

ASHLAND PLANNING DIVISION

STAFF REPORT

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: June 10, 2022

I. Request

The application proposes an eight-lot commercial subdivision to construct a phased mixed-use development for the three properties at the corner of Van Ness and Water Streets including 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 buildings consisting of two ground floor commercial spaces with two residential units above in each building, as well as associated surface parking, utility infrastructure and street improvements. The remaining three building sites would be developed in a later phase. The application also includes a request for a Physical & Environmental (P&E) 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 all of the trees on the property and within adjacent rights of way; a request for an Exception to the

Site Development and Design Standards to allow 3,087 square feet of plaza space where the standards require 5,624 square feet; 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 Applications

165 Water Street

In December of 2020, the applicant submitted PA-T1-2020-00134, a request to modify Planning Action #2017-00200. This application was found to be incomplete, and was never completed. It is now considered to be void.

In July of 2018, Planning staff ministerially approved #PA-A-2018-00022, a request for a Property Line Adjustment between the properties at 165 Water Street and 160 Helman Street.

In June of 2017, the Planning Commission granted approval of Planning Action #2017-00200, a request for Site Design Review approval to construct a 42,841 square foot, three-story, mixed-use building consisting of commercial tenant space on the ground floor, 26 hotel units on the second floor, and ten residential condominiums on the third floor. The application included requests for a Conditional Use Permit to allow hotel/motel use; an Exception to Street Standards; a Physical & Environmental Constraints Review Permit for the development of floodplain and severe constraints lands; and a Tree Removal Permit to remove seven trees. This approval was granted a one-time, 24-month extension as a ministerial permit which has now expired without the building being constructed.

In March of 1982, the Planning Commission granted approval of Planning Action #1982-013, a Site Review permit and Zoning Variance for a proposed automobile repair and tune-up shop. That application noted that there were no other actions in the recent past.

There are no other planning actions of record for this property.

95 Van Ness Avenue

There are no planning actions of record for 95 Van Ness Avenue by itself, however it was to have been combined with 160 Helman Street as part of PA-T1-2018-00033 discussed below.

160 Helman Street

In August of 2019, James and Andrew Batzer made application as PA-T1-2019-00074 to partition the property at 160 Helman Street to create two parcels. The application was found to be incomplete, and was never completed. It is now considered to be void.

In February of 2019, Planning staff administratively approved PA-T1-2018-00033, a request for Site Design Review approval to construct a new 8,682 square foot, three-story mixed use building. The application included requests for Exception to the Street Standards to retain the existing landscaped parkrow configuration on the Helman Street frontage and to allow a curbside sidewalk with on-street parking bay along the Van Ness Avenue frontage, an Exception to the Site Design Standards to not provide a standard five-foot landscape buffer between the parking spaces and property line, and a request for a Tree Removal Permit to remove five Oak trees greater than six-

inches in diameter at breast height (d.b.h.) from the property. The application also proposed removal of two eight-inch d.b.h. Maple trees in the parkrow planting strip; five new street trees are proposed. This approval has now expired without the building being constructed.

In July of 2018, Planning staff ministerially approved #PA-A-2018-00022, a request for a Property Line Adjustment between the properties at 165 Water Street and 160 Helman Street.

In November of 2007, Planning staff administratively approved PA-2007-01833 granting a one-year extension of PA-2006-00612.

In December of 2006, the Planning Commission granted approval to PA-2006-00612, a request for Site Review approval for a mixed-use development comprised of general office space and six residential condominiums and a Tree Removal Permit to remove two trees greater than six-inches diameter-at-breast-height. This application expired without the buildings being constructed.

In February of 1992, the Planning Commission approved PA-92-024, a Conditional Use Permit to allow the temporary use of a refrigerator trailer as part of the Pyramid Juice Company's food manufacturing operation.

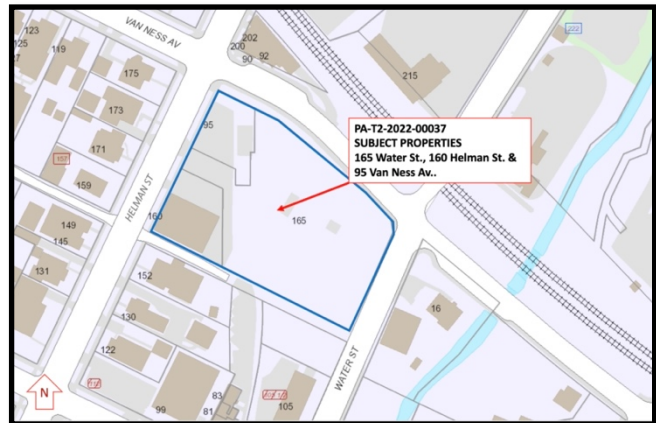
In August 1988, the Planning Commission approved PA-88-121, a Conditional Use Permit and Site Review approval for a food manufacturing use.

There are no other planning actions of record for this property.

III. Description of Properties

165 Water Street

165 Water Street, at the corner of Van Ness Avenue and Water Street, is an irregularly-shaped, 38,515 square foot parcel with approximately 230 feet of frontage along Van Ness Avenue and 150 feet of frontage along Water Street. 165 Water Street is relatively flat for a significant portion of the site, however there is a sloped area at the rear of the property where it transitions up toward Helman Street with slopes in the vicinity of 65 percent.



Over the years, the property has contained a variety of uses including auto repair and a service station. According to the application materials provided, above ground fuel tanks were placed along Van Ness Street at some point in the past. Due to the presence of these fuel tanks, the applicants indicate that the site is considered to be a brownfield, but has been cleaned up and the case closed by the Department of Environmental Quality (DEQ). Information about the clean-up is included in the application submittal materials.

95 Van Ness Avenue

95 Van Ness is an irregularly shaped parcel at the corner of Van Ness Avenue and Helman Street, and is 5,824 square feet in area.

160 Helman Street

160 Helman Street is a trapezoidal 7,302 square foot parcel located on the east side of Helman St., between Central Avenue and Van Ness Avenue. The property is located in the Employment zoning district (E-1), and currently contains a building which has been used for food production as The Pyramid Juice Company.

The site is bounded by public rights-of-way on three sides with Helman St. to the west, Van Ness Ave. to the north and a public alley to the south. A day care facility is located across the alley to the south, residential units are located to the west across Helman St., a mixed-use commercial building is located to the north across Van Ness Ave., and 165 Water Street is located to the east of the site.

Currently, the building and equipment previously associated with Pyramid Juice are located on the site. The building is a warehouse that was constructed in 1948 and has been used for industrial uses. The application states that the site currently does not contain landscaping or trees, and is covered in pavement. Three trees are located in the planting strip on the Helman St. frontage.

Helman Street is classified as an avenue or major collector in the Transportation System Plan (TSP). Helman is paved with curbs, gutters, parkrows and sidewalks in place. Both Van Ness Avenue and Water Street are Neighborhood Streets in the vicinity of the subject property. Both are paved with curbs and gutters in place; Van Ness Avenue currently has curbside sidewalks in place along the subject property's frontage. Water Street lacks sidewalks or park rows along the property's frontage. An unimproved section of city alley right-of-way extends between Water Street and Helman Street.

Ashland Creek, a riparian stream, is located on the opposite side of Water Street, 125-165 feet to the east of 165 Water Street. As a riparian stream, Ashland Creek has a Water Resource Protection Zone which extends 50 feet from its top of bank. In addition, Ashland's modified floodplain corridor map identifies floodplain lands extending into roughly the easternmost 30 feet of 165 Water Street along its Water Street frontage and FEMA's 500-year floodplain extends onto a significant portion of the site.

Zoning for the subject properties and those in the immediate vicinity is E-1 (Employment) and the properties are within an R (Residential) overlay, as well as the Detail Site Review overlay zone. The subject property is also located within the Ashland Skidmore-Academy Historic District. Properties to the north, across the railroad tracks, are zoned M-1 (Industrial); to the west, along the west side of Helman Street, there is R-3 (High Density, Multi-Family Residential) zoning; to the south, beginning at Central Avenue, there is C-1 (Commercial) zoning; and to the east, there is R-2 (Low Density, Multi-Family Residential) zoning along Oak Street. The residences directly across Helman Street, on the west side of Helman from Van Ness Ave. to the alley, were constructed ranging from 1888 to 1947, and the four homes are listed as "historic contributing" in the National Register of Historic Places nomination.

The site is located in a transitional area with five zoning districts within 500 feet of the site. Helman St. generally divides the commercial and employment zones from the residential districts (R-2 and R-3) to the west. The E-1 district is centered around the railroad tracks with the subject site being the western edge of a larger employment that goes north to Hersey St., east to N. Mountain Ave. and south to mid-block between A and B Streets. The western edge of the R-2 zoning district that includes much of the Railroad District begins on the eastern side of Water St. Finally, the C-1 commercial zoning district begins south of Central Ave. and transitions into the C-1-D downtown commercial zoning district at Lithia Way.

IV. Details of Application

As mentioned above, the application is a request for an eight-lot commercial subdivision to construct 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 buildings consisting of two ground floor commercial spaces with two residential units above in each building, as well as associated surface parking, utility infrastructure and street improvements. The remaining three building sites would be developed in a later phase.

The application also includes requests for:

- A Physical & Environmental (P&E) 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.
- A request for an Exception to the Site Development and Design Standards to allow 3,087 square feet of plaza space where the standards require 5,624 square feet.
- 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.

V. Discussion

The application materials include written findings in response to the applicable criteria for each of the component requests. The staff discussion below speaks to each of these component requests.

Subdivision

Access & Minimum Street Frontage

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. As this is neither, the current Lot 5 configuration does not meet the standard. Planning staff believe that this can be addressed by conditioning any approval to require an eight-foot flag pole connection be provided from Lot 5 out to Helman Street along the alley consistent with the requirements of AMC 18.5.3.060.H. A condition to this effect has been recommended below.

Site Design Review

The applicant's Phase I here requests Site Design Review approval for five mixed-use buildings, with the remaining three building sites to be developed in a later phase. Each of the five proposed buildings would include a shared wall, two-unit commercial office ground floor, and two three-bedroom residences on the upper floors. When all phases are complete, the eight buildings would include a total of 16 residential units above the ground floor commercial spaces.

The Site Design Review approval request here considers the first five buildings as well as associated surface parking, utility infrastructure and street improvements.

The application materials note that seven of the eight buildings are directly adjacent to the public streets with direct connections from the public sidewalks to the entrance of the commercial spaces provided, while one building (Lot #5) is behind a street facing building. This building is accessed from the pedestrian walkways that connect to the public sidewalk.

The application materials further explain that as proposed, 65 percent of the ground floor of each proposed building is commercial with between 1,500 and 1,700 square feet of commercial space, while 35 percent of the ground floor is committed to residential use in the form of garage parking, stairs and circulation.

All proposed parking is noted as being to the side and rear of the buildings, and the residential parking is to be within the footprints of the buildings in enclosed garages. Bicycle parking is noted as being provided throughout the property.

Off-Street Parking Requirements & On-Street Parking Credits

The application materials note that the proposed development requires 15.72 vehicle parking spaces for commercial uses in Phase One and an additional 9.198 parking spaces for commercial office use in Phase Two for a total of 25 (24.91) off-street parking spaces required for the commercial office uses. In addition, there are 32 off-street parking spaces required for the two/three bedroom residences. The residential parking is to be provided in the garages.

The application proposes to provide a total of 17 of the 25 required commercial off-street parking spaces on site, and to rely on eight on-street parking credits. With the proposed Van Ness Street improvements, seven new on-street parking spaces will be created in bays, in addition to the five on-street spaces available on Water Street and seven on-street spaces present on Helman Street.

Consideration of the 2017 application included lengthy discussion of the appropriate magnitude for a reduction in off-street parking requirements based on on-street credits, based on a recognition that while there was significant street frontage where on-street parking was allowed, there was also a spill-over in parking demand from the nearby downtown during the busiest times. The Planning Commission at that time ultimately determined that an eight space on-street credit was appropriate, particularly given that the applicant was proposing to create additional on-street parking spaces and in staff's view, a similar request here seems reasonable.

Ground Floor Commercial/Residential Split

In calculating the commercial/residential ground floor space for Buildings 1, 3, 4 and 5, it appears that the hallway and stairs in the lobby area which serve upper floor residential units are being counted entirely as ground floor commercial space, while the actual commercial space is at approximately 56 to 63 percent of the ground floor. In previous actions, this has been an issue and the Planning Commission has sought a more realistic split of lobby space in terms of what portion actually serves the commercial use and what serves the residential use to meet the 65 percent standard. The Planning Commission may wish to make clear if they believe this is an issue which needs to be corrected, or if there needs to be a clarification as to whether there are commercial amenities such as mailboxes in these areas which would explain commercial use.

Adequate Transportation (AMC 18.5.2.050.D) - Traffic Impact Analysis (TIA)

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.*” The application materials include narrative mentioning the 2017 Traffic Impact Analysis(TIA), however a new TIA was not submitted with the application materials based on the current proposal.

During a pre-application conference with the applicant in July of 2021, it was explained that city Engineering staff believed that the project was likely to meet at least one of the thresholds at which a TIA is required (50 newly generated peak hour trips, installation of traffic control or geometric improvements, or 20 newly generated heavy vehicle daily trips). A TIA was submitted for the 2017 proposal which involved only 165 Water Street, and Engineering staff asked 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.

As this staff report is being completed, the applicant has indicated that a Traffic Impact Analysis is forthcoming and should have similar findings to the 2017 analysis and that with re-striping at Water and North Main Streets, there should be no negative traffic impacts. In staff’s view, a finding that adequate transportation can and will be provided cannot be made without the required Traffic Impact Analysis, and that analysis will require review by Engineering staff. As such, staff recommends that the Planning Commission continue the matter until a Traffic Impact Analysis is received, reviewed by Planning and Engineering staff, and a summary of that review provided to the Commission.

Historic District Development Standards and Historic Commission Review

The subject property is located within the Skidmore Academy Historic District and is subject to the Historic District Development Standards.

As this is being written, the Historic Commission has not yet reviewed the application, but they are scheduled to do so at their regular meeting on March 2, 2022. Their recommendations will be provided to the Planning Commission during the March 8, 2022 public hearing. In the meantime, a condition has been recommended below as a placeholder to incorporate the recommendations of the Historic Commission, where consistent with applicable criteria and standards, in the Planning Commission’s final decision.

Exception to the Site Development and Design Standards

Plaza Space

AMC 18.4.2.040.D provides that “*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 shall, in addition to complying with the standards for Basic (AMC 18.4.2.040.B) and Detail (AMC 18.4.2.040.C) Site Review, above, conform to the following standards. See conceptual elevation of large scale development in Figure 18.4.2.040.D.1 and conceptual site plan of large scale development in Figure 18.4.2.040.D.2.*” Figure 18.4.2.040.D.1 illustrates an elevation drawing of a single building while Figure 18.4.2.040.D.2 is a site plan view of a development consisting of four buildings around the perimeter of a corner lot with parking and circulation interior to the site.

AMC 18.6.1.030.D defines development as “*All improvements on a site, including alterations to land and new or remodeled structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.*”

As staff reads the standards, a development includes all proposed structures and as such the current request is for a development greater than 10,000 square feet and as such is subject to the Additional Standards for Large Scale Projects in AMC 18.4.2.040.D, which includes standards for Orientation and Scale, Detail Site Review Plaza Space and Transit Amenities.

The application notes that the proposed building square footages are:

BUILDING	SQUARE FOOTAGE
1	7,156
2	5,749
3	7,156
4	7,156
5	6,959
6	7,156*
7	7,156*
8	7,156*
Total	56,241

* *conceptual*

The application materials explain that the total proposed gross floor area is 56,241 square feet, and that the required plaza space is 5,624 square feet. The application includes a request for an Exception to the Site Development and Design Standards to provide 3,087 square feet rather than the required 5,624 square feet. The application materials suggest that while there is not a specific demonstrable difficulty in meeting the standard, “*the result of the exception to the public pedestrian plaza area is that the proposed areas are well designed, incorporating all of the features sought in the plaza area standards and equally achieve the stated purpose which is to create a safe and comfortable environment and to encourage walking and cycling while maintaining high quality development. The proposed uses and smaller than required pedestrian plaza area is consistent with the purpose and intent of the Employment zone which allows for more industrial types of uses than the Commercial zone and higher intensity development than residential zones.*” For staff, the question for the Commission comes down to whether the quality

of the spaces proposed justifies a 2,537 square foot or roughly 45 percent reduction, in the required plaza space for this 51,641 square foot property which is proposed to be completely redeveloped.

Physical & Environmental (P&E) Constraints Review Permit (18.3.10.050) and Exception to the Development Standards for Hillside Lands (AMC 18.3.10.090.H)

AMC 18.3.10 deals with the Physical & Environmental Constraints Overlay zones, which include floodplain corridor lands, hillside lands and severe constraints lands.

- **Floodplain corridor lands** are those defined by the Federal Insurance Administration and identified in the Flood Insurance Map (FIRM) adopted by the City Council as provided for in AMC 15.10, those lands identified in maps adopted by the Council as provided for in AMC 18.3.10.070, lands which have physical or historical evidence of past flooding, and areas within 20 feet of any stream identified as a Riparian Preservation Creek or within ten feet of any stream identified as a Land Drainage Corridor on the Physical and Environmental Constraints Floodplain Corridor Lands adopted pursuant to AMC 18.3.10.070. Ashland's modified floodplain corridor map adopted pursuant to AMC 18.3.10.070 shows floodplain corridor lands extending into roughly the easternmost 30 feet of 165 Water Street, and the FIRM map has the 500-year floodplain extending onto the site as well.
- **Hillside lands** are those areas defined as Hillside Lands on the 'Physical and Environmental Constraints, Hillside Lands and Severe Constraints' map and which have a slope of 25 percent or greater. The subject property is not within the area identified as Hillside Lands.
- **Severe constraints lands** include all lands with slopes greater than 35 percent. 165 Water Street here has slopes of approximately 65 percent and is considered to be severe constraints lands. Development of these lands is discouraged, and when it occurs it requires a detailed engineering geologic study establishing that the site is stable for the proposed use and development. In addition, the development of severe constraints lands is noted as being subject to the Development Standards for Hillside Lands in AMC 18.3.10.090
- **Wildfire lands** include all lands in the City of Ashland. A condition is recommended below to require a Wildfire Prevention and Control Plan in association with the application, and to limit the future planting of landscaping materials that are on the adopted Prohibited Plants list.

The application here includes a request for a Physical & Environmental (P&E) Constraints Review Permit because the proposal includes development both on floodplain corridor lands and severe constraints lands. The application also requests Exception from the Development Standards for Hillside Lands.

The application explains that there is an embankment along the west property line of 165 Water Street that has slopes in excess of 35 percent, and which generally bisects the parent properties. In the 2017 application, these slopes were described as being approximately 65 percent. The application suggests that the embankment was likely first created by Ashland Creek, and that over the years it has been used to support an irrigation diversion and later a railroad spur.

The application materials include resubmittal of a 2017 “Geotechnical Reconnaissance” letter from Geotechnical Engineer Rick Swanson of Marquess & Associates, Inc. which was provided with the 2017 application. This letter notes that in a 2017 site visit, the engineer did not observe signs or slope instability or seepage from the slope, and goes on to indicate that the slope appeared reasonably stable, and that if future improvements such as a parking lot were set back at least ten feet from the toe of the slope it would be reasonable to leave the slope as is and landscape as desired and that if improvements disturbed the slope, retaining walls to support the disturbance were recommended. The applicant has indicated that due to the short period of time that has passed since the 2017 reconnaissance, no changes to the site geology have occurred that would alter the fact that the slope is stable and not subject to failure, slumping, seepage, etc.

The application materials suggest that after reviewing the hearings adopting the Hillside Ordinance, there was no discussion of their applicability to commercial or employment zoned lands. The applicant asserts that due to the “*unclear and unobjective... seemingly residential standards*” addressing the Development Standards for Hillside Lands for a commercial subdivision and commercial building designs presents unique unusual and difficulties and specifically notes that Exceptions to the following Development Standards for Hillside Lands are necessary: AMC 18.3.10.090.A.1. Buildable Area, AMC 18.3.10.090.B.3 Retention in Natural State, AMC 18.3.10.090.B.4.c. Grading – Cuts, and AMC 18.3.10.090.E. Building Location and Design Standards. *[As the applicant notes, the standards in AMC 18.3.10.090.E are not applicable to the historic districts and as such would not require an exception here in the Skidmore Academy Historic District.]*

The applicant reiterates that the proposed exceptions are for the construction of commercial buildings and the development of the retaining wall along the parking area instead of the unretained slope that is now present. The applicant asserts that the retaining will provide protection to downslope property, and emphasizes that the site is unique because it is zoned Employment but has a small area of steep slopes in the middle of the site. The application materials argue that 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.

Development of Severe Constraints Lands

The 2017 application for 165 Water Street proposed to disturb these slopes and retain them with a retaining wall designed by a structural engineer and reviewed by the project geotechnical expert. This wall was to both enable the proposed development and support future development of the properties above. The application at the time included a request for a single Exception to the Development Standards for Hillside Lands to allow a cut slope in excess of seven feet without terracing. The slope here is eight- to 12-feet in height and the proposed retaining wall at the time was to have been ten- to 12-feet in height, with vegetative screening to reduce the visual impacts. 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.*”

Since 2017, the proposal has changed and where before there were parking and retaining walls, buildings will now sit on these slopes. The 2017 geo-technical reconnaissance letter is not a complete, detailed engineering geological study establishing that the site is stable for the uses and development now proposed, and the findings seem to include some statements that go beyond the limited scope of the 2017 letter. Additionally, the geotechnical engineer's stamp on the letter provided has now expired. In staff's view, 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 is first needed.

Tree Removal Permit

The Tree Protection & Removal Plan (**Sheet L0.2**) provided identifies 20 trees on the three subject properties and within the adjacent rights-of-way and proposes to remove them all. The written findings provided explain that:

“The site is proposed to be fully redeveloped with commercial structures and required parking areas. The amount of site work required to achieve the level of development required in the commercial zone, often necessitates the removal trees that are within the buildable areas of the property. The trees are proposed for removal to permit the applicant to be consistent with other applicable ordinance requirements and standards applicable to the Site Design Standards and the Physical and Environmental Constraints ordinance.”

The application notes that mitigation trees are proposed throughout the property, with 27 trees proposed to be planted within the parking lot and open space areas, and 16 new street trees to be planted in the adjacent rights-of-way.

As this is being written, the Tree Commission has not yet reviewed the application, but they are scheduled to do so at their regular meeting on March 3, 2022. Their recommendations will be provided to the Planning Commission during the March 8, 2022 public hearing. In the meantime, a condition has been recommended below as a placeholder to incorporate the recommendations of the Tree Commission, where consistent with applicable criteria and standards, in the Planning Commission's final decision.

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

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 parking in bays.

The application explains that Van Ness Avenue has a fairly steep grade adjacent to the existing curbside sidewalk, and the presence of railroad tracks prevent any further improvements on the north side of Van Ness. The application further explains that the existing sidewalk at the intersection of Van Ness Avenue and Helman Street determines the grade of the sidewalk, and that

the proposal would construct on-street parking bays adjacent to the sidewalk and including the required street trees as bump-outs between bays.

The applicant asserts that there will be superior connectivity and transportation facilities for the property and the neighborhood through the installation of sidewalks to city standards on Water Street; the widening of the sidewalks and installation of on-street parking bays and street trees on Van Ness Avenue; the preservation of the existing parkrow on Helman Street, with street trees added; and the construction of ADA-accessible crossings. They further suggest that these treatments will improve the pedestrian experience in terms of both comfort level and safety.

Exception to the Street Design Standards

Van Ness Avenue is considered to be a “neighborhood street” in the Transportation System Plan (TSP) and 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. In staff’s view, 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 and Exception is not required.

Solar Setback Exception (AMC 18.4.8.020.C)

As this staff report was being completed, subsequent to the public hearing notice, revised findings were provided which included a request for Solar Setback Exceptions for the buildings on two of the proposed lots. The application explains:

- **Lot 3:** This lot has an average slope of 1.95 downhill to the north. The proposed building requires a 52.54- foot setback from the eave to the north property line. There is a 22-foot setback to the adjacent building on Lot 1 and 13-feet from the property line to the eave where a 50+ foot setback is required.
- **Lot 4:** This lot has an average slope of 3 percent downhill to the north. The building on proposed Lot 4 also requires a solar waiver. The building requires a 51-foot setback where a 24-foot setback to the adjacent building and 10-feet to the property line.

Lots 3 and 4 are at the southeast corner of the site, and both front on Helman Street, and in staff’s experience the average slopes noted by the applicant are fairly typical for properties below Siskiyou Boulevard.

The application materials emphasize that the proposed solar exceptions do not preclude the reasonable use of solar energy on the site, explaining that the shaded lots have ground floor garages and commercial tenant space, and the upper floor residential space will still accommodate passive solar on the east and west elevations and rooftop solar collection devices.

The application asserts that the unique and unusual circumstance on these lots is that the topography of the subject property and the properties to the north where the solar slope is calculated is different for each property, with some lots sloping uphill, some downhill and some with zero slope. The applicant suggests that this creates a unique situation as it is an unusual situation to have numerous slopes on one property depending on the area of the property where solar slope is calculated. The applicant further notes that while the solar ordinance is intended to apply to *habitable* structures, the target use of the zone is Employment uses and only a portion of the structures include habitable space. The applicant concludes that the proposed lots exceed minimum lot dimensions to satisfy the solar access performance standards, however the building heights proposed would need to be substantially less than the allowed height in the zone. The proposed shading is upon commercial buildings that include a habitable space which is a unique situation. If the buildings were on one lot or fee simple parcels, the solar setback standards would not apply but with a subdivision that creates individual, more restrictive standards apply.

Solar Access Exception

The Solar Access Ordinance (AMC 18.4.8) generally seeks to have lots configured and building's designed to "provide protection of a reasonable amount of sunlight from shade from structures and vegetation whenever feasible to all parcels in the City to preserve the economic value of solar radiation falling on structures, investments in solar energy systems, and the options for future uses of solar energy." The ordinance methodology takes into account the unique topography directly north of the subject property and the solar angle unique to the Ashland area in order to determine how a specific proposed building will impact the specific property to its north, and often means that roof pitches and roof forms must be adjusted, gables reoriented, and taller building masses placed at the southernmost portion of a property. Recognizing that solar access can significantly limit design options in an urban setting, the Solar Access ordinance exempts any lot in the C-1-D, CM, and NM-C zones, and properties in the C-1 zone not abutting a residential zone, from the solar setback standards while all other commercial properties in the C-1, E-1 and M-1 zones are held to "Standard B" which allows a 16-foot shadow height at the property line. As the applicant notes, a different lot configuration or building design could potentially not require an exception, however here the applicant is proposing generally similar building designs and roof forms for all five buildings rather than designing individual buildings unique to each proposed lot. In staff's view, the question here is whether the Commission believes an exception is merited to accommodate the building designs proposed, or if the Commission believes the designs for the buildings on these two lots should be adjusted in order to preserve the full solar access required in the E-1 zone.

VI. 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.*

VII. Conclusions and Recommendations

The subject property here is a complex one given its location within the Employment zone and 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 in staff's view, some degree of exception to standards will be necessary with any development of the site.

In staff's assessment, there are still additional items needed to complete the Commission's review of the application. Without a Traffic Impact Analysis and Geotechnical Report, and time to review them, staff does not believe that findings can be made that all applicable criteria have been

satisfied, however staff believed it was worthwhile to begin the public process, solicit comments from both the Tree and Historic Commissions, and provide the Planning Commissioners with an opportunity to familiarize themselves with the site and proposal and weigh in on key issues including the Exceptions to the Site Development and Design, Solar Access and Hillside standards.

In staff's view, the application should be continued to allow for submittal and review of the additional information identified herein, however should the Planning Commission determine that the required approval criteria have been satisfactorily addressed, staff recommends 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 all recommendations of the Ashland Historic Commission from their March 2, 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, 1 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) 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.
 - g) That a detailed inspection schedule listing the inspections necessary to verify compliance with the geotechnical recommendations for the project shall be provided by the project geotechnical expert with the building permit submittals.
 - h) Solar setback calculations demonstrating that all new construction not granted exceptions herein 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 second phase which includes the development of buildings on Lots 6, 7 and 8 is not approved here and shall require separate land use approval.