

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
October 9, 2007  
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center, 1175 E. Main Street
- II. **ANNOUNCEMENTS**
- III. **APPROVE AGENDA**
- IV. **CONSENT AGENDA:**
  1. **APPROVAL OF MINUTES:**  
August 14, 2007 Hearings Board Meeting  
September 11, 2007 Planning Commission Regular Meeting
- V. **PUBLIC FORUM**
- VI. **UNFINISHED BUSINESS**
  - A. **PLANNING ACTION:** PA-2007-00250  
**SUBJECT PROPERTY:** 281 Fourth St  
**OWNER/APPLICANT:** Aaron Glover  
**DESCRIPTION:** Request for a Conditional Use Permit for a theater use and a Type II Variance to parking for a property located at 281 Fourth St. **COMPREHENSIVE PLAN DESIGNATION:** Employment ZONING: E-1; **ASSESSOR'S MAP #:** 39 1E 09BA; **TAX LOT:** 101  
  
*Public hearing and record have been closed.*
- VII. **TYPE II PUBLIC HEARINGS**
  - A. **PLANNING ACTION:** PA-2007-00980  
**SUBJECT PROPERTY:** Westwood/Strawberry 391E 08BD TaxLot #102  
**OWNER/APPLICANT:** City of Ashland
- VIII. **TYPE III PUBLIC HEARINGS**
  - A. **COMPREHENSIVE PLAN AMENDMENT**  
**DESCRIPTION:** Amendment to the Ashland Comprehensive Plan amending the Economic Chapter and adopting an Economic Opportunities Analysis as a technical appendix to the Comprehensive Plan.
- IX. **OTHER**
  - A. Adoption of Findings – PA 2007-00250 – 281 Fourth St
  - B. Adoption of Findings – PA 2007-00980 – Westwood/Strawberry
  - C. ALUO Amendments
- X. **ADJOURNMENT**

**CITY OF  
ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).



**ASHLAND PLANNING COMMISSION  
HEARINGS BOARD MINUTES  
AUGUST 14, 2007**

**I. CALL TO ORDER: 1:30 P.M., Civic Center, 1175 East Main Street**

Members present: Pam Marsh, Dave Dotterrer, Michael Dawkins

**II. APPROVAL OF MINUTES: Hearings Board Minutes of July 10, 2007 to be approved at the Regular Planning Commission Meeting.**

**III. TYPE I PLANNING ACTIONS**

**A. PLANNING ACTION: 2007-01209**

**SUBJECT PROPERTY:** 1160 Bellview

**OWNER/APPLICANT:** Jack & Mary Kyman / Richard Wagner

**DESCRIPTION:** A request for a Conditional Use Permit to expand an existing non-conforming garage by 13.5 square feet within 2 feet of the east property line.

**COMPREHENSIVE PLAN DESIGNATION:** Single-Family Residential **ZONING:** R-1-7.5;

**ASSESSOR'S MAP #:** 39 1E 014CC; **TAX LOT:** 3000

Staff Decision stands 3-0

**B. PLANNING ACTION: 2007-00961**

**SUBJECT PROPERTY:** 1618 Ashland St.

**OWNER/APPLICANT:** Kerry KenCairn for Miller Paint

**DESCRIPTION:** Request for a Site Review approval for a 994 square foot addition to the existing Miller Paint building located at 1618 Ashland St.

**COMPREHENSIVE PLAN DESIGNATION:** Commercial **ZONING:** C-1; **ASSESSOR'S MAP #:** 39 1E 15AB; **TAX LOT:** 6600

Staff Decision stands 3-0

**C. PLANNING ACTION: 2007-01201**

**SUBJECT PROPERTY:** 50 W Hersey St

**OWNER/APPLICANT:** Ashland Christian Fellowship & Pilot Rock Christian School

**DESCRIPTION:** Request for a modification of an existing Conditional Use Permit to allow the use of Ashland Christian Fellowship's Educational/Multi-Purpose Wing Sunday School classroom facilities to offer year-round/Monday through Friday pre-school, after-school daycare, pre-kindergarten and kindergarten classes for the property located at 50 West Hersey Street. The application also requires an Exception to Street Standards to allow the placement of a curbside sidewalk along a steeply sloped section of the site's Oak Street frontage, where a park row planting strip would typically be required.

**COMPREHENSIVE PLAN DESIGNATION:** Employment **Zoning:** E-1 **ASSESSOR'S MAP:** 39 1E 04 CD 1200;

Staff Decision stands 3-0

#### **IV. TYPE II PUBLIC HEARINGS**

##### **A. PLANNING ACTION: 2007-01215**

**SUBJECT PROPERTY:** 510 Granite Street

**OWNER/APPLICANT:** Urban Development Services

**DESCRIPTION:** Request for a Variance to exceed the maximum lot coverage requirements of the Woodland Residential (WR) zoning district for the vacant parcel located at 510 Granite Street. The maximum lot coverage permitted is 7 percent of the total lot area, and the request is to increase this amount to 25 percent lot coverage to address the fact that 16 percent of the lot area is already covered by an existing paved driveway serving seven parcels. A similar Variance was approved for this parcel in 2005 to allow 23 percent lot coverage - this request involves an additional 418 square feet of lot coverage.

**COMPREHENSIVE PLAN DESIGNATION:** Woodland Residential; **ZONING:** WR; **ASSESSOR'S MAP:** 39 1E 17 AA, TAX LOT: 1100

Chair Doetterer read format script, detailing the rules and procedures for public hearings. Both Dawkins and Doetterer stated they made a site visit.

Severson provided a staff report detailing the history of the site and the current request before the Hearings Board.

Mark Knox, 700 Mistletoe Rd, as agent for the property owner summarized the applicant's request stating that it was a minor 2% additional coverage request and also mentioned that previously the lot had been described as unbuildable due to the non conforming nature of the parcel. Surrounding lots are zoned R-1-10, which allow higher lot coverage with larger lot sizes than the subject property. Subtracting the driveway and parking from the lot coverage allowed in the zone leaves 600 or so square feet for the building footprint.

Knox was asked why a larger variance wasn't requested several years ago to better deal with the site's coverage constraints and Hillside Ordinance issues.

Knox stated that design issues with the Hillside Ordinance could create large volume, up to a 28 foot overall height including roof and that aesthetics were some of the issue. Safety is another component. Cars could park in the easement and possibly into the driveway which could cause safety access problems for fire access. Applicants have worked with a designer and have had immediate issues with site work retaining walls, turning radius, etc.

Terry Clement, owner of the lot spoke and stated that the request boils down to a small area in question. He stated that he thought the original lot coverage variance was for the footprint of house, not the driveway also. He also thought that a gravel driveway surface wouldn't trigger lot coverage. What is left is too small to deal with. The shared drive situation is what triggers the problem. An alternative is to put house right up to the common drive. Parking is going to be a problem for guests. Impervious surface is the problem. Clement stated he would actually want more to move house back further and have more driveway. Compare his lot to lots on Ashland Creek Dr, they are much smaller lots with much more coverage. Utility easement move to driveway would cause other problems for use of the land. He stated he is not asking for bigger house, but rather looking for parking spots.

No questions of the Hearings Board for the applicant. The hearing was closed at 2:05

Doetterer requested clarification on impervious surface as it relates to lot coverage.

Severson noted that there are three components and the original variance spelled out specific components of lot coverage. The definitions of Lot coverage; does not allow normal infiltration of water and also as it is more than 50 feet in length so classified as flag drive and needs to be paved.

The record was closed by Chair Doetterer at 2:07.

Marsh made a motion to approve the variance, with a second from Doetterer.

Marsh stated that she felt the application does meet the requirements of the variance criteria; small lot size, existence of existing shared drive is unique. The benefit of fire protection and house placement that minimizes the impact to the adjacent residences meet criteria. Circumstances were not willfully self imposed, as the lots were created and zoned this way.

She also commented that the Land Use Code does contain lot coverage definition and needs to be looked at during the Land Use Code review process.

Doetterer clarified the motion to include staff conditions of approval, Marsh concurred.

Dawkins noted that the drive is not paved, but someone probably will. He also stated that he has no problem with this variance, but regardless of zoning, it was purchased with that zoning so it is self imposed, as no one was forced to purchase the lot.

Doetterer stated that he approves also, looked at variance definition and concurred.

Motion carries 3-0.

**B. PLANNING ACTION: 2007-00985**

**SUBJECT PROPERTY:** 805 Oak St

**OWNER/APPLICANT:** Holden, Hugh & Liesa

**DESCRIPTION:** Request for a Land Partition to create two lots, including one flag lot, for the property located at 805 Oak Street. The application also requests an Exception to Street Standards to allow the placement of a driveway 16 feet from the driveway to the south, where a minimum of 24 feet is required.

**COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential **ZONING:** R-1-5-P

**ASSESSOR'S MAP** 39 1E 04 TAX LOT CA 2803;

Chair Doetterer asked the Hearings Board to communicate any biases or ex-parte contact with all stating that it was limited to a site visit.

Severson provided a summary of the staff report by noting that the request is for a land partition and exception to street standards for the driveway. He noted that the 16 foot driveway separation rather than the required 24 is reason for hearing. The partition is very straightforward and meets the partition criteria. The application does provide information showing that the driveway standard could be met as the applicant originally submitted. They then changed their application and staff was not able to support the request so a hearing was requested by the applicant.

Marsh asked about aligning the driveway with the street across from the proposed driveway on Oak St and Severson noted that the PW/Engineering Dept had no issues with its placement.

Staff explained how driveway distances were measured. Dawkins then asked for staff's recommendation. Severson stated that staff recommends the approval of the land partition, but a denial of the exception to the street standards for the distance between driveways.

Applicants and property owners Hugh and Liesa Holden, along with Tom Giordano, agent and land use planner explained that the driveway is really the only issue. The made an attempt to join driveways with the existing Tolliver Lane but that didn't work out. The original layout could work, but would be better with the exception and it would better align with Sleepy Hollow.

Hugh Holden provided two exhibits and stated that the issue is functionality. If vehicle parked there, width goes to 7 feet. The existing driveway does save a tree. He also noted that the majority of drives along Oak do not currently comply, including some new ones, and also commented that all neighbors he spoke with are ok with the project.

Functionality and safety are the reasons for the request. Additionally, an old curb cut will be eliminated on other side of property so there is no increase in curb cuts for the property. Giordano noted that he sees staff point of view, but there are so many exceptions existing along Oak St.

Marsh asked if the existing driveway on the north end of the property would work and Giordano noted that it would be too close for setbacks to work.

Margueritte Hickman, City of Ashland Fire Marshal mentioned that the recent site plan has to work around tree. Fire access needs turning radius data before Fire Dept could recommend one proposal over another and that maybe a condition could be added for radius information. She also noted that parking could not go into the driveway area so radius information is critical.

Doetterer asked if the width of driveway is not as big of deal as whether or not a car is parked. Hickman stated that the drive width is first priority, the radius second.

Doetterer asked if the applicant would like to use their rebuttal time and Giordano clarified that they are not saying that they are proposing a parking space in the driveway and that the new layout will make the movement easier, not a more difficult radius. He also noted that a landscape architect did check that tree will be able to meet fire access standards for height and width and that pavers will be installed on the portion of the driveway near the tree, which will able to support the 44,000 pounds required for fire apparatus.

The hearing was closed at 2:40.

Severson clarified that 13.5 feet in height is required for tree branches and the arborist stated it will work.

Dawkins noted that he feels the real issue is trying to stick to street standards and noted the importance of curb and sidewalk regularities for pedestrians and cyclists.

The record was closed at 2:43.

Marsh stated that the request was difficult , but can't see where it meets the exception standards. What is unique?

Dawkins added that the removal of one curb cut doesn't figure in to the decision since it is non usable anyway. Tolliver lane would have been a good solution.

Doetterer went through the exception criteria and gave his opinions: minimum needed to alleviate the difficulty – yes, not changing transportation facility – equal, unique or unusual- harder to determine. Maybe is unique because it is there already, just wanting a flag drive down the side of it.

Marsh noted that it is needed because a second lot is being requested.

Doetterer added that it does bring more traffic to the street. The driveway may be better to be wider with additional traffic.

Marsh stated that, with new parcel, there is an opportunity to require meeting development standards. The originally submitted driveway drawing does meet so the issue is not limiting new lot creation so the criteria should be followed.

Marsh made a motion to approve the partition and deny the exception to street standards for the driveway location. A second was provided by Doetterer with the motion carrying 3-0.

**VI. UNFINISHED BUSINESS – Adoption of Findings, Orders & Conclusions**

- A.** Findings for PA2007-001215, 510 Granite St
- B.** Findings for PA2007-00985, 805 Oak St

Dawkins then moved to adopt findings for both 510 Granite St and 805 Oak St, with a second from Marsh the motion was approved 3-0

**VII. ADJOURNMENT**

The meeting was adjourned at 3:08.

# CITY OF ASHLAND

## ASHLAND PLANNING COMMISSION REGULAR MEETING SEPTEMBER 11, 2007 MINUTES

### I. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chair John Stromberg at the Ashland Civic Center, 1175 E. Main Street, Ashland, OR

**Commissioners Present:**

John Stromberg, Chair  
Michael Dawkins  
Olena Black  
Tom Dimitre  
John Fields  
Pam Marsh  
Dave Dotterer  
Melanie Mindlin  
Mike Morris

**Absent Members:**

No absent members

**Council Liaison:**

Cate Hartzell, Council Liaison, absent due to quasi-judicial agenda items.

**Staff Present:**

David Stalheim, Community Development Director  
Angela Barry, Assistant Planner  
Adam Hanks, Permit Manager  
Sue Yates, Executive Secretary

### II. ANNOUNCEMENTS

Mindlin will be out of town and will need a replacement for the October 9, 2007 Hearings Board.

### III. APPROVE AGENDA

Dimitre/Dotterer m/s to approve the agenda. Voice Vote: Approved.

### IV. CONSENT AGENDA

A. Approval of Minutes

1. August 14, 2007 Planning Commission Meeting
2. August 28, 2007 Planning Commission, Continuation of August 14, 2007 Regular Meeting

Dimitre/Black m/s to approve the Consent Agenda. Voice Vote: Approved.

### V. PUBLIC FORUM – No one came forward to speak.

### VI. TYPE II PUBLIC HEARING

A. PLANNING ACTION: PA-2007-00980  
SUBJECT PROPERTY: WESTWOOD/STRAWBERRY  
OWNERS/APPLICANT: City of Ashland

This item has been continued to the October 9, 2007 Planning Commission Meeting.

B. PLANNING ACTION 2007-00250

SUBJECT PROPERTY: 281 FOURTH STREET

APPLICANT: AARON GLOVER

DESCRIPTION: Request for a Conditional Use Permit for a theater use and a Type II Variance to parking for a property located at 281 Fourth Street.

### Site Visits/Ex Parte Contacts/Bias/Conflict of Interest

- Marsh stated she has been to the Mobius site about three times. On one visit prior to the application, she noticed a lot of teenagers congregated on the sidewalk, but not doing anything objective. The last visits have been since the application was filed. The first time she walked by, there appeared to be a staff person outside the door and she noted no obvious impact to the neighborhood. On her most recent visit on Saturday, she observed people standing outside Mobius smoking and standing quietly. From the sidewalk she could hear noise that would accompany belly dancing. In both cases, she saw there was a lot of parking in the commercial area and a lot of parking on A Street. There did not appear to be any

commercially related parking on B Street. It appeared that Peerless Restaurant and Mobius were sharing all the public parking that exists on the property.

- Dawkins has gone by the building frequently and he has been in the building.
- Mindlin has been to three or four events in the last couple of years and she used to live on Fourth Street, nearby and is familiar with the area.
- Dimitre had no ex parte contact or site visit.
- Stromberg has been there ten to 15 times over the last year and does not have any particular impressions to report.
- Fields is familiar with the site but had no ex parte contact.
- Morris has been by the site during the day. He received an e-mail from a friend, read it and gave it to Barry to be entered into the record.
- Black went to a multi-media recording event around 2003. She noticed a feeling of congestion around the entry/exit door. It might have changed since then. Monday she drove by Mobius around 8:00 p.m. and it appeared the parking is well-used but did not if there was event going on or not.
- Dotterrer had a site visit and no ex parte contacts.

Stromberg asked if anyone wished to comment or rebut the site visits and ex parte contacts. No one wanted to comment.

#### STAFF REPORT

Barry reviewed the project (see Staff Report dated August 14, 2007). The deadline for approving or denying the application is December 11, 2007.

The applicant is requesting a Conditional Use Permit for the theater use for audiences up to 120 people. The theater use is currently functioning without the land use approvals. The building does not have an approved building permit for an assembly use and the approved occupancy is currently 49 people.

The primary potential impacts of the use would be noise, traffic and any other factors found to be relevant by the Planning Commission. The applicant has not provided information addressing potential traffic impacts to the use other than to say the use is in operation with no complaints having been filed. Staff had recommended the applicants further address this issue because they are requesting a significant increase in the audience size they wish to accommodate. Noise is a potential issue due to the nature of the use. There are no details in the application explaining their crowd control policies or the mitigation methods. Since noticing the application, six letters have been submitted from the neighbors voicing concerns about neighborhood compatibility. Two letters have been submitted in support of the theater use.

The applicant is also requesting a Variance that exceeds the 50 percent threshold for an Administrative Variance in a Historic area to the parking requirements and is therefore being processed as a Type II public hearing. The applicant has provided four informal parking agreements which total 22 parking spaces. The applicant submitted a parking map. The ordinance allows for joint use of parking facilities provided the uses do not overlap in the time of day the parking will be needed, that the facilities are within 200 feet of each other and the right to use the off-street parking is legally established by deed, easement, or some kind of similar written instrument. No information has been provided by the applicants on how the properties that are donating the parking spaces will be meeting their own parking requirements. Planning records show that at least seven of the proposed shared spaces already serve residential or restaurant uses that would overlap during the peak demand time and would not be available to Mobius. The parking lot the applicant proposes to use behind the building at 287 Fourth Street is already constrained by an agreement with the Peerless Restaurant that allows restaurant customers to park there after 5 p.m. It is not clear from the forms provided by the property owners whether they are willing to sign any kind of formal legal agreement allowing for shared use of the parking. The applicant has declined to submit verification of this. Staff cannot determine, at this time, whether any of the off-street parking spaces that were proposed would actually be available to serve the theater use. It may meet the criteria for unique and unusual circumstances and the limited parking situation could be said to not be self-imposed.

Due to the large number of outstanding issues the applicant chose not to address, Staff is unable to recommend approval of the project. It's not clear the burden of proof has been met for either the CUP or Variance criteria, therefore, Staff is recommending denial of the application.

MARGUERITTE HICKMAN, Fire Marshall, City of Ashland, stated the occupancy is based on the use permitted in the building. Mobius' occupancy is currently 49 people. If it becomes an assembly occupancy, less square footage is required in the building and a 120 person occupancy would be a reasonable expectation.



The Commissioners raised a number of questions and had lengthy discussion surrounding the parking requirements. There was confusion over the number of parking spaces being requested and how many are available. Are there clearly and legally defined rights to parking spaces? How can the Commission work with a situation where overlap and defined hours seem legitimate? Is there a way to make it work?

#### **PUBLIC HEARING**

**BERYL JACOBSON**, 2255 Ranch Road, explained that they chose to hand in their packet with some creative ideas. They felt the parking agreement that was given to them by the City was very overwhelming and would be daunting for most businesses to sign before an agreement was even made so they chose to use a document that was clear with a signed agreement. Jacobson read his prepared comments. He explained their organization and their vision. He believes they meet the criteria for the parking Variance because the Railroad District is an area comprised primarily of art galleries, restaurants and commercial business. Fourth Street is one of the widest streets in Ashland and potentially a gateway to the railroad property. Allowing for a nightscape in this area will help create more light, activity and ultimately more safety. The combination of these factors makes it a unique circumstance not typical elsewhere and benefits outweigh any potential negative impacts. They suggest a CUP be granted and they specifically define the circumstances proposed as follows:

- 1) Intermittent uses during off hours.
- 2) Maximum 15 events per month – they will control the booking of events
- 3) Hours of operation for events from 8:00 p.m. to 1 a.m.
- 4) Limit occupancy to 175.
- 5) Submit events well in advance to the neighbors and be open to moving the events around.
- 6) Conflicts mentioned would be handled by:
  - a) Hired staff to clean neighborhood within 200 feet following an event
  - b) Closed door policy to limit noise
  - c) Alleyway used only for loading and unloading equipment
  - d) No vehicles will be left idling in the alley for longer than necessary for loading and unloading of equipment.
  - e) Staff will monitor and secure the neighborhood before, during and after events
  - f) Clear communication to patrons

**TOM GIORDANO**, 2635 Takelma Way, believes Staff has taken the strictest approach in determining the parking requirement. He suggested calculating the parking based on square footage (one parking space for every 100 square feet of floor area). Also, commercial buildings in the Historic District allow for a 50 percent reduction to the parking. This use will benefit the community because it is open to a variety of ages and different points of view.

**AARON GLOVER**, 725 Adams Road, Talent, OR, asked when the code was adopted that required a legal agreement be provided for shared parking. Staff responded it was 1984.

Jacobson said it is obvious in this neighborhood at night that there is within 200 feet of their business, plenty of parking to accommodate the occupancy they are requesting. There are five parking spaces in front of their business.

Glover said they are asking for 120 seats, not 175. Staff clarified that parking is calculated one parking space for every four seats, so 30 spaces are required.

**JOHN SELIGMAN**, 248 Third Street, lives within 200 feet of Mobius. He has never once been bothered by the noise from Mobius. Once in awhile, he hears music, but very little. He does not hear anything from the foot traffic in the alley. Mobius is for everyone – it is a community venue and it is important to have it in his neighborhood. With regard to parking, the Peerless Hotel closes down in the wintertime for a month and a half. He urged the Commission to grant approval.

**JOHN GAFFEY**, 637 Oak Street, said he's hearing that a business could renegotiate their parking, particularly the hours of operation. He wondered how many police calls or complaints are on record for Mobius. The Old Ashland Armory has probably used the maximum number of Variances. They only have street parking. The art walk on A Street is like a Mardi Gras. Is this a unique situation and does granting a Variance have benefits? He uses Mobius on Fridays for Tango. It is a "just right" space. It provides an ambience and he wants the Commission to consider this space cannot be replicated.

**MARVIN RATNER**, 1125 Village Green Drive, said that Ashland is a unique, cultural venue. He goes to Mobius often and can bike there; it's convenient. A lot of people that go there enjoy the downtown and either walk or bike because of its central location.

He has never heard any noise outside Mobius. Most of the events draw only 25 to 75 people and he does not see a parking problem.

CHRIS BYRNE, 2345 Ranch Road, said before moving to Ashland, they visited Mobius and it heavily influenced their decision to move to Ashland. Culturally, it has enriched his life. He lives in town, works at Mobius, and rides his bike to and from work –Mobius helps one more family live and work in town.

RICHARD BROWNE, 826 S. Mountain, said he frequents Mobius two to three times a month and he has never had a parking problem when he drives, parking out in front about 90 percent of the time. This type of venue does not exist anywhere else in town.

Fields read the comments from ORIANA SPRATT, 212 Patterson Street, into the record. She supports the project.

JEFF FEINBERG, 211 Normal Avenue, said he has never had a parking problem at the Mobius. They are the only venue in town that brings national musicians to town. If anything, he is bothered Mobius has been here four years and they have received little community support.

STEVE SCHEIN, 167 Church Street, reported Fourth Street is a ghost town at night. By doing a related study, he has been astonished at the far-reaching vision and implications this business has for such small town. He has asked entertainers that travel through just why they are willing to perform for only 20 people. The answer has been: “it’s the room.” He does not see a parking problem. The social impact enormously outweighs anything negative.

MARLA WELP, 78 North Mountain Avenue, agreed with all the previous comments in favor.

The following persons submitted comments for the record in support of the application.

CHRIS VANSCHAACK, 429 Morton Street

GENE BURNETT, 549 B Street, #3

SAMARRA BURNETT, 549 B Street, #3

STEVE LANUSSE, 320 Oak Street

RUSS RODRIGUEZ, 530-B Maple Way

SHANTI LOBAUGH, 205 Piedmont Drive

STEVEN M. SIRIANNI, 558 Holly Street

LEAH SCHRODT, 1040 East Main Street, Apt. B

MITZI MILES-KUBOTA, 850 Beswick Way

ERIC NOVISEDLAK, 309 Harrison Street

ED MCGUIGAN, 6306 Adams Road, Talent, OR 97540

BETSY MCGUIGAN, 6306 Adams Road, Talent, OR 97540

CLAIRE KRULIKOWSKI, 228 Talent Avenue, #2, Talent, OR 97540

DEBRA THORNTON, 107 Second Street

JEFF ALTEMUS, 204 Alicia Avenue

ANNIE MCINTYRE, 204 Alicia Avenue

MURIEL MORRISON, 849 Pavilion

RON ROTH, 6950 Old Highway 99 South

BIRGITTE FETTE, 896 Blackberry Lane

Rebuttal - Glover emphasized that while the whole business structure isn’t completely dependent on the events they hold, the decision, if granted, will very strongly affect their ability to continue what they are doing.

Stromberg noted they have been operating without a CUP and asked how the Commission should factor that into the credibility of the other things the applicants have said tonight. Glover said they have spent a lot of time bringing in their media and internet component. They realized the events were valuable and it grew from that. Submitting the application and to get to this point has taken some time. Jacobson didn’t realize what constituted a “theater.” It has become clear through this process that they need a CUP for a theater and it has taken well over a year to get this point.

*Stromberg closed the public hearing and closed the record.*

#### VIII. TYPE III PLANNING ACTIONS

- A.        **PLANNING ACTION:**        PA2007-00250  
          **APPLICANT:**            City of Ashland  
          **DESCRIPTION:**        Proposed amendments to the Ashland Land Use Ordinance implementing portions of the recommendations in the Land Use Ordinance Review prepared by Siegel Planning Services. In addition, other recommendations of the City Planning Director concerning land use decision-making procedures will be considered.

Stalheim stated the first draft of the amendments was presented at the July 24, 2007 Planning Commission Study Session and at the July 31st, Special Planning Commission meeting, the Commission moved to start the public hearing process on the proposed amendments and set the date for September 11, 2007. A second draft based on some public comments, Planning Commission review and Staff review was prepared and has been included in this month's packet.

Stalheim acknowledged Colin Swales and Mark Knox who each submitted detailed comments on the first draft. Their input was greatly appreciated. He also thanked those Planning Commission members who submitted comments that have been included in the record. He noted that comments have been received by e-mail in the last few days from: Dennis Goldstein (dated September 7<sup>th</sup>), Stalheim's response to Goldstein's, John Schwendener (dated September 9<sup>th</sup>), Michael Young and Jacquelyn Young, and drawings from the City's engineering staff for vision clearance. The Commissioners should have received an e-mail from Brandon Goldman with the Housing Commissioner's review, from Mark Knox (dated August 30<sup>th</sup>), Dennis Goldstein (dated September 10, 2007), and Bonnie Brodersen (dated September 10<sup>th</sup>).

#### **PUBLIC HEARING**

**DENNIS GOLDSTEIN, 766 Roca Street**, said he is an attorney and has been involved in real estate and in that capacity has both drafted, revised and commented on legislation and ordinances relating to housing. After looking at the proposed revisions and the ordinance, he has found the ordinance is extremely difficult to navigate. Also, the language is not as clearly written as it could be. With regard to the policies behind the code, from what he has seen, he would agree with the purposes, but the difficulty in reading the code undermines the purpose of the code and wastes staff time and the public's time in locating information in the code. He has not had time to comment on everything but some of his comments are contained in his letter.

He believes there is an improvement to the Type I planning actions by lengthening the comment period from ten to 14 days, making it a little earlier in the process, however, he thinks it should be even earlier. The sooner affected property owners can talk to applicant(s) at a time when fewer expenses will have been involved and they are less fixed in their position, the better.

The ordinance should require that the notice state the timeframe and the requirements for appeal.

He does not want the ordinance interpretation politicized. It is a matter for the City Attorney. Interpretations should be included on the website and their location cited in the ordinance.

*Dawkins/Black m/s to stay until 10 p.m. Voice Vote: Approved.*

**EVAN ARCHERD, 550 E. Main Street**, has found most of the amendments to be positive changes. He has two issues:

1. Residential in C-1 and E-1 zones. He liked the original revision much better than the second revision. By prohibiting residential in the E-1 and C-1 is a good idea. If we want to allow them in any way, he would suggest they make them a Conditional Use. Allowing only 500 square foot units is like a band-aid. It should either be allowed or not allowed at all. He suggested eliminating the residential except with a Conditional Use Permit.
2. Changing the motel/hotel criteria. He thought Option 2 was simple and direct. If you want to outlaw timeshares and fractional uses, we should write a code that outlaws them. To put it in a definition is misplaced and misguided. Hotels and motels are already a Conditional Use in the C1 and E-1 zones. The other language unnecessarily complicates the process.

**BRENT THOMPSON, 582 Allison**, suggested passing the simple items and come back and struggle with the more difficult issues. He will pick up a revised draft, review it and submit written comments.

Stromberg closed this public hearing, but the record will stay open to be discussed at a Special Planning Commission meeting scheduled for 7:00 p.m. on October 4, 2007. At that meeting, the integrated changes will be discussed.

Stalheim said some of the changes in the new draft will include:

Stromberg's edits to the Definitions

Marsh's suggestion to redefine the gross floor area

Half-story daylight basement  
Vision clearance  
Maps

Stalheim will get the revisions out in the next week.

Fields/Dawkins m/s to continue keeping the record open for further discussion on October 4, 2007 at 7:00 p.m. at the Ashland Civic Center. Voice Vote: Unanimously approved.

#### VIII. UNFINISHED BUSINESS

##### A. ADOPTION OF FINDINGS – PA2006-01663, 87 W. Nevada & 811 Helman, Ashland Flowershop & Greenhouse Inc/Greg & Valri Williams

Ex parte contacts – There were none. Morris had a discussion with his ex-neighbor, but nothing of substance.

Dotterer/Morris m/s to approve the above-noted Findings. Roll Call: Unanimously approved.

##### VI. B. (Continuation of PA2007-00250, 281 Fourth Street, Aaron Glover)

#### COMMISSIONERS' DISCUSSION AND MOTION

Stalheim read "Joint Use of Facilities" to the Commissioners.

The Commissioners discussed several ways they could work up conditions so this application could be approved. Some argued the applicants did not provide enough information and there is confusion over specifically what the applicants are requesting. The number of parking spaces the applicants have available is still unclear.

*Dawkins/Black m/s to continue the meeting until 10:30 p.m.*

Marsh said she cannot vote for this project tonight. The driving question is the CUP. Can the application satisfy the criteria for a CUP? The applicants have come up with a list of things for crowd control measures but she has not seen any of this in writing until tonight. The specifics are very relevant for the Commissioners to know the applicants can control the impact of 120 people leaving the venue at midnight. She would like to see their plan to know they meet the criteria of minimizing the impact of the target area. She would agree to a continuation with the details ironed out along with a parking plan and a crowd control plan.

Dawkins said he walks through this neighborhood all the time and with or without the venue, parking is not a problem. We are making everything too complicated. There are other things happening in the neighborhood that are not restricted. He would like to make a motion and work out the conditions.

Dawkins/Mindlin m/s to approve PA2007-00250.

Mindlin said part of what makes this project special is it is a low-cost venue. We have to look at how our planning process interacts with the public. She agrees with Dawkins that the parking is there and to focus on a rejection of this proposed business activity on the basis there is a parking problem, feels legalistic and spurious.

Dimitre, Morris and Dotterer don't believe we have a complete application and it has not met the burden of proof. They are willing to continue it so they can come back with something they can support.

Black would like to see the comments they made tonight in writing with the following and then the Commission can move forward.

- Commit events to a specific time and specify the number of people allowed.
- Request a Variance based on exceeding the 200 feet.
- Address bike parking.
- Come back to the Commission in a year and review.
- No idling of vehicles in the alley.
- If the venue is a certain size, they will take care of clean-up.
- Make sure the building isn't going to be a problem with occupancy and fire.
- State their plan.

Fields remembered 25 years ago when people in town were asking how we could create a traffic problem in the Railroad District. The parking reductions implemented then was to encourage that level of density. It's rare that Mobius can get a big draw of people. Maybe we can give them another month to work these things out, but he is looking at the level of complexity of what we are creating. It is making it difficult to do anything. In this case, he does not see the neighborhood rising up.

Stromberg thought a continuation would be advisable and he doesn't want to compromise our process.

Stromberg called for the question. Dimitre seconded. The motion failed with Fields, Black, Mindlin, Dawkins and Morris voting 'no' and Dimitre, Stromberg, Dotterrer and Marsh voting "yes."

Roll Call on Dawkins' motion – Dawkins, Black and Mindlin voted "yes" and Dotterrer, Marsh, Morris, Fields, Stromberg and Dimitre voted "no." The motion failed.

Morris/Dimitre m/s to continue the meeting to the October 9, 2007 Planning Commission meeting at 7:00 p.m. at the Ashland Civic Center, 1175 E. Main Street. Morris/Black m/s amended the motion to leave the record open for two weeks. Roll Call: The motion was unanimously approved.

ADJOURNMENT – The meeting was adjourned at 10:30 p.m.

Respectfully submitted by,  
Sue Yates, Executive Secretary





**PLANNING ACTION:** #2007-00250

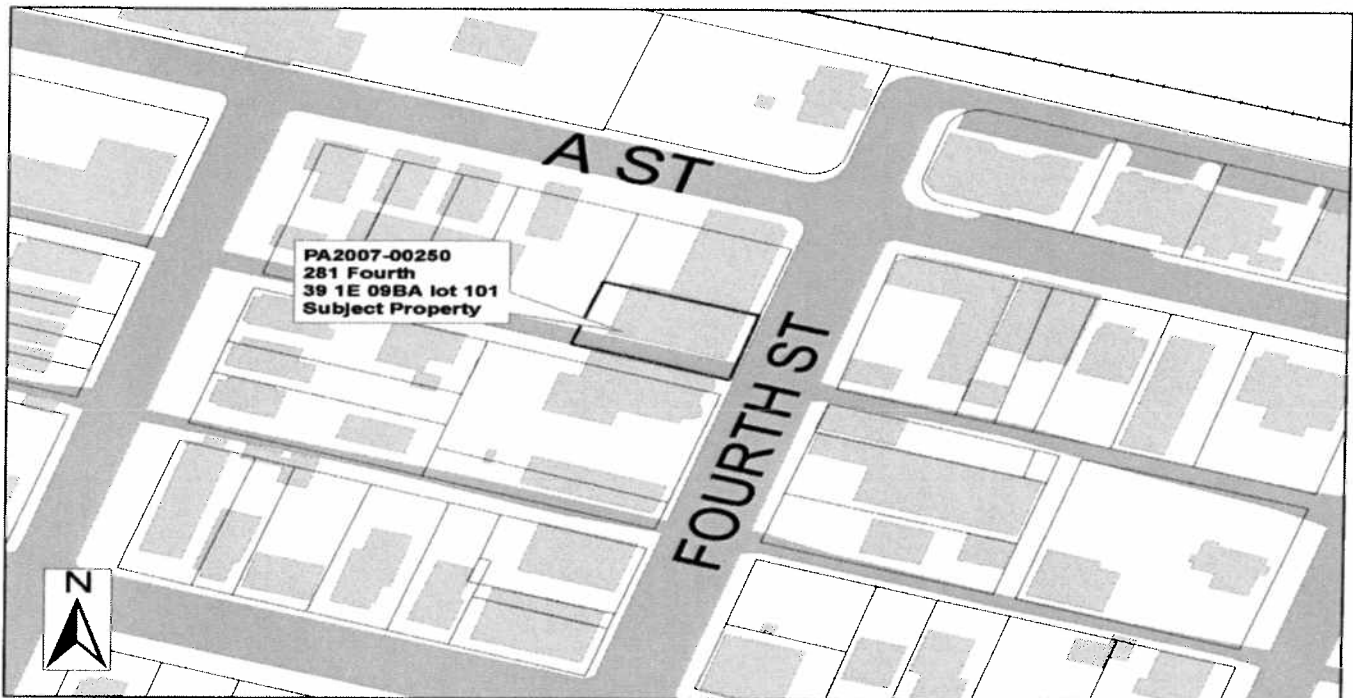
**SUBJECT PROPERTY:** 281 Fourth St.

**OWNER/APPLICANT:** Aaren Glover

**DESCRIPTION:** Request for a Conditional Use Permit for a theater use and a Type II Variance to parking for a property located at 281 Fourth St. **COMPREHENSIVE PLAN DESIGNATION:** Employment **ZONING:** E-1; **ASSESSOR'S MAP #:** 39 1E 09BA; **TAX LOT:** 101

**NOTE:** The Ashland Historic Commission will also review this Planning Action on **August 8, 2007 at 7:00 PM** in the Community Development and Engineering Services building (Siskiyou Room), located at 51 Winburn Way.

**ASHLAND PLANNING COMMISSION MEETING:** August 14, 7:00 PM, Ashland Civic Center



Notice is hereby given that a **PUBLIC HEARING** on the following request with respect to the **ASHLAND LAND USE ORDINANCE** will be held before the **ASHLAND PLANNING COMMISSION** on meeting date shown above. The meeting will be at the **ASHLAND CIVIC CENTER**, 1175 East Main Street, Ashland, Oregon.

The ordinance criteria applicable to this application are attached to this notice. Oregon law states that failure to raise an objection concerning this application, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, if requested. A copy of the Staff Report will be available for inspection seven days prior to the hearing and will be provided at reasonable cost, if requested. All materials are available at the Ashland Planning Department, Community Development and Engineering Services, 51 Winburn Way, Ashland, Oregon 97520.

During the Public Hearing, the Chair shall allow testimony from the applicant and those in attendance concerning this request. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the applicable criteria. Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at 541-488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting. (28 CFR 35.102-.35.104 ADA Title I).

If you have questions or comments concerning this request, please feel free to contact the Ashland Planning Department, 541-488-5305.

## **CONDITIONAL USE PERMITS**

### **18.104.050 Approval Criteria**

A conditional use permit shall be granted if the approval authority finds that the proposed use conforms, or can be made to conform through the imposition of conditions, with the following approval criteria.

- A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.
- B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.
- C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:
  1. Similarity in scale, bulk, and coverage.
  2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
  3. Architectural compatibility with the impact area.
  4. Air quality, including the generation of dust, odors, or other environmental pollutants.
  5. Generation of noise, light, and glare.
  6. The development of adjacent properties as envisioned in the Comprehensive Plan.
  7. Other factors found to be relevant by the Hearing Authority for review of the proposed use.

## **VARIANCE**

### **18.100.020 Application**

The owner or his agent may make application with the Staff Advisor. Such application shall be accompanied by a legal description of the property and plans and elevations necessary to show the proposed development. Also to be included with such application shall be a statement and evidence showing that all of the following circumstances exist:

- A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.
- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ord.2425 S1, 1987).
- C. That the circumstances or conditions have not been willfully or purposely self-imposed.(Ord. 2775, 1996)



**ASHLAND PLANNING DEPARTMENT  
STAFF REPORT  
August 14, 7:00 PM**

**PLANNING ACTION:** PA2007-00250

**APPLICANT:** Aaren Glover

**LOCATION:** 281 Fourth St.

**ZONE DESIGNATION:** E-1

**COMPREHENSIVE PLAN DESIGNATION:** Employment

**APPLICATION DEEMED COMPLETE:** June 14, 2007

**120-DAY TIME LIMIT:** October 12, 2007

**ORDINANCE REFERENCE:**  
18.40 E-1 Employment District  
18.92 Off-Street Parking  
18.100 Variances  
18.104 Conditional Use Permits

**REQUEST:** Request for a Conditional Use Permit for a theater use and a Type II Variance to parking for a property located at 281 Fourth St.

**I. Relevant Facts**

**A. Background - History of Application**

The current application, PA2007-00250, was submitted February 8, 2007, and was deemed incomplete. The applicant elected on June 14, 2007 to process the application without providing additional information.

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

**B. Detailed Description of the Site and Proposal**

The property is on the west side of Fourth St. between A Street and the alley. The lot contains two existing buildings, one which houses the Mobius and the other a glass shop. The buildings share a common wall and cover the majority of the site. The property is located in the Railroad

Historic District and is zoned E-1 with a Residential Overlay. Adjacent properties are also E-1 with a Residential Overlay. Surrounding buildings contain a mix of commercial and residential uses.

### **1. Conditional Use Permit**

The applicant is requesting a Conditional Use Permit for a theater use in an E-1 zone. The theater use is currently functioning without land use approvals. A building permit was approved in 2002 for an interior remodel of the building to a video and audio production studio. No additional changes to the building or the site have been proposed as part of this land use action, though some changes would need to be made in order for the building to meet building and fire code requirements. Currently, the building does not have an approved building permit for an assembly use.

### **2. Variance**

The applicant is requesting a Variance to the required parking requirements. The proposed assembly-type use would require one space per four seats. The application states that they would have events that would consist of up to 120 people, which would result in a parking requirement of 30 spaces. The applicant is proposing to provide the majority of the parking through agreements with the neighbors, although it is not clear from the application exactly how many parking spaces are actually available for use by the facility.

## **II. Project Impact**

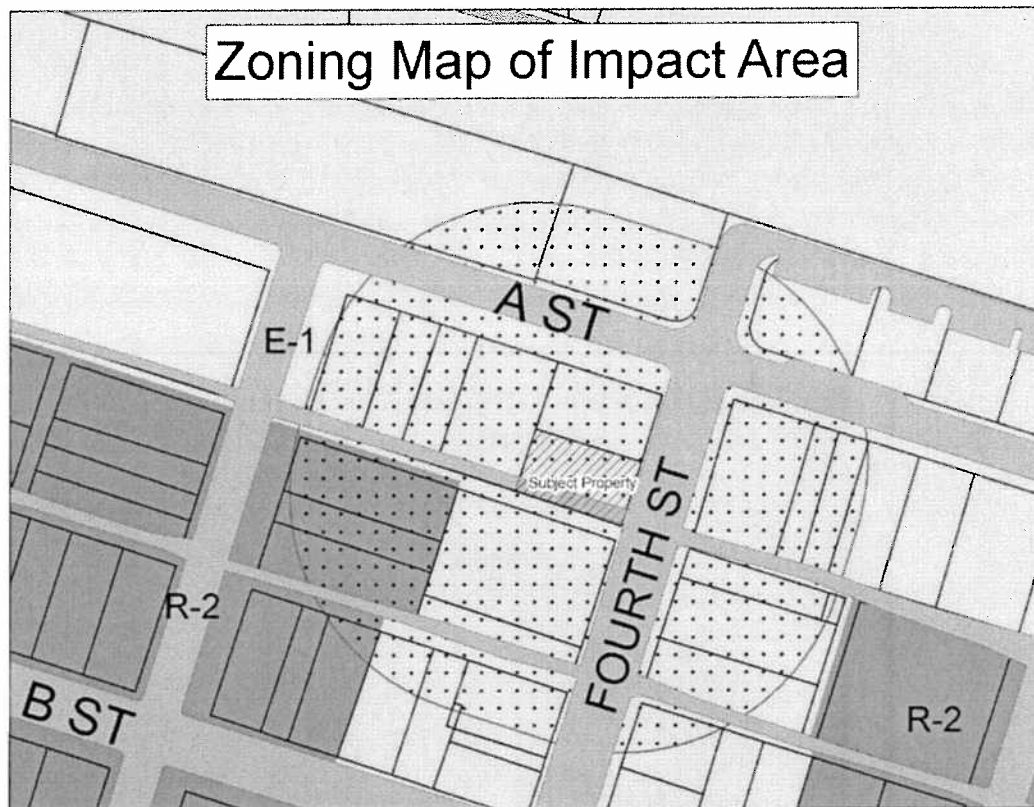
### **A. Conditional Use Permit**

#### **1. Adequacy of Public Facilities**

The applicant has not provided information addressing potential traffic impacts of the use, other than to state that the use is already in operation and there have been no complaints that they know of. Additionally, the application states that the facility is within walking distance of downtown. Staff had recommended that the applicant further address the potential traffic impacts of the use, but no additional information was provided. Existing utilities are in place to service the building, and no additional utility needs have been identified.

## 2. Impact of the Use on the Target Area

The Conditional Use criteria state that the project must be found to have no greater adverse material effect on the livability of the impact area than the target use of the zone. The impact area is all properties within 200 feet. No changes are proposed to the architecture of the building. Potential impacts from the use would be primarily noise, traffic, and any other factors found to be relevant by the Planning Commission. Noise is a potential issue for this application since there are a number of R-2 properties in the impact area, as well as residential units in the E-1 Residential Overlay. The application states that the proposed activities do not generate significant adverse noise and that they have done extensive sound conditioning to the studio to limit the sound impact on the surrounding areas. The application also states that crowd control policies are used to mitigate the noise of people coming in and departing, but details are not included.



### B. Variance

The application states that a Type I Variance to parking requirements is requested based on Section 18.92.955 of the Development Code, which allows for up to a 50% reduction in parking requirements to be processed as an administrative action. However, while it is unclear the exact amount of a Variance needed to allow for the proposed use, it appears to exceed the 50% threshold. Additionally, the Type I Variance process has previously been granted to historic structures as an incentive for redevelopment. This building was built in 1957, and is listed as

structures as an incentive for redevelopment. This building was built in 1957, and is listed as non-historic, non-contributing in the national register nomination, and thus does not clearly meet the intent of Section 18.92.955. For these reasons, the application is being processed as a Type II Variance.

The applicant has provided four informal parking agreements for a total of 22 spaces. The ordinance allows for joint use of parking facilities provided that the uses do not overlap in the times of day parking will be needed and provided the facilities are within 200 feet of each other. The right to use the off-site parking must be established by deed, lease, easement, or similar written instrument. No information is included in this application on how the properties that are donating parking spaces will be meeting their own need for parking. Planning records show at least 7 of those spaces would serve residential or restaurant uses that would overlap in the time peak demand and would not be available for use by the theater, and there may be other uses that fall into this category. Additionally, the parking lot that the applicant proposes to use behind the building and at 287 Fourth Street is already constrained by an agreement with the Peerless restaurant that allows restaurant customers to park there after 5 p.m. This parking arrangement was part of the approval for the restaurant. Finally, it is not clear from the forms that the property owners offering parking are willing to sign a formal legal agreement allowing for shared use of the parking as would be required by the ordinance, and the applicant has declined to submit any verification of this. At this time, staff is unable to determine whether any of the parking spaces proposed by the applicant would actually be available to serve the theater use.

The property is located in a largely developed historical area that has limited opportunities for additional parking, and, for this reason may well meet the criteria for unique and unusual circumstances preventing the applicant from meeting the standard. Additionally, the situation is not self-imposed. A number of other parking variances have been approved in this neighborhood based on these circumstances. However, the applicant is required to show that the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses. Since the level of impact is not clear in the application, the applicant has not, in staff's opinion, met the burden of proof for the requested Variance. The impact could be significant. For the 28 properties within 200 feet, 13 of them have undergone some sort of planning action that would cause them to have to address parking requirements. These have included a number of shared parking arrangements and variances, reducing the required parking by at least 32 spaces. Of the remaining parking, at least 8 spaces are provided through on street credits.

### **III. Procedural - Required Burden of Proof**

**The criteria for Conditional Use Permit are described in 18.104.050 as follows:**

The following criteria shall be used to approve or deny an application:

- A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.

- B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.
- C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:
  - 1. *Similarity in scale, bulk, and coverage.*
  - 2. *Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.*
  - 3. *Architectural compatibility with the impact area.*
  - 4. *Air quality, including the generation of dust, odors, or other environmental pollutants.*
  - 5. *Generation of noise, light, and glare.*
  - 6. *The development of adjacent properties as envisioned in the Comprehensive Plan.*
  - 7. *Other factors found to be relevant by the Hearing Authority for review of the proposed use.*

**The criteria for a Variance are described in 18.72.090 as follows:**

- A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.
- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ord.2425 S1, 1987).
- C. That the circumstances or conditions have not been willfully or purposely self-imposed.

#### **IV. Conclusions and Recommendations**

Due to the large number of outstanding issues, Planning Staff is unable to recommend approval of the project as proposed. The applicant has declined to address the Variance criteria or the Conditional Use criteria in detail. Given the large size of events proposed, it is not clear that the impact will be minor and the burden of proof is not met for the Conditional Use Permit. Similarly, the impacts of the Variance have not been adequately assessed, and the burden of proof has not been met. Staff recommends denial of the application.



May 4, 2007

CITY OF  
**ASHLAND**

Mr. Aaren Glover  
Mobius Productions  
281 Fourth Street  
Ashland, Oregon 97520

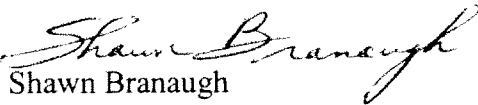
Dear Mr. Glover,

Originally, Mobius Productions informed the City of Ashland that the business would be conducting multi-media productions involving live musical performances with a very small audience for a realistic effect. Therefore, the building Mobius Productions is located in was classified as a Business (B) occupancy and has been approved to be used as a production studio. However, based on the Mobius web site and the monthly flyers which Mobius has distributed around the city, the occupancy is clearly being used for assembly events.

We are aware you have been working with the Ashland Planning Department to obtain a conditional use permit to allow the space to be used as an Assembly occupancy. Nonetheless, several things need to happen before the building could be used as an Assembly occupancy. The Ashland Planning Department would need to approve a conditional use permit, the building official would need to issue a new certificate of occupancy for the change in use, and a fire inspection would need to be passed.

Currently, you are not allowed to operate the business as an Assembly occupancy. The occupancy is allowed to be operated as a Business occupancy with an occupant load of no more than 49 people. The occupant load includes employees, staff, performers, security personal and patrons. Please post the provided occupant load sign at a conspicuous location near the main front exit.

Sincerely,

  
Shawn Branaugh  
Fire Inspector

CC: Mike Broomfield, Building Official  
Adam Hanks, Code Enforcement Official  
Larry D. Jones, Building Owner  
Joseph Garfas, Building Owner  
Kathleen P. Garfas, Building Owner  
Garfas Family Trust, Building Owner  
File







RECEIVED

RE: 2007-00250, Property located at 281 Fourth Street.

6/12/07

JUN 14 2007

Dear Planning Commission,

Community Development

We have decided to move forward with option 3 you presented us with. Below is the only other information we will provide at this time.

It is also of note that THE MOBIUS is now an art and educational non-profit 501(c)3 center. The mission of The Mobius is to bring art, music and theatre to the community of Ashland and the Rogue Valley.

Through the lease of our building and the lease of a second building within 200 ft we have a total of 7 parking spaces.

We have 4 unbinding signed contracts for use of evening parking from our business/residential neighbors totaling 24 additional parking spaces.

We are prepared to set up creative means of taking more cars off the streets of the railroad district for evening performances using the following possibilities.

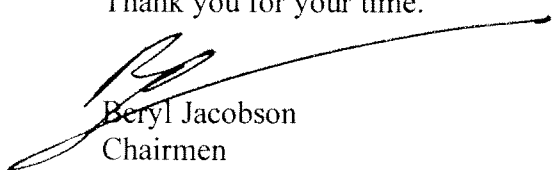
- 1) Using the ace hardware parking lot, which has been offered to us for a 5 year exclusive contract, and the other free public parking lots on A street and then having a shuttle that pick ups and drops people off.
- 2) A Mobius 8-12 person passenger van that picks up and drops people off for free for shows.
- 3) Ticket discounts for bike riders.

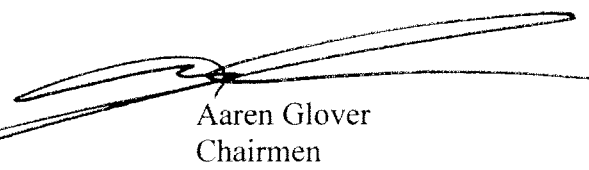
We are prepared to make upgrades or changes necessary that are recommended to us from the Fire Department for safety, and any other necessary improvements recommended by the city.

We have great relationships with our neighbors, are active participants in the Railroad district associations and have never had a problem with parking for any events we have held.

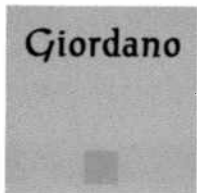
In addition the adjacent parking lot behind our building owned by Chris Briscoe, has 10 spaces that are always available during all of our performances. These spaces during our off hours are used by Peerless customers.

Thank you for your time.

  
Beryl Jacobson  
Chairmen

  
Aaren Glover  
Chairmen

The Mobius, a 501(c)3 not for profit organization



ARCHITECTURE  
LAND PLANNING

**PROJECT NARRATIVE AND FINDINGS**  
**9 February 2007**

**PROJECT NAME:** Mobius Productions - Change of Use

**TYPE OF PLANNING ACTION:** A request for a Conditional Use Permit (Chapter 18.104) for the production of performing arts venues and a Parking Variance (Chapter 18.100) for an existing building located in the E-1 Zone District (Chapter 18.40).

**PROJECT INFORMATION:**

**Owner:**

Larry Jones & Joseph Garfas  
1100 Tyler Creek Road  
Ashland, OR 97520  
541-488-1006

**Applicant:**

Aaren Glover  
Mobius Productions, LLC  
2305 Ashland Street  
PMB #442  
Ashland, OR. 97520  
541-601-9688

**Architect/Agent:**

Tom R. Giordano, Architect  
2635 Takelma Way  
Ashland, OR. 97520  
541-482-9193

**Project Address:**

281 Fourth Street

**Legal Description:**

39-1E-09 BA Tax Lot 101

**Comprehensive Plan Designation:**

Employment

RECEIVED

FEB 8 2007

City of Ashland  
Community Development

RECEIVED

**Zoning Designation:**  
E-1

FEB 8 2007

**Site Data:**

Continuing Development

Area of property	5,880 S.F. (.134 acres)
Building footprint	4,029 S.F.
Paving/Trash Enclosure	1,851 S.F.
Landscape	0 S.F.

**Parking Proposed:**

See Variance Findings

**BACKGROUND:**

The existing building structure was built in the 1950's. It originally functioned as a window and door fabrication business. In 2002, a building permit was granted for a video and audio production studio. At this time the E-1 zoning permitted performing arts venues; however, the Ordinance was amended to require a CUP for this use. The current applicant utilizes the video and audio studio but also provides performing art activities, see Project Description below. The performing arts activities are a Building Code Change of Use as well as a Land Use Change requiring a Conditional Use Permit (Chapter 18.40.040); hence, this Application is submitted for City Review.

**SITE DESCRIPTION:**

**Land Use/Zoning -**

The subject property is located in the E-1, Employment Zone District; see Vicinity/Zone Map. In the vicinity of the property there is a mix of one and two story structures, both old and new. Most new structures are located north of A Street while most older structures are located to the south of A Street, see Aerial Photograph. There is also many single and multi-family homes located along B Street to the south. There are also many art galleries and other specialty shops as well as professional offices close by, along the A Street corridor. .

Adjacent Land Uses and Zoning are:

North - Attached Two story commercial/retail/photo studio multi-family residences; Zoned E-1

South - Public alley and One story restaurant; Zoned E-1

West - Parking lot and one story window/door shop; Zoned E-1

East - 4<sup>th</sup> Street and one/two story commercial/retail/art studio buildings; Zoned E-1

RECEIVED  
FEB 8 2007

The property is subject to the E-1 Employment Zone District (Chapter 18.40 requirements). The property is also within the Railroad Historic District and subject to review by the Historic Commission. This Zone District requires a Conditional Use Permit (CUP) for the proposed Live Performance Arts Entertainment; however, the current production studio was approved in 2002 and is a permitted use. The Performing Arts use was changed from a permitted use to a CUP also in 2002.

#### **Access/Parking -**

The subject property has public access on two sides (4th Street, and the public alley), see City Maps. Existing sidewalks are on both 4th and A Streets. Currently, due to the building comprising most of the lot, there are four off street parking spaces off the alley. The property is within the Historic Railroad District, therefore, a Type I Variance to reduce the parking requirement by 50% is possible. The applicant will address the parking issue in the Variance Findings. The site is close to the Central Oregon Off Street Bike Path as well as walking distance to the Downtown and Public Transportation on Lithia Way.

#### **Utilities -**

As shown on the attached City Map, all utilities and services are provided to the existing building. A fire hydrant is located on the northeast corner of Fourth and A Streets.

#### **Physical Constraints -**

Most of Tax Lot 101 is covered by buildings, see attached Partition Map. Both the subject building and the window shop (Certified Glass) are connected by a common wall. The remainder of the lot is paved for a driveway, three parallel parking spaces and a trash enclosure.

#### **PROJECT DESCRIPTION -**

##### **Request -**

Mobius Productions, LLC would like to apply for a "Conditional Use Permit" to have the ability to produce live events and music at 281 4<sup>th</sup> Street in Ashland. Mobius has no intention to make any alteration, additions or construction to the existing structure of the building except those interior changes required by the Building Code. Mobius Productions established a Not-For-Profit organization called The Equilibrium Institute. The Equilibrium Institute focuses on local and regional restoration projects and educations. In 2007 "The Mobius" will become a division of the Equilibrium Institute and further its mission using inspirational and educational arts, music, film and theater.

Mobius Productions, LLC is also a multimedia and live event production company. Through live events and digital media, Mobius produces and distributes a diverse range of content that is

educational and entertaining. Mobius Productions focuses primarily on content that stimulates and promotes ideas concerning environmental sustainability, artistic excellence and responsible business. Mobius Productions offers a wide variety of production and marketing services, at discount rates, to support many of the excellent local Ashland businesses. In large part Mobius Productions utilizes Ashland based professionals, services and products as part of their commitment to supporting prosperity and growth within the local economic infrastructure.

As part of Mobius Productions unique approach to content production and distribution, the company regularly hosts a series of live events that include a "studio audience." These events primarily include the performing arts and "seminar" styled educational classes. These events will generally occur, on average, 10-15 times in a calendar month. While most events will be smaller in scale involving an audience and/or production crew of 25-75 people, they will produce several events per month that involve audience participation of 75-120 people. All large scale productions over 120 people will take place offsite, primarily at the Ashland Historic Armory.

Mobius has been able to test this model and because the production events, that bring in larger numbers of people, are held after business hours they have had no problems with parking or lack of parking. Mobius has done extensive sound conditioning to their 4<sup>th</sup> Street studio in order to limit the sound impact on the surrounding areas. They have initiated a very stringent policy of "crowd control" to limit the traffic and sound impact of arriving and departing parties. Mobius does not allow any event to go beyond 1:00AM and hires third party professional security if necessary to enforce their company policies.

Mobius Productions, under new management, is committed to operating a successful and professional business that promotes local economic growth and artistic excellence. Mobius has been building many exciting business alliances in the Ashland community and is very committed to continue to become another asset to the wonderful community of Ashland. As home owners, parents and business persons, this is paramount to all of the Mobius team.

#### **Land Use/Zoning -**

The E-1, Employment District is designed to provide for a variety of uses which encourage economic, cultural and aesthetic endeavors. This concept is especially true along the Fourth and A Street corridors, where there are numerous galleries, restaurants and professional offices which cater to both tourist and local customers. This area has recently become a secondary cultural hub in the Ashland Community. The proposed project is in concert with this cultural direction. The Findings for CUP will further address neighborhood compatibility.

In addition to the CUP request, the applicant will need a Type I Variance to reduce the required parking a 50% reduction is allowed in the Historic District, see Findings, below.

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## **Architecture Design -**

There will be no exterior changes or additional square footage to the existing building, except those interior changes required by the Building Code and City Fire Department.

## **FINDINGS:**

### **CONDITIONAL USE PERMIT (CUP) - (Chapter 18.104)**

As mentioned in Project Description, the Applicant is requesting a CUP to produce performing arts events. A CUP for this activity is required in the E-1 Employment Zone District (Chapter 18.40.040.M). This use is similar to the applicants description of the proposed activities, but may also include Item "N", theaters. Further, the proposed activities could also include permitted uses (Chapter 18.40.020."C" and "H"), restaurants and motion picture, television, or radio broadcasting studios.

The Planning Staff and/or Commission can approve this when all the following criteria have been met:

*A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located and in conformance with relevant Comprehensive Plan policies that are not implemented by any City, State, or Federal law or program.*

### **Land Use/Zoning (Chapter 18.40):**

As mentioned above, the proposed project has activity/uses which are both permitted and existing as well as requiring a CUP. The activity/uses requiring a CUP are as described in the Project Description section of the narrative.

The existing building was built in the 1950's and is considered legal but non-conforming to current E-1 setbacks, lot coverage and landscape requirements. No physical exterior changes to the building are proposed. However, interior changes may be required by the building department (i.e. fire sprinkler system).

### **Solar Setback (Chapter 18.70):**

The solar setback requirement does not apply since the building is existing and immediately adjacent to the building to the north.

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Community Development

## **Off Street Parking (Chapter 18.92):**

Because of existing conditions, the proposed change of use does not meet the requirements of this Chapter. The Applicant will request a variance (Chapters 18.92.055 and 18.100), see findings below.

***B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.***

The proposed change of use will not significantly increase or alter the demand for city facilities and services because there are no exterior changes or additions to the exiting building, also see other CUP findings and Variance Findings.

***C. That the Conditional Use will have no greater adverse material effect of the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use if the zone:***

### ***1) Similarity in scale, bulk, coverage.***

As discussed elsewhere in this document there are no exterior changes or additions to the existing building proposed by the Applicant; therefore the scale, bulk and coverage is the same.

***2) Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.***

As mentioned in the Site Description, the "A" and Fourth Street corridors have become an extension of Ashland's Downtown. It is an easy walking distance to the downtown as shown during the "First Friday Art Walk". Public transportation is located approximately two blocks to the South on Lithia Way. Bicycle access is available from both "B" Street and the Oregon Central Bike Path.

Most importantly however, there has not been any complaints by neighbors regarding the programs at the Mobius as reported by Adam Hanks, Code Enforcement Officer for the City of Ashland. Also see attached letters of support from neighbors.

The parking issue is discussed in the Variance Section of this document.

### ***3) Architectural compatibility with the impact area.***

See Finding One, above, as well as the Architectural section.

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***4) Air quality, including the generation of dust, odors, or other environmental pollutants.***

The proposed increased activities do not significantly generate more dust, odor or other environmental pollutants than either other employment type uses in this area or the present use of the existing building.

***5) Generation of noise, light, and glare.***

As mentioned in the project description, the proposed activities do not generate significant adverse noise, light and glare. This has support by Adam Hanks, Code Enforcement Officer for the City. No complaints have been registered for the Mobius activities. The Applicant has made considerable effort to mitigate any adverse impacts to the neighbors. The Applicant has also met with the neighbors to discuss the activities and operation of Mobius.

***6) The development of adjacent properties are envisioned in the Comprehensive Plan.***

The site is surrounded on two sides by a public street and an alley. An existing residential/commercial studio building is located on the north property line. There is also another existing building (Certified Glass) sharing a common wall to the west. There are also many office/commercial/hotel/restaurant uses in the immediate vicinity of the site, see Aerial Photograph and Site Description, above.

***7) Other factors found to be relevant by the Hearing Authority for review of the proposed use.***

As mentioned in the Site and Project Description, the existing use as a recording/music production facility has been in operation since 2002. Also, the current venue of live performing arts programs have not generated any complaints from neighbors. Further, much of Ashland's recent artistic and professional development has occurred in this area. "First Friday" is just one example of the cultural and economic bonus to the community. Realistically, the only issue related to this change of use application is parking. This issue is discussed below in the Variance Findings. The Mobius has a diverse group of people within the Ashland community that support the activities produced at the building, see attached letters. Further, many of the neighbors of the Mobius support the activities, see attached letters.

**VARIANCE (Chapter 18.100)**

The Planning Commission can approve a variance when the below findings have been addressed:

**The criteria for approval of a Parking Variance are described in AMC 18.100 as follows:**

***A. That there are unique or unusual circumstances that apply to this site which do not typically apply elsewhere.***

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7

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City of Ashland  
Community Development



Chapter 18.92.055 (Off-Street Parking) allows up to a 50% reduction in the parking requirement for commercial projects located in Historic Districts with the approval of a Type I Variance. The purpose of this variance is to.... "preserve existing structures within the Ashland Historic Districts, while permitting the redevelopment of property to it's highest commercial use." It is the Applicants belief that the proposed change of use request directly applies to this Section of Chapter 18.92 and that a creative approach to provide parking is necessary. The existing 1950's building was originally used as a glass and mill shop. In 1981, the current owners purchased the building and leased it first as an electrical lighting wholesale business and then in 2002 as a video and audio production company. The current business owner wishes to utilize the video and audio production facilities but also provide a related performing arts activity, see Project Description, above. Since 1950, the uses at this site have reflected the economic activities for this area of Ashland (from manufacturing to cultural/entertainment). As mentioned above in the CUP findings, this area has become more of an artistic, cultural and professional neighborhood in keeping with the E-1 Historic District. Much of Ashland's recent artistic, professional and construction service uses have developed along "A" and Fourth Streets. Mostly new construction has occurred north of "A" Street on converted Railroad Property while infill, re-use and remodeling to the existing buildings have occurred south of "A" Street. In keeping with the current neighborhood trend towards cultural, artistic and professional activities, the proposed change of use is consistent with the development patterns of this area, see Project Description above.

In this area where new development on vacant lots have been built, off street parking has complied with the current land use ordinance (Chapter 18.92). Where in-fill, remodeling and change of uses have occurred, the parking standards have been modified to accommodate the preservation of existing buildings and the redevelopment of property to the highest commercial use.

***B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ordinance 2425 SI, 1987).***

The City is requiring a Change of Use CUP for the performing arts venues. However, a copy of a drawing (Floor Plan) shows a City of Ashland Building Safety Department Approval Stamp dated April 19, 2002. On this plan, notes calling out "video and audio productions, stage, catering area and a sound lighting control areas are shown, see Attached Drawing. It was the Applicant's belief that the proposed performing arts activity was allowed. The performing arts activity has been in operation since that time.

As mentioned in the CUP findings, there have been no complaints from either neighbors or the general community regarding the live performing arts venue of the Mobius, see attached letters of support. Even parking has not been a problem since the performances occur at night when many business in the area are closed.

The Applicant however understands the city requirement for adequate parking and in proposing

the following program to address the parking issue. There are three existing parallel parking spaces; however, the parking requirement is 30 spaces. This amount of parking is based upon a total building size of 2,925 square feet. The Mobius has no fixed seating; therefore, the parking requirement is one space per 100 S.F. of building area ( $2,925/100=29.25$ ) which equals 30 spaces. The square footage for the window shop should not count since this activity is used during the day and the Mobius' performing arts programs is used in the evenings. It is also important to note that approximately one quarter (809 S.F.) of the building would not be used for seating.

The applicant is providing a total of 24 parking spaces, two on-street credits, and 22 spaces located within 200 feet of the facility per chapter 18.92.060.A. This number of spaces is greater than the 50% allowed by a variance (15 spaces) in the Historic Districts per Chapter 18.92.055. The Applicant is providing parking agreements with neighboring property (within 200 feet) and an exhibit showing all available parking in the general vicinity. The applicant will also notify their patrons regarding the location of these parking areas through signage, flyers and E-Mail promotions.

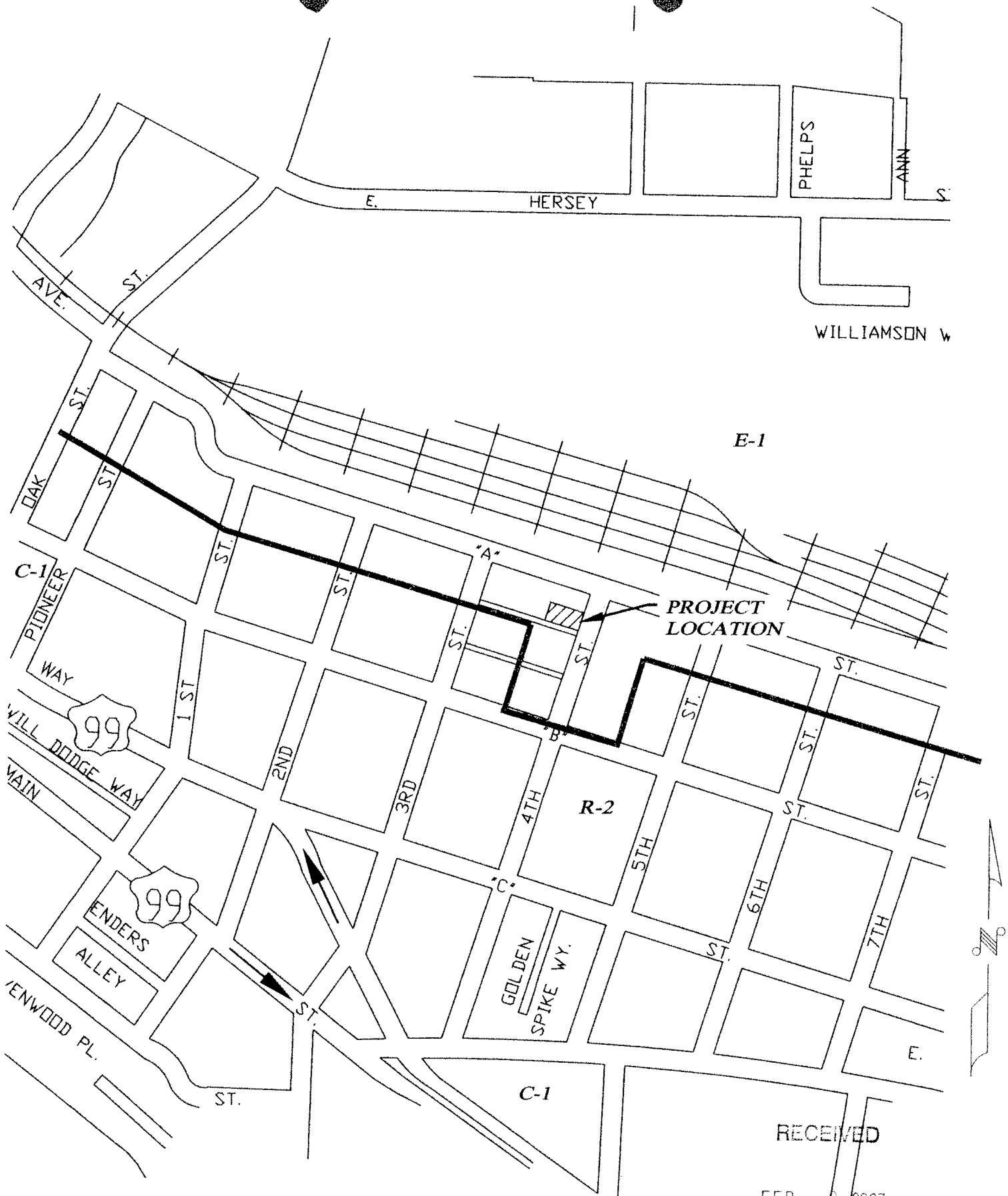
***C. That the circumstances or conditions have not been willfully or purposefully self-imposed. (Ordinance 2775, 1996).***

It is important to note that the existing buildings comprise 68.5% of the site. There is no other area on the property to accommodate more off-street parking. Further, Chapter 18.92.055 was created for this specific condition and application in Historic Districts to preserve the existing development patterns and character.

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**VICINITY/ZONE MAP**  
N.T.S.

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City of Wood  
Community Development





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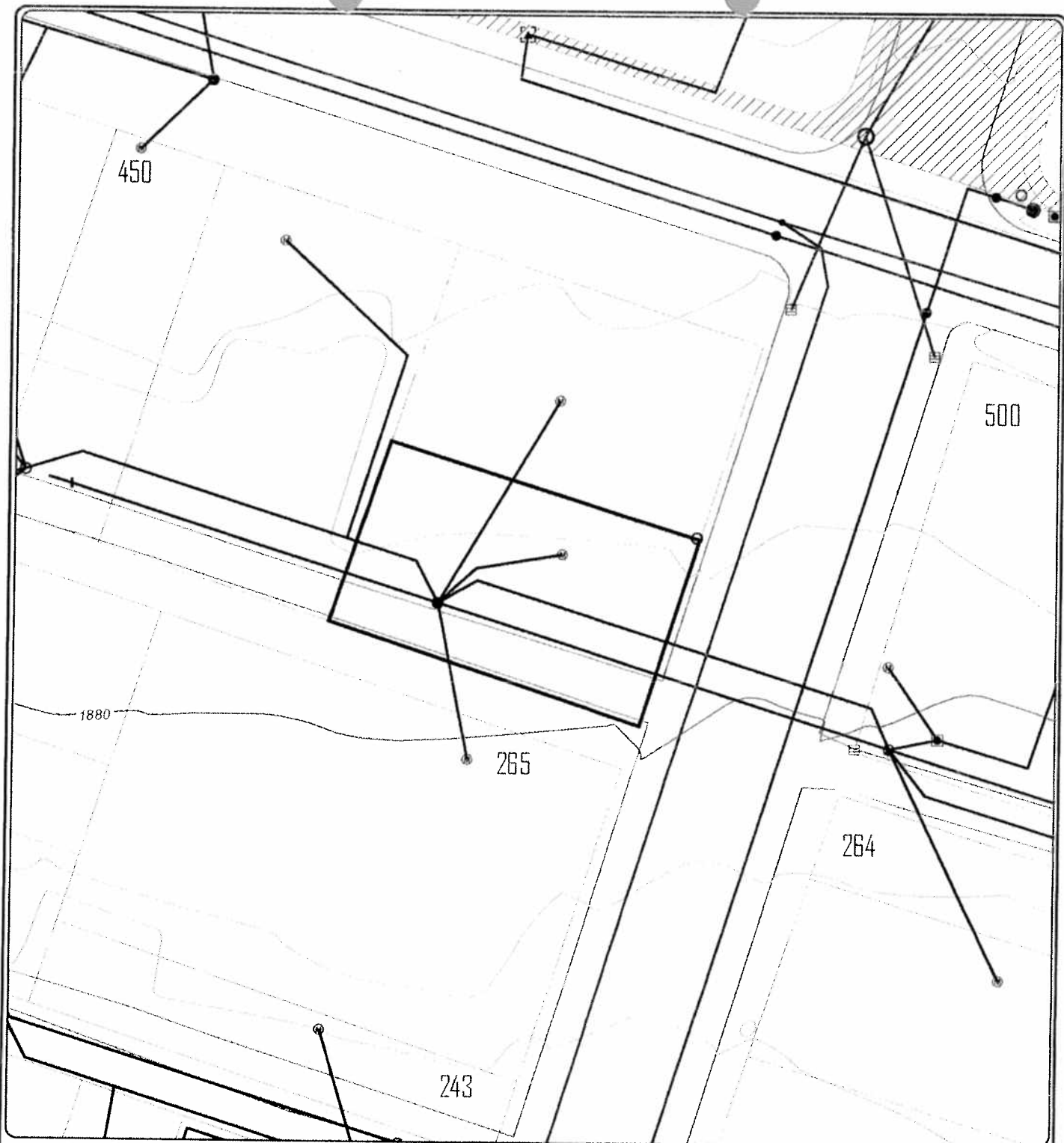
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City of Portland  
Department of Planning

CITY  
AERIAL  
PHOTO  
SCALE: 1"=100'

N 201000



**391E 09BA 3200**

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December 6, 2006

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1:480

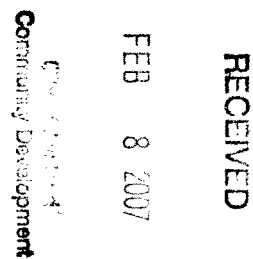
1 inch equals 40 feet

Community Development

- Hydrant
- Sanitary Sewer Utility features
- Electric features
- Storm Water Utility features
- Water Utility features
- Taxlot Identified
- /// Public Utility Easements

- Taxlots
- Streets
- Building
- Contour
- ~ 2 ft interval
- ~ 10 ft interval

Mapping is schematic only and bears no warranty of accuracy.  
All features, structures, facilities, easement or roadway locations  
should be independently field verified for existence and/or location.



CITY OF ASHLAND BUILDING SAFETY DEPT  
**APPROVED**

**APPROVED**

MOBILUS

MOBIUS PRODUCTIONS

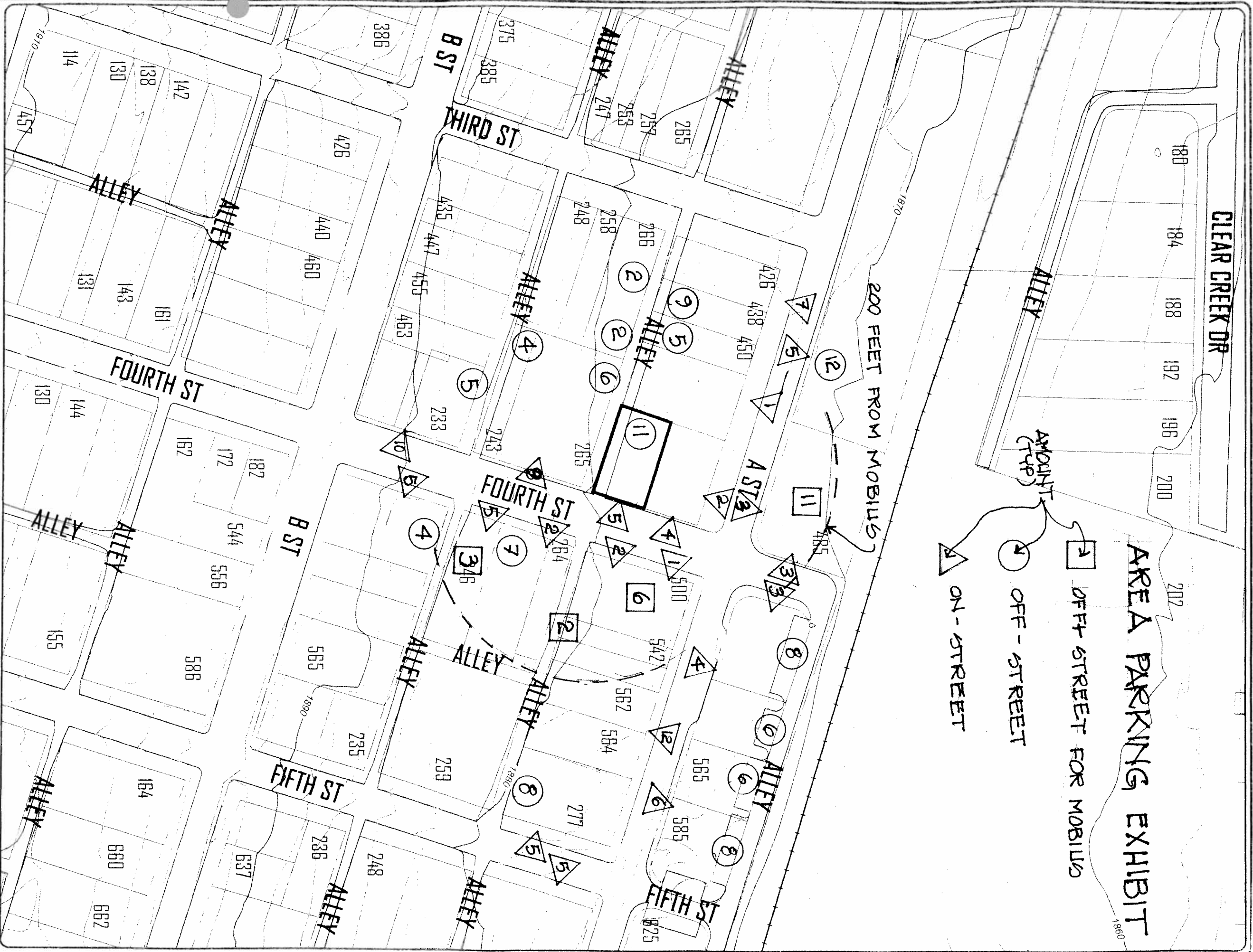
DATE	1/24/82	28144 ST.	DATE	2/2/82
TIME	1:15:00	ASHLAND OR.	TIME	1:00:00

VIDEO AND AUDIO PRODUCTIONS

MARSHALL CAMPBELL - 28144 ST.







CLEAR CREEK DR

# AREA PARKING EXHIBIT

1 OFF-STREET FOR MOBILUS

2 OFF-STREET

3 ON-STREET

AMOUNT (TYP)

200 FEET FROM MOBILUS

4th St

ALLEY

ALLEY

ALLEY

B ST

THIRD ST

ALLEY

FOURTH ST

ALLEY

FIFTH ST

ALLEY

FOURTH ST

ALLEY

ALLEY

ALLEY

ALLEY

391E 09BA 3200

December 6, 2006

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1:1,200  
1 inch equals 100 feet

Community Development

Hydrant

Sanitary Sewer Utility features

Electric features

Storm Water Utility features

Water Utility features

Taxlot Identified

Public Utility Easements

Taxlots

Streets

Building

Contour

2 ft interval

10 ft interval

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All features, structures, facilities, easement or roadway locations  
should be independently field verified for existence and/or location.



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City of Oakland  
Community Development

PARKING AGREEMENTS



# MOBIUS PRODUCTIONS/ EQUILIBRIUM INSTITUTE PARKING AGREEMENT

I, Carol Davis, owner of 552 A Street,  
Give permission for patrons or staff of Mobius Productions to use 2 of  
the designated parking spaces located on my property between the hours of 7pm  
and 1am during any Mobius events.

JOHN DAVIS  
John Davis (FOR CAROL DAVIS) 2/7/07  
Name Signature Date

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Community Development

MOBIUS PRODUCTIONS/ EQUILIBRIUM INSTITUTE  
PARKING AGREEMENT

I, PAT GARFAS representative of 246 1/2 4<sup>th</sup> St

Give permission for patrons of Mobius Productions to use all (3) of the designated parking spaces located on my property between the hours of 7pm and 1am during any Mobius events.

[Signature]  
Name

PAT GARFAS  
Signature

1-5-07  
Date

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City of Portland  
Community Development

MOBIUS PRODUCTIONS/ EQUILIBRIUM INSTITUTE  
PARKING AGREEMENT

I, Steve Hoxmeier, Owner of 485 A Street Give permission for patrons of Mobius Productions to use 14 of the designated parking spaces located on my property between the hours of 7pm and 1am during any Mobius events.

Steve Hoxmeier *Steve Hoxmeier* - 1-24-7  
Name Signature Date

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City of Portland  
Community Development

## MOBIUS PRODUCTIONS PARKING AGREEMENT

The Mobius has my permission to allow their patrons and staff the use of any of ~~SIX (6)~~ parking places located on Tax lot 5500 commonly known as 500, 502 & ~~274 A Street and 270 A Street~~.

Mobius has permission to use the parking spaces Monday-Sunday from 9PM – 2AM

*Frank C Papen*

Frank Papen, Owner

*1-15-07*

Date

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Community Development



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Community Development

SUPPORT LETTERS  
IN NEIGHBORHOOD



To Whom It May Concern:

I am writing to show my support for The Mobius located at 281 4<sup>th</sup> Street in Ashland.

The Mobius is a needed and welcome asset to our community, a state-of-the art performance venue that attracts top-quality national touring musicians and also serves as an outlet for a large number of local and regional artists. The owners and staff of the Mobius are friendly and professional and the venue is immaculately clean, acoustically superior and aesthetically pleasing.

By bringing great music year round to Ashland, The Mobius has become a valuable addition to the rich cultural landscape of theater, art and music that Ashland and the Rogue Valley have become known for.

Thank you for considering my letter of support.

Sincerely,

Cathy O'Brien, owner Gallery DeForest  
Name Profession

Comments

I think the Mobius serves an important  
function in Ashland. I really appreciate  
the direction they are heading with their  
music and cabaret/jazz ideas.

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Community Development

To Whom It May Concern:


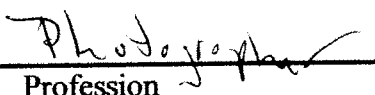
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Thank you for considering my letter of support.

Sincerely,

	
Name	Profession
	Chris Briscoe Photographer (A <sup>st</sup> + 4 <sup>th</sup> St)

Comments

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Continuing Development

To Whom It May Concern:

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Thank you for considering my letter of support.

Sincerely,

<u>JOHN DAVIS</u>	<u>GALLERY OWNER</u>
Name	Profession
DAVIS & CLINE GALLERY 525 A ST.	

Comments

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Community Development

To Whom It May Concern:

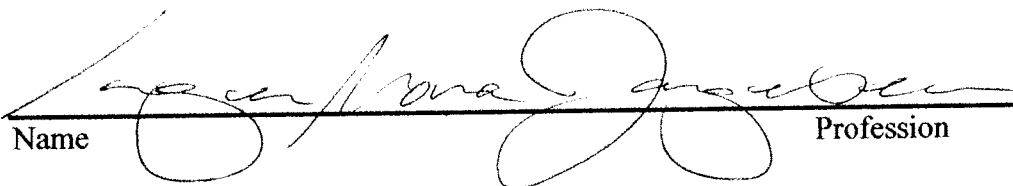
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Thank you for considering my letter of support.

Sincerely,

  
Name \_\_\_\_\_ Profession \_\_\_\_\_  
owner:  
Bohemia  
Gallery, Ashland

Comments

With the recent closure of many performing  
arts venues in Ashland, Mobius is a much-needed  
resource for our community. It is well-run by a  
friendly, enthusiastic staff and the quality of  
performers and workshops are top-rate. It  
is also important for our culture of tourism  
to have more venues such as Mobius.

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To Whom It May Concern:


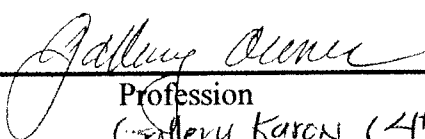
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Thank you for considering my letter of support.

Sincerely,

	
Name	Profession
	Gallery Owner (4 <sup>th</sup> & A' st.)

Comments

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Construction Development

To Whom It May Concern:

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Thank you for considering my letter of support.

Sincerely,

W. D. S. Gally Wyr. cllk Design  
Name Profession Shelis + Galy

Comments

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Community Development



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Thank you for considering my letter of support.

Sincerely,

Aris Lambert  
Name

Yoga Teacher  
Profession

Comments

Serves the Community and  
is not in Residential Area  
disturbs no one!

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City of Portland  
Community Development

SUPPORT LETTERS  
COMMUNITY



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Thank you for considering my letter of support.

*I love the  
Mobius!*

Sincerely,

H. Mornington, Physician  
Name Profession

Comments

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Community Development

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Thank you for considering my letter of support.

Sincerely,

Nicketa M. Gearing Artist + Business  
Name Profession Administrator  
+ Event coordinator

Comments

I offer my full support to the Mobius.  
They offer an essential and unequalled venue  
for our community. Being a Global event  
coordinator I am always looking for  
good quality venues. The mobius is this.  
In respect + gratitude I ask for  
your support of the Mobius.  
~ Nm Gearing

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To Whom It May Concern:

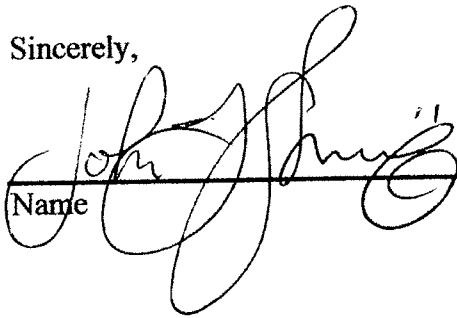
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Thank you for considering my letter of support.

Sincerely,

  
Name

WEB MEDIA DESIGNER

Profession

{ ARTIST

Comments

THIS PLACE IS THE CENTER OF A THRIVING  
CULTURE, THAT CREATES A SPACE FOR  
THE COMMUNITY TO BE TOGETHER,  
AND EXPRESS THEIR JOY FOR LIFE.

IN GRATITUDE,  
I appreciate your support  
of the Mobius.

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Community Development

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Thank you for considering my letter of support.

Sincerely,

Tim Westfeldt

Counselor

Name

Profession

Comments

Can't live without the Mobius doing  
what it does.

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Community Development



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Thank you for considering my letter of support.

Sincerely,

<i>JAMES Turymon</i>	<i>AUTHOR</i>
_____ Name	_____ Profession

Comments

*The Mobius is one of the critically  
important gathering spots in Ashland*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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COMMUNITY DEVELOPMENT

To Whom It May Concern:

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Thank you for considering my letter of support.

Sincerely,

<u>Leslie Clark</u>	<u>Singer</u>
Name	Profession

Comments

Mobius is an asset for  
Ashland's Arts scene -  
I support it wholeheartedly -  
They are a class act -

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Community Development

To Whom It May Concern:

I am writing to show my support for The Mobius located at 281 4<sup>th</sup> Street in Ashland.

The Mobius is a needed and welcome asset to our community, a state-of-the art performance venue that attracts top-quality national touring musicians and also serves as an outlet for a large number of local and regional artists. The owners and staff of the Mobius are friendly and professional and the venue is immaculately clean, acoustically superior and aesthetically pleasing.

By bringing great music year round to Ashland, The Mobius has become a valuable addition to the rich cultural landscape of theater, art and music that Ashland and the Rogue Valley have become known for.

Thank you for considering my letter of support.

Sincerely,

Molly Oelwa Classroom Teacher  
Name Profession

Comments

Mobius is a true blessing! MBO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED

FEB 8 2007

Community Development

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Thank you for considering my letter of support.

Sincerely,

<u>Judy Gin</u>	<u>Sales Assistant</u>
Name	Profession

Comments

One of the best venues in town -  
healthy environment to experience  
a variety of shows, and a huge  
bonus to be for all ages!

RECEIVED

FEB 8 2007

Community Development

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Thank you for considering my letter of support.

Sincerely,

Ami Linden  
Name

Caregiver  
Profession

Comments

It's the only place in town with good, affordable  
music and dance - it feels like it fills a real  
need.

RECEIVED

FEB 8 2007

Community Development

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Thank you for considering my letter of support.

Sincerely,

<u>Angel Morgan</u>	<u>Sales @ Sound Peace</u>
Name	Profession

Comments

Many good things happen @ the  
Mobius - I support this  
venue.

RECEIVED

FEB 8 2007

City of Ashland  
Community Development

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Sincerely,

## Comments

RECEIVED

FEB 8 2007

### Continuing Development

To Whom It May Concern:

I am writing to show my support for The Mobius located at 281 4<sup>th</sup> Street in Ashland.

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Thank you for considering my letter of support.

Sincerely,

Gerry Lehrburger	Physician
Name	Profession

Comments

Mobius is a crutial aspect  
of community expression &  
cohesiveness.

RECEIVED

FEB 8 2007

Community Development



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Thank you for considering my letter of support.

Sincerely,

MARK ARINSBERG ADVERTISING  
Name Profession

(RUG CREATIVE)

Comments

I FULLY SUPPORT THE IDEA &  
CONCEPT THAT "THE MOBIUS" IS PROPERLY  
RECOGNIZED FOR THE VALUE THEY  
BRING TO ASHLAND & THE ROGUE VALLEY

RECEIVED

FEB 8 2007

Community Development

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Thank you for considering my letter of support.

Sincerely,

HAL KOEJER

Name

OWNER ROUGE VALLEY OWNERS

Profession

Comments

WE HAVE THOROUGHLY ENJOYED HAVING THE  
VENUE, FROM MUSIC TO ARTS TO OTHER  
ENTERTAINMENT.

RECEIVED

FEB 8 2007

Community Development

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Thank you for considering my letter of support.

Sincerely,

Gail Larrick Artist/Designer  
Name Profession

Comments

Mobius is a hub of the  
community of Ashland and an  
important venue for music in  
this town.

RECEIVED

FEB 8 2007

Community Development

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Thank you for considering my letter of support.

Sincerely,

ERIK NOVISEDIAK , VERIDITAS LANDSCAPE DESIGN, ASHLAND, OR.  
Name Profession

Comments

I consider the Mobius, 'The Hub' of Ashland.  
Through education, cultural awareness,  
and art, the Mobius serves as the town's  
Kiva, our community meeting center.

RECEIVED

FEB 8 2007

Community Development

# DELUXE AWNING COMPANY

260 4<sup>th</sup> Street • Ashland, Or 97520  
Phone (541) 488-1575 • Fax (541) 488-3683  
CCB License #88912, Bonded & Insured  
Division of Deluxe Industries, Inc., An Oregon Corporation

RECEIVED

AUG 3 2007

City of Ashland  
Community Development

August 2, 2007

TO: Ashland Planning Commission

RE: #2007-00250, 281 4<sup>th</sup> Street, Aaren Glover

We are writing on behalf of our business located at 260 4<sup>th</sup> Street: Deluxe Awning Company to express our concerns with the above mentioned application for a CUP. Over the last few years the Mobius clearly has been operating as a music venue with an assembly aspect to their business. We have experienced many neighborhood disturbances.

We would like to address the following CUP provisions:

- #2: Although no reports have been filed with Code Enforcement Officer for the City, complaints have been made directly to the Mobius. Large buses idle in the alley for long stretches of time with many occupants circulating the neighborhood. People with RV's camp in on-street parking spots to attend the events. People park in our lot blocking the doors and requiring us to find them in order to have access to the warehouse.
- #4: The air quality generated by buses idling in the alley is unpleasant.
- #5: Again, no reports have been filed with Code Enforcement Officer for the City but complaints have been made directly to the Mobius. When musicians prepare for an evening event during the late afternoon the noise has been loud. Often times the doors have been open and sound fills the neighborhood. The noise generated by idling buses for long stretches of time is VERY loud.
- #7: MANY times following an event at the Mobius our parking lot has beer bottles and other trash left in it, our motion sensor lights have been unscrewed, mail box and trailer have bottles on them and other evidence of a parking lot party. We have discussed this with the Mobius and they say they will keep an eye on it. We have not seen evidence of this. After a particular large parking lot party, with our small garden completely destroyed, LOTS of broken bottles and trash in the parking lot, we spoke with Aaren Glover directly showing him what had happened. At that time he told us the Mobius would be applying for a liquor license which should help to keeping the drinking inside. He did not offer any help cleaning up the broken glass and repairing the garden. This does not display a responsible neighbor.

AUG 3 2007

I would like to also address the variance:

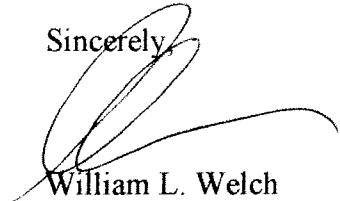
- A: Parking is very difficult on 4<sup>th</sup> Street with its' many businesses, hotel, gallery restaurant and others. We have reviewed letters of permissions from a few neighbors to use their parking and the map submitted by the Mobius. I do not understand how this map can be considered. Much of the information is inaccurate; stating that private off street parking is available to them. We were asked by the Mobius to use our lot and we declined. These parking spots are listed on their map as 7 available spaces to them. When asked this week, neighbors with parking spaces also denied giving permission to use their spaces.
- B: It was our knowledge that the building was being used as a sound studio. It has been our experience over time that more and more music events are being done at the Mobius with more and more disturbance to the neighborhood. With COMPLAINTS made to the Mobius directly with NO noticeable changes.

City of Ashland  
Community Developme


We would appreciate your denial of special permission for the Mobius to operate beyond their capacity as a sound studio.

Thank you for your attention to this matter.

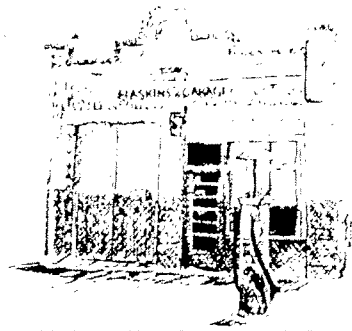
Sincerely,



William L. Welch  
President  
Deluxe Awning Company



Charles Porter  
Production Manager  
Deluxe Awning Company



RECEIVED

AUG 3 2007

City of Ashland  
Community Development

HASKIN'S GARAGE

264 Fourth St.

Ashland, OR 97520

(503) 482-5064

August 2, 2007

TO: Ashland Planning Commission

RE: #2007-00250, 281 4<sup>th</sup> Street, Aaren Glover

I am writing on behalf of my businesses located at 264 4<sup>th</sup> Street: Haskins Garage. I am expressing my concern with the above mentioned application for a CUP. Over the last few years the Mobius has been operating as a music venue. I have experienced many neighborhood disturbances.

I would like to address the following CUP approval criteria:

- #2: I have complaints with the operation of a music venue at this location. My experience with the Mobius generating traffic is that large buses idle in the alley for long stretches of time with many occupants circulating the neighborhood. People with RV's camp in on-street parking spots to attend the events.
- #4: The air quality generated by buses idling in the alley is extremely strong.
- #5: Although no reports have been filed with Code Enforcement Officer for the City complaints HAVE been made directly to the Mobius. When musicians are preparing for the evening event during the late afternoon the noise is very loud. Often times the doors are open and sound is filling the neighborhood. The noise generated by idling buses for long stretches of time is VERY loud.

I would like to also address the variance:

- A: Parking is very difficult on 4<sup>th</sup> Street with the many businesses operating. I have reviewed letters of permissions from a few neighbors to use their parking and the map submitted by the Mobius. This map should not be consider much of the information is inaccurate; stating that private off street parking is available to them and all on street parking.

RECEIVED

AUG 3 2007

-2-

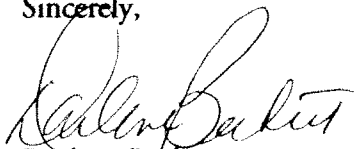
B: It has been my experience over time larger and larger music events are being done at the Mobius with more and more disturbance to the neighborhood. Although no complaints have been made to the City MANY HAVE been made to the Mobius and Aaren Glover directly.

City of Ashland  
Community Development

Mobius does offer an important music venue to Ashland but the magnitude of impact on the neighborhood is great. I would vote for a denial of the CUP. This would limit the Mobius to the original business of multi-media productions with live music and very SMALL audience for realistic effect.

Thank you for taking the time to read this letter.

Sincerely,



Darlene Beckett

Proprietress

Haskins Garage



RECEIVED

AUG 3 2007

To: Ashland Planning Commission  
From: John MULLOWNEY, Manager, Peerless Restaurant  
Date: August 2, 2007

City of Ashland  
Community Development

RE: #2007-00250, 281 4<sup>th</sup> Street, Aaren Glover

I would like to express our opposition to any change to the status of The Mobius, which originally opened as a recording/video studio. It is my understanding that they are operating on an almost nightly basis as a music/concert venue without an Ashland City business license. The "Café" shown on their website is also operating without a license from the Jackson County Health Department. The City of Ashland has never received any revenue from the 5% meals tax from The Mobius. The Peerless Restaurant has contributed over \$ 395,000 since we opened in 1998. More importantly, The Mobius has misrepresented their activities and even their true ownership to The Peerless, other neighbors, the City and Jackson County.

Mobius has never contacted us, their next door neighbor, about the CUP application or their intentions. We found out from neighbors five days ago.

We oppose any change to their status because of numerous problems we have had with the Mobius activities. We have complained to them several times only to be told they would clean up their act. Instead, the frequency of concerts and resulting problems intensified. Specifically:

Loud bass-driven music conflicting with our dining atmosphere.

Drug usage before, during and after performances on our property and surrounding properties, usually in groups and often by minors.

Drinking on the sidewalks, in and around cars, alleys and dark unlighted areas up and down 4<sup>th</sup> Street. Again often by minors.

Public urination in landscaped areas, alleys and between cars.

Broken glass, trash, and vomit in and around our property that we have to clean up every morning; sometimes not before early departing hotel guests have had to experience it.

AUG 3 2007

City of Ashland  
Community Development

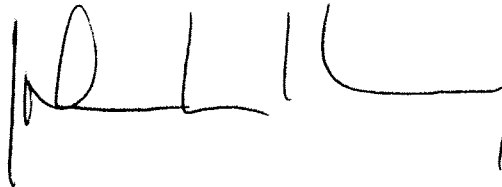
Diesel exhaust from idling buses in the alley between our business and theirs enters our air handling equipment into the restaurant.

Vandalism to security lights and graffiti on our building.

Most importantly, The Mobius is a tragedy waiting to happen. It is not a case of if, but when. Drugs, unsupervised drinking, minors and traffic invite tragedy on a human level, and will ruin the business prospects and reputation of reputable, legal, licensed businesses and districts.

Thank you for your attention to this matter.

John Mallowney  
Manager  
Peerless Restaurant

A handwritten signature in black ink, appearing to read 'J. Mallowney', written over a horizontal line.

RECEIVED

AUG 3 2007

City of Ashland  
Community Development

August 2, 2007

To: Ashland Planning Commission

Re: Planning Action #2007-00250, 281 4<sup>th</sup> Street, Aaren Glover

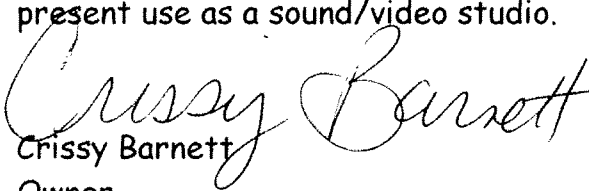
As owner of The Peerless Hotel and Restaurant and neighbor of The Mobius, I am writing to express my concerns with the above planning action.

To address the following criteria:

#5 Although no reports have been filed with the Code Enforcement Officer I have contacted the Ashland Police Department since the disturbances happen after office hours. Ashland Police Department have responded to public parties on 4<sup>th</sup> Street, underage public drinking and to disturbance of The Peerless Hotel guests during and after concerts. In addition I have met with Mobius about the disturbances and was told a security person was to be hired as well as they would patrol the neighborhood during music events. There has been no evidence of either security or patrolling of the neighborhood happening.

#7 The usual aftermath of a concert at Mobius results in arriving at work the next morning to find broken glass/beer bottles, cigarette butts, trash in general and graffiti. One incidence resulted in graffiti on the historic Coca-Cola/Peerless Rooms wall graphic, which was costly to have repainted. There has never been a patrol of the 4<sup>th</sup> street after an event to the clean the area.

I would welcome a responsible music venue as a neighbor in the Railroad District. Unfortunately, Mobius has not demonstrated that they are responsible. I would appreciate your denial of a CUP to operate beyond their present use as a sound/video studio.

  
Crissy Barnett

Owner

The Peerless Hotel & Restaurant

243 & 265 4<sup>th</sup> Steet

RECEIVED

AUG 3 2007

August 2, 2007

To: Ashland Planning Commission

Re: Planning Action #2007-00250, 281 4<sup>th</sup> Street, Aaren Glover

City of Ashland  
Community Development

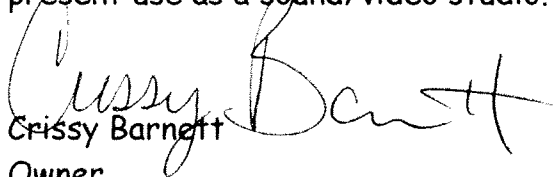
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Crissy Barnett

Owner

The Peerless Hotel & Restaurant  
243 & 265 4<sup>th</sup> Steet

RECEIVED

AUG 3 2007

City of Ashland  
Community Development

Robert Lombardi  
1685 Old Hwy. 99 So.  
Ashland, OR 97520

City of Ashland  
Planning Department  
51 Winburn Way  
Ashland, OR 97520

Re: Planning Action #2007-00250  
regarding 281 Fourth St.

August 3, 2007

Dear Sirs:

I am the owner of the 4<sup>th</sup> St Inn located at 232 4<sup>th</sup> St and an adjacent historic residential apartment building located at 220 4<sup>th</sup> St. Both buildings are diagonally across the street from the subject property located at 281 4<sup>th</sup> St. I strongly oppose the grant of a conditional use permit and variance as requested under the terms of the above planning action for several reasons.

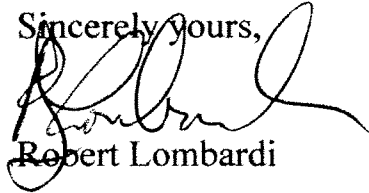
A theater, of sorts, has been operating for some time out of the subject property and the adjacent properties have suffered as a result. First, my guests at the Inn and my tenants at the apartment complex have both complained about the noise and "drunken behavior" of the people attending the programs being held at the proposed theater. Both my buildings have been vandalized by people attending these programs by "tagging" or spray painting the side of the buildings and leaving trash (beer bottles and cigarette butts) in the parking area of the Inn.

Finally, there simply is not enough parking in this area to accommodate this type of use. I have four private off street parking stalls located adjacent to the Inn and they are not available for this theaters use. My historic apartment building has been used for residential purposes since the 1940's and has no off street parking. My tenants use the available parking on Fourth St. I also own a six unit apartment complex adjacent to the 4th St Inn on the alley. This complex has seven off street parking stalls accessed from the alley and they also are not available for this theaters use since they are assigned parking for the apartments.

The proposed use is incompatible with adjoining land uses, has already had negative impacts on adjoining properties and has inadequate

parking to service it's needs. Accordingly, I strongly recommend that you deny the application for a conditional use permit and variance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert Lombardi", written over the printed name.

Robert Lombardi

**RECEIVED**

*Gallery DeForest  
270 Fourth St.  
Ashland, OR 97520  
541-482-1005*

**AUG 6 2007**

**City of Ashland  
Community Development**

To: Ashland Planning Commission

RE: #2007-00250, 218 4<sup>th</sup> St, Aaren Glover

Dear Planning Commission:

I am writing on behalf of my business located at 270 Fourth St., Gallery DeForest, to state my concerns regarding Mobius Productions' application for a Conditional Use Permit (CUP). My gallery is directly across the street from Mobius. I have been out of the country for most of the month of July and only recently was made aware of the request by Mobius for a CUP.

I have been supportive in the past of Mobius' activities. They fill an important need in the community with their poetry slams, art exhibits, etc. However, at this time I am very concerned about their desire to expand their activities and am concerned about some recent and past activities. This letter is written to raise questions and state my concerns.

My questions are:

1. Have they been operating in the past without the proper permits?
2. If so, is it appropriate for the city to grant conditional use permits when they have evidence of illegal operation?
3. Are they filing for a liquor license?
4. Is there a capacity limit to their present use? Future use?
5. What is Mobius prepared to do regarding use of drugs and alcohol outside of their doors including the use of alcohol and drugs by under aged teens?

My concerns are:

1. Business owners and staff in the Fourth St/ A Street area have observed illegal use of drugs and alcohol, including use by minors during and after Mobius events. I am very concerned about this and do not support this activity especially related to middle school, high school and underage college students. I have removed broken beer bottle glass and beer cans from the front of my gallery as well as in my parking lot. I have spoken to Aaren Glover and other Mobius staff about this problem. The problem has improved from time to time, but Mobius' desire to get a liquor license in my opinion will only increase this problem. Their location in our neighborhood is surrounded by dark alleys and parking lots, which belong to other business owners. The nature of these alleys and lots may encourage people to continue to drink or do drugs outside. This kind of activity might not occur or be as encouraging in well lighted or more public areas, such as those on Main Street. I understand that Mobius cannot easily patrol areas outside of their space, but selling liquor inside a space that brings bands to play, has the potential for trouble. They do seem to be capable of controlling negative behavior even without a liquor license.
2. The Ashland Railroad District Association (ARDA), of which I am an active member, has from its beginning, worked hard to enhance the visibility and

desirability of the RR District to locals and tourists alike. Mobius was voted into our association because of their art and performance art focus and also because they told several of our members (previous to the vote) that they were changing their music venues to control negative behavior. They have been active members in our association and their participation has been appreciated. Our Railroad Association does not want to do anything to detract from our vision of creating a viable, positive business neighborhood. Their operation as a sound studio seems to fit that goal.

3. The Peerless Restaurant serves some of my customers in the evening and some of my clients from out of town stay at the Peerless Hotel. I know that sometimes the activities at Mobius have interfered with that clientele. This is a detriment to their businesses and to my clients.
4. It appears that my landlord or neighbor has approved the use of 2 parking spaces for Mobius customers behind my gallery. If that is so, this parking lot is not well lit and I feel personally vulnerable if irresponsible people may be parking or hanging out there. As I stated earlier, I have also removed beer cans and broken glass from that parking lot. It also appears that 6 spaces are approved next to my gallery. If those spaces are used, I would hope my gallery would be respected and safe from harm.

Obviously, I do not have all the facts related to this situation and as I said I have been favorable to their activities in the past. I feel that further study is needed by the City Council to determine the appropriate use of this space. I regret that since I was notified of the CUP request late this week, I have not had enough time to discuss this situation with Mobius or my business neighbors. However, because my gallery is directly across from Mobius and I have valuable art inside my gallery from artists with international reputations, I strongly urge the Council to study this situation further so my gallery and the irreplaceable art of those artists is not put at risk. I urge the Council to further study Mobius' request so that our neighborhood can be assured that all concerned will model legal, responsible behavior.

Thank you for this opportunity to raise my questions and state my concerns. I would appreciate being notified of any other business concerning this matter.

Sincerely,



Cathy DeForest  
Owner  
Gallery DeForest  
270 Fourth St.  
Ashland, OR 97520



**HISTORIC COMMISSION**  
**Meeting of August 8, 2007**

**PLANNING APPLICATION REVIEW**

**PLANNING ACTION #2006-00250** Request for a Conditional Use Permit for a theater use and a Type II Variance to parking for the property located at 281 fourth Street. **COMPREHENSIVE PLAN DESIGNATION:** Employment; **ZONING:** E-1; **ASSESSOR'S MAP #** 39 1E 09 BA; **TAX LOT:** 101.  
**APPLICANT:** Aaren Glover

**Recommendation to Planning Commission:**

With a motion by Mr. Baker and a second by Mr. Swink, the Historic Commission unanimously recommended denial of the planning action for a Conditional Use Permit and a Variance due to traffic, noise and litter impacts to both residential homes in the area and neighboring businesses and the lack of available parking.



## Angela Barry - Fwd: Please don't do in the MOBIUS

---

**From:** David Stalheim  
**To:** Angela Barry  
**Date:** 8/21/2007 2:21 PM  
**Subject:** Fwd: Please don't do in the MOBIUS

---

>>> Kate Jackson <katejackson@opendoor.com> 8/15/2007 11:57:11 AM >>>  
David,

In case this message was not sent to Planning, here is a copy of a letter of support for the MOBIUS application to include in the record. I believe I heard the Planning Commission put off the hearing to Sept 4 last night.

Kate

Begin forwarded message:

**From:** Warren Addicott <woaddicott@ashlandwireless.net>  
**Date:** August 15, 2007 7:59:03 AM PDT  
**Cc:** ericnavickas@hotmail.com, ahardesty@charter.net, cate@mind.net, russcituy@zintech.org, davidchapman@ashlandhome.net, katejackson@opendoor.com  
**Subject:** Please don't do in the MOBIUS

Ashland Planning Commission  
Ashland OR 97520

Dear Persons:

As a property owner in the Railroad District (and also in the adjacent Hargadine Historical District), I wish to state my wholehearted support of the MOBIUS venue as a performance center. I have attended some events there and have found every one of them to be well managed and well within the scope of acceptable behavior. The MOBIUS contributes a much-needed music and performing arts venue to our community and serves, I suppose, yet another unique group of Ashlanders. Please do not close the door on this valuable community asset. There needs to be a variety of expression in our town and MOBIUS contributes significantly in this respect.

Thank you,

Warren Addicott

Kate Jackson  
KateJackson@opendoor.com

**From:** Oriana <justoriana@gmail.com>  
**To:** <plan@aoblack.com>, <michaelt dawkins@yahoo.com>, <dimitre@mind.net>, <TheDotts@mind.net>, <golden-fields@charter.net>, <cate@mind.net>, <pam.marsh@gmail.com>, <sassetta@mind.net>, <molnarb@ashland.or.us>, <msquared@mind.net>, <stalheid@ashland.or.us>, <pcstromberg@opendoor.com>, <pcstromberg@opendoor.com>, <yatess@ashland.or.us>  
**Date:** 8/14/2007 4:41:25 PM  
**Subject:** Ashland needs Mobius - Please read at meeting tonight

Hello,

I wish I had a dollar for every time in the last year or so I've said the best thing about living in Ashland is the Mobus.

My love of this town and commitment to staying here deepened considerably in recent years due to the incredible lineup of nationally recognized artists who have started coming there, thanks to the hard work of Mobius' staff. Shakespeare is fine once in a while but to me the measure of the pulse of any city is the caliber of live music it attracts. Ashland is blessed to have Grammy-winning and highly respected musicians willing to play Mobius between dates in San Francisco, Portland and Seattle. With the end of Jazmin's and other legendary venues of Ashland's past, it would consider the closing of the only serious music venue in town a reason to reconsider living here long-term, and I know I'm not alone.

Denying Mobius the right to continue providing a place for these artists to play due to parking issues is nonsensical. I have never, in over 20 shows I've attended there, heard of a parking shortage - there is plenty within a block in any direction. And many patrons, including myself, live close enough to walk to the venue. Many are grateful that Mobius is bringing live music to the Railroad district, within walking distance to so many.

I have also never seen anyone holding a bottle outside the venue, during or after a show, except for water bottles. Blaming Mobius for broken glass in the area, which I have also never seen, is unfair. If this ever did or were to happen, or if noise from patrons became an issue, Mobius would simply ask audiences to please be more careful and they would. A random bad seed can make trouble anywhere and is no reason to shut down one of the best things a city has going for it. The only other music venue, the Jefferson State Pub, has its merits but, due to poor acoustics, cannot attract the same caliber of talent. Mobius is well ventilated, has great sound control, is well staffed and extremely user friendly. A jewel we should be proud of and support, not harass.

We can't all afford to buy \$50 theater tickets regularly and if Ashland just becomes another town where most folks do nothing but stay home at night, it will be a tragedy. Mobius' owners have said they are willing to meet any reasonable requests by the city to keep serving Ashland the incredible array of music, workshops, and poetry readings they have been offering ....I'm one of many who hopes you find a way to help them keep Ashland alive and not just another TV-watching town.

Respectfully,  
Oriana Spratt  
212 Patterson St.

From The Mobius staff:

Hello Mobius Patrons,

If you believe--as we do--that Live Music and Arts at the Mobius contributes positively to Ashland's rich diversity of theatre entertainment, please read this very important message.

This Tuesday (8/14/2007) marks a milestone for the Mobius as we go in front of the Planning Commission for a proposed change in our zoning status, to zone the Mobius as a Theatre. If successful, this proposed zoning change will be a major step in our transition to become a LIVE INTERNET BROADCAST THEATRE (for more info on "Mobius Live", see below).

In response to the notice posted on The Mobius announcing the hearing, concerns have been submitted in writing by businesses on Fourth Street. Honestly, while we were surprised by the language used by some of the authors (one went so far as to call the Mobius "a tragedy waiting to happen"), we understand that a change as significant as this would naturally raise some questions and concerns. We feel that these businesses have not taken the opportunity to experience what the Mobius has to offer, and would support us if they enjoyed it as much as you do.

**WE NEED YOUR HELP!**

Since supporting statements are not accepted in writing (only concerns) the scales are presently tipped toward the negative, and **WE NEED YOUR HELP IN**

8/16/2007

## SHOWING THE POSITIVE ASPECTS OF THE MOBIUS!

We are confident that we are a positive addition to the block, the district, and the greater community of Ashland, and that we contribute to the entertainment available in this town with a diversity and caliber unique to this venue. Now, with the launch of Mobius Live!, we are contributing to the international exposure of Ashland, diversifying the community's reputation for music and the arts, and serving as a voice to promote the entire community.

### THIS IS HOW YOU CAN HELP:

There are two ways you can show your support.

- 1) Join us at the hearing on Tuesday 8/14/07, 7 PM at 1155 E. Main and support the Mobius in its application to change our zoning status to a Theatre. Upon arrival, please fill out a card and mark your support of the Mobius. Even if you can't stay to be heard, the pile of cards is a measure of support so please fill one out. (Also, your visibility contributes to the decision, so let our person at the door know you are there to support the Mobius, and we will provide you with some visual token to highlight your support.)
- 2) While attendance at the hearing is the most potent way you can show your support, we would like to give all people the opportunity to be heard. Come by the Mobius anytime between 2-5pm on Thursday, Friday, or Monday to video tape a short statement of support that we will edit and present to the Planning Commission. (If the times do not work for you, send us an email < > and we will try to find a time that works for you.)

We have a beautiful vision for the Mobius. Right now, this vision lies in the hands of the Planning Commission. The zoning change would significantly raise the venue's legal occupancy, and will allow us to have more people attend shows, thus giving us access to ever increasing caliber of performers and a global audience for the live streams and rebroadcast of archives. Your support could tip the scales to allow us to continue and grow into what we have planned, which includes many more top tier acts, Grammy award winners, and international stars coming to our beautiful little town to be broadcast internationally, appearing in the most intimate venue of their international tour. Please come out and support us.

Oh, and one last thing: It is very important that all of our efforts to help the Mobius remain POSITIVE, as negativity only creates greater rifts.

We thank you in advance for your support and positive efforts on behalf of the Mobius.

The Mobius Family

8/16/2007



**ASHLAND PLANNING DEPARTMENT  
STAFF REPORT ADDENDUM  
October 9, 2007**

PLANNING ACTION: PA2007-00250

APPLICANT: Aaren Glover

LOCATION: 281 Fourth St.

ZONE DESIGNATION: E-1

COMPREHENSIVE PLAN DESIGNATION: Employment

APPLICATION DEEMED COMPLETE: June 14, 2007

120-DAY TIME LIMIT: October 12, 2007

ORDINANCE REFERENCE:	18.40 E-1 Employment District
	18.92 Off-Street Parking
	18.100 Variances
	18.104 Conditional Use Permits

REQUEST: Request for a Conditional Use Permit for a theater use and a Type II Variance to parking for a property located at 281 Fourth St.

**I. Relevant Facts**

**A. Background - History of Application**

The application was heard by the Planning Commission on September 11, 2007. The Planning Commission left the record open for two weeks to allow additional submittals by the applicant and continued the deliberation to October 9, 2007.

**II. Project Impact**

**A. Conditional Use Permit**

The applicant has proposed a number of strategies to address the impacts raised by the neighbors, including noise, trash, and security issues. These are summarized in the attached outline provided by the applicant, and are reflected in the attached conditions. Several issues that may not be adequately addressed by the addendum are the use of alcohol, the hours of operation, the number of patrons, and the monitoring of noise. Criteria addressing impact are a particularly pertinent part of the Conditional Use

process, since a Conditional Use Permit runs with the property and is part of the neighborhood regardless of the tenants.

## **1. Alcohol Service**

The applicant has added the serving of alcohol to their request. Since nightclubs are a Conditional Use in this zone, an application for alcohol service in conjunction with live music would typically require a Conditional Use Permit (See Section 18.08.517). The applicant states that the request is similar to uses in place at Oregon Shakespeare or Oregon Cabaret, but these facilities are located in a downtown zone, where bars and nightclubs are a permitted use and do not have to go through the Conditional Use Permit process. The request for alcohol service appears to be a significant change from the original application and should be addressed through submittal of a Conditional Use Permit addressing the criteria and issues pertinent to that request. Staff is recommending a condition prohibiting the service of alcohol unless a Conditional Use Permit is obtained for that use.

## **2. Hours of Operation**

The applicant is proposing hours of operation be until 1 a.m. Staff is recommending that weeknight shows be until 11 p.m. in order to reduce impacts on the surrounding residential uses. A condition is included addressing this issue.

## **3. Number of patrons**

The applicant stated that the majority of their events would be smaller scale events and that they only produce several events per month with an audience size greater than 120 people. In discussions with the applicant, they have indicated to staff that 30 people would be a reasonable estimate of the number of additional people needed to cover staff and band members for larger events. For this reason, staff has proposed conditions limiting the total occupancy to 150 persons, to cover the audience and the needed staff members. Large events, with 100 to 150 persons, would be limited to seven per month. Smaller sized events could be more frequent and this is also addressed in the attached conditions. Conditions address only total occupancy, as the mix of patrons, staff, and artists would be difficult to verify.

## **4. Monitoring of Noise**

While the applicant is proposing that they monitor noise on the site during the first year of operation, Staff is recommending that if complaints are received that the Planning Director have the authority to require a third party noise report prepared by a qualified consultant. This will give an opportunity to obtain unbiased information regarding actual noise levels should there continue to be a perceived problem in the neighborhood.



## B. Variance

The applicant has adjusted the Variance application by proposing to provide 13 spaces through a lease agreement. They are also requesting a Variance to the Code provision that parking must be within 200 feet of the facility. They are requesting that this distance be extended to ¼ mile, as this distance would be a reasonable distance to expect people to walk for this type of venue. Additionally, Staff is recommending that the shared parking be in one location, so that patrons can reasonably be expected to find and use it, and this is included in the conditions. A Variance to the 200 foot requirement would help the applicant accomplish this and make the proposal more realistic than having parking scattered through the neighborhood. It also simplifies the task of verifying the availability of spaces being proposed. They have not, however, included a specific location for parking in their application.

## **III. Procedural - Required Burden of Proof**

The criteria for Conditional Use Permit are described in 18.104.050 as follows:

The following criteria shall be used to approve or deny an application:

- A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.
- B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.
- C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:
  - 1. *Similarity in scale, bulk, and coverage.*
  - 2. *Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.*
  - 3. *Architectural compatibility with the impact area.*
  - 4. *Air quality, including the generation of dust, odors, or other environmental pollutants.*
  - 5. *Generation of noise, light, and glare.*
  - 6. *The development of adjacent properties as envisioned in the Comprehensive Plan.*
  - 7. *Other factors found to be relevant by the Hearing Authority for review of the proposed use.*

The criteria for a Variance are described in 18.72.090 as follows:

- A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.
- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ord.2425 S1, 1987).
- C. That the circumstances or conditions have not been willfully or purposely self-imposed.

#### **IV. Conclusions and Recommendations**

The Planning Commission must decide if the applicant's proposals and the attached conditions adequately address the criteria for Conditional Use Permit and for a parking Variance. While no information has been provided regarding the actual intended location of the shared parking, there are several locations within a quarter mile of the site that could meet the need, if the applicant is able to secure an agreement for the required number of spaces. Additionally, the requested number of parking spaces has been reduced to the 50% threshold that would typically be approvable through an administrative process if they were within 200 feet.

Regarding the Conditional Use Permit criteria, the Planning Commission must weigh the concerns raised by the neighbors against the conditions proposed by the applicants and by staff to determine if the impact on the neighborhood would be no more adverse than the target use of the zone.

The 120 day timeline for this project is extremely short. The Planning Commission must approve or deny the application tonight (October 9, 2007) and adopt the findings tonight in order to allow time for a possible appeal and still meet the deadline.

Should the Commission believe adequate information and facts are provided to approve the project, Staff recommends the following conditions:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified here.
- 2) That the total building occupancy is limited to 150 people, including staff and artists. Effective immediately, in no case, shall the occupancy exceed what is permitted under the approved building permit, even if this number is lower than that stated herein. Failure to maintain occupant load as posted by the Ashland Fire Department will result in the scheduling of a revocation of the Conditional Use Permit.
- 3) That events with total building occupancy over 50, including staff and artists, are limited to 15 per month, and events with total building occupancy over 100, including staff and artists, are limited to 7 per month. Events shall be timed to coincide with shared parking agreements, always providing a parking ratio of at least one space per 10 people.

- 4) That 15 spaces of parking are to be provided by the applicant. Two spaces are permitted to be on-street credits located in front of the building. The additional 13 spaces may be shared parking spaces located within ¼ mile of the property and must be obtained within 90 days of the planning approval for PA2007-00250. Leased spaces should be in a single location. Parking agreements shall meet the following requirements.
  - a) The agreements shall be signed, notarized, and recorded.
  - b) The agreements shall be perpetual and shall run with the land.
  - c) The agreements shall include times that the parking is available for use. These times shall match the hours of operation for the theatre use.
  - d) Agreements shall include a provision providing for notice to the City of Ashland Planning Director if the agreements are revoked.
  - e) Agreements shall provide a remedy in the case that the agreement is revoked.
- 5) That applicants shall post signs in and around the facility regarding the shared parking location, and a sign at the shared parking location to inform patrons that the parking is available for use during events
- 6) That no alcohol be served on the premises unless a Conditional Use Permit for a nightclub is obtained.
- 7) That Friday and Saturday night events shall end no later than 1 a.m. and that weekday events (Sunday night through Thursday night) shall end no later than 11 p.m.
- 8) That the use shall meet City of Ashland noise ordinance requirements. Applicant shall provide monthly monitoring reports for noise levels at events for the first year of operation. If complaints are received regarding noise levels, the Planning Director shall have the authority to require a monitoring report prepared by a qualified noise consultant to demonstrate compliance.
- 9) That facility doors shall be kept closed during all events.
- 10) That vehicles shall not park in the alley for longer than 20 minutes and that vehicles shall not idle engines in the alley for more than 5 minutes.
- 11) That the applicant shall provide monthly notice to neighbors within 200 feet of all planned events in excess of 75 people.
- 12) That, during events, the applicant will provide receptacles for trash and cigarette butts in a visible and accessible location near the front door.
- 13) That the applicant shall provide staff to patrol all areas within 200 feet of the premises for one hour past the end time of any event.

- 14) That applicant shall provide contract firm security for all events that result in a total building occupancy of more than 100 people.
- 15) That the applicant shall provide the City with a designated contact person to address compliance with conditions
- 16) That the Conditional Use Permit and Variance are subject to periodic review as follows:
  - a) That the Conditional Use Permit and Variance are subject to review by the Planning Commission within one year of approval. Notice shall be provided and conditions of approval can be modified, added, or rescinded based on the findings of the Planning Commission.
  - b) That change of business ownership is subject to review by the City to verify continued compliance with the approved Conditional Use Permit.
- 17) That prior to the issuance of a certificate of occupancy:
  - a) Bicycle parking for 10 spaces shall be provided within 200 feet of the facility. All bicycle parking shall be installed in accordance with design and rack standards in 18.92.040.I and J.
  - b) The street tree in the well in front of the building shall be replaced. The street tree 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 tree shall be irrigated, and shall be selected and placed to comply with the vision clearance standards of the City of Ashland.

# **MOBIUS APPLICATION**

## **APPLYING FOR:**

Conditional Use Permit for performing arts theatre located at 281 4th street.

## **What we are requesting from the City of Ashland:**

- Parking Variance: We are requesting a 50% reduction
- Parking Distance Variance: We are requesting that the standard 200 ft. parking limit be extended to a 1/4 mile radius (as per suggestion of staff)

## **What Mobius will provide: SUMMARY**

-Mobius will provide 15 parking places in the form of 2 on-street credits & 13 parking places secured with legal, city approved contract, within 1/4 mile of The Mobius within 90 days of CUP approval.

-No alteration, additions or construction (except for interior changes required by Building code)

-15 theatre events maximum per calendar month

-Average event size of 25-75 people

-Limited # of events per month(15) with 75-120 patrons

-Larger productions take place offsite

-Events end no later than 1:00 AM

-Third party security on events over 100 patrons

-Mobius will work with AFD to make sure all safety necessary measures are in place and emergency evacuation plan is established

-Mobius will work to ensure a minimum negative impact, including noise and trash, on the neighborhood and will communicate regularly with neighbors within 200 feet.

-Mobius does and will keep an accurate ticket count at all times and upon selling 120 tickets all ticket sales will cease immediately and any remaining people will be directed home.

## **Condition DETAILS:**

1. Parking
  - a. 30 parking spaces required based on the maximum event capacity of 120 people. Variances granted for 50% of that requirement AND the 200 foot distance requirement extended to 1/4 mile
  - b. 15 parking spaces required, after 50% variance, by on street credit allowance or by shared parking agreement or through direct control.
  - c. On street credit allowed per ordinance (2 spaces)
  - d. Shared parking allowed per ordinance; required legal agreements that address the following:
    - i. Agreements must be recorded and perpetual, although they can be revoked under certain conditions.
    - ii. Parking agreement must specify any restrictions, such as time available.
    - iii. Agreement must require notice to city if agreement is revoked.
    - iv. Parking can be provided within ¼ mile of facility
    - v. Agreement must identify remedy if agreement is revoked.
  - e. Posted signs in and around property regarding parking locations, plus sign at shared parking facility.
  - f. Provide bicycle parking for up to 10 spaces within 200 feet of the property located on the 4th street adjacent to the Mobius or in the parking lot behind the Mobius, the best spot will be chosen based on Public Works approval and neighbor satisfaction.
2. Size of Events
  - a. Limited to 120 patrons as requested in application
  - b. Applicant shall not sell tickets in excess of 120 people, tickets will be counted and controlled
3. Hours of Operation/# of Events/Timing
  - a. The size and timing of events shall coincide with shared parking agreements. Events shall be sized to coincide with parking agreements, always providing a ratio of 1 parking space per 8 people.
  - b. Events in excess of 49 patrons are limited to 15 per month, of which events in excess of 75 patrons are limited to 7 per month.
  - c. All events shall end no later than 1 a.m.
  - d. Mobius will provide monthly notices to neighbors within 200 feet of any planned events in excess of 75 people.
4. Timeline to Be in Compliance
  - a. Immediately for building occupancy issues
  - b. Within 90 days for parking agreements.
5. Noise
  - a. No buses idling in alley or on street for more than current Municipal Code requirements
  - b. Keep doors closed during performances and sound checks
  - c. Meet city noise ordinance standards; provide a monthly monitoring report, for first year of operation, performed by Mobius staff with

certified DB sound meter. Reports will be made available upon request by city officials as well as being submitted to Planning commission for annual review of CUP compliance

6. Security/Alcohol/Trash/

- a. Mobius will provide staff security at all events
- b. Mobius will provide contract firm security for any events with over 50 pre-sale tickets.(On the rare occasion that we sell less than 50 pre-sale tickets but go over 100 tickets we will bring in additional, on-call, staff security for that event)
- c. Mobius will provide staff to patrol all areas within 200 feet of premises for one hour past any event end time
- d. Mobius will provide receptacles for trash and cigarette butts in a visible and accessible location by or near the front door.
- e. Applicant shall provide city with designated contact person to address compliance with conditions.
- f. A Limited on-premises alcohol permit will be obtained for beer and wine in the same accordance as other theatre venues in Ashland, i.e. Oregon Shakespeare Festival, Oregon Cabaret. Alcohol servers are governed by strict laws in addition to all the extra security measures and policies that are being proposed as CONDITIONS to The Mobius having the ability to operate. Mobius will operate in strict compliance with all state and city laws. A theater is not defined by selling or not selling alcohol, Mobius does not want to nor will, at any point, operate as a night club. As Mobius is subject to a one year review it is in our own best interest to not do anything that would jeopardize the continuation of our CUP. One of the issues that has been raised is that on a few occasions there has been outside drinking and subsequently bottles being left outside. The best way to prevent this kind of activity is the ability to offer beer & wine inside where it can be properly and safely controlled and moderated and more easily managed by staff and security. Frank at OLCC has offered to be available for questions or comments regarding this application.

7. Periodic Review

- a. The conditional use permit and variance subject to review by the Planning Commission within one year of approval. Notice shall be provided and conditions of approval can be modified, added or rescinded based on the findings of the Commission regarding compliance with Conditional Use Permit criteria.
- b. Change of business ownership subject to review of the city.

**Susan Yates - Let Mobius Live**

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**From:** Oriana <justoriana@gmail.com>  
**To:** <plan@aoblack.com>, <dimitre@mind.net>, <TheDotts@mind.net>, <pam.marsh@gmail.com>, <michaelt dawkins@yahoo.com>, <dimitre@mind.net>, <pcstromberg@opendoor.com>, <molnarb@ashland.or.us>, <golden-fields@charter.net>, <cate@mind.net>, <sassetta@mind.net>, <msquared@mind.net>, <stalheid@ashland.or.us>, <yatess@ashland.or.us>  
**Date:** 9/13/2007 10:54 AM  
**Subject:** Let Mobius Live

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Wanted to share this, and say thanks for doing all you can do.

Oriana Spratt

Letter to the Editor, Ashland Daily Tidings:

The Mobius, on Fourth near A Street, is Ashland's best-kept secret, the sweetest little music venue between San Francisco and Portland. I was at the recent Planning meeting, frustrated by the time wasted on clerk-mentality issues like asking Mobius' neighbors to sign 10-page contracts to guarantee parking spaces when there is NEVER any lack of them at night. Thankfully, I also sensed the Planners "got" what many attendees said so well about what a treasure Mobius is. How lucky Ashlanders are to be able to walk or bike to a hip, well-managed, uncrowded venue that attracts cutting-edge talent that packs the Fillmore in SF the same week!

As someone wrote in the online edition, "Like so much of what goes wrong in Ashland, this issue is another of nervous folks lacking backbone or vision, relying upon code and not common sense." May common sense for the common good prevail in this case before yet another enterprising young venture sadly closes its doors. I don't think Mobius should have to wait another month....they've lost too much money over this non-issue already. Planning folks, please bend one of your precious rules and give Mobius their variance and any other support they need, pronto. And then come to a show to see what we're talking about!



JOHN W. BARTON, M.D.  
245 PIEDMONT DRIVE  
ASHLAND, OREGON 97520

September 17, 2007

Planning Commission  
City of Ashland  
Ashland, Oregon 97520

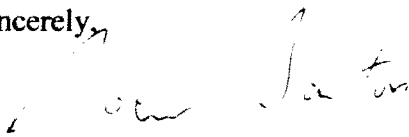
I am writing in support of the current Mobius application(s).

In my view, Mobius has a unique place in Ashland's cultural life. In addition to hosting various receptions and artists' shows, it has over the years attracted many musicians, musical theater groups and dance bands which have been thoroughly enjoyable and of a character not to be found elsewhere in Ashland nor in the remainder of the valley.

I realize your decisions need to be made in accordance with relevant city codes and policies. I am hoping you can find a way to preserve this special element of our culture.

Please feel free to call me with any comments at 482-5279.

Sincerely,



John W. Barton, M.D.

RECEIVED

SEP 20 2007

City of Ashland  
Department

# DELUXE AWNING COMPANY

260 4<sup>th</sup> Street • Ashland, Or 97520  
Phone (541) 488-1575 • Fax (541) 488-3683  
CCB License #88912, Bonded & Insured  
Division of Deluxe Industries, Inc., An Oregon Corporation

September 27, 2007

To: Ashland Planning Commission

Re: Planning Action #2007-00250 (C.U.P. Application for 281 4<sup>th</sup> Street, "The Mobius")

Dear Planners,

As a business owner operating on Fourth Street for over 22 years, please consider my views about this C.U.P. application. The impact of the applicant's business to date was detailed in my letter of August 2, 2007. The Mobius' close proximity to Deluxe Awning Company makes this important to us.

I appreciate that the applicant wants to provide an expanded music venue for the area and that some public support is behind the idea of growing this venue so that more people can enjoy it.

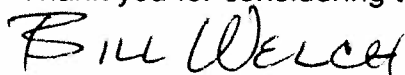
I believe that The Mobius was originally established as a sound studio intending to host gatherings of less than 50 people. With the size of the building and with no off-street parking, I do not see how approval can be given for more than this occupancy. The applicant wanting to expand does not change the neighborhood parameters in which they chose to start their venue. In that this variance is being brought on *at the option* of the applicant, I believe code states it must be denied. In other words, ***if this variance is to be granted, the conditions for the variance must not be brought about by the applicant (Ordinance 2775, 1996)***. This application exists only because the applicant wants to expand. These conditions are willfully self-imposed.

I want to make sure that the applicant's continued operations have minimal adverse effects on the established businesses in the area. If limited expansion were to be allowed, I would like to see at least the following conditions:

- events scheduled to start no earlier than 8 pm
- buses kept to legal parking areas (off Fourth Street)
- security patrol in the neighborhood during events
- trash cleanup in the neighborhood immediately following events

As I review the issues and solutions to problems with expanding this venue, I wonder if adequate consideration has been given to moving this operation to a larger building with a parking lot in an area zoned to allow it without conditions. Perhaps this would help ensure long term success as a larger music and event venue.

Thank you for considering this information,



Bill Welch, President



**PLANNING ACTION:** #2007-00980

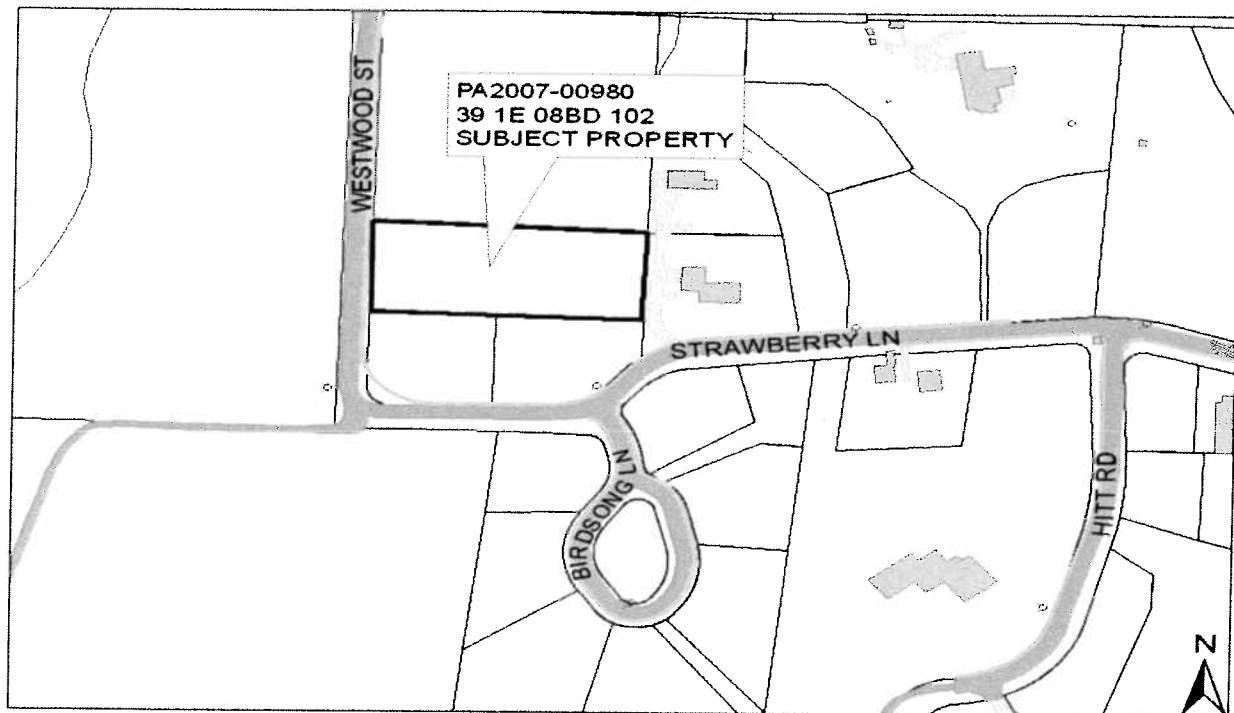
**SUBJECT PROPERTY:** Lot 102 on Westwood Lane

**OWNER/APPLICANT:** City of Ashland

**DESCRIPTION:** A request for a Land Partition approval to create two parcels, including one flag lot for the property located near the intersection of Strawberry Lane and Westwood Street. **COMPREHENSIVE PLAN**

**DESIGNATION:** Rural Residential **ZONING:** RR.5; **ASSESSOR'S MAP #:** 391E08BD; **TAX LOT:** 102

**ASHLAND PLANNING COMMISSION MEETING:** August 14, 7:00 PM, Ashland Civic Center



Notice is hereby given that a PUBLIC HEARING on the following request with respect to the ASHLAND LAND USE ORDINANCE will be held before the ASHLAND PLANNING COMMISSION on meeting date shown above. The meeting will be at the ASHLAND CIVIC CENTER, 1175 East Main Street, Ashland, Oregon.

The ordinance criteria applicable to this application are attached to this notice. Oregon law states that failure to raise an objection concerning this application, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes your right of appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to specify which ordinance criterion the objection is based on also precludes your right of appeal to LUBA on that criterion. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, if requested. A copy of the Staff Report will be available for inspection seven days prior to the hearing and will be provided at reasonable cost, if requested. All materials are available at the Ashland Planning Department, Community Development and Engineering Services, 51 Winburn Way, Ashland, Oregon 97520.

During the Public Hearing, the Chair shall allow testimony from the applicant and those in attendance concerning this request. The Chair shall have the right to limit the length of testimony and require that comments be restricted to the applicable criteria. Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at 541-488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting. (28 CFR 35.102.-35.104 ADA Title I).

If you have questions or comments concerning this request, please feel free to contact the Ashland Planning Department, 541-488-5305.

## FLAG PARTITIONS

### Section 18.76.060 Preliminary Approval of Flag Partitions.

Partitions involving the creation of flag lots shall be approved by the Planning Commission if the following conditions are satisfied:

A. Conditions of the previous section have been met.

B. Except as provided in subsection 18.76.060.K, the flag drive for one flag lot shall have a minimum width of 15 feet, and a 12 foot paved driving surface. For drives serving two lots, the flag drive shall be 20 feet wide, with 15 feet of driving surface to the back of the first lot, and 12 feet, respectively, for the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface. (Ord. 2815 S1, 1998)

Flag drives shall be constructed so as to prevent surface drainage from flowing over sidewalks or other public ways. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots. There shall be no parking 10 feet on either side of the flag drive entrance.

Flag drive grades shall not exceed a maximum grade of 15%. Variances may be granted for flag drives for grades in excess of 15% but no greater than 18% for no more than 200'. Such variances shall be required to meet all of the criteria for approval as found in 18.100.

Flag drives serving structures greater than 24 feet in height, as defined in 18.08.290, shall provide a Fire Work Area of 20 feet by 40 feet within 50 feet of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Uniform Fire Code and subject to all requirements thereof.

Flag drives greater than 250 feet in length shall provide a turnaround as defined in the Performance Standards Guidelines in 18.88.090.

C. Each flag lot has at least three parking spaces situated in such a manner as to eliminate the necessity for backing out.

D. Curb cuts have been minimized, where possible, through the use of common driveways.

E. Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.

F. The applicant has executed and filed with the Planning Director an agreement between applicant and the city for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Director of Public Works and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening to standards as indicated in this section and the assurance that such maintenance shall be continued.

G. A site plan has been approved by the Planning Commission. The site plan shall be approved provided the regulations of the zoning and subdivision titles are satisfied. Such a site plan shall contain the map requirements listed in Section 18.76.050 and the following information:

1. The location of driveways, turnarounds parking spaces and useable yard areas.

2. The location and type of screening.

3. For site plans of a flag lot, the building envelope shall be identified.

H. No more than two lots are served by the flag drive.

I. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.

J. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.

K. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:

1. Vehicle access shall be from the alley only where required as a condition of approval;

2. No screening and paving requirements shall be required for the flagpole;

3. A four foot pedestrian path shall be installed within the flag pole, improved and maintained with either a concrete, asphalt, brick, or paver block surface from the street to the buildable area of the flag lot;

4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flaglot clearly visible from the street on a 4" X 4" post 3½ feet high. The post shall be painted white with black numbers 3 inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two feet by three feet white sign clearly visible from the street with three inch black numbers. (amended Ord. 2757, 1995)

## MINOR LAND PARTITION CRITERIA

### Section 18.76.050

If the proposed partition does not appear to comply with the requirements for routine administrative approval, the proposal shall be submitted to the Planning Commission and approved when the following conditions exist:

A. The future use for urban purposes of the remainder of the tract will not be impeded.

B. The development of the remainder of any adjoining land or access thereto will not be impeded.

C. The tract of land has not been partitioned for 12 months.

D. The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.

E. The partitioning is in accordance with the design and street standards contained in the Chapter 18.88, Performance Standards Options. (Ord 2836 S8, 1999)

F. When there exists adequate public facilities, or proof that such facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.

G. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.

1. The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:

a. The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street.

b. The centerline grade on any portion of the unpaved street does not exceed ten percent.

2. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.

H. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street. (amended Ord. 2757, 1995)

**ASHLAND PLANNING DEPARTMENT  
STAFF REPORT  
August 14, 2007**

**PLANNING ACTION:** 2007-00980

**APPLICANT:** City of Ashland

**LOCATION:** Near intersection of Strawberry Lane and Westwood St. (39 1E 08BD 102)

**ZONE DESIGNATION:** RR-.5

**COMPREHENSIVE PLAN DESIGNATION:** Rural Residential

**APPLICATION DEEMED COMPLETE:** June 20, 2007

**120-DAY TIME LIMIT:** October 19, 2007

**ORDINANCE REFERENCE:** 18.16 Rural Residential District  
18.76 Partitions

**REQUEST:** A request for a Land Partition approval to create two parcels, including one flag lot for the property located near the intersection of Strawberry Lane and Westwood Street.

**I. Relevant Facts**

**A. Background - History of Application**

In 1986 the City of Ashland acquired the parent parcel which included the subject property. Through Planning Actions 86-128 and 86-129 the parent parcel was divided into one 10 acre parcel, one 2.5 acre parcel and a 2.09 acre parcel. The parent parcel was originally acquired to serve in a land trade with a property owner on Hitt Road for the siting of a City water reservoir. In conjunction with this action the City provided a Street Dedication for Westwood Street and Strawberry Lane along the west and south sides of the parent parcel and reserved the 10 acre portion of the property, west of Westwood Street which includes the western fork of Wrights Creek for use as a park/natural area.

In 1999 and 2000 the City Parks Commission investigated the parent parcel for inclusion in the 2000-2010 Open Space Plan and determined that given the 10 acre parks property to the west there was limited value in acquiring it as an addition to the adjacent park. Therefore, although nominated, the property was not included in the Parks and Open Space Plan.

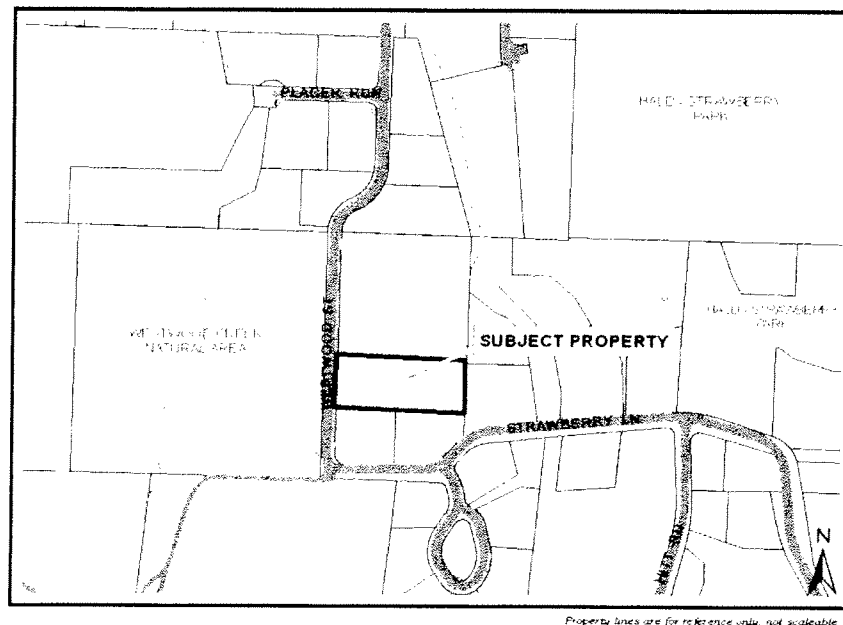
In February 2004 the City filed an application for a three lot partition of the parent parcel which created the subject property. The application was called up to a public hearing. The application was approved by the Planning Commission in June 2004.

On June 8, 2007 the City filed an application to further divide one of the parcels created as part of the partition approved in June 2004. The application was administratively approved for review at the July 10, 2007 Hearings Board meeting. The application was subsequently called up to a public hearing by a neighbor. The letter requesting the public hearing is attached.

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

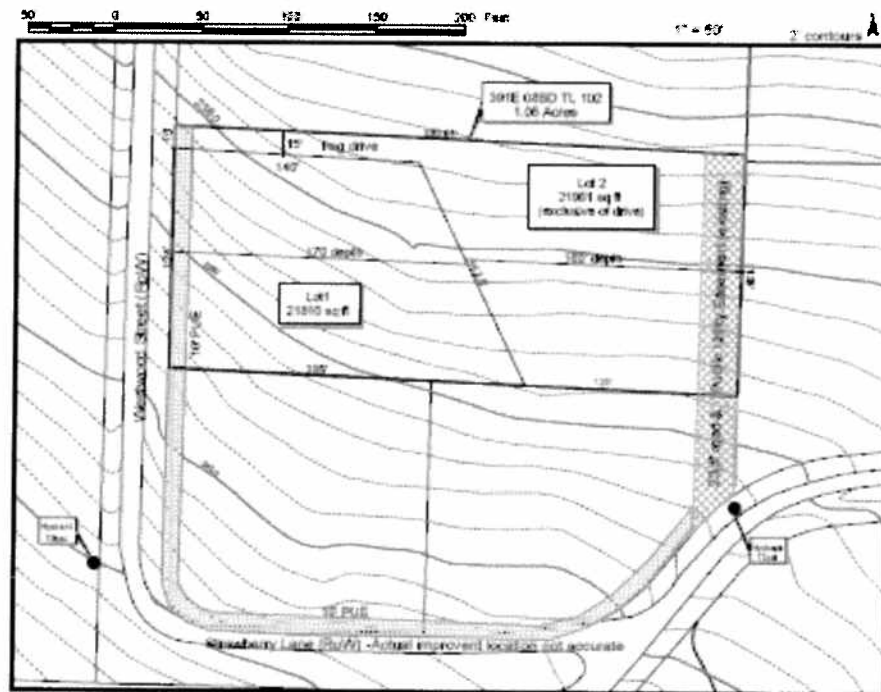
## **B. Detailed Description of the Site and Proposal**

The parent parcel is 1.05 acres (45,738 square feet) in size. The parcel is located near the intersection of Westwood Street and Strawberry Lane, on the east side of Westwood Street. The property has a 139 foot width along Westwood Street and is 330.01 feet deep. The property is zoned Rural Residential (RR-.5). The parcel is vacant of structures.



The property slopes approximately 10 percent downhill to the north. There are five trees on the subject property that are less than eighteen inches in diameter at breast height and thus are not subject to the Tree Protection and Preservation Ordinance. No drainage channels or other significant natural features exist on site.

The application is for a land partition approval to create two 1/2-acre parcels from the 1.05 acre property. One is proposed as a flag lot. Lot 1 is proposed to be 21,810 square feet (1/2 acre) and Lot 2, the flag lot is proposed to be 21,961 square feet, exclusive of the area designated as the 15-foot wide flag driveway. The proposed parcels exceed the minimum 1/2-acre or 21,780 square foot lot size and the dimensional requirements of the Ordinance.



## II. **Project Impact**

The proposed land partition must meet the approval criteria from the Partitions Chapter of the Ashland Land Use Ordinance (AMC 18.76) to create a two parcel including one flag lot.

### A. **Minor Land Partition**

The approval criteria for a minor land partition are relatively straightforward, and the application appears to satisfy these requirements. The proposed lots exceed the minimum lot size of 21,780 square feet and meet the dimensional requirements of the RR-.5 zoning district.

#### 1. **Adequacy of Public Facilities**

Utilities including water, sanitary sewer, storm drainage and electric service are in place in the Westwood Street right-of-way. Upgrades to the electric service will be necessary. This vault is required to be installed prior to the signature of final survey; a condition to this effect has been recommended. The stormwater generated on site will drain to Westwood. All other utilities can be extended to serve Lot 2. A ten foot Public Utility Easement has been proposed along the Westwood Street frontage.

Fire hydrants exist on the east side of Westwood Street and near the 23.5 foot road easement on Tax Lot 104 to the south of the proposed flag Lot 2. Because the property is in a designated Wildfire Hazard area, a Fire Prevention and Control Plan must be submitted to the Fire Department, approved and implemented prior to the issuance of any building permits.

Vehicular access to both lots is from Westwood Street. Westwood Street is classified as a Residential Neighborhood Collector in the City of Ashland Transportation System Plan. Street of this type are designed to accommodate between 1,500 and 5,000 average daily trips (ADT). Traffic counts have not been conducted on Westwood Street or Strawberry Lane since the mid 1990s. At that time the traffic count numbers were very low, approximately 100 ADT, this is significantly below the ADT accommodated by Residential Neighborhood Collector streets. Both Westwood Street and Strawberry Lane are improved with curbs, gutters and sidewalks. In Staff's opinion, both Westwood Street and Strawberry Lane have more than sufficient capacity to serve the two additional single-family homes and their anticipated twenty vehicle trips per day. The proposed Lot 1 has two driveway access configurations proposed. One is for it to have its own curb cut on the south end of the lot. The other is to have a mutual access easement to share the flag drive for Lot 2, in which case an additional curb cut would not be permitted. Due to the low number of vehicle trips per day on Westwood Street and that the proposed driveways will exceed the 24-foot separation requirement either scenario is acceptable, though consolidation is encouraged.

Street trees have not been planted along the Westwood Street frontage and thus a condition requiring their installation prior to the issuance of a certificate of occupancy for Lot 1 has been recommended.

## **2. Neighborhood Concerns**

The proposal was approved administratively by Planning Staff, but was subsequently called up to a public hearing by an adjacent property owner. The letter requesting a public hearing expressed concerns about mitigation to the neighborhood.

There is no criterion which addresses mitigation to the neighborhood in considering a Land Partition application. The streets, built as Neighborhood Collectors have adequate traffic capacity, more than any potential impacts from the addition of residences.

Additionally, when the subject property was created by partition in 2004 a deed agreement was recorded requiring the new lots to meet specific design requirements. This deed agreement was submitted with the application and a



condition has been recommended that the new construction comply with the recorded deed agreement.

### **III. Procedural - Required Burden of Proof**

**The criteria for approval of a Land Partition are as follows:**

- A. The future use for urban purposes of the remainder of the tract will not be impeded.
- B. The development of the remainder of any adjoining land or access thereto will not be impeded.
- C. The tract of land has not been partitioned for 12 months.
- D. The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.
- E. The partitioning is in accordance with the design and street standards contained in the Chapter on Subdivisions.
- F. When there exists adequate public facilities, or proof that such facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.
- G. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.
  - 1. The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:
    - a. The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street.
    - b. The centerline grade on any portion of the unpaved street does not exceed ten percent.
  - 2. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- H. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street. (amended Ord. 2757, 1995).

**The criteria for a Flag Partition are as follows:**

- A. Conditions of the previous section have been met.
- B. Except as provided in subsection 18.76.060.K, the flag drive for one flag lot shall have a minimum width of 15 feet, and a 12 foot paved driving surface. For drives serving two lots, the flag drive shall be 20 feet wide, with 15 feet of driving surface to the back of the first lot, and 12 feet, respectively, for the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface. (Ord. 2815 S1, 1998)

Flag drives shall be constructed so as to prevent surface drainage from flowing over sidewalks or other public ways. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots. There shall be no parking 10 feet on either side of the flag drive entrance.

Flag drive grades shall not exceed a maximum grade of 15%. Variances may be granted for flag drives for grades in excess of 15% but no greater than 18% for no more than 200'. Such variances shall be required to meet all of the criteria for approval as found in 18.100.

Flag drives serving structures greater than 24 feet in height, as defined in 18.08.290, shall provide a Fire Work Area of 20 feet by 40 feet within 50 feet of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Uniform Fire Code and subject to all requirements thereof.

Flag drives greater than 250 feet in length shall provide a turnaround as defined in the Performance Standards Guidelines in 18.88.090.

- C. Each flag lot has at least three parking spaces situated in such a manner as to eliminate the necessity for backing out.
- D. Curb cuts have been minimized, where possible, through the use of common driveways.
- E. Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.
- F. The applicant has executed and filed with the Planning Director an agreement between applicant and the city for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Director of Public Works and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving

and screening to standards as indicated in this section and the assurance that such maintenance shall be continued.

- G. A site plan has been approved by the Planning Commission. The site plan shall be approved provided the regulations of the zoning and subdivision titles are satisfied. Such a site plan shall contain the map requirements listed in Section 18.76.050 and the following information:
  - 1. The location of driveways, turnarounds parking spaces and useable yard areas.
  - 2. The location and type of screening.
  - 3. For site plans of a flag lot, the building envelope shall be identified.
- H. No more than two lots are served by the flag drive.
- I. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.
- J. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.
- K. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:
  - 1. Vehicle access shall be from the alley only where required as a condition of approval;
  - 2. No screening and paving requirements shall be required for the flagpole;
  - 3. A four-foot pedestrian path shall be installed within the flagpole, improved and maintained with either a concrete, asphalt, brick, or paver block surface from the street to the buildable area of the flag lot;
  - 4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flaglot clearly visible from the street on a 4" X 4" post 3½ feet high. The post shall be painted white with black numbers 3 inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two feet by three feet white sign clearly visible from the street with three inch black numbers. (amended Ord. 2757, 1995)

#### **IV. Conclusions and Recommendations**

The approval criteria for a minor land partition are relatively straightforward and Staff believes that applicant has met the approval criteria.

If the Planning Commission approves the application, Staff recommends attaching the following conditions.

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified here.
- 2) That prior to signature of survey plat:
  - a) That a final survey plat shall be submitted to the City within 12 months of this approval.

- b) That all easements for public utilities, all reciprocal utility, maintenance and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.
  - c) That a final utility plan for the parcels shall be submitted for review and approval by the Engineering Division and Building Divisions prior to signature of the final survey plat. The utility plan shall include the location of connections to all public facilities including the locations of water lines and meter sizes, fire hydrants, sanitary sewer lines, storm drain lines and electric services.
  - d) That the electric vault to service Lot 1 shall be installed in accordance with the requirements of the Ashland Electric Department prior to signature of final survey plat.
  - e) The electric service plan shall be reviewed and approved by the Ashland Electric Department prior to signature of the final survey plat.
  - f) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for both parcels prior to the signature of final survey plat. All work shall be completed under review and approval of the Ashland Engineering Department prior to signature of the final survey plat.
- 3) That building permit submittals shall include:
- a) That three off-street parking spaces for Lot 2 shall be delineated on the building permit submittals.
  - b) That solar setback calculation shall be submitted with the building permit submittals demonstrating compliance with Standard A Solar Setback.
  - c) That the flag lots shall have a usable yard area, as defined in 18.76.060.J, that has a minimal dimension of 20 feet wide by 20 feet deep. The usable yard area shall be identified on the building permit submittals.
  - d) That three off-street parking spaces situated in a manner as to eliminate the necessity for backing out shall be provided on the vacant flag lot (Lot 2). The parking spaces shall be identified on the building permit submittals.
  - e) That individual lot coverage shall not exceed 20% of the total lot area in accordance with 18.16.040.B.1. Lot coverage calculations including all impervious surfaces shall be submitted with the building permits.
  - f) That the plans submitted for building permit shall comply with the recorded deed restrictions submitted as Exhibit G.

- 4) That prior to the issuance of a certificate of occupancy:
  - a) That the electric service shall be installed underground to service the parcels as required by the Ashland Electric Department prior to issuance of the certificate of occupancy.
  - b) That the flag drive shall be installed prior to issuance of a certificate of occupancy for Lot 2. The flag drive shall be constructed so as to prevent surface drainage from flowing over the sidewalk or public way in accordance with 18.76.060.B. The flag drive shall be screened with a site-obscuring fence, wall or evergreen hedge in accordance with 18.76.060.E.
  - c) That no obstructions including landscaping and structures greater than two and one half feet high including landscaping, signage or structures, shall be placed in the vision clearance areas adjacent to the driveway in accordance with 18.92.070.D.
  - d) That 4 street trees, 1 per 30 feet of street frontage, shall be installed on the Westwood Street frontage prior to issuance of a certificate of occupancy for the Lot 1. 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.

**Application for a Minor Land Partition**

JUN 8 2007

**Westwood Property Partition****Assessors Map 391E 08BD, tax lot 101 102****Applicant: City of Ashland****Submitted for approval: June 8, 2007**

The City of Ashland endeavors to partition a city owned 1.05 acre parcel near the intersection of Strawberry Lane and Westwood Street into 2 lots. Each lot will comply with the applicable standards as set forth in the applicants written findings of fact below.

Attached site plans are provided to illustrate the partition as well as show existing and proposed easements. The partition of this property is consistent with the zoning and the Ashland Comprehensive Plan designation of Low Density Residential. The property is currently vacant and is readily divisible through the Flag Partition procedure. Each lot created will meet the minimum 1/2 acre lot size exclusive of the flag drive.

The parent parcel has an average 10% slope and a fully developed street, Westwood Street, along the west property frontage.

**Written Findings of Fact Addressing the Criteria for a Land Partition, 18.76.050**

- A. The future use for urban purposes of the remainder of the tract will not be impeded.

The property being 1.05 acres in size in a RR-.5 zone (1/2 acre minimum) will allow for a total of 2 lots. The lot being partitioned at this time is the area remaining from a three lot partition that was completed in February of 2004. At that time the City of Ashland, as an applicant for the partition, indicated that at a future date we would be further partitioning this 1.05 acre lot as is currently proposed.. At the time of the original partition an access easement was provided along the east property line of taxlot 391E 08 BD TL 104 , the lot immediately to the south of lot 2 as proposed. The easement is 23.5' wide and was established along the entire east property line of the subject property prior to this application. This easement ensured that the parent parcel currently seeking partition approval could be divided into two 1/2 acre properties and access to the rear (flag) lot could be provided by either the properties Westwood St. frontage via a flag drive, or alternatively through the easement access heading south to Strawberry Lane.

The partitioning of the subject property will maximize the urban use of the property as permitted in the rural residential zone.

JUN 8 2007

- B. The development of the remainder of any adjoining land or access thereto will not be impeded.**

The proposed partition will not restrict development of any adjacent properties.

The adjacent property to the east was subdivided in 1999 and recently had the final survey completed. The approval of this subdivision, Strawberry Meadows, demonstrated all access and utility extensions would be provided to the subdivision lots without involvement from the property proposing to be partitioned in this application. Therefore the development of the subject property will not impact the development potential of the properties to the east.

The property to the north of the subject property is 2.5 acres in size and has approximately 335 feet of frontage on Westwood Street. Access to this adjacent property when it is partitioned or subdivided will be off of Westwood Street directly and therefore the development of the subject property will not preclude the development of the property to the north. Additionally, there currently exists a 23.5' road and utility easement along the east property line of the subject parcel, thus the alternative to have access for vehicles or utilities from the adjacent lot to the north onto Strawberry Lane directly remains unaffected by this proposal.

*A vicinity Map is provided as Exhibit A.*

- C. The tract of land has not been partitioned for 12 months.**

The parcel has not been partitioned in the last 12 months. As stated previously the partition of the original parcel into three lots was completed on May 11, 2004. The 1.05 acre parcel currently being partitioned was one of three lots originally created through that partition. Over three years has elapsed since the prior partition.

- D. The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.**

#### **Minimum Lot sizes**

The proposed parcels exceed all minimum dimensional requirements for lots in the RR-.5 zone. According to 18.16.040 of the ALUO, in the RR-.5 zone, the minimum lot size is 1/2 acre or 21,780 square feet, the minimum lot width is 100 feet and the minimum lot depth is 150 feet. The standard yard requirements are a minimum of 20 feet for front yards. The side yard setback is a minimum of 5 feet or 10' when abutting a public street, and the rear yard setback is ten feet for each story.

JUN 8 2007

Lot 1 as proposed will be 21,810 sq feet (.5 acres). The proposed width is 124', and the lot is approximately 170' in depth as measured from the center point of the rear property line. As proposed the lot meets the minimum lot area and complies with the width and depth requirements.

As "flag poles" are not counted in the lot area Lot 2 as proposed is 21,961 sq.ft (.5 acres) exclusive of the area designated as a 15' wide flag drive. The proposed width is 139', and the lot is approximately 160' in depth. As proposed the lot exceeds the minimum lot area and complies with the width and depth requirements.

*A map showing the lot configurations, property dimensions, existing and proposed easements is provided as Exhibit B*

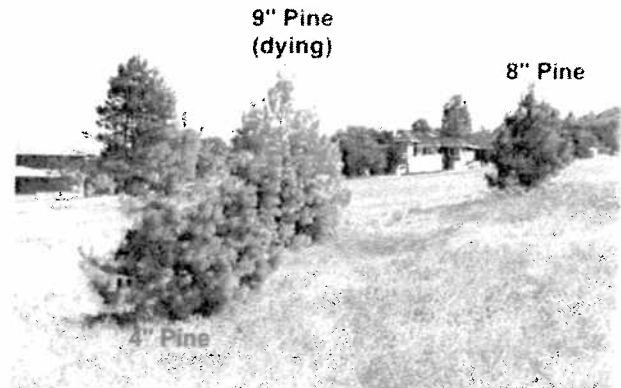
### **Trees**

#### **Street trees –**

There are no existing Street Trees along the frontage of the parcel. Per construction of lot 1, all street trees shall be installed (1 per 25' along Westwood frontage of lot 1)

#### **On site trees –**

There exists three small stature Pine within on Lot 1 (sized 4", 8" and 9" DBH) as proposed, and two small oak trees (4" and 8" DBH) and one Maple (5" DBH) on Lot 2. All trees are less than the minimum 18" Diameter at breast height criteria which would trigger a tree removal permit. All trees on Lot one are subject to removal as they are within a proposed building envelope. The largest pine on this lot (9" DBH) is dying as its needles are brown as shown in the image to the right.



The final design of the building for the site will not consume the entire building envelope as drawn and thus there remains the potential that one or more of these trees could be retained. However given their small stature, poor condition and central location on the lot it is likely that all will be removed.

On lot 2, two of the small trees (4" Oak and 5" Maple) Are located within the 23.5' easement along the rear of the property and are outside the



building envelope. Although they do not meet the 6" threshold to be required to be shown on a tree plan, they are likely to be retained due to their location within the easement outside of the broad building envelope. An 8" split trunk Oak in the south east corner of Lot 2 is designated as subject to removal. However it is highly likely that the future development of this site will be adjusted to the north to be at the terminus of the flag drive. This would be done to minimize the amount of impervious surface dedicated to the drive and parking area to remain under the maximum 20% coverage requirement for the zone. Therefore it is anticipated that this Oak, although not designated as significant or requiring retention per the tree ordinance, can be preserved.

*A map showing the trees on the property and within 15' of the property lines is provided as Exhibit E*

### **Access**

As noted previously there exists a 23.5' wide "Road and Public Utility Access Easement" along the entire eastern property line of the subject property and through the parcel to the south. This easement provides Lot 2 with the ability to obtain access and potentially connect to the water line on Strawberry lane. Additionally this easement could provide for automobile access to the rear of Lot 1. However, we propose that the flag drive as proposed shall be the exclusive vehicular access to Lot 2 and that the easement not be utilized in this manner.

### **Public Facilities**

Westwood Street contains a fully improved with curb and gutter to collect storm water runoff as per building code. A 10" water line, a 8" sewer line, and a 12" storm drain are all installed in Westwood Street and available to serve the subject property. Two water extensions to the private property were installed in anticipation of the future development of this property and are thus available for water meter connections. Sanitary Sewer services were also extended to the property. The extension of all public utilities to serve Lot 2 can be accomplished through an 8ft. utility and access easement proposed along the north property line of Lot 1. As Lot 2 is at its most 2' below the finished grade of Westwood Street in the North west corner of the flag drive, depending on the finish grade of the building, sewer and storm drains could potentially be gravity fed to Westwood. However if the development of the property demonstrates that this is unviable at the time of construction of a single family home, the property owner shall install an appropriate pump system to discharge the effluent and storm drainage to the fully improved systems on Westwood.

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The Electric Department has noted that an existing Transformer to the immediate west of Lot 2 as proposed has the capacity to provide service

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directly to that proposed parcel. However, they have indicated that a new vault will need to be installed within the Public right of way or PUE in the northwest corner of the parent parcel to serve both Lot 1 and the preexisting lot to the south (391E08BD TL 103).

*A Utility Plan is provided as Exhibit C1 and C2.*

### **Solar Setbacks**

In anticipation of the future development of Lots 1 and 2 we have examined both the Solar Ordinance and applicable Fire code provisions that regulate the location and size of buildings. The approximate slope from the midpoint of the parcel to 150 feet north to be -0.118. Applying the formula as presented in Chapter 18.70 to demonstrate compliance with Solar Setback A (Height of Shadow Producing Point -  $6/.445 + \text{Slope}$ )

We can determine that each proposed parcel can be developed in accordance with Solar Setback Standard A:

$(21-6)/(.445-.118) = 15/0.327 = 45.87$  feet. With this calculation a 21' shadow producing point would have to be 45.86' from the northern property line and as the north south dimension of the subject property is 139', it is clear that each property can easily develop to comply with the solar setback requirements.

*Exhibit B shows the Solar Setback line for a 21' tall shadow producing point relative to allowable building envelopes based on minimum setbacks.*

### **Fire Safety**

Two Fire Hydrants exist in the immediate proximity of the subject property. One is located near the intersection of Westwood and Strawberry Lane and one is located south of the subject property along Strawberry Lane adjacent to the 23.5' utility and access easement previously discussed. The location of the hydrant at the intersection of Strawberry Lane and Westwood Street to the proposed drive is within 250'. In discussing the partition with the Fire Marshal, she indicated that this distance and the existing hydrant was adequate for the purpose of responding to a fire. The Fire Marshall further encouraged the installation of fire sprinkler systems, although not required, would be beneficial in adding to response time. To ensure adequate fire safety the City self imposed a deed restriction on the prior partitioning of the parent parcel that requires that each single family dwelling constructed upon the property shall contain a residential fire sprinkler system reviewed and approved by the Ashland Fire Department prior to issuance of a building permit for the residence.

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Fire apparatus Access to reach lot 2 can be on the 140' long flag drive as it will be 15' in platted width. The Fire Marshall indicated that this drive should be extended so that the final improvement provided an area the Fire truck can park on that is within 150' of all points of the future building.

Lastly the 8' utility and access easement on Lot 1 will allow for an area clear of obstructions of at least 20' in width, in excess of the minimum 15' clear width require, to allow for an unimpeded access by a fire truck in the event of a fire per the Flag drive standards .

- E. The partitioning is in accordance with the design and street standards contained in the Chapter on Subdivisions.

Westwood Street was recently improved to City Street standards through the Strawberry Lane Local Improvement District. Improvements included a new water line, sewer, electric, curb gutter, a 5' sidewalk and 22 feet of curb to curb paved width.

- F. When there exists adequate public facilities, or proof that such facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.

A Utility Plan is attached as Exhibit C which shows the existing services available to serve the proposed lots. All services are in place and adequate to serve the future development of the proposed lots.

- G. *When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.*

1. *The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:*
  - a. *The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street.*
  - b. *The centerline grade on any portion of the unpaved street does not exceed ten percent.*
2. *Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.*

Westwood Street is fully improved to the City Street standards.

- H. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street. (amended Ord. 2757, 1995

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This not applicable because no alleys are adjacent to the parent parcel.

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**18.76.060 Preliminary Approval of Flag Partitions.** Partitions involving the creation of flag lots shall be approved by the Planning Commission if the following conditions are satisfied:

- A. Conditions of the previous section have been met.  
As noted above, all requirements for a minor land partition have been satisfied.
- B. Except as provided in subsection 18.76.060.K, the flag drive for one flag lot shall have a minimum width of 15 feet, and a 12 foot paved driving surface. For drives serving two lots, the flag drive shall be 20 feet wide, with 15 feet of driving surface to the back of the first lot, and 12 feet, respectively, for the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface. (Ord. 2815 S1, 1998).

The flag drive as proposed serves one lot (Lot 2) as its exclusive access. Lot 1 as proposed would have a separate primary access off of a driveway directly off Westwood approximately 80' from the Flag drive entrance. A mutual access easement is proposed to provide Lot 1 intermittent access to the rear of the property for maintenance purposes. The platted Flag Drive (flag pole) width is 15' as proposed and an additional 8' utility and access easement is proposed to the south of the flag pole on Lot 1. Therefore the combined available width 23' which will insure adequate room for both a 12' paved drive to serve Lot 2 at this time, and for utility extensions and a fence screen along the north property line of the flag pole. Given the location of existing electric, AF, and Telephone service pedestals in the North West corner of the parent parcel, the physical drive way entrance will have to meander into the proposed 8' easement as shown on the detail map provided in Exhibit G. Further, should the future property owners ultimately choose to eliminate the direct access curb-cut onto Westwood Street in favor of a shared flag drive, the joint easements will allow for an expansion of the drive to a full 20' with 15' paved surface as would be required for two lots to be served off the same drive.

Flag drives shall be constructed so as to prevent surface drainage from flowing over sidewalks or other public ways. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots. There shall be no parking 10 feet on either side of the flag drive entrance.

As noted previously the 15' wide flagpole will be under the ownership of Lot 2, and an 8' access easement is proposed on Lot 1. Each area is to have a mutual access easement granted to both lots.

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Flag drive grades shall not exceed a maximum grade of 15%. Variances may be granted for flag drives for grades in excess of 15% but no greater than 18% for no

JUN 8 2007

more than 200'. Such variances shall be required to meet all of the criteria for approval as found in 18.100.

The unimproved grade of the flag drive area is currently 4%.

**Flag drives serving structures greater than 24 feet in height, as defined in 18.08.290, shall provide a Fire Work Area of 20 feet by 40 feet within 50 feet of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.**

Fire Sprinklers will be installed in each of the future homes on Lots 1 and 2.

**Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Uniform Fire Code and subject to all requirements thereof.**

**Flag drives greater than 250 feet in length shall provide a turnaround as defined in the Performance Standards Guidelines in 18.88.090.**

The proposed Flag Drive is 140' in length and therefore no turnaround is necessary. The drive will be constructed to support the weight of a fire truck and shall retain an unobstructed clear width as required by the Uniform Fire Code.

- C. **Each flag lot has at least three parking spaces situated in such a manner as to eliminate the necessity for backing out.**

Lot 2 is 21,961 sq.ft as proposed, is relatively flat and free of encumbrances to development. Although the building plans have not been developed for this lot it is evident given the parcels size that three parking spaces can readily be provided on site including a automobile turn around area upon the ultimate development of the site. Exhibit D attached demonstrates this fact, however the final configuration to comply with this standard should be evaluated at the time building permits are reviewed.

- D. **Curb cuts have been minimized, where possible, through the use of common driveways.**

Westwood Street has very low traffic volumes and given the zoning of the subject parcels and the vicinity (RR-.5) the large lots effective space driveway access curb cuts far apart. The partition as proposed indicates that approximately 80' distance would be provided between access points which in large part satisfies one purpose of minimizing curb cuts. The required spacing between drives is 24' and as shown this application clearly exceeds this minimum. Further the curb-cut to Lot 1 has been placed to be approximately 30' from the southern property line ensuring that the future driveway placement on the lot immediately to the south can be located as far from the intersection as feasible without raising a driveway spacing issue. As explained under criteria 18.76.060B above the

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application has been crafted to allow the latitude to consolidate future access through the use of mutual access easements onto the proposed flag drive. Although this scenario is not likely given the scale of the properties and typical development styles for such properties in formulating the proposal we wished to design a partition that would not preclude this option.

- E. Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.

Both sides of the Flag Drive will be appropriately screened prior to occupancy of Lot 2. Given the 8' strip of property along the north of Lot 1 was intended to ensure adequate fire access and screening the site obscuring screen for the flag drive itself may be provided in this easement area to satisfy this criteria adjacent to Lot 1.

- F. The applicant has executed and filed with the Planning Director an agreement between applicant and the city for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Director of Public Works and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening to standards as indicated in this section and the assurance that such maintenance shall be continued.

The applicant is amenable to a condition of approval on this land use action that specifies that the flag drive improvements and all required screening shall be installed by the property owner of Lot 2 prior to issuance of a certificate of occupancy for the home to be developed on the property.

- G. A site plan has been approved by the Planning Commission. The site plan shall be approved provided the regulations of the zoning and subdivision titles are satisfied. Such a site plan shall contain the map requirements listed in Section 18.76.050 and the following information:

1. The location of driveways, turnarounds parking spaces and useable yard areas.
2. The location and type of screening.
3. For site plans of a flag lot, the building envelope shall be identified.

See Exhibit D

- H. No more than two lots are served by the flag drive.

As proposed a maximum of two lots could utilize the flag drive.

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City of Portland  
Department of Planning

- I. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.

The lot areas have been defined exclusive of the Flag Pole area

- J. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.

Each lot will exceed this requirement given the maximum 20% coverage requirement in the RR-.5 zone will mean that approximately 15,000 sq feet of each lot will be yard areas.

- K. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:

1. Vehicle access shall be from the alley only where required as a condition of approval;
2. No screening and paving requirements shall be required for the flagpole;
3. A four foot pedestrian path shall be installed within the flag pole, improved and maintained with either a concrete, asphalt, brick, or paver block surface from the street to the buildable area of the flag lot;
4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flaglot clearly visible from the street on a 4" X 4" post 3½ feet high. The post shall be painted white with black numbers 3 inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two feet by three feet white sign clearly visible from the street with three inch black numbers. (amended Ord. 2757, 1995)

Not applicable

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### Neighborhood Concerns

In the prior Planning Application in 2004 residents of neighboring subdivisions expressed concern that as the partition process does not require the formation of a homeowners association as is the case with subdivisions, they believed that they may not be afforded the protections of seeing development that is compatible with their neighborhood on these parcels. Given the properties created through this partition will be high value it is evident that market forces would essentially dictate that the homes constructed on these properties are similar in stature to those in the vicinity.

Although the subject partition does not require that Conditions Covenants and Restrictions be drafted as would be the case with a Homeowners Association, in consideration of concerns that have been raised by neighbors regarding compatibility, maintenance, and fire safety, the City as property owner has recorded a deed restriction on the private property (Attached as Exhibit G). Future development, and the ongoing use of the properties, is regulated by this deed restriction regarding placement of dwellings, outbuildings, automobile and recreational vehicle storage, clearance of rubbish, landscaping maintenance within the public right of

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ways adjacent to the sidewalks, pet noise disturbance, and as mentioned previously installation of residential Fire Sprinklers.

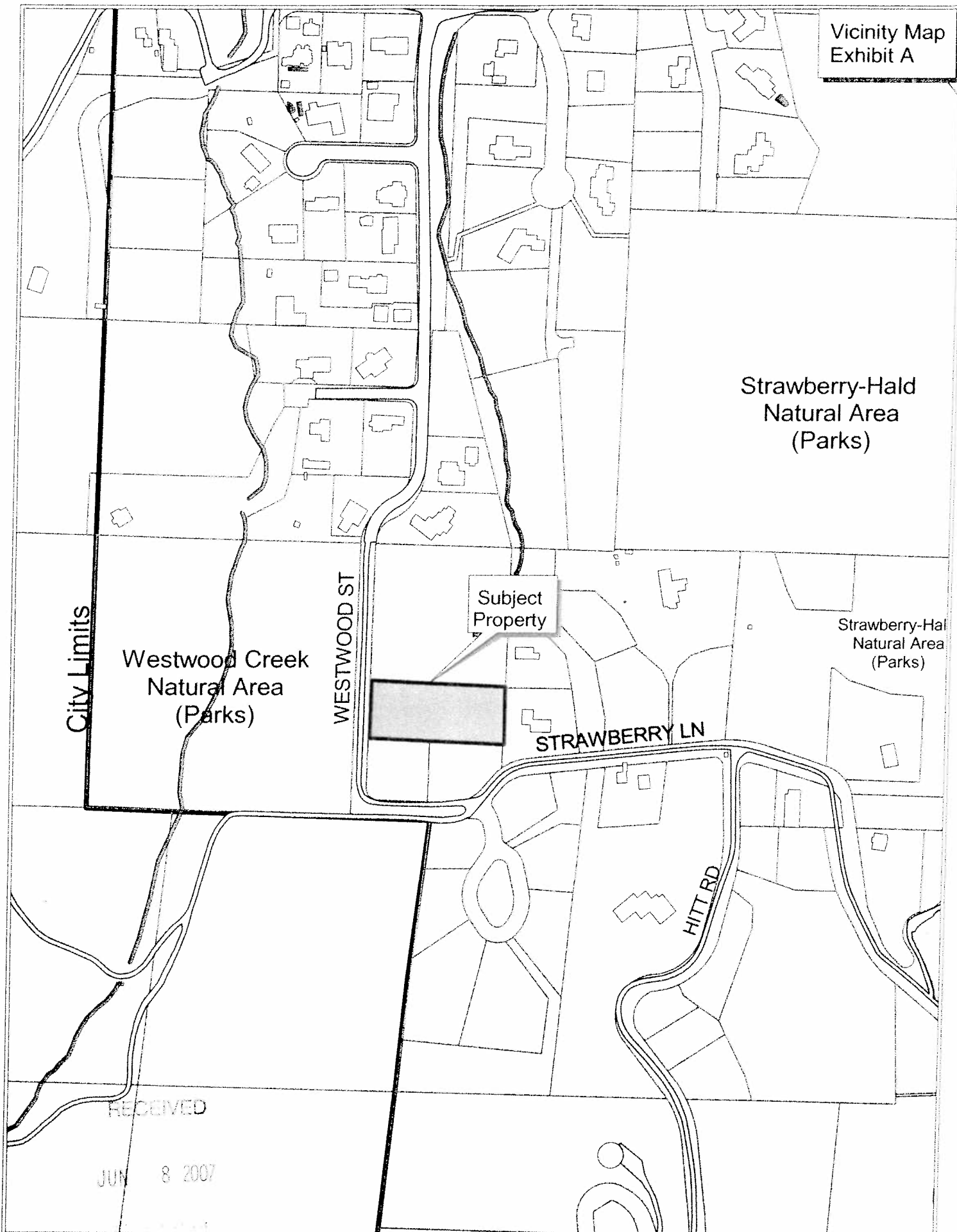
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Community Development Department







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City of Ashland

WESTWOOD ST

Curb Cut for Flag Drive

Mutual Access Easement Lots 1 and 2  
15' wide flag drive 140'

8' utility and access easement

Easement widens to 12' to accommodate  
maneuvering drive due to utility boxes  
on north side of flag

Solar Setback for 21' high shadow producing point

Lot 1  
21810 sq. ft.  
20% coverage allowable

10' PUE

205'

142.5'

110'

20'

45.84' setback  
Standard 'A'

Solar Setback for 21' high shadow producing point

Lot 2  
21961 sq. ft.  
20% coverage allowable

Setback for full easement width  
23.5'

125'

139'

hydrant

hydrant



STRAWBERRY LN

Setback and Easement Map  
Exhibit B

# Westwood Minor Land Partition Application

## Applicant: City of Ashland

EDGE OF CRAWL

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104+34.33 INLET  
TC EL 2384.60

12' 0" WIDE OF  
CRAWL DEVELOPMENT

15

280 LF 8" SS

EXISTING SS SERVICE

Electric Transformer and Vault  
to be installed

EXISTING FILE, ATN & TEL. ST

STA 104+38  
2 - 4" SS

104+34.10 INLET  
TC EL 2384.62  
E 2381.12  
INSTALL 25 LF  
12" SD • S-002

TWOCROSS

103+40 4" SS  
INSTALL 2- 3/4" WS  
(TRENCH & BACKFILL ONLY)  
100' OF ASH-LAND  
ON 6" 1300B  
100' MHD

EXISTING SS SERVICE

Lot 1

Access and Utility Easement

Flag to Lot 2

Utility Plan  
EXHIBIT C

EASE

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495

Continuing Development

523

644-ASH-TRANS  
TRANSFORMER VAULT

ELEC

ELEC

503

520

530

121

## Strawberry Lane

391E 08BD 102

June 6, 2007



1:840

1 inch equals 70 feet



Hydrant



Sanitary Sewer Utility features



Storm Water Utility features



Water Utility features



Taxlot Identified

Taxlots

Streets

Building

Contour

2 ft interval

10 ft interval

Mapping is schematic only and bears no warranty of accuracy.  
All features, structures, facilities, easement or roadway locations  
should be independently field verified for existence and/or location.

EXHIBIT C2



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City of Ashland  
Development Department

WESTWOOD ST

Site Obscuring Fence 6' tall

Flag Drive for Lot 2

Lot 1

Drive fand curbcut

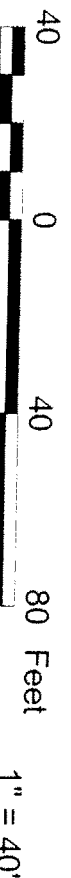
Lot 2

Three parking spaces (hypothetical)  
configured to allow exiting the Flag  
Drive in a forward manner

Setback for full easement width  
23.5'

Flag Drive and Parking Detail  
Exhibit D





Westwood St.

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4" DBH  
Pine

9" DBH  
Pine (dying - brown)

8" DBH  
Pine

All trees are less than 18"  
and subject to removal

Canopy 8' from property line will not be impacted by future development.

8" Oak subject to removal

8" DBH  
split trunk Oak

Trees within existing easement  
outside of building envelope

4" DBH  
Oak

5" DBH  
Maple

8" DBH  
Crabapple

10-11" DBH  
split trunk Oak

24" DBH  
Pine

9" DBH  
Pine

Tree Plan  
Exhibit E

Westwood Partition Application

Aerial Map

Exhibit F

1 inch equals 50 feet

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Continued from adjacent

391E 08BD Tax Lot 102



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When Recorded Return Original to:  
Barbara Christensen, City Recorder  
20 East Main Street, Ashland, Oregon 97520

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City of Ashland  
Commission of Development

## DEED RESTRICTIONS

All the property described herein (Exhibit A) held and shall be held, occupied and improved, subject to the following protective restrictions which are attached and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of said land. These restrictions shall run with the land and remain in full force and effect until the last day of December of the year 2015 A.D., and shall be binding on the owner or owners of any equity or title therein. Conformance of existing Lot 1 is excepted until new buildings are constructed.

1. **DWELLING**: No building, structure or improvement shall be constructed, erected, altered, placed or permitted to remain on any lot other than single family dwellings designed for occupancy by not more than one family, together with appurtenant outbuildings and garages. Said outbuildings and garages shall conform generally in architectural design and exterior appearance to the dwelling house to which they are appurtenant and may be, but need not be attached to said dwelling. No building or structure shall be constructed, erected or permitted on any portion of said lot until complete building plans, in accordance with the building code of the City of Ashland, have been approved in writing by the city.
2. **DWELLING PLACEMENT**: The placement of buildings, planting of new trees, maintenance of existing trees, shall comply with the provisions of Chapter 18.70, Solar Access, of the Municipal Code of the City of Ashland
3. **OUTBUILDINGS**: Except for accessory residential units authorized and approved in accordance with the provisions of ALUO §§ 18.20.030H. and 18.108.040, no shed, garage, basement, trailer, camper, mobile home, motor home, or other outbuildings with unfinished exterior walls, shall at any time be used, temporarily or permanently, as a residence. Nor shall any structure of a temporary character be used, temporarily or permanently, as a residence.
4. **AUTOS**: No unlicensed autos shall be visible on lots or permitted to be parked on the street(s) and or driveways. Recreational vehicles shall be no less than 30 feet from neighboring lot lines. Recreational vehicles shall not be parked in driveways for more than 14 consecutive days. No logging equipment, truck, house trailer (as distinguished from camping trailer) or any other heavy equipment of any kind shall be stored or allowed to remain upon any lot. There shall be no repairs of vehicles outside of a garage or suitable outbuilding.
5. **CLEANUP**: No rubbish shall be stored or allowed to accumulate on the lot. All the lot and adjoining road rights of way shall be kept free of weeds and trash and shall be kept under reasonable cultivation and care by the respective owners of such real property. All rubbish and trash shall be regularly removed and disposed of properly.



6. **LANDSCAPE:** Each lot owner, within twelve (12) months of the issuance of a building permit by the City of Ashland, shall, if no acceptable trees exist, plant "street trees." Those trees are to be of a species with a native appearance and selected by the lot owner from a list available from the City of Ashland Planning Department, and further approved by the Ashland Street Tree Commission. The selected trees are to be planted on a nominal spacing of 25' and within 25' of the curb line along each owners' street frontage. A minimum of four (4) additional owner selected trees must be planted on each lot within 12 months of the issuance of a building permit by the City of Ashland.
7. **PETS:** No pets shall be allowed to create any disturbance. They shall be removed permanently if they are noisy, destructive to neighbors' property, or otherwise interfere with the peaceful use and enjoyment of neighbors' property. A pet's owner shall be responsible for any damage or injuries caused by such pet. (City Ordinance 9.16.070 Dogs-Noise) It shall be unlawful for any person to keep within the City of Ashland, any dog which by long continued barking disturbs or annoys another person within the City. (City Ordinance 1847, 1975) The number and kind of pets shall be as permitted by City of Ashland ordinance.
8. **Fire Sprinkler Systems:** Each single family dwelling constructed upon the property shall contain a residential fire sprinkler system reviewed and approved by the Ashland Fire Department prior to issuance of a building permit for the residence.

Signed and approved this \_\_\_\_ day of \_\_\_\_\_, 2004

\_\_\_\_\_  
Alan DeBoer, Mayor City of Ashland

STATE OF OREGON  
COUNTY OF JACKSON

This instrument was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

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\_\_\_\_\_  
Notary Public for Oregon

My commission expires: \_\_\_\_\_

JUN 8 2007

On \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_

# Request for Public Hearing

Catherine Dimino

423 Strawberry Lane

2007-00980

We want to mitigate the impact on the neighborhood.  
We are looking for conditions on approval.

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JUL 02 2007

City of Ashland

1 Field ☐ Office ☐ County

**From:** "dborgias" <dborgias@mind.net>  
**To:** <andersona@ashland.or.us>  
**Date:** 8/14/2007 4:52:59 PM  
**Subject:** Planning Action #2007-00980

Dear Ms. Anderson and the City of Ashland Planning Commission

We own and live at 503 Strawberry Lane, the residence adjoining the lot 391E 08BD 102 subject to planning action #2007-00980 for a land partition. We appreciate the efforts that the City of Ashland Council and Planning Department to dispose of the lots to help fund affordable housing and we also appreciate the Planning Department and our neighbors for their efforts to help preserve the potential future quality of life and property values in the upper Strawberry Lane neighborhood.

Our interest in the City's proposed partition stems from two important features of the developing neighborhood here at the foot of the 1959 Ashland Fire;

1. The neighborhood offers a valuable retreat from the glare of typically lighted street scenes downtown, and
2. because of its location in the City of Ashland mapped wildland urban interface it is exposed to increased hazard and risk of wildfire.

For these reasons we would appreciate effort to include in the proposed deed restrictions, negotiated earlier,

1. mention of negative impacts of unshielded lighting on the night sky and a requirement for downcast or shielded exterior lighting, and
2. mention of and City review to promote conformance to City of Ashland Fire and Rescue guidance on firewise exterior construction materials and landscaping

Thank you for your consideration.

Sincerely,

Gaia Layser and Darren Borgias,

503 Strawberry Lane



**TYPE III  
PUBLIC HEARINGS**



# Memo

---

DATE: October 1, 2007  
TO: Planning Commission  
FROM: Bill Molnar, Planning Manager  
RE: Adoption of Economic Opportunities Analysis (EOA) – Public Hearing

## Statement:

The City of Ashland Community Development Department received a grant from the Department of Land Conservation and Development (DLCD) to complete an Economic Opportunities Analysis (EOA). A public hearing to consider a recommendation to adopt the EOA as a technical report and supporting document within the Economy Chapter VII of Ashland's Comprehensive Plan is scheduled before the Planning Commission on August 28<sup>th</sup>, 2007.

The content of the Economic Opportunities Analysis is designed to meet the requirements of Oregon Statewide Planning Goal 9 and the administrative rule that implements Goal 9 (effective January 1, 2007). The EOA includes an analysis of national, state, regional and county trends as well as an employment forecast that may be used to determine the number of needed development sites. It also includes a general inventory of buildable commercial, employment and industrial land in Ashland.

The adoption of the EOA as a supporting document to the Economy Chapter VII of Ashland's Comprehensive Plan is one of the required products identified in the grant agreement between DLCD and the City. The information and data included in the EOA serves as a foundation and the first step from which the community can move toward the establishment of a comprehensive economic development strategy (Council 2007-2008 goal). Additionally, technical reports and documents that include factual information that may be used to influence local decisions should be clearly identified within the local comprehensive plan. Through recognition of the EOA and other technical documents in the Comprehensive Plan, the general public is made aware of information that will be considered when evaluating and making decisions concerning local land use.

## Staff Recommendation:

Staff requests that the Planning Commission recommend that the City Council amend the text of the Comprehensive Plan. The amendment would add a section at the end of the Economy Chapter VII that highlights the need to periodically adopt technical reports, which are consistent with Statewide Planning Goal 9 and that assist the City in evaluating and making land use decisions with respect to the local economy. Accordingly, staff would recommend that the new section specifically identify the Economic



Opportunities Analysis (EOA) as a technical report and supporting document to the Economy Chapter VII of Ashland's Comprehensive Plan (**Attachment A**).

## **Background:**

The Guidelines for Completion of an Economic Opportunities Analysis provided by the Department of Land Conservation and Development states the following objective of an EOA: To identify potential industrial and other employment development opportunities and corresponding land needs over the next 20 years. The guidelines identify a variety of information that must be analyzed in the EOA in order to estimate land demand for both the long-term (20-years) and the short term (next five years). In summary, the Economic Opportunities Analysis is intended to be a technical report that compares local demand for industrial and other employment uses to the existing land supply. The information derived from the Economic Opportunities Analysis may ultimately be used to assist the community to better implement local economic development objectives as well as to evaluate and develop supporting Comprehensive Plan policies.

### **Oregon Court of Appeals Case**

The Oregon Court of Appeals recently clarified earlier court cases dealing with the need to incorporate technical studies into the local comprehensive plan (**Attachment C**). The court indicated that one objective of Statewide Planning Goal 2: Land Use Planning - was to assure that the local planning process includes an adequate factual base on which land use decisions are reviewed, evaluated and decided upon, and that the information be included in the Comprehensive Plan or referenced in supporting documents. Based on this court decision, Department of Land Conservation and Development (DLCD) staff believes that Goal 2 requires local adoption of an Economic Opportunities Analysis (EOA) as part of the comprehensive plan in order for a community to base land use decisions upon it.

The City is taking some initial steps in an effort to master plan and create a comprehensive land use strategy for two of its largest industrial and employment zoned properties - the Croman Mill site and the Railroad property. The information contained within the Economic Opportunities Analysis may be useful in evaluating future land use decisions and/or potential plan amendments involving these larger tracts of land. Consequently, Staff believes that it is important to clearly acknowledge the Economic Opportunities Analysis report as a supporting document within the Comprehensive Plan. This makes it clear to the general public that the information contained within the document may serve as the basis for future land use decisions that affect the local economy and, more specifically, the development of existing employment lands.

In summary, staff requests that the Commission recommend to the City Council the adoption of the Economic Opportunities Analysis as a supporting document to the Economy chapter of Ashland's Comprehensive Plan. The completion and recognition of the EOA within the comprehensive plan is an essential step in fulfilling the requirements described under Statewide Planning Goal 9 – Economy. Additionally, the information contained within the EOA will be useful in developing a local economic development strategy as recently identified as a goal of the Ashland City Council.





## Potential Motion:

Move to recommend that the City Council adopt language within the Economy Chapter VII of the Ashland Comprehensive Plan that recognizes the need to conduct technical studies and reports, and specifically identifies the Economic Opportunities Analysis as a supporting document to the Economy Chapter VII.

## Attachments:

- Proposed amendment to Chapter 7 – Ashland Comprehensive Plan, related to the adoption of technical reports (Attachment A).
- City of Ashland: Economic Opportunities Analysis (EOA); prepared by ECONorthwest (Attachment B).
- *1000 Friends of Oregon v. City of Dundee*, 203Or App 207 (2005) (Attachment C).
- January 23<sup>rd</sup>, 2007 Joint Study Session – packet materials (Attachment D).





## PROPOSED COMPREHENSIVE PLAN TEXT AMENDMENT (Draft)

**Section 1;** Amend Chapter 7 – The Economy. Add the following new section related to the recognition of technical reports adopted by reference within the Comprehensive Plan document.

### **7.08 TECHNICAL REPORTS**

Periodically, the City may choose to conduct studies and prepare technical reports to adopt by reference within the Comprehensive Plan to make available for review by the general public. These studies and reports shall not serve the purpose of creating new city policy, but rather the information, data and findings contained within the documents may constitute part of the basis on which new policies may be formulated or existing policy amended. In addition, adopted studies and reports provide a source of information that may be used to assist the community in the evaluation of local land use decisions.

The following reports are adopted by reference as part of the Economy Element of the Ashland Comprehensive Plan:

1. City of Ashland: Economic Opportunities Analysis. (April 2007)

# Findings



BEFORE THE PLANNING COMMISSION  
August 14, 2007

IN THE MATTER OF PLANNING ACTION #PA2007-00250, REQUEST FOR A )  
CONDITIONAL USE PERMIT FOR A THEATER USE AND A TYPE II ) FINDINGS,  
VARIANCE TO PARKING FOR A PROPERTY LOCATED AT 281 FOURTH ST ) CONCLUSIONS,  
 ) AND ORDERS  
**APPLICANT:** Aaren Glover )  
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RECITALS:

- 1) Tax lot 101 of 39 1E 09BA is located at 281 Fourth St. and is zoned E-1; Employment, with Residential Overlay.
- 2) The applicant is requesting a Conditional Use Permit for a theater use in the Employment zone and a Variance to minimum parking requirements. The site plan is on file at the Department of Community Development.
- 3) The criteria for issuance of a Conditional Use Permit are described in Chapter 18.104 as follows:
  - A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.
  - B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.
  - C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:
    1. Similarity in scale, bulk, and coverage.
    2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
    3. Architectural compatibility with the impact area.
    4. Air quality, including the generation of dust, odors, or other environmental pollutants.
    5. Generation of noise, light, and glare.
    6. The development of adjacent properties as envisioned in the Comprehensive Plan.
    7. Other factors found to be relevant by the Hearing Authority for review of the proposed use.
- 3) The criteria for issuance of a Variance are described in Chapter 18.72.090 as follows:
  - A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.

- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ord.2425 S1, 1987).
  - C. That the circumstances or conditions have not been willfully or purposely self-imposed.
- 4) The Planning Commission, following proper public notice, held a Public Hearing on September 11, 2007 with deliberation continued to October 9, 2007 at which time testimony was received and exhibits were presented. The Planning Commission approved the application, subject to conditions pertaining to the appropriate development of the site.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

## SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

## SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the Staff Report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that based on the applicant's proposals to provide additional security, reduce noise through measures addressed in the conditions, and limit the size and hours of events as stated in the conditions, the theater use would have no greater impact on the neighborhood that would the target use of the zone. Additionally, the impact shall be mitigated by the provision of bicycle parking, trash receptacles, and notice to neighbors.

2.3 The Planning Commission finds that the theater's location in the Railroad Historic District constitutes a unique situation over which is not self imposed. Additionally, the Planning Commission finds that with the provision of shared parking, that the benefits of the proposal will be greater than the negative impacts.

## SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the application for a Conditional Use Permit for a theater use in the Employment zone and a Variance to minimum parking requirements has satisfied all relative substantive standards and criteria and is supported by evidence in the record.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #2007-00250. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2007-00250 is denied. The following are the conditions and they are attached to the approval:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified here.
- 2) That the total building occupancy is limited to 150 people, including staff and artists. Effective immediately, in no case, shall the occupancy exceed what is permitted under the approved building permit, even if this number is lower than that stated herein. Failure to maintain occupant load as posted by the Ashland Fire Department will result in the scheduling of a revocation of the Conditional Use Permit.
- 3) That events with total building occupancy over 50, including staff and artists, are limited to 15 per month, and events with total building occupancy over 100, including staff and artists, are limited to 7 per month. Events shall be timed to coincide with shared parking agreements, always providing a parking ratio of at least one space per 10 people.
- 4) That 15 spaces of parking are to be provided by the applicant. Two spaces are permitted to be on-street credits located in front of the building. The additional 13 spaces may be shared parking spaces located within ¼ mile of the property and must be obtained within 90 days of the planning approval for PA2007-00250. Leased spaces should be in a single location. Parking agreements shall meet the following requirements.
  - a) The agreements shall be signed, notarized, and recorded.
  - b) The agreements shall be perpetual and shall run with the land.
  - c) The agreements shall include times that the parking is available for use. These times shall match the hours of operation for the theatre use.
  - d) Agreements shall include a provision providing for notice to the City of Ashland Planning Director if the agreements are revoked.
  - e) Agreements shall provide a remedy in the case that the agreement is revoked.
- 5) That applicants shall post signs in and around the facility regarding the shared parking location, and a sign at the shared parking location to inform patrons that the parking is available for use during events
- 6) That no alcohol be served on the premises unless a Conditional Use Permit for a nightclub is obtained. Catered events serving alcohol are permitted.
- 7) That Friday and Saturday night events shall end no later than 1 a.m. and that weekday events (Sunday night through Thursday night) shall end no later than 11 p.m.
- 8) That the use shall meet City of Ashland noise ordinance requirements. Applicant shall provide monthly monitoring reports for noise levels at events for the first year of operation. If complaints

are received regarding noise levels, the Planning Director shall have the authority to require a monitoring report prepared by a qualified noise consultant to demonstrate compliance.

- 9) That facility doors shall be kept closed during all events.
- 10) That vehicles shall not park in the alley for longer than 20 minutes and that vehicles shall not idle engines in the alley for more than 5 minutes.
- 11) That the applicant shall provide monthly notice to neighbors within 200 feet of all planned events in excess of 75 people.
- 12) That, during events, the applicant will provide receptacles for trash and cigarette butts in a visible and accessible location near the front door.
- 13) That the applicant shall provide staff to patrol all areas within 200 feet of the premises for one hour past the end time of any event.
- 14) That applicant shall provide contract firm security for all events that result in a total building occupancy of more than 100 people.
- 15) That the applicant shall provide the City with a designated contact person to address compliance with conditions
- 16) That the Conditional Use Permit and Variance are subject to periodic review as follows:
  - a) That the Conditional Use Permit and Variance are subject to review by the Planning Commission within one year of approval. Notice shall be provided and conditions of approval can be modified, added, or rescinded based on the findings of the Planning Commission.
  - b) That change of business ownership is subject to review by the City to verify continued compliance with the approved Conditional Use Permit.
- 17) That prior to the issuance of a certificate of occupancy:
  - a) Bicycle parking for 10 spaces shall be provided within 200 feet of the facility. All bicycle parking shall be installed in accordance with design and rack standards in 18.92.040.I and J.
  - b) The street tree in the well in front of the building shall be replaced. The street tree 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 tree shall be irrigated, and shall be selected and placed to comply with the vision clearance standards of the City of Ashland.



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Planning Commission Approval

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Date



BEFORE THE PLANNING COMMISSION

October 9, 2007

IN THE MATTER OF PLANNING ACTION #PA2007-00250, REQUEST FOR A  
CONDITIONAL USE PERMIT FOR A THEATER USE AND A TYPE II  
VARIANCE TO PARKING FOR A PROPERTY LOCATED AT 281 FOURTH ST

)  
) FINDINGS,  
) CONCLUSIONS,  
) AND ORDERS  
)  
)  
)  
)  
)

**APPLICANT:** Aaren Glover

RECITALS:

- 1) Tax lot 101 of 39 1E 09BA is located at 281 Fourth St. and is zoned E-1; Employment, with Residential Overlay.
- 2) The applicant is requesting a Conditional Use Permit for a theater use in the Employment zone and a Variance to minimum parking requirements. The site plan is on file at the Department of Community Development.
- 3) The criteria for issuance of a Conditional Use Permit are described in Chapter 18.104 as follows:
  - A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.
  - B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.
  - C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone.  
When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:
    1. Similarity in scale, bulk, and coverage.
    2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
    3. Architectural compatibility with the impact area.
    4. Air quality, including the generation of dust, odors, or other environmental pollutants.
    5. Generation of noise, light, and glare.
    6. The development of adjacent properties as envisioned in the Comprehensive Plan.
    7. Other factors found to be relevant by the Hearing Authority for review of the proposed use.
- 3) The criteria for issuance of a Variance are described in Chapter 18.72.090 as follows:
  - A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.

- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City. (Ord.2425 S1, 1987).
  - C. That the circumstances or conditions have not been willfully or purposely self-imposed.
- 4) The Planning Commission, following proper public notice, held a Public Hearing on September 11, 2007 with deliberation continued to October 9, 2007 at which time testimony was received and exhibits were presented. The Planning Commission denied the application.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

## SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

## SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the Staff Report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the project fails to comply with all relevant approval criteria described in AMC Conditional Use Permits chapter 18.100.050 and Variance chapter 18.72.090.

## SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the application for a Conditional Use Permit for a theater use in the Employment zone and a Variance to minimum parking requirements is not supported by evidence contained within the whole record, and therefore fails to comply with the required burden of proof.

Therefore, based on our overall conclusions, the Commission finds and concludes that the application does not comply with all relevant approval criteria. Consequently, the Commission denies Planning Action #2007-00250.

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Planning Commission Approval

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Date

BEFORE THE PLANNING COMMISSION  
August 14, 2007

IN THE MATTER OF PLANNING ACTION #2007-00980, REQUEST FOR )  
A LAND PARTITION TO CREATE TWO PARCELS INCLUDING ONE FLAG LOT ) FINDINGS,  
FOR THE PROPERTY LOCATED NEAR THE INTERSECTION OF ) CONCLUSIONS  
STRAWBERRY LANE AND WESTWOOD STREET. ) AND ORDERS  
)  
APPLICANT: City of Ashland )

-----  
RECITALS:

- 1) Tax lot 102 of 39 1E 08BD is located at near the intersection of Strawberry Lane and Westwood Street and is zoned RR.5; Rural Residential.
- 2) The applicant is requesting a land partition to create two lots from an existing parcel. The preliminary plat and site improvements are outlined on the plans on file at the Department of Community Development.
- 3) The criteria for Land Partition approval are described in Chapter 18.76 as follows:
  - A. The future use for urban purposes of the remainder of the tract will not be impeded.
  - B. The development of the remainder of any adjoining land or access thereto will not be impeded.
  - C. The tract of land has not been partitioned for 12 months.
  - D. The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.
  - E. The partitioning is in accordance with the design and street standards contained in the Chapter on Subdivisions.
  - F. When there exists adequate public facilities, or proof that such facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.
  - G. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.
    1. The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:
      - a. The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street.
      - b. The centerline grade on any portion of the unpaved street does not exceed ten percent.

2. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- H. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.

Further, the criteria for Flag Partition approval are described in Chapter 18.76 as follows:

- A. Conditions of the previous section have been met.
- B. Except as provided in subsection 18.76.060.K, the flag drive for one flag lot shall have a minimum width of 15 feet, and a 12 foot paved driving surface. For drives serving two lots, the flag drive shall be 20 feet wide, with 15 feet of driving surface to the back of the first lot, and 12 feet, respectively, for the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface.

Flag drives shall be constructed so as to prevent surface drainage from flowing over sidewalks or other public ways. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots. There shall be no parking 10 feet on either side of the flag drive entrance.

Flag drive grades shall not exceed a maximum grade of 15%. Variances may be granted for flag drives for grades in excess of 15% but no greater than 18% for no more than 200'. Such variances shall be required to meet all of the criteria for approval as found in 18.100.

Flag drives serving structures greater than 24 feet in height, as defined in 18.08.290, shall provide a Fire Work Area of 20 feet by 40 feet within 50 feet of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Uniform Fire Code and subject to all requirements thereof.

Flag drives greater than 250 feet in length shall provide a turnaround as defined in the Performance Standards Guidelines in 18.88.090.

- C. Each flag lot has at least three parking spaces situated in such a manner as to eliminate the necessity for backing out.
- D. Curb cuts have been minimized, where possible, through the use of common driveways.
- E. Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.
- F. The applicant has executed and filed with the Planning Director an agreement between applicant and the city for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Director of Public Works and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening to standards as indicated in this section and the assurance that such maintenance shall be continued.
- G. A site plan has been approved by the Planning Commission. The site plan shall be approved provided the regulations of the zoning and subdivision titles are satisfied. Such a site plan shall contain the map requirements listed in Section 18.76.050 and the following information:
  - 1. The location of driveways, turnarounds parking spaces and useable yard areas.
  - 2. The location and type of screening.
  - 3. For site plans of a flag lot, the building envelope shall be identified.
- H. No more than two lots are served by the flag drive.
- I. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.
- J. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.
- K. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:
  - 1. Vehicle access shall be from the alley only where required as a condition of approval;
  - 2. No screening and paving requirements shall be required for the flagpole;
  - 3. A four foot pedestrian path shall be installed within the flag pole, improved and maintained with either a concrete, asphalt, brick, or paver block surface from the street to the buildable area of the flag lot;

4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flaglot clearly visible from the street on a 4" X 4" post 3½ feet high. The post shall be painted white with black numbers 3 inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two feet by three feet white sign clearly visible from the street with three inch black numbers.

4) The Planning Commission, following proper public notice, held a Public Hearing on August 14, 2007 at which time testimony was received and exhibits were presented. The Planning Commission approved the application subject to conditions pertaining to the appropriate development of the site.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

## SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

## SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the Staff Report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the proposed parcels meet the minimum lot size and dimension requirements. The property contains 1.05 acres (45,738 square feet) and is located near the corner of Strawberry Lane and Westwood Street, on the east side of Westwood. The property is rectangular, with 139 feet of frontage on Westwood Street and is 330.01 feet deep. The site is vacant of structures. Proposed Lot 1 will contain 21,810 square feet and proposed Lot 2, will contain 21,961 square feet. Both parcels conform to the minimum size requirement of ½-acre or 21,780 square foot lot size in the Rural Residential (RR.5) zone. Additionally, the proposed building envelopes for the new homes meet the setback and lot coverage requirements of the RR.5 zoning district.

2.3 The Planning Commission finds that public facilities including water, sanitary sewer, storm drainage, electric and transportation are in place and have adequate capacity to serve the two new vacant parcels. Public utilities including water, sanitary sewer, and electric are provided from the Westwood Street



right-of-way. The applicants propose an electric vault to upgrade the available electric service to serve one of the new parcels and future developments to the north. Fire hydrants exist on the west side of Westwood Street and near the 23.5 foot road easement on Tax Lot 104 to the south of the proposed flag Lot 2. Vehicular access to Lots 1 and 2 is from Westwood Street.

2.4 The Planning Commission finds that the flag drive to serve Lot 2 will be paved and meets the width and grade requirements of Chapter 18.76. Three off-street parking spaces will be provided the parcel on Lot 2 as required by the approval criteria. Additionally, a vehicle turnaround will be provided so that cars can exit the driveway onto Westwood Street in a forward manner.

2.5 The Planning Commission finds that the proposal meets all applicable criteria for a Land Partition and Flag Partition described in the Partitions Chapter 18.76.

### SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal to create a land partition to create two lots, is supported by evidence contained within the record.

Therefore, based on our overall conclusions, and upon the proposal being subject to each of the following conditions, we approve Planning Action #2007-00980. Further, if any one or more of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2007-00980 is denied. The following are the conditions and they are attached to the approval:

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified here.
- 2) That prior to signature of survey plat:
  - a) That a final survey plat shall be submitted to the City within 12 months of this approval.
  - b) That all easements for public utilities, all reciprocal utility, maintenance and access shall be indicated on the final survey plat as required by the Ashland Engineering Division.
  - c) That a final utility plan for the parcels shall be submitted for review and approval by the Engineering Division and Building Divisions prior to signature of the final survey plat. The utility plan shall include the location of connections to all public facilities including the locations of water lines and meter sizes, fire hydrants, sanitary sewer lines, storm drain lines and electric services.
  - d) That the electric vault to service Lot 1 shall be installed in accordance with the requirements of the Ashland Electric Department prior to signature of final survey plat.
  - e) The electric service plan shall be reviewed and approved by the Ashland Electric Department prior to signature of the final survey plat.

- f) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for both parcels prior to the signature of final survey plat .  
All work shall be completed under review and approval of the Ashland Engineering Department prior to signature of the final survey plat .
- 3) That building permit submittals shall include:
- a) That three off-street parking spaces for Lot 2 shall be delineated on the building permit submittals.
  - b) That solar setback calculation shall be submitted with the building permit submittals demonstrating compliance with Standard A Solar Setback.
  - c) That the flag lots shall have a usable yard area, as defined in 18.76.060.J, that has a minimal dimension of 20 feet wide by 20 feet deep. The usable yard area shall be identified on the building permit submittals.
  - d) That three off-street parking spaces situated in a manner as to eliminate the necessity for backing out shall be provided on the vacant flag lot (Lot 2). The parking spaces shall be identified on the building permit submittals.
  - e) That individual lot coverage shall not exceed 20% of the total lot area in accordance with 18.16.040.B.1. Lot coverage calculations including all impervious surfaces shall be submitted with the building permits.
  - f) That the plans submitted for building permit shall comply with the recorded deed restrictions submitted as Exhibit G.
- 4) That prior to the issuance of a certificate of occupancy:
- a) That the electric service shall be installed underground to service the parcels as required by the Ashland Electric Department prior to issuance of the certificate of occupancy.
  - b) That the flag drive shall be installed prior to issuance of a certificate of occupancy for Lot 2. The flag drive shall be constructed so as to prevent surface drainage from flowing over the sidewalk or public way in accordance with 18.76.060.B. The flag drive shall be screened with a site-obscuring fence, wall or evergreen hedge in accordance with 18.76.060.E.
  - c) That no obstructions including landscaping and structures greater than two and one half feet high including landscaping, signage or structures, shall be placed in the vision clearance areas adjacent to the driveway in accordance with 18.92.070.D.
  - d) That 4 street trees, 1 per 30 feet of street frontage, shall be installed on the Westwood Street frontage prior to issuance of a certificate of occupancy for the Lot 1. 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.

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Planning Commission Approval

---

Date



**Brent Thompson  
P.O. Box 201  
Ashland, Or 97520**

SEP 26 2007

26 September 2007

RECEIVED

To:  
Ashland Planning Commission and Staff

Re: Planning Code revisions: Sections 18.08 thru 18.108 Procedures.

Please see suggested inclusions or revisions with suggested wording for recommendations

18.08.380 or appropriate section under 18.08.

Visioning statement- Ashland has committed to absorbing most growth within the existing city limit ( infill) . Thus, there may be incidences with minor land partitions involving one lot only where to fulfill this vision it is necessary to create lots with a wider dimension in width that depth. For new subdivisions, the requirement should remain the same.

#### 18.22.040, R-1-3.5, General Regulations

In this zone applications for lots above 3500 sq. ft should be approved. Lots in R-1 5, R-1-7.5 and R-1-10 should have provisions for "substandard in size minor land partitions" where the partition is allowed for example in a 9000 square foot lot if the new 4000 square foot lot has a coverage restriction or building envelope restriction that shrinks equal to the amount of deficiency of the new lot. For example if a lot is 1000 sq. feet below standard then the coverage allowed should shrink 1000 sq. ft from 2000 square feet of coverage to 1000 square feet so the ensured landscaped area remains what it would have been if the lot wee full size.

With the extra requirements both the goals of infill and relative affordability would be attained. because we would have more partitions in close in lots and with extra conditions options are reduced and reducing options reduces market value. Of course no one would be required to create a substandard in size lot but if they did apply they would have to agree to the value reducing restrictions. Estimated amount of relatively affordable lots created as a consequence of this alteration - 75-150.

18.24.030, R-2 Conditional Uses The restriction to 600 sq. ft. of commercial uses is desirable in that it will preserve the RR district for housing while it allows people to conduct business in a centrally located area where here is a higher probability of non automobile traffic to and from the business.

#### 18.24.040 R-2 General Regulations

##### A. Permitted Density and Minimum Lot Dimensions

In 1991 or so after the new ( at that time Affordable Housing Committee met for two years or so the PC and Council adopted a few measures one of which was the successful Accessory Dwelling Ordinance. But at the same time the PC and Council

voted to drop R-2 and R-3 densities down from 20 and 30 units per acre respectively to 13.5 and 20 units. Additional units could be permitted providing there were affordable units or energy saving features ( which are now standard) and/ or recreational amenities. Mostly what happened with this change is that developers stopped building apartment buildings because the economy of scale was lost. We now have only condominium projects.

But if you calculate what can be done on an acre of 43,500 sq. ft the first unit takes 5000 sq. ft leaving 38,500 sq. ft. Dividing that by 2000 sq. ft yields 19 additional units for a total of 20.

Similarly the math for Section 18.28.030 R-3 lots calculates out to  $38500 / 1500 = 25$  units for a total of 26.

If the PC and Council find that some retention of density bonuses is advisable, a partial restoration of density could be given due to the fact that all units now meet the energy conservation goals that were bonuses before. Thus, there is a case for automatically giving all projects on R-2 or R-3 lands the density bonus for energy conservation. But it might be just as advisable to scrap all former bonuses and return to former densities of 20 and 26.

This would be an anti sprawl measure. Sprawl is the continual use of more land than is necessary to achieve given development goals. Our low allowable densities in R-2 and R-3 zones contribute to sprawl. Coupled with any increase in allowable densities could be a lessening of lot coverage allowed which would push building heights up a 1/2 story or so while still permitting more density.

#### 18.32.025, C-1 Retail Commercial District

Yes, it should be ok to have some residential on the ground floor. The target density is good. It is as it used to be for the R-3 before 1991.

#### Section 18.40.020 E-1 Permitted Uses

**Add theaters and performing venues as a Permitted Use and delete as a Conditional Use. We all want to support tourism and performing arts. Thus we should out right permit theaters and assembly venues in more than just commercial zones.**

The residential density allowed in an E-1 should be restricted perhaps by a percentage of the parcel or a percentage of the square footage of a project or building.

#### 18.68.090 Non Conforming Uses and Structures

The longer period of 12 months before discontinuance is advisable. It often does take time before new occupants can be found or until financing can be procured to continue an existing non conforming use.

#### 18.72.050 Detail Site Review

Buildings with a footprint of less than 25,000 sq. feet may be 2,3,4? stories. As I remember the intent of the limitation of size was to reduce footprint not necessarily total square footage. Thus we have Mtn View Retirement Center which exceeds the square footage but perhaps not the footprint size of 45,000 sq. ft.

## 18.76 Partitions

### Chapter 18.96 Sign Regulations

**Eliminate Sign prohibitions for more than two sides of a building. In other words allow signs on any side of a building where there are public entrances.**

18.108.020 What is wrong with retaining Staff Permit Procedures?  
Staff should be able to approve by means of a Ministerial Action with Historic Commission Review new door ways, new windows, wooden awnings without it being a planning action.

18.108.025 Consolidated Review Procedures  
Can pathways through partitions be included as a condition of approval? Does the pathway need to be part of a transportation plan first?

Appeals--The cost is likely to be at least \$300, but what is the degree of subsidy we want in an appeal, if any?

Type I hearings are still just called up for a public hearing if there is an objection?  
Do we want the planning commission to hear Type I appeals and the Council to hear Type II and Type III appeals?

18.108.040 Type I Procedure  
Some things should be staff permits w/ Historic Commission Review such as new doors, windows, arbors, bay windows, trash enclosures, stairways. We don't need staff approval, Historic Commission review, and a Planning Commission review.

Thank you for considering the above.

  
Brent Thompson  
488-0407

**Brent Thompson**

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**From:** <MAILER-DAEMON@anima.mind.net>  
**To:** <brenttho@mind.net>  
**Sent:** Wednesday, September 12, 2007 1:43 PM  
**Subject:** failure notice

Hi. This is the qmail-send program at anima.mind.net.  
 I'm afraid I wasn't able to deliver your message to the following addresses.  
 This is a permanent error; I've given up. Sorry it didn't work out.

<miketdawkins@yahoo.com>:

209.191.118.103 failed after I sent the message.

Remote host said: 554 delivery error: dd This user doesn't have a yahoo.com account (miketdawkins@yahoo.com)  
 [0] - mta510.mail.mud.yahoo.com

--- Below this line is a copy of the message.

Return-Path: <brenttho@mind.net>  
 Received: (qmail 59266 invoked by uid 89); 12 Sep 2007 20:43:33 -0000  
 Received: from dialup-ras40-246.eug.or.uspops.net (HELO brent) (205.215.250.246)  
 by mail.mind.net with SMTP; 12 Sep 2007 20:43:33 -0000  
 Message-ID: <000e01c7f57d\$96a23b40\$f6fad7cd@brent>  
 From: "Brent Thompson" <brenttho@mind.net>  
 To: <miketdawkins@yahoo.com>  
 Subject: Motions to approve  
 Date: Wed, 12 Sep 2007 13:09:02 -0700  
 MIME-Version: 1.0  
 Content-Type: multipart/alternative;  
 boundary="-----\_NextPart\_000\_0006\_01C7F53E.16C73540"  
 X-Priority: 3  
 X-MSMail-Priority: Normal  
 X-Mailer: Microsoft Outlook Express 6.00.2900.3138  
 X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2900.3138

This is a multi-part message in MIME format.

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Content-Type: text/plain;

charset="iso-8859-1"

Content-Transfer-Encoding: quoted-printable

Dear Mike,

Some procedural stuff--

I did understand last night that you wanted to move the Mobius =  
 application along, but when making a motion so it isn't defeated, get =  
 the criteria for approval set in your mind so the decision is =  
 defensible. Last night 6 commissioners felt that the conditions for =  
 approval were not yet met and that the motion was not complete enough =  
 because conditions were not included in the motion. Also, procedurally =  
 (sp?) staff had problems with an incomplete application submitted months =  
 and months after the applicant was advised to make the application.=20  
 When in meetings I found it helped to write down every concern of the =  
 public or other Commissioners and after hearing a certain mass of ideas, =



objections, and prolems, I would formulate the various what seemed like =  
 consensual additions to conditions or add new ones and then I would make =  
 a motion with all the condition changes included with the idea that =  
 there might be friendly additions or sometimes objections. Because of =  
 having things worked out on paper I probably did make more motions than =  
 most commissioners, but more importantly it got all the concerns =  
 formalized so staff and the commission had a good idea of what was then =  
 to be debated and what was likely to be approved.=20

I mention these things as an ally for trying to move things along with =  
 appropriate concerns met.

Brent

-----=\_NextPart\_000\_0006\_01C7F53E.16C73540

Content-Type: text/html;

charset="iso-8859-1"

Content-Transfer-Encoding: quoted-printable

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