
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 DIVISION
PRE-APPLICATION CONFERENCE
COMMENT SHEET**
January 14, 2026

SITE: 1101 Fern Street
APPLICANT: Gil Livni
REQUEST: Exception to Solar Access &
Modification

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 & a modification to the original lot approval 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 to the North.

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. Newly created lots are required to be designed to enable compliance with Solar Access 'Standard A' which equates to casting no more shadow over the northern lot line than would be cast by a six-foot fence (as noted above), or to include a solar envelope demonstrating how compliance with 'Standard A' could be achieved.

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. Approval of a Solar Access Exception requires, *"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."*

The first approval criterion for an exception is that *"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."*

The second approval criterion is that *"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."*

The third approval criterion is that *"There are unique or unusual circumstances that apply to this site which do not typically apply elsewhere."*

In past approvals where there has been an exception to solar access, it has been for houses that were in existence prior to the purchase of the property and the shading resulting from trying to achieve more efficient land use was outside of the control of the applicant. In this case, where a new house is proposed it may be harder to demonstrate that there are unique or unusual circumstances that apply that do not typically apply elsewhere. Staff recommend that you consider constructing the home on the lot to be shaded in a manner that will take the most advantage of available solar access to demonstrate that efforts are being made to enable solar access on the lot despite the solar access impacts of the proposed dwelling.

Planning staff would need you to show how the proposal can have the lowest impact on the property to the North, and you may wish to modify the proposal through revisions of the proposed plans for the single-family residence. There needs to be justification as to how the proposed development would not adversely affect the property to the North; an example would be to show how far the solar shadow would cast the first/second floor windows on the adjacent dwelling. Planning staff noted that the plans currently show a straight-line incline up, if it can come up halfway and pitch down it could potentially meet standards. The roof design choice and/or pitch could also be potentially toned down to meet standards without the need for a planning action.

Generally, the Planning Commission has indicated that the development of newly created lots should be designed to comply with the applicable solar access standard. To approve an Exception modifying the conditions of the lot's creation, the applicant will need to make a strong case that Exception is necessary (*i.e. there are unique or unusual circumstances necessitating the Exception, compliance cannot be achieved through thoughtful design such as by lowering the finished floor level or altering the roof pitch, and that the proposed shading does not preclude the reasonable future use of solar energy on the shaded property to the north (i.e. the de-facto shading is minimal).*)

Tree Removal/Protection: The application will need to include a tree inventory of all trees on the property and on adjacent properties within 15 feet of the property, and a Tree Protection Plan consistent with the originally approved application creating the lot and with AMC 18.4.5.030 for all trees to be preserved.

Wildfire: A Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance will need to be provided prior to bringing combustible materials onto the property, and any new landscaping proposed needs to comply with these standards and cannot include plants listed on the Prohibited Flammable Plant List per City Resolution #2018-028.

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 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: See attached comment sheet. 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](tel: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*

\$1,349.60

**In the event that the submittal materials do not fully address the approval criteria, the matter may be scheduled for a hearing before the Planning Commission.*

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:

Date: January 14, 2026

Nick Schubert, *Associate Planner*
City of Ashland, Department of Community Development
Phone: 541-552-2045 or e-mail: nick.schubert@ashland.or.us

Public Works Comments

1. Engineered Plans - Where public improvements are required or proposed, the applicant's engineer shall submit design plans for approval of all public improvements identified on the approved plan or as specified in the conditions of approval.

One set of these civil plans **MUST BE SUBMITTED DIRECTLY TO THE PUBLIC WORKS/ENGINEERING DEPARTMENT**. All design plans must meet the current City of Ashland Public Works Standards. Engineered construction plans and specifications shall be reviewed and signed by the Public Works Director, prior to construction. All public facilities within the development will be designed to the City of Ashland Engineering Design Standards for Public Improvements.

Where public improvements are required or completed, the developer shall submit as-built drawings of all public improvements constructed during and in conjunction with this project. Field changes made during construction shall be drafted to the drawings in the same manner as the original plans with clear indication of all modifications (strike out old with new added beside).

The engineered plans **MUST CONFORM TO THE FOLLOWING:**

- Drawings must be submitted digitally and **MUST** be true scale PDF drawings
 - Drawings sizes shall comply with ANSI-defined standards for page width and height.
 - Review and construction drawings **MUST** be submitted in B-size (11x17).
 - All final, as-constructed, drawings **MUST** be submitted digitally as true scale PDF drawings and on Mylar if requested. Final drawings shall be B-size (11x17) or D-size (22x34). If D size drawings are produced, both B size and D size **MUST** be submitted.
2. **Permits** – Any construction or closure within the public right of way or public utility easement will require a Public Works permit and before any work in the right of way or public utility easement commences, all necessary permits **MUST** be obtained.
 3. **Right-of-Way** – No additional right-of-way dedication, beyond that necessary to comply with City Street Standards, will be required at this time.
 4. **Street Improvement** – No additional street improvements, beyond those necessary to comply with City Street Standards, will be required at this time.
 5. **Driveway Access** – No additional improvements/requirements will be requested at this time, but the applicant proposed improvements must be reviewed and permitted by the City of Ashland Engineering Department.

6. **Sanitary Sewer** - The property is currently served by a 6-in sanitary sewer main in S Mountain Avenue. The applicant proposed improvements must be reviewed, approved and permitted by the City of Ashland Engineering Department.
7. **Water** - The property is currently served by a 6-in water main in S Mountain Avenue. City of Ashland Water Department shall tap existing water main and install any new water services and water meter boxes that are proposed by development. City of Ashland Water Department must be contacted for availability, placement and costs associated with the installation of the new water service. Service & Connection Fees will also be required for any new water services installed as part of this project.
8. **Storm Drainage** - The property is currently served by a 12-in storm sewer main in S Mountain Avenue. City of Ashland Engineering Department must review an engineered storm drainage plan.

Storm Water Facility Design Requirements

Applicant **MUST** follow the guidance and requirements set forth in the current Rogue Valley Stormwater Quality Design Manual which can be found at the following website:

<https://www.rvss-or.gov/stormwater-management-and-erosion-control/rogue-valley-stormwater-quality-design-manual>

All stormwater calculations, reports, drawings, etc. shall be submitted to the City of Ashland Engineering Department for review.

9. **Erosion & Sediment Control** - The following requirements shall be met:
 - All ground disturbances exceeding 2,500 square feet shall implement an Erosion and Sediment Control Plan (ESCP).
 - A 1200-C permit will be secured by the developer where required under the rules of the Oregon State DEQ. City of Ashland Engineering Department must receive a copy of this permit before any construction shall begin.
 - Erosion Prevention and Sediment control measures that meet the minimum standards set forth by the City of Ashland Public Works/Engineering Standard Drawing CD282 must be in place before any construction related to the project begins.
 - Pollution, track out, and sediment dumping into storm water are strictly prohibited per AMC 9.08.060.
 - Drainage from automotive use areas shall be limited to oil concentrations of 10 mg/l by a pre-approved means.
 - Trash storage areas shall be covered or provide additional storm water treatment by an approved means.

- Off street parking areas shall conform to Ashland Municipal Code 18.4.3.080.B.5, including provisions to minimize adverse environmental and microclimatic impacts.