



CITY OF PHILOMATH CITY COUNCIL

December 9, 2024

City Hall Council Chambers
980 Applegate St., Philomath, OR 97370

Mission Statement

To promote ethical and responsive municipal government which provides its citizenry with high quality municipal services in an efficient and cost effective manner.

REGULAR MEETING

7:00 pm

A. ROLL CALL

B. PUBLIC COMMENTS (See Meeting Participation Instructions on Page 2)

This time is intended for individuals to speak and Council to listen. Members of the Council will not discuss topics or make decisions during this time, but may take comments or requests under advisement, assign topics to a future Council or Standing Committee agenda, or request staff to take action. Comments about a topic scheduled for a public hearing should be given during the hearing, not during visitors and comments. Testimony time is limited to 3-minutes per speaker; a 30-second warning will be provided. Speakers should provide their name and city of residence. Providing the Council with written copy of your comments prior to or during the meeting is greatly appreciated. Those who attend public meetings are required to adhere to the council's rules of proceedings and observe the same standards of decorum as members of the council. Further, at the discretion of the presiding officer, members of the public who fail to observe these rules of procedure will be asked to discontinue speaking and will not be allowed to speak again for the remainder of the meeting.

C. CONSENT AGENDA

1. City Council Minutes of November 25, 2024

D. NEW BUSINESS

1. Inclusivity Committee Appointment
2. New City Logo Rollout

E. ORDINANCES & RESOLUTIONS

1. Ordinance #889 Proclaiming the annexation of certain described real property to the City of Philomath and amending the Philomath Comprehensive Plan Map and Zoning Map designation from low-density residential to high-density residential for property in the City of Philomath – *First Reading*
2. Ordinance #890 Amending Philomath Municipal Code Chapter 18.15 and adding Chapter 18.60 to create Climate Friendly Area (CFA) Overlay District – *First Reading*
3. Resolution 24-23 Establishing the 2025 System Development Charge (SDC) Rates

F. REPORTS OF BOARDS, COMMISSIONS, COMMITTEES, COUNCIL LIAISONS AND STAFF

1. Management Report

G. RECOGNITIONS

1. Outgoing Mayor and City Councilor

INFORMATION & CORRESPONDENCE

1. December City Newsletter
2. YouTube Channel Views Report: November 2024
3. Philomath Connection bus ridership for November 2024
4. Inclusivity Committee Minutes – November 19, 2024
5. City of Philomath Election Results – Official Certification
6. FEMA – OPOA Memo
7. FEMA NFIP-ESA Integration in Oregon
8. Philomath Youth Activities Club – Thank You Letter
9. We Care – Thank You Letter
10. City of Philomath Campaign Report – November 11, 2024
11. Preliminary 2024 Population Estimate
12. Planning Commission Minutes – October 21, 2024

H. EXECUTIVE SESSION

1. Per ORS 192.660(2)(i) Performance evaluations of public officers and employees.

MAYOR'S STATEMENT:

The Philomath City Council will now meet in executive session for the purpose of discussing performance evaluations of public officers and employees; to consult legal counsel regarding current litigation or litigation likely to be filed; and to discuss the employment of public officers, employees, and agents. The executive session is held pursuant to ORS 192.660(i), which allows the Council to meet in executive session to conduct these discussions.

Designated staff, the news media and other designated persons shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. No final decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the public back into the room.

I would remind the Council Members and staff that the confidences in this executive session belong to the City Council as a body, and not to the individual members. These confidences should only be disclosed if the city Council as a body approves such a disclosure. If a member or staff person does not believe that they can maintain these confidences, then I would invite that member or staff person not to participate in the executive session.

I. RECONVENE IN PUBLIC SESSION AND RECESS

J. ADJOURNMENT

MEETING PARTICIPATION INSTRUCTIONS

This meeting is being held in-person at the City Hall Council Chambers, and the public is invited to attend. Public comments and testimonies are also available via written or electronic participation. City meetings are live-streamed on the City's YouTube channel at: [City of Philomath - YouTube](#). This is a public page; no account or user fee is required.

Given two business days' notice, an interpreter can be provided for the hearing impaired or those with limited proficiency in English.

Contact the City Manager's Office to make interpreter arrangements:
541-929-6148; cityhall@philomathoregon.gov; PO Box 400, Philomath, OR 97370

Opportunities to Comment

Methods:

1. Appear at City Hall Council Chambers
2. Sign up to speak via phone or Zoom by contacting City Hall
3. Email written comments to City Hall
4. Deliver written comments to City Hall
5. Mail written comments to City Hall

Must be received by:

- 4:00 p.m. the day of the meeting
- 12:00 p.m. the day of the meeting
- 12:00 p.m. the day of the meeting
- 12:00 p.m. the day of the meeting

UPCOMING CITY MEETING AND EVENTS

(as of 12/5/2024)

December 9	7:00 PM	City Council Meeting
December 16	6:00 PM	Planning Commission Meeting
December 23	6:00 PM	City Council Meeting or Work Session (if needed)
December 24	Noon-5 PM	Holiday - City offices closed
December 25	All Day	Holiday – City offices closed
January 1	All Day	Holiday – City offices closed

Meetings may be cancelled or postponed. Refer to the City Meetings & Events calendar on the City's website for the most up-to-date meeting information.

PHILOMATH CITY COUNCIL
REGULAR MEETING MINUTES
Philomath City Hall Council Chambers
November 25, 2024

A. ROLL CALL

Meeting called to order at 6:01 p.m. by Mayor Chas Jones.

Present

Mayor Chas Jones
Councilor Ruth Causey
Councilor Jessica Andrade
Councilor Diane Crocker
Councilor Christopher McMorrان
Councilor Teresa Nielson

Absent:

Staff Present:

City Manager Chris Workman
City Attorney (BEH) Ashleigh Dougill
Associate Planner Michael Bidwell
City Recorder Crystal M. Weber

Absent:

B. PUBLIC HEARINGS

1. PC24-05 Kribs Annexation

- Public hearing opened at 6:03 p.m.
- Mayor Jones summarized the process for the meeting presentation and public hearing.
- General disclosures requested regarding conflicts of interest or ex parte contact.
 - Mayor Jones and Councilors Crocker, Andrade, and Nielson declared driving by the site.
 - Councilor McMorrان declared posting the link to the annexation application as a comment on social media and shared information about the process online.
 - All claimed impartiality and stated they planned to participate in the hearing.
- Associate Planner Bidwell presented the staff report.
 - Bidwell responded to councilors' questing regarding schools, connecting to existing sidewalk system, and ADUs.
- Applicant presentation:
 - Martin Kribs, Philomath, OR – Submitted conceptual design renderings for the record; discussed flood plain, unit storage on the first level, and his intentions to both develop and live on the property.
- Speaker Testimonies:
 - In Favor:
 - Michelle Reeves, Philomath, OR – Discussed connection with 15th Street site location and community, and eagerness to grow the community.
 - Opposed:
 - Michael Henthorne, Philomath, OR – Stated concerns regarding 15th Street flooding and future parking issues; submitted photos into the record of flooded property.
 - Don Holthofer, Philomath, OR – Stated concerns regarding 13th Street infrastructure and speed limits between city and county.

- 1 • Drew Kell, Philomath, OR – Concurred with Michael Henthorne’s testimony;
2 described concerns of overflow, health, and neighborhood value; submitted
3 signed petitions into the record.
 - 4 • John Grimm, Corvallis, OR – Stated concerns regarding 15th Street traffic,
5 proposed number of units, health annexation, and ADA compliance for
6 sidewalks.
 - 7 • Malcolm Rosie, Philomath, OR – Raised issues regarding flood zones and
8 river flooding.
 - 9 • Neutral: None.
 - 10 • Applicant rebuttal:
 - 11 • Martin Kribs, Philomath, OR – Addressed concerns raised in relation to flood
12 plain, sidewalks, health and safety, and city sewer connection.
 - 13 • Questions of Staff:
 - 14 • Staff discussed concern about demolishing existing house and properly handling
15 the failed septic system.
- 16 Councilor McMorran exited Zoom and joined the meeting in person at 6:57 p.m.
- 17 • Clarified annexation and development within a floodplain in regards to the
18 development code, and the standards of development.
 - 19 • City Manager Workman addressed testimony regarding ADA compliance of
20 sidewalks on 15th Street.
 - 21 • Discussed street capacity and analysis of daily vehicle trips.
 - 22 • No request for continuance or to keep record open received during testimony.
 - 23 • Applicant waived 7-day period to submit final written arguments.
 - 24 • Public hearing closed at 7:05 p.m.

25
26 Action: Adopt the Findings of Fact as presented in the Staff Report dated
27 November 14, 2024 for planning file PC24-05 and approve the
28 application for annexation with the included condition of approval.

29 Motion/Second: Councilor Causey/Councilor Crocker

- 30
- 31 • Briefly discussed sidewalks regarding legality and usability.
- 32

33 Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones,
34 McMorran, Nielson; No: None).

35 36 2. **PC24-06 Kribs Zoning Map / Comprehensive Plan Amendment**

- 37 • Public hearing opened at 7:09 p.m.
- 38 • Mayor Jones summarized the process for the meeting presentation and public
39 hearing.
- 40 • General disclosures requested regarding conflicts of interest or ex parte contact.
 - 41 • Jones, Crocker, Andrade, and Nielson declared driving by the site.
 - 42 • McMorran declared posting the link to the annexation application as a comment
43 on social media and shared information about the process online.
 - 44 • All claimed impartiality and stated they planned to participate in the hearing.
- 45 • Bidwell presented the staff report.
 - 46 • Bidwell responded to councilors’ questions regarding storm drainage capacity
47 between pre- and post-development; the development agreement and terms;
48 development possibilities of different zones, and sizing of residences.
- 49 • Applicant presentation:
 - 50 • Martin Kribs, Philomath, OR – Offered to answer questions.
- 51 • Speaker Testimonies:

- 1 • In favor: None.
- 2 • Opposed:
- 3 • Michael Henthorne, Philomath, OR – Stated concerns about flooding and
- 4 additional housing effects on existing neighborhood.
- 5 • Steve Boggs, Philomath, OR – Remarked on various flood years and flooding
- 6 in current location, and sidewalks built around telephone poles.
- 7 • Drew Kell, Philomath, OR – Brought up market value of new development in
- 8 terms of current house. Stated concerns regarding publicity and signage
- 9 location on property.
- 10 • John Grimm, Corvallis, OR – Stated concerns regarding zone change,
- 11 property values, neighborhood changes, and flooding.
- 12 • Concerned about size of lot and size of planned homes.
- 13 • Neutral:
- 14 • Steve Krygier, Philomath, OR – Concerned about spill-over and inadequate
- 15 parking from the new development.
- 16 • Gary Rodgers, Corvallis, OR – Clarified definition of family in relation to
- 17 neighborhood changes and home sizes; discussed footprint reduction of
- 18 buildings, waterflow improvement, and distance between parking and homes.
- 19 • Applicant rebuttal:
- 20 • Martin Kribs, Philomath, OR – Addressed question regarding distance of parking
- 21 area to homes, and meant to increase community interaction.
- 22 • Discussed condominium ownership and joint land ownership between
- 23 condominium owners.
- 24 • Discussed flow-through design and expected impact on flood elevation levels.
- 25 • Submitted elevation drawings for the record.
- 26 • Applicant summarized development agreement.
- 27 • Discussed development agreement time frame and future development on
- 28 the land, and parking regulations.
- 29 • Applicant waived 7-day period to submit final written arguments.
- 30 • Public hearing closed at 8:18 p.m.
- 31 • Council discussed housing shortage and proposal.

32
33 Action: Adopt the Findings of Fact for the Zoning Map / Comprehensive Plan
34 Amendment as presented in Staff Report dated November 14, 2024
35 for planning file PC24-06 and approve the application with the
36 proposed condition for approval.

37 Motion/Second: Councilor Causey/Councilor Nielson

- 38
- 39 • Briefly discussed veteran cottage cluster and communal experience.
- 40

41 Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones,
42 McMorran, Nielson; No: None).

43
44 Recess declared at 8:24 p.m. Reconvened at 8:36 p.m.

45
46 **3. PC24-04 Amendment to the Philomath Development Code for Climate Friendly**
47 **Equitable Area Overlay**

- 48 • Public hearing opened at 8:37 p.m.
- 49 • Mayor Jones summarized the process for the meeting presentation and public
- 50 hearing.
- 51 • No conflicts of interest disclosed.

- Bidwell presented and summarized the staff report.
- No requests to comment by the public.
- City Staff waived 7-day period to submit final written arguments.
- Public hearing closed at 8:45 p.m.
- Briefly discussed differences between zoning and building heights.

Action: Adopt the Findings of Fact presented in the staff report dated November 14, 2024 for planning file PC24-04 and approve the proposed amendments to the development code.

Motion/Second: Councilor Causey/Councilor Nielson

- Bidwell clarified map on page 2 of Agenda Item #B.03B.

Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones, McMorran, Nielson; No: None).

- Thanks to the Planning Commission and Justin Peterson at Cascades West Council of Governments.

C. CONSENT AGENDA

Start Time: 8:50 p.m.

1. Minutes of November 12, 2024 City Council meeting
2. Court Memorandum

Action: Approve the consent agenda as presented.

Motion/Second: Councilor McMorran/Councilor Causey

Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones, McMorran, Nielson; No: None).

D. ORDINANCES & RESOLUTIONS

Start Time: 8:51 p.m.

1. Ordinance #887 Imposing reasonable time, place and manner regulations on the operation of psilocybin product manufacturers and psilocybin service centers – Second Reading

Action: Amend 9.30.090 Part A on page 4 Line 12 from “park” to “playground”.

Motion/Second: Councilor McMorran/Councilor Andrade

- Discussed amendment and logistics of potential locations.
- Clarified wording on page 2 Line 2 regarding “natural person.”

Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones, McMorran, Nielson; No: None).

- Dougill read title of Ordinance #887.

Roll Call Vote: Ordinance #887 APPROVED 5-1 (Yes: Causey, Crocker, Jones, McMorran, Nielson; No: Andrade).

1 **Start Time: 8:57 p.m.**

2 2. Ordinance #888 Declaring a ban on psilocybin product manufacturing and psilocybin
3 centers, and referring the ban to the voters – Second Reading

- 4
5 • Dougill read title of Ordinance #888.

6
7 Roll Call Vote: Ordinance #888 APPROVED 5-1 (Yes: Causey, Crocker, Jones,
8 McMorrان, Nielson; No: Andrade).

9
10 **Start Time: 8:58 p.m.**

11 3. Resolution #24-22 Enterprise Zone School Fee

- 12 • Workman reviewed the purpose of the need for Resolution 24-22.
13 • Discussion of resolution options.

14
15 Action: Approve Resolution 24-22 to establish an enterprise zone school
16 support fee rate as presented.

17 Motion/Second: Councilor Nielson/Councilor Causey

18 Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones,
19 McMorrان, Nielson; No: None).

20
21 **E. EXECUTIVE SESSION**

22 **Start Time: 9:03 p.m.**

23
24 1. Per ORS 192.660(2)(h) Consulting with counsel concerning the legal rights and duties of
25 a public body with regard to current litigation or litigation likely to be filed.

- 26
27 • Mayor Jones read the statement of Executive Session rules as printed on the meeting
28 agenda. The public was excused, and live streaming was discontinued.

29
30 Executive session closed at 9:31 p.m.

31 **F. RECONVENE IN PUBLIC SESSION**

- 32 • Meeting reconvened in public session at 9:33 p.m.

33 **G. OTHER BUSINESS**

34 Start Time: 9:33 p.m.

35
36 Action: To direct the City Manager to notify FEMA that we are going to adopt the
37 model ordinance option 3.

38 Motion/Second: Councilor McMorrان/Councilor Andrade

39 Vote: Action APPROVED 6-0 (Yes: Andrade, Causey, Crocker, Jones,
40 McMorrان, Nielson; No: None).

41
42 **H. ADJOURNMENT**

43 Meeting adjourned at 9:34 p.m.

44
45
46 SIGNED:

ATTEST:

47
48 _____
Chas Jones, Mayor

Crystal M. Weber, City Recorder



Philomath City Council Agenda Item Summary

Title/Topic: Inclusivity Committee Appointments

Meeting Date: December 9, 2024
Department: Administration
Council Lead: Mayor Chas Jones
Staff Contact: City Manager Chris Workman

ISSUE STATEMENT

Shall the Philomath City Council make appointments to fill the current vacancy on the Inclusivity Committee?

BACKGROUND

The Inclusivity Committee makeup provides for up to six community members to be appointed for quorum purposes. Since January 2024, the Committee has had five appointed community members. Opportunities to serve on the Committee have been promoted on the City's website.

An application was received for the Committee from Jenn Amador. The applicant was notified that the Council will consider their appointment at this meeting; however, Council practice has been to not interview applicants, but make a decision based on the responses provided on the application.

The current vacant position expires December 31, 2025. These are three-year terms.

COUNCIL OPTIONS

- Appoint Jenn Amador to the Inclusivity Committee, with a term set to expire December 31, 2025.
- Do not appoint Jenn Amador and continue to publicize opportunities to serve as an appointed member of the Inclusivity Committee.

RECOMMENDED MOTIONS

"I move to appoint _____ to serve through December 31, 2025 on the Inclusivity Committee."

ATTACHMENTS

- A. Inclusivity Committee Application: Jen Amador – Confidential



Philomath City Council Agenda Item Summary

Title/Topic: City Logo Launch

Meeting Date: December 9, 2024
Staff Contact: Chelsea Starner

BACKGROUND

During the August 12, 2024, City Council meeting, staff presented a plan for a design process for a new City logo. The project was on a tight timeline to coincide with the need to look at new website design and hosting options before the end of the year. During this meeting, staff will present the new logo to the Council and the community.

The process outlined at the August meeting included:

- Contracting with the designers who worked with the Downtown Streetscape Ad-Hoc Public Art Committee due to their experience in logo work, including city logos, and their familiarity with the Philomath community.
- Forming a team of design and marketing centric professionals to join Ruth Causey, Christopher McMorran, Chris Workman and Chelsea Starner, which included Louise-Annette Burgess, Maxtivity; Christina Rehkla, Visit Corvallis; and Patrick Rollens, City of Corvallis.
- Presenting the final logo design to the City Council.

The design firm will also be presenting the City with a brand book which will assist staff in creating letterhead layout, form templates, standard nametags, email signatures, newsletters, signage, vehicle design, uniforms, promotional materials, social media templates and more.

The roll-out of the City's new look will begin this month as staff works on the new website and will be implemented across most departments in the next several months.



Philomath City Council Agenda Item Summary

Title/Topic: Ordinance #889 Proclaiming Annexation

Meeting Date: December 9, 2024
Department: Administration
Council Lead: Mayor Chas Jones
Staff Contact: City Manager Chris Workman

ISSUE STATEMENT

Shall the Philomath City Council approve Ordinance #889 Proclaiming the annexation of certain described real property to the City of Philomath (Kribs property) and amending the Philomath Zoning Map designation from low-density residential to high-density residential for property in the City of Philomath?

BACKGROUND

This ordinance is the final step in the land use approval process for Planning Files PC24-05 and PC24-06 for the Kribs property at 602 S 15th Street. The Planning Commission and City Council have held public hearings and approved the applications. The attached ordinance formalizes these decisions by amending the Zoning Map, which is part of the City's Comprehensive Plan.

The Mayor or person conducting shall read the full ordinance title. After which there may be questions for staff or council deliberation. When ready, the Mayor may call for a roll call vote on the ordinance.

COUNCIL OPTIONS

1. Approve Ordinance #889 as presented
2. Approve Ordinance #889 with specific amendments
3. Do not approve Ordinance #889 and direct staff on how to proceed

ATTACHMENTS

- A. Ordinance #889

1 **NOW, THEREFORE, THE CITY OF PHILOMATH ORDAINS AS FOLLOWS:**

2 **Section 1.** The following described real property as identified in the attached legal
3 description and map (Exhibit A), located in Benton County, Oregon, is hereby
4 annexed to the City of Philomath.

5 **Section 2.** The City Council of the City of Philomath adopts and incorporates the Findings
6 of Fact and Findings in Support, addressing testimony in opposition of the
7 proposed change, as set forth in “Exhibit B” attached.

8 **Section 3.** The City of Philomath Zoning Map is amended so that the property described
9 and shown in “Exhibits A & C” (attached), is changed from “Low Density
10 Residential” to “High Density Residential”, which is an amendment to the City
11 of Philomath Comprehensive Plan.

12 **Section 4.** The Planning Official will make such changes to the City of Philomath Zoning
13 Map as required to implement this amending ordinance.

14 **Section 5.** Effective date: This ordinance is effective on the latter of 30 days from approval
15 or upon exhaustion of all appeal rights.

16 PASSED by the Council this 9th day of December 2024.

17

18 SIGNED by the Mayor this 9th day of December 2024.

19

20

21 SIGNED:

ATTEST:

22

23 _____
Chas Jones, Mayor


Crystal M. Weber, City Recorder

**Annexation Boundary
Legal Description**

Beginning at a 5/8 inch iron rod at the northwest corner of Parcel 1 of Partition Plat 2006-50, a partition plat of record located in the southwest quarter of Section 12 of Township 12 South, Range 6 West of the Willamette Meridian, City of Philomath, Benton County, Oregon, said point also being the southwest corner of that property conveyed to Martin Kribs in Benton County Deed Record 2024-642595; thence along the west line of said Kribs property North 01°27'54" East 194.79 feet to the northwest corner of said Kribs property; thence along the north line of said Kribs property South 89°19'05" East 358.08 feet to the northeast corner of said Kribs property, said point also being on the west right of way line of S. 15th Street; thence along said west right of way line South 01°28'35" West 192.42 feet to the southeast corner of said Kribs property, said point also being the northeast corner of Parcel 3 of said Partition Plat 2006-50, said point being witnessed by a 5/8 inch iron rod which bears North 89°41'54" West 1.00 feet from the true corner; thence along the south line of said Kribs property North 89°41'54" West 358.08 feet to the point of beginning.

The above described tract of land consists of 1.59 acres of land, more or less. The basis of bearings for the above described tract of land is from said Partition Plat 2006-50.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JANUARY 11, 2005
BRIAN SCOTT SAILOR
61341

EXPIRES JUNE 30, 2026



STAFF REPORT

November 14, 2024

Applicant:	Martin Kribs
Nature of Application:	Annexation of 1.59 Acres
Property Location:	602 S 15th Street (Taxlot 12612CD01500)
Applicable Criteria:	Comprehensive Plan Sections IX-1; Development Agreement ORS 94.504-94.528
Zone Designation:	Low Density Residential (R-1)
Staff Contact:	Michael Bidwell, Associate Planner
Date Received:	October 2, 2024
File Number:	PC24-06

NATURE OF THE PROCEEDING

The property owner is requesting a change to the zoning from Low Density Residential (R-1) to High Density Residential (R-3). As a condition of approval of the high density zoning, the applicant has negotiated the terms of a development agreement that will limit the type of development allowed on this property to no more than 16 single-unit houses with a shared access road and centralized common area. The applicant submitted a Type II Site Design Review of the proposed development that is in line with the restrictions of the development agreement, which will be reviewed by staff if this application for the zone change is approved.

The site is located at 602 S 15th Street, across the street from Millpond Crossing Subdivision, which, similarly is zoned R-3 and has a development agreement in place that limits the type of development allowed in that development.

The application is following a Type III Quasi-Judicial procedure, as required in Philomath Development Code Chapter 18.105.060. Staff reviewed the application and found it to be complete on October 14, 2024.

The Planning Commission held a public hearing on November 4, 2024, following which it approved the Findings of Fact and recommended the City Council approve this application for Zone Change / Comp Plan Amendment. The City Council may either adopt the Findings of Fact recommended by the Planning Commission, as presented, or modify the Findings of Fact following the public hearing and deny the application. If denied by the City Council, then the property owner may file an appeal to the State Land Use Board of Appeals (LUBA).

The criteria found in the Philomath Development Code is used to determine whether the application is complete and if the answers and materials provided by the applicant satisfy the applicable criteria. The purpose of the hearing is to determine if the application conforms to the applicable criteria as required in the Philomath Development Code and decide whether to approve or deny the application based on the applicable criteria.

COMMENTS RECEIVED

The City received two letters in support, which has been entered into the record. The city engineer also provided comments that are incorporated into this Staff Report.

FINDINGS OF FACT FOR COMPREHENSIVE PLAN AND ZONE MAP AMENDMENT

- 1) Section IX-1 of the Comprehensive Plan provides criteria for changing the Comprehensive Plan map by a property owner.
- 2) Table 18.105.020 of the Development Code provides Comprehensive Plan Amendments shall be reviewed as a Type IV legislative decision making procedure; however the city attorney has advised to process this application as a Type III quasi-judicial proceeding.
- 3) The property owner is requesting the City change the Comprehensive Plan designation of the subject property from Low-Density Residential (R-1) to High Density Residential (R-3), constrained with a development agreement limiting development to sixteen one- and two-bedroom houses sharing a common lot.
- 4) The subject property is comprised of approximately 1.59 acres.
- 5) The surrounding areas to the north, south, and east are inside city limits; adjacent/abutting properties inside the city limits are developed as residential uses.
- 6) City facilities (streets, sewer, storm and water) are not located on the subject property, but the property has access to hook into existing system along 15th Street.
- 7) The proposed plan designation is more appropriate than the current plan designation.
- 8) The City has the ability to provide water, wastewater, storm drain, and street facilities and services.

DECISION CRITERIA FOR COMPREHENSIVE PLAN AMENDMENT

Section IX-1, Plan Amendment and Update, of the Comprehensive Plan provides for the three ways to amend the Comprehensive Plan. Section 1 provides for owner-initiated amendments and related review criteria. The criteria are:

1. **Comprehensive Plan map amendment initiated by a property owner of the City.**
 - a. **Demonstration that the proposed plan designation is more appropriate than the current plan designation, taking into consideration public needs, alternative locations, or changes in land use since the current designation.**

The current plan and zone designation for the subject property is for low density-residential use. The land use inventory developed as part of the City’s Comprehensive Plan Periodic Review in 2021 and shown below demonstrates that the City has an abundance of residential zoned lands.

Exhibit 64. Final Comparison of Capacity of Existing Residential Land with Demand for New Dwelling Units and Land Surplus or Deficit, Philomath UGB, 2021 to 2041. Source: Calculations by ECONorthwest.

Plan Designations	Capacity (Dwelling Units)	Demand (Dwelling Units)	Demand (Group Quarters)	Capacity less Demand (Dwelling Units)	Land Sufficiency (Acres)
Low Density Residential	1,951	269	-	1,682	400
Medium Density Residential	826	257	4	565	111
High Density Residential	-	-	15.8	368.2	6.5
<i>Lands with Development Agreement</i>	97	97	-	0	0
<i>Lands without Development Agreement</i>	188	127	4	57	5
Commercial	30	30	-	0	0

The table reflects that the City has approximately 6.25 times the supply of low density residential lands needed, and a deficit of high density lands needed for the next 20 years. This indicates the City needs to actively pursue opportunities to get more high density lands in order to meet housing demand over the next 20 years.

The concept behind the proposal is to create a cottage cluster, which is not currently listed in zoning code, but would be allowed in the R-3 as multiple dwelling units on a single lot. In the current zoning code, this would be looked at as a multiple-family property consisting of single-unit detached houses or a condominium complex. The proposed pocket neighborhood or cottage cluster of sixteen smaller, single-unit detached dwellings sharing a common lot, would be able to reduce constructions costs and improve affordability.

As an R-1 zoning district, the maximum density is roughly five units per acre. The proposal provides just over ten units per acre. The issue with creating a traditional subdivision is the required 56 feet of right-of-way for a street serving more than four lots. The second issue is related to wetlands mitigation. The property contains wetlands which cover a portion of the middle part of the property. Approving the zone change will allow the cottage cluster layout to preserve more of these wetlands by building houses along the perimeter. This would not be feasible with a R-1 subdivision and 56 foot right-of-way. Staff concludes that the R-3 zoning district, tempered with a development agreement limiting development to no more than 16 one- and two-bedroom houses, is more appropriate and more beneficial to the wetlands impact than the R-1 zoning designation.

(b) Adverse impacts on adjacent land will be minimal.

The proposed zoning will allow the proposed development, which will be a cottage cluster. This approach can only be done in the R-3 district currently. Knowing that full buildout of R-3 would fall out of line with the character of this area, the owner and City are proposing a development agreement that limits the development of this land, to no more than 16 single unit detached dwellings consisting of one- and two-bedroom homes. Additionally, the proposal is not utilizing fill and will be using flood flow through to prevent increased flooding downstream. The height of the proposed units will be the same as the existing R-1 regulations on building heights (30 feet max). With the agreement and housing design, adverse impacts on adjacent land will be minimal.

(c) The City can provide service that will be required as a result of the amendment.

The Public Works Director and engineer provided feedback, and the following were the comments regarding access and ability to provide city services to the lot.

Development Background Information

- Number of Units:.....16 units (*per City*)
- Estimated unit occupancy:.....2.64 people per unit *
- Estimated population increase:.....42

Water System Capacity Analysis

- City’s current water production capacity (*Treatment Plant, Well, Intertie*).....2.180 MGD
- City’s current peak day demand.....1.685 MGD
 - Projected peak day demand, Mill Pond Crossing (168 lot).....0.105 MGD

- Reserve peak day water production capacity remaining:..... 1.580 MGD
- Per capita peak day demand (from historic records):..... 250 gallons per person
- Additional peak day demand from Kribs annexation property:.....0.010 MGD

Based on the above numbers, the water system has a current reserve peak day capacity of 1.580 MGD. Of this amount, the proposed development will require 0.010 MGD at maximum assumed density. Therefore, the Water system has adequate capacity to serve the development. This evaluation does not take into account the current construction of the new water treatment plant which will more than double the City's production capacity by the end of the calendar year. This will pre-date the actual development on this property.

It appears that waterline improvements (onsite and offsite) can be constructed, which will provide domestic water services and required fire flows to the site. At the time of construction, the property owner will be responsible to provide water system improvements conforming to applicable City standards. It appears that the new fire hydrant and water meters can be installed and connected to the existing waterlines along S 15th Street, and the existing waterlines appear adequate to provide SF residential fire flows at the site. Below are additional comments from the City Engineer.

Wastewater System Capacity Analysis

- City's current dry weather treatment Capacity..... 0.830 MGD
- City's current average dry weather wastewater flow..... 0.708 MGD
 - Projected ADW flow, Mill Pond Crossing (168 lot)..... 0.042 MGD
- Reserve dry weather treatment capacity remaining..... 0.080 MGD
- Per capita increase in ADW flow..... 100 gallons per person per day
- Additional ADW flow from Kribs annexation property..... 0.004 MGD

The wastewater system has a reserve capacity of 0.080 MGD during dry weather conditions. Of this amount, the proposed development will consume 0.004 MGD. Therefore, the Wastewater system has adequate capacity to serve the development as proposed with the development agreement. This evaluation may need to be updated if the time between annexation and development is excessive.

Storm

It appears that storm drainage improvements to serve this property can be installed and connected to existing drainage system along S 15th Street.

Street

The zone change from R-1 to R-3, with the development agreement capping new housing units to 16, would increase daily traffic counts on 15th Street from 90 (9 housing units) to 160 (16 housing units). When considering daily load or peak hour traffic, the impact on the street system will be minimal.

Park

The property is located within walking distance of the elementary school as well as the planned neighborhood park in Millpond Crossing Subdivision. The increased housing units from 9 to 16 will have minimal impact on the City's park system.

(d) Conformance with Plan policies.

Citizen Involvement

Policy 2.1 Citizen Awareness. Post notices of meetings of the City Council, Planning Commission, and Committees at City Hall, community gathering places (i.e. Philomath Community Library and Post Office), local businesses, and on the City website.

Policy 2.2 Social Media. Utilize social media platforms to enhance citizen involvement methods and techniques.

Policy 2.5 Best Practices Engagement Methods. Utilize community engagement methods, tools, and technologies that are recognized as best practices. Examples would include posting prominent physical signs at future development locations, providing information in locations at events where groups of people are, surveys, information on newsletters, press releases, and other practices to increase engagement.

Policy 3.4 Develop Consistent Procedures. Develop and utilize a consistent set of procedures for notifying and soliciting input from the public as appropriate to the scale and type of the proposed action.

Housing

Policy 1.1 Ensure that there is sufficient land in each residential plan designation to meet the City's residential land needs.

Policy 1.2 Coordinate land use planning with the Capital Improvement Plan to ensure that infrastructure is available to support residential development.

Policy 1.3 Encourage development of small vacant and partially vacant parcels, with policies that support development of infill housing types, especially in areas with existing urban services.

Policy 1.6 Monitor residential land development to ensure that there is enough residential land to accommodate the long-term forecast for population growth.

Urbanization

Policy 2.1 The approval of urban development proposals within the urban fringe shall be based upon the availability or approved extension of City services, contiguity to the City, and approval of delayed annexation.

Policy 2.2 When considering annexation requests, the City shall evaluate its ability to provide services to areas proposed for annexation.

Public Facilities and Service

1. Public facilities should be designed with sufficient capacity to meet the City's future needs.

5. Prior to concurrent with the development of subdivisions or planned unit developments within the Urban Growth Boundary, provision for urban services shall be provided to the development site.

6. Public facilities that are to be installed shall meet the minimum standard established by the City or designated on the City's master facilities plan unless otherwise exempted by the City, to provide for the cost effective installation of public facilities to benefit the City.

14. Developers shall be required to participate in providing the facilities to serve their projects as a condition of approval.

20. The city shall be the principal provider of sewer, water, and public facilities and services within the Urban Growth Boundary.

The application meets the Comprehensive Plan's primary Residential Land Use Goal to "Maintain and improve existing residential areas; develop a variety of housing types in order to meet the City's housing needs." Staff concludes the application for annexation conforms to the applicable comprehensive plan policies. This criterion is met.

(e) Conformance with the applicable statewide goals.

There are now 19 Statewide Goals under Oregon's land use laws that the City's Comprehensive Plan was based on. Goals specific to this request are Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economic Development, Goal 10: Housing, Goal 11: Public Facilities, and Goal 12: Transportation.

Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan and the zoning and land-division ordinances needed to put the plan into effect. The local comprehensive plans must be consistent with the Statewide Planning Goals. Plans are reviewed for such consistency by the State's Land Conservation and Development Commission (LCDC). When LCDC officially approves a local government's plan, the plan is said to be acknowledged. It then becomes the controlling document for land use in the area covered by that plan. The findings in compliance with the applicable City policies above demonstrate compliance with the applicable statewide goals.

CONCLUSION

Staff concludes this zoning map amendment from Low-Density Residential (R-1) to High Density Residential (R-3) complies with all applicable statewide goals.

CONDITIONS OF APPROVAL

1. Property owner shall sign and record the Development Agreement, attached to this Staff Report as Attachment A, prior to receiving development approvals.

RECOMMENDED MOTION

"I move to adopt the Findings of Fact for the Zoning Map / Comprehensive Plan Amendment as presented in the Staff Report dated November 14, 2024 for planning file PC24-06 and approve the application with the proposed condition of approval."

OR

"I move to amend the Findings of Fact for the Zoning Map / Comprehensive Plan Amendment for planning file PC24-06 as follows:_____."

"I move to adopt the Finding of Fact for the Zoning Map / Comprehensive Plan Amendment for planning file PC24-06 as amended and deny the application."

ANNEXATION BOUNDARY

LOCATED IN THE SW 1/4 OF SECTION 12 OF TOWNSHIP 12
SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, CITY
OF PHILOMATH, BENTON COUNTY, OREGON

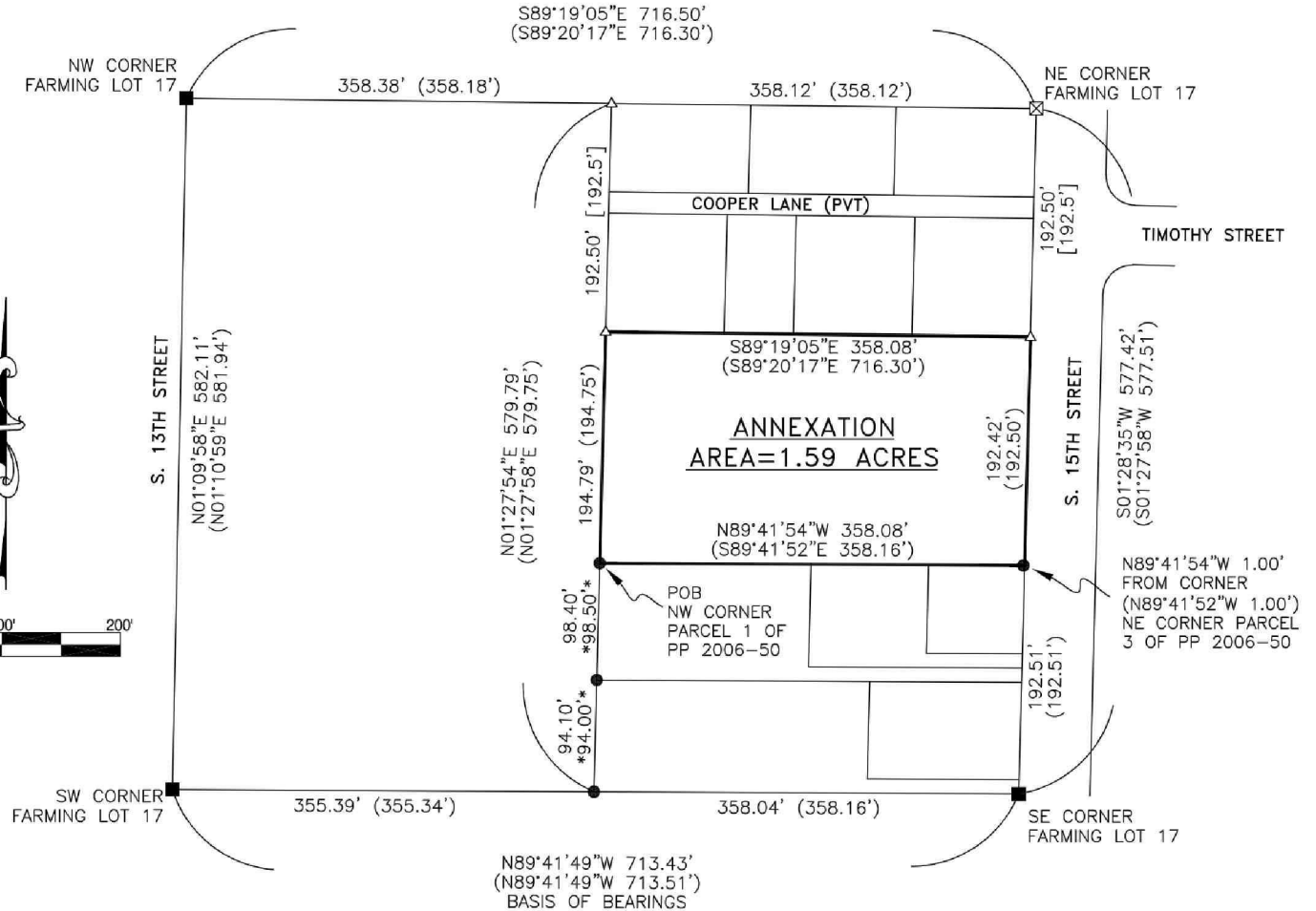
DATE: SEPTEMBER 25, 2024

LEGEND

- FD 5/8" IR W/ RPC MARKED "NORTHSTAR PLS 1823" PER PARTITION PLAT 2006-50
- ⊗ FD 5/8" IR W/ RPC MARKED "NORTHSTAR PLS 1823" PER C.S. 10253
- ⊠ FD 2" IP PER PLAT OF "FARMING LOTS ADDITION TO THE CITY OF PHILOMATH"
- FD 1" IP PER PLAT OF "FARMING LOTS ADDITION TO THE CITY OF PHILOMATH"
- △ CALCULATION POSITION
- POB POINT OF BEGINNING
- FD FOUND
- IR IRON ROD
- IP IRON PIPE - INSIDE DIAMETER
- R/W RIGHT OF WAY
- RPC RED PLASTIC CAP
- PP PARTITION PLAT
- C.S. BENTON COUNTY SURVEY
- BCDR BENTON COUNTY DEED RECORD
- ** RECORD INFORMATION PER C.S. 10253
- [] RECORD INFORMATION PER BCDR 2024-642595
- () RECORD INFORMATION PER PP 2006-50



BRIAN SCOTT SAILOR, P.L.S.
COLE SURVEYING, LLC
P.O. BOX 1211
CORVALLIS, OREGON 97339
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Chapter 18.15

DEFINITIONS

Sections:

18.15.010 Definitions.

~~“Access Way.” A walkway or multi-use path connecting two rights-of-way to one another where no vehicle connection is made.~~ (Update)

“Accessway” means a walkway that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. (New Definition)

~~Pathway/Walkway/Access Way.~~ A pathway or multi-use pathway may be used to satisfy the requirements for access ways in the Transportation Planning Rule (OAR 660-012-045). See PMC 18.65.030(A). (Existing Definition)

“Automobile-oriented use” means a use or activity where automobiles and/or other motor vehicles are an integral part of the use, including repair shops and drive-through services. Auto-oriented uses include uses related to the operation, sale, maintenance, or fueling of motor vehicles, and uses where the use of a motor vehicle is accessory to the primary use, including drive-through uses. (Existing Definition, added detail)

“Site Area, net” means the total area of a development site exclusive of proposed or existing public rights of way, public parks, public open space, protected natural features, and any other areas permanently precluded from development due to development constraints, easements, or similar legal instruments. (New Definition)

“Climate-friendly area” means an urban mixed-use area containing, or planned to contain, a mixture of higher-density housing, jobs, businesses, and services. These areas are served by, or planned for service by, high-quality pedestrian, bicycle, and transit infrastructure and services to provide frequent and convenient connections to key destinations within the city and region. (New Definition)

“Floor area ratio (FAR)”— A floor area ratio is the ratio of the gross floor area of all buildings on a development site, excluding areas within buildings that are dedicated to vehicular parking and circulation, in proportion to the net area of the development site on which the buildings are located. For example, a floor area ratio of 2.0 would indicate that the gross floor area of the building was twice the net area of the site. (New Definition)

“Parking maximums” means limits on the number of off-street parking spaces that can be included in a development. (New Definition)

Chapter 18.XX

CLIMATE FRIENDLY AREA OVERLAY DISTRICT

Sections:

Article I. General Provisions

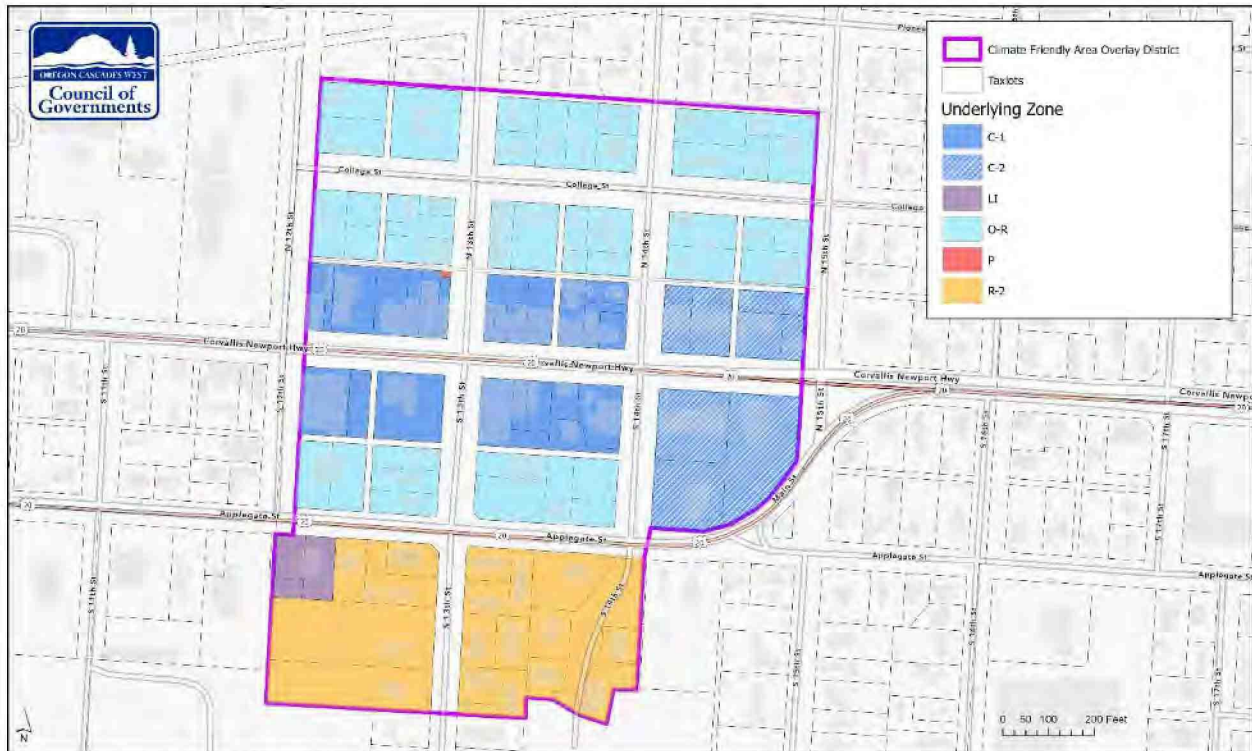
- 18.XX.010 Purpose.
- 18.XX.020 Climate Friendly Overlay Zone
- 18.XX.030 Allowed Use Requirements.
- 18.XX.040 Building Height.
- 18.XX.050 Density.
- 18.XX.060 Streetscape Requirements.
- 18.XX.070 Block Layout
- 18.XX.080 Design Standards

18.XX.010 Purpose.

The purpose of the Climate Friendly Area (CFA) Overlay District is to meet the requirements in OAR 660-012-0320 and to create an urban mixed-use area containing, or planned to contain, a mixture of higher-density housing, jobs, businesses, and services.

18.XX.020 Boundary

The CFA boundary is defined on the map below. The CFA is required to be a minimum of 25 acres in size and have a minimum width of 750 feet.



Philomath Climate Friendly Area Overlay District

09/03/24 - Created by OCW/COG GIS

18.XX.030 **Allowed Use Requirements**

- A. The CFA allows additional uses that may not be allowed within the underlying (base) zone and the following uses shall be allowed within the CFA. The permitted uses in the base zone are not otherwise impacted by the overlay.
- multi-family housing,
 - single-family attached housing,
 - office type uses,
 - retail,
 - services and other commercial,
 - child care,
 - schools
 - public and institutional.,
- B. Automobile-oriented uses shall conform to the design standards in 18.XX.080.
- C. Multi-family housing located in the underlying C-1 zone shall include commercial use(s) on ground floor, with pedestrian entrance facing the street. Multi-family residential uses in the C-1 zone shall be allowed only when part of a mixed-use development (residential with commercial or public/institutional use). Both vertical mixed-use (housing above the ground floor), and horizontal mixed-use (housing on the ground floor) developments are allowed, subject to the standards in subsections 18.40.090(A)(2) through (A)(6) of the Philomath Municipal Code.
- a. As an exception to the above requirement, a multi-family building with residential use only on the ground floor is permitted provided that the residential units are subject to a recorded agreement that runs with the land and requires affordability for an established income level for a defined period of time.
- D. Pre-existing non-conforming uses are subject to the standards in PMC 18.55.
- a. As an exception to the above requirement, Accessory Dwelling Units (ADUs) are allowed in conjunction with a pre-existing non-conforming single-family detached house regardless of minimum density requirements.

18.XX.040 **Building Height**

- A. All buildings in the CFA shall comply with the following building height standards. The standards are intended to allow for development of appropriately scaled buildings with a storefront character.
- B. Minimum Height. The minimum height of a new building shall be 20 feet. Single-story buildings with flat roofs shall be designed to provide the scale of a two-story building with a minimum height of 20 feet and a parapet wall around the roof with a decorative cornice.
- C. Maximum Height. Buildings in the CFA shall be allowed up to 50 feet in height (4 stories).

18.XX.050 **Density**

- A. There is no maximum residential density standard. Density shall be controlled by the applicable lot coverage and building height standards.
- B. New development shall have a minimum 1.0 Floor Area Ratio (FAR).

- C. Redevelopment that renovates and adds residential units within existing buildings, but that does not add residential units outside the existing exterior of the building is not subject to the FAR requirements.

18.XX.060 Streetscape Requirements

- A. CFAs are subject to the streetscape requirements in PMC 18.125.

18.XX.070 Block Layout

This section is intended to promote the walkable, storefront character of the CFA by forming short blocks and orienting buildings close to streets. Placing buildings close to the street also slows traffic down and provides more “eyes on the street,” increasing the safety of public places.

- A. Applicability. This section applies to new land divisions and all of the following types of development (i.e., subject to site design review):
 - 1. Three or more single-family attached houses on their own lots (i.e., townhomes subject to site design review);
 - 2. Multifamily housing;
 - 3. Public and institutional buildings, except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses); and
 - 4. Commercial and mixed-use buildings subject to site design review.

Compliance with all of the provisions of subsections (B) through (C) of this section shall be required.

- B. Block Layout Standard. New land divisions and developments that are subject to site design review shall be configured to provide an alley or interior parking court. Pedestrian pathways (dedicated or easement) shall be provided from the street right-of-way to interior parking courts between buildings, as necessary, to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking.
 - 1. For development sites less than 5.5 acres in size, the maximum block length permitted shall be 500 feet or less. Where block length exceeds 350 feet, a public pedestrian through-block easement shall be provided to facilitate safe and convenient pedestrian connectivity in the CFA. Substantial redevelopment of sites of 2 acres or more within an existing block that does not meet the standard shall provide a public pedestrian accessway allowing direct passage through the development site such that no pedestrian route will exceed 350 feet along any block face.
 - 2. For development sites of 5.5 acres or more, a maximum block length of 350 feet or less.

18.XX.080 Design Standards

- A. Development in the CFA shall provide for a compact development pattern, easy ability to walk or use mobility devices, and allow direct access on the pedestrian, bicycle, and public transportation networks. Commercial or mixed-use site design land use regulations must meet the following requirements:
 - 1. Primary pedestrian entrances to buildings must be oriented to a public pedestrian facility and be accessible to people with mobility disabilities. An uninterrupted accessway, courtyard, plaza, or other pedestrian-oriented space must be provided between primary pedestrian entrances and the public pedestrian facility, except where the entrance opens directly to the pedestrian facility. All pedestrian entrances must be designed to be barrier-free.

2. Motor vehicle parking, circulation, access, and loading may be located on site beside or behind buildings. Motor vehicle parking, circulation, access, and loading must not be located on site between buildings and public pedestrian facilities on or along the primary facing street. Bicycle parking may be permitted on the primary facing street.
3. On-site accessways must be provided to directly connect key pedestrian entrances to public pedestrian facilities, to any on-site parking, and to adjacent properties, as applicable.
4. Any pedestrian entrances facing an on-site parking lot must be secondary to primary pedestrian entrances as required in this section. Primary pedestrian entrances for uses open to the public must be open during business hours.
5. A site of 0.50 acre or larger must be designed with a connected network of public pedestrian facilities to meet the requirements of this section.
6. Development on sites adjacent to a transit stop or station on a priority transit corridor must be oriented to the transit stop or station. The site design must provide for pedestrian connectivity and amenities adjacent to the stop or station. If there is inadequate space in the existing right of way for transit infrastructure, then the infrastructure must be accommodated on site.
7. Development standards must meet the bicycle parking requirements in PMC 18.75.040.

**CITY OF PHILOMATH
ORDINANCE NO. 890**

**AN ORDINANCE AMENDING PHILOMATH MUNICIPAL CODE CHAPTER 18.15 AND
ADDING CHAPTER 18.60 TO CREATE CLIMATE FRIENDLY AREA (CFA) OVERLAY
DISTRICT**

WHEREAS, The Oregon Department of Land and Conservation and Development (DLCD) requires cities over 2,500 inside a metropolitan planning organization boundary to adopt a “Climate Friendly Area (CFA)” overlay district; and,

WHEREAS, Oregon Cascades West Council of Governments (OCWCOG) received a grant to perform a parking inventory, assisted with identifying location for the overlay district, and provided a multimodal gap summary that impacts the proposed overlay district for the City of Philomath; and,

WHEREAS, notices of public meetings by the Planning Commission and the City Council regarding the proposed amendments were duly provided in compliance with Citizen Involvement Committee policies; and

WHEREAS, the Philomath Planning Commission held a public hearing on November 4, 2024, deliberated, and recommended that the City Council approve and adopt the new Chapter of the Philomath Development Code, 18.60; and

WHEREAS, the Philomath Planning Commission held a public hearing on November 4, 2024, deliberated, and recommended that the City Council approve and adopt the new Chapter of the Philomath Development Code, 18.60; and,

WHEREAS, City staff prepared a staff report as presented in File No. PC22-04 that includes findings supporting the adoption of the CFA Overlay District in Ch. 18.60 of the Philomath Development Code, which the City Council adopted at its meeting of November 25, 2024, and the City Council incorporates by this reference the findings presented in this staff report in support of the ordinance.

NOW, THEREFORE, THE CITY OF PHILOMATH ORDAINS AS FOLLOWS:

Section 1. The Philomath Municipal Code is amended to add Chapter 18.60, to read as shown in the attached Exhibit A.

Section 2. The Comprehensive Plan Map and Zoning Map is amended to show the CFA Overlay District. PASSED by the Council this 9th day of December 2024.

PASSED by the Council this 9th day of December 2024.

SIGNED by the Mayor this 9th day of December 2024.

SIGNED:

ATTEST:

Chas Jones, Mayor

Crystal M. Weber, City Recorder



Philomath City Council Agenda Item Summary

Title/Topic: Resolution 24-23 Establishing 2025 System Development Charge (SDC) Rates

Meeting Date: December 9, 2024
Department: Planning
Staff Contact: Chris Workman

ISSUE STATEMENT

Shall the Philomath City Council adopt Resolution 24-23, approving the System Development Charge (SDC) annual construction cost adjustments for 2025 as proposed?

BACKGROUND

SDCs are fees collected by the City to offset costs of public improvements associated with new development. The basic premise behind these fees is that new development should pay its own way in developing new infrastructure improvements and reimbursing for improvements that service their property that were previously made.

The methodology for establishing SDC rates is found in Philomath Municipal Code Chapter 14.15. Ordinance #847, approved by the Philomath City Council on June 28, 2021, adopted new SDC rates and methodologies for the water, sewer, transportation and park systems. Rates are tied to the ENR (Engineering News Review) index to keep pace with increases in construction related labor and materials costs. The ENR 20 Cities Average Construction Cost Index is used; it increased from 13,515 in December 2023, to 13,632 in December 2024, a 0.87% increase.

This increase has been applied to all of the City's SDCs and the attached schedule reflects the proposed SDC schedule for calendar year 2025. For a typical residential home, the total SDCs will increase from \$30,543 to \$30,802.

PROS AND CONS

- Adjusting the SDCs to reflect increased construction costs allows the City to collect the funds needed for the projects identified in the master plans.
- Additional SDC revenue goes directly toward past or future infrastructure projects like paying off the sewer lagoon bond and paying for the upcoming water treatment plant.
- SDCs are directly coordinated to the cost of building homes or new businesses within the city. Higher SDCs can stunt growth, but SDCs that are too low don't fulfill their role of having development pay its way.

COUNCIL OPTIONS

1. Pass Resolution 24-23, establishing the 2025 SDC Rates as proposed.
2. Do not pass Resolution 24-23 and direct staff on how to proceed.

CITY MANAGER RECOMMENDATION

Staff recommends approval of the rates as presented by passing resolution 24-23. This will set rates for the entire calendar year, giving certainty for upcoming developments to plan with.

RECOMMENDED MOTION

"I move the City Council approve Resolution 24-23, establishing the 2025 SDC Rates."

ATTACHMENTS

- A. Resolution 24-23 Establishing 2025 SDC Rates

**CITY OF PHILOMATH
 RESOLUTION 24-23**

**A RESOLUTION TO ESTABLISH THE 2025
 SYSTEM DEVELOPMENT CHARGE (SDC) RATES.**

FINDINGS OF FACT:

1. The methodology for establishing SDC rates is established in Philomath Municipal Code Chapter 14.15.
2. Ordinance #847, approved by the Philomath City Council on June 28, 2021, adopted new SDC rates and methodologies for the water, sewer, transportation and park systems.
3. The adopted methodologies recommend adjusting rates annually to reflect changes in construction costs. Construction cost changes are captured in the Engineering News Review Construction Cost Index (ENR CCI) 20 Cities Average.
4. The ENR CCI 20 Cities Average increased from 13,515 in December 2023 to 13,632 in December 2023, a 0.87% increase.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Philomath that the revised SDC rates are established as follows:

2025 SDC SCHEDULE

Effective January 1, 2025

Water System SDC Schedule				
Water Meter Size	Improvement	Reimbursement	Admin Fee 1%	Total
Single/Multi Family Residential Per Dwelling Unit:				
Per Unit	\$6,659	\$2,915	\$96	\$9,670
Commercial/Industrial Development Based on Meter Capacity				
¾"	\$6,659	\$2,915	\$96	\$9,670
1"	\$16,649	\$7,286	\$239	\$24,174
1½"	\$33,298	\$14,573	\$479	\$48,350
2"	\$53,277	\$23,317	\$766	\$77,360
3"	\$99,895	\$43,719	\$1,436	\$145,049
4"	\$166,491	\$72,865	\$2,394	\$241,750
6"	\$332,984	\$145,730	\$4,787	\$483,500
8"	\$532,774	\$233,168	\$7,659	\$773,601
10"	\$765,862	\$335,178	\$11,010	\$1,112,049

Sanitary Sewer System SDC Schedule				
Water Meter Size	Improvement	Reimbursement	Admin Fee 1%	Total
Single/Multi Family Residential Per Dwelling Unit:				
Per Unit	\$2,826	\$4,576	\$74	\$7,476
Commercial/Industrial Development Based on Meter Capacity				
¾"	\$2,826	\$4,576	\$74	\$7,476
1"	\$7,064	\$11,439	\$185	\$18,688
1½"	\$14,129	\$22,878	\$370	\$37,376
2"	\$22,606	\$36,604	\$592	\$59,802
3"	\$42,386	\$68,633	\$1,110	\$112,129
4"	\$70,643	\$114,389	\$1,850	\$186,882
6"	\$141,284	\$228,779	\$3,701	\$373,764
8"	\$226,055	\$366,046	\$5,921	\$598,022
10"	\$324,954	\$526,190	\$8,511	\$859,655

Transportation SDC Fee Formula				
((Reimbursement Per Unit + Improvement Per Unit) X ELNDT X Local Factor) + Admin Fee 1%				
Per Unit Rate:				
	Improvement	Reimbursement	Admin Fee 1%	
	\$214	\$404	\$6	
Single Family Residential, Per Unit:				
ELNDT	Local Factor	Improvement	Reimbursement	Admin Fee 1%
9.44	100%	\$2,020.50	\$3,814.20	\$58
			Total	\$5,893

Storm Drainage Improvement SDC per EDU
\$1,967

Parks SDC Fee Schedule Per EDU				
Type of Unit	Improvement	Reimbursement	Admin Fee 1%	Total
Single & Multifamily Residential	\$5,740	\$0	\$57	\$5,797

BE IT FURTHER RESOLVED, that Resolution 24-01 and the previously established SDC rates are, by passage of this resolution, rescinded and replaced.

PASSED by the Council this 9th day of December 2024.

SIGNED by the Mayor this 9th day of December 2024.

SIGNED:

ATTEST:

Chas Jones, Mayor

Crystal M. Weber, City Recorder



Philomath City Council Agenda Item Summary

Title/Topic: Management Report – December 2024

Meeting Date: December 9, 2024
Staff Contact: Chris Workman

ISSUE STATEMENT

The following management updates are intended to keep the Council apprised of work taking place within each of the various City departments. If there are specific questions about the topics listed or any other item of interest, please contact me directly prior to the meeting and I will come prepared to answer your questions or concerns as best as possible.

ADMINISTRATION

- Held retirement celebration for long-time employee Ruth Post. Thank you to all who attended and wished her well.
- Held kickoff and design meetings with CivicPlus for the Website Redesign & Hosting Project.
- Met with Philomath and Corvallis school superintendents and Corvallis Parks and Rec about the swimming pool status within the region. Plans for a follow up meeting in January.
- Digital Reader board at Dales Collins Park is failing fast. Requested a few quotes for replacement to get an idea of costs. Also requested quotes for a digital display board/interactive kiosk for 13th St.
- Hosted potential subcontractors for the city hall remodel project to look at the plans and the site. Christianson will input these insights into the final bid package. Expecting construction to start Spring 2025.
- Approved cost estimates to be completed for both library design options to help inform the final selection. The estimating process will take a couple weeks.
- Attended monthly Chamber of Commerce luncheon with presentation from Strengthening Rural Families board treasurer Christopher McMorran and Director Paul Smith.
- Met with County Commissioners to discuss the County's legislative priorities and report on updates from Philomath.
- Music in the Park band applications are now being accepted for the 2025 Summer Concert Series. Pioneer Connect will return as the Series Sponsor.
- Staff has been working with Marcia Gilson to launch the Philomath Discovery Challenge which will encourage folks to visit various locations and attend events in and around Philomath. More information will be available by January 1.

POLICE

- Conor Ringwald has successfully completed the Lateral Officer Field Training Program (FTEP).
- Sergeant Bowers organized an interagency DUII saturation patrol 11/9/24; Participating agencies: Philomath PD, Corvallis PD, Benton County Sheriff's Office and Oregon State Police.
- Offered a cash award for information leading to the apprehension of the graffiti tagger which generated a few leads. The park graffiti is still under investigation.
- Participated in Shop with a Cop event.

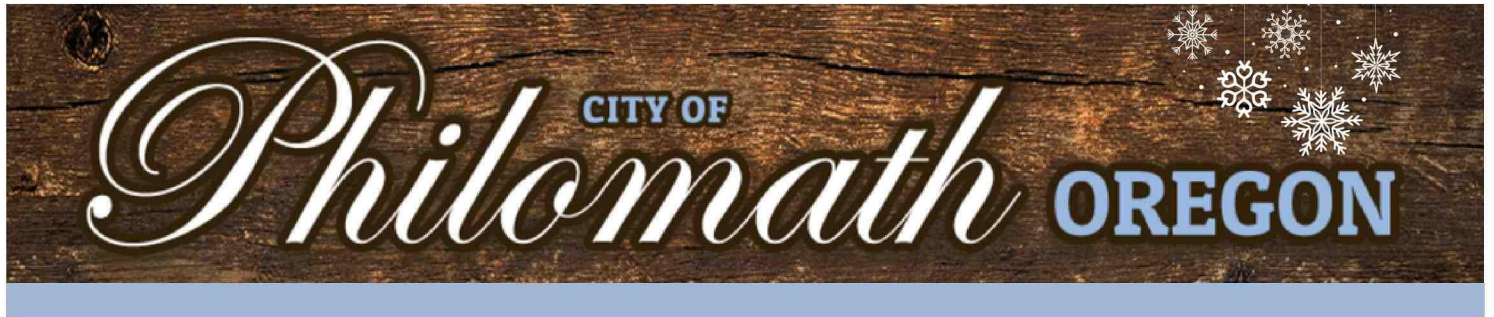
FINANCE

- The Ferguson Waterworks Meter and Sensus Automation Group programs are now online. The programs enable the Finance Utility staff to accomplish tasks previously completed by requests to Public Works.
- Auditors were here the week of October 21st for the field portion of the 2023-24 Fiscal Year audit. It went well! The audit is on schedule to close by December 31st.
- Finance began gathering Request for Proposal (RFP) data for the Utility Rate Study. The scope of work was presented to Council for their comments in November 2024. The RFP will go out the first week of December 2024 with a return date of December 31st.
- The budget calendar for 2025-26 is under construction with hopes to complete it the second week of December 2024.

PUBLIC WORKS

- The electronic meter reading system is complete and system training is finishing up. Meter reading with the new tower has been done twice with great results.
- The Starlight generator is onsite and wired up. Cummins Diesel will be out on December 13th to perform the startup procedure and bring it online.
- S. 19th sewer and water improvement project pre-construction meeting is scheduled for Thursday December 5th with Mid-Valley Gravel. Construction can begin after that date.
- The reservoir pre-stressed cable has been installed. Final coating will be sprayed on the week of December 9th, weather permitting. Also starting the week of December 9th, we will begin filling the new reservoir so leak checking can be completed.
- Our resident welder Kevin Williams has done an outstanding job of designing and fabricating the light pole brackets that will hold the holiday decorations, banners, flower baskets and flags. He was able to get 24 built for this year in the short time frame he had. The new holiday decorations are up; more will be added in future years to fill both sides of the street through the downtown area.

Official Newsletter of the City of Philomath



New City Recorder Takes the Helm at City Hall



November 13th marked the end of an era as Ruth Post retired from her position as the Philomath City Recorder. Ruth worked for the City for over 25 years and has been an integral part of the community. Ruth's savvy insight and years of institutional knowledge will be missed by staff and the community.

Crystal Weber stepped in as the new City Recorder on October 29th and has spent the last month learning everything she can about public records and the functions of city government. Crystal has a technical and administrative background and is excited to step into the role. "It's an honor to join the team at City Hall and I'm thrilled to work for a community as vibrant and welcoming as Philomath!" said Crystal.

The next time you call or visit the City Manager's office, you will likely be assisted by Crystal. Welcome to Philomath, Crystal!



Philomath is a spectacular community! Long-time resident and volunteer, Marcia Gilson, and the City of Philomath want to invite you to participate in a challenge that showcases our unique town. The 2025 Philomath Discovery Challenge will kick off January 1, 2025. Visit at least 10 different locations between January and December 31, 2025 to participate.

Visit identified sites and document your visits by sending photos via email or tagging posts on social media. Turn in your completed tracking sheet by the deadline. You'll get to visit places and events in Philomath and depending on number of locations, will be eligible for an invitation to a participant event, City Council recognition, shout-outs on socials, and prizes!

For full information on how to participate and site locations visit www.ci.philomath.or.us/discoverphilomath. Don't forget to use #discoverphilomath on your posts!

Calling All Volunteers Apply for a City Committee Today!

Please consider serving on the City Council, Planning Commission, or a board or committee, starting in January! Applications are currently being accepted for the following openings:

City Council: One position. Due to a mid-term opening the Council is accepting applications from those interested in serving the remainder of the term which expires December 31, 2026.

Planning Commission: Two positions; 4-year term. The Commission is made up of seven volunteers who make decisions related to zoning, land use, and development. The Commission typically meets twice per month as needed and is currently working on an update to the City's Zoning Code.

Budget Committee: Five positions; 3-year terms. The Committee is made up on seven volunteers and the seven elected members of the City Council. They meet several times in the spring and receive budget updates throughout the year.

Park Advisory Board: Three positions; 3-year terms. The Board is made up of seven volunteers who provide recommendations on issues related to parks and plan the popular annual Music in the Park series.

Inclusivity Committee: Three positions; 2-year term. All participants have an equal voice and the three City Councilors and six members with official appointments ensure quorum status per Oregon public meeting statutes.

Tree Board: One position; 3-year term. The Board is made up of two volunteers and three City Councilors who provide recommendations on tree issues in the city.

More information and applications are available on the City's website at: www.ci.philomath.or.us/committeapplications. Applications can either be submitted online or a fillable form can be completed and emailed to the address below.

For additional information or to receive an application form email cityhall@philomathoregon.gov or (541) 929-6148, Option 5. To receive consideration completed applications must be received by 5:00 p.m. on Monday, December 30, 2024. The Mayor and City Council will make appointments at their January 13, 2025, meeting.

BUS SERVICES HOLIDAY HOURS
There will be no bus service Wednesday, December 25, and Wednesday, January 1.



Volunteers are a valuable commodity and Philomath is lucky to have so many willing to help make our community a better place to live. As their terms end this month, we'd like to acknowledge and thank the members of the City's Boards, Committees and Council whose

terms are coming to a close. While some may re-apply and be re-appointed to new terms, the dedication they've shown should not be overlooked.

A huge round of thanks to our volunteers!

City Council: Mayor Chas Jones, Councilor Ruth Causey, Councilor Matt Lehman, & Councilor Diane Crocker

Budget Committee: Mark Koepp, Van Hunsaker, Jeff Schiminsky, & Brent Kaseman

Planning Commission: Gary Conner & Hayley Green

Park Advisory Board: Yvonne McMillan, Lindy Young, & Larry Sleeman

Tree Board: Graham Seaders

Light Parade Returns Dec. 21st



For those of you who attended last year's Philomath Parade of Lights, you know what a treat the event was. Attendees and participants alike had an amazing time and the parade is back for another round of lighted fun. The parade will be held on Saturday, December 21 starting at 7pm.

From log trucks to bulldogs, there is something to delight everyone at the rain or shine event. Businesses and community organizations are invited to register a float entry for the parade. The City is partnering with the Philomath Frolic & Rodeo to organize registrations and the parade lineup.

Pre-registration is required this year and must be completed by 4:00 pm the day of the parade. Register online at www.philomathfrolic.org.

Last call for curbside leaf pickup! December 5th & 19th. Need more info? Contact Public Works at: (541) 929-3579 or www.ci.philomath.or.us.

LEAD SERVICE INVENTORY

We're excited to announce that the lead service line inventory has been completed and submitted as required by the EPA.

Our review found no lead pipes or connectors in the public water system. Visit ci.philomath.or.us and search for "Lead Service Line Inventory" to view the full list of pipe material, organized by address. You can look up your own address to check the results.

FACTS:

A lead inventory of pipes in towns is essential for protecting public health, ensuring safe drinking water, and complying with regulatory standards.

Can you guess the different types of pipes!?



ANSWERS: 1. LEAD 2. COPPER 3. GALVANIZED STEEL 4. PLASTIC 5. BRASS

December City Meetings...

Dec. 3 at 5:30 PM	Park Advisory Board
Dec. 9 at 7:00 PM	City Council Meeting
Dec. 16 at 6:00 PM	Planning Commission
TBD	City Council Meeting (if needed)
Dec. 24 at 12:00 PM	Closed - Christmas Eve Holiday
Dec. 25 All Day	Closed - Christmas Holiday
Jan. 1 All Day	Closed - New Year's Day Holiday

Additional City committee and board meetings may be added to the calendar later in the month.

For the most up to date schedule, agendas, and participation details, go to:

[City Meetings & Events Calendar](#)

Watch meetings via live-stream on:



YouTube

SUBSCRIBE TO RECEIVE CITY EMAIL

Email subscription options include:



- ✓ Weekly news and monthly newsletter
- ✓ Other updates
- ✓ Inclusivity news
- ✓ Land Use Planning Applications updates

For more local events, visit: www.philomathchamber.org/calendar



+ COUNCILOR + COFFEE



THIRD SATURDAYS
9:30 - 11 AM

TIMBER TOWNE
COFFEE

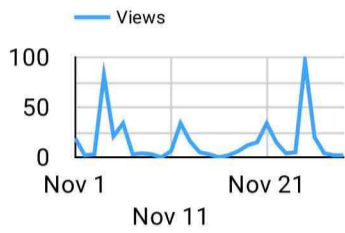
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Nov 1, 2024 - Nov 30, 2024

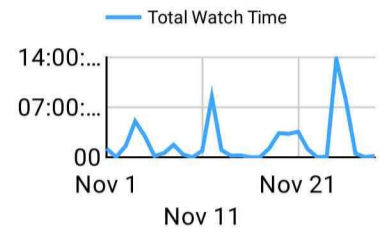
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Trending

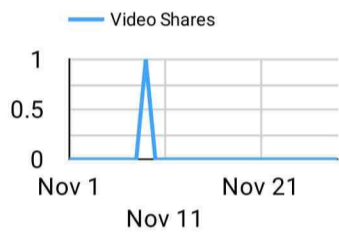
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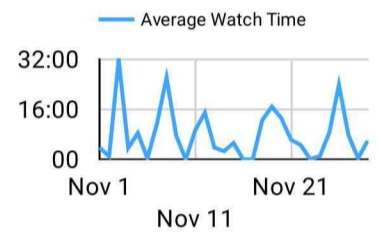
Total Watch Time
59:51:45



Video Shares
1.0



Avg. View Duration
07:56



Top Videos Watched

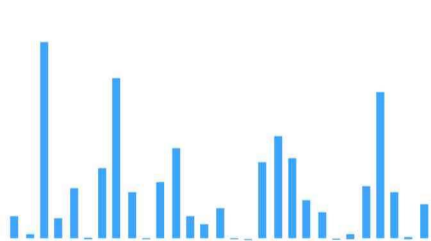
Video Title	Views	Average Watch Time
City Council Meeting 11/25/2024 Part 1	84	00:14:58
City Council Meeting 11/12/2024	51	00:12:33
Planning Commission 11/4/2024	50	00:09:44
Town Hall - Psilocybin Ordinances 11/21/2024	40	00:05:52
Inclusivity Committee 11/19/2024	29	00:16:04
City Council meeting 10/28/2024	17	00:07:27
City Council Meeting 11/25/2024 Part 2	13	00:00:41
Inclusivity Committee 10/22/2024	12	00:09:25
City Council meeting 10/14/2024	10	00:05:16
Chief Ken Rueben Retirement Songs	8	00:00:38

1 - 10 / 87

Likes, Comments, and Subscriptions

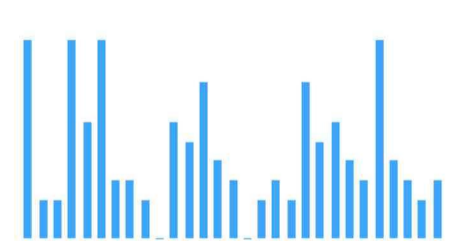
Likes

07:56



Subscriptions

87



Dislikes

7%

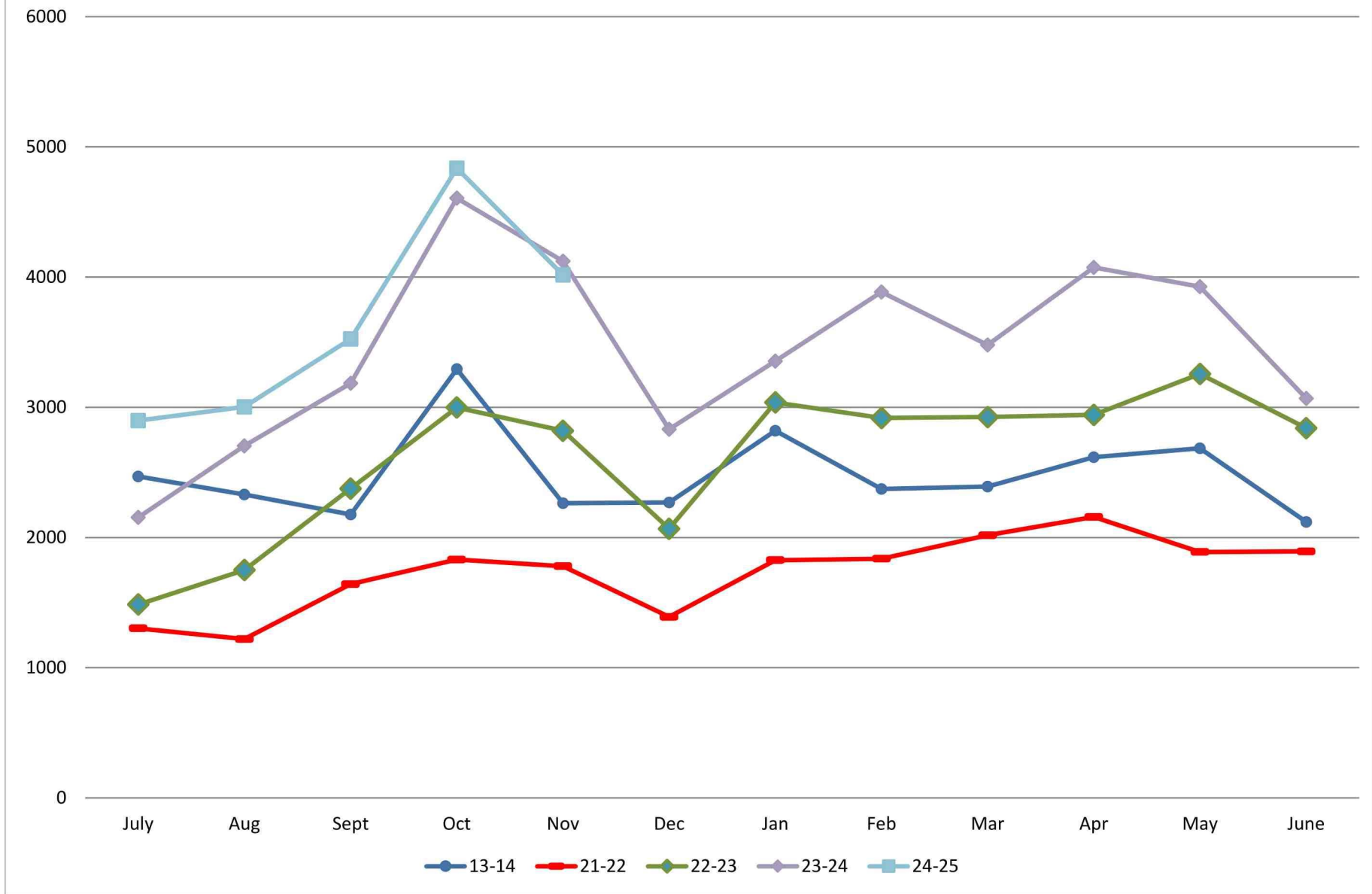


Comments

0



Philomath Connection Bus Ridership Monthly Totals



PHILOMATH CONNECTION RIDERSHIP SUMMARY

2024-2025 SUMMARY	TOTAL RIDES -	18,279	DAYS OF SERVICE-	77	AVG RIDE/DAY-	237
2023-2024 SUMMARY	TOTAL RIDES -	41,393	DAYS OF SERVICE-	255	AVG RIDE/DAY-	162
2022-2023 SUMMARY	TOTAL RIDES -	31,414	DAYS OF SERVICE-	275	AVG RIDE/DAY-	114
2021-2022 SUMMARY	TOTAL RIDES -	20,783	DAYS OF SERVICE-	307	AVG RIDE/DAY-	68
2020-2021 SUMMARY	TOTAL RIDES -	12,025	DAYS OF SERVICE-	333	AVG RIDE/DAY-	36
2019-2020 SUMMARY	TOTAL RIDES -	16,277	DAYS OF SERVICE-	308	AVG RIDE/DAY-	53

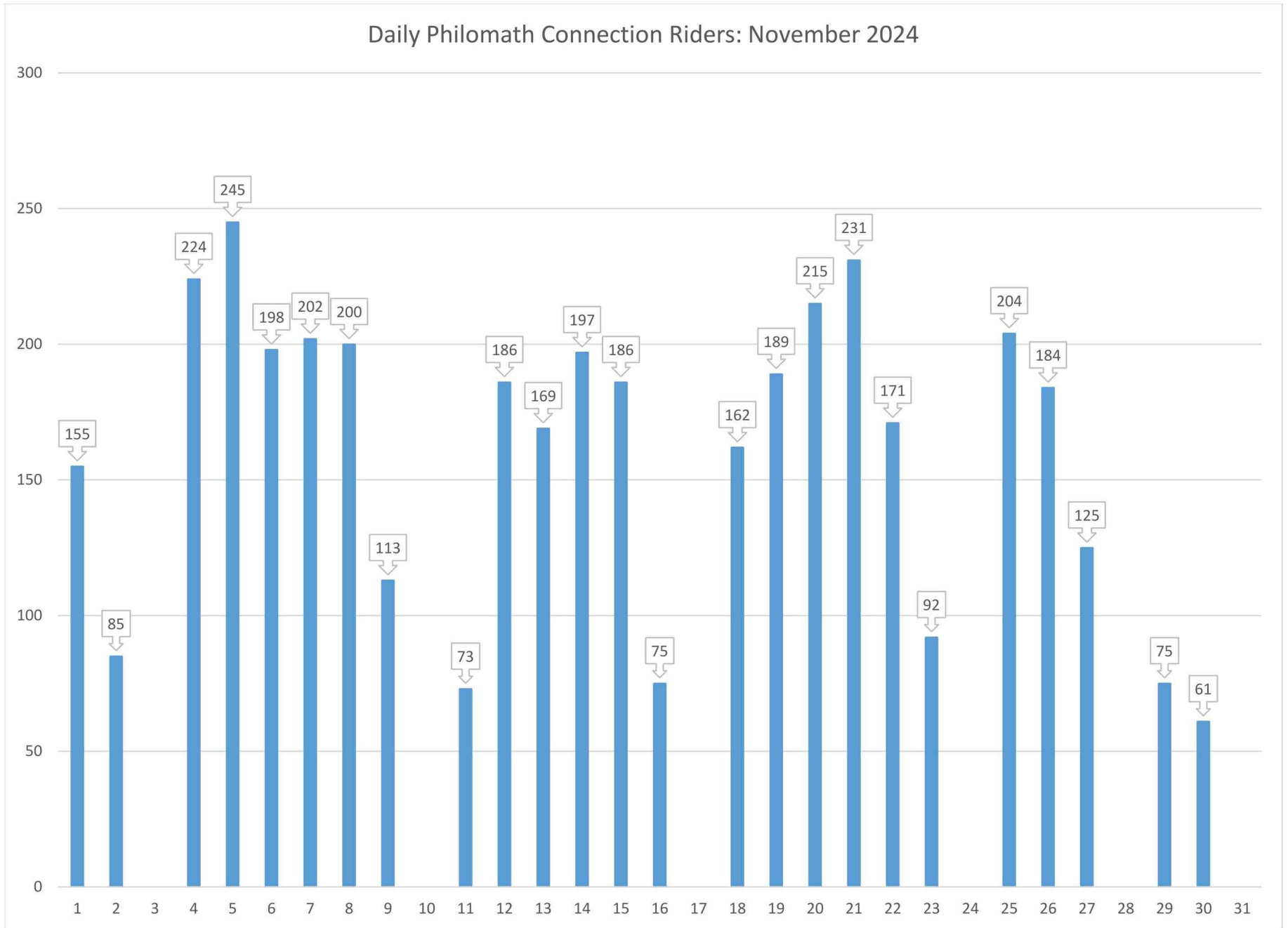
MONTH	DAYS OF SVC	TOTAL FOR MONTH	AVERAGE RIDES PER DAY
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2024-2025			
JULY	26	2,898	111
AUGUST	27	3,003	111
SEPTEMBER	24	3,525	147
OCTOBER	27	4,836	179
NOVEMBER	26	4,017	155
DECEMBER	25	0	0
JANUARY	26	0	0
FEBRUARY	24	0	0
MARCH	25	0	0
APRIL	26	0	0
MAY	26	0	0
JUNE	25	0	0

2023-2024			
JULY	25	2,154	86
AUGUST	27	2,704	100
SEPTEMBER	25	3,185	127
OCTOBER	26	4,606	177
NOVEMBER	26	4,123	159
DECEMBER	25	2,832	113
JANUARY	24	3,354	140
FEBRUARY	25	3,885	155
MARCH	26	3,479	134
APRIL	26	4,074	157
MAY	26	3,929	151
JUNE	25	3,068	123

RIDERSHIP BY WEEK FOR THE MONTH

PC ROUTE	Oct 1-5	Oct 7-12	Oct 14-19	Oct 21-26	Oct 28-31
MONTHLY TOTAL	926	1,044	1,070	1,033	763



November 2024

Philomath Connection Count

TOTAL: 4,017

Weekday																									H							
Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	34	
7:00 AM	9			19	24	17	19	14			4	21	14	16	10			16	22	20	17	14			18	20	9		3			306
8:00 AM	12			17	13	12	16	15			7	15	15	20	10			15	13	15	20	16			15	12	11		3			272
9:00 AM	14			22	23	12	22	17			4	19	14	18	18			10	9	18	20	10			21	17	19		7			314
10:00 AM	8			11	14	18	9	10			6	16	11	14	18			7	12	11	13	7			3	10	11		9			218
11:00 AM	18			16	13	22	10	16			5	10	13	7	11			9	10	17	15	19			12	8	7		6			244
12:00 PM	20			21	24	15	17	16			7	7	12	10	21			15	11	15	16	15			17	12	8		1			280
1:00 PM	10			12	16	14	12	15			10	16	10	15	14			6	11	19	15	8			12	17	11		6			249
2:00 PM	11			17	23	15	18	25			5	14	11	21	17			17	14	18	21	17			20	13	10		6			313
3:00 PM	15			30	32	24	16	19			6	29	28	25	17			25	23	32	31	17			35	28	11		13			456
4:00 PM	17			25	23	21	17	18			10	17	16	19	20			13	24	24	20	26			21	15	16		8			370
5:00 PM	17			21	21	17	30	21			7	11	14	22	23			19	24	13	34	17			19	19	7		9			365
6:00 PM	4			13	19	11	16	14			2	11	11	10	7			10	16	13	9	5			11	13	5		4			204
Total	155	0	0	224	245	198	202	200	0	0	73	186	169	197	186	0	0	162	189	215	231	171	0	0	204	184	125	0	75	0	0	3591
Weekly Totals:	240			1182													886					1060					649					

Saturday																																	
Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
7:00 AM		4							10							4							3						1			22	
8:00 AM		0							5							4							6						2			17	
9:00 AM		4							14							4							7						2			31	
10:00 AM		7							9							15							7						10			48	
11:00 AM		6							12							5							5						6			34	
12:00 PM		13							7							2							11						2			35	
1:00 PM		13							10							8							6						7			44	
2:00 PM		5							14							4							11						9			43	
3:00 PM		14							13							12							12						4			55	
4:00 PM		0							6							8							10						6			30	
5:00 PM		9							7							6							8						9			39	
6:00 PM		10							6							3							6						3			28	
Total	0	85	0	0	0	0	0	0	113	0	0	0	0	0	0	75	0	0	0	0	0	0	92	0	0	0	0	0	0	0	61	0	426

**Inclusivity Committee
Minutes**

November 19, 2024
Philomath City Hall Council Chambers
980 Applegate Street, Philomath, OR 97370
5:30 PM

I. ATTENDANCE

Amanda Polly, Christopher McMorran, Jessica Andrade, Lauri Lehman, Diane Crocker, Jane Goodwin, Nina Petrovich, Alba Sederlin, Zina Allen, Rose Bricker, Eric Niemann, Nora Smith

Staff: Chris Workman

II. APPROVAL OF MINUTES

5:32

A. October 22, 2024

4c1 spell out committee and move bullet about live streaming to black history only

Concern about committee events being planned without committee input, and working together...

Next meeting is section #1, agreement to add topic,

Change wording to agreement to add topic to next month's agenda to follow up on July (Andrade to send me email)

Add time to each topic start time.

In committee function and process discussion, Jessica had agreed to review and provide the committee process and procedure document

Consensus to approve the minutes (12 present)

III. URGENT BUSINESS

5:42

Benton County employee and OSU Grad Students are on strike. If there is anything we can do to support workers, Jessica will send a petition to Christopher to distribute to the group.

IV. BUSINESS

A. Inclusivity Calendar Updates 5:43

A.1: Poverty in America Awareness Month

- Discussion about collaborating with Philomath Community Services and volunteering to help
- Holiday Cheer program is going on right now.
- Poverty in America thought was to volunteer during the month of January
- Management changes are impacting Gleaners, they are facing food shortages this winter; canned goods especially. New Gleaners chairperson getting elected next week.

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- Discussion of whether to organize a service project at PCS for just the Committee or for the community. Need to check with Sharon about what is needed.
 - Christopher offered to reach out to Sharon and share back to the committee where event there might be opportunities to serve.
 - Draft proclamation was read. Agreement to add some statistical data on current poverty levels to the proclamation to go to the Council in January.

49 A.2: Black & African American Heritage Month Event (6:02)

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- Review of planned February event with Mr. Stokes, including funding from Benton County Commissioners and the NAACP.
 - Discussion on recording and broadcasting the presentation live and benefits of holding the event at the museum.
 - Museum is refurbishing two items from Oregon Black Pioneers, so they may be able to be on display.
 - Discussion about the importance of promoting the event and having people at the event.
 - Discussion on funding and what funds to receive.
 - Concern raised about outreach done without consultation with the Committee, specifically to the NAACP.
 - Discussion about involvement in the schools last year and what can be done differently this year.
 - Consensus to use the funds as recommended in the memo.
 - Discussion about planning events in the future and making the events more equitable.
 - Christopher volunteered to record the event.
 - Sub-committee to continue to work through the details for the event and come back to the Committee with requests and needs.

70 A.3: Women's History Month (6:22)

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- Banner is already done from last year
 - Look at last year's proclamation and social media post from last year as a start.
 - Diane volunteered to work on the social media post.

76 B. Committee Function & Process Discussion/Follow-Up

77 B.1: Role of committee in responding to concerns (6:26)

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- Committee should respond, even if sometimes the response is that the Committee is only going to provide educational materials or direct the issue to the appropriate place.
 - Discussion about having a space for people to come together and talk about inclusivity-related issues. Philomath Pride is planning to start a new monthly event at the Museum in January that would serve this role.
 - Discussion about staff's role in meetings and importance of having the city manager attend and participate in the meetings.
 - Comments about the importance of the Committee setting a good example of how to treat others and being mindful of how we address one another, especially in meetings.

- 90 C. Correspondence
91 C.1: Age-Friendly Communities Questions from Jane Sherwood
92 • Jane has the application ready to submit. Appreciation shown toward Jane
93 for her efforts.
94 C.2: Veterans Day Recap from Eric Niemann
95 • Discussion about the success of the event and note of how many
96 Inclusivity Committee members were in attendance.
97
98 V. NEXT MEETING
99 A. January 28, 2024 at 5:30 PM (no meeting in December)
100 B. Agenda item topic requests?
101
102 VI. ADJOURNMENT

DRAFT

Mayor City of Philomath

Vote For 1

	TOTAL	VOTE %
Chas Jones	589	22.35%
Christopher McMorran	2,005	76.09%
Write-In Totals	41	1.56%
Total Votes Cast	2,635	100.00%
Overvotes	2	
Undervotes	532	

Philomath City Council

Vote For 3

	TOTAL	VOTE %
Brent Justin Kaseman	1,705	30.54%
Spencer Irwin	1,746	31.27%
Diane L Crocker	2,004	35.89%
Write-In Totals	128	2.29%
Total Votes Cast	5,583	100.00%
Overvotes	3	
Undervotes	3,921	



**I HEREBY CERTIFY THE TALLY OF VOTES
 RECORDED, ON THIS ABSTRACT, TO
 CORRECTLY SUMMARIZE THE VOTES CAST
 IN BENTON COUNTY FOR THIS ELECTION.**

James V. Allen

 Benton County Clerk



PROTECTING PRIVATE PROPERTY RIGHTS SINCE 1989

OPOA Legal Center

(503) 620-0258

www.oregonpropertyowners.org

MEMORANDUM

To: Oregon Municipal Governments
From: OPOA Legal Center
Date: November 18, 2024
Re: Revised Memorandum on FEMA BiOp Implementation

This memorandum should not be considered legal advice. Local governments should review this memorandum with county counsel and city counsel prior to taking any action.

The purpose of this memorandum is to explain why local governments should not adopt any of FEMA's Pre-Implementation Compliance Measures (PICMs) and/or seek injunctive or declaratory relief regarding the legal validity of the PICMs prior to adopting any of the PICMs. This memorandum concludes that adopting any of the PICMs could violate state law and FEMA likely does not have authority to enforce the PICMs under federal law. Additionally, this memorandum outlines the process that FEMA would have to take prior to suspending a jurisdiction from the National Flood Insurance Program.

I. FACTUAL BACKGROUND:

In 2009, several non-profit environmental groups filed a lawsuit against the Federal Emergency Management Agency (FEMA) arguing that the implementation of the National Flood Insurance Program (NFIP) jeopardized multiple threatened and endangered species in Oregon. In response, FEMA negotiated a settlement that required initiation of a consultation with the National Marine Fisheries Service (NMFS) under the Endangered Species Act (ESA). In 2016, NMFS issued a Biological Opinion (BiOp) evaluating the implementation of the NFIP and its effect on threatened or endangered species and their habitat in Oregon. The BiOp concluded that the implementation of the NFIP likely jeopardized the continued existence of 16 ESA-listed anadromous fish species (fish that migrate up rivers from the sea to spawn such as salmon) and Southern Resident killer whales.

Accordingly, NMFS issued a reasonable and prudent alternative (RPA) that if implemented, would avoid jeopardy to the listed species and destruction or adverse modification of designated or proposed critical habitat for the anadromous fish. In 2021, FEMA, in cooperation with the Oregon

Department of Land Conservation and Development (DLCD), issued a draft implementation plan to integrate the ESA into the NFIP (Implementation Plan). In 2023, the Implementation Plan began the review process under the National Environmental Policy Act (NEPA), focusing on long-term measures to ensure compliance with the BiOp.

Unhappy with the delays in implementation, several environmental advocacy groups sued FEMA again. In response, in July 2024 FEMA notified Oregon NFIP communities of the need to adopt mandatory Pre-Implementation Compliance Measures (PICMs). FEMA established a December 1, 2024, deadline for communities to notify FEMA of which of the following PICM options they will adopt:

1. Prohibit all development in the Special Flood Hazard Area.
2. Adopt the 2024 Model Ordinance that requires mitigation of any floodplain development to a no net loss standard.
3. Require a special habitat assessment and mitigation plan for development on a permit-by-permit basis in the Special Flood Hazard Area to achieve a no net loss standard.

While participation in the NFIP is voluntary, nonparticipating flood-prone communities and communities who have withdrawn or are suspended from the program face the following sanctions:

1. No resident will be able to purchase a flood insurance policy.
2. Existing flood insurance policies will not be renewed.
3. No Federal grants or loans for development may be made in identified flood hazard areas under programs administered by Federal agencies such as HUD, EPA, and SBA;
4. No Federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
5. No Federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. This includes policies written by FHA, VA, and others.
6. Federally insured or regulated lending institutions such as banks and credit unions must notify applicants seeking loans for insurable buildings in flood hazard areas that there is a flood hazard and that the property is not eligible for Federal disaster relief.

If a local government does not meet the December 1 deadline they are subject to possible enforcement actions and suspension pursuant to a process set forth in the NFIA and its associated regulations.

II. ANALYSIS:

A. Adopting any of the PICMs could subject a local government to legal liability under state land use law:

While we understand the difficult situation FEMA has placed upon local governments, it must be acknowledged that adopting any of the PICMs likely subjects the county to significant legal liability. Oregon's statewide land use planning system governs development in and out of the floodplain, irrespective of FEMA's criteria for participation in the NFIP. While local governments have the authority to tailor their floodplain ordinances to qualify for federal programs, they cannot ignore state land use law. If they do so, they are subject to legal action by property owners or other entities affected by the local government's decision.

In short, local governments are not absolved of their responsibility to follow state law because of their desire to remain enrolled in the NFIP. The following analysis provides a high-level overview of just some areas of conflict between adopting one of the PICMs and state law:

i. Adopting any of the PICMs requires local governments to mail statutorily required Measure 56 notices, which will likely be infeasible given the December 1, 2024, deadline:

Certain notices must be sent out to landowners and the Department of Land Conservation and Development (DLCD) prior to the first public hearing on adopting any of the PICMs. The two most essential notices are Measure 56 notices under ORS 215.503 and the 35-day notice to DLCD under OAR 660-018-0020(1). If a local government makes a land use decision not in conformance with these requirements, its decision is potentially subject to reversal by LUBA under ORS 197.835(9)(a)(B) or (D), or other provisions of state law.

OAR 660-018-0020(1) requires:

Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 (Exemptions to Notice Requirements Under OAR 660-018-0020) apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.

If a local government does not send the required 35-day notice and does not qualify for an emergency exemption (which local governments likely will not qualify for in this circumstance), adoption of the ordinance is appealable by the Director of DLCD to LUBA,

Under Measure 56 (codified at ORS 215.503(4)):

[A]t least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

A property is considered “rezoned” if the county either “(a) Changes the base zoning classification of the property” or “(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.” See ORS 215.503(9). Measure 56 notices are intended to allow property owners time to submit land use applications before new ordinances are adopted that prohibit or limit previously allowed uses. As recognized by DLCD in their FAQ to local governments on implementing the PICMs, adopting any of the options likely triggers Measure 56 notice because they likely limit and prohibit land uses previously allowed.

To be clear, this is true even upon the adoption of a temporary moratorium prior to other PICMs. Again, Measure 56 notices are intended to allow property owners time to submit land use applications before new ordinances are adopted that prohibit or limit previously allowed uses. It is highly unlikely that local governments will be able to send out proper Measure 56 notices and meet the December 1 deadline at this time.

A local government cannot avoid this issue by adopting a temporary moratorium before taking action to adopt the Model Code or the permit-by-permit Special Habitat Assessment (SHA). If a temporary moratorium is in place prior to the adoption of the Model Code or the SHA, landowners will be unable to submit permits prior to those PICMs coming into effect. As such, a temporary moratorium is nothing more than a de facto extension of either the Model Code or the Special Habitat Assessment. Allowing a local government to bypass the purpose of Measure 56 through the enactment of a moratorium defeats the reason for the measure, and is thus inconsistent with the law’s objectives.

Thus, a local government must mail out proper Measure 56 notices at least 20 days prior to the first public hearing on implementing any of the PICMs (including a temporary moratorium), so that landowners have enough time to submit permits before the PICMs come into effect. If they do not, their decision to adopt the ordinance is subject to reversal by LUBA. Again, it is unlikely that most local governments will be able to mail out proper Measure 56 notices and comply with the December 1, 2024, deadline at this juncture.

ii. Incorporating the “no net loss” standard outlined by FEMA and DLCD likely violates the clear and objective requirements of ORS 197A.400:

Oregon law has special considerations and protections for the development of needed housing. One of these protections is known as the “clear and objective” standard, which prevents local

governments from adopting or applying standards that can cause unreasonable costs and delays to housing projects. Because of Oregon's unprecedented housing crisis, the Legislature recently strengthened the clear and objective standard. Under ORS 197A.400, cities and counties:

[...] may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing, on land within an urban growth boundary."

See ORS 197A.400(1) (emphasis added). By July 1, 2025, this standard must apply to unincorporated communities designated in a county's acknowledged comprehensive plan, nonresource lands, and areas zoned for rural residential use as defined in ORS 215.501.

The "clear and objective" standard includes two fundamental parts. In *Roberts v. City of Cannon Beach*, 316 Or App 305, 504 P3d 1249 (2021), the Oregon Court of Appeals summarized the recent case law on this two-part standard:

We agree with petitioners that, fundamentally, the standard has two parts: First, a standard, condition, or procedure must be objective. As LUBA has explained, "objective" means "existing independent of mind." [...] Standards are not objective "if they impose 'subjective, value-laden analyses that are designed to balance or mitigate impacts of the development on (1) the property to be developed or (2) the adjoining properties or community.'" [...]

Second, as LUBA observed in this case, standards must also be clear. "[T]he term 'clear' means 'easily understood' and 'without obscurity or ambiguity.'" [...] This second prong of the analysis is better developed in LUBA's case law than in our own. [...] Ultimately, in the context of ORS 197.307(4), the degree of clarity required for standards, conditions, and procedures for housing development represents a balance between the need of applicants for an understandable route to approval of the applied-for development and the need of local governments for code-drafting requirements that are realistically achievable. See, e.g., Video Recording, House Committee on Human Services and Housing, HB 2007, Apr 13, 2017, at 29:55 (statement of Rep. Tina Kotek), available at <https://olis.oregonlegislature.gov> (accessed Dec 7, 2021) (indicating that it would be achievable for cities to apply only clear and objective standards to all housing).

See *Roberts v. City of Cannon Beach*, 334 Ore. App. 762, 770; See also *Legacy Dev. Grp., Inc. v. City of The Dalles*, ___ Or LUBA ___, , 2021 Ore. Land Use Bd. App. LEXIS 17, *5 (LUBA No. 2020-099, Feb. 24, 2020); *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139, 158 (1998); *Rudell v. City of Bandon*, 249 Ore. App. 309, 319, 275 P.3d 1010 (2012); *Roberts*, Or LUBA at ___, 2021 Ore. Land Use Bd. App. LEXIS 75, *20; *Group B, LLC v. City of Corvallis*, ___ Or LUBA, ___, 2015 Ore. Land Use Bd. App. LEXIS 58 (LUBA No. 2015-019, Aug 25, 2015).

In short, a local government may not adopt or apply a standard that regulates housing that is unclear, subjective, value laden, vague, or would otherwise make it unreasonably difficult or expensive for applicants to develop housing. Unfortunately, several aspects of the proposed 2024 Model Ordinance and the SHA are neither clear nor objective, particularly the “no net loss” standard articulated by FEMA. This is acknowledged by DLCD in its FAQ to local governments.¹

While we take issue with numerous parts of the 2024 Model Code, we are most concerned about the definition of “no net loss” in the Code and its application in Section 6 of the Code which state respectively:

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of the floodplain storage, water quality, and vegetation must be maintained.

No net loss can be achieved by first avoiding negative effects on floodplain functions to the degree possible/ then minimizing remaining effects/ then replacing and/or otherwise compensating for/ offsetting/ or rectifying the residual adverse effects to the three floodplain functions.

According to FEMA’s directive, local governments must ensure, through adopting the PICMs, that any development in the SFHA (including housing) only occurs if it achieves this no net loss of standard. This language is inherently unclear, subjective, and a prime example of a value laden analysis designed to balance or mitigate impacts of housing development on other properties including the floodplain itself. It is unclear what several of these terms mean, and is unclear how an applicant would truly meet this standard.

We share similar concerns with the exceptions to the “no net loss” standard. According to the Model Code and FEMA’s guidance on the SHA, the following activities, among other things, are exempted from having to comply with the “no net loss” standard:

Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure.

The term “normal” is unclear and subjective. What is considered “normal” maintenance or modifications in the context of a structure like a house? What would “abnormal” modifications be? This language is neither clear nor objective, and makes it extremely confusing for homebuilders and property owners to understand what housing-related permits would be exempted from the no net loss standard.

¹ [DLCD PICM FAQ.pdf](#)

These are just two examples of where the proposed Model Code and the SHA impose neither clear nor objective standards. Despite being the architect of the Code, DLCD has already acknowledged that several aspects of the Model Code are neither clear nor objective. As such, local governments should not move forward with its adoption, and should not move forward with adopting the “no net loss” standard as outlined by FEMA, as it in itself would not pass the clear and objective test.

iii. The PICMs restrict farm activities and farm structures in violation of ORS 215.253:

ORS 215.253 is a simple statute first enacted in 1973 as part of Senate Bill 101, the companion bill to Senate Bill 100. Under the statute:

(1) No state agency, city, county or political subdivision of this state may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition) in a manner that would restrict or regulate farm structures or that would restrict or regulate farming practices if conditions from such practices do not extend into an adopted urban growth boundary in such manner as to interfere with the lands within the urban growth boundary. “Farming practice” as used in this subsection shall have the meaning set out in ORS 30.930.

(2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state.

The purpose of the statute is obvious – on land zoned for exclusive farm use, a local government may not restrict or regulate farm structures or farm uses except for situations in which the structure or farm uses extend into urban growth boundaries and interfere with uses on property within the boundary or the local regulation is necessary for the protection of public health, safety and welfare.

As acknowledged by FEMA in the Implementation Plan, the intent of the Plan and the accompanying PICMs is habitat and species protection, not the protection of public health, safety or welfare. This would normally not create a conflict with ORS 215.253, but the definition of “development” in FEMA rule (44 CFR 59.1) and the PICMs Model Ordinance is so broad that it would include certain accepted farm practices. FEMA defines development as:

Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

This definition will undoubtedly include the construction or maintenance of any type of farm structures. Additionally, it could include the storage of farm products. Both actions are considered

“farm use” under ORS 215.203 and/or “farm practices” under ORS 30.930. Thus, enacting a no net loss provision that limits or prohibits these uses violates ORS 215.253. A county choosing to adopt the model ordinance PICM and applying that ordinance to its Goal 3 zoned land would thus be creating an automatic conflict with ORS 215.253. FEMA does not have Congressional authority to require a County to violate Oregon state law as a condition of obtaining coverage under the NFIP.

B. Local governments should take immediate legal action against FEMA as enforcing the PICMs like violates several provisions of state and federal law, and its outside of the scope of FEMA’s authority to enforce:

Before acquiescing to any of the PICMs, local governments should seek legal clarification as to whether the PICMs are legally sound and within FEMA’s authority to impose. If not, local governments should seek either injunctive or declaratory relief instead of adopting any of the PICMs. For the following reasons, we believe FEMA may not have the legal authority to enforce the PICMs as criteria for eligibility in the NFIP:

i. Enforcing the PICMs prior to completing NEPA review likely violates federal regulation:

It is unclear whether FEMA has the authority to impose the “no net loss” standard while the Implementation Plan is being reviewed under the National Environmental Policy Act (NEPA) and before completing an Environmental Impact Statement (EIS) of the PICMs themselves.

Generally, NEPA establishes a national environmental policy and provides a framework for environmental planning and decision making by Federal agencies. NEPA directs Federal agencies, when planning projects or issuing permits, to conduct environmental reviews to consider the potential impacts on the environment by their proposed actions. As such, through NEPA review federal agencies are required to take a “hard look” as to whether any major federal action might significantly affect the quality of the human environment. As a United States District Court held in a similar case in Northern California (quoting the United States Ninth Circuit Court of Appeals):

NEPA emphasizes the importance of coherent and comprehensive up-front environmental analysis to ensure informed decision making to the end that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.

See *Delta Smelt Consol. Cases v. Salazar*, 686 F Supp 2d (E.D. Calif. 2009).

As noted in *Delta Smelt*, because the risk of taking incorrect action is so high, the CEQ has imposed limitations on federal action taken during the NEPA process. Specifically, 40 CFR § 1506.1(c) states:

(c) While work on a required environmental review for a program is in progress and an action is not covered by an existing environmental document, agencies shall not undertake in the interim any major Federal action covered by the program that may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental review; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

Here, FEMA is currently in the process of completing its Environmental Impact Statement (EIS) under NEPA for the 2021 Implementation Plan, which includes the promulgation of the “no net loss” standard. This process was set to be completed by 2025, when a final Record of Decision (ROD) would be issued. Until FEMA completes its EIS, it is premature to attempt to enforce Plan requirements like the “no net loss” standard that may or may not satisfy federal law. The whole point of NEPA is to ensure that an agency evaluates its proposed actions for compliance with federal environmental law. *Cf. Wetlands Water Dist. v. United States DOI, 376 F3d 853 (9th Cir. 2004).*

Implementing the “no net loss” standard prior to the NEPA process being complete raises several questions. First, FEMA’s attempt to implement the BiOp RPA’s through PICM’s likely constitutes “major federal action” as the PICM’s are different than the actions contemplated in the Implementation Plan. This may trigger an independent NEPA review itself. If not, then the PICM’s are at least considered interim measures, those making them subject to the criteria outlined in 40 CFR § 1506.1(c) (Limitations on actions during NEPA process).

As it stands, it is unclear if the PICM’s could pass § 1506.1(c) muster as it is: (1) unclear whether FEMA has the authority to impose a “no net loss” standard under the NFIP irrespective of how the Implementation Plan moves forward; (2) unclear whether the PICM’s have undergone any environmental review themselves; and (3) enforcing a “no net loss” standard as contemplated by the PICM’s likely prejudices programmatic development of the NFIP and future decisions by jurisdictions and FEMA in implementing the program, as they require local governments to violate state law. For these reasons, FEMA’s ability to implement the PICM’s during the NEPA review process is legally suspect.

- ii. FEMA may not have the authority to utilize the PICM’s to determine community eligibility because they are not legally enforceable land management criteria required by 44 CFR Part 60:**

FEMA's jurisdictional and regulatory authority stems from the National Flood Insurance Act, 42 USC § 4000-4131 (NFIA). Under the NFIA, the FEMA Administrator must make available to flood insurance in only those States or areas (or subdivisions thereof) which have:

- (1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, and*
- (2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 1361 [42 USCS § 4102], and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available.*

See 42 USC § 4012(c). These are the two statutorily outlined criteria for eligibility in the NFIP.

Congress gave the Administrator the authority to create “comprehensive criteria for land management” deigned to:

[...] encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

- (1) constrict the development of land, which is exposed to flood damage where appropriate,*
- (2) guide the development of proposed construction away from locations which are threatened by flood hazards,*
- (3) assist in reducing damage caused by floods, and*
- (4) otherwise improve the long-range land management and use of flood-prone areas,*

See 42 USC § 4102(c). These are the four (and only four) purposes contemplated by Congress for the criteria for land management that local governments are expected to adopt to be eligible for the NFIP. Note, there is no mention of the endangered species act, habitat preservation, or species conservation in these criteria. This is because Congress did not draft the NFIA with the intention of requiring the Administrator to consider these types of issues when creating the management criteria.

Nonetheless, FEMA has promulgated regulations outlining the management criteria at 44 CFR Part 60. Under these regulations, to be eligible for the program, local governments must adopt “adequate flood plain management criteria” consistent with these federal criteria. In adopting these regulations FEMA made clear:

(b) This subpart sets forth the criteria developed in accordance with the Act by which the Federal Insurance Administrator will determine the adequacy of a community's flood plain management regulations. These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less restrictive conflicting local laws, ordinances or codes.

44 CFR § 60.1 (emphasis added). As such, the FEMA Administrator is limited to using only legally enforceable regulations that are uniformly applied when determining the adequacy of a community's floodplain ordinances. Additionally, the minimum eligibility criteria for the NFIP exist in 44 CFR § 60.3. These regulations include no mention of the endangered species act, habitat loss, or any requirements that a local government adopt a "no net loss" standard of floodplain function to preserve endangered species. This is because Congress did not authorize or direct FEMA to do so under 42 USC 4102(c). See discussion in *Nat'l Wildlife Fed'n v. FEMA*, 345 F. Supp. 2d 1151, 59 Env't Rep. Cas. (BNA) 1973, 2004 U.S. Dist. LEXIS 23583 (W.D. Wash. 2004).²

The specific FEMA regulations for suspension of community NFIP eligibility are found in 44 CFR 59.24. Under this rule, FEMA must first determine that a community has violated the eligibility criteria set forth in 44 CFR 60.3. Those requirements include, among other things, a requirement that a community:

Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

See 44 CFR 60.3(a)(2).

The language cited above, which NMFS and FEMA rely upon to support the PICMs, does not obligate communities to change their existing floodplain ordinances or enact the PICMs. 44 CFR 60.3 obligates a community to ensure that an applicant for a development permit within a SHFA obtains all necessary permits, both state and federal. By its terms, that language can only be enforced on a permit-by-permit basis, as the required permits will change depending upon the facts

² Assuming for the sake of argument that the ESA (16 USC §1536(a)(2)) apply to FEMA's actions under the NFIP, and that NMFS has the authority to require FEMA to consider the RPA's suggested in the BiOp in the land management criteria, there is simply nothing in the NFIA authorizing FEMA to do so and FEMA's regulations are clear. In other words, FEMA cannot rely on its consultation obligations under the ESA to bootstrap extreme conservation standards into its land management criteria under the NFIP, without at least following the proper procedures to amend its regulations. The PICMs are a step too far.

of each individual development. If a community believes that a development application will result in an incidental take under the ESA, then the community can require the applicant to address that take as part of the land use permit process. But nothing in the above cited language requires a community to enact any of the PICMs. It simply requires an applicant to prove that they do not need an incidental take permit.

Here, it is unclear whether the PICMs can be considered legally enforceable “comprehensive criteria for land management” under 42 USC § 40012(c) and 4102(c), because the PICMs require a local jurisdiction to violate provisions of state land use law and they extend outside of the scope of the minimum eligibility criteria in 44 CFR § 60.3. Therefore, it is unclear and doubtful that FEMA has the authority to use the PICMs as criteria to assess whether local governments are eligible for the NFIP under 42 USC § 4012(c). To decide otherwise would be arbitrary, capricious, and outside of the scope of FEMA’s lawfully delegated authority to administer the NFIP.

iii. The PICMs were not adopted following normal procedures under the Administrative Procedures Act:

If it is determined that FEMA must adopt habitat conservation measures into their criteria 44 CFR § 60.3, then it must do so following the procedures outlined in the Administrative Procedures Act (APA). Congress enacted the APA to outline the process by which federal agencies develop and issue regulations and other agency actions such as policy statements, licenses, and permits. As such, before adopting or amending a rule or regulation, the APA requires federal agencies to publish notice of the properties rule in the Federal Register and give interested persons an opportunity to participate in the rulemaking and provide comments on the rules. 5 USC § 553. If an agency adopts or amends a rule in violation of the APA, that rule can be appealed, and a court must hold unlawful and set aside such actions when they are deemed “arbitrary and capricious, and abuse of discretion, or otherwise not in accordance with law.” 5 USC § 706(2)(C).

Here, FEMA did not go through the normal APA procedures before “adopting” and enforcing the PICMs. FEMA created the PICMs entirely out of whole cloth. There was no opportunity for local governments or the public to comment on them, and they were not published in the Federal Register in accordance with the APA. Therefore, any application or enforcement of them can be appealed under the APA and 5 USC § 706(2)(C).

Assuming (for the sake of argument only) that FEMA has the authority under the NFIA to require communities to comply with the PICMs as a condition of eligibility under the NFIP, nothing in 44 CFR 60.3 authorizes FEMA to ignore the requirements of the APA when amending its flood plain management regulations. In other words, even if FEMA has the authority to enact the PICMs or implement a no net loss standard, they still must follow the APA in doing so. There is nothing in statute or regulation that enables them to bypass their federal procedural requirement to short-circuit the rule adoption process to force communities to immediately implement the PICMs.

iv. Adopting the PICMs may trigger claims under both the 5th Amendment Takings Clause and ORS 195.305 (Measure 49):

Both Oregon statute and the United States Constitution contain provisions requiring the payment of compensation for new regulations which limit or prohibit the ability of property owners to use their property. The PICMs may subject local governments to significant takings liability. Specially, the moratorium under consideration is remarkably similar to the temporary moratorium on development in a floodplain that was enacted by the County of Los Angeles in *First English Evangelical Lutheran Church v. County of Los Angeles*, 482 US 304 (1987). As the Supreme Court noted in that case, a temporary moratorium on all development will create a total taking of the property, triggering the just compensation requirements of the Taking Clause.

C. Local government have time to review the legality of the PICMs prior to adoption, because they are entitled to due process under the law before being put on probation or suspended from the NFIP:

While FEMA may ultimately be able to take enforcement action against a local government for not adopting the PICMs, it cannot do so without significant due process, notice to the local jurisdiction, and opportunity by the local jurisdiction to correct any deficiency (including enactment of a PICM option). To be clear, the failure of a local jurisdiction to comply with the PICM's on or before FEMA's self-imposed December 1 deadline does not authorize FEMA to immediately suspend the local jurisdiction from coverage under the NFIP.

Should a community fail to enact the PICMs, FEMA may argue that the community has failed to "adequately enforce" FEMA's floodplain management regulations under 44 CFR 59.24(b). When FEMA believes a community has violated this rule, FEMA is authorized to place the community on probation. However, before placing a community on probation, FEMA is first obligated to provide 90 days written notice of the intent to place the community on probation and specify the alleged violations. At least 60 days before placing the community on probation, FEMA must issue a press release to the local media informing them of the possible probation. At the same time, FEMA is required to notify all policy holders in the community of the possible probation at the same time it initially notifies the community government. To date, FEMA has taken none of these steps.

Assuming a community does not comply with the items listed by FEMA in the notice of possible probation (i.e. it doesn't choose a PICM) within the 90-day notice period, the probation period (at least one-year in length) will go into effect. During that period, flood insurance may still be purchased or renewed, and the community can resolve its probation by acting in compliance with the FEMA regulations cited in the letter of possible probation.

If a community does not comply with FEMA requirements before the end of the probation period, FEMA may suspend NFIP coverage for that community. Before suspending coverage, however,

FEMA must notify the community and the public at least 30 days prior to the suspension, and a community can be reinstated for NFIP coverage by complying with the identified FEMA requirements and reaffirming the community's intent to comply in the future.

In short, a community that fails to enact the PICMs on or before FEMA's imaginary December 1 deadline is not going to lose NFIP coverage. At worst, failure to comply will trigger action by FEMA to place a community on probation, at which point the community can either enact a PICM or choose to assert that FEMA lacks the authority to enforce the PICMs for the myriad of reasons set forth above.

II. CONCLUSION:

For the aforementioned reasons, local governments should not move forward with adopting any of the PICMs before December 1, and should question FEMA's enforcement of the PICMs. https://www.dropbox.com/scl/fi/xtuswkqkqc2072zshni6w/OPOALC_WhoWeAre.pdf?rlkey=k2bzcenx6u8msip5xtbjbpph2&st=d4p8da47&dl=0

We understand that local governments have been placed in a difficult spot because of these lawsuits and FEMA's failure to complete their EIS in a timely manner. We also appreciate that that many of them have been active in informing property owners of the pending PICMs, and that many of the people who have contacted us have submitted development applications in advance of the deadline. However, the choice of adopting a PICM would simply pass the cost and burden suffered by the local governments directly onto their constituents. This isn't fair, especially when the PICMs are legally questionable.

We fully understand the concern that ignoring FEMA's self-imposed deadline could possibly jeopardize the ability to obtain coverage under the NFIP. No one wants that, least of all property owners. However, there is a long and substantial process that FEMA must follow, including a probation period, with multiple opportunities for the local government to course correct and come into compliance (see 44 CFR §59.24). Therefore, taking a slow, measured, and legally responsible response to FEMA's PICMs will not result in any immediate threat to a jurisdiction's enrollment in the NFIP. Local governments have the time to analyze and question FEMA's ability to enforce the PICMs as eligibility criteria under the NFIP.

Respectfully,

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NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

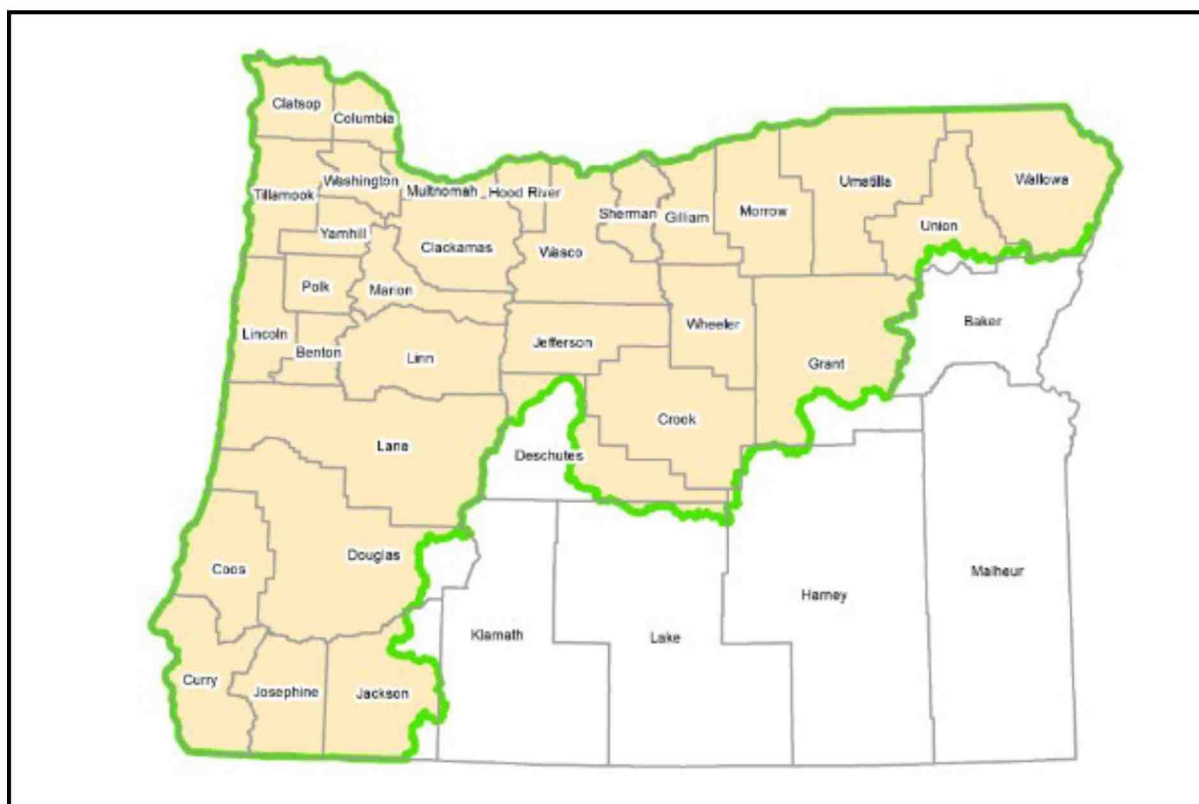
Introduction

The Oregon National Flood Insurance Program (NFIP) Endangered Species Act (ESA) integration performance standards apply to communities that are 1) located in the Oregon plan area, 2) located within the mapped special flood hazard area (SFHA), and 3) within a community participating in the NFIP. This document provides instructions for determining if your location of interest is subject to the Oregon NFIP-ESA integration performance standards based on these three considerations. Applicability is not fixed in time. Updates to SFHA delineations or communities joining or withdrawing from the NFIP could result in changes in applicability for a specific location.

Directions to Determine if a Location is in the Plan Area

The plan area for NFIP-ESA integration in Oregon includes the area encompassed by the green line on Figure 1. The plan area boundary is generally defined by the boundaries of six NMFS Salmon and Steelhead Recovery Domains within the State of Oregon: Oregon Coast, Southern Oregon/Northern California Coast, Willamette River, Lower Columbia River, Middle Columbia River, and Snake River.

Figure 1. Plan Area Boundary for NFIP-ESA Integration



FEMA



OR EIS website

<https://www.fema.gov/about/organization/>



NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
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If the location you are interested in is close to the green line, you can use the directions below to determine if the specific location of interest is inside or outside of the plan area.

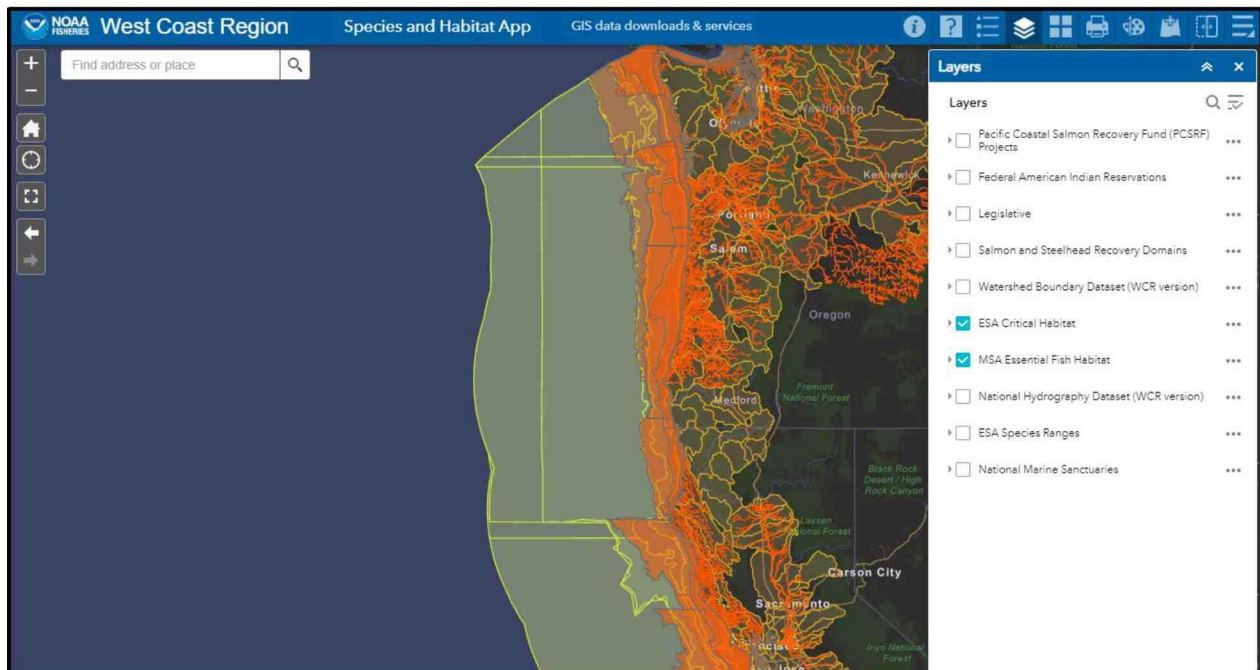
Step 1

Open [NOAA's Species and Habitat App](#), or you may need to copy and paste the following into your internet address bar:

<https://maps.fisheries.noaa.gov/portal/apps/webappviewer/index.html?id=e8311ceaa4354de290fb1c456cd86a7f>

Figure 2 shows a typical view of the site.

Figure 2. NOAA's Species and Habitat App Map

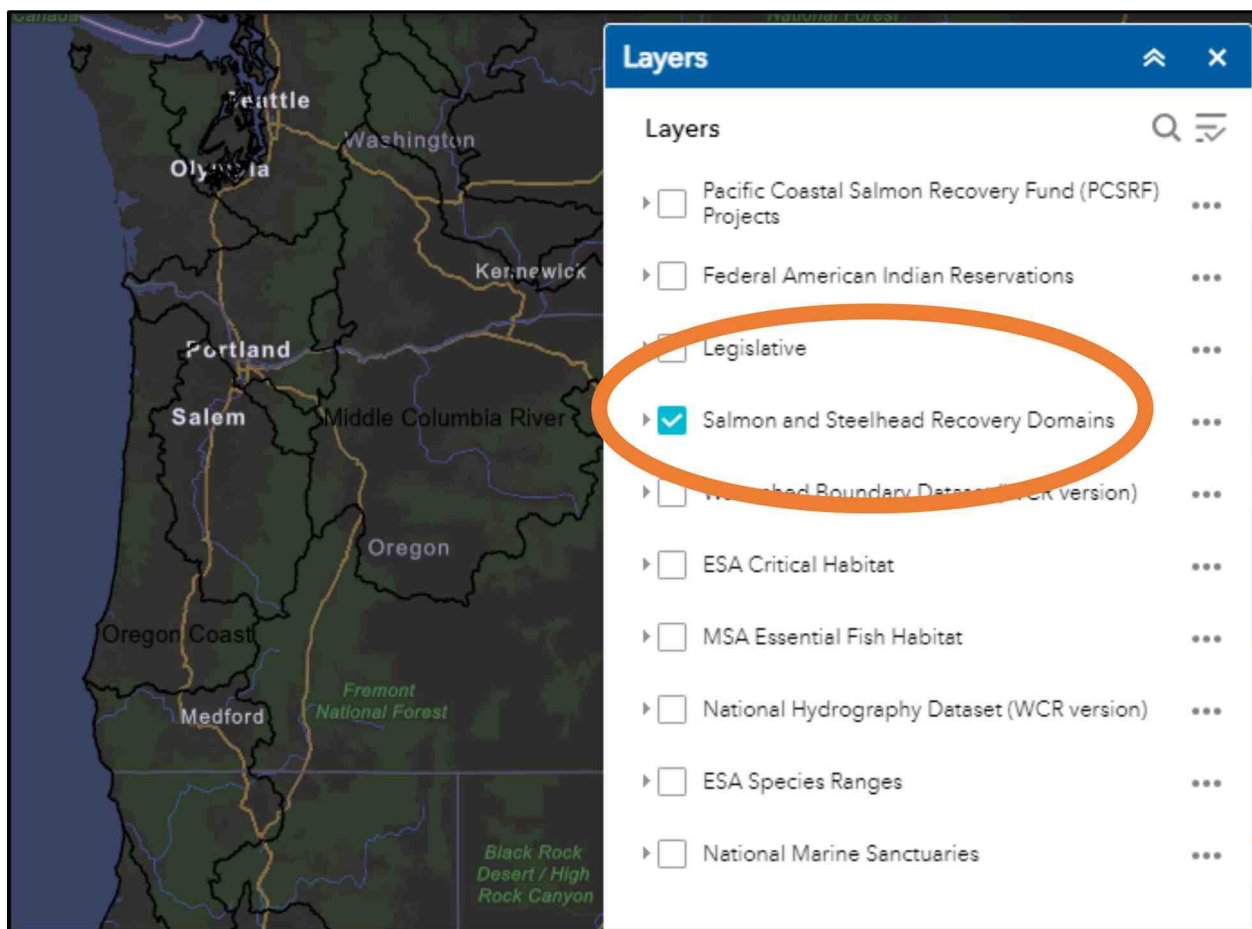


NFIP-ESA Integration in Oregon
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Step 2

On the layers window on the right side of the screen, check Salmon and Steelhead Recovery Domains, and uncheck any other layers that might be checked. This is indicated by the orange oval in Figure 3.

Figure 3. Layers Window

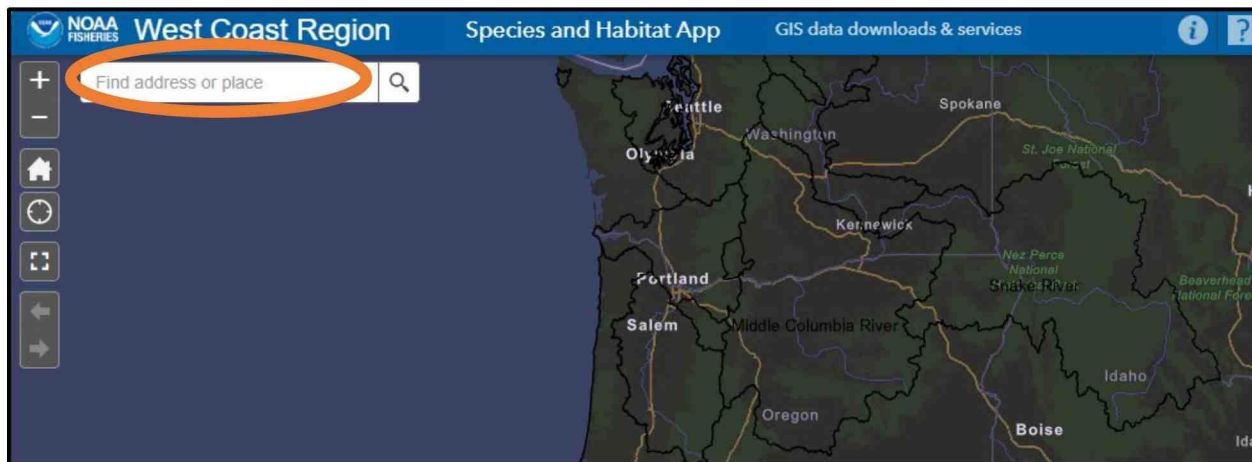


NFIP-ESA Integration in Oregon
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Step 3

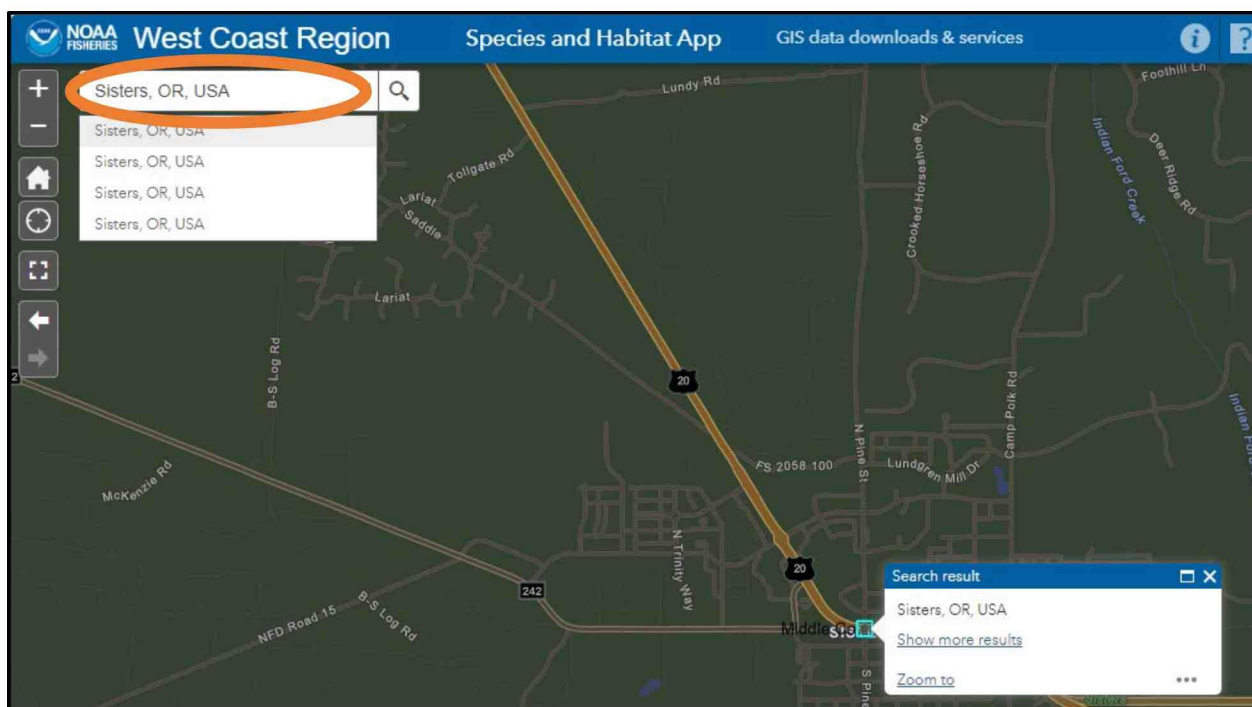
Enter the location of interest in the “Find address or place” search bar, indicated by the orange oval in Figure 4.

Figure 4. Blank Search Bar



Sisters, OR is shown as an example in Figure 5.

Figure 5. Sisters, OR in Search Bar

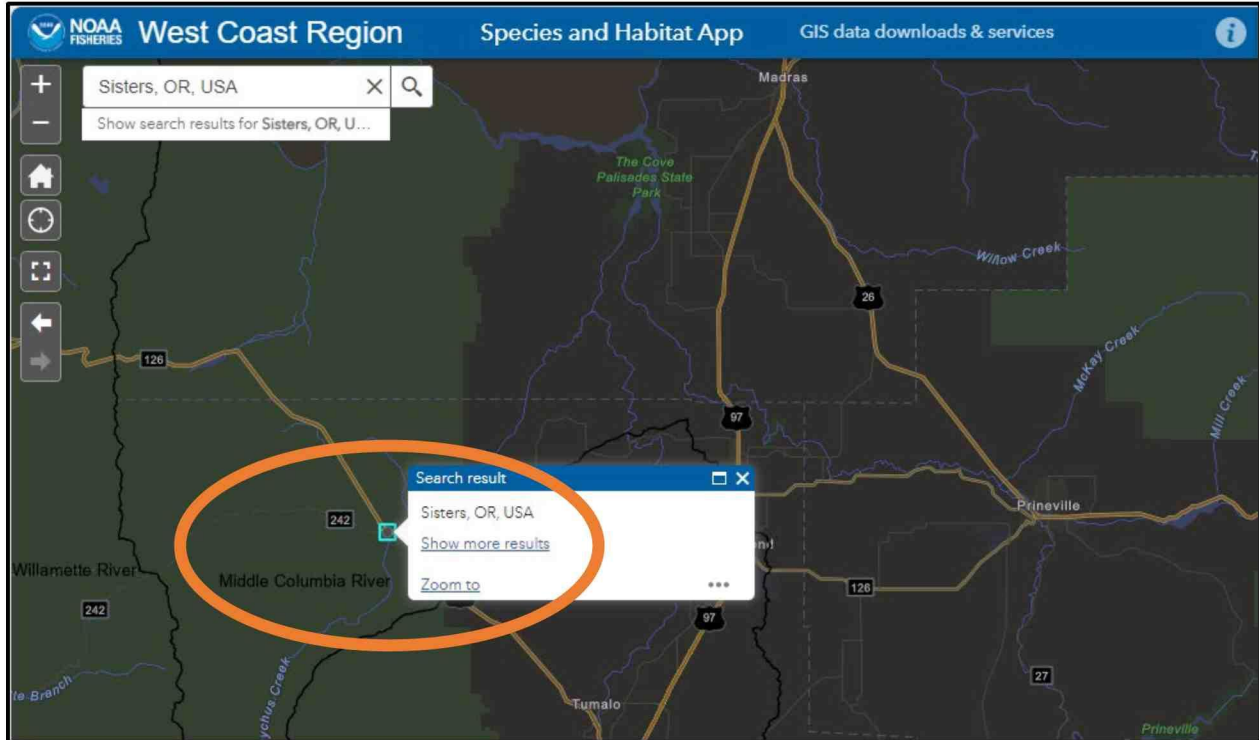


NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Step 4

Using the minus button or the scroll bar, zoom out to see if the location of interest is within the boundary of a Salmon and Steelhead Recovery Domain. The minus button is located in the upper left corner of the screen. Figure 6 shows that Sisters, OR is within the Middle Columbia River Recovery Domain, as indicated by the orange oval.

Figure 6. Sisters, OR, Middle Columbia River Recovery Domain



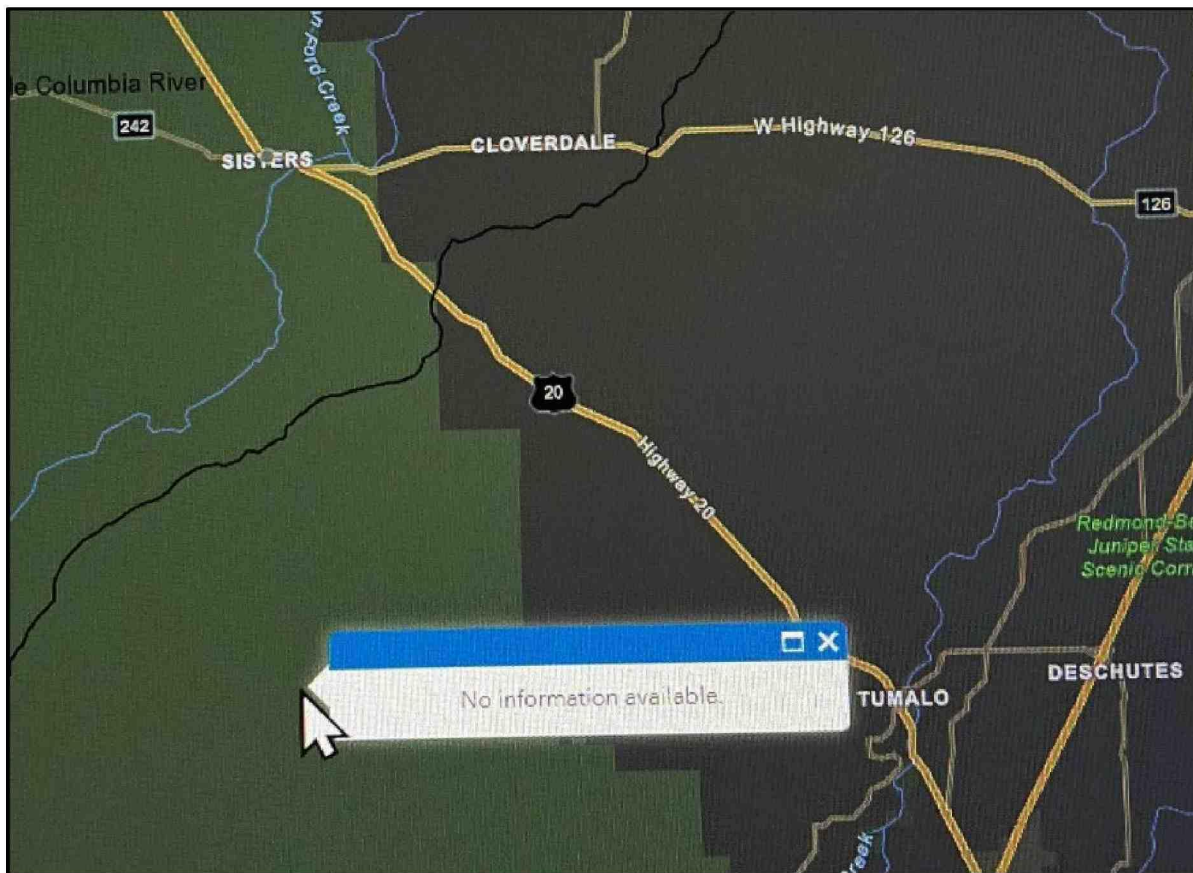
NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Step 5

If it is still difficult to tell if your location of interest is located within a Salmon and Steelhead Recovery Domain, you can confirm by clicking on the screen at your location of interest. When you click the screen, an information box will pop up. The information box will either identify the recovery domain or it will say "no information" which indicates the location is outside of the recovery domains.

Figure 7 shows that the location south of Sisters and west of Tumalo is not located within a recovery domain.

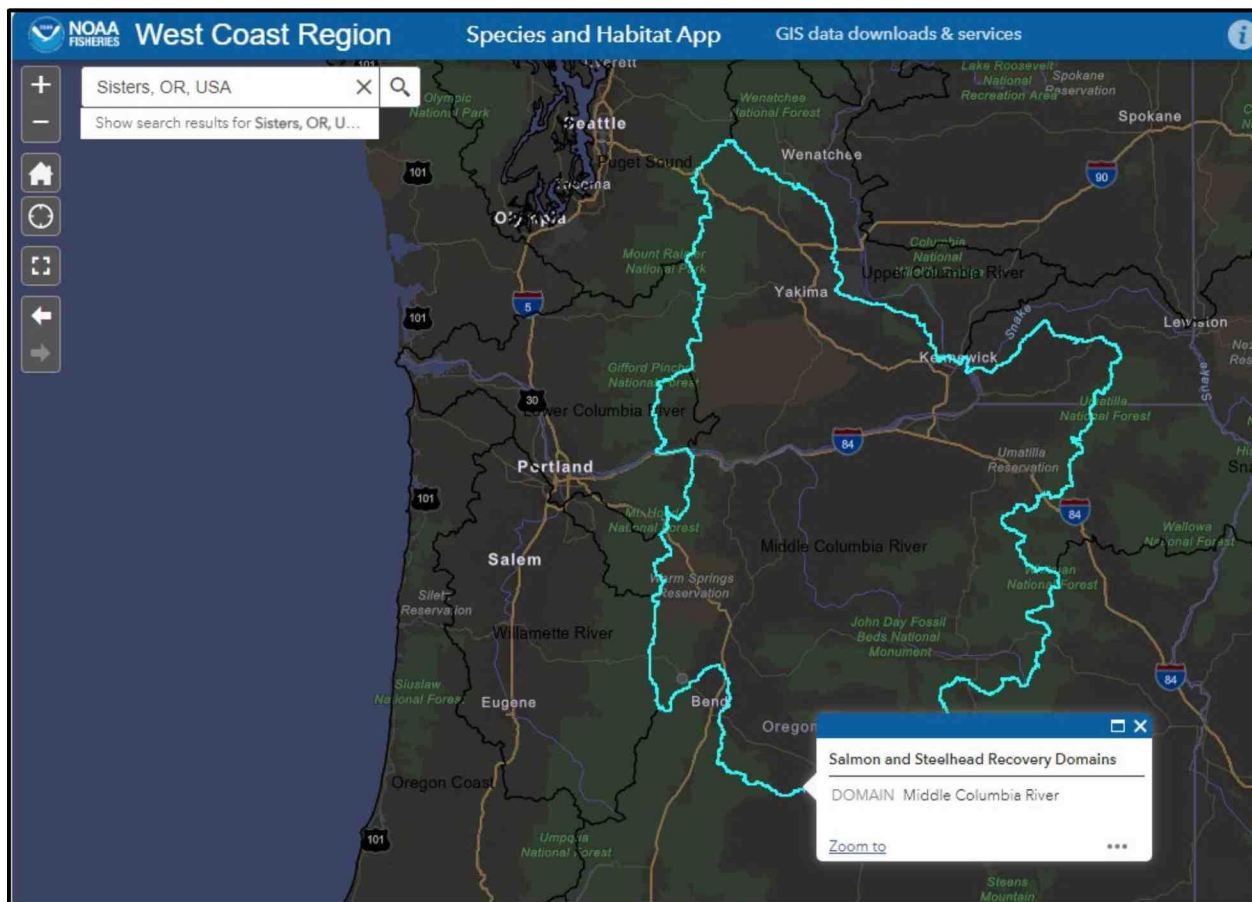
Figure 7. Location with No Information Available



NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Figure 8 shows that Sisters, OR is located in the Middle Columbia River Recovery Domain, identified with a blue-green outline. Because Sisters, OR is located in a recovery domain, it is also located in the plan area.

Figure 8. Information Box Identifying Recovery Domain for Sisters, OR



FEMA



OR EIS website
<https://www.fema.gov/about/organization/>

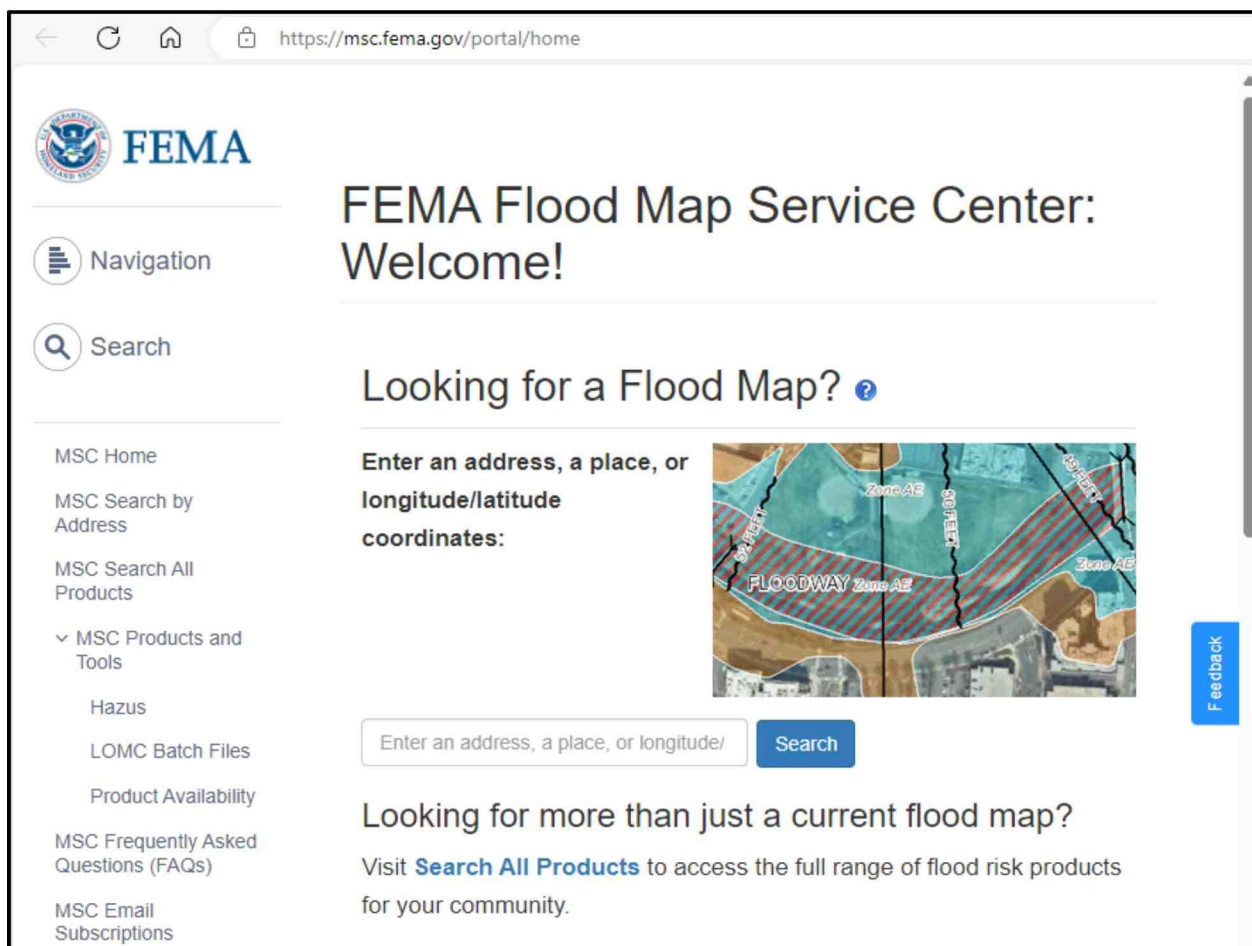


Directions to Determine if a Location is in the Special Flood Hazard Area

Step 1

To determine if a location of interest is in the current effective SFHA, access the FEMA Flood Map Service Center at [FEMA Flood Map Service Center](https://msc.fema.gov/portal/home) or <https://msc.fema.gov/portal/home>, as shown in Figure 9.

Figure 9. FEMA Flood Map Service Center

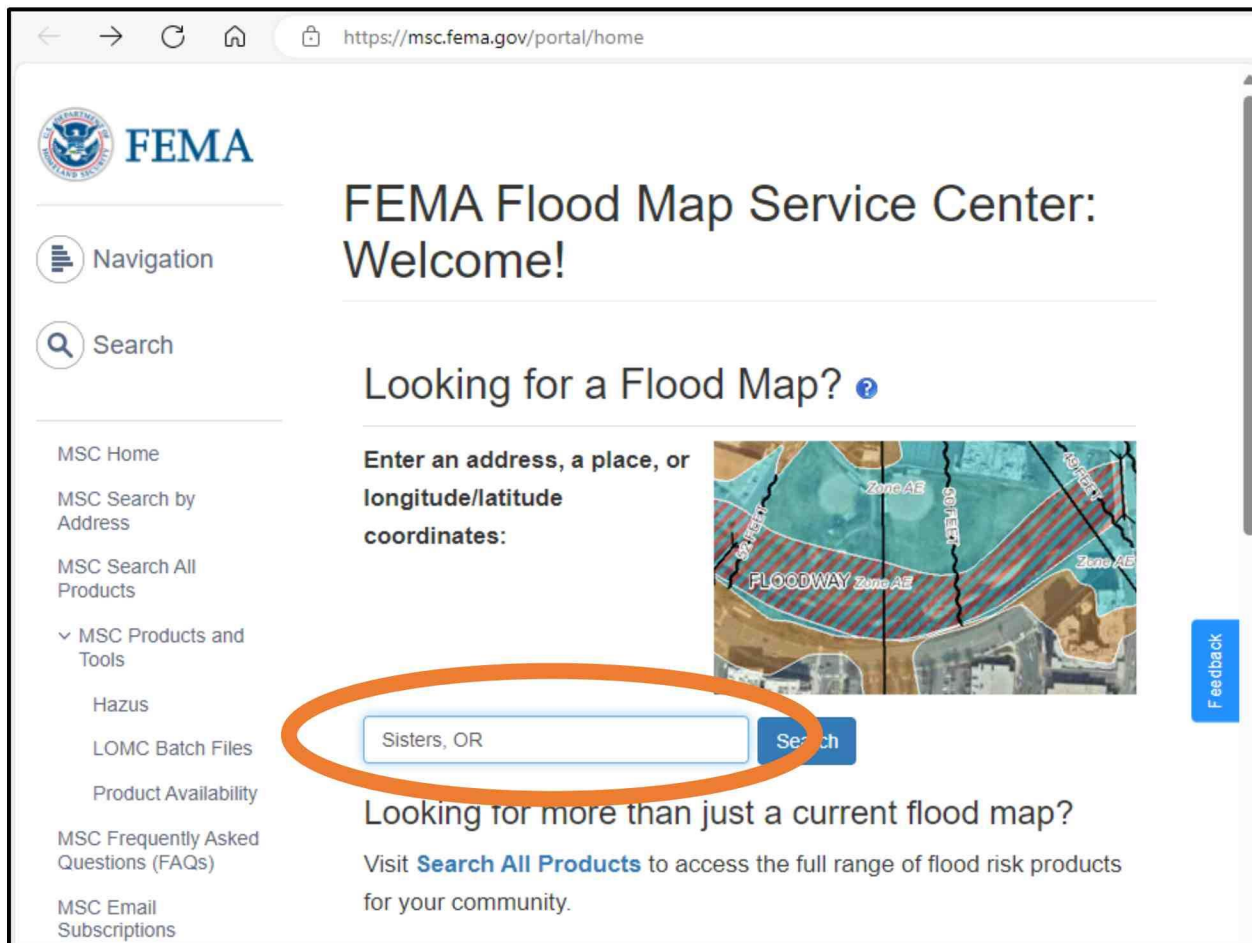


NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Step 2

Enter the location of interest in the Looking for a Flood Map? search bar indicated in an orange oval below. Click search. Sisters, OR is used as an example in Figure 10.

Figure 10. Looking for a Flood Map? Search Bar

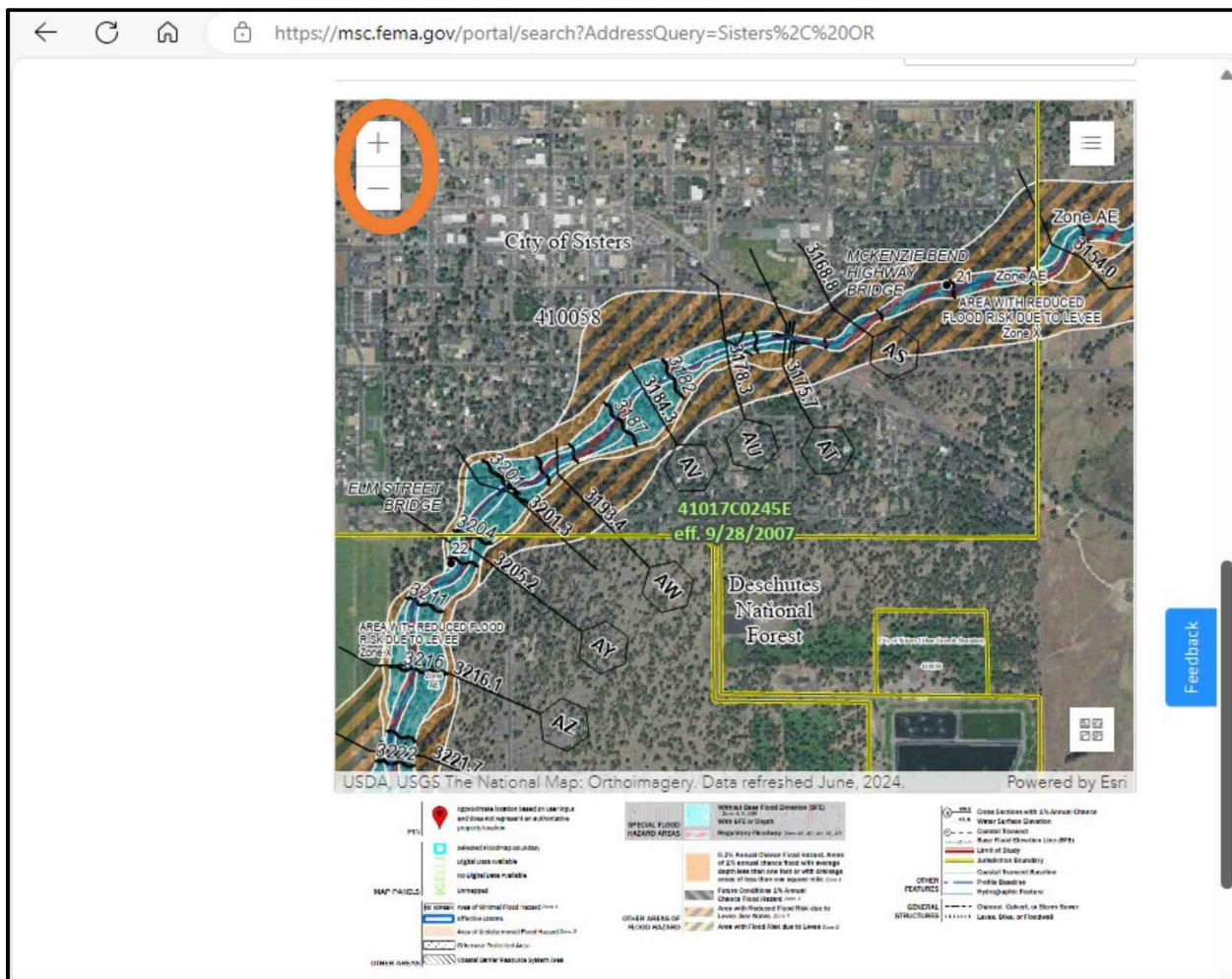


NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Step 3

Scroll down on the page until you see the map with your location identified. Using the plus or minus buttons at the upper left portion of the map, zoom in or out as needed. The plus and minus buttons are indicated in an orange oval in Figure 11.

Figure 11. Zooming In or Out on the Location Map



Step 4

Compare your location of interest to the legend below the map. The SFHA is indicated as either a light blue area, or a red and blue hashed area. If your location is within the light blue or red and blue hashed area, it is located within the SFHA. Figure 12 shows the legend. SFHA zones are shaded in grey in the legend.



FEMA

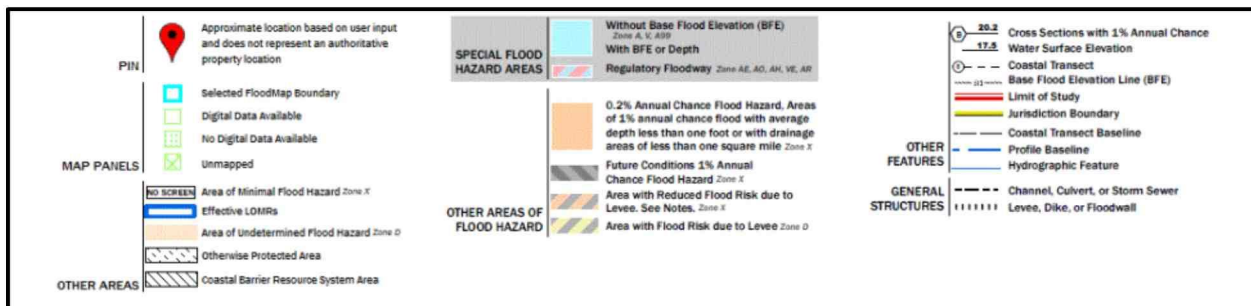


OR EIS website
<https://www.fema.gov/about/organization/>



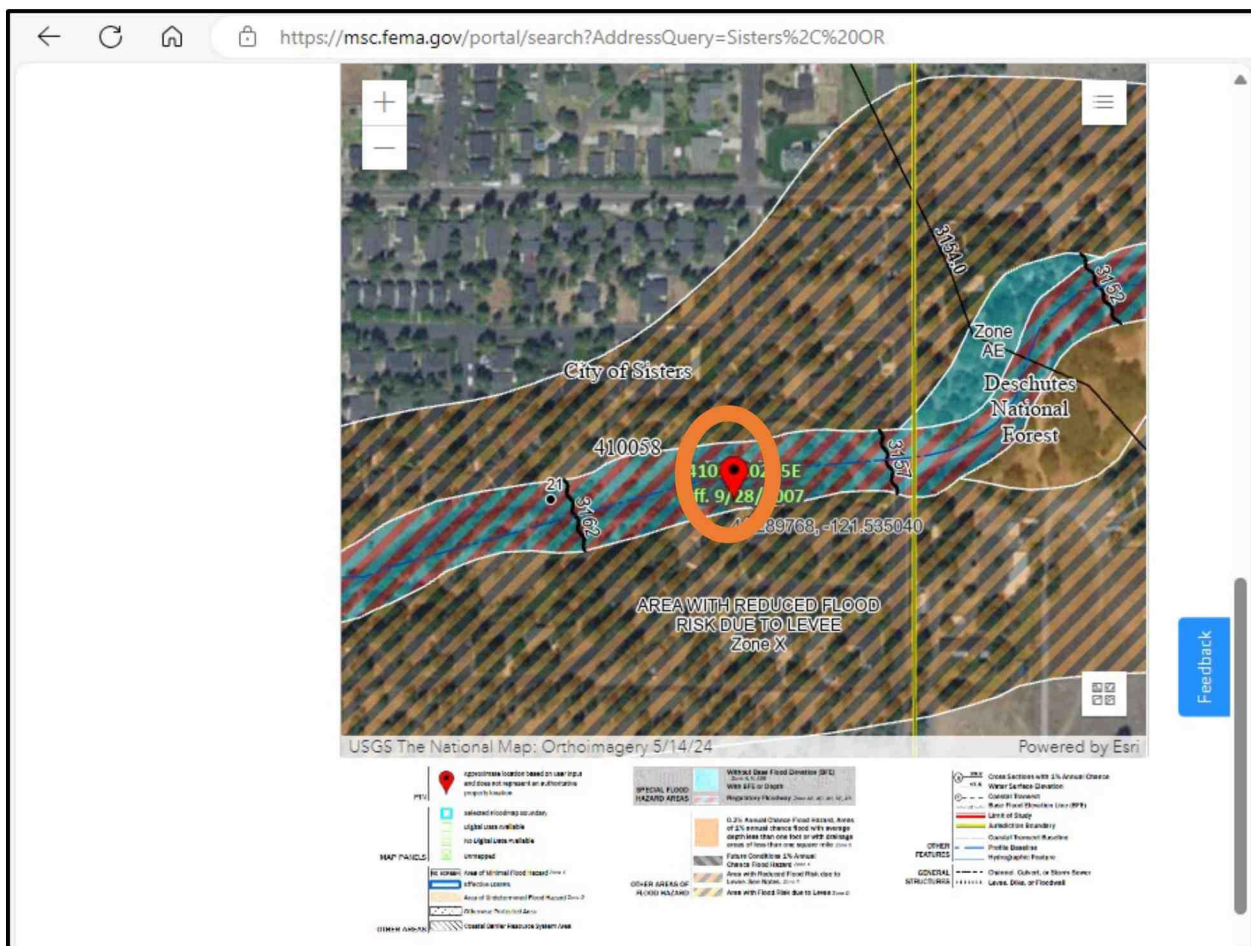
NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Figure 12. Special Flood Hazard Area Indicated in Legend



The Sisters, OR example location is depicted in Figure 13. The location indicated by the orange oval is within the red and blue hashed area, which means that it is within the SFHA.

Figure 13. Sisters, OR Example Location in the Special Flood Hazard Area



FEMA



OR EIS website
<https://www.fema.gov/about/organization/>



NFIP-ESA Integration in Oregon
Determining if a Location is Within the Plan Area
July 2024

Directions to Determine if a Location is Within a National Flood Insurance Program Participating Community

To determine if a location of interest is within an NFIP participating community, access the FEMA [Community Status Book Report](https://www.fema.gov/cis/OR.html) at <https://www.fema.gov/cis/OR.html>. If your community is listed in the community status book report, it is a NFIP participating community. If you have any additional questions about NFIP participation, reach out to your local floodplain administrator.

Summary

The Oregon NFIP-ESA integration performance standards apply to communities that are (1) located in the Oregon plan area, (2) located within the mapped special flood hazard area (SFHA), and (3) located within a community participating in the NFIP. These directions help to determine if a location of interest is within the plan area, within the SFHA, and within a NFIP participating community. If all three of these considerations are true for your location of interest, the Oregon NFIP-ESA integration performance standards are applicable. If one or more of the three considerations is not true for your location of interest, the Oregon NFIP-ESA integration performance standards do not apply.



FEMA



OR EIS website

<https://www.fema.gov/about/organization/>





PHILOMATH YOUTH ACTIVITIES CLUB

P.O. Box 1358 · 421 S. 19th St.
(541) 929-4040 ph. · (541) 929-4281 fx.
Philomath, OR 97370

Board of Directors

- Denny Bennett
President
- Jeff Minter
Vice President
- Shane Stueve
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- Lindsey Luksch
- Darcy Mulberry
- Nathan Nystrom
- Laurie Shenk
- Terry Stephenson
- Lisa Watkins

Eddie Van Vlack
Executive Director

November 6, 2024

City of Philomath
PO Box 400
Philomath, OR 97370

Thanks for all that you guys r. do

Dear City of Philomath,

Please accept my personal thanks as well as the thanks of our entire organization for your grant to the Philomath Youth Activities Club Inc. for your 2024-25 Social Services Contribution. Your support is a vital piece in allowing PYAC to let the kids and families of the Philomath area know that we believe in them. Your support was received as listed below:

\$6,494.00 on check #38328, dated November 6, 2024

Thanks to your help, we will be able to ensure that every child who wants to participate in our programs is given the opportunity to do so. We know that simply by giving youth an opportunity to get involved, we are helping them to develop their self-esteem and discover who they are and who they would like to be.

Our goal is to help youth develop as many positive assets as possible. They will then have the tools necessary to not only meet the many challenges of adolescence, but to conquer and grow from them. That is why your support of our organization is so very much appreciated.

Again, on behalf of the board of directors, staff, parents, and children involved with our organization, thank you for your support.

Sincerely,

Eddie Van Vlack
Executive Director

PYAC is a 501(c)(3) tax-exempt charitable organization. Your gift is tax deductible to the extent the law allows. This letter serves as your receipt. Let it be known that no goods or services were received for this donation. EIN #93-1127754



We Care

125 NW Tenth St. Corvallis, OR 97330
Non-profit 501(c)(3) agency
IRS ID 93-0822417

November 17, 2024

City of Philomath
PO Box 400
Philomath, OR 97370

City of Philomath,

Thank you for your support of We Care with your donation of \$5,287.50, written on November 6, 2024 for Utility Assistance. Utility assistance is the second largest category that We Care funds and is essential for the health and well-being of families in our community who are struggling to be sustainable.

We could not provide the support that we do without your help!

We Care is recognized as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. Your gift was not transferred to either a donor advised fund, or a supporting organization. No goods or services were provided to you by We Care in return for your Contribution.

This letter is your receipt. Please retain it for your records. If you have any questions, please contact Johanna Peterson at 541-929-5718.

Your generosity is appreciated as well as your commitment to strengthening our community by helping those in need!

If you have questions, please call Johanna Peterson at (541-740-3683).

Johanna Peterson
Sincerely,
We Care Board of Directors

Thank you!

Beit Am Jewish Community – Church of the Good Samaritan (Episcopal) – College United Methodist Church – Corvallis Bahá'í Community – Philomath Bahá'í Community – Corvallis Mennonite Fellowship – First Baptist Church – First Christian Church (Disciples) – First Congregational United Church of Christ – First Presbyterian Church – First United Methodist Church – Grace Lutheran Church – Northwest Hills Community Church – Peace Lutheran Church – Religious Society of Friends – St. Mary's Catholic Church – St. Vincent de Paul Society – Unitarian Universalist Fellowship



College of Urban and Public Affairs
Population Research Center
Mail Code PRC (tel) 503-725-3922
P.O. Box 751 askprc@pdx.edu
Portland, Oregon 97207 www.pdx.edu/prc

November 15, 2024

– IMPORTANT NOTICE –

Attn: City Official
City of Philomath
PO Box 400
Philomath, OR 97370

Preliminary 2024 Population Estimate

Listed below are the preliminary population estimates for your jurisdiction as of July 1, 2024, and revised estimates for years since the most recent census. Please review the information below, and in case of questions or comments, please contact the Population Research Center. The preliminary estimate is subject to revision before certification on December 15, 2024.

The basis of the population estimates is the 2020 U.S. Census enumeration of the total resident population, net of approved adjustments to the census results, as of April 1, 2020. For each year since the most recent census, population estimates are made based on net housing unit and group quarters (GQ) population changes, average household size, and occupancy rate, accounting for natural increase (births less deaths) and migration. Changes in housing units and GQ populations are based on responses obtained from your jurisdiction through participation in the Annual Housing Updates and Population Survey (AHUPS).

Preliminary estimates (2024):

Date:	Total Population	Pct. Change	Population in Group quarters	Housing Units	Vacancy Rate	Household size
4/1/2020	5,350	-	29	2,270	7.4%	2.53
7/1/2020	5,350	0.0%	29	2,280	7.4%	2.52
7/1/2021	5,600	4.7%	29	2,393	7.4%	2.52
7/1/2022	5,636	0.6%	29	2,449	7.6%	2.48
7/1/2023	5,637	0.0%	29	2,459	7.6%	2.47
7/1/2024	5,644	0.1%	29	2,469	7.6%	2.46

The certified population estimates will be posted online by the end of the day on December 15, 2024 (www.pdx.edu/prc/population-estimate-reports). Jurisdictions may petition for changes to population estimates on the basis of information they provide that is related to the data herein. Questions and comments should be directed to the Population Estimates program at popest@pdx.edu or (503) 725-3922.

/s/ Huda Alkitkat

Huda Alkitkat, Ph.D.
Population Estimates Program Manager
Population Research Center
Portland State University

**PHILOMATH PLANNING COMMISSION
REGULAR MEETING MINUTES
Philomath City Hall Council Chambers
October 21, 2024**

1. CALL TO ORDER - ROLL CALL

Meeting called to order at 6:00 p.m. by Chair Gary Conner.

Present:

Gary Conner
John Barlow
Van Hunsaker
Josiah Jessen
Timothy Melott
Darlene Rose

Absent:

Ruth Causey, City Council liaison
Hayley Green

Staff Present:

Chris Workman, City Manager

Michael Bidwell, Associate City Planner

2. APPROVAL OF MINUTES

2.1 September 30, 2024

Action Approve minutes as presented.

Motion/Second: Commissioner Hunsaker/Commissioner Melott

Vote: APPROVED 5-0 (Yes: Barlow, Hunsaker, Jessen, Melott, and Rose; No: None).

3. UNFINISHED BUSINESS

3.1 Climate Friendly Area Update

Start Time: 6:02 p.m.

Discussion:

- The council received funding aimed at assisting cities with climate initiatives, specifically focused on evaluating parking in climate-friendly areas.
- An assessment of both on-site and off-site public/private parking areas was conducted, which was expanded to include the entire downtown area. The downtown area is divided into four quadrants (A, B, C, D) to better analyze parking availability.
- The Downtown Streetscape project in the downtown area is completed, providing a basis for assessing existing parking infrastructure.
- The city is no longer mandating parking spaces for new developments within half a mile of bus routes, which may lead to increased reliance on public parking.
- Although no specific parking target number is set, the intent is to maximize available parking in the downtown area. The goal is to develop a plan that identifies potential parking areas to accommodate future growth and development.
- Future development plans may require adjustments to curbs and sidewalks to create additional public parking spaces, with potential financial collaboration from the city.
- The existing condition of some streets (e.g., lack of curbs, gravel lots) complicates parking solutions and necessitates further study.
- A comprehensive parking study may be conducted later to analyze current utilization, enforce regulations, and explore additional solutions like metering and striping.
- There are ongoing concerns about the placement and accessibility of handicapped parking spaces, with compliance with ADA standards highlighted.
- Plans suggest maintaining a consistent pattern for parking design throughout the downtown area, balancing parallel and angled parking strategies.
- The streetscape project incorporated bump outs at intersections for traffic control, but the yellow striping for no-parking zones starts 6-10 feet back, potentially reducing

1 parking availability. Bump outs may hinder visibility for drivers if cars are allowed to
2 park too close to curb ramps.

- 3 • There are concerns regarding the feasibility of parking lots next to the fire hall (Lot B)
4 and their practical use.
- 5 • Discussion about whether off-street parking at the Methodist Church should be
6 included in the parking study, as it is private property.
- 7 • Need for consistency in counting private and public parking spaces; suggesting that
8 all private lots with available parking should be included for a comprehensive study.
- 9 • A potential error in the parking map indicates that parking should be shown on the
10 north side of Main Street instead of the south.
- 11 • The city is bound by state regulations that limit the requirement for off-street parking
12 in new developments, which some view as excessive.
- 13 • Developers are still including parking in new projects despite relaxed regulations, as
14 they understand the necessity for tenant and customer parking.
- 15 • Discussion on the balance between reducing parking requirements to allow for more
16 housing units and the reality that many people still rely on vehicles for transportation.
17 The community has good public transportation options, with frequent bus service, but
18 the need for personal vehicles remains due to distances and capacity for carrying
19 (e.g. groceries). Debate about urban design aims to reduce car dependency, yet
20 many residents still need vehicles for practical daily needs.

21 **4. ANNOUNCEMENTS & STAFF UPDATES**

22 Start Time: 6:44 p.m.

23 **4.1 Staff Update**

- 24 • Les Schwab storage containers on the south tax lot are currently non-compliant with
25 the city code since they lack a primary use. The city is considering a temporary
26 allowance for the continued use of these containers while the business works on
27 construction of a second building. They plan to install a fence to screen the storage
28 units, which should improve visibility and safety at the corner. They also need to
29 ensure the containers are secured to the ground to meet state building codes.
- 30 • The proposed annexation is for a site on South 15th Street, across from the Millpond
31 homes, which is currently just outside the city limits. The developers want to create a
32 higher-density housing project similar to those across the street, potentially as a
33 cottage cluster, although current zoning doesn't allow that. This will require a
34 conditional annexation tied to the site plan approval. The public hearing is set for
35 November, with notices already out. This is meant to provide certainty about what
36 will be approved since the developers will submit a concrete site plan rather than a
37 conceptual design.
- 38 • There's progress on the Millpond Crossing development, including paving work on
39 16th Street, expected to be completed soon.
- 40 • Recent events at the farmer's market and the fire station open house resulted in
41 significant community feedback, indicating a high level of public interest.

42 **4.2 Regular Meeting and Public Hearing (PC24-04 and PC24-05): November 4, 2024, at**
43 **6:00 PM**

44 **4.3 Regular Meeting: November 18, 2024, at 6:00 PM**

45 **5. ADJOURNMENT**

46 Meeting adjourned at 7:04 p.m.

47
48
49 SIGNED:

ATTEST:

50
51
52 Gary Connor, Chair

Ruth Post, MMC, City Recorder