

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
JULY 8, 2014
AGENDA**

I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street

II. **ANNOUNCEMENTS**

III. **AD-HOC COMMITTEE UPDATES**

IV. **CONSENT AGENDA**

A. **Approval of Minutes**

1. June 10, 2014 Regular Meeting.

V. **PUBLIC FORUM**

VI. **UNFINISHED BUSINESS**

A. **Approval of Findings for PA-2014-00307, 777 Oak Street.**

B. **Approval of Findings for PA-2014-00734, 1163 Iowa Street.**

C. **Approval of Findings for PA-2014-00737, Oak Street Right-of-Way.**

VII. **DISCUSSION ITEMS**

A. **Pre-Adoption Review of the Unified Land Use Code.**

(Document is available online at www.ashland.or.us/unifiedcode)

VIII. **ADJOURNMENT**

**CITY OF
ASHLAND**



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

**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
REGULAR MEETING
MINUTES
June 10, 2014

CALL TO ORDER

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

Commissioners Present:

Troy J. Brown, Jr.
Michael Dawkins
Richard Kaplan
Debbie Miller
Melanie Mindlin
Tracy Peddicord

Staff Present:

Bill Molnar, Community Development Director
Derek Severson, Associate Planner
Amy Gunter, Assistant Planner
April Lucas, Administrative Supervisor

Absent Members:

Lynn Thompson

Council Liaison:

Mike Morris, absent

ANNOUNCEMENTS

Mr. Molnar announced the first meeting of the Normal Neighborhood Plan working group will be June 19 at 3 pm and the group will meet every other Thursday and report back to the City Council on August 5. The working group members include Mayor Stromberg, Councilor Marsh, Councilor Morris, Commissioner Kaplan, and Commissioner Dawkins. Mr. Molnar stated some of the issues to be discussed are density, the transportation system, open space, how the improvements will be paid for, and maximum building height.

Mr. Molnar also announced the City Council public hearing on medical marijuana facilities is scheduled for June 17; and on July 1 the Council will hear the Planning Commission's recommendation on short term home rentals.

AD-HOC COMMITTEE UPDATES

Commissioner Brown stated the SDC Review Committee is working on the fee structure and their next meeting will be July 8. Commissioner Kaplan provided an update on the Downtown Parking Management and Circulation Ad Hoc Advisory Committee meeting and encouraged citizens to complete the online parking survey.

CONSENT AGENDA

A. Approval of Minutes.

1. May 13, 2014 Regular Meeting.
2. May 27, 2014 Special Meeting.

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

PUBLIC FORUM

No one came forward to speak.

TYPE II PUBLIC HEARINGS

A. PLANNING ACTION: 2014-00737

SUBJECT PROPERTY: Oak Street right-of-way, between Lithia and Main

OWNERS: Rogue Valley Growers and Crafters Market

DESCRIPTION: A request to modify the existing Conditional Use Permit approval (PA #2011-153) for the Rogue Valley Growers and Crafters Market's closure of one block of Oak Street in the downtown, between Lithia Way and East Main Street, for the weekly Saturday Market. The specific modifications requested are: 1) To allow vendors to sell the same goods as are sold at their other markets in the Rogue Valley, with the exception of hot prepared foods. This would allow the sale of goods grown, produced, prepared or crafted by RVG&CM members who are farmers, ranchers, food processors and crafters. The vendors are currently limited to fresh fruit, vegetables, flowers, bedding plants, meat, eggs, cheese, bread, pasta, dog bones, and jam, and are not to sell prepared food; 2) To allow the market's season and hours to mirror their other markets in the Rogue Valley, which run from March through November, and to begin the street closure at 6:30 a.m. The market is currently limited to a May through November season, and the Saturday closure is from 7:00 a.m. to 2:00 p.m. 3) Alter the market booth configuration to create a sidewalk access point between vendor booths at the entrance to the alleyway on the west side of Oak Street in order to better accommodate pedestrian and wheelchair traffic to adjacent businesses. **COMPREHENSIVE PLAN DESIGNATION:** Commercial Downtown; **ZONING:** C-1-D; **ASSESSOR'S MAP:** N/A – Right-of-Way; **TAX LOT:** N/A – Right-of-Way.

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

Ex Parte Contact

No ex parte contact was reported.

Staff Report

Associate Planner Derek Severson provided an overview of the applicant's request. He explained the Rogue Valley Growers and Crafters Market (RVGCM) currently operates from May to November, 7 am to 2 pm, and under their current approval are limited on the types of products they can sell. The RVGCM has requested a modification to their existing conditional use permit to: 1) allow vendors to sell a wider variety of foods with the exception of hot prepared foods, 2) to begin the street closure at 6:30 and run from March through November, and 3) alter the booth configuration to create a sidewalk access point between vendor booths at the entrance to the alleyway on the west side of Oak Street.

Mr. Severson displayed a photo of the booth configuration that allows access to the sidewalk and explained the RVGCM have been setting up in this manner and staff supports it. He added this modification memorializes what they are currently doing. Regarding their second request to operate from March through November and to begin the street closure at 6:30 am, Mr. Severson stated staff has no issues with this, however staff did receive a letter from a resident who lives in the apartment above Art FX who objected to the earlier start time. Mr. Severson stated the item that will likely get most of the discussion tonight is what products the vendors are permitted to sell. Currently the RVGCM is limited to fresh fruit, vegetables, flowers, bedding plants, meats, eggs, cheeses, breads, pastas, dog bones, and jams. The RVGCM has requested vendors be allowed to sell the same goods as in their other markets, with the exception of hot prepared foods, which would equate to up to 40% of their offerings being crafts and prepared foods. Mr. Severson commented on the potential impacts to existing businesses and stated staff is recommending the market be limited to no more than 25% of booths that sell crafts and prepared foods.

Applicant's Presentation

Lori Hopkinson/ RVGCM General Manager/4444 W Griffin Creek Rd, Medford/Provided an overview of the RVGCM organization and cited their bylaws, market guidelines, and mission statement. Ms. Hopkinson stated the RVGCM would like to establish an additional sidewalk access point at the entrance of the alley. She stated the proposed wheelchair accessible entrance would easily accommodate pedestrian traffic to adjacent business and would encourage cross over sales. She stated the market is also requesting to modify their season of operation to mirror that of the other RVGCM locations, which would allow for a more coordinated season. Lastly, they are requesting the language in the conditional use permit be changed to allow the same composition of diversity of goods

as in their other markets. Ms. Hopkinson stated there is room for all and competition is part of doing business. She explained the market imposes its own rules and policies and stated limiting the market's goods is based on unfounded fears. Ms. Hopkinson stated 25% is an arbitrary number and remarked that the charm of the market comes from its diversity. She provided a list of the types of products that are restricted under their current approval, and commented that the market brings a lot of foot traffic to the area and draws shoppers to downtown merchants.

Questions of the Applicant

Ms. Hopkinson was asked why the market is requesting a 6:30 am start time and she explained that this would allow vendors more time to set up their product displays.

Ms. Hopkinson stated for the record that she is a part-time clerk for the City of Ashland Municipal Court.

Ms. Hopkinson clarified the market's bylaws state 60% of the goods are agriculturally related items and 40% are crafts and processed foods, and therefore of their 30 spaces at the Oak Street location 18 booths would be grower spaces and 12 would be crafters and food processors. She clarified food processors include krauts, hummus, ciders, coffee, tea, nuts, and cooking oils. Ms. Hopkinson requested the RVGCM be allowed to operate under their own guidelines and stated it would hurt the diversity of the market if these limitations were imposed.

Public Testimony

Bill Francis/40 Van Ness/Stated he has a small business selling pottery and sells at the downtown market. He stated this business has become his sole source of income and he could not have done this without the RVGCM. He noted he is also a member of the artisans market, however he earns the same selling for four hours on Oak Street as an entire weekend on the Calle. Mr. Francis stated the market is an attraction for both locals and visitors and urged the Commission to support the diversity the market is requesting.

Abby Hogge/1700 Parker/Stated she was last year's downtown market manager and stated diversity is critical for its success. She stated they need to appeal to a wide customer base and it is a delicate balance of serving both locals and tourists. Ms. Hogge noted the market is required to maintain a 60% ratio of growers and 40% non-growers. She stated hummus, salsas, salts, teas, and sauerkraut vendors are classified as non-growers and under the current conditional use permit are not permitted. She stated of the 30 booth spaces typically only 5 or less consist of crafts and urged the Commission to approve the modifications being requested.

Monica Rey/12310 Ramsay Rd, Gold Hill/Stated she is the current president of the RVGCM and commented that outdoor markets allow the public to connect with their local food sources and create a positive atmosphere. She stated the market brings in large numbers of people, some of whom spread out into neighboring businesses. Ms. Rey stated the market has been an incubator for many local businesses who have used this venue as a springboard to bigger and better things and encouraged the Commission to approve their request.

Roy Laird/419 Willow/Stated he is the co-owner of the Book Exchange across the parking lot from Oak Street and stated he supports RVGCM; however the current location of the market has had an impact on his business. He explained business is down 10% on Saturdays and expressed concern with how the expanded season will impact his business. Mr. Laird stated the market should be located in a more suitable location that won't have an impact on the downtown brick and mortar businesses.

Ken Silverman/25 E Main/Stated he is the owner of Nimbus and agreed with the previous speaker. Mr. Silverman stated he supports crafters and attends the Tuesday market regularly, however this is an issue of fairness. He stated the market takes up parking and blocks the Oak Street businesses and it is difficult to get to their stores because it is so crowded. He recommended the market be moved to a different location and noted the difficulties in being a successful retailer in this town.

Jeffrey Compton/1770 Acorn/Stated he is the owner of Rocky Mountain Chocolate Factory and while he supports the growers market, their numbers are down 30% on the days the market operates. He stated they have had to lay off one of their Saturday employees because of the market and recommended the market be moved to a more

suitable location, such as the high school or middle school.

Stacy VanVoorhees/514 Laurel/Stated she is the manager of the Saturday Ashland market and read aloud a scenario depicting a mother shopping with her three children. She stated the market serves the entire community and stated they aim to offer a wide diversity of goods that provide for people's needs, both nutritional and otherwise.

Lanita Witt/658 Shale City Rd/Stated she represents Willow Witt Ranch and stated they have been selling their meat products at the market for six years. She stated she supports buying and eating local and does not understand why other businesses oppose the market.

Elizabeth Bretko/103 SW Fourth, Grants Pass/Stated she is a tea brewer and also farmer and seasonal food processor. Ms. Bretko stated the Ashland Saturday market is a crucial part of her business and accounts for 60% of her total sales. She stated the market has been a springboard for her to open a brick and mortar business in Grants Pass and voiced her support for the market's downtown location.

David French/176 Meadow View, Phoenix/Stated he owns Griffin Creek Roasters and understands the challenges that brick and mortar retailers have. He stated it is a symbiotic relationship between the City, vendors, and patrons and stated the Ashland community supports the market incredibly well. He stated the market brings people into the downtown core and stated the market's request to create sidewalk access to the local businesses is a sign that they want to be good partners. He added from a marketing standpoint, it makes sense to have the same starting and ending dates as the other markets.

Jo Cullumbine/837 Tyler Creek/Voiced her disappointment to hear that this market is in jeopardy and that certain crafters may be excluded even though those that are permitted also compete with nearby businesses. She stated the market draws visitors to town and they explore streets and shops that they may have otherwise never seen, and asked the Commission to do the right thing and accept the modifications.

Jerry Painter/940 SW Sixth/Stated he is a food vendor with the RVGCM and is unable to participate in the Ashland Saturday market. He questioned the downtown businesses' resistance and stated the City of Medford requested that the market set up downtown. Mr. Painter stated studies have shown that markets downtown help the businesses, and while business may be down, the general poor economy is to blame not the location of the market.

Ruby Painter/940 SW Sixth/Voiced support for the market and noted the importance of having diversity so that young people can get ideas of what is possible.

Angelika Curtis/14356 Highway 62, Eagle Point/Stated she is the owner of the Oregon Bistro and Wildbee Honey Farm, and they are growers, farmers, beekeepers and crafters. Ms. Curtis stated she has been full time with the market for 17 years and is one of the vendors prohibited from selling at the Saturday market. She stated they have an eight acre farm, country store, hundreds of beehives and bottling facility, and have lots of expenses just like brick and mortar businesses. She stated the vendors act as greeters and direct a lot of people to local businesses and services, and she does not believe there is any direct competition between her beeswax candles and the other nearby businesses.

Alex Amarotico/101 Oak Street/State he is the owner of Standing Stone Brewery and fully supports the market on Oak Street and their requests to modify their conditional use permit. He stated the market gives them a direct link to local products and adds great vitality. He agreed that this comes with inconvenience to some, but the benefits outweigh this. He added he would welcome prepared foods and craft beers, even though this would be in direct competition with his business.

Laruel Alexander/2862 Griffin Creek, Medford/Sated this is her twentieth year with the market and she sells bedding plants. Ms. Alexander stated she has been to many markets and the most vibrant ones are located downtown. She stated she sells to both locals and tourists and often holds plants for people while them shop and eat downtown. She agreed that parking in Ashland can be difficult, but hopes they can continue to be good neighbors

with the downtown businesses.

Applicant's Rebuttal

Lori Hopkinson/ Stated the market only operates 26 Saturdays a year and they are only there a fraction of the time compared to the existing businesses. She stated they bring a lot of foot traffic and business to the area and believes this is a great walkable location for patrons. Ms. Hopkinson stated the majority of their products are related to agriculture and are made by farmers, and only a small percentage are crafts.

Questions of Staff

Staff was asked how they arrived at the 25% to 75% ratio for goods. Mr. Molnar stated 25% was used as a starting point for discussion. He stated the City has been a longtime supporter of the market, however staff has received several calls and letters expressing concern and stating sales have gone down since the market started operating at this location. He stated the City is essentially the landlord because of the market's location in the right of way, and so staff felt they had an obligation to take those issues seriously.

Staff was asked whether the Commission has the ability to change the market's location or day of operation. Mr. Molnar stated this is not under their purview this evening and would need to be dealt with through a different hearing.

Mr. Severson highlighted the eleven items that were clearly articulated in the market's original application. He added at that time there were a lot of assurances made by RVGCM to the downtown merchants when that application was first approved.

Commissioner Kaplan closed the record and the hearing at 8:35 p.m.

Deliberations and Decision

Commissioner Dawkins shared his concerns with the market selling items that are not food based and selling goods that compete with the businesses that are already there. Commissioner Peddicord commented that some of the most prominent businesses downtown are restaurants and questioned why they would prohibit crafts when food would remain. Dawkins pointed out that no hot food would be allowed. Commissioner Brown remarked that when the RVGCM first came to downtown there were negotiations made with the City and the businesses, and he sees no reason to change the conditions of their original approval. Commissioner Miller voiced support for modifying the other elements of their request (the months of operation, 6:30 am street closure, and pedestrian sidewalk access). Commissioner Mindlin commented that this is a complex issue and they need to find a solution that works for everyone. She stated the market wanted to be in that location and it has worked out very well for them, but it seems that it is having a negative impact on the surrounding businesses. She suggested that perhaps there is a better location that should be considered, but noted that this is not under their purview. Mindlin agreed with Miller and supports the approval of the other requested modifications and stated she would be comfortable with a compromise that permitted the sale of food items but keeps out the crafts. Commissioner Peddicord stated if the Commission is concerned with competition then they should be concerned about extending the market's season. Commissioner Brown agreed and added that an earlier start time would be an inconvenience to apartment renters. Commissioner Kaplan stated it is not clear whether the applicants and the City were on the same page when the original list of items was approved. Mr. Severson commented that he is not sure if the current board and management are aware of all the outreach that was done by the previous RVGCM manager. He clarified that list of items was intended to be a definitive list of the goods that would be sold and was offered as assurance to the neighboring businesses. Commissioner Dawkins noted his desire to find an appropriate balance and suggested limiting the market to goods that are food/agriculturally based. It was suggested that the group separate out the requested modifications and handle each item individually.

Commissioners Miller/Dawkins m/s to approve the alteration of the market booth configuration to create a sidewalk access point between the vendor booths to allow easier access. Roll Call Vote: Commissioners Brown, Mindlin, Peddicord, Miller, Dawkins and Kaplan, YES. Motion passed unanimously.

Commissioners Miller/Dawkins m/s to allow the market's season to mirror their other markets in the Rogue

Valley, which run from March through November. **DISCUSSION:** Commissioner Miller commented that this would bring more people to the downtown earlier in the season. Commissioner Dawkins agreed and stated a consistent season would help the market with their advertising and felt this was a reasonable request. He added the market typically starts slow at the beginning of the season and he does not believe this will be a big impact. Commissioner Brown disagreed and stated this would be a huge impact to the current businesses. **Roll Call Vote: Commissioners Dawkins, Miller, Peddicord, Mindlin and Kaplan, YES. Commissioner Brown, NO. Motion passed 5-1.**

Commissioner Miller motioned to allow the street closure to begin at 6:30 am. Motion died due to lack of a second.

Commissioner Mindlin/Dawkins m/s to allow vendors to sell the same variety of goods sold at their other markets in the Rogue Valley, with the exception of hot prepared foods and crafted goods. This would allow the sale of goods grown, produced, or prepared by RVGCM members who are farmers, ranchers, and food processors. **DISCUSSION:** Commissioner Mindlin stated her intent is to strike a balance and stated she would be open to an amendment that would include more agricultural products.

Commissioner Mindlin/Dawkins m/s to amend previous motion to state "This would allow the sale of goods grown, produced, prepared or crafted from locally grown agricultural products by RVGCM members who are farmers, ranchers, food processors and crafters. The prohibition on hot prepared foods will not be modified." **Roll Call Vote on motion as amended: Commissioners Peddicord, Dawkins, Miller, Mindlin, and Kaplan, YES. Commissioner Brown, NO. Motion passed 5-1.**

Commissioners Mindlin/Dawkins m/s to approve Planning Action 2014-00737 with the modifications to the conditional use permit with the parameters just adopted and to not include the change of the opening time from 7:00 am to 6:30 am. **Roll Call Vote: Commissioners Brown, Dawkins, Miller, Mindlin, Peddicord, and Kaplan, YES. Motion passed unanimously.**

B. PLANNING ACTION: 2014-00734

SUBJECT PROPERTY: 1163 Iowa Street

APPLICANT: Ayala Properties, LLC

DESCRIPTION: A request for Site Review and Outline Plan approval under the Performance Standards Options Chapter 18.88 for a four unit, five lot multi-family developments for the property located at 1163 Iowa Street. A Tree Removal Permit is requested to remove three trees greater than six-inches in diameter at breast height on the site. The existing single family residence on the site will be incorporated into the development as Lot #1. COMPREHENSIVE PLAN DESIGNATION: High Density Multi-Family Residential; ZONING: R-3; ASSESSOR'S MAP #: 39 1E 10 CB; TAX LOT: 5500.

Ex Parte Contact

Commissioners Miller, Kaplan, Dawkins and Brown performed site visits; no ex parte contact was reported.

Commissioners Peddicord/Dawkins m/s to extend the meeting to 10:00 pm. Voice Vote: all AYES.

Staff Report

Assistant Planner Amy Gunter provided a summary of the application. She explained this is a single family townhome development with each home on its own individual tax lot, but they will have attached wall construction. Ms. Gunter provided an overview of the project site, existing residence, and surrounding area. She noted there are three trees proposed for removal and clarified the existing single family residence will be incorporated into the development of Lot 1. She stated the new units will face east and each will have an attached vehicle garage and a rear yard patio area; and the applicants have proposed a pedestrian walkway to connect the development to the public sidewalk system on Iowa Street. Ms. Gunter stated the application meets the criteria and staff is recommending approval.

Ms. Gunter highlighted a proposed condition that requires the garages to be for vehicular parking and not for storage.

Applicant's Presentation

Mark Knox/485 W Nevada/Stated this in an infill project in the R-3 zone and noted their desire to maintain a consistent pattern and be sensitive to the existing homes. He stated they will utilize the existing driveway in order to mitigate disturbance to the trees, and clarified that Lot 1 is likely to remain as it is today for some time. He acknowledged this is a contemporary design and stated the intent was to have varying roof heights to break up the mass and give each townhome some individuality.

Questions of the Applicant

Commissioner Brown stated the solar angle depicted on the applicant's rear elevation diagram is to not to scale. Ms. Gunter indicated staff would draft a condition that addresses this concern.

Public Testimony

Kathleen Taylor/1163 Iowa/Stated she currently rents the home at 1163 Iowa and had several questions about the proposed development including: When will construction begin? Will there be any more meetings on this project? Can the neighbors obtain copies of the plans? Will she receive notice before construction begins? Is there any compensation for relocation? Ms. Taylor stated she was looking for a stable, long term residence when she entered into a lease four months ago and would not have rented this house had she known about these plans.

Applicant's Rebuttal

Mark Knox/Acknowledged Ms. Taylor's concerns and offered to speak with her after the meeting. He clarified there is no start date yet and they will continue to speak with the homeowners on the corner lot to develop a plan for this area and hopefully create an even better project. He stated the building plans are public record and are available to Ms. Taylor, and clarified she will receive notice prior to construction. Mr. Knox stated the intent is to keep this property intact as it is now for the foreseeable year and noted that this is a great location for this development as it is close to schools and will be affordable.

Commissioner Kaplan closed the record and the public hearing at 9:55 p.m.

Questions of Staff

Ms. Gunter suggested a conditional of approval that states "Solar setback calculations demonstrating that the solar performance standard allowing a shadow of no more than four feet above the finished floor of the proposed residence on Lot 2 shall be provided with the building permit submittals."

Deliberations and Decision

Commissioners Dawkins/Peddicord m/s to approve Planning Action 2014-00734 with the additional condition proposed by staff. Roll Call Vote: Commissioners Miller, Dawkins, Mindlin, Peddicord, Brown, and Kaplan, YES. Motion passed unanimously.

NEW BUSINESS

A. Review of Planning Commission's recommendation to Council on the Medical Marijuana Dispensaries Ordinance.

Mr. Molnar stated the public hearing on the medical marijuana facilities ordinance is scheduled for next Tuesday and what is before the Commission tonight is a summary of their recommendation that will be included in the Council's packet materials. He noted the City Attorney has researched other communities with similar ordinances and has recommended the City explicitly prohibit dispensaries as a home occupation, and asked whether the Commission would support this inclusion in the ordinance.

Comment was made that the last paragraph of the Planning Commission Report does not read correctly and recommendation was made for each sentence in the paragraph to be listed as an individual bullet point instead. General support was voiced for this edit.

Commissioners Mindlin/Miller m/s to approve the Planning Commission's Report with the modification of the last paragraph to list each sentence as a separate bullet item, and to recommend the Council modify the

home occupation ordinance to list medical marijuana dispensaries as a prohibited use. Roll Call Vote:
Commissioners Mindlin, Dawkins, Brown, Miller, Peddicord, and Kaplan, YES. Motion passed unanimously.

ADJOURNMENT

Meeting adjourned at 10:10 p.m.

*Submitted by, April Lucas
Administrative Supervisor*

BEFORE THE PLANNING COMMISSION
July 8, 2014

IN THE MATTER OF PLANNING ACTION #2014-00307, A REQUEST FOR)
PHYSICAL AND ENVIRONMENTAL CONSTRAINTS REVIEW PERMIT AND)
WATER RESOURCE PROTECTION ZONE REDUCTION APPROVAL TO) **FINDINGS,**
CONSTRUCT A NEW 3,414 SQUARE FOOT RESIDENCE WITH A 775 SQUARE) **CONCLUSIONS**
FOOT GARAGE. THE APPLICATION ALSO REQUESTS A CONDITIONAL USE) **AND ORDERS**
PERMIT FOR A 615 SQUARE FOOT ACCESSORY RESIDENTIAL UNIT FOR)
THE PROPERTY LICATED AT 777 OAK STREET. THE APPLICATION ALSO)
INCLUDES A REQUEST TO REMOVE 13 TREES ON SITE.)

APPLICANT: MARTHA HOWARD-BULLEN

RECITALS:

- 1) Tax lot #2707 of Map 39 1E 04CA is located at 777 Oak Street and is zoned R-1-5, Single Family Residential.
- 2) The applicants are requesting Physical and Environmental Constraints Review Permit to construct a new 3,414 square foot single family residence with a 775 square foot garage. The application also requests a Conditional Use Permit for a 615 square foot Accessory Residential Unit for the property located at 777 Oak Street. The application includes a request to remove 13 trees on site. Site improvements are outlined on the plans on file at the Department of Community Development. The Water Resource Protection Zone Reduction request was eliminated during the public hearing phase of the project.
- 3) **The criteria for Physical and Environmental Constraint Review approval are described in AMC 18.62.040.**
 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.*

The criteria for a Conditional Use Permit approval are described in AMC Chapter 18.72.070, 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.*

In addition, the criteria for an Accessory Residential Unit are described in AMC Chapter 18.20.030.H, as follows:

- H. *Accessory residential units, subject to the Type I procedure and criteria, and the following additional criteria:*
 - 1. *The proposal must conform with the overall maximum lot coverage and setback requirements of the underlying zone.*
 - 2. *The maximum number of dwelling units shall not exceed 2 per lot.*
 - 3. *The maximum gross habitable floor area (GHFA) of the accessory residential structure shall not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 1000 sq. ft. GHFA.*
 - 4. *Additional parking shall be in conformance with the off-street Parking provisions for single-family dwellings of this Title.*

Lastly, the criteria for a Tree Removal Permit are described in Chapter 18.61.080 as follows:

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

1. *A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.*
 2. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*
- B. *Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:*
1. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and*
 2. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and*
 3. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property.*

The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. Nothing in this section shall require that the residential density be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.

4. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*
- 4) The Planning Commission, following proper public notice, held a public hearing on May 13, 2014 at which time testimony was received and exhibits were presented. This hearing was continued to the May 27, 2014 meeting. At this hearing additional testimony was received and new exhibits were presented. This hearing was closed. Subsequent to the closing of the hearing, the Planning Commission approved the application subject to conditions pertaining to the appropriate development of the site.

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

follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the 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 believes that there are unique elements of the proposal, which pertain to the site, that justify flexibility to strict adherence to the flood plain corridor development standards. The application's comprehensive approach in the design of the development should result in enhanced safety for the future occupants of the proposed structures, as well as benefits to surrounding property owners. Consequently, the Planning Commission decision to approve the proposal cannot be seen as setting a precedent for future land use applications, due to several factors exclusive to the site and further described in this final order.
- 2.2 The Planning Commission finds that removal of the three existing non-conforming structures and replacing them with a new residence that is situated further from the creek channel and is constructed to current city and Federal Emergency Management Agency (FEMA) flood damage prevention regulations will result in enhanced public safety and minimize adverse impacts to the property and adjacent properties. Furthermore, the Planning Commission finds that the adverse impacts to property and nearby areas have been minimized with the proposed improvements to the adjacent riparian area in an effort to stabilize the area and improve the sites resiliency to future flood events.

The Planning Commission finds that the applicant has considered potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development by orienting the residence with a south to north orientation to better deflect and convey flood waters around the residence. The residence is proposed to be elevated above the FEMA flood plain Base Flood Elevation and constructed with an adequate foundation venting to allow for the passage of flood waters. The Planning Commission finds the development could not be located on a substantially higher grade because that the buildable area is relatively flat and the Ashland Floodplain Corridor and the FEMA Floodplain boundary are at the same elevation.

The Planning Commission finds that the proposed site planning is responsive to the existing site constraints and development requirements by providing ample protection area for the 64-inch DBH Black Poplar tree. The Planning Commission finds that locating the residence adjacent to the four foot embankment near the east property line could create a choke point for floodwaters and waterborne debris which would have negative, adverse impacts to the subject property and downstream neighbors.

The Planning Commission finds that the applicant has taken reasonable steps to reduce the adverse impact of the proposed development on the environment through the location and proposed construction methods. Additionally the Planning Commission finds that the proposed location of the residence and the accessory residential unit result in the preservation of view corridors that serve as collective open spaces for adjacent neighbors.

- 2.3 The Planning Commission finds that previously proposed Water Resource Protection Zone (WRPZ) Reduction to permit encroachment of a portion of the structure into the WRPZ is eliminated with the relocation of the residence outside of area of the WRPZ. The revised proposal includes a rear patio area, the Planning Commission finds that the applicant shall demonstrate compliance with the provision of porous solid surface, excluding deck area as required in AMC 18.63.060.B.4.

The Planning Commission finds that the proposed Water Resource Protection Zone enhancement, including grading the artificial pond area, the proposed removal of four hazardous trees, the removal of non-native, noxious plants and the planting of native, riparian zone appropriate plantings is consistent with the requirements of AMC 18.63.120.

- 2.4 The Planning Commission finds that the proposed accessory residential unit complies with the requirements for accessory residential unit, Site Review and the Conditional Use Permit criteria. The unit complies with the required setbacks and lot coverage allotments of the zone. The new unit is orientated towards the driveway. The accessory residential unit is less than 50 percent of the square footage of the primary residence, and the two required parking spaces required for the unit are provided. The required trash and recycle area is provided for the accessory residential unit.

The Planning Commission finds that adequate key city facilities can be provided to serve the project 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. Oak Street is classified as an avenue (Major Collector) and will continue to operate at acceptable levels with build-out of the proposed project. Access to the site will continue to be provided off a flag driveway along the north property line. The water service is proposed to be upgraded. Adequate electric service exists that will continue to service the site.

The proposed accessory residential unit will not have adverse material effect on the livability of the impact area. The property is 44,524 square feet in area, the target use of the zone is one residence per 5,000 square foot; the accessory unit will not negatively affect the generation of traffic, light, noise, glare, dust or odors. The unit is similar in bulk and scale and architectural compatible with other single family residences and accessory residential units in the impact area.

- 2.5 The Planning Commission finds that the 13 trees proposed for removal in conjunction with the project comply with the criteria for removal of non-hazard and hazardous trees. Ten of the trees proposed for removal are within the Ashland Floodplain Corridor including four within the Water Resource Protection Zone and the FEMA Floodplain. The trees proposed for removal have been evaluated by a Certified Arborist. The four trees near the creek have dead tops and are in decline, the other nine are within the proposed building footprint or in the driveway and parking area.

SECTION 3. DECISION

- 3.1 Based on the record, the request for a Physical and Environmental Constraints Review Permit approval to construct a new single family residence with an attached garage, a Conditional Use Permit approval for an Accessory Residential Unit and a Tree Removal Permit request 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 #2014-00307. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2014-00307 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 here.
- 2) That building permit submittals shall include:
 - a) The new residence shall demonstrate compliance with Solar Setback Standard A. The building permit submittals shall include identification of the highest shadow producing point, identification of the height of the shadow producing point from natural grade and the solar setback measurement called out to the north property line.
 - b) That individual lot coverage shall not exceed 50 percent of the lot area in accordance with the lot coverage regulations of the zoning district. Lot coverage calculations including all impervious surfaces shall be provided with building permit submittals.
 - c) That the Fire Department requirements for Fire Apparatus Access shall be complied with either through the installation of a fire truck turnaround or fire sprinklers. Evidence of compliance shall be provided for with the building permit submittals.
 - d) That the patio area at the rear of the residence which encroaches into the Water Resource Protection Zone shall comply with the requirements of AMC 18.63.060.B.4 and shall be constructed of porous, solid surface, excluding a deck.
 - e) The proposed Accessory Residential Unit shall be constructed with a slab on grade foundation.
- 3) That prior to the issuance of a building permit:
 - a) Tree protection fencing shall be installed according to the approved Tree Protection Plan

prior to any site work, storage of materials or permit issuance. The tree protection shall be chain link fencing six feet tall and installed in accordance with 18.61.200.B. The tree protection plan shall be modified to address the 80-foot recommended tree protection zone for the 64-inch DBH Black Poplar tree on the southeast property line.

- b) A Tree Verification Permit shall be applied for and approved by the Ashland Planning Division prior to permit issuance, site work, building demolition, and/or storage of materials. The Verification Permit is to inspect installation of tree protection fencing for the trees to be retained on site, and on adjacent properties.
 - c) The FEMA Floodplain boundary shall be identified on site and protected with silt fencing, and the installation of this silt fencing at the Floodplain line shall be inspected and approved by the Staff Advisor prior to the issuance of a building permit.
- 4) That prior to the issuance of a certificate of occupancy:
- a) That the lowest habitable floor elevation shall be a minimum of two feet above the 100 year Floodplain level and shall be certified (by a registered surveyor) at two-feet above the FEMA base flood elevation or at or above the City of Ashland Flood Plain Corridor elevation, whichever is greater, in compliance with 18.62.070.D.
 - b) There shall be at least three off-street parking spaces situated in such a manner as to eliminate the necessity for backing out installed on site. These parking spaces shall be shown on the building permit submittals for the primary residence, and shall be installed prior to the issuance of a certificate of occupancy for the new primary residence.
 - c) Two additional parking spaces shall be installed on site in such a manner to eliminate the necessity for backing out prior to the issuance of the certificate of occupancy for the Accessory Residential Unit.
 - d) The driveway area shall be signed as a no parking, fire apparatus access land if deemed necessary by the Fire Department and the building official to maintain required fire apparatus access. The vegetation along the driveway shall be pruned to achieve a width of 20-feet wide and 13.6-feet vertical clearance.
 - e) That a separate electric meter for the accessory residential unit shall be installed in accordance with Ashland Electric Department requirements prior to issuance of the certificate of occupancy.
 - f) That an opportunity to recycle site shall be located on the site, or an individual recycle bin shall be provided to the accessory residential unit in conformance with 18.72.040 prior to issuance of the certificate of occupancy for the accessory residential unit.

Planning Commission Approval

Date

**BEFORE THE PLANNING COMMISSION
July 8, 2014**

IN THE MATTER OF PLANNING ACTION #2014-00734, A REQUEST FOR)
OUTLINE AND FINAL PLAN APPROVAL UNDER THE PERFORMANCE)
STANDARDS OPTION AND SITE REVIEW APPROVAL FOR A FOUR) **FINDINGS,**
UNIT, FIVE LOT ATTACHED WALL SINGLE FAMILY DEVELOPMENT.) **CONCLUSIONS**
THE REQUEST INCLUDES A TREE REMOVAL PERMIT TO REMOVE THREE) **AND ORDERS**
TREES)
)
)
APPLICANT: ALAYA PROPERTIES, LLC)

RECITALS:

- 1) Tax lot #5500 of Map 39 1E 10CB is located at 1163 Iowa Street and is zoned R-3, High-Density Multi-Family Residential.
- 2) The applicants are requesting Outline and Final Plan Approval under the Performance Standards Option, and Site Review approval to construct a four-unit, five-lot attached wall, single family residential development including tree removal for six trees on-site for the property located at 1163 Iowa Street. Site improvements are outlined on the plans on file at the Department of Community Development.
- 3) **The criteria for Outline Plan approval are described in AMC 18.88.030**
 - 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.*

The criteria for Final Plan approval are described in AMC 18.88.030

- 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.*

In addition, the criteria for Site Review approval are described in AMC 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.*

Lastly, the criteria for a Tree Removal Permit are described in Chapter 18.61.080 as follows:

- A. *Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.*
 - 1. *A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.*
 - 2. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.*
- B. *Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:*

1. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and*
2. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and*
3. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property.*

The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. Nothing in this section shall require that the residential density be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.

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

4) The Planning Commission, following proper public notice, held a public hearing on June 10, 2014 at which time testimony was received and exhibits were presented. This hearing was closed. Subsequent to the closing of the hearing, the Planning Commission approved the application subject to conditions pertaining to the appropriate development of the site.

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

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the 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 proposal to develop a five-lot, four-unit, attached wall single family residential development meets all applicable criteria described in the Performance Standards Options chapter 18.88.
- 2.3 The Commission finds that adequate key City facilities can be provided to serve the project 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. Iowa Street is classified as an avenue (Major Collector) and will continue to operate at acceptable levels with build-out of the proposed project. Access to the new units at the rear of the site will be provided off a flag driveway along the east property line. The existing residence will have a parking space in the existing driveway on the west side of the property and fronts on Iowa Street. The garages for three units will be accessed from the driveway. An eight-inch sanitary sewer line exists in the Iowa Street right-of-way to serve the new residences. A new water services will be installed from the main line in Iowa Street to serve the site. Electric service will be installed underground to serve the existing adjacent properties and proposed residences, a transformer is proposed adjacent to the existing driveway.
- 2.4 The Commission finds that development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan. The surrounding area contains single-family residences, multi-family housing and professional office buildings.
- 2.5 The Commission finds the proposed density of four-units complies with the base density standards established under the Performance Standards Options for the Multi-Family Residential (R-3) zone. The property's R-3 zoning designation and lot area of .29 acre permit a base density of 5.9 units and a minimum density of 80 percent of 5.9 units (.29 acres x 20 dwelling units per acre = 5.9 X .80 = 4.72 dwelling units).
- 2.6 The Commission finds that the open space, common area and lot coverage as required in the Ashland Municipal Code are met and will meet the standards for open space and lot coverage compliance.
- 2.7 The Commission finds that the proposed four-unit, five-lot development complies with the Site Design and Use Standards. The units comply with the required setbacks of the zone, the new units are orientated towards the driveway, and the existing residence will remain as is. The new units have a variety of window and door designs, variations to height, massing and scale which complies with the Site Design and Use Standards. The Commission finds that adequate city facilities exist or can be provided to meet the requirements of the development.
- 2.8 The Commission finds that on-site parking meets ordinance requirements through the provision of garages and surface parking spaces.
- 2.9 The Commission finds that the three trees proposed for removal in conjunction with the project comply with the criteria for removal of non-hazard and hazardous trees. The trees proposed for

removal include a 36-inch DBH Box Elder located adjacent to the driveway along the east property line and two apple trees, 12 and 16-inches DBH which are at the rear of the property. The apple trees proposed for removal are within the developable area for the new units. The Box Elder was reviewed by a licensed arborist who found the tree to be in hazardous condition.

SECTION 3. DECISION

3.1 Based on the record, the request for an Outline and Final Plan approval under the Performance Standards Option and Site Review criteria for a four-unit, five-lot single-family attached wall development for the property located at 1163 Iowa Street. The Tree Removal Permit request to remove three trees on the site 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 #2014-00734. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2014-00734 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 here.
- 2) That all easements for sewer, water, electric and streets shall be indicated on the final survey plat as required by the City of Ashland.
- 3) That a utility plan for the project shall be submitted with the building permit application. 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. Any required private or public utility easements shall be delineated on the utility plan.
- 4) The water meters within the sidewalk shall be installed behind the Iowa Street sidewalk and if required by the City of Ashland Water Department a public utility easement shall be provided.
- 5) That the storm drainage plan including the design of off-site storm drain system improvements shall be submitted with the building permit application. The permanent maintenance of on-site storm water detention systems must be addressed through the obligations of the Homeowners' Association and approved by the Public Works Department and Building Division.
- 6) That the applicant shall submit an electric distribution plan with the building permit application including load calculations and locations of all primary and secondary services including transformers, cabinets, meters and all other necessary equipment. This plan shall be reviewed and approved by the Electric Department prior to issuance of the building permit application. Transformers and cabinets shall be located in areas least visible from streets, while considering the access needs of the Electric Department. The electric line servicing the site shall be installed underground.
- 7) That all required utility improvements as outlined in AMC 18.80.060.B shall be installed or an agreement for installation shall be executed between the property owner and the City of Ashland

- 8) That the recommendations of the Ashland Tree Commission, with final approval by the Staff Advisor, shall be incorporated into the Landscape Plan and Tree Protection and Removal Plan.
- 9) That one tree shall be planted in the common space, open space or private yard areas in accordance with 18.61.084 as mitigation for the removal of the tree on site. The landscaping plan provided at the time of the building permit shall include and identify the mitigation trees.
- 10) That a Verification Permit in accordance with 18.61.042.B shall be applied for and approved by the Ashland Planning Division prior to removal of the tree on site and 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 the tree protection fencing. 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.
- 11) That an irrigation plan shall be submitted for review and approval with the building permit submittals.
- 12) That a draft copy of the CC&R's for the Homeowners Association is provided at the time of building permit application. CC&R's shall describe responsibility for the maintenance of all common areas and open space improvements, driveway and parking maintenance, and street trees. The CC&R's shall include language requiring the garages be available for parking.
- 13) 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 this Site Review approval shall be submitted and approved prior to issuance of a building permit.
- 14) That exterior building colors shall not be very bright primary or neon-type paint colors in accordance with the Multi-Family Residential Development Standards. Exterior building colors shall be specified on the building permit submittals.
- 15) The setback requirements of 18.88.070 shall be met and identified on the building permit submittals including but not limited to the required width between buildings as described in 18.88.070.D.
- 16) That Solar Setback calculations demonstrating compliance with Solar Setback A in accordance with Chapter 18.70 of the Ashland Land Use Ordinance shall be provided with the building permits. Solar setback calculations shall be submitted with each building permit and include the required setback with the formula calculations.
- 17) That solar setback calculations demonstrating that the solar performance standards allowing a shadow of no more than four-feet above the finished floor of the proposed residence on Lot #2 shall be provided with the building permit submittals.

- 18) Lot coverage calculations including all impervious surfaces shall be submitted with the building permits.
- 19) That exterior lighting shall be shown on the building permit submittals and appropriately shrouded so there is no direct illumination of surrounding properties.
- 20) That the flag-driveway shall meet fire apparatus access road requirements, and shall be paved prior to issuance of the certificate of occupancy. A No Parking Fire Lane sign shall be installed along the driveway.
- 21) That all bicycle parking facilities including the proposed hanging bike racks shall be installed in the garages for each unit prior to the issuance of the certificate of occupancy.

Planning Commission Approval

Date

BEFORE THE PLANNING COMMISSION
July 8, 2014

IN THE MATTER OF PLANNING ACTION PA#2014-00737, A REQUEST FOR)
MODIFICATIONS OF THE ROGUE VALLEY GROWERS & CRAFTERS MARKET) **FINDINGS,**
(RVG&CM) CONDITIONAL USE PERMIT (PA #2011-00153) WHICH ALLOWS THE) **CONCLUSIONS,**
CLOSURE OF ONE BLOCK OF OAK STREET IN THE DOWNTOWN FOR A WEEKLY) **AND ORDERS**
SATURDAY MARKET. THE MODIFICATIONS REQUESTED ARE: 1) TO ALLOW)
VENDORS TO SELL THE SAME GOODS AS THEIR OTHER MARKETS IN THE
ROGUE VALLEY, WITH THE EXCEPTION OF HOT PREPARED FOODS ; 2) TO
ALLOW THE MARKET’S SEASON AND HOURS TO MIRROR OTHER MARKETS IN
THE ROGUE VALLEY WHICH RUN FROM MARCH THROUGH NOVEMBER, AND
TO BEGIN THE STREET CLOSURE AT 6:30 A.M.; 3) TO ALTER THE APPROVED
BOOTH CONFIGURATION TO CREATE A SIDEWALK ACCESS POINT BETWEEN
VENDOR BOOTHS AT THE ENTRANCE TO THE ALLEYWAY ON THE WEST SIDE
OF OAK STREET TO BETTER ACCOMMODATE PEDESTRIAN AND WHEELCHAIR
TRAFFIC TO ADJACENT BUSINESSES.

APPLICANT: ROGUE VALLEY GROWERS & CRAFTERS MARKET

RECITALS:

- 1) The property involved is one block of Oak Street public right-of-way between East Main Street and Lithia Way, located within the C-1-D Commercial Downtown zoning district. The applicants are requesting to modify the existing Conditional Use Permit approval (**PA #2011-00153**) for the Rogue Valley Growers and Crafters Market’s closure of one block of Oak Street in the downtown for their weekly Saturday Market. The specific modifications requested are: **1)** To allow vendors to sell the same goods as are sold at their other markets in the Rogue Valley, with the exception of hot prepared foods. This would allow the sale of goods grown, produced, prepared or crafted by RVG&CM members who are farmers, ranchers, food processors and crafters. The vendors are currently limited to selling only fresh fruit, vegetables, flowers, bedding plants, meat, eggs, cheese, bread, pasta, dog bones, and jam, and are not to sell prepared food; **2)** To allow the market’s season and hours to mirror their other markets in the Rogue Valley, which run from March through November, and to begin the street closure at 6:30 a.m. The market is currently limited to a May through November season, and the Saturday closure is from 7:00 a.m. to 2:00 p.m. **3)** To alter the market’s approved booth configuration to create a sidewalk access point between vendor booths at the entrance to the alleyway on the west side of Oak Street in order to better accommodate pedestrian and wheelchair traffic to adjacent businesses.

- 2) The criteria for a Conditional Use Permit are 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.
- 3) The Planning Commission, following proper public notice, held a Public Hearing on June 10, 2014 at which time testimony was received and exhibits were presented. The Planning Commission approved the application, subject to conditions pertaining to the appropriate development of the site.

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

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the 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 proposed modification of the Rogue Valley Growers and Crafters Market's existing approval requires a Conditional Use Permit because it involves modification of a temporary, seasonal use within the C-1-D zoning district. Conditional Use Permits of this nature are reviewed to ensure that they will have no greater adverse material effect on the livability of the impact area than would development of the subject property according to the target use of the zoning district. Given that the nature of the request (*a seasonal, outdoor Saturday market within the downtown*) the primary areas of concern typically focus on the generation of traffic and parking impacts, air quality, noise, light and glare. A Conditional Use Permit for a temporary use could be approved administratively through a "Type I" procedure, however given that the proposal involved a change in the scope of products to be offered from the applicants' original, self-imposed limitations and that subsequent to the applicants' notifying neighboring businesses of the proposed modifications a number of comments expressing concern were submitted, the Staff Advisor opted to schedule the matter for a public hearing as allowed in AMC 18.108.040.A.7.

The Planning Commission further finds that the request for a Conditional Use Permit to operate a weekly Saturday growers and crafters open air market on Oak Street, between Lithia Way and East Main Street was approved administratively through Planning Action PA #2011-00153. That approval included a condition that after the first full season of operations, the applicants and city planning staff would conduct a meeting with interested neighboring residents and business owners to debrief on the season and identify any issues that may come to light after a full season of operations before the Conditional Use Permit was allowed to continue for additional seasons. This meeting was held on February 12, 2012 after proper notice, but only the applicants, neighboring business owner Alex Amarotico of Standing Stone Brewing Company, and city planning staff were in attendance. Amarotico spoke in strong support of the market continuing, and no other business owners or residents were in attendance although the minutes noted that staff had received e-mails and phone calls from Hanson Howard Gallery, Ashland Mountain Supply, Thread Hysteria and Northwest Nature Shop expressing general support of the market's continued operation in this location. The Planning Commission finds that the existing Conditional Use Permit has continued in good standing and remains in effect, and that consideration of the current request is limited to the modifications of the existing approval requested by the applicant and not in revisiting the merits of the original approval or altering its parameters.

2.3 The Planning Commission finds that the first requested modification would allow vendors to sell the same goods as at their other markets in the Rogue Valley, with the exception of hot prepared foods. This would allow the sale of goods "*grown, produced, prepared or crafted by RVG&CM members who are farmers, ranchers, food processors and crafters.*" The vendors are currently limited to selling only "*fresh fruit, vegetables, flowers, bedding plants, meat, eggs, cheese, bread, pasta, dog bones, and jam,*" and are not to sell prepared foods. The Planning Commission further finds that the current limitations were self-imposed by the applicants in the 2011 application to avoid selling products which might directly compete with downtown businesses and to encourage customers who were already downtown for the market to continue on to shop or dine at nearby downtown businesses.

The Planning Commission finds that public markets are generally beneficial uses which bring with them a sense of greater vitality and which enliven a city's downtown core. The Commission further finds that in administratively approving the applicants' Conditional Use Permit in 2011, staff found that the location was well-suited for a market, and that it would benefit neighboring businesses and their employees, residents and the community at large by providing convenient access to healthy, fresh locally grown food while energizing the area and hopefully generating "spill-over" sales to neighboring businesses.

The Commission notes that the application includes a petition in favor of the requested changes signed by a number of Ashland business owners or their authorized representatives, including: Caldera Tap House, Tabu, Tree House Books, Oberon's, Loft, Martolli's, Agave, Deli Downstairs, Lounge South, Mix Sweet Shop, Noble Coffee, The Black Sheep Pub, Pasta Piatti, Sesame, Northwest Nature Shop, Standing Stone, the Ashland Independent Film Festival, Papaya Living and Harvey's Place. The Commission also notes that after being made aware of the proposed modifications, representatives of surrounding businesses including Ashland Wine Cellar, the Stop and Shop market, Paddington Station, the Paddington Jewel, Emz Blendz Soap Company, All's Well Herb Shoppe, Rocky Mountain Chocolate Factory, Paris Green, Art F/X, Frederica Lawrence Fine Clothing, Reds Threads, Hanson Howard Gallery, Bella Terra Fine Jewelry, Nimbus, and the Book Exchange signed a petition asking that the market be limited to selling only produce and agricultural items and that the market day be moved to Sundays rather than Saturdays. Some of those in opposition also provided letters expressing concern over there being "no limits" on products that could be sold at the market, and that selling crafts would compete directly with adjacent businesses selling natural, hand-crafted products such as soaps and candles.

The Commission finds that while the application materials submitted did not include the Rogue Valley Growers and Crafters Market's guidelines, in reviewing materials available on-line from their web-site <http://www.rvgrowersmarket.com> and provided by staff, these guidelines generally require that: no less than 60 percent of the products offered at the market shall be agricultural in nature; that all crafts are to be made by a member with a purpose or theme interactive with agriculture and composed of predominantly locally grown agricultural products or by-products; and that crafts must be handmade, grown or gathered by the member, and hand-crafted components must dominate any commercial components used. Any commercial components must be transformed in a way that makes the work unique. Based on these guidelines, it seems clear that while the current request proposes to modify the allowed product offerings at the market, the products offered under the market would be limited to those of a predominantly agricultural character which would prevent the offering of a broad range of retail items such as books that were a concern expressed by some in opposition.

In considering the request, the Commission finds that the market's presence in the downtown poses a delicate balance as evidenced by the number of nearby businesses in support and in opposition to the proposed changes. While farmers' markets bring many benefits, they also bring vendors downtown who have the advantages of using public right-of-way with none of the brick-and-mortar costs of established neighboring businesses in competing for what are often limited customer dollars. The Commission finds that the current limitations on product offerings originally proposed by the applicants were in recognition of this delicate balance, and that any change in this balance merits careful consideration. The Planning Commission finds that there is room to allow a broader range of agricultural items and their by-products while limiting some direct competition with downtown businesses that would result from the sale of non-agricultural crafted items at the market. The Commission accordingly finds that the products offered for sale at the Saturday Market shall be allowed to include goods grown, produced, prepared or crafted from locally produced agricultural products by Rogue Valley Growers and Crafters Market members who are farmers, ranchers, food processors and crafters. This would allow the sale of fruits, vegetables, plants and meats grown and raised by members as well as other agricultural items or their crafted byproducts including honey, bee's wax candles, and yarn. Food items, other than hot foods, which feature local agricultural products among their ingredients would be allowed, but the sale of items not made from locally produced agricultural products such as pottery, exotic wood products like cutting boards, jewelry, etc. would be prohibited.

2.4 The Planning Commission finds that the second requested modification includes two component requests. The first would allow the market's season to mirror the applicants' other markets in the Rogue Valley, which run from March through November, and the other would allow the approved street closure to begin at 6:30 a.m. so that vendors could begin unloading their materials earlier in the morning.

The Planning Commission finds that the market is currently limited to a May through November season, and that the proposed modification would allow them to begin the market two months earlier, in March. The Commission finds that an earlier season might bring more people to the downtown at a slower time of year, and would be beneficial in that sense, and would also allow for a degree of consistency for the applicants' advertising throughout the region.

With regard to an earlier start to the street closure, the Planning Commission finds that during testimony at the hearing it was noted that there are a number of upstairs apartments on this block and that residents could be adversely impacted by the generation of noise from vendors unloading prior to 7:00 a.m. The Planning Commission finds that there is insufficient evidence in the record to demonstrate that an earlier street closure and the resultant generation of noise from the unloading of vendor vehicles before 7:00 a.m. would be adequately mitigated.

2.5 The Planning Commission finds that the third and final requested modification, which would allow alteration of the market's approved booth configuration to create a sidewalk access point between vendor booths at the entrance to the alleyway on the west side of Oak Street in order to better accommodate pedestrian and wheelchair traffic to adjacent businesses, was proposed as a result of concerns expressed by neighboring businesses last season that the continuous booth configuration originally approved effectively cut off market customers from access to the sidewalk and adjacent businesses. The Commission finds that this change was actually implemented last season in response to those concerns, has worked well, and has been included in the request here to formalize the modification. The Commission finds that the change is beneficial in helping the market better relate to the sidewalk and adjacent businesses and therefore merits approval.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the component requests to modify the existing Conditional Use Permit approval (**PA #2011-00153**) for the Rogue Valley Growers and Crafters Market to allow the market's season to mirror other markets in the Rogue Valley which run from March through November, and to allow the market's approved booth configuration to create a sidewalk access point between vendor booths at the entrance to the alleyway on the west side of Oak Street in order to better accommodate pedestrian and wheelchair traffic to adjacent businesses, is supported by evidence in the record.

The Planning Commission further concludes that with regard to the market's allowable vendor offerings that the products offered for sale at the Saturday Market shall be allowed to include goods grown, produced, prepared or crafted from locally produced agricultural products by Rogue Valley Growers and Crafters Market members who are farmers, ranchers, food processors and crafters. This would allow the sale of fruits, vegetables, plants and meats grown and raised by members as well as other agricultural items or their crafted byproducts including honey, bee's wax candles, and yarn. Food items, other than hot foods, which feature local agricultural products among their ingredients would be allowed, but the sale of items not made

from locally produced agricultural products (such as pottery, exotic wood products like cutting boards, jewelry, etc.) would be prohibited.

The Commission further concluded that the request to begin the street closure at 6:30 a.m. to allow earlier unloading of market wares by vendors could have adverse negative impacts to apartment dwellers on the block in generating noise before 7:00 a.m. and that this component of the request was not supported by evidence in the record. The Commission denied this component of the modification request.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #2014-00737. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2014-00737 is denied. The following are the conditions and they are attached to the approval:

- 1) That the proposals of the applicants shall be conditions of approval unless specifically modified herein. These proposals include but are not limited to that the market season may extend on Saturdays from March through November, that no *hot* prepared foods will be offered by market vendors, and that the market booth configuration may be altered as described in the application.
- 2) That the products offered for sale at the Saturday Market shall be allowed to include goods grown, produced, prepared or crafted from locally produced agricultural products by Rogue Valley Growers and Crafters Market members who are farmers, ranchers, food processors and crafters. This would allow the sale of fruits, vegetables, plants and meats grown and raised by members as well as other agricultural items or their crafted byproducts including honey, bee's wax candles, and yarn. Food items, other than hot foods, which feature local agricultural products among their ingredients shall be allowed. The sale of craft items not made from locally produced agricultural products (such as pottery, exotic wood products like cutting boards, jewelry, etc.) shall be prohibited.
- 3) That all conditions of Planning Action #2011-00153 shall remain in effect unless specifically modified herein, including that the street closure shall not begin prior to 7:00 a.m. and that the street shall be reopened to regular traffic no later than 2:00 p.m.

Planning Commission Approval

Date