

**ASHLAND PLANNING COMMISSION
SPECIAL MEETING
June 22, 2021
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM

- II. **ANNOUNCEMENTS**

- III. **CONSENT AGENDA**
 - A. **Approval of Minutes**
 - 1. May 11, 2021 Regular Meeting
 - 2. May 25, 2021 Special Meeting

- IV. **PUBLIC FORUM**

- V. **DISCUSSION ITEMS**
 - A. **Housing in C-1 and E-1 Zones**

- 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).

**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
SPECIAL MEETING
MINUTES - Draft
May 11, 2021

I. CALL TO ORDER:

Chair Haywood Norton called the meeting to order at 7:00 p.m.

Commissioners Present:

Michael Dawkins
Alan Harper
Haywood Norton
Kerry KenCairn
Roger Pearce
Lynn Thompson
Lisa Verner

Staff Present:

Bill Molnar, Community Development Director
Maria Harris, Planning Manager
Brandon Goldman, Senior Planner
Derek Severson, Senior Planner
Dana Smith, Executive Assistant

Absent Members:

Council Liaison:

Paula Hyatt

II. ANNOUNCEMENTS

Community Development Director Bill Molnar announced the LUBA opinion expected April 30, 2021 on the 1511 Highway 99 annexation had not posted yet. The Ashland School District was getting closer to a resolution regarding the Walker Elementary School project. Staff would present the duplex code amendments and the Housing Capacity Analysis to the City Council at their study session May 17, 2021. Community Development Department and Fire Department staff would propose the final piece of the fire adapted model. It would require all new construction to use noncombustible or fire-resistant materials. This would apply to Ashland within city limits.

III. PUBLIC FORUM - None

IV. CONSENT AGENDA

A. Approval of Minutes

1. April 13, 2021 Regular Meeting
2. April 27, 2021 Special Meeting

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

V. PUBLIC FORUM - None

VI. CONT'D TYPE II PUBLIC HEARINGS

A. PLANNING ACTION: PA-T1-2021-00141

SUBJECT PROPERTY: 599 East Main Street

APPLICANT/OWNER: Rogue Planning & Development Services, LLC for Livni Family Trust (Gil Livni, Trustee)

DESCRIPTION: A request for Site Design Review approval to modify the existing building at 599 East Main Street including converting the former church to use as office/assembly space and adding a new entry. The application also includes requests for a Conditional Use Permit as it involves the alteration

of an existing non-conforming development where no off-street parking is available, and Street Tree Removal Permits to remove and replace two Callery Pear street trees (10.2-inch & 12.7-inch DBH) in the park row planting strip along East Main Street. COMPREHENSIVE PLAN DESIGNATION: Commercial; ZONING: C-1; MAP: 39 1E 09AC; TAX LOT #: 7600

Chair Norton read aloud the rules for electronic public hearings.

Ex Parte Contact

Commissioner Dawkins explained he had lived across the street from the project site for nineteen years. There had always been an abundance of parking in the area. Commissioners Pearce, Thompson, and KenCairn declared no ex parte contact and no site visit. Commissioner Harper, Verner, and Norton had no site visits, but each had discussed the project with staff.

Staff Report

Senior Planner Derek Severson provided a presentation (see attached):

- Additional Items Received
- Technical Memo – Parking
- Technical Memo – Trip Generation
- Neighbor’s Comments
- Parking Spaces off the Alley behind Fellowship Hall
- Parking Spaces off the Alley
- Parking Spaces off the
- Staff Recommendation

Based on the technical memo provided, staff thought a finding could be made that the proposal satisfied the applicable criteria for a conditional use permit (CUP) and merited approval.

Questions of Staff

Commissioner Pearce asked for the rationale of having the parking stay with the church property. Mr. Severson explained the parking was available through the nonconforming development that consisted of both lots. Having them separate and potentially have the spaces vacant while the other lot was generating demand on the neighborhood seemed questionable. The applicant continuing to contribute what little parking they had control of was beneficial.

Applicant’s Presentation

Amy Gunter/Rogue Planning and Development Services/Medford, Or/ Gil Livni/Magnolia Fine Homes

LLC/Ashland/Ms. Gunter provided a presentation:

- Historic Renovation 599 E Main Street
- Graphics of the general area of the property
- Subject Property
- Site Plan
- Existing Structure
- North Elevation
- East Elevation
- West Elevation
- South Elevation
- Impact Area
- Conclusion
- Proposed Conditions 10 and 11

Their concern was setting up a negative impact on an adjacent use by dedicating the parking. Mr. Livni explained that giving the parking to the church property made the other property useless. There was also the potential of losing one of the three spaces if they converted it to an ADA parking space.

Questions of the Applicant

Commissioner Pearce asked what the current use of the fellowship hall was. Mr. Livni explained it was being used to cook meals and other activities for the homeless community.

Commissioner Dawkins asked if Mr. Livni would be willing to stripe the three parking spaces so people would stop parallel parking there. Mr. Livni responded he would and added he wanted to improve the landscaping there as well.

Commissioner Harper was struggling with the no greater adverse material effect on the livability of the impact area criteria. He wanted to get to an approval that allowed all on-street parking, no on-site parking with no greater adverse material effect on the livability of the impact area than having the required on-site parking. He was not sure how to say it had zero impact.

Ms. Gunter explained that was why it was compared to the existing use of the site as a church. There was not a good analysis in the code for the project. There was no comparison to a 4,600 square foot building with no on-site parking. This was a rare instance. City code would not let them tear down a historic building that was economically viable nor would the code let them look at what the current uses of the property were. The only alternative was demolishing the building and rebuilding at a reduced size to incorporate a parking lot. Mr. Livni thought they were doing less impact with the proposal. If they kept it as a church, it would be a greater impact. Ms. Gunter added the code did say livability of the impact area and this was a commercial zone. Of the twenty-one properties in the impact area, more than half were commercially zoned. They were trying to compare it to the use they were forced to use.

Commissioner Verner thought the proposal from staff was to ask the applicant to allow the uses of the parking area now but then they would be jointly used by both properties if the second property developed. Mr. Livni explained he would be unable to develop the property or sell it if he had to keep the three parking spaces on the property.

Ms. Gunter explained there was a condition of approval for the church when they built the fellowship hall to put in adequate parking. The applicants at that time did not do that and had not met the building permit requirements. Ms. Gunter and Mr. Livni were aware of the parking concerns at 48 5th Street. The use of that 1,500 sq. ft. building was going to require three or four parking spaces for its use. If they remove a portion of the building it would require a separate site review and would be analyzed at that time. They wanted to retain the parking spaces because they would be necessary when it was used as an office.

Commissioner Pearce asked about the permit history of the fellowship hall. Mr. Severson explained in the applicant's submittals it was approved in 1993. A building was demolished, and the fellowship hall was built. It was accessory to the church use but was not part of the sanctuary. There was a statement the parking spaces were not required in the planning approval for the fellowship hall but were shown on the building permit just not striped. They had volunteered more parking than what was required.

Public Testimony - None

Applicant's Rebuttal - None

Chair Norton closed the hearing and the record at 7:54 p.m.

Deliberation and Decision

Commissioner Thompson offered a line of argument to Commissioner Harper's earlier concern. She thought it might be possible to argue that in utilizing the exception to site design development and land provision there was a unique or unusual aspect of the structure in that it was a historic nonconforming building onsite. It was nonconforming because it did not satisfy the parking requirements. The CUP target use comparison to the retail use would incorporate the exception standard, the recognition that it was a nonconforming structure without parking then look at whether granting the CUP would substantially negatively impact the adjacent properties. It might not because the impact of having an office versus retail would not increase the parking demand beyond the status quo. Commissioner Harper thought it could be argued. Because it was a pre-existing development, it would be compared to something with an exception to retain the structure. Commissioner Pearce thought it was a good way to think

about it. His concern regarding the parking was alleviated when he found out the spaces were not required. The traffic analysis showed eleven office trips in the p.m. peak hour where retail would have 27 trips.

Chair Norton noted conditions 10 and 11. One condition required parking be shared and the other required it to be recorded. He thought the conditions should be addressed in the motion.

Commissioner Pearce/Harper m/s to approve PA-T1-2021-00141 for 599 E Main to change the use of the building of church to office use and delete Conditions 10 and 11 from the proposed Findings and that the Findings include there was an exception or the parcel was already built and committed to a historic structure and was part of the analysis that considered the livability in the neighborhood.

DISCUSSION: Commissioner Harper thought the findings should include they found an exception, or that the parcel was already built and committed to a historic structure and was part of the analysis that considered the livability in the neighborhood. Commissioner Pearce accepted the amendment. **Roll Call Vote: Commissioner Verner, Dawkins, Thompson, Harper, KenCairn, Pearce, and Norton, YES. Motion passed.**

VII. UNFINISHED BUSINESS

A. Approval of Findings for PA-T1-2021-00141, 599 East Main Street.

Item was moved to the next Planning Commission Meeting.

VIII. LEGISLATIVE PUBLIC HEARINGS

A. PLANNING ACTION: PA-L-2021-00010

APPLICANT: City of Ashland

DESCRIPTION: A public hearing on a legislative amendment to the Ashland Municipal Code Title 18 Land Use to update the allowances and standards for duplexes and accessory residential units as required by House Bill 2001 from the 80th Oregon Legislative Assembly, 2019 Regular Legislative Session. The proposed amendment includes a series of changes to the following chapters of the Ashland Land Use Ordinance including 18.1.4, 18.2.2, 18.2.3, 18.2.5, 18.3.4, 18.3.5, 18.3.9, 18.3.10, 18.3.12, 18.4.2, 18.4.3, 18.5.2, 18.5.7 and 18.6.1.

Staff Report

Planning Manager Maria Harris provided a presentation (see attached):

- New Items
 - Conversion of nonconforming structures
 - Building separation in multifamily zones
 - Existing lots over 35% slope
 - Duplex parking

Questions of Staff

Commissioner Harper wanted to know if there were reductions for System Development Charges (SDCs) and water meters for duplexes and accessory dwelling units (ADUs). Ms. Harris explained SDCs were reduced for units under 500 square feet (sq. ft.). Senior Planner Brandon Goldman further explained that transportation SDCs were reduced 50% for units under 500 sq. ft. and 25% for units that were 500 to 800 sq. ft. There was a 25% reduction of parks, water, and sewer for units under 500 sq. ft. SDCs were based on unit size and not a designation of accessory residential units, duplexes, or apartments. Ms. Harris explained meter sizes and other costs were based on single-family or multi-family and technical factors like water line size. She noted earlier comments made by Mark Knox that ARUs were being charged a higher multi-family base rate for utilities. Staff had contacted the Utility Billing Division and was looking into it. Mr. Goldman clarified water and electrical meters were driven by building code, not land use code. Separate dwelling units could be occupied independently and required a separate meter. That was federal law. Mr. Molnar provided history on an earlier discussion during a City Council study session a couple years before to waive more fees for ARUs.

Commissioner Thompson asked about allowing multiple structures on a lot with a severe slope. Allowing ARUs and duplexes would congest development on a steep slope. Ms. Harris agreed and explained there were parameters in the hillside standards that would be applied if someone proposed a separate structure. The Commission discussed building ARUs or duplexes on a severe slope and how the hillside standards applied.

Public Testimony – None

Chair Norton closed the public hearing at 8:37 p.m.

Deliberation and Decision

Commissioner Pearce thought Ms. Harris had done a good job incorporating the new changes. It met the state requirements.

Commissioner Pearce/Verner m/s to recommend adoption of PA-L-2021-0010 Duplex and ARU code amendments to the City Council. Voice Votes: ALL AYES. Motion passed.

Ms. Harris explained the item would go before the City Council at their study session on May 17, 2021. The public hearing and first reading would happen at their meeting on June 1, 2021. Second reading and adoption would occur at the City Council's meeting on June 15, 2021.

IX. ADJOURNMENT

Meeting adjourned at 8:42 p.m.

*Submitted by,
Dana Smith, Executive Assistant*

New Items



- **Conversion of nonconforming structures**
- **Building separation in multifamily zones**
- **Existing lots over 35% slope**
- **Duplex parking**

**CITY OF
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SPECIAL MEETING
MINUTES - Draft
May 25, 2021

I. CALL TO ORDER:

Chair Haywood Norton called the meeting to order at 7:00 p.m.

Commissioners Present:

Michael Dawkins
Alan Harper
Haywood Norton
Kerry KenCairn
Roger Pearce
Lynn Thompson
Lisa Verner

Staff Present:

Bill Molnar, Community Development Director
Maria Harris, Planning Manager
Derek Severson, Senior Planner
Dana Smith, Executive Assistant

Absent Members:

Council Liaison:

Paula Hyatt

II. ANNOUNCEMENTS

A. LUBA decision for PA-T3-2019-00001, 1511 Hwy 99 North (Attached)

Item was added to the agenda under **DISCUSSION ITEM**.

Community Development Director Bill Molnar explained the Housing Capacity Analysis and code revisions for duplexes and accessory residential units went before City Council at their study session on May 17, 2021. First reading of the Wildfire Mitigation Construction Standards went before the City Council meeting on May 18, 2021. Second reading would occur June 1, 2021.

III. PUBLIC FORUM - None

IV. UNFINISHED BUSINESS

A. Approval of Findings for PA-T1-2021-00141, 599 East Main Street.

Ex Parte Contact

The Commission had no ex parte contact on the matter.

The following changes were made to the Findings:

- Page 6, first full paragraph, added to last sentence, **“The Planning Commission concludes that this criterion is satisfied.”**
- Page 8, after bulleted items and second full paragraph, add, **“The Planning Commission finds that the proposed office use requires ten off-street parking spaces, based on the ratio of one off-street parking space per 500 square feet of general office use found in AMC Table 18.4.3.040 (4,630 square feet/one space per 500 square feet = 9.36 spaces). The Commission finds that the application does not meet the parking requirements because it is a nonconforming development with regard to parking. Nonconforming developments can be altered or expanded pursuant to AMC 18.1.4.040.B**

where the Conditional Use Permit criteria are met. The Conditional Use Permit criteria are discussed in section 2.4 below.

The Planning Commission further finds that the proposed office use requires one bicycle parking space for every five required automobile spaces and that fifty percent of these spaces must be sheltered as provided in AMC 18.4.3070. In this case, ten automobile spaces are required (4,630 square feet/one space per 500 square feet = 9.36 spaces) and two bicycle parking spaces are required (10 spaces/one bicycle space per five automobile spaces = 2 spaces). While the site currently has no bicycle parking in place, the applicant has proposed to provide three U-racks for bicycle parking which more than satisfies the requirements. Conditions have been included below to require that bicycle parking be included in the permit submittals and that it be provided on site prior to occupancy.”

- Now page 11, first paragraph, change wording at the end of the sentence to read, “The Planning Commission notes that the application includes a Technical Memo from Sandow Engineering which assesses the trip generation for the previous church use, proposed office use and target retail use using the ITE Trip Generation Manuals, 10th Edition, as illustrated in the table below, and concludes that the proposed office use has less of a trip generation impact to the neighborhood than the target retail use of the zone.”
- Now Page 12, third full paragraph, add wording to read, “The Commission finds that the benefits of preserving and renovating the historic building may be weighed against the generation of traffic and its effect on the surrounding streets that result from the continuing parking non-conformity. With all of things considered, the Commission concludes that the effect of parking and trip generation on the surrounding streets for the proposed office use has a lower impact than the target use as evidenced in Sandow’s Technical Memo, particularly when weighed alongside the benefit of preserving and renovating the historic building.”

Commissioner Thompson/Pearce m/s to approve the Findings for PA-T1-2021-00141, as amended during this meeting. Voice Vote: all AYES. Motion passed.

B. Approval of Findings for PA-L-2021-00010, Duplex and Accessory Residential Units code amendments.

Commissioner Pearce/Harper m/s to adopt proposed Findings for PA-L-2021-00010, Duplex and Accessory Residential Units code amendments and forward them to City Council with the Planning Commission’s recommendation. Voice Vote: all AYES. Motion passed.

V. DISCUSSION ITEM

A. LUBA decision for PA-T3-2019-00001, 1511 Hwy 99 North (Attached)

Mr. Molnar had read through the decision and highlighted points made by LUBA. LUBA reversed the City’s opinion. There were three assignment’s error. The first one was the critical one where LUBA reversed the decision. He was not sure if the other two would have caused a reversal. He provided a presentation (see attached) on the assignments of error in LUBA No. 2021-009 Final Opinion and Order:

- **“Grand Terrace” Annexation – proposed annexation area**
- **1st Assignment of Error – Improperly approved an Exception**
 - An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with all of the following approval criteria:

- Public Facilities Chapter 18.4.6 applies to all new development, including projects subject to Land Division (Subdivision or Partition) approval and developments subject to Site Design Review, where public facility improvements are required.

The application, as part of annexation, required compliance with city street standards. The applicant proposed having a significant portion of the sidewalk construction at curbside and not separated from the curb by a park row. It was proposed to deal with some constrictive right of way issues. During the planning commission discussion at that time, it was deemed more appropriate to be taken up at the time development was proposed. During the City Council decision, an exception to the design standards to allow curbside sidewalk was available through the annexation process. LUBA focused on these areas of the annexation standard. With annexation, there was not really an allowance to deviate. It needed to meet the requirement, or the city needed to condition the annexation approval, so the proposal met them. LUBA noted the Public Facilities Chapter 18.4.6 where the criteria for exception to street standards was contained and it stated the public facilities chapter applied to all new development including projects subject to land division approval and developments subject to site design review. Since this was an annexation, there was no development or land division, and no site review that would allow an exception. LUBA did not provide guidance or make a decision if a development was proposed concurrently with an annexation whether an exception procedure could be used.

- **2nd Assignment of Error – Contiguity Issue** (LUBA did not rule on this issue)
 - Boundaries...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.

Portions of the ODOT property and the railroad were included for the purposes of providing contiguity and an orderly city boundary. The Findings spoke to the purpose of making the boundary extension more logical and was absent in terms of addressing the second part that avoided parcels of land which were not incorporated but were partially or wholly surrounded by the city. LUBA was also concerned about the City's use of parcels and lot in the annexation standards. Under Oregon state law a parcel is a property created by a land partition and a lot was a property created through a subdivision. It showed inconsistency in the code. The City code definition of lot included a piece of land that could be created through partition or parcels or lots could be used similarly.

- **3rd Assignment of Error – Not supported by substantial evidence** (LUBA did not rule on this issue)
 - Pedestrian and bicycle destinations from the project shall be determined and the safe and accessible pedestrian and bicycle facilities serving those destinations shall be indicated.
 - "Speed study not a condition nor does it ensure a reduction in speed." -Appellant

The City's findings that transportation was adequate was not supported by substantial evidence. Mr. Molnar was not sure how LUBA would have ruled on that. The appellants arguments were reasonable. They did point out there were a couple parts of the city's standards that could be discretionary and potentially difficult to provide direction to an applicant. LUBA noted the speed study was not a condition nor would it necessarily ensure a reduction in speed.

Mr. Molnar recommended adding an item to a future City Council agenda to get direction from Council. There were inconsistencies in the code that would affect future annexations. The applicant still wanted to move forward with the annexation. The Commission discussed the need to review the annexation code and the transportation section and was interested in updating the code.

VI. ADJOURNMENT

Meeting adjourned at 8:01 p.m.

*Submitted by,
Dana Smith, Executive Assistant*

1511 Highway 99N “Grand Terrace” Annexation

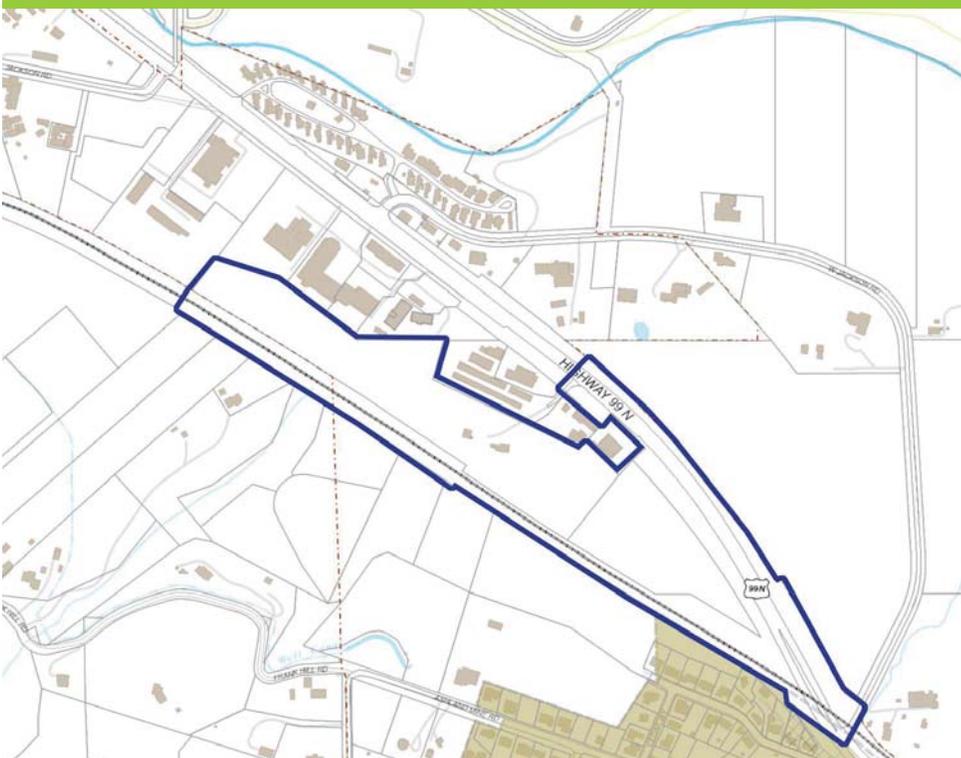
CITY OF
ASHLAND

LUBA No. 2021-009 FINAL
OPINION AND ORDER



1511 Highway 99N “Grand Terrace” Annexation

CITY OF
ASHLAND



 Proposed
Annexation
Area

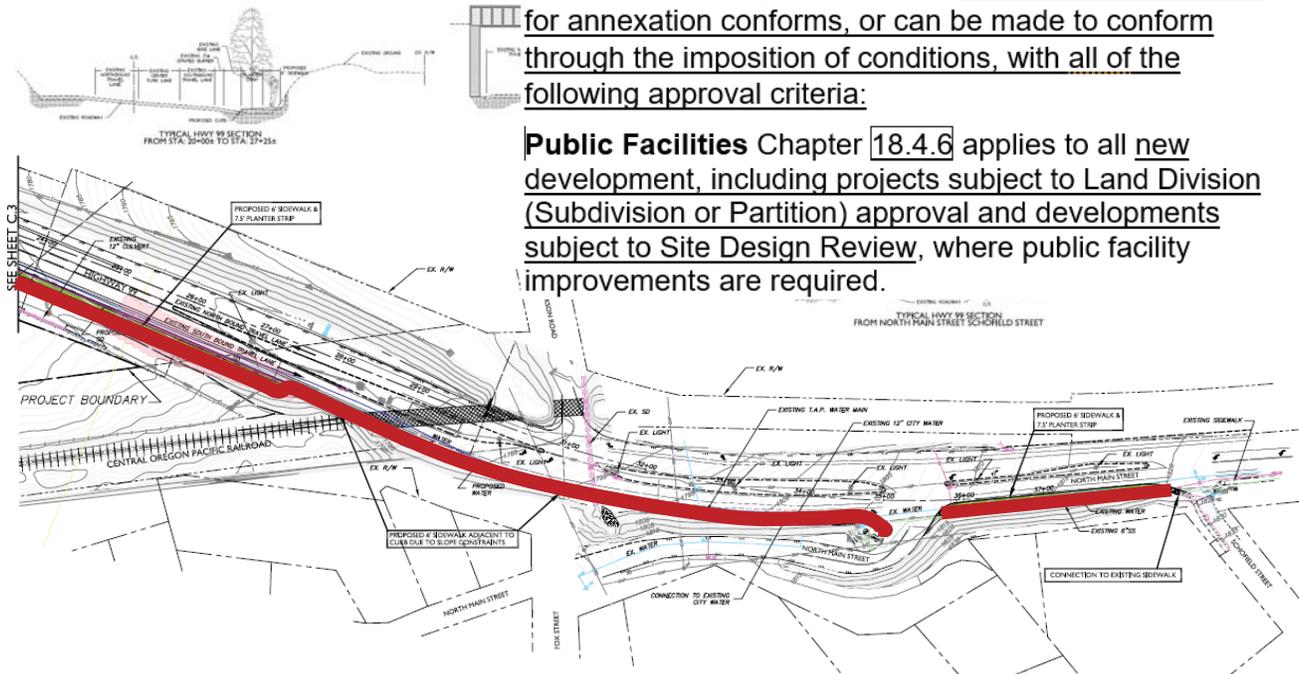
1511 Highway 99N

CITY OF
ASHLAND

1st Assignment of Error - Improperly approved an Exception

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

Public Facilities Chapter 18.4.6 applies to all new development, including projects subject to Land Division (Subdivision or Partition) approval and developments subject to Site Design Review, where public facility improvements are required.

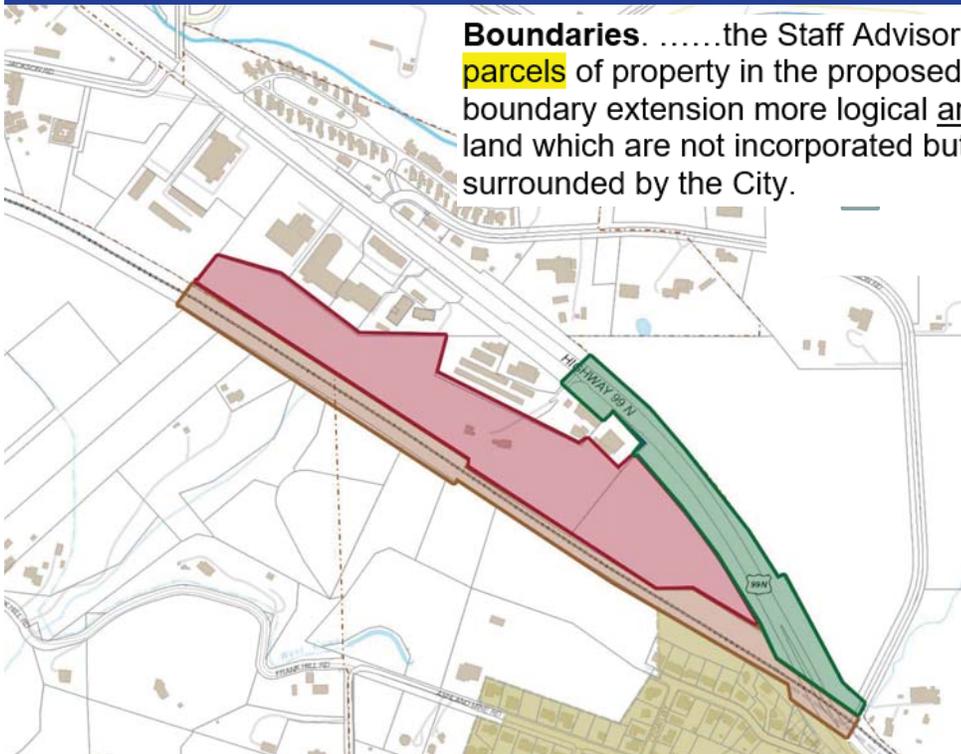


1511 Highway 99N

CITY OF
ASHLAND

2nd Assignment of Error - Contiguity Issue

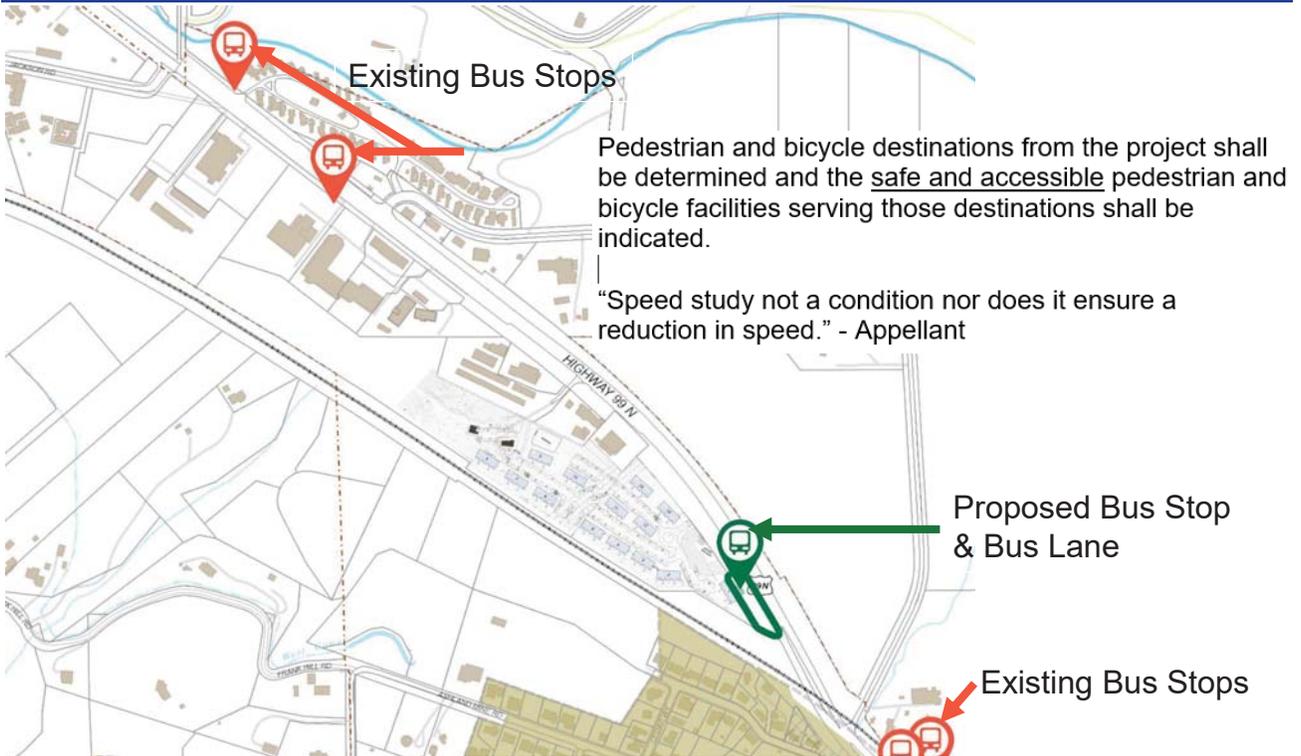
Boundaries.the Staff Advisor may include other **parcels** of property in the proposed annexation to make a boundary extension more logical and to avoid **parcels** of land which are not incorporated but are partially or wholly surrounded by the City.



1511 Highway 99N

Adequate Transportation

3rd Assignment of Error – Not supported by substantial evidence



DISCUSSION ITEM

Housing in C-1 and E-1 Zones

Memo

DATE: June 22, 2021

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: Housing in Employment Zones

Summary

This is a discussion item about the potential land use code amendments to allow more housing in the employment zones. The City Council initiated the project at the [March 16, 2021](#) business meeting.

At the June 22 Planning Commission meeting, Fregonese and Associates will present the initial findings from an analysis of employment land consumption and job data. The Oregon Statewide Planning System requires all cities and counties in Oregon to address Statewide Planning Goal 9 Economic Development which requires cities and counties to provide an adequate land supply for economic development and employment growth.

Background

Laz Ayala and Mark Knox from KDA Homes introduced the issue to the Planning Commission at the study session meeting on [December 22, 2019](#). The KDA representatives suggested that there is a surplus of commercial space that could be used to provide housing units. The concerns raised included the decreased demand for commercial space due to ecommerce and the pandemic while housing demand continues to increase, particularly after the Almeda fire. The KDA representatives suggested amending the land use code to allow the temporary use of ground floor commercial space to be used for housing units and requiring the buildings to be constructed to commercial building code standards so the space could be converted in the future should demand for commercial space return.

Subsequently, the City Council initiated the project at their March 16, 2021 meeting. Specifically, the Council directed staff to work with the Planning Commission to evaluate the draft code language prepared by representatives of KDA Homes and propose amendments to the land use ordinance which would provide the flexibility to temporarily use the ground floor of commercial buildings for housing.

Currently, at least 65 percent of the ground floor of buildings in the commercial (C-1) and employment (E-1) zones is required to be commercial and light industrial uses. The remaining 35 percent of the ground floor can be used for residential dwellings as well 100 percent of the upper stories in multi-story buildings. The exceptions are: 1) in the Transit Triangle (TT) overlay, a minimum of 35 percent of the ground floor is required to be used for commercial and light industrial uses and 2) in the commercial area of the North Mountain Neighborhood District, the ground floor can be used entirely for housing but must be built to commercial building code standards so that the space can be converted to commercial uses in the future.



In 1992, the land use code was amended to eliminate entirely residential buildings as an allowed use in the C-1 and E-1 zones (Ord. 2688). The current standard of requiring 65 percent of the ground floor in commercial or light industrial uses was put in place at that time, as well as residential densities for each of the zones. Prior to 1992, residential buildings comprised entirely of housing units could be built in the C-1 and E-1 zones with the approval of a conditional use permit. The 1992 code update was in part due to concern about construction of residential buildings near the downtown and loss of future commercial space.

Next Steps

The tentative schedule includes: 1) review potential code options at a Planning Commission study session in August 2021, 2) a public hearing and recommendation at the Planning Commission in October 2021, and 3) a public hearing and first reading at the City Council in November 2021.

