



Planning Commission Minutes

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.

August 11, 2026 REGULAR MEETING 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

REFERENCES:

AMC 18.2.2.030: Uses Allowed by Zone

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*

Joseph Kauth
1 corral ln. # 55, Ashland, OR 97520
Josephkauth@outlook.com
541-951-7804

8/06/2026

Planning Commission and Planning Department
City of Ashland
209 E. Main Street
Ashland, OR 97520

Subject: Request for a Comprehensive Study on Urban Growth, Climate Change, and the Urban Heat Island Effect

Dear Ashland Planning Commissioners and Staff,
I am writing to request that the City of Ashland initiate a comprehensive study analyzing the intersections of local climate change, current urban growth patterns, and development trends. Specifically, this study should evaluate how continued building and land-use changes contribute to the urban heat island (UHI) effect within our city limits. [1]

Why This Study Matters

- **Rising local temperatures:** Denser built environments and loss of tree canopy trap heat.
- **Informed policy updates:** Future zoning and code changes need localized data.
- **Public health protection:** Extreme heat events threaten vulnerable residents.
- **Aligning with goals:** The findings will support the city's broader climate resilience goals. [1, 2]

Key Areas for Evaluation

- Map current microclimates and hot spots across Ashland's commercial and residential zones.
- Quantify the loss of permeable surfaces and mature tree canopy over the last decade.
- Assess future impacts of projected urban growth on local temperature trends.

- Recommend specific, actionable code amendments regarding landscaping, shading, and cool-surface building materials.

Thank you for your time, leadership, and dedication to keeping Ashland livable and sustainable for the future. I look forward to your response regarding how this proposal might be integrated into the upcoming planning work program.

Sincerely,
Joseph Kauth

PL-L-2026-00020

From Troy Brown <troybrownjr@yahoo.com>

Date Tue 8/11/2026 9:46 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

Ashland Planning Commissioners,

I am writing to express my opposition to the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The proposed amendments appear to be a change to aid a specific property rather than a necessary change for the city. The city's explanation for the change is unclear, as it only allows one property to deviate from the current city code, yet this amendment would allow no upper limit to driveway gradient, meaning that a 24%, 30%, or even 45% would be allowed solely upon the discretion of some unknown person or entity or the Planning Commission with no criteria to decide if a given parcel can be used and/or modified because of this unclear amendment.

This amendment is overly vague (no upper limit) and would not be applicable to all other properties, some of whom would like to modify their driveways. There are standards in place, and you now want to allow for arbitrary reasons a change in performances and applications. Who's request is next?

As a former commissioner, I have reviewed the arguments against this change and I agree with those arguments and believe that these standards should remain in effect. These standards are necessary for potential buyers and current property owners to rely upon when purchasing or renovating a property. They provide a clear understanding of what is expected and prevent potential buyers from making decisions based on the absence of clear specific standards.

This amendment disregards the comprehensive plan and all relevant city & state codes and standards. It is inappropriate to make changes without a thorough review of the entire plan and without considering the broader implications.

I urge you to reconsider this amendment and ensure that any changes are made in a comprehensive and transparent manner.

Troy J. Brown, Jr
Ex Planning Commission
345 Hemlock Ln
Ashland, OR

To: Ashland Planning Commission

From: Rogue Advocates

PO Box 624

Ashland, Oregon 97530

RE: Draft Ordinance No. 3309

Dear Planning Commission,

August 10, 2026

Thank you for the opportunity to comment on Ordinance 3309. Rogue Advocates is a 501c3 nonprofit dedicated to protecting resource lands in Jackson and Josephine County. Many of our members reside within the Ashland city limits.

The current version of ALUO 18.5.3.060.F has been in the city code since 1997, providing guidance and limits on flag driveways with steep slopes. The primary reasons for this code section are to protect the safety of citizens, protect the safety of first responders, and to protect the wildland-urban interface from unwise development. The modifications in the proposed draft fail all these protections for “existing lots”.

No Limit on Flag Driveway Steepness

The rewrite of this code section adds a new category that the planning departments estimates is 14 **existing lots** with flag driveway slopes greater than 18 percent that could not be safely developed under current code. There is no limit in the proposed language on the steepness of the flag driveway. Our research indicates there is no jurisdiction in Oregon that sets no limit on driveway steepness.

No Limit on Driveway Length or Turnout Requirements

The current code allows new flag lots up to 18 percent but includes a maximum cumulative length of 200 feet . The new language states no maximum length or turnout requirements for flag driveways on **existing lots**. Our research found no jurisdiction in Oregon that fails to set a limit on the length of steep driveways exceeding 18 percent. How does section J of this code section requiring turnouts apply?

Failure To Comply With Comprehensive Plan

The Ashland Comprehensive Plan, Environmental Resources states that in order to protect “life, property and environmental resources in Ashland’s suburban/wildland interface area from the devastating effects of wildfire” Policy 49 states “Require more than one ingress/egress route or road widths wide enough to accommodate incoming fire apparatus and evacuating residents simultaneously in an emergency situation.” (pg. 31)

The proposed code revision fails to address or satisfy this section of the Comprehensive Plan. The majority of these “existing lots” with steep slopes are in the suburban/wildland interface area. We request planning staff prepare Findings addressing compliance with Policy 49.

Conclusion

The proposed code revision weakens safety protections for life, first responders, and the wildland/suburban interface.

Steve Rouse

President Rogue Advocates

PA-L-2026-00020

From John Kloetzel <kloetzel@umbc.edu>

Date Mon 8/10/2026 11:24 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

I understand that the Planning Commission is considering a variance to the city code to permit the construction of a long, very steep driveway for access to a proposed home site overlooking Granite Street above Lithia Park. Knowing that the steep hillside up there above Strawberry is heavily treed and sparse with developed home sites, it seems that rapid access to the area by fire engines has to be considered critically important in the case of wildfire. If that drive is truly designed to be a 24% gradient, that could be well above what that fire equipment is designed to handle. And given the speed with which wildfires can spread (especially in windy conditions, as we've seen firsthand locally) it seems that to grant such a variance to a single private party is gambling with an increased chance of potential wildfires in the Ashland watershed — and is foolhardy.

Sincerely yours — JOHN KLOETZEL, Ashland
Phone: 541.613.0785
kloetzel@umbc.edu

Opposition to Flag Drive Variance

From Dea Collins <deanasoncollins@yahoo.com>

Date Mon 8/10/2026 10:57 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; derek-severson@ashlandoregon.gov <derek-severson@ashlandoregon.gov>

Cc Dea Collins <deanasoncollins@yahoo.com>

[EXTERNAL SENDER]

August 10, 2026

RE: Changes to Driveway Code – AMC 18.5.3.060

Planning Action: PA-L-2026-00020

Ordinance: No. 3309

Dear Planning Commission Members,

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

It is my understanding that the City of Ashland is attempting to change the current city code for flag drive grades in order to allow approval of specific development at 231 Granite St. Specifically, the proposed municipal code change would allow flag drive grades in excess of 18% with no upper limit, while current code states specifically that flag drive grades shall not exceed 15% and variances may be granted but no greater than 18%. The property in question is requesting a variance for a flag drive grade of 24% which is excessive by any standards.

The proposed changes are inconsistent with state law and are potentially hazardous. Excessively steep driveways are not easily accessible, or may not be accessible at all, by emergency vehicles, particularly in the event of fire with no available egress. Additionally very steep driveways accelerate severe water runoff and erosion that compromises supportive soil and undermines driveway and property structure.

The proposed changes are inconsistent with and a major detraction from the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

With no upper limit of driveway grade, the proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will endanger Ashland citizens, first responders, and the environment for the above stated reasons.

The proposed changes are internally inconsistent, simultaneously prohibiting and allowing flag lot driveways steeper than 18%.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Sincerely,

Dea and Robb Collins

Address

PA-L-2026-00020

From Kent McLaughlin <kbmc22@gmail.com>

Date Mon 8/10/2026 3:39 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

Ashland Planning Commissioners,

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The City staff is:

recommending you **change** *City Code* to **remove** any **upper limit** to driveway gradients, {currently at 15% and sometimes 18% under exceptional cases}, **for** certain ***select properties***---including the 231 Granite Street property which requires a 24%, 200 foot, straight uphill gradient! All other properties will remain under the previous standard restrictions of 15 to 18% driveway gradients.

I respectfully request you do not agree to these changes for the following reasons:

The proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will unnecessarily endanger Ashland citizens, their property and first responders. As an example, we note that the maximum recommended slope gradient to safely operate Ashland's big fire engines (2014 Pierce Dash CF model) is 15%. Even allowing for a conservative recommendation by Pierce, Ashland's proposed ordinance would allow driveway slope gradients nearly twice the recommended gradient or higher.

The proposed changes are internally inconsistent, **both prohibiting** and **allowing** flag lot driveways steeper than 18%. The current standard of 15-18% matches what the rest of Oregon has established. It has served Ashland well and should be retained.

The proposed amendments to ALUO 18.5.3.060.F are not required by SB 974 (2025) and are not required by law.

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's own Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, we respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Thank you,

Kent McLaughlin

234 Strawberry Lane

Ashland, OR 97520

Planning Action PA-L-2026-00020

From Margaret Young <margaretorlenayoung@yahoo.com>

Date Mon 8/10/2026 1:52 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

We need rules and laws to give us structure and help us live safely and in harmony with our neighbors. Those charged with enforcing these laws for the greater good bear a lot of responsibility, whether the issues are local or global.

The issue before you this evening is the above referenced flag drive limits, which would amend Ashland Municipal Code ALUO 18.5 3060F (Ordinance #3309). You already know the facts. It is a very steep lot, which presents many potential problems, both in construction and usage. Currently, the limit is 15 feet with possible exceptions to 18 feet-if warranted. That seems flexible; but the proposed flag drive average grade is 24 feet and NOT reasonable. Compromise and exceptions are a rational approach to problem solving; but the proposed elimination of "any" upper limit is simply preposterous.

Actually, it smacks of one party simply "getting their way" for their own reasons, which is totally understandable on their part. However, it is not your charge. Your job is to take into account the greater good-within the law. Making the requested exception sets a questionable precedent on how the Commission makes decisions.

Margaret Young
345 Hemlock Lane
Ashland, Oregon 97520
Email: margaretorlenayoung@yahoo.com
Telephone: (541) 301-8700

Hutchinson Cox

William H. Sherlock • Attorney • Partner
lsherlock@eugenelaw.com

Dawn A. Furtado • Senior Paralegal
dfurtado@eugenelaw.com

Zack P. Mittge • Attorney
zmittge@eugenelaw.com

August 10, 2026

Via E-mail PC-public-testimony@ashlandoregon.gov and derek.severson@ashlandoregon.gov

Ashland Planning Commission
c/o Planning Supervisor Derek Severson
Ashland Planning Department
20 East Main Street
Ashland, OR 97520

RE: PA-L-2026-00020; Ordinance #3309
City File No.: PA-L-2026-00020
Our Clients: Len and Karen Eisenberg, Kent and Pamela McLaughlin

Dear Planning Commissioners:

On behalf of our clients, Len and Karen Eisenberg, and Kent and Pamela McLaughlin, we hereby provide comments in opposition to the proposed legislative amendment (Ordinance #3309) to flag drive standards in the proposed amendments to the City of Ashland Municipal Code. Please include this letter in the record of these proceedings and provide copies of all future notices associated with the proposed amendments to our office.

A. The Proposed Changes are Contrary to State Law.

Although the City staff initially packaged the flag driveway amendments with the legislative amendments for Oregon Senate Bill (SB) 974 (2025), the proposed amendments to the flag drive standards at Ashland Land Use Ordinances (ALUO) 18.5.3.060.F are both contrary to state law and not legislatively required.

Oregon municipalities exercise planning and zoning responsibilities in accordance with state comprehensive land use planning requirements. ORS 197.175 mandates that cities and counties prepare, adopt, amend, and revise comprehensive plans in compliance with goals approved by the Land Conservation and Development Commission and enact land use regulations to implement those comprehensive plans. ORS § 197.175. The Oregon Legislative Assembly has found that uncoordinated land use threatens the orderly development, environment, health, safety, order, convenience, prosperity, and welfare of the people of Oregon. ORS § 197.005.

eugenelaw.com



940 Willamette Street, Suite 400
Eugene, Oregon 97401

Mail: PO Box 10886
Eugene, Oregon 97440

Phone: (541) 686-9160
Fax: (541) 343-8693

Pursuant to ORS 197.180, state agencies and local governments must carry out planning duties and take actions affecting land use in compliance with adopted goals and in a manner compatible with acknowledged comprehensive plans and land use regulations. ORS § 197.180. Due to the statewide concern relating to the availability of safe housing, local governments must ensure that development standards do not discourage needed housing through unreasonable cost or delay. ORS 197.307. However, local governments must maintain clear and objective standards for safety through the authorized issuance of land use regulations that restrict or prohibit activities for the protection of public health and safety. ORS § 195.305(3)(b).

While SB 974 was adopted in June of 2025 to streamline certain residential development processes, it is very careful not to impact residential design standards that protect the public from natural hazards, and particularly the risk of fire. Indeed, the Senate Bill's streamlining expressly "does not apply to land use regulations or requirements that are related to...accessibility, fire ingress or egress, public health or safety...or that implement statewide planning goals relating to....natural hazards." SB 974, § 8(2).

However, staff are still trying to boot-strap amendments to section 18.5.3.060.F, which would adversely impact accessibility, fire ingress and egress, public health and safety, and the City's attempts to protect the public from natural hazards.

The specific provision at issue, section 18.5.3.060.F, establishes the maximum grade for driveways that serve flag lots. Under the land use standards currently in effect, the maximum grade for a flag drive is 15%, but the City may permit variances which allow driveway grades up to 18%.¹

As the Oregon Land Use Board of Appeals (LUBA), recently determined "[t]he plain terms of ALUO 18.5.3.060.F do not allow a variance of over 18 percent grade." *Eisenberg et al. v. City of Ashland*, Or. LUBA (LUBA No. 2025-053; April 29, 2026) (*slip op* at 15).

The proposed amendments would eliminate that 18% maximum grade cap for flag drives serving legal lots of record that were created before the effective date of the Hillside Development Standards, Ordinance #2808 (adopted December 3, 1997). Under the terms of the proposed amendments, the 18% cap on flag drive grades does not apply to these existing lots and would only expressly apply to new flag drives after the date of the amendment.²

¹ "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."

² "Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives serving newly created lots 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. Variances may also be approved for grades in excess of 18 percent for driveways serving pre-existing legal lots of record which would otherwise be inaccessible. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances."

The Oregon State Fire Code establishes minimum standards for the protection of life and property against fire, based on applicable standards prescribed from time to time by the National Fire Protections Association. ORS § 476.120; OAR 837-039-0006(1). To establish uniform protections throughout the state, the Oregon state legislature charged local jurisdictions with adopting either the state fire code or a local fire code that is equal to or more stringent than the protections in the state fire code standards. OAR 837-039-0006(2).

In this case, the proposed amendment is contrary to state law, as it would allow development that is inconsistent with the slope requirements of the fire code. In particular, Appendix D, section D103.2 of the Oregon Fire Code, adopted and unmodified by the City of Ashland, specifies that “Fire apparatus access roads shall not exceed 10% in grade.”³ Or. Fire Code app. D, § D103.2 (2025).⁴

As mentioned, SB 974 does not require the City to adopt variance standards to its fire ingress or egress standards. Additionally, the proposed amendments are contrary to the minimum standards imposed by the Oregon Fire Code. Therefore, we respectfully request that the Planning Commission recommend removal of the proposed amendments to ALUO 18.5.3.060.F.

B. The proposed change is contrary to the City of Ashland’s Comprehensive Plan.

The proposed amendments to ALUO 18.5.3.060.F are also inconsistent with the City’s comprehensive plan and specifically the City’s wildfire hazard provisions. The City’s comprehensive plan emphasizes the heightened risk and significant adverse impacts posed by wildfire in the community and particularly the risks of fire in the wildland/urban interface stating:

Wildfire hazard presents an unusually high threat to very important area environmental resources in Ashland, particularly in the forested area south of town. A wildfire in that area would adversely affect soils and slope stability and lead to increased erosion. If wildfire reached the Ashland watershed, resulting erosion would affect drinking water quality. Vegetation loss during a wildfire would increase precipitation runoff, thereby increasing flood potential. It would reduce shade and increase stream temperatures – a condition that would adversely affect fish resources. Air quality would suffer during the wildfire burn, especially if the valley was experiencing an air inversion – a frequent event during the local wildfire season.

* * * *

During the past decade many people have declared their intention to ‘get back to nature.’ Many people are leaving metropolitan areas, building houses in forested natural settings, and leaving vegetation right up to the sides of their dwelling. Although

³ The provision of Appendix D is specifically adopted into the requirements of the Oregon Fire Code by section 101.2.1.

⁴ ORC app. D, §103.2 was adopted by the City of Ashland in its Municipal Code under Section 15.28.010 and left unmodified by Section 15.28.070.

no guarantee can protect a house in such a setting from wildfire, preventative measures can be taken to reduce the hazard. Recent land use policies have put added development pressure on hillsides and valley lands are not being preserved for agricultural purposes. The Ashland city limits abut National Forest land in these hillside areas which lead immediately into the Ashland Watershed.

City of Ashland, Or., *Comprehensive Plan* § 4.25, at 29–30 (July 2005). [hereinafter *Comprehensive Plan*]. To protect “life, property and environmental resources in Ashland’s suburban/wildland interface area from the devastating effects of wildfire” and to decrease the risks of wildfire “spreading to the Ashland watershed from the urban/wildland interface area” the City makes a special provision for fire access. *Id.* at 31. Specifically, Policy 49 of the Comprehensive Plan requires “more than one ingress/egress route or road widths wide enough to accommodate incoming fire apparatus and evacuating residents simultaneously in an emergency situation.” *Comprehensive Plan* § 4.25, Policy 49, at 31 (July 2005).

In essence, this policy requires that at least one access point must be sufficient to accommodate fire apparatus and emergency response access. Because ALUO 18.5.3.060.I designates all flag drives as Fire Apparatus Access Roads subject to the Oregon Fire Code requirements and because flag drives typically are the sole access point to properties on flag lots, the proposed elimination of the maximum variance grade of 18% is contrary to Ashland policy and would insufficiently accommodate flag lot access to fire apparatus and emergency response vehicles.

The 10% grade selected for the Oregon Fire Code recognizes the limitations of fire and emergency vehicles. A fire truck when fully loaded can weigh in excess of 30,000 to 80,000 pounds. Grades of fire apparatus access routes can severely impact the ability of these vehicles to access a fire, as a driveway that has an angle of approach that is too steep for the vehicle will be inaccessible. Moreover, steep grades pose significant risks for these vehicles that can stall on steep grades or lose traction and braking ability (particularly during adverse weather conditions such as rain, snow or ice).

As the proposed amendment would make the sole fire apparatus access for flag lots insufficient to accommodate fire apparatus and emergency response vehicles, it poses an unacceptable risk to dwellings with the wildland/urban interface as well as a heightened community-wide risk of fire, erosion, flooding, and impact to the City’s drinking water. Accordingly, we respectfully request that the Planning Commission recommend denial of this aspect of the proposed amendment.

C. The proposed change is inconsistent with the City of Ashland’s 2025 Community Wildfire Protection Plan.

In October of 2025, partially in response to the 2020 Almeda Fire which ignited within the Ashland City limits and “devastated neighboring communities and claimed three lives,” the City proactively adopted its Community Wildfire Protection Plan (CWPP). The CWPP is a comprehensive blueprint to protect Ashland from wildfires designed around a series of specific initiatives. City of Ashland, *2025 Ashland Community Wildfire Protection Plan* 20, 23 (June 24, 2025) [hereinafter *Ashland CWPP*].

As with the comprehensive plan, the CWPP emphasizes the difficulties posed by development within the wildland/urban interface, and specifically the risks posed by limited evacuation routes:

It is not a question of if, but when, another major wildfire will affect Ashland. How and where that fire (and subsequent fires) burns could profoundly shape the city's future. While we may be fortunate once again, there is also the risk of a worse-case scenario. Assessments show that Ashland and nearby communities face high wildfire risk, driven by natural conditions and human influences. The growing built environment, including homes, infrastructure, and cultural landmarks **is increasingly vulnerable due to expansion into fire-prone areas and limited evacuation routes** (Federal Emergency Management Agency [FEMA], 2023).

Ashland CWPP, at 68 (emphasis added). The CWPP identifies evacuation as the top concern amongst Ashland residents. *Id.* at 90. Driveway length and width were also evaluated as “they play a crucial role in allowing first responders to reach properties safely and ensuring a smooth evacuation for occupants.” *Id.* at 91. The CWPP requires that the City “[a]ssess wildfire hazards on primary evacuation routes and possible refuge areas and mitigate.” *Id.* at 102, HS-2.1.

The proposed amendment contradicts this initiative. Steeper flag drives would allow the creation of additional residential development in the wildland/urban interface which would be inaccessible to first responders attempting to reach the property, and on slopes that are prone to rapid and intense fires.⁵

Moreover, allowing lots of record to merely opt out of necessary fire access via the City's variance process runs directly counter to the City's commitment to “Bolster wildfire resilience requirements for **city development through consistent planning and zoning**.” *Ashland CWPP*, at 196, CO-1.2 (emphasis added).

Wildfire risks are a citywide concern and require consistent application of current standards to ensure citywide protection. As the proposed amendments to ALUO 18.5.3.060.F constitute abject favoritism to allow a single property to jeopardize the fire safety for the entire community based on a special variance carve-out in the code, the amendments are wholly inconsistent with the CWPP and should not be incorporated with the proposed amendments.

⁵ As pointed out in the comprehensive plan:

“Steep slopes intensify wildfire in two ways. They increase precipitation runoff, decrease soil moisture and create dry vegetation. Vegetation moisture stress was particularly evident in the summer of 1981 when Fall seemed to come early to the hills south of town. This leaf color change was not ‘fall color,’ but drying caused by a lack of moisture. Wildfire also burns more intensely and faster on a steep slope by pre-heating the vegetation ahead of the actual fire front. Narrow, steep canyons act very much like a chimney during a wildfire, funneling heat and fire upward.” *Comprehensive Plan*, § 4.25, at 30.

D. The Proposed Amendments to ALUO 18.5.3.060.F Negatively Impact Environmental and Geological Public Interest.

Beyond wildfire prevention, the City of Ashland's existing regulations explicitly recognize that development on steep slopes creates environmental and geological hazards including soil erosion, sedimentation of lower slopes, and slope failure. *Comprehensive Plan* § 4.11, at 10-12 (July 2005). The current regulatory framework aims to protect natural and topographic character, environmental resources, aesthetic qualities, and restorative value of lands. *Comprehensive Plan* § 4.11, Policy 5, Policy 13, at 11-12 (July 2005). Increasing permissible grades for flag drives would directly undermine these protective purposes by authorizing more intensive disturbance of steep terrain.

The proposed amendment would increase the cumulative length and steepness of grading permitted for flag drive construction, thereby expanding the area of hillside disturbance and intensifying erosion potential. Steeper grades accelerate stormwater runoff velocity, increasing erosive force and sediment transport to lower slopes. Construction of driveways on grades exceeding current variance limits would require more extensive cut-and-fill operations, resulting in the destabilization of natural slope profiles and increasing landslide risk.

Multiple Oregon jurisdictions require geotechnical reports prepared by registered engineering geologists or geotechnical engineers for development on slopes of 15% or greater, recognizing that professional analysis of site geology, soil strength, slope stability, and erosion potential is essential to protect public safety and environmental resources. Lebanon, Or., Municipal Code § 16.11.040 (2026). These reports must demonstrate that proposed development will result in suitable, stable building sites and must provide recommendations for grading procedures, corrective measures, and methods to maintain slope stability while minimizing erosion and environmental variance from natural conditions. Lebanon Municipal Code § 16.11.040. The necessity for such professional analysis underscores the significant geological risks associated with steep slope development. Increasing permissible flag drive variance grades would only exacerbate these risks.

E. The Proposed Amendments to ALUO 18.5.3.060.F Would Allow Flag Driveway Grades Far Steeper Than Any Other Jurisdiction in Oregon.

A search through multiple county and city codes throughout counties or towns in Oregon demonstrate that no other jurisdiction would allow flag lot driveways with a 24% grade, which is the grade of the above referenced DeBoer property that is clearly the subject of this proposed and ill-advised code amendment. This consistent recognition that steep grading poses heightened safety risks that require strict and consistent regulation is only furthered by the county and city codes' shared common purposes: ensuring public health, safety, and general welfare; addressing potential risks from steeply sloped sites and geologic hazard areas; minimizing hazards from fire, water, and unstable soils; ensuring slope stability and environmental resource protection; and reducing risks of hillside erosion, sedimentation, landslide damage, loss of vehicular control, impediments to emergency access, and infrastructure failures.

Jackson County, Oregon

Jackson County's Land Development Ordinance 9.9.5.A.5 states that, "[w]hen the road grade exceeds 10%, the fire district or, if not within a fire district, the County fire safety inspector or Department of Forestry shall be consulted to determine whether additional fire safety measures are necessary to allow for a maximum finished grade of 15%. A grade of up to 18% may be allowed for intervals of up to 100 feet provided there are no more than three (3) 100-foot sections of over 15% grade per 1,000 feet. The approach from a public road or private road cannot exceed 10% grade for a distance of 40 feet."

Oregon City, Oregon

In Oregon City, "[n]o driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer." Oregon City, Or., Municipal Code § 16.12.035.K.3. Additionally, the city engineer is authorized to deny driveway access if a proposed driveway would cause a significant traffic safety hazard. Oregon City, Or., Municipal Code § 16.12.035.L.

Portland, Oregon

Portland allows driveway grades up to 15%. Additionally, Portland permits grades up to 18% with sprinklers, if approved by the fire official. Portland, Or., City Code tit. 17, § 17.28.110 (2026).

Lake Oswego, Oregon

Lake Oswego strictly follows the Oregon Fire Code for grading maximums. Consequently, Lake Oswego's maximum driveway grade is set at 10%, with exceptions upon approval up to 15% as grades greater than 15% add additional hazards and create the possibility of hazardous conditions for firefighting and medical responses.

Roseburg, Oregon

Roseburg's development regulations require that a driveway used to access parking must have a maximum grade of 15% at any point. Roseburg, Or., Municipal Code § 12.06.030(Q)(4) (2026). Additionally, with the approval of the Fire Chief, driveways that are greater than 12% grade and 100 feet in length may have intermittent sections of grades up to a maximum of 20% provided that: (i) The 100-foot distance back from the structure maintains the 15% grade described herein; (ii) Travel widths, turnouts, and level pad areas are provided as determined necessary for fire protection and emergency access purposes; and (iii) An approved fire apparatus turnaround area having a grade no greater than 10% is provided. Roseburg Municipal Code § 12.04.100(D)(8)(e).

Furthermore, Roseburg's hillside development overlay regulations apply to areas with slopes greater than 12% and require that development ensure public health, safety, and general welfare while addressing risks from steeply sloped sites and geologic hazard areas. Roseburg Municipal Code § 12.04.100(A), (C). The regulations aim to minimize hazards from fire, water, and unstable soils, ensure

slope stability, protect environmental resources, and reduce risks of erosion, sedimentation, and landslide damage. Roseburg Municipal Code § 12.04.100(A). The City has authority to issue stop work orders and require restoration when development alters hillside areas in violation of code provisions, as such development constitutes a public nuisance posing risks to public health, safety, and welfare. Roseburg Municipal Code § 12.04.100.

Lebanon, Oregon

Lebanon's steep slope development overlay zone applies to residential areas with slopes of 15% or greater to provide for adequate access for emergency services, protect public health and safety, and minimize the potential for earth movement and resultant hazards to life and property, among other key purposes. Lebanon Municipal Code § 16.11.040(A). Except for lots, parcels and roads created prior to the adoption of Lebanon's 1980 Comprehensive Plan and its 1980 Zoning Ordinance, Lebanon's code does not permit new driveways where street grades exceed 15%. Lebanon Municipal Code § 16.11.040(E)(2)(b)(i).

Sheridan, Oregon

Sheridan's hillside development overlay applies to properties with slopes of 10% or greater. Sheridan, Or., Municipal Code § 16.290.020 (2025). Sheridan's code requires that grades and alignments of driveways in hillside areas must provide maximum safety and convenience, with maximum intermittent grades of 15% for maximum distances of 200 feet and maximum sustained grades of 10%. Sheridan Municipal Code § 16.290.090. Grading performed within hillside development areas must account for environmental characteristics including geological features, stream beds, drainageways, and tree cover, and must utilize best engineering practices to avoid erosion, slides, and flooding while having minimal environmental effect. Sheridan Municipal Code § 16.290.100(A).

Phoenix, Oregon

Phoenix strongly discourages flag lots within its boundaries, but where proposed, flag lot grading may not exceed 12% with allowances for residential streets to have segments with grades up to 15% for distances no greater than 250ft. Phoenix, Or., Land Dev. Code § 3.5.2(I)(3) (2026).

F. The Proposed Amendments to ALUO 18.5.3.060.F Do Not Appear to Comply with ORS § 368.039(3).

Under AMC 18.5.3.060.I: "Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof." Accordingly, flag drives are deemed Fire Apparatus Access Roads and are therefore subject to ORS 368.039, which states, in relevant part:

3. Before adopting or amending any comprehensive plan, land use regulation or ordinance that establishes specifications and standards for roads and streets, a

governing body of a county or city shall consult with the municipal fire department or other local firefighting agency concerning the proposed specifications and standards. The county or city governing body shall consider the needs of the fire department or firefighting agency when adopting the final specifications and standards. [1997 c.409 §1]

ORS § 368.039. It does not appear from the material provided to the public thus far that the City has consulted the local Fire Marshal or Fire Department as to the advisability of allowing the development of a flag lot that has only a single access driveway in excess of 200 feet with a 24% grade.

G. The Proposed Amendments to ALUO 18.5.3.060.F Lack a Reasonable Relationship to Legitimate Development Needs.

Oregon law requires that land use regulations imposing conditions or restrictions on development bear a reasonable relationship or nexus to the impacts created by the proposed use. *Dolan v. City of Tigard*, 512 U.S. 374, 387 (1994). A regulatory requirement must be roughly proportional to the use of the property rather than serving as a pretextual excuse for imposing conditions when a landowner seeks permits. *Id.* at 391. Conversely, an amendment that relaxes protective standards of variances must demonstrate that the relaxed standards adequately protect legitimate public interests and that special circumstances relating to a specific piece of land make compliance with applicable zoning provisions “an undue or unnecessary hardship.” *Id.* at 380.

The proposed amendment seeks to accommodate a specific development proposal requiring driveway grades exceeding current variance limits. However, the fact that a particular parcel's topography is incompatible with existing safety and environmental standards further evidences that increased or eliminated grading maximums are unreasonable and unsafe. Oregon municipalities consistently maintain that slopes of certain steepness present inherent unsuitability for development regardless of individual landowner preferences. The proposed amendment would move regulatory policy away from this protective framework without evidence of safely accommodated increased grades or adequately protecting legitimate public interests including public health and safety and mitigation of environmental and geological impacts.

Oregon's statewide land use planning framework emphasizes coordination to protect health, safety, and environmental quality. ORS § 197.005. The overarching principles guiding Oregon's land use program include providing a healthy environment, ensuring a desirable quality of life, and equitably allocating benefits and burdens of land use planning ORS § 197.010. Relaxing hillside development standards to accommodate individual development preferences would shift safety and environmental burdens onto the broader community while concentrating development benefits to individual landowners, contrary to these equitable allocation principles.

Conclusion

Oregon law expressly authorizes municipalities to enact land use regulations that restrict or prohibit activities for protection of public health and safety. ORS § 195.305. The current 18% variance limit for flag drives represents a carefully calibrated balance between development opportunity and public health and safety protection. Eliminating this threshold would move Ashland's standards in the opposite direction from the protective approach reflected in Ashland's existing regulations and comparable Oregon jurisdictions and would undermine the foundational public health and safety purposes of the municipal code.

Neither Oregon law nor SB 974 requires the proposed amendment ALUO 18.5.3.060.F. The proposed amendment is not only contrary to fire protections in state law, the Ashland Comprehensive Plan, and the 2025 Ashland Community Wildfire Protection Plan, but are also contrary to other critical environmental and geological concerns.

Oregon law authorizes municipalities to restrict development to protect public health, safety, and environmental resources, and courts recognize that property access rights are subordinate to legitimate governmental interests in regulating steep slope development. The proposed amendment lacks reasonable justification, as the unsuitability of certain parcels for development under existing standards does not establish that Ashland should weaken those standards. Maintaining current grade limitations protects the public health, safety, environmental quality, and long-term community welfare that Ashland's code regulations already aim to secure.

Thus, we respectfully request that the Planning Commission recommend rejection of the proposed variance amendment.

Respectfully submitted,

HUTCHINSON COX



William H. Sherlock



Zack P. Mittge

WHS/df

PA-L-2026-00020

From rparker@mind.net <rparker@mind.net>

Date Mon 8/10/2026 9:43 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson
<derek.severson@ashland.or.us>

[EXTERNAL SENDER]

To the Ashland Planning Commissioners,

We are writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The City staff is recommending you change City Code to remove any upper limit to driveway gradients, (currently at 15% and sometimes 18% under exceptional cases), for certain select properties----including the 231 Granite Street property which requires a 24%, 200 foot, straight uphill gradient! All other properties will remain under the previous standard restrictions of 15 to 18% driveway gradients.

I respectfully request you do not agree to these changes for the following reasons:

- The proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will unnecessarily endanger Ashland citizens, their property and first responders. As an example, we note that the maximum recommended slope gradient to safely operate Ashland's big fire engines (2014 Pierce Dash CF model) is 15%. Even allowing for a conservative recommendation by Pierce, Ashland's proposed ordinance would allow driveway slope gradients nearly twice the recommended gradient or higher.
- The proposed changes are internally inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%. The current standard of 15-18% matches what the rest of Oregon has established. It has served Ashland well and should be retained.
- The proposed amendments to ALUO 18.5.3.060.F are not required by SB 974 (2025) and are not required by law.
- The proposed changes are inconsistent with state law.
- The proposed changes are inconsistent with the City of Ashland's own Comprehensive Plan.
- The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, we respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Thank you,
Ronald A. Parker
Pamela Braun Parker
501 Schofield St.
Ashland OR 97520

Proposed Amendments - Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020)

From curtcrock@sbcglobal.net <curtcrock@sbcglobal.net>

Date Mon 8/10/2026 8:13 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

Ashland Planning Commissioners,

We are writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020). We respectfully request you do not agree to these changes for the following reasons:

The proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will unnecessarily endanger Ashland citizens, their property and first responders. As an example, we note that the maximum recommended slope gradient to safely operate Ashland's big fire engines (2014 Pierce Dash CF model) is 15%. Even allowing for a conservative recommendation by Pierce, Ashland's proposed ordinance would allow driveway slope gradients twice the recommended gradient or higher.

The proposed changes are internally inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%. The current standard of 15-18% matches what the rest of Oregon has established, and has served Ashland well and should be retained.

The proposed amendments to ALUO 18.5.3.060.F are not required by SB 974 (2025).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, we respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Curt Chappell
131 Helman Street
Ashland, OR 97520

(No subject)

From David Oursler <paul.oursler@gmail.com>

Date Sun 8/9/2026 9:56 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

Dear Planning Commission Members,

Regarding the proposed changes to the flag driveway standards:

The proposed amendments are inconsistent with state law, inconsistent with the City of Ashland's Comprehensive Plan, and inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan. The existing regulations are meant to protect neighbors from having to live in hazard zones (vehicles sliding down veritable ski slopes) and to allow access of emergency vehicles. The proposed changes are unreasonable.

The only reason the amendments are being considered is that a wealthy person and his hired consultants are pressuring the Planning Commission to grant him special treatment for development of his specific property. This would be at the expense of the interests of his neighbors and the community at large. While members of the Planning Commission are employed in various aspects of the development, building, and real estate professions and are beholden to maintaining good relationships with the applicant, his associates, and the various professions he has hired, it is hoped that they will decide in the community's best interests.

I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Sincerely,

David P. Oursler
252 Strawberry Lane
Ashland, Oregon 97520

Planning Action PA-L-2026-00020

From James M. <jmccarthy.consulting@gmail.com>

Date Sun 8/9/2026 9:50 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

Cc Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

RE: Changes to Driveway Code – AMC 18.5.3.060

Planning Action: PA-L-2026-00020

Ordinance: No. 3309

Dear Planning Commission Members,

I am writing to express opposition to the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

With no upper limit of driveway grade, the proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will endanger Ashland citizens, first responders, and the environment.

The proposed changes are internally inconsistent, simultaneously prohibiting and allowing flag lot driveways steeper than 18%.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Sincerely,

Jim McCarthy
281 Greenbriar Place
Ashland

Planning Action PA-L-2026-00020

From Douglas Smith <dougzmail7@gmail.com>

Date Sun 8/9/2026 8:20 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

Dear Planning Commission Members,

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The recent passage of SB974 and HB4037 mean big changes for Ashland hillside development; it's obvious that local land use oversight and citizen involvement has been restricted in many ways.

Ashland is at a crossroad and we must respond to these laws, however, I believe that the proposed amendment to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020) **is not the only and certainly not the best way to respond.**

I oppose the passage of this change for two reasons: The proposal addresses 13 properties (and may set precedent for many more) which Ashland Planning Staff have determined would likely need sloped driveways above our present norm of 15% and present variances of 18% for extreme hillside cases, and also above standards of other Oregon cities. In general, I would hope for another solution, especially related to the current application (DeBoer) at 231 Granite Street for an extreme driveway slope - 24% - (turned down by LUBA) and currently on city's agendas, will probably be approved in order to avoid likely litigation.

I know that we must respond to current changes in state law.

HOWEVER, WE DO NOT HAVE TO INCLUDE OTHER PROPERTIES UNTIL APPLICATIONS ARE BROUGHT FORWARD TO OUR CITY. None of the other 13 property owners are currently making application and may never do so. We can solve each future case by simply acting on the specific property (applying the present interpretation of property "Taking" and "Review of Property Applications") as we will likely do with 231 Granite mentioned above. **This change into city ordinance for other properties is not necessary at this time;** future litigation at the state or federal level may change from present interpretations. And by giving the properties the 'unlimited variance' status, we put pressure from builders on development by property owners.

Most importantly: We should not put any other hillside properties into this UNLIMITED VARIANCE STATUS ahead of time; this is how we got into **the "Buildable" classification mess** that was caused during Ashland Planning in the 1990's. We are in this intimidating litigious situation because we gave advanced approval to unsuitable hillside properties and now we are about to do the same except more extreme. **Please, if necessary, change the slope variance for one property instead of all 13**

others at once and wait for others that may or may not follow.

We must save the precious canyons and hillsides of Ashland for future and present economic and physical stability. In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Thank you for the important work you do,
Douglas R. Smith and Linda G. Smith
60 Granite Street
Ashland

Planning Action PA-L-2026-00020

From Nadine Lefkowitz <nadine@woodhamlet.com>

Date Sun 8/9/2026 9:35 AM

To Derek Severson <derek.severson@ashland.or.us>; Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

Cc nadine@woodhamlet.com <nadine@woodhamlet.com>

[EXTERNAL SENDER]

RE: Changes to Driveway Code – AMC 18.5.3.060

Planning Action: PA-L-2026-00020

Ordinance: No. 3309

Dear Planning Commission Members,

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

With no upper limit of driveway grade, the proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will endanger Ashland citizens, first responders, and the environment.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Sincerely,

Nadine Lefkowitz
333 N. Main St.
Ashland, OR 97520
(503)701-1182
nadine@woodhamlet.com

August 8, 2026

Subject: Changes to Driveway Code – AMC 18.5.3.060

Planning Action: PA-L-2026-00020

Ordinance: No. 3309

Dear Planning Commission Members,

We recently became aware that the City of Ashland staff has proposed new legislation, Ordinance No. 3309 under Planning Action PA-L-2026-00020, changing flag drive standards (ALUO 18.5.3.060.F.). The proposal is in response to a recent LUBA remand of the City's approval of a building project at 231 Granite Street (see attached draft memo from the City Staff to the Planning Commission). After reviewing documents, statements, city codes and policies, land use ordinances, and legal papers, one of LUBA's rulings was that a variance cannot be granted and is not allowed for a driveway grade of over 18%. **LUBA No. 2025-053; April 29, 2026.** The proposed amendment is very concerning, as it degrades the City of Ashland's health and safety standards and negatively impacts Ashland's citizens.

The specific provision at issue, section 18.5.3.060.F., establishes the maximum grade for driveways that serve flag lots. Under the land use standards currently in effect, the maximum grade for a flag drive is 15%, but a variance may be sought to allow driveway grades up to 18%. The proposed amendment would eliminate that 18% maximum grade cap for flag drives serving lots created before the adoption of the Hillside Development Standards, Ordinance No. 2808 (December 3, 1997). Under the terms of the proposed amendment, the 18% cap on flag drive grades does not apply to any lots created before December 3, 1997, and would only expressly apply to "newly created lots." This line of reasoning is flawed. The 15% maximum grade is a safety standard and exists to protect both citizens and fire personnel. A variance (when applicable and approved) has a maximum limit of 18%. Attempting to justify a grade of greater than 18% for pre-existing **undeveloped** lots while at the same time enforcing a maximum grade of 18% for new yet **undeveloped** lots begs the question: How can it be safe in one instance and not in another? The Oregon State Fire Code has already established that it is not safe. The City's proposed amendment is internally inconsistent, yielding a code that both allows and prohibits flag lot driveway grades greater than 18% in the city.

The proposed amendment is out of sync with Oregon State Law (Oregon State Fire Code) and is not required by state law. As the Ashland Planning Division Staff Report for the August 11 Planning Commission meeting states, "It is not mandated by state law." The Oregon State Fire Code establishes minimum standards for the protection of life and property against fire, based on applicable standards prescribed from time to time by the National Fire Protections Association. **ORS 476.120; 837-039-0006(1).** In order to establish uniform protections throughout the state, local jurisdictions are charged with adopting either the state fire code or a local fire code that is equal to or more stringent than the protections in the state fire code standards. **OAR 837-039-0006(2).**

Not only is the amendment out of sync with Oregon State Law, it is also inconsistent with the City of Ashland's Comprehensive Plan and specifically the City's wildfire hazard provisions. The City's comprehensive plan emphasizes the heightened risk and significant adverse impacts posed by wildfire in the community and particularly the risks of fire in the wildland/urban interface stating:

"Wildfire hazard presents an unusually high threat to very important area environmental resources in Ashland, particularly in the forested area south of town. A wildfire in that area would adversely affect soils and slope stability and lead to increased erosion. If wildfire reached the Ashland watershed, resulting erosion would affect drinking water quality. Vegetation loss during a wildfire would increase precipitation runoff, thereby increasing flood potential. It would reduce shade and increase stream temperatures – a condition that would

adversely affect fish resources. Air quality would suffer during the wildfire burn, especially if the valley was experiencing an air inversion – a frequent event during the local wildfire season...

...During the past decade many people have declared their intention to ‘get back to nature.’ Many people are leaving metropolitan areas, building houses in forested natural settings, and leaving vegetation right up to the sides of their dwelling. Although no guarantee can protect a house in such a setting from wildfire, preventative measures can be taken to reduce the hazard. Recent land use policies have put added development pressure on hillsides and valley lands are not being preserved for agricultural purposes. The Ashland city limits abut National Forest land in these hillside areas which lead immediately into the Ashland Watershed.” ***Ashland Comprehensive Plan, Environmental Resources, p. 29-30.***

In October of 2025, the City proactively adopted its Community Wildfire Protection Plan (CWPP), a comprehensive blueprint to protect Ashland from wildfires designed around a series of specific initiatives. As with the comprehensive plan, the CWPP emphasizes the difficulties posed by development within the wildland/urban interface, and specifically the risks posed by limited evacuation routes:

“It is not a question of if, but when, another major wildfire will affect Ashland. How and where that fire (and subsequent fires) burns could profoundly shape the city’s future. While we may be fortunate once again, there is also the risk of a worse-case scenario. Assessments show that Ashland and nearby communities face high wildfire risk, driven by natural conditions and human influences. The growing built environment, including homes, infrastructure, and cultural landmarks is increasingly vulnerable due to expansion into fire-prone areas and limited evacuation routes (Federal Emergency Management Agency [FEMA], 2023).” ***CWPP, p. 68.*** Moreover, allowing lots of record to merely opt out of necessary fire access via the City’s variance process runs directly counter to the City’s commitment to “bolster wildfire resilience requirements for city development through consistent planning and zoning.” ***CWPP, p. 196, CO-1.2.***

Wildfire risks are a citywide concern and require consistent enforcement of current standards to ensure citywide protection. As the proposed amendments to ALUO 18.5.3.060.F. jeopardize the fire safety for the entire community based on a special variance carve-out in the code, the amendments are wholly inconsistent with the CWPP and should not be incorporated with the proposed amendments.

The proposed amendment exempts lots created before the Hillside Development Standards, which were *specifically* crafted to comply with the City of Ashland Comprehensive Plan. The City Council’s adoption of the Standards concludes with the sentence, “We find that ordinance 97-2708 is in compliance with the comprehensive plan and that the comprehensive plan contains specific policies and provisions which provide the basis for this ordinance.” Exempting hillside lots from well-crafted and long-standing safety-oriented ordinances such as ALUO 18.5.3.060.F. is clearly inconsistent with the Ashland Comprehensive Plan and should therefore not be adopted.

A search through multiple county and city codes throughout counties or towns in Oregon identified no other jurisdiction allowing flag lot driveways with a 24% grade, which is the grade of the property that is the genesis of this proposed and ill-advised code amendment.

Jackson County, Oregon

Land Development Ordinance 9.9.5.A.5.

"Grade: When the road grade exceeds 10%, the fire district or, if not within a fire district, the County fire safety inspector or Department of Forestry shall be consulted to determine whether additional fire safety measures are necessary to allow for a maximum finished grade of 15%. A grade of up to 18% may be allowed for intervals

of up to 100 feet provided there are no more than three (3) 100-foot sections of over 15% grade per 1,000 feet. The approach from a public road or private road cannot exceed 10% grade for a distance of 40 feet."

Oregon City, Oregon

Municipal Code 16.12.035.K.3.

"No driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer."

https://library.municode.com/or/oregon_city/codes/municipal_code?nodeId=TIT16LADI_CH16.12MIPUIMDEST_DE_16.12.035DR

Portland, Oregon

In Portland, 15% grades are allowed, and up to 18% are allowed with sprinklers, if approved by the fire official.

<https://codes.iccsafe.org/content/ORPDXFC2023P1/appendix-d-fire-apparatus-access-roads?>

Lake Oswego, Oregon

Lake Oswego strictly follows the Oregon Fire Code for grade, with the approval of grades up to 15% with fire sprinklers.

2025 Oregon Fire Code

Appendix D; D103.2 Grade.

"Fire apparatus access roads shall not exceed 10% in grade. **Exception:** Grades steeper than 10% as approved by the *fire code official*."

<https://codes.iccsafe.org/content/ORFC2025P1/appendix-d-fire-apparatus-access-roads?>

RSA Land Use Consultants Article from March 25, 2026 by Richard Stevens & Associates

<https://rsaoregon.com/jackson-countys-driveway-safety-standards/>

"Southern Oregon's beautiful hillsides present unique challenges for Jackson County's Driveway Design Standards. Fire trucks struggle with steep inclines, which is why the Ordinance is very specific about the "grade" or slope of your driveway. The approach from a public or private road cannot exceed a 10% grade for the first 40 feet. Once you are past the approach, the general maximum finished grade is 15%. In our experience, if you must exceed this, you are required to consult with the local fire district or the County fire safety inspector. They may allow a grade of up to 18% for short intervals of 100 feet, provided there are no more than three such sections per 1,000 feet of driveway."

City of Ashland

Under AMC 18.5.3.060 I., "Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof. Accordingly, flag drives are deemed Fire Apparatus Access Roads and are therefore subject to ORS 368.039, which states, in relevant part:

3. Before adopting or amending any comprehensive plan, land use regulation or ordinance that establishes specifications and standards for roads and streets, a governing body of a county or city shall consult with the municipal fire department or other local firefighting agency concerning the proposed specifications and standards. The county or city governing body shall consider the needs of the fire department or firefighting agency when adopting the final specifications and standards." **[1997 c. 409 §1].**

The August 11, 2026 Planning Commission packet contains an unsigned letter from the Fire Marshal to the Community Development Director, indicating an endorsement of Ordinance No. 3309. Although the marshal endorses the ordinance in the letter, he clearly states that the Fire Marshal will need to assess each development under this proposed amendment on a case-by-case basis. This places undue burden on a single person, the acting Fire Marshal, to rule on a variance. Variances, in spirit, are part of the process involving the City planning staff, the Planning Commission, and the public. The proposed language bypasses any input of the City staff, Planning Commission, and public, leaving the Fire Marshal as the sole arbiter of driveway grade in the outlier cases contemplated by the proposed language. The Planning Commission should reject this ordinance on the basis that it is bypassing public process and places undue burden on a single person to approve or reject a variance.

There is a clear rationale for prohibiting excessive driveway and fire access grades. Steeper grades make it more difficult for a fire apparatus to reach a structure at the top of the driveway. Steep grades may make it difficult or prohibit pumping water up to the structure. Additionally, about three-quarters of fire department emergency calls are for medical assistance, and steep driveways are dangerous for the patient and the fire personnel. Injuries may occur when loading patients in and out of a vehicle on a steep slope.

As the proposed amendments to AMC 18.5.3.060.F. are contrary to the minimum standards imposed by the Oregon Fire Code and inconsistent with fire protections in state law, the Ashland Comprehensive Plan, and the 2025 Ashland Community Wildfire Protection Plan, we respectfully request that the Planning Commission recommend that these amendments be rejected. Should the Commission and/or City Council adopt the proposed language for flag lot driveway grades, the City of Ashland would be an extreme outlier when it comes to fire safety regulations and building codes. If tragedy or accident should occur because of the steep driveway, the entire community will have that on its conscience, and we will be seen as reckless with our regulation, after having flaunted well established national, regional, and local standards for driveway grades.

Here stands a moment in time when the Planning Commission and City Council have an opportunity to correct course; to pause and genuinely reflect on the City of Ashland's values and its commitment to its broader citizenry; to seriously acknowledge the inherent risks of the city's natural environs; and to recommit to the policies and codes that have been put in place for a reason. We have elected you to protect us and our town, especially in light of having already suffered through a devastating wildfire in our valley. We ask that you take this moment to do the right thing and recommend that the City staff's proposed amendments to ALUO 18.5.3.060.F. be rejected.

Respectfully,

Jay Reeck and Sarah Sameh
230 Strawberry Lane
Ashland, OR 97520

Attachments for reference and to be incorporated into the public record

- City of Ashland August 11, 2026 Planning Commission Meeting Agenda and Staff Report
- May 26, 2026 City Planning Staff Memo to Planning Commission
- LUBA No. 2025-053 Final Opinion and Order
- December 2, 1997 Adoption of Hillside Development Standards

Procedural Error

As the Planning Division notes, this is a Type III legislative decision (AMC 18.5.1.070). As of August 6, 2026, there is no evidence that the City Staff Advisor notified the Oregon Department of Land Conservation and Development (DLCD) of PA-L-2026-00020/Ordinance No. 3309 at least 35 days before the August 11, 2026 Planning Commission meeting (see below a DLCD PAA website screen shot at 2:36 pm on August 5, 2026). Therefore, the Planning Commission should defer this Type III action until a later meeting, as the City is not compliant with AMC 18.5.1.070.D.1. which states, “**D. Notice of Public Hearing.** Notification procedure for Type III actions is as follows. 1. The Staff Advisor shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments to the Comprehensive Plan, Zoning Map, or Land Use Ordinance at least 35 days before the first public hearing at which public testimony or new evidence will be received.”

The screenshot displays the Oregon Department of Land Conservation and Development (DLCD) website. The header includes the Oregon.gov logo and navigation links: Home, About DLCD, Commission, Laws and Rules, Oregon Planning, DLCD Programs, and News & Notices. A search bar is located on the right. The main content area is titled "Proposed Amendments (02/27/2026 - 08/03/2026)". It lists two amendments for Ashland. The first amendment, Local File #: PA-L-2026-00018 and DLCD File #: 001-26, has a proposal summary stating that the City of Ashland is considering legislative amendments to the Ashland Municipal Code to establish a Manufactured Home Park (MHP) Zone and update development and design standards for manufactured housing for clear and objective standards. The proposal includes revisions to AMC 18.2.2.030, 18.2.3.170, and 18.2.3.180, as well as related updates to AMC 18.3.9 (Performance Standards Option), AMC 18.6.1.030 (Definitions), adoption of a new chapter establishing MHP zone provisions, and rezoning existing manufactured home parks to the proposed MHP zone. The amendments are intended to align with state requirements, including HB4064, ORS 197.478 and ORS 446, and to provide greater flexibility for manufactured home park development, redevelopment, and community serving uses while supporting retention of existing manufactured home parks consistent with Ashland's adopted Housing Production Strategy. Key dates include Proposal Received: April 03, 2026, First Hearing Date: May 12, 2026, and Final Hearing Date: July 21, 2026. The local contact is Brandon Goldman (Phone: 541-552-2076) and the regional representative is Josh LeBombar (Phone: 541-414-7932). The second amendment, Local File #: PA-L-2026-00019 and DLCD File #: 002-26, has a proposal summary stating that Ashland's Planning Commission and City Council will conduct public hearings to consider legislation updating the city's land use regulations to comply with Senate Bill 974 (2025). Senate Bill 974 requires cities to make changes in the procedural handling of some up-zoning requests, Performance Standards Options Subdivision applications and Variances to provide for an initial administrative decision, rather than through a quasi-judicial hearing, with the potential for an appeal hearing before the Planning Commission. Proposed amendments to implement these new procedural requirements include changes to AMC 18.2.5.090, AMC 18.3.9, AMC 18.3.5.100, AMC 18.5.1, AMC 18.5.5 and 18.6.1. Key dates include Proposal Received: June 05, 2026, First Hearing Date: July 14, 2026, and Final Hearing Date: August 18, 2026. The local contact is Derek Severson (Phone: 541-562-2040) and the regional representative is Josh LeBombar (Phone: 541-414-7932). The browser address bar shows the URL: https://www.oregon.gov/dlcd/CPU/Pages/Proposed-Plan-Amendments.aspx. The taskbar at the bottom shows the system clock as 2:35 PM on 8/5/2026.



Planning Commission Meeting Agenda

ASHLAND PLANNING COMMISSION

REGULAR MEETING AGENDA

Tuesday, August 11, 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. July 14, 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 11, 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/97730215434>

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.

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

APPLICANT: City of Ashland

ORDINANCE REFERENCES:

AMC 18.2.2.030: Uses Allowed by Zone

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)





Planning Commission Meeting Agenda

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 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.

VI. OPEN DISCUSSION

VII. ADJOURNMENT

Next meeting Date: August 25, 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

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.

July 14, 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.

Commissioners Present:

Lisa Verner
Jay Lininger
Susan MacCracken Jain
Russell Phillips
John Maher
Kerry KenCairn

Staff Present:

Brandon Goldman, Community Development Director
Scott Fleury, Public Works Director
Derek Severson, Planning Supervisor
Michael Sullivan, Executive Assistant

Absent Members:

Eric Herron

Council Liaison:

Jeff Dahle

II. ANNOUNCEMENTS

1. Staff Announcements

Community Development Director Brandon Goldman made the following announcements:

- The Manufactured Home Park Zone ordinances passed the first reading and are set for final adoption by City Council on July 21st. A modified ordinance for Manufactured Home Park Tenant Protections will also have its first reading By the Council on July 21st.
- The City's long-range strategic plan is nearing completion and will go to Council for adoption later in the summer.
- The August 11th regular meeting will include two ordinances:
 - Implementation of Senate Bill 974
 - Addressing flag drive variances for grades over 18%.
- The Community Center will hold a ribbon-cutting and opening on Wednesday, July 22nd, from 3:30 to 5:00 p.m.
- The Commission's July 28th Study Session was cancelled.

2. Advisory Committee Liaison Reports – None





Planning Commission Minutes

III. **CONSENT AGENDA**

Approval of Minutes

1. June 9, 2026 Regular Meeting

Commissioners KenCairn/Lininger m/s to approve the consent agenda as presented. Voice Vote: Commissioners KenCairn, Maher, Lininger, Phillips, MacCracken Jain, and Verner: AYE. Motion Passed 6-0.

IV. **PUBLIC FORUM** – None

V. **DISCUSSION ITEMS**

1. Transportation System Plan & Public Engagement Plan Update

Mr. Goldman provided an overview of the Transportation System Plan (TSP) update, with Public Works Director Scott Fleury providing additional information via Zoom. The TSP is a state-required, long-term plan for all transportation modes, last updated in 2013. The current update seeks alignment with new state rules, including climate initiatives. Funded by the Oregon Department of Transportation, Alta Planning and Design leads the project, with Fehr & Peers handling traffic analysis and emergency evacuation. Starting on June 29th, the project spans two years, with public engagement in fall 2026 and a draft planned for mid-to-late 2027. The Commission will serve in dual roles: overseeing public engagement and conducting public hearings on the TSP, forwarding recommendations to the Council. Topics discussed included integrating parking management into the TSP and coordination with existing advisory committees rather than forming a new committee. There are two additional focuses: wildfire evacuation analysis and enhanced trail network connections.

2. Planning Commission ORS Research and Legal Resources

Senior Planner Aaron Anderson outlined legal research resources for Commissioners and the use of external information, especially in quasi-judicial contexts. He noted that while law research is fine for Commissioners to engage in, introducing outside evidence in such proceedings can lead to remand. General knowledge of existing conditions is acceptable; however, independent site investigations or receiving testimony outside public hearings are not. The presentation covered various online resources, including the Oregon Legislative Assembly website, relevant ORS chapters (notably ORS 197), Oregon Administrative Rules (OAR 660 and 661), and the LUBA website's headnotes and opinions. The U.S. Supreme Court's archive for cases like Nollan and Dolan was also highlighted (see attachment #1).





Planning Commission Minutes

VI. OPEN DISCUSSION

1. Planning Commission Annual Retreat Initial Discussion

The Commission discussed potential agenda topics, with interest expressed in incorporating Transportation System Plan-related discussion, particularly as the project will be further along by fall. The Commission generally favored a fall date, consistent with last year's October retreat. Staff will coordinate availability and bring forward a confirmed date at a later meeting.

VII. ADJOURNMENT

Meeting adjourned at 7:53 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*



Legal Research

PLANNING
COMMISSION

JUL 14, 2026

Individual Legal Research

Oregon law generally discourages decision-makers from gathering their own facts outside the hearing record.

However, researching the law itself is usually appropriate.

3

Key Distinction

Quasi Judicial Application – Decision makers need to be careful to not introduce extra evidence information via their own research

Policy Implementation / Legislative actions – research of the law is acceptable.

4

Examples

IMPROPER

- Commissioner visits the property alone and observes facts not introduced into evidence.
- Commissioners research traffic counts, wetlands, neighborhood impacts, property history, etc., then relies on that information.
- Commissioners obtain information from neighbors outside the hearing.

USUALLY ACCEPTABLE

- General knowledge possessed by a local official.
- Familiarity with community conditions.
- Information already contained in the record.

5

Oregon Law

Pending Legislation https://www.oregonlegislature.gov/bills_laws

ORS (Oregon Revised Statutes) Relevant Land Use Chapters

- [ORS chapter 92](#) Subdivisions and Partitions
- [ORS chapter 195](#) Local Government Planning Coordination
- [ORS chapter 197](#) Comprehensive Land Use Planning
- [ORS chapter 227](#) City Planning and Zoning

OAR (Oregon Administrative Rules)

- <https://secure.sos.state.or.us/oard/>
- [OAR chapter 661](#) Land Use Board of Appeals
- OAR chapter 660 LCDC and implementation of all statewide planning goals.

6

The Land Use Board of Appeals (LUBA)

<https://www.oregon.gov/luba/Pages/default.aspx>

Headnotes

- Headnotes are brief, categorized summaries of the legal points established in decisions made by LUBA. They are organized by subject matter to serve as a research aid. They summarize the board's conclusions on specific legal doctrines.

Final Opinions

- the decision being reviewed is affirmed, reversed, remanded, transferred, invalidated, or whether the appeal is dismissed.
- **New – monthly case summaries**

Published Orders

- When LUBA feels a procedural order is sufficiently unique or instructive to merit public dissemination they publish them.

Supreme Court (SCOTUS)

<https://www.supremecourt.gov/>

<https://www.oyez.org/>

- <https://www.oyez.org/cases/1986/86-133>
- <https://www.oyez.org/cases/1993/93-518>



Questions?

LEGISLATIVE PUBLIC HEARING

**PA-L-2026-00020,
Draft Ordinance amending AMC
18.5.3.060 to establish a variance process
for flag drive and driveway grades**

ASHLAND PLANNING DIVISION

STAFF REPORT

August 11, 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. 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.

BACKGROUND

Ashland adopted its Hillside Development Standards in 1997 through Ordinance No. 2808. Those standards, now part of the Physical and Environmental Constraints provisions of the Land Use Ordinance, are designed to limit grading, erosion, and wildfire risk on steep terrain. As part of that framework, AMC 18.5.3.060.F limits new flag drive grades to a maximum of 15 percent and allows a Variance up to 18 percent, provided the cumulative length of the steeper sections does not exceed 200 feet.

The grade standards have historically been applied when new lots are created, since conforming access must be demonstrated before a final plat is signed. Many hillside lots, however, were legally created before 1997, when no maximum driveway grade applied. On some of these lots the terrain is steep enough that no driveway alignment meeting the current grade standards can reach a buildable part of the property. In past cases the City granted Variances allowing grades steeper than 18 percent for lots in this situation, reasoning that a lawfully created lot should not be left without any means of access.

In April 2026 the Land Use Board of Appeals remanded a City decision that had approved a driveway grade Variance for a hillside lot created in 1995. The Board concluded that the current wording of AMC 18.5.3.060.F does not allow a Variance for a grade above 18 percent under any circumstance. The decision turned on the wording of the code rather than the merits of the practice, and it brought to light a limitation that affects pre-1997 hillside lots throughout the city rather than any single property. As the code now stands, any lot of record whose topography cannot accommodate an 18 percent driveway has no path to relief and is potentially undevelopable.

The proposed amendment responds to that gap. It is not mandated by state law, but it advances the same goal as the SB 974 package of removing regulatory barriers to needed housing, and it codifies the City's established practice in clear terms.

I. Ordinance Amendment

A. Summary of the Proposed Amendment

The amendment to AMC 18.5.3.060.F distinguishes two situations that the current code blends together.

For new flag drives serving newly created lots, the existing rule is unchanged: the maximum grade is 15 percent, and a Variance may allow up to 18 percent but no steeper, with the cumulative length of the steeper sections limited to 200 feet. Conforming access continues to be demonstrated at the time lots are created.

For legal lots of record created before the effective date of the Hillside Development Standards, a Variance may allow a grade steeper than 18 percent, but only where the applicant demonstrates that, due to topographic constraints, no driveway alignment meeting the standard grades can provide vehicular access to a buildable area of the lot. The relief is limited to the minimum deviation necessary to make access possible, and every such Variance remains subject to the full approval criteria of chapter 18.5.5, Variances, and to engineering review.

B. Relationship to the Oregon Fire Code

The amendment operates only within the land use code. It does not amend, modify, or waive any requirement of the Oregon Fire Code, and the two regulatory systems continue to function independently.

1. Under AMC 18.5.3.060.I, flag drives are deemed Fire Apparatus Access Roads and are subject to all requirements of the Oregon Fire Code. The amendment does not change this provision.
2. The proposed language includes an express statement that no variance granted under the subsection modifies or waives fire apparatus access requirements, including any approval required by the Fire Code Official.
3. The Fire Code contains its own grade standards and its own approval process, administered by the Fire Code Official independently of the Planning Commission or Staff Advisor. That framework gives the Fire Code Official discretion to approve steeper grades where conditions warrant and to require alternative protection measures, such as automatic sprinkler systems, where access is constrained by topography.
4. A land use variance under this provision establishes only that the driveway grade standard of the land use ordinance may be exceeded. It does not authorize construction. Any driveway approved under such a variance must still obtain independent approval under the Oregon Fire Code before development can proceed.

Staff received a memorandum dated July 20, 2026 from Ashland Fire & Rescue Deputy Chief Mark Shay, Fire Code Official, confirming support for the proposed variance language. The memorandum notes that any variance granted under the amendment remains subject to the fire apparatus access requirements of the Oregon Fire Code, and that grade is only one of several factors, including length, width, vertical clearance, and surface composition, evaluated in that review. The memorandum further notes that where fire apparatus access issues cannot otherwise

be resolved, the Uniform Alternate Construction Standard under Section D108.1 of the 2025 Oregon Fire Code allows the Fire Code Official to work with the Building Official to establish alternative construction standards. The Fire Code Official's memorandum is attached to this staff report.

C. Citywide Applicability

Using the 2023 Buildable Lands Inventory and slope data, staff identified 74 vacant properties within Hillside Development Lands located on slopes in excess of 25 percent. Most of these lots can be developed without any need for the proposed variance, either because the driveway is 50 feet or less in length and does not trigger the flag drive standards, or because the driveway can be designed to meet the 18 percent limit through site specific solutions such as cutting a short driveway into the slope or building a street level garage on an elevated foundation.

Within that larger group, staff's topographic analysis and review of the Buildable Lands Inventory identified 14 legal lots of record created before the Hillside Development Standards were adopted that may be unable to achieve conforming driveway access due to topographic constraints. These 14 lots share the same regulatory circumstance, which is why staff recommends a legislative amendment of general applicability rather than case by case interpretation.

The ordinance itself grants no development approval. Whether any individual property qualifies for a variance will be determined through a future quasi-judicial variance proceeding, with public notice to surrounding property owners, an opportunity to be heard, applicable appeal rights, and review against the approval criteria of chapter 18.5.5, in addition to independent Fire Code review and a Physical and Environmental Constraints Review Permit where required.

D. Discussion

The Planning Commission and City Council reviewed the flag drive grade concept as part of the SB 974 implementation package at Planning Commission study sessions on April 14, 2026 and May 26, 2026, and at the City Council study session on June 1, 2026. Draft Ordinance No. 3309 incorporates the direction provided at those sessions, including the limitation of relief to legal lots of record created before the 1997 adoption of the Hillside Development Standards.

Separating the amendment into its own ordinance keeps the state mandated SB 974 package on its compliance timeline while allowing this local policy choice to be discussed, and if necessary modified, without affecting that package. The Hillside Lands standards addressing slope stability, erosion, wildfire safety, and emergency access remain fully intact.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

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

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

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

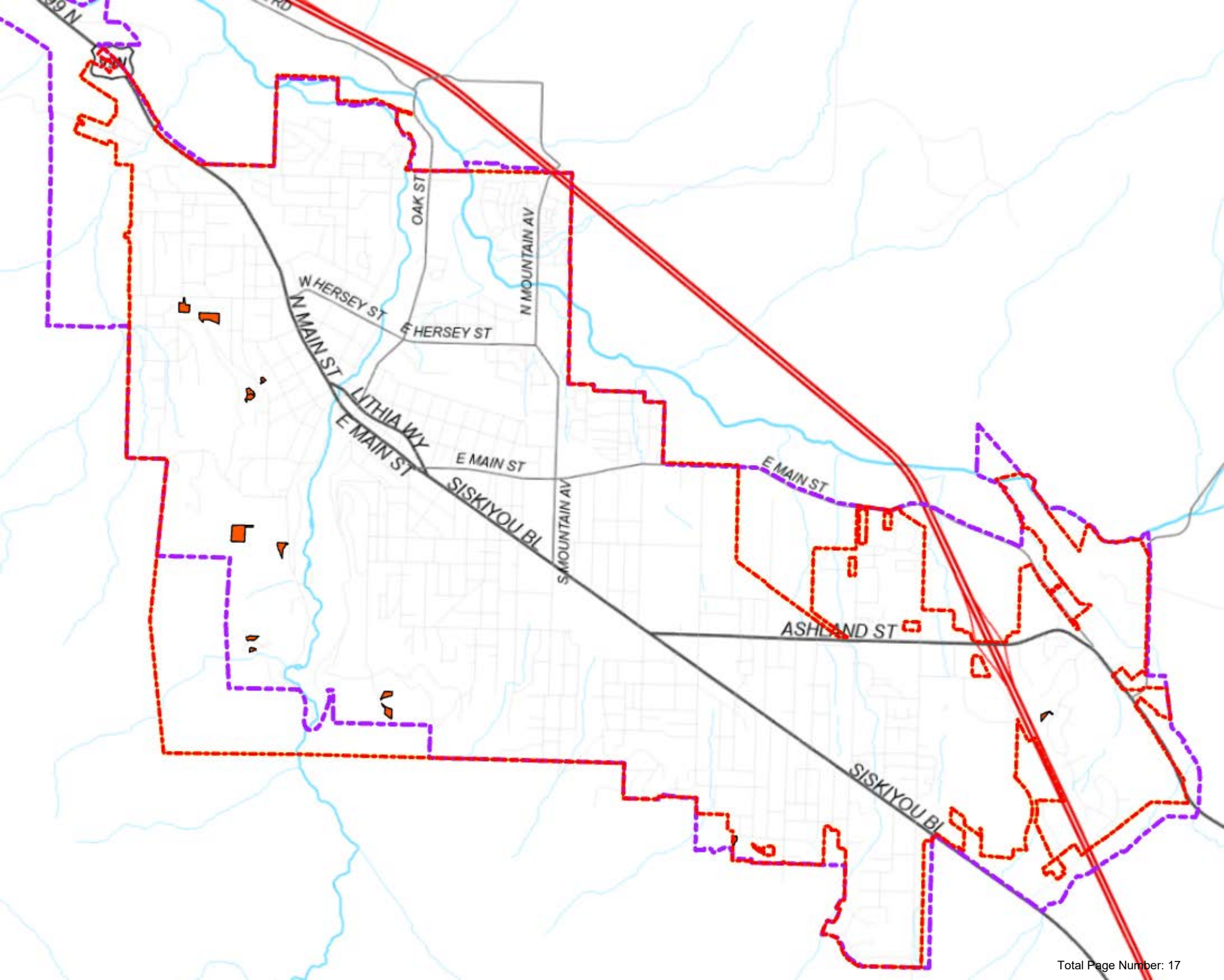
III. Conclusions and Recommendations

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

IV. 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 presented in the staff report and attachments.”



MAPLOT	SITEADD
391E05DC2300	WIMER ST
391E08AA6910	209 LOGAN DR
391E08DA1902	251 GRANITE ST
391E14AD4400	OAK KNOLL DR
391E15D1416	CRESTVIEW DR
391E05DC2501	GRANDVIEW DR
391E08AA6801	178 SCENIC DR
391E08AA6909	199 LOGAN DR
391E08DA1800	GRANITE ST
391E16BD205	720 TERRACE ST
391E16BD208	744 TERRACE ST
391E17AA1115	603 ASHLAND CREEK DR
391E17AA1121	692 ASHLAND CREEK DR

Draft Ordinance

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 14 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**, and, following deliberations, 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. **New** ~~F~~flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for **new** 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. **Variances may be granted for grades in excess of 18 percent for driveways serving legal lots of record that were created before the effective date of the Hillside Development Standards, Ordinance No. 2808 (adopted December 3, 1997), where the applicant demonstrates that, due to topographic constraints, no driveway alignment meeting the maximum grade standards of this subsection can provide vehicular access to a buildable area of the lot. Driveways approved under such a variance remain subject to the fire apparatus access requirements of the Oregon Fire Code, including any approval required by the Fire Code Official.** Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances.

...

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



ASHLAND FIRE & RESCUE

DATE: July 20, 2026
TO: Brandon Goldman, Community Development Director
FROM: Mark Shay, Deputy Chief – Fire & Life Safety
RE: Ordinance 3309

I have reviewed Ordinance 3309, specifically the proposed language in Section 5 which relates to “Additional Preliminary Flag Lot Partition Plat Criteria”. I’m in support of the draft language outlining variances for grades in excess of 18 percent for driveways serving legal lots of record, that were created before the effective date of the Hillside Development Ordinance No. 2808.

The proposed language in Ordinance 3309 outlines that the variance will remain subject to the fire apparatus access requirements of the Oregon Fire Code, including any approval required by the fire code official. As you’re aware, grade is just one of the factors evaluated when assessing proposed access roads and driveways for emergency service access. In addition to assessing the grade of proposed fire apparatus access, overall length, width, vertical clearance and road surface composition are evaluated. In some instances, where fire apparatus access issues cannot be resolved, the Uniform Alternate Construction Standard (UACS) as outlined in Section D108.1 of the 2025 Oregon Fire Code can be utilized. The UACS standard allows the fire code official to collaborate with the building code official to implement construction standards as outlined in OAR 918-480-0125.

The 2025 Oregon Fire Code limits fire apparatus access grade to 10%, with the exception of any steeper grade which may receive approval from the fire code official. The language in Ordinance 3309 outlines that any proposed variance remains subject to the Oregon Fire Code and fire code official’s requirements. With the ability to evaluate each proposed development on a case-by-case basis, as the fire code official, I am support the revisions as outlined in Ordinance 3309.

ASHLAND FIRE & RESCUE

455 Siskiyou Blvd
Ashland, Oregon 97520
ashland.or.us

Tel: 541.482.2770
Fax: 541.488.5318
TTY: 800.735.2900

marshall.rasor@ashland.or.us



Public Comments

SB 974 CHANGES

From Jane Andrianova <spiritualdances@gmail.com>

Date Thu 7/9/2026 10:23 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

Dear Planning Commission Members,

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (SB 974 Changes, City File No. PA-L-2026-00019).

The proposed amendments to ALUO 18.5.3.060.F are not required by SB 974 (2025).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

The proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will endanger Ashland citizens, first responders, and the environment.

The proposed changes are internally inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommends that these amendments be rejected.

Sincerely,

Evguenia Andrianova
284 W Hersey Street, Unit 5
Ashland, OR

Re: SB 974 Changes

From Michael Sullivan <michael.sullivan@ashland.or.us>

Date Fri 7/10/2026 8:45 AM

To Leonard Eisenberg <evogeneao@gmail.com>; Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

Good morning Len and Karen,

Your public comment has been received and will be included in the public record and forwarded to the Planning Commission.

Thank you,

Michael Sullivan
Executive Assistant

Pronouns he, him



Better Together

City of Ashland
Community Development Department
51 Winburn Way, Ashland, Oregon 97520
541.552.2072 | TTY 800.735.2900
Michael.sullivan@ashlandoregon.gov

This email transmission is official business of the City of Ashland and it is subject to Oregon Public Records Law for disclosure and retention. If you have received this message in error, please contact me at (541) 552-2072. Thank you.

From: Leonard Eisenberg <evogeneao@gmail.com>

Sent: Friday, July 10, 2026 8:43 AM

To: Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

Subject: SB 974 Changes

[EXTERNAL SENDER]

Greetings Planning Commissioners,

We oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (SB 974 Changes, City File No. PA-L-2026-00019). We respectfully request you do not agree to

these changes for the following reasons:

The proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will unnecessarily endanger Ashland citizens, their property and first responders.

The proposed changes are internally inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%.

The proposed amendments to ALUO 18.5.3.060.F are not required by SB 974 (2025).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

We respectfully request that the Planning Commission recommend that these amendments be rejected.

Sincerely,

Len and Karen Eisenberg
223 Granite St.
Ashland, Oregon 97520

SB 974 CHANGES

From Catherine Ellison <cmellison@comcast.net>

Date Fri 7/10/2026 1:00 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

Cc defek.severson@ashlandoregon.gov <defek.severson@ashlandoregon.gov>

[EXTERNAL SENDER]

Dear Planning Commission Members:

I am sending you a note about my opposition to the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F (SB 974 Changes, City File No. PA-L-2026-00019). The proposed amendments to ALUO 12.5.3.060.F are not required by SB 974 (2025). And the proposed changes are not consistent with state law. Plus the proposed changes are inconsistent with the City Of Ashland's Comprehensive Plan, and Wildfire Protection Plan. And in my humble opinion they set a dangerous precedent.....

These proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon..... this will endanger Ashland citizens, first responders, and the environment.

As a homeowner who resides on Iowa Street near Terrace Street (a 24% grade) in the City of Ashland, I have had the opportunity to experience the disasters which happen on such a steep grade.... I don't think it matters whether the street or driveway it is a public street or a private one....visitors and first responders to a private property fed by a driveway which exceeds the legal grade are put at great risk.

On a more personal note, for the past 2 winters when we have had snowfall, citizens of our town try to drive up the Iowa Street 24% grade with serious consequences. Winter of 2025 a nice BMW SUV slid backwards from the top of Iowa near Terrace St., completely out of control, and crashed into my own car parked in my private driveway.... Luckily no one was hurt. It took a month and many thousands of dollars to repair everything. As well, because of no traction, people have parked their cars in my driveway, or blocking my driveway when they are unable to get up the hill, and have left them there because of the snow and no traction..... Another incident involved a local attorney who couldn't ascend the steep hill due to poor tires, etc thus he parked near my driveway. A later driver without traction drove to the top of the hill and slid backwards crashing into his car, and again blocking my driveway overnight (if I'd had a medical emergency, I could NOT have gotten out.....). My neighbors one house down the hill have had their brick wall knocked out every couple of years because of people misjudging Iowa street and sliding into the landscape..... My boxwood hedge has been destroyed in the past also.... I envision a steep one lane private driveway with 24% grade (or really anything steeper than the legal limit) and snowy conditions especially could block emergency access.

So I would like to say that you are inviting MORE problems by allowing changes in the law, especially for city employees in winter, and even for the local hospitals..... The proposed changes are internally

inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that these amendments be rejected.

Sincerely,

Catherine M. Ellison MD
295 Iowa Street
Ashland Oregon 97520

Online Form Submittal: Contact Planning Commission

From noreply@civicplus.com <noreply@civicplus.com>

Date Mon 7/13/2026 12:57 PM

To planning <planning@ashland.or.us>

[EXTERNAL SENDER]

Contact Planning Commission

Full Name	Douglas Smith
Phone	541-941-2874
Email Address	dougzmail7@gmail.com
Subject	SB 974 Changes
Type of Testimony	Written
Message	Ashland City Planning Commission: "SB 974 Changes" July 10, 2026 Hello Planning Commission Members, My name is Doug Smith, and I am an Ashland citizen concerned about the well-being and future of Ashland. I wrote this letter just before going in for an operation at OHSU and have returned home to finalize it. Please accept it into the record. I am writing because an unbelievable proposal - SB 974 Changes - is going before the Planning Commission next Tuesday, July 14. After LUBA has turned down the Council approval of the DeBoer hillside 231 Granite Street lot, the Planning Commission will consider changing the Ashland flag lot drive standards from giving variances up to 18% slope on a 200-foot driveway to allowing no limits to variances. This would allow the proposed 24% slope currently slated for the DeBoer property at 231 Granite St. As you probably know, this would be far above any slope allowance in the entire state of Oregon and if approved, Ashland's ordinances would be more lenient than any place in our state. This is NOT what the citizens of Ashland want! Some of us who know what's going on wonder why the Planning staff and this applicant seem

to be doing this together; that in itself should be investigated. However, letting that go, and realizing that all - hundreds! - of the hillside lots regulated by the proposed ordinance could be developed with dangerous, environmental and safety consequences, this proposal needs to be more publicly considered - not just in a routine planning "unadvertised" meeting. Can you tell me how each of you feel about this issue and please express what you can do to allow more transparency and good judgement on this matter for the good of our city?

Personally, I have been compromised by a medical operation in Portland at OHSU, but I hope to be able to attend the Planning meeting. If not, please accept this as my testimony. I, and others more directly affected by this proposal, are very concerned about what this means for our town. If we uphold the present regulations now, that will give the message to developers that this kind of unhealthy, unsafe, un-Ashland-ish proposal will not be allowed in our city. If Ashland's future depends on billionaires getting their way and using our town and its immense historical and social resources for their own aggrandizement, then it will be on the people of the 2020's that allowed it to happen.

There are people I could refer you to who know more about this than I do. I don't want to waste your time, but please act on this and do not allow this proposal, "SB 974 Changes" to pass.

Thank you for your work,
Doug and Linda Smith
Ashland, OR

Attachment 1	<u>AshlandPlanning_SB974_Changes.pdf</u>
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Attachment 2	<i>Field not completed.</i>
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Attachment 3	<i>Field not completed.</i>
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Email not displaying correctly? [View it in your browser.](#)

SB 974 Changes

From Carey Mastain <carey.mastain@gmail.com>

Date Thu 7/16/2026 9:38 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

Thursday, July 16, 2026

Dear Planning Commission Members,

Rules, laws, and regulations are **NOT** made to be broken, contrary to current federal disregard for the rule of law. Be strong. Please resist the temptation to bend (and ignore) the rules.

I am shocked that you are even considering changing the flag drive standards that are so clearly defined in the Ashland Municipal Code ALUO 18.5.3.060.F. (SB 974 Changes, City File No. PA-L-2026-00019).

Oregon State Law and Ashland's Comprehensive Plan don't support this proposal, so I don't understand why you are even considering it.

I respectfully request that the Planning Commission reject these amendments.

Sincerely,

Carey Mastain
227 Granite Street
Ashland, OR 97520

Senate Bill 974 & Flag Drive Grade Standards - Planning Commission Meeting Schedule

From Michael Sullivan <michael.sullivan@ashland.or.us>

Date Tue 7/14/2026 1:53 PM

To Michael Sullivan <michael.sullivan@ashland.or.us>

Good afternoon,

I'm reaching out to let you know that on **August 11, 2026**, the Planning Commission will hold the public hearing to consider legislation updating the City's land use regulations to comply with Senate Bill 974. Additionally, the Planning Commission will consider amendments to Flag Drive Grade Standards as a separate ordinance that same evening.

These items are not on the July 14th Planning Commission meeting agenda, and staff wanted to ensure you had the correct meeting date based on the public comment you submitted regarding the above ordinances.

For legislative updates that Oregon municipalities undertake, a notice of intent must be sent to the Oregon Department of Land Conservation and Development (DLCD) before beginning the process. This notice includes tentative meeting dates, which can change as scheduling needs evolve. The City shared with DLCD that a meeting could occur as early as July 14, but due to existing agenda commitments, review of Senate Bill 974 is scheduled for the August 11th meeting.

Both ordinances are scheduled for a First Reading before the City Council on **September 15th**.

Please feel free to share this information with anyone you feel would appreciate it.

If you have any questions, please feel free to contact the Planning Department at **541-488-5305** or **planning@ashland.or.us**.

Thank you,

Michael Sullivan
Executive Assistant
Pronouns he, him



Better Together

City of Ashland

Community Development Department

51 Winburn Way, Ashland, Oregon 97520

541.552.2072 | TTY 800.735.2900

Michael.sullivan@ashlandoregon.gov

This email transmission is official business of the City of Ashland and it is subject to Oregon Public Records Law for disclosure and retention. If you have received this message in error, please contact me at (541) 552-2072. Thank you.

LEGISLATIVE PUBLIC HEARING

PA-L-2026-00019

**Draft ordinance amendments
to the Ashland Land Use Ordinance to
implement Senate Bill 974**

ASHLAND PLANNING DIVISION
STAFF REPORT
August 11, 2026

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 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.

STATE LEGISLATION REQUIREMENTS

Senate Bill 974 (2025).

SB 974 requires that the initial decision on certain residential land use applications be made administratively, without a quasi-judicial public hearing. The bill applies to applications for a zone change to allow a denser residential use designation, a planned unit development, or a variance from a residential approval standard, where the property is, at the time of application, inside the urban growth boundary and zoned primarily for residential use or mixed residential use or planned for residential use. The bill does not apply to applications that would reduce minimum residential density, final subdivision or partition plats, residential construction permits under the building code, final engineering plans, or applications subject to ministerial or other expedited approval procedures.

For qualifying applications, the bill requires mailed notice to owners of property within 100 feet of the site, a 14 day written comment period before the decision, prescribed notice content including the applicable criteria and appeal rights, and an affidavit or certification of the notice given. The decision must be accompanied by a brief statement explaining the criteria, the facts relied upon, and the justification for the decision. The initial decision must be made without a hearing; a local government may provide a hearing on appeal, which may be limited to the record or may allow new testimony, in which case the hearing must comply with ORS 197.797. SB 974 also amends ORS 197.830 and ORS 197.835 to establish the pathways for appeal of these decisions to the Land Use Board of Appeals.

Separately, SB 974 establishes a review timeline for final engineering plans for residential development inside the UGB: a 30 day completeness check and a 120 day period to complete final review and approve or deny site development permits, enforceable by writ of mandamus. Because final engineering review occurs after land use approval and is administered by the Engineering Division, no Land Use Ordinance amendment is required; the Engineering Division is aware of the new timelines.

Finally, SB 974 prohibits applying residential design standards to housing development inside the UGB unless the application is for a multifamily structure as defined in ORS 197A.465 or for fewer than 20 residential units. Standards regulating aesthetics such as facade materials, roof decoration, window trim, porches, and yard landscaping cannot be applied to qualifying one and two family developments of 20 or more units. The prohibition does not extend to setbacks, building height, accessibility, fire ingress or egress, public health or safety, water quality, hazard, or natural resource regulations, and it sunsets January 2, 2033. The operative date for these provisions is July 1, 2026.

House Bill 2138 (2025).

HB 2138 makes broad changes to Oregon housing law. Among other provisions, it expands the middle housing types that cities must allow, revises the definitions of cottage cluster, duplex, triplex, and quadplex, allows bonus units where middle housing includes accessible or affordable units, requires cities to allow single room occupancy developments of up to six units on lots zoned for a detached single unit dwelling and up to three times maximum density on multiunit zoned lots, restructures expedited land divisions with a 63 day decision timeline and applicant

only appeal, integrates middle housing land divisions into local review, revises the review timelines in ORS 227.178, and voids certain private covenants that restrict middle housing. Local implementation is required no later than January 1, 2027, with state rulemaking to be complete by January 1, 2028.

HB 2138 includes a requirement that cities allow Single Room Occupancy (SRO) as a housing type. SROs are not currently addressed in the Land Use Ordinance, however they are now addressed in building codes and there has already been one application for an SRO (431 North Main Street) and other cities in the region are beginning to see SRO applications as well. On that basis, staff are proposing new SRO regulations to address these requirements now.

Staff will return to the Commission with additional HB 2138 implementation amendments as a separate legislative package.

House Bill 4037 (2026).

HB 4037 amends ORS 197A.400 to establish uniform procedures for local government review of applications for the development of housing subject only to clear and objective standards, conditions, and procedures. For qualifying applications, ORS 197A.400(5) sets a ceiling on mailed notice, limiting recipients to owners of record within 100 feet of the subject property and not permitting notice to any other party, such as a neighborhood or community organization; the bill also provides that a local government may not require a public hearing prior to a decision, and may limit any local appeal opportunity to the applicant only.

The most consequential change HB 4037 makes to local practice is a state mandated limit on who may appeal a decision on a qualifying housing application. For an application for the development of housing subject only to clear and objective standards, conditions, and procedures under ORS 197A.400(1), the following are set by state law and are not local policy choices:

1. **No public hearing before the initial decision.** The State mandates an administrative decision. The Staff Advisor issues the decision based on the applicable clear and objective standards, and the application is not referred to the Planning Commission for the initial decision.
2. **A local appeal to the Planning Commission is available only to the applicant.** Under ORS 197A.400(5)(c), the opportunity for a local appeal is limited to the applicant. Neighboring property owners and other members of the public who receive notice and submit written comments may participate in the initial decision, but they may not appeal that decision to the Planning Commission.
3. **An appeal to the Land Use Board of Appeals is available only to the applicant.** Under ORS 197A.400(6), and notwithstanding the general standing provisions of ORS 197.825, only the applicant may appeal the City's decision on a qualifying application to LUBA.

This is a departure from Ashland's standard Type I procedure. Under the general Type I appeal provisions in AMC 18.5.1.050.G, the applicant, the owner of the subject property, any person

entitled to notice, and any person who submitted written comments may appeal a decision to the Planning Commission. HB 4037 removes that broader appeal right for this narrow category of housing applications and reserves the appeal, both locally and at LUBA, to the applicant alone.

The practical effect is to close the local appeal path that neighboring residents would otherwise use to challenge these housing decisions before the Planning Commission. That result is the stated purpose of the legislation. The Legislature intended to reduce the delay and uncertainty caused by third party objections and appeals for housing that already meets clear and objective standards, and to give applicants a more predictable and timely path to a final decision.

The draft ordinance implements these state mandated limits through the amendments to AMC 18.5.1.050, which route qualifying applications to Type I review, limit notice to nearby owners of record, provide that these applications are not referred to the Planning Commission, and restrict both the local appeal and the appeal to LUBA to the applicant consistent with ORS 197A.400(6).

The state law exemptions continue to apply. Applications for residential development within a designated Historic District, and applications for which the applicant elects discretionary review under ORS 197A.400(3), are not subject to these appeal limits and retain the review and appeal procedures otherwise assigned by the code.

These amendments became operative July 1, 2026. Because HB 4037 is already in effect, its requirements govern qualifying housing applications submitted on or after that date, whether or not the local code has yet been amended. Consistent with ORS 197.646, where a local government has not updated its land use regulations to reflect a newly operative state statute, the statute applies directly to land use decisions. Adopting these amendments therefore does not establish new local policy. It conforms the Ashland Land Use Ordinance to state law already in effect, so that applicants, staff, and the public work from a single, consistent set of local procedures rather than applying the statute directly alongside code language that does not yet reflect it.

I. Ordinance Amendments

A. Summary of Proposed Code Amendments for SB974

The draft ordinance makes the following amendments to bring the Land Use Ordinance into compliance with SB 974. Ashland's existing Type I procedure in AMC 18.5.1.050 already aligns closely with the SB 974 model: it provides an administrative decision by the Staff Advisor, mailed notice of application to surrounding owners, a 14 day written comment period, a written decision supported by findings, and an appeal to the Planning Commission. For applications subject only to clear and objective standards, HB 4037 limits that appeal to the applicant. The amendments also reduce the Type I mailed notice radius from 200 feet to 100 feet, for both the notice of application and the notice of decision. HB 4037 sets 100 feet as the maximum notice radius for these applications, and the City applies that radius to all Type I applications to avoid a disparate notice standard within the same procedure. The amendments therefore work primarily

by moving qualifying applications into the Type I procedure and defining which applications qualify.

1. Urban Housing Application definition (AMC 18.6.1.030).

A new definition of Urban Housing Application (UHA) is added, tracking the applicability and exclusion language of SB 974 for the application types the city is implementing administratively. The definition covers applications for a Performance Standards Options subdivision or a variance from a residential approval standard, on property that is, at the time of application, within the UGB and zoned primarily for residential use or mixed residential use or planned for residential use. Zone changes to allow a denser residential use designation are addressed separately in Section B below, and are not included in the local UHA definition due to a conflict with ORS 227.186. The definition excludes applications that would reduce minimum residential density and applications subject to ministerial or other expedited approval procedures, and states that the initial decision on a UHA is an administrative Type I action not subject to quasi-judicial review unless appealed. The Performance Standards Options chapter is Ashland's planned unit development equivalent, and the findings for the ordinance will make that equivalence explicit.

2. Performance Standards Options subdivisions (AMC 18.3.9.040 and Table 18.5.1.010).

Outline Plan approval is changed from the Type II procedure to the Type I procedure, with the corresponding reference change from section 18.5.1.060 to section 18.5.1.050, and Table 18.5.1.010 is amended to match. The two-tiered Outline and Final Plan structure is retained. The threshold above which prior Outline Plan approval is mandatory is raised from ten lots to 20 or more lots, expanding the ability to file Outline and Final Plans concurrently. Final Plan review remains Type I, with a housekeeping deletion of the concurrent review reference to the Type II procedure. Under this structure all PSO subdivisions receive an administrative initial decision with notice and comment, and a hearing occurs only on appeal to the Planning Commission, consistent with SB 974.

3. Variances (AMC 18.5.5.030).

A new item 9 is added to the list of Type I Variances: Variances involving Urban Housing Applications (UHAs). Variances from residential approval standards that meet the UHA criteria will receive an administrative initial decision with the possibility of appeal to the Planning Commission. All other Variances retain their existing Type I or Type II classification.

4. Residential design standards (AMC 18.2.5.090 and AMC 18.3.5.100).

AMC 18.2.5.090 is amended so the general design standards for single family dwellings and duplexes do not apply to new one and two family developments of 20 or more residential units in any zone. AMC 18.3.5.100 in the North Mountain Neighborhood Plan district is amended so that the specific residential design standards in subsections A.1 through A.3, A.6, and B.1 through B.2 are not applied to one and two family developments of 20 or more

residential units. Generally, Ashland's site development and design standards do not otherwise apply to one and two family development, so these two targeted exemptions bring the code into compliance with the SB 974 design standard prohibition.

B. Annexation and Zone Change criteria are not proposed for amendment

SB 974 includes zone changes to allow denser residential use designations among the applications to be decided administratively without an initial hearing. Staff are not proposing amendments to the city's Zone Change procedures or criteria in chapter 18.5.9, or to the Annexation procedures and criteria in chapter 18.5.8, to implement this element of the bill.

The reason is a direct conflict with other state law. ORS 227.186(2) provides that all legislative acts relating to comprehensive plans, land use planning, or zoning adopted by a city shall be by ordinance, and ORS 227.186(5) requires prescriptive mailed notice to affected property owners that states the date of a public hearing on the proposed change. Zoning map amendments in Ashland are adopted by ordinance of the City Council following a noticed public hearing, consistent with these statutes and with Article X of the City Charter.

Annexations likewise are legislative decisions of the Council processed under ORS chapter 222 and AMC 18.5.8, and are accompanied by ordinances establishing the zoning and comprehensive plan designations of the annexed territory. Processing these legislative actions administratively, without a hearing and without Council adoption by ordinance, would comply with SB 974 while violating ORS 227.186.

The state has not yet provided rulemaking or guidance reconciling these statutes. In staff's assessment, retaining the existing zone change and annexation procedures, which comply with ORS 227.186, until the conflict is resolved through rulemaking or legislation avoids the potential for drawn out procedural appeals that could adversely affect both applicants and the city. Staff will monitor Department of Land Conservation and Development rulemaking and return with amendments if the conflict is resolved in a manner that requires local implementation.

C. Applications submitted on or after July 1, 2026

The urban housing application provisions of SB 974 become operative on July 1, 2026. Under ORS 197.646, when a new state land use statute becomes applicable and a local government has not yet amended its comprehensive plan or land use regulations to implement it, the statute applies directly to land use decisions. This means qualifying urban housing applications submitted on or after July 1, 2026 may be processed under the requirements of SB 974, including administrative review without an initial hearing, regardless of whether the local code amendments are yet in effect.

The proposed ordinance incorporates these allowances for urban housing development into the Ashland Land Use Ordinance so that applicants, staff, and the public work from a single, consistent set of local procedures rather than applying the statute directly alongside conflicting local code language. Adopting the amendments reduces uncertainty about which procedure governs a given application, ensures local notice, comment, findings, and appeal provisions

match state law, and preserves the local appeal to the Planning Commission that SB 974 permits, except for applications subject only to clear and objective standards, for which HB 4037 limits the appeal to the applicant.

D. House Bill 2138 (HB 2138)

With the passage of HB 2138, cities are required to allow up to six SRO units on each lot or parcel zoned to allow for the development of a detached single-family dwelling. In addition, for lots or parcels zoned to allow multi-unit housing and having a base density of five or more dwelling units, cities must allow up to three times the number of units allowed by the maximum density standards (i.e. each SRO unit counts as one-third of a unit of density). There are also limits on how much parking can be required, but as Ashland no longer has off-street parking requirements these limits do not apply.

The draft ordinance makes the following amendments implementing House Bill 2138 (2025) with regard to Single Room Occupancies (SROs): the ‘Allowed Uses by Zone’ Table in AMC 18.2.2.030 is updated to include SROs; a new section AMC 18.2.5.100 addressing SROs is added; the allowed uses tables for the Normal Avenue Neighborhood (AMC 18.3.4.040) and the North Mountain Neighborhood (AMC 18.3.5.050) are updated; and a new definition of Single Room Occupancy (SRO) is included as a dwelling type in AMC 18.6.1.030.D.

The 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.

E. House Bill 4037 (HB 4037)

The draft ordinance amends AMC 18.5.1.050 to provide that an application for the development of housing subject only to clear and objective standards, conditions, and procedures under ORS 197A.400(1) is reviewed under the Type I procedure, notwithstanding any other review procedure otherwise assigned by this code, except an application for residential development within a designated Historic District under ORS 197A.400(2), or an application reviewed under discretionary approval criteria at the election of the applicant under ORS 197A.400(3).

Consistent with ORS 197A.400(5) and (6), notice of such an application is limited to owners of record within the applicable notice radius, no public hearing is held prior to the initial decision, and appeal of the decision, both to the Planning Commission and to the Land Use Board of Appeals, is limited to the applicant.

The current working draft of AMC 18.5.1.050 removes the existing requirement to mail notice to a recognized neighborhood or community organization (current subsection 18.5.1.050.B.1.d). For applications reviewed under ORS 197A.400, ORS 197A.400(5), as amended by HB 4037, sets a ceiling on mailed notice, limiting recipients to owners of record within 100 feet of the subject property and not permitting notice to be extended to neighborhood or community organizations for those applications. Because this notice item is being eliminated for applications governed by HB 4037, staff recommends removing it from AMC 18.5.1.050.B.1 for all Type I applications for consistency. The City does not presently maintain a database of recognized neighborhood or community organizations and has not historically provided this notice in practice.

F. Discussion

The proposed amendments are the product of an iterative review process before both the Planning Commission and the City Council. The Planning Commission reviewed the requirements of Senate Bill 974 and House Bill 2138 and staff's preliminary code concepts at study sessions on April 14, 2026 and May 26, 2026, and the City Council was briefed on the legislation and the proposed local approach at its study session on June 1, 2026.

Draft Ordinance No. 3307 incorporates the recommendations and direction provided to staff at those sessions, including retention of the two tiered Outline and Final Plan review process with the concurrent review threshold raised to 20 or more lots, classification of qualifying Variances as Type I actions subject to appeal to the Planning Commission, and retention of the existing Zone Change and Annexation procedures pending resolution of the conflict with ORS 227.186. For clarity, a flag drive grade clarification for pre-existing legal lots of record including an effective date for preexisting lots has been shifted to a separate ordinance.

As noted at those study sessions, state guidance on implementation of SB 974 and HB 2138 remains limited. The statute establishes the overall procedural requirements but provides little direction on how local governments should restructure existing review classifications such as the Type I and Type II procedures, leaving jurisdictions to align their codes in a manner that meets the intent of the legislation while maintaining internal consistency. Staff believe the draft ordinance accomplishes this as it satisfies the state mandates for administrative review, notice, comment, findings, appeal of urban housing applications and single room occupancies while preserving Ashland's established public notice practices and the local appeal to the Planning Commission that state law permits for urban housing applications, subject to the HB 4037 limitation that restricts the appeal to the applicant for applications reviewed under clear and objective standards. Staff will continue to monitor Department of Land Conservation and Development rulemaking under both bills and will return to the Commission with any needed refinements.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

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

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval of the proposed amendments to the City Council. The proposed amendments are scheduled for a public hearing and first reading at the City Council on August 18, 2026.

IV. Suggested Motion

"I move that the Planning Commission recommend that the City Council approve first reading of Ordinance No. 3307, titled an Ordinance relating to supporting housing production through streamlined review of residential development applications; implementing Senate Bill 974, House Bill 2138, and House Bill 4037 ; amending AMC 18.2.2.030, AMC 18.2.5.090, AMC 18.3.4.040, AMC 18.3.5.050, AMC 18.3.5.100, AMC 18.3.9.040, AMC 18.5.1.010, AMC 18.5.1.050, AMC 18.5.5.030, and AMC 18.6.1.030, and adding a new subsection AMC 18.2.5.100 as presented in the staff report and attachments."

Draft Ordinance

ORDINANCE NO. 3307

AN ORDINANCE RELATING TO SUPPORTING HOUSING PRODUCTION THROUGH STREAMLINED REVIEW OF RESIDENTIAL DEVELOPMENT APPLICATIONS IMPLEMENTING SENATE BILL 974 (2025), HOUSE BILL 2138 (2025), AND HOUSE BILL 4037 (2026); AMENDING AMC 18.2.2.030, AMC 18.2.5.090, AMC 18.3.4.040, AMC 18.3.5.050, AMC 18.3.5.100, AMC 18.3.9.040, AMC 18.5.1.010, AMC 18.5.1.050, AMC 18.5.5.030, AND AMC 18.6.1.030; AND ADDING AMC 18.2.5.100

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 2025 Oregon Legislative Assembly enacted Senate Bill 974 (2025), establishing state mandated changes to local land use review procedures for certain residential development applications, referred to in the bill as urban housing applications; and

WHEREAS, Senate Bill 974 (2025) requires that the initial decision on an urban housing application, including certain zone changes to allow denser residential uses, Performance Standards Options subdivisions, and variances involving property within the urban growth boundary that is zoned primarily for residential use or mixed residential use or planned for residential use, be made administratively without an initial quasi-judicial public hearing, subject to mailed notice to owners within 100 feet and recognized neighborhood or community organizations, a 14 day written comment period, and a public hearing only on appeal; and

WHEREAS, ORS 227.186 requires zone changes to be adopted by ordinance after a public hearing, a requirement that conflicts with Senate Bill 974's administrative review process for zone changes, and this ordinance therefore limits the local definition of Urban Housing Application to Performance Standards Options subdivisions and variances, without extending administrative review to zone changes; and

WHEREAS, Senate Bill 974 further prohibits the application of certain residential design standards, including standards regulating aesthetics, landscaping, building orientation, and building design, to one and two family residential developments of 20 or more residential units, with this prohibition scheduled for repeal on January 2, 2033; and

WHEREAS, the 2025 Oregon Legislative Assembly also enacted House Bill 2138 (2025), which among other provisions expands the required allowance of middle housing types, requires cities to allow single room occupancy developments within the urban growth boundary,

establishes expedited land division and middle housing land division procedures, and revises mandatory review timelines for residential development applications; and

WHEREAS, the 2026 Oregon Legislative Assembly enacted House Bill 4037 (2026), which amends ORS 197A.400 to establish uniform procedures for local government review of applications for the development of housing that are subject only to clear and objective standards, conditions, and procedures, with the amendments operative on July 1, 2026; and

WHEREAS, ORS 197A.400(5), as amended by House Bill 4037 (2026), provides that for such applications a local government may provide notice of the application only to owners of record of property located within 100 feet of the subject property, may not require a public hearing prior to making a decision on the application, and may provide an opportunity for a local appeal only to the applicant; and

WHEREAS, ORS 197A.400(6), as amended by House Bill 4037 (2026), provides that notwithstanding ORS 197.825, only the applicant may appeal a decision on such an application to the Land Use Board of Appeals; and

WHEREAS, ORS 197A.400(2) exempts applications for residential development within historic areas designated for protection under a statewide land use planning goal protecting historic areas, and existing review procedures continue to apply within the City's designated Historic Districts; and

WHEREAS, local land use regulations implementing Senate Bill 974 are required to be in effect by July 1, 2026, local land use regulations implementing House Bill 2138 are required to be adopted no later than January 1, 2027, the amendments to ORS 197A.400 made by House Bill 4037 (2026) became operative on July 1, 2026 and apply to qualifying housing applications submitted on or after that date, and amendments to the Ashland Land Use Ordinance are necessary to align the City's application review procedures, notice provisions, and appeal processes with state law; and

WHEREAS, the Planning Commission of the City of Ashland considered the proposed amendments at a duly advertised public hearing on August 11, 2026, and, following deliberations, 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 August 18, 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, the City Council of the City of Ashland has determined that, 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, that an adequate factual base exists for the amendments, that the amendments are consistent with the Comprehensive Plan, and that such amendments are fully supported by the record of this proceeding.

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

SECTION 1. Table 18.2.2.030 [Uses Allowed by Zone] of the Ashland Municipal Code is hereby amended to address allowing Single Room Occupancy (SRO) uses as follows:

Table 18.2.2.030. Uses Allowed by Zone

B. Residential Uses										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
... <u>Single Room Occupancy (SRO)</u> ...	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>See SRO standards in Sec. 18.2.5.100</u> <u>Sec. 18.2.3.130 for dwellings in C-1 zone and E-1 zone</u> <u>Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120 and 18.2.5.070</u>

SECTION 2. Section 18.2.5.090 [Standards for Single-Family Dwellings and Duplexes] of the Ashland Municipal Code is hereby amended to read as follows:

18.2.5.090 Standards for Single-Family Dwellings and Duplexes

A. The following standards apply to new single-family dwellings and duplexes constructed in the R-1, R-1-3.5, R-2, and R-3 zones; the standards do not apply to dwellings in the WR or RR zones. **Notwithstanding the foregoing, residential design standards shall not apply to new one- and two-family developments of twenty (20) or more residential units in any zone as provided in Section 8 of Senate Bill 974 (2025). This temporary exemption shall remain in effect through January 1, 2033, and shall expire on January 2, 2033, consistent with Section 9 of Senate Bill 974 (2025).**

...

SECTION 3. Section 18.2.5.100 [Single Room Occupancy] is hereby added to the Ashland Municipal Code to read as follows:

18.2.5.100 Single Room Occupancy

A. Single Room Occupancy (SRO). Single Room Occupancy (SRO) means a residential development with no fewer than four attached or detached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant but require that the occupant share sanitary *or* food preparation facilities with other units in the occupancy. Units with private sanitary *and* food preparation facilities are not an SRO.

B. Single room occupancies must comply with the following standards in addition to the standards of the applicable zoning district:

1. Single room occupancies are permitted as follows:

- a. Up to six SRO units are permitted on any lot or parcel on which a detached single-unit dwelling is a permitted use, regardless of the base density otherwise applicable to the lot or parcel.**
- b. On any lot or parcel on which multiunit housing with five or more dwelling units is allowed, SRO units are permitted up to three times the number of dwelling units allowed by the maximum density standards applicable to the lot or parcel.**
- c. Where both subsections 1.a and 1.b apply to a lot or parcel, the provision allowing the greater number of SRO units governs.**
- d. In Commercial and Employment zones (C-1, C-1-D and E-1) multi-unit residential development is subject to the requirements of AMC 18.2.3.130.**

2. Review Procedure.

- a. *Six or Fewer Units.* Requires a building permit.**
- b. *More Than Six Units.* Requires Site Design Review. See AMC 18.5.2.**

3. Single room occupancies must include a minimum of four SRO units that are independently rented and lockable.

4. Each unit must provide living and sleeping space for the exclusive use of the occupant.

5. Sanitary and Food Preparation Facilities Conditions.

- a. Every unit must have access to both sanitary facilities and food preparation facilities, which may be provided within the unit or as shared facilities.**

- b. An SRO unit may include private sanitary facilities or private food preparation facilities, but not both. At least one of these facility types must be shared among the units in the SRO occupancy.**
- c. A facility type that is not shared must be provided within each unit for the exclusive use of the occupant.**
- d. A unit containing both private sanitary facilities and private food preparation facilities is a dwelling unit, not an SRO unit. Such a unit does not count toward the minimum number of SRO units, and is subject to the density and development standards otherwise applicable to dwelling units in the zone.**

6. Single room occupancy units may not be used as Traveler’s Accommodations.

SECTION 4. Table 18.3.4.040 [Normal Neighborhood District Uses Allowed by Zone] of the Ashland Municipal Code is hereby amended to address include Single Room Occupancy (SRO) uses in Table 18.3.4.040 as follows:

Table 18.3.4.040. Normal Neighborhood District Uses Allowed by Zone¹

	Normal Neighborhood District Zones ²			
	NN-1-5	NN-1-3.5	NN-1-3.5-C	NN-2
A. Residential Uses				
<u>Single Room Occupancy (SRO).</u> <u>section 18.2.5.100</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>

SECTION 5. Table 18.3.5.050 [North Mountain Neighborhood Uses Allowed by Zone] of the Ashland Municipal Code is hereby amended to include Single Room Occupancy (SRO) uses in Table 18.3.5.050 as follows:

Table 18.3.5.050. North Mountain Neighborhood Uses Allowed by Zone¹

	North Mountain Neighborhood Zones ²				
	NM-R-1-7.5	NM-R-1-5	NM-MF	NM-C	NM-Civic
A. Residential					

	North Mountain Neighborhood Zones ²				
	NM-R-1-7.5	NM-R-1-5	NM-MF	NM-C	NM-Civic
<u>Single Room Occupancy (SRO), section 18.2.5.100</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>

SECTION 6. Subsection 18.3.5.050 [Allowed Uses] of the Ashland Municipal Code is hereby amended to add Single Room Occupancy as a permitted use with special use standards as follows:

18.3.5.050.D

...

14. Single Room Occupancy (SRO). Subject to the standards in section 18.2.5.100.

SECTION 7. Subsection 18.3.5.100.A [North Mountain Neighborhood District - Site Development and Design Standards – Housing] of the Ashland Municipal Code is hereby amended to read as follows, and the remainder of section 18.3.5.100 remains unchanged:

18.3.5.100 Site Development and Design Standards

A. Housing. The following design standards apply to residential developments. **AMC 18.3.5.100.A.1-A.3, AMC 18.3.5.100.A.6, and AMC 18.3.5.100.B.1-B.2 shall not be applied to one- and two-family developments of 20 or more residential units prior to January 2, 2033, consistent with the temporary design standard exemption established under Senate Bill 974.** While the standards are specific, the intent is not to limit innovative design, but rather provide a framework for clear direction and minimum standards.

...

SECTION 8. Section 18.3.9.040 [Review Procedures and Criteria] of the Ashland Municipal Code is hereby amended to read as follows:

18.3.9.040 Review Procedures and Criteria

...

A. Outline Plan. A proposed outline plan shall accompany applications for subdivision approval under this chapter. For developments of fewer than ten lots, the outline plan may be filed concurrently with the final plan, as that term is defined in subsection 18.3.9.040.B.4. For developments of ~~ten~~ **twenty (20)** or more lots, prior outline plan approval is mandatory.

1. Review Procedure. The ~~Type II~~ **Type I** procedure in section **18.5.1.050** ~~18.5.1.060~~ shall be used for the approval of the outline plan.

...

B. Final Plan.

1. Review Procedure. The Type I procedure in section 18.5.1.050 shall be used for approval of final plans, unless an outline plan has been filed concurrently, in which case ~~Type II procedure shall be used, and~~ the criteria for approval of an outline plan shall also be applied.

...

SECTION 9. Table 18.5.1.010 [Summary of Approvals by Type of Review Procedure] in section 18.5.1.010 of the Ashland Municipal Code is hereby amended to change the review procedure for Outline Plan approval under the Performance Standards Option from Type II to Type I, as shown below, and the remainder of Table 18.5.1.010 remains unchanged:

Planning Actions	Review Procedures	Applicable Regulations
...		
Performance Standards Option		
Outline Plan	Type II Type I	Chapter 18.3.9
Final Plan	Type I	Chapter 18.3.9
Minor Amendment	Ministerial	Subsection 18.5.3.020.F
...		

SECTION 10. Section 18.5.1.050 [Type I Procedure (Administrative Decision with Notice)] of the Ashland Municipal Code is hereby amended as follows, and the remainder of section 18.5.1.050 remains unchanged:

18.5.1.050 Type I Procedure (Administrative Decision with Notice)

Type I decisions are made by the Staff Advisor, following public notice and a public comment period. Type I decisions provide an opportunity for appeal to the Planning Commission. **An application for the development of housing is subject to a clear and objective standard, applying the standards, conditions, and procedures identified in ORS 197A.400(1). Notwithstanding any other provision of this ordinance assigning a review procedure, an application for residential development within a designated Historic District shall be reviewed under a Type 1 procedure. An application for which the applicant elects review under the discretionary approval of ORS 197A.400(3) shall be reviewed under the review procedure prescribed by this code.**

...

B. Notice of Application.

1. Mailing of Notice of Application. The purpose of the notice of application is to give nearby property owners and other interested people the opportunity to review and submit written comments on the application before the City makes a decision on it. Within ten days of deeming a Type I application complete, the City shall mail a notice of a pending Type I application to the following.

- a. Applicant.
- b. Owners of the subject property.
- c. Owners of record for properties located within ~~200 feet~~ **100 feet** of the perimeter of the subject site.
- ~~d. Neighborhood group or community organization officially recognized by the City that includes the area of the subject property.~~
- e. Where an application subject to Type I review is preceded by a Type II decision, to parties of record from the subject Type II decision.
- f. For applications to amend an approval, to persons who requested notice of the original application that is being amended or modified, except that where the mailing address of a person entitled to notice is not the same as the mailing address of record in the original approval, the City is not required to mail notice.

...

6. Housing Applications Subject to Clear and Objective Standards.
Notwithstanding subsections 18.5.1.050.B.1.c and 18.5.1.050.D.1.c, for an application for the development of housing subject only to clear and objective standards, conditions, and procedures pursuant to ORS 197A.400(1), the notice of application and the notice of decision shall be mailed to owners of record for properties located within 100 feet of the perimeter of the subject site, consistent with the notice limitations of ORS 197A.400(5)(a). This subsection does not apply to an application reviewed under discretionary approval criteria at the election of the applicant pursuant to ORS 197A.400(3).

C. Decision.

1. At the conclusion of the comment period, the Staff Advisor shall review the comments received and prepare a decision approving, approving with conditions, or denying the application based on the applicable ordinance criteria. The Staff Advisor shall prepare a decision within 45 days of the City's determination that an application is complete, unless the applicant agrees to a longer time period. Alternatively, the Staff Advisor may transmit written comments received along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting. **An application for the development of housing is subject to clear and objective standards, conditions, and procedures pursuant to ORS 197A.400(1) and shall not be referred to the Planning Commission for review and decision under this subsection or subsection 18.5.1.050.C.2.**

...

D. Notice of Decision.

1. Mailing of Notice of Decision. Within five days after the Staff Advisor renders a decision, the City shall mail notice of the decision to the following.

- a. Applicant.
- b. Owners of the subject property.
- c. Owners of record for properties located within ~~200 feet~~ 100 feet of the perimeter of the subject site.

~~d. Neighborhood group or community organization officially recognized by the City that includes the area of the subject property.~~

~~d. e.~~ Parties of record; this includes any group or individual who submitted written comments during the comment period.

~~e. f.~~ Those groups or individuals who requested notice of the decision.

~~f. g.~~ For applications to amend an approval, to persons who requested notice of the original application that is being amended or modified, except that where the mailing address of a person entitled to notice is not the same as the mailing address of record in the original approval, the City is not required to mail notice.

...

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

1. Who May Appeal. The following persons have standing to appeal a Type I decision, except as provided in subsection 18.5.1.050.G.1.d.

- a. The applicant or owner of the subject property.
- b. Any person who is entitled to written notice of the Type I decision pursuant to subsection 18.5.1.050.B.
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

d. Notwithstanding subsections 18.5.1.050.G.1.a through 18.5.1.050.G.1.c, for a decision on an application for the development of housing subject only to clear and objective standards, conditions, and procedures pursuant to ORS 197A.400(1), only the applicant may appeal the decision at the local level, pursuant to ORS 197A.400(5)(c). Pursuant to ORS 197A.400(6), only the applicant may appeal such a decision to the Land Use Board of Appeals.

...

SECTION 11. Section 18.5.5.030 [Review Procedure] of the Ashland Municipal Code is hereby amended to read as follows:

18.5.5.030 Review Procedure

Applications for Variances are reviewed as follows.

A. Type I. The following Variances are subject to the Type I review procedure in section 18.5.1.050.

1. Sign placement, per chapter 18.4.7.
2. Non-conforming signs, when bringing them into conformance as described in chapter 18.4.7.
3. Up to a 50 percent reduction of standard yard requirements.
4. Parking in setback areas.
5. Up to ten percent reduction in the required minimum lot area.
6. Up to ten percent increase in the maximum lot coverage percentage.
7. Up to 20 percent reduction in lot width or lot depth requirements.
8. Up to ten percent variance on height, width, depth, length, or other dimension not otherwise listed in this section.

9. Variances involving Urban Housing Applications (UHAs).

B. Type II. Variances not listed in subsection 18.5.5.030.A, above, are subject to the Type II review procedure in section 18.5.1.060. (Ord. 3229 § 12, amended, 12/19/2023)

SECTION 12. Section 18.6.1.030 [Definitions] of the Ashland Municipal Code is hereby amended to add the following definitions for Single Room Occupancy (SRO) and Urban Housing Application (UHA), to be placed in alphabetical order:

Dwelling. A structure conforming to the definition of a dwelling under applicable building codes and providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar. For the purposes of this title, the following types of dwelling units are defined as follows:

...

Single Room Occupancy (SRO). Single Room Occupancy (SRO) means a residential development with no fewer than four attached or detached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant but require that the occupant share sanitary or food preparation facilities with other units in the occupancy. A unit with both private sanitary and private food preparation facilities is a dwelling unit, not an SRO unit.

...

Urban Housing Application (UHA) – A land use application for a Performance Standards Options subdivision or a variance from a residential approval standard, involving property that is, at the time of application, within the urban growth boundary (UGB) and zoned primarily for residential use or mixed residential use, or planned for residential use. An urban housing application does not include an application that would reduce the minimum residential density of land, or an application subject to a ministerial or other expedited approval procedure, including a residential use allowed outright. The initial decision of the city on an urban housing application is an administrative (Type I) action and is not subject to quasi-judicial review unless appealed as provided in this ordinance and applicable state law.

SECTION 13. 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 14. 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 8 and 9) 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

Memo

DATE: May 26, 2026
TO: Planning Commission
FROM: Derek Severson, Planning Supervisor
RE: Legislative Amendments in Senate Bill 974

As has been previously discussed, the 2025 regular legislative session was unusually active in the land use and housing arena and resulted in several significant bills becoming law. Several of the enacted bills directly affect local planning and development codes, while others influence housing production more indirectly through funding programs or changes to statewide planning expectations. Together, they reflect a statewide shift toward more predictable and efficient review of housing projects and expanded housing opportunities across a wider range of housing types and income levels.

Of the recent legislation, Senate Bill 974, directs local governments to process certain housing applications administratively and within defined timelines, with hearings occurring only on appeal where allowed. This is a significant shift in the land use process impacting Ashland's Type I, Type II, and Type III application noticing and processing. The goal is to reduce delay and limit discretionary review while still requiring cities to update local codes to align procedures, notice, and appeal processes with state law. Staff are bringing forth the following code amendments to implement the SB974 amendments.

Senate Bill (SB) 974 Amendments

SB 974 introduces the concept of an urban housing application and, for certain specific types of residential approvals, requires that the initial decision be made administratively without a hearing. SB 974 includes three primary areas of focus:

- **The following new definition of an Urban Housing Application (UHA) is proposed to be added to AMC Chapter 18.6.1:**

Urban Housing Application (UHA) – A land use application including certain zone changes (residential up-zones), Performance Standards Options subdivisions, and variances involving property within the urban growth boundary (UGB) zoned primarily

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Ashland, Oregon 97520
ashlandoregon.gov

Tel: 541.488.5305
Fax: 541.552.2050
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for residential or mixed-use development or proposed for residential use. The initial decision of the city on an Urban Housing Application is an administrative (Type I) action and is not subject to quasi-judicial review unless appealed.

- **SB 974 creates a “120-day shot-clock” for Engineering review of residential development applications, similar to the shot-clock for land use applications.**

Since this relates to the Engineering Division’s review of civil drawings following land use approval, it is not governed by the Ashland Land Use Ordinance, and no land use ordinance changes are proposed. The Engineering Division is aware of the new requirements.

- **SB 974 requires certain residential development applications to be processed administratively without an initial quasi-judicial hearing. For zone changes to allow denser residential uses, Performance Standards Options subdivisions, and Variances related to urban housing applications on land inside the UGB and zoned for residential and mixed uses, SB974 calls for an initial decision to be made administratively, without a public hearing unless an appeal is requested. This will entail a number of changes primarily to AMC Chapter 18.5 with regard to application review procedures.**

With regard to **zone changes to increase residential density**, staff have not proposed any changes to implement this requirement out of concern that the requirements of SB 974 to administratively approve up-zoning requests directly conflict with Oregon Revised Statutes (ORS) 227.186(2) and (5) which require zone changes be made by ordinance with proper public notice through a (Type III) public hearing. In staff’s assessment, retaining existing codes which comply with the ORS until state rulemaking occurs avoids the potential for drawn-out procedural appeals which could adversely impact both applicants and the city.

With regard to **Performance Standards Options subdivisions**, proposed amendments are detailed below to make all PSO subdivisions subject to administrative review and approval with the possibility for appeal to the Planning Commission. As proposed, the two-tiered Outline and Final Plan subdivision process is retained, and the threshold to allow concurrent Outline and Final Plan reviews is increased from ten lots to “20 or more”.

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AMC 18.3.9.040 Review Procedures and Criteria

A. Outline Plan. A proposed outline plan shall accompany applications for subdivision approval under this chapter. For developments of fewer than ten lots, the outline plan may be filed concurrently with the final plan, as that term is defined in subsection 18.3.9.040.B.4. For developments of **ten 20** or more lots, prior outline plan approval is mandatory.

1. Review Procedure. The **Type II** procedure in section **18.5.1.050 18.5.1.060** shall be used for the approval of the outline plan.

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B. Final Plan.

1. Review Procedure. The Type I procedure in section 18.5.1.050 shall be used for approval of final plans, unless an outline plan has been filed concurrently, in which case **Type II procedure shall be used, and** the criteria for approval of an outline plan shall also be applied.

Table 18.5.1.010. Summary of Approvals by Type of Review Procedure

Planning Actions	Review Procedures	Applicable Regulations
Outline Plan	Type II	Chapter <u>18.3.9</u>

For **Variances**, those involving urban housing applications have been made a Type I procedures subject to administrative approval with the possibility for an appeal to the Planning Commission, as detailed below.

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18.5.5.030 Review Procedure

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1. Sign placement, per chapter 18.4.7.
2. Non-conforming signs, when bringing them into conformance as described in chapter 18.4.7.
3. Up to a 50 percent reduction of standard yard requirements.
4. Parking in setback areas.
5. Up to ten percent reduction in the required minimum lot area.
6. Up to ten percent increase in the maximum lot coverage percentage.
7. Up to 20 percent reduction in lot width or lot depth requirements.
8. Up to ten percent variance on height, width, depth, length, or other dimension not otherwise listed in this section.

9. Variances Involving Urban Housing Applications (UHAs).

- **SB 974 also prohibits certain design standards for one- and two-family residential developments of 20 or more residential units. Standards regulating aesthetics, landscaping, building orientation, parking or building design cannot be applied. This prohibition does not apply to setbacks, accessibility, size limitations or any review under applicable building or fire codes, or public health or safety regulations.**

Generally, Ashland's site development and design standards are not applicable to one- and two-family residential development proposals.

Proposed amendments to the **general design standards for Single-Family Dwellings and Duplexes** in AMC 18.2.5.090 are detailed below:

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18.2.5.090 Standards for Single-Family Dwellings and Duplexes

- A.** The following standards apply to new single-family dwellings and duplexes constructed in the R-1, R-1-3.5, R-2, and R-3 zones; the standards do not apply to dwellings in the WR or RR zones **or to new one- and two-family developments of 20 or more residential units in any zone.**
- B.** Single-family dwellings and duplexes subject to this section shall utilize at least two of the following design features to provide visual relief along the front of the residence:
1. Dormers;
 2. Gables;
 3. Recessed entries;
 4. Covered porch entries;
 5. Cupolas;
 6. Pillars or posts;
 7. Bay window (min. 12" projection);
 8. Eaves (min. 6" projection);
 9. Off-sets in building face or roof (min. 16"). (Ord. 3263 § 5, amended, 06/03/2025; Ord. 3199 § 11, amended, 06/15/2021)

Proposed amendments to the **North Mountain Neighborhood Plan's residential design standards** found in AMC 18.3.5.100 are detailed below:

18.3.5.100 Site Development and Design Standards

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- A. **Housing.** The following design standards apply to residential developments. **AMC 18.3.5.100.A.1-A.3, AMC 18.3.5.100.A.6 and AMC 18.3.5.100.B.1-B.2 shall not be applied to one- and two-family developments of 20 or more residential units.** While the standards are specific, the intent is not to limit innovative design, but rather provide a framework for clear direction and minimum standards.

Driveway Grades for Existing Lots (Unrelated to SB 974)

With a recent Land Use Board of Appeals (LUBA) ruling, it is clear that the existing language in **AMC 18.5.3.060 "Additional Preliminary Flag Lot Partition Plat Criteria"** relative to driveway grade prevents the city from approving a Variance for *any flag driveway* with a grade in excess of 18 percent. This would have the potential to render any pre-existing legal lots of record inaccessible if a driveway to reach it could not be constructed with a finished grade that was less than 18 percent. The flag drive grade standards generally apply to new lots (i.e. must be met before signature of plat), and city decisions have previously approved variances for pre-existing lots where no alternative access meeting the codified flag drive grade was available. Given that code amendments are under consideration, staff believe it would be prudent to address this known code issue now, and we have included code amendment language to AMC 18.5.3.060 below for the Planning Commission's consideration.

- F. Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives **serving newly created lots** 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. **Variances may also be approved for grades in excess of 18 percent for driveways serving pre-existing legal lots of record which would otherwise be inaccessible.** Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances.

Next Steps

Code changes to comply with SB 974 are intended to be implemented by cities by July 1, 2026. As previously noted, state guidance on implementation of Senate Bill 974 remains limited at this time, with the statute establishing overall procedural requirements but providing little direction on how local governments should restructure existing review classifications such as Type I and Type II processes. In particular, the law clearly requires that qualifying urban housing applications be processed without an initial hearing but does not

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provide detailed direction on how to treat specific permit types, including variances, within existing local frameworks. As a result, jurisdictions are left to interpret and align their procedures in a manner that meets the intent of the legislation while maintaining internal consistency within their land use codes.

Staff will incorporate recommendations from tonight's study session into the proposed amendments and schedule public hearings before the Planning Commission and City Council as soon as possible.

Attachments:

1. Senate Bill 974 Code Changes Roadmap
2. [Senate Bill 974 Enrolled](#)

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BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

LEONARD EISENBERG, KENT MCLAUGHLIN,
and PAMELA MCLAUGHLIN,
Petitioners,

vs.

CITY OF ASHLAND,
Respondent,

and

BRYAN DEBOER and STEPHANIE DEBOER,
Intervenors-Respondents.

LUBA No. 2025-053

FINAL OPINION
AND ORDER

Appeal from City of Ashland.

William H. Sherlock filed the petition for review and reply brief and argued on behalf of petitioners.

No appearance by City of Ashland.

Christian E. Hearn filed the intervenors-respondents' brief and argued on behalf of intervenors-respondents. Also on the brief was Davis Hearn Anderson & Selvig, PC.

WILSON, Board Member; ZAMUDIO, Board Chair, participated in the decision.

BASSHAM, Board Member, did not participate in the decision.

1
2
3
4

REMANDED

04/29/2026

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioners appeal a planning commission decision approving a physical and environmental restraints permit to build a single-family dwelling, variances to exceed the maximum length and maximum grade for driveways, an exception to the development standards for hillside lands, and a tree removal permit.

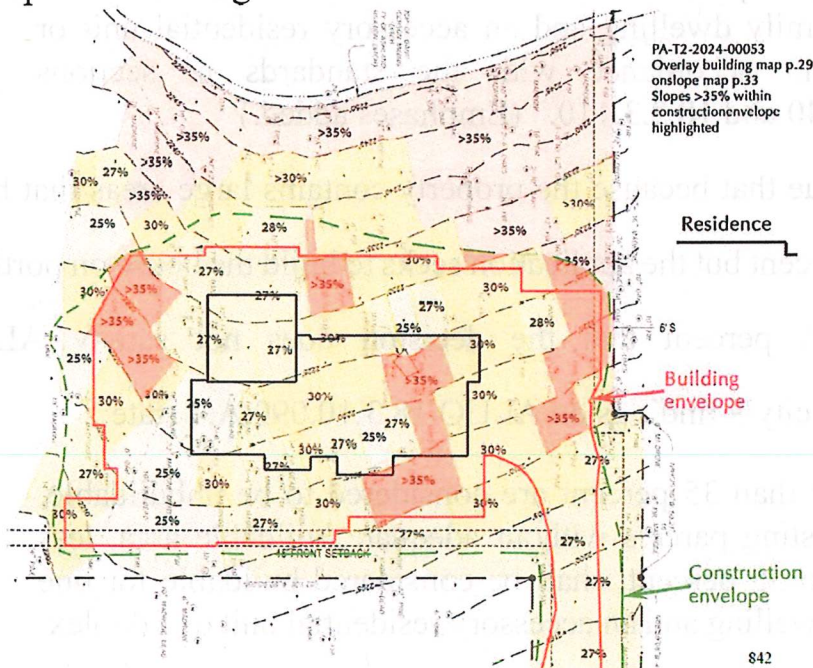
FACTS

Intervenors-respondents (intervenors) own a 2.18-acre undeveloped lot in the hills of the city. The lot is zoned Rural Residential with a half-acre minimum lot size (RR-.5). The lot was legally created in 1995, and due to the steep topography of the lot the most feasible access is from Granite Street by extending a shared driveway that crosses petitioners' property. The parties' predecessors recorded an easement providing the lot with driveway access to Granite Street via the shared driveway.

Intervenors applied for an environmental constraints permit, variances to allow a driveway that exceeds length and grade standards, an exception to hillside development standards, and a tree removal permit to construct a house. The house would be located on the eastern edge of the property closest to Granite Street in order to minimize the length of the driveway and avoid steep slopes, existing trees, and an irrigation ditch on the remaining parts of the property.

1 **FIRST ASSIGNMENT OF ERROR**

2 Petitioners argue that the decision is not supported by adequate findings,
3 misconstrues the applicable law, and is not supported by substantial evidence in
4 determining that the application satisfies the applicable hillside development
5 standards. The property is considered Hillside Lands as defined by the Ashland
6 Land Use Ordinance (ALUO).² The image below depicts the topography of the
7 subject property and highlights the slope of the construction envelope for the
8 proposed dwelling.



9

10 Record 842.

² Hillside Lands are classified by ALUO 18.3.10.060.B and include: “All areas defined as Hillside Lands on the Physical and Environmental Constraints Hillside Lands and Severe Constraints map and which have a slope of 25 percent or greater.” There is no dispute that the subject property qualifies as Hillside Lands.

1 ALUO 18.3.10.090 establishes special development regulations for the
2 development of Hillside Lands. ALUO 18.3.10.090.A.1 provides, in pertinent
3 part:

4 “Buildable Area. All development shall occur on lands defined as
5 having buildable area. *Slopes greater than 35 percent shall be*
6 *considered unbuildable except as allowed below.* Exceptions may
7 be granted to this requirement only as provided in subsection
8 18.3.10.090.H.

9 “a. *Existing parcels without adequate buildable area less than or*
10 *equal to 35 percent shall be considered buildable for one*
11 *single-family dwelling and an accessory residential unit or*
12 *duplex in accordance with the standards in sections*
13 *18.2.3.040 and 18.2.3.110.”* (Emphases added.)

14 Petitioners argue that because the property contains large areas that have
15 slopes less than 35 percent but the application seeks to build the house on portions
16 with slopes over 35 percent that the decision does not satisfy ALUO
17 18.3.10.090.A.1. The city’s findings on ALUO 18.3.10.090.A.1 state:

18 “Slopes greater than 35 percent are considered to be unbuildable,
19 except that existing parcels without adequate buildable area, less
20 than or equal to 35 percent, shall be considered buildable for one
21 single-family dwelling and an accessory residential unit or a duplex.

22 “The Commission finds that the subject parcel was created prior to
23 the adoption of the hillside regulations and the standard [ALUO]
24 18.3.10.090.A.1. The Commission finds that the subject property
25 does not have adequate building area of less than or equal to 35
26 percent when considering the need to minimize broader disturbance
27 by limiting development of the site to an area as near the existing
28 driveway location as possible while also providing for site access
29 and vehicular circulation.” Record 37.

1 Initially, petitioners argue that the findings are inadequate because they fail
2 to explain how the fact that much of the lot is less than or equal to 35 percent
3 slope may allow a dwelling to be built on slopes of 35 percent or more. Findings
4 must: (1) identify the applicable standards; (2) set out the facts relied upon; and
5 (3) explain how those facts lead to the conclusion that the standards are met.
6 *Heiller v. Josephine County*, 23 Or LUBA 551, 556 (1992). “[T]o be sufficient
7 for review, findings need only ‘establish the factual and legal basis for the
8 particular conclusions drawn in a challenged decision.’” *Niederer v. City of*
9 *Albany*, 79 Or LUBA 305, 314 (2019) (quoting *Thormahlen v. City of Ashland*,
10 20 Or LUBA 218, 229-30 (1990)).

11 The findings identify the applicable standard – ALUO 18.3.10.090.A.1.
12 The findings set out the facts relied upon – that the property does not have
13 adequate buildable area on less than 35 percent slopes when considering the need
14 to minimize broader disturbances. The findings explain how these facts lead to
15 the conclusion that ALUO 18.3.10.090.A.1 is satisfied – limiting development to
16 the area nearest the driveway while providing for site access and circulation limits
17 what can be considered buildable area. The findings are adequate.

18 Petitioners next argue that the city misconstrued the law by interpreting
19 adequate buildable area to allow consideration of factors such as access and
20 effects on other portions of the property. The parties disagree on the standard of
21 review for the city’s interpretation. Petitioners argue that the challenged decision
22 was made by the planning commission so the interpretation is not entitled to

1 deference. *Gage v. City of Portland*, 319 Or 308, 317, 877 P2d 1187 (1994)
2 (LUBA does not defer to interpretations of local land use regulations made by
3 those other than the governing body when interpreting the governing body's own
4 land use regulations). Intervenor's argue that the governing body – the city council
5 – denied the appeal and only sent the decision back to the planning commission
6 for additional findings. According to intervenors, the city council therefore was
7 the final decision maker and the interpretation is entitled to deference. *Siporen v.*
8 *City of Medford*, 349 Or 247, 259, 243 P3d 776 (2010) (LUBA must defer to a
9 governing body's interpretation if the interpretation is plausible).

10 While this is an unusual situation, we agree with petitioners that the
11 decision before us was made by the planning commission and is not entitled to
12 *Siporen* deference. Intervenor's argue that because the city council directed the
13 planning commission to adopt more detailed findings without reopening the
14 record, the planning commission final decision was merely a "clerical
15 fulfillment" of the city council's interpretations. Intervenor's-Respondents' Brief
16 8. According to intervenors, when a governing body affirms a lower body's
17 interpretation that interpretation is entitled to deference. Intervenor's cite cases
18 where boards of commissioners adopted a lower body's decision on appeal as its
19 own. *Gutoski v. Lane County*, 141 Or App 265, 268, 917 P2d 1048, *rev den*, 324
20 Or 18 (1996) (deference applies where the governing body affirms a decision and
21 expressly agrees with or is silent concerning a lower body's interpretation); *Derry*
22 *v. Douglas County*, 132 Or App 386, 391-92, 888 P2d 588 (1995) (same). In

1 *Derry*, however, the governing body adopted the lower body’s decision as its own
2 and no further action occurred. In *Gutoski*, “[a]lthough the governing body made
3 explanatory statements that [the] respondent regard[ed] as endorsing the hearings
4 officer’s interpretation” of the relevant land use policy, it ultimately declined to
5 review the hearings officer’s decision. 141 Or App at 267. In those cases, the
6 decisions were not remanded back to the lower body for further proceedings.
7 Furthermore, in the present case, intervenors do not point to any express
8 interpretations made by the city council in its decision. The interpretation at issue
9 in the first assignment of error was made by the planning commission. Therefore,
10 *Siporen* deference does not apply.

11 Under these circumstances, the appropriate standard of review is whether
12 the interpretation is legally correct, applying the general rules of statutory
13 construction set out at ORS 174.010³ and in cases such as *State v. Gaines*, 346
14 Or 160, 206 P3d 1042 (2009), and *PGE v. Bureau of Labor and Industries*, 317
15 Or 606, 859 P2d 1143 (1993).

16 Under ALUO 18.3.10.090.A.1, all development must occur on lands
17 defined as having buildable area. Slopes greater than 35 percent are generally

³ ORS 174.010 states:

“In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.”

1 considered unbuildable. Existing parcels – such as the subject property – without
2 adequate buildable area, in other words those parcels that would otherwise not
3 have buildable area because of slopes greater than 35 percent, are considered
4 buildable for a single-family dwelling. The planning commission interpreted
5 “adequate buildable area” to mean not just slopes of less than 35 percent
6 anywhere on the property, but slopes of less than 35 percent considering the need
7 to minimize broader disturbances to the property. In this case, the need to
8 minimize broader disturbances to the property include limiting development of
9 the site to an area near the existing driveway and allowing access without
10 disturbing other heavily sloped areas of the property.

11 Petitioners argue that there are areas of less than 35 slopes so the property
12 is not without “adequate buildable area.”⁴ According to petitioners, by
13 considering broader disturbances to the property, the planning commission’s
14 interpretation violates ORS 174.010 by inserting language into ALUO
15 18.3.10.090.A.1 that is not in the ordinance. “Adequate buildable area” is an
16 inherently subjective standard. We agree with intervenors that in determining
17 whether there is “adequate buildable area” the planning commission’s
18 interpretation is consistent with ALUO 18.3.10.090.A.1 in considering factors

⁴ Petitioners also argue that the planning commission’s interpretation is inconsistent because the decision discusses “adequate building area” instead of “adequate buildable area.” Petition for Review 13 (citing Record 7). The decision is clear that it is discussing the standard of ALUO 18.3.10.090.A.1 and that the reference to “adequate building area” is the same as “adequate buildable area.”

1 other than just whether it is possible to site a house on less than 35 percent slopes
2 anywhere on the property. As the ALUO does not define “adequate buildable
3 area” it is likely that any interpretation will “insert” language to one degree or
4 another. *See Preserve the Pearl, LLC v. City of Portland*, 72 Or LUBA 261, 269
5 (2015) (“When trying to determine the intended meaning of an ambiguous land
6 use regulation, on some level the interpreter can almost always be accused of
7 inserting what has been omitted.”). The planning commission’s interpretation is
8 not inconsistent with ALUO 18.3.10.090.A.1 in considering that locating the
9 dwelling on another portion of the property would result in significantly more
10 cuts and fills for construction and that the proposed location would preserve a
11 substantial area in a natural state.

12 Finally, petitioners argue that the city’s decision is not supported by
13 substantial evidence. Substantial evidence is evidence that a reasonable person
14 would rely on in making a decision. *Dodd v. Hood River County*, 317 Or 172,
15 179, 855 P2d 608 (1993). In reviewing the evidence, LUBA may not substitute
16 its judgement for that of the local decision maker. Rather, LUBA must consider
17 all the evidence to which it is directed, and determine whether, based on that
18 evidence, a reasonable local decision maker could reach the decision that it did.
19 *Younger v. City of Portland*, 305 Or 346, 358-60, 725 P2d 262 (1988).

20 Petitioners’ substantial evidence argument is based on the premise that if
21 there are slopes anywhere on the property that are less than 35 percent then there
22 is not substantial evidence to support the conclusion that the property is without

1 adequate buildable area. As explained earlier, however, we agree with the city
2 and intervenors that the city may consider other factors in determining whether
3 there is “adequate” buildable area. Given that the city may consider such
4 additional factors, a reasonable person could conclude that there is not adequate
5 buildable area.

6 The first assignment of error is denied.

7 **SECOND ASSIGNMENT OF ERROR**

8 Petitioners argue that the decision is not supported by adequate findings,
9 misconstrues the applicable law, and is not supported by substantial evidence in
10 determining that the application satisfies the applicable development standards
11 regarding driveways.

12 **A. Driveway Grade**

13 Driveways serving a single-family dwelling on a flag lot, such as the
14 subject property, are required to conform to the design requirements of ALUO
15 18.5.3.060.⁵ The design standards include restrictions on maximum grade for flag
16 drives. ALUO 18.5.3.060.F provides:

⁵ ALUO 18.4 contains the site development and design standards and ALUO 18.4.3.080.D provides, in pertinent part:

“Driveways and Turn-around Design. Driveways and turn-arounds providing access to parking areas shall conform to the following provisions:

- “1. A driveway for a single-family dwelling or duplex shall be a minimum of nine feet in width except that

1 “Flag drives shall not exceed a maximum grade of 15 percent.
2 *Variances may be granted for flag drives for grades in excess of 15*
3 *percent but no greater than 18 percent*; provided that the cumulative
4 length of such variances across multiple sections of the flag drive
5 does not exceed 200 feet. Such variances shall be required to meet
6 all of the criteria for approval in chapter 18.5.5, Variances.”
7 (Emphasis added.)

8 Petitioners explain that ALUO 18.5.3.060.F generally restricts the grade
9 for flag drives to 15 percent, under certain circumstances allows a variance to
10 grades of 18 percent, but categorically prohibits grades of over 18 percent.
11 According to petitioners, the city recognized that the average grade of the
12 proposed drive is significantly greater than 18 percent – 24 percent – but
13 nonetheless granted the variance. The city’s findings state:

14 “The Planning Commission finds that the proposed driveway is via
15 an existing shared access easement to utilize an existing long, steep,
16 partially paved private driveway. The proposed driveway extension
17 to serve the subject property is approximately 197 feet in total length
18 from the terminus of the existing driveway and has an average slope
19 of approximately 24 percent.

20 “The Planning Commission finds that the lot configuration, site
21 topography, existing driveway grade and existing natural features
22 are unique circumstances that prevent meeting the standard. The
23 existing driveway serving the lot and the adjacent properties to the
24 east exceeds a 15 percent grade and is a legal, non-conforming
25 situation. The average existing property grade before driveway
26 construction is 27 percent, and there is no feasible area to mitigate

driveways over 50 feet in length or serving a flag lot
shall meet the width and design requirements of section
18.5.3.060. Accessory residential units are exempt
from the requirements of this subsection.”

1 the driveway grade with switchbacks, given the narrow 33.04-width
2 of the flagpole portion of the lot configuration and the location of
3 the access easement to the property. The Commission finds that no
4 alternative driveway access is available.” Record 10.

5 Initially, petitioners argue the findings are inadequate. The findings
6 identify the applicable standard – ALUO 18.5.3.060.F. The findings set out the
7 facts relied upon – that there are unique circumstances on the property, the
8 average grade is 24 percent, there is no way feasible way to mitigate the grade,
9 and that no alternative driveway access is available.⁶ The findings explain how
10 those facts lead to the conclusion that the standard is met – given the unique
11 circumstances on the property no alternative driveway access is available. The
12 findings establish the factual and legal basis for the particular conclusions drawn
13 in a challenged decision. *Niederer*, 79 Or LUBA at 314. The findings are
14 adequate.

15 Petitioners argue the city misconstrues the applicable law by approving a
16 variance to allow a flag driveway grade of at least 24 percent when ALUO
17 18.5.3.060.F does not allow variances for grades of over 18 percent. According
18 to petitioners, while a variance can increase the allowable grade for a flag
19 driveway to 18 percent, there is nothing in the ALUO that would allow for a grade
20 of 24 percent. Intervenors initially stated that the grade is actually 15.23 percent.
21 Intervenors-Respondents’ Brief 17. As petitioners explain in their reply brief,

⁶ The decision sometimes states that the grade is 24 percent and sometimes states it is 27 percent. In any event, the grade is over 18 percent.

1 however, and as intervenors acknowledged at oral argument, the 15.23 percent
2 grade measurement came from a mistake in the March 11, 2025 staff report.
3 Record 870. The error was subsequently corrected by staff. Record 755, 805 (“on
4 page 4 of the Staff Report ‘15.23-percent’ needs to be corrected to ‘23-
5 percent.’”).

6 There is now no dispute that the grade of the proposed flag driveway is
7 significantly more than 18 percent. The plain terms of ALUO 18.5.3.060.F do
8 not allow a variance of over 18 percent grade. Intervenors do not offer any
9 argument as to how the city may approve a variance of over 18 percent grade
10 when ALUO 18.5.3.060.F specifically limits variances to no more than 18
11 percent. Intervenors also do not offer any alternative theory for how the city could
12 approve a grade of over 18 percent for the driveway.⁷ The city’s only justification
13 for granting the variance is that “no alternative driveway is available.” Record
14 10. The city has not identified and intervenors have not cited any legal exception

⁷ The petition for review addresses arguments apparently made by staff that a greater than 18 percent grade could be approved as a Type II variance pursuant to ALUO 18.5.3.060 or that the limitations can only be applied to Type I variances. Petition for Review 22-23. Intervenors-respondents’ brief does not advance this argument, and even if it did, we agree with petitioners that staff’s position is inconsistent with ALUO 18.5.3.060.

1 under which the city must or may allow a driveway over 18 percent grade based
2 on necessity. We agree with petitioners that the city misconstrued the law.⁸

3 The first subassignment of error is sustained.

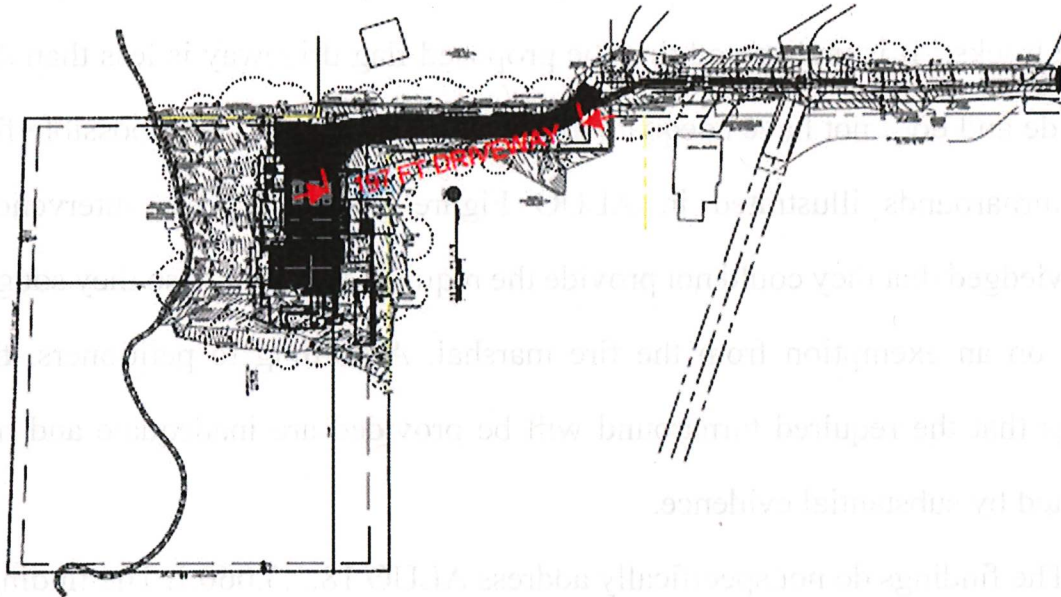
4 **B. Driveway Length**

5 ALUO 18.5.3.060.F only allows variances of up to 18 percent grade for
6 flag driveways “provided that the cumulative length of such variances across
7 multiple sections of the flag drive does not exceed 200 feet.” Here, all sections
8 of the driveway exceed 18 percent, so the overall length of the driveway may not
9 exceed 200 feet. The decision states that the proposed flag driveway is 197 feet
10 in length, but does not explain how that figure was determined. Record 10.
11 Petitioners argue that the city’s findings that the proposed flag drive is less than
12 200 feet are inadequate and not supported by substantial evidence. According to
13 petitioners, the proposed flag driveway is 223 feet in length.

⁸ As discussed under the first assignment of error, the interpretations of the planning commission are not entitled to *Siporen* deference. Even under *Siporen* deference, however, the city’s interpretation that a variance can be granted for grades of over 18 percent is inconsistent with the express language of the ordinance and would result in the same result.

Further, as we find that the city misconstrued the applicable law, we need not consider whether the findings in support of that interpretation are supported by substantial evidence.

1 The 197-foot figure is apparently based on a straight-line measurement
2 from the beginning of the driveway to the end of the driveway in an engineering
3 site plan for the driveway.



4
5 Record 966.

6 The 223-foot measurement is based on intervenors' own testimony.
7 Record 415, 449. The planning commission findings do not explain how it arrived
8 at the 197-foot driveway length determination. The planning commission
9 incorporates by reference materials that provide conflicting findings and
10 evidence – some of which support the 197-foot measurement and some that
11 support the 223-foot measurement. While measuring the distance as a straight
12 line rather than following the path of the driveway might be consistent with
13 ALUO 18.5.3.060.F, we agree with petitioners that the city's findings are
14 inadequate to explain how it reached that conclusion.

1 Finally, petitioners argue that the proposed flag driveway does not provide
2 the required fire truck turnaround. ALUO 18.5.3.060.J provides that when
3 required by the fire code, flag drives longer than 150 feet must have a turnaround
4 for fire trucks.⁹ It is undisputed that the proposed flag driveway is less than 40-
5 feet wide and does not have adequate area to implement any of the possible fire
6 truck turnarounds illustrated in ALUO Figure 18.4.6.040.G.5. Intervenors
7 acknowledged that they could not provide the required turnaround so they sought
8 to rely on an exemption from the fire marshal. According to petitioners, the
9 findings that the required turnaround will be provided are inadequate and not
10 supported by substantial evidence.

11 The findings do not specifically address ALUO 18.5.3.060.J. The findings
12 state:

13 “The Commission further notes that the proposal has been reviewed
14 by the Fire Marshal, and * * * the driveway grade and the final
15 driveway design will be reviewed by the Fire Marshal for
16 compliance with applicable fire codes. To ensure compliance with
17 the requirements for * * * driveway grade and turnout dimensions
18 and location * * * the Commission has included conditions of

⁹ ALUO 18.5.3.060.J provides:

“When required by the Oregon Fire Code, flag drives greater than 150 feet in length shall provide turnaround (see Figure 18.4.6.040.G.5). The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of 250 feet in length as allowed by Oregon Fire Code access exemptions.”

1 approval * * * addressing these criteria.

2 “* * * * *

3 “The Commission finds that the City of Ashland Fire Marshall has
4 reviewed the proposed driveway grades, turnout locations, and
5 hydrant access and has indicated that the proposal with the fire
6 suppression system provides adequate fire apparatus access and
7 does not substantially increase fire-fighting response times or
8 emergency vehicle access to adjacent properties.” Record 10-12.

9 The decision states that the fire marshal reviewed and approved the
10 proposed driveway grades and turnout locations. Intervenor’s argue that the “fire-
11 apparatus access was reviewed by the City’s Fire Marsal and acceptable
12 configuration was identified,” and that “the Fire Marshal advised that a turnout
13 designed to Jackson County standards could feasibly satisfy the access
14 requirement in lieu of a traditional turnaround.” Intervenor’s-Respondent’s Brief
15 18-19. The brief cites Record 919 for this proposition. Record 919, however, is
16 merely an email from the fire marshal to one of intervenor’s representatives
17 stating, in pertinent part:

18 “It was good to meet you today. As a recap of our discussion, for an
19 alternate turnaround I’ll consider a turnout designed to Jackson
20 County standards.”

21 As discussed earlier, adequate findings must: (1) identify the applicable
22 standards; (2) set out the facts relied upon; and (3) explain how those facts lead
23 to the conclusion that the standards are met. *Heiller*, 23 Or LUBA at 556. The
24 planning commission findings do not identify the applicable standard and neither
25 does the email from the fire marshal. Although intervenor’s do not identify

1 anywhere where the standard is addressed, petitioners identify a March 18, 2025
2 memorandum from the planning manager responding to public comments that
3 does address the standard. The planning commission incorporated that
4 memorandum into its findings. The memorandum first states the following public
5 comment:

6 “The applicant does not provide an emergency vehicle turnaround,
7 as required by ALUO 18.5.3.060.J, and there is no exception
8 provided from the Staff Advisor and Fire Code Official. This,
9 compounded with the very steep driveway, will likely interfere with
10 emergency vehicle response, particularly during fire season.”
11 Record 699.

12 In response to this comment, the planning manager states:

13 “[ALUO] 18.5.3.060.J requires a turnaround where required by
14 Oregon Fire Code, with the requirement to be determined in
15 coordination between the Staff Advisor and the Fire Code Official.
16 In this instance, the applicant has provided an e-mail from Ashland
17 Deputy Chief & Fire Marshal Mark Shay dated December 5, 2024
18 which indicates that he would consider a turnout designed to
19 Jackson County standards to meet the Fire Code Requirement. Such
20 a turnout is identified in the record.” *Id.*

21 The incorporated memorandum identifies the applicable standard – ALUO
22 18.5.3.060.J and sets out the facts relied upon – the email from the fire marshal.
23 However, neither the incorporated memorandum, the email from the fire marshal,
24 nor the findings explain how that fact leads to the conclusion that the standard is
25 met. ALUO 18.5.3.060.J requires that the proposed driveway have a turnaround
26 or an exemption must be obtained from the staff advisor in coordination with the
27 fire marshal. The proposed driveway does not provide a turnaround that complies

1 with city requirements and no exemption has been obtained from the staff advisor
2 and fire marshal. The fire marshal's offer to "consider" an alternate turnaround
3 is not the same thing as granting an exemption. Therefore, the findings do not
4 explain how ALUO 18.5.3.060.J is satisfied and are inadequate. We also agree
5 with petitioners that, even if the incorporated documents cumulatively are
6 adequate to establish that the planning commission concluded that ALUO
7 18.5.3.060.J is satisfied, such a finding is not supported by substantial evidence
8 because the fire marshal's email does not approve an alternative turnaround.
9 Finally, although the city imposed a condition of approval to comply with fire
10 standards, there are no findings that it is feasible to comply with the required
11 turnaround standard.

12 The second subassignment of error is sustained.

13 The second assignment of error is sustained.

14 **THIRD ASSIGNMENT OF ERROR**

15 Petitioners argue that the city made inadequate findings, misconstrued the
16 law, and made a decision not supported by substantial evidence in finding that
17 the hillside grading and erosion control provisions, and the tree conservation,
18 protection, and removal provisions are satisfied.

19 **A. Terracing**

20 ALUO 18.3.10.090.B.8.a provides:

21 "No terracing shall be allowed except for the purposes of developing
22 a level building pad and for providing vehicular access to the pad."

1 The decision approves terracing to the south of the proposed dwelling to
2 establish a multi-layer patio, with an upper, middle, and lower terrace. The
3 decision approves a terrace to the east of the dwelling for a pool, spa, pool house,
4 and sunbathing area. The decision also approves a terrace to the west of the
5 dwelling for planters and a waterfall. *See* Record 972-75.

6 Petitioners argue the city's findings regarding ALUO 18.3.10.090.B.8.a
7 are inadequate. The city's findings state:

8 "The Commission finds that the site grading has been proposed,
9 considering the factors found in [ALUO] 18.3.10.090.B.8. The area
10 of the proposed patio, pool, and pool deck is within an area of
11 excavation for the construction of the residence that will provide a
12 contractor staging area during the construction of the residence."
13 Record 8.

14 As discussed earlier, adequate findings must: (1) identify the applicable
15 standards; (2) set out the facts relied upon; and (3) explain how those facts lead
16 to the conclusion that the standards are met. *Heiller*, 23 Or LUBA at 556. The
17 city's findings marginally set out the applicable standard – ALUO
18 18.3.10.090.B.8.¹⁰ The city's findings marginally set out the facts relied upon –
19 the area for the proposed patio, pool, and pool deck is within a proposed staging
20 area.¹¹ The city's findings, however, do not explain how these facts lead to the

¹⁰ As petitioners point out, however, the findings do not specifically reference ALUO 18.3.10.090.B.8.a regarding terracing.

¹¹ The findings, however, do not discuss the proposed terraced areas for the waterfall and planters.

1 conclusion that the standard is satisfied. The findings do not discuss the
2 prohibition on terracing or explain why a staging area is sufficient to allow
3 additional terracing. Furthermore, the findings do not address petitioners'
4 arguments raised below that much of the proposed staging area is not necessary
5 to develop a level building pad – even if that were an acceptable basis to allow
6 additional terracing. Findings must address and respond to specific issues
7 relevant to compliance with applicable approval standards that were raised in the
8 proceedings below. *Norvell v. Portland Area LGBC*, 43 Or App 849, 853, 604
9 P2d 896 (1979). Therefore, the city's findings regarding ALUO
10 18.3.10.090.B.8.a are inadequate.¹²

11 This first subassignment of error is sustained.

12 **B. Swimming Pool and Spa**

13 ALUO 18.3.10.090.B.8.c provides:

14 “Building pads should be of a minimum size necessary to
15 accommodate the structure and a reasonable amount of yard space.
16 Pads for tennis courts, swimming pools and large lawns are
17 discouraged. As much of the remaining lot area as possible shall be
18 kept in the natural state of the original slope.”

19 The footprint for the proposed residence and garage is 3440 square feet,
20 while the building pad includes a significantly larger area for the swimming pool,

¹² As the city's findings are inadequate, we do not address petitioners' arguments regarding misconstruction of the law or lack of substantial evidence.

1 pool house, and spa. Petitioners argue that the city's findings regarding ALUO
2 18.3.10.090.B.8.c are inadequate. The city's findings state:

3 "The Commission finds that the pool is a lap pool, proposed in an
4 area where the majority of the existing grade is slopes of less than
5 25 percent. The Commission finds that pools are discouraged but
6 not prohibited. The Commission finds that the proposed location of
7 the proposed building pad, the patio area, and the pool are in an area
8 of least slope, closest to the driveway access location, with as much
9 of the remaining lot area as possible retained in the natural state of
10 the original slope." Record 8.

11 There are essentially three prongs to ALUO 18.3.10.090.B.8.c: (1)
12 minimum building pad size necessary for structure and yard; (2) swimming pools
13 are discouraged; and (3) keep as much of remaining lot area in a natural state.
14 The city's findings address the third prong adequately, but petitioners do not
15 challenge the decision under that prong. The city's findings quote the second
16 prong that swimming pools are discouraged but make no attempt to explain why
17 a swimming pool is allowed in this case even though they are discouraged.
18 Merely stating that swimming pools are not prohibited does not explain why
19 allowing a swimming pool is permitted when they are discouraged. The city's
20 findings also make no attempt to address the first prong and explain why the
21 building pad size is the minimum necessary for the structure and yard. The city's
22 findings may identify the applicable standard and set out some facts, but they do
23 not explain how those facts lead to the conclusion that the standard is met.

1 Therefore, the city's findings regarding ALUO 18.3.10.090.B.8.c are
2 inadequate.¹³

3 This second subassignment of error is sustained.

4 **C. Tree Preservation**

5 ALUO 18.3.10.090.D.3.b provides:

6 "Building envelopes shall be located and sized to preserve the
7 maximum number of trees on site while recognizing and following
8 the general fuel modification standards if the development is located
9 in Wildfire Lands."

10 The building envelope is defined as that area "within which a permitted
11 building can be placed." ALUO 18.6.1.030. Petitioners argue that the city
12 violated this standard by including oversized terraces, a swimming pool, a spa,
13 and an outdoor kitchen that almost double the size of the building envelope
14 resulting in the proposed removal of more than 40 of the 74 trees located within
15 or adjacent to the footprint for the improvements. The city's decision does not
16 address ALUO 18.3.10.090.D.3.b. The only thing that addresses this provision is
17 the incorporated staff response to public comments, which states:

18 "As noted elsewhere, the proposed building envelope is as near the
19 driveway access as possible which minimizes disturbances to the
20 site and avoids additional site disturbance and tree removal which
21 would be required if the driveway were extended to construct a
22 building elsewhere, further up the slope." Record 694.

¹³ As the city's findings are inadequate, we do not address petitioners' arguments regarding misconstruction of the law or lack of substantial evidence.

1 The city's incorporated findings identify the applicable standard – ALUO
2 18.3.10.090.D.3.b. The city's findings set out the facts relied upon – that the
3 location of the building envelope minimizes disturbances to the rest of the site.
4 The city's findings, however, do not explain how those facts lead to the
5 conclusion that the standard is met. As petitioners point out, ALUO
6 18.3.10.090.D.3.b requires that the building envelope not only be "located" to
7 preserve the maximum number of trees but also that it be "sized" to preserve the
8 maximum number of trees. The findings do not address, let alone explain, how
9 the proposed building envelope is sized to preserve the maximum number of
10 trees. Therefore, the city's findings regarding ALUO 18.3.10.090.D.3.b are
11 inadequate.

12 The third subassignment of error is sustained.

13 The third assignment of error is sustained.

14 **FOURTH ASSIGNMENT OF ERROR**

15 Petitioners argue that the city made inadequate findings, misconstrued the
16 applicable law, and made a decision not supported by substantial evidence in
17 finding that the application satisfies the approval criteria for a variance to the flag
18 driveway grade and length standards. As we have sustained petitioners' second
19 assignment error that a variance is not available for a proposed driveway grade
20 of over 18 percent, it would serve no purpose to address petitioners' argument
21 regarding the approval criteria for a variance that cannot be obtained.

22 We do not reach the fourth assignment of error.

1 **DISPOSITION**

2 Petitioners argue that because intervenors seek a variance for a grade of
3 over 18 percent for the flag driveway and variances for more than 18 percent
4 grade are not possible, intervenors cannot provide access to the proposed
5 dwelling as a matter of law. According to petitioners, because access cannot be
6 provided as a matter of law, the decision should be reversed. OAR 661-010-
7 0071(1)(c). While intervenors may be precluded from obtaining a variance for
8 the proposed driveway, we cannot say as a matter of law that there is no other
9 way to provide to access to the proposed dwelling. Therefore, remand is the
10 proper disposition. OAR 661-010-0071(2)(d).

11 The city's decision is remanded.

Certificate of Mailing

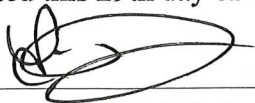
I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2025-053 on April 29, 2026, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Christian E. Hearn
Davis Hearn Anderson & Turner, PC
515 E Main Street
Ashland, OR 97520

Johan Pietila
20 E Main St
Ashland, OR 97520

William H. Sherlock
Hutchinson Cox
940 Willamette St
Ste 400
Eugene, OR 97401

Dated this 29th day of April, 2026.



Erin Pence
Executive Assistant

Hannah Barkemeyer Baker
Executive Support Specialist

BEFORE THE ASHLAND CITY COUNCIL
December 2, 1997

Amendments to Chapter 18.62 of the	)
Ashland Municipal Code to Adopt	) Findings in Support of
Hillside Development Standards	) Legislative Adoption of
(Planning Action 97-044)	) Ordinance 2808

RECITALS:

A. The procedure for the adoption of legislative amendments to the Ashland Land Use Ordinance (ALUO) (Title 18 of the Ashland Municipal Code (AMC)) is set forth in AMC Ch. 18.108.170.

B. The planning commission held a public hearing on June 10, 1997, at which time persons appeared and statements were given and exhibits were presented regarding the proposed amendments to AMC Ch. 18.62. The planning commission approved the amendments and recommended approval to this council as provided in AMC § 18.108.170.

C. This council held a public hearing on August 5, 1997, after first publishing notice in the newspaper and meeting the requirements of AMC § 18.108.170. Subsequently, for the reasons explained below, the council held another public hearing on November 18 and 19, 1997, after notice meeting the requirements of § 18.108.170.

D. No specific criteria exist in the ALUO or the Ashland Comprehensive Plan for the adoption of legislative amendments. By statute, however, such amendments may be reversed or remanded by the Land Use Board of Appeals pursuant to ORS 197.835(7) if:

"(a) The regulation is not in compliance with the comprehensive plan; or

(b) The comprehensive plan does not contain specific policies or other provisions which provide the basis for the regulation, and the regulation is not in compliance with the statewide planning goals."

The adoption of legislative amendments to the ALUO must comply with the comprehensive plan (ORS 197.175, ORS 197.835). The following specific policies of the comprehensive plan apply to the hillside development standards amendments to ALUO Ch. 18.62 (Ordinance 97-2708):

1. The Environmental Resources Chapter of the Comprehensive Plan (Chapter IV) contains numerous specific policies and provisions which this ordinance implements and is in compliance with.

1.1. This plan chapter recognizes that development on the steeper slopes within the city is fraught with problems:

"Future development on steeper slopes and on granitic terrain should be planned with the contours of the terrain in mind, rather than following a rectangular grid. In many areas of the city, streets are impassable during icy conditions due to steep grades. Rain showers often tend to be short and intense, favoring a high surface runoff. Deeply weathered, easily eroded plutonic terrain commonly silts local storm drains, and diverts volumes of water down the north-trending streets, occasionally flooding streets and private property. These negative effects could be diminished by strict development controls on areas over 20% slope." (Plan p. IV-4, emphasis added.)

We find that the area subject to the hillside standards ordinance is on steeper slopes and on granitic terrain. Further we interpret the phrase "steeper slopes" as used in this provision to include slopes of 35% or greater.

1.2. Another provision of the plan specifically addresses the problems with cuts and excavations in granitic soils and steep slopes:

*"The Ashland planning area has a moderate to high landslide potential, especially where granitic terrains and steep slopes exist. * * * * * To prevent activating potential slides, deep cuts and excavations should be forbidden without extensive engineering and geologic study, surface runoff should be directed toward existing natural drainage, and clearing vegetation on especially steep slopes should be prohibited." (Plan p. IV-4.)*

We find that the area to which this ordinance will be applied has a moderate to high landslide potential with granitic terrains and steep slopes. Further, we interpret slopes exceeding 35% to be especially steep slopes to which this provision applies.

1.3. Limiting development on steep slopes and granitic soils complies with the following specific policy:

"Areas of steep slope on highly erosive granitic soils are very sensitive to development activities. The best control to erosion is to limit development in areas that are sensitive." (Plan p IV-8)

We find that the slopes to which this ordinance applies to be areas of highly erosive granitic soils.

2. Many of the requirements of this ordinance support the goal within the Environmental Resources Chapter addressing the importance of erosion control. The goal set forth on Plan page IV-8 states:

"Have sound soil conservation and erosion control practices in and around Ashland."

2.1. While the goal itself is not very specific, we interpret several policies under the goal to be quite specific. Policy IV-5 requires

"that development be accommodated to natural topography, drainage, and soils and make maximum use of existing vegetation to minimize erosion." (Plan p. IV-8.)

We interpret this to mean that development may occur on slopes but to the extent that lots can be left in their natural state, they should be. Amendments to ALUO Ch. 18.62 accommodate development in such a manner. See § 18.62.080.E. - Building Location and Design Standards regarding accommodating natural topography, § 18.62.080.C. - Surface and Groundwater Drainage regarding drainage, § 18.62.080.B. - Hillside Grading and Erosion Control regarding soils and § 18.62.080.B. and D regarding erosion control and vegetation.

2.2. Another specific policy implemented by this ordinance is Policy IV-6 at Plan page IV-8:

"Prevent development and land management practices which result in rapid runoff and accelerated erosion."

We interpret this section to especially impact slopes of 35%. The steeper the slope the more rapid the runoff where development occurs and the more accelerated the erosion. Sections 18.62.080.C. - Surface and Groundwater Drainage and 18.62.080.B. - Hillside Grading and Erosion Control are in compliance with this policy and provide the controls necessary to implement it.

2.3. Policy IV-7 specifically recognizes the role construction activities play in erosion:

"Require site-preparation procedures and construction practices which minimize erosion and sedimentation." (Plan p. IV-8)

Ordinance § 18.62.080.B - Hillside Grading and Erosion Control complies with this section by implementing the necessary controls.

2.4. Adequate drainage is recognized as essential in managing runoff to prevent erosion and is addressed in plan policy IV-8:

"Protect essential hillside drainage areas for absorption of storm runoff, and other areas subject to severe soil erosion, unless control can be established."

We interpret slopes 35% and above as areas subject to severe soil erosion and therefor should be protected under this policy. ALUO section 18.62.080.B. - Hillside Grading and Erosion Control implements and is in compliance with this policy. The ordinance is also in compliance with plan policy IV-9: *"Incorporate site drainage practices that reduce runoff velocity and volume, by utilizing the natural properties of*

the soils and vegetation in conjunction with sound engineering practices" which is implemented through section 18.62.080.C. - Surface and Groundwater Drainage.

2.5. Probably the most controversial part of this ordinance is its application to slopes 35% or greater as opposed to 40%. We find that the reduction in slope percentage is in compliance with the following policies:

"Policy IV-10. Insure that areas of general slope over 30% are zoned for two dwelling units per acre or less, and permit total lot coverage to be no more than 20%.

"Policy IV-11. Restrict any new partitioning or subdivision of land on slopes greater than 40%."

These policies are implemented by section 18.62.080.A. - General Requirements. Policy IV-11 does not preclude this council from being more restrictive on partitions and subdivisions by relegating such development to slopes less than 35%. We interpret this policy as allowing greater restrictions. We also interpret our comprehensive plan to permit implementation of the plan through ordinances more restrictive than that which the plan may allow. In addition, we note that the comprehensive plan goal at plan page IV-20 specifically allows development to be directed to slopes less than 40%:

"Goal: Direct development to areas that are less than 40% slope. Allow only low density development at less than two dwelling units per acre on areas of greater than 30% slope. Permit only low intensity development of steep lands, with strict erosion control and slope stability measures."

We find that directing development to slopes of 35% or less and consequently restricting development above 35% complies with this goal. We interpret this goal as permitting restrictions on development as long as the slopes are less than 40%. We do not interpret this goal as requiring development on all slopes up to 40%.

In the same light, we interpret policy IV-35 in the same manner. This policy reads:

"Restrict creation of new lots on land that is greater than 40% slope, unless a buildable area of less than 40% slope is available on each lot."

We do not interpret this policy as requiring us to permit new lots on all slopes up to and including 40%. We are required by this policy to restrict development above 40% but we are not precluded from also restricting development below 40%. We find the restrictions in this ordinance limiting development to slopes 35% or less to be in compliance with the goal and policy quoted above.

We recognize, as argued by some opponents of this ordinance, that houses appropriately engineered may be safely constructed on steeper slopes. That argument misses the point, however. Continued development on these steeper slopes inevitably

means more streets, more driveways, more cuts, more fills, more soil disturbance. The cumulative impact of the construction necessary to provide access to such homes increases the chance, and perhaps ensures, that slope failures will occur. By restricting such development, we lessen the odds that such failures will occur. Lowering the odds also complies with the following specific housing element plan policy :

"Slope protection and lot coverage performance standards shall be used to fit development to topography, generally following the concept that density should decrease with an increase in slope to avoid excessive erosion and hillside cuts. This objective shall be used consistent with the desire to preserve land by using the smallest lot coverage possible". Policy 3(a) at plan p. VI-11.

We find by reducing the slope percentage to 35% also complies with the following specific plan policies:

"Zone all lands which have a slope generally greater than 30% for development that will have no more than 2 dwelling units per acre or 20% lot coverage by impervious surfaces." Policy IV-36 at plan p. IV-20.

"Forbid any new development or cuts and fills on slopes greater than 50% unless absolutely necessary and scientific and geologic evidence is available showing that it may be done safely. Policy IV-12 at plan p. IV-8.

These policies are implemented by ordinance sections 18.62.080.A. - General Requirements and 18.62.100 - Development Standards for Severe Constraint Lands.

3. By limiting the amount of soil disturbance through the requirement of leaving as much land in its natural state as possible (short of precluding all development), other specific plan goals and policies are complied with and implemented by this ordinance:

"Use development performance standards based on the natural topography, drainage, soils, lot coverage, and densities in place of arbitrary subdivision standards to ensure that natural features are an integral part of the design phase of future developments. Policy IV-13 at plan p. 8.

"Preserve forest areas within and around the city for their visual, environmental, wildlife habitat, and water quality values." Plan goal at page IV-19.

"Emphasize the preservation of forest vegetation to the extent feasible as forested areas of the City are converted to urban uses." Policy IV-37 at plan p. IV-19.

This goal and these policies are implemented by ordinance section 18.62.080.D. - Tree Conservation, Protection and Removal and we find this section to be in compliance with them. See also policy IV-38 at page IV-19: *"Use low-density zoning to ensure that*

development of the forested hillsides is kept at a level that maintains the forested integrity of the areas."

4. The ordinance meets all comprehensive plan policies for housing. The goal of the comprehensive plan is 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." Plan goal at page VI-11.

During the course of the many public hearings, committee meetings, phone calls and conversations we have observed or been involved with, many persons raised the issue of the effect of this ordinance on affordable or needed housing and on buildable lands.

4.1. There is no comprehensive plan policy that requires affordable, moderate or low income housing to be located on the hillsides. In the words of the Community Development Director:

"It has not been the City's policy to meet affordable housing needs through new development on hillside lands. It is recognized that hillside development generally involves higher cost property, greater construction costs, and additional economic obstacles that make the provision of truly affordable housing (affordable to households at median income or below) unrealistic. As an example, the City defines moderate cost housing (affordable to households at 125% of median income for Jackson County) to be \$113,000. The average sales price of single family homes in Ashland in 1996 was \$163,110, or approximately \$50,000 above moderate cost housing. The average assessed value of single family homes within the hillside area of Ashland is approximately \$207,152, or approximately \$94,000 above moderate cost housing and \$44,000 above the average sales price of Ashland homes.

"Recognizing that the \$207,152 value is for existing homes, and that newly constructed homes tend to be higher in value than existing homes, it is very unlikely that any truly affordable housing would be created on existing hillside properties, with or without this ordinance." Memorandum to Ad Hoc Hillside Ordinance Committee from John McLaughlin, Director of Community Development dated November 3, 1997.

We find persuasive and credible the information supplied by the Director of Community Development and adopt this information as a finding.

We also find that in determining the impact the new development standards for hillside lands would have on the City's buildable lands inventory, the planning department utilized the existing vacant lands inventory prepared by the city. This inventory was prepared and presented to the City Council in January, 1996.

The vacant lands inventory was prepared by doing a site inspection of all vacant parcels within the city limits of Ashland. The site inspection information was combined with tax lot information to accurately determine size and zoning of the parcel. The

planning department assigned a potential development number to each parcel, indicating the likely number of dwelling units that would be developed. This portion of the analysis took into account several factors, including slope, street access, and utility availability. A conservative approach was taken in determining the developability of each parcel. The purpose was to not unrealistically inflate the total number of potential dwelling units available within the city when utilizing the information in growth management analysis.

For the buildable lands analysis of the hillside ordinance, the planning department utilized the vacant lands inventory, identifying all vacant parcels within the Hillside Lands overlay. From that identification, 415 potential dwelling units were determined to be in the new overlay area. Each of the parcels were then further reviewed for development potential. 38 parcels were identified as having development potential beyond one unit. 219 parcels were identified as having a development potential of one unit, and no further analysis was performed on these parcels.

Of the 38 parcels identified as having further development potential, each lot was then examined for slope utilizing the city's topographic maps. The city has a topographic survey of lands within the city limits at 1"=100' scale, with a contour interval of 5'. Of the lots reviewed, nine were determined to have potential limited developability due to the new hillside standards. Those lots and the estimated impact are as follows:

<u>Map ID</u>	<u>Inventory</u>	<u>After 35% limit</u>	<u>Zone</u>
39-1E-16AB 1900	8	6 (-2)	R-1-7.5
39-1E-16AB 2001	4	3 (-1)	R-1-7.5
39-1E-05BA 1700	8	6 (-2)	R-1-7.5P
39-1E-08AC 101	10	6 (-4)	RR-.5-P*
39-1E-08AC 200	10	6 (-4)	RR-.5-P*
39-1E-08AC 201	8	4 (-4)	RR-.5-P*
39-1E-08AC 500	10	3 (-7)	RR-.5-P
39-1E-16AC 300	10	3 (-7)	RR-.5-P
39-1E-16BC 100	5	3 (-2)	WR
TOTALS	73	40 (-33)	

* These three properties are part of a proposal at the top of Strawberry Lane in an area identified as Hillside Lands. The reductions are proposed by the applicants as part of their subdivision request, and may not necessarily be due to slope limitations from the new hillside ordinance.

The total impact is a potential reduction in the inventory of buildable units of 33 dwellings. Again, the planning staff took a conservative approach in determining the impact. Other opportunities are available in the ordinance for maintaining the developability of the parcel, specifically through the density transfer option.

In summary, the city identified a potential of 415 new dwelling units possible in the Hillside Lands overlay. Of that total, 33 units may not be built due to slope constraints. From the city's vacant lands inventory, there were 1674 potential units

within the entire city limits, and the reduction of 33 units only results in less than a 2% loss of total buildable units.

Further, from the vacant lands inventory of the city, there is a 36 year inventory of buildable units in large lot zoning within the city limits. With the estimated potential reduction (28 units in these zones) as a result of the ordinance, the inventory is reduced to a 33 year supply, still well in excess of a 20-year inventory for this housing type. Within the R-1 zone, the inventory indicates a 10-year supply of buildable units. With the estimated potential reduction (5 units in these zones), the inventory remains at approximately 10-years, in excess of the 5-year supply indicated by Policy XII-1 of the Ashland Comprehensive Plan.

We find information supplied through the Medford planning consultant and others retained by the Rogue Valley Association of Realtors to be less credible. Admittedly they did not utilize the reports and information available to them in their projection of the impact this ordinance would have on buildable lands. From the information submitted in the record by the Rogue Valley Association of Realtors, through their agent Richard Stevens, of the Richard Stevens Company, it was stated that 1129.31 dwelling units would be lost due to the ordinance. There is a great discrepancy between this estimate and that of the Planning Department - 33 units.

It appears that Mr. Stevens used a very broad-brush approach in arriving at this estimate. From a generalized slope map of the City prepared at a 1"=800' scale, Mr. Stevens estimated lands greater than 25 and 35 percent slope. He then utilized the zoning map to generalize the area of different zoning districts within these slopes. It appears that he then assigned a density factor to each zone classification, resulting in the total number of units that would be determined to be unbuildable.

The difficulty with Mr. Stevens approach is that he assumed that already developed parcels would be unbuildable, that existing streets and right-of-way had development potential that would be unbuildable, and that city-owned parks and open space had development potential that would be unbuildable. By not utilizing a parcel by parcel analysis, with accurate slope information, Mr. Stevens has grossly over-estimated the impact of the ordinance.

We find that the methodology utilized by the planning department accurately indicates the impact of the proposed hillside ordinance on the City's buildable lands inventory.

5. Late objections to this ordinance were first raised by the Rogue Valley Association of Realtors two months after the August 5 public hearing held by this council. The objection to the citizen participation process raised by this group deserves some response. The two and one-half year citizen involvement process in the development of this legislation was one of the most involved and comprehensive efforts undertaken by the city. The applicable goal and policies of the plan read for citizen involvement as follows:

"To maintain a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. Plan Goal at page III-2.

Policies:

1) Continue the existing Ashland Citizens' Planning Advisory Committee to assist the Ashland Planning Commission and Ashland City Council on significant planning issues, implementing ordinances, and all LCDC and Comprehensive Plan goals.

2) Ensure, as much as possible, that the 16-member Citizens' Planning Advisory Committee represents a geographic, occupational and ideological cross-section of the citizenship of Ashland. All future selections to the Committee should be with the ideal of representing a cross-section of Ashland's population.

3) Ensure in the future that all citizens are given the opportunity to contribute their views to planning issues through the public hearing process.

4) The City shall sponsor informal workshops during the development of significant elements of the Plan or implementing ordinances, so that complex issues may be better understood by the public." Plan policies are located at page III-2.

The process started in June 1995 in a planning commission study session for which public notice was given. Eventually the process involved many concerned citizens, affected owners, builders, real estate brokers, elected and appointed city officials all of whom participated in numerous meetings, study sessions including joint city council and planning commission sessions and several public hearings. The process included the following:

Initial PC Study Session	6/27/95	Legal notice in newspaper.
Concerned Citizens Meeting	3/11/96	Article in paper, notices mailed.
Concerned Citizens Meeting	3/16/96	Article in paper, notices mailed.
Sub-committee - Architecture	3/18/96	Article in paper
Sub-committee-Land Integrity	3/20/96	Article in paper
Sub-committee- Fire/Traffic	4/3/96	Article in paper
Concerned Citizens Meeting	4/8/96	Article in paper, mailed notice
Concerned Citizens Meeting	4/29/96	Article in paper, previous meeting notice
First Draft by Planning Staff and PC/Concerned Citizens		
Review Meeting	6/17/96	Mailed notice
Concerned Citizens Meeting	7/8/96	Mailed notice + article in paper
Planning Commission		
Study Session	7/30/96	Mailed notice + newspaper
Concerned Citizens Meeting	10/2/96	Notice by Concerned Citizens

Technical Committee Review	11/21/96	Mailed notice to committee members
PC/City Council Study Sess.	11/26/96	Mailed notice + newspaper notice
Technical Committee Review	4/9/97	Mailed notice to committee members
Technical Committee Review	4/16/97	Mailed notice to committee members
PC/City Council Study Sess.	4/29/97	Newspaper notice
Concerned Citizens Meeting	6/2/97	Notice by Concerned Citizens
Planning Commission		
Public Hearing	6/10/97	Newspaper notice
City Council Public Hearing	8/5/97	Newspaper notice
City Council/First Reading	9/2/97	Newspaper, published agenda
City Council/Second Reading	9/16/97	Newspaper
City Council/Second Reading	10/7/97	Newspaper
First Ad hoc committee meeting ¹ :	10/20/97	Newspaper ad
Second Ad hoc committee meeting	11/3/97	announced at previous meeting
City Council Public Hearing	11/18/97	Newspaper notice
	11/19/97	

The objections to this process essentially revolve around the lack of involvement by the Citizen's Planning Advisory Committee described in the plan policy noted above. We find, however, that the process used in the adoption of this ordinance complies with the comprehensive plan goal and policies related to citizen participation. The goal of maintaining "a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process" has been met by the numerous meetings, study sessions and public hearings described above. The policies for citizen involvement have also been met. Policy 1 quoted above requires the CPAC to assist the planning commission and city council on ordinances implementing the comprehensive plan. We do not interpret this provision, however, as requiring CPAC to meet and assist on every ordinance. The prefatory language on plan page III-1 explains:

"This committee will shoulder the bulk of the ongoing citizens' involvement in the planning process. All major changes in Plan direction or implementation will be reviewed by the committee, and the committee will be responsible to assist in increasing communication between the City and the government decision-makers." (Emphasis added.)

¹ Created by the council with members appointed by the mayor for further review of the ordinance and additional public input.

We interpret this language to mean that not all ordinance adoptions are required to be processed through CPAC. In addition we do not interpret this ordinance to be a major change in the implementation of the plan. We find the amendments to be of significant importance to the city and those directly and indirectly affected by the ordinance, but matters of significant importance do not signal a major change in the manner the plan has been and is being implemented.

We also find that the any perceived imperfection in the process by not utilizing CPAC was more than cured by the "geographic, occupational and ideological cross-section of the citizenship" appointments by the mayor to the ad hoc committee who met, conducting public hearings and made recommendations to the council prior to the final public hearing held by the council. This committee was made up of two engineers, a residential building contractor, a realtor, two council members who are otherwise employed by or owners of private businesses and one citizen activist who is employed by the Rogue Institute for Ecology and Economy. The committee members live in all sections of the city including the hillside areas. Similarly the planning commission members, who held at least five study sessions and meetings on the ordinance plus one public hearing, represent a geographical, occupational and ideological cross-section of the community.

We also find that policy 3 was complied with as there was notice and opportunity for public input in the three public hearings conducted by the planning commission and council regarding this ordinance.

DECISION

We find that ordinance 97-2708 is in compliance with the comprehensive plan and that the comprehensive plan contains specific policies and provisions which provide the basis for this ordinance.

APPROVED AND ADOPTED BY THE CITY COUNCIL ON DECEMBER 2, 1997.


Mayor Catherine Golden



Outlook

PA-L-2026-00020

From Suzanne <srm.origami@gmail.com>

Date Sat 8/8/2026 4:29 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

Because the climate in Ashland, as in all of Oregon, is now especially dangerous for residents and community responders alike I strongly oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3060F(Ordinance #3309) Planning Action PA-L-2026-00020.

Eliminating the current upper limits on driveway grades sets a steep precedent counter to safety and common sense. Put the well-being of the thousands above the short-sighted wants of the very few.

Suzanne and Ed McBride
2241 Chitwood Lane
Ashland, OR 97520

Planning Action PA-L-2026-00020

From Catherine Ellison <cmellison@comcast.net>

Date Sat 8/8/2026 8:38 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

Cc Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

>>

>> Dear Planning Commission Members:

>>

>> I am sending you a note about my opposition to the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F (SB 974 Changes, City File No. PA-L-2026-00019). The proposed amendments to ALUO 12.5.3.060.F are not required by SB 974 (2025). And the proposed changes are not consistent with state law. Plus the proposed changes are inconsistent with the City Of Ashland's Comprehensive Plan, and Wildfire Protection Plan. And in my humble opinion they set a dangerous precedent.....

>>

>> These proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon..... this will endanger Ashland citizens, first responders, and the environment.

>>

>> As a homeowner who resides on Iowa Street near Terrace Street (a 24% grade) in the City of Ashland, I have had the opportunity to experience the disasters which happen on such a steep grade.... I don't think it matters whether the street or driveway it is a public street or a private one....visitors and first responders to a private property fed by a driveway which exceeds the legal grade are put at great risk.

>>

>> On a more personal note, for the past 2 winters when we have had snowfall, citizens of our town try to drive up the Iowa Street 24% grade with serious consequences. Winter of 2025 a nice BMW SUV slid backwards from the top of Iowa near Terrace St., completely out of control, and crashed into my own car parked in my private driveway.... Luckily no one was hurt. It took a month and many thousands of dollars to repair everything. As well, because of no traction, people have parked their cars in my driveway, or blocking my driveway when they are unable to get up the hill, and have left them there because of the snow and no traction..... Another incident involved a local attorney who couldn't ascend the steep hill due to poor tires, etc thus he parked near my driveway. A later driver without traction drove to the top of the hill and slid backwards crashing into his car, and again blocking my driveway overnight (if I'd had a medical emergency, I could NOT have gotten out.....). My neighbors one house down the hill have had their brick wall knocked out every couple of years because of people misjudging Iowa street and sliding into the landscape..... My boxwood hedge has been destroyed in the past also.... I envision a steep one lane private driveway with 24% grade (or really anything steeper than the legal limit) and snowy conditions especially could block emergency access.

>>

>> So I would like to say that you are inviting MORE problems by allowing changes in the law, especially for city employees in winter, and even for the local hospitals..... The proposed changes are internally

inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%.

> >

> > In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that these amendments be rejected.

> >

> > Sincerely,

> >

> > Catherine M. Ellison MD

> > 295 Iowa Street

> > Ashland Oregon 97520

>

Hutchinson Cox

William H. Sherlock • Attorney • Of Counsel
lsherlock@eugenelaw.com

Dawn A. Furtado • Senior Paralegal
dfurtado@eugenelaw.com

Zack P. Mittge • Attorney
zmittge@eugenelaw.com

August 7, 2026

Via E-mail PC-public-testimony@ashlandoregon.gov and derek.severson@ashlandoregon.gov

Ashland Planning Commission
c/o Planning Supervisor Derek Severson
Ashland Planning Department
20 East Main Street
Ashland, OR 97520

RE: SB974 Changes
City File No.: PA-L-2026-00020
Our Clients: Len and Karen Eisenberg, Kent and Pamela McLaughlin

Dear Planning Commissioners:

On behalf of our clients, Len and Karen Eisenberg, and Kent and Pamela McLaughlin, we hereby provide comments in opposition to the proposed amendment to flag drive standards in the proposed amendments to the City of Ashland Municipal Code. Please include this letter in the record of these proceedings and provide copies of all future notices associated with the proposed amendments to our office.

A. The Proposed Changes are Contrary to State Law.

Although packaged with the legislative amendments for Oregon Senate Bill (SB) 974 (2025), the proposed amendments to the flag drive standards at Ashland Land Use Ordinances (ALUO) 18.5.3.060.F are both contrary to state law and not legislatively required.

Oregon municipalities exercise planning and zoning responsibilities in accordance with state comprehensive land use planning requirements. ORS 197.175 mandates that cities and counties prepare, adopt, amend, and revise comprehensive plans in compliance with goals approved by the Land Conservation and Development Commission and enact land use regulations to implement those comprehensive plans. ORS § 197.175. The Oregon Legislative Assembly has found that uncoordinated land use threatens the orderly development, environment, health, safety, order, convenience, prosperity, and welfare of the people of Oregon. ORS § 197.005.

eugenelaw.com



940 Willamette Street, Suite 400
Eugene, Oregon 97401

Mail: PO Box 10886
Eugene, Oregon 97440

Phone: (541) 686-9160
Fax: (541) 343-8693

Pursuant to ORS 197.180, state agencies and local governments must carry out planning duties and take actions affecting land use in compliance with adopted goals and in a manner compatible with acknowledged comprehensive plans and land use regulations. ORS § 197.180. Due to the statewide concern relating to the availability of safe housing, local governments must ensure that development standards do not discourage needed housing through unreasonable cost or delay. ORS 197.307. However, local governments must maintain clear and objective standards for safety through the authorized issuance of land use regulations that restrict or prohibit activities for the protection of public health and safety. ORS § 195.305(3)(b).

While SB 974 was adopted in June of 2025 to streamline certain residential development processes, it is very careful not to impact residential design standards that protect the public from natural hazards, and particularly the risk of fire. Indeed, the Senate Bill’s streamlining expressly “does not apply to land use regulations or requirements that are related to...accessibility, fire ingress or egress, public health or safety...or that implement statewide planning goals relating to....natural hazards.” SB 974, § 8(2).

However, staff are trying to boot-strap amendments to section 18.5.3.060.F, which would adversely impact accessibility, fire ingress and egress, public health and safety, and the City’s attempts to protect the public from natural hazards.

The specific provision at issue, section 18.5.3.060.F, establishes the maximum grade for driveways that serve flag lots. Under the land use standards currently in effect, the maximum grade for a flag drive is 15%, but the City may permit variances which allow driveway grades up to 18%.¹

As the Oregon Land Use Board of Appeals (LUBA), recently determined “[t]he plain terms of ALUO 18.5.3.060.F do not allow a variance of over 18 percent grade.” *Eisenberg et al. v. City of Ashland*, Or. LUBA (LUBA No. 2025-053; April 29, 2026) (*slip op* at 15).

The proposed amendments would eliminate that 18% maximum grade cap for flag drives serving any existing lot. Under the terms of the proposed amendments, the 18% cap on flag drive grades does not apply to any existing lots and would only expressly apply to “newly created lots” after the date of the amendment.²

¹ “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.”

² “Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives serving newly created lots 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. Variances may also be approved for grades in excess of 18 percent for driveways serving pre-existing legal lots of record which would otherwise be inaccessible. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances.”

The Oregon State Fire Code establishes minimum standards for the protection of life and property against fire, based on applicable standards prescribed from time to time by the National Fire Protections Association. ORS § 476.120; OAR 837-039-0006(1). To establish uniform protections throughout the state, the Oregon state legislature charged local jurisdictions with adopting either the state fire code or a local fire code that is equal to or more stringent than the protections in the state fire code standards. OAR 837-039-0006(2).

In this case, the proposed amendment is contrary to state law, as it would allow development that is inconsistent with the slope requirements of the fire code. In particular, Appendix D, section D103.2 of the Oregon Fire Code, adopted and unmodified by the City of Ashland, specifies that “Fire apparatus access roads shall not exceed 10% in grade.”³ Or. Fire Code app. D, § D103.2 (2025).⁴

As SB 974 does not require the City to adopt variance standards to its fire ingress or egress standards, and the proposed amendments are contrary to the minimum standards imposed by the Oregon Fire Code, we respectfully request that the Planning Commission recommend removal of the proposed amendments to ALUO 18.5.3.060.F.

B. The proposed change is contrary to the City of Ashland’s Comprehensive Plan.

The proposed amendments to ALUO 18.5.3.060.F are also inconsistent with the City’s comprehensive plan and specifically the City’s wildfire hazard provisions. The City’s comprehensive plan emphasizes the heightened risk and significant adverse impacts posed by wildfire in the community and particularly the risks of fire in the wildland/urban interface stating:

Wildfire hazard presents an unusually high threat to very important area environmental resources in Ashland, particularly in the forested area south of town. A wildfire in that area would adversely affect soils and slope stability and lead to increased erosion. If wildfire reached the Ashland watershed, resulting erosion would affect drinking water quality. Vegetation loss during a wildfire would increase precipitation runoff, thereby increasing flood potential. It would reduce shade and increase stream temperatures – a condition that would adversely affect fish resources. Air quality would suffer during the wildfire burn, especially if the valley was experiencing an air inversion – a frequent event during the local wildfire season.

* * * *

During the past decade many people have declared their intention to ‘get back to nature.’ Many people are leaving metropolitan areas, building houses in forested natural settings, and leaving vegetation right up to the sides of their dwelling. Although no guarantee can protect a house in such a setting from wildfire, preventative measures can be taken to reduce the hazard. Recent land use policies have put added

³ The provision of Appendix D is specifically adopted into the requirements of the Oregon Fire Code by section 101.2.1.

⁴ ORC app. D, §103.2 was adopted by the City of Ashland in its Municipal Code under Section 15.28.010 and left unmodified by Section 15.28.070.

development pressure on hillsides and valley lands are not being preserved for agricultural purposes. The Ashland city limits abut National Forest land in these hillside areas which lead immediately into the Ashland Watershed.

City of Ashland, Or., *Comprehensive Plan* § 4.25, at 29–30 (July 2005). [hereinafter *Comprehensive Plan*]. To protect “life, property and environmental resources in Ashland’s suburban/wildland interface area from the devastating effects of wildfire” and to decrease the risks of wildfire “spreading to the Ashland watershed from the urban/wildland interface area” the City makes a special provision for fire access. *Id.* at 31. Specifically, Policy 49 of the Comprehensive Plan requires “more than one ingress/egress route or road widths wide enough to accommodate incoming fire apparatus and evacuating residents simultaneously in an emergency situation.” *Comprehensive Plan* § 4.25, Policy 49, at 31 (July 2005).

In essence, this policy requires that at least one access point must be sufficient to accommodate fire apparatus and emergency response access. Because ALUO 18.5.3.060.I designates all flag drives as Fire Apparatus Access Roads subject to the Oregon Fire Code requirements and because flag drives typically are the sole access point to properties on flag lots, the proposed elimination of the maximum variance grade of 18% is contrary to Ashland policy and would insufficiently accommodate flag lot access to fire apparatus and emergency response vehicles.

The 10% grade selected for the Oregon Fire Code recognizes the limitations of fire and emergency vehicles. A fire truck when fully loaded can weigh in excess of 30,000 to 80,000 pounds. Grades of fire apparatus access routes can severely impact the ability of these vehicles to access a fire, as a driveway that has an angle of approach that is too steep for the vehicle will be inaccessible. Moreover, steep grades pose significant risks for these vehicles that can stall on steep grades or lose traction and braking ability (particularly during adverse weather conditions such as rain, snow or ice).

As the proposed amendment would make the sole fire apparatus access for flag lots insufficient to accommodate fire apparatus and emergency response vehicles, it poses an unacceptable risk to dwellings with the wildland/urban interface as well as a heightened community-wide risk of fire, erosion, flooding, and impact to the City’s drinking water. Accordingly, we respectfully request that the Planning Commission recommend denial of this aspect of the proposed amendment.

C. **The proposed change is inconsistent with the City of Ashland’s 2025 Community Wildfire Protection Plan.**

In October of 2025, partially in response to the 2020 Alameda Fire which ignited within the Ashland City limits and “devastated neighboring communities and claimed three lives,” the City proactively adopted its Community Wildfire Protection Plan (CWPP). The CWPP is a comprehensive blueprint to protect Ashland from wildfires designed around a series of specific initiatives. City of Ashland, *2025 Ashland Community Wildfire Protection Plan* 20, 23 (June 24, 2025) [hereinafter *Ashland CWPP*].

As with the comprehensive plan, the CWPP emphasizes the difficulties posed by development within the wildland/urban interface, and specifically the risks posed by limited evacuation routes:

It is not a question of if, but when, another major wildfire will affect Ashland. How and where that fire (and subsequent fires) burns could profoundly shape the city's future. While we may be fortunate once again, there is also the risk of a worse-case scenario. Assessments show that Ashland and nearby communities face high wildfire risk, driven by natural conditions and human influences. The growing built environment, including homes, infrastructure, and cultural landmarks **is increasingly vulnerable due to expansion into fire-prone areas and limited evacuation routes** (Federal Emergency Management Agency [FEMA], 2023).

Ashland CWPP, at 68 (emphasis added). The CWPP identifies evacuation as the top concern amongst Ashland residents. *Id.* at 90. Driveway length and width were also evaluated as “they play a crucial role in allowing first responders to reach properties safely and ensuring a smooth evacuation for occupants.” *Id.* at 91. The CWPP requires that the City “[a]ssess wildfire hazards on primary evacuation routes and possible refuge areas and mitigate.” *Id.* at 102, HS-2.1.

The proposed amendment contradicts this initiative. Steeper flag drives would allow the creation of additional residential development in the wildland/urban interface which would be inaccessible to first responders attempting to reach the property, and on slopes that are prone to rapid and intense fires.⁵

Moreover, allowing lots of record to merely opt out of necessary fire access via the City's variance process runs directly counter to the City's commitment to “Bolster wildfire resilience requirements for **city development through consistent planning and zoning**.” *Ashland CWPP*, at 196, CO-1.2 (emphasis added).

Wildfire risks are a citywide concern and require consistent application of current standards to ensure citywide protection. As the proposed amendments to ALUO 18.5.3.060.F constitute abject favoritism to allow a single property to jeopardize the fire safety for the entire community based on a special variance carve-out in the code, the amendments are wholly inconsistent with the CWPP and should not be incorporated with the proposed amendments.

⁵ As pointed out in the comprehensive plan:

“Steep slopes intensify wildfire in two ways. They increase precipitation runoff, decrease soil moisture and create dry vegetation. Vegetation moisture stress was particularly evident in the summer of 1981 when Fall seemed to come early to the hills south of town. This leaf color change was not ‘fall color,’ but drying caused by a lack of moisture. Wildfire also burns more intensely and faster on a steep slope by pre-heating the vegetation ahead of the actual fire front. Narrow, steep canyons act very much like a chimney during a wildfire, funneling heat and fire upward.” *Comprehensive Plan*, § 4.25, at 30.

D. The Proposed Amendments to ALUO 18.5.3.060.F Negatively Impact Environmental and Geological Public Interest.

Beyond wildfire prevention, the City of Ashland's existing regulations explicitly recognize that development on steep slopes creates environmental and geological hazards including soil erosion, sedimentation of lower slopes, and slope failure. *Comprehensive Plan* § 4.11, at 10-12 (July 2005). The current regulatory framework aims to protect natural and topographic character, environmental resources, aesthetic qualities, and restorative value of lands. *Comprehensive Plan* § 4.11, Policy 5, Policy 13, at 11-12 (July 2005). Increasing permissible grades for flag drives would directly undermine these protective purposes by authorizing more intensive disturbance of steep terrain.

The proposed amendment would increase the cumulative length and steepness of grading permitted for flag drive construction, thereby expanding the area of hillside disturbance and intensifying erosion potential. Steeper grades accelerate stormwater runoff velocity, increasing erosive force and sediment transport to lower slopes. Construction of driveways on grades exceeding current variance limits would require more extensive cut-and-fill operations, resulting in the destabilization of natural slope profiles and increasing landslide risk.

Multiple Oregon jurisdictions require geotechnical reports prepared by registered engineering geologists or geotechnical engineers for development on slopes of 15% or greater, recognizing that professional analysis of site geology, soil strength, slope stability, and erosion potential is essential to protect public safety and environmental resources. Lebanon, Or., Municipal Code § 16.11.040 (2026). These reports must demonstrate that proposed development will result in suitable, stable building sites and must provide recommendations for grading procedures, corrective measures, and methods to maintain slope stability while minimizing erosion and environmental variance from natural conditions. Lebanon Municipal Code § 16.11.040. The necessity for such professional analysis underscores the significant geological risks associated with steep slope development. Increasing permissible flag drive variance grades would only exacerbate these risks.

E. The Proposed Amendments to ALUO 18.5.3.060.F Would Allow Flag Driveway Grades Far Steeper Than Any Other Jurisdiction in Oregon.

A search through multiple county and city codes throughout counties or towns in Oregon demonstrate that no other jurisdiction would allow flag lot driveways with a 24% grade, which is the grade of the above referenced DeBoer property that is clearly the subject of this proposed and ill-advised code amendment. This consistent recognition that steep grading poses heightened safety risks that require strict and consistent regulation is only furthered by the county and city codes' shared common purposes: ensuring public health, safety, and general welfare; addressing potential risks from steeply sloped sites and geologic hazard areas; minimizing hazards from fire, water, and unstable soils; ensuring slope stability and environmental resource protection; and reducing risks of hillside erosion, sedimentation, landslide damage, loss of vehicular control, impediments to emergency access, and infrastructure failures.

Jackson County, Oregon

Jackson County's Land Development Ordinance 9.9.5.A.5 states that, "[w]hen the road grade exceeds 10%, the fire district or, if not within a fire district, the County fire safety inspector or Department of Forestry shall be consulted to determine whether additional fire safety measures are necessary to allow for a maximum finished grade of 15%. A grade of up to 18% may be allowed for intervals of up to 100 feet provided there are no more than three (3) 100-foot sections of over 15% grade per 1,000 feet. The approach from a public road or private road cannot exceed 10% grade for a distance of 40 feet."

Oregon City, Oregon

In Oregon City, "[n]o driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer." Oregon City, Or., Municipal Code § 16.12.035.K.3. Additionally, the city engineer is authorized to deny driveway access if a proposed driveway would cause a significant traffic safety hazard. Oregon City, Or., Municipal Code § 16.12.035.L.

Portland, Oregon

Portland allows driveway grades up to 15%. Additionally, Portland permits grades up to 18% with sprinklers, if approved by the fire official. Portland, Or., City Code tit. 17, § 17.28.110 (2026).

Lake Oswego, Oregon

Lake Oswego strictly follows the Oregon Fire Code for grading maximums. Consequently, Lake Oswego's maximum driveway grade is set at 10%, with exceptions upon approval up to 15% as grades greater than 15% add additional hazards and create the possibility of hazardous conditions for firefighting and medical responses.

Roseburg, Oregon

Roseburg's development regulations require that a driveway used to access parking must have a maximum grade of 15% at any point. Roseburg, Or., Municipal Code § 12.06.030(Q)(4) (2026). Additionally, with the approval of the Fire Chief, driveways that are greater than 12% grade and 100 feet in length may have intermittent sections of grades up to a maximum of 20% provided that: (i) The 100-foot distance back from the structure maintains the 15% grade described herein; (ii) Travel widths, turnouts, and level pad areas are provided as determined necessary for fire protection and emergency access purposes; and (iii) An approved fire apparatus turnaround area having a grade no greater than 10% is provided. Roseburg Municipal Code § 12.04.100(D)(8)(e).

Furthermore, Roseburg's hillside development overlay regulations apply to areas with slopes greater than 12% and require that development ensure public health, safety, and general welfare while addressing risks from steeply sloped sites and geologic hazard areas. Roseburg Municipal Code § 12.04.100(A), (C). The regulations aim to minimize hazards from fire, water, and unstable soils, ensure

slope stability, protect environmental resources, and reduce risks of erosion, sedimentation, and landslide damage. Roseburg Municipal Code § 12.04.100(A). The City has authority to issue stop work orders and require restoration when development alters hillside areas in violation of code provisions, as such development constitutes a public nuisance posing risks to public health, safety, and welfare. Roseburg Municipal Code § 12.04.100.

Lebanon, Oregon

Lebanon's steep slope development overlay zone applies to residential areas with slopes of 15% or greater to provide for adequate access for emergency services, protect public health and safety, and minimize the potential for earth movement and resultant hazards to life and property, among other key purposes. Lebanon Municipal Code § 16.11.040(A). Except for lots, parcels and roads created prior to the adoption of Lebanon's 1980 Comprehensive Plan and its 1980 Zoning Ordinance, Lebanon's code does not permit new driveways where street grades exceed 15%. Lebanon Municipal Code § 16.11.040(E)(2)(b)(i).

Sheridan, Oregon

Sheridan's hillside development overlay applies to properties with slopes of 10% or greater. Sheridan, Or., Municipal Code § 16.290.020 (2025). Sheridan's code requires that grades and alignments of driveways in hillside areas must provide maximum safety and convenience, with maximum intermittent grades of 15% for maximum distances of 200 feet and maximum sustained grades of 10%. Sheridan Municipal Code § 16.290.090. Grading performed within hillside development areas must account for environmental characteristics including geological features, stream beds, drainageways, and tree cover, and must utilize best engineering practices to avoid erosion, slides, and flooding while having minimal environmental effect. Sheridan Municipal Code § 16.290.100(A).

Phoenix, Oregon

Phoenix strongly discourages flag lots within its boundaries, but where proposed, flag lot grading may not exceed 12% with allowances for residential streets to have segments with grades up to 15% for distances no greater than 250ft. Phoenix, Or., Land Dev. Code § 3.5.2(I)(3) (2026).

F. The Proposed Amendments to ALUO 18.5.3.060.F Do Not Appear to Comply with ORS § 368.039(3).

Under AMC 18.5.3.060.I: "Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof." Accordingly, flag drives are deemed Fire Apparatus Access Roads and are therefore subject to ORS 368.039, which states, in relevant part:

3. Before adopting or amending any comprehensive plan, land use regulation or ordinance that establishes specifications and standards for roads and streets, a

governing body of a county or city shall consult with the municipal fire department or other local firefighting agency concerning the proposed specifications and standards. The county or city governing body shall consider the needs of the fire department or firefighting agency when adopting the final specifications and standards. [1997 c.409 §1]

ORS § 368.039. It does not appear from the material provided to the public thus far that the City has consulted the local Fire Marshal or Fire Department as to the advisability of allowing the development of a flag lot that has only a single access driveway in excess of 200 feet with a 24% grade.⁶

G. The Proposed Amendments to ALUO 18.5.3.060.F Lack a Reasonable Relationship to Legitimate Development Needs.

Oregon law requires that land use regulations imposing conditions or restrictions on development bear a reasonable relationship or nexus to the impacts created by the proposed use. *Dolan v. City of Tigard*, 512 U.S. 374, 387 (1994). A regulatory requirement must be roughly proportional to the use of the property rather than serving as a pretextual excuse for imposing conditions when a landowner seeks permits. *Id.* at 391. Conversely, an amendment that relaxes protective standards of variances must demonstrate that the relaxed standards adequately protect legitimate public interests and that special circumstances relating to a specific piece of land make compliance with applicable zoning provisions “an undue or unnecessary hardship.” *Id.* at 380.

The proposed amendment seeks to accommodate a specific development proposal requiring driveway grades exceeding current variance limits. However, the fact that a particular parcel's topography is incompatible with existing safety and environmental standards further evidences that increased or eliminated grading maximums are unreasonable and unsafe. Oregon municipalities consistently maintain that slopes of certain steepness present inherent unsuitability for development regardless of individual landowner preferences. The proposed amendment would move regulatory policy away from this protective framework without evidence of safely accommodated increased grades or adequately protecting legitimate public interests including public health and safety and mitigation of environmental and geological impacts.

Oregon's statewide land use planning framework emphasizes coordination to protect health, safety, and environmental quality. ORS § 197.005. The overarching principles guiding Oregon's land use program include providing a healthy environment, ensuring a desirable quality of life, and equitably allocating benefits and burdens of land use planning ORS § 197.010. Relaxing hillside development standards to accommodate individual development preferences would shift safety and environmental burdens onto the broader community while concentrating development benefits to individual landowners, contrary to these equitable allocation principles.

⁶ The City's notice of the proposed code amendments states that it will post meeting materials on-line 20 days prior to the hearings (Planning Commission 7/14 Hearing; and City Council 8/4 Hearing) at the webpage in the notice (<https://ashlandoregon.gov/SB974>). As of July 6, 2026, no meeting materials have been made available on-line at the webpage in the notice.

CONCLUSION

Oregon law expressly authorizes municipalities to enact land use regulations that restrict or prohibit activities for protection of public health and safety. ORS § 195.305. The current 18% variance limit for flag drives represents a carefully calibrated balance between development opportunity and public health and safety protection. Eliminating this threshold would move Ashland's standards in the opposite direction from the protective approach reflected in Ashland's existing regulations and comparable Oregon jurisdictions and would undermine the foundational public health and safety purposes of the municipal code.

SB 974 does not require the proposed amendment ALUO 18.5.3.060.F. The proposed amendment is not only contrary to fire protections in state law, the Ashland Comprehensive Plan, and the 2025 Ashland Community Wildfire Protection Plan, but are also contrary to other critical environmental and geological concerns.

Oregon law authorizes municipalities to restrict development to protect public health, safety, and environmental resources, and courts recognize that property access rights are subordinate to legitimate governmental interests in regulating steep slope development. The proposed amendment lacks reasonable justification, as the unsuitability of certain parcels for development under existing standards does not establish that Ashland should weaken those standards. Maintaining current grade limitations protects the public health, safety, environmental quality, and long-term community welfare that Ashland's code regulations already aim to secure.

Thus, we respectfully request that the Planning Commission recommend rejection of the proposed variance amendment.

Respectfully submitted,

HUTCHINSON COX



William H. Sherlock



Zack P. Mittge

WHS/df

Planning action PA-L-2026-00020

From Joan Hilton <jobob290@gmail.com>

Date Fri 8/7/2026 4:36 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

I am writing to oppose proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3060F (Ordinance #3309).

The proposed changes would eliminate upper limits driveway grades of flag lots. Currently the limits are 15% with 18% in exceptional cases. I understand that the proposal arises in response to the proposed development of a particular lot, and that the lot has an average grade of 24%.

Eliminating upper limits on the grade of driveways would mean that runoff from storms would be funneled downward with greater force on to neighboring land; would make access to structures more difficult, particularly in winter when driveways are frozen; and pose risk of damage to the neighboring environment.

But I also object on the grounds that the proposal arises in the context of an attempt by a single landowner to develop a single lot, and thus has all of the aspects of special legislation, including a sense of favoritism, so antithetical to democracy. If the city has established a limit of 15% or 18% on the grade of flag driveways, why is it now proposing such a drastic increase?

Robert Hilton
290 Skycrest Drive
Ashland OR 97520
Sent from my iPad

Planning action PA-L-2026-00020,

From John Bullock <jas@lithiawater.com>

Date Fri 8/7/2026 1:38 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

To: Ashland City Planning Commission

From: John and Stephanie Bullock

RE: Proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3060F(Ordinance #3309)

Planning Action PA-L-2026-00020.

Our residence address is 777 Palmer Road in Ashland which is a flag lot with the access driveway located on Prospect St., the grade of which approaches 25%. Our driveway grade is 15% and it took several months for us to master ingress and egress to our home. Over the years, we have had a number of guests who experienced difficulty negotiating this steep driveway to the point of requesting our assistance.

The driveway at our next door neighbor's home (1336 Prospect Rd.) is very steep, probably 25%. On two occasions they have experienced potentially fatal incidents due to the extreme steepness of the driveway. The first occurred when a guest's car's transmission malfunctioned sending the vehicle down the driveway in reverse, across Prospect St., into the driveway of 1325 Prospect, where it damaged the garage door. The second incident was far more harrowing. Our neighbor's cleaning lady and her pregnant daughter were leaving the home and lost control of their car on the driveway. The car rolled over onto the steep bank dividing the properties, and the terrified occupants had to be extracted with great risk by a City public safety crew.

The land use standards and codes of the City of Ashland are intended to assure the safety of its residents. Please do not amend them and set a precedence for potential disaster to accommodate a single applicant's project.

Sincerely,
John and Stephanie Bullock

PA-L-2026-00020 - Additional Flag Lot Partition Criteria - Planning Commission

From Amy Gunter <amygunter@rogueplanning.com>

Date Fri 8/7/2026 10:49 AM

To planning <planning@ashland.or.us>

[EXTERNAL SENDER]

Dear Planning Commission,

Please accept these comments for the public record pertaining to the proposed code modification to address AMC [18.5.3.060](#): Additional Preliminary Flag Lot Partition Plat Criteria.

The ordinance language should preserve the right to access existing lawful lots of record where public street and/or driveway grades exceed the maximum of 18 percent when the driveway is more than 50 feet in length, or where the driveway is less than 50 feet but limited to 20 percent. The proposed code language does not allow for new lots with steep driveways or subdivisions with steep streets, it only preserves the right of access to existing, lawfully created lots.

Accessing these lots has not historically been overly difficult, provided that fire apparatus access standards acceptable under the Fire Marshal's guidance were met.

Only a few remaining properties have established or potential access exceeding 20 percent slopes. These lots should not suddenly be rendered undevelopable because of LUBA interpretation of the land use ordinance. The few lots that were created under the auspices of being developable should retain their development potential. This proposed code change by staff to remedy the tenuous position that the LUBA decision should be considered a remedy to a problem created by an outside review agency.

A few examples that have come across my radar in the past two years that would be negatively impacted if a remedy to the land use ordinance problem were not adopted:

319 West Street - West Street ROW is in excess of 20% created in 1980s, existing grade, serving existing parcels, cannot comply with 1980s condition of approval that West Street be graded to "flag driveway standards"

Schofield Lots - to get to buildable area and meet solar and get over the road cut, more than 18 percent slopes necessary to access buildable area at top of lot because of solar setbacks

930 Beach Street at the end of Beach Street. The grade is +20 percent but there is an existing lot of record

231 & 235 Granite Street, existing driveway grade exceeds 18 percent, extending existing driveway will be at or exceed 18 percent due to start and finish grades

In a community with so few developable lots, it would be ludicrous to eliminate the few, existing lawful lots of record that were determined to be developable years ago. These lots are typically held to substantially higher development standards than the immediately adjacent homes due to the adoption

of the Physical and Environmental Constraint Standards in 1997, therefore having less of an environmental impact than previous development.

Please consider protecting the property rights of the few remaining parcels affected by the strict interpretation of the code forced by LUBA.

Best Regards,
Amy

--

Amy Gunter

Rogue Planning & Development Services

541-951-4020

www.rogueplanning.com

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Hillside ordinance driveway slope; Planning Commission, August 11th, 2026

From bob hutton <bhut612@gmail.com>

Date Fri 8/7/2026 8:14 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

August 7, 2026

Re: public hearing, Planning Commission, August 11th, 2026

I am writing to oppose proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3060F(Ordinance #3309)
Planning Action PA-L-2026-00020.

In 2016 we built a home off Grandview Dr and while working with a local landscape architect we modified our proposed driveway and house entryway to adhere to the clearly defined driveway slope limits defined in Ashland's Hillside Ordinance. I was frustrated at the time to have to modify but clearly understood the reality of first responders and reasonable access to the house. Rules are designed to protect both citizens and first responders. The ordinance should not be changed to meet the whims of one property owner verses another.

The proposed changes would eliminate upper limits on driveway grade of flag lots. Currently the limits are 15% with 18% possible in some circumstances. This change would allow flag driveway grades far steeper than any other jurisdiction in Oregon. The change would endanger Ashland citizens, first responders and the environment.

Robert and Susan Hutton
225 Grandview, Ashland

--

Bob Hutton

832-217-7963

FW: Planning action PA-L-2026-00020

From Cindy Peer <cpeer@pchaninc.com>

Date Thu 8/6/2026 9:39 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

P. Chan & Edward, Inc.

----- PRINTING -----

Cindy Peer

1467 Siskiyou Blvd - 423

Ashland, OR 97520

Cell: (208) 610-8585

Web: pchaninc.com

It has come to my attention about an issue regarding the Planning Action, PA-L-2026-0020
It seems that the owners of the property in question want to change this ruling only for their benefit.

The proposed changes would eliminate upper limits on driveway grade of flag lots. Currently the limits are 15% with 18% possible in some circumstances. This change would allow flag driveway grades far steeper than any other jurisdiction in Oregon. The change would endanger Ashland citizens, first responders and the environment.

I am writing to oppose this amendment to the flag drive standards, Ashland Municipal Code ALUO 18.5.3060F – Ordinance 3309

Cindy Peer

1467 Siskiyou Blvd, #423

Ashland, Oregon 97520

Planning Action PA-L-2026-00020

From Pam McLaughlin <dreamweaver@ashlandcreek.net>

Date Thu 8/6/2026 9:11 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>

[EXTERNAL SENDER]

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.300.F. (Ordinance #3309, Planning Action PA-L-2026-00020)

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan and the City of Ashland's 2025 Community Wildfire Protection Plan.

With no upper limits to driveway grade the proposed limits would allow flag driveway grades far steeper than any other jurisdiction in Oregon. With the ever increasing risk of wildfires, to hamper the efforts of first responders to access fire areas would endanger the City and the citizens of Ashland unnecessarily.

Pamela McLaughlin
234 Strawberry Lane
Ashland, OR

Planning Action PA-L-2026-00020

From Jane Andrianova <spiritualdances@gmail.com>

Date Thu 8/6/2026 10:42 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

Dear Planning Commission Members,

I am writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

With no upper limit of driveway grade, the proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will endanger Ashland citizens, first responders, and the environment.

The proposed changes are internally inconsistent, simultaneously prohibiting and allowing flag lot driveways steeper than 18%.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected.

Sincerely,

Evguenia Andrianova
284 W Hersey Street, Unit 5
Ashland, OR

Planning Action PA-L-2026-00020.

From Leonard Eisenberg <evogeneao@gmail.com>

Date Wed 8/5/2026 10:57 PM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Derek Severson <derek.severson@ashland.or.us>

[EXTERNAL SENDER]

Greetings Planning Commissioners,

We are writing to oppose the proposed amendments to the flag drive standards in the Ashland Municipal Code ALUO 18.5.3.060.F. (Ordinance #3309, Planning Action PA-L-2026-00020). We respectfully request you do not agree to these changes for the following reasons:

The proposed changes would allow flag driveway grades far steeper than any other jurisdiction in Oregon. This will unnecessarily endanger Ashland citizens, their property and first responders. As an example, we note that the maximum recommended slope gradient to safely operate Ashland's big fire engines (2014 Pierce Dash CF model) is 15%. Even allowing for a conservative recommendation by Pierce, Ashland's proposed ordinance would allow driveway slope gradients twice the recommended gradient or higher.

The proposed changes are internally inconsistent, both prohibiting and allowing flag lot driveways steeper than 18%.

The proposed amendments to ALUO 18.5.3.060.F are not required by SB 974 (2025).

The proposed changes are inconsistent with state law.

The proposed changes are inconsistent with the City of Ashland's Comprehensive Plan.

The proposed changes are inconsistent with the City of Ashland's 2025 Community Wildfire Protection Plan.

In the interest of the health and safety of our neighbors, our first responders, our community, and our environment, I respectfully request that the Planning Commission recommend that Ordinance #3309/Planning Action PA-L-2026-00020 be rejected

Len and Karen Eisenberg

[223 Granite St.](#)

[Ashland, Oregon 97520](#)



Flag Drive Grade Variances

Ordinance #3309

Planning Commission
August 11, 2026

Planning Action PA-L-2026-00020

- The proposal would amend AMC 18.5.3.060.F to address access constraints on certain pre-existing lots created prior to the 1997 hillside ordinance.
- The existing code limits new flag drive grades to 15 percent, with a variance up to 18 percent for a 200-foot cumulative limit.
- Some legally-created lots predate those standards and may have no feasible driveway alignment that can meet the current limits.
- This proposed amendment creates a narrowly defined variance process rather than simply automatically approving steeper driveways.
- The proposal is being presented separately from the SB 974 implementation package so this local policy choice can be considered independently.



Why is an Amendment Needed?

1997

Ashland adopted the Hillside Development Standards through Ordinance #2808.

Current code

New flag drives: 15% maximum; variance up to 18%.

The gap

Some pre-1997 lots cannot reach a buildable area without exceeding 18% because of topography.

In April 2026, LUBA remanded a City decision approving a driveway grade variance above 18 percent.

LUBA concluded the current wording does not authorize any variance above 18 percent.

The issue is therefore a code limitation affecting a class of pre-1997 hillside lots, not a request to approve one particular property.



What Ordinance No. 3309 Would Change

Newly created lots

No change. The existing 15% maximum and variance allowance up to 18% remains.

Pre-1997 legal lots

A variance could exceed 18% only when topography makes a compliant driveway to a buildable area impossible.

- Each property would have to independently apply for a variance, adoption of the ordinance does not approve any specific proposals.
- Relief is limited to the minimum deviation necessary to provide access.
- The applicant must satisfy all Chapter 18.5.5 variance approval criteria.
- Fire Department review for Fire Code compliance is still required.

Fire Code Requirements Remain Independent

- Flag drives remain Fire Apparatus Access Roads under AMC 18.5.3.060.I.
- A land use variance **does not** modify or waive Oregon Fire Code requirements.
- Fire Code review considers more than grade, includes length, width, vertical clearance and surface composition.
- The Fire Code Official retains independent authority to approve steeper grades where allowed and to require alternative protection measures.
- Any driveway approved through the land use variance process must still receive all required Fire Code approvals before development can proceed.

Fire Code Official support

A July 20, 2026 memorandum from Ashland Fire & Rescue Deputy Chief Mark Shay supports the proposed variance language and confirms the independent Fire Code review.

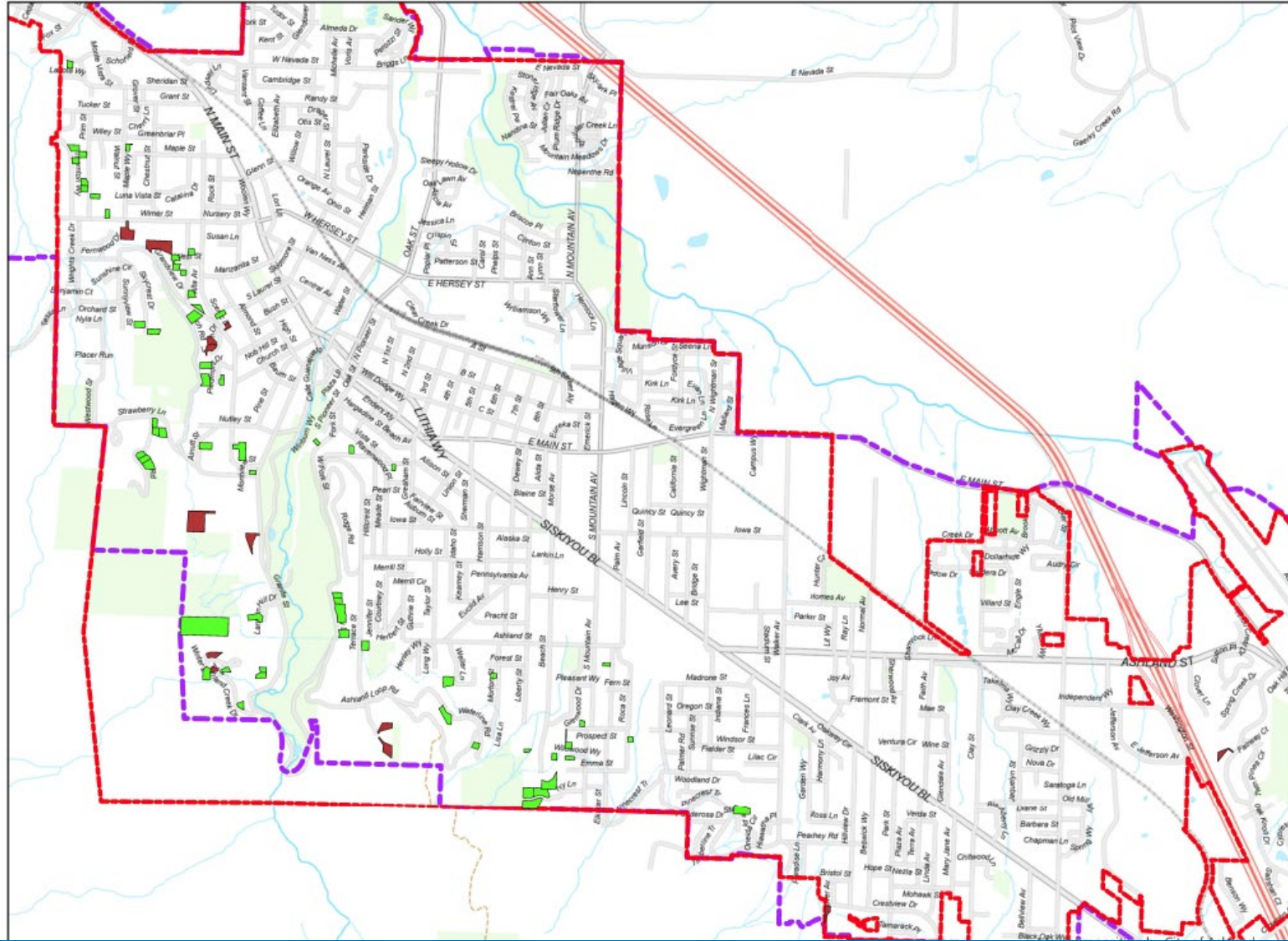


Proposed Ordinance Amendment Language

18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

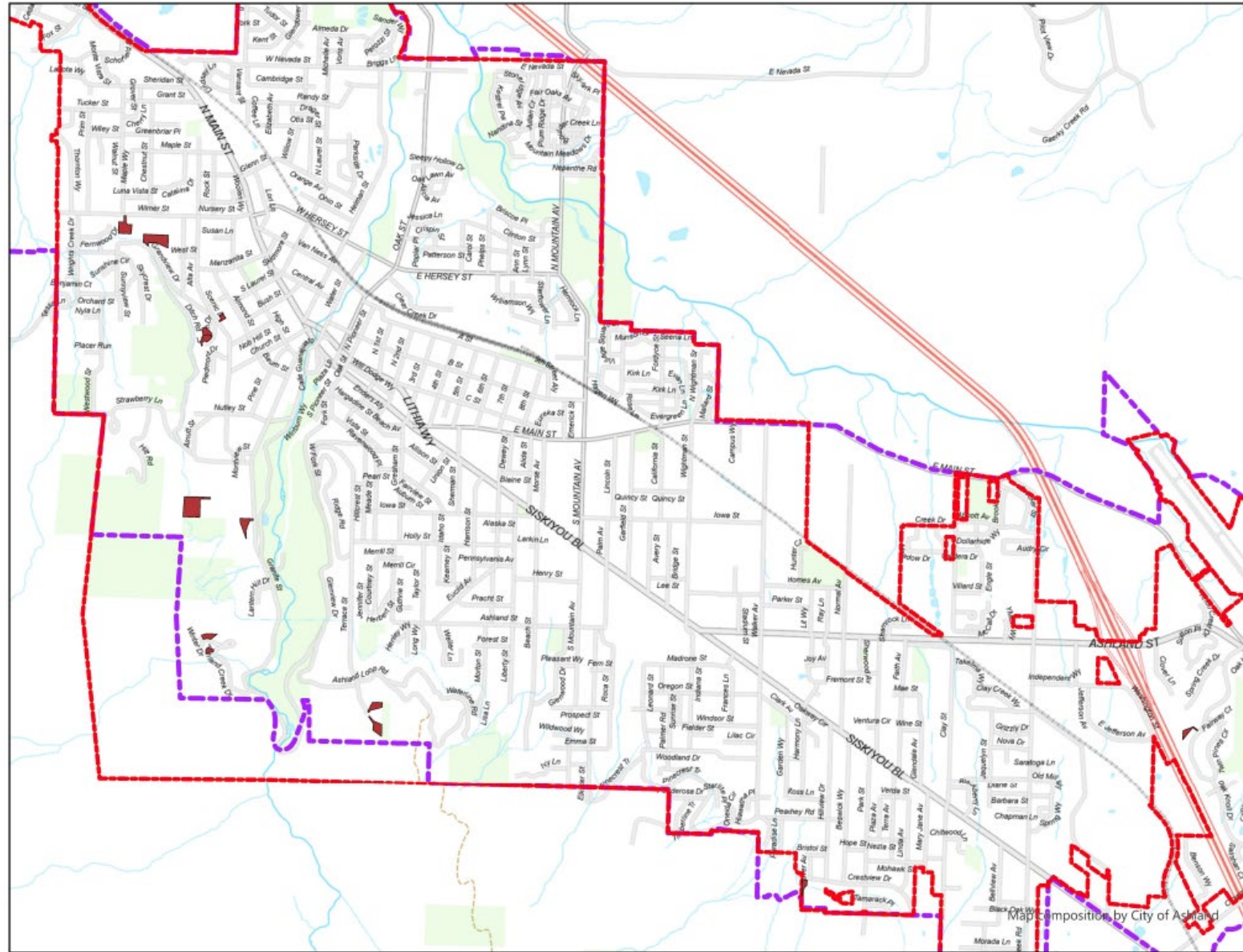
F. New ~~F~~flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for new flag drives for grades in excess of 15 percent but no greater than 18 percent; provided, that the cumulative length of such variances across multiple sections of the flag drive does not exceed 200 feet. Variances may be granted for grades in excess of 18 percent for driveways serving legal lots of record that were created before the effective date of the Hillside Development Standards, Ordinance No. 2808 (adopted December 3, 1997), where the applicant demonstrates that, due to topographic constraints, no driveway alignment meeting the maximum grade standards of this subsection can provide vehicular access to a buildable area of the lot. Driveways approved under such a variance remain subject to the fire apparatus access requirements of the Oregon Fire Code, including any approval required by the Fire Code Official. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances.





Affected Properties: City Wide Context

74 lots citywide are on steep slopes and are vacant in green. 13 potentially affected pre-1997 lots in dark red.



Affected Properties: City Wide Context

13 of the vacant lots will likely have drives greater than 50' in length and be subject to Flag Drive Standards.

Policy & Procedural Context

- Planning Commission and City Council previously reviewed the concept during initial discussions of implementation of SB974.
- Study sessions occurred April 14th and May 26th, 2026, with City Council review on June 1st, 2026.
- Ordinance #3309 has been separated to allow this local policy to be considered independently.
- The amendment is a Type III legislative land use ordinance amendment requiring a Planning Commission recommendation and City Council action.

Next scheduled step

City Council public hearing and first reading: September 15th, 2026.



Staff Suggested Motion

"I move that the Planning Commission recommend that the City Council approve proposed draft Ordinance Number 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 presented in the staff report and attachments."



Flag Drive Grade Variances

Ordinance #3309

Planning Commission
August 11, 2026

To; Ashland Planning Commission

From: Rogue Advocates

Re: Ordinance 3307

Dear Planning Commission Members,

August 10, 2026

Thank you for the opportunity to comment on Ordinance 3309. Rogue Advocates is a 501c3 nonprofit dedicated to protecting resource lands in Jackson and Josephine County. We strongly support Statewide Planning Goal One. Many of our members reside within the Ashland city limits.

Statewide Planning Goal One and SB 974 / HB 4037

Rogue Advocates encourages support of Goal One that encourages public participation in the Oregon land use process. Our organization likely would not exist without Goal One's encouragement of the public to receive notice and comment on land use issues. Any limitations that discourage or prohibit people's rights to receive notice and comment on land use actions is detrimental to Oregon's Goal One.

Planning staff have presented several options for your consideration to determine various procedures to review housing developments. Staff has suggested Type I administrative procedures for some applications that were formally Type II. The Type I process provides no notice to residents and provides no opportunity to comment or participate in the review. We strongly discourage eliminating the public's input in land use procedures.

As a guiding principal as you review your options presented by staff, we encourage you to always prefer the Type II or Type III process that encourages public participation.

Steve Rouse

President Rogue Advocates

steve@rogueadvocates.org