

Council Business Meeting

January 3, 2022

Agenda Item	Public Hearing and First Reading of Ordinance 3205 - Housing in Employment Lands Code Amendments	
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SUMMARY

The City Council is being asked to review draft Ordinance 3205 which presents land use code amendments to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones.

The proposed ordinance includes a series of amendments to AMC Title 18 Land Use relating to the residential standards for mixed-use development located in the Commercial (C-1) and Employment (E-1) zones. Specifically, the proposed code amendments increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay. Additionally, the development of flexible Commercial Ready Residential Space would allow residential uses within the 35% commercially designated floor area provided an agreement is executed with the City, or deed restriction is recorded on the property, demonstrating that the residential use will be in conformance with the Ashland Affordable Housing Program as affordable rental housing for households earning 80% AMI or less.

POLICIES, PLANS & GOALS SUPPORTED

The *Ashland Comprehensive Plan* includes a goal in the Housing Element to “ensure a range of different dwelling types that provide living opportunities for the total cross section of Ashland’s population (6.10.01).” Included with this goal are the following applicable policies:

Policy 1: Provide for a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household sizes, and household types.

Policy 3: Integrate housing with other compatible land uses through flexible zoning provisions.

The *Ashland Comprehensive Plan* includes a goal in the Economy Element “to ensure that the local economy increases in its health, and diversifies in the number, type, and size of businesses consistent with the local social needs, public service capabilities, and the retention of a high-quality environment (7.07.03).” Included with this goal is the following applicable policy:

Policy 1: The City shall zone and designate within the Plan Map sufficient quantity of lands for commercial and industrial uses to provide for the employment needs of its residents and a portion of rural residents consistent with the population projection for the urban area.

The 2021-2041 Housing Capacity Analysis (HCA) is a technical study required by state law and was adopted by the City Council on [August 17, 2021](#) as a technical report and supporting document to the *Ashland Comprehensive Plan*. The HCA provides a number of recommended policy changes to address Ashland’s unmet housing needs that are related to the proposed code amendments. The HCA’s recommended policy changes or strategies are presented as guidance for the upcoming Housing Production Strategy.

Strategy 1: Ensure an adequate supply of land is available and serviced

- *Strategy 1.3: Identify opportunities to increase allowances for residential uses on the ground floor of buildings within commercial and employment zones.*
- *Strategy 1.4: Evaluate decreasing multifamily parking requirements.*

Strategy 2: Provide opportunities for housing development to meet the City's identified housing needs

- *Strategy 2.2: Evaluate opportunities incentivize smaller units through amendments to allowable densities.*
- *Strategy 2.4: Evaluate increasing allowances for residential dwellings in commercial and employment zones, such as allowing an increased amount of residential uses in ground floor commercial spaces.*

Strategy 5: Align housing planning with the Climate and Energy Action Plan

Strategy 5.4: Evaluate opportunities to develop new housing closer to downtown and commercial centers to reduce dependence on automobiles for transportation.

The *Climate and Energy Action Plan* (CEAP) includes an action to “Revise community development plans to favor walkable neighborhoods and infill density. Ashland has a series of long-range planning documents that guide development across Ashland districts, neighborhoods, and natural areas. Revisiting these plans to ensure that they support climate-ready development needs, such as walking, biking, transit, parking management, and climate adaptation features, will ensure that Ashland development is consistent with the City’s climate goals and commitments. It will be important to ensure that these activities do not come at the expense of higher housing costs, which could disadvantage low-income populations (CEAP ULT-4-2).”

PREVIOUS COUNCIL ACTION

The City Council reviewed the proposed land use code amendments at a public hearing on [February 1, 2022](#) and did not approve first reading of the ordinance at that time. The City Council remanded the draft ordinance to the Planning Commission with a request that amendments be considered which would allow the entirety of the first floor of developments on E-1 and C-1 lands to be residential provided certain housing affordability conditions were met.

The Council provided two separate motions relating to this item on February 1, 2022 as follows:

Graham/DuQuenne moved that we postpone this item until the end of May 2022 to give staff time to analyze the economic information that comes forward from the Chamber Study. Motion passed unanimously.

Hyatt/Jensen moved that revert this item back to the Planning Commission to specifically have a conditional use permit on the 35% that would be commercial to be used as residential rental only between 80-100% AMI revertible upon expiration of lease between 5–10-year period. Motion passed unanimously.

BACKGROUND AND ADDITIONAL INFORMATION

The primary goal of this ordinance amendment process has been to provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing. The project objectives are to:

- 1) maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development.
- 2) increase the supply of moderately-priced rental and for-purchase housing; and

- 3) jumpstart redevelopment in areas that have trouble attracting projects and/or are in proximity to public transit and walking distance to daily service needs, such as groceries, shops, parks, etc.
- 4) provide opportunities to utilize vacant commercial floor area as regulated affordable rental housing restricted to households earning 80% AMI or less.

The draft amendments to the residential standards for mixed-use development are attached and summarized below.

- 18.2.3.130.B.1.a – limits new provisions for residential uses (i.e., up to 65 percent of the ground floor) in the C-1 and E-1 zones to locations outside of the Downtown Design Standards overlay. In addition, to be eligible for the new provisions, the lot size must be less than 10 acres in size and the mixed-use building must be multi-story (i.e., two or more stories in height).
- 18.2.3.B.1.b - increases the allowance for residential uses in multi-story, mixed-use buildings and developments from 35 to 65 percent of the ground floor. Again, this allowance is for locations outside of the Downtown Design Standards overlay. Additionally, the provision is limited to multi-story mixed-use buildings and lots that are less than 10 acres in size.
- 18.2.3.B.1.c.i-iii – Creates a designation for Commercial Ready Residential Space which is developed to accommodate commercial occupancies but may be used flexibly as either a commercial use or as regulated affordable rental housing for households earning 80% AMI or less.
- 18.2.3.130.B.2.a – retains existing standard which allows up to 35 percent of the ground floor to be used for residential uses. The existing standard applies to three situations – properties located inside of the Downtown Design Standards overlay, for lots 10 acres and greater in size and for single-story buildings.
- 18.2.3.130.B.2.b.i – this is the existing standard allowing up to 35 percent of the ground floor in residential uses, it is simply moved from the existing code section 18.2.3.130. B.1.
- 18.2.3.130.B.1.b.ii – revises the code for situations where a mixed-use development includes more than one building. It requires the equivalent of 65 percent of the ground floor of all the buildings to be provided in permitted or special permitted non-residential uses. This retains the ability in mixed-use developments with more than one building to construct a building that is entirely residential uses as long as the equivalent square footage of 65 percent of the ground floor of the residential building is transferred to another building in the development and is used for permitted and special permitted non-residential uses.
- Table 18.2.6.030 – deletes residential densities in the C-1, C-1-D and E-1 zones.
- 18.3.13.010.C – removes existing language that duplicates the standards in 18.2.3.130 Dwellings in Non-Residential Zones and instead references the requirements in 18.2.3.130 for the Residential overlay or in 18.3.14.040 for the Transit Triangle (TT) overlay. The Residential overlay applies to a portion but not all of the E-1 zone.
- 18.6.1.030 [Definition] - amended to include definition of Commercial Ready Residential Space.

To address the City Council’s February 1, 2022 motion to amend the ordinance draft to accommodate opportunities for affordable rental housing, the attached Ordinance 3205 newly incorporates a designation of Commercial Ready Residential Space. The Planning Commission considered evaluation of proposals to incorporate affordable rental housing on the ground floor and determined it could be incorporated into the ordinance as an allowed use, without the need for a discretionary Conditional Use Permit process, provided the parameters for its inclusion were clearly articulated in the ordinance. As proposed in the draft ordinance,

at least 35% of the ground floor must be used as a permitted or special permitted (commercial) uses, or alternatively as Commercial Ready Residential Space that could be used as income restricted affordable rental housing. In 2021 the Oregon Legislature approved [Senate Bill 8](#) which restricts local governments from denying or limiting the approval of affordable housing applications in a number of circumstances including when affordable housing is to be developed on property which is zoned for commercial uses. By providing an option for the development of Commercial Ready Residential Space on the ground floor of mixed-use buildings, that can be used as affordable rental housing restricted to households with incomes at 80%AMI, the amendments proposed create a path for the city to approve of the use of vacant commercial floor area as needed affordable housing within the C-1 and E-1 zones.

In order to ensure that Ashland's inventory of commercial and employment lands could accommodate future business development, the city contracted with Fregonese and Associates to assist in analyzing the buildable lands data, building permits issued, and Ashland's employment data over the last 10 years. This analysis found there is sufficient C-1 and E-1 land for future employment needs. The findings of this analysis were outlined in the Staff Report dated December 14, 2021 which was initially presented to the City Council on February 2, 2022 and are attached to this communication. The Ashland Chamber of Commerce and ECONorthwest Economic Diversification Study presented to the City Council on October 3, 2022 does not contain an employment land inventory or needs assessment, and as such does not address whether Ashland's inventory of commercial and employment lands can accommodate future business development.

The residential densities established in 1992 for E-1 and C-1 zones, 15 and 30 dwelling units per acre respectively, were recently evaluated as part of the Transit Triangle planning effort. These density limitations were found to discourage the development of studios, one-bedroom, and two-bedroom rental units as the relatively low-density allowance effectively promoted the development of large residential units. Removing this density cap in the E-1, C-1, and C-1-D zones would enable the development of a greater number of dwelling units within the same sized building. In the ordinance amendments proposed, the Planning Commission and Staff have recommend removing these density caps to support the development of a greater variety of housing types and promote creation of rental housing in the E-1, C-1, and C-1-D zones. Additionally, the recent Climate Friendly and Equitable Communities rulemaking efforts by the State of Oregon established that for designated Climate Friendly Areas (CFA) the removal of density caps would address the rule requirements intended to promote transit supportive housing densities within urban areas. Ashland has not yet gone through the process to designate the CFAs for our community, however the adoption of the ordinance amendment currently proposed may preemptively address this future requirement in E-1 and C-1 zones. Community Development staff will prepare a future presentation on CFAs.

The Planning Commission reviewed and discussed the proposed code amendment project at the [June 22, 2021](#), [August 24, 2021](#), [October 26, 2021](#) and [November 23, 2021](#) study session meetings. The Planning Commission held a public hearing on [December 14, 2021](#), and recommended approval of the prior draft of the ordinance amending AMC Title 18 Land Use. The Planning Commission discussed options for amending the proposed ordinance to allow for flexible use of the ground floor commercial area on [June 14, 2022](#), and on [September 27, 2022](#) The Planning Commission held a public hearing to review the revisions to the proposed Ordinance and have forwarded a recommendation to the City Council for approval.

1. Public Meetings

The City Council initiated the legislative amendment to amend the standards housing mixed-use developments on [March 16, 2021](#). The Ashland Municipal Code (AMC) allows the Council to initiate a Type III legislative action (see code excerpt below).

18.5.1.070 Type III (Legislative Decision)

Type III actions are reviewed by the Planning Commission, which makes a recommendation to City Council. The Council makes final decisions on legislative proposals through enactment of an ordinance.

A. Initiation of Requests. The City Council, Planning Commission, or any property owner or resident of the city may initiate an application for a legislative decision under this ordinance. Legislative requests are not subject to the 120-day review period under subsection 18.5.1.090.B (ORS 227.178).

The City Council is scheduled to review a draft findings document at second reading of the ordinance, scheduled for the December 20, 2022 Council meeting. The findings document will reflect the decision of the City Council at First Reading, and will address the City's approval criteria for a legislative amendment as well as the Statewide Planning Goals, and applicable Oregon Administrative Rules.

2. Proposed Amendments

The proposed ordinance amends Chapters 18.2.3, 18.2.6, 18.3.13 and 18.6.1 of the Ashland Land Use Ordinance regarding allowances for residential uses in mixed-use buildings and developments in the commercial and employment zones. The amendments specifically apply to allowances for residential dwellings within multi-story mixed-use buildings developed within C-1 (Commercial) and E-1 (Employment) zoned properties with a Residential Overlay. Properties zoned C-1 within the Downtown Overlay, and E-1 zoned properties that are not within the Residential Overlay, are excluded from the code amendments as proposed.

3. Review Procedure

AMC 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions.

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

FISCAL IMPACTS

Adoption of the proposed ordinance will not have a direct fiscal impact upon the City's general fund. The review of development proposals and building permits for mixed use projects containing housing on the ground floor of multi-story commercial buildings is currently part of the work-flow for Community Development Department staff. The amendments to the percentage of the floor area which can be used as residential, and amendments to the density allowance for residential units, are not expected to impact existing workload.

STAFF RECOMMENDATION

Staff recommends adoption of the amendments to Chapters 18.2.3, 18.2.6, 18.3.13, and 18.6 of the Ashland Land Use Ordinance regarding allowances for residential uses in mixed-use buildings and developments in

the commercial and employment zones as recommended by the Planning Commission. The attached ordinance reflects the Planning Commission recommendation.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

A motion for approval of first reading of the ordinances is included below should the Council decide to approve first reading as presented.

1. Motion for Approval

- I move to approve first reading of Ordinance 3205, which is titled, “Chapters 18.2.3, 18.2.6 18.3.13, and 18.61 of the Ashland Land Use Ordinance regarding allowances for residential uses in mixed-use buildings and developments in the commercial and employment zones, and schedule second reading for December 20, 2022.

REFERENCES & ATTACHMENTS

1. **Ordinance 3205:** An Ordinance Amending Chapters 18.2.3, 18.2.6 18.3.13 of the Ashland Land Use Ordinance regarding allowances for residential uses in mixed-use buildings and developments in the commercial and employment zones
2. Planning Staff Report Addendum PA-L-2021-00013 dated 9/27/2022
3. Planning Staff Report PA-L-2021-00013 dated 12/14/2021
3. Written Public Comments (previously presented to Council on February 1, 2022)
 - Eric Navickus letter dated 1/30/2022
 - Amy Gunter letter dated 12/14/2021
 - Mark Knox letter dated 12-16-2020
 - Laz Ayala letter dated 12-10-2020

ORDINANCE NO. 3205

AN ORDINANCE AMENDING CHAPTERS 18.2.3, 18.2.6, 18.3.13 AND 18.6.1 OF THE
ASHLAND LAND USE ORDINANCE REGARDING ALLOWANCES FOR
RESIDENTIAL USES IN MIXED-USE BUILDINGS AND DEVELOPMENTS IN THE
COMMERCIAL AND EMPLOYMENT ZONES.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are in bold underline.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975).; and

WHEREAS, beginning in early 2020, the COVID-19 pandemic resulted in the closure of businesses throughout the United States and a shift to conducting operations remotely and electronically, thereby temporarily resulting in a decreased need for office and commercial space; and

1 **WHEREAS**, less demand for office space is expected to continue as some companies move to
2 smaller offices and use work from home and hybrid arrangements.; and

3
4 **WHEREAS**, prior to 2020, there was a decline in construction of large retail buildings in the
5 U.S. and the e-commerce share of the retail market was increasing nationally. The COVID-19
6 pandemic resulted in an even greater shift to online retail purchases.; and

7
8 **WHEREAS**, the City of Ashland is required to perform a housing capacity analysis every eight
9 years as required by ORS 197.296 and OAR 660-0008-0045. House Bill 2003 passed in the 2019
10 Oregon legislative session and amended the previously mentioned state laws and rules to require
11 cities in Oregon to perform the housing capacity analysis and housing production strategy.; and

12
13 **WHEREAS**, the Ashland City Council adopted the 2021-2041 Housing Capacity Analysis
14 (HCA) on August 17, 2021 as a technical report and supporting document to the Ashland
15 Comprehensive Plan. The HCA provides a number of recommended policy changes to address
16 Ashland's unmet housing needs including increasing the allowance for residential dwellings in
17 commercial and employment zones and developing new housing closer to downtown and
18 commercial centers to reduce dependency on automobiles for transportation.; and

19
20 **WHEREAS**, the Almeda wildfire increased the regional need for affordable housing by
21 destroying about 2,549 dwellings in September 2020. The Almeda fire burned from north
22 Ashland to just south of Medford, with the cities of Phoenix and Talent losing the majority of
23 housing. The HCA recognized that the losses due to the Almeda fire increased regional need for
24 affordable housing and overall pressure on the Ashland housing market.; and

25
26 **WHEREAS**, amendments to the allowances for housing in the commercial and employment
27 zones are needed to provide more flexibility in the commercial and employment zones to
28 respond to fluctuations and changes in the economy and demand for housing.; and

1 **WHEREAS**, the City of Ashland Planning Commission conducted on December 14, 2021 and
2 September 27, 2022, duly advertised public hearings on amendments to the Ashland Land Use
3 Ordinance concerning the standards relating to annexations, and following deliberations
4 recommended approval of the amendments.; and
5

6 **WHEREAS**, the City Council of the City of Ashland conducted duly advertised public hearings
7 on the above-referenced amendments February 1, 2021 and November 15, 2022.; and
8

9 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing
10 and record, deliberated and conducted first and second readings approving adoption of the
11 Ordinance in accordance with Article 10 of the Ashland City Charter.; and
12

13 **WHEREAS**, the City Council of the City of Ashland has determined that in order to protect and
14 benefit the health, safety and welfare of existing and future residents of the City, it is necessary to
15 amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an adequate
16 factual base exists for the amendments, the amendments are consistent with the comprehensive
17 plan and that such amendments are fully supported by the record of this proceeding.
18

19 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**
20

21 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this
22 reference.
23

24 **SECTION 2.** Section 18.2.3.130 [Dwellings in Non-Residential Zones – Special Use Standards]
25 of the Ashland Land Use Ordinance is hereby amended to read as follows:
26

27 **18.2.3.130 Dwellings in Non-Residential Zones**

28 Where dwellings are allowed in non-residential zones, they are subject to all of the following
29 requirements.
30

- A. Dwellings in the E-1 zone are limited to the R-overlay zone. See chapter 18.3.13 Residential
Overlay.

1 B. Dwellings in the E-1 and C-1 zones shall meet all of the following standards, except that
2 dwellings developed under the Transit Triangle (TT) overlay option are not subject to
3 subsection 18.2.3.130.B, below. See section 18.3.14.040 for the allowed uses in the TT
4 overlay.

5 1. ~~**Mixed-Use Developments Outside of the Downtown Design Standards Overlay.**~~ ~~**If**~~
6 ~~**there is one building on a site, ground floor residential uses shall occupy not**~~
7 ~~**more than 35 percent of the gross floor area of the ground floor. Where more than**~~
8 ~~**one building is located on a site, not more than 50 percent of the total lot area**~~
9 ~~**shall be designated for residential uses. At least 65 percent of the gross floor**~~
10 ~~**area of the ground floor shall be designated for permitted uses and uses**~~
11 ~~**permitted with special use standards, not including residential uses.**~~

12 **a. *Applicability.* This subsection, 18.2.3.130.B.1, applies to mixed-use**
13 **buildings or developments that meet all of the following requirements.**

14 **i. *Location.* The mixed-use building or development shall be located outside**
15 **of the Downtown Design Standards overlay.**

16 **ii. *Lot Size.* The mixed-use building or development shall be located on a lot**
17 **that is less than 10 acres in size. Mixed-use developments located on lots**
18 **10 acres in size and greater shall be subject to the requirements of**
19 **subsection 18.2.3.130.B.2, below.**

20 **ii. *Building Height.* The mixed-use building shall be two or more stories in**
21 **height. Mixed-use buildings that are one story in height are subject to the**
22 **requirements of subsection 18.2.3.130.B.2, below.**

23 **b. *Gross Floor Area.***

24 **i. *One Building.* When a planning application is limited to one building,**
25 **residential uses may occupy up to 65 percent of the gross floor area of the**
26 **ground floor. At least 35 percent of the gross floor area of the ground floor**
27 **shall be designated for permitted uses and uses permitted with special use**
28 **standards not including residential uses, or as Commercial Ready**
29 **Residential Space consistent with 18.2.3.130.B.1.c below.**

30 **ii. *More Than One Building.* When a planning application includes more than**
31 **one building, the equivalent of at least 35 percent of the gross floor area of**
32 **the ground floor shall be designated for permitted uses and uses permitted**
33 **with special use standards not including residential uses, or as**
34 **Commercial Ready Residential Space consistent with 18.2.3.130.B.1.c**
35 **below.**

36 **c. *Commercial Ready Residential Space.* Gross floor area designated as**
37 **commercial ready residential space shall be in compliance with the following:**

38 **i. *Residential uses provided within the designated commercial ready***
39 **residential space shall be limited to rental units affordable to households**
40 **earning 80% Area Median Income consistent with the requirements of the**
41 **Ashland Affordable Housing Program including household income**
42 **verification and maximum rental amounts.**

1 ii. An Agreement shall be executed with the City, or a deed restriction shall be
2 recorded on the property, which stipulates that the Commercial Ready
3 Residential Space shall not be used as market rate rental housing or sold
4 as a residential unit.

5 iii. If residential uses are provided immediately above the ground floor level
6 (i.e., second floor residential), horizontal occupancy separation must be
7 provided to accommodate future commercial occupancies as required by
8 the building code at the time of construction.

9 d. Residential uses shall be subject to the same setback, landscaping, and
10 design standards as for permitted uses in the underlying zone.

11 2. Mixed Use Developments Inside the Downtown Design Standards Overlay, Large
12 Lots and One-Story Mixed-Use Buildings. Residential densities shall not exceed 15
13 dwelling units per acre in the E-1 zone, 30 dwelling units per acre in the C-1 zone,
14 and 60 dwelling units per acre in the C-1-D zone. For the purpose of density
15 calculations, units of less than 500 square feet of gross habitable floor area shall
16 count as 0.75 of a unit.

17 a. Applicability. This subsection, 18.2.3.130.B.2, applies to mixed-use buildings
18 and developments located in the Downtown Design Standards Overlay. In
19 addition, this subsection applies to mixed-use buildings and developments
20 located on lots that are 10 acres and greater in size and to one-story mixed-use
21 buildings, whether the lot or building is located inside or outside the
22 Downtown Design Standards overlay.

23 i. Location. Mixed-use buildings and developments located in the Downtown
24 Design Standard overlay shall be subject to the requirements of this
25 subsection.

26 ii. Lot Size. Mixed-use buildings and developments located on lots 10 acres
27 and greater in size shall be subject to the requirements of this subsection.

28 iii. Building Height. Mixed-use buildings that are one story in height shall be
29 subject to this subsection.

30 b. Gross Floor Area.

i. One Building. When a planning application is limited to one building,
residential uses may occupy up to 35 percent of the gross floor area of the
ground floor. At least 65 percent of the gross floor area of the ground floor
shall be designated for permitted uses and uses permitted with special use
standards, not including residential uses.

ii. More Than One Building. When a planning application includes more than
one building, the equivalent of at least 65 percent of the gross floor area of
the ground floor for all buildings shall be designated for permitted uses and
uses permitted with special use standards, not including residential uses.

3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the underlying zone.

4. Off-street parking is not required for residential uses in the C-1-D zone.

5. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.

SECTION 3. Section 18.2.6.030 [Unified Standards for Non-Residential Zones – Standards for Non-Residential Zones] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Table 18.2.6.030 – Standards for Non-Residential Zones (Except as modified under chapter 18.5.5 Variances.)				
Standard	C-1	C-1-D	E-1	M-1
Residential Density ¹ (dwelling units/acre)	30 du/ac <u>No Density Maximum</u>	60 du/ac <u>No Density Maximum</u>	15 du/ac <u>No Density Maximum</u>	NA
¹ where allowed per section 18.2.3.130; within E-1 zone, per R-Overlay (see chapter 18.3.13 Residential Overlay). <u>For calculation of the affordable housing requirements provided in 18.5.8.050 the base residential density of C-1 shall be considered 30du/ac, and E-1 shall be considered 15 du/acre.</u>				
Lot Area, Width, Depth Lot Coverage	There is no minimum lot area, width or depth, or maximum lot coverage; or minimum front, side or rear yard, except as required to comply with the special district and overlay zone provisions of part 18.3 or the site development and design standards of part 18.4.			
Setback Yards (feet)	<p>There is no minimum front, side, or rear yard required, except where buildings on the subject site abut a residential zone, in which case a side of not less than 10 ft and a rear yard of not less than 10 ft per story is required.</p> <p>The solar setback standards of chapter 18.4.8 do not apply to structures in the C-1-D zone.</p> <p>Except for buildings within 100 feet of a residential zone, the solar setback standards of chapter 18.4.8 do not apply to structures in the C-1 zone.</p> <p>See also section 18.2.4.030 Arterial Street Setback.</p>			There is no minimum front, side, or rear yard, except 20 ft where adjoining a residential zone.
Building Height ^{2&31 & 2} – Maximum (feet)	<p>40 ft, except:</p> <ul style="list-style-type: none"> - Buildings greater than 40 ft and less than 55 ft are permitted in C-1-D zone with approval of a Conditional Use Permit. -Where located more than 100 feet from a residential zone, buildings greater than 40 ft and less than 55 ft are permitted in C-1 zone with approval of a Conditional Use Permit. 			40 ft

Table 18.2.6.030 – Standards for Non-Residential Zones
(Except as modified under chapter 18.5.5 Variances.)

<i>Standard</i>	<i>C-1</i>	<i>C-1-D</i>	<i>E-1</i>	<i>M-1</i>
²¹ See definition of “height of building” in section 18.6.1.030 . ³² Parapets may be erected up to five feet above the maximum building height; see also, 18.4.4.030 .G.4 for mechanical equipment screening requirements, and 18.5.2.020 for Site Design Review for mechanical equipment review process.				
Landscape Area – Minimum (% of developed lot area)	15%	None, except parking areas and service stations shall meet the standards of chapters 18.4.3 Parking, Access, and Circulation, and 18.4.4 Landscaping, Lighting, and Screening.	15%	10%

SECTION 4. Section 18.3.13.010 [Residential Overlay Regulations – Residential Overlay] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.13.010 Residential Overlay Regulations

- A. Purpose.** The Residential overlay is intended to encourage a concentration and mix of businesses and housing that provides a variety of housing types, supports resource and energy conservation, and promotes walking, bicycling, and transit use.
- B. Applicability.** The Residential overlay applies to all property where ‘Residential Overlay’ (R) is indicated on the Zoning map.
- C. Requirements.** ~~The Dwellings in the Residential overlay requirements are as follows shall meet the applicable standards in section 18.2.3.130, except that dwellings developed under the Transit Triangle (TT) overlay option are not subject to subsection 18.3.13.010 C, below. See section 18.3.14.040 for the allowed uses in the TT overlay or 18.3.14.040 for the TT overlay.~~
 - ~~1. **Mixed-Use Developments.** If there is one building on a site, ground floor residential uses shall occupy not more than 35 percent of the gross floor area of the ground floor. Where more than one building is located on a site, not more than 50 percent of the total lot area shall be designated for residential uses. At least 65 percent of the gross floor area of the ground floor shall be designated for permitted uses and uses permitted with special use standards, not including residential uses.~~
 - ~~2. **Residential densities shall not exceed 15 dwelling units per acre. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor**~~

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~~area shall count as 0.75 of a unit.~~

~~3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the E-1 District.~~

SECTION 5. Section 18.6.1 [Definitions] of the Ashland Land Use Ordinance is hereby amended to include the following definition which reads as follows:

18.6.1.030 - Definitions

Commercial Ready Residential Space. Ground floor area within a mixed-use building that is designed to accommodate commercial uses in compliance with applicable design and building code standards. Commercial Ready Residential Space provides the flexibility of occupying a space with commercial uses and allowing the use in such space to change to affordable rental housing in accordance with the Ashland Affordable Housing Program.

SECTION 6. Codification. In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within such limitations, may:

- (a) Renumber sections and parts of sections of the ordinance;
- (b) Rearrange sections;
- (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- (d) Delete references to repealed sections;
- (e) Substitute the proper subsection, section, or chapter numbers;
- (f) Change capitalization and spelling for the purpose of uniformity;
- (g) Add headings for purposes of grouping like sections together for ease of reference; and
- (h) Correct manifest clerical, grammatical, or typographical errors.

SECTION 7. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

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The foregoing ordinance was first read by title only in accordance with Article X,
Section 2(C) of the City Charter on the ____th day of _____, 2022,
and duly PASSED and ADOPTED this ____th day of _____, 2022,

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2022.

Julie Akins, Mayor

Reviewed as to form:

Douglas McGeary, Acting City Attorney

ASHLAND PLANNING DIVISION
STAFF REPORT
ADDENDUM
September 27, 2022

PLANNING ACTION: PA-L-2021-00013

APPLICANT: City of Ashland

ORDINANCE REFERENCES: **AMC 18.2.3** Special Use Standards
 AMC 18.2.6 Standards for Non-Residential Zones
 AMC 18.3.13 Residential Overlay
 AMC 18.6.1 Definitions

REQUEST: The proposal includes a series of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones. The draft code amendments are attached.

LEGISLATIVE HISTORY:

The Planning Commission held a public hearing on December 14, 2021, and recommended approval of the prior draft of the ordinance amending AMC Title 18 Land Use. The City Council reviewed the proposed land use code amendments at a public hearing on February 1, 2022 and did not approve first reading of the ordinance at that time. The Council requested potential amendments be considered to allow the entirety of the first floor of developments on E-1 and C-1 lands to be residential provided certain housing affordability conditions were met.

The amended draft ordinance presented for consideration newly incorporates allowances for affordable rental housing within *Commercial Ready Space* within the ground floor area. Commercial Ready Space could be utilized in a flexible manner as either permitted and special permitted commercial uses, or as affordable rental housing restricted to households earning 80% the Area Median Income (AMI) consistent with the Ashland Affordable Housing Program.

The ordinance amendments originally presented to the Planning Commission on December 14, 2021, and to the Council on February 1, 2022, are provided as bold underlined black text or as black strikeouts in draft Ordinance 3205 as attached. The amendments made subsequent to the Commission's prior review are presented as bold red underlined text.

I. Ordinance Amendments

A. Summary of Proposed Code Amendments

The proposal includes a series of amendments to AMC Title 18 Land Use to the residential standards for mixed-use development located in the Commercial (C-1) and Employment (E-1) zones. Specifically, the proposed code amendments increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay. Additionally, the development of flexible Commercial Ready Space would allow residential uses within the 35% commercially designated floor area provided an agreement is executed with the City, or deed restriction is recorded on the property, demonstrating that the residential use will be in conformance with the Ashland Affordable Housing Program as affordable rental housing for households earning 80% AMI or less.

Buildings located within the Downtown Design Standards overlay, buildings that are one story in height, and properties that are 10 acres in size or larger would be subject to the current code requirement of 35 percent of the ground floor is permitted in residential uses.

Residential development in the E-1 zone is limited to E-1 properties in the Residential overlay (R-overlay). Approximately 42 percent of the E-1 zoned land in the city limits is in the Residential overlay and 58 percent is not in the Residential overlay. Areas such as Washington Street, Jefferson Avenue, Benson Way and Clover Lane are not located in the Residential overlay. Additionally, the Croman Mill District has its own unique zones based on the master plan and does not include any C-1 or E-1 zoned land.

The amendments are intended to provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing. The project objectives are to:

- 1) maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development.
- 2) increase the supply of moderately-priced rental and for-purchase housing; and
- 3) jumpstart redevelopment in areas that have trouble attracting projects and/or are in proximity to public transit and walking distance to daily service needs, such as groceries, shops, parks, etc.
- 4) provide opportunities to utilize vacant commercial floor area as regulated affordable rental housing restricted to households earning 80% AMI or less.

The draft amendments to the residential standards for mixed-use development are attached and summarized below.

- 18.2.3.130.B.1.a – limits new provisions for residential uses (i.e., up to 65 percent of the ground floor) in the C-1 and E-1 zones to locations outside of the Downtown Design Standards overlay. In addition, to be eligible for the new provisions, the lot size must be less than 10 acres in size and the mixed-use building must be multi-story (i.e., two or more stories in height).

- 18.2.3.B.1.b - increases the allowance for residential uses in multi-story, mixed-use buildings and developments from 35 to 65 percent of the ground floor. Again, this allowance is for locations outside of the Downtown Design Standards overlay. Additionally, the provision is limited to multi-story mixed-use buildings and lots that are less than 10 acres in size.
- 18.2.3.B.1.c.i-iii – Creates a designation for Commercial Ready Space which is developed to accommodate commercial occupancies but may be used flexibly as either a commercial use or as regulated affordable rental housing for households earning 80%AMI or less.
- 18.2.3.130.B.2.a – retains existing standard which allows up to 35 percent of the ground floor to be used for residential uses. The existing standard applies to three situations – properties located inside of the Downtown Design Standards overlay, for lots 10 acres and greater in size and for single-story buildings.
- 18.2.3.130.B.2.b.i – this is the exiting standard allowing up to 35 percent of the ground floor in residential uses, it is simply moved from the existing code section 18.2.3.130. B.1.
- 18.2.3.130.B.1.b.ii – revises the code for situations where a mixed-use development includes more than one building. It requires the equivalent of 65 percent of the ground floor of all the buildings to be provided in permitted or special permitted non-residential uses. This retains the ability in mixed-use developments with more than one building to construct a building that is entirely residential uses as long as the equivalent square footage of 65 percent of the ground floor of the residential building is transferred to another building in the development and is used for permitted and special permitted non-residential uses.
- Table 18.2.6.030 – deletes residential densities in the C-1, C-1-D and E-1 zones.
- 18.3.13.010.C – removes existing language that duplicates the standards in 18.2.3.130 Dwellings in Non-Residential Zones and instead references the requirements in 18.2.3.130 for the Residential overlay or in 18.3.14.040 for the Transit Triangle (TT) overlay. The Residential overlay applies to a portion but not all of the E-1 zone.
- 18.6.1.030 [Definition] - amended to include definition of Commercial Ready Space.

B. Discussion

The 2021-2041 Housing Capacity Analysis (HCA) is a technical study required by state law and was adopted by the City Council on August 17, 2021 as a technical report and supporting document to the *Ashland Comprehensive Plan*. The HCA provides a number of recommended policy changes to address Ashland’s unmet housing needs that are related to the proposed code amendments. The HCA’s recommended policy changes or strategies are presented as guidance for the upcoming Housing Production Strategy.

Strategy 1: Ensure an adequate supply of land is available and serviced

- Strategy 1.3: Identify opportunities to increase allowances for residential uses on the ground floor of buildings within commercial and employment zones.
- Strategy 1.4: Evaluate decreasing multifamily parking requirements.

Strategy 2: Provide opportunities for housing development to meet the City’s identified housing needs

- Strategy 2.2: Evaluate opportunities incentivize smaller units through amendments to allowable densities.

- Strategy 2.4: Evaluate increasing allowances for residential dwellings in commercial and employment zones, such as allowing an increased amount of residential uses in ground floor commercial spaces.

Strategy 5: Align housing planning with the Climate and Energy Action Plan

Strategy 5.4: Evaluate opportunities to develop new housing closer to downtown and commercial centers to reduce dependence on automobiles for transportation.

The Oregon Statewide Planning System requires all cities and counties in Oregon to address Statewide Planning Goal 9 Economic Development. Goal 9 requires cities and counties to provide an adequate land supply for economic development and employment growth. Chapter VII Economy of the *Ashland Comprehensive Plan* and the 2007 Economic Opportunity Analysis (EOA) address the Goal 9 requirements.

Oregon Administrative Rule (OAR) 660 Division 9 implements Goal 9 and provides two options for land use code and comprehensive plan amendments. The first option in OAR 660-009-0010(3) allows local jurisdictions to make amendments by relying on existing plans if findings can be made that there are no significant changes in economic development opportunities based on new information about national, state, regional, count and local trends.

The second option in OAR 660-009-0010(4) requires changes to the designation of land in excess of two acres from an employment use designation to any other use designation. Under this provision, a city or county must show the amendment is consistent with the comprehensive plan and existing EOA. If the proposed amendment can't be supported by the adopted comprehensive plan and EOA, OAR 660-009-0010(4) requires an update the comprehensive plan and/or EOA.

After researching the Goal 9 requirements and speaking to the Oregon Department of Land Conservation (DLCD), staff believes the analysis performed by Fregonese Associates can be used to address OAR 660-009-0010(3) for the proposed code amendments to increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay.

With assistance from Fregonese Associates, staff researched and assessed the rate of employment land consumption and the growth rate in number of jobs in Ashland since the adoption of the 2007 EOA. Fregonese and Associates analyzed the buildable lands data, building permits issued, and Ashland's employment data in the last 10 years and found there is sufficient C-1 and E-1 land for future employment needs. Specific items in the data analysis include the following.

- The land consumption rate in the C-1 and E-1 zones is relatively low with an average of 2 acres per year used for the last 8 years.
- Of the 50 building permits that were issued for commercial development in the last 10 years, 26 permits were in located in the C-1 and E-1 zones and the other 24 permits were located in the C-1-D zone (Downtown) or were public projects such as SOU and Ashland School District projects.

- The 2007 Economic Opportunity Analysis (EOA) forecasted more employment growth than has occurred over the last 14 years. The EOA projected 15,220 jobs by 2027, including 10,654 jobs in retail and services. State employment data shows a total of 10,237 jobs in the Ashland Urban Growth Boundary in 2019.
- The EOA determined that 30% of the employment growth would not require consumption of vacant land.
- Currently, approximately 20% of the jobs are in residential zones.

As proposed in the ordinance amendments, at least 35% of the ground floor must be used as a permitted or special permitted (commercial) use, or alternatively as Commercial Ready Space that could be used as income restricted affordable rental housing. In 2021 the Oregon Legislature approved Senate Bill 8 which restricts local governments from denying or limiting the approval of affordable housing applications in a number of circumstances including when the property is zoned for commercial uses. By providing an option for the development of Commercial Ready Space on the ground floor of mixed-use buildings, that can be used as affordable rental housing restricted to households with incomes at 80% AMI, the amendments proposed create a path for the city to approve the use of vacant commercial floor area as needed affordable housing within the C-1 and E-1 zones.

C. Project Background

The Planning Commission, at the study session meeting on December 22, 2020 evaluated a proposal from members of the private development community that suggested that there is a surplus of commercial space that could be used to provide housing units. The concerns raised included the decreased demand for commercial space due to e-commerce and the pandemic while housing demand continues to increase, particularly after the Alameda fire. The private development representatives suggested amending the land use code to allow the temporary use of ground floor commercial space to be used for housing units and requiring the buildings to be constructed to commercial building code standards so the space could be converted in the future should demand for commercial space return.

The City Council initiated the project at the March 16, 2021 business meeting. Specifically, the Council directed staff to work with the Planning Commission to evaluate the draft code language prepared by private development representatives (KDA Homes), and propose amendments to the land use ordinance which would provide the flexibility to temporarily use the ground floor of commercial buildings for housing.

The Planning Commission reviewed and discussed the proposed code amendment project at the June 22, 2021, August 24, 2021, October 26, 2021 and November 23, 2021 study session meetings. The Planning Commission held a public hearing on December 14, 2021, and recommended approval of the prior draft of the ordinance amending AMC Title 18 Land Use. The City Council reviewed the proposed land use code amendments at a public hearing on February 1, 2022 and did not approve first reading of the ordinance at that time.

Currently, at least 65 percent of the ground floor of buildings in the commercial (C-1) and employment (E-1) zones is required to be commercial and light industrial uses. The remaining 35 percent of the ground floor can be used for residential dwellings as well 100 percent of the upper stories in multi-story buildings. The exceptions are:

- 1) in the Transit Triangle (TT) overlay, a minimum of 35 percent of the ground floor is required to be used for commercial and light industrial uses and
- 2) in the commercial area of the North Mountain Neighborhood District, the ground floor can be used entirely for housing but must be built to commercial building code standards so that the space can be converted to commercial uses in the future.

In 1992, the land use code was amended to eliminate entirely residential buildings as an allowed use in the C-1 and E-1 zones (Ord. 2688). The current standard of requiring 65 percent of the ground floor in commercial or light industrial uses was put in place at that time, as well as residential densities for each of the zones. Prior to 1992, residential buildings comprised entirely of housing units could be built in the C-1 and E-1 zones with the approval of a conditional use permit. The 1992 code update was in part due to concern about construction of residential buildings near the downtown and loss of future commercial space.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval of the proposed amendments to the City Council.

The proposed amendments are scheduled for a public hearing and first reading at the City Council on November 15th, and for second reading on December 6, 2022.

ASHLAND PLANNING DIVISION

STAFF REPORT

December 14, 2021

PLANNING ACTION: PA-L-2021-00013

APPLICANT: City of Ashland

ORDINANCE REFERENCES: **AMC 18.2.3** Special Use Standards
 AMC 18.2.6 Standards for Non-Residential Zones
 AMC 18.3.13 Residential Overlay

REQUEST: The proposal includes a series of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones. The draft code amendments are attached.

I. Ordinance Amendments

A. Summary of Proposed Code Amendments

The proposal includes a series of amendments to AMC Title 18 Land Use to the residential standards for mixed-use development located in the Commercial (C-1) and Employment (E-1) zones. Specifically, the proposed code amendments increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay. Buildings located within the Downtown Designs Standards overlay, buildings that are one story in height, and properties that are 10 acres in size are larger would be subject to the current code requirement of 35 percent of the ground floor is permitted in residential uses.

Residential development in the E-1 zone is limited to E-1 properties in the Residential overlay (R-overlay). Approximately 42 percent of the E-1 zoned land in the city limits is in the Residential overlay and 58 percent is not in the Residential overlay. Areas such as Washington Street, Jefferson Avenue, Benson Way and Clover Lane are not located in the Residential overlay. Additionally, the Croman Mill District has its own unique zones based on the master plan and does not include any C-1 or E-1 zoned land.

The amendments are intended to provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing. The project objectives are to: 1) maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development; 2) increase the supply of moderately-priced rental and for-purchase housing; and 3) jumpstart redevelopment in areas that have trouble attracting projects and/or are in proximity to public transit and walking distance to daily service needs, such as groceries, shops, parks, etc.

The draft amendments to the residential standards for mixed-use development are attached and summarized below.

- 18.2.3.130.B.1.a – limits new provisions for residential uses (i.e., up to 65 percent of the ground floor) in the C-1 and E-1 zones to locations outside of the Downtown Design Standards overlay. In addition, to be eligible for the new provisions, the lot size must be less than 10 acres in size and the mixed-use building must be multi-story (i.e., two or more stories in height).
- 18.2.3.B.1.b - increases the allowance for residential uses in multi-story, mixed-use buildings and developments from 35 to 65 percent of the ground floor. Again, this allowance is for locations outside of the Downtown Design Standards overlay. Additionally, the provision is limited to multi-story mixed-use buildings and lots that are less than 10 acres in size.
- 18.2.3.130.B.2.a – retains existing standard which allows up to 35 percent of the ground floor to be used for residential uses. The existing standard applies to three situations – properties located inside of the Downtown Design Standards overlay, for lots 10 acres and greater in size and for single-story buildings.
- 18.2.3.130.B.2.b.i – this is the exiting standard allowing up to 35 percent of the ground floor in residential uses, it is simply moved from the existing code section 18.2.3.130. B.1.
- 18.2.3.130.B.1.b.ii – revises the code for situations where a mixed-use development includes more than one building. It requires the equivalent of 65 percent of the ground floor of all the buildings to be provided in permitted or special permitted non-residential uses. This retains the ability in mixed-use developments with more than one building to construct a building that is entirely residential uses as long as the equivalent square footage of 65 percent of the ground floor of the residential building is transferred to another building in the development and is used for permitted and special permitted non-residential uses.
- Table 18.2.6.030 – deletes residential densities in the C-1, C-1-D and E-1 zones and adds a minimum floor area ratio (FAR) of .50.
- 18.3.13.010.C – removes existing language that duplicates the standards in 18.2.3.130 Dwellings in Non-Residential Zones and instead references the requirements in 18.2.3.130 for the Residential overlay or in 18.3.14.040 for the Transit Triangle (TT) overlay. The Residential overlay applies to a portion but not all of the E-1 zone.

B. Discussion

The 2021-2041 Housing Capacity Analysis (HCA) is a technical study required by state law and was adopted by the City Council on August 17, 2021 as a technical report and supporting document to the *Ashland Comprehensive Plan*. The HCA provides a number of recommended policy changes to address Ashland’s unmet housing needs that are related to the proposed code amendments. The HCA’s recommended policy changes or strategies are presented as guidance for the upcoming Housing Production Strategy.

Strategy 1: Ensure an adequate supply of land is available and serviced

- Strategy 1.3: Identify opportunities to increase allowances for residential uses on the ground floor of buildings within commercial and employment zones.
- Strategy 1.4: Evaluate decreasing multifamily parking requirements.

Strategy 2: Provide opportunities for housing development to meet the City's identified housing needs

- Strategy 2.2: Evaluate opportunities incentivize smaller units through amendments to allowable densities.
- Strategy 2.4: Evaluate increasing allowances for residential dwellings in commercial and employment zones, such as allowing an increased amount of residential uses in ground floor commercial spaces.

Strategy 5: Align housing planning with the Climate and Energy Action Plan

Strategy 5.4: Evaluate opportunities to develop new housing closer to downtown and commercial centers to reduce dependence on automobiles for transportation.

The Oregon Statewide Planning System requires all cities and counties in Oregon to address Statewide Planning Goal 9 Economic Development. Goal 9 requires cities and counties to provide an adequate land supply for economic development and employment growth. Chapter VII Economy of the *Ashland Comprehensive Plan* and the 2007 Economic Opportunity Analysis (EOA) address the Goal 9 requirements.

Oregon Administrative Rule (OAR) 660 Division 9 implements Goal 9 and provides two options for land use code and comprehensive plan amendments. The first option in OAR 660-009-0010(3) allows local jurisdictions to make amendments by relying on existing plans if findings can be made that there are no significant changes in economic development opportunities based on new information about national, state, regional, count and local trends.

The second option in OAR 660-009-0010(4) requires changes to the designation of land in excess of two acres from an employment use designation to any other use designation. Under this provision, a city or county must show the amendment is consistent with the comprehensive plan and existing EOA. If the proposed amendment can't be supported by the adopted comprehensive plan and EOA, OAR 660-009-0010(4) requires an update the comprehensive plan and/or EOA.

After researching the Goal 9 requirements and speaking to the Oregon Department of Land Conservation (DLCD), staff believes the analysis performed by Fregonese Associates can be used to address OAR 660-009-0010(3) for the proposed code amendments to increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay.

With assistance from Fregonese Associates, staff researched and assessed the rate of employment land consumption and the growth rate in number of jobs in Ashland since the adoption of the 2007 EOA. Fregonese and Associates analyzed the buildable lands data, building permits issued, and Ashland's employment data in the last 10 years and found there is sufficient C-1 and E-1 land for future employment needs. Specific items in the data analysis include the following.

- The land consumption rate in the C-1 and E-1 zones is relatively low with an average of 2 acres per year used for the last 8 years.
- Of the 50 building permits that were issued for commercial development in the last 10 years, 26 permits were in located in the C-1 and E-1 zones and the other 24 permits

were located in the C-1-D zone (Downtown) or were public projects such as SOU and Ashland School District projects.

- The 2007 Economic Opportunity Analysis (EOA) forecasted more employment growth than has occurred over the last 14 years. The EOA projected 15, 220 project jobs by 2027, including 10,654 jobs in retail and services. State employment data shows a total of 10,237 jobs in the Ashland Urban Growth Boundary in 2019.
- The EOA determined that 30% of the employment growth would not require consumption of vacant land.
- Currently, approximately 20% of the jobs are in residential zones.

As originally suggested by KDA, one of the options that the Planning Commission discussed included revising the land use code to allow 100 percent of the ground floor of newly constructed buildings in the C-1 and E-1 zones to be used for residential uses.

According to staff's research, an amendment allowing 100 percent of the ground floor of mixed-use buildings in the C-1 and E-1 zones to be used for housing will likely be considered a significant change and possibly a change from an employment land use designation under OAR 660-009-0010(4). As a result, it is staff's understanding that the 2007 EOA would need to be updated to show that there will be an adequate supply of employment lands to address Ashland's future economic and job needs.

In staff's opinion, the options are to move forward with the attached amendments, consider the 100 percent residential ground floor as one of the options in the housing production strategy, or both amend the code as proposed and identify the 100 percent residential ground floor amendment in the housing production strategy. Potential future actions could involve rezoning employment lands for residential purposes, creating a mixed-use zone with greater flexibility and residential allowances similar to the North Mountain Neighborhood Commercial Zone, or simply retaining existing C-1 and E-1 zoning with the options to build 100 percent residential projects.

C. Project Background

Laz Ayala and Mark Knox from KDA Homes introduced the issue to the Planning Commission at the study session meeting on December 22, 2020. The KDA representatives suggested that there is a surplus of commercial space that could be used to provide housing units. The concerns raised included the decreased demand for commercial space due to ecommerce and the pandemic while housing demand continues to increase, particularly after the Alameda fire. The KDA representatives suggested amending the land use code to allow the temporary use of ground floor commercial space to be used for housing units and requiring the buildings to be constructed to commercial building code standards so the space could be converted in the future should demand for commercial space return.

The City Council initiated the project at the March 16, 2021 business meeting. Specifically, the Council directed staff to work with the Planning Commission to evaluate the draft code language prepared by representatives of KDA Homes and propose amendments to the land use ordinance which would provide the flexibility to temporarily use the ground floor of commercial buildings for housing.

The Planning Commission reviewed and discussed the proposed code amendment project at the June 22, 2021, August 24, 2021, October 26, 2021 and November 23, 2021 study session meetings.

Currently, at least 65 percent of the ground floor of buildings in the commercial (C-1) and employment (E-1) zones is required to be commercial and light industrial uses. The remaining 35 percent of the ground floor can be used for residential dwellings as well 100 percent of the upper stories in multi-story buildings. The exceptions are: 1) in the Transit Triangle (TT) overlay, a minimum of 35 percent of the ground floor is required to be used for commercial and light industrial uses and 2) in the commercial area of the North Mountain Neighborhood District, the ground floor can be used entirely for housing but must be built to commercial building code standards so that the space can be converted to commercial uses in the future.

In 1992, the land use code was amended to eliminate entirely residential buildings as an allowed use in the C-1 and E-1 zones (Ord. 2688). The current standard of requiring 65 percent of the ground floor in commercial or light industrial uses was put in place at that time, as well as residential densities for each of the zones. Prior to 1992, residential buildings comprised entirely of housing units could be built in the C-1 and E-1 zones with the approval of a conditional use permit. The 1992 code update was in part due to concern about construction of residential buildings near the downtown and loss of future commercial space.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval of the proposed amendments to the City Council. The proposed amendments are scheduled for a public hearing and first reading at the City Council on January 4 and for second reading on January 18.

Ashland Economic Sustainability Assessment

Laz Ayala, KDA Homes, LLC

12/11/2020

Ashland Planning Commission,

For many years, our community has been experiencing a housing supply problem involving market rate and subsidized housing, particularly 1- and 2-bedroom units often referred to as workforce housing. Workforce housing is essential in attracting businesses to our community as we look to diversify our local economy. Forrest fires, Covid-19 and E-commerce have caused serious short- and long-term damage to Ashland's economy. These phenomenons are not likely to disappear and in fact, experts warn to expect more in the years ahead. While these phenomenons have created economic devastation and accelerated shifts in how we live, work, shop, and play they also bring opportunities we must embrace if Ashland is to remain the thriving community it still is today. We have two choices: embrace these opportunities or become collateral dammage.

We have time to assess what may or may not work in Ashland's future economy and make the necessary changes to adapt to the fast-changing world we live in. If we agree that our tourist economy is in peril, we must respond withh the changes needed to adapt to a more diverse and sustainable economy. As earlier mentioned, an adequate supply of workforce housing is fundamental in this effort and as such we must explore ways, we can provide much needed workforce housing that will not only address our housing needs, but provide revenue to fund City services such as fire, police, water, sewer, roads, parks, schools, affordable housing and other public funded programs.

If we agree that demand for office and retail commercial space is in decline and recognize the need for more workforce housing, council should consider a minor amendment to the commercial and employment zones (C-1/ E-1) allowing for 100% residential uses at ground level (with conditions for future commercial conversion) such as in the Transit Triangle and North Mountain neighborhoods. Except for these two neighborhoods, 100% residential is not permitted at ground level in other commercial zone districts in Ashland. We believe Downtown should not be part of this amendment, but rather commercial properties located within the fringe of Downtown, such as the commercial and employment district between "A" and Hersey extending west to Laurel and east to Mountain. Why 100% residential at ground level? There is no demand for retail or office space amd

banks will not finance these projects nor will developers take a risk building commercial space for which there is no market.

Amending the commercial code to allow for 100% residential use makes projects like Meadowbrook Apartments along Fair Oaks Avenue within the North Mountain Master Plan area feasible. Below is a summary of the economic benefit to the City in terms of revenue in addition to the workforce housing opportunities provided:

The Meadowbrook Apartments project which is currently under construction has contributed approximately \$148,575.75 in permit fees and \$206,253.19 system development fees (CDCs) for a total of \$358,000. Upon completion it is estimated to provide \$72,333.57 in annual tax revenue, \$52,000 of which will go directly to the City of Ashland.

It is conceivable that amending the commercial zone requirements to allow for 100% residential would generate enough interest in similar projects and it is conceivable to see several of these projects get built every year thereby providing revenue for the City and its agencies and much needed workforce housing to attract investment and businesses to diversify our economy.

Sincerely,

Laz Ayala

[Submitted by Amy Gunter]

Good evening planning commissioners,

I would like to add to the discussion on changes to the housing and employment zones codes. Now is the opportunity for the city to make a meaningful, substantive impact on the present restrictions regarding provision of housing in the commercial and employment zones and parking requirements.

This discussion shouldn't be relegated to the existing residential overlay. This discussion should be regarding all commercial and employment zone lands. There are areas that do not have residential overlay but directly abut residential lands. The industrial zone does not allow for residential use. I would wager a bet that there are a number of 'residences' in the Employment zone.

Additionally, the existing uses of a site shouldn't determine that residential isn't allowed for example properties that have a conditional use permit such as a hotel cannot be converted to the 65/35 ratio as the code prevents residential development when the commercial property is occupied by a conditional use. The irony of this is that hotels have similar if not more fire life safety protections for their guests as an apartment complex requires. Additionally, generally the parking for a hotel is similar to the parking for a studio or small one bedroom so the physical changes to the property to accommodate the change of use are limited.

The code appears to eliminate the allowance for multiple buildings that would allow for a building that was entirely residential in conjunction with a commercial development. This should be allowed so that there can be stand-alone apartments. Possibly require the commercial building to be fronting upon the street like the projects we are doing in Talent on North Pacific Highway.

I suggest that it be considered that commercial property is allowed to develop at 100% residential when developed to the high-density multi-family residential standards. Medford has had successful residential development adjacent to large scale commercial developments in their commercial zones and the numbers of pedestrians and foot traffic to the businesses is increased due to the increase in housing on directly adjacent properties. For all intents and purposes, multi-family residential functions like and has similar traffic impacts as many permitted commercial uses. The traffic impacts are similar except that there is the ability to functionally reduce trips because people can walk to the nearby businesses. You'll find projects like this on West Main/Ross in Medford.

Parking:

The parking is not part of the discussion this evening I would like to comment that in all of the Rogue Valley jurisdictions where I have done planning and development projects Ashland has the highest parking requirements. This includes not only the number of parking spaces, the sizes of the parking spaces, the required buffering for said parking, most communities allow for stacking of residential parking. So in the event that a garage has a 20 foot front yard setback that garage space provides one parking space and the space behind that provides a second this way acknowledging that is how much of the historic area, the area around Harmony Lane, Ross Lane, Linda Ave., Ray lane, Parker St, Garfield St, you get my drift, there's a lot of single width driveways around town that only count as one parking space regardless of the how many vehicles can stack in the same driveway.

In conclusion,

Nobody wants to build vacant commercial structures but there is a lot of interest in building, expanding residential structures. I did suggest that my clients that own commercial and employment zoned property participate in this discussion because there are many that feel stuck. The folks on A Street and Hersey Street in the houses that are nearly impossible to convert to commercial are stuck in non-conforming developments.

I thank you for looking into making changes. I suggest you look deeper and consider broader, more impactful changes some of the suggestions include.

- Allow for 100 percent residential in the C-1 zones when developed to high density, multi-family residential standards.
- Retain the mix in the employment zones
- Retain the mixed-use component that allows for 50 percent of the site area (or some other number) to be residential in conjunction with commercial development when in separate structures.
- Allow for residential use when there is a conditional use on the property and do not restrict to permitted or special permitted uses.
- Allow for single story, mixed use construction of buildings
- Consider taller buildings (3 and 4 story buildings in the E-1)
- Revise the Economic Opportunity Analysis due to substantial changes to Ashland's economy that may not have been captured in 2007. This would provide avenue to allow more E-1 with R overlay in the areas that I note above.
- By all means reduce the parking requirements.

Thank you for your time.

KDAHomes

plan. develop. build

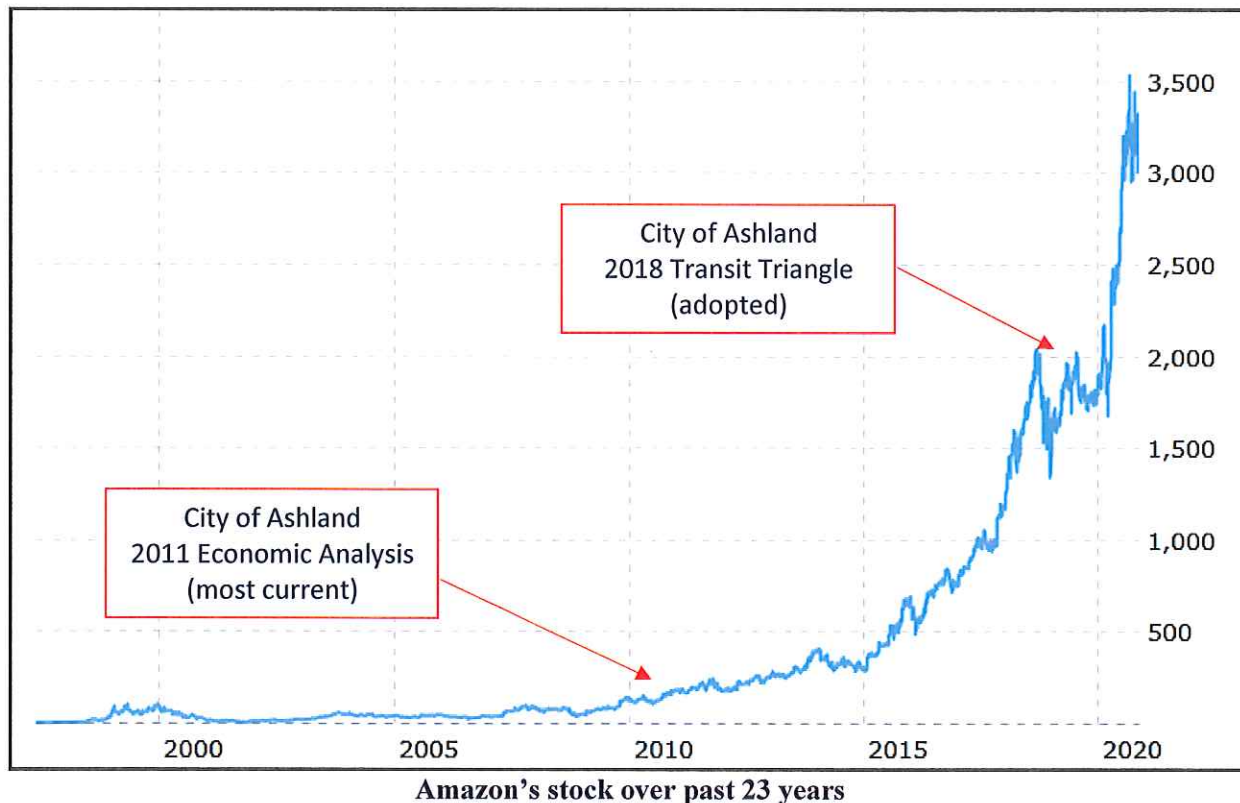
December 16th, 2020

TO: Ashland Planning Commission & Planning Staff

FROM: Mark Knox, KDA Homes, LLC

SUBJECT: Ashland Economic Sustainability

Background: As the Planning Commission and Planning Staff are aware, over the last few years I have spoken publically about concerns relating to e-commerce and how quickly technology is effecting Main Street's across the country. Main Streets have always been under attack with the innovation of the automobile, invention of malls or most recently big box retailers. But, today's rapid technological advancements relating to e-commerce, automation and overnight shipping, compounded by low-cost goods sourced from other countries is far different and likely to have the most devastating impact.



After experiencing the phenomenon first hand in the summer of 2017 while visiting the Main Street section in Tiburon California, reading multiple articles on the subject and closely monitoring our own Downtown Main Street, the problem is real. I've also talked with numerous professionals

Planning Commission's hearings and discussion of the Transit Triangle Infill Strategy, I submitted testimony relating to this issue and suggested the Planning Commission consider "swapping" the ground floor commercial code "requirement" from a minimum 65% required ground floor commercial use and maximum 35% ground floor residential use and the Planning Commission unanimously concurred, as did the City Council. The general idea being commercial space demand is in decline whereas residential demand continues to remain strong.

Unfortunately, since 2018, the issue has only worsened for a variety of reasons and so I'm again speaking out, talking with the Chamber of Commerce, City Council, Planning Staff, Southern Oregon University, Planning Staff, colleagues and anyone else who will listen.

Problem: The problems facing Ashland's Main Street are not just tied to e-commerce, big box or auto centric competition, but now it's facing the impacts and/or implications of forest fires, fear of travel from the pandemic, declining lease projections for professional office space due to the pandemic and a decline in Shakespeare or theatre enthusiasts. Further, in what should be considered a warning alarm, lending institutions have either stopped or significantly increased their lending demands for commercial developments, including mixed-use developments.

Unlike many other small towns across the country, Ashland has numerous attributes and livability components that draw visitors and locals to its fine dining establishments, pubs and bookstores, but it is not immune to real world issues and a slow erosion can quickly occur if we do not try to address it. And, because of the speed at which it is occurring, it needs immediate attention.

Solution: As most people know, I was a City Planner for the City of Ashland in what seems like yesterday but is now "years ago". I'm now a local Developer who does land use planning for a small development company. Over the last eight years, I've had the opportunity to work on various land use projects from small subdivisions (Garden Cottages – Ashland's first Cottage Housing Development) to large scale commercial developments (First Place along Lithia Way). I've also had the opportunity to work with a variety of professionals and obtain a better understanding of complex financial matters and market trends.

To this point, I've reached out to the Ashland Planning Department to discuss a possible amendment to the Ashland Municipal Code that could not only help stabilize the issues noted above, but also provide additional housing opportunities that have realistically never been resolved since I moved to Ashland 28 years ago.

In simple terms, the request is for the Planning Commission and Staff to consider a relatively simple code amendment that looks similar to the ground floor code amendments recently adopted in 2018 for the Transit Triangle Overlay or code language within the adopted 1995 North Mountain Neighborhood Plan that allows 100% ground floor residential until there is commercial demand. The suggested code language would apply in certain employment and commercial zones (not Downtown, Croman, or Airport areas) with code stipulations that ground floor spaces are to be: 1) Designed and built following Commercial Building Codes, 2) Designed to comply with all commercial Site Design & Use Standards 3) Permitted to be converted to commercial use at any time and 4) Only applicable to qualifying buildings that are at least two stories measured from adjacent street grade.

Benefits: The suggested amendment should be beneficial for a number of reasons, including the following:

- 1) It provides much needed small unit affordable rental housing in areas that are generally close to essential services;
- 2) It provides much needed housing that hopefully creates a surplus and thus helps stabilize market rental housing prices;
- 3) It provides the financial incentive for property owners to invest and construct mixed-use buildings;
- 4) It encourages financial institutions to finance mixed-use buildings. This is critical as without the financing, the building does not get built nor do “any” permissible residential units;
- 5) It helps maintain the City’s tax base and related construction impact fees for streets, roads, schools, etc. A perfect example is the now under construction Meadowbrook Square Apartment Building (see picture insert below) that would NOT have been possible without the suggested exception language built into the North Mountain Master Plan in 1995. In this case, the related construction fees are approximately \$148,575 and SDC fees \$206,253. Upon completion, the annual tax revenue will be roughly \$72,333 of which \$52,000 will go to the City of Ashland and Ashland School District. *Note:* The Meadowbrook Square Condominiums (across the street) are currently contributing \$30,229.06 in tax revenue annually of which approximately \$22,000 goes directly to the City of Ashland and Ashland School District. Permit and SDC’s paid to City of Ashland totaled \$95,751.26. This building’s ground floor unit is also “interim” and used as a residence;



Meadowbrook Apartments (12.16.2020) Three-story Mixed-Use Building with “24” 500 sq. ft. apartments on 2nd and 3rd floors and “5” *interim* residential apartments on ground floor to eventually be converted to commercial office/retail use pending market demand.

- 6) It still requires the appearance of typical commercial mixed-use facades as envisioned in the City's Site Design & Use Standards;
- 7) It provides an opportunity for an expeditious conversion from residential to commercial when the market demands. In the vast majority of cases, commercial business cannot "wait" the typical 1 to 2 year timeframe for land use planning and construction and thus under the suggested code provision, the commercial spaces are already in existence and only have to "wait" 6 to 9 months to complete tenant improvements;
- 8) It helps stimulate construction employment and any related employment;
- 9) It can help provide for an added customer base for local businesses during what appears to be a long slow trend of declining tourism due to a variety of real or perceived factors related to climate change conditions, tourism preferences, etc.

Negative Implications: At the present time, I do not believe there are any negative implications with this proposal, but also understand the idea needs to be vetted with the public, staff, Planning Commission and City Council. Further, I do not believe there are any State land use limitations as the proposal does not eliminate or reduce available commercial or employment lands, it simply provides for a more efficient use of those lands until the market demand exists.

Overall, I appreciate the opportunity to voice my opinion on this important matter and look forward to discussing it with the Planning Commission. As mentioned, I've discussed the suggested amendment proposal with a number of City leaders and local business owners and all agree the idea is sound and timing appropriate. In that regard, the starting point for official consideration is the Ashland Planning Commission via a public Study Session.

Sincerely,



Mark Knox
276 W. Nevada Street
Ashland, OR 97520

Related Articles:

- 1) *Mounting commercial real estate losses threaten banks, recovery* (The Washington Post, 11/11/20)
<https://www.washingtonpost.com/business/2020/11/11/commercial-real-estate-economy/>
- 2) *Amazon is now a drug store.* (CNN Business, 11/17/20)
<https://www.cnn.com/2020/11/17/business/amazon-pharmacy-launch/index.html>
- 3) *Can Governments Save Main Street?* (The Salem News, 11/30/20).
https://www.salemnews.com/opinion/columns/column-can-governments-help-save-main-street/article_000a1e23-cadd-54ca-b9f1-651b11cbdb3a.html

- 4) *Small Town Kept Walmart Out. Now It Faces Amazon.* (The Atlantic, 3/3/18)
<https://www.theatlantic.com/business/archive/2018/03/amazon-local-retail/554681/>

- 5) *Downtowns Matter* (State of Main, Edward T. McMahon Fall 2016)
<https://www.mainstreet.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=32bde503-eeb9-3bd4-0ff5-0a525562b1b8&forceDialog=0>

From: [Melissa Huhtala](#)
To: [Brandon Goldman](#)
Subject: FW: Ashland City Council Public Testimony
Date: Tuesday, February 01, 2022 11:45:14 AM

FYI

From: Eric Navickas <navickasdesign@gmail.com>
Sent: Sunday, January 30, 2022 3:20 PM
To: Public Testimony <public-testimony@ashland.or.us>
Subject: Ashland City Council Public Testimony

[EXTERNAL SENDER]

Agenda Item X.1. **Public Hearing and First Reading of Housing in Employment Lands Code Amendments**

Council,

The proposal before you is a land use decision subject to appeal to LUBA pursuant to ORS 197.825(1), stating, "the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government".

The ordinance changes propose to shift the use of employment zones and commercial zones to allow more residential uses. Under OAR 600-009-0010(4) a plan amendment "that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and; (a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division".

OAR 600-090-0010(1) states that cities "subject to this division must adopt plan and ordinance amendments necessary to comply with this division." The outdated 2007 Economic Opportunities Analysis and related Comprehensive Plan need to be amended to meet this requisite demand.

The staff report relies on exceptions allowed under OAR 600-009-0010(5), stating, "[a] jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division." To fulfill this exception the staff offers a limited study by Fergonese's and Associates, stating, "[i]n order to ensure that Ashland's inventory of commercial and employment lands could accommodate future business development, the city contracted with Fergonese and Associates to assist in

analyzing the buildable lands data, building permits issued, and Ashland's employment data over the last 10 years."

The inadequacy of the Fergonese and Associates study is obvious when compared with the requirement of the Economic Opportunity Analysis as defined under OAR 600-009-0015(1), stating, "[t]he economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends." A specifically local analysis fails to meet this requirement especially as the national trend of "onshoring" or "reshoring" manufacturing as a result of supply chain disruptions continues to make headline news.

OAR 600-009-0015(2) requires consideration of site characteristics, stating, "[t]he economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses." With the subsequent proposal to convert much of the Croman Mill Site to residential uses, the prerequisite of an Economic Opportunities Analysis that considers existing land in relation to site characteristics is imperative to maintaining the types of land where employment activities can realistically be realized. This concept is continued in OAR 600-009-0015(4)(a)-(h), stating that the estimate of employment growth "must consider the planning area's economic advantages and disadvantages" with a long list of factors to consider. The Fergonese and Associates study fails to address these important elements.

Finally, ORS 600-900-0015(5) states, "[c]ities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies." It is discouraging to see this effort to move forward in changing employment zones that are intended to maintain the economic health of our city through avoiding the requirement of updating the Economic Opportunities Analysis that encourages a visioning process that includes public input. In this case, the city staff has been very transparent about the fact that these proposed changes were initiated by a private development firm with obvious special interests. A proposal from KDA Homes cannot meet the need for "public input based process in conjunction with state agencies".

In conclusion, the State of Oregon has developed a land use regulatory program that establishes requisite procedures that demand statewide compliance. The City of Ashland is attempting to circumvent these procedures through failing to update the Economic Opportunities Analysis prior to making changes to lands zoned for employment uses. Further, the proposed changes are significant enough to bring into question whether or not they continue to fulfill the desired use as defined within the Comprehensive Plan.

Respectfully,
Eric Navickas
27 1/2 N. Main St.
Ashland OR.

ORDINANCE NO. 3205

AN ORDINANCE AMENDING CHAPTERS 18.2.3, 18.2.6, 18.3.13 AND 18.6.1 OF THE
ASHLAND LAND USE ORDINANCE REGARDING ALLOWANCES FOR
RESIDENTIAL USES IN MIXED-USE BUILDINGS AND DEVELOPMENTS IN THE
COMMERCIAL AND EMPLOYMENT ZONES.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are in bold underline.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975).; and

WHEREAS, beginning in early 2020, the COVID-19 pandemic resulted in the closure of businesses throughout the United States and a shift to conducting operations remotely and electronically, thereby temporarily resulting in a decreased need for office and commercial space; and

1 **WHEREAS**, less demand for office space is expected to continue as some companies move to
2 smaller offices and use work from home and hybrid arrangements.; and

3
4 **WHEREAS**, prior to 2020, there was a decline in construction of large retail buildings in the
5 U.S. and the e-commerce share of the retail market was increasing nationally. The COVID-19
6 pandemic resulted in an even greater shift to online retail purchases.; and

7
8 **WHEREAS**, the City of Ashland is required to perform a housing capacity analysis every eight
9 years as required by ORS 197.296 and OAR 660-0008-0045. House Bill 2003 passed in the 2019
10 Oregon legislative session and amended the previously mentioned state laws and rules to require
11 cities in Oregon to perform the housing capacity analysis and housing production strategy.; and

12
13 **WHEREAS**, the Ashland City Council adopted the 2021-2041 Housing Capacity Analysis
14 (HCA) on August 17, 2021 as a technical report and supporting document to the Ashland
15 Comprehensive Plan. The HCA provides a number of recommended policy changes to address
16 Ashland’s unmet housing needs including increasing the allowance for residential dwellings in
17 commercial and employment zones and developing new housing closer to downtown and
18 commercial centers to reduce dependency on automobiles for transportation.; and

19
20 **WHEREAS**, the Almeda wildfire increased the regional need for affordable housing by
21 destroying about 2,549 dwellings in September 2020. The Almeda fire burned from north
22 Ashland to just south of Medford, with the cities of Phoenix and Talent losing the majority of
23 housing. The HCA recognized that the losses due to the Almeda fire increased regional need for
24 affordable housing and overall pressure on the Ashland housing market.; and

25
26 **WHEREAS**, amendments to the allowances for housing in the commercial and employment
27 zones are needed to provide more flexibility in the commercial and employment zones to
28 respond to fluctuations and changes in the economy and demand for housing.; and

1 **WHEREAS**, the City of Ashland Planning Commission conducted on December 14, 2021 and
2 September 27, 2022, duly advertised public hearings on amendments to the Ashland Land Use
3 Ordinance concerning the standards relating to annexations, and following deliberations
4 recommended approval of the amendments.; and
5

6 **WHEREAS**, the City Council of the City of Ashland conducted duly advertised public hearings
7 on the above-referenced amendments February 1, 2021 and November 15, 2022.; and
8

9 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing
10 and record, deliberated and conducted first and second readings approving adoption of the
11 Ordinance in accordance with Article 10 of the Ashland City Charter.; and
12

13 **WHEREAS**, the City Council of the City of Ashland has determined that in order to protect and
14 benefit the health, safety and welfare of existing and future residents of the City, it is necessary to
15 amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an adequate
16 factual base exists for the amendments, the amendments are consistent with the comprehensive
17 plan and that such amendments are fully supported by the record of this proceeding.
18

19 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**
20

21 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this
22 reference.
23

24 **SECTION 2.** Section 18.2.3.130 [Dwellings in Non-Residential Zones – Special Use Standards]
25 of the Ashland Land Use Ordinance is hereby amended to read as follows:
26

27 **18.2.3.130 Dwellings in Non-Residential Zones**

28 Where dwellings are allowed in non-residential zones, they are subject to all of the following
29 requirements.
30

- A. Dwellings in the E-1 zone are limited to the R-overlay zone. See chapter 18.3.13 Residential Overlay.

1 B. Dwellings in the E-1 and C-1 zones shall meet all of the following standards, except that
2 dwellings developed under the Transit Triangle (TT) overlay option are not subject to
3 subsection 18.2.3.130.B, below. See section 18.3.14.040 for the allowed uses in the TT
4 overlay.

5 1. ~~**Mixed-Use Developments Outside of the Downtown Design Standards Overlay.**~~ ~~**If**~~
6 ~~**there is one building on a site, ground floor residential uses shall occupy not**~~
7 ~~**more than 35 percent of the gross floor area of the ground floor. Where more than**~~
8 ~~**one building is located on a site, not more than 50 percent of the total lot area**~~
9 ~~**shall be designated for residential uses. At least 65 percent of the gross floor**~~
10 ~~**area of the ground floor shall be designated for permitted uses and uses**~~
11 ~~**permitted with special use standards, not including residential uses.**~~

12 **a. *Applicability.* This subsection, 18.2.3.130.B.1, applies to mixed-use**
13 **buildings or developments that meet all of the following requirements.**

14 **i. *Location.* The mixed-use building or development shall be located outside**
15 **of the Downtown Design Standards overlay.**

16 **ii. *Lot Size.* The mixed-use building or development shall be located on a lot**
17 **that is less than 10 acres in size. Mixed-use developments located on lots**
18 **10 acres in size and greater shall be subject to the requirements of**
19 **subsection 18.2.3.130.B.2, below.**

20 **ii. *Building Height.* The mixed-use building shall be two or more stories in**
21 **height. Mixed-use buildings that are one story in height are subject to the**
22 **requirements of subsection 18.2.3.130.B.2, below.**

23 **b. *Gross Floor Area.***

24 **i. *One Building.* When a planning application is limited to one building,**
25 **residential uses may occupy up to 65 percent of the gross floor area of the**
26 **ground floor. At least 35 percent of the gross floor area of the ground floor**
27 **shall be designated for permitted uses and uses permitted with special use**
28 **standards not including residential uses, or as Commercial Ready**
29 **Residential Space consistent with 18.2.3.130.B.1.c below.**

30 **ii. *More Than One Building.* When a planning application includes more than**
31 **one building, the equivalent of at least 35 percent of the gross floor area of**
32 **the ground floor shall be designated for permitted uses and uses permitted**
33 **with special use standards not including residential uses, or as**
34 **Commercial Ready Residential Space consistent with 18.2.3.130.B.1.c**
35 **below.**

36 **c. *Commercial Ready Residential Space.* Gross floor area designated as**
37 **commercial ready residential space shall be in compliance with the following:**

38 **i. *Residential uses provided within the designated commercial ready***
39 **residential space shall be limited to rental units affordable to households**
40 **earning 80% Area Median Income consistent with the requirements of the**
41 **Ashland Affordable Housing Program including household income**
42 **verification and maximum rental amounts.**

1 ii. An Agreement shall be executed with the City, or a deed restriction shall be
2 recorded on the property, which stipulates that the Commercial Ready
3 Residential Space shall not be used as market rate rental housing or sold
4 as a residential unit.

5 iii. If residential uses are provided immediately above the ground floor level
6 (i.e., second floor residential), horizontal occupancy separation must be
7 provided to accommodate future commercial occupancies as required by
8 the building code at the time of construction.

9 d. Residential uses shall be subject to the same setback, landscaping, and
10 design standards as for permitted uses in the underlying zone.

11 2. Mixed Use Developments Inside the Downtown Design Standards Overlay, Large
12 Lots and One-Story Mixed-Use Buildings. Residential densities shall not exceed 15
13 dwelling units per acre in the E-1 zone, 30 dwelling units per acre in the C-1 zone,
14 and 60 dwelling units per acre in the C-1-D zone. For the purpose of density
15 calculations, units of less than 500 square feet of gross habitable floor area shall
16 count as 0.75 of a unit.

17 a. Applicability. This subsection, 18.2.3.130.B.2, applies to mixed-use buildings
18 and developments located in the Downtown Design Standards Overlay. In
19 addition, this subsection applies to mixed-use buildings and developments
20 located on lots that are 10 acres and greater in size and to one-story mixed-use
21 buildings, whether the lot or building is located inside or outside the
22 Downtown Design Standards overlay.

23 i. Location. Mixed-use buildings and developments located in the Downtown
24 Design Standard overlay shall be subject to the requirements of this
25 subsection.

26 ii. Lot Size. Mixed-use buildings and developments located on lots 10 acres
27 and greater in size shall be subject to the requirements of this subsection.

28 iii. Building Height. Mixed-use buildings that are one story in height shall be
29 subject to this subsection.

30 b. Gross Floor Area.

i. One Building. When a planning application is limited to one building,
residential uses may occupy up to 35 percent of the gross floor area of the
ground floor. At least 65 percent of the gross floor area of the ground floor
shall be designated for permitted uses and uses permitted with special use
standards, not including residential uses.

ii. More Than One Building. When a planning application includes more than
one building, the equivalent of at least 65 percent of the gross floor area of
the ground floor for all buildings shall be designated for permitted uses and
uses permitted with special use standards, not including residential uses.

3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the underlying zone.

4. Off-street parking is not required for residential uses in the C-1-D zone.

5. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.

SECTION 3. Section 18.2.6.030 [Unified Standards for Non-Residential Zones – Standards for Non-Residential Zones] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Table 18.2.6.030 – Standards for Non-Residential Zones (Except as modified under chapter 18.5.5 Variances.)				
Standard	C-1	C-1-D	E-1	M-1
Residential Density ¹ (dwelling units/acre)	30 du/ac <u>No Density Maximum</u>	60 du/ac <u>No Density Maximum</u>	15 du/ac <u>No Density Maximum</u>	NA
¹ where allowed per section 18.2.3.130; within E-1 zone, per R-Overlay (see chapter 18.3.13 Residential Overlay). <u>For calculation of the affordable housing requirements provided in 18.5.8.050 the base residential density of C-1 shall be considered 30du/ac, and E-1 shall be considered 15 du/acre.</u>				
Lot Area, Width, Depth Lot Coverage	There is no minimum lot area, width or depth, or maximum lot coverage; or minimum front, side or rear yard, except as required to comply with the special district and overlay zone provisions of part 18.3 or the site development and design standards of part 18.4.			
Setback Yards (feet)	There is no minimum front, side, or rear yard required, except where buildings on the subject site abut a residential zone, in which case a side of not less than 10 ft and a rear yard of not less than 10 ft per story is required. The solar setback standards of chapter 18.4.8 do not apply to structures in the C-1-D zone. Except for buildings within 100 feet of a residential zone, the solar setback standards of chapter 18.4.8 do not apply to structures in the C-1 zone. See also section 18.2.4.030 Arterial Street Setback.			There is no minimum front, side, or rear yard, except 20 ft where adjoining a residential zone.
Building Height ^{2&31 & 2} – Maximum (feet)	40 ft, except: - Buildings greater than 40 ft and less than 55 ft are permitted in C-1-D zone with approval of a Conditional Use Permit. -Where located more than 100 feet from a residential zone, buildings greater than 40 ft and less than 55 ft are permitted in C-1 zone with approval of a Conditional Use Permit.			40 ft

Table 18.2.6.030 – Standards for Non-Residential Zones
(Except as modified under chapter 18.5.5 Variances.)

<i>Standard</i>	<i>C-1</i>	<i>C-1-D</i>	<i>E-1</i>	<i>M-1</i>
²¹ See definition of “height of building” in section 18.6.1.030 . ³² Parapets may be erected up to five feet above the maximum building height; see also, 18.4.4.030 .G.4 for mechanical equipment screening requirements, and 18.5.2.020 for Site Design Review for mechanical equipment review process.				
Landscape Area – Minimum (% of developed lot area)	15%	None, except parking areas and service stations shall meet the standards of chapters 18.4.3 Parking, Access, and Circulation, and 18.4.4 Landscaping, Lighting, and Screening.	15%	10%

SECTION 4. Section 18.3.13.010 [Residential Overlay Regulations – Residential Overlay] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.13.010 Residential Overlay Regulations

- A. Purpose.** The Residential overlay is intended to encourage a concentration and mix of businesses and housing that provides a variety of housing types, supports resource and energy conservation, and promotes walking, bicycling, and transit use.
- B. Applicability.** The Residential overlay applies to all property where ‘Residential Overlay’ (R) is indicated on the Zoning map.
- C. Requirements.** ~~The Dwellings in the Residential overlay requirements are as follows shall meet the applicable standards in section 18.2.3.130, except that dwellings developed under the Transit Triangle (TT) overlay option are not subject to subsection 18.3.13.010 C, below. See section 18.3.14.040 for the allowed uses in the TT overlay or 18.3.14.040 for the TT overlay.~~
 - ~~1. **Mixed-Use Developments.** If there is one building on a site, ground floor residential uses shall occupy not more than 35 percent of the gross floor area of the ground floor. Where more than one building is located on a site, not more than 50 percent of the total lot area shall be designated for residential uses. At least 65 percent of the gross floor area of the ground floor shall be designated for permitted uses and uses permitted with special use standards, not including residential uses.~~
 - ~~2. **Residential densities shall not exceed 15 dwelling units per acre. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor**~~

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~~area shall count as 0.75 of a unit.~~

~~3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the E-1 District.~~

SECTION 5. Section 18.6.1 [Definitions] of the Ashland Land Use Ordinance is hereby amended to include the following definition which reads as follows:

18.6.1.030 - Definitions

Commercial Ready Residential Space. Ground floor area within a mixed-use building that is designed to accommodate commercial uses in compliance with applicable design and building code standards. Commercial Ready Residential Space provides the flexibility of occupying a space with commercial uses and allowing the use in such space to change to affordable rental housing in accordance with the Ashland Affordable Housing Program.

SECTION 6. Codification. In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within such limitations, may:

- (a) Renumber sections and parts of sections of the ordinance;
- (b) Rearrange sections;
- (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- (d) Delete references to repealed sections;
- (e) Substitute the proper subsection, section, or chapter numbers;
- (f) Change capitalization and spelling for the purpose of uniformity;
- (g) Add headings for purposes of grouping like sections together for ease of reference; and
- (h) Correct manifest clerical, grammatical, or typographical errors.

SECTION 7. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

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The foregoing ordinance was first read by title only in accordance with Article X,
Section 2(C) of the City Charter on the ____th day of _____, 2022,
and duly PASSED and ADOPTED this ____th day of _____, 2022,

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2022.

Julie Akins, Mayor

Reviewed as to form:

Douglas McGeary, Acting City Attorney

ASHLAND PLANNING DIVISION
STAFF REPORT
ADDENDUM
September 27, 2022

PLANNING ACTION: PA-L-2021-00013

APPLICANT: City of Ashland

ORDINANCE REFERENCES: **AMC 18.2.3** Special Use Standards
 AMC 18.2.6 Standards for Non-Residential Zones
 AMC 18.3.13 Residential Overlay
 AMC 18.6.1 Definitions

REQUEST: The proposal includes a series of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones. The draft code amendments are attached.

LEGISLATIVE HISTORY:

The Planning Commission held a public hearing on December 14, 2021, and recommended approval of the prior draft of the ordinance amending AMC Title 18 Land Use. The City Council reviewed the proposed land use code amendments at a public hearing on February 1, 2022 and did not approve first reading of the ordinance at that time. The Council requested potential amendments be considered to allow the entirety of the first floor of developments on E-1 and C-1 lands to be residential provided certain housing affordability conditions were met.

The amended draft ordinance presented for consideration newly incorporates allowances for affordable rental housing within *Commercial Ready Space* within the ground floor area. Commercial Ready Space could be utilized in a flexible manner as either permitted and special permitted commercial uses, or as affordable rental housing restricted to households earning 80% the Area Median Income (AMI) consistent with the Ashland Affordable Housing Program.

The ordinance amendments originally presented to the Planning Commission on December 14, 2021, and to the Council on February 1, 2022, are provided as bold underlined black text or as black strikeouts in draft Ordinance 3205 as attached. The amendments made subsequent to the Commission’s prior review are presented as bold red underlined text.

I. Ordinance Amendments

A. Summary of Proposed Code Amendments

The proposal includes a series of amendments to AMC Title 18 Land Use to the residential standards for mixed-use development located in the Commercial (C-1) and Employment (E-1) zones. Specifically, the proposed code amendments increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay. Additionally, the development of flexible Commercial Ready Space would allow residential uses within the 35% commercially designated floor area provided an agreement is executed with the City, or deed restriction is recorded on the property, demonstrating that the residential use will be in conformance with the Ashland Affordable Housing Program as affordable rental housing for households earning 80% AMI or less.

Buildings located within the Downtown Design Standards overlay, buildings that are one story in height, and properties that are 10 acres in size or larger would be subject to the current code requirement of 35 percent of the ground floor is permitted in residential uses.

Residential development in the E-1 zone is limited to E-1 properties in the Residential overlay (R-overlay). Approximately 42 percent of the E-1 zoned land in the city limits is in the Residential overlay and 58 percent is not in the Residential overlay. Areas such as Washington Street, Jefferson Avenue, Benson Way and Clover Lane are not located in the Residential overlay. Additionally, the Croman Mill District has its own unique zones based on the master plan and does not include any C-1 or E-1 zoned land.

The amendments are intended to provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing. The project objectives are to:

- 1) maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development.
- 2) increase the supply of moderately-priced rental and for-purchase housing; and
- 3) jumpstart redevelopment in areas that have trouble attracting projects and/or are in proximity to public transit and walking distance to daily service needs, such as groceries, shops, parks, etc.
- 4) provide opportunities to utilize vacant commercial floor area as regulated affordable rental housing restricted to households earning 80% AMI or less.

The draft amendments to the residential standards for mixed-use development are attached and summarized below.

- 18.2.3.130.B.1.a – limits new provisions for residential uses (i.e., up to 65 percent of the ground floor) in the C-1 and E-1 zones to locations outside of the Downtown Design Standards overlay. In addition, to be eligible for the new provisions, the lot size must be less than 10 acres in size and the mixed-use building must be multi-story (i.e., two or more stories in height).

- 18.2.3.B.1.b - increases the allowance for residential uses in multi-story, mixed-use buildings and developments from 35 to 65 percent of the ground floor. Again, this allowance is for locations outside of the Downtown Design Standards overlay. Additionally, the provision is limited to multi-story mixed-use buildings and lots that are less than 10 acres in size.
- 18.2.3.B.1.c.i-iii – Creates a designation for Commercial Ready Space which is developed to accommodate commercial occupancies but may be used flexibly as either a commercial use or as regulated affordable rental housing for households earning 80%AMI or less.
- 18.2.3.130.B.2.a – retains existing standard which allows up to 35 percent of the ground floor to be used for residential uses. The existing standard applies to three situations – properties located inside of the Downtown Design Standards overlay, for lots 10 acres and greater in size and for single-story buildings.
- 18.2.3.130.B.2.b.i – this is the exiting standard allowing up to 35 percent of the ground floor in residential uses, it is simply moved from the existing code section 18.2.3.130. B.1.
- 18.2.3.130.B.1.b.ii – revises the code for situations where a mixed-use development includes more than one building. It requires the equivalent of 65 percent of the ground floor of all the buildings to be provided in permitted or special permitted non-residential uses. This retains the ability in mixed-use developments with more than one building to construct a building that is entirely residential uses as long as the equivalent square footage of 65 percent of the ground floor of the residential building is transferred to another building in the development and is used for permitted and special permitted non-residential uses.
- Table 18.2.6.030 – deletes residential densities in the C-1, C-1-D and E-1 zones.
- 18.3.13.010.C – removes existing language that duplicates the standards in 18.2.3.130 Dwellings in Non-Residential Zones and instead references the requirements in 18.2.3.130 for the Residential overlay or in 18.3.14.040 for the Transit Triangle (TT) overlay. The Residential overlay applies to a portion but not all of the E-1 zone.
- 18.6.1.030 [Definition] - amended to include definition of Commercial Ready Space.

B. Discussion

The 2021-2041 Housing Capacity Analysis (HCA) is a technical study required by state law and was adopted by the City Council on August 17, 2021 as a technical report and supporting document to the *Ashland Comprehensive Plan*. The HCA provides a number of recommended policy changes to address Ashland’s unmet housing needs that are related to the proposed code amendments. The HCA’s recommended policy changes or strategies are presented as guidance for the upcoming Housing Production Strategy.

Strategy 1: Ensure an adequate supply of land is available and serviced

- Strategy 1.3: Identify opportunities to increase allowances for residential uses on the ground floor of buildings within commercial and employment zones.
- Strategy 1.4: Evaluate decreasing multifamily parking requirements.

Strategy 2: Provide opportunities for housing development to meet the City’s identified housing needs

- Strategy 2.2: Evaluate opportunities incentivize smaller units through amendments to allowable densities.

- Strategy 2.4: Evaluate increasing allowances for residential dwellings in commercial and employment zones, such as allowing an increased amount of residential uses in ground floor commercial spaces.

Strategy 5: Align housing planning with the Climate and Energy Action Plan

Strategy 5.4: Evaluate opportunities to develop new housing closer to downtown and commercial centers to reduce dependence on automobiles for transportation.

The Oregon Statewide Planning System requires all cities and counties in Oregon to address Statewide Planning Goal 9 Economic Development. Goal 9 requires cities and counties to provide an adequate land supply for economic development and employment growth. Chapter VII Economy of the *Ashland Comprehensive Plan* and the 2007 Economic Opportunity Analysis (EOA) address the Goal 9 requirements.

Oregon Administrative Rule (OAR) 660 Division 9 implements Goal 9 and provides two options for land use code and comprehensive plan amendments. The first option in OAR 660-009-0010(3) allows local jurisdictions to make amendments by relying on existing plans if findings can be made that there are no significant changes in economic development opportunities based on new information about national, state, regional, count and local trends.

The second option in OAR 660-009-0010(4) requires changes to the designation of land in excess of two acres from an employment use designation to any other use designation. Under this provision, a city or county must show the amendment is consistent with the comprehensive plan and existing EOA. If the proposed amendment can't be supported by the adopted comprehensive plan and EOA, OAR 660-009-0010(4) requires an update the comprehensive plan and/or EOA.

After researching the Goal 9 requirements and speaking to the Oregon Department of Land Conservation (DLCD), staff believes the analysis performed by Fregonese Associates can be used to address OAR 660-009-0010(3) for the proposed code amendments to increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay.

With assistance from Fregonese Associates, staff researched and assessed the rate of employment land consumption and the growth rate in number of jobs in Ashland since the adoption of the 2007 EOA. Fregonese and Associates analyzed the buildable lands data, building permits issued, and Ashland's employment data in the last 10 years and found there is sufficient C-1 and E-1 land for future employment needs. Specific items in the data analysis include the following.

- The land consumption rate in the C-1 and E-1 zones is relatively low with an average of 2 acres per year used for the last 8 years.
- Of the 50 building permits that were issued for commercial development in the last 10 years, 26 permits were in located in the C-1 and E-1 zones and the other 24 permits were located in the C-1-D zone (Downtown) or were public projects such as SOU and Ashland School District projects.

- The 2007 Economic Opportunity Analysis (EOA) forecasted more employment growth than has occurred over the last 14 years. The EOA projected 15,220 jobs by 2027, including 10,654 jobs in retail and services. State employment data shows a total of 10,237 jobs in the Ashland Urban Growth Boundary in 2019.
- The EOA determined that 30% of the employment growth would not require consumption of vacant land.
- Currently, approximately 20% of the jobs are in residential zones.

As proposed in the ordinance amendments, at least 35% of the ground floor must be used as a permitted or special permitted (commercial) use, or alternatively as Commercial Ready Space that could be used as income restricted affordable rental housing. In 2021 the Oregon Legislature approved Senate Bill 8 which restricts local governments from denying or limiting the approval of affordable housing applications in a number of circumstances including when the property is zoned for commercial uses. By providing an option for the development of Commercial Ready Space on the ground floor of mixed-use buildings, that can be used as affordable rental housing restricted to households with incomes at 80% AMI, the amendments proposed create a path for the city to approve of the use of vacant commercial floor area as needed affordable housing within the C-1 and E-1 zones.

C. Project Background

The Planning Commission, at the study session meeting on December 22, 2020 evaluated a proposal from members of the private development community that suggested that there is a surplus of commercial space that could be used to provide housing units. The concerns raised included the decreased demand for commercial space due to ecommerce and the pandemic while housing demand continues to increase, particularly after the Alameda fire. The private development representatives suggested amending the land use code to allow the temporary use of ground floor commercial space to be used for housing units and requiring the buildings to be constructed to commercial building code standards so the space could be converted in the future should demand for commercial space return.

The City Council initiated the project at the March 16, 2021 business meeting. Specifically, the Council directed staff to work with the Planning Commission to evaluate the draft code language prepared by private development representatives (KDA Homes), and propose amendments to the land use ordinance which would provide the flexibility to temporarily use the ground floor of commercial buildings for housing.

The Planning Commission reviewed and discussed the proposed code amendment project at the June 22, 2021, August 24, 2021, October 26, 2021 and November 23, 2021 study session meetings. The Planning Commission held a public hearing on December 14, 2021, and recommended approval of the prior draft of the ordinance amending AMC Title 18 Land Use. The City Council reviewed the proposed land use code amendments at a public hearing on February 1, 2022 and did not approve first reading of the ordinance at that time.

Currently, at least 65 percent of the ground floor of buildings in the commercial (C-1) and employment (E-1) zones is required to be commercial and light industrial uses. The remaining 35 percent of the ground floor can be used for residential dwellings as well 100 percent of the upper stories in multi-story buildings. The exceptions are:

- 1) in the Transit Triangle (TT) overlay, a minimum of 35 percent of the ground floor is required to be used for commercial and light industrial uses and
- 2) in the commercial area of the North Mountain Neighborhood District, the ground floor can be used entirely for housing but must be built to commercial building code standards so that the space can be converted to commercial uses in the future.

In 1992, the land use code was amended to eliminate entirely residential buildings as an allowed use in the C-1 and E-1 zones (Ord. 2688). The current standard of requiring 65 percent of the ground floor in commercial or light industrial uses was put in place at that time, as well as residential densities for each of the zones. Prior to 1992, residential buildings comprised entirely of housing units could be built in the C-1 and E-1 zones with the approval of a conditional use permit. The 1992 code update was in part due to concern about construction of residential buildings near the downtown and loss of future commercial space.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval of the proposed amendments to the City Council.

The proposed amendments are scheduled for a public hearing and first reading at the City Council on November 15th, and for second reading on December 6, 2022.

ASHLAND PLANNING DIVISION

STAFF REPORT

December 14, 2021

PLANNING ACTION: PA-L-2021-00013

APPLICANT: City of Ashland

ORDINANCE REFERENCES: **AMC 18.2.3** Special Use Standards
 AMC 18.2.6 Standards for Non-Residential Zones
 AMC 18.3.13 Residential Overlay

REQUEST: The proposal includes a series of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones. The draft code amendments are attached.

I. Ordinance Amendments

A. Summary of Proposed Code Amendments

The proposal includes a series of amendments to AMC Title 18 Land Use to the residential standards for mixed-use development located in the Commercial (C-1) and Employment (E-1) zones. Specifically, the proposed code amendments increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay. Buildings located within the Downtown Designs Standards overlay, buildings that are one story in height, and properties that are 10 acres in size are larger would be subject to the current code requirement of 35 percent of the ground floor is permitted in residential uses.

Residential development in the E-1 zone is limited to E-1 properties in the Residential overlay (R-overlay). Approximately 42 percent of the E-1 zoned land in the city limits is in the Residential overlay and 58 percent is not in the Residential overlay. Areas such as Washington Street, Jefferson Avenue, Benson Way and Clover Lane are not located in the Residential overlay. Additionally, the Croman Mill District has its own unique zones based on the master plan and does not include any C-1 or E-1 zoned land.

The amendments are intended to provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing. The project objectives are to: 1) maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development; 2) increase the supply of moderately-priced rental and for-purchase housing; and 3) jumpstart redevelopment in areas that have trouble attracting projects and/or are in proximity to public transit and walking distance to daily service needs, such as groceries, shops, parks, etc.

The draft amendments to the residential standards for mixed-use development are attached and summarized below.

- 18.2.3.130.B.1.a – limits new provisions for residential uses (i.e., up to 65 percent of the ground floor) in the C-1 and E-1 zones to locations outside of the Downtown Design Standards overlay. In addition, to be eligible for the new provisions, the lot size must be less than 10 acres in size and the mixed-use building must be multi-story (i.e., two or more stories in height).
- 18.2.3.B.1.b - increases the allowance for residential uses in multi-story, mixed-use buildings and developments from 35 to 65 percent of the ground floor. Again, this allowance is for locations outside of the Downtown Design Standards overlay. Additionally, the provision is limited to multi-story mixed-use buildings and lots that are less than 10 acres in size.
- 18.2.3.130.B.2.a – retains existing standard which allows up to 35 percent of the ground floor to be used for residential uses. The existing standard applies to three situations – properties located inside of the Downtown Design Standards overlay, for lots 10 acres and greater in size and for single-story buildings.
- 18.2.3.130.B.2.b.i – this is the existing standard allowing up to 35 percent of the ground floor in residential uses, it is simply moved from the existing code section 18.2.3.130. B.1.
- 18.2.3.130.B.1.b.ii – revises the code for situations where a mixed-use development includes more than one building. It requires the equivalent of 65 percent of the ground floor of all the buildings to be provided in permitted or special permitted non-residential uses. This retains the ability in mixed-use developments with more than one building to construct a building that is entirely residential uses as long as the equivalent square footage of 65 percent of the ground floor of the residential building is transferred to another building in the development and is used for permitted and special permitted non-residential uses.
- Table 18.2.6.030 – deletes residential densities in the C-1, C-1-D and E-1 zones and adds a minimum floor area ratio (FAR) of .50.
- 18.3.13.010.C – removes existing language that duplicates the standards in 18.2.3.130 Dwellings in Non-Residential Zones and instead references the requirements in 18.2.3.130 for the Residential overlay or in 18.3.14.040 for the Transit Triangle (TT) overlay. The Residential overlay applies to a portion but not all of the E-1 zone.

B. Discussion

The 2021-2041 Housing Capacity Analysis (HCA) is a technical study required by state law and was adopted by the City Council on August 17, 2021 as a technical report and supporting document to the *Ashland Comprehensive Plan*. The HCA provides a number of recommended policy changes to address Ashland’s unmet housing needs that are related to the proposed code amendments. The HCA’s recommended policy changes or strategies are presented as guidance for the upcoming Housing Production Strategy.

Strategy 1: Ensure an adequate supply of land is available and serviced

- Strategy 1.3: Identify opportunities to increase allowances for residential uses on the ground floor of buildings within commercial and employment zones.
- Strategy 1.4: Evaluate decreasing multifamily parking requirements.

Strategy 2: Provide opportunities for housing development to meet the City's identified housing needs

- Strategy 2.2: Evaluate opportunities incentivize smaller units through amendments to allowable densities.
- Strategy 2.4: Evaluate increasing allowances for residential dwellings in commercial and employment zones, such as allowing an increased amount of residential uses in ground floor commercial spaces.

Strategy 5: Align housing planning with the Climate and Energy Action Plan

Strategy 5.4: Evaluate opportunities to develop new housing closer to downtown and commercial centers to reduce dependence on automobiles for transportation.

The Oregon Statewide Planning System requires all cities and counties in Oregon to address Statewide Planning Goal 9 Economic Development. Goal 9 requires cities and counties to provide an adequate land supply for economic development and employment growth. Chapter VII Economy of the *Ashland Comprehensive Plan* and the 2007 Economic Opportunity Analysis (EOA) address the Goal 9 requirements.

Oregon Administrative Rule (OAR) 660 Division 9 implements Goal 9 and provides two options for land use code and comprehensive plan amendments. The first option in OAR 660-009-0010(3) allows local jurisdictions to make amendments by relying on existing plans if findings can be made that there are no significant changes in economic development opportunities based on new information about national, state, regional, count and local trends.

The second option in OAR 660-009-0010(4) requires changes to the designation of land in excess of two acres from an employment use designation to any other use designation. Under this provision, a city or county must show the amendment is consistent with the comprehensive plan and existing EOA. If the proposed amendment can't be supported by the adopted comprehensive plan and EOA, OAR 660-009-0010(4) requires an update the comprehensive plan and/or EOA.

After researching the Goal 9 requirements and speaking to the Oregon Department of Land Conservation (DLCD), staff believes the analysis performed by Fregonese Associates can be used to address OAR 660-009-0010(3) for the proposed code amendments to increase the allowance for residential uses from 35 to 65 percent of the ground floor in multi-story, mixed-use buildings and developments located in the C-1 and E-1 zones and outside of the Downtown Design Standards overlay.

With assistance from Fregonese Associates, staff researched and assessed the rate of employment land consumption and the growth rate in number of jobs in Ashland since the adoption of the 2007 EOA. Fregonese and Associates analyzed the buildable lands data, building permits issued, and Ashland's employment data in the last 10 years and found there is sufficient C-1 and E-1 land for future employment needs. Specific items in the data analysis include the following.

- The land consumption rate in the C-1 and E-1 zones is relatively low with an average of 2 acres per year used for the last 8 years.
- Of the 50 building permits that were issued for commercial development in the last 10 years, 26 permits were in located in the C-1 and E-1 zones and the other 24 permits

were located in the C-1-D zone (Downtown) or were public projects such as SOU and Ashland School District projects.

- The 2007 Economic Opportunity Analysis (EOA) forecasted more employment growth than has occurred over the last 14 years. The EOA projected 15, 220 project jobs by 2027, including 10,654 jobs in retail and services. State employment data shows a total of 10,237 jobs in the Ashland Urban Growth Boundary in 2019.
- The EOA determined that 30% of the employment growth would not require consumption of vacant land.
- Currently, approximately 20% of the jobs are in residential zones.

As originally suggested by KDA, one of the options that the Planning Commission discussed included revising the land use code to allow 100 percent of the ground floor of newly constructed buildings in the C-1 and E-1 zones to be used for residential uses.

According to staff's research, an amendment allowing 100 percent of the ground floor of mixed-use buildings in the C-1 and E-1 zones to be used for housing will likely be considered a significant change and possibly a change from an employment land use designation under OAR 660-009-0010(4). As a result, it is staff's understanding that the 2007 EOA would need to be updated to show that there will be an adequate supply of employment lands to address Ashland's future economic and job needs.

In staff's opinion, the options are to move forward with the attached amendments, consider the 100 percent residential ground floor as one of the options in the housing production strategy, or both amend the code as proposed and identify the 100 percent residential ground floor amendment in the housing production strategy. Potential future actions could involve rezoning employment lands for residential purposes, creating a mixed-use zone with greater flexibility and residential allowances similar to the North Mountain Neighborhood Commercial Zone, or simply retaining existing C-1 and E-1 zoning with the options to build 100 percent residential projects.

C. Project Background

Laz Ayala and Mark Knox from KDA Homes introduced the issue to the Planning Commission at the study session meeting on December 22, 2020. The KDA representatives suggested that there is a surplus of commercial space that could be used to provide housing units. The concerns raised included the decreased demand for commercial space due to ecommerce and the pandemic while housing demand continues to increase, particularly after the Alameda fire. The KDA representatives suggested amending the land use code to allow the temporary use of ground floor commercial space to be used for housing units and requiring the buildings to be constructed to commercial building code standards so the space could be converted in the future should demand for commercial space return.

The City Council initiated the project at the March 16, 2021 business meeting. Specifically, the Council directed staff to work with the Planning Commission to evaluate the draft code language prepared by representatives of KDA Homes and propose amendments to the land use ordinance which would provide the flexibility to temporarily use the ground floor of commercial buildings for housing.

The Planning Commission reviewed and discussed the proposed code amendment project at the June 22, 2021, August 24, 2021, October 26, 2021 and November 23, 2021 study session meetings.

Currently, at least 65 percent of the ground floor of buildings in the commercial (C-1) and employment (E-1) zones is required to be commercial and light industrial uses. The remaining 35 percent of the ground floor can be used for residential dwellings as well 100 percent of the upper stories in multi-story buildings. The exceptions are: 1) in the Transit Triangle (TT) overlay, a minimum of 35 percent of the ground floor is required to be used for commercial and light industrial uses and 2) in the commercial area of the North Mountain Neighborhood District, the ground floor can be used entirely for housing but must be built to commercial building code standards so that the space can be converted to commercial uses in the future.

In 1992, the land use code was amended to eliminate entirely residential buildings as an allowed use in the C-1 and E-1 zones (Ord. 2688). The current standard of requiring 65 percent of the ground floor in commercial or light industrial uses was put in place at that time, as well as residential densities for each of the zones. Prior to 1992, residential buildings comprised entirely of housing units could be built in the C-1 and E-1 zones with the approval of a conditional use permit. The 1992 code update was in part due to concern about construction of residential buildings near the downtown and loss of future commercial space.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval of the proposed amendments to the City Council. The proposed amendments are scheduled for a public hearing and first reading at the City Council on January 4 and for second reading on January 18.

Ashland Economic Sustainability Assessment

Laz Ayala, KDA Homes, LLC

12/11/2020

Ashland Planning Commission,

For many years, our community has been experiencing a housing supply problem involving market rate and subsidized housing, particularly 1- and 2-bedroom units often referred to as workforce housing. Workforce housing is essential in attracting businesses to our community as we look to diversify our local economy. Forrest fires, Covid-19 and E-commerce have caused serious short- and long-term damage to Ashland's economy. These phenomenons are not likely to disappear and in fact, experts warn to expect more in the years ahead. While these phenomenons have created economic devastation and accelerated shifts in how we live, work, shop, and play they also bring opportunities we must embrace if Ashland is to remain the thriving community it still is today. We have two choices: embrace these opportunities or become collateral damage.

We have time to assess what may or may not work in Ashland's future economy and make the necessary changes to adapt to the fast-changing world we live in. If we agree that our tourist economy is in peril, we must respond with the changes needed to adapt to a more diverse and sustainable economy. As earlier mentioned, an adequate supply of workforce housing is fundamental in this effort and as such we must explore ways, we can provide much needed workforce housing that will not only address our housing needs, but provide revenue to fund City services such as fire, police, water, sewer, roads, parks, schools, affordable housing and other public funded programs.

If we agree that demand for office and retail commercial space is in decline and recognize the need for more workforce housing, council should consider a minor amendment to the commercial and employment zones (C-1/ E-1) allowing for 100% residential uses at ground level (with conditions for future commercial conversion) such as in the Transit Triangle and North Mountain neighborhoods. Except for these two neighborhoods, 100% residential is not permitted at ground level in other commercial zone districts in Ashland. We believe Downtown should not be part of this amendment, but rather commercial properties located within the fringe of Downtown, such as the commercial and employment district between "A" and Hersey extending west to Laurel and east to Mountain. Why 100% residential at ground level? There is no demand for retail or office space and

banks will not finance these projects nor will developers take a risk building commercial space for which there is no market.

Amending the commercial code to allow for 100% residential use makes projects like Meadowbrook Apartments along Fair Oaks Avenue within the North Mountain Master Plan area feasible. Below is a summary of the economic benefit to the City in terms of revenue in addition to the workforce housing opportunities provided:

The Meadowbrook Apartments project which is currently under construction has contributed approximately \$148,575.75 in permit fees and \$206,253.19 system development fees (CDCs) for a total of \$358,000. Upon completion it is estimated to provide \$72,333.57 in annual tax revenue, \$52,000 of which will go directly to the City of Ashland.

It is conceivable that amending the commercial zone requirements to allow for 100% residential would generate enough interest in similar projects and it is conceivable to see several of these projects get built every year thereby providing revenue for the City and its agencies and much needed workforce housing to attract investment and businesses to diversify our economy.

Sincerely,

Laz Ayala

[Submitted by Amy Gunter]

Good evening planning commissioners,

I would like to add to the discussion on changes to the housing and employment zones codes. Now is the opportunity for the city to make a meaningful, substantive impact on the present restrictions regarding provision of housing in the commercial and employment zones and parking requirements.

This discussion shouldn't be relegated to the existing residential overlay. This discussion should be regarding all commercial and employment zone lands. There are areas that do not have residential overlay but directly abut residential lands. The industrial zone does not allow for residential use. I would wager a bet that there are a number of 'residences' in the Employment zone.

Additionally, the existing uses of a site shouldn't determine that residential isn't allowed for example properties that have a conditional use permit such as a hotel cannot be converted to the 65/35 ratio as the code prevents residential development when the commercial property is occupied by a conditional use. The irony of this is that hotels have similar if not more fire life safety protections for their guests as an apartment complex requires. Additionally, generally the parking for a hotel is similar to the parking for a studio or small one bedroom so the physical changes to the property to accommodate the change of use are limited.

The code appears to eliminate the allowance for multiple buildings that would allow for a building that was entirely residential in conjunction with a commercial development. This should be allowed so that there can be stand-alone apartments. Possibly require the commercial building to be fronting upon the street like the projects we are doing in Talent on North Pacific Highway.

I suggest that it be considered that commercial property is allowed to develop at 100% residential when developed to the high-density multi-family residential standards. Medford has had successful residential development adjacent to large scale commercial developments in their commercial zones and the numbers of pedestrians and foot traffic to the businesses is increased due to the increase in housing on directly adjacent properties. For all intents and purposes, multi-family residential functions like and has similar traffic impacts as many permitted commercial uses. The traffic impacts are similar except that there is the ability to functionally reduce trips because people can walk to the nearby businesses. You'll find projects like this on West Main/Ross in Medford.

Parking:

The parking is not part of the discussion this evening I would like to comment that in all of the Rogue Valley jurisdictions where I have done planning and development projects Ashland has the highest parking requirements. This includes not only the number of parking spaces, the sizes of the parking spaces, the required buffering for said parking, most communities allow for stacking of residential parking. So in the event that a garage has a 20 foot front yard setback that garage space provides one parking space and the space behind that provides a second this way acknowledging that is how much of the historic area, the area around Harmony Lane, Ross Lane, Linda Ave., Ray lane, Parker St, Garfield St, you get my drift, there's a lot of single width driveways around town that only count as one parking space regardless of the how many vehicles can stack in the same driveway.

In conclusion,

Nobody wants to build vacant commercial structures but there is a lot of interest in building, expanding residential structures. I did suggest that my clients that own commercial and employment zoned property participate in this discussion because there are many that feel stuck. The folks on A Street and Hersey Street in the houses that are nearly impossible to convert to commercial are stuck in non-conforming developments.

I thank you for looking into making changes. I suggest you look deeper and consider broader, more impactful changes some of the suggestions include.

- Allow for 100 percent residential in the C-1 zones when developed to high density, multi-family residential standards.
- Retain the mix in the employment zones
- Retain the mixed-use component that allows for 50 percent of the site area (or some other number) to be residential in conjunction with commercial development when in separate structures.
- Allow for residential use when there is a conditional use on the property and do not restrict to permitted or special permitted uses.
- Allow for single story, mixed use construction of buildings
- Consider taller buildings (3 and 4 story buildings in the E-1)
- Revise the Economic Opportunity Analysis due to substantial changes to Ashland's economy that may not have been captured in 2007. This would provide avenue to allow more E-1 with R overlay in the areas that I note above.
- By all means reduce the parking requirements.

Thank you for your time.

KDAHomes

plan. develop. build

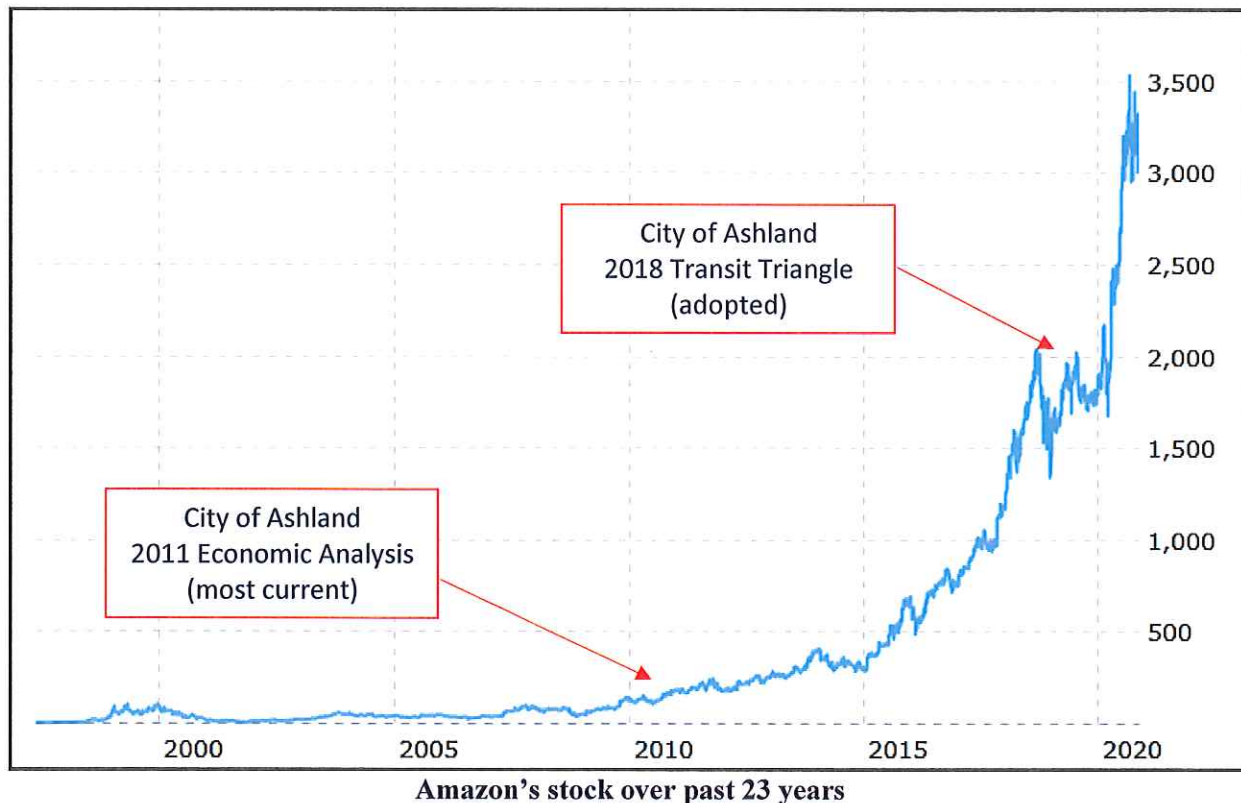
December 16th, 2020

TO: Ashland Planning Commission & Planning Staff

FROM: Mark Knox, KDA Homes, LLC

SUBJECT: Ashland Economic Sustainability

Background: As the Planning Commission and Planning Staff are aware, over the last few years I have spoken publically about concerns relating to e-commerce and how quickly technology is effecting Main Street's across the country. Main Streets have always been under attack with the innovation of the automobile, invention of malls or most recently big box retailers. But, today's rapid technological advancements relating to e-commerce, automation and overnight shipping, compounded by low-cost goods sourced from other countries is far different and likely to have the most devastating impact.



After experiencing the phenomenon first hand in the summer of 2017 while visiting the Main Street section in Tiburon California, reading multiple articles on the subject and closely monitoring our own Downtown Main Street, the problem is real. I've also talked with numerous professionals

Planning Commission's hearings and discussion of the Transit Triangle Infill Strategy, I submitted testimony relating to this issue and suggested the Planning Commission consider "swapping" the ground floor commercial code "requirement" from a minimum 65% required ground floor commercial use and maximum 35% ground floor residential use and the Planning Commission unanimously concurred, as did the City Council. The general idea being commercial space demand is in decline whereas residential demand continues to remain strong.

Unfortunately, since 2018, the issue has only worsened for a variety of reasons and so I'm again speaking out, talking with the Chamber of Commerce, City Council, Planning Staff, Southern Oregon University, Planning Staff, colleagues and anyone else who will listen.

Problem: The problems facing Ashland's Main Street are not just tied to e-commerce, big box or auto centric competition, but now it's facing the impacts and/or implications of forest fires, fear of travel from the pandemic, declining lease projections for professional office space due to the pandemic and a decline in Shakespeare or theatre enthusiasts. Further, in what should be considered a warning alarm, lending institutions have either stopped or significantly increased their lending demands for commercial developments, including mixed-use developments.

Unlike many other small towns across the country, Ashland has numerous attributes and livability components that draw visitors and locals to its fine dining establishments, pubs and bookstores, but it is not immune to real world issues and a slow erosion can quickly occur if we do not try to address it. And, because of the speed at which it is occurring, it needs immediate attention.

Solution: As most people know, I was a City Planner for the City of Ashland in what seems like yesterday but is now "years ago". I'm now a local Developer who does land use planning for a small development company. Over the last eight years, I've had the opportunity to work on various land use projects from small subdivisions (Garden Cottages – Ashland's first Cottage Housing Development) to large scale commercial developments (First Place along Lithia Way). I've also had the opportunity to work with a variety of professionals and obtain a better understanding of complex financial matters and market trends.

To this point, I've reached out to the Ashland Planning Department to discuss a possible amendment to the Ashland Municipal Code that could not only help stabilize the issues noted above, but also provide additional housing opportunities that have realistically never been resolved since I moved to Ashland 28 years ago.

In simple terms, the request is for the Planning Commission and Staff to consider a relatively simple code amendment that looks similar to the ground floor code amendments recently adopted in 2018 for the Transit Triangle Overlay or code language within the adopted 1995 North Mountain Neighborhood Plan that allows 100% ground floor residential until there is commercial demand. The suggested code language would apply in certain employment and commercial zones (not Downtown, Croman, or Airport areas) with code stipulations that ground floor spaces are to be: 1) Designed and built following Commercial Building Codes, 2) Designed to comply with all commercial Site Design & Use Standards 3) Permitted to be converted to commercial use at any time and 4) Only applicable to qualifying buildings that are at least two stories measured from adjacent street grade.

Benefits: The suggested amendment should be beneficial for a number of reasons, including the following:

- 1) It provides much needed small unit affordable rental housing in areas that are generally close to essential services;
- 2) It provides much needed housing that hopefully creates a surplus and thus helps stabilize market rental housing prices;
- 3) It provides the financial incentive for property owners to invest and construct mixed-use buildings;
- 4) It encourages financial institutions to finance mixed-use buildings. This is critical as without the financing, the building does not get built nor do “any” permissible residential units;
- 5) It helps maintain the City’s tax base and related construction impact fees for streets, roads, schools, etc. A perfect example is the now under construction Meadowbrook Square Apartment Building (see picture insert below) that would NOT have been possible without the suggested exception language built into the North Mountain Master Plan in 1995. In this case, the related construction fees are approximately \$148,575 and SDC fees \$206,253. Upon completion, the annual tax revenue will be roughly \$72,333 of which \$52,000 will go to the City of Ashland and Ashland School District. *Note:* The Meadowbrook Square Condominiums (across the street) are currently contributing \$30,229.06 in tax revenue annually of which approximately \$22,000 goes directly to the City of Ashland and Ashland School District. Permit and SDC’s paid to City of Ashland totaled \$95,751.26. This building’s ground floor unit is also “interim” and used as a residence;



Meadowbrook Apartments (12.16.2020) Three-story Mixed-Use Building with “24” 500 sq. ft. apartments on 2nd and 3rd floors and “5” *interim* residential apartments on ground floor to eventually be converted to commercial office/retail use pending market demand.

- 6) It still requires the appearance of typical commercial mixed-use facades as envisioned in the City's Site Design & Use Standards;
- 7) It provides an opportunity for an expeditious conversion from residential to commercial when the market demands. In the vast majority of cases, commercial business cannot "wait" the typical 1 to 2 year timeframe for land use planning and construction and thus under the suggested code provision, the commercial spaces are already in existence and only have to "wait" 6 to 9 months to complete tenant improvements;
- 8) It helps stimulate construction employment and any related employment;
- 9) It can help provide for an added customer base for local businesses during what appears to be a long slow trend of declining tourism due to a variety of real or perceived factors related to climate change conditions, tourism preferences, etc.

Negative Implications: At the present time, I do not believe there are any negative implications with this proposal, but also understand the idea needs to be vetted with the public, staff, Planning Commission and City Council. Further, I do not believe there are any State land use limitations as the proposal does not eliminate or reduce available commercial or employment lands, it simply provides for a more efficient use of those lands until the market demand exists.

Overall, I appreciate the opportunity to voice my opinion on this important matter and look forward to discussing it with the Planning Commission. As mentioned, I've discussed the suggested amendment proposal with a number of City leaders and local business owners and all agree the idea is sound and timing appropriate. In that regard, the starting point for official consideration is the Ashland Planning Commission via a public Study Session.

Sincerely,



Mark Knox
276 W. Nevada Street
Ashland, OR 97520

Related Articles:

- 1) *Mounting commercial real estate losses threaten banks, recovery* (The Washington Post, 11/11/20)
<https://www.washingtonpost.com/business/2020/11/11/commercial-real-estate-economy/>
- 2) *Amazon is now a drug store.* (CNN Business, 11/17/20)
<https://www.cnn.com/2020/11/17/business/amazon-pharmacy-launch/index.html>
- 3) *Can Governments Save Main Street?* (The Salem News, 11/30/20).
https://www.salemnews.com/opinion/columns/column-can-governments-help-save-main-street/article_000a1e23-cadd-54ca-b9f1-651b11cbdb3a.html

- 4) *Small Town Kept Walmart Out. Now It Faces Amazon.* (The Atlantic, 3/3/18)
<https://www.theatlantic.com/business/archive/2018/03/amazon-local-retail/554681/>
- 5) *Downtowns Matter* (State of Main, Edward T. McMahon Fall 2016)
<https://www.mainstreet.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=32bde503-eeb9-3bd4-0ff5-0a525562b1b8&forceDialog=0>

From: [Melissa Huhtala](#)
To: [Brandon Goldman](#)
Subject: FW: Ashland City Council Public Testimony
Date: Tuesday, February 01, 2022 11:45:14 AM

FYI

From: Eric Navickas <navickasdesign@gmail.com>
Sent: Sunday, January 30, 2022 3:20 PM
To: Public Testimony <public-testimony@ashland.or.us>
Subject: Ashland City Council Public Testimony

[EXTERNAL SENDER]

Agenda Item X.1. **Public Hearing and First Reading of Housing in Employment Lands Code Amendments**

Council,

The proposal before you is a land use decision subject to appeal to LUBA pursuant to ORS 197.825(1), stating, "the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government".

The ordinance changes propose to shift the use of employment zones and commercial zones to allow more residential uses. Under OAR 600-009-0010(4) a plan amendment "that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and; (a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division".

OAR 600-090-0010(1) states that cities "subject to this division must adopt plan and ordinance amendments necessary to comply with this division." The outdated 2007 Economic Opportunities Analysis and related Comprehensive Plan need to be amended to meet this requisite demand.

The staff report relies on exceptions allowed under OAR 600-009-0010(5), stating, "[a] jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division." To fulfill this exception the staff offers a limited study by Fergonese's and Associates, stating, "[i]n order to ensure that Ashland's inventory of commercial and employment lands could accommodate future business development, the city contracted with Fergonese and Associates to assist in

analyzing the buildable lands data, building permits issued, and Ashland's employment data over the last 10 years."

The inadequacy of the Fergonese and Associates study is obvious when compared with the requirement of the Economic Opportunity Analysis as defined under OAR 600-009-0015(1), stating, "[t]he economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends." A specifically local analysis fails to meet this requirement especially as the national trend of "onshoring" or "reshoring" manufacturing as a result of supply chain disruptions continues to make headline news.

OAR 600-009-0015(2) requires consideration of site characteristics, stating, "[t]he economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses." With the subsequent proposal to convert much of the Croman Mill Site to residential uses, the prerequisite of an Economic Opportunities Analysis that considers existing land in relation to site characteristics is imperative to maintaining the types of land where employment activities can realistically be realized. This concept is continued in OAR 600-009-0015(4)(a)-(h), stating that the estimate of employment growth "must consider the planning area's economic advantages and disadvantages" with a long list of factors to consider. The Fergonese and Associates study fails to address these important elements.

Finally, ORS 600-900-0015(5) states, "[c]ities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies." It is discouraging to see this effort to move forward in changing employment zones that are intended to maintain the economic health of our city through avoiding the requirement of updating the Economic Opportunities Analysis that encourages a visioning process that includes public input. In this case, the city staff has been very transparent about the fact that these proposed changes were initiated by a private development firm with obvious special interests. A proposal from KDA Homes cannot meet the need for "public input based process in conjunction with state agencies".

In conclusion, the State of Oregon has developed a land use regulatory program that establishes requisite procedures that demand statewide compliance. The City of Ashland is attempting to circumvent these procedures through failing to update the Economic Opportunities Analysis prior to making changes to lands zoned for employment uses. Further, the proposed changes are significant enough to bring into question whether or not they continue to fulfill the desired use as defined within the Comprehensive Plan.

Respectfully,
Eric Navickas
27 1/2 N. Main St.
Ashland OR.