

Memo -

DATE: June 28, 2005
TO: Planning Commission
FROM: John McLaughlin, Director of Community Development
RE: Ordinance Modification – Conservation Density Bonus for Residential Developments

Under our current ordinances, there is a Conservation Density Bonus of up to 15% for new residential developments. If new development conforms with a combination of the listed standards, they are deemed in compliance and are granted the increase in density.

However, the standards (attached as part of this memo) are somewhat dated. Some of the energy standards are now nearly the same as required by the building code, and others, such as those associated with water conservation, are difficult to enforce.

Staff proposes that rather than use the system currently in the ordinance, that the City utilize the “Earth Advantage” program for the certification of homes complying with conservation standards. This topic has been previously discussed with the Planning Commission, but we were waiting for the full implementation of the Earth Advantage program prior to making the ordinance change.

The Earth Advantage program provides a broader and more comprehensive approach to conservation, addressing not only energy and water, but efficient use of resources, environmental quality, and healthier indoor air quality.

As shown from the attached worksheet, developers must utilize several required measures, then achieve 50 points in each of the four categories – energy efficiency, healthier indoor air, environmental responsibility, and resource efficiency. The worksheet shows the variety of choices available for obtaining points in each category. Further, the City, through the Conservation Division, provides assistance on meeting the program goals.

The City’s Conservation Division provides periodic inspections to ensure that all measures are properly installed in the homes. Presently, the City also provides limited financial incentives for developers choosing to utilize the Earth Advantage program.

We will have a representative of the Conservation Division at the study session should there be specific questions about the program.



Memo

DATE: August 9, 2005
TO: Ashland Planning Commission
FROM: Dick Wanderscheid, Electric Director
RE: Earth Advantage Density bonus proposal

At your June 28, 2005, Planning Commission Study Session, the Commission began a discussion about amending the section of the City's Land Use Ordinance that allows density bonuses for resource efficient building practices. The City's Conservation Staff attended but because I was out of town I unfortunately was not able to attend.

The history of using the City's Land Use ordinance to encourage energy efficient development goes back to the early 1980's. I was a member of the Planning Staff when this initial idea was incorporated into the City Code. This was done because in Oregon local governments cannot adopt building code requirements that differ from the statewide building code. All base densities were rolled back and desirable development characteristics could then be added to developments to earn higher or original densities. Energy Efficiency was one of the ways to earn bonuses and actually allowed for a 40% increase in density if the most thermally efficient measured was adopted. Back then we were in the throws of the late 70's gas shortages and the Northwest was developing the first Power Plan for the region. This Power Plan broke new ground as it was the first time in our nation's history that a electric supply plan looked as Conservation as the most viable source of new energy supply for the increasing electric demand the region was projecting. Because this was before the personal computer revolution we actually had to develop a computer program that utilized the main frame computer at then SOSC that rated homes in BTU/Degree Day/ Square Foot.

This program was very successful but in the early 1990's the city's interest in encouraging water conservation led to another change in the ordinance which included water use efficiency measures into the bonuses. We developed a simple table type system that allowed developers to earn points by doing measures that had a set numbers of points assigned to them. This changed was based on limited experience in water conservation and also an attempt to try and use a simple prescriptive approach that could capture energy and water savings. At this time the potential bonus was reduced to 15% instead of the sliding scale of up to 40% under the old approach.

Also in the mid 1990's the City began implementing the Super Good Cents program in partnership with the City's Electric Power supplier, the Bonneville Power Administration. This program, which was only available to homes with electric heating systems, focused on conserving electric space heating through



building envelope improvements and air sealing techniques. This program was quite successful as the vast majority of electrically heated homes participated in the program.

As the price of electricity began to rise and the price of natural gas decreased, we began to see fewer new homes with electric heating systems installed, so Super Good Cents began to lose its effectiveness in improving the energy efficiency of Ashland's new housing stock. Also because it didn't include any water efficiency measures the City began exploring other programs that could achieve the City's Resource Conservation goals. The program we settled on was one that was under development by Portland General Electric and was called the Earth Advantage Program. It had the advantage of truly focusing on the many more resource conservation issues involved with building new homes, was heating system fuel blind and also was flexible enough to allow builders to utilize many more options in achieving the requirements of the program. Because it was a new program and Ashland was the first utility purchaser of the program we were able to help shape the final design of the program requirements and also were allowed the option of strengthening program requirements if we desired. The City's Conservation Commission also helped the Conservation Staff evaluate this program and concluded it was indeed the best fit for Ashland's situation.

We presented the details of this program to the City's Planning Commission in a study session about 1 ½ years ago in preparation for the proposed amendment to the City's Land Use Ordinance that is currently before the Commission. Conservation Staff feels strongly that this proposed change should be endorsed by the Planning Commission and forwarded to the City Council for adoption. Our current system while simple, is not working adequately, falls well short in our attempts to move the current practice up to higher resource conservation levels and results in difficulty in actual implementation.

During the Study Session on June 28th some Commissioners expressed a concern about the complexity of the program and why it couldn't be simpler. The truth is that building a new home is a complex endeavor and trying to increase its resource efficiency makes it even more complex. While we would like a simple formula to accomplish this task, simplicity leads to less flexibility and makes it harder for builders to actually meet program requirements. This is why we shopped the market exclusively before deciding on Earth Advantage. We were trying to balance simplicity, flexibility and completeness and this program was the best fit under those parameters. We feel that search was successful because we now have certified six homes as meeting Earth Advantage program requirements and have another seven homes currently under construction. This demonstrates that the program is attractive and achievable by builders and also becoming more in demand by homebuyers. With this proposed Ordinance amendment we feel that we will see these numbers increased well beyond current levels.

The final issue that needs addressing is the appropriateness of continuing to use the City's Land Use Ordinance to foster the efficient use of resources. Staff feels that this issue is more important than back in 1981 when it was first implemented. As mentioned earlier, Ashland cannot adopt more stringent building code requirements than the State Building Code. House built today will be using resources for at least the next 50-100 years. If these home are not built right initially we will never be go back and do the task as well as during initial construction. Earth Advantage achieves this goal but since it is a voluntary program significant participation is need to capture the majority of new homes. The voluntary nature of the density bonus incentive helps us considerably as we attempt to get builders to take part in this program and thus get around our inability as a municipality to adopt a more stringent energy code..



Second, we are in the midst of a ten year power supply contract to purchase electricity from the Bonneville Power Administration. Our next contract will undoubtedly contain either a fixed amount of lower cost BPA electricity with the city being responsible to find additional supplies from outside of BPA which will certainly be more expensive than our BPA allocation. Or a two tier rate system where the lower priced allocation will be supplied by BPA and a second or higher cost tier also from BPA will be used to fulfill the remainder of our power supply needs. In either case efficient homes will be money in the bank for current and future customers of the City's electric utility. Also future water supply issues that the city will face as more water is needed will benefit from water use efficiency features incorporated in home by the Earth Advantage Program.

And finally this country's continued reliance on non renewable fossil fuels that comes from outside the U.S. places this country in the inevitable position of not having control of our energy future. Anything we can do locally to reduce resource consumption is the right thing to do. The old saying "Think Globally-Act Locally" certainly applies here. Conservation Staff therefore, recommends that the Planning Commission endorse this proposed amendment and forward it to the City Council for their approval. If anyone has questions or would like to discuss this prior to the meeting should feel free to give me a call at 552 2061.



Memo

DATE: August 9, 2005
TO: Ashland Planning Commission
FROM: Conservation Commission
RE: Proposed resource Conservation Density Bonus change

The Ashland Conservation has been involved with the Conservation Staff in the analysis, evaluation, selection and ultimately the implementation of the City's Earth Advantage Program. At our July 27, 2005 meeting we discussed the proposed amendment to the City's Land Use Ordinance that would change the Conservation Density Bonuses for Residential developments that was discussed and tabled by the Commission at their June 28th Study session. It was the unanimous opinion of the Conservation Commission members at the meeting that they support this proposed amendment. The current system doesn't work well and we feel that the amendment proposed will further the city's efforts to encourage Resource Conserving new homes via the Earth Advantage Program. Thanks for your consideration of our thinking on this issue.



ASHLAND PLANNING DEPARTMENT STAFF REPORT

August 9, 2005

PLANNING ACTION: 2005-00964

APPLICANT: City of Ashland

ORDINANCE REFERENCE:	18.24.040 B.	R-2 Bonus Point Calculations
	18.28.040 B.	R-3 Bonus Point Calculations
	18.88.040 B.	Performance Standards – Bonus Point Calculations

REQUEST: An ordinance amending chapters 18.24, 18.28, and 18.88 of the Ashland Municipal Code Land Use Ordinance regarding Conservation Density Bonus Point calculations for residential development.

I. Relevant Facts

1) Background :

A brief history of the establishment and amendment of Land Use Ordinance code provisions related to Bonus Points for resource efficient housing has been presented on an attached document (Appendix A).

An initial study session with regards to amending the factors considered when awarding a density bonus for Conservation Housing was held approximately 1 ½ years ago. More recently, a study session was held on June 28, 2005 to discuss a proposed ordinance amendment that uses the “Earth Advantage” program as the means for complying with the density bonus provision.

An amendment to the Land Use Ordinance is a Legislative Amendment (18.108.170), solely within the authority of the City Council. The Planning Commission is required to conduct a public hearing and recommend to the Council, approval, disapproval, or modification of the proposed amendment.

2) Detailed Description of the Site and Proposal:

A detailed history of Ashland’s attempts and successes at encouraging resource efficient development has been described in the attached memorandum (August 3,

2005) from Ashland Electric Director, Dick Wanderscheid. As the memorandum clearly points out, resource conservation through land use incentives has been an integral part of the Land Use Ordinance since the early 1980's. As the community's interests and values have evolved, so has the approach to resource conservation. Water use efficiency measures were added to the bonuses in the 1990's, and Staff developed a simple table type system that allowed developers to earn points by doing measures that had a set number of points assigned to them

As the price of electricity increased and the price of natural gas decreased, City Conservation Staff with the assistance of the Ashland Conservation Commission starting examining other means for meeting the City's Resource Conservation goals. Ultimately the Conservation Staff and Conservation Commission concluded that the Earth Advantage program was the best fit for Ashland.

In Staff's opinion, the simplicity of the current program results in the community falling short of the goal of achieving higher resource conservation. The Earth Advantage program is heating system fuel blind, while providing builders many more options in achieving the requirements of the program.

The current density bonus systems allows for a 15% density increase for achieving a certain number of points based on a simplistic, limited table of options. The proposed, attached code amendment would provide a 15% density bonus for residential developments where 85% of the homes (after bonus point calculations) meet the requirements for certification under the Earth Advantage program.

II. Project Impact

The awarding of a density bonus for residential projects incorporating conservation measures has been a goal of the community, and has been codified within the Land Use ordinance for approximately 25 years. In an attempt to address potential impacts to neighborhoods resulting from the adoption of density bonuses, the City on more than one occasion has rolled back residential density requirements prior to the adoption density bonus code provisions. This has provided the building community with an incentive to achieve prior density allocations through the incorporation of bonus provisions allowed within the zoning district (i.e. conservation, open space, recreational amenities, affordable housing, etc.)

Chapter XI – Energy, Air and Water Conservation - of Ashland's Comprehensive Plan describes the community's philosophy and principles with respect to the conservation of critical natural resources.

The goals associated with Chapter XI – Energy, Air and Water Conservation – are

outlined as follows:

GOALS: THE CITY SHALL STRIVE, IN EVERY APPROPRIATE WAY, TO REDUCE ENERGY CONSUMPTION WITHIN THE COMMUNITY. WATER CONSERVATION AND AIR QUALITY ENHANCEMENT SHOULD ALSO BE PROMOTED. PROGRAMS SHOULD ALSO BE PROMOTED. PROGRAMS SHOULD EMPHASIZE GREATER EFFICIENCY IN END USE, RATHER THAN SACRIFICES IN LIVING STANDARDS.

IN GENERAL, POLICIES THAT EFFECT CHANGE THROUGH A COMBINATION OF ECONOMIC INCENTIVES AND PUBLIC EDUCATION SHALL BE CONSIDERED MORE APPROPRIATE THAN POLICIES INVOLVING STRICT LEGAL REQUIREMENTS OR MANDATES.

THE CITY SHALL GIVE DUE ATTENTION TO ENERGY AND RESOURCE CONSERVATION AND AIR QUALITY ENHANCEMENT IN ALL PLANNING ACTIONS AND CITY ACTIVITIES.

Chapter XI of the Comprehensive Plan identifies numerous Council policies relative to resource conservation and the establishment of programs and incentives to achieve this goal. These appear to endorse and encourage economic incentives and public education over strict legal mandates. Staff has identified one specific policy that recognizes the benefits of the bonus point code provision. The plan policy not only reflects the past success of such code provisions, but also clearly requires that these incentives “be preserved and maintained in future versions” of the land use ordinance.

Policy

Implementing Ordinance

XI-5 Land Use Planning and Zoning

18.88 Ashland Municipal Code

A) The energy efficiency density bonuses in the City's performance standard ordinance have been very successful in encouraging new homes to be built more efficiently than Oregon building code requirements. This bonus shall be preserved and maintained in future versions of this code.

III. Procedural - Required Burden of Proof

The criteria for a legislative amendment to the land use ordinance are as follows:

18.108.170. A. It may be necessary from time to time to amend the text of the Land Use Ordinance or make other legislative amendments in order to conform to the comprehensive plan or to meet other changes in circumstances and conditions. A legislative amendment is a legislative act solely within the authority of the Council.

IV. Conclusions and Recommendations

Staff recommends that the Planning Commission recommend approval of the ordinance amendment to the City Council.

**EXISTING
PROGRAM**

**CITY OF ASHLAND BUILDER'S AGREEMENT
FOR CONSERVATION DENSITY BONUS**

I agree to utilize the following features (that are checked) at the residence I am building to comply with the requirements for density bonus:

<u>Measure</u>	<u>Points</u>
<input type="checkbox"/> High efficiency heating system	2 points
Options:	
90% AFUE gas furnace	
7.4 HSPF heat pump	
7.0 HSPF heat pump w/90% min. AFUE gas back-up	
7.4 HSPF heat pump w/80% min. AFUE gas back-up	
<input type="checkbox"/> 0.35 maximum U-value windows	3 points
<input type="checkbox"/> High efficiency water heater	2 points
<input type="checkbox"/> Sun-tempered housing	2 points
<input type="checkbox"/> Efficient lighting	3 points
<input type="checkbox"/> Solar water heater	3 points
<input type="checkbox"/> Exhaust air H.P. water heater	3 points
<input type="checkbox"/> R-26 advanced framed walls	3 points
<input type="checkbox"/> Advanced air-leakage w/AAHX	3 points
<input type="checkbox"/> Less than 2000 sq ft lawn/dwelling	3 points
<input type="checkbox"/> Less than 1500 sq ft lawn/dwelling	4 points
<input type="checkbox"/> Less than 1000 sq ft lawn/dwelling	5 points
<input type="checkbox"/> No lawn & all other landscaping installed to City's water conserving landscape guidelines	6 points

Total

(15 required)

Site address _____

Printed name _____

Signature _____

Date _____

~DRAFT~

not a change in use. Reeder said every application will be fact specific. Voice Vote: Douma, Fields, Dotterrer, KenCairn, Morris, Dawkins, Morris voted "yes" and Black and Stromberg voted "no."

Approval of Minutes

July 26, 2005 Study Session, August 9, 2005 Regular Meeting, August 9, 2005 Hearings Board (Dotterrer, KenCairn, Dawkins), and August 23, 2005 Study Session. Voice Vote: Unanimous

PUBLIC FORUM - No one came forth to speak.

TYPE II PLANNING ACTION

PLANNING ACTION: 2005-00964

APPLICANT: CITY OF ASHLAND

REQUEST FOR AN ORDINANCE AMENDMENT TO THE PERFORMANCE STANDARDS OPTIONS, CHAPTER 18.88 OF THE ASHLAND MUNICIPAL CODE RELATING TO CONSERVATION DENSITY BONUS FOR RESIDENTIAL DEVELOPMENTS.

STAFF REPORT

Molnar explained that this is an ordinance amendment that has been before the Planning Commission a couple times. It is to amend the current Conservation Density Bonus Point provision. The substitute language would ultimately guide development so builders would be required to construct 85 percent of their homes in a development to Earth Advantage standards. The staff report provides a brief history of incentives, dating back to 1981. There is a letter from the Conservation Commission supporting the proposed amendment.

The ordinance change would modify the ordinance, maintain the density bonus at 15 percent, and require 85 percent of the homes after the bonus is added on to comply with the Earth Advantage standards.

DICK WANDERSCHIED, Manager of the City's Electric Utility and Conservation Dept., said the Density Bonus system we have currently is not working very well. It is difficult to implement and rewards builders for what is now common practice. He likes Earth Advantage because it guarantees the house is going to be 15 percent more efficient than the energy code and also rolls in other resource conservation issues. Because it is fuel blind, it allows them to impact all new houses in Ashland. Wanderscheid noted there is a memo in the packet summarizing why Earth Advantage is a good thing. He emphasized that with \$3 a gallon gasoline and natural gas going up somewhere from 18 to 22 percent, this is becoming more and more of an issue. The houses we build today are going to be standing for at least 100 to 150 years. Any help we can have in a land development ordinance makes the voluntary program work a lot better. Wanderscheid urged the Planning Commission to make a unanimous recommendation to the Council to make this change and move on with trying to improve the resource conservation activities in the building community in town. He added they also have a program where an individual builder can come to them and build a home and receive a \$1000 incentive

Wanderscheid said Earth Advantage has to be 15 percent more efficient than the building code. It insures the homes exceed the State energy code by 15 percent. Many homes are more than 15 percent, but it doesn't necessarily mean the occupants will use 15 percent less energy.

LARRY GIARDINA, Energy Specialist, said they have developed a prescriptive path they can follow in addition to modeling individual plans to help people meet the 15 percent.

Douma asked about the 50 points required. Giardina said those are base requirements. Three of the categories are related specifically to energy efficiency but to resource efficiency and environmental protection. Pollution would be reduced or degradation of a timber resource would be reduced, in other words, something external to the house.

Dotterrer wondered if the ordinance change is made, can the worksheet be changed at any time? Wanderscheid suspected the worksheet could be changed administratively to make it either more or less stringent.

**ASHLAND PLANNING COMMISSION
REGULAR MEETING
MINUTES
SEPTEMBER 13, 2005**

~DRAFT~

Stromberg felt an approval should be delayed in order to see a cost benefit analysis. How much is it costing the developer versus how much does the developer profit from this change? How much does it cost the City versus how much does the City gain?

Wanderscheid asked the Commission to keep in mind that every subdivision approved between now and the time the ordinance could be implemented can still give density bonuses that are a lot less stringent than the Earth Advantage program.

KenCairn said they have been looking at this for a couple of years. The Commission has been approving subdivisions and the City is not getting much from that. Six months to wait is a big difference especially since we are in an energy crisis.

Wanderscheid said Earth Advantage is a utility program. There are not many cities that use their land use ordinance to foster energy efficient or resource efficient development. Portland General Electric has the program and there are builders in Portland that are building Earth Advantage homes. Stromberg sees this as entering the City (and citizens) into a business transaction.

Dotterrer is concerned about the complexity of the program. He asked a builder about the program and the builder said he looked into it at the City and thought it was too complicated and difficult. It seems like we are trying to influence the behavior of a certain group.

Wanderscheid said the Earth Advantage program gives builders much more flexibility.

Dotterrer asked about oversight and supervision and who does it. Wanderscheid said his department looks at every house. Builders have to sign an agreement that they will stay within the Earth Advantage program. They won't get paid \$1000 if they don't comply.

Chapman said Wanderscheid and Giardina are City hired experts. They have researched this and have done a considerable amount of work on this program. If there were significant problems, he trusts they would bring it to the Commission. They deal with developers on a day-to-day basis and he trusts that if they say this program will further benefit the interests of our Comprehensive Plan, then we need to support this program.

Fields said he built the first house under the Earth Advantage program. He learned a lot. The current standards don't work. There is an embodied value in the house because it is using less energy and it fits into the current program. Super Good Cents is gone. Now we have this new one that is based on sustainability values and broader social conservation values. This is a social commitment. It is hard for builders but they will get better at it because they will have multiple houses to build. The Conservation staff is very tuned into the resources it demands.

Douma said this is a significant step different from the ordinance we currently have. Is it a good idea for the Commission to endorse a concept like indoor air quality as an add-on to our energy efficiency goals and objectives? He' concerned because of his involvement with the sick building syndrome.

Giardina said one of the ways we've made houses more energy efficient is to make them tighter. There is a responsibility to make sure there is enough fresh air and that the materials you introduce into the home are not going to create health hazards to the occupants of the home. They use a measure whereby they have to test how tight the house is.

Wanderscheid said Bonneville did an entire Environmental Impact Statement on the indoor air quality of SGC and concluded ventilation to the houses was needed. He can get documentation. Giardina said Washington adopted ventilation standards into their building code.

Fields told those who were not favorable to the ordinance change to contact the Council members or do further study.

~DRAFT~

Chapman/KenCairn m/s to recommend to the Council the Planning Commission's support of this ordinance change under PA2005-00964. KenCairn, Chapman, Dawkins, Black, Fields and Morris voted "yes." Douma, Stromberg and Dotterrer voted "no."

PLANNING ACTION: #2005-00084
SUBJECT PROPERTY: 165 LITHIA WAY & 123 N. FIRST STREET
OWNER/APPLICANT: ARCHERD & DRESNER, LLC, AND REDCO, LLC
DESCRIPTION: REQUEST FOR A SITE REVIEW APPROVAL OF A MIXED-USE COMMERCIAL AND RESIDENTIAL DEVELOPMENT TO BE LOCATED AT 165 LITHIA WAY AND 123 N. FIRST ST. THE PROPOSAL INCLUDES TWO 3-STORY MIXED-USE COMMERCIAL AND RESIDENTIAL BUILDINGS. IN ADDITION, SIX ROW HOUSES ARE PROPOSED. A TOTAL OF APPROXIMATELY 14,700 SQUARE FEET OF RETAIL AND OFFICE SPACE AND A TOTAL OF 41 RESIDENTIAL UNITS ARE INCLUDED IN THE PROPOSED DEVELOPMENT. THE SITE IS LOCATED IN THE DETAIL SITE REVIEW ZONE, AND IS SUBJECT TO THE DETAIL SITE REVIEW STANDARDS AND TO THE DOWNTOWN DESIGN STANDARDS. IN ADDITION, THE PROPOSAL IS SUBJECT TO THE LARGE SCALE DEVELOPMENT STANDARDS BECAUSE IT EXCEEDS 10,000 SQUARE FEET IN SIZE AND INCLUDES BUILDINGS GREATER THAN 100 FEET IN LENGTH. AN ADMINISTRATIVE VARIANCE FROM THE SITE DESIGN AND USE STANDARDS IS REQUESTED FOR THE DISTANCE BETWEEN THE BUILDINGS. A TREE REMOVAL PERMIT IS REQUESTED TO REMOVE FOUR TREES ON SITE. THE APPLICANT HAS APPLIED FOR A LOT LINE ADJUSTMENT, CHANGING THE CONFIGURATION OF THE LOT LINES OF THE TWO PARCELS.

Site Visits and Ex Parte Contacts

Mike Reeder, Assistant City Attorney, said the Commissioners have to re-state any previous ex parte contacts.

Morris saw David Chapman and David asked him a question he couldn't answer. At the last meeting, he spoke with Colin Swales about the Downtown Plan.

KenCairn spoke with various people about whether or not she should sit on the Commission during this meeting. She decided not to step down because she does not want to be used as a reason for someone to appeal it. She has not had discussions with anyone and she does not have any financial involvement. She believes there is enough energy around people believing she cannot be neutral because of various relationships she has with various people, and those people choose to attack her integrity. She does not want to have her integrity publicly doubted.

Chapman respects KenCairn's decision but as far as he is concerned, KenCairn's integrity is unassailable and he does not want to lose her expertise.

Fields has had various relationships with Evan Archerd. He built the building across the street. He will be doing the addition across the street. They have had no discussions about this and he does not believe it will affect his decision-making.

Dotterrer, Douma, and Chapman have had no ex parte contacts.

Dawkins reported no exparte contacts and noted again he had not attended any of the charrettes.

Stromberg said his contacts were as noted at previous meetings. He has had to tell people to stop talking about this project. What he has heard is that people are concerned about the bulk and scale of the building and appropriateness of the project.

Black attended a charrette toward the end of that process. The last time she had a phone conversation but during that did get a general comment about bulk. She had someone ask her tonight about solar access and she referred them to Senior Planner, Maria Harris.

It was noted that the public hearing will be opened and new testimony will be taken, in addition to reviewing past testimony. All issues are on the table.

STAFF REPORT

Molnar reviewed the Staff Report Addendum. In June the applicants were granted additional time to address the issues. In August the applicants submitted new information responding to the 20 foot front yard requirement. There has been only one minor change and that is that there has been a slight shifting of some of the underground parking to insure that the entire underground parking configuration is within the outline of the footprint of the building. The applicants have responded to a number of the issues in Mike

ASHLAND PLANNING COMMISSION
REGULAR MEETING
MINTUES
SEPTEMBER 13, 2005

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTERS 18.24, 18.28, and 18.88 OF THE
ASHLAND MUNICIPAL CODE – LAND USE ORDINANCE, REGARDING
CONSERVATION DENSITY BONUS POINT CALCULATIONS FOR
RESIDENTIAL DEVELOPMENT.**

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

Additions are indicated in **bold type**, deletions in ~~strikeout type~~.

SECTION 1. Section 18.24.040.B.3 of the Ashland Land Use Ordinance shall be modified as follows:

“3.a. Conservation Housing – **a minimum of 85% of** all homes or residential units **approved for development, on the site after bonus point calculations, shall** meet the **minimum requirements for certification as an Earth Advantage home, as approved by the Ashland Conservation Division under the City’s Earth Advantage program.** ~~energy usage, water usage, and air quality requirements adopted in the Guidelines referred to in 18.88.090~~ – maximum 15% bonus.”

SECTION 2. Section 18.28.040.B.3 of the Ashland Land Use Ordinance shall be modified as follows:

“3.a. Conservation Housing – **a minimum of 85% of** all homes or residential units **approved for development, on the site after bonus point calculations, shall** meet the **minimum requirements for certification as an Earth Advantage home, as approved by the Ashland Conservation Division under the City’s Earth Advantage program.** ~~energy usage, water usage, and air quality requirements adopted in the Guidelines referred to in 18.88.090~~ – maximum 15% bonus.”

SECTION 3. Section 18.88.040.B.3 of the Ashland Land Use Ordinance shall be modified as follows:

“3.a. Conservation Housing – **a minimum of 85% of** all homes or residential units **approved for development, on the site after bonus point calculations, shall** meet the **minimum requirements for certification as an Earth Advantage home, as approved by the Ashland Conservation Division under the City’s Earth Advantage program.** ~~energy usage, water usage, and air quality requirements adopted in the Guidelines referred to in 18.88.090~~ – maximum 15% bonus.”

The foregoing ordinance was first READ on the _____ day of _____, 2005,

and duly PASSED and ADOPTED this ____day of _____, 2005.

Barbara Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2005.

John Morrison, Mayor

At our meeting of June 28th I raised several issues of concern during the discussion of the ordinance modification of "Conservation Density Bonus for Residential Developments." I have finally gotten around to putting my thoughts down on paper as I believe I owe you a written discussion of my concerns and because I don't believe I made myself very clear that evening. I understand this will also be on the agenda on the 9th.

My first concern with this proposal is the expansion of the term "conservation" beyond any reasonable definition. If we are to give a conservation bonus then it should be for strictly conservation initiatives or, at a minimum, we should rename the bonus. I'm sorry, but the response offered when I asked about how the additional requirement to meet indoor air quality is a conservation issue can only be described as Orwellian. The response was that anything which improves air quality improves and conserves human health and is therefore a conservation issue. This is a statement I believe Mark Twain would refer to as a "stretcher." The term conservation, and the concept behind it, is well understood and the relevant definition in my dictionary is, "The protection, preservation, management, or restoration of wildlife and of natural resources such as forests, soil, and water." I find nothing in this definition even remotely tied to indoor air quality. If we believe indoor air quality is important then we should explicitly debate it and restate the purpose behind the bonus. We could rename it the Conservation and Indoor Air Quality Bonus. But honesty to our fellow citizens demands that there is at least a modicum of truth in labeling.

The point made in favor of this proposal that it will lead to better enforcement is a red herring. I had always assumed that when the Planning Commission approved an application there would be sufficient oversight, supervision, and enforcement to ensure the plan was executed as presented. If that is not true, which I now suspect it is not, then we need to change the supervision and oversight of meeting the requirements. Changing the requirements is in no way connected to this. I also suspect this is a much larger problem than merely enforcing this part of the ordinances.

I know I was corrected when I stated that the ordinance would be significantly longer and I agree the ordinance itself will not be much longer. However, note that the worksheet which supports this requirement expands from one page to six. We have a simplicity issue here. I was then informed that this expanded worksheet would provide the builders with more "flexibility." Now that's a unique argument – increased length and complexity leads to greater flexibility. Imagine what fun we can have with this one revamping ordinances!

To continue with the thought about "flexibility," we were told that "several developers" have examined this and "approve" it. I'd be interested in knowing who they were and what they said. Why don't we invite developers to our meeting and ask them? They may have some great suggestions which meet our goals while at the same time simplifying the process, including enforcement. I can hear the caterwauling already from some that this is merely another example of how we're "in bed with the developers." I am confident this is not true so I have no problem facing this charge. As a counterpoint, why would we

institute an ordinance change and not seek testimony from the very people whose behavior we are attempting to influence and who have to implement the ordinance? As with all testimony we don't have to accept what they have to say, but it would certainly be worth hearing.

You should also note that this proposal changes the requirement from all homes in the project meeting the conservation requirements to only 85% having to meet the requirement. What is the impact of this on resource conservation and the effectiveness of the ordinance? Why was this change proposed?

Another concern I have – does the Conservation Department have the staff to administer this program once we start approving large developments? In other words, are there potential personnel costs to this change?

I am concerned that what is happening here is that we have taken a good idea – we as a community should practice good conservation – implemented through a simple ordinance and worksheet – one page vice six – and stretched and contorted it to fit a larger agenda than we started out with. If we want to expand the agenda to include indoor health, fine, but we should debate it as such. This is not merely an update or modest revision of the old conservation bonus.

Finally, I have great concern with the entire concept of density bonuses. We designate lot sizes for neighborhoods with an eye toward livability and then we consistently and significantly reduce those lot sizes. For example, the house I just moved from was zoned for a 5,000 square foot lot but by the time open space and the conservation density bonus were applied, my lot was down to 4,300 square feet and there was nine feet from the walls of my house to the walls of my neighbors. My new house is supposed to be on a 10,000 square foot lot, but instead is on 6,700 square feet. These are reductions of 14% and 33% respectively. This is part of the larger debate about infill. It also relates to the question about why anyone with children would buy in Ashland and pay an exorbitant price for a house with a small or nonexistent yard when one could pay less and get more “kid friendly” living space somewhere else in the Valley. For this specific proposal, we need to ask ourselves if the “cost” of putting our houses so close together is worth the “benefit” of these conservation measures.

Dave Dotterrer
August 4, 2005

RESPONSE FROM LARRY GIARDINA, CONSERVATION ANALYST – 8/4/05

You may want to share this with Planning Commissioners, along with Dave Dotterer's concerns.

I am sure I gave an inadequate explanation of how indoor air quality is related to conservation at the last Commission meeting. Here is a more thoughtful response:

To make homes more energy efficient homes are built to have less air leaks to and from the outside. Air leaks exchange air that energy has been used to heat or cool, with outside air that must be heated or cooled, to maintain comfort. It is critical when homes are built tightly to achieve energy conservation, to implement practices which maintain the air quality and therefore the health of a home's occupants.

The measures the Earth Advantage program uses to address air quality are a combination of controlled ventilation systems and pollution source control. Controlled ventilation supplies homes with desired amount of fresh air when and where it is needed. Pollution source control limits materials which can out gas unhealthy components and controls moisture which can lead to biological contamination of homes.

Larry

Comments on the Earth Advantage Density Bonus Proposal

- The comments that follow make no judgment on the intrinsic value or desirability of the Earth Advantage program itself, only on its proposed use by the City...
- The **current** energy efficiency density bonus program produces no significant benefit to the community because the upgrades it requires are largely incorporated in current building codes.
- The proposed Earth Advantage density bonus program and the Electric Utility's Earth Advantage subsidy program are not coordinated and provide duplicate rewards for the same result.
- Developers reap large benefits, sometimes without any costs whatsoever, and the builder or home owner who buys the lot(s) from the developer becomes responsible for conforming to Earth Advantage standards - so the incentive isn't going to the party who must execute the Earth Advantage measures.
- The design of the Earth Advantage density bonus approach requires staff to evaluate, inspect, negotiate corrections, and keep records for each house that participates in the program to ensure compliance.
- No one has reliable numbers, or even plausible estimates, of the operating costs and benefits of the density bonus approach. It appears the developers are taking the lion's share of the incentives; the builders mainly get the subsidy; and there are staff costs that have no relation to actual benefit achieved via the increased energy efficiency.
- The total energy consumption in any participating development is probably greater than if it didn't participate in the program - because the combined energy savings of the Earth Advantage houses is less than the additional energy use of the 'density bonus' houses.
- No one has even tried to conceptualize, much less quantify, the cost to the community of building more densely than the comp plan calls for. If this increased density is ok then why isn't it the baseline standard of the comp plan/zoning ordinance without the density bonus?
- What is the effect on the buildable lands inventory calculation and the resultant effect on residential growth rates in the city from this, and other, density bonus programs?
- The Earth Advantage program is owned by an independent nonprofit organization. Is it wise or legal to incorporate policies into a City ordinance that the City doesn't control?

Comments on the Earth Advantage Density Bonus Proposal

- The Earth Advantage program includes components other than energy efficiency - but the Council has never conducted public hearings on whether or not to offer incentives for these other components, i.e. policy is being created without public participation in the decision making.
- It is suggested that the Council consider taking the following steps:
- (1) Stop the current energy efficiency density bonus program because it is producing no additional energy savings beyond what is required via building codes.
- (2) Do not create another energy efficiency program until: (a) cost/benefit analyses have been performed and evaluated, both from the point of view of the developer and also of the city; (b) a single comprehensive system has been designed that avoids the current duplication between the density bonus approach and the Electric Utility's subsidy approach; (c) the effect on growth in the City caused by density bonuses' influence on the buildable lands inventory has been determined.
- (3) Do not proceed further with the Earth Advantage program until (a) the issue of incorporating an element in a City ordinance that is controlled by an outside organization has been resolved and (b) the City Council makes a formal policy decision, with public input, to encourage and/or provide incentives for the full scope of practices currently included in Earth Advantage.
- However, since the Electric Utility has purchased the Earth Advantage Program (presumably for a specified period of time) educational activities and the current subsidy should be allowed to continue until that time period has elapsed if it is less than a year or otherwise until October, 2006, whichever comes first.
- (4) In the meantime, if the Council wants to subsidize or offer incentives for energy and other environmental practices it should instruct staff to provide options that are organizationally and financially sound, provide significant quantified environmental benefits to the community and have no indirect effects on the City's growth rate, for example via the way in which the buildable lands inventory is calculated.
- (5) The Council should seriously consider the similarities between how the City became involved in another nominally desirable program, AFN, and the way that is being proposed for proceeding with Earth Advantage.
- JS 10/13/05