

PLANNING COMMISSION STUDY SESSION AGENDA OCTOBER 12, 2020



MEDFORD
OREGON

Commission Members

David Culbertson

Joe Foley

David Jordan

Bill Mansfield

David McFadden

Mark McKechnie

E. J. McManus

Jared Pulver

Jeff Thomas

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

Study Sessions begin at noon

City of Medford

Office of the Governor Executive Orders require that the governing body of a public body hold public meetings and hearings in compliance with social distancing and face covering requirements. This meeting is being conducted by virtual means in compliance with the Governor's Orders. To join Webinar: <https://us02web.zoom.us/j/85640282600>. Meeting ID: 856 4028 2600 . For telephone: US: +1 669 900 6833 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782.

PLANNING COMMISSION STUDY SESSION AGENDA



MEDFORD
OREGON

October 12, 2020

Noon

Zoom Virtual Meeting

Virtual Meeting information

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10. Introductions

20. Discussion Item

20.1 DCA-19-012 Flexible Development Standards

20.2 DCA-20-244 Lot Legalization

30. Adjournment



MEMORANDUM

To: Planning Commission
From: Kyle Kearns, AICP, Planner II | Long Range Planning
Date: October 5, 2020 *for 10/12/2020 study session*
Subject: DCA-19-012 – Flexible Development Standards

BACKGROUND

The Planning Commission at the August 27, 2020 public hearing continued this item; the approved motion stated to review again in an additional study session. Due to public testimony and Planning Commission direction, staff has revised the proposal. The direction provided on August 27 can be summarized as follows:

- Further define and limit the definition of infill, incorporating surrounding development into the standards
- Allow reductions of lot dimensions, beyond infill development
- Limit parking reductions
- Limit lot coverage increases to the C-S/P and C-N zone

Staff has proposed the following changes:

- Removed environmental resources definition/references
- Modified the lot dimension section and added a table to clarify reductions
- Deleted reference to infill
- Limited parking reductions to a total amount of 30%, maintained all but the environmental resource reductions

DIRECTION SOUGHT

Staff is seeking any final changes to the amendment prior to December 10, 2020 Planning Commission hearing; City Council is not yet scheduled but will likely be in January of 2021.

PARKING RESEARCH

At the public hearing, the Planning Commission asked staff for justification of the parking reductions. To understand the current state of parking in some local developments, staff called property management companies for Charles Point, CPM Real Estate Services, Asurent

Property Management, and Jackson County Housing Authority. Two of the staff persons for CPM and Asurent said that typically, they look for 1-2 spaces per unit. CPM and Assurent said that 1 space for smaller units (i.e. 1-2 bedrooms) can work; the staff member at Assurent said that 3-4 bedroom units need two spaces typically. The staff person for Charles Point noted that there are very few parking issues or complaints of parking siting that the on-street parking provided allows for ample parking supply. CPM Real Estate Services noted that apartments with less than two parking spaces per unit, when not paired with local on-street parking, are the apartments with the consistent complaints from tenants on parking availability in their portfolio.

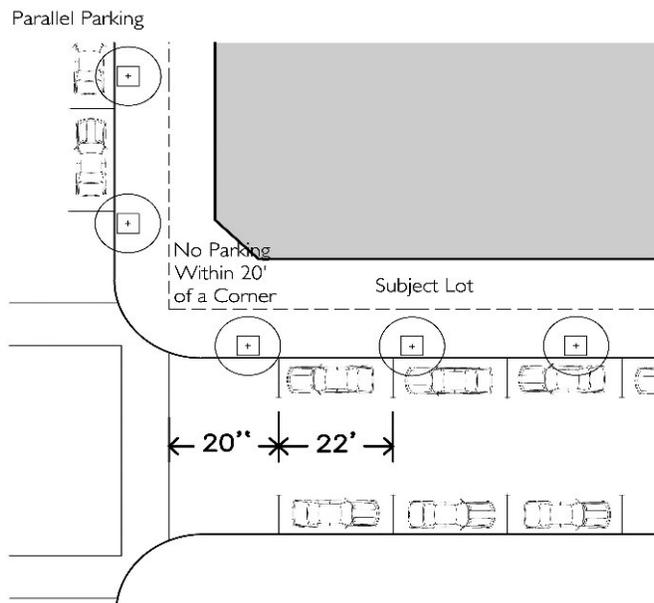
The Jackson County Housing Authority (JCHA) stated that when building new construction they typically develop to code. However, JCHA acknowledged that their tenants don't always own cars – or at least multiple cars per household – and that a parking ratio of one space per unit would suffice in most instances. Staff at JCHA did not cite any problems with parking with their portfolio and even stated that in many cases they have an over-supply of parking.

While these perspectives are anecdotal, they do provide insight into parking demand for the City's larger residential developments. Staff has proposed that the reductions remain as proposed at the August 27 hearing. However, staff has reduced the total reduction permitted to be no more than 30% of the required off-street parking requirement; previous drafts permitted a reduction of 50% or less. The permitted reductions would allow for a reduction of:

- one space for a detached single-family;
- one space for a four unit duplex development;
- five spaces for a 12-unit apartment complex (18 spaces to 13); or
- 41 spaces for a 90-unit apartment complex (135 spaces to 95)

Parking Reductions as Policy Change

Parking reductions are proposed in order to provide site design flexibility and reduce development cost for residential development. This is a policy directive consistent with the Housing Advisory Commission's (HAC) regulatory strategies recommended for adoption by the City Council. The direction sought from the Planning Commission is whether or not the recommendation the Commission wants to provide is consistent with the direction from the aforementioned strategies. At a minimum, staff would advise maintaining the allowance to use on-street parking. When development occurs and a developer is required to construct on-street parking, it should be utilized towards the off-street parking requirement. The justification being that the cost of on-street parking is being borne by the developer, therefore they should be permitted to utilize the infrastructure they provide.



In addition, staff could incorporate an image similar to the one to the left, taken from the City of Ashland’s land development code.

LOT COVERAGE CHANGES

In addition to the parking research requested at the public hearing, the Planning Commission asked staff for justification of the lot coverage increases in the commercial zones. Staff had performed a geographic information system (GIS) analysis of the City’s commercial zones to determine existing lot coverages, the

results of which are below. Generally, the C-S/P, C-N and C-C zones warrant consideration for increases. The average coverage for the C-N zone, when adjusted (see below), is above the code maximum. The C-S/P and C-C zones, when adjusted, have an average at or near their MLDC set maximum lot coverage. The medians in all cases are near the average, indicating a bulk of the lots reviewed are at or near the maximum. The C-R zone is the only commercial zone without the average approaching the maximum.

Medford Commercial Districts Lot Coverage Averages, adjusted					
* - Lot coverages below 5% removed					
** - Lot coverages below 5% and above 90% removed					
Zoning District	Lot Coverage Average adjusted*	Median	Lot Coverage Average Adjusted**	Median	MLDC Code Maximum
Commercial – Service / Professional (C-S/P)	37.13%	31.57%	34.35%	30.80%	<u>40%</u>
Neighborhood Commercial (C-N)	36.73%	35.57%	35.66%	35.57%	<u>30%</u>
Community Commercial (C-C)	41.59%	33.80%	33.92%	30.16%	<u>40%</u>
Regional Commercial (C-R)	28.33%	25.21%	28.60%	24.85%	40%

The C-C zone, when accounting for lots above 90% in lot coverage, has an average above what the current MLDC mandates for a lot coverage maximum. This is in large part due to downtown being largely within the C-C zoning district, however the C-C zone represents areas in Liberty Park, West Main, East Main all areas with higher levels of urban-form.

POLICY DIRECTION

Staff, in working within the direction provided by City Council and the HAC, is proposing a change in land use policy. This direction is being coupled with analysis performed by staff and – in some cases – directed by the Planning Commission. The proposed amendments (Exhibit A) are intended to bring to fruition the policies set through years of policy development including Regional Problem Solving, the Medford Comprehensive Plan and the City Council’s current biennium goals. Staff has tempered the proposal with Planning Commission’s direction, staff is seeking final direction in a study session format, from the Planning Commission, in regards to their revisions desired for DCA-19-012.

HEARING SCHEDULE

- Planning Commission on December 10, 2020
- City Council on TBD, 2021

EXHIBITS

A Proposed Amendment

EXHIBIT A: PROPOSED AMENDMENTS

ARTICLE I - GENERAL PROVISIONS

* * *

10.012 Definitions, Specific.

* * *

Parapet. A low guarding wall that projects above the roof line.

* * *

Pedestrian-friendly, Pedestrian-scale, Pedestrian-Oriented. Features and elements of a development that encourage walking by making it safe and convenient, which may include pedestrian amenities, such as plazas, outdoor seating, pedestrian-scale lighting and similar features. These features are all generally smaller in scale than those that are primarily intended to accommodate motor vehicle traffic.

* * *

Transit Oriented Development/Design. A development pattern that mixes residential, retail, office, and commercial uses with a supporting network of roads, bicycle and pedestrian facilities to accommodate transit use and incorporation of pedestrian-friendly design.

Transit Oriented District (TOD). The districts, identified in the Transportation System Plan, the Transportation Element of the Medford Comprehensive Plan.

* * *

ARTICLE III - ZONING DISTRICTS

* * *

10.327 Neighborhood Commercial, C-N.

The C-N district provides land for the development of small integrated commercial centers servicing the frequent and daily convenience requirements and service needs of adjacent residential neighborhoods. Development in this zone is intended to be pedestrian-oriented and compatible with the scale and character of surrounding residential areas. ~~All uses, except as noted in section 10.337, do not exceed 2,500 square feet of gross floor area.~~

* * *

10.358 Central Business, C-B.

The C-B district is representative of the core downtown business, residential and retail area. The intent of the C-B district is to recognize the unique and historic character of the downtown area as an asset to the community and to provide standards and criteria necessary for its continued development and redevelopment as a vital part of this community.

* * *

(2) **Residential Development Standards.** All residential development standards contained in Article III, Zoning Districts, and Article V, Site Development Standards, shall be waived in lieu of the following:

(a) Off-street parking and loading. All residential development shall be exempt from providing parking and loading spaces, except for bicycle parking spaces. Off-street parking and loading, when required or developed, shall conform to the following standards:

(i) 10.744 Shared Parking

(ii) 10.746 General Design Requirements for Parking

~~(iii) 10.747 General Provisions, Bicycle Parking
(iv) 10.748 – 10.751 Bicycle Parking Standards
shall be subject to the parking requirements of 10.741, Off Street Parking and Loading Requirements, through 10.746, General Design Requirements for Parking and Sections 10.747, Bicycle Parking and Storage Regulations, General Provisions, through 10.751, Exceptions to Bicycle Parking Standards.~~

~~(b) New residential development on vacant parcels. New residential development on vacant parcels shall conform to the provisions of Article III, Section 10.306, Residential Land Use Classification, through 10.314, Residential Uses, and to the site development standards contained in Article V, Section 10.721. The multi-family development standards contained in Sections 10.715A through 10.719 shall apply for residential development within the C-B Overlay.~~

~~(c) Residential development which results from conversion or remodel of existing structures, or new residential construction which exceeds the residential density standard of the MFR-30 zone shall be subject only to the off-street parking and loading requirements as provided in (a) above.~~

~~(cd) Lot coverage. When within the C-B Overlay, the maximum lot coverage of the underlying zoning district need not apply and may be one-hundred percent (100%).~~

* * *

ARTICLE IV -- PUBLIC IMPROVEMENT STANDARDS AND CRITERIA

* * *

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.
- (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.

(4) The approving authority shall approve a reduction from the required lot dimensions of a parcel (i.e. lot area, lot width, depth) and reductions shall be permitted upon determination that the below conditions exist. These reductions shall be permitted at the option of the applicant for land use

review. The conditions for lot dimension reductions are as follows:

- (a) The parcel is within a residential zoning district; and
- (b) The parcel proposed for land division, per the MLDC:
 - (i) When reductions in lot dimensions are proposed for land division, reductions may only be permitted on fifteen percent (15%) of the total number of proposed parcels. A minimum of one parcel shall be granted reduction.[MHB1][KWK2].
- (c) Reductions of lot dimensions shall be permitted as displayed in Table 10.702.

<u>Lot Dimension Reductions Table 10.702</u>			
<u>Permitted Reduction Above</u>	<u>Lot Area</u>	<u>Lot Width (Interior & Corner)</u>	<u>Lot Depth</u>
<u>Reduction per 10.702(4)(c) – Subdivision</u>	<u>12% or 900 sq. ft., whichever is smaller</u>	<u>12% or 7 ft. whichever is smaller.</u>	<u>12% or 10 ft. whichever is smaller.</u>

* * *

10.705 Building Height and Side-Yard Determination.

* * *

B. Exemptions – Building height limitations shall not apply to:

- (1) Chimneys, church spires, belfries, cupolas, flag poles, antennas, support structures and antennas for amateur radio operations (as per ORS 221.295), and other similar projections that are accessory to the permitted use.
- (2) Wireless communication transmission towers, which are subject to the Special Use Standards contained in Section 10.824.
- (3) Public utility service facilities, which are subject to the Special Use Standards contained in Section 10.830.
- (4) Parapets may be erected up to five feet above the height limit specified in the underlying zoning district.

* * *

10.707 Exceptions to Yard Requirements.

(A) General Exceptions. The following projections shall be permitted within the required yard area:

- (1) Cornices, eaves, fireplaces, canopies, mechanical (heating and cooling equipment – not located in a residential zone), or other similar architectural features may extend a maximum of one foot into a required yard. In residential zones, mechanical (heating and cooling equipment) is exempt from the yard requirements but shall meet Building Code standards.
- (2) Open uncovered accessory structures such as fire escapes, porches, balconies, or outside stairways may extend a maximum of one foot into the required side and rear yard and a maximum of five feet into a required front yard. Porches, decks or stoops which are open and uncovered and not exceeding 18 inches in height may be located within 18 inches of any lot line.
- (3) Within the commercial districts awnings shall be allowed to extend a maximum of six feet into the required front yard.
- (4) Established Neighborhoods: On a parcel where the abutting lots, adjoining the same street, contain legally constructed buildings whose setbacks are equal to or less than that

required by the underlying zone, the front yard setback may be reduced to a distance equal to the average setback of the abutting parcels. ~~If one of the adjoining lots is vacant, the minimum setback of the underlying zone shall be utilized to determine the average.~~

(5) An approving authority shall approve an encroachment into the required setbacks, as set forth in Article V, by up to twenty percent (20%), for setbacks of ten (10) feet or greater. Reductions shall not be permitted when the parcel is within the Wildfire Risk Area, when a structure is placed on slopes greater than 15%, or when the Hillside Ordinance applies. The requested reduction shall be compliant with applicable building, fire and life-safety codes. These reductions shall be available at the option of the applicant for land use review or building permit review.

* * *

10.708 Residential Density.

* * *

C. General Exceptions to Residential Density Calculations.

(1) Multiple-Family Dwelling Units in Commercial Zoning Districts, ~~Except Neighborhood Commercial (C-N).~~ The minimum density factor shall be the same as the MFR-30 zoning district, found in Sections 10.710 – 10.714~~3~~; there is no maximum density restriction.

(2) Mixed-Use Buildings. For mixed-use buildings as defined herein, in commercial zoning districts ~~(save for C-N),~~ there shall be no minimum or maximum number of dwelling units required. In the Neighborhood Commercial (C-N) zoning district, dwelling units must be located in a mixed-use building, ~~and conform to Section 10.837.~~

* * *

10.721 Commercial and Industrial Site Development Standards.

The following standards apply to commercial and industrial development. See Article III, Sections 10.326 through 10.332 for detailed descriptions of each zoning district, and Section 10.337 for conditional, special, and permitted uses.

COMMERCIAL AND INDUSTRIAL DEVELOPMENT								
Development Standards	C-N	C-S/P	C-C	C-R	C-H	I-L	I-G	I-H
Minimum & Maximum Area for Zoning District (Acres)	0.5 -3.0	None						
Residential Standards (See 10.837)	N/A Dwelling units allowed subject to the density standards for housing within the MFR-30 district. Site development standards shall follow the MFR-30 zone except for the maximum building height and setbacks, which shall follow the underlying commercial zoning in which the property is located. <u>See section 10.837 for additional standards for the C-N zone</u>					N/A		
Minimum Lot Area (Square Feet)	7,000	15,000			7,000	20,000	10,000	

COMMERCIAL AND INDUSTRIAL DEVELOPMENT								
Development Standards	C-N	C-S/P	C-C	C-R	C-H	I-L	I-G	I-H
Maximum Coverage Factor (See 10.706)	30 50%	40 60%	50%		60%	50%	90%	
Minimum Lot Width	70 feet							
Minimum Lot Depth	100 feet							
Minimum Lot Frontage	70 feet	30 feet	70 feet		30 feet	70 feet		
Minimum Front & Street Side Building Setback	10 feet EXCEPT 20 feet for vehicular entrances to garages or carports							
Minimum Side and Rear Yard Building Setback	None EXCEPT 1/2 foot for each foot in building height over 20 feet							
Maximum Building Height (See 10.705)	35 feet	85 feet EXCEPT 35 feet if structure is within 150 feet of a residential zoning district boundary or Special Area Plan designation.			35 feet	85 feet EXCEPT 35 feet if structure is within 150 feet of a residential zoning district boundary or Special Area Plan designation.		
Maximum Building Height (See 10.705)	<u>35</u> [MHB3] feet	<u>85 feet</u> <u>EXCEPT 35 feet for the portions of a structure within 150</u> [MHB4] <u>feet of a residential zoning district (See Note 4).</u>						
Maximum Gross Floor Area Per Business	2,500 5,000	None	50,000		None			

COMMERCIAL AND INDUSTRIAL DEVELOPMENT								
Development Standards	C-N	C-S/P	C-C	C-R	C-H	I-L	I-G	I-H
(Square Feet) Except as noted in 10.337								
Permitted Outdoor Uses	See Note 1	See Note 2				See Note 3		
Note 1: All uses must be located completely within an enclosed building or behind a sight-obscuring fence.								
Note 2: All uses, EXCEPT those customarily conducted outdoors, must be located completely within an enclosed building.								
Note 3: All uses, EXCEPT those customarily conducted outdoors, must be located behind a sight-obscuring fence.								
Note 4: 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) or Service Commercial (SC) the above building height restrictions shall not apply.								
<i>The terms used herein, such as lot width, lot depth, front yard, etc., are defined in Article I, Section 10.012.</i>								

* * *

10.741 Parking and Loading, General Provisions.

* * *

B. Change/Expansion of Use Parking and Loading Requirements.

The number of parking and loading spaces provided shall be increased when a change of use of either a structure or of land requires additional parking and loading spaces in compliance with this Code, except as provided below. Parking and loading spaces may be decreased when a change of use requires fewer spaces than originally provided.

A principal use which ~~is not deficient in~~ does not include the number of parking and loading spaces required per Section 10.741 – 10.743 provided may, at the option of the applicant, expand without having to provide additional parking and loading spaces under the following certain circumstances: ~~Such circumstances are:~~

- (1) When after the expansion or change in use, the number of parking and loading spaces provided still meets or exceeds the required minimum or,
- (2) If the expansion or change in use results in the need to provide no greater than twenty-five percent (25%) additional parking and/or loading spaces in order to meet the minimum number of required spaces, these additional spaces are waived
- (3) These provisions shall not exempt conformance with parking required under the Americans with Disabilities Act (ADA).

* * *

10.743 Off-Street Parking Standards.

(1) Vehicle Parking – Minimum and Maximum Standards by Use. The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 10.743-1 or other applicable provisions of this code that reduce the parking requirement.

Where a use is not specifically listed in Table 10.743-1, parking requirements shall be determined by the Planning Director or designee finding that the use is similar to one of those listed in terms of parking needs.

Parking spaces that count toward the minimum requirement are parking spaces meeting minimum

dimensional and access standards in garages, carports, parking lots, bays along driveways, and shared parking areas.

[For non-residential uses, there is no minimum number of off-street parking spaces required in the Downtown Parking District, per Section 10.358(1)(a); and the Southeast (S-E) Overlay District, Commercial Center, per Section 10.378(6).]

(2) Number of Required Parking Spaces. Off-street vehicle parking spaces shall be provided as follows:

(a) Parking Space Calculation. Parking space ratios are based on spaces per 1,000 square feet of gross floor area, unless otherwise noted.

(b) Parking Categories.

(i) Table 10.743-1 contains parking ratios for minimum required number of parking spaces and maximum permitted number of parking spaces for each land use.

A. Minimum Number of Required Parking Spaces. For each listed land use, the City shall not require more than the minimum number of parking spaces calculated for each use.

B. Maximum Number of Permitted Parking Spaces. The number of parking spaces provided shall not exceed the maximum number of parking spaces allowed for each listed land use.

(3) ~~Exceptions-Reductions~~ to Required Off-Street Parking ~~for Non-Residential Uses.~~ ~~These reductions shall be available at the option of the applicant for land use review or building permit review.~~ The approving authority ~~may~~ shall allow ~~exceptions-reductions~~ to the number of parking spaces in Table 10.743-1 for specific uses without complying with Section 10.186 if they find that ~~the applicant's detailed description of the proposed use demonstrates that the number of needed parking spaces is less than the minimum required or more than the maximum allowable based upon one or both of the following:~~ any of the below provisions apply. No more than two proposed reductions outlined in this subsection may be used for parking and shall, cumulatively, only allow a total reduction in off-street parking of thirty percent (30%) or less. The allowable reductions are as follows:

~~— (a) An explanation why the characteristics of the proposed use require a different off-street parking standard than what is otherwise required.~~

~~— (b) An analysis providing parking data for the same business or a similar use within the city that demonstrates a need for a different off street parking standard than what is otherwise required.~~

(a) On-street parking credit. A reduction of one off-street parking space shall be approved for each 24 feet of linear roadway of on-street parking directly abutting the parcel.

(i) The 24 feet of linear roadway shall exclude from the measurement on-street ADA spaces, driveway widths/throats and roadway within 20 feet measured along the curb of any corner or intersection of an alley or street; and

(ii) When half-streets are developed, on-street parking shall be counted if the roadway cross-section has on-street parking required on full street construction.

(b) Bicycle and Transit Proximity. The off-street parking requirement shall be reduced by twenty-five percent (25%) when a subject use or parcel is within:

(i) A quarter (1/4) mile radius of an existing or planned transit stop or a bicycle lane, a shared-use path, or a neighborhood bikeway/sharrows not located on an arterial or collector roadway; or

(c) Residential in Transit Oriented Districts (TOD). When within a TOD, residential uses may use a parking standard of one space per dwelling unit (1:1); or

(d) In lieu of (a-c) in this subsection, reductions of off-street parking, of any number, may be approved when an applicant for land use review has submitted a parking needs analysis for the proposed use that demonstrates that a lower parking requirement can adequately serve the parking needs of the use. At a minimum, parking analysis shall include:

(i) A finding as to why the characteristics of the proposed use/development require a different off-street parking standard than what is otherwise required; and

(ii) An analysis providing parking data for the same business or a similar use/development that demonstrates a need for a different off-street parking standard than what is otherwise required.

* * *

10.837 Dwelling Units in Commercial Districts.

Dwelling Units shall be allowed in all commercial districts ~~except the Neighborhood Commercial (C-N) zone~~ subject to the following:

(A) Minimum density standards for ~~housing within~~ the MFR-30 district, per section 10.708;

(B) Site development standards shall follow those for the ~~MFR-30 zone, except for the maximum building height and setbacks, which shall follow the~~ underlying zone; and ~~commercial zoning in which the property is located.~~

(C) The multi-family development standards contained in Sections 10.715A through 10.719.

(D) In addition, a single family dwelling units shall be allowed in all commercial districts when attached ~~to or in conjunction with~~ ~~to~~ a commercial ~~building use~~ and approved by the applicable approving authority.

(E) C-N Zoning District. Residential development shall be in a mixed-use building or in conjunction with a commercial use. ~~Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission as applicable.~~

~~In the Neighborhood Commercial (C-N) district single family and multiple family residential uses are permitted only when the total residential use is attached, accessory, and subordinate to the primary commercial use.~~



MEMORANDUM

To: Planning Commission

From: Carla Angeli Paladino, Principal Planner & Liz Conner, Planner II

Date: October 7, 2020 *for October 12, 2020 study session*

Subject: Code Amendment – Lot Legality (DCA-20-244)

DIRECTION

Staff is seeking final recommendations from the Planning Commission on the draft language intended to establish a process within Chapter 10 for validating a unit of land unlawfully created consistent with Oregon Revised Statute (ORS) 92.176.

BACKGROUND

On August 24th, staff presented a preliminary draft of the code amendment to the Planning Commission. Since that time, planning staff has provided the draft to internal and external agencies for comment and discussed the amendment at the Land Development meeting on October 7, 2020. A separate meeting was held among Planning, Legal, and Public Works-Surveying staff to discuss the amendment with final comments, to date, reflected in the attached proposal.

The proposal is specific to creating a local land use process to validate a unit of land unlawfully created by deed, land sale contract, separate tax account or gift prior to January 1, 2007. The draft language follows the law outlined in ORS 92.176 specifically. The language seeks to create a new land use process, through a Type II Director's Decision, in which a property owner can apply to validate a unit of land unlawfully created.

It is Planning staff's understanding that for parcels created unlawfully after the 2007 date, the remedy is for all parties who own a piece of the original parent parcel to correct the situation by applying for approval of a land division process (partition or subdivision).

PROPOSED CODE

Minor modifications to Sections 10.034 (Criteria for Nonconformity Expansion or Change), 10.108 (Land Use Review Procedure Types), and 10.168 (Type II Land Use Actions) are provided. 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; language has been expanded upon in order to clarify the proposal is routed to appropriate referral agencies for comment
- **Review Criteria** – outlines the applicable criteria by which the proposal can be approved; identifies the applicable criteria in Section 10.202(C) that needs to be shown on the plat applicable to a validation of a unit of land
- **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; the language has been modified to more closely align with the provisions in ORS 92.176
- **Expiration and Recording** – follows state law for the 90 day timeframe by which a validated parcel must be recorded; Criterion 2 has been added that includes submitting a final plat in accordance with local and state provisions for City review and signatures
- **Development or Improvement of a Lawfully Established Unit of Land** – this section has been retitled, and follows the language in state law that indicates the newly validated parcel must comply with applicable development or improvement standards in effect when a development application is submitted on the parcel
- **Application Form** – lists the applicable submittal items to be provided by the property owner or agent; modifies the submittal requirements for parcels created outside of the City based on a review of the County’s code for lot validation and speaking with County Planning staff to confirm the language is appropriate

QUESTIONS FROM COMMISSIONERS AT AUGUST STUDY SESSION

During the August study session, two specific questions were raised by Commissioners:

How does this process resolve any issues with un-useable remnant pieces of property?

Does this process have any bearing on excess right-of-way property?

Likely, in most cases, this process will not provide relief with the scenarios noted above. However, each parcel would need to be evaluated separately to identify how it was originally created and whether it could meet the requirements outlined in this proposed process. A property owner could apply for a pre-application to discuss the lot legality of a parcel in order for staff to determine if Section 10.171 is applicable or if there are other methods that could be used. In the case of right-of-way, a street vacation may be applicable, but again, the specifics for each case would need to be reviewed.

NEXT STEPS

Staff will make final edits based on comments at the Planning Commission study session. The Planning Commission hearing is scheduled for October 22nd and final decision by the City Council on November 19th.

ATTACHMENTS

- Proposed Code – Draft #5
- Excerpt of Minutes from Study Session on 8/24/2020

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.**

* * *

10.108 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.

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	10.228	City Council	No
<u>Validation of a Unit of Land</u>	<u>II</u>	<u>10.171</u>	<u>Planning Director</u>	<u>Yes</u>

* * *

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 unit of land 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 of transfer that is not considered a sale.**

(B) Procedure. The review and 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. The Planning Department shall route a copy of the application materials to the appropriate referral agencies including the City Surveyor for review and comments in accordance with Section 10.112.

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

- (1) The unit of land was unlawfully created as defined in 10.171(A) prior to January 1, 2007; and**
- (2) The unit of land could have complied with applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold; and**
- (3) A validation tentative plat, prepared by an Oregon professional land surveyor, complying with Section 10.170(C), Partition Tentative Plat (see Sections 10.202(C)(1) through (C)(8)), and the applicable provisions of ORS Chapter 92.**

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

Notwithstanding Section 10.171(C)(2), the Planning Director may approve an application to validate a unit of land under this section that was unlawfully created prior to January 1, 2007, if the city or county approved a permit as defined in ORS 227.160 for 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.

(2) A final validation plat, prepared by an Oregon professional land surveyor, shall be submitted by the applicant for review and signatures in accordance with applicable provisions of Section 10.162, ORS 92 and ORS 209. The unit of land becomes lawfully established if the plat is recorded with the county within 90 days after the date the city validates the unit of land.

(3) 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) Development or Improvement of a Lawfully Established Unit of Land.

Development or improvement of a unit of land created under subsection (E) of this section must comply with the applicable laws in effect when a complete application for the development or improvement 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 deed, land sales contract or other document 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, documentation identifying the County zoning designation 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 validation tentative plat prepared in accordance with Section 10.170(C), Partition Tentative Plat (see Sections 10.202(C)(1) through (C)(8)), and the applicable provisions of ORS Chapter 92.

PLANNING COMMISSION STUDY SESSION MINUTES



MEDFORD
OREGON

August 24, 2020

12:00 P.M.

Zoom Webinar, Medford, Oregon

The study session of the Planning Commission was called to order in a Zoom webinar at 12:00 p.m. in Medford, Oregon on the above date with the following members and staff in attendance:

Commissioners Present

Mark McKechnie, Chair
Joe Foley, Vice Chair
David Jordan
Bill Mansfield
Jared Pulver

Staff Present

Matt Brinkley, Planning Director
Carla Paladino, Principal Planner
Eric Mitton, Deputy City Attorney
Terri Richards, Recording Secretary
Kyle Kearns, Planner II
Liz Conner, Planner II
Sarah Sousa, Planner III

Commissioner Absent

David Culbertson, Unexcused Absence
David McFadden, Unexcused Absence
E.J. McManus, Unexcused Absence
Jeff Thomas, Unexcused Absence

20. Subject

20.1 DCA-20-127 Pad Lot and Multifamily Standards

Kyle Kearns, Planner II reported that staff has continued drafting development code amendments to implement regulatory changes proposed by the 2017 Housing Advisory Committee, adopted by the City Council in 2018.

DCA-20-127 had been previously reviewed by the Planning Commission at the July 13, 2020 study session and by the Housing Advisory Committee 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 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.

Staff is seeking whether the Commission wants any more changes or options brought forward prior to the public hearing. The public hearings are scheduled for September 24th for the Planning

Commission and November 5th for City Council. Staff will conduct a live webinar event to solicit feedback from the development community in early September.

Pad lot development is a land division that permits the division of individual pads from a parent parcel. Pad lots were previously permitted for residential development under an acre. It was amended in 2006 for commercial only.

As proposed, pad lot developments require, prior to tentative plat Site Plan and Architectural Review (SPAR) approval. The land use review process for a land division associated with a pad lot development is set as a Type II administrative review for multi-family of 3 net acres or less. Type III approval for multi-family larger than 3 net acres, commercial development or cottage clusters.

The multifamily zone updates are intended to make existing zones and required densities function better by decreasing lot dimension minimums and increasing allowable building height. Multi-family changes proposed a maximum coverage update from 50% to MFR-15 to 60%; MFR-20 to 65%; and MFR-30 to 70%. Proposed a maximum height update from 35 feet to SFR-10 to 35 feet; MFR-15 to 45 feet and MFR-20 and MFR-30 to 55 feet.

Chair McKechnie confirmed that the 150 feet height limitation still exists when a multifamily parcel is adjacent to residential. Mr. Kearns responded that is correct.

20.2 DCA-20-251 Developer Lots Amendment

Sarah Sousa, Planner III reported that this proposal creates code language that addresses developer lots as well as providing descriptions of reserve acreage to distinguish the separately.

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

Issues have been the right-of-way dedications (solved with condition for right-of-way reservations). Site development issues such as frontage and lot dimension requirements (solved with Exception approvals). Ensuring development is consistent with underlying subdivision (solved with deed restrictions).

There will be exemptions for lot area and dimensions, lot frontage and density.

Requirements include requiring new lot lines to match the phase lines of underlying subdivision, right-of-way reservations for future streets and a deed restriction preventing development.

The benefits provides a straightforward process for staff and applicants and allows developers the option to sell off phases of a subdivision to make a project more economically feasible.

Reserve acreage versus developer lots is that reserve acreage is 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. 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.

Staff is seeking the Commission's feedback on the proposal in order to move forward with the amendment.

Commissioner Mansfield stated that Ms. Sousa mentioned reserving land for future roads/streets. Is it correct that he presumes it is not private easements it is public dedications? Ms. Sousa reported that is how she understands it. Ms. Evans may understand the process more than Ms. Sousa. Commissioner Mansfield would not favor private easements. He thinks all streets should be public road easements. Ms. Sousa believes they are not private.

Chair McKechnie asked, is developer lots the title? Ms. Sousa replied yes.

Chair McKechnie asked, is there a difference between a tract and a lot? Ms. Sousa believes when platting land it is a lot. It is a question she could ask the City Surveyor. Chair McKechnie noted that it would be clearer if it was called a tract and the tract had an underlying development already set out for it that would separate it from reserve acreage. Commonly used terms are lots, tracts and reserve acreage. Ms. Sousa agrees. Chair McKechnie thinks developer lots sounds strange because there is no common usage around the industry. Ms. Sousa will find out if they can call them developer tracts.

Commissioner Pulver asked, is it a requirement there is an underlying subdivision? Ms. Sousa responded yes.

Commissioner Pulver believes one can do a partition of a large tract with no underlying subdivision and sell as is. What is a developer required to do or not do as it relates to extending utilities or roadways not within the underlying subdivision but from tract to tract to ensure it gets done and the timing in which it gets done? Ms. Sousa responded that is a good question. She does not think they would want the utilities extended other than for the underlying subdivision. She thinks that is part of the deed restriction that they would not allow the extension of utilities other than what is consistent with the lots being created. When dividing land one can divide into a large tract of land but that would be called reserve acreage that would not allow utilities or development.

Commissioner Pulver is not opposed to giving a developer some flexibility but at the same time he can see the City getting worked over of timing and creating a tract that they push to the 11th hour to avoid having to do public improvements, cherry pick the easy and good things and leave the expensive items for later, if ever. Ms. Sousa will get that answer before the public hearing.

Vice Chair Foley asked, with the definition of a tract as opposed to developer lot can a tract be legally sold in the State? Ms. Sousa will ask the City Surveyor if tracts of land sellable and can they be called tracts or do they need to be called lots. Vice Chair Foley thinks it is a good idea and makes sense but he has the same concerns of Commissioner Pulver. That there is not some underlying issue that is missing that will get slipped past the City. Ms. Sousa thinks the purpose of doing this amendment is so that it does not get slipped past the City.

Eric Mitton, Deputy City Attorney apologized that he does not know the answer off the top of his head. He will be involved with checking with the City Surveyor and get an update to the Planning Commission.

Chair McKechnie commented that the Commission understands the need and provides flexibility for the development community. Wants to make sure they are doing it efficiently.

20.3 DCA-20-244 – Lot Legality

Carla Paladino, Principal Planner reported that she is working with Liz Conner, Planner II on the amendment. She is present and if Ms. Paladino missteps Ms. Conner can fill in.

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

The 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 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.

It would be a Type II Land Use Process. It would follow Oregon Revised Statute 92 for lots created before January 1, 2007. There would be review criteria, expiration and recording, validation when Building Permits are issued and application information.

Staff will be meeting with Legal and Surveying Staff to refine the proposal and tentative public hearing dates are October 22, 2020 to the Planning Commission and November 19, 2020 to City Council.

Staff is seeking the Commission's thoughts and feedback on the draft and does the Commission want to review a final draft at a future study session or by email?

Commissioner Mansfield stated that he suspects this has happened from time to time where someone conveys an unusable remnant of land to someone that could not be used or legalized. Does it just sit there? Does this amendment cover it or not? Is this amendment designed to legalize all remnants or just remnants that can be legalized? Ms. Paladino stated that is a great question. Staff will need to review that further. The thought is if something is created that is usable and done inappropriately this would be a way to fix it. Small remnants are going to be atypical.

Commissioner Pulver would like to see a final draft at a study session or email before going to a public hearing.

Chair McKechnie commented that staff has a lot of details to work out and would like to see it at a study session.

Ms. Paladino stated that staff will come back with this in a future study session.

Chair Foley stated that the Commission has ran across cases of excess right-of-way and there is a process to put it back to the original property owner. Is that part of this amendment? Ms. Paladino reported that is through the Vacation process.

Ms. Conner had nothing to add.

Ms. Paladino asked whether the Commission felt this was a valid venture. Chair McKechnie replied yes.

100. Adjournment

101. The meeting was adjourned at approximately 12:45 p.m.

Submitted by:



Terri L. Richards
Recording Secretary