



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Notice of Public Hearing

Appeal of a Modification to Site Plan Review and Floodplain Development Review

Files: SP-10-20 and FP-01-20

August 10, 2020

HEARING INFORMATION

Review Body:	Planning Commission
Hearing Date:	Monday, August 31, 2020
Hearing Time:	5:15 p.m.
Hearing Location:	Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection. At 5:15 p.m., join with the GoToMeeting app on your computer, tablet, or smartphone (using your device's microphone and speakers): https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc You can use your microphone or dial in using your phone: Phone: 571-317-3122 Access Code: 498-239-709

APPLICATION INFORMATION

Application Description:	Appeal of a staff decision to approve a modification to previously approved Site Plan Review with Floodplain Development Review for construction of a multi-family housing project with associated site improvements (parking, landscaping, common open space areas)
Files:	SP-10-20 and FP-01-20 (Related Files: RL-11-18, SP-01-19, WG-01-19 and FP-01-19)
Review Body:	Planning Commission
Property Owner/Applicant:	Willamette River View Holdings, LLC 3545 Deerfield Drive South Salem, OR 97302
Applicant's Representative:	Zach Pelz AKS Engineering & Forestry, LLC

cd.cityofalbany.net



	3700 River Road N, Suite 1 Keizer, OR 97303
Representative's Assistant:	Paige Luehrs AKS Engineering & Forestry, LLC 3700 River Road N, Suite 1 Keizer, OR 97303
Address/Location	595 Geary Street NE; 1905, 1925, 1935 & 2275 Linn Avenue NE; and 533 Alco Street NE
Map/Tax Lot:	Linn County Assessor's Map No. 11S-03W-05BD Tax Lot 300
Zoning:	RM (Residential Medium Density)

The Planning Division has received an appeal of the staff decision to approve the application referenced above and has scheduled a public hearing before the Planning Commission. We are mailing notice of this public hearing to participants entitled to notice and to property owners within 1,000 feet of the subject site.

A copy of the application, all documents, and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection by appointment only at the Albany Community Development Department, Planning Division. Copies can be provided by mail upon request at a reasonable cost or electronically at no charge. The staff report will be available by 5:00 p.m. on Monday, August 24, 2020, and on the City's web site at:

<http://www.cityofalbany.net/departments/community-development/planning/all-projects>.

Should you wish to discuss this case with a planner, please contact Project Planner Melissa Anderson at melissa.anderson@cityofalbany.net or 541-704-2319, or Planning Manager David Martineau at 541-917-7561. Submit any written comments to the Planning Division; PO Box 490; Albany, OR 97321. Any person who submits written comments or testifies at a public hearing will receive a copy of the Notice of Decision

YOUR COMMENTS

We invite your comments, either in writing prior to the day of the public hearing or virtually at the hearing. Your comments will be considered when the Planning Commission makes a decision on this application. All testimony and evidence must be directed toward the approval standards for this application listed in this notice. Failure to raise an issue by letter or in person before the close of the record or the final evidentiary hearing, or failure to provide statements or evidence with sufficient detail to allow the Planning Commission an adequate opportunity to respond to each issue raised, precludes an appeal based on that issue.

VIRTUAL PUBLIC HEARING PROCEDURE

Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.

Written comments will be received by City staff until 5:00 p.m. on Friday, August 28, 2020. To appear virtually during a public hearing, register by emailing cdaa@cityofalbany.net before 3:00 p.m. on the day of the meeting with your name and if you are speaking for, against, or neutral on the project. During public testimony, the chair will call upon those who have registered to speak first, followed by any others.

The public hearing will occur on Monday, August 31, 2020, at 5:15 p.m., and the Planning Commission will open the public hearing. The public hearing will begin with a declaration of any *ex parte* contacts (contacts that occurred outside of the public hearing) or any conflict of interest by the decision-makers. This will be followed by the staff report from the planning staff. Then the applicant will testify. Following this, written comments received from the public will then be entered into the record. This will be followed by calling upon those who registered to speak in support of the application. After those in favor of the application are finished, testimony from those who registered to speak in opposition will begin. This will be followed by testimony from people who neither favor nor oppose the application. Following this, a calling upon anyone else who wishes to testify either in support, in opposition, or neutral will be made. The applicant will then be able to respond to the public comments. The decision-makers are free to ask questions of any person who has testified, or of staff, at any point during the hearing. Once all comments are recorded as part of the meeting and the applicant responds, the Planning Commission will close the public hearing and deliberate on the application.

If additional documents or evidence are provided by any party, the City may allow a continuance, or leave the record open, to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the 120-day time limitations of Oregon Revised Statute (ORS) 227.178.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for the resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If the hearing and record are closed, the decision-makers will begin deliberations and/or will announce the time, date, and place when the decision will be made.

If you have a disability that requires accommodation, please notify the Human Resources Department in advance by calling 541-917-7500.

APPEALS

Within five days of the Planning Commission's final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice.

The Planning Commission's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal not later than 21 days after the notice of decision is mailed [ADC 1.520(2)].

APPROVAL STANDARDS FOR THIS APPLICATION

Modification of Approved Site Plan Review, Albany Development Code (ADC) 1.226:

1.226 Modification of Approved Site Plan Review and Conditional Use Applications. When a property owner wants to make changes to the approved plans and the approval has not expired, the following procedures shall be used to review the proposed modifications.

- (1) Definitions: When "property owner" is used here, it means the property owner, or the property owner's authorized agent. When "site plan" is used here, it means the site plan approved through either a Site Plan Review application or review of a Conditional Use application.
- (2) The property owner must submit an application to modify the approved site plan that identifies the areas of the plan or approval proposed to be modified. The application fee will be determined by the Director and will be based on the scope of the modification(s) and review.

- (3) The review body shall be the same one that granted the final approval for which modification is sought. The same procedures shall be used as for the original approval. The Development Code regulations in effect at the time the application for modification is submitted will be used to review the proposed modification(s).
- (4) Only the area proposed to be modified will be reviewed.
- (5) A modification shall not be filed:
 - (a) as a substitute for an appeal, or
 - (b) to seek the reduction or elimination of a condition of approval for infrastructure requirements, or
 - (c) to provide a new timeline for appealing a previously-accepted infrastructure obligation, or
 - (d) to apply for a substantially new proposal, or
 - (e) if it would have significant additional impacts on surrounding properties.

If any of the above conditions exist, a new application must be submitted.

- (6) The modified plan must compensate for any negative effects caused by the requested changes from approved plans such that the intent of the original approval is still met.
- (7) The modification(s) shall be consistent with the approved site plan. If the review body determines that the modified site plan meets the standards in 1.226 (6) and is consistent with the original approval as outlined in 1.226 (8), a modification to the site plan may be allowed. If the modified site plan is consistent with the approved site plan and meets the review criteria specified in this section, the modified plan shall be approved. If the review body determines that the modified site plan is not consistent with the original approval, then approval of the site plan will be denied. If a new application is submitted, it will be subject to the Development Code standards in effect at the time the new application is submitted.
- (8) The review body's determination on consistency shall be based on a comparison of the approved site plan and the modified site plan, taking into account:
 - (a) The land use category;
 - (b) The size and scale of the proposed building(s);
 - (c) Traffic and other off-site impacts;
 - (d) Compatibility with surrounding development;
 - (e) Capacity of available infrastructure; and
 - (f) Unusual obstacles and opportunities associated with the property.

The modified site plan will be found to be consistent with the approved site plan if the review body determines that there are no greater adverse impacts, or, if additional adverse impacts are identified, they have been adequately mitigated.

- (9) Conditions of approval:
 - (a) When reviewing a modified site plan that has different impacts than the approved site plan, the decision-maker may modify conditions or impose new ones. Only conditions related to the impact of the modified site plan may be imposed on the modified site plan approval. "Impact" means characteristics of the development such as traffic, wastewater discharge, noise, etc.
 - (b) The original conditions of approval imposed for the approved site plan may remain in effect or be increased as necessary to address additional impact. Conditions related to improving

existing infrastructure or building new infrastructure (such as streets, sewers, etc.) may be reduced only if the modification substantially reduces the infrastructure burden created by the development.

- (10) The property owner may choose to either accept approval of the modified site plan or to retain the original approval. If the property owner accepts approval of the modified site plan and any conditions that may be imposed, the property owner must give written notice to the Planning Division within 10 days of the date on the notice of decision for approval of the modified site plan. If the property owner accepts approval of the modified site plan, the new approval supersedes and voids the original approval.

If the property owner does not provide the required written notice of acceptance, or if the review body does not approve the modified site plan, the project shall continue to be subject to the original conditions of approval and timelines.

- (11) When first granted, a site plan or conditional use approval is valid for three years [ADC 1.080]. When a modified site plan is approved and accepted, the approval is valid for one year beyond the date that the original site plan approval would have expired. (For example, if the original approval would have expired on July 1, 2001, the approval of the modified site plan is extended to July 1, 2002.)

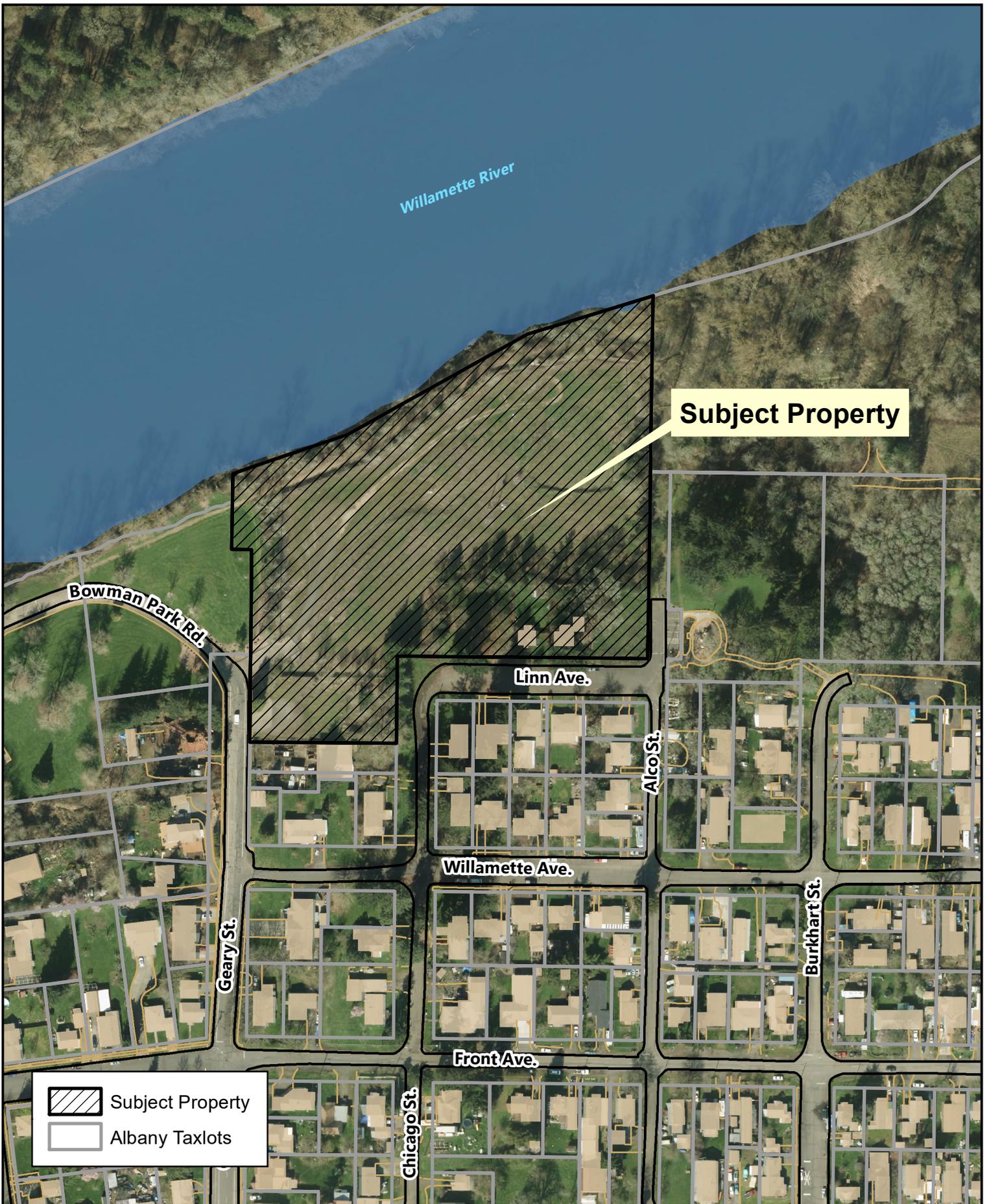
Any subsequent modification of the site plan will be subject to the time limit established at the time the first modification was approved. The approval can be valid for only a total of four years, including the first three-year period and the one-year extension received with an approved modification to an approved site plan or conditional use.

Floodplain Review Criteria, ADC 6.100, 6.110 & 6.111

Additional review standards for this Modification of Site Plan Review are found in ADC Articles 1, 2, 3, 6, 8, 9 & 12.

Attachments:

1. Location Map
2. Applicant's Summary
3. Site Plan



\\c:\cityofalbanynet\homes\melissaron\Desktop\BoseMap_8x11.mxd



N 022550
 Feet

Date: 5/5/2020 Map Source: City of Albany

Location Map: 595 Geary Street NE

City of Albany, OR

I. Executive Summary

AKS Engineering & Forestry, LLC; on behalf of Willamette River View Holdings II, LLC (Applicant—formerly Willamette River View Holdings, LLC) is submitting this application for a modification of an approved Site Plan Review application (SP-01-19) for The Banks multifamily residential development. The project is generally located at 595 Geary Street NE in Albany. The site is comprised of a single tax lot resulting from a lot consolidation/replat application that was reviewed and approved concurrent with the original Site Plan Review (SP-01-19).

SP-01-19 received approval for Site Plan Review (SPR), a Willamette River Greenway permit, a Floodplain Development Permit, and Tree Felling permit. Per Section 1.226(4) of the Albany Development Code, this application involves only a modification to the SPR approval. Subsequently, the City’s review and decision authority is limited to changes to the SPR.

This application involves the following changes to the approved Site Plan summarized in Table 1:

Table 1: Site Modifications

Site Characteristic	Approved Site Plan SP-01-19	Modified Site Plan	Net Change	Code Requirement
Total Units	105	120	+15	158
Density	17 Units/Acre	19 Units/Acre	+2 Units/Acre	25 Units/Acre
Maximum Building Height	39’	36’ 2”	-2’ 8”	45’
Parking	217 spaces	218 spaces	+1 space	209 spaces (minimum)
Common Open Space	44,772 SF	47,427 SF	+2,655 SF	30,548 SF
Lot Coverage of Building Pads	16.2%	16.5%	+0.3%	70% maximum (buildings and pavement)
Lot Coverage of Parking & Driveways	28.4%	27%	-1.4%	70% maximum (buildings and pavement)
Total Lot Coverage	44.6%	43.5%	-1.1%	70% maximum

The requested modification offers a number of improvements over the Approved Site Plan that will allow the Applicant to better address the City’s shortage of needed housing. The proposed increase in the number of homes will generate a necessary increase in rental income without unduly increasing the rental rates. This increase in revenue is necessary to help mitigate a substantial increase in project construction and operational costs. Greater standardization of building types in the modified site plan helps to significantly defray construction costs. A more standard building type and a smaller overall floor area for each new home also helps to reduce the overall building footprint and impervious area on the site. The result is more open space and common area for improved recreational and stormwater management outcomes. Another benefit of the proposed modification is greater opportunity for river view homes, which will ensure that more residents enjoy the visual benefit of the river. While the scope of the review of this application is limited to the specific elements of the site plan that are being modified, the application narrative responds to all applicable criteria as well as to all criteria reviewed under SP-01-19 so that the record is clear on the full scope of the City’s decision authority in this case.

Additionally, this application is for “needed housing” as that term is defined in Oregon Revised Statute (ORS) 197.303(1), because it provides for attached and detached single family housing and is on buildable land. See *Group B, LLC v City of Corvallis*, ___Or Land Use Board of Appeals (LUBA) ___ (LUBA No. 2015-019, August 25, 2016), holding that multifamily housing on buildable land is needed housing; See *Walter v City of Eugene*, ___; or LUBA___ (LUBA No. 2016-024, June 30, 2016). ORS 197.307(4) requires a local government to apply only clear and objective standards, conditions, and procedures to needed housing applications. Clear and objective standards and conditions may not contain subjective, value-laden analyses. *Rogue Valley Assoc. of Realtors v City of Ashland*, 35 Or LUBA 139, 158, aff’d 158 Or App 1, 970 P2d 685(1999). The City has not taken an exception to needed housing under ORS 197.303(3). ORS 197.831 places the burden on local governments to demonstrate that standards and conditions placed on needed housing applications can be imposed only in a clear and objective manner.

The Applicant may choose to accept discretionary standards. This application addresses all standards and conditions. The Applicant reserves the right to object to the application of standards or conditions other than those that are clear and objective and does not waive its right to assert that the needed housing statutes apply to this application.

II. Site Description/Setting

The subject property is approximately ±6.32 acres in size (Linn County Assessor’s Map 11S03W05BD, Tax Lot 300). The property has ±96 feet of frontage on Geary Street NE, ±131 feet of frontage on Chicago Street NE, ±370 feet of frontage on Linn Avenue NE, and less than 100 feet of frontage on Alco Street NE. All abutting streets are classified as local streets where they are adjacent to the subject property, though Geary Street NE becomes a minor collector one block south of the site at Willamette Avenue NE. The site is zoned Residential Medium Density (RM), carries a Medium Density Residential Comprehensive Plan designation, and is within the Willamette River Greenway Overlay District. A portion of the site is in the Floodplain Development Overlay as defined by the 100-year floodplain.

The property is identified as the “Permawood Site” in the Albany Development Code (ADC). The site abuts public parks and open space to the east and the west. Eads Park is to the east of the site across Alco Street NE and is improved with playground equipment. Property to the north of Eads Park and abutting the site to the east is unimproved open space. Bowman Park is to the west and is improved with a public boat launch. Property to the south of the site is in the RS-5 zoning district and is predominately characterized by single family homes. The site is mostly undeveloped though there are two single family homes that are located along the site’s Linn Avenue NE frontage. These homes are planned to be removed prior to the construction of the multifamily homes that are the subject of this application.

While the site is currently zoned for residential use, past uses of the site included industrial uses, such as a manufacturing facility for roof tiles, a warehouse, cabinet shop, and a cement plant. This application for a modification of an approved site plan review includes new multifamily homes that will help the City of Albany accommodate residential population growth, in the manner prescribed in the City’s Comprehensive Plan and Zoning Map, and will ensure enhanced complementarity between adjacent residential uses as compared with the former industrial uses on this site.

