City of Lafayette
486 Third Street, P.O. Box 55
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Phone: (503) 864-2451 Fax: (503)864-4501

LAFAYETTE PLANNING COMMISSION

NOTICE OF PUBLIC MEETING

THE PLANNING COMMISSION OF THE CITY OF LAFAYETTE WILL MEET IN REGULAR SESSION THURSDAY, OCTOBER 20, 2016 AT 7 PM IN THE CITY HALL MEETING ROOM AT 486 THIRD STREET (99W), LAFAYETTE, OREGON.

AGENDA IS AS FOLLOWS:

1. CALL MEETING TO ORDER
2. ROLL CALL
3. APPROVAL OF MEETING MINUTES; August 18, 2016.
4. **WORK SESSION:** Possible Development Code Amendments.
5. NEW BUSINESS:
6. OLD BUSINESS:
7. NEXT MEETING: November 17, 2016
8. ADJOURNMENT

The location of this meeting is accessible to the disabled. If you will need any special accommodations to attend or participate in the meeting, please notify City Hall, at (503) 864-2451, at least 24 hours before the meeting.

CITY OF LAFAYETTE
PLANNING COMMISSION MEETING MINUTES
AUGUST 18, 2016

Call to Order: Marian Chasse called the meeting to order at 7:02 p.m.

Roll Call: Lori Martino, Community Development Clerk, called the roll.
Present. Lee Gilgan, Brienne Carpenter, Ron Kerr, Mike Karl, Marian Chasse.
Absent: Doreen Vantyne (excused), Sean Chase.
Staff Present: Jim Jacks; City Planner Lori Martino; Community Development Clerk
Others: None

Approval of Minutes: Ron Kerr made a motion to approve the meeting minutes from April 21, 2016. Mike Karl seconded the motion. Motion passed unanimously.

Work Session: Possible Development Code Amendments

Jim Jacks informed the Commissioners that there was a handout packet in front of them to also review.

Jim Jacks went over the staff report.

There was a lengthy discussion and explanation on item 9 on page 2 regarding the separation between a driveway and an intersection. A majority of the Planning Commission agreed with the language in the Public Works Design Standards which notes that the separation should be 30' or one-half of the lot frontage, whichever is greater. Jim Jacks noted that this item is also listed in the other residential districts.

There was a discussion on item 5 on page 2 regarding deleting the definition for Quasi-Judicial Review. The Commissioners agreed with the staff recommendation to remove Quasi-Judicial Review from the definitions.

There was a discussion on item 13 page 3 regarding the minimum lot width at building line. After some debate between the Commissioners, a majority felt that the minimum lot width at the building line should not be deleted. There was discussion regarding how this would affect a Planned Unit Development. Jim Jacks suggested tabling this item and he will look closely at the PUD section to see if there may be conflicts. The same applied for item 14 page 3.

Brianne Carpenter noted that months back she had suggested adding private schools and facilities to the residential zone as a conditional use and would like to see that addressed in this ordinance change. Discussion ensued. Jim noted that it should be limited to k-12 in residential zones and trade schools should be limited to commercial or industrial. Jim was asked to bring a proposal to the next meeting.

There was a discussion on items 48 and 49 on page 6. The Commissioners had no issue with the changes.

No further issues were noted in the staff reports.

New Business:
None

Old Business:

Jim Jacks gave an update on the UGB process.

Adjourn: Marian Chasse adjourned at meeting 8:27 pm.

CERTIFIED:

_____
Chairperson, Marian Chasse

ATTESTED:

_____
Community Development Clerk, Lori Martino

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TO: LAFAYETTE PLANNING COMMISSION

FROM: JIM JACKS, CITY PLANNER, MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

SUBJ: WORK SESSION -- LAFAYETTE DEVELOPMENT CODE UPDATES LEGISLATIVE AMENDMENTCASE # LA 2016-02

DATE: OCTOBER 20, 2016

PURPOSE

The purpose of this memo is to provide additional proposed amendments to update the Lafayette Zoning and Development Ordinance (LZDO)(Case # LA 2016-02).

BACKGROUND

The first memo was in the Planning Commission's packet for the August 18 work session. The Commission reviewed and commented on the first memo on August 18.

The second memo was handed out at the Commission's August 18 work session. The Commission decided to review it at the next meeting which was scheduled for September 15, but that meeting was cancelled.

This October 20 memo is the third memo. Because the August 18 handout was not discussed on September 15, it is included in this memo and additional proposed amendments that the Commission has not yet seen are also included here.

The amendments address housekeeping issues, substantive issues and updates to address bills passed by the Legislature in the last few years.

The amendments listed below and shown in Attachment 1 start with the second memo that was handed out at the Commission's August 18 work session.

SUMMARY OF PROPOSED CHANGES

As was the case with the first memo in the Commission's August 18 packet, the list of proposed changes is in the numerical order of the LZDO. The "mark-up" copy of the proposed amendments is at Attachment 1, and is also by LZDO numerical order.

The first memo that was in the packet of materials for the August 18 Planning Commission meeting included proposed amendments 1 - 52. A second memo was handed out at the August 18 meeting and it included another 29 proposed amendments. This October 20 memo includes all the proposed amendments from the August 18 handout, plus additional amendments.

This memo starts with amendment number 53 and they are in the order of the LZDO.

2.207 SITE AND LANDSCAPING DESIGN

53. 2.207, Title. Revise the title to delete "Site and." Currently, the language leads the reader to believe Section 2.207 is about Site Design and Landscaping Design, but Section 2.207 is only about landscaping design, thus any reference to site design should be deleted.

54. 2.207.02, Scope. Revise the first sentence to add public uses to the list of developments that must provide landscaping. Revise the last sentence to delete the language stating the type of process and who the decision authority is for Site Development Review (SDR) applications. A development code should not state the type of process and decision authority and for an SDR application in the landscaping section. Additionally, the existing language in the last sentence that a SDR application is a Type II process and the decision authority is the Planning Commission is incorrect because Section 3.101.01, C, 2, states a SDR application is a Type I-C action (Limited Land Use per ORS 197) and 3.101.01, C, states the decision authority for Type I-C actions is city staff.

55. 2.207.03, Minimum Area Requirements. The first two paragraphs are not identified with a number or a letter. Reorganize the two paragraphs and assign letters and numbers to the reorganized paragraphs. The reorganization includes listing the basic minimum landscape percentages in "A" and stating the details of what landscape areas can include in "B" and finally stating the landscape area requirement for expansions of existing developments in "C." No changes are proposed to "D."

56. 2.207.03, Minimum Area Requirements. The current phrase in the first paragraph which allows landscaping in a parking or loading area to be included in the 25% or 6% landscaped area is proposed to be deleted due to the Spring 2015 LZDO amendments that added Section D, Parking Lot Landscaping, which improved the city's requirements for parking lot landscaping. The Spring 2015 parking lot landscaping standards require 10% of the parking area to be landscaped which was intended to be separate from the 25% or 6% overall site landscaping.

57. 2.207.03, Minimum Area Requirements. The existing second paragraph talks about expansions of existing developments. Although the language isn't clear, the intent appears to address situations where an old development does not have the 25% or 6% minimum landscaped area, and an expansion of a structure must provide new landscaping consistent with the percentage of the building expansion. Thus, if a 1 acre site (43,560 sq. ft.) has a 2,000 square foot building (gross floor area) and a 200 square foot expansion (10%) is proposed, new landscaping would be required. The calculation would be the 10% building expansion multiplied by the site's gross area (10% X 43,560 sq. ft. = 4,356 sq. ft.) would be multiplied by 10% of the required landscape area (6% for commercial uses) to result in 261 square feet of new landscaping (4,356 sq. ft. X 6% = 261 sq. ft.).

58. 2.207.03, Minimum Area Requirements. The existing second paragraph addresses expansions of existing parking lots. The language is proposed to reorganize the reference to an expansion of an existing parking lot to state the expansion must comply with Section D, Parking Lot Landscaping, which requires 10% of any parking lot to be landscaped whether it's an expansion or a brand new lot. The reorganized language includes new language to clarify that if the expansion is less than 5 spaces, at least 1 tree must be planted, unless the existing parking area exceeds the required 1 tree per 5 spaces. The reorganized language includes new language to clarify that if the expansion creates more than 10 spaces in a row, a landscape island must be provided to result in no more than 10 spaces in a row.

59. 2.207.04, A, General Provisions. The words landscaped area are enclosed in quotation marks (..."landscape area"...). The quotation marks may lead a party to believe there is a reason for the quotation marks. There is no apparent reason for the quotation marks and they are proposed to be deleted.

60. 2.207.04, A, General Provisions. The phrase "...or desirable native vegetation... is proposed to be changed to state, "...or native vegetation acceptable to the decision authority...." The change would clarify that native vegetation can be used provided it is acceptable to the decision authority.

61. 2.207.04, C, General Provisions. The authority and process set forth to allow landscaping that is required to be on the development's private property to insted be in a public right-of-way is proposed to be deleted. Subsection C has several problems.

The reference to the Planning Commission as the decision authority is incorrect if the application is a Type I action, for example, a Site Development Review (SDR). The decision authority for a SDR is city staff per 3.101.01, C. The LZDO landscaping standards may be applicable to a SDR, partition, home occupation, etc., whose decision authority is not the Planning Commission.

Subsection C states a public hearing is not necessary, but if the land use application is a conditional use permit or a major variance that includes consideration of required landscaping, Section 3.101.02 for Type II actions (conditional uses and major variances) requires a public hearing.

Subsection C states "...the need for future use of the right-of-way for street purposes..." shall be considered, but the need for future use of the right-of-way for public water, sewer and storm drainage facilities, or bicycle paths or sidewalks is not required to be considered.

Subsection C does not differentiate between city public rights-of-way, county public rights-of-way or State public rights-of-way.

Subsection C is a significant deviation from the normal procedures and approval criteria set forth elsewhere in the LZDO, thus it is proposed to be deleted. If a land use application is submitted and the applicant contends any required landscaping on the private property must instead be allowed in a public right-of-way, the appropriate process, which is already set forth in the LZDO, is to apply for the primary land use application and a concurrent variance to not provide the required landscaping on the private property. Alternatively, if the right-of-way will not be used by the public in the future a more appropriate action would be to vacate the right-of-way so that it would be under private ownership and then the required landscaping would be on the private property.

A side issue is, if landscaping that benefits a private development is to be allowed in a public right-of-way, the agency responsible for the right-of-way would need to issue a Revocable Permit to allow the landscaping in the right-of-way.

62. 2.207.04, D, General Provisions. Subsection D is proposed to be amended to clarify if saving "significant trees and vegetation" is required or optional. Subsection D states, "The landscape design shall incorporate existing significant trees and vegetation preserved on the site." It is not clear if it intends that all significant trees and vegetation shall not be removed or if the significant vegetation that is proposed to be preserved by the applicant cannot be removed. If it is the former, then it begs the question, what is "significant vegetation?" The LZDO does not define the term.

It is not clear how a requirement would "play out" when it would not allow any significant vegetation to be removed. It may be likely that a site could have older trees or a wonderful example of a native plant and if such vegetation must be incorporated into the landscape plan, it may present a significant impediment to development. For example, the city, county or ODOT may desire an access at a given location, but an older tree is at that location. Or, in a subdivision a proposed public street, water line, sewer line or other private or public facility may best be located where the significant vegetation is located. The only way around the requirement would be to apply for a concurrent variance to remove the significant vegetation.

Subsection D is proposed to be amended to state, "The landscape design shall consider preserving existing significant trees and vegetation on the site and if they are not to be preserved, a

statement shall be included in the application stating why they are not proposed to be preserved." Where the Planning Commission would prefer different language, it should be discussed on October 20.

63. 2.207.05, C, 3, Screening and Buffering. Propose adding "Fence" in the lead-in to C, 3. Also, propose adding C, 3, c, as a new subsection to clarify that fencing up to 6 feet in height for screening can be allowed on rear and side property lines even though 2.209.09 does not allow fences greater than 3.5 feet within 10 feet of a front property line.

64. 2.207.05, C, 4, Screening and Buffering. Propose deleting the reference to the Planning Commission as the decision authority.

SECTION 3.101, SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

65. 3.101.01, D, Type I Action, Type I-D. Delete Site Development Review (SDR) as a I-D Expedited Action. ORS 197.360 – 197.380, Expedited Land Use, does not include SDR. Over the years Lafayette has process Site Development Review applications as a Type I-C and will continue to process them as a Type I-C.

66. 3.101.04, A, Type IV Action. Add the Oregon Department of Land Conservation and Development as a body to appeal a Type IV action to for alleged inconsistencies with the Statewide Goals. And, clarify that a Type IV action that is denied cannot be appealed, except when the proposed amendment addresses a new or amended Statewide Goal, OAR or Statute.

SECTION 3.103, CONDITIONAL USE PERMITS

67. 3.103.02, Application and Fee. Add language stating a CUP application must use a form provided by the City and that the application must address the submittal requirements and the approval criteria.

68. 3.101.03, Criteria For Approval. Change the title from Criteria For Approval to Submittal Requirements and renumber Criteria For Approval to be 3.103.04. The CUP section does not say what information is included in a CUP application. The amended language calls for the application to address the items in the Site Analysis Subsection, provide a Site Plan showing the items listed, provide a copy of the deed for the property showing who the owner is and provide a Schedule of Development. Depending on the type of use and the scale of development, the Site Analysis, Site Plan and Schedule of Development could be very rudimentary or more detailed.

69. 3.103.04, Expiration of Approval. Renumber to 3.103.05 and make numerous changes regarding the lapsing of the 1-year approval period and applying for an extension of the 1-year approval period.

SECTION 3.104, VARIANCES

70. 3.104.01, Purpose. Delete the differentiation between Minor and Major Variances from the Purpose Section because explaining such a difference is not a purpose of the variance process.

71. 3.104.02, Application and Fee. Change the title from Application and Fee to Process, and renumber Application and Fee to 3.103.03. Add the new Process Section wherein the Minor and Major difference is explained & that Minor Variances are Type I-B and Major Variances are Type II-A process.

72. 3.104.03. This section becomes the Application and Fee section with language added saying the application must be on a form provided by the City and it must address the submittal requirements and the approval criteria.

73. 3.104.04. Change this section from addressing Applicability to addressing the information that must be included in the application. The items to be included are the same as proposed above for the CUP application. Depending on the type of use and the scale of development, the Site Analysis, Site Plan and Schedule of Development could be very rudimentary or more detailed.

74. 3.104.05. Amend this section to be the Applicability Section.

75. 3.104.06, is to be the Minor Variance Criteria Section. The current title, Criteria and Procedure – Minor Variance, is changed to delete "and Procedure" because this section contains only the approval criteria and no procedures. The procedures are now in 3.104.02, Process.

76. 3.104.07. Amend this section to be the Major Variance Criteria Section. The current title, Criteria and Procedure – Major Variance, is changed to delete "and Procedure" because this section contains only the approval criteria and no procedures. The procedures are now in 3.104.02, Process.

77. 3.104.08, Expiration of Approval. Renumber to be 3.104.08 and make numerous changes regarding the lapsing of the 1-year approval period and applying for an extension of the 1-year approval period.

SECTION 3.105, SITE DEVELOPMENT REVIEW

78. 3.105.02, Application and Fee. Add language saying the application must be on a form provided by the City and it must address the submittal requirements and the approval criteria.

79. 3.105.03, Applicability of Provisions. Amend Subsection A regarding what development must go through the SDR process. It is clarified that new development on a vacant property must go through the SDR process. The 25% "trigger" is retained, but it is clarified that it applies to the amount of structure square footage on the property on the day the SDR application is submitted. Language is added requiring parking lot expansions and the paving of existing unpaved parking lots to go through the SDR process.

80. 3.105.03, Applicability of Provisions. Amend Subsection B regarding what development is not required to go through the Site Development Review (SDR) process. It is clarified that new detached single family dwellings and 2-unit townhouses are exempted. Two-unit townhouses are exempted because it appears the current language exempted them and because duplexes (rental units) are exempted and it would be consistent to state that 2-unit townhouses (ownership units) would also be exempted.

81. 3.105.03, Applicability of Provisions. Delete Subsection C regarding meeting all the standards of the underlying zone and put that statement in the Criteria Section, 3.105.06.

82. 3.105.03, Applicability of Provisions. Add subsection D stating a new use that must go through the building code "change of use" process and be brought up to fire/life/safety standards in the building code must also go through the SDR process regarding meeting the landscaping standards of the underlying zone. The SDR process would only address landscaping and, therefore, would be a brief and less complex application compared to new construction.

83. 3.105.04, change the title from Review and Approval Process to Process. Clarify that a SDR is a Type I-C, Limited Land Use, action and is not a Type I-D, Expedited, action in accordance with ORS 197.360 to 197.380.

84. 3.105.05, A, 1, Submittal Requirements. Clarify that the Site Analysis is a written narrative.

85. 3.105.05, A, 2, Submittal Requirements. Add language clarifying that the listed items for the Site Plan must be shown on the Site Plan. Clarify in A, 2, g, that only freestanding signs (not wall signs) need be shown and if the project hasn't gotten to the point of considering freestanding signs, then none need be shown. Subsections h and i are renumbered to be 3 and 4 because proof of ownership and a schedule of development are not typically part of a site plan.

86. 3.105.06, Evaluation of Site Development Plan. Amend to add that the provisions of the underlying zone and any applicable overlay zones, such as the Flood Plain Overlay Zone, must be met.

87. 3.105.06, D, Evaluation of Site Development Plan. Amend to delete "D. Public health factors" as a criterion to be addressed in the SDR application. It appears this criterion is an historical holdover from 40 years ago when the writer of the Code language was not clear that the authority of the City did not include public health issues and was not aware that any applicable public health factors would be addressed by the Yamhill County Health Department or applicable State agencies, i.e., DEQ.

88. 3.105.07, Expiration of Approval. Similar to the above amendments for CUP's, Variances, Partitions and Subdivisions, amendments are proposed to re-organize and clarify the approval period (1-year) and the process for extending the 1-year approval period.

89. 3.105.08, Financial Assurances. Propose correcting the reference to the wrong Code subsection. Propose adding off-site improvements because it is not uncommon for a SDR decision to include one or more conditions of approval related to public water, sewer, storm drain and street facilities that are not on the site. Overall, performance bonds and similar financial assurances should not be used, and instead, the city should stand firm on requiring on-site and off-site facilities to be in place and operational when the project is ready for occupancy.

GENERAL PROCEDURES

90. 3.201.02, Procedure for Type I-B Review, Subsection E, Notice of Decision. The current language does not call for the city to send the applicant a copy of the actual decision. Amendments are proposed to clarify that a copy of the decision is sent to the applicant and a Notice of Decision with its explanation of appeal rights is sent to the applicant and to those who participated in the process.

91. 3.201.024, Procedure for Type I-C Review, Limited Land Use Application, Subsection D, The Decision and Appeals. The current language does not call for the city to send a Notice of Decision with its explanation of appeal rights to the applicant or to those who participated in the process. Amendments are proposed to clarify that a Notice of Decision is sent to the applicant and to those who participated in the process. Clarify that an appeal must be in writing and submitted to the City within the appeal period based on when the Notice of Decision was mailed. Clarify that the option of the appeal authority reviewing the case on the record or via a de novo hearing is decided by City staff. Clarify that when an appeal is heard by the Planning Commission, the Commission's decision can be appealed by those who participated in the appeal process at the Planning Commission.

92. 3.201.026, Procedure for Type I-D Review, Expedited Land Application (staff decision on partitions). House Bill 3223 in the 2015 Legislature amended the Expedited Land Division Application process in ORS 197.360 to 197.380. The proposed amendments to 3.201.026 will bring the LZDO into conformance with the Bill. The prior expedited process required the applicant for a partition, subdivision or PUD to request that the expedited process be used. Statewide, the expedited process was used so sparingly, the building industry and affordable housing interests sought to make the process more accessible. Rather than use an education effort to inform builders and affordable housing interests to ask that their applications be reviewed and decided through the expedited process, the Oregon State Homebuilders Association (OSHBA) and affordable housing interests worked with legislators to change the Statute to require partitions and subdivisions in specific situations to be subject to the expedited process unless the builder opts out. The disadvantage of the expedited process is, it takes longer to

achieve a final decision if there is an appeal, and it is not uncommon for a subdivision, and occasionally a partition, to be appealed, especially if it is for affordable housing which, usually, is apartments.

The proposed amendments at 3.201.026, A and B, bring the Type I-D (a staff decision regarding a partition) into conformance with HB 3223. Where a partition application meets the requirements for the expedited process, the City must notify the applicant within 2 weeks that the expedited process will be used unless the applicant wants to use the normal process, i.e., the Type I-B process.

Further amendments are proposed to 3.201.026, G, The Decision and Appeals, to clarify the process.

93. 3.201.036, Procedure for Type II-C Review, Expedited Land Application (Planning Commission decision on subdivisions and PUD's). The proposed amendments to 3.201.036 will bring the LZDO into conformance with House Bill 3223. For the purposes of this memo, Attachment 1 does not show the proposed amendments because they are the same as the above amendments for partitions.

3.202 PUBLIC NOTICE REQUIREMENTS

94. 3.202.02, B, Written Notice. Previously, a 45-day notice was required to be sent to the Oregon Department of Land Conservation and Development of a proposed amendment to a Comprehensive Plan or a Development Code. Additionally, once an ordinance was passed effectuating the amendment, a notice of the adoption was required to be sent to the Department within 5-days of the adoption.

A Legislative Bill reduced the 45-day period to 35-days and increased the 5-day period to 20-days.

The proposed amendments to 3.202.02, B, incorporate the 35 and 20 day periods.

PLANNING COMMISSION ACTION

Staff recommends the Planning Commission review the above list of proposed changes and the actual language changes proposed in Attachment 1 and provide comments to staff at the October 20 meeting.

Attachment 1.Proposed Amendments, "mark-up" version showing language to be deleted and added.

ATTACHMENT 1, PROPOSED AMENDMENTS

Language to be deleted is shown in ~~strikeout~~ and language to be added is shown in ***bold italics***.

The proposed amendments are by LZDO Section numerical order.

2.207 ~~SITE AND~~ LANDSCAPING DESIGN

2.207.02 Scope.

All construction, expansion, or redevelopment of structures or parking lots for commercial, multi-family, ***public*** or industrial uses shall be subject to the landscaping requirements of this Section. Landscaping plans shall be submitted as required by the Site Development Review procedures of Section 3.105 ~~and reviewed by the Planning Commission, subject to Type II review procedures set forth in Section 3.201.03~~.

2.207.03 Minimum Area Requirements.

A. The following ~~area requirements~~ shall be the minimum ***landscaped*** areas ~~devoted to landscaping~~:

~~A~~***1***. Multi-Family Developments: ~~A minimum of~~ 25 percent of the gross land area ***, except for parking and loading areas and land dedicated to the public for rights-of-way*** ~~shall be devoted to landscaping in multi-family developments~~. Interior ***unroofed*** courtyards, atriums, solar greenhouses and roof gardens may be included with ***the*** general landscaped areas in the ~~calculation of this percentage~~ ***in the 25 percent***.

~~B~~***2***. Commercial developments: ~~A minimum of~~ 6 percent of the gross land area ***, except for parking and loading areas and land dedicated to the public for rights-of-way*** ~~shall be devoted to landscaping in commercial developments~~.

3. Public developments: 6 percent of the gross land area, except for parking and loading areas and land dedicated to the public for rights-of-way.

~~C~~***4***. Industrial Developments: ~~A minimum of~~ 6 percent of the gross land area ***, except for parking and loading areas and land dedicated to the public for rights-of-way*** ~~shall be devoted to landscaping~~ ~~***landscaped***~~ in industrial ~~developments~~.

B. Landscaped areas may include landscaping:

1. ~~a~~ ***A***round buildings;

2. ~~i~~ ***I***n open spaces and outdoor recreation areas; ***and***

~~in islands and perimeter planting areas in parking and loading areas; and~~

3. ~~i~~ ***I***n ~~areas devoted to~~ buffering and screening ***areas*** as required in this Section and elsewhere in this Ordinance.

C. For expansions of ***structures and parking areas in*** existing developments ~~and parking lots~~, the minimum new landscaped area shall be determined by:

1. Structure Expansions.

a. ~~first~~ ~~e~~ ***C***alculating the percentage of the increase of total ***gross*** floor area ~~or parking area~~;

b. ~~m~~ ***M***ultiplying the ***total*** gross site area by this percentage of increase;

c. ~~m~~ ***M***ultiplying the resulting area by the minimum percentage for the type of development ***(multi-family, commercial, public, industrial).*** ~~, as listed below:~~

2. Parking Area Expansions.

a. The expanded parking area shall comply with Section D, below.

b. Where the parking area expansion would create less than 5 parking spaces, 1 shade tree shall be planted, unless the existing parking area exceeds the required 1 shade tree per 5 parking spaces.

c. Where the parking area expansion would create more than 10 spaces in a row when combined with the existing parking area, a landscape island shall be provided to result in no more than 10 spaces is a row.

~~A. Multi-Family Developments: A minimum of 25 percent of the gross land area shall be devoted to landscaping in multi-family developments. Interior courtyards, atriums, solar greenhouses and roof gardens may be included with general landscaped areas in the calculation of this percentage.~~

~~B. Commercial developments: A minimum of 6 percent of the gross land area shall be devoted to landscaping in commercial developments.~~

~~C. Industrial Developments: A minimum of 6 percent of the gross land area shall be devoted to landscaping in industrial developments.~~

D. Parking Areas: The following standards shall be met for each parking lot or each parking bay where a development contains multiple parking areas:

1. A minimum of 10 percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas shall be landscaped. Such landscaping shall consist of an evenly distributed mix of shade trees with shrubs and ground cover plants, as approved by the City. At a minimum, one shade tree per 5 parking spaces total shall be planted to create a partial tree canopy over and around the parking area.

2. All parking areas with more than 10 spaces shall include landscape islands with trees to break up the parking area into rows of not more than 10 contiguous parking spaces. All landscaped islands shall have minimum dimensions of 48 square feet to ensure adequate soil, water, and space for healthy plant growth.

3. All required parking lot landscaped areas not otherwise planted with trees must contain a combination of shrubs and groundcover plants so that within 2 years of planting, not less than 50 percent of that area is covered with living plants.

4. Wheel stops, curbs, bollards and other physical barriers are required along the edges of all vehicle-maneuvering areas to protect landscaping from being damaged by vehicles. Trees shall not be planted fewer than 2 feet from any such barriers.

5. Trees planted in tree wells within sidewalks or other paved areas shall be installed with root barriers, consistent with best management practices.

2.207.04 General Provisions.

A. For purposes of satisfying the minimum requirements of this Ordinance, a ~~"~~ landscaped area ~~"~~ must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or ~~desirable~~ native vegetation ***acceptable to the decision authority*** , or be used for other landscape elements as defined in this Ordinance.

B. Landscaping shall be designed, developed and maintained to satisfy the specific functional and aesthetic objectives appropriate to the development and the ***zoning*** district, considering the following:

1. Type, variety, scale and number of plants used;
2. Placement and spacing of plants;
3. Size and location of landscaped areas;
4. Contouring, shaping and preparation of landscaped areas;
5. Use and placement of non-plant elements within the landscaping.

~~C. The Planning Commission may grant the applicant credit for landscaping to be done in the public right-of-way provided the elements set forth for the granting of a variance are met by the applicant. It shall not be necessary to hold a public hearing to grant this credit. The Planning Commission shall consider the need for future use of the right-of-way for street purposes when granting approval for credit under this section.~~

~~D.~~ The landscape design shall ~~incorporate~~ ***consider preserving*** existing significant trees and vegetation ~~preserved on the site~~ ***and if they are not to be preserved, a statement shall be included in the application stating why they are not proposed to be preserved***.

2.207.05 Screening and Buffering.

A and B, no changes proposed.

C. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternative shall be employed:

1. Planting Area: No changes proposed.

2. Berm Plus Planting Area: No changes proposed.

3. Wall ***or Fence*** Plus Planting Area: Width must not be less than five (5) feet developed in accordance with the following standards:

a. A masonry wall or fence not less than five (5) feet in height.

b. Lawn, low-growing evergreen shrubs, and evergreen ground cover covering the balance of the area.

c. Notwithstanding Section 2.209.09, Fences Walls and Hedges, a fence may be allowed along a side or rear property line to be up to 6 feet in height within 10 feet of a property line adjacent to a street, provided the clear vision area requirements of Section 2.209.08 are met.

4. Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated~~, as approved by the Planning Commission~~.

3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

3.101.01 Type I Action.

Type I actions are reviewed and decided by the City staff. They are divided into four categories:

A. Type I-A actions are reviewed and decided by City staff based on objective standards that allow for no interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision provided they do not require an interpretation or the exercise of policy or legal judgment. Notice of the decision is provided consistent with Section 3.201.01. There is no appeal. The following are Type I-A actions:

1. Property Line Adjustment.
2. Sign Permit.
3. Floodplain Development Permit.

B. Type I-B actions are reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision. Notice of the decision is provided consistent with Section 3.201.02. Appeal is to the Planning Commission. The following are Type I-B actions:

1. Minor Variance.
2. Home Occupation.
3. Property Line Adjustment with discretion.
4. Sign Permit with discretion.
5. Floodplain Development Permit with discretion.
6. Similar Use/Ordinance Interpretation as part of a Type I-B application.
7. Similar Use/Ordinance Interpretation not part of an application.

C. Type I-C actions are Limited Land Use actions reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision. Notice of the opportunity to comment is provided consistent with Section 3.201.024. Notice of the opportunity to appeal is provided consistent with Section 3.201.024. Appeal is to the Planning Commission. The following are Type I-C actions:

1. Partition.
2. Site Development Review.

D. Type I-D actions are Expedited Land Division actions reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Notice of the opportunity to comment is provided consistent with 3.201.026. Conditions may be placed on the decision. Notice of the opportunity to appeal is provided consistent with Section 3.201.026. Appeal is to the Referee. The following ~~are~~ ***is a*** Type I-D action~~s~~:

1. Partition.

~~2. Site Development Review.~~

3.101.04 Type IV Actions.

A. Type IV actions are legislative actions reviewed and decided by the City Council based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Private parties cannot apply for a Type IV action. Type IV actions shall be initiated by City staff, Planning Commission, or City Council. The Planning Commission makes a recommendation to the City Council. Public notice of the Planning Commission and City Council public hearings is provided consistent with Section 3.207. Conditions may be placed on the decision. Appeal is to the Oregon Land Use Board of Appeals (LUBA)***or the Oregon Department of Land Conservation and Development,*** unless the

decision is to deny a legislative action and then , ~~there is no appeal~~ in accordance with Oregon Revised Statute 197.620 , ***there is no appeal unless the amendment is necessary to address the requirements of a new or amended goal, rule or statute.*** The following are Type-IV actions:

1. Comprehensive Plan Map or Text Amendments (legislative).
2. Zone Map Change or Zone Code Text Amendments (legislative).
3. Similar Use/~~Ordinance~~ ***Zone Code*** Interpretation as part of a Type IV Application.
4. Similar Use/~~Ordinance~~ ***Zone Code*** Interpretation not part of an application.

3.103 CONDITIONAL USE PERMITS

3.103.01 Process. No changes are proposed.

3.103.02 Application and Fee.

Conditional Use Permit applications shall be filed with the City Administrator or designee ***using a form provided by the City*** and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the***submittal requirements and*** review criteria of this Section.

3.103.03 ~~Criteria For Approval.~~***Submittal Requirements.***

A. The following information shall be submitted as part of a complete application for a Conditional Use Permit:

1. Site Analysis. The following shall be addressed in a written narrative.

a. Existing site topography;
b. Identification of areas exceeding 10% slopes;
c. Site drainage;
d. Areas within the 100-year flood plain (Special Flood Hazard Area);
e. Areas with significant natural vegetation;
f. Existing structures, roadway access and utilities;
g.Traffic safety, internal circulation and parking, connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities; and
h. Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

2. Site Plan. The following shall be shown on a site plan drawn to scale.

a. Proposed grading and topographical changes;
b. Proposed structures and setbacks;
c. Vehicular, bicycle and pedestrian circulation patterns, parking, loading and service areas;
d. Proposed access to public roads, highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;
e. Site drainage plan including methods of storm drainage;
f. Sanitary sewer system and water supply system (inverse elevations may be required for underground lines);
g. Electrical service;
h. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses; and

i. Proposed on-premise freestanding signs if their location is known, and fencing or other fabricated barriers, and their heights and setbacks;

3. A copy of the current deed showing proof of ownership. The current owner shall sign the application form, and where an agent of the owner signs the form, a letter signed by the owner stating the name and organization of the agent and that the named agent has the authority to sign the application form for the owner.

4. A schedule of expected development.

3.103.~~03~~.***04***Criteria For Approval. No changes are proposed.

3.103.~~04~~.***05***Expiration of Approval.

A. Unless otherwise provided by the decision authority in the decision granting approval of the application, the approval shall automatically lapse one year after the effective date upon which it was granted unless one of the following events occur:

1. The applicant or his successor in interest has secured a building permit within said one year period, if a building permit is required, and has commenced construction of the structure authorized by the building permit within said one year period.

2. The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the approval within said one year period.

B. The applicant may submit a request for an extension of time on the approval to avoid the approval lapsing. The request for extension and the required fee shall be filed with the City Administrator or designee ~~at least 45 days~~prior to the expiration of the time established by Subsection A, above. ***The request shall include a written narrativeaddressing the approval criteria in Section 3.103.04, D, below.***

C. Submittal of the request for extension to the City Administrator or designee shall stay the expiration of the one year approval period until a decision, and all appeals of the extension decision, are final. The decision authority may grant one 1-year extension.

D. Extension Criteria. The City Administrator or designee may approve the extension provided the applicant shows:

1. Intent to initiate construction on the site, or if construction has been initiated, to complete the construction, or where there are only non-construction requirements, shows intent to complete the non-construction requirements within the one year extension period;

2. There have been no significant changes in the facts on which the approval was based; and

3. There have been no significant changes in the applicable City provisions on which the approval was based.

3.104 VARIANCES - MINOR AND MAJOR

3.104.01 Purpose.

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements.

~~A minor variance may be approved for those requests resulting in no more than a 20% change in a quantifiable standard. Otherwise, any change to a quantifiable standard will require a major variance.~~

3.104.02~~Application and Fee.~~***Process. A Minor Variance applicationmay be approved for those requests resulting in no more than a 20% change in a quantifiable standard and shall be reviewed in accordance with the Type I-B procedures in Section 3.201.A Major Variance applicationmay be approved for those requests resulting in more than a 20% change in a quantifiable standard and shall be reviewed in accordance with the Type II-A procedures in Section 3.201.***

3.104.~~02~~***.03***Application and Fee.

Variance applications shall be filed with the City Administrator or designee***using a form provided by the City*** and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the***submittal requirements and*** review criteria of this Section.

3.104.~~03~~***.04***~~Applicability~~***Submittal Requirements***.

A. The following information shall be submitted as part of a complete application for a Minor or Major Variance:

1. Site Analysis. The following shall be addressed in a written narrative.

a. Existing site topography;
b. Identification of areas exceeding 10% slopes;
c. Site drainage;
d. Areas within the 100-year flood plain (Special Flood Hazard Area);
e. Areas with significant natural vegetation;
f. Existing structures, roadway access and utilities;
g. Traffic safety, internal circulation and parking, connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities; and
h. Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

2. Site Plan. The following shall be shown on a site plan drawn to scale.

a. Proposed grading and topographical changes;
b. Proposed structures and setbacks;
c. Vehicular, bicycle and pedestrian circulation patterns, parking, loading and service areas;
d. Proposed access to public roads, highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;
e. Site drainage plan including methods of storm drainage;
f. Sanitary sewer system and water supply system (inverse elevations may be required for underground lines);
g. Electrical service;
h. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses; and

i. Proposed on-premisefreestanding signs if their location is known, and fencing or other fabricated barriers, and their heights and setbacks.

3. A copy of the current deed showing proof of ownership. The current owner shall sign the application form, and where an agent of the owner signs the form, a letter signed by the owner stating the name and organization of the agent and that the named agent has the authority to sign the application form for the owner.

4. A schedule of expected development.

3.104.~~03~~***.05***Applicability.

~~Under the following provisions, a property owner or his designate may apply~~***A Minor or Major Variance application may be submitted***to vary a standard or requirement of this Ordinance, except when one or more of the following applies:

A. The proposed variance would allow a use which is not permitted in the district;

B. Another procedure and/or criteria is specified in the Ordinance for varying the particular requirement or standard;

C. Varying the requirement or standard is prohibited within the district; or

D. A variance from the requirement or standard is not allowed in the district.

3.104.~~04~~***.06*** Criteria ~~and Procedure~~ - Minor Variance.

The City Administrator or designee may allow a minor variance from a requirement or standard of this Ordinance ~~in accordance with the Type I-B procedures~~ provided the applicant provides evidence ~~that~~the following circumstances substantially exist:

A - E. No changes are proposed.

3.104.~~05~~***.07***Criteria ~~and Procedure~~ - Major Variance.

The Planning Commission may allow a major variance from a requirement or standard of this Ordinance ~~after a public hearing conducted in accordance with the Type II review procedures~~ provided~~that~~the applicant provides evidence that the following circumstances substantially exist:

A - E. No changes are proposed.

3.104.~~06~~***.08***Expiration of Approval

A. Unless otherwise provided by the decision authority in the decision granting approval of the application, the approval shall automatically lapse one year after the effective date upon which it was granted unless one of the following events occur:

1. The applicant or his successor in interest has secured a building permit within said one year period, if a building permit is required, and has commenced construction of the structure authorized by the building permit within said one year period.

2. The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the approval within said one year period.

B. The applicant may submit a request for an extension of time of the approval to avoid the approval lapsing. The request for extension and the required fee shall be filed with the City Administrator or designee~~at least 45 days~~prior to the expiration of the time established by Subsection A, above. ***The request shall include a written narrativeaddressing the approval criteria in Section 3.103.04, D, below.***

C. Submittal of the request for extension to the City Administrator or designee shall stay the expiration of the one year approval period until a decision, and all appeals of the extension decision, are final. The decision authority may grant one 1-year extension.

D. Extension Criteria. The City Administrator or designee may approve the extension provided the applicant shows:

1. Intent to initiate construction on the site, or if construction has been initiated, to complete the construction, OR where there are only non-construction requirements, shows intent to complete the non-construction requirements within the one year extension period;

2. There have been no significant changes in the facts on which the approval was based; and

3. There have been no significant changes in the applicable City provisions on which the approval was based.

3.105 SITE DEVELOPMENT REVIEW

3.105.01 Purpose.

The Site Development Review Process is intended to:

A - E. No changes are proposed.

3.105.02 Application and Fee.

Site Development Review applications shall be filed with the City Administrator or designee***using a form provided by the City*** and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the ***submittal requirements and*** review criteria of this Section.

3.105.03 Applicability of Provisions

A. ***Except as set forth in Subsection B, below,*** Site Development Review shall be required for the following:

1. Any new development ~~whereby a site development review is required to establish a permitted or conditionally permitted use~~***on a vacant property***.

2. Any developmentwhich***:***

a. ~~e~~***E***xceeds 25% of the total square footage of the structure or structureswhich ~~existed as of January 1, 1998~~***are on the site on the day the Site Development Review application is submitted;***

b. Any expansion of an existing parking lot, paved or unpaved, which exceeds 25% of the total square footage of the existing parking lot on the day the Site Development Review application is submitted; and

c. Any paving of an existing unpaved or partially paved parking lot which exceeds 25% of the total square footage of the existing parking lot, paved or unpaved, on the day the Site Development Review application is submitted.

3. Except for the uses in 3.105.03, B, any commercial, industrial or public and semi-public use interior modifications or change in use which meets one of the following ***:***

a. The modification or change in use requires a 25%***or greater*** increase in the number of required parking spaces ~~(not existing)~~ for the current use***compared to the number of existing spaces on the property***; or

b. The modification or change in use generates an average of 100~~+~~ ***or more*** trips per day per 1000 gross square feet of building as documented in the Trip Generation Manual of the Institute of Transportation Engineers or other qualified source; or,

c. The modification or change in use includes daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.

B. Site Development Review shall not be required for the following:

1. Single family detached ~~or attached~~ dwelling on a lot or parcel***or a single family attached dwelling on adjacent lots or parcels (townhouse) provided 2 or less attached dwellings are proposed***.

2. Duplex on a lot or parcel.

3. Any commercial, industrial or public and semi-public use expansion that does not exceed 25% of the total square footage of the structure or structures which existed as of January 1, 1998.

~~C. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.~~

~~D~~***C***. Notwithstanding A ~~– C~~***and B***, above, the Architectural Design Standards in the C-1 Zone, Section 2.105.05.B shall apply to all development and exterior maintenance in the C-1 District, and to all development and exterior maintenance in the C-2 Zone for properties with frontage on Third Street.

D. Notwithstanding A and B, above,when achange of occupancy is required in accordance with the applicable building code, the required landscaping in the underlying zone for the property shall be installed prior to the performance of the final inspection or the issuance of a Certificate of Occupancy, whichever occurs last.

3.105.04 ~~Review and Approval~~ Process.

Site Development Review applications shall be reviewed in accordance with the Type I-C***, Limited Land Use Decision,*** ~~or I-D~~ review procedures in Section 3.201.

3.105.05 Submittal Requirements.

A. The following information shall be submitted as part of a complete application for Site Development Review:

1. Site Analysis. ***The following shall be addressed in a written narrative.***

a. Existing site topography;
b. Identification of areas exceeding 10% slopes;
c. Site drainage, areas of potential flooding;
d. Areas with significant natural vegetation;
~~e. Classification of soil types; and~~
~~f~~***e***. Existing structures, roadway access and utilities~~.~~***;***
~~g~~***f***. Traffic safety, internal circulation and parking, connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities; ***and***
~~h~~***g***. Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

2. Site Plan. ***The following shall be shown on a site plan drawn to scale.***

a. Proposed grading and topographical changes;
b. All proposed structures including finished front and side floor elevations and setbacks;
c. Vehicular, bicycle and pedestrian circulation patterns, parking, loading and service areas;
d. Proposed access to public roads, highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;
e. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
f. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses; ***and***
g. Proposed on-premise***freestanding*** signs***if their location is known***, ***and***fencing or other fabricated barriers, ~~together with~~***and***their heights and setbacks~~;~~***.***
~~h. Proof of ownership and signed authorization for the proposed development, if applicant is not the owner of the site; and~~
~~i. A schedule of expected development.~~

~~h.~~***3. A copy of the current deed showing proof of ownership. The current owner shall sign the application form, and where an agent of the owner signs the form, a letter signed by the owner stating the name and organization of the agent and that the named agent has the authority to sign the application form for the owner.***

~~i~~***4.*** A schedule of expected development.

3.105.06 Evaluation of Site Development Plan.

The review of a Site Development Plan shall be based upon***compliance with all of the provisions and regulations of the underlying zone and any applicable overlay zones, unless modified by other Sections of this Code and*** consideration of the following:

A. Conformance with the General Development Standards***, Sections 2.201 - 2.211,*** contained in this Ordinance.

B. Characteristics of adjoining and surrounding uses;

C. Drainage and erosion control needs;

~~D. Public health factors;~~

~~E~~***D***. Traffic safety, internal circulation and parking;

~~F~~***E***. Provision for adequate noise and/or visual buffering from non-compatible uses;

~~G~~***F***. Retention of existing natural features on site; ~~and~~

~~H~~***G***. Problems that may arise due to development within potential hazard areas~~.~~***; and***

~~I~~***H***. Connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities.

3.105.07 Expiration of Approval.

A. ~~Site Development Review approval shall be effective for one year from the date of approval. If substantial construction of the approved plan has not begun within one year from the date of approval, the approval shall lapse.~~***Unless otherwise provided by the decision authority in the decision granting approval of the application, the approval shall automatically lapse one year after the effective date upon which it was granted unless one of the following events occur:***

> ***1. The applicant or his successor in interest has secured a building permit within said one year period, if a building permit is required, and has commenced construction of the structure authorized by the building permit within said one year period.***
>
> ***2. The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the approval within said one year period.***

B. Site Development Review approval shall be voided immediately if construction on the site is a departure from the approved ~~plan~~***Site Development Review application without prior approval from the City Administrator or designee***.

C. ~~The City Administrator or designee may upon written request by the applicant submitted no later than 45-days prior to the lapsing of the approval period and payment of the required fee, grant no more than one extension of the approval for no more than six months provided that:~~***The applicant may submit a request for an extension of time on the approval to avoid the approval lapsing. The request for extension and the required fee shall be filed with the City Administrator or designeeprior to the expiration of the time established by Subsection A, above. The request shall include a written narrative addressing the following approval criteria:***

> 1. No changes are made to the approved Site Development ~~Plan~~***Review application***;
>
> 2. The applicant can show intent to initiate construction on the site ~~within the six month extension period~~***or if construction has been initiated, to complete the construction, or where there are only non-construction requirements, shows intent to complete the non-construction requirements within the one year extension period***; ~~and~~
>
> 3. There have been no***significant*** changes in the facts ~~or applicable policies or ordinance provisions~~ on which the ~~original~~ approval was based.
>
> ***4. There have been no significant changes in the applicable City provisions on which the approval was based.***

D. Submittal of the request for extension to the City Administrator or designee shall stay the expiration of the one year approval period until a decision, and all appeals of the extension decision, are final. ***The decision authority may grant one 1-year extension.***

3.105.08 Financial Assurances.

If required site***and off-site*** improvements cannot be completed prior to the issuance of an occupancy permit, a performance bond or other guarantee acceptable to the City Attorney may be allowed, as provided for in Subsection ~~3.201.02, D, 3~~***3.201.024, E, 3, Type I-C, Limited Land Use Application.***

3.201 GENERAL PROCEDURES

3.201.02 Procedure for Type I-B Review.

Type I-B actions shall be reviewed and decided by the City Administrator or designee.

A. - D. No change.

E. Notice of Decision.

1. ***The***~~W~~***w***ritten ***and signed decision shall be mailed or emailed to the applicant and a*** notice of ***a*** Type I-B decisions shall be mailed to:
A - d. No changes are proposed..

3.201.024 Procedure for Type I-C Review, Limited Land Use Application.

Type I-C applications shall be reviewed and decided by the City Administrator or designee.

A. - C. No changes are proposed.

D. The Decision and Appeals.

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

2. The City shall mail ***or email*** a copy of the ***written and signed*** decision to the applicant and ***a written notice of the decision to the applicant and*** any person who submitted comments within the comment period in C, 2, a, of this Section.

~~2~~***3***. The applicant and any person who submitted comments within the comment period in C, 2, a, of this Section may ***file a written*** appeal***of*** the decision ***and submit it to the City Administrator or designee*** within 15-days of the date the***notice of***decision was mailed. An appeal of a limited land use decision shall be heard by the Planning Commission at a public hearing. ***As determined by the City Administrator or designee,*** ~~T~~***t***he hearing may be limited to the record developed pursuant to the initial decision by staff, or may be a de novo hearing allowing for the introduction of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence shall be ***noticed*** consistent with Section 3.202.02, B,***Public Notice Requirements.***

~~4.and~~***The*** written***and signed appeal decision shall be mailed or emailed to the applicant and a*** notice of the decision rendered on appeal shall be ~~provided~~***mailed or emailed***to the applicant and***mailed to*** all parties who submitted oral or written testimony at the hearing. The notice of decision for a hearing on the record or de novo shall include an explanation of the rights of each party to appeal the decision.

~~3~~***5***. The applicant***, the appellant*** and any person who ~~submitted comments within the comment period in C, 2, a, of this Section and all parties who~~ submitted oral or written testimony at the Planning Commission public hearing may appeal the Planning Commission decision within 15-days of the date the***notice of*** decision was mailed. An appeal of the Planning Commission decision shall be decided by the City Council consistent with Section 3.204.

3.201.026 Procedure for Type I-D Review, Expedited Land Application.

Type I-D applications shall be reviewed and decided by the City Administrator or designee. ~~When requested by the applicant, t~~***T***he following procedures shall be used for partitions ~~and site development reviews~~.

A. An Expedited Land Application shall:

1. ~~Apply to a property~~***Include only land*** in the City Limits and Urban Growth Boundary;

2. ~~Apply to a property~~***Include only land*** in the R-1 ***,*** ~~or~~ R-2 ***or RC*** Zone***s***;

3. Propose a development to be solely for residential uses, including recreational or open space uses accessory to residential uses;

4. Propose a development that does not propose ~~for~~dwellings or accessory buildings to be located on land that is specifically mapped and designated in the Lafayette Comprehensive Plan and Lafayette Zoning and Development Ordinance for full or partial protection of natural features under the Statewide Planning Goals that protects open spaces, scenic and historic areas and natural resources;

5. Satisfy minimum street or other right-of-way connectivity standards established in the Lafayette Zoning and Development Ordinance or, if such standards are not contained in the Lafayette Zoning and Development Ordinance, as required by Statewide Planning Goals or Administrative Rules;

6. ***Result in development that either:***

a.Create***s*** enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the***Zoning*** District ~~applied to the subject property~~***of the site; or***

b. Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

7. ***Include a written narrative***~~Describe~~***describing***how the application meets Section 3.201.026, A, 1 - 6.

B. Upon receipt of an application for a Type I-D action, the City staff shall***:***

1. Within 2 weeks of receipt of any application for a division of land under ORS 92.010 to 92.192, Tentative and Final Approval of Plans or Plats, 92.205 to 92.245, Undeveloped

Subdivisions, or 92.830 to 92.845, Subdivision in Manufactured Dwelling Park of Mobile Home Park, mail or email a written notice to the applicant if:

a. The application meets the requirements for an expedited land division under ORS 197.360, Expedited Land Division, Defined, or

b. The application contains insufficient information to determine whether the application meets the requirements for an expedited land division under ORS 197.360.

2. The written notice required under Subsection 1 of this section shall include a description of the requirements for an expedited land division and the procedure for applying for an expedited land division, and shall ask the applicant if the application is to be processed as a Type I-B (non-expedited application) or as a Type I-D (expedited application). Consistent with ORS 197.365 unless the applicant requests to use the Type I-B process, the Type I-D process shall be used.

3. ~~c~~ ***C***heck the application for completeness.

a~~1~~. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.

b~~2~~. If incomplete, City staff shall notify the applicant what information is missing within 21-days and allow the applicant to submit the missing information.

C. The application shall be deemed complete:

1 – 2. No changes are proposed.

D. City staff shall provide written notice of the receipt of the completed application to:

1 – 4. No changes are proposed.

E. The notice required in D, above, shall:

1- 9. No changes are proposed.

F. After providing notice consistent with Subsections D and E, above, the City shall provide a 15-day period beginning on the day after the notice was mailed for submission of written comments prior to issuing the decision.

G. The Decision and Appeals.

1. After the 15-day comment period in 3.201.026, F, City staff shall make a decision to approve, approve with conditions to ensure the application meets the applicable land use regulations, or deny the application. The decision shall be based on whether the application satisfies the standards of the underlying District and the applicable standards in Sections 2.201 –2.211 for General Development Standards; Sections 2.301 –2.311 for Supplemental Standards for Special Uses; Sections 2.401 –2.403 for General Provisions; and 3.100 (Application Requirements and Review Criteria), including but***not*** limited to Section 3.106 for partitions ~~and Section 3.105 for site development reviews~~.

2. The***written and signed*** decision shall be issued within 63-days of an application being deemed complete, however, the 63-day period may be extended to no more than 120-days of the application being deemed complete when, after seven days notice to the applicant, the City

Council, at a regularly scheduled public meeting, takes action to extend the 63-day period to a date certain for one or more expedited applications based on a determination that an unexpected or extraordinary increase in applications makes action within 63-days impracticable.

3. The decision shall include a written determination of compliance or noncompliance with applicable regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicatetheCity'sbasis for the determination.

4. ***The written and signed decision shall be mailed or emailed to the applicant and a*** ~~N~~***n***otice of the decision shall be mailed***or emailed*** to the applicant and***mailed*** to those who received notice under Subsection D, above***and commented in writing during the comment period***. The notice shall include:

a. The summary statement described in G, 3, and

b. An explanation of appeal rights.

5. After providing notice of the decision required in Subsection G, 4:

a. A 15-day period beginning on the day after the notice was mailed shall be provided for the submission of written appeals.

b. Appeals shall be submitted to the City Administrator or designee and accompanied by ~~a $300 deposit for costs~~ ***the appropriate fee***.

c. The decision may be appealed by the applicant or any person or organization who filed written comments in the 15-day comment period established in ~~Subsection F~~ ***3.201.026, F***.

d. The appeal shall be based solely on allegations:

(i) Of violation of the substantive provisions of the applicable land use regulations;
(ii) Of unconstitutionality of the decision;
(iii***)*** That the application is not eligible for review as an expedited application and should be reviewed as a land use decision or limited land use decision; or
(iv) That the parties'substantive rights have been substantially prejudiced by an error in procedure by the City.

6. An appeal of an expedited decision shall bedecidedbytheCity's referee and processed consistent with Oregon Revised Statute 197.375.

H. Type I-D approvals may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

1 – 3. No changes are proposed.

xxxxxxxxxxxxxxxxxxx THE FOLLOWING IS HB 3223 -- FOR USE DURING THE PREPARATION OF THIS MEMO.

HB 3223 in Word version to allow for easy electronic copying (JJ). [~~Brackets with strikethrough~~] is deleted language. **Bold** is added language.

78th OREGON LEGISLATIVE ASSEMBLY--2015 Regular Session

Enrolled House Bill 3223 Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

CHAPTER .....

AN ACT Relating to expedited land divisions; creating new provisions; and amending ORS 197.360, 197.365, 215.402 and 227.160.

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

SECTION 1. ORS 197.360 is amended to read:

197.360.

[~~(1) An expedited land division:~~]

[~~(a) Is an action of a local government that:~~]

(1) As used in this section:

(a) "Expedited land division" means a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 by a local government that:

(A) Includes **only** land that is zoned for residential uses and is within an urban growth boundary.

(B) Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

(C) Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

(i) Open spaces, scenic and historic areas and natural resources;
(ii) The Willamette River Greenway;
(iii) Estuarine resources;
(iv) Coastal shorelands; and
(v) Beaches and dunes.

(D) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

[~~(E) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.~~]

[~~(b) Is a land division that:~~]
[~~(A) Will create three or fewer parcels under ORS 92.010; and~~]
[~~(B) Meets the criteria set forth for an action under paragraph (a)(A) to (D) of this subsection.~~]

(E) Will result in development that either:

(i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

(ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

(b) "Expedited land division" includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.

(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

(3) The provisions of ORS 197.360 to 197.380 apply to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:

(a) The physical characteristics of permitted uses;

(b) The dimensions of the lots or parcels to be created; or

(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

(4) An application [~~to a local government~~] for an expedited land division **submitted to a local government** shall describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section.

SECTION 2.
(1) Within two weeks of receipt of any application for a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845, a local government shall send written notice to the applicant if:

(a) The application meets the requirements for an expedited land division under ORS 197.360; or

(b) The local government has insufficient information to determine whether the application meets the requirements for an expedited land division under ORS 197.360.

(2) The written notice required under subsection (1) of this section must include a description of the requirements for an expedited land division and the procedure for applying for an expedited land division.

SECTION 3.
ORS 197.365 is amended to read:

197.365. [~~When requested by an applicant for an expedited land division, in lieu of~~] **Unless the applicant requests to use** the procedure set forth in [~~its~~] **a** comprehensive plan and land use regulations, [~~the~~] **a** local government shall use the following [~~procedures~~] **procedure** for an expedited land division [~~under~~], **as described in** ORS 197.360:

(1)(a) If the application for expedited land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(2) The local government shall provide written notice of the receipt of the completed application for an expedited land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.

(3) The notice required under subsection (2) of this section shall:
(a) State:
(A) The deadline for submitting written comments;

(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.

(b) Set forth, by commonly used citation, the applicable criteria for the decision.

(c) Set forth the street address or other easily understood geographical reference to the subject property.

(d) State the place, date and time that comments are due.

(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.

(f) Include the name and telephone number of a local government contact person.

(g) Briefly summarize the local decision-making process for the expedited land division decision being made.

(4) After notice under subsections (2) and (3) of this section, the local government shall:

(a) Provide a 14-day period for submission of written comments prior to the decision.

(b) Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the local government's land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the local government:

(A) Shall not hold a hearing on the application; and

(B) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.

(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:

(A) The summary statement described in paragraph (b)(B) of this subsection; and

(B) An explanation of appeal rights under ORS 197.375.

SECTION 4. ORS 215.402 is amended to read: ***This section is not reformatted because it is county planning.***

215.402. As used in ORS 215.402 to 215.438 and 215.700 to 215.780 unless the context requires otherwise:
(1) "Contested case" means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) "Hearing" means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.

(4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) [An action under] An expedited land division, as described in ORS 197.360 [(1)]. SECTION 5. ORS 227.160 is amended to read:

227.160. As used in ORS 227.160 to 227.186:
(1) "Hearings officer" means a planning and zoning hearings officer appointed or designated by a city council under ORS 227.165.

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) [An action under] An expedited land division, as described in ORS 197.360 [(1)].

Passed by House April 23, 2015 ..... Timothy G. Sekerak, Chief Clerk of House ..... Tina Kotek, Speaker of House Passed by Senate May 26, 2015 ..... Peter Courtney, President of Senate Received by Governor: .....M.,....., 2015 Approved: .....M.,....., 2015 ..... Kate Brown, Governor Filed in Office of Secretary of State: .....M.,....., 2015 ..... Jeanne P. Atkins, Secretary of State Enrolled House Bill 3223 (HB 3223-A) Page 4

3.201.036 Procedure for Type II-C Review, Expedited Land Application.

Type II-C applications shall be decided by the Planning Commission. When requested by the applicant, the following procedures shall be used for subdivisions and planned unit developments.

NOTE: The Type II-C procedures (Expedited process with the Planning Commission as the decision authority) are proposed to be amended similar to the above Type I-D procedures (Expedited process with City staff as the decision authority). The amendments are not shown here, but will be provided at the September 15 work session.

3.202 PUBLIC NOTICE REQUIREMENTS

3.202.02 Type II and Type III Actions.

A. Published Notice. No changes are proposed.

B. Written notice :

1. Except as allowed in 3.202.02, D, written notice of a public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant and owners of property within 100 feet of the boundaries of the subject property.

2. In accordance with ORS 197.163 for post acknowledgement plan amendments, staff shall provide the required minimum ~~45-day~~***35-day***written notice of the proposed amendments on the required form, and the required minimum ~~5-day~~***20-days***written notice of the adoption (or denial or withdrawal) of amendments on the required form to the Oregon Department of Land Conservation and Development.

3. In accordance with ORS 227.168 for comprehensive plan map or text amendments and zone map or text amendments, staff shall mail the required"Measure56Notice"20–40 days prior to the first hearing stating the required language.

C. Posted Notice. No changes are proposed.

D. No changes are proposed.

END OF THIS SET OF PROPOSED AMENDMENTS