

ASHLAND PLANNING DIVISION
STAFF REPORT ADDENDUM

PLANNING ACTION: PA-T2-2022-00037

APPLICANT: Rogue Planning & Development Services, LLC (agent)

OWNERS: Magnolia Investment Group, LLC and Gil Livni

SUBJECT PROPERTIES: 165 Water Street, 160 Helman Street and
95 Van Ness Avenue

ASSESSOR’S MAP #: 39 1E 04CC

TAX LOTS #: 2000, 2100 and 7100

ORDINANCE REFERENCES: See <https://ashland.municipal.codes/LandUse>

AMC 18.2	Zoning Regulations
AMC 18.2.6	Standards for Non-Residential Zones
AMC 18.3.10	Physical & Environmental Constraints
AMC 18.3.12	Site Development & Design Overlays
AMC 18.3.13	Residential Overlay
AMC 18.4	Site Development & Design Standards
AMC 18.4.2	Building Placement, Orientation & Design
AMC 18.4.6	Public Facilities
AMC 18.5.1	General Review Procedures
AMC 18.5	Application Review Procedures & Approval Criteria
AMC 18.5.2	Site Design Review
AMC 18.5.3	Land Divisions & Property Line Adjustments
AMC 18.5.7	Tree Removal
AMC 18.6	Definitions

120-DAY TIMELINE: July 15, 2022 (*with applicant requested continuance*)

I. Request

The application now proposes a six-lot commercial subdivision to accommodate a phased mixed-use development for the three properties at 95 Van Ness Street, 165 Water Street and 160 Helman Street. The applicant’s Phase I requests Site Design Review approval for five mixed-use commercial buildings with ground floor commercial spaces and two residential units above in each building, as well as associated surface parking, utility infrastructure and street improvements. The three remaining lots would have initial site work completed with Phase I, but building construction would occur only after Site Design Review approvals in a future Phase II. The application also includes a request for a Physical & Environmental Constraints Review Permit because the proposal

includes development on severe constraints lands with slopes greater than 35 percent and on floodplain corridor lands; a request for an Exception to the Development Standards for Hillside Lands; a request for a Tree Removal Permit to remove 20 trees on the three properties and within the adjacent rights-of-way; and a request for an Exception to Street Standards to allow parking bays with street trees in bump-outs along Van Ness Avenue rather than standard park-row planting strips. Each of these component requests are discussed below.

II. Background & History of the Application

The Planning Commission opened the public hearing, heard the staff presentation and took testimony from the applicant and from neighbors who had requested to participate. Prior to the close of the public hearing, the applicant requested that the hearing be continued to the April 12, 2022 regular meeting pursuant to ORS 197.763(6) to allow the submission of additional evidence, arguments or testimony regarding the application. The Planning Commission continued the hearing to a time and date certain.

Since the March Planning Commission hearing, the number of lots proposed has been reduced from eight to six, and based on the reconfiguration of the subdivision the application no longer includes requests for a Solar Access Exception or an Exception to the plaza space requirement.

Despite the matter being continued to a time and date certain during the March hearing, a revised notice was mailed to surrounding property owners to make them aware of the changes in the proposal and to provide notice for the April 6, 2022 Historic Commission meeting as well.

III. Issues Raised During the Initial Public Hearing & Response Thereto

□ ISSUE: Access and Minimum Street Frontage (AMC 18.2.4.010)

Explanation: The "Access & Minimum Street Frontage" standards in AMC 18.2.4.010 require that every lot abut upon a public street other than an alley for at least 40 feet, other than flag partitions or cul-de-sacs. At the March hearing, staff noted that for the subdivision as it was then configured, Lot #5 did not meet this standard. Staff had recommended a condition that this be remedied on the final survey plant by providing a flag pole connection out to a surrounding street.

Staff Response: The number of lots to be created through the proposed subdivision has been reduced from the originally-proposed eight lots down to six, with Lots 1 & 3 and Lots 4 & 5 being combined. Eight buildings are still proposed in the same locations, but would now be constructed as condominiums. The resultant lot configuration eliminates staff's previously identified street frontage issue for the previously proposed Lot 5.

□ ISSUE: Ground Floor Commercial/Residential Split (AMC 18.3.13.010.C.1)

Explanation: At the March hearing, staff pointed out that the commercial/residential ground floor space calculations for Buildings 1, 3, 4 and 5 included hallways and stairs in the lobby area which serve upper floor residential units entirely as ground floor commercial space, while the actual commercial space for these buildings was from approximately 56 to 63 percent of the ground floor. Staff had asked the Commission to clarify if they

believed this was an issue which needed to be corrected, or if there needed to be a clarification as to whether there are commercial amenities such as mailboxes in these areas which would explain their being considered commercial space.

Staff Response: The revised floor plans show adjustments to the area configurations so that all five buildings have at least 65 percent of their ground floors dedicated to commercial use.

□ **ISSUE: Adequate Transportation (AMC 18.5.2.050.D)/Traffic Impact Analysis (TIA)**

Explanation: Site Design Review approval requires a demonstration “... *that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property and adequate transportation can and will be provided to the subject property.*” In considering the adequate transportation criterion, Engineering staff had asked at the pre-application level that a revised TIA be provided or that evidence from a registered engineer be submitted to demonstrate that the TIA thresholds were not met and none was required. This information was not provided with the application submittal, and was not received until after the staff report had been completed and the Planning Commission packet distributed in March so there was not adequate time for complete review.

Staff Response: A new Traffic Impact Analysis prepared by Kelly Sandow of Sandow Engineering has been provided. The new TIA concludes that all intersections meet mobility standards with the development in place, that the addition of development traffic will not substantially increase queuing conditions over the background conditions, and that all site driveways are projected to operate safely and efficiently. Where the previous 2017 TIA had identified mitigation necessary at the intersection of Water Street and North Main Street, no mitigation has been identified as necessary based on the current analysis. As such, staff have removed Condition #14G which dealt with the applicant’s proportional participation in a future signal installation at Water and Main Streets from the recommended conditions below.

□ **ISSUE: Solar Access Exception (AMC 18.4.8.020.C)**

Explanation: Subsequent to the public hearing notice for the March Planning Commission hearing, revised findings were provided which included a request for Solar Setback Exceptions for the buildings on two of the proposed lots, Lot #3 and Lot #4, explaining that without these exceptions, the buildings would need to be substantially less than the allowed height in the zone. At the March hearing, staff had noted that to remedy the issue of the request having been added after the public notice, the solar access exception would need to be continued and re-noticed.

Staff Response: The number of lots to be created through the proposed subdivision has been reduced from the originally-proposed eight lots down to six, with the originally proposed Lots 1 & 3 and Lots 4 & 5 now combined. Eight buildings are still proposed in the same locations, but they would be constructed as condominiums. The resultant lot line re-configuration alters property line locations and north property line designations as they

relate to the proposed buildings, and as a result the applicant has withdrawn their request for solar access exceptions.

□ **ISSUE: Historic District Development Standards & Historic Commission Recommendation**

Explanation: AMC 18.4.2.050.A.2.b provides that if a development requires a Type I, II, or III review procedure (e.g., Site Design Review, Conditional Use Permit) and involves new construction, or restoration and rehabilitation, or any use greater than a single-family use, the authority exists in the law for the Staff Advisor and the Planning Commission to require modifications in the design to match the Historic District Development Standards, and that the Historic Commission is to advise both the applicant and the City decision maker.

After reviewing the initial proposal at its March meeting, the Historic Commission found that there was no historical precedent in Ashland for three nearly identical, large buildings being constructed together, side by side, in a historic district. The Commission noted that the building designs and landscaping were excellent, and help to mitigate this to a degree, however they found that the designs were too repetitious and that this emphasized the significant difference in height and character relative to the residences on the other side of Helman Street. Specifically, the Historic Commission had concerns that the height, scale and massing of the three buildings (**see AMC 18.4.2.050.B.2-4**) proposed along Helman Street (Buildings #1, #3 and #4) were out of scale with the one- to one-and-a-half-story historic residential buildings across Helman Street. The Commission asked that the designs be revisited to look at changing the height of the individual stories (i.e. 11-foot ceilings seemed excessive when height is an issue), and potentially reducing the number of stories on at least the two end buildings (#1 and #4). In the Commission's view, if the buildings on Helman were lower, the remaining buildings could "cascade" around the Van Ness corner as taller buildings there would be mitigated by the grade change and the fact that there is not a single-story, historic residential streetscape across Van Ness Avenue.

The Historic Commission also noted that designs would benefit from a greater variety of material treatment and finishes, and greater variations in height and/or number of stories to relieve the monotony as they present to the historic Helman Street streetscape.

Staff Response: The revised submittals from the applicant note the following:

To address concerns raised with regards to the massing and the scale of the Employment zoned, 40-foot building height, commercial zoning district the following modifications were made:

- **Height:** *None of the buildings exceed the maximum average height in the zone of 40-feet. The proposed buildings range in average height due to the property grade but all are less than 40-feet. The modification steps the façade back to reduce the presence of the height.*
- **Massing and Scale:** *The scale of the proposed development is appropriate for an Employment zoned property that has three street frontages and more than one acre in area. The property is at the transition area between not only commercially zoned properties and residentially zoned properties but also at the boundary of three different types of historic districts and adjacent to the historic industrial area of Ashland.*
- *The roofline has been cut back substantially to reduce the massing of the overhang.*

- *The center bay on buildings 3 and 4 steps back three feet for the third floor from the wall plane of the second floor and a shed roof has been added that emphasize the step back.*
- *Surface material changes to buildings 3 and 4.*
- *Added a brick base to provide a strong base that grounds the building.*
- *Pedestrian overhang on the ground floor was increased in length to add shadow lines and increase the pedestrian scale of the building when at the sidewalk.*
- *White and lighter materials used on the third story to fade the building away.*
- *Open wire or mesh railings instead of the previously proposed solid panel railings.*

Attachment 4 provides a side-by-side comparison of the original massing of proposed Building 3 compared to the proposed modifications massing. Attachments 5–8 include renderings of proposed Buildings 3 and 4 to show the proposed material changes and façade modifications to address massing, scale and height.

The applicant’s Attachment 4, a side-by-side Building Massing Comparison of the previously proposed building design for Building 3 as it presents to Helman Street and the revised design for Building 3 as it is now proposed is shown below:



Building 3 (Helman Street)
Original Elevation

Building 3 (Helman Street)
Revised Elevation

For staff, perhaps the key consideration with regard to the Historic District Development Standards here is how the Planning Commission chooses to apply AMC 18.4.2.050.B.1 which reads: ***“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.”* The design as proposed seems focused on the underlying standards and requirements of the E-1 zone, but in staff’s view there have not been necessary appropriate adjustments to address compatibility and it seems that more could be done with the *“building form, massing, height, scale, placement, or architectural and material treatment”* to better respond to the historic neighborhood context without losing sight of the E-1 district.

As this staff report is being prepared, the Ashland Historic Commission has not yet reviewed the revisions to the previous proposal. The revised building designs will be presented to the Ashland Historic Commission at its April 6th meeting, and the Commission's recommendations will be provided to the Planning Commission at the April 12th hearing.

□ ***Exception to Site Development & Design Standards – Plaza Space (AMC 18.4.2.040.D)***

Explanation: In the Detail Site Review overlay, developments that are greater than 10,000 square feet in gross floor area or contain more than 100 feet of building frontage are required to provide at least ten percent of the building area in plaza space which includes four of six requisite features. As initially proposed, the application included a request for Exception to this standard in order to provide 3,087 square feet rather than the required 5,624 square feet of plaza space.

Staff Response: The revised submittals revisit the plaza space and provide a more detailed plan of the plaza space to be provided in each phase. The proposed plaza space is now shown to exceed the minimum requirement. Four distinct plaza areas totaling 8,774 square feet are now shown, where a minimum of 5,581 square feet is required. The application no longer includes a request for an Exception to the plaza space standard.

□ ***Physical & Environmental (P&E) Constraints Review Permit (AMC 18.3.10.050) and Exceptions to the Development Standards (AMC 18.3.10.090.H) - Geotechnical Report***

Explanation: The application here includes a request for a P&E Permit because the proposal includes development both on floodplain corridor lands and severe constraints lands, and also requests Exception from the Development Standards. The initial application included a resubmittal of a 2017 “Geotechnical Reconnaissance” letter from Geotechnical Engineer Rick Swanson, however since 2017, the proposal has changed and where before parking and retaining walls were being considered, buildings are now being proposed on the steeply sloped portions of the site. The 2017 geo-technical letter was not a complete, detailed engineering geological study establishing that the site is stable for the uses and development now proposed. At the initial public hearing in March, staff suggested that to adequately assess the requested P&E permit and the associated exceptions, a more current and complete engineering geologic study addressing the full requirements of AMC 18.3.10.110.D with geotechnical recommendations specific to the current proposal was needed.

Staff Response: A geotechnical report prepared by the Galli Group Geotechnical Consulting has been provided. This report explains that in Galli's professional opinion, other than the potential flooding from an upstream dam failure or the unlikely chance of site liquefaction during a seismic event, there are no existing on site or nearby slopes or other geologic hazards that will potentially cause damage at the site. Galli notes that a final geotechnical report will further verify the liquefaction susceptibility of the project site and provide liquefaction mitigation design recommendations where necessary. These will likely consist of accomplishing subsurface improvements such as amending (lime or cement treatment) or removing and replacing all liquefiable soils or providing deep

foundation support (piers or piles) for structures, which would transfer structural loads through the soft/liquefiable soils zones and into the underlying very dense soils/weathered bedrock. This report would be provided prior to final design and construction of the project, and include final geotechnical design recommendations for site preparation, structural fill and earthwork and grading operations (including cuts and fills), fill on steep slopes, building pad preparation, footing design, lateral load resistance for retaining walls, seismic design parameters, and structure/site drainage and erosion control. The geotechnical report here concludes that, “... *this parcel and the surrounding area is considered to be stable for the construction of the proposed project... The re-grading of the site for the proposed mixed-use development, when constructed properly and in accordance with the final geotechnical, structural and civil design plans and specifications for the project, will not adversely impact the general slope stability of this or adjacent parcels. Proper erosion control measures, grading techniques (fill removal, cut and fill slope construction, fill placement and compaction, and fill-on-slope and retaining wall construction) and proper surface water control on all parts of the site will assure that the overall stability of this or adjacent parcels is not compromised. Therefore, in our professional opinion, the construction of the proposed Magnolia Terrace mixed use development on this parcel will not adversely impact the slope stability of this or adjacent parcels and will maintain public safety in the immediate area.*”

The application materials suggest that when the Hillside Ordinance was adopted, there was no discussion of its applying to commercial or employment zoned lands. The applicant asserts that applying largely *residential standards to a commercial development* presents unique unusual and difficulties and notes that Exceptions to a number of the Development Standards for Hillside Lands are necessary including those for buildable area, retention in a natural state, grading and cuts, and the building location and design standards. They further indicated that because the site is zoned Employment but has a narrow band of steep slopes in the middle of the site, and in order to develop the site in keeping with the standards for Basic Site Review, Detail Site Review, Additional Standards for Large Scale Projects and Historic District Development, encroachment into the steeply sloped area is necessary. Staff would generally concur with the applicant that the hillside standards were not originally envisioned in terms of commercial development, and the building design standards (AMC 18.3.10.090.E were specifically noted as not being applicable to historic districts as historic design compatibility was seen as taking precedence). The 2017 application for 165 Water Street impacted these same slopes with a ten- to 12-foot retaining wall, and requested Exception to the Development Standards for Hillside Lands to allow a cut slope in excess of seven feet without terracing. At that time, the Planning Commission recognized that the site was “*relatively unique in being E-1 zoned, outside of the Hillside Lands overlay, with a limited area of Severe Constraints Lands near the rear of the property, and with developable E-1 land both above and below the slope which are to be protected from slope failure with structural retaining to enable development typical of E-1 lands and their associated development and design standards.*” In staff’s view, the Commission could make a similar finding here.

□ **Exception to Street Standards (AMC 18.4.6.020.B.1)**

Explanation: The application includes a request for an Exception to the Street Design Standards in order to allow street trees to be provided in bump-outs within the Van Ness Avenue right-of-way rather than five-foot by five-foot street tree grates within the sidewalk

corridor in order to enable the placement of on-street parking in bays. While neither Table 18.4.6.040.F nor the cross-section illustrated in Figure 18.4.6.040.G.4.a. detail on-street parking in bays, the narrative description in AMC 18.4.6.040.G notes that parking “... may be provided in 7 ft bays rather than as a continuous on-street lane.” Neither the table, the figure or the description address the treatment of street trees where parking is provided in bays. At the March meeting, staff noted that placing street trees within bump-outs in the right-of-way as proposed in order to provide additional public parking in bays while still providing required street trees seems to be in keeping with the intent of the standards and in staff’s assessment an Exception is not required.

Staff Response: As discussed during the March hearing, staff do not believe that the street improvements proposed along Van Ness Avenue require an Exception to Street Standards.

IV. Approval Criteria

The criteria for preliminary plat approval for a Subdivision are detailed in Ashland Municipal Code (AMC) 18.5.3.070 as follows:

- A. **Approval Criteria.** *The approval authority, pursuant to subsection 18.5.3.030.A, may approve, approve with conditions or deny a preliminary subdivision plat on findings of compliance with all of the following approval criteria.*
1. *The subdivision plan conforms to applicable City-adopted neighborhood or district plans, if any, and any previous land use approvals for the subject area.*
 2. *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).*
 3. *Access to individual lots necessary to serve the development shall conform to the standards contained in section 18.4.3.080 Vehicle Area Design.*
 4. *The proposed streets, utilities, and surface water drainage facilities conform to the standards in chapter 18.4.6, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.*
 5. *All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas (e.g., landscaping, tree preservation, common areas, access, parking, etc.) is ensured through appropriate legal instrument (e.g., Covenants, Conditions and Restrictions (CC&R’s)).*
 6. *Required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development.*
- B. **Conditions of Approval.** *The approval authority may attach such conditions as are necessary to carry out provisions of this ordinance, and other applicable ordinances and regulations.*

The criteria for approval of a Site Design Review permit are detailed in Ashland Municipal Code (AMC) 18.5.2.050 as follows:

- A. **Underlying Zone:** *The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.*
- B. **Overlay Zones:** *The proposal complies with applicable overlay zone requirements (part 18.3).*
- C. **Site Development and Design Standards:** *The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.*
- D. **City Facilities:** *The proposal complies with the applicable standards in section 18.4.6 Public Facilities and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property and adequate transportation can and will be provided to the subject property.*
- E. **Exception to the Site Development and Design Standards:** *The approval authority may approve exceptions to the Site Development and Design Standards of part 18.4 if the circumstances in either subsection 1 or 2, below, are found to exist.*
 - 1. *There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty.; or*
 - 2. *There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards.*

The criteria for approval of an Exception to the Street Design Standards are detailed in AMC 18.4.6.020.B.1 as follows:

- a. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
- b. *The exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable.*
 - i. *For transit facilities and related improvements, access, wait time, and ride experience.*
 - ii. *For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
 - iii. *For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safety and efficiency crossing roadway.*
- c. *The exception is the minimum necessary to alleviate the difficulty.*
- d. *The exception is consistent with the Purpose and Intent of the Street Standards in subsection 18.4.6.040.A.*

The criteria for approval of a Physical & Environmental (P&E) Constraints Review Permit are detailed in the Ashland Municipal Code (AMC) 18.3.10.050 as follows:

- A. *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.*

- B. *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.*
- C. *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 development permitted by this ordinance.*

The criteria for approval of an Exception to the Development Standards for Hillside Lands are detailed in Ashland Municipal Code (AMC) 18.3.10.090.H as follows:

- 1. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
- 2. *The exception will result in equal or greater protection of the resources protected under this chapter.*
- 3. *The exception is the minimum necessary to alleviate the difficulty.*
- 4. *The exception is consistent with the stated Purpose and Intent of chapter 18.3.10, Physical and Environmental Constraints Overlay, and section 18.3.10.090, Development Standards for Hillside Lands.*

The criteria for approval of a Solar Access Exception are detailed in AMC 18.4.8.020.C as follows:

- i. *The exception does not preclude the reasonable use of solar energy (i.e., passive and active solar energy systems) on the site by future habitable buildings.*
- ii. *The exception does not diminish any substantial solar access which benefits a passive or active solar energy system used by a habitable structure on an adjacent lot.*
- iii. *There are unique or unusual circumstances that apply to this site which do not typically apply elsewhere. (Ord. 3147 § 8, amended, 11/21/2017).*

The criteria for approval of a Tree Removal are detailed in AMC 18.5.7.040.B.2 as follows:

- a. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.3.10.*
- b. *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.*
- c. *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.*
- d. *Nothing in this section shall require that the residential density to 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 of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.

- e. *The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*

V. Conclusions and Recommendations

As discussed during the March hearing, the subject property here is a complex one given its location within the Employment zone and the Detail Site Review and Historic overlay zones. It is subject to a high level of urban design review, but is also located partly within Ashland Creek's floodplain corridor lands and contains areas that are considered to be severely constrained by their steep slopes. In addition, the property is located at the outer edge of the Ashland Skidmore Academy Historic District in a transitional area where there are five zoning districts (R-2, R-3, E-1, C-1 and M-1) in the vicinity. Development of the site must balance all of these elements while addressing sometimes contradictory standards, and some degree of exception to standards will likely be needed for any development of the site.

For staff, with the revisions received, the two primary issues remaining for the Commission are:

1) Whether the applicant has made the appropriate level of adjustments to building form, massing, height, scale, placement, or architectural and material treatment to address compatibility with the transitional area, and 2) Whether the unique nature of the site merits exception from the design standards for physically constrained lands. For the latter, staff believe that the Commission could reasonably make a finding that the site's physical constraints are relatively unique for a commercially zoned site within the historic district and that, in light of the geotechnical report's assurances, the requested exceptions are merited. For the former, while the Historic Commission has not yet reviewed the revised materials, in staff's view the revisions do not go far enough in addressing the Historic District Development Standards and, even with consideration of the transitional nature of the site, further adjustments to the massing, height, scale, architectural and material treatment are needed to better address compatibility with the surrounding district for the units along Helman Street.

Should the Planning Commission determine that the required approval criteria and applicable development standards have been satisfactorily addressed, staff would recommend that the following conditions be attached to any approval:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise specifically modified herein.
- 2) That the plans submitted for the building permit shall be in conformance with those approved as part of this application. If the plans submitted for the building permit are not in conformance with those approved as part of this application, an application to modify this Site Design Review approval shall be submitted and approved prior to the issuance of a building permit.
- 3) ~~That all recommendations of the Ashland Tree Commission from their March 3, 2022 meeting, where consistent with the applicable ordinances and standards and with final approval of the Staff Advisor, shall be conditions of approval unless~~

~~otherwise modified herein.~~

- 4) That the recommendations of the Ashland Historic Commission from their April 6, 2022 meeting, where consistent with the applicable ordinances and standards and with final approval of the Staff Advisor, shall be conditions of approval unless otherwise modified herein.
- 5) That prior to the installation of any signage, a sign permit shall be obtained. All signage shall meet the requirements of the Sign Ordinance (AMC 18.4.7).
- 6) That all requirements of the Fire Department shall be satisfactorily addressed, including approved addressing (OFC 505); commercial fire apparatus access including angle of approach and any necessary fire apparatus or shared access easements (OFC 503.2.8); limitations on the installation of gates or fences; fire flow (OFC Appendix B, Table B105.1); fire hydrant clearance; fire department connection (FDC); a Knox key box; and fire sprinklers where required for mixed-use buildings or due to access constraints.
- 7) That a Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided prior to bringing combustible materials onto the property, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
- 8) That mechanical equipment shall be screened from view from surrounding rights-of-way, and the location and screening of all mechanical equipment shall be detailed on the building permit submittals.
- 9) That the front entrances of ground floor commercial spaces adjacent to Van Ness Avenue, Helman Street and Water Street shall remain functional and open to the public during all business hours, and the windows on the ground floor, including those adjacent to public plaza spaces, shall not be tinted so as to prevent views into the interior of the commercial spaces.
- 10) That all measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, retaining walls and landscaping shall be maintained in perpetuity on all severe constraints lands.
- 11) That prior to the installation of stairs, parking, or utility infrastructure within the public alley right-of-way, an encroachment permit from the Ashland Public Works Department shall be obtained. Stairs, transformers and any other improvements within the alley right-of-way shall be located so as to accommodate and not interfere with any neighbor's already approved circulation plan. A final revised site plan illustrating the placement of these proposed improvements shall be provide for the review and approval of the Public Works/Engineering Department and Staff Advisor prior to the issuance of an encroachment permit.
- 12) If necessary to accommodate or align required street frontage improvements, the area for required street improvements shall be dedicated as public street right-of-way or a public pedestrian access easement provided as deemed appropriate by the Engineering Division and Staff Advisor. The right-of-way dedication or easement shall be submitted for review and approval of the Planning and Engineering Divisions prior to signature of the final survey plat.
- 13) That prior to the submittal of a final survey plat for review and signature:
 - a. All easements including but not limited to public and private utilities, public

pedestrian access, fire apparatus access, and reciprocal utility, maintenance, and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.

- b. Final stormwater drainage, grading, erosion and sediment control plans for the review and approval of the Engineering, Building and Planning Departments. The stormwater plan shall address Public Works/Engineering standards requiring that post-development peak flows not exceed pre-development levels. Any necessary drainage improvements to address the site's stormwater shall be provided at the applicants' expense. Storm water from all new impervious surfaces and run-off associated with peak rainfall events must be collected on site and channeled to the city storm water collection system (*i.e., curb gutter at public street, public storm pipe or public drainage way*) or through an approved alternative in accordance with Ashland Building Division policy BD-PP-0029. On-site collection systems shall be detailed on the building permit submittals.
- c. A final utility plan for the project for the review and approval of the Engineering, Planning and Building Divisions. The utility plan shall include the location of any necessary connections to public facilities in and adjacent to the development, including the locations of water lines and meter sizes, sewer mains and services, manholes and clean-outs, storm drainage pipes and catch basins. Meters, cabinets, vaults and Fire Department Connections shall be located outside of pedestrian corridors and in areas least visible from streets, sidewalks and pedestrian areas, while considering access needs. Any necessary service extensions or upgrades shall be completed by the applicant at applicant's expense, and the applicants shall obtain all necessary permits and inspections from the Public Works/Engineering Department for work to be completed within the public rights-of-way.
- d. An electric design and distribution plan including load calculations and locations of all primary and secondary services including any transformers, cabinets and all other necessary equipment. This plan must be reviewed and approved by the Electric, Engineering, Building and Planning Departments prior to the issuance of excavation or building permits. Transformers, cabinets and vaults shall be located outside the pedestrian corridor in areas least visible from streets, sidewalks and pedestrian areas, while considering the access needs of the Electric Department. Any necessary service extensions or upgrades shall be completed at the applicant's expense.
- e. That the engineered construction drawings for the public sidewalk along Water Street shall be submitted for review and approval of the Ashland Planning and Engineering Divisions prior to work in the street right-of-way and prior to installation of improvements in the pedestrian corridor. The sidewalk shall be a minimum of eight feet in width with five-foot hardscape parkrows with irrigated street trees in five-foot by five-foot tree grates the sidewalk and the curb. All frontage improvements, including but not limited to the sidewalk, street trees, and street lighting, shall be constructed across the entire Water Street frontage of the site. The sidewalk shall be

- constructed to City of Ashland Street Standards, and shall be installed in *San Diego Buff* color as required in the historic districts.
- f. That the engineered construction drawings for the public sidewalk along Van Ness Avenue shall be submitted for review and approval of the Ashland Planning and Engineering Divisions prior to work in the street right-of-way and prior to installation of improvements in the pedestrian corridor. The sidewalk shall be a minimum of six-feet in width where bays are proposed and shall be installed according to the configuration approved herein. All frontage improvements, including but not limited to the sidewalk, parking bays, street trees in bump-outs, and street lighting, shall be constructed across the entire Van Ness Avenue frontage of the site. The sidewalk shall be constructed to City of Ashland Street Standards, and shall be installed in *San Diego Buff* color as required in the historic districts.
 - g. That engineered construction drawings for the public sidewalk along Helman Street shall be submitted for review and approval of the Ashland Planning and Engineering Divisions prior to work in the street right-of-way and prior to installation of improvements in the pedestrian corridor for any modifications of the Helman Street pedestrian corridor. At a minimum, the existing sidewalks and parkrow configuration on Helman Street shall be maintained, and new street trees with irrigation shall be planted in the parkrow across the entire Helman Street frontage of the site. Any newly constructed sidewalk within the historic districts shall be installed in *San Diego Buff* color as required in the historic districts.
 - h. That the tract of land shall be surveyed and the final survey plat shall be submitted to the city for review and signature within 18 months of the final decision date of the preliminary partition plat.
- 14) That prior to the signature of the final survey plat:
- a. ~~That prior to the signature of the final survey plat, the applicant shall provide signed and notarized solar access release forms for recording on the property deeds in conjunction with the plat recording as required in AMC 18.4.8.020.C.1.a.~~
 - b. That street trees, one per 30 feet of street frontage, shall be installed on the Helman, Van Ness and Water Street frontages prior to final building inspection approval or the issuance of a certificate of occupancy. All street trees shall be chosen from the adopted Street Tree List and shall be installed in accordance with the specifications noted in Section E of the Site Design and Use Standards. The street trees shall be irrigated.
 - c. All utility service and equipment installations shall be completed according to Electric, Public Works/Engineering, Planning, and Building Departments' specifications, inspected and approved by the Staff Advisor.
 - d. Sanitary sewer laterals, water services including connection with meters at the street, and underground electric services shall be installed according to the approved plans to serve all units.
 - e. That all public improvements including but not limited to the street frontage improvements, alley, sidewalk, street trees, and street lighting shall be

installed to City of Ashland standards under permit from the Public Works Department and in accordance with the approved plan.

- f. That common area and open space improvements be installed or bonded for in accordance with the procedures in the Subdivision chapter prior to signature of Final Survey Plat.
- ~~g. That the applicants shall sign an agreement to participate proportionally in the cost of installation in the installation of a traffic signal at Water and North Main Streets through the creations of a Local Improvement District or similar mechanism, or provide for an alternative means of mitigation acceptable to the Public Works/Engineering Division. Nothing in this condition is intended to prohibit an owner/developer, their successors or assigns from exercising their rights to freedom of speech and expression by orally objecting or participating in the LID hearing or to take advantage of any protection afforded any party by City ordinances and resolutions.~~
- h. That any CC&Rs or similar maintenance agreement shall be provided for the review and approval of the Staff Advisor prior to signature of the final survey plat. This agreement shall describe the responsibility for the maintenance of all common use-improvements including landscaping, parking areas, driveways, planting strips and street trees. The CC&Rs or maintenance agreements shall state that deviations from the approved plan shall be considered a violation of the Planning Application approval and therefore subject to penalties described in the Ashland Municipal Code.

15) That building permit submittals shall include:

- a) The identification of all easements, including but not limited to public or private utility, drainage, access or parking easements, fire apparatus access easements, and public pedestrian access easements.
- b) The identification of exterior building materials and paint colors for the review and approval of the Staff Advisor. Colors and materials shall be consistent with those approved in the application, and very bright or neon paint colors shall not be used.
- c) Specifications for all exterior lighting fixtures. Exterior lighting shall be selected, placed and directed on the property to avoid directly illuminating adjacent properties.
- d) Final revised Site, Landscape and Irrigation plans shall be provided for the review and approval of the Staff Advisor with the building permit submittals. These revised plans shall address: 1) ~~The recommendations of the Tree Commission from their March 3, 2022 meeting where consistent with applicable criteria and standards, and with final approval by the Staff Advisor;~~ 2) a final size- and species-specific planting and irrigation plan, including the requirements for programmable automatic timer controllers and a maintenance watering schedule with seasonal modifications; 3) final lot coverage and required landscaped area calculations, including all building footprints, driveways, parking, and circulation areas, and landscaped areas. Lot coverage shall be limited to no more than 85 percent,

- and the calculations shall demonstrate that the requisite 15 percent landscaping and seven percent parking lot landscaping are provided;
- e) Identification and placement of required bicycle parking. Inverted u-racks shall be used for the outdoor bicycle parking, and all bicycle parking shall be installed in accordance with the standards in 18.4.3.070.I, inspected and approved prior to the issuance of the certificate of occupancy. The building permit submittals shall verify that the bicycle parking spacing and coverage requirements are met.
 - f) A final geotechnical report which includes final geotechnical design recommendations for site preparation, structural fill and earthwork and grading operations (including cuts and fills), fill on steep slopes, building pad preparation, footing design, lateral load resistance for retaining walls, seismic design parameters, and structure/site drainage and erosion control. This report shall also include a detailed inspection schedule listing the inspections necessary to verify compliance with the geotechnical recommendations for the project.
 - g) Retaining walls and building foundations to be constructed on severe constraints lands shall be designed by an engineer or architect with demonstrable geotechnical design experience, and written verification from the project geotechnical expert addressing the consistency of the building permit submittals with the geotechnical report recommendations (e.g. grading plan, storm drainage plan, erosion control plan, etc.) shall be provided with the building permit submittals.
 - h) Solar setback calculations demonstrating that all new construction complies with Solar Setback Standard B in the formula **[(Height – 16)/(0.445 + Slope) = Required Solar Setback]** and elevations or cross section drawings clearly identifying the highest shadow producing point(s) and the height(s) from natural grade.
- 17) That prior to the issuance of the building permit, the commencement of site work including staging or the storage of materials:
- a) A Tree Verification Permit shall be obtained. Trees to be removed shall be tagged and tree protection measures installed according to the approved plan, inspected and approved by Staff Advisor. The Verification Permit is to verify tree identification prior to removal and to inspect the installation of tree protection fencing for the trees to be retained and protected. Tree protection measures shall be in the form of chain link fencing six feet tall, installed and maintained in accordance with the requirements of AMC 18.4.5.030.C.
 - b) That all necessary building permits fees and associated charges, including permits and connections fees for new, separate, underground electrical

services to each proposed unit, and system development charges for water, sewer, storm water, parks, and transportation shall be paid.

- 18) That prior to the final approval of the project or issuance of a certificate of occupancy:
 - a) That all hardscaping and landscaping improvements including plaza spaces, landscaping, and the irrigation system shall be installed according to the approved plan, inspected, and approved by the Staff Advisor. Replacement trees to mitigate the trees removed shall be planted and irrigated according to the approved plan.
 - b) That all exterior lighting shall be directed on the property and shall not directly illuminate adjacent residential properties.
 - c) Screening for the trash and recycling enclosure shall be installed in accordance with the Site Design and Use Standards, and an opportunity to recycle site of equal or greater size than the solid waste receptacle shall be included in the trash enclosure as required in AMC 18.4.4.040.
 - e) That the project geotechnical expert shall inspect the site according to the inspection schedule, and prior to final building inspection approval or the issuance of the certificate of occupancy, the geotechnical expert shall provide a final report indicating that the approved grading, drainage and erosion control measures were installed as per the approved plans, and that all scheduled inspections were conducted by the project geotechnical expert periodically throughout the project.
 - f) That inverted u-racks shall be used for the bicycle parking. All bicycle parking shall be installed in accordance with design and rack standards in 18.4.3.070.I and J prior to final building inspection approval or the issuance of the certificate of occupancy. The building permit submittals shall verify that the bicycle parking spacing and coverage requirements are met in accordance with 18.4.3.070.I.
- 19) That new driveway approaches shall be permitted through the Engineering Division and are required to be separated from existing driveways and each other by a minimum of 24-feet per City Street Standards. The driveway curb cuts shall be installed, inspected and approved, and any old/unused approaches removed, prior to final building inspection approval or the issuance of a final certificate of occupancy.
- 20) That the buildings on Lots 6, 7 and 8 included in the second phase are not approved here and shall require separate Site Design Review approval prior to the commencement of Phase II.