



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

April 26, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Central Point Plan Amendment
DLCD File Number 002-06

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: May 9, 2006

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative
Don Burt, City of Central Point
Lisa Morgan, City of Central Point

<paa> ya

2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DEPT OF
APR 20 2006
LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: City of Central Point Local file number: CP06-02-1A
Date of Adoption: 4/13/06 Date Mailed: 4/17/06
Date original Notice of Proposed Amendment was mailed to DLCD: 2/14/06

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Deletion of Section 1.24 - Public Hearings Procedures, Section 17.80 Variances, and Section 17.88
Amendment by replacing those sections with new Sections 17.05 Applications and Review
Procedures, Section 17.09 Modifications of Approved Plans & Conditions of Approval,
Section 17.10 Zoning Map & Text Amendments, Section 17.11 Code Interpretations,
and Section 17.13 Exceptions to Code Standards.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME".
If you did not give Notice for the Proposed Amendment, write "N/A".

N/A

Plan Map Changed from: N/A to: _____
Zone Map Changed from: N/A to: _____
Location: City Wide Acres Involved: _____
Specify Density: Previous: N/A New: _____

Applicable Statewide Planning Goals: N/A

Was an Exception Adopted? YES NO

DLCD File No.: 002-06
(15015)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

City of Central Point

Local Contact: Don Burt, AICP, EDFP Phone: (541) 664-3321x Extension: 259
Lisa Morgan 664-3321 291
Address: 140 South Third Street City: Central Point, OR - 97502
Zip Code + 4: 97502- Email Address: lisam@ci.central-point.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to maru.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 1874

AN ORDINANCE AMENDING THE CENTRAL POINT MUNICIPAL CODE BY DELETING CHAPTERS 1.24; 15.24.550; 16.40; 16.44; 17.60.170; 17.80; 17.88 AND REPLACING THEM WITH CHAPTERS 17.05; 17.09; 17.10; 17.11; AND 17.13.

WHEREAS, the changes in this ordinance are intended to bring the City's procedures into conformance with the procedures set out in state law, and

WHEREAS, the City's land use procedures currently contain requirements that are not required by state law and serve to prevent the City from acting efficiently and flexibly to best serve the interests of the City's residents, and

WHEREAS, the procedures contained within the new ordinance will allow the City to act in accordance with best practices in efficiently processing and considering land use matters, and

WHEREAS, it is in the best interest of the residents of Central Point that the City's land use procedures be improved and the immediate application of the revised City procedures will be advantageous to the population as a whole, and

WHEREAS, the above considerations persuade the City Council that an emergency exists that requires that the procedures identified in this ordinance be immediately effective,

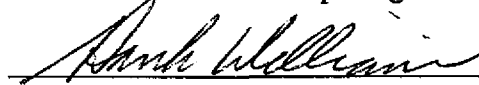
NOW THEREFORE,

THE PEOPLE OF THE CITY OF CENTRAL POINT, OREGON, DO ORDAIN AS FOLLOWS:

- Section 1. Replace Sections 1.24.010 through 1.24.080; Public Hearing Process; and 17.60.170; Appeal of Administrative Decisions with Sections 17.05.100 through 17.05.900; Applications and Types of Review Procedures (Exhibit 1).
- Section 2. Add Sections 17.09.100 through 17.09.400 Modifications to Approved Plans and Conditions of Approval (Exhibit 2).
- Section 3. Replace Sections 17.88.010 through 17.88.040; Amendment with Sections 17.10.100 through 17.10.600; Zoning Map and Text Amendments (Exhibit 3).
- Section 4. Add Sections 17.11.100 through 17.11.200; Code Interpretations (Exhibit 4)

Section 5. Replace Sections 15.24.550; Variances, 16.40.010 through 16.40.030; Variances, 16.44.010; Appeal, 17.80.010 through 17.80.020; Variances, with Chapter 17.13 – Exceptions to Code Standards, Sections 17.13.100 through 17.13.600; Variances (Exhibit 5)

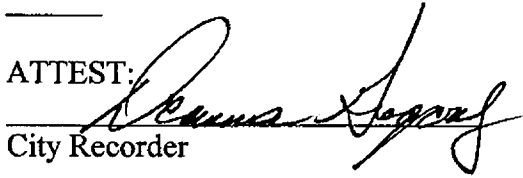
²⁶
13th Passed by the Council and signed by me in authentication of its passage this day of April, 2006.



Mayor Hank Williams

ATTEST:

City Recorder



Approved by me this 17th day of April, 2006.



Mayor Hank Williams

- CHAPTER 17.05 Applications and Types of Review Procedures**
- CHAPTER 17.09 Modifications to Approved Plans and Conditions of Approval**
- CHAPTER 17.10 Zoning Map and Text Amendments**
- CHAPTER 17.11 Code Interpretations**
- CHAPTER 17.13 Exceptions to Code Standards**

Exhibit 1

CHAPTER 17.05 Applications and Types of Review Procedures

Sections:

- 17.05.100. Purpose and Applicability of Review Procedures**
- 17.05.200 Type I Procedure**
- 17.05.300 Type II Procedure**
- 17.05.400 Type III Procedure**
- 17.05.500 Type IV Procedure**
- 17.05.600 General Provisions Applicable to All Reviews**
- 17.05.700 Special Procedures – Expedited Land Divisions,**
- 17.05.900 Traffic Impact Studies**

17.05.100 Purpose and Applicability of Review Procedures

- A. Purpose.** The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to review applications and participate in the local decision-making process in a timely and effective way. Table 17.05.1 provides a key for determining the review procedure and the decision-making body for particular approvals.
- B. Applicability of Review Procedures.** All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures: Type I, II, III, and IV. These procedures are described in subsections 1-4 below. Table 17.05.1. lists all of the City’s land use and development approvals and their required review procedure(s).
 - 1. **Type I Procedure (Administrative).** Type I decisions are made by the Community Development Director or designee without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying City standards and criteria requires no use of discretion;
 - 2. **Type II Procedure (Administrative).** Type II decisions involve limited discretion and are made by the Community Development Director or designee with public notice, and an opportunity for a public hearing if appealed. The appeal of a Type II decision is heard by the Planning Commission, who makes the City’s final decision.
 - 3. **Type III Procedure (Quasi-Judicial).** Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria.

4. **Type IV Procedure (Legislative).** Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations zone changes, and comprehensive plan amendments that apply to entire districts, rather than just one property). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

Approvals*	Review Procedures	Applicable Regulations
Annexation	Type IV	Chapter 1.20
Code Interpretation	Type II	Chapter 17.11
Code Amendment	Type IV	Chapter 17.10
Comprehensive Plan Text Amendment	Type IV	Chapter 17.96
Conditional Use Permit	Type III	Chapter 17.76
Home Occupation	Type I	Chapter 17.60.190
Planned Unit Development	Type III	Chapter 17.68
Modification to Approval Minor Major	Type II Type III	Chapter 17.09 Chapter 17.09
Plan Amendment or Zone Change - Quasi-Judicial - Legislative	Type III Type IV	Chapter 17.12.30 Chapter 17.96
Property Line Adjustments and Lot Consolidations	Type I	
Transit Oriented District/Corridor Review	Type III	Chapter 17.66
Non-Conforming Use	Type II	Chapter 17.56
Partition Tentative Plan Final Plat	Type II Type II	Chapter 16.36 Chapter 16.12
Land Use Review	Type I	
Site Plan, Landscaping and Construction Plan Review	Type II	Chapter 17.72
Subdivision Tentative Plan Final Plat	Type III Type II	Chapter 16.10 Chapter 16.12
Right-of-Way Vacation	Type IV	Chapter 12.28.020
Tree Removal	Type II	Chapter 12.36
Variance	Type II or III	Chapter 17.13
Zoning, Major Zoning, Minor	Type III Type II	Chapter 17.80.10 Chapter 17.80.20
Subdivisions, Major Subdivisions, Minor	Type III Type II	Chapter 17.13 Chapter 17.13.
Conversion Plan Review	Type II	Chapter 16.32
Uncategorized Decision	Type II	

* An applicant may be required to obtain approvals from other agencies, such as the Oregon Department of Transportation, or Rogue Valley Sewer. The City may notify agencies of applications that may affect their facilities or services.

17.05.200 Type I Procedure (Administrative).

A. Application Requirements.

1. Application Forms. Type I applications shall be made on forms provided by the Planning Department.
2. Application Requirements. Type I applications shall:
 - a. Include the information requested on the application form;
 - b. Address the criteria in sufficient detail for review and action; and
 - c. Be filed with the required fee.

B. Administrative Decision Requirements. The Community Development Director's or designee's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the Community Development Director shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

C. Final Decision. A Type I decision is the final decision of the City and may not be appealed further.

D. Effective Date. A Type I decision is final on the date it is made.

17.05.300 Type II Procedure (Administrative).

A. Pre-application Conference. A pre-application conference is optional for Type II reviews. (Pre-application conference requirements and procedures are found in Section 17.05.600(C).)

B. Application Requirements.

1. Application Forms. Type II applications shall be made on forms provided by the Planning Department.
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Include a narrative statement that explains how the application satisfies each of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific applicable requirements for each approval as referenced in Table 17.05.1;

- c. Include one set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in Section 17.05.300(C). The records of the Jackson County Assessor's Office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County Assessor's real property assessment records to produce the notice list. The City shall mail the notice of application; and
- d. Be accompanied by the required fee.

C. Notice of Application for Type II Administrative Decision.

1. Before making a Type II Administrative Decision, the Community Development Director or designee shall mail notice to:
 - a. All owners of record of real property within a minimum of 100 feet of the subject site;
 - b. All City-recognized neighborhood groups or associations whose boundaries include the site;
 - c. Any person who submits a written request to receive a notice; and
 - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the County or ODOT, and the rail authority, when there is a proposed development abutting or within 100 feet of an affected transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite affected persons to participate early in the decision-making process.
3. Notice of a pending Type II Administrative Decision shall:
 - a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
 - b. List the relevant approval criteria by name and number of code sections;
 - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 - d. Include the name and telephone number of a contact person regarding the Administrative Decision;

- e. Describe proposal and identify the specific permits or approvals requested;
- f. Describe the street address or other easily understandable reference to the location of the site;
- g. State that, if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue and that only comments on relevant approval criteria are considered relevant evidence;
- h. State that all evidence relied upon by the Community Development Director or designee to make this decision is in the public record, available for public review. Copies of this evidence may be obtained at a reasonable cost from the City;
- i. State that, after the comment period closes, the Community Development Director or designee shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
- j. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Administrative Decision Requirements. The Community Development Director or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Community Development Director or designee shall approve, approve with conditions, or deny the requested permit or action. In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made, the application shall be processed as a Type III application, including the requirements for a hearing, notice of decision,

E. Notice of Decision.

- 1. Within five days after the Community Development Director or designee signs the decision, a Notice of Decision shall be sent by mail to:
 - a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
 - b. Any person who submitted a written request to receive notice, or provides comments during the application-review period;
 - c. Any City-recognized neighborhood group or association whose boundaries include the site; and

- d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
2. The Community Development Director or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.
 3. The Type II Notice of Decision shall contain:
 - a. A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
 - c. A statement of where the City's decision may be obtained;
 - d. The date the decision shall become final, unless appealed;
 - e. A statement that all persons entitled to notice may appeal the decision; and
 - f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

F. Final Decision and Effective Date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

G. Appeal. A Type II administrative decision may be appealed to the Planning Commission as follows:

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
 - a. The applicant or owner of the subject property;
 - b. Any person who was entitled to written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.
2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
 - b. *Time for filing.* A Notice of Appeal shall be filed with the Community Development Director or designee within 14 days of the date the Notice of Decision was mailed;
 - c. *Content of notice of appeal.* The Notice of Appeal shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal;
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and
 - (5) The applicable filing fee.
3. **Scope of appeal.** The appeal of a Type II Administrative Decision by a person with standing shall be a hearing before the Planning Commission. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review.
 4. **Appeal procedures.** Type III notice, hearing procedures and decision process shall also be used for all Type II Administrative Appeals, as provided in Sections 17.05.400(C – E);
 5. **Final Decision.** The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City.

17.05.400 Type III Procedure (Quasi-Judicial).

A. Pre-application Conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

B. Application Requirements.

1. **Application forms.** Type III applications shall be made on forms provided by the Community Development Director or designee; however, if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.

2. **Submittal Information.** When a Type III application is required, it shall:

- a. Include the information requested on the application form;
- b. Be filed with one copy of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific applicable regulations for each approval as referenced in Table 17.05.1;
- c. Be accompanied by the required fee; and
- d. Include one set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in Section 17.05.400(C)(1)(a)(1), (2), (4) and (5). The records of the Jackson County Assessor's Office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County Assessor's real property assessment records to produce the notice list. The City shall mail the notice of application.

C. Notice of Hearing.

1. **Mailed notice.** The City shall mail the notice of the Type III action. The records of the Jackson County Assessor's Office shall be the official records for determining ownership. Notice of a Type III application hearing or Type II appeal hearing shall be given by the Community Development Director or designee in the following manner:
 - a. At least 20 days before the hearing date, notice shall be mailed to:
 - (1) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
 - (2) All property owners of record within 100 feet of the site;
 - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
 - (4) Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
 - (5) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;

- (6) Any person who submits a written request to receive notice;
 - (7) For appeals, the appellant and all persons who provided testimony in the original decision; and
 - (8) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
- b. The Community Development Director or designee shall prepare an affidavit of notice and the affidavit shall be made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who were sent notice.
 - c. At least 14 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City as well as on the City's website. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.
2. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed and published per Subsection 1 above shall contain the following information:
- a. The nature of the application and the proposed land use or uses that could be authorized for the property;
 - b. The applicable criteria and standards from the development code(s) that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. The date, time, and location of the public hearing;
 - e. A statement that the failure to raise an issue in person, or in writing at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be raised at the State Land Use Board of Appeals;
 - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
 - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City of Central Point City Hall at no cost and that copies shall be provided at a reasonable cost;

- h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- I. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- j. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance:
 - a. The applicable approval criteria and standards that apply to the application or appeal;
 - b. A statement that testimony and evidence shall be directed at the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record to allow rebuttal evidence.

- a. If the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to Section 17.05.400(D) is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence;
 - d. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
 - e. In making its decision, the hearings body may take official notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
 - f. The City shall retain custody of the record until the City issues a final decision and all appeal deadlines have passed.
4. Participants in an appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see Section 17.05.400(D)(6) below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing *ex parte* contacts (as defined in Section 17.05.400(D)(5) below) concerning the application or appeal. He or she shall also state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly. Hearing participants shall be entitled to question hearing body members as to *ex parte* contacts and to object to their participation as provided in paragraph (5)(b) of this section;
 - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective

- partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
- c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 - d. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 - e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
5. Ex parte communications.
- a. Members of the hearings body shall not:
 - (1) Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per Section C above;
 - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
 - b. No decision or action of the hearings body shall be invalid due to *ex parte* contacts or bias resulting from *ex parte* contacts, if the person receiving contact:
 - (1) Places in the record the substance of any written or oral *ex parte* communications concerning the decision or action; and
 - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
 - c. A communication between City staff and the hearings body is not considered an *ex parte* contact.

6. Presenting and receiving evidence.

- a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided in Section 17.05.400(D)(3);
- c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence under paragraph (5)(d) of this section.

E. The Decision Process.

1. Basis for decision. Approval or denial of a Type II Administrative Appeal or of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required. If the application is for a quasi-judicial zone change, the Planning Commission shall issue a denial as a final written order. However, if the Planning Commission decides in favor of the zone change, it shall issue written recommendation to the City Council, which shall hold a hearing and adopt either an order denying the zone change or an ordinance approving the zone change.
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the Community Development Director or designee within ten business days after the close of the deliberation;
5. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within ten business

days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal of a Type III decision is filed, the decision becomes effective on the day after the appeal is decided by the City Council. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the City Council's written decision.

F. Appeal. A Type III decision may be appealed to the City Council as follows:

1. Who may appeal. The following people have legal standing to appeal a Type III Decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type III decision;
- c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Decision by filing a Notice of Appeal according to the following procedures;
- b. *Time for filing.* A Notice of Appeal shall be filed with the Community Development Director or designee within 10 days of the date the Notice of Decision was mailed;
- c. *Content of notice of appeal.* The Notice of Appeal shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal;
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and
 - (5) the applicable filing fee.

3. **Scope of appeal.** The appeal of a Type III Decision shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review.
4. **Appeal procedures.** Type III notice, hearing procedures and decision process shall also be used for all Type III Appeals, as provided in Sections 17.05.400(C – E);
5. **Final Decision.** The decision of the City Council regarding an appeal of a Type III Decision is the final decision of the City.

17.05.500 Type IV Procedure (Legislative).

- A. **Pre-Application Conference.** A pre-application conference is required for all Type IV applications initiated by a party other than the City of Central Point. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).
- B. **Timing of Requests.** The City accepts plan map amendment and annexation applications twice yearly, on January 30 and June 30, provided that the City Council may initiate its own such proposals at any time.
- C. **Application Requirements.**
 1. **Application forms.** Type IV applications shall be made on forms provided by the Community Development Director or designee.
 2. **Submittal Information.** The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee; and
 - d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
- D. **Notice of Hearing.**
 1. **Required hearings.** A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications, except annexations and Measure 37 claims where only a hearing by the City Council is required.

2. Notification requirements. Notice of public hearings for the request shall be given by the Community Development Director or designee in the following manner:
 - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - (1) Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - (2) Any affected governmental agency;
 - (3) Any person who requests notice in writing;
 - (4) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
 - (5) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
 - b. At least 10 days before the scheduled Planning Commission public hearing date, and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
 - c. The Community Development Director or designee shall:
 - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by subsection a; and
 - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
 - d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.
 - e. Notifications for annexation shall follow the provisions of this Chapter.
3. Content of notices. The mailed and published notices shall include the following information:

- a. The number and title of the file containing the application, and the address and telephone number of the Community Development Director or designee's office where additional information about the application can be obtained;
 - b. The proposed site location, if applicable;
 - c. A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See Section 17.05.500(E)); and
 - e. Each mailed notice required by Section 17.05.500(D) shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The Central Point Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters;
 - (3) Impose reasonable time limits for oral presentations; and
 - (4) Waive the provisions of this Chapter so long as they do no prejudice the substantial rights of any party.

- b. No person shall address the Commission or the Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating his or her full name and address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the City Council or the final decision of the City;
 - b. The Community Development Director or designee's report and other applicable staff reports shall be presented;
 - c. The public shall be invited to testify;
 - d. The public hearing may be continued to allow additional testimony or it may be closed; and
 - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- F. Continuation of the Public Hearing.** The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- G. Decision-Making Criteria.** The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:
- 1. Whether the request is consistent with the applicable Statewide Planning Goals;
 - 2. Whether the request is consistent with the Comprehensive Plan; and
 - 3. If the proposed legislative change is particular to a particular site, the property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

H. Approval Process and Authority.

1. The Planning Commission shall:
 - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 - b. Within 14 business days of adopting a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the Community Development Director or designee.
2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Community Development Director or designee before the Council public hearing on the proposal. The Community Development Director or designee shall send a copy to each Council member and place a copy in the record;
3. If the Planning Commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, the Community Development Director or designee shall:
 - a. Prepare a report to the City Council on the proposal, including noting the Planning Commission's actions on the matter, if any; and
 - b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing make a decision. No further action shall be taken by the Planning Commission.
4. The City Council shall:
 - a. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation;
 - b. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application; and
 - c. If the application for legislative change is approved, the Council shall act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

I. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the Community Development Director or designee. The City shall also provide notice to all persons as required by other applicable laws.

K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

L. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered and not rejected by the hearings body;
 - b. All materials submitted by the Community Development Director or designee to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final decision;
 - e. All correspondence; and
 - d. A copy of the notices that were given as required by this Chapter.

17.05.600 General Provisions: 120-day Rule; Time Computation; Pre-application Conferences; Acceptance and Review; Planning Official's Duties, Amended Applications; Re-submittal

- A. 120-day Rule.** The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing; however, the total of all extensions may not exceed 245 days. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and code amendments - under ORS 227.178.)
- B. Time Computation.** In computing any period of time prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.
- C. Pre-application Conferences.**
1. **Participants.** When a pre-application conference is required, the applicant shall meet with the Community Development Director or his/her designee(s) and such other parties as the Community Development Director deems appropriate;
 2. **Information provided.** At such conference, the Community Development Director or designee shall:
 - a. Cite the comprehensive plan policies and map designations that appear to be applicable to the proposal;
 - b. Cite the ordinance provisions, including substantive and procedural requirements that appear to be applicable to the proposal;
 - c. Provide available technical data and assistance that will aid the applicant;
 - d. Identify other governmental policies and regulations that relate to the application; and
 - e. Reasonably identify other opportunities or constraints concerning the application.
 3. **Disclaimer.** Failure of the Community Development Director or designee to provide any of the information required by this Section 17.05.600(C) shall not constitute a waiver of any of the standards, criteria or requirements for the application;
 4. **Changes in the law.** Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

D. Acceptance and Review of Applications.

1. Initiation of applications:

a. Applications for approval under this Chapter may be initiated by:

(1) Order of City Council;

(2) Resolution of the Planning Commission;

(3) The Community Development Director or designee;

(4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings, may, at the option of the applicant, be consolidated for review and decision.

a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the Community Development Director or designee.

b. When proceedings are consolidated:

(1) The notice shall identify each application to be decided;

(2) The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and

(3) Separate findings shall be made on each application.

3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the City, the Community Development Director or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;

- (1) The required form;
- (2) The required fee;
- (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

- (1) Review and notification. After the application is accepted, the Community Development Director or designee shall review the application for completeness. If the application is incomplete, the Community Development Director or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
 - (2) Application deemed complete for review. In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete upon the receipt by the Community Development Director or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit further information and requesting that the application be processed notwithstanding any identified incompleteness. For the refusal to be valid, the refusal shall be made in writing and received by the Community Development Director or designee.
 - (3) If the applicant does not submit all of the missing information or provide written notice that no further information will be provided (whether some of the additional information has been provided or not) within 180 days the initial submittal was accepted, the application is void.
 - (3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted, unless the application is for a change to the plan or land use regulations.
 - (4) Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and federal review agencies.
4. Changes or additions to the application during the review period. Once an application is deemed complete:
- a. All documents and other evidence relied upon by the applicant shall be submitted to the Community Development Director or designee at least seven days before the notice of action or hearing is mailed.

Documents or other evidence submitted after that date shall be received by the Community Development Director or designee, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;

- b. When documents or other evidence are submitted by the applicant during the review period but after the notice of action or hearing is mailed, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination to the approving authority that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change, and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
 - (1) Suspend the existing application and allow the applicant to submit a revised application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section 17.05.600(A) above) on the existing application. If the applicant does not consent, the City shall not select this option;
 - (2) Declare the application, based on the significant change, a new application and reprocess accordingly.
- e. If a new application is submitted by the applicant, that application shall pay the applicable application fee and shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Community Development Director's Duties. The Community Development Director or designee shall:

- 1. Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions;
- 2. Accept all development applications that comply with Section 17.05.600;
- 3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria.

The staff report may also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;

4. Prepare a notice of the proposal decision:
 - a. In the case of an application subject to a Type I or II review process, the Community Development Director or designee shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
 - b. In the case of an application subject to a hearing (Type III or IV process), the Community Development Director or designee shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 17.05.300(C) (Type II), 17.05.400(C) (Type III), or 17.05.500(D) (Type IV);
5. Administer the application and hearings process;
6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant, all persons who provided comments or testimony, persons who requested copies of the notice, and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice, the application and all supporting information, the staff report, the final decision (including the findings, conclusions and conditions, if any), all correspondence, minutes of any meeting at which the application was considered, and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and
8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the Community Development Director or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.
2. The Community Development Director or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures in Section 17.09. All other changes to decisions that are not modifications under Section 17.09 follow the appeal process.

G. Re-submittal of Application Following Denial. An application or proposal that has been denied, or that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the same, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the Community Development Director or designee.

H. City Council Review. The City Council shall have the authority to call up any Type II or Type III application for review. The decision to call up an application may occur at any time after the application is filed until the decision is otherwise final. When the City Council calls up an application, the Council shall, in its order of call up, determine the procedure to be followed, including the extent of preliminary processing and the rights of the parties. At a minimum, the council shall follow the procedures in Section 17.05.400(F), regarding appeals from Type III decisions.

17.05.700 Special Procedures.

A. Expedited Land Divisions. An Expedited Land Division (“ELD”) shall be defined and may be used as provided under ORS 197.360 through 197.380.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
2. Review procedure. All applications for Expedited Land Divisions shall comply with ORS 197.360 through 197.380 and the Central Point Comprehensive Plan; ORS 197.360 through ORS 197.380 details the criteria, application and notice requirements, and action and appeal procedures for expedited land divisions.
3. Appeal procedure. An appeal of an ELD shall follow the procedures in ORS 197.375.

17.05.900 Traffic Impact Analysis

The purpose of this section of the code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities.

This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Analysis; and who is qualified to prepare the Study.

A. When a Traffic Impact Analysis is Required. The City shall require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access in the following situations:

1. If the application includes residential development, a TIA shall be required when the land use application involves one or more of the following actions:
 - a. A change in zoning or a plan amendment;
 - b. An increase in site traffic volume generation by 250 average daily trips or more,
 - c. An increase in peak hour volume of a particular movement to and from the State highway by 20 percent or more; or
 - d. An increase in use of adjacent streets by vehicles exceeding the 20,000 pounds gross vehicle weights by 10 vehicles or more per day;
2. If the application does not include residential development, a TIA shall be required when a land use application involves one or more of the following actions:
 - a. A change in zoning or a plan amendment designation;
 - b. Any proposed development or land use action that a road authority; including the City, Jackson County or ODOT, states may have operational or safety concerns along its facility(ies);
 - c. An increase in site traffic volume generation by 250 Average Daily Trips (ADT) or more;
 - d. An increase in peak hour volume of a particular movement to and from the State highway by 20 percent or more;
 - e. An increase in use of adjacent streets by vehicles exceeding the 20,000 pounds gross vehicle weights by 10 vehicles or more per day;
 - f. The location of the access driveway does not meet minimum sight distance requirements, as determined by the City Engineer, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard in the discretion of the Community Development Director; or

g. A change in internal traffic patterns that, in the discretion of the Community Development Director, may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

B. Traffic Impact Analysis Preparation. A Traffic Impact Analysis shall be prepared by a Traffic Engineer or Civil Engineer licensed to practice in the State of Oregon with special training and experience in traffic engineering. The TIA shall be prepared in accordance with the Public Works Departments document entitled "Traffic Impact Analysis". If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

Exhibit 2

Chapter 17.09 Modifications to Approved Plans and Conditions of Approval

Sections:

17.09.100 Modifications - Purpose

17.09.200 Modifications - Applicability

17.09.300 Major Modifications

17.09.400 Minor Modifications

17.09.100 Modifications - Purpose

The purpose of this Chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

17.09.200 Modifications - Applicability

- A. This Chapter applies to all development applications approved through the provisions of Chapter 17, including:
1. Land Use Review approvals;
 2. Site Design Review approvals;
 3. Subdivisions, Partitions, and Property Line Adjustments;
 4. Conditional Use Permits;
 5. Planned Unit Developments; and
 6. Conditions of approval on any of the above permit types.
- B. This Section 17.09 does not apply to Comprehensive Plan amendments, land use district changes, text amendments, annexations, or other permits not listed in subsection (A). Any matter not identified in subsection (A) above shall be changed through the applicable process for the initial approval of such a matter.
- C. When an application for a modification is complete, the Community Development Director shall review the proposed modification and determine whether the modification is a major or minor modification and the process to be used in processing the proposed modification, as described below.

17.09.300 Major Modifications

A. Major Modification Defined. The Community Development Director shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

1. A change in land use;
2. An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;
3. A change in setbacks or lot coverage by more than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
4. A change in the type and/or location of access-ways, drives or parking areas affecting off-site traffic;
5. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;
6. A reduction of more than 10 percent of the area reserved for common open space; or
7. Change to a condition of approval, or a change similar to items 1-6, that could have a detrimental impact on adjoining properties. The City Planning Official shall have discretion in determining detrimental impacts warranting a major modification.

B. Major Modification Applications; Approval Criteria. An applicant may request a major modification using a Type II or Type III review procedure, as follows:

1. Upon the Community Development Director determining that the proposed modification is a major modification, the applicant shall submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Community Development Director may require other relevant information, as necessary, to evaluate the request.
2. The application shall be subject to the same review procedure (Type II or III), decision making body, and approval criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III procedure.
3. The scope of review shall be limited to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping. Notice shall be provided in accordance with the applicable notice requirements for Type II or Type III procedures.
4. The decision making body shall approve, deny, or approve with conditions an application for major modification based on written findings on the criteria.

17.09.400 Minor Modifications

- A. Minor Modification.** Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Section 17.09.300(A), above.
- B. Minor Modification Review Procedure.** An application for approval of a minor modification shall be reviewed by the Planning Official using a Type I or a Type II review procedure under Section 17.05.200 or 17.05.300. The Community Development Director is responsible for determining the appropriate review procedure based on the following criteria:
1. Minor modifications that involve only clear and objective code standards may be reviewed using a Type I procedure;
 2. Minor modifications that involve one or more discretionary standards shall be reviewed through Type II procedure; and
 3. When the code is unclear on whether the application should be a Type I or Type II review, a Type II procedure shall be used.
- C. Minor Modification Applications.** An application for minor modification shall include an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Community Development Director may require other relevant information, as necessary, to evaluate the request.
- D. Minor Modification Approval Criteria.** The Community Development Director shall approve, deny, or approve with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code and conditions of approval on the original decision, and the modification is not a major modification as described in Section 17.09.300(A), above.

Exhibit 3

Chapter 17.10 Zoning Map and Text Amendments

Sections:

17.10.100 Amendments - Purpose

17.10.200 Legislative Amendments

17.10.300 Quasi-Judicial Amendments

17.10.400 Conditions of Approval on Quasi-Judicial Amendments

17.10.500 Record of Amendments

17.10.600 Transportation Planning Rule Compliance

17.10.100 Amendments - Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the Central Point City Zoning Map (Zoning Map). These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

17.10.200 Legislative Amendments

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Section 17.05.500 and shall conform to the Statewide Planning Goals, the Central Point Comprehensive Plan, the Central Point Zoning Ordinance and the Transportation Planning Rule provisions in Section 17.10.600, as applicable.

17.10.300 Quasi-Judicial Amendments

A. Applicability of Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial Zoning Map amendments shall follow the Type III procedure, as governed by Section 17.05.400, using standards of approval in Section 17.10.300(B). The approval authority shall be as follows:

1. The Planning Commission shall review and recommend land use district map changes that do not involve comprehensive plan map amendments;
2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
3. The Planning Commission shall make a recommendation to the City Council on a land use district change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the applicable Statewide Planning Goals;
2. Approval of the request is consistent with the Central Point Comprehensive Plan;
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and
5. The amendment conforms to the Transportation Planning Rule provisions under Section 17.10.600.

17.10.400 Conditions of Approval for Quasi-Judicial Amendments

A quasi-judicial decision may be for denial, approval, or approval with conditions; conditions shall be based on applicable regulations and factual evidence in the record. A legislative amendment may only be approved or denied.

17.10.500 Record of Amendments

The City Recorder shall maintain a record of amendments to the text of this Code and the Zoning Map in a format convenient for public use.

17.10.600 Transportation Planning Rule Compliance.

A. Review of Applications for Effect on Transportation Facilities. When a development application includes a proposed comprehensive plan amendment or zoning district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – TPR) and the Traffic Impact Study provisions of Section 17.05.900.

“Significant” means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the City’s Transportation System Plan (“TSP”); or

2. Change the standards implementing a functional classification system; or
3. As measured at the end of the planning period identified in the road authority's adopted transportation system plan (TSP) / City's Comprehensive Plan allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the City's transportation system plan (TSP) /Comprehensive Plan; or
5. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the City's transportation system plan (TSP) /Comprehensive Plan.

B. Amendments that Affect Transportation Facilities. Except as provided in subsection C, amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility. This shall be accomplished by one of the following:

1. Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or
2. Amending the Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or,
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or
4. Amending the planned function, capacity or performance standards of the transportation facility; or
5. Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

C. Exceptions. Amendments to the Comprehensive Plan or land use regulations with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the City's transportation system plan (TSP) /Comprehensive Plan, may be approved when all of the following criteria are met:

1. The amendment does not include property located in an interchange area, as defined under applicable law;

2. The currently planned facilities, improvements or services are not adequate to achieve the standard;
3. Development resulting from the amendment will, at a minimum, mitigates the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid further degradation to the facility.

Exhibit 4

Chapter 17.11 Code Interpretations

Sections:

- 17.11.100 Interpretations - Purpose**
- 17.11.200 Code Interpretation Procedure**

17.11.100 Interpretations - Purpose

Some terms or phrases within the Chapter may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

17.11.200 Code Interpretation Procedure

- A. Requests.** A request for a code interpretation shall be made in writing to the Community Development Director with the applicable fee.
- B. Decision to Issue Interpretation.** The Community Development Director shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The Community Development Director shall advise the person making the inquiry in writing within 14 days after the request is made, on whether or not the City will make an interpretation.
- C. Written Interpretation.** If the City decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy. The written interpretation shall be issued within 14 days of the request. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E-F below.
- E. Type II Procedure.** Code Interpretations shall be made using a Type II procedure under Section 17.05.300.
- F. Appeals.** The applicant and any party who received notice or who participated in the proceedings through the submission of written or verbal evidence may appeal the decision to the Planning Commission for a Type III decision. The appeal must be filed within 14 days after the interpretation was mailed or delivered to the applicant. Initiating an appeal requires filing a notice of appeal with the City Planning Department pursuant to Section 17.05.400.
- G. Interpretations on File.** The City shall keep on file a record of all code interpretations.

Exhibit 5

Chapter 17.13 — Exceptions to Code Standards

Chapter 17.13.100 — Variances

Sections:

17.13.100 Variances - Purpose

17.13.200 Variances - Applicability

17.13.300 Class A Variances

17.13.400 Class B Variances

17.13.500 Class C Variances

17.13.600 Variance Application and Appeals

17.13.100 Variances - Purpose

This Chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this Chapter 17 as exceptions to code standards. This Chapter cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. Chapter 17.13 provides that flexibility, while maintaining the purposes and intent of the Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.

17.13.200 Variances - Applicability

A. Exceptions and Modifications versus Variances. A code standard or approval criterion ("code section") may be modified without approval of a variance if the applicable code section expressly allows exceptions or modifications. If the code section does not expressly provide for exceptions or modifications, then a variance is required to modify that code section and the provisions of Chapter 17.13 apply.

B. Combining Variances with Other Approvals; Permit Approvals by Other Agencies.

Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site design review, subdivision, conditional use, etc.); however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C. Types of Variances. As provided in Section 17.13.300, there are three types of variances (Class A, B, or C); the type of variance required depends on the extent of the variance request and the discretion involved in the decision making process.

17.13.300 Class A Variances.

A. Applicability. The following variances are reviewed using a Type II procedure, as governed by Chapter 17.05, using the approval criteria in Subsection B, below:

1. Front yard setbacks. Up to a 10 percent change to the front yard setback standard in the land use district.
2. Interior setbacks. Up to a 10 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. Lot coverage. Up to 5 percent increase of the maximum lot coverage required in the base zone.
4. Landscape area. Up to 5 percent reduction in landscape area (overall area or interior parking lot landscape area).

B. Approval criteria. A Class A Variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
3. The variance will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate variance request.
4. An application for a Class A variances is limited to one lot per application.
5. No more than three Class A variances may be approved for one lot or parcel in 12 months.

17.13.400 Class B Variances.

A. Applicability. Class B variance requests apply to the types of requests meeting the approval criteria in Sections 17.13.400(B) through 17.13.400(G), and that conform to subsections 1-3, below, Class B variances shall be reviewed using a Type III procedure, in accordance with Chapter 17.05:

1. The Class B variance standards apply to individual platted and recorded lots only.
2. The Class B variance procedure shall not be used to modify a standard for lots yet to be created through a partition or subdivision process; such requests shall utilize the Class C variance procedure.

3. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of any zoning district.

B. Variance to minimum housing density standard. The City may approve a variance to a minimum housing density standard after finding that the minimum housing density cannot be achieved due to physical constraints that limit the division of land or site development. "Physical constraint" means steep topography, unusual parcel configuration, or a similar constraint. The variance approved shall be the minimum variance necessary to address the specific physical constraint on the development.

C. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:

1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
2. There are no other alternative access points on the street in question or from another street;
3. The access separation requirements cannot be met;
4. The request is the minimum variance required to provide adequate access;
5. The approved access or access approved with conditions will result in a safe access;
6. The visual clearance requirements of this Code will be met; and
7. Variances for street access deviations shall be subject to review and approval by the roadway authority.
8. Variances for access deviations on an ODOT or Jackson County right-of-way may require approval, respectively, by ODOT or Jackson County.

D. Variance to Street Tree Requirements (Chapter 12.36). The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements of this Code after finding the following:

1. Installation of the tree would interfere with existing utility lines, and no substitute tree with a lower canopy is appropriate for the site;
2. The tree would cause visual clearance problems; or

3. There is not adequate space in which to plant a street tree; and
4. The City may require the installation of additional or replacement landscaping elsewhere on the site (e.g., parking lot area trees) to compensate for the street tree variance.
5. Street tree approval or modification of standards within an ODOT or Jackson County right-of-way may require approval, respectively, by ODOT or Jackson County.

E. Variance to Parking and Loading Standards.

1. The City may approve variances to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in this Code upon finding all of the following:
 - a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant;
 - b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
 - c. All other code standards are met, in conformance with this Code.
2. The City may reduce the number of required bicycle parking spaces as required by this Code, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
3. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
4. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours provided that traffic is not impeded.

F. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features. The City may grant a variance to the applicable setback requirements of this Code for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

G. Variances to Transportation Improvement Requirements. The City may approve, approve with conditions, or deny a variance to a transportation improvement standard in the when the variance does not exceed 10 percent of the standard. When a variance request to the standards in exceeds 10 percent, then the request shall be reviewed as a Class C variance.

17.13.500 Class C Variances.

A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 17.13.200-17.13.300 (Class A and Class B), and that meet the criteria in 1-4, below, Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 17.05:

1. The Class B variance standards apply to individual platted and recorded lots only.
2. The Class C variance procedure may be used to modify a standard for 3 or fewer lots, including lots yet to be created through a partition process.
3. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a Planned Unit Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.
4. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a zoning district.

B. Approval Process. Class C variances shall be processed using a Type III procedure, as governed by Chapter 17.05.500, using the approval criteria in subsection D, below. In addition to the application requirements contained in Chapter 17.05.500, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection D.

C. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

- a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;
- b. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same zoning district);

- c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
- e. The hardship is not self-imposed; and
- f. The variance requested is the minimum variance that would alleviate the hardship.

17.13.600 Variance Application and Appeals.

A. Application. The variance application shall conform to the requirements for Type I, II, or III applications (Chapter 17.05.300, 17.05.400, 17.05.500), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his/her request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.

B. Appeals to variance decisions shall be processed in accordance with the provisions of Chapter 17.05.

PDX_DOCS:369623.1 [35140-00200]
02/27/06 12:06 PM