

**ASHLAND PLANNING DIVISION
STAFF REPORT
July 22, 2014**

PLANNING ACTION: 2013-01862

APPLICANT: City of Ashland

STATEWIDE PLANNING GOALS: Goal 2 – Land Use Planning

OREGON REVISED STATUTES (ORS): Chapter 197 - Comprehensive Land Use Planning
Coordination

REQUEST: To replace Title 18 Land Use of the Ashland Municipal Code with a revised land use ordinance that 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 by Siegel Planning Services, the planning application procedure evaluation, and green development evaluations; to improve standards and procedures; to standardize chapters; and to address inconsistencies and clarify wording.

I. Background

The 2011-2012 City Council Goals included a goal to “Increase the clarity, responsiveness, and certainty of the development process. Develop a specific action plan to respond to the recommendation of the 2006 Zucker and Siegel reports.” The 2006 Land Use Ordinance Review by Siegel Planning Services recommended combining the land use ordinance and development standards into a unified code, and the project was identified as an action item to address the 2011-2012 Council Goal.

In addition to creating a unified land use ordinance (ULUO), the project included an evaluation of the planning application procedures and green development measures. The Economic Development Strategy (adopted July 2011) identifies improving the land use development process as one of seven top priority actions. Specifically, the action says to “manage physical development process to ensure understandable requirements with timely and predictable results while safeguarding and improving the quality of the environment and the community.” In terms of green development measures, the 2011-2012 City Council goals also included to “Adopt land use codes, building codes, green building standards, and fee structures that creates strong incentives for development that is energy, water, and land efficient and supports a multi-modal transportation system.”

The Community Development Department applied for a Code Assistance grant from the Oregon Transportation and Growth Management (TGM) program to fund a land use code expert for the preparation of the planning application procedure and green development evaluations, review and assistance on the second draft, and preparation of new graphics.

The state awarded the grant in May 2012, but the work under the grant was delayed until October 2012 because of state funding freezes.

The development of the ULUO involved a series of 38 meetings with the City Council, Planning Commission, advisory commissions, focus groups, and an open house. The project timeline is described below.

- **Project Kick-Off and Draft 1 Development** (May 2012 – August 2012)

At the initiation of the project, the Planning Commission held study sessions to discuss the overall project approach and the recommendations of the 2006 Land Use Ordinance Review by Siegel Planning Services. In addition, staff presented the project approach to the advisory commissions (i.e., Conservation, Historic, Housing, Transportation, and Tree Commissions) for discussion and comment.

The following project goal and objectives were identified during this initial phase.

Goal: Present the information contained in the existing land use ordinance and design standards in one clear, consistent, adaptable, and user-friendly document.

Objectives:

- Make the land use ordinance usable for a wide variety of code users (e.g., applicants, neighbors, appointed officials, elected officials, staff).
 - Make the code easy to navigate so all standards related to a subject are in one location.
 - Make the code clear with consistent standards, definitions, format, and improved graphics.
 - Make the code adaptable so the document is easy to amend in the future and is a living document that adjusts with future changes.
 - Improve timeliness and predictability of planning application process by removing code inconsistencies.
 - Consider streamlining planning application process to address City Council goals and Economic Development Strategy priority action regarding timeliness, predictability, and potential impacts of development process to economic development projects.
 - Consider facilitating increased use of green development measures by removing barriers and adding provisions to address City Council goals.
- **Draft 1 Review and Discussion** (September 2012 – May 2013)

The Planning Commission reviewed and discussed the first draft and the procedure and green development evaluations.
 - **Public Meetings and Draft 2 Development** (June 2013 – September 2013)

An open house, focus group meetings, and advisory commission meetings were held to discuss the draft code and proposed amendments.

An open house was held on June 20, 2013. In addition, focus group meetings of design and development professionals were held on June 10, 2013 and September 23, 2013. Updates were also given to the advisory commissions from August 2013 through October 2013. The meetings covered the code organization, amendment highlights, and the evaluations of the planning application procedures and green development measures.

The open house was an informal drop-in setting where participants could have one-on-one discussions with staff members. The focus group meetings included a staff presentation and informal roundtable discussions. Three hundred postcards announcing the meetings and the project web site were mailed to design and development professionals, contractors, advisory commissions, and past planning applicants. The Open House was also announced in the *Ashland Daily Tidings*. The amendment table, the draft ULUO, the ordinance outline, and project information sheet were available at the public meetings and prior to the public meetings on the project web site. The project web site www.ashland.or.us/unifiedcode also includes the schedule of public meetings and links to the meeting materials.

Staff received positive feedback at the public meetings on the consolidation of the development standards, the code organization, and use of tables. Currently, there are several documents that comprise the land use standards including the land use ordinance, site design and use standards, and street standards. While this may not seem like a significant issue, a consistently raised frustration by applicants, neighbors, and design and development professionals is not having all of the standards that apply to a planning application located in one document that apply to a planning application.

The focus group of design and development professionals supported the consolidation, organization, formatting, and use of tables in the ULUO. There was positive feedback on many of the proposed amendments including the increase in building height and exemption from the solar setback in the commercial zones (C-1 and C-1-D) in order to encourage multi-story construction, revising the required distance between buildings in the multi-family zones, and changing the ARU approval from a conditional use permit to the site design review process. The group supported the amendments to the planning application procedure, and was especially vocal about the benefit of extending the planning approval and extension timelines. The participants said there are numerous variables affecting the timeline of a development from planning approval to construction including but not limited to sales agreements and property acquisition, easement negotiation, securing financing and preparation of surveys, civil engineering, and building plans.

Several additional issues were identified by individuals at the open house

meeting. There were several amendment suggestions including allowing reduced rear yards setbacks adjacent to alleys to reflect the development pattern of the historic districts and allowing smaller residential lots of approximately 3,000 square feet in size. Other comments were specific to the current code and draft ULUO. One suggestion was to allowing a combination design strategies for surface parking areas on larger sites. Another recommendation was to include the employment zone (E-1) in the proposed amendment to allow building height to increase in the commercial zone (C-1).

Following the public meetings, the Planning Commission reviewed and discussed the feedback from the focus group and open house.

- **Draft 2 Review and Discussion** (October 2013 – April 2014)

The second draft of the ULUO was prepared incorporating comments and discussion from public meetings. The Planning Commission reviewed the second draft from October 2013 through March 2014.

- **Preparation of Adoption-Ready Draft** (May 2014 – July 2013)

Staff prepared the draft and related materials for the public hearing process. Approximately three hundred postcards announcing the Planning Commission public hearing were mailed to the same group of individuals involved in the open house and focus group meetings including design and development professionals, contractors, advisory commissions, and past planning applicants. The public hearing was also noticed in the *Ashland Daily Tidings and Mail Tribune*. The project web site www.ashland.or.us/unifiedcode includes the adoption-ready draft, amendment table, and the Planning Commission meeting packet materials.

The original timeline identified an 18-month time period to prepare a draft ULUO for the adoption process. However, the Planning Commission's review of the ULUO overlapped with the Transportation System Plan (TSP) and the Normal Neighborhood Plan meetings. The TSP process was delayed and involved extra meetings each month for the Planning Commission in 2012. As a result, the ULUO timeline was staggered with the TSP and Normal Neighborhood Plan activities. In addition, the work funded by a state grant was delayed several months because of state funding freezes.

II. Proposal

A. Description

The item before the Planning Commission is to replace the land use ordinance with a unified land use ordinance that 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 by Siegel Planning Services, the planning application procedure evaluation, and green development evaluations; to improve standards and procedures; to standardize chapters; and to address inconsistencies and clarify wording.

The land use ordinance implements the community's vision as expressed in the Ashland Comprehensive Plan and governs the development of property within the City limits. The land use ordinance has been incrementally amended numerous times since it was originally adopted in 1964. Each update was prepared and adopted independently, and there are several documents that comprise the land use regulations (i.e., Land Use Ordinance, Site Design and Use Standards, Ashland Street Standards).

The ULUO is organized and formatted so the document is easy to understand and navigate by the wide variety of people that use the code. The ULUO provides an approachable code framework by dividing the document into six sections of related chapters. The six parts of the ULUO are: 1) Introduction and General Provisions, 2) Zoning Regulations, 3) Special Districts and Overlay Zones, 4) Site Development and Design Standards, 5) Application Review Procedures and Approval Criteria, and 6) Definitions.

Tables are used throughout the document to consolidate information for convenient reference. For example, the current code has eight separate chapters covering each of the base zones. The permitted uses and dimensional regulations (e.g., lot coverage, building height, required yard areas) are repeated in each chapter. In contrast, the ULUO covers the same information in Part 2 Zoning Regulations, but consolidates the allowed uses and dimensional standards into tables. Users can quickly find information such as the zones where offices are allowed or the required front yard in residential zones.

The organization and format of the ULUO are based on the State's Model Development Code for Small Cities, Third Edition, October 2012. The Model Development Code is produced by the TGM program, and has won state and national recognition for the format, graphically based standards, and smart development standards.

B. Proposed Amendments

A variety of amendments to the land use ordinance and development and design standards were identified in working through the project. A table summarizing the proposed ordinance amendments is included in the July 22, 2014 Planning Commission meeting packet. The table is divided into six sections – substantive amendments, development and design standards, procedures, new language for standardization, housekeeping, and new graphics.

All of the amendments in the table were noted in the first and second drafts of the ULUO that the Planning Commission reviewed and discussed in meetings from September 2012 thru March 2014. There are no new amendments included in the latest, adoption-ready draft.

The table is longer than the previous version because new and amended definitions were added. Again, the new and amended definitions were noted in the previous drafts that the Planning Commission reviewed and discussed. There are no new

changes to the definitions.

Section 1 in the table of proposed amendments describes substantive amendments or those amendments that could be considered or perceived as significant policy changes. Most of the substantive amendments are from three sources – the 2006 Land Use Ordinance Review by Siegel Planning Services, the green development evaluation, and the procedures evaluation. Staff added a fourth “other” category under the substantive amendments. These issues are related to the other substantive amendments or were issues involved in past appeals.

Sections 2 and 3 in the table of proposed amendments include other less significant amendments to the development and design standards and procedural requirements. Section 4 describes the new language added to the code which is largely comprised of purpose and applicability sections for newly combined chapters or for chapters that previously didn’t specify the purpose or applicability. Section 4 also includes new definitions for words that are used in the land use ordinance, but were previously not defined. Section 5 includes housekeeping amendments to correct inconsistencies and delete language that is no longer applicable.

The substantive amendments in section 1 are summarized below. The Planning Commission reviewed and discussed the green development and procedures evaluations at the April 23, 2013 and May 14, 2013 meetings. The evaluations are also summarized below.

1. 2006 Land Use Ordinance Review

The 2006 Land Use Ordinance Review by Siegel Planning Services recommends addressing a list of policy issues. The Planning Commission recommended 12 amendments from this list, and these code changes are identified as per the 2006 Land Use Ordinance review in the comment column of the table of proposed amendments. Some highlights of those proposed amendments follow (see table of amendments for complete list).

- Use the less discretionary site design review process, rather than the conditional use permit process, for **accessory residential units (ARU’s)**.
- Revise the required **distance between buildings** in multi-family zones to provide more flexibility for cottage housing in multi-family zones and for consistency with single-family zones.
- Allow **building height** in the commercial zones (C-1 and C-1-D) to increase from 40 feet to 55 feet when the building is more than 100 feet from a residential zone.
- Exempt the commercial zone (C-1) from the **solar setback requirements**, except for buildings within 100 feet of a residential zone. The downtown zone (C-1-D) is currently exempt from the solar setback requirements.
- In the commercial and employment zones (C-1, C-1-D, E-1), require five feet per story for **side and rear yards** when abutting a residential zone rather than ten feet per story as currently written.

- **Maximum lot coverage exemption** in residential zones of 200 square feet or five percent of lot coverage if developed in a porous solid surface that allows storm water infiltration. The exemption does not apply to driveways and parking areas.
- Revise **conditional use permit approval criteria** to allow the impact of a proposal to be evaluated in terms of the cumulative effect of the proposed conditional use with other conditional uses in the vicinity of the site. Cumulative effect is measured by evaluating the concentration of conditional uses within 500 feet of the subject site.

2. Green Development Evaluation

The green development evaluation found that the current code addresses most aspects of green development. The evaluation compares the US Green Building Council's Leadership through Energy and Environmental Design Neighborhood Development (LEED-ND) rating system with the City's current ordinance requirements. The LEED-ND framework is used as a tool for the assessment of the current ordinance requirements because it comprehensively addresses green development at the regional, city, site, infrastructure, and building level.

After reviewing and discussing the evaluation, the Planning Commission recommended the following amendments to further address green development measures.

- Allow **cottage housing** in the single-family zones. Cottage housing is a type of development consisting of a group of small homes clustered around a common area.
- **Solar orientation standards** requiring new residential lots to be oriented so that lots, buildings, and roofs have the long sides facing south to allow the use of passive and active solar strategies where the site and location permit.

3. Planning Application Process Evaluation

The planning application process evaluation involved reviewing the current code for improvements to the timeliness and predictability of the land use procedures, and determining if the City's procedures meet the statutory requirements. The evaluation concludes that the City has completed most of the action items focused on improving the planning application procedures from the 2006 Land Use Ordinance Review by Siegel Planning Services, and determined the City's land use procedures meet or exceed the statutory requirements.

For example, state law requires local jurisdictions to make a decision on quasi-judicial applications within 120 days of the application being deemed complete (ORS 227.178). In contrast, the City's current ordinance requirement for Type I applications is a decision within 45 days of receipt of a

complete application. Type I decisions are made by the Staff Advisor, following public notice and a public comment period with an opportunity to appeal to the Planning Commission. While the Type II applications which involve a public hearing at the Planning Commission are the larger, more visible and sometimes more controversial projects such as a new building in the downtown or residential subdivisions, Type I applications represent the majority of land use applications processed. Examples of Type I applications are accessory residential units, land divisions involving three lots or less, and commercial and light industrial buildings outside of the downtown sized 10,000 square feet and less.

After reviewing and discussing the evaluation, the Planning Commission recommended the following amendments to the planning application procedures.

- Use the administrative decision procedure (Type I) for basic site design review of buildings 15,000 square feet or less, or additions less than 50% of the existing building. The current size cap for a Type I procedure basic site design review is buildings 10,000 square feet or less or additions less than 20% of the existing building. Some of the areas that are subject only to the basic site review process include Hersey, Washington/Jefferson, the airport, and Benson Way.
- Reduce **effective date of Type II decision** from 13 days to 10 days to match statutory requirements.
- Increase **planning approval time period** from 12 to 18 months.
- Increase the time period for an **extension of a planning approval** from 18 to 24 months.

4. Other Substantive Amendments

The following amendments are related to the substantive amendments previously mentioned or were issues in past appeals. The changes come from a variety of sources –some were recommended by the focus groups and staff.

- Add the downtown zone (C-1-D) to the list of commercial and employment zones (C-1, E-1, and CM) exempted from the **vision clearance area requirements**.
- Allow parapets to be erected up to three feet above the maximum building height in the commercial and employment zones (C-1, C-1-D, E-1, and M-1).
- Change **building separation requirement for large scale development** to apply to buildings located on the same parcel. Current standard requires buildings not connected by a common wall to be separated by a distance equal to the height of the tallest building and up to 60 feet.
- Exempt fourth floor of buildings in large scale development for **plaza/public space requirement**. A proposed amendment is to allow

buildings in the commercial zones (C-1 and C-1-D) to have a fourth story if at least 100 feet from residential zones.

- Revise **Variance approval criteria** to provide more specificity in that the unique or unusual circumstance is a physical characteristic of the site, the need for the variance is not self-imposed by the property owner, and the variance is the minimum necessary to address the unique or unusual physical characteristic.
- Revise **definition of hotel/motel** to reflect contemporary transient accommodations based on the state model code. The current definitions of hotel and motel were interpreted by the City Council to prohibit mixed-use buildings (e.g., downtown) from obtaining a conditional use permit to use individual residential units as hotel or motel units.

III. Procedure

A. Legislative Amendment

The adoption of the ULUO is a legislative amendment. Chapter 18.108 allows for legislative amendments “in order to conform with the comprehensive plan or to meet other changes in circumstances or conditions.” The Planning Commission is required to hold a public hearing and make a recommendation to the City Council. The City Council is also required to hold a public hearing and makes the final decision.

Oregon Statewide Planning Goal 2 – Land Use Planning, as well as Chapter 197 of the Oregon Revised Statutes, require a land use planning process and policy framework as a basis for all decision and actions related to use of land. Specifically, plans and implementation measures such as ordinances controlling the use and construction are permitted as measures for carrying out Comprehensive Plans.

B. Applicable City of Ashland Land Use Ordinance Sections

SECTION 18.08.345. Legislative amendment.

An amendment to the text of the land use ordinance or the comprehensive plan or an amendment of the zoning map, comprehensive plan maps or other official maps including the street dedication map described in section 18.82.050, for land involving numerous parcels under diverse ownerships.

18.108.170 Legislative Amendments

A. It may be necessary from time to time to amend the text of the Land Use Ordinance or make other legislative amendments in order to conform with the comprehensive plan or to meet other changes in circumstances and conditions. A legislative amendment is a legislative act solely within the authority of the Council.

B. A legislative amendment may be initiated by the Council, by the Commission, or by application of a property owner or resident of the City. The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is submitted, and within thirty days after the

hearing, recommend to the Council, approval, disapproval, or modification of the proposed amendment.

C. An application for amendment by a property owner or resident shall be filed with the Planning Department thirty days prior to the Commission meeting at which the proposal is to be first considered. The application shall be accompanied by the required fee.

D. Before taking final action on a proposed amendment, the Commission shall hold a public hearing. After receipt of the report on the amendment from the Commission, the Council shall hold a public hearing on the amendment. Notice of time and place of the public hearings and a brief description of the proposed amendment shall be given notice in a newspaper of general circulation in the City not less than ten days prior to the date of hearing.

E. No application of a property owner or resident for a legislative amendment shall be considered by the Commission within the twelve month period immediately following a previous denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.

IV. Conclusions and Recommendations

The land use ordinance is an important document because it implements the community's vision as expressed in the Ashland Comprehensive Plan and governs the development of property within the City limits. The development and design standards are used every day by a wide range of people for items ranging from ministerial permits for fences and home occupations to more complex projects such as residential subdivisions and multi-story commercial buildings in the downtown. Applicants, property owners, neighbors, contractors, design professionals, staff, advisory commissions, the Planning Commission, and the City Council all use the land use ordinance.

Staff recommends the Planning Commission focus on Section 1: Substantive Amendments in the table of proposed amendments because these amendments could be considered or perceived as significant policy changes. Most of the substantive amendments are from three sources – the 2006 Land Use Ordinance Review by Siegel Planning Services, the green development evaluation, and the procedures evaluation. Staff added a fourth “other” category under the substantive amendments. These issues are related to the other substantive amendments or were issues involved in past appeals.

Staff believes the Planning Commission has conducted a careful and thoughtful review of the ULUO and the proposed amendments to the code. Feedback to date from the public meetings and design and development professionals has been largely positive. Staff recommends the Planning Commission forward the ULUO and the proposed amendments to the City Council for adoption.