

Council Business Meeting

January 4, 2022

Agenda Item	Housing in Employment Lands Code Amendments	
From	Brandon Goldman Bill Molnar	Senior Planner Community Development Director
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SUMMARY

This is a discussion item about the draft code amendments to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones. The City Council initiated the project at the [March 16, 2021](#) business meeting. Mixed-use development is the combination of commercial or light industrial uses with housing units in the same structure or on the same site.

POLICIES, PLANS & GOALS SUPPORTED

The residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones affect the amount of building square footage available for commercial and light industrial uses and for housing units.

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 *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 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.

BACKGROUND AND ADDITIONAL INFORMATION

On [March 16, 2021](#) the City Council directed the Planning Commission and Planning Division Staff to evaluate draft code language prepared by representatives of KDA Homes relating to increasing opportunities for housing on the ground floor of mixed use buildings in commercial zones, and propose amendments to the Ashland land use ordinance in order to provide such flexibility.

The project’s primary goal, and three guiding objectives, were established for this undertaking based on City Council direction and adopted City policies as found in the Housing, Economy and Transportation chapters of the Ashland Comprehensive Plan, the Housing Capacity Analysis (HCA), the Climate Energy and Action Plan (CEAP), and the Economic Development Strategy.

Project Goal: Provide more flexibility in the employment zones to respond to fluctuations and changes in the economy and demand for housing.

Project Objectives

- Maintain an inventory of employment parcels in a variety of sizes and locations to encourage new business development.
- Increase the supply of moderately-priced rental and for-purchase housing.
- 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.)

Over the course of 2021, the Planning Commission held numerous study sessions and public hearings to evaluate options for code amendments which addressed this project’s goal and objectives. The Planning Commission held a public hearing on the proposed code amendments at the December 14, 2021 meeting and unanimously recommended approval of the attached ordinance. 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.

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. 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 located in the C-1 and E-1 zones. The other 24 permits were located in the C-1-D zone (Downtown), or were public projects such as SOU and Ashland School District buildings which are not located in the C-1 and E-1 zones.
- The 2007 Economic Opportunities Analysis (EOA) forecasted more employment growth than has occurred over the last 14 years. The EOA projected 15,220 projected 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 as of 2019.
- The 2007 Economic Opportunities Analysis determined that 30% of the employment growth would not require consumption of vacant land.
- Currently, approximately 20% of the jobs within Ashland are in residential zones.

The Oregon Statewide Planning System requires all cities to maintain an adequate land supply for economic development and employment growth. To demonstrate compliance with the State goals in amending our local land use ordinance, the City can rely on existing adopted plans provided there are no significant changes in economic development opportunities based on new information about national, state, regional, count and local trends (OAR 660-009-0010(3)). A second option under the State's administrative rules requires changes to the designation of over two acres of land from an employment use designation to any other use to be supported by the City's comprehensive plan and existing Economic Opportunities Analysis. If the proposed amendment can't be supported by the adopted comprehensive plan and EOA an update the comprehensive plan and/or EOA is required (OAR 660-009-0010(4)).

The analysis performed by Fregonese Associates can be used to address the above Statewide planning goals 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. As a result, the Planning Commission recommended the attached ordinance which, if adopted, would allow up to 65 percent of the ground floor of mixed-use buildings to be used as residential dwellings.

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 in flexible "commercial ready" spaces that could be used as either residential or commercial. However, code amendments 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 the State's administrative rules. As a result, it is Staff's understanding that the 2007 EOA would need to be updated to evaluate whether there would remain an adequate supply of employment lands to address Ashland's future economic and job needs to justify making code

amendments that allow the entire building or development to be used for residential purposes in the C-1 and E-1 zones.

The second code provision suggested by KDA Homes was to require the ground floor of mixed-use building to be built to a commercial building code standard but allow the space to be used for “temporary” housing. The timeline for the temporary housing provision was not defined in the KDA Homes proposal but suggested by representatives of KDA Homes that the conversion of the temporary housing would be determined by the property owner based on market conditions. 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 Planning Commission discussed the potential of adaptable “commercial-ready space”, that could alternatively be used for either residential or commercial uses, and further discussed the “temporary housing” provisions as recommended by KDA Homes. The Commission declined to move this proposal for “temporary housing” forward in part due to concerns regarding the likelihood and process of recapturing occupied temporary housing space to meet employment space needs in the future.

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 neighborhood 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.

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 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.

FISCAL IMPACTS

The review of development proposals, including mixed-use buildings and developments, is currently part of the work flow for Planning Division staff. The amendments are not expected to impact existing workload.

DISCUSSION QUESTIONS

The options for Council’s consideration include the following.

- Move forward with scheduling a public hearing and first reading for the attached ordinance amendments as recommended by the Planning Commission, which would result in an increase in the percentage of allowable residential ground floor space from 35% to 65%.
- Take no action at this time on the proposed ordinance, and reconsider following the completion of the 2022 Housing Production Strategy, and following a comprehensive update of the City’s Economic Opportunities Analysis, to determine whether up to 100 percent residential use in commercial and employment zones could be accommodated without compromising Ashland future employment land needs.

Does the City Council have questions or concerns regarding the draft land use code amendments to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones?

SUGGESTED NEXT STEPS

The code amendments are scheduled for a public hearing and first reading at the City Council at the February 1, 2022 Business Meeting.

REFERENCES & ATTACHMENTS

Draft of amendments to the residential standards for mixed-use development in the Commercial (C-1) and Employment (E-1) zones

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

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

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

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

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

27 **WHEREAS**, the City of Ashland Planning Commission conducted on December 14, 2021 a
28 duly advertised public hearing on amendments to the Ashland Land Use Ordinance concerning
29 the standards relating to annexations, and following deliberations recommended approval of the
30 amendments.; and

1
2 **WHEREAS**, the City Council of the City of Ashland conducted a duly advertised public hearing
3 on the above-referenced amendments January 4, 2021.; and
4

5 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing
6 and record, deliberated and conducted first and second readings approving adoption of the
7 Ordinance in accordance with Article 10 of the Ashland City Charter.; and
8

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

15 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**
16

17 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this
18 reference.
19

20 **SECTION 2.** Section 18.2.3.130 [Dwellings in Non-Residential Zones – Special Use Standards]
21 of the Ashland Land Use Ordinance is hereby amended to read as follows:
22

23 **18.2.3.130 Dwellings in Non-Residential Zones**

24 Where dwellings are allowed in non-residential zones, they are subject to all of the following
25 requirements.

- 26 A. Dwellings in the E-1 zone are limited to the R-overlay zone. See chapter 18.3.13 Residential
27 Overlay.
28 B. Dwellings in the E-1 and C-1 zones shall meet all of the following standards, except that
29 dwellings developed under the Transit Triangle (TT) overlay option are not subject to
30 subsection 18.2.3.130.B, below. See section 18.3.14.040 for the allowed uses in the TT
overlay.

1. **Mixed-Use Developments Outside of the Downtown Design Standards Overlay.** ~~–If
there is one building on a site, ground floor residential uses shall occupy not~~

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~~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.~~

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

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

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

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

b. Gross Floor Area.

i. One Building. When a planning application is limited to one building, residential uses may occupy up to 65 percent of the gross floor area of the ground floor. At least 35 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 35 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.

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

d. 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.

2. Mixed Use Developments Inside the Downtown Design Standards Overlay, Large Lots and One-Story Mixed-Use Buildings. Residential densities shall not exceed 15 dwelling units per acre in the E-1 zone, 30 dwelling units per acre in the C-1 zone, and 60 dwelling units per acre in the C-1-D zone. 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.

a. Applicability. This subsection, 18.2.3.130.B.2, applies to mixed-use buildings and developments located in the Downtown Design Standards Overlay. In addition, this subsection applies to mixed-use buildings and developments

1 located on lots that are 10 acres and greater in size and to one-story mixed-use
2 buildings, whether the lot or building is located inside or outside the
3 Downtown Design Standards overlay.

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

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

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

11 **b. Gross Floor Area.**

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

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

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

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

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

26 **SECTION 3.** Section 18.2.6.030 [Unified Standards for Non-Residential Zones – Standards for
27 Non-Residential Zones] of the Ashland Land Use Ordinance is hereby amended to read as
28 follows:
29

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 Density¹ (dwelling units/acre)	30 du/ac	60 du/ac	15 du/ac	NA

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
¹ where allowed per section 18.2.3.130 ; within E-1 zone, per R-Overlay (see chapter 18.3.13 Residential Overlay).				
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	
<p>²¹See definition of “height of building” in section 18.6.1.030.</p> <p>³²Parapets 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.</p>				
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:

1 **18.3.13.010 Residential Overlay Regulations**

2 **A. Purpose.** The Residential overlay is intended to encourage a concentration and mix of
3 businesses and housing that provides a variety of housing types, supports resource and
4 energy conservation, and promotes walking, bicycling, and transit use.

5 **B. Applicability.** The Residential overlay applies to all property where 'Residential Overlay' (R)
6 is indicated on the Zoning map.

7 **C. Requirements.** ~~The Dwellings in the Residential overlay requirements are as~~
8 ~~follows shall meet the applicable standards in section 18.2.3.130, except that~~
9 ~~dwellings developed under the Transit Triangle (TT) overlay option are not subject to~~
10 ~~subsection 18.3.13.010 C, below. See section 18.3.14.040 for the allowed uses in the~~
11 ~~TT overlay or 18.3.14.040 for the TT overlay.~~

12 ~~1. Mixed-Use Developments. If there is one building on a site, ground floor~~
13 ~~residential uses shall occupy not more than 35 percent of the gross floor area of~~
14 ~~the ground floor. Where more than one building is located on a site, not more than~~
15 ~~50 percent of the total lot area shall be designated for residential uses. At least 65~~
16 ~~percent of the gross floor area of the ground floor shall be designated for~~
17 ~~permitted uses and uses permitted with special use standards, not including~~
18 ~~residential uses.~~

19 ~~2. Residential densities shall not exceed 15 dwelling units per acre. For the purpose~~
20 ~~of density calculations, units of less than 500 square feet of gross habitable floor~~
21 ~~area shall count as 0.75 of a unit.~~

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

24 **SECTION 5. Codification.** In preparing this ordinance for publication and distribution, the City
25 Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within such
26 limitations, may:

27 (a) Renumber sections and parts of sections of the ordinance;

28 (b) Rearrange sections;

29 (c) Change reference numbers to agree with renumbered chapters, sections or other parts;

30 (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.

1 **SECTION 6. Severability.** Each section of this ordinance, and any part thereof, is severable,
2 and if any part of this ordinance is held invalid by a court of competent jurisdiction, the
3 remainder of this ordinance shall remain in full force and effect.

4
5 The foregoing ordinance was first read by title only in accordance with Article X,
6 Section 2(C) of the City Charter on the ___th day of _____, 2022,
7 and duly PASSED and ADOPTED this ___th day of _____, 2022,

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9 _____
10 Melissa Huhtala, City Recorder

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12
13 SIGNED and APPROVED this ___ day of _____, 2022.

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17 _____
18 Julie Akins, Mayor

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21 Reviewed as to form:

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23 _____
24 Katrina Brown, City Attorney