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*The comments of this pre-app are preliminary in nature and subject to change based upon the submittal of additional or different information. The Planning Commission or City Council are the final decision making authority of the City, and are not bound by the comments made by the Staff as part of this pre-application.*

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**ASHLAND PLANNING DEPARTMENT**      **SITE:**                      74 Westwood St  
**PRE-APPLICATION CONFERENCE**      **APPLICANT:** Jonathan Hall  
**COMMENT SHEET**                              **REQUEST:**      Partition  
September 16, 2020

**PLANNING STAFF COMMENTS:**

*This pre-application conference is intended to highlight significant issues before the applicant prepares and submits a formal application. These comments are advisory only and do not constitute a decision.*

**General:** In staff’s assessment, the primary issue for a partition is that, as provided in AMC 18.5.3.060.B, *“For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.”* With the area of the existing driveway excluded from the area calculations, 74 Westwood’s area is only 0.86 acres and it thus could not be partitioned to create two ½-acre lots. Including the drive area in the area calculations would require a Variance to AMC 18.5.3.060.B. *If such a Variance were approved allowing the driveway to be considered in meeting the lot area requirement, the driveway improvements would then also need to be counted toward lot coverage. In this case, it appears that the existing driveway improvements by themselves could be at or over the 20 percent coverage allowed for a ½-acre lot, leaving little or no additional coverage available for development of the lot. In addition, the resulting lot configuration would not meet the minimum width requirements for the zone, and would also be questionable in terms of meeting the solar ordinance’s performance standard.*

**Land Partition:** The creation of up to three lots from a single parent parcel, with all lots fronting on a public street, can be handled through the Land Partition process in AMC 18.5.3.050 and would need to address the criteria in blue below:

**AMC 18.5.3.050 PRELIMINARY PLAT CRITERIA**

*The approval authority shall approve an application for preliminary partition plat approval only where all of the following criteria are met.*

- A. The future use for urban purposes of the remainder of the tract will not be impeded.***
- B. The development of the remainder of any adjoining land or access thereto will not be impeded.***
- C. The partition plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.***
- D. The tract of land has not been partitioned for 12 months.***

**E. Proposed lots conform to the requirements of the underlying zone, per part 18.2, any applicable overlay zone requirements, per part 18.3, and any applicable development standards, per part 18.4 (e.g., parking and access, tree preservation, solar access and orientation).**

- **Lot Area** – AMC 18.5.3.060.B provides that “*For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.*” As such, if the area of the existing driveway is excluded from the area calculations as required here, 74 Westwood’s area is only 0.86 acres and it thus could not be partitioned to create two ½-acre lots. Partitioning based on inclusion of the driveway area would require a Variance to 18.5.3.060.B.
- **Lot Width/Depth** – Within the RR zone, the minimum lot width is 100 feet and the minimum lot depth is 150 feet (and not more than 300 percent of the width). If a Variance were approved to allow inclusion of 74 Westwood’s driveway in meeting the minimum lot area requirement for partitioning, the resulting northernmost lot – *see staff illustration at the end of this document* - would not meet the minimum 100-foot lot width and would require an additional Variance.
- **Lot Coverage** - If a Variance were approved to allow inclusion of 74 Westwood’s driveway in meeting the minimum lot area requirement for partitioning, the driveway improvements would then also need to be counted toward lot coverage. In this case, it appears that the existing driveway improvements by themselves could be at or over the 20 percent coverage allowed for a ½-acre lot, leaving little or no additional coverage available for development of the northernmost lot.
- **Building Envelope:** The application would need to identify a modified building envelope for each of the lots complying with the required setbacks, outside of any physically constrained areas and able to comply with the applicable solar access standards. The original approval required a five-foot setback from the top of bank along the top of the creek corridor; that creek corridor is now also protected as an Intermittent/Ephemeral Stream and also has a water resource protection zone extending 30 feet upland of its centerline which would need to be incorporated in the envelope(s). Each of the lots served by the flag drive is required to illustrate a 20-foot by 20-foot useable yard area and to accommodate three parking spaces situated to allow turning and exiting to the street in a forward manner, as required in the flag lot partition standards and the original lot creation.
- **Solar Access Performance Standard (AMC 18.4.8.040)** – With a partition the application would need to demonstrate that a 21-foot high structure could be place on the lot with a required solar setback that did not exceed 50 percent of the north-south dimension of the lot, or provide a solar envelope that would comply with solar access “Standard A”. Based on the likely lot configuration, the placement of a 21-foot high structure would be questionable for the northernmost lot and a solar envelope would likely be required. *(This would mean that multi-story development would be questionable, which would increase lot coverage.)*

**F. Accesses to individual lots conform to the standards in section 18.4.3.080 Vehicle Area Design. See also, 18.5.3.060 Additional Preliminary Flag Lot Partition Criteria.**

54-74 Westwood St/dds

September 16, 2020

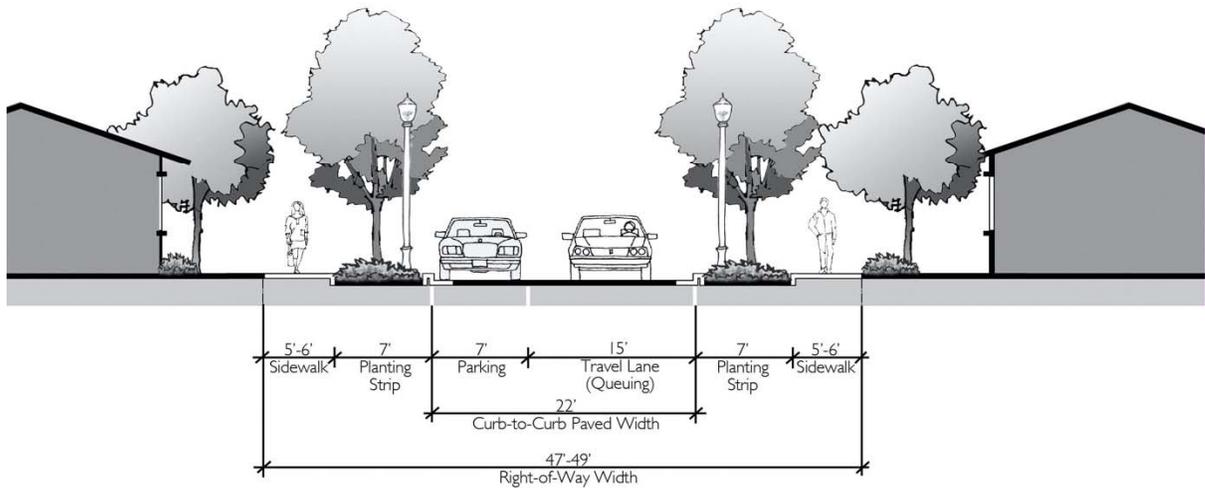
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- As discussed above, a flag driveway is normally excluded from the calculation of minimum lot area for the zoning district. This means that paving within the flag drive is also typically excluded from lot coverage calculations. *(Note, however, that paving within easements north and south of the existing driveway for 54 Westwood would count toward lot coverage for those lots and variances would be necessary if driveway improvements pushed them beyond their allowed lot coverage. 48 Westwood, south of the driveway, has a deed restriction in place which reduces its lot coverage allowance to approximately 15 percent.)*
- A flag driveway can serve no more than two lots. As the existing driveway serving 74 and 86 Westwood already serves two lots, an additional lot could not be created to take access from this driveway.
- If the driveway to the south, serving 54 Westwood, could be made to meet the width requirements to serve two lots (i.e. a 15-foot wide paved driving surface in a 20-foot clear width) it *may* be able to support the creation of an additional lot. The applicant would need to demonstrate that the easements available adjacent to the driveway could accommodate this reconfiguration of the driveway, and that existing utility infrastructure was not placed so as to preclude achieving the necessary driveway width.

***G. The proposed streets, utilities, and surface water drainage facilities conform to the street design standards and other requirements in part 18.4, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.***

- The application for a partition would need to speak to the adequacy of streets, utilities and drainage to serve an additional lot. Utilities (water, sewer, electric, storm drainage) would typically need to be extended to the newly created lot prior to signature of the final plat. With regard to streets, Westwood Street is a residential neighborhood street and would generally need to be improved to the cross-section illustrated in AMC 18.4.6.040.G.4.b, see below, or an Exception to Street Standards requested. *(If the street is not improved to these standards, the lots would likely need to sign-in favor of a future Local Improvement District (LID) to participate proportionally in any future street improvement project.)*

Prototypical Section: Residential Neighborhood Street, Parallel Parking One Side



**Rural Residential Zone Standards** – As part of #2 above, the application would need to demonstrate that the lots as adjusted would comply with the Standards for the Rural Residential (RR) zone detailed in the table below, including that each lot as adjusted can and will meet lot coverage, minimum lot width and depth; standard yard requirements; etc.:

<b>Table 18.2.5.030.C – Standards for Rural Residential (RR) Zone</b> (Except as modified under chapter 18.5.5 and Variances or chapter 18.3.9 Performance Standards Option.)		
Minimum Lot Area and Maximum Density <sup>1</sup>  See also 18.2.5.080 Residential Density.	<b>Zone</b>	<b>Min. Lot Size*</b>
	RR-.5	0.5 acre
	RR-1 RR-2.5	1 acre 2.5 acres
<sup>1</sup> The minimum lot size depends on the topographic nature, service availability, surrounding land uses, and other relevant characteristics of the area.		
Lot Coverage – Maximum (% of lot area) <sup>2</sup>	<b>Lot Type</b>	<b>Lot Coverage</b>
	RR-.5	20%
	RR-1 RR-2.5	12% 7%
<sup>2</sup> A total area up to 200 sf or 5% of the permitted lot coverage, whichever is less, may be developed in an approved, porous solid surface that allows storm water infiltration, and is exempt from the lot coverage maximum; the porous solid surface exemption does not apply to driveways and parking areas.		
Lot Width - Minimum (feet)	100 ft	
Lot Depth - Minimum and Maximum (feet)	150 ft and not more than 300% of width	

<b>Table 18.2.5.030.C – Standards for Rural Residential (RR) Zone</b> (Except as modified under chapter 18.5.5 and Variances or chapter 18.3.9 Performance Standards Option.)	
Standard Yards – Minimum <sup>3</sup> (feet)	
- Front – Standard	20 ft
- Side – Standard, except:	6 ft
- Side – Corner-Street/Alley Side	10 ft
- Rear – Single-Story Building	10 ft
- Rear – Multi-Story Building	10 ft per Bldg Story
<sup>3</sup> See sections 18.2.4.050 and 18.2.5.060 for yard exceptions, and 18.2.5.040 for accessory structure setback exceptions; additional setbacks may be required to avoid easement encroachments, and to comply with Solar Access requirements in chapter 18.4.8.	
Maximum Building Height	35 ft or 2 ½ stories, whichever is less; except the height of agricultural structures is not limited, when the structure is placed 50 feet or more from all property lines.

**Variances:** If Variances were needed to allow inclusion of the driveway’s area, to allow a lot width less than the minimum or lot coverage in excess of the maximum allowed, the application would need to demonstrate that the criteria in blue below were addressed for each one:

1. *The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.*
2. *The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.*
3. *The proposal’s benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.*
4. *The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant.*

Variances are discretionary approvals and require strong justification that the criteria are satisfied. Where an application requires multiple Variances the Planning Commission may determine that the proposal is not in keeping with standards or appropriate in its district.

**Tree Protection/Tree Removal:** As required in AMC 18.4.5.030, a tree protection plan shall be approved by the Staff Advisor concurrent with applications for Type I, Type II, and Type III planning actions. If the removal of significant trees is proposed, a Tree Removal Permit pursuant to AMC 18.5.7 is required.

**Neighborhood Outreach:** Projects involving changes to established neighborhood patterns can be a concern for neighbors. Staff always recommends that applicants approach the affected neighbors, make them aware of the proposal, and try to address any concerns as early in the process as possible. Notices are typically sent to neighbors within a 200-foot radius of the property.

**Written Findings/Burden of Proof:** This pre-application conference is intended to highlight significant issues of concern to staff and bring them to the applicant's attention prior to their preparing a formal application submittal. Applicants should be aware that written findings addressing the ordinance and applicable criteria are required, and are heavily depended on when granting approval for a planning action. In addition, the required plans are explained in writing below. The burden of proof is on the applicant(s) to ensure that all applicable criteria are addressed in writing and that all required plans, written findings, and other materials are submitted even if those items were not discussed in specific, itemized detail during this initial pre-application conference.

## **OTHER DEPARTMENTS' COMMENTS:**

**FIRE DEPARTMENT:** The Fire Department had no comments on the proposal. Please contact Ralph Sartain from the Fire Department for any Fire Department-related information at 541-552-2229 or [ralph.sartain@ashland.or.us](mailto:ralph.sartain@ashland.or.us) .

**BUILDING DEPARTMENT:** *“Building comments will address fire separation requirements. As long as all building located near proposed lot lines have a minimum separation of 3’ from eaves to proposed property lines, then there will be no building code issues triggered by the lot line adjustment. A site plan showing existing and proposed buildings and property lines will aid in determining compliance with these standards.”* Please contact the Building Division for any further information at (541) 488-5305.

**CONSERVATION DEPARTMENT:** For more information on available water conservation programs, including any available appliance rebates or assistance with landscaping and irrigation system requirements, please contact Water Conservation Specialist Julie Smitherman of Conservation Division at 541-552-2062 or via e-mail to [julie.smitherman@ashland.or.us](mailto:julie.smitherman@ashland.or.us) . For information on any financial or technical assistance available for the construction of Earth Advantage/Energy Star buildings, please contact Conservation Analyst/Inspector Dan Cunningham at 541-552-2063 or via e-mail to [dan.cunningham@ashland.or.us](mailto:dan.cunningham@ashland.or.us)

**PUBLIC WORKS DEPARTMENT (Engineering, Streets, Utilities):** The Public Works Department had no comments at this time. For any further information, please contact Karl Johnson in the Engineering Division at (541) 552-2415 or via e-mail to: [karl.johnson@ashland.or.us](mailto:karl.johnson@ashland.or.us).

**ELECTRIC DEPARTMENT:** Please contact Dave Tygerson with the Electric Department at 541-552-2389 for service requirements and fee information.

**WATER AND SEWER SERVICE:** *“Please see attached, also the property that will acquire the well will need to install an RPZ backflow device directly behind or “downstream” from their domestic water meter. Please contact Steve Walker Ashland Water Dept. for further information, this is a requirement for anyone having an alternate source of water on their property other than City water.”* See additional comments at the end of this document. Please contact Steve Walker of the Water Quality Division for any further information at 541-552-2326 or via e-mail to [walkers@ashland.or.us](mailto:walkers@ashland.or.us).

**OREGON DEPARTMENT OF TRANSPORTATION(ODOT):** *“ODOT does not have any comments about the referenced submittal.”* For any ODOT-related information, please contact Micah Horowitz, AICP, Development Review Planner, ODOT Southwestern Region, 100 Antelope Rd., White City, OR 97503. **Phone:** 541.774.6331 **E-Mail:** [Micah.HOROWITZ@odot.state.or.us](mailto:Micah.HOROWITZ@odot.state.or.us)

## PROCEDURE

A Land Partition is subject to a “Type I” procedure which includes an administrative decision made following public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission. *(A Variance would also be a “Type I” decision for up to a 20 percent width reduction, or up to go beyond lot coverage by up to 10 percent. Inclusion of the driveway in area calculations would necessitate a “Type II” decision with a public hearing before the Planning Commission. Similarly, the likely lot configuration in the staff illustration at the end of this document has an average lot width of approximately 66 feet for the northernmost lot, which would necessitate a “Type II” decision with a public hearing before the Planning Commission.)*

## APPLICATION REQUIREMENTS

### Submittal Information.

The application is required to include all of the following information.

- a. The information requested on the application form at:  
<http://www.ashland.or.us/Files/Zoning%20Permit%20Application.pdf>
- b. Plans and exhibits required for the specific approvals sought (see below).
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail (see below).
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, *as applicable*.
- e. The required fee (see below).

The Ashland Land Use Ordinance, which is Chapter 18 of the Municipal Code, is available on-line in its entirety at: <https://ashland.municipal.codes/LandUse>

### Written Statements

Please provide two copies of a written statements explaining how the application meets the approval criteria from the sections of the Ashland Municipal Code listed below. These written statements provide the Staff Advisor or Planning Commission with the basis for approval of the application:

- **Preliminary Partition Plat Criteria:** AMC 18.5.3.050
- **Exception to Street Standards:** AMC 18.4.6.020.B
- **Variance (if applicable):** AMC 18.5.5.050
- **Tree Removal Permit (if applicable):** AMC 18.5.7.040

### Plans & Exhibits Required

Please provide two sets of exhibits (plans or drawings) addressing the submittal requirements from

the sections of the Ashland Municipal Code listed below. These exhibits are used to copy the Planning Commission packets and for notices that are mailed to neighbors. Please provide two copies on paper no larger than 11-inches by 17-inches and reproducible copies that are drawn to a standard architect's or engineer's scale and/or electronic copies formatted to be printed to scale at 11-inches by 17-inches.

- **Preliminary Plat Submissions:** AMC 18.5.3.040
- **Exception to Street Standards:** AMC 18.4.6.020.B
- **Tree Protection Plan:** AMC 18.4.5.030
- **Tree Removal Permit (if applicable):** AMC 18.57.030
- **Variance (if applicable):** AMC 18.5.5.040

**PLANNING APPLICATION FEES:**

<b>Land Partition:</b>	\$1,092 + \$72.50 per lot*
<b>Exceptions:</b>	\$ 0
<b>Variances (if applicable):</b>	\$1,092 (Type I) or \$2,190.75 (Type II) each
<b>Tree Removal (if applicable):</b>	\$ 0

**NOTES:**

- *Fees are set to increase based on annual CPI rate in the near future. Applications would be subject to the fees in effect at the time of application.*
- *Applications are accepted on a first come-first served basis.*
- *Applications are reviewed for completeness in accordance with ORS 227.178.*
- *All applications received are reviewed and must be found to be complete before being processed or scheduled at a Planning Commission meeting.*
- *Applications will not be accepted without a complete application form signed by the applicant(s) and property owner(s), all required materials and full payment.*

**For further information, please contact:**

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Derek Severson, *Senior Planner*  
City of Ashland, Department of Community Development  
Phone: 541-552-2040 or e-mail: [derek.severson@ashland.or.us](mailto:derek.severson@ashland.or.us)

\_\_\_\_\_  
September 16, 2020

Date

## **Water Department Pre-Application Comments**

If the project requires additional water services or upgrades to existing services, the Ashland Water Department will excavate and install in the city right of way all water services up to and including the meter on domestic and commercial water lines. If a fire line is required, the water department will only install a stub out to the location where the double check detector assembly (DCDA) or reduced pressure detector assembly (RPDA) complete with a Badger brand cubic foot bypass meter should be placed in a vault external to the building. The vault and the DCDA or RPDA device housed in it are the responsibility of the property owner and should be placed at the property line. Fees for these installations are paid to the Water Department and are based on a time and materials quote to the developer or contractor. Meter sizes and fire line diameters will need to be provided to the Water Department at the time of a quote being requested.

The Ashland Water Department also requires new projects to comply with all current cross connection rules and regulations, which may require backflow prevention devices to be placed at the potential hazard or just behind the meter or connection for premises isolation depending on the degree of hazard, type of intended use of the facility or even the geographical location of the building or facility.

Please Contact Steve Walker by phone at 541-552-2326 or via e-mail to [walkers@ashland.or.us](mailto:walkers@ashland.or.us) to discuss the intended use of the facility or property and any potential cross connection hazards associated with it or for any questions regarding water connections.

