

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
APRIL 13, 2010  
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street
- II. **ANNOUNCEMENTS**
- III. **CONSENT AGENDA**
  - A. **Approval of Minutes**
    - 1. March 9, 2010 Planning Commission Minutes
- IV. **PUBLIC FORUM**
- V. **TYPE II PUBLIC HEARINGS**
  - A. **PLANNING ACTION: #2009-00726**  
**SUBJECT PROPERTIES: 720 Grandview Drive**  
**APPLICANT: McDonald, Lynn & Bill**  
**DESCRIPTION:** Appeal by Bonnie Brodersen of the Staff Advisor's decision to approve a Physical and Environmental Constraints Review Permit for the property located at 720 Grandview Drive. Planning Action #2006-01784 previously granted approval for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The current application again requests a Physical & Environmental Constraints Review Permit for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The current request differs from the previous approval in that it involves alterations to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10; **ASSESSOR'S MAP #:** 39 1E 05 CD; **TAX LOT:** 500.
- VI. **OTHER BUSINESS**
  - A. **Approval of Findings for 2010-2020 SOU Campus Master Plan**
- VII. **ADJOURNMENT**

**CITY OF  
ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

**CITY OF  
ASHLAND**  
ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
MINUTES  
March 9, 2010

**CALL TO ORDER**

Chair Pam Marsh called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

**Commissioners Present:**

Michael Dawkins  
Dave Dotterer  
Pam Marsh  
Debbie Miller  
Melanie Mindlin  
Mike Morris  
John Rinaldi, Jr.

**Staff Present:**

Bill Molnar, Community Development Director  
Richard Appicello, City Attorney  
April Lucas, Administrative Assistant

**Absent Members:**

\*Larry Blake

**Council Liaison:**

Eric Navickas, absent

*\*Commissioner Blake did not attend the first part of the meeting for the SOU Master Plan public hearing, but was present for the Croman Minority Report and TGM Grant Application agenda items.*

**ANNOUNCEMENTS**

Commissioner Marsh noted the Economic Development update will come before the Commission at their April meeting and stated their March 30<sup>th</sup> Study Session will likely be canceled. Marsh also added "Consideration of 2010 TGM Grant Application" to the end of the agenda.

**CONSENT AGENDA**

**A. Approval of Minutes.**

**1. February 23, 2010 Planning Commission Minutes.**

Commissioner Dotterer clarified on Page 3 under Discussion of the motion, the minutes should indicate he was against the properties at 650-750 Mistletoe Rd. being included in the Detail Site Review zone.

Commissioners Dotterer/Morris to approve the minutes as amended. Voice Vote: all AYES. Motion passed 7-0.

**PUBLIC FORUM**

No one came forward to speak.

**TYPE III PUBLIC HEARINGS**

**A. PLANNING ACTION: #2009-00817**

**APPLICANT:** Southern Oregon University

**DESCRIPTION:** A request for adoption of the Southern Oregon University Campus Master Plan 2010-2020 as part of the City's Comprehensive Plan. (This plan replaces the previously approved 2000-2010 Campus Master Plan.)

**COMPREHENSIVE PLAN DESIGNATION:** Southern Oregon University; **ZONING:** S-O.

Commissioner Marsh read aloud the public hearing procedures for land use hearings.

**Declaration of Ex Parte Contact**

Commissioner Miller stated she performed a site visit. No ex parte contact was reported by any of the commissioners.

## Staff Report

Community Development Director Bill Molnar explained in July 2009 the Planning Commission held a public hearing on the 2010-2020 Campus Master Plan but ran out of time before the Commission could take a vote. A week later, the University asked the City to put this item on hold so that they could conduct further outreach with the community. In December 2009, the University submitted a revised plan and requested that this be put back on the Planning Commission's agenda. Mr. Molnar stated tonight the Planning Commission will hold a new public hearing and issue a recommendation to the City Council.

Mr. Molnar reviewed the suggested conditions presented by staff. In terms of the faculty housing proposed for Ashland St./Mountain Ave. and Henry Street, staff recommends: 1) conditional use permits be required, 2) the University adopt additional design standards addressing building scale, bulk, coverage and articulation, and 3) a Transportation Impact Analysis (TIA) be completed prior to final design. In regards to the faculty housing proposed for Walker Ave., staff is recommending: 1) the University adopt additional design standards addressing building scale, bulk, coverage, and articulation, 2) the Transportation Impact Analysis be completed prior to final design, and 3) conditional use permits be required for locations within 50 ft. of private property. For the mixed use development proposed for Ashland Street, staff recommends: 1) the project be subject to the City's Detail Site Review and Large Scale Development standards, 2) a Transportation Impact Analysis be conducted prior to final design, and 3) the University adopt a Pedestrian Safety Plan and timeline for implementation.

Mr. Molnar explained one area of concern the University has identified is the Floor Area Ratio (FAR) requirement in the Detail Site Review zone. He stated the University has indicated the FAR maximum may be problematic for the types of buildings they may propose, and since this standard was formulated to apply to discrete commercial parcels, staff is open to some relaxation of this standard.

In regards to the Transportation Demand Management (TDM) strategies, Mr. Molnar stated staff is recommending SOU promote the use of alternate modes of transportation and refine the campus parking requirements. In addition, staff is recommending the University provide the City with their TDM strategies and a timeline for implementation.

Mr. Molnar clarified staff is recommending all of the above be conditions of approval. He also clarified that while the City Council will review and adopt the entire plan, the Planning staff focused its review of the plan on the land use projects and elements that will come before the Planning Commission as the master plan is implemented.

Comment was made questioning why staff is not recommending the TIA be completed prior to the adoption of the master plan. Mr. Molnar explained master plans often indicate placeholders for development; however accurate traffic impact details are not available until specific projects are ready to move forward. He stated at this point looking at intersection changes based on the elements identified in the master plan would be premature; however the City's upcoming Transportation System Plan update may identify areas within the campus where development is proposed and incorporate necessary facility improvements.

## Applicant's Presentation

**Craig Morris** and **Eric Ridenour** addressed the Commission. Mr. Morris noted last time they were before the Commission the neighbors had a lot of misunderstandings about the University's proposed master plan; however since then, the University has given the community time to share their concerns and also arranged a public meeting last October to discuss the plan.

Mr. Ridenour stated the master plan elements are driven by retention, recruitment, and fiscal responsibility; and he listed the key elements of the plan as follows:

- 1) Two academic buildings are proposed for capital investments. Theater Arts will have a major renovation and addition, and an addition is proposed for the Sciences Complex.
- 2) Five buildings are identified for deferred maintenance projects: Churchill, Sciences, Britt, Central and McNeal.
- 3) The University's athletics program anticipates potential field use changes and increased access and visibility projects.
- 4) The plan proposes to remove the Cascade Complex and outlines a new generation of modern housing located north of Ashland St. and Siskiyou Blvd.

- 5) Faculty housing is proposed on Walker Ave. north of the railroad tracks, and also on Henry St. and Ashland St west of Mountain Ave.

Mr. Ridenour clarified of the two housing types proposed, the student housing project is by far the higher priority of the University. He also commented briefly on the circulation issues identified in the master plan, the enhanced pedestrian core, and noted the master plan also lays out a series of sustainability strategies.

Mr. Ridenour stated following the last Planning Commission hearing the University held a neighborhood meeting and members of the public were asked to vote on key questions. He shared some of the results from that activity and also provided the following clarifications: 1) the Ecos Garden site will remain intact under the update, 2) Oregon state funds will not be used to develop the proposed student and faculty housing, 3) the faculty housing improvements could be subject to property taxes, 4) the University does not have plans to acquire additional property in the next decade, 5) all plans for perimeter properties will have to follow the City's conditional use process, 6) any faculty housing developed on Ashland St. will be limited to a 1 ½ story height limit, and 2 stories for housing west of Mountain Ave., and 7) SOU has owned the softball fields north of Iowa St. for decades.

Mr. Ridenour noted the following elements of the proposed master plan have changed since the Planning Commission's first hearing: 1) graphics and text have been updated to clarify that SOU does not have plans to expand into properties not currently owned by SOU, 2) the housing goals have been refined and clarified (up to 800 beds of new housing with the intent to replace beds in Cascade and potentially Susanne Homes), 3) the plan includes more data on commute patterns, 4) there is additional information on the condition of the Cascade Complex, and 5) added the statement "New faculty housing on Ashland St. (west of Mountain Ave) will not be more than 1 ½ stories tall."

#### Questions of Applicant

Mr. Ridenour clarified in general, the University has no objections with the conditions proposed by staff; however for the TIA they would like to look at the whole student housing area as a cluster rather than project by project.

Mr. Morris clarified the University is potentially looking at 600-1000 new students and roughly 40 new staff and faculty positions over the next 10 years.

Mr. Morris commented on the student housing element and stated replacing the Cascade Complex is a major priority for them. He explained they have talked with students and they have indicated their disapproval of this style of housing and stated students now desire apartment-type living with living room spaces, kitchens and private bathrooms. He added the University views this as a recruitment and retention issue and it will be a priority for them to move forward with this relatively quickly. Mr. Ridenour noted their proposal is not to replace Cascade Hall on the same site, but rather to build new housing on the north side of Siskiyou Blvd. He also indicated the University will conduct a market study to ensure there is a market for this type of mixed use construction before they move forward. He stated they would not build the commercial square footage if they didn't believe they could fill it, and clarified the commercial uses would be targeted to the student body.

Comment was made questioning if the University anticipates the increased number of students using public transportation since the master plan does not propose additional parking. Mr. Morris stated the University plans on making better use of their existing facilities and explained most classes currently occur between 9 a.m. and 1 p.m. He stated as the student body expands they will hold classes later in the afternoon, hold more evening classes, and have more use of their Medford facility. Mr. Ridenour noted the master plan does recommend a review of the parking standards and to look for shared parking opportunities.

Comment was made questioning if the University would be willing to do some of this transportation modeling upfront rather than on a project by project basis. Mr. Morris provided an explanation of how the University receives funding and stated they will not have the money to conduct a comprehensive transportation study until specific projects are identified and approved by the board. He added it would be a financial hardship for them to agree to do a comprehensive study right now.



Mr. Molnar clarified the City's TSP update will evaluate the impacts of the campus master plan if it is adopted, and noted the TSP will be looking at all modes of transportation. It was also clarified the University will be required to provide a pedestrian safety plan before anything can be built north of Siskiyou Blvd.

Mr. Morris commented briefly on the proposed faculty housing and noted the difficulty the University faces in attracting new staff due to Ashland's housing market. He stated the master plan indicates a placeholder for this, but he does not anticipate the University will move forward with this right away.

### Public Testimony

**Dominique Brown, Abraham Bettinger, Keith Erickson, and Lindsay Tidwell** allocated their time to Rivers Brown.

**Rivers Brown/1067 Ashland St/**Expressed his concern with the prioritized phased development of the faculty village and recommended the University prioritize their development as follows: 1) fully develop the north campus site first, 2) develop faculty housing along Henry Street adjacent to where apartments already exist and gradually move eastward, and 3) develop along Ashland St. just west of S. Mountain Ave. in the older established single-family neighborhood. Mr. Brown presented the reasoning behind this recommendation and stated the faculty village would fit in best at the north campus location since this is where all of the amenities for young families exist. Mr. Brown commented on why the faculty village may fail and shared his concerns with abandoning student housing above the boulevard. He stated the traffic and safety problems on Siskiyou Blvd. will only get worse and stated there is no good way to accommodate 3,000-6,000 extra crossings per day at the already congested Siskiyou/Wightman/Indiana intersection. Mr. Brown shared his concerns with the proposed mixed use student housing and stated it is only the privatization aspect of this housing scheme that dictates transferring the students to below the boulevard. He also shared his concerns with the University's open house and felt the University was not open to their input. *(Mr. Brown's full written testimony was submitted into the record.)*

**Cate Hartzell/892 Garden Way/**Stated SOU is integral to the community and it is good to see the University has plans to replace the dorms; however, if this is a conceptual plan, the traffic and pedestrian issues should not be. Ms. Hartzell recommended the Planning Commission ask staff to research the possibility of grant opportunities for the City and University to come together and get the traffic study financed. She also recommended the mixed use housing be studied carefully given the commercial property market in Ashland and cautioned that it may take some time before that kind of commercial property fills up.

**Sandra Slattery/1405 Pinecrest Terrace/**Indicated she is speaking as a member of the SOU President's Advisory Board. Ms. Slattery noted the University has 775 employees and the payroll alone contributes 48 million dollars annually into the City's economy. She stated the connection between SOU and the growth and development of our community cannot be underestimated, and in order to ensure SOU's continued success in this economy it must have a master plan. She stated the proposed improvements will enrich and expand the existing educational and recreational opportunities, as well as provide student and faculty enhancements. Ms. Slattery stated the development of faculty housing is an important incentive for the future of the University, especially in the recruitment of young professionals that we need in this community. She stated student housing options is an important selection criteria prospective students use, and urged the Commission to support the SOU Master Plan.

**Alan DeBoer/2260 Morada Ln/**Indicated he is also a member of the SOU President's Advisory Board but is speaking as a citizen. Mr. DeBoer stated SOU is one of the great things about Ashland and asked that the Commission support this plan. He voiced his support for the proposed student housing upgrades and the potential for faculty housing. Mr. DeBoer stated he hopes the Commission does not require the University to do a transportation study up front. He noted they are a couple years away from building anything identified in the plan and he anticipates there will be some changes in transportation over the next 10 years. He added it makes more sense to do this study prior to the application when the University determines the specifics about what they want to build.

**James Ford/507 Tucker St/**Stated he is also a member of the SOU President's Advisory Board. Mr. Ford voiced his support for the Campus Master Plan for the following six reasons: 1) the plan represents developments specific to the University's existing education district and no new property acquisition is proposed, 2) the plan allows the University to become operationally efficient and ready to act as opportunities and the economy allows, 3) the plan will provide for facilities with the

flexibility necessary to meet the ever changing needs of the campus, 4) SOU is a good steward and has been an excellent corporate citizen, 5) the University is committed to recruiting, developing and retaining outstanding faculty and staff, and this necessitates flexibility in facilities and housing on campus, and 6) the plan will help SOU become more financially sustainable by improving the academic facilities and residential options.

**Rick Bleiweiss/1131 Highwood Dr/**Stated he is a member of the SOU President Advisory Board but is speaking as a private citizen. Mr. Bleiweiss voiced his support for the approval of the University's master plan. He stated in addition to being the largest employer in Ashland, SOU has the number one theater program west of the Rockies. Mr. Bleiweiss stated the theater renovation project is going to be critical to keeping and maximizing that status, and it is also going to bring a lot of jobs. He stated this plan creates a campus atmosphere committed to sustainability and he believes this plan goes hand in hand with the University's climate action plan which set benchmarks for reducing carbon emissions and improving sustainable practices. Mr. Bleiweiss stated the University is trying to be a responsible member of this community and thinks they should do whatever they can to support SOU.

#### **Rebuttal by the Applicant**

Mr. Ridenour clarified the proposed housing is compatible with the surrounding area and noted the new design guidelines that were submitted with the plan. He also clarified the mixed use development will not be a gated area, but rather will incorporate good urban design principles and will also comply with the City's Detail Site Review Zone requirements. Regarding the transportation issues, Mr. Ridenour stated they believe the strategy proposed by staff to tie the TIA assessment to significant development that will change circulation is the logical way to go. He stated this will allow the University to move forward with the master plan and pursue the funding they need to complete these projects and to do the necessary studies. He stated they believe this gives the City and the community the assurance they need that the planning will be done in advance of the impacts.

Mr. Morris commented on the process they have to follow with the State legislature for capital projects. He explained they need to have a master plan that sets a vision so they have a concrete basis for the projects they will start talking to legislatures about over the next few months. He asked the Commission to consider the impact not adopting this plan will have on them.

#### **Advice from Legal Counsel & Staff**

Mr. Molnar clarified if the City's TSP update identifies issues with the University's plan, the master plan can be modified or the City could impose conditions as these projects move forward.

Comment was made questioning if the TIA condition could be expanded to include all future housing projects, and not just those within the north campus area. Mr. Molnar clarified the general focus was on the larger mixed use project on Ashland Street, but this condition could be extended.

Comment was made questioning why the TIA is tied to the housing since the larger issue is the commuter traffic and how the core of campus will be affected. Mr. Molnar commented that the appropriate vehicle to address the issue of future growth on the campus is the City's TSP. Comment was made that this seems appropriate so long as the University is a player in that process since it is their goals, their campus, and their impact.

Comment was made expressing concern with the pedestrian situation on Siskiyou Blvd. and with the options that have been presented.

Comment was made questioning if the City has enough housing in the inventory for 600 more students. Mr. Molnar clarified there is enough land within the City's urban growth boundary to meet our housing needs for the next 20 years, however the 5-year inventory for multi-family housing within the City limits is pretty tight.

*Commissioner Marsh closed the record and public hearing at 9:03 p.m.*

## Deliberations and Decision

Commissioners Dotterrer/Rinaldi m/s to recommend the Council's adoption of the 2010-2020 SOU Campus Master Plan as part of the City's Comprehensive Plan, with the inclusion of staff's recommended conditions on pages 2-6 of the Staff Report Addendum. **DISCUSSION:** Dotterrer clarified this recommendation includes the exemption for maximum Floor Area Ratio (FAR), but does not exempt the separation of buildings requirement in the Detail Site Review standards.

Rinaldi recommended the Pedestrian Safety Plan condition be amended to read, "*The Plan shall include but not be limited to improved crossings with enhanced pavement design and access controls with an on-going monitoring of pedestrian flow and safety issues.*" Commissioner Dotterrer accepted this amendment as part of the motion.

Rinaldi recommended the condition regarding the Transportation Impact Analysis and Access Management also be amended to read, "*All future housing projects ~~proposed within the north campus area~~ shall be subject to a transportation impact analysis (TIA) and access management standards described in the City of Ashland Transportation System Plan (TSP).*" Dotterrer accepted this amendment as part of the motion.

Commissioner Miller suggested the faculty housing be constructed at the Walker Ave. location before the Ashland St/Glenwood Dr. area. Rinaldi commented that this could cause the University some hardship and he would prefer to leave this to the University's market analysis. He added he believes there is some benefit to having faculty housing closer to campus. Miller voiced her concern with adding more student housing on the north side of campus. She stated this takes away from the campus feeling and stated she also has concerns with the proposed mixed use buildings. Dawkins shared his concern that the proposed attached housing won't match the surrounding neighborhood. He stated he also has concerns with moving housing below the boulevard. Marsh commented that she is comfortable moving this forward because the overall transportation impacts will be incorporated into the City's TSP. She stated she believes the faculty housing on Henry St. is within the same impact as the other housing in the area. Marsh also commented on the student housing component and voiced her support for creating a zone of student activity near recreational facilities and potentially a commercial area. She acknowledged there is an issue with students crossing Siskiyou Blvd, but stated crossing the street is an age appropriate activity for a college student.

**Roll Call Vote: Commissioners Dawkins, Mindlin, Morris, Marsh, Dotterrer, Rinaldi and Miller, YES. Motion passed 7-0.**

## OTHER BUSINESS

### **A. Croman Mill District Plan – Minority Report**

Commissioner Marsh explained this is the first time she has dealt with a minority report; and while she was initially open to doing this, at this point she does not believe the report meets her personal standard for a minority report. She stated she believes this report addresses issues the Commission never discussed and is much broader than she was anticipating. Commissioner Marsh provided her opinion that the report should be presented to the City Council at their public hearing by the individual members who drafted it.

The commissioners shared their opinions on whether it is appropriate to forward the minority report along with their formal recommendations to the City Council. Commissioner Miller stated the report addresses a lot of the issues that have been of concern to her and she is in favor of forwarding it to the City Council. Commissioner Morris gave his opinion that the report addresses items that were not on the record and stated he is in favor of the commissioners going before the Council as individuals and presenting their concerns. Commissioner Dotterrer stated he is comfortable with forwarding the minority report to the City Council and if it makes the other members more comfortable suggested adding a caveat that approval by the Commission does not imply an endorsement of the minority report's content. Commissioner Marsh clarified her primary issue is that if the minority report is incorporated into the Commission's official recommendation, it needs to be based on the same record of information. Commissioner Rinaldi voiced his support for others right to have a dissenting viewpoint, but does not know why that should carry the stamp of the Planning Commission.

**Commissioners Miller/Mindlin m/s to forward the Minority Report to the City Council. DISCUSSION:** Commissioner Mindlin commented that forwarding the minority report would accomplish recognition that there were considerable issues discussed that are not represented in the recommendation. She stated everything in the report she attempted to bring forward during their discussions, and since they do not have verbatim minutes from their meetings it is difficult to see what was actually discussed. Mindlin stated she was encouraged to do this and would like to see the minority report move forward.

**Roll Call Vote:** Commissioners Dawkins, Mindlin and Miller, YES. Commissioners Rinaldi, Dotterrer, Morris, Blake and Marsh, NO. Motion fails 5-3.

Commissioner Marsh indicated she would like for the Commission to revisit the process that was used for the Croman Master Plan at a later date, possibly at a study session or at their annual retreat.

## **2. City of Ashland 2010 TGM Grant Application**

Commissioner Marsh explained the Planning Commission is being asked to endorse a Transportation and Growth Management (TGM) Grant Application. Mr. Molnar explained it is that time of year when the City competes for potential grant dollars to do more advanced or long range planning. He stated the area identified for this grant is just south of Normal Ave. and East Main St; it is within the City's urban growth boundary, but outside the City limits. Mr. Molnar stated some of the property owners in this neighborhood have approached the City over the years with an interest in master planning the area, but up until this point we have not been able to take on this project.

Mr. Molnar clarified in the past 6-months the Planning Division received a pre-application for a large development in this area and the property owners are seeking direction from the City on what they want to see happen for this area. He added if this grant was obtained this project would be meshed with the City's TSP update.

Comment was made questioning if there are other areas the City could apply this grant to instead, such as the Tolman Creek Rd/Ashland St area. Mr. Molnar clarified the Normal neighborhood is the main area within the City's urban growth boundary that is slated for future development that at this point the City does not have a comprehensive plan for. He added the City already received a grant for the TSP update and this project will evaluate the Tolman Creek/Ashland area.

Commissioner Miller noted she lives within the area identified. She stated there are areas along East Main that are not going to be densely populated and stated she would rather seek funding for areas that really have a problem.

Commission Mindlin indicated she would not be anxious to take this on unless there was development being pressed. Mr. Molnar clarified the pre-application the City received was a proposal for annexation and zone change to construct 160 apartments.

General consensus was reached for Commission Chair Marsh to sign the letter of support.

## **ADJOURNMENT**

Meeting adjourned at 10:00 p.m.

*Respectfully submitted,  
April Lucas, Administrative Assistant*



For packet material relating to the previous approval and subsequent LUBA appeal, see:

<http://www.ashland.or.us/GrandviewAppeal>

# Memo

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**DATE:** April 14<sup>th</sup>, 2010  
**TO:** Ashland Planning Commission  
**FROM:** Derek Severson, *Associate Planner*  
**RE:** 720 Grandview Dr. Appeal  
Staff Response to Issues raised by Appellant

The current application was scheduled to be heard by the Planning Commission at a public hearing at the February 9<sup>th</sup>, 2010 regular meeting. The appellant, neighbor Bonnie Brodersen, submitted a letter raising a number of issues including:

- That mailed notices of the hearing were not received by neighboring property owners.
- That the placement of the public notice sign on the property was not clearly visible from the adjacent right of way due to topography, vegetation, and the configuration of the lot relative to the right of way.
- That the previous land use approval (PA #2006-01784) expired on February 7<sup>th</sup>, 2010 (prior to the February 9<sup>th</sup> hearing date) and could thus not be modified or amended.

In order to allow for full consideration of the issues raised by Ms. Brodersen, and to allow a re-noticing of the hearing to eliminate any question of noticing irregularities, the applicants asked that the February 9<sup>th</sup> hearing be postponed. Concurrently with this request, the applicants provided an additional 60-day extension to the 120-day time limit.

The requisite mailed notices for the rescheduled April 13<sup>th</sup> hearing have been mailed to surrounding property owners within the prescribed timeframe. Notice of the hearing was also published in the Ashland Daily Tidings as required by ordinance. And in addition to the required sign which was posted on the subject property in a location selected for better visibility from the Grandview Drive right-of-way, a second sign (*not required by ordinance*) was also placed at the intersection of Grandview and Wrights Creek Drives as requested by the appellant. In staff's view, the applicants' request for postponement and the subsequent efforts to ensure proper notice be provided for the rescheduled hearing have more than adequately addressed any noticing concerns raised by the appellant.

In terms of Ms. Brodersen's challenging the validity of the current application based on the original approval having expired and thus being ineligible for modification or amendment, staff would note that while AMC 18.108.040.A.2.a provides for amendments or modifications to conditions of approval for Type I planning actions, both the current proposal and the procedural review it is subject to are indistinguishable from a new application. Ms. Brodersen herself has previously asserted in the first specific ground for appeal in her current appeal request that, "*This is not a modification but a new application....*"



Both a modification of a Physical & Environmental Constraints Review Permit and a new Physical & Environmental Constraints Review Permit are considered to be Type I procedures, allowing for administrative approval and subject to appeal. Both are subject to the same \$917 application fee, both receive the same procedural handling including the required noticing and review, and both are considered in light of the same review criteria and standards for a Physical & Environmental Constraints Review Permit found in AMC 18.62. In addition, and perhaps most importantly, the work proposed to be completed here remains the same regardless of whether the request is termed a modification of the previously approved Physical & Environmental Constraints Review Permit or simply a Physical & Environmental Constraints Review Permit, and as such staff view the modification issue as a semantic argument. The reference to a modification is as much as anything a means of putting the current request in context in light of what is now a six-year history for the applicants, the appellant, staff and the commission, as evidenced by the 400+ page record, and in staff's view an understanding of this context is essential to considering the current request and the additional surface disturbance it entails.

In staff's view, the expiration of the previous approval has no bearing on the review of the current proposal, which remains subject to the same procedures and the same review criteria and standards, and which will result in the same work being completed on the ground if approved. As such, staff believe that the current application remains valid and should be considered by the Commission in terms of the Physical & Environmental Constraints Permit review criteria under which it has been considered by staff since being deemed complete in September of 2009, which were addressed in the applicants' submittals and the staff report distributed for the previously scheduled February hearing, and which have been included in the notices at each juncture in the review process to date. Staff would accordingly continue to recommend approval subject to the conditions included in the February staff report included in your packets.



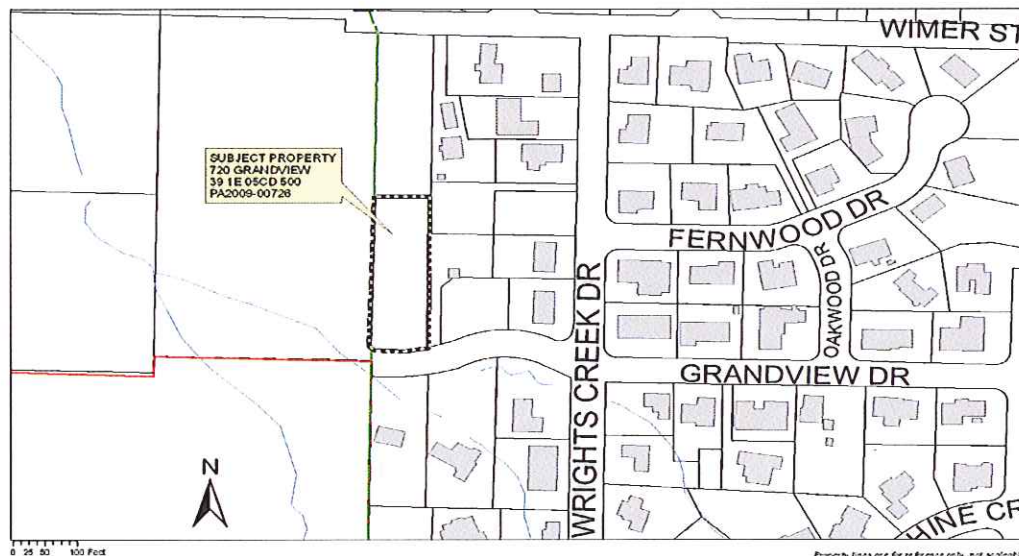




**PLANNING ACTION:** 2009-00726  
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**APPLICANT:** McDonald, Lynn & Bill

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**ASHLAND PLANNING COMMISSION MEETING:** *April 13, 2010 at 7:00 PM, Ashland Civic Center*



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

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

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

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

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

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



## **PHYSICAL & ENVIRONMENTAL CONSTRAINTS**

### **18.62.040.I Criteria for Approval**

A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:

1. 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.
2. 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.
3. 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 permitted development permitted by the Land Use Ordinance.

(ORD 2808, 1997; ORD 2834, 1998; ORD 2951, 2008)

## **TREE REMOVAL**

### **18.61.080 Criteria for Issuance of Tree Removal - Staff Permit**

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.

- A. Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.
  1. A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
  2. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.
- B. Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:
  1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and
  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; and
  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. Nothing in this section shall require that the residential density 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 or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.
  4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.

(ORD 2951, 2008; ORD 2883, 2002)

## AFFIDAVIT OF MAILING

STATE OF OREGON       )  
County of Jackson     )

The undersigned being first duly sworn states that:

1. I am employed by the City of Ashland, 20 East Main Street, Ashland, Oregon 97520, in the Community Development Department.
2. On April 2, 2010 I caused to be mailed, by regular mail, in a sealed envelope with postage fully prepaid, a copy of the attached planning action notice to each person listed on the attached mailing list at such addresses as set forth on this list under each person's name for Planning Action #PA-2009-00726, 720 Grandview Dr.

  
\_\_\_\_\_  
Signature of Employee

PA-2009-00726 391E05 1900  
735 GRANDVIEW LLC  
821 GRANDVIEW DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 602  
CROSS W J/PAULA P GREIST  
715 GRANDVIEW DR  
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PA-2009-00726 391E05CD 402  
GETZOFF HOWARD/LYNN W  
779 WRIGHTS CREEK DR  
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PA-2009-00726 391E05CD 407  
GOLDMAN LOUIS ET AL  
705 GRANDVIEW DR  
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PA-2009-00726 391E05CD 502  
HAINES LLOYD M  
96 MAIN ST 202  
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PA-2009-00726 391E05CD 408  
HULSE BETTY JANE  
863 WRIGHTS CREEK DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 410  
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863 WRIGHTS CREEK DR  
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HULSE JAMES L/LINDA RAE  
416 WIMER ST  
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JONES RICHARD J/LEIGH E  
705 WRIGHTS CREEK RD  
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PA-2009-00726 391E05CD 405  
KITZMAN DAVID M  
1780 NE BEULAH  
ROSEBURG OR 97470

PA-2009-00726 391E05CD 501  
LOUISE NANCY ET AL  
507 GRANDVIEW DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 500  
MC DONALD WILLIAM J JR ET AL  
8621 OAK BRANCH AVE  
BAKERSFIELD CA 93311

PA-2009-00726 391E05CD 411  
ROBBINS EUGENE  
635 WRIGHTS CREEK DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 412  
ROBBINS EUGENE K/BRODERSEN  
BONNIE  
635 WRIGHTS CREEK RD  
ASHLAND OR 97520

PA-2009-00726 391E05CD 404  
ROBBINS EUGENE/BONNIE L B  
635 WRIGHTS CREEK DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 400  
RUNDELL ANDREW R/VICTORIA L  
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PA-2009-00726 391E05CD 403  
TIEFER HILLARY A  
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PA-2009-00726 391E05CD 401  
VAN VLECK JON/DIANA D  
869 WRIGHTS CREEK DR  
ASHLAND OR 97520

18  
720 Grandview Dr  
~~30150~~ 4-2-10



**Front Counter Legend**  
 Highlighted Feature

-  Highlighted Feature
-  theBuffer
-  theBufferTarget
-  Tax Lot Outlines
-  Tax Lot Numbers
-  Mobile Home Parks
-  Apartments
-  Buildings



**JACKSON  
COUNTY**  
*Oregon*

This map is based on a digital database compiled by Jackson County From a variety of sources. Jackson County cannot accept responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied.

**Derek Severson**

---

**From:** "Mark S. Bartholomew" <msb@roguelaw.com>  
**To:** "Derek Severson" <dereks@ashland.or.us>  
**Date:** 2/9/10 3:11 PM  
**CC:** "Richard Appicello" <appicelr@ashland.or.us>, "Mark S. Bartholomew" <msb@roguelaw.com>

---

Derek, please postpone the hearing tonight for the McDonald property. I will provide you with an extension of the 120 day limit.

Mark S. Bartholomew  
Hornecker, Cowling, Hassen & Heysell LLP  
717 Murphy Road  
Medford, OR 97504  
541-779-8900 voice  
541-773-2635 fax  
<http://www.roguelaw.com>

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

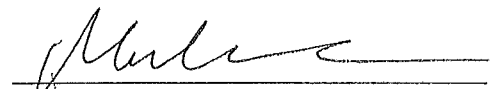
**RECEIVED**

FEB 09 2010

City of Ashland  
Field\_\_\_\_Office\_\_\_\_County\_\_\_\_

<b>IN THE MATTER OF PLANNING ACTION #2009-00726</b> , a request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval already in place in order to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.	)	<b>REQUEST FOR AN EXTENSION OF THE TIME LIMIT ORS 227.178(1)</b>
	)	
	)	
	)	
	)	
	)	
	)	
	)	
<b>APPLICANTS: Lynn and Bill McDonald</b>		

Applicants request a 60-day extension to the time limit set forth in ORS 227.178(1).

  
 Applicant \_\_\_\_\_ Date 2/9/10  
 By: Mark Bartholomew

Applicant \_\_\_\_\_ Date \_\_\_\_\_

**RECEIVED**

FEB 09 2010

City of Ashland  
 Field \_\_\_\_\_ Office \_\_\_\_\_ County \_\_\_\_\_

[Note: ORS 227.178(5) provides that the "120-day period set in (ORS 227.178(1)) may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days."]

# RECEIVED

FEB 09 2010

635 Wrights Creek Drive  
Ashland, OR 97520  
February 9, 2010

City of Ashland  
Field\_\_\_\_Office\_\_\_\_County\_\_\_\_

Planning Department  
Ashland, OR 97520

RE: Planning Commission Meeting of Feb. 9, 2010  
PA # 2009-00726  
Appeal of Bonnie Brodersen

To the Planning Department Staff Advisor:

Pursuant to ALUO 18.108.080 (G) I am hereby requesting redress for inadequate notice of the referenced Planning Action on February 9, 2010 for the following reasons:

1. The city did not comply with the sign posting requirements of ALUO 18.108.080 (C) as further explained in the attached letter of 2/8/10 to the City Attorney and as documented by photos attached.
2. I am the Appellant in the captioned matter and I did not receive notice of the Planning Commission hearing scheduled for 2/9/10 until yesterday afternoon, when I saw some activity on the subject property and decided to stop by the Planning Department to review the file. At that time, I was apprised of the hearing scheduled for today. My substantial rights have been adversely affected and prejudiced, because I do not have time to submit a brief in response to the twenty-page Staff Report (dated Feb. 9, 2010) and the Applicants' written submissions. From perusing the Report, it raises issues, not heretofore addressed. I have not had time to fully review the file and documents and will be unable to make a substantive oral or written presentation at the hearing before the Planning Commission because of the lack of adequate notice.
3. The failure of the City to comply with the posted (sign) notification is especially significant, because I did not receive notice of the hearing by mail. Had a sign been posted in a way that it could be clearly and properly seen by the public, the failure of mailed notice would have been inconsequential. As I noted in the letter to the City Attorney, there have been other planning actions for properties in the area of the subject property and the signs for those planning actions have been

posted at the corner of Wrights Creek and Grandview Drive where everyone in the neighborhood could easily see them.

4. The redress to be taken by the Staff Advisor is provided in ALUO 18.108.080 (G) 3.

I think an appropriate alternative, would be to re-set the hearing for the captioned matter for the first Planning Commission meeting 10 days subsequent to February 9<sup>th</sup>. If the sign had been properly posted or if I had received notice by mail, I would have had 10 days to prepare a response brief.

Finally, on another subject, pursuant to ALUO 18.112.030 Applicant's permit expired on February 7, 2010. It is impossible to "modify" a permit that does not exist because it has expired. Applicants' attempt at an extension pursuant to ORS 227.178(1) is insufficient and an extension cannot be granted, because ORS 227.178(1) applies only to an "application for a permit, a limited land use decision or zone change". Applicants' application for a "modification" of a permit does not fall within the purview of the cited statute.

I hope you can see the importance of giving me an opportunity to be heard as required by the procedural due process clause of the Oregon and U.S. Constitutions. Hopefully this situation can be easily resolved at the local level.

I await your timely response.

Very truly yours,



Bonnie Brodersen  
541-482-0180

cc: City Attorney  
Planning Commission

RECEIVED

FEB 09 2010

City of Ashland  
Field\_\_\_\_Office\_\_\_\_County\_\_\_\_



RECEIVED

FEB - 8 2010

City of Ashland  
Community Development

635 Wrights Creek Dr.  
Ashland, OR 97520  
February 8, 2010

Mr. Richard Appicello  
Ashland City Attorney  
Ashland, OR 97520

Re: Planning Commission Meeting of Feb. 9, 2010  
PA # 2009-00726  
Appeal of Bonnie Brodersen

Dear Mr. Appicello:

I learned, today when I stopped by the Planning Department to inquire about the status of my appeal of the Planning Department decision concerning the captioned matter, that a hearing is being held tomorrow evening before the Planning Commission. I did not receive notice by mail of the hearing (even though a Planning Department employee said that I was on the list of those sent notices and I have received notices by mail in the past), and I did not see any posted sign of a Planning Action. Derek said he posted a sign directly on the property. I told him I had just walked down to the area this morning and had seen no sign. I walked to the area again and now I see a sign but it is only possible to read it if one is on the property itself. The sign cannot be seen from the dirt portion of Grandview Drive (where neighbors drive) because the riparian area to the south obstructs any view. Furthermore, it cannot be read -- to read the sign, one would have to trespass onto the McDonald's property. The sign is placed in such a way as to obstruct anyone from receiving notice. I am taking photos and will submit them to the Planning Commission.

There have been several planning actions in the past years for properties in this area. For previous actions requiring notice, the sign posting notice was placed at the corner of Grandview Drive and Wrights Creek Drive for properties in the area of the McDonald's property, so that all neighbors would have clear and proper notice. The placing of the sign for this planning action violates ALUO 18.108.080 (C) which provides that "failure by the city to post [a notice] in **clear view from a public right-of-way shall be considered an incomplete application.**" (Emphasis added).

Because I did not receive adequate notice (mailed or posted 10 days prior to the hearing per ALUO) of the hearing tomorrow evening, I am unable to present my case. I have

several photographs that I want to present and intend to research and write a Brief. Due process requires that an Appellant be given adequate notice so that she has adequate time to prepare for a hearing.

I am therefore requesting an extension and request that this matter be heard at the first Planning Commission hearing subsequent to tomorrow's hearing. This will give me time to adequately prepare. In light of the fact that the Applicants McDonald filed for an Amendment to their Physical and Environmental Constraints Permit in June, 2009 but failed to complete their application until January, 2010, an additional four weeks should not present a hardship to the Applicants. I don't think anyone wants to make the issue of adequate notice and opportunity to prepare an issue in this proceeding or in a possible LUBA appeal. I refer you to ALUO 18.108.080 (G) which provides the proper remedy for failure of notice and which is the remedy I am requesting.

The foregoing may become a moot issue because the Applicants' Physical and Environmental Constraint permit expired on February 7, 2010. It is impossible to "amend" a permit that has expired. It appears that an application for a new permit is required.

Please let me hear whether this matter will be postponed until the March Commission meeting before tomorrow's hearing commences.

Very truly yours,

/Signed/

Bonnie Brodersen  
541-482-0180

cc: Derek Seversen, Planner  
Planning Commission

**ATTN: LEGAL PUBLICATIONS (Nick)**

**PUBLIC HEARING NOTICE**

NOTICE IS HEREBY GIVEN that a Public Hearing on the following item with respect to the Ashland Land Use Ordinance will be held before the Ashland Planning Commission, February 9, 2010 at 7:00 p.m. at the Ashland Civic Center, 1175 East Main Street, Ashland, OR. At such Public Hearing any person is entitled to be heard.

Appeal by Bonnie Brodersen of the Staff Advisor's decision to approve a request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval already in place in order to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

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

By order of the Community Development Director \_\_\_\_\_

Bill Molnar

Publish: 1/27/2010

Date e-mailed: 1/21/2010

Purchase Order: 85778

## AFFIDAVIT OF MAILING

STATE OF OREGON       )  
County of Jackson     )

The undersigned being first duly sworn states that:

1. I am employed by the City of Ashland, 20 East Main Street, Ashland, Oregon 97520, in the Community Development Department.

2. On January 21, 2010 I caused to be mailed, by regular mail, in a sealed envelope with postage fully prepaid, a copy of the attached planning action notice to each person listed on the attached mailing list at such addresses as set forth on this list under each person's name for Planning Action #2009-00726, 720 Grandview.

  
Signature of Employee

PA-2009-00726 391E05 1900  
735 GRANDVIEW LLC  
821 GRANDVIEW DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 602  
CROSS W J/PAULA P GREIST  
715 GRANDVIEW DR  
ASHLAND OR 97520

PA-2009-00726 391E05CD 402  
GETZOFF HOWARD/LYNN W  
779 WRIGHTS CREEK DR  
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PA-2009-00726 391E05CD 407  
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705 GRANDVIEW DR  
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96 MAIN ST 202  
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PA-2009-00726 391E05CD 409  
HULSE JAMES L/LINDA RAE  
416 WIMER ST  
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PA-2009-00726 391E05CD 406  
JONES RICHARD J/LEIGH E  
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KITZMAN DAVID M  
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PA-2009-00726 391E05CD 401  
VAN VLECK JON/DIANA D  
869 WRIGHTS CREEK DR  
ASHLAND OR 97520

PA-2009-00726  
Tom Giordano  
2635 Takelma Wy  
Ashland, OR 97520

PA-2009-00726  
Terra Survey  
274 Fourth St  
Ashland, OR 97520

PA-2009-00726  
Thornton Engineering  
1236 Disk Drive  
Medford, OR 97504

PA-2009-00726  
Ken Snelling  
1625 Cady Rd  
Jacksonville OR 97530

PA-2009-00726  
Upper Limb-it  
Tom Meyers  
Ashland, OR 97520

PA-2009-00726  
Ken-Cairn Landscape Architecture  
545 A Street  
Ashland, OR 97520

720 Grandview (appeal)  
Planning Commission Mtg 2-9-10  
Mailed 1-21-10  
21

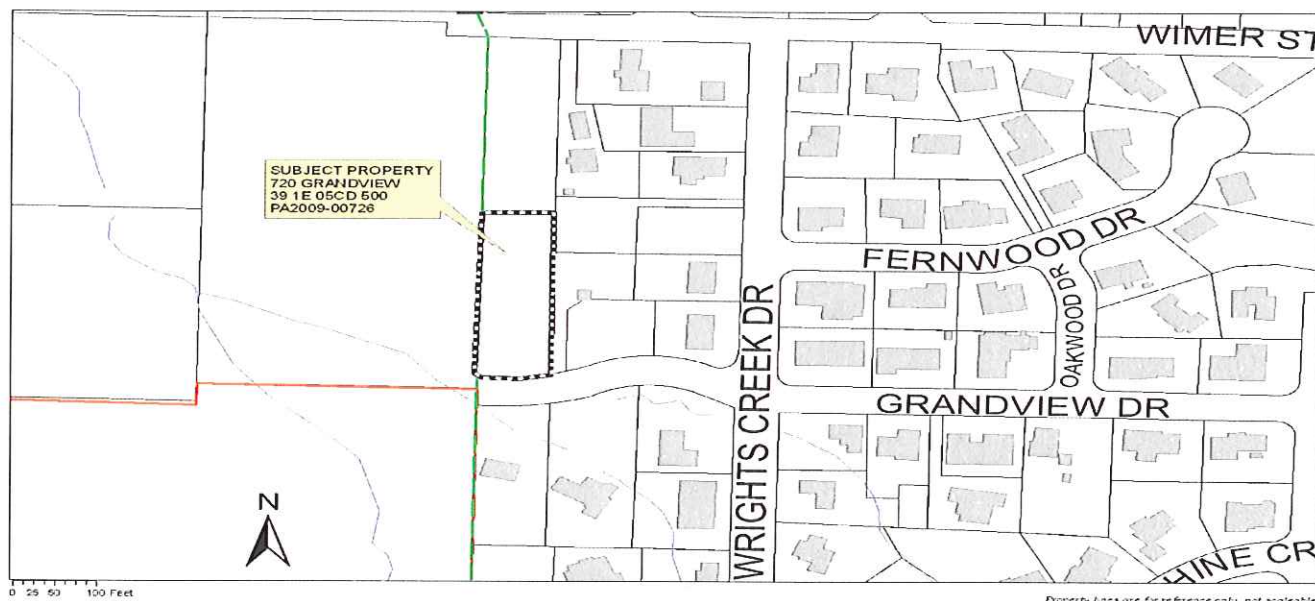


**PLANNING ACTION:** 2009-00726  
**SUBJECT PROPERTIES:** 720 Grandview Drive  
**APPLICANT:** McDonald, Lynn & Bill

**DESCRIPTION:** Appeal by Bonnie Brodersen of the Staff Advisor's decision to approve a request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval already in place in order to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10;  
**ASSESSOR'S MAP #:** 39 1E 05 CD; **TAX LOT:** 500

**ASHLAND PLANNING COMMISSION MEETING:** *February 9, 2010 at 7:00 PM, Ashland Civic Center*



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

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

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

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

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



## **PHYSICAL & ENVIRONMENTAL CONSTRAINTS**

### **18.62.040.I Criteria for Approval**

A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:

1. 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.
2. 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.
3. 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 permitted development permitted by the Land Use Ordinance.

(ORD 2808, 1997; ORD 2834, 1998; ORD 2951, 2008)

## **TREE REMOVAL**

### **18.61.080 Criteria for Issuance of Tree Removal - Staff Permit**

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.

- A. Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.
  1. A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
  2. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.
- B. Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:
  1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and
  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; and
  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. Nothing in this section shall require that the residential density 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 or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.
  4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.

(ORD 2951, 2008; ORD 2883, 2002)

**ASHLAND PLANNING DIVISION**  
**STAFF REPORT**  
**February 9, 2010**

**PLANNING ACTION:** PA-2009-00726

**APPLICANT:** Lynn and Bill McDonald

**LOCATION:** 720 Grandview Drive

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential

**APPLICATION DEEMED COMPLETE:** September 23, 2009

**120\*-DAY TIME LIMIT:** March 22, 2010 (\* - with a 60-day extension from applicants)

<b>ORDINANCE REFERENCE:</b>	18.20	R-1 Single Family Residential District
	18.61	Tree Preservation and Protection
	18.62	Physical & Environmental Constraints
	18.72.030.B	Site Design Review, Exemptions
	18.108.020.A.9	Ministerial Actions, Extension of Time
	18.108.022	Ministerial Action Time Limits
	18.112.030	Revocation – permit expiration

**REQUEST:** A request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval already in place in order to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

**I. Relevant Facts**

**A. Background - History of Application**

Planning Action #2008-01250, an 18-month extension of Planning Action #2006-01784 was approved ministerially in August of 2008 as allowed in AMC 18.112.030, to extend the original approval until February 7, 2010.

Planning Action #2006-01784, a Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive was approved by the City Council in August of 2007. The approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement and widening of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the



installation of a private storm drain and the extension of utilities to serve a new single-family residence. This application had initially been approved by the Planning Commission in March of 2007, and that approval was appealed to the City Council by neighbor Bonnie Brodersen. In August of 2007, the Council upheld the Planning Commission's approval of the project and Brodersen subsequently appealed the Council decision to the Oregon Land Use Board of Appeals (LUBA). Brodersen made eight assignments of error in her brief to LUBA. Of those eight assignments of error only four of them challenged the City's findings that the applicant complied with the Physical & Environmental Constraints Review Permit criteria. LUBA agreed with the City that there was substantial evidence to support the City's interpretation on each one of those assignments of error, and the City's approval of the project was affirmed by LUBA. *(In addition to those arguments, Brodersen had included four additional assignments of error that did not involve the criteria for a Physical & Environmental Constraints Review Permit. LUBA found that the argument that Chapter 18.62 was in violation of state land use Goal 5 was a collateral attack and that argument was therefore barred. LUBA then stated it did not have to decide the three remaining errors because those arguments were not specific to a Physical & Environmental Constraints Review Permit.)*

The applicants initially applied for and received a building permit (BD-2004-00284) to construct a single family residence in 2004. Neighbor Bonnie Brodersen appealed the issuance of the building permit to the Oregon Land Use Board of Appeals (LUBA) alleging that certain land use approvals were required. The applicants chose a "voluntary remand" of the permit decision and the City agreed to address Brodersen's assignments of error. At this level, because of the voluntary remand, the appeal was not reviewed by LUBA and no errors were adjudicated or determined by LUBA. Because the original decision was not a land use decision but rather a building permit, the applicants were required to submit a land use application for the proposed development and to address the alleged assignments of error.

## **B. Detailed Description of the Site and Proposal**

### **Site Description**

The subject property is a vacant, approximately 0.54-acre rectangular lot located on the north side of Grandview Drive. This portion of Grandview Drive is the western terminus of the city street, and is located west of the intersection with Wrights Creek Drive. Grandview Drive in this vicinity is a gravel road.

The subject property contains slopes of approximately a 14-percent grade sloping downhill in an easterly and northeasterly direction. The application survey identifies three trees on the site including a cluster of plum trees and two poplar trees that are eight- and ten-inches in diameter-at-breast-height (d.b.h.). The two poplars are identified as being dead. The remainder of the site is covered primarily in native grasses. One of the forks of Wrights Creek, a Riparian Preservation Creek, runs to the south of the subject property. The creek is culverted to the south of Grandview Drive and daylights at the edge of the Grandview Drive right-of-way near the southwestern corner of the parcel. The top of the creek bank, and the associated protection zone extending 20-feet beyond the top of bank, are partially located in the southwest corner of the parcel and is identified on the Topographic Survey included in the application.

The subject parcel as well as the surrounding properties to the east, north and south are located in the R-1-10 Single-Family Residential zoning district. The Ashland city limits are located on the western border of the property. As a result, the properties to the west of the parcel are under the jurisdiction of Jackson County. There are several parcels to the north and to the east of the subject property that are also vacant.

A segment of the Wrights Creek drainage runs generally parallel to and south of Wrights Creek Drive in this vicinity, and is culverted at driveway crossings for properties on the south side of the road. The creek turns north and is culverted under Wrights Creek Drive, daylighting approximately 22 feet southwest of the subject property's southwestern-most corner.

An existing driveway currently provides access to the subject parcel as well as the parcel to the west at 507 Grandview Drive. This shared driveway splits off from Grandview Drive within the right-of-way approximately 40 feet east of the subject property, and Grandview Drive continues to the southwest. The driveway splits again shortly after entering the subject property, with one driveway going to the north onto the subject property, and the other driveway continuing west to serve the residence located at 507 Grandview Drive. The driveway is surfaced in gravel and varies from nine to 15 feet in width. The property located at 507 Grandview Drive contains an existing single-family residence and is located outside of the Ashland city limits. The portion of the driveway serving 507 Grandview Drive is located within a 20-foot wide access easement that traverses the southern portion of the subject parcel.

This shared driveway also crosses the corner of the vacant property to the east of the subject property (39 1E 05 CD Tax Lot #411). The previous owner of Tax Lot #411 had authorized the applicants to proceed with their original application in anticipation of granting an access easement. However subsequent to the approval of Planning Action #2006-01784, Tax Lot #411 was sold and the new owner (the appellant) has been unwilling to allow the applicants an access easement over the corner of this lot. The modifications making up the current application are proposed by the applicants as a response to the loss of this access, which requires that the proposed driveway be extended further into the right-of-way and consequently further towards Wrights Creek in order to provide access from the street right-of-way to the subject property.

#### **Amendment/Modification of Physical & Environmental Constraints Review Permit Proposal**

It is important to first clarify that the scope of review for the Physical Constraints Review Permit, both in the original application and the proposed modification here, is limited to the development of the portion of the driveway and utility trenches located within the floodplain. The single-family home and most of the driveway are not located in the Wrights Creek Floodplain, and as a result are not subject to the Physical Constraints Review Permit. The property is located in the R-1-10 Single-Family Residential zoning district, and a single-family home is an outright permitted use. As an outright permitted use, the construction of a single-family home requires only a building permit, and does not require a land use action in and of itself.

Planning Action #2006-01784, the previously approved Physical and Environmental Constraints Review Permit, allowed for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, the re-grading of the transition of the driveway to Grandview Drive, the installation of a private storm drain, and the extension of utilities to serve a new single-family residence. The applicants are now proposing to modify this approval in order to accommodate changes in vehicular access, as the neighboring property to the east was sold subsequent to the previous approval and the new owner (the appellant here) has been unwilling to provide the access easement over the corner of the parcel which is necessary to access the subject property in a manner consistent with the existing approval.

In response to this change in vehicular access, the proposed modification places the access drive in closer proximity to the creek by approximately 13 feet in order to avoid the corner of the neighbor's property while providing the necessary driveway width and clearance. Previously approved improvements would have resulted in approximately 324 square feet of disturbance within the riparian zone, and avoided disturbance between the top of bank and the centerline of the creek. With the current proposal, the disturbed area has been increased to 743 square feet, and 275 square feet of this disturbance is below the identified top of bank.

#### **Tree Removal Proposal**

The application includes a request to remove two poplars (*populus nigra*) identified as Tree #4 and Tree #5 on the tree inventory provided. These trees are located on the southern portion of the subject property, roughly near the centerline of the lot. Both trees are located more than twenty feet from the top of the creek bank identified in the application in an area with a slope of less than 25 percent according to city geographic information system (GIS) data, and as such their removal is not subject to review under the Physical & Environmental Constraints Ordinance.

Tree #4 is described as being nine-inches in diameter-at-breast-height (d.b.h.) and is identified as dead; Tree #5 is described as being six-inches d.b.h. and is also identified as being dead. Tree removal on vacant, residentially-zoned property is subject to permitting only for the removal of significant trees (i.e. those having a trunk 18 caliper inches or larger in diameter at breast height) as noted in AMC 18.61.042.D.1.c. In addition, the removal of dead trees is specifically exempted from regulation in AMC 18.61.035.G.

Given the trees' locations, their sizes and the fact that they are dead, staff determined in the initial administrative approval that no tree removal permit were required for the applicants to remove these two poplars.

#### **Site Review Proposal**

The application submittal includes a request for Site Review approval as the question of whether Site Review approval was required for the proposed home was raised during an appeal of the original application. On appeal, the Site Review requirement was ultimately rejected by the City Council, and that rejection upheld by the Land Use Board of Appeals. Ordinance modifications made subsequent to the original approval also specifically address this issue in AMC 18.72.030 in listing exemptions:

*B. Exemptions. The following development is exempt from Site Design Review application and procedure requirements provided that the development complies with applicable standards as set forth by this Chapter.*

- 1. Detached single family dwellings and associated accessory structures and uses.*

The proposal is not subject to requirements for Site Review approval.

## **II. Project Impact**

The Land Use Ordinance provides for amendments or modifications to the conditions of approval of previously approved 'Type I' planning actions as a miscellaneous action subject to 'Type I' review (i.e. administrative approval) under AMC 18.108.040.A.2.a. The application was initially approved administratively on November 6, 2009, with the decision specifically addressing the elements of the proposal which were subject to modification and the whole record of the previously approved action being modified adopted by reference. Neighbor Bonnie Brodersen subsequently appealed the approval on November 20, 2009. The applicants requested that the hearing of the appeal be delayed as their attorney was unavailable at the next regularly scheduled Planning Commission meeting on December 8, 2009, and with this request, the applicants granted a 60-day extension to the 120-day time limit.

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

As noted above, the scope of review for the Physical Constraints Review Permit, both in the original application and the proposed modification here, is limited to the development of the portion of the driveway and utility trenches located within the Wrights Creek floodplain. The single-family home and most of the driveway are not located in the floodplain and are not subject to the Physical Constraints Review Permit review. The property is located in the R-1-10 Single-Family Residential zoning district, and a single-family home is an outright permitted use. As an outright permitted use, the construction of a single-family home requires a building permit, and does not require a land use action in and of itself.

Planning Action #2006-01784, the previously approved Physical and Environmental Constraints Review Permit, allowed for development in the Wrights Creek floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, the re-grading of the transition of the driveway to Grandview Drive, the installation of a private storm drain, and the extension of utilities to serve a new single-family residence. The applicants are now proposing to modify the approval to accommodate changes in vehicular access, as the neighboring property to the east was sold subsequent to the previous approval and the new owner (the appellant) has been unwilling to provide the access easement over the corner of the parcel which is necessary to access the subject property in a manner consistent with the existing approval.

The proposed modification places the access drive in closer proximity to the creek by approximately 13 feet in order to avoid the corner of the neighbor's property while providing the necessary driveway width. The previously approved improvements would have resulted in approximately 324 square feet of disturbance within the riparian zone, and avoided disturbance between the top of bank and the centerline of the creek. With the current

proposal, the disturbed area has been increased to 743 square feet, and 275 square feet of this disturbance is below the identified top of bank.

The submittals note that all imported material to be used for driveway construction is to be placed at the original ground elevation, so that there is no additional fill which would impede floodwaters. A Grading Plan prepared by Thornton Engineering, Inc. has been provided by the applicants to demonstrate how the grading necessary to accommodate the proposed driveway is to be accomplished, to specifically delineate the disturbed area within the Riparian Preservations Lands and to illustrate the relationship of the disturbance to the creek, top of bank, and to existing improvements already in place.

The applicants have proposed to utilize permeable asphalt for the driveway surface to control drainage and filter possible pollutants through the driveway's sand and gravel base, and they have also proposed to plant riparian-appropriate ground cover and shrubs in the area to curb erosion and assist in screening the creek. In addition, the applicants propose to utilize a combination of silt fencing, hay bales, "V" ditches and underground drainage pipes to convey drainage. Drainage and Erosion Control Plans prepared by the project civil engineers, Thornton Engineering, Inc. have been provided.

A Tree Protection Plan and arborist's reports have been provided to address protection of the trees to be retained on and adjacent to the site. These materials note that Tree #1, a 28-inch Ponderosa Pine within the Grandview Drive right-of-way and the Riparian Protection Zone, merits special attention given the proximity of the driveway access to the tree's trunk. The project arborist, Tom Myers of Upper Limb-It, notes that Grandview Drive and associated gravel driveways are already within the tree's protection zone. He indicates that the standard tree protection fencing around the protection zone will need to be adjusted to the edge of the existing road improvement rather than the typical installation which would fence to the full extent of the 28-foot radius of the tree protection zone. Myers also indicates that an arborist will need to be on-site when paving begins to ensure that all necessary precautions are taken to protect the tree. Myers recommends that paving of the driveway be done with minimal grading to minimize root damage, noting that it would be preferable to raise the grade of the road surface within the tree's protection zone rather than cutting and filling to achieve the desired road surface. Myers also recommends that equipment be kept away from the trees trunk in order to avoid structural damage, and he indicates that if these precautions are taken the tree should survive the proposed construction without damaging its health. The application materials note that the engineered design proposed was developed based on these recommendations.

The Tree Commission reviewed arborist Myers' recommendations at their meeting of October 8, 2009. They were in general concurrence, emphasizing that a permeable material should be used within the tree protection zone and that the driveway be installed at surface grade within the tree protection zone. The Commission also recommended that the tree be pruned to 13-feet 6-inches above the finished driving surface prior to site work to provide adequate vehicular and fire apparatus clearance. In their discussion, Tree Commissioners noted that Ponderosa Pines are generally better able to handle construction and compaction when traffic is concentrated closer to the trunk where stabilizing roots are located, and that this could be preferable to having traffic and compaction concentrated more to the outer,

smaller feeder roots. The Tree Commission had additional recommendations with regard to the project's Tree Protection, specifically that tree protection fencing be provided along the west property line to protect trees on the property to the west, at 507 Grandview Drive, from impacts relating to driveway construction and that tree preservation and protection measures listed in the arborist's recommendations be followed during driveway construction adjacent to this property. A condition has been included below requiring that a revised Tree Protection and Preservation Plan be provided incorporating the recommendations of the Tree Commission.

The Development Standards for Riparian Preservation Lands require that trees over six inches be retained to the greatest extent feasible and limit fill to streets, access and utilities, noting that any crossings shall occur at right angles to the creek channel to the greatest extent possible. Fill is to be kept to a minimum and the general topography of the Riparian Preservation lands is to be retained. As proposed, the applicants have provided a plan for retaining and protecting Tree #1, the Ponderosa Pine located on the Riparian Preservation Lands affected here. The work proposed is limited to that necessary to provide access and utilities to a single family home on a single family residentially-zoned lot and is to be installed within existing Grandview Drive street right-of-way. While no new crossing of Wrights Creek is being proposed, the angle of the transition from the existing street to the new driveway improvements minimizes the disturbance within the Riparian Preservation Lands while responding to applicable driveway standards, avoiding the neighboring property to the east, and retaining and protecting the Ponderosa Pine. The application notes that imported fill materials for driveway construction are to be placed at the original ground elevation, generally retaining the existing topography to the extent possible and avoiding additional fill that would impede floodwaters. In considering these impacts, staff noted that the existing topography is located within existing street right-of-way and already accommodates established driveways in the immediate vicinity. The applicable Development Standards for Flood Plain Corridor Lands set limits for fill, but expressly allows outside fill material associated with public and private street and driveway construction as proposed herein provided that it is "kept to a minimum." In staff's view, the proposed installation of a driveway at the minimum allowed width from the only available adjacent right-of-way, installed to the original ground elevation so as not to impede flood waters and limited to permeable materials, can be found to be kept to a minimum.

The applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development. Specifically, the applicant has proposed grading, drainage and erosion control measures as well as the placement of improvements, use of permeable paving materials, minimization of fill and revegetation to minimize the impacts of the proposal. While these impacts have increased over the original approval, the applicants' response to changes in available vehicular access is the minimum necessary to provide vehicular access to the site from the only available adjacent right-of-way while avoiding impacts to the adjacent Tax Lot #411 or the large Ponderosa Pine, and appropriate mitigation measures have been proposed in detail in the application materials.

The section of Grandview Drive from the intersection with Wrights Creek Drive to the subject parcel is located within 20 feet from the top of bank of a fork of Wrights Creek, and

therefore is located in Floodplain Corridor Lands. Grandview Drive is a public street right-of-way and the section of Grandview Drive from the intersection with Wrights Creek Drive to the southeast corner of the subject parcel was dedicated as street right-of-way in 1971. The portion of the Grandview Drive right-of-way adjacent to the southern boundary of the subject parcel was dedicated as part of the land partition process that created the parcel in 1979. Chapter 18.62, Physical and Environmental Constraints including development standards for riparian corridor lands was adopted in 1986.

The floodplain was obviously altered at some time in the past in the construction of Grandview Drive and the adjacent driveways. The section of the driveway that serves the subject property is an existing driveway that is improved with a gravel surface. In review of the Land Partition file that created the subject parcel, Grandview Drive was in place and was required to be re-graded as a condition of the planning approval. This indicates that the gravel driving surface that constitutes Grandview Drive was in place at least as far back as 1979. The applicants cannot control the location of Grandview Drive, nor can they change the fact that it was platted adjacent to and in a riparian corridor. Furthermore, the applicants did not have any influence over the location of Grandview Drive. The previously established location of the street right-of-way dictates the location of the driveway access and utility connections to serve the subject parcel. Given the location of the Grandview Drive right-of-way, there are no alternative locations available for the driveway or private storm drain line located outside of the Wrights Creek floodplain.

An alternative access to the subject parcel is not available because the subject property is not adjacent to any other street right-of-ways, nor does it have any other available access easements. In staff's opinion, the impact to the Wrights Creek floodplain occurred prior to the current proposal when Grandview Drive and the existing shared driveway were located and constructed. Furthermore, regardless of the development of the subject parcel, the existing gravel driveway will continue to serve the existing home on the adjacent parcel to the west at 507 Grandview Drive.

In staff's view, the applicants have taken all reasonable steps to reduce adverse impacts on the environment. Their proposal preserves and protects the large Ponderosa Pine, and the improvements proposed are limited to those necessary to provide access and utilities to a single family home on a single family residentially-zoned lot from the only adjacent, existing street right-of-way available to provide utilities and vehicular access. The driveway is proposed at the minimum widths and clearances allowed by city standard, is to be installed in permeable materials, and grading and erosion control plans have been provided demonstrating the efforts to be made to minimize fill and control erosion.

### **Initial Concerns Raised by Bonnie Brodersen**

During the initial comment period prior to administrative approval, neighbor Bonnie Brodersen met with staff on-site and submitted comments identifying ten issues of concern as detailed in her letter of October 8, 2009. These concerns were carefully considered in reviewing the proposed modifications. The concerns and staff responses thereto are briefly summarized below:

- 1) That there are not code provisions for amending a previously approved application, and the current application must be processed as a new action.

As noted in the narrative above, the Land Use Ordinance provides for amendments or modifications to the conditions of approval of previously approved Type I planning actions as a miscellaneous action subject to Type I review (i.e. administrative approval) under AMC 18.108.040.A.2.a.

2) That the applicants' proposed driveway will negatively effect entry onto the public street from TL #411 because the proposal places the driveway in part in the right-of-way.

Imported materials for driveway construction are to be placed at original ground elevation, as noted and illustrated on the grading plan provided. With these improvements installed at the original ground level, and within public right-of-way, it does not appear that physical access to the parcel would be negatively impacted. While the driveway improvements proposed are to be installed to provide access to the applicants' parcel, they are located within public street right-of-way and no easement would be required for the owners of tax lot #411 to cross them in gaining access to their property.

Landscape improvements within the right-of-way just south of the frontage of tax lot 411 outlined in the applicants landscape plan submittal could present a barrier to future vehicular access to that site, and as such, a condition of approval has been added to require that these plant materials be removed from a revised landscape plan to be provided before building permit approval.

3) That the applicants' proposal changes the topography and natural state of the Riparian Preservation area within the City-owned right-of-way.

The City-owned right-of-way predates current regulations and provides the only available access to the subject property. As indicated on the applicants' grading plan, the proposal generally maintains the existing grade and topography. As noted in the Council findings for the previous approval, absolute *in situ* preservation of Riparian Preservation Lands is not required the Code and alteration is permitted under many specific elements within the Development Standards for Flood Plain Corridor Lands and to require otherwise would render the standards themselves moot.

4) That the 28-inch Ponderosa Pine may not survive the proposed development in the riparian area; A Tree Protection Plan prepared by a local certified arborist has been provided. This plan includes specific recommendations intended to preserve and protect the Ponderosa Pine given the development proposed, and notes that the tree should survive the construction process without damage to its health. This plan was reviewed by the City's Tree Commission, and they made recommendations in support of the plan.

5) That the applicants' utility plan shows storm water being piped directly into Wrights Creek which flows into Bear Creek, protected as a water quality limited creek, and may be a violation of Ashland's DEQ-approved TMDL plan.

In the original application, the Planning Commission determined that direct discharge into Wrights Creek may not be appropriate given its Riparian Preservation designation. A condition (#5) was added to the original approval requiring pre-treatment measures; this



condition was reviewed and accepted as appropriate by the Council on appeal and was agreed to by the applicants. The condition remains in effect, and the applicants will need to address the requirements of the condition prior to permit issuance.

6) That there is no estimate of the amount of fill required or whether the project can be feasibly completed using only on-site fill.

The Development Standards for Flood Plain Corridor Lands expressly provide for the use of off-site fill within the limitations of AMC 18.62.070.A.3. Off-site fill in the form of aggregate base, paving materials, and fill associated with approved public and private street and driveway construction are expressly permitted. All fill proposed within the Riparian Preservation and Flood Plain Corridor Lands in the application is limited to these purposes.

7) That the AMC requires applications for all permits required of the development to be submitted simultaneously, and that the city should require findings that the applicant can meet all requirements of the zoning district and for issuance of an encroachment permit simultaneously.

The requirement that other applications be filed simultaneously and reviews conducted simultaneously within AMC 18.62.040.E and G refers to Site Review, Performance Standards Development, Conditional Use Permits, Subdivisions, Partitions, master site plans or other planning actions and does not apply to other permits such as encroachments which have other reviewing authorities and/or may require that land use approval be in place prior to review. In this instance, the applicants have submitted for the applicable planning action approvals, and a building permit application has also been made although the building permit review is on hold pending land use approval.

8) That there is no documentation in the Planning Department file that the MacDonald's property was legally created and is a legal lot of record.

This argument was considered and rejected by the Council during the last appeal of the original approval, and that rejection was upheld by the Land Use Board of Appeals. The lot status is not an applicable approval criterion; however in the Council findings for the original approval the City Council previously found that the lot was legally created pursuant to a 1981 partition plat, and that the plat was valid.

9) That the proposal places a driveway in the middle of a riparian area where Wrights Creek daylight within the city right-of-way, that the riparian area is elevated from approximately one to four feet, and that there is no information on how the topography of the riparian preservation area will be retained while placing a driveway through the daylighted area.

The applicants have provided a grading plan from a licensed professional engineering firm illustrating the proposed driveway installation. Plan details and notes illustrate installation of the driveway at original ground elevation and identify both the existing and proposed finish grades.

10) That there are no studies of how run-off from a driveway in excess of 250 feet, a required turnaround, and large home site will affect the floodplain corridor which flooded in 1997.

The scope of review for the Physical Constraints Review Permit, both in the original application and the modifications proposed here, is limited to only that portion of the

driveway and utility trenches located in the floodplain. The single-family home and most of the driveway are not located in the Wrights Creek Floodplain, and as a result are not subject to the Physical Constraints Review Permit. The property is located in the R-1-10 Single-Family Residential zoning district, and a single-family home is an outright permitted use. As an outright permitted use, the construction of a single-family home requires only a building permit, and does not require a planning action in and of itself.

### **Appeal Issues Raised by Bonnie Brodersen**

Following a November 6, 2009 administrative approval, neighbor Bonnie Brodersen appealed the application. The issues she raised and staff responses thereto are provided below:

1) The City states the application is a "modification of conditions of approval." This is not a modification but a new application which more than doubles the square footage of construction, places driveway in a new location, adds new proposals, e.g. drainage ditches et al, the changes proposed are the "meat" of the original application. This is an error because the applicable criteria or procedure in the Ashland Municipal Code §18.108.040A requires that this be reviewed as a new application.

As noted in the narrative above, the Land Use Ordinance explicitly provides for amendments or modifications to the conditions of approval of previously approved Type I planning actions as a miscellaneous action subject to Type I review (i.e. administrative approval) under AMC 18.108.040.A.2.a.

2) There can be no "modification" of a permit that is revoked. The City ignores the AMC which is clear on its face. This is an error because the applicable criteria or procedure in the Ashland Municipal Code §18.112.030 requires that the permit was revoked on 8/07/08.

The "error" referred to is in fact an attempt to appeal a previously approved ministerial action which extended the applicants' original land use approval, and which was not appealed - or what is often referred to as a "collateral attack." AMC 18.112.030 notes that planning actions are deemed revoked if not used within one year from the date of approval, unless another time period is specified in another section of the Land Use Ordinance. The previous land use approval was extended as a ministerial action as specified in another section of the ordinance, in AMC 18.108.020.A, which empowers the Staff Advisor to review and approve the extension of time limits of approved planning actions as provided in AMC 18.112.030. The applicants made application for an 18-month extension as Planning Action #2008-01250 on July 30, 2008 and paid the required fee for a ministerial action on August 6, 2008 - prior to the previous approval's expiration on August 7, 2008. This extension request was reviewed and approved by the Staff Advisor. On August 20, 2008 - within 21 days of the extension being requested, and thus within the timeframe allowed by ordinance - written notice of the extension's approval was provided to the applicants. As explained in AMC 18.108.070.A, ministerial actions are effective on the date of the decision of the Staff Advisor and are not subject to appeal. To challenge a ministerial action, the appellant would need to have raised the issue before the Land Use Board of Appeals or in Circuit Court within 21 days of becoming aware of what she believed to be an error. While this issue was raised by the appellant in her hearing request to the city in November, indicating that she was aware of it, no attempt has been made to address that error through proper legal channels.

within the time limits prescribed by law and as such the ministerial action's approval by the Staff Advisor may not be challenged through this hearing.

3) This application is for a severe constraints land and the city has failed to apply the review required for development on said land. This is an error because the applicable criteria or procedure in the Ashland Municipal Code § 18.62.050 requires that the city apply provisions for severe constraints land.

Severe constraints lands are defined in AMC 18.62.050.D as "Lands with severe development characteristics which generally limit normal development. The following lands are classified as Severe Constraint Lands: 1) All areas which are within the floodway channels, as defined in Chapter 15.10; and 2) All lands with a slope greater than 35 percent."

While the Physical & Environmental Constraints Ordinance (AMC 18.62) classes all lands within 20 feet of any creek designated for Riparian Preservation as Flood Plain Corridor Lands, the floodway channel is much more narrowly defined to those lands defined as such under AMC 15.10.

AMC 15.10.050(I) defines the flood-way as, "... that channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot." 15.10.050(D) further defines a base floods as, "... the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the '100-year flood'. Designation on flood maps always includes the letters A or V." Under the general provisions for that chapter, AMC §§ 15.10.060.A. further clarifies that "This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Ashland, Oregon." The basis for establishing the areas of special flood hazard is explained in AMC §15.10.060.B as "The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study: City of Ashland, Oregon, Jackson County", dated June 1, 1981, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study and accompanying maps (as updated) are on file at City Hall, Ashland, Oregon." No area of special flood hazard, floodplain, floodway or floodway channel was identified for Wrights Creek or its tributaries in this vicinity as part of the study cited (see Staff Exhibit S-1 taken from "Floodway Flood Boundary and Floodway Map for the City of Ashland, Oregon, Jackson County Community Panel 1 of 3 Community-Panel Number 410090 0001 Effective Date June 1, 1981" showing no areas of special flood hazard.)

In the absence of the requisite federal study, the applicants' engineer Mike Thornton of Thornton Engineering, Inc. has prepared a "Flood Analysis" and delineated the 100-year flood boundary, concluding that, "The improvements comply with both sections 15.10 (Flood Damage Prevention Regulations) and 18.62.070 (Development Standards for Flood Plain Corridor Lands). The proposed improvements are more than 20 feet beyond the flood plain boundary and are not located within a flood hazard area or within a floodway." (See July 20, 2009 letter from Thornton and applicants' supporting sheet C-3.) Based on both Chapter 15.10 and the flood analysis by Thornton Engineering, the area of disturbance is outside of the floodway channel.

Based on City of Ashland Geographic Information System (GIS) data (see Staff Exhibit S-2) and on-site observations by staff, there are no lands with slopes greater than 35 percent in the area proposed for disturbance, and as such the area in question is not classified as "Severe

Constraints Lands” and is not subject to the development standards associated with those lands.

4) Piping of stormwater directly into Wrights Creek, an historically fish-bearing creek, violates Ashland's Master Stormwater & Drainage Plan, the Bear Creek Watershed TMDL's (as applied to the City) & it's NPDES Phase 2 permit and the federal Clean Water Act. Dumping of large amounts of water at one time creates erosion of the creek bank at the point of entry. Best Management Practices and required state permits have not been addressed. Further, the City is approving the dumping of stormwater runoff from a City property into Wrights Creek where it is located outside of the city and in the county. The City has not addressed how county ordinances/approvals come into play.

In the original application, the Planning Commission determined that direct discharge into Wrights Creek may not be appropriate given its Riparian Preservation designation. A condition (#5) was added to the original approval requiring pre-treatment measures; this condition was reviewed and accepted as appropriate by the Council on appeal and was agreed to by the applicants. The condition remains in effect, and the applicants will need to address the requirements of the condition prior to permit issuance as well as obtaining any necessary permits or approvals from other jurisdictions which may have authority, such as Jackson County.

5) The City has failed to enforce Street Standards requirements: (See for example, AMC 18.88.050(B). With the proposed development, Grandview Drive will provide access to four or more homes. Four driveways within a few feet of each other will enter Grandview Drive. Implementation of mandatory Street Standards will fall within the riparian/floodplain corridors requiring a physical and environmental constraints review.

The property is located in the R-1-10 Single-Family Residential zoning district, and a single-family home is an outright permitted use. As an outright permitted use, the construction of a single-family home requires only a building permit and is not subject to a land use action which would require street improvements to comply with Street Standards. The application involves the construction of a private driveway within the Grandview Drive right-of-way, and because of its length the driveway is subject to, and complies with, the width and paving standards for a flag drive found in AMC 18.76.060.B. Where serving two lots or being shared by adjacent properties, the flag drive must have a 20-foot width with a 15-foot paved driving surface. Where the drive serves only one lot it may be reduced to a 15-foot width with a 12-foot paved driving surface.

6) The City's findings are inadequate when the City states "imported fill materials for driveway construction are to be placed at the "original ground elevation" and Applicants Narrative provides no info on how a 20-foot wide paved driveway will be placed at the original ground elevation when Grandview Drive sits anywhere between 2-9 feet below the elevated riparian/wetland.

The applicants have provided a grading plan from a licensed professional engineering firm, Thornton Engineering, Inc., illustrating the proposed driveway installation. The grading plan details and notes illustrate installation of the driveway at the original ground elevation and identify both the existing grade and proposed finish grades. Based on this plan, the area of disturbance within Grandview Drive is at most one to four feet above the existing grade at the tree – not two to nine feet below it - and finished grade details and section drawings are

provided to demonstrate how the driveway installation is to be accomplished. (See applicants' Sheet C-1.)

7) City's Order violates the Tree Ordinance when Applicant's arborist recommends the "paving of the new road should be done with a minimum of grading in order to keep root damage to a minimum," yet there are no findings on how close to the surface the tree root system is, how the root system will be protected, how the driveway's sand and gravel base will affect the root system, how compaction from heavy construction equipment will affect the significant pine and oak trees and how a permanent paved driveway extending from the trunk of the pine and over its drip line will affect its long-term survival and the long-term survival of the riparian area.

A Tree Protection Plan and arborist's reports have been provided to address protection of the trees to be retained on and adjacent to the site. These materials note that Tree #1, a 28-inch Ponderosa Pine within the Grandview Drive right-of-way and the Riparian Protection Zone, merits special attention given the proximity of the driveway access to the tree's trunk. The project arborist, Tom Myers of Upper Limb-It, notes that Grandview Drive and associated gravel driveways are already in use within the tree's protection zone. He indicates that the standard tree protection fencing around the protection zone will need to be adjusted to the edge of the existing road improvement rather than the typical installation which would fence to the full extent of the 28-foot radius of the tree protection zone. Myers also indicates that an arborist will need to be on-site when paving begins to ensure that all necessary precautions are taken to protect the tree. Myers recommends that paving of the driveway be done with minimal grading to minimize root damage, noting that it would be preferable to raise the grade of the road surface within the tree's protection zone rather than cutting and filling to achieve the desired road surface. Myers also recommends that equipment be kept away from the trees trunk in order to avoid structural damage, and he indicates that if these precautions are taken the tree should survive the proposed construction without damaging its health. The application materials note that the engineered design proposed was developed based on these recommendations.

The Tree Commission reviewed arborist Myers' recommendations at their meeting of October 8, 2009. They were in general concurrence, emphasizing that a permeable material should be used within the tree protection zone and that the driveway be installed at surface grade within the tree protection zone. The Commission also recommended that the tree be pruned to 13-feet 6-inches above the finished driving surface prior to site work to provide adequate vehicular and fire apparatus clearance. In their discussion, Tree Commissioners noted that Ponderosa Pines are generally better able to handle construction and compaction when traffic is concentrated closer to the trunk where stabilizing roots are located, and that this could be preferable to having traffic and compaction concentrated more to the outer, smaller feeder roots. The Tree Commission had additional recommendations with regard to the project's Tree Protection, specifically that tree protection fencing be provided along the west property line to protect trees on the property to the west, at 507 Grandview Drive, from impacts relating to driveway construction and that tree preservation and protection measures listed in the arborist's recommendations be followed during driveway construction adjacent to this property. A condition has been included below requiring that a revised Tree Protection and Preservation Plan be provided incorporating the recommendations of the Tree Commission.

8) The City violates ALUO 18.62.075 requiring that "the general topography of riparian preservation lands shall be retained" because, among other things, the new proposals (placing 743 square feet of driveway in the protected riparian corridor and 275 square feet below the top of the bank of the creek) will decimate the topography of the riparian area which is in the city-owned right-of-way. It's incomprehensible that the City spends time/money/energy restoring the fish-habitat of lower Wrights Creek, while at the same time relinquishing the City-owned (right-of-way) Wrights Creek riparian corridor at Grandview Drive, to destructive private development, which development will cause irretrievable harm by reducing shade and wildlife habitat, increasing sediment flow into the Creek and increasing water temperature, among other things.

The City-owned right-of-way predates current regulations and provides the only available access to the subject property. As indicated on the applicants' grading plan, prepared by a licensed professional engineer, the proposal generally maintains the existing grade and topography. As noted in the Council findings for the previous approval, absolute *in situ* preservation of Riparian Preservation Lands is not required the Code and alteration is permitted under many specific elements within the Development Standards for Flood Plain Corridor Lands and to require otherwise would render the standards themselves moot.

9) The City fails to enforce ALUO 18.62.070 and violates the NDES Phase II permit when it fails to find that the toe of the fill will be kept at least 10 feet out of floodway channels and when it fails to determine how much fill is being used. Is a removal/fill permit required? There is no finding about how the development will affect flow of surface waters and bank erosion.

As noted above, no floodway channel is defined for this tributary of Wrights Creek as determined by the scientific and engineering studies conducted by FEMA and referenced as the basis for a floodway determination in AMC Chapter 15.10. An analysis by the applicants' engineer, Thornton Engineering, Inc. has determined that the area of disturbance is more than 20 feet beyond the flood plain boundary, which would also place it more than 20 feet from the floodway channel.

The Development Standards for Flood Plain Corridor Lands expressly provide for the use of off-site fill within the limitations of AMC 18.62.070 (A)(3). Off-site fill in the form of aggregate base, paving materials, and fill associated with approved public and private street and driveway construction are expressly permitted without a specific limitation on the amount of fill used for these purposes beyond that it be "kept to a minimum". In this instance, all fill proposed within the Riparian Preservation and Flood Plain Corridor Lands in the application is limited to these purposes and is being used to construct a paved driveway to minimum city standards within existing right-of-way which already accommodates a gravel driveway. This fill is to be installed to existing ground level except within the tree protection zone to accommodate the tree protection recommendations of the project arborist, which were supported by the Tree Commission in their review and which were a basis of the engineered plans. The engineered plans provided detail the proposed driveway installation and associated grading and erosion control, and in staff's view clearly demonstrate that the proposed fill in the Flood Plain Corridor has been kept to a minimum.

10) The City engages in an unconstitutional taking of property when it allows applicant's proposed driveway to be constructed over a public city-owned right-of-way, which right-of-way provides in part, unobstructed access to tax lot #411. Ingress and egress for tax lot #411 onto Grandview Drive was approved by

the City when tax lot #411 was created by partition years ago. Further, because Applicant's property is located to the west and sits significantly below tax lot #411, there is a blind area at the point where a vehicle from tax lot #411 will enter the public right-of-way. In other words, both driveways will meet at a "V". If the applicant's driveway is constructed as proposed this will create a dangerous intersection where a vehicle from applicant's property could collide with a vehicle entering from tax lot #411 because of vision clearance issues. Other issues the City hasn't addressed include: who will be liable in the event of an injury on that area of the driveway located in the public right-of-way which would have to be used for ingress and egress to both tax lot #411 and applicants' property. Who will be responsible for maintaining that area of the driveway? Note that the City found "problems with access to the lot," in 1982 in advising a minor land partition. The City is compounding the problem it was instrumental in causing by previous code-violating actions.

Imported materials for driveway construction are to be placed at original ground elevation, as noted and illustrated on the grading plan provided. With these improvements installed at the original ground level, and within public right-of-way, it does not appear that physical access to tax lot #411 would be obstructed beyond any already existing topographic obstruction. While the driveway improvements proposed are to be installed to provide access to the applicants' parcel, they are located within public street right-of-way and no easement would be required for the owners of tax lot #411 to cross them in gaining access to their property.

Landscape improvements within the right-of-way just south of the frontage of tax lot #411 outlined in the applicants landscape plan submittal could present a barrier to future vehicular access to that site, and as such, a condition of approval has been recommended to require that these plant materials be removed from a revised landscape plan to be provided before building permit approval.

The driveway installation would be subject to a demonstration of compliance with the vision clearance requirements of the ordinance at building permit. This would limit the height of obstructions within a ten foot triangle around the property corner, and it would be the applicants' responsibility to maintain the driveway as approved. In the event of an accident, the police and/or the court system would make an ultimate determination of liability following investigation of the specifics of the incident in light of applicable laws in place at the time.

11) All assignments of error appeal to LUBA which LUBA did not decide or which LUBA denied because said assignments of error were not ripe for decision or were considered dicta for appeal (Final Order for LUBA No. 2007-162) are hereby incorporated by reference and considered part of this appeal to the Planning Commission.

Neighbor Bonnie Brodersen, the appellant, made eight assignments of error in her brief to the Land Use Board of Appeals (LUBA). Of those eight assignments of error, only four challenged the City's findings that the applicant complied with the Physical & Environmental Constraints Review Permit criteria. LUBA agreed with the City that there was substantial evidence to support the City's interpretation on each one of those assignments of error.

Ms. Brodersen had challenged whether the plan submittal requirements detailed in AMC 18.62.040(H)(1)(m), (n) and (q) were met. Those provisions require:

- m. Accurate locations of all existing natural features including, but not limited to, all trees as required in 18.62.080.D.1, including those of a caliper equal to or greater than six inches d.b.h., native shrub masses with a diameter of ten feet or greater, natural drainage, swales, wetlands, ponds, springs, or creeks on the site, and outcroppings of rocks, boulders, etc. Natural features on adjacent properties potentially impacted by the proposed development shall also be included, such as trees with driplines extending across property lines. In forested areas, it is necessary to identify only those trees which will be affected or removed by the proposed development. Indicate any contemplated modifications to a natural feature.*
- n. The proposed method of erosion control, water runoff control, and tree protection for the development as required by this chapter.*
- q. Location of all areas of land disturbance, including cuts, fills, driveways, building sites, and other construction areas. Indicate total area of disturbance, total percentage of project site proposed for disturbance, and maximum depths and heights of cuts and fill.*

LUBA denied this assignment of error, noting that the application was limited in scope and did not apply to the development of the entire subject property but rather only the limited portion within the riparian/floodplain area that was subject to the Physical & Environmental Constraints Review Permit. LUBA then concluded that the appellant had failed to explain why more information was needed to address specific approval criteria than was provided on the plans.

With the current modification proposal, the applicants have provided a site plan and supporting topographic surveys identifying trees and natural features on and adjacent to the site, and a tree protection plan and supplementary recommendations from the project arborist detailing measures necessary to provide tree protection, so the requirements of AMC 18.62.040(H)(1)(m) have been satisfied. To comply with 18.62.040(H)(1)(n), Erosion Control plans have also been provided from the project engineer specifying construction entrance preparations, inlet protection, sediment fencing placement, drainage ditches, and wattle/fiber roll installation necessary to address erosion and run-off. The Grading Plan meets the requirements of AMC 18.62.040(H)(1)(q) because it clearly specifies the area of disturbance as 743 square feet within the Riparian Protection Zone, although this is not specified as a percentage of the site area because the bulk of this disturbance is within the right-of-way rather than on the site. The plan notes further address 18.62.040(H)(1)(q) as well as the Development Standards for Flood Plain Corridor Lands in 18.62.070(A)(3) because they clearly indicate that all imported material is to be placed at the original ground elevation so that there will be no excess fill which would impede flood waters, and this is supported with the grading details and section drawings provided.

In addition to those arguments the appellant included four additional assignments of error that did not involve the criteria for a Physical & Environmental Constraints Review permit. LUBA found that appellant's argument that Chapter 18.62 of the Land Use Ordinance was in violation of the state's Goal 5 was a collateral attack and the argument was therefore barred. LUBA then stated that it did not have to decide the three remaining assignments of error because the arguments made were not specific to a Physical & Environmental Constraints Review permit. Because the current appeal request is again a challenge to a Physical & Environmental Constraints Review permit, these assignments of error are not related to the request being considered by the Commission, or the applicable approval criteria, and are not



further addressed here.

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

**The criteria for a Physical & Environmental Constraints Review Permit are described in AMC Chapter 18.62.040 as follows:**

- I. *Criteria for approval. A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:*
  1. *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.*
  2. *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.*
  3. *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 permitted development permitted by the Land Use Ordinance.*  
(Ord 2834 S1, 1998)  
(ORD 2951, amended, 07/01/2008; Ord. 2834, Amended, 11/03/1998, Section 18.62.040 J "deleted"; Ord 2808, Added, 12/02/1997)

**The criteria for a Tree Removal Permit are described in AMC Chapter 18.61.080 as follows:**

*An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.*

- A. *Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.*
  1. *A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.*
  2. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*
- B. *Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:*
  1. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor*

- may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and*
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; and*
  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. Nothing in this section shall require that the residential density 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 or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.*

4. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*

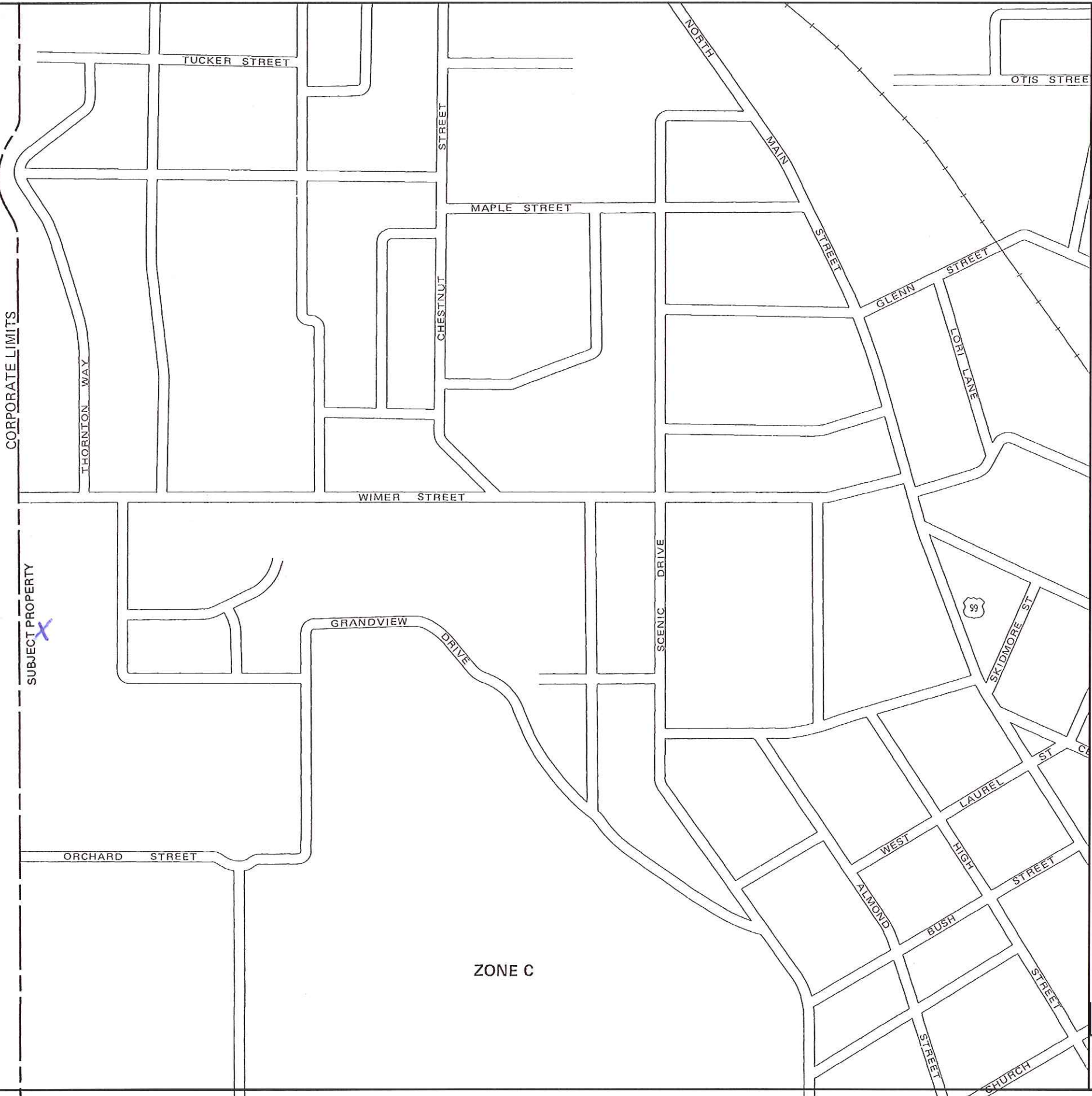
#### **IV. Conclusions and Recommendations**

As noted above, in staff's view the applicants have carefully considered the proposal in terms of the potential impacts to the property and nearby areas, and adverse impacts have been minimized. Potential hazards that the development may create have been identified and considered, and the plans submitted identify measures to mitigate any potential hazards that might otherwise be created. The applicants have taken all reasonable steps to reduce the adverse impacts of the proposal on the environment. The proposal preserves and protects the large Ponderosa Pine, and the improvements proposed are limited to those necessary to provide access and utilities to a single family home on a single family residentially-zoned lot from the only adjacent, existing street right-of-way available to provide utilities and vehicular access. The driveway is proposed at the minimum widths and clearances allowed under city standards, is to be installed in permeable materials, and grading and erosion control plans have been provided demonstrating the efforts to be made both to minimize fill and control erosion. In addition, the applicants have provided a flood analysis prepared by a licensed professional engineer to demonstrate that the area to be disturbed is more than 20-feet beyond the 100-year flood plain boundary, is not located within a flood hazard area or floodway, and has been designed not to impede floodwaters regardless of the frequency of the flood-event. Staff would accordingly recommend approval of the application with the following six conditions attached:

- 1) That all conditions of Planning Action #2006-01784 shall be conditions of approval unless otherwise modified herein.
- 2) That all proposals of the applicant are conditions of approval unless otherwise modified herein.
- 3) That a revised landscape and irrigation plan shall be submitted with the building permit. Plant materials which would impede vehicular access to Tax Lot 411 shall be removed from this plan. The landscaping shall be installed and irrigated prior to issuance of the certificate of occupancy.
- 4) That the recommendations of the Tree Commission's October 8<sup>th</sup>, 2009 meeting shall be

incorporated in a revised Tree Protection Plan to be submitted for the review and approval of the Staff Advisor prior to issuance of a building permit. These recommendations are: 1) that the applicants install tree protection fencing along the west property line where proposed driveway is adjacent to the trees on the neighboring property directly west; 2) that the measures outlined in narrative of the Tree Protection and Preservation Plan shall be implemented during excavation and construction of the driveway near west property line at location of neighbor's shed to where driveway turns back east; 3) that the Ponderosa Pine tree within public right-of-way shall be pruned prior to sitework to provide adequate vehicular clearance (13-feet 6-inches above driving surface); 4) that a paver system, cold-mix asphalt/concrete mix, gravel or similar material shall be used under the dripline of the Ponderosa Pine where the driveway encroaches into the dripline area; and 5) that the driveway shall be installed at surface grade within the dripline of the Ponderosa Pine. In addition, unless the applicants can provide evidence of agreement from the neighbors to the north and east allowing the installation of the proposed tree protection fencing for Trees #7 and #8 on their respective properties, the Tree Protection Plan shall be modified to reflect placement of the fencing necessary to protect these two trees solely on the applicants' property.

- 5) That prior to the issuance of a Certificate of Occupancy, the requirements of the Fire Department shall be satisfactorily addressed including: approved addressing; fire apparatus access including angle of approach, shared access agreements, turn-around, and approval of any gates or fences; firefighter access pathway; fire flow; fire hydrant distance to structures; and fire department work area. Temporary addressing must be in place prior to any sitework, and an approved "fuel break" must be in place prior to bringing combustible materials onto the site.
- 6) That a Tree Verification inspection shall be applied for and approved by the Staff Advisor prior to site work, storage of materials or building permit issuance. This Verification Permit is to inspect the correct identification of the two dead poplar trees to be removed and the installation of tree protection fencing for the trees to remain on and adjacent to the site. The tree protection shall consist of chain link fencing six feet tall and installed in accordance with 18.61.200.B. Property lines shall be clearly identified within and adjacent to the tree protection zones at the time of inspection.



APPROXIMATE SCALE  
400 0 400 FEET

NATIONAL FLOOD INSURANCE PROGRAM

**FIRM**  
FLOOD INSURANCE RATE MAP

CITY OF  
**ASHLAND, OREGON**  
JACKSON COUNTY

**PANEL 1 OF 3**  
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER  
410090 0001 B

EFFECTIVE DATE:  
JUNE 1, 1981

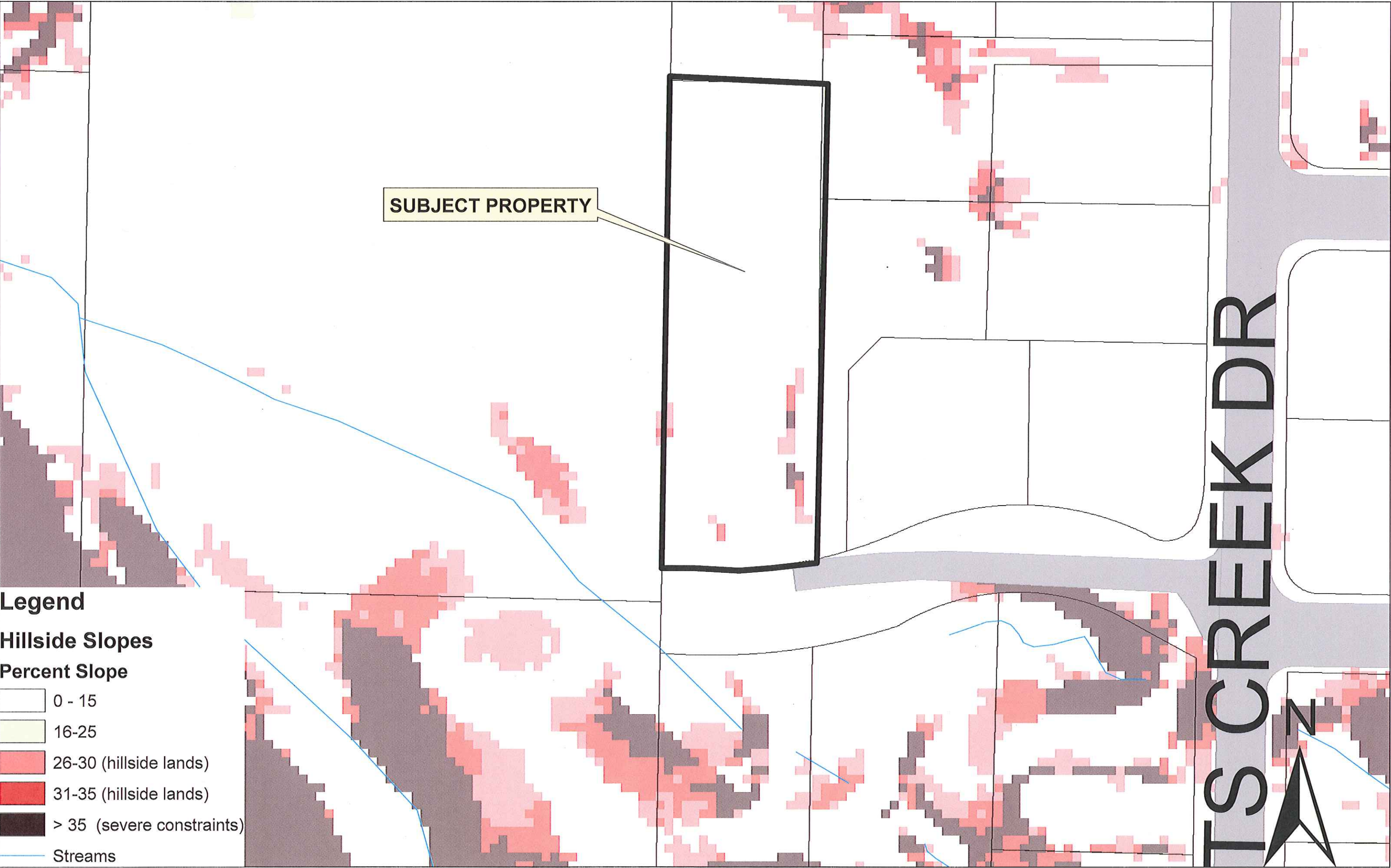


federal emergency management agency  
federal insurance administration

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)



STAFF EXHIBIT S-2 720 GRANDVIEW DRIVE SLOPE MAP



0 12.5 25 50 75 100 Feet

Property lines are for reference only, not scaleable








<b>IN THE MATTER OF PLANNING ACTION #2009-00726</b> , a request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval already in place in order to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.	) ) ) ) ) ) ) ) )	<b>REQUEST FOR AN EXTENSION OF THE TIME LIMIT ORS 227.178(1)</b>
<b>APPLICANTS: Lynn and Bill McDonald</b>		

Applicants request a 60-day extension to the time limit set forth in ORS 227.178(1).

  
Applicant

11/25/09  
Date

  
Applicant

11-25-09  
Date

RECEIVED

NOV 30 2009

City of Portland  
Community Development

[Note: ORS 227.178(5) provides that the "120-day period set in (ORS 227.178(1)) may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days."]

RECEIVED

DEC 20 2009

4:02  
(18)

**Notice of Land Use Appeal – Type I** **City of Ashland**  
(Ashland Municipal Code § 18.108.070.B.2.c)

<b>A. Name(s) of Person Filing Appeal:</b>	<b>B. Address(es):</b>
1. <i>Bonnie Brodersen</i>	<i>635 Wrights Creek Dr</i>
2.	<i>Ashland</i>

Attach additional pages of names and addresses if other persons are joining the appeal.

**C. Decision Being Appealed**

Date of Decision: <i>11-06-09</i>	Planning Action #: <i>2009-00726</i>	Title of planning action: <i>Physical &amp; Environmental Constraints Review Permit</i>
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**D. How Person(s) Filing Appeal Qualifies as a Party**  
(For each person listed above in Box A, check the appropriate box below.)

The person named in Box A.1. above qualifies as a party because:	<input type="checkbox"/> I am the applicant. <input checked="" type="checkbox"/> I received notice of the planning action. <input type="checkbox"/> I was entitled to receive notice of the action but did not receive notice due to error.
The person named in Box A.2. above qualifies as a party because:	<input type="checkbox"/> I am the applicant. <input type="checkbox"/> I received notice of the planning action. <input type="checkbox"/> I was entitled to receive notice of the action but did not receive notice due to error.

Attach additional pages if others have joined in the appeal and describe how each qualifies as a party.

**E. Specific Grounds for Appeal**

1. The first specific ground for which the decision should be reversed or modified is (attach additional pages if necessary): *The City states the application is a "modification of conditions of approval." This is not a modification but a new application which more than doubles the sq ft of construction, places driveway in a new*  
 This is an error because the applicable criteria or procedure in the Ashland Municipal Code § 18.108.040A or other law in § requires that (attach additional pages if necessary): *This has been reviewed as a New Application.* (over) →

2. The second specific ground for which the decision should be reversed or modified is (attach additional pages if necessary): *There can be no "modification" of a permit that is revoked. The City ignores the AMC which is clear on its face.*  
 This is an error because the applicable criteria or procedure in the Ashland Municipal Code § 18.112.030 or other law in § requires that (attach additional pages if necessary): *The permit was revoked on 8/29/08*

3. The third specific ground for which the decision should be reversed or modified is (attach additional pages if necessary): *This application is for a Severe Constraint Land & the City has failed to apply the review required for development on said land.*  
 This is an error because the applicable criteria or procedure in the Ashland Municipal Code § 18.67.050 or other law in § requires that (attach additional pages if necessary): *The City apply provisions for Severe Constraint Land.*



1. location, add new proposals, e.g. drainage intakes et al,  
The changes proposed are the "meat" of the orig. application

4. (On attached pages, list other grounds, in a manner similar to the above, that exist. For each ground list the applicable criteria or procedures in the Ashland Municipal Code or other law that were violated.)

**Appeal Fee**

With this notice of appeal I(we) submit the sum of **\$0.00** which is the appeal fee required by § 18.108.110.A of the Ashland Municipal Code.

Date: 11/19/09

Signature(s) of person(s) filing appeal (attach additional pages if necessary):



*Note: This completed Notice of Land Use Appeal together with the appeal fee must be filed with the Community Development Department, Attn: Planning Commission Secretary, 20 E Main St, Ashland, OR 97520, telephone 541-488-5305, prior to the effective date of the decision sought to be reviewed. Effective dates of decisions are set forth in Ashland Municipal Code Section 18.108.070.*

RECEIVED

DEC 20 2009

City of Ashland

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City of Ashland

Notice of Land Use Appeal – Type I

Nov. 20, 2009

Appellant: Bonnie Brodersen

Attachment

4. Piping of stormwater directly into Wrights Creek, an historically fish-bearing creek, violates Ashland's Master Stormwater & Drainage Plan, The Bear Creek Watershed TMDL's (as applied to the City) & its NPDES Phase 2 permit and the federal Clean Water Act. Dumping of large amounts of water at one time creates erosion of the creek bank at the point of entry. Best Management Practices and required state permits have not been addressed. Further, the City is approving the dumping of stormwater runoff from a City property into Wrights Creek where it is located outside of the city and in the county. The City has not addressed how county ordinances/approval come into play.

5. The City has failed to enforce Street Standards requirements: (See for example, AMC 18.88.050(B). With the proposed development, Grandview Drive will provide access to four or more homes. Four driveways within a few feet of each other will enter Grandview Drive. Implementation of mandatory Street Standards will fall within the riparian/floodplain corridors requiring a physical and environmental constraints review.

6. The City's findings are inadequate when the City states "imported fill materials for driveway construction are to be placed at the "original ground elevation" and Applicants Narrative provides no info on how a 20' wide paved driveway will be placed at the original ground elevation when Grandview Drive sits anywhere between 2-9 feet below the elevated green riparian/wetland.

7. City's Order violates the Tree Ordinance when Applicant's arborist recommends the "paving of the new road should be done with a minimum of grading in order to keep root damage to a minimum," yet there are no findings on how close to the surface the tree root system is, how the root system will be protected, how the driveway's sand and gravel base will affect the root system, how compaction from heavy construction equipment will affect the significant pine and oak trees and how a permanent paved driveway extending from the trunk of the pine and over its drip line will affect its long-term survival and the long term survival of the riparian area.

8. The City violates ALUO 18.62.075 requiring that "the general topography of riparian preservation lands shall be retained" because, among other things, the new proposals (placing 743 sq ft of driveway in the protected riparian corridor and 275

sq ft below the top of the bank of the creek) will decimate the topography of the riparian area which is in the city-owned ROW. It's incomprehensible that the City spends time/money/energy restoring the fish-habitat of lower Wrights Creek, while at the same time relinquishing the City-owned (ROW) Wrights Creek riparian corridor at Grandview Drive, to destructive private development, which development will cause irretrievable harm by reducing shade and wildlife habitat, increasing sediment flow into the Creek and increasing water temperature, among other things.

9. The City fails to enforce ALUO 18.62.070 and violates its NDES Phase II permit when it fails to find that the toe of the fill will be kept at least 10 feet out of floodway channels and when it fails to determine how much fill is being used. Is a removal/fill permit required? There is no finding about how the development will affect flow of surface waters and bank erosion.

10. The City engages in an unconstitutional taking of property when it allows applicant's proposed driveway to be constructed over a public city-owned ROW, which ROW provides in part, unobstructed access to TL 411. Ingress & egress for TL 411 onto Grandview Dr. was approved by the City when TL 411 was created by partition years ago. Further, because Applicant's property is located to the west, and sits significantly below TL 411, there is a blind area at the point where a vehicle from TL 411 will enter the public ROW. In other words, both driveways will meet at a T. If the applicant's driveway is constructed as proposed this will create a dangerous intersection where a vehicle from applicant's property could collide w/ a vehicle entering from TL 411 b/c of vision clearance issues. Other issues the City hasn't addressed include: who will be liable in the event of injury on that area of the driveway located in the public ROW which would have to be used for ingress and egress to both TL 411 and applicants property. Who will be responsible for maintaining that area of the driveway? Note that the City found "problems w/ access to lot," in 1982 in advising on a minor land partition. The City is compounding the problems it was instrumental in causing by previous code-violating actions.

11. All assignments of error appealed to LUBA which LUBA did not decide or which LUBA denied b/c said assignments of error were not ripe for decision or were considered dicta for that appeal (Final Order for LUBA No. 2007-162) are hereby incorporated by reference and considered part of this appeal to the Planning Commission.

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DEC 20 2009

City of Ashland

# CITY OF ASHLAND

November 9, 2009

Bill & Lynn McDonald  
8621 Oak Branch Avenue  
Bakersfield, CA 93311

## **Notice of Final Decision**

On November 6, 2009, the Staff Advisor for the Ashland Planning Division administratively approved your request for the following:

A modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10;  
**ASSESSOR'S MAP #:** 39 1E 05 CD; **TAX LOT:** 500

The Staff Advisor's decision becomes final and is effective on the 13<sup>th</sup> day after the Notice of Final Decision is mailed.

Prior to that date, anyone who was mailed this Notice Of Final Decision may request a reconsideration of the action by the Staff Advisor as set forth in the Ashland Land Use Ordinance (ALUO) 18.108.070(B)(2)(b) and/or file an appeal to the Ashland Planning Commission as provided in the ALUO 18.108.070(B)(2)(c).

An appeal may not be made directly to the Land Use Board of Appeals. Oregon law states that failure to raise an objection concerning this application, by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes your right of appeal to LUBA on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Department to respond to the issue precludes an action for damages in circuit court.

The application, all associated documents and evidence submitted, and the applicable criteria are available for review at no cost at the Ashland Community Development Department, located at 51 Winburn Way. Copies of file documents can be requested and are charged based on the City of Ashland copy fee schedule.

If you have any questions regarding this decision, please contact the Department of Community Development between the hours of 8:00 am and 4:30 pm, Monday through Friday at (541) 488-5305.

cc: Parties of Record

DEPT. OF COMMUNITY DEVELOPMENT  
20 E. Main Street  
Ashland, Oregon 97520  
www.ashland.or.us

Tel: 541-488-5305  
Fax: 541-552-2050  
TTY: 800-735-2900



## **ASHLAND PLANNING DIVISION**

### **FINDINGS & ORDERS**

**PLANNING ACTION:** 2009-00726

**SUBJECT PROPERTIES:** 720 Grandview Drive

**APPLICANT:** McDonald, Lynn & Bill

**DESCRIPTION:** A request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval already in place in order to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10;

**ASSESSOR'S MAP #:** 39 1E 05 CD; **TAX LOT:** 500

**SUBMITTAL DATE:**

June 5, 2009

**DEEMED COMPLETE DATE:**

September 23, 2009

**STAFF APPROVAL DATE:**

November 6, 2009

**FINAL DECISION DATE:**

November 22, 2009

**APPROVAL EXPIRATION DATE:**

November 22, 2010

### **DECISION**

The proposal is a request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation of a private storm drain and the extension of utilities to serve a new single-family residence. PA-2008-01250, an 18-month extension of Planning Action #2006-01784 was approved ministerially as allowed in AMC 18.112.030, and the original approval thus remains valid until February 7, 2010. The proposed modification involves alterations to the approval to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

The subject property is a vacant, approximately 0.54-acre rectangular lot located on the north side of Grandview Drive. This portion of Grandview Drive is the western terminus of the city street, and is located west of the intersection with Wrights Creek Drive. Grandview Drive in this vicinity is a gravel road.

The subject property contains slopes of approximately a 14 percent grade sloping downhill in an easterly and northeasterly direction. The application survey identifies three trees on the site including a cluster of plum trees and two poplar trees that are eight- and ten-inches in diameter-at-breast-height (d.b.h.). The two poplars are identified as being dead. The remainder of the site is covered primarily in native grasses. One of the forks of Wrights Creek, a Riparian Preservation Creek, runs to the south of the subject property. The

creek is culverted to the south of Grandview Drive and daylighted at the edge of the Grandview Drive right-of-way near the southwestern corner of the parcel. The top of the creek bank, and the associated protection zone extending 20-feet beyond the top of bank, are partially located in the southwest corner of the parcel and is identified on the Topographic Survey included in the application.

The subject parcel as well as the surrounding properties to the east, north and south are located in the R-1-10 Single-Family Residential zoning district. The Ashland city limits are located on the western border of the property. As a result, the properties to the west of the parcel are under the jurisdiction of Jackson County. There are several parcels to the north and to the east of the subject property that are also vacant.

A segment of the Wrights Creek drainage runs generally parallel to and south of Wrights Creek Drive in this vicinity, and is culverted at driveway crossings for properties on the south side of the road. The creek turns north and is culverted under Wrights Creek Drive, daylighting approximately 22 feet southwest of the subject property's southwestern-most corner.

An existing driveway currently provides access to the subject parcel as well as the parcel to the west at 507 Grandview Drive. This shared driveway splits off from Grandview Drive within the right-of-way approximately 40 feet east of the subject property, and Grandview Drive continues to the southwest. The driveway splits again shortly after entering the subject property, with one driveway going to the north onto the subject property, and the other driveway continuing west to serve the residence located at 507 Grandview Drive. The driveway is surfaced in gravel and varies from nine to 15 feet in width. The property located at 507 Grandview Drive contains an existing single-family residence and is located outside of the Ashland city limits. The portion of the driveway serving 507 Grandview Drive is located within a 20-foot wide access easement that traverses the southern portion of the subject parcel.

This shared driveway also crosses the corner of the vacant property to the east of the subject property (39 1E 05 CD Tax Lot #411). The previous owner of Tax Lot #411 had authorized the applicants to proceed with their original application in anticipation of granting an access easement. However subsequent to the approval of Planning Action #2006-01784, Tax Lot #411 was sold and the new owner has been unwilling to allow the applicants an access easement over the corner of this lot. The modifications making up the current application are proposed by the applicants as a response to the loss of this access, which requires that the proposed driveway be extended further into the right-of-way and consequently further towards Wright's Creek in order to provide access from the street right-of-way to the subject property.

### **Modification**

The Land Use Ordinance provides for amendments or modifications to the conditions of approval of previously approved Type I planning actions as a miscellaneous action subject to Type I review (i.e. administrative approval) under AMC 18.108.040.A.2.a. The whole record of the original approval is thus adopted here by reference, with the decision below to address those elements of the proposal which are subject to modification with the request.

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

It is important to first clarify that the scope of review for a Physical Constraints Review Permit, both in the original application and the proposed modification here, is limited to the development of the portion of the driveway and utility trenches located in the floodplain. The single-family home and most of the driveway are not located in the Wrights Creek Floodplain, and as a result are not subject to the Physical Constraints

Review Permit. The property is located in the R-1-10 Single-Family Residential zoning district, and a single-family home is an outright permitted use. As an outright permitted use, the construction of a single-family home requires a building permit, and does not require a planning action in and of itself.

Planning Action #2006-01784, the previously approved Physical and Environmental Constraints Review Permit, allowed for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, the re-grading of the transition of the driveway to Grandview Drive, the installation of a private storm drain, and the extension of utilities to serve a new single-family residence. The applicants are now proposing to modify this approval in order to accommodate changes in vehicular access, as the neighboring property to the east was sold subsequent to the previous approval and the new owner has been unwilling to provide the access easement over the corner of the parcel which is necessary to access the subject property in a manner consistent with the existing approval.

In response to this change in vehicular access, the proposed modification places the access drive in closer proximity to the creek by approximately 13 feet in order to avoid the corner of the neighbor's property while providing the necessary driveway width. Previously approved improvements would have resulted in approximately 324 square feet of disturbance within the riparian zone, and avoided disturbance between the top of bank and the centerline of the creek. With the current proposal, the disturbed area has been increased to 743 square feet, and 275 square feet of this disturbance is below the identified top of bank.

The materials provided note that all imported material to be used for driveway construction is to be placed at the original ground elevation, so that there is no additional fill which would impede floodwaters. A Grading Plan prepared by Thornton Engineering, Inc. has been provided by the applicants to demonstrate how the grading necessary to accommodate the proposed driveway is to be accomplished, to specifically delineate the disturbed area within the Riparian Preservations Lands and to illustrate the relationship of the disturbance to the creek, top of bank, and the existing improvements already in place.

The applicants have proposed to utilize permeable asphalt for the driveway surface to control drainage and filter possible pollutants through the driveway's sand and gravel base, and they have also proposed to plant riparian-appropriate ground cover and shrubs in the area to curb erosion and assist in screening the creek. In addition, the applicants propose to utilize a combination of silt fencing, hay bales, "V" ditches and underground drainage pipes to convey drainage. Drainage and Erosion Control Plans prepared by the project civil engineers, Thornton Engineering, Inc. have been provided.

A Tree Protection Plan and arborist's reports have been provided to address protection of the trees to be retained on and adjacent to the site. These materials note that Tree #1, a 28-inch Ponderosa Pine within the Grandview Drive right-of-way and the Riparian Protection Zone, merits special attention given the proximity of the driveway access to the tree's trunk. The project arborist, Tom Myers of Upper Limb-It, notes that Grandview Drive and associated gravel driveways are already within the tree's protection zone. He indicates that tree protection fencing around the protection zone will need to be adjusted to the edge of the existing road improvement rather than the typical fencing to the full extent of the 28-foot radius of the tree protection zone. Myers also indicates that an arborist will need to be on-site when paving begins to ensure that all necessary precautions are taken to protect the tree. Myers recommends that paving of the driveway be done with minimal grading to minimize root damage, noting that it would be preferable to raise the grade of the road surface within the tree's protection zone rather than cutting and filling to achieve the desired road surface. Myers also recommends that equipment be kept away from the trees trunk in order to avoid



structural damage, and he indicates that if these precautions are taken the tree should survive the proposed construction without damaging its health. The application materials note that the engineered design proposed was developed based on these recommendations. The Tree Commission reviewed Myers' recommendations at their meeting of October 8; they were in general concurrence, emphasizing that a permeable material should be used within the tree protection zone and that the driveway be installed at surface grade within the tree protection zone. The Commission also recommended that the tree be pruned to 13-feet 6-inches above the finished driving surface prior to site work to provide adequate vehicular and fire apparatus clearance. In their discussion, Tree Commissioners noted that Ponderosa Pines are generally better able to handle construction and compaction when traffic is concentrated closer to the trunk where stabilizing roots are located, and that this could be preferable to having traffic and compaction concentrated more to the outer, smaller feeder roots. The Tree Commission had additional recommendations with regard to the project's Tree Protection, specifically that tree protection fencing be provided along the west property line to protect trees on the property to the west, at 507 Grandview Drive, from impacts relating to driveway construction and that tree preservation and protection measures listed in the arborists recommendations be followed during driveway construction adjacent to this property. A condition has been included below requiring that a revised Tree Protection and Preservation Plan be provided incorporating the recommendations of the Tree Commission.

The Development Standards for Riparian Preservation Lands require that trees over six inches be retained to the greatest extent feasible and limit fill to streets, access and utilities, noting that any crossings shall occur at right angles to the creek channel to the greatest extent possible. Fill is to be kept to a minimum and the general topography of the Riparian Preservation lands is to be retained. As proposed, the applicants have provided a plan for retaining and protecting Tree #1, the Ponderosa Pine located on the Riparian Preservation Lands affected here. The work proposed is limited to that necessary to provide access and utilities to a single family home on a single family residentially-zoned lot and is to be installed within the existing Grandview Drive street right-of-way. While no new crossing of the Wright's Creek is being proposed, the angle of the transition from the existing street to the new driveway improvements minimizes the disturbance within the Riparian Preservation Lands while responding to applicable driveway standards, avoiding the neighboring property to the east, and retaining and protecting the Ponderosa Pine. The application notes that imported fill materials for driveway construction are to be placed at the original ground elevation, generally retaining the existing topography to the extent possible and avoiding additional fill that would impede floodwaters. In considering these impacts, staff noted that the existing topography is located within existing street right-of-way and already accommodates established driveways in the immediate vicinity. The applicable Development Standards for Flood Plain Corridor Lands set limits for fill, expressly allowing outside fill material associated with public and private street and driveway construction, as proposed herein.

The applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development. Specifically, the applicant has proposed grading, drainage and erosion control measures as well as the placement of improvements, use of permeable paving materials, minimization of fill and revegetation to minimize the impacts of the proposal. While these impacts have increased over the original approval, the applicants response to changes in available vehicular access is the minimum necessary to provide vehicular access to the site while avoiding impacts to the adjacent Tax Lot #411 or the large Ponderosa Pine and appropriate mitigation measures have been proposed.

The section of Grandview Drive from the intersection with Wrights Creek Dr. to the subject parcel is located within 20 feet from the top of bank of a fork of Wrights Creek, and therefore is located in Floodplain Corridor Lands. Grandview Drive is a public street right-of-way and the section of Grandview Drive from the intersection with Wrights Creek Drive to the southeast corner of the subject parcel was dedicated as street right-of-way in 1971. The portion of the Grandview Drive right-of-way adjacent to the southern boundary of the subject parcel was dedicated as part of the land partition process that created the parcel in 1979. Chapter 18.62, Physical and Environmental Constraints including development standards for riparian corridor lands was adopted in 1986.

The floodplain was obviously altered at some time in the past in the construction of Grandview Drive and the adjacent driveways. The section of the driveway that serves the subject property is an existing driveway that is improved with a gravel surface. In review of the Land Partition file that created the subject parcel, Grandview Drive was in place and was required to be re-graded as a condition of the planning approval. This indicates that the gravel driving surface that constitutes Grandview Drive was in place at least as far back as 1979. The applicants cannot control the location of Grandview Drive, nor can they change the fact that it was platted adjacent to and in a riparian corridor. Furthermore, the applicants did not have any influence over the location of Grandview Drive. The previously established location of the street right-of-way dictates the location of the driveway access and utility connections to serve the subject parcel. Given the location of the Grandview Drive right-of-way, there are no alternative locations available for the driveway or private storm drain line located outside of the Wrights Creek floodplain.

An alternative access to the subject parcel is not available because the subject property is not adjacent to any other street right-of-ways, nor does it have any other available access easements. In staff's opinion, the impact to the Wrights Creek floodplain occurred prior to the current proposal when Grandview Drive and the existing shared driveway were located and constructed. Furthermore, regardless of the development of the subject parcel, the driveway will continue to serve the home on the adjacent parcel to the west at 507 Grandview Drive.

In staff's view, the applicants have taken all reasonable steps to reduce the adverse impact on the environment. Their proposal preserves and protects the large Ponderosa Pine, and the improvements proposed are limited to those necessary to provide access and utilities to a single family home on a single family residentially-zoned lot from the only adjacent, existing street right-of-way available to provide utilities and vehicular access. The driveway is proposed at the minimum widths and clearances allowed by city standard, is to be installed in permeable materials, and grading and erosion control plans have been provided demonstrating the efforts to be made to minimize fill and control erosion.

### **Concerns Raised by Bonnie Brodersen**

During the comment period, neighbor Bonnie Brodersen met with staff on-site and submitted comments identifying ten issues of concern as detailed in her letter of October 8, 2009. These concerns were carefully considered in reviewing the proposed modifications. The concerns and staff responses thereto are briefly summarized below:

- 1) That there are not code provisions for amending a previously approved application, and the current application must be processed as a new action.

As noted in the narrative above, the Land Use Ordinance provides for amendments or modifications to the conditions of approval of previously approved Type I planning actions as a miscellaneous action subject to Type I review (i.e. administrative approval) under AMC 18.108.040.A.2.a.

2) That the applicants' proposed driveway will negatively effect entry onto the public street from TL #411 because the proposal places the driveway in part in the right-of-way.

Imported materials for driveway construction are to be placed at original ground elevation, as noted and illustrated on the grading plan provided. With these improvements installed at the original ground level, and within public right-of-way, it does not appear that physical access to the parcel would be negatively impacted. While the driveway improvements proposed are to be installed to provide access to the applicants' parcel, they are located within public street right-of-way and no easement would be required for the owners of tax lot #411 to cross them in gaining access to their property.

Landscape improvements within the right-of-way just south of the frontage of tax lot 411 outlined in the applicants landscape plan submittal could present a barrier to future vehicular access to that site, and as such, a condition of approval has been added to require that these plant materials be removed from a revised landscape plan to be provided before building permit approval.

3) That the applicants proposal changes the topography and natural state of the Riparian Preservation area within the City-owned right-of-way.

The City-owned right-of-way predates current regulations and provides the only available access to the subject property. As indicated on the applicants' grading plan, the proposal generally maintains the existing grade and topography. As noted in the Council findings for the previous approval, absolute *in situ* preservation of Riparian Preservation Lands is not required the Code and alteration is permitted under many specific elements within the Development Standards for Flood Plain Corridor Lands and to require otherwise would render these standards moot.

4) That the 28-inch Ponderosa Pine may not survive the proposed development in the riparian area;

A Tree Protection Plan prepared by a local certified arborist has been provided. This plan includes specific recommendations intended to preserve and protect the Ponderosa Pine given the development proposed, and notes that the tree should survive the construction process without damage to its health. This plan was reviewed by the City's Tree Commission, and they made recommendations in support of the plan.

5) That the applicants' utility plan shows storm water being piped directly into Wrights Creek which flows into Bear Creek, protected as a water quality limited creek, and may be a violation of Ashland's DEQ-approved TMDL plan.

In the original application, the Planning Commission determined that direct discharge into Wrights Creek may not be appropriate given its Riparian Preservation designation. A condition (#5) was added to the original approval requiring pre-treatment measures; this condition was reviewed and accepted as appropriate by the Council on appeal and was agreed to by the applicants. The condition remains in effect, and the applicants will need to address the requirements of the condition prior to permit issuance.

6) That there is no estimate of the amount of fill required or whether the project can be feasibly completed using only on-site fill.

The Development Standards for Flood Plain Corridor Lands expressly provide for the use of off-site fill within the limitations of AMC 18.62.070.A.3. Off-site fill in the form of aggregate base, paving

materials, and fill associated with approved public and private street and driveway construction are expressly permitted. All fill proposed within the Riparian Preservation and Flood Plain Corridor Lands in the application is limited to these purposes.

7) That the AMC requires applications for all permits required of the development to be submitted simultaneously, and that the city should require findings that the applicant can meet all requirements of the zoning district and for issuance of an encroachment permit simultaneously.

The requirement that other applications be filed simultaneously and reviews conducted simultaneously within AMC 18.62.040.E and G refers to Site Review, Performance Standards Development, Conditional Use Permits, Subdivisions, Partitions, master site plans or other planning actions and does not apply to other permits such as encroachments which have other reviewing authorities and/or may require that land use approval be in place prior to review. In this instance, the applicants have submitted for the applicable planning action approvals, and a building permit application has also been made.

8) That there is no documentation in the Planning Department file that the MacDonald's property was legally created and is a legal lot of record.

This argument was considered and rejected by the Council during the last appeal of the original approval, and that rejection was upheld by the Land Use Board of Appeals. The lot status is not an applicable approval criterion, however in the Council findings for the original approval the City Council previously found that the lot was legally created pursuant to a 1981 partition plat, and that the plat was valid.

9) That the proposal places a driveway in the middle of a riparian area where Wrights Creek daylight within the city right-of-way, that the riparian area is elevated from approximately one to four feet, and that there is no information on how the topography of the riparian preservation area will be retained while placing a driveway through the daylighted area.

The applicants have provided a grading plan from a licensed professional engineering firm illustrating the proposed driveway installation. Plan details and notes illustrate installation of the driveway at original ground elevation and identify both existing and finish grades.

10) That there are no studies of how run-off from a driveway in excess of 250 feet, a required turnaround, and large homesite will affect the floodplain corridor with flooded in 1997.

The scope of review for the Physical Constraints Review Permit, both in the original application and the modifications proposed here, is limited to only that portion of the driveway and utility trenches located in the floodplain. The single-family home and most of the driveway are not located in the Wrights Creek Floodplain, and as a result are not subject to the Physical Constraints Review Permit. The property is located in the R-1-10 Single-Family Residential zoning district, and a single-family home is an outright permitted use. As an outright permitted use, the construction of a single-family home requires only a building permit, and does not require a planning action in and of itself.

#### **Tree Removal Permit**

The application includes a request to remove two poplars (*populus nigra*) identified as Tree #4 and Tree #5 on the tree inventory provided. These trees are located on the southern portion of the subject property,

roughly near the centerline of the lot. Both trees are located more than twenty feet from the top of the creek bank identified in the application in an area with a slope of less than 25 percent according to city GIS data, and as such their removal is not subject to review under the Physical & Environmental Constraints Review Ordinance. Tree #4 is described as being nine-inches in diameter-at-breast-height (d.b.h.) and is identified as dead; Tree #5 is described as being six-inches d.b.h. and is also identified as being dead.

Tree removal on vacant, residentially-zoned property is subject to permitting only for the removal of significant trees (i.e. those having a trunk 18 caliper inches or larger in diameter at breast height) as noted in AMC 18.61.042.D.1.c. In addition, the removal of dead trees is specifically exempted from regulation in AMC 18.61.035.G. As such, given both their sizes and the fact that they are dead, staff find that no tree removal permit is required for the applicants to remove these two poplars.

### **Site Review**

The application submittal includes a request for Site Review approval as the question of whether Site Review approval was required for the proposed home was raised during an appeal of the original application. On appeal, the Site Review requirement and was ultimately rejected by the City Council, and that rejection upheld by the Land Use Board of Appeals. Ordinance modifications made subsequent to the original approval also specifically address this issue in AMC 18.72.030 in listing exemptions:

- B. Exemptions. The following development is exempt from Site Design Review application and procedure requirements provided that the development complies with applicable standards as set forth by this Chapter.*
  - 1. Detached single family dwellings and associated accessory structures and uses.*

The proposal is not subject to requirements for Site Review approval.

**The criteria for a Physical & Environmental Constraints Review Permit are described in AMC Chapter 18.62.040 as follows:**

- I. Criteria for approval. A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:*
  - 1. 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.*
  - 2. 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.*
  - 3. 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 permitted development permitted by the Land Use Ordinance.*

*(Ord 2834 S1, 1998)*

*(ORD 2951, amended, 07/01/2008; Ord. 2834, Amended, 11/03/1998, Section 18.62.040 J "deleted"; Ord 2808, Added, 12/02/1997)*

**The criteria for a Tree Removal Permit are described in AMC Chapter 18.61.080 as follows:**

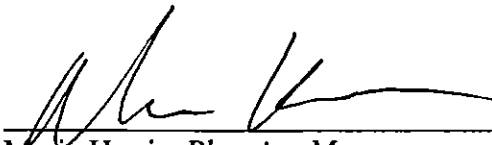
*An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.*

- A. *Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.*
  - 1. *A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.*
  - 2. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*
- B. *Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:*
  - 1. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and*
  - 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; and*
  - 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. Nothing in this section shall require that the residential density 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 or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.*
  - 4. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*

The application with the attached conditions complies with all applicable City ordinances. Planning Action #2009-00726 is approved with the following conditions. Further, if any one or more of the following conditions are found to be invalid for any reason whatsoever, then Planning Action #2009-00726 is denied. The following are the conditions and they are attached to the approval:

- 1) That all conditions of Planning Action #2006-01784 shall be conditions of approval unless otherwise modified herein.
- 2) That all proposals of the applicant are conditions of approval unless otherwise modified herein.
- 3) That a revised landscape and irrigation plan shall be submitted with the building permit. Plant materials which would impede vehicular access to Tax Lot 411 shall be removed from this plan. The landscaping shall be installed and irrigated prior to issuance of the certificate of occupancy.
- 4) That the recommendations of the Tree Commission's October 8<sup>th</sup>, 2009 meeting shall be incorporated in a revised Tree Protection Plan to be submitted for the review and approval of the Staff Advisor prior to issuance of a building permit. These recommendations are: 1) that the applicants install tree protection fencing along the west property line where proposed driveway is adjacent to the trees on the neighboring property directly west; 2) that the measures outlined in narrative of the Tree Protection and Preservation Plan shall be implemented during excavation and construction of the driveway near west property line at location of neighbor's shed to where driveway turns back east; 3) that the Ponderosa Pine tree within public right-of-way shall be pruned prior to sitework to provide adequate vehicular clearance (13-feet 6-inches above driving surface); 4) that a paver system, cold-mix asphalt/concrete mix, gravel or similar material shall be used under the dripline of the Ponderosa Pine where the driveway encroaches into the dripline area; and 5) that the driveway shall be installed at surface grade within the dripline of the Ponderosa Pine. In addition, unless the applicants can provide evidence of agreement from the neighbors to the north and east allowing the installation of the proposed tree protection fencing for Trees #7 and #8 on their respective properties, the Tree Protection Plan shall be modified to reflect placement of the fencing necessary to protect these two trees solely on the applicants' property.
- 5) That prior to the issuance of a Certificate of Occupancy, the requirements of the Fire Department shall be satisfactorily addressed including: approved addressing; fire apparatus access including angle of approach, shared access agreements, turn-around, and approval of any gates or fences; firefighter access pathway; fire flow; fire hydrant distance to structures; and fire department work area. Temporary addressing must be in place prior to any sitework, and an approved "fuel break" must be in place prior to bringing combustible materials onto the site.
- 6) That a Tree Verification inspection shall be applied for and approved by the Staff Advisor prior to site work, storage of materials or building permit issuance. This Verification Permit is to inspect the correct identification of the two dead poplar trees to be removed and the installation of tree protection fencing for the trees to remain on and adjacent to the site. The tree protection shall consist of chain link fencing six feet tall and installed in accordance with 18.61.200.B. Property lines shall be clearly identified within and adjacent to the tree protection zones at the time of inspection.

  
Maria Harris, *Planning Manager*  
Department of Community Development

November 6<sup>th</sup>, 2009  
\_\_\_\_\_  
Date

To: Planning Department  
From: Bonnie Brodersen  
635 Wrights Creek Dr.  
482-0180  
Re: McDonald Property; P.A. 2009-00726  
Date: October 8, 2009

RECEIVED  
OCT 08 2009  
City of Ashland

Comments Submitted by Bonnie Brodersen: Measurement Correction for #9.

1. There are no code provisions for "amending" a previously approved Physical & Environmental Constraints Permit. The Department appears to be treating the application as a new application for a new permit, but this should be clearly stated.
2. Applicant's proposed driveway will negatively affect entry onto the public street from TL 411 (currently undeveloped but which area for ingress/egress is platted), because Applicant's proposal places it's driveway in part in the ROW that TL 411 would use to access Grandview Drive.
3. Applicants have proposed un-natural man-made additions to the riparian preservation area which change the topography and the natural state of the area. People have chosen to live in this area (on the city/county line) because of its natural beauty and semi-rural feeling. Applicant's proposals not only denigrate the protected riparian area, but will forever alter the natural state or the riparian area that the neighborhood has cherished. Note that the area which will be denigrated is not owned by Applicants but is a city-owned ROW.
4. There is a significant 28" ponderosa pine tree. This tree is in the city-owned ROW (riparian area where the stream daylights). The tree protection zone radius is 28'. The grading plan shows the driveway placed within the protection zone and drip-line. It is noted that the tree may not survive the proposed development in the riparian area. This would be a significant loss to the riparian area; the tree provides shade for the area; it's provides wildlife habitat (e.g., a family of quail has been present in the area for over 15 years) and it is the tallest tree in the area where the water daylights. Its root system helps to stem erosion and further degradation of the riparian area.
5. Applicant's utility plan shows storm water being piped directly into Wrights Creek which flows into Bear Creek, protected as a "water quality limited" creek. Is direct piping of storm water into Wrights Creek a violation of Ashland's TMDL plan, as approved by DEQ.
6. There is no estimate of the amount of fill required to develop the area as required by AMC or whether the project can feasibly be completed using only on-site fill.



RECEIVED

To: Planning Department  
From: Bonnie Brodersen  
635 Wrights Creek Dr.  
482-0180

OCT 7 2009

Re: McDonald Property; P.A. 2009-00726  
Date: October 7, 2009

City of Ashland  
Community Development

**Comments Submitted by Bonnie Brodersen:**

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7. The AMC requires that applications for all permits required for this development be submitted simultaneously. The city should make findings that Applicant can meet lot coverage requirements, turnaround requirements, setback requirements, etc. before it extends a permit to degrade the City-owned riparian area and place a 20' wide driveway next to/under a 28" significant pine tree, possibly irreversibly harming or destroying the tree. Also, the city should determine if Applicant can meet the requirements for an encroachment permit (to encroach on City-owned ROW) simultaneously. Exactions, for which the city did not provide remuneration, are for public purposes and not for private use by individuals, which use would exclude the public or diminish the public's enjoyment of the area.

8. There is no documentation in the Planning Department file that the McDonald property was legally created and is a legal lot as required by the AMC. To merely state that it is a legal lot begs the question.

9. The proposed development plan places a 20' wide driveway in the middle of the riparian area where a Wrights Creek waterway daylights in the city ROW. The applicant's grading plan shows the driveway on part of an unpaved city street, Grandview Drive. Note that the riparian area is elevated above the street from approximately 1'–4'. There is no information on how the topography of the riparian preservation area shall be retained when placing a paved driveway through the "daylight" area.

10. There are no studies of how runoff from a driveway in excess of 250', a required turnaround and a large homesite will affect the floodplain corridor (where the stream daylights) which flooded in 1997 (FEMA representative visited the site).

To: Planning Department  
From: Bonnie Brodersen  
635 Wrights Creek Dr.  
482-0180  
Re: McDonald Property; P.A. 2009-00726  
Date: October 7, 2009

RECEIVED

OCT 7 2009

City of Ashland  
Community Development

Comments Submitted by Bonnie Brodersen:

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10. There are no studies of how runoff from a driveway in excess of 250', a required turnaround and a large homesite will affect the floodplain corridor (where the stream daylights) which flooded in 1997 (FEMA representative visited the site).



## NOTICE OF APPLICATION

**PLANNING ACTION:** 2009-00726

**SUBJECT PROPERTIES:** 720 Grandview Drive

**APPLICANT:** McDonald, Lynn & Bill

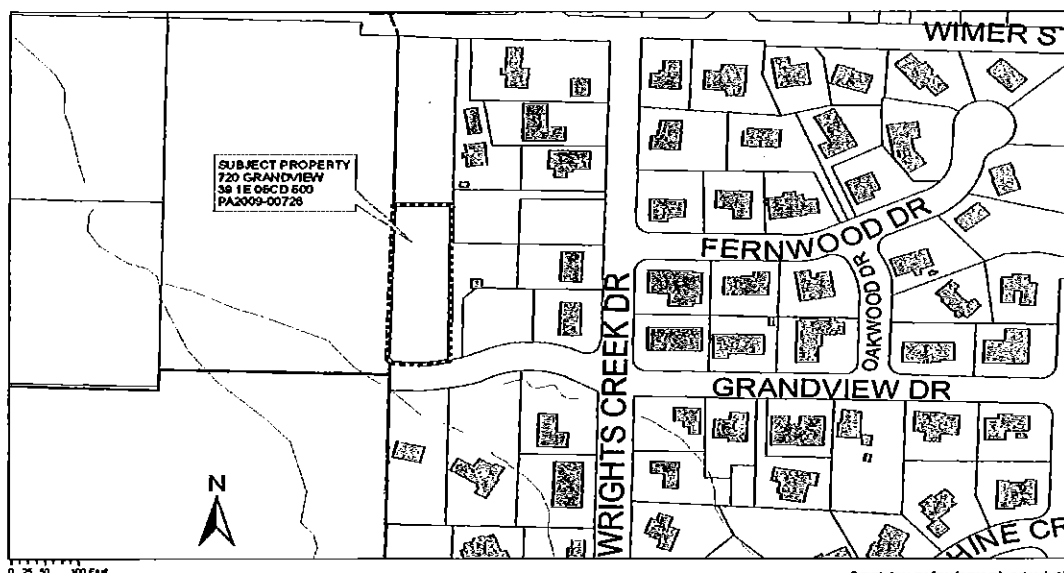
**DESCRIPTION:** A request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10; **ASSESSOR'S MAP #:** 39 1E 05 CD; **TAX LOT:** 500

**NOTE:** The Ashland Tree Commission will also review this Planning Action on **October 8, 2009 at 6:00 p.m.** in the Community Development and Engineering Services building (Siskiyou Room) located at 51 Winburn Way

**NOTICE OF COMPLETE APPLICATION:** *September 23, 2009*

**DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS:** *October 7, 2009*



The Ashland Planning Division Staff has received a complete application for the property noted above.

Any affected property owner or resident has a right to submit written comments to the City of Ashland Planning Division, 51 Winburn Way, Ashland, Oregon 97520 prior to 4:30 p.m. on the deadline date shown above.

Ashland Planning Division Staff determine if a Land Use application is complete within 30 days of submittal. Upon determination of completeness, a notice is sent to surrounding properties within 200 feet of the property submitting application which allows for a 14 day comment period. After the comment period and not more than 45 days from the application being deemed complete, the Planning Division Staff shall make a final decision on the application. A notice of decision is mailed to the same properties within 5 days of decision. An appeal to the Planning Commission of the Planning Division Staff's decision must be made in writing to the Ashland Planning Division within 12 days from the date of the mailing of final decision. (AMC 18.108.040)

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

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, if requested. All materials are available at the Ashland Planning Division, Community Development & Engineering Services Building, 51 Winburn Way, Ashland, Oregon 97520.

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

## **PHYSICAL & ENVIRONMENTAL CONSTRAINTS**

### **18.62.040.I Criteria for Approval**

A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:

1. 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.
2. 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.
3. 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 permitted development permitted by the Land Use Ordinance.

(ORD 2808, 1997; ORD 2834, 1998; ORD 2951, 2008)

## **TREE REMOVAL**

### **18.61.080 Criteria for Issuance of Tree Removal - Staff Permit**

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.

- A. **Hazard Tree:** The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.
  1. A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
  2. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.
- B. **Tree that Is Not a Hazard:** The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:
  1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and
  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; and
  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. Nothing in this section shall require that the residential density 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 or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.
  4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.

(ORD 2951, 2008; ORD 2883, 2002)

ASHLAND TREE COMMISSION  
PLANNING APPLICATION REVIEW  
October 8, 2009

**PLANNING ACTION:** 2009-00726

**SUBJECT PROPERTIES:** 720 Grandview Drive

**APPLICANT:** McDonald, Lynn & Bill

**DESCRIPTION:** A request for a modification of a previously approved Physical and Environmental Constraints Review Permit (PA #2006-01784) for the property located at 720 Grandview Drive. The original approval was for development in the Wrights Creek Floodplain and Riparian Preservation Lands for the improvement of a portion of an existing driveway, re-grading the transition of the driveway to Grandview Drive, the installation a private storm drain and the extension of utilities to serve a new single-family residence. The proposed modification involves alterations to the approval to accommodate changes in vehicular access. A request for a Tree Removal Permit to remove two dead poplar trees is also included.

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential;

**ZONING:** R-1-10; **ASSESSOR'S MAP #:** 39 1E 05 CD; **TAX LOT:** 500

**Recommendation:**

- 1) Install Tree Protection fencing along west property line where proposed driveway is adjacent to the trees on the neighboring property directly west.
- 2) Measures outlined in narrative of Tree Protection and Preservation Plan shall be implemented during excavation and construction of the driveway near west property line at location of neighbor's shed to where driveway turns back east.
- 3) That the Ponderosa pine tree within public right-of-way shall be pruned prior to site work to provide adequate vehicular clearance (13' 6" above drive surface)
- 4) That a paver system, cold mix asphalt / concrete mix, gravel or similar material shall be used under the dripline of the Ponderosa pine where the driveway encroaches into dripline area.
- 5) That the driveway shall be installed at surface grade within the dripline of the Ponderosa pine.

**MCDONALD  
PROJECT NARRATIVE/FINDINGS  
AUGUST 3, 2009**

**PROJECT NAME:** McDonald Residence

**TYPE OF PLANNING ACTION:** A request for a Site Review (Chapter 18.72), Physical and Environmental Constraints Review Permit (Chapter 18.62) and a Tree Removal Review Permit (Chapter 18.61) for a proposed residence in the single family zone district (Chapter 18.20).

**PROJECT INFORMATION:**

**OWNER/APPLICANT:**

Lynn and Bill McDonald  
8621 Oak Branch Avenue  
Bakersfield, CA 93311  
Tel: 661-665-2111

**LANDSCAPE ARCHITECT / PLANNER:**

KenCairn Landscape Architecture  
545 A Street  
Ashland, Oregon 97520  
541-488-3194

**BUILDING DESIGNER:**

Ken Snelling  
1625 Cady Road  
Jacksonville, OR 97520  
541-899-2925

**SURVEYOR:**

Terra Survey, Inc.  
274 Fourth Street  
Ashland, OR 97520  
541-482-6474

**ARBORIST:**

Upper Limb-It  
Tom Meyers  
Ashland, Oregon 97520  
541-482-3667

**CIVIL ENGINEER:**

Thornton Engineering  
1236 Disk Drive  
Medford, OR 97504  
541-857-0864

**PROJECT ADDRESS:**

720 Grandview

**LEGAL DESCRIPTION:**

39-1E-5CD Tax Lot 500

**COMPREHENSIVE PLAN DESIGNATION:**

Single Family Residential, (10,000 S.F. Lots)

**ZONING DESIGNATION:**

R-1-10

**PROJECT STATISTICS:**

Area of Property, Lot 500 - .54 acres (23,522 S.F.)

RECORDED

AUG 3 2009

C. J. [illegible]



## **BACKGROUND:**

In 1979, Tax Lot 500 was divided into three parcels (PA-79-110), see Minor Land Partition Map. Lot 501 remained outside the city limits but within the city's Urban Growth Boundary (UGB). This parcel has a county zone designation of RR-5, which allows for one residential unit per five acres. Lots 500 and 502 are within the city limits and zoned R-1-10, which allows 10,000 S.F. Lots.

The owner of Tax Lot 500 submitted an application for a new residence on February 18, 2004. A Building Permit was issued on October 20, 2004. In November 2004, Bonnie Brodersen, a neighbor, appealed the issuance of the building permit to the city's Planning Commission without success. The neighbor then appealed the application to the State Land Use Board of Appeals (LUBA). LUBA remanded the appeal back to the city to address and resolve each of the assignments of error.

Both the Ashland City Attorney, Mike Franel, and the applicant's attorney, Mark Bartholomew, have determined that the 1979 application for a minor Land Partition and Variance for lot depth was created legally, see attached memo and letter. Except for lot depth, the current application for a Residential Building Permit, in regard to the general regulations for the zone designation (Chapter 18.20.040) will be reviewed by the City for current compliance. Further, a Physical and Environmental Permit (Chapter 18.62) will be reviewed for the area adjacent to the creek in the southwest corner of the lot as well as a Tree Removal Permit (Chapter 18.61) that addresses the treatment of the three existing on-site trees. Although the Land Use Ordinance is unclear to whether a single family home building permit requires a Site Review (Chapter 18.72), the applicant is also providing Site Review Findings.

The applicant and prior owners of Tax Lot 500 have gained access across the corner of the parcel to the east, see Site Plan. A formal easement agreement does not exist; therefore, the applicant had requested an easement from his neighbor.

## **ADDITIONAL BACKGROUND:**

This project has been previously approved through the City of Ashland planning process. It is being resubmitted with a revised access road and driveway. This re-submittal is required because a neighbor, Bonnie Brodersen, purchased an adjacent lot (TL 411). The prior owner of the adjacent lot (Tax Lot 411) agreed to grant an access easement over the property, this easement would have permitted the applicant to minimize access encroachment into the riparian area. After Ms. Brodersen purchased tax lot 411, the applicant requested that Ms. Brodersen provide the easement that had been agreed to by the previous owner, and Ms. Brodersen never responded. If Ms. Brodersen would have honored the previous owner's promise to grant the easement, this application would not be necessary. Ms. Brodersen has appealed the application numerous times, the thrust of her argument is that the proposal would require changes in vehicular access that would encroach too much into the riparian area. In fact, it is the refusal to allow access across the corner of Tax Lot 411, coupled with the legal right of the applicants to build a home on their property, that have pushed the design of the access closer to the riparian zone. This submittal relocates the driveway access point off of Grandview to avoid the

AUG 3 2009

neighbors' property corner, while provided evidence that the relocation will have minimal to no affect on the riparian area and its vegetation.

#### **SITE DESCRIPTION:**

##### **Land Use –**

Originally the development pattern of the property and neighboring properties was large undeveloped plots of land with some agriculture uses. Over the years this land has been partitioned and subdivided into residential tracts. The present lot sizes in the neighborhood (within city limits) average about 10,000 S.F./.25 acres per lot, see Parcel Map. Most of these existing lots have residences, see aerial photograph.

Land Use and zoning immediately adjacent to the subject property is as follows:

**North** - Vacant (TL 502), zoned R-1-10

**South** - Grandview Street, creek drainage and single family residence, zoned R-1-10

**East** - Vacant and single family residence, zoned R-1-10

**West** - Single family residence, zoned RR-5 (County)

The subject property is zoned R-10 which allows single family homes at 10,000 S.F. per lot. The allowable density for this property under the Performance Standards Option (Chapter 18.88) is one dwelling unit ( $2.4 \times .54 = 1.29$ ), or two dwelling units under Chapter 18.20.

##### **Physical Characteristics –**

The subject property slopes down (to the west) approximately 12.5%, see Survey, Topographic Map. There are no structures on the property; however, there is one structure on Lot 501. There are three trees on the property. These trees are two dead poplars (to be removed) and one small multi trunked plum tree that will be preserved. Off the property, but adjacent to the project are 13 more trees that are addressed by the tree protection and removal plan submitted with this document. A branch of Wright's Creek Channel and riparian vegetation is located off the property to the south, this project requires work to be done in this area (see Site Plan and Survey Topographic Map).

##### **Utility and access to property –**

Lot 500 is accessed by Grandview Drive (83.82 feet of frontage) on the south. In this location, Grandview is an unimproved gravel road. A 10 foot wide public utility easement is located on the west boundary of the existing parcel. City utilities are located within the Grandview ROW, see Survey Map. An access easement to Lot 501 is located along the south property line, see Site Plan.

#### **PROJECT DESCRIPTION:**

This application is an amendment to the original, approved P and E. The primary alteration is the vehicular access alignment due to changes in land ownership and easements that have occurred since its original approval. This proposal places the access drive in closer proximity to the creek by approximately 13 feet. Previous approved improvements prescribed 324 square feet of disturbance within the riparian zone, and excluded any disturbance between the top of bank and the creek center line. The current proposal prescribes 743 square feet of disturbance, 275 of that total amount is between the top of bank and the center line of the creek. The proposal places road base in this area. The proposal requires a road base at the top of the creek bank. Other than this alteration, the project description findings below are still accurate.

AUG 3 2009

City of Grandview

**Request**

The applicant desires to construct a 3,273 S.F. (Two Story) single family home and 648 S.F. garage. The City Attorney has determined that the original partition is legal, see Background section above; therefore, the applicant is requesting review of the Physical/Environmental Constraints Permit (Chapter 18.62) and the Tree Preservation, Protection and Removal Permit (Chapter 18.61). Information regarding this review is discussed in the Findings of this document and shown on the Site, Survey and Civil Plans. In addition, the applicant will show compliance with the Zoning Chapter 18.20, the Solar Standards (Chapter 18.70) and Site Review (Chapter 18.72) for the proposed home. The lot has direct frontage on Grandview Drive.

**Street Improvements/Access –**

The subject property is accessed from Grandview Drive. This street has an existing a 47 serpentine Right of Way see Site Plan and Surveyor's Map. All new paving will be less than 15% grade and comply, in general, with the Flag Lot Partition Standards of Chapter 18.76.060 and the City's Fire Code requirements. The length and thickness of each driveway will vary. There is sufficient area on TL's 500 and 501 to allow easy turning without having to back out on a city street, see Civil Site Plan.

**FINDINGS:****COMPLIANCE with CHAPTER 18.20  
Residential District**

The permitted use for the R-1-10 Zone District is a single family residence at 10,000 S.F. per dwelling unit. The lot size is .54 acres which would allow one dwelling unit ( $2.4 \times .54 = 1.29$ ) under the Performance Standards Option (Chapter 18.88) or two dwelling units under the minimum lot size ( $23,522 \text{ S.F.} \div 10,000 = 2$ ) allowed by Chapter 18.20.040. The applicant is proposing one single family residence.

The minimum lot width for the R-1-10 Zone District is 75 feet. The existing lot is 84.35 feet, see Site Plan. The maximum lot depth is 150 feet. The existing lot is 275 feet; however, a variance was approved along with the minor land partition which allowed the lot depth to exceed the 150 foot length.

As shown on the applicant's Site Plan (sheet 1), the front and rear setbacks (15 foot and 10 foot per story, respectively) meet or exceed the requirements of this residential zone. The side yard setback is six feet. The Site Plan shows a trellis on the north side yard boundary within the six foot setback. This trellis will be removed from the drawings. The side yard setback on the south boundary exceeds the six foot setback. The maximum building height allowed is 35 feet or two and one-half stories in height, whichever is less. The applicant's west and south Exterior Elevations did not show the building height; however, when these elevations are measured, the height is approximately 28 feet which is far less than the maximum requirement of 35 feet. The height is measured from finish grade to the midpoint of a sloping roof. Further, the proposed home is two stories and therefore less than the  $2 \frac{1}{2}$  story maximum requirement.

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## **COMPLIANCE with CHAPTER 15**

### **Fire Safety**

It is the applicant's belief that the access driveway is not required to meet the standards of a Flag Partition (Chapter 18.76.060) because the partition and variance was approved in 1979, see City Attorney Letter; however, the applicant will comply with these standards and certain requirements of the City of Ashland's Fire Department and Fire Code (Chapter 15). These requirements are:

- 1) A fire fuel break
- 2) Driveways sufficient for emergency vehicle access, and
- 3) Amount of water and pressure of other fire suppression system to control fires.

#### **Fuel Break**

As mentioned in the Site Description, the site contains three trees, two dead poplars and a plum. The two poplar trees will be removed, see Tree Removal Permit and recommended plant list. These trees will be replaced with city recommended ornamental and native trees and shrubs in the Grandview ROW. The existing grasses and ground cover will be either replaced by suitable plantings or mowed to reduce flame lengths to less than one foot high. The proposed roof for the new home is a metal standing seam which is approved for high fire areas.

#### **Driveways**

The Civil Site Plan includes notes and dimensions that specify that the driveway will have a 15 foot wide clear area, except for ground cover, with a 12 foot wide all weather surface (capable of supporting a 44,000 pound vehicle). Further, where the driveway enters the property and shares the driveway to TL 500, the combined driveways (all less than a 15% grade) will have a 20 foot wide 'clear area' and a 15 foot wide all weather surface. Two address signs will be located at the entrance to the lot.

The 12 foot wide driveway connects to a fire turn-around which is approximately 110 feet from the entrance of the property. The fire turn-around is located in front of the retaining wall, see Civil Site Plan. The turn-around will have a surface capable of supporting 44,000 pounds. The turn-around is within 150 feet of the farthest corner of the house/garage, see Civil Site Plan. The applicant will also provide a residential automatic fire sprinkler system instead of providing a "fire work area" and because the height of the house may exceed 24 feet in some locations. Also, no gate is proposed, therefore, a "knox box" will not be necessary.

#### **Access to a Fire Hydrant**

The nearest fire hydrant is located at the north west corner of Grandview and Wrights Creek Streets. It is approximately 500 feet from this intersection to the beginning of the 12 foot, on-site driveway, see Civil Drawings. This distance is less than the 600 foot maximum allowed by the Fire Department.

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## **COMPLIANCE with CHAPTER 18.70**

### **Solar Access -**

As shown on the applicant's West Exterior Elevation (sheet 5) and calculations, the proposed house is in compliance with the Solar Access Ordinance.

## **COMPLIANCE with CHAPTER 18.62 Physical and Environmental Constraints**

There are two sections in this Chapter that apply to the proposed project. These sections are Development Standards for Riparian Preservation Lands (Chapter 18.62.075) and Development Standards for Flood Plain Corridor Lands (Chapter 18.62.070). A Physical and Environmental Constraints Permit can be issued when the following criteria have been addressed by the applicant:

- 1) That the development will not cause damage or hazard to persons or property upon or adjacent to the area of development.*
- 2) That the applicant has considered the potential hazards that the development may create and implemented reasonable measure to mitigate the potential hazards caused by the development.*
- 3) That the applicant has taken all reasonable steps to reverse 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 permitted by the Land Use Ordinance.*
- 4) That the development is in compliance with the requirements of the Chapter and all other applicable City Ordinances and Codes.*

The Surveyor's Map shows the location of the top of Creek Bank (TOCB). The TOCB is located on a small portion of the subject property, in the south west corner. The TOCB is also located along the ROW of Grandview Drive. The normal City setback requirement from the TOCB is 20 feet. This proposal will put the road closer to the top of bank than the standard 20 foot setback.. The standard 20 foot wide setback would be impossible due to current location of the existing public roadway and access easement to Tax Lot 501, see Surveyor's Map. The Civil Engineer's drawing shows the location of the proposed driveway (to both TL 500 and 501). There is an existing access easement agreement between TL 500 and 501; much of the proposed driveway is in the 20 foot setback from the top of the creek bank. It is the intent of the Civil Engineer, to minimize adverse impacts of the Creek Channel); therefore, the following measures are shown on the Grading and Drainage Plan:

- 1) Drainage will be directed underground along the west boundary of the subject property and empty into the creek channel. Large rocks (energy dissipater) will be located at the end of the drainage pipe to slow the water and prevent erosion, see Drainage and Grading Plan.

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2) As shown on the grading and Drainage Plan, the 12 foot wide paved portion of the driveway is located as far away from the TOCB as possible, while also crossing the TOCB to gain access from the property to Grandview. Where possible, this area will be planted in riparian ground cover and shrubs which will assist in screening possible pollutants from entering the creek.

3) Further, the applicant will utilize permeable asphalt for the driveway surface to both control drainage as well as filter possible pollutants through the driveway base (sand and gravel).

Chapter 18.62.050 (A) classify flood plain lands as all areas within 20 feet (horizontal distance) of any creek designated for riparian preservation and depicted on such maps adopted by the city council. As mentioned above, the TOCB was located by the Surveyor along the ROW of Grandview Drive and within the subject property. Portions of both the existing gravel paved Grandview Drive and proposed asphalt paved private driveway are within the 20 foot setback. To minimize adverse impacts caused by fill material, the applicant will conform to the standards listed in Section 18.62.070 (A) as well as the development standards for riparian preservation lands, see Civil Drawings.

It is the applicant's belief that the above measures will not cause either damage or hazard to persons or property and mitigate the potential hazards and possible adverse impacts to the creek environment. As stated above, in compliance with the residential district findings and the Background section of this narrative, the proposed single family residence is in compliance with the requirements of this chapter and all other applicable City Ordinances and Codes. In addition, the following grading/drainage and erosion control measures are recommended: **Drainage and Erosion Control** – Where new vegetation is incorporated as part of the erosion control strategy, a temporary and/or permanent irrigation system will be provided to guarantee the establishment of vegetation.

#### **General Erosion and Sediment Control**

*Grading of the driveway and the revegetation will take place prior to fall rains and will comply with the requirements of the ordinance listed below:*

- a. Only grade where necessary*
- b. Preserve and protect existing vegetation wherever possible*
- c. Install/apply bank stabilization measure well in advance for fall rains.*

*All slopes created as a result of grading to be planted with ground covers and grasses.*

- a. Fill slopes not to exceed 3:1*
- b. Cut slopes that exceed 2:1 to be hydro seeded and inter planted with ground cover*

*Where it is necessary to create slopes along road construction exceeding 2 to 1, storm flows above the slope will be directed away from the top of the slope to a point where more gradual slopes allow for controlled traversing into drainage systems.*

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- a. Cut slopes exceeding 1.5 to 1, use pinned mats and hydro seeding as stabilization measure.*
- b. Stabilize existing and proposed drainage ways*

Existing drainage ways must be protected during construction. Silt fences can be used to keep sediments out of the system along with hay bales. A combination of a "V" ditch and underground drainage pipes will convey the runoff down the proposed private drive. A Detail Drainage Plan is provided by the Civil Engineer. Further, energy dissipaters in the form of large rocks will be placed at the discharge point of the drainage channels/pipes prior to the water entering Wrights Creek.

### **COMPLIANCE with (CHAPTER 18.61.080) Tree Removal Permit**

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied.

*A. Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.*

Not Applicable

*B. Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:*

*1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards. (e.g. other applicable Site Design and Use Standards). The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and*

*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; and*

*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 these criteria 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. Nothing in this section shall require that the residential density 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 or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.*

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***4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.***

The Site Plan and Survey Map show the location of the two dead poplar trees # 4 and #5 (to be removed) and plum tree #6 which will be protected. These are the only trees on-site. There are, however, trees that would potentially be impacted that are adjacent to the site, on neighboring property or within the city right of way. These trees would be potentially impacted when the required width and alignment improvements are made to the driveway while providing access to Grandview. We have reviewed our proposed street alignment with the project arborist to determine the best way to incorporate the new driveway with the existing trees. The arborist's comments and recommendations are as follows:

**Tree Protection Plan for 720 Grandview with specific recommendations for tree # 1 ( A Ponderosa Pine in the riparian zone)**

The 28 inch diameter Ponderosa pine tree designated as tree number 1 will require special attention because of the proximity of the access road to the tree's trunk. There is already a dirt road within the tree protection zone of tree # 1. It will be necessary to adjust the protective fencing around the tree to the edge of the existing road rather than the 28 foot radius described by the tree protection zone. A certified arborist should be on the construction site when the road paving begins to insure that all precautions are taken to insure the trees survival. The paving of the new road should be done with a minimum of grading in order to keep root damage to a minimum. It would be preferable to raise the grade of the road surface rather than cutting and filling to achieve the desired road surface. All equipment must be kept away from the trunk of the tree in order to insure that there is no structural damage to the tree trunk. If these precautions are taken, the ponderosa should survive the construction process without damage to its health.

We have designed the new road alignment to comply with these recommendations.

**TREES PROPOSED FOR REMOVAL**

#4	9" DBH	5' Dia.	Populus, Cottonwood
#5	6" DBH	4' Dia.	Populus, Cottonwood

The two trees listed above are considered by the City of Ashland to be hazard trees and prohibited from use as a street tree. Roots of this type of tree may be damaged by construction, which causes entry for bacteria and disease. Further, these trees can drop limbs periodically through out their life span. Most importantly, however, these two trees are dead, and we are requesting to remove them.

**Protection of Existing and Proposed Trees**

A. Landscape adjacent to the project area shall be protected from damage. No storage of equipment or materials shall occur within drip lines of trees to be preserved which are those identified on this plan. All damage caused by construction to existing trees shall be compensated for, before the project will be considered completed.

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B. Trees that are shown on the plans to remain shall be protected with fencing as shown on plans. Fencing shall be 6' tall temporary orange fencing panels installed with metal connections so that all panels are integrated, these fences shall be installed so that it does not allow passage of pedestrians and/or vehicles through it.

C. Exceptions to the tree protection specifications may only be granted in extraordinary circumstances with written approval from owner's representative.

D. Pieces of work that will require disturbance of tree protection fences include the following:

1) When tree roots over 2" are cut due to required site work, cut cleanly at a 90-degree angle to the root.

2) Place damp soil around all cut roots to a depth equaling the existing finish grade within 4 hours of cuts being made.

F. Do not raise the soil level within the drip lines of existing trees to achieve possible drainage, except to match grades with sidewalks and curbs, and in those areas, feather the added topsoil back to existing grade at an approximately 3:1 slope.

G. Inspection schedule:

1) Fencing locations and installation technique shall be approved by owner's representative before demolition or rough grading begins.

2) Routine inspections of fencing and site conditions will occur on a weekly basis, work shall cease if fencing is damaged or moved without written prior approval for specific parts of work.

3) At completion of project to determine ultimate condition of trees.

4) To determine further measure to ensure tree survival or replacement at end of project.

5) If needed, an Arborist, will be retained by the applicant to insure compliance with the above measures. The Arborist can also be available to recommend additional protection measures, such as root pruning and fertilization, during the construction of the driveway and homes.

The applicant is also recommending the following plant list to be considered in the replanting of the site:

#### **Fire Resistant and Retardant Plant List –**

The plant list below consists of the plants used in the proposed planting plan.

##### Trees

Acer macrophyllum

Betula nigra 'Duraheat'

##### Shrubs and Ground Cover

Acer circinatum

Arctostaphylos densiflora 'Howard McMinn'

Arctostaphylos 'Emerald Carpet'

Mahonia aquifolium

Mahonia repens

Pennisetum a. 'Hameln'

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## COMPLIANCE with (CHAPTER 18.72)

### Site Review

The Planning Staff/Planning Commission can approve a Site Review when the following criteria have been addressed:

***A. All applicable City Ordinances have been met or will be met by the proposed development.***

The above Narrative and Findings address the applicable city ordinances regarding the proposed house. The applicant, however, believes the Site Design and Use Standards were not intended for a single family home on a single lot but were for a multi-family performance standard, employment, commercial and industrial type developments. In fact, page 13 to 16 of the Site Design and Use Standards only address design guidelines for multi-family residential development and there are no single family guidelines. However, Chapter 18.72.040 (B) does mention that a Type 1 procedure approval is necessary for all new structures or additions greater than 2,500 S.F. except for developments included in section 18.72.040 (A); therefore, the applicant will provide the findings. Also see above findings regarding compliance with all other applicable city ordinances and codes.

***B. All requirements of the Site Review Chapter have been met or will be met.***

See Project Description in narrative and the information below.

The applicant is providing a written Narrative and Findings as well as a Site Plan, Civil Engineering Plans, Topographic Survey, Aerial Photograph, Parcel Map, photographs of the site and Building Elevations drawings. This information is provided in the Application Package and addresses the submittal requirements of Chapter 18.72.060.

The Landscape Standards of Chapter 18.72.110 requires a minimum of 45% of the total developed lot to be landscaped. The applicant is providing a minimum of 55%.

The applicant will locate a trash/recycle area within the garage and/or parking areas. This area will be screened from view. Covered bicycle parking areas are provided in the garage. All site and building lighting will be directed away from adjacent properties. Also, see the approval standards below.

***C. The development complies with the Site Design Standards adopted by the City Council for the implementation of this Chapter.***

**b. Multi-Family Development.**

As mentioned above, the approval standards are for multi-family residential development; however, the applicant will respond to these standards where applicable.

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**Approval Standards:** Multi-family residential development shall conform to the following design standards

## **II-B-1) Orientation**

*II-B-1a) Residential buildings shall have their primary orientation toward the street when they are within 20 to 30 feet of the street.*

*II-B-1b) Buildings shall be set back from the street according to ordinance requirements, which is usually 20 feet.*

*II-B-1c) Buildings shall be accessed from the street and the sidewalk. Parking areas shall not be located between buildings and the street.*

The proposed house is oriented toward Grandview Drive. The proposed setback is 175 feet which is greater than the 15 foot minimum (or 20 feet for garages). The guest parking area (one space required) is located behind the house at the end of the driveway, see Site and Civil Plans.

## **II-B-2) Streetscape**

*II-B-2a) One street tree for each 30 feet of frontage, chosen from the street tree list, shall be placed on that portion of development paralleling the street. Where the size of the project dictates an interior circulation street pattern, a similar streetscape with street trees is required.*

*II-B-2b) Front yard landscaping shall be similar to those found in residential neighborhoods, with appropriate changes to decrease water use.*

There is approximately 84 feet of frontage on Grandview Drive. The applicant will provide three trees (one per 30 feet) along this frontage. These trees will be native riparian types since this location is adjacent to the drainage channel. See Planting Plan.

## **II-B-3) Landscaping**

*II-B-3a) Landscaping shall be designed so that 50% coverage occurs within one year of installation and 90% landscaping coverage occurs within 5 years.*

*II-B-3b) Landscaping design shall include a variety of deciduous and evergreen trees and shrubs and flowering plant species well adapted to the local climate.*

*II-B-3c) As many existing healthy trees on the site shall be saved as is reasonably feasible.*

*II-B-3d) Buildings adjacent to streets shall be buffered by landscaped areas of at least 10 feet in width.*

*II-B-3e) Parking areas shall be shaded by large canopied deciduous trees and shall be adequately screened and buffered from adjacent uses.*

AUG 3 2009

*II-B-3f) Irrigation systems shall be installed to assure landscaping success. Refer to parking lot landscaping and screening standards for more detail.*

Upon approval of the land use action, and prior to issuance of a Building Permit, the applicant will submit a Landscape Plan and Irrigation Plan for the home site. Landscape and Irrigation submitted with this proposal are for the land use action only, revegetating the roadway and providing the required street trees.. The Landscape/Irrigation Plan will conform to the above findings. The above Tree Removal/Protection Plan addresses the existing trees. Also, the suggested plant list, above, can be used. The applicant intends to utilize as many native plants as possible and locate these plants in appropriate locations to encourage healthy plant development, to utilize natural climate control, and to enhance suitable plant communities.

#### **II-B-4) Open Space**

*II-B-4a) An area equal to at least 8% of the lot area shall be dedicated to open space for recreation for use by the tenants of the development.*

*II-B-4b) Areas covered by shrubs, bark mulch and other ground covers which do not provide a suitable surface for human use may not be counted toward this requirement.*

*II-B-4c) Decks, patios, and similar areas are eligible for open space criteria. Play areas for children are required for projects of greater than 20 units that are designed to include families.*

The applicant is providing most of the site for private recreation open space. The private recreation/open space areas include the front porches, patios, and second story decks. The common open space requirement for tenants is not applicable.

#### **II-B-5) Natural climate control**

*II-B-5a) Utilize deciduous trees with early leaf drop and low bare branch densities on the south sides of buildings which are occupied and have glazing for summer shade and winter warmth.*

See Finding II-B-3, above

#### **II-B-6) Building materials:**

*II-B-6a) Building materials and paint colors should be compatible with the surrounding area. Very bright primary or neo-type paint colors which attract attention to the building or use are unacceptable.*

The materials used for the proposed home are shown on the Exterior Elevations. These materials are indicative of a craftsman style. The colors selected by the applicant (body, trim and windows) will be earth tones. Sample materials and colors will be presented to the city planning staff for review and approval prior to receiving a Building Permit.

#### **E. STREET TREE STANDARDS**

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**APPROVAL STANDARD:** *All development fronting on public or private streets shall be required to plant street trees in accordance with the following standards and chosen from the recommended list of street trees found in this section.*

**II-E-)                      Location for Street Trees**

*Street trees shall be located behind the sidewalk except in cases where there is a designated planting strip in the right-of-way, or the sidewalk is greater shall include irrigation, root barriers, and generally conform to the standard established by the Department of community Development.*

**II-E-2)                      Spacing, Placement, and Pruning of Street Trees**

*1) All tree spacing may be made subject to special site conditions which may, for reasons such as safety, affect the decision. Any such proposed special condition shall be subject to the Staff Advisor's review and approval. The placement, spacing, and pruning of street trees shall be as follows:*

*a) Street trees shall be placed the rate of one tree for every 30 feet of street frontage. Trees shall be evenly spaced, with variation to the spacing permitted for specific site limitations, such as driveway approaches.*

*b) Trees shall be planted close than 25 feet from the curb line of intersections of streets or alleys, and not closer than 10 feet from private driveways (measured at the back edge of the sidewalk), fire hydrants, or utility poles.*

*c) Street trees shall not be planted closer than 20 feet to light standards. Except for public safety, no new light standard location shall be positioned closer than 10 feet to any existing street tree, and preferably such locations will be at least 20 feet distant.*

*d) Trees shall not be planted closer than 2 ½ feet from the face of the curb except at intersections where it shall be 5 feet from the curb, in a curb return area.*

*e) Where there are overhead power lines, tree species are to be chosen that will not interfere with those lines.*

*f) Trees shall not be planted within 2 feet of any permanent hard surface paving or walkway. Sidewalk cuts in concrete for trees shall be at least 10 square feet, however, larger cuts are encouraged because they allow additional air and water into the root system and add to the health of the tree. Space between the tree and such hard surface may be covered by permeable non-permanent hard surfaces such as grates, bricks on sand, or paver blocks.*

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City of San Jose  
Department of Public Works

*g) Trees, as they grow, shall be pruned to provide at least 8 feet of clearance above sidewalks and 12 feet above street roadway surfaces.*

*h) Existing trees may be used as street trees if there will be no damage from the development which will kill or weaken the tree. Sidewalks of variable width and elevation may be utilized to save existing trees, subject to approval by the Staff Advisor.*

#### **II-E-3) Replacement of Street Trees**

*1) Existing street trees removed by development projects shall be replaced by the developer with those from the approved street tree list. The replacement trees shall be of size and species similar to the trees that are approved by the Staff Advisor.*

#### **II-E-4) Recommended Street Trees**

*1) Street trees shall conform to the street tree list approved by the Ashland Tree Commission.*

The above approval standards (II-B-1 to II-B-6) also address these standards.

***D. The adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, adequate transportation can and will be provided to and through the subject property.***

The Civil Engineering Drawings show the existing and proposed utility lines that connect the proposed home to the city services in the ROW of Grandview Drive. This ROW is 47 foot wide. Paved access on Grandview Drive is neither necessary nor desirable because: 1. the existing gravel road has a 10% or less slope and therefore for public works standards does not need to be surfaced with asphalt, 2. a gravel surface will minimize runoff into the creek environment, 3. the gravel road is capable of supporting emergency vehicles (44,000 pounds) and 4. paving of the road would necessitate land acquisition of neighboring properties along Grandview Drive to accommodate the serpentine ROW, see Survey Map. Also see Physical Constraints Findings above.

The proposed home would only generate ten more vehicle trips per day which is insignificant even when the five possible and existing homes using Grandview are added (60 vehicle trips per day total)

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City of Ashland  
Community Development



## Upper Limb-it Tree Service

PO Box 881  
Ashland, OR 97520  
Phone: 541-482-3667

Kerry KenCairn  
545 A Street  
Ashland, OR 97520

1/30/09

### Tree Protection Plan for 720 Grandview

The Tree Protection Plan for 720 Grandview is designed to address the needs of all existing trees within the project. The trees should be identified by number on the plan as well as by numbered tag attached to the tree in the field. The specified tree protection zones (as stipulated in the enclosed tree inventory) will be drawn on the plans as well as delineated on the site by approved fencing. Trees with protection zones that extend within the foundation lines of the building, as well as trees that are within the area of the foundation will need to be removed. All other trees within the building project borders will need protection. The enclosed specifications detail exactly how the trees are to be protected. The building contractor and subcontractors will meet with a certified arborist before and during construction to insure that the correct measures are in place. A certified arborist must supervise any work done within the specified tree protection zone. A certified arborist will conduct an inspection of the trees during and after construction. If you have any questions regarding this tree protection plan please call me at 482-3667.

Tom Myers, Certified Arborist

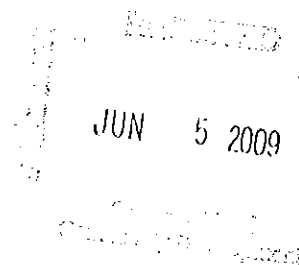
DBA Upper Limb-it





## Upper Limb-it Tree Service

PO Box 881  
Ashland, OR 97520  
Phone: 541-482-3667



Kerry KenCairn  
545 A Street  
Ashland, OR 97520

1/30/09

### Tree Protection Plan for 720 Grandview specific recommendations for tree # 1

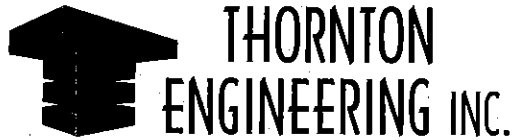
The 28 inch diameter Ponderosa pine tree designated as tree number 1 will require special attention because of the proximity of the access road to the trees trunk. There is already a dirt road within the tree protection zone of tree # 1. It will be necessary to adjust the protective fencing around the tree to the edge of the existing road rather than the 28 foot radius described by the tree protection zone. A certified arborist should be on the construction site when the road paving begins to insure that all precautions are taken to insure the trees survival. The paving of the new road should be done with a minimum of grading in order to keep root damage to a minimum. It would be preferable to raise the grade of the road surface rather than cutting and filling to achieve the desired road surface. All equipment must be kept away from the trunk of the tree in order to insure that there is no structural damage to the tree trunk. If these precautions are taken, the ponderosa should survive the construction process with out damage to its health.

Tom Myers, Certified Arborist

DBA Upper Limb-it







July 20, 2009

Derek Severson, Associate Planner  
City of Ashland, Department of Community Development  
20 East Main Street  
Ashland OR 97520 P.O. Box 828

Subject: 720 Grandview – McDonald P&E Application – Flood Analysis

Dear Derek:

This letter presents my analysis and findings with regards to the subject application and the City's land use ordinances regulating flood damage prevention. The proposed improvements comply with both sections 15.10 (Flood Damage Prevention Regulations), and 18.62.070 (Development Standards for Flood Plain Corridor Lands). The proposed improvements are more than 20 feet beyond the flood plain boundary and are not located within a flood hazard area or within a floodway (See Sheet C3, 100-year Flood Boundary enclosed).

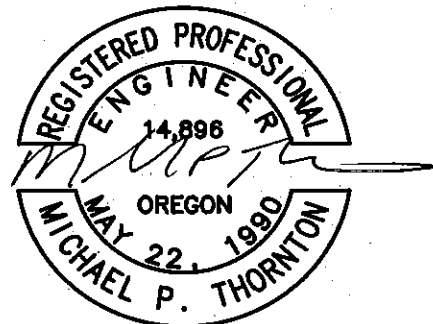
In addition, the improvements have been designed to not impede floodwaters regardless of the frequency of the event required to inundate project site.

Please contact me if you have any questions or any further needs.

Sincerely,

Thornton Engineering, Inc.

By   
Michael P. Thornton, President



RENEWAL DATE: 6/30/2010

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JAN 29 2010

City of Ashland  
Field ☐ Office ☐ Etc

# CITY OF ASHLAND

August 20, 2008

William J. and Lynn J. McDonald  
8621 Oak Branch Ave.  
Bakersfield, CA 93311

RE: Ministerial Action #2008-01250

## Notice of Ministerial Decision

On August 20, 2008, the Ashland Planning Department granted ministerial approval of your request for an extension of the Physical & Environmental Constraints Review Permit approved under Planning Action #2006-01784 for the property located at 720 Grandview Drive -- Assessor's Map #39 1E 05CD Tax Lot #500. This approval is based upon the fact that delays related to the appeal of the approval prevented completion of the development within the original time limitation.

This extension is valid for a period of 18-months from the date of the original approval's expiration (August 7, 2008). The conditions of the original approval remain in effect, and shall be met prior to project completion. As required under Ashland Municipal Code Section 18.112.030.3, the building permit application or any modifications to the land use approval will be subject to review under the revisions to our Land Use Ordinance adopted as Ordinance #2951.

If you have any questions regarding this decision, please contact the Community Development Department between the hours of 8:00 am and 4:30 pm, Monday through Friday at (541) 488-5305.

cc: Hornecker, Cowling, Hassen & Heysell, LLP  
Attn: Mark S. Bartholomew FILE #26116  
717 Murphy Rd.  
Medford, OR 97504



**HORNECKER, COWLING, HASSEN & HEYSELL, L.L.P.****Attorneys at Law**

Gregory T. Hornecker  
Robert L. Cowling  
John R. Hassen  
R. Ray Heyssel  
H. Scott Plouse  
P. David Ingalls  
Adam T. Stamper\*  
Joseph E. Kellerman  
James A. Wallan  
Benjamin M. Bloom  
Charles E. Bolen  
Ryan J. Vanderhoof

717 Murphy Road  
Madford, OR 97504  
(541) 779-8900  
Fax: (541) 773-2635  
<http://www.roguelaw.com>

\*Stefanie L. Burke  
Richard L. Billin  
Mark S. Bartholomew  
Eric B. Milton  
\*\*Erik C. Larsen, LL.M.  
Stephen L. Brown

B. Kent Blackhurst 1922-2007  
Ervin B. Hogan 1927-2000

\*Also admitted in California  
\*\*Also admitted in Idaho

**FAX TRANSMITTAL SHEET**

DATE: July 30, 2008  
TO: Adam Hanks  
FAX NO: 541-488-6006  
FROM: Mark S. Bartholomew  
RE: William and Laynn McDonald  
FILE #: PA 2006-01 784

PAGES: 4 (Includes cover sheet. If you do not receive all pages, please  
contact the above as soon as possible.)

MEMO:

Please see attached. Original with check to be mailed today.

- 
- ☒ An original is being mailed.  
☐ An original is being delivered.  
☐ An original is available upon request.  
☐ Facsimile transmittal only.

---

If you do not receive all of the described material, please telephone 779-8900 immediately.

**CONFIDENTIALITY NOTICE**

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PA 2008-01250

**HORNECKER, COWLING, HASSEN & HEYSELL, L.L.P.****Attorneys at Law**

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Ervin B. Hogan 1927-2000

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\*\*Also admitted in Idaho

July 30, 2008

Adam Hanks /  
City of Ashland  
20 E. Main  
Ashland, OR 97520

RE: William and Lynn McDonald  
Our File No. 26116

Dear Mr. Hanks:

We are requesting an extension of 12 months on the above-captioned matter, by way of a staff permit procedure, pursuant to Ashland Municipal Code 18.108.030(A)(5). Events beyond the control of the applicants make this extension necessary. The application was approved on August 7, 2007. Bonnie Brodersen appealed the approval--December 26, 2007. Therefore, nothing could be done in furtherance of the approval while it was on appeal, leaving the applicants with substantially five months less time than most applicants to act on the approval. We are unaware of any changes to the requirements since approval, other than the fact that this application (extension) is now ministerial. Please accept this letter as findings of compliance with the extension requirements.

We are mailing a hard copy of this today, along with the required payment. However, in the interest of time, we are faxing it as well.

Very truly yours,

  
MARK S. BARTHOLOMEW

**HORNECKER, COWLING, HASSEN & HEYSELL, L.L.P.**

**Attorneys at Law**

Gregory T. Hornecker  
Robert L. Cowling  
John R. Hassen  
R. Ray Heyssel  
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Charles E. Bolen  
Ryan J. Vanderhoof

717 Murphy Road  
Medford, OR 97504  
(541) 779-8900  
Fax: (541) 779-2982  
<http://www.roguelaw.com>

\*Stefanie L. Burke  
Richard L. Billin  
Mark S. Bartholomew  
Eric B. Mitton  
\*\*Erik C. Larsen, LL.M.  
Stephen L. Brown

June 27, 2008

B. Kent Blackhurst - 1922-2007  
Ervin B. Hogan 1927-2000

\*Also admitted in California  
\*\*Also admitted in Idaho

Adam Hanks  
City of Ashland  
20 E. Main  
Ashland, OR 97520

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Our File No. 26116

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It does not appear that there is a fee associated with this extension. However, in the event there is such a fee, please contact me immediately, and we will remit payment.

Very truly yours,

  
MARK S. BARTHOLOMEW

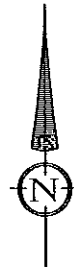
:gmr  
cc: Richard Appicello  
Bill Molnar

*Called 6/27/08 - No signed app, no fee*  
*Follow up 7/17/08 - " "*

# TOPOGRAPHIC SURVEY

720 GRANDVIEW DRIVE  
ASHLAND, OREGON 97520

FOR  
LYNN & BILL McDONALD  
8621 OAK RANCH AVENUE  
BAKERSFIELD, CALIFORNIA 93311



REVISED: 6-20-2007  
REVISED: 5-09-2007  
REVISED: 06-01-2006  
SCALE: 1" = 20'  
CONTOUR INTERVAL: 2'

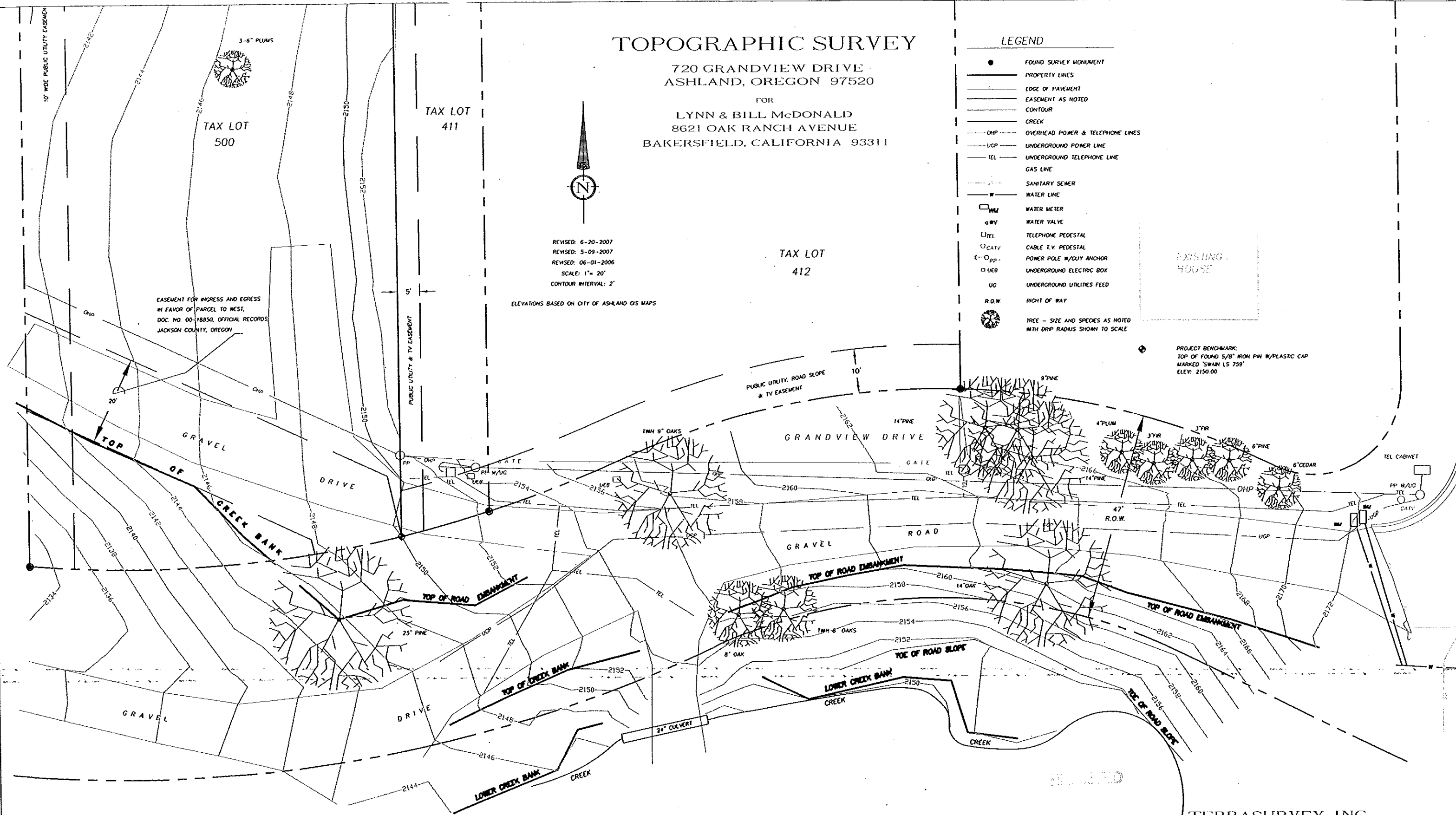
ELEVATIONS BASED ON CITY OF ASHLAND GIS MAPS

## LEGEND

- FOUND SURVEY MONUMENT
- PROPERTY LINES
- EDGE OF PAVEMENT
- EASEMENT AS NOTED
- CONTOUR
- CREEK
- OHP — OVERHEAD POWER & TELEPHONE LINES
- UCP — UNDERGROUND POWER LINE
- TEL — UNDERGROUND TELEPHONE LINE
- GAS LINE
- SANITARY SEWER
- WATER LINE
- WM WATER METER
- WV WATER VALVE
- TEL TELEPHONE PEDESTAL
- CATV CABLE T.V. PEDESTAL
- PP POWER POLE W/GUY ANCHOR
- UEB UNDERGROUND ELECTRIC BOX
- UG UNDERGROUND UTILITIES FEED
- R.O.W. RIGHT OF WAY
- TREE — SIZE AND SPECIES AS NOTED WITH DRP RADIUS SHOWN TO SCALE

EXISTING  
HOUSE

PROJECT BENCHMARK:  
TOP OF FOUND 5/8" IRON PIN W/PLASTIC CAP  
MARKED "SWAN LS 759"  
ELEV: 2150.00



NOTE 1: PORTION OF UNDERGROUND UTILITIES ARE BASED ON LOCATED PAINT MARKS. NO WATER AND SEWER LINES WERE SHOWN IN THE AREA WEST OF WRIGHTS CREEK DRIVE. THERE ARE AT LEAST TWO OTHER HOUSES WHICH SHARE THIS ACCESS. THE LIKELY ROUTE FOR WATER AND SEWER LINES TO SERVE THESE HOUSES WOULD BE THE ROAD RIGHT OF WAY.

NOTE 2: EASEMENTS SHOWN ARE FROM FILED SURVEY NO. 9119 AND DEED RECORD INFORMATION PROVIDED BY OWNER.

NOTE 3: BOUNDARIES SHOWN ARE FROM RECORD AND ARE NOT THE RESULT OF A DETAILED BOUNDARY SURVEY.

AUG 3 2009

TERRASURVEY, INC.  
PROFESSIONAL LAND SURVEYORS  
274 FOURTH STREET  
ASHLAND, OREGON 97520  
(541) 482-6474  
terra@bisp.net  
JOB NO. 544-06

# TOPOGRAPHIC SURVEY

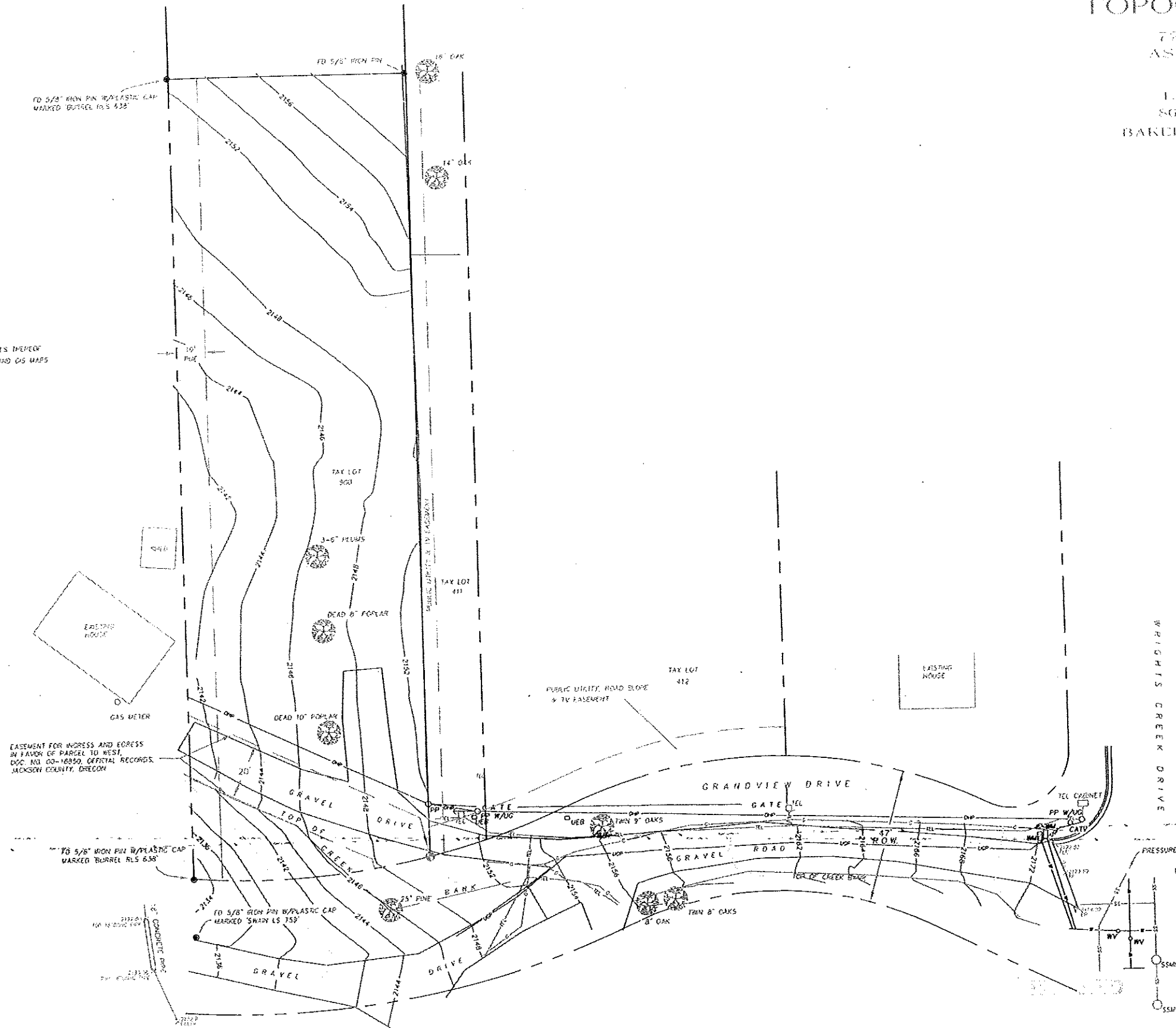
720 GRANDVIEW DRIVE  
ASHLAND, OREGON 97520

LYNN & BILL McDONALD  
8621 OAK RANCH AVENUE  
BAKERSFIELD, CALIFORNIA 93311



REVISED: 5-05-07  
REVISED: 06-01-2009  
SCALE: 1" = 40'  
CONTOUR INTERVAL: 2'  
DISTANCES ARE IN FEET AND DECIMALS THEREOF  
ELEVATIONS BASED ON CITY OF ASHLAND GIS MAPS

- FOUND SURVEY MONUMENT AS NOTED PER FS 9119
- PROPERTY LINE
- EDGE OF GRAVEL ROAD
- EDGE OF PAVEMENT
- EASEMENT AS NOTED
- CONTOUR
- DRAINAGE
- OHP — OVERHEAD POWER & TELEPHONE LINES
- UGP — UNDERGROUND POWER LINE
- TEL — UNDERGROUND TELEPHONE LINE
- G — GAS LINE
- SS — SANITARY SEWER
- W — WATER LINE
- WV — WATER VALVE
- OV — WATER VALVE
- TEL — TELEPHONE PEDestal
- CATV — CABLE TV PEDestal
- PP — POWER POLE W/GRY ANCHOR
- UEB — UNDERGROUND ELECTRIC BOX
- SSMB — SANITARY SEWER MANHOLE
- × ELEV — SPOT ELEVATION
- FD — FOUND
- FS — FILED SURVEY - JACKSON COUNTY, OREGON
- UG — UNDERGROUND UTILITIES FEED
- EP — EDGE OF PAVEMENT
- PLU — PUBLIC UTILITIES EASEMENT
- ROW — RIGHT OF WAY
- TREE — SIZE AND SPECIES AS NOTED
- PROJECT BENCHMARK  
TOP OF FOUND 5/8" IRON PIN W/PLASTIC CAP  
MARKED "SRAP LS 755"  
ELEV. 2150.00



**BASIS OF BEARINGS**  
BEARINGS BASED ON FILED SURVEY NO. 9119

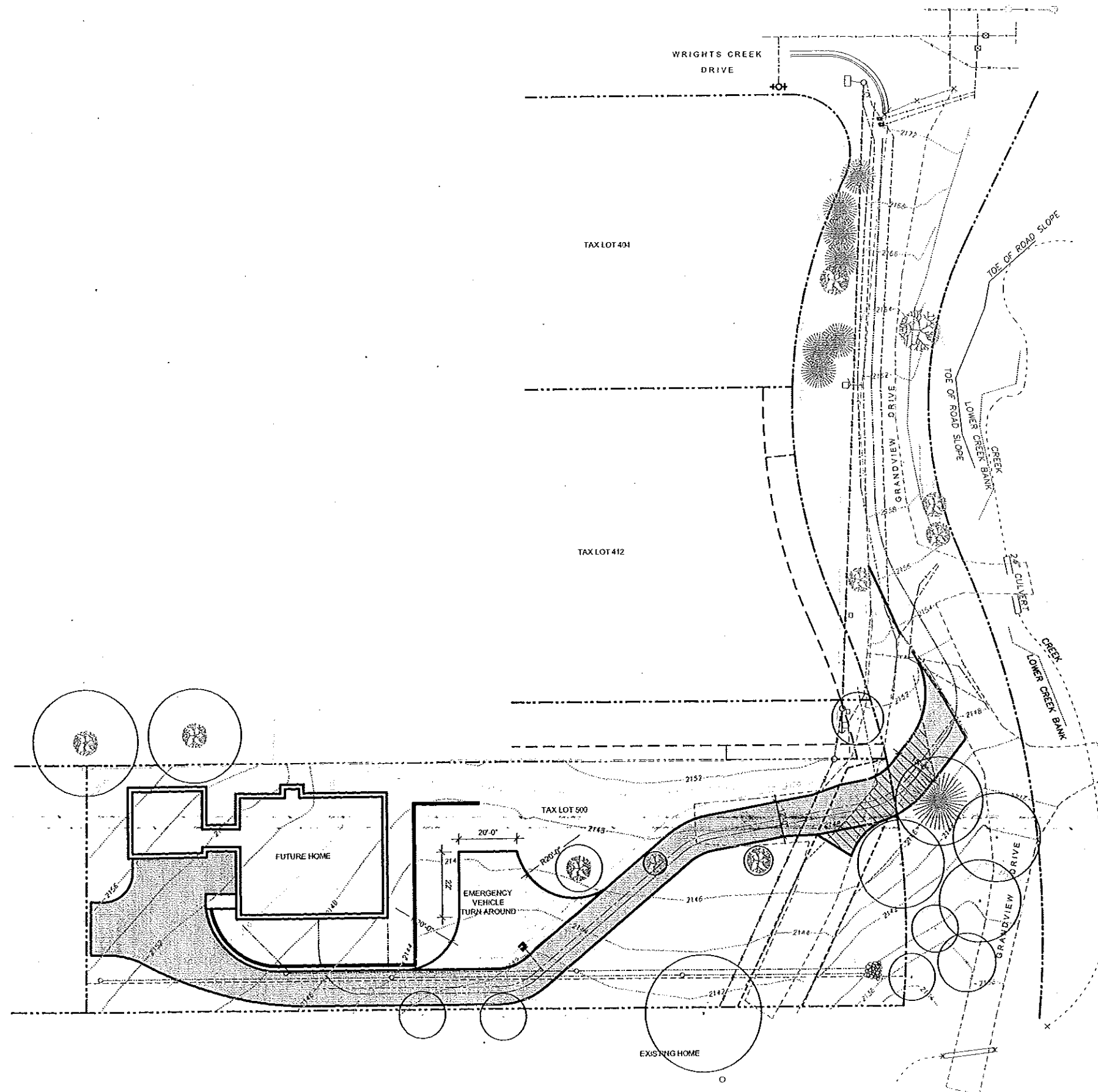
T. 39 S., R. 1 E., SEC. 0500, BL. 500

- NOTE 1: POSITION OF UNDERGROUND UTILITIES ARE BASED ON LOCATED PAINT MARKS. NO WATER AND SEWER LINES WERE SHOWN IN THE AREA WEST OF WRIGHT'S CREEK DRIVE. THERE ARE AT LEAST TWO OTHER HOUSES WHICH SHARE THIS PROPERTY. THE LIKELY JUNCT FOR WATER AND SEWER LINES TO SERVE THESE HOUSES WOULD BE THE ROAD RIGHT OF WAY.
- NOTE 2: EASEMENTS SHOWN ARE FROM FILED SURVEY NO. 9119 AND DEED RECORD INFORMATION PROVIDED BY OWNER.
- NOTE 3: BOUNDARIES SHOWN ARE FROM RECORD AND ARE NOT THE RESULT OF A DETAIL BOUNDARY SURVEY.

AUG 3 2009

**TERRASURVEY, INC.**  
PROFESSIONAL LAND SURVEYORS  
774 FOURTH STREET  
ASHLAND, OREGON 97520  
TEL: 531-251-1111  
FAX: 531-251-1112  
JOB NO. 544-06





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C-1	GRADING PLAN
C-2	PRELIMINARY UTILITY PLAN
EC-1	EROSION CONTROL PLAN
EC-2	EROSION CONTROL DETAILS
L-1	PLANTING AND IRRIGATION
T-1	TREE PROTECTION AND REMOVAL SURVEY
	SURVEY DETAIL



**SITE PLAN**

**LYNNE McDONALD**  
 720 GRANDVIEW  
 ASHLAND, OREGON

AUGUST 3, 2009



Revision Date:

Drawn By: KK

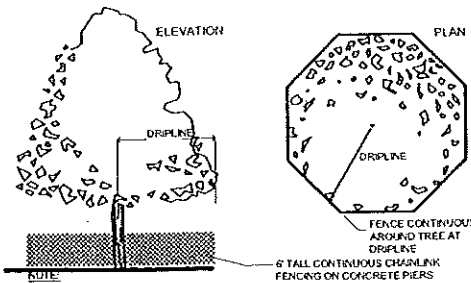
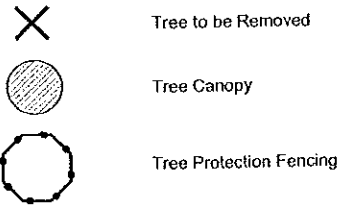
Scale 1" = 40'-0"

Tel: 541.488.3194 545 A Street  
 Fax: 541.552.9512 Ashland, OR 97520  
 Cell: 541.601.5559 kerry@kencainlandscape.com

**KenCain**  
 Landscape Architecture



TREE PROTECTION LEGEND



1. TREE PROTECTION FENCING SHALL BE INSTALLED PRIOR TO START OF CONSTRUCTION AND SHALL REMAIN IN PLACE THROUGH COMPLETION OF PROJECT.
2. FENCING SHALL ONLY BE REMOVED TEMPORARILY FOR WORK TO BE DONE WITHIN DRIPLINE AND REPLACED AT THE END OF EACH WORK DAY.
3. ALL EXCAVATION WITHIN DRIPLINE OF TREES SHALL BE DONE BY HAND. IF ROOTS OVER 2" IN DIAMETER ARE ENCOUNTERED, CONTRACTOR SHALL CONSULT WITH LANDSCAPE ARCHITECT OR ARBORIST BEFORE PROCEEDING.
4. TREE ROOTS ENCOUNTERED DURING CONSTRUCTION SHALL BE CUT CLEANLY AT A 90 DEGREE ANGLE AND PACKED WITH DAMP SOIL IMMEDIATELY.
5. DURING CONSTRUCTION ALL TREES TO REMAIN SHALL BE IRRIGATED ON A WEEKLY BASIS OR AS NECESSARY WITH LEAKY PIPE ENCIRCLING THE TREE FROM TRUNK OUT TO DRIPLINE.

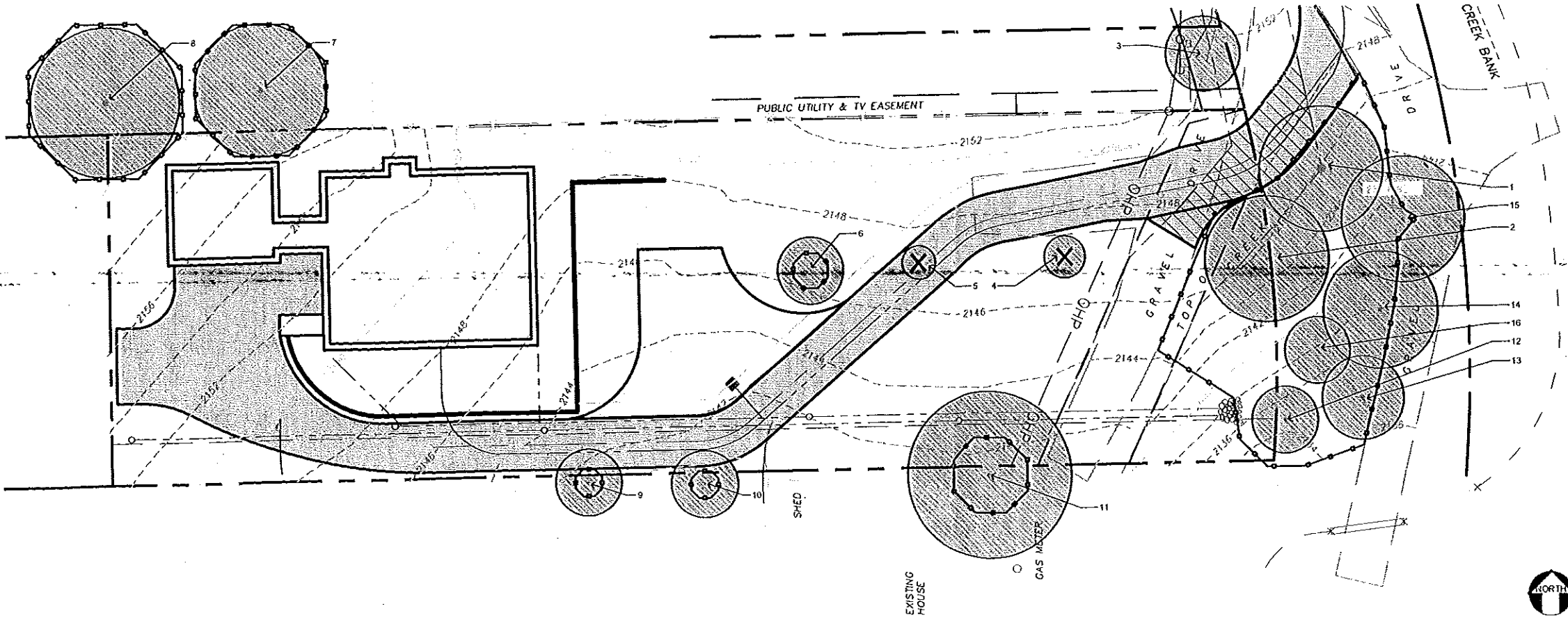
1 TREE PROTECTION

TREE INVENTORY

Tree #	Species	DBH in inches	Height in feet	Crown radius in feet	Tree protection zone radius in feet	relative tolerance to construction	Condition
1	Pinus ponderosa	28	90	15	28	good	good
2	Quercus kelloggii	10	45	15	7.5	moderate	fair
3	Quercus garryana	7	28	9	3.5	good	fair
4	Populus nigra	9	40	5	0	good	dead
5	Populus nigra	6	35	4	0	good	dead
6	Prunus cerasifera	6	24	8	4.5	moderate	fair
7	Quercus kelloggii	17	35	16	17	moderate	fair
8	Quercus kelloggii	20	38	18	20	moderate	fair
9	Populus nigra	7	35	8	3.5	good	good
10	Populus Nigra	7	35	8	3.5	good	good
11	Quercus garryana	13	38	20	9.75	good	good
12	Fraxinus latifolia	12	46	8	12	moderate	fair
13	Fraxinus latifolia	12	45	10	12	moderate	fair
14	Fraxinus latifolia	13	44	14	13	moderate	fair
15	Fraxinus latifolia	14	50	15	14	moderate	good
16	Fraxinus latifolia	7	25	8	5.25	moderate	fair

Specifications for Tree Preservation During Construction

- Before beginning work, the contractor is required to meet with the consultant at the site to review all work procedures, access routes, storage areas, and tree protection measures.
- Fences must be erected to protect trees to be preserved. Fences define a specific protection zone for each tree or group of trees. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without the written permission of the consultant.
- Construction trailers and traffic and storage areas must remain outside fenced areas at all times.
- All underground utilities and drain or irrigation lines shall be routed outside the tree protection zone. If lines must traverse the protection area, they shall be tunneled or bored under the tree.
- No materials, equipment, spoil, or waste or washout water may be deposited, stored, or parked within the tree protection zone (fenced area).
- Additional tree pruning required for clearance during construction must be performed by a qualified arborist and not by construction personnel.
- Any herbicides placed under paving materials must be safe for use around trees and labeled for that use. Any pesticides used on site must be tree-safe and not easily transported by water.
- If injury should occur to any tree during construction, the tree consultant should evaluate it as soon as possible so that appropriate treatments can be applied.
- The consulting arborist must monitor any grading, construction, demolition, or other work that is expected to encounter tree roots.
- All trees shall be irrigated on a schedule to be determined by the consultant. Irrigation shall wet the soil within the tree protection zone to a depth of 30 inches.
- Erosion control devices such as silt fencing, debris basins, and water diversion structures shall be installed to prevent siltation and/or erosion within the tree protection zone.
- Before grading, pad preparation, or excavation for foundations, footings, walls, or trenching, any trees within the specific construction zone shall be root pruned 1 foot outside the tree protection zone by cutting all roots cleanly to a depth of 24 inches. Roots shall be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, narrow trencher with sharp blades, or other approved root-pruning equipment.
- Any roots damaged during grading or construction shall be exposed to sound tissue and cut cleanly with a saw.
- If temporary haul or access roads must pass over the root area of trees to be retained, a road bed of 6 inches of mulch or gravel shall be created to protect the soil. The road bed material shall be replenished as necessary to maintain a 6-inch depth.
- Spoil from trenches, basements, or other excavations shall not be placed within the tree protection zone, either temporarily or permanently.
- No burn piles or debris pits shall be placed within the tree protection zone. No ashes, debris, or garbage may be dumped or buried within the tree protection zone.
- Maintain fire-safe areas around fenced areas. Also, no heat sources, flames, ignition sources, or smoking is allowed near mulch or trees.



KenCairn  
Landscape Architecture

REGISTERED  
STATE OF  
OREGON  
REG. # 43  
Kerry KenCairn  
11.12.99  
LANDSCAPE ARCHITECT

Revision Date:

Drawn By: AM

Scale 1" = 30'-0"

LYNNE MCDONALD  
720 GRANDVIEW  
ASHLAND, OREGON

AUGUST 3, 2009

T-1

Tel: 541.488.3194 545 A Street  
Fax: 541.552.9512 Ashland, OR 97520  
Cell: 541.601.5559 kerry@kencairnlandscape.com







# WRIGHTS CREEK DRIVE

EXIST. FIRE HYDRANT < 600' FROM STRUCTURE  
ALONG DRIVEWAY ROUTE

EXISTING  
RESIDENCE

39 1E 5CD  
T.L. 404

ALL FILL MATERIAL USED FOR DRIVEWAY  
CONSTRUCTION AND UTILITY INSTALLATION  
SHALL BE AT ORIGINAL GROUND ELEVATION  
(I.E. NO FILL WILL IMPEDE FLOODWATERS).

PROPOSED UTILITY  
TRENCH

PUBLIC UTILITY, ROAD  
SLOPE & TV EASEMENT

39 1E 5CD  
T.L. 412

ALL IMPORT MATERIAL USED FOR UTILITY  
INSTALLATION SHALL BE PLACED AT  
ORIGINAL GROUND ELEVATION (I.E. NO FILL  
WILL IMPEDE FLOODWATERS).

39 1E 5CD  
T.L. 411

PUBLIC UTILITY & TV EASEMENT

PROPOSED UTILITY  
TRENCH

39 1E 5CD  
T.L. 500

PROPOSED RESIDENCE

CONNECTION TO ROOF  
DOWNSPOUTS

CONNECTION TO ROOF  
DOWNSPOUTS

10' P.U.E.

PROPOSED UTILITY  
TRENCH

NEW 6" PRIVATE STORM DRAIN

NEW SUBSURFACE DRAIN, SEE  
CROSS SECTION 1/1

EXISTING  
RESIDENCE

39 1E 5CD  
T.L. 501

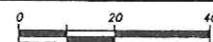
OUTLET OF PRIVATE S.D. &  
SUBSURFACE DRAIN WITH ROCK  
ENERGY DISSIPATOR

EXISTING 18" DRAINAGE CULVERT

39 1E 5CD T.L. 500



## PRELIMINARY UTILITY PLAN - MCDONALD RESIDENCE



SCALE: 1"=20'

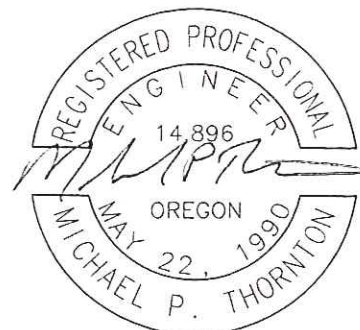
DRAWN:	JP
DATE:	1/20/2009
	REVISIONS

**THORNTON ENGINEERING INC.**  
1236 disk drive, suite i  
medford, oregon 97501  
(541) 857-0864 (541) 857-1947 fax

**PRELIMINARY UTILITY PLAN**

MCDONALD RESIDENCE  
720 GRANDVIEW DRIVE  
ASHI AND OREGON

SHEET  
**C2**



RENEWAL DATE: 6/30/2010

AUG 3 2009

JOB NO. C6-034  
FILE: BASEMAP.DWG



1. This study provides approximate 100 year flood information in conformance with "Engineering Methods for Estimating Base Flood Elevations in Unnumbered A Zones (Approximate Study Areas)" published by FEMA, October 1995. This analysis provides flood information based on "theoretical methods." Actual flooding conditions may vary significantly from the information provided.

4. The 100 year base flood boundary shown is based on the results of this study.

5. The FIRM information is for flood insurance purposes only. Our study does not alter the FIRM zone A boundary. The FIRM boundary may be amended by applying to FEMA and satisfying all requirements for amendment.

OREGON WATER RESOURCES DEPARTMENT<sup>(1)</sup>:

MEAN WATERSHED ELEVATION, FT (E) = 2810

$$Q_{100} = 10^{1.503} A^{0.9114} S^{0.4591} 0.6252$$

BASIN AREA (A) = 0.46 SQ. MI.\*\*

**\*\*AREA DETERMINED BY OWRD AUTO-DELINEATION APPLICATION (ONLINE)**

MEAN WATERSHED SLOPE, DEGREES (S) = 18.2

2-YEAR 24-HOUR PRECIPITATION INTENSITY, IN (I) = 1.580

STATISTICAL 95% CONFIDENCE:

$Q_{100} = 37.1$  CFS LOWER LIMIT

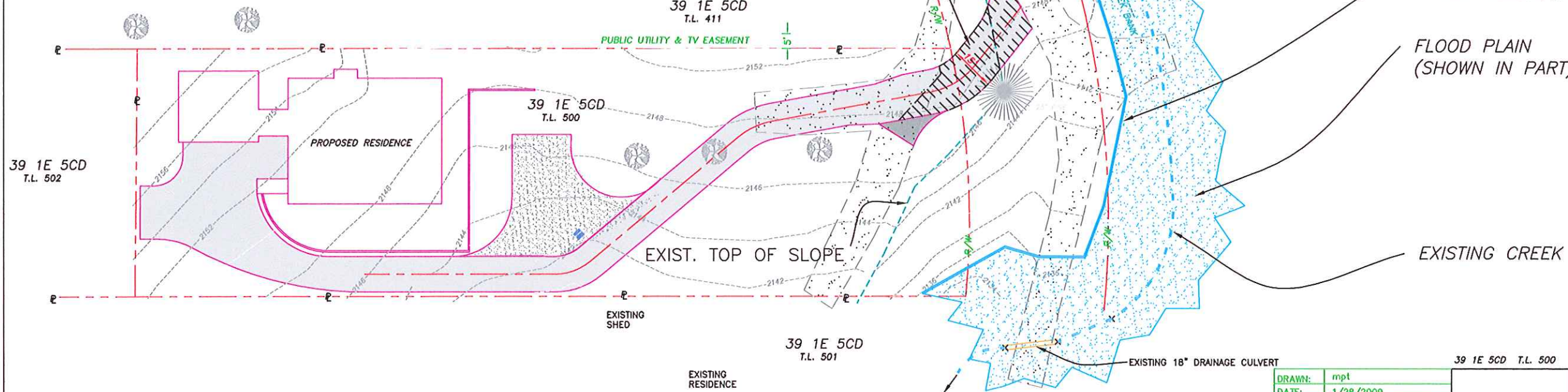
$$Q_{100} = 160 \text{ CFS UPPER LIMIT}$$

$Q_{100} = 77.1$  CFS

(1) Oregon Water Resources Department estimates of peak discharge - autodelineation program:  
[http://qls.wrd.state.or.us/apps/map/owrd\\_map/Default.aspx](http://qls.wrd.state.or.us/apps/map/owrd_map/Default.aspx)  
 Based the following study:  
 Cooper, R.M., 2005, Estimation of peak discharges for rural, unregulated streams in Western Oregon: U.S. Geological Survey Scientific Investigations Report 2005-5116, 134 p.

FLOOD PLAIN DATA:	Typical Cross-Section
Manning's <i>n</i>	0.055
Bottom Width	1 foot
Side Slope	1:1
Channel Slope	5 percent
Channel Depth	3 feet
Flow Capacity	85 cfs > 77.1 cfs

Notes: - Flow Capacity is the calculated channel capacity at the given normal depth.



100 YEAR FLOOD BOUNDARY - MCDONALD RESIDENCE

SCALE: 1"=20'

A.C.	ASPHALTIC CONCRETE	MAX	MAXIMUM
B.C.	BACK OF CURB	MIN	MINIMUM
B.C.R.	BEGINNING OF CURB RETURN	M.H.	MANHOLE
C.I.	CURB INLET	R	PROPERTY LINE
C	CENTER LINE	PUE	PUBLIC UTILITY EASEMENT
CONC	CONCRETE	R/W	RIGHT-OF-WAY
D/W	DRIVEWAY	SS	SANITARY SEWER
E.C.R.	END OF CURB RETURN	SSL	SANITARY SEWER LATERAL
EL	ELEVATION	S/W	SIDEWALK
EXIST	EXISTING	STD	STANDARD
OG	ORIGINAL GRADE	SD	STORM DRAIN
FG	FINISH GRADE	TC	TOP OF CURB
FH	FIRE HYDRANT	UON	UNLESS OTHERWISE NOTED
INV	INVERT OF PIPE	WM	WATER METER
L/S	LANDSCAPING	WV	WATER VALVE

DATE	CURRENT SET	PLAN SET DESCRIPTION
1/20/2009		CONSTRUCTION PLANS
7/21/2009	X	REVISED CONSTRUCTION PLANS

C3	100 YEAR FLOOD BOUNDARY
----	-------------------------

RECEIVE

JAN 29 2010

City of Ashland  
Field ☐ Office ☐ Co.

RENEWAL DATE: 6/30/2010

JOB NO. 05-034  
FILE: BASEMAP.DWG



**THORNTON  
ENGINEERING INC.**

1236 disk drive, suite i  
medford, oregon 97501  
(541) 857-0864 (541) 857-1947 fax

100 YEAR FLOOD BOUNDARY

MCDONALD RESIDENCE  
720 GRANDVIEW DRIVE  
ASHLAND OREGON

SHEET  
C3



# EROSION & SEDIMENT CONTROL PLAN

## 720 GRANDVIEW DRIVE

### CONTACTS

#### OWNER

WILLIAM & LYNN McDONALD  
8621 OAK BRANCH AVENUE  
BAKERSFIELD, CALIFORNIA 93311  
(541) 482-6474

#### SURVEYOR

TERRASURVEY, INC.  
274 FOURTH STREET  
ASHLAND, OR 97520  
(541) 482-6474

#### ENGINEER

THORNTON ENGINEERING, INC.  
P.O. BOX 476  
JACKSONVILLE, OR 97530  
(541)-899-1489  
(541)-899-3419 FAX

#### PLANNING CONSULTANT/ LANDSCAPE ARCHITECT

KENCAIRN LANDSCAPE ARCHITECTURE  
545 "A" STREET, STE. 3  
ASHLAND, OREGON 97520  
(541) 488-3194  
(541) 552-9512 (FAX)  
CONTACT: KERRY KENCAIRN

### NARRATIVE DESCRIPTIONS

PROPERTY LOCATION/DESCRIPTION 39 1E 05CD, TAX LOT 500  
WILLAMETTE MERIDIAN, CITY OF  
MEDFORD, JACKSON COUNTY,  
OREGON

LATITUDE/LONGITUDE 42° 12' 08"N, 122° 43' 53"W

EXISTING SITE CONDITIONS 0.54 Undeveloped acres  
with 9%-13% slopes.

DEVELOPED CONDITIONS Residence

SITE SOIL CLASSIFICATION 164D - SHEFFLEIN LOAM,  
7 TO 20 PERCENT SLOPES

ON-SITE SOILS HAVE A MODERATE TO HIGH EROSION POTENTIAL. ALL  
FILL MATERIAL SHALL BE GENERATED ON-SITE FROM GRADING EXCAVATION  
AND UTILITY TRENCH SPOILS.

RECEIVING WATER BODY Wrights Creek to Bear Creek

### SITE INSPECTION INFORMATION

PERMITEE'S SITE INSPECTOR:

COMPANY/AGENCY:

PHONE:

FAX:

E-MAIL:

DESCRIPTION OF EXPERIENCE

#### INSPECTION SCHEDULE

SITE CONDITION	MINIMUM FREQUENCY
ACTIVE PERIOD	DAILY WHEN STORMWATER RUNOFF, INCLUDING RUNOFF FROM SNOW MELT, IS OCCURRING.
PRIOR TO THE SITE BECOMING INACTIVE OR IN ANTICIPATION OF SITE INACCESSIBILITY	ONCE TO ENSURE THAT EROSION AND SEDIMENT CONTROL MEASURES ARE IN WORKING ORDER. ANY NECESSARY MAINTENANCE AND REPAIR MUST BE MADE BEFORE LEAVING THE SITE.
INACTIVE PERIODS GREATER THAN SEVEN (7) CONSECUTIVE CALENDAR DAYS	ONCE EVERY TWO (2) WEEKS.
PERIODS DURING WHICH THE SITE IS INACCESSIBLE DUE TO INCLEMENT WEATHER	IF PRACTICAL, INSPECTIONS MUST OCCUR DAILY AT A RELEVANT AND ACCESSIBLE DISCHARGE POINT OR DOWNSTREAM LOCATION.

HOLD A PRE-CONSTRUCTION MEETING OF PROJECT CONSTRUCTION  
PERSONNEL THAT INCLUDES THE EC INSPECTOR. ALL INSPECTIONS  
MUST BE MADE IN ACCORDANCE WITH DEQ 1200-C PERMIT  
REQUIREMENTS.

INSPECTION LOGS MUST BE KEPT IN ACCORDANCE WITH DEQ'S 1200-C  
PERMIT REQUIREMENTS.

CHANGES TO THE APPROVED ESC PLAN MUST BE SUBMITTED TO DEQ IN  
THE FORM OF AN ACTION PLAN.

### GENERAL NOTES

1. Hold a pre-construction meeting of project construction personnel that includes the inspector to discuss erosion and sediment control measures and construction limits. (Schedule A.5.b.i.(3))
2. The ESCP must be kept onsite and all erosion and sediment control measures shown on the plan must be installed in such a manner to ensure that sediment or sediment laden water that enters or is likely to enter surface waters or conveyance systems leading to surface water, roadway, or other properties does not occur. (Schedule A.3.a.) and (Schedule B.3.b.)
3. The implementation of the ESCP and construction, maintenance, replacement, and upgrading of the erosion and sediment control measures is the responsibility of the permit registrant until all construction is completed and approved by the local development agency and vegetation/landscaping is established. The permit registrant shall be responsible for maintenance after the lots are approved, until the lots are sold and the 1200-C permit is terminated. (Schedule A.4.a.) and (Schedule D.3.)
4. The permit registrant must be responsible for proper installation and maintenance of all erosion and sediment control measures, in accordance with local, state, or federal regulations. (Schedule A.5.a.) and (Schedule A. 6.a.)
5. Erosion and sediment control measures including perimeter sediment control must be in place before vegetation is disturbed and must remain in place and be maintained, repaired, and promptly implemented following procedures established for the duration of construction, including protection for active storm drain inlets and catch basins and appropriate nonstormwater pollution controls. (Schedule A.5.b.ii.(2)), (Schedule A.5.b.ii.(7)), (Schedule A.7.d.i.(2)) & (Schedule A.7.f.)
6. Begin land clearing, excavation, trenching, cutting or grading and earthwork-surface roughing after installing applicable sediment, erosion prevention and runoff control measures not in the direct path of work. (Schedule A.5.b.ii.(5)(a)), (Schedule A.7.c.i.(1)) and (Schedule A.7.c.ii.(1))
7. Apply temporary and/or permanent soil stabilization measures immediately on all disturbed areas as grading progresses and for all roadways including gravel roadways. (Schedule A.5.b.ii.(5)(b), Schedule A.5.b.ii.(5)(c) & Schedule A.5.b.ii.(6).)
8. Wet Weather BMPs: Construction activities must avoid or minimize excavation and creation of bare ground on slopes greater than five (5) percent from October 1 through May 31 each year. (Schedule A.7.a.i.)
9. Wet Weather BMPs: Temporary stabilization of the site must be installed at the end of the shift before a holiday or weekend or at the end of each workday if rainfall is forecast in the next 24 hours and each weekend and holiday. (Schedule A.7.a.ii.)
10. Identify, mark, and protect (by fencing off or other means) critical riparian areas and vegetation including important trees and associated rooting zones and vegetation areas to be preserved. Identify vegetative buffer zones between the site and sensitive areas (e.g., wetlands), and other areas to be preserved, especially in perimeter areas. Preserve existing vegetation and revegetate open areas when practicable before and after grading or construction. (Schedule A.5.b.i.(1) & (2)) and (Schedule A.7.c.iii.(1))
11. Provide permanent erosion prevention measures on all exposed areas to prevent from becoming a source of erosion and remove all temporary control measures, unless local ordinances require otherwise, as areas are stabilized. (Schedule A.5.b.ii.(8)) and (Schedule A.7.c.ii.(2))
12. All temporary sediment controls must remain in place until permanent vegetation or other permanent covering of exposed soil is established. Identify the type of vegetative seed mix used. (Schedule A.7.c.iii.(3)) & (Schedule A.7.c.iii.(4))
13. Sediment controls must be installed and maintained along the site perimeter on all down gradient sides of the construction site and at all active and operational internal storm drain inlets at all times during construction. (Schedule A.7.d.i.(1) - (2))
14. Prior to any land disturbing activities each site must have graveled, paved, or constructed entrances, exits and parking areas with exit tire wash to reduce the tracking of sediment onto public or private roads. (Schedule A.7.d.iii.(1))
15. When trucking saturated soils from the site, either watertight trucks must be used or loads must be grained on-site until dripping has been reduced to minimize spillage on road. (Schedule A.7.d.iii.(3))
16. Temporary stabilization or covering of soil stockpiles and protection of stockpile located away from construction activity must occur at the end of each workday or other BMPs, such as diversion of uncontaminated flows and installation of sediment fences around stockpiles, must be implemented to prevent turbid discharges to surface waters. (Schedule A.7.e.i.(1)) & (Schedule A.7.e.ii.(1) - (3)).
17. BMPs that will be used to prevent or minimize stormwater from being exposed to pollutants from spills, no discharge of concrete truck wash water, vehicle and equipment cleaning, vehicle and equipment fueling, maintenance, and storage, other cleaning and maintenance activities, and waste handling activities. These pollutants include fuel, hydraulic fluid, and other oils from vehicles and machinery, as well as debris, leftover paints, solvents, and glues from construction operations. (Schedule A.7.e.i.(2))
18. Any use of toxic or other hazardous materials must include proper storage, application, and disposal. (Schedule A.7.e.iii.(2))
19. Solid Waste and Hazardous Materials Management: Follow project written spill prevention and response procedures, employee training on spill prevention and proper disposal procedures; regular maintenance schedule for vehicles and machinery; and material delivery and storage controls, training and signage, material use, covered storage areas for waste and supplies. (Schedule A.7.e.iii.(3))
20. The permittee must properly manage hazardous wastes, used oils, contaminated soils, concrete waste, sanitary waste, liquid waste, or other toxic substances discovered or generated during construction and meet all state and federal regulations and approvals. (Schedule A.7.e.iii.(4))
21. The ESCP measures shown on this plan are minimum requirements for anticipated site conditions. During the construction period, these measures must be upgraded as needed to comply with all applicable local, state, and federal erosion and sediment control regulations. Changes to the ESCP must also be submitted in the form of an Action Plan to DEQ or its Agent for approval. (Schedule A.7.f.)
22. Significant amounts of sediment, which leaves the site, must be cleaned up within 24 hours and placed back on the site and stabilized or properly disposed. The cause of the sediment release must be found and prevented from causing a recurrence of the discharge within the same 24 hours. Any in-stream clean up of sediment shall be performed according to the Oregon Division of State Lands required time frame. (Schedule A.7.f.i.(1))
23. Vacuuming or dry sweeping must be used to clean-up released sediment and must not be intentionally washed into storm sewers, drainage ways, or water bodies. (Schedule A.7.f.i.(2))
24. The application rate of fertilizers used to reestablish vegetation must follow manufacturer's recommendations to minimize nutrient releases to surface waters. Time-release fertilizers should be used with care within any waterway riparian zone. (Schedule A.7.f.i.(3))
25. Sediment must be removed from behind a Sediment Fence when it has reached a height of 1/3 the height of the fence aboveground and before fence removal. (Schedule A.7.f.ii.(1))
26. Sediment must be removed from behind Bio Bags and other barriers it has reached a height of two (2) inches and before BMP removal. (Schedule A.7.f.ii.(2))
27. Removal of trapped sediment in a Sediment Basin or Sediment Trap or Catch Basins must occur when the sediment retention capacity has been reduced by fifty (50)% and at completion of project. (Schedule A.7.f.ii.(3) & (4))
28. DEQ must approve of any treatment system and operational plan that may be necessary to treat contaminated construction dewatering or sediment and turbidity in stormwater runoff. (Schedule A.7.f.iii.)
29. Should all construction activities cease for thirty days or more, the entire site must be temporarily stabilized using vegetation or a heavy mulch layer, temporary seeding, or other method. (Schedule A.8.a.)
30. Should construction activities cease for fifteen (15) days or more on any significant portion of a construction site temporary stabilization is required for that portion of the site with straw, compost, or other tackified covering that prevent soil or wind erosion until work resumes on that portion of the site. (Schedule A.8.b.)
31. Daily inspections when rainfall and runoff occurs of the BMPs and discharge outfalls must be the project ESCP Inspector. These inspections and observations must be recorded in a log that is available on site. (Schedule A.6.b.i.) & (Schedule B.1.b.(1))
32. BMPs must be inspected before, during, and after significant storm events. (Schedule A.7.f.)
33. All ESCP controls and practices must be inspected visually once to ensure that BMPs are in working order prior to the site becoming inactive or in anticipation of site inaccessibility and must be inspected visually once every two (2) weeks during inactive periods greater than seven (7) consecutive calendar days. (Schedule B.1.b.(2)-(3))
34. If practical, inspections must occur daily at a relevant and accessible discharge point or downstream location during periods which the site is inaccessible due to inclement weather. (Schedule B.1.b.(4)).

### BMP MATRIX FOR CONSTRUCTION PHASES

REFER TO DEQ GUIDANCE MANUAL FOR A COMPREHENSIVE LIST  
OF AVAILABLE BMP'S.

	CLEARING	MASS GRADING	UTILITY INSTALLATION	PAVEMENT CONSTRUCTION	FINAL STABILIZATION	BMP TIMING	
						(OCT. 1 - MAY 31)	(JUNE 1 - SEPT. 31)
<b>EROSION PREVENTION</b>							
GROUND COVER					X	X	
MULCHING		X			X	X	
DUST CONTROL	X	X	X	X	X	X	X
TEMPORARY/ PERMANENT SEEDING		X	X		X	X	X
OTHER:							
<b>SEDIMENT CONTROL</b>							
SEDIMENT FENCE (PERMETER)	** X	X	X	X	X	X	X
STRAW MATS	** X	X	X	X	X	X	X
INLET PROTECTION	** X	X	X	X	X	X	X
OTHER:							
<b>RUN OFF CONTROL</b>							
CONSTRUCTION ENTRANCE	** X	X	X	X	X	X	X
SURFACE ROUGHENING					X		
OTHER:							
<b>POLLUTION PREVENTION</b>							
PROPER SIGNAGE	X	X	X	X	X	X	X
HAZ WASTE MGMT	X	X	X	X	X	X	X
SPILL KIT ON-SITE	X	X	X	X	X	X	X
CONCRETE WASHOUT AREA	X	X	X	X	X	X	X
OTHER:							

\*\* SIGNIFIES BMP THAT WILL BE INSTALLED PRIOR TO ANY GROUND  
DISTURBING ACTIVITY.

### RATIONALE STATEMENT

A COMPREHENSIVE LIST OF AVAILABLE BEST MANAGEMENT PRACTICES (BMP) OPTIONS BASED ON DEQ'S GUIDANCE MANUAL HAS BEEN REVIEWED TO COMPLETE THIS EROSION AND SEDIMENT CONTROL PLAN. SOME OF THE ABOVE LISTED BMP'S WERE NOT CHOSEN BECAUSE THEY WERE DETERMINED TO NOT EFFECTIVELY MANAGE EROSION PREVENTION AND SEDIMENT CONTROL FOR THIS PROJECT BASED ON SPECIFIC SITE CONDITIONS, INCLUDING SOIL CONDITIONS TOPOGRAPHIC CONSTRAINTS, ACCESSIBILITY TO THE SITE, AND OTHER RELATED CONDITIONS, AS THE PROJECT PROGRESSES AND THERE IS A NEED TO REVISE THE ESC PLAN, AN ACTION PLAN WILL BE SUBMITTED.

15,973

AUG 3 2009



RENEWAL DATE: 12/31/2009

JOB NO. 06-034  
FILE: BASEMAP.DWG

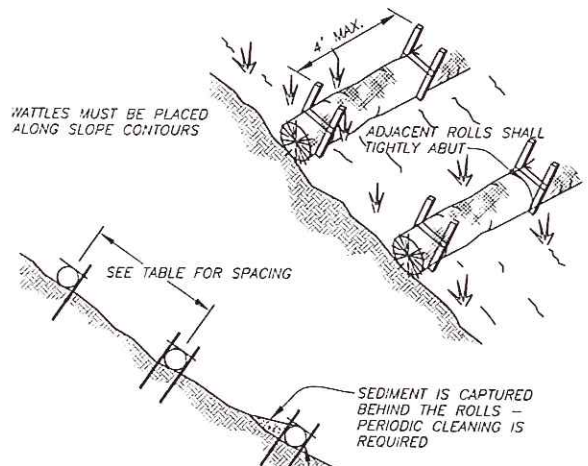
DRAWN:	KJD
DATE:	1/20/09
REVISIONS	

**THORNTON ENGINEERING INC.** p.o. box 476 • 260 north 3rd street  
jacksonville, oregon 97530  
(541) 899-1489 (541) 899-3419 fax

**EROSION CONTROL COVER SHEET** SHEET  
720 GRANDVIEW DRIVE  
ASHLAND, OREGON  
EC1



RRIER SPACING ERIAL APPLICATION IN PARALLEL ALONG CONTOURS AS FOLLOWS		
% SLOPE	% SLOPE	MAXIMUM SPACING ON SLOPE
10% Flatter	1:10 or Flatter	300'
10 > % ≥ 15	10 > X ≥ 7.5	150'
15 > % ≥ 20	7.5 > X ≥ 5	100'
20 > % ≥ 30	5 > X ≥ 3	50'
Steeper than 30%	Steeper than 1:3	25'

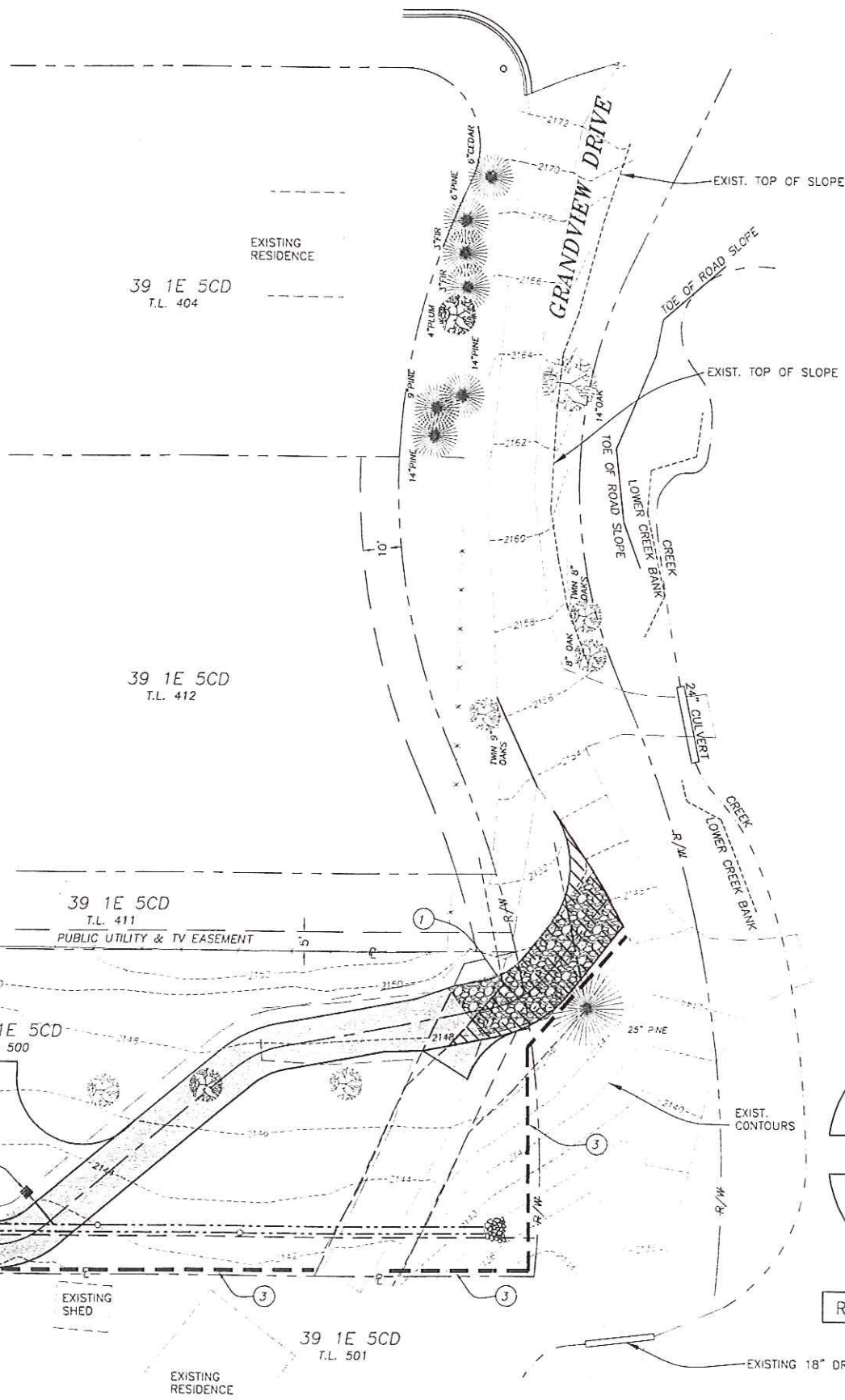


INSTALL TWO STAKES WITH TIE WIRE WOUND TIGHTLY BETWEEN STAKES AND OVER THE TOP OF WATTLES AT 4' O.C.

# 1 EC2 WATTLE/FIBER ROLL INSTALLATION

- ## CONSTRUCTION NOTES
- Rock entrance for 50' min. To prevent tracking of soil onto roadway, 8" min. thickness of shale OR 4"-0 crushed rock on filter fabric. Line and grade shall conform to future driveway entrance, see RD 1000
  - Future storm drain inlets shall be protected by filter fabric barriers, see RD 1010
  - Construct Sediment Fence, see RD 1040, Fiber rolls or "wattles" may be used in lieu of sediment fence, see detail 1/EC2. Sediment Fence or "wattles" shall be used only at locations where berm is deemed not practical.
  - Disturbed areas that are not going to receive landscaping must be seeded & covered with straw to prevent erosion. Sloping areas >3:1 slope to be protected per general note no. 4.

## WRIGHTS CREEK DRIVE



AT DITCH SECTION OR LOW AREAS

TURNED ENDS

POST SPACING OVERLAP

GEOTEXTILE END CONNECTIONS

GRADE	MAXIMUM SPACING ON GRADE
Grade < 10%	300'
10% < Grade < 15%	150'
15% < Grade < 20%	100'
20% < Grade < 30%	50'
30% < Grade	25'

POST SPACING

POST SPACING	MAXIMUM SPACING ON GRADE
4' Supported Sediment Fence	300'
4' Unsupported Sediment Fence with Geotextile elongation ≥ 50%	150'
5' Unsupported Sediment Fence with Geotextile elongation ≥ 50%	100'

OREGON STANDARD DRAWINGS

SEDIMENT FENCE, SUPPORTED

SEDIMENT FENCE, UNSUPPORTED

ERD1040

INLET PROTECTION

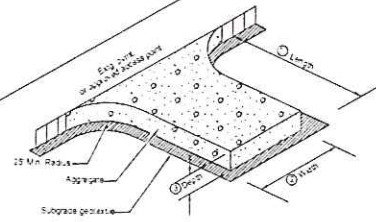
TYPE	1	2	3	4	5
Area Covered	Y	Y	Y	Y	Y
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N
Area Drained	N	Y	Y	Y	N

OREGON STANDARD DRAWINGS

INLET PROTECTION (TYPE 1 & 2)

RD1010

REGISTERED PROFESSIONAL ENGINEER  
15,973  
Kirk J. Daley  
JULY 21, 1988  
OREGON  
RENEWAL DATE: 12/31/2009



AUG 3 2009

## EROSION CONTROL PLAN-MCDONALD RESIDENCE

1"=60'

DRAWN:	kjd
DATE:	1/20/09
REVISIONS	

THORNTON ENGINEERING INC. p.o. box 476 • 260 north 3rd street  
jacksonville, oregon 97530  
(541) 899-1489 (541) 899-3419 fax

EROSION CONTROL PLAN  
MCDONALD RESIDENCE  
ASHLAND, OREGON

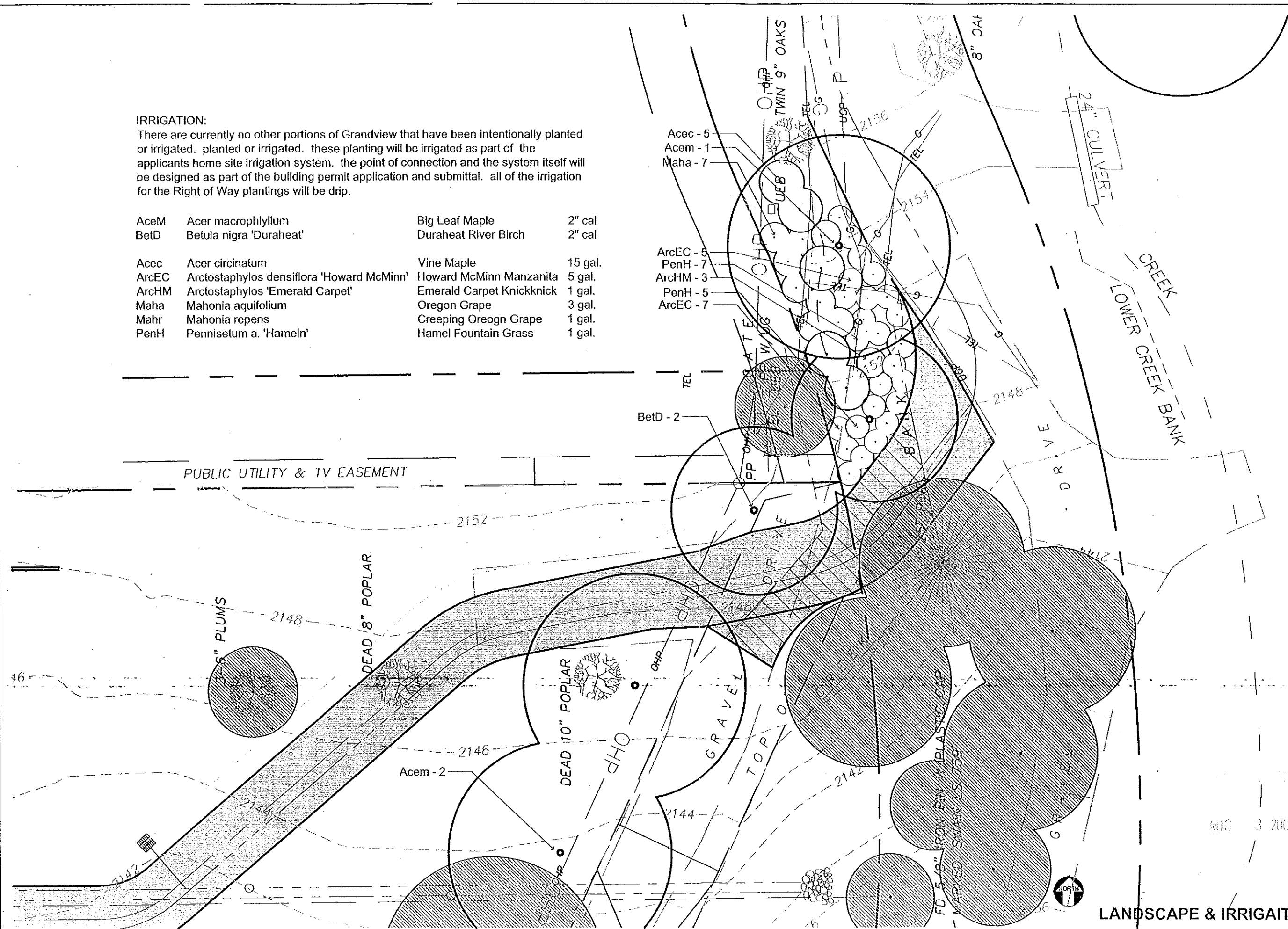
SHEET  
EC2



# IRRIGATION:

There are currently no other portions of Grandview that have been intentionally planted or irrigated. planted or irrigated. these planting will be irrigated as part of the applicants home site irrigation system. the point of connection and the system itself will be designed as part of the building permit application and submittal. all of the irrigation for the Right of Way plantings will be drip.

AceM	Acer macrophyllum	Big Leaf Maple	2" cal
BetD	Betula nigra 'Duraheat'	Duraheat River Birch	2" cal
Acec	Acer circinatum	Vine Maple	15 gal.
ArcEC	Arctostaphylos densiflora 'Howard McMinn'	Howard McMinn Manzanita	5 gal.
ArchM	Arctostaphylos 'Emerald Carpet'	Emerald Carpet Knickknick	1 gal.
Maha	Mahonia aquifolium	Oregon Grape	3 gal.
Mahr	Mahonia repens	Creeping Oreogn Grape	1 gal.
PenH	Pennisetum a. 'Hameln'	Hamel Fountain Grass	1 gal.



Revision Date:

Drawn By:

Scale 1" = 8'-0"

**LYNNE MCDONALD**  
720 GRANDVIEW  
ASHLAND, OREGON

AUGUST 3, 2009

**L-1**

**KenCairn**  
Landscape Architecture



Tel: 541.488.3194 545 A Street  
Fax: 541.552.9512 Ashland, OR 97520  
Cell: 541.601.5559 kerry@kencairnlandscape.com

LANDSCAPE & IRRIGATION

**BEFORE THE PLANNING COMMISSION  
CITY OF ASHLAND, JACKSON COUNTY, OREGON**

**April 13, 2010**

In the Matter of Planning Action 2009-00817 regarding	)	
Amendments to the City of Ashland Comprehensive Plan	)	FINDINGS OF FACT AND
to update the for Southern Oregon University 2010-2020	)	CONCLUSIONS OF LAW
Campus Master Plan	)	
	)	

**PUBLIC HEARINGS:**

On July 14 2009, a public hearing was held regarding a request for adoption of the Southern Oregon University Campus Master Plan 2010-2020 as a sub-area plan within the Ashland Comprehensive Plan. The public hearing was continued with the Planning Commission taking further testimony and concluding deliberations on March 9, 2010.

Properties impacted by the proposed adoption of the Southern Oregon University Campus Master Plan 2010-2020, or in the vicinity of the SOU campus, were provided legal notice in accordance with ORS 227.186. Additional public information efforts included a project web page included the proposed SOU Master Plan so that recipients of the notice could obtain detailed information. The web page has been updated throughout the public hearing process with meeting materials as well as the record. On October 5<sup>th</sup>, 2009, Southern Oregon University facilitated a public discussion with campus neighbors and the surrounding community regarding the Master Plan update.

**EVALUATION AND PLANNING COMMISSION FINDINGS:**

The recommendation of the Planning Commission was based on consideration of the following factors:

- A. Consistency with Oregon land use laws and regulations including specifically OAR Chapter 197 regarding Comprehensive Land Use Planning Coordination
- B. Applicable policies of the Ashland Comprehensive Plan.

The Planning Commission finds that the inclusion of conditions as outlined below is necessary to provide additional clarification and to improve coordination, review and approval of future university projects. With these conditions the Commission finds that the proposed update of the SOU Campus Master Plan 2010-2020 is consistent with and adequate to carry out the goals and policies in the Ashland Comprehensive Plan.

## RECOMMENDED CONDITIONS

### **Housing and Student Life**

#### *Mixed Use Construction*

- In addition to the mandatory Design Guidelines described in the Master Plan update, the following areas designated for development shall be subject to Ashland's approval standards for development within the Detail Site Review Zone (II-C-2), including those additional standards for Large Scale Projects (II-C-3).
  - along Ashland Street between Walker Ave and Wightman St, within 150-feet of the near edge of the Ashland Street right of way, and
  - along Walker Avenue between Ashland Street and south of Webster Street, within 150-feet of the near edge of the Walker Ave. right of way.
  - Developments within these designated Detail Site Review overlay zones shall be exempt from the maximum floor area requirement (FAR) standards as set forth in sections II-C-2a(1) of the Site Design and Use Standards

### **Faculty Housing**

- The following Design Guidelines shall be apply to faculty housing located along Ashland Street and Henry Street west of Mountain Avenue, and along Walker Avenue:

*1. Building footprints shall be limited to 6,000 square feet total for a multi-family building. Example: six attached 1000 square foot townhouses.*

*2. Buildings shall be no more than 120 feet long. For buildings longer than 60 feet, a significant offset—5' or more—in the plane of the façade shall be created so that no major façade plane is more than 60 feet in length. Projecting elements and/or recesses—such as decks, bay windows and recessed entries—shall be applied to facades to avoid long planar walls facing the street.*

*3. Buildings shall be limited to 3 stories above grade generally and 2 stories west of Mountain Ave.*

*4. Building facades shall face the primary street or a shared open courtyard space which in turn fronts on the street.*

*5. Building entries shall include porches, stoops and similar elements to create a transition zone between the public street and the private home.*

6. *Individual entries to each dwelling unit are preferred. In no case shall more than four dwelling units share a common entry from the street or common open space. Example: traditional four-square style building, with two units above and two at ground floor sharing an entry.*

7. *Buildings shall be designed with appropriate placement of interior spaces and exterior windows to provide views from active areas to the public street and/or common open spaces [sometimes referred to as "eyes on the street"].*

8. *Shared parking shall not be located between the street and the primary façade of dwelling units. To the greatest extent feasible, parking shall be located at the rear of units. Where parking is located at the front of units, it shall be only in the form of personal driveways serving individual units. In this configuration, garage entries shall be set behind the primary façade of dwelling units by a minimum of five feet.*

9. *Exterior building finishes shall be similar to existing buildings in the surrounding neighborhood. Vinyl siding is not an allowed finish material; metal siding is discouraged, except as an architectural accent. Allowed materials include:*

- a. Wood siding or shingle;*
- b. Cementitious wood products;*
- c. Brick, stone and artificial stone.*

10. *Design elements that are representative of the surrounding residential neighborhood context are encouraged, although literal repetition of historic styles is not required or expected.*

11. *Landscape materials shall consistent with palette of the Ashland bioregion. Native plants and drought-tolerant, non-invasive plantings are strongly encouraged.*

- **Conditional Use Permit Approval**

Faculty Village Housing proposed along Ashland Street and Henry Street west of Mountain Avenue, and along Walker Avenue, is approximately 50-feet from privately-owned property. Consequently, future development at these locations shall be subject to approval of a Conditional Use Permit in order to address neighborhood context.

## **Demolition and Relocation of Existing Campus Buildings**

- In addition to the requirements set forth in the Campus Master Plan for construction waste reduction and on-site recycling collection facilities, proposals involving the demolition or relocation of existing campus

structures shall be subject to the procedures and provisions of Ashland Municipal Code 15.04 – Demolition or relocation of structures.

## **Transportation and Circulation**

### *Student Housing -Pedestrian Safety Plan*

- Prior to submission of a planning application for the development of new student housing north of Ashland Street and Siskiyou Boulevard, the University will work with the City, Oregon Department of Transportation and other stakeholders in developing a specific plan for implementation that addresses actions targeted at improving pedestrian safety. The Plan shall include but not be limited to improved crossings with enhanced pavement design and access controls with an on-going monitoring of pedestrian flow and safety issues. Design strategies shall be coordinated and prepared based upon the expertise of both a traffic engineer and urban design professional.

### *Eastern Gateway - Pedestrian Safety Plan*

- Concurrently with the transportation impact analysis and access management strategy, the University will work with the City, Oregon Department of Transportation and other stakeholders in developing a specific plan for implementation that addresses pedestrian safety issues. Design strategies shall be prepared based upon input from both a traffic engineer and urban design professional.

### *Student Housing - Transportation Impact Analysis and Access Management*

- All future housing projects proposed shall be subject to a transportation impact analysis (TIA) and access management standards described in the City of Ashland Transportation System Plan (TSP). The final scope of this requirement will be evaluated at the pre-application meeting preceding the land use application for Site Design Review approval.

### *Eastern Gateway - Transportation Impact Analysis and Access Management*

- Modifications to the University's Eastern Gateway area shall be subject to a transportation impact analysis and access management standards as described in the City of Ashland Transportation System Plan (TSP). The final scope of specifications for preparation of a transportation impact analysis shall be coordinated through Ashland Public Works Department.

### *Emergency Vehicle Access - Campus Circulation System*

- Prior to any changes to the campus circulation system including vehicular and pedestrian access ways, a site plan shall be provided to and approved by Ashland Fire & Rescue which demonstrates that the proposed

modifications are in compliance with the emergency access provisions of the Oregon Fire Code.

## **Parking and Transportation Demand Management**

### *Parking Requirements for On-Campus Student Housing*

- Prior to submission of a planning application for campus housing, the University shall develop, through collaboration with city staff, specific parking standards for on-campus housing. The standard is intended to reduce an over provision of off-street parking and stress the use of alternate modes of transportation, by maximizing the efficiency of established and future campus parking facilities through consideration of the following strategies:
  - The University's development and implementation of Transportation Demand Management strategies listed in the Master Plan;
  - Review of contemporary research, professional publications and other factors effecting parking demand;
  - Analysis of shared parking scenarios; and
  - Review of potential impacts to neighborhood on-street parking supply

### *Transportation Demand Management (TDM) strategies*

- That a list of potential Transportation Demand Management strategies accompanied by a time line for implementation be developed and submitted in conjunction with campus housing applications.

## **CONCLUSIONS**

Based upon the evidence in the whole record, the Planning Commission hereby recommends the Council approve the adoption of the update of the SOU Campus Master Plan 2010-2020 as part of the City's Comprehensive Plan, with the inclusion of the recommended conditions.

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Pam Marsh, Planning Commission Chair

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Date

Signature authorized and approved by  
the full Planning Commission this 13th  
day of April, 2010