

PLANNING COMMISSION STUDY SESSION AGENDA AUGUST 24, 2020



MEDFORD
OREGON

Commission Members

David Culbertson

Joe Foley

David Jordan

Bill Mansfield

David McFadden

Mark McKechnie

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Planning Commission study sessions are held on the second and fourth Mondays of every month

Study Sessions begin at noon

City of Medford

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PLANNING COMMISSION STUDY SESSION AGENDA



MEDFORD
OREGON

August 24, 2020

Noon

Zoom Virtual Meeting

Virtual Meeting information

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10. Introductions

20. Discussion Item

20.1 DCA-20-127 Pad Lot and Multi-Family Standards

20.2 DCA-20-251 Developer Lots Amendment

20.3 DCA-20-244 Lot Legalization

30. Adjournment



MEMORANDUM

To: Planning Commission
From: Kyle Kearns, AICP, Planner II | Long Range Planning
Date: August 20, 2020 *for 08/24/2020 study session*
Subject: DCA-20-127 – Pad Lot and Multi-Family Development Standards

BACKGROUND

Planning staff has continued drafting development code amendments to implement regulatory changes proposed by the 2017 Housing Advisory Committee, adopted by Council in 2018. Exhibit A proposes implementing the following recommendations:

- #24 Review lot sizes for multi-family residential
- #27 Increase building height in multi-family zone
- #32 Allow pad lot development for multi-family residential

DCA-20-127 had been previously reviewed by the Planning Commission at the July 13, 2020 study session and by the Housing Advisory Commission at the August 12, 2020 meeting. The direction provided by the Planning Commission on July 13 was to limit the building height and coverage increases and the lot area increase in the MFR-30 zone. Staff noted the changes below; staff did not amend the lot coverages proposed as parking, right-of-way and landscaping contribute to restricting lot coverage. In increasing lot coverage, structures could then be built over parking enabling better utilization of the available land.

At their August 12 meeting, the HAC reviewed the proposal (Exhibit A) as it is today. The HAC approved the amendment as proposed.

Direction Sought Today

Does the Commission want to see any additional changes or options brought forward prior to the public hearing? The public hearings are scheduled for September 24 (Planning Commission) and November 5 (City Council). Staff will conduct a live webinar event to solicit feedback from the development community in early September.

PROPOSAL SUMMARIZED

Below is a brief summary of the proposed Medford Land Development Code (MLDC) amendments, Exhibit A:

10.012 Definitions, Specific

Amending condominium reference and defining what a pad/pad lot and parent parcel are. Parent parcel is currently referenced within the MLDC, without a definition in 10.012. Parent parcels contain pads (pad lots), making up a pad lot development (already defined).

Article II Changes, New Section 10.171

Procedural Requirements for the MLDC are contained in Article II. Staff is proposing creating a tentative plat process for a Pad Lot Development, similar to that of a partition (creation of three or less parcels); these changes are found in 10.171. Prior to applying for a tentative plat of a pad lot development, the proposed development would need Site Plan and Architectural Review approval. Attached dwellings, three net acres or less being reviewed administratively, more than that as a Type III, quasi-judicial public hearing.

All other proposed changes in Article II are intended to create consistency with the proposed pad lot standards.

10.702 Lot Area and Dimensions

Housekeeping, no substantive change.

10.703 Pad Lot Development

Amended the pad lot standards (MLDC § 10.703) to include the townhouse, duplex and multi-family dwelling housing types (including mixed-use buildings). Within 10.703, the requirement to obtain Site Plan and Architectural Review approval is outlined. Thus, the proposed standards in 10.703 are focused on location of property lines and what is to be considered private open space. The proposed standards for pads within a pad lot development are as follows:

- Property line within 10 feet of the building wall
- Pads may include eaves, patios, porches and private open space
- Require a minimum of 60 square feet of private open space

The pad lot standards for cottage clusters are to remain the same. Additionally, staff is proposing leaving the requirements for Covenants, Conditions and Restrictions (CC&Rs).

10.714 Multi-Family Dwellings

Items proposed within this section are aimed at enabling smaller lot sizes, with taller and larger building sizes to enable existing densities to be maximized. Proposed changes are only for the zones that allow attached housing types of three or more units, these zones

include the SFR-10, MFR-15, MFR-20 and MFR-30 zones. Standards proposed to change are as follows:

Lot Area (square feet): SFR-10 – 15,000 to 5,400) | MFR-15 –9,000 to 4,000) | MFR-20 – 8,000 to 5,000. The changes for the SFR-10 and MFR-20 zones are comparable with minimum sizes for a duplex in the same zone; the MFR-15 changes allow for lots about 1,500 square feet less than that of duplexes. Staff is not changing the MFR-30 lot area per the direction of Planning Commission.

Maximum coverage: Increase MFR-15, MFR-20, MFR-30 from 50% to 60%, 65% and 70%, respectively. SFR-10 to remain 50%.

Interior Lot Width: Decrease from 80 feet for all zones to 36, 55 and 60 for the SFR-10, MFR-15, and MFR-20 & 30 zones, respectively. These changes are comparable with minimum lot sizes for townhouse or duplex dwellings in Medford.

Minimum Corner Lot Width: Removing, and allowing lot depth to manage this dimension.

Minimum Lot Depth: SFR-10 zone from 120 feet to 100; MFR zones from 100 to 85 feet.

Front Yard Setback: Reduced from 20 feet to 10; still require 20 feet when there is a vehicular entrance.

Street Side Yard Setback: Made consistent for all (10 feet, 20 where vehicle entrance).

Side Yard Setback: Reduced from 10 to 8 in the SFR-10 zone, made 5 feet across all MFR zones (regardless of building height).

Rear Yard Setback: Reduced from 20 to 5 in SFR-10 zone; made 5 feet in all MFR zones, 10 feet if abutting a collector or arterial road.

Maximum Building Height: Maintained 35 feet for height in the SFR-10 zone, per Planning Commission direction. In the MFR-15, the height was increased from 35 to 45 feet; in the MFR-20 and MFR-30 zone the height is proposed at 55 feet, from 35. Additionally, the Planning Commission directed a 35 foot height restriction near other zones that only allow a 35 foot height limit.

DIRECTION SOUGHT

Does the Commission want to see any additional changes or options brought forward prior to the public hearing? The public hearings are scheduled for September 24 (Planning Commission) and November 5 (City Council).

EXHIBITS

A Proposed Text DCA-20-127

ARTICLE I - GENERAL PROVISIONS

* * *

10.012 Definitions, Specific.

When used in this chapter, the following terms shall have the meanings as herein ascribed:

* * *

Condominium. A type of ownership of units, and common ownership of open space and other facilities, and which is regulated by ORS 100.

Condominium unit. A part of the ~~property~~ condominium consisting of a building or one or more rooms occupying one or more floors of a building or a part or parts thereof, intended for any type of independent ownership, the boundaries of which are described pursuant to ORS ~~94.029(1,e)~~ 100 and with direct exit to a public street or to a common area or areas leading to a public street.

* * *

Pad Lot Development. A type of land division that ~~provides-creates tax~~ lots within and/or adjacent to a common area where the lot-lines of ~~such tax pad~~ -lots are located near and/or adjacent to common or exterior building walls, shared or private open spaces, patios, porches yards, eaves and other building projections.

Pad/pad lot. An individual parcel (i.e. lot) created from a pad lot development, not the parent parcel. Pad lots are not considered condominium’s per ORS Chapter 100.

∴

Parent Parcel. The lot or parcel from which individual condominiums, cottages or pad lots share common space or ownership with.

* * *

ARTICLE II - PROCEDURAL REQUIREMENTS

* * *

| 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)? |
| * | * | * | * | * |
| <u>Tentative Plat, Pad Lot Development</u> | <u>II</u> | <u>10.XXX</u> | <u>Planning Director</u> | <u>Yes</u> |
| Tentative Plat, Partition | II | 10.170 | Planning Director | Yes |
| Tentative Plat, Subdivision | III | 10.202 | Planning Commission | Yes |

* * *

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, Pad Lot Development, Partition, ~~&~~ Subdivision

Major Modifications to Site Plan and Architectural Review

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

Site Plan and Architectural Review (SPAR) – Type II

Sign Permit

Tentative Plat, Pad Lot Development

Tentative Plat, Partition

Wireless Communication Facilities in Public Right-of-Way

* * *

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, Pad Lot Development, 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

* * *

10.162 Pad Lot Development, Subdivision and Partition Final Plats.

(A) Final Plat Approval Required.

No person shall cause or permit the sale or development of any real property under their ownership or control, nor shall any development permit be issued for such development, until final approval therefor has been granted by the Planning Director in accordance with this chapter, and an approved final plat has been recorded with the Jackson County Recorder. The requirements of this section shall not be applicable to any of the following which are exempt from such provisions:

- (1) Where final plat approval for the identical lot or site has been previously obtained from the City within 10 years prior to the date of application for a building permit, in accord with such ordinance requiring plat approval which was in effect at that time, and such final plat is of record evidencing such plat approval;
- (2) Developments made solely for the purpose of opening or widening a public street or alley, or those involving conveyance, transfer, access, sewer, water, or public utility, provided that no partitions or parcels of land are created other than those directly caused by such action.
- (3) Developments made solely because of the acquisition of lands by government agencies for freeways, parks, public buildings, flood control channels, or other public purposes, or for the sale of minor remnant parcels by such agencies to adjacent property owners where such land involved in the sale is not designated in the City's Comprehensive Plan as a recreational facility. In connection with the sale of any such minor remnant parcel, the person acquiring the property shall consolidate the acquired remnant parcel with his existing contiguous ownership;
- (4) Developments involving land dedicated for cemetery purposes; or
- (5) Developments caused by a conveyance for the purpose of adding land to one parcel by deducting it from another contiguous parcel, where such does not reduce the area of the parcel from which such portion is taken below the minimum area, frontage, width or depth prescribed for the zoning district in which said parcel is located, nor reduce any of the required yard spaces surrounding any structure or use on such parcel below the minimum prescribed for such zoning district.

(B) Final Plats, General.

The form and content of a final plat shall be in accord with the provisions of ORS 92.050 through 92.080, and this code. Final plats not submitted in accord with this code shall not be considered for approval.

(C) Form of Final Plat and Data to Appear Thereon.

Where identified by an "X" in table 10.162-1, the final plat of subdivisions, pad lot developments and partitions shall conform to the following provisions:

| Final Plat Form and Data – Table 10.162-1 | | |
|--|---|---------------------------------------|
| Final Plat Provisions | Include on <u>Pad Lot Development & Subdivision Final Plat</u> | Include on Partition Final Plat |
| * * * | | |

10.168 Type II Land Use Actions.

(A) Type II actions comprise the following land use reviews:

Land Use Actions

Partition, Tentative Plat

Pad Lot Development, Tentative Plat

Portable Storage Containers

Major Modifications to a Site Plan and Architectural Review

Site Plan and Architectural Review (SPAR)

* * *

10.171 Pad Lot Development, Tentative Plat

(A) Application

The land division associate with a pad lot development is a Type II administrative decision with notice and the Planning Director is the approving authority; cottage cluster developments shall be reviewed as a Type III quasi-judicial decision as identified in Section 10.818A. Final plat for pad lot development is a Type I ministerial action which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.

(B) Application for Pad Lot Development Tentative Plat. See Section 10.202(B).

(C) Form of Tentative Plat and Accompanying Data. See Section 10.202(C).

(D) Pad Lot Development Tentative Plat Approval Criteria.

The Planning Director shall not approve any tentative plat for a pad lot development unless they can determine that the proposed land division, together with the provisions for its design and improvement meet the following:

(1) Is consistent with the standards as outlined in Section 10.703 and as required in the underlying zoning district.

(2) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;

(3) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

(4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the approving authority determines it is in the public interest to modify the street pattern;

(5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

(6) Will not cause an unmitigated land use conflict between the land partition and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

(E) Expiration of Pad Lot Development Tentative Plat Approval.

Approval of a tentative pad lot development plat application shall take effect on the date the Planning Director's decision is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.162. If a request for an extension of a tentative pad lot development plat application approval is filed with the Planning Department within two years from the date of the Planning Director's decision, an extension not to exceed one additional year shall be granted. Extensions shall be based on findings that the facts upon which the tentative pad lot development plat application was first approved have not changed to an extent sufficient to warrant refiling of the application.

* * *

10.202 Subdivision Tentative Plat.

(A) Application.

The subdividing of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a tentative plat is a Type II or Type III procedure, with the Planning Director or Planning Commission, respectively, being the approving authority; Type II tentative plats shall include Partitions and Pad Lot Developments and Type III tentative plats shall include Subdivisions. Final plat approval is a Type I ministerial procedure which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section

* * *

ARTICLE V – SITE DEVELOPMENT STANDARDS

10.702 Lot Area and Dimensions.

Each lot shall have an area, width, frontage, and depth consistent with that prescribed in this Article for the housing type, or commercial or industrial district in which the development, or the portion thereof, is situated, except in the following situations:

(1) Within a planned unit development, a condominium project, as defined by ORS 100.005, or a pad lot development, as defined herein, the approving authority ~~(Planning Commission)~~ may permit ~~tax~~ lots and common areas to be of an area, width, frontage, or depth different from such prescribed minimum or maximum lot area or dimensions of the underlying zone.

(2) For a condominium project, as defined by ORS 100.005, the minimum lot area and dimensions shall apply to the parent parcel only.

(3) A new residential lot may exceed the maximum lot area only under the following circumstances:

(a) When an existing residence and associated yard area, containing improvements and established landscaping, occupy a larger area; or,

(b) When a portion of the lot is unbuildable for a reason beyond the control of the developer (i.e., due to creeks, oversized easements, etc.), the additional acreage, or fraction thereof, may not exceed the amount of unbuildable area.

* * *

10.703 Pad Lot Development.

~~(A) Purpose.~~ It is the purpose of this Section to provide a process for the creation of lots within a common area ~~for non-residential uses and for certain residential uses~~ as specified below. This Section is not intended to provide relief from the strict standards elsewhere established in this Code.

~~(B) Development Standards.~~

Pad lot developments shall contain a parent parcel from which pad lots and common area are platted.

~~(1)~~ A residential pad lot development shall ~~only~~ be permitted for the following development types:

(a) Commercial and Industrial development, including mixed-use buildings, pursuant to Section 10.721

(b) Duplex Dwellings pursuant to Section 10.713

(c) Multi-family Dwellings pursuant to Section 10.714.

(d) Cottage Cluster Development pursuant to Section 10.818A.

(2) **For non-residential uses, duplex dwellings, multi-family dwellings and mixed-use**

buildings

- (a) all lot-lines created within the ~~common areaparent parcel~~ shall be located along a common or exterior building wall, or within ~~four (4)~~ **ten (10)** feet of an exterior building wall. ~~unless T~~the approving authority (~~Planning Commission~~) ~~allowsshall allow~~ a greater distance for special purposes due to development constraints related to environmental resources or existing structures.
- (b) Pads, at a minimum, shall include building walls and as applicable eaves, patios, porches, and any private open space associated with the commercial or dwelling unit.
- (c) Each pad shall contain a minimum of 60 square feet of private open space, excluding the area within the roof eaves in this standard.

(3) For Cottage Cluster Developments where the cottage units will be owned in fee simple, all pad lots created within the ~~common areaparent parcel~~ shall include the building footprint, roof eaves, and any required private open space area.

~~-(C) Common Ownership Required~~

~~(4) All pad lot developments shall obtain Site Plan and Architectural Review approval prior to the tentative plat application being accepted for review by the Planning Commission.~~

~~(5)~~ A pad lot development shall be identified as such on both the tentative and final plats, and on the site plan submitted for the project. At the time of recording of the final plat, Covenants, Conditions, and Restrictions (CC&Rs) shall be approved by the City and recorded. The recorded CC&Rs shall provide:

- (a) That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the development, such as common portions of buildings, parking areas, access, landscaping, etc., and share ~~equitable~~equitably in the cost of such upkeep.
- (b) An association for the purpose of governing the operation of the common interests.
- (c) Maintenance access easements on individual lots where necessary for the purpose of property maintenance and repair.
- (d) The specific rights of, or limitations on, individual lot owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the association.

(2) Ownership shall include fee simple lots (i.e. pad lot) with an association holding common areas.

(D) Land Use Review

(1) All pad lot developments shall obtain Site Plan and Architectural Review Approval prior to applying for the tentative plat.

(2) Tentative plat application shall be in accordance with Section 10.171

(E) Planned Unit Developments (PUD). Pad lot developments considered as a part of a PUD (see sections 10.190-10.198) shall not be subject to the standards of 10.703(D).

* * *

10.714 **Multiple-Family Dwellings.**

The following standards apply to the development of multiple-family dwellings within the various residential districts. See Article III, Sections 10.308 through 10.312 for detailed descriptions of each residential zoning district and density factors, and Section 10.314 for conditional, special, and permitted uses.

| MULTIPLE-FAMILY DWELLINGS Three or more attached dwelling units. | | | | |
|--|--|--|--|--|
| Development Standards | SFR-10 | MFR-15 | MFR-20 | MFR-30 |
| Special Standards | See sections 10.715A – 10.719 for Multiple-Family Dwelling Special Development Standards | | | |
| Minimum and Maximum Density Factor Range (See 10.708) | 6.0 to 10.0 dwelling units per gross acre | 10.0 to 15.0 dwelling units per gross acre | 15.0 to 20.0 dwelling units per gross acre | 20.0 to 30.0 dwelling units per gross acre |
| Minimum Lot Area (Square Feet) | 5,400 15,000 | 9 4,000 | 5,000 | 8,000 |
| Maximum Coverage Factor (See 10.707) | 50% | 60 % | 65 % | 50 70% |
| Minimum Interior Lot Width | 80-36 Feet | 55 feet | 60 feet | |
| Minimum Corner Lot Width | 90 feet | | | |
| Minimum Lot Depth | 120-90 feet | 100 85 feet | | |
| Minimum Lot Frontage | 30 feet | | | |
| Minimum Front Yard Setback | 20 10 feet EXCEPT 15-20 feet IF vehicular access to the garage is parallel to the street | | | |
| Minimum Street Side Yard Setback | 15 feet EXCEPT 20 feet for vehicular entrances to garages or carports 10 feet EXCEPT 20 feet for vehicular entrances to garages or carports | | | |
| Minimum Side Yard Setback | 10-8 feet | 4 5 feet PLUS 1/2 foot for each foot in building height over 15 feet | | |

| MULTIPLE-FAMILY DWELLINGS Three or more attached dwelling units. | | | | |
|--|--|---|--------------------|--------|
| Development Standards | SFR-10 | MFR-15 | MFR-20 | MFR-30 |
| Minimum Rear Yard Setback | 20 <u>5</u> feet | 4 <u>5</u> feet PLUS 1/2 foot for each foot in building height over 15 feet ; EXCEPT 10 feet IF the rear property line abuts a collector or arterial street | | |
| Maximum Height (See 10.705) | 35 feet | 45 feet | 55 feet | |
| <u>Maximum Height Standard</u> | <p><u>EXCEPT 35 feet for the portions of a structure within 150 feet of the following residential zoning districts – SFR-00, SFR-2, SFR-4, SFR-6 and SFR-10 zone.</u></p> <p><u>When proposed development is adjacent to a lot with the SFR-00 zoning and the overlying General Land Use Plan designation of the lot is Commercial (CM), Service Commercial (SC), General Industrial (GI), Heavy Industrial (HI), Urban Medium Density Residential (UM) or Urban High Density Residential (UH) the above building height restrictions shall not apply.</u></p> | | | |

* * *



MEMORANDUM

To: Planning Commission
From: Sarah Sousa, Planner III, Long Range Division
Date: August 20, 2020 *for 08/24/2020 study session*
Subject: Developer Lots Amendment (DCA-20-251)

Background

In response to the COVID-19 pandemic, the Planning Department has been tasked with moving forward with amendments to the Land Development Code that will help promote efficiency and economic recovery to the development community. One amendment that could aid in this effort is to create developer lots. Developer lots are large lots created for the purpose of dividing land over an approved subdivision with lot lines matching the phase lines of the underlying subdivision.

The difficulty in trying to subdivide large tracts of land with underlying subdivision approvals is that there is no relief from existing site development standards such as lot area and street frontage requirements. An Exception approval is generally required in order to accomplish the division of land. Adding Code language that allows for these types of large lots provides for a straightforward land division process without the need for an Exception request.

Proposal

The proposed amendment adds language to Chapter 10 of the Medford Municipal Code to define and regulate developer lots as well as providing descriptions of reserve acreage to distinguish them separately. Below is a summary of the proposed changes.

10.012 Definitions, Specific

Developer Lots. Large lots created for the purpose of dividing land over an approved subdivision, with lots lines matching the phase lines of the underlying subdivision.

Reserve acreage. Remove existing definition: That portion of the lot which is not intended to be part of the development and can be separately developed at a later time.

Replace with new definition: The portion of a project that has no planned development from the rest of the land being developed through a land division but is intended for future development.

10.704 Lot Types

This section has been amended to add a description of developer lots and allows them to be exempt from lot area and dimensions, lot frontage, and density. It also requires them 1) to match phase lines of the underlying subdivision, 2) to have right-of-way reservations for future streets consistent with the underlying subdivision, and 3) to record a deed restriction at the time of final plat preventing development until the time the underlying subdivision lots are platted.

Reserve acreage is also described in this section to explain how this land is designated at the time of a land partition. It is distinguished from developer lots in that reserve acreage has no underlying development approval. It is strictly land that is separated from the remainder of an approved land division and is intended for future development. Reserve acreage is exempt from lot area and dimensions as well as lot frontage and density. A deed restriction is also required at the time of final plat for reserve acreage.

10.708 Residential Density

This section has been amended with the new definition of reserve acreage.

ANALYSIS

This amendment would help to codify a type of land division that the Commission has reviewed and approved multiple times previously. The Cedar Landing project as well as the Delta Estates are two examples where the Commission approved the land division of the phases of an underlying subdivision. The Code amendment would add exemption language in order to prevent the need for a separate Exception request. It also adds requirements that prevent development to occur without meeting density and other standards and ensures street access through right-of-way reservations.

Land divisions that create developer lots allows the owner the opportunity to sell off land per phase, making it more economically feasible to move forward with a project.

It is also helpful for business and estate planning purposes to divide land into phases. This amendment provides a straightforward process of accomplishing those objectives.

FEEDBACK

Staff is seeking the Commission's feedback on the drafted proposal prior to moving forward with a Development Code Amendment.

ATTACHMENT

-Draft Code Language

DEVELOPER LOTS AMENDMENT (DCA-20-251)

(Blue lettering = proposed addition / Red strikeout = words to be removed)

ARTICLE I - GENERAL PROVISIONS

10.012 Definitions, Specific.

When used in this chapter, the following terms shall have the meanings as herein ascribed:

* * *

Developer Lots. Large lots created for the purpose of dividing land over an approved subdivision, with lots lines matching the phase lines of the underlying subdivision.

* * *

Reserve acreage. ~~That portion of the lot which is not intended to be part of the development and can be separately developed at a later time.~~ The portion of a project that has no planned development from the rest of the land being developed through a land division but is intended for future development.

ARTICLE V – SITE DEVELOPMENT STANDARDS

10.704 Lot Types.

* * *

(C) Developer Lots. Large lots created for the purpose of dividing land over an approved subdivision. New lots created as developer lots must match the phase lines of the underlying subdivision development. Due to the larger size allowance, the following standards do not apply: lot area and dimensions, lot frontage, and density.

The following standards are required for developer lots prior to final plat approval.

(1) Right-of-way reservations shall be required for future streets to ensure access and frontage for the new lots and to provide access for other phases of development. Such reservations must match the streets of the final development plan of the underlying subdivision and may be extinguished when the right-of-way is dedicated as part of the final plat of the underlying subdivision.

(2) Deed restrictions shall be recorded for each new developer lot being created which restricts all new development, including a single family home, from being built until the underlying lots in that particular phase are platted. The deed restriction shall also state that

the addition of utilities, such as water and sewer service, shall not be allowed except for existing development or for the underlying subdivision lots within the named subdivision.

(D) Reserve Acreage. Reserve acreage is created for the purpose of separating the portion of a project that has no planned development from the rest of the land being developed through a land division. Reserve acreage is intended for future development. Due to the larger lot size allowance, the following standards do not apply: lot area and dimensions, lot frontage, and density. If the reserve acreage area contains an existing legally permitted single family home, there shall be no restriction on improving or expanding the home and the addition of an accessory dwelling unit.

The following is required for reserve acreage lots prior to final plat approval.

- (1) A deed restriction must be recorded on the reserve acreage property stating no new residential development may occur, including a single family home, until the time of future land use approvals which meet the minimum density requirements.

10.708 Residential Density.

The minimum and maximum number of dwelling units permitted shall be determined by multiplying the project's gross acreage, less non-development areas (NDAs), by the zoning district minimum and maximum density factor, consistent with A, B, and C below.

A. Definitions.

When used in this Chapter in reference to the residential density calculations, the following terms shall have the meaning as herein assigned:

- (1) Dwelling Unit (DU). The number of dwelling units permitted. Minimum and Maximum density is rounded to the nearest whole number (up for numbers 0.5 and greater, and down for numbers less than 0.5).
- (2) Gross Area (GA). The total area of all lots within a project's boundaries. If the project is adjacent to an existing public street, the boundaries of the project shall be extended to the centerline of the right-of-way, and that area within the right-of-way included in the gross area, as illustrated in Section 10.012.
- (3) Non-Development Areas (NDAs). Those areas that may be removed from the density calculation, at the discretion of the developer.
 - (a) Reserve acreage. ~~That portion of the project site which is not intended to be part of the development and can be separately developed at a later time.~~ The portion of a project that has no planned development from the rest of the land being developed through a land division but is intended for future development as per Section 10.704(D).
 - (b) Natural Unbuildable Areas. Those natural areas unsuitable for building [e.g., wetlands, slopes over 30 percent, and creeks (from top-of-bank to top-of-bank)]. Does not include man-made non-buildable areas such as setbacks.
 - (c) Oversize Residential Lots. Lots with an existing house and yard, that exceed the maximum lot area as allowed in Section 10.702(3)(a).



MEMORANDUM

To: Planning Commission
From: Carla Angeli Paladino, Principal Planner & Liz Conner, Planner II
Date: August 19, 2020 *for August 24, 2020 study session*
Subject: Code Amendment – Lot Legality (DCA-20-244)

DIRECTION

Staff is seeking direction and feedback from the Planning Commission on the draft language related to establishing a process for validating a unit of land unlawfully created.

BACKGROUND

The proposed amendment has been discussed on and off in the Planning office for several years in consultation with the City Surveyor's office. This amendment, is one of four, planning staff is bringing forward in an effort to assist the development community and improve the planning process in response to the impacts of the COVID-19 emergency. The goal is to have the amendments adopted by October/November 2020.

This proposal seeks to create a land use process supported by state statute to validate a unit of land unlawfully created through mechanisms such as a deed or land sale contract, separate tax account, or gift. The current code provides zero guidance or process as to how a property owner validates a unit of land identified as being unlawfully created. In the past, staff has relied on Oregon Revised Statute Chapter 92 and the partition process to assist with correcting these situations.

Incorporating specific code language and an outlined process provides better direction to staff and the property owner when improperly created parcels are identified and need to be corrected.

PROPOSED CODE

Section 10.171 (Validation of a Unit of Land) is proposed as a new section in the Land Development Code and is separated into seven categories:

- **Purpose** – explains why this section is being created
- **Procedure** – establishes this new land use action as a Type II Director’s Decision
- **Review Criteria** – outlines the applicable criteria by which the proposal can be approved
- **Unlawfully Created Units of Land with Existing Structures** – includes provisions for validating parcels in situations where a building permit was issued for a dwelling or other building on the land after the sale of the property
- **Expiration and Recording** – follows state law for the timeframe (90 days) by which a validated parcel must be recorded
- **Effect of Validation** – indicates that the newly validated parcel must comply with development or improvement standards when an application is submitted to develop the property
- **Application Form** – lists the applicable submittal items needed to be turned in by the property owner or agent

NEXT STEPS

Staff will be meeting with the City Surveyor and Legal staff in early September to discuss the proposal in further detail and make refinements to the text. Staff recognizes this is an initial draft that will need to be updated.

The proposed hearing schedule is:

Planning Commission Recommendation – October 22, 2020

City Council – November 19, 2020

ATTACHMENTS

- Draft Code Language

CODE AMENDMENT
DRAFT

New Text is bold and underlined

10.033 Continuation of Nonconforming Development.

* * *

(6) A lot of record, or a parcel of land for which a deed or other instrument dividing the land was recorded with Jackson County prior to May 5, 1980, which has an area or dimension less than required by this code, shall be considered legal nonconforming and may be developed and occupied by a permitted use subject to compliance with the minimum standards of this code.

* * *

10.034 Criteria for Nonconformity Expansion or Change.

A nonconforming structure or use described in Section 10.032, Nonconformities, may be expanded or changed to serve another use, as per Section 10.033, Continuation of Nonconforming Development. The expansion or change shall be found to comply with the following criteria:

(1) The lot or parcel of record was legally created, is a legal, nonconforming lot or parcel as described in Section 10.033(6), **or was legally established in accordance with the provisions of Section 10.171, Validation of a Unit of Land.**

* * *

10.168 Type II Land Use Actions.

(A) Type II actions comprise the following land use reviews:

Land Use Actions
Partition, Tentative Plat
Validation of a Unit of Land
Portable Storage Containers

* * *

10.171 Validation of a Unit of Land.

(A) Purpose. The purpose of this section is to establish a process pursuant to ORS 92.176 by which a unit of land that was unlawfully created may be lawfully validated. This section shall only be used to validate units of land that were unlawfully created prior to January 1, 2007. For purposes of this section, a unit of land is unlawfully created if:

- (1) It was created through a deed or land sale contract that did not comply with the criteria applicable to the creation of the lot at the time of sale or transfer; and**
(2) It was created solely to establish a separate tax account, created by gift, or created through any other method that is not considered a sale.

(B) Procedure. The approval of a validation of a unit of land request is a Type II administrative decision with notice, and the Planning Director is the approving authority.

(C) Review Criteria. The Planning Director shall approve an application to validate a unit of land if all of the following criteria are met:

- (1) The unit of land was created through sale by deed or land sales contract executed and recorded before January 1, 2007; and**
- (2) The unit of land could have complied with applicable criteria for the creation of the lot that were in effect when the unit of land was sold; and**
- (3) A tentative plat prepared in accordance with Section 10.170, Partition Tentative Plan or Section 10.202(C), Subdivision Tentative Plan, and the applicable provisions of ORS Chapter 92.**

(D) Unlawfully Created Units of Land with Existing Structures.

Notwithstanding Section 10.171(C)(3), the Planning Director may approve an application to validate a unit of land that was unlawfully created prior to January 1, 2007, if approval was issued for a permit to allow the construction or placement of a dwelling or other building on the unit of land after the sale. [See ORS 92.176(2).]

(E) Expiration and Recording.

- (1) Approval to validate a unit of land shall take effect on the date the Planning Director's decision is signed and shall be recorded within 90 days after the date the city validates the unit of land.**
- (2) One copy of the recorded plat (either in paper or electronic format) shall be provided to the Planning Department within 10 days following recordation.**

(F) Effect of Validation of a Unit of Land.

The unit of land validated pursuant to this section must comply with all applicable development standards in effect at the time a complete application for development or improvement of the unit of land is submitted. [See ORS 92.176(7).]

(G) Application Form.

An application for Validation of a Unit of Land shall contain the following:

- (1) The recorded deed or land sales contract that created the unit of land;**
- (2) For a unit of land unlawfully created within the City, a copy of the land division and zoning regulations applicable to the property at the time the unit of land was created;**
- (3) For a unit of land unlawfully created outside the City, a written statement from Jackson County identifying the zoning of the property at the time the unit of land was created and either:**
 - (A) A written statement from the County confirming the unit of land could have complied with the applicable criteria for creation of the unit of land in effect when it was created; or**

- (B) A copy of the land division and zoning regulations applicable to the property at the time the unit of land was created; and**
- (4) A tentative plat prepared in accordance with Section 10.170, Partition Tentative Plan or Section 10.202(C), Subdivision Tentative Plan, and the applicable provisions of ORS Chapter 92.**