

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  
STUDY SESSION  
March 26, 2019  
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street.
  
- II. **ANNOUNCEMENTS**
  
- III. **PUBLIC FORUM**
  
- IV. **DISCUSSION ITEMS**
  - A. Land Use Ordinance - Open Space Amendments
  
- V. **UPDATES**
  - A. Vertical Housing Development Zone
  
- VI. **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).

# Memo

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DATE: March 26, 2019

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: Draft open space and recreation area ordinance amendments

## **Summary**

The Planning Commission is being asked to provide feedback to staff on the attached draft open space and recreation area ordinance amendments.

## **Background**

The Planning Commission discussed the open space and recreation area requirements at the January 22, 2019 meeting.

The Commission discussion seemed to indicate there was an interest in distinguishing the open space requirements for single-family subdivisions from the recreation area requirements for developments and subdivisions in the multi-family zones. In addition, the Commission discussed: 1) providing flexibility in multi-family zones to locate the required recreation area in common areas, private yards or a combination of the two, and 2) clarifying the applicability of the density bonuses related to open space and recreation facilities.

## **Draft Ordinance Amendments**

Attached is a draft of ordinance amendments based on the Planning Commission discussion at the January 22, 2019 meeting. The draft document includes notes on the changes. The draft amendments include the following key clarifications or changes.

- Minimum dimension requirements for private recreation areas.
- Allows recreation area (8%) to be counted towards meeting the required 5% of common open space for a Performance Standards subdivision in a multi-family zone.
- Clarifies that density bonus for open space applies after meeting the minimum 8% recreation requirement in multi-family zones.
- Clarifies that major recreational facilities for the purpose of a density bonus may be located in the minimum area required for common open space or recreation area.
- The definition of open space is revised and a definition of recreation area added.

The current land use ordinance includes over 250 references to open space, recreation and common area. As a result, staff prepared the core changes for the Planning Commission to review and provide feedback. If the Planning Commission believes the draft ordinance amendments are moving in the right direction, staff will perform and provide a comprehensive update to the land use ordinance.



## **Legislative History**

The current definition of open space in 18.6.1.030 is below and was moved from the Performance Standards Options chapter (previously Ashland Municipal Code (AMC) 18.88.020.H) to the Definitions chapter in the 2015 code update.

**Open Space.** A common area designated on the final plans of the development, permanently set aside for the common use of the residents of the development. Open space area is landscaped and/or left with a natural vegetation cover, and does not include thoroughfares, parking areas, or improvements other than recreational facilities.

The Performance Standards Options chapter was originally developed and primarily used for subdivisions in the single-family zones. The approval criteria for Outline Plan require the “natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings etc...have been included in the open space, common areas and unbuildable areas.” As a result, common open space in Performance Standards subdivisions serve the dual purpose of preserving natural features as well as providing other more developed forms of open space (e.g., picnic or seating areas).

Even with the provision of common open space, the development pattern in single-family zones usually includes private open space or yard areas located on individual lots. This is because the privately-owned lots tend to be larger and the lot coverage allowances lower than the multi-family zones. In other words, a larger area in the single-family zones cannot be built on or covered with a dwelling unit and therefore becomes private yard space.

In contrast, the residential design standards for development in multi-family zones was originally designed in a flexible manner allowing open space or recreation area to be provided in common open space and private yard areas, as shown in the code graphic below. The notable difference in the residential standards for multi-family zones is the recreation areas cannot be “shrubs, bark mulch, and other ground covers that do not provide suitable surface for human use.”



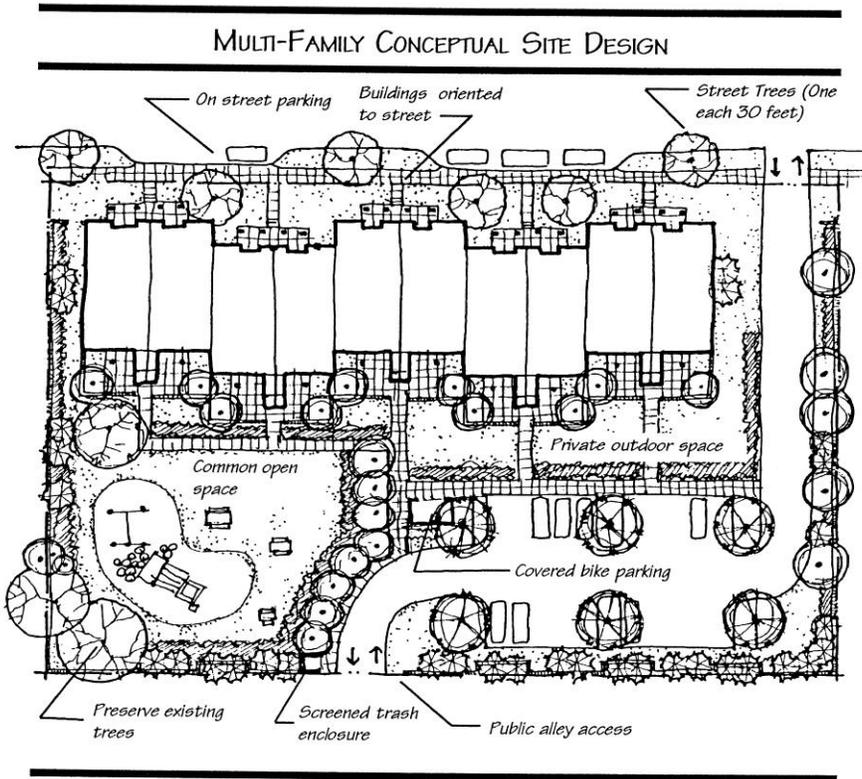


Figure 18.4.2.030



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTERS 18.3.9, 18.4. AND 18.6 OF THE  
ASHLAND LAND USE ORDINANCE TO AMEND THE OPEN SPACE  
AND RECREATION STANDARDS FOR CLAIRITY AND CONSISTENCY

Annotated to show deletions and additions to the code sections being modified. Deletions are bold lined through and additions are bold underlined. Unchanged text is grey.

SECTION 1. Section 18.4.2.030.H [Residential Development – Open Space] of the Ashland Land Use Ordinance is hereby amended as follows:

18.4.2.030 Residential Development

H. **Recreation Area Open Space.** Residential developments that are subject to the provisions of this chapter shall conform to all of the following standards.

1. **Recreation Area.** An area equal to at least eight percent of the lot area shall be dedicated ~~to open space for~~ **to outdoor** recreational use by the ~~tenants~~ **residents** of the development. **Recreation area may be located in common area, a private yard or a combination thereof.**

**a. Performance Standards Option (PSO) Overlay.** Recreation area dedicated to **meet the requirements of subsection 18.4.2.030.H, above, shall also satisfy the common open space requirement of subsection 18.3.1.050.A.3 for land divisions exercising the Performance Standards option in Chapter 18.3.9 and located a multiple family zone (i.e., R-2, R-3 or multi-family zone in a special district).**

**b. Density Bonus.** Density bonuses shall be awarded to recreation area in excess of the eight percent required in subsection 18.4.2.030.H, above. **The minimum recreation area required in multiple family zones cannot be counted for the award of density bonus points in section 18.2.5.080 and 18.3.1.050.**

2. **Surfacing.** Areas covered by shrubs, bark mulch, and other ground covers that do not provide suitable surface for human use may not be counted towards this requirement.

~~3. Decks and Patios. Decks, patios, and similar areas are eligible for open space.~~

~~4. Play Areas.~~ Play areas for children are required for projects of greater than 20 units that are designed to include families. Play areas are eligible for **recreation area open space.**

**4. Recreation Area Design Standards.**

**a. Common Area.** Recreation area provided in common area shall conform to the following standards.

**i. Physically constrained areas such as wetlands or steep slopes cannot be counted towards the recreation area requirement.**

**Commented [MH1]:** Recreation area in a multi-family zones can also be counted as the required 5% of common open space for a PSO subdivision in a multi-family zone.

**Commented [MH2]:** Clarifies that density bonus for open space applies after meeting the minimum 8% requirement.

**Commented [MH3]:** The current definition of open space that requires "common area" was previously located in the PSO chapter prior to 2015. As a result, a common area requirement was not applied to developments in the multi-family zones and private open spaces such as decks, patios and porches were counted towards satisfying the recreation area requirement.

Moved below to 4.b.i (next page).

**ii. Incidental open space that has no realistic use by residents of a development for outdoor enjoyment and leisure activities cannot be counted towards the recreation area requirement. For example, isolated walkways that are limited to providing pedestrian access to dwelling units or buildings and are not part of larger recreation area cannot be counted towards the recreation area requirement.**

**Commented [MH4]:** To address past examples of counting walkways as recreation area.

**b. Private Yard. Recreation area provided in private yards shall conform to the following standards.**

**i. Decks, patios, porches and similar areas are eligible for recreation area.**

**Commented [MH5]:** Existing standards, moved from above.

**ii. The dimensions of private recreation areas shall be a minimum of six feet.**

**Commented [MH6]:** Unenclosed porches are required to be a minimum of 6 feet in depth.

**iii. Area needed for ingress and egress to a building or structure (e.g., walkway to dwelling unit door, area needed to access storage or bicycle rack) cannot be counted toward the recreation area requirement.**

**Commented [MH7]:** Again, to address past examples of counting porch area in front of door as recreation area.

**SECTION 2.** Section 18.3.9.050 [Performance Standards Option and PSO Overlay – Performance Standards for Residential Developments] of the Ashland Land Use Ordinance is hereby amended as follows:

**18.3.9.050 Performance Standards for Residential Developments**

**A. Base Densities.** The density of the development shall not exceed the density established by this section. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the final answer, after bonus point calculations, shall not apply towards the total density. Accessory residential units are not required to meet the density requirements of this chapter in accordance with section 18.2.3.040.

1. The base density, for purposes of determining density bonuses allowed under this section, for developments other than cottage housing, is as provided in Table 18.3.9.050.

Table 18.3.9.050.A.1 Base Densities for Determining Allowable Density Bonus with Performance Standards Option	
Zone	Allowable Density (dwelling units per acre)
WR-2	0.30 du/acre
WR-2.5	0.24 du/acre
WR-5	0.12 du/acre
WR-10	0.06 du/acre
WR-20	0.03 du/acre
RR-1	0.60 du/acre
RR-5	1.2 du/acre
R-1-10	2.40 du/acre
R-1-7.5	3.60 du/acre
R-1-5	4.50 du/acre
R-1-3.5	7.2 du/acre
R-2	13.5 du/acre

R-3	20 du/acre
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- The base density for cottage housing developments, for purposes of determining density bonuses, allowed under this section is as provided in Table 18.3.9.050.A.2.

Zones	Maximum Cottage Density	Minimum number of cottages per cottage housing development	Maximum number of cottages per cottage housing development	Minimum lot size (accommodates minimum number of cottages)	Maximum Floor Area Ratio (FAR)
R-1-5, NN-1-5 NM-R-5	1 cottage dwelling unit per 2,500 square feet of lot area	3	12	7,500 sq.ft.	0.35
R-1-7.5 NM-R-1-7.5	1 cottage dwelling unit per 3,750 square feet of lot area	3	12	11,250 sq.ft.	0.35

- Open Space Required. All developments with a base density of ten units or greater shall be required to provide a minimum of five percent of the total lot area in **Open Space common open space**; that area is not subject to bonus point calculations, ~~however, density bonuses shall be awarded to open space in excess of the five percent required by this subsection.~~ The common open space shall be designated on the Outline and Final Plan submittals and permanently set aside for the use of residents of the development.

**a. Multiple Family Zones.** Recreation area dedicated to meet the requirements in subsection 18.4.2.030.H shall also satisfy the common open space requirement of subsection 18.3.1.050.3, above, for land divisions exercising the Performance Standards option and located in a multiple family zone (i.e., R-2, R-3 or multi-family zone in a special district).

**b. Density Bonus.** Density bonuses shall be awarded to common open space in excess of the minimum required in single-family zones in subsection 18.3.1.050.A.3, above, and to recreation area in excess of the minimum area required in multiple family zones in subsection 18.4.2.030.H. The minimum recreation area required in multiple family zones cannot be counted for the award of density bonus points in section 18.2.5.080 and 18.3.1.050.

**Commented [MH8]:** Recreation area in a multi-family zones can also be counted as the required 5% of common open space for a PSO subdivision in a multi-family zone. Same issue as H.1.a on page 1.

**Commented [MH9]:** Clarifies that density bonus for open space applies after meeting the minimum 8% requirement.

**B. Density Bonus Point Calculations.** The permitted base density shall be increased by the percentage gained through bonus points. In no case shall the density exceed that allowed under the Comprehensive Plan. The maximum density bonus permitted shall be 60 percent (base density x 1.6), pursuant to the following criteria.

- Conservation Housing. A maximum 15 percent bonus is allowed. One-hundred percent of the homes or residential units approved for development, after bonus point calculations, shall meet the minimum requirements for certification as a Earth Advantage home, as approved by the Ashland Conservation Division under the City's Earth

Advantage program as adopted by resolution 2006-06.

2. Provision of Common Open Space. A maximum ten percent bonus is allowed, pursuant to the following.
  - a. *Purpose.* Common open spaces may be provided in the form of natural areas, wetlands, playgrounds, active or passive recreational areas, and similar areas in common ownership. All areas set aside for common open space may be counted for base density, unless otherwise excluded by subsection 18.3.9.050.A.23. However, for the purposes of awarding density bonus points, the Planning Commission shall consider whether or not the common open space is a significant amenity to project residents, and whether project residents will realistically interact with the open space on a day-to-day basis. The purpose of the density bonus for common open space is to permit areas, which could otherwise be developed, or sold as individual lots, to be retained in their natural state or to be developed as a recreational amenity. It is not the purpose of this provision to permit density bonuses for incidental open spaces that have no realistic use by project residents on a day-to-day basis. ~~Open space provided in cottage housing developments, meeting the standards of section 18.2.3.090 Cottage Housing, is not eligible for density bonus points.~~
  - b. *Standard.* Developments with fewer than ten units that provide more than two percent of the project area for common open space, or for developments of ten units or greater that provide more than five percent open space, a one percent bonus shall be awarded for each one percent of the total project area in common open space, **except as specified in subsection 18.3.9.050.A.3, above.**
  - c. **Cottage Housing. Open space provided in cottage housing developments, meeting the standards of section 18.2.3.090 Cottage Housing, is not eligible for density bonus points.**
3. Provision of Major Recreational Facilities. A maximum ten percent bonus is allowed, pursuant to the following.
  - a. *Purpose.* Points may be awarded for the provision of major recreational facilities such as tennis courts, swimming pools, playgrounds, or similar facilities, **except as specified in subsection 18.3.9.050.A.3, above. Major recreational facilities may be located in the minimum area required for common open space in subsection 18.3.9.050.A.3, above, or for recreation area in subsection in 18.4.2.030.H.**
  - b. *Standard.* For each percent of total project cost devoted to recreational facilities, a six percent density bonus may be awarded up to a maximum of ten percent bonus. Total project cost shall be defined as the estimated sale price or value of each residential unit times the total number of units in the project. Estimated value shall include the total market value for the structure and land. A qualified architect or engineer shall prepare the cost of the recreational facility using current costs of recreational facilities.
  - c. **Cottage Housing.** Major recreational facilities provided in cottage housing developments, meeting the standards of section 18.2.3.090 Cottage Housing, are not eligible for density bonus points.

Commented [MH10]: Moved below to c.

Commented [MH11]: May need updating.

4. Affordable Housing. A maximum bonus of 35 percent is allowed. Developments shall receive a density bonus of two units for each affordable housing unit provided. Affordable housing bonus shall be for residential units that are guaranteed affordable in accordance with the standards of section 18.2.5.050 Affordable Housing Standards.

**SECTION 3.** Section 18.6.1.030 [Definitions – Definitions] of the Ashland Land Use Ordinance is hereby amended to read as follows:

**Active Recreation**. **Active recreation is primarily physical activity in an outdoor setting. Examples of active recreation areas include play equipment, court games and community gardens.**

**Commented [MH12]:** Used in definition of open space below and throughout existing code.

**Buildable Area**. **That portion of an existing or proposed lot that is free of building restrictions.**

**Commented [MH13]:** This definition was inadvertently deleted in the 2015 update.

**Common Area**. Land jointly owned to include open space, landscaping, parking or recreation **facilities area** e. g., may be managed by a homeowners' association).

**Open Space**. **A common area designated on the final plans of the development, permanently set aside for the common use of the residents of the development. Open space area is landscaped and/or left with a natural vegetation cover, and does not include thoroughfares, parking areas, or improvements other than recreational facilities. Any parcel or area of land or water set aside, dedicated, designated or reserved for the outdoor use and enjoyment of residents and their guests. Open space can range from highly maintained environments such as playing fields and playgrounds to relatively natural landscapes, and can include areas for active and passive recreation.** Open space does not include thoroughfares, parking areas or improvements other than recreational facilities, **except when associated with public open space (i.e., public park).**

**Commented [MH14]:** The current definition of open space that requires "common area" was previously located in the PSO chapter prior to 2015. As a result, a common area requirement was not applied to developments in the multi-family zones and private open spaces such as decks, patios and porches were counted towards satisfying the recreation area requirement.

- **Open Space, Common**. Land within or related to a development, not individually owned or dedicated for public use, that is designed, intended and designated on **the final plans of the development for the common outdoor use or enjoyment of the residents of the development and their guests.**
- **Open Space, Private**. An area for outdoor use or enjoyment limited to the **occupants of a single dwelling unit, building or property.**
- **Open Space, Public**. Land owned and maintained by a public agency for the **outdoor use and enjoyment of the general public. Examples of public open space include parks, green spaces and greenways.**
- **Recreation Area**. Land within or related to a development, located in common area or a private yard, that is designed and intended for outdoor sports and leisure-time activities by the residents of the development. Recreation areas are improved

with suitable surfaces for human use.

Passive Recreation. Passive recreation generally involves undeveloped areas for observing and walking in nature. Examples of passive recreation areas include wetlands and stream corridors.

Commented [MH15]: Used in the definition of open space and throughout the code.

Unbuildable Area. All areas outside of building envelopes and within open space. Unbuildable area includes but is not limited to required yards, setback areas, easements, and Flood Plain Corridor and Severe Constraints Lands as classified in section 18.3.10.060.

Commented [MH16]: This definition was inadvertently deleted in the 2015 update.

Yard. An openoutdoor space on a lot which is unobstructed by a structure, and measured from a lot line to the nearest point of a building. May also be an area defined by required setbacks (e.g., between a building or structure and nearest property line).

- **Yard, Front.** A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building.
- **Yard, Side.** An ~~open space~~yard between the front and rear yards measured horizontally and at right angles from the side lot line to the nearest point of the building.
- **Yard, Rear.** A yard between side lot lines and measured horizontally at right angles to the rear yard line from the rear yard line to the nearest point of the building.

**SECTION 4. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 5. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 6. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1-14) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2019, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
David H. Lohman, City Attorney

# Memo

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DATE: March 26, 2019  
TO: Ashland Planning Commission  
FROM: Maria Harris, Planning Manager  
RE: Vertical Housing Development Zone (VHDZ)

## **Summary**

This is an informational item to update the Planning Commission. The City Council directed staff to prepare a Vertical Housing Development Zone (VHDZ) and associated program at the March 19, 2019 meeting.

## **Background**

The vertical housing development zone (VHDZ) is a partial property tax exemption for mixed-use buildings that is allowed under state law. The City Council approved the Transit Triangle (TT) overlay and land use ordinance amendments in December 2018 and directed staff to bring back an incentive program similar to the vertical housing tax credit to a future study session.

Fregonese Associates created and analyzed several building scenarios to test the impacts of a partial property tax exemption and presented their analysis at the March 19, 2019 Council Business Meeting.



# Council Business Meeting

March 19, 2019

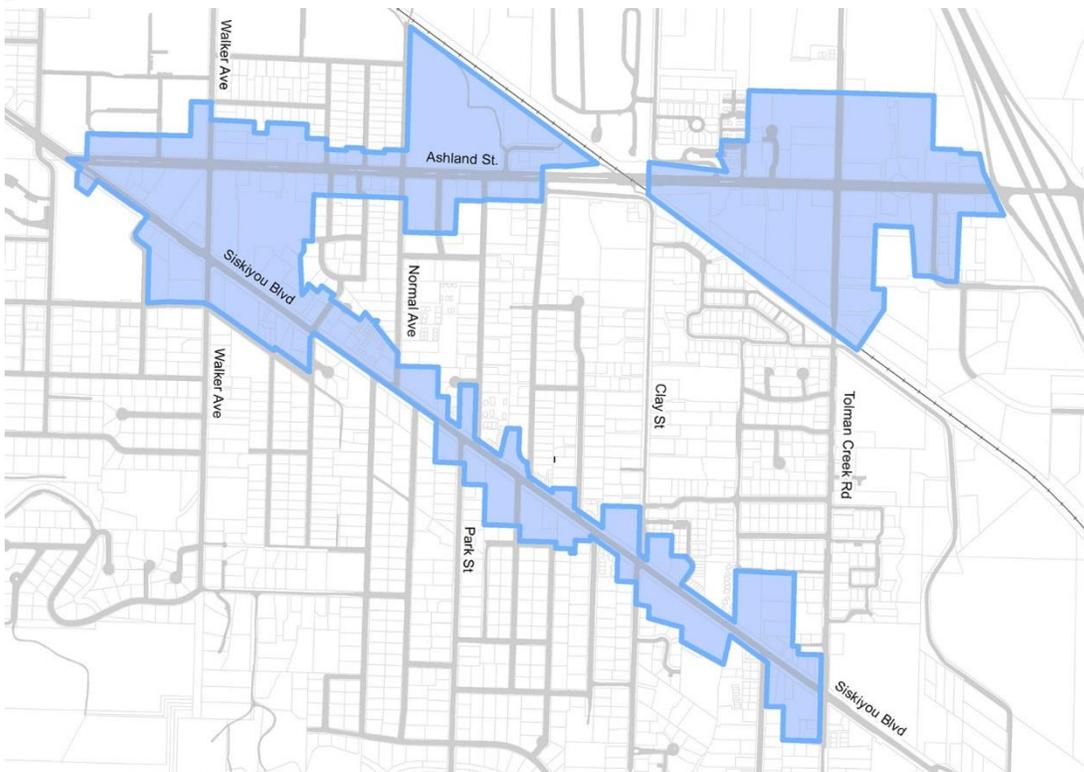
<b>Agenda Item</b>	Vertical Housing Development Zone	
<b>From</b>	Maria Harris	Planning Manager
<b>Contact</b>	<a href="mailto:maria.harris@ashland.or.us">maria.harris@ashland.or.us</a> (541) 552-2045	

## SUMMARY

The vertical housing development zone (VHDZ) is an informational item to discuss the partial property tax exemption for mixed-use buildings that is allowed under state law and review how a VHDZ could affect building valuation and property tax revenues in the Transit Triangle (TT) overlay. The City Council approved the Transit Triangle (TT) overlay and land use ordinance amendments in December 2018 and directed staff to bring back an incentive program similar to the vertical housing tax credit to a future study session at the January 16, 2018 meeting.

Fregonese Associates created and analyzed several building scenarios to test the impacts of a partial property tax exemption and will present their analysis at the March 19, 2019 Council Business Meeting. A memo from Fregonese Associates summarizing the building scenarios is attached.

Figure 1: Transit Triangle (TT) Overlay



## **POLICIES, PLANS & GOALS SUPPORTED**

The purpose of the TT overlay is “to promote the development of a mix of housing units and businesses adjacent to the bus route designed in a way that encourages walking, bicycling and transit use (Ashland Municipal Code 18.3.14.010).

The *Ashland Comprehensive Plan* includes a goal in the Housing Element to “ensure a variety of dwelling types and provide housing opportunities for the total cross-section of Ashland’s population, consistent with preserving the character and appearance of the city (6.10).”

The *Ashland Comprehensive Plan* includes a goal in the Economic Element to “ensure that the local economy increases in its health, and diversifies in the number, type, and size of businesses consistent with the local social needs, public service capabilities, and the retention of a high quality environment (7.07.03),” and a policy which says development guidelines should ensure that “development along Siskiyou Boulevard and Ashland Street will not primarily be automobile-oriented, but will also include attractive landscaping and designs that encourage pedestrian, bicycle, and mass transit forms of travel.(7.07.03.c.2).” A similar policy is included in the Transportation Element regarding development of Ashland Street as a “multi-modal” corridor (10.09.02.7).

The *Economic Development Strategy* includes an action to “create incentives for development applications that meet certain predefined economic development eligibility criteria (Action 7.2).”

The *Climate and Energy Action Plan* (CEAP) includes an action to “Establish policies to support development near transit hubs without displacing disadvantaged populations. Transit-oriented development (TOD) increases housing density within walking distance of transit hubs. Creating a TOD zoning overlay or similar policy could reduce car use, but Ashland will need to design any policy carefully to avoid unintended consequences, such as gentrification that threatens housing affordability and could displace vulnerable populations (CEAP ULT-1-3).”

The *Climate and Energy Action Plan* (CEAP) includes an action to “Revise community development plans to favor walkable neighborhoods and infill density. Ashland has a series of long-range planning documents that guide development across Ashland districts, neighborhoods, and natural areas. Revisiting these plans to ensure that they support climate-ready development needs, such as walking, biking, transit, parking management, and climate adaptation features, will ensure that Ashland development is consistent with the City’s climate goals and commitments. It will be important to ensure that these activities do not come at the expense of higher housing costs, which could disadvantage low-income populations (CEAP ULT-4-2).”

## **PREVIOUS COUNCIL ACTION**

The Council directed staff to bring back an incentive program similar to the vertical housing tax credit to a future study session at the [January 16, 2018](#) meeting.

## **BACKGROUND AND ADDITIONAL INFORMATION**

The VHDZ was established under state law in 2001 to provide local jurisdictions a tool to encourage the private sector to build higher density "mixed-use" buildings that include commercial uses and residential housing. A mixed-use building typically includes commercial uses on the first floor and residential housing on one or more upper floors.

The program offers a 10-year partial property tax exemption on the value of a new, qualifying structure or rehabilitated structure. The exemption does not include the value of the land, unless the project includes a floor or more of low income housing (i.e., no greater than 80 percent of area median income).

The partial tax exemption is calculated based on the number of floors above the ground floor that are allocated to residential housing. The program grants a tax exemption of 20 percent for each floor of housing that is incorporated above the ground floor, with a maximum tax exemption of 80 percent for any single project. For example, a three-story mixed-use building with residential housing on the second and third floors would have a 40 percent tax exemption on the value of the construction of the building. In addition, 50 percent of the ground floor is required by state law to be in nonresidential uses.

A project that receives the partial property tax exemption is required to commit to maintaining and operating in a manner consistent with the application for the partial tax exemption for at least the number of tax years for which the project is intended to be partially exempt from property taxes.

### **1. Application Process**

In order to be eligible for a partial property tax exemption, state law includes the following requirements.

- The project must be entirely located in an established VHDZ.
- The project must be a multi-story building including a mix of nonresidential uses (e.g., commercial) and residential housing.
- At least 50 percent of the building's ground floor that fronts on the primary public street must be committed to nonresidential uses.
- Construction or rehabilitation must have started on each building included on the project

The process for approving a project for a partial tax exemption is outlined in state law and involves the following steps.

- a. The project owner/developer applies to a local jurisdiction (city or county) that has established a VHDZ for certification, prior to any relevant residential unit being ready for occupancy.
- b. The local jurisdiction reviews the application and approves or denies the certification request based on whether the application meets the requirements of Oregon Revised Statue (ORS) 307.841 to 307.867, as well as additional criteria established by the local jurisdiction that are consistent with the applicable ORS.
- c. If the project is approved or "certified" by the local jurisdiction, the local jurisdiction sends a copy of the certification to the county assessor.
- d. The vertical housing development project property owner notifies the local jurisdiction when the project is ready for occupancy.
- e. The local jurisdiction sends a second notice to the county assessor informing the assessor that the project is about to be occupied and is certified.

State law establishes that the determination by the local jurisdiction to approve or deny certification for the partial tax exemption is discretionary. As a result, the local jurisdiction's decision is final and not subject to judicial or administrative review.

### **2. Sample Building Scenarios for the TT Overlay**

Fregonese Associates created and analyzed several sample building scenarios for the TT overlay to test the impacts of a partial property tax exemption. A summary of the results is included in the attached memo and will be presented at the March 29, 2019 Council Business Meeting.

The sample building scenarios are at the site or development level and include a scenario for a one-story commercial building, a three-story mixed-use building and a four-story mixed-use building. A one-story commercial building was created to use as the base line to compare the results of the multi-story mixed-use buildings. A one-story commercial building is used as the base line because this type of development is reflective of the most of the new development in the TT overlay over the last past several decades. Examples of past one-story commercial developments in the TT overlay include Rogue Credit Union at 1661 Ashland St., Wendy's at 1624 Ashland St., Oil Stop Drive Thru at 2210 Ashland St. and Sherwin-Williams Paint Store at 2220 Ashland St.

In the short to medium-term, the initial analysis indicates the property taxes collected on a three or four-story mixed-use building with a partial tax exemption for 10 years will exceed the taxes collected on a one-story commercial building with no tax exemption for the same 10-year period. This is because the value of a multi-story, mixed-use building is higher than that of a one-story commercial structure.

In the long term, any multi-story mixed-use buildings developed in the TT overlay using a partial tax exemption would be fully taxed after 10 years when the exemption expires. Again, this would add higher value multi-story buildings to the tax base.

The financial analysis for the VHDZ is focused on the impacts to property taxes and to the financial feasibility of developing three and four-story buildings. The analysis does not capture the costs or benefits of other goals associated with the TT overlay such as creating opportunities for the development of more apartments, stimulating more commercial growth, and increasing the number of residents and businesses near the bus route to encourage walking, bicycling and transit use.

### **3. Establishing a VHDZ and Local Program**

A local jurisdiction that wishes to provide partial tax exemption as an incentive for higher density, mixed-use development including commercial uses and residential housing is required to establish a VHDZ and the associated program. The local jurisdiction is also responsible for administering the program and monitoring approved projects for compliance with state law and any additional local requirements.

The process for establishing a VHDZ is outlined in state law as follows.

- a. The local jurisdiction designates an area within the city or county as a VHDZ.
- b. The local jurisdiction must notify the local taxing districts that have territory in the proposed VHDZ of the local jurisdiction's intention to designate a VHDZ.
- c. Any taxing district not agreeing to participate in the VHDZ must notify the local jurisdiction within 30 days of receiving the notice.
- d. The local jurisdiction adopts an ordinance or resolution designating the VHDZ and any additional local criteria. The local jurisdiction is required to wait at least 60 days after sending the notice to the local taxing districts before adopting an ordinance or resolution designating the VHDZ.
- e. After adopting a resolution or ordinance, the local jurisdiction notifies the county assessor of the designation of the zone and the districts that elect not to participate in the zone.

A local jurisdiction that establishes a VHDZ is permitted to terminate the zone at any time. Termination of a VHDZ does not affect any exemptions that were granted under the zone prior to the termination date.

### **4. Next Step**

Staff will schedule an item at a future meeting requesting direction from the City Council as whether to move forward with the formation of a VHDZ in the TT overlay.

**FISCAL IMPACTS**

If the City were to establish a VHDZ and associated program, staff time would be required to administer the program and monitor certified projects that received the tax exemption. The number of developments using a partial tax exemption will impact the associated work load. At the same time, it is difficult to predict the potential projects that will pursue the incentive if it is established.

**STAFF RECOMMENDATION**

Not applicable because this is an informational item.

**ACTIONS, OPTIONS & POTENTIAL MOTIONS**

Not applicable because this is an informational item.

**REFERENCES & ATTACHMENTS**

Attachment 1: Memo from Scott Fregonese, February 25, 2019



DATE February 25, 2019  
TO Bill Molnar, Maria Harris & Brandon Goldman  
FROM Scott Fregonese, Fregonese Associates, Inc.  
RE Transit Triangle – Vertical Housing Development Zone

## **Introduction**

Through working with the City of Ashland on the Transit Triangle Infill Strategies Project, Fregonese Associates has gained an understanding of the need for creating a greater concentration of multi-family residential and retail within the study area. Fregonese Associates has been researching and analyzing of the effects of implementing a Vertical Housing Development Zone within the Transit Triangle Overlay.

A Vertical Housing Development Zone incentivizes mixed-use residential/commercial developments by providing a partial property tax exemption on qualified projects in areas designated by communities. Within the Ashland Transit Triangle, a Vertical Housing Development Zone has the potential to be a valuable tool that encourages moderately-priced housing, jobs, and commercial spaces in an area well-served by regional transit.

## **Return on Investment (ROI) Analysis using Building Prototypes**

A range of building types or “prototypes” were modeled for each of the zone districts within the Transit Triangle using the ET pro forma model. The building prototypes include the physical attributes of buildings, such as height and landscaping, and the financial attributes, such as rents and construction costs.

The ET pro forma model is used to evaluate the financial feasibility of the building prototypes. The model can then be used to look at different scenarios or changes to building and site characteristics and see if the financial feasibility of the development is impacted. For example, changes to the amount of parking required for a mixed-use building with office and residential units can be evaluated to see how the return on investment (ROI) is impacted.

## **What is a Vertical Housing Development Zone?**

A Vertical Housing Development Zone (VHDZ) is designed to encourage the private sector to build higher-density mixed-use development (first floor commercial with

residential above) in targeted areas of a city and provides a partial tax exemption, or Vertical Housing Tax Credit (VHTC) on increased property value for qualified projects.

The VHDZ provides qualified development projects a 10-year property tax exemption on the value of new construction or rehabilitation for 20 percent per residential floor for floors above a commercial ground floor with total exemption limited to no more than 80 percent. Additional exemption may be available for projects with affordable housing.

### **VHDZ Benefits**

Ashland could potentially see many benefits to the Transit Triangle area through the implementation of a VHDZ. These benefits include:

- Encouraging new mixed-use development (residential and commercial)
- Stimulating more commercial growth in the Transit Triangle, increasing the value of surrounding properties
- Enhancing opportunities for a live/work community
- Supporting commercial development by increasing the number of residents
- Creating long-term community wealth through, mixed-use buildings that will be fully taxed after the partial abatement expires
- Encouraging more walkable neighborhoods by locating goods and services near residents

### **VHTC Eligibility**

Qualified new development projects within a VHDZ are eligible to receive a 10-year property tax exemption on the value of new construction or rehabilitation of 20 percent per residential floor for the first four floors above ground floor commercial. Total property tax abatement of the new construction is limited to no more than 80 percent. The exemption applies to all taxing jurisdictions that do not opt out when the zone is established. After 10 years, the full value of the project is placed on the tax rolls. To be eligible for a VHTC, the following criteria must be met:

1. Project must be entirely located within a vertical housing development zone
2. Project must be a multi-story building used for residential and non-residential uses
3. At least 50 percent of the project's ground floor that fronts the primary public street must be committed to non-residential use

VHTC incentives differ depending on the number of floors. For each full floor of residential above non-residential there is a 20% property tax exemption. VHTC incentivizes five story or taller buildings to achieve maximum property tax exemption of 80% percent of the building value. The tax exemption for various buildings heights is as follows:

- 2 story building – Typically will not use VHTC, as it would only result in a 20% property tax exemption
- 3 story building – 40% property tax exemption
- 4 story building – 60% property tax exemption
- 5 story building – 80% property tax exemption
- 6+ story building – 80% property tax exemption

## Vertical Housing Case Studies

Developers have taken advantage of the VHTC in several Oregon cities that have implemented Vertical Housing Development Zones, including Tigard and Milwaukie.

### Tigard, Oregon:

The City of Tigard adopted a Vertical Housing Development Zone in 2014. Since then, it has been used for two developments, Attwell Off Main and The Adrian. Combined, these two projects are expected to generate \$7.8 million in property taxes over twenty years.

- Attwell Off Main
  - 165 Residential Units
  - 1,819 sq. ft. Commercial Space
- The Adrian
  - 12,000 sq. ft. Mixed-Use
  - Office/Apartments

For more information: <http://www.tigard-or.gov/business/EcDev/DIXreprint1217.pdf>

### Milwaukie, Oregon:

The City of Milwaukie adopted a Vertical Housing Development Zone in December 2017. Axletree is the first project in the city to use the VHTC. The project is located on the former Bernard's Garage site in the heart of Downtown Milwaukie. Guardian purchased the property in May 2017 and plans to develop a five-story mixed-use building with 110 apartment units and 7,300 sf of retail space. This will be the first newly constructed multifamily development that the city has seen in over ten years and is conveniently located on the MAX Orange Line. The development broke ground in 2018 with completion expected in 2019.

For more information: <https://www.gres.com/projects/block-37/>

## Testing VHTC in the Transit Triangle

Fregonese Associates used Envision Tomorrow prototypes to test the impacts of the VHTC for three different building types in the Transit Triangle. The models were able to determine the total tax exemption of a ten-year period, the tax exemption per unit over that same time period, and potential public revenue for each of the buildings.

### **3 Story Mixed-Use Example (TT Overlay - R-2 and R-3 Zones)**

- Generic 150ft by 150ft lot = 22,500 sq. ft.
- 1,300 sq. ft. retail/office net
- 28 units (650 sq. ft. average)
- 28 parking spaces
- Percent improvement exemption = 40%
- Total tax exemption over 10 years = \$245,200
- Tax exemption per unit over 10 years = \$8,864
- Potential public revenue (10-year property tax) = \$753,000

### **4 Story Mixed-Use Example (TT Overlay - C-1 and E-1 Zones)**

- Generic 150 ft by 150 ft lot = 22,500 sq. ft.
- 1,600 sq. ft. retail/office net
- 34 Units (650 sq. ft. average)
- 34 parking spaces
- Percent improvement exemption = 60%
- Total tax exemption over 10 Years = \$457,000
- Tax exemption per unit over 10 Years = \$13,337
- Potential public revenue (10-year property tax) = \$903,000

### **1 Story Commercial Example (TT Overlay - C-1 and E-1 Zones)**

- Generic 150 ft by 150 ft lot = 22,500 sq. ft.
- 8,600 sf retail/office net
- 26 Parking Spaces
- Percent Improvement Exemption = 0%
- Potential Public Revenue (10 Year Property Tax) = \$382,000

## **Key Conclusions**

The research and prototype modeling completed by Fregonese Associates has produced a number of conclusions that may be useful for the City of Ashland as they explore the implementation of a VHDZ in the Transit Triangle:

- There is more incentive to use VHTC when building 4 story buildings in the C-1 and E-1 Zones (within the TT overlay)
- 60% Abatement for 4 Story (C-1 and E-1 Zones)
- 40% Abatement for 3 Story (R-2 and R-3 Zones)
- VHTC are not generally used for 2 story buildings because they only receive 20% property tax exemption