



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

03/01/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Wilsonville Plan Amendment
DLCD File Number 009-09

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: Wednesday, March 16, 2011

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: Dan Pauly, City of Wilsonville
Gloria Gardiner, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed



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

Jurisdiction: **City of Wilsonville**

Local file number: **LP09-0005**

Date of Adoption: **10/9/10**

Date Mailed: **2/23/11**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date:

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".

Amendments to Wilsonville's Planning and Land Development Ordinance (Wilsonville's Development Code) to amend definitions and standards relating to private streets.

Does the Adoption differ from proposal? Please select one

The proposal included Accessory Dwelling Units in the count for the limitation of dwelling units that could be accessed from a private drive. Ordinance No. 682 did not include ADUs in the limitation.

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **n/a**

Specify Density: Previous: **n/a**

New: **n/a**

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...

45-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. 009-09 (18014) [16532]

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

See Attached List

Local Contact: Chris Neamtzu, Plng Dir, Paul Lee, Asst City Attorney Phone: (503) 682-4960

Address: 29799 SW Town Center Loop East

Fax Number: 503-682-7025

City: Wilsonville

Zip: 97070

E-mail Address: Neamtzu@ci.wilsonville.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 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) of 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.

Affected State or Federal Agencies, Local Governments or Special Districts

Name	Company	Address	City	State	Zip
Columbia Cable of Oregon		14200 SW Brigadoon Ct.	Beaverton	OR	97005
Tualatin Valley Water District		1850 SW 170 th Ave.	Beaverton	OR	97005-4211
Planning Director	City of Sherwood	22560 SW Pine Street	Sherwood	OR	97140
City Planner	City of Canby	182 N. Holly	Canby	OR	97013
Doug McClain	Clackamas Cty Planning Section Mgr	150 Beaver Creek Road <i>9101 SE Sunnybrook Blvd</i>	Oregon City <i>Clackamas</i>	OR	97045 <i>97015</i>
William Graffi	Unified Sewerage Agency	155 N. First Avenue, Room 270	Hillsboro	OR	97124
Brent Curtis	Wash. County Planning Manager	155 N. First Avenue	Hillsboro	OR	97124
Portland General Electric	<i>Wendy Buck</i>	121 SW Salmon 1 WTC3	Portland	OR	97204
Tom Wolcott	BPA	PO Box 3621	Portland	OR	97208
Tom Simpson	NW Natural Gas	220 NW 2nd Avenue	Portland	OR	97209
Michael Dennis	Tri-Met Project Planning Dept	4012 SE 175th Avenue	Portland	OR	97202
Oregon Dept of Environ Quality		811 SW Sixth Avenue	Portland	OR	97204
Ray Valone	Metro	600 NE Grand Avenue	Portland	OR	97232
Manager, Community Development	Growth Management Services Metro	600 NE Grand Avenue	Portland	OR	97232
Attn: Development Review	ODOT	123 NW Flanders Street	Portland	OR	97209
John Lilly	Department of State Lands	775 Summer Street, NE	Salem	OR	97301-1279
Richard Ross	Department of Corrections	2575 Center Street NE	Salem	OR	97310
Bobbi Burton	Community Coordinator, Facilities Division	2575 Center Street, NE	Salem	OR	97310
Bill Ferber, Region Manager	Oregon Water Resources Department	725 Summer Street, NE	Salem	OR	97301
Sherwood School Dist Admin Office		23295 SW Main Street	Sherwood	OR	97140
Doug Hux <i>Aquilla Hurd-Ravich</i>	Community Development Director <i>Acting Planning Manager</i> City of Tualatin	18880 SW Martinazzi Avenue	Tualatin	OR	97062
Roger Woehl	West Linn/Wilsonville School District 3JT	PO Box 35	West Linn	OR	97068
Brian Tietsort	United Disposal Services	10295 SW Ridder Road	Wilsonville	OR	97070
Brian Moore	Portland General Electric	9540 SW Boeckman Road	Wilsonville	OR	97070
Tualatin Valley Fire and Rescue	South Division	7401 SW Washo Court	Tualatin	OR	97062-8350
Tualatin Valley Fire and Rescue		29875 SW Kinsman Road	Wilsonville	OR	97070

Note: ~~Struckthrough~~ text and *red italicized* text indicates changes in this list as compared to the list submitted with the DLCD Notice of Proposed Amendment for this file number

ORDINANCE NO. 682

AN ORDINANCE OF THE CITY OF WILSONVILLE AN AMENDING THE WILSONVILLE DEVELOPMENT CODE TO LIMIT THE NUMBER OF DWELLING UNITS THAT CAN BE ACCESSED BY A PRIVATE DRIVE, TO REQUIRE THAT PRIVATE DRIVES BE BUILT TO CERTAIN STANDARDS, AND TO PROVIDE CONSISTENCY AND CLARITY THROUGHOUT THE DEVELOPMENT CODE WHEN REFERRING TO DRIVES, STREETS, ROADS AND SIMILAR TERMS

WHEREAS, during the October 2008 City Council hearing on the Willamette Landing subdivision, concerns surrounding private streets in single-family subdivisions were raised; and

WHEREAS, the Planning Commission held a series of work Sessions over period of July 2009 to March 2010 to review the concerns, solutions to address the concerns, and Development Code amendments to implement the solutions; and

WHEREAS, the concerns, solutions, and implementing Development Code amendments reviewed by the Planning commission were based on a collaborative effort of Planning, Engineering, Public Works, Building, and Natural Resources Staff reviewing the City's experience with private streets in single-family development; and

WHEREAS, two major concerns about private streets in single-family residential development are the burden property owners or the public can face to finance reconstruction of a damaged or failing private street and the lack of City services provided to private streets; and

WHEREAS, the conditions raising these concerns can be minimized in future development by limiting the number of single-family dwellings that can be accessed by a private drive to four, and establishing construction standards for private drives in single-family residential development that help ensure a useful lifespan and structural maintenance schedule similar to public streets; and

WHEREAS, lack of clarity and confusion in the Development Code from the inconsistent use of words such as "street", "drive", "road" and similar terms can be rectified with a minor amendments to numerous Code Sections ; and

WHEREAS, the Planning Commission conducted a public hearing on this matter on April 14, 2010 and upon consideration of testimony and evidence from the public and city staff, unanimously recommended that the City Council approve the proposed Development Code amendments; and

WHEREAS, the Council having conducted a public hearing on the proposal on August 2, 2010, and considering the entire record herein finds that the proposed Development Code amendment complies with applicable text amendment criteria and is in the best interest of the community by providing for residential development with well-built and well-maintained streets and drives as well as Development Code text that is clear and consistent when referring to streets, drives, and similar terms; and

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: Findings. The council adopts as findings and conclusions the foregoing recitals and the staff report in this matter attached hereto as Exhibit A and adopted as if set forth fully herein.

Section 2: Amendments.

1. That Wilsonville Code Section 4.001 Definitions, be amended to modify the definitions for "Alley", "Curb Line", "Lot Line, Front", "Lot, Through", "Multi-family Housing", "New Manufactured Home Park or Subdivision", "Private Way", "Roadway", "Site Area, Net", "Street", "Yard, Front", "Yard, Side", add definitions for "Private Drive", "Private Access/Circulation Drive-Industrial/Commercial/Multi-family/Mixed Use", "Residential Private Access Drive", "Pre-existing Residential Private Drive", "Road", "Shared Roadway", "Private Street", and delete the definition of "Lane", as follows:

Alley: A ~~minor access way~~ **public or private way which includes a roadway** used to provide vehicular ingress and egress to the back or side of properties otherwise abutting on a street, **private drive, or shared common area.** An alley typically has a width of no more than twenty (20) feet.

Curb Line: The line indicating the edge of the ~~vehicular~~ roadway within the overall right-of-way.

Lane: See "Alley"

Lot Line, Front: The boundary line of a lot abutting a street **or private drive**, other than a boundary line along a side or rear yard. If the lot does not abut a street **or private drive**, the narrowest boundary line shall be considered to be the front. In the Village zone: the case of an interior lot, the lot line separating the lot from the public space, ~~public street~~ **or private drive**. In the case of a corner lot, the shortest lot line along a public space, ~~public street~~ **or private drive**.

The boundary line of a lot abutting a street or private drive, other than a boundary line along a side or rear yard. If the lot does not abut a street or private drive, the narrowest boundary line shall be considered to be the front. **A private drive bounded on two sides by a single lot shall not be considered in determining the front lot line.**

Lot, Through: Any lot, except a corner lot, that abuts two or more streets or private drives other than a freeway. **Private drives which are bounded on two sides by a single lot shall not be considered in determining if a lot is a through lot.**

Multi-family housing. For purposes of this ordinance, multi-family housing is defined as a building **Buildings** or structure **structures** that contains three or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes, apartment houses, condominiums, congregate residences, townhouses and similar non-transient dwellings; [Added by Ord. 649, 6/2/08]

New Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets or private drives, and either final site grading or the pouring of concrete pads) was completed on or after the effective date of flood plain management regulations adopted by the City.

Private Drive- A private way, other than an alley, that includes a roadway.

- A. **Private Access/Circulation Drive-Industrial/Commercial/Multi-family/Mixed Use: A private drive in an industrial, commercial, multi-family (including mobile home parks), or mixed-use development providing vehicular ingress and egress to the development and/or internal circulation.**
- B. **Residential Private Access Drive: A private drive in a non multi-family residential development providing primary vehicle access to no more than four (4) dwelling units, excluding accessory dwelling units. A residential private access drive provides for no through vehicle access and is not extendable. This definition does not include private alleys.**
- C. **Residential Private Drive , Pre-existing- A private drive in a non multi-family residential development approved prior to (effective date of ordinance) including those that provides vehicular access to more than four (4) dwelling units.**

Private Way: A private area dedicated to circulation, including the roadways ~~for private streets,~~ bikeways, paths or utilities.

Road: Same as "Street"

Roadway: The portion of a ~~street right-of-way-~~**public way or street or private way** developed for use by vehicular traffic.

Roadway, Shared: A roadway that is designed to be shared by additional users besides motor vehicles, especially bicycles.

Site Area, Net: The area of a development site, excepting all areas in public streets or **private drives**, driveways, and parking spaces.

Street: The entire right-of-way of a dedicated public way, which provides vehicular and pedestrian access to adjacent properties. ~~It shall include the terms street, court, road, drive, and other such terms.~~ Except in the Village zone, a right-of-way less than twenty (20) feet in width shall not be recognized as a street.

Street, Private: Same as Private Drive

Yard, Front: Any yard abutting a street **or private drive**, unless one side is determined to meet the definition of a side yard, below. **Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a front yard.**

Yard, Side: Any yard abutting a side lot line and, for corner lots, the side with the longest street frontage **along a street or private drive**. Where a corner lot has an existing building with a primary entrance, the ~~street-side~~ **along a street or private drive** without the entrance shall be deemed the side yard. Where a corner lot has the same amount of frontage on both streets **or private drives**, and no primary building entrance facing either street **or private drive**, the Planning Director may designate the side yard in order to determine required setbacks. **Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a side yard.**

2. That Wilsonville Code Section 4.035 Site Development Permits, Subsection (.04), be amended as follows:

(.04) Site Development Permit Application.

A. An application for a Site Development Permit shall consist of the materials specified as follows, plus any other materials required by this Code.

1. A completed Permit application form, including identification of the project coordinator, or professional design team.
2. An explanation of intent, stating the nature of the proposed development, reasons for the Permit request, pertinent background information, information required by the development standards and other information specified by the Director as required by other sections of this Code because of the type of development proposal or the area involved or that may have a bearing in determining the action to be taken. As noted in Section 4.014, the applicant bears the burden of proving that the application meets all requirements of this Code.
3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all individuals or partners in ownership of the affected property.
4. Legal description of the property affected by the application.
5. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size and impact of the development on the community, public facilities and adjacent properties; and except as otherwise specified in this Code, shall be accompanied by the following information,
6. Unless specifically waived by the Director, the submittal shall include: ten (10) copies folded to 9" x 12" or (one (1) set of full-sized scaled drawings and nine (9) – 8 1/2" x 11" reductions of larger drawings) of the proposed Site Development Plan, including a small scale vicinity map and showing:
 - a. Streets, **private drives**, driveways, sidewalks, pedestrian ways, off-street parking, loading areas, garbage and recycling storage areas, power lines and railroad tracks, and shall indicate the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles.

- b. The Site Plan shall indicate how utility service , including sanitary sewer, water and storm drainage, are to be provided. The Site Plan shall also show the following off-site features: distances from the subject property to any structures on adjacent properties and the locations and uses of streets, **private drives**, or driveways on adjacent properties.
- c. Location and dimensions of structures, utilization of structures, including activities and the number of living units.
- d. Major existing landscaping features including trees to be saved, and existing and proposed contours.
- e. Relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, **private drives**, and open space.
- f. Topographic information sufficient to determine direction and percentage of slopes, drainage patterns, and in environmentally sensitive areas, e.g., flood plain, forested areas, steep slopes or adjacent to stream banks, the elevations of all points used to determine contours shall be indicated and said points shall be given to true elevation above mean sea level as determined by the City Engineer. The base data shall be clearly indicated and shall be compatible to City datum, if bench marks are not adjacent. The following intervals shall be shown:
 - i. One (1) foot contours for slopes of up to five percent (5%);
 - ii. Two (2) foot contours for slopes of from six percent (6%) to twelve percent (12%);
 - iii. Five (5) foot contours for slopes of from twelve percent (12%) to twenty percent (20%). These slopes shall be clearly identified, and
 - iv. Ten (10) foot contours for slopes exceeding twenty percent (20%).
- g. A tabulation of land area, in square feet, devoted to various uses such as building area (gross and net rentable), parking and paving coverage, landscaped area coverage and average residential density per net acre.
- h. An application fee as set by the City Council.

- i. If there are trees in the development area, an arborist's report, as required in Section 4.600. This report shall also show the impacts of grading on the trees.
- j. A list of all owners of property within 250 feet of the subject property, printed on label format. The list is to be based on the latest available information from the County Assessor.

3. That Wilsonville Code Section 4.111 Zoning - Zone Boundary Lines, Subsections (.01) and (.03), be amended as follows:

(.01) Except where reference is made on said map to a street line, political boundary, section line, legal description, or other designated line by dimensions shown on said map or maps, the zone boundary lines are intended to follow property lines, lot lines, or centerlines of streets, **private drives**, alleys, streams, or railroads or the extension of such lines as they existed at the time of the adoption of this Code.

(.03) Whenever any ~~street, alley, or~~ public way is vacated by official action as provided by law, the zone adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulations of the extended zone or zones.

4. That Wilsonville Code Section 4.113 Standards Applying To Residential Developments In Any Zone, Subsections (.02) and (.03), be amended as follows:

(.02) Open Space Area shall be provided in the following manner:

A. In all residential subdivisions including subdivision portions of mixed use developments where (1) the majority of the developed square footage is to be in residential use or (2) the density of residential units is equal or greater than 3 units per acre, at least twenty-five percent (25%) of the area shall be in open space excluding streets **and private drives**. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations and usable open space such as public park area, tot lots, swimming and wading pools, grass area for picnics and recreational play, walking paths, and other like space. For subdivisions with less than 25% SROZ lands and those with no SROZ lands, the

minimum requirement shall be ¼ acre of usable park area for 50 or less lots, ½ acre of usable park area for 51 to 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. Front, side and rear yards of individual residential lots shall not be counted towards the 25% open space.

Provided, however, where SROZ is greater than 25% of the developable area for any development, the development must also provide ¼ acre of usable park area for a development of less than 100 lots, and ½ acre of usable park area for a development of 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. The Development Review Board may waive the usable open space requirement if there is substantial evidence in the record to support a finding that the intent and purpose of the requirement will be met in alternative ways. Irrespective of the amount of SROZ, a development may not use phasing to avoid the minimum usable space requirement.

Multi-family developments shall provide a minimum of 25% open space excluding streets **and private drives**. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations, and outdoor recreational area as provided in 4.113(.01)(A)(1) through (5) [Amended by Ord. 589 8/15/05]

(.03) Building Setbacks (for Fence Setbacks, see subsection .08)

A. For lots over 10,000 square feet:

1. Minimum front yard setback: Twenty (20) feet.
2. Minimum side yard setback: Ten (10) feet. In the case of a corner lot less than one hundred (100) feet in width, abutting more than one street **or tract with a private drive**, the side yard on the street **or private drive** side of such lot shall be not less than twenty percent (20%) of the width of the lot, but not less than ten (10) feet.
3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street **or tract with a private drive** upon which the key lot faces and the setback required on the adjacent interior lot.

4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
 5. Minimum setback to garage door or carport entry: Twenty (20) feet. Except, however, in the case of an alley where garages or carports may be located no less than four (4) feet from the ~~right-of-way~~ **property line adjoining the alley.**
 6. Minimum rear yard setback: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.
- B. For lots not exceeding 10,000 square feet:
1. Minimum front yard setback: Fifteen (15) feet, with open porches allowed to extend to within ten (10) feet of the property line.
 2. Minimum side yard setback: One story: five (5) feet; Two or more stories: seven (7) feet. In the case of a corner lot, abutting more than one street **or tract with a private drive,** the side yard on the street side of such lot shall be not less than ten (10) feet.
 3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street **or tract with a private drive** upon which the key lot faces and the setback required on the adjacent interior lot.
 4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
 5. Minimum setback to garage door or carport entry: Twenty (20) feet. Wall above the garage door may project to within fifteen (15) feet of property line, provided that clearance to garage door is maintained. Where access is taken from an alley, garages or carports may be located no less than four (4) feet from the ~~right-of-way~~ **property line adjoining the alley.**

6. Minimum rear yard setback: One story: fifteen (15) feet. Two or more stories: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.

5. That Wilsonville Code Section 4.116 Standards Applying To Commercial Developments In Any Zone, Subsection (.11), be amended as follows:

(.11) Hotels or Motels.

C. Front Yard Setback: Thirty (30) feet, unless located in the Old Town overlay zone, in which case the standards of the overlay zone shall apply. Structures on corner lots shall observe the minimum setback on both streets **or tracts with a private drive**.

6. That Wilsonville Code Section 4.118 Standards applying to all Planned Development Zones, Subsection (.03), be amended as follows:

(.03) Notwithstanding the provisions of Section 4.140 to the contrary, the Development Review Board, in order to implement the purposes and objectives of Section 4.140, and based on findings of fact supported by the record may:

A. Waive the following typical development standards:

1. minimum lot area;
2. lot width and frontage;
3. height and yard requirements;
4. lot coverage;
5. lot depth;
6. street widths;
7. sidewalk requirements;
8. height of buildings other than signs;
9. parking space configuration;
10. minimum number of parking or loading spaces;
11. shade tree islands in parking lots, provided that alternative shading is provided;

12. fence height;
 13. architectural design standards;
 14. transit facilities; and
 15. solar access standards, as provided in Section 4.137.
- E. Adopt other requirements or restrictions, inclusive of, but not limited to, the following:
1. Percent coverage of land by buildings and structures in relationship to property boundaries to provide stepped increases in densities away from low-density development.
 2. Parking ratios and areas expressed in relation to use of various portions of the property and/or building floor area.
 3. The locations, width and improvement of vehicular and pedestrian access to various portions of the property, including portions within abutting street **or private drive**.
 4. Arrangement and spacing of buildings and structures to provide appropriate open spaces around buildings.
 5. Location and size of off-street loading areas and docks.
 6. Uses of buildings and structures by general classification, and by specific designation when there are unusual requirements for parking, or when the use involves noise, dust, odor, fumes, smoke, vibration, glare or radiation incompatible with present or potential development of surrounding property. Such incompatible uses may be excluded in the amendment approving the zone change or the approval of requested permits.
 7. Measures designed to minimize or eliminate noise, dust, odor, fumes, smoke, vibration, glare, or radiation which would have an adverse effect on the present or potential development on surrounding properties.
 8. Schedule of time for construction of the proposed buildings and structures and any stage of development thereof to insure consistency with the City's adopted Capital Improvements Plan and other applicable regulations.

9. A waiver of the right of remonstrance by the applicant to the formation of a Local Improvement District (LID) for streets, utilities and/or other public purposes.
 10. Modify the proposed development in order to prevent congestion of streets and/or to facilitate transportation.
 11. Condition the issuance of an occupancy permit upon the installation of landscaping or upon a reasonable scheduling for completion of the installation of landscaping. In the latter event, a posting of a bond or other security in an amount equal to one hundred ten percent (110%) of the cost of the landscaping and installation may be required.
 12. A dedication of property for streets, pathways, and bicycle paths in accordance with adopted Facilities Master Plans or such other streets necessary to provide proper development of adjacent properties.
7. That Wilsonville Code Section 4.120 Zones. RA-H Residential Agricultural - Holding Zone, Subsections (.04) and (.09), be amended as follows:

(.04) Dimensional Standards:

- B. Minimum Front and Rear Yard Setbacks: Thirty (30) feet. Minimum Side Yard Setback: Ten (10) feet.
1. Legal, non-conforming RA-H lots in the Old Town Overlay Zone shall have the following setbacks:
 - a. Front: Ten (10) feet for single family dwellings, for all other uses: none;
 - b. Rear: Fifteen (15) feet;
 - c. Side: Five (5) feet.
 2. Minimum setback for residential garage or carport: At least five (5) feet behind the front of the nearest residential unit on the property. In no case shall the front of a garage or carport be located less than twenty (20) feet behind a sidewalk or a public right-of-way providing access to that garage or carport. Except, however, in the case of an alley where garages or carports

are located within five (5) feet of the ~~right-of-way~~ **property line adjoining the alley.**

(.09) Block and access standards:

1. Maximum block perimeter: 1,800 feet.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard. [Amended by Ordinance No. 538, 2/21/02.]
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

8. That Wilsonville Code Section 4.122 Residential Zone, Subsection (.07), be amended as follows:

(.07) Other Standards:

B. Minimum street frontage of lot: Thirty (30) feet; however, no street frontage is required when the lot fronts on an approved, platted private ~~road~~ **drive.**

G. Block and access standards:

1. Maximum block perimeter in new land divisions: 1,800 feet.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard.
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or

designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

9. That Wilsonville Code Section 4.124 Standards Applying To All Planned Development Residential Zones, Subsection (.06), be amended as follows:

(.06) Block and access standards:

1. Maximum block perimeter in new land divisions: 1,800 feet.
2. Maximum spacing between streets or private drives for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard.
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

10. That Wilsonville Code Section 4.124.2 PDR-2, Subsection (.04), be amended as follows:

(.04) Other Standards:

- B. Minimum street frontage of lot: Thirty (30) feet; however, no street frontage is required when the lot fronts on an approved, platted private road drive.

11. That Wilsonville Code Section 4.124.3 PDR-3, Subsection (.04), be amended as follows:

(.04) Other standards:

- B. Minimum street frontage of lot: Forty (40) feet; however, street frontage may be reduced to twenty-four (24) feet when the lot fronts a cul-de-sac. No street frontage is required when the lot fronts on an approved, platted private road drive.

12. That Wilsonville Code Section 4.124.4 PDR-4, Subsection (.04), be amended as follows:

(.04) Other standards:

B. Minimum street frontage of lot: Thirty-five (35) feet; however, street frontage may be reduced to twenty-four (24) feet when the lot fronts a cul-de-sac. No street frontage is required when the lot fronts on an approved, platted private road **drive**.

13. That Wilsonville Code Section 4.125 V – Village Zone, Subsections (.05), (.18), and table V-1, be amended as follows:

(.05) Development Standards Applying to All Developments in the Village Zone. In addition to other applicable provisions of the Wilsonville Planning and Land Development Ordinance, all development in the Village zone shall be subject to Tables V-1 through V-4, and to the following. If there is a conflict between the provisions of the Village zone and other portions of the Code, then the provisions of this section shall apply.

A. Block, Alley, Pedestrian and Bicycle Standards:

1. Maximum Block Perimeter: 1,800 feet, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent a block perimeter from meeting this standard.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions from meeting this standard. Under such circumstances, intervening pedestrian and bicycle access shall be provided, with a maximum spacing of 330 feet from those local streets **or private drives**, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions from meeting this standard.

.Table V-1: Development Standards

Building Type	Min. Lot Size (sq.ft.)	Min. Lot Width (ft.)	Min. Lot Depth (ft.)	Max. Lot Coverage (note)	Min. Frontage Width ^{10,12} (%)	Max. Bldg. Height ⁹ (ft.)	Setbacks ^{10, 13, 20}				Alley-Loaded Garage (note)	Street-Loaded Garage (note)
							Front Min. (ft.)	Front Max. (ft.)	Rear Min. (ft.)	Side Min. (ft.)		
Commercial Buildings - Village Center ¹⁴	NR	NR	NR	1	90	60	NR ³	5	NR	NR	NR	NA
Hotels - Village Center ¹⁴	NR	NR	NR	1	80	60	NR ³	15	NR	NR	NR	NA
Mixed Use Buildings - Village Center ¹⁴	NR	NR	NR	1	90	60	NR ³	8	NR	NR	NR	NA
Multi-Family Dwellings - Village Center ¹⁴	NR	NR	NR	1	80	45	5 ⁴	15	NR	NR	NR	NA
Row Houses ¹¹ - Village Center ¹⁴	NR	NR	NR	1	80	45	5 ⁴	10	NR	NR	NR	NA
Commercial Buildings	NR	NR	NR	1	60	45	NR	15	NR	NR	NR	NA
Mixed Use Buildings	NR	NR	NR	1	60	45	NR	15	NR	NR	NR	NA
Multi-Family Dwellings	NR	NR	NR	1	60	45	8 ⁴	15	NR	NR	NR	NA
Row Houses ¹¹	NR	15	50	1	80	45	8 ⁵	15	NR	NR	NR	NA
Duplexes	4,000	45	70	2	60 ¹⁶	35	12 ^{5,6}	20 ⁶	5	5 ¹⁵	7	8,17,18
Single-Family Dwellings	2,250	35	50	2	60 ¹⁰	35	12 ^{5,6}	20 ⁶	5	5 ¹⁵	7	8,17

Notes: NR No Requirement

NA Not Allowed

1 Lot < 8000sf: NR; Lot >8000sf: 80% (Max. Lot Coverage)

2 Small lots: 75%, Medium Lots: 65%, Standard and Large Lots: 55%, Estate Lots: 45% Maximum Lot Coverage
On lots where detached accessory buildings are built, maximum lot coverage may be increased by 10%.

3 Bay windows, balconies, and other structural building projections above 8 ft. may encroach up to 5 ft. into the Public Way; canopies, awnings, and other non-structural projections may encroach up to 8 ft. into the Public Way.

4 Porches, stairs, stoops, decks, canopies, balconies, bay windows, chimneys, awnings, and other building projections may encroach up to the Public Way.

5 Porches, stoops, decks, canopies, balconies, bay windows, chimneys, awnings, and other building projections may encroach to within 8 ft. of the Public Way. Stairs may encroach to the Public Way.

6 For Standard, or Large Lots on Collector Avenues, front setbacks are 20 ft. min., (13' setback to porch), side street setbacks are 15' (8' setback to porch). Pie-shaped lots or lots with significant trees or grade banks at frontage have no maximum front setback.

7 The garage setback from alley shall be between 3 and 5 foot or, when as optional parking space is located between the garage and the alley, shall be 16 ft. minimum. Lots with important trees, as identified in the Master Plan, or grade differences at the alley, affecting garage location shall be exempt from this requirement.

8 Street-loaded garages shall be a minimum 20 ft. front setback to face of garage, and located a minimum of 5 ft. behind main façade of the associated dwelling unit.

9 Vertical encroachments are allowed up to ten additional feet, for up to 10% of the building footprint; vertical encroachments shall not be habitable space.

10 For Village Center buildings with lots fronting two or more streets, at least two facades shall be subject to the minimum frontage width and front setback requirements.

11 Row Houses shall be attached; however, no more than ten units shall be contiguous along a street edge.

12 See Definitions, 4.125.01, for measurement of Minimum Frontage Width.

13 Front Setback is measured as the offset of the front lot line or a vehicular or pedestrian access easement line. On lots with alleys, Rear Setback shall be measured from the ~~alley right-of-way~~ **rear lot line abutting the alley.**

14 See Figure 2A - Village Center Boundary & Land Use Plan in the Villebois Village Master Plan for areas included within the Village Center.

15 On Estate Lots and Large Lots with frontage 70 ft. or wider, the minimum combined side yard setbacks shall total 15 ft. with a minimum of 5 ft. On Small and Medium Lots, minimum side setback shall be 0 ft. or as required by Building Code.

16 For cluster housing with lots arranged on a courtyard, frontage shall be measured at the front door face of the building adjacent to a public right of way or a public pedestrian access easement linking the courtyard with the Public Way.

17 Dwellings on lots without alley access shall be at least 36 feet wide.

18 Duplexes with front-loaded garages are limited to one shared standard-sized driveway/apron.

19 Maximum setbacks may be increased as necessary to accommodate building cod, public utility easements or public open space requirements.

20 Lots are categorized as small, medium, standard, large or estate as shown in the Pattern Book.

- (.18) Village Zone Development Permit Process. Except as noted below, the provision of Sections 4.140(.02) through (.06) shall apply to development in the Village zone.

F. Refinements to Approved Villebois Village Master Plan

1. In the process of reviewing a SAP for consistency with the Villebois Village Master Plan, the Development Review Board may approve refinements, but not amendments, to the Master Plan. Refinements to the Villebois Village Master Plan may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section 4.125(.18)(F)(2), below. Amendments to the Villebois Village Master Plan may be approved by the Planning Commission as set forth in Section 4.032(.01)(B).

a. Refinements to the Master Plan are defined as:

- i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
- ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the Specific Area Plan.
- iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
- iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the affected SAP. For purposes of this subsection, "land uses" or "uses" are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small

detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.

- v. A change in density that does not exceed ten percent, provided such density change does not result in fewer than 2,300 dwelling units in the Village.
 - vi. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the function of collector or minor arterial roadways streets.
- b. As used herein, “significant” means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(F)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(F)(1)(a), above.
- 2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the Goals, Policies and Implementation Measures of the Villebois Village Master Plan
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the SAP and Village area, and
 - c. The refinement will not preclude an adjoining or subsequent SAP area from development consistent with the Master Plan.
 - 3. Amendments are defined as changes to elements of the Master Plan not constituting a refinement. Amendments to the Master Plan must follow the same procedures applicable to adoption of the Master Plan itself.

J. PDP Refinements to an Approved Specific Area Plan

1. In the process of reviewing a PDP for consistency with the approved Specific Area Plan, the DRB may approve refinements, but not amendments, to the SAP. Refinements to the SAP may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section (.18)(J)(2), below.
 - a. Refinements to the SAP are defined as:
 - i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
 - ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the Preliminary Development Plan.
 - iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
 - iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the Preliminary Development Plan. For purposes of this subsection, "land uses" or "uses" are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.
 - v. A change in density that does not exceed ten percent, provided such density change has not already been approved as a refinement to the underlying SAP or PDP, and does not result in fewer than 2,300 dwelling units in the Village.

- vi. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the functioning of collector or minor arterial roadways streets.
- b. As used herein, "significant" means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(J)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(J)(1)(a), above.
- 2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the conditions of the approved SAP, and the Goals, Policies and Implementation Measures of the Villebois Village Master Plan.
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the PDP and Village area, and
 - c. The refinement will not preclude an adjoining or subsequent PDP or SAP areas from development consistent with the approved SAP or the Master Plan.
- 3. Amendments to the SAP, not including SAP amendments for phasing, must follow the same procedures applicable to adoption of the SAP itself. Amendments are defined as changes to elements of the SAP not constituting a refinement.
- 4. Amendments to the SAP for phasing will be processed as a Class II administrative review proposal. [Section 4.125(.18)(J)(1) amended by Ord. No. 587, 5/16/05.]

O. FDP Refinements to an Approved Preliminary Development Plan

1. In the process of reviewing a FDP for consistency with the underlying Preliminary Development Plan , the DRB may approve refinements, but not amendments, to the PDP. Refinements to the PDP may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section 4.125(.18)(O)(2), below.

a. Refinements to the PDP are defined as:

i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.

ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the PDP.

iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.

iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the affected PDP. For purposes of this subsection, "land uses" or "uses" are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.

[Section 4.125(.18)(O)(1)(a)(iv) amended by Ord. No. 587, 5/16/05.]

v. Changes that are significant under the above definitions, but necessary to protect an important community resource or

substantially improve the functioning of collector or minor arterial roadways streets:

- b. As used herein, "significant" means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(O)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(F)(1)(a), above.

2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:

- a. The refinements will equally or better meet the approved conditions of approval of the PDP
- b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the PDP, the associated SAP, and
- c. The refinement will not preclude adjoining or subsequent PDPs, associated or adjoining SAPs from development consistent with an approved SAP or the Villebois Village Master Plan.

3. Amendments to the PDP must follow the same procedures applicable to adoption of the PDP itself. Amendments are defined as changes to elements of the PDP not constituting a refinement.

14. That Wilsonville Code Section 4.137 Solar Access For New Residential Development, Subsection (.07), be amended as follows:

(.07) Adjustments to Design Standard. The Development Review Board shall reduce the percentage of lots that must comply with Section 4.137(.05) to the minimum extent necessary if it finds the applicant has shown it would cause or is subject to one or more of the following conditions.

- A. Adverse impacts on density, cost, or amenities.

1. If the design standard in Section 4.137(.05)(A) is applied, either the resulting density is less than that proposed, or on-site development costs (e.g., grading, water, storm drainage and sanitary systems, and road) and solar related off-site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Section 4.137(.05)(A) would reduce density or increase per lot costs in this manner. The applicant shall show which, if any, of these or other similar site characteristics apply in an application for a development.
 - a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor, USGS data, or other officially recognized topographic information.
 - b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development code, that prevents given streets, **private drives**, or lots from being oriented for solar access, and it will exist after the site is developed.
 - c. Existing road patterns must be continued throughout the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets, **private drives**, or lots in the development from being oriented for solar access.
 - d. An existing public easement or right-of-way prevents given streets, **private drives**, or lots in the development from being oriented for solar access.
2. If the design standard in Section 4.137(.05)(A) applies to given lot(s), significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s)

comply with Section 4.137(.05)(A) is relevant to whether a significant development amenity is lost or impaired.

15. That Wilsonville Code Section 4.139.04 Uses and Activities Exempt from These Regulations (SROZ Regulations), Subsection (.06), be amended as follows:

(.06) Maintenance and repair of streets and utility services within rights-of way, easements, access road **drives** or other previously improved areas.

16. That Wilsonville Code Section 4.167 General Regulations - Access, Ingress and Egress, Subsection (.01), be amended as follows:

(.01) Each access onto streets **or private drives** shall be at defined points as approved by the City and shall be consistent with the public's health, safety and general welfare. Such defined points of access shall be approved at the time of issuance of a building permit if not previously determined in the development permit.

17. That Wilsonville Code Section 4.169 General Regulations – Double-Frontage Lots, Subsection (.01), be amended as follows:

(.01) Buildings on double frontage lots (i.e., through lots) and corner lots must meet the front yard setback for principal buildings on both streets **or tracts with a private drive**.

18. That Wilsonville Code Section 4.176 Landscaping, Screening, and Buffering, Subsection (.06), be amended as follows:

(.06) Plant Materials.

D. Street Trees. In order to provide a diversity of species, the Development Review Board may require a mix of street trees throughout a development. Unless the Board waives the requirement for reasons supported by a finding in the record, different types of street trees shall be required for adjoining blocks in a development.

1. All trees shall be standard base grafted, well branched and typical of their type as described in current AAN Standards and shall be balled

and burlapped (b&b). Street trees shall be planted at sizes in accordance with the following standards:

- a. Arterial streets - 3" minimum caliper
 - b. Collector streets - 2" minimum caliper.
 - c. Local streets or residential private access drives - 1-3/4" minimum caliper.
 - d. Accent or median tree - 1-3/4" minimum caliper.
2. The following trees and varieties thereof are considered satisfactory street trees in most circumstances; however, other varieties and species are encouraged and will be considered:
- a. Trees over 50 feet mature height: Quercus garryana (Native Oregon White Oak), Quercus rubra borealis (Red Oak), Acer Macrophyllum (Native Big Leaf Maple), Acer nigrum (Green Column Black Maple), Fraxinus americanus (White Ash), Fraxinus pennsylvannica 'Marshall' (Marshall Seedless Green Ash), Quercus coccinea (Scarlet Oak), Quercus pulustris (Pin-Oak), Tilia americana (American Linden).
 - b. Trees under 50 feet mature height: Acer rubrum (Red Sunset Maple), Cornus nuttallii (Native Pacific Dogwood), Gleditsia triacanthos (Honey Locust), Pyrus calleryana 'Bradford' (Bradford Pear), Tilia cordata (Little Leaf Linden), Fraxinus oxycarpa (Flame Ash).
 - c. Other street tree species. Other species may be specified for use in certain situations. For instance, evergreen species may be specified where year-round color is desirable and no adverse effect on solar access is anticipated. Water-loving species may be specified in low locations where wet soil conditions are anticipated.

19. That Wilsonville Code Section 4.177 Street and Improvement Standards be retitled Street, Residential Private Access Drive, and Other Improvement Standards, and be amended as follows:

(.01) Except as specifically approved by the Development Review Board -, all street **and** access improvements shall conform to the Transportation Systems Plan and the Public Works Standards, together with the following standards:

- A. All street improvements and intersections shall conform to the Public Works Standards and shall provide for the continuation of streets through specific developments to adjoining properties or subdivisions.
- B. All streets shall be developed with curbs, utility strips and sidewalks on both sides; or a sidewalk on one side and a bike path on the other side.
 - 1. Within a Planned Development the Development Review Board may approve a sidewalk on only one side. If the sidewalk is permitted on just one side of the street, the owners will be required to sign an agreement to an assessment in the future to construct the other sidewalk if the City Council decides it is necessary.
- C. Rights-of-way.
 - 1. Prior to issuance of a Certificate of Occupancy Building permits or as a part of the recordation of a final plat, the City shall require dedication of rights-of-way in accordance with the Street System Master Transportation Systems Plan. All dedications shall be recorded with the County Assessor's Office.
 - 2. The City shall also require a waiver of remonstrance against formation of a local improvement district, and all non-remonstrances shall be recorded in the County Recorder's Office as well as the City's Lien Docket, prior to issuance of a Certificate of Occupancy Building Permit or as a part of the recordation of a final plat.
 - 3. In order to allow for potential future widening, a special setback requirement shall be maintained adjacent to all arterial streets. The

minimum setback shall be 55 feet from the centerline or 25 feet from the right-of-way designated on the Master Plan, whichever is greater.

- D. Dead-end Streets. New dead-end streets or cul-de-sacs shall not exceed 200 feet in length, unless the adjoining land contains barriers such as existing buildings, railroads or freeways, or environmental constraints such as steep slopes, or major streams or rivers, that prevent future street extension and connection. No more than 25 dwelling units shall take access to a new dead-end or cul-de-sac street unless it is determined that the traffic impacts on adjacent streets will not exceed those from a development of 25 or fewer units. All other dimensional standards of dead-end streets shall be governed by the Public Works Standards.
- E. Access drives and travel lanes.
1. An access drive to any proposed development shall be designed to provide a clear travel lane free from any obstructions.
 2. Access drive travel lanes shall be constructed with a hard surface capable of carrying a 23-ton load.
 3. Secondary or emergency access lanes may be improved to a minimum 12 feet with an all-weather surface as approved by the Fire District. All fire lanes shall be dedicated easements.
 4. Minimum access requirements shall be adjusted commensurate with the intended function of the site based on vehicle types and traffic generation.
 5. Where access drives connect to the public right-of-way, construction within the right-of-way shall be in conformance to the Public Works Standards.
- F. Corner or clear vision area.
1. A clear vision area which meets the Public Works Standards shall be maintained on each corner of property at the intersection of any two

streets, a street and a railroad or a street and a driveway. However, the following items shall be exempt from meeting this requirement:

- a. Light and utility poles with a diameter less than 12 inches.
- b. Trees less than 6" d.b.h., approved as a part of the Stage II Site Design, or administrative review.
- c. Except as allowed by b., above, an existing tree, trimmed to the trunk, 10 feet above the curb.
- d. Official warning or street sign.
- e. Natural contours where the natural elevations are such that there can be no cross-visibility at the intersection and necessary excavation would result in an unreasonable hardship on the property owner or deteriorate the quality of the site.

G. Vertical clearance - a minimum clearance of 12 feet above the pavement surface shall be maintained over all streets and access drives:

H. Interim improvement standard. It is anticipated that all existing streets, except those in new subdivisions, will require complete reconstruction to support urban level traffic volumes. However, in most cases, existing and short-term projected traffic volumes do not warrant improvements to full Master Plan standards. Therefore, unless otherwise specified by the Planning Commission, the following interim standards shall apply.

1. Arterials - 24 foot paved, with standard sub-base. Asphalt overlays are generally considered unacceptable, but may be considered as an interim improvement based on the recommendations of the City Engineer, regarding adequate structural quality to support an overlay.
2. Half-streets are generally considered unacceptable. However, where the Development Review Board finds it essential to allow for reasonable development, a half-street may be approved. Whenever a half-street improvement is approved, it shall conform to the requirements in the Public Works Standards:

3. When considered appropriate in conjunction with other anticipated or scheduled street improvements, the City Engineer may approve street improvements with a single asphalt lift. However, adequate provision must be made for interim storm drainage, pavement transitions at seams and the scheduling of the second lift through the Capital Improvements Plan.

(.02) Residential Private Access Drives shall meet the following standards:

A. Residential Private Access Drives shall provide primary vehicular access to no more than four (4) dwelling units, excluding accessory dwelling units.

B. The design and construction of a Residential Private Access Drive shall ensure a useful lifespan and structural maintenance schedule comparable, as determined by the City Engineer or City's Authorized Representative, to a local street constructed in conformance to current public works standards.

1. The design of residential private access drives shall be stamped by a professional engineer registered in the state of Oregon and shall be approved by the City Engineer or City's Authorized Representative to ensure the above requirement is met.

2. Prior to issuing a certificate of occupancy for any residential dwelling unit whose primary vehicular access is from a Residential Private Access Drive the City Engineer or City's Authorized Representative shall certify construction of the Residential Private Access Drive substantially conforms the design approved by the City Engineer or City's Authorized Representative.

C. Residential Private Access Drives shall be named for addressing purposes. All Residential Private Access Drives shall use the suffix "Lane", i.e. SW Oakview Lane.

D. Residential Private Access Drives shall meet or exceed the standards for access drives and travel lanes established in Subsection (.01) G. of this Section.

20. That Wilsonville Code Section 4.180 Exceptions and Modifications - Projections into Required Yards, Subsection (.01), be amended as follows:

(.01) Certain non-structural architectural features are permitted to project into required yards or courts, without requiring the approval of a Variance or Reduced Setback Agreement, as follows:

B. Into any required yard, adjoining a street ~~right-of-way~~ **or tract with a private drive:**

1. Architectural features may project a distance not exceeding forty (40) inches.
2. An uncovered porch, terrace, or patio extending no more than two and one-half (2 1/2) feet above the finished elevation may extend within three (3) feet of an interior side lot line, or within ten (10) feet of a front lot line or of an exterior side lot line.

21. That Wilsonville Code Section 4.199.60 Major Additions or Modifications to Pre-Existing Sites (Outdoor Lighting Standards), Tables 7 and 9, be amended as follows:

Table 7: Maximum Wattage And Required Shielding				
Lighting Zone	Fully Shielded	Shielded	Partly Shielded	Unshielded
LZ 0	55	None permitted	None permitted	None permitted
LZ 1	70	20	13	Low voltage landscape lighting 50 watts or less
LZ 2	100	35	39	Low voltage landscape lighting 50 watts or less
LZ 3	250	100	70	Landscape and facade lighting 100 watts or less; ornamental lighting on private streets <u>drives</u> of 39 watts and less
LZ 4	450	150	150	Landscape and facade lighting 250 watts or less; ornamental lights on private streets <u>drives</u> and lanterns 70 watts or less; marquee lighting not employing medium based lamps

Table 9: Maximum Lighting Mounting Height In Feet

Lighting Zone	Lighting for private roads drives, driveways, parking, bus stops and other transit facilities	Lighting for walkways, bikeways, plazas and other pedestrian areas	All other lighting
LZ 0	20	8	4
LZ 1	25	12	4
LZ 2	40	18	8
LZ 3	40	18	16
LZ 4	Height limit to be determined by Special Use Permit Only		

Lighting mounted onto buildings or other structures shall not exceed a mounting height greater than 4 feet higher than the tallest part of the building or structure at the place where the lighting is installed, nor higher than 33.33 percent of the horizontal distance of the light from the nearest property line, whichever is less.

22. That Wilsonville Code Section 4.210 Application Procedure (*Tentative Plat Submission*), Subsection (.01), be amended as follows:

(.01) Pre-application conference. Prior to submission of a tentative condominium, partition, or subdivision plat, a person proposing to divide land in the City shall contact the Planning Department to arrange a pre-application conference as set forth in Section 4.010.

B. Tentative Plat Submission. The purpose of the Tentative Plat is to present a study of the proposed subdivision to the Planning Department and Development Review Board and to receive approval or recommendations for revisions before preparation of a final Plat. The design and layout of this plan plat shall meet the guidelines and requirements set forth in this Code. The Tentative Plat shall be submitted to the Planning Department with the following information:

1. Site development application form completed and signed by the owner of the land or a letter of authorization signed by the owner. A preliminary title report or other proof of ownership is to be included with the application form.

2. Application fees as established by resolution of the City Council.
3. Ten (10) copies and one (1) sepia or suitable reproducible tracing of the Tentative Plat shall be submitted with the application. Paper size shall be eighteen inch (18") by twenty-four inch (24"), or such other size as may be specified by the City Engineer.
4. Name of the subdivision. No subdivision name shall duplicate or resemble the name of any other subdivision in Clackamas or Washington County. Names may be checked through the county offices.
5. Names, addresses, and telephone numbers of the owners and applicants, and engineer or surveyor.
6. Date, north point and scale of drawing.
7. Location of the subject property by Section, Township, and Range.
8. Legal road access to subject property shall be indicated as City, County, or other public roads.
9. Vicinity map showing the relationship to the nearest major highway or street.
10. Lots: Dimensions of all lots, minimum lot size, average lot size, and proposed lot and block numbers.
11. Gross acreage in proposed plat.
12. Proposed uses of the property, including sites, if any, for multi-family dwellings, shopping centers, churches, industries, parks, and playgrounds or other public or semi-public uses.
13. Improvements: Statement of the improvements to be made or installed including streets, private drives, sidewalks, lighting, tree planting, and times such improvements are to be made or completed.
14. Trees. Locations, types, sizes, and general conditions of all existing trees, as required in Section 4.600.
15. Utilities such as electrical, gas, telephone, on and abutting the tract.

16. Easements: Approximate width, location, and purpose of all existing and proposed easements on, and known easements abutting the tract.
17. Deed Restrictions: Outline of proposed deed restrictions, if any.
18. Written Statement: Information which is not practical to be shown on the maps may be shown in separate statements accompanying the Tentative Plat.
19. If the subdivision is to be a "Planned Development," a copy of the proposed Home Owners Association By-Laws must be submitted at the time of submission of the application. The Tentative Plat shall be considered as the Stage I Preliminary Plan. The proposed By-Laws must address the maintenance of any parks, common areas, or facilities.
20. Any plat bordering a stream or river shall indicate areas subject to flooding and shall comply with the provisions of Section 4.172.
21. Proposed use or treatment of any property designated as open space by the City of Wilsonville.
22. A list of the names and addresses of the owners of all properties within 250 feet of the subject property, printed on self-adhesive mailing labels. The list shall be taken from the latest available property ownership records of the Assessor's office of the affected county.
23. A completed "liens and assessments" form, provided by the City Finance Department.
24. Locations of all areas designated as a Significant Resource Overlay Zone by the City, as well as any wetlands shall be shown on the tentative plat.
25. Locations of all existing and proposed utilities, including but not limited to domestic water, sanitary sewer, storm drainage, streets, and any private utilities crossing or intended to serve the site. Any plans to phase the construction or use of utilities shall be indicated.
26. A traffic study, prepared under contract with the City, shall be submitted as part of the tentative plat application process, unless specifically waived by the Community Development Director.

23. That Wilsonville Code Section 4.220 Final Plat Review, Subsection (.04), be amended as follows:

(.04) Action on Final Plat: Within thirty (30) days of receipt of a complete final plat submittal, the Planning Director shall approve, deny, or, when further information is required, postpone a decision on the application. Written notice of such action shall be mailed to the applicant by the Planning Director. If the Planning Director determines that full conformity with all applicable ordinances has not been made, the Director shall advise the applicant of the changes or additions that must be made and shall afford the applicant an opportunity to make the necessary changes or additions.

A. A final plat shall be approved only if affirmative findings can be made that:

1. The Plat is in substantial conformance with the provisions of the Preliminary Plat, as approved;
2. The proposal is consistent with the provisions, intents and purposes of the Comprehensive Plan, Zoning Regulations and the requirements of other relevant sections of this Code.
3. Streets, roads and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The plat contains a donation to the public of all common improvements, including, but not limited to, streets, roads, parks, sewage disposal and water supply systems, the donation of which is required by Ordinance or was made a condition of the approval of the tentative plat for the development.
5. Explanations of all common improvements to remain in private ownership have been accounted for and referenced on the plat;
6. ~~Streets and roads held for private use and~~ **Private drives** indicated on the tentative plat have been approved by the City; and

7. All conditions of approval for the development have been met, or adequate assurances for their completion have been provided, to the satisfaction of the Community Development Director.
5. Obtain on the final plat the signature of the County Assessor, whose signature shall certify that ownership is correct and taxes have been pro-rated and collected, if plat is to be recorded after July 1.
6. After the above items have been completed, the final plat shall be delivered to the office of the County Clerk and required fees paid for recordation.

24. That Wilsonville Code Section 4.236 General Requirements - Streets, Subsection (.04), be amended as follows:

- (.04) Creation of Easements: The Planning Director or Development Review Board may approve an easement to be established without full compliance with these regulations, provided such an easement is the only reasonable method by which a portion of a lot large enough to allow partitioning into two (2) parcels may be provided with vehicular access and adequate utilities. If the proposed lot is large enough to divide into more than two (2) parcels, a street dedication may be required. ~~Also, within a Planned Development, cluster settlements may have easement driveways for any number of dwelling units when approved by the Planning Director or Development Review Board.~~

25. That Wilsonville Code Section 4.237 General Requirements – Other, Subsections (.02) and (.06), be amended as follows:

- (.02) Easements:

- A. Utility lines. Easements for **sanitary or storm** sewers, drainage, water mains, ~~electrical lines~~ or other public utilities shall be dedicated wherever necessary. Easements shall be provided consistent with the City's Public Works Standards, as specified by the City Engineer or Planning Director. All **of the public** utility lines within and adjacent to the site shall be installed **within the public right-of-way or easement;** with underground services ~~within the street~~ **right-of-way** and **extending to the private**

parcel constructed in conformance to the City's Public Works Standards ~~to any structures.~~ All franchise utilities shall be installed within a public utility easement. All utilities shall have appropriate easements for construction and maintenance purposes.

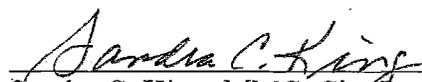
(.06) Access. The division of land shall be such that each lot shall have a minimum frontage on a ~~public street~~ or private drive as specified in the standards of the relative zoning districts. This minimum frontage requirement shall apply with the following exceptions:

A. A lot on the outer radius of a curved street or tract with a private drive or facing the circular end of a cul-de-sac shall have frontage of not less than twenty-five (25) feet upon a street or tract with a private drive, measured on the arc.

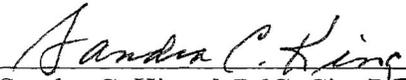
B. The Development Review Board may waive lot frontage requirements where in its judgment the waiver of frontage requirements will not have the effect of nullifying the intent and purpose of this regulation or if the Board determines that another standard is appropriate because of the characteristics of the overall development.

(.08) Lot side lines. The side lines of lots, as far as practicable for the purpose of the proposed development, shall run at right angles to the street or tract with a private drive upon which the lots face.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 2nd day of August, 2010, at the hour of 7:00 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon, and scheduled for second reading on the 9th day of September, 2010, commencing at the hour of 7:00 p.m. at the Wilsonville City Hall.


Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 9th day of September, 2010, by the following votes: YEAS: -4- NAYS: -0-


Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this 10TH day of September, 2010.


TIM KNAPP, MAYOR

SUMMARY OF VOTES:

Mayor Knapp	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Nunez	<u>Excused</u>
Councilor Hurst	<u>Yes</u>
Councilor Goddard	<u>Yes</u>

Exhibit A – Staff report dated July 25, 2010 for August 8, 2010 Hearing

WILSONVILLE PLANNING DIVISION
Legislative STAFF REPORT

HEARING DATE: August 2, 2010

DATE OF REPORT: July 26, 2010

APPLICATION NO: LP09-0005

REQUEST: Adoption of an Ordinance amending of the Planning and Land Development Ordinance (Wilsonville's Development Code) adding and modifying language in order to: 1. limit the number of future single-family residential dwelling units (not including ADUs) that can be accessed by a private drive to four (4); 2. require design and construction standards for private drives providing access to single-family dwelling units; and 3. provide consistency and clarity throughout the code when referring to "street", "drive", "road" along with similar and related terms.

LOCATION: All lands with a Comprehensive Plan designation of residential which have the potential to be developed with 2 or more single-family residential dwelling units. All lands that may be annexed and developed with single-family dwelling units.

APPLICANT: City of Wilsonville

STAFF REVIEWER: Daniel Pauly, Assistant Planner, (503) 682-4960 or pauly@ci.wilsonville.or.us.

CRITERIA:

Wilsonville Comprehensive Plan:

Section A: Citizen Involvement, Goal 1.1, Policy 1.1.1, Implementation Measures 1.1.1a, 1.1.1f, 1.1.1.g, 1.1.1 h.; Goal 1.2, Policy 1.2.1, Implementation Measure 3.5.2.b.

Land Use and Development Code:

Section 4.197 Zone Changes and Amendments to the Code – Procedures

Modifications are proposed to the following Code Sections: 4.001, 4.035, 4.111, 4.113, 4.116, 4.118, 4.120, 4.122, 4.124, 4.124.2, 4.124.3, 4.124.4, 4.125, 4.137, 4.139.04, 4.169, 4.176, 4.177, 4.180, 4.199.60, 4.120, 4.220, 4.236, 4.237.

SUMMARY:

When people think of streets most think of a publically-owned paved roadway. While a majority of streets in Wilsonville are publically owned, some streets are privately owned and maintained. Currently, Wilsonville’s Comprehensive Plan and Development Code allow local streets in all zones to be private with limited construction standards. Accordingly, a number of private streets have been approved and built throughout Wilsonville’s history. Over the years of experience with this policy of allowing private streets and their subsequent construction and use, major concerns have arisen. One primary concern is the potentially heavy burden property owners in developments with private streets can face to finance reconstruction of a damaged or failing private street. This concern largely stems from the lack of construction standards for private streets. A second major concern is the lack of City services provided to private streets. These services include regular maintenance (street sweeping and storm drain cleaning), minor repairs (pot hole filling), major repairs (grind and overlay a lift of asphalt) and parking/code enforcement (abandoned cars). When these services are not provided adequately by an HOA/private party, safety and livability can be significantly impacted.

The concerns over reconstruction costs and providing City services don’t apply equally to all private streets. They primarily apply to non-alley private streets in single-family residential development. In considering what should be done to address the concerns, it is useful to categorize Wilsonville’s existing private streets, explain how large of a concern there is for these different categories, and then explain recommended changes to the Development Code to address the concerns. Table 1 below lists four categories of private streets, associated land uses, and examples of existing private streets that fall into these categories.

Table 1. Categories of Existing Private Streets in Wilsonville

Type of Private Street	Associated Land Uses	Examples
Access and Circulation Drive	Industrial	Nike Access Drive
	Commercial	Argyle Square
	Mixed-Use	Village at Main Street
	Multi-family (apartments and condos)	Berkshire Court Apartments
	Mobile Home Parks	Oak Leaf Park
Alley	Various	Villebois
Residential "Stub" Street (Access For Only a Few Homes)	Single Family Residential	SW Kensington Place in Morey's Landing
Residential Private Street serving more than a few homes	Single Family Residential	Silver Creek Subdivision

The first category, 'access and circulation drive,' does not raise much concern and therefore no related changes to the Development Code are recommended. Reconstruction cost are not a major concern because these private streets are controlled by a single or a couple of large property owners who generally understand the private nature and the long term maintenance obligations and will often have the replacement and repair costs in a reserve account. The property owners also generally actively and effectively provide minor maintenance and repair and parking enforcement ensuring proper function along with safety and livability.

The second category 'alley' also does not raise much concern. Unlike larger private streets in residential settings, alleys are typically perceived to be private, much as a driveway is assumed to be private. Because of this 'private area' perception, property owners adjoining an alley generally understand a long-term obligation to maintain and service an alley.

The third and fourth categories, 'residential "stub" street' and 'residential private street serving more than a few homes,' do raise the two major concerns, replacement costs and provision of City services, mentioned above. Unlike alleys, they typically do not have a 'private area' perception. Homeowners that do not closely read their CCR's may not fully understand their street is not maintained as a public street and that the cost of repair or rebuilding is the collective homeowners' responsibility. Current code does require these streets to be signed as a private street, but Staff's observations show this has not been consistent over time and cannot be relied on as a primary way of ensuring private street responsibility is properly understood.

When private streets are approved by the City private agreements are required to manage them, typically through a homeowners association. Over time homeowners associations, while still existing on paper, may become inactive and not adequately maintain and provide services for private streets. Even if a homeowners association remains active it may elect to collect lower dues from property owners and thus not have sufficient reserves to repair or replace a street or pay for adequate services. This may lead to a need to levy large fees when a street needs major repair or replacement creating a potentially unexpected large financial burden on homeowners. While all roadways will eventually need repair or replacement, lack of construction standards can bring these costs earlier than expected and lead to costs beyond what would be required for a street built to public works standards.

While the City cannot change what private streets have been approved in the past, Staff recommends new requirements to minimize the situations where these concerns may arise in future single-family development. The main new requirements include:

- Limiting the number of single-family dwellings that can be accessed by a private street or drive to four. (Accessory Dwelling Units are not counted).
Note: The limit of four dwelling units is recommended by Planning Commission because it is the same number of units, under draft revisions to the Public Work Standards, which can be served by a 4-inch non-extendable water main
- Establishing standards for private drives in single-family residential development that help ensure a useful lifespan and structural maintenance schedule similar to public streets.

The four dwelling unit limit will not allow additional approval of the fourth category 'residential private street serving more than a few homes,' but will allow the limited approval of the third

category 'residential "stub" streets'. The numerical limit eliminates large areas where the services concern would arise, only allowing private drives where practicality and benefits outweigh the services concern. Where residential private drives are recommended to be allowed, the new construction quality requirements ensure the long term costs of repair and replacement are minimized.

Developers have elected to build private streets in single-family residential development for a number of reasons. These reasons have not changed, and their relation to the new regulations needs to be understood. The main reason is alternative street design. Some common rationale for alternative street design include: increasing development density; urban design/neighborhood feel; conservation and low impact development (limiting impervious surfaces); working around difficult terrain and other physical landscape features; and traffic control. The allowance for private drives to access up to four homes allows their use in some instances to increase density, work around difficult terrain, and low impact development. Additionally, alternatively designed streets are still allowed, but must be approved as public streets, much as alternatively designed streets in Villebois are public. Under the current process it is easier to get alternatively designed streets approved as private rather than public. Under the proposed new regulations all alternatively designed streets servicing more than four dwelling units would be required to go through the process to become public streets.

Another reason for private streets may be cost savings by constructing streets to lower standards. While constructing streets to lower standards may provide lower up-front costs and increase initial housing affordability, the increased maintenance and repair costs for homeowners over time can outweigh any upfront cost savings. Experience has shown that the cost of repairing and replacing failing private streets can be passed on to the public. The City does not want to be in the position of having to reconstruct a failed private street on behalf of a private developer who made their profit and moved on years earlier.

An examination of the Development Code to look at the best way to incorporate the new private street regulations brought a number of inconsistencies and conflicts to surface in the use of terms such as 'street' and 'road'. The Planning Commission is therefore also recommending minor amendments to many sections of the Development Code to ensure consistency and clarity related to current and proposed use of terms 'streets' and 'private drives' along with similar and related terms. A full explanation of each of these code changes can be found in Exhibit A (Draft Code Amendments and Explanations).

BACKGROUND

During the October 2008 City Council hearing for the Willamette Landing subdivision, concerns surrounding private streets in single-family subdivisions were raised. Subsequently, Staff was directed to review the City's code related to private streets in single-family subdivisions. Planning, Engineering, Public Works, Building, and Natural Resource staff met and collaborated to identify issues based on the City's experience with private streets in single-family subdivisions. The Planning Commission subsequently reviewed Staff's analysis during a series of Planning Commission Work Sessions over period of July 2009 to March 2010. The Planning Commission held a Public Hearing on April 14, 2010 and unanimously recommended City Council approve the proposed Development Code amendments. Staff has not received any testimony on the proposed code amendments since the public hearing with the Planning Commission.

TIMELINE:

- October 20, 2008 concerns about private streets in single-family subdivisions surface during hearing on Willamette Landing subdivision.
- Late 2008, early 2009 City Staff from various departments and divisions meet and collaborate on issues and solutions related to private streets in single-family subdivisions.
- Mid 2009- early 2010 3 work sessions are held with the Planning Commission. July 8 and November 18, 2009 work sessions focus on the background, existing conditions, and issues. March 10, 2010 work session focuses on the actual code amendment language.
- April 14, 2010 Planning Commission held a public hearing and afterwards unanimously recommended City Council approve the proposed Development Code amendments.
- The minutes and materials distributed at these work sessions and public hearing are contained in the public record for this application (Exhibit B).

RECOMMENDATION: Staff respectfully recommends that the City Council conduct a public hearing on the proposal and approve the proposed Ordinance.

Exhibits:

- A. Code Changes with Explanations
- B. Public Hearing Presentation Slides

FINDINGS:

GOAL 1.1 *To encourage and provide means for interested parties to be involved in land use planning processes, on individual cases and City-wide programs and policies.*

Response: Interested parties have been encouraged through public notices and provided means to participate in three (3) Planning Commission work sessions, a Planning Commission Public Hearing, and a City Council Public Hearing. By noticing the public they will continue to have the opportunity to be involved in public hearing meetings regarding the proposed Development Code amendments. This criterion is met.

Policy 1.1.1 The City of Wilsonville shall provide opportunities for a wide range of public involvement in City planning programs and processes.

Response: The work session and hearing process being undertaken for the proposed Development Code amendments are part of numerous opportunities for public involvement in City planning programs and processes. The public have been notified and welcomed to participate throughout the work session and public hearing process.

Implementation Measure 1.1.1.a Provide for early public involvement to address neighborhood or community concerns regarding Comprehensive Plan and Development Code changes. Whenever practical to do so, City staff will provide information for public review while it is still in "draft" form, thereby allowing for community involvement before decisions have been made.

Response: The first Planning Commission work session on the proposed Development Code amendments was held nine months prior to the Public Hearing, allowing early and ample time for community concerns regarding the Development Code changes to be addressed. Staff has provided the changes for public review while still in draft form. The "draft" code language was available at the Planning Commission work sessions, in notice packets, and on the City's web site. This criterion is satisfied.

Implementation Measure 1.1.1.e Encourage the participation of individuals who meet any of the following criteria:

1. *They reside within the City of Wilsonville.*
2. *They are employers or employees within the City of Wilsonville.*
3. *They own real property within the City of Wilsonville.*
4. *They reside or own property within the City's planning area or Urban Growth Boundary adjacent to Wilsonville.*

Response: Through the work session schedule, public hearing notices, and available records on the web, Staff has encouraged the participation of a wide variety of individuals addressing each of the groups above. This criterion is met.

Implementation Measure 1.1.1.f Establish and maintain procedures that will allow any interested parties to supply information.

Response: The established procedures are being followed that allow any interested parties to supply information. This criterion is met.

Implementation Measure 1.1.1.h In preparing public notices for Planning Commission meetings, the staff will clarify whether the meeting will involve a public hearing and/or a work session.

Response: In each of the public notices for Planning Commission and City Council meetings, Staff has clarified whether the meeting involved a public hearing or a work session. This criterion is met.

GOAL 1.2: *For Wilsonville to have an interested, informed, and involved citizenry.*

Policy 1.2.1 *The City of Wilsonville shall provide user-friendly information to assist the public in participating in City planning programs and processes.*

Response: Staff has prepared user-friendly information for each of the work sessions including tables, slide shows, maps, and lists that have been available to the public at the work sessions and public hearings and made part of the record available on the City's web site. This criterion is met.

Policy 1.3 *The City of Wilsonville shall coordinate with other agencies and organizations involved with Wilsonville's planning programs and policies.*

Implementation Measure 1.3.1.b *Where appropriate, the City shall continue to coordinate its planning activities with affected public agencies and private utilities. Draft documents will be distributed to such agencies and utilities and their comments shall be considered and kept on file by the City.*

Response: Affected agencies are being notified and draft code amendments made available via the City's web site or upon request. This criterion is satisfied.

Implementation Measure 3.5.2.b. *Through the Planned Development process, local streets may be approved as private streets, provided that adequate emergency access is available and that appropriate deed restrictions, homeowners' association requirements, etc. are established to insure proper maintenance.*

Response: Local streets will continue to be able to be approved as private streets throughout the City. The proposed Development Code amendments place restrictions on private streets or drives in single-family subdivisions to address specific issues that have come to the surface during the years of experience the City has had with private streets. This implementation measure will continue to be realized with the proposed Code Amendments.

Planning and Land Development Code, Section 4.197, Zone Changes and Amendments to This Code:

(.01) The following procedure shall be followed in applying for an amendment to the text of this Chapter:

A. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within forty (40) days after concluding the hearing, provide a report and recommendation to the City Council regarding the proposed amendment. The findings and recommendations of the Commission shall be adopted by resolution and shall be signed by the Chair of the Commission.

Response: The Commission has taken ample time to create the proposed code in preparation for public hearings. Following public hearings, a recommendation was forwarded to the City Council. This criterion is met.

B. In recommending approval of a proposed text amendment, the Planning Commission shall, at a minimum, adopt findings relative to the following:

1. That the application was submitted in compliance with the procedures set forth in Section 4.008; and

2. The amendment substantially complies with all applicable goals, policies and objectives set forth in the Comprehensive Plan; and

3. The amendment does not materially conflict with, nor endanger, other provisions of the text of the Code; and

4. If applicable, the amendment is necessary to insure that the City's Land Use and Development Ordinance complies with mandated requirements of State or Federal laws and/or statutes.

Response: The above criteria are substantially met as is evidenced by the file on this matter, the Planning Commission record and the narrative and findings of fact contained in this staff report. State and Federal laws/statutes are not in conflict with the proposal.



PLANNING DIVISION

FAX: (503) 682-7025
(503) 570-1571
straessle@ci.wilsonville.or.us

Delivery via US Mail

Letter of Transmittal

TO: Attention: Plan Amendment Specialist

Department of Land Conservation & Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

FROM: Linda Straessle

Administrative Assistant

DATE: 2/23/11

WE ARE TRANSMITTING THE FOLLOWING:

1 paper copy of the following:

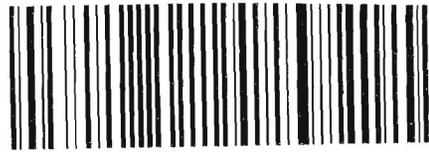
- DLCD Notice of Adoption for LP09-0005
- List of affected state or federal agencies, local governments or special districts
- Adopted Ordinance No. 682 with Exhibit A

Please direct correspondence regarding this notice to:

Chris Neamtzu, Planning Director, Neamtzu@ci.wilsonville.or.us, 503-682-4960

Paul Lee, Assistant City Attorney, lee@ci.wilsonville.or.us, 503-682-1011

29799 SW Town Center Loop East
Wilsonville OR 97070



7008 3230 0001 1506 8613

Priority Mail
ComBasPrice



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0004229689 FEB 23 2011
MAILED FROM ZIP CODE 97070



CITY OF WILSONVILLE
29799 SW TOWN CENTER LP E
WILSONVILLE OR 97070

TO:

Attention: Plan Amendment Specialist
DLCD
635 Capitol Street NE, Suite 150
Salem OR 97301-2540

DEPT OF

FEB 24 2011

LAND CONSERVATION
AND DEVELOPMENT