

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION
REGULAR MEETING
JANUARY 8, 2013
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street

- II. **ANNOUNCEMENTS**

- III. **CONSENT AGENDA**
 - A. **Approval of Minutes**
 - 1. December 11, 2012 Regular Meeting

- IV. **PUBLIC FORUM**

- V. **UNFINISHED BUSINESS**
 - A. **Approval of Findings for PA-2012-01414, 180 Nutley Street.**

- VI. **DISCUSSION ITEMS**
 - A. **Unified Land Use Ordinance – Part 5: Application Review Procedures and Approval Criteria**

 - B. **Input on Council Goals**

- VII. **OTHER BUSINESS**
 - A. **Bi-Annual Attendance Report (July – December 2012)**

- VIII. **ADJOURNMENT**

**CITY OF
ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
REGULAR MEETING
MINUTES
December 11, 2012

CALL TO ORDER

Chair Melanie Mindlin called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

Commissioners Present:

Troy J. Brown, Jr.
Michael Dawkins
Eric Heesacker
Richard Kaplan
Debbie Miller
Melanie Mindlin

Staff Present:

Bill Molnar, Community Development Director
Maria Harris, Planning Manager
Amy Gunter, Assistant Planner
April Lucas, Administrative Supervisor

Absent Members:

None

Council Liaison:

Mike Morris

ANNOUNCEMENTS

Community Development Director Bill Molnar made the following announcements: 1) the City Council did not pass first reading of the Housing Needs Analysis and decided to revisit this document at their February 4, 2013 Study Session, 2) the City Council's goal setting is scheduled for January 26, 2013, and 3) the Planning Commission is scheduled to discuss possible code changes for short term vacation rentals at their January 22, 2013 Study Session.

CONSENT AGENDA

A. Approval of Minutes.

1. November 13, 2012 Regular Meeting.
2. November 27, 2012 Special Meeting.

Commissioners Miller/Dawkins m/s to approve the Consent Agenda. Voice Vote: all AYES. Motion passed.

[Commissioner Kaplan abstained from the 11/13/12 minutes approval due to his absence from that meeting; Commissioners Brown and Heesacker abstained from the 11/27/12 minutes approval due to their absence from that meeting.]

PUBLIC FORUM

No one came forward to speak.

UNFINISHED BUSINESS

A. Approval of Findings for PA-2012-01321, 622 Drager.

Ex Parte Contact

No ex parte contact was reported.

Commissioners Kaplan/Miller m/s to approve the Findings for PA-2012-01321. Voice Vote: all AYES. Motion passed 6-0.

TYPE II PUBLIC HEARING

A. PLANNING ACTION: #2012-01414

SUBJECT PROPERTY: 180 Nutley Street

APPLICANT: PowerPlus Building/Christer Cederroth

DESCRIPTION: A request for a Minor Land Partition to create two parcels, the existing single family residence would remain at 180 Nutley Street and the new accessory guest house would be converted to a single family residence on Scenic. The request includes a Variance to the rear yard setback to reduce the required setback from 20-feet to 10 ½ feet. The applicant is also requesting an Exception to the Street Standards to not install sidewalks along Scenic Drive. **COMPREHENSIVE PLAN DESIGNATION:** Single Family Residential; **ZONING:** R-1-7.5; **ASSESSOR'S MAP#:** 39 IE 108AD; **TAX LOT #:** 5600.

Commissioner Mindlin read aloud the public hearing procedures for land use hearings.

Ex Parte Contact

Commissioners Miller, Heesacker, Dawkins, and Kaplan declared site visits; No ex parte contact was reported.

Staff Report

Assistant Planner Amy Gunter explained the application before the Commission is for a minor land partition to create two parcels, as well as a variance request to the rear yard setback requirement and an exception to the Street Standards to not install sidewalks on Scenic Drive. Ms. Gunter stated the existing single family residence would remain at 180 Nutley and the accessory guest house would be converted to a single family residence and accessed off Scenic Drive. Ms. Gunter stated parcel one, as proposed, would comply with the dimensional standards, setbacks, lot coverage, and solar access requirements; however, parcel two will need to have its property line adjusted 2 inches to meet the lot width to depth ratio. Ms. Gunter explained the main concerns regarding this application are with the variance request to the rear yard setback requirement. She explained the property owner recently constructed a guest house on the property and at that time the structure complied with the setback requirements, however if this lot partition is approved, the front of parcel two becomes Scenic Drive and the guest house structure was built 10.5 feet from the property line, and 20 feet is required. Ms. Gunter clarified the lot is large enough to have more than one parcel created out of it, and staff believes findings could be made for the exception to the Street Standards, but staff does not believe the criteria has been met for the variance to the rear yard setback requirement, specifically that this is not a self-imposed circumstance.

Commissioner Dawkins questioned what would happen if this application is denied. Ms. Gunter explained the situation would stay as it is - the structure would remain as an accessory guest house with no kitchen facilities permitted. She added the applicants do have a few options, including: 1) either adding on or dividing one of the structures so that one is twice as large as the other and then go through the conditional use permit process for an accessory residential unit, or 2) apply for a variance to the size ratio requirement for an accessory residential unit. Ms. Gunter clarified an accessory residential unit is required to be half the size of the primary structure and no more than 1,000 square feet.

Commissioner Heesacker questioned if it is possible to create a flag lot so that parcel two is accessed off Nutley. Ms. Gunter explained staff did discuss this option with the applicant early in the process and the applicant could speak to this further.

Commissioner Kaplan asked if the Planning Division was aware that the applicant intended to partition the lot when the guest house building permit was issued. Ms. Gunter explained the applicant and staff had held a pre-application conference prior to the issuance of the building permit.

Applicant's Presentation

Alan Harper/130 A Street/Land Use Attorney/Handed out a copy of the variance criteria and the definition of the word "willfully" (see Exhibit #2012-05). Mr. Harper stated he has never seen a provision like criteria C, which states "*That the circumstances or conditions have not been willfully or purposefully self imposed*"; and stated a person does not act "willfully" if the action is a result of a good faith misunderstanding of the requirements of the law.

Christer Cederroth/Property Owner/Stated he had hired an architect to assist him with partitioning the lot and creating a second structure and thought the architect had everything under control. He stated he did not look at the architect's documents and was under the impression they had permission to do this. Mr. Cederroth explained he has always intended to split the lot and did not realize there was an issue with the setbacks until after building construction had begun.

Mark Knox/485 W Nevada/Applicant's Representative/Clarified they did consider making parcel two a flag lot but it is too short to do this. He commented that the variance criteria are not specific to physical constraints on the property and believes

there are unique circumstances about this situation. Mr. Knox commented that the property owner does not want to increase the size of either structure in order to pursue the accessory residential unit designation, and stated if the loft had been placed on the other side of the guest house structure this would not be an issue. He stated this structure is going to remain regardless of what is decided tonight and believes there would be less impact to the neighbors if their proposal is approved. Mr. Knox concluded by stating he feels strongly that this situation was not willfully imposed by the proposed owner.

Questions of the Applicant

Mr. Knox was asked to address the criteria and explain what their unique circumstance is. Mr. Knox replied this is a half-acre parcel with a 2.9 density factor, it is in the R-1-7.5 zone, and is already out of compliance for depth. Additionally, this is unique in that these are legal pre-existing buildings and because this is a corner lot, partitioning the lot switches the setback requirements.

Public Testimony

Rodney Farmer/196 Nutley/Stated he is the neighbor to the west of this parcel and noted the letter he had submitted in advance of tonight's hearing. Mr. Farmer stated he is opposed to the variance request due to possible future encumbrances on his property and stated if approved, this action will impede the value of his lot. He acknowledged that this is a challenging situation for Mr. Cederroth but thinks this was willfully imposed. He stated in 2010 the applicant proposed a partition and received all the relevant information explaining setbacks would be imposed; the applicant chose to not move forward with the partition and instead built a structure 10 feet off their property line. Mr. Farmer stated they were told this was going to be a guest house and have now learned the applicant wants a partition and a separate single family home. He stated they are not opposed to the partition, but feels the applicant should have built in compliance with the current zoning laws.

Mr. Farmer was asked for his opinion on a solution. Mr. Farmer responded that his preference would be for the structure to remain as a guest house. He stated it has been built as a guest house, this is what they were told it would be, and thinks this is how it should remain.

Questions of Staff

Staff was asked if this structure was originally approved as a guest house. Ms. Gunter responded staff conducted a pre-application conference with this applicant for a minor land partition and following that meeting the applicant applied for a building permit for a guest house (which by code is not permitted to have kitchen facilities). She clarified during the pre-application conference the applicant did receive information on the current codes and setback requirements, and noted Mr. Farmer included the relevant pages of the applicant's pre-application report as an attachment to his submitted letter.

Staff clarified if the structure were moved 10 feet it would meet the 20 foot setback requirement.

Comment was made that the staff report appears to focus on criteria C, and staff was asked whether they believe criteria A and B have been satisfied. Ms. Gunter responded that she does not conclusively feel the applicant has met these standards, however the Commission could potentially make a finding to state these have been met.

Applicant's Rebuttal

Mark Knox/Clarified the applicants did look into the flag pole idea, but this was not a viable option, and the idea to move the building 10 feet is possible, but the likeliness of this happening is rare. Mr. Knox stated this building mass is going to remain regardless of what is determined tonight. He stated the applicant was not aware of the setback requirements and stated the pre-applicant report can be difficult for the lay-person to comprehend.

Alan Harper/Stated nobody would purposefully put themselves in this position and the variance is the appropriate avenue to fix these types of practical difficulties and hardships. Mr. Harper stated this application will have a very minor impact compared to the hardship the property owner will face to either move the building or tear it down.

Commissioner Mindlin closed the record and public hearing at 8:10 pm.

Deliberations and Decision

Commissioners Dawkins/Miller m/s to deny Planning Action #2012-01414. DISCUSSION: Commissioner Dawkins stated he empathizes with the owner but a huge mistake has been made and the impacts to the neighbor to the west cannot be denied. He voiced his support for this structure to become a single family residence at some point in the future, but stated it needs to comply with the setback requirements. Commissioner Miller also sympathized with the owner but stated the criteria has not been met and the owner should have read the materials that were provided at the pre-application conference. Commissioner Brown stated at some point the applicant changed course and decided to do something different than a guest house and this is where the problem occurred. He voiced support for the motion and stated he does not want to encroach on the properties that surround this parcel. Commissioner Kaplan stated he does not see how they could draft findings that would support this application and he agrees with motion on the table. Commissioner Heesacker urged the applicant to pursue other options, such as a variance request for the flag drive or possibly an easement, but stated he cannot approve this application as presented. Commissioner Mindlin commented that in the past the Planning Commission has found properties to meet the criteria for unusual circumstances that are far less unusual than this one, and stated there are benefits to dividing lots, but agreed it is difficult to get around Criteria C. **Roll Call Vote: Commissioner Brown, Dawkins, Heesacker, Kaplan, Miller and Mindlin, YES. Motion passed 6-0.**

LEGISLATIVE AMENDMENT PUBLIC HEARING

A. PLANNING ACTION: #2012-01511

APPLICANT: City of Ashland

DESCRIPTION: To adopt an updated Transportation System Plan (TSP) as a supporting document to the Ashland Comprehensive Plan, and to amend the Street Dedication Map.

Staff Report

Planning Manager Maria Harris provided a short overview of the Transportation System Plan (TSP) Update. She stated the TSP is an important resource that outlines the physical improvements, programs, and studies that need to be made over the next 20 years, and explained this application also includes an amendment to the Street Dedication Map. Ms. Harris clarified the lines on the Street Dedication Map are conceptual and do not show the exact locations, and stated the identified roads will typically not be built until an owner initiates development of their property. She stated staff is recommending approval of the TSP and Street Dedication Map amendment with the following seven conditions:

- 1) The references to the TSP serving as the Transportation Element of the Comprehensive Plan shall be deleted from the document.
- 2) The Historical and Projected Ashland Population in Exhibit 2-3 (pg.7) be replaced with the graph depicting the recently updated and adopted Jackson County coordinated population projection.
- 3) That the Population Density in Figure 2-4 (pg.8) be updated to include the 2010 census information.
- 4) That the descriptions of pedestrian facility types (pg.94) and bicycle facility types (pgs.102-103) be revised to reference the adopted Ashland Street Standards.
- 5) That the updated City of Ashland Street Functional Classification Map (pg.87) be corrected to include a Neighborhood Street classification consistent with the Ashland Comprehensive Plan and Street Standards.
- 6) That the Street Dedication Map in Figure 10-1 (pg.122) include a notation that the location of the connection from Clay Street to Tolman Creek Road shall be determined at time of development.
- 7) That Project #R44 Tolman Creek-Mistletoe Streetscape Enhancements in Table 10-3 (pg.138) be revised to reflect the improvements to Mistletoe Rd. described in the Croman Mill District Standards.

Lastly, Ms. Harris commented on the Fourth Street railroad crossing. She stated the TSP removes the vehicular crossing and shows a pedestrian/bicycle crossing instead. She explained the original 1982 map included the vehicular crossing and this was reaffirmed in the draft Railroad Master Plan, and stated staff believes this element is worthy of reconsideration. Mr. Molnar clarified the TSP could be amended should the City desire to add a vehicle connection back on at some point in the future, but staff wanted to raise this concern at this stage.

Public Works Director Mike Faught addressed the Commission and clarified at the April 23, 2012 Joint Planning Commission/Transportation Commission meeting the Planning Commission felt strongly the Fourth Street crossing should only be a bicycle/pedestrian crossing and the Transportation Commission felt it should be vehicular. He stated this came back for

further discussion at the May 16, 2012 meeting and the general consensus was for this to stay as a pedestrian and bicycle crossing.

Mr. Faught provided a short presentation on the TSP Update and highlighted some of the key elements of the Plan, including:

- 1) Policy #27 develops a fee in lieu of policy for shared street sidewalk projects.
- 2) Study #10 will evaluate pedestrian flows, crossing demand, and safety along Siskiyou Blvd. from Highway 66 to Beach Street and will include an evaluation of a pedestrian bridge.
- 3) Study #2 will explore a package of improvements including a reduction to two lanes on East Main Street with wider sidewalks, a protected bike lane, truck loading zones, and parking management.
- 4) Updates to a number of maps, including the street functional classification map, the street dedication map, the planned shared streets map, the sidewalk priority projects map, the existing and planned bikeway network map, the existing and planned transit service map, the rubber tire trolley route and stops map, and the planning intersection and roadway projects map.
- 5) Project #R31 – Wimer Street Extension. Mr. Faught clarified the location of the street extension is conceptual until a development proposal comes forward and recommended the line be taken off the map and include a notation that states the exact location of R31 shall be refined at the time of annexation.
- 6) Project funding and timelines.

Mr. Faught commented briefly on Project #R25 – Washington Street Extension and clarified the City Council has approved a letter of intent to work with the property owner Zach Brombacher on this connection. Additionally, he clarified the Clay Street roadway connection will not be required unless there is a redevelopment of the manufactured home park.

Mr. Faught responded to the recommended conditions of approval proposed by the Planning staff. He stated for the most part they are in agreement, however for Condition #2 instead of replacing the map he proposed including an additional map that depicts the recently updated and adopted Jackson County coordinated population projection. He also commented on Condition #6 which requires a notation on the Street Dedication Map that states the location of the Clay Street connection shall be determined at time of development and stated the more appropriate location for this notation is on Table 10-3 (pg.136).

Public Testimony

Zach Brombacher/1370 Tolman Creek Road/Thanked the City for respecting him as a land owner and stated he and staff have worked hard to come up with a solution that will work for his family, his property, and the City. Mr. Brombacher noted the letter of intent from the City Council for the road connection through his property to Washington Street, but noted he still has the right the back out of this.

Alec Hoffman/101 Prather Street/Commented on the Wimer Street extension and stated he is pleased to hear staff's recommendation for any specific lines to be removed from the map. Mr. Hoffman expressed concern with the process and noticing that was done and stated many of his neighbors were not aware of this plan. He stated the City should have solicited input from the neighbors since they are the ones that will be directly impacted by this and recommended there be more public input on this issue before this moves onto the City Council.

Deliberations and Decision

The Commission held general discussion on the Transportation System Plan Update and the following comments, concerns and suggestions were made:

- Concern was expressed that changing the Normal Street crossing from private to public is going to be a problem. Mr. Faught responded that he would check with the railroad and confirm this is feasible.
- Comment was made that the policy regarding the fee in lieu of sidewalks appears to be a change from what was originally discussed; Specifically, that this could be done regardless of whether it is a shared road. Mr. Faught stated the Planning Commission could amend the language on pg. 93 to read: *"The City of Ashland should develop a fee in lieu of policy for sidewalk construction projects that apply to streets designated as Shared Streets as well as any other streets the Planning Commission requests or approves in order to help complete higher priority sidewalks first."* Mr. Molnar clarified this fee will come back as a separate ordinance and the Commission will have the opportunity to refine the language at that time.

Commissioners Kaplan/Miller m/s to continue the meeting to 10:00 p.m. Voice Vote: all AYES. Motion passed 6-0.

- Clarification was requested on whether the Clear Creek road extension will be development driven. Mr. Faught answered it is a combination of system development charges (SDCs) and development. He added this is one of the high priority projects and they will need to start collecting SDCs to get funding for the project.
- Concern was raised that they are making a change to a central component in railroad master plan and they have failed to follow through with its implications. Additional comment was made that there are issues that are unresolved and the land use integration is missing.
- Comment was made that sidewalks on both sides of the street are not always necessary but some of the diagrams in the TSP appear to indicate this. Mr. Faught clarified the diagrams are meant to depict typical cross-sections for the different types of the streets and the actual sidewalk requirements are listed in the adopted Street Standards.
- Concern was expressed that the landscape is too steep for a new roadway from East Main to Ashland Street (Project #R26) and that the Normal Avenue Extension (Project #R19) would access East Main Street on a curve. Mr. Faught commented that these are important connections and will be evaluated much closer once development proposals come forward. Mr. Molnar added if during the Normal Avenue planning process a change is deemed necessary, an amendment to the Street Dedication Map will be part of the adoption process.
- Concern was expressed that transportation planning for the downtown core was not more of a focus and that because they were unable to reach consensus on significant decisions these issues have been deferred to future studies. Mr. Faught explained the TSP is meant to be a big picture plan and is not meant to drill down these types of work. He stated what they do in the downtown in a big deal and there were not enough of the impacted business owners at the table during the TSP process to make these determinations. He added the concepts that were discussed during this process will not go away and will move forward into the next evaluation stage.

Commissioners Kaplan/Dawkins m/s to continue the meeting to 10:30 p.m. Voice Vote: all AYES. Motion passed 6-0.

Mr. Molnar clarified staff is comfortable with the two changes to the conditions of approval recommended by Mr. Faught.

Commissioners Brown/Heesacker m/s for the Planning Commission to recommend Council's approval of the Transportation System Plan Update with the conditions of approval as modified. Roll Call Vote: Commissioners Brown, Dawkins, Heesacker, Kaplan, Miller and Mindlin, YES. Motion passed 6-0.

ADJOURNMENT

Meeting adjourned at 10:05 p.m.

FINDINGS

PA-2012-01414
180 Nutley Street

BEFORE THE PLANNING COMMISSION
December 11, 2012

IN THE MATTER OF PLANNING ACTION #2012-01414, A REQUEST FOR)
MINOR LAND PARTITION TO CREATE TWO PARCELS, THE EXISTING)
SINGLE FAMILY RESIDENCE WOULD REMAIN AT 180 NUTLEY AND) **FINDINGS,**
THE NEW ACCESSORY GUEST HOUSE WOULD BE CONVERTED TO A) **CONCLUSIONS**
SINGLE FAMILY RESIDENCE ON SCENIC. THE REQUEST INCLUDES A) **AND ORDERS**
VARIANCE TO THE REAR YARD SETBACK TO REDUCE THE REQUIRED)
SETBACK FROM 20-FEET TO 10 ½ FEET. THE APPLICANT IS ALSO)
REQUESTING AN EXCEPTION TO THE STREET STANDARDS TO NOT)
INSTALL SIDEWALKS ALONG SCENIC DRIVE.)

APPLICANT: Power Plus Homes LLC)
)

RECITALS:

- 1) Tax lot #5600 of Map 39 1E 08AD is located at 180 Nutley Street and is zoned Single Family Residential (R-1-7.5).

- 2) The applicants are requesting minor land partition approval to create two parcels, the existing single family residence would remain at 180 Nutley Street and the new accessory guest house would be converted to a single family residence on Scenic. A Variance to reduce the required rear yard setback from 20-feet to 10 ½ feet was also proposed. The applicant also requested an Exception to Street Standards to not install sidewalks along the Scenic Drive frontage. The details of the applicant's plans are outlined on the plans on file at the Department of Community Development.

- 3) **The criteria for Minor Land Partition approval are described in 18.76.050 as follows:**
An application for a preliminary partition shall be approved when the following conditions exist:
 - A. The future use for urban purposes of the remainder of the tract will not be impeded.
 - B. The development of the remainder of any adjoining land or access thereto will not be impeded.
 - C. The tract of land has not been partitioned for 12 months.
 - D. The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.
 - E. The partitioning is in accordance with the design and street standards contained in the Chapter 18.88, Performance Standards Options.
 - F. When there exists adequate public facilities, or proof that such facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.
 - G. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.
 1. The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:
 - a. The unpaved street is at least 20-feet wide to the nearest fully improved

- collector or arterial street.
- b. The centerline grade on any portion of the unpaved street does not exceed ten percent.
- 2. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- H. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.

The criteria for an Exception to the Street Standards are described in 18.88.050.F as follows:

An exception to the Street Standards is not subject to the Variance requirements of section 18.100 and may be granted with respect to the Street Standards in 18.88.050 if all of the following circumstances are found to exist:

- A. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.
- B. The variance will result in equal or superior transportation facilities and connectivity;
- C. The variance is the minimum necessary to alleviate the difficulty; and
- D. The variance is consistent with the stated Purpose and Intent of the Performance Standards Options Chapter.

The criteria for a Variance are described in 18.100.020 as follows:

- A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.
- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.
- C. That the circumstances or conditions have not been willfully or purposely self-imposed.

4) The Planning Commission, following proper public notice, held a public hearing on December 11, 2012 at which time testimony was received and exhibits were presented. The Planning Commission denied the application, noting that the application had failed to meet the burden of proof for approval of the Variance request.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the following index of exhibits, data and testimony is used:

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the Staff Report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the Variance request to reduce the required rear yard setback from 20-feet to 10 ½ feet does not establish a unique or unusual circumstance which applies to the subject site which does not typically apply elsewhere. The Planning Commission finds that the oversized corner lot is unusual, but the placement of the accessory guest house too close to what becomes the rear property line upon partition thereby necessitating the variance request was not a unique circumstance. The Planning Commission finds the application does not satisfy the approval criteria 18.100.020.A for a Variance which requires that there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.

2.3 The Planning Commission finds that Variance to the rear yard setback will have negative impacts on the development of the adjacent uses as the Variance mostly affects the neighbor's property to the West. The Planning Commission finds that the purpose of established setbacks is to provide protections for adjacent property owners. The Planning Commission finds that the ability to partition the lot would further the purpose and intent of this ordinance and the Comprehensive Plan of the City by providing additional density in close proximity to the city center, but that the negatives of the impact to the neighbor properties outweigh the benefits. The Planning Commission finds the application does not satisfy the approval criteria 18.100.020.B for a Variance which requires that the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses.

2.4 The Planning Commission finds that the circumstances that lead to the Variance was a self imposed situation which according to testimony at the public hearing was attributed to the applicant's representatives at the time of planning and constructing the guest house. The guest house was constructed to the side yard setbacks of the code, and met the requirements at that time. However, in order to partition the parent parcel into two lots, what was the side yard would become the rear yard for the Scenic Dr./guest house lot upon partition. As a result, what was a side yard in the parent parcel would become a rear yard for the Scenic Dr./guest house proposed lot. The guest house structure was placed closer to the proposed potential new rear property line than is permitted, and created a generous front yard area. The Commission finds that there would have been adequate space to move the guest house towards Scenic Dr. an additional 9 ½ feet to meet the rear yard setback requirement, and there are no physical constraints that would have prevented the shift in footprint. As a result, the structure could have been placed in position to meet the rear yard setback requirement in anticipation of a future partition request. The Planning Commission finds the application does not satisfy the approval criteria 18.100.020.C for a Variance which requires that the circumstances or conditions have not been willfully or purposely self-imposed.

SECTION 3. DECISION

3.1 Based on the evidence contained within the record of the matter, the Planning Commission concludes that the proposal for variance to the rear yard setback is not supported by evidence contained within the record.

3.2 Therefore based on our overall conclusions, Planning Action 2012-01414, a request for a minor land partition, variance to the rear yard setback and exception to the street standards, is denied.

Planning Commission Chair

January 8, 2013

Date

DISCUSSION ITEM

Unified Land Use Ordinance Project

Part 5: Application Review Procedures & Approval Criteria

Memo

DATE: January 8, 2013

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: Unified Land Use Ordinance Project
Part 5 – Application Review Procedures and Approval Criteria

SUMMARY

The first draft of Part 5 Application Review Procedures and Approval Criteria of the unified ordinance is attached for the Planning Commission review and discussion.

DRAFT PART 5 – APPLICATION REVIEW PROCEDURES AND APPROVAL CRITERIA

QUESTION: Does the Planning Commission have comments on Part 5 Application Review Procedures and Approval Criteria of the unified ordinance?

BACKGROUND: Part 5 covers the application procedures for planning approvals. Currently, some of the information is included in the Procedures chapter, as well as the individual chapters on Site Review, Land Divisions, etc. The intent is to have all of the application procedure information in once place. The standards that are included in the various chapters currently will be relocated into Part 4 Site Development and Design Standards. The material consolidated and reformatted in Part 5 is from the following chapters in the existing code.

- Chapter 18.72 Site Design Review
- Chapter 18.76 Partitions
- Chapter 18.80 Subdivisions
- Chapter 18.100 Variances
- Chapter 18.104 Conditional Use Permits
- Chapter 18.106 Annexations
- Chapter 18.108 Procedures
- Chapter 18.112 Enforcement

The draft of Part 5 is attached, as well as the Unified Ordinance Outline. Part 5 has mostly been a consolidation and reformatting effort, and includes limited changes to content. The amendments to the ordinance that change the content or add new material are covered in comment boxes.

SUMMARY OF AMENDMENTS: The potential amendments that are substantive in nature are summarized below.



- **Combination of Type III and Legislative Procedures** - see pp 5-4 and 5-5, 18-5.1.010.B.4 and pp 5-77 and 5-78 Chapter 18-5.8 Plan Amendments and Zone Changes

While this item does not involve procedural changes and isn't substantive in nature, staff believes it is important to address because it may be perceived as a change. Currently, Chapter 18.108 Procedures includes five different types of planning actions – Ministerial, Type I, Type II, Type III and Legislative. The types of actions are unchanged in the draft unified code, except that the Type III and Legislative groups are combined. The existing Type III and Legislative categories overlap by addressing the same type of “legislative” action, and the intent of the combining the two existing categories is to eliminate duplication and provide clarity for use and administration.

The “legislative” actions include the Type III actions (i.e. Zoning Map changes, Comprehensive Plan map or other official map changes, annexations and Urban Growth Boundary amendments) and Legislative actions (i.e. Land Use Ordinance amendments and Comprehensive Plan text amendments) from the current code, which have been combined into the Type III category (Legislative Decision) in the draft Unified Ordinance. The review process is the same as in the current code with recommendation by the Planning Commission after a public hearing and a decision by the City Council after a second public hearing.

The current code gives the Planning Commission the authority to approve zoning map amendments consistent with the Comprehensive Plan map, or to make other minor amendments or corrections that are quasi-judicial. In the draft unified code, these actions have been moved to the Type II quasi-judicial procedure which is consistent with the current procedure in 18.108.060.C.2 where a quasi-judicial decision is made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. The quasi-judicial actions are generally small-scale (e.g. a request to rezone one parcel), and involve the application of existing law to a particular case.

In contrast to the Type II quasi-judicial zone changes, the Type III procedures are “legislative actions” that apply to the creation, revision or large-scale implementation of public policy including adoption of regulations, zone changes for large-scale areas, zone changes requiring a comprehensive plan amendment, comprehensive plan map or text amendments, annexations and urban growth boundary amendments. Legislative actions make law or policy, as opposed to the application of existing law to a particular case.

- **Expedited Land Divisions** – p 5-5, Table 18-5-1.010
The ordinance includes a section on Expedited Land Divisions in 18.108.030, which was added in 2008. The Oregon Model Code suggests including a reference to the Oregon Revised Statutes (ORS) rather than including the text in the code. This provision has not been used in Ashland after the inclusion in the code in 2008, and Staff recommends deleting this section and adding a reference to the ORS as recommended in the state’s model code.



- **Effective Date of Type I Decision** – see p 5-14, 18-5.1.050.E
Currently the effective date of a Type I decision is 13 days after the mailing of the notice of decision. Staff is suggesting changing this to 12 days for consistency with state law (ORS 227.175.10.a.C).
- **Effective Date of Type II Decision** – see p 5-20, 18-5.1.060.F
Currently, a Type II (Public Hearing Review) decision becomes final 13 days after mailing. This 13-day period is the time in which the Planning Commission’s decision can be appealed to the City Council. This time frame is not required by state law, and staff is suggesting reducing the time frame to 10 days.
- **Submitting Information for to Complete an Application** – see p 5-26, 18-5.1.090.A
Currently, when an application is incomplete, the code allows 31 days to submit the missing information, which is inconsistent with state law which allows 180 days to submit the missing information. Staff recommends amending the ordinance to reflect the state requirement.
- **Site Review Submittals** – see pp 5-34 and 5-35, 18-5.2.040
Staff suggests including requirements for Site Review applications for information on pedestrian and bicycle circulation, outdoor lighting, mail boxes and bus stops. In addition, staff suggests including a requirement for a preliminary grading plan for sites that are ½ acre or larger.
- **Final Plat Submission** – see pp 5-42 and 5-51, 18-5.3.030.B and 18-5.3.090.A
Currently, the requirement for a final plat submission for a partition is 18 months, and is 12 months for a subdivision. The consolidated procedure for final plat submission in the unified code uses 18 months – this would apply to both partitions and subdivisions.
- **City Facilities Approval Criteria**
see pp 5-36 and pp 5-61, Site Design Review and Conditional Use Permit chapters
Currently, Site Review and Conditional Use Permits have a requirement regarding adequate capacity of city utilities and transportation facilities. Specifically, the criteria includes language regarding paved access “to and through the development.” Staff believes the intent of the “through” language is regarding internal circulation for vehicles throughout the development, and recommends that this language be revised to “throughout” for specificity.
- **Target Use for the C-1 and E-1 Zones** – p 5-62, 18-5.4.040.A.5 d and f
Currently, the target use of C-1 and E-1 zoned properties is based on retail commercial and general office uses developed at an intensity of .35 floor area ratio (FAR). Staff recommends increasing the FAR from .35 to .50 to reflect the recent updates to the Detail Site Review Zone requirements. The target use is used for the analysis of impacts of a proposed conditional use application.
- **Variance Criteria** - p 5-66, 18-5.5.030 B and E
Staff suggests consideration of two additional approval criteria for variance applications. Item B addresses requesting the minimum necessary to address the special circumstances of the site, and Item E requires consistency with all other applicable regulations.



- **Issuing a Building Permit for an Approved Variance** – pp 5-66 and 5-67, 18-5.5.040
The current ordinance requires a 15 day period after a variance is approved to issue a building permit. Staff recommends changing this to the effective date of the decision, which will insure that the local appeal period has passed and the decision is final.
- **Chapter 18-5.6 Modifications to Approved Planning Applications** – pp 5-68
Currently, modifications are minimally addressed in the procedures chapter, and as a result, the draft chapter is new. The chapter is based on the Oregon Model Code, and uses thresholds to distinguish “major” and “minor” modifications. Major modifications are processed through the same approval process as the original approval, and minor modifications can be processed through the Ministerial procedure, or the Type I procedure when discretion is used in making the decision. The Staff Advisor makes the determination for the review procedure on minor modifications.

ATTACHMENTS

1. Unified Ordinance Outline
2. Title 18 – Part 5 – Application Review Procedures and Approval Criteria



Ordinance Outline

The following outline groups similar code functions together into six distinct parts of the land use ordinance (Title 18), with each part containing a suite of related chapters, and subsections with each chapter.

18-1 General Provisions

- 18-1.1 Introduction
- 18-1.2 Title, Purpose and General Administration
- 18-1.3 Lot of Record and Legal Lot Determination
- 18-1.4 Non-Conforming Situations
- 18-1.5 Ordinance Interpretations
- 18-1.6 Zoning Permit Expiration, Extension and Enforcement

PC reviewed at 9/25/12 meeting

18-2 Zoning Regulations

- 18-2.1 Zoning Regulations – General Provisions
- 18-2.2 Base Zones – Allowed Uses
- 18-2.3 Special Use Standards
- 18-2.4 General Regulations for Base Zones
- 18-2.5 Standards for Residential Zones
- 18-2.6 Standards for Non-Residential Zones

PC reviewed at 11/13/12 meeting

18-3 Special Districts and Overlay Zones

- 18-3.1 Special District and Overlay Zone Purpose and Administration
- 18-3.2 Croman Mill District
- 18-3.3 Health Care Services District
- 18-3.4 North Mountain Neighborhood District
- 18-3.5 Southern Oregon University District
- 18-3.6 Airport Overlay

PC reviewed at 11/27/12 meeting



18-3.7 Freeway Sign Overlay

18-3.8 Performance Standards Options Overlay

18-3.9 Physical and Environmental Constraints Overlays (Floodplain Corridors, Hillside Lands, Severe Constraints, Wildfire Lands)

18-3.10 Water Resource Overlay

18-3.11 Site Development and Design Overlays (Detail Site Review, Downtown Design, Historic District, Pedestrian Place)

18-3.12 Residential Overlay

18-4 Site Development and Design Standards

18-4.1 Design Standards Administration

18-4.2 Building Placement and Orientation

18-4.3 Access and Circulation

18-4.4 Parking and Loading

18-4.5 Landscaping and Screening

18-4.6 Light and Glare

18-4.7 Public Facilities and Utilities

18-4.8 Recycling Requirements

18-4.9 Sign Regulations

18-4.10 Solar Access

18-4.11 Subdivision Design Standards

18-4.12 Grading and Excavation

18-4.13 Tree Preservation and Protection

18-4.14 Wireless Communication and Facilities and Disc Antennas

18-5 Application Review Procedures and Approval Criteria

18-5.1 General Review Procedures

18-5.2 Site Design Review

Scheduled
for PC
Review at
1/8/13
meeting



18-5.3 Land Divisions and Property Line Adjustments

18-5.4 Conditional Use Permits

18-5.5 Adjustments and Variances

18-5.6 Modifications to Approved Planning Applications

18-5.7 Annexations

18-5.8 Plan Amendments and Zone Changes

18-5.9 Ballot Measure 49 Claims

18-6 Definitions and Rules of Measurements



PART 18-5 – APPLICATION REVIEW PROCEDURES AND APPROVAL CRITERIA	5-3
Chapter 18-5.1 – General Review Procedures	4
18-5.1.010 Purpose	4
18-5.1.020 Determination of Review Procedure	7
18-5.1.030 Pre-application Conference and Consolidated Review Procedure.	8
18-5.1.040 Ministerial Procedure (Staff Advisor Decision)	9
18-5.1.050 Type I Procedure (Administrative Decision With Notice)	10
18-5.1.060 Type II Procedure (Quasi-Judicial Decision – Public Hearing)	16
18-5.1.070 Type III (Legislative Decision)	23
18-5.1.080 Priority Processing for LEED Certified Buildings	25
18-5.1.090 Complete Application and Time Limits	26
Chapter 18-5.2 - Site Design Review	27
18-5.2.010 Purpose	27
18-5.2.020 Applicability	27
18-5.2.030 Review Procedures	31
18-5.2.040 Application Submission Requirements	32
18-5.2.050 Approval Criteria	36
18-5.2.060 Public Improvements Guarantee	37
18-5.2.070 Approval Period and Extensions	37
18-5.2.080 Power to Amend Plans	38
Chapter 18-5.3 – Land Divisions and Property Line Adjustments	39
18-5.3.010 Purpose	39
18-5.3.020 Applicability and General Requirements	40
18-5.3.030 Preliminary Plat Approval Process	42
18-5.3.040 Preliminary Plat Submissions	44
18-5.3.050 Preliminary Partition Plat Criteria	47
18-5.3.060 Flag Lot Partitions	48
18-5.3.070 Preliminary Subdivision Plat Criteria	50
18-5.3.080 Land Division-Related Variances	50
18-5.3.090 Final Plats	51
18-5.3.100 Filing and Recording	54
18-5.3.110 Re-platting and Vacation of Plats	54
18-5.3.120 Property Line Adjustments	55
Chapter 18-5.4 - Conditional Use Permits	57
18-5.4.010 Purpose	57
18-5.4.020 Review Procedure	57
18-5.4.030 Application Submission Requirements	60
18-5.4.040 Approval Criteria	61
18-5.4.050 Revocation; Abandonment	64

18-5.1 – General Review Procedures | Purpose and Applicability

18-5.4.060	Modifications to Conditional Use Permits	64
Chapter 18-5.5	– Adjustments and Variances	65
18-5.5.010	Purpose	65
18-5.5.020	Review Procedure	65
18-5.5.030	Approval Criteria	66
18-5.5.040	Effect	66
18-5.5.040	Expiration	67
Chapter 18-5.6	- Modifications to Approved Planning Applications	68
18-5.6.010	Purpose	68
18-5.6.020	Applicability	68
18-5.6.030	Major Modifications	68
18-5.6.040	Minor Modifications	69
Chapter 18-5.7	- Annexations	71
18-5.7.010	Review Procedure	71
18-5.7.020	Application Submission Requirements	71
18-5.7.030	Initiation by Council	71
18-5.7.040	Approval Criteria and Standards	72
18-5.7.050	Boundaries	76
18-5.7.060	Statutory Procedures	76
Chapter 18-5.8	– Plan Amendments and Zone Changes	77
18-5.8.010	Purpose	77
18-5.8.020	Applicability and Review Procedure	77
Chapter 18-5.9	– Measure 49 Claims	79

Part 18-5 – Application Review Procedures and Approval Criteria

Chapters:

- 18-5.1 General Review Procedures
- 18-5.2 Site Design Review
- 18-5.3 Land Divisions and Property Line Adjustments
- 18-5.4 Conditional Use Permits
- 18-5.5 Adjustments and Variances
- 18-5.6 Modifications to Approved Planning Applications
- 18-5.7 Annexations
- 18-5.8 Plan Amendments and Zone Changes
- 18-5.9 Ballot Measure 49 Claims

Chapter 18-5.1 – General Review Procedures

Comment: This chapter updates 18.108 for clarity and ease of use. The format is based on the Oregon Model Code.

Sections:

18-5.1.010	Purpose and Applicability
18-5.1.020	Determination of Type I or Type II Review Procedure
18-5.1.030	Pre-application Conference and Consolidation of Reviews
18-5.1.040	Ministerial Procedure (Staff Advisor Decision)
18-5.1.050	Type I Procedure (Administrative Decision With Notice)
18-5.1.060	Type II Procedure (Quasi-Judicial Decision - Public Hearing)
18-5.1.070	Type III Procedure (Legislative Decision)
18-5.1.080	Complete Application and Time Limits

18-5.1.010 Purpose and Applicability

- A. Purpose.** This chapter establishes procedures to initiate and make final decisions on planning actions under Title 18, pursuant to city policy and state law.
- B. Applicability of Review Procedures.** All planning actions shall be subject to processing by one of the following procedures, as summarized in subsections 1-4, below, and as designated in Table 18-5.1.010. Building permits and other approvals, including approvals from other agencies such as the state department of transportation or a natural resource regulatory agency, may be required. Failure to receive notice of any such requirement does not waive that requirement or invalidate any planning action under Title 18.
- 1. Ministerial Action (Staff Advisor Decision).** Ministerial decisions are made by the Staff Advisor by applying City standards and criteria that do not require the use of substantial discretion (e.g. fence, sign and home occupation permits). A public notice and public hearing are not required for Ministerial decisions. Procedures for Ministerial actions are contained in section 18-5.1.040.
 - 2. Type I Procedure (Administrative Decision With Notice).** Type I decisions are made by the Staff Advisor with public notice and an opportunity for appeal to the Planning Commission. Procedures for Type I actions are contained in section 18-5.1.050.
 - 3. Type II Procedure (Quasi-Judicial Review/Public Hearing Review).** Type II decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. Procedures for Type II actions are contained in section 18-5.1.060.

Comment: Currently, Chapter 18.108 Procedures includes five different types of planning actions – Ministerial, Type I, Type II, Type III and Legislative. The types of actions are unchanged in the draft Unified Ordinance, except that the Type III and Legislative groups are combined.

The current code gives the Planning Commission the authority to approve zoning map amendments

18-5.1 – General Review Procedures | Purpose and Applicability

consistent with the comprehensive plan map, or to make other minor amendments or corrections that are quasi-judicial. In the draft Unified Ordinance, these actions have been moved to the Type II procedure which is consistent with current procedure in 18.108.060.C.2 where a decision is made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

The remaining Type III actions (i.e. Zoning Map changes, Comprehensive Plan map or other official map changes, annexations and Urban Growth Boundary amendments) and Legislative actions (i.e. Land Use Ordinance amendments and Comprehensive Plan text amendments) from the current code have been combined into the Type III category (Legislative Decision) in the draft Unified Ordinance. The process is the same as in the current code with recommendation by the Planning Commission after a public hearing and a decision by the City Council after a second public hearing. Legislative actions make law or policy, as opposed to the application of existing law to a particular case. The existing Type III and Legislative categories overlap by addressing largely the same type of action, and the intent of the combining the two existing categories is to eliminate duplication and provide clarity for use and administration.

- 4. Type III Procedure (Legislative Decision).** 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, and urban growth boundary amendments. Type III actions are reviewed by the Planning Commission, which makes a recommendation to City Council. City Council makes final decisions on legislative proposals through enactment of an ordinance.

Comment: Table 18-5.1.010 summarizes existing procedures and cross-references new Unified Code chapters.

The ordinance was updated in 2008 to include section 18.108.030 Expedited Land Divisions. The Oregon Model Code simply contains a reference to the Oregon Revised Statutes rather than including the text in the code. Since this provision has not been used, staff recommends following the model code approach by adding a reference to the ORS and deleting this section from the Unified Code.

Table 18-5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Access to a Street/Driveway Approach	Ministerial	Chapter 18.4.3
Annexation	Type III	Chapter 18-5.7; See Oregon Revised Statute 222.
Code Interpretation	Type I or II	Chapter 18-1.5
Code Text Amendment	Type III	Chapter 18-5.8
Comprehensive Plan Amendment	Type III	Chapter 18-5.8
Conditional Use Permit	Type I or II	Chapter 18-5.4

18-5.1 – General Review Procedures | Purpose and Applicability

Table 18-5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Conversion of Multifamily Dwelling Units into For-Purchase Housing	Ministerial	Section 18-2.3.190
Exception to Site Development and Design Standards	Type I	Chapter 18-4 (See applicable chapters of 18-4.)
Exception to Street Standards	Type I	Section 18-3.8.050.F Performance Standards Option
Expedited Land Division	Special Procedure	Unless this procedure is used frequently, consider removing it from ALUO and refer to ORS.
Extension of Time Limit for Approved Planning Action	Ministerial	Section 18-5.1.080
Fence	Ministerial	Section 18-2.4.060
Hillside Standards – Administrative Variance	Type I	Section 18-3.070.H
Home Occupation Permit	Ministerial	Section 18-2.3.150
Land Use Control Maps Change	Type II or III	Chapter 18-5.8
Legal Lot Determination	Ministerial	Chapter 18-1.3
Modification to Approval Minor Modification Major Modification	Ministerial Per original review	Chapter 18-5.6 ; or 18-5.2.080 when modifying a Site Design Review approval
Non-Conforming Use or Structure, Expansion of	Per Building Permit review	Chapter 18-1.4
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat	Type I Ministerial	Chapter 18-5.3 Chapter 18-5.3
Performance Standards Option Outline Plan Final Plan	Type II Type I	Chapter 18-3.8 Chapter 18-3.8
Physical and Environmental Constraints Permit	Type I	Chapter 18-3.9
Property Line Adjustments, including Lot Consolidations	Ministerial	Chapter 18-5.3
Sign Permit	Ministerial	Chapter 18-4.7
Site Design Review	Type I or II	Chapter 18-5.2; Section 18-5.2.030
Solar Setback Variance	Type I	Chapter 18-4.8
Subdivision or Replat of >3 lots Preliminary Plat Final Plat	Type I or II Ministerial	Chapter 18-5.3 Chapter 18-5.3
Tree Removal Permit	Type I	Chapter 18-4.11

18-5.1 – General Review Procedures | Purpose and Applicability

Table 18-5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Variance	Type I or II	Chapter 18-5.5
Water Resources Protection Zone – Hardship Variance	Type II	Section 18-4.10.090
Water Resources Protection Zone Reduction	Type I or II	Section 18-4.10.070
Water Resources Protection Zone – Limited Activities and Uses	Type I	Section 18-4.10.060
Zoning District Map Change	Type II or III	Chapter 18-5.8

18-5.1.020 Determination of Type I or Type II Review Procedure

Where Table 18-5.1.010 designates more than one possible review procedure, e.g., Type I or Type II, the applicable review procedure shall be based on the criteria contained in the ordinance chapters or sections referenced in the table.

18-5.1.030 Pre-application Conference and Consolidation of Reviews.

Comment: Subsection A carries forward and combines 18.108.015 Pre-Application Conference and 18.108.017.B. Subsection B carries forward and edits 18.108.025 Consolidated Review Procedures.

- A. Pre-Application Conference.** All applicants for Type I, II, and III planning actions, and Expedited Land Divisions, shall have completed a pre-application conference for the project within a 6-month time period preceding the filing of the application. The Staff Advisor may waive this requirement if in the Staff Advisor's opinion the information to be gathered in a pre-application conference already exists in the final application. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this ordinance, provide for an exchange of information regarding applicable elements of the comprehensive plan and development requirements, and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Staff advisor is authorized to create procedures allowing for electronic or other alternative forms of conferences.
- B. Consolidated Review Procedures.** An applicant may apply at one time for all permits and approvals needed for a project proposal. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall follow the most restrictive procedure in the development project.

18-5.1.040 Ministerial Procedure (Staff Advisor Decision)

Comment: This section carries forward and updates sections 18.108.020 Types of Procedures and 18.108.22 Ministerial Action Time Limits. (See also, Table 18-5.1.010). Currently, section 18.108.022 states, in part, “The Staff Advisor shall not accept applications which [sic] cannot be acted upon initially in a rational manner within seven days of receipt unless the applicant consents to a longer period for action.” This provision has been deleted because the code allows more than 7 days for action and there is no state requirement that ministerial reviews occur within that timeframe.

A. Ministerial Procedure (Staff Review). Ministerial decisions are made by the Staff Advisor. A public notice and public hearing are not required for Ministerial decisions. Ministerial decisions are those where the application of City standards and criteria does not require the exercise of substantial discretion.

B. Application Requirements and Review.

- 1. Application Form and Fee.** Applications requiring Ministerial review shall be made on forms provided by the City and include any plans, exhibits, or other submittals required pursuant to the applicable sections of this ordinance. One or more property owners of the property for which the planning action is requested and their authorized agents, as applicable, must sign the application. The application shall not be considered complete unless the appropriate application fee accompanies it.
- 2. Decision.** Within twenty-one (21) days after accepting a complete application for a Ministerial review the Staff Advisor shall approve or deny the application, unless such time limitation is extended with the consent of the applicant.

C. Building Permits. The City shall not issue a building permit for a project subject to review under this section, until the Staff Advisor has approved the Ministerial application.

D. Criteria and Decision. The Staff Advisor, in approving a Ministerial application, may find that other City permits or approvals are required prior to issuance of construction or building permits, in which case the Staff Advisor may specify the required permits and approvals with the Ministerial decision.

E. Effective Date. A Ministerial decision is final on the date it is signed by the Staff Advisor.

18-5.1 – General Review Procedures | Type I Procedure

18-5.1.050 Type I Procedure (Administrative Decision With Notice)

Comment: The following Type I procedures replace the procedures in 18.108.040 Type I Procedure, which do not contain important elements, such as application submittal requirements and land use review timelines per ORS 197.195 and ORS 227.178.

Type I decisions are made by the Staff Advisor, following public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission.

A. Application Requirements.

1. **Application Form and Fee.** Applications for Type I review shall be made on forms provided by the Staff Advisor. One or more property owners of the property for which the planning action is requested, and their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless the appropriate application fee accompanies it.
2. **Submittal Information.** The application shall include all of the following information:

Comment: The following list is updated for consistency with other ordinance sections, and it gives the Staff Advisor authority to require specific information as needed to ensure an application is complete.

- a. The information requested on the application form;
- b. Plans and exhibits required by this ordinance for the specific approvals sought, including information the Staff Advisor deems necessary to provide a complete application;
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable; and
- e. The required fee.

18-5.1 – General Review Procedures | Type I Procedure

B. Notice of Application.

Comment: The following provisions carry forward and update the existing review timelines and notification requirements of section 18.108.040. The timeframes and distribution lists for required notices are updated per ORS 227.175 and 197.195 Limited land Use Decisions, and for consistency between code sections.

- I. The City shall mail a notice of a pending Type I application to the following individuals and agencies within ten (10) days of deeming the Type I application complete. The purpose of the notice is to give nearby property owners and other interested people and agencies the opportunity to review and submit written comments on the application before the City makes a decision on it. The City shall mail the notice of Pending Administrative Decision to the all of following individuals and agencies:
 - a. Applicant;
 - b. Owners of the subject property;
 - c. Owners of record for properties located within two hundred (200) feet of the perimeter of the subject site;
 - d. Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.;
 - e. Where an application subject to Type I review is preceded by a Type II decision, to parties of record from the subject Type II decision; and

Comment: Subsection 'f', below, clarifies and updates the notification requirements for amended applications.

- f. For applications to amend an approval, , to persons who requested notice of the original application that is being amended or modified, except that where the mailing address of a person entitled to notice is not the same as the mailing address of record in the original approval, the City is not required to mail notice.
2. The written Notice of Application shall include all of the following:
 - a. The street address or other easily understandable reference to the location of the proposed use or development;
 - b. A summary of the proposal;
 - c. The applicable criteria for the decision, listed by commonly used citation;
 - d. Date and time that written comments are due, and the physical address where comments must be mailed or delivered;
 - e. An explanation of the 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the city within the 14-day period;

Comment: The 14-day comment period above is a current ordinance requirement, and is per ORS 197.195.

18-5.1 – General Review Procedures | Type I Procedure

- f. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards are available for review and that copies will be provided at a reasonable cost;g. A statement that a person who fails to address the relevant approval criteria with enough detail, may not be able to appeal to the Planning Commission on that issue;
 - h. The name and phone number of a city contact person; and
 - i. A brief summary of the Type I review and decision process.
3. The City shall post the Notice of Public Hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the Staff Advisor. Posting shall occur not later than the date of the mailing of the notice.

Comment: The city currently requires public notice of the pending decision be posted on the site. This is common practice in many jurisdictions, but is not an ORS requirement.

4. The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

C. Decision. Within forty-five (45) days of the City’s determination that an application is complete, unless the applicant agrees to a longer time period, the Staff Advisor shall approve, conditionally approve, or deny a Type I application.

Comment: The above 45-day deadline is an existing ALUO requirement and is not required by ORS.

D. Notice of Decision.

Comment: The following 5-day deadline for mailing a Type I decision is not required by ORS but it is a reasonable timeframe. The notification area (200 feet), which exceeds the ORS requirement of 100 feet, is per the existing ALUO.

- 1. Mailing of Notice of Decision.** Within five (5) days after the Staff Advisor renders a decision, the City shall mail notice of the decision to the following:
 - a. Applicant;
 - b. Owners of the subject property;
 - c. Owners of record for properties located within two hundred (200) feet of the perimeter of the subject site;
 - d. Neighborhood group or community organization officially recognized by the city that includes the area of the subject property;
 - e. Any group or individual who submitted written comments during the comment period; and
 - f. Those groups or individuals who requested notice of the decision.
- 2. Content of Notice of Decision.** The notice shall include all of the following:
 - a. A description of the nature of the decision;
 - b. An explanation of the nature of the application and the proposed use or uses, which could be authorized;
 - c. The street address or other easily understandable reference to the location of the proposed use or development;
 - d. The name and phone number of a city contact person;
 - e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and applicable criteria and standards are available for review and that copies will be provided at reasonable cost;
 - f. A statement that any person who was mailed a written notice of the decision may request reconsideration or appeal as provided in subsection 18-5.1.050.G;
 - g. A statement that the decision becomes final when the period for filing a local appeal has expired; and
 - h. An explanation that a person who is mailed written notice of the decision cannot appeal directly to LUBA; an appeal must be filed with the City before a party with standing may appeal to LUBA.
- 3. Certification of Notices.** The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

18-5.1 – General Review Procedures | Type I Procedure

Comment: The following changes the effective date from 13 days after mailing of the notice of decision to 12 days after mailing where no appeal is filed, for consistency with ORS 227.175.10.a.C.

E. Effective Date of Decision. Unless the conditions of approval specify otherwise or the decision is appealed pursuant to subsection 18-5.1.050.G, a Type II decision becomes effective twelve (12) days after the City mails the notice of decision.

F. Appeal of Type I Decision. A Type I decision may be appealed to the Ashland Planning Commission, pursuant to the following:

1. Standing. The following persons have standing to appeal a Type I decision:

- a. The applicant or owner of the subject property;
- b. Any person who is entitled to written notice of the Type I decision and submits timely written comments on the pending Administrative Decision, pursuant to subsection 18-5.1.050.B; and
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 18-5.1.050.F.1, above, may appeal a Type I decision by filing a Notice of Appeal and paying the appeal fee according to the procedures of this subsection.
- b. *Time for filing.* A Notice of Appeal shall be filed with the Staff Advisor within twelve (12) days of the date the Notice of Decision is mailed.
- c. *Content of notice of appeal.* The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal; and
 - (4) A statement demonstrating that the appeal issues were raised during the public comment period.

3. Scope of appeal. Appeal hearings on Type I decisions made by the Staff Advisor shall be de novo hearings before the Planning Commission. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type I decision, but may include other relevant evidence and arguments. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant ordinance provision.

18-5.1 – General Review Procedures | Type I Procedure

- 4. Appeal Hearing Procedure.** Hearings on appeals of Type I decisions follow the Type II public hearing procedures, pursuant to section 18-5.1.060.G. A decision on an appeal is final the date the City mails it. Appeals of Planning Commission decisions must be filed with the State Land Use Board of Appeals, pursuant to ORS 197.805 - 197.860.

18-5.1 – General Review Procedures | Type II Procedure

18-5.1.060 Type II Procedure (Quasi-Judicial Decision – Public Hearing)

Comment: The following provisions update 18.108.050, per the public hearing procedures in ORS 197.763 and provisions of the Oregon Model Code.

Type II decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

A. Application Requirements.

1. **Application Form and Fee.** Applications for Type II review shall be made on forms provided by the Staff Advisor. One or more property owners of the property for which the planning action is requested, and their authorized agent, as applicable, must sign the application. The required application fee must accompany the application for it to be considered complete.
2. **Submittal Information.** The application shall include all of the following information:

Comment: The following list is updated for consistency with other ordinance sections, and it gives the Staff Advisor authority to require specific information as needed to ensure an application is complete. Item 'f' is an optional provision, per the recommendations under 18-5.1.070.

- a. The information requested on the application form;
- b. Plans and exhibits required by this ordinance for the specific approvals sought, including information the Staff Advisor deems necessary to provide a complete application;
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable; and
- e. The required fee.

B. Procedure.

I. Mailed and Posted Notice.

- a. The City shall mail Notice of Public Hearing not less than ten (10) days before the hearing. Such notice shall be mailed to all individuals and organizations listed below:
 - (1) Applicant;
 - (2) Owners of the subject property;
 - (3) Owners of record for properties located within two hundred (200) feet of the perimeter of the subject site;

Comment: The notification radius of 200 feet is per the current ALUO. The minimum required under ORS 197.763 is 100 feet. A larger notification area is advisable when a community contains large lots or residences are spread far apart.

- (4) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property; and
 - (5) Any person who submits a written request to receive a notice.
- b. The City shall post the Notice of Public Hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the Staff Advisor. Posting shall occur not later than the date of the mailing of the notice.
- c. The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

2. Content of Notices. Notices mailed and posted pursuant to this section shall contain all of the following information:

- a. The street address or other easily understandable reference to the location of the proposed use or development;
- b. A summary of the proposal;
- c. The applicable criteria for the decision, listed by commonly used citation's. The date, time and location of the scheduled hearing;
- d. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards are available for review and that copies will be provided at a reasonable cost;
- e. The name and phone number of a city contact person; and

Comment: Currently section 18.108.050 Type II Procedure states, in part, "Complete applications shall be heard at a regularly scheduled Commission meeting which is held at least 30 days after the submission

18-5.1 – General Review Procedures | Type II Procedure

of the complete application. The revised section does not specify a timeframe for scheduling public hearings, because the City and applicant should have the flexibility to schedule hearings earlier or later, provided the City complies with the 120-day clock for final land use decisions.

- f. A statement that a copy of the City’s staff report and recommendation to the hearings body will be available for review at no cost at least seven (7) days before the hearing, and that a copy will be provided on request at a reasonable cost;
- g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings;
- h. A statement that after the public hearing closes the City will issue its decision and mail it to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice; and

Comment: Item ‘i’ is adapted from ORS 197.763(1) Conduct of local quasi-judicial land use hearings, which is different than the notice requirements for Type I (Limited Land Use) decisions under ORS 197.195.

- i. A disclosure statement that an issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the hearings body and the parties an adequate opportunity to respond to each issue;

C. Conduct of the Public Hearing.

- I. **Announcements.** At the commencement of the hearing, the Chairperson, or his or her designee, shall state to those in attendance all of the following information and instructions:
 - a. The applicable approval criteria by Code chapter that apply to the application;
 - b. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - c. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue may preclude appeal to the State Land Use Board of Appeals on that issue;
 - d. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See subsection 18-5.1.060.G Record of the Public Hearing.

Comment: The procedures for continuances and leaving the record open are added, per ORS 197.763(6).

- e. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 5 of this subsection, or leave the

18-5.1 – General Review Procedures | Type II Procedure

record open for additional written evidence or testimony as provided paragraph 6 of this subsection.

Comment: Subsection 2 below carries forward 18.108.100.B.

2. **Ex Parte Contacts and Conflict of Interest.** The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. After the announcements are made, the Commission or Council members shall declare any actual or potential conflicts of interest and any ex parte contacts including the substance of those contacts and any conclusions the member reached because of those contacts.
 - a. No member shall serve on any proceeding in which such member has an actual conflict of interest; in which the member, or those persons or businesses described in ORS 227.035, has a direct or substantial financial interest; or in which the member is biased. If a member refuses to disqualify him or herself, the Board, for hearings before the Board; the Commission, for hearings before the Commission, or the Council for hearings before the Council, shall have the power to remove such member for that proceeding.
 - b. All parties shall be advised that they have the right to rebut the substance of any ex parte communications.
3. **Presenting and Receiving Evidence.**
 - a. The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section;
 - c. Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
4. The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record, except that the hearing body may take notice local, state, or federal regulations; previous city decisions; case law; staff reports and similar evidence not in the record upon announcing its intention to take notice of such facts. Where the hearing body takes notice of new facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened and to present evidence concerning the newly presented facts.

Comment: The procedures for continuances and leaving the record open are added, per ORS 197.763(6).

5. If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven (7) days after the date of the first evidentiary hearing; where the date is announced during the proceedings of the subject hearing, the City is not required to issue new notices. An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may

18-5.1 – General Review Procedures | Type II Procedure

request, before the conclusion of the hearing, that the record be left open for at least seven (7) days, so that they can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, the hearing body may close the hearing and limit additional testimony to arguments and not accept additional evidence.

6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven (7) days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open). If such a request is filed, the hearing body shall reopen the record, as follows:
 - a. When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to this section is subject to the limitations of section 18-5.1.080 (ORS 227.178 - “120-day rule”), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
 - c. If requested by the applicant, the hearing body shall grant the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

D. Notice of Decision. The notice of decision shall contain the decision, findings relied upon in making the decision, conditions of approval (if any), effective date, and appeal information.

E. Certification of Notices. The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

F. Effective Date of Decision. Unless a condition of approval specifies otherwise or the decision is appealed pursuant to subsection 18-5.1.060.F, a Type II decision becomes effective **thirteen (13) days** after the City mails the decision notice.

Comment: Currently, Type II decisions become final 13 days after mailing, which is not required by statute. Consider reducing to 10 days to avoid unnecessary delays.

G. Appeal of Planning Commission Decision. The Planning Commission’s decision may be appealed to the City Council as follows:

1. Standing. The following persons have standing to appeal:

- a. The applicant or owner of the subject property;
- b. Any person who testified orally or in writing during Planning Commission hearing before the close of the public record.

2. Appeal filing procedure.

18-5.1 – General Review Procedures | Type II Procedure

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
- b. *Time for filing.* A Notice of Appeal shall be filed with the Staff Advisor within **thirteen (13) days** of the date the Notice of Decision is mailed.

18-5.1 – General Review Procedures | Type II Procedure

Comment: See above comment regarding changing appeal period to 10 days.

- c. *Content of notice of appeal.* The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific grounds for which the decision should be reversed or modified, based on identified applicable criteria or procedural irregularity; and
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised in hearing testimony.

3. **Scope of appeal.** The appeal of a Type II decision shall be a hearing on the record before the City Council. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type II decision.

G. Record of the Public Hearing.

1. The official public hearing record shall include all of the following information:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the Staff Advisor to the hearings body regarding the application;
 - c. The minutes of the hearing;
 - d. The final written decision; and
 - e. Copies of all notices given as required by this chapter, and correspondence regarding the application that the City mailed or received.
2. The meeting minutes shall be filed in hardcopy form with the Staff Advisor. The minutes and other evidence presented as a part of the hearing shall be part of the record.
3. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

- ### **H. Effective Date and Appeals to State Land Use Board of Appeals.** City Council decisions on Type II applications are final the date the decision is mailed. Appeals of City Council decisions on Type II applications must be filed with the State Land Use Board of Appeals, pursuant to ORS 197.805 - 197.860.

18-5.1.070 Type III (Legislative Decision)

Comment: 18.108.060 currently combines the procedures for quasi-judicial zone changes/comp plan amendments with legislative decisions, which is confusing. This draft puts all quasi-judicial reviews in 060 and all legislative reviews in 070.

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

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

B. Application Requirements.

1. Application Form and Fee. Legislative applications shall be made on forms provided by the Staff Advisor. One or more property owners of the property for which the planning action is requested, and their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless the appropriate application fee accompanies it.

2. Submittal Information. The application shall contain all of the following information:

Comment: The following list is updated for consistency with other ordinance sections, and it gives the Staff Advisor authority to require specific information as needed to ensure an application is complete.

- a. The information requested on the application form;
- b. A map and/or plan, as applicable, addressing the appropriate criteria and standards in sufficient detail for review and decision;
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable; and
- e. The required fee, except when the City of Ashland initiates the request; and
- f. Other information the Staff Advisor deems necessary to provide a complete application.

C. Procedure. Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the criteria for approval include, as applicable, those contained in chapter 18-5.8 Comprehensive Plan, Zoning, and Land Use Ordinance Amendments, and chapter 18-5.7 Annexations. In addition, the notification procedure for Legislative Land Use requests is as follows:

Comment: Subsection 1 below is new language, and reflects a state requirement for a 35-day DLCD notification requirement. The requirement for a 45-day notice to DLCD has been in state law for many years and observed by the City, and was changed in OAR 660-018-0020 in 2012.

18-5.1 – General Review Procedures | Type III Procedure

1. The Staff Advisor shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments to the Comprehensive Plan, Zoning Map, or this Ordinance at least thirty-five (35) days before the first public hearing at which public testimony or new evidence will be received.

Comment: Subsection 2 below is new language, and follows notification requirements per ORS 227.186. They apply only to legislative proposals, or those requiring City Council enactment of an ordinance, not quasi-judicial zone changes and other amendments approved by the Planning Commission through a Type II review. See also, 18-5.1.060.

2. At least twenty (20) days but not more than forty (40) days before the date of the first hearing on an application to legislatively amend the Comprehensive Plan, Zoning Map, or this Ordinance, the City shall mail notice of such hearing to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), pursuant to state law;
 - b. Any affected governmental agency;
 - c. Any person who requests such notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
3. At least ten (10) days before the scheduled Planning Commission and City Council public hearing dates, public notice shall be published in a newspaper of general circulation in the City.
4. For each mailing and publication of notice, the City shall keep an affidavit of mailing/publication in the record.

D. Final Decision and Effective Date. Where a Legislative proposal is approved pursuant to this ordinance, it becomes final and takes effect as specified in the enacting ordinance. Where the proposal is not approved, the decision to deny is final on the date the decision is mailed to the applicant; or, where the applicant is the City, the decision is final on the date the City Council makes its decision.

18-5.1.080 Priority Planning Action Processing for LEED® Certified Buildings

- A.** New buildings and existing buildings whose repair, alteration or rehabilitation costs exceed fifty (50) percent of their replacement costs, that will be pursuing certification under the Leadership in Energy and Environmental Design Green Building Rating System (LEED®) of the United States Green Building Council shall receive top priority in the processing of planning actions.
- B.** Applicants wishing to receive priority planning action processing shall provide the following documentation with the application demonstrating the completion of the following steps in working towards LEED® certification.
 - 1.** Hiring and retaining a LEED® Accredited Professional as part of the project team throughout the design and construction process.
 - 2.** The LEED® checklist indicating the credits that will be pursued.

18-5.1.090 Complete Application and Time Limits

Comment: The 180-day period for submitting missing information to an incomplete application is recommended below to replace the current deadline of 31 days under 18.108.017.A.2. The update is intended to be consistent with the timeframe in ORS and provide greater flexibility for applicants. The Oregon Land Use Board of Appeals ("LUBA") has held that under ORS 227.178(4) and its companion statute, ORS 215.427(4), that applications not completed after 180 days are considered void. ORS 227.178(4) provides: "On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted: (a) All of the missing information; (b) Some of the missing information and written notice that no other information will be provided; or (c) Written notice that none of the missing information will be provided."

- A. Complete Applications.** The Staff Advisor shall determine within thirty (30) days of receiving an application for Type I, II, or III review whether the application is complete, and shall advise the applicant accordingly in writing. The 120-day clock under subsection 18-5.1.090.B does not begin until the applicant:
1. Submits all of the missing information, provided the City must receive it within 180 days of the original application date; or
 2. Submits some of the missing information, and requests in writing the City commence its review; or
 3. Submits none of the missing information, and requests in writing the City commence its review.
- B. Time Limit - 120-day Rule.** The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the Staff Advisor deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to Legislative Land Use decisions.)
- C. Time Periods.** In computing time periods prescribed or allowed by this chapter, the designated period of time does not include the date of the action or event cited. For example, where this ordinance provides for an appeal period ending ten (10) days after the City mails a decision, the 10-day period does not include the day the decision is mailed. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

Chapter 18-5.2 - Site Design Review

Comment: This chapter updates 18.72 for clarity and organization. It separates the Site Design and Use standards from the Site Design Review procedures and application requirements, because some of the 'standards' apply to more than site design review applications. The standards are being updated and consolidated in Part 18-4.

Sections:

18-5.2.010	Purpose
18-5.2.020	Applicability
18-5.2.030	Review Procedure
18-5.2.040	Application Submission Requirements
18-5.2.050	Approval Criteria
18-5.2.060	Public Improvements Guarantee
18-5.2.070	Approval Period and Extensions
18-5.2.080	Power to Amend Plans

18-5.2.010 Purpose

Comment: The purpose statement is from the existing code.

The purpose and intent of this chapter is to regulate the manner in which land in the City is used and developed, to reduce adverse effects on surrounding property owners and the general public, to create a business environment that is safe and comfortable, to further energy conservation efforts within the City, to enhance the environment for walking, cycling, and mass transit use, and ensure that high quality development is maintained throughout the City.

18-5.2.020 Applicability

Comment: The "applicability" section carries forward and clarifies existing 18.72.030 Applicability and 18.108.040.A.1.

Site Design Review is required for the following types of project proposals:

- A. Commercial, Industrial, Non-Residential and Mixed Uses.** Site Design Review applies to the following types of non-residential uses and project proposals, including proposals for commercial, industrial, and mixed-use projects, pursuant to section 18-5.2.030 Review Procedures:
1. New structures, additions or expansions in C-I, E-I, HC, CM and M-I zones;
 2. New non-residential structures or additions in any zone, including public buildings, schools, churches, and similar public and quasi-public uses in residential zones;
 3. Mixed-use buildings and developments containing commercial and residential uses in a residential zoning district within the Pedestrian Place Overlay;

18-5.2 – Site Design Review | Applicability and Review Procedure

4. Expansion of impervious surface area in excess of ten percent (10%) of the area of the site or 1,000 square feet, whichever is less;
5. Expansion of any parking lot, relocation of parking spaces on a site, or any other change that alters or affects circulation onto an adjacent property or public right-of-way;

Comment: Subsection 6 below used to include “any change of occupancy from a less intensive to a more intensive occupancy, as defined in the City building code” in addition to the language regarding a change in use that requires a greater number of parking spaces. Staff is recommending the deletion of the language regarding a change in occupancy according to building code because it is not a good measure of land use changes or impacts, and is difficult to for the general public and staff to use.

6. Any change in use that requires a greater number of parking spaces;
7. Any change in use of a lot from one general use category to another general use category, e.g., from residential to commercial, as defined by the zoning regulations of this ordinance;
8. Any exterior change to a structure which is listed on the National Register of Historic Places or to a contributing property within an Historic District on the National Register of Historic Places that requires a building permit, or that includes the installation of Public Art;

Comment: Added “not fully enclosed in a structure” to item ‘9’.

9. Installation of mechanical equipment not fully enclosed in a structure and not otherwise exempt from site design review per section 18-5.2.020.C; and
10. Installation of wireless communication facilities in accordance with section 18-4.3.13.

B. Residential Uses. Site Design Review applies to the following types of residential uses and project proposals, pursuant to section 18-5.2.030 Review Procedures:

1. Two (2) or more dwelling units on a single lot in any zoning district;
2. Construction of attached (common wall) single-family dwellings (e.g., townhomes, condominiums, rowhouses) in any zoning district;

Comment: Item #3 in strikeout text is per the existing ALUO. The existing code is difficult to understand. The underlined wording below replaces it.

- ~~3. Residential development when off-street parking or landscaping, in conjunction with an approved Performance Standards Subdivision required by ordinance and not located within the boundaries of the individual unit parcel (e.g. shared parking).~~
3. Any change to off-street parking or common area landscaping for a residential development where such parking or landscaping is provided outside the boundaries of an individual unit or parcel (e.g., shared parking) and is approved pursuant to chapter 18-3.8 Performance Standards Option;
4. Any exterior change to a structure individually listed on the National Register of Historic Places that requires a building permit, or that includes the installation of Public Art;

Comment: Added “not fully enclosed in a structure” to item ‘4’.

5. Installation of mechanical equipment not fully enclosed in a structure and not otherwise exempt from site design review per section 18-5.2.020.C; and
6. Installation of wireless communication facilities (e.g., accessory to a residential use), in accordance with section 18-4.3.13.

C. Exempt From Site Design Review. The following types of uses and projects are exempt from Site Design Review, but are required to comply with the applicable provisions of Part 18-3 Site Development and Design Standards.

1. Detached single-family dwellings and associated accessory structures and uses;
2. Land divisions and property line adjustments, which are subject to review under chapter 18-5.3;
3. The following mechanical equipment:
 - a. Private, non-commercial radio and television antennas not exceeding a height of seventy (70) feet above grade or thirty (30) feet above an existing structure, whichever height is greater and provided no part of such antenna shall be within the setback yards required by this title. A building permit shall be required for any antenna mast, or tower over fifty (50) feet above grade or thirty (30) feet above an existing structure when the same is constructed on the roof of the structure.
 - b. Not more than three (3) parabolic disc antennas, each under one (1) meter in diameter, on any one lot or dwelling unit.
 - c. Roof-mounted solar collection devices in all zoning districts, with the exception of Employment and Commercial zoned properties located within designated historic districts. The devices shall comply with solar setback standards described in chapter 18-4.8 and the height standards of the respective zoning district.

Comment: Updated ‘d’ and ‘e’, below, per 2012 Green Building code amendments.

- d. Roof-mounted solar collection devices on Employment and Commercial zoned properties located within designated historic districts if the footprint of the structure is not increased, the plane of the system is parallel to the slope of the roof and does not extend above the peak height of the roof or existing parapets, or is otherwise not visible from a public right-of-way. The devices shall comply with solar setback standards described in chapter 18-4.8 and height requirements of the respective zoning district.
- e. Installation of mechanical equipment not exempted by (a, b, c, d) above or by (e, f) below, and which is not visible from a public right-of-way, or adjacent residentially zoned property and consistent with other provisions of this ordinance, including solar access, noise, and setback requirements of section 18-2.4.
- f. Routine maintenance and replacement of existing mechanical equipment in all zones.

18-5.2.030 Review Procedures

Comment: The following carries forward and consolidates 18.72.050 Detail Site Review Zone and 18.72.055 Downtown Design Standards Zone.

- A. Type I Review.** Except as provided by subsections B through D, below, applications for Site Design Review are subject to the Type I procedure, pursuant to section 18-5.1.050.
- B. C-I, E-I, HC and M Zones.** In the C-I, E-I, HC and M zones, but not within the Downtown Design Standards zone, new structures, expansions and additions greater than twenty percent (20%) of an existing building's square footage, or that adds greater than 10,000 square feet of gross floor area is subject to Type II review.
- C. Downtown Design Standards Zone.** In the Downtown Design Standards zone, development with greater than 2,500 square feet gross floor area, or that adds greater than ten percent (10%) to a building's floor area is subject to Type II review.
- D. Detail Site Review Zone.** In the Detail Site Review zone, development that is greater than 10,000 square feet in gross floor area is subject to Type II review.
- E. Croman Mill zone.** In the Croman Mil zone, new structures or additions greater than 15,000 square feet in gross floor area is subject to Type II review.

Comment: The following carries forward and edits 18.72.150 Review by Conservation Coordinator..

- F. Review by Conservation Coordinator.** Upon receiving an application for Site Design Review, the Staff Advisor shall refer the application to the Conservation Coordinator, who shall assess the applicant's energy use estimates and strategies, and recommend cost-effective methods to further reduce energy consumption, as applicable.

18-5.2 – Site Design Review | Submittal Requirements

18-5.2.040 Application Submission Requirements

Comment: The submittal requirements are carried forward from 18.72.060 Plan Required. Submission information is presented in groupings, which is based on the Oregon Model Code.

The following information is required for Site Design Review application submittal, except where the Staff Advisor determines that some information is not pertinent and therefore is not required.

- A. General Submission Requirements.** Information required for Type I or Type II review, as applicable. (See 18-5.1.050 and 18-5.1.060).
- B. Site Design Review Information.** In addition to the general information required an applicant for Site Design Review shall provide the following information, as deemed applicable by the Staff Advisor. The Staff Advisor may request additional or different information that he or she deems necessary for review of the application, i.e., to prepare a complete staff report and recommendation to the approval body.
- 1. Basic Plan Information.** Plans and drawings shall include the project name, date, north arrow, scale, names and addresses of all persons listed as owners of the subject property on the most recently recorded deed. The scale of site and landscaping plans shall be at least one (1) inch equals fifty (50) or larger, and of building elevations one (1) inch equals ten (10) feet or larger.
 - 2. Site Analysis Map.** The site analysis map shall contain the following information:
 - a. Vicinity map;
 - b. The property boundaries, dimensions, and area of the site shall be identified;
 - c. Topographic contour lines at 5-foot intervals or less, except where the Staff Advisor determines that larger intervals will be adequate for steeper slopes;
 - e. Zone designation of the and adjacent to the proposed development, including lands subject to overlay zones including but not limited to lands subject to Detail Site Review, Downtown Design Review, Historic District Overlay, Pedestrian Place Overlay, and Physical and Environmental Constraints Overlay (see Part 3);
 - f. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - g. The location and size of all public and private utilities, on and adjacent to the subject site, including:
 - i. Water lines and meter sizes;
 - ii. Sewers, manholes and cleanouts;
 - iii. Storm drainage and catch basins; and

- iv. Fire hydrants.
- h. Site features, including existing structures, pavement, drainage ways, rock outcroppings, areas having unique views, and streams, wetlands, drainage ways, canals and ditches;
- i. The location, size and species of trees and other vegetation having a caliper (diameter) of six (6) inches or greater at four and a half (4 ½) feet above grade on the subject site, including trees located on the subject site and trees located off-site that have drip lines on the subject site;

2. Proposed Site Plan. The site plan shall contain the following information:

- a. The proposed development site, including boundaries, dimensions, and gross area;
- b. Features identified on the existing site analysis maps that are proposed to remain on the site;
- c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements, including:
 - i. Connection to the City water system and meter locations;
 - ii. Connection to the City sewer system;
 - iii. Connection to the City electric utility system and meter locations;
 - iv. New and/or replaced fire hydrants and vault locations;
 - v. The proposed method of drainage of the site; and
 - vi. The opportunity-to-recycle site and solid waste receptacle, including proposed screening.
- f. Location of drainage ways and public utility easements in and adjacent to the proposed development;
- g. Setback dimensions for all existing and proposed structures;
- h. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
- i. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);

18-5.2 – Site Design Review | Submittal Requirements

Comment: Staff recommends adding the highlighted items below to the Site Review plan requirements because the Site Review standards cover pedestrian and bicycle circulation, lighting and bust stops.

- j. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
- k. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
- l. Location, type, and height of outdoor lighting;
- m. Location of mail boxes, if known;
- n. Locations of bus stops and other public or private transportation facilities; and
- o. Locations, sizes, and types of signs.

3. Architectural drawings. Architectural drawings, as applicable:

- a. Exterior elevations of all proposed buildings, drawn to a scale of one (1) inch equals ten (10) feet or greater; such plans shall indicate the material, color, texture, shape and design features of the building, and include mechanical devices not fully enclosed in the building;
- b. Exterior elevations of other proposed structures, including fences, retaining walls, accessory buildings, and similar structures;
- c. The elevations and locations of all proposed signs for the development; and
- d. For non-residential developments proposed on properties located in a Historic District, section drawings including exterior walls, windows, projections, and other features, as applicable, and drawings of architectural details (e.g. column width, cornice and base, relief and projection, etc.) drawn to a scale of three-fourths ($\frac{3}{4}$) of an inch equals one (1) foot or larger.

Comment: Staff recommends adding a requirement for a preliminary grading and drainage plan. The plan would not be necessary in all in cases, especially where the site has previously been graded or where there isn't significant change in elevation between neighboring properties.

4. Preliminary Grading and Drainage Plan. A preliminary grading and drainage plan prepared by a registered engineer shall be submitted with the application for Site Design Review where a development site is one-half (1/2) an acre or larger, or where otherwise required by the Staff Advisor. The preliminary grading plan shall show the location and extent to which grading will take place, indicating

general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 18-3.

- 5. Landscape plan.** Where a landscape plan is required pursuant to Chapter 18-3.4__, at a minimum, it shall contain the following information. For further details and standards, refer to Chapter 18-3.4:
- a. The location, size, and species of the existing and proposed plant materials, and any other pertinent features of the proposed landscaping and plantings.;
 - b. At time of building permit submittals, specifications for soil at time of planting, irrigation facilities and anticipated planting schedule; and
 - c. A tree protection and removal plan consistent with section 18-4.13 for sites with trees that are to be retained, protected, and removed.

7. Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 18-4.2.050. Specifically, the narrative shall contain:

- a. For commercial and industrial developments:
 - i. The square footage contained in the area proposed to be developed.
 - ii. The percentage of the lot covered by structures.
 - iii. The percentage of the lot covered by other impervious surfaces.
 - iv. The total number of parking spaces.
 - v. The total square footage of all landscaped areas.
- b. For residential developments:
 - i. The total square footage in the development.
 - ii. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, e.g., ten one-bedroom, 25 two-bedroom, etc).
 - iii. Percentage of lot coverage by structures; streets, roads, or drives; public use areas, common area/private recreation areas, landscaping, and parking areas.
- c. For all developments, the applicant shall provide information on the method and type of energy proposed to be used for heating, cooling and lighting of the building, and the approximate annual amount of energy used per each source and the methods used to make the approximation.

18-5.2 – Site Design Review | Approval Criteria

18-5.2.050 Approval Criteria

Comment: The following revises the existing Site Design Review criteria in 18.72.070. The first two criteria, A and B, clarify that the proposal must meet the requirements of the zone and any applicable overlay zone – this language is not explicitly stated in the existing approval criteria. The second two criteria, C and D are existing requirements though the wording is revised for clarity.

An application for Site Design Review shall be approved if the proposal meets the criteria in subsections A, B, C, and D below. The City approval authority may, in approving the application may impose reasonable conditions of approval, consistent with the applicable criteria.

- A. Underlying Zone.** The proposal complies with all of the applicable provisions of the underlying zone (Part 18-2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.
- B. Overlay Zones.** The proposal complies with applicable overlay zone requirements.
- C. Site Design and Development Standards.** The proposal complies with the applicable Site Design and Development Standards of Part 18-4, except as provided by subsection E, below.

Comment: The current standard concerning city facilities in 18.72.070.D includes the language regarding paved access “to and through the development.” Staff believes the intent of the language regarding “through the development” is regarding internal circulation for vehicles throughout the development, and recommends that this language be revised to “throughout.” The same issue is flagged in the Conditional Use Permit chapter.

- D. City Facilities.** The proposal complies with the applicable standards in section 18-4.7 Public Facilities and Utilities, and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property, and adequate transportation can and will be provided to the subject property.

Comment: The following carries forward 18.72.090 Exception to the Site Design and Use Standards.

- D. Exception to the Site Design and Development Standards.** The City approval authority may approve exceptions to the Site Design and Development Standards of part 18-4 if, on the basis of the application, investigation and evidence submitted, all of the circumstances in subsections 1 and 2, below, are found to exist:
 - I. There is a demonstrable difficulty in meeting the specific requirements of the Site Design and Use Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Design and Use Standards; and the exception requested is the minimum which would alleviate the difficulty; or

18-5.2 – Site Design Review | Compliance With Conditions

2. There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Design and Use Standards.

Comment: The section below on public improvements guarantee is common practice, but is currently not included in the ordinance.

18-5.2.060 Public Improvements Guarantee

Public improvement required as part of a Site Design Review approval shall be subject to the performance guarantee and warranty bond provisions of chapter 18.4.6, as applicable.

18-5.2.070 Approval Period and Extensions

Development shall not commence until the applicant has received all applicable land use and development approvals. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require bonding or other guarantees for improvements. Site Design Review approvals are subject to all of the following standards and limitations:

- A. Approval Period.** Site Design Review approvals shall be effective for a period of twelve (12) months from the date of approval. The approval shall lapse if the project is not permitted and under construction within one year of approval; or

Comment: The following carries forward 18.112.035.A for extensions.

V

- B. Extension.** The Staff Advisor, upon written request by the applicant, may grant a written extension of the approval period not to exceed eighteen (18) months, provided that:

1. No changes are made on the original approved plan;
2. There have been no changes to the applicable Code provisions on which the approval was based, or if requirements have changed the amendments would have no material effect upon the original approval.; and
3. The applicant demonstrates that failure to obtain a building permit and begin construction within eighteen (18) months of site design review approval was beyond the applicant's control.

18-5.2 – Site Design Review | Approval Period and Extensions

18-5.2.080 Power to Amend Plans

Comment: The following carries forward 18.72.100 Power to Amend Plans.

When approving an application to amend a Site Design Review approval pursuant to chapter 18-5.6, the Planning Commission or the Staff Advisor may include any or all of the following conditions as they find necessary to meet the intent and purpose and the criteria for approval:

- A.** Require the value of the landscaping to be above two (2) percent, but not greater than five (5) percent of the total project costs as determined from the building permit valuation.
- B.** Require such modifications in the landscaping plan as will ensure proper screening and aesthetic appearance.
- C.** Require plantings and ground cover to be predominant, not accessory, to other inorganic or dead organic ground cover.
- D.** Require the retention of existing trees, rocks, water ponds or courses and other natural features.
- E.** Require the retention and restoration of existing historically significant structures on the project site.
- F.** Require the City Engineer’s approval of a grading plan or drainage plan for a collection and transmission of drainage.
- G.** Require the modification or revision of the design or remodeling of structures, signs, accessory buildings, etc., to be consistent with the Site Design Standards.
- H.** Require the modification of the placement of any new structures, new accessory uses, parking and landscaping on the project site to buffer adjacent uses from the possible detrimental effects of the propose development.
- I.** Restrict heights of new buildings or additions over thirty-five (35) feet and increase setbacks up to twenty (20) feet.
- J.** Require on-site fire hydrants with protective barricades.
- K.** Require the type and placement or shielding of lights for outdoor circulation and parking.
- L.** Require new developments to provide limited controlled access onto a major street by means of traffic signals, traffic controls and turning islands, landscaping, or any other means necessary to insure the viability, safety and integrity of the major street as a through corridor.
- M.** Require pedestrian access, separate pedestrian paths, sidewalks and protection from weather in new developments.
- N.** Require developments to provide access to improved City streets and, where possible, provide access to the lower order street rather than a major collector or arterial street.

Chapter 18-5.3 – Land Divisions and Property Line Adjustments

Comment: This chapter updates and consolidates 18.76 Partitions and 18.80 Subdivisions for clarity and ease of use, so that all land division procedures are covered in one place in the code. There are new sections in this chapter addressing basic items like purpose and applicability, which are based on the Oregon Model Code.

Sections:

18-5.3.010	Purpose
18-5.3.020	Applicability and General Requirements
18-5.3.030	Preliminary Plat Approval Process
18-5.3.040	Preliminary Plat Submissions
18-5.3.050	Preliminary Partition Plat Criteria
18-5.3.060	Flag Lot Partitions
18-5.3.070	Preliminary Subdivision Plat Criteria
18-5.3.080	Land Division-Related Variances
18-5.3.090	Final Plats
18-5.3.100	Filing and Recording
18-5.3.110	Re-platting and Vacation of Plats
18-5.3.120	Property Line Adjustments

Comment: The purpose section below is new. The current ordinance chapters on partitions and subdivisions do not include a purpose statement.

18-5.3.010 Purpose

The purpose of this chapter is to provide rules, regulations and standards governing the approval of subdivisions, partitions and property line adjustments as follows:

- A.** Carry out the City’s development pattern, as envisioned by the City’s comprehensive plan;
- B.** Encourage efficient use of land resources and public services, and to provide transportation options;
- C.** Protect the natural environment and encourage sustainable building practices; and
- D.** Promote the public health, safety and general welfare through orderly and efficient urbanization.

Comment: The applicability section below is new because the current ordinance chapters on partitions and subdivisions do not address the applicability of the chapter.

18-5.2 – Land Divisions and Property Line Adjustments

18-5.3.020 Applicability and General Requirements

A. Applicability. The requirements for partitions and subdivisions apply, as follows:

1. Subdivisions are the creation of four (4) or more lots from one parent lot, parcel or tract, within one (1) calendar year.
2. Partitions are the creation of three (3) or fewer lots from one parent lot, parcel, or tract, each having frontage on a public street, within one calendar year. (Note: Partitions of three lots with access via a private drive are allowed under chapter 18-3.8 Performance Standards Option.)
3. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).

Comment: Sections B and C are new sections that aren't included in the current ordinance. Processing land divisions with a two step process (preliminary and final approval) is standards procedure for partitions and subdivisions, in accordance with ORS 92. Property line adjustments and lot consolidation requests, where no new lot is created, are subject to section 18-5.3.120; they are not subject to 18-5.3.020 through 18-5.3.110.

B. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation:

1. The preliminary plat must be approved before the final plat can be submitted for review; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

C. Compliance With Oregon Revised Statutes (ORS) chapter 92. All subdivision and partitions shall conform to state regulations in Oregon Revised Statute (ORS) chapter 92, Subdivisions and Partitions.

Comment: Subsection D is currently covered in 18.76.060 Further Lot Division, and has been reworded for clarity.

D. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The approval authority may require a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future.

E. Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant to chapter 18.4.6.

F. Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant to chapter 18.4.6.

18-5.3 – Land Divisions and Property Line Adjustments

G. Adequate Access. All lots created or reconfigured shall have adequate vehicle and pedestrian access and parking, as may be required, pursuant to chapter 18.4.3.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Process

18-5.3.030 Preliminary Plat Approval Process

Comment: This new section consolidates selected provisions currently under 18.76, 18.80, 18.88 and 18.108.

A. Review of Preliminary Plat. Preliminary plats for land divisions (partitions and subdivisions) are subject to the approval criteria in section 18-5.3.050 and are reviewed through the Type II procedure, pursuant to chapter 18-5.1.060, except that the following land divisions are reviewed through the Type I procedure, pursuant to chapter 18-5.1.050:

1. Partitions, including flag lot partitions, that require no variance, or the only variances required are subject to Type I review.

Comment: The timeframe is revised to 18 months for subdivisions to be consistent with the current timeframe for partitions

B. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period eighteen (18) months from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to section 18-5.3.090, within the 18-month period. The Planning Commission may approve phased subdivisions, pursuant to subsection 18-5.3.030.E, with an overall time frame of more than eighteen (18) months between preliminary plat and final plat approvals.

Comment: The following section carries forward the current extension section in 18.112.035.A.

C. Extension. The Staff Advisor, upon written request by the applicant, may grant a written extension of the approval period not to exceed eighteen (18) months, provided that:

1. No changes are made on the original approved plan;
2. There have been no changes to the applicable Code provisions on which the approval was based, or if requirements have changed the amendments would have no material effect upon the original approval; and
3. The applicant demonstrates that failure to submit a final plat or financial guarantee for public improvements within eighteen (18) months of preliminary plat approval was beyond the applicant's control.

D. Modifications. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in chapter 18-5.6.

E. Phased Subdivision. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided applicant's proposal meets all of the following criteria:

Comment: Item 1 is new. It is recommended for consistency with subsections B and C, above.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Process

1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than eighteen (18) months;
2. Public facilities and private open spaces shall be constructed in conjunction with or prior to each phase;
3. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
4. Planning Commission approval is required for modifications to phasing plans.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submissions

18-5.3.040 Preliminary Plat Submissions

Applications for Preliminary Plat approval shall contain all of the following information:

A. General Submission Requirements.

- I. Information required for a Type II review. (See section 18-5.1.060); and

B. Preliminary Plat Information. In addition to the general information described in subsection A, above, and any information required pursuant to chapter 18-3.8 Performance Standards Option, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information, in quantities determined by Staff Advisor:

I. General information:

- a. Name of subdivision (partitions are named by year and file number). This name shall not duplicate the name of another land division in the City of Ashland or vicinity;
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the City, boundaries;
- d. Zoning of parcel to be divided, including any overlay zones; and
- e. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a “preliminary plat”.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submissions

- 2. Existing Conditions.** Except where the Staff Advisor deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site:
- a. Streets: Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;
 - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
 - c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
 - d. Topography and Natural Features: A topographic map showing contour intervals of five (5) feet and the location of any physical constrained lands, pursuant to chapter 18-3.9, and any natural features, such as rock outcroppings, wetlands, streams, wooded areas, and isolated preservable trees. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor;
 - e. The Base Flood Elevation, per the Ashland Flood Plain Maps, as applicable;
 - f. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes); and
 - g. North arrow and scale.
- 3. Proposed Development.** Except where the Staff Advisor deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:
- a. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions;
 - b. Easements: location, width and purpose of all proposed easements;
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
 - d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
 - e. Proposed public street improvements, pursuant to chapter 18.4.6;
 - f. Preliminary design for extending City water and sewer service to each lot, per chapter 18.4.6;
 - g. Proposed method of storm water drainage and treatment, if required, pursuant to chapter 18.4.6;
 - h. The approximate location and identity of other facilities, including the locations of fire hydrants, streetlights, and utilities, as applicable; and
 - i. Evidence of compliance with applicable overlay zones.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval
Criteria

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Partition Plat Criteria

18-5.3.050 Preliminary Partition Plat Criteria

Comment: The following carries forward and edits 18.76.050 Preliminary Approval.

The City approval authority shall approve an application for preliminary partition plat approval only where all of the following criteria are met:

- A.** The future use for urban purposes of the remainder of the tract will not be impeded.
- B.** The development of the remainder of any adjoining land or access thereto will not be impeded.
- C.** The tract of land has not been partitioned for twelve (12) months.
- D.** The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.
- E.** Where a partition creates lots accessed by a private drive, the development shall conform to the street standards contained in the Chapter 18-4.6 Performance Standards Options. Flag lot partitions are additionally subject to section 18-5.3.060.
- F.** Adequate public facilities are available or the applicant presents evidence that adequate public facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.
- G.** A partition plat containing one or more flag lots shall additionally meet the criteria in section 18-5.3.060.
- H.** When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.
 - 1.** The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:
 - a.** The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street.
 - b.** The centerline grade on any portion of the unpaved street does not exceed ten percent.
 - 2.** Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- I.** Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.

18-5.3 – Land Divisions and Property Line Adjustments | Flag Lot Partitions

18-5.3.060 Flag Lot Partitions

Comment: The following carries forward and edits LUO 18.76.060 Preliminary Approval of Flag Partitions.

The City approval authority shall approve a preliminary plat application for a flag lot partition only where all of the following criteria are met:

- A.** The criteria of section 18-5.3.050 are met.
- B.** Except as provided in subsection 18-5.3.060.K, the flag drive serving a single flag lot shall have a minimum width of fifteen (15) feet and contain a twelve (12) foot wide paved driving surface. For drives serving two (2) lots, the flag drive shall be twenty (20) feet wide, with a fifteen (15) foot wide driving surface to the back of the first lot, and a twelve (12) foot wide driving surface to the rear lot. Drives shared by adjacent properties shall have a width of twenty (20) feet, with a fifteen (15) foot paved driving surface.
- C.** Flag drives shall be constructed so as to prevent surface drainage from flowing over sidewalks or other public ways. Flag drives shall be in the same ownership as the flag lots served. Where (2) two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots. There shall be no parking within ten (10) feet of the centerline of the drive on either side of the flag drive entrance.
- D.** Flag drive grades shall not exceed a maximum grade of fifteen (15) percent. Variances may be granted for flag drives for grades in excess of fifteen (15) percent but no greater than eighteen (18) percent for not more than two hundred (200) feet. Such variances shall be required to meet all of the criteria for approval in chapter 18-5.5 Variances.
- E.** Flag drives serving structures greater than twenty-four (24) feet in height, as defined in 18-6, shall provide a Fire Work Area of twenty (20) feet by forty (40) feet within fifty (50) feet of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.
- F.** Flag drives and Fire Work Areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof.
- G.** When required by the Oregon Fire Code, flag drives greater than one hundred fifty (150) feet in length shall provide a turnaround as defined in the Performance Standards Guidelines in 18-3.8. The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of two hundred fifty (250) feet in length as allowed by Oregon Fire Code access exemptions.
- H.** Each flag lot has at least three (3) parking spaces situated to eliminate the necessity for vehicles backing out.
- I.** Curb cuts have been minimized, where possible, through the use of common driveways.
- J.** Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from thirty (30) to forty-two (42) inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.

18-5.3 – Land Divisions and Property Line Adjustments | Flag Lot Partitions

- K.** The applicant has executed and filed with the Planning Department an agreement between applicant and the City for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Director of Public Works and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening pursuant to this section, and assurance ongoing maintenance.
- L.** A site plan has been approved by the Planning Commission. The site plan shall be approved provided the regulations of the zoning and subdivision titles are satisfied. Such a site plan shall contain the map requirements listed in Section 18.76.050 and the following information:
 - 1. The location of driveways, turnarounds parking spaces and useable yard areas.
 - 2. The location and type of screening.
 - 3. For site plans of a flag lot, the building envelope shall be identified.
- M.** No more than two lots are served by the flag drive.
- N.** For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.
- O.** Flag lots shall be required to provide a useable yard area that has a minimal dimension of twenty (20) feet wide by twenty (20) feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.
- P.** Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:
 - 1. Vehicle access shall be from the alley only where required as a condition of approval;
 - 2. No screening and paving requirements shall be required for the flagpole;
 - 3. A four (4) foot pedestrian path shall be installed within the flagpole and improved and maintained with either a concrete, asphalt, brick, or paver block surface connecting the street to the buildable area of the flag lot;
 - 4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flag lot clearly visible from the street on a four-inch by four-inch (4" X 4") post three and one-half feet (3½') high. The post shall be painted white with black numbers three inches (3") high running vertically down the front of the post. For flagpoles serving two (2) or more dwellings, the addresses of such dwellings shall be on a two foot by three foot (2' X 3') white sign clearly visible from the street with three-inch (3") black numbers.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Subdivision Plat Criteria

18-5.3.070 Preliminary Subdivision Plat Criteria

Comment: The following simplifies the approval criteria for preliminary subdivision plans. The criteria are currently contained in 18.80 Subdivisions, but are not well defined; the current ordinance intermingles criteria, design standards and procedures. By simplifying the list of criteria and cross-referencing unified ordinance standards and procedures in 18-2 through 18-4, the ordinance should be easier to use and require less time in preparing staff reports and findings.

A. Approval Criteria. The City approval authority, pursuant to 18-5.3.030.A, may approve, approve with conditions or deny a preliminary subdivision plan (preliminary plat) on findings of compliance with all of the following approval criteria:

1. The subdivision plan conforms to applicable City-adopted subarea or district plans, if any, and any previous land use approvals for the subject area;
2. Proposed lots conform to the development standards of the underlying zone, per part 18-2, and any applicable overlay zone requirements, per Part 18-3;
3. Access to individual lots and public improvements necessary to serve the development conform to the standards contained in Part 18-4 requirements, as applicable;
4. The proposed streets, utilities, and surface water drainage facilities conform to City of Ashland adopted facility master plans and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
5. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
6. Required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development;

B. Conditions of Approval. The City approval authority may attach such conditions as are necessary to carry out provisions of this ordinance, and other applicable ordinances and regulations.

18-5.3.080 Land Division-Related Variances

Variances shall be processed in accordance with chapter 18-5.5. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted; when practical the applications shall be reviewed concurrently.

18-5.3.090 Final Plats

Comment: The following carries forward and edits 18.80.050. Subsection A is revised to require Planning Commission review of a final plat only where the Planning Commission reviews a preliminary plat, per 18-5.3.030 (i.e. subdivisions).

Under A, the deadline for filing a final plat is revised to 18 months for consistency with other land use approvals/expiration.

The Improvements requirements of 18.80.060 are being relocated to 18-4.6 Public Facilities, to provide a unified chapter that will apply to all public improvements required through land use approvals, including those associated with subdivisions and those required for other development project

A. Final Plat Submission. Within eighteen (18) months of the date of preliminary map approval, the tract of land shall be surveyed, and a final plat prepared in conformance with the preliminary plat approval. The final plat shall be submitted to the City incorporating any conditions or modifications of the map's preliminary approval. If the applicant has not completed the foregoing within the eighteen (18) month period, the applicant must resubmit the partition for preliminary approval consideration.

B. Final Plat Information. In addition to that otherwise specified by law, the following information shall be shown on the final plat:

1. Title block, top and center specifying "minor or major partition", the partition number, City of Ashland and the applicant's name.
2. Name of the property owner and developer.
3. Number of each lot in the land division.
4. Date, scale and north point (arrow) generally pointing to the top of the map.
5. Basis of bearing determined by solar observation, Polaris observation, or true bearing determined from the National Oceanic and Atmospheric Administration Survey Net (formerly Coast and Geodetic Survey).
6. The name and right-of-way width of adjacent streets, alleys and private ways.
7. Irrigation and drainage easements. Those portions of land within the boundaries of the partitioning subject to periodic inundation which affect the intended use of the land together with the method or source of such determination. Also, other easements of record or conditions which affect the title of land or the use of land.
8. All stakes, monuments, or other evidence found and used to establish boundaries of the partition. Any lines or boundaries shown by approximation clearly identified as such.
9. Established center lines by the City of adjoining streets.
10. The length of all arcs, radii and central angles. Adjust all distances to the nearest 100th of a foot, except on curves, which may be shown closer. Adjust all bearings to the nearest ten (10) seconds. The error of field closure shall not exceed one (1) foot in five thousand (5,000).
11. Area of each parcel expressed in either square feet or acres.

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Subdivision Plat Criteria

12. Monumentation:

- a. All monuments shall be a minimum diameter of five-eighths inches (5/8") for iron pins and a minimum inside diameter of one-half inches (1/2") for iron pipes. For concrete monuments, refer to ORS 92.060 as amended by Senate Bill No. 487.
- b. Witness corners may be set when it is impractical or impossible to set a monument in its true position, providing course and distance are given to the true position.
- c. All monuments shall be clearly identified with the surveyor's or engineer's name or registration number.

13. Certification of approval before filing with County Clerk and County Surveyor:

- a. Signature of approval on the face of the map by the Executive Secretary of the Planning Commission, or authorized representative.
- b. Dedication of easements for utilities and/or widening of street shall be made on the face of the map. Statement of dedication by owner-developer with signature attested to by notarization.
- c. Surveyor's certificate is to be shown with surveyor's seal and signature on the face of the map.
- d. Signature of approval by the City Engineer is required when dedication of streets or easements is made on the map.

C. Discovery of error and omissions:

- a. All corrections or additions on a final map shall be made in ink suitable for the material and sprayed with suitable plastic material for preservation, including those prior to recording.
- b. He shall file an affidavit stating the nature of the error with the County Recorder.
- c. The map then shall be corrected and initialed by the surveyor under the direction of the County Surveyor.
- d. The affidavit document number and date shall be placed on the face of the map that is recorded.

D. Supplemental Final Plat Information. The following shall accompany the final plat:

1. A subdivision guarantee or other report from a title insurance company which shows all of the parties who are either the fee owners or mortgage or lien holders concerning the land to be subdivided.
2. Sheets and drawings showing the following:
 - a. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any.
 - b. The computation of all distances, angles, and courses shown on the final map.
 - c. Ties to existing monuments, proposed monuments, adjacent subdivisions, and street corners.
3. A copy of any deed restrictions applicable to the subdivision.
4. Plans for the disposition, development, and maintenance of any common open space, including legal agreements related thereto.

- E. Technical Review.** Upon receipt by the City, the final map and other data shall be reviewed by the City Surveyor and Staff Advisor who shall determine whether the subdivision as shown is substantially the same as it appeared on the approved preliminary plat and that there has been compliance with provisions of the law and of this code. The City may make such checks in the field as are desirable to verify that the map is sufficiently correct on the ground and City representatives may enter the property for this purpose. If the City Surveyor determines that full conformity has not been made, the subdivider shall be advised of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions.
- F. Approval.** If the City Surveyor and Staff Advisor determine that the final plat is in full conformance with the approved preliminary plat and other regulations, the Staff Advisor and the City Surveyor may then sign the plat without further action by the Planning Commission.
- G. Agreement for Improvements.** Before a final plat is certified as approved, the subdivider shall either install required improvements pursuant to chapter 18-4.6, or shall execute and file with the City Engineer an agreement between the subdivider and the City, specifying the period within which the subdivider, or agent for subdivider, or contractor shall complete all improvement work required by or pursuant to this ordinance, and providing that if subdivider shall fail to complete such work within such period the City may complete the same and recover the full cost and expense thereof from the subdivider. The agreement shall also provide for reimbursement to the City by the subdivider for the cost of inspection by the City Engineer. Such agreement may also provide for the construction of the improvements in units, for an extension of time under conditions therein specified, and for the termination of the agreement upon the completion of proceedings under an assessment district act for the construction of improvements deemed by the City to be at least the equivalent of the improvements specified in said agreement and required to be constructed by the subdivider.
- H. Time Period for Completion.** The time period for completion shall not exceed eighteen (18) months for a subdivision, or one (1) of not more than three (3) phases of a subdivision, each containing no fewer than twenty (20) units. Following expiration of the allowed time period, failure to complete may be met by the City completing the work as specified above, or by voiding of the final plat. The course chosen shall depend on the stage of completion, if any, and the nature of the surrounding area. The Planning Commission shall make the decision regarding completion or plat voiding.
- I. Guarantee.** Where a public improvement guarantee is required:
1. The subdivider shall file with the agreement, to assure full and faithful performance thereof, one of the following:
 - a. An irrevocable letter of credit payable to the City in the event the agreement for improvements is not performed.
 - b. A surety bond executed by a surety company authorized to transact business in the state.
 - c. Cash.
 2. Such assurance of full and faithful performance shall be for a sum approved by the City Engineer as sufficient to cover the cost of said improvements, engineering, inspection, and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the

18-5.3 – Land Divisions and Property Line Adjustments | Preliminary Subdivision Plat Criteria

development of the subdivision and must be approved by the City Engineer as to form.

3. In the event the subdivider fails to complete all improvement work in accordance with the provisions of this ordinance, and the City has completed same, or if the subdivider fails to reimburse the City for the cost of inspection, engineering, and incidental expenses, and to cover cost of replacement and repair of existing streets or other improvements damaged in the development of the subdivision, the City shall call on the surety for reimbursement, or shall appropriate from any cash deposits funds for reimbursement. In any such case, if the amount of surety bond or cash deposit exceeds all cost and expense incurred by the City, it shall release the remainder of such bond or cash deposit, and if the amount of the surety bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for such difference.

18-5.3.100 Filing and Recording

Comment: The following is updated, as the existing filing requirement under 18.80.050.H is vague.

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat (“lot of record”) shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

- A. Filing Plat with County.** Within sixty (60) days of the City approval of the final plat, the applicant shall submit the final plat to Jackson County for signatures of County officials as required by ORS chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy, three (3) paper copies, and electronic files of all sheets of the recorded final plat.
- C. Prerequisites to Recording the Plat.**
 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS chapter 92;
 2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS chapter 92.

18-5.3.110 Re-platting and Vacation of Plats

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to ORS chapter 18-271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

18-5.3.120 Property Line Adjustments

Comment: This section is new. It replaces 18.76.140 Lot Line Adjustments, which lacks clear procedures for property line adjustments, which do not require a partition plat.

A Property Line Adjustment is the modification of lot boundary when no lot is created. The Staff Advisor reviews applications for Property Line Adjustments through the Ministerial procedure, per section 18-5.1.040. The application submission and approval process for Property Line Adjustments is as follows:

A. Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Ministerial review, pursuant to section 18-5.1.040. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of lands subject to the City of Ashland Flood Plain Overlay; existing fences and walls; and any other information deemed necessary by the Staff Advisor for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.

B. Approval Criteria. The Staff Advisor shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

1. Parcel Creation. No additional parcel or lot is created by the lot line adjustment;

Comment: Item 2 is intended to require conformity to lot area and other dimensional requirements of the zone, while providing for the exceptions currently granted for nonconforming lots. Item 2 also incorporates a provision from the existing physical constraints chapter, which is intended to avoid the creation of unbuildable lots.

2. Lot standards. Except as allowed for non-conforming lots, pursuant to chapter 18-1.4, or as required by an overlay zone in Part 18-3, all lots and parcels conform to the lot standards of the applicable zoning district, including lot area, dimensions, setbacks, and coverage, per Part 18-2. If a lot is nonconforming to any City standard, it shall not be made more conforming by the property line adjustment. As applicable, all lots and parcels shall identify a buildable area free of building restrictions for physical constraints (i.e. flood plain, greater than 35% slope, water resource protection zones).

3. Access Standards. All lots and parcels conform to the standards of chapter 18.4.3 Access and Circulation.

C. Recording Property Line Adjustments

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Jackson County within sixty (60) days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.

2. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within fifteen (15) days of recording and prior to any application being filed for a building permits on the re-configured lots.

Chapter 18-5.4 - Conditional Use Permits

Comment: This chapter carries forward and updates 18.104 for clarity. Definitions will move to Part 18-5. The current chapter does not include a section on applicability, and it will be added in the next draft for consistency between chapters.

Sections:

18-5.4.010	Purpose
18-5.4.020	Review Procedure
18-5.4.030	Application Submission Requirements
18-5.4.040	Approval Criteria
18-5.4.050	Revocation; Abandonment
18-5.4.060	Modifications to Conditional Use Permits

18-5.4.010 Purpose

The purpose of this chapter is to provide procedures and standards for permitting conditional uses. Certain uses are permitted in each zoning district only as conditional uses, and conditional uses are identified in chapter 18-2.2 - Zoning District Regulations. No conditionally permitted use may be established, enlarged or altered unless the city first issues a conditional use permit in accordance with the provisions of this chapter.

Comment: The following list of uses is from 18.108.040.A.3, and is unchanged except for the removal of accessory residential units per the Planning Commission's discussions. The existing list is incomplete because it does not include all of the conditional uses listed in the current ordinance. For example, churches and professional offices are allowed as conditional uses in residential zones in the current ordinance, but are not included in the list. This will be reconciled in the next draft.

18-5.4.020 Review Procedure

The approval authority, using a Type I or Type II procedure, reviews conditional use permit applications pursuant to the following criteria.

A. Type I Reviews. The following conditional use permits are subject to Type I review, per chapter 18-5.1.050:

1. Conditional use permits involving existing structures or additions to existing structures, and not involving more than three (3) residential dwelling units.
2. Installation of wireless communication facilities in accordance with section 18-4.13;
3. Temporary uses, as defined in chapter 18-6;
4. Enlargement, expansion, or alteration of nonconforming situations in accordance with section 18-1.4;
5. Government signs per section 18.4.7;

Comment: Accessory residential units have been deleted from the list of conditional uses per the

18-5.4 – Conditional Use Permits

Planning Commission's discussions.

6. The following uses in any Residential zone:
 - a. Daycare centers;
 - b. Public and public utility buildings, structures, and uses containing less than 2,500 square feet in building footprint and disturbing less than 7,500 square feet of land area;
 - c. Structures exceeding thirty-five (35) feet in height in the R-3 zone;
 - d. All new structures, additions or expansions exceeding the Maximum Permitted Floor Area (MPFA) in a Historic District, by up to twenty-five percent (25%) of the MPFA, provided any addition is not larger than 300 square feet of floor area or ten percent (10%) of the existing floor area, whichever is less;
 - e. Hostels;
 - f. Public Parking Lots in the NM-C zone; and
 - g. Community Services in the NM-R15 zone.
7. The following uses in any Commercial or Industrial zone:
 - a. Electrical substations;
 - b. Outdoor storage of commodities;
8. The following uses in the Health Care Services Zone:
 - a. Limited personal service providers in the home, such as beauticians and masseurs;
 - b. Professional offices for an accountant, architect, attorney, designer, engineer, insurance agent or adjuster, investment or management counselor or surveyor; and
 - c. Any medically-related use, located on City-owned property that is not specifically allowed by the Ashland Community Hospital Master Facility Plan; and
9. Conditional uses in the Southern Oregon University District.

B. Type I Reviews. Conditional use permits not listed in subsection 18-5.4.020.A, above, are subject to Type II review, per section 18-5.4.050.

18-5.4 – Conditional Use Permits

18-5.4.030 Application Submission Requirements

An application for a conditional use permit shall be submitted by the owner of the subject property or authorized agent on a form prescribed by the city and accompanied by the required filing fee. The application shall include a plan or drawing meeting the requirements below:

- A. General Submission Requirements.** Information required for Type I or Type II review, as applicable. (See 18-5.1.050 and 18-5.1.060).
- B. Plan Submittal.** The plan or drawing accompanying the application shall include the following information:
1. Vicinity map;
 2. North arrow and scale;
 3. Depiction and names of all streets abutting the subject property;
 4. Depiction of the subject property, including the dimensions of all lot lines;
 5. Location and use of all buildings existing and proposed on the subject property and schematic architectural elevations of all proposed structures;
 6. Location of all parking areas, parking spaces, and ingress, egress and traffic circulation for the subject property;
 7. Schematic landscaping plan showing area and type of landscaping proposed;
 8. A topographic map of the site showing contour intervals of five (5) feet or less; and
 9. Approximate location of all existing natural features in areas which are planned to be disturbed, including, but not limited to, all existing trees of greater than six (6) inch diameter at four (4) feet above grade, any natural drainage ways, ponds or wetlands, and any substantial outcroppings of rocks or boulders.
- C. Consolidated Review.** An application for a conditional use permit may, but need not be, made concurrently with any required application for site design review approval under chapter 18-5.2. The provisions of paragraph (A) above are not intended to alter the site plan submittal requirements of 18-5.2.

18-5.4 – Conditional Use Permits | Criteria, Standards and Conditions of Approval

18-5.4.040 Approval Criteria

Comment: The following criteria are carried forward from 18.104.050 and reformatted.

A. Approval Criteria. A conditional use permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions:

- I. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.

Comment: The current standard concerning city facilities in 18.104.050.B includes the language regarding paved access “to and through the development.” Staff believes the intent of the language regarding “through the development” is regarding internal circulation for vehicles throughout the development, and recommends that this language be revised to “throughout.” This same issue is flagged in the Site Review chapter.

2. That adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the development, and adequate transportation can and will be provided to the subject property.
3. 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, pursuant with subsection 5, below. 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:
 - a. Similarity in scale, bulk, and coverage.
 - b. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
 - c. Architectural compatibility with the impact area.
 - d. Air quality, including the generation of dust, odors, or other environmental pollutants.
 - e. Generation of noise, light, and glare.
 - f. The development of adjacent properties as envisioned in the Comprehensive Plan.
 - g. Other factors found to be relevant by the approval authority for review of the proposed use.
4. A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance;
5. For the purposes of reviewing conditional use permit applications for conformity with the approval criteria of this subsection, the target uses of each zone are:
 - a. WR (Woodland Residential) and RR (Rural Residential) zones: Residential use complying with all ordinance requirements, developed at the density permitted by chapter 18-2.3.

18-5.4 – Conditional Use Permits | Criteria, Standards and Conditions of Approval

- b. R-1 (Single Family Residential) zones: Residential use complying with all ordinance requirements, developed at the density permitted by section 18-2.3.
- c. R-2 and R-3 Zones: Residential use complying with all ordinance requirements, developed at the density permitted by the zone.

Comment: The change from 0.35 to 0.50 FAR in 'd' is per recent amendments to the Detailed Site Review zone.

- d. C-1. The general retail commercial uses listed in chapter 18-2.2. developed at an intensity of 0.35 floor to area ratio, complying with all ordinance requirements; and within the Detailed Site Review overlay, at an intensity of 0.50 floor to area ratio, complying with all ordinance requirements.
- e. C-1-D. The general retail commercial uses listed in chapter 18-2.2, developed at an intensity of 1.00 gross floor to area ratio, complying with all ordinance requirements.

Comment: The change from 0.35 to 0.50 FAR in 'f' is per recent amendments to the Detailed Site Review zone.

- f. E-1. The general office uses listed in chapter 18-2.2, developed at an intensity of 0.35 floor to area ratio, complying with all ordinance requirements; and within the Detailed Site Review overlay, at an intensity of 0.50 floor to area ratio, complying with all ordinance requirements.
- g. M-1. The general light industrial uses listed in chapter 18-2.2, complying with all ordinance requirements.
- h. SOU. The permitted uses listed in chapter 18-3.5, complying with all ordinance requirements.
- i. CM-CI. The general light industrial uses listed in chapter 18-2.2, developed at an intensity of 0.50 gross floor to area ratio, complying with all ordinance requirements.
- j. CM-OE. The general office uses listed in chapter 18-2.2, developed at an intensity of 0.60 gross floor to area, complying with all ordinance requirements.
- k. CM-MU. The general office uses listed in chapter 18-2.2, developed at an intensity of 0.60 gross floor to area, complying with all ordinance requirements.
- l. CM-NC. The retail commercial uses listed in chapter 18-2.2, developed at an intensity of 0.60 gross floor to area ratio, complying with all ordinance requirements.

Comment: Section 18.104.060 Conditions of the current ordinance is carried forward in section B below, and includes wording clarifications as well as several additional items.

Item 4: the beginning of the sentence "Requiring site or architectural design features that minimize environmental impacts such as..." is new. Previously, this item discussed regulating noise, vibration, dust, odors or similar nuisances. This has been a difficult issue for applicants to address and for staff to administer. Staff recommends adding more specificity to make it clear that thoughtful site and building design is the key consideration.

18-5.4 – Conditional Use Permits | Criteria, Standards and Conditions of Approval

Item 8 is intended to incorporate the existing provisions of 18.68.150 Waiver of Right to Remonstrate and Consent to Participate in Costs of Improvements.

Items 12, 16 and 17 are new, and address outdoor lighting, public utility improvements and timetable for review. In practice, outdoor lighting and public utility improvements routinely are reviewed, and sometimes added as conditions of approval. The third item of the Planning Commission having the capability to review conditional use permits annually or by some other increment occasionally has come up.

- B. Conditions of Approval.** The approval authority may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, one or more of the following:
1. Limiting the hours, days, place and/or manner of operation;
 2. Specifying the period of time within which the proposed use shall be developed;
 3. Limiting the duration of use;
 4. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust, in addition to the requirements of Part 18-3 Site Design and Development Standards;
 5. Requiring larger setback areas, and/or building separation;
 6. Requiring architectural design features such as building materials, textures, colors and architectural features that address architectural compatibility with the impact area ;
 7. Designating the size, number, location and/or design of vehicle and pedestrian access points or parking and loading areas;
 8. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable, consistent with the requirements of chapter 18-4.6 Public Facilities. Alternatively, the City may require the owner sign a non-remonstrance agreement and consent to participate in the costs of providing such improvements, per section 18-4.6.020.
 9. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas, in addition to the requirements of Part 18-3 Site Design and Development Standards;
 10. Regulation of building materials, textures, colors and architectural features;
 11. Limiting the number, size, location, height and/or lighting of signs;
 12. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
 13. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
 14. Requiring and designating the size, height, location and/or materials for fences and walls;

18-5.4 – Conditional Use Permits | Criteria, Standards and Conditions of Approval

15. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
16. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards;
17. The approval authority may require renewal of conditional use permits annually or in accordance with another timetable as approved pursuant to this chapter. Where applicable, the timetable shall provide for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such period review may occur through a Type I or Type II review process, pursuant to chapter 18-5.1.

18-5.4.050 Revocation; Abandonment

Unless the approval authority specifically allows a longer period, any conditional use permit approved under this section, including any declared phase, shall be deemed revoked if the proposed use or phase is not commenced within twelve (12) months of the date of approval. A use or phase shall not be considered commenced until the permittee has actually obtained a building permit and commenced construction or has actually commenced the conditional use on the premises. If the permit requires site design review approval under chapter 18-5.2, the permit shall be deemed revoked if the use or phase is not developed within twelve (12) months of the date of site design review approval. A conditional use is deemed void if discontinued or abandoned for a period of six (6) consecutive months.

18-5.4.060 Modifications to Conditional Use Permits

Modifications to conditional use permits are subject to chapter 18-5.6 Modifications.

Chapter 18-5.5 – Adjustments and Variances

Comment: This chapter carries forward and updates 18.100 Variances. Ordinance ‘Exceptions’ that apply only to certain zones or specific design standards (e.g. Exception to Site Design and Use Standards, Administrative Variance from Development Standards for Hillside Lands) are incorporated into relevant sections of the ordinance, as described under Purpose. A table that cross references the exceptions will be added to this chapter in the next draft. The current chapter does not include sections on applicability or application submission requirements, and these sections will be added in the next draft for consistency between chapters.

Sections:

18-5.5.010	Purpose
18-5.5.020	Review Procedure
18-5.5.030	Approval Criteria
18-5.5.040	Effect
18-5.5.050	Expiration

Comment: The section carries forward 18.100.010 Variances – Purpose from the current ordinance. The highlighted section is added to cross reference the exceptions allowed in specific zones or to specific design standards.

18-5.5.010 Purpose

Where practical difficulties, unnecessary hardships, and results inconsistent with the general purpose of this title may result from the strict application of certain provisions thereof, an Adjustment or Variance may be granted as provided in this chapter. This chapter may not be used to allow a use that is not in conformity with the uses specified by this title for the district in which the land is located. Chapter 18-5.5 does not apply where this ordinance specifically provides for exceptions to site design and development standards (e.g., parking for commercial buildings in the Historic District, street standards, solar setbacks, standards for Hillside Lands and Water Resource Protection Zones, and Hardship variance to Water Resource Protection Zone). In granting a variance, the approval authority may impose conditions similar to those provided for conditional uses to protect the best interests of the surrounding property and property owners, the neighborhood, or the City as a whole.

18-5.5.020 Review Procedure

Applications for Administrative Adjustments and Variances are reviewed as follows:

A. Administrative Adjustments. The following adjustments are subject to the Type I review procedure in section 18-5.1.050:

Comment: The following carries forward the provisions for Type I variances under 18.108.040.A.

- I. Sign placement, per chapter 18-4.7;

18-5.5 – Adjustments and Variances

2. Non-conforming signs, when bringing them into conformance as described in chapter 18-4.7;
3. Up to a 50% reduction of standard yard requirements;
4. Parking in setback areas;
5. Up to 10% reduction in the number of required parking spaces;
6. Up to 50% reduction for parking requirements in Ashland's Historic District;
7. Up to 10% reduction in the required minimum lot area;
8. Up to 10% increase in the maximum lot coverage percentage;
9. Up to 20% reduction in lot width or lot depth requirements;
10. Up to 10% variance on height, width, depth, length or other dimension not otherwise listed in this section;

B. Variances. Variances not meeting the criteria in subsection 18-5.5.020.A are subject to the Type II review procedure in section 18-5.1.060.

18-5.5.030 Approval Criteria

Comment: Criteria A, C and D are from the current ordinance in 18.100.020 Application, and are edited for clarity. Criteria B and E are new, and are suggested to clarify the requirements while balancing flexibility with predictability in decision making.

The approval authority through a Type I or Type II procedure, as applicable, may approve a variance upon finding that it meets all of the following criteria:

- A. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, such as topography, natural features, adjacent development, or similar circumstances. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;
- B. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
- C. The proposal's benefits will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City;
- D. The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant; and
- E. The variance does not conflict with other applicable City policies or other applicable regulations.

18-5.5.040 Effect

Comment: The carries forward existing language in 18.100 Effect. The current language requires fifteen days after the variance is approved to issue a building permit. This language has been changed to the

18-5.5 – Adjustments and Variances

“effective date of the decision” which would mean that the time frame to file an appeal has passed and the decision is final at the local level.

No building or zoning permit shall be issued in any case where a variance is required until the effective date of the decision after the appeal period has passed, and then only in accordance with the terms and conditions of said approval. An appeal from the action of the approval authority shall automatically stay the issuance of the building or other permit until such appeal has been completed and the final decision of the City is issued. In the event the variance is approved, the building or zoning permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said variance.

18-5.5.040 Expiration

Approvals granted under chapter 18-5.5 shall expire if not acted upon by the property owner within twelve (12) months of the City approving the variance. Where the owner has applied for a building permit or final plat, has made site improvements consistent with an approved development plan (e.g., Site Design Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the Staff Advisor may extend an approval accordingly.

18-5.6 – Modifications to Approved Planning Applications

Chapter 18-5.6 - Modifications to Approved Planning Applications

Comment: Modifications are minimally addressed in the current code under 18.108.040.A.2. Current code requires Administrative Approval (Type 1) to modify a previous Administrative Approval, and a Planning Commission Public Hearing (Type II) to modify a previous Planning Commission decision. The exception is amendments for tree removal or building envelopes is a Type I approval.

The following new chapter is based on the Oregon Model Code. The thresholds recommended below and the recommendation that the ordinance provide for ministerial approvals for minor modifications, are changes.

Sections:

18-5.6.010	Purpose
18-5.6.020	Applicability
18-5.6.030	Major Modifications
18-5.6.040	Minor Modifications

18-5.6.010 Purpose

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans.

18-5.6.020 Applicability

This chapter applies when an applicant proposes to modify an approved application or condition of approval.

18-5.6.030 Major Modifications

A. Authorization of Major Modifications. The approval authority and review procedure for Major Modification applications is the same as for the original project or plan approval. Any one of the following changes constitutes a Major Modification:

1. A change in land use, from a less intensive use to a more intensive use, as evidenced by parking, paved area, estimated an increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is twenty (20) percent or more, provided the standards of Article 18-2 and Article 18-3 are met; or
2. An increase in floor area to a commercial or industrial development by twenty (20) percent or more, or an increase in the number of dwelling units in a multifamily development, by ten (10) percent or more, provided the standards of Article 18-2 and Article 18-3 are met; or
3. An increase in building envelope or an increase in lot coverage by twenty (20) percent or more, provided the standards of Article 18-2 and Article 18-3 are met; or

18-5.6 – Modifications to Approved Plans and Conditions

4. A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic the change could cause a significant adverse impact on traffic operations or safety (i.e., requiring mitigation); or
5. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by twenty (20) percent or more; or
6. A change to a building elevation or floor plan that the Staff Advisor determines is not in substantial conformance with the original approval; or
6. Change to a condition of approval, or a change similar to items 1-5, above, that could have a detrimental impact on adjoining properties. The Staff Advisor shall have discretion in determining detrimental impacts triggering a major modification; or
7. Other changes similar to those in subsections 1-6, above, in scale, magnitude, or impact to adjacent properties, as determined by the Staff Advisor.

B. Major Modification Applications. In requesting a Major Modification, the applicant shall submit an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The approval authority may require other relevant information, as necessary, in evaluating the request.

C. Major Modification Approval Criteria. A Major Modification shall be approved only upon the city approval authority finding that all of the following criteria are met:

1. Major Modification applications are subject to the same approval criteria used for the initial project approval, except that the scope of review is limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc.; and
2. A modification adding or altering a conditional use, or requiring a variance, administrative variance, or exception may be subject to other ordinance requirements;
3. The approval authority shall approve, deny, or approve with conditions the application, based on written findings.

18-5.6.040 Minor Modifications

A. Authorization of Minor Modifications.

1. A Minor Modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in section 18-5.6.030.A.
2. The Staff Advisor through a Ministerial or Type I procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for Minor Modifications.

18-5.6 – Modifications to Approved Planning Applications

- B. Minor Modification Applications.** In requesting a Minor Modification, the applicant shall submit an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The approval authority may require other relevant information, as necessary, in evaluating the request.
- C. Minor Modification Approval Criteria.** A Minor Modification shall be approved only upon the city approval authority finding that all of the following criteria are met:
1. Minor Modification applications are subject to the same approval criteria used for the initial project approval, except that the scope of review is limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with chapter 18-5.1; and
 2. A modification adding or altering a conditional use, or requiring a variance, administrative variance, or exception may be deemed a Major Modification and/or may be subject to other ordinance requirements;
 3. The approval authority shall approve, deny, or approve with conditions the application, based on written findings; except that conditions of approval do not apply, and findings are not required, where the original approval was approved through a Ministerial review.

Chapter 18-5.7 - Annexations

Comment: The following carries forward 18.106 Annexations. The current chapter does not include sections on purpose or applicability and these will be added in the next draft for consistency between chapters.

Sections:

18-5.7.010	Review Procedure
18-5.7.020	Application Submission Requirements
18-5.7.030	Initiation by Council
18-5.7.040	Approval Criteria and Standards
18-5.7.050	Boundaries
18-5.7.060	Statutory Procedures

18-5.7.010 Review Procedure

All annexations shall be processed under the Type III procedure.

18-5.7.020 Application Submission Requirements

Except for annexations initiated pursuant to section 18-5.7.030, application for annexation shall include the following information:

- A.** Consent to annexation, which is non-revocable for a period of one year from its date.
- B.** Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.
- C.** Boundary description and map prepared in accordance with ORS 308.225. Such description and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed and monumented as required by statute subsequent to Council approval of the proposed annexation.
- D.** Written findings addressing the criteria and standards in 18-5.7.040.
- E.** Written request by the property owner for a zone change. Provided, however, no written request shall be necessary if the annexation has been approved by a majority vote in an election meeting the requirements of Section 11g of Article XI of the Oregon Constitution (Ballot Measure No. 47)

18-5.7.030 Initiation by Council

The Council or Commission on its own motion may initiate a proposal for annexation. The approval criteria and standards in section 18-5.7.030 shall apply. Provided, however, that in the case of annexation pursuant to section 18-5.7.030.4 (current or probable public health hazard due to lack of full City sanitary sewer or water services)

18-5.7 – Annexations

or section 18-5.7.030.6 (the lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits), the approval standards in section 18-5.7.030.E, F and G shall not apply.

18-5.7.040 Approval Criteria and Standards

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A.** The land is within the City's Urban Growth Boundary.
- B.** The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C.** The land is currently contiguous with the present City limits.
- D.** Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.
- E.** Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian and transit transportation meeting the following standards:
 - 1. For vehicular transportation a 20' wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20' driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to city standards. Where future street dedications are indicated on the City's Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.
 - 2. For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.
 - 3. For pedestrian transportation safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within a quarter of a mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and

accessible pedestrian facilities serving those destinations shall be indicated.

4. For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.
- F.** For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90% of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35%, shall not be included.
- G.** Except as provided in 18-5.7.030.G.7, below, for all annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay):
1. The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25% of the base density as calculated using the unit equivalency values set forth herein:
 - a. Ownership units restricted to households earning at or below 120% the area median income shall have an equivalency value of 0.75 unit.
 - b. Ownership units restricted to households earning at or below 100% the area median income shall have an equivalency value of 1.0 unit.
 - c. Ownership units restricted to households earning at or below 80% the area median income shall have an equivalency value of 1.25 unit.
 - d. Ownership or rental units restricted to households earning at or below 60% the area median income shall have an equivalency value of 1.5 unit, or;
 2. As alternative to providing affordable units per section 18-5.7.030.G.1 the applicant may provide Title to a sufficient amount of buildable land for development through transfer to a non-profit (IRC 501(3)(c) affordable housing developer or public corporation created under ORS 456.055 to 456.235 for the purpose of complying with subsection 18-5.7.030.G.1.b.
 - a. The land to be transferred shall be located within the project meeting the standards set forth in 18-5.7.030.G.4, 18-5.7.030.G.5 and 18-5.7.030.G.6.
 - b. All needed public facilities shall be extended to the area or areas proposed for transfer.
 - c. Prior to commencement of the project, Title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235.

18-5.7 – Annexations

- d. The land to be transferred shall be deed restricted to comply with Ashland’s affordable housing program requirements.
3. The affordable units shall be comparable in bedroom mix and housing type with the market rate units in the development.
 - a. The number of bedrooms per dwelling unit in the affordable Units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate Units. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 5-18.5.8-1.

Table 18.5.8-1

Unit Type	Minimum Required Unit Floor Area (Square Feet)
Studio	350
1 Bedroom	500
2 Bedroom	800
3 Bedroom	1,000
4 Bedroom	1,250

- b. The required on-site affordable units shall be comprised of the different unit types in the same proportion as the market dwelling units within the development.
4. A development schedule shall be provided that demonstrates that that the Affordable Housing Units per 18-5.7.030.G shall be developed, and made available for occupancy, as follows:
 - a. That 50% of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50% of the market rate units.
 - b. Prior to issuance of a building permit for the final 10% of the market rate units, the final 50% of the affordable units shall have been issued certificates of occupancy.
5. That affordable housing units shall be distributed throughout the project
6. That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.
 - a. The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units
 - b. Affordable units may differ from market-rate units with regard to interior finishes and materials

provided that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.

7. Exceptions to the requirements of 18-5.7.030.G.2, 18-5.7.030.G.3, 18-5.7.030.G.4, and/or 18-5.7.030.G.5 may be approved by the City Council upon consideration of one or more of the following:
 - a. That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of 18-5.7.030.G.2, or;
 - b. That an alternative mix of housing types not meeting the requirements of 18-5.7.030.G.3.b would accomplish additional benefits to the City consistent with this chapter, than would the development providing a proportional mix of unit types.
 - c. That the alternative phasing proposal not meeting 18-5.7.030.G.4 provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion, or;
 - d. That the distribution of affordable units within the development not meeting 18-5.7.030.G.5 is necessary for development of an affordable housing project that provides onsite staff with supportive services or;
 - e. That the distribution of affordable units within the development as proposed would accomplish additional benefits for the city, consistent with the purposes of this chapter, than would development meeting the distribution requirement of 18-5.7.030.G.5, or;
 - f. That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per 18-5.7.030.G.6, are necessary due to local, State, or Federal Affordable Housing standards or financing limitations;
8. The total number of affordable units described in this section 18-5.7.030.G shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than sixty (60) years. Properties providing affordable units as part of the annexation process shall qualify for a maximum density bonus of twenty-five (25) percent.

H. One or more of the following standards are met:

1. The proposed area for annexation is to be residentially zoned, and there is less than a five-year supply of vacant and redevelopable land in the proposed land use classification within the current city limits. “Redevelopable land” means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the Housing Element of the Comprehensive Plan; or
2. The proposed lot or lots will be zoned CM, E-I or C-I under the Comprehensive Plan, and that the applicant will obtain Site Review approval for an outright permitted use, or special permitted use concurrent with the annexation request; or

18-5.7 – Annexations

3. A current or probable public health hazard exists due to lack of full City sanitary sewer or water services; or
4. Existing development in the proposed annexation has inadequate water or sanitary sewer service; or the service will become inadequate within one year; or
5. The area proposed for annexation has existing City of Ashland water or sanitary sewer service extended, connected, and in use, and a signed “consent to annexation” agreement has been filed and accepted by the City of Ashland; or
6. The lot or lots proposed for annexation are an “island” completely surrounded by lands within the city limits.

18-5.7.050 Boundaries

When an annexation is initiated by a private individual, the Staff Advisor may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City of Ashland. The Staff Advisor, in a report to the Commission and Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Planning Commission and Council to make annexations extending the City's boundaries more logical and orderly.

18-5.7.060 Statutory Procedures

The applicant for the annexation shall also declare which procedure under ORS Chapter 222 the applicant proposes that the Council use, and supply evidence that the approval through this procedure is likely.

Chapter 18-5.8 – Plan Amendments and Zone Changes

Comment: The following chapter carries forward and combines 18.108.060 Type III Procedure, and 18.108.170 Legislative Amendments.

The Type III actions (i.e. Zoning Map changes, Comprehensive Plan map or other official map changes, annexations and Urban Growth Boundary amendments) and Legislative actions (i.e. Land Use Ordinance amendments and Comprehensive Plan text amendments) from the current code have been combined into the Type III category (Legislative Decision) in the draft Unified Ordinance. The process is the same as in the current code with recommendation by the Planning Commission after a public hearing and a decision by the City Council after a second public hearing. Legislative actions make law or policy, as opposed to the application of existing law to a particular case. The existing Type III and Legislative categories overlap by addressing largely the same type of action, and the intent of the combining the two existing categories is to eliminate duplication and provide clarity for use and administration.

The current code gives the Planning Commission the authority to approve zoning map amendments consistent with the comprehensive plan map, or to make other minor amendments or corrections that are quasi-judicial. In the draft Unified Ordinance, these actions have been moved to the Type II procedure which is consistent with current procedure in 18.108.060.C.2 where a decision is made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

Sections:

18-5.8.010 Purpose
18-5.8.020 Applicability and Review Procedure

18-5.8.010 Purpose

This chapter contains the procedure for amending the City of Ashland Comprehensive Plan, Zoning/Land Use Control Maps, and Land Use Ordinance.

18-5.8.020 Applicability and Review Procedure

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 18-5.7 for annexation information), and urban growth boundary amendments. Type III actions are reviewed by the Planning Commission, which makes a recommendation to City Council. City Council makes final decisions on legislative proposals through enactment of an ordinance.

The following planning actions shall be subject to the Type III Procedure:

A. Zone changes or amendments to the Zoning Map or other official maps;

18-5.7 – Plan Amendments and Zone Changes

- B. Comprehensive Plan changes, including text and map changes or changes to other official maps;
- C. Land Use Ordinance amendments; and
- D. Urban Growth Boundary amendments.

Chapter 18-5.9 – Measure 49 Claims

Comment: Chapter 18-5.9 is reserved for 18.110 Measure 49 Claims. The chapter is not included in this review draft to save space, but it will be published in the final draft. No changes or edits to 18.110 are proposed.

DISCUSSION ITEM

Input on Council Goals

2011 Council Goals

2011-2012 CITY COUNCIL GOALS

OVERVIEW

The City Council has set goals for the next 12 to 24 months to continue Ashland's history as a community that focuses on sustaining itself and its people. To us, sustainability means using, developing and protecting resources at a rate and in a manner that enables people to meet their current needs and also provides that future generations can meet their own needs. The City of Ashland has a responsibility towards sustainability in five areas:

- Economy
- Environment
- Social Equity
- Municipal Organization
- Infrastructure

ECONOMY

Adopt a comprehensive economic development strategy to: diversifying the economic base of the community; support businesses that use and provide local and regional products; increase the number of family-wage jobs; and leverage Ashland's tourism and repeat visitors

Adopt an action plan to ensure City programs and activities support the overall strategic direction by June 30, 2011.

Complete the feasibility study for urban renewal and tax increment financing as a method of funding infrastructure, public facilities, and economic development programs for the Croman Mill District, the railroad district, and the downtown.

Increase the clarity, responsiveness, and certainty of the development process. Develop a specific action plan to respond to the recommendations of the 2006 Zucker and Seiegl Reports

ENVIRONMENT

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.

Develop a strategy to use conservation and local renewable sources to meet Tier 2 power demands.

Implement specific capital projects and operational programs to ensure that City facilities and operations are a model of efficient use of water

Develop a concise sustainability plan for the community and for City operations.

SOCIAL EQUITY

Decide whether to develop or sell the remaining land on Clay Street.

Appoint an ad-hoc committee to make recommendations to the City Council by December 31, 2011 about how the City and partner organizations can work together in the long run to address the needs of homeless people and to reduce homelessness in the community.

ORGANIZATION

Develop plan for fiscal stability, manage costs, prioritize services, and insure key revenue streams. Adopt policies and targets to use surpluses in ending fund balances to fund longer-term reserves. Implement 2010 Council direction on Ending Fund Balance targets.

Adopt a plan to increase the City's ability to afford the cost of employee benefits while ensuring that employee benefits remain a tool for recruiting and retaining a high quality work force.

Recognize and affirm the value of the contribution of volunteers to the City and the Community.

Move to a biennial budget, with adjustments and policy discussion in the second year, with the first two year process for Fiscal Years 2012-2013 and 2013 -2014.

Evaluate the need to revise the powers, duties, and membership of the Tree Commission, Housing Commission, Conservation Commission, Public Arts Commission, and Planning Commission.

INFRASTRUCTURE

Adopt an integrated land use and transportation plan to increase the viability of transit, bicycles, walking and other alternative modes of transportation; reduce per capita automobile vehicle miles traveled; provide safe walking and bicycling routes to home, work, shopping and schools; implement environmentally responsible design standards, and minimize new automobile-related infrastructure.

Adopt an integrated Water Master Plan that addresses long-term water supply including climate change issues, security and redundancy, watershed health, conservation and reuse, and stream health.

Complete a feasibility and financing plan regarding renovating the Grove for the Ashland Police station. Evaluate use of the existing police station for other City office needs.

PRINT

CLOSE

OTHER BUSINESS

Bi-Annual Attendance Report

Memo

DATE: January 8, 2013
 TO: Planning Commission
 RE: Planning Commission Attendance Report

Pursuant to AMC 2.10.025, below is the Planning Commission's attendance record for July through December 2012.

Meeting Date	Meeting Type	Absences
July 10, 2012	Regular Meeting	0
July 24, 2012	Special Meeting	0
August 14, 2012	Regular Meeting	0
August 28, 2012	Study Session	0
September 11, 2012	Regular Meeting	2 – Eric Heesacker, Troy Brown Jr.
September 25, 2012	Study Session	0
October 9, 2012	Regular Meeting	0
November 13, 2012	Regular Meeting	1 – Richard Kaplan
November 27, 2012	Special Meeting	2 – Eric Heesacker, Troy Brown Jr.
December 11, 2012	Regular Meeting	0

AMC 2.10.025

All members are expected to attend all regularly scheduled meetings, study sessions and special meetings, when applicable. If a member will be absent from a meeting the member must notify the chair or the staff liaison at least two hours prior to the meeting. Any member who has two or more unexcused absences in a six month period [i.e. January 1– June 30 or July 1 - December 31] shall be considered inactive and the position vacant. Further any member not attending a minimum of two-thirds (2/3) of all scheduled meetings (inclusive of study sessions and special meetings) shall be considered inactive and the position vacant. Attendance shall be reviewed by the commission or board during the regularly scheduled meetings in January and July, with a report sent to the Mayor and City Council advising of the need for appointment or re-appointment, if necessary.

