

# ASHLAND PLANNING DIVISION STAFF REPORT

July 26, 2018

**PLANNING ACTION:** PA-L-2018-00003

**APPLICANT:** City of Ashland

**ORDINANCE REFERENCES:** AMC 18.3.10 Physical and Environmental Constraints  
AMC 18.4.3 Parking, Access, and Circulation  
AMC 18.4.4 Landscaping, Lighting, and Screening  
AMC 18.5.1 General Review Procedures  
AMC 18.5.3 Land Divisions and Property Line Adjustments  
AMC 18.5.5 Variances  
AMC 18.5.7 Tree Removal Permits  
AMC 18.6.1 Definitions  
AMC 9.04 Weeds and Noxious Vegetation

**REQUEST:** Amend the Physical and Environmental Constraints Map to expand the boundary of Ashland’s designated Wildfire Lands to incorporate the entire City, and amend the Ashland Land Use Ordinance to implement new standards for fire prevention and control plans and fuels reduction associated with development. The proposed ordinance amendments include modifications to Ashland Land Use Ordinance Chapter 18.3.10.100 Development Standards for Wildfire Lands; 18.3.10.020 Physical Constraints Review Permit, 18.3.10.040 Physical Constraints Review Application Submission Requirements, 18.3.10.090 Development Standards for Hillside Lands; 18.4.3.080 Vehicle Area Design; 18.4.4 Landscaping, Lighting, and Screening; 18.5.1 General Procedures; 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria; 18.5.5 Variances; 18.5.7 Tree Removal Permits; 18.6 Definitions; and 9.04 Weeds and Noxious Vegetation.

## **I. Relevant Facts**

### **A. Background**

On April 15<sup>th</sup>, 2014 the City Council directed Staff prepare a modification of the Physical and Environmental Constraints Map to expand the boundary of Ashland’s designated Wildfire Lands to incorporate the entire City.

The Planning Commission discussed the expansion of the Wildfire Lands boundary and amendments to the Development Standards for Wildfire Lands at study sessions on June 24, 2014, February 24, 2015, November 24, 2015, February 23, 2016, and February 27, 2018.

The Tree Commission discussed the amendments during regular meetings on April 9, 2015, December 10, 2015, and March 8, 2018.

The Wildfire Mitigation Commission discussed the amendments during regular meetings on, November 18, 2015, and March 21, 2018.

Mayor Stromberg convened an ad-hoc wildfire hazard committee (comprised of City staff, representatives from the Tree, Planning, and Wildfire Mitigation Commissions) that met numerous times through 2017 and 2018 to discuss a comprehensive approach toward mitigating the risk of wildfire within the City of Ashland. The discussion included evaluation of potential amendments to the development standards for wildfire lands.

Ashland Fire and Rescue, the ad-hoc wildfire hazard committee, and the Wildfire Mitigation Commission also worked with an organization called Community Planning Assistance for Wildfire (CPAW) to evaluate our community's risks and to provide an evaluation of the City's existing and proposed wildfire development standards. CPAW's land use, forestry, and hazard mitigation professionals visited Ashland to inform their recommendations intended to ensure wildfire is considered alongside other community planning priorities. The CPAW draft ordinance review and report titled "Best Practices Compilation for Ashland, Oregon", informed the drafting of the attached ordinance.

The City defined the current Wildfire Lands overlay boundary in 1992. This boundary included hillside properties in close proximity to the forested area south of Ashland. Areas within a Wildfire Lands overlay fall under Section 18.3.10.100 of the Ashland Municipal Code, Section 304.1.2 of the Oregon Fire Code, Sections 603 and 604 of the Wildland Urban Interface Code, and Section 324 of the Oregon Residential Specialty Code. These codes regulate landscaping, roof construction, defensible space and fuel modification areas.

## **B. Ordinance Amendments**

In summary, the amended development standards for wildfire lands would require that applications to partition or subdivide properties, and site review applications for commercial and multi-family developments, provide a Fire Prevention and Control Plan with the planning application. A Fire Prevention and Control Plan would not be required for the construction of a single family dwelling or additions. A General Fuel Modification Area, where highly flammable plants are thinned or removed in proximity to a new structure, would be required to be established on properties obtaining building permits for new construction, and additions to existing buildings, that increase lot coverage by 200 square feet or greater..

The General Fuel Modification Area requirements as proposed include the following requirements:

- Removal of all dead or dying vegetation.
- No new planting of highly flammable plants within 30 feet of a structure (see prohibited plant list attached).
- Removal of existing highly flammable plants is required within 5 feet of a new building or addition.
- Combustible materials, including wood mulch, shall not be located within 5 feet of a structure.
- Fences are to be constructed with non-flammable material where the fence attaches to a new building, addition, or deck.

- Existing highly flammable trees (e.g. evergreen trees such as Cypress, Pine and Fir) shall be pruned to provide a minimum 10 foot clearance from a new building or addition, unless pruning the tree to this extent will compromise its health.
- Existing fire resistant trees (e.g. deciduous trees such as Oak and Maple) shall be pruned as to not touch a structure and provide a minimum 10 foot clearance from a chimney.
- Understory growth, vegetation below trees, shall be removed or maintained to reduce the risk of the spread of wildfire
- Roof Material (new or 50% re-roof) to be fire resistant (Class B).
- Allowances to preserve vegetation for erosion control, riparian and wetland preservation.

The proposed standards for both Fire Prevention Control Plans and General Fuel Modification Areas newly include flexibility to allow the Staff Advisor and Fire Code Official to review and approve requested deviations from the requirements when it can be demonstrated that due to specific site conditions, or the nature of the development, that there is no increased risk to the spread of wildfire.

The proposed amendments to the Tree Permit Review section (18.5.7) and Hillside Development standards (18.3.10.090) of the municipal clarify that a significant conifer tree is one that as having a diameter at breast height (DBH) of at least 18 inches, or is a deciduous tree with a DBH of 12 inches or greater. This amendment provides internal code consistency with the definition for “significant tree”. With the exception of significant trees, the attached ordinance would allow trees greater than 6” in diameter at breast height on hillside lands to be removed without a permit as part of an approved Fire Prevention and Control Plan, or as approved to implement a comprehensive general fuel modification area. The proposed amendment newly requires that when a property is large enough to be partitioned, subdivided or be further developed with multifamily units then a tree removal permit would require to remove trees greater than 6”DBH. Currently lots occupied only by only a single family home, regardless of lot size, are exempt from obtaining a tree removal permit to remove trees. Given this exemption, in recent years the City has seen properties remove numerous significant trees immediately in advance of submitting applications for partitioning or subdividing the property.

The proposal includes the creation of a Prohibited Flammable Plant list. Chapter 9.04 - Weeds and Noxious Vegetation, of the municipal code is to be amended declare such plants as a fire hazard.

- The ordinance adopting the prohibited flammable plant list would preclude newly planting the listed plants within 30 feet of any structure unless it were demonstrated that they would not pose additional fire risk.
- Highly flammable plants on this list that were in place prior to the adoption of the proposed ordinance would not have to be removed unless they are within five feet of a new structure or addition, or as proposed for removal as part of an approved Fire Prevention and Control Plan.

## **Change in Circumstances or Conditions**

AMC 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions. The Planning Commission makes a recommendation to the City Council and the City Council makes the final decision.

In review of the existing development standards for Wildfire Lands, Ashland Fire and Rescue identified a number of potential changes to the existing code to be considered as part of the legislative amendment process underway. Proposed code revisions would serve to both clarify the submittal requirements for a Fire Prevention and Control Plan, as well as establish new requirements for the implementation of required fuel modification areas not presently codified within the currently adopted Land Use Ordinance

The 2017 Climate and Energy Action Plan identified that regulation of new development within the Wildfire Fire Overlay is necessary to be more resilient to climate change impacts.

The City completed a Wildfire Hazard Zone Evaluation in 2014 which demonstrated that the existing Wildfire Lands overlay boundary does not incorporate all areas within the City that meet the criteria to be considered a Wildfire Hazard Zone as set forth by OAR Chapter 629, Division 044.

## **Statewide and Local Goals relating to Planning for Wildfires**

Statewide Planning Goal 7 [Areas Subject to Natural Hazards] requires that local governments adopt inventories, policies and implementing measures to reduce risk to people and property from natural hazards including wildfire.

The Ashland Comprehensive Plan's Environmental Resources Chapter [4.25 Wildfire Hazards] includes the following goal:

*Goal: Protect life, property and environmental resources in Ashland's suburban/wildland interface area from the devastating effects of wildfire. Lessen the possibility of wildfire spreading to the Ashland watershed from the urban/wildland interface area*

The 2018 Multi-Jurisdictional Natural Hazard Mitigation Plan [Ashland Addendum] :

*Goal: Reduce the threat of loss of life and property from natural hazards by incorporating information on known hazards and providing incentives to make hazard mitigation planning a priority in land use policies and decisions, including plan implementation.*

The City Council set a strategic goal in 2015 that specifically related to the proposed wildfire lands ordinance update:

*Goal: Complete the expansion of the city's wildfire hazard zone to accurately reflect risk. Update the Wildfire Hazard Zone ordinance to allow for Citywide application and schedule for Council consideration.*

Ashland Community Wildfire Protection Plan (2004) Chapter 5 Action Items:

*Goal: Write and adopt a fire safe landscaping ordinance to regulate plantings around new structures.*

## Climate and Energy Action Plan 2017

*Goal: Prepare the city's communities, systems, and resources to be more resilient to climate change impacts.*

Strategy ULT-4. Support more climate-ready development and land use.

*Regulate new development in the Wildfire Lands Overlay part of the urban growth boundary.*

The proposed amendments to the Development Standards for Wildfire Lands aim to reduce the potential impacts of wildfire on properties throughout the City of Ashland. The proposed standards balance the need to preserve natural habitat, prevent erosion, provide for aesthetic and functional landscaping, and to facilitate access to manmade structures by firefighters in the event of a wildfire.

## **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**

Local climatic, geographic, topographic and vegetation profile conditions impact fire prevention efforts, and the frequency, spread, acceleration, intensity, and size of fire involving buildings in this community. Wildfire poses a risk to persons and property throughout the community and therefore it is found to be reasonably necessary that the wildfire lands overlay boundary, and the development standards for wildfire lands be modified to mitigate the effects of the above conditions.

### **Wildfire Mitigation Commission**

The Wildfire Mitigation Commission reviewed the draft ordinance on March 21<sup>st</sup>, 2018 and recommend approval of the ordinance and the expansion of the Wildfire Lands overlay to include the entire City.

#### Tree Commission

The Tree Commission reviewed the draft ordinance on March 8<sup>th</sup>, 2018 and recommend approval of the ordinance. The Tree Commission did request that the removal of significant trees for fuel removal require a review by the Tree Commission. In consideration of this comment the ordinance presented for adoption now requires a tree removal permit for significant trees. The Tree Commission also noted that there could be exemption included in the ordinance to preserve large native/conifer large trees while noting that large stature conifers can be fire resistant. The ordinance now includes allowances to exempt established conifer trees from the general fuel management requirements when it is demonstrated that pruning the tree to comply with the general fuel modification standards would compromise the health of the tree. Additionally the ordinance allows an applicant to request an exceptions to the prohibition on planting flammable plants when it is demonstrated that the proposed planting will not pose a fire risk. Lastly the Tree Commission recommended that the City should create a new full time Urban Forester position to assist with the implementation of the ordinance.

#### Planning Commission

The Planning Commission's formal recommendation to the Council regarding the attached map amendment and ordinance will be prepared by Staff and presented to the Commission on July 10<sup>th</sup>, 2018. Additionally a representative from the Planning Commission is invited to provide the Commissions recommendations to the City Council during the public hearing scheduled for July 17<sup>th</sup>, 2018.