

CURRY COUNTY ZONING ORDINANCE

DRAFT MIXED-USE MASTER PLAN ZONE

(Last update: Tuesday, May 05, 2009)

Proposed text amendments to the *Curry County Zoning Ordinance* to create the Mixed Use Master Plan Zone.

Added text is in **bold letters** and deleted text is ~~struck through~~.

Proposed Amendments to Article III – Use Zones:

Section 3.460 Mixed Use Master Plan (MUMP) Zone.

Purpose of Classification. The Mixed Use Master Plan (MUMP) zone is designated to be applied to areas where a variety of housing types and densities with limited commercial office and retail uses to serve the surrounding residential neighborhood may be appropriate. This zone is intended to be applied only within urban growth boundaries identified by the *Curry County Comprehensive Plan*. The intent and purpose of the MUMP zone is to:

1. Implement the Mixed Use Policies of the Curry County Comprehensive Plan;
2. Implement adopted Comprehensive Development Plan(s), Public Facilities and/or Transportation System Plans;
3. Provide alternative “clear and objective” or “discretionary” approval for tracks of lands inventoried for needed housing as follows:
 - a. A discretionary track that encourages flexibility and innovative design:
and
 - b. A “clear and objective” track consistent with the requirements of Oregon’s “needed housing statutes” that land inventoried for needed housing within acknowledged urban growth boundaries be made available under a permitting track that is subject only to local approval standards and procedures that are “clear and objective” and do not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay (ORS 197.307(6));
4. Encourage innovative planning that results in mixed-use development, improved protection of open spaces, parks, and natural features while providing greater housing and transportation opportunities within urban growth boundaries;
5. Encourage developments that recognize the relationship of sustainable development and sustainable business practices;
6. Encourage and support affordable and workforce housing options and mixed-income neighborhoods;

7. Promote flexibility in design and permit diversification in type, density, and location of structures; and
8. Provide compatibility with surrounding land uses.

Section 3.461. Definitions.

Unless the context specifically indicates otherwise, as used in CCZO Section 3.460 to Section 3.476, the following mean:

1. **Building Footprint.** The outline of the total area covered by building's exterior walls at ground level, exclusive of courtyards.
2. **Buildable Land.** For the purpose of calculating density in the MUMP zone, buildable land means residentially designated vacant and, at the option of the County, redevelopable land outside of city limits but within the urban growth boundaries of the Cities of Brookings, Gold Beach, and Port Orford that is not severely constrained by natural hazards (Curry County Planning Goal 7) or subject to natural resource protection measures (Curry County Planning goal 5). Publicly owned land is generally not considered available for residential use. Land with slopes of 25 percent or greater, unless otherwise provided for at the time of State acknowledgment, and land within the 100-year floodplain is generally considered unbuildable for purposes of density calculations.
3. **Comprehensive Development Plan.** A comprehensive long-range plan that implements the goals and policies of the *Curry County Comprehensive Plan* and guides future development for a defined area within an urban growth boundary outside of the city limits where public facilities and/or transportation system plans either do not exist or need to be revised.
4. **Dwelling unit** means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.
5. **Home Owners Association.** A home owners association is an organization formed for the maintenance and operation of the common areas, open space and common facilities serving a Master Plan of Development (MPD). The membership in the association must be automatic with the purchase of a dwelling unit or other property in the planned development. The association's principal source of funds shall be an assessment levied against each dwelling unit or other property, which assessment shall be enforceable as a lien against the property.
6. **Limited Commercial Office-Retail Node.** Track(s) of land for commercial use adjacent to and at the intersection of two collector streets/roads or a collector and a residential street.

7. **Master Plan of Development (MPD).** A detailed regulatory plan approved by the County that implements the adopted *Curry County Comprehensive Plan*, any adopted Comprehensive Development Plan, and the ~~provision of the~~ MUMP zoning designation.
8. **Mixed-Use Building.** A single building containing more than one type of land use such as, but not limited to, residential, commercial office, commercial retail, public, or entertainment.
9. **Net Acre.** An acre of buildable land excluding all proposed streets (private or public), common areas, public parks, and similar areas within the MPD boundary.
10. **Open Space.** Areas designated or otherwise identified on the final plan of a ~~planned development~~ **MPD**, or phase thereof, which are permanently set aside for the common use of the general public; for members of a homeowners association; or for the owners and invitees of lands subject to conservation and open space easements. Open areas may be landscaped and/or left with a natural tree cover and may include public and private parks, squares, plazas, outdoor recreational and athletic facilities, buffers, bicycle and pedestrian ways, ~~viewsheds,~~ watersheds, gardens, pastures, wetlands, and waterways. **Open space shall not include impervious surfaces such as streets, roads, accessways, driveways, parking lots, etc.**
11. **Redevelopable Land.** Land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.
12. **Urban Growth Area.** The unincorporated area between a given city limits and the Urban Growth Boundary (UGB) as identified by the *Curry County Comprehensive Plan* in which urban services and facilities can be extended and development at urban intensity and density will occur when urban facilities and services are available.

Section 3.462. Establishment of Mixed Use Master Plan (MUMP) Zone

The MUMP zone may be established on land only within urban growth boundaries as identified by the *Curry County Comprehensive Plan* having a Curry County “Residential” Comprehensive Plan designation or a Curry County Master Plan Area designation.

Section 3.463. Land Use Regulations.

1. **Clear and Object Standards:** All development in the MUMP zone shall be undertaken pursuant to a Comprehensive Development Plan (if adopted) and the development standards set forth in the Curry County Zoning

Ordinance (CCZO) Sections 3.464 to 3.476.

2. Discretionary Track: An area within an urban growth boundary having an MUMP zoning designation may establish land use regulations and development standards that differ from the regulations in the Curry County Zoning Ordinance with the adoption of a MPD upon meeting the following criteria:
 - a. Conforms to all applicable goals and policies of the *Curry County Comprehensive Plan* in light of its intent statements;
 - b. Complies with the applicable *Comprehensive Development Plan* (if adopted) and/or any adopted public facility plans and transportation system plans;
 - c. The proposed land use regulations and development standards would implement best engineering practices for low impact development and better preserve existing vegetation, topography, natural drainage, and soils than existing regulations and development standards in the CCZO; and
 - d. The proposed land use regulations and development standards minimize potential impacts to the surrounding property, neighborhood or the county as a whole.

Where a provision in an adopted MPD differs from other provisions of the Curry County Zoning Ordinance the adopted MPD shall govern.

3. An MPD shall be adopted as a post acknowledgement plan amendment pursuant to ORS 197.610 by the affected City and County.

Section 3.464 General Development Standards.

Except as otherwise provided pursuant to Section 3.463(2), the following general development standards shall apply to all development of greater than 40 acres or areas designated as “Master Planned Areas” with a County MUMP zoning designation:

1. The maximum number of dwelling units within the MPD area shall not average more than 5.9 dwelling units per net acre;
2. A minimum of 50 percent of all buildable land within the MPD boundary shall be reserved as natural and usable open space, for civic or public use;
3. A Home Owners Association shall be formed for the perpetual maintenance and operation of any common areas, open space, and common facilities as described in any ~~Master Planned Development~~ **MPD**;
4. A MPD covering a specific proposed area must be submitted and

approved pursuant to the provisions of CCZO Section 3.467 through Section 3.470 prior to the occurrence of any new development.

Section 3.465. Uses Permitted Outright

Except as otherwise provided pursuant to Section 3.463(2) and as otherwise provided by an approved MPD, the following uses and their accessory uses are permitted outright:

1. Residential when developed pursuant CCZO Section 3.464
 - a) Detached or attached Single-family dwelling;
 - b) Mobile Home or Manufactured Home;
 - c) Multiple-family dwelling.
2. Commercial professional office use in a Limited Commercial Office-Retail Node not exceeding the maximum building size under Section 3.472(2)(a):
 - a) Office of a physician, dentist or therapist;
 - b) Real estate sales;
 - c) Legal office, accountant office, etc.;
 - d) Medical Clinic;
 - e) Other small Professional Office uses of the same type as professional office uses listed above as authorized under CCZO Section 10.020.
3. Commercial retail uses in a Limited Commercial Office-Retail Node not exceeding the maximum building size under Section 3.472(2)(a):
 - a) Drugstores;
 - b) Grocery or food stores;
 - c) Bakery;
 - d) Book or stationary shop;
 - e) Newsstands;
 - f) Restaurants, café, coffee shops, dining rooms and tea rooms;
 - g) Handicraft or gift store including the manufacture of such goods on the premises;
 - h) Barber or beauty shop;
 - i) Laundry and dry cleaning pick-up service establishments;
 - j) Post office station;
 - k) Banks and Credit Unions;
 - l) Other small retail uses of the same type as the retail uses listed above and as authorized under CCZO Section 10.020.
4. Mixed Use Buildings in a Limited Commercial Office-Retail Node.
5. Utility facilities necessary for public service, (e.g. fire stations, utility substations, etc.) except commercial facilities for the purpose of generating power for public use by sale.

6. Church, school, libraries, or community building(s) for public or non-profit organizational use.
7. Parks or open spaces for public or private use

Section 3.466 Conditional Uses

Unless otherwise approved in the MPD, the following uses may be allowed provided a land use application is submitted pursuant to Section 2.060 of the Curry County Zoning Ordinance and, upon the recommendation of the Commission, the Board approves the proposed use based upon relevant standards for review in this ordinance.

1. Trailer, camping or recreational vehicle temporarily used as a residence during construction of a permitted use or to temporarily provide watchman security for material that cannot be reasonably stored in an established commercial storage facility.
2. Television, microwave, and radio communication facilities and transmission antenna towers.
3. Home Occupation when operated under the provisions of CCZO Section 7.040(7).

Section 3.467 Master Plan of Development (MPD).

1. Review and approval of a MPD may occur concurrently with the review and adoption of a Comprehensive Development Plan.
2. The area subject to a MPD shall contain no less than forty (40) acres **or be located within a designated Master Plan Area (MPA)**.
3. Standards, regulations, or processes stipulated in an approved MPD shall supersede all other standards, regulations, or processes of the zoning ordinance and shall be used as review criteria for any specific development proposal within the area covered by the MPD.
4. If residential development standards are provided in the MPD, then approval of such standards shall be reviewed and approved as “alternative approval criteria” under ORS 197.307. All such standards, regulations, or processes shall apply in lieu of the clear and objective standards set forth under Section 3.471 or any other applicable section of CCZO and shall govern all residential development identified within the area subject to the MPD. The use of such alternative standards shall be documented pursuant to Section 3.468.
5. MPD requirements. The MPD shall include the following elements in the form of map(s), text, or both, as applicable:
 - a) Illustrative site plan;

- b) The general allocation and identification of major proposed land uses, including residential (by density range), nonresidential, limited commercial office, limited retail, open space, and recreational land uses;
- c) Name, location, and extent of existing or proposed streets located within the MPD area or needed for servicing the MPD area;
- d) Typical street cross-sections by street classification (i.e., arterial, collector, residential, alley, etc.);
- e) A detailed listing of the permitted land uses in the Master Development Plan area;
- f) Detailed standards or regulations governing permitted uses, such as performance standards and standards for development, regulations for development densities, heights, floor area, open space, lot area and coverage, parking, landscaping, and other site improvements;
- g) Standards for the conservation, development, or utilization of natural resources, including surface water, soils, vegetation, and wildlife;
- h) An inventory and identification of all wetland and riparian resources, all intermittent and perennial waterways;
- i) Where applicable, the methods of protection or conservation for natural features, **and** historic structures, ~~and viewsheds~~;
- j) Standards and responsibilities for maintenance of infrastructure and whether the infrastructure is to be public or private;
- k) Standards for phasing and construction of streets proposed for the Master Development Plan area or needed for servicing the project as identified in the required study(ies) submitted with the Master Development Plan proposal;
- l) Standards for the phasing and construction of sewage disposal, effluent use, storm and surface water drainage, solid waste disposal, and public utilities as identified in the required studies submitted with the Master Development Plan proposal;
- m) A draft form of financial assurances for the construction of public infrastructure to be recorded prior to Master Development Plan approval;
- n) Specifications as to how and to what extent the Master Development Plan is to supplement or supersede adopted County regulations;
- o) Storm and surface water plan;
- p) Sanitary sewer system plan;
- q) Water system plan;

- r) A traffic impact analysis (TIA) update that includes trip generation factors for various modes, estimated trips per day by land use, proposed vehicular access and circulation plan for the site, and existing and future traffic impacts by mode on surrounding parcels;
- s) Assurance that electrical service can be provided to the subject property concurrently with and at the levels necessary for each phase of development under an approved Master Development Plan;
- t) On-site and off-site impacts on existing structures and other development;
- u) On-site and off-site impacts on existing infrastructure and public services;
- v) Location of archaeological artifacts on any property located within a archeological sites identified in the *Curry County Comprehensive Plan*;
- w) If the proposed MPD includes any division of ownership of the property or structures, the applicant shall comply with all relevant provisions of the Curry County Subdivision Ordinance and/or ORS Chapter 92; and
- x) Other information, as reasonably determined necessary by the Planning Director to establish compliance with applicable criteria.

Section 3.468 Review Criteria for approval of or an amendment to a Master Development Plan.

1. The Planning Commission may recommend approval of an application to the Board for a MPD upon finding that the following approval criteria have been met:
 - a. The proposed MPD is consistent with the purpose identified in Section 3.460;
 - b. The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first phase and completion of the last phases unless otherwise authorized by the Planning Commission either at the time of approval of the MPD or by a modification to the MPD
 - c. The proposed MPD will demonstrate that adequate utilities and infrastructure are available at each phase and can reasonably be made available for future phases. The proposed MPD will further demonstrate that existing utility services and water supplies, including fire flows, for adjacent properties developed prior to adoption of the MPD will not be made substandard or otherwise materially at each phase.

- d. The proposed MPD will demonstrate that the plan respects the physical characteristics of the site by preserving existing vegetation, topography, natural drainage, and soils.
- e. The proposed MPD will demonstrate that adequate transportation facilities will be available to serve each phase of development and that the plan promotes the most economic, safe and efficient movement of all modes of transportation.
- f. The proposed MPD meets the applicable requirements of the Urban Growth Boundary Joint Management Agreement.
- ~~g. Unless on the "Discretionary Track" pursuant to CCZO Section 3.463, the proposed MPD must comply with all of the criteria and standards in Section 3.164, 3.465, 3.466, 3.471, 3.472, and 3.473.~~

Section 3.469. Action by Planning Commission.

- 1. The Commission shall conduct a public hearing in accordance with CCZO Section 2.140.
- 2. Following the close of the hearing the Commission shall recommend the approval, approval with conditions, or denial of the MPD. The recommendation shall be forwarded to the Board and include findings that specify how the application has or has not complied with the above review criteria.

Section 3.470. Action by the Board

- 1. Upon receipt of said report from the Commission, a public hearing shall be set for a regular meeting of the Board following the receipt of the report.
- 2. At the conclusion of the public hearing, the Board shall enact an ordinance granting approval of the MPD, approval of the MPD with conditions, or denying the granting of the MPD.

Section 3.471 Residential Development Standards.

- 1. Any residential development shall conform to standards set forth in a MPD or the standards set forth in this section.
- 2. Except as otherwise provided by an approved MPD, the following development standards shall apply to all residential development:
 - a) **Minimum Lot Size.** Except as may be required to meet minimum setbacks and any requirements providing for a minimum square footage of a building or structure, there are no minimum lot size requirements for residential development. However, the overall residential development shall not average more than 5.9 dwelling units per net acre.

- b) **Building Setbacks.**
 - i) A minimum five-foot (5') setback is required from all alley rights-of-way.
 - ii) A minimum ten-foot (10') setback is required from all access easement or street rights-of-way. Open covered and uncovered porches may extend within the street setback to within five (5) feet of the property line. Except as may otherwise be required by applicable building codes and the Oregon Fire Code Standards, no other minimum building setbacks apply.
- c) **Frontage Requirements.** Residential lots shall have the following street frontage:
 - i) For single-family residential development, a minimum of eighteen (18) feet per residential unit; and
 - ii) For multi-family residential development, a minimum of twenty-four (24) feet.
- d) **Lot Coverage.** The maximum lot coverage for a residential detached single family dwelling, including accessory structures, shall not exceed fifty-five (55) percent of the lot or parcel.
- e) **Building Height.** No building shall exceed thirty-five (35) feet in height, except as provided in CCZO Section 5.050.
- f) **Building Orientation.**
 - i) All single-family attached homes and multi-family residential complexes shall have their primary entrance oriented toward the street. Entrances to multi-family buildings may include entrances to individual units or breezeway/courtyard entrances (i.e. to a cluster of residential units); or
 - ii) Single-family attached homes and multi-family residential complexes may have their primary orientation to a side yard when a direct pedestrian walkway is provided between the main entrance and the street.
- g) **Parking.** The provisions of CCZO Section 4.020 regarding Off-street Parking standards shall apply to all residential uses.

- 3. Except as otherwise provided by an approved MPD, all applications for development shall be subject to the provisions of the Natural Hazard Overly Zone (CCZO Section 3.250 through Section 3.253).

Section 3.472 Limited Commercial Office, Limited Commercial Retail, Mixed Use, and Other uses.

- 1. Except as otherwise provided by an approved MPD, any development,

other than residential, shall conform to standards set forth in a MPD or the standards set forth in this section. If a MPD has been adopted for the area of proposed development, then the applicant shall proceed according to the standards set forth in the MPD.

2. Unless otherwise specified in an approved MPD, the following development standards shall apply to all limit commercial development within the MUMP zone:
 - a) **Minimum/Maximum Lot and Building Size.** There shall be no minimum lot size for limited commercial office/retail development except as may be required to meet minimum setbacks; ~~and~~ any requirements providing for a minimum square footage of a building or structure; and/or minimum parking requirements. Limited Commercial Office and Retail nodes shall be limited to a maximum of five (5) acres. Individual commercial office establishment shall be limited to a maximum of 3,000 square feet of floor area and individual commercial retail establishment shall be limited to 6,000 square feet of floor area.
 - b) **Location: The distance between** Commercial Office and ~~¶~~ Retail nodes shall not be less than 2,640 lineal feet (0.50 mile).
 - c) **Building Setbacks.**
 - i) A minimum five-foot (5') setback is required from all alley rights-of-way.
 - ii) A minimum ten-foot (10') setback is required from all access easement or street rights-of-way. Except as may otherwise be required by Uniform Building Code Standards, no other minimum building setbacks apply.
 - d) **Frontage Requirements.** All limited commercial office/retail lots/parcels shall have a minimum of 16 feet of street frontage on a collector street or road.
 - e) **Lot Coverage.** No minimum.
 - f) **Building Height.** No building shall exceed thirty-five (35) feet in height, except that the building height may exceed thirty-five (35) feet with a written statement from the provider of fire protection service that there is adequate equipment and services available to provide fire protection.
 - g) **Building Orientation.** All commercial office and retail establishments shall have their primary orientation to a collector street or road. A direct pedestrian walkway shall be provided between the main entrance and the street.
 - h) **Parking.** The provisions of CCZO Section 4.020 regarding Off street Parking standards shall apply.

- i) **Hours of Operation.** All commercial office and retail establishments within the MPD zone shall not be open for business earlier than 6:00 am and shall close not later than 12:00 midnight.
 - j) **Open Storage.** Outdoor storage of materials and equipment is prohibited unless screened from all public view.
3. Except as otherwise provided by an approved MPD, all applications for development shall be subject to the provisions of the Natural Hazard Overly Zone (CCZO Section 3.250 through Section 3.253.)

Section 3.473 Natural Resource Guidelines.

- 1. The presence of natural resources define the special character of the land within it. In order to maintain this character, a MDP, any subsequent MPDs or any development within the MUMP zone, shall identify how natural hazards will be mitigated pursuant to CCZO Section 3.250 and 3.252.
- 2. The MPD or any subsequent MPD shall consider all of the following:
 - a) Preservation of the natural drainage patterns of the site to the extent practical;
 - b) Existence and use of native plant species, where appropriate;
 - c) Integrity of mature stands of trees that are in good health;
 - d) Significant wildlife habitat;
 - e) Minimization of the amount of impervious surfaces near all waterways; and
 - f) Riparian Buffer Areas.

Section 3.474 Review Criteria for determining compliance with an approved MPD prior to development

- 1. Request for approval of development within an approved MPD shall be reviewed to determine whether it is in substantial conformance with the MPD. A development proposal shall be deemed to not be in substantial conformance if it results in any of the following types of changes from the MPD:
 - a) Increase in development density and/or intensity that results in a peak hour trip generation of greater than 10 percent of the total approved in the MPD;
 - b) Increase in the floor area proposed for nonresidential use by more than 10 percent from what was previously specified;

- c) Reduction of more than 10 percent of the area reserved for common open space and/or usable open space from what was previously specified;
 - d). Increase in the total ground area proposed to be covered by structures by more than five percent from what was previously specified;
 - e) Reduction of specific setback requirements by more than 25 percent where previously specified; and
 - f) Reduction of project amenities provided such as recreational facilities, screening, and/or landscaping provisions by more than 10 percent from what was previously specified.
 - g) If a subdivision or partition, the application does not meet the applicable requirements of the Ordinance Establishing Regulations for Divisions of Land in Curry County.
- 2.. All deviations within the limits set by the criteria in subsection (2) of this section from those of the approved MPD shall be justified and explained either in the required graphic and/or narrative materials.

Section 3.475 Modification(s) to a MPD

This section identifies the processes by which an approved MPD may be modified. Such modifications are necessary to the extent that final building and construction plans are not in substantial compliance with the adopted MPD. In general, such plans may be modified in two ways, depending upon the degree of modification proposed. These include:

1. Changes that modify the approved plan but do not increase traffic trips by more than 10 percent of traffic trips generated by the development approved in the MPD may be approved, approved with conditions, or denied by the Planning Director as Administrative Action under CCZO Section 2.090. If the proposed changes do not increase traffic trips by more than 10 percent but the changes have significant impacts of a magnitude equivalent to a 10 percent traffic increase, the Planning Director may refer the matter to the Curry County Planning Commission for decision.
2. Those changes which cause an increase in the traffic trips greater than 10 percent of those generated by the development approved in the MPD may be approved, approved with conditions or denied by the Curry County Planning Commission pursuant to CCZO Sections 3.469 and 3.470.

In a modification, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

Section 3.476 Mixed Use Master Plan Zone Implementation and Assurances.

1. **MUMP Zone Implementation.** The implementation of the MUMP zone shall comply with the procedures of the Curry County Zoning Ordinance. The MPD may establish additional implementation procedures, provided such methods are not in direct conflict with procedures required by State or local law.
2. **Assurances.** The Board or other provider of services may require financial or other assurances for any development in the MUMP zone to ensure proper installation of required street, sewer, electric and water utilities, drainage, flood control, and other improvements.
3. **Filing or Recording.** Upon final approval and after all conditions have been met, the developer shall record the final plan in the county deed records. If parcels are to be sold, the developer shall process and record a subdivision plat as provided in “Ordinance Establishing Regulations for Divisions of Land in Curry County” and ORS Chapter 92.

Section 3.477 Issuance of Building Permits.

If alternative standards have been approved in the MPD and are utilized in a specific development proposal, a statement of compliance shall be submitted at the time of application for building permit to demonstrate how the proposed development complies with the applicable building codes and any alternative standards adopted as part of a MPD.