



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

03/19/2013

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Medford Plan Amendment
DLCD File Number 011-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, April 02, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Praline McCormack, City of Medford
Gordon Howard, DLCD Urban Planning Specialist
Josh LeBombard, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

DATE STAMP

DEPT OF

MAR 14 2013

LAND CONSERVATION AND DEVELOPMENT Only

Jurisdiction: **City of Medford**

Local file number: **DCA-11-038**

Date of Adoption: **2/21/2013**

Date Mailed: **3-8-13**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 12/7/12

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Consideration of a proposed Class "A" legislative amendment of the Medford Land Development Code Sections 10.031, 10.337, 10.705, 10.824 and 10.830 pertaining to public utility service facilities, including public safety communication towers.

Does the Adoption differ from proposal? Yes, Please explain below:

Added revisions to Section 10.337 to make use table in permitted uses section consistent with Section 10.830 which permits utilities in any zoning district.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Medford Police Department

Local Contact: **Praline McCormack, Planner II**

Phone: (541) 774-2380 Extension: 2397

Address: **200 S. Ivy Street, 2nd Floor**

Fax Number: **541-774-2564**

City: **Medford** Zip: **97501-**

E-mail Address:

praline.mccormack@cityofmedford.org

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

MINUTES OF THE MEDFORD CITY COUNCIL MEETING

February 21, 2013

The meeting was called to order at 12:00 noon in Council Chambers, City Hall, 411 W. 8th Street, Medford with the following members and staff present.

Mayor Gary Wheeler; Councilmembers Karen Blair, Daniel Bunn, Chris Corcoran, Al Densmore, Dick Gordon, Eli Matthews and Bob Strosser.

Councilmember John Michaels was absent.

City Manager Eric Swanson; Deputy City Manager Bill Hoke; City Attorney John Huttli; City Recorder Glenda Wilson.

Employee Recognition

Employees from the Human Resources, Planning, Police, Fire and Public Works were honored for their years of service.

New Employees

Michelle McClenny, Financial Support Technician in the Finance Department was introduced.

Employee of the Quarter

Dennis Hart, Public Works Department was recognized as the Employee of the Quarter.

20. Approval or correction of the minutes of the February 7, 2013, regular meeting

There being no corrections or additions the minutes were approved as presented

30. Oral requests and communications from the audience

30.1 Energy Trust of Oregon Presentation

Cory Crebbin, Public Works Director introduced Thad Roth from the Energy Trust of Oregon. Mr. Roth addressed the Council and provided the background on the award of \$450,000 to the City for the completed in upgrades at the Water Reclamation Facility.

30.2 Brent Barry, President of the Alba Sister City Association addressed the Council and provided an update on activities to raise awareness of the Sister City program. He spoke to the "Taste of Alba" event that the Committee is planning for June 1, 2013 to be held at Vogel Plaza. The Association is requesting that the Council considered funding of this event as a Special Event.

30.3 Lynette O'Neal, Assistant to the City Manager addressed the Council and provided an update on the Chamber Leadership program. She reported that the Leadership group has identified this year's project which is to build a covered patio area and storage facility for equipment for the Hearts with a Mission organization. She noted that the project includes the development of a brick walkway that will notate donations made to the project.

30.4 Mark Milner, representing the Parking Commission addressed the Council and presented several issues for Council consideration. He spoke to the membership of the Commission and requested that the Council modify the Code to allow another "at-large" designation.

Motion: Direct staff to bring forward a code amendment as recommended by the Parking Commission pertaining to commission membership.

Moved by: Chris Corcoran

Seconded by: Eli Matthews

Roll Call: Councilmembers Chris Corcoran, Eli Matthews, Dick Gordon, Karen Blair, Daniel Bunn, Al Densmore and Bob Strosser voting yes.

Motion carried and so ordered.

Mr. Milner then addressed the Council regarding changing the time limits on Central Avenue between Eighth and Tenth Streets and on Ninth Street from Front Street to Riverside Avenue from one hour to two hours with Pay by Phone. Mr. Milner noted that the Commission has spoken to all the abutting business owners who unanimously agreed to this change.

Councilmembers questioned the need for additional signage and Lynette O'Neal, Assistant to the Deputy City Manager noted that there will be some additional signage required but that the new signs will be added primarily to existing poles. Ms. O'Neal noted that this change will make the rate similar to the rate for parking in Lots A and B which abut these streets.

Motion: Direct staff to move forward with the Parking Commission recommendation for two hour parking on Central Avenue from Eighth Street to Tenth Street and on Ninth Street from Front Street to Riverside Avenue.

Moved by: Al Densmore

Seconded by: Chris Corcoran

Roll Call: Councilmembers Al Densmore, Chris Corcoran, Eli Matthews, Bob Strosser, Daniel Bunn, Karen Blair and Dick Gordon voting yes.

Motion carried and so ordered.

- 30.5 Seth King, Perkins Coie, LLP representing the Housing Authority of Jackson County addressed the Council regarding Agenda Item 60.3. He spoke to the agreement that is presented for adoption and that the Housing Authority is in support of the agreement. The Housing Authority encourages the Council to adopt the agreement. He spoke to the voluntary contribution by the Housing Authority that was increased based on the previous Council meeting.

Councilmember Gordon questioned what evidence can be considered in this issue. City Attorney John HuttI noted that this is a legislative matter and not subject to laws regarding the record or land use.

- 30.6 Dave and Mira Frohnmayer, 545 Spyglass Drive, Eugene addressed the Council and requested support of the Council for the agreement presented in Agenda Item 60.3.

- 30.7 Ron Norris, 1975 Bianca Court, Medford addressed the Council regarding the Cherry Creek issue. He spoke to the incompatibility of the Cherry Creek project and that the Housing Authority has unlimited funds to continue to fight this project. He feels that the neighborhood is being forced to accept this agreement as they are unable to continue to fight this issue. He spoke to the City's planning documents and establishment of codes that are in favor of special interests. He spoke to the need to assist and support neighborhood associations to bring forward and protect their unique natures.

- 30.8 Greg Jones, 2340 Greenbrook Dr., Medford addressed the Council and requested Council support and adoption of Agenda Item 60.3.

- 30.9 Mark Milner, addressed the council regarding Agenda Item 60.3 and expressed concerns about the impact on the downtown with the development of the proposed Housing Authority project at the 6th Street property. He is concerned about the impact this will have on parking for the downtown.

40. Consent calendar

- 40.1 COUNCIL BILL 2013-26 A resolution authorizing the transfer of \$7,500 from the City Manager Material & Services Account to the Parks & Recreation Material & Services Account for the banner program.
- 40.2 COUNCIL BILL 2013-27 An ordinance authorizing execution of an Intergovernmental Agreement with Rogue Community College to provide counseling and training for small business owners.
- 40.3 COUNCIL BILL 2013-28 An ordinance authorizing a Revocable Right-of-Way Permit to the property owner of 2503 Hillcrest Road to construct a new water service.
- 40.4 COUNCIL BILL 2013-29 An ordinance authorizing exemption from competitive bidding and authorizing purchase in the amount of \$122,766 to Ovivo USA, LLC, for the overhaul of the filter mechanism at the Regional Water Reclamation Facility.

Motion: Adopt the consent calendar.

Moved by: Al Densmore Seconded by: Eli Matthews

Roll Call: Councilmember Al Densmore, Eli Matthews, Chris Corcoran, Dick Gordon, Karen Blair, Daniel Bunn and Bob Strosser.

Motion carried and the following council bills were duly adopted: 2013-26, 2013-27, 2013-28 and 2013-29.

50. Items removed from consent calendar

60. Ordinances and resolutions

60.1 SECOND READING COUNCIL BILL 2013-19 An ordinance authorizing execution of an Agreement between the City of Medford and the Medford Police Officers Association concerning wages, hours, fringe benefits, and other working conditions retroactive from July 1, 2012 through June 30, 2015.

Motion: Adopt the ordinance.

Moved by: Chris Corcoran Seconded by: Bob Strosser

Roll Call: Councilmembers Chris Corcoran, Bob Strosser, Dick Gordon, Al Densmore, and Daniel Bunn voting yes. Councilmembers Karen Blair and Eli Matthews voting no.

Ordinance 2013-19 was duly adopted.

60.2 SECOND READING COUNCIL BILL 2013-20 An ordinance authorizing execution of an Agreement between the City of Medford and the Teamsters Local 223 representing Water Reclamation Division Operators concerning wages, hours, fringe benefits, and other working conditions retroactive from July 1, 2011 through June 30, 2014.

Motion: Adopt the ordinance.

Moved by: Al Densmore Seconded by: Bob Strosser

Roll Call: Councilmembers Al Densmore, Bob Strosser, Dick Gordon, Daniel Bunn and Chris Corcoran voting yes. Councilmembers Karen Blair and Eli Matthews voting no.

Ordinance 2013-20 was duly adopted.

60.3 SECOND READING COUNCIL BILL 2013-25 An ordinance authorizing execution of a revised agreement settling a material difference in appraised value of properties pursuant to the Disposition and Development dated December 12, 2012.

City Attorney John HuttI spoke to the options before Council in considering this issue. He noted that this is not a land-use or legislative decision. This item, if approved, will follow normal processing of the land-use and development applications when submitted.

Motion: Adopt the ordinance.

Moved by: Dick Gordon Seconded by: Al Densmore

Councilmember Corcoran noted he would be abstaining due to a potential conflict of interest as his employer's relationship with the applicant.

Councilmember Bunn spoke to the tremendous job done by staff in working with all parties to bring forward a compromise. City Attorney HuttI questioned if Councilmember Bunn had reviewed the Council executive session minutes and audio tapes regarding this matter and Councilmember Bunn noted he had.

Roll Call: Councilmembers Dick Gordon, Al Densmore, Bob Strosser, Daniel Bunn and Eli Matthews voting yes. Councilmember Karen Blair voted no. Councilmember Chris Corcoran abstained. Ordinance 2013-25 was duly adopted.

70. City Manager and other staff reports

- 70.1 Quarterly Update from Southern Oregon Regional Economic Development, Inc.
Colleen Padilla, SOREDI addressed the Council and provided an update on the activities of the organization regarding business recruitment and retention. She spoke to the uniqueness of our region regarding the e-commerce business which is eleven times the national average for these types of businesses.

Councilmembers questioned what the City would need to do to ensure adequate technological infrastructure. Mr. Hoke responded and noted what steps have been undertaken to enhance and protect the existing infrastructure.

- 70.2 University of Oregon Sustainability Program
Jim Huber, Planning Director provided an update on the City's proposal to the University of Oregon Sustainability Program. He noted that the City proposal has been accepted by the University and staff will be meeting in March with University of Oregon representatives to further discuss implementation details.

80. Propositions and remarks from the Mayor and Councilmembers

- 80.1 Proclamations issued:

None

- 80.2 Boards & Commission Appointments.

- a. Budget Committee: Three full term vacancies. Applicants are Heather Casey, Linda Clarkson, Steve Dickson, Ester Freeman, Ron Norris, Kirby Rider and Jeff Works.

Interview Committee recommendation is Ron Norris, Steve Dickson and Heather Casey.

Roll Call:

Karen Blair: Heather Casey and Steve Dickson
Daniel Bunn: Heather Casey, Steve Dickson and Ron Norris
Chris Corcoran: Heather Casey, Steve Dickson and Ron Norris
Al Densmore: Heather Casey, Steve Dickson and Ron Norris
Dick Gordon: Heather Casey, Steve Dickson and Ron Norris
Eli Matthews: Heather Casey, Steve Dickson and Ron Norris
Bob Strosser: Heather Casey, Steve Dickson and Ron Norris
Gary Wheeler: Heather Casey, Steve Dickson and Ron Norris

Results: Heather Casey and Steve Dickson received eight votes; Ron Norris received seven votes; Linda Clarkson, Ester Freeman, Kirby Rider and Jeff Works received zero votes. Heather Casey, Steve Dickson and Ron Norris were appointed to terms ending 1/31/2017.

- b. Hospital Facilities Authority Board: One vacancy. Applicants are Aaron Frymire and Ray Heysell.

Interview committee recommendation is Ray Heysell.

Roll Call:

Karen Blair: Ray Heysell
Daniel Bunn: Ray Heysell
Chris Corcoran: Ray Heysell
Al Densmore: Ray Heysell
Dick Gordon: Ray Heysell
Eli Matthews: Ray Heysell
Bob Strosser: Ray Heysell
Gary Wheeler: Ray Heysell

Results: Ray Heysell received eight votes and Aaron Frymire received zero votes. Ray Heysell was appointed to a term ending 1/31/2017.

- c. Multicultural Commission: One full term and one partial term vacancy. Applicants were Matthew Vorderstrasse and Michelle Wise.

Interview committee recommendation is Matthew Vorderstrasse for the full term vacancy and Michelle Wise for the partial term vacancy.

Motion: Appoint Matthew Vorderstrasse for a term ending 1/31/2016 and Michelle Wise for a term ending 1/31/2015.

Moved by: Al Densmore

Seconded by: Chris Corcoran

Roll Call: Councilmembers Al Densmore, Chris Corcoran, Bob Strosser, Karen Blair, Dick Gordon, Eli Matthews, Daniel Bunn and Mayor Gary Wheeler voting yes.

Motion carried and so ordered.

80.3 Further Council committee reports

80.4 Further remarks from Mayor and Councilmembers.

90. Adjournment to Evening Session

The meeting adjourned to the evening session at 1:39 p.m.

EVENING SESSION

The meeting was called to order at 7:00 p.m. in Council Chambers, City Hall, 411 W. 8th Street, Medford with the following members and staff present.

Mayor Gary Wheeler; Councilmembers Dick Gordon, Karen Blair, Daniel Bunn, Bob Strosser, Al Densmore, John Michaels, Eli Matthews and Chris Corcoran.

City Manager Eric Swanson; Deputy City Manager Bill Hoke; Deputy City Attorney Lori Cooper; City Recorder Glenda Wilson.

110. Oral requests and communications from the audience

None

120. Public hearings

120.1 COUNCIL BILL 2013-30 An ordinance amending Sections 10.031, 10.337, 10.705, 10.824, and 10.830 of the Medford Code pertaining to public utility service facilities, including public safety communication towers. (DCA-11-038) (Land Use, Legislative)

Jim Huber, Planning Director addressed the Council and noted that the proposed revisions is brought forward based on Council direction to provide clarification and mitigate the ambiguity of the current code language pertaining to communication towers. He noted that the proposal meets all applicable criteria and the Planning Commission and staff recommend approval.

Public hearing opened.

None

Public hearing closed.

Councilmember Dick Gordon reported exparte communication during his campaign for re-election. Councilmember Bob Strosser reported exparte communication from a resident in the neighborhood who spoke to the need to have the public aware of these projects.

Motion: Adopt the ordinance.

Moved by: Daniel Bunn

Seconded by: John Michaels

Roll Call: Councilmembers Daniel Bunn, John Michaels, Dick Gordon, Al Densmore, Chris Corcoran, Eli Matthews, Karen Blair and Bob Strosser voting yes.

Ordinance 2013-30 was duly adopted.

- 120.2 COUNCIL BILL 2013-31 An ordinance repealing Sections 10.160, 10.762, 10.765, 10.766, 10.769, 10.770, 10.771, 10.818, 10.834, and 10.840, and amending Sections 10.012, 10.161, 10.337, 10.768, and 10.780 of the Medford Code pertaining to various topics, including arcades, conflicts of interest, drive-in theaters, air pollution, fire hazards, landscaping, and food vendors. (DCA-12-088) (Land Use, Legislative)

Jim Huber, Planning Director addressed the Council and noted that the proposed action in Agenda Item 120.2 and 120.3 are proposed to provide housekeeping of code and are related. He noted that the Planning Commission and staff recommend approval.

Public hearing opened.

None

Public hearing closed.

Motion: Adopt the ordinance.

Moved by: Chris Corcoran

Seconded by: Daniel Bunn

Roll Call: Councilmembers Chris Corcoran, Daniel Bunn, Dick Gordon, Karen Blair, Bob Strosser, Al Densmore, Eli Matthews and John Michaels voting yes.

Ordinance 2013-31 was duly adopted.

- 120.3 COUNCIL BILL 2013-32 An ordinance repealing Sections 8.205 and 8.260 of the Medford Code pertaining to arcades and game machines. (DCA-12-088)

Jim Huber, Planning Director provided a staff report. He noted that the staff recommends approval.

Public hearing opened.

None

Public hearing closed.

Motion: Adopt the ordinance.

Moved by: Bob Strosser

Seconded by: Eli Matthews

Roll Call: Councilmembers Bob Strosser, Eli Matthews, Dick Gordon, Karen Blair, Daniel Bunn, Al Densmore, John Michaels and Chris Corcoran voting yes.

Ordinance 2013-32 was duly adopted.

- 120.4 COUNCIL BILL 2013-33 A resolution approving a Substantial Amendment to the City of Medford's 2012-13 Action Plan for Housing and Community Development to reallocate Community Development Block Grant funds and to change scope of a project.

Jennifer Sparacino, Executive Support Specialist addressed the Council and provided an overview of the substantial amendment. She noted the Housing & Community Development Commission recommends approval.

Councilmember Strosser noted that he is a member of the Senior Center Board of Directors, receives no compensation and will be participating in this item.

Public hearing opened.

None

Public hearing closed.

Motion: Adopt the resolution.

Moved by: Bob Strosser

Seconded by: Daniel Bunn

Roll Call: Councilmembers Bob Strosser, Daniel Bunn, Dick Gordon, Karen Blair, Eli Matthews, John Michaels, Al Densmore and Chris Corcoran voting yes.

Resolution 2013-33 was duly adopted.

130. Ordinances and resolutions

130.1 COUNCIL BILL 2013-34 An ordinance authorizing execution of a Grant Agreement with the Medford Senior Center in the amount of \$129,985 in 2011 Community Development Block Grant funds for the Multi-zone Unit Replacement Project.

Motion: Adopt the ordinance.

Moved by: Chris Corcoran

Seconded by: John Michaels

Councilmember Strosser noted that he is a member of the Senior Center Board of Directors, receives no compensation and will be participating in this item.

Roll Call: Councilmembers Chris Corcoran, John Michaels, Bob Strosser, Al Densmore, Karen Blair, Dick Gordon, Eli Matthews and Daniel Bunn voting yes.

Ordinance 2013-34 was duly adopted.

130.2 COUNCIL BILL 2013-35 An ordinance authorizing execution of an Agreement with Kids Unlimited of Oregon in the amount of \$133,000 in 2012 Community Development Block Grant funds to demolish a dwelling and construction of a neighborhood center.

Motion: Adopt the ordinance.

Moved by: Bob Strosser

Seconded by: John Michaels

Roll Call: Councilmembers Bob Strosser, John Michaels, Al Densmore, Dick Gordon, Karen Blair, Eli Matthews, Daniel Bunn and Chris Corcoran voting yes.

Ordinance 2013-35 was duly adopted.

140. Further reports from the City Manager and staff

140.1 City Manager Eric Swanson noted that there is a free seminar being offered by the Seventh Day Adventist Church on March 3, 2013 from 1:00-3:00 regarding Emergency Preparedness.

150. Propositions and remarks from the Mayor and Councilmembers

150.1 Further Council committee reports.

- a. Councilmember Strosser reported on the Regional Rate Committee meeting and treatment of biosolids from Gold Hill.
- b. Councilmember Strosser reported on the Water Commission meeting. Water Conservation Assistance Grant program guidelines were discussed.
- c. Councilmember Michaels reported on the Parks and Recreation Commission meeting and the receipt of an update on the Coyote Trail organizations use of goats for weed control at U.S. Cellular Community Park. He spoke to the Commission discussion on how to move forward with completion of the U.S. Cellular Community Park fields.
- d. Councilmember Blair reported on the Parking Commission meeting and that the Parking Fund is operating in a positive cash flow. She reported that the Commission is in the early stages of investigation of the potential for diagonal parking in the downtown.
- e. Councilmember Densmore reported on the Chamber of Commerce board meeting and discussion of the TLT occupancy is up above expectations. Also discussed were legislative activities and areas of concern regarding the BOLI impacts on projects in enterprise zones.

Council discussed concerns regarding the potential legislation and noted that we will need to work with our legislative delegates and lobbyist to determine if the bill will even move forward.

150.2 Further remarks from Mayor and Councilmembers.

- a. Medford Urban Renewal Board Chair Dick Gordon addressed the Council and presented an award to Medford Urban Renewal Secretary John Michaels for his service as Secretary.
- b. Councilmember Strosser thanked Planning Director Jim Huber and the Planning Department for the work that they have accomplished.
- c. Councilmember Densmore reported on a joint meeting with Medford School District 549C representatives and discussion of a number of issues including security of school facilities and joint use of the parkland. The School District is interesting in master planning for the Jackson school site and warehouse property that the district is not utilizing.
- d. Councilmember Densmore reported that the Tree Committee would like to continue to be invited to the annual Boards & Commission luncheon and he proposed that this committee be grandfathered in and invited to attend.

Motion: Direct staff to include invitations to the members of the Tree Committee to the annual Boards & Commission luncheon as a grandfathered committee.

Moved by: Al Densmore Seconded by: John Michaels

Roll Call: Councilmembers Al Densmore, John Michaels, Karen Blair, Daniel Bunn, Chris Corcoran, Dick Gordon, Eli Matthews and Bob Strosser voting yes.

Motion carried and so ordered.

- e. Councilmember Michaels addressed the Council regarding the efforts expended by the Parks Department in securing sponsorships in support of the Recreation Programs. He expressed concern that the Council has not adopted any policies regarding sponsorships and he feels that this should be reviewed by the policy makers. Council discussed having a presentation from the Parks Commission on this issue.
- f. Mayor Wheeler reported on the work being done to revitalize the Holly Theater.
- g. Mayor Wheeler reminded the Council that the Medford Urban Renewal Agency board meeting for next Thursday has been cancelled.

160. **Adjournment**

There being no further business the meeting adjourned at 8:10 p.m.

The proceedings of the City Council meeting were recorded and are filed in the City Recorder's office. The complete agenda of this meeting is filed in the City Recorder's office.

Glenda Wilson
City Recorder

ORDINANCE NO. 2013-30

AN ORDINANCE amending Sections 10.031, 10.337, 10.705, 10.824, and 10.830 of the Medford Code pertaining to public utility service facilities, including public safety communication towers.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 10.031 of the Medford Code is amended to read as follows:

10.031 Exemptions from the Development Permit Requirement.

* * *

C. The following uses or developments do not require a development permit.

* * *

(7) The establishment erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower, that is being developed to provide service to development authorized by this chapter.

* * *

SECTION 2. Section 10.337 of the Medford Code is amended to read as follows:

10.337 Uses Permitted in Commercial and Industrial Zoning Districts.

* * *

"P" = Permitted Uses.

"C" = Conditional uses - permitted subject to the approval of a Conditional Use Permit.

"X" = Uses specifically prohibited.

"*" = Permitted when within an EA overlay district.

"S" = Special Use.*

nec = not elsewhere classified

*(See Article V, Section 10.810, Special Use Regulations.)

* * *

49 ELECTRIC, GAS, AND SANITARY SERVICES. This major group includes establishments primarily engaged in the generation, transmission, and/or distribution of electricity, gas, or steam.

		C-S/P	C-N	C-C	C-R	C-H	I-L	I-G	I-H
491	Electric Services	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps
492	Gas Production and Distribution	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps
493	Combination Utility Services	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps

		C-S/P	C-N	C-C	C-R	C-H	I-L	I-G	I-H
494	Water Supply	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps
495	Sanitary Services	XP s	XP s	XP s	XP s	XP s	Ps	Ps	Ps
496	Steam and Air Conditioning Supply	X	X	X	X	X	P	P	P
497	Irrigation Systems	X	X	X	X	X	P	P	P

The special use references correspond with special use Section 10.830.

* * *

SECTION 3. Section 10.705 of the Medford Code is amended to read as follows:

10.705 Building Height.

* * *

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

(1) ~~Building height limitations shall not apply to~~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) ~~The building height limitation shall also not apply to~~Wireless communication transmission towers, which are subject to the Special Use Standards contained in ~~Article V~~, Section 10.824.

(3) **Public utility service facilities, which are subject to the Special Use Standards contained in Section 10.830.**

SECTION 4. Section 10.824 of the Medford Code is amended to read as follows:

10.824 Wireless Communication Facilities.

* * *

F. Exemptions.

The following uses and activities shall be exempt from these standards except as otherwise provided herein:

* * *

(4) **Public safety communication towers.**

* * *

SECTION 5. Section 10.830 of the Medford Code is amended to read as follows:

10.830 **Public Utility Service Facilities:**

(A) The erection, construction, alteration, ~~or~~ maintenance, ~~or termination~~ by public utility or municipal or other governmental agencies of **public utility service facilities including, but not limited to:** underground ~~and~~ overhead electrical, gas, steam, or water transmission or distribution systems;; ~~collection~~, communication, **collection**, supply or disposal systems, including poles, towers (**including public safety communication towers**), wires, mains, drains, sewers, pipes, conduits,

cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, shall be permitted in any zoning district.

(B) Utility transmission and distribution lines, poles, and towers, and **public safety communication towers** may exceed the height limits otherwise provided for in this ~~code~~ **Chapter**.

(C) A ~~w~~Wireless communication ~~facilities~~ **facility** as defined in Section 10.012 ~~are~~ is not a **public utility service facility** for the purposes of this section.

(D) **Public safety communication towers** are subject to **the** setback standards for the underlying zoning district.

PASSED by the Council and signed by me in authentication of its passage this 21 day of February, 2013.

ATTEST: Glenda Wilson
City Recorder

[Signature]
Mayor

APPROVED Feb 21, 2013

[Signature]
Mayor

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



CITY OF MEDFORD
AGENDA ITEM COMMENTARY
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Item No:

DEPARTMENT: Planning **AGENDA SECTION:** [City Recorder]
STAFF CONTACT: Praline McCormack, Planner II **MEETING DATE:** February 21, 2013
STAFF PHONE: 541-774-2397

COUNCIL BILL 2013-

Land Use, Legislative – Ordinance amending sections 10.031, 10.337, 10.705, 10.824, and 10.830. of the Land Development Code pertaining to public utility service facilities, including public safety communication towers.

[City Recorder will enter Ordinance or Resolution header written by Legal]

ISSUE STATEMENT & SUMMARY:

This Municipal Code Chapter 10 (Land Development Code) amendment has the objective of eliminating ambiguities in the code regarding public utility service facilities, including public safety communication towers.

BACKGROUND:

In November 2010, the City approved a building permit to replace a 60-foot public safety communication tower with a 130-foot tower on "Capital Hill". Staff determined the tower to be a public utility service facility, which, per the Land Development Code, is exempt from development permit review and from height limitations. Staff concluded that, because setbacks are based on height and the height limitation did not apply, the tower was not subject to setback requirements. In March 2011, the building permit was appealed to the City Council, which, after a public hearing, upheld the decision. The Council decision was appealed to the state Land Use Board of Appeals (LUBA), which ultimately agreed that, per the Land Development Code, a public safety communication tower qualified as a utility and that utilities are exempt from height limitations. However, LUBA disagreed that the tower was exempt from setback requirements because the code does not expressly state the setback exemption the way it states the height limitation exemption for utilities.

The code amendment was discussed at Planning Commission study sessions on August 13 and September 24, 2012. A final staff proposal was sent to the Planning Commissioners on November 28, 2012. Planning and Legal staff recommended that the scope of the proposal be limited to the ambiguities identified by LUBA. The proposal was forwarded for agency and public comment on December 7, 2012. The Planning Commission conducted a noticed public hearing on January 24, 2013, and voted to initiate the proposal and recommend City Council approval.

A. **Council Action History**
None.

B. **Analysis**

The proposal revises the code to address the ambiguities regarding public safety communication towers. The changes clarify that such towers are a public utility service facility that provides an essential public service, and that this type of utility is exempt from a development permit, is permitted in all zoning districts, is exempt from building height limitations, is not a wireless communication facility, and is subject to setback requirements. By eliminating ambiguities in the code regarding public safety communication towers, the proposed amendment will help assure public safety is maintained and will make administration of the code more efficient and ease usability for the public and staff.



C. Financial and/or Resource Considerations

None.

D. Timing Issues

There are no deadlines to meet for this code amendment; it was initiated at staff's request and is intended to address ambiguities in the Code identified in the LUBA decision.

STRATEGIC PLAN:

Goal 1: Ensure a safe community by protecting people, property, and the environment.

Objective 1.8: Continue to improve emergency response times to meet City Council and Fire District goals.

Goal 11: Provide efficient and state-of-the-art development application review.

COUNCIL OPTIONS:

1. Adopt the ordinance.
2. Amend the ordinance.
3. Remand the proposal to the Planning Commission for further consideration.
4. Do not adopt the ordinance.

STAFF RECOMMENDATIONS:

Staff recommends adoption of the ordinance as proposed, based on the finding that the code amendment approval criteria are met.

SUGGESTED MOTION:

Finding that the code amendment approval criteria are met, I move to adopt the ordinance amending the Land Development Code.

EXHIBITS:

Staff Report for file DCA-11-038 dated February 12, 2013, with exhibits attached.



CITY OF MEDFORD

PLANNING DEPARTMENT

STAFF REPORT – LAND DEVELOPMENT CODE AMENDMENT

Date: February 12, 2013

To: Mayor and City Council for February 21, 2013 Hearing

From: Praline McCormack, Planner II *pm*

Reviewer: Suzanne Myers, AICP, Principal Planner *hm*

Subject: Public Safety Communication Towers Code Amendment (DCA-11-038)
City of Medford, Applicant

BACKGROUND

Proposal: To amend the *Medford Land Development Code*, Chapter 10, Articles 1, 3 and 5 of the *Municipal Code* (see Exhibit A) to clarify:

- Public safety communication towers do not require a development permit (Section 10.031).
- Utilities are permitted in any zoning district per Section 10.830, so the use table for these types of facilities needs to be revised to reflect this provision (Section 10.337).
- What constitutes Public Utility Service Facilities (Section 10.830).
- Public utility service facilities are exempt from building height limitations (Sections 10.705 and 10.830).
- Public safety communication towers are exempt from the Wireless Communication Facility standards (Section 10.824).
- Public safety communication towers are subject to the setback requirements of the underlying zoning district (Section 10.830).

History: In November 2010 the Planning and Building Departments reviewed and approved a building permit to replace Capital Hill's 60-foot communication tower with a new 130-foot tower for use by the police, fire and public works departments. Per the Code, Staff determined the tower to be a Utility, exempt from a development permit, and from height limitations. Because setbacks are based on height, and height limits did not apply, Staff concluded the tower was not subject to setbacks.

Neighboring residents appealed the building permit approval to City Council, and on March 17, 2011 City Council adopted the Planning Department's decision.

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The City Council decision was appealed to the Land Use Board of Appeals (LUBA). LUBA agreed with the Planning Department's rationale that a public safety communication tower qualified as a public utility and not a wireless communication facility for several reasons. First, citizens will not access or utilize the tower like they do wireless communication facilities. Second, the Capital Hill tower was being constructed by the municipal government, and not a wireless communication provider. Third, the City was not acting in a commercial endeavor, whereas a wireless communication provider is in the business of providing wireless communication services.

Public utility facilities are exempt from development permits for several reasons. First, they are necessary for health, safety, emergency functions, and the delivery of essential services. Second, they are constructed infrequently, and often located within the public right-of-way (telephone/utility poles, junction boxes, etc). Life, health and safety policies support treating public systems differently.

LUBA also agreed with the Planning Department's determination that per the *Land Development Code* utilities are exempt from height limitations (and public safety communication towers are a type of Utility). However, LUBA disagreed that the tower was exempt from setback requirements because the Code does not expressly state the exemption the way it states the height limitation exemption. Therefore, this proposed amendment expressly states that public safety communication towers are subject to setbacks.

Public safety communication towers were discussed at length at Planning Commission Study Sessions on August 13, 2012 (Exhibit C) and September 24, 2012 (Exhibit D). A final staff proposal was sent to Planning Commissioners on November 28, 2012 (Exhibit E). Planning and Legal staff recommended that the scope of the proposal be limited to the ambiguities in the code identified by LUBA. The Planning Commission conducted a public hearing on January 24, 2013.

Authority: The City Council is authorized to approve amendments to *Medford Land Development Code*, Chapter 10 of the *Municipal Code* under Sections 10.102, 10.110, 10.111, and 10.122.

Approval Criteria: *Medford Land Development Code* Section 10.184(2)

APPROVAL CRITERIA COMPLIANCE

10.184 Class 'A' Amendment Criteria.

10.184 (2).Land Development Code Amendment.

The City Council shall base its decision on the following criteria:

CRITERION 10.184 (2)(a). Explanation of the public benefit of the amendment.

Findings: The proposed changes clarify, rectify, and revise existing code. The purpose is to clarify the standards applicable to public safety communication towers which provide an essential public service, and to clarify that these types of towers are exempt from development permits and that they are different from wireless communication towers.

Conclusion: The proposed changes will improve administration of the Development Code through increased clarity. The public will have an easier time understanding the regulations and staff can provide answers clearly and more quickly. Criterion 10.184 (2)(a) is satisfied.

CRITERION 10.184 (2)(b). The justification for the amendment with respect to the following factors:

CRITERION 10.184 (2)(b)(1). Conformity with applicable Statewide Planning Goals and Guidelines.

Findings: The following demonstrates conformity with the applicable Statewide Planning Goals:

1. *Citizen Involvement:* Goal 1 requires the City to have a citizen involvement program that sets the procedures by which a cross-section of citizens will be involved in the land use planning process. The City of Medford has an established citizen involvement program consistent with Goal 1 that includes review of proposed Development Code Amendments by the Planning Commission, and the City Council. Affected agencies and interested persons are also invited to review and comment on such proposals, and hearing notices are published in the local newspaper. This process has been adhered to in the proposed amendment. The amendment drafts were made available for review on the City of Medford website and at the Planning Department. It will be considered by the Planning Commission and the City Council during televised public hearings.
2. *Land Use Planning:* Comprehensive plans and implementation ordinances must be reviewed and revised on a periodic cycle to take into account changing public policies and circumstances. In this case the City became aware of a need for a more clearly prescribed process for review and approval of public safety communication towers. This amendment more clearly states the process by which these towers are reviewed and the standards that apply to them.
3. *Agricultural lands:* Does not apply.
4. *Forest Lands:* Does not apply.

Staff Report

5. *Natural Resources, Scenic and Historic Areas, & Open Spaces*: Does not apply.
6. *Air, Water, and Land Resources Quality*: Does not apply.
7. *Areas Subject to Natural Hazards*: Does not apply.
8. *Recreation Needs*: Does not apply.
9. *Economic Development*: Does not apply.
10. *Housing*: Does not apply. The amendment will not have an impact on the supply of housing.
11. *Public Facilities and Services*: Does not apply. There will be no impact on Category A facilities.
12. *Transportation*: Does not apply. There will be no impact on transportation.
13. *Energy Conservation*: Does not apply. There is no expected effect on energy use.
14. *Urbanization*: Does not apply.

Goals 15-19 apply only to other regions of the State and are not evaluated here.

Conclusion: Criterion 10.184 (2)(b) is satisfied.

CRITERION 10.184 (2)(b)(2). Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.

Findings: Staff finds that there is nothing in this amendment that rises to a policy level. It is a refinement of existing provisions and procedures, and can therefore be regarded as neutral with respect to this criterion.

Conclusion: Criterion 10.184 (2)(b)(2) is satisfied.

CRITERION 10.184 (2)(b)(3). Comments from applicable referral agencies regarding applicable statutes or regulations.

The findings below respond to comments from applicable referral agencies regarding applicable Statutes or regulations:

Findings: The Medford Police Department indicated in an email (Exhibit B) that they have no objections to the proposed amendment.

Conclusion: Criterion 10.184 (2)(b)(3) is satisfied.

CRITERION 10.184 (2)(b)(4). Public comments.

Findings: There were no public comments.

Conclusion: Criterion 10.184 (2)(b)(4) is satisfied.

CRITERION 10.184 (2)(b)(5). Applicable governmental agreements.

Findings: No governmental agreements apply to the proposed code amendments.

Conclusion: Criterion 10.184 (2)(b)(5) is satisfied.

RECOMMENDED ACTION

On January 24, 2013 the Planning Commission voted to initiate the amendment and based on the findings and conclusions that all of the approval criteria are either met or are not applicable, recommended adoption of DCA-11-038 per the Staff Report dated February 12, 2013, including Exhibits A through F.

EXHIBITS

- A Proposed Code Amendment dated 1/15/2013
- B Email from Medford Police Department dated 12/18/2012
- C Planning Commission Study Session Minutes, 8/13/2012
- D Planning Commission Study Session Minutes, 9/24/2012
- E Memo to Planning Commissioners, 11/28/2012
- F Draft Minutes from Planning Commission Hearing, 1/24/2013

PLANNING COMMISSION AGENDA: JANUARY 24, 2013

CITY COUNCIL AGENDA: FEBRUARY 21, 2013

Exhibit A

Public Safety Communication Towers Code Amendment (DCA-11-038)

February 12, 2013

Staff Report

Code Amendment Proposal

Bold copy indicates an addition; ~~Struck through copy~~ indicates a deletion.

1. 10.031: Clarify that public safety communication towers do not require a development permit, and use verbs to match 10.830.

10.031 Exemptions from the Development Permit Requirement.

* * *

C. The following uses or developments do not require a development permit.

* * *

(7) The ~~establishment~~ **erection**, construction, **alteration**, **maintenance** or termination of a public utility service facility, **such as a public safety communication tower**, that is being developed to provide service to development authorized by this chapter.

2. 10.337: Utilities are permitted in any zoning district per Section 10.830, however, this table in 10.337 currently conflicts with that regulation. Therefore, the use table is being revised to reflect 10.830.

10.337 Uses Permitted in Commercial and Industrial Zoning Districts.

"P" = Permitted Uses.

"C" = Conditional uses - permitted subject to the approval of a Conditional Use Permit.

"X" = Uses specifically prohibited.

"*" = Permitted when within an EA overlay district.

"s" = Special Use.*

nec = not elsewhere classified

*(See Article V, Section 10.810, Special Use Regulations.)

* * *

- 49 ELECTRIC, GAS, AND SANITARY SERVICES. This major group includes establishments primarily engaged in the generation, transmission, and/or distribution of electricity, gas, or steam.

		C-S/P	C-N	C-C	C-R	C-H	I-L	I-G	I-H
491	Electric Services	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps
492	Gas Production and Distribution	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps
493	Combination Utility Services	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps
494	Water Supply	XP s	XP s	XP s	XP s	Ps	Ps	Ps	Ps

Exhibit A

Public Safety Communication Towers Code Amendment (DCA-11-038)

February 12, 2013

Staff Report

		C-S/P	C-N	C-C	C-R	C-H	I-L	I-G	I-H
495	Sanitary Services	XP s	XP s	XP s	XP s	XP s	Ps	Ps	Ps
496	Steam and Air Condition- ing Supply	X	X	X	X	X	P	P	P
497	Irrigation Systems	X	X	X	X	X	P	P	P

The special use references correspond with special use Section 10.830.

3. 10.705: Clarify that building height does not apply to public utility service facilities, including public safety communication towers.

10.705 Building Height Calculation.

* * *

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

(1) ~~Building height limitations shall not apply to~~ 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) ~~The building height limitation shall also not apply to~~ Wireless communication transmission towers, which are subject to the Special Use Standards contained in ~~Article V, Section 10.824.~~

(3) **Public utility service facilities, which are subject to the Special Use Standards contained in Section 10.830.**

4. 10.824: Clarify that the wireless communication facility standards do not apply to public safety communication towers.

10.824 Wireless Communication Facilities.

* * *

F. Exemptions.

The following uses and activities shall be exempt from these standards except as otherwise provided herein:

(1) Existing Wireless Communication Support Structures and Wireless Communication Systems Antennas and any repair, reconstruction or maintenance, which does not increase the height of the tower.

(2) Amateur radio station towers, citizen band transmitters and antennas.

(3) Microwave and satellite dishes accessory to a permitted use and/or unrelated to a wireless telecommunication service system.

Exhibit A

Public Safety Communication Towers Code Amendment (DCA-11-038)

February 12, 2013

Staff Report

(4) Public safety communication towers.

5. 10.830: Clarify that these types of facilities are Public Utility Service Facilities, and include public safety communication towers. Clarify that wireless communication towers are not public utility service facilities, and public safety communication towers are subject to setback standards.

10.830 **Public Utility Service Facilities**

(A) The erection, construction, alteration, ~~or~~ maintenance, **or termination** by public utility or municipal or other governmental agencies of **public utility service facilities including, but not limited to:** underground ~~and~~ overhead electrical, gas, steam, or water transmission or distribution systems; ~~collection, communication, collection,~~ supply or disposal systems, including poles, towers **(including public safety communication towers)**, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, shall be permitted in any **zoning** district.

(B) Utility transmission and distribution lines, poles, and towers, **and public safety communication towers** may exceed the height limits otherwise provided for in this ~~code~~ **Chapter**.

(C) ~~A wireless communication facility~~ **Wireless communication facility** as defined in Section 10.012 ~~is not~~ **is not** a **public utility service facility** for the purposes of this section.

(D) **Public safety communication towers are subject to the setback standards for the underlying zoning district.**

Praline M McCormack

From: Julie K Moran <julie.moran@cityofmedford.org>
Sent: Tuesday, December 18, 2012 8:41 AM
To: praline.mccormack@cityofmedford.org
Subject: File #DCA-11-038

RE: DCA-11-038 - height & setback standards for public safety communication towers.

Praline:

Chief George asked me to email you regarding the above file. He has no objections with this.

Thank you.

Julie Moran

B
DCA-11-038



MINUTES PLANNING COMMISSION STUDY SESSION August 13, 2012

The study session of the Medford Planning Commission was called to order at 12:08 p.m. in Room 151 of the Lausmann Annex on the above date with the following members and staff in attendance:

Commissioners: Tim Jackle, David McFadden, Robert Tull, Daniel Bunn, Norm Nelson and Bill Christie.

Staff: Jim Huber, Praline McCormack, Terri Rozzana, Kelly Akin.

Subject: 1. DCA-11-038 Public Utilities Code Amendment

Jim Huber, Planning Director, gave a brief introduction regarding the subject of Public Utilities Code Amendment. Mr. Huber stated that this potential code amendment comes out of the Police radio communication tower. It went to LUBA and for the most part the City prevailed on the use aspect. The piece that the City did not prevail on is the setback. The City applied the code incorrectly in terms of setbacks. That is when staff decided to clean up the Code adding more certainty.

Praline McCormack, Planner II, reported that in LUBA's decision they listed several ambiguities in the Code: 1) Definition of Wireless Communication Facility does not expressly state that these facilities are operated by Wireless Communication Providers; 2) No definition for (public) Utility is referred to in Section 10.830; 3) No definition for Public Utility Service Facility as referred to in Section 10.031(6); 4) Section 10.824(F) Uses and activities exempt from the Wireless Communication Facilities standards does not list city-owned communication towers; 5) Many utilities are normally located in public rights-of-way such as poles for electrical distribution and transmission lines, and these utilities are not subject to height limitations or setback requirements; and 6) No distinction between a public tower and a private, Wireless Communication tower. Staff has begun work on drafting a code amendment regarding governmental communication towers and is seeking the Planning Commission's input on the several approaches being considered. There are several options: 1) Leave the Code as it is and/or specify which setbacks apply to communication towers; 2) Fix the ambiguities in the Code as described by LUBA; 3) Fix the ambiguities, and create a new plan authorization category requiring public notice for these types of discretionary administrative decisions with a set amount of time for appeal. Staff would have to decide what types of decisions would require notice, for example, towers only, any building or structure with height greater than height permitted in zone, or any tower that is in or abuts residential zoning; and 4) Fix the ambiguities, and require a Conditional Use Permit or Site Plan and Architectural Review for governmental communication towers.

Commissioner Bunn stated that he liked Option Three but he does not think it will work as a Class "D" because the City would get appealed every time. This will need to go to a hearing.

Chair Jackle replied that the virtue of Option Three is the "Generation's affect". One can put any unpalatable use in as long as the person that owns the noticed area is the applicant.

Chair Jackle asked if this was just for communication towers or is it for all public utilities? Mr. Huber replied that was part of the problem. There are power poles in rights-of-ways that are not subject to heights but by Code they are lumped together. So, how we tease this out and make them subject to setbacks without affecting everything which is what staff does not want to do.

Ms. McCormack stated that staff would have to decide what types of decisions would require notice for example, towers only, any building or structure with height greater than height permitted in the zone, any tower that is in or abuts residential zoning.

Commissioner Nelson stated that staff listed under ambiguities that, "No definition for (public) Utility as referred to in Section 10.830." How would staff fix that? Commissioner Nelson explained the context of how he is asking the question. He has a hard time imagining, except in the case of the Medford Water Commission, that a city would be classified as a public utility. He does not know how changing that definition is going to make the City a public utility. Ms. McCormack responded that the City is a municipal agency which is referred to in Section 10.830. Staff would remove most of the wording out of Section 10.830 because it is basically a definition. It lists items considered a utility. Commissioner Nelson asked if that would leave the City defined as a public utility? Mr. Huber responded that the LUBA case was about the tower listed under Section 10.830 as a utility is permitted on its own. Then, if you review Section 10.031(6), it states that Public Utility Service Facilities are exempt from the requirements for development permit. It went through the Building permit not through land use provision. Staff linked those two together and that was one of the bases for the appeal. LUBA stated that the City is not a Public Utility Service Facility, it is something else that is not defined, then why are you exempt from the Code requirement? Commissioner Nelson stated that his problem with Option Three is that citizens would not have the ability to appear before a body unless they file an appeal. Staff makes a decision, citizens do not like it, they want to appeal, they will have to go through the process of demanding the right to testify or have their input into the appealing body, whether it is the Planning Commission or City Council. Mr. Huber replied it would start with him. Commissioner Nelson stated that in that case then why not take out the administrative decision making

Mr. Huber reported that the Police Department reports that technology is changing and may never need to go through this again. Option One is not a bad option.

There was discussion regarding several substations around the City of Medford and the landscaping or the lack of landscaping around them.

Ms. McCormack reported that the Capitol Hill neighbors knew they lived next to a City owned property that already had a tower on it. Mr. Huber stated that tower was sixty feet at the top and as it came down the hill it got higher.

Commissioner Tull asked if it had setbacks that the neighbors lived comfortably with? Mr. Huber stated that they did not set the setbacks. It turned out that the Police set it back approximately fifty-seven feet and the requirement, had the Code been followed, was sixty-five. There was approximately eight feet difference.

Mr. Huber reported that the reason this is so late coming before the Commission is that staff did not want to touch it until the City was completely finished with it.

Commissioner Tull asked that if the ambiguities were cleared, which to him seems like a good thing to do, and if it were specified that where ever possible, construction of some kind of communication tower facility for the City agency's (public), will conform to the setbacks and height standards that apply within the zone it is being located. Mr. Huber stated not height. Height is specifically exempted. Commissioner Tull continued that if those items were clear in the Code and provided notice and appeal possibilities, for those who consider themselves to be affected, would you think people would still want to appeal something of that sort that would be done carefully by the City so as to be in full compliance with the Code? Ms. McCormack replied that in her opinion they would because there is visual and economic impacts to them, however, the City is essentially, in her opinion, protecting themselves by taking care of these ambiguities. Commissioner Tull asked, do we provide people with a basis for an appeal if we have cleared up the ambiguities and specified the standards applicable in that zone shall be applied, except for the height. If someone comes along and says they do not like it there, it looks terrible, they do not have any place to go it seems to him. The City has said it will do it this way and has now done it.

Commissioner Nelson reported that he agreed with most of Commissioner Tull's comments but does the Commission want a situation where folks are left without some grounds to appeal or have their say.

Commissioner Tull responded that the appeal would have to be that the City has not abided by its Code. It has short-changed the setback by ten feet. Commissioner Nelson stated that the City has been through this before where people have appealed. Commissioner Tull replied that if the Code is clear and explicit, then somebody who might want to pursue the issue does so at their risk. They do not have reason to think that they are going to prevail.

Commissioner Nelson asked Chair Jackle that in the eyes of an attorney is there any such thing in the Code that is so explicit that it could not be appealed? Chair Jackle replied yes. He does not think the issue is inviting people to file ridiculous appeals. If there is not an appeal provision they still have the ability to appeal. There are provisions elsewhere in the Code. Cleaning up the ambiguities is a no brainer. It needs to be done to protect the City. Should we give approval to an appeal to where otherwise they would have one? He does not think anything is being changed by choosing Option Three.

Mr. Huber reported that "administrable" is not appealable. An "administrative decision" is appealable. It uses discretion. Ms. Akin replied that building permits are appealable.

Commissioner Tull stated that staff has been dealing and living with this for several months. Does staff have a recommendation to make to the Commission considering what has been shared?

Mr. Huber commented that he wished Lori Cooper, Deputy City Attorney was present but it is his understanding that she prefers Option One. Staff is struggling with Option Three of how much notice should be given. But as Chair Jackle noted people can appeal it anyway.

Chair Jackle reported that if the Code is revised and provide a notice to everyone, it is his opinion, that it makes it more bulletproof later.

Ms. McCormack confirmed that Ms. Cooper prefers Option One with a notice of the decision to go out.

Kelly Akin, Senior Planner, stated that one of the things that were discussed was not undoing the LUBA decision. LUBA upheld the City's decision. Mr. Huber added that LUBA agreed that the City was a Public Utility Service Facility. Now we are considering teasing it out from all the other Public Utility Service Facilities.

Commissioner Tull reported that the Commission needs to make sure to maintain a long range perspective on this. Is the Code, as it is written or might be amended, going to provide enough basis for the kind of planning that will be done in the next twenty to twenty-five years? There will be changes in technology but they could complicate the situation as to make it better. We need to make sure we are not solving a problem that has arisen in the last six months or year, but in fact improving the Code so that it provides a firm base for making decisions for the next decade or two.

Ms. McCormack commented that it sounds like Commissioner Tull is leaning towards Option Two. Commissioner Tull stated that he is leaning towards Option Three. It is his opinion that we should not discourage citizen input to the decision process. If people feel impacted and affected by decisions the City is making, they need to have the right to stand up and testify to what has been done to them.

Mr. Huber stated that it sounds like the Commission likes cleaning up the Code and some kind of notification. A possibility is to notify people that an application has been received and they have the opportunity to go to the website or come into the Planning Department to review the file and then notice a second time that a decision has been rendered.

Commissioner Nelson suggested noticing after the decision has been rendered. Mr. Huber stated that by noticing that an application has been received allows them the opportunity to come in and look at the file.

Ms. McCormack stated that it sounds like the consensus of the Commissioners is to notify and now we need to decide the extent of notification. Either the two prong notification or a one prong. On what applications will staff notify? The City cannot afford to notify on every building permit. Mr. Huber commented that fixing the ambiguities would answer that question.

Chair Jackle reported that the more the Commission discusses this he is leaning more towards Option One. He would like Ms. Cooper to weigh in. If fixing one set of ambiguities begets another set of ambiguities it makes it harder for some utility that the Commission is not thinking about right now to be provided.

Commissioner Bunn asked if you can just state that municipal utilities are not required to go through the Conditional Use Permit process and are under the new Class "D" authorization procedure?

Mr. Huber suggested brining this item back at the next study session dedicating approximately fifteen minutes in order for Ms. Cooper to explain her perspective.

Commissioner Tull stated that it is imperative that the City try to be as clear and explicit as it can be, partly to provide as little encouragement for the loop hole seekers as possible and partly to give staff as clear direction as possible for the decisions they have to make.

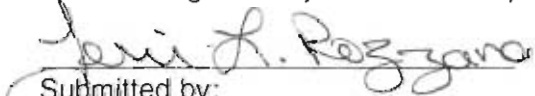
Ms. McCormack stated that she would draft a Code amendment that the Commission can discuss for the next study session.

Commissioner Bunn asked what the argument was against having a hearing. We can tailor what we are looking at that will constrain the appeal. Why not have hearings for the people stating these are the only things we can look at? Chair Jackle responded that the argument against having a hearing is that how do you define it in such a way that would work and makes sense that creates a sub-category of public utilities which we are now within that requires a hearing and does not sweep in. Commissioner Bunn stated that the sub-category is that the City owns it. We are holding ourselves to a higher standard even though we are a utility. We have elected ourselves to a higher standard because we represent the people, so we are going to have a hearing. Chair Jackle commented that he can get to that place with Commissioner Bunn then he does not know what all the packages of things the City might do in their capacity as a public utility. Commissioner Bunn stated you can say vertical construction not covered by a Conditional Use Permit. Would that cover it? Mr. Huber replied that can be looked into. It is a start.

Commissioner Bunn stated that we need to err on the side of having a hearing. Not for legal reasons but because it is good public policy.

Commissioner Tull reported that in the folders at the Commissioner's seats at the August 9, 2012, Planning Commission meeting there were some communications. One of them is the newsletter that the American Planning Association sends out regularly specifically for planning commissioners. The lead article in that particular issue deals with the discussion today. City planning started off primarily as a public health and safety consideration in cities where tenements, sewers, water supplies and transportation were killing people. They began planning how to resolve these public safety and health issues. This article contends that those two concerns have now been separated. Public health is one that deals with diseases and epidemics and planning deals with streets and transportation. Their thesis is that these need to be back together again. Planning is looked upon as a public safety public health issue for the cities management. It is a good article and he commends it to everyone.

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


Submitted by:

Terri L. Rozzana, Recording Secretary



MINUTES PLANNING COMMISSION STUDY SESSION September 24, 2012

The study session of the Medford Planning Commission was called to order at 12:05 p.m. in Room 151 of the Lausmann Annex on the above date with the following members and staff in attendance:

Commissioners: Tim Jackle, David McFadden, Robert Tull (arrived 12:16 p.m.), Daniel Bunn, Michael Zarosinski, Brita Entenmann and Bill Christie.

Staff: Jim Huber, Bianca Petrou, Suzanne Myers, Praline McCormack, Terri Rozzana, Kelly Akin and Lori Cooper.

Subject:

1. Municipal Communications Facilities
2. Update on Long Range Planning Projects

1. Municipal Communications Facilities

Jim Huber, Planning Director gave a brief introduction of finishing the discussion regarding municipal communications facilities. At the last study session the Commission wanted to hear comments from Lori Cooper, Deputy City Attorney. That is the reason this item was continued to this meeting. Also, on the agenda is the update on long range planning projects. Suzanne will discuss this weekly report that is derived from the Comprehensive planning division. This gives the Commission an overview of what the department is working on.

Ms. Cooper pointed out that it was not just her that the Commission wanted to receive feedback from. According to the study session minutes of August 13, 2012, "Ms. McCormack stated that she would draft a Code amendment that the Commission could discuss for the next study session. Commissioner Bunn stated you can say vertical construction not covered by a Conditional Use Permit. Would that cover it? Mr. Huber replied that can be looked into. It is a start."

Ms. Cooper stated that she advocated doing as little as possible. There have been several internal meetings on this and it opens a huge can of worms as the Commission's discussion reflects in the last study session minutes. LUBA pointed out that the Code is ambiguous and it is Ms. Cooper's opinion they are correct. LUBA did uphold the City in most of the points except for the setbacks. It is also Ms. Cooper's opinion that this will happen so seldom that it is probably not worth a huge amount of effort that has already been put in to it. The Commission can choose which option they want. Ms. Cooper looked into how the County deals with similar issues (not towers specifically). Just noticing that an application has been received for a particular use and then giving the public an option of filing comments, maybe requesting a hearing if it warrants, and then going from there. That is sort of the compromise as opposed to the way it was done last time. The citizens still received their appeal, went to Council and their concerns were resolved. It is important preserving the rights of the public to have input. Commissioner Tull's comments in the minutes of August 13, 2012 were very good by making sure to maintain a long range perspective on this and is the Code going to provide enough bases for the kind of planning that will be done in the next twenty to twenty-five years.

Suzanne Myers, Principal Planner, inquired whether it would help the Commissioners to review the options again?

Chair Jackle commented that from his perspective he did not think the Commission needs to review the options again. As the Commission discussed this at their last meeting, the more it is discussed the more understanding there is. The problem that he ultimately had is that he would not mind making the

utility for communication towers be subject to some sort of notice other than what they are now. The problem is that he does not want that done at the expense of sweeping in inadvertently other utilities that would make it harder for the City to get utilities when they need to on certain aspects. He went from thinking there should be hearings to basically having Option One which is leave well enough alone. He wanted to check in with Ms. Cooper and is now comfortable.

Ms. Cooper stated that defining municipal operations as a utility does open a can of worms. Because utilities as defined in state law are much bigger than the City, such as gas and electric. In the City of Medford there is also a water utility but that has a good process in place.

Commissioner McFadden commented that for someone who works for a utility company he can fully support Ms. Cooper's comments. However, the other side is that 99.9% of his facilities are always buried. It is not an issue that his company gets into very much. In some places with a very cold environment some gas utilities will put some of their facilities in a small building. That is an above ground structure that in his opinion, the city would review much like the City reviews PP&L's facilities, such as a transformer station. There is a differential between municipal and public utilities.

Chair Jackle stated that the problem with everything Commissioner McFadden has stated is that he is assuming that the Code can be written clear enough to make it so that it reflects utilities that exist above ground. That is the concern Chair Jackle is coming down on.

Mr. Huber reported that staff had another option similar to Option One which is to leave the Code as is and/or specify which setbacks apply to communication towers.

Commissioner Zarosinski stated that there already is a section in the Code regarding these towers. What is the background on that and why is it included in the Code? Ms. Cooper replied that section pertains to cell towers. This is different. This is not defined the same as a private cell tower. Commissioner Zarosinski commented that they are the same structure but you are calling them two different names, what is the difference? Mr. Huber responded that it is the purpose of the tower. One serves a public function and the other serves a commercial function.

Ms. Cooper suggested the Code could read: For any police or fire communication tower it has to abide by the setbacks.

Ms. Myers reported that the City chose to treat wireless communication facilities not with the rest of the public utilities.

Commissioner Bunn stated that from a policy point of view should we not always allow people to come to a hearing. The standard for getting a conditional use permit for a municipal facility is that they show it is in the public interest or for public safety. Let the Planning Commission have the authority to attach other discretionary conditions without spelling out every instance of things that could go wrong. If you have a hearing, hopefully, the Commission will catch something. It is important for people to be able to come to a hearing. He is not totally satisfied by stating the people have a right to comment because they can appeal. Having appeal rights is different than having a hearing in the first place. It is real easy to say you have to have a conditional use permit, the bar is really low but anyone who wants to talk to us can.

Chair Jackle stated that he does not agree that the bar can be low on a conditional use permit. The bar is always pretty high on a conditional use permit. In his opinion, if you want to set the bar low you have to make it a permitted use.

Commissioner Bunn asked what is the best way to go through a conditional use permit process having a low bar and a hearing because it is important that the City is building it? Chair Jackle replied that they would have to have hard and fast criteria that the City could always meet.

Ms. Cooper replied there is an opportunity for citizens to come speak under the oral and written requests and communications section of the agenda at the beginning of a meeting. She understands what Commissioner Bunn is saying but that is adding more costs and time on something that has already been determined for the greater good.

Commissioner McFadden asked does it go back to the other topic that has come up of notification? Part of the reaction to the police tower was the fact that the citizens felt they were not notified.

Mr. Huber stated that one of the options was to notify of an application with the right to comment and appeal or notification of an upcoming hearing. Even the notification splits. What are you notifying of and what is the next step. Commissioner Bunn has stated that he does not like the option that states the project is approved and if you do not like it, appeal it; versus here is the project and show up at the hearing to discuss it.

Commissioner Tull reported that he has the same pitch he had before. The Commission always needs to err on the side of openness in dealings with citizens. If our actions are going to affect our citizens, the property values, and so on, that needs to be done as openly as possible and with as much opportunity for response and input as can be managed and still get the work done.

Chair Jackle asked if there is going to be a new way of noticing, a new way for a hearing or an appeal if someone after getting notice wants an appeal or hearing, and we are going to spend the time to do that which takes a lot of staff time, should we also be looking at other areas to do that instead of just this one?

Ms. Myers commented that maybe a type "D" procedure be put into the Code that requires some kind of notice.

Commissioner McFadden asked what is the procedure classification of traffic facilities? Ms. Myers reported it is a type "B", similar to a GLUP map amendment. Commissioner McFadden stated that it seems to him this is similar to a traffic facility. They are both visible except the roadway is flat. Ms. Cooper replied that a traffic facility affects more people. A roadway affects people a lot more than a tower. Mr. Huber commented that the traffic facility is unique because it gives the Council the ability to grant exceptions to standards without having to go through the exception process. That one is very unique.

Chair Jackle stated that he would be in favor of looking at the traffic facilities review process incorporated to fit municipal communication facilities. If after staff reviews it and finds that it will not work, an email to the Commissioners to that fact would be sufficient.

Ms. Myers reported that the only deterrent that she sees right now is that it takes a lot longer than a conditional use permit. It takes longer than the normal one hundred-twenty day process because it goes to two hearings. It was mentioned that an appeal also takes longer.

2. Update on Long Range Planning Projects.

Ms. Myers stated the next item is to discuss the long range planning projects. The first category is the UGB Expansion Alternative Sites Analysis. Bianca Petrou, Assistant Planning Director will discuss this item.

Ms. Petrou stated that discussions with the Planning Commission left off at the public open house of which areas to study in the urban growth boundary. Staff is going to move ahead with those areas. The next step in order to send them out to be studied is that staff has to take the areas that are included in the urban reserve and assign at least general zoning to them, divide them into Traffic Analysis Zones (TAZ) and populate those areas. By populating staff determines how many employees and how many residents will be in those areas. This information is sent to the facility providers for them to model it to determine what the capacity the streets are going to need. Kittelson has been hired

to update the Transportation System Plan (TSP). Planning and Engineering staff have drawn in where they think streets are going to go and where major streets will be needed in those areas being considered for inclusion. Kittelson and other service providers will give staff a cost benefit analysis for providing services to the different areas relative to each other so that staff can determine where the best areas are to include or least expensive to serve in the future. Staff has also been working on internal study areas.

Commissioner Tull commented that it is his understanding that fundamental to all of this consideration, is establishing criteria and factual basis for a prioritization of candidate lands that are now in the urban reserve to be considered becoming a part of the urban growth boundary. Is he understanding correctly the process that we are in now with Kittelson and other agencies, is to essentially gather together all of the information available so that we can look at each potential inclusion property and say this one we need, this one later, this one is too costly, this accommodates our growing population and this one does not; is he seeing this correctly? Ms. Petrou replied that is correct. The first thing that Commissioner Tull said was to figure out the criteria. The criteria are already laid out in Statewide Goal 14. That tells us what has first priority for inclusion and the items to be used to determine whether it is appropriate to include it. The big one is the provision of public facilities.

Commissioner Tull stated secondly, the internal study that Ms. Petrou described seems to him to be very important in that if our task is to accommodate a growing population, as it is projected and we can increase the population within our present city boundaries and urban growth boundary by twenty percent over the next decade or two, then that makes a difference in how many plots of land and acreage we need to bring into the urban growth boundary at this stage, and that affects the prioritization. Ms. Petrou replied that is absolutely correct. The priorities are laid out that affects the amount of land that needs to be taken in. The increase in density and intensity on the internal is going to affect how much land will need to be taken in the expansion.

Commissioner McFadden commented that we have always talked about bringing properties in large chunks, having a master plan etc. He could not tell from the discussion whether or not this is being done on the different units that were discussed on the MD's, or whether it is being based on an acreage of property, regardless whether it is in an MD or even part of an MD. We are looking at more than individual tax lots, correct? Ms. Petrou commented that staff is looking at more than individual tax lots. Mr. Huber replied that they are trying to follow property lines.

Ms. Petrou asked whether the master plan Commissioner McFadden mentioned is regarding master planned areas that might be considered first for inclusion? Commissioner McFadden replied that is where he got the idea of a master plan. Internally he does not think it is an issue but externally for bringing properties in out of the reserve categories it seems to him that is where larger pieces of property were looked at.

Ms. Myers reported that the Internal Study Area (ISA) project has led to a Transportation System Plan (TSP) update because changes to the GLUP map would not have been possible otherwise. This will only change the GLUP map designations. Property owners will still have to come in for zone changes. Kittelson was hired to do that but they had a one year delay because of the data in the State's traffic model that was required to be redone. There is a website for the TSP update project. Medford's Joint Transportation Subcommittee (JTS) is acting as the Citizen Advisory Committee for the TSP update. Several Planning Commissioners are on the JTS. The update is being done through a state TGM grant. Kittelson will return the end of October to conduct another meeting. They are currently receiving comments on the City's street cross-sections making sure the cross-sections standards are implemented and possibly changing where they are applied.

Commissioner McFadden reported that at the OPI conference there was discussion of the City of Springfield and Eugene having to do separate studies of their growth planning and going through this UGB analysis. It was interesting to see the difference how one person in Springfield is working on it and the City of Eugene turned it around and did an "Envision Eugene" effort that took hours and months to analyze how they were going to change the zoning and the GLUP map designations on their

busy streets to increase density in those areas. They took the time to envision the entire city with lots of city input. JTS is a good citizen input but it is not the entire city.

Ms. Myers continued that there are a lot of dates in the material. She clarified the dates. Currently the plan for the TSP is to go to the year 2023 because it was adopted in 2003 and you have to plan for twenty years. If we do all the changes in the ISA project we would build out the current UGB to the year 2028. That is basically what the TSP update is looking at. It is looking at what you would need if you did that. In other words, if you took our current GLUP map plus the intensive classification changes, at what point in time would your UGB be fully built out. That was to the year 2028. What kind of street system will you need in the year 2028? The twenty year look for the UGB expansion is 2034 because we are assuming it will take a couple of years from now to determine the additional areas that we would add to our UGB. The final TSP work would be a 2034 TSP. The MPO is undertaking an update of the Regional Transportation Plan and they have to update it to 2038. She is unsure why that particular date. Staff is looking at what the forecast for population and employment would be for 2038.

Ms. Myers reported on the adoption of the Medford School District Facility Plan. There is an old section in the Comprehensive Plan that discusses schools. Since 2007 there has been a state law that authorizes cities and school districts to get together and have a Facilities Plan adopted. The school district went to the City Council and requested that they initiate that Comprehensive Plan amendment. Staff is proceeding to update that section of the Comprehensive Plan which is the short general overview of the school facilities in Medford. It would refer to adopting a school facility plan by reference.

Planning staff will continue going over the projects list at a future study session.

Kelly Akin, Senior Planner, reported that the City's Risk Manager is working with the Worker's Compensation provider. Ms. Akin came up with estimated time that the Commissioner's spend volunteering their time and if it is acceptable to the Worker's Compensation provider, the Commissioner's will not have to fill out the volunteer monthly status reports. Until we get the word, please continue to report your time.

The meeting was adjourned at 1:05 p.m.



Submitted by:

Terri L. Rozzana, Recording Secretary



CITY OF MEDFORD

PLANNING DEPARTMENT

MEMORANDUM

SUBJECT: Public Utilities Code Amendment
(File No. DCA-11-038)

TO: Chairman Tim Jackle and Members of the Planning Commission *SM*

FROM: Praline McCormack, Long-Range Planning via Suzanne Myers and James E. Huber *J.E.H.*

DATE: November 28, 2012

The Planning Commission discussed the public utility/tower code amendment at study sessions on August 13th and September 24th. Several options were considered. There was debate about whether public safety communication towers should remain exempt from the development permit process or whether to require a development permit/public hearing process. Staff has further considered this project and drafted a proposal that makes a few simple changes to the Code to address the ambiguities that LUBA identified but does not require a public hearing. (Legal Staff recommended this approach also.)

The proposed amendment clarifies:

- Public safety communication towers do not require a development permit;
- What constitutes Public Utility Service Facilities;
- Public utility service facilities are exempt from building height limitations;
- Public safety communication towers are exempt from the Wireless Communication Facility standards;
- Public safety communication towers are subject to the setback requirements of the underlying zoning district.

There are several reasons why it is preferable to keep these structures exempt from the development permit process just as other types of public utilities are exempt. First, these types of structures are constructed very infrequently. Second, public safety communication towers are in the public interest making them difficult to disapprove. Third, public safety communication towers provide a city-wide benefit yet levy a local impact, so public testimony might appear inef-

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DCA-11-038

Memo to Chairman Tim Jackle and Members of the Planning Commission

fective. Fourth, it would be difficult to require public hearings for public safety communication towers and not for other types of public utility facilities such as electrical towers. Therefore, Staff recommends that public safety communication towers remain exempt from the development process just as other public utility facilities are exempt.

If the Planning Commission prefers to recommend a development permit/public hearing process, Staff's opinion is that the best approach would be the Conditional Use Permit process. The CUP process is specifically intended for situations where a type of development is not permitted outright because it may cause adverse impacts that exceed the impacts of a normally permitted development. The CUP process allows uses to be approved with conditions and it also allows the public benefit to outweigh the adverse impacts. It provides a forum for noticing and public testimony.

Attachment: Draft Utilities Code Amendment dated November 28, 2012

**Utilities Code Amendment
DCA-11-038**

ARTICLE I

10.031 Exemptions from the Development Permit Requirement.

C. The following uses or developments do not require a development permit.

(7) The establishment, erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower, that is being developed to provide service to development authorized by this chapter.

ARTICLE V

10.705 Building Height Calculation.

A. Calculation. Building height shall be determined by measuring the vertical distance from the average contact ground level at the front wall of the building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.

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

(1) ~~Building height limitations shall not apply to~~ 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) ~~The building height limitation shall also not apply to~~ Wireless communication transmission towers, which are subject to the Special Use Standards contained in ~~Article V~~, Section 10.824.

(3) Public utility service facilities, which are subject to the Special Use Standards contained in Section 10.830

10.824 Wireless Communication Facilities.

F. Exemptions.

The following uses and activities shall be exempt from these standards except as otherwise provided herein:

(1) Existing Wireless Communication Support Structures and Wireless Communication Systems Antennas and any repair, reconstruction or maintenance, which does not increase the height of the tower.

(2) Amateur radio station towers, citizen band transmitters and antennas.

(3) Microwave and satellite dishes accessory to a permitted use and/or unrelated to a wireless telecommunication service system.

(4) Public safety communication towers.

10.830 Public Utility Service Facilities.

(A) The erection, construction, alteration, or maintenance, or termination by public utility or municipal or other governmental agencies of public utility service facilities including, but not limited to: underground and overhead electrical, gas, steam, or water transmission or distribution systems; collection, communication, collection, supply or disposal systems, including poles, towers (including public safety communication towers), wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, shall be permitted in any zoning district.

(B) Utility transmission and distribution lines, poles, and towers, and public safety communication towers may exceed the height limits otherwise provided for in this code Chapter.

(C) A wireless communication facilities facility as defined in Section 10.012 are not a public utility service facility for the purposes of this section.

(D) Public safety communication towers are subject to the setback standards for the underlying zoning district.



MINUTES
Planning Commission Meeting
January 24, 2013

The regular meeting of the Medford Planning Commission was called to order at 5:30 p.m. in the Council Chambers on the above date with the following members and staff in attendance:

Commissioners Present

Tim Jackle, Chair
Bill Christie
Brita Entenmann
David McFadden
Robert Tull

Staff

Jim Huber, Planning Director
Suzanne Myers, Principal Planner
Kelly Akin, Senior Planner
Lori Cooper, Deputy City Attorney
Greg Kleinberg, Fire Marshal
Terri L. Rozzana, Recording Secretary
Praline McCormack, Planner II

Commissioners Absent

Allen Potter, Excused Absence
Michael Zarosinski, Excused Absence
Norm Nelson, Vice Chair, Excused Absence

10. Roll Call

20. Consent Calendar/Written Communications.

30. Minutes.

30.1 The minutes for December 13, 2012, were approved as submitted.

40. Oral and Written Requests and Communications. None.

Chair Jackle asked Lori Cooper, Deputy City Attorney, since the agenda items on tonight's agenda, under public hearing, are not quasi judicial hearings does the Quasi Judicial Statement need to be read? Ms. Cooper replied that the Quasi Judicial Statement did not need to be read.

50. Public Hearing.

New Business

- 50.1 **DCA-11-038** Consideration of a proposed legislative amendment of the Medford Municipal Code, Chapter 10 (Land Development Code), Sections 10.031, 10.337, 10.705, 10.824 and 10.830, pertaining to public safety communication towers, including height and setback requirements (City of Medford, Applicant).

Praline McCormack, Planner II, presented the history, summary, approval criteria and conclusion.

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

Motion: Based on the findings and conclusions that all of the approval criteria are either met or are not applicable, initiate the amendment and forward a favorable recommendation for adoption of DCA-11-038 to the City Council per the Staff Report dated January 15, 2013, including Exhibits A through E.

CITY OF MEDFORD
EXHIBIT # F
File # DCA 11 038

Moved by: Commissioner McFadden Seconded by: Commissioner Tull

Voice Vote: Motion passed, 5-0.

- 50.2 **DCA-12-088** Consideration of a proposed legislative amendment of the Medford Municipal Code, Chapter 8 (Business), Sections 8.205 and 8.260, and Chapter 10 (Land Development Code), Sections 10.012, 10.160, 10.161, 10.337, 10.762, 10.765, 10.766, 10.768, 10.769, 10.770, 10.771, 10.780, 10.818, 10.834 and 10.840, to eliminate unnecessary provisions pertaining to various topics, including arcades, conflicts of interest, drive-in theaters, air pollution, fire hazards, landscaping, and food vendors (City of Medford, Applicant).

Praline McCormack, Planner II, gave a summary, approval criteria and conclusion.

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

Commissioner McFadden explained why the Commissioners were not discussing this batch of amendments. The Commissioners have discussed these in pervious study sessions and have made their comments at those meetings. Staff has incorporated those comments into the recommendations.

Motion: Based on the findings and conclusions that all of the approval criteria are either met or are not applicable, initiate the amendment and forward a favorable recommendation for adoption of DCA-12-088 to the City Council per the Staff Report dated January 15, 2013, including Exhibits A through E.

Moved by: Commissioner McFadden Seconded by: Commissioner Entenmann

Voice Vote: Motion passed, 5-0.

60. Report of Citizens Planning Advisory Committee.

- 60.1 Commissioner McFadden reported that the Citizens Planning Advisory Committee has not been meeting for a while. He believes there is a meeting scheduled for February discussing the City's Strategic Plan with one of the City Council representatives. Commissioner McFadden urged anyone in the City of Medford interested in learning more about planning or has an issue that should be addressed to attend those meetings. It is a great place to learn how the process works in the City of Medford.

70. Report of the Site Plan and Architectural Commission.

- 70.1 Commissioner Entenmann reported that the Site Plan and Architectural Commission's last Friday meeting was cancelled.

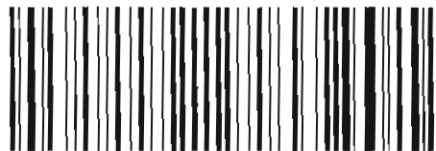
80. Report of the Joint Transportation Subcommittee. None.

- 80.1 Commissioner Christie reported that the Joint Transportation Subcommittee meeting was cancelled due to no business.

90. Report of the Planning Department.

- 90.1 Kelly Akin, Senior Planner, reported that City Council last week heard an appeal on the Greyhound portal on The Commons Park Block II. Their decision was to remand it back to the Landmarks and Historic Preservation Commission. The Landmarks and Historic Preservation Commission will hear it in March.

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