

ASHLAND PLANNING DIVISION

FINDINGS & ORDERS

PLANNING ACTION: PA-2016-02311
SUBJECT PROPERTY: 590 Glenview Drive (Ashland Loop Road, Tax Lot 1100)
APPLICANT: Kerry Kencairn Landscape Architecture
OWNER: Marilyn Briggs
DESCRIPTION: A request for a Physical & Environmental Constraints Review Permit for the development of a single-family residence, and removal of one tree within the proposed building envelope, on Hillside Lands for the property located at 590 Glenview Drive. Also included is a request for a Variance to exceed the maximum lot coverage and an Exception to the Development Standards for Hillside Lands is requested to allow a horizontal wall in excess of 36 feet without the requisite six-foot offset. **COMPREHENSIVE PLAN DESIGNATION:** Woodland Residential; **ZONING:** WR; **ASSESSOR'S MAP:** 39 1E 16 BB; **TAX LOT:** 1100.

SUBMITTAL DATE:	December 12, 2016
DEEMED COMPLETE DATE:	February 1, 2017
STAFF APPROVAL DATE:	March 10, 2017
FINAL DECISION DATE:	March 22, 2017
APPROVAL EXPIRATION DATE:	September 22, 2018

DECISION

The subject property is located on the south side of Ashland Loop Road, west of the intersection with Terrace Street. The property is roughly rectangular in shape and approximately 1.65 acres in area (71,874 square feet), and is zoned WR (Woodland Residential). The property is mostly oak savannah and comprised of steep slopes greater than 25 percent downhill to the south and west. Ashland Loop Road has a 60 to 70 foot right-of-way width along the properties frontage, however the gravel roadway, between 10 to 20 feet in width, is un-improved. The lot is presently vacant and already contains an existing driveway. In 2002, the applicant was granted approval for a Physical and Environmental Constraints Review Permit (P & E) approval, to reconstruct an old fire access road leading to the property at 590 Glenview Drive.

This application involves a request for a Physical & Environmental Constraints Review Permit to allow the construction of a new single-family dwelling on Hillside Lands for the property located at 590 Glenview Drive/Ashland Loop Road, tax lot 1100. The application includes requests for Exceptions to the Development Standards for Hillside Lands to 1) allow a horizontal wall to exceed the 36 foot maximum by three and a half feet on the north side (AMC 18.3.10.090.E.2.d); 2) to allow for an eight percent (5,749.9 square foot) Variance to the maximum lot coverage requirement in the WR zone (AMC 18.2.5.030.B). The proposal also involves the removal of one non-hazard tree within the proposed building envelope.

A Physical and Environmental Constraints Review Permit for the Development of Hillside Land is required because the proposed single-family dwelling will be constructed on hillside lands with slopes in excess of 25 percent. The intent of the Physical and Environmental Constraints Overlay (18.3.10) is to allow for appropriate development within hillside lands that will protect the aesthetic and natural

qualities of the land while protecting adjacent properties from erosion, sedimentation and slope failure. The Physical & Environmental chapter includes hillside design standards in order to reduce hillside disturbance by incorporating slope responsive design techniques that utilizes architectural features to reduce the effective visual bulk of the home. AMC 18.3.10.090.E.2.c prohibits downhill vertical walls greater than 20 feet (exclusive of decks). Furthermore, AMC 18.3.10.090.E.2.d also requires a six-foot vertical offset on horizontal building planes longer than 36 feet. The proposed single-story, single-family home is built into the hillside as much as possible due to the steep slopes. The main level is proposed as 2,772 square feet including attached garage. There is an existing driveway across the property; however, the application proposes a new driveway with a slope of 15 percent or less (AMC 18.5.3.060.F). Both the proposed home and driveway will be located on slopes at or exceeding 25 percent (AMC 18.3.10.020.1.a). In order to locate the proposed home in an area that is predominantly 25 percent or less would require the new driveway to be excessively steep. In addition, the location of the proposed driveway preserves native trees and removes the building footprint away from the drip line of said trees (AMC 18.3.10.090.D.3). The home's downhill elevation complies with the vertical height maximum of 20 feet without a step back (AMC 18.3.10.090.E.2.c). The proposed design of the dwelling does not comply with the horizontal off-set requirements for planes longer than 36 feet (AMC 18.3.10.090.E.2.d).

The application notes that the applicants are proposing an Exception to the Development Standards for Hillside Lands because of the building footprints steep slope and the property owner's desire for a single-story home design. The north wall of the proposed single-family dwelling will exceed the maximum horizontal plane length of 36 feet allowed by the Ashland Municipal Code. The portion of the wall that will exceed this requirement will be built to a length of 39.5 feet and the application states that this wall will be buried due to the steep slope uphill to the north of the building footprint. Furthermore, the house has been designed to fit into the hillside while disturbing the least amount of earth that is necessary (AMC 18.3.10.090.H).

In addition to the proposed Exception to the Development Standards for Hillside Lands, the applicant is requesting a proposed Variance to allow for lot coverage to exceed the maximum of seven percent in the WR zone. The application proposes a 15 percent lot coverage, which is eight percent (5,749.9 square foot) greater than is required by city standards for the zone. The applicant is requesting a Variance due to the fact that the lot was created prior to the implementation of the hillside lands ordinance and minimum lot area requirements that is required under the current version of the municipal code. The subject lot was purchased by the current property owner in 1969 in its existing configuration. At approximately 1.65 acres, the lot is under the minimum 2 acres that is required for lots in the WR zoning (AMC 18.2.5.030.B). However, based on the current lot size of 1.65 acres the proportional equivalent of the proposed lot coverage at 2 acres is 12.4 percent coverage. In a similar way the existing driveway, at 5,110 square feet, was built prior to adoption of current driveway and lot coverage ordinances and therefore is a unique circumstance for which to qualify the proposed Variance (AMC 18.5.5.050). Furthermore, application notes that the hillside lands ordinance requires that approximately 65 percent of the lot be retained in a natural state (25% + 40%=65%). The subject property is required to retain approximately 46,718.1 square feet (65 percent) of the lot in a natural state. The application materials note that the areas of earth disturbance will be approximately 16,625 square feet which is 23 percent including home site, drainage area, septic drain field, and driveway. Approximately 55,342.98 square foot (77 percent) is proposed to be retained in a natural state, which is 8,624.88 square feet more than the code requires under AMC 18.3.10.090.B.3.

The application includes a geotechnical study prepared by Applied Geotechnical Engineering and Geologic Consulting LLC and notes that all grading, retaining wall design, drainage and erosion control have been designed and reviewed by a geotechnical expert (AMC 18.3.10.090.B). The geotechnical investigation included a review of geologic information, ground-level reconnaissance, and engineering analysis. According to the project engineer and geologist, the surficial soils consisting of silty sand soils with underlying granite and the native slopes in the vicinity of the proposed home site are relatively uniform and show no indications of deep-seated slope failure. The geotechnical report states that the main geotechnical considerations for development are the moderately steep slopes and the potential for seasonal perched groundwater. The report concludes that if the recommendations for development are followed, it is the geotechnical expert's option that there is no significant risk of slope instability on the lot and thus suitable for development of the single-family residence.

The applicant also recognizes that the hillside regulations include a requirement that on projects involving existing lots with an area greater than one-half acre, an area equal to 25 percent of the total project area plus the percentage figure of the average slope shall be retained in a natural state. In this instance, the application notes that lot coverage will not exceed 23 percent and 77 percent of the property area will be retained in a natural state with full development of the site (AMC 18.3.10.090.B.3).

Grading, cuts, and fills have been designed by KenCairn Landscape Architecture. The application speaks to the grading standards of the ordinance as well, noting that the proposal would include cut slopes that will be retained by the building or versa lok walls. Fill slopes are proposed along the edge of the driveway and the storm water dissipation area. The slope along the driveway will be faced with a versa-lok retaining wall system. Where fill slopes are proposed not to be retained, they will be planted with erosion control seed mix, with integrated erosion control netting. No utilities are proposed in fill slopes. The application explains that graded areas are to be re-vegetated with native hydro-seed mix and the cut slope terrace proposed at the downhill side of the driveway will use native shrubs with irrigation. A landscape and irrigation plan will be required prior to issuance of a building permit and is a condition of approval (AMC 18.3.10.090.B.4-5).

The application materials note that the storm water will be collected on site and directed to a large above ground recharge berm. The berm will be faced with rock. The system has been designed to allow storm water to soak through the soil at the berm and when flows are heavy, the berm and boulders will break the intensity of the flow and then be dispersed back to the surrounding grade. Overflow will go over the boulder face in extreme events, while still being spread laterally prior to the overflow. A condition has been included below to require that the applicants provide a final storm water drainage plan for the review and approval of the Public Works, Engineering, Building and Planning Departments prior to installation, and that Public Works permits be obtained for any work to occur within the public right-of-way (AMC 18.3.10.090.C).

The application materials provided include a tree inventory prepared by KenCairn Landscape Architecture, which includes an assessment of the existing trees. The inventory shows approximately 14 trees greater than six-inches in diameter at breast height (DBH) on the property. Of the 14 trees one is proposed for removal. The application emphasizes that significant trees are to be preserved wherever possible and notes that the removals are based on the trees being within the proposed building envelope (AMC 18.3.10.090.D).

The Tree Commission considered the request at its regular meeting on February 9, 2017. The Hillside Development Standards provide for only limited circumstances where tree removal is appropriate, and these include the establishment of building envelopes. The Tree Commission recommended approval for the request as presented. Staff have included conditions to require that tree protection fencing is installed for trees to be preserved, flagging tape used to identify trees to be removed, and access to the site provided to allow the Staff Advisor to conduct a Tree Verification inspection as required by code before any site disturbance.

The approval criteria for a Physical & Environmental Constraints Review Permit are detailed in 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.*

Approval criteria for Development Standards for Severe Constraint Lands, as described in AMC Chapter 18.3.10.110:

- A. *Severe Constraint Lands are extremely sensitive to development, grading, filling, or vegetation removal and, whenever possible, alternative development should be considered.*
- B. *Development of floodways is not permitted except for bridges and road crossings. Such crossings shall be designed to pass the 100 year flood without raising the upstream flood height more than six inches.*
- C. *Development on lands greater than 35% slope shall meet all requirements of section 18.62.080 in addition to the requirements of this section.*
- D. *Development of land or approval for a planning action shall be allowed only when the following study has been accomplished. An engineering geologic study approved by the City's Public Works Director and Planning Director establishes that the site is stable for the proposed use and development. The study shall include the following:*
 - 1. *Index map.*
 - 2. *Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.*
 - 3. *Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.*
 - 4. *Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.*
 - 5. *Suitability of site for proposed development from a geologic standpoint.*
 - 6. *Specific recommendations for cut slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.*

7. *If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.*
8. *Signature and registration number of the engineer and/or geologist.*
9. *Additional information or analyses as necessary to evaluate the site.*

The approval criteria for a Variance are detailed in AMC 18.5.5.050 as follows:

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.*

The approval criteria for an Exception to the Development Standards for Hillside Lands are detailed in AMC 18.3.10.090.H as follows:

1. *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.*
2. *The exception will result in equal or greater protection of the resources protected under this chapter.*
3. *The exception is the minimum necessary to alleviate the difficulty.*
4. *The exception is consistent with the stated Purpose and Intent of chapter 18.3.10 Physical and Environmental Constraints Overlay chapter and section 18.3.10.090 Development Standards for Hillside Lands.*

The approval criteria for issuance of a Tree Removal Permit are detailed in AMC 18.5.7.040.B as follows:

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.*

Conclusion and Conditions

In staff's assessment, the proposal has been carefully thought out to minimize the disturbance of the site and its trees. Based on the material submitted and the text above, the application with the attached conditions complies with all applicable City ordinances. Therefore, Planning Action #2016-02311 is approved with the following conditions. If any one or more of the following conditions are found to be invalid for any reason whatsoever, then Planning Action #2016-02311 is denied. The following are the conditions and they are attached to the approval:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise specifically modified herein.
- 2) That a construction, staging, and dust abatement plan to be submitted with building permit materials indicating that access through Glenview Drive will not be impeded for the duration of the project.
- 3) That a final storm drainage plan for the driveway shall be provided for the review and approval of the Ashland Building, Planning and Engineering Divisions prior to the issuance of an

excavation permit, building permit, or commencement of any site work. The storm drainage plan shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties in accordance with 18.3.10.090.C.

- 4) Public Works permits and associated inspections shall be obtained for any work to occur within the public right-of-way.
- 5) A final erosion control plan shall be provided for the review and approval of the Planning, Building and Engineering Divisions prior to the issuance of an excavation permit, building permit, or commencement of any site work. Any temporary erosion control measures (i.e. silt fence or bale barriers) shall be installed according to the approved plan prior to any site work, storage of materials, or issuance of an excavation or building permit. Erosion control measures shall consistent with the recommendations of Applied Geotechnical Engineering, and shall be inspected and approved by the Staff Advisor prior to site work, storage of materials, the issuance of an excavation or building permit. The landscaping and irrigation for re-vegetation of cut/fill slopes and erosion control shall be installed in accordance with the approved plan prior to Certificate of Occupancy. Vegetation shall be installed in such a manner as to be substantially established within one year of installation.
- 6) That a preconstruction conference to review the requirements of the Hillside Development Permit shall be held prior to site work, the issuance of a building, or excavation permit, whichever action occurs first. The conference shall include the Ashland Planning, Building, Engineering and Fire Departments; the project engineer; project geotechnical experts; landscape professional; arborist; and general contractor. The applicant or applicants' representative shall contact the Ashland Planning Department to schedule the preconstruction conference.
- 7) That a Verification Permit shall be applied for and approved by the Ashland Planning Division prior to excavation permit, building permit, tree removal, site work, or storage of materials. Trees on site shall be identified by number, those to be removed marked with flagging tape, and access to the site provided. The Verification Permit is to inspect the identification of the trees to be removed and the installation of tree protection fencing for the trees on and adjacent to the site. The tree protection shall be chain link fencing six feet tall and installed in accordance with the Tree Ordinance. Replacement trees to mitigate the trees removed shall be planted, inspected and approved by the Staff Advisor within one year of the removal.
- 8) That the tree protection and temporary erosion control measures (i.e. silt fencing, bale barriers, etc.) shall be installed according to the approved plan prior to any site work, storage of materials, issuance of an excavation permit and issuance of a building permit. The tree protection and temporary erosion control measures shall be inspected and approved by the Ashland Planning Department prior to site work, storage of materials, the issuance of an excavation permit, and/or the issuance of a building permit.
- 9) A written verification from the project geotechnical expert addressing the consistency of the permit submittals with the geotechnical report recommendations (e.g. grading plan, storm drainage plan, foundation plan, etc.) shall be submitted with the excavation and building permit and prior to any site work.
- 10) That the geotechnical expert from Applied Geotechnical Engineering shall inspect the site according to the inspection schedule of the engineering geology report by Applied Geotechnical Engineering included in the application. Prior to issuance of Certificate of Occupancy, Applied Geotechnical Engineering shall provide a final report indicating that the approved grading, drainage and erosion control measures were installed as per the approved

plans, and that all scheduled inspections were conducted by the project geotechnical expert periodically throughout the project.

- 11) That all measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, retaining walls and landscaping shall be maintained in perpetuity on all areas in accordance with AMC 18.3.10.090.B.7.a.
- 12) That to the greatest extent feasible route all utilities outside of tree protection zones. Installation within tree protection zones shall be done in accordance with an arborist's recommendations report submitted with the building permit.
- 13) That a revised tree protection plan to include utilities shall be submitted with the building permit.
- 14) That a performance bond or the financial guarantee in the amount of 120% of the value of the landscaping and irrigation for re-vegetation of cut and fill slopes shall be provided prior to issuance of the building permit.
- 15) That a landscaping and irrigation site plan map to include irrigation details satisfying the requirements of the Site Design and Use Standards under AMC 18.4.4.030 shall be provided prior to issuance of an address.

Bill Molnar, *Director*
Community Development Department

Date