



**PLANNING ACTION:** PA-2015-00422  
**SUBJECT PROPERTY:** 600-640-688-694-696 Tolman Creek Road  
 2316 Hwy 66

**APPLICANT:** City of Ashland  
**OWNER:** Independent Printing Company, Inc.  
 IPCO Development Corp.

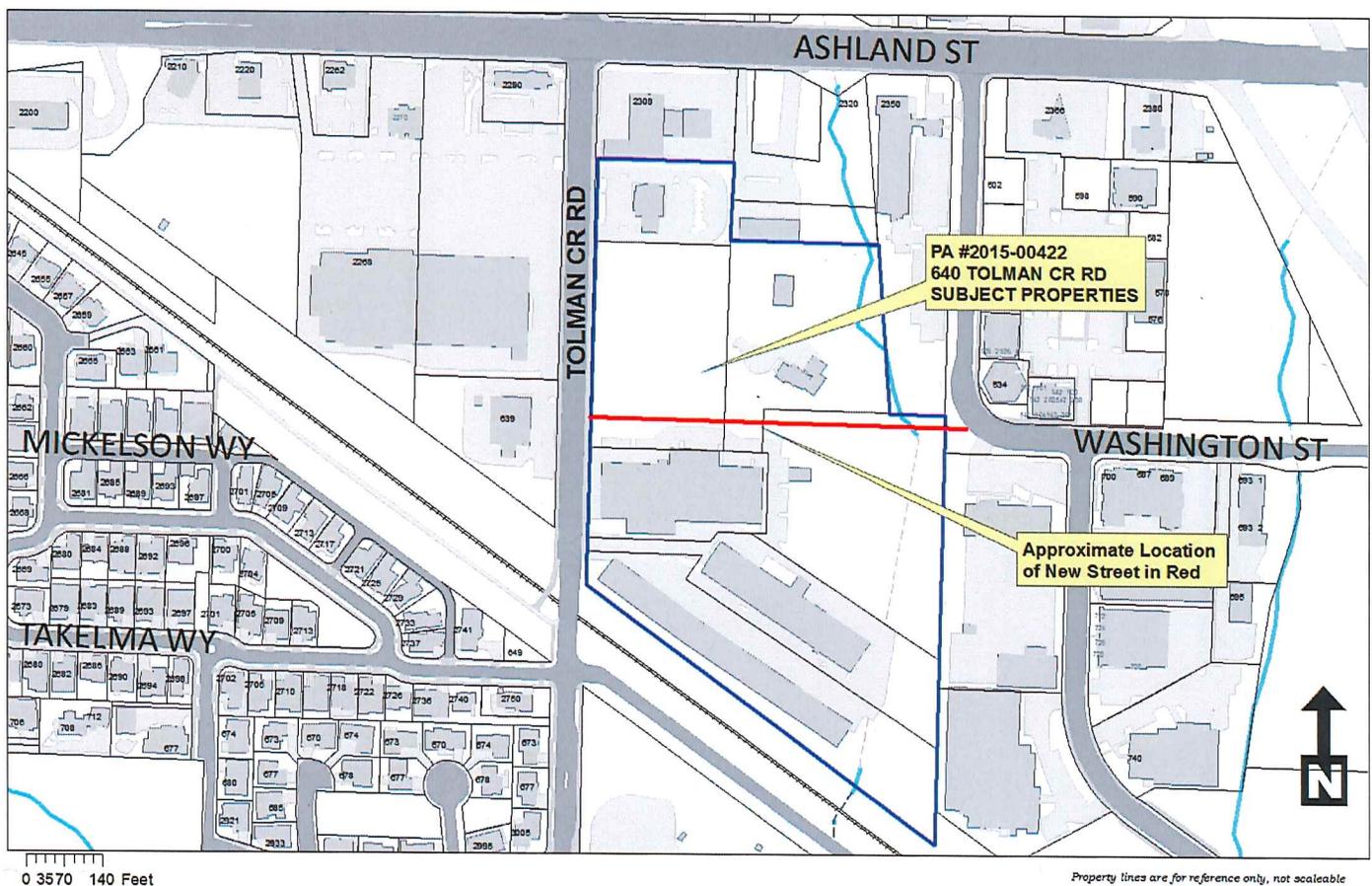
**AGENT:** CSA Planning, Ltd.

**DESCRIPTION:** A request for Site Design Review, Exception to Street Standards, Property Line Adjustment, Limited Use Permit/Water Resource Protection Zone Reduction for Construction in the Water Resource Protection Zone, Physical & Environmental Constraints Review Permit for Floodplain Development, and Tree Removal Permit approvals to allow the construction of a new public street "Independent Way" between Washington Street and Tolman Creek Road and associated changes to the lane configuration and on-street parking on Tolman Creek Road to its intersection with Ashland Street. (The proposal also includes the review of driveway locations and associated circulation to allow the coordinated initial grading and utility installation on the adjacent private property in conjunction with the new street installation, however the development of the adjacent private properties will be subject to future Site Design Review as individual buildings are proposed.)

**COMPREHENSIVE PLAN DESIGNATION:** Employment; **ZONING:** E-1; **ASSESSOR'S MAP:** 39 1E 14BA; **TAX LOTS:** 500, 600, 601, 700, 800, 900 and 1000.

**NOTE:** The Ashland Tree Commission will also review this Planning Action on Thursday, July 9, 2015 at 6:00 PM in the Community Development and Engineering Services building (Siskiyou Room) located at 51 Winburn Way.

**ASHLAND PLANNING COMMISSION MEETING:** July 14, 2015 at 7:00 PM, Ashland Civic Center, 1175 E Main



Notice is hereby given that a PUBLIC HEARING on the following request with respect to the ASHLAND LAND USE ORDINANCE will be held before the ASHLAND PLANNING COMMISSION on meeting date shown above. The meeting will be at the ASHLAND CIVIC CENTER, 1175 East Main Street, Ashland, Oregon.

The ordinance criteria applicable to this application are attached to this notice. Oregon law states that failure to raise an objection concerning this application, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, if requested. A copy of the Staff Report will be available for inspection seven days prior to the hearing and will be provided at reasonable cost, if requested. All materials are available at the Ashland Planning Department, Community Development and Engineering Services, 51 Winburn Way, Ashland, Oregon 97520.

During the Public Hearing, the Chair shall allow testimony from the applicant and those in attendance concerning this request. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the applicable criteria. Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at 541-488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting. (28 CFR 35.102.-35.104 ADA Title I).

If you have questions or comments concerning this request, please feel free to contact the Ashland Planning Division, 541-488-5305.

## SITE DESIGN AND USE STANDARDS

### **18.5.2.050**

The following criteria shall be used to approve or deny an application:

- A. **Underlying Zone:** The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.
- B. **Overlay Zones:** The proposal complies with applicable overlay zone requirements (part 18.3).
- C. **Site Development and Design Standards:** The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.
- D. **City Facilities:** The proposal complies with the applicable standards in section 18.4.6 Public Facilities and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property and adequate transportation can and will be provided to the subject property.

## EXCEPTION TO STREET STANDARDS

### **18.4.6.020.B.1**

The approval authority may approve exceptions to the standards section in 18.4.6.040 Street Design Standards if all of the following circumstances are found to exist.

- a. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.
- b. The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.
  - i. For transit facilities and related improvements, access, wait time, and ride experience.
  - ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.
  - iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.
- c. The exception is the minimum necessary to alleviate the difficulty.
- d. The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.

## PROPERTY LINE ADJUSTMENTS

### **18.5.3.120.B**

The Staff Advisor shall approve or deny a request for a property line adjustment in writing based on all of the following criteria.

1. **Parcel Creation.** No additional parcel or lot is created by the lot line adjustment.
2. **Lot Standards.** Except as allowed for nonconforming lots, pursuant to chapter 18.1.4, or as required by an overlay zone in part 18.3, all lots and parcels conform to the lot standards of the applicable zoning district, including lot area, dimensions, setbacks, and coverage, per part 18.2. If a lot does not conform to the lots standards of the applicable zoning district, it shall not be made less conforming by the property line adjustment. As applicable, all lots and parcels shall identify a buildable area free of building restrictions for physical constraints (i.e., flood plain, greater than 35 percent slope, water resource protection zones).
3. **Access Standards.** All lots and parcels conform to the standards in section 18.4.3.080 Vehicle Area Design. Lots and parcels that do not conform to the access standards shall not be made less conforming by the property line adjustment.

## LIMITED USE PERMIT

### **18.3.11.060.D**

All Limited Activities and Uses described in section 18.3.11.060 shall be subject to a Type I procedure in section 18.5.1.050. An application for a Limited Activities and Uses Permit shall be approved if the proposal meets all of the following criteria.

1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.
3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.
6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

## WATER RESOURCE PROTECTION ZONE REDUCTIONS

### **18.3.11.070**

A Water Resource Protection Zone may be reduced by up to 25 percent through a Type I procedure in 18.5.1.050, and by greater than 25 percent and up to 50 percent through a Type II procedure in section 18.5.1.060 if the proposal meets all of the following criteria.

- A. The proposed use or activity is designed to avoid intrusion into the Water Resource Protection Zone through the use of up to a 50 percent reduction of any dimensional standards (e.g., required front, side and rear yard setbacks; required distance between buildings) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under chapter 18.5.5 Variances. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in chapter 18.4.8 Solar Access.
- B. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.
  1. Multi-story construction shall be considered.
  2. Parking spaces shall be minimized to no more than that required as a minimum for the use.
  3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a porous solid surface paving material.
  4. Engineering solutions shall be used to minimize additional grading and/or fill.
- C. The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement, and mitigation measures. The structures, functions, and values of the Water Resource will be restored through the implementation of a restoration and enhancement strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in section 18.3.11.110 Mitigation Requirements.
- D. Long term conservation, management, and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

## PHYSICAL & ENVIRONMENTAL CONSTRAINTS

### **18.3.10.050**

An application for a Physical Constraints Review Permit is subject to the Type I procedure in section 18.5.1.050 and shall be approved if the proposal meets all of the following criteria.

- A. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
- B. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
- C. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.

## TREE REMOVAL PERMIT

### **18.5.7.040.B**

B. Tree Removal Permit.

1. Hazard Tree. A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
  - a. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.
  - b. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.
2. Tree That is Not a Hazard. A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
  1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.10.
  2. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.
  3. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.
  4. Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.
  5. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.

**ASHLAND PLANNING DEPARTMENT  
STAFF REPORT  
July 14, 2015**

**PLANNING ACTION:** PA-2015-00422

**APPLICANT:** City of Ashland

**OWNER:** Independent Printing Company, Inc.  
IPCO Development Corp.

**AGENT:** CSA Planning, Ltd.

**LOCATION:** 600, 640, 688, 694 and 696 Tolman Creek Road  
2316 Highway 66

**ZONE DESIGNATION:** E-1

**COMPREHENSIVE PLAN DESIGNATION:** Employment

**APPLICATION DEEMED COMPLETE:** July 1, 2015

**120-DAY TIME LIMIT:** October 29, 2015

**ORDINANCE REFERENCE:**

<b>Part</b>	<b>18.2</b>	Zoning Regulations
	<b>18.2.6</b>	Standards for Non-Residential Zones
<b>Part</b>	<b>18.3</b>	Special Districts and Overlay Zones
	<b>18.3.10</b>	Physical & Environmental Constraints Overlay
	<b>18.3.11</b>	Water Resource Protection Zones Overlays
	<b>18.3.12</b>	Site Development and Design Overlays
<b>Part</b>	<b>18.4</b>	Site Development and Design Standards
	<b>18.4.2</b>	Building Placement, Orientation and Design
	<b>18.4.3</b>	Parking, Access and Circulation
	<b>18.4.4</b>	Landscaping, Lighting and Screening
	<b>18.4.5</b>	Tree Preservation and Protection
	<b>18.4.6</b>	Public Facilities
	<b>18.4.8</b>	Solar Access
<b>Part</b>	<b>18.5</b>	Application Review Procedures and Approval Criteria

<b>18.5.2</b>	Site Design Review
<b>18.5.3</b>	Land Divisions and Property Line Adjustments
<b>18.5.7</b>	Tree Removal Permits

**REQUEST:** A request for Site Design Review, Exception to Street Standards, Property Line Adjustment, Limited Use Permit and Water Resource Protection Zone Reduction for Construction in the Water Resource Protection Zone, Physical & Environmental Constraints Review Permit for Floodplain Development, and Tree Removal Permit approvals to allow the construction of a new public street “Independent Way” between Washington Street and Tolman Creek Road, and associated changes to the lane configuration and on-street parking on Tolman Creek Road to its intersection with Ashland Street.

The proposal also includes the review of driveway locations and associated circulation to allow the coordinated initial grading and utility installation on the adjacent private property in conjunction with the new street installation, however the development of the adjacent private properties will be subject to future Site Design Review as individual buildings are proposed.

## **I. Relevant Facts**

### **A. Background - History of Application**

In November of 2005, Planning staff administratively approved **PLANNING ACTION #2005-01496**, a request for Site Review approval for an office and warehouse addition to the rear of the building located at 640 Tolman Creek Rd. The addition was approximately 9,500 square feet in size, and used for warehouse and print production by the I.P.C.O. Printing Company. This application included a request for an Administrative Variance to the Site Design and Use Standards to expand an existing site and building without bringing an equal percentage of the site to comply with the Site Design and Use Standards (Standard II-C-1g). **[TAX LOT #800]**

In June of 2002, Planning staff administratively approved **PLANNING ACTION 2002-066**, a request for a Land Partition and Site Review Permit to construct an approximate 17,875 square foot commercial building located on the property adjoining 640 Tolman Creek Road. **[TAX LOTS #600, #700 & #800]**

In August of 1997, Planning staff administratively approved **PLANNING ACTION 97-074**, a request for Site Review Permit to add 1,875 square feet of office space to the existing Independent Printing Company, and to add 16,250 square feet to the existing Tolman Creek Service Center located at 640 Tolman Creek Road. The proposal also included a Minor Land Partition and Lot Line Adjustment to create one additional parcel.

There are no other planning actions of record for this site.

## B. Detailed Description of the Site and Proposal

### 1. The Project Site

The subject property consists of seven tax lots with a combined lot area of approximately 12.75 acres. The property is located between Tolman Creek Road and Washington Street, south of Ashland Street (Highway 66) and north of the railroad tracks. The individual parcels are as follows:

**39 1E 14BA Tax Lot #500 (2316 Highway 66)** – This 2.12 acre parcel contains a 1,643 square foot single family residence and a 1,575 square foot barn according to tax records. The parcel contains a reach of Hamilton Creek along its eastern boundary.

**39 1E 14BA Tax Lot #600 (696 Tolman Creek Road)** - This 2.56 acre parcel is vacant but for a small accessory structure. The parcel contains a piped reach of Hamilton Creek on its eastern side.

**39 1E 14BA Tax Lot #601 (688-694 Tolman Creek Road)** – This 1.68 acre parcel contains a 21,413 square foot warehouse/distribution facility built in approximately 2002 according to tax records. This parcel also contains a piped reach of Hamilton Creek behind the existing warehouse building.

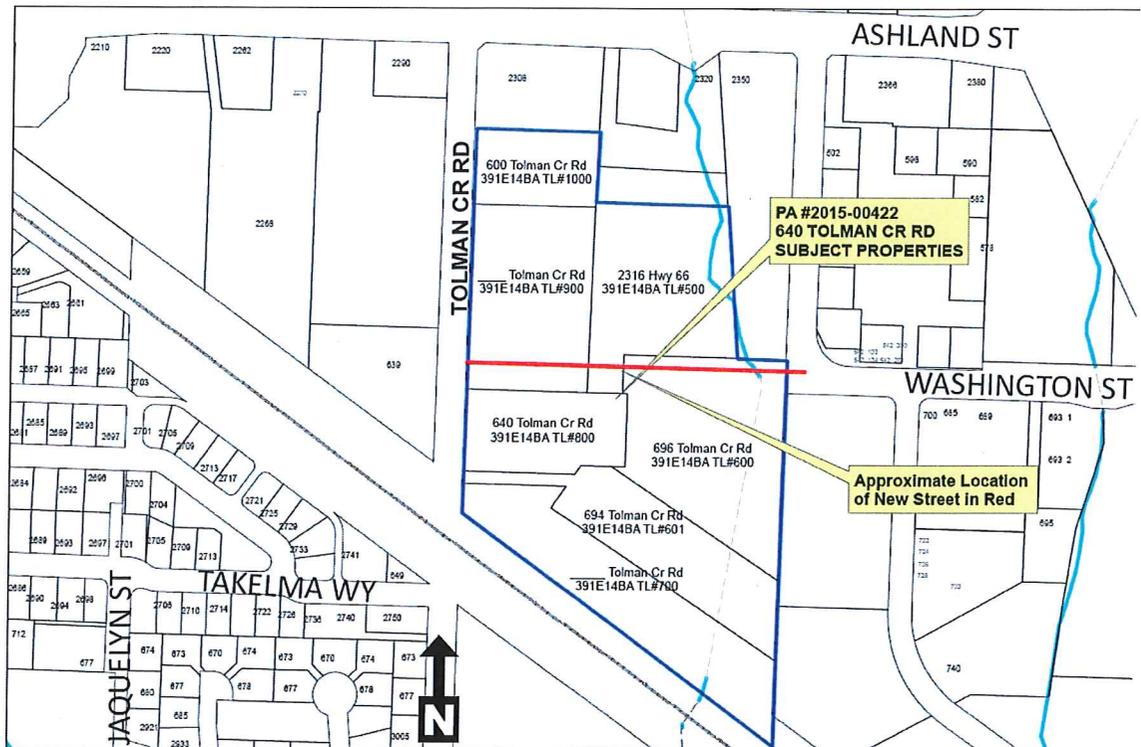
**39 1E 14BA Tax Lot #700 (No address assigned)** – This 2.2 acre parcel contains a 26,350 square foot warehouse/distribution facility built in approximately 1985 according to tax records. This parcel contains a piped reach of Hamilton Creek behind the existing warehouse building which daylight again near the south property line.

**39 1E 14BA Tax Lot #800 (640 Tolman Creek Road)** – This 1.2 acre parcel contains the 32,652 square foot warehouse/distribution facility for the Independent Printing Company, built in approximately 1972 according to tax records. This facility has vehicular access from Tolman Creek Road with driveways to both the north and south of the existing building.

**39 1E 14BA Tax Lot #900 (No address assigned)** - This is a vacant, rectangular 2.12 acre parcel with approximately 375 linear feet of frontage on Tolman Creek Road.

**39 1E 14BA Tax Lot #1000 (600 Tolman Creek Road)** – This 0.87 acre parcel contains a 2,528 square foot building which currently houses the Oregon Department of Motor Vehicles.

Staff Exhibit S-1.1 Vicinity Map



All of the parcels are zoned E-1 (Employment). The western portions of Tax Lots #700, #800 and #900 are also located within the city’s Detail Site Review and Residential overlays, each of which extends approximately 150 east of Tolman Creek Road.

Hamilton Creek runs along the eastern portion of the subject parcels. From the northeast corner of Tax Lot #500 to the northeast corner of Tax Lot #600, near where the road is to be installed, the creek is classified as a Local Stream and a Water Resource Protection Zone extends 40 feet upland of the stream’s centerline on either side. As it continues south, the creek is classified as an Intermittent/Ephemeral Stream and the Water Resource Protection Zone is reduced to 30 feet upland of the stream’s centerline on either side. Most of the reach of the creek which is classified as Intermittent/Ephemeral Stream through the property was previously culverted by the property owner. The property also contains floodplain corridor lands associated with Hamilton Creek and an associated conservation easement. A portion of the floodplain was filled during the 1980’s but is now protected by this easement. The properties recently went through a Letter of Map Amendment with the Federal Emergency Management Agency and the Council, and the modified floodplain corridor boundary and supporting documentation are included with the application submittal materials.

Tolman Creek Road borders the subject properties to the west. Tolman Creek Road is classified as a Boulevard, and is improved with paving, curbs, gutters and curbside sidewalks along the frontage of the subject properties.

Washington Street runs north south, parallel to Tolman Creek Road, from Ashland Street until it turns to the east near the middle of the subject properties, at the point where the proposed new road would be constructed to connect Tolman Creek Road and Washington Street. Washington Street is classified as an Avenue, or Major Collector Street, and is improved with paving, curbs, gutters and curbside sidewalks along its north side in the vicinity of the subject properties.

The new Independent Way proposed here is identified as a planned Neighborhood Collector in the recently adopted Transportation System Plan.

## **2. Proposal**

The application involves the construction of a new public street between Washington Street and Tolman Creek Road, along with the associated changes to the lane configuration and on-street parking on Tolman Creek Road between the new street and Ashland Street. This involves requests for the following land use approvals:

- Site Design Review for a new public street which involves changes to circulation affecting the right-of-way or adjacent properties, and which adds more than 1,000 square feet of new impervious surface.
- Exception to Street Standards because the new street proposed is not in conformance with city street standards for a Neighborhood Commercial Collector Street.
- Property Line Adjustments to reconfigure property lines without creating additional lots.
- Limited Use Permits and Water Resource Protection Zone Reductions because the proposal includes a public street crossing and a private drive crossing through Water Resources Protection Zones and some minimal reductions into the Water Resource Protection Zones to allow straight curb line installation for more efficient circulation.
- A Physical & Environmental Constraints Review Permit because the proposal also involves development on floodplain corridor lands.
- Tree Removal Permits to remove 31 trees with a diameter of six-inches or more in order to allow

The proposal includes the review of driveway locations and associated circulation to allow the coordinated initial grading and utility installation on the adjacent private property in conjunction with the new street installation, however no development of the adjacent private properties is proposed at this time, and when individual buildings are proposed they would be subject to future land use application review under the regulations in effect at the time.

## **II. Project Impact**

The following land use approvals and procedures are involved.

- Changes which alter circulation affecting adjacent properties or public right-of-way, or which add more than 1,000 square feet of impervious area to a site, are subject to Site Review approval as detailed in AMC 18.5.2.020.A.
- An Exception to Street Standards is required because the street proposed is not in conformance with city street standards for a Neighborhood Commercial Collector Street under Ashland's street standards.
- Property Line Adjustment are required to reconfigure property lines on the property without creating additional lots.
- Limited Use, Water Resource Protection Zone Reduction, Physical & Environmental Constraints Review and Tree Removal permits are triggered by the work proposed within the floodplain corridor and water resource protection zones.
- Tree Removal Permits are required because the proposal involves the removal of 31 trees greater than six-inches in diameter at breast height (d.b.h.).

Because the Staff Advisor is employed by the City of Ashland, the current applicant, the application has been scheduled for a hearing as a "Type II" procedure to provide for a decision by the Planning Commission and avoid any appearance of a conflict of interest.

#### **A. Site Design Review**

The proposal is somewhat limited in terms of Site Design Review because it involves only the review of the street installation, driveway locations and associated circulation to allow public improvements associated with the new street and coordinated initial grading and utility installation on the adjacent private property.

The materials provided emphasize that it is logical to complete grading and the installation of the main underground utilities for the site in conjunction with the street construction, however the applicants recognize that the extent of the entitlements sought are limited to this rough grading and associated installation of utilities with site planning details including building design, parking, site circulation, plaza space, truck loading bays and similar elements to be evaluated when development is proposed. No development of the adjacent private properties is proposed at this time, and when individual buildings and associated site improvements are proposed, they will be subject to future land use review under the regulations in effect at the time.

Consideration of underlying zoning requirements, overlay zones, and the Site Development and Design Standards are largely deferred until the adjacent properties develop; this Site Design Review focuses largely on determining that the improvements proposed comply with applicable standards and that public facilities (water, sewer, electricity, urban storm drainage, and paved access) have adequate capacity to and throughout the property and that adequate transportation can and will be provided.

The application materials provided note that there is an existing water main in Tolman Creek Road that will be extended through the subject property within the proposed Independent Way right-of-way in a new eight-inch water main. Similarly, there is an existing sanitary

sewer main in Tolman Creek Road. An existing sanitary sewer lateral extends to serve the existing IPCO development on site. The application notes that a portion of this line will be reconstructed as part of the road project and that this line will serve any future development on the south side of Independent Way. Future development on the north side of Independent Way will be served by a new sanitary sewer lateral somewhere near the north property boundary that will connect to the existing sanitary sewer service in Tolman Creek Road.

The application further explains that storm drainage from the new Independent Way is designed to outflow into the Hamilton Creek drainage. The proposed street design includes two Filterra® bio-retention systems to treat stormwater before it enters the stream; these systems improve water quality by removing various undesirable particulates in the water for typical storm water events. The Filterra® systems are proposed at each of the two storm drain inlets on the south side of Independent Way. Future private development on the south side of Independent Way will direct storm drainage to the new storm drainage system in Independent Way. Future development on the north side of Independent Way will utilize a new storm drain installed at the north boundary of the project site and direct flows into Hamilton Creek. The application notes that future storm water treatment systems in this area are expected to be integrated into the site landscaping design and reviewed as part of future Site Design Review in conjunction with development.

In considering the proposal in light of the requirements for adequate transportation, a Traffic Impact Analysis has been provided with the application. Items of note with regard to the proposal include:

- No bike lanes are proposed on either side of the new street. The materials provided suggest that vehicle trips are anticipated to be low enough that cyclists will be comfortable sharing the road, and the design is to include “sharrows”. The materials also suggest that the proposed pedestrian corridor consisting of a five-foot hardscape parkrow with trees in wells and a seven-foot sidewalk is adequate to accommodate cyclists.
- The application explains that driveway widths are proposed as somewhat wider than usual to accommodate semi-truck circulation to serve the existing IPCO facility and that this is necessitated because the new road is proposed only approximately 25 feet from the existing building.
- A six-foot curbside sidewalk is proposed on both sides of the bridge where the new street crosses Hamilton Creek to minimize disturbance within the water resource protection zone. A 12-foot pedestrian corridor consisting of a five-foot parkrow with tree planting wells and a seven-foot sidewalk is proposed on the north side of the new street for the remainder of the corridor. The application notes that the nature of the existing land uses on the south side of Independent Way as currently developed results in minimal pedestrian demand, which when combined with the anticipated truck traffic serving these uses, has lead the applicants to propose not to install

standard sidewalks on the south side of the proposed Independent Way. The application recognizes that in future years, the south side of Independent Way may redevelop and that the right-of-way width proposed is adequate to accommodate City standard pedestrian improvements with future redevelopment of the site.

- The application proposes to place street trees within grated wells in a five-foot parkrow on the north side of the new street, noting that this design option is typical where on-street parking is to be provided. These grated tree wells provide a flat area for people to step onto when exiting parked cars. The application emphasizes that the ultimate plan for the street is that in the event that the IPCO Printing business were to redevelop, on-street parking would be added on the north side of the street. As such, the street width is proposed at a 28-foot curb-to-curb width consistent with a cross-section to allow for parking on one side of the street. The application emphasizes that for the time being, full 14-foot lanes are needed to accommodate the large number of heavy vehicles and associated turning movements associated with the existing industrial use of the site.
- Based on the applicants Traffic Impact Analysis, the project will eliminate on-street parking on Tolman Creek Road from its intersection with Ashland Street (Highway 66) and the new Independent Way. The applicants Traffic Engineer makes this recommendation to reduce northbound queuing along Tolman Creek Road, improve the signalized intersection operation of Tolman Creek Road and Ashland Street, and provide a left turn lane at Tolman Creek Road. The application suggests that parking between Ashland Street and the north side of the new Tolman Creek Road is seldom used, and the removal of this parking would be required with or without the proposed Independent Way construction to address operational deficiencies at the intersection due to background traffic growth. The application emphasizes that the functionality of the intersection, one of the busiest in Ashland, will be operationally improved because of the project and that the project will result in less circuitous access to Washington and Jefferson Street businesses by pedestrians and cyclists. The applicant suggests that parking on Tolman Creek Road south of the new Independent Way would be retained.

Planning staff have raised some concerns that the removal of on-street parking along Tolman Creek Road may affect future redevelopment proposals for properties along this corridor, as on-street parking credits for the spaces removed would no longer be available to reduce the parking requirements for adjacent properties. Staff has also questioned why on-street parking cannot to be provided on Independent Way to offset the on-street parking which is to be removed on Tolman Creek Road to lessen the impacts to the surrounding area's parking supply to some degree.

The materials provided argue that field observations indicate that most of the portion of on-street parking to be removed is seldom used, and that the operation of the Ashland Street-Tolman Creek intersection is such that the on-street parking will need to be removed in this area regardless of the proposed project. The application emphasizes that the construction of the proposed new Independent Way connection will improve intersection operations at this location. The applicants' field observations indicate that the on-street parking that is being most utilized is around the Goodwill, and in response to the concerns raised, the applicants

have provided options illustrating the potential for installing parking bays on the south side of the new Independent Way near its intersection with Tolman Creek Road, across from Goodwill. The first option would include a nine-foot deep parking bay 24 feet long, and the second proposes a nine-foot deep parking bay 48 feet long. The application materials explain that neither of these are the preferred design alternatives of the applicants, but that they are acceptable to the applicants if the Planning Commission finds them necessary to address the concerns raised.

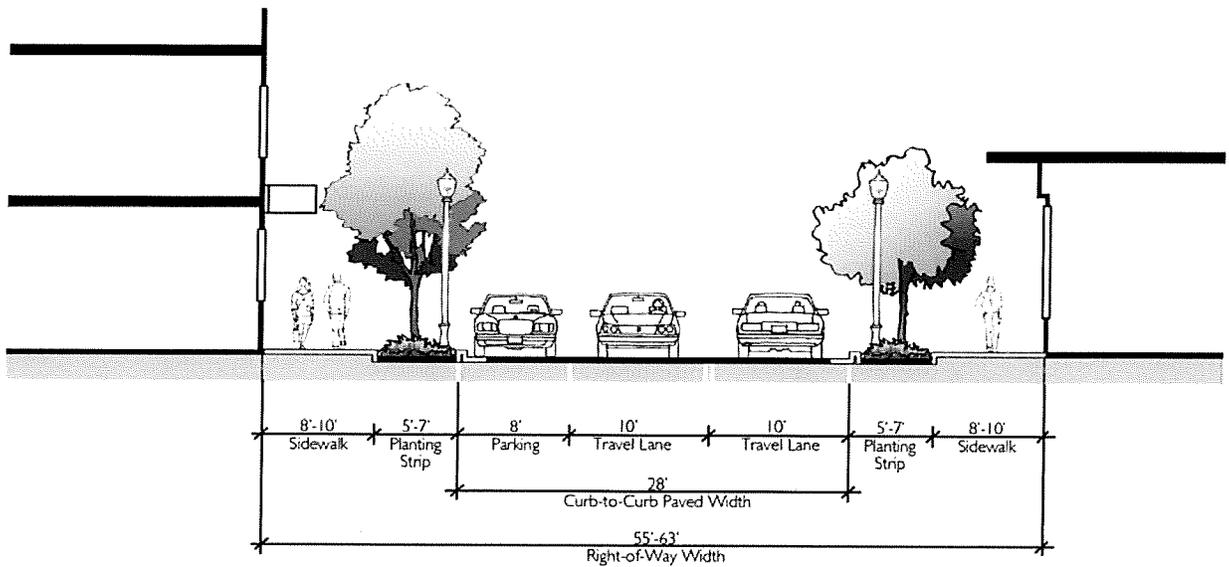
#### **Impacts to Tolman Creek Road**

While the application does not include a clear illustration of the lane-reconfiguration and on-street parking removal that will be necessary on Tolman Creek Road, staff believes that whatever measure of on-street parking can be provided on the new street to off-set this removal will be beneficial and staff has accordingly recommended that a condition be included with any approval to require the applicants' proposed 48-foot parking bay on the south side of Independent Way near its intersection with Tolman Creek Road. Staff has also recommended a condition to require that the applicants work with the Rogue Valley Transportation District and neighboring property owners to address relocation of the transit stop on the west side of Tolman Creek Road, if necessitated by the proposed lane reconfiguration. This stop is one of the most used stops in the Rogue Valley and in staff's view, it is crucial that any relocation be carefully considered.

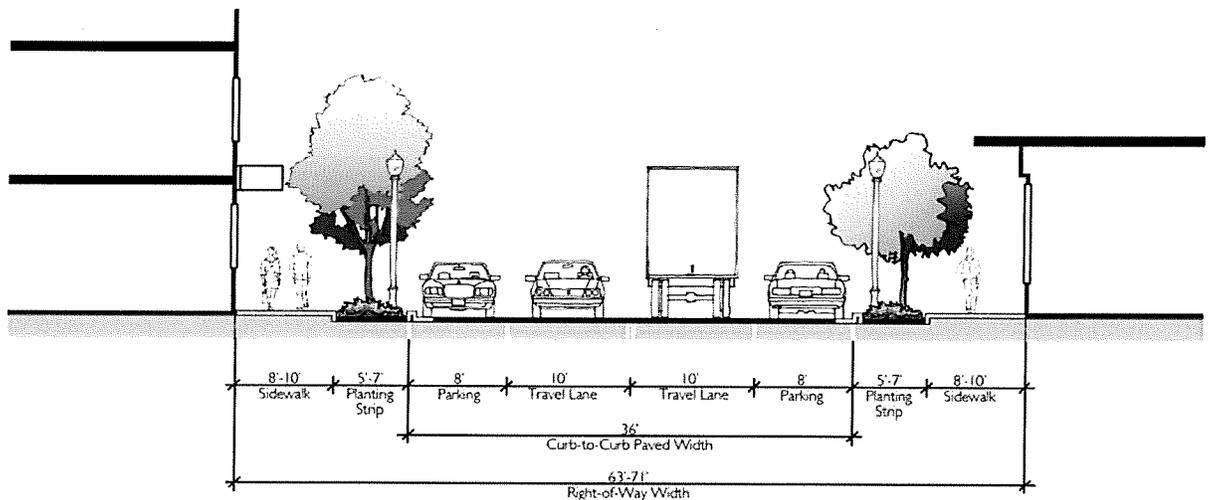
### **B. Exception to Street Standards**

The proposed new "Independent Way" is identified in the recently adopted Transportation System Plan as a Commercial Neighborhood Collector Street, and will serve as a gateway to nearby areas likely to see significant local job and housing growth in the near future. The Jefferson/Washington employment area, much of which is outside current city limits but within the urban growth boundary, consists of approximately 45 acres, including the commercial/employment area along Ashland Street and Tolman Creek Road, the city's second largest employment center after the downtown. 45 acres developed to an approximate Floor Area Ratio of 0.35 and an employment density of 20 employees per acre equates to approximately 686,000 square feet of building floor area and 900 employees ultimately served in the vicinity.

The typical cross-section required for a city standard "Commercial Neighborhood Collector Street" would include two ten-foot motor vehicle travel lanes, eight-foot parking bays on one or both sides, a five- to seven-foot planting strip with street trees down both sides, and eight- to ten-foot sidewalks on both sides, all within a right-of-way width of between 55 and 71 feet. Bike lanes are only required where anticipated average daily trips exceed 3,000. The standard cross sections are illustrated below:



**Figure 18.4.6.040.G.3.d**  
**Commercial Neighborhood Collector, Parallel Parking One Side**



**Figure 18.4.6.040.G.3.e**  
**Commercial Neighborhood Collector, Parallel Parking Both Sides**

The applicants proposes a 55-foot right-of-way width to consist of a 12-foot pedestrian corridor on the north side and two 14-foot travel lanes, with the potential to add on-street parking on the north side when the IPCO site redevelops. Exceptions to the Street Standards are required to not install a city standard sidewalk on the south side of the street, to install six-foot curbside sidewalks on both sides of the street at the creek crossing, and to install a 12-foot pedestrian corridor on the north side of the street where a minimum of 13 feet is required. Exceptions require a demonstration that the facilities and resultant connectivity proposed are equal or superior to those required under the standards; that the exceptions requested are the minimum necessary to alleviate the difficulty, and that the exceptions are

consistent with the purpose and intent of the Street Standards.

The intent of the standards, which is reiterated in the city's recently adopted Transportation System Plan, is to provide multiple transportation options, create a safe and optimal environment for all users, design streets as public spaces, and enhance the livability of neighborhoods. The Street Standards recognize that Ashland's streets are some of the most important public spaces in the community, and outline the art and science of developing healthy, livable streets with each street component used to create and maintain an environment where people feel comfortable and the maximum number of people walk, bicycle and use transit.

The standards are based on an assumption that all city streets are to have parkrows and sidewalks on both sides, but recognize that in certain situations where the physical features of the land create severe constraints, or natural features should be preserved, exceptions may be made and could result in meandering sidewalks, sidewalks on only one side of the street, or curbside sidewalk segments instead of setback walks. However, the standards emphasize that exceptions should be allowed only when physical conditions exist that preclude development of a public street, or components of the street, and notes that such conditions may include, but are not limited to, topography, wetlands, mature trees, creeks, drainages, rock outcroppings, and limited right-of-way when improving streets through a local improvement district.

### **Independent Way Corridor Staff Recommendations**

The Street Standards for a Neighborhood Commercial Collector Street call for a 13-foot pedestrian corridor while the application proposes only a 12-foot corridor on the north side. In staff's view, a key issue with the application is insuring that the street constructed provides for safe and functional use by users of all modes of transportation over the life of the street as the area develops fully. Given the street's anticipated role as a neighborhood commercial collector likely to serve the Washington Street and Croman employment areas, its anticipated level of vehicle trips with build-out in the area, and the truck circulation associated with the anticipated development of the applicants' properties, staff are unable to support any Exception to the sidewalk to be constructed on the north side. Staff believes it would be difficult to find that a substandard corridor is "equal or superior" or that the width reduction is necessary to alleviate any difficulty when the street is new and the right-of-way proposed is of a width intended to accommodate standard improvements. Staff has accordingly recommended a condition to require that the full 13-foot width - not counting curb - pedestrian corridor be provided on the north side.

Typically, where on-street parking is not planned the 13-foot pedestrian corridor may consist of a continuous, seven-foot wide planting strip with a six-foot sidewalk rather than a five-foot hardscape planting strip and eight-foot sidewalk. In staff's view, given that on-street parking is not initially to be provided, a continuous seven-foot park row planting strip would better accommodate street tree growth to enhance the corridor and provide for greater buffer for pedestrians particularly given the concerns with truck traffic. This parkrow configuration could be adapted to on-street parking installation with future redevelopment. A condition recommending this park row planting strip configuration has been included below.

The application illustrates the installation of an approximately 80-foot long section of eight-foot wide curbside sidewalk along the south side of the new street, along the frontage of Tax Lot #600 which would require an Exception because no park row planting strip is proposed. Staff believes an Exception is merited to defer the installation of standard sidewalks on the south side of the corridor to avoid conflicts with existing large truck traffic, however staff does not believe a substandard corridor is merited and would instead recommend that sidewalk improvements on the south side either be deferred until Site Review for future buildings or constructed to current standards if installed now. A condition to this effect has been recommended below.

### **C. Property Line Adjustment**

The application materials suggest that the property line adjustments proposed are intended to create a logical relationship between the new street, existing development areas and future development sites. The applicants emphasize that right-of-way acquisition by itself does not partition properties, and the right-of-way acquisition by the city proposed here would result in portions of one parcel on both sides of the new street without the proposed adjustment. The proposed adjustment would place property lines

along the centerline of the proposed right-of-way acquisition area, allowing right-of-way to be acquired logically from each parcel and resulting in a logical lot configuration after acquisition. The applicants emphasize that there are no minimum lot size or dimensions within the E-1 zone, and that all resulting lots are physically configured to support either existing development of the property or future development after the right-of-way acquisition.

#### **D. Limited Use Permit & Water Resource Protection Zone Reduction**

The application proposes a new public street crossing of the Hamilton Creek Water Resource Protection Zone, a relocated private driveway crossing of the Hamilton Creek Water Resource Protection Zone, and three locations where reductions in the Water Resource Protection Zone are requested.

The proposed new street crosses Hamilton Creek in a location where the corridor transitions from an open creek bed to a piped reach flowing within a five-foot corrugated metal pipe and where the stream type transitions from a Local Stream with a 40-foot Water Resource Protection Zone to an Intermittent/Ephemeral Street with a 30-foot Water Resource Protection Zone. The construction of new public access and utilities within a Water Resource Protection Zone is considered a Limited Use where deemed necessary to maintain a functional system and upon a finding that no other reasonable alternate location exists. The Transportation System Plan (TSP) is noted as a guiding document in this determination, and the proposed new street is identified in the recently adopted TSP. Similarly, private access and utilities are a limited use to provide access to an otherwise inaccessible or landlocked parcel where no other reasonable, alternate access exists as is the case with the applicants' proposed relocated crossing at the southeastern portion of the property.

The application notes that with the project, the applicants will mitigate the proposed disturbance by restoring a significant reach of Hamilton Creek resulting in 19,900 square feet of enhancements. This will include approximately 14,551 square feet of mitigation area immediately up and down stream of the proposed crossing

The application also notes that the proposed stream crossings will utilize open bottom designs, and goes on to explain that while there are currently barriers to fish passage downstream and immediately upstream, these designs will allow for fish passage in the future.

The application discusses three reductions in the Water Resources Protection Zone. The first is at the proposed new Independent Way public street crossing of Hamilton Creek (applicants' Impact Area B) and involves a disturbance within the Water Resource Protection Zone of 9,573 square feet. The second area involves the relocation of an existing private driveway crossing (applicants' Impact Area E) at the southeast corner of the site. The application notes that there is already an existing private driveway crossing here, although it is relatively minimal due to the ephemeral nature of the stream. The proposal is to better align the crossing with the existing development on the site. The impact area within the Water Resource Protection Zone is detailed at 3,434 square feet and noted as being largely

dedicated to the private driveway crossing itself. The application emphasizes that without the reduction to allow the crossing and minimal maneuvering, this corner of the site would be of limited practical utility. Public and private access as proposed here are permissible as Limited Uses, and do not need to be considered separately as protection zone reductions.

The third reduction requested involves two small areas (applicants Impact Area C and D) totaling 124 square feet to allow straight curb lines for parking and maneuvering areas to serve the existing and future development. The application asserts that these reductions are minimal and necessary for the functioning of existing and future uses of the property and that the impacts have been minimized and will be mitigated.

#### **E. Physical & Environmental Constraints Review Permit**

Because the application involves disturbance constituting development on Floodplain Corridor Lands, a Physical & Environmental Constraints Review Permit is also necessary. The application notes that Thornton Engineering created hydraulic modeling for the full length of the stream corridor for all subject properties in conjunction with a Letter of Map Revision in order to reduce the extent of the property considered to be flood plain corridor lands by the Federal Emergency Management Agency (FEMA). Thornton Engineering has indicated that the proposed project can and will be designed in a manner that does not increase base flood elevations. The applicants have recommended a condition of approval to require a new hydraulic analysis be provided based on the final design of the build-condition project that shows no rise in base flood elevations when compared to the existing conditions hydraulic modeling provided with the application.

#### **F. Tree Removal**

The application includes a Tree Inventory and Tree Removal/Protection Plan which identifies a total of 31 trees greater than six-inches in diameter are to be removed as part of the request. Of the trees to be removed, ten are proposed for removal to accommodate the construction of the proposed Independent Way and its crossing of Hamilton Creek and 21 are proposed for removal to allow development of the private portion of the project. The application emphasizes that the proposed removals are necessary to create a new city street identified as a necessary connection in the city's Transportation System Plan and to prepare the adjacent private property for future development consistent with the E-1 zone. The applicants argue that the removal of these trees will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks, and also assert that the project will not have a significant negative impact on the tree densities, sizes, canopies or species diversity within 200 feet of the subject property. A mitigation plan has been provided, and 37 trees are proposed to be planted along Hamilton Creek to mitigate those proposed to be removed.

As this report is being prepared, the Tree Commission has not yet reviewed the proposal. A condition has been recommended below to require that the recommendations of the Tree Commission from its regular meeting of July 9, 2015 be made conditions of any approval.

### **Tree Removal Recommendation**

At this point, staff has some concern that 21 trees are proposed for removal to enable future development which is not currently under review and which may not occur for some time. In staff's view, those tree removals not directly associated with the new street installation would be better evaluated in conjunction with Site Design Review for future development.

### **III. Procedural - Required Burden of Proof**

The criteria for Site Design Review approval are described AMC 18.5.2.050 as follows:

- A. ***Underlying Zone:*** The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.
- B. ***Overlay Zones:*** The proposal complies with applicable overlay zone requirements (part 18.3).
- C. ***Site Development and Design Standards:*** The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.
- D. ***City Facilities:*** The proposal complies with the applicable standards in section 18.4.6 Public Facilities and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property and adequate transportation can and will be provided to the subject property.

The criteria for Exception to Street Standards are described AMC 18.4.6.020.B.1 as follows:

- a. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
- b. *The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*
  - i. *For transit facilities and related improvements, access, wait time, and ride experience.*
  - ii. *For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
  - iii. *For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.*
- c. *The exception is the minimum necessary to alleviate the difficulty.*
- d. *The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.*

The criteria for Property Line Adjustments are described AMC 18.5.3.120.B as follows:

1. **Parcel Creation.** *No additional parcel or lot is created by the lot line adjustment.*
2. **Lot Standards.** *Except as allowed for nonconforming lots, pursuant to chapter 18.1.4, or as required by an overlay zone in part 18.3, all lots and parcels conform to the lot standards of the applicable zoning district, including lot area, dimensions, setbacks, and coverage, per part 18.2. If a lot does not conform to the lots standards of the applicable zoning district, it shall not be made less conforming by the property line adjustment. As applicable, all lots and parcels shall identify a buildable area free of building restrictions for physical constraints (i.e., flood plain, greater than 35 percent slope, water resource protection zones).*
3. **Access Standards.** *All lots and parcels conform to the standards in section 18.4.3.080 Vehicle Area Design. Lots and parcels that do not conform to the access standards shall not be made less conforming by the property line adjustment.*

The criteria for a Limited Activities and Use Permit are described AMC 18.3.11.060.D as follows:

1. *All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.*
2. *The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.*
3. *On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.*
4. *Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.*
5. *Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.*
6. *Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a*

*management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.*

**The criteria for Water Resource Protection Zone Reductions are described AMC 18.3.11.070 as follows:**

- A.** *The proposed use or activity is designed to avoid intrusion into the Water Resource Protection Zone through the use of up to a 50 percent reduction of any dimensional standards (e.g., required front, side and rear yard setbacks; required distance between buildings) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under chapter 18.5.5 Variances. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in chapter 18.4.8 Solar Access.*
- B.** *The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.*
  - 1. Multi-story construction shall be considered.*
  - 2. Parking spaces shall be minimized to no more than that required as a minimum for the use.*
  - 3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a porous solid surface paving material.*
  - 4. Engineering solutions shall be used to minimize additional grading and/or fill.*
- C.** *The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement, and mitigation measures. The structures, functions, and values of the Water Resource will be restored through the implementation of a restoration and enhancement strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in section 18.3.11.110 Mitigation Requirements.*
- D.** *Long term conservation, management, and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management*

*plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.*

**The criteria for a Physical & Environmental Constraints Review Permit are described AMC 18.3.10.050 as follows:**

- A. *Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.*
- B. *That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.*
- C. *That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.*

#### **IV. Conclusions and Recommendations**

Planning staff is strongly supportive of the proposed new street connection for the functionality it will provide the street system, and believe it will provide an important new gateway to those areas likely to see significant local job and housing growth in the future. For staff, the first consideration with the proposal is insuring that the street system ultimately develops not only to support a functional street system, but to provide multiple transportation options and create a safe, optimal environment for all users as envisioned in the Street Standards and Transportation System Plan. The Street Standards recognize that Ashland's streets are some of the most important public spaces in the community, and outline the art and science of developing healthy, livable streets with each street component used to create and maintain an environment where people feel comfortable and the maximum number of people walk, bicycle and use transit. The second consideration is that the Hamilton Creek corridor is treated with care, and any impacts to the corridor mitigated, through the site planning process.

Given the new Independent Way's anticipated role as a neighborhood commercial collector street likely to serve the Washington Street and Croman employment areas, its anticipated level of vehicle trips with build-out in the area, and the truck circulation associated with the anticipated development of the applicants' properties, staff do not believe an Exception to Street Standards to reduce the sidewalk width by one-foot on the north side is appropriate. Staff believes it would be difficult to find that a substandard corridor is "equal or superior" or that the width reduction is necessary to alleviate difficulty when the street is new and the right-of-way proposed is of a width intended to accommodate standard improvements. Staff has accordingly recommended requiring that a full 13-foot width pedestrian corridor consisting of a six-foot sidewalk and seven-foot landscaped parkrow or an eight-foot sidewalk and five-foot grated tree wells be provided on the north side.

Where on-street parking is not planned, the 13-foot pedestrian corridor typically consists of a

continuous, seven-foot wide planting strip with a six-foot sidewalk rather than a five-foot hardscape planting strip and eight-foot sidewalk. In staff's view, given that on-street parking is not initially to be provided, a continuous seven-foot park row planting strip would better accommodate street tree growth to enhance the corridor and provide a greater buffer for pedestrians particularly given the concerns with truck traffic. This parkrow configuration could be adapted to on-street parking installation with future redevelopment. A condition recommending this park row planting strip configuration on the north side has been included below.

The application illustrates the installation of an approximately 80-foot long section of eight-foot wide curbside sidewalk along the south side of the new street, along the frontage of Tax Lot #600. While an Exception may be merited to defer the installation of city standard sidewalks on the south side of the corridor to avoid conflicts with existing large truck traffic, these potential conflicts make it all the more important that the north side pedestrian improvements be to city standards and that any improvements that are to be installed on the south side, other than within the creek crossing itself, either meet the Street Standards now or simply be deferred, with adequate right-of-way provided to allow pedestrian corridor improvements to be installed consistent with city standards at the time of individual Site Review applications with redevelopment on the south side. A condition to this effect has been recommended below.

While the application does not include a clear illustration of the lane-reconfiguration and on-street parking removal proposed on Tolman Creek Road, staff believes that whatever measure of on-street parking can be provided on the new street to off-set this removal will be beneficial and staff has accordingly recommended that a condition be included with any approval to require the applicants' proposed 48-foot parking bay on the south side of Independent Way near its intersection with Tolman Creek Road. Staff has also recommended a condition to require that the applicants work with the Rogue Valley Transportation District and neighboring property owners to address relocation of the transit stop on the west side of Tolman Creek Road, if necessitated by the proposed lane reconfiguration. This stop is one of the most used stops in the Rogue Valley and in staff's view, it is crucial that any relocation be carefully considered.

With these items in mind, staff would recommend approval of the request with the following conditions attached:

1. That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
2. That all recommendations of the Tree Commission's July 9, 2015 meeting, where consistent with applicable standards and requirements, shall be conditions of approval.
3. That a final survey plat shall be submitted within 12 months and approved by the City of Ashland within 18 months of this approval. All easements for public and private utilities, fire apparatus access, and reciprocal utility, maintenance, and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.
4. That final engineered street improvement, storm drainage and utility plans for the new Independent Way shall be submitted for the review and approval of the Ashland Engineering and Planning Divisions prior to signature of the final survey plat.
5. That the final engineered construction drawings for the public sidewalks on Independent Way shall be submitted for review and approval of the Ashland Planning and Engineering

Divisions prior to work in the street right-of-way and prior to installation of improvements in the pedestrian corridor. The sidewalk on the north side of Independent Way shall be a minimum of six feet in width with a required seven-foot continuous landscaped parkrow planting strip between the sidewalk and the curb. No parkrow shall be required in the area of the bridge crossing, but full improvements, including but not limited to the sidewalk, parkrows with irrigated street trees, and street lighting shall be required on the remainder of the north side.

6. That street trees, spaced at one tree per 30 feet of street frontage, shall be installed on the north side of Independent Way. All street trees shall be chosen from the adopted Street Tree List and shall be installed in accordance with the specifications noted in AMC 18.4.4.030.E. All street trees shall be irrigated.
7. The sidewalk on the south side shall be constructed to six-foot width with no parkrow planting strip within the bridge crossing as proposed by the applicants. No further sidewalk improvements shall be required on the remainder of the south side, but any pedestrian corridor improvements installed on the south side shall be to city street standards and include a minimum six-foot wide sidewalk and seven-foot continuous landscaped parkrow planting strip between the sidewalk and the curb. Sidewalk installation on the south side shall be considered with future development applications.
8. That the final engineered plans for the new Independent Way shall include the applicants' proposed 48-foot on-street parking bay on the south side of Independent Way near its intersection with Tolman Creek Road.
9. That the applicants shall work with the Rogue Valley Transportation District (RVTD) and neighboring property owners to address relocation of the transit stop on the west side of Tolman Creek Road, if necessitated by the proposed on-street parking removal and lane reconfiguration.
10. That, as proposed by the applicants, a new hydraulic analysis by the project engineers shall be provided based on the final design of the build-condition project that shows no rise in base flood elevations when compared to the existing conditions hydraulic modeling provided with the application.
11. That a Tree Verification Permit shall be applied for and approved by the Ashland Planning Division prior to site work including excavation, staging or storage of materials. The Tree Verification Permit is to inspect the identification of the trees to be removed and the installation of tree protection fencing for trees to be retained. The tree protection shall be chain link fencing six feet tall and installed in accordance with the requirements of AMC 18.4.5.030.B. No construction shall occur within the tree protection zone including dumping or storage of materials such as building supplies, soil, waste, equipment, or parked vehicles.
12. That silt fencing or other protective measures shall be installed along the Water Resource Protection Zone boundary, inspected and approved by the Staff Advisor prior to issuance of a excavation permits or any site work, staging or storage of materials on site.
13. That the applicants shall provide a management plan, and any necessary modification to existing conservation easements, providing for the long-term conservation, management and maintenance of the Water Resource Protection Zone as detailed in AMC 18.3.11.110.C.
14. That a final grading and erosion control plans shall be provided which include details addressing the "Vegetation Preservation and Construction Staging Requirements" found in AMC 18.3.110.A.
15. That a final size- and species-specific mitigation plan including irrigation details shall be

provided for the review and approval of the Staff Advisor. All mitigation plantings shall be installed according to the approved plan, inspected, and approved by the Staff Advisor, and the management plan and any necessary easement modifications recorded prior to final approval.

16. That lots not actively being constructed or used for staging shall be treated with a low-water use wildflower seed mix and generally maintained in a weed-free condition.
17. That no new paving other than that associated with establishing new driveway locations and curbs shall be permitted until approved through future Site Design Review applications.

BEFORE THE CITY OF ASHLAND PLANNING COMMISSION

FOR THE CITY OF ASHLAND

JACKSON COUNTY, OREGON

IN THE MATTER OF A SITE DESIGN )  
REVIEW, SERIAL PROPERTY LINE )  
ADJUSTMENT APPROVAL, LIMITED USE )  
PERMIT FOR CONSTRUCTION IN THE )  
WATER RESOURCE PROTECTION ZONE, )  
PHYSICAL AND ENVIRONMENTAL )  
CONSTRAINTS PERMIT FOR )  
CONSTRUCTION IN THE FLOODPLAIN, )  
LAND USE PERMIT APPROVAL FOR )  
ASSOCIATED SITE GRADING AND TREE )  
REMOVAL PERMIT. THE PROJECT WILL )  
CREATE A NEW STREET CONNECTION )  
IDENTIFIED IN THE CITY'S )  
TRANSPORTATION SYSTEM PLAN AND )  
COORDINATE IMPROVEMENTS ON THE )  
REMAINING ADJACENT PRIVATE LAND IN )  
THE CITY OF ASHLAND, OREGON. )

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW  
Applicant's Exhibit 2

Applicants: City of Ashland Public Works )  
Department and IPCO Development Corp. )  
Agent of Record: CSA Planning, Ltd. )

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City Of Ashland

I

SCOPE AND NATURE OF THE APPLICATION

The City of Ashland Transportation System Plan identifies the need for a Neighborhood Commercial Collector Street connection between Washington Street and Tolman Creek Road. The project is identified as TSP project R25 and is listed as a high priority. There is no existing right-of-way for this street connection. The planned connection is located on land owned by IPCO Development Inc. The IPCO land consists of six parcels. Three are developed with an existing printing business and warehouses. One contains an existing house that will eventually be removed. Two parcels are vacant. The City has developed a plan that seeks to avoid adverse impacts on the IPCO printing business in ways that make the project cost-effective and avoid impacts to private property. Public Works has worked with IPCO Development to arrive at the proposed plan that will allow site grading for the entire undeveloped area to prepare of the site for future development on the individual existing parcels. The project seeks approval of the street design so that necessary right-of-way can be acquired and the planned street connection constructed.



**II**  
**EVIDENCE SUBMITTED WITH CONSOLIATED APPLICATION**

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The following evidence is submitted in support of the SPAC application:

- Exhibit 1.** Signed and Completed Application Forms and Authorization from the current property owners IPCO Development Corp. and the City of Ashland
- Exhibit 2.** The proposed findings of fact and conclusions of law (this document) which demonstrates how this Consolidated Land Use Application complies with the relevant substantive criteria of the City of Ashland
- Exhibit 3.** Vicinity Map
- Exhibit 4.** Jackson County Assessor plat map 39S-1E-14BA which contains and depicts the subject property
- Exhibit 5.** Current City of Ashland Comprehensive Plan Map depicting the subject property
- Exhibit 6.** Selected Pages of the City of Ashland TSP Relevant to the Project
- Exhibit 7.** Water Resource Protection Zone Map
- Exhibit 8.** Current City of Ashland Zoning Map on Aerial depicting the subject property
- Exhibit 9.** Proposed Property Line Adjustment Plan, *ADW and CSA Planning*
- Exhibit 10.** Independent Way Design Plans
  - a) Preliminary Site and Utility Plans with proposed Right-of-Way, *Thornton Engineering*
  - b) Stream Crossing Design Tech Memo, *Northwest Biological Consulting*
- Exhibit 11.** Floodplain Hydraulic Analysis, *Thornton Engineering*
- Exhibit 12.** Proposed Site Review Utility and Grading Plans, *Thornton Engineering*
- Exhibit 13.** Water Resource Mitigation Plan, *CoveyPardee Landscape Architects*
- Exhibit 14.** Tree Removal Plan, *CoveyPardee Landscape Architects*
- Exhibit 15.** LOI agreement
- Exhibit 16.** Conservation Easement Amendment
- Exhibit 17.** FEMA Letter of Map Revision
- Exhibit 18.** Transportation Impact Analysis and Access Analysis prepared by Southern Oregon Transportation Engineering, LLC
- Exhibit 19.** On-Street Parking Field Observations and Alternative Independent Way designs with One or Two Parking Bay Design Alternatives

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JUN 01 2015

**City Of Ashland**

III

**APPLICABLE SUBSTANTIVE CRITERIA**

The criteria under which the consolidated land-use application must be reviewed are laid forth in the Ashland Municipal Code Chapter 18. The relevant approval criteria are recited verbatim below:

**PROCEDURAL CRITERIA**

**18.5.1.010 Purpose and Applicability**

- A. Purpose. This chapter establishes procedures to initiate and make final decisions on planning actions under the Land Use Ordinance (“this ordinance”), pursuant to City policy and state law.
- B. Applicability of Review Procedures. All planning actions shall be subject to processing by one of the following procedures summarized in subsections 1 - 4, below, and as designated in Table 18.5.1.010. Building permits and other approvals, including approvals from other agencies such as the state department of transportation or a natural resource regulatory agency, may be required. Failure to receive notice of any such requirement does not waive that requirement or invalidate any planning action under this ordinance.
  - 1. Ministerial Action (Staff Advisor Decision). The Staff Advisor makes ministerial decisions by applying City standards and criteria that do not require the use of substantial discretion (e.g., fence, sign and home occupation permits). A public notice and public hearing are not required for Ministerial decisions. Procedures for Ministerial actions are contained in section 18.5.1.040.
  - 2. Type I Procedure (Administrative Decision With Notice). Type I decisions are made by the Staff Advisor with public notice and an opportunity for appeal to the Planning Commission. Alternatively the Staff Advisor may refer a Type I application to the Commission for its review and decision in a public meeting. Procedures for Type I actions are contained in section 18.5.1.050.
  - 3. Type II Procedure (Quasi-Judicial Review/Public Hearing Review). Type II decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. Applications involving zoning map amendments consistent with the Comprehensive Plan map and minor map amendments or corrections are subject to quasi-judicial review under the Type II procedure. Quasi-judicial decisions involve discretion but implement policy. Procedures for Type II actions are contained in section 18.5.1.060.
  - 4. Type III Procedure (Legislative Decision). The Type III procedure applies to the creation, revision, or large-scale implementation of public policy (e.g., adoption of regulations, zone changes, comprehensive plan amendments, annexations). Type III reviews are considered by the Planning Commission, who makes a recommendation to City Council. The Council makes the final decision on a legislative proposal through the enactment of an ordinance.

Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Access to a Street/Driveway Approach	Ministerial	Chapter 18.4.3
Exception to Street Standards	Type I	Subsection 18.4.6.020.B.1
Physical and Environmental Constraints Permit	Type I	Chapter 18.3.10
Property Line Adjustments, including Lot Consolidations	Ministerial	Chapter 18.5.3

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Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure		
Site Design Review	Type I or II	Chapter 18.5.2
Tree Removal Permit	Type I	Chapter 18.5.7
Water Resources Protection Zone – Limited Activities and Uses	Type I	Section 18.3.11.060
Water Resources Protection Zone Reduction	Type I or II	Section 18.3.11.070

**18.5.1.020 Determination of Review Procedure**

Where Table 18.5.1.010 designates more than one possible review procedure, e.g., Type I or Type II, the applicable review procedure shall be based on the criteria contained in the ordinance chapters or sections referenced in the table.

**18.5.1.050 Type I Procedure (Administrative Decision with Notice)**

Type I decisions are made by the Staff Advisor, following public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission.

C. Decision.

1. At the conclusion of the comment period, the Staff Advisor shall review the comments received and prepare a decision approving, approving with conditions, or denying the application based on the applicable ordinance criteria. The Staff Advisor shall prepare a decision within 45 days of the City's determination that an application is complete, unless the applicant agrees to a longer time period. Alternatively, the Staff Advisor may transmit written comments received along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting.
2. Where the Staff Advisor refers a Type I application to the Planning Commission, the Commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable ordinance criteria. The Commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided the Commission must make a final decision within the 120-day period prescribed under State law (ORS 227.178) and as described in subsection 18.5.1.090.B of this ordinance.

**18.5.1.060 Type II Procedure (Quasi-Judicial Decision – Public Hearing)**

Type II decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

**18.5.1.100 Council or Planning Commission Initiation Procedures**

The City Council or Planning Commission may initiate any Ministerial, Type I, Type II, or Type III planning action by motion duly adopted by the respective body designating the appropriate City department to complete and file the application.

**SUBSTANTIVE CRITERIA**

**Site Design Review**

**18.5.2.050 Approval Criteria**

An application for Site Design Review shall be approved if the proposal meets the criteria in subsections A, B, C, and D below. The approval authority may, in approving the application, impose conditions of approval, consistent with the applicable criteria.

- A. Underlying Zone. The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.

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- B. Overlay Zones. The proposal complies with applicable overlay zone requirements (part 18.3).
- C. Site Development and Design Standards. The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.
- D. City Facilities. The proposal complies with the applicable standards in section 18.4.6 Public Facilities, and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property, and adequate transportation can and will be provided to the subject property.
- E. Exception to the Site Development and Design Standards. The approval authority may approve exceptions to the Site Development and Design Standards of part 18.4 if the circumstances in either subsection 1 or 2, below, are found to exist.
  - 1. There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty.; or
  - 2. There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards.

**Street Design Exceptions:**

**18.4.6.020 Applicability**

- B. Exceptions and Variances. Requests to depart from the requirements of this chapter are subject to chapter 18.5.5 Variances, except that deviations from section 18.4.6.040 Street Design Standards are subject to 18.4.6.020.B.1 Exceptions to the Street Design Standards, below
  - 1. Exception to the Street Design Standards. The approval authority may approve exceptions to the standards section in 18.4.6.040 Street Design Standards if all of the following circumstances are found to exist.
    - a. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.
    - b. The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.
      - i. For transit facilities and related improvements, access, wait time, and ride experience.
      - ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.
      - iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.
    - c. The exception is the minimum necessary to alleviate the difficulty.
    - d. The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.

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**18.4.6.040 Street Design Standards**

**A. Purpose, Intent, and Background**

- 1. Purpose. This section contains standards for street connectivity and design as well as cross sections for street improvements. The standards are intended to provide multiple transportation options, focus on a safe environment for all users, design streets as public spaces, and enhance the livability of neighborhoods, consistent with the Comprehensive Plan.
- 2. Intent. Ashland's streets are some of the most important public spaces in the community. The Street Design Standards outline the art and science of developing healthy, livable streets, and are intended to illustrate current standards for planning and designing the streets of Ashland. The standards are to be used in the development of new streets, and reconstruction of existing streets or portions thereof (i.e. improving a paved local street by adding sidewalks). The standards are also intended as a resource for use by home builders, developers, and community members in the pursuit of quality development practices. A series of street types is offered including the multi-use path, alley, neighborhood street, commercial neighborhood street, neighborhood collector,

City of Ashland

commercial neighborhood collector, avenue, and boulevard. Street cross sections provide a model for building streets the traditional way. Variations can be made from these basic types to fit the particular site and situation. However, the measurements of each street component must be used to create and maintain the desired low-speed environment where people feel comfortable and the maximum number of people walk, bicycle and use transit. All streets in Ashland shall be designed using the following assumptions.

- All designs encourage pedestrian and bicycle travel.
- Neighborhood streets (Neighborhood Collectors and Neighborhood Streets) are designed for 20 mile-per-hour (mph).
- All new streets and alleys are paved.
- All streets have standard vertical, non-mountable curbs.
- Gutter widths are included as part of the curb-to-curb street width.
- New avenues and boulevards have bicycle lanes.
- Parkrow and sidewalk widths do not include the curb.
- Sidewalks are shaded by trees for pedestrian comfort.
- All streets have parkrows and sidewalks on both sides. In certain situations where the physical features of the land create severe constraints, or natural features should be preserved, exceptions may be made. Exceptions could result in construction of meandering sidewalks, sidewalks on only one side of the street, or curbside sidewalk segments instead of setback walks. Exceptions should be allowed when physical conditions exist that preclude development of a public street, or components of the street. Such conditions may include, but are not limited to, topography, wetlands, mature trees, creeks, drainages, rock outcroppings, and limited right-of-way when improving streets through a local improvement district (LID).
- Parkrows and medians are usually landscaped.
- Garages are set back from the sidewalk so parked vehicles are clear of sidewalks.
- Building set backs and heights create a sense of enclosure.

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#### 18.5.3.120 Property Line Adjustments

A Property Line Adjustment is the modification of lot boundary when no lot is created. The Staff Advisor reviews applications for Property Line Adjustments through the Ministerial procedure, per section 18.5.1.040. The application submission and approval process for Property Line Adjustments is as follows.

- A. Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Ministerial review, pursuant to section 18.5.1.040. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of lands subject to the Ashland Floodplain Corridor Overlay; existing fences and walls; and any other information deemed necessary by the Staff Advisor for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.
- B. Approval Criteria. The Staff Advisor shall approve or deny a request for a property line adjustment in writing based on all of the following criteria.
  1. Parcel Creation. No additional parcel or lot is created by the lot line adjustment.
  2. Lot Standards. Except as allowed for nonconforming lots, pursuant to chapter 18.1.4, or as required by an overlay zone in part 18.3, all lots and parcels conform to the lot standards of the applicable zoning district, including lot area, dimensions, setbacks, and coverage, per part 18.2. If a lot does not conform to the lots standards of the applicable zoning district, it shall not be made less conforming by the property line adjustment. As applicable, all lots and parcels shall identify a buildable area free of building restrictions for physical constraints (i.e., flood plain, greater than 35 percent slope, water resource protection zones).

City Of Ashland

3. Access Standards. All lots and parcels conform to the standards in section 18.4.3.080 Vehicle Area Design. Lots and parcels that do not conform to the access standards shall not be made less conforming by the property line adjustment.

### 18.3.10 – Physical and Environmental Constraints Review

#### 18.3.10.030 Floodplain Corridor Review Procedure

- A. If a development is part of a Site Design Review, Performance Standards Development, Conditional Use Permit, Subdivision, Partition, or any other planning action, the Physical Constraints Review Permit shall be reviewed simultaneously as a consolidated procedure.
- B. If a development is exclusive of any other planning action, then the Physical Constraints Review Permit shall be processed as a Type I in section 18.5.1.050.
- C. Where it appears that the proposal is part of a more extensive development that would require a master site plan, or other planning action, the Staff Advisor shall require that all necessary applications be filed simultaneously.

#### 18.3.10.080 Development Standards for Flood Plain Corridor Lands

For all land use actions that could result in development of the Flood Plain Corridor, the following is required in addition to any requirements of AMC 15.10.

- A. Standards for Fill in Flood Plain Corridor Lands.
  1. Fill shall be designed as required by the Oregon Structural Specialty Code (OSSC), and Oregon Residential Specialty Code (ORSC), where applicable.
  2. The toe of the fill shall be kept at least ten feet outside of floodway channels, as defined in AMC 15.10, and the fill shall not exceed the angle of repose of the material used for fill.
  3. The amount of fill in the Flood Plain Corridor shall be kept to a minimum. Fill and other material imported from off the lot that could displace floodwater shall be limited to the following.
    - a. Poured concrete and other materials necessary to build permitted structures on the lot.
    - b. Aggregate base and paving materials, and fill associated with approved public and private street and driveway construction.
    - c. Plants and other landscaping and agricultural material.
    - d. A total of 50 cubic yards of other imported fill material.
    - e. The above limits on fill shall be measured from April 1989, and shall not exceed the above amounts. These amounts are the maximum cumulative fill that can be imported onto the site, regardless of the number of permits issued.
  4. If additional fill is necessary beyond the permitted amounts in subsection 18.3.10.080.A.3, above, then fill materials must be obtained on the lot from cutting or excavation only to the extent necessary to create an elevated site for permitted development. All additional fill material shall be obtained from the portion of the lot in the Flood Plain Corridor.
  5. Adequate drainage shall be provided for the stability of the fill.
  6. Fill to raise elevations for a building site shall be located as close to the outside edge of the Flood Plain Corridor as feasible.
- B. Crossings. A crossing of any waterway identified on the official maps adopted pursuant to section 18.3.10.070 Official Maps (e.g., for streets, property access or utilities) must be designed by an engineer. Stream crossings shall be designed to the standards of AMC 15.10, or where no floodway has been identified, to pass a 100-year flood without any increase in the upstream flood height elevation. The engineer shall consider in the design the probability that the crossing will be blocked by debris in a severe flood, and accommodate expected overflow. The crossing shall be at right angles to the stream channel to the greatest extent possible. Fill for stream crossings shall be kept to the minimum necessary to achieve property access, but is exempt from the limitations in subsection 18.3.10.080.A, above.
- H. Building Envelopes. All lots modified by property line adjustments, and new lots created from areas containing Flood Plain Corridor Land, must have building envelopes containing buildable area of a sufficient size to accommodate the uses permitted in the underlying zone, unless the action is for open space or conservation purposes. This section shall apply even if the effect is to prohibit further division of lots that are larger than the minimum size permitted in the zoning ordinance.

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**Applicant: City of Ashland Public Works**

**Ownership: IPCO Development Corp. and Independent Printing Co. Inc.**

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- J. Hazardous Chemicals. Storage of petroleum products, pesticides, or other hazardous or toxic chemicals is not permitted in Flood Plain Corridor Lands.
- K. Fences. Fences shall be located and constructed in accordance with subsection 18.3.11.050.B.3. Fences shall not be constructed across any waterway or stream identified on the official maps adopted pursuant to section 18.3.10.070 Official Maps. Fences shall not be constructed within any designated floodway.
- M. Local Streets and Utilities. Local streets and utility connections to developments in and adjacent to the Flood Plain Corridor shall be located outside of the Flood Plain Corridor, except for crossing the Corridor, except as provided for in chapter 18.3.11 Water Resources Overlay, or in the Flood Plain Corridor as outlined below.
  - a. Public street construction may be allowed within the Bear Creek Flood Plain Corridor as part of development following the adopted North Mountain Neighborhood Plan. This exception shall only be permitted for that section of the Bear Creek Flood Plain Corridor between North Mountain Avenue and the Nevada Street right-of-way. The new street shall be constructed in the general location as indicated on the neighborhood plan map, and in the area generally described as having the shallowest potential for flooding within the corridor.
  - b. Proposed development that is not in accord with the North Mountain Neighborhood Plan shall not be permitted to utilize this exception.

**18.3.11 Water Resources Protection Zones**

**18.3.11.010 Purpose**

The purpose and intent of this chapter is:

- A. To implement state and federal law with respect to the protection of clean water, pollution control, and preservation of endangered species.
- B. To protect Ashland's Goal 5 significant wetlands and riparian areas, thereby protecting and restoring the hydrologic, ecologic, and land conservation functions these areas provide for the community.
- C. To implement the provisions of Statewide Planning Goals 6 and 7, which require the buffering and separation of those land uses and activities that lead to or may create impacts on water quality, as well as to reduce the risk to people and property resulting from the inappropriate management of wetland and riparian areas.
- D. To implement the goals and policies of the Environmental Resources chapter of Ashland's Comprehensive Plan with respect to water resources, wetlands, floodplains, and stream flooding.
- E. To reduce flood damage and potential loss of life in areas subject to periodic flooding.
- F. To better manage storm water drainage, minimize maintenance costs, protect properties adjacent to drainage ways, improve water quality, protect riparian and aquatic fish and wildlife habitat and provide opportunities for trail connections.
- G. To protect water associated with Ashland's hydrology for human uses, fish and wildlife and their habitats.
- H. To control erosion and limit sedimentation.
- I. To protect the amenity values and educational opportunities of Ashland's wetlands, water bodies and associated riparian areas as community assets.
- J. To improve public appreciation and understanding of wetlands and riparian areas for their unique ecosystem structure and functions and for the human-nature interactions they provide.
- K. To improve and promote coordination among local, state, and federal agencies regarding development activities near Ashland's wetlands, water bodies, and associated riparian areas.
- L. In cases of hardship, to provide a procedure to alter wetlands and riparian areas only when offset by appropriate mitigation, as stipulated in the ordinance and other applicable state and federal requirements.

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**18.3.11.020 Applicability**

- A. The provisions of this chapter apply to all lands containing Water Resources and Water Resource Protection Zones. Water Resources and Water Resource Protection Zones are defined, established and protected in this chapter.
- B. State and federal wetland and riparian regulations will continue to apply within the City, regardless of whether or not these areas are mapped on Water Resources map. Nothing in this chapter shall be interpreted as superseding or nullifying state or federal requirements. Additionally, the City shall provide notification to the Oregon Department of State Lands (DSL), as required by Division 23 of Oregon Administrative Rules, for all applications concerning development permits or other land use decisions affecting wetlands on the inventory.
- C. The burden is on the property owner to demonstrate that the requirements of this chapter are met or are not applicable to development activity or other proposed use or alteration of land. The Staff Advisor may make a determination based on the Water Resources map, field check, and any other relevant maps, site plans, and information that a Water Resource or Water Resource Protection Zone is not located on a particular site or is not impacted by proposed development, activities or uses. In cases where the location of the Water Resource or Water Resource Protection Zone is unclear or disputed, the Staff Advisor may require a survey, delineation prepared by a natural resource professional, or a sworn statement from a natural resource professional that no Water Resources or Water Resource Protection Zones exist on the site.
- D. All Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter. No person or entity shall alter or allow to be altered any real property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter. No person or entity shall use or allow to be used, property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter.
- E. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. It is likely that there will be some overlap between the regulations in this chapter and those in chapter 18.3.10 Physical and Environmental Constraints Overlay, which regulates development in physical constrained areas including floodplains. Where two regulations are in conflict, the most stringent shall govern.

**18.3.11.030 Inventory of Ashland's Water Resources**

The approximate locations of Ashland's Water Resources are identified on the Water Resource map, adopted by the City and added to the Comprehensive Plan through Ordinance 2419 (May 1987), Ordinance 2528 (July 1989) and Ordinance 2999 (December, 2009). Because the Comprehensive Plan maps are acknowledged to be approximate, the more precise wetland boundaries can be mapped, staked, and used for development review purposes without a modification of the Comprehensive Plan maps.

**18.3.11.040 Establishment of Water Resource Protection Zones**

A Water Resource Protection Zone is hereby established adjacent to and including all Water Resources to protect their integrity, function, and value. The boundaries of the following Water Resource Protection Zones shall be established by an on-site survey based upon the following standards.

- A. Stream Bank Protection Zones. The following types of Stream Bank Protection Zones are hereby established to protect streams and their associated riparian resources. The approximate locations of streams are identified on the Water Resources map.
  - 2. Local Streams. For streams classified as non-fish-bearing Local Streams and on the Water Resources map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands 40 feet from the centerline of the stream as illustrated in Figure 18.3.11.040.A.2.

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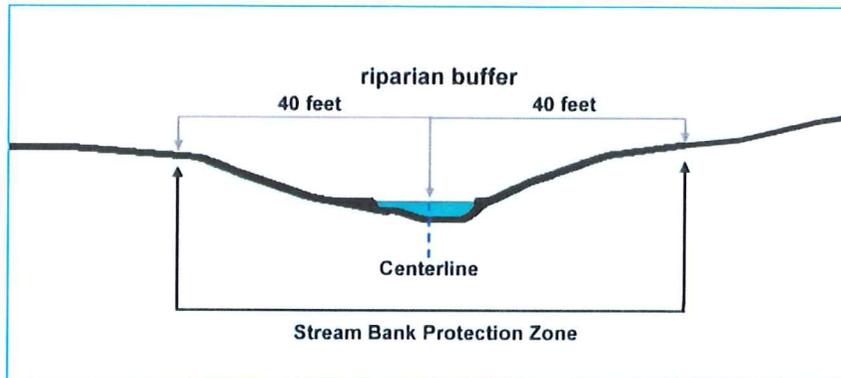


Figure 18.3.11.040.A.2  
 Stream Bank Protection Zone for Local Streams

3. Intermittent and Ephemeral Streams. For streams classified as Intermittent and Ephemeral Streams on the Water Resource Protection Zones map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 30 feet from the centerline of the stream as illustrated in Figure 18.3.11.040.A.3.

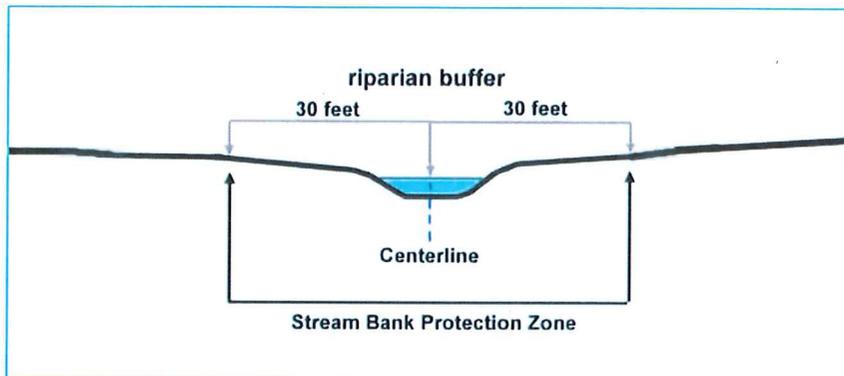


Figure 18.3.11.040.3  
 Stream Bank Protection Zone for Intermittent and Ephemeral Streams

4. Significant Wetland Presence. Where a Stream Bank Protection Zone includes all or part of a significant wetland as identified on official maps adopted by the City, the distance to the Stream Bank Protection Zone boundary shall be measured from, and include, the upland edge of the wetland.
5. Determination of Protection Zone. The measurement of the Stream Bank Protection Zones shall be a horizontal distance from the top of bank or from the center line of the stream as specified above. For streams that were piped or relocated to a culvert prior to the effective date of this chapter, the Stream Bank Protection Zones shall be reduced to half of the required width or the width of any existing easement (e.g., drainage-way easement), whichever is greater.

#### 18.3.11.060 Limited Activities and Uses

The following activities and uses within Water Resource Protection Zones are allowed provided the activities or uses comply with the review procedure and approval standards set forth in subsection 18.3.11.060.D.

- A. Limited Activities and Uses within Water Resource Protection Zones.
  1. Use of Power-assisted Equipment or Machinery. Use of power-assisted equipment or machinery for vegetation maintenance unless otherwise exempted in subsection 18.3.11.050.A.1.h.
  2. Multi-Year Maintenance Plans. Multi-year maintenance plans may be authorized as follows for existing areas or storm water treatment facilities in Water Resource Protection Zones which do not have a previously approved management plans.

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- a. **Publicly and Commonly Owned Properties.** The routine restoration and enhancement of publicly and commonly owned properties such as public parks and private open spaces.
- b. **Storm Water Treatment Facilities.** The ongoing routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales, and constructed wetlands in order to maintain flow and prevent flooding. Routine maintenance of storm water treatment facilities in accordance with an approved management plan is exempted as outline in subsection 18.3.11.050.A.2.c
3. **Building, Paving, and Grading Activities.** Permanent alteration of Water Resource Protection Zones by grading or by the placement of structures, fill or impervious surfaces may be authorized as follows.
  - a. **New Public Access and Utilities.** The location and construction of public streets, bridges, trails, multi-use path connections, and utilities deemed necessary to maintain a functional system and upon finding that no other reasonable, alternate location outside the Water Resource Protection Zone exists. This ordinance, the Comprehensive Plan, Transportation System Plan, adopted utility master plans, and other adopted documents shall guide this determination.
  - b. **New Private Access and Utilities.** The location and construction of private streets, driveways, and utilities to provide a means of access to an otherwise inaccessible or landlocked property where no other reasonable, alternate location outside the Water Resource Protection Zone exists.
  - c. **Storm Water Treatment Facility Installation.** Installation of public and private storm water treatment facilities such as detention ponds or sediment traps, vegetated swales, and constructed wetlands.
  - d. **Replacement of Nonconforming Accessory Structures in Residential Districts and Replacement of Nonconforming Structures in Non-Residential Zoning Districts and Outside Historic Districts.** Replacement of nonconforming structures located within or partially within the original building footprint, except those nonconforming primary structures exempted in subsection 18.3.11.050.A.3, provided replacement does not disturb additional surface area within the Water Resource Protection Zone.
- B. **Additional Limited Activities and Uses within Stream Bank Protection Zones.**
  1. **Stream Restoration and Enhancement.** Restoration and enhancement projects resulting in a net gain in stream bank corridor functions unless otherwise exempted in subsection 18.3.11.050.B.2. Restoration and enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.
  2. **Driveway and Street Maintenance and Paving.** Maintenance, paving, and reconstruction of existing public and private streets and driveways if work disturbs more total surface area than the area inside the street right-of-way or access easement and an additional five percent surface area of the street right-of-way or access easement outside of the right-of-way or easement. Public streets shall be located in public right-of-way or a public easement.
  3. **Public Facility Paving and Reconstruction.** Paving and reconstruction of public parking areas and walkways if additional surface area in the Stream Bank Protection Zone is not disturbed, the public facilities are deemed necessary to maintain a functional system and upon finding that no other reasonable alternate location outside the Water Resource Protection Zone exists.
  4. **Public Utility Maintenance and Replacement.** Routine maintenance and replacement of existing public utilities and irrigation pumps if work disturbs more total surface area than the area inside the public utility easement and an additional five percent surface area of the public utility easement outside of the public utility easement.
  5. **Erosion Control.** Erosion control and stream bank stabilization measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers, or other state or federal regulatory agencies, and that utilize non-structural bio-engineering methods.
  6. **Storm Water Outfall.** Construction of a storm water outfall discharging treated storm water from an adjacent developed area provided that the discharge meets local, state, and federal water quality regulations.

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7. Bridges. The installation of a bridge or similar, bottomless crossing structure for the purpose of constructing a public or private street, bicycle or pedestrian crossing, as well as to provide a means of access to an otherwise inaccessible or landlocked property.
  8. Flood Control Measures. Installation or expansion of structural flood control measures, including but not limited to concrete retaining walls, gabions, gravity blocks, etc., shall generally be prohibited, but approved only if demonstrated that less-invasive, non-structural methods will not adequately meet the stabilization or flood control needs.
- D. Limited Activities and Uses Permit. All Limited Activities and Uses described in section 18.3.11.060 shall be subject to a Type I procedure in section 18.5.1.050. An application for a Limited Activities and Uses Permit shall be approved if the proposal meets all of the following criteria.
1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
  2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.
  3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
  4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
  5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.
  6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

#### 18.3.11.070 Water Resource Protection Zone Reductions

A Water Resource Protection Zone may be reduced by up to 25 percent through a Type I procedure in 18.5.1.050, and by greater than 25 percent and up to 50 percent through a Type II procedure in section 18.5.1.060 if the proposal meets all of the following criteria.

- A. The proposed use or activity is designed to avoid intrusion into the Water Resource Protection Zone through the use of up to a 50 percent reduction of any dimensional standards (e.g., required-front, side and rear yard setbacks; required distance between buildings) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under chapter 18.5.5 Variances. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in chapter 18.4.8 Solar Access.
- B. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.
  1. Multi-story construction shall be considered.
  2. Parking spaces shall be minimized to no more than that required as a minimum for the use.
  3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a porous solid surface paving material.
  4. Engineering solutions shall be used to minimize additional grading and/or fill.

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- C. The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement, and mitigation measures. The structures, functions, and values of the Water Resource will be restored through the implementation of a restoration and enhancement strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in section 18.3.11.110 Mitigation Requirements.
- D. Long term conservation, management, and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

#### **18.3.11.090 Approval Standards for Land Divisions and Property Line Adjustments**

Planning actions and procedures containing Water Resource Protection Zones and involving the division of land or property line adjustments shall comply with the following provisions and shall include the plan requirements in subsection 18.3.11.100.A.3.

- A. Building Envelope Established. Each lot shall contain a building envelope outside the Water Resource Protection Zone of sufficient size to permit the establishment of the use and associated accessory uses.
- B. Conservation Area. Performance Standards Option Subdivision, Subdivision, Partition, and Site Design Review applications shall include the Water Resource Protection Zone within a conservation easement or recorded development restriction, which stipulates that the use or activity within the Water Resource Protection Zone shall be consistent with the provisions of this chapter. The approval authority may require that the Water Resource Protection Zone be included in a separate tract of land managed by a homeowners' association or other common ownership entity responsible for preservation.
- C. Density Transfer. Density calculated from the land area contained within the Water Resource Protection Zone may be transferred to lands outside the Water Resource Protection Zone provided the following standards are met.
  - 1. Partitions and subdivisions involving density transfer shall be processed under chapter 18.3.9 Performance Standards Option Overlay.
  - 2. A map shall be submitted showing the land area not within the Water Resource Protection Zone to which the density will be transferred.
  - 3. The Water Resource Protection Zone shall be included in a separate preservation tract to be managed by a homeowner's association or other common ownership entity responsible for management of the area.
  - 4. Density may only be transferred within the subject property or to a lot or lots contiguous to the subject property and within the same ownership.
  - 5. The density transferred to lands not within the Water Resource Protection Zone may not be increased to more than the base density of the underlying zoning district. Fractional units are to be rounded down to the nearest whole number.
- D. Management Plan. Long term conservation, management, and maintenance of the Water Resource Protection Zone consistent with the requirements of this chapter shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C.
- E. Mitigation Requirements. The approval authority may require a mitigation plan in accordance with the requirements of section 18.3.11.110 Mitigation Requirements to mitigate impacts resulting from land divisions.
- F. Exemptions for a Public Purpose. An exemption to the requirements described above shall be granted for lots created for public park purposes, or privately-owned tracts created for the sole purpose of conserving in perpetuity the natural functions and values of the lands contained within the Water Resource Protection Zone.)

#### **18.3.11.100 Application Submission Requirements**

- A. Required Plans and Information. The following plans and information shall be submitted with the application for activities and uses in a Water Resource Protection Zone which are required to be processed under a Type I or Type II procedure in chapter 18.5.1 including Limited Activities and Uses, Water Resource Protection Zone Reductions and Hardship Exceptions.
  - 1. A narrative description of all proposed activities and uses including the extent to which any Water Resource Protection Zone is proposed to be altered or affected as a result of the proposed

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- development activity or use (in terms both of square footage of surface disturbance and cubic yards of overall disturbance).
2. Written findings of fact addressing all applicable development standards and approval criteria.
  3. Site development plan map, drawn to scale. The application shall include a site map of the subject property prepared by a licensed surveyor, civil engineer, or other design professional that includes the information described below. The Staff Advisor may request additional information based upon the character of the site or the specific nature of the proposal.
    - a. All watercourses identified (including any drainage ways, ponds, etc).
    - b. Surveyed location of the Water Resource Protection Zone, as described in section 18.3.11.040 Establishment of Water Resource Protection Zones. For applications involving single-family residences or Limited Activities and Uses, in lieu of a surveyed location, the Staff Advisor may approve a field determination of the Water Resource Protection Zone by the Staff Advisor or his/her designee in which the applicant shall be required to stake the top-of-bank or the upland-wetland edge and the boundary of the Water Resource Protection Zone.
    - c. For activities and use proposed within a Stream Bank Protection Zone: identification of the stream as being either fish-bearing or non-fish-bearing; identification of the top-of-bank or center line as required; and surveyed location of the stream's floodway and floodplain, if applicable.
    - d. For activities and uses proposed within a Wetland Protection Zone: a wetland delineation (with an accompanying site map) prepared by a natural resource professional and that has been concurred with by the Oregon Department of State Lands (DSL); and an aerial photo with the wetland boundaries identified.
    - e. Topographic information at two foot contour increments identifying both existing grades and proposed grade changes.
    - f. Surveyed locations of all trees six inches in diameter at breast height (DBH) or greater located in the Water Resource Protection Zone and within 15 feet of the Water Resource Protection Zone, identified by edge of canopy, DBH, and species;
    - g. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.
    - h. Location of existing and proposed development, including all existing and proposed structures, any areas of fill or excavation, stream or wetland crossings, alterations to vegetation, or other alterations to the site's natural state.
    - i. The location of natural features, proposed and existing structures, and other proposed and existing improvements associated with lands within 100 feet of the Water Resource Protection Zone.
    - j. Proposed and existing land uses within 100 feet of the Water Resource Protection Zone.
    - k. The location of temporary fencing and erosion control measures installed to prevent encroachment and flow of material into the Water Resource Protection Zone, such as sediment fencing and hay bales, etc.
    - l. North arrow and scale.
    - m. Sources of information (federal, state, and local).
  4. Mitigation Plan prepared in accordance with the requirements described in section 18.3.11.110 Mitigation Requirements.
  5. Management Plan prepared in accordance with the requirements described in subsection 18.3.11.110.C., except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.
- B. Building Permits and Development Activities. When approval of a planning action is not required, other permit applications for the construction of structures or other development activities on properties containing Water Resource Protection Zones shall be reviewed by the Staff Advisor to ensure that Water Resource Protection Zones are accurately identified on a site plan and that Limited Activities and Uses or other site disturbances will not be conducted within the Water Resource Protection Zone. Temporary fencing and erosion control measures may be required to be installed to prevent encroachment and flow of material or other debris into the Water Resource Protection Zone and to otherwise prevent impacts to the Water Resource Protection Zone by clearly identifying its boundaries. When required, these measures shall be installed and site-verified by the Staff Advisor before any permits are issued and prior to the commencement of excavation, grading, site clearing, construction, or similar site work resulting in changes to the land.

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- C. Required Information Waived – Determination. Applications under this chapter involving properties containing a Water Resource Protection Zone shall accurately indicate the locations of these features and all other information as described and required above. The Staff Advisor may waive one or more of the required elements of the site development plan map in subsection 18.3.11.100.A.3 if evidence is provided conclusively demonstrating that proposed excavation, grading, site clearing, construction, or similar actions resulting in changes to the property are not located within the boundaries of the Water Resource Protection Zone.

#### 18.3.11.110 Mitigation Requirements for Water Resource Protection Zone

- A. Vegetation Preservation and Construction Staging. The following standards shall be addressed in mitigation plans to protect vegetation identified for preservation and water resources from sedimentation when construction activity is proposed within a Water Resources Protection Zone.
1. Work areas on the immediate site shall be identified and marked to reduce damage to trees and vegetation. Temporary construction fencing shall be placed at the drip line of trees bordering the work area. No equipment maneuvering, staging, or stockpiling shall occur outside of designated work areas.
  2. Trees shall not be used as anchors for stabilizing equipment.
  3. Stockpiling of soil or soil mixed with vegetation, shall not be permitted in Water Resource Protection Areas on a permanent basis. Temporary storage shall employ erosion control measures to ensure sediments are not transported to adjacent surface waters.
  4. Temporary erosion control measures shall be installed to prevent encroachment and flow of runoff, material, or other debris into the Water Resource. These measures shall be installed prior to the commencement of excavation, grading, site clearing, construction, or similar site work resulting in changes to the land. Access roads, staging areas, storage areas, and other areas of temporary disturbance necessary to complete the proposed activity shall be restored as soon as possible, but not more than 90 days after authorized land disturbance. Erosion control measures shall be in place concurrently with construction or establishment of the proposed activity. Temporary measures used for initial erosion control shall not be left in place permanently.
- B. Options for Satisfying Restoration and Enhancement Requirements in Mitigation Plans. Mitigation plans are required to meet the standards in either the prescriptive option or alternative option as follows.
1. Prescriptive Option. The mitigation plan shall meet the following standards.
    - a. Re-Planting Timeline. Re-planting shall occur within 90 days of authorized land disturbance.
    - b. Restoration Area Ratio. Disturbed areas shall be re-planted and an additional area restored, re-planted and enhanced at a one square foot to one and a half square feet (1:1.5) ratio (e.g., if 100 square feet of surface area is disturbed, 150 square feet shall be restored, re-planted and enhanced).
    - c. Local Native Plant Species Coverage. The Stream Bank Protection Zone shall be a minimum of 50 percent plant coverage in local native plant species with the installation of new trees only to consist of native trees as illustrated in Figure 18.3.11.110.B.1.c.i, Figure 18.3.11.110.B.1.c.ii, and Figure 18.3.11.110.B.1.c.iii. The Wetland Protection Zone shall be 100 percent plant coverage in local native plant species and in accordance with local, state, and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City's Local Native Plant Species List. The use of noxious and invasive plants on the City's Prohibited Plant List in Water Resource protection Zones is prohibited.
    - d. Re-Planting Priorities.
      - i. Priority shall be given to removal of noxious and invasive vegetation and planting of local native plant species.
      - ii. Plant materials shall be located in such a manner as to maximize enhancement and restoration of the Water Resource Protection Zone, with particular emphasis on temperature reduction of watercourses, erosion control, bank stabilization, and wildlife habitat enhancement.

JUN 01 2015

City Of Ashland



- ii. Nearby riparian plant communities should be used as a guide for developing a re-vegetation plan.
  - e. Shrub and Tree Requirements. Re-planting shall include shrubs and tree canopy layers in accordance with the following coverage and spacing requirements.
    - i. Shrubs shall be planted and maintained to provide a minimum of 50 percent total coverage of the restored area within a five year period. The minimum planting size shall be one gallon. Restoration areas that have existing vegetated under-story consisting of healthy riparian shrubs that covers at least 50 percent of the restoration area are considered compliant with the restoration standards for under-story plantings.
    - ii. Canopy trees shall be planted at 20-foot intervals. The minimum planting size shall be one inch caliper. All new trees shall be staked and protected by deer/rodent-proof fencing. Restoration areas that have an existing vegetated tree canopy consisting of healthy trees at least four inches DBH and at an average spacing of 20 feet on-center are considered compliant with the restoration standards for trees.
  - f. Erosion Control. Erosion control material such as mulch, hay, jute-netting, or comparable material shall be applied to protect disturbed, re-planted areas. Disturbed areas shall be replanted so that landscaping shall obtain 50 percent coverage after one year and 90 percent coverage after five years.
  - g. Irrigation. New plantings shall be irrigated for a period of five years to ensure establishment.
  - h. Performance. Local native plant species that do not survive the first two years after planting shall be replaced.
  - i. Landscape and Irrigation Plans. A mitigation plan shall include landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of plants, timing of plantings, plant spacing and installation methods. The landscape plan shall address the plant coverage by local native plant species after five years.
- 2. Alternative Option. The mitigation plan shall address the following requirements, and shall meet or exceed the standards in the prescription option in subsection 18.3.11.110.B.1.
  - a. Assessment of Water Resource Protection Zone Structures, Functions, and Values. A mitigation plan shall include an assessment of the structures, functions, and values (i.e., water quality, flood control, habitat, etc.) that will be adversely impacted by the proposed alterations of the Water Resource Protection Zone and a clear explanation of how these impacts are to be mitigated.
  - b. Objectives and Standards of Mitigation. A mitigation plan shall state specific plan objectives and establish clear and measurable standards for determining if stated objectives have been accomplished. For example, the objective might be to restore or enhance the shade canopy within a Stream Bank Protection Zone to benefit fish and reduce water temperature, while the standard might be a certain percentage of shade canopy coverage at the end of one year and 100 percent shade canopy coverage after three years.
  - c. Mitigation Site/Grading Plan. A statement and detailed plan of the location, elevation, and hydrology of the mitigation area, including a grading plan at two foot contour intervals. For applications involving Wetland Protection Zones, the application shall demonstrate that plants have adequate access to site hydrology. For applications involving Stream Bank Protection Zones, the grading plan shall identify newly planted areas and include slope stabilizing measures to prevent erosion, ensure vegetative coverage, and limit plant mortality.
  - d. Landscape Plan. The Stream Bank Protection Zone shall be a minimum of 50 percent plant coverage in local native plant species with the installation of new trees only to consist of native trees (see Figures 8, 9, and 10). The Wetland Protection Zone shall be 100 percent plant coverage in local native plant species and in accordance with local, state, and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City's Local Native Plant Species List. The use of noxious and invasive plants on the City's Prohibited Plant List in Water Resource Protection Zones is prohibited. The landscape plan shall address the plant coverage by local native plant species after five years, and shall be size and species-specific, with details addressing the timing of plantings, proposed plant placement, and plant spacing.

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- e. Plan Preparation. The Staff Advisor may require the mitigation plan to be prepared by a natural resource professional.
- C. Management Plan. The applicant shall implement a management plan for the Water Resource Protection Zone and resource areas under the applicant's ownership or control, including the areas restored and enhanced to assure long term conservation and maintenance. The management plan shall detail proposed monitoring and maintenance, and shall include a schedule delineating how completed projects will be monitored and reported to the Staff Advisor. The management plan shall contain the following requirements.
  - 1. The approved mitigation plan.
  - 2. Identification of Water Resources and Water Resource Protection Zone management practices to be conducted and proposed intervals.
  - 3. The following statements.
    - a. "There shall be no alteration of the Water Resource Protection Zones as delineated and shown on the attached plan." (attach reduced plan)
    - b. "There shall be no alteration of the size, shape, or design of an approved Water Resource Protection Zone without prior approval by the City of Ashland".
    - c. "There shall be no amendment or change to this Management Plan without prior approval of the City of Ashland".
  - 4. Provisions for the ongoing removal and management of noxious or invasive vegetation and debris.
  - 5. Provisions for the protection of protected plant and animal species in accordance with recommendations from applicable state and federal agencies.
  - 6. Specific provisions for city enforcement of the management plan.
  - 7. Any additional measures deemed necessary to protect and maintain the structures, functions and values of the Water Resource Protection Zone (e.g., signage delineating preservation boundaries).
  - 8. Provisions for the perpetual protection and maintenance of the Water Resource and Water Resource Protection Zone including but not limited to the following:
    - a. Recordation of a conservation easement or Conditions, Covenants, and Restrictions (CC&Rs) which prescribe the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
    - b. Transfer of the ownership and maintenance responsibilities for the area to a willing public agency, non-profit association, or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
    - c. Other mechanisms addressing long-term protection, maintenance, and mitigation consistent with the purposes and requirements of this ordinance as deemed appropriate and acceptable by the approval authority.

**Chapter 18.5.7 – Tree Removal Permits Sections:**

**18.5.7.020 Applicability and Review Procedure**

All tree removal and topping activities shall be carried out in accordance with the requirements of this chapter and as applicable, the provisions of part 18.3 Special Districts and Overlay Zones, and chapter

**18.4.4 Landscaping, Lighting, and Screening.**

If tree removal is part of another planning action involving development activities, the tree removal if timely filed, shall be processed concurrently with the other planning action. Applications for Tree Removal Permits are reviewed as follows.

- A. Ministerial Action. The following Tree Removal Permits are subject to the Ministerial procedure in section 18.5.1.040.

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1. Emergency Tree Removal Permit.
- B. Type I Reviews. The following Tree Removal Permits are subject to the Type I review in section 18.5.1.050. This section applies to removal of trees that are a hazard or are not a hazard.
1. Removal of trees greater than six-inches DBH on private lands zoned C-I, E-I, M-I, CM, or HC.
  2. Removal of trees greater than six-inches DBH on lots zoned R-2, R-3, and R-1-3.5 that are not occupied solely by a single family detached dwelling.
  3. Removal of significant trees, as defined in part 18.6, on vacant property zoned for residential purposes including but not limited to R-I, RR, WR, and NM zones.
  4. Removal of significant trees as defined in part 18.6, on lands zoned SOU, on lands under the control of the Ashland School District, or on lands under the control of the City.
  5. Tree Topping Permit.
- C. Exempt From Tree Removal Permit. The following activities are exempt from the requirement for a tree removal permit in 18.5-7.020.A, subsections A. and B, above.
1. Those activities associated with the establishment or alteration of any public park under the Ashland Parks and Recreation Commission. However, the Parks and Recreation Department shall provide an annual plan in January to the Tree Commission outlining proposed tree removal and topping activities, and reporting on tree removal and topping activities that were carried out in the previous year.
  2. Removal of trees in single family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  3. Removal of trees in multi-family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  4. Removal of trees less than six-inches DBH in any zone, excluding those trees located within the public right of way or required as conditions of approval with landscape improvements for planning actions.
  5. Removal of trees less than 18.inches DBH on any public school lands, Southern Oregon University, and other public land, excluding Heritage trees.
  6. Removal of trees within the Wildfire Lands area of the City, as defined on adopted maps, for the purposes of wildfire fuel management, and in accord with the requirements of chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  7. Removal of dead trees.
  8. Those activities associated with tree trimming for safety reasons, as mandated by the Oregon Public Utilities Commission, by the City's Electric and Telecommunication Utility. However, the Utility shall provide an annual plan to the Tree Commission outlining tree trimming activities and reporting on tree trimming activities that were carried out in the previous year. Tree trimming shall be done, at a minimum, by a Journeyman Tree Trimmer, as defined by the Utility, and will be done in conformance and to comply with OPUC regulations.
  9. Removal of street trees within the public right-of-way subject to street tree removal permits in AMC 13.16.
- D. Other Requirements.
1. Flood Plain, Hillside, and Wildfire. Tree removal in the Physical and Environmental Constraints Overlay (i.e., areas identified as Flood Plain Corridor Land, Hillside Lands, Wildfire Lands and Severe Constraint Lands) must also comply with the provisions of chapter 18.3.10 Physical and Environmental Constraints Overlay.
  2. Water Resources. Tree removal in regulated riparian areas and wetlands must also comply with the provisions of chapter 18.3.11 Water Resources Protection Zones.

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#### 18.5.7.030 Application Submission Requirements

An application for a Tree Removal Permit shall be submitted by the owner of the subject property or authorized agent on a form prescribed by the City and accompanied by the required filing fee. The application shall include a plan or drawing meeting the requirements below.

- A. General Submission Requirements. Information required for a Ministerial or Type I review, as applicable (see sections 18.5.1.040 and 18.5.1.050.), including but not limited to a written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards.
- B. Plan Submittal. An application for all Tree Removal Permits shall include the following.
  1. Plans drawn to scale containing the number, size, species, and location of the trees proposed to be removed or topped on a site plan of the property.
  2. The anticipated date of removal or topping.
  3. A statement of the reason for removal or topping. If a prior planning approval requires that the subject tree(s) be preserved, a modification request, pursuant to chapter 18.5.6, may also be required.
  4. Information concerning proposed landscaping or planting of new trees to replace the trees to be removed.
  5. Evidence that the trees proposed for removal or topping have been clearly identified on the property for visual inspection.
  6. A Tree Protection Plan that includes trees located on the subject site that are not proposed for removal, and any off-site trees where drip lines extend into proposed landscaped areas on the subject site. Such plans shall conform to the protection requirements under section 18.4.5.030.
  7. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.
  8. Any other information reasonably required by the City.

#### 18.5.7.040 Approval Criteria

A. **Emergency Tree Removal Permit.** An Emergency Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.

1. If the condition of a tree presents an immediate danger of collapse, as defined in part 18.6, and represents a clear and present hazard to persons or property, an emergency tree removal permit may be issued and the payment of a fee may be waived. The Staff Advisor may require the applicant to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse.

#### B. Tree Removal Permit.

1. **Hazard Tree.** A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
  - a. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.
  - b. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.
2. **Tree That is Not a Hazard.** A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
  - a. The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.3.10.

JUN 01 2015



- b. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.
- c. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.
- d. Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.
- e. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.

#### 18.5.7.050 Mitigation Required

One or more of the following shall satisfy the mitigation requirement.

- A. **Replanting On-Site.** The applicant shall plant either a minimum 1 ½-inch caliper healthy and well-branched deciduous tree or a five to six-foot tall evergreen tree for each tree removed. The replanted tree shall be of a species that will eventually equal or exceed the removed tree in size if appropriate for the new location. Larger trees may be required where the mitigation is intended, in part, to replace a visual screen between land uses. Suitable species means the tree's growth habits and environmental requirements are conducive to the site, given existing topography, soils, other vegetation, exposure to wind and sun, nearby structures, overhead wires, etc. The tree shall be planted and maintained per the specifications of the Recommended Street Tree Guide.
- B. **Replanting Off-Site.** If in the City's determination there is insufficient available space on the subject property, the replanting required in section 18.5.7.050.A, above, shall occur on other property in the applicant's ownership or control within the City, in an open space tract that is part of the same subdivision, or in a City owned or dedicated open space or park. Such mitigation planting is subject to the approval of the authorized property owners. If planting on City owned or dedicated property, the City may specify the species and size of the tree. Nothing in this section shall be construed as an obligation of the City to allow trees to be planted on City owned or dedicated property.
- C. **Payment In-Lieu of Planting.** If in the City's determination no feasible alternative exists to plant the required mitigation, the applicant shall pay into the tree account an amount as established by resolution of the City Council.
- D. **Mitigation Plan.** An approved mitigation plan shall be fully implemented within one year of a tree being removed unless otherwise set forth in a tree removal application and approved in the tree removal permits.

#### 18.5.7.060 Conditions of Approval for Tree Removal Permits

The City may impose conditions of approval on any Tree Removal Permit if the condition is reasonably related to preventing, eliminating, or mitigating a negative impact or potential negative impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal. Conditions of approval may include, but are not limited to the following

- A. Requiring modifications in the location, design, or intensity of a development or activities on a site or to require or prohibit certain construction methods. Modifications may result in a decrease in size of residential or commercial structures, but modifications shall not reduce the density of residential development below the permitted density allowed by the zone.
- B. Requiring vegetation not requiring a tree removal permit to remain in place or be planted.
- C. Requiring the removal of injurious or noxious vegetation (such as English Ivy) from other trees on the property.

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IV

**FINDINGS OF FACT**

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The City of Ashland Planning Commission reaches the following facts and finds them to be true with respect to this matter:

1. **Property Location:** The subject property is located between Tolman Creek Road and Washington Street. The property is south of Highway 66 (Ashland Street). The situs address is 640 Tolman Creek Road in Ashland, Oregon.
2. **Ownership:** Tax Lot 800 is owned by Independent Printing Co. Inc. Tax Lots 500, 600, 601, 700 and 900 are owned by IPCO Development Corp. The City of Ashland has a Letter of Intent with the subject property owners to purchase right-of-way for the proposed Independent Way street connection identified in the City's Transportation System Plan.
3. **Property Description:** The subject properties are identified as Tax Lots 500, 600, 601, 700 and 900 in Township 39 South, Range 1 East, Section 14BA in the Assessor's records of Jackson County. Tax Lot 900 was created in its current configuration through a minor land partition recorded with C.S. #11447. Tax Lots 500, 600, 601, 700, and 900 were established in their current configuration by Partition Plat #P-61-2002 which was reviewed and approved through Planning Action No. 2002-066.
4. **Existing Land Use:** Tax Lot 800 contains the Independent Printing Co. Inc. site. This site houses the existing printing business and operations. This business has been in continuous operation for over 100 years. Tax Lots 601 and 700 contain existing occupied industrial buildings. Tax Lot 600 is vacant. Tax Lot 500 contains an existing residence and barn. Tax Lot 900 is vacant of structures and is used for vehicle parking and staging for the Independent Printing Co. Inc. business; the use of this site for that purpose has been occurring continuously for over 20 years according to historical aerial photography on Google Earth.
5. **Comprehensive Plan Map:** The Comprehensive Plan Map designation for the subject property is Employment.
6. **Existing Zoning:** The zoning on the properties is uniform and they are designated E-1. The western portions of Tax Lots 700, 800 and 900 are located within the City's Detailed Site Review Zone.
7. **Surrounding Land Uses:** The aerial/zoning map, Exhibit 8, accurately depicts the pattern of land partitioning and development in the surrounding area. *See also*, Exhibits 4 and 5. The land uses which presently surround the property are:

**West:** To the southwest is the Siskiyou Line of the Central Oregon and Pacific Railroad. Across the railroad are single family dwellings that are planned Single Family Residential and are zoned R-1-5. To the west and northwest are Goodwill Second hand stores and the Bi-Mart/Shop-n-Kart shopping center; this area is all

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planned commercial and zoned C-1. Also to the west, there is the continuation of the Siskiyou Line of the Central Oregon and Pacific Railroad.

**South:** Immediately south of the subject properties is the continuation of the Siskiyou Line of the Central Oregon and Pacific Railroad. Across the CORP right-of-way is Mistletoe Road which serves industrial areas further to the southeast. Across Mistletoe Road, further to the south, are lands planned and zoned for residential use but the existing use is an ODOT facilities and maintenance complex. To the southeast across the CORP line, are industrial buildings and a vacant industrial site. Lands to the Southeast are all planned Industrial and zoned M-1.

**East:** Lands to the east include the Ashland Fitness and Tennis Club and a National Forest Ranger station. To the northeast, is Washington Street and across Washington Street are several office buildings. The Ashland Fitness and Tennis Club appears to be split-zoned M-1 and E-1. The balance of the lands to the east are planned Employment and zoned E-1.

**North:** To the northeast is the Super 8 Motel. Immediately north of the site is Les Schwab Tire Center and a branch of the Oregon DMV. The Les Schwab site and Super 8 site are both planned Commercial and zoned C-1. The Oregon DMV branch is owned by IPCO Development Corp and is planned Employment and zoned E-1.

**8. Essential Public Facilities (except streets):**

- a. **Water:** There is an existing water main in Tolman Creek Road. This main is being extended through the project within Independent Way in a new 8-inch water main.
- b. **Sanitary Sewer:** There is an existing Sanitary Sewer main in Tolman Creek Road. An existing sanitary sewer lateral extends to serve existing development on the IPCO site. A portion of this line will be reconstructed as part of the road project and this line will serve any future development on the south side of Independent Way. Future structural development on the north side of Independent Way will be served by a new sanitary sewer lateral somewhere near the north property boundary to connect to the sanitary sewer in Tolman Creek Road.
- c. **Storm Drainage:** Storm Water from the new Independent Way is designed to outflow to the Hamilton Creek drainage. The proposed design includes two Filterra bioretention systems to treat storm water before it enters the stream; these systems improve water quality by removing various undesirable particulates in the water for typical storm water events. The Filterra systems are proposed at each of the two storm drain inlets on the south side of Independent Way. Future private development on the south side of Independent Way will direct storm drainage to the new storm drainage system in Independent Way. Future private development on the north side of Independent Way will utilize a new storm drain installed at the north boundary of the project site and direct flows into Hamilton Creek; storm water treatment systems for the future development in this area are expected to be integrated into the site landscaping design to be approved as part of future site plan reviews for individual buildings.

- 9. Transportation Facility Analysis:** The City of Ashland engaged Kimberly Parducci PTOE (dba Southern Oregon Transportation Engineering LLC) to evaluate impacts of the

future development of the IPCO site on the transportation system and to evaluate the design of Independent Way from the standpoint of user experiences for all modes of travel. The City of Ashland also engaged CSA Planning Ltd. for the land use and transportation planning components of the project. CSA Planning has over 30-years of land use and transportation planning experience in the State of Oregon, the analysis presented herein a synthesis of technical work prepared by Southern Oregon Transportation Engineering and transportation planning analysis conducted by CSA Planning Ltd.

**a. Functional Classification and Standards Analysis:** Tolman Creek Road is classified as a Boulevard under the City of Ashland's Functional Classification System. Boulevards are the City's highest classification and provide access to major urban activity centers for pedestrians, bicyclists, transit and motor vehicle users and provide connections to regional traffic ways such as I-5. Tolman Creek is the major north-south thoroughfare in southeast Ashland. Washington Street is an Avenue that serves concentrated pedestrian, bicycle, and motor vehicle access from boulevards to neighborhoods and to neighborhood activity centers. Independent Way is proposed as a Neighborhood Commercial Collector Street consistent with the classification shown on the Street Dedication Map in the TSP. Design standards for the Neighborhood Commercial Street are provided in AMC 18.4.6.040.

**b. Independent Way Design Analysis:**

**i. Bicycle Facilities:** The project does not include dedicated on-street bike facilities which are typical for the Neighborhood Commercial Street Standard. However, Kim Parducci estimates in the future-year build condition traffic volumes in the PM peak hour to be approximately 230 peak hour trips (less than 4 trips per minute). This is not a very high urban street volume in the peak hour and consequently one would expect bicyclists to feel comfortable sharing the main roadway with other vehicles as an alternate to the sidewalk. The proposed design will have "sharrows" to indicate the travel facilities are shared between cyclists and vehicles. Also, the hardscape multi-use sidewalk is 12 feet wide and is adequate to accommodate cyclists should they choose to use this part of the facility.

**ii. Driveway Locations:** Table 10.1 in the TSP lists the access spacing standards for City Streets. 75 foot spacing (measured centerline-to-centerline) is required for driveways on Neighborhood Collectors<sup>1</sup>. All proposed driveways meet this standard. The driveway throat widths are somewhat wide for the driveways that will serve the existing IPCO Printing Building; this is unavoidable to allow for necessary semi-truck circulation to serve the existing printing business given the proximity of the new right-of-way from the structure will be less than 25-feet. The existing circulation areas on the site provide truck access to all the

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<sup>1</sup> Figures in Section 18.4.3.080.C.3.a of the AMC depict driveways measured from apron to apron, These graphics are not consistent with the express language of the driveway spacing tables in the TSP which state centerline-to-centerline. Conflicts such as this are properly resolved in favor of the express language of the Comprehensive Plan.

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loading bays and a portion of this area will not only be within the future right-of-way but will be within the future street. Without these driveways, the truck docking at the existing building would be significantly impaired.

- iii. **Pedestrian Facilities:** The project proposes a hardscape 12-foot sidewalk/pathway on the north side of Independent Way for most all of the frontage. A six-foot sidewalk is proposed on both sides of the new Independent Way at the stream crossing location itself. The reduced cross-section at this location reduces impacts on the Water Resources Protection zone while still providing adequate facilities on both sides of the street to serve short-and long-term needs.

The nature of the land uses on the south side of Independent Way (as presently developed) is such that minimal pedestrian demand is associated with those uses. Thus, the absence of a sidewalk in this location is not expected to negatively affect pedestrian users. Moreover Kim Parducci points out from a safety perspective, the heavy truck movements on the south are such that pedestrian users will be more comfortable using the north side of the street to be separated from heavy truck movements on the south side of the street.

In future years, it is possible that the IPCO Printing site could be redeveloped with a street-fronting use that would be a stronger pedestrian attractant. The proposed right-of-way is adequate to accommodate the City's standard street elements on the south side of Independent Way. These improvements could be completed as part of a future redevelopment of the site.

- iv. **Landscaping and Lighting:** The street landscaping can feasibly and will comply with the applicable City standards for street landscaping on the north side of the street (commercial collector streets allow for a hardscape parkrow with tree wells as an alternate design<sup>2</sup>). Landscaping on the south side of the street is proposed in locations that make sense based upon the proposed design and constraints caused by existing development conditions. The Applicant has offered two design alternatives that add one or two bays of on-street parking on the south side of the street for the Planning Commission's consideration. The design with two parking bays has two fewer trees.

Because no structural development is proposed for the private land as part of this application, no new private landscaping is proposed (except for landscaping necessary to comply with related Water Resource Protection Zone permits detailed elsewhere in the application). The private landscaping will be reviewed and approved as part of site design reviews for individual buildings in the future. The proposed street lighting is City standard lighting that includes pedestrian scale street lighting.

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<sup>2</sup> This design option is provided where on-street parking lanes are provided. The ultimate plan for the street in the event the IPCO Printing site were to redevelop would be to add on-street parking on the north side.

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- v. **Travel Lane Design:** The project proposes a 28-foot curb-to-curb cross section. This is consistent with the “parking one-side” cross-section standard for Neighborhood Commercial Streets. If on-street parking is supplied on the site, the logical location for this on-street parking would be on the north side of the street. However, the large number of heavy vehicles in this industrial area is such that the full travel lanes may be necessary to accommodate truck turning movements in and out of driveways. It is expected that no on-street parking will be striped initially, but once street parking on one-side may become feasible in the future if the IPCO Printing site were to redevelop.
- vi. **On-Street Parking:** The project will eliminate on-street parking on Tolman Creek Road based upon recommendations made in the Transportation Impact Analysis (TIA). Field observations indicate the existing on-street parking on Tolman Creek Road to the north of proposed Independent Way to Ashland Street is seldom used. The TIA indicates that the removal of this parking will be required with or without the proposed Independent Way construction and the future private site development to address operational deficiencies at this intersection due to background traffic growth. Field observations indicate the parking closer to the Goodwill is used more frequently. The project includes two design options that would add one or two parking bays on Independent Way to offset some of the parking being removed on Tolman Creek Road. The Applicant will accept either of these two design alternatives should the Planning Commission decide one of these alternatives is the most appropriate design solution. The proposed parking bay design alternatives are superior to a standard on-street parking design because it avoids potential conflicts with the sharrow use for bicyclists; these conflicts could be resolved upon redevelopment of the south part of the property (IPCO Printing site) at some point in the future.
- vii. **Stream Crossing Design:** The proposed stream crossing design utilizes an open bottom design. This design will allow for fish passage in the future; there are currently numerous barriers to fish passage further downstream and immediately upstream of the crossing Hamilton Creek is culverted, see Exhibits 10a, 10b, and 11.
- c. **Connectivity and Transportation Impact Analysis:** The connectivity and transportation benefits are at the heart of the proposed Independent Way. This connection is recognized as a needed connection in the TSP. The Transportation Impact Analysis supporting this application indicates that the intersection of Tolman Creek Road and Ashland Street will be operationally improved as a result of this project. This is a tremendous benefit to the City at one of the busiest intersections in Ashland.

It is a tremendous benefit to pedestrians and bicyclists as well. This is especially true from a safety standpoint. Access to the businesses along Washington Street and Jefferson Street by pedestrians and bicyclists from portions of the City to the southwest is circuitous under existing conditions. The Independent Way connection

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will eliminate approximately a third of a mile of out of direction travel for pedestrian and bicyclists with trips between these areas. The practical solution to this lack of connectivity that appears to be occurring, based upon aerial photography, is unauthorized crossings of the railroad from the railroad bikeway to Jefferson Avenue south of the Ashland Tennis and Fitness Club. Routes of this type are a major safety concern but they develop and occur in circumstances such as this where the connectivity is so inadequate that it becomes a preferred route. The Independent Way extension will eliminate or substantially reduce the practical need for this undesirable condition.

It is also important to recognize the effort Public Works and the private property owners have invested to facilitate this connection. Since the adoption of the TSP, Public Works has been working with the private property owner to create a joint project that is mutually beneficial. The proposed street design and location represents one that has been negotiated and found to be acceptable to the private property owners. There are some aspects of the proposed street that will not meet current standards in the near term based upon existing buildings and use constraints. However, the issues associated with these design details are small when compared to the overall connectivity benefits of the project being accomplished in a cooperative manner.

- 10. Site Grading Analysis:** The site grading is the essential and core private entitlement being sought by IPCO Development Inc. as part of this joint land use submittal with the City of Ashland. The basic rationale for this permit request is that the construction of Independent Way, in combination with existing parcelization and development of the IPCO site, is such that many of the fundamental elements of future development of the IPCO site will be determined by the new street. The new street establishes driveway curb-cut locations for future private development. This has the effect of setting future circulation patterns for employment-type development in the future. Also, the new Independent Way will establish utility locations that dictate future private development patterns to some extent. This is most true for storm drainage. The new Independent Way will alter storm drainage patterns on the site in ways that require some drainage considerations to change on the IPCO site.

For all the above reasons, it is logical to complete rough grading and the main underground utilities for the IPCO site in coordination with the street construction project. Heavy equipment will already be on site. Private utility stubs and site drainage can be coordinated from a design perspective with the new public street. These will all result in beneficial and logical site work to support future development. The grading will occur in two phases. The first phase will involve everything but the second phase. The second phase will involve the demolition and grading of the area where the existing dwelling on the property is located.

It is important to understand that the extent of the private entitlements is delimited to land use authorization for the rough grading of the site and associated installation of utilities. Precise site planning details like number of parking stalls, pedestrian walkways, plazas,



semi-truck loading bays and similar site planning elements will be evaluated under the regulations then in effect when specific buildings are proposed on the existing lots.

**11. Solar Impacts of Proposed Retaining Wall:** IPCO Development Inc. proposes a 15-foot retaining wall at the northeast boundary of the property which will taper down to about 3-5 feet along most of the north property line. There are two separate parcels to which this standard requires analysis and both parcels are zone E-1 and therefore subject to the solar Setback Standard "B" in Table 18.4.8.030. The table does not regulate structure heights less than 8 feet and the proposed retaining wall is less than eight feet along the entire length of Tax Lot 900 so no additional analysis or findings for Tax Lot 900 are necessary. For Tax Lot 500, the practical application of the regulation is that structures between 8 feet and 16 feet are regulated but to do not impose an actual setback. Because the structure is less than 15 feet in height, the setback is zero and no building restrictions are imposed.

**12. Hamilton Creek Resource Protection Analysis:** The application proposes a new crossing of the Hamilton Creek Water Resource Protection Zone, a relocated crossing of the Hamilton Creek Water Resource Protection Zone, and three locations where reductions in the water resource protection area are requested. Exhibit 7 depicts the Water Resource Protection Map applicable to this area. At the approximate location where the new Independent Way street crossing is proposed, the water resource protection zone *category* transitions from a Local Stream category to the north (downstream) of the proposed crossing to an Intermittent and Ephemeral Stream to the south (upstream). At this location, the creek transitions from open channel to the primary flow being located within a 5-foot corrugated metal pipe. The primary difference between the two categories under the City's ordinance is that the Local Stream category has a 40-foot Water Resource Protection Zone area and the Intermittent and Ephemeral Stream Category has a 30-foot Water Resource Protection Zone area measured from the centerline of the stream. The City of Ashland engaged Northwest Biological Consulting to evaluate design options for the Independent Way crossing itself and landscape architects CoveyPardee were engaged to prepare an impact plan and mitigation plan to that proposes stream restoration and enhancement for an area 1.5 times the area impacted by the project and these areas are broken down by private mitigation areas for areas impacted by the respective components of the project.

The existing condition of Hamilton Creek is described in the mitigation narrative provided by CoveyPardee and also in the stream crossing information provided by Northwest Biological Consulting. The resulting project mitigation will restore and enhance a significant reach of Hamilton Creek and result in 19,900 square feet of restored and enhanced riparian area (a little under half an acre).

**a. Independent Way Crossing Analysis (Impact Area B):** Impact Area B is 9,573 square feet in area. This location is where the Water Protection Zone transitions from a local stream to an ephemeral stream. This is the public impact area. The proposed mitigation area is immediately upstream and downstream of the crossing. The mitigation area is 14,551 square feet and is 1.5 times the area impacted by the crossing. The impacted area is necessary to the public street connection identified in

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the Transportation System Plan. The street cross-section in this area includes standard paved width and standard sidewalks but no planter strip to reduce the area of impact.

- b. Relocated Private Crossing Analysis and Adjacent Reductions (Impact Area E):** An existing “crossing” is located in this area. Because of the ephemeral nature of the stream in this area, the existing crossing is pretty minimal. The proposed crossing better aligns with the existing development on the site on the west side of Hamilton Creek. The impact area is 3,434 feet, but most of this area is associated with the relocated crossing itself and the area of actual water resource zone reduction (not associated with the crossing itself) is relatively small. Without this crossing and the riparian reduction necessary for these minimal maneuvering areas, the southeast corner of the site (Building Pad D on the grading plan) would be of limited practical utility. Mitigation for this impact area is provided at 1.5 times and is included in the proposed private mitigation area downstream of new Independent Way crossing.
- c. Resource Protection Zone Reductions (Impact Area C and D):** Impact Area D and C are very small (28 and 96 square feet respectively). These reductions are requested to allow straight curblines for the parking and maneuvering areas that will serve existing and future development. They are in locations where the centerline of the stream just does a small jog which would then require the curb to jog with it and this would result in an oddly shaped circulation pattern and curb for no real practical benefit from a water resource protection zone standpoint. Mitigation for this impact area is provided at 1.5 times and is included in the proposed private mitigation area downstream of new Independent Way crossing. Dimensionally, these two reduction areas are less than the maximum 25% reduction that may be approved through the Type 1 reduction process.

**13. Hamilton Creek Floodplain Corridor Analysis:** The City of Ashland and IPCO Development jointly engaged Thornton Engineering to evaluate impacts to the floodplain of the proposed Hamilton Creek stream corridor crossing. Thornton Engineering created a hydraulic model for the stream corridor across the entire IPCO Property, see Exhibit 11. This hydraulic model served as the basis for approval of a Letter of Map Revision approved by FEMA in October 31, 2013, see Exhibit 17. Thornton Engineering has been involved in the project throughout the design process and he has a thoroughgoing understanding of the site conditions and technical analysis required. Thornton provided his expert opinion that the proposed project can feasibly and will be designed in a manner that does not increase base-flood elevations, base flood being a 100-year flood event. The Applicant will stipulate to a condition of approval that requires a new hydraulic analysis be provided based upon the final design of the build-condition project that shows no-rise in base flood elevations when compared to the existing conditions hydraulic modelling analysis presented with this application.

**14. Property Line Adjustment Analysis:** The application proposes a series of property line adjustments, see Exhibit 9. The proposed adjustments are not especially extensive and do not substantially reconfigure any properties. The adjustments will create a logical relationship between the new road, existing development areas and future development

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areas. For example, without the adjustments the southernmost projections of Tax Lots 900 and 500 would be separated from the northern sections after the City acquires needed right-of-way for Independent Way. Right-of-way acquisition does not partition properties, but this would result in one portion of a parcel being on one side of the right of way and the main portion being on the other. This is a less than logical configuration. The proposed property line adjustments will place the property lines along the centerline of the proposed right-of-way acquisition. This way the right-of-way acquisition will be acquired in a logical manner from each individual parcel and all parcels for future development or existing development will then be configured in a logical manner. There are no minimum lot sizes of dimensions in the E-1 zoning district so the proposed lots do not conflict with any objective lot size or dimensional standards. All resulting lots are physically capable of either supporting future development or are configured in an appropriate manner in relation to existing development; this is true both immediately after the property line adjustments are executed and after the future right-of-way for Independent Way is acquired by the City of Ashland.

- 15. Tree Removal Analysis:** A tree survey was conducted during the site plan development process. Applicants engaged CoveyPardee landscape architects to evaluate the trees on the site in relation to the proposed development plans, see Exhibit 14. Trees on the site being impacted by the proposed development are largely concentrated along Hamilton Creek, but there are other trees scattered through the site that will also be impacted. Approximately 13 trees are upland trees that are arrayed around the site that will be removed as a result of the proposed development; approximately 13 new trees will be planted in “upland” area along the new Independent Way to replace the trees impacted by the project (unless the two-parking bay design alternative is selected and then there will be 11 upland trees). Over time, future development on the IPCO Development site will include additional site landscaping as buildings are approved and City of Ashland Standards will require new additional trees be planted as part of site development. With respect to the area along Hamilton Creek (not necessarily within the Water Resource Protection Zone). There are approximately 18 trees being impacted in this area by the proposed project. The Water Resource Mitigation Plan proposes an additional 37 trees along Hamilton Creek to replace the trees impacted in this area. Overall, the project will result in a net increase of 17-19 trees on the site in the short term and future development approvals will result in additional trees in the project area.

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V

**PROCEDURAL  
CONCLUSIONS OF LAW**

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The Planning Commission reaches the following conclusions of law with respect to the review procedure for the subject land use action:

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***Procedural Criterion 1***

**PROCEDURAL CRITERIA**

**18.5.1.010 Purpose and Applicability**

- A. Purpose. This chapter establishes procedures to initiate and make final decisions on planning actions under the Land Use Ordinance ("this ordinance"), pursuant to City policy and state law.
- B. Applicability of Review Procedures. All planning actions shall be subject to processing by one of the following procedures summarized in subsections 1 - 4, below, and as designated in Table 18.5.1.010. Building permits and other approvals, including approvals from other agencies such as the state department of transportation or a natural resource regulatory agency, may be required. Failure to receive notice of any such requirement does not waive that requirement or invalidate any planning action under this ordinance.
  - 1. Ministerial Action (Staff Advisor Decision). The Staff Advisor makes ministerial decisions by applying City standards and criteria that do not require the use of substantial discretion (e.g., fence, sign and home occupation permits). A public notice and public hearing are not required for Ministerial decisions. Procedures for Ministerial actions are contained in section 18.5.1.040.
  - 2. Type I Procedure (Administrative Decision With Notice). Type I decisions are made by the Staff Advisor with public notice and an opportunity for appeal to the Planning Commission. Alternatively the Staff Advisor may refer a Type I application to the Commission for its review and decision in a public meeting. Procedures for Type I actions are contained in section 18.5.1.050.
  - 3. Type II Procedure (Quasi-Judicial Review/Public Hearing Review). Type II decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. Applications involving zoning map amendments consistent with the Comprehensive Plan map and minor map amendments or corrections are subject to quasi-judicial review under the Type II procedure. Quasi-judicial decisions involve discretion but implement policy.

Procedures for Type II actions are contained in section 18.5.1.060.
  - 4. Type III Procedure (Legislative Decision). The Type III procedure applies to the creation, revision, or large-scale implementation of public policy (e.g., adoption of regulations, zone changes, comprehensive plan amendments, annexations). Type III reviews are considered by the Planning Commission, who makes a recommendation to City Council. The Council makes the final decision on a legislative proposal through the enactment of an ordinance.

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Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Access to a Street/Driveway Approach	Ministerial	Chapter 18.4.3
Exception to Street Standards	Type I	Subsection 18.4.6.020.B.1
Physical and Environmental Constraints Permit	Type I	Chapter 18.3.10
Property Line Adjustments, including Lot Consolidations	Ministerial	Chapter 18.5.3
Site Design Review	Type I or II	Chapter 18.5.2
Tree Removal Permit	Type I	Chapter 18.5.7
Water Resources Protection Zone – Limited Activities and Uses	Type I	Section 18.3.11.060
Water Resources Protection Zone Reduction	Type I or II	Section 18.3.11.070

**Conclusions of Law:** The Planning Commission concludes the submitted land use application is a consolidated review that includes several inter-related permits that all fall under the Type I procedure (or a ministerial procedure), as follows:

- The proposed street will result in new impervious surfaces of greater than a 1,000 square feet under AMC 18.5.2.020(A)(5).
- The application includes Physical and Environmental constraints permit listed in the above table as a Type I permit.
- The application includes a Tree removal permit listed in the above table as a Type I permit.
- The application includes a Limited Activities and Use permit listed in the above table as a Type I permit.
- The application includes a Water Resource Protection Zone Reduction of up to 25% permit listed in the above table as a Type I or 2 permit; the water resource protection zone reduction provisions make clear that reductions of 25% or less are processed as a Type 1 reduction.
- The application includes an exception to street standards permit listed in the above table as a Type I permit.
- The application includes a request for a series of Property Line Adjustments. These are listed in the above table as a ministerial action. However, when located in a water resource protection zone, they require the application of discretionary criteria and are thus properly processed as a Type I procedure.

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With respect to the application of the Type I procedure itself, the Applicant expects the matter to be forwarded directly to the Planning Commission because of the number of Type I permits involved. The conclusions of law presented herein reflect this assumption. In the event the staff elects to make the decision directly, which they are entitled to do under the Type I procedure, the conclusions of law presented herein would be the conclusions of the staff rather than the Planning Commission (as worded herein).

\* \* \* \* \*

**Procedural Criterion 2**

**18.5.1.020 Determination of Review Procedure**

Where Table 18.5.1.010 designates more than one possible review procedure, e.g., Type I or Type II, the applicable review procedure shall be based on the criteria contained in the ordinance chapters or sections referenced in the table.

**Conclusions of Law:** The Planning Commission concludes the submitted land use application is a consolidated review that includes several inter-related permits that all fall under the Type I procedure and the Type I procedure is the correct procedure for the subject application.

\* \* \* \* \*

**Procedural Criterion 3**

**18.5.1.050 Type I Procedure (Administrative Decision with Notice)**

Type I decisions are made by the Staff Advisor, following public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission.

C. Decision.

1. At the conclusion of the comment period, the Staff Advisor shall review the comments received and prepare a decision approving, approving with conditions, or denying the application based on the applicable ordinance criteria. The Staff Advisor shall prepare a decision within 45 days of the City's determination that an application is complete, unless the applicant agrees to a longer time period. Alternatively, the Staff Advisor may transmit written comments received along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting.
2. Where the Staff Advisor refers a Type I application to the Planning Commission, the Commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable ordinance criteria. The Commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided the Commission must make a final decision within the 120-day period prescribed under State law (ORS 227.178) and as described in subsection 18.5.1.090.B of this ordinance.

**Conclusions of Law:** With respect to the application of the Type I procedure itself, the Applicant expects the matter to be forwarded directly to the Planning Commission because of the number of Type I permits involved. The conclusions of law presented herein reflect this assumption. In the event the staff elects to make the decision directly, which they are entitled to do under the Type I procedure, the conclusions of law presented herein would be

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the conclusions of the staff rather than the Planning Commission (as worded herein). A Type I referred to the Planning Commission results in the typical de novo hearing procedures for a quasi-judicial land use application being heard by a Planning Commission and it does not have the effect of introducing any new or additional criteria that would not have been applicable under the Type I procedure.

\* \* \* \* \*

**Procedural Criterion 4**

**18.5.1.100 Council or Planning Commission Initiation Procedures**

The City Council or Planning Commission may initiate any Ministerial, Type I, Type II, or Type III planning action by motion duly adopted by the respective body designating the appropriate City department to complete and file the application.

**Conclusions of Law:** The Planning Commission concludes the application includes a Letter of Intent, see Exhibit 15. The action of the Council on this LOI constituted the City's initiation of the Type I permit and directed the Public Works Department to complete and file the application.

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City Of Ashland

VI

**CONCLUSIONS OF LAW**

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The Planning Commission concludes the application includes two site distinct, but related, development elements. The first element is for review and approval of the proposed Independent Way design. The second element is to permit the rough grading of the Private IPCO Development site. The Planning Commission concludes the relevant substantive criteria to the new Independent Way development element should be applied in a manner that is typical for new public improvement projects. The relevant substantive criteria that are concerned with site grading, overall circulation and property configurations of the private IPCO Development property are fully applicable because this land use review will permit development in ways that determine these elements going forward. However, the Planning Commission concludes the application of the relevant substantive criteria to the private IPCO Development is limited for criteria that concern vertical construction and other site improvement details because the land use permit is not actually proposing full development at this time (only rough grading and utilities on the site to prepare the site for future development). The limited application of these criteria need only demonstrate that future development can feasibly comply with relevant standards at the time future site design review for full development is sought. The Planning Commission herewith incorporates and adopts this interpretation for all the below criteria and all subsequent conclusions of law incorporate and rely on this general interpretation. Moreover, some of the conclusions of law are structured according to the different development elements being approved to assure a logically consistent and implementable land use permit.

The Planning Commission reaches the following conclusions of law with respect to the relevant substantive approval criteria for the subject land use application:

\* \* \* \* \*

**Site Design Review Criterion 1**

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**SUBSTANTIVE CRITERIA**

**Site Design Review**

**18.5.2.050 Approval Criteria**

An application for Site Design Review shall be approved if the proposal meets the criteria in subsections A, B, C, and D below. The approval authority may, in approving the application, impose conditions of approval, consistent with the applicable criteria.

- A. Underlying Zone. The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.

**Conclusions of Law:** With respect to the proposed Independent Way, the Planning Commission concludes new right of way will not adversely affect any of the above elements, consistent with the Planning Commission's decision herein below to approve the property line adjustments substantially as proposed. The Planning Commission concludes the new right-of-way has the effect of creating a new public street to which buildings may be oriented in the future and establishes driveway locations for future development, all of which comply with the requirements of the E-1 zone.

\* \* \* \* \*

**Site Design Review Criterion 2**

- B. Overlay Zones. The proposal complies with applicable overlay zone requirements (part 18.3).

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts its conclusions of law below addressing the floodplain provisions and the Water Resource Protection Zone, and based upon the same, concludes the project complies with the applicable overlay zone requirements.

\* \* \* \* \*

**Site Design Review Criterion 3**

- C. Site Development and Design Standards. The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.

**Conclusions of Law:** Consistent with its overarching conclusions of law with respect to the applicability of the relevant substantive criteria to the two project elements at the beginning of Section VI, the Planning Commission concludes as follows:



**Independent Way Street Design:** With respect to 18.4.2, the Planning Commission concludes the proposed street design has the effect of adding an additional street to which buildings should be oriented and this change in circumstance for the site should not have the effect of making logical private development in the E-1 problematic pursuant to the conclusions of law below for the private development. With respect to 18.4.3, the Planning Commission adopts the findings of fact in Section IV above, and concludes that the proposed driveway locations are appropriate to serve existing and future circulation, parking and access needs of the private development sites that will be required to use the approved driveway locations. With respect to section 18.4.4, the proposed street design will meet applicable landscape standards for the north side of the street and the south side of the street will be as shown on the proposed plans as well as required landscaping to comply with the stream crossing impacts to the Water Resource Protection Zone. Lighting standards under 18.4.4. are not applicable but rather under City street light standards under 18.4.6. With respect to 18.4.6, the Planning Commission concludes the public street will be constructed to applicable standards or where exceptions have been approved herein below. The Planning Commission further concludes that the street standards are not approved through subsection E below and are instead specifically approved only through application of the criteria at AMC 18.4.6.020. Consistent with this conclusion of law, the Planning Commission herewith incorporates and adopts its conclusions of law below addressing 18.4.6.020 and concludes accordingly that the proposed Independent Way design complies with the applicable street design standards or an exception has been approved pursuant to the relevant exception criteria therein. With respect to sections 18.4.7, 18.4.8 and 18.4.9, none of these provisions are applicable to the proposed street design review. With respect to 18.4.5, the Planning Commission herewith incorporates and adopts the conclusions of law below addressing applicable tree provisions. Based upon all the foregoing conclusions of law, the Planning Commission concludes the proposed design of Independent Way complies with applicable site development and design standards of 18.4.

JUN 01 2015

**Private IPCO Site Grading and Property Line Adjustments:** With respect to 18.4.2, the proposed building pads and access locations establish the general building orientation and scale for future buildings. Future buildings can feasibly be located on the buildings pads in a manner that complies with section 18.4.2.040; the only real issue being section B.1.b which seeks to have a “large majority” of the street frontage occupied by building façades. Building Pad A, which is the corner lot can feasibly and will comply with this standard. Building Pads B and C are located on parcels where the frontage is occupied by a stream crossing which is not properly counted against this standard. Moreover, this site is located in an E-1 district and adequate circulation for large vehicles is required for proper functioning of the uses permitted in the zone and future buildings located on building Pads B and C may not even include uses that require application of the “majority frontage” standard under B.1.g. The building pad orientations represent a reasonable approach that balances presence of the buildings on the street in relation to the site constraints and the likely use and function of future buildings in the E-1 in this location. To require additional building façade frontages on Independent Way would have the effect of eliminating the function of needed access for large vehicle circulation and impairing the ability of the site to be used for many of the uses permitted in the E-1 zone. Based upon the foregoing, the Planning Commission concludes

the proposed building pads are such that future buildings can feasibly comply with Section 18.4.2. With respect to Section 18.4.3, the Planning Commission concludes those provisions concern specific design details that will be finalized when specific applications for site design review of individual buildings occurs but that nothing in the grading plan will prevent future compliance with these standards. With respect to landscaping and screening, the Planning Commission concludes these provisions are not applicable to site grading, except for the specific landscaping improvements associated with the consolidated review and approval of the Water Resource Protection zone components of the site grading. With respect to 18.4.5, the Planning Commission herewith incorporates and adopts the conclusions of law below addressing applicable tree provisions. With respect to Section 18.4.6, the only public facilities being installed on the IPCO Development portion of the site are storm drainage and perhaps a sanitary sewer line which will all be constructed to City of Ashland specifications. With respect to Sections 18.4.7, 18.4.9, these site design standards are either not applicable to the project at all or are only applicable at the time of future building design review; Table 18.4.1.020, references section 18.4.8 as being applicable to property line adjustments but the proposed adjustments do not affect the north property line where effects on solar access are measured and analyzed.

The Planning Commission does, herewith incorporate and adopt the findings of fact in Section IV above addressing solar setbacks, and concludes that the solar setbacks are not met for the retaining wall but that the internal exception to the solar setbacks can be satisfied, based upon the following reasoning:

- The retaining wall will not preclude reasonable use of solar energy by habitable buildings because the area shaded is in the water resources protection zone and future structures in this area are unlikely.
- There are no known solar energy uses on the Les Schwab lot to the north that would be affected by the proposed wall.
- The site is unique because the area being shaded is water resource protection zone that limits structural development in that area.

Based upon all the foregoing conclusions of law, the Planning Commission concludes the proposed rough grading plan and property line adjustments complies with applicable site development and design standards of 18.4 unless an exception has been approved for the application standard.

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**Site Design Review Criterion 4**

- D. **City Facilities.** The proposal complies with the applicable standards in section 18.4.6 Public Facilities, and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property, and adequate transportation can and will be provided to the subject property.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the findings of fact in Section IV above, and concludes thereupon that all public facilities to



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serve the project can and will be made available to serve the ultimate vertical construction on the IPCO Development site and will also improve facilities to serve the area with the addition of the new Independent Way and associated water line extension.:

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**Site Design Review Criterion 5**

- E. Exception to the Site Development and Design Standards. The approval authority may approve exceptions to the Site Development and Design Standards of part 18.4 if the circumstances in either subsection 1 or 2, below, are found to exist.
  - 1. There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty.; or
  - 2. There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards.

**Conclusions of Law:** The Planning Commission interprets this exception code provision to apply in instances where specific “internal exceptions” are not provided in the specific code sections where the design flexibility is sought by an applicant. The Planning Commission concludes several design exceptions are sought by the Applicant, but they all concern standards that have an “internal exception” provision and consequently require no general exception conclusions of law under AMC 18.5.2.050(E).

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**Street Design Review Criterion 1**

**Street Design Exceptions:  
18.4.6.020 Applicability**

- B. Exceptions and Variances. Requests to depart from the requirements of this chapter are subject to chapter 18.5.5 Variances, except that deviations from section 18.4.6.040 Street Design Standards are subject to 18.4.6.020.B.1 Exceptions to the Street Design Standards, below.
  - 1. Exception to the Street Design Standards. The approval authority may approve exceptions to the standards section in 18.4.6.040 Street Design Standards if all of the following circumstances are found to exist.
    - a. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the findings of fact in Section IV concerning street design and transportation, and concludes thereupon that the existing development conditions at the site result in demonstrable difficulty meeting the standard street cross-section for a Neighborhood Commercial Collector Street. Public Works seeks to connect Independent Way with as much spacing as practicable from Tolman Creek’s intersection with Ashland Street to provide the maximum vehicle storage at that signalized intersection without blocking the new Independent Way

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intersection. As such, the proposed design keeps the centerline of the new street very near to the northern portion of the existing IPCO Printing building. The location of the new street will actually result in the loss of existing site circulation for trucks at the IPCO printing site. As such, in order to accommodate existing truck movements a modified street-cross section in this area is proposed. This is a unique condition just by virtue of the fact that there are very few new higher order street connections planned in Ashland's TSP and some sacrifices to the southern streetscape are warranted to complete this high priority connection identified in Ashland's Comprehensive Plan.

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**Street Design Review Criterion 2**

- b. The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.
  - i. For transit facilities and related improvements, access, wait time, and ride experience.
  - ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.
  - iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the findings of fact in Section IV concerning street design and transportation, and concludes thereupon that the connectivity benefits of the proposed Independent Way Street connection are established under the Comprehensive Plan and providing an appropriate connection location that can be implemented in the short-term will have manifold benefits to all transportation users and modes. The Planning Commission further notes the benefits identified in the findings in Section IV to eliminate out-of-direction travel and for bicyclists and pedestrians with the potential to reduce or eliminate the unauthorized railroad crossings currently taking place.

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**Street Design Review Criterion 3**

- c. The exception is the minimum necessary to alleviate the difficulty.

**Conclusions of Law:** The Planning Commission concludes the design is the minimum necessary to alleviate the difficulty because the north side of the street will substantially meet current standards and the south side of the street is the only side impacted by the existing development conditions. The Planning Commission further concludes that the proposal includes adequate right-of-way for the City's full cross-sectional improvement that could be implemented at such time as the IPCO Printing building is redeveloped or repurposed with a new use that does not have the same truck circulation demands as the existing building and associated printing use.

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**Street Design Review Criterion 4**

- d. The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the conclusions of law below addressing the purpose and intent of the Street Standards, and based upon the same concludes that the proposed street design exception is consistent with the Purpose and Intent of the Street Standards.

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**Street Design Review Criterion 5**

**18.4.6.040 Street Design Standards**

**A. Purpose, Intent, and Background**

- 1. Purpose. This section contains standards for street connectivity and design as well as cross sections for street improvements. The standards are intended to provide multiple transportation options, focus on a safe environment for all users, design streets as public spaces, and enhance the livability of neighborhoods, consistent with the Comprehensive Plan.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the findings of fact in Section IV concerning street design and transportation, and concludes thereupon that the Comprehensive Plan identifies this specific connection as a needed higher order street connection and nothing about the proposed design will prevent multiple transportation options, it will enhance safety for all users, create an attractive streetscape and significantly improve the livability of this portion of the City by adding a much needed transportation connection.

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**Street Design Review Criterion 6**

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- 2. Intent. Ashland's streets are some of the most important public spaces in the community. The Street Design Standards outline the art and science of developing healthy, livable streets, and are intended to illustrate current standards for planning and designing the streets of Ashland. The standards are to be used in the development of new streets, and reconstruction of existing streets or portions thereof (i.e. improving a paved local street by adding sidewalks). The standards area also intended as a resource for use by home builders, developers, and community members in the pursuit of quality development practices. A series of street types is offered including the multi-use path, alley, neighborhood street, commercial neighborhood street, neighborhood collector, commercial neighborhood collector, avenue, and boulevard. Street cross sections provide a model for building streets the traditional way. Variations can be made from these basic types to fit the particular site and situation. However, the measurements of each street component must be used to create and maintain the desired low-speed environment where people feel comfortable and the maximum number of people walk, bicycle and use transit. All streets in Ashland shall be designed using the following assumptions.

- All designs encourage pedestrian and bicycle travel.
- Neighborhood streets (Neighborhood Collectors and Neighborhood Streets) are designed for 20 mile-per-hour (mph).



- All new streets and alleys are paved.
- All streets have standard vertical, non-mountable curbs.
- Gutter widths are included as part of the curb-to-curb street width.
- New avenues and boulevards have bicycle lanes.
- Parkrow and sidewalk widths do not include the curb.
- Sidewalks are shaded by trees for pedestrian comfort.
- All streets have parkrows and sidewalks on both sides. In certain situations where the physical features of the land create severe constraints, or natural features should be preserved, exceptions may be made. Exceptions could result in construction of meandering sidewalks, sidewalks on only one side of the street, or curbside sidewalk segments instead of setback walks. Exceptions should be allowed when physical conditions exist that preclude development of a public street, or components of the street. Such conditions may include, but are not limited to, topography, wetlands, mature trees, creeks, drainages, rock outcroppings, and limited right-of-way when improving streets through a local improvement district (LID).
- Parkrows and medians are usually landscaped.
- Garages are set back from the sidewalk so parked vehicles are clear of sidewalks.
- Building set backs and heights create a sense of enclosure.

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**Conclusions of Law:** The Planning Commission concludes that the intent of the street standards includes the specific language that the variation is allowed to fit the specific site and situation and the City of Ashland Public Works Department through its application asserts that the proposed design is an appropriate variation given the particular site constraints and situation of existing development and the desire to maintain maximum spacing from the intersection of Tolman Creek Road and Ashland Street. Moreover, the Planning Commission herewith incorporates and adopts the findings of fact in Section IV concerning street design and transportation, and concludes as follows with respect to the assumptions detailed in the intent provisions:

- The proposed design encourages pedestrian and bicycle travel by adding needed connectivity that will shorten trips and the pedestrian facilities on the north side of the street are adequate for short-term demands while sufficient right-of-way is being acquired for future facilities on the south side of Independent Way for the long-term.
- The proposed 28-foot curb to curb dimension is one of the standard dimensions of a Neighborhood Commercial Collector and this standard appears consistent with a 20 mph design speed.
- Independent Way will be paved.
- The proposed cross-section width of 28-feet includes the gutter width.
- The proposed street is not an avenue or boulevard.
- The dimensions provided for the park row and sidewalk does not include the curb on the proposed cross-sections.
- Trees are proposed that will shade the sidewalk.
- The Independent Way right-of-way is planned to eventually include parkrows and sidewalks on both sides, but the existing development conditions prohibit these features along the entire length of the south right-of-way. The Planning Commission concludes that the existing lawful and permitted development is a physical condition

that justifies an exception to allow the parkrow and sidewalk on one side as part of the initial build of the street. The north side of the street includes a hardscape parkrow (with tree planting wells) and a sidewalk. The Planning Commission further concludes that the proposed stream crossing has sidewalks on both sides but not a park row. Trees and significant plantings do not generally grow on bridges or culverts. Moreover, irrigating on top of an expensive crossing structure would increase maintenance costs while shortening the expected useful life of the structure and would make the structure much wider in a manner that would further impact Hamilton Creek. The Planning Commission concludes the proposed 6-foot sidewalk at the crossing location is appropriate to preserve the natural stream features (and actually enhance them through the Water Resource mitigation plan approval) and that this design exception is appropriate in all ways.

- No garages are proposed.
- No buildings are proposed but the proposed building pads are adjacent to the street and one would reasonably expect this to create a sense of enclosure at some point in the future.

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**Property Line Adjustment Criterion 1**

**18.5.3.120 Property Line Adjustments**

A Property Line Adjustment is the modification of lot boundary when no lot is created. The Staff Advisor reviews applications for Property Line Adjustments through the Ministerial procedure, per section 18.5.1.040. The application submission and approval process for Property Line Adjustments is as follows.

- A. **Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Ministerial review, pursuant to section 18.5.1.040. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of lands subject to the Ashland Floodplain Corridor Overlay; existing fences and walls; and any other information deemed necessary by the Staff Advisor for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.

**Conclusions of Law:** The proposed Tentative Property Line Adjustment Plan is provided in Exhibit 9. It includes the basic information necessary to determine that the final adjusted property lines can feasibly and will comply with applicable standards.

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**Property Line Adjustment Criterion 2**

- B. **Approval Criteria.** The Staff Advisor shall approve or deny a request for a property line adjustment in writing based on all of the following criteria.
  - 1. **Parcel Creation.** No additional parcel or lot is created by the lot line adjustment.



**Conclusions of Law:** Based upon the Plan in Exhibit 9, the Planning Commission concludes that no new parcels will be created by the proposed adjustments.

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**Property Line Adjustment Criterion 3**

2. **Lot Standards.** Except as allowed for nonconforming lots, pursuant to chapter 18.1.4, or as required by an overlay zone in part 18.3, all lots and parcels conform to the lot standards of the applicable zoning district, including lot area, dimensions, setbacks, and coverage, per part 18.2. If a lot does not conform to the lots standards of the applicable zoning district, it shall not be made less conforming by the property line adjustment. As applicable, all lots and parcels shall identify a buildable area free of building restrictions for physical constraints (i.e., flood plain, greater than 35 percent slope, water resource protection zones).

**Conclusions of Law:** The Planning Commission concludes that the E-1 district does not have specific lot dimensions and the adjustments are relatively small ones that do not affect the overall buildable area of the lots in a meaningful way.

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**Property Line Adjustment Criterion 4**

3. **Access Standards.** All lots and parcels conform to the standards in section 18.4.3.080 Vehicle Area Design. Lots and parcels that do not conform to the access standards shall not be made less conforming by the property line adjustment.

**Conclusions of Law:** The Planning Commission concludes all parcels will still have frontage on a public road and they can feasibly be served with appropriate access for expected uses in the E-1 zoning district.

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**Physical and Environmental Constraints Review Criterion 1**

**18.3.10 – Physical and Environmental Constraints Review**

**18.3.10.030 Floodplain Corridor Review Procedure**

- A. If a development is part of a Site Design Review, Performance Standards Development, Conditional Use Permit, Subdivision, Partition, or any other planning action, the Physical Constraints Review Permit shall be reviewed simultaneously as a consolidated procedure.
- B. If a development is exclusive of any other planning action, then the Physical Constraints Review Permit shall be processed as a Type I in section 18.5.1.050.
- C. Where it appears that the proposal is part of a more extensive development that would require a master site plan, or other planning action, the Staff Advisor shall require that all necessary applications be filed simultaneously.

**Conclusions of Law:** The Planning Commission concludes the project includes the entire site and all necessary applications of been filed simultaneously.

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**Physical and Environmental Constraints Review Criterion 2**

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**18.3.10.080 Development Standards for Flood Plain Corridor Lands**

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For all land use actions that could result in development of the Flood Plain Corridor, the following is required in addition to any requirements of AMC 15.10.

City Of Ashland

- A. Standards for Fill in Flood Plain Corridor Lands.
  - 1. Fill shall be designed as required by the Oregon Structural Specialty Code (OSSC), and Oregon Residential Specialty Code (ORSC), where applicable.
  - 2. The toe of the fill shall be kept at least ten feet outside of floodway channels, as defined in AMC 15.10, and the fill shall not exceed the angle of repose of the material used for fill.
  - 3. The amount of fill in the Flood Plain Corridor shall be kept to a minimum. Fill and other material imported from off the lot that could displace floodwater shall be limited to the following.
    - a. Poured concrete and other materials necessary to build permitted structures on the lot.
    - b. Aggregate base and paving materials, and fill associated with approved public and private street and driveway construction.
    - c. Plants and other landscaping and agricultural material.
    - d. A total of 50 cubic yards of other imported fill material.
    - e. The above limits on fill shall be measured from April 1989, and shall not exceed the above amounts. These amounts are the maximum cumulative fill that can be imported onto the site, regardless of the number of permits issued.
  - 4. If additional fill is necessary beyond the permitted amounts in subsection 18.3.10.080.A.3, above, then fill materials must be obtained on the lot from cutting or excavation only to the extent necessary to create an elevated site for permitted development. All additional fill material shall be obtained from the portion of the lot in the Flood Plain Corridor.
  - 5. Adequate drainage shall be provided for the stability of the fill.
  - 6. Fill to raise elevations for a building site shall be located as close to the outside edge of the Flood Plain Corridor as feasible.

**Conclusions of Law:** The Planning Commission concludes no fill is proposed in the floodplain that is not associated with a stream crossing. The Planning Commission concludes that the above language is not applicable to Stream Crossings which are instead regulated exclusively under Section B below.

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**Physical and Environmental Constraints Review Criterion 3**

- B. Crossings. A crossing of any waterway identified on the official maps adopted pursuant to section 18.3.10.070 Official Maps (e.g., for streets, property access or utilities) must be designed by an engineer. Stream crossings shall be designed to the standards of AMC 15.10, or where no floodway has been identified, to pass a 100-year flood without any increase in the upstream flood height elevation. The engineer shall consider in the design the probability that the crossing will be blocked by debris in a severe flood, and accommodate expected overflow. The crossing shall be at right angles to the stream channel to the greatest extent possible. Fill for stream crossings shall be kept to the



minimum necessary to achieve property access, but is exempt from the limitations in subsection 18.3.10.080.A, above.

**Conclusions of Law:** Based upon the Findings in Section IV and the information provided by Thornton Engineering in Exhibit 10a and 11, the Planning Commission concludes that the proposed Independent Way stream crossing will be designed by a registered professional engineer and can feasibly and will be designed to meet the standards in AMC 15.10 and such design can and will consider debris flow. The proposed location is substantially at a right-angle to Hamilton Creek.

\* \* \* \* \*

**Physical and Environmental Constraints Review Criterion 4**

- H. Building Envelopes. All lots modified by property line adjustments, and new lots created from areas containing Flood Plain Corridor Land, must have building envelopes containing buildable area of a sufficient size to accommodate the uses permitted in the underlying zone, unless the action is for open space or conservation purposes. This section shall apply even if the effect is to prohibit further division of lots that are larger than the minimum size permitted in the zoning ordinance.

**Conclusions of Law:** The Planning Commission concludes that the modified property lines will not affect the buildable area on each lot and that all remaining lots have buildable area for uses permitted in the zone.

\* \* \* \* \*

**Physical and Environmental Constraints Review Criterion 5**

- J. Hazardous Chemicals. Storage of petroleum products, pesticides, or other hazardous or toxic chemicals is not permitted in Flood Plain Corridor Lands.

**Conclusions of Law:** The Planning Commission concludes that future building construction on the site will be located such that there would be no need to store hazardous chemicals in the flood plain corridor lands.

\* \* \* \* \*

**Physical and Environmental Constraints Review Criterion 6**

- K. Fences. Fences shall be located and constructed in accordance with subsection 18.3.11.050.B.3. Fences shall not be constructed across any waterway or stream identified on the official maps adopted pursuant to section 18.3.10.070 Official Maps. Fences shall not be constructed within any designated floodway.

**Conclusions of Law:** The Planning Commission concludes that no “stand-alone fences” are located or proposed in any floodplain corridor lands. The Planning Commission further concludes that this prohibition against fences across water ways and streams is not intended to apply to fences on top of approved crossing such as may be necessary for pedestrian safety on a public bridge across a stream.

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**Physical and Environmental Constraints Review Criterion 7**

- M. Local Streets and Utilities. Local streets and utility connections to developments in and adjacent to the Flood Plain Corridor shall be located outside of the Flood Plain Corridor, except for crossing the Corridor, except as provided in chapter 18.3.11 Water Resources Overlay, or in the Flood Plain Corridor as outlined below.
  - a. Public street construction may be allowed within the Bear Creek Flood Plain Corridor as part of development following the adopted North Mountain Neighborhood Plan. This exception shall only be permitted for that section of the Bear Creek Flood Plain Corridor between North Mountain Avenue and the Nevada Street right-of-way. The new street shall be constructed in the general location as indicated on the neighborhood plan map, and in the area generally described as having the shallowest potential for flooding within the corridor.
  - b. Proposed development that is not in accord with the North Mountain Neighborhood Plan shall not be permitted to utilize this exception.

**Conclusions of Law:** The Planning Commission concludes that no street construction is proposed within the Flood Plain Corridor and nothing in this land use permit would allow the same to be constructed.

\* \* \* \* \*

**Water Resources Protection Zone Criterion 1**

**18.3.11 Water Resources Protection Zones**

**18.3.11.010 Purpose**

The purpose and intent of this chapter is:

- A. To implement state and federal law with respect to the protection of clean water, pollution control, and preservation of endangered species.
- B. To protect Ashland's Goal 5 significant wetlands and riparian areas, thereby protecting and restoring the hydrologic, ecologic, and land conservation functions these areas provide for the community.
- C. To implement the provisions of Statewide Planning Goals 6 and 7, which require the buffering and separation of those land uses and activities that lead to or may create impacts on water quality, as well as to reduce the risk to people and property resulting from the inappropriate management of wetland and riparian areas.
- D. To implement the goals and policies of the Environmental Resources chapter of Ashland's Comprehensive Plan with respect to water resources, wetlands, floodplains, and stream flooding.
- E. To reduce flood damage and potential loss of life in areas subject to periodic flooding.
- F. To better manage storm water drainage, minimize maintenance costs, protect properties adjacent to drainage ways, improve water quality, protect riparian and aquatic fish and wildlife habitat and provide opportunities for trail connections.
- G. To protect water associated with Ashland's hydrology for human uses, fish and wildlife and their habitats.
- H. To control erosion and limit sedimentation.

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- I. To protect the amenity values and educational opportunities of Ashland's wetlands, water bodies and associated riparian areas as community assets.
- J. To improve public appreciation and understanding of wetlands and riparian areas for their unique ecosystem structure and functions and for the human-nature interactions they provide.
- K. To improve and promote coordination among local, state, and federal agencies regarding development activities near Ashland's wetlands, water bodies, and associated riparian areas.
- L. In cases of hardship, to provide a procedure to alter wetlands and riparian areas only when offset by appropriate mitigation, as stipulated in the ordinance and other applicable state and federal requirements.

**Conclusions of Law:** The City of Ashland concludes the submitted land use application is a consolidated review that includes several inter-related permits that all fall under the Type I procedure, as follows:

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***Water Resources Protection Zone Criterion 2***

**18.3.11.020 Applicability**

- A. The provisions of this chapter apply to all lands containing Water Resources and Water Resource Protection Zones. Water Resources and Water Resource Protection Zones are defined, established and protected in this chapter.
- B. State and federal wetland and riparian regulations will continue to apply within the City, regardless of whether or not these areas are mapped on Water Resources map. Nothing in this chapter shall be interpreted as superseding or nullifying state or federal requirements. Additionally, the City shall provide notification to the Oregon Department of State Lands (DSL), as required by Division 23 of Oregon Administrative Rules, for all applications concerning development permits or other land use decisions affecting wetlands on the inventory.
- C. The burden is on the property owner to demonstrate that the requirements of this chapter are met or are not applicable to development activity or other proposed use or alteration of land. The Staff Advisor may make a determination based on the Water Resources map, field check, and any other relevant maps, site plans, and information that a Water Resource or Water Resource Protection Zone is not located on a particular site or is not impacted by proposed development, activities or uses. In cases where the location of the Water Resource or Water Resource Protection Zone is unclear or disputed, the Staff Advisor may require a survey, delineation prepared by a natural resource professional, or a sworn statement from a natural resource professional that no Water Resources or Water Resource Protection Zones exist on the site.
- D. All Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter. No person or entity shall alter or allow to be altered any real property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter. No person or entity shall use or allow to be used, property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter.
- E. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. It is likely that there will be some overlap between the regulations in this chapter and those in chapter 18.3.10 Physical and Environmental Constraints Overlay, which regulates development in physical constrained areas including floodplains. Where two regulations are in conflict, the most stringent shall govern.

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JUN 01 2015

City Of Ashland

**Conclusions of Law:** The City of Ashland concludes the submitted land use application is a consolidated review that includes several inter-related permits that all fall under the Type I procedure, as follows:

\* \* \* \* \*

### **Water Resources Protection Zone Criterion 3**

#### **18.3.11.030 Inventory of Ashland's Water Resources**

The approximate locations of Ashland's Water Resources are identified on the Water Resource map, adopted by the City and added to the Comprehensive Plan through Ordinance 2419 (May 1987), Ordinance 2528 (July 1989) and Ordinance 2999 (December, 2009). Because the Comprehensive Plan maps are acknowledged to be approximate, the more precise wetland boundaries can be mapped, staked, and used for development review purposes without a modification of the Comprehensive Plan maps.

#### **18.3.11.040 Establishment of Water Resource Protection Zones**

A Water Resource Protection Zone is hereby established adjacent to and including all Water Resources to protect their integrity, function, and value. The boundaries of the following Water Resource Protection Zones shall be established by an on-site survey based upon the following standards.

- A. Stream Bank Protection Zones. The following types of Stream Bank Protection Zones are hereby established to protect streams and their associated riparian resources. The approximate locations of streams are identified on the Water Resources map.
2. Local Streams. For streams classified as non-fish-bearing Local Streams and on the Water Resources map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands 40 feet from the centerline of the stream as illustrated in Figure 18.3.11.040.A.2.

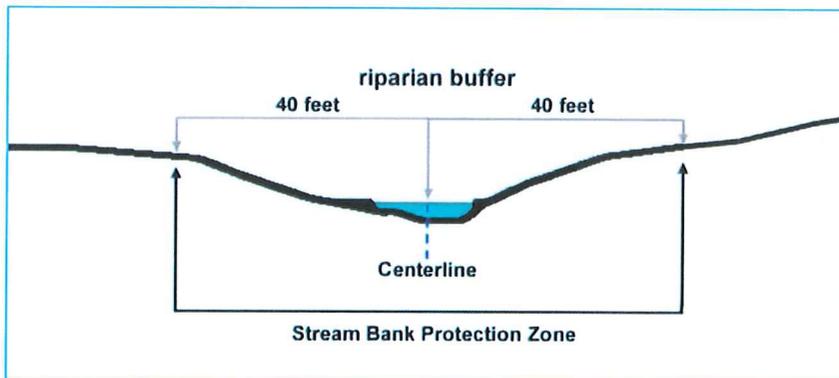


Figure 18.3.11.040.A.2  
Stream Bank Protection Zone for Local Streams

3. Intermittent and Ephemeral Streams. For streams classified as Intermittent and Ephemeral Streams on the Water Resource Protection Zones map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 30 feet from the centerline of the stream as illustrated in Figure 18.3.11.040.A.3.

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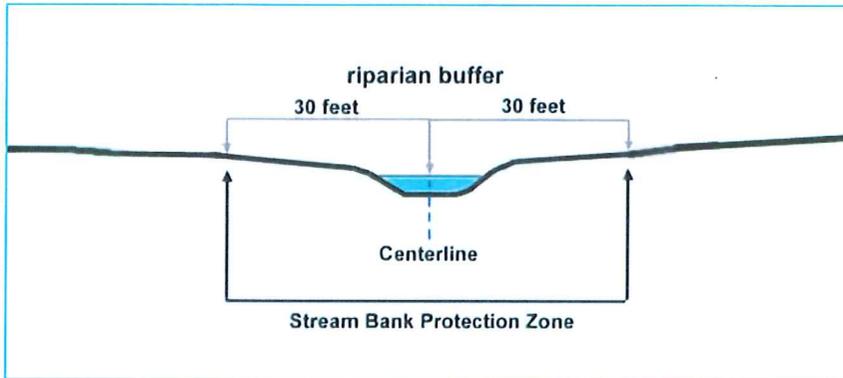


Figure 18.3.11.040.3  
 Stream Bank Protection Zone for Intermittent and Ephemeral Streams

4. Significant Wetland Presence. Where a Stream Bank Protection Zone includes all or part of a significant wetland as identified on official maps adopted by the City, the distance to the Stream Bank Protection Zone boundary shall be measured from, and include, the upland edge of the wetland.
5. Determination of Protection Zone. The measurement of the Stream Bank Protection Zones shall be a horizontal distance from the top of bank or from the center line of the stream as specified above. For streams that were piped or relocated to a culvert prior to the effective date of this chapter, the Stream Bank Protection Zones shall be reduced to half of the required width or the width of any existing easement (e.g., drainage-way easement), whichever is greater.

**Conclusions of Law:** The Planning Commission concludes that the stretch of stream south of the proposed Independent Way crossing is properly classified as an Intermittent and Ephemeral Stream and the stretch of stream north of the proposed Independent Way is properly classified as a Local Stream. The Planning Commission concludes the adopted maps do not show a significant wetland identified on the official maps of the City of Ashland.

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**Water Resources Protection Zone Criterion 4**

**18.3.11.060 Limited Activities and Uses**

The following activities and uses within Water Resource Protection Zones are allowed provided the activities or uses comply with the review procedure and approval standards set forth in subsection 18.3.11.060.D.

- A. Limited Activities and Uses within Water Resource Protection Zones.
  1. Use of Power-assisted Equipment or Machinery. Use of power-assisted equipment or machinery for vegetation maintenance unless otherwise exempted in subsection 18.3.11.050.A.1.h.
  2. Multi-Year Maintenance Plans. Multi-year maintenance plans may be authorized as follows for existing areas or storm water treatment facilities in Water Resource Protection Zones which do not have a previously approved management plans.
    - a. Publicly and Commonly Owned Properties. The routine restoration and enhancement of publicly and commonly owned properties such as public parks and private open spaces.
    - b. Storm Water Treatment Facilities. The ongoing routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales, and constructed wetlands in order to maintain flow and prevent flooding. Routine maintenance of storm water

treatment facilities in accordance with an approved management plan is exempted as outline in subsection 18.3.11.050.A.2.c.

3. **Building, Paving, and Grading Activities.** Permanent alteration of Water Resource Protection Zones by grading or by the placement of structures, fill or impervious surfaces may be authorized as follows.
  - a. **New Public Access and Utilities.** The location and construction of public streets, bridges, trails, multi-use path connections, and utilities deemed necessary to maintain a functional system and upon finding that no other reasonable, alternate location outside the Water Resource Protection Zone exists. This ordinance, the Comprehensive Plan, Transportation System Plan, adopted utility master plans, and other adopted documents shall guide this determination.
  - b. **New Private Access and Utilities.** The location and construction of private streets, driveways, and utilities to provide a means of access to an otherwise inaccessible or landlocked property where no other reasonable, alternate location outside the Water Resource Protection Zone exists.
  - c. **Storm Water Treatment Facility Installation.** Installation of public and private storm water treatment facilities such as detention ponds or sediment traps, vegetated swales, and constructed wetlands.
  - d. **Replacement of Nonconforming Accessory Structures in Residential Districts and Replacement of Nonconforming Structures in Non-Residential Zoning Districts and Outside Historic Districts.** Replacement of nonconforming structures located within or partially within the original building footprint, except those nonconforming primary structures exempted in subsection 18.3.11.050.A.3, provided replacement does not disturb additional surface area within the Water Resource Protection Zone.

**Conclusions of Law:** Based upon the findings in Section IV above and the evidence submitted with the application, the Planning Commission concludes as follows with respect to the above criteria:

- The construction of the proposed Independent Way crossing is deemed necessary by operation of the Comprehensive Plan. This connection is identified as a needed Neighborhood Commercial Collector Street in the TSP.
- The proposed relocated private crossing is a way of necessity to the southeast corner of that site and without the relocated crossing this portion of the site would be landlocked.
- Storm water treatment facilities associated with the private grading plan and the new City street are being coordinated so that they can all be installed as part of a coordinated project that will allow mitigation for the water resource protection zone impacts to be designed and completed in a single coordinated project. This project coordination will result in best management practices installation of these facilities.

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**Water Resources Protection Zone Criterion 5**

**B. Additional Limited Activities and Uses within Stream Bank Protection Zones.**

1. **Stream Restoration and Enhancement.** Restoration and enhancement projects resulting in a net gain in stream bank corridor functions unless otherwise exempted in subsection 18.3.11.050.B.2. Restoration and enhancement activities not otherwise associated with development involving



building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.

2. Driveway and Street Maintenance and Paving. Maintenance, paving, and reconstruction of existing public and private streets and driveways if work disturbs more total surface area than the area inside the street right-of-way or access easement and an additional five percent surface area of the street right-of-way or access easement outside of the right-of-way or easement. Public streets shall be located in public right-of-way or a public easement.
3. Public Facility Paving and Reconstruction. Paving and reconstruction of public parking areas and walkways if additional surface area in the Stream Bank Protection Zone is not disturbed, the public facilities are deemed necessary to maintain a functional system and upon finding that no other reasonable alternate location outside the Water Resource Protection Zone exists.
4. Public Utility Maintenance and Replacement. Routine maintenance and replacement of existing public utilities and irrigation pumps if work disturbs more total surface area than the area inside the public utility easement and an additional five percent surface area of the public utility easement outside of the public utility easement.
5. Erosion Control. Erosion control and stream bank stabilization measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers, or other state or federal regulatory agencies, and that utilize non-structural bio-engineering methods.
6. Storm Water Outfall. Construction of a storm water outfall discharging treated storm water from an adjacent developed area provided that the discharge meets local, state, and federal water quality regulations.
7. Bridges. The installation of a bridge or similar, bottomless crossing structure for the purpose of constructing a public or private street, bicycle or pedestrian crossing, as well as to provide a means of access to an otherwise inaccessible or landlocked property.
8. Flood Control Measures. Installation or expansion of structural flood control measures, including but not limited to concrete retaining walls, gabions, gravity blocks, etc., shall generally be prohibited, but approved only if demonstrated that less-invasive, non-structural methods will not adequately meet the stabilization or flood control needs.

**Conclusions of Law:** The Planning Commission concludes the application includes components for stream restoration and enhancement that will be required as part of mitigation planning. The Planning Commission concludes the application includes storm water outfalls at engineered locations to serve the new street and future development of the site. The Planning Commission further concludes that the application includes the construction of two stream crossings both of which will be bottomless crossing structures. The first will be to construct a new public street and the second will provide a means of access to an otherwise landlocked property.

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**Water Resources Protection Zone Criterion 6**

- D. Limited Activities and Uses Permit. All Limited Activities and Uses described in section 18.3.11.060 shall be subject to a Type I procedure in section 18.5.1.050. An application for a Limited Activities and Uses Permit shall be approved if the proposal meets all of the following criteria.

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1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.

**Conclusions of Law:** The Planning Commission concludes the Limited Activities and Uses permit concerns only Impact Area B and the crossing component of Impact Area E (and the associated riparian enhancement and storm drainage outfalls). As to location, the Planning Commission concludes the Independent Way design without parkrows for the stream crossings is designed keep this crossing away from the stream to the extent practicable. The Planning Commission concludes the private stream crossing is limited in terms of the ability for it to be located in any particular area. With respect to storm drainage outfalls and riparian enhancement, these are specific activities are designed by qualified professionals to be placed in appropriate locations.

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**Water Resources Protection Zone Criterion 7**

2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.

**Conclusions of Law:** The Planning Commission concludes the proposed stream crossings are essentially as narrow as they can be to meet minimum needs and the width of the crossing is what determines the amount of excavation, grading, and area of impervious surfaces and erosion. Overall, most of the vegetation is not native (Himalayan blackberries) but a few native trees will be impacted in the crossings.

\*\*\*\*\*

**Water Resources Protection Zone Criterion 8**

3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.

**Conclusions of Law:** The Planning Commission concludes that no excavation, grading, installation of impervious surfaces and removal of native vegetation will occur except where necessary to facilitate the stream crossings. The Planning Commission's conclusions herein incorporate and adopt the below conclusions of law with respect to the water resource protection zone reductions at Impact Areas C, D, and E and conclude that where reductions are approved there in section 3 above does not apply.

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**Water Resources Protection Zone Criterion 9**

4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.

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**Conclusions of Law:** The Planning Commission concludes that the same engineer who has prepared the floodplain analysis and the preliminary grading and utility plan is expected to prepare the final design and final floodplain analysis. The Planning Commission concludes that Thornton Engineering can feasibly and will prepare final designs that are located and constructed to avoid exposure to floodwaters and avoid accidental discharges into Hamilton Creek.

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**Water Resources Protection Zone Criterion 10**

- 5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18.3.11.110 Mitigation Requirements.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the mitigation plan prepared by CoveyPardee and concludes the implementation of the same is appropriately made a condition of approval.

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**Water Resources Protection Zone Criterion 111**

- 6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

**Conclusions of Law:** The Planning Commission concludes the management plan can feasibly and will be made a condition of approval.

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**Water Resources Protection Zone Criterion 12**

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**18.3.11.070 Water Resource Protection Zone Reductions**

A Water Resource Protection Zone may be reduced by up to 25 percent through a Type I procedure in 18.5.1.050, and by greater than 25 percent and up to 50 percent through a Type II procedure in section 18.5.1.060 if the proposal meets all of the following criteria.

- A. The proposed use or activity is designed to avoid intrusion into the Water Resource Protection Zone through the use of up to a 50 percent reduction of any dimensional standards (e.g., required front, side and rear yard setbacks; required distance between buildings) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under chapter 18.5.5 Variances. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in chapter 18.4.8 Solar Access.

**Conclusions of Law:** The Planning Commission concludes the E-1 district does not really have any specific dimensional standards to be “reduced”. Instead the Planning Commission concludes that in the E-1 zone, a design’s efforts to avoid the Water Resource Zone is a



subjective assessment based upon the overall site layout, use objectives, and other site constraints that affect the design. Consistent with these conclusions, the Planning Commission concludes that four specific reduction areas are requested each with their own unique design circumstances C, D, and E. Based upon the designs submitted with the application, the Planning Commission addresses each in turn based upon the following:

Impact Area C: This area is extremely small at less than 96 square feet. Horizontally, the maximum reduction request is less than 4 feet at its peak. The proposed design has a future parking and circulation area that runs parallel to Hamilton Creek. This circulation area is designed to be of adequate width to accommodate large truck circulation and one row of parking (probably angled). The eastern curblineline of this circulation area is setback several feet from the start of the WRPZ for approximately 85 percent of the length of the curblineline except in this one small location. The centerline of Hamilton Creek, which is really just a swale in this location as most of the flow is in a culvert, takes a jog to the west and then immediately jogs back to the east. This small jog creates a western peak in the WRPZ at this location. Considering the overall length of the curblineline and scale of this type of industrial project, the design makes a significant effort to avoid the WRPZ.

Impact Area D: This area is even smaller than Area C at less than 28 square feet. This area is requested to make a logical curblineline at this location that can tie into the existing development in a manner that creates some usable short-term large vehicle storage that will be defined from the new circulation area to the easternmost driveway on the project.

Impact Area E: The requested reduction in Impact Area E is a function of the site configuration. The remaining buildable area in this location is limited and it is a triangle shaped area. The reduction is the minimum necessary to have vehicle circulation on the other side of the crossing. There is not much else that can be done to design around the WRPZ in this location and still leave a buildable area in this portion of the site due to its landlocked condition.

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**Water Resources Protection Zone Criterion 13**

- B. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.
1. Multi-story construction shall be considered.
  2. Parking spaces shall be minimized to no more than that required as a minimum for the use.
  3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a porous solid surface paving material.

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4. Engineering solutions shall be used to minimize additional grading and/or fill.

**Conclusions of Law:** With respect to multi-story construction, the Planning Commission concludes that the project concept is for industrial buildings to serve warehousing and employment uses and that multi-story is not a practical option for this development type. With respect to parking spaces, the Planning Commission concludes the precise number of required spaces will not be known until uses for proposed buildings are known. However, the Planning Commission observes that the areas to be graded for future parking areas are not especially large; it is entirely possible the site will ultimately be parked at minimum ratios. With respect to pavement, no pavement is proposed at this time (except where necessary to establish curblines); future pavement can feasibly utilize a porous solid surface paving material where concrete curblines are not necessary. The Planning Commission concludes that reduction requests at Impact areas C, D, and E require minimal grading or fill and these will be engineered.

\*\*\*\*\*

**Water Resources Protection Zone Criterion 14**

- C. The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement, and mitigation measures. The structures, functions, and values of the Water Resource will be restored through the implementation of a restoration and enhancement strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in section 18.3.11.110 Mitigation Requirements.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the Mitigation Plan provided in Exhibit 13, and based upon the same, concludes that the existing condition of the Hamilton Creek WRPZ is over grown with non-native plants and the proposed restoration and enhancement will afford equal or better protection of the resource that is currently present at the site.

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**Water Resources Protection Zone Criterion 15**

- D. Long term conservation, management, and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

**Conclusions of Law:** The Planning Commission herewith incorporates and adopts the Mitigation Plan provided in Exhibit 13, and based upon the same, concludes that a management plan to implement the mitigation plan can feasibly and will be carried out as a condition of approval consistent with 18.3.11.110.C.

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**Water Resources Protection Zone Criterion 16**

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**18.3.11.090 Approval Standards for Land Divisions and Property Line Adjustments**

Planning actions and procedures containing Water Resource Protection Zones and involving the division of land or property line adjustments shall comply with the following provisions and shall include the plan requirements in subsection 18.3.11.100.A.3.

- A. Building Envelope Established. Each lot shall contain a building envelope outside the Water Resource Protection Zone of sufficient size to permit the establishment of the use and associated accessory uses.

**Conclusions of Law:** The Planning Commission concludes the proposed Site Grading and Utility plan will establish curblines at the reduction request locations and the portions of the parcels west of these curblines will function as building envelopes.

\* \* \* \* \*

***Water Resources Protection Zone Criterion 17***

- B. Conservation Area. Performance Standards Option Subdivision, Subdivision, Partition, and Site Design Review applications shall include the Water Resource Protection Zone within a conservation easement or recorded development restriction, which stipulates that the use or activity within the Water Resource Protection Zone shall be consistent with the provisions of this chapter. The approval authority may require that the Water Resource Protection Zone be included in a separate tract of land managed by a homeowners' association or other common ownership entity responsible for preservation.

**Conclusions of Law:** The Planning Commission concludes that a conservation easement currently exists, but its spatial extent would be slightly modified by the proposed water resource protection zone reductions but the content and function of the easement would remain.

\* \* \* \* \*

***Water Resources Protection Zone Criterion 18***

- C. Density Transfer. Density calculated from the land area contained within the Water Resource Protection Zone may be transferred to lands outside the Water Resource Protection Zone provided the following standards are met.
  1. Partitions and subdivisions involving density transfer shall be processed under chapter 18.3.9 Performance Standards Option Overlay.
  2. A map shall be submitted showing the land area not within the Water Resource Protection Zone to which the density will be transferred.
  3. The Water Resource Protection Zone shall be included in a separate preservation tract to be managed by a homeowner's association or other common ownership entity responsible for management of the area.
  4. Density may only be transferred within the subject property or to a lot or lots contiguous to the subject property and within the same ownership.
  5. The density transferred to lands not within the Water Resource Protection Zone may not be increased to more than the base density of the underlying zoning district. Fractional units are to be rounded down to the nearest whole number.

**Conclusions of Law:** The Planning Commission concludes that the project is an industrial employment project and is not affected by residential density transfer matters.

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**Water Resources Protection Zone Criterion 19**

- D. **Management Plan.** Long term conservation, management, and maintenance of the Water Resource Protection Zone consistent with the requirements of this chapter shall be ensured through preparation and recordation of a management plan as described in subsection 18.3.11.110.C.

**Conclusions of Law:** The Planning Commission concludes that a conservation easement currently exists, but its spatial extent would be slightly modified by the proposed water resource protection zone reductions but the content and function of the easement would remain.

\* \* \* \* \*

**Water Resources Protection Zone Criterion 20**

- E. **Mitigation Requirements.** The approval authority may require a mitigation plan in accordance with the requirements of section 18.3.11.110 Mitigation Requirements to mitigate impacts resulting from land divisions.

**Conclusions of Law:** The Planning Commission concludes that a mitigation plan is appropriate and required and the same has been prepared by a qualified landscape architect CoveyPardee, see Exhibit 13. The Planning Commission concludes this mitigation plan can feasibly and will be implemented through a condition of approval.

\* \* \* \* \*

**Water Resources Protection Zone Criterion 21**

- F. **Exemptions for a Public Purpose.** An exemption to the requirements described above shall be granted for lots created for public park purposes, or privately-owned tracts created for the sole purpose of conserving in perpetuity the natural functions and values of the lands contained within the Water Resource Protection Zone.)

**Conclusions of Law:** The Planning Commission concludes the reduction requests made herein are not subject to any of the above exemptions.

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**Water Resources Protection Zone Criterion 22**

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**18.3.11.100 Application Submission Requirements**

- A. **Required Plans and Information.** The following plans and information shall be submitted with the application for activities and uses in a Water Resource Protection Zone which are required to be processed under a Type I or Type II procedure in chapter 18.5.1 including Limited Activities and Uses, Water Resource Protection Zone Reductions and Hardship Exceptions.
  - 1. A narrative description of all proposed activities and uses including the extent to which any Water Resource Protection Zone is proposed to be altered or affected as a result of the proposed development activity or use (in terms both of square footage of surface disturbance and cubic yards of overall disturbance).



2. Written findings of fact addressing all applicable development standards and approval criteria.
3. Site development plan map, drawn to scale. The application shall include a site map of the subject property prepared by a licensed surveyor, civil engineer, or other design professional that includes the information described below. The Staff Advisor may request additional information based upon the character of the site or the specific nature of the proposal.
  - a. All watercourses identified (including any drainage ways, ponds, etc).
  - b. Surveyed location of the Water Resource Protection Zone, as described in section 18.3.11.040 Establishment of Water Resource Protection Zones. For applications involving single-family residences or Limited Activities and Uses, in lieu of a surveyed location, the Staff Advisor may approve a field determination of the Water Resource Protection Zone by the Staff Advisor or his/her designee in which the applicant shall be required to stake the top-of-bank or the upland-wetland edge and the boundary of the Water Resource Protection Zone.
  - c. For activities and use proposed within a Stream Bank Protection Zone: identification of the stream as being either fish-bearing or non-fish-bearing; identification of the top-of-bank or center line as required; and surveyed location of the stream's floodway and floodplain, if applicable.
  - d. For activities and uses proposed within a Wetland Protection Zone: a wetland delineation (with an accompanying site map) prepared by a natural resource professional and that has been concurred with by the Oregon Department of State Lands (DSL); and an aerial photo with the wetland boundaries identified.
  - e. Topographic information at two foot contour increments identifying both existing grades and proposed grade changes.
  - f. Surveyed locations of all trees six inches in diameter at breast height (DBH) or greater located in the Water Resource Protection Zone and within 15 feet of the Water Resource Protection Zone, identified by edge of canopy, DBH, and species;
  - g. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.
  - h. Location of existing and proposed development, including all existing and proposed structures, any areas of fill or excavation, stream or wetland crossings, alterations to vegetation, or other alterations to the site's natural state.
  - i. The location of natural features, proposed and existing structures, and other proposed and existing improvements associated with lands within 100 feet of the Water Resource Protection Zone.
  - j. Proposed and existing land uses within 100 feet of the Water Resource Protection Zone.
  - k. The location of temporary fencing and erosion control measures installed to prevent encroachment and flow of material into the Water Resource Protection Zone, such as sediment fencing and hay bales, etc.
  - l. North arrow and scale.
  - m. Sources of information (federal, state, and local).
4. Mitigation Plan prepared in accordance with the requirements described in section 18.3.11.110 Mitigation Requirements.
5. Management Plan prepared in accordance with the requirements described in subsection 18.3.11.110.C., except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

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**Conclusions of Law:** The Planning Commission concludes plans were prepared by qualified professionals and include information adequate to render a decision on the subject Application. With respect to the Management Plan preparation, the Planning Commission concludes this can feasibly and is appropriately made a condition of approval because the plan preparation is contingent on approval or denial of key aspects of this application which cannot be known *a priori* in advance of the land use process.

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**Water Resources Protection Zone Criterion 23**

- B. Building Permits and Development Activities. When approval of a planning action is not required, other permit applications for the construction of structures or other development activities on properties containing Water Resource Protection Zones shall be reviewed by the Staff Advisor to ensure that Water Resource Protection Zones are accurately identified on a site plan and that Limited Activities and Uses or other site disturbances will not be conducted within the Water Resource Protection Zone. Temporary fencing and erosion control measures may be required to be installed to prevent encroachment and flow of material or other debris into the Water Resource Protection Zone and to otherwise prevent impacts to the Water Resource Protection Zone by clearly identifying its boundaries. When required, these measures shall be installed and site-verified by the Staff Advisor before any permits are issued and prior to the commencement of excavation, grading, site clearing, construction, or similar site work resulting in changes to the land.

**Conclusions of Law:** The Planning Commission concludes this review is part of a planning action and this standard does not apply.

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**Water Resources Protection Zone Criterion 24**

- C. Required Information Waived – Determination. Applications under this chapter involving properties containing a Water Resource Protection Zone shall accurately indicate the locations of these features and all other information as described and required above. The Staff Advisor may waive one or more of the required elements of the site development plan map in subsection 18.3.11.100.A.3 if evidence is provided conclusively demonstrating that proposed excavation, grading, site clearing, construction, or similar actions resulting in changes to the property are not located within the boundaries of the Water Resource Protection Zone.

**Conclusions of Law:** The Planning Commission concludes the Applicant is not requesting required information be waived.

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**Water Resources Protection Zone Criterion 25**

**18.3.11.110 Mitigation Requirements for Water Resource Protection Zones**

- A. Vegetation Preservation and Construction Staging. The following standards shall be addressed in mitigation plans to protect vegetation identified for preservation and water resources from sedimentation when construction activity is proposed within a Water Resources Protection Zone.
  - 1. Work areas on the immediate site shall be identified and marked to reduce damage to trees and vegetation. Temporary construction fencing shall be placed at the drip line of trees bordering the

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work area. No equipment maneuvering, staging, or stockpiling shall occur outside of designated work areas.

2. Trees shall not be used as anchors for stabilizing equipment.
3. Stockpiling of soil or soil mixed with vegetation, shall not be permitted in Water Resource Protection Areas on a permanent basis. Temporary storage shall employ erosion control measures to ensure sediments are not transported to adjacent surface waters.
4. Temporary erosion control measures shall be installed to prevent encroachment and flow of runoff, material, or other debris into the Water Resource. These measures shall be installed prior to the commencement of excavation, grading, site clearing, construction, or similar site work resulting in changes to the land. Access roads, staging areas, storage areas, and other areas of temporary disturbance necessary to complete the proposed activity shall be restored as soon as possible, but not more than 90 days after authorized land disturbance. Erosion control measures shall be in place concurrently with construction or establishment of the proposed activity. Temporary measures used for initial erosion control shall not be left in place permanently.

**Conclusions of Law:** The Planning Commission concludes the above requirements can feasibly be implemented at the time of construction and detailed plans explaining how this will be done can and will be provided as part of the final grading plan permit request and/or as part of the City's street construction design process.

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***Water Resources Protection Zone Criterion 26***

B. Options for Satisfying Restoration and Enhancement Requirements in Mitigation Plans. Mitigation plans are required to meet the standards in either the prescriptive option or alternative option as follows.

1. Prescriptive Option. The mitigation plan shall meet the following standards.
  - a. Re-Planting Timeline. Re-planting shall occur within 90 days of authorized land disturbance.
  - b. Restoration Area Ratio. Disturbed areas shall be re-planted and an additional area restored, re-planted and enhanced at a one square foot to one and a half square feet (1:1.5) ratio (e.g., if 100 square feet of surface area is disturbed, 150 square feet shall be restored, re- planted and enhanced).
  - c. Local Native Plant Species Coverage. The Stream Bank Protection Zone shall be a minimum of 50 percent plant coverage in local native plant species with the installation of new trees only to consist of native trees as illustrated in Figure 18.3.11.110.B.1.c.i, Figure 18.3.11.110.B.1.c.ii, and Figure 18.3.11.110.B.1.c.iii. The Wetland Protection Zone shall be 100 percent plant coverage in local native plant species and in accordance with local, state, and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City's Local Native Plant Species List. The use of noxious and invasive plants on the City's Prohibited Plant List in Water Resource protection Zones is prohibited.
  - d. Re-Planting Priorities.
    - i. Priority shall be given to removal of noxious and invasive vegetation and planting of local native plant species.
    - ii. Plant materials shall be located in such a manner as to maximize enhancement and restoration of the Water Resource Protection Zone, with particular emphasis on temperature reduction of watercourses, erosion control, bank stabilization, and wildlife habitat enhancement.

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- ii. Nearby riparian plant communities should be used as a guide for developing a re-vegetation plan.
- e. Shrub and Tree Requirements. Re-planting shall include shrubs and tree canopy layers in accordance with the following coverage and spacing requirements.
  - i. Shrubs shall be planted and maintained to provide a minimum of 50 percent total coverage of the restored area within a five year period. The minimum planting size shall be one gallon. Restoration areas that have existing vegetated under-story consisting of healthy riparian shrubs that covers at least 50 percent of the restoration area are considered compliant with the restoration standards for under-story plantings.
  - ii. Canopy trees shall be planted at 20-foot intervals. The minimum planting size shall be one inch caliper. All new trees shall be staked and protected by deer/rodent-proof fencing. Restoration areas that have an existing vegetated tree canopy consisting of healthy trees at least four inches DBH and at an average spacing of 20 feet on-center are considered compliant with the restoration standards for trees.
- f. Erosion Control. Erosion control material such as mulch, hay, jute-netting, or comparable material shall be applied to protect disturbed, re-planted areas. Disturbed areas shall be replanted so that landscaping shall obtain 50 percent coverage after one year and 90 percent coverage after five years.
- g. Irrigation. New plantings shall be irrigated for a period of five years to ensure establishment.
- h. Performance. Local native plant species that do not survive the first two years after planting shall be replaced.
- i. Landscape and Irrigation Plans. A mitigation plan shall include landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of plants, timing of plantings, plant spacing and installation methods. The landscape plan shall address the plant coverage by local native plant species after five years.

**Conclusions of Law:** The Planning Commission concludes that the CoveyPardee mitigation plan uses the prescriptive option at the required ratios and has considered all the above factors in developing plan. Final landscape plan submittal can feasibly finalize any remaining details described in this code section after the overall concept has been approved by the Planning Commission.

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**Water Resources Protection Zone Criterion 27**

- 2. Alternative Option. The mitigation plan shall address the following requirements, and shall meet or exceed the standards in the prescription option in subsection 18.3.11.110.B.1.
  - a. Assessment of Water Resource Protection Zone Structures, Functions, and Values. A mitigation plan shall include an assessment of the structures, functions, and values (i.e., water quality, flood control, habitat, etc.) that will be adversely impacted by the proposed alterations of the Water Resource Protection Zone and a clear explanation of how these impacts are to be mitigated.
  - b. Objectives and Standards of Mitigation. A mitigation plan shall state specific plan objectives and establish clear and measurable standards for determining if stated objectives have been accomplished. For example, the objective might be to restore or enhance the shade canopy within a Stream Bank Protection Zone to benefit fish and reduce water temperature, while the standard might be a certain percentage of shade canopy coverage at the end of one year and 100 percent shade canopy coverage after three years.

- c. **Mitigation Site/Grading Plan.** A statement and detailed plan of the location, elevation, and hydrology of the mitigation area, including a grading plan at two foot contour intervals. For applications involving Wetland Protection Zones, the application shall demonstrate that plants have adequate access to site hydrology. For applications involving Stream Bank Protection Zones, the grading plan shall identify newly planted areas and include slope stabilizing measures to prevent erosion, ensure vegetative coverage, and limit plant mortality.
- d. **Landscape Plan.** The Stream Bank Protection Zone shall be a minimum of 50 percent plant coverage in local native plant species with the installation of new trees only to consist of native trees (see Figures 8, 9, and 10). The Wetland Protection Zone shall be 100 percent plant coverage in local native plant species and in accordance with local, state, and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City's Local Native Plant Species List. The use of noxious and invasive plants on the City's Prohibited Plant List in Water Resource Protection Zones is prohibited. The landscape plan shall address the plant coverage by local native plant species after five years, and shall be size and species-specific, with details addressing the timing of plantings, proposed plant placement, and plant spacing.
- e. **Plan Preparation.** The Staff Advisor may require the mitigation plan to be prepared by a natural resource professional.

**Conclusions of Law:** The Planning Commission concludes the application does not propose the Alternative Option.

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**Water Resources Protection Zone Criterion 28**

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- C. **Management Plan.** The applicant shall implement a management plan for the Water Resource Protection Zone and resource areas under the applicant's ownership or control, including the areas restored and enhanced to assure long term conservation and maintenance. The management plan shall detail proposed monitoring and maintenance, and shall include a schedule delineating how completed projects will be monitored and reported to the Staff Advisor. The management plan shall contain the following requirements.
  - 1. The approved mitigation plan.
  - 2. Identification of Water Resources and Water Resource Protection Zone management practices to be conducted and proposed intervals.
  - 3. The following statements.
    - a. "There shall be no alteration of the Water Resource Protection Zones as delineated and shown on the attached plan." (attach reduced plan)
    - b. "There shall be no alteration of the size, shape, or design of an approved Water Resource Protection Zone without prior approval by the City of Ashland".
    - c. "There shall be no amendment or change to this Management Plan without prior approval of the City of Ashland".
  - 4. Provisions for the ongoing removal and management of noxious or invasive vegetation and debris.
  - 5. Provisions for the protection of protected plant and animal species in accordance with recommendations from applicable state and federal agencies.
  - 6. Specific provisions for city enforcement of the management plan.
  - 7. Any additional measures deemed necessary to protect and maintain the structures, functions and values of the Water Resource Protection Zone (e.g., signage delineating preservation boundaries).
  - 8. Provisions for the perpetual protection and maintenance of the Water Resource and Water Resource Protection Zone including but not limited to the following:
    - a. Recordation of a conservation easement or Conditions, Covenants, and Restrictions (CC&Rs) which prescribe the conditions and restrictions set forth in the approved planning application,



- development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
- b. Transfer of the ownership and maintenance responsibilities for the area to a willing public agency, non-profit association, or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
- c. Other mechanisms addressing long-term protection, maintenance, and mitigation consistent with the purposes and requirements of this ordinance as deemed appropriate and acceptable by the approval authority.

**Conclusions of Law:** With respect to the Management Plan preparation, the Planning Commission concludes this can feasibly and is appropriately made a condition of approval because the plan preparation is contingent on approval or denial of key aspects of this application which cannot be known *a priori* in advance of the land use process.

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**Tree Removal Criterion 1**

**Chapter 18.5.7 – Tree Removal Permits Sections:**

**18.5.7.020 Applicability and Review Procedure**

All tree removal and topping activities shall be carried out in accordance with the requirements of this chapter and as applicable, the provisions of part 18.3 Special Districts and Overlay Zones, and chapter

**Conclusions of Law:** Based upon the other conclusions of law addressing tree removal and new trees to be added as part of the project, the Planning Commission concludes the project complies with the requirements of this chapter and applicable overlay provisions in part 18.3.

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**Tree Removal Criterion 2**

**18.4.4 Landscaping, Lighting, and Screening.**

If tree removal is part of another planning action involving development activities, the tree removal if timely filed, shall be processed concurrently with the other planning action. Applications for Tree Removal Permits are reviewed as follows.

- A. Ministerial Action. The following Tree Removal Permits are subject to the Ministerial procedure in section 18.5.1.040.
  - 1. Emergency Tree Removal Permit.
- B. Type I Reviews. The following Tree Removal Permits are subject to the Type I review in section 18.5.1.050. This section applies to removal of trees that are a hazard or are not a hazard.
  - 1. Removal of trees greater than six-inches DBH on private lands zoned C-I, E-I, M-I, CM, or HC.
  - 2. Removal of trees greater than six-inches DBH on lots zoned R-2, R-3, and R-1-3.5 that are not occupied solely by a single family detached dwelling.
  - 3. Removal of significant trees, as defined in part 18.6, on vacant property zoned for residential purposes including but not limited to R-I, RR, WR, and NM zones.

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4. Removal of significant trees as defined in part 18.6, on lands zoned SOU, on lands under the control of the Ashland School District, or on lands under the control of the City.
5. Tree Topping Permit.

**Conclusions of Law:** The Planning Commission concludes the Type I review procedures applies because the Applicant proposes to remove trees greater than six-inches DBH on private lands zoned E-1.

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**Tree Removal Criterion 3**

- C. Exempt From Tree Removal Permit. The following activities are exempt from the requirement for a tree removal permit in 18.5-7.020.A, subsections A. and B, above.
1. Those activities associated with the establishment or alteration of any public park under the Ashland Parks and Recreation Commission. However, the Parks and Recreation Department shall provide an annual plan in January to the Tree Commission outlining proposed tree removal and topping activities, and reporting on tree removal and topping activities that were carried out in the previous year.
  2. Removal of trees in single family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  3. Removal of trees in multi-family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  4. Removal of trees less than six-inches DBH in any zone, excluding those trees located within the public right of way or required as conditions of approval with landscape improvements for planning actions.
  5. Removal of trees less than 18 inches DBH on any public school lands, Southern Oregon University, and other public land, excluding Heritage trees.
  6. Removal of trees within the Wildfire Lands area of the City, as defined on adopted maps, for the purposes of wildfire fuel management, and in accord with the requirements of chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  7. Removal of dead trees.
  8. Those activities associated with tree trimming for safety reasons, as mandated by the Oregon Public Utilities Commission, by the City's Electric and Telecommunication Utility. However, the Utility shall provide an annual plan to the Tree Commission outlining tree trimming activities and reporting on tree trimming activities that were carried out in the previous year. Tree trimming shall be done, at a minimum, by a Journeyman Tree Trimmer, as defined by the Utility, and will be done in conformance and to comply with OPUC regulations.
  9. Removal of street trees within the public right-of-way subject to street tree removal permits in AMC 13.16.

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**Conclusions of Law:** The Planning Commission concludes that once the proposed Independent Way has been acquired by the City of Ashland it will become right of way and then removal of trees in that area would be subject to exemption 9. However, in an abundance of caution, the City of Ashland concludes the submitted land use application



addresses all proposed tree removals including those within the proposed right-of-way. All other tree removals require a permit.

\* \* \* \* \*

**Tree Removal Criterion 4**

D, Other Requirements.

1. Flood Plain, Hillside, and Wildfire. Tree removal in the Physical and Environmental Constraints Overlay (i.e., areas identified as Flood Plain Corridor Land, Hillside Lands, Wildfire Lands and Severe Constraint Lands) must also comply with the provisions of chapter 18.3.10 Physical and Environmental Constraints Overlay.
2. Water Resources. Tree removal in regulated riparian areas and wetlands must also comply with the provisions of chapter 18.3.11 Water Resources Protection Zones.

**Conclusions of Law:** The Planning Commission concludes that concurrent applications have been submitted for Flood Plain Review and Water Resource Protection Zones consistent with these other requirements, as applicable.

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**Tree Removal Criterion 5**

**18.5.7.030 Application Submission Requirements**

An application for a Tree Removal Permit shall be submitted by the owner of the subject property or authorized agent on a form prescribed by the City and accompanied by the required filing fee. The application shall include a plan or drawing meeting the requirements below.

- A. General Submission Requirements. Information required for a Ministerial or Type I review, as applicable (see sections 18.5.1.040 and 18.5.1.050.), including but not limited to a written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards.
- B. Plan Submittal. An application for all Tree Removal Permits shall include the following.
  1. Plans drawn to scale containing the number, size, species, and location of the trees proposed to be removed or topped on a site plan of the property.
  2. The anticipated date of removal or topping.
  3. A statement of the reason for removal or topping. If a prior planning approval requires that the subject tree(s) be preserved, a modification request, pursuant to chapter 18.5.6, may also be required.
  4. Information concerning proposed landscaping or planting of new trees to replace the trees to be removed.
  5. Evidence that the trees proposed for removal or topping have been clearly identified on the property for visual inspection.
  6. A Tree Protection Plan that includes trees located on the subject site that are not proposed for removal, and any off-site trees where drip lines extend into proposed landscaped areas on the subject site. Such plans shall conform to the protection requirements under section 18.4.5.030.
  7. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.
  8. Any other information reasonably required by the City.

**Conclusions of Law:** The Planning Commission concludes that the Applicant hired Polaris Surveying to prepare an accurate Topo base map and this map was analyzed and enhanced by the landscape architects on the project – CoveyPardee.



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**Tree Removal Criterion 6**

**18.5.7.040 Approval Criteria**

- A. Emergency Tree Removal Permit. An Emergency Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
  - 1. If the condition of a tree presents an immediate danger of collapse, as defined in part 18.6, and represents a clear and present hazard to persons or property, an emergency tree removal permit may be issued and the payment of a fee may be waived. The Staff Advisor may require the applicant to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse.

**Conclusions of Law:** The Planning Commission concludes the applicant is not seeking an Emergency Tree Removal Permit.

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**Tree Removal Criterion 7**

- B. Tree Removal Permit.
  - 1. Hazard Tree. A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
    - a. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part 18.6.
    - b. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.

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**Conclusions of Law:** The Planning Commission concludes the analysis by CoveyPardee did not identify any trees that they classified as a hazard tree.

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**Tree Removal Criterion 8**

- 2. Tree That is Not a Hazard. A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.
  - a. The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.3.10.
  - b. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.



- c. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.
- d. Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.
- e. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.

**Conclusions of Law:** The Planning Commission concludes as follows with respect to these criteria:

1. The project proposes to create a new City street identified as a necessary street connection in the City's TSP and the project also proposes rough grading to prepare the IPCO Development portions of the site to support future development consistent with the E-1 zone and any future site development plan reviews would require new site landscaping be installed at appropriate locations.
2. CoveyPardee expressed their expert opinion in Exhibit 14, that the removal of identified trees will not result in a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees or existing windbreaks.
3. CoveyPardee expressed their expert opinion in Exhibit 14, that the removal of identified trees will not result in a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property.
4. The Planning Commission concludes that the project is not a residential project.
5. Based upon the findings in Section IV, the Planning Commission concludes the project will result in a net increase of approximately 17-19 trees (depending on the parking bay alternative approved by the Planning Commission) immediately at the time of development and that additional trees will be added as the site builds out.

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**Tree Removal Criterion 9**

**18.5.7.050 Mitigation Required**

One or more of the following shall satisfy the mitigation requirement.

- A. Replanting On-Site. The applicant shall plant either a minimum 1 ½-inch caliper healthy and well-branched deciduous tree or a five to six-foot tall evergreen tree for each tree removed. The replanted tree shall be of a species that will eventually equal or exceed the removed tree in size if appropriate for the new location. Larger trees may be required where the mitigation is intended, in part, to replace a visual screen between land uses. Suitable species means the tree's growth habits and environmental requirements are conducive to the site, given existing topography, soils, other vegetation, exposure to

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wind and sun, nearby structures, overhead wires, etc. The tree shall be planted and maintained per the specifications of the Recommended Street Tree Guide.

**Conclusions of Law:** The Planning Commission concludes the proposed replantings have been designed by a landscape architect for appropriate variety based upon the location of proposed planting; the required tree size is a matter of code standard and the plantings will be required to meet this standard.

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**Tree Removal Criterion 10**

- B. Replanting Off-Site. If in the City's determination there is insufficient available space on the subject property, the replanting required in section 18.5.7.050.A, above, shall occur on other property in the applicant's ownership or control within the City, in an open space tract that is part of the same subdivision, or in a City owned or dedicated open space or park. Such mitigation planting is subject to the approval of the authorized property owners. If planting on City owned or dedicated property, the City may specify the species and size of the tree. Nothing in this section shall be construed as an obligation of the City to allow trees to be planted on City owned or dedicated property.

**Conclusions of Law:** The Planning Commission concludes that replanting is proposed onsite.

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**Tree Removal Criterion 11**

- C. Payment In-Lieu of Planting. If in the City's determination no feasible alternative exists to plant the required mitigation, the applicant shall pay into the tree account an amount as established by resolution of the City Council.

**Conclusions of Law:** The Planning Commission concludes the Applicant is not proposing payment in-lieu of planting.

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**Tree Removal Criterion 12**

- D. Mitigation Plan. An approved mitigation plan shall be fully implemented within one year of a tree being removed unless otherwise set forth in a tree removal application and approved in the tree removal permits.

**Conclusions of Law:** The Planning Commission concludes that the project involves coordination of public and private work and it includes a stream crossing that may require state and federal permitting. The Planning Commission recognizes that these types of state and federal permitting can cause construction project to take more than one year and that replanting mitigation may not be practical within one year. For these reasons, the Planning Commission will provide two years for full implementation (not counting any additional survival requirements prescribed in the Water Resources Protection Zone).

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**Tree Removal Criterion 13**

**18.5.7.060 Conditions of Approval for Tree Removal Permits**

The City may impose conditions of approval on any Tree Removal Permit if the condition is reasonably related to preventing, eliminating, or mitigating a negative impact or potential negative impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal. Conditions of approval may include, but are not limited to the following.

- A. Requiring modifications in the location, design, or intensity of a development or activities on a site or to require or prohibit certain construction methods. Modifications may result in a decrease in size of residential or commercial structures, but modifications shall not reduce the density of residential development below the permitted density allowed by the zone.
- B. Requiring vegetation not requiring a tree removal permit to remain in place or be planted.
- C. Requiring the removal of injurious or noxious vegetation (such as English Ivy) from other trees on the property.

**Conclusions of Law:** The Planning Commission concludes that no additional special conditions are required or warranted in this instance.

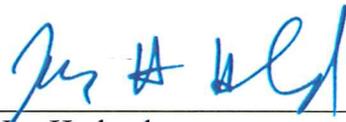
**VI**

**ULTIMATE CONCLUSIONS**

Based upon the foregoing findings of fact and conclusions of law, the Planning Commission herewith concludes the Application satisfies all the relevant substantive criteria of the City of Ashland. On this basis, the Application is herewith approved.

Respectfully submitted on behalf of applicant:

CSA PLANNING, LTD.



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Jay Harland  
Consulting Planner

**Dated May 27, 2015**