

# Memo

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**TO:** Bill Molnar, Derek Severson, Michael Dawkins, Alan Harper, Kerry KenCairn, Haywood Norton, Roger Pearce, Lynn Thompson,  
**FROM:** David Lohman *DLL*  
**RE:** 705 Helman Findings – Changing or Mandating Conditions  
**DATE:** September 1, 2020

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Regarding the Helman School expansion application approval, the questions the Planning Commission had for me can, I believe, be captured as follows:

1. After the record is closed on a Planning Commission decision on a Type II conditional use permit application, is it legally permissible for the Planning Commission's final findings to include a condition not previously discussed or to modify a condition that was included in the meeting at which the application was approved orally?
2. Is it legally permissible for the Planning Commission to condition its approval of a land use application on allowing public access to the applicant's property?

## RESPONSE

The need for definitive answers to these two questions about the Helman School expansion has been obviated by the applicant's stated voluntary commitment to comply with the proposed public access condition – a commitment to which the Planning Commission presumably would not have reason to object.

Accordingly, I have not taken the time to conduct a thorough legal analysis and conclusion to answer these two questions. However, the following comments may be helpful.

**Comment on Question 1:** Some preliminary analysis suggests to me (a) that the drafting of findings can uncover issues previously addressed in the record that warrant clarification or revision at the time of approval of findings without further administrative process; and (b) that a Planning Commission decision is accordingly not final until findings are approved.

**Comment on Question 2:** A thorough response to this question would be complicated by the differences between ordinary private property and the Helman school property which is, of course, in public ownership and a portion of which has functioned and been recognized in official planning documents as a space for general public use. Because of this distinction from ordinary private property, developing a legally defensible answer to Question 2 would require significant legal research and perhaps ultimately a difficult judgment call. Thankfully, the stated School District's willingness to embrace the proposed condition makes reaching a legally defensible conclusion unnecessary at this time.



**BEFORE THE PLANNING COMMISSION**  
**August 11, 2020**

IN THE MATTER OF PLANNING ACTION #PA-T2-2020-00020, A REQUEST FOR )  
SITE DESIGN REVIEW AND CONDITIONAL USE PERMIT APPROVALS TO )  
ALLOW THE CONSTRUCTION OF A NEW 23,755 SQUARE FOOT, SINGLE-STORY )  
CLASSROOM BUILDING FOR THE HELMAN ELEMENTARY SCHOOL PROPERTY) )  
AT 705 HELMAN STREET. THE REQUESTED CONDITIONAL USE PERMIT IS TO )  
ALLOW EXPANSION OF AN EXISTING NON-CONFORMING DEVELOPMENT )  
WHERE BOTH EXISTING AND PROPOSED PARKING AND CIRCULATION ARE ) **FINDINGS,**  
LOCATED BETWEEN THE BUILDINGS AND THE STREET, AND FOR THE RE- ) **CONCLUSIONS &**  
LOCATION OF PREVIOUSLY APPROVED SIGNS. THE PROPOSAL INCLUDES ) **ORDERS**  
THE DEMOLITION OF TWO EXISTING CLASSROOM BUILDINGS – THE A AND B )  
QUADS - AND REQUESTS A TREE REMOVAL PERMIT TO REMOVE A TOTAL OF )  
12 SIGNIFICANT TREES. )

**OWNER/APPLICANT:** HMK COMPANY/ASHLAND SCHOOL DIST. #5 )  
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**RECITALS:**

- 1) Tax lots 600, 2700, 2800 & 2900 of Map 39 1E 04BD comprise the Helman Elementary School campus located at 705 Helman Street and are zoned Single Family Residential (R-1-5).
  
- 2) The applicant is requesting Site Design Review and Conditional Use Permit approvals to allow the construction of a new 23,755 square foot, single-story school building for the Helman Elementary School property at 705 Helman Street. The requested Conditional Use Permit is to allow the expansion of an existing non-conforming development where both the existing and proposed new parking and circulation are located between the buildings and the street, and for the on-site relocation of a previously approved signage. The proposal includes the demolition of two existing classroom buildings (“A Quad” and “B Quad”) and requests a Tree Removal Permit to remove 12 significant trees. The proposal is outlined in plans on file at the Department of Community Development.
  
- 3) The criteria for Site Design Review approval are detailed in **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.*

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.*

4) The approval criteria for a Conditional Use Permit are detailed in **AMC 18.5.4.050.A** as follows:

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.*
  - b. **R-1.** *Residential use complying with all ordinance requirements, developed at the density permitted by chapter 18.2.5 Standards for Residential Zones.*

5) The approval criteria for a Tree Removal Permit are described 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.*
  - 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 18.10.*
  - 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.*

6) The Demolition and Relocation Standards are described in detail in **AMC 15.04.216** as follows:

- A. *For demolition or relocation of structures erected more than 45 years prior to the date of the application:*
  1. *The applicant must demonstrate that either subparagraphs a or b apply:*
    - a. *The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property. In determining whether an economically beneficial use can be made of the property, the Demolition Review committee may require the applicant to:*
      - (i) *Furnish an economic feasibility report prepared by an architect, developer, or appraiser, or other person who is experienced in*

- rehabilitation of buildings that addresses the estimated market value of the property on which the building lies, both before and after demolition or removal, or*
- (ii) Market the property utilizing a marketing plan approved by the Demolition Review Committee or by advertising the property in the Ashland Daily Tidings and Medford Mail Tribune at least eight times and at regular intervals for at least 90 days and by posting a for sale sign on the property, four to six square feet in size and clearly visible from the street, for the same 90 day period.*
- b. The structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain the structure.*
- 2. In addition to subparagraphs a or b above, the applicant must also:*
- a. Submit a redevelopment plan for the site that provides for replacement or rebuilt structure for the structure being demolished or relocated. The replacement or rebuilt structure must be a minimum of 1,000 square feet, unless the structure being demolished or relocated is less than 1,000 square feet. If the structure is less than 1,000 square feet, the replacement structure must be a minimum of 500 square feet. The redevelopment plan must indicate in sufficient detail the nature, appearance and location of all replacement or rebuilt structures. No replacement structure is required, however, if:
    - (i) the applicant agrees to restrict the property to open space uses and a finding is made that such restriction constitutes a greater benefit to the neighborhood than redevelopment would, or*
    - (ii) the structure being demolished or relocated is a nonhabitable accessory structure.**
  - b. Demonstrate, if the application is for a demolition, the structure cannot be practicably relocated to another site.*
- 3. If a permit is issued and the redevelopment plan:*
- a. Requires a site review permit, no demolition or relocation may occur until the site review permit has been issued, unless the site is restricted to open space uses as provided in section 15.04.216.A.2.*
  - b. Does not require a site review permit, no demolition or relocation may occur until the building permit has been issued for the replacement or rebuilt structure, unless the site is restricted to open spaces uses as provided in section 15.04.216.A.2.*
- 4. The Demolition Review Committee may require the applicant to post with the City a bond, or other suitable collateral as determined by the City administrator, ensuring the safe demolition of the structure and the completed performance of the redevelopment plan.*

B. *For demolition or relocation of structures erected less than 45 years from the date of the application:*

1. *The applicant:*

a. *Has the burden of proving the structure was erected less than 45 years from the date of the application. Any structure erected less than 45 years from the date of the application, which replaced a structure demolished or relocated under section 15.04.216, shall be considered a structure subject to the standards in subsections 15.04.216.*

b. *Must submit a redevelopment plan for the site that provides for a replacement or rebuilt structure being demolished or relocated. The replacement or rebuilt structure must be a minimum of 1,000 square feet, unless the structure being demolished or relocated is less than 1,000 square feet. If the structure is less than 1,000 square feet, the replacement structure must be a minimum of 500 square feet. The redevelopment plan must indicate in sufficient detail the nature, appearance and location of all replacement or rebuilt structures. No replacement structure is required, however, if:*

(i) *the applicant agrees to restrict the property to open space uses and a finding is made that such restriction constitutes a greater benefit to the neighborhood than redevelopment would, or*

(ii) *the structure being demolished or relocated is a nonhabitable accessory structure.*

2. *If a permit is issued and the redevelopment plan:*

a. *Requires a site review permit, no demolition or relocation may occur until the site review permit has been issued, unless the site is restricted to open space uses as provided in section 15.04.216.B.*

b. *Does not require a site review permit, no demolition or relocation may occur until a building permit has been issued for the structure or structures to be replaced or rebuilt, unless the site is restricted to open space uses as provided in section 15.04.216.B.*

C. *For any demolition approved under this section, the applicant is required to salvage or recycle construction and demolition debris, in accordance with a demolition debris diversion plan that complies with the requirements adopted the Demolition Review Committee. The applicant shall submit such a plan with the application for demolition.*

*For any relocation approved under this section, the applicant must also comply with the provisions of Chapter 15.08. (Ord. 2925, amended, 04/18/2006; Ord. 2891, amended, 11/19/2002; Ord. 2858, amended, 06/20/2000; Ord. 2852, added, 01/21/2000)*

7) On April 15, 2020 Governor Kate Brown issued Executive Order #20-16 “*Keep Government Working: Ordering Necessary Measures to Ensure Safe Public Meetings and Continued Operations by Local Government During Coronavirus (COVID-19) Outbreak.*” The Governor’s Order required that public bodies hold public meetings by telephone, video, or through some other electronic or virtual means, whenever possible; that the public body make available a method by which the public can listen to or virtually attend the public meeting or hearing at the time it occurs; that the public body does not have to provide a physical space for the public to attend the meeting or hearing; that requirements that oral public testimony be taken during hearings be suspended, and that public bodies instead provide a means for submitting written testimony by e-mail or other electronic methods that the public body can consider in a timely manner. The Oregon Legislature subsequently passed House Bill #4212 which authorizes local governments to hold all meetings of their governing bodies, including taking public testimony, using telephone or video conferencing technology or through other electronic or virtual means provided that they supply a means by which the public can listen to or observe the meeting. This bill requires that recordings of the meetings be made available to the public if technology allows, and includes provisions similar to the Governor’s order allowing public testimony to be taken in writing via e-mail or other electronic means.

8) The Planning Commission, following proper public notice, held an electronic public hearing on July 14, 2020. In keeping with Executive Order #20-16, this meeting was broadcast live on local television channel 9 and on Charter Communications channels 180 & 181, and was live-streamed over the internet on RVTV Prime at [rvtv.sou.edu](http://rvtv.sou.edu).

The application, including all documents, evidence and applicable criteria relied upon by the applicant, and the staff report were made available on-line seven days prior to the hearing, with in-person review by appointment, and printed copies available at a reasonable cost. Those wishing to provide testimony were invited to submit written comments via e-mail by 10:00 a.m. on Monday, July 13, 2020, and the applicant was able to provide written rebuttal to this testimony by 10:00 a.m. on Tuesday, July 14, 2020. Comments and rebuttal received were made available on-line and e-mailed to Planning Commissioners before the hearing and included in the meeting minutes. As provided in the Governor’s Executive Order #20-16, testimony was also taken electronically during the tele-conferenced meeting from those members of the public who had pre-arranged to provide oral testimony by 10:00 a.m. on Tuesday, July 14, 2020.

After the closing of the hearing and the record, the Planning Commission deliberated and approved the application subject to conditions pertaining to the appropriate development of the site.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

## **SECTION 1. EXHIBITS**

For the purposes of reference to these Findings, the index of exhibits, data, and testimony below will be used:

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

## **SECTION 2. FINDINGS & CONCLUSIONS**

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the staff report, written public testimony and the exhibits received.

2.2 The Planning Commission finds that the proposal for Site Design Review approval, Conditional Use Permit, and Tree Removal Permit meets all applicable criteria for Site Design Review described in AMC 18.5.2.050; for Conditional Use Permit described in AMC 18.5.4.050; and for a Tree Removal Permit described in AMC 18.5.7.040.B.

2.3 The Planning Commission concludes that the proposal satisfies all applicable criteria for Site Design Review approval.

The first approval criterion addresses the requirements of the underlying zone, requiring that, *“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.”* The Planning Commission finds that the building and yard setbacks and other applicable standards have been evaluated to ensure consistency with the applicable provisions of part 18.2, and all regulations of the underlying R-1-5 zoning will be satisfied.

The second approval criterion deals with overlay zones, and requires that, *“The proposal complies with applicable overlay zone requirements (part 18.3).”* The Planning Commission finds that the property is within the Performance Standards Option (PSO) overlay zone, which requires that all developments other than partitions or individual buildings be processed under Chapter 18.3.9., however the proposal here is limited to the development of school buildings on existing lots and does not require subdivision of the property.

The Planning Commission further finds that the subject property is located within the Wildfire Lands Overlay, and as such a Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 will need to be provided for the review and approval of the Fire Marshal prior to bringing combustible materials onto the property. New landscaping proposed will need to comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028. Conditions to this effect have been included below.

Based on the foregoing, the Planning Commission finds that this criterion is satisfied.



The third criterion addresses the Site Development and Design Standards, requiring that “The *proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.*”

The Planning Commission finds that as proposed, the new classroom building being considered is being placed more than 100 feet from the sidewalk, and existing parking and circulation between the campus buildings and the street is being expanded through requests for Exceptions to the Site Development and Design Standards and a Conditional Use Permit discussed later in this section and in section 2.4. Parking areas are being shifted away from the street, on-site stormwater detention and new landscaping are being added, and controlled access standards better addressed with the removal of a driveway which currently exits into the crosswalk at the corner of Helman and Randy Streets.

The Planning Commission notes that automobile parking and circulation are discussed in detail in Section 2.4 below. With regard to bicycle parking, the Planning Commission notes that 70 covered bicycle parking spaces are required, based on the applicable ratios in AMC 18.4.3.070 of one covered space for every five students and an enrollment capacity of 350 students. The application explains that only 12 covered bicycle parking spaces are in place, and that the applicant proposes to add a 20 stall bicycle parking structure on the north side of campus accessible from Randy Street and an additional 29 space structure west of the new parking lot along Helman Street to yield a total of 61 covered bicycle spaces, or roughly 87 percent of the 70 spaces required.

The Planning Commission further notes that with the approval of the gym and library additions in Planning Action #2007-01756, 66 bicycle parking spaces were required for the 330 student enrollment. At the time, there were 68 spaces already in place on campus in uncovered non-standard racks, and 12 new covered city-standard bicycle parking spaces were added adjacent to the new gym so that a total of 80 bicycle parking spaces available on campus. The Planning Commission finds here that since previously required bicycle parking has been removed since the last approval and no Variance has been requested, the full required 70 covered bicycle parking spaces are required.

The Planning Commission notes that the current proposal includes the construction of a new security fence around the perimeter of the campus to control access. Presently, there is a paved pedestrian access easement from the cul-de-sac on Parkside Drive, near 535 Parkside Drive, to the south of campus which was required to be provided with the adjacent subdivision to the south to enable students to safely and efficiently access campus. The Commission here finds that given that the Pedestrian Access and Circulation Standards in AMC 18.4.3.090.B.3.b call for providing pedestrian connections to off-site adjacent uses to the site to the extent practicable and that there is already an improved easement in place to provide just such a connection, restricting this access during pick-up and drop-off times would run counter to the Pedestrian Access and Circulation Standards. The Commission therefore finds that at a minimum, the proposal needs to be modified to provide a gated neighborhood access point that can be unlocked during pick-up and drop-off periods to enable a safe and direct route to school for students living in the subdivision to the south rather than requiring a more indirect and circuitous route to campus. A condition to this effect is included below as Condition #7k.

The fourth approval criterion addresses city facilities, specifically requiring that, *“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 Planning Commission finds that adequate capacity of city facilities, paved access to and throughout the property, and adequate transportation can and will be provided to the subject property.

The Commission notes that existing services are in place and currently serve the campus and its buildings. The applicant asserts that adequate city facilities exist to service the proposed new classroom building, and further indicates that the proposal substantially upgrades the storm drainage facilities, which are currently inadequate. The applicant emphasizes that the civil engineering plans (Sheets C2.1 Erosion Control Plan, C3.0 Overall Civil Site Plan, and C.4 Overall Grading and Drainage Plan) provide necessary details to demonstrate proposed site development and construction can comply with city standards. The applicant further details:

- **Water:** There is an existing six-inch water main in Helman Street, and a six-inch main in Randy Street. There are fire hydrants on Randy Street including a hydrant and fire sprinkler vault west of the gymnasium building. There are hydrants on Helman Street. A fire connection vault is proposed to be located adjacent to Helman Street. The water line sizes are substantial and water pressure is 90 p.s.i. at the Helman Street hydrant, which is adequate to address the water needs for the new structure.
- **Sewer:** There is an eight-inch sanitary sewer line in Randy Street, and there are 18-inch and 12-inch sanitary sewer lines in Helman Street. The applicant notes that in discussion with the Wastewater Department Supervisor, no capacity issues with the public sanitary sewer lines have been identified.
- **Electrical:** There are major overhead electrical facilities along Helman Street, and private facilities including junction boxes and vaults are in place. The application explains that the new structure has been designed and engineered to be solar-ready, and areas for future solar panel installation have been reserved in the roof plan. The applicant indicates that they are unaware of any electrical capacity issues.
- **Urban Storm Drainage:** There is an 18-inch storm sewer main in Helman Street. The development proposal includes substantial storm water quality improvements including the creation of two large landscaped bio-swales. The final Civil engineering will be designed to the standards of the DEQ MS4 General Permit, Phase 2, and the storm water system also be designed to comply with all of Ashland’s specific storm water quality design standards.
- **Transportation:** The applicant notes that there are existing curbside sidewalks in place along all frontages, and indicates that no changes to the existing curbside sidewalk configuration are proposed.

According to the Transportation System Plan, Laurel Street is classified as a Residential Neighborhood Collector. Laurel was recently subject to a Local Improvement District to install sidewalks in the Helman School neighborhood, and no changes to the Laurel Street frontage are proposed.

Randy Street is classified as a Neighborhood Residential Street, and currently has paving, curbs, gutters and curbside sidewalks in place along the property frontage, but no parkrows. The proposal would remove 3 of the five existing driveway curb cuts on Randy, including one that is immediately adjacent to the intersection and crosswalk, and reinstall a new driveway cut in a location which complies with controlled access standards and serves a new one-way circulation. The applicant emphasizes that these proposed changes to the driveways improve pedestrian safety by increasing driveway spacing away from the most heavily used intersection, while the proposed changes to the parking areas increase the length of the driveway and vehicular maneuvering area on site in order to better accommodate parent drop-off and pick-up on site, without pushing traffic onto the adjacent public streets, and the new one-way vehicular traffic circulation is to increase student and pedestrian safety.

Helman Street is considered an Avenue. Helman Street along the frontage of the school is not improved to current avenue standards – there is paving, curb, gutter and curbside sidewalks in place, but no parkrows. The application proposes to plant street trees behind the sidewalk and retain two existing driveway curb cuts and add one additional new driveway cut which complies with controlled access standards. No other changes to the Helman Street frontage are proposed by the applicant.

The Planning Commission notes that the application materials assert that facilities are in place to serve the existing campus buildings, and adequate key City facilities can be provided to serve the new classroom building, and that based on consultations with representatives of the various City departments (i.e. water, sewer, streets and electric) the proposed addition will not cause a City facility to operate beyond capacity. The Commission further finds that the project is intended to improve accessibility, safety, security and site circulation, but with the demolitions and addition proposed, neither the student enrollment or staffing are to be increased. The application includes civil drawings to address the changes in site grading, drainage, utilities and access associated with the proposal, and conditions have been included below to require that final civil drawings detailing the final utility and infrastructure improvements be provided for review and approval prior of the Building, Planning, Fire, Public Works and Electric Departments prior to building permit issuance.

The Commission concludes that this criterion has been satisfied.

The final criterion for Site Design Review approval addresses “*Exception to the Site Development and Design Standards.*”

The application materials recognize that the existing and proposed site development including the placement of parking and vehicular access between the buildings and the street, placement of the new building roughly 180 feet from the property line and not oriented to the corner of Helman and Randy Street, and the lack of pedestrian entrances open to the general public from the sidewalk necessitate exception to the design standards.

The applicant suggests that the use of the site as an elementary school can be found to be a unique which poses a demonstrable difficulty in meeting these standards in that schools in 2020 cannot be open to the

general public like the typical commercial building considered in the standards. For student and staff safety and security, access to the campus must be restricted, and the funding source for the current project is through a local bond measure which sought to improve accessibility, structural safety, energy efficiency and campus security for an elementary school original built in 1960's. And the existing site layout establishes building and parking placement which pose challenges to increasing compliance with the applicable standards without full redevelopment of the campus. The applicant concludes that the exceptions requested are the minimum necessary to accommodate the re-development of the parking area and allow for the construction of a new classroom building.

The Planning Commission finds that the proposal involves the demolition of the two existing quad buildings nearest the corner of Helman and Randy Street, and the placement of a proposed new classroom addition more central to the campus rather than removing parking to put them nearer the corner.

The Planning Commission concurs with the applicant that the unique nature of the elementary school use poses challenges in meeting standards seeking a streetscape orientation without parking between buildings and the street and placement of buildings close to the sidewalk in that while a school is a public building subject to the Basic Site Review Standards for Non-Residential Development, it is at the same time a use which requires campus access controls to insure the safety and security of students and staff, and which seeks to avoid bringing cars into the mix of uses interior to the campus.

The Planning Commission notes that while the new classroom building is being placed in a location more central to the campus, rather than orienting to the corner as the standards would seek, the applicant is creating a new main entry plaza which orients the campus better to the corner and the neighborhood and places campus administrative functions in a location where they can oversee a single, controlled campus access point. The new classroom building responds to the campus character and broader neighborhood context through a scale and placement which also attempts to preserve views of Mt. Ashland and Grizzly Peak for the campus and its neighbors. The Commission finds that the proposed site plan creates a more cohesive campus with a strong central interior courtyard space centered on the library, provides a layout where access can be better controlled to maintain campus security, improves the campus orientation to the corner, improves pedestrian safety by addressing existing non-conforming driveway locations near the Helman and Randy intersection, and provides for new on-site detention of storm water in proximity to the parking as called for in current standards. The Commission further finds that the proposed improvements are in keeping with the general intent of the standards.

The Planning Commission concludes that as detailed above and with the conditions discussed, the proposal complies with the requirements for Site Design Review approval.

2.4 The Planning Commission finds that the proposal satisfies the applicable standards for Conditional Use Permit approval with regard to the expansion of a non-conforming development. The Commission notes that the first criterion for Conditional Use Permit approval is, "*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.*" The Planning Commission notes that the Comprehensive Plan, Chapter 8 "Parks, Open Space & Aesthetics" speaks specifically to school playgrounds and fields in terms of their community role as

neighborhood parks, used as recreation space by nearby neighbors outside school hours, directly related to neighborhood character, and having the advantage of being available during summer months and non-school hours to provide recreational facilities for all age groups. The Commission further notes that the Comprehensive Plan Transportation Element (10.10.07) speaks to “neighborhood connectors” as separate off-road pedestrian and/or bikeways which minimize travel distances within and between residential areas and schools, shopping and workplaces where street connections are infeasible. For example, these short multi-use paths are useful to provide connectivity for cul-de-sac streets and dead end streets, as is the case with the easement to the south connecting the campus to Parkview Drive, and the Comprehensive Plan includes a policy to require such pedestrian and bicycle easements to provide neighborhood connectors, and thus reduce vehicle trips, with development.

The Planning Commission finds that the use of the property as a public school is an allowed use in the zone and the setbacks, lot coverage, building height, and parking conform to the R-1-5 zoning district standards, and further finds here that the Conditional Use Permit request here is limited to considering the expansion of the existing non-conforming development which places parking and associated vehicular circulation between the buildings and the street.

The second criterion for a Conditional Use Permit is, “*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.*” As noted in Section 2.3 above, the application includes civil drawings detailing site grading, drainage, utilities and access associated with the proposal, and conditions have been included to require that final engineered civil drawings detailing the utility and infrastructure improvements be provided for review prior to building permit issuance, and the Planning Commission finds that adequate capacity of City facilities can and will be provided.

The Planning Commission notes that the third Conditional Use Permit criterion is, “*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; and g) Other factors found to be relevant by the approval authority for review of the proposed use.*” In weighing these impacts, the criteria here explain that the target use in the R-1 zones is residential use developed to the densities detailed in AMC 18.2.5, which for the R-1-5 zoning here is 4.5 dwelling units per acre. The roughly 9.5 acres campus, the Commission finds that for purposes of comparison the school property could accommodate roughly 42.75 dwelling units.

In considering the adverse material impacts of the increase in parking and circulation between the buildings and the street, the Commission finds that the adverse impacts may include the aesthetic impacts of pavement and parked cars at a scale out of character in a residential zone; the environmental impacts,

including increased stormwater run-off, an increase in the urban heat island effect, exhaust fumes, noise and headlight glare; and the pedestrian impacts of paving and parked and circulating vehicles posing obstacles to pedestrians seeking to navigate from the sidewalk corridor to building entrances and of impediments to the neighborhood connectivity such as the pedestrian easement to the subdivision to the south, which are typically sought with development through development standards and supported by the Comprehensive Plan.

The Planning Commission finds that in the approval of the gym and library additions in 2008-2009 (PA-2007-01756), 60 automobile parking spaces were required to serve the 240 seat capacity of the gym at the then-applicable parking ratio of one space per four seats. The parking in place was found to satisfy the parking requirements with 53 parking spaces to be provided off-street and the remaining seven spaces required addressed through on-street parking credits as the school property has a total of approximately 1,998 lineal feet of frontage on the three adjacent streets. The Commission further finds that current parking ratios require one parking space per 75 square feet of public assembly area, and the 4,725 square feet of assembly space here require 63 spaces. The applicant notes that there are now only 49 spaces in place on site, and proposes to add a new 17 space parking lot between the building and the street to fully accommodate the parking required on-site, with no reliance on on-street parking credits.

The Planning Commission finds that the proposed increase in parking between the building and the street seeks to bring the site into compliance with current parking ratios and to reconfigure circulation and parking in such a way that pick-up and drop-off impacts can be better absorbed on the campus itself and in so doing limit the effects of traffic on the surrounding streets. The Commission finds that there are benefits to better accommodating more of the vehicular queuing on site and in reconfiguring parking to address ratios, minimize on-street impacts and provide new areas for stormwater detention, but further finds that to fully balance the negative impacts to the neighborhood and streetscape of placing more parking between the buildings and the street, the new main entry plaza treatment should be extended with light-colored/permeable pavers, scored concrete or a similar treatment to include the driveway and seven spaces between the new plaza and the corner to provide an extension of the plaza space which strengthens the plaza and the campus orientation to the corner; reduces the aesthetic, environmental and pedestrian impacts between the buildings and corner; and still retains the potential to accommodate parking when needed. In addition, the Commission finds that the role the school's playgrounds and greenspaces serve both in providing essential neighborhood recreational space outside of school hours as recognized in the "Parks, Open Space & Aesthetics" chapter of the Comprehensive Plan and in providing neighborhood connectivity is crucial in offsetting the adverse aesthetic, environmental and pedestrian impacts of the school on the surrounding residential neighborhood and has accordingly included Condition #11 requiring, "That, outside of regular school hours and school events, the perimeter gates shall remain unlocked so as to not to unreasonably limit or restrict access school playgrounds and greenspaces."

The Commission finds that with the modified parking treatment near the plaza, the changes to parking and circulation including improved driveway spacing near the Helman and Randy can be found to be beneficial to pedestrian safety while lessening impacts to the streetscape from pick-up and drop-off traffic and strengthening the campus's presence in the neighborhood streetscape with the new main entry plaza at the corner.

The fourth criterion is that, “A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance.” Here, the Planning Commission finds that as detailed in AMC Table 18.2.2.030.D, public schools are a permitted use in all R-1 zones.

The Planning Commission concludes that as detailed above and with the conditions discussed, the proposal complies with the requirements for Conditional Use Permit approval.

2.5 The Planning Commission finds that the proposal satisfies the applicable standards for Conditional Use Permit approval with regard to modification to the School District’s approved sign permit program under AMC 18.4.7.120 which provides that, “Governmental agencies may apply for a Conditional Use Permit to place a sign that does not conform to this chapter when it is determined that, in addition to meeting the criteria for a conditional use, the sign is necessary to further that agency’s public purpose.” Helman School’s murals were originally approved in Planning Action 2009-00322, and were subsequently incorporated into the district’s master sign permit program under Planning Action PA-2012-00899 which allowed a dragon wall graphic on the then-new gym and two existing student-designed/student-installed tile murals in addition to wall, ground and directional signage. A number of other murals and a tile-mosaic bench are also in place on campus, but are exempt from permitting because they are not visible from the adjacent public rights-of-way. As proposed, the dragon tile mural on the north side of the administration building, facing Randy Street, will be moved with demolition and replaced on a wall to be installed to screen mechanical equipment. With the move, the mural will be visible from Helman Street.

In originally administratively approving the murals in 2009, staff found that the student-designed/student-installed murals directly served the school’s public purpose not only in providing a direct and creative participatory educational experience but also in fostering a sense of connectedness between the students, the built environment of the school and their larger community. With the demolition of the two quad buildings, the applicant has proposed to relocate the dragon tile mural, and the Commission finds that this relocation remains in keeping with the original sign permit approval.

2.6 The Planning Commission finds that the proposal satisfies the applicable standards for a Tree Removal Permit for a tree that is not a hazard.

The first approval criterion for a Tree Removal Permit is that, “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.” The Commission notes that 12 significant trees are proposed for removal, and that the applicant explains that the removals are to permit the proposal to be consistent with applicable ordinance requirements and standards, including applicable Site Development and Design Standards.

The second approval criterion is that, “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.” The applicant indicates that the requested tree removals will not have significant negative impacts on erosion, soil stability, the flow of surface waters, protection of adjacent trees, or existing windbreaks, and further

explains that the areas where trees are to be removed will be redeveloped with structures, hardscaping, or will re-landscaped.

The third criterion is that, *“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.”* The applicant indicates that there are several trees within 200-feet of the subject property, and further suggests that the relative proximity to the heavily vegetated Ashland Creek corridor across Helman Street provides substantial species diversity, canopy coverage, and tree densities in the vicinity. The applicant concludes that the proposed development will ultimately replace the canopy, tree densities, sizes, and species diversity associated with the requested removals.

The fourth criterion for Tree Removal Permit approval notes that, *“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.”* The Commission finds that there is no residential component associated with the current application.

The final Tree Removal criterion is that, *“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.”* The Commission finds that mitigation trees sufficient to meet this requirement are proposed throughout the property. 12 significant trees proposed for removal and the Landscape Plants plans (Sheets L3.00-L3.01) call for over 50 replacement trees including Kentucky Coffee trees, Zelkovas, flowering Cherries, Maple, Birch, and Lindens and include planting of new required street trees and 26 proposed shade trees for the parking areas to reduce the microclimatic impacts of the pavement.

The Commission further notes that the Ashland Tree Commission was unable to convene its regular monthly meeting for July of 2020 due to the City Administrator’s state of emergency declaration for the Coronavirus (COVID-19) outbreak, which suspended advisory commission meetings. As such there is no Tree Commission recommendation. As provided in AMC 2.25.040, the failure of the Tree Commission to make a recommendation on any individual planning action shall not invalidate that action.

The Commission finds that the remaining trees which are to be preserved are proposed to be protected with six-foot tall chain link fencing as recommended by the arborist and required in the City’s Tree Preservation & Protection Ordinance (AMC 18.4.5). Conditions have been included to require tree protection fencing installation and verification before site work.

The Planning Commission concludes that as detailed above and with the conditions discussed, the proposal complies with the requirements for Tree Protection and for Tree Removal Permits to remove a total of 12 significant trees.



2.5 With regard to the proposed demolition of the “A” and “B” quad buildings, the Planning Commission notes that the demolition and relocation of existing buildings is regulated through AMC Chapter 15 “*Buildings and Construction*” with approval of permits by the Building Official and the potential for appeal to the Demolition Review Committee.

The Commission finds that the applicant has indicated that the two quad buildings are to be demolished following completion of the new classroom building, and a condition has been included below to make clear that the applicant will need to obtain requisite permits for demolition through the Building Official prior to commencement of demolition work.

### **SECTION 3. DECISION**

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal for Site Design Review, Conditional Use and Tree Removal permit approvals to construct a new 23,755 square-foot, single-story classroom building and associated changes to the campus site planning, relocate approved signage and remove 12 significant trees is supported by evidence contained within the whole record.

The school property is an existing non-conforming development in that the existing placement of parking between the buildings and the streets is contrary to the city’s Basic Site Review standards which seek to place parking behind buildings or to one side and have the building placed at and oriented to the streetscape. As proposed here, this non-conformity would be retained and expanded through a Conditional Use Permit. The Commission finds that both the existing building lay-out on site and the school use pose difficulties in complying with the standards and as proposed the applicant is creating a new entry plaza near the corner of Helman and Randy Streets which creates an overall campus orientation to the corner and the neighborhood and places the school’s administrative functions at a single, controllable access point for the sake of campus safety and security. The proposed new building’s placement and scale are in direct response to a community public process by the School District which ultimately identified the need for a single-story structure placed more interior to the campus to preserve views of Mt. Ashland and Grizzly Peak for the campus and for the neighborhood, and in so doing a more cohesive campus with a central interior courtyard will be created and the library will become a clear center for the campus. In addition, with the changes proposed the controlled access issues with the northern parking lot’s driveway exiting into the crosswalk are to be remedied, new on-site storm water detention facilities installed to better respond to standards, and site circulation issues addressed to handle a greater proportion of the daily pick-up and drop-off traffic and parking on-site rather than in the surround neighborhood streetscape.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #PA-T2-2020-00020. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2020-00020 is denied. The following are the conditions and they are attached to the approval:

1. That all proposals of the applicant are conditions of approval unless otherwise modified herein.
2. That the plans submitted for the building permit shall be in conformance with those approved as part of this application. If the plans submitted for the building permit are not in substantial

conformance with those approved as part of this application, an application to modify this approval shall be submitted and approved prior to the issuance of a building permit.

3. That a sign permit shall be obtained prior to the installation of signage. Signage shall be consistent with that described herein and shall be placed in a manner consistent with the vision clearance standards of AMC 18.2.4.040.
4. That all requirements of the Fire Department shall be satisfactorily addressed, including approved addressing; fire apparatus access including aerial ladder access, turn-around, firefighter access pathways and work area; fire hydrant spacing, distance and clearance; fire flow; fire sprinkler system if applicable; fire extinguishers; limitations on gates or fences; providing required fuel breaks; and meeting the general fuel modification area standards.
5. That mechanical equipment shall be screened from view from the surrounding streets, and the location and screening of all mechanical equipment shall be detailed on the building permit submittals.
6. That the applicant shall obtain applicable demolition permits through the Building Division if deemed necessary by the Building Official prior to the commencement of any building demolition on site.
7. That building permit submittals shall include:
  - a. The identification of all easements, including but not limited to public or private utility, irrigation and drainage easements, fire apparatus access easements, and public pedestrian access easements.
  - b. The identification of exterior building materials and paint colors for the review and approval of the Staff Advisor. Colors and materials shall be consistent with those described in the application and very bright or neon paint colors shall not be used.
  - c. Specifications for all exterior lighting fixtures. Exterior lighting shall be directed on the property and shall not directly illuminate adjacent properties.
  - d. Revised landscape and irrigation plans shall be provided for the review and approval of the Staff Advisor with the building permit submittals. These revised plans shall address: 1) required size and species-specific planting details and associated irrigation plan modifications, including the requirements for programmable automatic timer controllers and a maintenance watering schedule with seasonal modifications; 2) final lot coverage and required landscaped area calculations, including all building footprints, driveways, parking, and circulation areas, and landscaped areas. Lot coverage shall be limited to no more than 50 percent, and the calculations shall demonstrate that the requisite 50 percent landscaping and seven percent parking lot landscaping are provided; 3) the mitigation requirements of AMC 18.5.7 by detailing the mitigation for the 12 significant trees to be removed on a one-for-one basis through replanting planting on-site, replanting off-site, or payment to the city's Tree Fund in lieu of replanting; and 4) sight-obscuring screening of

the parking lot with a landscape buffer in keeping with the requirements of AMC 18.4.3.080.E.6.a.iv and 18.4.4.030.F.2.

- e. A Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
- f. Final storm water drainage, grading and erosion control plans for the review and approval of the Engineering, Building and Planning Departments. The storm water plan shall address Public Works/Engineering standards requiring that post-development peak flows not exceed pre-development levels. Any necessary drainage improvements to address the site's storm water shall be provided at the applicants' expense. Storm water from all new impervious surfaces and run-off associated with peak rainfall events must be collected on site and channeled to the city storm water collection system (*i.e., curb gutter at public street, public storm pipe or public drainage way*) or through an approved alternative in accordance with Ashland Building Division policy BD-PP-0029. On-site collection systems shall be detailed on the building permit submittals.
- g. A final utility plan for the project for the review and approval of the Engineering, Planning and Building Divisions. The utility plan shall include the location of any necessary connections to public facilities in and adjacent to the development, including the locations of water lines and meter sizes, sewer mains and services, manholes and clean-outs, storm drainage pipes and catch basins. The utility plan shall also address Water Department requirements relative to cross connections and premises isolation. Meters, cabinets, vaults and Fire Department Connections shall be located outside of pedestrian corridors and in areas least visible from streets, sidewalks and pedestrian areas, while considering access needs. Any necessary service extensions or upgrades shall be completed by the applicant at applicant's expense.
- h. A final electric design and distribution plan including load calculations and locations of all primary and secondary services including any transformers, cabinets and all other necessary equipment. This plan must be reviewed and approved by the Electric, Engineering, Building and Planning Departments prior to the issuance of excavation or building permits. Transformers, cabinets and vaults shall be located outside the pedestrian corridor in areas least visible from streets, sidewalks and pedestrian areas, while considering the access needs of the Electric Department. Any necessary service extensions or upgrades shall be completed at the applicant's expense.
- i. That the applicants shall provide final engineered plans for any work in the street rights-of-way including any changes to sidewalks, driveway aprons or pedestrian crossings for the review of the Planning and Public Works/Engineering Departments.

- j. Identification of required bicycle parking, which includes 70 covered bicycle parking spaces. Inverted u-racks shall be used for the outdoor bicycle parking, and all bicycle parking shall be installed in accordance with the standards in 18.4.3.070.I, inspected and approved prior to the issuance of the certificate of occupancy. The building permit submittals shall verify that the bicycle parking spacing and coverage requirements are met.
  - k. A revised site plan that extends the new entry plaza treatment (i.e. light-colored, permeable pavers, scored concrete or similar) to include the driveway and seven parking spaces between the new plaza and the corner to provide an extension of the plaza space, strengthen the plaza while retaining the potential to accommodate overflow parking as needed; and provides a gated access point from the Parkside Drive pedestrian easement to allow its use during pick-up and drop-off times.
8. That prior to any site work including staging, storage of materials, demolition or tree removal, the applicant shall mark the trees to be removed and install protection fencing for the trees to be retained, and obtain a Tree Verification Inspection so that the Staff Advisor can verify that the trees identified on site for removal are consistent with the approved plan, and that those trees to be protected have tree protection fencing in place in a manner consistent with the approved plans.
9. That prior to the issuance of a building permit all necessary building permits fees and associated charges, including permits and connections fees for any new utilities, and applicable system development charges for water, sewer, storm water, parks, and transportation (*less any credits for existing structures*) shall be paid.
10. That prior to the issuance of a certificate of occupancy or final project approval:
- a. That the required automobile and bicycle parking shall be installed according to the approved plan, inspected and approved by the Staff Advisor.
  - b. All hardscaping including the sidewalk corridor, on site circulations routes, parking lots and driveways; landscaping; and the irrigation system shall be installed according to the approved plan, inspected, and approved by the Staff Advisor.
  - c. That the screening for the trash and recycling containers shall be installed in accordance with the Site Design and Development Standards prior to the issuance of a certificate of occupancy. An opportunity to recycle site of equal or greater size than the solid waste receptacle shall be included in the trash enclosure in accordance with 18.4.4.040.
  - d. That all exterior lighting shall be directed on the property and shall not directly illuminate adjacent properties.
  - e. All required utility service and equipment installations and street frontage improvements, shall be installed under permit from the Public Works Department and in accordance with the approved plans, inspected and approved by the Staff Advisor.
  - f. Replacement trees to mitigate the trees removed shall be planted and irrigated according to the approved plan, or alternative mitigation demonstrated.

11. That, outside of regular school hours and school events, the perimeter gates shall remain unlocked so as to not to unreasonably limit or restrict access school playgrounds and greenspaces.

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Planning Commission Approval

August 11, 2020  
Date