



Planning Commission Meeting Agenda

ASHLAND PLANNING COMMISSION

SPECIAL MEETING AGENDA

Tuesday, August 25, 2026

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 the public testimony may be limited by the Chair.

I. CALL TO ORDER

7:00 p.m., Civic Center Council Chambers, 1175 E. Main Street

II. ANNOUNCEMENTS

1. Staff Announcements
2. Advisory Committee Liaison Reports

III. CONSENT AGENDA

- Approval of Minutes
1. August 11, 2026 Regular Meeting Minutes

IV. PUBLIC FORUM

Note: To speak to an agenda item in person you must fill out a speaker request form at the meeting and will then be recognized by the Chair to provide your public testimony. Written testimony can be submitted in advance or in person at the meeting. If you wish to discuss an agenda item electronically, please contact PC-public-testimony@ashland.or.us by 10:00 a.m. on August 25, 2026 to register to participate via Zoom. If you are interested in watching the meeting via Zoom, please utilize the following link: <https://zoom.us/j/91234454016>

V. LEGISLATIVE PUBLIC HEARING - CONTINUED

PLANNING ACTION: PA-L-2026-00020

APPLICANT: City of Ashland

ORDINANCE REFERENCES: AMC 18.5.3.060: Additional Preliminary Flag Lot Partition Plat Criteria

REQUEST: The proposal before the Planning Commission is a draft ordinance amending AMC 18.5.3.060 to establish a variance process for flag drive and driveway grades serving legal lots of record created before the City adopted its Hillside Development Standards in 1997, and a request to forward a recommendation to the City Council. The amendment was originally included in the Senate Bill 974 implementation package (draft Ordinance No. 3307) and has been separated into a standalone ordinance, draft Ordinance No. 3309, so that it can be considered on its own merits.

VI. OPEN DISCUSSION

VII. ADJOURNMENT

Next Meeting Date: September 8, 2026

If you need special assistance to participate in this meeting, please contact Derek Severson at planning@ashlandoregon.gov or 541.488.5305 (TTY phone number 1.800.735.2900). Notification at least three business days before the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting in compliance with the Americans with Disabilities Act.





Planning Commission Minutes

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August 11, 2026
REGULAR MEETING
DRAFT Minutes

I. **CALL TO ORDER:**

Chair Verner called the meeting to order at 7:00 p.m. at the Civic Center Council Chambers, 1175 E. Main Street. Commissioner Maher attended the meeting via Zoom.

Commissioners Present:

Lisa Verner
 Jay Lininger
 Kerry KenCairn
 Russell Phillips
 John Maher

Staff Present:

Brandon Goldman, Community Development Director
 Carmel Zahran, Deputy City Attorney
 Derek Severson, Planning Supervisor
 Mark Shay, Deputy Fire & Life Safety Chief
 Michael Sullivan, Executive Assistant

Absent Members:

Eric Herron
 Susan MacCracken Jain

Council Liaison:

Jeff Dahle

II. **ANNOUNCEMENTS**

1. **Staff Announcements** – None
2. **Advisory Committee Liaison Reports** – None

III. **CONSENT AGENDA**

Approval of Minutes

1. July 14, 2026 Regular Meeting

Commissioners Lininger/Phillips m/s to approve the consent agenda as presented. Voice Vote:
Commissioners KenCairn, Maher, Lininger, Phillips, and Verner: AYE. Motion Passed 5-0.

IV. **PUBLIC FORUM**

Chair Verner pointed to a letter submitted by Joseph Kauth on August 6, which requested that a comprehensive study on urban growth, climate change, and the urban heat island effect be initiated by the City (see attachment #1). The Commission directed staff to invite Mr. Kauth to present his concerns in person at the August 25th meeting.





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V. **LEGISLATIVE PUBLIC HEARINGS**

1. **PLANNING ACTION:** PA-L-2026-00020

APPLICANT: City of Ashland

ORDINANCE REFERENCES: AMC 18.5.3.060: Additional Preliminary Flag Lot Partition Plat Criteria

REQUEST: The proposal before the Planning Commission is a draft ordinance amending AMC 18.5.3.060 to establish a variance process for flag drive and driveway grades serving legal lots of record created before the City adopted its Hillside Development Standards in 1997, and a request to forward a recommendation to the City Council. The amendment was originally included in the Senate Bill 974 implementation package (draft Ordinance No. 3307) and has been separated into a standalone ordinance, draft Ordinance No. 3309, so that it can be considered on its own merits.

Chair Verner noted that a number of public comments had been submitted into the record after the packet had been posted (see attachment #2).

Staff Presentation

Planning staff presented the amendment to AMC 18.5.3.060 to allow variance for driveway grades over 18% for flag lots established before the 1997 Hillside Development Standards (Ordinance No. 2808). Mr. Severson explained that current rules allow up to 15% with an 18% variance, and LUBA's 2026 reversal of a City decision to exceed 18% led to this action. The amendment wouldn't sanction specific projects or new lots with steeper driveways; applicants for pre-1997 lots must apply individually, proving topographic restrictions and meeting AMC 18.5.5 criteria. GIS identified 13 lots likely constrained by grade issues (see attachment #3). The Oregon Fire Code's access requirements remain unchanged. Deputy Fire Chief Mark Shay affirmed fire code reviews address grade, surface, clearance, length, and parking. He mentioned that steep grades might require residential sprinklers, better fuel management, or alternate access designs. Staff confirmed sending the required 35-day DLCD notice.

Questions of Staff

The Commission raised concerns about the clarity of the ordinance language, noting that members of the public appeared confused about whether the amendment would apply beyond the targeted pre-1997 lots, and suggested restructuring the language to more explicitly limit its scope. The Commission inquired whether the minimum deviation standard was explicitly embedded in this section; staff confirmed it is covered by the general variance criteria chapter.

Chair Verner requested that any driveway approval require review by a licensed geotechnical engineer. Staff confirmed that existing physical and environmental constraints permit requirements already mandate such review for development on slopes exceeding 25 percent natural grade, making a separate requirement within this section redundant.



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Commissioners asked Deputy Chief Shea about the practical maximum grade a fire apparatus could navigate, the factors that would cause him to deny a proposed driveway, and what mitigation measures would support steeper grades. Deputy Chief Shay explained that the fire code sets a 10 percent grade guideline but that Ashland's topography routinely exceeds this, and that different apparatus are deployed based on conditions. He stated that if fire code requirements could not be met through any available mitigation, he would recommend denial. He further confirmed that a single home or flag lot serving two to three homes does not require a second access point under the Oregon Fire Code.

Commissioner Lininger raised the question of what happens if a pre-1997 lot is found to be undevelopable because no viable driveway alignment can satisfy both planning and fire requirements. Deputy City Attorney Carmel Zahran noted that such a situation could give rise to a takings claim, which would be analyzed on a fact-specific, case-by-case basis.

Commissioner Lininger asked whether the purchase date of a current lot owner relative to the 1997 standards adoption would be relevant to a potential takings analysis. Ms. Zahran acknowledged it could be a relevant factor, though not necessarily dispositive, and that the question warranted further research.

Commissioner Maher asked whether these variance decisions would come before the Planning Commission or be decided administratively by staff. Staff noted that with changes in state law, residential variances were trending toward administrative approval, with appeals available only to the applicant under House Bill 4037.

Public Comments

The following speakers spoke in opposition to the ordinance:

- Jay Reeck, representing himself and Sarah Sameh via Zoom
- Emil Sadofsky, representing Hutchinson Cox via Zoom
- Carey Mastain
- Steve Rouse, representing Rogue Advocates
- David Oursler had requested to speak via Zoom prior to the meeting but was unavailable

Chair Verner closed the Public Hearing and Public Record at 8:08pm.

Deliberations and Decision

The Commission discussed the public's concerns about public safety, consistency with the comprehensive plan, and the disproportionate benefit to a small number of lots. Commissioner Lininger noted that he would prefer staff to return with clearer and more objective language and potentially to limit the variance's availability to lots whose current owners obtained possession before the 1997 standards were adopted.



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Commissioners Maher/Lininger m/s to reject the proposed code amendment to AMC 18.5.3.060 (draft Ordinance No. 3309). Roll Call Vote: Commissioners KenCairn, Maher, Lininger, Phillips, and Verner: AYE. Motion Passed 5-0.

Following the vote, the Commission discussed options for next steps. After consultation with staff and Ms. Zahran, it was clarified that any new language prepared for the Commission's consideration would need to be made available for public comment, requiring the public hearing and record to be reopened rather than merely continuing deliberations on a closed record.

Commissioners Lininger/Maher m/s to reopen the Public Record and to continue the Public Hearing to the August 25, 2026 meeting, with staff directed to provide purchase/transfer date information for the 13 identified lots and to develop revised ordinance language for Commission consideration. Roll Call Vote: Commissioners KenCairn, Maher, Lininger, Phillips, and Verner: AYE. Motion Passed 5-0.

The Public Record was reopened at 8:32pm and the Public Hearing was continued to the August 25th Planning Commission meeting.

2. **PLANNING ACTION:** PA-L-2026-00019

APPLICANT: City of Ashland

ORDINANCE

AMC 18.2.2.030: Uses Allowed by Zone

REFERENCES:

AMC 18.2.5.090: Standards for Single-Family Dwellings and Duplexes

AMC 18.2.5.100: Single Room Occupancy (SRO)

**AMC 18.3.4.040: Normal Neighborhood District
Uses Allowed by Zone**

**AMC 18.3.5.050: North Mountain Neighborhood
Uses Allowed by Zone**

**AMC 18.3.5.100: Site Development and Design Standards
(North Mountain Neighborhood)**

**AMC 18.3.9.040: Review Procedures and Criteria
(Performance Standards Option)**

**AMC 18.5.1.010: Summary of Approvals by Type of Review
Procedure**

AMC 18.5.5.030: Review Procedure (Variances)

AMC 18.6.1.030: Definitions

REQUEST: The proposal before the Planning Commission includes draft ordinance amendments to the Ashland Land Use Ordinance to implement Senate Bill 974 (2025) and a request to forward





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a recommendation to the City Council. The draft ordinance amends AMC 18.2.5.090, AMC 18.3.5.100, AMC 18.3.9.040, Table 18.5.1.010, AMC 18.5.5.030, and AMC 18.6.1.030. Code changes to comply with SB 974 are required to be in effect by July 1, 2026. Additional amendments implementing House Bill 2138 (2025) requirements with regard to Single Room Occupancies (SROs) are proposed for AMC 18.2.2.030, 18.2.5.100, 18.3.4.040, 18.3.5.050 and 18.6.1.030.D. These SRO requirements must be implemented by January 1, 2027; additional code changes with regard to other sections of HB 2138 will be brought forward as a separate package following further state rulemaking. Additional amendments implementing House Bill 4037 (2026) are proposed for AMC 18.5.1.050 to establish a uniform review procedure for applications for housing subject only to clear and objective standards, consistent with amendments to ORS 197A.400 operative July 1, 2026. SB 974, HB 2138, and HB 4037 together revise the state framework for the review of residential development applications.

Chair Verner noted that a public comment had been submitted by Steve Rouse on behalf of Rogue Advocates after the packet had been posted (see attachment #4).

Staff Presentation

Planning Supervisor Derek Severson provided a brief presentation on draft Ordinance No. 3307, a package of code amendments implementing three pieces of recent Oregon state legislation: Senate Bill 974, House Bill 2138, and House Bill 4037. The Commission had previously reviewed this material at study sessions in April and May 2026, and the City Council was briefed on June 1, 2026. The amendments are collectively intended to streamline residential development review, expand housing opportunities, and align local procedures with state law.

Senate Bill 974 requires that qualifying housing applications subject to clear and objective standards be processed as Type 1 administrative decisions without a quasi-judicial public hearing. It reduces the notice radius from 200 feet to 100 feet for such applications, retains a 14-day written comment period, and allows planning commission hearings only on appeal of non-clear-and-objective applications. The draft ordinance also raises the outline/final plan concurrent submission threshold for Performance Standards Option (PSO) subdivisions to 20 lots and classifies qualifying variances as Type 1 actions. Design standards may not be applied to developments of 20 or more units for single- and two-family dwellings, with a sunset date of January 1, 2033 embedded in the ordinance.

House Bill 2138 establishes Single Room Occupancy (SRO) standards, allowing up to 6 SRO units on lots permitting detached single-family housing and permitting up to three times the maximum density in multifamily zones for SRO developments. Staff also presented a clarifying amendment to AMC 18.2.5.100(B)(5)(a) to remove an ambiguous phrase indicating that sanitary and food preparation facilities "may be provided within the unit or as shared facilities," which could be read to allow a unit to have both a private kitchen and private bathroom—making it a standard dwelling unit



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rather than an SRO. The corrected language would end that sentence after "facilities" and rely on subsections B and D to clarify that an SRO unit may have one or the other, but not both.

House Bill 4037 restricts the review of clear-and-objective housing applications to Type 1 administrative decisions, limits notice to 100 feet, and limits appeal rights exclusively to the applicant—eliminating neighbor and third-party appeals at both the local level and before LUBA. Staff noted that zone changes and annexations were not amended, as a conflict between SB 974's administrative processing requirements and existing Oregon law requiring ordinance adoption via public hearing remains unresolved.

Questions of Staff

Commissioner Lininger questioned the legal basis for delegating initial decision-making power for housing applications solely to administrative staff. He cited ORS 197A.400(4)(c), ORS 197.195, and ORS 227.175(10) as possibly allowing local governments to reserve this authority for the Planning Commission through a Type 1 non-hearing process. He suggested amending the ordinance to let the Planning Commission decide on housing applications without public hearings. Staff warned this would shift the current practice, where most Type 1 decisions are staff-handled, adding a new layer to the code. Staff noted the same standards apply regardless of whether staff or the Commission decides, raising public expectations for hearings that aren't possible. The Deputy City Attorney agreed on the legal challenge, stating other Oregon cities were also figuring out compliance and needed more clarity.

Commissioners Phillips/Lininger m/s to extend the meeting by 30 minutes to 10:00pm. Voice Vote: Commissioners Phillips, Maher, Lininger, and Verner: AYE. Commissioner KenCairn: NAY. Motion passed 4-1.

Commissioner Maher asked what the repercussions could be for the City if it failed to approve the state-mandated legislation. Mr. Goldman responded that if the City applied law that was inconsistent with state law, then an applicant could appeal that decision to the Land use Board of Appeals (LUBA) or potentially to the state circuit court. He added that the City must present its adopted ordinance to the Department of Land Conservation and Development (DLCD), and that if the adopted ordinance was found to be inconsistent with state law then the DLCD would direct the City to amend the ordinance to be in alignment.

Deliberations and Decision

Commissioner Maher expressed support staff's recommendation, emphasizing the legislation's goal to speed up housing approvals administratively.



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Commissioner Phillips suggested keeping the 200-foot notice where possible and revising the PSO threshold to 12 lots, rather than the 20 lots stated, consistent with prior discussions. Staff agreed these adjustments could be included.

Commissioner Maher moved to approve the staff-recommended motion with two modifications: retaining the 200-foot notice radius for applications where state law still permits it, and reducing the PSO concurrent submission threshold from 20 to 12 lots.

DISCUSSION: Commissioners Lininger/Phillips m/s to amend the motion to modify AMC 18.5.1.050(C)(1) to allow the Planning Commission to make initial decisions on clear-and-objective housing applications under a Type 1 non-hearing procedure, relying on the limited land use decision procedures of ORS 197.195 and ORS 227.175(10). Roll Call Vote: Commissioners Lininger and Verner: AYE. Commissioners KenCairn, Phillips, and Maher: NAY. Amendment Failed 2-3. Roll Call Vote on original motion: Commissioners Phillips, Maher, KenCairn, Lininger, and Verner: All AYES. Motion passed 5-0.

VI. OPEN DISCUSSION

The Commission reiterated its desire to have Mr. Rauth attend the August 25th meeting to discuss his public testimony in person.

VII. ADJOURNMENT

Meeting adjourned at 9:53 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*

ATTENTION

**For attachments to August 11, 2026
Meeting Minutes, please use the link
below:**

<https://ashlandor.portal.civicclerk.com/event/1176/files/agenda/3567>

LEGISLATIVE PUBLIC HEARING - CONTINUED

PA-L-2026-00020

**Additional Preliminary Flag Lot Partition Plat
Criteria**

ASHLAND PLANNING DIVISION
STAFF REPORT
August 25, 2026

PLANNING ACTION: PA-L-2026-00020

APPLICANT: City of Ashland

ORDINANCE REFERENCES: AMC 18.5.3.060: Additional Preliminary Flag Lot Partition Plat Criteria

REQUEST: The proposal before the Planning Commission is a draft ordinance amending AMC 18.5.3.060 to establish a variance process for flag drive and driveway grades serving legal lots of record created before the City adopted its Hillside Development Standards in 1997, and a request to forward a recommendation to the City Council.

BACKGROUND

At the August 11, 2026 Planning Commission hearing on this matter, the Commission rejected the initial language brought forth by staff and left the hearing and the record open. The hearing was continued until 7:00 p.m. on Tuesday, August 25, 2026 to allow further consideration of the issues. The materials presented here are intended to supplement the August 11th packet materials.

Key points in the August 11th discussion included:

- Commissioners indicated that the ordinance language needed to better distinguish between pre-Hillside Ordinance and post-Hillside Ordinance lots for clarity and readability.
- Commissioners discussed whether to include an upper limit on driveway grade variances for pre-Hillside Ordinance lots that cannot otherwise meet the standard.
- Commissioners discussed clarifying the variance consideration in the standard, versus relying on the variance criteria in AMC 18.5.5.
- Whether relief from the driveway grade standards should be dependent on when the property was purchased (and what the driveway grade standard was at the time of purchase).

ORDINANCE AMENDMENT

A. Summary of the Proposed Amendments

Based on discussion at the August 11, 2026 hearing, staff have reworked the Flag Drive Grades section (AMC 18.6.3.060) below with an eye to:

- Clarity in addressing specific exceptions for pre-/post-1997 lots as detailed below in F.2 and F.3

- Providing a clear statement in F.5 and F.6 that a variance application would need to include a recommendation from the Fire Code Official so that it would be available in the record as part of the variance review process.
- Finally, clarifying the variance criteria with some redundancy from the Variance Chapter (i.e. “unique or unusual”) although the AMC 18.5.5 criteria will still apply. These changes in F.6 aim to clarify that protecting natural areas could be a rationale for a steeper drive through a variance, rather than a drive that met grade but involved greater disturbance of natural areas.

The proposed new language is as follows:

F. Flag drive grades.

1. **General standard.** *Flag drive grades shall not exceed a maximum grade of 15 percent.*
2. **Exception for lots created after the Hillside Development Standards.** *For a flag drive serving a lot created on or after the effective date of the Hillside Development Standards, Ordinance No. 2808, adopted December 3, 1997, including a lot created through a flag lot partition, a variance may be granted for a grade in excess of 15 percent but no greater than 18 percent.*
3. **Exception for lots of record predating the Hillside Development Standards.** *For a flag drive serving a legal lot of record created before the effective date of the Hillside Development Standards, Ordinance No. 2808, adopted December 3, 1997, a variance may be granted for a grade in excess of 15 percent [- option - , but no greater than 25 percent].*
4. **Cumulative length limitation.** *The cumulative length of all sections of a flag drive exceeding 15 percent grade approved through a variance under subsection F.2 or F.3 shall not exceed 200 feet.*
5. **Fire Code compliance.** *A flag drive approved under a variance granted under subsection F.2 or F.3 remains subject to the fire apparatus access requirements of the Oregon Fire Code, including any approval required by the Fire Code Official.*
6. **Variance criteria.** *A variance under subsection F.2 or F.3 shall meet the criteria for approval in chapter 18.5.5, Variances. Circumstances supporting a variance under this subsection include, but are not limited to, a demonstration, based on a stamped engineer’s drawings, that no alignment meeting the general 15 percent grade standard of this subsection can provide vehicular access to a buildable area of the lot, or that a steeper alignment would better avoid or reduce impacts to natural or physical features of the site, such as water resource protection zones, trees, rock outcroppings, or areas best left in an undisturbed natural state. In evaluating a variance under this subsection, the approval authority may consider unique or unusual site conditions, including topographic constraints, access limitations, and the avoidance or reduction of impacts to natural and physical features, in determining whether the requested grade is the minimum necessary to reasonably develop the lot while minimizing site disturbance. The Fire Code Official shall make a*

recommendation on each variance application regarding fire apparatus access and fire and life safety, and the recommendation shall be considered by the approval authority.

B. Ownership Trigger

At the August 11th meeting, Planning Commissioners also discussed the possibility of limiting a steep-grade exception only to lots that have remained under the same ownership since the Hillside Ordinance took effect in 1997. In staff research into Jackson County records, seven of the 13 lots identified as potential candidates for driveway grade variances have changed hands since the ordinance change in 1997.

In staff's assessment, the problem with such an approach is that land use rights and limits in Oregon almost always run with the land, not with a particular owner. Grandfathered and nonconforming use rights transfer to new owners for exactly that reason, and there is no real tradition in municipal codes of tying a development standard like a driveway grade to unbroken ownership. Owner-based eligibility does typically show up in the farm and forest dwelling statutes, and even there the legislature had to spell it out expressly, the courts read it narrowly, and the entitlement generally still transfers once approved.

Were relief from the driveway grade standard to be conditioned upon continuous ownership, a lot that its 1997 owner could build on today would become unbuildable the day it is sold or inherited, which recreates the same no-relief problem the exception is meant to fix and pushes it onto buyers and heirs who had nothing to do with when the lot was created. This would raise the city's takings exposure rather than lowering it, and it would be difficult to administer since staff would need to track chain of title as an eligibility question, with the pool of qualifying lots shrinking over time until none were left.

Staff would note that Measure 37 tried to do something similar by making relief turn on when an owner acquired their property. It was essentially an ownership-date entitlement, and it created enough legal and administrative problems that the voters had to pass Measure 49 a few years later to rein it in and put the focus back on the land and clear standards. For staff, that history is a useful caution to keep in mind. The fairness argument for favoring longtime owners over someone who bought a steep lot knowing its limits is a real point the Commission can weigh, but it runs against the overwhelming practice in Oregon land use, and staff's recommendation is that the entitlement should run with the land so we are not creating unbuildable lots with no path to relief for future owners.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City

Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

C. Conclusions and Recommendations

In staff's opinion, the revisions above respond to the issues raised on August 11th and continue to provide a uniform, criteria-based relief mechanism for a defined set of lawfully created lots while preserving the protective purpose of the Hillside Development Standards and the independence of Fire Code review.

Staff recommend that the Planning Commission recommend approval of these proposed amendments to the City Council. The proposed ordinance is scheduled for a public hearing and first reading at the City Council on September 15, 2026.

D. Suggested Motion

"I move that the Planning Commission recommend that the City Council approve first reading of Ordinance No. 3309, titled AN ORDINANCE RELATING TO VARIANCES FOR FLAG DRIVE AND DRIVEWAY GRADES SERVING LEGAL LOTS OF RECORD CREATED PRIOR TO THE ADOPTION OF THE HILLSIDE DEVELOPMENT STANDARDS; AMENDING AMC 18.5.3.060, as amended in the August 25th staff report."

ORDINANCE NO. 3309

AN ORDINANCE AMENDING AMC 18.5.3.060 RELATING TO VARIANCES FOR FLAG DRIVE AND DRIVEWAY GRADES SERVING LEGAL LOTS OF RECORD CREATED PRIOR TO THE ADOPTION OF THE HILLSIDE DEVELOPMENT STANDARDS

Annotated to show deletions and additions to the Ashland Municipal Code sections being modified. Deletions are ~~bold lined through~~, and additions are **bold underlined**, and unchanged text that is omitted for brevity is indicated by “..”

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the City of Ashland adopted the Hillside Development Standards through Ordinance No. 2808 on December 3, 1997, establishing development standards for hillside lands, including maximum grade standards for flag drives and driveways; and

WHEREAS, subsection 18.5.3.060.F of the Ashland Municipal Code limits flag drive grades to a maximum of 15 percent and allows variances up to 18 percent for a limited cumulative length, but does not provide a variance pathway for legal lots of record created before the effective date of the Hillside Development Standards where topographic constraints prevent any driveway alignment from meeting the maximum grade standards; and

WHEREAS, a review of the City’s buildable lands inventory and Geographic Information System data identified 74 legal lots of record within the City of Ashland that were created before the effective date of the Hillside Development Standard, of which 13 lots are potentially subject to the Flag Drive standards to obtain compliant driveway access due to topographic constraints, demonstrating that the amendment addresses a circumstance of citywide applicability rather than an individual property; and

WHEREAS, land use decisions of the City, including decisions on variance applications, are subject to review by the Oregon Land Use Board of Appeals (LUBA), and establishing clear and objective approval criteria for driveway grade variances serving legal lots of record created before the Hillside Development Standards provides an adequate factual base and reviewable standards for such decisions; and

WHEREAS, in April 2026 the Land Use Board of Appeals remanded a City decision approving a driveway grade variance, concluding that subsection 18.5.3.060.F as currently written does not authorize a variance for a grade in excess of 18 percent under any circumstance; and

WHEREAS, a variance process for flag drive grades serving legal lots of record created before the effective date of the Hillside Development Standards, Ordinance No. 2808 (adopted December 3, 1997), where topographic constraints prevent compliance with maximum grade standards, allows development of existing lots while preserving fire apparatus access requirements under the Oregon Fire Code; and

WHEREAS, the Planning Commission of the City of Ashland considered the proposed amendments at a duly advertised public hearing on **August 11, 2026**, which was continued to **August 25, 2026**, where, following deliberations, the Commission recommended approval of the amendments; and

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the proposed amendments on **September 15, 2026**; and

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

WHEREAS, in order to protect and benefit the health, safety, and welfare of existing and future residents of the City, it is necessary to amend the Ashland Municipal Code and Land Use Ordinance in the manner proposed, an adequate factual base exists for the amendment, the amendment is consistent with the Comprehensive Plan, and the amendment is fully supported by the record of this proceeding.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Subsection 18.5.3.060.F [Additional Preliminary Flag Lot Partition Plat Criteria] of the Ashland Municipal Code is hereby amended to read as follows, and the remainder of section 18.5.3.060 remains unchanged:

18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

..

~~F. — Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent; provided, that the cumulative length of such variances across multiple sections of the flag drive does not exceed 200 feet. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances..~~

F. Flag drive grades.

1. General standard. Flag drive grades shall not exceed a maximum grade of 15 percent.

2. Exception for lots created after the Hillside Development Standards. For a flag drive serving a lot created on or after the effective date of the Hillside Development Standards, Ordinance No. 2808, adopted December 3, 1997, including a lot created through a flag lot partition, a variance

may be granted for a grade in excess of 15 percent but no greater than 18 percent.

3. Exception for lots of record predating the Hillside Development Standards. For a flag drive serving a legal lot of record created before the effective date of the Hillside Development Standards, Ordinance No. 2808, adopted December 3, 1997, a variance may be granted for a grade in excess of 15 percent.
4. Cumulative length limitation. The cumulative length of all sections of a flag drive exceeding 15 percent grade approved through a variance under subsection F.2 or F.3 shall not exceed 200 feet.
5. Fire Code compliance. A flag drive approved under a variance granted under subsection F.2 or F.3 remains subject to the fire apparatus access requirements of the Oregon Fire Code, including any approval required by the Fire Code Official.
6. Variance criteria. A variance under subsection F.2 or F.3 shall meet the criteria for approval in chapter 18.5.5, Variances. Circumstances supporting a variance under this subsection include, but are not limited to, a demonstration based on stamped engineer's drawings that no alignment meeting the general 15 percent grade standard of this subsection can provide vehicular access to a buildable area of the lot, or that a steeper alignment would better avoid or reduce impacts to natural or physical features of the site, such as water resource protection zones, trees, rock outcroppings, or areas best left in an undisturbed natural state. In evaluating a variance under this subsection, the approval authority may consider unique or unusual site conditions, including topographic constraints, access limitations, and the avoidance or reduction of impacts to natural and physical features, in determining whether the requested grade is the minimum necessary to reasonably develop the lot while minimizing site disturbance. The Fire Code Official shall make a recommendation on each variance application regarding fire apparatus access and fire and life safety, and the recommendation shall be considered by the approval authority.

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

SECTION 3. 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 2 and 3) 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 _____, 2026, and duly PASSED and ADOPTED this _____ day of _____, 2026.

SIGNED and APPROVED this _____ day of _____, 2026.

ATTEST:

Alissa Kolodzinski, City Recorder

Tonya Graham, Mayor

Reviewed as to form:

Johan Pietila, City Attorney