

Appeal of Garfield St. Development

Matthew Marr <matwmarr@gmail.com>
To: planning@ashland.or.us
Cc: Eliza Haas <elizahaas7@gmail.com>

Mon, Dec 10, 2018 at 3:46 PM

Dear Ashland City Council,

When I first heard that the former church on Garfield was going to be developed, I was excited because we desperately need more affordable housing in our community. However, I was disappointed when I saw that the proposal would needlessly cut corners and trees. Since none of the units proposed are dedicated to affordable housing there is no reason to allow these exceptions. But the developers never reached out to neighbors to discuss the proposal or its drawbacks. Thus, it is no surprise that several planning commissioners voted against this proposal. We can do better as a community, reaching consensus to build a sustainable neighborhood-friendly development at the heart of town.

I join the timely appeal already filed on all 12 grounds. Additionally, the Planning Commission erred in not discussing the unnecessary tree removal requests. I hope the developer will do the right thing and take this proposal back to the community to craft something that we can all be proud of. If not, then for procedural, community and legal reasons, this decision should be remanded to the Planning Commission for more consideration.

Most concerning is the lack of sufficient parking. This area already serves as overflow for SOU. While we want to live in a world where we do not need cars, we are not there yet and the Planning Commission accepting less than a sufficient number of parking spaces is not supported by law or good planning policy. Perhaps the developer could consider a multi-story parking building to meet these needs while maximizing occupancy units.

The curb cut on Quincy is also ill-advised. Quincy has poorly designed intersections with California and Garfield, which only function now because currently the street mostly serves as parking, not a thoroughfare.

On a procedural level, this proposal became a moving target when substantial changes were made mid-meeting (See October minutes). These changes (moving bike parking inside, removing trees for a park row, rebalancing units to address errors in calculations in the proposal) made the proposal sustainably worse. We might have spoken at the Planning Commission if we had known that the proposal would become less neighbor friendly. Thus out of fairness, it should be reheard as is and the Commission allowed to deliberate fresh.

Thank you for your service to our community,

Mat Marr and Eliza Haas
5416668564
144 Garfield St. Ashland

p.s. Mat was born and raised in Ashland and currently lives with his partner Eliza across the street from the proposed development. We have received no notice of any hearings. Please confirm receipt of this appeal and that it is being added to the record and add this email address to future notices regarding 188 Garfield St.

Matthew Marr <matwmarr@gmail.com>
To: planning@ashland.or.us, Eliza Haas <elizahaas7@gmail.com>, molnarb@ashland.or.us
Cc: Jesse Longhurst <jesselonghurst@hotmail.com>, administration@ashland.or.us, michealsgutman53@gmail.com,

Mon, Dec 17, 2018 at 9:35 PM

sheilasmith2@charter.net

Hi Bill,

I have two concerns regarding the record for the Garfield street development I would like your response to. I have CCed everyone that filed an email regarding the appeal as my second concern relates their letters.

First, I submitted a timely letter on 12/10 to the email address as directed by the posted appeal notices. I have not received a reply, as requested (see my original email below). I also do not see it in the record at:
Please explain what happened to my letter.

Second, I am troubled that Planning staff is making direct redactions of significant portions of citizens' letters. I understand that the council can not consider new arguments on appeal. If the staff believes that arguments are new, I certainly support them saying that. The council can then take that into account and the letter writer has a chance to make their case. By redacting it directly I am concerned that the council (the only elected officials in this process) might be improperly denied relevant information. Even though I am sure that the staff is likely making reasonable decisions, I don't have any way to confirm that. Thus, even if the removal decisions are correct the perception of lack of transparency it creates casts a shadow over the entire process. It also creates an unfair perception that citizens (every single neighbor letter in the record had at least one redaction) understand our codes and laws less well than the developer and their attorney (who had no redactions in their massive rebuttal filing.) Were citizens notified that parts of their letters would not be given to the City Council and given an explanation and opportunity to respond?

These procedural concerns only make my letter, which raised earlier procedural concerns, being in the record in a timely manner more important.
If there is a justification for this action under council decisions or state law please let me know where to find it.

I look forward to your response in advance of the council meeting on this issue Tuesday night so that we can ensure that all parties are receiving due process.

It has been a while since we have talked and I hope all is well for you,

Mat

P.s. Please respond via email reply all so we are all on the same page.
[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: matwmarr@gmail.com

Mon, Dec 17, 2018 at 9:35 PM

Address not found

michealsgutman53@gmail.com

The response was:

The email account that you tried to reach does not exist. Please try double-checking the recipient's email address for typos or unnecessary spaces. Learn more at <https://support.google.com/mail/p/1fc33uchus> u84sor820532oib.6 - gsmtmp

Final-Recipient: rfc822; michealsgutman53@gmail.com
 Action: failed
 Status: 5.0.0
 Diagnostic-Code: smtp; The email account that you tried to reach does not exist. Please try double-checking the recipient's email address for typos or unnecessary spaces. Learn more at <https://support.google.com/mail/p/1fc33uchus> u84sor820532oib.6 - gsmtmp
 Last-Attempt-Date: Mon, 17 Dec 2018 21:35:56 -0800 (PST)

----- Forwarded message -----

From: Matthew Marr <matwmarr@gmail.com>
 To: planning@ashland.or.us, Eliza Haas <elizahaas7@gmail.com>, molnarb@ashland.or.us
 Cc: Jesse Longhurst <jesselonghurst@hotmail.com>, administration@ashland.or.us, michealsgutman53@gmail.com, sheilasmith2@charter.net
 Bcc:
 Date: Mon, 17 Dec 2018 21:35:43 -0800
 Subject: Fwd: Appeal of Garfield St. Development
 Hi Bill,

I have two concerns regarding the record for the Garfield street development I would like your response to. I have CCed everyone that filed an email regarding the appeal as my second concern relates their letters.

First, I submitted a timely letter on 12/10 to the email address as directed by the posted appeal notices. I have not received a reply, as requested (see my original email below). I also do not see it in the record at:

http://www.ashland.or.us/SIB/files/Written_Arguments_recd_December_7%2D10.pdf

Please explain what happened to my letter.

Second, I am troubled that Planning staff is making direct redactions of significant portions of citizens' letters. I understand that the council can not consider new arguments on appeal. If the staff believes that arguments are new, I certainly support them saying that. The council can then take that into account and the letter writer has a chance to make their case. By redacting it directly I am concerned that the council (the only elected officials in this process) might be improperly denied relevant information. Even though I am sure that the staff is likely making reasonable decisions, I don't have any way to confirm that. Thus, even if the removal decisions are correct the perception of lack of transparency it creates casts a shadow over the entire process. It also creates an unfair perception that citizens (every single neighbor letter in the record had at least one redaction) understand our codes and laws less well than the

developer and their attorney (who had no redactions in their massive rebuttal filing.) Were citizens notified that parts of their letters would not be given to the City Council and given an explanation and opportunity to respond?

These procedural concerns only make my letter, which raised earlier procedural concerns, being in the record in a timely manner more important. If there is a justification for this action under council decisions or state law please let me know where to find it.

I look forward to your response in advance of the council meeting on this issue Tuesday night so that we can ensure that all parties are receiving due process.

It has been a while since we have talked and I hope all is well for you,

Mat

P.s. Please respond via email reply all so we are all on the same page.

----- Forwarded message -----

From: Matthew Marr <matwmarr@gmail.com>
 Date: Mon, Dec 10, 2018 at 3:46 PM
 Subject: Appeal of Garfield St. Development
 To: <matwmarr@gmail.com>
 Cc: Eliza Haas <elizahaas7@gmail.com>

Dear Ashland City Council,

When I first heard that the former church on Garfield was going to be developed, I was excited because we desperately need more affordable housing in our community. However, I was disappointed when I saw that the proposal would needlessly cut corners and trees. Since none of the units proposed are dedicated to affordable housing there is no reason to allow these exceptions. But the developers never reached out to neighbors to discuss the proposal or its drawbacks. Thus, it is no surprise that several planning commissioners voted against this proposal. We can do better as a community, reaching consensus to build a sustainable neighborhood-friendly development at the heart of town.

I join the timely appeal already filed on all 12 grounds. Additionally, the Planning Commission erred in not discussing the unnecessary tree removal requests. I hope the developer will do the right thing and take this proposal back to the community to craft something that we can all be proud of. If not, then for procedural, community and legal reasons, this decision should be remanded to the Planning Commission for more consideration.

Most concerning is the lack of sufficient parking. This area already serves as overflow for SOU. While we want to live in a world where we do not need cars, we are not there yet and the Planning Commission accepting less than a sufficient nu

----- Message truncated -----

Derek Severson <derek.severson@ashland.or.us>

Tue, Dec 18, 2018 at 9:29 AM

To: Matthew Marr <matwmarr@gmail.com>, planning <planning@ashland.or.us>, Eliza Haas <elizahaas7@gmail.com>,

Bill Molnar <bill.molnar@ashland.or.us>

Cc: Jesse Longhurst <jesselonghurst@hotmail.com>, administration <administration@ashland.or.us>, "michealsgutman53@gmail.com" <michealsgutman53@gmail.com>, "sheilasmith2@charter.net" <sheilasmith2@charter.net>, David Lohman <david.lohman@ashland.or.us>, Cynthia Moscaritolo <czrider8@googlemail.com>

Matt,

I hope all is going well for you, and I'm sorry for not contacting you sooner on this.

The appeal process involved here is "on the record." Appeal procedures are detailed in the code in AMC 18.5.1.060.I. Appeals "on the record" are limited to the appeal issues raised in the appeal notice, and those allowed to participate in the hearing are limited to "parties" to the original decision. I've included some code sections below with key language in bold and underlined:

18.5.1.060.I.5.a *Oral Argument*. Oral argument on the appeal shall be permitted before the Council. Oral argument shall be limited to ten minutes for the applicant, ten for the appellant, if different, and **three minutes for any other party who participated below. A party shall not be permitted oral argument if written arguments have not been timely submitted.** Written arguments shall be submitted no less than ten days prior to the Council consideration of the appeal. **Written and oral arguments on the appeal shall be limited to those issues clearly and distinctly set forth in the notice of appeal; similarly, oral argument shall be confined to the substance of the written argument.**

18.5.1.060.I.1 explains that "'Parties' shall be defined as the following.

- a. The applicant.
- b. **Persons who participated in the public hearing, either orally or in writing. Failure to participate in the public hearing, either orally or in writing, precludes the right of appeal to the Council.**
- c. Persons who were entitled to receive notice of the action but did not receive notice due to error.

Staff have redacted portions of the written arguments that were not directed at the 12 identified appeal issues and thus outside the scope of the appeal on the record. Staff has also not included written arguments into the records that were submitted by people who did not participate in the original public hearing process either orally or in writing and thus are not qualified as parties to the appeal by code (*you and Cynthia Zwerling*). I will be notifying those whose items were redacted today as well and advising them that oral testimony needs to be limited to the appeal issues in their original written arguments.

If I can clarify any of the above, or provide any additional information, please let me know.

- Derek

Derek Severson, Senior Planner

City of Ashland, Department of Community Development

1000 Commercial Street, Ashland, OR 97520

PHONE: (541) 552-2040 FAX: (541) 552-2050 TTY: 1-800-735-2900

E-MAIL: dseverson@ashland.or.us

This e-mail transmission is the official business of the City of Ashland, and is subject to Oregon's public records laws for disclosure and retention. If you've received this e-mail in error, please contact me at (541) 552-2040. Thank you.

From: Matthew Marr <matwmarr@gmail.com>
Sent: Monday, December 17, 2018 9:35:43 PM
To: planning; Eliza Haas; Bill Molnar
Cc: Jesse Longhurst; administration;
Subject: Fwd: Appeal of Garfield St. Development

[Quoted text hidden]

Matthew Marr <matwmarr@gmail.com> Tue, Dec 18, 2018 at 10:54 AM
To: Derek Severson <derek.severson@ashland.or.us>
Cc: Bill Molnar <bill.molnar@ashland.or.us>, Cynthia Moscaritolo <czrider8@googlemail.com>, David Lohman <david.lohman@ashland.or.us>, Eliza Haas <elizahaas7@gmail.com>, Jesse Longhurst <jesselonghurst@hotmail.com>, administration <administration@ashland.or.us>, "michealsgutman53@gmail.com" <michaelsgutman53@gmail.com>, planning <planning@ashland.or.us>, "sheilasmith2@charter.net" <sheilasmith2@charter.net>

Hi Derek,

Thanks for the quick response.

I appreciate your detailed explanation of the planning appeals process. I have a few initial follow up questions:

1. What city policy governs staff's use of redaction?
2. Who specifically makes the redactions and what is the oversight of this redaction process?
3. What is the appeals process for citizens whose letters have been rejected and/or redacted from the record?
4. When was written notice of the Garfield planning action mailed to adjacent neighbors? (The lack of notice to me

was raised in my original appeal email.) um
My

Things are very good for me, thanks for asking, our big Speech and Debate tournament in Ashland was last weekend was a big hit. I hope all is well for you.

Mm
Thank you,

Mat
[Quoted text hidden]

Derek Severson <derek.severson@ashland.or.us>

Tue, Dec 18, 2018 at 11:17 AM

To: Matthew Marr <matwmarr@gmail.com>

Cc: Bill Molnar <bill.molnar@ashland.or.us>, Cynthia Moscaritolo <czrider8@googlemail.com>, David Lohman <david.lohman@ashland.or.us>, Eliza Haas <elizahaas7@gmail.com>, Jesse Longhurst <jesselonghurst@hotmail.com>, administration <administration@ashland.or.us>, "michealsgutman53@gmail.com" <michaelsgutman53@gmail.com>, planning <planning@ashland.or.us>, "sheilasmith2@charter.net" <sheilasmith2@charter.net>

Matt,

As far as the noticing issue, the land use ordinance requires that we send notices to the property owners of record within 200 feet (See AMC 18.5.1.060.C.) It looks like your address at 144 Garfield is listed in tax records under the ownership of Nicholas W. Feldman. Notices were initially mailed 9.26.2018. We also send notice to the Tidings and post a sign announcing the hearing on the property. Given the large site, I posted three signs - one on each frontage. I've attached photos of the signs posted on the property and the mailing labels used for notices, which includes Mr. Feldman as the owner of your property.

The Staff Advisor (Bill, as Community Development Director) is charged with administering the land use ordinance and oversaw the redactions, which were carried out based on the appeal procedure limiting written arguments to the identified appeal issues and to qualifying parties.

- Derek

Derek Severson, *Senior Planner*

City of Ashland, Department of Community Development

51 Winburn Way, Ashland, OR 97520

PH: (541) 552-2040 FAX: (541) 552-2050 TTY: 1-800-735-2900

E-MAIL: derek.severson@ashland.or.us

This e-mail transmission is the official business of the City of Ashland, and is subject to

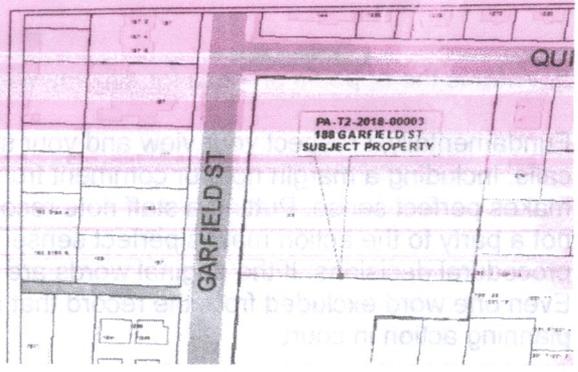
bonuses are requested for conservation housing, outdoor recreation space
ZONING: R-3; ASSESSOR'S MAP: 39 1E 10CB; TAX LOT: 2100 & 2101.

ASHLAND CITY COUNCIL MEETING: Tuesday, December 18, 2018 at 7:00 PM, Ash

appeal will be processed on the record according to AMC 18.5.1.060.I. The grounds for the appeal as identified by the

- The Planning Commission erred in approving the conservation housing density bonus;
- The Planning Commission erred in approving the outdoor recreation space density bonus;
- The Planning Commission erred in approving the major recreational facility density bonus;
- The Planning Commission erred in approving the alternative bicycle parking solution proposed by the applicant;
- The Planning Commission erred in failing to address evidence in the record regarding the inadequacy of existing water deficiencies;
- The Planning Commission erred in calculating each of the 72 units as .75 units;
- The Planning Commission erred in granting the on-street parking credits and by approving a project with insufficient off-street parking;
- The Planning Commission erred in approving a driveway location on Quincy Street in exception to the street standards;
- The content of the notice of public hearing was insufficient in not including the name and phone number of a City contact person for decision;
- 10) The Planning Commission erred in approving an alternative to the landscaped medians and swales;
- 11) The Planning Commission erred procedurally and failed to provide due process by admitting new evidence during the applicant's hearing to respond and in making findings which contradict the conditions of approval with regard to unit sizes, density bonuses and open space;
- 12) The City erred procedurally and failed to provide due process by failing to provide the parties with the staff report and initial recommendation at the public hearing, and in not making the full record available publicly.

The appeal on the record will be limited to the 12 grounds for appeal which have been clearly and distinctly identified in the appeal request. Parties wishing to provide oral argument at the appeal hearing must submit written arguments no less than 10 days prior to the appeal hearing (by 4:30 p.m. on Monday, December 10, 2018). Written and oral arguments on the appeal shall be limited to the 12 grounds above; oral argument shall be confined to the substance of the written argument.



minutes for the applicant, ten for the appellant, if
ments shall be received in the Planning Department
similarly, oral argument shall be confined to the sub
gument may be submitted only by parties to the pla
0 or e-mailed to planning@ashland.or.us. Submissi

is meeting, please contact the City Administrator's office
to the meeting. (28 CFR 35.102.-35.104 ADA Title I).

son in the Ashland Planning Department at 541-488-5305.

FOR INFORMATION CONTACT:

[Quoted text hidden]