

**CITY OF  
ASHLAND**  
ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
*Draft* Minutes  
April 12, 2022

I. **CALL TO ORDER:** 7:00 PM, via Zoom  
Chair Haywood Norton called the meeting to order at 7:00 p.m.

**Commissioners Present:**

Michael Dawkins  
Haywood Norton  
Roger Pearce  
Lynn Thompson  
Lisa Verner  
Kerry KenCairn  
Doug Knauer

**Staff Present:**

Bill Molnar, Community Development Director  
Brandon Goldman, Planning Manager  
Derek Severson, Senior Planner  
Aaron Anderson, Associate Planner  
Michael Sullivan, Administrative Assistant

**Absent Members:**

None

**Council Liaison:**

Paula Hyatt (absent)

II. **ANNOUNCEMENTS**

Community Development Director Bill Molnar made the following announcements:

- The Social Equity and Racial Justice (SERJ) Commission requested that a member of the Planning Commission and Housing and Human Services Commission attend their meeting on May 5, 2022. Commissioner Knauer volunteered to attend.
- The City Council will hold a hybrid Council meeting on April 19, 2022. The City Council members will be in attendance, as well as key members of staff. Members of the public will still participate virtually. City Commissions could potentially use this template for future meetings.
- Mr. Molnar expressed gratitude to Commissioner Roger Pearce for his years of service on the Planning Commission. This will be Commissioner Pearce's final Commission meeting before his move to Seattle. Commissioner Pearce said that it had been a privilege to work with the Commission and Planning staff.

III. **CONSENT AGENDA**

**Approval of Minutes**

1. March 8, 2022 Regular Meeting
2. March 22, 2022 Study Session

Commissioners KenCairn/Verner m/s to approve the Consent Agenda. Voice Vote: all AYES. Motion passed. 7-0.

IV. **PUBLIC FORUM** - None

V. **TYPE I PUBLIC HEARINGS – Appeal**

A. **PLANNING ACTION:** PA-APPEAL-2022-00014

**SUBJECT PROPERTY:** 34 Scenic Dr.

**APPLICANT/OWNER:** Rogue Development for Gobelman & Stahmann

**DESCRIPTION:** The Planning Commission to hear an appeal of staff's decision approving PA-T1-2021-00168 which was a request for a minor land partition to divide a 1.32-acre parcel into three parcels. Proposed Parcel 1 is proposed as a 10,076 square foot (SF) parcel, to the south is proposed Parcel 2 is proposed to have 8,000 SF, and parcel 3 is proposed to be 39,534 square foot parcel. The large parcel is not proposed for any development at this time. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5; **MAP:** 39 1E 08 AD, **TAX LOT:** 7300

Chair Norton read aloud the public hearing procedures for land use hearings.

### Ex Parte Contact

No ex parte contact was reported. All Commissioners except for Commissioner Thompson visited the site.

### Staff Presentation

Associate Planner Aaron Anderson detailed the staff's report on the appeal for the partition of the property at 34 Scenic Dr. The lot would be divided into three parcels, with parcel #3 remaining currently undeveloped. Mr. Anderson directed attention to the relevant criteria that were the main subjects of the appeal, and stated that staff found the criteria had been met by the applicants original submittal. Therefore it was staff's recommendation that the appeal be denied and the original staff approval be upheld with the conditions recommended in the staff report (see attachment #1).

### Questions of Staff

Commissioner Thompson asked for clarification from staff regarding the use of an easement across the appellant's property to access parcel #3. Mr. Anderson related how the current easement would not be sufficient for any future single family homes per the Ashland Municipal Code (AMC), but that staff did not weigh in on this issue because it was a civil matter between the two parties. Any future development would be required to show how the easement would allow for any necessary driveway standards before moving forward.

### Applicant Presentation

Amy Gunter gave a brief presentation to the Commission detailing how the minimum standards for a lot partition were met in the original proposal. She stated that several parcel layouts were discussed before deciding on the current proposal, which would have sufficient lot depth, width and street access, and would comply with chapter 18.5.3 of the AMC. Ms. Gunter addressed one concern made by the appellants over the lack of a development plan for parcel #3. She explained that the applicants had several potential plans for the parcel, but that it was their intention to leave it undeveloped at this time. The development plan recently submitted by the applicants was made to convey the development potential to the appellants and alleviate any concerns that they held. Ms. Gunter then noted that the applicants had sought the expertise of an engineer to demonstrate that a driveway could be developed for parcel #3 and conform to existing AMC standards. She also drew attention to the recorded easement, which stipulated that the property owners would be permitted to drive, walk, and place utilities within that 15ft wide easement, and would be a legal access point to the property.

Ms. Gunter addressed the connectivity issue raised by the appellants due to block length, pointing out that the Granite Street easement could grant access to Lithia Park in the event of increased foot traffic through the property. She stated that this is not the current intention of the applicants, but that this could be employed to alleviate the concerns of the appellants. Speaking on behalf of the applicants, Ms. Gunter summarized the contentious and protracted legal suit that settled the current easement over the property. The applicants also wanted the Commission to be aware of the increasing urbanization of the Scenic Drive area, and that this partition conforms to all development standards and criteria required by the AMC.

### Questions of the Applicant

Commissioner Verner inquired if the applicants would be averse to removing the easement from the bottom of lot #3 in order to disconnect it from lot #2. Ms. Gunter replied that she would be hesitant to do this because of the potential

for utilities through that easement. The original intention of the partition was to provide driveway access from the bottom of the lot and remove any need for parcels #1 and #2 to share a driveway. She stated that the site naturally lends itself to preserving the driveway of parcel #1 for access to parcel #2, and that the easement at the bottom of the lot could be amended to only allow for utilities along that easement and no longer support an ingress/egress point.

### **Appellant Testimony**

Raul Woerner spoke on behalf the appellants, Susan and Rod Reid, and stated that the intent of the appeal was not to deny the partition, but to address concerns primarily regarding access to the parcel. The concern was that the nearby retaining wall would necessitate any future development to use the 15ft wide easement as a principal access point, a concept that the appellants believed would be untenable with increased traffic through the parcel. Therefore the appellants requested that the Commission impose a condition for approval stating that any issuance of development permits for parcel #3 be restricted until an access point that meets AMC standards is provided. Mr. Woerner contested page 2 of staff's report that a single family could use the easement as a access point without further review. He stated that this was incorrect because the AMC required that driveways over 50ft in length would need to be wider than the 15ft easement would allow. He also pointed out that the engineering plan was not provided in the initial application and was instead supplied afterwards, but was encouraged that such a development would be possible.

Mr. Woerner concluded by informing the Commission that the Reids supported amending the terms of the easement at the bottom of parcel #2 to include utility use only.

### **Public Testimony**

Richard and Joyce Stanley/Mr. and Mrs. Stanley conveyed their misgivings over access and lack of a development plan for parcel #3. They were concerned that the integrity of the nearby retaining wall would be compromised if forced to support a relatively steep driveway. They inquired if building a driveway in a swale would be problematic, and how the development could impact the parcel as a natural wildlife corridor. Mr. and Mrs. Stanley concluded by inquiring if a development plan could be requested, particularly with regards to the potential for up to twelve cottages being developed on the site and what that could mean for the narrow access point.

### **Applicant Rebuttal**

Ms. Gunter responded that many of the concerns raised by Mr. and Mrs. Stanley were code criteria and directed those inquiries to staff. She pointed out that no development plan was originally required in the application, but that one was provided in response to the appeal and that the plan for twelve cottages was one of many options for development and not a current proposal. Ms. Gunter clarified that the design for the driveway was done by one of the engineers responsible for the original retaining wall, which was the reason the applicant's team sought him out. She conceded that such a development would be difficult, but that the only lots left available in City were the ones with restrictive access points. She detailed how cottage housing would not require off-street parking as opposed to a subdivision, which would have different standards for development.

Ms. Gunter then informed the Commission that she had contacted the appellants and agreed to change the easement for parcel #2 to be for utility use only.

Chair Norton closed the Public Hearing and Record at 7:55 p.m.

### **Discussion and Deliberation**

Commissioner Verner stated that the Commission should deny the appeal because she believed that the requisite criteria had been met, but with the condition of approval regarding the use of language for parcel #3. There was general discussion over the Commission's jurisdiction over the language of the easement, but it was determined that because the applicants had consented to the change it could be listed as a condition of approval.

Commissioners Verner/Dawkins m/s to uphold the original approval including the four conditions recommended by staff, with the addition of a fifth condition consistent with the applicant's proposal that the final survey plat identify the easement at the bottom of lot #3 as an easement for utility access to lot #2. Roll Call Vote: Commissioners Dawkins, KenCairn, Pearce, Thompson, Verner, Knauer, and Norton, all AYES. Motion passed. 7-0.

**B. PLANNING ACTION: PA-T2-2022-00037 – CONTINUED**

**SUBJECT PROPERTY:** 165 Water Street, 160 Helman Street and 95 Van Ness (*corner of Van Ness & Water Streets*)

**APPLICANT/OWNER:** Rogue Planning & Development Services, LLC, *agent for*

**DESCRIPTION:** A request for a six-lot commercial subdivision to accommodate a phased mixed-use development for the three properties at 95 Van Ness Street, 165 Water Street and 160 Helman Street. The applicant's Phase I requests Site Design Review approval for five mixed-use commercial buildings with ground floor commercial spaces and two residential units above in each building, as well as associated surface parking, utility infrastructure and street improvements. The three remaining lots would have initial site work completed with Phase I, but building construction would occur only after Site Design Review approvals in a future Phase II. The application also includes a request for a Physical & Environmental Constraints Review Permit because the proposal includes development on severe constraints lands with slopes greater than 35 percent and on floodplain corridor lands; a request for an Exception to the Development Standards for Hillside Lands; a request for a Tree Removal Permit to remove 20 trees on the three properties and within the adjacent rights-of-way; and a request for an Exception to Street Standards to allow parking bays with street trees in bump-outs along Van Ness Avenue rather than standard park-row planting strips. *[Since the March Planning Commission hearing, the number of lots proposed has been reduced from eight to six. The application no longer includes a Solar Access Exception or an Exception to the plaza space requirement]*

**COMPREHENSIVE PLAN DESIGNATION:** Employment; **ZONING:** E-1; **ASSESSOR'S MAP:** 39 1E 04CC; **TAX LOTS #:** 2000, 2100 & 7100

**Ex Parte Contact**

No ex parte contact was reported. Commissioner KenCairn wanted it noted that she resides in the neighborhood, but believes that she treats all projects that go before the Commission impartially.

**Staff Report**

Senior Planner Derek Severson first outlined the changes made to the commercial subdivision proposal since the March 8, 2022 Commission meeting (see attachment #2). The significant changes included:

- The number of lots was reduced from eight to six. Eight buildings are still proposed but they would be constructed as condominiums.
- The resultant lot configuration would alter the property lines and a Solar Access Exception would no longer be requested.
- The resultant lot configuration would eliminate a previously identified street frontage issue for the previously proposed lot #5.
- Each building would now be configured to provide 65% of the ground floor area for commercial use.
- Plaza space had been clearly detailed, and identified plaza space totaling 8,774 square feet, over the initial proposal of 5,581 square feet. An exception for reduced plaza space would no longer be requested.
- A Traffic Impact Analysis (TIA) was provided, and concluded that development would not significantly impact traffic in the area.
- A geotechnical report had been provided by the Galli Group Geotechnical Consulting firm. This report concluded that, with their recommendations, the site would be suitable for development without adversely affecting the stability of the slope.

Mr. Severson pointed out that the ceiling and building heights had not changed since the March 8, 2020 Planning Commission meeting. He directed the Commission's attention to the recommendation made by the Historic Commission at its April 6, 2022 meeting, which had determined that the three buildings along Helman Street did not fit with the surrounding historic district and should be reduced in height, scale, and mass. The Historic Commission stated that the designs would benefit from a greater variety of materials, height, and number of stories to alleviate the monotony that the buildings would present along the Helman streetscape. The Historic Commission thanked the applicants for the changes that had been made to the design of the buildings, but concluded that too few of their significant issues with the project had been addressed since their meeting on March 2, 2022. The Historic Commission unanimously recommended that the application be denied.

Mr. Severson outlined how the key consideration for staff when examining the project was how to apply the Historic District Development Standards addressed in AMC 18.4.2.050.B.1. Regarding Transitional Areas, these standards stated that "appropriate adjustments to building form, massing, height, scale, placement, or architectural and material treatment may be considered to address compatibility with the transitional area while not losing sight of the underlying standards or requirements applicable to the subject property."

Mr. Severson stated that in staff's opinion the massing of the buildings along Helman Street remained an issue. He suggested that greater third-floor step backs or plaza space in front of the buildings be considered to make the Helman Street frontage more compatible with the surrounding area. He cited a project on First Street that employed third-story step backs in order to meet transitional building standards. Mr. Severson also drew attention to design standards in the Transit Triangle Overlay and the Croman Mill site and their use of transitional zones to incorporate future developments.

In staff's opinion the application did not meet appropriate design and massing adjustments to meet the compatibility standards of the Historic District. Mr. Severson recommended that the Commission consider whether a more substantial third-floor step back might better address the buildings' massing, and whether some additional park-row and sidewalk width, or front plaza space, would work to provide some additional buffer space and better accommodate street tree growth which would ultimately support greater tree canopy as a further buffer.

### **Questions of Staff**

Commissioner Verner requested clarification on the decision to deny the application by the Historic Commission. Mr. Severson responded that on March 2nd the Historic Commission had given the applicants recommendations on how to better incorporate the project into the Historic District. At the subsequent April 8<sup>th</sup> meeting the Historic Commission determined that the applicants had not made significant enough changes to the project design and therefore recommended that the application be denied.

Commissioner Pearce asked for clarification from staff on their interpretation of the transitional zones, and whether this referred to the transition between zones or the transition between individual projects. Mr. Severson stated that when the Historic Commission looks at projects they focus on the impact area, which is typically within 200 feet of the proposed site, and look at the existing development within that area. He pointed out that larger buildings have historically existed in the area, as well as some currently, but not within the 200ft impact area of the development site.

### **Applicant Presentation**

Ms. Gunter gave a brief overview of the zoning and historical overlays of the development site and the surrounding area. She summarized the site history and showed several examples of large scale buildings that had formerly existed in the Historic District. Ms. Gunter also noted that streets previously named "Mechanic" and "Factory" could be found in the area, which in her opinion alluded to industrial, employment, and commercial zoning being the predominant zoning types and uses of the area. She stated that the proposed buildings met Historic District design standards for massing, design, scale, mass, and materials used are within compliance for a mixed-use residential and commercial development in this zone. Ms. Gunter added that the development would be consistent with the

surrounding area and was under the maximum allowed building height. She noted that the lot numbers may change due to ORS 92 requirements, but that the layout would not change.

Piper von Chamier spoke to the plaza space throughout the project, and detailed how the applicant team was able to fully develop the plazas throughout the sites. She remarked that the design team had also considered naming the central promenade either "Factory" or "Mechanic" Way as a nod to the formerly named streets. Ms. Chamier emphasized her firm's desire to include stormwater as a part of the landscape, as well as for fountains and irrigation. The largest plaza space would be Helman Plaza, which would have raised stormwater planters, fountains, trees, and raised steps out to the parking area.

Ms. Gunter mentioned that she found the Historic District design standards text largely addressed residential dwellings and the immediately adjacent properties, but seemed to primarily focus on the compatibility between two homes. She stated that the Transitional Zone between the districts would therefore need to be the most heavily considered criteria, which the proposed development would conform to. Ms. Gunter detailed how the designs also reflected the Historic District design standards, in the form of numerous traditional design elements and materials, despite the scale and massing appearing more modern in relation to the nearby houses.

Ms. Gunter directed the Commission's attention back to the Historic Design standards and its lack of guidelines for a commercial development in relation to the existing residences. She stated that her team's interpretation of the transition zone indicates that the Historic District standards are superseded when considering the underlying zoning standards, and expressed the opinion that the design standards should be more objectively written.

Mr. Gunter briefly presented side-by-side comparisons between the earlier building designs and those currently proposed. She showed further comparisons between her team's proposal and previously approved projects. Included was one that was accepted by the Commission but never developed, and would have included similar buildings in mass and scale to those proposed by the applicants. Ms. Gunter expressed concern that staff had cited the Transit Triangle and Croman Mill development standards in their report, despite those standards not being applicable to this proposal.

Gil Livni, the property owner voiced his frustration over what he believed were shifting design standards from previously approved projects. He said that his team could make further design adjustments, but that denials seemingly based on subjective reasoning were disheartening. Mr. Livni expressed concern that the code of conduct regarding ex parte contact for Public Hearings had been breached.

### **Public Comments**

**Mark Brouillard**/Mr. Brouillard rejected the concern that any improper contact had taken place. He drew the Commission's attention to two commercial buildings at 92 Van Ness Avenue and 152 Helman Street as a comparison to the proposed development. Mr. Brouillard also contended that the applicant's TIA report contained inaccurate information. He cited section 18.3.13.010.a of the AMC which states that the Residential Overlay is intended to encourage a concentration and mix of businesses that provide a variety of housing types, a standard that he believes this project fell short of. Mr. Brouillard concluded by suggesting that the Commission follow the recommendation of the Historic Commission and deny the application.

**Eric Bonetti**/Mr. Bonetti informed the Commission that he is Mr. Livni's neighbor and has worked with him on numerous projects. Mr. Bonetti contended that this district has not yet been fully utilized as an E-1 zone. He showed examples of several commercial buildings already in the Historic District and expressed the opinion that the applicant's project could help revitalize the area. Mr. Bonetti acknowledged the difficulties of developing a parcel that encompasses and abuts the R-3, E-1, and M-1 zones, but that the applicants had put forth a convincing and appropriate proposal for development. He went on to say that if the application was rejected then this would remain an undeveloped and underutilized area, and warned that unsightly commercial developments could one day occupy the lot. Mr. Bonetti presented examples of undeveloped lots near the proposal site, and voiced frustration a project

with the potential to revive the area was not being readily approved. He cited the four-story Plaza Inn and Suites hotel on Water Street and three-story development on First Street as examples of similarly sized developments, and expressed the opinion that it could be seen as hypocritical if the Commission denied the applicant's proposal.

Planning Manager Brandon Goldman wanted it noted that, while Mr. Brouillard does serve on the Transportation Commission, his comments were made as a resident of the neighborhood and not made on behalf of the Transportation Commission.

### **Applicant's Rebuttal**

Ms. Gunter pointed out that the buildings in the proposal were similar in mass and scale, but they would not be identical. She stated that the development, when the base lot area relative to building size is taken into account, would be similar in massing and scale to the commercial building on 92 Van Ness Avenue cited by Mr. Brouillard. Ms. Gunter concluded by stating that citing existing single-story or underdeveloped Employment zone properties doesn't provide an Historic District comparison because those properties could be redeveloped to the Employment District site design review standards. Therefore they cannot be taken as direct comparisons to the applicant's proposal.

Chair Norton closed the Public Hearing and Record at 9:16 p.m.

### **Discussion and Deliberation**

Mr. Severson stated that it was not staff's intention to suggest that the proposal would be subject to the design standards of the Croman Mill Site or Transit Triangle, merely to provide concrete examples of where the Commission determined those types of treatments were appropriate of ways to mitigate mass.

Commissioner KenCairn suggested that the enclosed plaza spaces within the development be placed in front and provide set-backs for the development, alleviating the scale and mass of the development in relation to nearby single-story houses. She noted that the four-story development on Water Street had been approved because the site was at a lower elevation than Helman Street, and wasn't in a residential neighborhood which made it more compatible with the area. Therefore the applicant's submittal could not be judged in relation to previously approved projects.

Commissioner Pearce praised the plaza designs, adding that they met all the design standards necessary for approval. He voiced the opinion that the Transition Zone had been misinterpreted by the Historic Commission, which he stressed speaks to the transitions between zones, not individual buildings. He stated that the only source of contention is the transition between the development site in the Employment District and the R-3 Zone across Helman Street, and stated that the proposal was compatible with the neighboring R-3 Zone.

Commission Verner disagreed with Commissioner Pearce's interpretation of the transition zones and stated that existing buildings should be taken into account when considering a new development. She suggested that the applicants consider placing four-story buildings along Water Street and two-story buildings along Helman Street, thereby remove the issue of mass and scale in relation to the neighboring houses. Commissioner Verner remarked that she saw no significant change in the plazas since the applicant's first brought their proposal to the Commission, and voiced disappointment that the parking lots and entrance ways were being included as plaza spaces.

Commissioner Thompson agreed with Commission Verner, adding that the code refers to the transition being between zones, and stated that the examples used in that section compared new developments to the existing historic buildings in the immediate vicinity. She stated that any transition between the Employment and R-3 zones would therefore need to take the Historic District code into account when considering any new development. Commissioner Thompson would support the Helman Street buildings being reduced to two-stories in favor of increasing the Water Street developments to four-stories, and remarked that the mass and scale of the buildings

along Helman Street is compounded by the number of buildings proposed along that streetscape. Commissioner Thompson expressed her disappointment with the plaza spaces in the application.

**Commissioners Dawkins/KenCairn m/s to extend the meeting until 10:00. Voice Vote: all AYES. Motion passed. 7-0.**

The Commission discussed the interpretation of the transition zone and massing along the Helman streetscape, and there was general agreement that the applicants should submit a proposal dealing with this issue. Chair Norton remarked that the Planning Commission and Historic Commission had recommended to the applicants that they adjust their proposal to reduce scale and mass along Helman Street. Commissioner Pearce agreed that the building mass remained an issue, but that the Commission should encourage such development projects.

Commissioner Dawkins asked staff what would happen to the project if the Commission denied it. Mr. Severson replied that the Commission could deny the application without prejudice, which would allow the applicants to submit a new proposal for the site without delay. If it was denied outright then the only recourse for the applicants would be an appeal of the decision before the City Council or to wait one year before resubmitting.

Chair Norton voiced frustration that the Commission had been put in the position to deny the application after the applicants had been given instructions for approval. Commissioner Pearce agreed that it should be denied without prejudice to allow the applicants to resubmit their development plans without delay.

**Commissioners Dawkins/KenCairn m/s to deny the application without prejudice. Roll Call Vote: Commissioners Dawkins, KenCairn, Pearce, Thompson, Verner, Knauer, and Norton, all AYES. Motion passed. 7-0.**

**V. ADJOURNMENT**

Meeting adjourned at 9:52 p.m.

*Submitted by,  
Michael Sullivan, Administrative Assistant*