

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
DECEMBER 14, 2010
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street
- II. **ANNOUNCEMENTS**
- III. **CONSENT AGENDA**
 - A. **Approval of Minutes**
 - 1. November 9, 2010 Planning Commission Minutes (*to be provided by e-mail before meeting*)
- IV. **PUBLIC FORUM**
- V. **TYPE III PUBLIC HEARINGS**
 - A. **PLANNING ACTION: 2010-01239 [CONTINUED FROM NOVEMBER 9th, 2010 MEETING]**
SUBJECT PROPERTY: 59-85 Winburn Way
APPLICANT: Urban Development Services, LLC agents for Jonathan & Esther Phelps
DESCRIPTION: A request for a Comprehensive Plan Map Amendment and Zone Change from Single Family Residential (R-1-7.5) to Commercial Downtown (C-1-D), Physical & Environmental Constraints Review Permit, Tree Removal Permit to remove five trees, Site Review approval to construct a new 10,632 square foot café/restaurant, and a Development Agreement for the four properties located at 59-85 Winburn Way.
EXISTING COMPREHENSIVE PLAN DESIGNATION: Single Family Residential;
PROPOSED COMPREHENSIVE PLAN DESIGNATION: Commercial Downtown; EXISTING ZONING: R-1-7.5; PROPOSED ZONING: C-1-D; ASSESSOR'S MAP #: 39 1E 09 BC; TAX LOTS: 2500, 2501, 3000 & part of #39 1E 09 TL 100
- VI. **UNFINISHED BUSINESS** (*time permitting*)
 - A. **Update on Community Development Projects/Council Goals Input**
- VII. **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).

**TYPE III
PUBLIC HEARINGS**



PLANNING ACTION: 2010-01239

SUBJECT PROPERTY: 59-85 Winburn Way

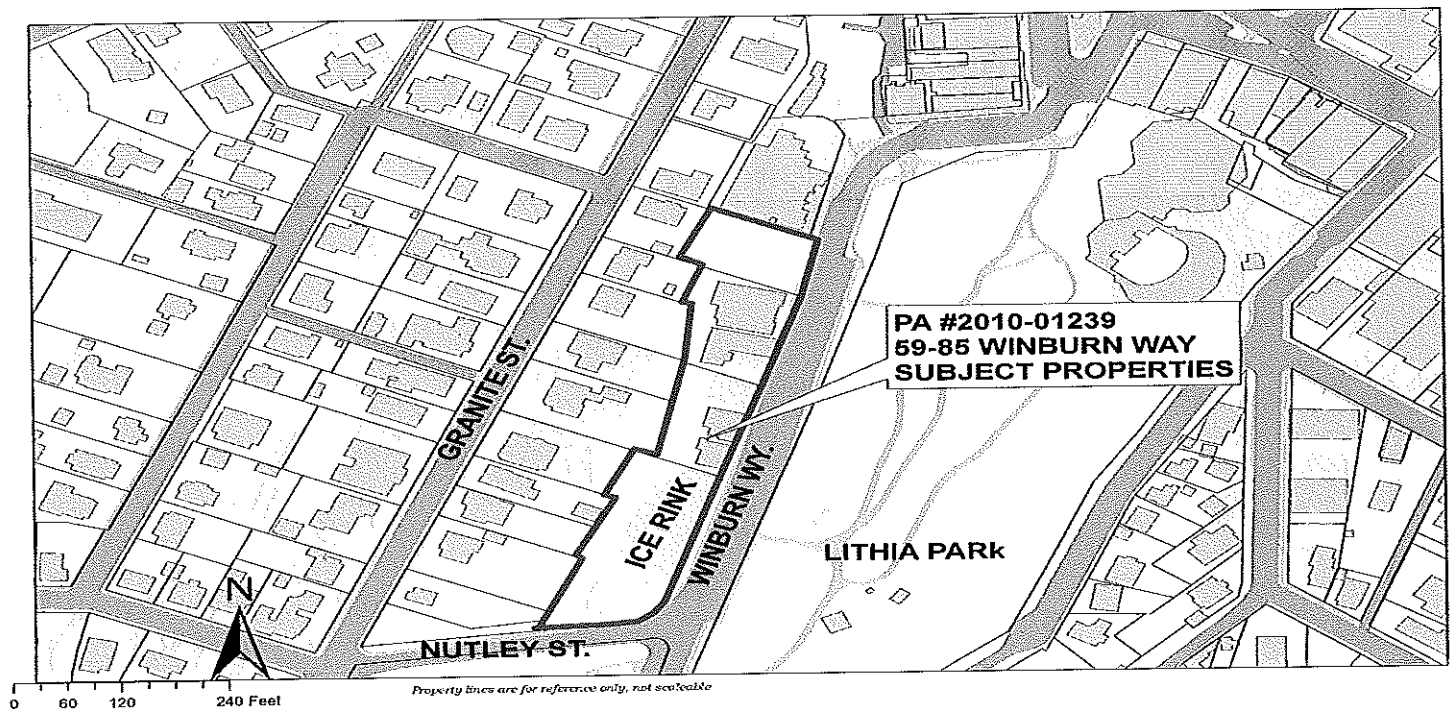
OWNER/APPLICANT: Urban Development Services, LLC agents for Johnathan & Esther Phelps

DESCRIPTION: A request for a Comprehensive Plan Map Amendment and Zone Change from Single Family Residential (R-1-7.5) to Commercial Downtown (C-1-D), Physical & Environmental Constraints Review Permit, Tree Removal Permit to remove five trees, Site Review approval to construct a new 10,632 square foot café/restaurant, and a Development Agreement for the four properties located at 59-85 Winburn Way. **EXISTING COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential **PROPOSED COMPREHENSIVE PLAN DESIGNATION:** Commercial Downtown **EXISTING ZONING:** R-1-7.5, **PROPOSED ZONING:** C-1-D; **ASSESSOR'S MAP #:** 39 1E 09 BC **TAX LOTS:** 2500, 2501, 3000 & part of #39 1E 09 TL 100

NOTE: The Ashland Tree Commission will also review this Planning Action on November 4, 2010 at 6:00 p.m. in the Community Development and Engineering Services building (Siskiyou Room) located at 51 Winburn Way

NOTE: The Ashland Historic Commission will also review this Planning Action on November 3, 2010 at 6:00 PM in the Community Development and Engineering Services building (Siskiyou Room), located at 51 Winburn Way.

ASHLAND PLANNING COMMISSION MEETING: CONTINUED TO DECEMBER 14, 2010 AT 7:00 P.M.



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 Division, 541-488-5305.

ZONING CHANGE - TYPE III PROCEDURE

18.108.060. A & B Approval Criteria

A. The following planning actions shall be subject to the Type III Procedure:

1. Zone Changes or Amendments to the Zoning Map or other official maps, except for legislative amendments.
2. Comprehensive Plan Map Changes or changes to other official maps, except for legislative amendments.
3. Annexations.
4. Urban Growth Boundary Amendments

B. Standards for Type III Planning Actions.

1. Zone changes, zoning map amendments and comprehensive plan map changes subject to the Type III procedure as described in subsection A of this section may be approved if in compliance with the comprehensive plan and the application demonstrates that:
 - a. The change implements a public need, other than the provision of affordable housing, supported by the Comprehensive Plan; or
 - b. A substantial change in circumstances has occurred since the existing zoning or Plan designation was proposed, necessitating the need to adjust to the changed circumstances; or
 - c. Circumstances relating to the general public welfare exist that require such an action; or
 - d. Proposed increases in residential zoning density resulting from a change from one zoning district to another zoning district, will provide one of the following:
 1. 35% of the base density to qualifying buyers or renters with incomes at or below 120% of median income; or
 2. 25% of the base density to qualifying buyers or renters with incomes at or below 100% of median income; or
 3. 20% of the base density to qualifying buyers or renters with incomes at or below 80% of median income; or
 4. 15% of the base density to qualifying buyers or renters with incomes at or below 60% of median income; or
 5. Title to a sufficient amount of buildable land for development is transferred to a non-profit (IRC 501(3)(c)) affordable housing developer or comparable Development Corporation for the purpose of complying with subsection 2 above. The land shall be located within the project and all needed public facilities shall be extended to the area or areas proposed for transfer. Ownership of the land shall be transferred to the affordable housing developer or Development Corporation prior to commencement of the project; or
 - e. Increases in residential zoning density of four units or greater on commercial, employment or industrial zoned lands (i.e. Residential Overlay), will not negatively impact the City of Ashland's commercial and industrial land supply as required in the Comprehensive Plan, and will provide one of the following:
 1. 35% of the base density to qualifying buyers or renters with incomes at or below 120% of median income; or
 2. 25% of the base density to qualifying buyers or renters with incomes at or below 100% of median income; or
 3. 20% of the base density to qualifying buyers or renters with incomes at or below 80% of median income; or
 4. 15% of the base density to qualifying buyers or renters with incomes at or below 60% of median income; or
 5. Title to a sufficient amount of buildable land for development is transferred to a non-profit (IRC 501(3)(c)) affordable housing developer or comparable Development Corporation for the purpose of complying with subsection 2 above. The land shall be located within the project and all needed public facilities shall be extended to the area or areas proposed for dedication. Ownership of the land and/or air space shall be transferred to the affordable housing developer or Development Corporation prior to commencement of the project.

The total number of affordable units described in sections D or E shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years.

Sections D and E do not apply to council initiated actions.

PHYSICAL & ENVIRONMENTAL CONSTRAINTS

18.62.040.I Criteria for Approval

A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:

1. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
2. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
3. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum permitted development permitted by the Land Use Ordinance.

(ORD 2808, 1997; ORD 2834, 1998; ORD 2951, 2008)

SITE DESIGN AND USE STANDARDS

18.72.070 Criteria for Approval

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

- A. All applicable City ordinances have been met or will be met by the proposed development.
- B. All requirements of the Site Review Chapter have been met or will be met.
- C. The development complies with the Site Design Standards adopted by the City Council for implementation of this Chapter.
- D. 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. All improvements in the street right-of-way shall comply with the Street Standards in Chapter 18.88, Performance Standards Options.

(ORD 2655, 1991; ORD 2836, 1999)

TREE REMOVAL

18.61.080 Criteria for Issuance of Tree Removal - Staff Permit

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.

- A. Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.
 - 1. A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
 - 2. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.
- B. Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:
 - 1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and
 - 2. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and
 - 3. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. Nothing in this section shall require that the residential density be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.
 - 4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.

(ORD 2951, 2008; ORD 2883, 2002)

**ASHLAND PLANNING DIVISION
STAFF REPORT ADDENDUM
December 14, 2010**

PLANNING ACTION: PA-2010-01239

APPLICANT: Urban Development Services, LLC, agents for
Jonathan and Esther Phelps

LOCATION: 59-85 Winburn Way

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential (*existing*)
Commercial Downtown (*proposed*)

APPLICATION DEEMED COMPLETE: October 21, 2010

120-DAY TIME LIMIT: February 18, 2011*
(*Type III applications not subject to 120-day limits
pursuant to ORS 227.178.7)

ORDINANCE REFERENCE:

18.20	R-1 Single Family Residential District
18.32	C-1 Commercial District
18.61	Tree Preservation and Protection
18.62	Physical & Environmental Constraints
18.72	Site Design and Use Standards
18.92	Off-Street Parking
18.108.060	Type III Procedures

REQUEST: A request for a Comprehensive Plan Map Amendment and Zone Change from Single Family Residential (R-1-7.5) to Commercial Downtown (C-1-D), Physical & Environmental Constraints Review Permit, Tree Removal Permit to remove five trees, Site Review approval to construct a new 10,632 square foot café/restaurant, and a Development Agreement for the four properties located at 59-85 Winburn Way.

I. Relevant Facts

A. History of Application to Date

At its regular meeting on November 9, 2010 the Planning Commission held a public hearing to consider the application at which time testimony was taken and exhibits were presented, including a detailed architectural model of the building in context with the surrounding area.

After closing the hearing, the Planning Commission identified a number of issues they wished to see addressed further. These included:

- Can the applicants provide a clearer illustration of the visual impact of the proposal from the perspective of the backyards of the Granite Street neighbors?

- Can the applicants provide additional information necessary to address the requirements of AMC 18.62.100 which regulates the development of severe constraint lands, those lands with slopes in excess of 35 percent?
- Staff has recommended an in-lieu-of-parking fee. Are there other measures, such as bicycle parking, which might help to offset the parking demand of the proposal?
- Commissioners questioned whether, without a site plan or design drawings being provided, the ice rink lot could accommodate the proposed ice rink support building.
- In response to the staff recommendations that the zone change requested be limited solely to 85 Winburn Way (the café lot), the applicants asked that the Commission also consider inclusion of the ice rink lot. If the ice rink lot were to remain residentially-zoned, the adjacent café lot would be subject to a ten-foot per story side yard setback requirement which could alter the current design of the building and impact the relationship between the ice rink and the café which the applicants have tried to develop in the current design. At the meeting, Commissioners had asked for a staff response to this issue.
- Can staff provide recommendations with regard to the applicants list of uses of the proposed building for inclusion in the Development Agreement?
- Can staff review and provide comment on the applicants proposed sidewalk closure and construction staging plan?
- Can the recent Sneak Preview article on the project be included in the record?

After identifying these issues which they wished to see further addressed, the Commission continued the hearing on this matter to its next regular meeting, at 7:00 p.m. on December 14, 2010.

II. Project Impacts

Responses to Issues Raised

In response to the issues raised at last month's meeting, staff would offer the following responses:

Can the applicants provide a clearer illustration of the visual impact of the proposal from the perspective of the backyards of the Granite Street neighbors?

The topography, vegetation, varying height of the retaining walls at the top of slope, fencing behind the existing building, and the private nature of the Granite Street backyards make it difficult to fully consider the impacts of the proposal without a more detailed submittal from the applicants. While the most directly-impacted neighbor (Jed Meese at 80-88 Granite Street, just uphill of the Café lot) has indicated his support of the proposal on the record, Commissioners and other neighbors at the November meeting asked that the applicants provide a more detailed illustration of the visual impacts to the Granite Street neighbors' backyards.

The applicants have provided a new sheet (A2.3) which provides a cross-section drawing of the proposed building as it relates to the hillside topography behind, the backyards and homes on Granite Street, and the curb level on Granite Street. This drawing provides a conceptual illustration of a resident of 88 Granite Street looking out the back window from the first story floor and generally indicates that the mass of the building up to its green roof would be below the line of site, and the upper levels including the glass roof structures, mechanical equipment, elevator shafts and chimneys would be visible. Sheet A2.3 also includes a conceptual illustration of the buildings along Granite Street and the buildings on Winburn Way below as they relate to the curb level on Granite Street. The information provided with the illustrations is insufficient to ascertain the full impact of the proposed chimneys, elevator towers, and mechanical equipment installation on the views of existing residences along Granite Street. Based on this drawing, the deck of the green roof is at approximately the same level as the backyard for 88 Granite Street at the base of the yard's retaining wall, and the peak of the glass roof is at roughly the same level as the finished floor of the first story at 88 Granite and even with the level of the curb on Granite Street.

Can the applicants provide additional information necessary to address the requirements of AMC 18.62.100 which regulates the development of severe constraint lands, those lands with slopes in excess of 35 percent?

Staff raised the issue at the November meeting that the applicants' submittals did not fully address the requirements of 18.62.100 for the development of severe constraint lands, and the applicants were asked to provide additional information addressing these requirements. In subsequent discussions with the applicants, they have reiterated that the area of disturbance is in their view *de minimus* and access to fully assess the geotechnical issues in the area of disturbance is limited by the presence of the existing building. Staff recognizes the limited area of disturbance involved, however we continue to believe that additional information is needed for the Commission to make defensible findings that the submittal requirements have been adequately addressed and approval criteria satisfied. Staff have asked that the applicants provide drawings which clearly illustrate the specific areas of the site considered to be severe constraint lands which will be disturbed with the proposal and provide a revised report from their geotechnical expert which speaks to the geological/geotechnical suitability of the site for the proposed development and any recommendations to address geotechnical issues necessary for development of the site, with an understanding that final engineering including the building's foundation engineering would be deferred until building permit submittal.

The applicants have provided revised findings addressing the Development Standards for Severe Constraints Lands prepared by their geo-technical expert Rick Swanson of Marquess & Associates. These findings note that with the exception of minor encroachments into the existing hillside to construct the rear retaining walls, the proposed development will occur in the footprint of the existing structure and parking lot. Development disturbance to the sloped areas of the site is to be kept to the minimum necessary to construct the foundation and retaining walls, and only approximately 280 square feet (a 7 foot by 40 foot area) of the northwest corner of the building's main floor will encroach into severe constraint lands. These findings summarize geotechnical field explorations conducted to date and note that additional exploration will occur through the demolition of the existing building and preparation of final construction drawings which will include specific soil engineering design recommendations. Swanson indicates that based on the observations conducted and his understanding of the proposed development, the site is suited to the proposal. It is not uncommon for engineered foundation drawings addressing the Hillside Development Standards to be deferred to building permit submittals given that the level of detail necessary means an approval generally must

be in place before the applicants know all conditions of their approval and can move to preparing final design drawings. In staff's view, the materials provided can be found to adequately address the submittal requirements and approval criteria with the imposition of the conditions below requiring final geotechnical recommendations and foundation engineering be submitted with the building permit drawings.

Staff has suggested consideration of an in-lieu-of-parking fee. Are there other measures such as bicycle parking which might help to offset the parking demand of the proposal?

In-Lieu-of-Parking Fee and Other Potential Assessment Options

The applicants' agent and a number of speakers in support of the application at the last meeting questioned requiring the applicants to provide "public parking" or "singling the applicants out" through an in-lieu-of-parking fee. Staff would like to clarify that the applicants are requesting a zone change to the only zoning designation in the city which does not require parking to be provided by the applicants on their site, and doing so in an area long-recognized for its high level of parking demand. The C-1-D zoning designation requested imparts *substantial* value to the property – not only in cost savings for parking that is no longer required, but also in the additional building area allowed when on-site parking is no longer part of the equation. Staff's intention in evaluating an in-lieu-of-parking fee is not to single the applicants out to provide "private parking" but rather to attempt to off-set *to the degree* the Commission deems appropriate the impacts of accommodating the applicants' private parking demand in the public realm as they propose with the zone change in order to find that the project, on the whole, provides a public benefit consistent with the approval criteria to merit the zone change.

Absent a proposal to better address parking or its impacts in the application, staff suggested that the Commission may wish to consider some form of in-lieu-of-parking fee (an increasingly common mechanism) as a means to provide for future improvements to the public realm in the form of additional public parking or congestion-reducing transportation measures in the downtown.

If the Commission determines that the parking demand of the proposed building will be more than offset by the benefits of the proposal, or finds that a change of circumstances merits the zone change rather than the public benefit criterion, the Commission could opt not to impose the recommended in-lieu-of-parking fee.

The Commission had also inquired about the previous downtown parking assessment on business owners. This fee was assessed at \$1 per required parking space per month for each business in the district from 1989 to 2000 when it sunset. The proposed building requiring 48 parking spaces would have been charged a total of approximately \$6,336 over the life of that district assessment had it been in place at the time.

The applicants have indicated that they are unwilling to consider paying any type of in-lieu-of-parking fee, but subsequent to the last meeting they have suggested that they might consider being subject, retroactively, to some type of future assessment for parking if it were applied to the downtown as a whole through the adoption of an ordinance and/or creation of a parking district management plan within five years of the approval. If the Planning Commission is willing to consider this alternative, recommendations to Council for its inclusion in the Development Agreement should be included in any motion.

Encouragement of Other Modes

At the November meeting, Commissioner Mindlin questioned whether additional bicycle parking could be added as one potential means to offset automobile parking impacts to some degree. Since the last meeting, staff has suggested to the applicants that they explore adding more bicycle parking and other options for reducing their automobile parking demand through efforts to encourage the use of other modes of transportation by employees and/or customers. The measures noted by staff as examples are widely-used in other communities and could include efforts similar to Standing Stone's purchase of bicycles for employees in exchange for a commitment to ride along with provisions for additional bike parking, or similar to the City's providing showers, lockers, bicycle parking, and a shared-use bike for work-related trips to support and encourage bicycle use by staff. Staff has also suggested that the applicants consider making RVTB bus passes available to employees to encourage them not to drive and explore other measures of this kind which might further reduce the parking impacts of the proposed building. Options for reducing parking demand should be included as part of the Development Agreement.

Commissioners questioned whether, without a site plan or design drawings being provided, the ice rink lot could accommodate the proposed ice rink support building.

The applicants' response was that in their assessment, the site could accommodate a building to house the uses noted in the application, including administrative office space, skate storage and rental, public restrooms, and a zamboni garage. While detailed drawings have not been provided, staff would note that the applicants' have resubmitted sheet L1.0 "Preliminary Site Reference Plan" which includes conceptual placement of this building to provide a frame of reference. This plan shows a footprint of approximately 740 square feet, and the general area identified for development appears to be an approximately 33-foot by 42-foot pad which seems sufficient to accommodate the uses described while providing a 33-foot 1-inch separation from the existing chiller enclosure. Space is identified for site circulation from the rink and around the proposed building, and an area for future bicycle parking at the building is also illustrated.

They applicants have also noted that they would conduct a similar design process to that carried out to date for the Café building, with meetings with neighbors as well as input from the Parks and Historic Commissions to arrive at a design compatible with the site and surroundings, including the proposed building, and would then go through the City's land use review process. The ice rink support building would be constructed at the applicants' expense prior to final occupancy of the Café building.

Staff would recommend that the Commission include recommendations for the Development Agreement which require that the building accommodate all of the uses noted and be adequately sized to do so; be architecturally compatible with the park, neighborhood and proposed building; that the final design be developed with input from the Parks and/or Historic Commissions; and that the applicants be fully financially responsible for the land use approval process, permitting and associated fees, and construction of the building.

In response to the staff recommendations that the zone change requested be limited solely to 85 Winburn Way (the café lot), the applicants asked that the Commission also consider inclusion of the ice rink lot. If the ice rink lot were to remain residentially-zoned, the adjacent café lot would be subject to a ten-foot per story side yard setback requirement which could alter the current design of the building and impact the relationship between the ice rink and the

café which the applicants have worked to develop with the current design. At the meeting, Commissioners had asked for a staff response to this issue.

As previously noted, staff's recommendation to limit the zone change solely to the 85 Winburn Way café lot was based on the fact that the current residential zoning seems well-suited to the established institutional uses including Pioneer Hall and the Community Center. R-1 zoning explicitly provides for "parks and recreational facilities" as permitted uses, and other than the fact that this zoning has prohibited rental use of these facilities for short-term "for profit" retail sales there have been no issues with their long term operation under this zoning designation. The Ashland Parks & Recreation Commission and Parks Department have taken no position with regard to the proposed zone change.

The existing Roberts/Mattson gated private parking lot adjacent to the Community Development building is a grandfathered non-conforming use under the current zoning, and would remain non-conforming under the proposed C-1-D zoning, which allows for parking lots by themselves only as a public or quasi-public use, not as a gated private facility. The fact that this lot's future uses, or any impacts thereof, when it develops to the full commercial potential under the proposed C-1-D zoning are not addressed in the application and that the property owners have generally indicated that while they are agreeable to inclusion in the zone change request they are not interested in restrictions on development of the site beyond what is allowed elsewhere in the C-1-D zoning district, pose more concern for staff than does potential residential development.

With that said, besides the café lot staff believes that the ice rink lot is the one most suited to the C-1-D zoning designation as both of its existing uses (the ice rink and the parking lot) fit well with the permitted uses of this zoning designation. In addition, as noted by the applicants, the C-1-D zoning for this site would eliminate the setback requirements and allow for a better flow between the proposed café building and the ice rink as no side yard setback would be necessary. Finally, C-1-D zoning requirements would likely better accommodate the ice rink support building proposed to be constructed by the applicants in the immediate future as it would eliminate standard residential setback requirements and thus subject the building to a clearer Site Review process.

Can staff provide recommendations with regard to the applicants' list of uses of the proposed building for inclusion in the Development Agreement?

Testimony from past property owners and business operators for the site indicated problems due to the uncertainty of the café use's non-conforming status. While certain commercial uses are appropriate given the site's relationship to the ice rink, Lithia Park and the other adjacent public uses and buildings, the site's location is at the periphery of downtown in an area that has long served to provide a transition between the historic Granite Street residential neighborhood, National Register-listed historic resource Lithia Park, and the more intense uses concentrated in the core of downtown. Conservatively, staff supports an abbreviated list of uses to be established through the Development Agreement as a means to limit incompatible land uses while focusing on those that complement and enhance adjacent uses and are in keeping with the transitional nature of the site's location.

A primary concern of the Historic Commission was that the future uses of the proposed building be limited to those which would be compatible with the National Register of Historic Places-listed Lithia Park. Their concerns over compatible future uses were mostly general, seeking assurances of compatibility through a limitation on uses in the Development Agreement because without a parking requirement many changes in use will not trigger further discretionary review, although they did note a

specific concern with the potential for future transition of the building's use to a mini-mall, factory outlet mall, or to similar uses of that nature.

At the November meeting, the applicants provided a red-lined list of permitted and conditional uses within the C-1-D zoning district, with uses that they deemed incompatible and proposed to eliminate from the permitted uses through the Development Agreement. This submittal also included draft language restricting the installation of formula or chain stores or restaurants in most instances in an attempt to address the concerns of the Historic Commission, as well as proposing limits to building height of 30 feet, with heights up to 40 feet allowed as conditional uses - excepting the proposed building, which exceeds the 30 foot height limitation. Staff has reviewed this list, and a revised version incorporating staff's recommendations, discussed below, is provided in the packet.

Generally speaking, staff believes that a primary basis for the zone change arises out of the mutually beneficial relationship which the applicants propose to establish between the proposed café and the adjacent park, ice rink, and surrounding public/institutional uses. While a zone change would permit additional uses beyond merely the café, staff believes that the list of allowed uses should be carefully limited to those that are compatible with the site's context and that are likely to maintain the mutually beneficial relationship that provides the basis for an approval here.

Staff have accordingly recommended removing medical offices, department stores, night clubs and bars from the list proposed by the applicants. Neighboring businesses owners discussing the proposal with staff have raised concern over the fact that nightclubs and bars are permitted uses within the C-1-D district, and have questioned whether a nightclub or bar use is appropriate here, at the periphery of the downtown, in a National Register-listed park next to a heavily used children's playground, community ice rink and residential neighborhood. In staff's view, these are valid concerns and we have recommended that nightclubs and bars not be permitted in this location.

With regard to Special Permitted Uses, staff would recommend that item "B", which the applicants had proposed to strike, be retained. This use includes "bowling alleys, auditoriums, skating rinks, and miniature golf courses." Given that one of the lots involved is currently used as an ice skating rink it seems necessary to maintain the permissibility of the existing use.

The applicants proposed list of uses retains some conditional uses, including hotel/motel use which is the only use to require provisions for off-street parking within the C-1-D district. Given that no off-street parking is to be provided, and the sensitive nature of the site, staff questions whether retaining hotel and motel use is appropriate. Approval of a conditional use permit for hotel/motel use at this site would also require a variance to the off-street parking requirement, and staff believe that it would be difficult to find that such a variance was not self-imposed when the applicants have sought a zone change to redevelop the site without any off-street parking. Staff are accordingly recommending that hotel and motel uses be removed from the list of allowed conditional uses.

The applicants have recommended striking item "F" from the list of conditional uses, which would otherwise allow outdoor storage of commodities associated with a permitted, special permitted or conditional use. In staff's view, there are circumstances in the future where outdoor storage of commodities could be beneficial, and inclusion as a conditional use would allow future discretionary review before any such use was instituted. We would recommend that this item remain a conditional use for the subject properties.

Can staff review and provide comment on the applicants proposed sidewalk closure and construction staging plan?

In response to concerns by neighboring business owners over the potential impacts to parking and circulation in the vicinity from an extended large scale construction process, staff had previously recommended that details of the construction timing and staging be worked out in the Development Agreement to minimize these impacts. At the last meeting, the applicants submitted a plan detailing the likely sidewalk closure necessary to accommodate their construction. This submittal notes that a portable tower crane will be used during construction for loading and unloading of trucks without blocking traffic. The plan indicates that with the use of the crane, impacts on traffic will be light with no expectation of ever closing Winburn Way and almost always having both lanes of traffic open, even when loading and unloading.

Staff recognizes that the magnitude of the proposal means that there will be construction occurring through a summer season. Our concern is to see that the timing of the project, and the associated staging of the construction, is managed in such a way that disruptions to circulation on Winburn Way as well as any blockage of parking spaces during periods of high demand are kept to a minimum. Based on the plan provided, and subsequent discussion with the applicants' team, staff believe that the applicants are committed to minimizing the impacts of the development and that final details of a construction staging and timing plan addressing impacts to parking and circulation can best be worked out between staff and the applicants' team. We accordingly recommend that the Development Agreement include a requirement that the applicants develop a final construction timing, staging and circulation plan to minimize impacts to nearby parking and circulation to the greatest extent possible for the review and approval of the Staff Advisor and Public Works Director prior to the issuance of a building permit.

Can the recent Sneak Preview article on the project be included in the record?

At Commissioner Dawkins request, this article has been included in the record and copies provided for the Commissioners.

III. Procedural - Required Burden of Proof

The criteria for Comprehensive Plan Map Amendment and Zone Change approval are described in AMC 18.108.060.B as follows:

1. Zone changes, zoning map amendments and comprehensive plan map changes subject to the Type III procedure as described in subsection A of this section may be approved if in compliance with the comprehensive plan and the application demonstrates that one or more of the following:
 - a. The change implements a public need, other than the provision of affordable housing, supported by the Comprehensive Plan; or
 - b. A substantial change in circumstances has occurred since the existing zoning or Plan designation was proposed, necessitating the need to adjust to the changed circumstances; or
 - c. Circumstances relating to the general public welfare exist that require such an action; or

- d. Proposed increases in residential zoning density resulting from a change from one zoning district to another zoning district, will provide 25% of the proposed base density as affordable housing consistent with the approval standards set forth in 18.106.030(G); or
- e. Increases in residential zoning density of four units or greater on commercial, employment or industrial zoned lands (i.e. Residential Overlay), will not negatively impact the City of Ashland's commercial and industrial land supply as required in the Comprehensive Plan, and will provide 25% of the proposed base density as affordable housing consistent with the approval standards set forth in 18.106.030(G).
The total number of affordable units described in sections D or E shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years. Sections D and E do not apply to council initiated actions.

The criteria for Site Review approval are described in 18.72.070 as follows:

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

- A. All applicable City ordinances have been met or will be met by the proposed development.
- B. All requirements of the Site Review Chapter have been met or will be met.
- C. The development complies with the Site Design Standards adopted by the City Council for implementation of this Chapter.
- D. 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. All improvements in the street right-of-way shall comply with the Street Standards in Chapter 18.88, Performance Standards Options. (Ord. 2655, 1991; Ord 2836 S6, 1999)

The criteria for a Physical & Environmental Constraints Review Permit are described in AMC Chapter 18.62.040.I , as follows:

- 1. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
- 2. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
- 3. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum permitted development permitted by the Land Use Ordinance.

The criteria for a Tree Removal Permit are described in AMC Chapter 18.61.080, as follows:

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.

- A. Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.
 - 1. A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
 - 2. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.
- B. Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:
 - 1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards. (e.g. other applicable Site Design and Use Standards). The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and
 - 2. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and
 - 3. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property.

The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. Nothing in this section shall require that the residential density be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Ashland Land Use Ordinance.

- 4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.

IV. Conclusions and Recommendations

In staff's view, some of the key decision points in considering the application are as follows:

Comprehensive Plan Map & Zone Change

Which criterion merits approval of the zone change? To merit approval, the applicants must demonstrate that the proposal meets one or more of the applicable criteria which include: a) the change implements a public need, other than the provision of affordable housing, supported by the Comprehensive Plan; b) a substantial change in circumstances has occurred since the existing zoning or plan designation was proposed, necessitating the need to adjust to the changed circumstances; or c) circumstances relating to the general public welfare exist that require such an action. For staff, the most applicable criteria have to do with public need and benefits to the public welfare through the proposal, and we accordingly have tried to weigh the benefits against likely impacts, most notably parking impacts to the surrounding district, and have provided recommendations for some ways to offset these parking impacts through an in-lieu-of-parking fee, future parking district assessment, and/or provisions to encourage employees and customers of the proposed building to use other modes of transportation.

Should the zone change be limited to the café and ice rink lots, as recommended by staff? Staff believe that a re-zoning of this nature and magnitude merits comprehensive master planning effort to include a thorough analysis of all potential impacts of the proposal, including but not limited to a complete consideration of the likely impacts to a well-used downtown parking supply in the immediate vicinity, and which demonstrates a clear public benefit. Inclusion within the C-1-D district with no requirement to provide parking on site imparts a significant value to the applicants by accommodating their full private parking demand within the public realm, and in staff's view the added demand to the downtown parking situation which comes with re-zoning must be fully considered and the impacts addressed. We do not believe that the application as it currently stands sufficiently discusses the potential impacts of the future development of the Roberts/Mattson lot or provides sufficient justification for re-zoning of the existing Parks buildings, nor do we believe that alleviating the uncertainty of residential development is a sufficient public benefit to merit approval of a zone change for all four of the properties proposed. Staff's recommendation is that the Comprehensive Plan Map Amendment and Zone Change be limited to the 85 Winburn Way café lot and the ice rink lot, and that the zoning for the Roberts/Mattson lot and Parks building remain residential.

Site Review

Does the proposed building satisfy the applicable criteria, and are visual impacts and design compatibility addressed to the Commission's satisfaction? The Planning Commission must determine whether the unique physical constraints of the site and the nature of the building and its proposed use mitigate any issues of scale or design compatibility. Staff believes that a finding can be made that while the building is in a prominent location relative to historic Lithia Park, physical constraints of this location including the Ashland Creek riparian corridor and Winburn Way street corridor to the front, the steeply-sloped and heavily-treed hillside to the rear, and skating rink/parking lot to the

side mitigate the building's bulk, mass and scale by providing sufficient separation from surrounding uses on three of its four sides, and that the applicants' efforts to integrate the site and its proposed improvements and uses with the Ice Rink, Pioneer Hall and Winburn Way pedestrian corridor are reflective of the unique role they propose to establish for the building within the park and streetscape.

Physical & Environmental Constraints Review Permit

Have you received sufficient information to meet the burden of proof for the proposed development of severe constraint lands, given the relatively minimal level of impact to these lands proposed? In staff's view, the materials provided can be found to adequately address the submittal requirements and approval criteria with the imposition of the conditions below requiring that final geotechnical recommendations and foundation engineering be submitted with building permits.

Development Agreement

Do you have any specific recommendations for the City Council for inclusion in the Development Agreement? Staff have recommended that the Development Agreement include limitations on future uses to ensure their compatibility with the surrounding historic resources. Specifically, staff believe that the Commission should consider the appropriateness of nightclubs and bars in this location, and whether hotel/motel use and other conditional uses are appropriate to this unique site, and we have recommended that these uses be restricted in the Development Agreement. Staff also recommend that the Development Agreement provide for a final construction staging, timing and circulation plan to be reviewed and approved prior to commencement of construction. The Commission may wish to identify additional items for inclusion, or to modify staff's recommendations.

Should the Planning Commission feel that sufficient information has been provided to reach a decision and concur with staff on the items discussed above, we would recommend that the Comprehensive Plan Map Amendment and Zone Change be limited to the 85 Winburn Way café lot and the ice rink lot, and that the Site Review, Physical & Environmental Constraints Review and Tree Removal Permits be approved with the conditions below attached. The Commission will need to determine whether, and to what degree, parking impacts of the proposal merit consideration and what form any required mitigation measures will take, and to identify any additional limitations on uses of the site for inclusion in the Development Agreement.

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified here.
- 2) That the plans submitted for the building permit shall be in substantial conformance with those approved as part of this application. If the plans submitted for the building permit are not in substantial conformance with those approved as part of this application, an application to modify this approval shall be submitted and approved prior to issuance of a building permit.

- 3) That a sign permit shall be obtained prior to installation of any new signage. All signage shall meet the requirements of Chapter 18.96.
- 4) That a geotechnical report consistent with the requirements of AMC 18.62.100.D prepared by a licensed geotechnical expert, and stamped engineering addressing shorting of the hillside with construction, shall be provided for the review and approval of the Staff Advisor and Public Works Director at least twenty days prior to Council consideration of the Development Agreement.
- 5) The approved uses of the site shall be limited to those explicitly established in the Development Agreement.
- 6) That prior to the submittal of a building permit:
 - a) All easements, including public and private utility easements, mutual access easements, public pedestrian access easements, and firefighter access pathway easements shall be identified in the building permit submittals.
 - b) That a stormwater drainage plan shall be submitted for the review and approval of the Planning, Building, and Engineering Divisions.
 - c) Engineered construction drawings for the improvements to Winburn Way shall be provided for the review and approval of the Planning and Engineering Departments prior to building permit submittal and prior to any work within the street right-of-way or pedestrian corridor. The final engineered designs shall include details for full-drop apron wings where the sidewalk crosses the driveway to the Ice Rink. The applicants shall obtain necessary Public Works permits and inspections for work to be completed within the public right-of-way; concrete color selection shall be the standard approved color within Ashland's Historic Districts.
 - d) A final utility plan for the project shall be submitted for the review and approval by the Planning, Engineering and Building Divisions prior to issuance of a building permit. The utility plan shall include the location of connections to all public facilities in and adjacent to the development, including the locations of water lines and meter sizes, sewer mains and services, manholes and clean-outs, storm drainage pipes and catch basins. Utility installations, including any necessary fire protection vault, shall be placed outside of the pedestrian corridor, and necessary public utility easements on the property shall be shown on the building permit submittals.
 - e) The applicant shall submit an electric distribution plan including load calculations and locations of all primary and secondary services including transformers, cabinets and all other necessary equipment. The plan shall address maintaining line truck access to the three-phase transformer free of any obstructions including the trash enclosure, and shall address how the existing services to the Community Center and Pioneer Hall are to be relocated. This plan shall be reviewed and approved by the Planning,

Building, Engineering and Electric Departments prior to building permit submittal. Transformers and cabinets shall be located outside of the pedestrian corridor, in those areas least visible from the street while considering the access needs of the Electric Department.

- f) That exterior building materials and paint colors shall be compatible with the surrounding area, and sample exterior building colors shall be provided with the building permit submittals for review and approval of the Staff Advisor. Bright or neon paint colors shall not be used in accordance with II-C-2f) of the Detail Site Review Standards.
 - g) That the windows on the ground floor shall not be tinted so as to prevent views from outside of the building into the interior of the building. The building plan submittals shall also include specifications for treatment of the glass on the central glass roof element demonstrating that it shall not create glare to surrounding properties.
 - h) That the building's foundation shall be designed by an engineer or architect with demonstrable geotechnical design experience in accordance with 18.62.080.F, and a final comprehensive geotechnical investigation report and specific soil engineering design recommendations shall be provided along with written verification from the project geotechnical experts addressing the consistency of the building permit design submittals with these geotechnical recommendations (e.g. foundation plan, grading plan and drainage plan, required geotechnical inspection schedule, etc.) with the building permit submittals.
 - i) That the applicants develop a construction timing, staging and circulation plan to minimize impacts to nearby parking and circulation to the greatest extent possible for the review and approval of the Staff Advisor and Public Works Director prior to the issuance of a building permit.
- 6) That prior to the issuance of a building permit:
- a) That the recommendations of the Tree Commission's November 4th, 2010 meeting shall be conditions of approval where consistent with applicable standards and with final approval by the Staff Advisor, and shall be incorporated into a revised Tree Preservation and Protection Plan (if necessary).
 - b) That a Verification Permit in accordance with 18.61.042.B shall be applied for and approved by the Ashland Planning Division prior to the removal of the five trees to be removed from the site or the two trees to be relocated, and prior to site work including demolition, storage of materials and/or issuance of a building permit. The Verification Permit is to inspect the identifications of trees to be removed and the installation of tree protection fencing to protect the trees to be retained. The tree protection fencing shall be installed according to the approved Tree Protection and Removal Plan, inspected and

approved by the Staff Advisor prior to site work including demolition or tree removal, storage of materials and/or issuance of a building permit.

- c) That the applicants shall obtain approval of a Demolition/Relocation Permit through the Building Division and any necessary inspections associated with the demolition of the existing structure.
- d) The applicant shall provide a revised Landscape/Irrigation Plan which addressed the Water Conserving Landscaping Guidelines and Policies of the Site Design and Use Standards, including irrigation controller requirements to allow multiple/flexible calendar programming. The revised landscape plan shall include planting details for the green roof with plant selections suited to Ashland's climate and consistent with the Water Conserving Landscaping Guidelines.
- e) All exterior lighting shall be appropriately shrouded so as not to permit direct illumination of any adjacent land. Lighting details, including a scaled plan and specifications detailing shrouding, shall be submitted to the Staff Advisor for review and approval with the building permit submittals.
- f) All mechanical equipment shall be screened from view from the Winburn Way streetscape. The locations of mechanical equipment and any associated screening shall be shown on the site plan and elevations in the building permit submittals.
- g) The requirements of the Building Division shall be satisfactorily addressed, including but not limited to requirements that the grease interceptor be relocated to an area where it can be serviced during business hours and which is less susceptible to odor during servicing.
- h) The requirements of the Ashland Fire Department shall be satisfied, including that all addressing shall be approved prior to being installed; that an approved firefighter access pathway be provided and maintained around the building; that adequate fire flow be provided; that adequate clearance be provided around hydrants; that any gates, fences or other obstructions which could impede fire access shall be identified on all plans for the review and approval of the Fire Department; that high piled storage requirements be addressed in the permit submittals, if applicable to the final proposal; that a fire department connection and key box be provided; and that the trash enclosure not be placed under combustible overhangs or within five feet of openings.
- i) That the tree protection, erosion control or shoring measures shall be installed according to the approved plan prior to any site work including demolition, storage of materials, issuance of an excavation permit and issuance of a building permit. The erosion control measures shall be installed as identified in the geotechnical report. Tree protection, erosion control and shoring measures shall be inspected and approved by the applicants' geo-technical

engineer and the Staff Advisor prior to other site work, storage of materials, the issuance of an excavation permit, and/or the issuance of a building permit.

- 7) That prior to the issuance of a certificate of occupancy:
- a) That the screening for the trash and recycling enclosure shall be installed in accordance with the Site Design and Use Standards. An opportunity to recycle site of equal or greater size than the solid waste receptacle shall be included in the trash enclosure in accordance with 18.72.115.B.
 - b) All landscaping and the irrigation systems shall be installed in accordance with the approved plan, inspected and approved by the Staff Advisor prior to the issuance of a certificate of occupancy.
 - c) That street trees, one per 30 feet of street frontage, shall be installed along the frontage of the development in accordance with the approved final landscaping plan and prior to issuance of the certificate of occupancy. All street trees shall be chosen from the adopted Street Tree List and shall be installed in accordance with the specifications noted in Section E of the Site Design and Use Standards. The street trees shall be irrigated.
 - d) All public and private improvements, including but not limited to the proposed café/restaurant and ice rink buildings, sidewalks, drop-off areas, street trees, street lighting, and Pioneer Hall courtyard improvements including the seating wall shall be completed in a manner consistent with the approved plans and development agreement prior to final occupancy approval. The ice rink support building shall accommodate all of the uses noted (administrative office space, skate storage/rental, public restrooms and zamboni garage) and be adequately sized to do so; shall be architecturally compatible with the park, neighborhood and proposed café building; shall be designed with input from the Parks and/or Historic Commissions; and its design development, land use approval process, permitting and associated fees and charges, and construction of the building shall be the sole financial responsibility of the applicants.

STAFF EXHIBIT S-1
(CLEAN COPY)

Staff's Recommended List of Permitted Uses.

The following uses and their accessory uses are recommended to be permitted outright:

- A. Professional, financial, and business offices, and personal service establishments such as beauty and barber shops.
- B. Stores, shops and offices supplying commodities or performing services, such as an antique shop, artists supply store, and including a regional shopping center or element of such center.
- C. Restaurants.
- D. Theaters, but not including a drive-in.
- E. Manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies six hundred (600) square feet or less, and is contiguous to the permitted retail outlet.
- F. Printing, publishing, lithography, xerography, copy centers.
- G. Temporary tree sales, from November 1 to January 1.
- H. Public and quasi-public utility and service buildings, and public parking lots, but excluding electrical substations.

Staff's Recommended List of Special Permitted Uses.

The following uses and their accessory uses are permitted outright subject to the requirements of this section and the requirements of Chapter 18.72, Site Design and Use Standards.

- A. Bowling alleys, auditoriums, skating rinks, and miniature golf courses. If parking areas are located within 200' of a residential district, they shall be shielded from residences by a fence or solid vegetative screen a minimum of 4' in height.
- B. Residential uses.
 - 1. At least 65% of the total gross floor area of the ground floor, or at least 50% of the total lot area if there are multiple buildings shall be designated for permitted or special permitted uses, excluding residential.
 - 2. Residential densities shall not exceed 30 dwelling units per acre in the C-1 District, and 60 dwelling units per acre in the C-1-D District. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
 - 3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the underlying C-1 or C-1-D District.
 - 4. Off-street parking shall not be required for residential uses in the C-1-D District.
 - 5. If the number of residential units exceeds 10, then at least 10% of the residential units shall be affordable for moderate income persons in accord with the standards established by resolution of the Ashland City Council through procedures contained in the resolution. The number of units required to be affordable shall be rounded down to the nearest whole unit.

Staff's Recommended List of Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on Conditional Use Permits:

- A. Temporary uses.
- B. Outdoor storage of commodities associated with a permitted, special permitted or conditional use.
- C. Churches or similar religious institutions.

Prohibited Uses (As Proposed by the Applicants)

The following uses are to be explicitly prohibited with this approval:

Formula or "chain" stores and restaurants are prohibited. For the purpose of this Development Agreement, a formula store or restaurant is a company with ten (10) or more store or restaurant locations nationally, in addition to having two or more of the following characteristics: "branded" trademark, merchandise, uniforms, façade, signage, décor and color. If the formula or "chain" store or restaurant is based in Ashland as its original or "flagship" store or restaurant location, then the use shall be considered permissible under this section.

Height Limitations (As Proposed by the Applicants)

The following limitations on building height, which are more restrictive than those applied elsewhere in the C-1-D district, would apply to the properties granted zone change with this approval:

Structures which are greater than 30 feet in height, but less than 40 feet, may be permitted as a conditional use unless approved as part of Planning Action #2010-01239. The definition of height shall be as defined in Section 18.08.290.

**STAFF RECOMMENDATIONS
FOR AN ABBREVIATED LIST OF USES
FOR INCLUSION IN THE DEVELOPMENT AGREEMENT
FOR 85 WINBURN WAY (ICE RINK & CAFÉ LOTS)**

Deleted

Added

[Staff Comments]

SECTION 18.32.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Professional, financial, business ~~and medical~~ offices, and personal service establishments such as beauty and barber shops, ~~laundrette, and clothes and laundry pick-up stations.~~
- B. Stores, shops and offices supplying commodities or performing services, such as a ~~department store~~, antique shop, artists supply store, and including a regional shopping center or element of such center, ~~such as a major department store.~~
- C. Restaurants.
(Ord 2812, S2 1998)
- D. Theaters, but not including a drive-in.
- E. Manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies six hundred (600) square feet or less, and is contiguous to the permitted retail outlet.
- F. ~~Mortuaries and crematoriums.~~
- G. Printing, publishing, lithography, xerography, copy centers.
- H. Temporary tree sales, from November 1 to January 1.
- I. Public and quasi-public utility and service buildings, and public parking lots, but excluding electrical substations.
- J. ~~Kennels and veterinary clinics, with all animals housed within structures.~~
- K. ~~Nightclubs and Bars. Except as provided in 18.32.030, however, no nightclub or bar is permitted within the Historic Interest Area unless it is located in the "D" Downtown Overlay District.~~

SECTION 18.32.025 Special Permitted Uses.

The following uses and their accessory uses are permitted outright subject to the requirements of this section and the requirements of Chapter 18.72, Site Design and Use Standards.

- A. ~~Commercial laundry, cleaning and dyeing establishments.~~
 - 1. ~~All objectionable odors associated with the use shall be confined to the lot upon which the use is located, to the greatest extent feasible. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.~~
 - 2. ~~The use shall comply with all requirements of the Oregon Department of Environmental Quality.~~

B. Bowling alleys, auditoriums, skating rinks, and miniature golf courses. If parking areas are located within 200' of a residential district, they shall be shielded from residences by a fence or solid vegetative screen a minimum of 4' in height. *[Staff has recommended retaining this item, which the applicants proposed to remove, specifically because it includes skating rinks, which would accommodate the existing ice rink use. Transition to another of the special permitted uses would be subject to Site Review approval.]*

~~**C. Automobile fuel sales, and automobile and truck repair facilities.** These uses may only be located in the Freeway Overlay District as shown on the official zoning map.~~

D. Residential uses.

1. At least 65% of the total gross floor area of the ground floor, or at least 50% of the total lot area if there are multiple buildings shall be designated for permitted or special permitted uses, excluding residential.
2. Residential densities shall not exceed 30 dwelling units per acre in the C-1 District, and 60 dwelling units per acre in the C-1-D District. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the underlying C-1 or C-1-D District.
4. Off-street parking shall not be required for residential uses in the C-1-D District.
5. If the number of residential units exceeds 10, then at least 10% of the residential units shall be affordable for moderate income persons in accord with the standards established by resolution of the Ashland City Council through procedures contained in the resolution. The number of units required to be affordable shall be rounded down to the nearest whole unit.

~~**E. Drive-up uses as defined and regulated as follows:**~~

- ~~1. Drive-up uses may be approved in the C-1 District only, and only in the area east of a line drawn perpendicular to Ashland Street at the intersection of Ashland Street and Siskiyou Boulevard.~~
- ~~2. Drive-up uses are prohibited in Ashland's Historic Interest Area as defined in the Comprehensive Plan.~~
- ~~3. Drive-up uses are subject to the following criteria:~~
 - ~~a. The average waiting time in line for each vehicle shall not exceed five minutes. Failure to maintain this average waiting time may be grounds for revocation of the approval.~~
 - ~~b. All facilities providing drive-up service shall provide at least two designated parking spaces immediately beyond the service window or provide other satisfactory methods to allow customers requiring excessive waiting time to receive service while parked.~~
 - ~~c. A means of egress for vehicular customers who wish to leave the waiting line shall be provided.~~
 - ~~d. The grade of the stacking area to the drive-up shall either be flat or downhill to eliminate excessive fuel consumption and exhaust during the wait in line.~~

- e. ~~The drive-up shall be designed to provide as much natural ventilation as possible to eliminate the buildup of exhaust gases.~~
- f. ~~Sufficient stacking area shall be provided to ensure that public rights-of-way are not obstructed.~~
- g. ~~The sound level of communications systems shall not exceed 55 decibels at the property line and shall otherwise comply with the Ashland Municipal Code regarding sound levels.~~
- h. ~~The number of drive-up uses shall not exceed the 12 in existence on July 1, 1984. Drive-up uses may be transferred to another location in accord with all requirements of this section. The number of drive-up window stalls shall not exceed 1 per location, even if the transferred use had greater than one stall.~~

[NOTE: Drive-up uses are not permitted in this area within the C-1-D district anyway.]

- F. ~~Kennel and veterinary clinics where animals are housed outside, provided the use is not located within 200' of a residential district.~~

SECTION 18.32.030 Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on Conditional Use Permits:

- A. ~~Electrical substations.~~
- B. ~~Automobile fuel sales, and automobile and truck repair facilities, except as allowed as a special permitted use in 18.32.025.~~
- C. ~~New and used car sales, boat, trailer, and recreational vehicles sales and storage areas, except within the Historic Interest Area as defined in the Comprehensive Plan.~~
- D. ~~Hotels and motels. *[Even in the C-1-D district, hotel and motel uses require parking be provided as noted in 18.32.050.A. If retained as conditional uses, they would also require a variance to the parking requirements and staff sees some difficulty in making a defensible finding that such a variance was not self-imposed when the applicants are seeking to rezone and redevelop the site to specifically not provide parking.]*~~
- E. ~~Temporary uses.~~
- F. ~~Outdoor storage of commodities associated with a permitted, special permitted or conditional use. *[In staff's view, retaining both temporary uses and outdoor storage as conditional uses retain flexibility to accommodate unforeseen future uses through a discretionary review. The applicants have proposed to strike outdoor storage.]*~~
- G. ~~Hostels, provided that the facility be subject to an annual Type I review for at least the first three years, after which time the Planning Commission may approve, under a Type II procedure, a permanent permit for the facility.~~
- H. ~~Building material sales yards, but not including concrete or asphalt batch or mixing plants.~~
- I. ~~Churches or similar religious institutions.~~
- J. ~~Wireless Communication Facilities not permitted outright and authorized pursuant to Section 18.72.180.~~

- K. ~~Structures which are greater than forty (40) feet in height, but less than fifty-five (55) feet, in the "D" Downtown Overlay District.~~

PROHIBITED USES PROPOSED TO BE ADDED TO LIST BY THE APPLICANTS:

- A. Formula or "chain" stores and restaurants are prohibited. For the purpose of this Development Agreement, a formula store or restaurant is a company with ten (10) or more store or restaurant locations nationally, in addition to having two or more of the following characteristics: "branded" trademark, merchandise, uniforms, façade, signage, décor and color. If the formula or "chain" store or restaurant is based in Ashland as its original or "flagship" store or restaurant location, then the use shall be considered permissible under this section.

[This prohibition has been proposed by the applicants as a means to address the issue of factory outlet malls raised as a concern by the Historic Commission as well as national franchise restaurants and stores.]

SECTION 18.32.040 General Regulations.

- A. Area, Width, Yard Requirements. There shall be no lot area, width, coverage, front yard, side yard, or rear yard, except as required under the Off-Street Parking and Solar Access Chapters; where required or increased for conditional uses; where required by the Site Review Chapter or where abutting a residential district, where such setback shall be maintained at ten feet per story for rear yards and ten feet for side yards.
(Ord 2859 S1, 2000)
- B. Maximum Building Height. No structure shall be greater than 40 feet in height.

SECTION 18.32.050 "D" Downtown Overlay District.

- A. In all areas within the "D" Downtown Overlay District, all uses are not required to provide off-street parking or loading areas, except for hotel, motel, or hostel uses. All parking areas provided shall comply with the Off-Street Parking chapter and the Site Review chapter.
- B. Structures which are greater than ~~40~~ 30 feet in height, but less than ~~55~~ 40 feet, may be permitted as a conditional use unless approved as part of Planning Action #2010-01239. The definition of height shall be as defined in Section 18.08.290. [This language proposed by the applicants allows for a building height of 30 feet as an outright permitted use, with an allowance to go to 40 feet with a conditional use permit, and provides that the building proposed here to exceed these outright limitations is being explicitly allowed subject to this approval. In staff's view, this recognizes the need for contextual compatibility with the neighboring residential zoning district and addresses concerns raised by Granite Street neighbors during testimony.]
- C. The solar access setback does not apply in the "D" Overlay district."

"WINBURN WAY"

SUPPLEMENTAL GEOTECHNICAL INFORMATION

In addition to the Findings of Fact starting on Page 70 of the application narrative submitted on September 16th, 2010, the following supplemental information is being provided to further address the criteria for a Physical and Environmental Constraints Permit.

Approximately 280 square feet of the northwest corner of the proposed building's main floor (roughly 7 ft. x 40 ft.) encroaches into the existing rear slope that exceeds 35%. The building's rear wall will be designed to retain the existing slope and stabilize erosion in this area. A comprehensive geotechnical investigation report and specific soil engineering design recommendations that meet the requirements of the Physical and Environmental Constraints Ordinance will be submitted with the building permit application as described below.

Section 18.62.100 Development Standards for Severe Constraint Lands:

A. Severe Constraint Lands are extremely sensitive to development, grading, filling, or vegetation removal and, whenever possible, alternative development should be considered.

With the exception of minor encroachments into the existing hillside to construct the rear retaining walls of the proposed building, development will occur within the footprint of the existing structure and parking lot. Grading, vegetation removal, cut slopes, and shoring will be kept to the minimum necessary to construct the foundations and rear retaining walls of the proposed building.

B. Development of floodways is not permitted except for bridges and road crossings. Such crossings shall be designed to pass the 100 year flood without raising the upstream flood height more than six inches.

The project is not located in the floodway.

C. Development on lands greater than 35% slope shall meet all requirements of section 18.62.080 in addition to the requirements of this section.

All requirements of section 18.62.080 will be met by the final plans and documents submitted for building permit application.

D. Development of land or approval for a planning action shall be allowed only when the following study has been accomplished. An engineering geologic study approved by the City's Public Works Director and Planning Director establishes that the site is stable for the proposed use and development. The study shall include

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the following:

1. Index map.

See sheet AS1.0

2. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.

See submitted plans for location, topography, drainage, and vegetation.

Field exploration has consisted of a preliminary level of geologic reconnaissance. Future exploration will include subsurface exploration and more detailed geologic reconnaissance.

3. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.

The hillside is comprised of highly weathered and fractured granitic bedrock. Local and thin deposits of cemented alluvial deposits and man-made fill are also present but to a lesser degree. Surficial soils, where present above the cutslope, consist of silty sand. No groundwater seepage from the hillside was evident in July 2010.

The bedrock discontinuities (bedding, jointing, shearing, fracturing, etc.) were obscured by heavy vegetation. The vegetation will be removed to allow detailed observation as part of the future geotechnical investigation.

The flat lower portion of the site at the base of the hillside is assumed to consist of a thin layer of man-made fill over natural stream alluvium. Groundwater is assumed to be less than 10' deep and subject to seasonal fluctuations. The stream alluvium is expected to be partly composed of very large boulders.

4. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.

The only off-site geologic condition that may affect the site is the existing slope above the development. The potential hazard may increase slightly during an earthquake shaking event. A geotechnical investigation and specific soil engineering design recommendations to mitigate this hazard, stabilize the existing slope, and protect the proposed building will be submitted with the building permit application.

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5. Suitability of site for proposed development from a geologic standpoint.

Based on our observations of the site and understanding of the proposed development, we believe the site is suitable for the proposed development.

6. Specific recommendations for cut slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.

Specific soil engineering design recommendations for these and other important items will be developed as part of the future geotechnical investigation report. Specific recommendations for soil engineering construction observation and testing services will also be provided.

7. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.

All necessary geotechnical engineering design criteria and supporting data will be presented in the future geotechnical investigation report.

8. Signature and registration number of the engineer and/or geologist.

All responses to Items D.2 through D.9 presented herein were prepared by Rick Swanson, P.E., G.E., Registration Number 16885, of Marquess & Associates. All future geotechnical engineering reports and letters will be prepared, stamped, and signed by Rick Swanson.

9. Additional information or analyses as necessary to evaluate the site.

See Item D.7.

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April Lucas

From: Lloyd Haines [lhaines@jeffnet.org]
Sent: Thursday, November 18, 2010 4:02 PM
To: lucasa@ashland.or.us
Subject: planning action 2010-01239

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NOV 18 2010

Ladies and Gentlemen:

CITY OF ASHLAND
CLERK OF COURT

My name is Lloyd Matthew Haines. My office is located at 96 North Main Street, Ashland, and I am the part or total owner of 7 downtown building, some of which are located in the C-1-D district, and some which are zoned C-1. All of the building are located within blocks of the proposed zoning action.

Please consider this e-mail as testimony for the Planning Action relating to 59-85 Windburn Way, #2010-01239. I will do my best to attend the Hearing. In any event, this e-mail should be entered into the record. My opposition to the proposal Zone change and other requests) relate almost exclusively to the parcel on which a 10,000+ square foot building is to be constructed and which will contain a restaurant with over 120 seats.

My opposition to the request relates mainly to the conversion of the property to C-1-D zoning, which will eliminate any parking requirement for the building. I believe this action is totally unreasonable and contrary to the good of the downtown parking situation.

As we all know, especially those of use who own downtown property, the parking situation is problematic, especially during the high season. The City, downtown merchants and building owners have dealt with the issue over the years. The City has instituted a parking violation policy which increased fines for serial offenders. Those offender include many downtown workers who routinely have difficulty finding adequate parking in the downtown area. By adding another 120 seat restaurant and building to the downtown without a parking requirement, will only exacerbated the problem.

Those of us who have developed property down town have lived with the C-1-D map and have done what we must to create new commercial space. I, who developed Water and Central street projects, was required to create off street parking.

I created an off street parking lot at 91 Water street to accommodate retail, office and restaurant use at 51 Water street, a building smaller than the proposed windburn way building. In addition, the Plaza Inn and Suites was required to create a parking lot, including underground parking, for their 106 rooms. Lastly, the Ashland Creek Condos located at 71 Water Street have a off street parking lot to accommodate the 15 units located in that complex. I know the Ashland Creek Inn, also located on Water Street, was denied expansion as a result of insufficient parking.

Water street is not dissimilar to Windburn way, in that 31 Water Street(Taj Indian Cuisine and Caldera Pub), a Commercial building in the C-1-D zone, does not have a parking requirement, but the building next door, i.e., 51 Water Street(Beasy's,Blue Giraffe) does. This situation also occurs on Lithia Way, where the North light project was required to create off street parking, but the other side of the street in the C-1-D zone is exempt.

All that being said, we, the City, have drawn boundaries to permit historic and Main street buildings to operate without off street parking requirements. However, as we move away from Main Street, things change and parking must be addressed. It is imperative that it be addressed in this application. In principle, I have no problem converting the existing "fast food" parcel(and home of the proposed new restaurant) into commercial property, which acknowledges the years of use of this residential property in a commercial manner. I do, however, strongly object to converting it into C-1-D and eliminate the off street parking requirement.

The City has talked endlessly about creating adequate parking for the downtown corridor. Now may be a perfect time to expand the discussion and create a system where development proposals that have difficulty providing adequate parking, pay into a new Downtown Parking Development Fund, which would be created and used to acquire appropriate land to create a "real world" parking lot that will address the needs of the downtown for the next 20 years. Property at the end of Water Street comes to mind(the old SOS Plumbing land), now abandoned by SOS Plumbing, as a perfect place for a major, multi-story parking lot, which can serve the downtown and the Rail Road District.

In conclusion, rezoning the property which is subject of the action, will unreasonably impact the downtown parking situation, and will be a "change in the rules" we have all lived by in the downtown corridor. Thank you for considering this testimony.

Best regards,

Lloyd Matthew Haines
Owner of Downtown Property

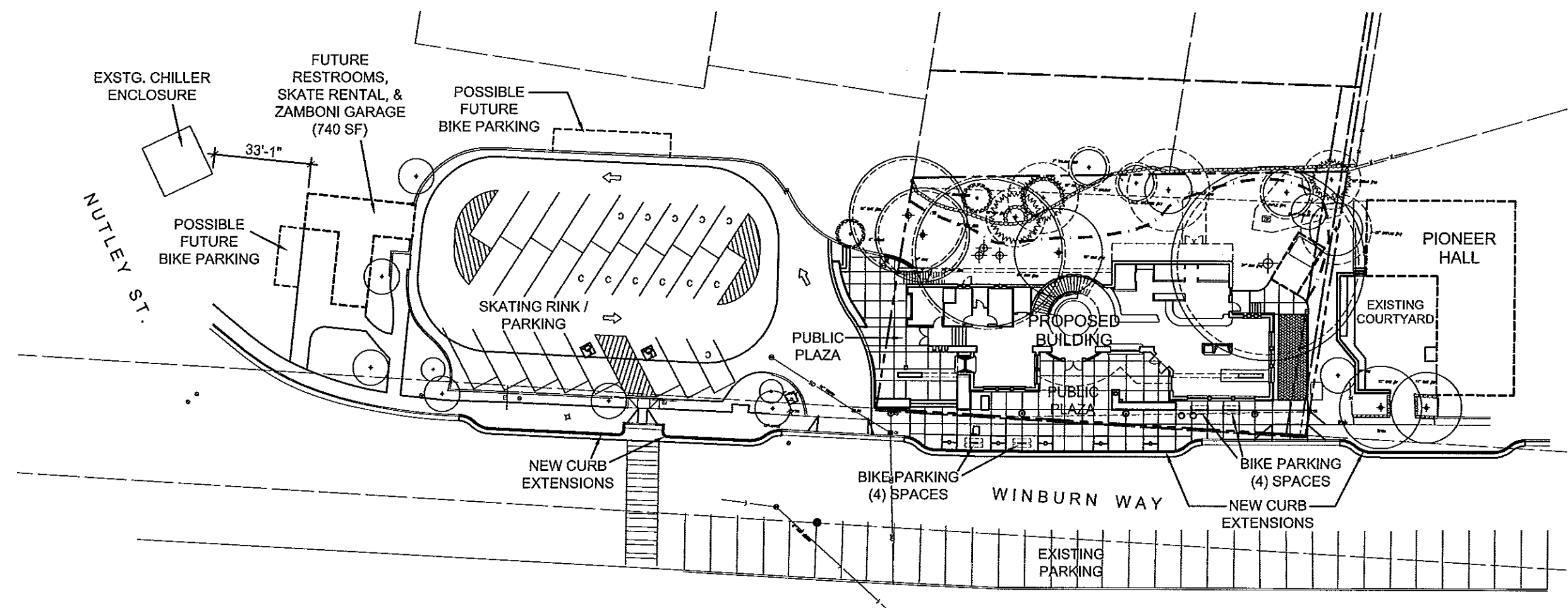
NEW COMMERCIAL BUILDING
85 Winburn Way
Ashland, OR 97520
Assessor's Map No. 391E 09BC; Tax Lot No. 3000

NO.	ISSUE/REV.	DATE
0	Site Review	8/10/10
1	Addtl. info	12/3/10

SHEET TITLE
PRELIMINARY
SITE REFERENCE
PLAN

DATE 3 Dec 2010
SCALE 1"=20'
DRAWN GTC
JOB 85 Winburn

SHEET
L1.0
FILE 0910-GR.dwg



NOTES

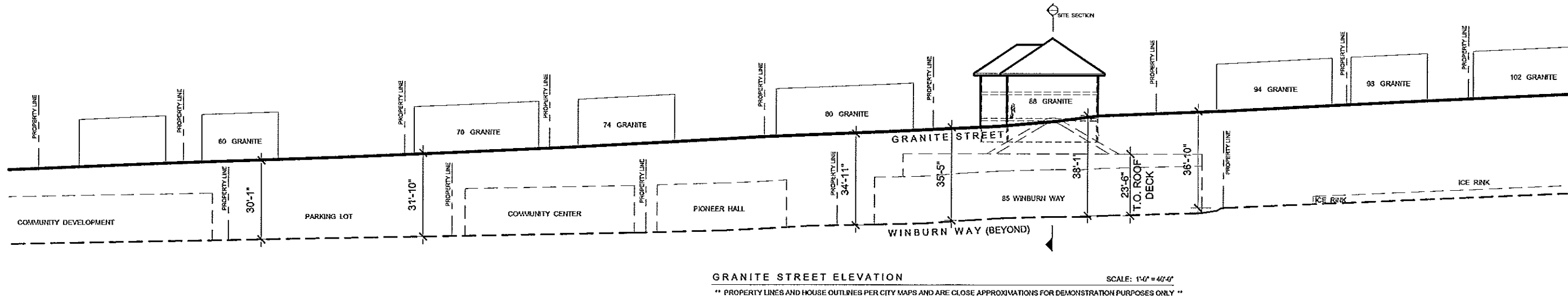
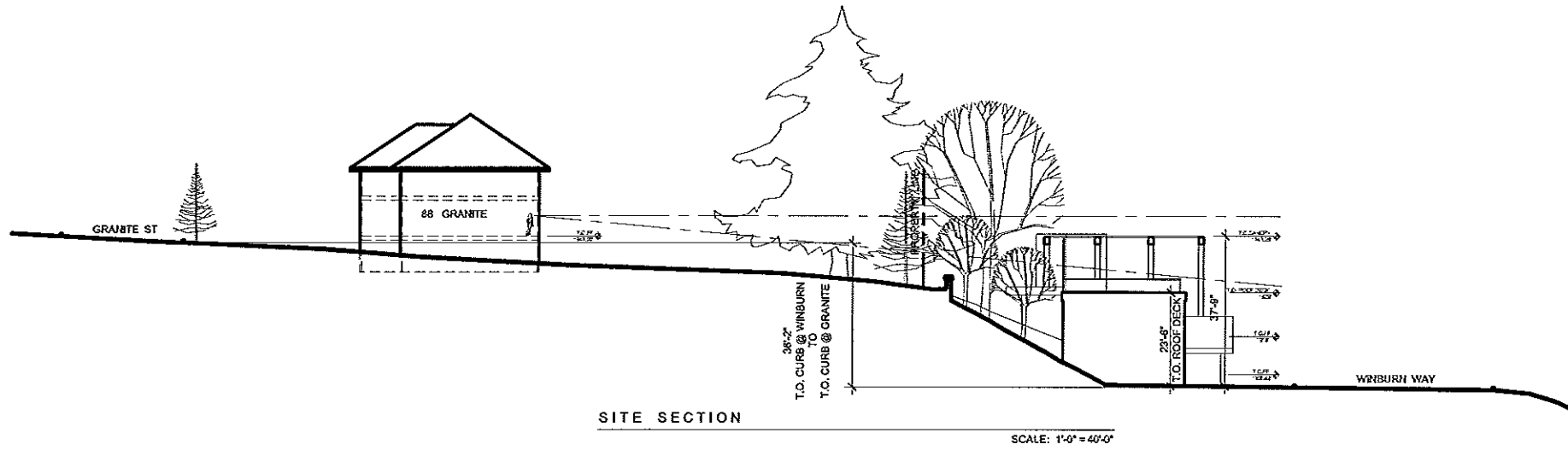
1. Topographic survey for 85 Winburn Way provided by Polaris Land Surveying, LLC.
2. Topographic survey for ice skating rink and City of Ashland parking lot provided by OBEC Consulting Engineers. OBEC survey has been approximately aligned with Polaris survey but has not been field verified. A complete survey including the existing City parking lot will be provided with the building permit drawings.

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City of Ashland
Field Office County





DON SEVER
DESIGN
Carlos Delgado
ARCHITECT

DESCRIPTION	DATE
SITE SECTION	12/03/10

NEW COMMERCIAL BUILDING

85 WINBURN WAY
ASHLAND OR 97520
ASSESSOR'S MAP NO. 391E 09BC TAX LOT NO. 3000

11X17 SHEETS ARE HALF SCALE

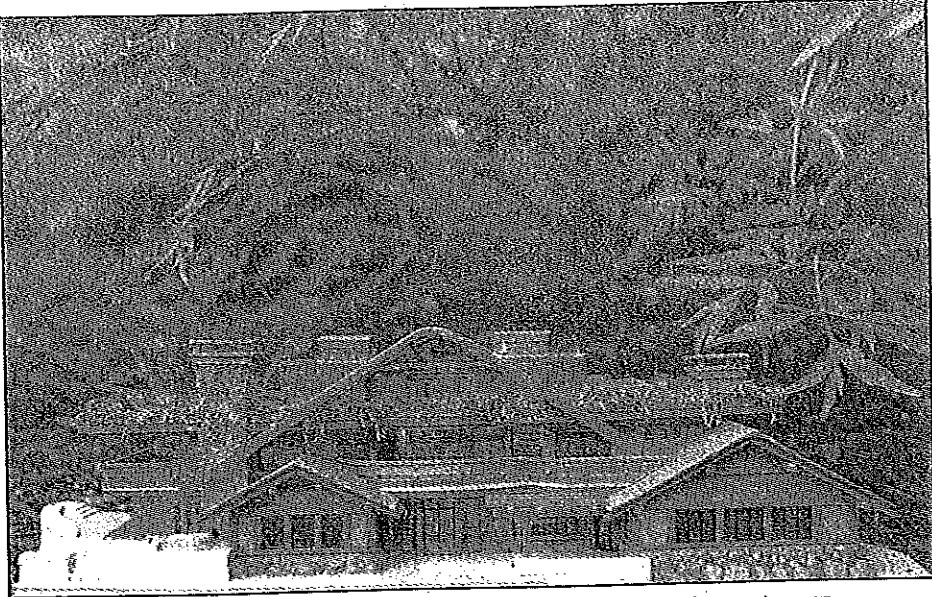
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City of Ashland
Field Office County

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Winburn Way May Get a Facelift



Applicants Hope to Create a Major Draw for Downtown Ashland; Detractors Say There's Already No Parking

by Curtis Hayden

I don't know how it happened, but I missed the article in the *Tidings* on Saturday, October 23, headlined, "Lodge-style restaurant proposed near Lithia Park." The project was, however, already on my radar as I'd been approached last summer by a couple of local businesspeople who tipped me off about it.

My sources had a number of complaints, which I mentioned in a small News Brief in the August 5, 2010, issue. Specifically, they couldn't understand how a two- to three-story restaurant could be built in an area that already had parking problems.

Nor could they understand why this particular applicant was being treated with kids' gloves by the City when other projects, most notably

the Northlight proposal on Lithia Way, were put through the proverbial wringer.

The fact that the applicant had a ton of money to throw the City's way might have had something to do with it, and I ended the News Brief with, "Maybe the old adage applies: Money talks and people listen." I actually felt bad about that because I had never talked with the applicants nor did I know any of the specifics of the project. It was a cheap shot, which my editor should have caught.

Fast forward three months. I received an e-mail from Mark Knox, a land-use planner based in Ashland who was the point man for the "Winburn Way" application, wanting to set up an interview. I ended up

November 4, 20



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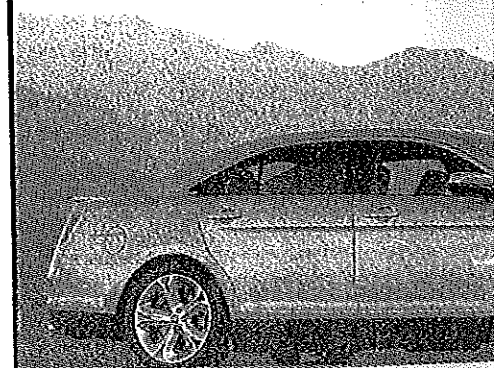
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Sneak Preview
Ashland's News & Review

Winburn
Way May
Get a
Facelift,
p. 45



businessgrapevine

Edited by Curtis Hayden

A new monthly column, "It was 20 years ago today," will debut on page 43 of this issue. Each column features a working living indoor

owned and operated Oregon based business that has been serving Oregon's indoor and outdoor gardeners for more than 20 years. The company is committed to growing organically and helping everyone to achieve the benefits of a healthier life by growing food organically. Aurora Serene is the exclusive authorized distributor for Southern Oregon, lines and potting soils. Aurora Innovations products are nationally distributed and contain the highest quality organic ingredients, consistently providing excellent results. Locally, Aqua Serene is the exclusive authorized distributor for Southern Oregon,

Dr. Jani Rollins and Kathryn Stringer, FNP
Focusing on Your Health Needs



meeting Knox and Project Manager Melanie Mularz last week at the studio of designer Don Sever on Strawberry Lane.

The room was filled with drawings and models, including the centerpiece, an elaborate full-scale model of the building which they hope to construct at 85 Winburn Way, replacing the run-down "shack" currently on the site.

Knox immediately filled me in on the basics. "This is a project that we've been working on for two years," Knox said. "The applicants, Jon and Esther Phelps, live in Ashland, and everyone else, from Melanie and me to the designer (Don Sever), architect (Carlos Delgado), landscape architect (Greg Covey), arborist (Tom Myers) and attorney (Chris Hearn) are all from Ashland."

Like many others in Ashland, the Phelps', who live on upper Granite Street, felt the underused, dilapidated building at 85 Winburn Way—plus the lack of accommodations for skaters at the ice rink—was an eyesore across from Lithia Park.

As part-owners of Storyville Coffee, an Internet-based company in Seattle, they thought a coffeehouse/restaurant set inside a tastefully done structure would add to the ambience of the park and be a draw for downtown Ashland.

There was only one small glitch—the property was zoned residential. It was, in fact, one of the reasons why a long line of restaurants was never able to make it a success at that site.

Some Historical

Background

But first a little history. At the turn of the century, the stretch along Mill Street (now Winburn Way) was the site of Ashland Creamery, owned by Domingo Perozzi. The creamery was established in 1896, "and by 1905 was distributing milk, butter and other products to a large part of southern Oregon and northern California."

The company folded in 1949, and in 1957 the Perozzis donated three lots to the City of Ashland (including where the Community Center and Pioneer Hall are). The building at 85 Winburn Way remained in private hands and has had a series of owners since then. Because it was residential, any commercial use had to be granted a Conditional Use Permit by the City, which is a highly discretionary entitlement limiting any business growth.

None of the restaurants at that site since 1967, from the Creekview Café and Winter Café to Lithia Café, have ever made it a success. Location may have been part of it, but the building itself was never conducive to anything other than curb service for those visiting Lithia Park.

If the Phelps' have their way, that

will all change. The new building, according to Mark Knox, will be an "amazing" structure.

"It was designed to look like something in a National Park," Knox said. "It is what John McLaren, who designed Lithia Park, might have envisaged. Each part of the building will be unique, and 70% of it will be dedicated to corridor space. The coffeeshop and restaurant will only constitute 30% of the space."

The basement will house a prep kitchen and storage area. On the ground floor, visitors will encounter a large open space with an atrium letting in sunlight. There will be two separate dining areas, plus outdoor patios.

The second floor will house larger dining areas and covered patios, while the third floor will consist of a 300-square-foot observation deck and an angled roof.

"There are a lot of spaces within the building for people to just hang out and have a cup of coffee," Knox said.

"There's a lot of glass, a lot of light, and no room is overwhelmingly large. It will be a great place to enjoy Lithia Park, and it is going to be a credit to this community."

You Are Entering the

Twilight Zone Change

But back to that glitch. In order to move the project forward, the applicants needed to get a zone change, which is something the City of Ashland has been hesitant to do. The inventory of commercial zoning in the City is already abundant, but Winburn Way has always been an anomaly.

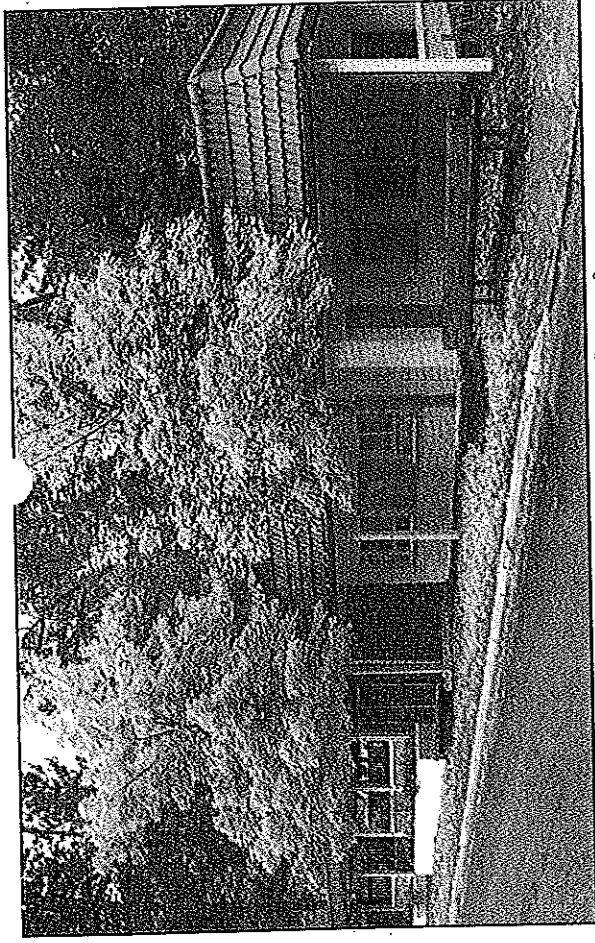
"The City actually had to get a zone change in 2002 to build their office building up the street," Knox said. "From there all the way down to Nutley, though, it's still zoned residential, and it's out of place. Right now there's a parking lot owned by Bruce and Poki Roberts. The Community Center, Pioneer Hall, and the skating rink down to Nutley is owned by the City. And the property where our building will go is owned by a private party."

Knox maintains that residential zoning along that strip is out of place. "Because it's residential, there would be no restrictions on what someone could build," he said. "As a commercial zone, at least the City would be able to apply some standards."

A zone change is crucial for the project to proceed, and in one of those supreme moments of irony, the City of Ashland is actually a co-applicant since three of the properties on the street belong to them.

Apparently, the City is on board with the plan, but when I called City Councilor Russ Silbiger about it, he said it was a land-use issue and he didn't want to have any *ex parte* conversation about it. Hmm.

(It's an interesting dilemma, though, because the City is essentially asking itself to give itself a zone change. But, of course, nobody can talk to anybody else about it because if there's any *ex parte* conversation, it can be thrown out in court. I personally think the City is wiggling out a little much over this *ex parte* stuff and should be completely open and transparent about everything they do. And



This structure on Winburn Way will make way for progress.

let their public officials talk to the citizens about it. When did this City get taken over by the lawyers is what I want to know.)

Sweetening the Pot

Once the application for a zone change is complete, the project will enter Phase II, which is a site review of the building itself. The applicants have already been before the Historic Commission and Parks Commission and received their blessings.

Of course, it couldn't have hurt that the Phelps' have offered to make improvements to the outside area of Pioneer Hall, some improvements to the north end of the skating rink, and construct a building at the corner of Winburn and Nutley to house ice skate equipment and the Zambonie ice-smoothing machine.

"We will create a plaza space next to our building where users of the ice rink can hang out, have some coffee and use the restrooms," Knox said. "Right now there's really no place for people to go, and they have to use port-a-potties. At Pioneer Hall, we plan to make improvements to the outdoor patio area. We will also widen the sidewalks and install trees. The whole streetscape will be improved."

Along with the new building to house ice skating equipment and

the Zambonie machine, the added improvements will make the ice skating rink a bigger draw than it is.

"There is a lot of civic mindedness to this project," Knox said. "If this is done right, it will make this area an attraction during the winter months. That will benefit all of the downtown merchants, as well. This is an opportunity to create a world-class outdoor skating environment."

Some Negatives

It's hard to find anyone who wants to go on record as opposing the project. The concerns I have heard, however, are: 1.) Parking will be a problem; 2.) A restaurant in that location cannot be successful unless they pull in massive amounts of people (see concern #1 above); 3.) The building is too big and is overkill; 4.) This isn't Disneyland; and 5.) This is not Aspen.

Mark Knox was able to address all those concerns. "We already have the largest parking lot in Ashland along Winburn Way and at the ice rink during the non-skating season," he said. "The restaurant and coffeeshouse will compete on its own merits. The building will be something people in Ashland can be proud of. And as a tourist-based economy, we need more things to draw people to Ashland."

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VI. UNFINISHED BUSINESS

Council Communication

Study Session to Review Community Development Department Projects and Priorities

Meeting Date:	November 1, 2010	Primary Staff Contact:	Bill Molnar
Department:	Community Development	E-Mail:	molnarb@ashland.or.us
Secondary Dept.:	None	Secondary Contact:	None
Approval:	Martha Bennett	Estimated Time:	60 minutes

Question:

Does the Council have direction about the projects and work priorities of the Community Development Department?

Staff Recommendation:

This is presented to the Council as a discussion item.

Background:

During deliberation on the Croman Mill Master Plan members of the Council asked about the status of other Community Development Projects. In addition to the mandatory work related to development, the department has several projects that relate to City Council goals. The department also has several projects that relate to State and Federal mandates and to Regional Problem Solving. Lastly, there are several long-range Planning projects that staff could take on as time is available.

Staff is seeking Council concurrence with the project priorities and timelines. Staff also seeks Council direction on the priority that should be given to the other projects.

Existing Projects Related to Council Goals

1. Develop a Strategy for Funding Public Facilities and Infrastructure for Economic Development Projects.

As a potential tool to help advance the objectives of the Council's Economic Development Strategy, the Community Development Department will evaluate the feasibility of forming one or more urban renewal districts, and financing projects with Tax Increment Financing (TIF). At the September 21st meeting, Council authorized Community Development staff to move ahead with an Infrastructure Financing Plan and Urban Renewal Feasibility Study. The initial feasibility study will be conducted by a consultant with expertise in the area of urban renewal and the results presented to the Council consideration of next steps. Which would include determination of district boundaries, types of projects, maximum amount of indebtedness, and urban renewal board governance.

2. Integrated Land Use and Transportation System Plan (TSP)

This comprehensive update will integrate future land use and transportation system elements thereby including innovative ways to increase multi-modal trips and to make walking, bicycling and transit real options for a wider variety of people. A concise list of project steps include: establishment of advisory committees, review of existing plans and policies, conduct system inventory, evaluate existing and future conditions, pedestrian node (places) evaluation,



alternative analysis and funding programs, sustainability, preferred alternatives and drafting of implementing ordinances.

3. Pedestrian Places Project

This project was folded into the larger project of updating Ashland's citywide Transportation System Plan (TSP). The Community Development Department will study three locations as Pedestrian Places - Tolman Creek Rd. /Ashland St., Walker Ave. /Ashland St., and N. Mountain Ave. /E. Main St. Pedestrian Places are intended to provide attractive and functional places for the people living and working within walking distance of the intersections, while promoting a variety of housing and transportation choices, including public transit.

The sites selected for the Pedestrian Places project have future development potential because of the vacant or under developed properties surrounding the intersections. The project is an opportunity to plan for these areas ahead of time, so that the community's vision and needs for the area are incorporated into city guidelines and standards. This hopefully will give greater certainty to property owners who are interested in developing or redeveloping their land. The Pedestrian Places project will ultimately culminate with the adoption of illustrated plan amendments and development standards.

4. Convene Stakeholders Working on Issues Related to Homelessness to Develop a Plan for:

- Replacing services previously provided by ICCA.
- Developing an emergency shelter for minors.
- Improving connections to services available in Jackson County to Ashland's homeless.
- Ensuring Jackson County's 10 Year Plan addresses the specific issues faced in Ashland.

Staff have has completed the initial first step of identifying the services previously provided by ICCA, and have reconciled those services with those services currently being provided locally by church groups and non-profit organizations, as well identifying services which are no longer available. Staff is in the process of meeting with providers of social services throughout Jackson County to evaluate the level of services provided to Ashland residents outside of the Ashland area and better identify service gaps locally.

To ensure that Jackson County's 10-Year Plan to address homelessness addresses issues specific to Ashland, City Staff continues to be an active member of the Homeless Task Force, to advocate for the needs of Ashland's homeless and at-risk populations and to work to create and maintain partnerships with providers of homeless services throughout the County. The City's Housing Program Specialist is currently the chair of the Homeless Task Force, which allows the City to have more involvement in the Department of Housing and Urban Development, McKinney-Vento funding process and puts the city in a better position to connect the City's homeless and at-risk populations with services that are available throughout Jackson County.

Staff has met with the only youth shelter provider in Jackson County, Hearts with a Mission (HWAM), to gain a better understanding of the funding needs of that organization, the demographic trends in homeless youth populations that they serve and what state and federal requirements they are subject to. HWAM reports that of the 65 homeless youth that they have



provided 2,110 nights of shelter for since they opened in December of 2009, none have identified as coming from/residing in Ashland. The majority of the population that they serve is female. The youth that utilize the shelter report leaving home due to issues of physical, sexual, and drug abuse in the home. HWAM received \$200K CDBG funding from the City of Medford to acquire the building and the site then received monetary and in-kind donations of approx 250K to complete repairs, upgrade, furnish and supply the shelter. HWAM spends approx \$300K annually to pay for staff and run the mission. Currently they receive no state or federal funding.

5. Complete the Sale of the Clay Street Property to the Parks Department and Propose Development Scenarios for the Remaining Land.

The majority of housing units are nearing completion and the Housing Authority of Jackson County is advertising their availability for qualified tenants. The entire 60 unit project remains on schedule to be completed before the end of the year.

Prior to the end of the year, Community Development and Parks Department staff will present a proposal where by an approximately 4-acre portion of the parent 10-acre parcel will be partitioned off for a park. A memorandum of understanding between the City Council and Parks Commission will clearly outline the obligations for each party. Lastly, Community Development staff will present options to the Council for the remaining one-acre of land. This could include retaining the land in public ownership, selling the land for market value or soliciting proposal for an affordable or mixed-income project.

6. Improve Clarity, Responsiveness and Certainty of the Development Process

The Community Development Department will build upon the work completed in the 2007 Organizational Audit, by Zucker Systems. A number of the audit's recommendations are being re-examined and fine-tuned to improve the effectiveness of permit processing procedures. Improvements to the existing pre-application process will continue to be evaluated. By providing meaningful comments upfront, staff saves time and the applicant saves money when formal applications are filed. Additionally, the city's permit tracking program is being assessed to determine if internal coordination among city departments can be improved. For example, if a permit is electronically put on hold by a department, what tracking parameters are in place to notify the applicant in a timely matter as to the deficiencies of the application?

During the last City Budget adoption process, the Community Development Department set benchmarks for evaluating the effectiveness of the development review process. The Department is putting in place systems to more accurately collect information on identified targets, such as the percentage of applications complete at filing, turnaround time for building permit review and issuance as well as average response time to inspection requests.

Lastly, a customer questionnaire will be sent applicants, contractors, design professionals, etc. that have been involved with a development review permit (i.e. building permit or land use application) over the past 5-years. The questionnaire is similar to the one sent out in 2007 as part of the Community Development Organizational Audit. It is intended to provide an assessment of the effectiveness of the development review process in a variety of areas and identify specific areas for potential improvement.



7. Adopt Land Use, Building Codes, and Fee Structures that Create Strong Incentives that Promote Green Development (energy, water, and land efficient and supports a multi-modal transportation system)

The project will evaluate ways to adjust the City's planning application and building permit process to support new development that saves energy and water, uses land efficiently and promotes non-automotive travel. Existing regulations that create disincentives to energy, water, land efficiency and transportation savings will be identified and repealed if necessary, while changes to the development process that offer incentives for green building methods will be analyzed and recommended for implementation. Community benefits from instituting changes to fee structures that reward green building practices will be assessed. Staff will track the current effort to adopt an optional statewide green building code (i.e. "Reach" code) and, upon adoption by the State, will make these alternate methods readily available to the local building community.

Other Projects

1. Historic District Rehabilitation and Remodel Standards

The Community Development Department's historic preservation program receives periodic grants to complete related planning and public education efforts. A recent grant was awarded from the State Historic Preservation Office (SHPO) allowing the Department to seek proposals from qualified professionals to revise and expand our existing Historic District Design Standards to provide greater internal consistency, bring the standards in line with the Secretary of the Interior's Standards for Rehabilitation and create greater certainty for property owners contemplating develop within the district.

In 2008, the City of Ashland adopted a Historic Preservation Plan for the period of 2009-2018 to provide a strategic roadmap for implementing preservation related projects in Ashland. Included within that Plan is an identification and prioritization of upcoming projects. One of the first priority projects identified is the establishment of more detailed rehabilitation and remodel standards for residential projects within historic districts. These current standards are most useful for the review of residential projects within the historic districts. However, it has been noted that some of these standards conflict with the standards for commercial development within Section VI, the Downtown Ashland section of the *Site Design and Use Standards*, and that some of the Standards in Section IV-B conflict with or contradict the Secretary of the Interior's Standards for Rehabilitation.

2. Buildable Lands Inventory Update

The Community Development department is currently undertaking a full update of the City's Buildable Lands Inventory (BLI) which will be completed this fiscal year. The BLI was most recently updated in 2005, and this current effort will evaluate all development that has occurred since that time as well as any changes in development potential due to recent ordinance or zone changes. This update of the BLI will quantify all available land suitable for development within the City's Urban Growth Boundary.

The City of Ashland maintains the BLI to assess long range planning needs and to assist in evaluating economic development opportunities. The update of the BLI in conjunction with Quarterly Census of Employment and Wage (QCEW) databases will permit the city to closely monitor where employment locates, what rate vacant employment land is being absorbed and



CITY OF ASHLAND

how much new employment is occurring. Under statewide planning goals a land component of a BLI is utilized to assess whether the Urban Growth Boundary (UGB) contains enough land to satisfy the community's 20 year housing and employment land needs.

3. Regional Problem Solving (RPS) – Plan Amendments

Mayor Stromberg and city staff presented Ashland's recommendations relating to adoption of the Greater Bear Creek Regional Problem Solving Plan to the County Planning Commission on August 12th. County staff has begun crafting some revisions to the plan in response to issues raised to date, and a draft of these revisions will be forwarded to Council in the near future. The County Planning Commission will continue to meet regularly into February 2011 to consider the remaining chapters of the plan and any outstanding issues as they prepare a recommendation to the Board of Commissioners, who will ultimately consider adopting the RPS Plan in 2011. The Jackson County Planning Commissioners will meet to discuss any remaining issues relating to Talent, Ashland and Phoenix at a special night meeting tentatively scheduled for 6:00 p.m. on Thursday, November 18th, 2010. Should the Jackson County Board of Commission choose to adopt the RPS Plan, participating cities would need to draft plan and code amendments which acknowledge the regional plan, as well that implement relevant sections of the plan.

Potential Other Projects

1. Adoption of Railroad Master Plan

As a result of the past public involvement process that lead to the draft 2001 Ashland Railroad Property Master Plan, a local street network plan for the railroad plan was adopted for the property to guide future development of the site. A work plan would be developed that identifies the significant elements from the 2001 draft Plan to consider for adoption and implementation. Plan amendments, standards and code incentives would be presented to encourage the future physical development of a District Core that incorporates key elements of the draft Plan, such as a civic roundhouse building and centrally located transit center. Additionally, the project would analyze the feasibility of integrating an urban park corridor adjacent to Mountain Creek, as the easterly bookend of this railroad area employment center. Lastly, a transportation study would be completed to understand benefits and costs (i.e. impacts) associated with the proposed Fourth Street railroad crossing.

2. East Ashland St. Redevelopment Plan

This would likely involve the adoption of a planning overlay for the employment corridor along Ashland Street, which extends west of the Tolman Creek intersection and east of the railroad overpass. The planning effort would focus on the land area with redevelopment potential that has been the spotlight of recent development interest. This includes but is not limited to the Goodwill, Bi-Mart, Shop n Kart, Handyman, Richard's Sheet Metal and Ray's Nursery sites. The planning project would focus on ways to provide incentives and certainty to property owners through illustrative codes and standards intended to overtime allow for the orderly replacement of existing low-intensity, auto-oriented land uses with mixed-use development, consisting of pedestrian and bicycle friendly land use patterns that support transit-use.

3. Normal Neighborhood Master Plan

As a whole, this project will guide future development to provide for a compact neighborhood form which better accommodates needed housing types, considers existing natural resources



(i.e. wetlands), and enhances overall mobility while reducing existing levels of reliance on the automobile in the plan area. Given the project area's central location it presents an opportunity for medium to higher density housing in support of a transit-oriented development.

This project entails completion of a land use and transportation plan for what is locally referred to as the Normal Avenue area. Currently the area has a mix of comprehensive plan designations including single family residential and suburban residential, and is presently outside of Ashland's City Limits yet within the Urban Growth boundary. The development of an integrated land use and transportation plan will identify new local streets, bike and pedestrian paths, evaluate transit route opportunities, and consider the location of future, major access points onto East Main Street.

Residential development in the area has historically been low density consistent with County zoning standards, which unfortunately did not anticipate future growth. In recent years, the City has received pre-applications for annexation and development of housing on individual properties within the plan area. The piecemeal conceptual plans provided by applicants address each individual parcel in isolation, and thus do not present a coordinated approach to planning the entire area.

Potential Motions:

None

Attachments:

Estimated Project Timelines



Projects Related to Council Goals

Timeline

Community Development Department

Jul-10 Aug-10 Sep-10 Oct-10 Nov-10 Dec-10 Jan-11 Feb-11 Mar-11 Apr-11 May-11 Jun-11 Jul-11 Aug-11 Sep-11 Oct-11 Nov-11 Dec-11 Jan-12 Feb-12 Mar-12 Apr-12 May-12 Jun-12

¹ Strategy for Funding Public Facilities and Infrastructure

² Develop Integrated Land Use and Transportation System Plan (TSP)

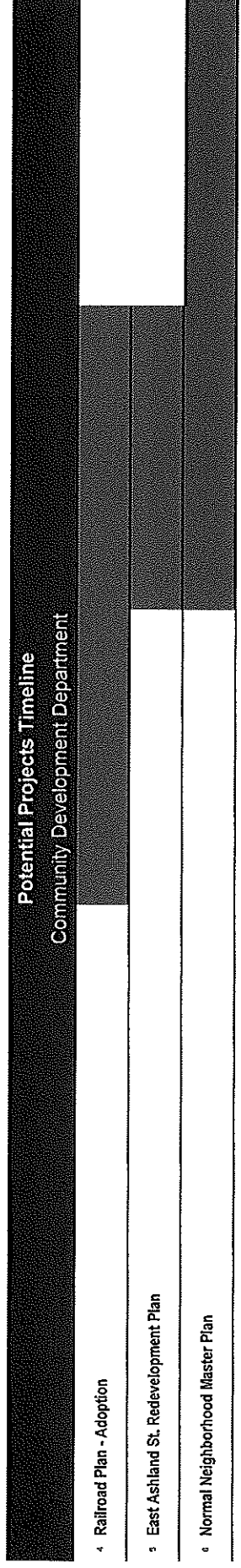
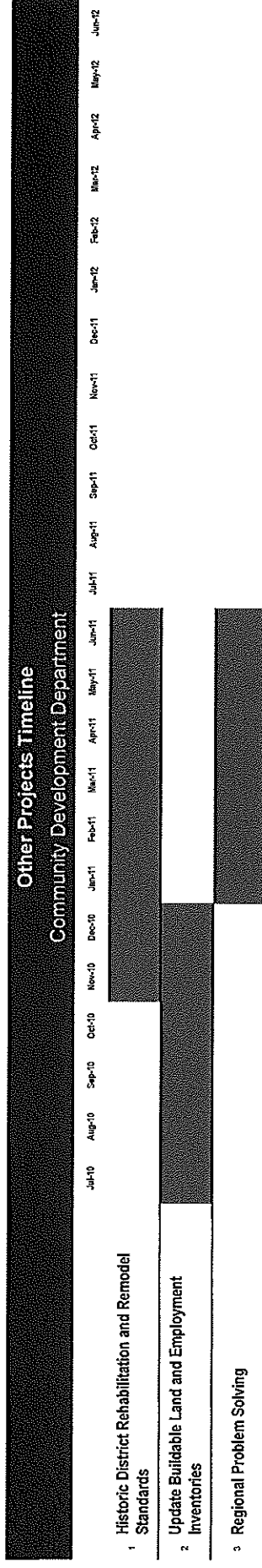
³ Pedestrian Places Project

⁴ Develop a Plan to Address Homelessness

⁵ Complete Sale and Development Scenario for Clay Street - Phase II

⁶ Improved Clarity and Responsiveness of Development Process

⁷ Land Use and Building Code Standards and Incentives to Promote Green Projects



2010-2011 CITY COUNCIL GOALS

OVERVIEW

The City Council has set goals for the next 12 to 24 months to continue Ashland's history as a community that focuses on sustaining itself and its people. To us, sustainability means using, developing and protecting resources at a rate and in a manner that enables people to meet their current needs and also provides that future generations can meet their own needs. The City of Ashland has a responsibility towards sustainability in six primary areas:

- Economy
- Environment
- Social Equity
- Municipal Organization
- Public Facilities
- Partnerships

ECONOMY

Develop and implement a comprehensive economic development strategy for the purpose of:

- Diversifying the economic base of the community
- Supporting creation and growth of businesses that use and provide local and regional products
- Increasing the number of family-wage jobs in the community
- Leveraging the strengths of Ashland's tourism and repeat visitors

Develop an implementing strategy for funding infrastructure and public facilities for economic development projects.

Increase the clarity, responsiveness, and certainty of the development process.

ENVIRONMENT

Develop an integrated land use and transportation plan to increase the viability of transit, bicycles, walking and other alternative modes of transportation; reduce per capita automobile vehicle miles traveled; provide safe walking and bicycling routes to home, work, shopping and schools; implement environmentally responsible design standards, and minimize new automobile-related infrastructure.

Adopt an integrated Water Master Plan that addresses long-term water supply including climate change issues, security and redundancy, watershed health, conservation and reuse, and stream health.

Implement specific capital projects and operational programs to ensure that City facilities and operations are a model of efficient use of water, energy, land, and other key resources.

Adopt land use codes, building codes, green building standards, and fee structures that creates strong incentives for new development that is energy, water, and land efficient and supports a multi-modal transportation system.

Develop a strategy to use conservation and local renewable sources to meet Tier 2 power demands.

Plan for low-water years including potentially 2010 by:

- Implementing a public information and technical assistance campaign that encourages summer time conservation.
- Consider the options for a summer time surcharge to encourage efficient irrigation practices prior to June 1, 2010.

SOCIAL EQUITY

Complete the sale of a portion of the Clay Street Property to Parks and Recreation and decide whether to develop or sell the remaining land.

Convene a discussion of stakeholders working on issues related to homelessness to develop a plan for:

- Replacing services previously provided by ICCA.
- Developing an emergency shelter for minors.
- Improving connections to services available in Jackson County to Ashland's homeless.
- Ensuring Jackson County's 10 Year Plan addresses the specific issues faced in Ashland.

ORGANIZATION

Develop plan for fiscal stability, manage costs, prioritize services, and insure key revenue streams for the City and Parks & Recreation.

Address issues the stability of the organization including employee recruitment and retention; succession planning; and effective and increased use of citizen volunteers.

PUBLIC FACILITIES

Develop a plan to replace Fire Station #2.

Define a long term strategy for the Ashland Fiber Network that improves its financial viability, provides high quality services to residents, and promotes healthy economic development.

PARTNERSHIPS

Foster strong collaboration of the local community, City, State and Federal leaders in efforts to improve the health of the Ashland watershed through reducing fire hazards and restoring forest health.

Advocate for the long-term viability of rail service to and through Ashland and encourage the use of rail through land use, transportation, and economic development planning.