

# City of Talent

Community Development Department - Planning

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## STAFF REPORT

Appeal Hearing — Hearings Officer

To: Rick Whitlock, Hearings Officer

Item: Appeal of Planning Commission's Order APL 2022-001

Meeting date: August 22, 2022, 5:30pm, Talent Community Center

File no: APL 2022-002 (SPR 2022-001; APL 2022-001)

Prepared by: Kim Trimiew

### GENERAL INFORMATION

|                             |  |
|-----------------------------|--|
| Appellants .....            | Ryan Fassari and Shel Harris<br>463 and 465 Arnos Road<br>Talent, OR 97540     |
| Property Owner .....        | Gangnes Family Trust<br>665 Camino de los Mares #106<br>San Clemente, CA 92673 |
| Agent .....                 | Oregon Architecture<br>132 West Main Street, STE 101<br>Medford, OR 97501      |
| Appeal Item .....           | Planning Commission Order<br>(APL 2022-001)                                    |
| Assessor's Map Number ..... | 38-1W-25B, Tax Lot 2902  |
| Site Location .....         | 461 Arnos Road   |
| Zoning .....                | RHD Residential High Density   |
| 120-Day Limit .....         | September 19 <sup>th</sup> , 2022 (extended from June<br>30, 2022)             |

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## **SUMMARY OF CRITERIA ADDRESSED**

*All standards and criteria applicable to this application are listed below.*

### **TALENT ZONING CODE**

#### **Chapter 18.40 RESIDENTIAL ZONE – HIGH-DENSITY (RHD)**

*18.40.030 - Buildings and Uses Subject to Type-II Site Development Plan Review*

*18.40.060 - Yard Regulations*

*18.40.070 - Lot Area and Dimensions*

*18.40.080 - Recreation Area for Multiple-Family Dwellings*

*18.40.090 - Landscaping, Fences, Walls and Signs.*

#### **Chapter 18.96 MULTIPLE FAMILY DESIGN**

*18.96.010 - General Provisions*

*18.96.020 - Applicability and Required Review*

*18.96.030 - Design Guidelines*

#### **Chapter 18.105 LANDSCAPING, FENCING AND HEDGES**

*18.105.030 - Minimum Vegetation and Ground Cover*

*18.105.050 - Buffering and Screening*

#### **Chapter 18.110 OFF-STREET PARKING AND LOADING**

*18.110.060 - Number of Parking Spaces Required*

*18.110.100 - Bicycle Parking Facilities*

*18.110.120 - Parking Area Design Standards*

*18.110.130 - Parking Area Improvements*

#### **Chapter 18.115 DEVELOPMENT AND DESIGN STANDARDS**

*18.115.030 - Pedestrian Access & Circulation*

*18.115.040 - Street Trees*

*18.115.060 - Vehicular Access & Circulation*

#### **Chapter 18.150 LANDSCAPING, FENCING AND HEDGES**

*18.150.050 Required Findings for Approval of Site Development Plan*

## **APPLICATION TIMELINE**

- 11/22/2021 Applicant attended pre-application meeting
- 12/30/2021 Applicant submitted application for Site Plan Review
- 2/9/2022 City staff deemed application incomplete
- 2/24/2022 Applicant submitted revised application for Site Plan Review
- 3/2/2022 City accepted application as complete (SPR 2022-001)
- 4/8/2022 City Staff's notice of decision mailed for SPR 2022-001 application
- 5/24/2022 Appellant (Oregon Architecture) filed appeal
- 6/8/2022 City mailed notice of appeal hearing, scheduled for June 28, 2022, at 6:30pm via Zoom
- 6/14/2022 Applicant requested a 60-day extension of the 120-day deadline and city has extended limit to August 13<sup>th</sup>, 2022
- 6/21/2022 City complied the Record of File No. APL 2022-001 and posted to City website
- 6/28/2022 Planning Commission Public Hearing
- 6/30/2022 Notice of Decision Mailed
- 7/14/2022 Notice of Appeal Received
- 8/3/2022 Notice of Public Hearing Mailed (APL 2022-002)
- 8/15/2022 Record Posted Online
- 8/22/2022 Hearing Officer Hearing (5:30pm at Talent Community Center)
- 9/19/2022 120 Day Deadline (includes all extensions of time)

## **AGENCY COMMENTS**

Agency comments are included as Exhibit 6 in the record of APL 2022-001

## **PUBLIC COMMENTS**

Public comments are included as Exhibits 17-21 in the record of APL 2022-001; and Exhibit 9 in the record of APL 2022-002.

## **PUBLIC PARTICIPATION**

A copy of the record is available on-line at [www.cityoftalent.org/currentplanning](http://www.cityoftalent.org/currentplanning) (click Appeals) was posted online on August 15, 2022. A staff reported prepared by the City has been provided seven days prior to the hearing. Anyone wishing to provide public testimony related to this appeal can submit comments via e-mail to [publictestimony@cityoftalent.org](mailto:publictestimony@cityoftalent.org) with the subject line APL 2022-002 by 10:00 a.m. on the Monday prior to the meeting. Written comment or testimony received by this deadline will be available for

Hearing Officer to review before the hearing and will be included in the meeting record. Oral testimony will only be taken during the meeting if you have pre-registered. To pre-register, email your request to [publictestimony@cityoftalent.org](mailto:publictestimony@cityoftalent.org) with the subject line “**Request for Oral Comment/Testimony**” by 4:00 p.m. the date of the hearing. If you would like to provide visual information to supplement oral testimony, you must provide visual testimony with the request for oral comment/testimony. Visual testimony provided via email must be in PDF, JPG or PowerPoint format and must be received prior to 4:00 p.m. the date of the hearing. When an opportunity for applicant rebuttal is allowed as part of the hearing procedures, the applicant may provide rebuttal via email prior to the close of the hearing. **Late submittals (not including applicant rebuttal) will not be accepted.** You must include your name and mailing address for the record.

## ISSUES RAISED ON APPEAL

### A. Applicant’s Proposed On-Site Parking.

- i. *City of Talent's Zoning Ordinance ("TZO") provides approval criteria for development within City. TZO Chapter 18.110 reflects City's standards and criteria with respect to off-street parking and loading requirements. TZO 18.110.110 demands off-street parking spaces for vehicles be located on the same lot as the proposed structure - in this case Applicant's Tax Lot 2902 (461 Arnos). City's TZO 18.110.060 includes Table 18.110.060-1, reflecting the number of off-street parking spaces required for proposed residential uses. City's standard for proposed multi-family residential developments, like Applicant's, requires Applicant provide one conforming off-street parking space for each proposed studio apartment unit within the project; and 1.5 parking spaces for each one and two-bedroom dwelling unit. TZO Table 18.110.060-1. Based on Applicant's plans submitted, the Commission found that, "[Applicant's] ... proposed multi-family building with 11 units requires 11 parking spaces." Additionally, one ADA-compliant parking space is required, per TZO Table 18.110.060-2.*

**City’s Response:** The Talent Municipal Code requires off-street parking for multi-family developments as set forth in table 18.110.060-1: 0.5 spaces for studio units; 1 space for one and two-bedroom units; and 1.5 spaces for three-bedroom or larger dwelling units. Applicant has proposed nine (9) one-bedroom units and two (2) two-bedroom units, requiring a total of eleven parking spaces per table 18.110.060-1. The site plan reviewed by the planning commission provides the required eleven off-street parking spaces and an additional space that meets ADA criteria.

- i. *Commission Decision, pg 11. City's off-street parking standards also require Applicant's proposed parking spaces provide a "parking aisle" - which must be a minimum of 24 feet in width. TZO Table 18.110.120. Applicant's 24-foot-wide parking aisle, and access to all proposed parking spaces, is located on Appellants' Property (13 feet on Fassari Tax Lot 2907; and 11.2 feet on Harris Tax Lot 2906). In the record before the Planning Commission, Appellants and others challenged Applicant's legal right to utilize the "flagpole" portions of Appellants'*

*Tax Lot 2907 and Tax Lot 2906 for ingress and egress to Applicant's proposed off-street parking; and to meet City's 24-foot "parking aisle" standards. In fact, Applicant's entire project relies on the legality of Applicant's purported easements over Appellants' Property. Applicant's easement rights were the subject of considerable discussion among the Commissioners during the June 28 public hearing on Applicant's appeal of staffs decision denying Applicant's application.*

*Appellants contend that Applicant does not have the legal right to utilize Appellants' Tax Lot 2906 and 2907 to meet City's off-street parking requirements, and Applicant's application should be denied on that basis.*

**City's Response:** Standard and compact parking spaces angled at 90 degrees as shown on the applicant's submittal require a 24-foot aisle for access and maneuverability. The applicant has proposed to use the established easements located on tax lots 2907 and 2906 to meet this 24-foot aisle requirement. While TMC 18.110.110 states that off-street parking spaces for dwellings shall be located on the same lot with said structure, there is no such requirement placed upon the access aisle, provided that no backward movement or other maneuvering of a vehicle take place within a street other than an alley (see TMC 18.110.120 [A]). Since the configuration in the applicant's submittal meets the aisle dimensional requirement and does not require vehicles to maneuver in a street, the proposal meets the city's parking criteria.

While the city has verified the existence of the access easements on tax lots 2907 and 2906, the exact nature of the easement and the legality of proposed use are outside of the city's jurisdiction. As the appellant has stated, if the applicant's proposed use of this easement for access and parking maneuverability is successfully challenged, the project cannot be accepted as it will not comply with TMC 18.110 or 18.115.060.

**B. Parking Space Dimensions.**

- i. *The application proposes off-street parking spaces with dimensions of 9 feet x 17 feet. TZO Table 18.110.120 requires parking spaces be a minimum of 9 feet x 19 feet. Applicant does not meet the standards applicable to parking space dimensions, as required by TZO Table 18.110.120.*

**City's Response:** On June 28th, 2022, applicant submitted revised plans with two proposed options (A & B). Option B, with four (4) 9'x19' spaces, and three (3) 9'x15' compact parking spaces, and wheel-stops to prevent vehicle overhang over the 5-foot wide entry path conforms with the Talent Municipal Code dimensional requirements provided in table 18.110.120. Option A does not conform to the code requirements, as the stall depth is short of the minimum requirements for standard and compact parking spaces. Applicant has submitted a revised plan (dated 8/12/22) that adopts Option B as the preferred parking configuration.

**C. Solar Access.**

- i. *Applicant failed to meet its burden of proof in addressing City's solar access standards reflected in TZO 18.125.*

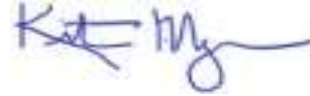
**City's Response:** Per TMC 18.125, existing zoning regulations for height, setback, and lot density limitations in residential areas are generally considered to be sufficient to permit adequate access to sunlight by each lot without obstruction by adjacent structures. Per the applicant's submittal, there is close to 49-feet between the proposed three-story structure and the next buildable property to the north, nearly five times deeper than the typical setback required for a 3-story structure. Staff finds that access to sunlight on the lots north of the proposed project will be adequate.

**D. Buffering and Setbacks**

- i. *Applicant's application failed to meet applicable City standards and criteria with respect to landscape buffering and building setbacks within the RHD zone.*

**City's Response:** Per TMC 18.40.060, the yard setbacks in the RHD zone are 20-foot front yard setback; 10-foot side yard setbacks (for three-story buildings); and 10-foot rear yard setback. The applicant's landscape submittal indicates a 20-foot front yard setback, a 24'-4" north side setback (where parking is located), a 10-foot south side setback, and approximately 41-foot rear setback, meeting the criteria.

The applicant's original landscape submittal indicated a buffer strip along the entire south property line and a buffer strip along the west property line that extends only to the path and parking area. Applicant has provided a revised submittal (dated 8/12/22) showing extension of the west buffer strip to the entire width of the property.



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Kristen Maze, Community Development Director

August 15, 2022

Date

**ATTACHMENTS:**

- Revised Applicant Submittal, Dated 8/12/22



