***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 DIVISON**
**PRE-APPLICATION CONFERENCE**
**COMMENT SHEET**
August 28, 2024

**SITE:** 484 Helman Street
**APPLICANT:** DEI Engineers for Tyler & Maya Wauters
**REQUEST:** Exception to Solar Access

## PLANNING DIVISION COMMENTS

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

**Summary:** The proposal requires an application for exception to the Solar Access standards which can be processed through a type I review.

The materials submitted with the pre-application include a site plan and solar setback calculations for the area that will be subject to shading by the bedroom addition that is replacing an existing deck. Staff finds that the narrative will need more details explaining why the proposed location is the "only location available." Additionally, the elevation drawings used to calculate the solar setback will need to show and be measured from the natural grade of the lot and include the height of the walls on the north side from natural grade, as well as show the roof pitch for the addition. A formal application will need to have the signatures of all property owners for both the subject property and the property to be affected to the North, including William Hershman and Maya and Tyler Wauters.

**Solar Access Generally:** Oregon state law was changed in the 1980's to enshrine access to the sun as a protected property right. Ashland's Solar Access Ordinance was adopted subsequently, and generally prohibits casting a shadow over your north property line greater than would be cast by a six-foot fence constructed on the north property line (at noon on December 21st). The intent of the regulations is to preserve solar access for solar energy systems, gardens and/or passive solar home designs. Every building permit or planning proposal has to show that it meets the requirements of the ordinance, and newly created lots must be planned with solar access in mind.

**Solar Setback Exceptions:** To cast a shadow greater than allowed and infringe upon a neighbor's right to solar access, the neighbor first has to agree to the shading and be willing to record an agreement on the deed to their property. The shading allowed through an Exception is limited to the shadow agreed to (i.e. it isn't a blanket allowance to shade the neighbor's property, it is for a specific shadow to be cast). To approve such an exception, there needs to be a demonstration that: it doesn't preclude the reasonable use of solar energy systems or preclude passive solar design by future habitable buildings and doesn't diminish solar access for existing buildings or solar access systems, and there must be unique or unusual circumstances necessitating the exception that don't apply elsewhere. Compliance through thoughtful design (i.e. lowering height, adjusting roof pitch and orientation, and adjusting placement on site) are preferred.

### AMC 18.4.8.020.C Exceptions and Variances to Solar Access

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.

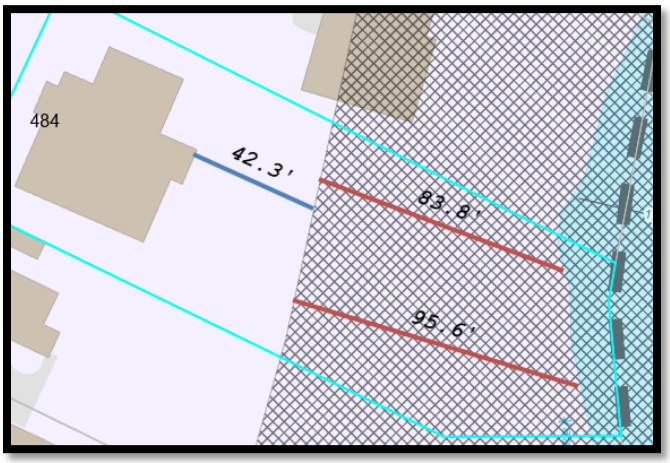
   b. The approval authority finds all of the following criteria are met.

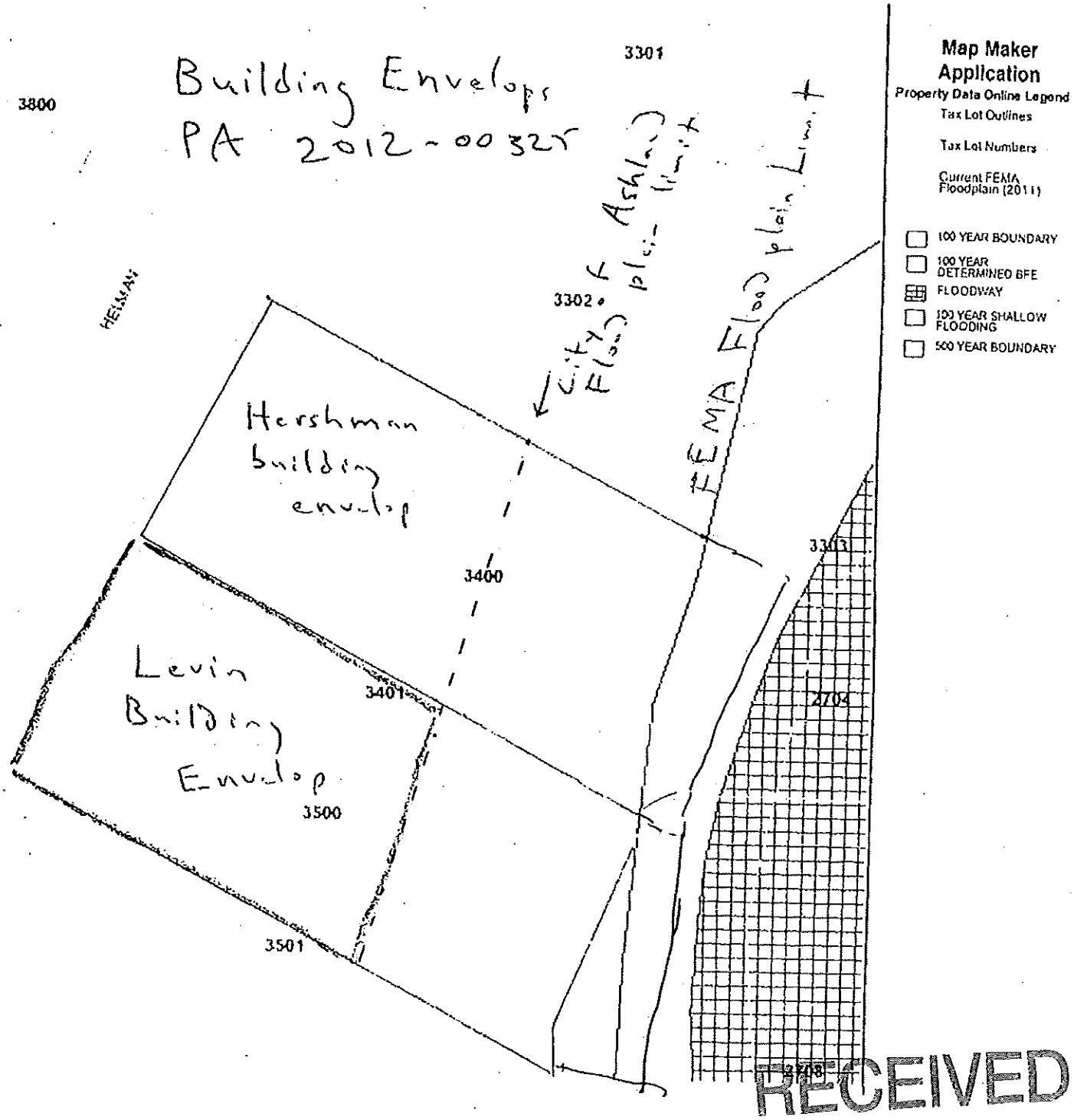
      i. The exception does not preclude the reasonable use of solar energy (i.e., passive and active solar energy systems) on the site by future habitable buildings.

      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 ORDINANCE REQUIREMENTS & COMMENTS:** City of Ashland's Code Compliance was made aware that the removed deck had been relocated into the floodplain corridor. AMC 18.3.10.080.E. states that "*To the maximum extent feasible, structures shall be placed on other than Flood Plain Corridor Lands."* Additionally, in the file for land partition (PA-2012-00325) buildable envelopes were identified for 500 Helman and 484 Helman. The buildable envelopes identified (see next page) include all the land above the Ashland Modified Floodplain, which is approximately 42' from the rear of the house and approximately 84-96' from the edge of the creek. Since the buildable envelope is located outside of the floodplain corridor area, all development is required to be located within this upper area. Further, if the applicant wishes to relocate the deck to edge of the floodplain, **a floodplain development permit** will be required, along with a survey to show that the deck is located outside of the floodplain and wholly within the buildable envelope of the property as identified in 2012.






RECEIVED

APR 09 2012

City of Ashland
Field Office

The undersigned acknowledge this modified map showing their building envelops on tax lots 3400 & 3500 based on the City's adopted Ashland Creek Floodplain.

| | | Date |
|---|---|---|
| Beth Levin | Beth Levin | 4/8/12 |
| Will Hershman | Will Hershman | 4/8/12 |

JACKSON COUNTY
Oregon

s map is based on a digital database
ated by Jackson County From a variety
ources Jackson County cannot accept
onsibility for errors, omissions, or
tional accuracy. There are no
anties, expressed or implied.
6 45:19 AM using web.jacksoncounty.org

## OTHER CITY OF ASHLAND DEPARTMENT COMMENTS

**BUILDING:** No comments at this time. Please contact the Building Division for any building codes-related questions at 541-488-5305.

**CONSERVATION:** For more information on available conservation programs, please contact Conservation Analyst/Inspector Dan Cunningham at 541-552-2063 or via e-mail to dan.cunningham@ashland.or.us

**ENGINEERING:** No comments at this time. Please contact Karl Johnson of the Engineering Division for any Public Works/Engineering information at 541-552-2415 or via e-mail to karl.johnson@ashland.or.us .

**FIRE:** Please contact Mark Shay from the Fire Department for any Fire Department-related information at 541-552-2217 or via e-mail to mark.shay@ashland.or.us

**WATER AND SEWER SERVICE:** If the project requires additional water services or upgrades to existing services the Ashland Water Department will excavate and install in the city right of way all water services up to and including the meter on domestic and commercial water lines. If a fire line is required, the water department will also only install a stub out to the location where the double detector check assembly complete with a Badger brand cubic foot bypass meter should be placed in a vault external to the building. The vault and the DCDA device housed in it are the responsibility of the property owner and should be placed at the property line. Fees for these installations are paid to the water department and are based on a time and materials quote to the developer or contractor. Meter sizes and fire line diameters will need to be provided to the Water Department at the time of a quote being requested. Please Contact Dean LeBret at 541-552-2326 or (dean.lebret@ashland.or.us) with any questions regarding water utilities.

**ELECTRIC SERVICE:** Please contact Rick Barton in the Electric Department for service requirements and connect fee information at (541) 552-2082 or via e-mail to rick.barton@ashland.or.us. Rick will arrange an on-site meeting, and develop a preliminary electrical service plan for the site. Please allow additional time to accommodate scheduling of this on-site meeting and preparing the preliminary plan. Submittals will not be deemed complete without a preliminary approved plan from the Electric Department.

## PROCEDURE

Exceptions to or waivers of the solar ordinance are 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 https://ashlandoregon.gov/DocumentCenter/View/262/Zoning-Permit-Application-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 a written statement explaining how the application meets the approval criteria from the sections of the Ashland Municipal Code listed below. The written statement provides the Staff Advisor or Planning Commission with the basis for approval of the application:

- **Solar Access Variances** **AMC 18.4.8.020.C.1.b**

## Plans & Exhibits Required

Please a set 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 provide reproducible copies that are drawn to a standard architect's or engineer's scale.

- **Description and drawing of shading** **AMC 18.4.8.020.C.1.a.iv**

## PLANNING APPLICATION FEES:

| | |
|---|---|
| Type I Review | $1,315.50 |

**NOTE:** Applications are accepted on a first come-first served basis. 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:

August 28, 2024
Date

Veronica Allen, CFM, *Associate Planner*
City of Ashland, Department of Community Development
Phone: 541-552-2042 or e-mail: veronica.allen@ashland.or.us

## WHAT IS SOLAR ACCESS?

Solar access simply means access to sunlight. The purpose of the Solar Access Chapter is to provide protection of a reasonable amount of sunlight from shade from structures and vegetation whenever feasible to all parcels in the City to preserve the economic value of solar radiation falling on structures, investments in solar energy systems, and the options for future uses of solar energy. Additionally, the Oregon Department of Energy has determined that structures receiving full sunlight use up to 20% less energy than those that receive only limited sunlight.

The Solar Access Ordinance is designed to protect solar access from shading by structures and from shading by vegetation.

This guide explains protection of solar access from shading by structures. For protection of solar access from shading by vegetation, see Section 18.4.8.060 Solar Access Permit for Protection from Shading by Vegetation in the Land Use Ordinance.

The goal is to assure that no structure casts a shadow across the northern property line greater than that, which would be cast by a 6 foot tall fence located at the northerly property line. The time of year used to determine the shadow length is during the winter solstice, at 12 noon on December 21. The angle of the sun above the horizon at that time is about 24°.

The following is a step-by-step explanation of how to compute each of the steps necessary to determine the required solar setback for structures (new construction, remodels and additions).

Community Development Department

51 Winburn Way
Ashland, OR 97520

Phone (541) 488-5305
Fax (541) 552-2050
www.ashlandoregon.gov

CITY OF ASHLAND
Better Together

# Solar Access

**Land Use Ordinance 18.4.8**

## SOLAR SETBACK GUIDE

# CALCULATING SOLAR SETBACKS

The following steps should be used when calculating the required solar setback for a structure

### STEP 1 – Determine the Northern Lot Line

- The solar setbacks pertain to the amount of shadow created by a structure at the north lot line.
- The north lot line is any lot line or lines less than 45° southeast or southwest of a line drawn east-west and intersecting the northern most point of the lot.
- If the northern lot line adjoins any unbuildable area (e.g., street, alley, parking lot, common area) other than a required yard area, for purposes of measuring the solar setback, the northern lot line shall be that portion of the northerly edge of the unbuildable area, which is due north of the actual northern edge of the applicant's property. **See Figure 1.**

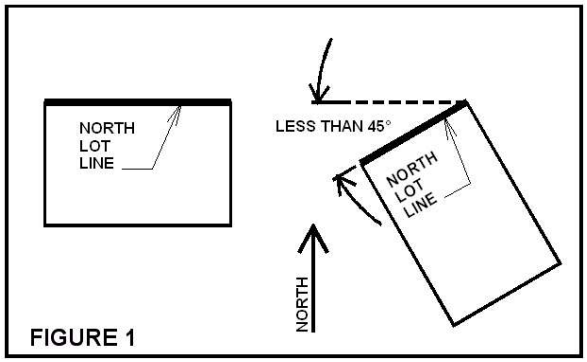


FIGURE 1

### STEP 2 – Determine the North/South Lot Dimension

- The N/S lot dimension is simply the average distance between lines from the corners of the northern lot line south to a line drawn east – west intersecting the southernmost point of the lot. **See Figure 2.**

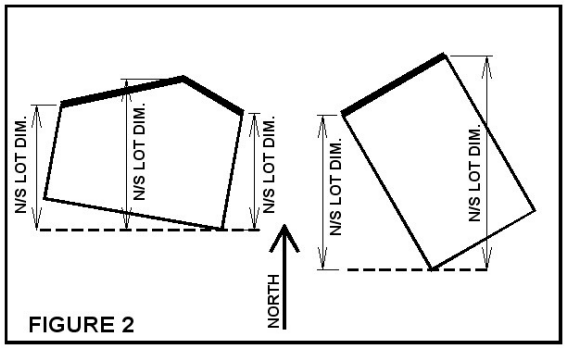


FIGURE 2

### STEP 3 - Calculating Average Slope

- Slope is simply defined as the vertical change in elevation divided by the horizontal distance of the vertical change.
- The slope is measured along lines extending 150' from the end points of a line drawn parallel to the north lot line through the mid-point of the north/south lot line. North facing slopes will have **negative values** and south facing slopes will have positive values.
- The slope values calculated are divided by 150; those values are then added together and divided by 2 for the average.

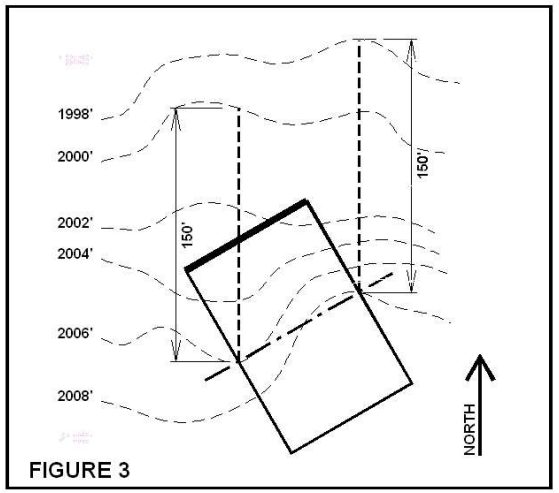


FIGURE 3

Calculation of average slope (S) example using **Figure 3**:
(East) 2008-1998= 10 / 150= -.0667
(West) 2006-2000= 6 / 150= -.0400
-.0667 + -.0400 = -.1067/2= -.0534

Note: The slope is represented as a decimal number as in percent slope.

### STEP 4 – Determine Lot Classification

- Lots are classified according to the following formulas:

- Formula I: 30'/(.445 + S)
- Formula II: 10'/(.445 + S)

Lots whose N/S lot dimension exceeds that calculated by Formula I shall be required to meet Solar Setback Standard A.

Lots whose N/S lot dimension is less than that calculated by Formula I, but greater than that calculated by Formula II, shall be required to meet Solar Setback Standard B.

### STEP 5 – Determination of Shade Producing Point

- The angle or the pitch of the roof determines where the Height of the highest shade producing point (H) is located and has a direct effect on the length of the shadow.
- A roof with a pitch of 5 ½ in 12 has an angle of approximately 25 degrees. If the roof pitch is less than 25 degrees the longest shade producing point will be the north wall or eave. If the roof pitch is greater than 25 degrees the shade producing point will be the roof peak.

### STEP 6 – Using the Solar Setback

- The Solar Setback is measured along a line parallel to the northern lot line and is the minimum distance that the tallest shade producing point casting the longest shadow to the north is to be setback from the northern lot line.
- The following equations are used in determining the required Solar Setback (SSB):
- H = Height of highest shade producing point
- S = Average Slope of Parcel 150' to north
- .445 = Angle of sun on December 21 at noon
- Setback Standard A:
- H – 6 / .445 + S = SSB
- Setback Standard B:
- H – 16 / .445 + S = SSB

## Examples:

**Standard A:**

H = 22' S = -.04%

22 - 6 = 16
(.445+ (- .04)) = .405

16 / .405 = 39.5' Setback from N lot line

**Standard B:**

H = 22' S = -.04%

22-16 = 6
(.445+ (-.04)) = .405
6 / .405 = 14.81' Setback from N lot line