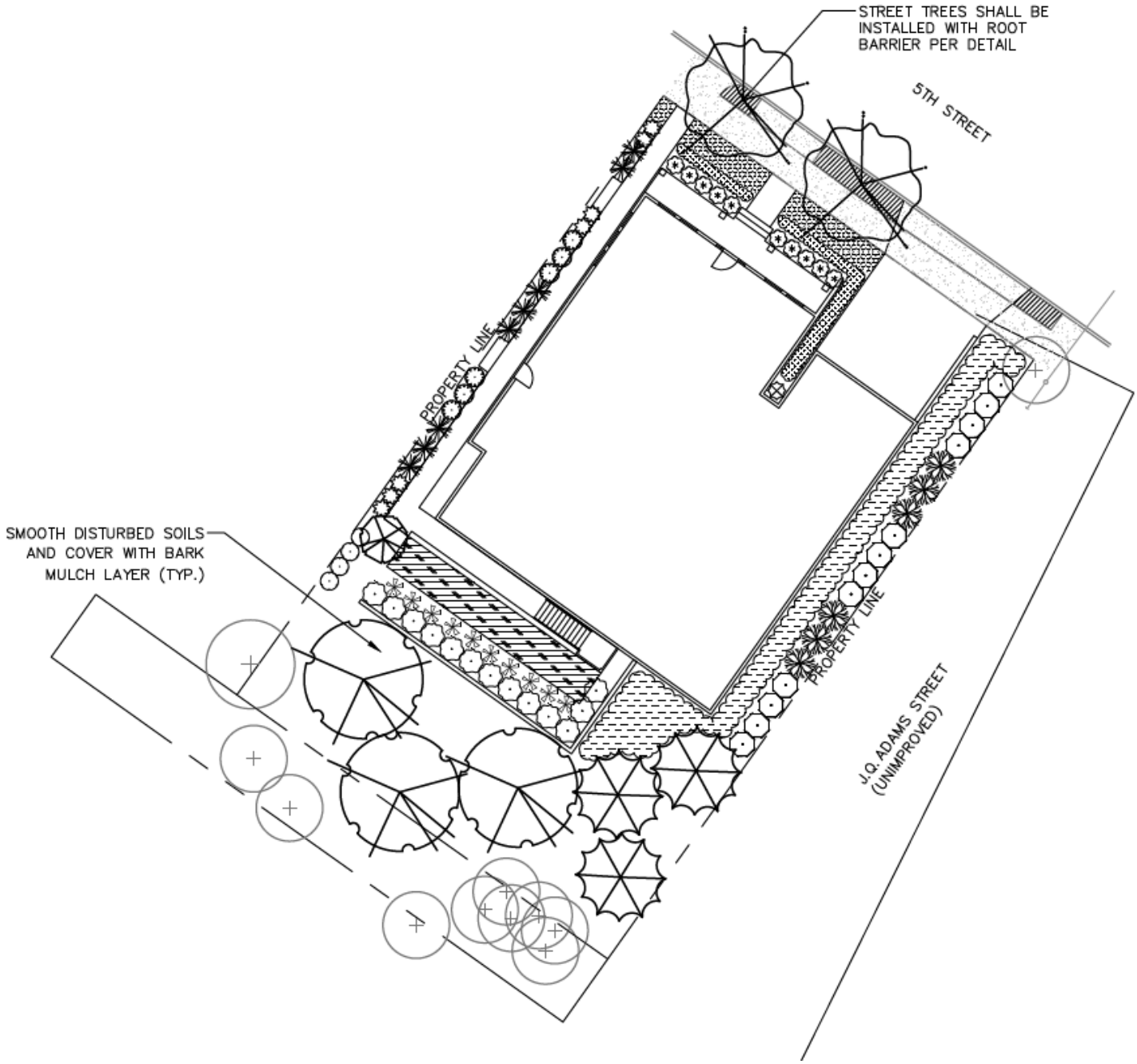


Figure 11- 2021 Proposal Landscape Plan showing ADA ramp location and side yard mitigation plants (Japanese yew, sweetbox, and fairy bush camellia). ADA setbacks to the property line look to 2 1/2 to 3 feet. ***Please note the Applicant has not revised the landscape plan based on the revised switchback rear ramp design.***

Figure 12- Approved Front Elevation- HR 20-1

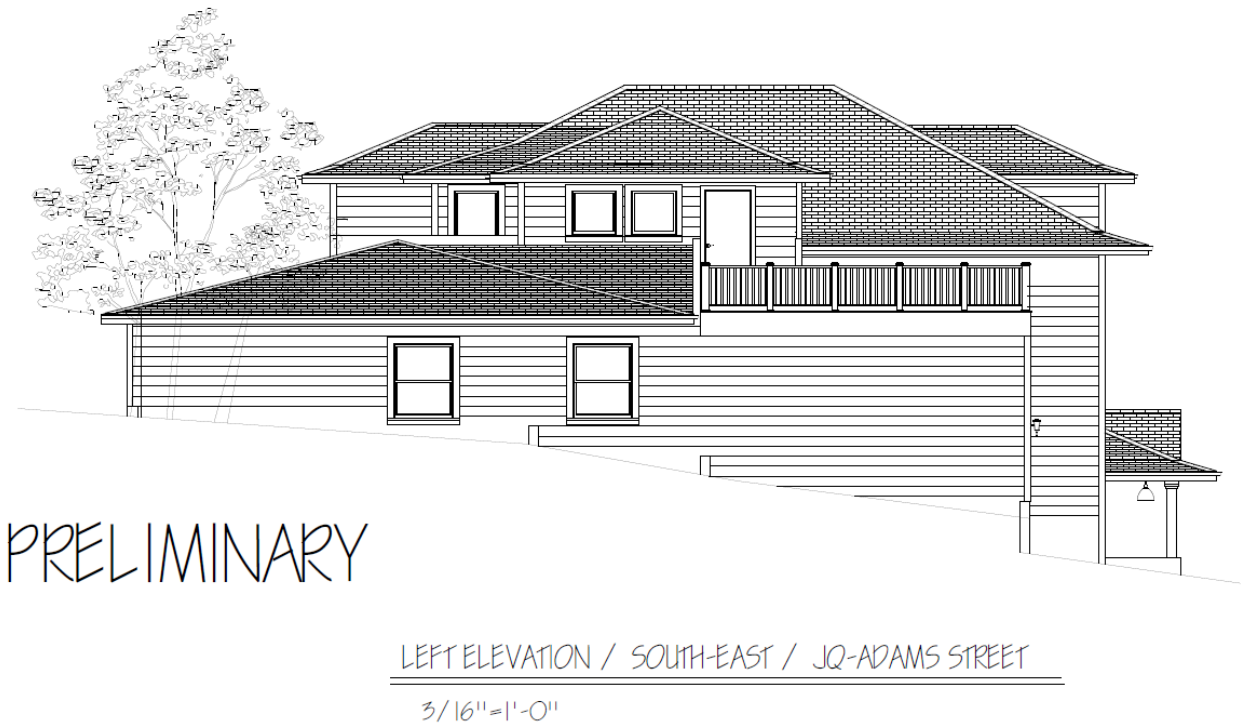


Figure 13-Approved HR 20-01 Left elevation (uphill side)

Figure 14-Approved HR 20-01 Right elevation (downhill side)

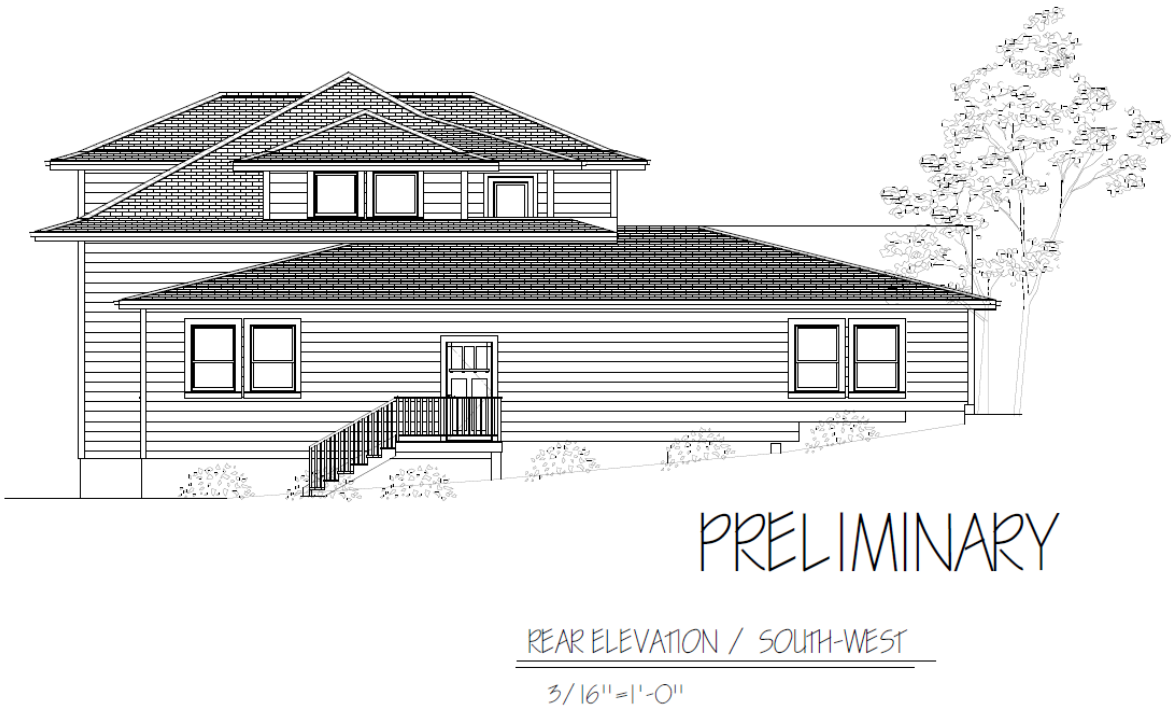


Figure 15-Approved HR 20-01 Rear elevation

Figure 16- Revised HR 21-00020 Front Elevation (indicating location of window set 5 and 7 in conditions of Approval for front elevation window alterations)

Figure 17- Revised HR 21-00020 right elevation (downhill side)

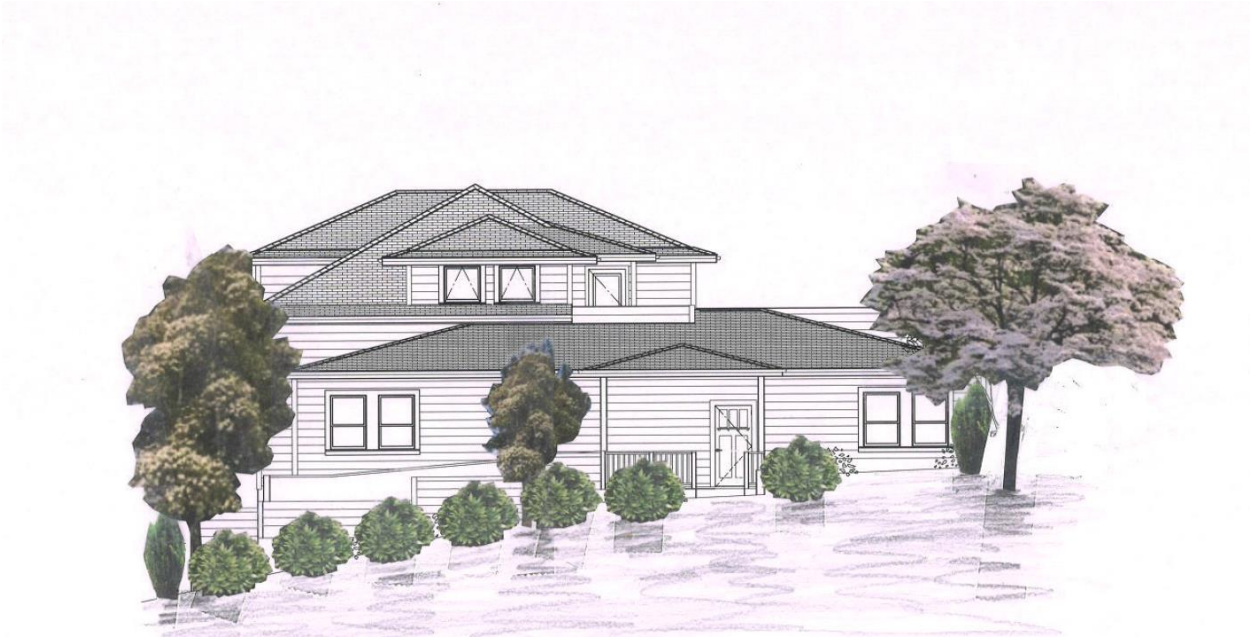


Figure 18- Revised HR 21-00020 rear elevation

Window alterations are identified by number and further discussed in the narrative and proposed Conditions of Approval.

Figure 19- Revised HR 21-00020 left elevation (uphill)

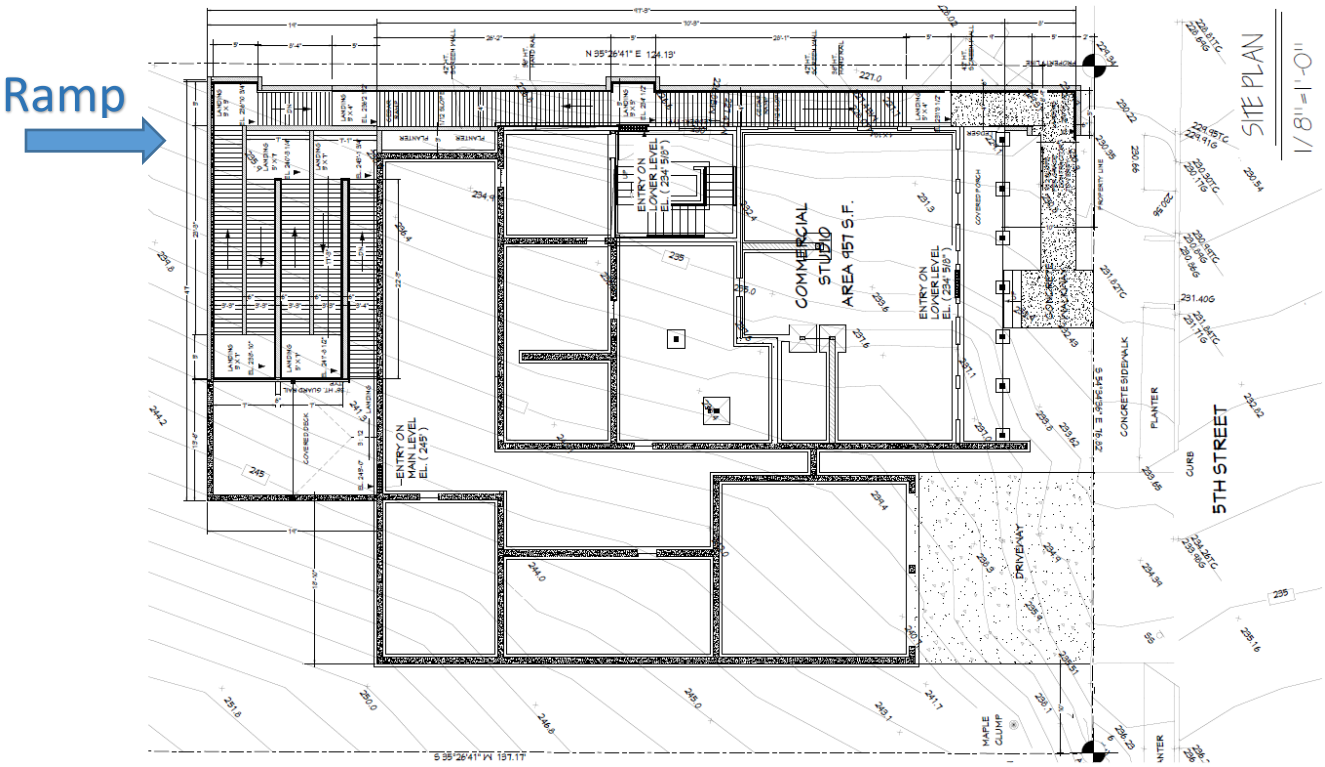


Figure 20 - Revised HR 21-00020 Site PLan

PUBLIC NOTICE AND COMMENT

A public notice was sent to neighbors within 300 feet of the subject property, posted on the City's website, emailed to a variety of stakeholders, a sign was posted onsite. The following comments were received.

McLoughlin Neighborhood Association

- *The application is incomplete. The Applicant has not addressed any criteria.*
- *The request includes a "change in final foundation height.' There is no information on the change.*
- *How does the screen wall itself comply with criteria?*
- *A floor plan, not a site plan, was submitted. Provide a site plan showing dimensions of all features from the property lines, in particular the west property line.*
- *On the site plan, show how the ramp ties in at the front; show the existing sidewalk.*
- *Show the wall, its foundation, and landscaping on a vertical elevation drawing of the north elevation. Depict measurements.*
- *Address how the wall foundation and proposed landscaping will be accomplished in the small space between the building and west property line without encroaching.*

The MNA additionally provided comments at the October HRB meeting indicating that they believe the massing of the larger ramp is too impactful on the District and encouraged the Applicant to persue internal ADA access options.

"The new revision proposes a large addition to the previously proposed ADA ramp, plus a 250-sf deck. This will create an increased negative impact visually to the surrounding community as well as environmental and safety impacts due to the sensitive geologic features of the site.
More importantly, this design will have a detrimental effect on the residents and users of the facility. They would be required to navigate over 230 feet of ramp with 2 corners and 4 hairpin turns, over a 14-foot elevation gain, exposed to the elements, prior to reaching the proposed deck and rear entrance. For people lacking mobility, this is likely to result in a need for assistance or medical intervention. Additionally, ADA access is not provided to the top floor with this design."…

"In order to reduce the significant impacts to the land, the neighbors, and facility users as discussed above, we respectfully encourage the HRB to ***require*** *an alternate means to provide ADA access internally. There are many wheelchair lift products on the market intended to be incorporated into new buildings or retrofitted into existing buildings. Installation of a device similar to the one attached to this memo would allow ADA access to all levels of the structure, would eliminate additional impact to the exterior design, eliminate further geologic impact, and provide a shorter, protected, easier to navigate route for the vulnerable residents and users of the facility"*

Staff Response: Staff is processing the application based on what the Applicant has submitted but will also be asking the Historic Review Board if the Applicant needs to provide additional findings or plans to show compliance with the Design Guidelines.

- Given that the construction is well-underway, it appears that any input on the foundation elevation modification is moot. What are the implications of this change?
- Condition #2 of HR-20-01 requires the Applicant to minimize grading and comply with any applicable standards in the Geologic Hazard Overlay. Address how the retaining wall foundation complies.

As indicated in the project description above, the site crossed sloped with elevation dropping from the rear and top front of the site. The low point of the slope is at the NW elevation at the front lower corner of the lot at the location of the proposed ADA ramp. The geohazard review and conditions of Approval directed the application to minimize cuts and fills, which resulted in an exposed foundation 4 feet taller on the downhill side elevation than reflected in the approved HR plans. Further cutting into the slope would be required to meet the preliminary HRB elevation and is not a recommended approach.

The existing condition of the foundation can be seen in the photos taken on September 21, 2021. They show a floor height of approximately 2- feet above the proposed grade at the front corner and approximately 4 feet from the final grade at the side entrance. Traditionally, Foursquare buildings have a foundation line/top of the floor, typically around 2-4 feet above grade, to be in line with a front porch depending on the specifics of the site. In this instance, the proposed floor height was a little lower on HR 20-01, around 2 feet tall at the front corner, which then sloped up to an at the grade side entrance.

The Applicant has also indicated that the backfill of soil will be at the top of the foundation vents as the Applicant can build foundation wells for the vents. This has been added as a condition of Approval. While the change of exposed foundation on this elevation to the side door is substantial enough from the approved design to require a review by the Historic Review Board, it is not strikingly out of character for the architectural type. The exposed foundation on the side elevation past the side door could be mitigated through a couple of options that are prepared as possible Conditions of Approval for the

Historic Review Board. The Applicant will also be required to rebuild the existing unpermitted wall to meet the material conditions of Approval.

- *The maximum lot coverage appears to be exceeded; please check the calculation.*

Staff Response: The site is located in the MUC zone, which allows for an 80% lot coverage. This proposal meets that standard.

- *There are exterior changes, such as windows, from the approved plan. The narrative needs to address these changes.*

Staff Response: Staff will be reviewing window revisions not covered by HR 20-0001 Condition of Approval *#4 Minor changes to window location or size on the side and rear facades will be acceptable and may be approved at a staff level prior to building permit issuance* and will be providing recommended conditions to address any outstanding items. Some of the side windows referenced in the condition staff was requiring to be revised to be 1:1 windows outside of this process, but have added them to the conditions for clarity.

Mike Roberts- Building Official- indicated a need for Building Permits for the ADA ramp.

Tracy Turner, Residential Plans Examiner, Provided additional guidance on the Building Code for deck ramp slope not categorized as ADA ramps.

Sang Pau, Development Engineer, provided guidance on what actions trigger additional geohazard review.

REVIEW CRITERIA

17.40.060 - Exterior alteration and new construction.

A. Except as provided pursuant to subsection I of this section, no person shall alter any historic site in such a manner as to affect its exterior appearance, nor shall there be any new construction in an historic district, conservation district, historic corridor, or on a landmark site, unless a certificate of appropriateness has previously been issued by the historic review board. Any building addition that is thirty percent or more in area of the historic building (be it individual or cumulative) shall be considered new construction in a district. Further, no major public improvements shall be made in the District unless approved by the Board and given a certificate of appropriateness.

Applicable: This is a proposed modification to an approved New Construction in the McLoughlin Conservation District (HR 20-0001)

B. Application for such a certificate shall be made to the planning staff and shall be referred to the historic review board. The application shall be in such form and detail as the Board prescribes.

Complies as Proposed: The City processed the application pursuant to Chapter 17.50 of the municipal code. The Applicant provided elevation drawings, landscape plan, floor plan, and a narrative to address the specific revisions requested. Staff is processing the application based on what the Applicant has submitted but will also be asking the Historic Review Board if the Applicant needs to provide additional findings or plans to show compliance with the Design Guidelines.

C. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the Applicant shall provide,

1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the Applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the Applicant; and

2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the Applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the Applicant.

If, after forty-five days notice from the Applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.

Complies as Proposed. Oregon SHPO and the Native American tribes listed above were notified of the proposed ground disturbance in 2019. A response was received from SHPO and is in the City's files for HR 20-00001. The letter indicates the level of recommended archaeological monitoring on the site. No major change in grading is being proposed for the side ADA ramp beyond the original notice.

D. [1.] The historic review board, after notice and public hearing held pursuant to Chapter 17.50, shall approve the issuance, approve the issuance with conditions or disapprove issuance of the certificate of appropriateness.

Applicable: The proposal is being reviewed by the Historic Review Board.

F. For construction of new structures in an historic or conservation district, or on an historic site, the criteria to be used by the Board in reaching its decision on the certificate of appropriateness shall include the following:

1. The purpose of the historic conservation district as set forth in Section 17.40.010;

The purpose of the District is:

A. Effect and accomplish the protection, enhancement and perpetuation of such improvements and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;
B. Safeguard the city's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and districts;
C. Complement any National Register Historic districts designated in the city;
D. Stabilize and improve property values in such districts;
E. Foster civic pride in the beauty and noble accomplishments of the past;
F. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
G. Strengthen the economy of the city;
H. Promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing and public welfare of the city; and
I. Carry out the provisions of LCDC Goal 5.

Finding: Complies as Conditioned
If the Historic Review Board can determine that the revised plans provide sufficient mitigation for the design and massing of the ADA ramp and there is no adverse effect on the significance of the District and there are sufficient findings and plans to demonstrate compliance, Staff has prepared to recommend Conditions of Approval that reduce the impact the ramp has on the building and the McLoghlin Conservation District.

2. The provisions of the city comprehensive plan;
Goal 5.3 Historic Resources
Policy 5.3.1
Encourage architectural design of new structures in local Historic Districts, and the central Downtown area to be compatible with the historic character of the surrounding area.
Policy 5.3.8
Preserve and accentuate historic resources as part of an urban environment that is being reshaped by new development projects.
Finding: Complies as Conditioned.
A new live/work dwelling is proposed on vacant land commercial land within the McLoughlin Conservation District. The proposed height, massing, and design of the original design was approved under HR 20-0001. The site does not abut a historic resource, nor is one adjacent to the site. Adding an ADA ramp to the building will not adversely affect the significance of the District, as conditioned, and more than the Approval of the original structure under HR 20-0001.

3. *The economic effect of the new proposed structure on the historic value of the District or historic site;*
   Finding: Complies as proposed. Approving this development will add additional housing stock ad commercial space in an area with currently low housing stock and increasing the housing options for people within Oregon City or looking to move to Oregon City.

4. *The effect of the proposed new structure on the historic value of the District or historic site;*
   Finding: Complies as Conditioned. A new live/work dwelling is proposed on vacant land commercial land within the McLoughlin Conservation District. The proposed height, massing, and design of the original design was approved under HR 20-0001. The site does not abut a historic resource, nor is one adjacent to the site. Adding an ADA ramp to the building will not adversely affect the significants of the District and more than the Approval of the original structure under HR 20-0001.

5. *The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure;*
   Finding: Complies as Conditioned.
   The proposed height, massing, and design of the structure as conditioned is consistent with the design guidelines appropriate within the District. See detailed findings in the design guidelines section of this staff report.

6. *Economic, social, environmental and energy consequences;*
   Finding: Complies as Proposed. The addition of housing stock and commercial space in an existing neighborhood provides more needed housing and is located in an already-developed area in close proximity to goods and services.

7. *Design guidelines adopted by the historic review board.*

Design Guidelines for New Construction – McLoughlin Commercial

1. STYLE

Determining the appropriate style for a new infill project is an important initial step in the design process. Each historic District has different styles that were prevalent during the historic period of significance. These styles are what create the historic context. New construction shall complement one of these styles to support the historic context. Use of other styles dilutes and distracts from the historic context of the District. While there may be several styles dominant within the District, the specific choice of a style shall be compatible with adjacent properties, the block, and the neighborhood. It also must be fitting for the particular function of the building and its size.

Outside of the Seventh Street Commercial Corridor, commercial uses shall employ a residential style architecture to better integrate into the neighborhood fabric. The larger residential styles, such as Queen Anne, Vernacular [single buildings or grouped], and Foursquare, are appropriate. They create a suitable transition to adjacent residential areas and can be built relatively close together to achieve appropriate density. These styles could be utilized for any uses: retail, office or multifamily residential. The carriage building on High Street is an existing residential style structure used for commercial purposes.

Finding: Complies as Proposed. The Applicant has proposed a live/work dwelling in a mixed-use zone on 5th Street, which is outside of the main commercial corridor of the District. The guidelines call for a residential-style architecture outside of the 7th Street Corridor. The Applicant proposed a Foursquare style, which is consistent with the guidelines. The ADA ramp, as conditioned by Staff aims to minimize the ramp's appearance by utilizing lap siding to match the house siding or provide porch railing designed ADA ramp if being design to only access the side entrance.

2. SITE

Siting principles involve both how the site is used and how the building(s) is placed within the site. The specific lot location and its topography can dictate many requirements.

Commercial buildings are to face the Street squarely with their primary face and display areas in full view, to engage the pedestrian, and to be set back only slightly, if at all from the front and side lot lines. Small courtyard area may be appropriate for multifamily and certain commercial uses. Vehicle access to be on the less visible sides or rear.

SITE CHARACTERISTICS OF MCLOUGHLIN COMMERCIAL BUILDINGS

- *Rectangular footprint that largely fills the width of the lot.*
- *Oriented to Street for access, and display. No or small setback from the sidewalk along Street; may not extend all way to rear lot line.*
- *Small front or side setback is appropriate for residential uses.*
- *Central or individual ground floor customer-tenant entries. Grouped residential entry to lobby or foyer. Separate service entries.*
- *Vehicle access and storage at side or rear; may be hidden under the building.*
- *Landscape: small plantings if there are setbacks; otherwise street trees. Upper story gardens visible from the sidewalk were not used in the historic period, and are discouraged.*

I: SITE *continued*

USE OF SITE	*How the site is planned to be used.*	
ASPECT	**PRINCIPLE — GOOD EXAMPLE**	**NOT ALLOWED**
Topography **Use**	Site houses according to neighboring or contextual practice. At sloping sites, houses were sited at most the easily built portions of the lot and close to grade. At upsloping sites the main level was raised. At downslope sites the main level was lowered. Cross-slope sites utilized the easiest access. Residential garages may extend to front property line at up or down sloping sites. Commercial buildings requiring a larger footprint utilized level lots in close proximity to the street. Buildings may be set back to better integrate with houses where adjacent, and to facilitate grade changes.	Extensive regrading of lot to raise or lower the main level of a house. Tall walls to alter the natural topography for building siting or yard leveling purposes. Commercial buildings without the main level close in height to the public way Foundations, piers or piling more than 1 story in height above natural grade

Finding: Complies with Conditions. The Guidelines direct development on cross slopes to utilize the easiest access and not allow foundation more than 1-story**.** The Guidelines also allow for a small side yard setback for commercial buildings in the Mcloughlin Conservation District. While Live/work is a bit of a hybrid of commercial and residential, Staff finds that this setback direction still applies and provides direction for smaller more commercial-scale setbacks for uses that go beyond single-family residential. The setback for the MUC-1 District is 0 feet. The Applicant has proposed a setback that appears to be between 2-3 feet. Staff finds that either ramp option (full ramp to the rear or ½ ramp to side door) meets this standard.

3. BUILDING FORM

Address the overall size, shape and bulk of the building. The architectural style used for the building defines many aspects of its appropriate form and proportions. Excessive variation in the size, shape, or configuration creates an inappropriate solution that is stylistically incorrect and not complementary to the District. The building form needs to relate to the buildings in the immediate neighborhood, and to take into account both similarities and changes on the block. The new building form shall reference the principles, proportions and scale of an historically approriate style. Existing commercial historic buildings are now less numerous in the districts. Acceptable styles will produce new infill form based on historic character qualities of the original buildings and those found in other similar districts. This new development will then successfully relate to adjacent residential neighborhoods. The appropriate style and form of the new buildings depends upon the site and neighboring, or transitioning context.

BUILDING FORM CHARACTERISTICS OF MCLOUGHLIN COMMERCIAL BUILDINGS

- *Building form and foot print primarily rectangular, possible rectangular additions or wings; possible interior light court, courtyard or areaway.*
- *Massing: A simple rectangular primary form encompassing the primary and visible facades. a parapet or false front that provides the height boundary of the building and hides the view of the roof. Single story with retail or service use; Two or three story with single or mixed use. Basement option*
- *Ground floor typically has high ceilings; retail use with office or residential use above.*
- *Height: Main level close to grade. Single story buildings: minimum 16 foot high parapet. First to Second floor height to be at least 12 feet unless for multifamily use, then may be 10 feet. Upper floor to floor heights at least 10 feet. Maximum Height: Per City code*
- *Height for Commercial Buildings using a Residential Style: First to Second floor height to be at least 10 feet. Main Floor Level Height Above Grade: 2½ feet minimum. Eave Height: 28 feet maximum. Ridge Height maximum: 40 feet.*

- *Residential styles, including Queen Anne, or Foursquare, are encouraged on Seventh above John Q Adams and on Center and High, and where facing or adjoining residential zoning. Alternatively, the use(s) may be embodied in a grouping of smaller buildings.*
- *Full width one or two story porches at front (accessed by interior stair), or rear are appropriate for residential.*
- *Grade level or depressed parking if accessed from rear or rear end of side and generally concealed from sidewalk by building wall, provided commercial or residential use is located along primary Street.*

Finding: Complies with Conditions. The addition of an ADA ramp as conditioned does not contradict any of the Guideline elements above.

4. DESIGN COMPOSITION

Include a range of more detailed design issues that address groups of elements, individual elements, their design and how they relate to the overall composition and finish. The principles place a traditional emphasis on the design's composition as seen from the exterior, rather than as a result of interior functional planning requirements. They also outwardly convey a sense of quality craftsmanship. The design composition principles, being more detailed, and stylistically dependent, are typically developed after the previous principles are resolved. These principles also reflect historically appropriate materials, respective finishes, and unobtrusive integration of new technology.

DESIGN COMPOSITION CHARACTERISTICS OF MCLOUGHLIN COMMERCIAL BUILDINGS

- *Mostly single or double store design to 100 feet in width. Wider than 100 feet requires style change.*
- *False front: covering front gable roof or just an extended wall; may have a parapet on each side (possibly not rear) hiding a low sloped roof.*
- *Streetcar Commercial: wood or masonry construction and finish; generous ground floor retail display with individual or grouped upper level double hung windows in an otherwise solid wall.*
- *Large ground floor storefront windows with short bulkhead wall below and very often with transom windows above; wood frames or appropriate metal. Trim at window/transom frame edges.*
- *Often recessed store entries; side entries typically not recessed. Separate entries for individual stores.*
- *Streetcar Multifamily: wood or masonry construction and finish. Less emphasis on retail display, but location of public and lobby areas adjoining the public way. Possible upper level window bays within the width and height of the primary or side façades. Possible entry projection.*
- *Upper Level Entry: typically a single shared entry with small lobby.*
- *Upper story wood framed windows designed as 'punched' openings in the otherwise solid wall, regularly spaced; individual, paired double hung design or triple units with fixed center and double hung side lights. Possible transom windows. Possible flat arch windows in masonry walls.*
- *Façade with modest, but defining cornice, possible belt cornice. Wood exteriors can support more detailing; masonry or plaster finished buildings with less detail and ornamentation; typically, no significant form projections or recesses except window bays or entries.*
- *Materials/Finish: cement plaster (stucco), brick, concrete with plaster over, horizontal board siding; fabric awnings, possible flat steel/wood building supported canopy.*

Finding: Complies with Conditions. The addition of an ADA ramp as conditioned does not contradict any of the Guideline elements above. The Guidelines do not provide any specific direction on ADA ramps. Though there is some direction for porches not allowing *"Porches that are not consistent with the architectural style, without roofs (except secondary service accesses or those at grade), or those that are overly ornate for the chosen style".* As conditioned, the design for the ADA ramp is secondary to front porch access and is designed to be compatible with the building's architecture.

Staff has provided recommended conditions for the three full windows on the uphill side elevation to be 1:1 windows as directed above and to revise or reconfirm the front center windows to be slightly shorter as depicted in the approved plans. These requirements were to occur on a staff level consistent with the Conditions of Approval but have been added to this report for clarity. Staff is specifically

requesting Approval by the Board to allow an additional dormer window on the front elevation and the lengthening of the front window set, which is outside of Staff able to approve.

17.40.065 - Historic Preservation Incentives.
A. Purpose. Historic preservation incentives increase the potential for historically designated properties to be used, protected, renovated, and preserved. Incentives make preservation more attractive to owners of locally designated structures because they provide flexibility and economic opportunities.
B. Eligibility for Historic Preservation Incentives. All exterior alterations of designated structures and new construction in historic and conservation districts are eligible for historic preservation incentives if the exterior alteration or new construction has received a certificate of appropriateness from the Historic Review Board per OCMC 17.50.110(c).
C. Incentives Allowed. The dimensional standards of the underlying zone as well as for accessory buildings (OCMC 17.54.100) may be adjusted to allow for compatible development if the expansion or new construction is approved through historic design review.
D. Process. The Applicant must request the incentive at the time of application to the Historic Review Board.
Finding: Not applicable. No preservation incentives are proposed.

CONCLUSION AND RECOMMENDATION
If the Board finds that the full ADA ramp to the rear elevation and revised foundation height cannot be sufficiently mitigated though the proposed Conditions of Approval, Staff recommends that the Historic Review Board approve the ADA ramp to the side door only and backfill the remainder of the side yard with rockery walls and mitigation planting with the same type of plants proposed in the proposed landscape plan and approve the condition for the window revisions.

Staff is also looking for confirmation from the Historic Review Board that the Applicant has provided sufficient findings/plans to meet the Design Guidelines for New Construction for the revised elements. If the Applicant has not, Staff recommends that the Historic Review Board provide direction for the Applicant to return at the October Historic Review Board meeting with a revised narrative and any additional plan revisions as directed by the Historic Review Board unless found to be not required if the Applicant meets the proposed conditions of Approval.

EXHIBITS
1. Vicinity Map (onfile)
2. Applicant Submittal
    a. Applicant Submittal
    b. Applicant's Revised Submittal 10.5.21
    c. Applicant's Revised Submittal 11.15.21
3. Public Comment
    a. McLoughlin Neighborhood Association
    b. McLoughlin Neighborhood Association- Revised
    c. Terese Yip
4. Staff Comment
    a. Mike Roberts, Building Plans Official
    b. Tracy Turner, Building Plans Examiner
    c. Sang Pau, Project Engineer
5. HR 20-01
    a. Notice of Decision
    b. Plans (onfile)
6. Secretary of Interior Standards for Rehabilitation- Accessibility (onfile)

From: Bogdan Smolinets
To: Christina Robertson-Gardiner; john@delsonengineering.com
Cc: Bogdan Smolinets; Pavel Khrupin
Subject: Fwd: ADA Ramp - need revised drawings
Date: Monday, October 18, 2021 2:52:58 PM
Attachments: cid492FAC1D-E13B-4AD8-B0B4-8F0BACC256B3.pdf

Sent from my iPhone

Begin forwarded message:

From: Christina Robertson-Gardiner <crobertson@orcity.org>
Date: October 18, 2021 at 1:30:01 PM PDT
To: Bogdan Smolinets <nwcustomhomes@yahoo.com>
Subject: ADA Ramp - need revised drawings

Bogdan,

I am putting together the revised staff report today for the ADA ramp and window alterations for the live/work project on 5th Street. In our phone conversation a couple of weeks ago, I gave you a hard 9 am October 18, 2021 deadline for sending me revised ADA plans addressing the rear slope/grade question and revising the ADA ramp to begin past the front porch.

At this time, my current recommendation is for approval of the window revisions and an ADA ramp to the side door, as I have inadequate information on the full ADA ramp option. If you would like to continue to pursue the ADA ramp to the rear entrance, I will need you to extend the 120-day date to at least thirty more days to provide time to review your proposal. I am not sure I will have adequate time tomorrow to review anything that you email to me before the agenda is posted.

Application Submitted: 08/31/2021
Application Complete: 09/01/2021
120-Day Decision Deadline: 12/30/2021
120- day extension – 1/30/2022

Thank you

What's your Vision for Oregon City?

Christina Robertson-Gardiner, AICP, Senior Planner (she/her)
695 Warner Parrott Rd, Oregon City, OR 97045
crobertson@orcity.org
503) 496-1564 Direct
(503) 722-3789 Main

Interactive Maps and Apps
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Online Submittal of Land Use Applications

The City of Oregon City continues to offer services and programs in-person and online - find facility hours of operation here.

PUBLIC RECORDS LAW DISCLOSURE: This email is subject to the

From: john delson
To: Bogdan Smolinets; Christina Robertson-Gardiner
Subject: Proposed ADA Ramp with covered deck-PLAN
Date: Monday, October 18, 2021 4:23:39 PM
Attachments: ADA RAMP REVISED 10-18-21.pdf

Christina and Bogdan,

Hope the plan will clarify the new design idea for the ADA ramp and 13 feet x 19 feet approximately, covered deck on the back yard.

Should you have any questions, please call us or e-mail.

Thank You
Respectfully,

John Delson P.E. DEI-President
p. 360-944-7094
c. 360-281-8353

Delson Engineering, Inc.

1204 NE 146 TH AVE
VANCOUVER, WA. 98684
PHONE: (360) 944 -7094
John@Delsonengineering.com

October 19, 2021

Re.: ADA Ramp and Covered Rear Deck for the main floor access.

NARRATIVES FOR GLUA 20-00024 TERESA YIP

APPLICANT: Name: Bogdan Smolinets 503-504-6754
Address: 15730 SE Bybee Dr
Portland OR 97236

OWNER: Name: Teresa Yip 971-258-8148
Address: 15270 SW Sparrow Loop, unit 102
Beaverton, OR 97007

REQUEST: Description of project:
PR-160-2020 Live Work 5th and JQ Adams

LOCATION: Address: 1020 5th St, Oregon City OR 97045
Map and tax lot number: 10900

To Whom It May Concern:

The owner Teresa Yip is in process of developing the above site
to provide care for her elderly family members.
It has been stated, in the previous approval process by Historical Board,
and the City Permitting authorities.

Mrs. Teresa Yip expressed her family and personal needs for the ADA compliant ramp
in her letter dated September 27, 2021.
Her mother (92 years of age), and older brother currently require ADA accessibility due to the advanced age.

We understand that the ramp is necessary to access the residential floor to accommodate the needs of the owner and her family, and propose ADA compliant ramp
to access residential floor level.

The existing site topography of the backyard with aggressive slopes make the
required residential entry rear door very difficult for access.
In our professional opinion the elevated ramp will also minimize further disturbance of the surface ground in geologically sensitive area.

The ramp will be fully screened on the right side with the siding
to match the siding material and finishes of constructed house.
The cover deck will be approximately 19 feet long by 13 feet wide. It will match the overall depth of the ramp and will fill up the space between the constructed Landscape Retaining Wall and the house. The hip roof over the proposed deck will match the design of the lower hip roof of the house. The roof over the proposal deck will also provide shelter for the occupants during hot or rainy days of the year. Also the covered deck will complement the house.
The ADA ramp will give more residential appearance to the rear elevation.

We thank you in advance for your consideration of the proposed ADA ramp,
and the covered deck to meet the needs of the owner family.

I hope this information meets your needs at this time.
Please call our office if you have any questions.

Respectfully,

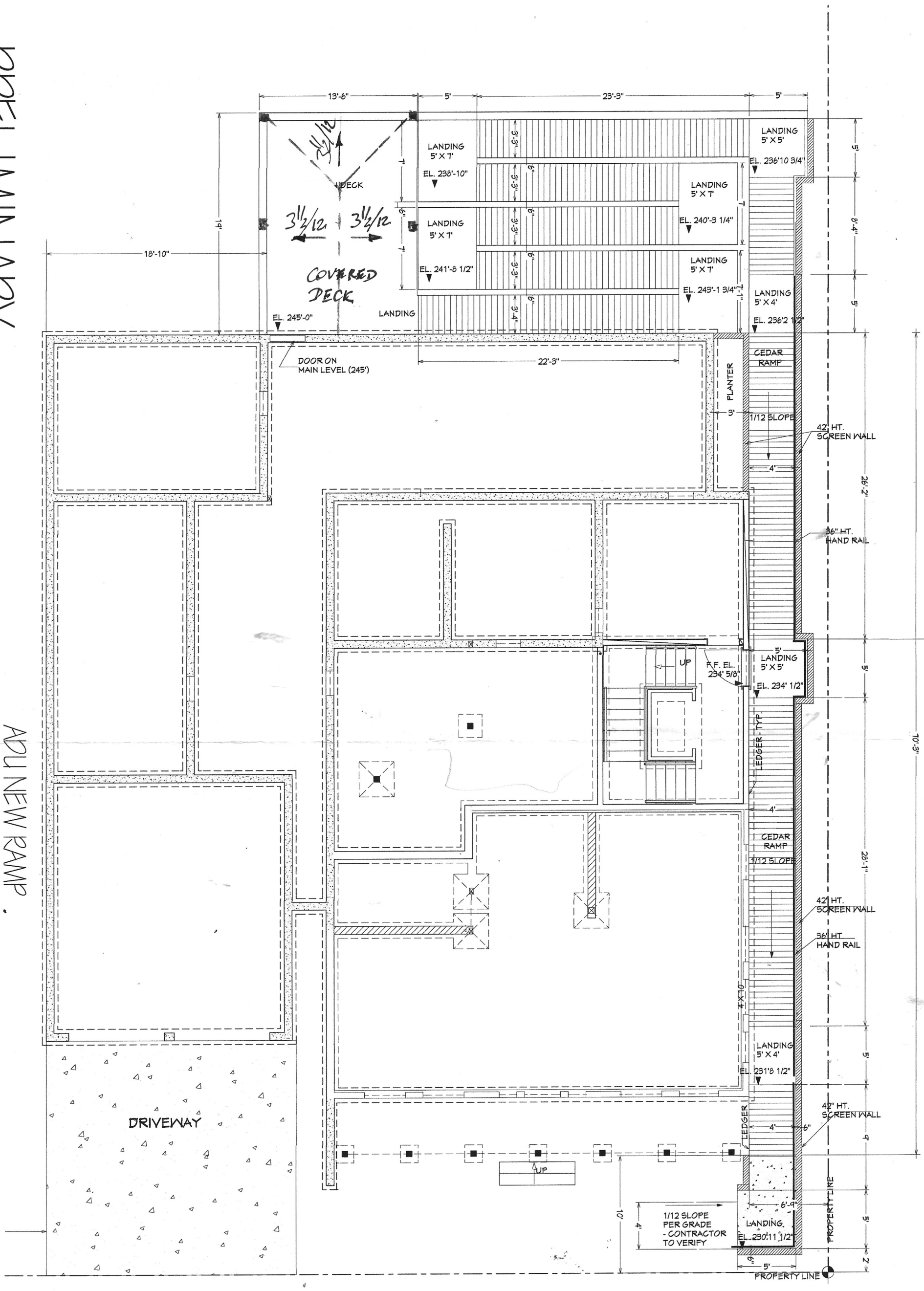
John J. Delson P.E. E.O.R.

PRELIMINARY

10-15-21

ADU NEW RAMP

1/8"=1'-0"



DELSON ENGINEERING, INC.
1204 NE 146TH AVENUE
VANCOUVER, WA 98684
(360) 944-7094

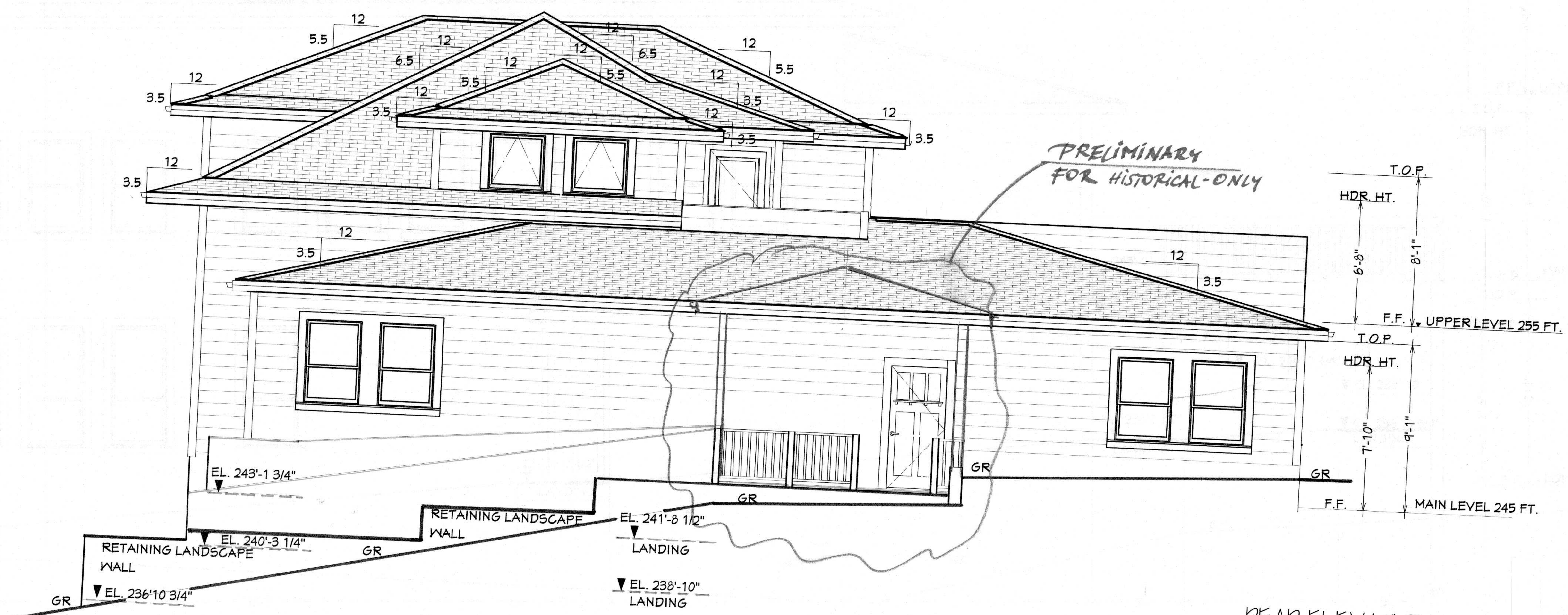
THESE PLANS HAVE BEEN LICENSED TO THE CUSTOMER FOR USE IN THE CONSTRUCTION OF ONE BUILDING ONLY AND ARE SUBJECT TO THE CONDITIONS OF LICENSE ACCEPTED BY THE CUSTOMER. USE OF ANY PART OF THE PLANS BY ANY PARTY OTHER THAN THE CUSTOMER, EXCEPT ON LOAN BY THE CUSTOMER TO THIRD PARTIES NECESSARY TO ASSIST THE CUSTOMER IN USING THE PLANS, SUCH AS CONTRACTORS AND SUBCONTRACTORS, IS STRICTLY PROHIBITED. THE PLANS MAY NOT BE REUSED OR COPIED, IN WHOLE OR IN PART, WITHOUT WRITTEN PERMISSION FROM DELSON ENGINEERING INC.(D.E.I.), WHICH RETAINS COPYRIGHTS TO, & OWNERSHIP OF PLANS. DEI PREPARES ITS PLANS CAREFULLY FOR USE BY ITS CUSTOMERS. HOWEVER, ADAPTATION OF THE PLANS TO MEET SPECIFIC STATE AND LOCAL BUILDING CODES AND REGULATIONS, AND SPECIFIC SITE CONDITIONS, IS THE RESPONSIBILITY OF THE CONTRACTOR. IN ADDITION, DEI WILL NOT BE RESPONSIBLE FOR ANY DAMAGES RELATING TO THE ACCURACY AND OVERALL INTEGRITY OF THE PLANS IN EXCESS OF THE LICENSE FEE PAID FOR THEIR USE. THE CONTRACTOR, THEREFORE, MUST CAREFULLY INSPECT ALL DIMENSIONS AND DETAILS IN THE PLANS FOR ERRORS OR OMISSIONS. UNAUTHORIZED USE OR COPYING OF THESE PLANS, OR THE DESIGN THEY DEPICT, INFRINGES RIGHTS UNDER THE COPYRIGHT ACT. INFRINGERS FACE LIABILITIES THAT INCLUDE PENALTIES OF UP TO $20,000 PER WORK INFRINGED, AND UP TO $100,000 PER WORK INFRINGED WILLFULLY. A GENERAL NOTE AND SPECIFICATION SHEET IS ALWAYS AN INTEGRAL PART OF THESE DRAWINGS AND IS GENERALLY THE LAST SHEET OF THE SET.

DATE: 4-11-20
LIVING AREA:
JOB NO: A19-7-52
DRAWN BY: ABG.

YIP- RESIDENCE
5 TH ST JQ-ADAMS ST
OREGON CITY, OR 97045

RIGHT ELEVATION

1/4"=1'-0"



REAR ELEVATION

1/4"=1'-0"

CONTRACTOR TO VERIFY ALL EXISTING DIMENSIONS
AND CONDITIONS AND NOTIFY ENGINEER OF RECORD
IF DIFFERENT PRIOR TO START OF CONSTRUCTION
ALL WORK PER LATEST ADOPTED
APPLICABLE CODES -TYP.

A-2

YIP RESIDENCE
5 TH ST JQ-ADAMS ST
OREGON CITY, OR 97045

DATE: 8-26-21
LIVING AREA:
JOB NO: A19-7-52
DRAWN BY: ABG

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DELSON ENGINEERING, INC.
1204 NE 146TH AVENUE
VANCOUVER, WA 98684
(360) 944-7094

From: john delson
To: Bogdan Smolinets; john delson; Christina Robertson-Gardiner; yipt@aol.com
Subject: Re: Historic Review Board direction
Date: Monday, November 15, 2021 2:55:12 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Teresa Yip project;
Respond to Historical Board Committee questions:

1. Please see the revised landscape plan with additional mitigation plantings.(By others).
2. The ADA ramp cannot start beyond the front porch..The length of the ramp is dictated by topography and 1 to 12 slope which is national ADA standard. We can shorten the ramp only if the local building jurisdiction approves slope steeper than proposed 1 to 12. Please advise if slope 1 to 10 would be allowed and permitted by Oregon City building jurisdiction.
3. The rear porch is necessary and shall have no impact on any restrictions including Historical Board regulations. We propose a wood deck which is not impervious surface and shall not alter lot coverage. The only alternative is a concrete patio which of course creates additional impervious area.
4. We have created ADA ramp which is necessary for the personal and commercial usage of the proposed building. We have tried all and any possible means to mitigate the massing of the ADA ramp. Again the size of the ramp is dictated by ADA national standards and existing lot topography. The only way to shrink the ramp is to increase the slope of the ramp from1/12 to 1/10. Please advise if such option will be appropriate and approved by the building jurisdictions.
5. The rear deck is a common feature of any residential structure. In this case we must create wood deck or concrete patio because of existing topography. Please advise if you see any other option.
6. Originally we proposed a front entry to the residential portion of the house. This option was rejected by historical board and was discouraged by the staff.The only possible entry to residential area is on the side using the staircase or on the back to the main floor (residential portion of the building) using the ADA ramp. To meet ADA requirements a commercial elevator is not possible due to enormous construction cost and the space required.
7. Additional side photos available and attached (by others).
8. Lot coverage has been increased by approximately 140 ft.^{2} of the proposed roof over the rear deck.

Should you have any questions for the above response please email us. We thank you in advance for your understanding and cooperation in this challenging situation as we are trying to help the owners to meet the needs of their aging family.

Respectfully John Delson PE EOR.

Get Outlook for iOS

From: Bogdan Smolinets <nwcustomhomes@yahoo.com>
Sent: Monday, November 15, 2021 12:31:53 PM
To: john delson <john@delsonengineering.com>; Bogdan Smolinets <nwcustomhomes@yahoo.com>
Subject: FW: Historic Review Board direction

Sent from Mail for Windows

From: Christina Robertson-Gardiner
Sent: Wednesday, October 27, 2021 9:19 AM
To: Bogdan Smolinets; john delson
Subject: Historic Review Board direction

John and Bogdan,

Below is the list of items requested by the Historic Review Board for the November 30, 2021 HRB meeting:

Please submit them by November 15, 2021, to allow staff time to review the items and coordinate with Building and Development Services. The new 120-day deadline is to January 30, 2022.

1. Revised landscape plan with additional mitigation plantings.
2. Revision to site plan and elevation that show the ADA ramp starting beyond the front porch (per condition of approval)
3. Provide a site plan ADA option that does not have rear porch.
3. Provide a revised final rear elevation that details the rear ADA ramp.
4. Provide revised findings that show how you are mitigating the impact of the additional massing of the rear ADA ramp and porch.
5. Provide findings showing how the rear deck is compatible and can be mitigated
6. Analysis of why an interior ADA option is not feasible, why does the ADA option need to be commercial grade?
7. Additional site photos of the side and rear elevation (to and from) -at least six photos
8. Updated lot coverage analysis- with revised ADA ramp and rear porch.

Thank you,

Christina

OC2040 What's your Vision for Oregon City?

Christina Robertson-Gardiner, AICP, Senior Planner (she/her)
695 Warner Parrott Rd, Oregon City, OR 97045
crobertson@orcity.org
503) 496-1564 Direct
(503) 722-3789 Main

Interactive Maps and Apps
Printable Maps
Online Submittal of Land Use Applications

The City of Oregon City continues to offer services and programs in-person and online - find facility hours of operation here.

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the

SITE PLAN

1" = 1'-0"

N 35°26'41" E 124.13'

S 35°26'41" W 137.17'

S 54°34'19" E 91.92'

COMMERCIAL STUDIO AREA 957 S.F.

ENTRY ON LOWER LEVEL EL. (234' 5/8")

ENTRY ON MAIN LEVEL EL. (245')

COVERED PORCH

COVERED DECK

CONCRETE WALKWAY

CONCRETE SIDEWALK

PLANTER

CURB

5TH STREET

DRIVEWAY

MAPLE CLUMP

PROPERTY LINE

1:12 SLOPE PER GRADE - CONTRACTOR TO VERIFY

42" HT. SCREEN WALL

36" HT. HAND RAIL

36" HT. GUARD RAIL

CEDAR RAMP

1:12 SLOPE

LANDING 5' X 5'

LANDING 5' X 4'

LANDING 5' X 7'

LANDING 5' X 7'

LANDING

EL. 236'10 3/4"

EL. 236'2 1/2"

EL. 234' 1/2"

EL. 231'8 1/2"

EL. 230'11 1/2"

EL. 240'-3 1/4"

EL. 243'-1 3/4"

EL. 238'-10"

EL. 241'-8 1/2"

EL. 245'-0"

DN

UP

TYP

PLANTER

LEDGER

4 X 10 WALL

97'-3"

70'-3"

19'

8'

26'-2"

28'-1"

47'

23'-3"

22'-3"

13'-6"

18'-10"

SYMBOLS LEGEND:

SYMBOL	QTY.	LATIN NAME/ Common Name	SIZE	SPACING
		EXISTING TREE TO BE REMOVED		
		EXISTING TREE TO REMAIN		
		MITIGATION TREES (See Plant List for Landscape Plan)		
		TREE PROTECTION FENCING (See Detail Sheet L2.0)		

TREE MITIGATION CALCULATIONS:
*See 11/5/19 Arborist Report for Hazardous Tree Descriptions
*The Site Survey shows some existing trees that do not correspond to the Arborist Report, therefore we propose to mitigate for all trees that cannot be identified or reconciled.

Total Existing Trees Removed within Construction Area=11
Hazardous Tree Quantity=6
Invasive Species Trees Quantity=1
Quantity of Trees to be Mitigated=4 (Noted as "Unidentified")
6–12"=2 (Requires 2 Mitigation Trees)
13–18"=2 (Requires 4 Mitigation Trees)
New Mitigation Trees Proposed=6

Total Existing Trees Removed outside of Construction Area=0

*Any non–hazardous existing trees shown on this plan to remain, that are removed or damaged during construction, shall be replaced according to the requirements of Oregon City Municipal Code Table 17.41.060–1.

PLANT LIST:

SYMBOL	QTY.	LATIN NAME/ Common Name	SIZE	SPACING
		STREET TREES		
	2	SYRINGA RETICULATA Japanese Tree Lilac	2" cal.	As Shown
		MITIGATION TREES		
	3	CORNUS NUTALLII Pacific Dogwood	2" cal.	As Shown
	3	TSUGA HETEROPHYLLA Western Hemlock	6' ht.	As Shown
	1	ACER JAPONICUM 'ACONITIFOLIUM' Full Moon Maple	6' ht.	As Shown
		SHRUBS		
	29	NANDINA DOMESTICA 'HARBOR BELLE' Harbor Belle Nandina	2 gal.	2' o.c.
	10	PIERIS JAPONICA 'LITTLE HEATH' Little Heath Pieris	5 gal.	3' o.c.
	1	TAXUS MEDIA 'STONEHENDGE' Stonehendge Yew	5 gal.	3' o.c.
	6	CORNUS ALBA 'BAILHALO' Ivory Halo Dogwood	2 gal.	5' o.c.
	12	VACCINIUM OVATUM Evergreen Huckleberry	5 gal.	4' o.c.
	32	LEUCOTHOE FONTANESIANA 'NANA' Dwarf Leucothoe	2 gal.	3' o.c.
	13	AUCUBA JAPONICA 'MR. GOLDSTRIKE' Mr. Goldstrike Aucuba	5 gal.	4' o.c.
	35	MAHONIA REPENS Creeping Mahonia	1 gal.	3' o.c.
	6	CAMELLIA 'FAIRY BLUSH' Fairy Blush Camellia	2 gal.	3' o.c.
	8	CEPHALOTAXUS HARRINGTONIA 'FASTIGIATA' Upright Japanese Plum Yew	5 gal.	2' o.c.
	7	SARCOCOCCA RUSCIFOLIA Sweet Box	1 gal.	3' o.c.
		GROUNDCOVER		
	14	ARCTOSTAPHYLOS U.U. 'WOOD'S DWARF' Wood's Dwarf Kinnikinnick	1 gal.	3' o.c.
	63	EPIMEDIUM PERRALCHICUM 'FROHNLEITEN' Frohnleiten Bishop's Hat	1 gal.	2' o.c.
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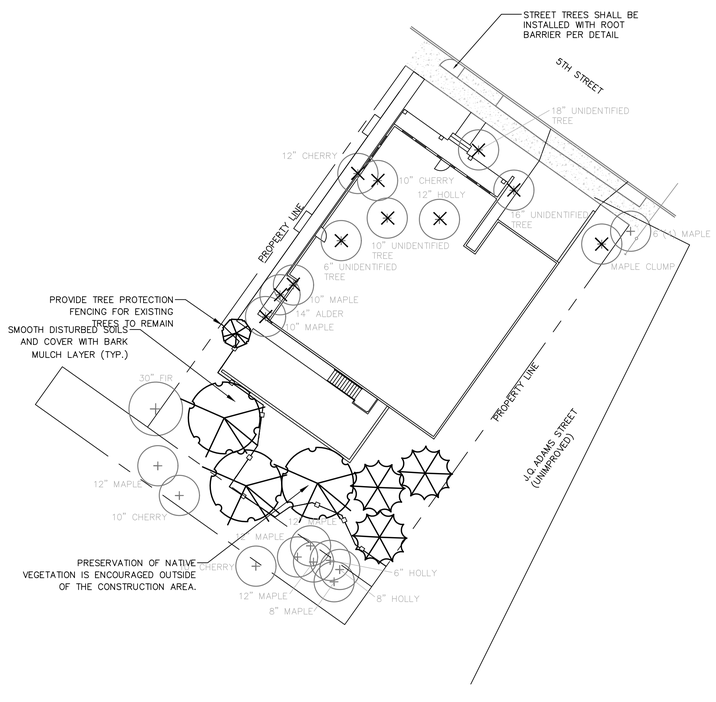
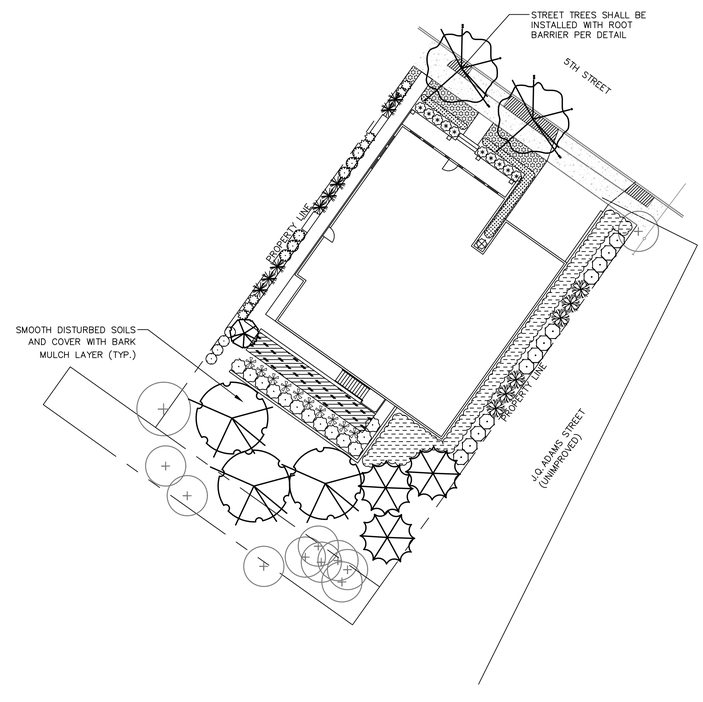
GENERAL NOTES:

1. Contractor is to verify all plant quantities.
2. Adjust plantings in the field as necessary.
3. Project is to be irrigated by an automatic, underground system, which will provide full coverage for all plant material. System is to be design/ build by Landscape Contractor. Guarantee system for a minimum one year. Show drip systems as alternate bid only.
4. All plants are to be fully foliaged, well branched and true to form.
5. Contractor is to notify Landscape Architect or Owner's Representative of any site changes or unforeseen conditions that may be detrimental to plant health, or cause future problems to any structural elements of the project.
6. Invasive plant species shall be removed from all landscape areas prior to approval of final occupancy permit.



TREE REMOVAL + MITIGATION PLAN

SCALE 1" = 20'–0"



LANDSCAPE PLAN

SCALE 1" = 20'–0"

NO.	DATE	REVISIONS

REGISTERED LANDSCAPE ARCHITECT
LA793
ERIN HOLSONBACK
OREGON
5/10/2013
EXP. 5/31/21

OTTEN + ASSOCIATES
LANDSCAPE ARCHITECTURE
3933 South Kelly Avenue, Suite B · Portland, OR 97239
Phone: (503) 972-0311 · www.ottenla.com

5th STREET + J.Q. ADAMS STREET

OREGON CITY, OR 97045

LANDSCAPE PLAN

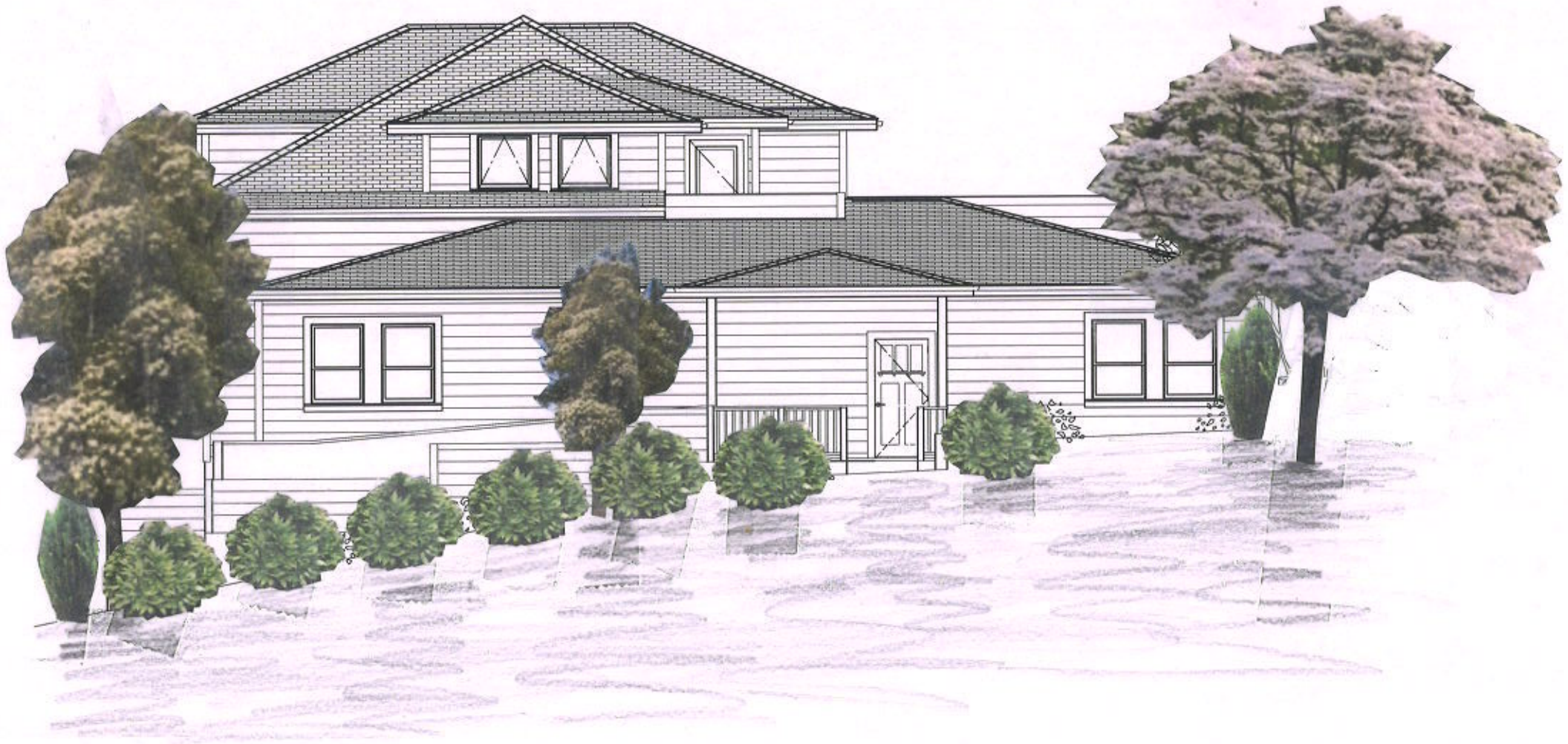
DATE	
9–7–2021	
SCALE	
NOTED	
DRAWN	CHECKED
EH	EH
SHEET NO	
L1.0	
1 OF 2	

FRONT ELEVATION / 5TH ST

1/8"=1'-0"

RIGHT ELEVATION / MONROE ST.

1/8"=1'-0"



REAR ELEVATION

1/8"=1'-0"

LEFT ELEVATION / J.Q. ADAMS ST

1/8"=1'-0"

WeatherSmart

PORTLAND

Henry
WeatherSmart
Drainable
15 YEAR WARRANTY

Henry
WeatherSmart
15 YEAR WARRANTY
Henry
WeatherSmart

SYMBOLS LEGEND:

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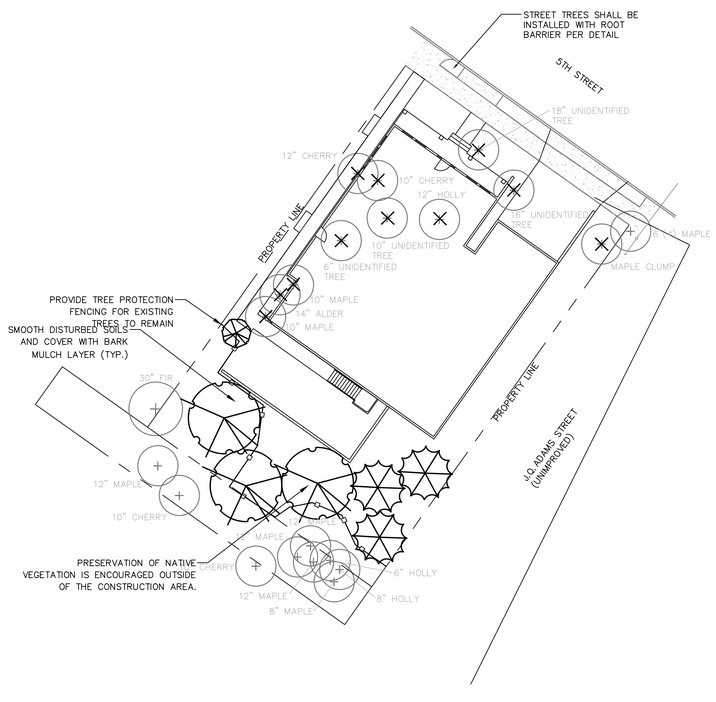
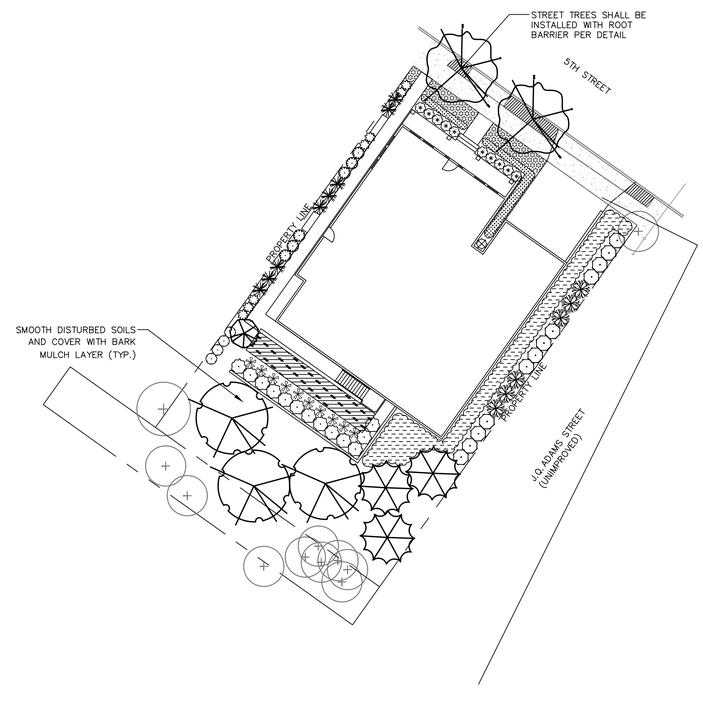


TREE REMOVAL + MITIGATION PLAN

SCALE 1" = 20'–0"



LANDSCAPE PLAN

SCALE 1" = 20'–0"

NO.	DATE	REVISIONS

REGISTERED LANDSCAPE ARCHITECT
LA793
ERIN HOLSONBACK
OREGON
5/10/2013
EXP. 5/31/21

OTTEN + ASSOCIATES
LANDSCAPE ARCHITECTURE
3933 South Kelly Avenue, Suite B · Portland, OR 97239
Phone: (503) 972-0311 · www.ottenla.com

5th STREET + J.Q. ADAMS STREET

OREGON CITY, OR 97045

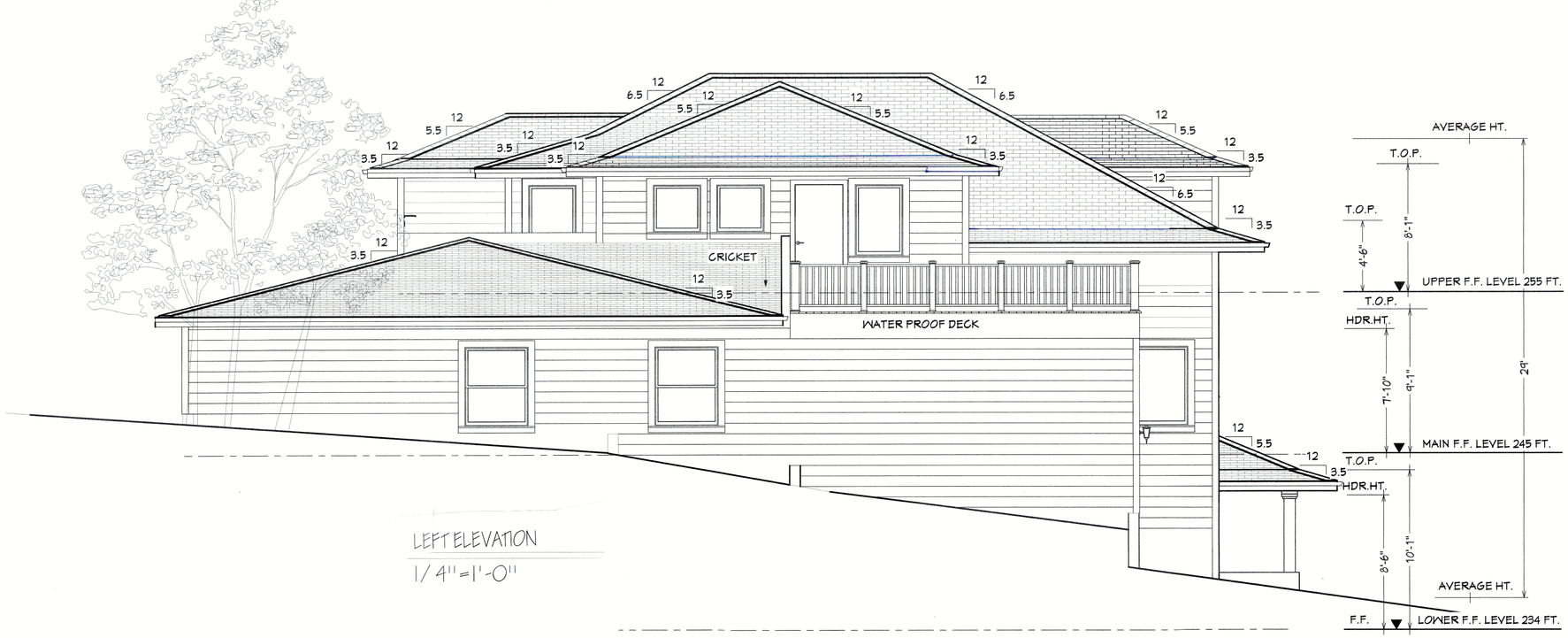
LANDSCAPE PLAN

DATE	
9–7–2021	
SCALE	
NOTED	
DRAWN	CHECKED
EH	EH
SHEET NO	
L1.0	
1 OF 2	

1 REVISED 8.30.21

FRONT ELEVATION

1/4"=1'-0"



LEFT ELEVATION

1/4"=1'-0"

CONTRACTOR TO VERIFY ALL DIMENSIONS
AND CONDITIONS AND NOTIFY ENGINEER OF RECORD
IF DIFFERENT PRIOR TO START OF CONSTRUCTION
ALL WORK PER LATEST ADOPTED
APPLICABLE CODES -TYP.

REGISTERED PROFESSIONAL ENGINEER
OREGON
JOHN J. DELSON
EXPIRES: 12/30/21

A-1

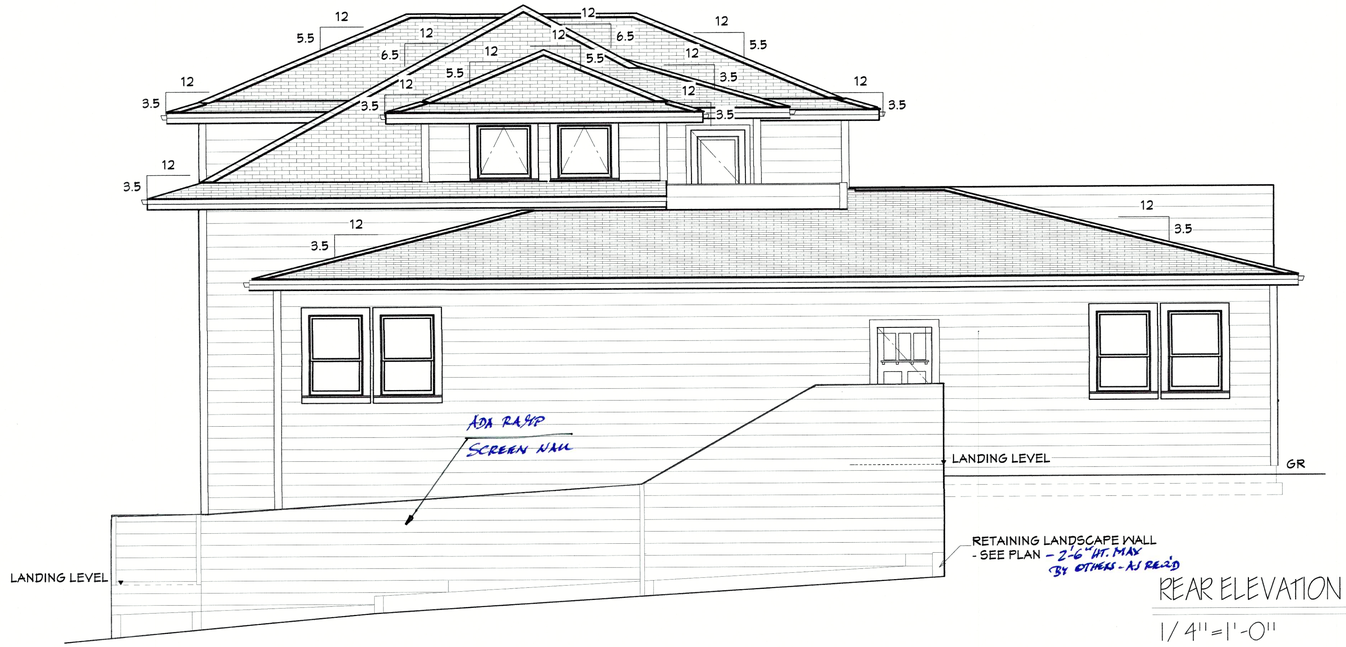
YIP RESIDENCE
5 TH ST JQ ADAMS ST
OREGON CITY, OR 97045

DATE: 4-30-20
LIVING AREA:
JOB NO: A14-7-52
DRAWN BY:

THESE PLANS HAVE BEEN LICENSED TO THE CUSTOMER FOR USE IN THE CONSTRUCTION OF ONE BUILDING ONLY AND ARE SUBJECT TO THE CONDITIONS OF LICENSE ACCEPTED BY THE CUSTOMER. NO COPY OR PART OF THE PLANS MAY BE REPRODUCED OR COPIED BY ANY PERSON OTHER THAN THE CUSTOMER, NOR MAY ANY PART OF THE PLANS BE REPRODUCED OR COPIED BY ANY PERSON OTHER THAN THE CUSTOMER OR SUBCONTRACTOR, IF STRICTLY PROHIBITED. THE PLANS MAY NOT BE REUSED OR COPIED BY WHOLE OR IN PART, WITHOUT WRITTEN PERMISSION OF DELSON ENGINEERING, INC. THE PLANS MUST BE ADAPTED TO THE SITE AND MADE TO COMPLY WITH THE LOCAL BUILDING CODES AND REGULATIONS, AND SPECIFIC TO THE CUSTOMER'S NEEDS. ADAPTATION OF THE PLANS TO MEET SPECIFIC STATE AND LOCAL BUILDING CODES IS THE RESPONSIBILITY OF THE CUSTOMER OR THE CONTRACTOR, THEREFORE, NEITHER DELSON ENGINEERING, INC. NOR ITS CUSTOMERS OR SUBCONTRACTORS ARE ELIGIBLE TO RECEIVE FEES PAID FOR THEIR USE. THE CONTRACTOR, THEREFORE, MUST ASSUME RESPONSIBILITY FOR THE ACCURACY AND OVERALL INTEGRITY OF THE PLANS IN EXCESS OF THE LICENSE FEE PAID FOR THEIR USE. THE CONTRACTOR MUST ASSUME RESPONSIBILITY FOR ALL WORKS FACE LIABILITIES THAT INCLUDE PENALTIES OF UP TO $150,000 PER VIOLATION UNDER THE COPYRIGHT ACT. INTERIOR SUPPLIERS, UNDER THE COPYRIGHT ACT, INTERIOR SUPPLIERS MUST ASSUME RESPONSIBILITY FOR ALL ORIGINAL DETAILS AND DESIGNS THAT ARE NOT A STANDARD INTEGRAL PART OF THESE DRAWINGS AND IS GENERALLY THE LAST SHEET OF THE SET.

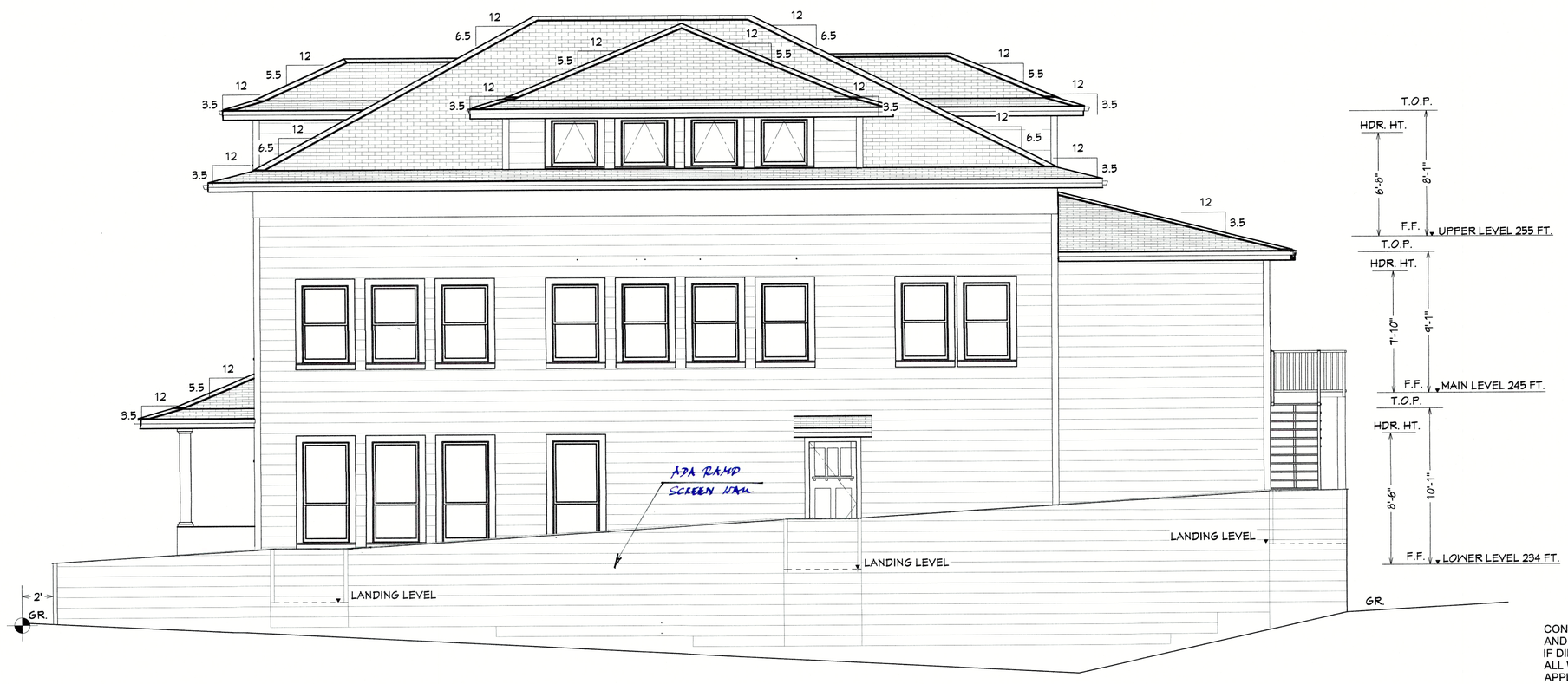
DELSON ENGINEERING, INC.
1204 NE 146TH AVENUE
VANCOUVER, WA 98684
(360) 944-7094

1 REVISED 8-30-21



REAR ELEVATION

1/4"=1'-0"



RIGHT ELEVATION

1/4"=1'-0"

CONTRACTOR TO VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS AND NOTIFY ENGINEER OF RECORD IF DIFFERENT PRIOR TO START OF CONSTRUCTION
ALL WORK PER LATEST ADOPTED APPLICABLE CODES -TYP.

REGISTERED PROFESSIONAL ENGINEER
STATE OF OREGON
NOV. 9, 1999
KEVIN J. DELSON
EXPIRES: 12/30/21

A-2

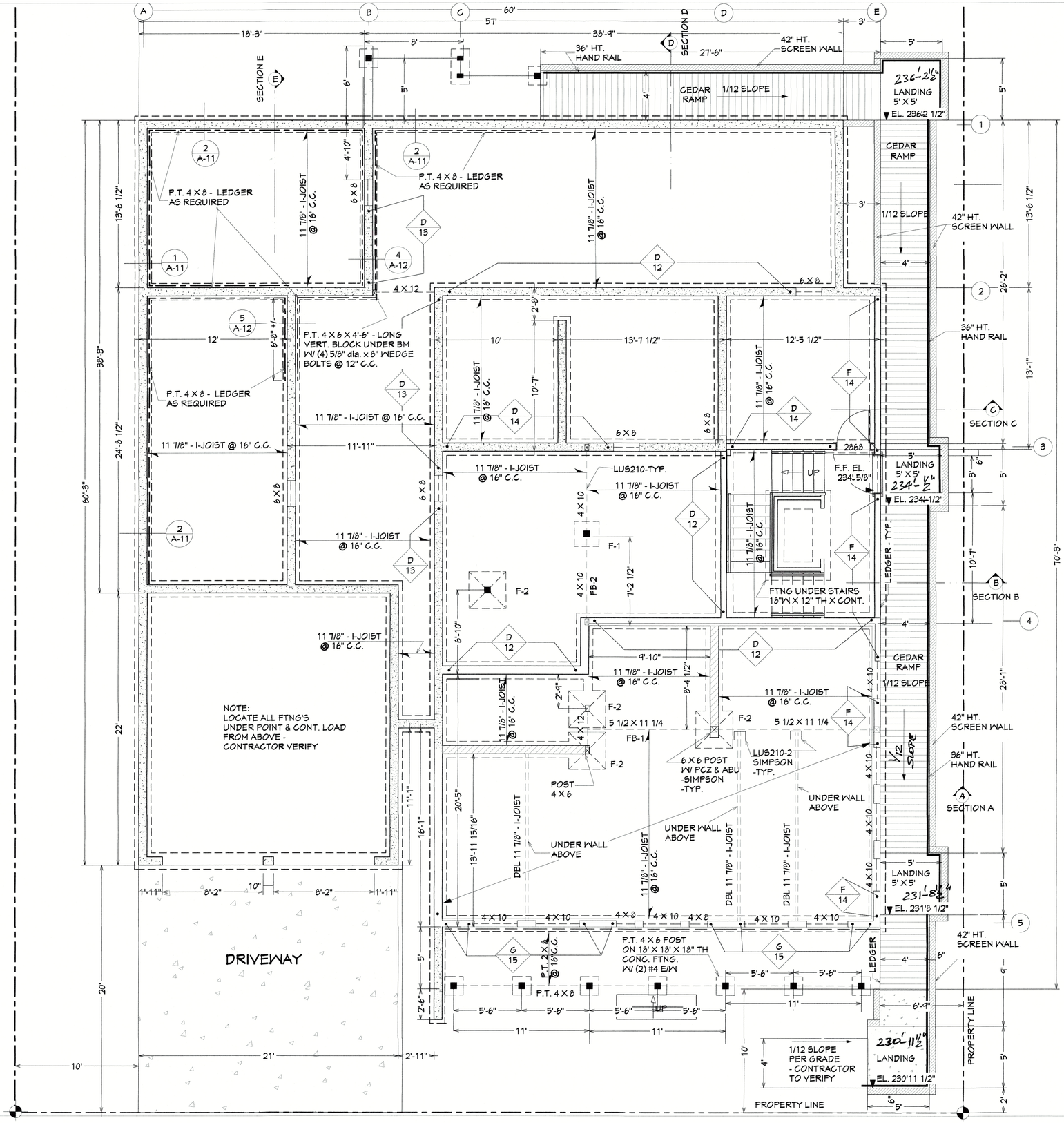
YIP RESIDENCE
5TH ST JQ-ADAMS ST
OREGON CITY, OR 97045

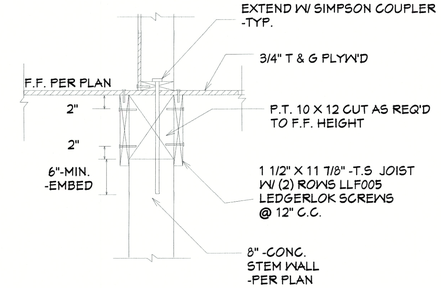
DATE: 8-26-21
LIVING AREA:
JOB NO: A19-7-52
DRAWN BY: ABB

THESE PLANS HAVE BEEN LICENSED TO THE CUSTOMER FOR USE IN THE CONSTRUCTION OF ONE BUILDING ONLY AND ARE SUBJECT TO THE LICENSE AGREEMENT BETWEEN THE CUSTOMER AND DELSON ENGINEERING, INC. (DEI). THESE PLANS ARE NOT TRANSFERABLE TO ANY OTHER PARTY OR SITE. THE PLANS ARE LOANED BY THE CUSTOMER TO THIRD PARTIES NECESSARY TO ASSIST THE CUSTOMER IN USING THE PLANS, SUCH AS CONTRACTORS AND SUBCONTRACTORS, LENDERS, BUILDING OFFICIALS, ASSOCIATES, ADVISORS, ATTORNEYS, ETC. THE CUSTOMER IS RESPONSIBLE FOR ALL COPIES MADE AT THE REQUEST OF THE CUSTOMER. THE PLANS ARE THE PROPERTY OF DELSON ENGINEERING, INC. (DEI). DEI RETAINS COPYRIGHT TO, & OWNERSHIP OF, ALL PLANS, DESIGNS, & SPECIFICATIONS PREPARED BY DEI. DEI PREPARES THESE PLANS BASED ON INFORMATION PROVIDED BY THE CUSTOMER. DEI PREPARES ITS PLANS CAREFULLY FOR USE IN SITE CONDITIONS, & THE RESPONSIBILITY OF THE CONTRACTOR. IN ADDITION, DEI WILL NOT BE RESPONSIBLE FOR ANY DAMAGES RELATING TO THE PLANS, INCLUDING BUT NOT LIMITED TO, ANY DAMAGES RELATING TO THE PLANS BEING USED, MODIFIED, OR REPRODUCED BY THE CUSTOMER OR THIRD PARTIES, OR ANY DAMAGES RELATING TO THE PLANS BEING USED FOR OTHER THAN THE INTENDED PURPOSE. THE CUSTOMER SHALL NOTIFY DEI IMMEDIATELY IF THE PLANS ARE MODIFIED OR REPRODUCED. DEI DOES NOT GUARANTEE THE ACCURACY OF THESE PLANS. THE CUSTOMER SHALL CAREFULLY INSPECT ALL DIMENSIONS AND DETAILS IN THE PLANS FOR ERRORS OR OMISSIONS. UNAUTHORIZED USE OR COPYING OF THESE PLANS, OR ANY PART THEREOF, WITHOUT THE WRITTEN CONSENT OF DEI IS PROHIBITED. DEI WILL NOT BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY DAMAGES, ORIGINAL OR CONSEQUENTIAL, EXCEEDING THE AMOUNT OF $1,000.00 PER WORK SPECIFIED, AND UP TO $500,000 PER WORK SPECIFIED WILLFULLY. A GENERAL NOTE AND SPECIFICATION SHEET IS ALWAYS AN INTEGRAL PART OF THESE DRAWINGS AND IS GENERALLY THE LAST SHEET OF THE SET.

DELSON ENGINEERING, INC.
1204 NE 146TH AVENUE
VANCOUVER, WA 98684
(360) 944-7094

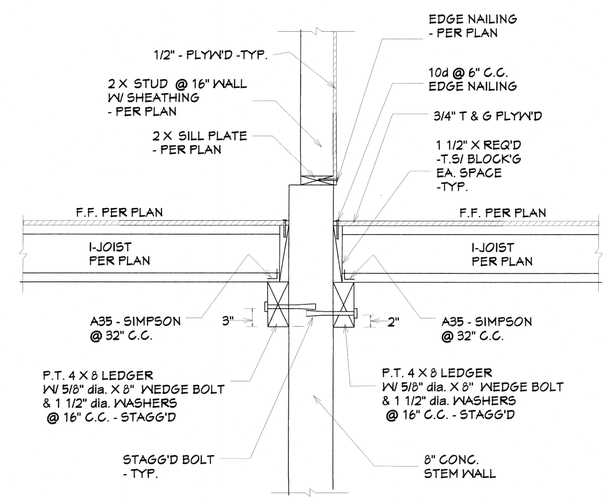
1 REVISED 8-30-21





4 A-12 **DETAIL**

1"=1'-0"



NOTE:
T.S. - DENOTES TIMBERSTRAND

5 A-12 **DETAIL**

1"=1'-0"

MAIN FLOOR FRAMING PLAN/
FOUNDATION PLAN /
LOWER FLOOR SHEARWALLS PLAN

1/ 4"=1'-0"

CONTRACTOR TO VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS AND NOTIFY ENGINEER OF RECORD IF DIFFERENT PRIOR TO START OF CONSTRUCTION
ALL WORK PER LATEST ADOPTED APPLICABLE CODES -TYP.

REGISTERED PROFESSIONAL ENGINEER
36697
OREGON
JUNE 9, 1978
JOHN J. DELSON
EXPIRES: 12/30/21

A-12

YIP RESIDENCE
5 TH ST JQ-ADAMS ST
OREGON CITY, OR 97045

DATE: 8-26-21
LIVING AREA:
JOB NO: A19-7-52
DRAWN BY: JJD/BG

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DELSON ENGINEERING, INC.
1204 NE 146TH AVENUE
VANCOUVER, WA 98684
(360) 944-7094

OREGON CITY

Community Development – Pla

698 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

LAND USE APPLICATION FORM

Type I (OCMC 17.50.030.A)
- ❑ Compatibility Review
- ❑ Lot Line Adjustment
- ❑ Non-Conforming Use Review
- ❑ Natural Resource (NROD) Verification
- ❑ Site Plan and Design Review
- ❑ Extension of Approval

Type II (OCMC 17.50.030.B)
- ❑ Detailed Development Review
- ❑ Geotechnical Hazards
- ❑ Minor Partition (<4 lots)
- ❑ Minor Site Plan & Design Review
- ❑ Non-Conforming Use Review
- ❑ Site Plan and Design Review
- ❑ Subdivision (4+ lots)
- ❑ Minor Variance
- ❑ Natural Resource (NROD) Review

Type III / IV (OCMC 17.50.030.C)
- ❑ Annexation
- ❑ Code Interpretation / Similar Use
- ❑ Concept Development Plan
- ❑ Conditional Use
- ❑ Comprehensive Plan Amendment (Text/Map)
- ❑ Detailed Development Plan
- ☒ Historic Review
- ❑ Municipal Code Amendment
- ❑ Variance
- ❑ Zone Change

File Number(s): _____

Proposed Land Use or Activity: ADA RAMP

Project Name: YIP RESIDENCE Number of Lots Proposed (If Applicable): _____

Physical Address of Site: 1020 5TH Street Oregon City OR

Clackamas County Map and Tax Lot Number(s): 2-2E-31DA 10900

Applicant(s):

Applicant(s) Signature: Bogdan Smolinets Digitally signed by Bogdan Smolinets DN: C=US, OU=NW Custome Homes Inc., O=NW Custome Homes Inc., CN=Bogdan Smolinets, E=nwcustomhomes@yahoo.com Reason: I am the author of this document Location: your signing location here Date: 2021-08-30 15:44:15 Foxit Reader Version: 10.0.0

Applicant(s) Name Printed: NW Custom Homes Inc. Date: 08-39-2021

Mailing Address: 15730 SE Bybee dr.Portland OR 97236

Phone: 503-504-6754 Fax: 971-279-5606 Email: nwcustomhomes@yahoo.com

Property Owner(s):

Property Owner(s) Signature:

Property Owner(s) Name Printed: Teresa Yip Date: 08-30-2021

Mailing Address: 5835 SW Hamilton St. Portland OR 97221

Phone: 971-258-8148 Fax: _____ Email: yipt@aol.com

Representative(s):

Representative(s) Signature: Bogdan Smolinets Digitally signed by Bogdan Smolinets DN: C=US, OU=NW Custome Homes Inc., O=NW Custome Homes Inc., CN=Bogdan Smolinets, E=nwcustomhomes@yahoo.com Reason: I am the author of this document Location: your signing location here Date: 2021-08-30 15:43:32 Foxit Reader Version: 10.0.0

Representative (s) Name Printed: NW Custom Homes Inc. Date: 08-30-2021

Mailing Address: 15730 SE Bybee dr. Portland OR 97236

Phone: 503-504-9754 Fax: 971-279-5606 Email: nwcustomhomes@yahoo.com

All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.

Delson Engineering, Inc.

1204 NE 146 TH AVE
VANCOUVER, WA. 98684
PHONE: (360) 944 -7094
John@Delsonengineering.com

August 30, 2021

Re.: ADA Ramp for main floor access.

NARRATIVES FOR GLUA 20-00024 TERESA YIP

APPLICANT: Name: Bogdan Smolinets 503-504-6754
Address: 15730 SE Bybee Dr
Portland OR 97236

OWNER: Name: Teresa Yip 971-258-8148
Address: 15270 SW Sparrow Loop, unit 102
Beaverton, OR 97007

REQUEST: Description of project:
PR-160-2020 Live Work 5th and JQ Adams

LOCATION: Address: 1020 5th St, Oregon City OR 97045
Map and tax lot number: 10900

To Whom It May Concern:

The owner Teresa Yip is in process of developing the above site
to provide care for her elderly family members.
Her mother, and aunt currently require ADA accessibility due to the advanced age,
As it has been stated, and approved by Historical Board, in the previous approval process.

To accommodate the required ADA wheelchair access to the main level of proposed house,
we propose a typical ramp designe per nationwide adopted ADA standards.
We propose screening wall of the ramp and the ramp supporting structure using approved
Materials, finishes and colors as per current Historical Board standards.

I hope this information meets your needs at this time.
Please call our office if you have any questions.

Respectfully,

John J. Delson P.E. E.O.R.

OREGON CITY

Community Development – Planning

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

Written Public Comment

Planning Files GLUA 21-00052 / HR-21-00020 Modification of HR 20-00001

The City Commission's review for AP 21-0006 is limited solely to the record developed before the HRB; neither the Appellant nor any other party may offer any additional evidence with respect to design compatibility, mitigation, or the feasibility of other alternatives. The parties are limited to only making arguments regarding the identified issue.

- Public Comment- McLoughlin Neighborhood Association- November
- Public Comment- McLoughlin Neighborhood Association- October
- Public Comment- McLoughlin Neighborhood Association-September
- Public Comment-Teresa Yip
- Staff Comment- Mike Roberts Building Official
- Staff Comment- Sang Pau, Development Engineer
- Staff Comments- Tracy Turner, Residential Plans Examiner

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION

DATE: November 29, 2021
TO: Oregon City Historic Review Board
Christina Robertson-Gardiner, Senior Planner
FROM: McLoughlin Neighborhood Association
RE: Second Revision Comments on GLUA-21-00052/HR-21-00020
1020 5th Street

As described in the revised Staff Report of November 23, the initial decision already approved a structure that had elements of massing far outside the foursquare concept. The applicant has continued with construction, without proper permitting, of features that will create a development that is even more out of line with the historic parameters. The applicant has a feasible option to provide ADA access inside the building in the form of a chairlift or similar device.

This submittal does not include a complete narrative or a revised landscape plan. Figure 11, the outdated landscape plan, and Figure 17 of the right side elevation, depict lush landscaping along the edge. Although no scaled drawing of the setback area and wall width have been provided, it does not appear feasible that the indicated plants will fit in this space. The likely result is that the plantings will be omitted, thus eliminating needed buffering between this proposed addition and the neighboring land. Similar issues may arise with the rear yard.

MNA does not concur with the option of allowing a ramp that exceeds maximum ADA slopes, as discussed in the November 23 Staff Report. The desired ramp to the rear is intended for use as an ADA accessible route to the second story. The length, height differential, and switchbacks contribute to an impractical and non-compliant route that does not serve the users and that cannot be accommodated on this topographically restricted site. No site features have changed to introduce a hardship to the applicant. It has been the applicant's own negligence of existing site conditions and resident/user needs that have resulted in the unpermitted work and infeasible proposals, which incrementally erode the standards. MNA does not support the exterior ramp; an interior method of access is feasible and should be required.

The applicant's email response of November 15 erroneously states the additional porch cover size as 140 sf when it is approximately 280 sf. The applicant dismisses all recommended options without justification or demonstration that they are infeasible. For instance, it is stated that an interior lift device is prohibitively expensive. Quotes for a lift and for the ramp + wall + covered porch should be submitted to provide data to the Board to determine cost feasibility.

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION

The applicant has continued to submit incomplete application materials, including the November 15 revision. We realize that staff is obligated to accept incomplete applications should the applicant decline to provide the required information. Conversely, the city is within their authority to deny applications if they remain incomplete. MNA supports the HRB and city's authority to deny this incomplete application, as it has not demonstrated compliance with the applicable standards.

Thank you for your consideration.

Post Office Box 1027, Oregon City, Oregon 97045 • https://www.orcity.org/community/mcloughlin-neighborhood-association

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION

DATE: October 26, 2021
TO: Oregon City Historic Review Board
Christina Robertson-Gardiner, Senior Planner
FROM: McLoughlin Neighborhood Association
RE: Revised Comments on GLUA-21-00052/HR-21-00020
1020 5th Street

The applicant has provided additional materials. However, all previous concerns have not been addressed, and the new proposal presents an even greater impact to the community. The neighbors had expressed concerns from the beginning that the site is not appropriate in size, location, or terrain for the intended use. We expressed our concern that the use appears to be a care facility (although the applicant has not acknowledged this), and ADA and emergency access were not feasible given the site conditions and large building footprint.

The new revision proposes a large addition to the previously proposed ADA ramp, plus a 250-sf deck. This will create an increased negative impact visually to the surrounding community as well as environmental and safety impacts due to the sensitive geologic features of the site.

More importantly, this design will have a detrimental effect on the residents and users of the facility. They would be required to navigate over 230 feet of ramp with 2 corners and 4 hairpin turns, over a 14-foot elevation gain, exposed to the elements, prior to reaching the proposed deck and rear entrance. For people lacking mobility, this is likely to result in a need for assistance or medical intervention. Additionally, ADA access is not provided to the top floor with this design.

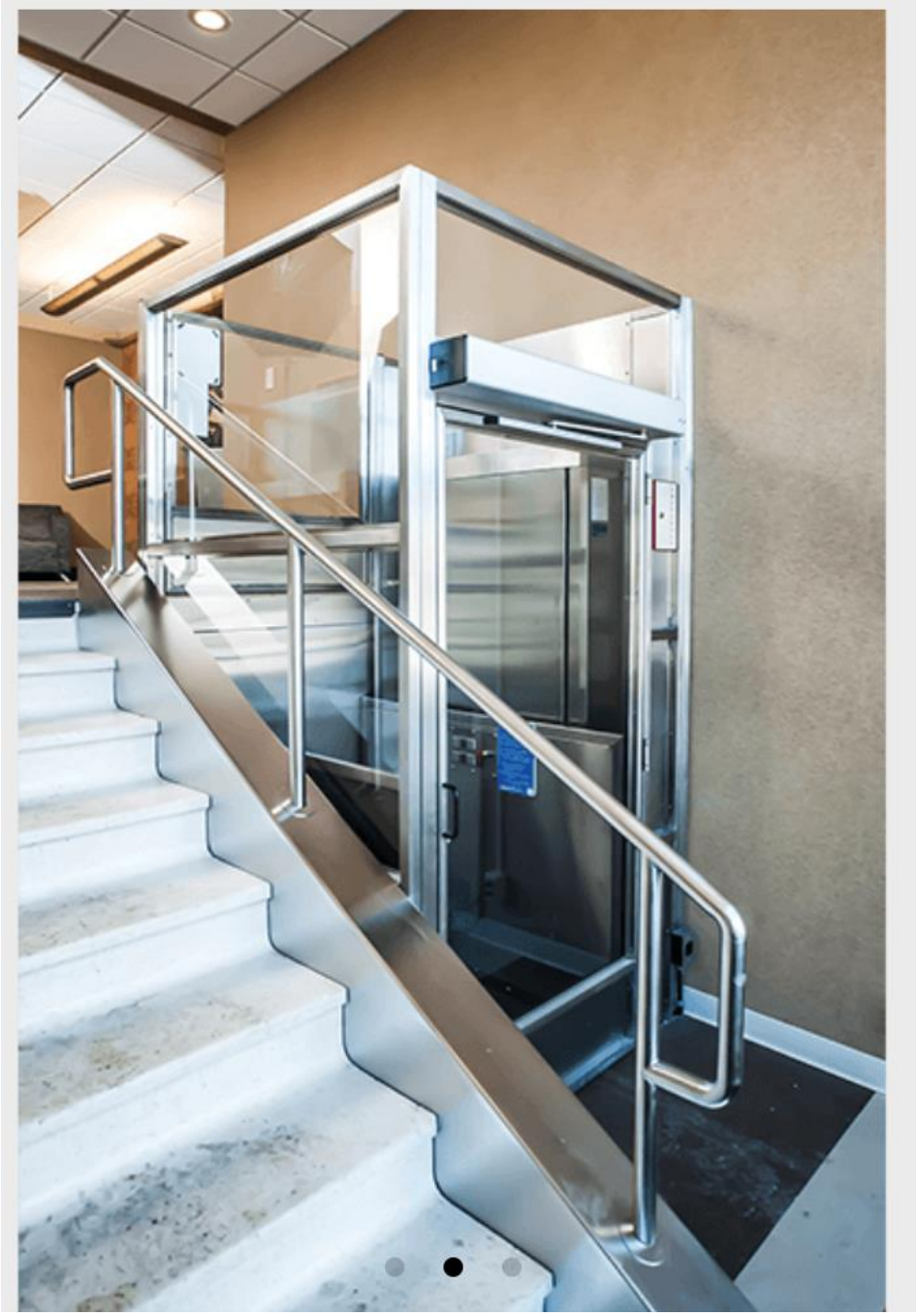
Unfortunately, the applicant's negligence in planning for the known ADA access prior to construction has resulted in limited options to remedy the situation.

In order to reduce the significant impacts to the land, the neighbors, and facility users as discussed above, we respectfully encourage the HRB to **require** an alternate means to provide ADA access internally. There are many wheelchair lift products on the market intended to be incorporated into new buildings or retrofitted into existing buildings. Installation of a device similar to the one attached to this memo would allow ADA access to all levels of the structure, would eliminate additional impact to the exterior design, eliminate further geologic impact, and provide a shorter, protected, easier to navigate route for the vulnerable residents and users of the facility.

MNA supports the continuance proposed by City staff for the applicant to consider this concept and other more appropriate ADA designs.

Please refer also to MNA memo of September 17, 2021.

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION



symmetryelevators.com

McLOUGHLIN
NEIGHBORHOOD
ASSOCIATION

DATE: September 17, 2021
TO: Oregon City Historic Review Board
Christina Robertson-Gardiner, Senior Planner
FROM: McLoughlin Neighborhood Association
RE: Comments on GLUA-21-00052/HR-21-00020
1020 5th Street

- The application is incomplete. The applicant has not addressed any criteria.
- There are exterior changes, such as windows, from the approved plan. The narrative needs to address these changes.
- The request includes a "change in final foundation height.' There is no information on the change.
- Given that the construction is well-underway, it appears that any input on the foundation elevation modification is moot. What are the implications of this change?
- How does the screen wall itself comply with criteria?
- A floor plan, not a site plan, was submitted. Provide a site plan showing dimensions of all features from the property lines, in particular the west property line.
- On the site plan, show how the ramp ties in at the front; show the existing sidewalk.
- Show the wall, its foundation, and landscaping on a vertical elevation drawing of the north elevation. Depict measurements.
- Address how the wall foundation and proposed landscaping will be accomplished in the small space between the building and west property line without encroaching.
- Condition #2 of HR-20-01 requires the applicant to minimize grading and comply with any applicable standards in the Geologic Hazard Overlay. Address how the retaining wall foundation complies.
- The maximum lot coverage appears to be exceeded; please check calculation.

Post Office Box 1027, Oregon City, Oregon 97045 • https://www.orcity.org/community/mcloughlin-neighborhood-association

9/27/2021

To: Community Development Dept.

698 Warner Parrott Road

P.O. Box 3040

Oregon City OR 97045

To whom it may concern:

I need everyone to understand that this house on 5th Ave is my family house. I do need the ramp to accommodate my elderly mother and my elderly brother. My mother is 92 years old with both knee replacement, open heart surgery for dysfunctional mitral valve, and atrial fibrillation. I will need the ramp to accommodate her disability. My elderly brother has arthritis, he will need the ramp to accommodate his daily activities, such as getting in and out of the house.

Respectfully,

Teresa Yip

P.C. I am on business in Philadelphia and will not be able to attend the meeting tonight due to the different time zone. I apologize.

OREGON CITY

Community Development – Planning

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

LAND USE APPLICATION TRANSMITTAL

Date: 9/7/2021

DISTRIBUTION OF APPLICATION			
x	Building Division		Clackamas County Transportation
x	Development Services		Clackamas County Planning
x	Public Works Operations		Clackamas Fire District #1
x	City Engineer		ODOT – Division Review
	Public Works Director		Oregon City School District
	Parks Manager		Tri-Met
	Community Services Director		Metro
	Police		PGE
	Economic Development Manager		South Fork Water Board
	Traffic Engineer	x	Hamlet of Beavercreek
	City Manager's Office	x	Holcomb Outlook CPO
x	CIC Chair	x	Central Point / Leland Road / New Era CPO
x	N.A Chair – McLoughlin	x	Other – See Email List
x	N.A. Land Use Chair		Natural Resource Committee
x	Notice of the application mailed to all properties within 300 feet		Other:

COMMENTS DUE BY:	September 17, 2021		
DECISION BODY:	Historic Review Board		
HEARING DATE(s):	September 28, 2021		
DECISION TYPE:	Type III		
FILE #S:	GLUA 21-00052 / HR-21-00020		
PLANNER:	Christina Robertson-Gardiner, Senior Planner	Phone (503) 496-1564	Email crobertson@orcity.org
APPLICANT:	Bogdan Smolinets		
REQUEST:	Exterior modifications to HR 20-01 including but not limited to the inclusion of an ADA ramp and change in final foundation height for a new live/work building in the McLoughlin Conservation District		
PROJECT WEBPAGE:	https://www.orcity.org/planning/project/glua-21-00052-hr-21-00020-exterior-modifications-hr-20-01		
ADDRESS(ES):	1020 5th Street Oregon City, OR 97045		
TAX LOTS:	Clackamas County Map 2-2E-31DA-10900		

This application material is referred to you for your information, study and official comments. If extra copies are required, please contact the Planning Department. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations.

Please check the appropriate spaces below.

X	The proposal does not conflict with our interests.
___	The proposal conflicts with our interests for the reasons attached.
___	The proposal would not conflict our interests if the changes noted below are included.

Permits will be required to be obtained prior to the construction of the ramp.

Michael G. Roberts

Digitally signed by Michael G. Roberts
DN: C=US, E=mroberts@orcity.org, CN=Michael G. Roberts
Date: 2021.09.07 12:28:24-07'00'

Signature

CONTACT THE PLANNING DIVISION IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION

From: Sang Pau
To: Christina Robertson-Gardiner
Cc: Josh Wheeler
Subject: RE: 5th Steet Live Work- ADA Ramp- Request for comment
Date: Friday, November 19, 2021 5:00:47 PM

Christina,

We've confirmed that it does appear that the wall is large enough to trigger additional geohazard permitting and review. For the decking, if the cut is 2 feet or fill is 2 feet, geo is required UNLESS this is for postholes and are fairly shallow such as those used for a deck. If they are deeper, as used for a pole barn, then it is not exempt.

Thank you,

Sang Pau
Development Engineering Associate
Oregon City Public Works
13895 Fir Street
Oregon City, Oregon 97045
spau@orcity.org
503-974-5503
Website: www.orcity.org | www.orcity.org/maps
Think **GREEN** *before you print.*

We have moved! Engineering Development Services is now located at 13895 Fir Street.

Engineering Development Services Public Counter Hours at 13895 Fir Street are 9:00 AM to 4:00 PM Monday through Thursday. We are available for in-person discussions on Friday by appointment only.

The City of Oregon City continues to offer services and programs in-person and online - find facility hours of operation here.

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Christina Robertson-Gardiner <crobertson@orcity.org>
Sent: Friday, November 19, 2021 2:35 PM
To: Sang Pau <spau@orcity.org>
Subject: FW: 5th Steet Live Work- ADA Ramp- Request for comment

---

From: Christina Robertson-Gardiner
Sent: Tuesday, November 16, 2021 3:08 PM
To: Sang Pau <spau@orcity.org>; Josh Wheeler <jwheeler@orcity.org>; Christopher Long <clong@orcity.org>; Doug Ward <dward@orcity.org>
Subject: 5th Steet Live Work- ADA Ramp- Request for comment

Building and DS,

Can you take a look at Bogdan's revised ADA plan and new CMU retaining wall and let me know in a small memo or email for the record, if additional permits will be needed/or if you have any concerns about the approach?

P:\CommunityDevelopment\2021 Permits-Projects\Other Planning\HRB Items\HR-21-00020 5th Street ADA ramp & foundation\Applicant's Submittal\Revised Submittal 11.15.21

I will be writing the HRB staff report this Thursday, and the agenda will be posted on 11.23.21, so anything before the end of the week would be very helpful to add to my staff report/analysis for the new retaining wall and revised larger ADA ramp.

At this time, I will be recommending that the HRB approve a smaller side entry ADA ramp and encourage the applicant to investigate utilizing an internal chair lift approach. The new retaining wall does not meet HRB materials standards and will need to be rebuilt/revised to be one of the following unless the HRB agrees to the alternate material.

1. natural rockery wall
2. poured in place concrete wall
3. real basalt veneer wall

Thanks all- call me if you have any questions.

CRG

From: Christina Robertson-Gardiner
Sent: Wednesday, November 10, 2021 10:01 AM
To: Sang Pau <spau@orcity.org>; Josh Wheeler <jwheeler@orcity.org>
Subject: 5th Steet Live Work- ADA Ramp

Sang and Josh-

Bogdan and his engineer John Delson are pursuing a much larger ADA ramp on his site. He submitted some information at the last HRB meeting at the last minute and we required the following to be turned in before staff can adequately review the proposal. My initial recommendation as for a smaller side door ramp / internal lift/elevator. I did not approve the original ADA ramp associated with the Building Permit last spring.

The have promised to submit the information by November 15th for a November 30th HRB meeting. I wanted to reach out to you to see the revised much larger rear ADA ramp would trigger additional geohazard review using the July 2021 OCMC17.44 code. Initial incomplete plans submitted in late October can be found **here** for reference. We can schedule a meeting next week if you want to walk through the revised information. *Thanks!*

Below is the list of items the HRB request for the November 30th HRB meeting:

Please submit them by November 15, 2021, to allow staff time to review the items and coordinate with Building and Development Services. The new 120-day deadline is to January 30, 2022.

1. Revised landscape plan with additional mitigation plantings.
2. Revision to site plan and elevation that show the ADA ramp starting beyond the front porch (per condition of approval)
3. Provide a site plan ADA option that does not have rear porch.
3. Provide a revised final rear elevation that details the rear ADA ramp.
4. Provide revised findings that show how you are mitigating the impact of the additional massing of the rear ADA ramp and porch.
5. Provide findings showing how the rear deck is compatible and can be mitigated
6. Analysis of why an interior ADA option is not feasible, why does the ADA option need to be commercial grade?
7. Additional site photos of the side and rear elevation (to and from) -at least six photos
8. Updated lot coverage analysis- with revised ADA ramp and rear porch.

OC2040 What's your Vision for Oregon City?

Christina Robertson-Gardiner, AICP, Senior Planner (she/her)
695 Warner Parrott Rd, Oregon City, OR 97045
crobertson@orcity.org
503) 496-1564 Direct
(503) 722-3789 Main

Interactive Maps and Apps
Printable Maps
Online Submittal of Land Use Applications

The City of Oregon City continues to offer services and programs in-person and online - find facility hours of operation here.

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the

From: Tracy Turner
To: Christina Robertson-Gardiner
Subject: 2021 ORSC Code Requirements for Residential Ramps
Date: Friday, November 19, 2021 2:05:43 PM
Attachments: image001.png

Hello Christina, here is a screenshot of the minimum requirements for Ramps per the 2021 Oregon Residential Specialty Code:

R311.8 Ramps.

Where required by this code or otherwise provided, *ramps* shall comply with this section.

Exception: *Ramps* not within or directly serving a regulated building, patio, porch or deck.

R311.8.1 Maximum slope.

Ramps serving the egress door required by Section R311.2 shall have a slope of not more than 1 unit vertical in 12 units horizontal (8.3-percent slope). Other ramps shall have a maximum slope of 1 unit vertical in 8 units horizontal (12.5 percent).

Exception: Where it is technically infeasible to comply because of site constraints, ramps shall have a slope of not more than 1 unit vertical in 8 units horizontal (12.5 percent).

R311.8.2 Landings required.

There shall be a floor or landing at the top and bottom of each ramp, where doors open onto ramps, and where ramps change directions. The width of the landing perpendicular to the ramp slope shall be not less than 36 inches (914 mm).

R311.8.3 Handrails required.

Handrails shall be provided on not less than one side of ramps exceeding a slope of one unit vertical in 12 units horizontal (8.33-percent slope).

R311.8.3.1 Height.

Handrail height, measured above the finished surface of the ramp slope, shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm).

R311.8.3.2 Grip size.

Handrails on ramps shall comply with Section R311.7.8.5.

R311.8.3.3 Continuity.

Handrails where required on ramps shall be continuous for the full length of the ramp. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than $1^1/_2$ inches (38 mm) between the wall and the handrails.

A copy of the 2021 Oregon Residential Specialty Code can be found through Oregon's Building Codes Division's website: https://www.oregon.gov/bcd/codes-stand/Pages/residential-structures.aspx

Let me know if you have any additional questions.

Thank you,

Tracy

Tracy Turner
Building Inspector
City of Oregon City
PO Box 3040
695 Warner Parrott Road
Oregon City, Oregon 97045
Direct - 503.496.1526
Building & Planning Division - 503.722.3789
Fax 503.722.3880

Website: www.orcity.org | webmaps.orcity.org | Follow us on: Facebook | Twitter
Think **GREEN** before you print.

Please visit us at 695 Warner Parrott Road between the hours of 9am-4pm Monday through Friday.
PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

The City of Oregon City continues to offer services and programs in-person and online - find facility hours of operation here.

Historic Review Board – All Public Hearing for Planning Files GLUA 21-00052 / HR-21-00020 Modification of HR 20-00001

The following meeting agendas, videos, staff report and exhibits for this project are available for viewing at https://www.orcity.org/meetings and are part of the record.

Date	City Website
September 28, 2021 Historic Review Board Meeting	https://www.orcity.org/bc-hrb/historic-review-board-13
October 26, 2021 Historic Review Board Meeting	https://www.orcity.org/bc-hrb/historic-review-board-15
November 30, 2021 Historic Review Board Meeting	https://www.orcity.org/bc-hrb/historic-review-board-16

OREGON CITY

Community Development – Planning

698 Warner Parrott Rd. | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

TYPE III – HISTORIC REVIEW
NOTICE OF DECISION
May 28, 2020

FILE NO.:	GLUA-20-00005 and HR 20-01: Historic Review
APPLICANT:	Bogdan Smolinets NW Custom Homes Inc. 15730 SE Bybee Rd Portland, OR 97236
OWNER:	Teresa Yip 5835 SW Hamilton St Portland, OR 97221
DECISION:	On May 26, 2020, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Oregon City Historic Review Board voted 4-0 to approve the proposal with conditions. The Oregon City Historic Review Board adopted as its own the Staff Report with findings and Conditions of Approval for File Number HR 20-01. The complete record for the Historic Review Board decision is on file at the Planning Division.

Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. The process for these land use decisions is controlled by ORS 197.763 and identified in OCMC 17.50. The decision of the Historic Review Board is appealable to the City Commission within fourteen days of the issuance of the final decision. Please be advised that any issue that is intended to provide a basis for appeal must be raised before the close of the hearing, in person or by letter, with sufficient specificity to afford the Historic Review Board and the parties an opportunity to respond to the issue. Failure to raise an issue with sufficient specificity will preclude any appeal on that issue. The decision of the Historic Review Board may be appealed to the City Commission by parties with standing. Any appeal will be based on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The City Commission decision on appeal from the planning commission is the city's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

Additional Findings by the Historic Review Board

During the deliberation of this application, the Board found that the revised May design that includes reduced height, a reduction in the total square feet and the redesign of the attached garage to create a 3'8" separation all provide the needed additional mitigation to reduce the massing of the building on a sloped lot and constrained lot, where a fully detached garage would require a fair amount of grading. The Board additionally acknowledged that while the Live/Work use was not specifically called out as a design type in the Design Guidelines and is a use that is neither fully commercial nor fully residential, the applicant's method of using a modified Foursquare design was an appropriate approach for the site and use.

Conditions of Approval

HR 20-01

(P) = Verify that condition of approval has been met with the Planning Division.
(DS) = Verify that condition of approval has been met with the Development Services Division.
(B) = Verify that condition of approval has been met with the Building Division.
(F) = Verify that condition of approval has been met with Clackamas Fire Department.

Prior to issuance of Building Permits:

1. The Applicant shall obtain all other required land use approvals, including Site Plan and Design Review and Geologic Hazard Overlay reviews before permits are issued or trees are removed onsite.
2. The Applicant shall minimize grading and comply with any applicable standards in the Geologic Hazard Overlay Chapter 17.44. (P, DS)
3. Additional natural rockery walls that are less than 4 feet in height are allowed on the site without further Historic Review Board review, but will be subject to review for compliance with the Geologic Hazard Overlay District. (P, DS)
4. Minor changes to window location or size on the side and rear facades will be acceptable and may be approved at a staff level prior to building permit issuance. (P)
5. The ground floor height shall be 10 feet minimum. The upper stories may be less than 10 feet to reduce the overall height and perceived massing of the building.
6. The Applicant shall not use stamped concrete or visible gabion walls for any retaining walls; rockery, real basalt veneer, or smooth poured concrete are acceptable. All visible retaining walls associated with the garage and left elevation shall be no more than 6 feet tall, all other retaining walls shall be no taller than 4 feet. (P,DS)
7. The front porch gable shall be removed from the front porch and be redesigned as a simple hipped roof porch to be more aligned with the simpler Foursquare design found in Oregon City.
8. A pre-construction meeting with preservation staff is highly encouraged. (P)
9. The Applicant has not proposed a residential care facility as part of this application. If the Applicant proposes a use allowed within the District, it will be reviewed for compliance with the Site Plan and Design Review code found in OCMC 17.62, applicable Building Codes, and any State of Oregon requirements for the use. If these requirements change the approved plans, the Applicant will be required to resubmit for Historic Review Board approval.

10. The Applicant shall utilize two smaller garage doors of less than 12 feet each instead of a single large garage door, or shall reduce the garage width to a single car garage with a door width of 12 feet or less.
11. Windows in the garage door are acceptable but not required. (P)
12. Doors on the front façade shall be solid or half-lite; no full-lite doors are permitted. (P)
13. Vinyl windows are not permitted. The Applicant shall utilize fiberglass of Marvin Integrity quality or equivalent or wood windows. Slider windows are not permitted. (P)
14. The Applicant shall utilize the following unless an alternate has been approved by the Historic Review Board.
    a. Cement board siding shall be smooth texture. Woodgrain cement board is not allowed.
    b. Entry doors shall be solid or half-lite doors
    c. Exterior lighting shall consist of simple lighting contemporary to the foursquare design period.
    d. Incised lumber or pressure-treated wood shall not be used on any visible surfaces.
    e. All railings, decking, and stairs shall be finished to match the house body or trim.
    f. The window sash shall be the darkest color of the three-color paint scheme.
    g. All porch and stair railings shall be painted or paint the stained wood, with both top and bottom rail, and balusters attached between the rails rather than on the outside.
    h. Compost decking is allowed on upper floor elevations and rear elevations.
    i. Fiberglass windows shall be of Marvin Integrity or equivalent quality.