

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
AUGUST 9, 2011
AGENDA**

I. CALL TO ORDER

II. ANNOUNCEMENTS

III. CONSENT AGENDA

A. Approval of Minutes

1. July 12, 2011 Regular Meeting

IV. PUBLIC FORUM

V. TYPE II PUBLIC HEARINGS

A. PLANNING ACTION: #2011-00738

SUBJECT PROPERTY: 1405 Tolman Creek Road

APPLICANT: Malibar Group, LLC

DESCRIPTION: A request for Outline and Final Plan approval for an 8-lot Performance Standards Subdivision to be developed in three phases for the vacant property located at 1405 Tolman Creek Road. The application also includes requests for a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a large (60-inch diameter) maple tree; an Exception to Street Standards to not install sidewalks along a portion of the new street; and a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road. COMPREHENSIVE PLAN DESIGNATION: Single Family Residential; ZONING: R-1-7.5; ASSESSOR'S MAP #: 39 1E 23 BA; TAX LOT: 308 and 501.

(Continued from July Planning Commission Meeting – Public Hearing is CLOSED.)

VI. OTHER BUSINESS

A. TSP Joint Meeting Follow-up Discussion

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).

**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
REGULAR MEETING
MINUTES
July 12, 2011

CALL TO ORDER

Chair Pam Marsh called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

Commissioners Present:

Larry Blake
Michael Dawkins
Pam Marsh
Debbie Miller

Staff Present:

Bill Molnar, Community Development Director
Derek Severson, Associate Planner
April Lucas, Administrative Supervisor

Absent Members:

Melanie Mindlin

Council Liaison:

Russ Silbiger, absent

ANNOUNCEMENTS

Commissioner Marsh presented John Rinaldi Jr. a certificate in recognition of his service on the Planning Commission.

Community Development Director Bill Molnar stated the City Council will be holding a Study Session on urban renewal on July 18th and stated staff is looking for direction from the Council on whether they want to proceed.

Commissioner Marsh listed the upcoming meetings of the Planning Commission.

CONSENT AGENDA

- A. Approval of Minutes.
1. June 14, 2011 Regular Meeting.
 2. June 28, 2011 Study Session.

Commissioner Miller requested the minutes of June 14, 2011 be amended to reflect her attendance and input from the June Historic Commission meeting.

The Consent Agenda was approved with the noted correction to the June 14th meeting minutes.

PUBLIC FORUM

No one came forward to speak.

TYPE II PUBLIC HEARINGS

- A. PLANNING ACTION: #2011-00738
SUBJECT PROPERTY: 1405 Tolman Creek Road
APPLICANT: Malibar Group, LLC
DESCRIPTION: A request for Outline and Final Plan approval for an eight-lot Performance Standards Subdivision to be developed in three phases for the vacant property located at 1405 Tolman Creek Road. The application also includes requests for a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a large (60-inch diameter) maple tree; an Exception to Street Standards to not install sidewalks along a portion of the new street; and a Physical & Environmental Constraints Review Permit to allow utility installation within

the Hamilton Creek floodplain along Tolman Creek Road. **COMPREHENSIVE PLAN DESIGNATION: Single Family Residential; ZONING: R-1-7.5; ASSESSOR'S MAP #: 39 1E 23 BA; TAX LOT: 308 and 501**
Commissioner Marsh read aloud the public hearing procedures for land use hearings.

Ex Parte Contact

Commissioners Miller, Dawkins, Blake and Marsh made site visits; No ex parte contact was reported.

Staff Report

Associate Planner Derek Severson presented the staff report for the proposed 8-lot subdivision. He stated the proposal is for a three phased performance standards subdivision, including a variance to reduce the number of on-street parking spaces to preserve a large maple tree, an exception to not install sidewalks along a portion of the new street, and a physical and environmental constraints permit to allow utility installation within the Hamilton Creek floodplain.

Mr. Severson provided an overview of the site and the surrounding area, and clarified the tax lots to the north and south of the flag drive are not included in this application. He explained the applicant is proposing to complete a $\frac{3}{4}$ street improvement within the existing driveway and to meander the drive around a large maple tree located in the center of the site. He stated the street improvements, including a parkrow and sidewalk would be installed along the south side of the street during phase one, and the sidewalk along the opposite side would go in when the property to the north is eventually developed. He added the applicant is willing to install the full street improvement at this time if a reimbursement agreement can be worked out with that owner. Mr. Severson reviewed the placement of the sidewalks and stated the existing driveway easement would be turned into a pedestrian easement to provide connectivity from Apple Way to Tolman Creek Rd. He reviewed the applicant's Tree Protection Plan and noted the issues raised in the staff report, including the request for a revised plan that identifies any additional measures the arborist finds necessary to protect the maple tree during construction and excavation, and the adjustment of the building envelope for Lot 6 to protect the trees on the west property line. Mr. Severson reviewed the applicant's variance request to the on-street parking requirement and stated staff believes the requirement can be met when the circular drive is removed in the later phases of the development. He stated staff is recommending a revised site plan be presented that addresses on-street parking, the removal of the looped drive, the use of shared drives, and the separation between driveways.

In closing, Mr. Severson stated staff believes the applicant has met the requirements for subdivision approval and the physical and environmental constraints permit. He restated staff's request for the applicant to present a revised Tree Protection Plan and a revised Site Plan as discussed, and in terms of the sidewalk recommended the pedestrian routes be clearly distinguished.

Questions of Staff

Commissioner Dawkins asked for clarification regarding the parking and questioned if this development would take away potential parking from the undeveloped lots. He also asked if accessory residential units (ARU) could be placed on these lots and what the parking requirements would be. Mr. Severson stated an ARU would be subject to a conditional use permit and staff would normally address parking at that time based on the size of the additional unit. Dawkins questioned if they should include the capability for more parking at this stage rather than having this issue come up later down the road.

Commissioner Miller asked if it would be feasible to install the sidewalk on the opposite side of the street where there are no trees planted. Mr. Severson stated city street standards require sidewalks to be installed on both sides of the street, and regardless of which side of the street the sidewalk goes in first, eventually those trees will be impacted.

Applicant's Presentation

Mark Knox, 485 W Nevada/Laurie Sager, 700 Mistletoe/Mark Kamrath, 725 Alaska/Mr. Knox addressed the Commission and stated the primary objectives of the applicant are: neighborhood compatibility, preserving the trees, and limiting the impact on the surrounding properties. He noted the neighborhood meetings that were held and commented on the phasing of the development. Mr. Knox explained they are going from two lots to eight, and on 3.21 acres they could legally do 11 and could enhance that number significantly through density bonuses. He added, however, this is not what the applicant wants. He explained the average lot size in the proposed development is 15,000 sq. ft, and the surrounding neighborhood has averages of 10,200 sq. ft. In addition, they are proposing setbacks that greatly exceed the standard.

Mr. Knox commented on the concern regarding two-story homes. He reviewed the proposed setbacks and explained this site also sits about 6-8 feet below the existing homes. Regarding the relocated pedestrian easement, he commented that the previously proposed easement was oddly placed and their proposal would relocate the easement along a public street and will provide a direct link to the meandering driveway up to Apple Way. Mr. Knox commented on the on-street parking requirements and noted where spaces could be made available. He also commented on the sidewalk installation and suggested either a narrower sidewalk to preserve one additional tree, or stopping the sidewalk short. He expressed concern with the staff recommendation for trees 38, 39 and 40 to be saved indefinitely and stated these are located on a shared property line and there could be hazardous conditions that arise in the future that may necessitate their removal.

Questions of the Applicant

Mr. Knox was asked about the phasing of the development and its relation to the creation of off street parking, and about the private drive that will cross the natural drainage easement. Ms. Sager commented on how the maple tree will be protected during the construction stages, and emphasized that this project was designed around that tree and they will do everything they can to preserve it.

Public Testimony

Michael Hitchcock/2300 Lupine Dr/Stated he resides in one of the homes behind the project site and commented on the issues and concerns outlined in the letter he submitted; specifically, 1) tree preservation and protection, 2) retention of morning solar access, 3) single story compatibility with the neighborhood, and 4) light and glare screening.

Karen Green/1403 Apple Way/Stated the proposed pedestrian easement crosses her property and explained this is currently a private vehicular driveway. Ms. Green shared her concerns with turning this into a public easement, including the loss of property value and privacy, and light and glare associated with street lights. She questioned the need to have a pedestrian connection to Tolman Creek and stated this stretch of road can be a scary place to walk. She suggested the Commission table this element of the application, or abandon it entirely.

Estelle Voeller/3784 Coleman Creek Rd, Medford/Stated she is supportive of the proposed re-routing of the pedestrian pathway but understands this will affect other residents. Ms. Voeller noted where her property was located in relation to the proposed site and shared her concerns regarding the safety of the pathway. She commented on the potential fire danger and said the ravine could be dangerous if someone fell in. Ms. Voeller asked about the maintenance and accident liability if the vehicular driveway is turned into a public walkway, and also asked if the catch basin on her property would be impacted by the drainage.

Zach Brombacher/1370 Tolman Creek Rd/Stated he is not supportive of infill and shared his concerns regarding this proposal, including: inadequate parking, fire truck access and fire protection, installing the necessary road width, and using swales so that water does not flow onto his property.

Eric Heesacker/2360 Ranch Rd/Stated the land owner has gone out of his way to be generous to the property owners and thinks this is a very good land use proposal. Mr. Heesacker noted the applicant is proposing to create fewer lots than are allowed and voiced support for the extra setbacks. He stated it is not true that there are no two-story homes in the Greenmeadows subdivision and while he agrees that connectivity is valuable, concurred with the concerns about turning a private easement public. Mr. Heesacker stated the land owner has done what he can to appease the neighbors, and stated this application conforms to all applicable standards and believes it should be approved.

Commissioner Marsh explained a request to leave the record open has been received. She reviewed the letters that were handed out at the beginning of the meeting and summarized the content of those submittals.

Applicant's Rebuttal

Mark Knox/Responded to issues raised by the neighbors. He stated they will commit to a 40 ft setback for Lot 5, but will not agree to only single story homes. He noted the additional setbacks and large lot sizes and stated there is no applicable criteria that would warrant a single story height restriction. He stated they would work with Ms. Green to address her concerns, and stated the applicant does not want to disregard the connectivity and believes there are treatments that can be done to remedy the neighbors' concerns. Mr. Knox clarified any drainage issues would be address, and in response to the parking concern he noted the large lot sizes and stated he does not believe this will be an issue.

Commission Marsh closed the public hearing at 9 p.m. She stated the record would remain open for 7 days, and the applicant will have 7 days to respond. Staff added this application will come back before the commission on August 9, 2011.

Commissioner Dawkins requested staff respond to whether the sidewalk could stop at the sycamore tree, and whether this could be a condition of approval.

OTHER BUSINESS

A. Planning Commission Retreat Schedule

Commissioner Marsh stated she believes they should wait until the Commission has more members before they pursue this topic. Commissioner Dawkins disagreed and stated at some point they need to make a decision on this.

B. Bi-Annual Attendance Report

Commissioner Marsh noted the new Uniform Policies and Procedures Ordinance requires the Commission to review their attendance twice a year. She stated Commissioner Miller has exceeded the number of permitted absences and asked staff to consult with the City Attorney regarding this issue.

ADJOURNMENT

Meeting adjourned at 9:10 p.m.

*Respectfully submitted,
April Lucas, Administrative Supervisor*



PLANNING ACTION: 2011-00738

SUBJECT PROPERTY: 1405 Tolman Creek Road

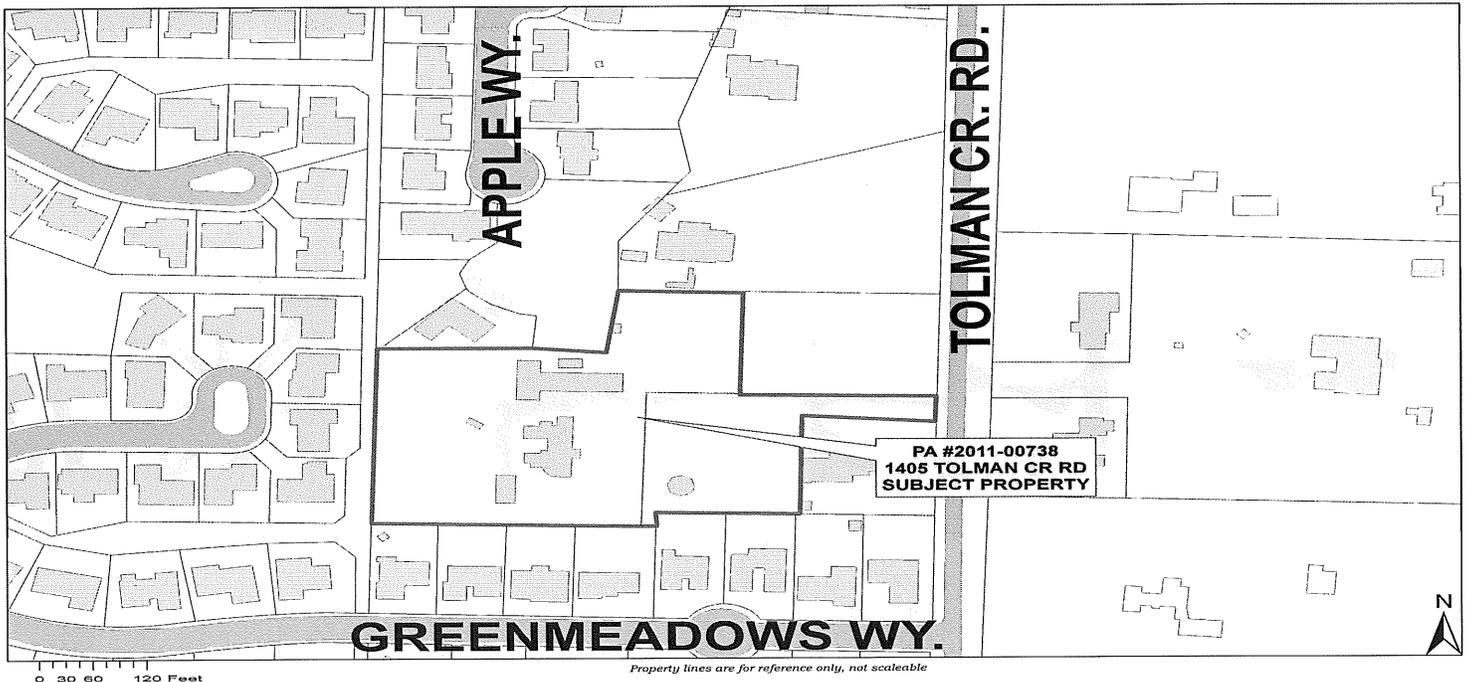
OWNER/APPLICANT: Malibar Group, LLC

DESCRIPTION: A request for Outline and Final Plan approval for an eight-lot Performance Standards Subdivision to be developed in three phases for the vacant property located at 1405 Tolman Creek Road. The application also includes requests for a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a large (60-inch diameter) maple tree; an Exception to Street Standards to not install sidewalks along a portion of the new street; and a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5; **ASSESSOR'S MAP #:** 39 1E 23 BA; **TAX LOT:** 308 and 501

NOTE: The Ashland Tree Commission will also review this Planning Action on **July 7, 2011 at 6:00 p.m.** in the Community Development and Engineering Services building (Siskiyou Room) located at 51 Winburn Way.

ASHLAND PLANNING COMMISSION MEETING: July 12, 2011 at 7:00 PM, Ashland Civic Center

NOTE: Deliberations continued to August 9, 2011 at 7:00 PM, Ashland Civic Center. Hearing has closed.



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.

OUTLINE PLAN APPROVAL

18.88.030.A.4 Criteria for Approval

The Planning Commission shall approve the outline plan when it finds the following criteria have been met:

- a. That the development meets all applicable ordinance requirements of the City of Ashland.
- b. That adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.
- c. That the existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.
- d. That the development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.
- e. That there are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.
- f. That the proposed density meets the base and bonus density standards established under this Chapter.
- g. The development complies with the Street Standards. (ORD 2836, 1999)

FINAL PLAN APPROVAL

18.88.030.B.5 Criteria for Final Approval

Final plan approval shall be granted upon finding of substantial conformance with the outline plan. Nothing in this provision shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan shows that:

- a. The number of dwelling units vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.
- b. The yard depths and distances between main buildings vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Title.
- c. The open spaces vary no more than ten (10%) percent of that provided on the outline plan.
- d. The building size does not exceed the building size shown on the outline plan by more than ten (10%) percent.
- e. The building elevations and exterior materials are in conformance with the purpose and intent of this Title and the approved outline plan.
- f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
- g. The development complies with the Street Standards.
(ORD 2836, 1999)

VARIANCE

18.100.020 Application

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

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

EXCEPTION TO STREET STANDARDS

18.88.050 F – Exception to Street Standards

An exception to the Street Standards is not subject to the Variance requirements of section 18.100 and may be granted with respect to the Street Standards in 18.88.050 if all of the following circumstances are found to exist:

- A. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.
- B. The variance will result in equal or superior transportation facilities and connectivity;
- C. The variance is the minimum necessary to alleviate the difficulty; and
- D. The variance is consistent with the stated Purpose and Intent of the Performance Standards Options Chapter. (ORD 2951, 2008; ORD 2836, 1999)

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)

**Staff Report
Addendum**

Submitted 7/20/2011

**ASHLAND PLANNING DIVISION
STAFF REPORT ADDENDUM
August 9, 2011**

RECEIVED

JUL 20 2011

PLANNING ACTION: PA-2010-00738
City of Ashland
Field ___ Office ___ County ___

APPLICANT: Malibar Group LLC

LOCATION: 1405 Tolman Creek Road
Map 39 1E 23 BA, Tax Lots #308 & #501

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential

APPLICATION DEEMED COMPLETE: July 3, 2011

120-DAY TIME LIMIT: November 14, 2011*
(with 14-day period record was left open considered)

ORDINANCE REFERENCE: 18.20 R-1 Single Family Residential District
18.61 Tree Preservation and Protection
18.62 Physical & Environmental Constraints
18.88 Performance Standards Options
18.88.050.F Exception to Street Standards
18.100 Variances

REQUEST: A request for Outline and Final Plan approval for an eight-lot Performance Standards Subdivision to be developed in three phases for the vacant property located at 1405 Tolman Creek Road. Also included are requests for a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a large (60-inch d.b.h.) maple tree; an Exception to Street Standards to not install sidewalks along a portion of the new street; and a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road.

I. Relevant Facts

A. Background - History of Application

At the July 12, 2011 regular meeting of the Planning Commission, the public hearing was opened and testimony was represented. At the conclusion of the public comments, neighbor James Lindow of 2370 Lupine Drive requested in writing that the record be left open for the maximum time period allowed, as provided in ORS 197.763. The applicants then requested that the record be left open an additional seven days as provided by statute to allow them to prepare and submit additional written arguments in response to new evidence received. Commission Chair Marsh closed the public hearing, with the record to remain open for seven days (until 4:30 p.m. on Wednesday, July 20th) to allow the submittal of new evidence and for seven additional days (until 4:30 p.m. on Wednesday, July 27th) to allow the applicants to submit written arguments. The matter was continued to a date certain when it was

announced that the item would again be taken up by the Commission at their next regular meeting at 7:00 p.m. on August 9th.

Based on the testimony presented, the Planning Commission requested that staff provide additional information on options to address issues raised around sidewalks within the proposed development, including the requested Exceptions contained within the application and additional discussion during the hearing of efforts to potentially preserve Tree #2 by altering the sidewalk installation in its vicinity.

In addition, staff noted that while the application characterized the relocation of the pedestrian easement from Apple Way as being “wholeheartedly supported” by the affected neighboring property owners, during testimony in the hearing the property owner who would need to agree to the relocation, Karen Green, seemed to indicate that she was not in fact supportive of modifying the existing easement to re-route it through her property.

In staff’s view, the issues which merit further input while the record remains open are as follows:

- Trees & Tree Protection
- The Pedestrian Easement from Apple Way
- The requested Exception & Variance (i.e. Sidewalks & On-Street Parking)

Each of these is discussed below in the relevant section under “Project Impact.”

II. Project Impact

As previously noted, the proposal involves a request for Outline and Final Plan approval for an eight-lot Performance Standards Subdivision, which is to be developed in three phases. In addition, the proposal also includes requests for: 1) a Variance to reduce the number of on-street parking spaces by fifty percent in order to preserve a 60-inch d.b.h. maple tree on the subject properties; 2) an Exception to Street Standards to not install sidewalks along a portion of the new street; and 3) a Physical & Environmental Constraints Review Permit to allow utility installation within the Hamilton Creek floodplain along Tolman Creek Road.

A. Outline & Final Plan Approval under the Performance Standards Options Chapter

The Performance Standards Options require that natural features such as wetlands, floodplain corridors, ponds, large trees and rock outcroppings throughout the subject parcel be included and incorporated in open space, common areas and unbuildable areas. The applicants’ submittals note that the site design proposed demonstrates an effort to preserve natural features such as the large trees including the 60-inch d.b.h. maple proposed to be preserved adjacent to the proposed new street and other trees grouped around the property and on adjacent parcels, as well as the natural drainage along the west side of the property which is already protected within a conservation easement. Through the course of the hearings before both the Tree and Planning Commissions, the applicants have also expressed an interest in preserving a sycamore tree (Tree #2) provided that a sidewalk treatment can be worked out which would accommodate retaining the tree.

Tree #2, the Sycamore

Commissioner Dawkins noted during the last meeting that sycamore roots often damage nearby sidewalks, curbs and paving. Because their strong, aggressive root surface growth can be damaging, sycamores are included on the city's list of "Non-Recommended Street Trees." Their roots may extend as far out as the tree is tall, and sycamores can reach 75-100 feet in height. In discussions with the applicants' team subsequent to the close of the hearing, they have suggested that the sidewalk might be able to meander to curbside with a reduced 30-inch width in order to accommodate the tree, and have further suggested that they would look at alternative sidewalk treatments which might better accommodate sycamore root growth.

Assuming that sidewalks can only be installed on one side of the proposed street (i.e. the applicants have not provided evidence of agreement from the owner of Tax Lot #400 to complete sidewalk improvements on the north side of the proposed street) staff does not believe that it would be appropriate to have a substantial section of the tree's root zone with no sidewalks in place. The criteria for an Exception to Street Standards require a demonstration that equal or superior facilities and connectivity will result from granting the Exception, and staff does not believe that a substantial gap in the sidewalk installation can be found to meet this criterion.

Should the Commission ultimately determine that Tree #2 merits retention, staff would recommend that the Exception relating to sidewalk installation be modified to include the section of sidewalk in Tree #2's root zone and that allowances be made for a narrower curbside installation with the possibility of some alternative treatments to be recommended by the project's arborist and civil engineer such as floating the sidewalk, installing the sidewalk in a modular panel system within the root zone, etc. Condition #3c below has been modified to address these options.

Other Trees & Tree Protection

AMC 18.61.200 requires that a Tree Protection Plan detailing required tree protection fencing be provided for all development activities involving a planning action. As noted during the hearing, staff believes that a revised Tree Protection Plan is needed which addresses required protection of trees in the vicinity of the proposed building envelopes. This would include those trees along the drainage easement in proximity to the envelopes on Lots #5 and #6, between Lots #2 and #3 and between Lot #1 and Tax Lot #500.

The applicants have also suggested that because Lots #5 and #6 may not develop for a number of years, the trees on those lots, which include large cottonwoods, should be re-assessed by an arborist prior to development of the lots. This seems appropriate in staff's view, with the understanding that should such a re-assessment result in a recommendation that any of the trees be removed, the Tree Removal Permit would be subject to a land use action to modify the current subdivision request.

Conditions reflecting the above are recommended below.

Pedestrian Easement Relocation

In addition to the street improvements proposed, the applicants have proposed to relocate a bicycle and pedestrian easement which was previously required to be provided with the creation of the Wild Creek Subdivision. As originally configured, the easement was to extend from the end of Apple Way through that subdivision's natural area, requiring a crossing of the Hamilton Creek tributary which daylight just north of the subject properties. The easement was to ultimately provide for a continuous connection to Tolman Creek Road from the Apple Way cul-de-sac, and would be completed with development of properties along Tolman Creek Road. No improvements have been installed to date, and the applicants have proposed to work with the Wild Creek Subdivision neighbors to relocate the pedestrian easement down a private drive off of Apple Way, avoiding a creek crossing, and connecting to the proposed new street installation with a six-foot wide multi-use path in a ten-foot easement.

During testimony in the hearing, the property owner who would need to agree to the relocation, Karen Green who owns 1403 Apple Way, seemed to indicate that she may not be willing to agree to allow re-routing of the easement across her property. This poses a significant issue for staff because if the applicants are unable to obtain this agreement, they would be unable to complete one of the components of the proposal making up the application. In staff's view, the pedestrian connection provides a strong justification for the requested Exception to Street Standards in terms of addressing the "equal or superior connectivity" criterion, and the Commission could determine that without evidence of agreement by the neighbors the application fails to meet the burden of proof and suggest that the applicants request an extension to postpone the meeting until necessary agreements can be obtained.

Alternatively, the Commission could include a condition that stipulates if the necessary agreements cannot be obtained to re-route the easement that the applicants be required to design and install improvements to accommodate bicycle and pedestrian use within the existing easement. A condition to this effect is recommended below.

B. Variance to Required On-Street Parking

The Performance Standards Options Chapter includes parking standards which require that "*at least one on-street parking space per unit shall be provided in addition to the off-street parking requirements for all development in an R-1 zone... On-street parking spaces shall be immediately adjacent to the public right-of-way on publicly or association-owned land and be directly accessible from public right-of-way streets. On-street parking shall be located within 200 feet of the dwelling it is intended to serve.*" The proposed eight-unit subdivision would require that eight on-street parking spaces be provided in or near the proposed street right-of-way. The applicants have proposed a Variance to this requirement in order to reduce the required parking by fifty percent, to only four spaces, in order to preserve the 60-inch d.b.h. maple tree (Tree #43).

During the hearing, staff noted that it appeared to be possible to accommodate the required on-street parking within the development through a combination of compliance with the standards for driveway separation and/or consolidating drives, placing parking on the north side of the proposed street, and removing the circular drive with a later phase of the

development to accommodate additional parking spaces. The applicants also noted the possibility of adding an additional space or two to the bays near Lot 7. As the development is completed and nearby properties develop further, staff believes that visitor parking could impact surrounding properties and we have accordingly retained the previously recommended condition below which would require a revised site plan which addresses the required on-street parking through the removal of the looped driveway to accommodate additional parking.

C. Exception(s) to Street Standards – Sidewalk Installation

After the last meeting's discussion of sidewalks in terms of maintaining the rural feel of the area and of there not being sidewalks in place on Tolman Creek Road at this time, staff feels it is important to note that when the subject property and the adjacent properties at the end of the driveway develop to their zoned density there could be 130-150 or more vehicle trips per day on the proposed short segment of road. In staff's view, having a functional sidewalk system which encourages pedestrian travel to, from and within the proposed subdivision is crucial to long-term livability of the development by comprehensively addressing the access and mobility needs of all residents.

The Comprehensive Plan's Transportation Element and related Street Standards Handbook envision and support a comprehensively planned, interconnected network of streets to serve users of all modes of transportation. While the Land Use Ordinance provides for Exceptions, they require a demonstration both that there is a demonstrable difficulty in meeting the standards and that the resultant facility will provide for equal or superior transportation facilities and connectivity. With that said, staff believes that an Exception to Street Standards to not install sidewalks for a portion of the new street is merited where necessary to accommodate the large maple (and potentially the sycamore which was previously identified for removal) provided that a clear and continuous sidewalk connection from Tolman Creek Road to the relocated pedestrian easement connecting to Apple Way is provided. Staff has recommended a revised condition (#3c) below which addresses what we believe are the crucial points with regard to the Exception to Street Standards:

- 3c) That the applicants shall provide a revised site plan for the review and approval of the Staff Advisor which identifies: 1) the treatment of the in-laid crossing where the sidewalk transitions from the south side of the street to the north side at the tree and which further identifies the connection and treatment of the bicycle and pedestrian easement to the sidewalk improvements, with pedestrian routes to be materially distinguished from streets, driveways and parking places; 2) the location of four additional on-street parking spaces through the removal of the looped driveway. **Removal of the looped driveway may be delayed until the signature of the final survey plat for Phase Two; 3) revised driveway placement and/or the use of shared driveways to demonstrate compliance with the required 24-foot separation between driveways; and 4) the treatment of the sidewalk in the vicinity of Tree #2, the sycamore which was originally proposed to be removed. Within the Tree Protection Zone of Tree #2 the driveway may meander to curbside, be reduced in width to no more than 30-**

inches, and/or be installed by non-standard means (subject to the review and approval of the Staff Advisor and the Engineering Division) to accommodate preservation of this tree.

D. Physical & Environmental Constraints Review Permit

As previously noted during the hearing, staff believe that the proposed disturbance of floodplain corridor lands is relatively minimal and involves road construction and utility installation in an area where street and driveway improvements are already in place and long-established. Staff believes that the application has satisfactorily addressed the applicable approval criteria.

E. Tree Removal

As previously noted during the hearing, because none of the trees proposed to be removed is considered by definition to be significant, these removals are not subject to a Tree Removal Permit.

III. Procedural - Required Burden of Proof

The approval criteria for Outline Plan approval are described in AMC 18.88.030.A.4 as follows:

- a. *That the development meets all applicable ordinance requirements of the City of Ashland.*
- b. *That adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
- c. *That the existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.*
- d. *That the development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
- e. *That there are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*
- f. *That the proposed density meets the base and bonus density standards established under this Chapter.*
- g. *The development complies with the Street Standards. (Ord 2836, S2 1999)*

The approval criteria for Final Plan approval are described in AMC 18.88.030.B.5 as follows:

Final plan approval shall be granted upon finding of substantial conformance with the outline plan. Nothing in this provision shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that

permitted in the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan shows that:

- a. *The number of dwelling units vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.*
- b. *The yard depths and distances between main buildings vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Title.*
- c. *The open spaces vary no more than ten (10%) percent of that provided on the outline plan.*
- d. *The building size does not exceed the building size shown on the outline plan by more than ten (10%) percent.*
- e. *The building elevations and exterior materials are in conformance with the purpose and intent of this Title and the approved outline plan.*
- f. *That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.*
- g. *The development complies with the Street Standards. (Ord 2836, S3 1999)*

The approval criteria for an Exception to Street Standards are described in AMC 18.88.050.F as follows:

An exception to the Street Standards is not subject to the Variance requirements of section 18.100 and may be granted with respect to the Street Standards in 18.88.050 if all of the following circumstances are found to exist:

- A. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.*
- B. *The variance will result in equal or superior transportation facilities and connectivity;*
- C. *The variance is the minimum necessary to alleviate the difficulty; and*
- D. *The variance is consistent with the stated Purpose and Intent of the Performance Standards Options Chapter. (Ord 2951, amended, 07/01/2008; Ord 2836, amended, 02/02/1999)*

The approval criteria for a Physical & Environmental Constraints Review Permit for Development of Floodplain Lands are described in AMC 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 approval criteria for Variances are described in AMC 18.100.020 as follows:

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

IV. Conclusions and Recommendations

Staff remains generally supportive of the proposal, which includes an eight lot Performance Standards Subdivision to be constructed in three phases, an Exception to Street Standards which will limit sidewalk installation on part of a proposed new street, and a Variance to reduce the required on-street parking associated with the subdivision. In staff's view, on-street parking can be a substantial issue with new subdivisions as in its absence parking impacts can spill into surrounding areas. Staff is accordingly recommending that the applicants provide a revised site plan which meets the on-street parking requirement through the removal of the existing looped driveway and which demonstrates compliance with the required separation between driveways. Staff believe that the Exception to Street Standards to not have a sidewalk installed on the south side of the proposed street along the frontages of Lots 2-4 can be found to be merited, however we have recommended that the final civil drawings detail a clear material/surface distinction between driveways, streets, parking areas and pedestrian routes from where the sidewalk transitions to the north side of the street to the pedestrian connection to Apple Way as a means to clearly delineate the options for pedestrian travel where no sidewalks will be available. In addition, we have recommended a condition which would accommodate a non-standard sidewalk installation in the tree protection zone of the sycamore tree (#2) while still providing a measure of pedestrian connectivity.

Should the Commission concur with staff and approve the request, we would suggest that the following conditions be attached to the approval:

- 1) That all proposals of the applicant are conditions of approval unless otherwise modified herein.
- 2) That the applicants shall obtain a Demolition/Relocation Review Permit from the Building Division if the proposed partial demolition of the existing shop/garage building triggers the requirements of the Demolition Ordinance.
- 3) That prior to the issuance of an excavation permit:
 - a) Final civil engineering plans including but not limited to the water, sewer, storm drainage, electric and transportation facilities shall be submitted for the review and approval of the Planning, Building, Electric, and Engineering Departments. 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, fire hydrants, sewer mains and services, manholes and clean-outs, storm drainage pipes and catch basins, and locations of all primary and secondary electric services including line locations, transformers (to scale), cabinets, meters and all other necessary equipment. Transformers and cabinets shall be located in areas least visible from streets, while considering the access needs of the Electric Department. Any required private or public utility easements shall be delineated on the

civil plan.

- b) That the location and final engineering for all storm drainage improvements associated with the project, shall be submitted for review and approval by the Departments of Public Works, Planning and Building Divisions prior to signature of the final survey plat. The storm drainage plan shall demonstrate that post-development peak flows are less than or equal to the pre-development peak flow for the site as a whole, and that storm water quality mitigation has been addressed through the final design.
- c) That the applicants shall provide a revised site plan for the review and approval of the Staff Advisor which identifies: 1) the treatment of the in-laid crossing where the sidewalk transitions from the south side of the street to the north side at the tree and which further identifies the connection and treatment of the bicycle and pedestrian easement to the sidewalk improvements, with pedestrian routes to be materially distinguished from streets, driveways and parking places; 2) the location of four additional on-street parking spaces through the removal of the looped driveway. Removal of the looped driveway may be delayed until the signature of the final survey plat for Phase Two; 3) revised driveway placement and/or the use of shared driveways to demonstrate compliance with the required 24-foot separation between driveways; and 4) the treatment of the sidewalk in the vicinity of Tree #2, the sycamore which was originally proposed to be removed. Within the Tree Protection Zone of Tree #2 the driveway may meander to curbside, be reduced in width to no more than 30-inches, and/or be installed by non-standard means (subject to the review and approval of the Staff Advisor and the Engineering Division) to accommodate preservation of this tree.
- d) The applicants shall provide a revised Tree Preservation and Protection Plan for the review and approval of the Staff Advisor. The revised plan shall incorporate: 1) the identification of required tree protection fencing installation for trees on Lots #1, #2, #3, #5 and #6 in proximity to building envelopes and/or property lines; 2) the arborist's recommendations that trees #38-#40 shall be re-assessed by an arborist prior to development on Lots #5 and #6; and 3) the July 7, 2011 recommendations of the Ashland Tree Commission where consistent with applicable standards and with final review and approval by the Staff Advisor.
- e) That a Verification Permit in accordance with 18.61.042.B shall be applied for and approved by the Ashland Planning Division prior to site work, storage of materials and/or the issuance of an excavation or building permit. The Verification Permit is to inspect the trees to be removed and the installation of tree protection fencing for trees to be preserved. The tree protection for the trees to be preserved shall be installed according to the approved Tree Protection Plan prior to site work or storage of materials. Tree protection fencing shall be chain link fencing a minimum of six feet tall and installed in accordance with 18.61.200.B.
- f) Any work within the Tolman Creek Road right-of-way, including but not limited to street improvements or utility installation, shall be subject to review and approval by Jackson County and the City of Ashland, with

permits to be issued by Jackson County.

- 4) That prior to the signature of the final survey plat for Phase One, which will create Lots #1, 2, 4, 7 and 8:
- a) That a final survey plat shall be submitted within 12 months and approved by the City of Ashland within 18 months of this approval.
 - b) That the new street and subdivision names shall be approved by the City of Ashland Engineering Division.
 - c) All easements for public and private utilities, trails, pedestrian and bicycle access, natural drainageways, irrigation, fire apparatus access, and the reciprocal access easements for shared use of the existing driveway by Tax Lots #400 and #500 (as proposed in the application) shall be indicated on the final survey plat as required by the Ashland Engineering Division.
 - d) That all Phase One public improvements including but not limited to the street, sidewalk, street trees, and street lighting shall be installed to City of Ashland standards under permit from the Public Works Department and Jackson County. Improvements shall be consistent with those described in the application, including 22 feet of paving to accommodate a queuing travel lane and on-street parking on one side of the street, curb and gutter, storm drain system, seven-foot planting strip and five -foot wide sidewalk. A reserve strip (“street plug”) shall be provided along the northern boundary of the street improvements along the south boundary of Tax Lot #400.
 - e) The applicants shall provide evidence of agreement to the relocation of the bicycle and pedestrian easement from the affected property owners, and shall detail proposed improvements and any signage or screening on revised civil drawings. The relocated easement shall be recorded with the final survey plat, and the multi-use path improvements installed in conjunction with other subdivision infrastructure. In the event that the applicants are unable to obtain necessary agreements to relocate the easement, the applicants shall design and install improvements to accommodate bicycle and pedestrian use of the existing easement. On-going maintenance responsibilities for the multi-use path shall be described in the subdivision CC&R’s which shall be provided for the review and approval of the Staff Advisor prior to the signature of the final plat.
 - f) Street trees, located one per 30 feet of street frontage, shall be installed along the new street’s frontage as part of the subdivision infrastructure improvements. Street trees shall be chosen from the Recommended Street Tree List and shall be installed in accordance with the specifications noted in the Recommended Street Tree List. The street trees shall be irrigated.
 - g) Electric services shall be installed underground to serve Lots 1, 2, 4, 7 and 8. The electric service plan shall be reviewed and approved by the Ashland Electric Department and Ashland Engineering Division prior to installation.
 - h) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for Lots 1, 2, 4, 7 and 8.
 - i) The applicants shall sign in favor of the future improvements to Tolman

- Creek Road and agree to pay their proportionate cost of the necessary improvements and not to remonstrate against the formation of a Local Improvement District.
- j) The approved Tree Protection Plan and accompanying standards for compliance shall be noted in the CC&R's or other mechanism establishing the limited homeowners' association. The CC&Rs must state that deviations from the plan shall be considered a violation of the Planning Application approval and therefore subject to penalties described in the Ashland Municipal Code.
 - k) The applicants shall sign an agreement to participate in the future cost of full street improvements for Tolman Creek Road, including but not limited to park row planting strips, sidewalks, streetlights, curbs, gutters, paving, and storm drains, to be recorded on the deeds of the newly created lots concurrently with the final plat.
- 5) That prior to the signature of the final survey plat for Phase Two to create Lots #5 and #6, and Phase Three, to create Lot #3:
- a) All easements for public and private utilities, trails, pedestrian and bicycle access, natural drainageways, irrigation, and fire apparatus access shall be indicated on the final survey plat as required by the City of Ashland.
 - b) Phase Two subdivision infrastructure improvements, including but not limited to utility installation to serve Lots #5 and #6 and private driveway installation shall be completed according to approved plans prior to the signature of the final survey plat for Phase Two. The private driveway shall be subject to all development requirements for flag drives including that it shall be constructed to flag drive standards which call for a 15- foot paved drive centered in a 20-foot clear width where serving two lots and a 12-foot paved drive centered in a 15-foot clear width be maintained where serving one lot. Phase Three subdivision infrastructure improvements, including but not limited to utility installation to serve Lot #3 shall be completed according to approved plans prior to the signature of the final survey plat for Phase Three.
 - c) Electric services shall be installed underground to serve Lots 5 and 6 for Phase Two and Lot 3 for Phase 3. The electric service plan shall be reviewed and approved by the Ashland Electric Department and Ashland Engineering Division prior to installation.
 - d) That the sanitary sewer laterals and water services including connection with meters at the street shall be installed for Lots 5 and 6 for Phase Two and Lot 3 for Phase Three.
 - e) That prior to the signature of a final survey plat for Phase Two, the applicants shall provide a deed restriction agreement to be recorded on Lots #5 and #6 which requires the installation of a residential fire sprinkler system in each of these units. The deed restriction language shall be reviewed and approved by the Staff Advisor, and signed and notarized prior to release of the survey plat. The deed restriction shall be recorded concurrently with the survey plat.

- 6) That prior to the issuance of a building permit:
 - a) Individual lot coverage calculations including all impervious surfaces shall be submitted with each building permit to demonstrate compliance with the 45 percent lot coverage allowed in the underlying zoning districts. Building footprints, walkways, driveways, parking areas, and any impervious surfaces shall be counted for the purpose of lot coverage calculations.
 - b) That all proposed lots shall be subject to Solar Access Standard A. Solar setback calculations shall be submitted with each building permit to demonstrate compliance with the applicable standards, and shall include identification of the required solar setbacks with supporting formula calculations and elevation or cross-section drawings clearly labeling the height of the solar producing point(s) from the identified natural grade.
 - c) That the requirements of the Ashland Fire Department relating to fire hydrant distance; fire flow; fire apparatus access, turn-around, and work area; and approved addressing shall be satisfactorily addressed in the building permit plan submittals and complied with prior to issuance of the building permit or the use of combustible materials, whichever is applicable. Plans for residential fire sprinkler systems shall be provided with the building permit submittals for Lots #5 and #6, as proposed by the applicants. Fire Department requirements shall be included on the engineered construction documents for public facilities.
 - d) Building permit submittals for lots to be served via a flag drive shall be required to provide three off-street parking spaces. Required parking shall be identified on the site plan. Parking spaces on flag drives shall be placed to allow vehicles to turn and exit to the street in a forward manner.

- 7) That prior to the issuance of a certificate of occupancy:
 - a) All exterior lighting shall be directed on the property and shall not illuminate adjacent properties.

Letters from Neighbors

**Submitted while record
remained open to new evidence
(*before 4:30 p.m. on 7/20/2011*)**

James T. Lindow
2370 Lupine Dr.
Ashland, Oregon 97520

RECEIVED

JUL 20 2011

City of Ashland
Field ___ Office ___ County ___

Planning Commission, Ashland Oregon
Re: Planning Action PA-2010-00738

July 20, 2011

Dear Commissioners,

As a home owner at 2370 Lupine Dr. on the western border of the above referenced plan we are concerned with the above action. We formally request that the commissioners take into account the following factors:

1. That the Mt. Ranch development and the section of Greenmeadows Dr. that borders on the planned development are homes of high quality and all single story situated in such a way as to preserve views and privacy between neighbors.
2. We request that this policy (1) be followed where possible in the development and restrictions be noted on the deeds of the development's lots.
3. In particular for lot 6, we request the reduction or re-positioning of building site area to conform to the drip lines of the large trees on the western border of this proposed lot (trees 38, 39 &40).
4. It is our understanding that the developer has agreed that lot 6 would be sold with the restrictions that the home would be single story in addition to meeting the solar access restrictions on the property to the north. ***Please require this.***
5. We also request that all large trees as discussed in the tree commission meetings be preserved with the proper protection fences and road base set backs.
6. Please give due consideration to the privacy of neighbors where the public access to the north has been proposed.
7. We concur with the requests of our neighbor at 2360 Lupine Dr. (M. Rene and M. Hitchcock) for proper light screening and tree considerations – see letter of July 12, 2011.

Lindow page 2.

8. Please consider the drainage from lots 6 and 5 that most likely will contribute to standing water in the area of the tree bases pictured (trees 33 & 32 cottonwoods). Mosquitoes and wood rot are possible problems.



Request: Please make all efforts to require that this development plan conform to the highest standards consistent with the neighborhood and adjacent property owners requests.

Thank you for your attention to these matters.

Sincerely,

James T. Lindow

Dianne K. Lindow

**Gretchen Lee
Andrew Gibson
Sherry Johnson
Owners of Lot 400**

July 19, 2011

Ashland Planning Commission

Re: Tolman Meadows Development
1405 Tolman Creek Rd.
Ashland, Or 97540

To Whom It May Concern:

We would like to go on record regarding the parking for Tolman Meadows.

As we do plan to develop Lot 400 in the future we are asking that Tolman Meadows plan their parking to accommodate their development. We would like the area adjacent to Lot 400 to remain open for our parking.

Thank you for your consideration.

Sincerely



Gretchen Lee
Andrew Gibson
Sherry Johnston

RECEIVED

JUL 20 2011

City of Ashland
Field _____ Office _____ County _____

**Written Arguments
Submitted by the Applicants**

7/27/2011

RECEIVED

URBAN DEVELOPMENT SERVICES, LLC
485 W. Nevada Street, Ashland, Oregon 95720

JUL 27 2011

Ashland Planning Commission
Written Argument Response
PA-2011-00738; Malibar Group LLC
1405 Tolman Creek Road
July 26th, 2011

City of Ashland
Field ___ Office ___ County ___

During the July 2011 Planning Commission hearing for the proposed Subdivision for the property at 1405 Tolman Creek Road, one of the neighbors (James T. Lindow, 2370 Lupine Drive) requested the record for Planning Action 2011-00738 remain open for an additional seven days in accordance with ORS 197.763(6)(c) followed by the applicants request for an additional seven days to respond in accordance with ORS 197.763(6)(e). As such, please find below the applicants' written response to the issues raised by Mr. Lindow as well as City Planning staff and the co-owners of the vacant property located along Tolman Creek Road and the proposed new street.

Lindow (dated July 20th, 2011):

1) *That the Mt. Ranch Development and the section of Greenmeadows Drive that borders on the planned development are homes of high quality and all single-story situated in such a way as to preserve views and privacy between neighbors.*

Response: Although not a criterion of this Planning Action's entitlements, the applicants have submitted an application that attempts to honor Mr. Lindow's request as well as all of the surrounding neighborhoods, including Mt. Ranch to the west, Greenmeadows Way to the south and Apply Way to the north by self-imposing perimeter setbacks "double" the minimum setbacks required by the Ashland Municipal Code. Standard rear yard setbacks for the R-1-10 Zone are 10' per story meaning a two story residence could have its first floor at 10' from the rear property line and its second floor at 20'. The site plans for the proposed subdivision show rear setbacks of 40', 30 and 20' - regardless of the number of stories. Second, the side yard setback areas adjacent to neighboring homes where 5' is required, the subject site plans identify a "minimum" setback of 20'.

Considering the subject lots are proposed to be "oversized" in relationship to the neighboring lots as well as the zone's minimum lot size (7,500 sq. ft.), and the fact that the proposed building envelopes are *very* generous, the applicants strongly contend the new homes will preserve neighbor privacy and in most cases views. Nevertheless, it should be pointed out the applicants have gone to great lengths to recognize these livability factors, but that the surrounding neighbors have not self-imposed equal limiting factors as suggested of the applicants on their properties and do not appreciate that a two-story addition with a deck above the first floor looking directly onto the subject property is possible without "any" notice to neighbors or discretion from the City.

Finally, the applicants have agreed to limit the "height" of a future residence on Lot #6 to coincide with the City's 21' Solar Access Ordinance regulation when creating new lots - not just on the north side of the lot, but consistently "through-out" Lot #6. Lot #6 is adjacent to Mr. Lindow's residence, but the general purpose of this limit, as requested by Mr. Lindow, is that the height of a

future residence would be limited to a height as identified on the Site Plan likely forcing the lot's future residence to either be a single-story or split-level design.

In the end, the subject properties are to be sold as custom home lots that will be individually purchased, designed and constructed upon. The applicants are simply providing a compatible framework, inviting street environment and unique pedestrian connections for not only the subdivision's future homeowners, but also the neighboring community.

2) *We request that this policy (1) be followed where possible in the development and restrictions be noted on the deeds of the development's lots.*

Response: As stated, the additional setbacks and height limits as described in Response 1) (above) are self-imposed restrictions by the applicants that will be adopted as part of the record. When future house proposals are submitted to the City, verification with the record and the Planning Commission's approval will occur prior to issuance of the permit.

3) *In particular for Lot 6, we request the reduction or re-positioning of building site area to conform to drip lines of the large trees on the western border of this proposed lot (Trees 38, 39 and 40).*

Response: The applicants have hired a professional Landscape Architect and Arborist to evaluate the subject trees who has identified their Tree Protection Zone boundaries. Further, the application was reviewed by the Ashland Tree Commission on July 7th, 2011 who concluded the Tree Protection Zones (perimeter "safe" distance from trunk of tree) was acceptable. The applicants understand the intent of this request is for morning light and view protection, but the applicants have already addressed these issues with the increased setbacks and Solar Access restrictions noted in Response 1) (above).

4) *It is our understanding the developer has agreed that lot 6 would be sold with the restrictions that the home would be single-story in addition to meeting the solar access restrictions on the property to the north. Please require this.*

Response: The applicants are *not* or have ever proposed a single-story residence on Lot #6, but have "agreed" to a condition that will likely produce a single-story outcome, ½ story second floor or split-level residence. As stated in Response 1) (above), the applicants' intention is to limit the home on Lot #6 to a height of 21', as identified on the submitted site plans (Sheet L-2.0 Solar), which will allow a home to be constructed up to 21' in height (based on current natural grade) on the northern side of the house with the intention to retain that same 21' height to the southern side of house – only increasing based on the site's natural grade. In other words, the height of a structure on Lot #6 will not exceed a height of 21' above natural grade. Under this provision, a "basement" or ½ story could be created, but the actual height would not be increased above the highest natural grade line.

5) *We also request that all large trees as discussed in the Tree Commission meetings be preserved with the proper protection fences and road base setbacks.*

Response: The applicants concur with all Tree Commission recommendations.

6) *Please give due consideration to the privacy of neighbors where the public access to the north has been proposed.*

Response: The applicants contend the revised “public” pedestrian easement is far superior to its existing location which will be vacated at time of the subdivision’s plat. The existing easement’s location is not only more impacting to surrounding properties, it’s also much more sensitive to the surrounding environment and neighboring views. The applicants have met on numerous occasions with the adjacent property owners and have tentatively come to terms the proposal is preferred and that with various mitigations, a superior, logical and more comprehensive connection.

7) *We concur with our request of our neighbor at 2360 Lupine Dr. (M. Rene and M. Hitchcock) for proper light screening and tree considerations – see letter of July 12, 2011/*

Response: As noted previously in Responses 1) and 3) (above), the applicants are agreeing to reduce the building envelopes as described, limit the height of the future home on Lot #5 and comply with the Project Arborist’s recommendations that include narrative descriptions and plans showing Tree Protection Zones that limit footprints of the future homes.

8) *Please consider the drainage from lots 5 and 6 that most likely will contribute to standing water in the area of the tree bases pictured (trees 33 and 32 Cottonwoods). Mosquitos and wood rot are possible problems.*

Response: The applicants have forwarded this concern to both the project Arborist as well as Civil Engineer. The project Civil Engineer has stated no additional water would be added to this area (swale between Lots #5 and #6) that is not directly piped into a storm drain system. The project’s Arborist has raised concerns about the Cottonwoods, but not necessarily due to standing water as Cottonwoods generally thrive around water, but instead concern about “limb-fall” which is common with Cottonwoods. In this regard, the applicants would like to clarify with the Planning Commission as well as neighbors the Cottonwoods “may” be removed or heavily trimmed one day, by either the applicants or future property owners of subject lots, if it is determined by an Arborist or Tree Specialist that the trees pose a hazard. The applicants believe the process for such a request should be subject to a Staff Permit as regulated under AMC 18.61.080 A.1 and 2. (Hazard Tree).

9) *Repeat: Please make all efforts to require that the development plan conform to the highest standards consistent with the neighborhood and adjacent property owners requests.*

Response: The applicants believe they have not only addressed the City’s numerous and rigorous development standards and land use criteria, but have gone above normal development practice or legal obligation to accommodate neighborhood concerns. The applicants have been willing to self-impose conditions – requested by adjacent property owners, on the newly proposed lots that are *not* self-imposed or reciprocated in anyway by the neighbors themselves. In the end, the applicants and residents of the property, contend the efforts put forth to date will be a positive influence on the neighborhood when compared to a “standardized” subdivision with little to no neighborhood accommodations.

Lee, Gibson & Johnson (dated July 19th, 2011):

As we do plan to develop Lot 400 in the future we are asking that Tolman Meadows plan their parking to accommodate their development. We would like the area adjacent to Lot 400 to remain open for parking.

Response: It appears clarification is necessary as the Site Plans presented do illustrate parked vehicles along the frontage of the new across the street in front of Tax Lot 400 (in front of Tax Lot 500). Further, the applicants contend their request for an “on-street” parking Variance isn’t due to a lack of overall “site” parking, but instead only to the on-street parking requirement in order to accommodate the large Silver Maple and Cedar trees. The applicants have no intention to suggest these spaces are to be credited to their development and understand those on-street parking spaces in front of Lot 400 should be credited to future lots associated with that parcel.

Planning Staff Comments (dated August 9th, 2011):

Tree #2, the Sycamore: As discussed at the Planning Commission’s previous meeting, the subject Sycamore Tree (Tree #2) really will not co-exist with the sidewalk and that if the sidewalk is preferred, the removal of the tree will be necessary. The Tree Commission suggested the sidewalk be removed so that not only the Sycamore could be preserved, the other trees along the southern edge of the new street could also be retained. This suggestion was generally based on the “limited” number of vehicle trips associated with the development and the fact that sidewalks on both sides of this particular low volume traffic street shouldn’t be necessary.

Nevertheless, after the conclusion of the Planning Commission’s July 12th, meeting the applicants also contacted the owners of the vacant lot on the north side of the street (Tax Lot 400 – Lee, Gibson & Johnson) and inquired about the possibility of obtaining an easement and constructing the sidewalk, parkrow and planting street trees on the north side of the street instead and thereby leaving only the curb on the south side and preserving the Sycamore Tree (#2). The other trees along this side of the street identified to be removed (fruit trees) are still “possibly” to be removed as there are conflicts with driveway locations, vision clearance, curb alignment, etc.

Other Trees & Tree Protection: Prior to signature of the plat, the applicants will provide a revised Tree Protection Plan showing the tree protection fencing around the subject trees located between Lots #5 and #6, between Lots #2 and #3 and between Lot #1 and Tax lot #500 (neighbor to east). At the time building permits are applied for, such tree protection fencing will need to be installed. This will need to be added as a condition of approval, monitored by staff and installed by the future lot home owners.

In regards to the large Cottonwood trees between Lots #5 and #6, the applicants are suggesting the trees be re-evaluated at the time of a building permit, but if it is determined the trees pose a hazard (as Cottonwoods often do), then the applicants suggest the process for such a request should be subject to a Staff Permit as regulated under AMC 18.61.080 A.1 and 2. (Hazard Tree) – and not a “modification” of the subdivision, expensive application fee, public notice, appeals, etc.

Pedestrian Easement Relocation: The applicants have had numerous meetings with the two adjacent neighbors to the north that either currently have the “unimproved” pedestrian easement on their property “now” or will once the application is approved. Both parties have expressed interest and have generally been positive with the idea, but obviously have questions and concerns about liability, screening, noise, etc. In the end, both owners appear to realize that the existing easement is likely to be far worse when compared to the proposed route and that with the concessions the applicant has offered, installation of fencing and shrubs at their discretion will be possible. As for liability, public access easements are protected under State law (ORS 105.682(1) and critical to acquisition of lands that benefit the public. Nevertheless, the applicants will remain responsible for finalizing the necessary agreements with the adjacent property owners prior to signature of the plat, but would be willing to install the pathway within the current easement boundaries if final agreements can’t be reached.

Variance to Required On-Street Parking: The applicants are requesting a 50% “on-street” parking reduction for a total of 4 on-street parking spaces. The request is a result of designing the subdivision’s street “around” and “between” two large trees at a significant amount of applicant expense and energy. The applicants contend the request has also been mitigated by the fact that three of the subject lots are “flag” lots and each require a third on-site parking space whereas standard lots do not.

Nevertheless, staff has suggested removing the private looped-driveway at the front of Lot #4 to install additional head-in guest parking spaces to accommodate additional on-street parking which, in the applicants’ opinion, is not necessary for a couple of reasons as noted below. The applicants have strong reservations against the proposal to remove the looped drive-way as it’s an integral component to their house’s design and instead would prefer an alternative solution - short of suggesting the removal of the large Maple Tree (#43) in order to accommodate more guest parking.

In order to obtain the additional “4” parking spaces (8 total), the applicants would suggest a parking mitigation plan (Plan A) as follows

- (2) Two spaces along street (identified on site plans as #3 and #4)
- (3) Three head-in spaces adjacent to Lot #7
- (3) Three on-site spaces, one “extra” space per lot, on Lots #4, #5 and #6

NOTE: Lot #4’s parking spaces already exist and are located in the rear of the lot where there is an existing garage and two within the circular driveway.

However, if the above proposal is not acceptable, the applicants would prefer a hybrid parking plan (Plan B) that instead of removing the circular driveway, the Planning Commission consider a condition requiring that at least two additional lots (Lots #1, #2, #3, #7 or #8) have one “extra” on-site parking space. Unfortunately, the applicants contend this is not the preferred option as driveway widths would reach 30’ and dominate the streetscape the applicants have worked hard to preserve as a rural environment, but it is an option. Again, the removal of the circular driveway is preferred to remain as is and Plan A is desired.

Lastly, it’s important to point out to the Planning Commission that replacing the circular driveway with additional head in parking spaces will remove at least one if not two trees (Trees #22 and #24) the applicants desired to save.

Exception(s) to Street Standards – Sidewalk Installation: As noted previously, the applicants are discussing arrangements with the property owners of Tax Lot 400 (Lee, Gibson & Johnson) allowing for the sidewalk to be completely on one side of the new street which will preserve the Sycamore Tree (#2) as desired by the Tree Commission. That said, the applicants suggest replacing Condition 3c) to read as noted (See Revised Conditions of Approval – 3c) below):

Revised Conditions of Approval: Due to the fact a couple of conditions of approval have been suggested to be changed based on new information or are necessary for clarification purposes, the following conditions be revised or added:

Revised Wording: 3c) That the applicants shall provide a revised site plan for the review and approval of the Staff Advisor illustrating the sidewalk, parkrow and street trees on the north side of the new street and street trees only on the south side of the street. Applicants shall also provide evidence of an easement agreement for a sidewalk, parkrow and street trees along the south side of Tax Lot 400. If easement cannot be obtained, the sidewalk plan as originally proposed shall be installed and all necessary details of an in-laid crossing where the sidewalk transitions from the south side of the street to the north side at the tree and which further identifies the connection and treatment of the bicycle and pedestrian easement to the sidewalk improvements, with pedestrian routes to materially be distinguished from streets, driveways and parking spaces.

3c) As noted above, the wording in the previous Condition 3c) will likely no longer apply if an agreement is made with the owners of Tax Lot 400 to allow the applicants to design and install a sidewalk, parkrow and street trees to the north side of the street as suggested by the Tree Commission. Although doubtful, if for some reason an agreement is not possible, the condition recognizes that the original plan as presented (removal of the Sycamore Tree (#2)) would occur.

Added Condition: 3g) That the applicants shall provide a revised site plan showing building envelopes on Lots #2 and #5 to be adjusted showing the rear setbacks to be 40' from their southern property line.

3g) The above condition was previously offered by the applicants during the Planning Commission's July 12th, 2011, public hearing.

Added Condition: 3h) That the applicants shall designate two lots (Lots #1, #2, #3, #7 or #8) to have a "third" on-site parking space. Such lots shall also be included in project's CC&Rs.

3h) Condition 3h) attempts to alleviate the suggestion to remove the circular looped driveway on Lot #4 by providing two extra parking spaces on-site. Although the applicants contend this is unnecessary, it is provided as a preferable option.

Added Condition: 6e) That the building height on Lot #6 be regulated as proposed by the applicants as identified on Sheet L-2.0 (Solar). Height of building on Lot #6 shall be limited to 21' as defined and regulated by AMC 18.70. This condition does not preclude a building to add

a split-level floor or basement as the height measurement noted herein is restricted to the lot's "natural" grade.

6e) This condition's wording is suggested by the applicants as a neighborly offer to address both Mr. Lindow and Hitchcock's (Lupine Drive Residents) requests for providing morning sunlight into their backyards.

In conclusion, the applicants have spent close to two years developing the proposed subdivision and believe suggested changes at this point, such as the replacement of the circular looped driveway and removal of the adjacent Cedar Tree to accommodate additional guest parking should be carefully and methodically weighed in consideration of the applicants' own efforts to date. During the two years of planning, multiple neighborhood meetings have occurred pitting neighbor against neighbor, who in most cases, simply do not understand the applicants' responsibility to meet various City standards, policies and criteria, but also create the foundation of a subdivision that they too can be proud of as "developers" and continue to live with as "residents" of Lot #4. The applicants appreciate the efforts put forth by the neighbors, consultants, City Staff, Tree Commission and Planning Commission.