

## Written Argument for Appeal on the Record for Planning Action #2022-00037

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To: Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

Written Arguments for PA-T2-2022-00037:

Responses for the City's numbers 3 and 4 under identified grounds for appeal:

### **3) That a member of the Historic Commission had ex parte contact with a member of the public outside of the public hearing;**

Response:

Per Historic Commission Draft Minutes for their April 6, 2022 meeting, "Hovenkamp disclosed that she had ex-parte contact with Mr. Brouillard, a neighbor who submitted his comments to the Commission via email. Hovenkamp expressed that this would have no impact on her decision moving forward."

On the evening of April 4, 2022, I, Mark Brouillard, received a phone call from Chair Hovenkamp of the City of Ashland Historic Commission, while I was eating dinner at St. Elmo in Indianapolis on a business trip and for this reason so I am unsure of the time of the call, but believe it was around 7:30PM EST.

She stated that she had reviewed my email (first one on the "Public Testimony Record") and wanted to relay to me that; she had reviewed it, and she understood the importance of having unbiased meetings. We did discuss where I was having dinner, and what I was having as well. For the record I had the St. Elmo world famous shrimp cocktail, Caesar salad, Prime ribeye with redskin mash potatoes, and crème brulee, and very thankful that I didn't have to pick up the bill.

With what you know of the conversation and the fact that I was in Indianapolis eating at a renowned restaurant, at a business dinner, I think you can see that Chair Hovenkamp's comments are accurate and true; "...this would have no impact on her decision moving forward."

### **4) That the standard in AMC 18.4.2.050.B.1 addressing Transitional Areas ("For projects located at the boundary between zones or overlays, appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment may be considered to address compatibility with the transitional area while not losing sight of the underlying standards or requirements applicable to the subject property.") was misapplied by the Planning Commission.**

Response:

Per Planning Commission Findings for PA-T2-2022-00037 – **Emphasis by Mark Brouillard**

'In considering the proposal as it relates to the Historic District Development Standards and in light of the Historic Commission's recommendation, **the Planning Commission finds that the standard addressing 'Transitional Areas' in AMC 18.4.2.050.B.1 is of particular importance here.** This standard provides that, *"For projects located at the boundary between zones or overlays, appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment may be considered to address compatibility with the transitional area while not losing sight of the underlying standards or requirements applicable to the subject property."* In this instance, the subject properties are located at the boundary between E-1(Employment) and R-3(High Density Multi-Family Residential), and there is M-1 (Industrial), C-1 (Commercial), and R-2 (Low Density Multi-Family Residential) zoning a short distance away. Similarly, the property is at the outer edge of the Skidmore Academy historic district, with district boundary to the north, the Railroad Addition historic district immediately

across Water Street, and the Downtown historic district a half-block to the south. **The Planning Commission finds that the subject properties are located within a transitional area, and that to address the transitional area standard, the building designs need to incorporate appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment to address compatibility with the transitional area which includes the existing historic residential block across Helman Street**, while not losing sight of the underlying standards and requirements applicable to the subject properties which are zoned E-1 (Employment).

The Planning Commission notes that the applicant provided a number of examples of more commercial scale buildings in the vicinity, many of which were historical buildings which are no longer standing, to demonstrate compatibility and the applicant also emphasized that the designs proposed were within the maximum allowances of the E-1 zone. **The Planning Commission finds that the transitional area standard is intended to address compatibility with the transitional area as it exists**, rather than with historic buildings which are no longer standing. AMC 18.4.2.050 explains " ... sensitivity to surrounding buildings and the existing land use patterns is essential to the success/id development (18.4.2.050.A. 1, emphasis added)" and "The City of Ashland has adopted ordinances to assure that all development in the Historic District overlay remains compatible with the existing integrity of the Historic District (18.4.2.050.A.2, emphasis added)." The drawings illustrating each design standard are described as applying to historic buildings "on and across the street (18.4.2.050.B.2)" or "in the immediate vicinity (18.4.2.050.B.3 & B.4)." **The Planning Commission further finds that considerations of compatibility are not limited to a simple comparison of the allowances of the zoning district** (i.e. the E-1 zone allowing a 40-foot height and 85 percent lot coverage where the R-3 zone allows a 35-foot height and 75 percent lot coverage does not mean that any building complying with the allowances of the E-1 zone is automatically compatible with historic buildings in an immediately adjacent R-3 zone), **but for transitional areas require "appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment" which address compatibility with the immediate vicinity while still considering the allowances of the underlying zone.** The Planning Commission concurs with the Historic Commission in finding that the three very similarly designed three story buildings facing Helman Street with heights of nearly 40 feet fail to achieve an appropriate scale and have heights and massing which, as designed, are not compatible with the adjacent historic streetscape. These issues are exacerbated by the buildings' very similar architectural and material treatments. The Planning Commission finds that here, measures such as setting the buildings back further and placing plaza space between the buildings and the sidewalk; providing a greater step back of the third-story from the second-story facade to better mitigate the height, mass and scale; providing greater variation in the architectural and material treatments; or placing lower buildings along Helman and taller buildings along Water and Van Ness could constitute "appropriate adjustments" to address compatibility with the transitional area by mitigating the buildings height, mass and scale, and could be accomplished without losing sight of the standards and requirements of the underlying E-1 zone. **The Planning Commission finds, however, that the designs as revised fail to address the recommendations provided in March; do not incorporate appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment to address compatibility;** and fail to satisfy the Historic Development Design Standards for height, scale and massing (AMC 18.4.2.050.B.2-B.4). The Planning Commission concludes that the application as presented has not sufficiently addressed the Historic District Development Standards, and as such cannot be found to have fully satisfied the approval criteria for Site Design Review.'

I, Mark Brouillard, believe that the above interpretation of AMC 18.4.2.050.B.1 was not misapplied and is correct in that "transitional areas" should take into consideration appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment may be considered to address compatibility with the transitional area while not losing sight of the underlying standards or requirements applicable to the subject property.

Also, there are other buildings in the vicinity of the transitional area that are "on or across" from the subject property and also E-1 with residential overlay. One is new and one is very old. The new one is the building on the corner of Van Ness Avenue and Helman Street (90 and 92 Van Ness and 200 and 202 Helman). It is a beautiful two story Victorian looking building with nice setbacks along with appropriate height, scale, placement, and massing; a perfect application of transitional areas. The very old is 152 Helman, which is a single story building dating back to 1860's and cannot go up in height due to solar setbacks. Since this building has been existing for a long time, it would be hard not to include it with regards to height, mass and scale.

Respectfully,

Mark Brouillard