

# Council Communication

## November 4, 2014, Business Meeting

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### Continued Discussion of an Ordinance Replacing Title 18 Land Use of the Ashland Municipal Code with a Reformatted and Amended Land Use Ordinance

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**FROM:**

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**SUMMARY:**

The City Council held a public hearing on [August 19, 2014](#) on an ordinance replacing Title 18 Land Use of the Ashland Municipal Code (AMC) with a reformatted and amended land use ordinance, also referred to as the Unified Land Use Ordinance (ULUO). The Council continued the item to the [October 7, 2014](#) meeting for further discussion of key amendments.

The Council identified the following list of key amendments for discussion.

1. cottage housing
2. solar orientation standards
3. affordable housing density bonus
4. total density bonus
5. side yard setback abutting residential zones
6. building height in commercial zones
7. building separation in large-scale commercial development
8. accessory residential unit review process
9. threshold for public hearing for review of new buildings and additions in commercial and employment zones
10. porous pavement exemption from lot coverage in residential zones
11. front porch setback in residential zones
12. building separation in residential zones
13. building street frontage requirement for development in commercial and employment zones
14. residential buildings in mixed-use development in commercial and employment zones
15. plaza/public space requirement for large-scale commercial development
16. definitions of hotel and motel
17. effective date of Type II decisions
18. conditional use permit approval criteria

At the October 7 meeting, the Council reviewed most of the key amendments and continued the discussion of the remaining five amendments (items 14 – 18 highlighted in list above) to the November 4 meeting. In the October 7 discussion, the Council indicated whether to include, modify, or remove the amendments in the draft land use ordinance for first reading. After the Council completes the discussion of key amendments, the draft land use ordinance will be revised accordingly and scheduled for first reading of an ordinance replacing Title 18 Land Use of the Ashland Municipal Code (AMC) with a reformatted and amended land use ordinance.



**BACKGROUND:**

The [revised land use ordinance](#) combines the existing land use ordinance, site design and use standards, and street design standards into one document with improved organization, wording, formatting, and graphics. In addition, amendments are proposed to: address recommendations of the 2006 Land Use Ordinance Review, the planning application procedure evaluation, and green development evaluations; improve standards and procedures; standardize chapters; and address inconsistencies and clarify wording.

The City Council requested that the Planning Commission identify the key land use ordinance amendments that have the most significant impact on the community. The Planning Commission discussed the proposed changes to the land use ordinance at the September 9, 2013 meeting and identified nine key amendments. The first nine key amendments identified in the list on page 1 were also identified by the Planning Commission.

**REMAINING KEY AMENDMENTS:**

A summary of each of the five key amendments that the Council has not yet discussed follows. Each summary includes a code reference for the existing and proposed land use ordinance requirements, a summary of the existing land use ordinance and proposed amendment, the policy objective of the proposed change, and comments regarding the proposed amendment.

<b>14. Residential Buildings in Mixed-Use Development in Commercial and Employment Zones</b>			
Existing:	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;">18.32.025.D 18.56.050.A</td> <td style="width: 50%; vertical-align: top;"> <b>Draft Land Use Ordinance:</b> 18-2.6.030 18-2.3.130 18-3.1.13.010.C.1                 </td> </tr> </table>	18.32.025.D 18.56.050.A	<b>Draft Land Use Ordinance:</b> 18-2.6.030 18-2.3.130 18-3.1.13.010.C.1
18.32.025.D 18.56.050.A	<b>Draft Land Use Ordinance:</b> 18-2.6.030 18-2.3.130 18-3.1.13.010.C.1		
Existing: At least 65 percent of the total gross floor area of the ground floor, or at least 50 percent of the total lot area if there are multiple buildings shall be designated for permitted or special permitted uses, excluding residential.	Proposed: A minimum of 65 percent of the gross floor area of the ground floor for mixed-use buildings shall be reserved for permitted or special permitted uses, excluding residential. If there are multiple buildings on the same lot and any buildings have 100 percent residential occupancy, than not more than 50 percent of the total lot area, including accessory uses such as parking and landscaping, shall be connected with or a requirement of the residential use.		
Policy Objectives: To maintain the commercial and employment use of land in the commercial and employment zones; clarify the requirements for developments including multiple buildings and buildings that are entirely residential uses.			
Comments: The above proposed language is different than is included in the Council's draft land use ordinance.  Staff's understanding is that the language concerning 50 percent was intended to address situations where there are multiple buildings on the site, and one or some of the proposed buildings would be comprised entirely of residential units.  The language in the existing land use ordinance was identified as unclear in the 2006 Land Use Ordinance review.			



<b>15. Plaza/Public Space Requirement for Large-Scale Commercial Development</b>			
<b>Existing:</b>	II-C-3b)1, Section II-C-3 Additional Standards for Large Scale Projects, Site Design and Use Standards	<b>Draft Land Use Ordinance:</b>	18-4.2.040.D.2.a
<b>Existing:</b>	One square foot of plaza or public space shall be required for every ten square feet of gross floor area.	<b>Proposed:</b>	One square foot of plaza or public space shall be required for every ten square feet of gross floor area, <b>except for the fourth floor.</b>
<b>Policy Objectives:</b> To support the proposed amendment allowing increased building height in commercial zones.			
<b>Comments:</b> The proposed amendment is intended to go along with the proposed amendment to building height in the commercial zones that would allow buildings located at least 100 feet from residential zones to increase from three to four stories (item 5 on the Planning Commission report). If the City Council delays or removes the building height amendment, this amendment should also be delayed or removed.			
The focus group commented that the existing plaza requirement may impact the feasibility of increasing building height from three to four stories.			
The plaza/public space requirement applies to developments in the commercial and employment zones that are greater than 10,000 square feet in size or 100 feet in length and located in the Detail Site Review overlay. The Detail Site Review overlay includes the primary street corridors (e.g. N. Main St., downtown, Oak St., A St., Siskiyou Blvd., Ashland St.) – see maps on pages 4-16 – 4-19 of the draft land use ordinance.			

<b>16. Definitions of Hotel and Motel</b>			
<b>Existing:</b>	18.08.320 18.08.510	<b>Draft Land Use Ordinance:</b>	18-6.1.030
<b>Existing:</b>	Hotel – a building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.  Motel – A building or group of buildings on the same lot containing guest units for rental to transients, with separate entrances directly exterior and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities.	<b>Proposed:</b>	Hotel/Motel – a building or portion thereof designed and used for occupancy of transient individuals for a period of less than 30 days, lodged with or without meals and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.
<b>Policy Objectives:</b> To update definition to reflect contemporary transient accommodations.			
<b>Comments:</b> This amendment was identified as a substantive issue because it impacts the use of residential units in mixed-use buildings as hotel/motel units.			
The current definitions of hotel and motel, as interpreted by the City Council in 2005, prevent residential units in most mixed-use buildings in commercial and employment zones from being used as hotel or motel units. If the proposed amendment were approved, the physical building distinctions that were used in the past interpretation would be eliminated. As a result, an owner of a residential condominium in a larger mixed-use building could apply for a conditional use permit to use his/her unit as a hotel/ motel unit. Hotels and motels require a conditional use permit in the commercial and employment zones.			
In 2005, the City Council denied an application for a conditional use permit to use a third-floor residential unit in a mixed-use building in the downtown as a hotel/motel unit. The denial was based on that the existing structure did not meet the definition of a hotel or motel. Specifically, the Council found that: 1) the subject unit could not be considered			



a hotel unit because the unit included a kitchen and provisions for cooking in the lodging room; and 2) the subject unit could not be considered a motel because it was a single unit that didn't have an exit directly to the exterior. As a result of the Council's decision in 2005, short-term rentals have not been approved since that time in mixed-use buildings in the commercial and employment zones when the unit or buildings do not meet the current definitions of motel or hotel.

The proposed amendment combines the definitions of hotel and motel to represent contemporary transient accommodations in commercial and employment zones. The existing definitions of hotel and motel are based on historical differences between the two types of buildings or facilities, but over time the distinctions have diminished. The revised definition is based on the state model code.

The historical differences in hotels and motels are discussed in The Latest Illustrated Book of Development Definitions by Harvey S. Moskowitz and Carl G Lindbloom as follows. "There is little distinction between hotels and motels. Traditionally, the motel (motor-hotel) was a one or two-story, less- expensive accommodation catering to the automobile traveling public, with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building. Today, rentals range across the entire economic spectrum, multistory structures are common, and motels may offer a full range of services, including restaurants, meeting rooms, entertainment and recreational facilities."

<b>17. Effective Date of Type II Decisions</b>	
<b>Existing:</b> 18.108.070.B.3.a	<b>Draft Land Use Ordinance:</b> 18-5.1.060.F
<b>Existing:</b> Type II decision becomes final <u>13 days</u> after the City mails the notice of decision (i.e., adopted and signed findings).	<b>Proposed:</b> Type II decision becomes final <u>ten days</u> after the City mails the notice of decision (i.e., adopted and signed findings).
<b>Policy Objectives:</b> To provide timely decisions; provide consistency with state requirements in ORS 227.180.	
<b>Comments:</b> The time period between when the notice of decision is mailed and when it becomes effective is the time period in which a participant can file an appeal. The evaluation of the planning application procedures recommended adjusting the time period to provide a timely result for applicants.	
The draft land use ordinance also includes new language on computing time periods in 18-5.1.090.C that involve the effective date of Type II decisions. The new language on computing time periods specifies that: 1) the time period does not include the date the notice of decision is mailed; and 2) if the time period ends on a weekend or legal holiday the period runs until the end of the next day that is not on a weekend or legal holiday.	

<b>18. Conditional Use Permit Approval Criteria</b>	
<b>Existing:</b> 18.104.050.C.7	<b>Draft Land Use Ordinance:</b> 18-5.4.050.A.3.f
<b>Existing:</b> That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone: 1. Similarity in scale, bulk, and coverage. 2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass	<b>Proposed:</b> That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone: 1. Similarity in scale, bulk, and coverage. 2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass



<p>transit use are considered beneficial regardless of capacity of facilities.</p> <p>3. Architectural compatibility with the impact area.</p> <p>4. Air quality, including the generation of dust, odors, or other environmental pollutants.</p> <p>5. Generation of noise, light, and glare.</p> <p>6. The development of adjacent properties as envisioned in the Comprehensive Plan.</p> <p>7. Other factors found to be relevant by the Hearing Authority for review of the proposed use.</p>	<p>transit use are considered beneficial regardless of capacity of facilities.</p> <p>3. Architectural compatibility with the impact area.</p> <p>4. Air quality, including the generation of dust, odors, or other environmental pollutants.</p> <p>5. Generation of noise, light, and glare.</p> <p>6. The development of adjacent properties as envisioned in the Comprehensive Plan.</p> <p>7. <u>The cumulative effect of the proposed conditional use with other conditional uses in the vicinity of the subject site. The cumulative effect is measured by evaluating the concentration of conditional uses within 500 feet of the subject site.</u></p> <p><del>78.</del> Other factors found to be relevant by the Hearing Authority for review of the proposed use.</p>
<p><b>Policy Objectives:</b> To provide a measurable standard for evaluating the impact of a proposed conditional use on the surrounding neighborhood considering the existing impacts imposed on the neighborhood by other conditional uses that are already in place.</p>	
<p><b>Comments:</b> The proposed amendment adds an eighth factor that can be considered in evaluating a conditional use application. Specifically, the new factor involves evaluating the impacts of adding a conditional use to a neighborhood considering the existing conditional uses that are already in place in the neighborhood. Examples of conditional uses in residential zones are professional offices and traveler's accommodations.</p> <p>In the early 1990's, residents of the railroad district expressed concern regarding the number of houses being converted to commercial conditional uses, and the resulting lack of a residential presence in the evening and on the weekends. The issue was also recently discussed in the review of the short-term rental ordinance amendments with concerns expressed specifically regarding the concentration of conditional uses and the potential impact on neighborhood character.</p>	

**SUMMARY OF OCTOBER 7 COUNCIL DIRECTION:**

In the October 7 discussion of the key amendments, there seemed to be general agreement on the Council whether to include, modify, or remove the amendments in the draft land use ordinance for first reading. The direction from the Council's October 7 discussion on the changes to the draft land use ordinance for first reading is summarized below.

**1. cottage housing**

Amendment removed from the draft land use ordinance and returned to Planning Commission for further review. Concerns included allowing more flexibility in size of units, impacts of design standards on cost of units, appropriateness of cottage housing developments in R-1-3.5 and R-1-10 zones, and appropriateness of separation standard of 1,000 feet in all R-1 zones.

**2. solar orientation standards**

Delete requirements regarding design of habitable structures and roofs. Include amendments requiring new street and lot layout to have south facing sides for maximum solar access.

**3. affordable housing density bonus**

Move forward amendments as proposed to increase the maximum density bonus for affordable housing in the multi-family zones from 25 to 35 percent and to revise the method of calculating the affordable housing density bonus.



- 4. total density bonus**  
Move forward amendment as proposed to increase the total density bonus in the multi-family zones from 40 to 60 percent.
- 5. side yard setback abutting residential zones**  
Move forward amendment as proposed to make buildings in the employment zone (E-1) setback from abutting residential zones ten feet for side yards, rather than ten feet per story for side yards.
- 6. building height in commercial zones**  
Modify proposed amendment to require a conditional use permit to extend building height from three to four stories (i.e., up to 55 feet) in the commercial zones (C-1 and C-1-D) when the building is at least 100 feet from residential zones. Include modified amendment in draft ordinance for first reading.
- 7. building separation in large-scale commercial development**  
Delete the existing requirement because it is counter to the other site design standards and to creating a pedestrian environment.
- 8. accessory residential unit review process**  
Move forward amendment as proposed to require a site design review approval, rather than a conditional use permit, for accessory residential units in the single-family and rural residential zones (R-1 and RR).
- 9. threshold for public hearing for review of new buildings and additions in commercial and employment zones**  
Move forward amendment as proposed to require a public hearing for buildings larger than 15,000 square foot in size or additions of more than 50 percent of the existing buildings square footage for developments subject to basic site design review (i.e., Hersey St., N. Mountain Ave./E. Main St., airport, Washington St. and Jefferson Ave., Benson Way, and Tolman Creek Rd). For basic site design review, the existing land use ordinance requires a public hearing for buildings larger than 10,000 square feet or additions of more than 20 percent of the existing building's square footage.
- 10. porous pavement exemption from lot coverage in residential zones**  
Modify provision allowing properties in residential zones to exceed the maximum lot coverage standard for areas covered in porous pavement. The change to the proposed amendment is that the maximum area developed in a porous solid surface can be up to two hundred square feet or five percent of lot coverage, whichever is **less**. The original amendment said two hundred square feet or five percent of lot coverage, whichever is **more**. The change in the amendment is to make the allowed overage in lot coverage proportional to the size of the lot.
- 11. front porch setback in residential zones**  
Move forward amendment as proposed for the multi-family zones outside of the Historic District to make the required yard between an unenclosed porch and the front property line eight feet or the width of an existing public utility easement, whichever is greater.
- 12. building separation in residential zones**  
Move forward amendment as proposed to require primary buildings in multi-family developments to be separated by half of the height of the tallest building, where building height is measured at the two closest exterior walls, and a maximum separation of 12 feet.



**13. building street frontage requirement for development in commercial and employment zones**

Move forward amendment as proposed requiring location of the building façade or multiple building façades to occupy the majority of a project's street frontage and allowing parking on one side, rather than both sides, of a building.

At the October 7 Council meeting, an additional item was discussed concerning a parapet exemption in commercial and employment zones (C-1, C-1-D, and E-1). Testimony was received suggesting that parapets be allowed to extend five feet above the maximum building height in the commercial and employment zones (C-1, C-1-D, and E-1). The draft land use ordinance includes a proposed amendment to allow parapets to be erected up to three feet above the maximum building height (Table 18-2.6.030, page 2-59). The Council discussed the issue and there seemed to be general agreement to modify the new parapet provision to five feet.

**FISCAL IMPLICATIONS:**

N/A

**STAFF RECOMMENDATION AND REQUESTED ACTION:**

If there are proposed amendments that are of concern to the Council, staff recommends Council direct staff to modify or remove those items from the draft and bring back a revised draft for a continued public hearing and first reading at a future meeting. Any amendments that are removed from the draft could then be reviewed separately if the Council so wishes while the revised land use ordinance moves forward. If there are amendments that are removed and the Council wants further review, any direction the Council could provide the Planning Commission and staff about areas of concern would be helpful.

**SUGGESTED MOTION:**

I move to direct staff to include, modify, or remove the following amendments in the draft land use ordinance, and to bring back a revised draft for a continued public hearing and first reading at a future meeting.

I move to direct the Planning Commission to continue the review of the following potential land use ordinance amendments: (list amendments).

**ATTACHMENTS:**

none

