



Medford City Council Meeting

Agenda

September 6, 2018

6:00 P.M.

**Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon**

10. Roll Call

20. Recognitions, Community Group Reports

20.1 Multi-Cultural Fair and Commission update – Marta Tarantsey and Debra Lee

30. Oral Requests and Communications from the Audience

Comments will be limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.

40. Public Hearings

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 4 minutes. PLEASE SIGN IN.

40.1 COUNCIL BILL 2018-100 - CONTINUED - An ordinance amending section 10.200, and adding sections 10.141, 10.715A, 10.716A, 10.717, 10.718, and 10.719 of the Medford Municipal Code to gain conformance with Senate Bill 1051 and to establish standards for multiple-family dwelling projects consisting of three or more attached units. (DCA-17-111) Land Use, Legislative

40.2 COUNCIL BILL 2018-106 An ordinance amending sections 10.108, 10.110, 10.142, 10.824 and adding section 10.164 of the Medford Municipal Code to allow for installation of small or micro cell wireless communication facilities within the public right-of-way. (DCA-17-091) Land Use, Legislative

50. Approval or Correction of the Minutes of the August 16, 2018 Regular Meeting

60. Consent Calendar

60.1 COUNCIL BILL 2018-107 An ordinance authorizing execution of an agreement between the City of Medford and the International Association of Fire Fighters Local 1431 concerning wages, hours, fringe benefits, and other working conditions from July 1, 2017, through June 30, 2020.

60.2 COUNCIL BILL 2018-108 An ordinance approving Change Order #1 to a contract with Knife River Materials, in the amount of \$120,453.00 to perform additional asphalt pavement repairs on Lawnsdale Avenue and Bullock Road.

60.3 COUNCIL BILL 2018-109 An ordinance authorizing the purchase of 1.34 acres of land in an amount of \$10,108.14 from the Medford Parks and Recreation Foundation for the expansion of Donahue-Frohnmayr Park.

Meeting locations are generally accessible to persons with disabilities. To request interpreters for hearing impaired or other accommodations for persons with disabilities, please contact the ADA Coordinator at (541) 774-2074 or ada@cityofmedford.org at least three business days prior to the meeting to ensure availability. For TTY, dial 711 or (800) 735-1232.

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- 60.4 COUNCIL BILL 2018-110 An ordinance awarding a contract in an amount of \$182,913.88 to Northwest Playground Equipment Inc. for DuraSafe surfacing for the Olsrud Family Community Playground.

70. Items Removed from Consent Calendar

80. Ordinances and Resolutions

- 80.1 COUNCIL BILL 2018-111 An ordinance amending section 2.457 of the Medford Municipal Code to include the appointment process for members of the Traffic Coordinating Committee effective January 1, 2019.

90. Council Business

- 90.1 Proclamations issued:
Day of Service and Remembrance – September 11, 2018
Constitution Week – September 17-23, 2018
Childhood Cancer Awareness Month – September 2018

- 90.2 Committee Reports and Communications

100. City Manager and Staff Reports

- 100.1 Cell Phone Stipend for Council
100.2 2019 Legislative Policy Statements
100.3 Further reports from City Manager

110. Adjournment



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.1

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DEPARTMENT: Planning
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Public Hearings
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-100 - CONTINUED

An ordinance amending section 10.200, and adding sections 10.141, 10.715A, 10.716A, 10.717, 10.718, and 10.719 of the Medford Municipal Code to gain conformance with Senate Bill 1051 and to establish standards for multiple-family dwelling projects consisting of three or more attached units.

SUMMARY AND BACKGROUND

Council is requested to consider a legislative amendment to Chapter 10, Articles I and II, of the Municipal Code, also known as the Medford Land Development Code (MLDC). The purpose of the amendment is to bring the MLDC into conformance with the provisions of Senate Bill 1051 (SB 1051), as well as establish clear and objective design standards for multiple-family dwelling projects consisting of three or more attached units. The proposed amendments were reviewed by the Planning Commission and Site Plan and Architectural Commission (SPAC) over the course of four study sessions in May and June of this year, and the Planning Commission unanimously recommended approval of the proposal with some minor amendments. (File No. DCA-17-111)

PREVIOUS COUNCIL ACTIONS

On April 26, 2018, the City Council reviewed the proposal and directed staff to formally prepare the amendment and to draft interim design standards for multi-family dwelling projects. On August 16, 2018, the City Council formally considered the proposal and voted to continue the item to its regular meeting of September 6, 2018. In the same turn, the City Council directed staff to provide alternatives to portions of the proposal; specifically, the 100 day expedited timeline for qualifying affordable housing projects, and the proposed multi-family design standards for maximum building lengths, glazing percentages, and vehicle circulation and parking.

ANALYSIS

Senate Bill 1051 amended several of the Oregon Revised Statutes (ORS) that relate to the regulation and processing of residential development projects, and it requires expedited processing of applications for affordable housing developments that meet specified criteria. The proposal involves amending code sections in Articles I and II of the MLDC in order to bring the code into conformance with the provisions of SB 1051, including the establishment of interim clear and objective design standards for multiple-family dwelling projects. The City has engaged the services of a consultant to draft permanent, and more comprehensive residential design standards; however, they are not expected to be ready for presentation to the Planning Commission, SPAC, and the City Council until early 2019. The intent of the interim design standards is to try and ensure that until such time as permanent standards are adopted, all multi-family projects will feature good, basic architectural design and high quality materials.

In response to the City Council's direction at the August 16, 2018, regular meeting, staff has drafted the following alternatives for the Council's consideration. The remainder of the amendment remains unchanged from the proposal that was reviewed by the Council on August 16, 2018.

100 Day Expedited Timeline for qualifying affordable housing projects

Staff Recommendation: Application reviewed by the SPAC and the actions shall be considered final. Any appeal of actions shall be made directly to the Land Use Board of Appeals (LUBA).



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.1

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Alternative 1: Application reviewed by the Planning Director and processed as a Type II land use action. Appeals of Planning Director decisions shall be made to City Council with final action within 100 days unless an applicant has made a written request to extend the 100 day period for a specified period of time. Any appeal therefrom shall be made to the LUBA. This alternative would give the Planning Director the authority to approve Exceptions and Adjustments to the Special Development Standards, which is a level of discretionary authority the Director does not presently have.

Alternative 2: If an applicant **has not requested** an Exception or Adjustment from the Special Development Standards, the application will be reviewed by the Planning Director and processed as a Type II land use action. Appeals of Planning Director decisions shall be made to City Council with final action within 100 days unless an applicant has made a written request to extend the 100 day period for a specified period of time. Any appeal therefrom shall be made to the LUBA.

If an applicant **has requested** an Exception or Adjustment from the Special Development Standards, the application will be reviewed by the SPAC. Appeals of SPAC decisions shall be made to City Council with final action within 120 days unless an applicant has made a written request to extend the 120 day period for a specified period of time. Any appeal therefrom shall be made to the LUBA.

Compared to Alternative 1, this second alternative would be more in keeping with the Planning Director's current level of discretionary authority and would maintain the SPAC's current role as the deciding authority for Exceptions (and Adjustments assuming the proposed Special Development Standards are adopted).

Maximum Building Lengths

Staff Recommendation: Outside of the Central Business Overlay District, residential buildings within 30 feet of a street shall be limited to 150 feet in length, and any other buildings on the site shall be limited to 200 feet in length. No maximum building length within the Central Business Overlay District.

Alternative: Remove the maximum building length regulations from the proposal (Planning Commission recommendation, but not recommended by SPAC).

Glazing Percentages

Staff Recommendation: Street-facing facades shall contain windows covering a minimum of 15% of the façade length on each floor level.

Alternative: Street-facing facades shall contain windows covering a minimum of 12% of the façade length on each floor level (Planning Commission recommendation, but not recommended by SPAC).

Vehicle Circulation and Parking

Staff Recommendation: No parking spaces shall be located within any required front yard area, and no automobile circulation or parking areas shall be located between buildings and the street. Any proposed deviation from this standard shall be subject to a request for an Exception.

Alternative: Remove the vehicle circulation and parking regulations from the proposal (Planning Commission recommendation).

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.1

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TIMING ISSUES

The 100-day processing timeline for qualifying affordable housing projects took effect upon the signing of SB 1051 last August. All other provisions within SB 1051 took effect July 1, 2018. The City is obligated to follow all of the provisions in SB 1051 irrespective of whether or not the proposed amendments are adopted. As of July 1, 2018, the SPAC no longer has the ability to subjectively review multi-family development projects; and, should the City Council decline to approve the amendments, multi-family residential development projects will only be subject to the basic development regulations currently contained in the MLDC until such time as comprehensive design standards are adopted.

COUNCIL OPTIONS

- Approve the ordinance as presented
- Modify the ordinance as presented by adopting alternatives as presented or as offered by Council.
- Decline to approve the ordinance as presented, and direct staff regarding further action

STAFF RECOMMENDATION

Staff recommends approval of the ordinance as presented, using the following alternatives:

- Limiting building lengths to 150 feet within 30 feet of a street, and 200 feet elsewhere on the site.
- Street-facing facades containing a minimum of 15% window coverage on each floor level.
- No parking spaces within any required front yard area, and no vehicle circulation or parking areas between buildings and the street.

SUGGESTED MOTION

I move to approve the ordinance authorizing the Land Development Code Amendment as described in the Commission Report dated August 30, 2018.

EXHIBITS

Ordinance

Commission Report, including Exhibits A – I

ORDINANCE NO. 2018-100

AN ORDINANCE amending section 10.200, and adding sections 10.141, 10.715A, 10.716A, 10.717, 10.718, and 10.719 of the Medford Municipal Code to gain conformance with Senate Bill 1051 and to establish standards for multiple-family dwelling projects consisting of three or more attached units.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 10.141 of the Medford Municipal Code is added to read as follows:

10.141 Review and Appeal of Certain Affordable Housing Projects.

Notwithstanding other code provisions to the contrary, when an application involves a residential development that: (1) contains five or more residential units; (2) will sell or rent at least 50 percent of the residential units as housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and (3) is subject to a covenant appurtenant restricting the owner and each successive owner of the development (or a residential unit of the development) from selling or renting any affordable residential unit within the development as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy, the following review and appeal procedures apply. The application shall be reviewed by the Site Plan and Architectural Commission in the manner described in Section 10.200. Site Plan and Architectural Commission actions involving such projects shall be considered final, and any appeal of actions shall be made directly to the Land Use Board of Appeals (LUBA).

SECTION 2. Section 10.200 of the Medford Municipal Code is amended to read as follows:

10.200 Site Plan and Architectural Review.

(E) Site Plan and Architectural Review Approval Criteria.

(1) The Site Plan and Architectural Commission shall approve a site plan and architectural review application for a **commercial or industrial development**, if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(1a) The proposed development is compatible with uses and development that exist on adjacent land, and

(2b) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in Section 10.186.

(2) **The Site Plan and Architectural Commission shall approve a site plan and architectural review application for a residential development if the proposed development complies with the applicable provisions of all city ordinances, or if the Site Plan and Architectural**

Commission has approved either of the following:

(a) Any Exceptions, as provided for in MLDC Section 10.186, which resolve(s) any instances of non-compliance with those provisions.

(b) Any Adjustments or Exceptions from the Special Development Standards for Multiple-Family Dwellings, as provided for in MLDC Section 10.715A through 10.717.

(F) Site Plan and Architectural Review Conditions of Approval. In approving a site plan and architectural review application, the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Subsection (E) above, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(5) Limiting or altering the location, height, bulk, configuration or setback of commercial and industrial buildings, structures and improvements.

(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;

(9) Modifying architectural design elements of commercial and industrial buildings. Such modifications may include, but are not necessarily limited to: exterior construction materials and their colors, roofline, and fenestration; and, restricting openings in the exterior walls of structures; including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;

(10) Modifying architectural design elements of multiple-family dwelling buildings when the applicant has affirmatively elected to request an adjustment from the Special Development Standards in MLDC Sections 10.715A through 10.717. Such modifications may include but are not necessarily limited to: exterior construction materials and their colors, roofline, and fenestration; and, restricting openings in the exterior walls of structures;

(11) Restricting the height, directional orientation and intensity of exterior lighting.

SECTION 3. Section 10.715A of the Medford Code is added to read as follows:

10.715A Multiple-Family Dwellings, Special Development Standards, Purpose.

The purpose of Sections 10.717 through 10.719 is to establish a series of clear and objective standards for multiple-family dwellings in order to:

(a) Enhance the visual character and livability of the community;

(b) Promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape.

This purpose statement is not intended to create an independent basis for denying a multiple-family dwelling project that meets all clear and objective standards.

SECTION 4. Section 10.716A of the Medford Municipal Code is added to read as follows:

10.716A Multiple-Family Dwelling, Special Development Standards, Applicability.

- A. The requirements of Sections 10.717 through 10.719 shall apply to all multiple-family dwellings consisting of three or more attached dwelling units.**
- B. Unless otherwise specified, any applicant that affirmatively elects to deviate from these requirements shall be subject to the subjective standards provided for in MLDC Section 10.719.**

SECTION 5. Section 10.717 of the Medford Municipal Code is added to read as follows:

10.717 Multiple-Family Dwellings, Special Development Standards.

A. Building Orientation and Entrances.

- (1) Buildings shall be oriented to public streets and public street intersections.**
- (2) Buildings located at intersections shall incorporate a corner building entrance.**
- (3) For buildings located within 30 feet of a street, the main entrance(s) of ground floor units must face the street frontage. Main entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies.**

Deviations from this standard are allowed as follows:

- (a) On corner lots the main building entrance(s) may face either of the streets or be oriented to the corner.**
- (b) For buildings with more than one entrance serving multiple units, only one entrance must meet this standard.**
- (c) For buildings proposed to be perpendicular to public streets due to access requirements and/or dimensional constraints not created by the applicant, main entries may face up to 90 degrees away from the street provided both of the following apply:
 - i. They are visible from the street.**
 - ii. The building side facing the street shall contain windows occupying a minimum of 15% of the overall facade length.****

B. Building Mass and Façade.

- (1) Outside of the Central Business Overlay District, residential buildings located within 30 feet of a street shall be limited in length to 150 feet, and any other residential buildings on the site shall be limited in length to 200 feet. There is no maximum building length within the Central Business Overlay District.**
- (2) On buildings greater than three stories in height, all facades shall be divided into three elements (base, middle, and top) and visibly articulated to define each element.
 - (a) The building base consists of the lowermost floor or two floors. The building top consists of the uppermost floor or two floors. The building middle consists of the remainder of the façade between the base and the top.**
 - (b) The building base, middle, and top shall each be differentiated through horizontal articulation and/or a discernible change in materials.****
- (3) Street-facing façades shall contain windows covering a minimum of 15% of the façade length on each floor level.**

C. Building Articulation.

- (1) In order to preclude long expanses of uninterrupted wall surfaces, exterior elevations of buildings shall incorporate design features such as off-sets, projections, balconies, bays, windows, entries, porches, porticos, or similar elements. Rear and/or side elevations that are only visible from the interior of the site are not subject to these articulation requirements.
 - (a) Horizontal surface: at least two of the design features outlined above shall be incorporated along the horizontal face of the building, to be repeated at intervals of no more than 40 feet.
 - (b) Vertical surface: at least two of the design features outlined above shall be incorporated along the vertical face of the building, to be repeated at intervals of no more than 30 feet.
- (2) When off-sets and projections are used to fulfill articulation requirements, they shall vary from other wall surfaces by a minimum of 2 feet, and such changes in plane shall have a minimum width of 6 feet.
- (3) Individual and common entries shall be articulated by roofs, awnings, or porticos that are a minimum of 6 feet wide and 4 feet deep.
- (4) Windows shall be inset a minimum of 3 inches from the adjacent wall plane, or fully surrounded by trim in order to create the necessary minimum inset depth of 3 inches.

D. Building Materials.

- (1) The following primary building materials shall be utilized on a minimum of 65% of the street-facing façade:
 - (a) Brick;
 - (b) Stone;
 - (c) Stucco;
 - (d) Flat metal composite panels;
 - (e) Wood siding and wood simulation materials;
 - (f) Fiber reinforced cement siding or panels;
 - (g) Ceramic tile; and
 - (h) Transparent glass.
- (2) The following building materials shall not be allowed on more than 35% of each individual facade:
 - (a) Corrugated metal;
 - (b) Plain or split-faced concrete block;
 - (c) Plain concrete; and
 - (d) Spandrel glass.
- (3) Vertical changes in wall cladding materials shall take place on inside corners. Horizontal changes in wall cladding materials shall take place at cornices, belt courses, and other such horizontal elements.
- (4) The following building materials are prohibited:
 - (a) Vinyl siding; and
 - (b) Plywood siding (e.g. T1-11).
- (5) Fencing materials shall be durable, maintainable, and attractive. The following

fencing materials are prohibited:

- (a) Plastic or vinyl fencing; and
- (b) Chain link fencing.

E. Roof Forms.

- (1) All sloped roofs shall have a minimum 4:12 pitch.
- (2) All sloped roofs shall have eaves projecting a minimum of 12 inches from the building wall.
- (3) All roofs with a slope of less than 4:12 pitch shall be articulated by a parapet wall projecting a minimum of 12 inches above the roof line, or be architecturally treated such as with a decorative cornice.

F. Vehicle Circulation and Parking.

- (1) In order to strengthen the presence of buildings on the street, no parking spaces shall be located within any required front yard area, and no automobile circulation or parking areas shall be located between buildings and the street. Any proposed deviation from this standard shall be subject to a request for an Exception as outlined in Section 10.186.

SECTION 6. Section 10.718 of the Medford Municipal Code is added to read as follows:

10.718 Optional Adjustment of Special Development Standards, Purpose.

The purpose of this section is to create a mechanism for an applicant to seek approval of innovative and/or unconventional residential designs that may not precisely satisfy the clear and objective design standards set forth in Sections 10.715A through 10.717(E). This section is not meant to supersede the clear and objective standards set forth above unless an applicant affirmatively elects to request review under this section.

SECTION 7. Section 10.719 of the Medford Municipal Code is added to read as follows:

10.719 Optional Adjustment of Special Development Standards, Review Criteria.

A. Notwithstanding Sections 10.715A through 10.717, if an applicant affirmatively elects to request review (in writing) under this section, the Site Plan and Architectural Commission may approve a site plan and architectural review application for a multiple-family dwelling development if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

- (a) The requested adjustment will allow the project to achieve an equivalent or higher quality design than would otherwise result through strict adherence to the standards, through architectural massing, features or details to distinguish elements of the building; vibrant facades with visual detail; and enhanced public and private spaces that contribute positively to the site, streetscape, and adjoining properties; and
- (b) The requested adjustment will allow the project to achieve an equivalent or higher quality design than would otherwise result through strict adherence to the standards through an overall site design that promotes safety, security, and privacy, and reduces visual, noise, and lighting impacts of the development on adjacent

properties.

B. Denial of the application. If the Site Plan and Architectural Commission finds that an application for residential development reviewed under this section does not satisfy the conditions of 10.719A, the Site Plan and Architectural Commission shall also review the application as set forth in Sections 10.715A through 10.717. If the application does not satisfy the requirements of Sections 10.715A through 10.717 either, the Site Plan and Architectural Commission shall make such findings on the record.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018.

Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (***) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.



City of Medford

Planning Department

Working with the community to shape a vibrant and exceptional city

REVISED COMMISSION REPORT

for a Type IV Land Use Action: **Development Code Amendment**

Project Senate Bill 1051 and Interim Multi-Family Residential Design Standards
Applicant: City of Medford

File no. DCA-17-111

To City Council *for 09/06/2018 hearing (continued from 08/16/2018)*

From Seth Adams, AICP, Planner III

Reviewer Carla Angeli Paladino, Principal Planner

Date August 30, 2018

BACKGROUND

Proposal

DCA-17-111 is a legislative amendment to revise various sections within Articles I and II of the Medford Land Development Code (MLDC) (**Exhibit A**). The purpose behind the amendment is to bring the MLDC into conformance with the provisions of Senate Bill 1051. The amendment also includes the addition of new MLDC sections in order to establish clear and objective design standards for multi-family dwelling projects consisting of three or more attached units.

Authority

This proposal is a Type IV land use action to amend the Land Development Code. The Planning Commission is authorized to recommend, and the City Council to approve, amendments to the Land Development Code under Medford Municipal Code §§10.214 and 10.218.

August 16, 2018 Hearing and Continuance

The proposal was considered by the City Council at its regular meeting of August 16, 2016. The Planning Commission's recommendation for approval of the proposal included modifications to three of the proposed design standards, specifically:

- Removal of the maximum building length regulation

- Reducing the minimum required glazing percentage on street-facing facades from 15% to 12%
- Removal of the vehicle circulation and parking regulation

After discussing the overall proposal and the Planning Commission's recommendations, the City Council voted to continue the item to their regular meeting of September 6, 2018, and directed staff to provide alternatives for an appeal process on qualifying affordable housing projects, as well as the multi-family design standards pertaining to maximum building length, glazing percentages, and vehicle circulation and parking. Staff's proposed alternatives are attached as **Exhibit B**, and are discussed below in the Analysis section of this report, starting on page 4.

ISSUES AND ANALYSIS

Background

Senate Bill 1051 (SB 1051) was signed into state law on August 15, 2017 (**Exhibit C**). The objective of the bill is to increase the supply of housing in the state by:

- Removing barriers to development at the local level (ORS 227.175)
- Expediting permitting for affordable housing projects (ORS 227.178)
- Increasing options for the development of accessory dwelling units (ADUs) (ORS 197.312)
- Allowing religious organizations to build affordable housing on their property within residential zones (ORS 227.500)

In order to bring its code into compliance with Senate Bill 1051, the City needs to make minor amendments to the MLDC. The necessary amendments include a modified appeal process for certain types of affordable housing projects, and placing limitations on the discretionary review of residential development applications. The City's code already complies with the components of SB 1051 pertaining to Accessory Dwelling Units (ADUs) and the provision of housing on property legally used for religious activities (i.e. places of worship).

As directed by the City Council at its April 26, 2018 study session, staff is proceeding with the aforementioned necessary code amendments, as well as the introduction of new code sections containing interim design standards for multiple-family dwelling projects. One of the provisions in SB 1051 amends ORS 227.175 (Application for Permit or Zone Change) to state that:

"A city may not deny an application for a housing development located within the urban growth boundary if the development complies with

clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations.”

At present, Section 10.200(E) of the MLDC states that the SPAC shall approve a site plan and architectural review application if it finds that the development conforms, or can be made to conform through the imposition of conditions, with the following two criteria:

1. *The proposed development is compatible with uses and development that exist on adjacent land; and*
2. *The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC Section 10.253.*

With SB 1051’s amendment of ORS 227.175, the compatibility criterion can no longer be applied to any residential development application that complies with the basic development standards (e.g. density, setbacks, building height) since the MLDC does not presently contain any clear and objective design standards. As such, the City Council directed staff to formulate a basic set of clear and objective design standards for multiple-family dwelling developments with the aim of trying to ensure that such development projects will feature good architectural design and high quality materials.

The proposed design standards are intended to be interim in nature until such time as the City adopts a more comprehensive set of design standards. The City was recently awarded a technical assistance grant from the State that will be used to hire a consultant to help with the preparation of permanent and comprehensive design standards. This work is expected to occur over the next several months.

ANALYSIS

The following analysis explains why each of the proposed amendments is necessary.

100 Day Final Action Timeline

ORS 227.178 requires cities to take final action (including resolution of all appeals) on land use applications within 120 days of the application being deemed complete – an aggressive timeline that can be challenging to meet. One of the more significant provisions of SB 1051 is that cities with populations greater than 5,000 must now take final action (including the resolution of appeals) on qualifying residential development applications within 100 days after the application is deemed complete.

Under SB 1051, an application qualifies for final action within 100 days if:

- The application is for development of a multi-family residential building containing five or more residential units within the urban growth boundary;
- At least 50 percent of the residential units included in the development will be sold or rented as affordable housing*; and
- The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any affordable residential unit as housing that is not affordable housing* for a period of 60 years from the date of the certificate of occupancy.

**Affordable housing is defined in SB 1051 as being "...housing that is affordable to household with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater."*

Applications for multiple-family dwelling projects are reviewed and acted upon by the Site Plan and Architectural Commission (SPAC), and decisions rendered by the SPAC are appealable to the City Council. Figure 1 below summarizes the required steps and the standard timeline for processing SPAC applications.

Figure 1. SPAC Application Review Steps and Timeline

Complete (Week Ending)	Agency Comments Due	21 Day Notice/ Posting	Draft Staff Report Due	Final Staff Report Due	SPAC Hearing Date	No. Days from Complete to Hearing
11/17/17	12/06/17	12/15/17	12/15/17	12/27/17	01/05/18	49
11/24/17	12/13/17		12/22/17			42

As shown in the above figure, from the date an application is deemed complete it takes a minimum of 6 to 7 weeks to hold a SPAC hearing. Once the SPAC holds the hearing and renders its decision, the final order is then prepared and returned to SPAC for adoption at its next hearing (SPAC hearings are held on the first and third Friday of each month).

After SPAC adopts the final order, a Notice of Decision is then mailed the following week to the applicant and all persons who testified orally or in writing. The mailing of the Notice of Decision then starts a 14 day appeal period, at the conclusion of which approximately 70 days have passed (this assumes there are no delays in the schedule, e.g. if SPAC has to cancel a meeting due to lack of quorum).

If an appeal were to be filed on or near the end of the appeal period of a SPAC decision, it becomes improbable that the City could reach the final decision within the 100 day timeline of SB 1051. The MLDC specifies that an appeal shall be scheduled for the next regular hearing that falls not less than fourteen days after the date of the appeal filing, and depending on the date of the appeal filing and the next regularly scheduled City Council hearing, it is quite possible that the Council hearing date would fall beyond the 100 day limit.

In order to ensure that the 100 day final action timeline can be met, staff is proposing to add §10.141 to the MLDC, which would state that SPAC actions shall be considered final when they involve residential development projects that meet the criteria for final action within 100 days, and that any appeal of such actions shall be made directly to the State Land Use Board of Appeals (LUBA).

While this amendment would remove a level of local control over land use decisions, the qualifying criteria noted above are stringent enough that staff does not anticipate any appreciable number of applications will qualify for the reduced timeline. In addition, it would not be desirable to have a decision rendered as final if the 100 day timeline is not met for any reason as the project is likely to wind up at LUBA anyways.

Proposed Alternatives

Alternative 1: The application would be reviewed and decided by the Planning Director as a Type II land use action (i.e. with public notice and allowance for public comment, but decisions are rendered without a public hearing). Any appeal from the Planning Director decisions shall be made to the City Council and final action shall be taken within 100 days unless an applicant has made a written request to extend the 100 day period.

Staff Comment: While the above alternative would ensure that all qualifying applications would be decided within the 100 day timeline, it would grant the Planning Director the authority to approve Exceptions and Adjustments to the Special Development Standards. In this case only, it would result in the Planning Director having the authority to exercise a level of discretion that they have not had to date. Additionally, the scope/scale of the application being decided by the Planning Director would be larger than is typical (i.e. the Planning Director's authority at present extends to applications with minimal levels of discretion and/or those that will have minimal impacts and/or controversy, such as property line adjustments, sign permits, partitions, etc.).

Alternative 2: If an applicant **has not requested** an Exception or Adjustments to the Special Development Standards, the application would be reviewed and decided by the Planning Director as a Type II land use action (i.e. with public notice and allowance for public comment, but decisions are rendered without a public hearing). Any appeal from the Planning Director decisions shall be made to the City Council and final action shall be

taken within 100 days unless an applicant has made a written request to extend the 100 day period.

If an applicant **has requested** an Exception or Adjustments to the Special Development Standards, the application will be reviewed by the SPAC. Appeals of SPAC decisions shall be made to City Council with final action within 120 days unless an applicant has made a written request to extend the 120 day period for a specified period of time. Any appeal therefrom shall be made to the LUBA.

Staff Comment: This alternative would ensure that qualifying applications could be decided within 100 days as long as they complied with the clear and objective design standards. This would be more in keeping with past practice in that the Planning Director would only be rendering decisions on applications requiring little to no discretion. That said, the scope/scale of the applications would still be larger than those presently reviewed by the Planning Director. This alternative would also have the SPAC review applications requesting an Exception or Adjustment to the Special Development Standards, and the SPAC is the decision-making body presently authorized to review Exceptions. By electing to request an Exception or Adjustment, an applicant would necessarily need to waive the 100 day timeline and would instead be subject to the standard 120 day rule. Staff's opinion is that this would be consistent with State law because an applicant can still obtain the expedited 100 day timeline by adhering to clear and objective standards and not seeking adjustments/exceptions to those clear and objective standards.

Site Plan and Architectural Review Criteria

Pursuant to §10.200(E) of the MLDC, the SPAC shall approve a site plan and architectural review application if it finds that the development conforms, or can be made to conform through the imposition of conditions, with the following two criteria:

- (1) The proposed development is compatible with uses and development that exist on adjacent land; and
- (2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC Section 10.186.

SB 1051 amended ORS 227.175 (Application for Permit or Zone Change) to state:

"A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

While staff will be working with a consultant on the development of clear and objective comprehensive design standards as part of the housing amendments that were recommended by the Housing Advisory Committee at the beginning of this year, the MLDC does not currently contain clear and objective architectural design standards; and, as such, the compatibility criterion can no longer be applied to any residential development application that complies with the basic development standards of Article IV (e.g. density, setbacks, building height, etc.).

Staff is proposing a text amendment which states that all residential development projects shall be approved if they comply with the applicable city ordinances (which would include the proposed special development standards discussed later in this report), or if the SPAC has approved Exceptions to the code provisions, and/or Adjustments from the special development standards for multiple-family dwellings. Commercial and industrial development applications would still be subject to the existing compatibility review criterion.

In addition, SB 1051 further amended ORS 227.175 to state that a city may not reduce the height or density of an application for development projects if:

- The density and/or height applied for is at the authorized levels under the land use regulations; and
- At least 75 percent of the floor area applied for is reserved for housing.

Given this limitation and the previously discussed requirement to have clear and objective development standards, staff is proposing to amend §10.200(F) (*Site Plan and Architectural Review Conditions of Approval*) to state that the SPAC may only limit or alter the location, height, bulk, configuration or setback of commercial and industrial buildings, structures and improvements; and, that SPAC may only require the modification of architectural design elements of commercial and industrial buildings, or multiple-family dwelling buildings that affirmatively elect to deviate from the special development standards.

Special Development Standards for Multiple-Family Dwellings

The City Council directed staff to formulate clear and objective interim design standards for multiple-family dwellings with the aim of trying to ensure that all such projects will feature good architectural design and high quality materials. The City previously adopted special development standards for large retail structures (i.e. big box retail stores) in 2008, and the proposed standards for multiple-family dwellings are similar in that they primarily focus on building siting and massing, façade articulation, and materials. While it was noted at the Planning Commission and Site Plan and Architectural Commission study sessions that most architects already incorporate most or all of the proposed standards into their projects (**Exhibits D – G**), the objective is to try and prevent lower

quality multiple-family developments from being proposed and built under the auspice of SB 1051.

Planning Commission Hearing

At the Planning Commission hearing on July 12, 2018, the commissioners asked a number of questions of staff and ultimately voted to forward a favorable recommendation to the City Council, although the recommendation included the removal and/or modification of three of the special development standards (**Exhibit H**).

Maximum Building Lengths

The Planning Commission recommended that §10.717(B)(1) be removed from the proposed amendment. This section would limit buildings within 30 feet of a street to 150 feet in length, and any other buildings on the site would be limited to 200 feet (for reference purposes, the Lausmann Annex building is approximately 150 feet in length, and the Police Department building is approximately 200 feet in length). Buildings within the Central Business Overlay District (CB) would be exempt from the maximum building length since it is not uncommon or unreasonable for buildings within a central business area to span the full length of a city block (e.g. The Concord Apartments).

The intent of limiting the length of buildings is to help break up the overall massing of multiple-family dwelling buildings which can be of substantial size. Staff is of the opinion that while a building of substantial length may be appropriate in a downtown setting, it is not necessarily desirable in the less densely developed areas of the city. Limiting the length of buildings within a multi-family residential property also helps improve pedestrian circulation as it allows for walkways to more directly connect the different areas/spaces within the complex. While the City Council can elect to remove this regulation from the amendment, Staff is supportive of retaining the limitation on building lengths for the above reasons, and due to the fact that there would be an optional adjustment process available to any applicant that wants to propose a building exceeding the maximum lengths.

Glazing Percentages

The Planning Commission also recommended that the amount of required glazing be reduced in §10.717(A)(3)(c)(ii) and §10.717(B)(3). The objective of requiring a minimum percentage of windows on street-facing facades is to:

- Provide “eyes on the street” to promote a feeling of safety and community;
- Provide interest by creating a connection between interior and exterior spaces and activities;
- Provide views of human activity within buildings;
- Provide relief from the massing of exterior walls.

Minimum window percentages are not uncommon in development codes that include residential design standards, and the percentage of required windows varies (e.g. 15% in Eugene, and 15-20% in Hillsboro depending on the floor level). During their discussion on the topic, one of the Planning Commissioners suggested that the minimum percentage of windows should be reduced due to energy code requirements, and ultimately the Commission recommended that the number be reduced to 12%. This is in contrast to the recommendation of the SPAC, which stated in its study session that a 15% minimum would be most appropriate (as opposed to staff's initial proposal of 25%). Staff is proposing that the required minimum be set at 15% as recommended by SPAC.

Vehicle Circulation and Parking

The Planning Commission's final recommendation was that §10.717(F) be removed from the proposed special development standards. This section states that parking spaces cannot be located within any required front yard area (which is 15 feet in SFR-10 and 20 feet in MFR zones), and that no auto circulation or parking areas shall be located between buildings and the street. The reasons given by the Commission for striking this standard were that parking and auto circulation areas between buildings and streets could make sense in some scenarios, and that it seems overly restrictive and limiting.

The concept behind the proposed standard is that buildings help to create and define the public realm (i.e. streets and sidewalks) and greatly contribute to a community's character. For these reasons it is considered good urban design practice to try and minimize the visual presence of vehicle circulation and parking areas. As proposed the standard is already quite permissive, and Staff is recommending retention of §10.717(F) with an additional requirement that an applicant would need to apply for an Exception in order to deviate from the standard. Alternatively, the Council could elect to adopt the Planning Commission's recommendation.

FINDINGS AND CONCLUSIONS

The criteria that apply to code amendments are in Medford Municipal Code §10.218. The criteria are rendered in italics; findings and conclusions in roman type.

10.218 Land Development Code Amendment Approval Criteria.

The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

(A) Explanation of the public benefit of the amendment.

Findings

The proposed code amendments are intended to benefit the public in that they will help to make the processing of residential development applications more streamlined and predictable; and, ostensibly, will result in an increase in the amount

of housing in Medford, thereby helping to relieve some of the pressure from the current limited stock of housing and the related pricing levels that are unaffordable to many residents.

Conclusions

The code amendments bring the Land Development Code into conformance with the provisions of Senate Bill 1051, a law whose objective is to help increase the development of housing in the state. At present there is a limited supply of available and affordable housing in Medford, and with the adoption of the proposed amendments it is intended that they will contribute to an increase in the amount of housing being constructed across all income levels, therefore benefitting the public. This criterion is satisfied.

(B). The justification for the amendment with respect to the following factors:

(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.

Findings

The following are the goals, policies, and implementation strategies of the Comprehensive Plan applicable to DCA-17-007.

Housing Element

Goal: To provide for the housing needs of citizens of Medford.

Policy 1: The City of Medford shall assess the housing needs of current and prospective residents, including the elderly, disabled, active retirees, and other groups with special housing needs, to determine development priorities and to formulate specific strategies and activities to meet those needs.

Implementation 1-C: Assess policies, regulations, and standards affecting residential development and pursue amendments as needed to meet Policy 1. Assess factors such as:

a) Residential development standards....

Policy 6: The City of Medford shall plan for multi-family residential development encouraging that which is innovative in design and aesthetically appealing to both the residents and the community.

Implementation 6-A: Assess policies, regulations and standards affecting residential development and pursue amendments as needed to meet Policy 6. Assess for factors such as:

- a) Not inhibiting innovative residential design;
- b) Requiring adequate aesthetics and amenities in residential development....

Implementation 6-B: Periodically update residential design guidelines for the Site Plan and Architectural Commission review process.

Conclusions

The proposed amendments will bring the Land Development Code into conformance with Senate Bill 1051 which amends several of the Oregon Revised Statutes that affect the development of new housing. The amendments will establish new regulations that will help to streamline the approval process for qualifying affordable housing development projects, and they will establish clear and objective design standards to help ensure multiple-family dwellings are aesthetically appealing to the residents and the community while still providing a pathway to approval for multiple-family dwelling projects that do not precisely meet the clear and objective standards but are of an innovative and high quality design. This criterion is satisfied.

- (2) *Comments from applicable referral agencies regarding applicable statutes or regulations.*

Findings

The proposal was provided to the applicable referral agencies per the code requirements, and no comments were received.

Conclusions

There have been no comments received from referral agencies. This criterion has been satisfied.

- (3) *Public comments.*

Findings

The Planning Commission and the Site Plan and Architectural Review Commission provided feedback on the proposed amendments over the course of two study sessions with each Commission. The proposed amendments were also presented to the Planning Commission for recommendation at a public hearing, and no public comments were made at the hearing or at any point thereafter. This staff report will be posted on the City's website which may generate public comments.

A City Council public hearing was held on August 16, 2018, and one member of the public provided comments on the proposal.

Conclusions

Input has been received from the Planning Commission and the Site Plan and Architectural Commission. This criterion has been satisfied.

(4) Applicable governmental agreements.

Findings

There are no governmental agreements that apply to the proposed code amendments.

Conclusions

This criterion is not applicable.

RECOMMENDED ACTION

Based on the Findings and Conclusions that all of the approval criteria are either met or not applicable, adopt the ordinance for approval of DCA-17-111 per the Commission Report dated August 9, 2018, including Exhibits A through I.

EXHIBITS

- A Proposed amendments
- B Code amendment alternatives
- C Copy of Senate Bill 1051 (applicable sections highlighted)
- D Planning Commission Study Session Minutes – May 14, 2018
- E Planning Commission Study Session Minutes – June 11, 2018
- F Site Plan and Architectural Commission Study Session Minutes – May 18, 2018
- G Site Plan and Architectural Commission Study Session Minutes – June 15, 2018
- H Excerpt of Planning Commission Hearing Minutes – July 12, 2018
- I Email communication from Mark McKechnie received July 20, 2018

CITY COUNCIL AGENDA:

SEPTEMBER 6, 2018

ARTICLE I - GENERAL PROVISIONS

* * *

10.141 Review and Appeal of Certain Affordable Housing Projects.

Notwithstanding other code provisions to the contrary, when an application involves a residential development that: (1) contains five or more residential units; (2) will sell or rent at least 50 percent of the residential units as housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and (3) is subject to a covenant appurtenant restricting the owner and each successive owner of the development (or a residential unit of the development) from selling or renting any affordable residential unit within the development as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy, the following review and appeal procedures apply. The application shall be reviewed by the Site Plan and Architectural Commission in the manner described in Section 10.200. Site Plan and Architectural Commission actions involving such projects shall be considered final, and any appeal of actions shall be made directly to the Land Use Board of Appeals (LUBA).

* * *

ARTICLE II - PROCEDURAL REQUIREMENTS

* * *

10.200 Site Plan and Architectural Review.

* * *

(E) Site Plan and Architectural Review Criteria.

(1) The Site Plan and Architectural Commission shall approve a site plan and architectural review application for a commercial or industrial development, if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(a)~~(1)~~ The proposed development is compatible with uses and development that exist on adjacent land, and

(b)~~(2)~~ The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC Section 10.186.

(2) The Site Plan and Architectural Commission shall approve a site plan and architectural review application for a residential development if the proposed development complies with the applicable provisions of all city ordinances, or if the Site Plan and Architectural Commission has approved either of the following:

(a) Any Exceptions, as provided for in MLDC Section 10.186, which resolve(s) any instances of non-compliance with those provisions.

(b) Any Adjustments or Exceptions from the Special Development Standards for Multiple-Family Dwellings, as provided for in MLDC Section 10.715A – 10.717.

(F) Site Plan and Architectural Review Conditions of Approval.

In approving a site plan and architectural review application, the Site Plan and Architectural Commission

may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Subsection (E) above, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

- (1) Limiting the number, height, location and size of signs;
- (2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;
- (3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;
- (4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;
- (5) Limiting or altering the location, height, bulk, configuration or setback of commercial and industrial buildings, structures and improvements.
- (6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;
- (7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;
- (8) Requiring the retention of existing natural features;
- (9) Modifying architectural design elements of commercial and industrial buildings. Such modifications may include, but are not necessarily limited to: exterior construction materials and their colors, roofline, and fenestration; and, restricting openings in the exterior walls of structures;
- (10) Modifying architectural design elements of multiple-family dwelling buildings when the applicant has affirmatively elected to request an adjustment from the Special Development Standards in MLDC Sections 10.715A – 10.717. Such modifications may includeing, but are not necessarily limited to: exterior construction materials and their colors, roofline, and fenestration; and, restricting openings in the exterior walls of structures;
- (10~~1~~) Restricting the height, directional orientation and intensity of exterior lighting.

* * *

ARTICLE V – SITE DEVELOPMENT STANDARDS

* * *

SPECIAL DEVELOPMENT STANDARDS FOR MULTIPLE-FAMILY DWELLINGS (10.715A – 10.717)

10.715A Multiple-Family Dwellings, Special Development Standards, Purpose.

The purpose of Sections 10.717 through 10.719 is to establish a series of clear and objective standards for multiple-family dwellings in order to:

- (a) Enhance the visual character and livability of the community;
- (b) Promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape.

This purpose statement is not intended to create an independent basis for denying a multiple-family dwelling project that meets all clear and objective standards.

10.716A Multiple-Family Dwelling, Special Development Standards, Applicability.

A. The requirements of Sections 10.717 – 10.719 shall apply to all multiple-family dwellings consisting of three or more attached dwelling units.

B. Unless otherwise specified, any applicant that affirmatively elects to deviate from these requirements shall be subject to the subjective standards provided for in MLDC Section 10.720.

10.717 Multiple-Family Dwellings, Special Development Standards.

A. Building Orientation and Entrances.

(1) Buildings shall be oriented to public streets and public street intersections.

(2) Buildings located at intersections shall incorporate a corner building entrance.

(3) For buildings located within 30 feet of a street, the main entrance(s) of ground floor units must face the street frontage. Main entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. Deviations from this standard are allowed as follows:

(a) On corner lots the main building entrance(s) may face either of the streets or be oriented to the corner.

(b) For buildings with more than one entrance serving multiple units, only one entrance must meet this standard.

(c) For buildings proposed to be perpendicular to public streets due to access requirements and/or dimensional constraints not created by the applicant, main entries may face up to 90 degrees away from the street provided both of the following apply:

i. They are visible from the street.

ii. The building side facing the street shall contain windows occupying a minimum of 15% of the overall façade length.

B. Building Mass and Façade.

(1) Outside of the Central Business Overlay District, residential buildings located within 30 feet of a street shall be limited in length to 150 feet, and any other residential buildings on the site shall be limited in length to 200 feet. There is no maximum building length within the Central Business Overlay District.

(2) On buildings greater than three stories in height, all façades shall be divided into three elements (base, middle, and top) and visibly articulated to define each element.

(a) The building base consists of the lowermost floor or two floors. The building top consists of the uppermost floor or two floors. The building middle consists of the remainder of the façade between the base and the top.

(b) The building base, middle, and top shall each be differentiated through horizontal articulation and/or a discernible change in materials.

(3) Street-facing façades shall contain windows covering a minimum of 15% of the façade length on each floor level.

C. Building Articulation.

(1) In order to preclude long expanses of uninterrupted wall surfaces, exterior elevations of buildings shall incorporate design features such as off-sets, projections, balconies, bays, windows, entries, porches, porticos, or similar elements. Rear and/or side elevations that are only visible from the interior of the site are not subject to these articulation requirements.

(a) Horizontal surface: at least two of the design features outlined above shall be incorporated along the horizontal face of the building, to be repeated at intervals of no more than 40 feet.

(b) Vertical surface: at least two of the design features outlined above shall be incorporated along the vertical face of the building, to be repeated at intervals of no more than 30 feet.

- (2) When off-sets and projections are used to fulfill articulation requirements, they shall vary from other wall surfaces by a minimum of 2 feet, and such changes in plane shall have a minimum width of 6 feet.
- (3) Individual and common entries shall be articulated by roofs, awnings, or porticos that are a minimum of 6 feet wide and 4 feet deep.
- (4) Windows shall be inset a minimum of 3 inches from the adjacent wall plane, or fully surrounded by trim in order to create the necessary minimum inset depth of 3 inches.

D. Building Materials.

- (1) The following primary building materials shall be utilized on a minimum of 65% of the street-facing façade:
 - (a) Brick;
 - (b) Stone;
 - (c) Stucco;
 - (d) Flat metal composite panels;
 - (e) Wood siding and wood simulation materials;
 - (f) Fiber reinforced cement siding or panels;
 - (g) Ceramic tile; and
 - (h) Transparent glass.
- (2) The following building materials shall not be allowed on more than 35% of each individual façade:
 - (a) Corrugated metal;
 - (b) Plain or split-faced concrete block;
 - (c) Plain concrete; and
 - (d) Spandrel glass.
- (3) Vertical changes in wall cladding materials shall take place on inside corners. Horizontal changes in wall cladding materials shall take place at cornices, belt courses, and other such horizontal elements.
- (4) The following building materials are prohibited:
 - (a) Vinyl siding; and
 - (b) Plywood siding (e.g. T1-11).
- (4) Fencing materials shall be durable, maintainable, and attractive. The following fencing materials are prohibited:
 - (a) Plastic or vinyl fencing; and
 - (b) Chain link fencing.

E. Roof Forms.

- (1) All sloped roofs shall have a minimum 4:12 pitch.
- (2) All sloped roofs shall have eaves projecting a minimum of 12 inches from the building wall.
- (3) All roofs with a slope of less than 4:12 pitch shall be articulated by a parapet wall projecting a minimum of 12 inches above the roof line, or be architecturally treated such as with a decorative cornice.

F. Vehicle Circulation and Parking.

- (1) In order to strengthen the presence of buildings on the street, no parking spaces shall be located within any required front yard area, and no automobile circulation or parking areas shall be located between buildings and the street. Any proposed deviation from this standard shall be subject to a request for an Exception as outlined in Section 10.186.

OPTIONAL ADJUSTMENT OF SPECIAL DEVELOPMENT STANDARDS

(10.718 – 10.719)

10.718 Optional Adjustment of Special Development Standards, Purpose.

The purpose of this section is to create a mechanism for an applicant to seek approval of innovative and/or unconventional residential designs that may not precisely satisfy the clear and objective design standards set forth in Sections 10.715A – 10.717(E). This section is not meant to supersede the clear and objective standards set forth above unless an applicant affirmatively elects to request review under this section.

10.719 Optional Adjustment of Special Development Standards, Review Criteria.

A. Notwithstanding Sections 10.715A – 10.717, if an applicant affirmatively elects to request review (in writing) under this section, the Site Plan and Architectural Commission may approve a site plan and architectural review application for a multiple-family dwelling development if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(a) The requested adjustment will allow the project to achieve an equivalent or higher quality design than would otherwise result through strict adherence to the standards, through architectural massing, features or details to distinguish elements of the building; vibrant facades with visual detail; and enhanced public and private spaces that contribute positively to the site, streetscape, and adjoining properties; and

(b) The requested adjustment will allow the project to achieve an equivalent or higher quality design than would otherwise result through strict adherence to the standards through an overall site design that promotes safety, security, and privacy, and reduces visual, noise, and lighting impacts of the development on adjacent properties..

B. Denial of the application. If the Site Plan and Architectural Commission finds that an application for residential development reviewed under this section does not satisfy the conditions of Subsection A, the Site Plan and Architectural Commission shall also review the application as set forth in Sections 10.715A – 10.717. If the application does not satisfy the requirements of Sections 10.715A – 10.717 either, the Site Plan and Architectural Commission shall make such findings on the record.

* * *

10.141 Review and Appeal of Certain Affordable Housing Projects.

Alternative 1

Notwithstanding other code provisions to the contrary, when an application involves a residential development that: (1) contains five or more residential units; (2) will sell or rent at least 50 percent of the residential units as housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and (3) is subject to a covenant appurtenant restricting the owner and each successive owner of the development (or a residential unit of the development) from selling or renting any affordable residential unit within the development as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy, the following review and appeal procedures apply.

The application shall be reviewed by the Planning Director with a substantive review consisting of the type of review described in Section 10.200. Notification for such applications shall be the same as those for Type II land use actions described in Section 10.124, with the addition of posting an on-site notification sign that describes the application and the public comment period. Any appeal from the Planning Director decisions shall be made to the City Council, and final action shall be taken within 100 days unless an applicant has made a written request to extend the 100-day period for a specified period of time. Any appeal therefrom shall be made to the Land Use Board of Appeals (LUBA).

10.141 Review and Appeal of Certain Affordable Housing Projects.

Alternative 2

Notwithstanding other code provisions to the contrary, when an application involves a residential development that: (1) contains five or more residential units; (2) will sell or rent at least 50 percent of the residential units as housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and (3) is subject to a covenant appurtenant restricting the owner and each successive owner of the development (or a residential unit of the development) from selling or renting any affordable residential unit within the development as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy, the following review and appeal procedures apply.

If the applicant has not requested an Exception as set forth in Section 10.717(F) or any adjustment from the Special Development Standards as set forth in Sections 10.718 – 10.719, the application shall be reviewed by the Planning Director with a substantive review consisting of the type of review described in Section 10.200. Notification for such applications shall be the same as those for Type II land use actions described in Section 10.124, with the addition of posting an on-site notification sign that describes the application and the public comment period. Any appeal from the Planning Director decisions shall be made to the City Council, and final action shall be taken within 100 days unless an applicant has made a written request to extend the 100-day period for a specified period of time, and any appeal therefrom shall be made to the Land Use Board of Appeals (LUBA).

If the applicant has requested an Exception as set forth in Section 10.717(F) or any adjustment from the Special Development Standards as set forth in Sections 10.718 – 10.719, the application shall be reviewed by the Site Plan and Architectural Commission as per Sections 10.182 and 10.200, and any appeal from the Site Plan and Architectural Commission decisions shall be made to the City Council. Final action in such instances shall be taken within 120 days unless an applicant has made a written request to extend the 120-day period for a specified period of time, and any appeal therefrom shall be made to the Land Use Board of Appeals (LUBA).

* * *

Alternative for Glazing Percentage (Planning Commission Recommendation)

* * *

10.717(A)(3)(c) For buildings proposed to be perpendicular to public streets due to access requirements and/or dimensional constraints not created by the applicant, main entries may face up to 90 degrees away from the street provided both of the following apply:

- i. They are visible from the street.
- ii. The building side facing the street shall contain windows occupying a minimum of 12% of the overall façade length.

* * *

10.717(B)(3) Street facing facades shall contain windows covering a minimum of 12% of the façade length on each floor level.

* * *

**Enrolled
Senate Bill 1051**

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

CHAPTER

AN ACT

Relating to use of real property; creating new provisions; amending ORS 197.178, 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

(b) "Multifamily residential building" means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city with a population greater than 5,000 or a county with a population greater than 25,000 shall take final action on an application qualifying under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed complete.

(3) An application qualifies for final action within the timeline described in subsection (2) of this section if:

(a) The application is submitted to the city or the county under ORS 215.416 or 227.175;

(b) The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;

(c) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing; and

(d) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (c) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

(4) A city or a county shall take final action within the time allowed under ORS 215.427 or 227.178 on any application for a permit, limited land use decision or zone change that does not qualify for review and decision under subsection (3) of this section, including resolution of all appeals under ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS 227.178 and 227.181.

SECTION 2. ORS 215.416 is amended to read:

215.416. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) *[The application shall not be approved]* **A county may not approve an application** if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A county may not reduce the density of an application for a housing development if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not reduce the height of an application for a housing development if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may reduce the density or height of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the land use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing need not be provided as set forth in subsection (6) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Oregon Department of Aviation.

(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

(b) When an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(10) Written notice of the approval or denial shall be given to all parties to the proceeding.

(11)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the county's land use regulations. A county may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(12) A decision described in ORS 215.402 (4)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(13) At the option of the applicant, the local government shall provide notice of the decision described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(14) Notwithstanding the requirements of this section, a limited land use decision shall be subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 3. ORS 227.175 is amended to read:

227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) *[The application shall not be approved]* A city may not approve an application unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A city may not reduce the density of an application for a housing development if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not reduce the height of an application for a housing development if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may reduce the density or height of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home

or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions shall be subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 4. ORS 197.303 is amended to read:

197.303. (1) As used in ORS 197.307, “needed housing” means **all housing [types] on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at [particular] price ranges and rent levels, including] that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes [at least] the following housing types:**

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Housing for farmworkers.

(2) Subsection (1)(a) and (d) of this section [shall] **does not apply to:**

(a) A city with a population of less than 2,500.

(b) A county with a population of less than 15,000.

(3) A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

SECTION 5. ORS 197.307 is amended to read:

197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of state-wide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.

(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of hous-

ing, including needed housing [on buildable land described in subsection (3) of this section]. The standards, conditions and procedures:

(a) **May include, but are not limited to, one or more provisions regulating the density or height of a development.**

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(5) The provisions of subsection (4) of this section do not apply to:

(a) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

(8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt any or all of the following placement standards, or any less restrictive standard, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.

(b) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

(c) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

(e) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

(f) The manufactured home shall have a garage or carport constructed of like materials. A jurisdiction may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

(g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, ar-

chitectural requirement and minimum size requirement to which a conventional single-family residential dwelling on the same lot would be subject.

SECTION 6. ORS 197.312 is amended to read:

197.312. (1) A city or county may not by charter prohibit from all residential zones attached or detached single-family housing, multifamily housing for both owner and renter occupancy or manufactured homes. A city or county may not by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing.

(2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a permitted use in any residential or commercial zone that allows single-family dwellings as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other single-family dwellings in the same zone.

(3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted use in any residential or commercial zone that allows multifamily housing generally as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of multifamily housing for farmworkers and farmworkers' immediate families in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other multifamily housing in the same zone.

(4) A city or county may not prohibit a property owner or developer from maintaining a real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for the sale of lots or dwelling units that remain available for sale to the public.

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

SECTION 7. ORS 215.441 is amended to read:

215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including *[worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.]*:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 8. ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including [*worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.*]:

(a) **Worship services.**

(b) **Religion classes.**

(c) **Weddings.**

(d) **Funerals.**

(e) **Meal programs.**

(f) **Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.**

(g) **Providing housing or space for housing in a building that is detached from the place of worship, provided:**

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transporta-

tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 9. ORS 197.178 is amended to read:

197.178. (1) Local governments with comprehensive plans or functional plans that are identified in ORS 197.296 (1) shall compile and report annually to the Department of Land Conservation and Development the following information for all applications received under ORS 227.175 for residential permits and residential zone changes:

(a) The **total number of complete applications received for residential development, [including the net residential density proposed in the application and the maximum allowed net residential density for the subject zone] and the number of applications approved;**

[(b) The number of applications approved, including the approved net density; and]

[(c) The date each application was received and the date it was approved or denied.]

(b) The total number of complete applications received for development of housing containing one or more housing units that are sold or rented below market rate as part of a local, state or federal housing assistance program, and the number of applications approved; and

(c) For each complete application received:

(A) The date the application was received;

(B) The date the application was approved or denied;

(C) The net residential density proposed in the application;

(D) The maximum allowed net residential density for the subject zone; and

(E) If approved, the approved net residential density.

(2) The report required by this section may be submitted electronically.

SECTION 10. ORS 215.427 is amended to read:

215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section **and section 1 of this 2017 Act** upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information, as described in subsection (2) of this section, within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section **or the 100-day period set in section 1 of this 2017 Act** may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section **and the 100-day period set in section 1 of this 2017 Act do** [does] not apply to a decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 215.429 **or section 1 of this 2017 Act** as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in [subsection (1)] **subsections (1) and (5) of this section and section 1 of this 2017 Act** [and the period set forth in subsection (5) of this section] may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

SECTION 11. ORS 227.178 is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use de-

cision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section **or section 1 of this 2017 Act** upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section **or the 100-day period set in section 1 of this 2017 Act** may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section **and the 100-day period set in section 1 of this 2017 Act do** *does* not apply to a decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee; or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 or **section 1 of this 2017 Act** as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The *[period]* **periods** set forth in *[subsection (1)]* **subsections (1) and (5)** of this section and **section 1 of this 2017 Act** *[and the period set forth in subsection (5) of this section]* may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

SECTION 12. The amendments to ORS 197.312, 215.416 and 227.175 by sections 2, 3 and 6 of this 2017 Act become operative on July 1, 2018.

SECTION 13. (1) Section 1 of this 2017 Act and the amendments to ORS 197.178, 197.303, 197.307, 215.427, 215.441, 227.178 and 227.500 by sections 4, 5 and 7 to 11 of this 2017 Act apply to permit applications submitted for review on or after the effective date of this 2017 Act.

(2) The amendments to ORS 215.416 and 227.175 by sections 2 and 3 of this 2017 Act apply to applications for housing development submitted for review on or after July 1, 2018.

(3) The amendments to ORS 197.312 by section 6 of this 2017 Act apply to permit applications for accessory dwelling units submitted for review on or after July 1, 2018.

SECTION 14. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate April 19, 2017

Received by Governor:

Repassed by Senate July 7, 2017

.....M.,....., 2017

.....
Lori L. Brocker, Secretary of Senate

Approved:

.....M.,....., 2017

.....
Peter Courtney, President of Senate

.....
Kate Brown, Governor

Passed by House July 6, 2017

Filed in Office of Secretary of State:

.....
Tina Kotek, Speaker of House

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State



Minutes

From Study Session on **May 14, 2018**

The study session of the Medford Planning Commission was called to order at 12:00 p.m. in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present

Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
E. J. McManus
Jared Pulver

Staff Present

Kelly Akin, Assistant Planning Director
Carla Paladino, Principal Planner
Eric Mitton, Deputy City Attorney
Seth Adams, Planner III

Commissioners Absent

Mark McKechnie, Excused Absence
Alex Poythress, Excused Absence

Subject:

20.1 DCA-17-111 Senate Bill 1051 Code Amendments

Seth Adams, Planner III, reported that staff is asking the Planning Commission for direction on the following:

- 1) Identify any additional changes to be made to the proposal
- 2) Should this amendment include interim design standards?

Senate Bill 1051 (SB 1051) was signed into law on August 15, 2017. The objective of the bill is to increase the supply of housing in the state by:

- Removing barriers to development at the local level (ORS 227.175)
- Expediting permitting for affordable housing projects (ORS 227.178)
- Increasing options for the development of accessory dwelling units (ADUs) (ORS 197.312)
- Allowing religious organizations to build affordable housing on their property within residential zones (ORS 227.500)

ORS 227.178 requires cities to take final action on land use applications within 120 days of the application being deemed complete.

Under SB 1051 an application qualifies for final action within 100 days if:

- The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;
- At least 50 percent of the residential units included in the development will be sold or rented as affordable housing*; and

- The development is subject to a covenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any affordable residential unit as housing that is not affordable housing* for a period of 60 years from the date of the certificate of occupancy.

**Affordable housing is defined in SB 1051 as being "...housing that is affordable to household with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater."*

Applications for multifamily residential projects are reviewed and acted upon by the Site Plan and Architectural Commission (SPAC), and decisions rendered by SPAC are appealable to the City Council. In order to ensure that the 100 day final action timeline can be met, staff is proposing to amend Section 10.051(A) of the Medford Land Development Code to state that SPAC actions shall be considered final when they involve residential development projects that meet the criteria for final action within 100 days, and that any appeal of such actions shall be made directly to the State Land Board of Appeals (LUBA).

SB 1051 amended ORS 227.175 to state that:

"A City may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

Presently, there are no design standards. For now, clear and objective standards would be height, density, setbacks, etc.

Currently, SPAC approval criteria in the Code is not clear and objective. It states that the proposed development is compatible with uses and development that exist on adjacent land. That criteria is not in conformance with the provisions of SB 1051. Staff is proposing to amend that section stating that the compatibility criterion will only apply to commercial and industrial development. All residential development projects shall be approved if they comply with the applicable city ordinances, or if SPAC has approved an exception.

In addition, SB 1051 further states that a city may not reduce the height or density of an application for development projects if:

- The density and/or height applied for is at the authorized levels under the land use regulations; and
- At least 75 percent of the floor area applied for is reserved for housing.

Staff is proposing to amend Section 10.291 of the Medford Land Development Code to explicitly prohibit reductions in density and/or height on mixed-use development projects meeting the above criteria.

Commissioner Pulver asked, if the proposed development is at or below the City's allowable height could SPAC deny it or require them to reduce it? He thinks if the City tried that and it was within permitted height it would be appealed and the City would lose. Eric Mitton, Deputy City Attorney, stated that theoretically it is possible that the City could find it was not compatible with the surrounding area even though it met all objective criteria.

Commissioner Mansfield presumes housing authority, some churches and nonprofits will be interested in SB 1051. Will the profit making industry be interested in doing any of these projects? Commissioner Culbertson stated that he doubts it. When developing a project they are not in it for charity. He does not think it impacts regular residential real estate at all. It is carving out a specific sector.

Commissioner Pulver stated that affordable housing is an issue no matter where you fit in the spectrum. Everyone recognizes there is an issue. There are a lot of different things being discussed like in Seattle taxing the rich to pay for the poor concept to fund affordable housing. If this lessens that potential future of burden they could care less. It is the ones that it directly impacts that are going to be more concerned.

Commissioner Culbertson thinks legislature missed the mark. They had three different bills that focused on rent controls. Anyone who owned over four rental units and wanted to have a no cause eviction on a tenant there was a breakdown on how much the owner had to pay the tenant to leave. Even if they were on a month to month tenancy and they received thirty day notice. Those all failed. SB 1051 was their only win. It misses the mark because it is not increasing housing. That is where the problem is. If you have increased housing and available places for people housing rents will lower. Landlords want their places filled. As long as there is a point five vacancy rate housing prices are going to continue to rise as far as rental.

Commissioner Pulver asked, would this carve out a market rate housing project? Mr. Adams replied yes. The way SB 1051 is now if it is housing and it meets adopted standards then it cannot be denied. It carves out provisions for mixed-use developments that further restricts SPAC's ability to alter the plans. Staff did not see that SB 1051 would have material impact on Medford.

Commissioner Pulver stated that for market rate he is an advocate for some level of design standards that could be imposed. He likes density and mixed-use projects but they do not fit everywhere.

Vice Chair McFadden asked, if there are discretionary conditions created then not only the fast track affordable housing projects use them but the non-fast trackers can use the

same discretionary conditions and not be reviewed by SPAC on other issues? Kelly Akin, Assistant Planning Director, reported that SB 1051 broadened the definition of needed housing to everything. If it is a place somebody can live then it is needed housing and only clear and objective criteria can be applied. It can be any type of housing. When talking about design standards, this is important because it will not only apply to affordable housing, it applies cross the board. The design standards that staff will be proposing will apply to market rate as well.

Vice Chair McFadden asked, if staff has until July 1, 2018, to put the design standards in place? Senate Bill 1051 takes effect July 1, 2018.

Commissioner Mansfield asked, is that heavy to put design standards at the zoning level? He thought that was what SPAC did. Ms. Akin stated that the Planning Commission is looking at it because it is going to be a text amendment. Staff has a study session setup with SPAC on Friday, May 18, 2018, at which this subject will be discussed.

Staff has already started work on design guidelines and will be working with a consultant this year to create clear and objective design standards.

Commissioner Culbertson asked, if an application comes in and they request an exception, does SPAC have the authority to deny the application because the criteria is not met without the exception? Is Senate Bill 1051 saying SPAC cannot overlook and exception and have to agree? Carla Paladino, Principal Planner, thinks no. Commissioner Culbertson asked, if the applicant needs an exception to an application then SPAC can still deny it if it is not appropriate, and it would not be violating SB 1051? That is Mr. Adams understanding.

Does the Planning Commission have comments on the text amendment? Should this amendment include interim design standards? In theory staff could create basic, clear and objective design standards so there is no window of time where no standards are in place.

Commissioner Mansfield asked, what is staff's feeling on that? What is staff's recommendation? Ms. Paladino reported that since they have a technical assistance grant from the State and are working on hiring a consultant, that staff would like to focus on the ones that will be permanent.

Vice Chair McFadden commented that there are no design standards. Without an interim design standard staff has no technical side to make decisions.

Chair Miranda stated that SPAC has the discretionary authority to review a design and deem it inappropriate. Commissioner Foley reported they cannot do that now. If there are no clear and objective standards that cannot be done. Ms. Paladino stated that there are no clear and objective standards now. There is a criterion that states compatible but that staff can no longer apply it.

Commissioner Mansfield asked, what are the arguments against if the Planning Commission thinks they should not include interim design standards? Ms. Paladino reported that if the interim design standards were put into place now then SPAC has guidelines.

Ms. Akin stated that it is a question of community value. What do you want your City to look like? That is the base question. The City has bulk standards now but they do not have any design standards. It is rare for SPAC to make architectural adjustments.

Commissioner Mansfield reported that it is a philosophic question whether government has any business dictating taste to the cities.

Chair Miranda stated that this work is being done under a grant. What impact does the time and money invested in making interim design standards have on the final design standards? Ms. Paladino reported there would be some overlap. Staff would work on the interim standards and get them ready as quickly as possible to get them in the books. Then they would move along on the regular design standards.

Vice Chair McFadden is concerned that in the meantime there would be people who will take advantage of SB 1051 without the design standards. He is hoping that the City of Medford gets at least equal to what they get now. He is concerned with the 60 year affordability covenant in SB 1051.

Commissioner Culbertson reported that the 60 years is permanent with a deed restriction. Ms. Akin stated that it would sunset. Language would be written into the restriction that it would sunset after the period of time. As Commissioner Culbertson understands it if it is instituted as a 60 year deed restriction it cannot be removed until after the 60 years.

Mr. Mitton stated that another mechanism might be a declaratory judgment action by a tenant or perspective tenant. It would be on the radar even though there is no administration routinely monitoring it.

Commissioner Pulver believes it is better to have some protection. It is better than none. Design standard codes are difficult to write. It may take longer that what they are thinking to get the final standards in play. The longer it takes the longer the City is exposed.

Commissioner Foley commented that there are basic things that can be put in addressing Vice Chair McFadden's concerns like paving, parking, buffering, real basic things that are already dealt with a little.

Commissioner Pulver stated that there could be clear and objective standards that required change of material or the building face that would break up the box look.

Ms. Paladino reported that lighting, paving, bicycle parking, etc. will still apply. They are talking about the actual look of the building such as materials, roof lines, those kinds of details.

Commissioner McManus asked, what is the timeframe for the interim design standards? Mr. Adams stated that they have a study session with the Site Plan and Architectural Commission on Friday, May 18, 2018. On June 14, 2018 it would go to Planning Commission for their recommendation and City Council for adoption on July 19, 2018.

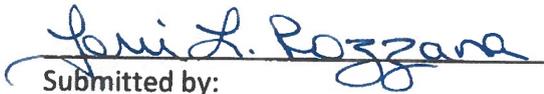
Chair Miranda suggested a draft interim design standards for a Planning Commission study session in June.

Ms. Paladino stated a draft interim design standards for a Planning Commission study session in June, public hearing in July and to the City Council in August.

Commissioner Pulver asked, does the City have a consultant? Ms. Paladino reported they have not hired them yet. They have proposals in.

30. Adjournment

The meeting was adjourned at 12:48 p.m.



Submitted by:

Terri L. Rozzana

Recording Secretary



Planning Commission

Minutes

From Study Session on June 11, 2018

The study session of the Medford Planning Commission was called to order at 12:00 p.m. in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present

Patrick Miranda, Chair
 David McFadden, Vice Chair
 Joe Foley
 Bill Mansfield
 Mark McKechnie

Staff Present

Kelly Akin, Assistant Planning Director
 Carla Paladino, Principal Planner
 Eric Mitton, Deputy City Attorney
 Kyle Kearns, Planner II
 Seth Adams, Planner III

Commissioners Absent

David Culbertson, Excused Absence
 E. J. McManus, Excused Absence
 Jared Pulver, Unexcused Absence
 Alex Poythress, Unexcused Absence

Subject:

20.1 DCA-17-062 Temporary Shelters (Formerly Cooling/Warming Shelters)

Kyle Kearns, Planner II, reported that staff will be presenting the findings of DCA-17-062, Temporary Shelters, on Thursday, June 14, 2018 before the Planning Commission. Staff is recommending approval of the code amendment. The intent of today's presentation is to determine if any changes are needed to the proposed amendment prior to the hearing.

The code amendment is to allow for a new land use, temporary shelters. Temporary shelters are a use within an existing or new structure, short-term in nature, in which homeless individuals or families are provided temporary shelter for no more than 90 days in a 12 month period. An example of a shelter that would qualify as a temporary shelter would be the Kelly Warming Shelter. The Kelly Warming Shelter has operated in the winters of 2017 and 2018 and has aided in the drafting of the proposed language for DCA-17-062.

Citing frustrations with the process in which the Kelly Warming Shelter was permitted, staff was directed to draft proposed standards in order to provide a clear and concise path forward for permitting temporary shelters in the future.

Staff is proposing the shelters be conditional uses going through the Conditional Use process. Allowing for weather based timing events. Removal of the allowance of tents, yurts, and similar structures. A 500 foot buffer from any property line that has a shelter. Created standards for revocation of permits.

Temporary shelters are conditionally permitted with special standards in residential zones as accessory use to institutional uses and as a primary use or as an accessory use in commercial/industrial zones.

In Code Sections 10.816 and 10.817 adding language "added provision stating allowance of temporary shelters as a conditional use per these special standards."

Vice Chair McFadden stated that since this is included in the conditional use section does it need to be mentioned twice? Kelly Akin, Assistant Planning Director, reported that the use table talks about it as a stand-alone use. This would allow it as an accessory to one of the other conditional uses.

Commissioner McKechnie asked, would this apply to natural disaster shelters? Chair Miranda reported that he read there is a condition for emergency shelters. Mr. Kearns clarified that temporary shelters is defined for people that are homeless. This amendment was not meant for natural disaster temporary shelters.

Commissioner Foley asked, why is the definition for transitional housing included in this text amendment? Mr. Kearns stated that it is used in the definition of temporary shelters that they may be transitioned to transitional housing. It is needed to define transitional housing for clarification of what it is.

Commissioner Mansfield commented that everything in this section requires a conditional use permit. He is not opposed to that. There is going to be resistance. Mr. Kearns reported that as a conditional use it would come before the Planning Commission and it would have to meet the criteria.

The purpose and intent of the special use standards is to *"...ensure that any conflicts with temporary shelters and the surrounding land uses are mitigated through the special regulations..."*

Definitions pertaining to temporary shelters defined the following terms specifically for temporary shelters:

1. Access Point
2. Operator
3. Operational Period
4. Operations Plan
5. Shelter Areas

Commissioner Mansfield pointed out that throughout this entire set of instruments there are all kinds of things the City Manager is authorized to do. Does standards need to be set? Eric Mitton, Deputy City Attorney, stated that there is specific criteria that the City Manager needs to identify for termination. There is public safety and violation of the code criteria.

Commissioner Mansfield referred to page twelve of the study session packet "... (h) *The City Manager's decision to revoke a temporary shelter's permits shall be final. Appeals shall be made to the City Council.*" He is concerned with that. It seems to be inconsistent to say it is final and then stating the right to appeal. Commissioner Mansfield stated he was in error and apologized for missing the standard. Mr. Mitton stated that in terms of appeals shall be made to the City Council is that if the City Manager is trying to revoke a permit for a safety issue there is a question whether the revocation is effective or not while trying to get on a City Council calendar that can take several weeks. Commissioner Mansfield suggested changing the word "*final*" to "*effective immediately*".

Vice Chair McFadden asked, in light of the recent shooting in a Portland shelter, does police and their responsibilities need to be addressed in this code amendment versus normal procedures for Medford Police? Mr. Mitton responded that he can research any specific issues with the Portland shooting. One of his concerns is if things were to escalate and something happened or walking through a routine inspection and saw heroine in an obvious position or a weapon he did not want a motion suppressed by an officer being in a shelter to begin with. He wants to make sure there is no constitutional challenge for officers being there and charges rise out of it. Their safety can defer to their normal standards.

Commissioner McKechnie asked, in a residential area as and accessory use, is there a square footage limitation? Mr. Kearns replied no.

20.2 DCA-17-111 Senate Bill 1051 – Interim Multi-Family Residential Design Standards

Seth Adams, Planner III, reported that staff is asking the Planning Commission for direction on the following:

- 1) Identify any necessary changes to the proposed interim design standards.

Senate Bill 1051 (SB 1051) was signed into law on August 15, 2017. The objective of the bill is to increase the supply of housing in the state.

SB 1051 amended ORS 227.175 to state that:

"A City may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

With SB 1051s amendment of ORS 227.175, the compatibility criterion can no longer be applied to any residential development applications that complies with the basic development standards since the Medford Land Development Code does not contain any residential design standards.

Staff surveyed several cities design standards and Eugene hit the basics that the Site Plan and Architectural Commission had concerns with.

Commissioner Mansfield stated that Section 10.716A (b) Promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape is a built-in NIMBY defense. Each time there is a hearing the NIMBY people will be using that to shoot it down. They will say it does not contribute positively to the neighborhood. Commissioner Mansfield does not have a good answer to this. He thinks they are cornered by Senate Bill 1051.

Vice Chair McFadden believes Section 10.716A (a): Enhance the visual character and livability of the community, has the same problem.

Mr. Mitton stated Section 10.716A (a) and (b) are the purpose statement not the approval criteria. There will be objective approval criteria. If those are met even though someone does not feel that it meets the standards it gets approved.

Commissioner McKechnie is also struggling with this. He commented to leave Senate Bill 1051 alone with no design standards and rely on the Site Plan and Architectural Commission to make the right decision.

Carla Paladino, Principal Planner, stated that if this is how they feel at the time this is presented to the Planning Commission, then they need to vote that way. The City Council has directed staff to do this.

Vice Chair McFadden asked, is the City Council asking for the criteria or general. The code is typically done with purpose and how it is presented. Typically the purposes are so general it allows anything and conflicts to happen.

Commissioner Mansfield would be willing to volunteer to talk to the City Council when they consider this process. Apparently the City Council is insisting this be in the code but may not realize the trap they are making.

Commissioner McKechnie commented that there are two cities that he is familiar with and has done work for them. They are Solvang, California and Happy Valley, Oregon. It is simple. One can build anything they want in Solvang as long as it looks like the Solvang style. Happy Valley is another one that says build anything as long as it matches the Happy Valley style. They have design guidelines that list all options that are accepted as the Happy Valley style.

Ms. Akin suggested continuing on to the actual standards.

Staff tried to create a checklist that design professionals already do on a day to day basis. It gets specific and Mr. Adams reviewed the rest of the multi-family special development standards.

Commissioner McKechnie suggested that rather than doing these standards, take Charles Point and see if it fits these design standard criteria. He does not know of any builders in Medford building anything bigger than two-story buildings.

Vice Chair McFadden asked, is there a type of metal paneling to be avoided? Commissioner McKechnie thought that metal panels are put on metal buildings. Maybe that should be deleted in the standard or be more specific. He has seen a lot of places that requires two different sidings. Maybe have a primary material and accent material that gives variation.

Chair Miranda asked why vinyl siding is prohibited? Commissioner McKechnie reported that it is not used much anymore.

Vice Chair McFadden asked, does the roof slopes conform for solar energy? Commissioner McKechnie responded that one can do everything solar wise except from 10 to 12 and higher in Medford. Ms. Akin stated that the statute requires allowing them. The Code does not have standard specifics.

Commissioner McKechnie stated that he thinks it is a mistake to require buildings up close to the street especially when streets have not been built out.

Vice Chair McFadden commented that it seems that the preferred location of bio-swailes is along the frontage.

Mr. Adams asked, in the interim design standards, should there be a provision for a deviation through the Site Plan and Architectural Commission? Should they have the authority to approve deviations? Commissioner McKechnie stated that the building code has a prescriptive path with an alternate path that gets to the same end result through a different method.

Commissioner McKechnie's prediction on the design standards is that staff will be in a battle for months and then trash can it. Architects do all this when designing a project. It is building designers that does not know what is going on. They are the ones that will complain about having to follow the design standards.

That is the exact reason why Vice Chair McFadden thinks there needs to be an interim design standard. He thinks if there is not a review because of the State code, then what will stop people from doing what they want to do?

Commissioner McKechnie thinks the problem with the code is that it becomes a maximum rather than a minimum. You won't get anything better than that.

Commissioner McKechnie stated that Ashland instituted a requirement that projects with more than 10 apartment units need to incorporate affordable units, and Portland

instituted a similar requirement for projects with more than 20 apartment units. The result is that no one in Ashland is building projects with 10 or more apartment units, and no one Portland is building more than 19 apartment units because they do not want to deal with that requirement.

Staff will be discussing this subject with the Site Plan and Architectural Commission on Friday, June 15, 2018 in a study session. Staff will then take these comments into consideration for the final draft. It will come before the Planning Commission at a formal hearing on Thursday, July 12, 2018 and then proceed to the City Council on Thursday, August 16, 2018 for adoption, if they still desire to proceed down this path.

20.3 GF-18-073 Outdoor Marijuana Grows in Residential Zones

Carla Paladino, Principal Planner, stated that staff is seeking direction from the Planning Commission on the following areas:

- What are the Commission's comments on the proposed language?
- What additional changes does the Commission recommend Council consider?

In 2014 Measure 91 allowed adults age 21 years and older to grow up to 4 marijuana plants per household.

In 2016 Ordinance No. 2016-60 proposed ban on outdoor production of marijuana at dwellings and vacant land in residential areas. Outdoor production ban was approved by Medford voters in November 2016 election.

Plant Possession limitations for recreational is no more than 4 plants per household (mature or immature). No more than 10 seeds per household and must be 21 years or older.

Medical card holder allowance is not more than 6 mature plants and no more than 12 immature over 2 feet tall.

Producer allowance is no more than 12 mature plants and no more than 24 immature over 2 feet tall. No more than 24 mature and no more than 48 immature over 2 feet tall (registered before 1/1/2015).

The current Code Section 5.653 states:

- 1. No marijuana cultivator shall engage in the outdoor production of marijuana at a dwelling or on vacant land in residential area.*
- 2. Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.*

The City's regulations area silent on what is considered "indoor" versus "outdoor" growing of marijuana.

OAR333-008-0010(43) defines outdoor production of marijuana as being produced “...in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.”

The City’s regulations allow for greenhouses and other accessory structures in residential districts.

Code enforcement started tracking in 2016. There have been 32 Code Enforcement complaints from June to October of 2017 for the outdoor production of marijuana and marijuana odors. There have also been numerous cases involving plants grown inside of makeshift greenhouses or other accessory structures.

The proposed language:

- New Cannabis Structure defined
- Add definitions for indoor and outdoor production of marijuana
- Residential growing allowed in dwelling plus 1 more non-habitable structure
 - Cannabis structure; or
 - Attached garage; or
 - Detached garage
- Carbon filter system needed for 4 or more mature marijuana plants

This will go before City Council on Thursday, June 21 2018.

Last week the City Council approved the public zoning amendment for public parks. They also approved chickens with no limit.

Vice Chair McFadden asked, is the Urban Growth Boundary amendment out of the appeal stage? Ms. Paladino reported that she has not heard but last Friday was the final appeal deadline.

30. Adjournment

The meeting was adjourned at 1:13 p.m.



Submitted by:

Terri L. Richards

Recording Secretary



Site Plan and Architectural Commission Minutes

From Study Session on May 18, 2018

The study session of the Site Plan and Architectural Commission was called to order at approximately 12:10 p.m. in City Hall Medford Room 330 on the above date with the following members and staff in attendance:

Commissioners Present

Jim Quinn, Chair
 Jeff Bender
 Dave Culbertson
 Rick Whitlock
 Dick Gordon, City Council Liaison

Staff Present

Matt Brinkley, Planning Director
 Kelly Akin, Assistant Planning Director
 Katie Zerkel, Senior Assistant City Attorney
 Seth Adams, Planner III

Commissioners Absent

Bill Chmelir, Vice Chair, Excused Absence
 Jim Catt, Unexcused Absence
 Bob Neathamer, Excused Absence
 Marcy Pierce, Excused Absence

Subjects:

1. Senate Bill 1051 – Housing Design Standards

Seth Adams, Planner III reported that staff is asking the Site Plan and Architectural Commission on the following:

- 1) Identify any changes to be made to the proposed code amendment.
- 2) Identify priorities for interim design standards.

On August 15, 2017, Senate Bill 1051 (SB 1051) was signed into law. The objective of the bill is to increase the supply of housing in the state by:

- Removing barriers to development at the local level (ORS 227.175)
- Expediting permitting for affordable housing projects (ORS 227.178)
- Increasing options for the development of accessory dwelling units (ADU's) (ORS 197.312)
- Allowing religious organizations to build affordable housing on their property within residential zones (ORS 227.500)

ORS 227.178 requires cities to take final action (including resolution of all appeals) on land use applications within 120 days of the application being deemed complete.

Senate Bill 1051 stipulates that cities with populations greater than 5,000 must now take final action on qualifying residential development applications within 100 days after the application is deemed complete. (A SPAC application is typically decided in 100 days from the date of submittal.)

Under SB 1051 an application qualifies for final action within 100 days if:

- The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;
- At least 50 percent of the residential units included in the development will be sold or rented as affordable housing*; and
- The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any affordable residential unit as housing that is not affordable housing* for a period of 60 years from the date of the certificate of occupancy.

*Affordable housing is defined in SB 1051 as being "...housing that is affordable to household with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state whichever is greater."

Commissioner Whitlock asked, what is the current 60 percent figure? Mr. Adams reported the median family income for Jackson County is approximately \$43,000 so 60 percent of that would be around the \$25,000ish range.

Staff is proposing to amend section 10.051 of the Medford Land Development Code (MLDC) to state that SPAC actions shall be considered final when they involve residential development projects that meet the criteria for final action within 100 days, and that any appeal of such actions shall be made directly to the State Land Use Board of Appeals (LUBA). While this amendment would remove a level of local control over land use decisions, the qualifying criteria noted above are so stringent that staff does not anticipate any appreciable number of applications will qualify for the reduced final action timeline.

SB 1051 amended ORS 227.175 to state that:

"A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

Staff is working on the development of clear and objective design standards as part of the housing amendments that were recently recommended by the Housing Advisory

Committee. The MLDC does not currently contain design standards, and as such the compatibility criterion can no longer be applied to any housing development application that complies with development standards in Article IV (e.g. density, setbacks, building height, etc.).

Commissioner Whitlock reported the Site Plan and Architectural Commission came across this question when reviewing a Planned Unit Development (PUD) with respect to these standards. The Commission was given advice that the design standards that are in the CC&R's within the PUD were applicable design standards. Does Mr. Adams know whether those would be applicable here or not? It does state in the City's Comprehensive Plan or Land Use Regulations so maybe it is not applicable. Matt Brinkley, Planning Director, reported that the PUD becomes the zoning ordinance. The case that Commissioner Whitlock is talking about seemed that there was disagreement what constituted Pacific Northwest style architecture. To him that is not clear and objective. It is better than the classic example that SB 1051 is trying to address, which is the neighborhood compatibility standard that is totally discretionary and obviously neither clear nor objective.

Commissioner Bender stated that being the author of the design standards he does not believe anything put in that document for KOGAP when it was developed would qualify as clear and objective. The intent of that document when created was viewing it as "ammunition" for KOGAP's internal design review committee and items to put out to their potential tenants.

Commissioner Whitlock was referring to more global. That was an example the Site Plan and Architectural Commission had where they turned to an area that they would not typically turn to when looking at City standards. They need to think for future applications whether PUD design standards were clear and objective they would be applicable standards that they should and could apply to these sorts of applications.

Mr. Brinkley thinks clear and objective standards could live in the PUD and would supersede what is in the larger zoning regulations.

The City should not be enforcing CC&Rs unless they are brought into the PUD and codified.

Commissioner Whitlock wants staff to assist with their opinion about whether they are clear and objective enough to be enforceable.

The legal department is going to have to help determine how far to go in order to be clear and objective.

SB 1051 takes effect July 1, 2018. The 100 day timeline took effect the day the bill was signed.

Kelly Akin, Assistant Planning Director, stated that SB 1051 expanded the definition of needed housing. These were housing types that were identified in the Comprehensive Plan as affordable housing, senior housing and downtown housing.

Mr. Adams reported that staff is proposing a text amendment stating that all residential development projects shall be approved if they comply with the applicable City ordinances, or if the Site Plan and Architectural Commission has approved an exception. Commercial and Industrial development applications would still be subject to both of the review criteria.

In addition, SB 1051 further amended ORS 227.175 to state that a city may not reduce the height or density of an application for development projects if:

- The density and/or height applied for is at the authorized levels under the land use regulations; and
- At least 75 percent of the floor area applied for is reserved for housing.

Staff is proposing to amend Section 10.291 of the Medford Land Development Code to explicitly prohibit reductions in density and/or height on mixed-use development projects meeting the above criteria.

Commissioner Whitlock asked, is the 75 percent include the common access areas or just the areas reserved for residential occupancies? Commissioner Bender reported that in general 75 percent of floor area is the prescribed living area and all the support that goes along with it. He has not seen many ordinances that are so prescriptive.

Commissioner Whitlock asked, is there likely to be an OAR that covers this from the State somewhere or can staff define it and intends to? Mr. Brinkley reported that there may be something in a case law. Katie Zerkel, Senior Assistant City Attorney, stated that she is wondering if SB 1051 only includes what has changed or it may be in an OAR. She would have to check.

Commissioner Culbertson believes these applications will be rare. Commissioner Whitlock responded that SB 1051 is for all residential. Any mixed-use that contains a residential use would be subject to these changes not just low income.

Commissioner Culbertson stated that the expedited portion of this is to fill the gap in the code where no one can submit an application and nothing can be done because the law takes precedence.

Mr. Adams reported that the gap staff expressed with the Planning Commission is for all housing types. The City was recently awarded a technical assistance grant that will be used to aid in developing the recommended code amendments provided by the Housing Advisory Committee earlier this year. Part of that work will include the formulation of residential design standards, but given the "clear and objective" requirement language SB 1051, staff has been directed by the City Council and Planning Commission to draft interim design standards that will be required on multi-family residential development projects until more robust and complete standards can be formulated and adopted.

In looking at the minor code text amendment staff is proposing, is there anything that the Site Plan and Architectural Commission thinks needs to be changed? Commissioner Bender replied that he does not see anything problematic in terms of the code amendments that staff has outlined so far. As an architect he is more curious to see design standards when drafted. He hopes things do not get "too cute." Being clear and objective can be overly prescriptive.

Commissioner Whitlock agrees with Commissioner Bender. He does not see any needed changes in what staff has presented. He also is curious about what the standards look like. It is a good approach and looks appropriate to him.

Commissioner Whitlock asked, what types of things has staff been contemplating? He is having a hard time with the types of things staff is seeking or would be appropriate. Has staff come up with a list of things the Commission could give a thumbs up/thumbs down? Mr. Brinkley reported the things staff would address would be basic for interim design standards. They will be things like articulation, bulk and mass, orientation of the main entrance to the public way.

Chair Quinn asked, are single family applications going to start coming before the Site Plan and Architecture Commission? Ms. Akin replied no, they are clear and objective that staff can manage.

Chair Quinn asked, would new residential development come before the Site Plan and Architectural Commission? Ms. Akin replied no. The Planning Commission would see the subdivision but staff will process the permits and use the clear and objective standards.

Commissioner Whitlock asked, can the design standards include design standards that are not architecturally significant such as landscaping? That is one of the things that struck him when looking at multi-family is how the landscaping can change the feel of the architecture as it relates to the street, parking areas, etc. Is that something that would be in the design standards or is this only architecture design standards? Mr. Brinkley responded that it could be. Commissioner Bender stated that the landscape standards that exist are clear and objective. Ms. Akin reported that they used to be. A

few years ago staff removed almost all the numbers out of the code and relied on design professionals. The clear and objective standard was removed out of the code.

Commissioner Whitlock asked, does staff need to revisit that and put things back in or can it be relied on that the developer will do what is appropriate? He believes that the landscape is incredibly significant. He would not want to minimize that. The feel of it has a lot more to do with the relationship between the architecture and public spaces.

Ms. Paladino asked, does Commissioner Whitlock want his comment in the interim design standards or the permanent design standards? Commissioner Whitlock stated that if staff sees a need in the interim design standards that would be great, but for interim design standards the architectural piece will be challenging enough.

Commissioner Whitlock asked, does staff plan to bring the interim design standards to the Site Plan and Architecture Commission? Mr. Adams replied yes. Staff will create the interim design standards and present them to the Planning Commission in another study session on Monday, June 11, 2018. Staff will incorporate their comments and bring those to the Site Plan and Architecture Commission on Friday, June 15, 2018. Staff will take SPAC's final feedback to the Planning Commission for recommendation on Thursday, July 12, 2018 and to City Council for adoption on Thursday, August 16, 2018.

Commissioner Whitlock asked, will all of these be subject to an exception request? Are these absolute standards that can never be varied from, or will they be subject to exception requests? Commissioner Whitlock asked, aren't there exception possibilities for all of the objective standards? Ms. Akin replied yes.

Ms. Paladino reported that Grants Pass has a process where they do have prescriptive standards. If one wants to deviate they have criteria that meets the intent of the prescriptive standards. They would go to the Planning Commission for review.

Commissioner Whitlock asked, is the Grants Pass process for alternatives clear and objective standards such that one can effectively take an off-ramp and go to those, or are they discretionary? Mr. Brinkley reported they are discretionary. It is criteria that states what the prescriptive standard is trying to achieve. Ms. Paladino stated that a narrative is written explaining why the design meets the intent.

Commissioner Whitlock asked, are those staff applied principals in terms of non-discretionary? Ms. Paladino stated that in Grants Pass they were Planning Commission approved.

Ms. Paladino stated that the Housing Advisory Committee met last year and created recommendations. Ms. Paladino passed them around to the Site Plan and Architectural Commission. Last year they applied for a technical assistance grant and the City Council

recently approved the agreement. Staff will hire a consultant to help with the regulatory changes. A separate consultant will be hired to help with the economic changes.

Commissioner Bender stated that increased building height in multifamily zones is already dealing with something that is somewhat different. Height does not become such a hurdle including it in the design standards.

Commissioner Whitlock asked, who is working on the economic SDC deferral exemption? Mr. Brinkley reported that Kelly Madding, Deputy City Manager/Economic Development Coordinator, Mr. Brinkley, Eric Mitton, Deputy City Attorney and a stakeholder group including, realtors, lenders, appraisers and title company representatives. Commissioner Whitlock is helping Klamath Falls since their City Attorney resigned. Commissioner Whitlock spent forty-five minutes with a developer that was complaining about the same issue in Klamath Falls and how dis-incentivizing the SDCs are for anybody who invests in multifamily development.

2. LHPC/SPAC Duties

Ms. Akin reported that the City Council has asked staff to review consolidating the Landmarks and Historic Preservation Commission (LHPC) and the Site Plan and Architectural Commission (SPAC).

Several years ago the City Council gave the Landmarks and Historic Preservation Commission the same authority that SPAC has. When applications were in the Historic District both bodies had to review.

The duties of LHPC and SPAC are similar but different. LHPC has different responsibilities and more discretion authority than SPAC in the way their criteria are written and apply the Secretary of the Interior's Standards.

Ms. Akin would like to put the item on SPAC's agenda and have them vote on it at a future meeting to carry their message forward to the City Council.

Chair Quinn commented that he does not know what LHPC does. Ms. Akin reported that LHPC reviews all exterior modifications for properties that are on the National Historic Register. There are four districts; three residential districts and the Downtown Historic District. Oakdale, Minnesota, Geneva and Corning Court are districts. There are several houses that are also on the register independent of any of the other districts.

Chair Quinn asked, how many people are on the LHPC? Ms. Akin stated there are five.

Chair Quinn asked, if they are combined do all five of them come onto SPAC? Ms. Akin stated that is one of the questions. SPAC has a requirement for four specific employment backgrounds. LHPC does not have that, they are just interested citizens.

The City is obliged to have a historic commission since they have historic districts. The City also receives Certified Local Government grants through the state historic preservation office. The City is obliged to have a body to administer that grant.

Chair Quinn asked, would they become the Site Plan and Architectural and Historical Commission? Staff would have to create a new name.

Commissioner Culbertson asked, since today they were short of members could this be put on the agenda as a presentation item giving specific duties that will be added to the body before voting? Ms. Akin replied yes.

Commissioner Whitlock is curious about the level of work. How often do they meet? Ms. Akin stated that the Landmarks and Historic Preservation Commission meets once a month. It is rare to cancel their meetings. There is some staff level authority in reviewing paint colors and roofing materials, and façade improvements. Mr. Brinkley reported that any major modification is reviewed by LHPC. Signs and fences could be done administratively, and that is a code change staff is looking at. With larger modifications it gets into the Secretary of Interior standards. There is a lot of discretion. A building addition has to be distinctive and different from the original building but compatible.

Commissioner Bender stated staff has done a great job by putting the applicable criteria at the beginning of each item. What is the basis that the Commission is judging the particular item on? If that is well articulated it becomes clear how SPAC can take that on. Is there a special certification that a Commissioner would need to meet to fill that position? Ms. Akin reported those Commissioners would become the historic experts. Some of the items they see are challenging. There would be training for all the Commissioners to manage the historic portion.

Chair Quinn asked, how does the City benefit by combining the two commissions? Ms. Akin reported it lessens the City Council's work load. There are 19 boards and commissions. With the exception of the Planning Commission there is a liaison assigned to all of them. There is an expense to publishing the agendas and staffing meetings.

Chair Quinn asked, when does LHPC meet? Ms. Akin reported they meet the first Tuesday of every month in the evening. They are a quasi-judicial body that has the same authority as SPAC.

Chair Quinn asked, should some of the SPAC members attend LHPC meetings to see what they do? Ms. Akin replied yes.

Ms. Zerkel asked, when saying the City must have a historic commission is there anything that defines what that is, or does it just have to have the word historic in the title of the commission? Ms. Paladino reported that it has to be a commission that oversees historic items. Mr. Brinkley stated that it is not unusual in smaller communities where planning commission doubles up as historic and transportation commission. The LHPC has had a hard time filling seats so the body was reduced to five from seven.

Chair Quinn stated that there are not enough seats in the Council Chambers to include five historic commissioners.

Dick Gordon, City Council Representative, added that the City's legal counsel along with Tim Jackle do not feel that the Planning Commission, Landmarks and Historic Preservation Commission or the Site Plan and Architectural Commission should have a liaison. Their actions are subject to appeal to the City Council. That is one reason he rarely participates in SPAC's dealings. Their concern is with Mr. Gordon sitting through a meeting that he could have information that they do not have even though they could listen to the tape. He does not think that SPAC will have a liaison any longer. The primary responsibility of the liaison is to make sure the Commission is staffed. It has to be the proper staff that understands what the work is and what needs to be done.

There has not been much screening for the people sitting on LHPC to have the necessary skills. Although staff should be teaching the skills he does not know what they have done in orientation and training.

Right now SPAC is short a general contractor. There is someone that said they will participate but they have not filed an application.

If there are no liaisons on the commissions then the City Council is going to have to step up the recruitment and interviewing.

It has been discussed bringing one person from LHPC to SPAC. There are four dedicated positions and four at large and to make a spot for someone with historic background. The big problem is the landscape professional. They have the help of one member that fills that role. Mr. Gordon proposed the possibility of doing away with that because the City does have Parks and Recreation review and some review internally.

He does not think the City Council has talked about increasing the size of SPAC just changing the composition.

Commissioner Whitlock asked, would it not make sense to have an odd number? Mr. Gordon replied they do now with nine members. Commissioner Whitlock commented SPAC has eight members. Mr. Gordon was thinking Planning Commission.

There are a lot of duties that Landmarks and Historic Preservation Commission currently has that Mr. Gordon thinks SPAC is capable of doing. In watching the agenda for LHPC he believes staff can make a lot of those decisions. It is the Certified Local Government grant money that is the problem. He has no problem continuing some sort of historic commission. Their sole job is basically the Certified Local Government items and recommending changes to the code or making recommendations to whoever in the City on needed items involved in historic districts and historic activities.

Commissioner Whitlock feels adequately qualified to do what he is doing now with SPAC. Frankly, the architectural piece he is a little grey. He is not sure he would be a great person to serve on a commission that had the requirement/obligation to deal with historical issues.

Commissioner Bender said all of the at-large professionals have varying levels of engagement with different aspects of everything SPAC covers. If the criteria are presented he feels that even though he is not a historic expert, being a member of the community and his professional abilities, he can take LHPC on. The judicial side is what they are examining and judging the case based on its merits and evidence submitted. He thinks the rest of SPAC could do the same thing.

Chair Quinn does not see it as rocket science. He feels qualified.

Ms. Akin stated that as far as criteria goes, staff shows how it does or does not meet the criteria. Mr. Adams does a good job with historic.

Mr. Gordon reported that LHPC in the past years have cost MURA \$80-\$100 thousand. Their expert who the City contracts with and advises LHPC at times sold MURA a bill of goods with the Greyhound Archway that would draw thousands of tourists every year. There were unnecessary expenses that has caused a lot of ill will in town. If SPAC would take over some of their duties, giving the director more responsibility, it will go a long way to helping the community.

Commissioner Whitlock asked, will there be another study session that is perhaps better attended than this one, to talk about some of the issues that they have raised questions about today, or is it more likely to take place within the context of the presentation during a meeting? Ms. Akin replied either way based on their preference.

Chair Quinn stated that perhaps the City Council Representative just makes a decision. Mr. Gordon replied that it would be a recommendation to the City Council. The City Council still has a ways to go before they are ready to make a decision.

Staff will take SPAC's recommendation to the City Council.

Ms. Akin reported that the June 1, 2018, Site Plan and Architectural Commission meeting will be short. They could have a study session immediately following the meeting.

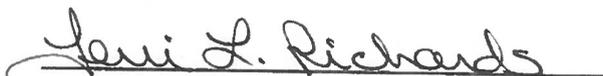
Ms. Zerkel suggested that staff not only have a presentation of the duties but options how to combine the commissions and guidelines of the feedback staff is looking for.

Commissioner Whitlock is a little sensitive about SPAC voting to disband another commission. It feels a little weird. It should be a question on whether SPAC is willing to undertake those responsibilities.

Chair Quinn commented that they should state that SPAC is willing to take one person from LHPC.

Chair Quinn will not be at the June 1, 2018, SPAC meeting and may not be present at the June 15, 2018, SPAC meeting.

The meeting was adjourned at approximately 1:16 p.m.



Submitted by:

Terri L. Richards, Recording Secretary



Site Plan and Architectural Commission

Minutes

From Study Session on June 15, 2018

The study session of the Site Plan and Architectural Commission was called to order at approximately 1:30 p.m. in City Hall Medford Room 330 on the above date with the following members and staff in attendance:

Commissioners Present

- Bill Chmelir, Vice Chair
- Jeff Bender
- Jim Catt
- Bob Neathamer
- Marcy Pierce
- Rick Whitlock
- Dick Gordon, City Council Liaison

Staff Present

- Kelly Akin, Assistant Planning Director
- Katie Zerkel, Senior Assistant City Attorney
- Carla Paladino, Principal Planner
- Seth Adams, Planner III

Commissioners Absent

- Jim Quinn, Chair, excused absence
- Dave Culbertson, excused absence

Subjects:

1. Senate Bill 1051 – Housing Design Standards

Seth Adams, Planner III, gave a PowerPoint presentation of the Memorandum, dated June 6, 2018, Interim Multi-Family Residential Design Standards. Staff is asking this Commission for direction in identifying any necessary changes to the proposed interim design standards.

Commissioner Pierce asked if these rules would apply to multi-family dwellings that are in a commercial setting or would they be more geared toward growth that's happening within the downtown core. Mr. Adams answered these rules are applicable city-wide.

Commissioner Pierce wanted to know if the goal was to have design standards for everything that's being built in the city and if there are current design standards for commercial. Mr. Adams responded that the City does not have commercial design standards currently. Commissioner Pierce commented that a lot of them seem to come from a commercial background.

Commissioner Bender said he agreed that they come from that angle and the Commission had discussed, in the past, the need for the City to have even more clear

and objective commercial design criteria city-wide. He said the only criteria that applies right now is the compatibility issue, which is so vague as to be unmanageable.

It was pointed out that there are commercial design standards for Big Box but not general commercial.

Mr. Adams stated that the City had received a grant to hire a consultant to help formulate more extensive residential design guidelines but City Council felt it would take time so they wanted some interim design standards.

Commissioner Bender commented he was generally in favor of standards of this type.

Commissioner Whitlock asked if there would be a special exception process for these interim design standards or would the current exception standards be used? Mr. Adams explained staff doesn't have an exception process yet. He said the Planning Commission felt there should be some kind of exception route available if the interim standards were adopted but staff would need to look at the format it would take and whether it would be part of this code or whether it could fit under the existing exceptions process. Realistically the only potential route would be that if someone wanted to deviate from the standards they would have to go through SPAC and get each one approved. It then becomes very subjective.

Commissioner Whitlock asked about the SPAC criteria for multi-family residential projects and what that would look like. Typically staff makes the initial determination of whether they comply with the objective standards. With the interim standards would this Commission still be seeing those or would they be considered staff approvals that would be appealed to SPAC if someone disagreed with staff's determination or interpretation of it, and how it should be applied?

Ms. Akin replied staff hadn't talked about that but suggested maybe there could be a special provision for downtown.

Commissioner Whitlock wanted to know what the criteria would look like going forward and would there be different criteria for different applications? Mr. Adams replied that one of the challenges of trying to get these standards done in a short amount of time is that staff would need to create some specific multi-family criteria because the two that currently exist don't really apply. Commissioner Whitlock suggested that maybe SPAC just doesn't see them anymore except in the event of an appeal.

Mr. Adams stated one alternative he heard from the Commission was that if the applicant meets these standards, unless they are requesting an exception, they would be approved by staff and heard only by SPAC if the project was denied by staff as not meeting the criteria; and that staff needs to develop some criteria that would then be applied by SPAC. Commissioner Whitlock said that was what he was feeling at this point; that exceptions or appeals would be the only things this Commission would handle in multi-family residential projects. Staff would have primary responsibility for determining whether this list of clear and objective standards is met or not.

Commissioner Bender stated he wasn't that particular but felt the projects didn't need to go before SPAC unless it was for an exception or appeal. He said he doesn't know if he's necessarily there in terms of seeing that happen but he couldn't deny the sort of logic in the construction of it.

Commissioner Whitlock mentioned there would be a public participation component that would be missing if the projects did not come before SPAC.

Commissioner Catt agreed in that the process would be simplified if SPAC only heard the exceptions or appeals.

Commissioner Bender noted that if SPAC only heard the exceptions and appeals, it would streamline the process.

Commissioner Pierce also agreed that it made sense to have SPAC hear only exceptions and appeals to resolve issues.

Regarding the building mass and façade on buildings three stories or greater, Commissioner Bender stated he thought it would be helpful if the language articulated what was said earlier that sometimes when it's a three story building the base could either be one or two stories, then there's a top portion and there may, or may not, be a middle because a literal interpretation of this kind of means that you end up with tiers and what tends to happen it doesn't really read all that well from an architectural standpoint.

Commissioner Whitlock clarified that the language already does articulate that as it talks about the base, or top, being one or two floors.

Mr. Adams asked if the Commission thought the "three" stories part should be another number. Commissioner Bender said he thought it should be greater than three stories and gave his reasons. He said he favors language that is a little looser that allows for expression that sometimes isn't necessarily and easily delineated into three parts.

Commissioner Whitlock stated he was comfortable with the language of three stories or greater. He said one of the fears he has is massive siding and odd paint colors and prefers articulation on three stories or greater so anything above two stories.

There was discussion on the base of the building to be "anchored" to the ground through use of plinth treatment between 1-3 feet in height.

Commissioner Bender felt that when a standard of this type is used it's almost always in relation to breaking up ground floor, pedestrian-type storefronts and further division at the street level. He said he wasn't sure this standard would do much for most buildings. He added it's an element that could get thrown in that doesn't read through very well.

Commissioner Whitlock commented he doesn't see the value one way or the other. He said it doesn't seem like it would be used on every type of structure for multi-family housing.

Commissioner Pierce said it made more sense on a commercial downtown setting. Commissioner Bender concurred.

Mr. Adams suggested that maybe the language needs to say that it only applies to the downtown core area.

Commissioner Whitlock noted that with sidewalk type development the use of plinth treatment might make some sense but if there's any landscaping between the sidewalk and the building, he didn't feel it would add anything.

With respect to the base, middle, and top horizontally articulated with a "cap" treatment proposal, Commissioner Bender said he found that sometimes this is misused more often than not. He noted that in general he would agree that if there is some horizontal articulation that's happening over the course of the building vertically, some delineation of that change is good. How that happens and what does that bears some thought.

On the street-facing facades requirement of windows covering a minimum of 25% on each floor level, Commissioner Bender commented that there's also a code maximum for glazing and openings in a façade given prescriptive path for energy code. He said there's a great amount of emphasis to reduce glazing from an energy and cost standpoint. That 25% number is probably a little high. Commissioner Bender added that the buildings he designs are usually around 30-40% glazing. He noted that in a more conventional design that 25% might be bumping up against a couple of other things and said he would be in favor but be aware that there's competing interests.

Commissioner Whitlock stated he wasn't opposed to the 25% window covering and it seemed to be a very pleasing look yet it struck him that it may not have enough glass in it to comply with the 25% requirement. He wondered if 25% was the right number or not.

Commissioner Bender thought the 25% probably does have enough glazing.

There was some discussion about changing the language to clarify that the required 25% glazing counts towards the overall mixed material requirement.

The Commission discussed building articulation regarding horizontal and vertical surfaces. They talked about cap treatment and Commissioner Bender suggested that there be a discernible break between two materials.

Commissioner Pierce thought maybe the language "repeated at intervals" could be deleted from the horizontal and vertical surfaces or just say "to be repeated at intervals" but not specify a length.

Commissioner Bender felt that maybe there's a way to state the language so that it meets both.

Mr. Adams commented he wouldn't want a design to have to go through an extra hurdle if they're clearly meeting the intent, but because they're not hitting that number they would then have to go through SPAC for an exception.

There was some discussion regarding the difference between an exception and something discretionary. Ms. Akin stated there would be some purpose, intent or other

language in there where the special criteria would come in regarding housing. That would be one approach.

Commissioner Bender strongly suggested that there be no material changes on outside corners. Mr. Adams agreed and said it hadn't gotten into the agenda packet.

Regarding building materials, Mr. Adams cited that SPAC had suggested adding transparent glass (including the 25% minimum on street-facing facades) to the list.

Mr. Adams said staff proposed the language "vertical changes in wall cladding materials shall take place on inside corners. Horizontal changes in wall cladding materials shall take place at cornices, belt courses, and other such horizontal elements."

Commissioner Bender commented he thought there was a definite difference between corrugated metal panels and metal composite panels. He felt flat metal composite panels should be on the primary list of accepted materials.

It was suggested that the building material "sheet pressboard" is not necessary and could be removed from the 35% list.

On the prohibited fencing materials list, Commission Catt noted that some of the high-quality vinyl fencing is better than wood fencing. Mr. Adams suggested that maybe this could go through SPAC, taking the exception route.

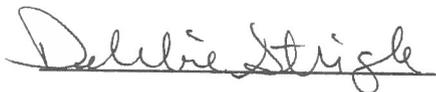
Commissioner Whitlock asked when the interim design standards were going to go to City Council. Mr. Adams replied that it will be going to the Planning Commission on July 12th and City Council on August 16th.

2. LHPC/SPAC Duties

The subject was tabled due to time constraints. A new study session date and time will be scheduled.

The meeting was adjourned at approximately 3:00 p.m.

Submitted by:



Debbie Strigle
Recording Secretary



Planning Commission Minutes

From Public Hearing on July 12, 2018

The regular meeting of the Planning Commission was called to order at 5:30 PM in the City Hall Council Chambers on the above date with the following members and staff in attendance:

Commissioners Present

Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
Mark McKechnie
E.J. McManus
Alex Poythress
Jared Pulver

Staff Present

Kelly Akin, Assistant Planning Director
Carla Paladino, Principal Planner
Eric Mitton Deputy City Attorney
Karl MacNair, Transportation Manager
Terri Rozzana, Recording Secretary
Seth Adams, Planner III
Dustin Severs, Planner III
Steffen Roennfeldt, Planner III

10. Roll Call

20. Consent Calendar/Written Communications.

20.1 **LDS-18-049** Final Order of tentative plat approval for Hogue Heaven Estates, a proposed 7-lot residential subdivision on a 41,700 square foot parcel located north of Nicholas Lee Drive and east of North Ross Lane in the SFR-10 (Single-Family Residential, ten dwelling units per gross acre) zoning district (372W23DD4400); Applicant, Billy Hogue; Agent, Scott Sinner Consulting, Inc.; Planner, Dustin Severs.

Motion: The Planning Commission adopted the consent calendar as submitted.

Moved by: Vice Chair McFadden

Seconded by: Commissioner Foley

Voice Vote: Motion passed, 9-0.

30. Minutes

30.1. The minutes for June 28, 2018, were approved as submitted.

40. Oral and Written Requests and Communications. None.

Eric Mitton, Deputy City Attorney, read the Quasi-Judicial Statement.

50. Public Hearings – Continuance Request

50.1 LDS-18-058 Consideration of a tentative plat for a 42 lot subdivision on approximately 14.54 gross acres within the SFR-4 (Single Family Residential – 4 dwelling units per gross acre) and the SFR-2 (Single Family Residential – 2 dwelling units per gross acre) zoning districts, located on the south side of Lone Pine Road approximately 335 feet east of North Phoenix Road (371W21AA TL 100); Applicant, Twin Creeks Development LLC; Agent, Hoffbuhr and Associates; Planner, Liz Conner. **The applicant has requested to continue this item to the Thursday, July 26, 2018, Planning Commission meeting.**

Chair Miranda stated that if there are members in the audience that have come to testify on this agenda item and cannot attend the Thursday, July 26, 2018, Planning Commission hearing, please come forward and the Planning Commission will hear your testimony at this time. Please keep in mind that it is possible that your questions may be answered when staff presents their staff report on Thursday, July 26, 2018. There will be no decisions made this evening on this agenda item.

The public hearing was opened and there being no testimony the public hearing was closed.

Motion: The Planning Commission continued LDS-18-058, as per the applicant's request, to the Thursday, July 26, 2018, Planning Commission meeting.

Moved by: Vice Chair McFadden

Seconded by: Commissioner Foley

Roll Call Vote: Motion passed, 9-0.

50.2 DCA-17-111 Code amendment to Article 10.200 of Medford Land Development Code for site plan and architectural review of multi-family residential development projects pursuant to requirements contained in Senate Bill 1051. The code amendment will include interim design standards for multi-family residential development. Applicant, City of Medford.

Seth Adams, Planner III, stated that the Land Development Code Amendment approval criteria can be found in the Medford Land Development Code Section 10.218. The applicable criteria were addressed in the staff report and hard copies are available at the entrance of Council Chambers for those in attendance. Mr. Adams gave a staff report.

Commissioner Mansfield requested clarification of the importance for clear and objective standards and Mr. Adams laid out a number of things that appear to be objective but he also talked about the requirement that the development be compatible with uses and development that exist on adjacent land. That is very subjective. Then he talked about trying to solve that. Is that requirement still in it and if it is Commissioner Mansfield submits that it is not objective. Mr. Adams reported that for multifamily residential projects of three or more attached units, staff believes they have clear and objective

standards. The existing Site Plan and Architectural Commission review compatibility criterion regarding the adjacent land, this code amendment would explicitly state that criterion can only be applied to a commercial or industrial application.

Commissioner Mansfield asked, is subjective only for commercial not for residential? Mr. Adams stated that is correct. Or it is subjective if a multifamily applicant affirmatively elects to deviate from the proposed standards then they need to demonstrate to the Site Plan and Architectural Commission that they are providing a project that meets or exceeds what they want as a result.

Commissioner McKechnie is troubled by the appeal of a Site Plan and Architectural Commission decision going immediately to the Land Use Board of Appeals (LUBA). It is going to be an unreasonable expense. He suggested that if someone wants to take an alternate path, they are offered an extension of 120 days. That buys them an appeal before the City Council rather than going directly to LUBA.

Commissioner McKechnie is also troubled by the maximum length of a building is 150 feet. It is his opinion that rather than doing a maximum length of 150 feet it would better serve if anything more than 50 feet needs to have a vertical or horizontal projection or something along those lines.

Commissioner McKechnie is the architectural review for a homeowners association. The 25% glass area on an elevation for residential would be better defined if it is supposed to go from the ground to the peak of the roof so that a person has an idea of how to calculate it. Twenty five percent of glass on an elevation is hard to achieve. It also runs up against the energy criteria that is required. Commissioner McKechnie recommended it should be 12 to 15 percent. He believes the design standards needs more study before he is willing to forward it to the City Council with his approval.

Vice Chair McFadden asked, in the state law does five unit multifamily have to comply with the 100 days or is it an option? Mr. Adams reported that there is nothing to preclude an applicant from waiving the 100 days. There is nothing that precludes them to extend it to the 120 days or however long they want.

Mr. Mitton reported that reading through Senate Bill 1051 it does not explicitly state that an applicant can waive the 100 days but it is in the same timeframe where it is a right they have to have a speedy decision. It is his opinion that an applicant could choose to waive it. He does not see any legal problem if there was an additional provision stating if an applicant would prefer City Council appeal they can get a Council appeal if they choose to waive the 100 days.

Commissioner Mansfield stated that it appears that he and Commissioner McKechnie thinks this needs more work. He proposed that whoever makes the motion make it as a positive motion rather than a negative motion. It is a better format.

Commissioner Pulver asked, with Senate Bill 1051 already in effect and an application was submitted wouldn't staff have to comply? Mr. Adams reported that is correct. The 100 days streamline for affordable qualifying projects took effect immediately following the governor's signature.

Commissioner Pulver asked, does the design standards apply to all multifamily development whether it qualifies for streamline or not? Mr. Adams stated that is correct.

Commissioner Pulver asked, would it take about 12 months to complete the final design standards? Mr. Adams stated that is a reasonable speculation.

Commissioner Pulver stated that the idea at the study session was to create interim design standards. These apply to all multifamily developments that come before the Site Plan and Architectural Commission and other bodies over the course of the next 12 months plus until the final ones are adopted.

Commissioner Foley asked, does the applicant have to request the 100 day rule? Mr. Mitton stated that the way he sees it is the applicant has to specifically state it is a qualifying affordable housing development. When they state that they automatically get on the 100 day track.

Commissioner Foley asked, if a developer was building an affordable development that met the criteria but did not specify that is what they were doing, would it be the 120 day rule? Mr. Mitton reported that they would have to specify in the sense they have to enter into the covenant for 60 years.

Commissioner Foley stated that the criteria allows the Site Plan and Architectural Commission to deviate from these rules. Is that strong enough to alleviate Commissioner McKechnie's concerns of the building length of in light of the interim design standards in effect for approximately a year or so? Mr. Adams reported that staff believes the Site Plan and Architectural Commission has the latitude to approve a building longer than the maximum length specified.

Commissioner Foley asked, can the Site Plan and Architectural Commission work around the space between the building and street as well? Mr. Adams stated yes a design could be submitted to deviate from any of the proposed standards. The applicant would need to plead their case to the Site Plan and Architectural Commission with the understanding that they may disagree.

Commissioner Culbertson reported that page on 34 of the agenda packet under Section C the last sentence states: "The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830." If that is a concern for Commissioner McKechnie staff needs to review the law and see if you can't have that language. Mr. Mitton reported that language is part of the amendment to ORS 215.416 that governs counties as opposed to one of the rules governing cities. He is trying to make sure that language does not also appear in a place that applies to cities. Mr. Adams reported that on page 37 of the agenda packet Section C the last sentence in that paragraph states the same thing. This section applies to cities.

Commissioner Mansfield suggested that if the majority of the Commission is in favor of it going over for more work then all that can be done at a later time. If on the other hand the majority of the Commission is in favor of doing it now then he can see that they take time to review. Chair Miranda responded that he is in favor of moving this item forward. Commissioner Foley agreed. Vice Chair McFadden stated that he hopes that the Commission move it forward but at the end of the motion do a series of friendly amendments stating what the Commission wants to include or delete and staff forwards those to the City Council.

The Planning Commission recessed at 6:22 p.m. and reconvened at 6:30 p.m.

Mr. Mitton reported that reviewing whether Senate Bill 1050 allows for direct appeal to the Land Use Board of Appeals or not for the fast track qualify definitions he would like more time for review. He proposed that the Commission forwards this to City Council with the provision that the Deputy City Attorney would further research that issue. If there is a problem with the direct appeal that portion of the code can be excised before it gets to the City Council.

Vice Chair McFadden asked, is the alternative that the City does the appeal and the Commission is saying right now there is not enough time to an appeal, can it be done as an appeal? Does the Commission have that option? Mr. Mitton reported that if it is required to do the first level of appeal at the City level it is going to be rough with the 100 day time frame. Staff would not put something that violates the law. He is not certain that no direct appeal provision is referring to these particular source of decisions. That is why he would like to research before it gets to the City Council.

The Commission could forward with the recommendation that the glazing of 25% be reduced to 15 or 10%.

The public hearing was opened.

Vice Chair McFadden asked, if you elect for this you get it but if you don't it goes the standard including the non-specific criteria? Mr. Mitton stated that clear and objective standards are for both qualifying and non-qualifying residential development.

The public hearing was closed.

Motion: The Planning Commission based on the findings and conclusions that all of the approval criteria are either met or not applicable, forwards a favorable recommendation for adoption of DCA-17-111 to the City Council per the staff report dated July 5, 2018, including Exhibits A through E, and direct the Legal Department to determine whether or not direct appeal to the Land Use Board of Appeals is acceptable in the interim standards. If it is leave in if not excise the language. Do not limit the length of the structure of the building. The Commission encourages some type of pass-through or breezeway. Change the glazing requirement for walls facing the street to 12%.

Moved by: Vice Chair McFadden

Seconded by: Commissioner Mansfield

Commissioner Pulver is troubled by no vehicular traffic on the street side of the building. He can see scenarios depending on a building size that make sense. These criteria are hard to view every possible scenario.

Commissioner Poythress agrees with Commissioner Pulver. It is restrictive and limiting. It feels not fully there yet. He shares Commissioner Pulver's sentiments about the parking situation about the length and the others as well.

Friendly Amendment made by Commissioner Pulver: Strike under Special Development Standards for Multifamily Dwellings Section 10.717 (F) (1) ... no automobile circulation or parking areas shall be located between buildings and the street.

Commissioner McKechnie stated that the Commission talks about flexibility for the Site Plan and Architectural Commission but a lot of times that does not get relayed and it becomes a checklist. Design criteria are hard. He understands why they are needed because of Senate Bill 1051. He is worried it becomes rather than a starting point it becomes a maximum. It becomes a limiting factor for the look of a city. As this grows and progresses there needs to be a way that it does not end up a design maximum. Chair Miranda commented that the Planning Commission has a liaison that sits on the Site Plan and Architectural Commission that mimics and speaks to most of the Planning Commissions thoughts. He is sure that the liaison will get that as well to the Site Plan and Architectural Commission.

Commissioner Poythress knows that many times when they have issues come before them they have perimeters for exceptions. When they talk about whether they are going to grant the exception or enforce the rule there is discussion of what the intent was and

are they violating the intent of the rule by granting the exception. That is his concern that has been well expressed. It needs to be a baseline but he would not want to see that strictly enforced with no consideration for what may be appropriate given the circumstances.

Chair Miranda commented that when he sat on the Site Plan and Architectural Commission they had many discussions about the applications that came before them. There was always an aesthetics element. Senate Bill 1051 takes away that subjective guideline. He does not care for that condition. He looks forward to some of these guidelines that gives direction other than aesthetics.

Mr. Mitton spoke to the clear and objective standards to be a baseline and not a limiting factor. The spirit of the adjustment section is that when someone wants to deviate from the standards there are two questions. One, is it a least or more attractive than what the clear and objective standards would do, and two, it is at least or more safe.

Roll Call Vote: Motion passed, 9-0.

50.3 CP-18-054 / ZC-18-055 / CUP-18-056 Request for concurrent consideration of a three-part proposal: a minor General Land Use Plan (GLUP) amendment to reclassify a single 4.36-acre parcel of land located at 555 Airport Road (Tax Lot 500) from General Industrial (GI) to Commercial (CM); a change of zone of the subject parcel and the adjacent 5.85-acre parcel (tax lot 503 currently designated as CM on the GLUP map) from Light Industrial (I-L) to Regional Commercial (C-R); and a Conditional Use Permit (CUP) to allow an elementary school use (Grace Christian Elementary School: existing private school currently located at 649 Crater Lake Avenue) to occupy the existing building on the subject Tax Lot 500, and for a 1.3-acre portion of the adjacent/vacant Tax lot 503 to be used as an associated sports/recreation field (372W12A TL 500 & 372W12A TL 503); Applicant, 555 Airport Road, LLC; Agent, CSA Planning, Ltd; Planner, Dustin Severs.

Chair Miranda inquired whether any Commissioners have a conflict of interest or ex-parte communication they would like to disclose. Commissioner Culbertson disclosed that he had a mutual friend that had children that graduated that asked him approximately four weeks ago when the application would come forward but he did not know. It would not affect his decision. Commissioner Pulver recused himself to avoid any potential conflict for the applicant or the City.

Chair Miranda inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Dustin Severs, Planner III, stated that the Minor Comprehensive Plan Amendment approval criteria can be found in the Medford Land Development Code Section 10.184(1). The Zone Change approval criteria can be found in the Medford Land Development Code

From: Kelly A. Akin
To: Seth A. Adams; Carla G. Paladino
Subject: FW: Proposed LDC Changes to Address Senate Bill 1051
Date: Friday, July 20, 2018 9:24:07 AM

From: Mark McKechnie [mailto:mark@oregonarchitecture.biz]
Sent: Friday, July 20, 2018 9:10 AM
To: Kelly A. Akin <Kelly.Akin@cityofmedford.org>
Subject: Proposed LDC Changes to Address Senate Bill 1051

Hi Kelly,

I am addressing the proposed changes to the Medford LDC that will go before the City Council for consideration as an Architect in private practice that does low income housing projects from time to time. I think the streamlined process needs to include an appeal to the City Council rather than directly to LUBA. I have been through this process a couple of times and I feel the step that includes an appeal to the City Council is critical. In effect, it gives the City a second chance to look at the project and review it on its merits.

An appeal to LUBA is time consuming and very expensive to both parties. In a recent case against the City of Grants Pass LUBA was asked by the successful appellant to require the City to reimburse attorney's fees in the amount of \$40,000.

Further, multiple appeals to LUBA will hurt the reputation of the City.

I know of only two local bodies that would likely be bringing project before SPAC or the Planning Commission to do such projects and both of them have deep enough pockets to file a LUBA appeal. IN fact one has in the past and the City of Medford lost.

I know 100 days is tight, but that local appeal step is critical and staff needs to find a way to keep it in the process.

Please see that my comments get distributed to the Council.

Regards,

Mark McKechnie, AIA
Oregon Architecture, Inc.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY
www.ci.medford.or.us

Item No: 40.2

DEPARTMENT: Planning
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Public Hearings
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-106

An ordinance amending sections 10.108, 10.110, 10.142, 10.824 and adding section 10.164 of the Medford Municipal Code to allow for installation of small or micro cell wireless communication facilities within the public right-of-way.

SUMMARY AND BACKGROUND

Council is requested to consider a legislative amendment to Chapter 10, Articles II and V, of the Municipal Code, also known as the Medford Land Development Code (MLDC). The amendment would allow for the installation of small or micro cell wireless communication facilities within the public right-of-way (ROW), and would account for changes in telecommunication technology and federal law. In addition, the amendment would condense the existing text of §10.284 (e.g. by removing duplicative language).

The Planning Commission reviewed the proposal at a study session on July 23, 2018. As a result of that discussion, staff made minor modifications to the proposal and presented it to the Planning Commission for formal consideration on August 9, 2018. At the hearing the commissioners asked a minimal number of clarifying questions and voted (4-1) to forward a favorable recommendation to the City Council. (File No. DCA-17-091)

PREVIOUS COUNCIL ACTIONS

The topic of micro cells was discussed at a City Council study session on July 13, 2017.

The City Council also reviewed the topic of wireless facilities in the public ROW at its January 25, 2018, study session and discussed the amendment in terms of needing to have a formal process and regulations in place before the City could enter into any franchise agreements with wireless companies. At the study session, the Council directed staff to formally prepare any necessary code amendments.

ANALYSIS

Wireless telecommunications providers have historically placed their facilities on both private and publicly-owned property. Such facilities are designed to serve a wide geographic area and have generally consisted of either large towers/poles or roof-mounted antennas. These facilities are commonly referred to in the wireless industry as “macro cells.” As consumer demand for wireless services continues to grow, existing networks are reaching capacity in some areas and wireless companies have started to build what are referred to as “small cell” facilities in order to fill gaps in coverage. Wireless companies have begun to install small cells on utility poles and streetlights within the public ROW in communities across the country. The City of Medford has been contacted by two companies seeking to do so here.

Under state and federal law, wireless companies have enforceable rights to construct new facilities in order to fill coverage gaps. Generally speaking, the City can only regulate the aesthetics of wireless facilities. While the MLDC has contained allowances for wireless facilities for many years, there are currently no procedures or regulations for wireless facilities within the public ROW.

The proposal would amend Articles II and V of the MLDC to create procedural requirements and regulations specific to small cell wireless facilities within the public ROW. Additionally, the amendment would update the existing regulations for wireless communication facilities in order to:



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.2

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- Condense the existing text in §10.284 (Wireless Communication Facilities);
- Better reflect changes in telecommunications technology and federal law;
- Allow for the temporary use of cells-o-wheels (COWs);
- Clarify what constitutes a “substantial change” to an existing wireless facility.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Approval of the ordinance would make it possible for the City to execute franchise agreements with wireless communication companies and potentially receive income for their use of the City’s public ROW.

TIMING ISSUES

To date, the City has been approached by two companies seeking to install wireless facilities within the public ROW. The City is unable to execute franchise agreements for these facilities until such time as a permitting process and regulations are adopted.

COUNCIL OPTIONS

- Approve the ordinance as presented
- Modify the ordinance as presented
- Decline to approve the ordinance as presented and direct staff regarding further action

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance authorizing the Land Development Code Amendment as described in the Commission Report dated August 30, 2018, and as recommended by the Planning Commission.

EXHIBITS

Ordinance

Commission Report, including Exhibits A – D

ORDINANCE NO. 2018-106

AN ORDINANCE amending sections 10.108, 10.110, 10.142, 10.824 and adding section 10.164 of the Medford Municipal Code to allow for installation of small or micro cell wireless communication facilities within the public right-of-way.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 10.108 of the Medford Municipal Code is amended to read as follows:

10.108 Land Use Review Procedure Types.

Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	Procedural Type	Applicable Standards	Approving Authority	Subject to 120 Day Rule (ORS 227.178)?

Vacation of Public Right-of-Way	IV	10.226	City Council	No
Wireless Communication Facilities in Public Right-of-Way	I	10.824(G)	Planning Director	Yes
Zone Change, Major	IV	Review & Amendment, 10.220	City Council	No
Zone Change, Minor	III	10.204	Planning Commission	Yes

SECTION 2. Section 10.110 of the Medford Municipal Code is amended to read as follows:

10.110 Designation and Duties of Approving Authorities.

(Q) Planning Director Authority. The Planning Director is hereby designated as the approving authority for Type I and II land use reviews as well as issuance of the Development Permit. This includes the following land use reviews:

Land Use Review

- De Minimis Revision(s) to Approved PUD Plan
- Final PUD Plan
- Final Plat, Partition/Subdivision
- Minor Historic Review
- Minor Modification to Conditional Use Permit
- Minor Modification to a Park Development Review
- Minor Modification to Site Plan and Architectural Review
- Nonconformities

Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Tentative Plat, Partition
Wireless Communication Facilities in Public Right-of-Way

SECTION 3. Section 10.142 of the Medford Municipal Code is amended to read as follows:

10.142 Type I Land Use Actions.

Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

De Minimis Revision(s) to an Approved PUD Plan
Final PUD Plan
Final Plat, Partition/Subdivision
Minor Historic Review
Minor Modification to Conditional Use Permit
Minor Modification to a Park Development Review
Minor Modification to a Site Plan and Architectural Review
Nonconformities
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Wireless Communication Facilities in Public Right-of-Way

SECTION 4. Section 10.164 of the Medford Municipal Code is added to read as follows:

10.164 Wireless Communication Facilities in Public Right-of-Way.
See section 10.824.

SECTION 5. Section 10.824 of the Medford Municipal Code is amended to read as follows:

10.824 Wireless Communication Facilities.

A. Purpose and Intent.

~~The purpose of this section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities while allowing citizens to access and adequately utilize the services provided by such facilities.~~

~~Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affects not only neighboring residents, but also the community as a whole. The standards are intended to mitigate such impacts to the greatest extent possible and to preserve the~~

~~character of the City's zoning districts and historic districts by protecting them from the visual and aesthetic impacts associated with wireless communication facilities.~~

The purpose of this section is to establish standards regulating the placement, appearance, and impact of wireless communication facilities while allowing citizens to access and adequately utilize the services provided by such facilities. The standards are intended to preserve the character of the City's zoning districts and Historic Overlay districts by protecting them from the visual and aesthetic impacts associated with wireless communication facilities.

B. Exemptions.

The following uses and activities shall be exempt from these standards except as otherwise provided herein:

- (1) Any repair, reconstruction, or maintenance of an existing Wireless Communication Facility.**
- (2) Amateur radio station towers, citizen band transmitters and antennas.**
- (3) Microwave and satellite dishes accessory to a permitted use and/or unrelated to a wireless telecommunication service system.**
- (4) All military, Federal, State, and local government communication facilities, and public safety communication towers.**
- (5) Cells-on-Wheels (COW), which are permitted as a temporary use in non-residential zones for a period not to exceed 14 days. During a period of emergency as declared by the City, County, State, or Federal government, cells-on-wheels are permitted throughout the length of the declared emergency period.**
- (6) Modifications to existing wireless communication facilities that do not result in a substantial change to the dimensions of the facility. For purposes of this section a "substantial change" includes:**
 - (a) Mounting of a proposed antenna on a Wireless Communication Support Structure which increases the existing height of the support structure by more than twenty feet.**
 - (b) Adding a fixture to a Wireless Communication Support Structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the support structure at the level of the appurtenance, whichever is greater.**
 - (c) Installing more than four new equipment cabinets to the current site.**
 - (d) Any excavation or deployment outside the current site.**
 - (e) Any modifications which would defeat the concealment elements of the support structure.**

B.C. Permitted Use.

~~Wireless Communication Facilities that do not include a Wireless Communication Support Structure are permitted in all commercial, industrial, and public parks zones and on parcels that contain legally established nonresidential uses within the SFR and MFR zones, subject to the design standards in Section 10.824(D). Only concealed wireless communication facilities are allowed within a Historic (H) Overlay District or on parcels containing a use or structure on the National Historic Register, subject to approval of the Historic Commission per Section 10.406; and on parcels containing a residential use, subject to the design standards in Section 10.824(D).~~

~~(1) Submittals: Applications for building permits for such facilities shall demonstrate compliance with the applicable design standards contained in Section 10.824(D) to include:~~

- ~~(a) A site plan, which includes all structures, land uses, and zoning designations within~~

- ~~150 feet of the facility boundaries.~~
- ~~(b) Exterior elevations of the proposed wireless communication facility that include a set of manufacturer's specifications of the support structure, Wireless Communication Systems Antennas, and accessory buildings with a listing of materials and colors being proposed.~~
- ~~(c) A landscape plan, when required per Section 10.824(D)(3).~~
- ~~(d) Details and specifications for exterior lighting, when required.~~
- ~~(e) A written explanation of the methods of concealment that are to be utilized for the remainder of the facility.~~
- ~~(f) A written explanation of collocation issues per Section 10.824(D)(4).~~

the following locations subject to the design standards in Section 10.824(F) and approval of a building permit:

- (1) Commercial and Industrial Zones;**
- (2) Parcels containing legally established non-residential uses within the SFR and MFR zones;**
- (3) Any property owned by the City of Medford.**

GD. Conditional Use.

Approval of a Conditional Use Permit is required for new Wireless Communication Support Structures (as defined in Section 10.012), subject to the Conditional Use Permit procedural requirements of Section 10.184.

~~(1) Submittals Applications for conditional use permit approval of Wireless Communication Facility Support Structures shall include any materials necessary to demonstrate compliance with the design standards contained in Section 10.824(D), any submittals required in the Conditional Use Permit application, and the following:~~

- ~~(a) A site plan indicating all structures, land uses and zoning designations within 150 feet of the site boundaries, or 300 feet if the height of the structure is greater than 80 feet.~~
- ~~(b) Exterior elevations of all sides of the proposed wireless communication facility that include a set of manufacturers specifications of the support structure, Wireless Communication Systems Antennas, and accessory buildings with a listing of materials and colors being proposed.~~
- ~~(c) A landscape plan per Section 10.824(D)(3).~~
- ~~(d) A photo of each of the major components of a similar installation, including a photomontage of the overall facility at its proposed location.~~
- ~~(e) An explanation of what stealth capabilities are being proposed for the Wireless Communication Facility Support Structures, and methods of concealment from public view, if any, are to be utilized for the remainder of the facility.~~
- ~~(f) Details and specifications for exterior lighting, when required or proposed.~~
- ~~(g) A map that includes the following information:

 - ~~i. the coverage area of the proposed wireless communication facility;~~
 - ~~ii. all other wireless communication facilities within 1,250 feet of the proposed site and all residential development within 300 feet of the proposed site;~~
 - ~~iii. the existing and approved wireless communication system facilities operated by the applicant within a 5-mile radius of the proposed site;~~~~
- ~~(h) A written explanation of collocation issues per Section 10.824(D)(4).~~
- ~~(i) Findings, which address each of the design standards in Section 10.824(D).~~
- ~~(j) A copy of the lease agreement for the proposed site showing that the agreement does~~

~~_____ not preclude collocation.~~

~~(k) Documentation detailing the capacity of the Wireless Communication Facility Support Structures in terms of the number and type of Wireless Communication Systems Antennas it is designed to accommodate.~~

E. Application Requirements.

All applications for new Wireless Communication Facilities shall demonstrate compliance with the applicable design standards contained in Section 10.824(F), and include the following documentation:

- (a) A site plan indicating all structures, land uses, and zoning designations within 150 feet of the facility boundaries; or 300 feet if the height of the support structure is greater than 80 feet.
- (b) Exterior elevations of the proposed wireless communication facility that include a set of manufacturer's specifications for any support structure(s), Wireless Communication Systems Antennas, and accessory buildings or equipment, with a listing of all materials and colors being proposed.
- (c) A landscape plan, when required per Section 10.824(F)(3).
- (d) Photosimulations of the overall facility at its proposed location, and a photo of each of the major components from a similar installation.
- (e) An explanation of the stealth capabilities being proposed for any Wireless Communication Facility Support Structure(s), and the methods of concealment from public view, if any, that are to be utilized for the remainder of the facility.
- (f) Details and specifications for exterior lighting, when required or proposed.
- (g) A map that includes the following information:
 - i. the coverage area of the proposed wireless communication facility;
 - ii. all other wireless communication facilities within 1,250 feet of the proposed site, and all residential development within 300 feet of the proposed site;
 - iii. the existing and approved wireless communication system facilities operated by the applicant within a 5-mile radius of the proposed site;
- (h) A written explanation of collocation issues per Section 10.824(F)(4).
- (i) Written findings addressing each of the design standards in Section 10.824(F).
- (j) A copy of the lease agreement for the proposed site demonstrating that the agreement does not preclude collocation.
- (k) Documentation detailing the capacity of the Wireless Communication Facility Support Structures in terms of the number and type of Wireless Communication Systems Antennas it is designed to accommodate.

DF. Design Standards.

All wireless communication facilities shall be located, designed, constructed, treated, and maintained in accordance with the following:

(1) Preferred Designs:

~~(a) Where possible, the use of existing facility sites for new installations shall be encouraged. Collocation of new equipment on or at existing Wireless Communication Facilities~~ **The co-location of new equipment at existing wireless communication facility sites shall be the preferred option, wherever possible.**

(b) If (a) above is not feasible, an attempt shall be made to attach to existing structures.

(c) If (a) or (b) above are not feasible, alternative structures shall be used, **and shall include with** design features that conceal, obscure, or mitigate the visual impacts created by the

proposed facility. ~~All New~~ Wireless Communication Facility Support Structures shall include stealth capabilities. In most cases, monopole Wireless Communication Support Structures are not considered to incorporate stealth capabilities.

(d) If (a), (b), or (c) listed above are not feasible, a monopole design shall be used with the attached Wireless Communication Systems Antennas positioned in a flush-mounted, vertical manner ~~to lessen the visual impact when compared to the Wireless Communication Systems Antennas in a platform design~~. Platform designs may be used, if approved by the Planning Commission as a conditional use, upon a finding that the use of an alternate attached Wireless Communication Systems Antenna design is not feasible.

(e) Relief from collocation and attachment of Wireless Communication Systems Antennas to existing Wireless Communication Support Structures under this section may be granted, at the discretion of the approving authority, upon submittal of either a mutually agreeable third party professional verification of provider's data or mutually agreeable third party engineering evaluations that support one or more of the following:

- i. Existing Wireless Communications Facilities or existing structures do not fall within location tolerances based upon Radio Frequency mapping.
- ii. Existing site(s) do not meet minimum height requirements based upon Radio Frequency engineering data.
- iii. Existing Wireless Communications Facilities do not meet structural integrity requirements for the proposed Wireless Communication Systems Antenna array.
- iv. Placement of the proposed Wireless Communications Facility and/or Wireless Communication Systems Antenna array would impair, or be impaired by, the emission of Radio Frequencies.
- v. ~~That~~ The owners of existing Wireless Communication Support Structures or structures within 1,250 feet will not allow the applicant to place its telecommunications facility thereon, or such owners are requiring payment that substantially exceeds commercially reasonable rates.

(ef) Applicants are encouraged to place the facilities on City owned or other publicly owned property.

(fg) Should it be deemed necessary in their review of a Conditional Use Permit for a Wireless Communication Support Structure, by the Planning Commission ~~for the mitigation of visual impact of the facility~~, **may require** additional design measures ~~may be required to mitigate the visual impact of the facility~~. **Such measures** may include, but are not limited to: additional ~~concealing~~ **concealment** materials and designs, ~~facades~~, specific colors and materials, ~~masking, shielding techniques~~, and landscaping.

(h) Wireless communication facilities within a Historic (H) Overlay District must be concealed and are subject to the Historic Review procedural requirements of Section 10.188.

(2) General Requirements:

(a) All facilities shall be installed and maintained in compliance with the requirements of the ~~Building~~ **current Oregon Structural Specialty Code**. Building Permit applications shall include written statements from the Federal Aviation Administration (FAA), Oregon Aeronautics Division, and the Federal Communication Commission (FCC) that the proposed wireless communication facility complies with regulations administered by that agency, or that the facility is exempt from regulation.

(b) When facilities are located within a C-N, C-S/P, or any residential zone, all

associated transmittal equipment shall be housed in an all-weather equipment cabinet, or in the alternative, an equipment building, above or below ground level, which must be designed to achieve minimal visual impact with the surrounding environment.

(c) **Any ground-mounted accessory equipment** ~~The perimeter of the facility shall be enclosed with~~ by a security fence or wall subject to Sections 10.731 through 10.735. Such barriers shall be landscaped in a manner that provides a natural sight-obscuring screen around the barrier to a minimum height of six feet.

(d) Wireless Communication Support Structures shall not exceed a height of 135 feet as measured from the finished grade at the base of the tower.

(e) New **wireless communication support structures** ~~facilities in any zone~~ must be set back from any **residentially zoned property parcel in a residential zone** a distance equal to the overall height of the Wireless Communication Support Structure. The setback requirement may be reduced if, as determined by the Planning Commission, it can be demonstrated through findings of fact that increased mitigation of visual impact can be achieved within the setback area. In no case shall a new Wireless Communication Support Structure be setback less than the minimum requirement of the underlying zone. Underground accessory equipment is not subject to the setback requirement.

(f) For wireless communication facilities collocated on an existing support structure, the design of any accessory structures or equipment shall use materials, colors and textures that will match the existing support structure to which the equipment of the collocating provider is being attached, subject to the concealment standards of Section 10.782

(h) Any proposal that has elements that deviate from the standards of (f) and/or (g) above may be approved by the Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission through a Type III ~~Land Use review~~ **Action**, based upon evidence showing that the standards cannot otherwise be met and that the degree of relief approved by said Commission is the minimum necessary to allow for facility operation.

(i) **Any modification of an existing Wireless Communication Support Structure that would result in a "substantial change" as outlined in Section 10.824(B)(6)** ~~Each addition of a Wireless Communication Systems Antenna to an existing support structure must be in conformance with any approved Conditional Use Permit, with the exception of buildings, only requires administrative approval of a building permit, unless the additional Wireless Communication Systems Antenna increases the height of the support structure more than ten feet, in which case it must be approved by the Planning Commission as a new Conditional Use Permit in accordance with Sections 10.184.~~

(j) Signage for wireless communication facilities shall consist of a maximum of two (2) non-illuminated signs, not to exceed two (2) square feet in area each, stating the name of the facility operator and a contact phone number, and any other applicable FCC, **and**, OSHA required information.

(k) No lighting shall be permitted except as required by the Oregon Aeronautics Division, Federal Aviation Administration (FAA), or other state or federal agency.

(3) Landscaping: The following standards apply to all facilities with any primary or accessory equipment located on the ground and visible from any public right-of-way or from an abutting residential use.

(a) ~~The outer~~ **perimeter security fence or wall of the facility** shall have a minimum 5-

foot wide landscaped area that will screen the facility from public view.

(b) ~~The selected vegetation shall be fast-growing and reasonably expected to form a continuous hedge with a minimum height of six feet within two years of planting. and materials shall be selected and sited to produce a landscaped area consistent with Section 10.780.~~

(c) The landscaped area shall be irrigated and maintained to provide for proper growth and health of the vegetation.

(4) Wireless Communication Facility Collocation:

(a) All new Wireless Communication Support Structures shall be constructed so as to allow a second user to collocate on the facility, unless limited by aesthetics as determined by the Planning Commission.

(b) Relief from collocation under this section may be granted, at the discretion of the approving authority, upon submittal of either a mutually agreeable third party professional verification of provider's data or mutually agreeable third party engineering evaluations that support one or more of the following:

G. Public Right-of-Way.

Applications for Wireless Communication Facilities within the public right-of-way (ROW) shall be required to enter into a Franchise Agreement with the City, and to obtain a right-of-way permit from the Public Works Department. Such applications shall be approved by the Planning Director as a Type I Land Use Action if the facility complies with all of the following design standards. Facilities that do not comply with the design standards are subject to approval of a Conditional Use Permit pursuant to Section 10.824(D).

(1) Design Standards:

(a) Wherever possible, the facility shall be attached to an existing utility support structure. Such structure may be replaced with a new utility support structure so long as the replacement structure is at the same location and is of the same design as the original structure.

(b) No more than one wireless communication facility shall be installed on a single utility support structure.

(c) The installation of wireless communication facilities on decorative street light fixtures is prohibited.

(d) All transmission and power cables shall be contained within the utility support structure or concealed within a single conduit line or housing that is flush-mounted to the structure. Where the National Electric Safety Code (NESC) requires separation from the support structure, installations at the NESC required separation shall be considered flush-mounted.

(e) Any accessory equipment shall be placed underground to the maximum extent possible. Accessory equipment that is attached to the utility support structure shall be enclosed in cabinets with no one dimension exceeding 30 inches.

(f) In commercial and industrial zones, antenna arrays shall be mounted within six inches of the utility support structure or contained in a covering cylinder that is a continuation of the diameter of the utility support structure. The antenna array shall be painted to match the utility support structure.

(g) If (d) above is not feasible, antenna arrays in commercial and industrial zones may be attached to horizontal support arms no greater than five feet in length

measured from the center of the utility support structure. The antennas shall be placed within a covering cylinder.

(h) In residential zones, antenna arrays shall be contained within the utility support structure, or contained in a covering cylinder that is a continuation of the diameter of the utility support structure. The array shall be painted to match the utility support structure. Antenna arrays shall not project more than 36 inches above the existing utility support structure.

(i) Any facility involving the use of a City-owned street light, or the installation of a new utility support structure, shall be subject to the following conditions:

i. The location of the support structure shall be subject to the approval of the City Engineer, or their designee.

ii. Installations shall not be allowed on traffic signal poles.

iii. The applicant shall submit plans and calculations, stamped and signed by a professional engineer licensed in the State of Oregon, which identify the location of the proposed facilities and verify the structural capacity of supports and foundations. The City Engineer may request additional information as needed.

iv. The City may require a street light arm and fixture be included as part of a new utility support structure, at the discretion of the City Engineer or their designee.

v. Installation on City-owned street light poles shall meet all the requirements of the NESC, including power cut-off requirements.

vi. If a combined street light and cellular facility is proposed that does not use the City's standard street light pole, the applicant shall maintain the pole and cellular facilities in a safe condition. The City shall maintain the street light fixture.

vii. The applicant shall pay the on-going power costs associated with the facility. This may include the costs to power the street light if the power sources and billing cannot be separated.

viii. The City shall have access to the power cut-off.

~~EH. Prohibited.~~

~~The following wireless communication facilities are prohibited:~~

~~(1) Wireless Communication Support Structures that exceed 40 feet in height are prohibited in the Airport-Radar (A-R) Overlay District.~~

~~(2) Wireless Communication Facilities utilizing a support structure are prohibited within 300 feet of a Historic (H) Overlay District.~~

~~(3) Wireless Communication Facilities are prohibited in a riparian corridor as identified in Section 10.926.~~

~~(4) Placement on a Wireless Communication Support Structure of satellite and microwave dishes that are not part of the Wireless Communication System.~~

~~F. Exemptions.~~

~~The following uses and activities shall be exempt from these standards except as otherwise provided herein:~~

~~(1) Existing Wireless Communication Support Structures and Wireless Communication Systems Antennas and any repair, reconstruction or maintenance, which does not increase the height of the tower.~~

~~(2) Amateur radio station towers, citizen band transmitters and antennas.~~

~~(3) Microwave and satellite dishes accessory to a permitted use and/or unrelated to a wireless telecommunication service system.~~

~~(4) Public safety communication towers.~~

GI. Abandonment.

All ~~readily visible~~ wireless telecommunications facilities, which are not in use for six ~~(6)~~ consecutive months, shall be removed by the wireless telecommunications facility owner. This removal shall take place within three ~~(3)~~ months of the end of such six-month period. Upon removal, the site shall be revegetated to blend with the existing surrounding vegetation. Landscaping that is established and viable, ~~and appurtenances that would serve an existing permitted or accessory use on the property, as determined by the Planning Director,~~ may remain.

(1) Removal extension: Upon written application, prior to the expiration of the six-month period, the Planning Director may, in writing, grant a six-month time extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the Planning Director subject to any conditions required to bring the project or facility into compliance with current regulation(s) and make it compatible with surrounding development.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018

Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.



City of Medford

Planning Department

Working with the community to shape a vibrant and exceptional city

COMMISSION REPORT

for a Type IV Land Use Action: **Development Code Amendment**

Project Wireless Communication Facilities Code Amendment
Applicant: City of Medford

File no. DCA-17-091

To City Council *for 09/06/2018 hearing*

From Seth Adams, AICP, Planner III

Reviewer Carla Angeli Paladino, Principal Planner

Date August 30, 2018

BACKGROUND

Proposal

DCA-17-091 is a legislative amendment to revise the wireless communication facility regulations in Articles II and V of the Medford Land Development Code (MLDC) (**Exhibit A**). As directed by the City Council at its January 25, 2018 study session (**Exhibit B**), staff has prepared draft language to amend the MLDC in order to allow for the installation of wireless communication facilities within the public right-of-way (ROW). Staff has also made modifications to the existing wireless communication facility regulations in order to condense the amount of text (e.g. by removing duplicative language) and to better reflect changes in telecommunications technology and federal law.

Authority

This proposal is a Type IV land use action to amend the Land Development Code. The Planning Commission is authorized to recommend, and the City Council to approve, amendments to the Land Development Code under Medford Municipal Code §§10.214 and 10.218.

ISSUES AND ANALYSIS

Background

Wireless telecommunications providers have historically placed their facilities on both private and publicly-owned property. Such facilities are designed to serve a wide geographic area and have generally consisted of either large towers/poles, or roof-mounted antennas. These facilities are commonly referred to in the wireless industry as “macro cells.” In the past, macro cells have proven to be largely adequate, but this is no longer the case as consumer demand for wireless services (voice and data) continues to grow exponentially.

The result of this increased demand is that the existing macro cell network has reached capacity in some areas, thereby resulting in declines in service quality. As an alternative to building additional macro cells which are costly and often unsightly, wireless providers have started to build what are referred to as “small cell” wireless facilities.

Small cell facilities are low-powered, cellular radio access nodes that are designed to improve the capacity and quality of the larger macro network by spreading small sized antennas across a limited geographic area where a macro network has reached capacity.

Over the past few years wireless providers have begun to install small cells on utility poles and streetlights within the public ROW in communities around the country, and the City of Medford was recently contacted by two companies that are interested in doing so here. Under state and federal law, wireless carriers have enforceable rights to construct new facilities (including within the ROW) in order to fill coverage gaps. Generally speaking, the City can only regulate a facility’s aesthetics (e.g. design, height, placement, and location); however, the MLDC does not include any provisions for the allowance of wireless facilities in the ROW.



Figure 1. Examples of small cell facilities in the public ROW.

ANALYSIS

The full text of the proposed code amendment is attached for review, and is summarized below.

Article II

Article II contains the procedural requirements for land use and development permits, and defines the roles and responsibilities of the various decision-making bodies. The proposed Wireless Communication Facilities code amendment necessarily involves Article II as the procedural requirements for wireless facilities in the public right-of-way need to be incorporated.

Article V

The initial objective of the proposed Article V amendment was to include regulations in §10.284 (Wireless Communication Facilities) for the installation of wireless facilities within the public right-of-way, but Staff is also proposing to use this as an opportunity to update §10.284 in order to:

- Make §10.284 more clear and streamlined by condensing existing text;
- Better reflect changes in telecommunications technology and federal law;
- Allow for the temporary use of cells-on-wheels (COWs);
- Clarify what constitutes a “substantial change” to an existing wireless facility.

The need for the “substantial change” language is driven by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, which mandates that local governments approve requests for modifications and collocations of wireless transmission equipment on existing towers or base stations that do not result in a “substantial change” to the physical dimensions of such tower or base station. The proposed code language outlining what constitutes a “substantial change” is consistent with the Federal Communications Commission’s (FCC) interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

Study Sessions

The proposed code amendment was presented to the Planning Commission at a study session on July 23, 2018 (**Exhibit C**). The Commissioners posed a number of clarifying questions to staff, the more substantive of which staff has considered further and made changes to the proposed code language as a result. The list of substantive modifications is summarized as follows:

- Cells-on-wheels (COWs) would be allowed throughout the course of a declared emergency.

- The use of decorative street light fixtures would be prohibited for wireless facilities in the ROW.
- A maximum of one facility could be installed on a single support structure within the ROW.

Planning Commission Hearing

At the Planning Commission hearing on August 9, 2018, the commissioners asked a minimal number of clarifying questions of staff, and ultimately voted (4-1) to forward a favorable recommendation to the City Council (**Exhibit D**).

FINDINGS AND CONCLUSIONS

The criteria that apply to code amendments are in Medford Municipal Code §10.218. The criteria are rendered in italics; findings and conclusions in roman type.

10.218 Land Development Code Amendment Approval Criteria.

The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

(A) Explanation of the public benefit of the amendment.

Findings

The proposed code amendments are intended to benefit the public in that they will allow for the construction of wireless communication facilities which provide a necessary and beneficial service to the public. The proposed code amendment will also benefit the public by helping to preserve the character of the city's zoning districts and Historic Overlay districts by protecting them from the visual and aesthetic impacts associated with wireless communication facilities.

Conclusions

The use of wireless communication devices has grown to become prevalent amongst all sectors of our society, and is thus critical to its daily functions. This criterion is satisfied.

(B). The justification for the amendment with respect to the following factors:

(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.

Findings

The following are the goals and policies of the Comprehensive Plan that are applicable to DCA-17-191.

Environmental Element

Goal 11: To preserve and protect archaeological and historic resources in Medford for their aesthetic, scientific, educational, and cultural value.

Economic Element

Goal: To actively stimulate economic development and growth that will provide opportunities to diversify and strengthen the mix of economic activity in the City of Medford.

Policy 1-1: The City of Medford shall strengthen its role as the financial, medical, tourist, governmental and business hub of Southern Oregon and shall build on its comparative advantages in the local and regional marketplace.

Population Element

Goal 1: To accept the role and responsibilities of being the major urban center in a large and diverse region that includes portions of southwest Oregon and northern California.

Conclusions

The proposed amendments update the City's regulations for wireless communication facilities which have become an essential part of our telecommunications system. In order for the city to maintain and function in its role as the major urban center for the region, the City's codes must remain up to date with current practices and technology, which includes accommodation of wireless communication facilities that meet the needs of the population. At the same time, the proposed amendments strive to ensure that the location and design of such facilities is carried out in a manner that protects and preserves the city's character and aesthetics. This criterion is satisfied.

- (2) *Comments from applicable referral agencies regarding applicable statutes or regulations.*

Findings

The proposal was provided to the applicable referral agencies per the code requirements, and no comments were received.

Conclusions

There have been no comments received from referral agencies. This criterion has been satisfied.

(3) Public comments.

Findings

The Planning Commission provided feedback on the proposed amendments at a study session and the public hearing, and no public comments have been received to date. Staff also provided the proposed design standards for wireless facilities in the public right-of-way to Mobilitie (one of the wireless companies that has approached the City regarding use of the ROW) for comments, and received no response. This staff report will be posted on the City's website which may generate public comments.

Conclusions

Input has been received from the Planning Commission. Additional comments may be provided during the hearing process. This criterion has been satisfied.

(4) Applicable governmental agreements.

Findings

There are no governmental agreements that apply to the proposed code amendments.

Conclusions

This criterion is not applicable.

RECOMMENDED ACTION

Based on the Findings and Conclusions that all of the approval criteria are either met or not applicable, adopt the ordinance for approval of DCA-17-091 per the Commission Report dated August 30, 2018, including Exhibits A through D.

EXHIBITS

- A Proposed amendments
- B Excerpted City Council Study Session Minutes – January 25, 2018
- C Excerpted Planning Commission Study Session Minutes – July 23, 2018
- D Excerpted Draft Planning Commission Hearing Minutes – August 9, 2018

CITY COUNCIL AGENDA:

SEPTEMBER 6, 2018

Medford Code

**CHAPTER 10
PLANNING**

[NOTE: This Chapter was enacted 12-18-86 by Ord. No. 5785. This is a revision of sections 10-005 through 10-954 which were repealed by Ord. No. 5785. The effective date of Ord. No. 5785 was 12-24-86.]

* * *

ARTICLE II - PROCEDURAL REQUIREMENTS

- 10.100 Purpose of Article II
- 10.102 Land Use Review
- 10.104 Land Use Decision
- 10.106 Procedural Types
- 10.108 Land Use Review Procedure Types
- 10.110 Designation and Duties of Approving Authorities
- 10.112 Referral Agencies
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- 10.140 Appeal of Land Use Decision
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- 10.144 De Minimis Revision(s) to and Approved PUD Plan
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- 10.154 Nonconformities
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10.162	Subdivision and Partition Final Plats
10.162A	Filing of Final Plat with City Engineer
10.162B	Filing of Final Plat with Planning Department
10.164	<u>Wireless Communication Facilities in Public Right-of-Way</u>
10.168	Type II Land Use Actions
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10.190	Planned Unit Development (PUD) – Application and Approval Provisions
10.192	Preliminary PUD Plan – General Provisions
10.194	Preliminary PUD Plan – Neighborhood Meeting Requirement
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10.198	Revision or Termination of a PUD
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10.202	Subdivision Tentative Plat
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10.214	Type IV Land Use Actions
10.216	Annexation
10.218	Land Development Code Amendment Approval Criteria
10.220	Major Type IV Amendments
10.222	Minor Type IV Amendments
10.224	Minor Comprehensive Plan Application Form
10.226	Transportation Facility Development
10.228	Vacation of Public Right-of-Way

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* * *

10.108 Land Use Review Procedure Types.

Table 10.108-1 identifies the procedural type, applicable standards, and approving authority for each type of land use review as well as whether the 120-day rule in Section 10.104(D) is applicable. Each procedural type is subject to specific due process and administrative requirements of this chapter.

* * *

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Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	Procedural Type	Applicable Standards	Approving Authority	Subject to 120 Day Rule (ORS 227.178)?
Minor Modification to a Site Plan & Architectural Review Approval	I	10.200(H)(2)	Planning Director	No
Major Modification to an Approved Conditional Use Permit	III	10.184(D)(1)	Planning Commission	Yes
Minor Modification to an Approved Conditional Use Permit	I	10.814(D)(2)	Planning Director	No
Nonconformities	I	10.032 – 10.036	Planning Director	No
Portable Storage Container	II	10.840(D)(6)	Planning Director	Yes
Park Development Review	III	10.185	Planning Commission	Yes
Pre-Application	I	10.156	Not Applicable	No
Preliminary PUD Plan	III	10.190 – 10.198	Planning Commission	Yes
Property Line Adjustment	I	10.158	Planning Director	No
PUD Plan Revision(s)	III	10.198	Planning Commission	Yes
PUD Plan Termination	III	10.198	Planning Commission	Yes
Riparian Corridors, Reduction or Deviation	I	10.927	Planning Director	No
Sign Permit	I	10.1000 – 10.1810	Planning Director	No
Site Plan and Architectural Review	III	10.200	SPAC	Yes
Tentative Plat, Partition	II	10.170	Planning Director	Yes
Tentative Plat, Subdivision	III	10.202	Planning Commission	Yes
Transportation Facility Development	IV	10.226	City Council	No
Urban Growth Boundary Amendment, Major	IV	Urbanization, 10.220	City Council	No
Urban Growth Boundary Amendment, Minor	IV	Urbanization, 10.222	City Council	No
Vacation of Public Right-of-Way	IV	10.226	City Council	No
Wireless Communication Facilities in Public Right-of-Way	I	10.824(G)	Planning Director	Yes
Zone Change, Major	IV	Review & Amendment, 10.220	City Council	No
Zone Change, Minor	III	10.204	Planning Commission	Yes

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* * *

APPROVING AUTHORITIES AND REFERRAL AGENCIES. (10.110 & 10.112)

10.110 Designation and Duties of Approving Authorities.

* * *

(Q) Planning Director Authority. The Planning Director is hereby designated as the approving authority for Type I and II land use reviews as well as issuance of the Development Permit. This includes the following land use reviews:

Land Use Review

De Minimis Revision(s) to Approved PUD Plan
Final PUD Plan
Final Plat, Partition/Subdivision
Minor Historic Review
Minor Modification(s) to Conditional Use Permit
Minor Modification to Site Plan and Architectural Review
Nonconformities
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Subdivision/Partition Final Plat
Tentative Plat, Partition
Wireless Communication Facilities in Public Right-of-Way

* * *

TYPE I APPLICATIONS. (10.142 – 10.1604)

10.142 Type I Land Use Actions.

Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

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De Minimis Revision(s) to an Approved PUD Plan
Final PUD Plan
Final Plat, Partition/Subdivision
Minor Historic Review
Minor Modification(s) to Approved Conditional Use Permit
Minor Modification to a Site Plan and Architectural Review Approval
Nonconformities
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Subdivision/Partition Final Plat
Wireless Communication Facilities in Public Right-of-Way

* * *

10.164 Wireless Communication Facilities in Public Right-of-Way. See section 10.824.

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* * *

ARTICLE V - SITE DEVELOPMENT STANDARDS

* * *

10.824 Wireless Communication Facilities.

A. Purpose and Intent.

~~The purpose of this section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities while allowing citizens to access and adequately utilize the services provided by such facilities.~~

~~Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affects not only neighboring residents, but also the community as a whole. The standards are intended to mitigate such impacts to the greatest extent possible and to preserve the character of the City's zoning districts and historic districts by protecting them from the visual and aesthetic impacts associated with wireless communication facilities.~~

The purpose of this section is to establish standards regulating the placement, appearance, and impact of wireless communication facilities while allowing citizens to access and adequately utilize the services provided by such facilities. The standards are intended to preserve the character of the City's zoning districts and Historic Overlay districts by protecting them from the visual and aesthetic impacts associated with wireless communication facilities.

B. Exemptions.

The following uses and activities shall be exempt from these standards except as otherwise provided herein:

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- (1) Any repair, reconstruction, or maintenance of an Existing Wireless Communication Support Structures and Wireless Communication Systems Antennas and any repair, reconstruction or maintenance, which does not increase the height of the towerFacility.
- (2) Amateur radio station towers, citizen band transmitters and antennas.
- (3) Microwave and satellite dishes accessory to a permitted use and/or unrelated to a wireless telecommunication service system.
- (4) All military, Federal, State, local government communication facilities, and Ppublic safety communication towers.
- (5) Cells-on-Wheels (COW), which are permitted as a temporary use in non-residential zones for a period not to exceed 14 days. During a period of emergency as declared by the City, County, State, or Federal government, cells-on-wheels are permitted throughout the length of the declared emergency period.
- (6) Modifications to existing wireless communication facilities that do not result in a substantial change to the dimensions of the facility. For purposes of this section a “substantial change” includes:
 - (a) The mounting of a proposed antenna on a Wireless Communication Support Structure will increase the existing height of the support structure by more than twenty feet.
 - (b) A fixture is added to a Wireless Communication Support Structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the support structure at the level of the appurtenance, whichever is greater.
 - (c) Installation of more than four new equipment cabinets.
 - (d) Any excavation or deployment outside the current site.
 - (e) It would defeat the concealment elements of the support structure.

C. Permitted Use.

Wireless Communication Facilities that do not include a Wireless Communication Support Structure are permitted in ~~all commercial and industrial zones, and on parcels that contain legally established nonresidential uses within the SFR and MFR zones, subject to the design standards in Section 10.824(D). Only concealed wireless communication facilities are allowed within a Historic (H) Overlay District or on parcels containing a use or structure on the National Historic Register, subject to approval of the Historic Commission per Section 10.406; and on parcels containing a residential use, subject to the design standards in Section 10.824(D).~~

~~(1) Submittals: Applications for building permits for such facilities shall demonstrate compliance with the applicable design standards contained in Section 10.824(D) to include:~~

- ~~(a) A site plan, which includes all structures, land uses, and zoning designations within 150 feet of the facility boundaries.~~
- ~~(b) Exterior elevations of the proposed wireless communication facility that include a set of manufacturer's specifications of the support structure, Wireless Communication Systems Antennas, and accessory buildings with a listing of materials and colors being proposed.~~
- ~~(c) A landscape plan, when required per Section 10.824(D)(3).~~
- ~~(d) Details and specifications for exterior lighting, when required.~~
- ~~(e) A written explanation of the methods of concealment that are to be utilized for the~~

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~~_____ remainder of the facility.~~

~~(f) A written explanation of collocation issues per Section 10.824(D)(4). the _____ following locations subject to the design standards in Section 10.824(F) and approval of a building permit:~~

~~(1) Commercial and Industrial Zones;~~

~~(2) Parcels containing legally established non-residential uses within the SFR and MFR zones;~~

~~(3) Any property owned by the City of Medford;~~

DC. Conditional Use.

Approval of a Conditional Use Permit is required for new Wireless Communication Support Structures (as defined in Section 10.012), subject to the Conditional Use Permit procedural requirements of Sections ~~10.246—10.250~~184.

~~(1) Submittals—Applications for conditional use permit approval of Wireless Communication Facility Support Structures shall include any materials necessary to demonstrate compliance with the design standards contained in Section 10.824(D), any submittals required in Section 10.247, and the following:~~

~~(a) A site plan indicating all structures, land uses and zoning designations within 150 feet _____ of the site boundaries, or 300 feet if the height of the structure is greater than 80 feet.~~

~~(b) Exterior elevations of all sides of the proposed wireless communication facility that _____ include a set of manufacturers specifications of the support structure, Wireless _____ Communication Systems Antennas, and accessory buildings with a listing of _____ materials and colors being proposed.~~

~~(c) A landscape plan per Section 10.824(D)(3).~~

~~(d) A photo of each of the major components of a similar installation, including a _____ photomontage of the overall facility at its proposed location.~~

~~(e) An explanation of what stealth capabilities are being proposed for the Wireless _____ Communication Facility Support Structures, and methods of concealment from public _____ view, if any, are to be utilized for the remainder of the facility.~~

~~(f) Details and specifications for exterior lighting, when required or proposed.~~

~~(g) A map that includes the following information:~~

~~_____ i. the coverage area of the proposed wireless communication facility;~~

~~_____ ii. all other wireless communication facilities within 1,250 feet of the proposed _____ site and all residential development within 300 feet of the proposed site;~~

~~_____ iii. the existing and approved wireless communication system facilities operated _____ by the applicant within a 5-mile radius of the proposed site;~~

~~(h) A written explanation of collocation issues per Section 10.824(D)(4).~~

~~(i) Findings, which address each of the design standards in Section 10.824(D).~~

~~(j) A copy of the lease agreement for the proposed site showing that the agreement does _____ not preclude collocation.~~

~~(k) Documentation detailing the capacity of the Wireless Communication Facility _____ Support Structures in terms of the number and type of Wireless Communication Systems _____ Antennas it is designed to accommodate.~~

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DE. Design Standards Application Requirements.

All ~~wireless communication facilities shall be located, designed, constructed, treated, and maintained in accordance with the following~~ applications for new Wireless Communication Facilities shall demonstrate compliance with the applicable design standards contained in Section 10.824(F), and include the following documentation:

- (a) A site plan indicating all structures, land uses and zoning designations within 150 feet of the facility boundaries; or 300 feet if the height of the support structure is greater than 80 feet.
- (b) Exterior elevations of the proposed wireless communication facility that include a set of manufacturer's specifications for ~~the any~~ support structure(s), Wireless Communication Systems Antennas, and accessory buildings or equipment, with a listing of all materials and colors being proposed.
- (c) A landscape plan, when required per Section 10.824(F)(3).
- (d) Photosimulations of the overall facility at its proposed location, and a photo of each of the major components from a similar installation.
- (e) An explanation of the stealth capabilities being proposed for ~~the any~~ Wireless Communication Facility Support Structure(s), and the methods of concealment from public view, if any, that are to be utilized for the remainder of the facility.
- (f) Details and specifications for exterior lighting, when required or proposed.
- (g) A map that includes the following information:
 - i. the coverage area of the proposed wireless communication facility;
 - ii. all other wireless communication facilities within 1,250 feet of the proposed site, and all residential development within 300 feet of the proposed site;
 - iii. the existing and approved wireless communication system facilities operated by the applicant within a 5-mile radius of the proposed site;
- (h) A written explanation of collocation issues per Section 10.824(F)(4).
- (i) Written findings addressing each of the design standards in Section 10.824(F).
- (j) A copy of the lease agreement for the proposed site demonstrating that the agreement does not preclude collocation.
- (k) Documentation detailing the capacity of the Wireless Communication Facility Support Structures in terms of the number and type of Wireless Communication Systems Antennas it is designed to accommodate.

F. Design Standards.

All wireless communication facilities shall be located, designed, constructed, treated, and maintained in accordance with the following:

(1) Preferred Designs:

- (a) ~~Where possible, the use of existing facility sites for new installations shall be encouraged. Collocation of new equipment on or at existing Wireless Communication Facilities~~ The co-location of new equipment at existing wireless communication facility sites shall be the preferred option, wherever possible.
- (b) If (a) above is not feasible, an attempt shall be made to attach to existing structures.

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(c) If (a) or (b) above are not feasible, alternative structures shall be used, and shall include with design —features that conceal, obscure, or mitigate the visual impacts created by the proposed —facility. All Nnew Wireless Communication Facility Support Structures shall include stealth —capabilities. In most cases, monopole Wireless Communication Support Structures are —not considered to incorporate stealth capabilities.

(d) If (a), (b), or (c) listed above are not feasible, a monopole design shall be used with —the attached Wireless Communication Systems Antennas positioned in a flush-mounted, —vertical manner ~~to lessen the visual impact when compared to the Wireless Communication Systems Antennas in a platform design~~. Platform designs may be used, if —approved by the Planning CCommission ~~as a conditional use~~, upon a finding that the use of an alternate attached Wireless —Communication Systems Antenna design is not feasible.

~~—(e)~~ (e) Relief from collocation and attachment of Wireless Communication Systems Antennas to —existing Wireless Communication Support Structures under this section may be granted, —at the discretion of the approving authority, upon submittal of either a mutually agreeable ~~—third party professional verification of provider's data or mutually agreeable third party —engineering evaluations that support one or more of the following:~~

i. Existing Wireless Communications Facilities or existing structures do not fall within location tolerances based upon Radio Frequency mapping.

ii. Existing site(s) do not meet minimum height requirements based upon Radio Frequency engineering data.

~~—~~iii. Existing Wireless Communications Facilities do not meet structural integrity ~~—~~requirements for the proposed Wireless Communication Systems Antenna array.

~~—~~iv. Placement of the proposed Wireless Communications Facility and/or Wireless ~~—~~Communication Systems Antenna array would impair, or be impaired by, the ~~—~~emission of Radio Frequencies.

~~—~~v. ~~That t~~The owners of existing Wireless Communication Support Structures or ~~—~~structures within 1,250 feet will not allow the applicant to place its ~~—~~telecommunications facility thereon, or such owners are requiring payment that ~~—~~substantially exceeds commercially reasonable rates.

~~—(f)~~ (f) Applicants are encouraged to place the facilities on City ~~owned~~ or other publicly ~~—~~owned property.

(f) Should it be deemed necessary in their review of a Conditional Use Permit for a ~~—~~Wireless Communication Support Structure, ~~by the Planning Commission for the —mitigation of visual impact of the facility, may require~~ additional design measures ~~may be required~~ to mitigate the visual impact of the facility. ~~—~~ TheseSuch measures may include, but are not limited to: additional concealing ment materials and designs, ~~—~~ facades, specific colors and materials, ~~masking, shielding techniques, and~~ landscaping.

(g) Wireless communication facilities within a Historic (H) Overlay District must be

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concealed and are subject to the Historic Review procedural requirements of Section 10.188.

(2) General Requirements:

(a) All facilities shall be installed and maintained in compliance with the requirements of ~~the Building current Oregon Structural Specialty Code~~. Building Permit applications shall include written statements from the ~~Federal~~ Aviation Administration (FAA), Oregon Aeronautics Division, and the Federal ~~Communication Commission (FCC)~~ that the proposed wireless communication facility ~~complies with regulations administered by that agency, or that the facility is exempt from regulation.~~

(b) When facilities are located within a C-N, C-S/P, or any residential zone, all ~~associated transmittal equipment shall be housed in an all-weather equipment cabinet, or in the alternative, an equipment building, above or below ground level, which must be designed to achieve minimal visual impact with the surrounding environment.~~

~~(c) Any ground-mounted accessory equipment~~ ~~The perimeter of the facility~~ shall be enclosed ~~with~~ ~~by~~ a security fence or wall subject to ~~Sections 10.731 through 10.735~~. Such barriers shall be landscaped in a manner that ~~provides a natural sight-obscuring screen around the barrier to a minimum height of six feet.~~

(d) Wireless Communication Support Structures shall not exceed a height of 135 feet as measured from the finished grade at the base of the tower.

(e) New ~~wireless communication support structures~~ ~~facilities in any zone~~ must be set back from any ~~residentially zoned property parcel in a residential zone~~ a distance equal to the overall height of the Wireless Communication Support Structure. ~~The~~ setback requirement may be reduced if, as determined by the Planning Commission, ~~it can be demonstrated through findings of fact that increased mitigation of visual impact can be achieved within the setback area. In no case shall a new Wireless Communication Support Structure be setback less than the minimum requirement of the underlying zone. Underground accessory equipment is not subject to the setback requirement.~~

(f) For wireless communication facilities ~~collocated~~ on an existing support structure, the design of any accessory structures or equipment shall use materials, colors and textures that will match the existing support structure to which the equipment of the collocating provider is being attached, subject to the concealment standards of Section 10.782.

(g) When Wireless Communication Systems Antennas are attached to the exterior of an existing building, they shall be architecturally integrated into the existing building, and shall have a non-reflective finish and color that blends with the color and design of the structure to which it is attached. Roof-Mounted Wireless Communication Facilities shall be concealed, subject to the standards of Section 10.782.

(h) Any proposal that has elements that deviate from the standards of (f) and/or (g) above may be approved by the Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission through a ~~Class "C" plan authorization~~ Type III Land Use Action, based upon evidence showing that the standards cannot otherwise be met

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and that the degree of relief approved by said Commission is the minimum necessary to allow for facility operation. ~~(Effective Dec. 1, 2013.)~~

(i) Any modification of an existing Wireless Communication Support Structure that would result in a "substantial change" as outlined in Section 10.824(B)(6). ~~Each addition of a Wireless Communication Systems Antenna to an existing support structure must be in conformance with any approved Conditional Use Permit, with the exception of buildings, only requires administrative approval of a building permit, unless the additional Wireless Communication Systems Antenna increases the height of the support structure more than ten feet, in which case it~~ must be approved by the Planning Commission as a new Conditional Use Permit in accordance with Sections ~~10.184248-10.250.~~

(j) Signage for wireless communication facilities shall consist of a maximum of two ~~(2)~~ non-illuminated signs, not to exceed two ~~(2)~~ square feet in area each, stating the name of the facility operator and a contact phone number, and any other applicable FCC and OSHA required information.

(k) No lighting shall be permitted except as required by the Oregon Aeronautics Division, Federal Aviation Administration (FAA), or other state or federal agency.

(3) Landscaping: The following standards apply to all facilities with any primary or accessory equipment located on the ground and visible from any public right-of-way or from an ~~abutting residential~~ abutting residential use.

~~_____~~ (a) The ~~outer~~ perimeter security fence or wall ~~of the facility~~ shall have a minimum 5-foot wide landscaped area ~~that will screen the facility from public view.~~

(b) The selected ~~V~~vegetation shall be fast-growing and reasonably expected to form a continuous hedge with a minimum height of six feet within two years of planting. ~~and materials shall be selected and sited to produce a landscaped area consistent with Section 10.780.~~

(c) The landscaped area shall be irrigated and maintained to provide for proper growth and health of the vegetation.

(4) Wireless Communication Facility Collocation:

(a) All new Wireless Communication Support Structures shall be constructed so as to allow a second user to collocate on the facility, unless limited by aesthetics as determined by the Planning Commission.

(b) Relief from co-llocation under this section may be granted, at the discretion of the approving authority, upon submittal of either a mutually agreeable third party professional verification of provider's data or mutually agreeable third party engineering evaluations that support one or more of the following:

~~_____~~ i. Existing Wireless Communications Facilities do not fall within location ~~_____~~ tolerances ~~_____~~ based upon Radio Frequency mapping.

~~_____~~ ii. Proposed site(s) does not meet minimum height requirements based upon ~~_____~~ Radio Frequency engineering data.

~~_____~~ iii. Existing Wireless Communications Facilities do not meet

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structural integrity _____ requirements for the proposed Wireless Communication Systems Antenna array.

_____iv. Placement of the proposed Wireless Communications Facility and/or Wireless _____ Communication Systems Antenna array would impair, or be impaired by, the _____ emission of Radio Frequencies.

_____v. That the owners of existing Wireless Communication Support Structures or _____ structures within 1,250 feet will not allow the applicant to place its _____ telecommunications facility thereon, or such owners are requiring payment that _____ substantially exceeds commercially reasonable rates.

G. Public Right-of-Way.

Applications for Wireless Communication Facilities within the public right-of-way (ROW) shall be required to enter into a Franchise Agreement with the City, and to obtain a right-of-way permit from the Public Works Department. Such applications shall be approved by the Planning Director as a Type I Land Use Action if the facility complies with all of the following design standards. Facilities that do not comply with the design standards are subject to approval of a Conditional Use Permit pursuant to Section 10.824(D).

(1) Design Standards:

- (a) Wherever possible, the facility shall be attached to an existing utility support structure. Such structure may be replaced with a new utility support structure so long as the replacement structure is at the same location and is of the same design as the original structure.
- (b) No more than one wireless communication facility shall be installed on a single utility support structure.
- (c) The installation of wireless communication facilities on decorative street light fixtures is prohibited.
- (d) All transmission and power cables shall be contained within the utility support structure or concealed within a single conduit line or housing that is flush-mounted to the structure. Where the National Electric Safety Code (NESC) requires separation from the support structure, installations at the NEC required separation shall be considered flush-mounted.
- (e) Any accessory equipment shall be placed underground to the maximum extent possible. Accessory equipment that is attached to the utility support structure shall be enclosed in cabinets with no one dimension exceeding 30 inches.
- (f) In commercial and industrial zones, antenna arrays shall be mounted within six inches of the utility support structure or contained in a covering cylinder that is a continuation of the diameter of the utility support structure. The antenna array shall be painted to match the utility support structure.
- (g) If (d) above is not feasible, antenna arrays in commercial and industrial zones may be attached to horizontal support arms no greater than five feet in length measured from the center of the utility support structure. The antennas shall be placed within a covering cylinder.

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- (h) In residential zones, antenna arrays shall be contained within the utility support structure, or contained in a covering cylinder that is a continuation of the diameter of the utility support structure. The array shall be painted to match the utility support structure. Antenna arrays shall not project more than 36 inches above the existing utility support structure.
- (i) Any facility involving the use of a City-owned street light, or the installation of a new utility support structure, shall be subject to the following conditions:
- i. The location of the support structure shall be subject to the approval of the City Engineer, or their designee.
 - ii. Installations shall not be allowed on traffic signal poles.
 - iii. The applicant shall submit plans and calculations, stamped and signed by a professional engineer licensed in the State of Oregon, which identify the location of the proposed facilities and verify the structural capacity of supports and foundations. The City Engineer may request additional information as needed.
 - iv. The City may require a street light arm and fixture be included as part of a new utility support structure, at the discretion of the City Engineer or their designee.
 - v. Installation on City-owned street light poles shall meet all the requirements of the NEC, including power cut-off requirements.
 - vi. If a combined street light and cellular facility is proposed that does not use the City's standard street light pole, the applicant shall maintain the pole and cellular facilities in a safe condition. The City shall maintain the street light fixture.
 - vii. The applicant shall pay the on-going power costs associated with the facility. This may include the costs to power the street light if the power sources and billing cannot be separated.
 - viii. The City shall have access to the power cut-off.

EH. Prohibited.

The following wireless communication facilities are prohibited:

- (1) Wireless Communication Support Structures that exceed 40 feet in height ~~are prohibited~~ in the Airport-Radar (A-R) Overlay District.
- (2) Wireless Communication Facilities utilizing a support structure ~~are prohibited~~ within 300 feet of a Historic (H) Overlay District.
- (3) Wireless Communication Facilities ~~are prohibited~~ in a riparian corridor as identified in Section 10.926.
- (4) Placement on a Wireless Communication Support Structure of satellite and microwave dishes that are not part of the Wireless Communication System.

F. Exemptions.

~~The following uses and activities shall be exempt from these standards except as otherwise provided herein:~~

- ~~(1) Existing Wireless Communication Support Structures and Wireless Communication Systems Antennas and any repair, reconstruction or maintenance, which does not increase the height of the~~

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~~tower.~~

~~(2) Amateur radio station towers, citizen band transmitters and antennas.~~

~~(3) Microwave and satellite dishes accessory to a permitted use and/or unrelated to a wireless telecommunication service system.~~

~~(4) Public safety communication towers.~~

GI. Abandonment.

All ~~readily visible~~ wireless telecommunications facilities, which are not in use for ~~—~~six ~~(6)~~ consecutive months, shall be removed by the wireless telecommunications facility owner. This removal shall take place within three ~~(3)~~ months of the end of such six-month period. Upon removal, the site shall be revegetated to blend with the existing surrounding vegetation. Landscaping that is established and viable, ~~and appurtenances that would serve an existing permitted or accessory use on the property, as determined by the Planning Director,~~ may remain.

(1) Removal extension: Upon written application, prior to the expiration of the six-month period, the Planning Director may, in writing, grant a six-month time extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the Planning Director subject to any conditions required to bring the project or facility into compliance with current regulation(s) and make it compatible with surrounding development.

[Added, Sec. 2, Ord. No. 8349, May 1, 1997; Amd. Sec. 3, Ord. No. 1998-146, June 18, 1998, Replaced, Sec. 5, Ord. No. 2008-04, Jan. 3, 2008; Amd. Sec. 4, Ord. No. 2013-30, Feb. 21, 2013; Amd. Sec. 24, Ord. No. 2013-131, Sept 5, 2013, effective Dec. 1, 2013.]

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Medford City Council Study Session

Exhibit B

Minutes

January 25, 2018
Medford City Hall, Medford Room
411 West 8th Street, Medford, Oregon

The Medford City Council Study Session was called to order at 6:00 p.m. in the Medford Room of the Medford City Hall on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers, Tim D'Alessandro, Dick Gordon, Tim Jackle, Kevin Stine, Kim Wallan; Councilmembers Clay Bearnson, Kay Brooks, Dick Gordon and Michael Zarosinski were absent

City Manager Brian Sjothun; Deputy City Manager Kelly Madding; City Attorney Lori Cooper; Deputy City Recorder Winnie Shepard

* * *

Wireless Communications

Planner III Seth Adams explained the Planning Department needed Council direction regarding potential Code amendments for Wireless facilities in the right-of-way:

- Cell towers have reached their capacities and carriers are using small cells on top of street lights or signage to assist with coverage in small areas
- Topic was previously discussed at a study session; but there is nothing in the Code
- Federal law allows wireless facilities within the right-of-ways, limiting city regulation to mainly aesthetics

Council comment:

- Noise concerns could be an issue within residential areas, may not be an issue on major streets
- Colleen Deshazer from Mobilitie spoke regarding their products; she noted:
 - Products needed for increased demand for data and not voice calls
 - Placed in areas with existing data loss
 - Provided examples of the types, sizes and what they looked like and how they would attach
- Most likely Medford would have a very small number of the small cells
- Planning Commission should be involved, but also requested Public Works involvement for traffic control issues and to assist with issues during construction

The meeting adjourned at 8:15 p.m.

Winnie Shepard
Deputy City Recorder



Planning Commission Minutes

From Study Session on **July 23, 2018**

The study session of the Medford Planning Commission was called to order at 12:00 p.m. in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present

David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
E. J. McManus
Alex Poythress
Jared Pulver

Staff Present

Kelly Akin, Assistant Planning Director
Carla Paladino, Principal Planner
Eric Mitton, Deputy City Attorney

Commissioners Absent

Patrick Miranda, Chair, Excused Absence
Mark McKechnie, Unexcused Absence

Subject:

20.1 DCA-17-091 Wireless Communication Facilities Code Amendment

Carla Paladino, Principal Planner, reported that staff is seeking direction from the Planning Commission regarding changes to the Wireless Communication Facilities regulations. Specifically, modify existing wireless communication facility language and inserting new language related to Small Cells.

Current regulations address:

- Facilities permitted in all commercial and industrial zones, and in SFR and MFR zones with nonconforming nonresidential uses
- Permitted on Public and Private property
- Preferred Designs: 1) Collocation, 2) Existing Structures, 3) New Towers
- New towers are approved by the Planning Commission through the Conditional Use Permit process

New Regulations:

- Consumer demand has increased
- Macro cells are reaching capacity; decline in service
- New small cells are being built to fill in the gap
- Companies are seeking to construct these in Medford

Mobilitie first to approach the City seeking a franchise agreement. Issues have been discussed with the City Council. Regulations need to be in place before franchise agreements will be considered by the City.

The City is being asked to allow small cell wireless facilities on utility poles, street lights, etc.

The small cell equipment:

- Omni Antenna – Pole top slim line solution, connects with end users and 360 degree propagation
- AC Distribution – Control power to the site with an on and off switch
- UE Relay – Wireless backhaul solution, eliminates need for fiber for most sites, communicates with existing infrastructure
- Radio Unit – Converts radio frequencies, increases network capacity

Proposed Amendment – Small Cells

Article II Changes (Sections 10.108, 10.110, 10.142)

- Wireless communication facilities in right-of-way would be a Type 1 Land Use Action
- Planning Director would be the approving authority

Proposed Amendment – Overall Language

Article V – Section 10.824

- Removal of unnecessary and/or duplicative language (e.g. submittal requirements)
- Updated Exemption Section
 - Allow for Cells-on-Wheels (COWs) as temporary use not to exceed 14 days in nonresidential zones or during declared emergencies
 - Allows for modification when not identified as a substantial change
- Defines a “substantial change” to existing facilities in accordance with federal law (Section 6409(a))
 - The mounting of a proposed antenna on a Wireless Communication Support Structure will increase the existing height of the support structure by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater
 - An appurtenance is added to a Wireless Communication Support Structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the support structure at the level of the appurtenance, whichever is greater
 - Installation of more than four new equipment cabinets
 - Any excavation or deployment outside the current site
 - It would defeat the concealment elements of the support structure

Vice Chair McFadden stated that he was not sure whether the 20 feet was in the air or on the ground. Ms. Paladino reported it is wide so it might be a cabinet. Commissioner

Pulver stated that the 20 feet would be up. Otherwise, it is going to be limited to the width of the pole or whatever it is attached to.

Ms. Akin stated that the trouble with federal law is that it is written broadly. Staff has to apply it narrowly. The lattice towers that used to be used had big bases. That is the only thing that she can think of that that might be the kind of structure where that would be meaningful. Currently, they are limited to 130 feet in height that would not have a 20 foot base.

Ms. Paladino stated that staff would clarify the language or have a photograph for clarification.

- Modifications not resulting in a substantial change would not be subject to new standards or discretionary review (a new Conditional Use Permit)
- Requires landscaping that will fully screen the ground-mounted equipment and any security fencing

Commissioner Mansfield stated that on page 14 of the agenda packet the ordinance talks about stealth capabilities. Please explain that. Ms. Paladino reported that stealth is meaning sleek or hiding the antenna.

Commissioner Mansfield asked, is there any objection to this? Ms. Paladino stated not yet.

Vice Chair McFadden asked, has Engineering reviewed the language? Ms. Paladino replied yes.

Commissioner Culbertson misread the proposal and background. He thought that the entire rewrite was stemming from the 2012 Act. He read the 2012 Act. It only deals with federal property. He discussed this with Eric Mitton, Deputy City Attorney this morning and he stated it governed some of the language change. The implementation of the small cell is the new piece. He believes it will be beneficial in the long run however, he raised the question of improving and implementing the 5G network for the benefit of the cellular services. They are putting smart meters on all the houses now which are using the 5G Network. He hopes the City is getting a substantial contract to allow them the right-of-way to generate dollars back to the City.

Mr. Mitton reported that step one is getting the code implemented and step two would be the franchise agreement. That is where the money is made.

Vice Chair McFadden stated this is allowing the City to increase the fee that is paid on cellular bills.

Mr. Mitton is not sure there will be a distinction because when a macro cell is on private property the cellular companies are renting the space. Instead of having individual leases for big towers it is a franchise agreement for the small cells.

Vice Chair McFadden stated that there is a tower on Roxy Ann that never paid a franchise fee to Medford because their facilities were outside Medford but their trucks could use City streets. Mr. Mitton reported that is not entirely accurate. It is a complicated situation. Fees are collected for the private communication tower on Roxy Ann that helps pay for the public safety tower on Roxy Ann. The City is one of the main users of the public safety tower on Roxy Ann. He does not know about the tower on the other side of Roxy Ann.

Commissioner Culbertson knows that there is a cell tower on top of old Reeder fruit building at 401 Fir Street. They have a very lucrative contract that allowed them to install a secure vault on the fourth floor and an array on top because of a void.

Commissioner Culbertson thinks if they are going to be utilizing the 5G cell service for the Pacific Power and Light smart meters there should be a reduction in the service charge to have the smart meter for making it simpler. The City is going to get double dipped. If one wants to opt out they are going to charge extra and a monthly fee.

The Planning Commissions charge is does the language being incorporated make sense?

Commissioner McManus stated that there are people against cell towers. Sometimes the issues are related to property value. Are there design standards specific for the historic district? Ms. Paladino reported that there is no language specific to the historic district. Ms. Akin stated that the historic district requires a different review.

Mr. Mitton commented that every time the Planning Commission has a Conditional Use Permit hearing on cell towers most people coming for public comment are saying they do not want a tower in that location. Since it is under federal law the City cannot say anything. They can only discuss how it is visually screened. He is not aware that they could not require additional screening in the historic district. They cannot prohibit or restrict a tower in that location.

Commissioner Pulver asked, is there a limit on small cells on a pole? Ms. Paladino reported that the construction of these small cells would probably be only one per pole. Language can be added that states only one per pole. Mr. Mitton reported that multiple boxes are different support components for a single antenna.

Commissioner Poythress asked, this is 2018 is the City planning on installing more poles or underground utilities? If the City is trying to get rid of poles then why adorn them with expensive hardware for lease? Ms. Paladino stated that for new development they are supposed to go underground. The other option would be street light poles.

Vice Chair McFadden asked, is there a height limit? Ms. Paladino reported that would be between the company and Public Works. What are they actually going to be doing to the street lights? Is it going to change the function of it or become massive looking that no longer looks like a street light? That gives Public Works flexibility to state the company is in the wrong location and needs to find something else.

Staff will make final changes to the language and present the code amendment to the Planning Commission on Thursday, August 9, 2018. Hearing is proposed before the City Council on Thursday, September 6, 2018.

20.2 DCA-18-092 Offices of other Health Practitioners in Light Industrial zoning district

Kelly Akin, Assistant Planning Director, reported that DeNell Gallagher that operates a pediatric occupational and speech therapy business downtown. She wants her own facility but the facility she found is in the I-L zone where the use is not permitted.

Commissioner Mansfield asked, what is wrong with letting all the health practitioner uses in the I-L zone? Ms. Akin reported that the light industrial zone is not made for that kind of traffic or parking.

Vice Chair McFadden stated that Navigator's Landing is a Planned Unit Development with the inner lining zone is light industrial. They were able to get 20% of the property zoned commercial. If all the health practitioner categories were changed that would open up the rest of the 80% of the property to those types of uses.

Staff will present this code amendment to the Planning Commission on Thursday, August 23, 2018.

Commissioner Pulver stated that the I-L zone is a hot mess. It allows a lot of uses that are commercial in nature but also allows industrial in nature. In his mind there is a potential for conflict. He does not think he is willing to allow those uses in light industrial particularly the ones being discussed. It needs a broader discussion.

Commissioner Foley had the same concerns when he reviewed this. They have had this on the heavy commercial zone. He is confused about the distinction in the real world between heavy commercial and light industrial. He understands the traffic aspect. There is so much overlap between the two and it feels like a mess. Are there too many zones?

Commissioner Pulver thinks Navigators Landing and the Delta Center are situations where developers involved control and have continued to control the land and development of that land to ensure uniformity. A scenario would be separate land owners with several one acre parcels in a row. The first one develops a nice eye doctor office and the land owner next to it builds an 8,000 square foot metal warehouse building with a small office in the front. There is nothing to say that is wrong by building in that zone. The resulting



Planning Commission

Minutes

From Public Hearing on August 9, 2018

The regular meeting of the Planning Commission was called to order at 5:30 PM in the City Hall Council Chambers on the above date with the following members and staff in attendance:

Commissioners Present

- Patrick Miranda, Chair
- David McFadden, Vice Chair
- Joe Foley
- Bill Mansfield
- Alex Poythress

Staff Present

- Kelly Akin, Assistant Planning Director
- Carla Paladino, Principal Planner
- Katie Zerkel, Senior Assistant City Attorney
- Alex Georgevitch, City Engineer
- Samantha Metheny, Deputy Fire Marshal
- Terri Richards, Recording Secretary
- Seth Adams, Planner III
- Liz Conner, Planner II

Commissioners Absent

- David Culbertson, Excused Absence
- Mark McKechnie, Excused Absence
- E.J. McManus, Excused Absence
- Jared Pulver, Excused Absence

* * *

50. Public Hearings – New Business

50.1 **DCA-17-091** Application for code amendment to revise the Wireless Communications Facility Section of the MLDC. Applicant: City of Medford; Planner: Seth Adams.

Chair Miranda inquired whether any Commissioners have a conflict of interest or ex-parte communication they would like to disclose. None were disclosed.

Chair Miranda inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Seth Adams, Planner III, stated that the Development Code Amendment approval criteria can be found in the Medford Land Development Code Section 10.218. The applicable criteria were addressed in the staff report and hard copies are available at the entrance of Council Chambers for those in attendance. Mr. Adams gave a staff report.

Chair Miranda asked, were exclusions the decorative street lights and traffic signals? Mr. Adams replied, correct.

The public hearing was opened.

Vice Chair McFadden stated that reading through the minutes of the Monday, July 23, 2018, Planning Commission study session he discovered an error. During the discussions he was talking about wireless offerings on television communications and the impacts. The minutes refer to his referral to such facilities on Roxy Ann repeatedly. He was not talking about facilities on Roxy Ann. He was talking about facilities on the west hills of the valley.

Chair Miranda asked, is there language in the code to limit the radius or distance between these small cells? Mr. Adams replied that there is not as proposed. Under Federal law it becomes a tricky situation preventing cell services to not be in close proximity when trying to maintain their coverage.

The public hearing was closed.

Motion: The Planning Commission based on the findings and conclusions that all of the approval criteria are either met or not applicable, forward a favorable recommendation for adoption of DCA-17-091 to the City Council per the staff report dated August 2, 2018, including Exhibits A through C.

Moved by: Vice Chair McFadden

Seconded by: Commissioner Foley

Commissioner Poythress is going to vote no on this code amendment. He appreciates the intention and reason. It is a good and worthy effort. He thinks the City can do better than creating parameters around the poles that ideally the City would not have. There will always be street lights and traffic signal trusses. Traffic signal trusses will not hold these facilities. The comment about the City is already used to having ugly lights why not make them look uglier most accurately represents where he is coming from. He thinks the City can do better in terms of whether there will be creating parameters around designated towers or support structures for the devices so that the City is not adorning the poles that need to be reduced with more expensive equipment.

Roll Call Vote: Motion passed, 4-1, with Commissioner Poythress voting no.

* * *



CITY OF MEDFORD
AGENDA ITEM COMMENTARY
www.ci.medford.or.us

Item No: 60.1

DEPARTMENT: Human Resources
PHONE: 541-774-2010
STAFF CONTACT: Bonnie Barasch, Director

AGENDA SECTION: Consent Calendar
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-107

An ordinance authorizing execution of an agreement between the City of Medford and the International Association of Fire Fighters Local 1431 concerning wages, hours, fringe benefits, and other working conditions from July 1, 2017, through June 30, 2020.

SUMMARY AND BACKGROUND

Council is requested to consider approval of a proposed three year agreement July 1, 2017 - June 30, 2020 provides consistency with Council direction from executive session held April 12, 2018, regarding hours, other working conditions and total compensation with wages and fringe benefits. The agreement was reached via the State required last best offer interest arbitration process. The arbitration hearing was held May 8 & 9, 2018. The award was received on July 18, 2018. The arbitrator selected the City's Amended Last Best Offer.

PREVIOUS COUNCIL ACTIONS

On March 17, 2016 – Ordinance 2016-78 was approved authorizing a one year agreement with International Association of Fire Fighters (IAFF), Local 1431 July 1, 2016 - June 30, 2017.

ANALYSIS

The awarded Amended Last Best Offer provides for:

1. Salary increases: 2.5% effective 7/1/17, 2.5% effective 7/1/2018, and 2.5% effective 7/1/2019.
2. Health insurance: the cap for the City contribution to insurance premium would remain at \$1,550 per month effective July 1, 2017. The cap would then increase to \$1,600 per month effective July 1, 2018, and to \$1,650 per month effective July 1, 2019.
3. Additional amendments were proposed and ratified by the bargaining group. These amendments have minimal financial impact and provide for clarity within the agreement.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The total compensation cost of the proposed action has been estimated by the Finance Department to be approximately \$213,019 for the first year of the agreement, approximately \$263,699 for the second year of the agreement, and approximately \$295,175 for the third year of the agreement.

TIMING ISSUES

The agreement is a result of binding interest arbitration and will be implemented upon ratification by the City Council.

COUNCIL OPTIONS

Approve the ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance authorizing the agreement with International Association of Fire Fighters, Local 1431.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 60.1

SUGGESTED MOTION

I move to approve the ordinance authorizing the agreement with International Association of Fire Fighters, Local 1431.

EXHIBITS

Ordinance

Agreement on file in City Recorder's office.

ORDINANCE NO. 2018-107

AN ORDINANCE authorizing execution of an agreement between the City of Medford and the International Association of Fire Fighters Local 1431 concerning wages, hours, fringe benefits, and other working conditions from July 1, 2017, through June 30, 2020.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of an agreement between the City of Medford and the International Association of Fire Fighters Local 1431 concerning wages, hours, fringe benefits, and other working conditions from July 1, 2017, through June 30, 2020, which agreement is on file in the office of the City Recorder, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018.

Mayor



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.2

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Director

AGENDA SECTION: Consent Calendar
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-108

An ordinance approving Change Order #1 to a contract with Knife River Materials, in the amount of \$120,453.00 to perform additional asphalt pavement repairs on Lawnsdale Avenue and Bullock Road.

SUMMARY AND BACKGROUND

The City Council is requested to consider approval of a contract change order in the amount of \$120,453.00 for Knife River Materials to perform additional asphalt pavement repairs on Lawnsdale Ave. and Bullock Rd. The City contracts for a large portion of pavement maintenance because it is seasonal work that exceeds the capacity of Public Works crews. Knife River Materials is currently under contract to perform asphalt pavement maintenance at various locations in the City of Medford. Lump sum prices are increased to account for the additional costs for items such as traffic control. Items paid by quantity, such as asphalt pavement repairs, are based on the unit prices in the original contract.

PREVIOUS COUNCIL ACTIONS

On April 19, 2018, Council approved Council Bill 2018-35 awarding a contract in the amount of \$858,430.00 to Knife River Materials to perform asphalt pavement overlays on various streets.

On June 15, 2017, the Council approved Council Bill 2017-57 adopting the Biennial Budget 2017-2019 which includes funds for this work on page 8-34.

ANALYSIS

Knife River Materials submitted a quote for the additional work in the amount of \$120,453.00.

Timely repair of streets decreases long-term maintenance costs by postponing the need for more costly reconstructions and produces a smoother ride for the traveling public. This contract change order includes repairs of failed pavement areas.

This work will be on two street sections; Lawnsdale Ave. and Bullock Rd. These two street sections have deteriorated more rapidly than expected since the award of this contract. Performing asphalt 'dig-outs' with this change order will stabilize the pavement until additional work can be scheduled.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Expenditure of \$120,453.00 which is included on page 8-34 of the 2017/2019 Biennium Budget.

TIMING ISSUES

If the contract change order is approved this additional work will be completed between September, 2018 and December, 2018.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify and approve the ordinance.
- Deny the ordinance and provide staff direction.

STAFF RECOMMENDATION

Approve the ordinance for a contract change with Knife River Materials.



**CITY OF MEDFORD
AGENDA ITEM COMMENTARY**

www.ci.medford.or.us

Item No: 60.2

SUGGESTED MOTION

I move to approve the ordinance for a contract change order in the amount of \$120,453.00 to Knife River Materials for asphalt pavement repairs.

EXHIBITS

Ordinance

Contract Change Order #1

Contract documents are on file in the City Records office

ORDINANCE NO. 2018-108

AN ORDINANCE approving Change Order #1 to a contract with Knife River Materials, in the amount of \$120,453.00 to perform additional asphalt pavement repairs on Lawnsdale Avenue and Bullock Road.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That Change Order #1 to a contract with Knife River Materials, in the amount of \$120,453.00 to perform additional asphalt pavement repairs on Lawnsdale Avenue and Bullock Road, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018.

Mayor

CHANGE ORDER

Project: Overlay Various Streets in the City of Medford 2018
 Location: Various Streets
 Contractor: Knife River Materials

Project No.: MST-1903
 Change Order: #1

THE CHANGE IN THE PLANS OR SPECIFICATIONS DESCRIBED BELOW IN SECTION 1 IS NECESSARY DUE TO CONDITIONS UNFORESEEN AT THE TIME THE PLANS AND SPECIFICATIONS WERE PREPARED. THIS CHANGE WILL BE PERFORMED BY THE CONTRACTOR AT THE PRICES SHOWN IN SECTION 2 HEREIN FOR WHICH THE CONTRACTOR WILL ACCEPT PAYMENT FOR THE WORK PERFORMED AND THE MATERIAL FURNISHED IN ACCORDANCE WITH THE INSTRUCTIONS OF THE ENGINEERS. THIS CHANGE ORDER WILL BECOME A PART OF THE CONTRACT DOCUMENTS AND THE PARTIAL AND FINAL ESTIMATES. SECTION 3 SHALL INDICATE THE ADDITIONAL NUMBER OF CALENDAR DAYS NECESSARY FOR THE COMPLETION OF THE CONTRACT BY REASON OF THIS CHANGE ORDER.

Section 1. Description of Work

This change order is written for the following work: all labor, equipment and materials needed to accomplish the items below including mobilizations and traffic control.

This change order is to add additional 4" asphalt pavement repairs on Lawnsdale Ave and Bullock Rd to the contract. The additional contract time will be 15 contract days. Recording of the elapse of Calendar Days for the additional work will begin on the day the Contractor begins On-Site Work as defined in 00110.20. Complete all Work to be done under the change order before the elapse of 15 Calendar Days.

- Increase all Lump Sum items to cover the additional work

Section 2. Estimated Quantities and Agreed Prices

Item	Unit	Quantity	Unit Prices	Amount
Mobilization	LS	1	\$8,500.00	\$8,500.00
Temporary Work Zone Traffic Control, Complete	LS	1	\$7,920.00	\$7,920.00
Erosion Control	LS	1	\$33.00	\$33.00
Additional Asphalt Pavement Repairs on Lawnsdale Ave and Bullock Rd	SQYD	4,000.0	\$25.00	\$100,000.00
Loop Detector Installation Loops	EACH	10	\$250.00	\$2,500.00
Loop Detector Installation Homeruns	FOOT	100	\$15.00	\$1,500.00

Amount of This Change Order: \$120,453.00
 Total Amount Previous Orders: \$0.00
TOTAL AMOUNT OF REVISED CONTRACT: \$978,883.00

Section 3. Extension of Time

Total number of additional working days added to date. 15
 Number of additional working days required for this work. 15
 New contract deadline date. 9/28/2018

Prepared by: [Signature] Date: 8-15-18 Signed: [Signature] CONTRACTOR
 Submitted by: [Signature] Date: 8/20/18 By: Joe Scares
 Recommended by: [Signature] Date: 23 Aug 18 Date: 8/17/18
 Authorized by: _____ Date: _____
CITY MANAGER



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.3

www.ci.medford.or.us

DEPARTMENT: Parks, Recreation, Facilities
PHONE: (541) 774-2483
STAFF CONTACT: Rich Rosenthal, Director

AGENDA SECTION: Consent Calendar
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-109

An ordinance authorizing the purchase of 1.34 acres of land in an amount of \$10,108.14 from the Medford Parks and Recreation Foundation for the expansion of Donahue-Frohnmayr Park.

SUMMARY AND BACKGROUND

City Council is asked to approve an ordinance authorizing the acceptance of 1.34 acres of land known as the Johnson-Fordyce property from the Medford Parks and Recreation Foundation in the amount of \$10,108.14.

PREVIOUS COUNCIL ACTIONS

On April 20, 2017, Council Bill 2017-39 was approved, incorporating the 2016-25 Leisure Services Plan (LSP) into the City's Comprehensive Plan. The LSP specifies the City's desired level of service pertaining to accessibility of parkland, trails, pathways and open space.

On June 1, 2017, Council approved Council Bill 2017-57, adopting the 2017-19 biennial budget and making appropriations thereunder, including carrying forward funds for parkland acquisition in conjunction with service-level goals outlined in the LSP.

ANALYSIS

The Parks, Recreation and Facilities Department is ready to accept a 1.34-acre parcel of land adjacent to Donohue-Frohnmayr Park from the Medford Parks and Recreation Foundation. The land was donated to the Foundation by Debra Johnson and John Fordyce in 2016, and has an appraised value of \$100,000.

During the intervening months, the Foundation corrected an issue with the title report that prevented the City from accepting the property until such time as the parcel was correctly created by deed rather than by subdivision.

The total purchase price to the City of Medford is \$10,108.14, which represents the Foundation's three-percent processing fee based on the appraised value as well as reimbursement of property taxes, title recording fees, Planning Department zoning fees, tax office service fees, and surveyor costs. Funding is available within the Parks Acquisition capital improvement budget adopted for the current biennium.

If approved, the Foundation and City will execute the transfer through a Donation of Land for Public Purpose Deed.

The property expands the 12.6-acre Donahue-Frohnmayr Park, which serves approximately 750 households within a half-mile radius. The transaction helps achieve the City's Leisure Services Plan goal of adding 79 acres of neighborhood parkland by 2026.

The Foundation, an independent 501(c)3 non-profit organization, serves as a pass-through for individuals and businesses wishing to receive tax benefit from charitable contributions to the City. Summerfield (2008) and Village Center (2018) parks were donations accepted by the City utilizing the Foundation.

The subject land area is envisioned to contain a pathway, a dog park and irrigated landscaping based on the Donohue-Frohnmayr master plan approved by the Parks and Recreation Commission in 2016. Park improvements are slated to be a capital improvement project during the 2021-23 biennium.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 60.3

www.ci.medford.or.us

The Parks and Recreation Commission recommends acceptance of the property. The Foundation approved the proposed transfer on March 20, 2018.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Cost of \$10,108.14. Funding budgeted as a Parks Capital Improvement Project (RAA1000), page 5-24 in 2017-19 approved budget document.

TIMING ISSUES

None.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance as presented.
- Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve conveyance of the Johnson-Fordyce property from the Medford Parks and Recreation Foundation in the amount of \$10,108.14.

EXHIBITS

- Ordinance
- Foundation Invoice
- Donation of Land for Public Purpose Deed
- Donohue-Frohnmayr Park Master Plan map
- Property location map

ORDINANCE NO. 2018-109

AN ORDINANCE authorizing the purchase of 1.34 acres of land in an amount of \$10,108.14 from the Medford Parks and Recreation Foundation for the expansion of Donahue-Frohnmayr Park.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That the purchase of 1.34 acres of land in an amount of \$10,108.14 from the Medford Parks and Recreation Foundation for the expansion of Donahue-Frohnmayr Park, which agreement is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018.

Mayor

Invoice

March 19, 2018

Invoice #31819

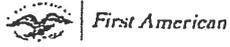
Date	DESCRIPTION	AMOUNT
	Donahue-Frohnmayr Park – Johnson-Fordyce Land Acquisition Lot Map: 371W20BD00800 Acres: 1.34 Situs: McAndrews Rd E Medford	
12/21/2016	Funds for Closing – First American Title Company <i>Exhibit A</i>	\$1,168.00
9/25/2017	Planning Zoning Fees – City of Medford <i>Exhibit B</i>	\$1,810.00
5/15/2017	2016 Jackson County Taxes – Jackson County Tax Office <i>Exhibit C</i>	\$2003.41
11/13/2017	2017 Jackson County Taxes – Jackson County Tax Office <i>Exhibit D & E</i> 1st Qtr Taxes Due 11/15/17 Paid via MPRD through MPRF. Tax refunded back to MPRF 1/23/18 after 501c3 determination. Tax amount returned to MPRD.	(\$975.40)
11/13/2017	2017 Jackson County Payment Service Fee– Jackson County Tax Office <i>Exhibit D</i>	\$77.13
6/5/2017	Survey Services – L.J. Friar & Associates P. C. <i>Exhibit F</i>	\$2,850.00
2/23/2018	Additional Partition Request – First American Title Company <i>Exhibit G</i>	\$175.00
	<i>3% Fiscal Management Contribution based on \$100,000 land value</i>	\$3,000.00
Total:		\$10,108.14

**Make checks payable to “Medford Parks & Recreation Foundation”
Tax ID#20-3488320**

Medford Parks & Recreation Foundation
Attn: Alex Modrell
P.O. Box 124
Medford, OR 97501



Santo Community Center ■ 701 N. Columbus Ave ■ Medford, OR 97501 ■ (541) 774-2409
medfordparksfoundation.org ■ alex.modrell@cityofmedford.org



First American Title Company of Oregon
1225 Crater Lake Ave, Ste 101 Medford, OR 97504

EXHIBIT A

PR: NWEST

Ofc: 7161 (1294)

DATE: 12/21/2016

RECEIPT NO.: 716168466

FILE NO.: 7161-2758362

RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$1,168.00

WERE RECEIVED FROM: Medford Parks and Recreation Foundation Inc.

COPY

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Company Check

REPRESENTING: Funds For Closing

Comments:

Property Location: E. McAndrews Road, Medford, OR 97504

BY: Sheri Blaisdell, 12/21/2016

ESCROW OFFICER: Sheri Blaisdell

"The validity of this receipt, for the deposit referenced,
is subject to clearance by the depository financial institution and credit to our account."

Customer Copy

CITY OF MEDFORD

*** CUSTOMER RECEIPT ***

EXHIBIT B

Batch ID: PLNCTR2

9/25/17 01

Receipt no: 59064

	Type	SvcCd	Description	Amount
2017	120	PZ	PZ-PLANNING/ZONING FEES	\$700.00
Trans number:				1744914
2017	121	PZ	PZ-PLANNING/ZONING FEES	\$1110.00
Trans number:				1744915
MED PARKS & REC				
PO BOX 124				
MEDFORD OR 97501, 774-2400				
E 17-120 th , LDP 17-121				
FORDYCE LAND DONATION				
DW/VIA C. PALADINO				

Tender detail

CK Ref#: 2192 \$1810.00
 Total tendered: \$1810.00
 Total payment: \$1810.00

Trans date: 9/25/17 Time: 8:59:48

MEDFORD PARKS & RECREATION FOUNDATION
 (541) 774-2400
 PO BOX 124
 MEDFORD, OR 97501

2192
95-7477/3232
04

Date 9/19/17

Pay to the Order of CITY OF MEDFORD \$ 1,810.00
ONE THOUSAND EIGHT HUNDRED TEN & 00/100 Dollars

 **ROGUE CREDIT UNION**
 800-856-7328
 www.roguecu.org

For DON - PLANNING EXEMPTION

Joe B. Smith
[Signature]

⑆ 323276775⑆ 879957805⑆ 2192



EXHIBIT C

JACKSON COUNTY TAXATION OFFICE
 P.O. Box 1569
 MEDFORD, OR 97501

REAL PROPERTY STATEMENT OF ACCOUNT
 JULY 1, 2016 TO JUNE 30, 2017
 JACKSON COUNTY TAXATION OFFICE
 P.O. BOX 1569
 MEDFORD, OR 97501
 www.jacksoncounty.org/tax
 Activation Code: 4901 - 1033 - 7615

*PAID
 4/21/17
 Check #
 24458 RP*

1D04726 1 AV 0.37 AUTO 5-DIGIT 97501



MEDFORD PARKS & REC FOUNDATION INC
 701 N COLUMBUS AVE
 MEDFORD OR 97501-2343

5276 Seq
 15 Stmt 1 of 1
 Pg 1 of 1
 1 D 0.52
 1000

TAX ACCOUNT ID: 10337615

PROPERTY DESCRIPTION
 CODE: 4901 MAP: 371W20BD00800
 ACRES: 1.34
 UP#: 10337615
 SITUS: MC ANDREWS RD E MEDFORD

TAX YEAR	ORIGINAL DUE	UNPAID TAX	FEES	INTEREST	BALANCE
2016	2,946.20	1,964.13		39.28	2,003.41
				TOTAL UNPAID	2,003.41
				DUE BY 05/15/2017	2,003.41

PAYMENT QUESTIONS (541) 774-6541

PAYMENT OPTION	Date Due	Amount
Full Payment:	05/15/2017	2,003.41

EXHIBIT D

Thank you for your payment!

This service has been provided by Jackson County, OR and Point & Pay. We value your business. Please keep this receipt for future reference.

You have made a payment to Jackson County, OR , your payment was processed at Payment Center office . Jackson County Thanks You for your payment.

Name: Alexander Modrell
Address: P. O. Box 124, Medford OR, US, 97501
Contact: 5417742409
Comments:

Payment ID: 37518894
Date: 11/13/17 12:07 PM
Subtotal: ██████████
Fee: \$77.13
Total: ██████████
Method: Credit Card(*****0509)

Item Purchased	Transaction Description	Account	Amount
Property Taxes	Jackson Cty PrpTxPmt	11005365	██████████
Property Taxes	Jackson Cty PrpTxPmt	10337615	\$975.40

Signature: _____ **Date:** ____/____/____
By signing this receipt you agree to the terms and conditions of this service.

You will see two line items on your credit or debit card statement. One line will indicate the amount you paid to the Jackson County and will read *Jackson Cty PrpTxPmt* . If you have any questions about either of these charges please call 1-888-891-6064.

[Print Receipt](#) [Close Window](#)

EXHIBIT E

Jackson County Taxation
 10 S Oakdale #111
 Medford OR 97501
 (541) 774-6541

SUMMARY

DATE: 20180116
 CHECK NUMBER: 201801169
 CHECK AMOUNT: 975.40



R393
 000 0000065 00000000 0001 0001 00065 INS: 0 0
 MEDFORD PARKS & REC FOUNDATION INC
 701 N COLUMBUS AVE
 MEDFORD, OR 97501

TAX ID	DESCRIPTION	DETAIL TYPE	SITUS ADDRESS	AMOUNT
10337615	Property Tax Refund	CREDIT BALANCE	None	\$975.40
				\$975.40

FC: R393

R393 v.1.7

ACCOUNT HOLDER TRANSACTION		01/23/18 01:24 PM 21091	1/1	MJD 1116 BR0011	
****371 MEDFORD PARKS & RECREATION		EFF DATE: 01/23/18		V/C#: 11232	
CHECKS RECEIVED:	975.40	CASH RECEIVED:	0.00		
CHECKS RETURNED:	0.00	TOTAL RECEIVED:	975.40		
		CASH RETURNED:	0.00		
		TOTAL RETURNED:	0.00		
ACCOUNT SFX TRAN	AMOUNT	CHECK NO.	FEE/PEN	NEW BAL	
****371-12S DEP	975.40	0	0.00	59,342.74	



Rogue Credit Union
 1370 Center Drive
 Medford, OR 97501

X _____

Authentication: Drivers License/ID Card

Medford OR 97501
 (541) 774-6541

CHECK NO. 1232

DATE OF CHECK
 01/16/18

PAY: NINE HUNDRED SEVENTY FIVE AND 40/100 DOLLARS

CHECK AMOUNT
 \$975.40

TO THE ORDER OF MEDFORD PARKS & REC FOUNDATION INC
 701 N COLUMBUS AVE
 MEDFORD, OR 97501

TAX ID
 10337615

OUT OF ANY MONEY IN THE TREASURY OF JACKSON COUNTY
 BY ORDER OF BOARD OF COUNTY COMMISSIONERS

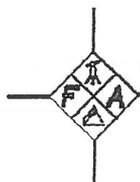


[Signature]
 Authorized Signature

⑈ 201801169⑈ ⑆ 23206024⑆ 00323039⑈

TELEPHONE
541-772-2782

JAMES E. HIBBS, PLS



L.J. FRIAR & ASSOCIATES P.C.

CONSULTING LAND SURVEYORS

P.O. BOX 1947
PHOENIX, OR 97535

EXHIBIT F

FAX
541-772-8465

ljfriar@charter.net

PROPOSAL

TO: Parks Foundation
c/o Carla Angeli
pina78@yahoo.com

L. J. Friar & Associates proposes to furnish the Surveying Services to accomplish the following: Land Partition. (1) Prepare Tentative Partition Plat for submittal to City of Medford. (2) Prepare final partition plat and set required monuments.

(General Description of Work)

At 371W20BD TL800 (McAndrews Road, Medford, Oregon)
(site of work)

for the estimated compensation as follows: (1) \$950.00; (2) \$1900.00

Payment shall be due on or before 10 days after billing. The party prevailing in any litigation arising out of the work, or this proposal, shall be entitled to recover such sum as the court may adjudge reasonable as attorney's fees in the litigation.

Special Conditions: Gov't and/or title company fees are not included in either task.

This proposal is made for acceptance within 30 days only of the date hereof.

Dated this 5th day of June 2017.

Jackson County Official Records **2018-01**
 R-D **06/19/2018 03:34:34**
 Stn=10 SHINGLJS \$15.00 \$10.00 \$8.00 \$11.00 \$60.00
 I, Christine Walker, County Clerk for Jackson County, Oregon,
 that the instrument identified herein was recorded in the clerk
 records. Christine Walker - County Clerk

After recording return to:
 Daniel B. O'Connor
 823 Alder Creek Drive
 Medford, OR 97504

Until a change is requested,
 all tax statements shall be sent
 to the following address:
 City of Medford

DONATION OF LAND FOR PUBLIC PURPOSES DEED

MEDFORD PARKS & RECREATION FOUNDATION, INC., an Oregon public benefit corporation,
 as Grantor, does hereby transfer and convey to the CITY OF MEDFORD, an Oregon municipal
 corporation, a Grantee, all of its interest in the following described property for public park purposes:

**PARCEL 1 AS SHOWN ON THE PARTITION PLAT FILED IN THE OFFICE
 OF THE JACKSON COUNTY, OREGON SURVEYOR AS NO. 22543 AND
 RECORDED AS PARTITION PLAT NO. P-08-2018 OF "RECORD OF
 PARTITION PLATS" IN JACKSON COUNTY, OREGON.**

Subject all encumbrances of record as of the date of this instrument.

This conveyance made without monetary consideration and is intended to be a donation of said real
 property.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON
 TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S
 RIGHTS IN ANY, UNDER ORS 195.300,
 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424,
 OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS
 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS
 INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS
 INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND
 REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE
 PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH
 APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY

Description: Jackson, OR Doc
 Order: 1 Comment:



PARK AMENITIES

- **REDESIGNED ENTRY**
 - SAFER ENTRY AT SPRING STREET
- **COMMUNITY GARDEN**
 - GARDEN PLOTS FOR COMMUNITY USE
- **PARKING**
 - EXISTING PARKING AREA
 - ACCESS AND PARKING FOR COMMUNITY GARDEN
- **RESTROOM**
 - STORAGE CLOSET
 - DRINKING FOUNTAIN
- **PARK PAVILIONS**
 - (5) 16' X 16' WITH PICNIC TABLES
- **PLAYGROUND**
 - CONVENTIONAL PLAYGROUND EQUIPMENT WITH PLAYGROUND SURFACING
 - NATURAL PLAY AREA WITH CLIMBING ROCKS, BALANCE LOGS, LOOSE MATERIALS FOR BUILDING, MOUNDS
- **BASKETBALL COURT**
 - FULL COURT BASKETBALL
- **OFF-LEASH DOG AREA**
 - SMALL AND LARGE DOG FENCED OFF-LEASH AREAS WITH ENTRY GATES, FENCE, WATER STATION & DOG WASTE STATIONS
- **PARK LIGHTING**
 - (DARK SKY) LED POLE FIXTURES
 - LED BOLLARD FIXTURES
- **PATHWAYS**
 - 8' WIDE PATHWAYS
 - SECOND BRIDGE OVER WETLANDS
 - PICNIC TABLES
 - BENCHES
- **PLANTING**
 - ADDITIONAL SHADE TREES
- **NATURAL AREA**
 - WETLANDS ENHANCEMENT PLANTING
 - RIPARIAN INTERPRETIVE AREA
- **SUSTAINABILITY**
 - MAINTAIN EXISTING PATHS WHERE FEASIBLE
 - MAINTAIN EXISTING HEALTHY TREES
 - UTILIZE EXISTING GRADES TO KEEP SITE'S CHARACTER
 - UTILIZE EXISTING DRAINAGE WHERE FEASIBLE
 - MAINTAIN EXISTING IRRIGATION SYSTEM WHERE FEASIBLE
- **WINTERSPRING**
 - ADD ANOTHER MEMORIAL WALL
 - ADD PAVILION WITH GROVE
 - LIGHTING AND SURVEILLANCE CAMERAS



DONAHUE-FROHNMEYER PARK MEDFORD, OREGON

calbraich

MASTER PLAN

JANUARY 2016



Johnson-Fordyce Property

Donahue-Frohnmayer Park



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.4

www.ci.medford.or.us

DEPARTMENT: Parks, Recreation, Facilities
PHONE: (541) 774-2483
STAFF CONTACT: Rich Rosenthal, Director

AGENDA SECTION: Consent Calendar
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-110

An ordinance awarding a contract in an amount of \$182,913.88 to Northwest Playground Equipment Inc. for DuraSafe surfacing for the Olsrud Family Community Playground.

SUMMARY AND BACKGROUND

The Parks, Recreation and Facilities Department requests authorization to award a contract to Northwest Playground Equipment Inc. in the amount of \$182,913.88 for DuraSafe surfacing for the Olsrud Family Community Playground.

PREVIOUS COUNCIL ACTIONS

On June 1, 2017, Council approved Council Bill 2017-57, adopting the 2017-19 biennial budget and making appropriations thereunder, including \$190,000 for playground replacement capital improvements.

On April 5, 2018, Council approved Council Bill 2018-30 designating the playground located in Bear Creek Park as the Olsrud Family Community Playground.

On June 7, 2018, Council approved Council Bill 2018-51 adopting a third supplemental budget for the 2017-19 biennium, including \$250,000 in funding for the Olsrud Family Community Playground project.

ANALYSIS

City Council is asked to approve an \$182,913.88 contract with Northwest Playground Equipment for the acquisition of the DuraSafe-brand rubber surface tiles for the Olsrud Family Community Playground at Bear Creek Park.

The rubber tiles, which were quoted under the League of Oregon Cities pricing agreement available to municipalities, is the preferred surface for the greatest level of playground accessibility and inclusiveness. Sourcing the product through the state-approved public procurement option will save the City \$12,941.12.

MMC 2.595 authorizes the use of State of Oregon and other government agency contract procurements when formal inter-agency agreements exist.

Assembly of the Olsrud playground begins September 29 with a late-October estimated completion date. There is a three-week lead time for product delivery, and the surface tiles are the final element needed for playground assembly.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Cost of \$182,913.88. Project fund sources are the Parks Capital Improvement Project (RZZ1008630), page 5-35 in 2017-19 approved budget document, and Acquisition and Administration (RZZ1001620), page 5-24.

TIMING ISSUES

Council approval on September 6 is requested in order to avoid construction delays.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 60.4

www.ci.medford.or.us

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance as presented.
- Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the contract with Northwest Playground Equipment, Inc., in the amount of \$182,913.88 for the procurement of rubber surface tiles for the Olsrud Family Community Playground.

EXHIBITS

- Ordinance
- Master Price Agreement
- Northwest Playground quote

ORDINANCE NO. 2018-110

AN ORDINANCE awarding a contract in an amount of \$182,913.88 to Northwest Playground Equipment Inc. for DuraSafe surfacing for the Olsrud Family Community Playground.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract in an amount of \$182,913.88 for DuraSafe surfacing for the Olsrud Family Community Playground, which is on file in the City Recorder's office, is hereby awarded to Northwest Playground Equipment Inc.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018.

Mayor

PUBLIC PROCUREMENT AUTHORITY
MASTER PRICE AGREEMENT

This Master Price Agreement is effective as of the date of the last signature below (the “Effective Date”) by and between the PUBLIC PROCUREMENT AUTHORITY, an Oregon public corporation under ORS Chapter 190 (“PPA” or “Purchaser”) and Northwest Playground Equipment, Inc. (“Vendor”).

RECITALS

WHEREAS, the Vendor is in the business of selling certain Park and Playground Equipment, Surfaces and Amenities, as further described herein; and

WHEREAS, the Vendor desires to sell and the Purchaser desires to purchase certain products and related services all upon and subject to the terms and conditions set forth herein; and

WHEREAS, the Vendor was awarded the opportunity to complete a Master Price Agreement with the Public Procurement Authority as a result of its response to Request for Proposal No. 1720 for Park and Playground Equipment, Surfaces and Amenities; and

WHEREAS, Purchaser and Vendor desire to extend the terms of this Master Price Agreement to benefit other qualified government members of National Purchasing Partners, LLC dba FireRescue GPO, dba Law Enforcement GPO and dba NPPGov;

NOW, THEREFORE, Vendor and Purchaser, intending to be legally bound, hereby agree as follows:

ARTICLE 1 – CERTAIN DEFINITIONS

1.1 “Agreement” shall mean this Master Price Agreement, including the main body of this Agreement and Attachments A-F attached hereto and by this reference incorporated herein, including Purchaser’s Request for Proposal No. 1720 (herein “RFP”) and Vendor’s Proposal submitted in response to the RFP (herein “Vendor’s Proposal”) as referenced and incorporated herein as though fully set forth (sometimes referred to collectively as the “Contract Documents”).

1.2 “Applicable Law(s)” shall mean all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations, standards, orders and other governmental requirements of any kind.

1.3 “Employee Taxes” shall mean all taxes, assessments, charges and other amounts whatsoever payable in respect of, and measured by the wages of, the Vendor’s employees (or

subcontractors), as required by the Federal Social Security Act and all amendments thereto and/or any other applicable federal, state or local law.

1.4 “Purchaser’s Destination” shall mean such delivery location(s) or destination(s) as Purchaser may prescribe from time to time.

1.5 “Products and Services” shall mean the products and/or services to be sold by Vendor hereunder as identified and described on Attachment A hereto and incorporated herein, as may be updated from time to time by Vendor to reflect products and/or services offered by Vendor generally to its customers.

1.6 “Purchase Order” shall mean any authorized written order for Products and Services sent by Purchaser to Vendor via mail, courier, overnight delivery service, email, fax and/or other mode of transmission as Purchaser and Vendor may from time to time agree.

1.7 “Unemployment Insurance” shall mean the contribution required of Vendor, as an employer, in respect of, and measured by, the wages of its employees (or subcontractors) as required by any applicable federal, state or local unemployment insurance law or regulation.

1.8 “National Purchasing Partners” or “(NPP)” is a subsidiary of two nonprofit health care systems. The Government Division of NPP, herein after referred to as “NPPGov”, provides group purchasing marketing and administrative support for governmental entities within the membership. NPPGov’s membership includes participating public entities across North America.

1.9 “Lead Contracting Agency” shall mean the Public Procurement Authority, which is the governmental entity that issued the Request for Proposal and awarded this resulting Master Price Agreement.

1.10 “Participating Agencies” shall mean members of National Purchasing Partners for which Vendor has agreed to extend the terms of this Master Price Agreement pursuant to Article 2.5 and Attachment C herein. For purposes of cooperative procurement, “Participating Agency” shall be considered “Purchaser” under the terms of this agreement.

1.11 “Parties” shall mean the Purchaser and Vendor.

ARTICLE 2 – AGREEMENT TO SELL

2.1 Vendor hereby agrees to sell to Purchaser such Products and Services as Purchaser may order from time to time by Purchase Order, all in accordance with and subject to the terms, covenants and conditions of this Agreement. Purchaser agrees to purchase those Products and Services ordered by Purchaser by Purchase Order in accordance with and subject to the terms, covenants and conditions of this Agreement.

2.2 Vendor may add additional products and services to the contract provided that any additions reasonably fall within the intent of the original RFP specifications. Pricing on additions shall be equivalent to the percentage discount for other similar products. Vendor may provide a web-link with current product listings, which may be updated periodically, as allowed by the terms of the resulting Master Price Agreement. Vendor may replace or add product lines to an existing contract if the line is replacing or supplementing products on contract, is equal or superior to the original products offered, is discounted in a similar or to a greater degree, and if the products meet the requirements of the solicitation. No products may be added to avoid competitive procurement requirements. PPA may approve such changes, with appropriate documentation, via electronic mail without the need for written amendment on a case-by-case basis. PPA may reject any additions without cause.

2.3 All Purchase Orders issued by Purchaser to Vendor for Products during the term (as hereinafter defined) of this Agreement are subject to the provisions of this Agreement as though fully set forth in such Purchase Order. The vendor retains authority to negotiate above and beyond the terms of this agreement to meet the customer or vendor contract requirements. In the event that the provisions of this Agreement conflict with any Purchase Order issued by Purchaser to Vendor, the provisions of this Agreement shall govern. No other terms and conditions, including, but not limited to, those contained in Vendor's standard printed terms and conditions, on Vendor's order acknowledgment, invoices or otherwise, shall have any application to or effect upon or be deemed to constitute an amendment to or to be incorporated into this Agreement, any Purchase Order, or any transactions occurring pursuant hereto or thereto, unless this Agreement shall be specifically amended to adopt such other terms and conditions in writing by the parties.

2.4 Notwithstanding any other provision of this Agreement to the contrary, the Lead Contracting Agency shall have no obligation to order or purchase any Products and Services hereunder and the placement of any Purchase Order shall be in the sole discretion of the Participating Agencies. This Agreement is not exclusive. Vendor expressly acknowledges and agrees that Purchaser may purchase at its sole discretion, Products and Services that are identical or similar to the Products and Services described in this Agreement from any third party.

2.5 In case of any conflict or inconsistency between any of the Contract Documents, the documents shall prevail and apply in the following order of priority:

- (i) This Agreement;
- (ii) Vendor's Proposal; and
- (iii) The RFP.

Vendor has provided a list of Exceptions to the RFP Solicitation identified in Vendor's Proposal. Vendor's Exceptions are **approved** and by this reference incorporated herein.

2.6 Extension of contract terms to Participating Agencies:

2.6.1 Vendor agrees to extend the same terms, covenants and conditions available to Purchaser under this Agreement to Participating Agencies, that have executed an Intergovernmental Cooperative Purchasing Agreement (“IGA”) as may be required by each Participating Agency’s local laws and regulations, in accordance with Attachment C. Each Participating Agency will be exclusively responsible for and deal directly with Vendor on matters relating to ordering, delivery, inspection, acceptance, invoicing, and payment for Products and Services in accordance with the terms and conditions of this Agreement as if it were “Purchaser” hereunder. Any disputes between a Participating Agency and Vendor will be resolved directly between them under and in accordance with the laws of the State in which the Participating Agency exists. Pursuant to the IGA, the Lead Contracting Agency shall not incur any liability as a result of the access and utilization of this Agreement by other Participating Agencies.

2.6.2 *This Solicitation meets the public contracting requirements of the Lead Contracting Agency and may not be appropriate under or meet Participating Agencies’ procurement laws. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local and state solicitation requirements.*

2.6.3 Vendor acknowledges execution of a Vendor Administration Fee Agreement with NPPGov, pursuant to the terms of the RFP.

2.7 Oregon Public Agencies are prohibited from use of products and services offered under this contract that are already provided by qualified nonprofit agencies for disabled individuals as listed on the Department of Administrative Service’s Procurement List (“Procurement List”) pursuant to ORS 279.835-.855. See www.OregonRehabilitation.org/qrf for more information. Vendor shall not sell products and services identified on the Procurement List (e.g., reconditioned toner cartridges) to Purchaser or Participating Agencies within the state of Oregon

ARTICLE 3 – TERM AND TERMINATION

3.1 The initial contract term shall be for three (3) calendar years from the effective date of this Agreement (“Initial Term”). Upon termination of the original three (3) year term, this Agreement shall automatically extend for up to three (3) successive one (1) year periods; (each a “Renewal Term”); provided however, that the Lead Contracting Agency and/or the Vendor may opt to decline extension of the MPA by providing notification in writing at least thirty (30) calendar days prior to the annual automatic extension anniversary of the initial term.

3.2 Either Vendor or the Lead Contracting Agency may terminate this Agreement by written notice to the other party if the other party breaches any of its obligations hereunder and fails to remedy the breach within thirty (30) days after receiving written notice of such breach from the non-breaching party.

ARTICLE 4 – PRICING, INVOICES, PAYMENT AND DELIVERY

4.1 Purchaser shall pay Vendor for all Products and Services ordered and delivered in compliance with the terms and conditions of this Agreement at the pricing specified for each such Product and Service on Attachment A, including shipping. Unless Attachment A expressly provides otherwise, the pricing schedule set forth on Attachment A hereto shall remain fixed for the Initial Term of this Agreement; provided that manufacturer pricing is not guaranteed and may be adjusted based on the next manufacturer price increase. Pricing contained in Attachment A shall be extended to all NPPGov, FireRescue GPO and Law Enforcement GPO members upon execution of the IGA.

4.2 Vendor shall submit original invoices to Purchaser in form and substance and format reasonably acceptable to Purchaser. All invoices must reference the Purchaser's Purchase Order number, contain an itemization of amounts for Products and Services purchased during the applicable invoice period and any other information reasonably requested by Purchaser, and must otherwise comply with the provisions of this Agreement. Invoices shall be addressed as directed by Purchaser.

4.3 Unless otherwise specified, Purchaser is responsible for any and all applicable sales taxes. Attachment A or Vendor's Proposal (Attachment D) shall specify any and all other taxes and duties of any kind which Purchaser is required to pay with respect to the sale of Products and Services covered by this Agreement and all charges for packing, packaging and loading.

4.4 Purchaser shall not be responsible for any additional costs or expenses incurred by Vendor in connection with the Products and Services, except those set forth in Attachment A and Attachment F, including, but not limited to, the "Additional Installer Expenses" section in Attachment F.

4.5 Price reductions or discount increases may be offered at any time during the contract term and shall become effective upon notice of acceptance from Purchaser.

4.6 Notwithstanding any other agreement of the parties as to the payment of shipping/delivery costs, and subject to Attachments A, D, and F herein, Vendor shall offer delivery and/or shipping costs prepaid FOB Destination. If there are handling fees, these also shall be included in the pricing.

4.7 Unless otherwise directed by Purchaser for expedited orders, Vendor shall utilize such common carrier for the delivery of Products and Services as Vendor may select; provided, however, that for expedited orders Vendor shall obtain delivery services hereunder at rates and terms not less favorable than those paid by Vendor for its own account or for the account of any other similarly situated customer of Vendor.

4.8 Vendor shall have the risk of loss of or damage to any Products until delivery to Purchaser. Purchaser shall have the risk of loss of or damage to the Products after delivery to

Purchaser. Title to Products shall not transfer until the Products have been delivered to and accepted by Purchaser at Purchaser's Destination.

ARTICLE 5 – INSURANCE

5.1 During the term of this Agreement, Vendor shall maintain at its own cost and expense (and shall cause any subcontractor to maintain) insurance policies providing insurance of the kind and in the amounts generally carried by reasonably prudent manufacturers in the industry, with one or more reputable insurance companies licensed to do business in Oregon and any other state or jurisdiction where Products and Services are sold hereunder. Such certificates of insurance shall be made available to the Lead Contracting Agency upon 48 hours notice. BY SIGNING THE AGREEMENT PAGE THE VENDOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS MASTER PRICE AGREEMENT.

5.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the Lead Contracting Agency. The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Lead Contracting Agency under such policies. Vendor shall be solely responsible for the deductible and/or self-insured retention and the Lead Contracting Agency, at its option, may require Vendor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

5.3 Vendor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Vendor's employees engaged in the performance of the work or services, as well as Employer's Liability insurance. Vendor waives all rights against the Lead Contracting Agency and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Vendor pursuant to this agreement.

5.4 Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty-days (30-days) prior written notice to the Lead Contracting Agency.

ARTICLE 6 – INDEMNIFICATION AND HOLD HARMLESS

6.1 Vendor agrees that it shall indemnify, defend and hold harmless Lead Contracting Agency, its respective officials, directors, employees and agents (collectively, the "Indemnitees"), from and against any and all damages, claims, losses, expenses, costs, obligations and liabilities (including without limitation reasonable attorney's fees), suffered

directly or indirectly by any of the Indemnitees to the extent of, or arising out of, (i) any breach of any covenant, representation or warranty made by Vendor in this Agreement, (ii) any failure by Vendor to perform or fulfill any of its obligations, covenants or agreements set forth in this Agreement, (iii) the negligence or intentional misconduct of Vendor, any subcontractor of Vendor, or any of their respective employees or agents, (iv) any failure of Vendor, its subcontractors, or their respective employees to comply with any Applicable Law, (v) any litigation, proceeding or claim by any third party relating in any way to the obligations of Vendor under this Agreement or Vendor's performance under this Agreement, (vi) any Employee Taxes or Unemployment Insurance, or (vii) any claim alleging that the Products and Services or any part thereof infringe any third party's U.S. patent, copyright, trademark, trade secret or other intellectual property interest. Such obligation to indemnify shall not apply where the damage, claim, loss, expense, cost, obligation or liability is due to the breach of this Agreement by, or negligence or willful misconduct of, Lead Contracting Agency or its officials, directors, employees, agents or contractors. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph. The indemnity obligations of Vendor under this Article shall survive the expiration or termination of this Agreement for two years

6.2 LIMITATION OF LIABILITY: IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR INJURIES TO PERSONS OR TO PROPERTY OR LOSS OF PROFITS OR LOSS OF FUTURE BUSINESS OR REPUTATION, WHETHER BASED ON TORT OR BREACH OF CONTRACT OR OTHER BASIS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.3 The same terms, conditions and pricing of this Agreement may be extended to government members of National Purchasing Partners, LLC. In the event the terms of this Agreement are extended to other government members, each government member (procuring party) shall be solely responsible for the ordering of goods and services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring parties or unrelated purchasing parties harmless from any liability that may arise from action or inaction of the procuring party.

ARTICLE 7 – WARRANTIES

Purchaser shall refer to Vendor's Proposal for all Vendor and manufacturer express warranties, as well as those warranties provided under Attachment B herein.

ARTICLE 8 - INSPECTION AND REJECTION

8.1 Purchaser shall have the right to inspect and test Products at any time prior to shipment. Purchaser must inspect for freight damage at time of delivery. Products not inspected

within 30 days after delivery shall be deemed accepted by Purchaser as stated in Attachment F. The payment for Products shall in no way impair the right of Purchaser to reject nonconforming Products, or to avail itself of any other remedies to which it may be entitled.

8.2 If any of the Products are found to be defective in material or workmanship within 30 days of delivery, as its exclusive remedy, Purchaser may at its option and at Vendor's sole cost and expense, elect either to (i) return any defective Products to Vendor for correction or replacement, or (ii) require Vendor to inspect the Products and remove or replace or defective Products. If Purchaser elects option (ii) in the preceding sentence and Vendor fails promptly to make the necessary inspection, removal and replacement, Purchaser, at its option, may inspect the Products and Vendor shall bear the cost thereof. Payment by Purchaser of any invoice shall not constitute acceptance of the Products covered by such invoice, and acceptance by Purchaser shall not relieve Vendor of its warranties or other obligations under this Agreement. Damaged Products will be replaced per the conditions of Attachment F.

8.3 The provisions of this Article shall survive the expiration or termination of this Agreement.

ARTICLE 9 – SUBSTITUTIONS

Except as otherwise permitted hereunder, Vendor may not make any substitutions of Products, or any portion thereof, of any kind without the prior written consent of Purchaser.

ARTICLE 10 - COMPLIANCE WITH LAWS

10.1 Vendor agrees to comply with all Applicable Laws and at Vendor's expense, secure and maintain in full force during the term of this Agreement, all licenses, permits, approvals, authorizations, registrations and certificates, if any, required by Applicable Laws in connection with the performance of its obligations hereunder. At Purchaser's request, Vendor shall provide to Purchaser copies of any or all such licenses, permits, approvals, authorizations, registrations and certificates.

10.2 Purchaser has taken all required governmental action to authorize its execution of this Agreement and there is no governmental or legal impediment against Purchaser's execution of this Agreement or performance of its obligations hereunder.

ARTICLE 11 – PUBLICITY / CONFIDENTIALITY

11.1 No news releases, public announcements, advertising materials, or confirmation of same, concerning any part of this Agreement or any Purchase Order issued hereunder shall be issued or made without the prior written approval of the Parties. Neither Party shall in any advertising, sales materials or in any other way use any of the names or logos of the other Party without the prior written approval of the other Party.

11.2 Any knowledge or information which Vendor or any of its affiliates shall have disclosed or may hereafter disclose to Purchaser, and which in any way relates to the Products and Services covered by this Agreement shall not, unless otherwise designated by Vendor, be deemed to be confidential or proprietary information, and shall be acquired by Purchaser, free from any restrictions, as part of the consideration for this Agreement.

ARTICLE 12 - RIGHT TO AUDIT

Subject to Vendor's reasonable security and confidentiality procedures, Purchaser, or any third party retained by Purchaser, may at any time upon prior reasonable notice to Vendor, during normal business hours, audit the books, records and accounts of Vendor to the extent that such books, records and accounts pertain to sale of any Products and Services hereunder or otherwise relate to the performance of this Agreement by Vendor. Vendor shall maintain all such books, records and accounts for a period of at least three (3) years after the date of expiration or termination of this Agreement. The Purchaser's right to audit under this Article 12 and Purchaser's rights hereunder shall survive the expiration or termination of this Agreement for a period of three (3) years after the date of such expiration or termination.

ARTICLE 13 - REMEDIES

Except as otherwise provided herein, any right or remedy of Vendor or Purchaser set forth in this Agreement shall not be exclusive, and, in addition thereto, Vendor and Purchaser shall have all rights and remedies under applicable law, including without limitation, equitable relief. The provisions of this Article shall survive the expiration or termination of this Agreement.

ARTICLE 14 - RELATIONSHIP OF PARTIES

Vendor is an independent contractor and is not an agent, servant, employee, legal representative, partner or joint venturer of Purchaser. Nothing herein shall be deemed or construed as creating a joint venture or partnership between Vendor and Purchaser. Neither Party has the power or authority to bind or commit the other.

ARTICLE 15 - NOTICES

All notices required or permitted to be given or made in this Agreement shall be in writing. Such notice(s) shall be deemed to be duly given or made if delivered by hand, by certified or registered mail or by nationally recognized overnight courier to the address specified below:

If to Lead Contracting Agency:
Public Procurement Authority
25030 SW Parkway Ave.
Suite 330
Wilsonville OR 97070

ATTN: Teila Leighton

If to Vendor:
Northwest Playground Equipment, Inc.
PO Box 2410
Issaquah, WA 98249
ATTN: Debbie Buse

Either Party may change its notice address by giving the other Party written notice of such change in the manner specified above.

ARTICLE 16 - FORCE MAJEURE

Except for Purchaser's obligation to pay for products and services delivered, delay in performance or non-performance of any obligation contained herein shall be excused to the extent such failure or non-performance is caused by force majeure. For purposes of this Agreement, "force majeure" shall mean any cause or agency preventing performance of an obligation which is beyond the reasonable control of either Party hereto, including without limitation, fire, flood, sabotage, shipwreck, embargo, strike, explosion, labor trouble, accident, riot, acts of governmental authority (including, without limitation, acts based on laws or regulations now in existence as well as those enacted in the future), acts of nature, and delays or failure in obtaining raw materials, supplies or transportation. A Party affected by force majeure shall promptly provide notice to the other, explaining the nature and expected duration thereof, and shall act diligently to remedy the interruption or delay if it is reasonably capable of being remedied. In the event of a force majeure situation, deliveries or acceptance of deliveries that have been suspended shall not be required to be made upon the resumption of performance.

ARTICLE 17 - WAIVER

No delay or failure by either Party to exercise any right, remedy or power herein shall impair such Party's right to exercise such right, remedy or power or be construed to be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. No waiver hereunder shall be valid unless set forth in writing executed by the waiving Party and then only to the extent expressly set forth in such writing.

ARTICLE 18 - PARTIES BOUND; ASSIGNMENT

This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties hereto, but it may not be assigned in whole or in part by Vendor without prior written notice to Purchaser which shall not be unreasonably withheld or delayed.

ARTICLE 19 - SEVERABILITY

To the extent possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is declared invalid or unenforceable, by judicial determination or otherwise, such provision shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the Parties shall be construed and enforced accordingly.

ARTICLE 20 - INCORPORATION; ENTIRE AGREEMENT

20.1 All the provisions of the Attachments hereto are hereby incorporated herein and made a part of this Agreement. In the event of any apparent conflict between any provision set forth in the main body of this Agreement and any provision set forth in the Attachments, including the RFP and/or Vendor's Proposal, the provisions shall be interpreted, to the extent possible, as if they do not conflict. In the event that such an interpretation is not possible, the provisions set forth in the main body of this Agreement shall control.

20.2 This Agreement (including Attachments and Contract Documents hereto) constitutes the entire agreement of the Parties relating to the subject matter hereof and supersedes any and all prior written and oral agreements or understandings relating to such subject matter.

ARTICLE 21 - HEADINGS

Headings used in this Agreement are for convenience of reference only and shall in no way be used to construe or limit the provisions set forth in this Agreement.

ARTICLE 22 - MODIFICATIONS

This Agreement may be modified or amended only in writing executed by Vendor and the Lead Contracting Agency. The Lead Contracting Agency and each Participating Agency contracting hereunder acknowledge and agree that any agreement entered into in connection with any Purchase Order hereunder shall constitute a modification of this Agreement as between the Vendor and the Participating Agency. Any modification of this Agreement as between Vendor and any Participating Agency shall not be deemed a modification of this Agreement for the benefit of the Lead Contracting Agency or any other Participating Agency.

ARTICLE 23 - GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the state of Oregon or in the case of a Participating Agency's use of this agreement, the laws of the state in which the Participating Agency exists, without regard to its choice of law provisions.

ARTICLE 24 - COUNTERPARTS

This Agreement may be executed in counterparts all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year last written below.

PURCHASER:

Signature: _____

Printed Name: Teila Leighton

Title: Contract Manager
Public Procurement Authority

Dated: 7/3/2018

VENDOR:

Signature: 

Printed Name: Bob McGarvey

Title: President
Northwest Playground Equipment, Inc.

Dated: 7/3/18



Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109
Phone 541.554.2902 FAX (425) 313-9194
Email: james@nwplayground.com

QUOTE

This quote is only valid for 10 days.

To: City of Medford
Re: **Medford Parks & Recreation**
Medford, OR 97501

Quote # jw6818
Date: 6/11/2018

Contact Name: Tim Stevens
Email: Timothy.Stevens@cityofmedford.org

Phone: 541.774.2689
Fax:

Item #	Qty	Description	Price	Total Price
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**SofSurfaces DuraSafe Plus
Rubber Playground Tiles**

DuraSafe	15,795 sq. ft.	DuraSafe Plus Playground Tiles, 4.75" thickness - 9' fall height, Slate Grey, Turf Green & Ocean Blue random pattern colors, including all necessary adhesives - installation prep to be curb contained & asphalt base		\$ 161,764.00
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Equipment Subtotal	\$ 161,764.00
Northwest Playground Equipment Discount: OR Cities 8.00%	\$ (12,941.12)
Freight:	\$ 34,091.00
Equipment Total (less tax)	\$ 182,913.88

CERTIFIED INSTALLATION

Installation is NOT provided but AVAILABLE Upon Request

Bond or Credit Card Fee:	Prevailing Wage Job	Installation Total:	
Location Code:	Performance Bond (If Required):		
	Resale Certificate Required for Tax Exemption:	Tax:	
		ORDER TOTAL:	\$ 182,913.88

All quotes are subject to material and fuel surcharges.

Acceptance of Proposal:

(Please be sure you have read, signed, initialed and understand the Terms and Conditions on Page 2 of this Quote)
The items, prices and conditions listed herein are satisfactory and are hereby accepted.

James Wellington

So OR Consultant

Customer Signature

Date

Thank you for considering Northwest Playground Equipment, Inc. for your Park, Playground, Shelter and Sports Equipment requirements.



Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109
Phone 541.554.2902 FAX (425) 313-9194
Email: james@nwplayground.com

Project Name: Medford Parks & Recreation

Quote # jw6818

TERMS AND CONDITIONS

QUOTE CONDITIONS AND ACCEPTANCE:

This quote is only valid for 10 days.

Orders placed or requested for delivery after 10 days are subject to Steel and Material price increases and Surcharges .
*** (Pls Initial) It is the Buyer's responsibility to verify quantities and description of items quoted.
Once your order has been placed, any changes including additions, deletions or color changes, will delay your shipment.

EXCLUSIONS: Unless specified, this quote specifically **excludes** all of the following:

- Required Permits; Davis Bacon, Certified Payroll or Prevailing Wage fees
- Performance/Payment Bonds
- Site work and landscaping
- Removal of existing equipment
- Unloading; Receiving of inventory or equipment; Storage of equipment
- Equipment assembly and/or installation
- Safety surfacing; Borders or drainage requirements
- Landscaping Repairs DUE to poor access or in climatic weather

FREIGHT AND DELIVERY:

Shipping is FOB Origin. A 24-hr Call Ahead is available at additional cost.
 Delivery is currently 5+ weeks after order submittal. Unless otherwise noted, all equipment is delivered unassembled.
 *** (Pls Initial) **Buyer is responsible to meet and provide a minimum of 2 ADULTS to unload truck**
 A Check List, detailing all items shipped, will be mailed to you and a copy will be included with the shipment.
 Buyer is responsible for ensuring the Sales Order and Item Numbers on all boxes and pieces match the Check List.
 *** (Pls Initial) Shortages or damages must be noted on the driver's delivery receipt. Shortages or damages not noted become the buyers financial responsibility.
 Damaged Freight must be refused. Please notify Northwest Playground Equipment immediately of any damages.
 Shortages and Concealed Damage must be reported to Northwest Playground Equipment within 10 days of delivery.
 A re-consignment fee will be charged for any changes made to delivery address after order has been placed.

TAXES:

All orders delivering in Washington are subject to applicable sales tax unless a tax exemption or Reseller Permit is on file at the time the order is placed.

PAYMENT TERMS: An approved Credit Application is required for new customers. 50% down payment is due at time of order with balance due upon delivery, unless other credit terms have been approved. Interest may be charged on past due balances at an annual rate of 18%. A 3% charge will be added to all credit card orders.

RESTOCKING: Items canceled, returned or refused will be subject to a minimum 25% restocking fee. All return freight charges are the responsibility of the Buyer.

MAINTENANCE/WARRANTY:

Manufacturer's standard product warranties apply and cover equipment replacement and freight costs only; labor is not included.
 Northwest Playground Equipment offers no additional warranties.
 Maintenance of the equipment and safety surfacing is the responsibility of the customer.
 Any unauthorized alterations or modifications to the equipment (including layout) will void your warranty.

INSTALLATION: (if applicable)

A private locate service for underground utilities must be completed before your scheduled installation.
 Site must be level and free of loose debris (this includes ground cover/chips).
 A minimum 6 foot opening with good access must be available to the site for delivery trucks and tractor.
 An onsite dumpster must be provided for disposal of packaging materials.
 Arrangements must be made in advance for the disposal of dirt/rocks from within the installation area.
 Arrangements must be made in advance for the removal/disposal of existing equipment.
 Additional charges may apply if large rocks or concrete are found beneath the surface.
 Access to power and water must be available.
 Site supervision is quoted in 8-hour days.

Acceptance of Terms & Conditions

Acceptance of this proposal, made by an authorized agent of your company, indicates agreement to the above terms and conditions.

James Wellington

So OR Consultant

Customer Signature

Date

Thank you for choosing Northwest Playground Equipment



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.1

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: September 6, 2018

COUNCIL BILL 2018-111

An ordinance amending section 2.457 of the Medford Municipal Code to include the appointment process for members of the Traffic Coordinating Committee effective January 1, 2019.

SUMMARY AND BACKGROUND

Council is requested to consider the proposed ordinance which inserts language regarding appointment of Traffic Coordinating Committee members consistent with the direction received from the City Council at the study session on April 12, 2018. The ordinance adopted by the City Council on July 19, 2018, did not include this language.

PREVIOUS COUNCIL ACTIONS

On April 12, 2018, the City Council held a study session to review changes to the City's boards, commissions and committees.

On July 19, 2018, the City Council approved an ordinance amending MMC 2.457 pertaining to the Traffic Coordinating Committee.

ANALYSIS

The ordinance approved by the City Council struck provisions regarding the appointment of Traffic Coordinating Committee members, but the replacement language presented to the City Council during a study session was not included in the ordinance. This proposed ordinance inserts the language specifying how Traffic Coordinating Committee members are to be appointed. Three organizations will continue to appoint one Traffic Coordinating Committee member each as has been the past practice. The three appointing organizations are:

- a) The Medford/Jackson County Chamber of Commerce
- b) The local branch of the American Automobile Association
- c) School District 549-C.

Two members shall be appointed by the Mayor and City Council.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

COUNCIL OPTIONS

Approve the ordinance as presented.
Modify and approve the ordinance.
Deny the ordinance and provide staff direction.

STAFF RECOMMENDATION

Approve the ordinance.

SUGGESTED MOTION

I move to approve the Medford Municipal Code change establishing the process to appoint Traffic Coordinating Committee members.

EXHIBITS

Ordinance

ORDINANCE NO. 2018-111

AN ORDINANCE amending section 2.457 of the Medford Municipal Code to include the appointment process for members of the Traffic Coordinating Committee effective January 1, 2019.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 2.457 of the Medford Municipal Code is amended to read as follows:

2.457 Traffic Coordinating Committee.

(1) A Traffic Coordinating Committee is hereby established to:

(a) Make recommendations to the Transportation Commission concerning general traffic management policies;

(b) Act as a forum to hear citizen requests with regard to traffic matters; and

(c) Provide recommendations to the Public Works Department and the Police Department.

(2) The Committee shall be composed of five voting members. **Each of the listed organizations shall appoint one member and an alternate:**

(a) **The Medford/Jackson County Chamber of Commerce**

(b) **The local branch of the American Automobile Association**

(c) **School District 549-C**

Two members shall be appointed by the Mayor and City Council.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2018.

Mayor

NOTE: Matter in **bold** is new. Matter ~~struck-out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 100.2

www.ci.medford.or.us

DEPARTMENT: City Manager
PHONE: (541) 774-2000
STAFF CONTACT: Brian Sjothun, City Manager

AGENDA SECTION: City Manager's Report
MEETING DATE: September 6, 2018

SUMMARY AND BACKGROUND

Council is requested to consider for approval the proposed 2018-19 Legislative Policy Statements for the upcoming State Legislative Session.

Annually, the City updates our position on various legislative policy issues which could potentially have an impact on our citizens as well as the ability to accomplish Council and community identified goals. Establishing these policy issues along with setting priorities for specific direct funding support requests allows the Council, staff and contracted lobbyist to work collectively in disseminating our position to those elected to state offices representing the City.

PREVIOUS COUNCIL ACTIONS

The Council has established and appointed members as Oregon Legislative Liaisons on this matter. Tim Jackle and Kevin Stine are the appointed members with Mike Zarosinski and Dick Gordon as alternates. Legislative policy has historically been presented under Council Business or City Manager's Report. Participation by the Mayor and Council has been through the review and comments on the policy statements with a motion to approve for the upcoming year.

ANALYSIS

The City Manager worked in collaboration with the department directors along with Cindy Robert, contracted lobbyist, in developing the attached draft Legislative Policy Statements. This draft contains statements that represent the 2017 approved Council Goals and positions on issues and specific project requests that have been part of past policy statements. Finally, the policy statements follow similar language for various items that are also identified priorities for the League of Oregon Cities (LOC). Aligning with the LOC will provide additional resources when needed for advocacy and collaboration.

Approving the Legislative Policy Statements does not prevent the Council from changing or adding specific positions, issues or projects at a future date. As specific bills are introduced leading up to the 2019 Legislative Session there could be a need for Council to discuss impacts that may not have been identified in these statements.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The complete financial and or resources impacts are unknown at this time. However, staff is requesting Council consideration in making specific funding requests for five projects.

TIMING ISSUES

The City will be hosting a candidate meeting for those running for state offices representing our district on Tuesday, September 18. Staff prefers to present the Legislative Policy Statements as part of this event in order for candidates to understand specific requests and positions by the City of Medford.

COUNCIL OPTIONS

- Approve the 2018-19 Legislative Policy Statements as presented
- Modify the 2018-19 Legislative Policy Statements and approve
- Assign the Council Oregon Legislative Liaisons to modify and present to Council at the October 4 Council meeting for consideration.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY
www.ci.medford.or.us

Item No: 100.2

STAFF RECOMMENDATION

Staff recommends approval of the 2018-19 Legislative Policy Statements.

SUGGESTED MOTION

Based on the discussion and direction provided by Council to staff.

EXHIBITS

Draft 2018-19 Legislative Policy Statements

2018-19 Legislative Policy Statements

Standing Principles: The City of Medford is responsible for addressing the day-to-day public issues and responding directly to the needs of our residents. City elected officials and staff need flexibility to exercise the full range of their local decision-making authority to make appropriate decisions for Medford. Because cities must determine their priorities and set their budgets through a public process that reflects local choices and priorities, Medford opposes legislation that creates unfunded state mandates, increases existing costs or reduces current revenues to local governments, restricts local revenues, or otherwise preempts local government authority. Medford supports revenue reform that provides budget stability for municipalities and better enables cities to meet the service demands of the community.

Positions on Similar Bills: To make the most efficient use of staff, Legislative Committee and Council time, the City Council allows legislative positions and priorities approved by the City Council during the course of the Legislative Session to apply to future bills with substantially similar language and intent during the same Legislative Session.

Economic Development: The ability for Medford to provide municipal services and maintain community viability depends on a healthy local economy. Our community requires economic development tools that assist in maintaining, expanding and diversifying our local economy as well as continue as the regional service provider for the Rogue Valley. These tools must include appropriate state infrastructure financing programs and flexible local options.

- **Job Creation and Incentive Programs:** Oppose cuts to, or elimination of, Business Oregon's economic development programs that create and retain jobs.
- **Enterprise & E-Commerce Zones:** Renew and preserve existing Enterprise Zone and E-Commerce Zone authority in order to maintain the program's effectiveness as a tool for cities to encourage business recruitment and expansion.
- **Urban Renewal:** Preserve urban renewal statutory authority in order to maintain the statewide program as a tool for cities to encourage business recruitment and retention through capital infrastructure investments. Oppose legislation which may hinder municipal appointment and decision making authority in matters related to use of urban renewal.
- **Brownfields Redevelopment Proposal:** Support and participate in developing legislation that encourages assessment, cleanup and re-use or redevelopment of brownfields and other underutilized sites, including incentives for cleaning up and redeveloping brownfield properties.
- **Statewide Infrastructure Funds:** Support capitalization of the Special Public Works Fund and programs to provide municipalities with the incentives necessary to make industrial sites ready for development.

Finance, Revenue and Cost of Service: Medford, just like other cities in Oregon, continue to experience substantial difficulty in maintaining basic services and meeting the service demands of our residents. Medford and the region continue to struggle with providing living wage jobs and affordable housing which has placed an additional burden on resources. Residents desire quality services and deserve to have tax dollars spent efficiently and effectively on services they deem most important. Our elected officials and staff must be allowed to work with our residents to determine revenue sources and service priorities.

- **Property Tax Reform:** Support the League of Oregon Cities' efforts to refer property tax measures that mitigate the tax inequities and negative fiscal impacts created by Measures 5 and 50.
- **State Shared Revenues:** Oppose any effort that violates the historic agreement between the State and local governments regarding shared revenues from liquor, cigarettes, marijuana, and 9-1-1 taxes.
- **Preemption of Local Government Taxing Authority:** Oppose legislation that restricts or pre-empts local decision making and local control over revenues, including urban renewal. Maintain local government authority to adopt revenue raising measures.
- **Modification of the Tax Structure:** Encourage and participate in efforts to evaluate changes to Oregon's current tax structure. Southern Oregon is rarely represented during these discussions. It is imperative that our elected officials and staff be involved in order to protect local interests in our area and in cooperation with other cities.
- **System Development Charges:** Oppose attempts to limit or otherwise dilute the ability of cities to charge system development fees that fund infrastructure improvements for community growth and to mitigate deficiencies created by future growth.
- **Public Contracting Policy:** Oppose legislation that restricts local authority in public contracting policy. Support legislation that preserves the right of local government to select most appropriate service delivery method.
- **Public Records Requests and Responses:** Oppose legislation which creates unreasonable public records request response timelines, caps fees or limits recovery of expenses associated with records requests, increases the City's defensible cost to produce or retain the public record, or expands the definition of public records.
- **Protection of Franchise Fees:** Oppose any effort to limit franchise fees to an unreasonable amount. This is in response to the intent of Senate Bill 840 from the last session.
- **Ensure Future Gas Tax Revenues:** House Bill 2017 provides increased gas tax revenues in 2020, 2022, and 2024, but are contingent upon ODOT accomplishing certain tasks and projects. These increases to local jurisdictions should not be contingent upon performance measures by another agency.

Human Resources: The City of Medford personnel-related expenses account for a substantial portion of municipal expenditures. All cities should be given broad discretion to manage their work forces.

- **Managements Rights and Collective Bargaining:** Oppose legislation that broadens the scope of bargaining unit membership, mandates or guarantees staffing or scheduling levels. Oppose legislation that requires mid-term bargaining to be subject to binding arbitration or increases the scope of binding arbitration. Support efforts to provide cities with broad latitude to provide services and programs in the most efficient and cost effective manner.
- **City Comparability for Compensation:** Support the League of Oregon Cities' desire to seek legislation to ensure that cities are compared only with cities of a similar cost of living when negotiating the strike prohibited bargaining units. These comparisons should also take into account that there are distinct differences between cities and districts.
- **Workers' Compensation:** Oppose legislation that erodes exclusive remedy protections; or increases benefit levels for public employees; or mandates certain illness to be presumptive and narrows self-insured rights of public employers.
- **Liability:** Oppose legislation that erodes Oregon Tort Claims Act, increases employer liability and legal defense costs, or narrows recreational or discretionary immunity.
- **Personnel Administration:** Oppose legislation that creates duplicate regulations currently mandated by federal legislation. Support legislation to streamline and clarify current contradictory legislative mandates.
- **PERS:** Support incremental changes to existing program allowed under the constitutional structure that improve the system moving forward.

Land Use: A core function of cities is planning for management and protection of land use and municipal services within their borders. These fundamental activities are frequently the subject of considerable community interest and are undertaken within an increasingly complex array of state and federal laws governing land use and environmental protection.

- **Receivership Program:** Support legislation that would allow identified non-profits or government agencies to be "first in line" to receive, renovate and provide affordable housing of identified and noticed hazardous properties. Work with legislators and legislative counsel to draft a concept that allows this priority without running afoul of "takings" law. Support legislation that would enable local jurisdictions to acquire tax reverted property prior to sale by the County for the purposes of developing affordable housing.
- **Urban Camping Designation:** Work with other cities to determine ways to assure cities can make decisions as to location and size of temporary housing strategies. Current parcel policy restriction needs to be expanded beyond "yurts" and to allow cities of different sizes to designate plats of different sizes.

- **Annexation Flexibility:** Support the League of Oregon Cities' work to increase the flexibility for cities to annex residential areas in a deliberate manner that meets our long range goals.
- **Historic Preservation:** Oppose measures that limit, dilute, or pre-empt local authority to protect our historic resources. Support legislation that preserves local authority to protect our historic resources. Support programs that provide municipalities with additional incentives to assist with the development and implementation of our Historic Preservation Program.
- **Shelters:** Support legislative rule or building code changes that allow temporary and emergency shelters to exceed current limit on days of operability.

Housing: Like most jurisdictions in the state, Medford is faced with a lack of affordable and low-income housing options. The Council supports legislation that will provide local jurisdictions with additional funding options to increase the availability of housing that is affordable to middle and lower income households.

Public Safety: City officials are best positioned to direct emergency response efforts that reflect community values and standards to ensure public safety within their boundaries. To achieve this, cities need adequate resources, tools and authority.

- **Public Safety Answering Points (PSAP):** Oppose legislation that pre-empts the authority of a municipality to select its own PSAP (9-1-1 center) and forces state-mandated, regional consolidation of existing PSAPs.
- **Interoperability:** Support cost effective solutions that leverage partnerships to achieve interoperability within the public safety communications system.
- **Technology and Equipment:** Support legislation that will enable police agencies to retain data gathered from electronic devices for a sufficient amount of time to investigate and solve crimes. Oppose legislation that eliminates the option for cities to receive equipment from federal agencies that will increase the ability to protect residents. Oppose body camera legislation that creates unreasonable demands on city resources for required data retention and records requests.
- **Mental Health Services:** Support increased resources across the state for persons with mental health issues and those who assist them, particularly in crisis situations.
- **Oregon Resilience Plan:** Support the implementation of an ongoing, long-term resilience plan aimed at reducing risk and improving recovery from a major seismic event.
- **Hazardous Materials Transportation:** Support continuation of requiring enhanced reporting of hazardous materials transportation by rail, and funding for first responder training and equipment to enhance local emergency response capabilities to hazardous materials incidents. Support actions by the State Fire Marshal related to the Petroleum Load Fee. Support other Hazardous Materials related transportation fee to fund regional hazardous materials team efforts.

Right of Way Management: Oppose attempts to pre-empt or dilute city authority to manage the public's right of way (ROW) and to determine and collect just and reasonable compensation on behalf of the public for use of the ROW. Oppose efforts to direct use of compensation or take away the City's right to determine the party responsible for relocation of facilities in the rights of way.

- **Telecommunications:** Support telecommunications policies that protect and enhance local government authority without interfering with competition or creating barriers to private investment in the telecommunications industry.
- **Franchise Fee/Privilege Tax:** Oppose caps to franchise fees charged to telecommunications providers and pre-emption on future taxation of internet.

Environment: City officials place high importance on protecting and enhancing the environment in order to maintain the quality of life for both current and future generations. Preserving our natural resources must be done in concert with providing adequate economic opportunities.

- **Municipal Water Rights:** Support protection and preservation of municipal water rights and drinking water sources, and affirm the needs of growing communities to have sufficient resources to efficiently serve expanding populations
- **Greenhouse Gas Emissions:** Establish ongoing, comprehensive and robust programs, partnerships, and commitments to support the reduction of greenhouse gas emissions in our community. Support the development of a model Climate and Energy Plan.
- **Carbon Reduction Policies:** Support climate change and carbon policies that do not disproportionately and negatively impact Medford businesses.

Specific Project Requests: The City of Medford is requesting consideration of direct funding support for the following priorities.

- **Coordinated Economic Development Strategy:** The City and region is in need of a coordinated strategy which would be led by Southern Oregon Regional Economic Development (SORED). This coordinated effort would identify existing resources while looking at future opportunities to further develop our strategies and would serve both Jackson and Josephine Counties. Requesting \$125,000.
- **Medford Event Center:** The City previously received \$100,000 in funding to determine the feasibility of a conference/convention center. This study resulted in a recommendation to pursue an Event Center that would be utilized for community recreation and tourism events which would also serve as a small conference/tradeshaw center. The City is requesting funding for the design and construction cost estimates for the recommended facility. Requesting \$75,000.
- **Bear Creek Greenway Restoration:** Over the past decade, the City has been eliminating areas along the greenway that contain non-native vegetation.

This removal assists with controlling fire hazards and better serves public safety officials to identify and enforce illegal camping areas. The City is requesting funds that would be used to complete this work along the 7.5 miles of the Bear Creek Greenway which includes land owned and managed by Jackson County and Oregon Department of Transportation. Requesting \$100,000 for restoration work.

- **Vietnam Memorial Wall @ U.S. Cellular Community Park:** Partial funding from the 2017 legislation session was provided to the Southern Oregon Veterans' Benefit (SOVB) group for this memorial. Additional funding is needed to complete the project: Requesting \$100,000 to SOVB.
- **Hawthorne Park – Bear Creek Pedestrian Bridge:** The City wishes to construct a pedestrian bridge over Bear Creek that would link downtown to the neighborhood and shopping areas to the east. This link would allow for safe passage by pedestrians under the Interstate 5 Viaduct and also provide connectivity to the Bear Creek Greenway. Requesting \$900,000.
- **Transportation Projects** – No specific ask
 - Foothill Road/North Phoenix Road/South Stage Road (the Corridor)
 - Transportation System Plan – matching funds for priority projects
 - Infill Sidewalk Priorities