

MEMORANDUM



To: City of Talent Planning Commission and City Council

From: Elizabeth Decker, JET Planning

Date: February 1, 2022

RE: TALENT CODE UPDATES: RESIDENTIAL USES IN COMMERCIAL ZONES

This memo summarizes key aspects of the draft zoning code updates to commercial zones that permit additional residential uses in the CN, CBD and CBH zones when they incorporate affordable or workforce housing units. This draft will be discussed at the joint Planning Commission and City Council February 8, 2022 joint work session. **PC and CC direction is needed to confirm overall direction, to detail desired revisions to the draft code and/or to direct additional steps needed to refine the code prior to beginning a future adoption process.**

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.

At a joint work session in October 2021, PC and CC reiterated their commitment to integrating affordable housing into future development in the commercial zones, and directed the consultant to draft code to expand ground-floor residential uses in the commercial zones, with additional ground-floor residential development bonuses for projects that include regulated affordable and/or workforce housing units.

Key code proposals: The proposed code includes expanded residential uses in commercial zones with a required affordable or workforce housing component, including definitions of those terms. Key aspects include:

Definitions: Defining market rate, affordable and workforce housing units tied to both price (rent or purchase prices relative to average area incomes) and term (a 30-year period during which affordability is guaranteed). (See proposed TMC 18.15.)

- *Affordable units* are proposed to include those affordable to households making 80% or less of the area median income (AMI). A threshold of 60-80% AMI is most commonly used in zoning programs, including the 80% AMI threshold used in statewide inclusionary zoning standards (ORS 197.309(1)(a)).
- *Workforce units* are proposed to use a maximum 120% AMI threshold. There is less agreement in state, local or national models about how to define workforce housing, though a range of 80-120% AMI is discussed. The higher end of the range, 120% AMI or ~\$70,000 for a family of three, is proposed because many housing markets are not producing market-rate housing at these price levels; additional analysis and/or narrowing of the range could be considered per PC and CC direction.

Zones included: Expanded residential uses are proposed in the Commercial Neighborhood (CN), Central Business District (CBD) and Highway Central Business (CBH). CN and CBD were initially identified in the 2019 code updates, and the CBH zone has emerged as an additional redevelopment opportunity in the aftermath of damage by the Alameda wildfire. No changes are proposed to Commercial Highway (CH) and Commercial Interchange (CI) zones that have a heavier commercial and auto-oriented focus that is less compatible with residential development.

Residential uses permitted: Expanded residential uses are proposed in the CN, CBD and CBH zone with an affordable or workforce component, in addition to the residential uses already permitted in the zone. (See proposed TMC 18.45.020 - 18.45.030, 18.50.020 - 18.55.030, and 18.55.020 - 18.55.030.)

Zone	Existing Residential Uses Permitted	Proposed Additional Residential Uses
Commercial Neighborhood (CN)	<ul style="list-style-type: none"> • Existing residential uses. (Type I) • Upper-story residential uses provided the ground floor is entirely developed with commercial uses. (Type I) 	<ul style="list-style-type: none"> • Ground-floor residential uses, with a combination of affordable/workforce housing and commercial storefront components. (Type II)
Central Business District (CBD)	<ul style="list-style-type: none"> • Existing residential uses. (Type I) • Upper-story residential uses provided the ground floor is entirely developed with commercial uses. (Type I) • Up to one ground-floor residential use provided it does not occupy more than 50% of the ground floor building area and is located behind the commercial use. (Type I) • Live-work units. (Type II) 	<ul style="list-style-type: none"> • Ground-floor residential uses with 2+ units, with a combination of affordable/workforce housing and commercial storefront components. (Type II)

Zone	Existing Residential Uses Permitted	Proposed Additional Residential Uses
Highway Central Business (CBH)	<ul style="list-style-type: none"> • Existing residential uses. (Type I) • Live-work units. (Type II) • Ground-floor residential for up to 50% of the gross site area, provided that storefront commercial uses are provided along the street frontage. (Type III, proposed to shift to Type II) 	<ul style="list-style-type: none"> • Ground-floor residential uses for 50-100% of the gross site area, with a combination of affordable/workforce housing and commercial storefront components. (Type II)

Residential development standards: Additional ground-floor residential uses proposed would be subject to proposed development standards. The key components of these standards include requirements for inclusion of affordable or workforce housing units and a commercial use component, in proportion to the amount of ground-floor residential use proposed. Additional standards address dimensional and density standards, similar to provisions in residential chapters, and include 10 feet of bonus height (up to 40 feet). The standards also include equivalency requirements to ensure that affordable and workforce units are comparable to market rate units, as requested by PC and CC in earlier discussions. (See proposed TMC 18.45.120, 18.50.120 and 18.55.120; note that standards are nearly identical.)

Several considerations for further PC and CC discussion include:

- *Types of residential uses:* Multifamily and triplex/quadplex developments are proposed to be permitted to focus on relatively dense projects with built forms consistent with commercial districts. While single-family attached units (townhouses) and cluster housing could meet the required minimum densities, they seem less compatible with the massing, form and intensity of commercial district development and are not proposed.
- *Affordability requirements:* Affordability requirements are proposed to apply to projects with 20 units or more, consistent with statewide inclusionary zoning legislation. Smaller projects with fewer units can be less financially viable and a lower threshold could discourage such projects entirely. Additional GIS analysis of available lots in Talent to understand development potential of projects of various sizes could further inform where to set the applicability threshold.

The proposed percentages of affordable units relative to market rate units are derived from a maximum of 20% affordable units required for inclusionary zoning projects under state law, and scaled down from there. The percentages could be further refined in consultation with an economist but that was outside the scope of this project. The proposed percentages for workforce housing units are simply proposed as double the affordable units, given the comparative ease of developing units at the price point, but also could be further refined.

- *Affordability requirements in the CBH zone:* To maintain existing development rights, there are no affordability requirements proposed for developments with up to 50% ground-floor residential uses. Should the existing provisions be maintained, or should affordable units be required for all projects?

- *Commercial use requirements:* The standards for what constitutes “commercial use” may need some further refinement to clarify that there cannot simply be a large parking lot along the frontage. However, flexibility is desired to avoid a rigid requirement for a solid building 20 feet deep along the required percentage of the frontage.
- *Minimum density:* The proposed minimum density of 18 units per net acre ensures that commercial land is used efficiently, rather than converted from commercial use for residential projects with limited impact. The same minimum density is applied in the RHD high-density residential zone.
- *Bonus height:* An additional 10 feet of height, up to 40 feet total, would be permitted outright for residential and mixed use developments without triggering a conditional use review, as is currently required. This provides more certainty for developers as well as the city, reduces costs and time associated with permit review, and supports residential development with meaningful development capacity.
- *Equivalency standards:* These come from City of Portland and address requests made by PC and CC, but there are various opinions about how implementable these standards are. These could be refined or vetted in consultation with affordable housing advocates, developers and builders.

Additional changes: Further refinements to the commercial zones are proposed to better align the purpose statements with additional residential and mixed use opportunities, reference updated standards throughout the code such as landscaping and buffer standards, and clarify numerical standards such as building height. Proposed changes are policy neutral, in that they do not change the existing height, for example, but more clearly state the applicable standards.

SB 8 intersection: 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 in any zone. For projects in residential zones that meet affordable definitions, 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 bill text at: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB8>) DLCDC staff has recommended not attempting to integrate SB 8 provisions into local zoning codes, and instead allowing the legislation to apply directly due to its complexity.

SB 8 would have limited applicability in the CN, CBD and CBH commercial zones under the proposed changes, because all residential projects with 20% or more of affordable housing units (including projects with all units meeting the affordability standards that are the subject of SB 8) would be permitted in those zones. No additional height or density would be granted to affordable residential projects under SB 8 beyond what is outlined in the draft code. SB 8 **would** permit affordable residential projects in the CH and CI zones that is not otherwise permitted under current code, up to the existing height permitted in those zones.

Additional considerations: The residential development bonus for affordable and workforce housing units at the core of the proposed zoning code updates are one tool among many to help support development of more diverse and affordable housing options for all Talent residents. Additional measures to consider include:

- Providing additional flexibility for developers to meet the affordability requirements through off-site development of affordable or workforce units, preservation of existing affordable or workforce units, and/or a fee-in-lieu program. The initial proposal for on-site units responds to previous comments by PC and CC in support of mixed-income, integrated development on a single site.
- Continuing to support development of multifamily developments proposing to meet affordability standards, including three projects currently proposed. This is the most traditional form of affordable housing with existing tax credits, financial supports and developer experience.
- Continuing to support a range of diverse housing alternatives include manufactured home park redevelopment, middle housing, and innovative options such as the interim RV units at the Gateway site for families displaced by the wildfire.
- Developing additional financial mechanisms to support affordable housing development. This could include system development charges (SDC) waivers or deferrals for projects meeting certain affordability criteria, construction excise tax (CET) waivers, CET funds to support desired affordable projects, and/or property tax exemptions for structural improvements for a defined term. (For the latter, see in particular the City of Portland's HOLTE program: <https://www.portland.gov/phb/holte>.)
- Considering additional regulatory, financial or educational programs inspired by the City of Ashland's affordable housing program. (Work session with City of Ashland staff is also scheduled for February 8, 2022.)

Chapter 18.15

DEFINITIONS

18.15.020 General definitions.

"Affordable housing" means residential property in which each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; and whose affordability is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

"Affordable housing unit" means a dwelling unit that is made available to own or rent to a family with an income of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development and whose affordability is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

"Market rate housing unit" means a dwelling unit that is made available to own or rent at any price without the income guarantees of "affordable housing units" or "workforce housing units."

"Workforce housing" means residential property in which each unit on the property is made available to own or rent to families with incomes of 120 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; and whose affordability is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

“Workforce housing unit” means a dwelling unit that is made available to own or rent to a family with an income of 120 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development and whose affordability is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

Chapter 18.45

COMMERCIAL ZONE – NEIGHBORHOOD (CN)

18.45.010 Description and purpose.

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, with opportunities for residential uses to create a mix of uses within a single site or more broadly in a neighborhood. This commercial zone is typically appropriate to small shopping clusters or integrated shopping or mixed-use 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 within proximity to residential neighborhoods and accessible by walking, bicycling or other alternative modes of transportation 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. [Ord. 817 § 8-3D.110, 2006.]

18.45.020 Buildings and uses permitted subject to Type I permit review.

No building, structure or land shall be used, and no building or structure shall be hereafter erected, enlarged or structurally altered, except for the following uses, none of which shall include drive-in, drive-up or drive-through facilities:

A. Existing residential uses, without any increase in density.

1. Except: Accessory dwelling units subject to TMC 18.165 are permitted with existing single-family detached dwellings.

- B. ~~Upper-story~~ dwelling units, ~~provided the units are located~~ above stores or offices ~~and where~~ the ground floor is devoted entirely to business permitted in this chapter, ~~with the exception of entrance(s) for the dwelling units.~~
- C. Use of existing structures for the permitted uses listed in TMC [18.45.030](#) and [18.45.040](#), where all the provisions of this title and any amendment thereto are met.
- D. Uses customarily incidental to the above uses, ~~including the usual accessory buildings and structures provided in the low-density residential zones.~~

[Ord. 817 § 8-3D.120, 2006.]

18.45.030 Buildings and uses subject to Type II site development plan review.

No building or structure shall be hereafter erected, enlarged or structurally altered; neither shall any land be developed, except for the following uses, none of which shall include drive-in, drive-up or drive-through facilities. Further, the following uses are permitted subject to the provisions of Chapter [18.150](#) TMC:

- A. Retail stores (excluding sales of medical or recreational marijuana by producers, wholesalers, processors and retail outlets), shops and offices supplying commodities or performing services for residents of the surrounding community, such as food stores, bakeries (retail), drug or variety stores, and hardware stores.
- B. Repair and maintenance service of the types of goods to be found in the above-mentioned retail trade establishments, provided such service is performed wholly within an enclosed building.
- C. Professional, financial and business offices, and personal service establishments such as beauty and barber shops, laundromats, cleaning agencies (provided the equipment used for cleaning shall be a type of unit using nonflammable cleaning solvent), shoe repair shops, and tailor or dress-making shops.
- D. Restaurants, cafes and soda fountains.
- E. Medical or dental clinics or medical laboratories.

F. Dwelling units that include a ground-floor residential use component, subject to the provisions of TMC 18.45.120.

G.F. Wireless communication antennas subject to the provisions of TMC [18.130.010](#).

H.G. Other uses similar to those listed above, where permitted by the planning commission after written application.

I.H. Uses customarily incidental to the above uses, including the usual accessory buildings and structures provided in the low-density residential zones. [Ord. 817 § 8-3D.130, 2006.]

18.45.040 Buildings and uses permitted subject to Type III site development plan review.

No building or structure shall be hereafter erected, enlarged, or structurally altered; neither shall any land be developed except for the following uses and buildings which are permitted, none of which shall include drive-in, drive-up or drive-through facilities. Further, the following uses are subject to the provisions of Chapter [18.150](#) TMC and TMC [18.190.050](#). The following uses are those that, although permissible, contain certain characteristics that can impact nearby properties. The purpose of the public hearing is to obtain points of view and suggestions from persons owning property within 250 feet of a proposed use, or their representatives, as to the best methods to perform or develop the use.

- A. Community meeting buildings, fraternal and social organizations.
- B. Utility substations.
- C. Churches.
- D. Bins or containers along streets used for temporary storage of garbage or material for recycling.
- E. Public and semi-public buildings essential to the physical welfare of the area, such as fire and police substations, libraries, substations, pump stations and reservoirs;

provided, that each side yard on an interior lot shall be a minimum of 20 percent of the property width but no less than 10 feet.

F. Other buildings or uses similar to those listed above, or under TMC [18.45.020](#) or [18.45.030](#), where permitted by the planning commission after written application. [Ord. 817 § 8-3D.140, 2006.]

18.45.050 Buildings and uses permitted subject to conditional use review.

The planning commission may grant or deny a conditional use permit in accordance with the procedure and provisions set forth in Chapter [18.155](#) TMC. The following uses permitted conditionally in the CN zone meet the description and purpose set forth in Chapter [18.155](#) TMC:

- A. Passenger terminals (bus or rail).
- B. Temporary medical hardship, subject to the supplemental provisions of TMC [18.155.070\(B\)](#).
- C. Buildings over two and one-half stories or 30 feet in height, whichever is the lesser.
- D. Wireless communication towers.
- E. Other buildings or uses that the planning commission determines to be similar to other uses permitted conditionally in the CN zone. [Ord. 817 § 8-3D.150, 2006.]

18.45.060 Yard regulations.

A. *Front Yard*. The front yard shall have a depth of not less than 10 feet, including a parking setback of not less than 10 feet; **except when abutting a lot in a residential zone, and then the front yard and parking setback shall be 15 feet. conform to the front yard requirement of the residential zone.**

B. *Side Yard*.

1. No side yard is required between commercially zoned properties.

2. When abutting a lot in a residential zone, there shall be a minimum side yard of 10 feet.

3. A side yard abutting a street and/or alley shall have a depth of not less than 10 feet.

C. *Rear Yard.* No rear yard is required between commercially zoned properties; when abutting a lot in a residential zone, there shall be a rear yard of not less than 10 feet.

D. *Existing Residential Uses.* For existing residential structures or uses, setbacks in conformance with the RHD medium-density single-family residential (RS-7) zone shall apply. [Ord. 817 § 8-3D.160, 2006.]

18.45.070 Lot area and dimensions.

~~For existing residential uses, the minimum lot sizes of the high-density residential zone shall apply. For dwelling units above the ground floor of a business, there shall be a minimum of 1,200 square feet of total lot area for each dwelling unit.~~

A. ~~For all other permitted uses, In the CN zone there shall be no minimum lot size or lot width.~~

B. *Maximum Building Height.* The maximum height shall be 30 feet or two and one half stories, whichever is less, unless consistent with TMC 18.45.050.C or TMC 18.45.120.

[Ord. 817 § 8-3D.170, 2006.]

18.45.080 Lot coverage restrictions.

In the CN zone there shall be no lot coverage restrictions except as provided in the yard setback, minimum landscaped area per TMC 18.105.020, and off-street parking regulations. [Ord. 817 § 8-3D.180, 2006.]

18.45.090 Parking and loading requirements.

- A. Off-street loading spaces shall be provided as prescribed in Chapter [18.110](#) TMC. Off-street parking spaces adequate to serve commercial establishments shall be made available, but may be provided on a district-wide or joint-use basis rather than adjacent to each commercial use. If adequate public or commercial parking areas are not available, the individual business shall be responsible for providing adequate off-street parking in conformance with the requirements of Chapter [18.110](#) TMC.
- B. On-site parking is prohibited between the building and the street, with the exception of sites with three or more frontages. Access to parking lots shall be from alleys wherever possible. [Ord. 817 § 8-3D.190, 2006.]

18.45.100 Landscaping, fences, walls and signs.

All required landscaped areas shall be installed in accordance with Chapter [18.105](#) TMC. Fences, walls, hedges and screen plantings shall be permitted in accordance with Chapter [18.105](#) TMC. Signs shall be permitted and in conformance with Chapter [18.120](#) TMC. [Ord. 918 § 3 (Exh. A), 2016; Ord. 817 § 8-3D.195, 2006.]

18.45.110 Buffering.

~~When a development or use is proposed on property within the CN zone which abuts or is adjacent to a conflicting land use zone or an incompatible but permitted use within the same zone, the planning commission shall require a buffer~~ Perimeter buffers shall be provided in accordance with TMC [18.105.050](#). [Ord. 918 § 3 (Exh. A), 2016; Ord. 817 § 8-3D.196, 2006.]

18.45.120 Additional residential development standards.

A. *Applicability.* The standards of this section apply to proposed development with a ground-floor residential component, with or without a commercial component.

B. *Types of residential uses permitted:*

1. Multiple-family residential, subject to TMC 18.96.

2. Triplex and quadplex dwellings, subject to TMC 18.95.

C. *Required affordability.* Residential developments subject to the provisions of this section that include 20 or more dwelling units must incorporate a minimum ratio of affordable or workforce dwelling units, as defined in TMC 18.15, as follows:

Table 18.45.120-1: Required affordable or workforce units

% of affordable units OR % of workforce units ¹	Maximum % of gross site area allowed as ground- floor residential ²
5% OR 10%	25%
10% OR 20%	50%
15% OR 30%	75%
20% OR 40%	100%

Notes:

1. Number of required affordable or workforce units shall be rounded up to the nearest full unit.

2. Gross site area utilized for residential use to include all structures, parking areas, landscaping and other site improvements associated with the residential use.

D. *Commercial use requirement.* Residential developments subject to the provisions of this section with any number of dwelling units must incorporate a commercial use component as follows:

Table 18.45.120-2: Required commercial use component

% of gross site area developed as ground- floor residential ¹	Commercial use requirement ²
25% or less	75% of site frontage
25-50%	50% of site frontage
50-75%	25% of site frontage

75% or more	None
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Notes:

1. Gross site area utilized for residential use to include all structures, parking areas, landscaping and other site improvements associated with the residential use.

2. Frontage use for commercial use to include all structures, parking areas, landscaping and other site improvements associated with the commercial use. All buildings used for commercial use shall have a minimum depth of 20 feet.

E. *Density*. Ground-floor residential uses shall achieve a minimum density of 18 units per net acre, with no maximum density. There shall be no minimum density requirement for upper-story residential uses.

Net Acre: For the purposes of this Section, a *net acre* is the total development acreage net of undevelopable lands (as defined in Chapter 18.15 TMC) and a 24-percent reduction allowing for infrastructure. Development projects less than 1.5 acres in size do not need to subtract infrastructure allowance. Development proposals 1.5 acres or larger may not exempt 1.5 acres from calculating infrastructure allowance.

F. *Dimensions*. Any new lots proposed for exclusive residential use shall meet the minimum lot size and setbacks for the RHD zone for the proposed residential use type.

G. *Height*. The maximum allowed height for all residential uses including mixed-use buildings with residential and nonresidential uses shall be three stories or 40 feet, whichever is less. TMC 18.45.050.C shall not apply.

H. *Reasonable Equivalency*. Affordable or workforce units shall be “reasonably equivalent” to market rate units, based on the following criteria:

1. *Bedroom Distribution and Unit Count*. Affordable or workforce units must be provided at the same ratio within the development as market rate units. Example of 20 percent affordable or workforce units: total units = 100; market rate units = 80; affordable or workforce units = 20; market rate unit bedroom distribution = 20 studios (25%), 40 one- bedrooms (50%), 20 two-bedrooms (25%); the affordable or workforce housing distribution would be: 5 studios, 10 one-bedrooms and 5 two-bedrooms. Any calculations resulting in less than a whole number shall be rounded

up from .5 and above or down from .4 or below, but the total number of affordable or workforce units must still equal the requirement.

2. Unit Sizes. Affordable or workforce units must be at least 90 percent the size of the average of the total units with the same bedroom count, as measured in square feet.

3. Unit Distribution. No more than 25 percent of the total units on any floor shall be designated as affordable or workforce units, excluding the top floor of a development.

4. Unit Amenities. Affordable or workforce units must have like or equal performing finishes and appliances as far as durability and sustainability to the market rate units, which will be certified by a development's architect prior to receiving its final certificate of occupancy.

Chapter 18.50

COMMERCIAL ZONE – CENTRAL BUSINESS DISTRICT (CBD)

18.50.010 Description and intent.

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. [Ord. 817 § 8-3D.210, 2006.]

18.50.020 Buildings and uses permitted subject to Type I permit review.

No building, structure or land shall be used, and no building or structure shall be hereafter erected, enlarged or structurally altered, except for the following uses, none of which shall include drive-in, drive-up, or drive-through facilities:

A. Existing residential uses, without any increase in density, or any expansion of use, floor area or improvements.

1. Except: Accessory dwelling units subject to TMC 18.165 are permitted with existing single-family detached dwellings.

B. Upper-story dwelling units, provided the units are located above nonresidential uses and where the ground floor is devoted entirely to a commercial use or uses permitted in this chapter, with the exception of entrance(s) for the dwelling units. One dwelling unit is allowed at ground level behind a nonresidential use, and cannot exceed 50 percent of the total ground floor space of buildings on the parcel.

C. Use of existing structures for the permitted uses listed in TMC [18.50.030](#) and [18.50.040](#), where all the provisions of this title and any amendment thereto are met.

D. Uses and structures customarily incidental to the above uses, including the usual accessory buildings and structures provided in the ~~low- and medium-density~~ residential ~~low- and medium-density~~ zones.

E. Paving, surfacing, or resurfacing of existing parking lots subject to city staff review for conformance with the provisions of Chapter [18.110](#) TMC. If a question arises as to conformance with said provisions, the city planner shall subject the project to a site plan review without a public hearing. [Ord. 817 § 8-3D.220, 2006.]

18.50.030 Buildings and uses subject to Type II site development plan review.

No structure shall be erected, enlarged or structurally altered, nor shall land be developed, except for the following uses or structures, which shall not include drive-in, drive-through or drive-up facilities. The following uses are permitted subject to the provisions of Chapter [18.150](#) TMC and review by the planning department:

- A. Any use permitted subject to ~~Type II site development~~ plan review ~~without a required public hearing~~ in the neighborhood commercial zone (CN).
- B. Retail stores (excluding sales of medical or recreational marijuana by producers, wholesalers, processors and retail outlets) and offices; personal, business and repair services, not including automotive repair. Such uses may not exceed 6,000 square feet. Automotive parts and sales are permitted; provided, that the activity happens fully within enclosed buildings.
- C. Eating and drinking establishments (which may include entertainment) not exceeding 6,000 square feet.
- D. Churches and other religious institutions not exceeding 6,000 square feet.
- E. Guest lodging, not exceeding 10 rooms.
- F. Performing arts theaters and motion picture theaters (not including drive-ins), not exceeding 6,000 square feet.

- G. Public and commercial off-street parking lots or structures, not exceeding 200 parking spaces.
- H. Wireless communication antennas subject to the provisions of TMC [18.130.010](#).
- I. Other uses similar to those listed above, as determined by the planning director consistent with TMC 18.20.020, where permitted by the city planner after written application. Where there is question as to similarity, the planner shall refer the matter to the planning commission for a determination.
- J. Uses and structures customarily incidental to the above uses.
- K. Live-work units.
- L. Dwelling units that include a ground-floor residential use component that exceed the uses permitted in TMC 18.50.020, subject to the provisions of TMC 18.50.120.

18.50.040 Buildings and uses permitted subject to Type III site development plan review.

No structure shall be erected, enlarged or structurally altered, nor shall land be developed, except for the following uses or structures, which shall not include drive-in, drive-through or drive-up facilities. The following uses are permitted subject to the provisions of Chapter [18.150](#) TMC and review by the planning commission in a public hearing. Although permitted, the following uses have characteristics that may negatively impact nearby properties:

- A. Any use permitted subject to Type III site development plan review with a required public hearing in the neighborhood commercial zone (CN), excluding utility substations.
- B. Any use listed in TMC [18.50.030](#) that exceeds the listed size/capacity threshold.
- C. Craft manufactory and retail, provided the structure housing the manufactory is sound and suitable for the intended use (refer to definition in Chapter [18.15](#) TMC for further information).
- D. Public parks, playgrounds and other similar publicly owned recreational areas.

- E. Passenger terminals for bus or rail.
- F. Public and semi-public buildings essential to the physical welfare of the area, such as fire and police substations, libraries, and government offices. Such uses, which may be developed in campus-like settings, are exempt from the dimensional requirements of the zone, except for parking lot setbacks.
- G. Other uses similar to those listed above, or under TMC [18.50.020](#) or [18.50.030](#), ~~as determined by the planning commission consistent with TMC 18.20.020, where permitted by the planning commission after written application.~~
- H. Uses and structures customarily incidental to the above uses. [Ord. 817 § 8-3D.240, 2006.]

18.50.050 Buildings and uses permitted subject to conditional use review.

The planning commission may grant or deny a conditional use permit in accordance with the procedure and provisions set forth in Chapter [18.155](#) TMC.

- A. Any uses permitted conditionally in the neighborhood commercial zone (CN).
- B. Brewery, distillery, or winery not exceeding 6,000 square feet (pub or tasting room required).
- C. Commercial or trade schools.
- D. Wireless communication towers.
- E. Buildings over two and one-half stories or 30 feet in height, whichever is the lesser. ~~Buildings more than 30 feet in height are permitted only if they include residential uses.~~
- ~~1. The maximum height allowed through conditional use review is 40 feet. The proposed building must include site design and architectural elements such that it is compatible with the small town character of Talent. Building elements to be considered include, but are not limited to, size, proportion, massing, articulation, detailing and location. Landscaping, buffering, fencing and similar elements may also be considered, but not as the only method of ensuring compatibility.~~

F. Temporary uses.

G. Pump stations and water reservoirs.

H. Other buildings or uses that the planning commission determines to be similar to other uses permitted conditionally in the CBD zone as determined by the planning commission consistent with TMC 18.20.020. [Ord. 817 § 8-3D.250, 2006.]

18.50.060 Yard regulations.

A. *Front Yard.*

1. Minimum: zero feet.
2. Maximum: 10 feet for no more than 50 percent of the ground-floor width.
3. Parking lots: 10 feet, which shall be landscaped to provide screening.

B. *Side Yard.*

1. Minimum: zero feet.
2. Maximum: 10 feet for no more than 50 percent of the ground-floor width on street-facing sides; 10 feet on alley-facing sides.
3. Parking lots: 10 feet, which shall be landscaped to provide screening.

C. *Rear Yard.* No rear yard is required between commercially zoned properties.

D. *General Provision Applying to All Setbacks.* Where public utility or similar easements exist on or across property lines, setbacks shall be measured from the lot-interior edge of the easement.

E. *Adjacency to Residential Zones.* Where lots abut residentially zoned lots, all setbacks shall be 10 feet 20 feet on the side(s) abutting said lots. This includes front setbacks in order to provide a transition. The setback area shall include all buffers required by TMC 18.105.050.

F. Exceptions to setback provisions shall be made and shall be required on corner lots where vision clearance for automobiles would be impaired by strict observance of the provisions. [Ord. 817 § 8-3D.260, 2006.]

18.50.070 Lot area and dimensions.

~~For dwelling units above the ground floor of a business, there shall be a minimum of 1,200 square feet of total lot area for each dwelling unit. For all other permitted uses,~~

A. ~~In the CBD zone~~ there shall be no minimum lot size or lot width.

B. *Maximum Building Height.* ~~The maximum height shall be 30 feet or two and one half stories, whichever is less, unless consistent with TMC 18.50.050.E or TMC 18.50.120.~~ [Ord. 817 § 8-3D.270, 2006.]

18.50.080 Lot coverage restrictions.

In the CBD zone there shall be no lot coverage restrictions except as provided in the yard setback, ~~minimum landscaped area per TMC 18.105.020,~~ and off-street parking regulations. [Ord. 817 § 8-3D.280, 2006.]

18.50.090 Parking and loading requirements.

A. Off-street loading spaces shall be provided as prescribed in Chapter [18.110](#) TMC. Off-street parking spaces adequate to serve commercial establishments shall be made available, but may be provided on a district-wide or joint use basis rather than adjacent to each commercial use. If adequate public or commercial parking areas are not available, the individual business shall be responsible for providing adequate off-street parking in conformance with the requirements of Chapter [18.110](#) TMC.

B. On-site parking is prohibited between the building and the street, with the exception of sites with three or more frontages. Access to parking lots shall be from alleys wherever possible. [Ord. 817 § 8-3D.290, 2006.]

18.50.100 Landscaping, fences, walls and signs.

All required landscaped areas shall be installed in accordance with Chapter [18.105](#) TMC. Fences, walls, hedges and screen plantings shall be permitted in accordance with Chapter [18.105](#) TMC. In all cases, and at all times, they shall not exceed four feet in height within front and street-side yards. Signs shall be permitted in accordance with Chapter [18.120](#) TMC. [Ord. 918 § 3 (Exh. A), 2016; Ord. 817 § 8-3D.295, 2006.]

18.50.110 Buffering.

~~When a development or use is proposed on property within the CBD zone which abuts or is adjacent to a conflicting land use zone or an incompatible but permitted use within the same zone, the planning commission shall require a buffer~~ **Buffers shall be provided** in accordance with TMC [18.105.050](#). The planning commission may waive buffering that would otherwise be required by TMC [18.105.050\(B\)](#) if it finds that the need to fulfill the intent of the CBD zone outweighs the need for buffering. [Ord. 918 § 3 (Exh. A), 2016; Ord. 817 § 8-3D.296, 2006.]

18.50.120 Additional residential standards.

A. Applicability. The standards of this section apply to proposed development with a ground-floor residential component, with or without a commercial component.

B. Types of residential uses permitted:

- 1. Multiple-family residential, subject to TMC 18.96.**
- 2. Triplex and quadplex dwellings, subject to TMC 18.95.**

C. Required affordability. Residential developments subject to the provisions of this section that include 20 or more dwelling units must incorporate a minimum ratio of affordable or workforce dwelling units, as defined in TMC 18.15, as follows:

Table 18.50.120-1: Required affordable or workforce units

% of affordable units OR	Maximum % of gross site
---------------------------------	--------------------------------

% of workforce units ¹	area allowed as ground-floor residential ²
5% OR 10%	25%
10% OR 20%	50%
15% OR 30%	75%
20% OR 40%	100%

Notes:

1. Number of required affordable or workforce units shall be rounded up to the nearest full unit.

2. Gross site area utilized for residential use to include all structures, parking areas, landscaping and other site improvements associated with the residential use.

D. *Commercial use requirement.* Residential developments subject to the provisions of this section with any number of dwelling units must incorporate a commercial use component as follows:

Table 18.50.120-2: Required commercial use component

% of gross site area developed as ground-floor residential ¹	Commercial use requirement ²
25% or less	75% of site frontage
25-50%	50% of site frontage
50-75%	25% of site frontage
75% or more	None

Notes:

1. Gross site area utilized for residential use to include all structures, parking areas, landscaping and other site improvements associated with the residential use.

2. Frontage use for commercial use to include all structures, parking areas, landscaping and other site improvements associated with the commercial use. All buildings used for commercial use shall have a minimum depth of 20 feet.

E. Density. Ground-floor residential uses shall achieve a minimum density of 18 units per net acre, with no maximum density. There shall be no minimum density requirement for upper-story residential uses.

Net Acre: For the purposes of this Section, a *net acre* is the total development acreage net of undevelopable lands (as defined in Chapter 18.15 TMC) and a 24-percent reduction allowing for infrastructure. Development projects less than 1.5 acres in size do not need to subtract infrastructure allowance. Development proposals 1.5 acres or larger may not exempt 1.5 acres from calculating infrastructure allowance.

F. Dimensions. Any new lots proposed for exclusive residential use shall meet the minimum lot size and setbacks for the RHD zone for the proposed residential use type.

G. Height. The maximum allowed height for all residential uses including mixed-use buildings with residential and nonresidential uses shall be three stories or 40 feet, whichever is less. TMC 18.50.050.E shall not apply.

H. Reasonable Equivalency. Affordable or workforce units shall be “reasonably equivalent” to market rate units, based on the following criteria:

1. **Bedroom Distribution and Unit Count.** Affordable or workforce units must be provided at the same ratio within the development as market rate units. Example of 20 percent affordable or workforce units: total units = 100; market rate units = 80; affordable or workforce units = 20; market rate unit bedroom distribution = 20 studios (25%), 40 one-bedrooms (50%), 20 two-bedrooms (25%); the affordable or workforce housing distribution would be: 5 studios, 10 one-bedrooms and 5 two-bedrooms. Any calculations resulting in less than a whole number shall be rounded up from .5 and above or down from .4 or below, but the total number of affordable or workforce units must still equal the requirement.

2. **Unit Sizes.** Affordable or workforce units must be at least 90 percent the size of the average of the total units with the same bedroom count, as measured in square feet.

3. **Unit Distribution.** No more than 25 percent of the total units on any floor shall be designated as affordable or workforce units, excluding the top floor of a development.

4. Unit Amenities. Affordable or workforce units must have like or equal performing finishes and appliances as far as durability and sustainability to the market rate units, which will be certified by a development's architect prior to receiving its final certificate of occupancy.

Chapter 18.55

COMMERCIAL ZONE – HIGHWAY CENTRAL BUSINESS DISTRICT (CBH)

18.55.010 Description and intent.

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. [Ord. 817 § 8-3D.310, 2006.]

18.55.020 Buildings and uses permitted subject to Type I permit review.

No building, structure or land shall be used, and no building or structure shall be hereafter erected, enlarged or structurally altered, except for the following uses, none of which shall include drive-in, drive-up, or drive-through facilities:

A. Existing residential uses, without any increase in density, or any expansion of use, floor area or improvements.

1. Except: Accessory dwelling units subject to TMC 18.165 are permitted with existing single-family detached dwellings.

B. Use of existing structures for the permitted uses listed in TMC [18.55.030](#) and [18.55.040](#), where all the provisions of this title and any amendment thereto are met.

C. Uses customarily incidental to the above uses.

D. Paving, surfacing, or resurfacing of existing parking lots subject to city staff review for conformance with the provisions of Chapter [18.110](#) TMC. If a question arises as to

conformance with said provisions, the city planner shall subject the project to a site plan review without a public hearing. [Ord. 817 § 8-3D.320, 2006.]

18.55.030 Buildings and uses subject to Type II site development plan review.

No structure shall be erected, enlarged or structurally altered, nor shall land be developed, except for the following uses or structures, which shall not include drive-in, drive-through or drive-up facilities. The following uses are permitted subject to the provisions of Chapter [18.150](#) TMC and review by the planning department:

- A. Any use permitted subject to [Type II](#) site [development](#) plan review ~~without a required public hearing~~ in the neighborhood commercial zone (CN) and central business district (CBD).
- B. Retail stores (excluding sales of medical or recreational marijuana by producers, wholesalers, processors and retail outlets) and offices; personal, business and repair services.
- C. Eating and drinking establishments (which may include entertainment).
- D. Churches and other religious institutions.
- E. Performing arts theaters and motion picture theaters (not including drive-ins).
- F. Public and commercial off-street parking lots or structures.
- G. Wireless communication antennas subject to the provisions of TMC [18.130.010](#).
- H. Other uses similar to those listed above, [as determined by the planning director consistent with TMC 18.20.020](#), ~~where permitted by the city planner after written application.~~
- I. Uses customarily incidental to the above uses.
- J. Live-work units.

K. Dwelling units that include a ground-floor residential use component that exceed the uses permitted in TMC 18.55.020, subject to the provisions of TMC 18.55.120. [Ord. 817 § 8-3D.330, 2006.]

18.55.040 Buildings and uses permitted subject to Type III site development plan review.

No structure shall be erected, enlarged or structurally altered, nor shall land be developed, except for the following uses or structures, which shall not include drive-in, drive-through or drive-up facilities. The following uses are permitted subject to the provisions of Chapter 18.150 TMC and review by the planning commission in a public hearing. Although permitted, the following uses have characteristics that may negatively impact nearby properties:

- A. Any use permitted subject to Type III site development plan review with a required public hearing in the neighborhood commercial zone (CN) and CBD zone, except that utility substations are not permitted in the CBH zone.
- B. Public parks, playgrounds and other similar publicly owned recreational areas.
- C. Craft manufactory and retail, provided the structure housing the manufactory is sound and suitable for the intended use (refer to definition in Chapter 18.15 TMC for further information).
- D. Passenger terminals for bus or rail.
- E. Public and semi-public buildings essential to the physical welfare of the area, such as fire and police substations, libraries.
- F. Other uses similar to those listed above, or under TMC 18.55.020 or 18.55.030, as determined by the planning commission consistent with TMC 18.20.020, where permitted by the planning commission after written application.
- G. Uses customarily incidental to the above uses.
- H. Civic center buildings and other buildings of a public service nature.

~~I. *Multifamily Housing*. In the CBH zone, multifamily housing is allowed on both the ground level and upper levels, provided total ground level area in housing is less than 50 percent of the parcel's gross area and commercial storefronts are provided along the street frontage.~~ [Ord. 817 § 8-3D.340, 2006.]

18.55.050 Buildings and uses permitted subject to conditional use review.

The planning commission may grant or deny a conditional use permit in accordance with the procedure and provisions set forth in Chapter [18.155](#) TMC.

- A. Automobile service stations.
- B. Commercial amusement establishments, including bowling alleys, pool halls, or similar amusements.
- C. Craft manufactory and retail uses with more than 15 employees at any one time.
- D. Brewery, distillery, or winery not exceeding 6,000 square feet (pub or tasting room required).
- E. Contractor offices and storage yards.
- F. Retail and wholesale business and service establishments providing home furnishings, drapery and floor coverings; nursery supplies; retail lumber, paint and wallpaper; plumbing, heating and electrical sales or service and retail sales of medical and recreational marijuana.
- G. Guest lodging.
- H. Commercial or trade schools.
- I. Buildings over two and one-half stories or 30 feet in height, whichever is the lesser. Only residential units are permitted above 30 feet in height.

~~1. The maximum height allowed through conditional use review is 40 feet. The proposed building must include site design and architectural elements such that it is compatible with the small town character of Talent. Building elements to be~~

considered include, but are not limited to, size, proportion, massing, articulation, detailing and location. Landscaping, buffering, fencing and similar elements may also be considered, but not as the only method of ensuring compatibility.

- J. Drive-in, drive-up and drive-through facilities.
- K. Temporary uses.
- L. Pump stations and water reservoirs.
- M. Wireless communication towers.
- N. Other buildings or uses that the planning commission determines to be similar to other uses permitted conditionally in the CBH zone. [Ord. 817 § 8-3D.350, 2006.]

18.55.060 Yard regulations.

A. Front Yard.

1. Minimum: zero feet.
2. Maximum: 10 feet for no more than 50 percent of the ground-floor width.
3. Parking lots: 10 feet, which shall be landscaped to provide screening.

B. Side Yard.

1. Minimum: zero feet.
2. Maximum: 10 feet for no more than 50 percent of the ground-floor width on street-facing sides; 10 feet on alley-facing sides.
3. Parking lots: 10 feet, which shall be landscaped to provide screening.

C. Rear Yard. No rear yard is required between commercially zoned properties.

D. General Provision Applying to All Setbacks. Where public utility or similar easements exist on or across property lines, setbacks shall be measured from the lot-interior edge of the easement.

E. *Adjacency to Residential Zones.* Where lots abut residentially zoned lots, all setbacks shall be **10 feet 20 feet** on the side(s) abutting said lots. **This includes front setbacks in order to provide a transition.** **The setback area shall include all buffers required by TMC 18.105.050.**

F. Exceptions to setback provisions shall be made and shall be required on corner lots where vision clearance for automobiles would be impaired by strict observance of the provisions. [Ord. 817 § 8-3D.360, 2006.]

18.55.070 Lot area and dimensions.

For dwelling units above the ground floor of a business, there shall be a minimum of 1,200 square feet of total lot area for each dwelling unit. For all other permitted uses,

A. **In the CBH zone** there shall be no minimum lot size or lot width.

B. **Maximum Building Height.** The maximum height shall be 30 feet or two and one half stories, whichever is less, unless consistent with TMC 18.55.050.I or TMC 18.55.120. [Ord. 817 § 8-3D.370, 2006.]

18.55.080 Lot coverage restrictions.

In the CBH zone there shall be no lot coverage restrictions except as provided in the yard setback, **minimum landscaped area per TMC 18.105.020,** and off-street parking regulations. [Ord. 817 § 8-3D.380, 2006.]

18.55.090 Parking and loading requirements.

A. Off-street parking and loading spaces shall be provided as prescribed in Chapter [18.110](#) TMC without exception and despite the exclusion provision found in TMC [18.110.050](#).

B. On-site parking is prohibited between the building and the street, with the exception of sites with three or more frontages. [Ord. 817 § 8-3D.390, 2006.]

18.55.100 Landscaping, fences, walls and signs.

All required landscaped areas shall be installed in accordance with Chapter [18.105](#) TMC. Fences, walls, hedges and screen plantings shall be permitted in conformance with Chapter [18.105](#) TMC. In all cases, and at all times, they shall not exceed four feet in height within front and street-side yards. Signs shall be permitted in accordance with Chapter [18.120](#) TMC. [Ord. 918 § 3 (Exh. A), 2016; Ord. 817 § 8-3D.395, 2006.]

18.55.110 Buffering.

~~When a development or use is proposed on property within the CBH zone which abuts or is adjacent to a conflicting land use zone or an incompatible but permitted use within the same zone, the planning commission shall require a buffer~~ **Buffers shall be provided** in accordance with TMC [18.105.050](#). The planning commission may waive buffering that would otherwise be required by TMC [18.105.050\(B\)](#) if it finds that the need to fulfill the intent of the CBH zone outweighs the need for buffering. [Ord. 918 § 3 (Exh. A), 2016; Ord. 817 § 8-3D.396, 2006.]

18.55.120 Additional residential development standards.

A. *Applicability.* The standards of this section apply to proposed development with a ground-floor residential component, with or without a commercial component.

B. Types of residential uses permitted:

1. Multiple-family residential, subject to TMC 18.96.

2. Triplex and quadplex dwellings, subject to TMC 18.95.

C. *Required affordability.* Residential developments subject to the provisions of this section that include 20 or more dwelling units must incorporate a minimum ratio of affordable or workforce dwelling units, as defined in TMC 18.15, as follows:

Table 18.55.120-1: Required affordable or workforce units

% of affordable units OR	Maximum % of gross site
---------------------------------	--------------------------------

% of workforce units ¹	area allowed as ground-floor residential ²
None	25%
None	50%
15% OR 30%	75%
20% OR 40%	100%

Notes:

1. Number of required affordable or workforce units shall be rounded up to the nearest full unit.

2. Gross site area utilized for residential use to include all structures, parking areas, landscaping and other site improvements associated with the residential use.

D. *Commercial use requirement.* Residential developments subject to the provisions of this section with any number of dwelling units must incorporate a commercial use component as follows:

Table 18.55.120-2: Required commercial use component

% of gross site area developed as ground-floor residential ¹	Commercial use requirement ²
25% or less	75% of site frontage
25-50%	50% of site frontage
50-75%	25% of site frontage
75% or more	None

Notes:

1. Gross site area utilized for residential use to include all structures, parking areas, landscaping and other site improvements associated with the residential use.

2. Frontage use for commercial use to include all structures, parking areas, landscaping and other site improvements associated with the commercial use. All buildings used for commercial use shall have a minimum depth of 20 feet.

E. Density. Ground-floor residential uses shall achieve a minimum density of 18 units per net acre, with no maximum density. There shall be no minimum density requirement for upper-story residential uses.

Net Acre: For the purposes of this Section, a *net acre* is the total development acreage net of undevelopable lands (as defined in Chapter 18.15 TMC) and a 24-percent reduction allowing for infrastructure. Development projects less than 1.5 acres in size do not need to subtract infrastructure allowance. Development proposals 1.5 acres or larger may not exempt 1.5 acres from calculating infrastructure allowance.

F. Dimensions. Any new lots proposed for exclusive residential use shall meet the minimum lot size and setbacks for the RHD zone for the proposed residential use type.

G. Height. The maximum allowed height for all residential uses including mixed-use buildings with residential and nonresidential uses shall be three stories or 40 feet, whichever is less. TMC 18.55.050.I shall not apply.

H. Reasonable Equivalency. Affordable or workforce units shall be “reasonably equivalent” to market rate units, based on the following criteria:

1. **Bedroom Distribution and Unit Count.** Affordable or workforce units must be provided at the same ratio within the development as market rate units. Example of 20 percent affordable or workforce units: total units = 100; market rate units = 80; affordable or workforce units = 20; market rate unit bedroom distribution = 20 studios (25%), 40 one-bedrooms (50%), 20 two-bedrooms (25%); the affordable or workforce housing distribution would be: 5 studios, 10 one-bedrooms and 5 two-bedrooms. Any calculations resulting in less than a whole number shall be rounded up from .5 and above or down from .4 or below, but the total number of affordable or workforce units must still equal the requirement.

2. **Unit Sizes.** Affordable or workforce units must be at least 90 percent the size of the average of the total units with the same bedroom count, as measured in square feet.

3. **Unit Distribution.** No more than 25 percent of the total units on any floor shall be designated as affordable or workforce units, excluding the top floor of a development.

4. Unit Amenities. Affordable or workforce units must have like or equal performing finishes and appliances as far as durability and sustainability to the market rate units, which will be certified by a development's architect prior to receiving its final certificate of occupancy.