
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.

**ASHLAND PLANNING DEPARTMENT
PRE-APPLICATION CONFERENCE
COMMENT SHEET**
September 23, 2020

SITE: 95 Winburn
APPLICANT: Rogue
REQUEST: Property Line Adjustment,
Partition & Variance

PLANNING STAFF COMMENTS:

This pre-application conference is intended to highlight significant issues before the applicant prepares and submits a formal application.

General: Either a land partition or a property line adjustment would need to address the applicable standards and criteria from AMC 18.5.3. It appears that a Type II Variance would be necessary for a land partition due to the proposed lot width, and the final application submittal would need to thoroughly address the Variance criteria. Variances are discretionary approvals, and can be difficult to successfully justify.

Property Line Adjustment (AMC 18.5.3.120): A Property Line Adjustment would need to address the criteria in blue below:

*B. **Approval Criteria.** The Staff Advisor shall approve or deny a request for a property line adjustment in writing based on all of the following criteria.*

- 1. **Parcel Creation.** No additional parcel or lot is created by the lot line adjustment.*
- 2. **Lot Standards.** Except as allowed for nonconforming lots, pursuant to chapter 18.1.4, or as required by an overlay zone in part 18.3, all lots and parcels conform to the lot standards of the applicable zoning district, including lot area, dimensions, setbacks, and coverage, per part 18.2. If a lot does not conform to the lot standards of the applicable zoning district, it shall not be made less conforming by the property line adjustment. As applicable, all lots and parcels shall identify a buildable area free of building restrictions for physical constraints (i.e., flood plain, greater than 35 percent slope, water resource protection zones).*
- 3. **Access Standards.** All lots and parcels conform to the standards in section 18.4.3.080 Vehicle Area Design. Lots and parcels that do not conform to the access standards shall not be made less conforming by the property line adjustment.*

Land Partition (AMC 18.5.3.050): 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 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 Width** – The minimum lot width for the R-1-7.5 zoning district is 65 feet. If the average width of the lot was less than 65 feet, a Variance would be required. Variance criteria are discussed below. A Variance of more than ten percent – i.e. an average lot width less than 58.5 feet – would require a Type II procedure, with a decision through a hearing at the Planning Commission.
- **Solar Access Performance Standard (AMC 18.4.8.040)** - The application would need to demonstrate that a 21-foot high structure could be placed 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”.

- 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.*
- 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.*

Building Envelope (18.3.10.090.A.2/18.5.3.120.B). Given that the lot appears to contain slopes in excess of 35 percent in some areas, a newly created lot through a subdivision or partition would need to identify a building envelope with a slope of 35 percent or less. Similarly, a property line adjustment requires identification of “*a buildable area free of building restrictions for physical constraints (i.e., flood plain, greater than 35 percent slope, water resource protection zones).*”

Variance: It appears that a Variance would be required in terms of lot area, lot width, *etc.*, the application materials would need to address the criteria in blue from AMC 18.5.5.050 below:

- A. The approval authority through a Type I or Type II procedure, as applicable, may approve a variance upon finding that it meets all of the following criteria.*
 - 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.*

B. In granting a variance, the approval authority may impose conditions similar to those provided for conditional uses to protect the best interests of the surrounding property and property owners, the neighborhood, or the City as a whole.

Variations are discretionary, and require strong justification that the code does not account for special or unique physical circumstances of the property, that the variance is the minimum necessary, will have benefits greater than any negative impacts and is not self-imposed.

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 planning actions. If the proposal involves modification of an existing Tree Protection Plan, that should be clearly detailed in the submittal materials.

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 ORDINANCE REQUIREMENTS: See the Unified Standards for Residential Zones in AMC Table 18.2.5.030.A. The subject property is zoned R-1-7.5 (Single Family Residential) with a 7,500 square foot minimum lot size.

OTHER CITY OF ASHLAND DEPARTMENT COMMENTS

BUILDING: No comments at this time. Please contact Building Official Steven Matiaco in the Building Division for any building codes-related questions at 541-488-5305.

CONSERVATION: 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 .

ELECTRIC SERVICE: Please contact Dave Tygerson in the Electric Department for service requirements and connect fee information at (541) 552-2389 or via e-mail to tygersod@ashland.or.us. Dave will arrange an on-site meeting, and develop a preliminary electrical service plan for the site. Please allow additional time to accommodate scheduling of this on-site meeting and preparing the preliminary plan. Submittals will not be deemed complete without a preliminary plan from the Electric Department. In initial review, Dave has noted, "Power source would come from existing transformer on Nutley Street. Newly installed service to main residence (just built) would need location verified to not be of conflict."

ENGINEERING/PUBLIC WORKS/STREET/STORMWATER: No Public Works/Engineering comments at this time. Please contact Karl Johnson of the Engineering Division for any Public Works/Engineering information at 541-552-2415 or via e-mail to karl.johnson@ashland.or.us.

FIRE: No Ashland Fire & Rescue comments at this time. Please contact Fire Marshal Ralph Sartain from the Fire Department for any Fire Department-related information at 541-552-2229 or via e-mail to ralph.sartain@ashland.or.us.

PARKS & RECREATION: "The area being proposed by the applicant for inclusion in the proposed Property Line Adjustment ("PLA") at 114 Granite St. is owned by the City of Ashland and is controlled by the Ashland Parks and Recreation Commission (the "APRC"). Article 19, Section 3 of the Ashland City Charter states that the APRC *'shall have control and management of all the lands here dedicated for park purposes and of all other lands that may hereafter be acquired by the City for such purposes.'* The 6,600 sf of land proposed for the PLA is part of the larger Lithia Park Parcel. Although, APRC may consider the possibility of selling this parcel, consistent with the recommendations of the Lithia Park Master Plan, we have no agreements with applicant to partition, divide or adjust Park property for her benefit.

APRC understands that it is not necessary for the owners of a property to approve, or even acknowledge a Pre-Application submission. The process of submitting this application and the City's review of it is purely speculative and the outcome does not entitle the land owner, nor the applicant to any permits, approvals or contracts. While we are interested to hear the outcome of the review of the Pre-Application, APRC has no part in the speculation of this applicant for the PLA."

Please contact Michael Black, AICP, Director with the Ashland Parks & Recreation Commission for any Parks-related questions at 541-816-5459.

WATER AND SEWER SERVICE: 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 also only install a stub out to the location where the double detector check assembly complete with a Badger brand cubic foot bypass meter should be placed in a vault external to the building. The vault and the DCDA 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. Please Contact Steve Walker at [541-552-2326](tel:541-552-2326) or e-mail walkers@ashland.or.us with any questions regarding water utilities.

OREGON DEPARTMENT OF TRANSPORTATION (ODOT): “This proposal should not significantly affect ODOT facilities. Thanks for keeping us in the loop.” For any ODOT-related questions, please contact: Micah Horowitz, AICP; ODOT Region 3, Senior Transportation Planner; 100 Antelope Road, White City, OR 97503; p: 541.774.6331; c: 541.603.8431; e: micah.horowitz@odot.state.or.us

PROCEDURE

A Property Line Adjustment is subject to a ministerial review and decision by the Staff Advisor.

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.

Depending on the magnitude, a Variance may necessitate a “Type II” procedure which requires 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:

- **Property Line Adjustment Criteria:** AMC 18.5.3.120.B
- **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 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 files formatted to print to a standard architect’s or engineer’s scale at 11-inches by 17-inches.

- **Property Line Adjustment:** AMC 18.5.3.120.A
- **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
- **Variance (if applicable):** AMC 18.5.5.040

PLANNING APPLICATION FEES:

Property Line Adjustment:	\$ 361.25
Land Partition:	\$1,092.00 + \$72.50 per lot*
Exceptions:	\$ 0
Variance (as applicable):	\$1,092.00(Type I) or \$2,190.75 (Type II)

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:

Derek Severson, *Senior Planner*

Phone: 541-552-2040 or **E-mail:** derek.severson@ashland.or.us