

Council Business Meeting

June 2, 2020

Agenda Item	Request for a Water Service Connection Use Outside of City Limits at 1193 Ashland Mine Road	
From	Scott Fleury, PE	Interim Public Works Director
Contact	Scott.fleury@ashland.or.us ; (541) 552-2412	

SUMMARY

Before the Council is a request to approve the use from an existing water service connection outside of city limits but within the Urban Growth Boundary (UGB) for the residential property located at 1193 Ashland Mine Road. Requirements for a water service connection outside of city limits, and within the UGB are detailed in Ashland Municipal Code 14.04.060.

POLICIES, PLANS & GOALS SUPPORTED

City Council Goals:

- Maintain Essential Services – Water

Department Goals:

- Maintain existing infrastructure to meet regulatory requirements and minimize life-cycle costs
- Deliver timely life cycle capital improvement projects
- Maintain and improve infrastructure that enhances the economic vitality of the community
- Evaluate all city infrastructure regarding planning management and financial resources

PREVIOUS COUNCIL ACTION

The Council has previously approved water service connections outside city limits and within the UGB.

BACKGROUND AND ADDITIONAL INFORMATION

Public Works staff was alerted that the property at 1193 Ashland Mine Road was using water both inside and outside city limits. The property itself is split by the city limits line, but fully contained within the UGB. The property is a 1.9-acre parcel with a 1,068 square foot house built in 1900 along with a barn/shop with a 500 square foot living space original built in 1930, but recently remodeled under approved permits through Jackson County. The barn/shop and living space are outside of the city limits and use the same water service that supplies the house. The house itself is within city limits and has been on a city water service preceding current record (1999). The water service provided has also historically been used on the property for the barn/shop and associated landscaping. Staff contacted the property owner to inform them that unless authorized by Council water is not allowed to be served outside of city limits. Since the service is supplying potable water to a living space, the property owner requested staff process the request through City Council for approval to continue to use potable water to support the living space.

In order to formally allow the water service to continue serving the current 500 square foot living space, staff is asking Council to approve the service for use outside of city limits but within the UGB as allowed by ordinance. The property owner is willing to sign and record the consent to annexation, the consent not to subdivide for the portion of property outside of city limits and pay the appropriate System Development Charges (SDCs) for the 500 square foot living space.

Ashland Municipal Code 14.04.060:

A. Except as provided herein, no premises located outside the City of Ashland may be connected to the City water system or make use of water obtained through a direct or indirect connection to the City water system.

B. Premises outside the City may be connected to the City water system only as follows:

1. Connections authorized by the Council prior to June 18, 1997.
2. Connections authorized by the Council for City or other governmental facilities.
3. Connections authorized by resolution of the Council where the Council finds:
 - i. The connection is determined, at the Council's discretion, to be in the best interest of the City of Ashland and to not be detrimental to the City's water facilities or resources.
 - ii. The applicant secures, in writing, a statement from the Environmental Health Division, Health Department, Jackson County, Oregon, that the existing water system for the premises has failed.
 - iii. The failed water system cannot feasibly be repaired or improved and there is no other feasible source of water for the premises.
 - iv. An Ashland water main or line exists within 100 feet of the premises.
 - v. The connection is to premises within the City's urban growth boundary.

C. Connections authorized under subsection B.3 above shall be made only after all the criteria in subsection B.3 and the following conditions have been met:

1. The applicant for water service pays the water connection fee for connections outside the City and the systems development charges established by the City.
2. In the event dwellings or buildings connected to the water system are subsequently replaced for any reason, then the replacement building or dwelling may continue to be connected to the water system of the City as long as the use of the water system will not be increased as determined by the Director of Public Works.
3. The applicant furnish to the City a consent to the annexation of the premises and a deed restriction preventing the partitioning or subdivision of the land prior to annexation to the City, signed by the owners of record and notarized so that it may be recorded by the City and binding on future owners of the premises. The cost of recording the deed restriction shall be paid by the property owner.
4. The property owner shall execute a contract with the City of Ashland which provides for: payment of all charges connected with the provision of water service to the property; compliance with all ordinances of the City related to water service and use; termination of service for failure to comply with such ordinances and that failure to pay for charges when due shall automatically become a lien upon the property. A memorandum of the contract shall be recorded in the county deed records with the cost of recording to be paid by the property owner.

D. The requirements of this section are in addition to, and not in lieu of, land use approvals and authorizations necessary for extraterritorial extension of water service required by Oregon law.

E. Any person who violates any provision of this chapter shall be punished as set forth in AMC 1.08.020 in addition to other legal and equitable remedies available to the City of Ashland, including restriction or termination of service.

FISCAL IMPACTS

The only resource is staff time expended to bring forth the request to the City Council. The property owner will be required to pay the recording fees associated with the consent to annexation; consent not to subdivide; pay the appropriate system development charge (SDC) and the monthly water bill charges.

The SDC fee for residential is calculated on a square foot basis for livable space (\$2.6069/square foot). The residential unit is 500 square feet in total. The total SDC is calculated to be 500 square feet x \$2.6069/square foot = \$1,303.45.

STAFF RECOMMENDATION

Staff recommends approval of the water service connection for 1193 Ashland Mine Road as the property owner has or will met all conditions specified in AMC 14.08.031.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

I move to approve a water service connection for use outside of city limits for 1193 Ashland Mine Road.

I move to deny a water service connection for use outside of city limits for 1193 Ashland Mine Road.

REFERENCES & ATTACHMENTS

Attachment 1: Consent to Annexation

Attachment 2: Consent not to Subdivide

CITY OF ASHLAND
IRREVOCABLE CONSENT TO ANNEXATION

The undersigned, referred to in this document as "Owner" whether singular or plural, owns or is the purchaser under a recorded land sale contract of real property in Jackson County, Oregon, described below and referred to in this document as "the property":

See attached Exhibit "A" [the current description of the entire parcel, including both the portion inside the City limits and the portion outside].

In consideration of the City of Ashland permitting the connection of Owner's building water system from the building on the portion of the Property currently outside the City to the water system of the City of Ashland, Owner declares and agrees that the portion of the Property currently outside the City shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions which shall constitute covenants running with the land and shall be binding on all parties their heirs, successors, and assigns, having any right, title, or interest in said property currently outside the City or any part thereof:

Whenever a proposal to annex the portion of the Property currently outside the City is initiated by the City of Ashland or otherwise, Owner shall submit to the City a professional land survey providing a legal description of the demarcation line between the portion of the Property currently inside the City and the portion of the Property currently outside the City which legal description shall be consistent with the depiction of that demarcation line in attached Exhibits B and C and shall seek City approval of a land division of the Property pursuant to said legal description. Further, as a prerequisite for any approval of such land division, Owner shall consent and does consent to the annexation to the City of Ashland of the portion of the property currently outside the City boundary. Owner agrees this consent to annexation is irrevocable.

Dated this _____ day of _____, 2020.

Signature: _____
Alan Cook

State of Oregon)
) ss:
County of Jackson)

Personally, appeared the above named Alan Cook and acknowledged the foregoing instrument to be his voluntary act and deed.

Notary Public for Oregon
My Commission expires: _____

Exhibit A

LEGAL DESCRIPTION: Real property in the County of Jackson, State of Oregon, described as follows:

Beginning at a point 16.69 chains East and .30 chains North of the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 5, in Township 39 South, Range 1 East of the Willamette Meridian, in Jackson County, Oregon; thence East 2.43 chains; thence North 54° East 9.55 chains; thence North 70°45' West 7.645 chains; thence South 19°15' West 8.56 chains to the place of beginning.

EXCEPTING THEREFROM:

Lots 1, 2, and 3 of "Victoria Subdivision Unit No. 1" to the City of Ashland, Jackson County, Oregon, according to the official plat thereof, now of record.

EXCEPTING THEREFROM:

Commencing at a point 16.69 chains East, and 0.30 chains North, of the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 5, Township 39 South, Range 1 East, Willamette Meridian, Jackson County, Oregon; thence North 19°15' East, 8.56 chains, to the Southerly line of the Ashland Mine Road; thence along said road, South 70°45' East, 401.57 feet, to the true point of beginning; thence South 70°45' East, 103.0 feet, to the Northeast corner of tract described in Volume 279, page 134, of the Deed Records of Jackson County, Oregon; thence along the Southeasterly line of said tract, South 54°00' West, 145.05 feet; thence North 70°45' West, 19.75 feet; thence North 19°15' East, 120.0 feet, to the true point of beginning.

ALSO, Commencing at a point 16.69 chains East, and 0.30 chains North, of the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 5, Township 39 South, Range 1 East, Willamette Meridian, Jackson County, Oregon; thence North 19°15' East, 8.56 chains, to the Southerly line of the Ashland Mine Road; thence along said road, South 70°45' East, 401.57 feet, to the true point of beginning; thence South 19°15' West, 120.0 feet; thence North 70°45' West, 2.0 feet; thence North 19°15' East, 120.0 feet, to the Southerly line of the Ashland Mine Road; thence along said road, South 70°45' East, 2.0 feet, to the true point of beginning.

EXCEPTING THEREFROM:

A tract of land, situated in the Northwest Quarter of Section 5, Township 39 South, Range 1 East, Willamette Meridian, Jackson County, Oregon, being more fully described as follows:

Commencing at the Southeast corner of Donation Land Claim No. 48, Township 38 South, Range 1 East, Willamette Meridian, Jackson County, Oregon; thence South 10°18'15" West, 2170.55 feet, to a 1/2" galvanized iron pipe; thence South 20°02'27" West, 4.0 feet, to the true point of beginning; thence continuing South 20°02'27" West, 79.95 feet, to a 5/8" iron pin; thence South 35°43'21" East, 117.30 feet, to a 5/8" iron pin, situated on the right of way of Fox Street; thence North 54°18'14" East, 75.00 feet, to a 5/8" iron pin; thence leaving said right of way, North 38°51'44" West, 162.56 feet, to the true point of beginning.

EXCEPTING THEREFROM:

A tract or parcel of land situated in the Northwest quarter of Section 5, Township 39 South, Range 1 East, Willamette Meridian, Jackson County, Oregon, and being more fully described as follows:

Commencing at a found Brass Disk set in concrete monumenting the Southeast corner of Donation Land Claim No. 48, Township 38 South, Range 1 East, Willamette Meridian, Jackson County, Oregon; thence South 0°19'45" West, 1954.09 feet, to a 3" Diameter brass disk set in concrete and being the initial point of VICTORIA - SUBDIVISION - UNIT NO. 1, in the City of Ashland, Jackson County, Oregon, said point also bears South 70°41'00" East, 237.67 feet, from a found 3/4" iron pipe situated at the Northeast corner of Lot 1, Block 1, PLEASANT VIEW SUBDIVISION, in the City of Ashland, Jackson County, Oregon; thence South 20°09'40" West, along the Northwestern boundary line of the VICTORIA SUBDIVISION as aforementioned, 120.00 feet, to a found 5/8" iron pin, situated at the Southwest corner of said subdivision, for the true point of beginning; thence South 70°41'00" East, along the Southwesterly boundary line of the VICTORIA SUBDIVISION and the extension thereof, 294.42 feet, to a found 5/8" iron pin, situated on the average center line of Fox Street per Recorded Survey No. 4087; thence South 54°25'25" West, along said center line, 122.22 feet, to a found 5/8" iron pin; thence leaving said center line, North 70°41'00" West, 225.60 feet, to a found pipe which bears North 20°09'40" East, 4.0 feet, from a found 5/8" iron pin; thence North 20°09'40" East, 100.00 feet, to the point of beginning.

EXCEPTING THEREFROM a strip of land 20.0 feet in width, when measured at right angles to the average center line of Fox Street, along the Southeasterly side of the above described parcel.

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A tract or parcel of land situated in the Northwest Quarter of Section 5, Township 39 South, Range 1 East, of the Willamette Meridian in Jackson County, Oregon, and being more fully described as follows:

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NOTE: This legal description was created prior to January 1, 2008.

Exhibit B



Exhibit C



August 15, 2019

RE: 1193 Ashland Mine Rd.

Dear Mr. Cook and Ms. Cruickshank,

The property located at 1193 Ashland Mine Rd. is partially located in the City of Ashland and entirely located in the Ashland Urban Growth Boundary (UGB). The portion of the subject property in the city limits is zoned Single-Family Residential (R-1-7.5).

The City of Ashland's digital mapping system shows the Ashland zoning boundary and city limits going through the southwest corner of the home. The City of Ashland map from 1979 shows the city limits in the same location, though the building outlines are not shown. On this older paper map, the city limits boundary is 40 feet in width. Jackson County data indicates the house was built in 1900.

The zoning boundary and city limits were not intended to be located within the home on the property. Based on the 1979 map, I have determined that the boundary and city limits are 20 feet to the west as shown on the attached map resulting in the structure being entirely within the Ashland city limits.

The letter from Ms. Cruickshank indicates that the portion of the property located in Jackson County may be sold separately. The portion of the property located outside the city limits and in Jackson County is located within the Ashland UGB. Should a future property owner choose to annex the property or properties, the R-1-7.5 city zoning would allow development of 5 to 6 homes. Another option is a cottage housing development. Either of these potential future development scenarios would require installation of a street to provide adequate vehicular and emergency vehicle access. I recommend preserving an area and access easement for these purposes.

If you have questions, please feel free to contact me at (541) 552-2042 or bill.molnar@ashland.or.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Molnar", written over a circular stamp or seal.

Bill Molnar
Director of Community Development

enclosed map of 1193 Ashland Mine Rd. zoning boundary and city limits

copies Jackson County Development Services
file

Community Development
20 E. Main Street
Ashland, Oregon 97520
www.ashland.or.us

Tel: 541-488-5305
Fax: 541-488-6006
TTY: 800-735-2900



CITY OF ASHLAND
RESTRICTIVE COVENANT

The undersigned for themselves, their heirs, assigns, executors, and administrators covenant with the City of Ashland, Oregon, with respect to the land as described and set forth in Exhibit "A", attached hereto and by this reference made a part hereof, that they will not partition, subdivide, nor apply for a partition or subdivision of any portion of the property outside of the **City Limits Boundary encompassed within the full legal description of said property in Exhibit "A" is annexed to the City of Ashland.** Upon annexation of the land outside of **City Limits** described in Exhibit "A" to the City of Ashland, this Restrictive Covenant shall automatically terminate.

The undersigned warrant and represent to the City of Ashland that they are the owners or contract purchasers of land situated in County of Jackson, State of Oregon and as described in Exhibit "A", as set forth herein above.

The covenant contained herein shall run with the land as described in the attached Exhibit "A" and shall also inure to the benefit of the City of Ashland, Oregon.

The consideration for this covenant is the furnishing of water services to the land set forth in Exhibit "A" while it is outside the City of Ashland, by the City of Ashland Oregon.

Dated this _____ day of _____, 2020.

Signature: _____
Alan Cook

State of Oregon)
) ss.
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