

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 12, 2011
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 8, 2011 Planning Commission Meeting.
- IV. **PUBLIC FORUM**
- V. **UNFINISHED BUSINESS**
 - A. Approval of Findings for PA-2011-00043, 400 Allison Street.
 - B. Approval of Findings for PA-2010-01611, 260 First Street.
- VI. **TYPE II PUBLIC HEARINGS**
 - A. **PLANNING ACTION: #2011-00319**
 - SUBJECT PROPERTY:** 805, 815, 835, 843, 851, 861, 873, 881, 889 and 897 Oak Knoll Dr.
 - APPLICANT:** Dan Thomas, Representative
 - DESCRIPTION:** A request for a 25% Variance to the maximum fence height of six and one half (6 ½) feet. The applicants are proposing an eight (8) foot wall along the rear property lines for the properties located at 805–897 Oak Knoll Drive adjacent to Interstate I-5 and tax lot 7000.
 - COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-10;
 - ASSESSOR'S MAP #:** 39 1E 14 AD; **TAX LOTS:** 4900 – 5900.
- VII. **ADJOURNMENT**



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 8, 2011

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:

Larry Blake
Michael Dawkins
Pam Marsh
Debbie Miller
Melanie Mindlin

Staff Present:

Bill Molnar, Community Development Director
Derek Severson, Associate Planner
Michael Piña, Assistant Planner
April Lucas, Administrative Supervisor

Absent Members:

John Rinaldi, Jr.

Council Liaison:

Russ Silbiger, absent

ANNOUNCEMENTS

Commissioner Marsh announced the upcoming TSP joint meeting dates.

CONSENT AGENDA

A. Approval of Minutes

1. February 8, 2011 Planning Commission Minutes.

Commissioners Miller/Mindlin m/s to approve the Consent Agenda. Voice Vote: all AYES. Motion passed 5-0.

PUBLIC FORUM

No one came forward to speak.

UNFINISHED BUSINESS

A. Approval of Findings for PA-2010-01622, 163 Hitt Rd.

Ex Parte Contact: No ex parte contact was reported by the commissioners.

Commissioner Mindlin questioned the finding that states the Hitt Road frontage along a portion of the subject property meets the City's street standards. Associate Planner Derek Severson clarified this lot does have some frontage on a street improved to standards. Mindlin also questioned the statement on page 5 which reads *"the Commission finds that the original application materials explicitly recognized that building envelopes did not identify building footprints and that the lot coverage is limited to 20% per lot"*, and does not believe that they found this. She felt the Commission found the materials to be unclear and did the best they could with the problem as it was presented. Marsh noted this was a statement that was included in the staff report and was not challenged during the hearing. Mindlin recommended striking *"and that the lot coverage is limited to 20% per lot"* from that statement.

Commissioners Mindlin/Dawkins m/s to approve the Findings for Planning Action #2010-01622 with the modification as noted. Voice Vote: all AYES. Motion passed 6-0.

TYPE II PUBLIC HEARINGS

A. PLANNING ACTION: #2010-01611

SUBJECT PROPERTY: 260 First Street

APPLICANT: Melissa Syken

DESCRIPTION: A request for a Conditional Use Permit and Site Review to convert an existing, non-contributing 614 square foot home into a 599 square foot retail store, with a 447 residential addition to the rear of the property located at 260 First Street. In addition, the applicant is seeking a variance to reduce the number of required parking spaces to allow for an on-site ADA parking in front of the home.

COMPREHENSIVE PLAN DESIGNATION: Low Density Multi-Family Residential; **ZONING:** R-2; **ASSESSOR'S MAP #:** 39 1E 09 BA; **TAX LOT:** 1500.

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

Ex Parte Contact

Commissioners Miller, Mindlin and Marsh reported site visits. Commissioners Dawkins and Blake stated they are familiar with the site. No ex parte contact was reported.

Staff Report

Associate Planner Derek Severson provided the staff report and explained the application before them is a conditional use permit and site review to establish a retail use at 260 First Street. He stated this action includes a parking variance and an administrative variance to the Site Design and Use Standards for a reduced landscape buffer in the front yard. Severson stated the applicant's proposal is to demolish a portion of the existing home, add a second story addition to the rear of the building to accommodate the residential use, and use the front of the building for a retail business. He noted this property is located across the street from the Ashland Food Co-op, and is in a transitional area near the edges of the R-2 and E-1 zoning districts. Severson reviewed AMC 18.24.030 which speaks to the retail space being operated by the occupant of the dwelling unit and clarified the business owner would be occupying the site in the rear unit. He commented on the applicant's site plan and stated their proposal would greatly enhance the building's presence and streetscape. Severson reviewed the parking variance and stated the applicant's have identified two parking spaces to be installed on the site, and are requesting a variance to install the required ADA space on the street. However, the City's Building Division has expressed concern with locating the handicap space on the street and would generally require the ADA space to be located on the subject property.

Mr. Severson stated in reviewing the application, staff believes the proposal involves significant improvements to the building and its relationship to the streetscape; but noted the bigger issues regarding the character of the neighborhood and whether the addition of a retail business would negatively impact that. He stated the Historic Commission has reviewed this application and are recommending approval. The Commission indicated this block has a strong commercial character and the proposed business would serve the same customer base as the Food Co-op and therefore create less of a parking impact. Additionally, the Historic Commission stated using the front yard for parking spaces seems consistent with the pattern of that neighborhood.

Comment was made questioning if the required ADA space is a City regulation or a federal rule, and whether there is flexibility in where it can be located. Severson stated there are ADA requirements included in the Ashland Land Use Ordinance, but there are also state and federal requirements that are enforced by the City's Building Division. He explained the Planning Commission can waive the requirements in the land use ordinance, but they do not have the authority to waive the state and federal requirements. In order for this application to move forward, he stated the Commission would have to approve a variance for two spaces, rather than one.

Applicant's Presentation

Carlos Delgado, Melissa Syken and Patricia Way/Ms. Syken shared her desire to open a small retail store offering eco-baby goods that would be made by local residents. She stated this type of business would be an asset to Ashland and stated most families are purchasing these types of items online or in larger metropolitan areas because there is no place locally to get them. Syken stated the railroad district is a very walking friendly area and she anticipates lots of pedestrian business. She noted this has always been a high traffic area because of the Food Co-op, and noted the growth of the Co-op property and the other businesses that have recently opened in this neighborhood.

Mr. Delgado clarified there are two existing parking spaces on the site and they are asking for a variance for the third required ADA space. Delgado listed other businesses in the neighborhood that were not required to provide ADA spaces on their property, and stated if they were allowed to place their ADA space on the street it would serve the entire block of businesses. He stated placing the ADA space within a block or two of the business is acceptable under state and federal guidelines, and stated if it is mandated to

be placed on this site it would not be accessible to the public and would only be for the use of this private party. He noted the proposed retail use is an approved use under the CUP process, and the question before them is the variance for the side yard buffer and the parking variance. Delgado clarified this site is located in a transition zone and there is a real commercial feel to this street.

Public Testimony

Philip Lang/758 B Street/Stated he is opposed to this project because: 1) it does not meet the permitted R-2 Zone uses, 2) it does not meet the conditional uses allowed in the R-2 Zone, 3) the project cannot provide adequate parking and will further worsen a bad parking situation, and 4) it will adversely affect the livability in the area. Mr. Lang noted he has owned the adjacent home for 25 years and it has always served as an affordable housing unit. He stated the more properties that are granted variances, the more the character of this neighborhood changes.

Jim Little/234 N. First Street/Stated the Food Co-op already has more customers than parking spaces and people often idle in the street waiting for spaces to open up. Mr. Little noted many people make illegal turns into the alley and the two hour parking limitation is often not adhered to. He stated he is not opposed to this application, but stated the parking problem needs to be straightened out before another retail space goes in.

Richard Katz/125 Orange Avenue/Stated he is the general manager of the Ashland Food Co-op and acknowledged there is a parking problem in this neighborhood. Mr. Katz stated he likes the proposed structure, the improved streetscape and the concept of selling organic baby items, but is concerned about any adjacent development that would limit street parking access for his customers and increase the density of this busy neighborhood. He stated the proposed lot is already non-conforming and expressed concern that the applicant's are proposing more than this small lot can accommodate. He added although an accessory unit would be built to serve as the home of the occupant/operator of the business, he does not believe this meets the CUP criteria.

Cathy Lemble/347 Beach Street/Stated she has been an Ashland resident for over 10 years and picked Ashland expressly to raise her family here. Ms. Lemble voiced support for a local business that would provide organic baby goods and noted the current void in Ashland for these types of products. She stated the proposed business keeps with the character of the railroad district and believes the Co-op and this business would serve the same customer base. Ms. Lemble stated the improvements to this property are a step in the right direction and does not believe this business will have a significant impact on traffic or the parking situation.

Amanda Rockwell-Higgins/2050 Butler Creek Road/Stated she is a small business owner in Ashland and stated in terms of parking, Ashland should be thankful to have such a thriving local economy, especially in this area. She stated this business would fit well into the neighborhood and voiced her support for this business.

Commissioner Marsh noted several letters were submitted and asked the Commissioners to read them aloud. Letters from **Peter Hoyt, Farinaz Wadia, Karen Rae Ferreira, Steve Lanusse-Siegel, Monique Manning, Jacob Gouge, Melissa Giersbach, Lorie Fleischman, Jenny Mikolichuk, and Michelle LaFave** were read aloud. All ten letters voiced support for this application.

Applicant's Rebuttal

Carlos Delgado/Clarified their proposal is to have a 599 sq. ft. retail business with a 447 sq. ft residence. He commented on the Maximum Permitted Floor Area for this lot and stated they are talking about a fairly small footprint for this operation. Delgado acknowledged that the Building Division is generally not supportive of ADA spaces on the street, but disagreed with the claim that an on-street space would not provide accessibility to this site. He added there is a simple modification they could make to the curb cut by having a rolling swale which would enable wheelchairs to easily get up onto the sidewalk.

Melissa Syken/Stated parking in this area is already an issue, and she does not believe it should fall on this small business to solve the parking situation.

Community Development Director Bill Molnar asked if the applicant's would be willing to connect the two uses with an interior door and Mr. Delgado clarified "Yes". Molnar recommended the Commission consider adding this as a condition of approval.

Commissioner Marsh closed the public hearing at 8:40 p.m.

Advice from Legal Counsel & Staff

Mr. Severson commented on the criteria that requires the business operator to reside within the residential unit. He stated if approval is granted and the property is later sold, there is currently no condition limiting it to this use; however the Commission could consider adding a requirement that any change in business would trigger a new Conditional Use Permit (CUP). He added if the Commission grants approval and does not limit the CUP to this particular business, any new business owners would also be required to occupy the residential space.

Comment was made voicing concern with parking being located in the front yard. Severson clarified there is a provision in the code that allows for this, and because of the narrow width of the lot there is no restriction against the on-site parking.

Comment was made voicing concern that the proposal is for Patricia Way to live in the residential unit with her daughter Melissa Syken running the store, and questioning whether this complies with our ordinance. Severson read the code language aloud, which *states "shall be operated only by the occupant by the dwelling unit and the equivalent of one halftime employee up to 25 hours per week"*. He stated if the mother were residing on site and operating the business, and her daughter was a half-time employee, this meets the definition.

Commissioner Marsh closed the record at 8:50 p.m.

Deliberations & Decision

Dawkins recommended the Commission attach a condition for an interior door between the retail and residential uses. Additionally, he recommended a safeguard that any new business would have to meet the same requirements of this proposal. Marsh asked if they are, in general, supportive of this action. Dawkins stated he is supportive of this project. Miller stated it would improve the block and likes the design, but she is sensitive to the conversion of the railroad district to commercial. Mindlin stated she is supportive of local start up businesses, but is concerned with the level of activity proposed for such a small site. Additionally, she voiced concern with its proximity to residences and noted it is surrounded by residential property on three sides. Blake shared Mindlin's concerns. He stated this is a zero lot line situation, there is no setback or screen for the property on the south, and with every conversion they are eroding the residential quality of the railroad district. Marsh stated she cannot support this application. She stated it is the diversity of uses that contribute to the vitality of the railroad district, and if you sprinkle in non-residential uses in a pattern that does not make sense you will undermine the residential qualities that stabilize the neighborhood. She stated this application would insert a non-residential use in the middle of a block that is fully residential, and because of the dynamics of a lot this size, she believes the retail use will overwhelm the residential use and does not believe this meets the intent of the ordinance.

Commissioners Mindlin/Blake m/s to deny Planning Action #2010-01611 on basis that the site design does not sufficiently meet the criteria. DISCUSSION: Dawkins voiced his disagreement with the motion and stated small start-up businesses are vitally important to our community. He stated that parking is a nice problem to have, and noted this area has always had a lot of activity and noise. He stated the residential character of this neighborhood has been lost over the years and has a hard time imagining someone would be happy with a residential home there. Marsh commented on rezoning that side of the block to employment, and stated this would be a more honorable path than eroding the residential zone bit by bit without a plan in mind. Mindlin agreed with Dawkins in that this is not a good location for someone to put in a nice residence. Mindlin stated she is being persuaded by Dawkins argument and suggested they allow the ADA space to be placed somewhere in the vicinity, grant the applicant's a variance to put one parking space on the site, and add a nice buffer and walkway to the residence. .

Roll Call Vote: Commissioners Mindlin, Blake, Miller and Dawkins, NO. Commission Marsh, YES. Motion failed 4-1.

Commissioners Dawkins/Miller m/s to approve Planning Action #2010-01611 with the following additional conditions: 1) an interior connection between the residence and business, 2) if the property is sold, the new owner/operator must live on the property and any changes would require them to go through the CUP process, and 3) stipulate that the ADA parking space required can be located within 2 blocks of the site. DISCUSSION: Miller voiced concern with parking in the front yard and voiced support for reducing the requirement to one on-site parking space. **Friendly amendment was made to reduce the parking requirement by 66% to one space, and provide a landscape buffer; Dawkins and Miller agreed to this addition.** The Commission discussed how this condition would be applied. Severson clarified this would require one space to be provided on-site and would provide the applicant some flexibility in terms of the ADA space. If the Building Division requires an on-site ADA space, the Commission is granting a variance for the other two spaces. If the applicant's can satisfy the Building requirement by locating the ADA space within two blocks, the one on-site space would be a standard parking space.

Roll Call Vote: Commissioners Mindlin, Miller and Dawkins, YES. Commissioners Blake and Marsh, NO. Motion passed 3-2.

B. PLANNING ACTION: #2011-00043

SUBJECT PROPERTY: 400 Allison Street

APPLICANT: Heiland Hoff, Architect for owner Robin Biermann

DESCRIPTION: A request for a Modification of Planning Action #2010-00993, a Conditional Use Permit to exceed the Maximum Permitted Floor Area (MPFA) within a Historic District by nine percent or 173 square feet. The original approval allowed demolition of the existing 1,144 square foot non-historic/non-contributing duplex building and constructing a new two-story 2,041 square foot single-family dwelling with a daylight basement and two-car garage in its place, along with a Tree Removal Permit to remove eight trees six-inches in diameter at breast height (d.b.h.) or greater. The modifications proposed include the addition of dormers, changes to windows on all four elevations, a reduction in the size of the back porch, and some general dimensional changes while remaining within the originally approved floor area. **COMPREHENSIVE PLAN DESIGNATION:** Low Density Multi-Family Residential; **ZONING:** R-2; **ASSESSOR'S MAP #:** 39 1E 09 BD; **TAX LOT:** 14200.

Ex Parte Contact

No ex parte contact was reported.

Staff Report

Associate Planner Derek Severson presented the staff report and reviewed the changes to the previous approval for the property at 400 Allison. He explained the applicant has modified the building design as follows: 1) added dormers on the north and south elevations, 2) changed the windows on all four elevations, 3) reduced the back porch to allow a bigger and more useable backyard, and create a less confusing sense of entry, and 4) added minor adjustments to the exterior dimensions. Severson noted the Historic Commission has reviewed the proposed modifications and are recommending approval. They found the architect's revisions have consistently improved the project throughout the design process, and the changes proposed are coherent with the overall design while representing a significant improvement in the previously approved design. He added staff believes the changes are relatively minor and are supportive of this application.

Applicant's Presentation

Heiland Hoff/Provided a brief presentation and outlined the changes as reviewed in the staff report.

Public Testimony

Tim Kelly/100 Gresham Street/Stated when he purchased his property 10 years ago he was told he could not extend his house because of the City's solar ordinance, and asked if this application relieves the restrictions placed on his property.

Mr. Severson clarified the solar ordinance allows a structure to shadow the property to the north no more than a 6 ft fence would. He added the shadow created by the proposed house would be in the right of way, and therefore does not violate the City's solar ordinance.

Deliberations & Decision

Commissioners Miller/Dawkins m/s to approve Planning Action #2011- 00043 with the modifications as proposed. Voice Vote: all AYES. Motion passed 5-0.

NEW BUSINESS

A. Support letter for North Normal Neighborhood Plan grant application.

Commissioner Marsh clarified the Commission is being asked to submit a letter in support of the Transportation and Growth Management grant to assist in the neighborhood planning of the Normal Avenue area within Ashland's Urban Growth Boundary. The commissioners shared their thoughts about planning for the development of the North Normal neighborhood. Miller commented on the importance of having a place for urban farms to assist in food security issues and stated this area has the best soil in town. She suggested at some point the Planning Commission have a discussion on how they are going to meet needs for locally grown foods. Marsh clarified that applying for the grant does not pre-empt them from studying the agricultural benefits of the land. Mindlin stated it is her understanding that the City does not have anything in our local ordinances or planning documents that designates

urban agriculture land and sees this as a major gap. Mr. Molnar clarified agriculture is a permitted use in residential zones, but agreed that we do not have a separate zoning district for this use. Mindlin noted the City Council's sustainability planning goal and stated urban agriculture is a primary objective of that project. Dawkins stated there is a conflict of interest in that by planning for the development of this area, the City's Planning Division will receive the benefit of the development application fees. Marsh stated that creating a plan for this area allows them to confront what they want to do with this parcel. She noted there have already been pre-applications submitted for development in the study area, and stated they cannot avoid the subject by not doing the study.

Commissioners Blake/Dawkins m/s to endorse the support letter and authorize Chair Marsh to sign. Roll Call Vote: Commissioners Blake, Miller, Mindlin, Dawkins, and Marsh, YES. Motion passed 5-0. Commissioner Miller encouraged them to look at their inventory, and if they receive this grant look at densities, open space and agriculture land.

ADJOURNMENT

Meeting adjourned at 10:00 p.m.

*Respectfully submitted,
April Lucas, Administrative Supervisor*

April 12th, 2011

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- A. That the use would be in conformance with all standards within the zoning district in which the use

is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.

- B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.*
- C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:*
 - 1. Similarity in scale, bulk, and coverage.*
 - 2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.*
 - 3. Architectural compatibility with the impact area.*
 - 4. Air quality, including the generation of dust, odors, or other environmental pollutants.*
 - 5. Generation of noise, light, and glare.*
 - 6. The development of adjacent properties as envisioned in the Comprehensive Plan.*
 - 7. Other factors found to be relevant by the Hearing Authority for review of the proposed use.*

- 4) The Planning Commission, following proper public notice, held a public hearing on March 8th, 2011 at which time testimony was received and exhibits were presented. The Planning Commission approved the application for a modification of the existing Conditional Use Permit to exceed the Maximum Permitted Floor Area (MPFA) within a Historic District by nine percent or 173 square feet subject to conditions pertaining to the appropriate development of the site.

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

SECTION 1. EXHIBITS

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

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

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

SECTION 2. CONCLUSORY FINDINGS

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

2.2 The Planning Commission finds that the subject property is a legal non-conforming lot as it was created prior to current zoning regulations with a 4,917 square foot lot area that is less than the current 5,000 square foot minimum lot area to accommodate less than two units in the R-2 district. With the removal of the duplex and its replacement with a single family residence, the property will become more compliant with the allowed density of the district. The Commission further finds that the existing building on the site, known as the Eddie Hinger Duplex in the Siskiyou-Hargadine Historic District survey document, is considered to be “non-historic/non-contributing” resource in the survey document.

The Planning Commission further finds that demolition of the existing duplex to construct a single family home is subject to the regulations pertaining to the conversion of existing multi-family dwelling units into for-purchase housing in AMC 18.24.040.L.7, and a condition was accordingly added to the approval of PA #2010-00992 to require that the applicants provide evidence of compliance with the tenant rights provisions of Chapter 10.115 of the Ashland Municipal Code.

2.3 The Planning Commission finds that the property is currently served by an eight-inch sanitary sewer main and a six-inch water main located in the Allison Street right-of-way; a ten-inch storm sewer main in Gresham Street also serves the property. The Commission finds that these existing facilities are adequate to serve the proposed home. The Commission further finds that the Electric Department has indicated that there are no identified issues which would prevent the applicants from converting the existing overhead electric services for the duplex units to a single city-standard underground service for the new single family residence.

The Planning Commission finds that Allison Street, designated as a residential neighborhood street, is currently improved with paving, curbs, gutters, sidewalks and parkrow planting strips in place along the full frontage of the subject property. The Commission further finds that Gresham Street, designated as a collector street, is also paved with curbs and gutters in place, but lacks sidewalks along the subject property’s frontage. The Commission finds that both of the subject property’s street frontages lack required street trees, however the applicants have proposed to plant them with the application. The Commission has included a condition of approval to require that the applicants sign in favor of future street improvements for Gresham Street, including the installation of sidewalks.

2.4 The Planning Commission finds that that the proposed single family home will generate less traffic than the existing duplex, or other multi-family housing that is allowed within the district, and will generate no more dust, odor or other environmental pollutants than would any single family dwelling. The Commission finds that the proximity to the downtown, Southern Oregon University, shopping and bus routes is likely to result in a reduction in vehicle trips over

what might be expected for a similar unit located further from the core of downtown. The Commission further finds that the proposed home will not impact the development of adjacent properties as envisioned in the Comprehensive Plan.

2.5 The Planning Commission finds that Conditional Use Permit review calls for consideration of the adverse material effects of the proposal on the impact area in comparison to the target use of the zone, which for an R-2 zoned lot of this size would be the development of the site with a single unit built to the allowed maximum permitted floor area (MPFA) of 1,868 square feet. The Commission further finds that in addition to the Conditional Use Permit criteria, the ordinance also requires that properties seeking an overage to the Maximum Permitted Floor Area are to be considered in light of the Historic District Development Standards, as noted in AMC 18.24.040.K. These standards address compatibility with historic context in terms of height, scale, massing, setbacks, roof shape, rhythms of openings, directional expression, sense of entry, and imitation of historic architectural styles with a general focus of preserving historic district streetscapes. These Development Standards seek a traditional architecture that well represents our own time yet enhances the nature and character of the historic district.

Planning Action #2010-00992 began as a request to exceed the Maximum Permitted Floor Area (MPFA) by 17 percent. Planning staff, the Historic Commission and the Planning Commission raised a number of concerns with that initial proposal, including that the orientation of a large gable end of the roof over the garage entry and repetition of similar windows on the gable end seemed counter to the directional expression, sense of entry, and rhythm of openings in the neighborhood and broader district and seemed to add emphasis to the home's mass, bulk and scale on the Allison Street frontage. Under that design iteration, nearly 1,000 square feet of floor area was dedicated to a great room with ceiling heights approaching 24 feet which the Commission found to exaggerate the building's mass, scale and volume beyond what was appropriate for the square footage proposed. The applicants modified that earlier proposal in response to the issues raised, better addressing the design standards and reducing the MPFA overage from 17 percent to nine percent, and the Commission ultimately determined that the design revisions resulted in a more cohesive presentation that which effectively dealt with the square footage proposed in a manner compatible with the neighborhood, the district and the design standards. During that initial application, the Commission found that the revisions lessened the impact of the massing and volume, better articulated a clear sense of entry from Allison Street; presented a rhythm of openings which was compatible with the character of the district in terms of window types, pattern and placement; and provided an appropriate and compatible sense of directional expression which placed the highest part of the roof further from the street and reduced the perceived height and massing with the hipping of the roof and placement and orientation of the gables.

2.6 The Planning Commission finds that the modification of Planning Action #2010-00992 now being requested involves the addition of dormers on the front and rear elevations, changes to windows on all four elevations, a reduction in the size of the back porch, and general dimensional changes which do not alter the approved floor area. The Planning Commission further finds that these proposed modifications are cohesive with the previously approved design and result in

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significant further improvement to the overall design as it relates to the Historic District design standards, neighboring homes and the district at large.

The Planning Commission finds that in the design approved under PA #2010-00992, all of the windows were identical and the proposed window changes provide visual interest tying nicely to the rhythm of openings on the north elevation. The Commission further finds that the proposed addition of dormers has no adverse material effect on the surrounding impact area, that dormers are common in the neighborhood, and that the dormers are in keeping with previous suggestions from the Commission that dormers might be an appropriate means to address design issues raised during the original approval process. The Commission further finds that because the dormers are high and pulled back from the street, they tend to change the massing of the building by breaking up the large expanse of roof while providing greater visual interest in the design.

The Planning Commission finds that the proposed modifications include a slight reduction in the footprint of the proposed building due to a proposed decrease in the size of the back porch. As currently approved, the stairs leading off of the back porch in three directions consumed significant yard area on an already small lot, as did the large porch itself. The Commission finds that the reduced porch will make the yard area bigger by reducing the porch and redundant stairs, yielding a more functional yard area that is more in keeping with the neighborhood pattern. The Commission further finds that the back porch reduction serves to better subordinate the back porch to the front, clarifying the building's sense of entry to a degree.

The Commission finds that the remaining dimensional changes proposed involve alterations to the exterior dimensions to accommodate changes in furniture and kitchen appliance arrangement, as well as a reduction in the size of the upstairs area, and further finds that these reductions do not alter the proposal as it relates to the Maximum Permitted Floor Area (MPFA) or the approved square footage. The application explains that there is an apparent increase in exterior dimensions because the dimension lines on the plans were drawn to the face of wall studs while the square footage is calculated to the outside surface of exterior walls. The originally approved design had intended to have three-inches of exterior insulation which was outside the studs, and thus not depicted in the dimensions although it would have been considered in the floor area calculation. As part of the proposed modifications, the applicants will remove the exterior insulation and move the studs out three inches without moving the exterior surface of the walls or altering the total floor area.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal for a modification of Planning Action #2010-00992, a Conditional Use Permit to exceed the Maximum Permitted Floor Area (MPFA) within a Historic District by nine percent or 173 square feet is supported by evidence contained within the whole record. The modifications proposed include the addition of dormers on the front and rear elevations, changes to windows on all four elevations, a reduction in the size of the back porch, and some general dimensional changes while remaining within the originally approved floor area.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #2011-00043. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2011-00043 is denied. The following are the conditions and they are attached to the approval:

- 1) That all proposals of the applicant be conditions of approval unless otherwise modified herein.
- 2) That all conditions of the previous land use approval (PA #2010-00992) shall remain conditions of approval unless explicitly modified herein.
- 3) That the recommendations of the Historic Commission from their March 2nd, 2011 shall be conditions of approval where consistent with applicable standards and with final approval by the Staff Advisor.
- 4) That the plans submitted for the building permit shall be in substantial conformance with those approved as part of this application. If the plans submitted for the building permit are not in substantial conformance with those approved as part of this application, an application to modify the Conditional Use Permit approval shall be submitted and approved prior to issuance of a building permit.

Planning Commission approval by
Pam Marsh, *Chair*

April 12th, 2011
Date

BEFORE THE PLANNING COMMISSION
April 12th, 2011

IN THE MATTER OF PLANNING ACTION #2010-01611, A REQUEST FOR)
SITE REVIEW APPROVAL AND A CONDITIONAL USE PERMIT TO)
CONVERT AN EXISTING NON-HISTORIC, NON-CONTRIBUTING 614-)
SQUARE FOOT RESIDENCE INTO A 599-SQUARE FOOT RETAIL STORE)
WITH A 447-SQUARE FOOT RESIDENTIAL ADDITION TO THE REAR OF THE) **FINDINGS,**
PROPERTY LOCATED AT 260 NORTH FIRST STREET. IN ADDITION, THE) **CONCLUSIONS,**
APPLICATION INCLUDES A REQUEST FOR A VARIANCE TO THE OFF-) **& ORDERS**
STREET PARKING REQUIREMENTS TO PROVIDE ONLY ONE OFF-STREET)
PARKING SPACE WHERE THREE ARE REQUIRED, AND AN ADMINISTRATIVE)
VARIANCE TO THE SITE DESIGN AND USE STANDARDS TO REDUCE THE)
REQUIRED FIVE-FOOT LANDSCAPE BUFFER BETWEEN PARKING AREAS)
AND PROPERTY LINES.)

APPLICANTS: Melissa Syken and Patricia Way)
)
)

RECITALS:

- 1) Tax lot #1500 of Map 39 1E 09 BA is located at 260 First Street, within the Ashland Railroad Addition historic district and is zoned Low Density Multi-Family Residential (R-2).
- 2) The applicants are requesting a Conditional Use Permit and Site Review to convert an existing historic, non-contributing 614 square foot residence into a 599 square foot retail store, with a 447 square foot residential addition to the rear of the property located at 260 First Street. In addition, the applicants are seeking a Variance to reduce the number of required off-street parking spaces. Three off-street parking spaces are required however given requirements for a disabled person parking place with the required aisle adjacent to the space the applicants are only able to provide one off-street parking place due to the lot's 25-foot width. An Administrative Variance to the Site Design and Use Standards' Parking Lot Landscaping & Screening Standards is also requested to reduce the required five-foot landscape buffer between parking areas and property lines. The proposal, including the design for the renovations and proposed addition, is outlined on the plans on file at the Department of Community Development.
- 3) The criteria for Site Review approval are described in Chapter 18.72.070 as follows:
 - A. *All applicable City ordinances have been met or will be met by the proposed development.*
 - B. *All requirements of the Site Review Chapter have been met or will be met.*
 - C. *The development complies with the Site Design Standards adopted by the City Council for implementation of this Chapter.*

- D. *That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property. All improvements in the street right-of-way shall comply with the Street Standards in Chapter 18.88, Performance Standards Options.*
- 4) The criteria for and Administrative Variance to the Site Design and Use Standards are described in Chapter 18.72.090 as follows:
- A. *There is a demonstrable difficulty in meeting the specific requirements of the Site Design Standards due to a unique or unusual aspect of the proposed use of a site;*
- B. *Approval of the variance will not substantially negatively impact adjacent properties;*
- C. *Approval of the variance is consistent with the stated purpose of the Site Design and Use Chapter; and*
- D. *The variance requested is the minimum variance which would alleviate the difficulty.*
- 5) The criteria for a Variance are described in Chapter 18.100.020 as follows:
- A. *That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.*
- B. *That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.*
- C. *That the circumstances or conditions have not been willfully or purposely self-imposed.*
- 6) The criteria for a Conditional Use Permit are described in Chapter 18.104.050 as follows:
- A. *That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.*
- B. *That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.*
- C. *That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:*
1. *Similarity in scale, bulk, and coverage.*
 2. *Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.*
 3. *Architectural compatibility with the impact area.*
 4. *Air quality, including the generation of dust, odors, or other environmental pollutants.*
 5. *Generation of noise, light, and glare.*

6. *The development of adjacent properties as envisioned in the Comprehensive Plan.*
7. *Other factors found to be relevant by the Hearing Authority for review of the proposed use.*

- 7) The Planning Commission, following proper public notice, held a public hearing on March 8th, 2011 at which time testimony was received and exhibits were presented. The Planning Commission approved the application for Site Review, Conditional Use Permit, Variance to the Off-Street Parking requirements, and Administrative Variance to the Site Design and Use Standards' "*Parking Landscaping and Screening Standards*" subject to conditions pertaining to the appropriate development of the site.

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

SECTION 1. EXHIBITS

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

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

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

SECTION 2. CONCLUSORY FINDINGS

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

2.2 The Planning Commission finds that all applicable city ordinances, with the exception of the required parking and associated landscape buffers between parking areas and property lines, have been met or exceeded for development in the historic R-2 district. Variances to address the parking and landscape buffers are addressed below.

The Commission further finds that there currently exist sufficient public utilities to service the proposed commercial and residential uses. The property is served by a four-inch water main, a six-inch sanitary sewer main, and a twelve-inch storm drain located in the First Street right-of-way. The Public Works/Engineering Department has indicated that these facilities, which already serve the existing home, are adequate to serve the proposed commercial and residential uses. The existing electrical service is a 200-amp overhead service dropped from a nearby pole; the Electric Department has indicated that changes to the existing service may be necessitated due to the conversion of uses on the parcel. A condition has accordingly been included requiring

the applicants to develop a final electrical service plan to be approved by the Electric Department prior to the submittal of building permits, with any electrical service upgrades necessary to be provided at the owner's expense.

The Commission finds that First Street is classified as a residential neighborhood street. The Commission finds that the First Street right-of-way between A and B Streets is 70 feet in width, and that the current improvements in place include curbs, gutters and paving along the subject property's frontage. The west side of the street along the Ashland Food Co-Op's frontage is improved with sidewalks, street trees, and 14 angled parking spaces. Sidewalk installation on the east side of the street, along the subject property's frontage, is under contract by the City through a current "Miscellaneous Concrete" project which is scheduled for completion in the immediate future.

The Commission finds that under the Site Design & Use Standards, buildings are to have their primary orientation to the street and to be within 20 feet from the right-of-way upon which they front. The proposed use and associated building modifications improve the street side façade by increasing the roof peak, enclosing the lean-to porch, removing the existing non-conforming fence in the front yard, and providing landscaping and pavers in the front yard as well as greatly enhancing the building's sense of entry and presence in the streetscape. An accessible route from the new curbside sidewalk along First Street will lead to the front door. Between the front yard parking area and the structure, there are to be two bicycle parking spaces in accordance with city standards. No street trees are proposed with the application; the lot is only 25 feet in width and the existing trees within the right-of-way at either side of the property are found to satisfy the street tree spacing standards.

2.3 The Planning Commission finds that the application includes a request for an Administrative Variance to the required five-foot landscape buffer between parking areas and property lines. The subject property has a pre-existing non-conforming width of only 25 feet, and with the likelihood that a disabled person parking place will need to be accommodated on site along with the accompanying aisle adjacent to the space and an accessible route, the required five-foot landscape buffer cannot be provided within the available lot width.

The applicants propose to place a three-and-a-half foot wide ramp adjacent to the north property line, and a three-and-a-half foot landscape buffer between the accessible route ramp and the proposed parking areas. No landscaped buffer is proposed adjacent to the south property line. The Commission finds that this configuration is the minimum Variance necessary and all that can be accommodated with the lot's narrow width, and that the proposed buffer strip breaks up the visual impact of the property's front yard being mostly paved due to address parking requirements. The Commission further finds that the applicants' proposal to offset impacts of the amount of paving, by using permeable pavers in place of the standard asphalt or concrete, is an appropriate means to mitigate the visual impacts of the prominent placement of the paved area within the front yard and the location of the site within an historic district.

The Commission finds that the lot's narrow width along the street frontage justifies the requested Administrative Variance to reduce the required landscape buffer between the proposed parking and the property line. The Commission further finds that approval of the Administrative Variance is consistent with the stated purpose of the Site Design and Use Chapter which calls for reducing the adverse effects of development on surrounding property owners and the general public while creating a business environment that is safe and comfortable and enhancing the environment for walking, cycling, and mass transit use; and ensuring high quality development is maintained throughout the City. Conditions have been recommended below to require that permeable pavers or other similar be used for the proposed parking spaces, as proposed by the applicants, to minimize visual impacts of paving in a manner that is compatible with the historic district; that the width of the curb cut be minimized to only as wide as is necessary to allow vehicular access to the ADA-accessible parking space; and that if the disabled person parking space can ultimately be accommodated off site within the adjacent right of way, that the width of the required landscape buffer between the parking space and the property line be increased accordingly.

2.4 The Planning Commission finds that vehicular access is being proposed at the front of the property off of First Street, and due to the size of the proposed retail space (599 sq. ft.), two off-street parking spaces are required in addition to the single off-street parking space required for a residential unit of this size. As a commercial use, one of the three required off-street spaces is required to be a disabled person parking place with an adjacent van-accessible aisle; this requirement is based not only within the land use ordinance but also within applicable state and federal laws under the Americans with Disabilities Act (ADA). Given the narrow 25-foot lot width, the site is only able to accommodate the single disabled person parking place and adjacent aisle, and a Variance to reduce the three required parking spaces to only provide a single parking space on site (a 66 percent reduction in the parking requirement) is required.

The Commission further finds that while the applicants have expressed an interest in providing the disabled person parking space within the adjacent right-of-way in order to accommodate two off-street parking spaces within the front yard, both the Building and Engineering Departments who review such requests for compliance with applicable local, state and federal regulations have identified difficulties with accommodating the disabled person parking space within the right-of-way in terms of both the technical details of providing an accessible route from the right-of-way to the business entrance and in terms of requiring a disabled person to exit a vehicle in an area with significant amounts of commercial traffic already occurring.

The Commission finds that there are unique or unusual circumstances which apply to the site which do not typically apply elsewhere in that the lot's width, which is only 25 feet, is prohibitive from entirely complying with parking space requirements. The minimum lot width for a lot accommodating less than two units within the district is 50 feet, and generally lots within the city are required to have at least a 40 foot frontage along a public street. AMC 18.92.055 also identifies the redevelopment of existing commercial and residential buildings for commercial use within the Ashland Historic District as an exceptional circumstance and unusual

hardship for the purposes of granting a Variance to parking, and the Commission finds that his hardship combined with the lot's 25-foot width represent unique of unusual circumstances which have not been self-imposed.

The Commission finds that the applicants propose to provide double the required amount of bicycle parking for the proposal, with one rack to be provided in front of the building, and another to be provided in the shed at the rear of the property. In addition, the Commission finds that the reducing the parking requirement by 66 percent will encourage a small start-up business through the allowance for a mixed-use arrangement on the property, and that this will increase the vitality of the neighborhood as well as providing for substantial physical improvements to the existing home.

The Commission approves a Variance to reduce the off-street parking requirement for the proposal by 66 percent; of the three off-street parking spaces typically required for the proposal, only one off-street space is to be required. The Commission recognizes that the ultimate determination as to whether the one off-street parking space to be provided on site is to be a disabled person parking place or a standard parking place will be subject to the requirements of both the Public Works and Building Divisions.

The Commission further finds that if the disabled person parking space can be accommodated within the adjacent right-of-way or elsewhere off-site within two blocks of the subject property to meet the state and federal regulations, then only one standard space would need to be provided on-site and the required landscape buffer between the space and the property line could accordingly be increased to the extent allowed by the final approved parking space configuration. In the event that the Building and Public Works Departments are unable to approve the placement of a disabled person parking space off site, the required ADA-accessible space would need to be installed on off-street; in this case the Commission finds that it would be preferable that the parking space use as a disabled person parking place be limited only to the proposed business's hours of operation, with the space to be made available to residents of the connected dwelling during off-hours. Conditions have been included to require that the final placement and installation of parking places shall be subject to the review and approval of the Public Works, Building and Planning Divisions.

2.5 The Planning Commission finds that the use would be in conformance with all standards within the zoning district and in conformance with relevant Comprehensive plan policies, with the exception of the required parking and associated landscape buffers between parking areas and property lines, have been met or exceeded for development in the historic R-2 district. Variances to address the parking and landscape buffers are addressed in the relevant sections of these findings.

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

currently served by a four-inch water main, a six-inch sanitary sewer main, and a twelve-inch storm drain located in the First Street right-of-way. The Public Works/Engineering Department has indicated that these facilities, which already serve the existing home, are adequate to serve the proposed commercial use and residence. Existing electrical service is a 200-amp overhead service dropped from a nearby pole. The Electric Department has indicated that changes to the existing service may be necessitated due to the conversion of uses on the parcel, and a condition has accordingly been included to require that the applicant develop a final electrical service plan to be approved by the Electric Department prior to the submittal of building permits, and that any necessary electrical service upgrades be provided at the applicants' expense. The Planning Commission further finds that First Street is classified as a residential neighborhood street and is currently improved with paving, curbs, and gutters in place. The west side of the street along the Ashland Food Co-Op's frontage is improved with sidewalks, street trees, and 14 angled parking spaces. On the east side of the street, along the subject property's frontage, sidewalk installation is now under contract by the City through a current "Miscellaneous Concrete" project scheduled for completion in the immediate future. Sidewalks will be in place prior to commencement of the proposed retail use.

The Commission finds that the proposed Conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. As previously noted, the subject property is a legal non-conforming lot that was created prior to current zoning regulations. As a legal lot of record in the R-2 zoning district, the substandard 2,300 square foot lot size has a target use of one residential unit. The Commission finds that the standards which allow for small scale retail uses within dwelling units in the Ashland Railroad Addition historic district have been crafted to ensure that small scale retail uses within dwelling units will not overpower or overshadow the residential character of the existing residences or their neighborhoods. Such businesses are allowed to be no greater than 600 square feet in total area, including all storage and accessory uses, and shall be operated only by the occupant of the dwelling unit and the equivalent of one half-time employee who works up to twenty-five hours per week. These small scale retail uses with Railroad District dwellings are also to be designed to serve primarily pedestrian traffic, and are to be located on a street having a fully improved sidewalk on at least the side occupied by the business. The Commission finds that to fully comply with AMC 18.24.030.I, retail commercial uses in a dwelling unit within the Railroad Historic District must be integrated with the residential unit, and to ensure compliance with this requirement a condition has been added to require that a door providing a clear connection between the proposed retail and residential spaces be provided on the plans submitted for building permit. With this condition in place, the Commission finds that the proposal meets the requirements for a small scale retail use within a dwelling unit with the Railroad District.

The Commission finds that this block of First Street is located in a transitional area between the more intense commercial uses concentrated along A Street, and the established residential neighborhoods of the Ashland Railroad Addition historic district. Properties to the west and north of the subject property are zoned Employment (E-1), with established businesses in place

including the Ashland Food Co-Op, Plexis, Ace Hardware, and DJ's Video. To the south and east are the residentially-zoned neighborhoods of the Railroad Addition Historic District. The Commission further finds that the small scale retail use to be located within a dwelling unit as proposed in the current application seems well-suited to the transitional nature of this block of First Street.

The Commission finds that over time, the existing structure has seen modifications to its siding and windows to the degree that it no longer retains sufficient integrity to reflect its historic period of development. The home as it exists seems to present a relatively weak side elevation to the street, which when combined with the existing fencing between the building and the street, give it little or no presence in the streetscape. The exterior physical improvements proposed for the structure are similar to the existing siding and trim of historic homes in the area, and consistent with other recent renovations in the neighborhood. The proposed conversion to retail involves raising the roof peak and adding a new door and windows, and the Commission finds that these improvements will substantially enhance the building's sense of entry and presence within the streetscape, rendering it more in keeping with the Site Design and Use Standards and specifically the Historic District Design Standards, and more compatible with the surrounding neighborhood.

The Commission further finds that proposed use will not create any adverse environmental impacts such as dust, odors, air quality; or any additional generation of noise, light or glare.

The Commission finds that the small proposed retail space will serve largely as a secondary destination due to its close proximity to the Ashland Food Co-Op and other commercial uses within the district, and will generate primarily pedestrian traffic from people already shopping elsewhere in the vicinity.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal for Site Review, Conditional Use Permit, Variance to the Off-Street Parking requirements and Administrative Variance to the Site Design and Use Standards' "*Parking Landscaping and Screening Standards*" is supported by evidence contained within the whole record.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #2010-01611. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2010-01611 is denied. The following are the conditions and they are attached to the approval:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified herein. The approval being granted is specific to the proposal being requested, including the specific business being proposed and the requirement that the business owner reside in the residential unit on the property. If the proposed use of the site, including the nature of the business or business-owner occupancy on site is changed, a modification of the Conditional Use

- Permit shall be submitted and approved prior to implementing any changes to the approved proposal.
- 2) That the plans submitted for the building permit shall be in substantial conformance with those approved as part of this application. If the plans submitted for the building permit are not in substantial conformance with those approved as part of this application, an application to modify the Site Review and Conditional Use Permit approval shall be submitted and approved prior to issuance of a building permit.
 - 3) That all recommendations of the Historic Commission from their March 2, 2011 meeting shall be conditions of approval, where consistent with applicable standards and with final approval by the Staff Advisor.
 - 4) That the applicants shall explore the possibility of further extending the eave on the south side of the building to cover the bicycle parking area next to the front door.
 - 5) That the applicants shall obtain required fence and sign permits prior to the modification of fencing or installation of signage. Fencing shall be consistent with the general requirements of AMC 18.68, and signage shall be limited to that allowed for Conditional Use Permits in the R-2 zoning district in AMC 18.24 and 18.104.
 - 6) The Planning Commission is supportive of placement of the ADA-accessible space within the right-of-way, if possible, within two blocks of the subject property. In the event that the Building and Public Works Departments are unable to approve the placement of an ADA-accessible parking space within the First Street right-of-way as proposed by the applicants, the required ADA-accessible space shall be installed within the front yard and the Commission is supportive of its use as an ADA-accessible space being limited to business hours with it to be made available to residents of the connected dwelling unit during off-hours. Final placement and installation shall be subject to the review and approval of the Public Works, Building and Planning Divisions.
 - 7) The Commission has approved a Variance to reduce the off-street parking requirement for the proposal by 66 percent; of the three off-street parking spaces typically required for the proposal, only one off-street space is to be required. The Commission recognizes that the ultimate determination as to whether the one off-street parking space to be provided on site is to be ADA-accessible or a standard space will be subject to the requirements of the Public Works and Building Divisions. If the space must be ADA-accessible, the Commission suggests limiting its use to business hours, with the space to revert to use by residents of the site during off-hours. Additional landscape buffers shall be provided to the extent allowed by the final approved parking space configuration.
 - 8) That the building plan submittals shall include:
 - a) Solar setback calculations demonstrating that all new construction complies with Solar Setback Standard B in the formula $[(\text{Height} - 16) / (0.445 + \text{Slope}) = \text{Required Solar Setback}]$ and elevations or cross section drawings clearly identifying the highest shadow producing point(s) and their height(s) from the identified natural grade.
 - b) Lot coverage calculations including all building footprints, driveways, parking, and circulation areas. Lot coverage shall be limited to no more than the 65 percent allowed in the R-2 zoning district.

- c) An electric design and distribution plan including load calculations and locations of all primary and secondary services including transformers, cabinets and all other necessary equipment. This plan must be reviewed and approved by the Electric Department prior to the submittal of the building permit, and all transformers and cabinets shall be located in areas least visible from streets, while considering the access needs of the Electric Department.
 - d) That exterior building materials and paint colors shall be consistent with those described in the action, compatible with the surrounding area and identified in the building permit submittals. Very bright or neon paint colors shall not be used in accordance with II-B-6a) of the Multi-Family Site Design and Use Standards.
 - e) That a door providing a connection between the proposed retail space and the associated dwelling unit shall be provided and identified in the plans submitted for the building permit.
- 9) That prior to the issuance of a building permit:
- a) That the requirements of the Ashland Fire Department including that a fire department connection shall be provided and that adequate fire flow shall be provided shall be satisfactorily addressed. Fire flow requirements are to be determined based on area calculations using the final building plan submittals.
- 10) That prior to the issuance of a certificate of occupancy:
- a) That the required off-street parking shall be installed and maintained in permeable pavers as proposed by the applicants.
 - b) That a new driveway curb cut shall be installed to serve the proposed parking in the front yard under permit from the Public Works Department. Concrete colors used shall be consistent with the Ashland Historic District concrete standards, and the driveway width shall be the minimum necessary to serve the required parking installed. The applicant shall obtain all necessary Public Works inspection approvals for work within the right-of-way prior to the issuance of a certificate of occupancy.
 - c) That all exterior lighting shall be directed on the property and shall not directly illuminate adjacent properties. Light fixture type and placement shall be clearly identified in the building plan submittals.
 - d) That the electric services shall be installed according to the approved plan, inspected and approved prior to the issuance of a certificate of occupancy.
 - e) The inverted u-racks shall be used for the bicycle parking. All bicycle parking shall be installed in accordance with design and rack standards in 18.92.040.I and J prior to the issuance of the certificate of occupancy. The building permit submittals shall verify that the bicycle parking spacing and coverage requirements are met in accordance with 18.92.040.I. If bicycle parking is to be provided in garages, final interior dimensions of garages shall be provided to insure adequate space needs and signage clearly identifying the spaces as limited to bicycle parking shall be provided.

- f) That the screening for the trash and recycling enclosure shall be installed in accordance with the Site Design and Use Standards prior to the issuance of a certificate of occupancy. An opportunity to recycle site of equal or greater size than the solid waste receptacle shall be included in the trash enclosure in accordance with 18.72.115.B.

Planning Commission approval by
Pam Marsh, *Chair*

April 12th, 2011
Date



PLANNING ACTION: 2011-00319

SUBJECT PROPERTY: 805, 815, 825, 835, 843, 851, 861, 873, 881, 889, 897 Oak Knoll Drive

APPLICANT: Dan Thomas, Representative

DESCRIPTION: A request for a 25% Variance to maximum fence height of six and one half (6 ½) feet. The applicants are proposing an eight (8) foot wall along the rear property lines for the properties located at 805 – 897 Oak Knoll Dr. adjacent to Interstate I-5 and tax lot 7000.

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential;

ZONING: R-1-10; **ASSESSOR'S MAP :** 39 1E 14AD; **TAX LOT:** 4900 - 5900

ASHLAND PLANNING COMMISSION MEETING: April 12, 2011 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.

VARIANCE

18.100.020 Application

The owner or his agent may make application with the Staff Advisor. Such application shall be accompanied by a legal description of the property and plans and elevations necessary to show the proposed development. Also to be included with such application shall be a statement and evidence showing that all of the following circumstances exist:

- A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.
- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.
(ORD 2425, 1987).
- C. That the circumstances or conditions have not been willfully or purposely self-imposed.
(ORD 2775, 1996)

ASHLAND PLANNING DIVISION
STAFF REPORT
April 12, 2011

PLANNING ACTION: 2011-00319

APPLICANT: Dan Thomas, representative of the Oak Knoll Neighborhood

LOCATION: 805, 815, 825, 835, 843, 851, 861, 873, 881, 889, and 897 Oak Knoll Drive

ZONE DESIGNATION: R-1-10

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential

APPLICATION DEEMED COMPLETE: April 4, 2011

120-DAY TIME LIMIT: August 2, 2011

ORDINANCE REFERENCE: 18.68 General
18.100 Variances

REQUEST: The request is for a 23 percent Variance to maximum fence height of six-and-one-half feet. The applicants are proposing an eight-foot wall along the rear property lines for the properties located at 805 – 897 Oak Knoll Drive adjacent to Interstate 5 and tax lot 7000.

I. Relevant Facts

A. Background - History of Application

There are no planning actions of record on the parcels requesting the variance to the maximum fence height. The properties are part of the 'Greensprings Subdivision' which was developed in Jackson County in 1963 and later annexed into the city.

B. Detailed Description of the Site and Proposal

The subject properties are located on the southwest side of Oak Knoll Drive between Oak Knoll and Interstate 5 (I-5). The properties are between approximately 6,300 square feet to 10,800 square feet in area, and are all zoned R-1-10, a Single-Family Residential zoning with a 10,000 square foot minimum lot size.

The properties have a slope of approximately three percent downhill to the northeast. The lots at 805, 815, and 825 Oak Knoll Drive have a steep slope at the rear of the property, along their west property lines, downhill towards I-5. On August 24, 2010 a large grass and structure fire was started on the west side of I-5; embers from that fire ignited and burned the homes on the properties requesting the fence height Variance here. The remaining structures

on these properties have been cleared, and the construction of new, replacement structures has begun on nine of the 11 parcels.

1. Fences

The proposal is to construct a block wall along the rear property lines of the 11 properties abutting I-5. Fences, walls, hedges and screen plantings are subject to the fence requirements in the Ashland Municipal Code's Land Use Ordinance found in section 18.68.010. The maximum wall height along a rear property lines is set at six-and-one-half feet; the proposal is to construct an eight foot high wall at the rear property lines.

2. Variance

The request involves a variance to the maximum wall height of six-and-one-half feet to construct an eight-foot tall wall. The Variance request is for an additional one-and-one-half feet, or a 23 percent Variance ($1.5/6.5 = 23.07\%$).

II. Project Impact

The proposal requires a fence permit, which is typically a ministerial approval, since it involves the construction of a new wall along the rear property lines of 11 properties abutting I-5. A Variance is required for the fence to exceed the maximum fence height of six-and-one-half feet, and because the Variance request is for more than a ten percent increase in the allowed height requirements a "Type II" procedure with a public hearing is required under AMC 18.108.A.4.j.

A. Fence

Prior to the Oak Knoll Fire, there were six to six-and-one-half foot wood fences along the rear property lines of the subject properties. The current request is to replace these wood fences with a concrete wall; if the wall were not to exceed six-and-one-half feet in height the request could be ministerially approved with an over-the-counter fence permit.

B. Variance

However, the applicants have requested a Variance to exceed the maximum allowed fence height by 23 percent to allow an eight foot high wall. The proposed eight-foot high wall is to be constructed of a non-combustible material to provide a physical as well as a noise barrier which would dampen the sound created by freeway traffic on I-5.

A Variance of this nature requires a demonstration that: 1) that there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere; 2) that the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the

Comprehensive Plan of the City; and 3) that the circumstances or conditions leading to the Variance request have not been willfully or purposely self imposed by the applicants.

In considering the request, staff noted that the properties are unique in that the Oak Knoll neighborhood is the only area of residentially-zoned property within the city that is directly adjacent to the freeway's right-of-way. In staff's view, this could certainly be found to be a unique and unusual circumstance specific to these properties.

The application identifies the positive benefit of the proposal as the sense of security and noise reduction that would be provided by the proposed wall. The Comprehensive Plan specifically discourages new residential development adjacent to the freeway due to potential noise impacts (Policy #57 in Chapter IV) and where residential development has occurred, it calls for efforts to achieve acceptable noise standards for the living space within the homes. In staff's view, the proposal is clearly in line with this policy and could have noise reduction benefits that not only benefit those constructing the wall but that extend beyond the subject properties. According to the Federal Highway Administration, a noise barrier wall may reduce noise within 200 feet of the highway, therefore dampening the sound for those on the east side of Oak Knoll Drive as well.

Staff believes that the installation of an eight-foot wall on the subject properties will not negatively impact adjacent uses, which consist primarily of vehicular traffic on I-5. However, staff would note that the subject properties are in somewhat of a gateway location for traffic entering Ashland from the freeway and can also be seen from properties directly across the freeway. With that in mind, staff believes that the visual impacts of the wall need to be mitigated and that the wall should be treated in an aesthetically pleasing manner by surfacing it in a finish or material other than unadorned, bare concrete block. There are a number of options available to address this concern, including the use of split face concrete masonry units (CMU) or the application of an artificial surface applied to the concrete block. The applicants have stated that they may use a synthetic stucco treatment if it proves to be financially feasible, and staff believes this would be a suitable way of addressing the issue. A condition of approval has been recommended below which addresses the surfacing and its maintenance in perpetuity.

The sites' proximity to I-5 was not created or self imposed by the applicants.

Ian Horlacher, Development Review Planner with Oregon Department of Transportation (ODOT) has submitted a letter stating that while ODOT has no objection to the proposal, they do request that the property owners provide a one-foot separation between the ODOT right-of-way and the rear property lines. In considering the matter, staff would note that there is approximately 40 feet of additional ODOT right-of-way between the subject properties' rear boundaries and the paved shoulder of the freeway, and staff does not see a clear basis to require the property owners to provide the additional one-foot of separation between the proposed wall and their property lines.

III. Procedural - Required Burden of Proof

The criteria for Fence Permit approval are described in 18.68.010 as follows:

Fences, walls, hedges and screen planting shall be subject to the following standards:

- A. *In any required front yard, provided they do not exceed three and one-half (3 ½) feet in height.*
- B. *In any rear or side yard, provided they do not exceed six and one-half (6 ½) feet in height.*
- C. *The height of fences or walls in rear or sideyard setback areas abutting a public street shall be forty-eight (48) inches or less if said fences or walls are within ten (10) feet of any public street except an alley.*
- D. *The framework for newly constructed fences and walls shall face toward the builder's property, except where fences are jointly constructed.*
- E. *Fences shall lean at an angle from the vertical plane no greater than five (5%) percent. In cases where this limitation is exceeded and a written complaint is received by the Planning Department, the property owner shall be notified, in writing, of the problem. The Planning Department shall take action only on the basis of a written complaint, or on its own action.*

The criteria for a Variance are described in 18.100.020 as follows:

- A. *That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.*
- B. *That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ord.2425 S1, 1987).*
- C. *That the circumstances or conditions have not been willfully or purposely self-imposed.*

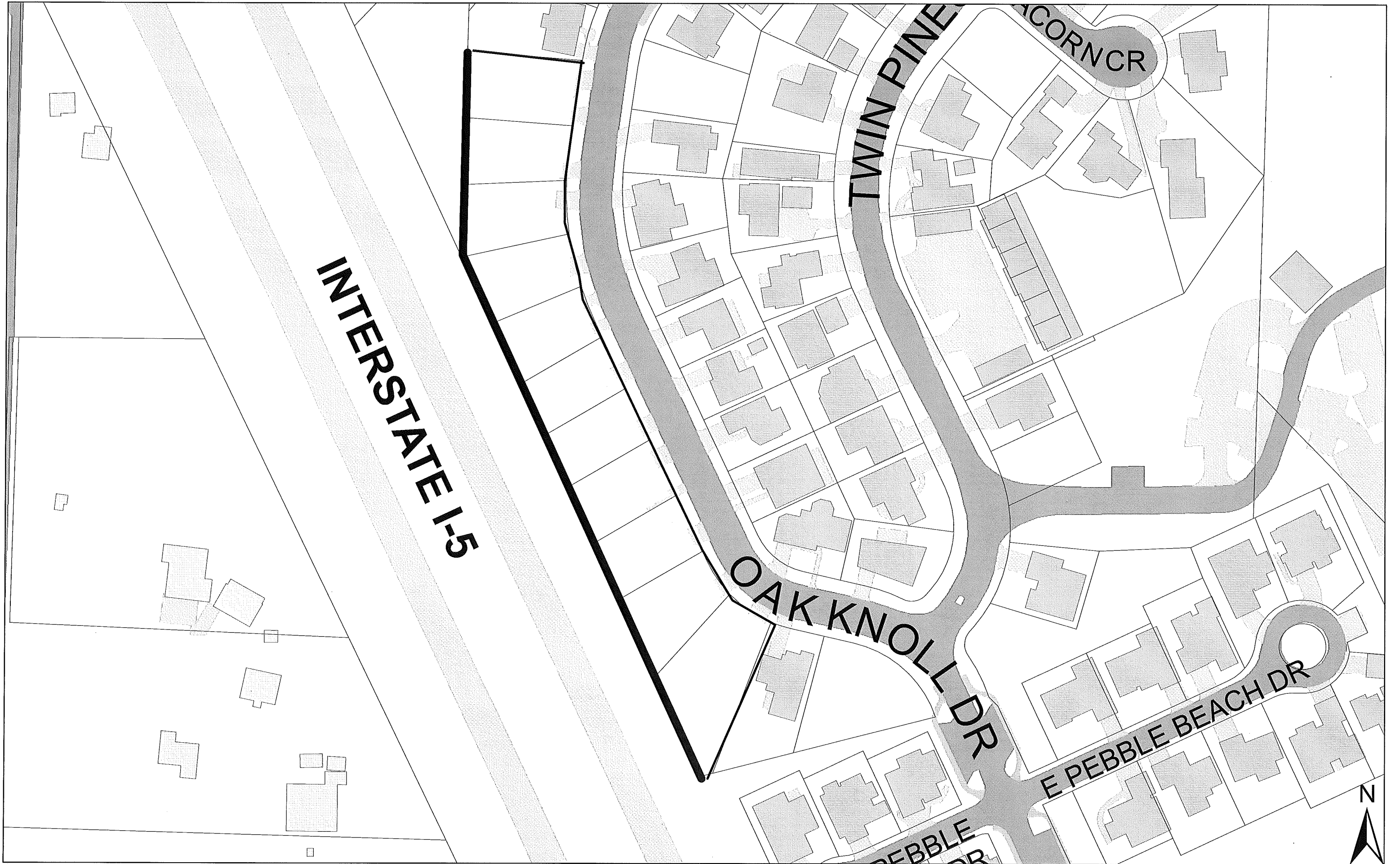
IV. Conclusions and Recommendations

The request for an eight-foot high wall along the rear property lines of the properties located at 805 – 893 Oak Knoll Drive, which are among the only residentially zoned properties immediately adjacent to the I-5 freeway right-of-way, seems a reasonable request in staff's view. The Variance requested will provide the applicants, recently affected by the Oak Knoll Fire, with an increased sense of security by providing a visual and physical barrier between their yards and the freeway while having the added benefit of providing a degree of sound attenuation for the applicants and their neighbors.

The proposed wall is to be constructed in simple concrete block with grey seams. As the Oak Knoll neighborhood is the first impression that many freeway traveler's will have of Ashland, staff believes that the wall should have an aesthetically-pleasing appearance and should be finished with a synthetic stucco or similar product to mitigate visual impacts at a gateway location visible from and across the freeway. The Planning Commission may wish to provide clear direction in their decision with regard to an approved finishing method to clarify what materials, colors or other surface treatments would be acceptable in this location.

Staff are supportive of the request, provided that the wall can be treated in a manner which mitigates its visual impacts, and we would accordingly recommend approval of the application with the following conditions attached:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified here.
- 2) That the selected method of surfacing for the wall shall be submitted and approved by the Staff Advisor prior to the issuance of the building permit. Concrete block and seam construction is not permitted as the final wall surface.
- 3) That building permit submittals shall include engineered designs signed and stamped by the project engineer.
- 4) That prior to the issuance of a building permit:
 - a) The request fee waiver for the Planning Action fees shall be approved by the Ashland City Council. If no fee waiver is approved by Council, the Planning Action fees would need to be paid, along with any applicable building permit fees, prior to building permit issuance.
 - b) That a utility locate to identify any utility lines in the vicinity of the proposed wall construction prior to the commencement of construction for the wall.
- 5) The wall and its surface finish shall be maintained in perpetuity, including the removal of graffiti, and re-surfacing if the surface fades, chips, erodes or otherwise degrades over time.



0 30 60 120 Feet

Property lines are for reference only, not scaleable



Oregon

John A. Kitzhaber, MD, Governor

Department of Transportation

Rogue Valley Office

100 Antelope Rd

White City, OR 97503-1674

(541) 774-6299

FAX (541) 774-6349

March 29, 2011

RECEIVED

MAR 31 2011

City of Ashland Community Development Department
Attn: Billie Boswell
20 East Main Street
Ashland, OR 97520

City of Ashland

Re: A request for a 25% variance to maximum fence height of six and one half feet (6.5) for 12 properties along Oak Knoll Drive in Ashland (807 – 897 Oak Knoll Drive).

Dear Ms. Boswell,

Thank you for the opportunity to consider a request for a 25% variance of the maximum fence height from six and a half (6.5) feet to eight (8) feet for 12 properties along Oak Knoll Drive adjacent to Interstate-5 (I-5) and Tax Lot 7000.

ODOT has reviewed the site plan request and determined this proposal will not adversely impact the state's transportation facility; therefore, these proposed land use actions do not trigger ODOT's review under the Transportation Planning Rule (OAR 660-012-0000), or Access Management Rule under (OAR 734-051-0000).

We do request the property owners provide a one (1) foot separation between the ODOT right-of-way and the rear property lines of those properties constructing the proposed block wall.

Please enter this letter into the public record for the proposed project and send me a copy of the City's final decision. Please feel free to contact me at (541) 774-6399 if you have any additional comments or concerns.

Respectfully,

Ian K. Horlacher
Development Review Planner



We the owners of the afore mentioned lots on Oak Knoll Drive, do hereby make application for a concrete wall of up to eight feet tall to be placed between our properties and Interstate 5. We feel there are unique circumstances following the fire of August 24, 2010 which destroyed our homes, that the proposal's benefit will be much greater than the negative impacts to any adjacent users, and that these circumstances have not been willfully or purposefully imposed upon us as homeowners. We feel that a concrete wall is necessary for fire protection, security and elimination of noise from Interstate traffic.

We truly feel that our homes would not have been destroyed had a concrete wall been in place prior to the fire set on August 24, 2010. Due to the topographical and climatic nature that exists between our homes and the Interstate, an ideal "perfect storm"/fire hazard exists as evidenced by our homes being consumed so quickly and completely. The uphill grade along Interstate 5 as well as the prevailing winds from the west combined with the vegetation and cedar fences, of which we all had, our homes sit in a very vulnerable spot and we feel we need to do something to prevent this from happening all over again. We feel a concrete wall would suffice in deterring any fire that starts along Interstate 5 from engulfing our homes. (Wood fences actually create a greater fire hazard.)

Secondly, we feel the need for adequate security from trespassers who have climbed our fences in the past. This is especially urgent now as the fire has destroyed all vegetation which visually separated us from the thousands of daily Interstate travelers.

The benefits of an eight foot concrete wall would have zero negative impact on the Interstate 5 traffic but would give us, the homeowners, a sense of security and peace of mind with the added benefit of decreasing the noise level that has continually increased over the years.

As mentioned earlier, each individual homeowner has not been willfully or purposefully imposed upon to seek this variance; rather we would feel much more at ease in our new homes if said wall was built. The benefits received will help us forget the pain and suffering we have and are still enduring.

Please consider our request as quickly as possible as we are rebuilding our homes and will soon be again living on Oak Knoll Drive.

MAR 17 2011

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Please consider our request as quickly as possible as we are rebuilding our homes and will soon be again living on Oak Knoll Drive.



Please note: Liza Christian will not be moving back to the property at 843 Oak Knoll Drive, but she is in support of this request for variance and as such, has attached a digital signature to this document.

MAR 17 2010

DEW engineering inc.

A CIVIL & STRUCTURAL ENGINEERING FIRM

815 Bennett Avenue
PHONE 541/772-1399

Medford Oregon 97504
FAX 541/772-1436

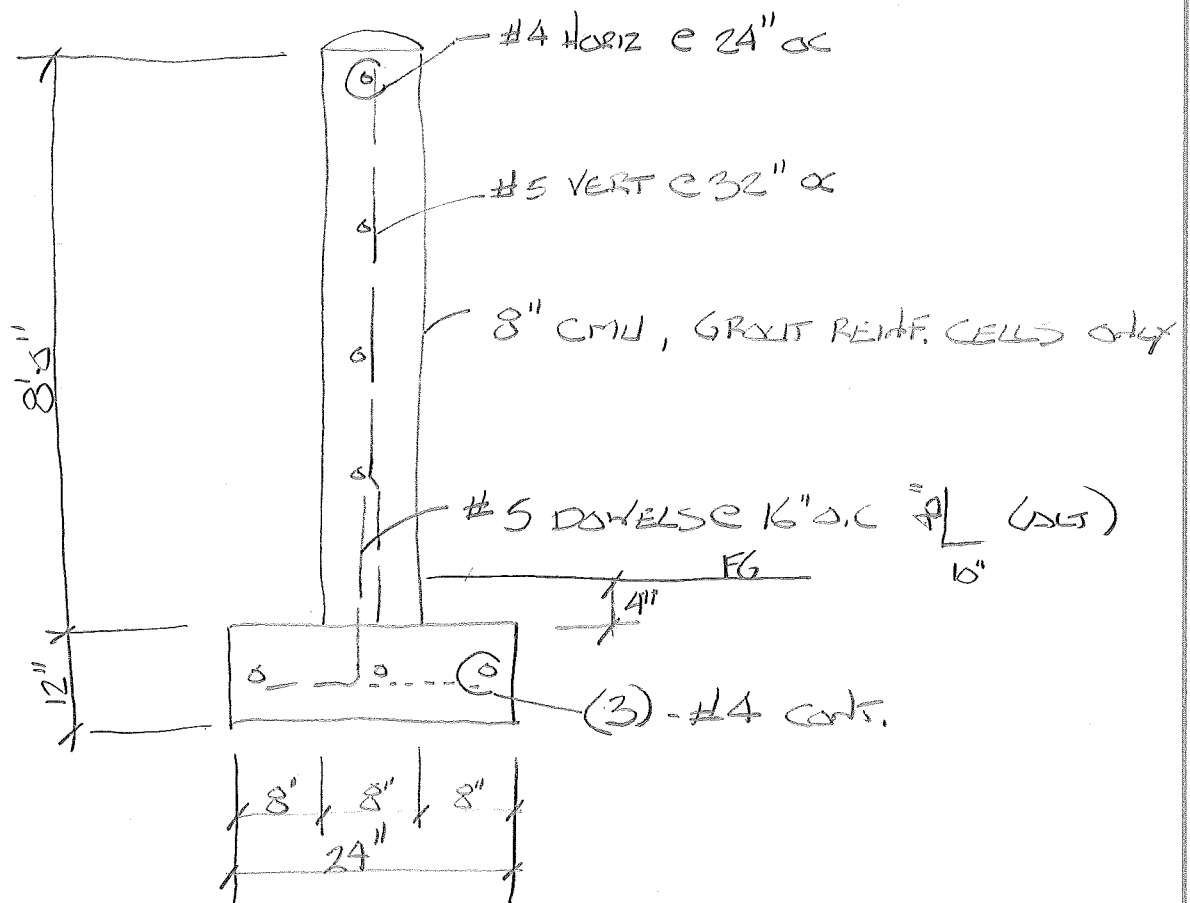
Project _____ No. _____

Designed _____ Date 3,1,11

Revised _____ Date _____

Subject _____


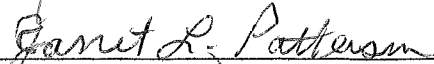

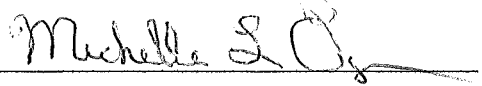

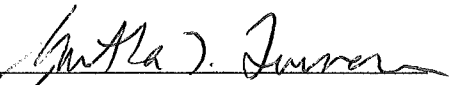




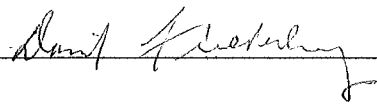




DESIGN FEE = \$330



MAR 17 2011

G. [unclear]

Oak Knoll Residents

<u>Name</u>	<u>Address</u>	<u>Signature</u>
Patricia Faria	805 Oak Knoll	_____
Jason Daoust	815 Oak Knoll	 _____
Janet Patterson	825 Oak Knoll	 _____
Rick & Michelle Ogier	835 Oak Knoll	  _____
Liza Christian	843 Oak Knoll	 _____
Marty Turner	851 Oak Knoll	 _____
Gary Pederson	861 Oak Knoll	 _____
Lisa Jones & Nanosh Lucas	873 Oak Knoll	  _____
Lois Brewer & David Friedenberg	881 Oak Knoll	  _____
David & Danna Gustafson	889 Oak Knoll	  _____
Dan & Julie Thomas	897 Oak Knoll	  _____

MAR 17 2010