

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  
SPECIAL MEETING  
AUGUST 23, 2011  
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street
  
- II. **UNFINISHED BUSINESS**
  - A. **Approval of Findings for PA-2011-00738, 1405 Tolman Creek Lane.**
  
- III. **ADJOURNMENT**

**CITY OF  
ASHLAND**



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

**BEFORE THE PLANNING COMMISSION**  
**August 23rd, 2011**

IN THE MATTER OF PLANNING ACTION #2011-00738, A REQUEST FOR )  
OUTLINE AND FINAL PLAN APPROVAL FOR AN EIGHT-LOT PERFORM- )  
ANCE STANDARDS SUBDIVISION TO BE DEVELOPED IN THREE PHASES )  
FOR THE PROPERTY LOCATED AT 1405 TOLMAN CREEK ROAD. ALSO )  
INCLUDED ARE REQUESTS FOR A VARIANCE TO REDUCE THE NUMBER ) **FINDINGS,**  
OF REQUIRED ON-STREET PARKING SPACES BY 50 PERCENT; AN EXCEPT- ) **CONCLUSIONS**  
ION TO STREET STANDARDS TO NOT INSTALL SIDEWALKS ALONG A ) **AND ORDERS**  
A PORTION OF THE NEW STREET; AND A PHYSICAL & ENVIRONMENTAL )  
CONSTRAINTS REVIEW PERMIT TO ALLOW UTILITY INSTALLATION )  
WITHIN THE HAMILTON CREEK FLOODPLAIN ALONG TOLMAN CR RD. )  
)  
)  
**APPLICANTS:** Malibar Group, LLC )

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**RECITALS:**

- 1) Tax lots #308 and #501 of Map 39 1E 23 BA are located at 1405 Tolman Creek Road and are zoned Single Family Residential (R-1-7.5).
- 2) The applicants are requesting Outline and Final Plan approval for an eight-lot Performance Standards Subdivision to be developed in three phases for the property located at 1405 Tolman Creek Road. Also included are requests for a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a large (60-inch d.b.h.) maple tree; an Exception to Street Standards to not install sidewalks along a portion of the new street; and a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road.
- 3) The criteria for Outline Plan approval are described in Chapter 18.88.030.A.4 as follows:
  - a. *That the development meets all applicable ordinance requirements of the City of Ashland.*
  - b. *That adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
  - c. *That the existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.*
  - d. *That the development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
  - e. *That there are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early*

- phases have the same or higher ratio of amenities as proposed in the entire project.*
- f. *That the proposed density meets the base and bonus density standards established under this Chapter.*
  - g. *The development complies with the Street Standards. (Ord 2836, S2 1999)*

4) The criteria for Final Plan approval are described in Chapter 18.88.030.B.5 as follows:

*Final plan approval shall be granted upon finding of substantial conformance with the outline plan. Nothing in this provision shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan shows that:*

- a. *The number of dwelling units vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.*
- b. *The yard depths and distances between main buildings vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Title.*
- c. *The open spaces vary no more than ten (10%) percent of that provided on the outline plan.*
- d. *The building size does not exceed the building size shown on the outline plan by more than ten (10%) percent.*
- e. *The building elevations and exterior materials are in conformance with the purpose and intent of this Title and the approved outline plan.*
- f. *That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.*
- g. *The development complies with the Street Standards. (Ord 2836, S3 1999)*

5) The criteria for a Variance are described in Chapter 18.100 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 an Exception to Street Standards are described in Chapter 18.88.050.F as follows:

*An Exception to the Street Standards is not subject to the Variance requirements of section 18.100 and may be granted with respect to the Street Standards in 18.88.050 if all of the following circumstances are found to exist:*

- A. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
  - B. *The variance will result in equal or superior transportation facilities and connectivity;*
  - C. *The variance is the minimum necessary to alleviate the difficulty; and*
  - D. *The variance is consistent with the stated Purpose and Intent of the Performance Standards Options Chapter. (Ord 2951, amended, 07/01/2008; Ord 2836, amended, 02/02/1999)*
- 7) The criteria for the approval of a Physical & Environmental Constraints Review Permit are described in AMC 18.62.040.I as follows:
- 1. *Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.*
  - 2. *That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.*
  - 3. *That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum permitted development permitted by the Land Use Ordinance.*

- 8) The Planning Commission, following proper public notice, held a public hearing on July 12<sup>th</sup>, 2011 at which time testimony was received and exhibits were presented. Prior to the conclusion of the hearing, neighbor James Lindow of 2370 Lupine Drive requested in writing that the record be left open as provided in ORS 197.763. The applicants then requested that the record be left open an additional seven days as provided by statute to allow them to prepare and submit additional written arguments in response to any new evidence received while the record remained open. The public hearing was closed at that time, with the record to remain open for seven days until 4:30 p.m. on Wednesday, July 20<sup>th</sup> to allow the submittal of new evidence, and for seven additional days until 4:30 p.m. on Wednesday, July 27<sup>th</sup> to allow the applicants to submit written arguments. Planning Commission deliberations were continued to the Commission's regular meeting on August 9<sup>th</sup>, 2011 at which time the Planning Commission approved the application for Outline and Final Plan approval for an eight-lot Performance Standards Subdivision, an Exception to Street Standards to allow the applicants to not install sidewalks along a portion of the new street, and a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road. The Planning Commission denied the applicants' request for a Variance to reduce the number of on-street

parking spaces by fifty percent in order to preserve a large (60-inch d.b.h.) maple tree.

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, and 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 proposal meets all applicable ordinance requirements of the City of Ashland with the exception of the requested Exception to Street Standards and Variance requests.

The Commission further finds that there are city facilities and services currently available which can be extended by the applicants as detailed in their civil plan submittals to serve the project from the adjacent Tolman Creek Road right-of-way. The property is currently served by: an eight-inch sanitary sewer main located in the Tolman Creek Road right-of-way; an eight-inch water main located in the Tolman Creek Road right-of-way; and sections of an 18-inch storm sewer along with an open ditch along Tolman Creek Road. Electrical facilities are available to be extended from both Tolman Creek Road and Apple Way.

The Commission finds that a 36-inch stormwater detention pipe is to be provided within the proposed street to allow for high volume water capture and slower water release during storm events. The stormwater line has been routed to preserve the large maple tree adjacent to the proposed street, and additional manholes are to be provided to service this more complex installation. The Commission further finds that the city's Engineering Division will ultimately need to review and approve the final, engineered storm drainage plans to verify that post-development peak flows are engineered to be less than or equal to the pre-development peak flow for the site as a whole, and that storm water quality mitigation is addressed in the final engineered design. A condition to this effect has been included below.

The Commission further finds that the applicants have provided draft plans detailing the civil engineering proposed to serve the development with street and utility installations, including fire hydrant installation and the extension of electrical services from both Tolman Creek Road and Apple Way. A condition of approval is included below to require that these plans be revised to incorporate the requirements of the land use approval, reviewed and approved by the Planning, Building, Public Works, Engineering and Electric Departments prior to the issuance of an excavation permit. Because the Tolman Creek street corridor in this vicinity falls within Jackson County's jurisdiction, a condition has also been included requiring that the applicants obtain any required permits or approvals from Jackson County for any work to be completed within Tolman Creek Road's right of way.

The Planning Commission finds that Tolman Creek Road is classified as an Avenue or Major Collector in the vicinity of the subject property, and standard street improvements along the frontage of the parcels involved would include curb, gutter, paving, parking, storm drains, park row planting strips, sidewalks, and bike lanes. However, given that the complexity of the improvement required, the limited frontage of the subject property on Tolman Creek Road, the need for any improvements to be completed within the context of a larger neighborhood design process, the presence of the flood plain, and the fact that this street section is presently within Jackson County's jurisdiction, the Commission finds that the most prudent option with regard to Tolman Creek Road improvements is for the applicants to sign in favor of the future improvements to Tolman Creek Road and agree to pay their proportionate cost of the necessary improvements and not to remonstrate against the formation of a Local Improvement District. A condition to this effect has been included below.

The Commission finds that the Performance Standards Options Chapter AMC 18.88 requires that natural features such as wetlands, floodplain corridors, ponds, large trees and rock outcroppings throughout the subject parcel be included and incorporated in open space, common areas or other unbuildable areas. The applicants' submittals note that the site design proposed demonstrates an effort to preserve natural features such as the large trees including the 60-inch d.b.h. maple proposed to be preserved adjacent to the proposed new street and other trees grouped around the property and on adjacent parcels, as well as the natural drainage along the west side of the property which is already protected within a conservation easement. The Planning Commission finds that the applicants' efforts to preserve the large maple tree are in keeping with the purpose and intent of the chapter; however the Commission further finds that tree protection details consistent with the Tree Preservation and Preservation Chapter AMC 18.61 have not been included for all of the site's trees. The Commission finds that a revised Tree Protection Plan which addresses required protection of trees between Lots #2 and #3 and between Lot #1 and Tax Lot #500 in the vicinity of the proposed building envelopes, as well as those trees along the drainage easement in proximity to the envelopes on Lots #5 and #6, is necessary. The Commission further finds that because Lots #5 and #6 may not develop for a number of years, the trees on those lots, which include large cottonwoods, should be re-assessed by an arborist prior to development of the lots as has been recommended by the project's arborist. Conditions reflecting the above are recommended below.

The Planning Commission further finds that the applicants have considered the Tree Commission's recommendations to install sidewalks only on the north side of the proposed street in order to save trees along the south boundary. This would require the applicants to obtain agreement from the property owner of Tax Lot #400 on the north side of the existing driveway, and the applicants have indicated that they are pursuing such an agreement with the intention of possibly saving Tree #2, a large sycamore located on the south side of the proposed street improvements, although the applicants have noted saving fruit trees on the south side of the street is unlikely given driveway locations and curb placement.

The Commission finds that having sidewalks on only one side of the proposed street is in keeping with the Performance Standards Options Chapter AMC 18.88, and further finds that if the applicants are able to obtain agreement from the owners of Tax Lot #400 that a continuous sidewalk on the north side of the street, which provides for the retention of Tree #2 and alleviates the need for a materially-distinct pedestrian crossing while connecting directly to the pedestrian path to be installed in the easement which is proposed to be relocated from the end of the Apple Way cul-de-sac, is by far the preferred option. However, the Commission further finds that if the applicants are unable to reach such an agreement, a sidewalk would need to be installed along the south side of the proposed street as proposed in the applicants' initial submittals and necessitating the removal of Tree #2. A revised condition #3c as proposed by the applicants has been attached to this approval detailing these two prioritized options.

The Commission finds that the proposed development will not prevent adjacent land from being developed, and could in fact facilitate future development of the parcels adjacent to the existing driveway and Tolman Creek Road by installing the street system necessary to support their development. The Commission further finds that the potential future development of areas to the north, south and west is not impacted as these lands are already largely developed, and that the applicants have attempted to evaluate the development potential of the adjacent lots to the east and plan their project so that it will be compatible with their ultimate development pattern.

The Commission finds that under the Performance Standards Options Chapter AMC 18.88, the property's single-family residential R-1-7.5 zoning designation allows for a density of 3.6 units per acre. The site's 3.21 acreage results in a base density of 11.556 units. The proposed density is well below the density allowed, but the application notes that efforts have been made in planning the project to provide a lot lay-out similar to the development pattern already in place for the sake of neighborhood compatibility. In addition, the applicants note that the lots are over-sized and would likely accommodate accessory dwelling units to provide for additional density as individual lots develop.

The Commission finds that Performance Standards subdivisions with a density of ten units or greater are required to provide a minimum of five percent of the total project area in open space. The Commission further finds that the area of the existing natural drainageway easement, which was required to be provided with the Wild Creek Subdivision, would exceed the five percent open space requirement were it in common ownership. The Commission finds that the applicants propose to develop only eight lots, and as such no common open space area has been

identified as part of the current proposal. The Commission further finds that because the base density of the parent parcels could accommodate further development to 11 or more units, a condition of approval is necessary to require that requisite open space be provided if further development of the parcels leads to a built density of ten or more units.

The Commission finds that the Performance Standards Options Chapter AMC 18.88 requires that on lots which are to contain detached single-family dwellings, building envelopes be identified which show the area and maximum height of improvements, including solar access. The applicants have identified building envelopes and shown the locations within each envelopes which would accommodate a 21-foot high structure while complying with Solar Access “Standard A” as required in AMC 18.70. The Commission further finds that for Lot #6, the applicants have offered to limit the height of the future building so that no portion of the home will exceed the 21-foot height to be located as detailed on the applicants Sheet L2.0. The Commission further finds that this limitation is self-imposed by the applicants to address concerns raised by neighbors during the hearing, and will limit the height of the building as described while allowing a split-level floor, daylight basement or other configurations which comply with the self-imposed height limitation.

The Planning Commission finds that the proposed street right-of-way to serve the project is consistent with the “Residential Neighborhood Street” standards which call for a 47-foot right-of-way width to accommodate a queuing travel lane, parking on only one side, curbs, gutters, parkrow planting strips and sidewalks. However, the Commission also finds that the applicants have requested an Exception to Street Standards to modify the standard street configuration and install sidewalks on only one side of the street to allow the preservation of a large (60-inch d.b.h.) maple tree and, assuming an agreement can be reached with the owner of Tax Lot #400 to allow sidewalk installation on the southern portion of their property (i.e. along the north side of the street) the preservation of a large (16-inch d.b.h.) sycamore as well. Assuming such an agreement can be reached, this would result in a half-street improvement to a width of 34 feet with a continuous sidewalk along the north side of the proposed new street and no sidewalks along the south side. If no such agreement can be reached, the half-street improvement would be as depicted in the applicants initial submittals with a sidewalk along the south side of the street, triggering removal of the sycamore tree, and transitioning across the street through a materially-distinct crossing to the north side in the vicinity of the large maple tree.

The Commission further finds that in addition to the street improvements proposed, the applicants propose to relocate a bicycle and pedestrian easement that was originally associated with the Wild Creek Subdivision. The easement as originally configured extends from the end of Apple Way through that subdivision’s natural area, requiring a crossing of the Hamilton Creek tributary which daylight just north of the subject properties. No bicycle or pedestrian improvements have been completed within the existing easement, and remaining segments necessary to provide a continuous connection to Tolman Creek Road have not been obtained. With the current application, the applicants have proposed to work with the Wild Creek Subdivision neighbors to relocate the pedestrian easement down a private drive off of Apple Way, avoiding the creek crossing, and connecting to the proposed new street installation. With



this relocation, a complete easement connection would be provided from Apple Way to Tolman Creek Road and bicycle and pedestrian facilities completed in the form of a six-foot wide multi-use path within the ten-foot easement.

The Commission finds that a continuous bicycle & pedestrian connection from Apple Way to Tolman Creek Road through the proposed development is in keeping with the purpose and intent of the Performance Standards Options Chapter AMC 18.88 and provides a strong justification for the requested Exception to Street Standards, discussed in greater detail below, in terms of addressing the “equal or superior connectivity” criterion. The Commission further finds that while the proposed relocation of the easement is clearly the preferred option to provide greater connectivity while minimizing impacts to the Hamilton Creek tributary, if the applicants are unable to reach an agreement with neighbors to re-route the easement as proposed, the existing course of the easement would need to be improved with the installation of pedestrian path improvements to accommodate bicycle and pedestrian use from Apple Way to and through the applicants’ property to Tolman Creek Road, and a condition to this effect has been attached to this approval is recommended below.

2.3 The Planning Commission finds that the application includes a request for an Exception to Street Standards to not install sidewalks along a portion of the new street. The Commission further finds that the applicants initially requested not to install sidewalks along the south side of the street along the frontages of Lots #2, #3 and #4. The application explains that in this area, the street curves slightly to preserve the large maple tree, a fire truck turn-around is proposed, and the applicants would like to preserve an existing looped driveway as well. The applicants initially proposed to transition the sidewalk from the south side of the street to the north side via an in-laid crossing in the street where the street and sidewalk meander around the large maple. The materials provided emphasize that the low volume of vehicle trips involved at the end of the street will produce lower traffic volumes and that pedestrians will likely walk within the street and fire truck turn-around to reach their destinations. The application notes that the existing structures, driveways, utilities, drainage and mature trees pose a demonstrable difficulty, and that neighboring property lines, home orientations, context and natural constraints all merited consideration in the design. Most notably, the application described the difficulty posed in designing the street system to preserve the large maple. The applicants suggest that not having sidewalks through the fire truck turn-around portion of the street installation is an equal facility as the route would be more circuitous in light of multiple curb cuts and that the lack of sidewalks in this one area would be off-set by the low vehicle trips. Following a meeting with the Tree Commission, the applicants have proposed to modify this proposal and have begun to pursue an agreement with the owner of a neighboring property (Tax Lot #400) in order to install sidewalks along the north side of the street, along that property’s south boundary, with no sidewalks to be installed on the south side so that the 16-inch d.b.h. sycamore tree previously proposed for removal can be preserved and a continuous sidewalk provided along the north side of the street.

The Planning Commission finds that continuous sidewalk connections are an important component to creating a functional sidewalk system which encourages pedestrian travel to, from and within proposed development, benefitting long-term livability of the developments by

comprehensively addressing the access and mobility needs of residents. The Commission further finds that a continuous sidewalk along the north side of the proposed street, with preservation of the sycamore tree along the south side, would be the preferred option here if an agreement can be reached. A condition has been included below to provide for the installation of a continuous sidewalk on the north side of the proposed street as a preferred option, assuming that an agreement can be reached with the neighboring property owner, but allowing for installation of a sidewalk on the south side and removal of the sycamore with the sidewalk to transition to the north side before the maple tree as originally proposed if no agreement can be reached. The Commission recognizes the difficulties posed by the need to preserve the large maple, and potentially the sycamore tree as well, and finds that the efforts to preserve these trees through an Exception to the Street Standards is in keeping with the purpose and intent of the Performance Standards chapter. The Commission finds that the installation of a sidewalk on only one side of the proposed street is the minimum exception necessary to address this difficulty, and further finds that the installation of a sidewalk on one side of the proposed street in addition to completion of the bicycle and pedestrian connection from Tolman Creek Road to Apple Way by relocating a previously unimproved easement serves to provide “equal or superior” transportation facilities and connectivity.

2.4 The Planning Commission finds that, as noted in AMC 18.61.042.D.1.c, the removal of significant trees (*i.e. those trees greater than 18-inches in diameter at breast height*) on vacant R-1 zoned lands requires a Tree Removal Permit. The Commission further finds that the trees proposed for removal here are as follows: #2, a 16-inch d.b.h. sycamore which will be removed in the event that the applicants are unable to reach an agreement with the neighbors to the north of the existing driveway who own Tax Lot #400; #13 and #15, a six-inch and a ten-inch d.b.h. apples; #14, a six-inch d.b.h. almond; and #16, an eight-inch d.b.h. sequoia. The Commission finds that because none of the trees proposed to be removed with the application is considered to be by definition “significant” these removals are not subject to a Tree Removal Permit. The Commission further finds that the site’s trees remain a consideration in terms of the preservation of significant natural features required under the Performance Standards Options chapter, in terms of their providing a basis for the requested Exception to Street Standards, and in terms of providing for the protection of the trees to be preserved as required in the Tree Preservation and Protection Chapter, and these considerations are discussed in the relevant sections of these findings.

2.5 The Planning Commission finds that the Hamilton Creek floodplain corridor extends westward from the waterway on the east side of Tolman Creek Road and includes an approximately five-foot wide portion of the subject property at the end of the existing flag drive, where the proposed street improvements are to be installed. The Commission further finds that because the proposal involves the installation of new street improvements and utilities within the Hamilton Creek floodplain, a Physical & Environmental Constraints Review Permit for the Development of Floodplain Corridor Lands is required.

The Commission finds that the existing 12-foot width driveway will ultimately be widened to the full width to meet city standards for a new street, and that within the relatively minimal portion

of the street which is deemed floodplain corridor this will involve less than 50 cubic yards of fill. The Commission further finds that the applicants' Civil Engineer has determined that there will be no noticeable impact on the floodplain because the driveway already exists in this location.

The Planning Commission further finds that the impacts to the floodplain lands are minimal and involve road construction and utility installation in an area where street and driveway improvements are already in place and long-established. The Commission finds that the applicants have taken all reasonable steps to reduce adverse impacts on the environment by hiring professional civil engineers, landscape architects, arborists, and land use planners to comprehensively plan the proposal in order to mitigate adverse impacts from the proposed development.

2.6 The Planning Commission finds that the Performance Standards Options Chapter AMC 18.88 includes parking standards which require that *“at least one on-street parking space per unit shall be provided in addition to the off-street parking requirements for all development in an R-1 zone... On-street parking spaces shall be immediately adjacent to the public right-of-way on publicly or association-owned land and be directly accessible from public right-of-way streets. On-street parking shall be located within 200 feet of the dwelling it is intended to serve.”* The Commission further finds that as proposed, the eight-unit subdivision requires eight on-street parking spaces to be provided in or near the proposed street right-of-way. The applicants have proposed a Variance to this requirement in order to reduce the required parking by fifty percent, to only four spaces, in order to preserve the 60-inch d.b.h. maple tree (Tree #43). The application explains that with the preservation of the large maple tree, the street meanders and thus eliminates potential on-street parallel parking spaces, and goes on to note that the four spaces that are proposed to be removed to preserve the tree are *“realistically available due to the fact that three of the new lots (#4, #5 and #6) are technically flag lots off a private drive that require a third on-site parking space...[and] the identified looped driveway serving the existing house provides a minimum of two additional guest parking spaces.”* The application identifies existing structures, driveways, utilities, drainage areas and mature trees as unique or unusual circumstances which have played a significant design role. In addition, the application notes that neighboring property lines, house orientations, context and natural constraints also merit consideration, and that the large maple tree (#43) in the center of the property, near the existing driveway, and with a 30-foot diameter protection zone, poses a unique or unusual circumstance meriting the proposed Variance. The application further notes that by retaining the tree, it will continue to grow and provide aesthetic and environmental/shade benefits to the neighborhood for many years by providing a focal point of the neighborhood and provide a central gathering opportunity given its relationship to the homes, street, sidewalk and pedestrian path. The application concludes that the tree has been in existence for many years prior to the current owner's purchase of the property and because it provides the basis for the Variance request, the basis for the request is thus not willfully or purposely self-imposed.

The Planning Commission finds that the third parking spaces (aka visitor parking spaces) to be provided on lots served by a flag drive are required off-street parking under AMC 18.76.060.C and cannot be used to offset an on-street parking requirement that is explicitly required to be in

addition to the required off-street parking. The Commission finds that these third “visitor” spaces are required to be provided on all of the lots to be served via a flag drive in addition to the two standard spaces required for each lot and the required on-street parking. The Commission further finds that the additional on-street parking required within the Performance Standards Chapter is intended to ensure that the street system to be constructed will accommodate occasional guest parking within the public realm when a resident has a party or similar event requiring more than the two or three standard parking spaces on the individual lots, and to do so in reasonable proximity to the proposed development rather than allowing a configuration which would force impacts onto surrounding streets or neighborhoods.

The Planning Commission finds that during the hearing, staff noted that it appeared to be possible to accommodate the required on-street parking within 200 feet of each unit in the development through some combination of compliance with the standards for driveway separation, the use of consolidated driveways, placing parking on the north side of the proposed street, and/or adding an additional parking bay or two adjacent to Lot #7 as the applicants have suggested might be possible. The Commission also finds that the existing circular drive acts to preserve the tree it surrounds, and has the added benefit of providing the potential for additional overflow parking; as such the Commission believes that the driveway’s removal is not merited. The Planning Commission further finds that based on the applicants’ original submittal, which labels eight parking spaces available on and adjacent to the street; the applicants proposal to add a third parking bay adjacent to Lot #7; and staff’s analysis of the available on street parking provided during the hearing, that eight on-street parking spaces can be provided with the development while preserving the large maple tree. The Planning Commission finds that the required parking can be provided to meet the applicable standards, and as such the requested Variance is not merited. The Commission concludes that the Variance to reduce the required on-street parking by 50 percent is denied, and that the applicants will be required to provide a revised site plan which demonstrates compliance with the required on-street parking for each phase of the subdivision, and each of the lots proposed to be served via a flag drive will be required to provide a third visitor’s space as required in AMC 18.76.060.C.

### SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal for Outline and Final Plan approval for an eight-lot Performance Standards Subdivision to be developed in three phases for the property located at 1405 Tolman Creek Road, an Exception to Street Standards to allow the applicants to not install sidewalks along a portion of the new street; and a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road is supported by evidence within the whole record.

The Commission further concludes that the request for a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a large (60-inch d.b.h.) maple tree is not supported by evidence contained within the whole record, and the Variance component of the application is therefore denied.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #2011-00738 with the exception of the requested Variance. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2011-00738 is denied. The following are the conditions and they are attached to the approval:

- 1) That all proposals of the applicant are conditions of approval unless otherwise modified herein.
- 2) That the applicants shall obtain a Demolition/Relocation Review Permit from the Building Division if the proposed partial demolition of the existing shop/garage building triggers the requirements of the Demolition Ordinance.
- 3) That prior to the issuance of an excavation permit:
  - a) Final civil engineering plans including but not limited to the water, sewer, storm drainage, electric and transportation facilities shall be submitted for the review and approval of the Planning, Building, Electric, and Engineering Departments. The utility plan shall include the location of connections to all public facilities in and adjacent to the development, including the locations of water lines and meter sizes, fire hydrants, sewer mains and services, manholes and clean-outs, storm drainage pipes and catch basins, and locations of all primary and secondary electric services including line locations, transformers (to scale), cabinets, meters and all other necessary equipment. Transformers and cabinets shall be located in areas least visible from streets, while considering the access needs of the Electric Department. Any required private or public utility easements shall be delineated on the civil plan.
  - b) That the location and final engineering for all storm drainage improvements associated with the project, shall be submitted for review and approval by the Departments of Public Works, Planning and Building Divisions prior to signature of the final survey plat. The storm drainage plan shall demonstrate that post-development peak flows are less than or equal to the pre-development peak flow for the site as a whole, and that storm water quality mitigation has been addressed through the final design.
  - c) That the applicants shall provide a revised site plan for the review and approval of the Staff Advisor illustrating the sidewalk, parkrow and street trees on the north side of the new street and street trees only on the south side of the street. Applicants shall also provide evidence of an easement agreement for a sidewalk, parkrow and street trees along the south side of Tax Lot 400. If easement cannot be obtained, the sidewalk plan as originally proposed shall be installed and all necessary details of an in-laid crossing where the sidewalk transitions from the south side of the street to the north side at the tree and which further identifies the connection and treatment of the bicycle and pedestrian easement to the sidewalk improvements, with pedestrian routes to materially be distinguished from streets, driveways and parking spaces.
  - d) The applicants shall provide a revised Tree Preservation and Protection Plan for the review and approval of the Staff Advisor. The revised plan shall incorporate: 1) the identification of required tree protection fencing installation for trees on Lots #1, #2, #3, #5 and #6 in proximity to building envelopes and/or property lines; 2) the arborist's recommendations that trees #38-#40 shall be re-assessed by an arborist prior to

development on Lots #5 and #6; and 3) the July 7, 2011 recommendations of the Ashland Tree Commission where consistent with applicable standards and with final review and approval by the Staff Advisor.

- e) That a Verification Permit in accordance with 18.61.042.B shall be applied for and approved by the Ashland Planning Division prior to site work, storage of materials and/or the issuance of an excavation or building permit. The Verification Permit is to inspect the trees to be removed and the installation of tree protection fencing for trees to be preserved. The tree protection for the trees to be preserved shall be installed according to the approved Tree Protection Plan prior to site work or storage of materials. Tree protection fencing shall be chain link fencing a minimum of six feet tall and installed in accordance with 18.61.200.B.
  - f) Any work within the Tolman Creek Road right-of-way, including but not limited to street improvements or utility installation, shall be subject to review and approval by Jackson County and the City of Ashland, with permits to be issued by Jackson County.
  - g) That the applicants shall provide a revised site plan showing building envelopes on Lots #2 and #5 to be adjusted showing the rear setbacks to be 40' from their southern property line.
  - h) That the applicants shall provide a revised site plan which demonstrates compliance with the required on-street parking requirements of AMC 18.88.0 for each phase of the subdivision.
- 4) That prior to the signature of the final survey plat for Phase One, which will create Lots #1, 2, 4, 7 and 8:
- a) That a final survey plat shall be submitted within 12 months and approved by the City of Ashland within 18 months of this approval.
  - b) That the new street and subdivision names shall be approved by the City of Ashland Engineering Division.
  - c) All easements for public and private utilities, trails, pedestrian and bicycle access, natural drainageways, irrigation, fire apparatus access, and the reciprocal access easements for shared use of the existing driveway by Tax Lots #400 and #500 (as proposed in the application) shall be indicated on the final survey plat as required by the Ashland Engineering Division.
  - d) That all Phase One public improvements including but not limited to the street, sidewalk, street trees, and street lighting shall be installed to City of Ashland standards under permit from the Public Works Department and Jackson County. Improvements shall be consistent with those described in the application, including 22 feet of paving to accommodate a queuing travel lane and on-street parking on one side of the street, curb and gutter, storm drain system, seven-foot planting strip and five -foot wide sidewalk. A reserve strip ("street plug") shall be provided along the northern boundary of the street improvements along the south boundary of Tax Lot #400.
  - e) The applicants shall provide evidence of agreement to the relocation of the bicycle and pedestrian easement from the affected property owners, and shall detail proposed improvements and any signage or screening on revised civil drawings. The relocated

easement shall be recorded with the final survey plat, and the multi-use path improvements installed in conjunction with other subdivision infrastructure. In the event that the applicants are unable to obtain necessary agreements to relocate the easement, the applicants shall design and install improvements to accommodate bicycle and pedestrian use of the existing easement. On-going maintenance responsibilities for the multi-use path shall be described in the subdivision CC&R's which shall be provided for the review and approval of the Staff Advisor prior to the signature of the final plat.

- f) Street trees, located one per 30 feet of street frontage, shall be installed along the new street's frontage as part of the subdivision infrastructure improvements. Street trees shall be chosen from the Recommended Street Tree List and shall be installed in accordance with the specifications noted in the Recommended Street Tree List. The street trees shall be irrigated.
  - g) Electric services shall be installed underground to serve Lots 1, 2, 4, 7 and 8. The electric service plan shall be reviewed and approved by the Ashland Electric Department and Ashland Engineering Division prior to installation.
  - h) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for Lots 1, 2, 4, 7 and 8.
  - i) The applicants shall sign in favor of the future improvements to Tolman Creek Road and agree to pay their proportionate cost of the necessary improvements and not to remonstrate against the formation of a Local Improvement District.
  - j) The approved Tree Protection Plan and accompanying standards for compliance shall be noted in the CC&R's or other mechanism establishing the limited homeowners' association. The CC&Rs must state that deviations from the plan shall be considered a violation of the Planning Application approval and therefore subject to penalties described in the Ashland Municipal Code.
  - k) The applicants shall sign an agreement to participate in the future cost of full street improvements for Tolman Creek Road, including but not limited to park row planting strips, sidewalks, streetlights, curbs, gutters, paving, and storm drains, to be recorded on the deeds of the newly created lots concurrently with the final plat.
- 5) That prior to the signature of the final survey plat for Phase Two to create Lots #5 and #6, and Phase Three, to create Lot #3:
- a) All easements for public and private utilities, trails, pedestrian and bicycle access, natural drainageways, irrigation, and fire apparatus access shall be indicated on the final survey plat as required by the City of Ashland.
  - b) Phase Two subdivision infrastructure improvements, including but not limited to utility installation to serve Lots #5 and #6 and private driveway installation shall be completed according to approved plans prior to the signature of the final survey plat for Phase Two. The private driveway shall be subject to all development requirements for flag drives including that it shall be constructed to flag drive standards which call for a 15-foot paved drive centered in a 20-foot clear width where serving two lots and a 12-foot paved drive centered in a 15-foot clear width be maintained where serving one lot. Phase Three subdivision infrastructure improvements, including but not limited to utility installation

to serve Lot #3 shall be completed according to approved plans prior to the signature of the final survey plat for Phase Three.

- c) Electric services shall be installed underground to serve Lots 5 and 6 for Phase Two and Lot 3 for Phase 3. The electric service plan shall be reviewed and approved by the Ashland Electric Department and Ashland Engineering Division prior to installation.
  - d) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for Lots 5 and 6 for Phase Two and Lot 3 for Phase Three.
  - e) That prior to the signature of a final survey plat for Phase Two, the applicants shall provide a deed restriction agreement to be recorded on Lots #5 and #6 which requires the installation of a residential fire sprinkler system in each of these units. The deed restriction language shall be reviewed and approved by the Staff Advisor, and signed and notarized prior to release of the survey plat. The deed restriction shall be recorded concurrently with the survey plat.
- 6) That prior to the issuance of a building permit:
- a) Individual lot coverage calculations including all impervious surfaces shall be submitted with each building permit to demonstrate compliance with the 45 percent lot coverage allowed in the underlying zoning districts. Building footprints, walkways, driveways, parking areas, and any impervious surfaces shall be counted for the purpose of lot coverage calculations.
  - b) That all proposed lots shall be subject to Solar Access Standard A. Solar setback calculations shall be submitted with each building permit to demonstrate compliance with the applicable standards, and shall include identification of the required solar setbacks with supporting formula calculations and elevation or cross-section drawings clearly labeling the height of the solar producing point(s) from the identified natural grade.
  - c) That the requirements of the Ashland Fire Department relating to fire hydrant distance; fire flow; fire apparatus access, turn-around, and work area; and approved addressing shall be satisfactorily addressed in the building permit plan submittals and complied with prior to issuance of the building permit or the use of combustible materials, whichever is applicable. Plans for residential fire sprinkler systems shall be provided with the building permit submittals for Lots #5 and #6, as proposed by the applicants. Fire Department requirements shall be included on the engineered construction documents for public facilities.
  - d) Building permit submittals for lots to be served via a flag drive shall be required to provide three off-street parking spaces. Required parking shall be identified on the site plan. Parking spaces on flag drives shall be placed to allow vehicles to turn and exit to the street in a forward manner.
  - e) That the building height on Lot #6 be regulated as proposed by the applicants as identified on Sheet L-2.0 (Solar). Height of building on Lot #6 shall be limited to 21' as defined and regulated by AMC 18.70. This condition does not preclude a building to add a split-level floor or basement as the height measurement noted herein is restricted to the lot's "natural" grade.



- 7) That prior to the issuance of a certificate of occupancy:
- a) All exterior lighting shall be directed on the property and shall not illuminate adjacent properties.

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Planning Commission Approval

August 23, 2011  
Date