
The comments of this pre-app are preliminary in nature and subject to change based upon the submittal of additional or different information. The Planning Commission or City Council are the final decision making authority of the City, and are not bound by the comments made by the Staff as part of this pre-application.

**ASHLAND PLANNING DEPARTMENT
PRE-APPLICATION CONFERENCE
COMMENT SHEET** June 12, 2024

SITE: 77 5th Street
APPLICANT: Asher Homes
OWNER: Lois Pettinger & Marika Mooyman

REQUEST: Construct 300 sq ft addition: Conditional Use Permit for expansion of nonconforming structure and nonconforming property line setback; and a solar setback exception/waiver

ADDENDUM – under department comments Public Works did not submit comments, therefore, a strike though was added and updated to reflect that no comments were submitted.

PLANNING DIVISION COMMENTS

This pre-application conference is intended to highlight significant issues before the applicant prepares and submits a formal application.

Summary and Proposal: The proposal is to construct a 330 square foot addition to the main house, a 120 square foot deck, and a solar setback waiver. The addition, as shown on the site plan, will encroach 2 feet 4 inches into the side yard setback. The addition is shown to be in line with the existing main house. The main house was constructed in 1911 prior to the setback ordinance and therefore is an existing non-conforming structure.

The proposed development of the addition is an expansion of a nonconforming structure and setback. The proposal is to match the existing foundation and roof line. Per Chapter 18.1.4.040.B, nonconforming development may be enlarged subject to a Conditional Use Permit.

In preparation for the pre-application the Historic Preservation Review Board (HPAC) reviewed the submitted application on June 6, 2024 and provided the following advisory only comments:

- HPAC was pleased with Historical Element Notes submitted with the pre-application
- HPAC agrees with the hip roof extension at the back of the house to match the pitch/style with open tails and composition roof to match main house
- Matching windows, siding, and trim should be incorporated into the design
- If possible, double hung windows should be incorporated into the design
- A door that swings in with a wood sash instead of a vinyl sliding glass door would be preferred

Background/History of Site: The property is in the Railroad Historic District and is developed

with a 1911 single story residence and 2004 two story detached accessory structure (not a separate residence) with a no kitchen agreement.

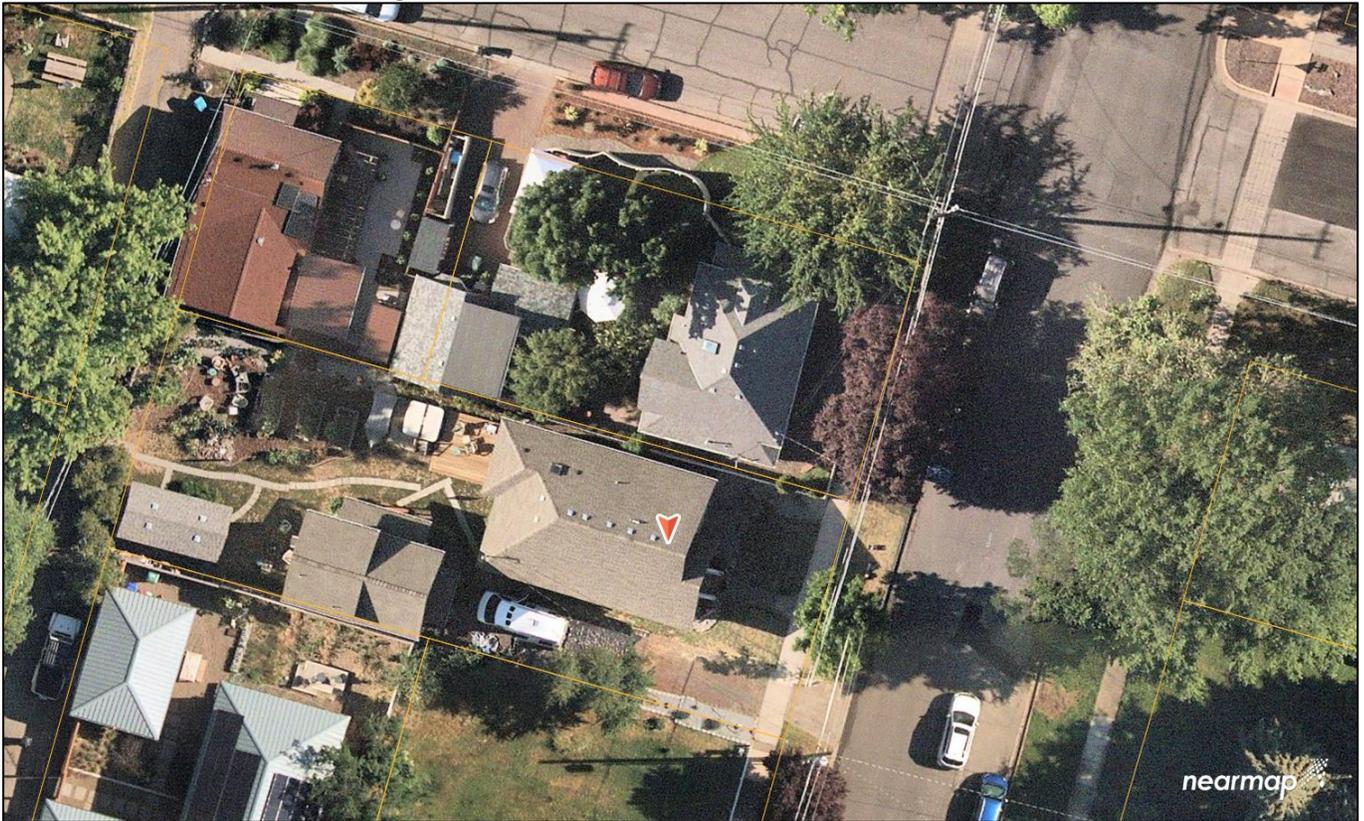


Figure 1: Aerial View of 77 5th Street (nearmap, June 15, 2023)

UNDERLYING ZONE PROVISIONS

Zoning: R-2, multifamily zone.

Overlays:

1. Historic District Overlay: The property is in the Ashland Railroad Addition Historic District. The original house is listed on the Oregon Historic Site Record as the W.H. Flagg house, a bungalow that has characteristics that are contributing to the historic district.

ID # 314.0 Survey #110

FLAGG, W. H. HOUSE

77 FIFTH ST

Arts & Crafts: Bungalow

1911c

391E09AC 6900

Primary/Contributing

A one story wood-frame bungalow, this house dates from about 1911 following the transfer of the lots to W. H. Flagg who either razed or substantially remodeled an earlier 1902c structure built on this site for Mr. and Mrs. Harley Fox. Flagg, a plumber, retained ownership through 1920. As early as 1942 the house was occupied by Roy Nye, who worked at Camp White, and his wife Laurene. The couple owned and occupied the house at least through 1964. The Flagg House retains very high integrity and effectively relates its historic period of development.

- Maximum Permitted Floor Area (MPFA) in Historic District: new structures and additions shall conform to the maximum permitted floor area standards of this section. *As proposed in the preliminary plans the MPFA appears to be met. For example, according to the Map and Taxlot the property is 7,100 square feet. The proposed residence square footage with the addition is 1,710 square feet. The following formula shall be used to calculate the MPFA for single-family dwellings; provided, however, that regardless of lot size, the MPFA shall not exceed 3,249 square feet:*

Lot area x Adj. Factor [from Table 18.2.5.070(E)] = Adjusted lot area x 0.38 FAR = MPFA

$$7100 \times 0.85 = 6035 \times 0.38 = \underline{\underline{2,293 \text{ square feet maximum MPFA}}}$$

- *The MPFA calculations shall be clearly shown on the submitted application (reference, Chapter 18.2.5.070).*
2. **Wildfire Overlay:** All of the City of Ashland is within the wildfire overlay. *Any overhanging eaves, specifically those encroaching into the required setback may be required to be fire wrapped per Building Code R-327.4.*

Maximum building height: 30 feet maximum height within the historic districts. *Please include elevation drawings with the submittals.*

Setbacks:

1. **Property Line Setbacks:** Six feet for side yards. *The site plan show an encroachment of two feet 4 inches.*
2. **Solar Access Setbacks:** The intent of the solar access chapter (Chapter 18.4.8) and solar setbacks is to provide protection to all parcels in the City with the potential for utilizing solar energy. *The applicant is proposing a solar waiver agreement with neighbor to the north. Please provide solar setback calculations and drafted solar waiver with submittals. In the narrative describe what will be affected on the neighboring property (i.e., dwelling, accessory structure, yard, etc.).*

Lot Coverage: A maximum of 65 percent of the lot may be covered with impervious surface. *Please identify on site plan and describe in the written findings narrative all areas of landscaping, impervious surface, patio space, outdoor recreational space, etc.*

Landscaping Requirements: 35 percent of the site must be retained in landscaping.

WRITTEN FINDINGS

Conditional Use Permit (Chapter 18.5.4)

A Conditional Use Permit shall be granted if the approval authority finds that the application meets

all of the following criteria, or can be made to conform through the imposition of conditions.

1. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive Plan policies that are not implemented by any City, State, or Federal law or program.
2. That adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the development, and adequate transportation can and will be provided to the subject property.
3. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone, pursuant with subsection 18.5.4.050A.5, below. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone.
 - a. Similarity in scale, bulk, and coverage.
 - b. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
 - c. Architectural compatibility with the impact area.
 - d. Air quality, including the generation of dust, odors, or other environmental pollutants.
 - e. Generation of noise, light, and glare.
 - f. The development of adjacent properties as envisioned in the Comprehensive Plan.
 - g. Other factors found to be relevant by the approval authority for review of the proposed use.
4. A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance.
5. For the purposes of reviewing conditional use permit applications for conformity with the approval criteria of this subsection, the target uses of each zone are as follows.
 - c. R-2 and R-3. Residential use complying with all ordinance requirements, developed at the density permitted by chapter 18.2.5 Standards for Residential Zones.

Solar Setback Exceptions (Chapter 18.4.8)

Requests to depart from section 18.4.8.030, Solar Setbacks, are subject to subsection 18.4.8.020.C.1, Solar Setback Exception, below. Deviations from the standards in section 18.4.8.050, Solar Orientation Standards, are subject to subsection 18.5.2.050.E, Exception to the Site Development and Design Standards.

1. Solar Setback Exception. The approval authority through a Type I review pursuant to section 18.5.1.050 may approve exceptions to the standards in 18.4.8.030, Solar Setbacks, if the requirements in subsection a, below, are met and the circumstances in subsection b, below, are found to exist.

- a. That the owner or owners of all property to be shaded sign, and record with the County Clerk on the affected properties' deed, a release form supplied by the City containing all of the following information:
 - i. The signatures of all owners or registered leaseholders holding an interest in the property in question.
 - ii. A statement that the waiver applies only to the specific building or buildings to which the waiver is granted.
 - iii. A statement that the solar access guaranteed by this section is waived for that particular structure and the City is held harmless for any damages resulting from the waiver.
 - iv. A description and drawing of the shading which would occur.
- b. The approval authority finds all of the following criteria are met.
 - i. The exception does not preclude the reasonable use of solar energy (i.e., passive and active solar energy systems) on the site by future habitable buildings.
 - ii. The exception does not diminish any substantial solar access which benefits a passive or active solar energy system used by a habitable structure on an adjacent lot.
 - iii. There are unique or unusual circumstances that apply to this site which do not typically apply elsewhere. (Ord. 3147 § 8, amended, 11/21/2017)

OTHER CITY OF ASHLAND DEPARTMENT COMMENTS

BUILDING: *“On the application: Items 3 and 4 appear to be represented incorrectly in this application as the occupancy type for a single-family home is an R-3, and the construction type is more than likely Type V.”* Contact the Building Division for any building codes-related questions at 541-488-5305.

STREETS/PUBLIC WORKS/ENGINEERING DEPT.: ~~Public Works comments provided at the end of this document.~~ NO COMMENTS PROVIDED. Please contact Karl Johnson of the Engineering Division for any further information at 541-552-2415 or via e-mail to karl.johnson@ashlandoregon.gov.

FIRE DEPARTMENT: No comments provided. Please contact Mark Shay from the Fire Department for any Fire Department-related information at 541-552-2216 or mark.shay@ashlandoregon.gov.

CONSERVATION: For more information on available water conservation programs, including any available appliance rebates or assistance with landscaping and irrigation system requirements, please contact Water Conservation Specialist of Conservation Division at 541-552-2062. For information on any financial or technical assistance available for the construction of Earth Advantage/Energy Star buildings, please contact Conservation Analyst/Inspector Dan Cunningham at 541-552-2063 or via e-mail to dan.cunningham@ashlandoregon.gov.

WATER AND SEWER SERVICE: No comments provided Please Contact Steve Walker at [541-552-2326](tel:541-552-2326) or (walkers@ashlandoregon.gov) with any questions regarding water utilities.

STORM WATER DRAINAGE: Please contact Karl Johnson of the Engineering Division for any further information at 541-552-2415 or via e-mail to karl.johnson@ashlandoregon.gov.

ELECTRIC SERVICE: *“Electric approves.”* Please contact Rick Barton in the Electric Department for service and meter location requirements and fee information at 541-552-2082 or via e-mail to rick.barton@ashlandoregon.gov.

OTHER AGENCY COMMENTS

OREGON DEPARTMENT OF TRANSPORTATION REGION 3: *“ODOT does not have comments on this proposal based on our evaluation criteria. Thank you for providing the opportunity to review this land use action.”*

OREGON DEPARTMENT OF TRANSPORTATION RAIL CROSSING: *“Since this is not within 500 feet of a crossing, ODOT Rail Crossing does not have any concerns/comments. Thank you for the opportunity to review.”*

PROCEDURE: A Conditional Use Permit is subject to a “Type I” procedure which includes an administrative decision made following public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission.

APPLICATION REQUIREMENTS

Submittal Information.

The application is required to include all of the following information.

- a. The information requested on the application form at <http://www.ashland.or.us/Files/Zoning%20Permit%20Application.pdf> .
- b. Plans and exhibits required for the specific approvals sought (see below).
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail (see below).
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, *as applicable*.
- e. The required fee (see below).

The Ashland Land Use Ordinance, which is Chapter 18 of the Municipal Code, is available on-line in its entirety at: <https://ashland.municipal.codes/LandUse>

Written Statements

Please provide an electronic copy of written statements explaining how the application meets the approval criteria from the sections of the Ashland Municipal Code listed below. These written statements provide the Staff Advisor or Planning Commission with the basis for approval of the application:

- **Conditional Use Permit** **AMC 18.5.4.050**
(Expansion of nonconforming structure and nonconforming property line setback)

- **Solar Setback Calculations, Exception, and Waiver** **AMC 18.4.8.020**

Plans & Exhibits Required

Please provide electronic sets of exhibits (plans or drawings) addressing the submittal requirements from the sections of the Ashland Municipal Code listed below. These exhibits are used to copy the Planning Commission packets and for notices that are mailed to neighbors. Please ensure that the exhibits are reproducible at an 11-inch by 17-inch scale and are drawn to a standard architect’s or engineer’s scale.

- **Conditional Use Permit** **AMC 18.5.4.040**
- **Solar Setback Exception/Waiver** **AMC 18.4.8.020**

Fees:	1. Conditional Use Permit	\$1,271.25
	2. Solar Setback Exception/Waiver	\$1,271.25

NOTE: All applications received are reviewed and must be found to be complete before being processed or scheduled at a Planning Commission meeting. Applications will not be accepted without a complete application form signed by the applicant(s) and property owner(s), all required materials and full payment. Applications are reviewed for completeness in accordance with ORS 227.178.

For further information, please contact: June 12, 2024
 Jennifer Chenoweth, *Associate Planner* Date
 City of Ashland, Department of Community Development
 Phone: 541-552-2045 or email: jennifer.chenoweth@ashlandoregon.gov