

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Variance V.3.21**

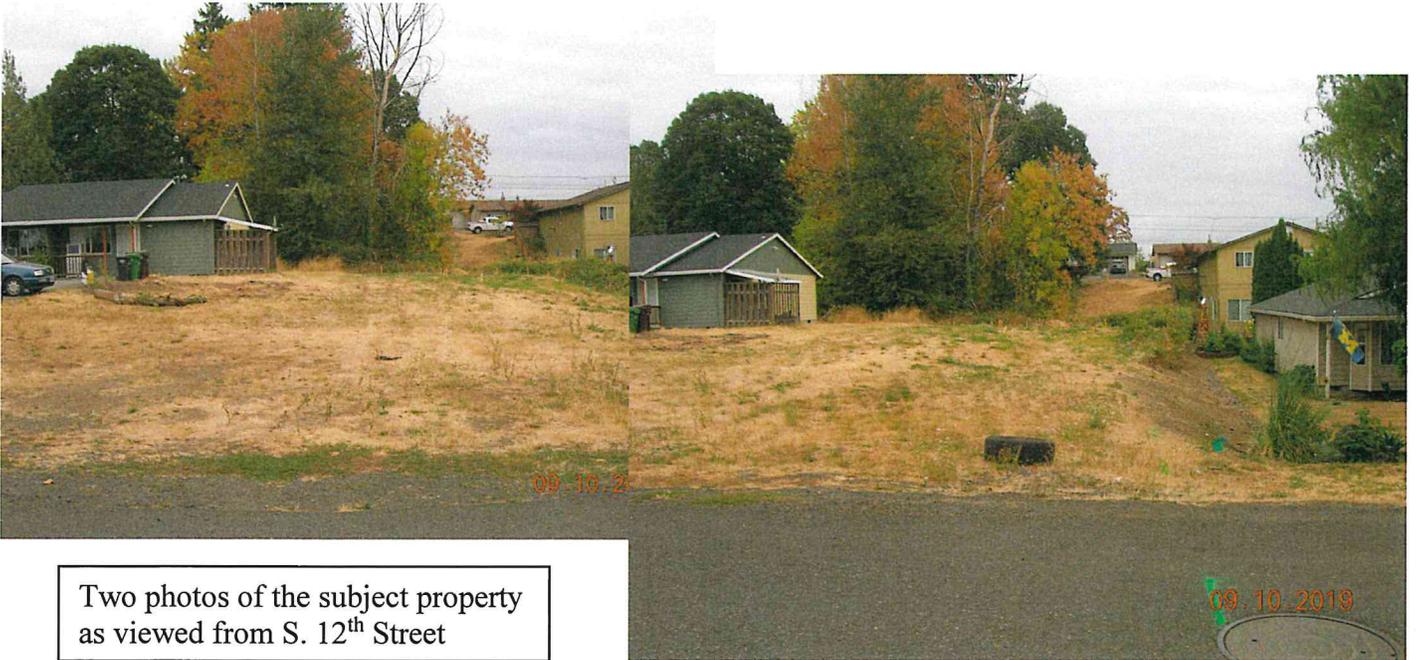
DATE: October 5, 2021
TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner

APPLICANT: John McGhie
OWNER: City of St. Helens

ZONING: General Residential, R5
LOCATION: 4N1W-4DD-4305; Lot 6, Block 100, St. Helens
PROPOSAL: Variance for a reduced front yard (setback)

SITE INFORMATION / BACKGROUND

The site is an undeveloped lot. The lot is fairly level with some slope on the south and rear sides. There is no significant vegetation. Both a city sanitary sewer and storm sewer main encumber the property.



PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: October 12, 2021

Notice of this proposal was sent to surrounding property owners within 100 feet of the subject property(ies) on September 17, 2021 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on September 29, 2021 in The Chronicle newspaper.

APPLICATION COMPLETENESS

This application was originally received and deemed complete on September 2, 2021. The 120-day rule (ORS 227.178) for final action for this land use decision is December 20, 2021.

AGENCY REFERRALS & COMMENTS

No comments.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

DISCUSSION:

The applicant requested a reduced front yard. The normal minimum front yard is 20 feet in the R5 zone. The applicant requests this to be reduced to 6 feet.

The applicant also requests a reduction of the front yard projection allowance per SHMC 17.64.050(4) with limitations per (6):

(4) Porches may extend into a required front yard or exterior side yard (on corner lots) not more than four feet. Porches may be covered but shall not include any other floor space horizontally (e.g., non-porch area on the same floor) or vertically (e.g., floor space directly above the porch on the second floor) for this to be allowed.

(6) When there is a minimum yard requirement of the zoning district, no building, structure, or portion thereof, regardless of size and whether or not a permit is required for its placement, shall be placed closer than three feet to a property line or to another building or structure.

A porch is allowed to encroach into a required front yard (setback) up to four feet per (4). However, per (6) in no case shall the setback be less than three feet. The applicant requests that the porch encroachment be allowed within the entire 6' front yard.

CRITERIA:

SHMC 17.108.050 (1) – Criteria for granting a Variance

- (a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity;

- (b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
- (c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- (d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and
- (e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

The Commission needs to find all these criteria **(a)** – **(e)** are met in order to approve the variance

FINDINGS:

(a) This criterion requires a finding that the variance will not be detrimental.

- See applicant’s narrative. Note that the applicant states that “there is still 50’ or so to the pavement of 12th Street.” The roadway is within an oversized right-of-way of 80 feet (normal width if created today would be 50 feet) and the road is skewed to the opposite side. This is why there is approximately 50 feet from the roadway to the front property line of the subject property.
- Staff comment(s): The sanitary and storm sewer mains need to remain unencumbered for access. This is a balance of maintaining clear access of the utilities while still allowing reasonable use of the property.

It is common for a portion of the 20’ yard area to be used for a residential lot’s off-street parking. This Variance would not exempt that. Due to the extra challenge this Variance could pose to off-street parking, it should be noted as a condition that these standards still apply.

(b) The criterion requires a finding that there are special and unique circumstances.

- Staff comment(s): The storm and sanitary sewer mains cutting diagonally across the property in two different places is a special and unique circumstance for this lot.

(c) This criterion prohibits a use variance and requires a finding that the applicable standards are maintained to the greatest extent that is reasonably possible.

- Staff comment(s): Both the reduced front yard and projection allowance should be considered.

Plans provided by the applicant are conceptual and thus subject to change.

The Commission should first consider allowing to reduce the front yard (from 20' to 6') and if so, consider the front yard projection allowance further.

If the front yard was allowed to be reduced by the Commission (from 20' to 6'), but not any front yard projection reductions, a front porch could still be within 3' of the front property line (i.e., up to three of the four feet allowance would still be possible). If the normal front yard projection exception was allowed, and the "no closer than 3' provision" exempted, it could project up to four feet (i.e., could be within 2' of the front property line).

Unless the Commission wants to grant a zero-front yard (setback), staff recommends allowing the 6' front yard (setback), and for the front porch projection per SHMC 17.64.050(4) to be allowed in its 4' entirety, which means reducing 17.64.050(6) to 2' for the purpose of allowing 17.64.050(4). This is an important discussion considering the minimum variance to allow the proposal findings. See red text in conditions below.

(d) This criterion requires a finding that existing physical and natural systems will not be adversely affected as a result of the requested Variance.

- See applicant's narrative. As noted above, the road for S. 12th Street is skewed to the opposite side of the right-of-way from the subject property. The reduced yard is thus not anticipated to impact through travel. The applicant also notes other properties on the block that have reduced front yards. This primarily refers to properties addressed as 594, 596 and 598 that have reduced yards being developed with sensitive land encumbrances.
- Staff comment(s): The sanitary and storm sewer mains need to remain unencumbered for access. This is a balance of maintaining clear access of the utilities while still allowing reasonable use of the property.

(e) This criterion requires a finding that the variance issue is not self-imposed and that the variance is the minimum necessary to alleviate the hardship.

- Staff comment(s): It is not a self-imposed hardship. This property has been in city ownership for many years. This is somewhat common (based on staff's anecdotal observations) for lots substantially encumbered with public utilities.

In regard to the minimum necessary consideration, refer to the red text under criterion (c) above.

CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, staff recommends approval of this Variance with the following conditions:

1. This Variance approval is valid for a limited time pursuant to SHMC 17.108.040.
2. The Planning Commission grants the following:

- a. Reduced front yard from 20' to 6'.

[or]

The Commission could allow a reduced front yard from 20' to 0'.

[if the commission allows a 0' front yard, no need to discuss further. If not, the front porch yard projection allowance must be considered]

- b. The front porch projection per SHMC 17.64.050(4) may be allowed within the entire reduced 6' front yard, but not more than 6 feet.

[or]

The front porch projection per SHMC 17.64.050(4) to be allowed in its 4' entirety, which means reducing 17.64.050(6) to 2' for the purpose of allowing 17.64.050(4).

[or]

No variance to SHMC 17.64.050(4) or (6) is granted.

3. The off-street parking requirements of the Development Code still apply.
4. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17), except for the Variance(s) granted herein.

Attachment(s): Applicant's narrative
AKAAN architecture + design lot and utility layout (originally done for Habitat for Humanity)
Lot layout
Site plan with conceptual development
Conceptual front elevation

554 South 12th St.

Dear Planning Commission:

Hi my name is John. I first moved to Oregon in 1994. I retired from working in the Hillsboro area. At the time I had a sailboat moored at St. Helens Marina. That is when I fell in love with St. Helens...

I would like to build a small retirement house for me and my dog. Unfortunately this lot has a storm sewer easement diagonally through the center of it [See page 1]. I've spent some time measuring/staking things out and believe if the city would allow me a variance up to the property line, I can fit a small home on this lot. Even at the property line there is still 50 feet or so to the pavement of 12th St.

There are several homes on the street that are already past property lines (in fact further up than what I am asking for) so I am not setting any precedence here [See page 2]

Page 3 shows a basic footprint of what I'm hoping to do. I plan to work with an architect to make sure that everything fits properly and meets all codes and setbacks required by the city. Page 4 shows elevations of a small cute house that I'd like to build on that lot.

I hope the city can grant me this variance.

Thanks in advance,

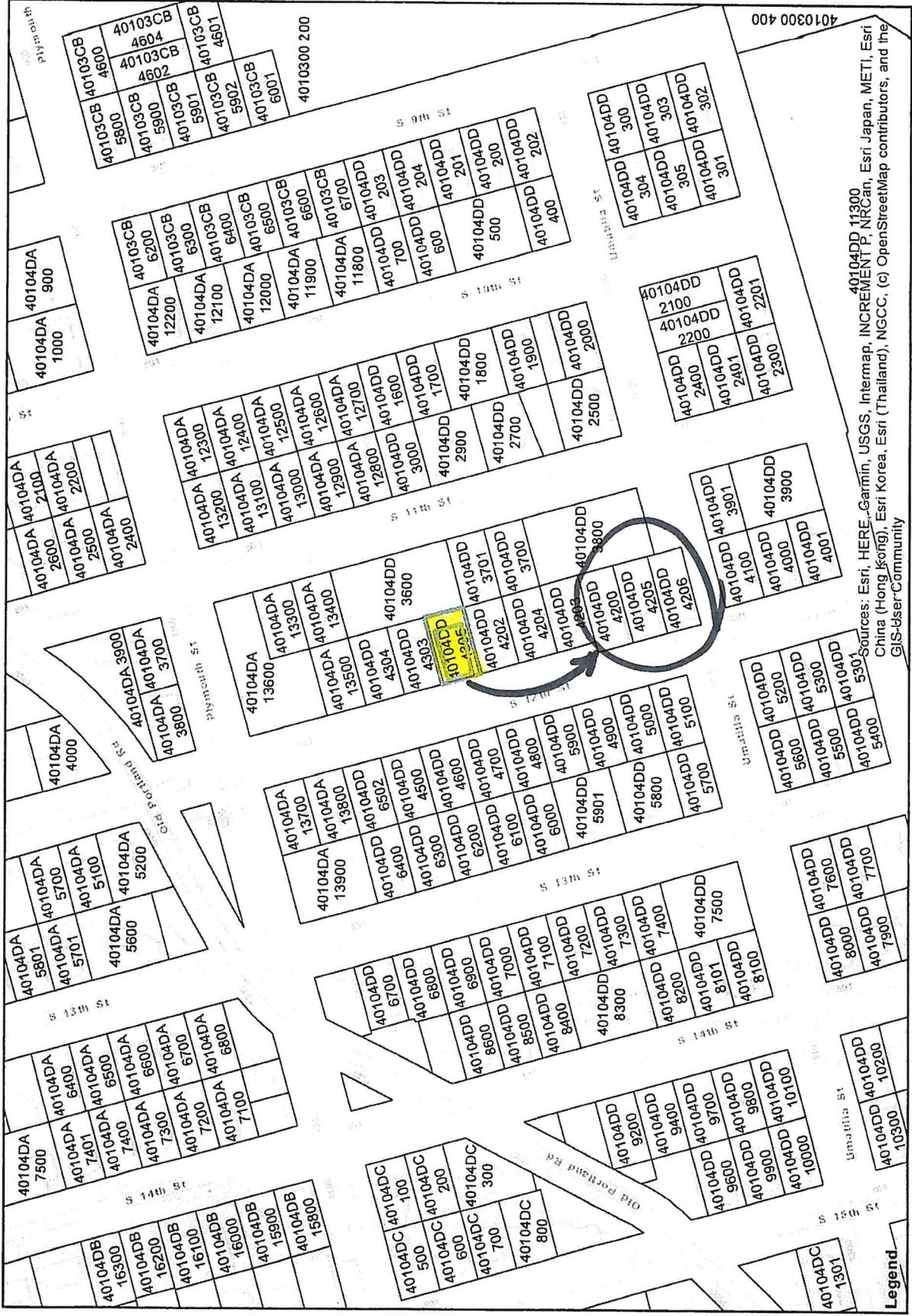
John McGhie

johnnymcghie@yahoo.com

(541) 270-2369

2

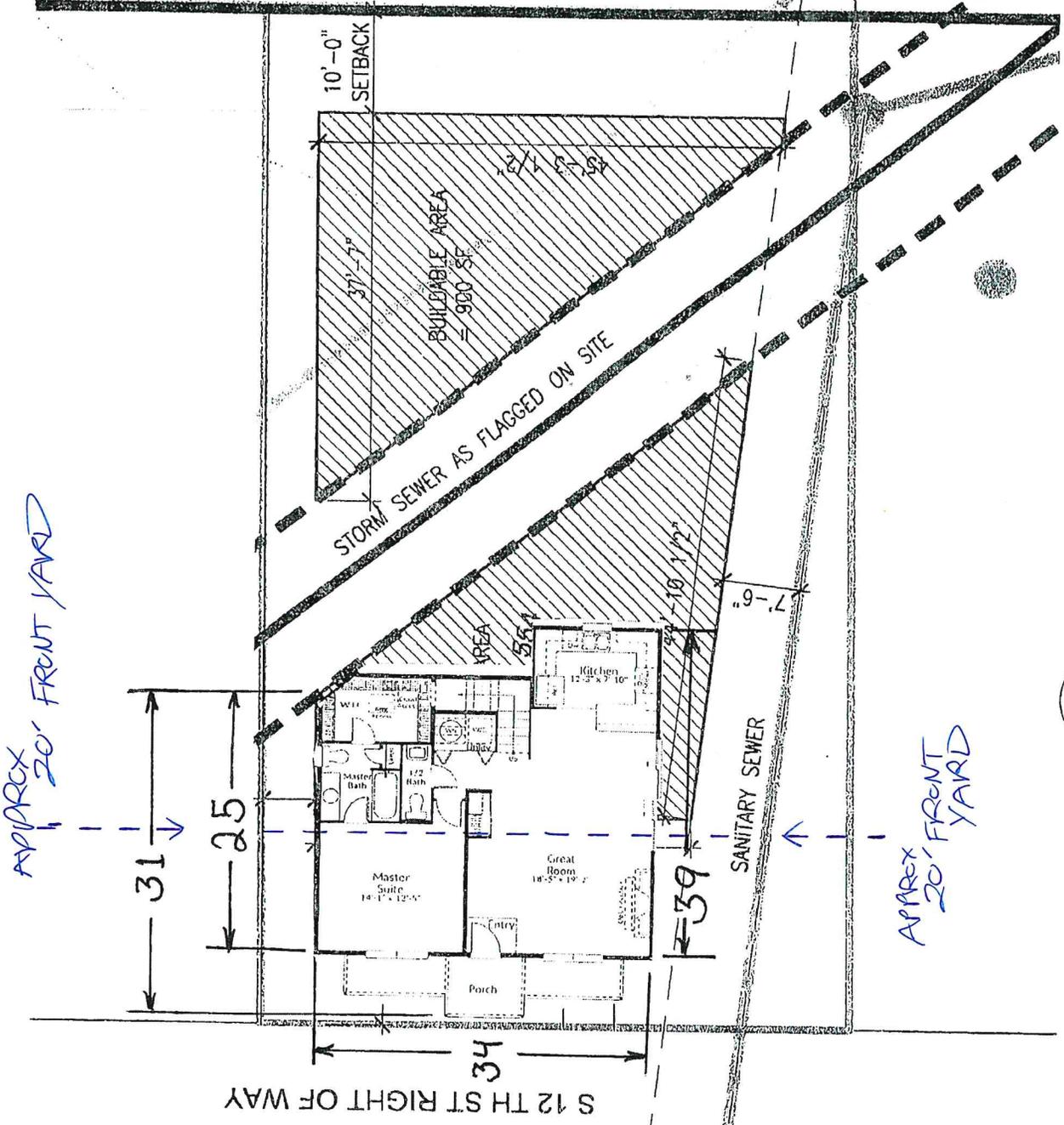
WD20210107 Location



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS-User-Community

3

NORTH



APPROX 20' FRONT YARD

APPROX 20' FRONT YARD

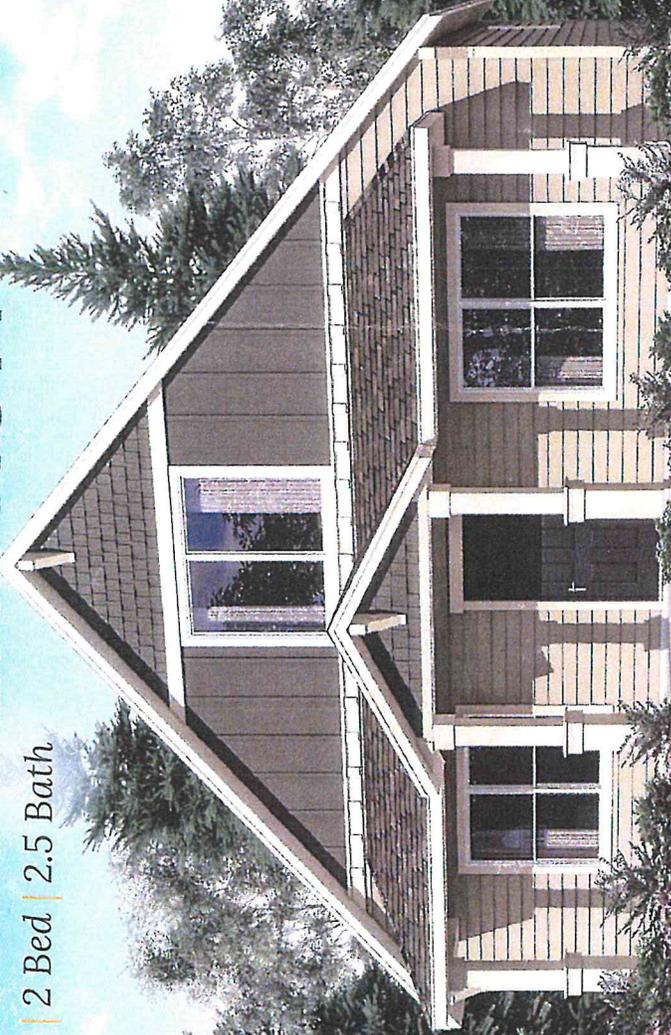
1 SITE PLAN
 SP1 1/16" = 1'-0"

4

ADAIR HOMES

the RHODODENDRON

1,291 SF | 2 Bed | 2.5 Bath



SIGNATURE

