

MEMORANDUM



To: City of Talent Planning Commission and City Council

From: Elizabeth Decker, JET Planning

Date: October 5, 2021

RE: TALENT CODE UPDATES: RESIDENTIAL USES IN COMMERCIAL ZONES

Key background and policy options are provided here for Planning Commission and City Council consideration to inform discussion at the upcoming October 12, 2021 joint work session. **PC and CC direction on the desired policy direction for residential uses in commercial zones is needed: whether to permit limited, moderate, or expanded residential uses.**

Background: During the 2019-2021 residential code adoption process, Planning Commission and City Council tabled proposed code changes to expand residential uses in two commercial zones, the Commercial Neighborhood (CN) and Central Business District (CBD). The focus on these two zones evolved from a finding in the City’s 2017 Housing Needs Analysis that identified a surplus of commercial land and shortage of higher-density residential development options: the desired policy direction in 2019 was to create a higher-density residential mixed use zone that could be applied to select commercial properties. The CN zone was selected precisely because there were few properties zoned CN at the time, meaning that the CN provisions could be updated to develop a new tool that could then be applied to properties more suitable for mixed-use. Similar changes were proposed to the CBD zone given its central location and potential for mixing uses within the traditional heart of the city.

In deliberations to adopt the code in 2021, Planning Commission and City Council expressed a strong interest in strengthening options for affordable housing, and voted to table any amendments to the CN and CBD zones until additional means could be explored to require affordable housing units as part of future residential projects in the CN and CBD zones.

Returning to the topic of residential uses in commercial zones in late 2021, there are opportunities to either narrow or broaden the scope of any proposed code updates. There have been recent changes at the state level to permit affordable housing projects outright in all commercial zones, which may address the core issue in Talent without need for further local code revisions, as well as a shift in many communities around the state to permit residential uses (both affordable and market-rate) in commercial zones, which may support broadening the scope of updates.

Existing conditions: There are five commercial zones in Talent that permit a varying degree of residential uses already. The zones are intended to permit a varying intensity and mix of commercial uses. (See district purpose statements, Attachment A.) Existing provisions and proposed changes in earlier code drafts include:

Commercial Neighborhood (CN)	Permits upper-story residential uses provided the ground floor is entirely developed with commercial uses, and up to one ground-floor residential use provided it does not occupy more than 50% of the ground floor building area. Review combined with Type II or III review for commercial component. <i>Additional ground-floor residential uses proposed, any number of</i>
Central Business District (CBD)	

	<i>units up to 50% of the gross site area (modeled after the existing CBH zone) with storefront commercial required along the street frontage. Type II review proposed.</i>
Highway Central Business (CBH)	Permits ground-floor residential for up to 50% of the gross site area, provided that storefront commercial uses are provided along the street frontage. Requires a Type III review process. Also allows live-work units. <i>No further changes considered to date.</i>
Commercial Highway (CH)	Permits upper-story residential uses provided the ground floor is entirely developed with commercial uses. Review combined with Type II or III review for commercial component. <i>No further changes considered to date.</i>
Commercial Interchange (CI)	

Evolving state requirements and local examples: Since the PC and CC last considered this issue, the state has passed legislation that expands where and how regulated affordable housing projects can be located, and overrides local zoning codes. Senate Bill 8 includes provisions that allow affordable housing developments in commercial zones, in some industrial and public zones, and on lands owned by religious organizations. Affordable housing here means projects restricted to tenants earning 80% or less of the Area Median Income, with affordability guaranteed for a minimum of 30 years, which are typically developed by nonprofit or government agencies like the Housing Authority of Jackson County. SB 8 also increases the allowed density and height for affordable housing projects above what it is permitted under local zoning, in order to maximize development feasibility. (See full text at: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB8>, summary at: <https://www.opb.org/article/2021/06/08/oregon-affordable-housing-senate-bill-8/>) Even without action by the City, this legislation will permit select affordable housing projects within the City’s commercial zones. City regulations will still apply to market-rate housing, which make up the majority of development proposals.

Individual cities around the state and in the region have also been taking actions to broaden the range of market-rate residential uses permitted in commercial zones. Medford amended their code in the past year to allow residential uses outright in all commercial zones. The City of Phoenix also made recent amendments to permit residential uses in commercial provided that they do not exceed 50% of the street frontage along a given block, to maintain a mix of commercial uses within the district.

Policy Options: *PC and CC direction is needed at this work session on which of the three general policy options is preferred, in order to inform code writing to implement the desired policy direction.* The three broad options for residential uses in commercial zones that address affordability include:

1. Limited Residential Uses: Make no substantive changes to allow residential uses in commercial zones, with the exception of some clean-up changes to better clarify standards for the “storefront commercial” requirement in the CBH zone and to allow existing residential uses through Type I or II reviews as required by state law. Regulated, affordable housing would be permitted in all commercial zones by directly applying the new state permissions in SB 8. (Note: DLCDC staff advised us to rely on the specific text of SB 8 through a cross-reference in the local code, rather than attempting to integrate the SB 8 specifics into Talent’s code.)

This approach prioritizes affordable housing, which could give nonprofit housing developers a competitive advantage in bidding for commercial property since they would not have to compete against market-rate residential developers. However, it may limit the total number of housing units that could be produced because market-rate projects deliver the majority of units constructed and affordable housing makes up a small percentage of the supply.

2. Moderate Residential Uses: Make moderate changes to expand ground-floor residential uses in the CBD and CN zones as originally proposed, with additional ground-floor residential development potential granted as a bonus for provided regulated affordable units. An initial proposal would allow for the follow mix of residential and commercial uses based on provision of varying rates of affordable housing units:

% of affordable units	% of site area allowed as ground-floor residential	Commercial use requirement
5%	25%	75% of site frontage with minimum depth of 20 feet
10%	50%	50% of site frontage with minimum depth of 20 feet
15%	75%	25% of site frontage with minimum depth of 20 feet
20%	100%	None

Similar changes could be proposed in the CBH zone, where residential is already allowed on up to 50% of the site, to award “bonus” residential uses up to 100% of the site for provision of affordable housing units.

In addition, SB 8 provisions would apply directly (as they would in all scenarios) to permit affordable housing projects with 100% affordable housing units in all five commercial zones outright.

This bonus approach would allow for both market-rate and affordable housing development, however, mixed-income properties can be a difficult product to develop and the extent of local development capacity is unknown. Further economic analysis could also be needed to determine if the bonuses are effectively calibrated, that is, if the additional market-rate residential development capacity awarded would offset the additional costs of providing the regulated affordable units. While this approach would expand residential development potential and code permissions, it is unclear how much housing development would result on the ground.

3. Full Residential Uses: The final option along the spectrum of permissions would be to permit all market-rate and affordable housing uses outright in select commercial zones, likely targeting the CN, CBD and potential CBH zones. To further develop this option, PC and CC direction would be needed on the following topics:

- Which zones should permit residential uses outright, considering the purpose statements of each zone?
- Should there continue to be a storefront commercial requirement for any sites? If so, which sites (considering zoning and location) should require a storefront component, and how much of the site should be required to be commercial?

SB 8 provisions for affordable housing projects would continue to apply, regardless of direction for market-rate projects.

This strategy expands the supply of potential development sites for all housing projects, and has the greatest potential to result in additional housing development on the ground. However, it is not clear what the balance would be between affordable and market-rate units.

APPENDIX A: Commercial Zone Purpose Statements

The **neighborhood commercial zone (CN)** is intended to create, preserve and enhance areas of retail establishments serving frequently recurring needs for goods and services in convenient locations. This commercial zone is typically appropriate to small shopping clusters or integrated shopping centers in developments of one-third to one acre within residential neighborhoods. Facilities should be oriented to serve residents' commercial service needs, to strengthen neighborhood interaction and a rural character, to minimize the need for automobile trips and to make commercial services more readily available to senior citizens, families with only one car, and others who could walk or ride a bicycle to these facilities. These areas should be located adjacent to collector or arterial streets. (TMC 18.45.010)

The **central business district (CBD)** zone shall serve as the hub of government, public services and social activities; shall permit retail trade, personal and business services; and shall include residential uses to strengthen and enliven the community core. The CBD shall be pedestrian oriented and shall highlight and incorporate historic places and structures, parks and public transit facilities and opportunities. (TMC 18.50.010)

Akin to the CBD zone, the **highway central business district (CBH)** zone shall serve as the hub of government, public services and social activities; shall permit retail trade, personal and business services; and shall include residential uses to strengthen and enliven the community core. The CBH zone shall be developed with full accommodation for all travel modes, but will tend to be more automobile oriented than the CBD zone. (TMC 18.55.010)

The **highway commercial zone (CH)** (formerly retail-wholesale commercial, C3) is intended to accommodate businesses and trade oriented toward automobile and truck usage. Tourist trade and heavy commercial or light industrial uses can also be accommodated in this zone. The zone is best located along arterial streets, and, due to its exposure, high appearance standards are important. Uses permitted in this zone are frequently incompatible with pedestrian-oriented areas such as the central business district zones CBD and CBH. (TMC 18.60.010)

The **interchange commercial zone (CI)** is intended to provide a location for freeway user and tourist-oriented commercial development to serve the traveling public at or near freeway interchanges. Due to the area's exposure to the traveling public and location as a major entrance into Talent, high appearance standards are important. (TMC 18.65.010)