
The comments of this pre-app are preliminary in nature and subject to change based upon the submittal of additional or different information. The Planning Commission or City Council are the final decision making authority of the City, and are not bound by the comments made by the Staff as part of this pre-application.

**ASHLAND PLANNING DIVISION
PRE-APPLICATION CONFERENCE
COMMENT SHEET**
August 5, 2020

SITE: 150 N. Main St.
APPLICANT: Kirkpatrick
REQUEST: Traveler's Accommodation,
Variances

PLANNING DIVISION COMMENTS

This pre-application conference is intended to highlight significant issues before the applicant prepares and submits a formal application.

Summary: A Traveler's Accommodation requires a Conditional Use Permit & Site Design Review approval. Specific requirements include that the property be business owner-occupied (*current records with the Tax Assessor suggest the owners may live elsewhere*) and requires two off-street parking spaces for the owner's unit and one additional off-street parking space for each guest unit. Reductions in parking or increases in the allowed number of units, as discussed, would necessitate Variances which are discretionary in nature and can be difficult to obtain. *In staff's assessment, it would be difficult to obtain approval to increase the number of allowed units and that would be the biggest issue here.*

TRAVELER'S ACCOMMODATION/CONDITIONAL USE PERMIT & SITE DESIGN REVIEW

The approval of a Traveler's Accommodation within an R-2 Zoning District is subject to Conditional Use Permit (CUP) and Site Design Review approvals, and must meet the approval criteria for CUP and Site Review as well as the special use standards for a Traveler's Accommodation. The approval criteria and standards in **blue** below are taken directly from the Municipal Code; staff comments are in **black**.

CONDITIONAL USE PERMIT (CUP) APPROVAL CRITERIA

Generally, CUP approval looks for a demonstration that the "*adverse material impacts*" of the proposal would be no greater than expected if the property was used as intended in city ordinances, which here would be as a single residential unit. The application would need to detail how the proposal's impacts (parking, traffic, noise, etc.) were no greater than would be experienced with one single family home. *Given the number of rooms involved, it would be wise to detail likely rental scenarios – i.e. what would each guest unit consist of and how many potential tenants would/could there be in each guest unit.*

- 1. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.*
- 2. That adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the development, and adequate transportation can and will be provided to the subject property.*
- 3. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone, pursuant with subsection*

18.5.4.050.A.5, below. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone.

- a. Similarity in scale, bulk, and coverage.
 - b. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
 - c. Architectural compatibility with the impact area.
 - d. Air quality, including the generation of dust, odors, or other environmental pollutants.
 - e. Generation of noise, light, and glare.
 - f. The development of adjacent properties as envisioned in the Comprehensive Plan.
 - g. Other factors found to be relevant by the approval authority for review of the proposed use.
4. A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance.
 5. For the purposes of reviewing conditional use permit applications for conformity with the approval criteria of this subsection, the target uses of each zone are as follows.
 - c. **R-2 and R-3.** Residential use complying with all ordinance requirements, developed at the density permitted by chapter [18.2.5](#) Standards for Residential Zones.

SITE DESIGN REVIEW APPROVAL CRITERIA

In staff's assessment, the key issues here would be in speaking to applicable Site Development and Design Standards in AMC 18.4 including requirements for site and parking lot landscaping and screening. Conditional Use Permit approval for a Traveler's Accommodation is allowing a commercial use in a residential district, and typically brings with it a much closer focus on these standards. In particular, landscaping is looked at closely and if the site's existing landscaping in street-facing yards has experienced any level of deferred maintenance, if vision clearance standards aren't met, etc. conditions of approval would likely call for landscaping upgrades so that landscaping and irrigation meet the standards in AMC 18.4.4.030.

- 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.
- 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, 2, or 3, 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;*
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; or*
 3. *There is no demonstrable difficulty in meeting the specific requirements for a cottage housing development, but granting the exception will result in a design that equally or better achieves the stated purpose of section [18.2.3.090](#). (Ord. 3147 § 9, amended, 11/21/2017)*

TRAVELER'S ACCOMMODATION STANDARDS

The key issues here would be in addressing these standards, including the owner-occupancy, number of units and parking requirements. The standards for Traveler's Accommodations are detailed below:

A. Travelers' Accommodations and Accessory Travelers' Accommodations. *Travelers' accommodations and accessory travelers' accommodations shall meet all of the following requirements.*

1. *An accommodation must meet all applicable building, fire, and related safety codes at all times and must be inspected by the Fire Department before occupancy following approval of a Conditional Use Permit and periodically thereafter pursuant to AMC [15.28](#).*
 - *No comments were received from Building or Fire; it would be in the applicant's best interest to contact Fire Marshal Ralph Sartain (541.552.2229 or ralph.sartain@ashland.or.us) and Building Official Steven Matiaco (541.488.5305 or steven.matiaco@ashland.or.us) to verify any potential code issues prior to making application.*
2. *The business-owner of a travelers' accommodation or the property owner of an accessory travelers' accommodation must maintain a City business license and pay all transient occupancy tax in accordance with AMC [4.24](#) and AMC [6.04](#) as required.*
3. *Advertising for an accommodation must include the City planning action number assigned to the land use approval.*
4. *Offering the availability of residential property for use as an accommodation without a valid Conditional Use Permit approval, current business license and transient occupancy tax registration is prohibited and shall be subject to enforcement procedures.*

B. Travelers' Accommodations. *In addition to the standards described above in section 18.23.220.A, travelers' accommodations shall meet all of the following requirements.*

1. *The property is located within 200 feet of a boulevard, avenue, or neighborhood collector as identified on the Street Dedication Map in the Comprehensive Plan. Distances to the property from a boulevard, avenue, or neighborhood collector shall be measured via a public street or public alley to a lot line.*
 - *North Main Street is identified as a boulevard in the most recent Street Dedication Map.*
2. *During operation of a travelers' accommodation, the property on which the travelers' accommodation is sited must be the primary residence of the business-owner. "Business-owner" shall be defined as a person or persons who own the property and accommodation outright; or who have entered into a lease agreement with the property owner(s) allowing for the operation of the accommodation. Such lease agreement must specifically state that the property owner is not involved in the day-to-day operation or financial management of the accommodation and that the business-owner has actual ownership of the business and is wholly responsible for*

all operations associated with the accommodation, and has actual ownership of the business.

- If the property owner does not reside on site, a copy of a lease agreement would need to be provided with the application to make clear that the property owner is not involved in the day-to-day operations or financial management of the accommodation and that the business-owner has actual ownership of the business and is wholly responsible for all operations.
3. *The primary residence on the site must be at least 20 years old. The primary residence may be altered and adapted for travelers' accommodation use, including expansion of floor area. Additional structures may be allowed to accommodate additional units, but must be in conformance with all setback and lot coverage standards of the underlying zone.*
 4. *The number of travelers' accommodation units allowed shall be determined by the following criteria.*
 - a. *The total number of units, including the business-owner's unit, shall be determined by dividing the total square footage of the lot by 1,800 square feet. Contiguous lots under the same ownership may be combined to increase lot area and the number of units, but not in excess of the maximum established by this ordinance. The maximum number of accommodation units shall not exceed nine per approved traveler's accommodation with primary lot frontage on boulevard streets. For travelers' accommodation without primary lot frontage on a designated boulevard, but within 200 feet of a boulevard, avenue, or neighborhood collector street, the maximum number of units shall be seven. Street designations shall be as determined by the Street Dedication Map in the Comprehensive Plan. Distances to the property from a boulevard, avenue, or neighborhood collector shall be measured via a public street or public alley to a lot line.*
 - With a lot size of 5,227 as described, the lot could accommodate 2.9 Traveler's Accommodation units. As noted in the submitted materials, allowing 3 units (*i.e. the owner's unit and two guest units*) would require a Variance to exceed the allowed number by 3.45 percent. See the Variance discussion below.
 - b. *Excluding the business-owner's unit and the area of the structure it will occupy, there must be at least 400 square feet of gross interior floor space remaining per unit.*
 - The application would need to clearly identify on floorplans the amount of space dedicated to each unit.
 5. *Each accommodation must have one off-street parking space and the business-owner's unit must have two parking spaces. All parking spaces shall be in conformance with chapter [18.4.3](#).*
 - Three units (*an owner's unit and two guest units*) would require four total parking spaces meeting the requirements of the Parking, Access & Circulation Chapter. If a reduction in required parking were necessary as noted in the materials provided, a Variance would be required. Variances are discussed below. (*It is unclear that a Variance would be necessary based on the materials initially provided...*)
 6. *Only one ground or wall sign, constructed of a non-plastic material, non-interior illuminated, and a maximum of six square feet total surface area is allowed. Any exterior illumination of signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the travelers' accommodation in accordance with subsection [18.4.4.050.C.1](#).*
 7. *An annual inspection by the Jackson County Health Department shall be conducted as required by the laws of Jackson County or the State of Oregon.*
 8. *Transfer of business-ownership of a travelers' accommodation shall be subject to all requirements of this section*

and conform with the criteria of this section. Any further modifications beyond the existing approval shall be in conformance with all requirements of this section.

Variance (Number of Units): With a lot size of 5,227 as described, the lot could accommodate 2.9 Traveler’s Accommodation units. As noted in the submitted materials, allowing 3 units (*i.e. a owner’s unit and two guest units*) would require a Variance to exceed the allowed number by 3.45 percent. A Variance requires a demonstration that:

- 1. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.*
- 2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.*
- 3. The proposal’s benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.*
- 4. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.*

Variances are a discretionary approval, are generally difficult to obtain, and require a clear demonstration both that there are unique *site-specific* circumstances such as topography that necessitate the Variance and that the need for a Variance is not self-imposed. It may be even more difficult to justify a Variance to the number of units if it also necessitates a parking Variance. [**Note:** The Traveler’s Accommodation standards above are special *use* standards for the R-2 and R-3 districts, and the Variance chapter is explicit that Variances, “*may not be used to allow a use that is not in conformity with the uses specified by this chapter for the district in which the land is located.*” Staff are unaware of any Variances of this nature having been previously approved.]

Variance (Parking): AMC 18.4.3.020.E provides for Variances to required parking for existing *commercial* buildings in the Historic District. As discussed above, Variances are discretionary and generally difficult to obtain and must address the criteria listed above.

Tree Preservation/Protection: All land use applications involving any sort of site disturbance (*i.e. utility trenching, parking installation, etc.*) require that a Tree Protection Plan be provided with the application to ensure that all trees on the property over six-inches in diameter, and all trees on adjacent properties within 15-feet of the property line including any street trees, are protected during site disturbance (*including demolition, construction, driveway/parking installation, staging of materials, etc.*). If the proposal will entail any site work, a tree inventory and preservation/protection plan will need to be provided.

Submittal Requirements: The application will need to include clear, *scalable* site plans with existing and/or proposed buildings and their distance to property lines and scalable elevation drawings showing the exterior details of the existing and proposed buildings, with window, door, trim, color and material details.

Neighborhood Outreach: Staff always recommends that applicants approach the affected neighbors, particularly those who are likely to receive notice of an application, in order to make them aware of the proposal and to try to address any concerns that may arise as early in the process as possible. Notices are typically sent to neighboring property owners within a 200-foot radius of the perimeter subject property.

Written Findings/Burden of Proof: This pre-application conference is intended to highlight significant issues of concern to staff and bring them to the applicant's attention prior to their preparing a formal application submittal. Applicants should be aware that written findings addressing the ordinance and applicable criteria are required, and are heavily depended on when granting approval for a planning action. In addition, the required plans are explained in writing below. The burden of proof is on the applicant(s) to ensure that all applicable criteria are addressed in writing and that all required plans, written findings, and other materials are submitted even if those items were not discussed in specific, itemized detail during this initial pre-application conference.

OTHER ORDINANCE REQUIREMENTS: See AMC Table 18.2.5.030.A. – Standards for Urban Residential Zones. The subject property is zoned R-2, a Low Density Multi-Family Residential zoning.

OTHER CITY OF ASHLAND DEPARTMENT COMMENTS

BUILDING: No comments provided. Please contact Building Official Steven Matiaco in the Building Division for any building codes-related questions at 541-488-5305. It would be worthwhile to speak with the Building Official about the required separation between units and the associated building permit requirements.

CONSERVATION: For more information on available water conservation programs, including any available appliance rebates or assistance with landscaping and irrigation system requirements, please contact Water Conservation Specialist Julie Smitherman of Conservation Division at 541-552-2062 or via e-mail to julie.smitherman@ashland.or.us. For information on any financial or technical assistance available for the construction of Earth Advantage/Energy Star buildings, please contact Conservation Analyst/Inspector Dan Cunningham at 541-552-2063 or via e-mail to dan.cunningham@ashland.or.us

ENGINEERING: No comments provided. Please contact Karl Johnson of the Engineering Division for any Public Works/Engineering information at 541-552-2415 or via e-mail to karl.johnson@ashland.or.us.

FIRE: No comments provided. Please contact Ralph Sartain from the Fire Department for any Fire Department-related information at 541-552-2229 or via e-mail to ralph.sartain@ashland.or.us. It would be worthwhile to speak with the Fire Marshal regarding requirements that will apply for either an ARU or a Traveler's Accommodation.

WATER AND SEWER SERVICE: If the project requires additional water services or upgrades to existing services, the Ashland Water Department will excavate and install in the city right of way all water services up to and including the meter on domestic and commercial water lines. If a fire line is required, the water department will also only install a stub out to the location where the double detector check assembly complete with a Badger brand cubic foot bypass meter should be placed in a vault external to the building. The vault and the DCDA device housed in it are the responsibility of the property owner and should be placed at the property line. Fees for these installations are paid to the water department and are based on a time and materials quote to the developer or contractor. Meter sizes and fire line diameters will need to be provided to the Water Department at the time of a quote being requested. Please Contact Steve Walker at [541-552-2326](tel:541-552-2326) or e-mail walkers@ashland.or.us with any questions regarding water utilities.

ELECTRIC DEPARTMENT: If any changes to the existing electrical service are necessary, please contact Dave Tygerson in the Electric Department for service requirements and fee information at (541) 552-2389 or via e-mail to tygersod@ashland.or.us.

OREGON DEPARTMENT OF TRANSPORTATION (ODOT): “*ODOT has no comments on this proposal.*” For any additional ODOT-related information, please contact Micah Horowitz, AICP; Senior Transportation Planner with ODOT Region 3; 100 Antelope Road, White City, OR 97503; **Phone:** 541.774.6331; **Cell:** 541.603.8431; **E-mail:** micah.horowitz@odot.state.or.us .

HISTORIC COMMISSION: If the proposal will involve any exterior changes to a building in the Historic District, the applicant may wish to discuss the final application with the Historic Commission’s weekly Review Board – an informal, two- to three-person subcommittee of the full Commission - appointments can be made through the Planning front office at (541) 488-5305. Appointments begin at 3:15 p.m., and provide an opportunity for design feedback outside of the more formal commission setting. *(Note: Historic Review Board and Historic Commission meetings have been temporarily suspended in response to the COVID-19 state of emergency. These meetings will likely resume in some form beginning in September.)*

PROCEDURE

Site Design Review and Conditional Use Permit to allow a Traveler’s Accommodation, and the Variances discussed, are subject to “*Type I*” procedures which includes an administrative decision made following an initial public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission. (The Type I procedure is detailed in the chart available on-line at:

https://www.ashland.or.us/SIB/files/Comm%20Dev/Forms%2C%20Brochures%2C%20Handouts/Flowchart_Type_I_FY19-20.pdf

Note that, *particularly where Variances are involved*, the Community Development Director may exercise his discretion under AMC 18.5.1.050.C.1 and schedule the matter for a Public Hearing before the Planning Commission.

APPLICATION REQUIREMENTS

Submittal Information.

The application is required to include all of the following information.

- a. The information requested on the application form at <http://www.ashland.or.us/Files/Zoning%20Permit%20Application.pdf> .
- b. Plans and exhibits required for the specific approvals sought (see below).
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail (see below).
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, *as applicable*.
- e. The required fee (see below).

The Ashland Land Use Ordinance, which is Chapter 18 of the Municipal Code, is available on-line in its entirety at: <https://ashland.municipal.codes/LandUse>

Written Statements (aka “Written Findings”)

Please provide two copies of a written statements explaining how the application meets the approval criteria from the sections of the Ashland Municipal Code listed below. These written statements provide the Staff Advisor or Planning Commission with the basis for approval of the application:

| <u>Traveler’s Accommodation</u> | |
|---|-----------------------|
| • Conditional Use Permit | AMC 18.5.4.050 |
| • Site Design Review | AMC 18.5.2.050 |
| • Traveler’s Accommodation Standards | AMC 18.2.3.220 |
| | |
| • Variance(s) As applicable | AMC 18.5.5.050 |

Plans & Exhibits Required

Please provide two sets of exhibits (plans or drawings) addressing the submittal requirements from the sections of the Ashland Municipal Code listed below. These exhibits are used to copy the Planning Commission packets and for notices that are mailed to neighbors. Please provide two copies on paper no larger than 11-inches by 17-inches and reproducible copies that are drawn to a standard architect’s or engineer’s scale.

- **Site Design Review** **AMC 18.5.2.040**
- **Conditional Use Permit** **AMC 18.5.4.040**
- **Variance** **AMC 18.5.5.040**
- **Tree Protection Plan (if applicable)** **AMC 18.4.5.030**

PLANNING APPLICATION FEES:

| | |
|---|-----------------|
| Traveler’s Accomm./CUP & Site Review | \$1,092* |
| Variance (Type I – Parking) | \$1,092* |
| Variance (Type I – No. of Units) | \$1,092* |

***NOTES:** * Fees are likely to see an annual increase if approved by Council in August based on the CPI. Applications are accepted on a first come-first served basis. All applications received are reviewed and must be found to be complete before being processed or scheduled at a Planning Commission meeting. Applications will not be accepted without a complete application form signed by the applicant(s) and property owner(s), all required materials and full payment. Applications are reviewed for completeness in accordance with ORS 227.178.*

For further information, please contact: August 5, 2020 _____
 Derek Severson, *Senior Planner* Date
 City of Ashland, Department of Community Development
 Phone: 541-552-2040 or e-mail: derek.severson@ashland.or.us